

HUGH L. CAREY BATTERY PARK CITY AUTHORITY

Meeting of the Members  
One World Financial Center, 24th Floor  
New York, NY 10281  
January 31, 2011

Members Present

William C. Thompson, Jr., Chairman  
Frank J. Branchini, Member  
Fernando A. Mateo, Member  
Andy K. Shenoy, Member

Authority Staff in Attendance: Gayle M. Horwitz, President and Chief Executive Officer  
Daniel Baldwin, Senior Development Counsel  
Lauren Brugess, Administrative Assistant  
Megan Churnetski, Assistant General Counsel and Assistant  
Corporate Secretary  
Gwen Dawson, Director, Strategic Planning  
Sidney Druckman, Director, Special Projects  
Kevin Finnegan, Senior Project Manager, Construction  
Allyson Ford, Special Counsel  
Luis Garcia, Treasurer  
Stephanie Gelb, Vice President, Planning & Design  
Antigona Gjini, Special Assistant to the President  
Robert Holden, Vice President, Human Resources  
Carl D. Jaffee, Senior Development Counsel and Corporate  
Secretary  
Wilson Kimball, Senior Vice President, Operations  
Karl Koenig, Controller  
Peter McCourt, Director, Planning & Design  
Lisa Miller, Vice President, Internal Audit and Compliance  
Stan Molinski, Director, Information Technology  
Leticia Remauro, Vice President, Community Relations, Diversity  
and Press  
Phyllis Taylor, Executive Vice President/General Counsel and  
Chief Administrative Officer  
Robert M. Serpico, Senior Vice President, Finance and  
Treasurer/Chief Financial Officer

Others in Attendance: Tessa Huxley, Battery Park City Parks Conservancy  
Betty Chin, Battery Park City Parks Conservancy  
Abigail M. Ehrlich, Battery Park City Parks Conservancy  
Vincent McGowan, Battery Park City Parks Conservancy  
Dianne Renzulli, The Battery Park City Broadsheet  
Raiden Renzulli, The Battery Park City Broadsheet  
David Cheikin, Brookfield Properties LLC  
Lawrence Graham, Brookfield Properties LLC

Sabrina Kanner, Brookfield Properties LLC  
Julie Shapiro, Downtown Express  
Terese Loeb Kreuzer, Downtown Express  
Warren Ruppel, Marks Paneth & Shron  
Steven Faber, PFM Asset Management

The meeting, called on public notice in accordance with the New York State Open Meetings Law, convened at 10:45 a.m.

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The first item on the agenda was the approval of the minutes of the December 1, 2010 meeting.

Upon a motion made by Mr. Branchini and seconded by Mr. Mateo, the following resolution was unanimously adopted:

**APPROVAL OF MINUTES OF THE DECEMBER 1, 2010 MEETING**

BE IT RESOLVED, that the minutes of the meeting of the Members of the Hugh L. Carey Battery Park City Authority held on December 1, 2010 are hereby approved.

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The next item on the agenda, introduced by Ms. Horwitz, was a request for approval of Financial Statements for Fiscal Year 2009-2010 ("FY10").

First, Mr. Serpico presented the financial highlights from the Authority's FY10. In FY10, he stated, the Authority produced approximately \$280.8 million in excess revenues, \$110.2 million of which represents PILOT revenue which goes directly to the City of New York (the "City"). The other \$170.6 million represents Joint Purpose Funds which will go toward satisfying the Authority's 2010 agreement with the City and the State of New York related to affordable housing. Excess revenues were higher this year due to a one-time lease payment by Goldman Sachs of \$169.3 million, he stated.

In FY10, he continued, the Authority funded certain post-employment employee benefits with respect to the Battery City Parks Conservancy in the amount of \$7.6 million. The Authority also issued \$89 million in bonds in December of 2009, the overall cost of capital of which was 4.21 percent. As required by GASB Statement Number 53, the Authority recorded the value of its SWAP derivatives on its balance sheet for 2010, he explained, at a negative amount of \$72.6 million.

Next, Mr. Ruppel presented a brief summary of the results of Marks Paneth & Shron's audit. His firm found no material misstatements in its financial statements, he stated, remarking that the financial statements were "pretty much as clean as you can get." Further, he remarked, no significant deficiencies or material weaknesses in internal control were identified, but the firm did have certain observations and recommendations. He noted that there were also a few technology recommendations that had previously been transmitted to the Authority. Marks Paneth & Shron had no disagreements with Management or difficulties in performing the audit

and did not detect any fraud, illegal items or illegal acts. The firm had provided a draft Management Letter included in the Members' materials, Mr. Ruppel stated. The Authority's investments were in accordance with its investment policy, he also noted.

Ms. Horwitz stated that any recommendations from Marks Paneth would be looked at in detail and that Management would report back to the Audit Committee on these matters.

Upon a motion made by Mr. Shenoy and seconded by Mr. Branchini, the following resolution, as amended, was unanimously adopted:

**APPROVAL OF AUDITED FINANCIAL STATEMENTS FOR THE FISCAL YEAR ENDED OCTOBER 31, 2010**

BE IT RESOLVED, that the financial statements of the Authority at October 31, 2010 and for the year then ended, substantially in the form presented to this meeting, be, and hereby are, approved; and be it further

RESOLVED, that the Treasurer of the Authority be, and hereby is, authorized and directed to file the financial statements of the Authority at October 31, 2010 for the year then ended, substantially in the form presented at this meeting, with the Trustee of the Authority's outstanding bonds as required by 2003 General Bond Resolution; the Chairman and ranking Minority Member of the New York State Senate Finance Committee, the Chairman and ranking Minority Member of the New York State Assembly Ways and Means Committee, the Comptroller of the State of New York and State Division of Budget as required by Section 2800 of the Public Authorities Law, Public Authorities Accountability Act of 2005, and State Comptroller Regulations, and to post the same on the Authority's web site and the Public Authorities Reporting Information System; and that the Secretary of the Authority be, and hereby is, directed to file said financial statements with the Minutes of this meeting.

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The next item on the agenda, introduced by Ms. Horwitz, was a request to authorize the Investment Report for FY10 and Investment Guidelines.

The Authority's report for this year is supplemented by a review of the investment performance to provide Members with a comprehensive review of the Authority's investment portfolio, strategy and earnings performance for FY10, Ms. Horwitz explained. The Authority's Investment Committee is composed of senior management who, in consultation with an investment advisory firm, PFM Asset Management, help formulate the Authority's investment strategy. In 2002, she stated, at the request of the Members, it was determined that a Board member would sit on that committee and Mr. David Cornstein currently represents the Members in that capacity.

In September 2009, Ms. Horwitz continued, the Members authorized a contract with Public Financial Management ("PFM") to serve as investment advisor to the Investment Committee, extending their tenure as investment advisor after an extensive public bid process.

Senior management has worked with PFM to model a portfolio consistent with the investment objectives set forth by the Investment Committee and the guidelines approved by the Members.

Mr. Branchini inquired whether the Authority's investment advisors issue a letter indicating that its practices are consistent with its guidelines. Mr. Serpico said that they have in the past. Ms. Horwitz and several Members stated that it would be a good idea to issue such a letter again this year.

Mr. Mateo stated that he would like to see a more proactive approach to participation by minority-owned firms as broker-dealers in investment activities.

Upon a motion made by Mr. Branchini and seconded by Mr. Mateo, the following resolution was unanimously adopted:

**APPROVAL OF THE INVESTMENT REPORT AND GUIDELINES FOR THE FISCAL YEAR ENDED OCTOBER 31, 2010**

BE IT RESOLVED, that the Investment Report and Guidelines of the Hugh L. Carey Battery Park City Authority (the Authority) for the fiscal year ended October 31, 2010 in the form presented to this meeting, be, and hereby is approved; and be it further

RESOLVED, that the Authority Investment Report and Guidelines in the form presented to this meeting be, and hereby are, approved; and be it further

RESOLVED, that the Treasurer of the Authority be, and hereby is, directed to file said Investment Report (including the Guidelines) with the: (1) NYS Division of the Budget; (2) NYS Department of Audit and Control; the Chairman and ranking Minority Members of the (3) New York State Senate Finance Committee; and (4) New York State Assembly Ways and Means Committee, as required by Section 2925 of the Public Authorities Law, Public Authorities Accountability Act of 2005 and the New York State Comptroller's Regulation 2 NYCRR (Part 203); that the Secretary of the Authority be, and hereby is, directed to file said Investment Report (including the Guidelines) with the minutes of this meeting; and that Investment Report information be posted to the Authority's website and the NY State -Public Authorities Reporting System (PARIS); and be it further

RESOLVED, that any and all actions taken by any officer of the Authority in connection with the negotiation or preparation of such policies and procedures are hereby ratified, confirmed and approved.

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The next item on the agenda, presented by Ms. Horwitz, was a request to approve the Prompt Payment Report and Policy for FY10.

Section 2880 (11) of the Public Authorities Law requires that each Public Authority annually prepare and approve a Prompt Payment report which will contain certain information as specified in the law, Ms. Horwitz explained. Within ninety days after the completion of the fiscal year, the Authority is required to file copies of the report with the State Comptroller, the State

Director of the Budget, the Chairman of the Senate Finance Committee, and the Chairman of the Assembly Ways and Means Committee, she said.

All types and categories of contracts are subject to the prompt payment requirements promulgated by the Authority, she noted. During the fiscal year ended October 31, 2010, there were no late penalty or interest payments related to the Prompt Payment Policy and any other late charges were de minimis for the period, she reported.

Upon a motion made by Mr. Shenoy and seconded by Mr. Branchini, the following resolution was unanimously adopted:

**APPROVAL OF THE PROMPT PAYMENT REPORT AND POLICY FOR THE FISCAL YEAR ENDED OCTOBER 31, 2010**

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BE IT RESOLVED, that the Prompt Payment Report and Policy of the Authority for the fiscal year ended October 31, 2010 in the form presented to this meeting, be, and hereby is approved; and be it further

RESOLVED, that the Treasurer of the Authority be, and hereby is, directed to file said Prompt Payment Report and Policy with the New York State Division of the Budget and copies thereof to the New York State Department of Audit and Control, the Chairman and ranking Minority Member of the New York State Senate Finance Committee and the Chairman and ranking Minority Member of the New York State Assembly Ways and Means Committee as required by Section 2880 of the Public Authorities Law; and that the Secretary of the Authority be, and hereby is, directed to file said Prompt Payment Report and Policy with the Minutes of this meeting; and be it further

RESOLVED, that the Hugh L. Carey Battery Park City Authority Prompt Payment Policies in the form presented to this meeting be, and hereby are, approved; and be it further

RESOLVED, that any and all actions taken by any officer of the Authority in connection with the preparation of such policies and procedures is hereby ratified, confirmed and approved; and be it further

RESOLVED, that the Secretary of the Authority be, and hereby is, directed to file the Battery Park City Authority Prompt Payment Report and Policy with the minutes of this meeting.

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The next item on the agenda, also presented by Ms. Horwitz, was the approval of the Procurement contracts Report and Guidelines for 2011.

Since 1984, Section 2879 (6) of the Public Authorities Law ("PAL") has required that each public authority annually prepare, and that its Members approve, a procurement report and procurement guidelines which contain certain information specified in the law, she stated. This year, the Procurement Guidelines are being submitted for approval with no substantive changes. She continued by explaining that she has instructed staff members to convene a procurement

working group to review current procurement practices. The working group will provide a full report including recommendations for changes to the procurement guidelines which will be presented to the Members for approval in three (3) months.

Upon a motion made by Mr. Branchini and seconded by Mr. Mateo, the following resolution was unanimously adopted:

**APPROVAL OF THE PROCUREMENT CONTRACTS REPORT AND GUIDELINES  
FOR THE FISCAL YEAR ENDED OCTOBER 31, 2010**

BE IT RESOLVED, that the Procurement Contracts Report and Guidelines of the Authority for the fiscal year ended October 31, 2010 in the form presented to this meeting, be, and hereby is approved; and be it further

RESOLVED, that the Treasurer of the Authority be, and hereby is, directed to file said Procurement Contracts Report and Guidelines with the New York State Division of the Budget and copies thereof to the New York State Department of Audit and Control, the Chairman and ranking Minority Member of the New York State Senate Finance Committee and the Chairman and ranking Minority Member of the New York State Assembly Ways and Means Committee, as required by Section 2879 of the Public Authorities Law; and that the Secretary of the Authority be, and hereby is, directed to file said Procurement Contracts Report and Guidelines with the Minutes of this meeting; and be it further

RESOLVED, that the Hugh L. Carey Battery Park City Authority Procurement Guidelines in the form presented to this meeting be, and hereby are, approved; and be it further

RESOLVED, that any and all actions taken by any officer of the Authority in connection with the preparation of such policies and procedures is hereby ratified, confirmed and approved; and be it further

RESOLVED, that the Secretary of the Authority be, and hereby is, directed to file the Battery Park City Authority Procurement Contracts and Guidelines with the minutes of this meeting.

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The next item on the agenda, introduced by Ms. Horwitz, and presented by Mr. Finnegan, was the authorization to amend contracts with Tectonic Engineering & Surveying Consultants, PC (Tectonic) and Thornton Tomasetti Group relating to work on the South Bridge.

Mr. Finnegan explained that the terrorist attacks of September 11, 2001 caused extensive damage to West Street and the South Bridge between Battery Park City and the Lower Manhattan. In order to maintain pedestrian traffic flow and safety the New York State Department of Transportation ("NYSDOT") built a temporary bridge with temporary landings near Rector Street and restored West Street to working order.

To fix the South Bridge, he continued, the Authority hired Thornton Tomasetti, who was the bridge's original engineer, and Tectonic, as construction manager. Those contracts have since

been delayed by approximately four years due to ongoing construction logistics and issues with the Port Authority as well as NYSDOT projects, he explained.

These delays have resulted in increased costs to Thornton Tomasetti in the amount of \$46,360 for additional time, analysis and for the design of storage plans for steel purchased for this project Mr. Finnegan said. Delays have also increased costs for Tectonic, including review of the steel storage plans and analysis of the relocation of pedestrian access. These additional services will cost \$173,060, he stated. Discussions are currently underway with the Port Authority with respect to the reimbursement of these funds, he reported.

Additionally, he continued, the estimated number of controlled inspections was inaccurately calculated earlier in the process. Combined with new state requirements for controlled inspections on bridges, the number and quality of inspections has dramatically increased and Tectonic is now required to hire a specialty engineer to perform these critical welding inspections, he explained. Tectonic has hired the firm of Pennoni Associates, Inc. for \$130,000 to perform these required inspections. He noted that this additional cost would have been incurred even if the project progressed as originally scheduled.

Upon a motion made by Mr. Shenoy and seconded by Mr. Mateo, the following resolutions were unanimously adopted:

**AUTHORIZATION OF AMENDMENT TO CONTRACT WITH THE THORNTON TOMASETTI GROUP**

BE IT RESOLVED, that the President of the Authority or his designee(s) be, each of them hereby is, authorized and empowered to execute an amendment (the "Amendment") to the contract with the Thornton Tomasetti Group for the design of the South Bridge storage plans and specifications extending the term thereof and increasing the amount payable thereunder by \$46,360; and be it further

RESOLVED, that the President of the Authority or his designee(s) be, and each of them hereby is, authorized and empowered to execute and deliver the Amendment on behalf of the Authority, subject to such changes as the officer or officers executing the Contract shall, with the advice of counsel, approve as necessary and appropriate and in the best interest of the Amendment such approval to be conclusive evidence by the execution and delivery of the Amendment; and be it further

RESOLVED, that the President of the Authority or his designee(s) be, and each of them hereby is, authorized and empowered to execute all such other and further documents, and to take all such other and further actions as may be necessary, desirable or appropriate, in connection with the transactions contemplated in the foregoing resolutions, and any such execution of documents and any other and further actions heretofore taken are hereby ratified and any actions hereafter taken are confirmed and ratified.

**AUTHORIZATION OF AMENDMENT TO CONTRACT WITH THE TECTONIC ENGINEERING & SURVEYING CONSULTANTS, PC.**

BE IT RESOLVED, that the President of the Authority or his designee(s) be, each of them hereby is, authorized and empowered to execute an amendment (the "Amendment") to the contract with the Tectonic Engineering & Surveying Consultants, PC for Construction Management services and controlled inspections of the South Bridge, increasing the amount payable thereunder by \$303,060; and be it further

RESOLVED, that the President of the Authority or his designee(s) be, and each of them hereby is, authorized and empowered to execute and deliver the Amendment on behalf of the Authority, subject to such changes as the officer or officers executing the Contract shall, with the advice of counsel, approve as necessary and appropriate and in the best interest of the Amendment such approval to be conclusive evidence by the execution and delivery of the Amendment; and be it further

RESOLVED, that the President of the Authority or his designee(s) be, and each of them hereby is, authorized and empowered to execute all such other and further documents, and to take all such other and further actions as may be necessary, desirable or appropriate, in connection with the transactions contemplated in the foregoing resolutions, and any such execution of documents and any other and further actions heretofore taken are hereby ratified and any actions hereafter taken are confirmed and ratified

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The next item on the agenda, presented by Ms. Taylor, was the authorization of amendments to legal retainer agreements as to the Tower A arbitration regarding a dispute over the amount of office percentage rent payable to the Authority.

Ms. Taylor explained that this will be the third time the Authority has increased each of these agreements. The requested increase will be used to pay amounts that are currently pending related to submitted invoices, not yet audited by the Authority's Finance Department, as well as amounts necessary to close out the arbitration matter. The remaining work to be done includes preparation of a final reply brief as well as any post-arbitration hearing requirements, she stated. The remaining costs to conclude the arbitration proceeding, based on counsel estimates, will total approximately \$100,000. The balance of the \$365,000 is for invoices that are currently submitted and pending.

Upon a motion made by Mr. Branchini and seconded by Mr. Mateo, the following resolutions were unanimously adopted:



**AUTHORIZATION OF AMENDMENT TO CONTRACT WITH BROWN RUDNICK LLP**

BE IT RESOLVED, that in accordance with the materials presented to this meeting, the President of the Authority or his designee(s) be, and each of them hereby is, authorized and empowered to execute an amendment (the "Amendment") to the Authority's retainer agreement with Brown Rudnick LLP, increasing the amount payable thereunder by \$325,000; and be it further

RESOLVED, that the President of the Authority or his designee(s) be, and each of them hereby is, authorized and empowered to execute and deliver the Amendment on behalf of the Authority, subject to such changes as the officer or officers executing the Amendment shall, with the advice of counsel, approve as necessary and appropriate and in the best interest of the Authority, such approval to be conclusively evidenced by the execution and delivery of the Amendment; and be it further

RESOLVED, that the President of the Authority or his designee(s) be, and each of them hereby is, authorized and empowered to execute all such other and further documents, and to take all such other and further actions as may be necessary, desirable or appropriate, in connection with the transactions contemplated in the foregoing resolutions, and any such execution of documents and any other and further actions heretofore taken are hereby ratified and any actions hereafter taken are confirmed and approved.

**AUTHORIZATION OF AMENDMENT TO CONTRACT WITH CROWELL & MORING LLP**

BE IT RESOLVED, that in accordance with the materials presented to this meeting, the President of the Authority or his designee(s) be, and each of them hereby is, authorized and empowered to execute an amendment (the "Amendment") to the Authority's retainer agreement with Crowell & Moring LLP, increasing the amount payable thereunder by \$40,000; and be it further

RESOLVED, that the President of the Authority or his designee(s) be, and each of them hereby is, authorized and empowered to execute and deliver the Amendment on behalf of the Authority, subject to such changes as the officer or officers executing the Amendment shall, with the advice of counsel, approve as necessary and appropriate and in the best interest of the Authority, such approval to be conclusively evidenced by the execution and delivery of the Amendment; and be it further

RESOLVED, that the President of the Authority or his designee(s) be, and each of them hereby is, authorized and empowered to execute all such other and further documents, and to take all such other and further actions as may be necessary, desirable or appropriate, in connection with the transactions contemplated in the foregoing resolutions, and any such execution of documents and any other and further actions heretofore taken are hereby ratified and any actions hereafter taken are confirmed and approved.

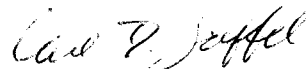
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The meeting thereupon recessed for a meeting of the Directors of the Battery Park City Parks Conservancy. Upon resumption of the Authority meeting, Brookfield Properties, LLP presented for information purposes a plan for new access and retail arrangements to the Winter Garden.

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There being no further business, the meeting thereupon adjourned at 11:30 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Carl D. Jaffee", written in a cursive style.

Carl D. Jaffee  
Corporate Secretary