

HUGH L. CAREY BATTERY PARK CITY AUTHORITY

MEMBERS' MEETING

One World Financial Center – 24th Floor

New York, NY 10281

January 6, 2009

Members Present

James F. Gill, Chairman

Charles Urstadt, Vice Chairman

David B. Cornstein, Member

Frank J. Branchini, Member

Robert J. Mueller, Member

Evelyn K. Rollins, Member

Andy K. Shenoy, Member (via telephone)

Authority Staff in Attendance: James Cavanaugh, President and Chief Executive Officer
Alexandra Altman, Executive Vice President and General Counsel
Daniel Baldwin, Senior Development Counsel
Lauren Brugess, Administrative Assistant
Megan Churnetski, Assistant General Counsel and Assistant Corporate Secretary
Sidney Druckman, Director, Special Projects
Stephanie Gelb, Vice President, Planning & Design
Antigona Hajdaraj, Special Assistant to the President
Stephen E. Harper, Vice President, Safety & Site Management
Robert Holden, Vice President, Human Resources & Administration
Carl Jaffee, Senior Development Counsel and Corporate Secretary
Susan Kaplan, Director of Sustainability
Wilson Kimball, Senior Vice President, Operations
Susan Long, Vice President, Strategic Planning
Lisa Miller, Vice President, Internal Audit and Compliance
Stan Molinski, Director, Information Technology
Leticia Remauro, Vice President, Community Relations, Affirmative Action and Press
Robert M. Serpico, Senior Vice President, Finance and Treasurer/Chief Financial Officer
Antony Woo, Vice President, Construction

Others in Attendance: Tessa Huxley, Executive Director, Battery Park City Parks Conservancy
Randy Tancer, Battery Park City Parks Conservancy
Brian Krapf, George Arzt Communications, Inc.

Matthew Fenton, Battery Park City Broadsheet
Julie Shapiro, Downtown Express
Matt Dunning, Tribeca Tribune

The meeting, called on public notice in accordance with the New York State Open Meetings Law, convened at 10:03 a.m.

The first item on the agenda was approval of the minutes of the December 2, 2008 meeting.

Upon a motion made by Ms. Rollins and seconded by Mr. Mueller, the following resolution was unanimously adopted:

APPROVAL OF MINUTES OF THE DECEMBER 2, 2008 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 2, 2008 are hereby approved.

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The next item on the agenda, presented by Mr. Woo, was a request to authorize a change order in the amount of \$92,857 to the contract with Kelco Construction Inc. ("Kelco") to perform additional site work with respect to the Site 23/24 Ball Fields.

Mr. Woo reminded the Members that before Milstein Properties ("Milstein") began construction of two high-rise buildings on Sites 23 and 24, in the north neighborhood, the Authority considered the usage of the ball fields adjacent to the sites. He reminded the Members that in order to meet the community's urgent request to keep the fields open during construction of the buildings, and to maximize public safety, the Authority "flipped" the ball fields, reversing their configuration and moving the infields as far from the construction site as possible. In January, 2007, the Members approved a contract in the amount of \$294,767 with Kelco Construction Inc. for the site work portion of this project, he stated. Authorization is now being requested for final payment to Kelco for additional work which exceeded the scope of Kelco's contract. This is the first and only change order for this project, Mr. Woo said.

Construction by Milstein was delayed, Mr. Woo explained, which resulted in the need for significant additional work by Kelco to maintain safe usage of the fields and minimize impact on the community. Once Milstein made the Authority aware of the full extent of the delay, he stated, staff realized that the ball fields could be maintained in their current position for another season. Kelco was thus instructed to perform remedial work to areas where its preliminary demolition work had begun, in order to ensure the Ball Fields were playable for another season. Additional fencing was also needed, as was backfill and additional warning track areas, he noted.

In response to inquiry from Mr. Gill, Mr. Cavanaugh explained that Millstein would not likely agree to share this cost because as developer of the buildings, it does not have an

obligation to the league. He explained that Millstein's delay did not absolutely require that the Authority do this work, but that this work is being done as an accommodation to the leagues.

Mr. Mueller stated that "having the maximum amount of physical facilities for these kids to play is of the utmost importance." Mr. Gill agreed and noted that the Authority will examine the safety benefits of using artificial turf on the Ball Fields.

Upon a motion made by Mr. Mueller and seconded by Ms. Rollins, the following resolution was unanimously adopted:

AUTHORIZATION OF CHANGE ORDER TO KELCO CONSTRUCTION INC. TO PROVIDE ADDITIONAL SITE CONSTRUCTION ON THE SITE 23/24 BALL FIELDS

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 a change order (the "Change Order") in the amount of \$92,857 to the contract with Kelco Construction Inc. to perform additional site work with respect to the ball fields adjacent to Sites 23 and 24; 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 Change Order on behalf of the Authority subject to such changes as the officer or officers executing the Change Order shall, with the advice of counsel, and 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 Change Order; 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 next item, a request to authorize an amendment to the contract with the New York City Department of Parks and Recreation for the continued furnishing of Parks Enforcement Patrol ("PEP") services, was removed from the agenda. Mr. Cavanaugh stated that this item was not ready for the Members' consideration until further explanation was received from the New York City Parks Department as to the increase in costs of compensation to PEP office. He intended that this item will be on the agenda for the next meeting, he stated.

In response to an inquiry by Mr. Cornstein, Mr. Cavanaugh explained that using PEP officers, as opposed to private security personnel, is valuable because the former have the power to issue summons and to arrest. He explained that there would be degradation in the quality of life and our ability to protect the quality of life not to have uniformed officers in the parks.

The next item on the agenda, presented by Mr. Cavanaugh, was a request to authorize amendments to the Authority's ground leases with the Regatta, Liberty View and Cove Club Condominiums, to adjust the ground rents payable thereunder.

Mr. Mueller recused himself from both discussing and voting on this item to avoid the appearance of impropriety as he is a property owner in Battery Park City.

In response to inquiry from Mr. Urstadt, Mr. Cavanaugh explained that Mr. Mueller has recused himself based upon an opinion written by Authority staff, was limited to the factual situation currently before the Members.

Mr. Cavanaugh reminded the Members that there are thirteen buildings in the South Neighborhood of BPC for which rent ground lease resets will occur between 2009 and 2012. The first three leases scheduled to reset (those for the Regatta, Liberty View and Cove Club condominiums) do not have limitations or "caps" on the reset ground rents, and such rents would therefore be established at six percent of the market value of the land, pursuant to the ground leases. The leases of each of the other ten buildings contain ground rent caps in various amounts which will preclude rent being reset at the full six percent of fair market value, Mr. Cavanaugh stated. This current proposal, detailed in the Members' reports, would cap the three buildings' rent increases under their leases at 25 percent of the current level. That increase would be spread over a fifteen year period, in a manner that would result in the same financial return to the Authority as if it were imposed in a single one-time increase.

Mr. Gill noted that monies generated by the Authority go to the City of New York and are occasionally utilized to benefit affordable housing. He stated that he is aware of the necessity to carry out the terms of the negotiated leases and to enforce such terms. However, he explained, this item presents an issue of fairness. The three buildings, pursuant to the lease reset terms, would pay an immediate, massive rent increase. He stated that amending these leases is the appropriate thing to do, on the basis of fairness.

Mr. Urstadt then explained that while he understands the position of fairness, he feels an obligation as a Member of the Authority to observe its obligations as a public benefit corporation. Originally, he stated, Battery Park City was intended to include a combination of luxury, middle-income and low-income housing. Over the years, however, it has become virtually all luxury. In an effort to temper the effects of this change, he reported, the Authority entered into an agreement with the City wherein the City agreed to use the monies provided by the Authority to benefit low and moderate-income housing, although he is unsure whether the City actually uses these monies for that purpose. In any event, he said, six percent of the fair market value of the land is an acceptable value for the purposed of ground rent resets.

According to the report provided by the Authority, Mr. Urstadt continued, these proposed lease amendments could potentially cause the City to forfeit \$54 million and therefore will reduce the amount of money that could go to low and moderate-income housing. Because of the profound effect it will have on the amount of money that the Authority gives to the City, he stated, the City is the correct party to approve this amendment. He then requested that the City state its approval, in writing, with the knowledge that the proposed amendment will deny the

City funds which could go to benefit low and moderate-income housing. Because no such agreement exists, he could not support these amendments.

Ms. Rollins stated that, in light of the fact that the city does not necessarily spend this money on low and moderate-income housing, the City is not likely comply with a request for written acknowledgement that it would be deprived of funds for such purpose. Furthermore, she stated, because New York City real estate taxes were recently by seven percent it would be an untoward burden in this economic climate to increase the rents so drastically.

In response to inquiry from Mr. Cornstein, Mr. Gill explained that the Authority has engaged in dialogues with both the City and the State as to this matter. The City was informed of this proposed amendment and its probable effects by Ms. Altman, he said, and has raised no objections. Moreover, he noted, the Governor's office has approved the amendments.

Mr. Urstadt then explained that the proposed amendment involves a very large amount of money and a political problem wherein "the low-income tenant groups are being discriminated against in favor of the tenants in Battery Park City." He noted that a mere telephone conversation with the City does not protect the Authority from having made a decision that could affect tens of thousands of low-income people.

Mr. Cornstein explained that the Authority's duty is to pass money onto the City, not to determine how the City should spend it. He then suggested that the Authority seek an acknowledgement from the City stating that there was such a conversation regarding the rent resets. In response, Mr. Urstadt emphasized that the Authority should not make the decision and then request that the City merely acknowledge it. The City itself, should make the decision because it is the City's money, he stated. "I feel strongly that the City of New York, the Mayor's Office, has to make a decision as to the proceeds of this Authority and the use of it for low-income housing," Mr. Urstadt concluded.

Mr. Gill stated that because of timing issues, this item cannot wait until an acknowledgement is received from the City. He noted that the residents are very anxious about the rent resets and that the Members owe it to them to take action today.

In response to inquiry from Mr. Branchini, Ms. Altman stated that there is no legal question as to the Members' authority to approve these amendments and that both the City and the State received the Authority staff's written report regarding these amendments. Ms. Rollins then requested that a copy of that report and be made a part of the corporate record.

Upon a motion made by Mr. Branchini and seconded by Mr. Cornstein, the following resolution was adopted with affirmative votes from Messrs. Gill, Cornstein, Branchini and Shenoy and Ms. Rollins, with Mr. Urstadt voting against the resolution and Mr. Mueller abstaining from the vote.

**AUTHORIZATION OF AMENDMENTS TO GROUND LEASES FOR REGATTA,
LIBERTY VIEW AND COVE CLUB CONDOMINIUMS**

BE IT RESOLVED, that in accordance with the materials presented to this meeting, the President of the Authority or his designee(s) be, each of them hereby is, authorized and empowered to execute amendments to the respective ground leases with the Regatta, Liberty View and Cove Club condominiums (the "Amendments"), adjusting the ground rents payable thereunder as set forth in such materials; 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 Amendments on behalf of the Authority, subject to such changes as the officer or officers executing the Amendments shall, with the advice of counsel, approve as necessary and appropriate and in the best interest of the Authority, such approval to be conclusive evidence by the execution and delivery of the Amendments; 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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Mr. Gill then stated, "I respect Charlie [Urstadt] enormously and the thoughts and ideas that he's put forth. He's been a great, great trustee and a great father of this Authority and he has my utmost respect. And I honor and respect his dissenting opinion and that's from the whole Board."

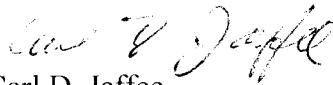
Ms. Rollins then requested that the Members enter into Executive Session to discuss the employment history of a particular individual. Mr. Jaffee explained that such an action would require a vote of a majority of the Members. Mr. Gill stated that he was aware of the subject matter of such a proposed session, that he believes the matter is being handled well and that there is no need for an executive session in which to discuss it. Ms. Rollins thereupon stated that she was withdrawing her request.

There being no further business, the meeting thereupon adjourned at 10:45 a.m.

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Subsequent to the meeting, Mr. Urstadt requested that the following statement in explanation of his vote on the final item on the agenda be recorded with the minutes of the meeting.

Respectfully submitted,


Carl D. Jaffee
Corporate Secretary