

**HUDSON RIVER PARK TRUST
MINUTES
Of a
Meeting of the Directors
Held on
July 30, 2009
Hudson River Park Trust
Spector Hall
22 Reade Street
New York, New York
4:00p.m.**

Directors Present:

Robert C. Lieber, Vice Chair

Pam Frederick

Lawrence B. Goldberg

Franz Leichter

Joseph B. Rose

Henry J. Stern

Paul A. Ullman

Rachel Gordon, Representing NYS OPRHP Commissioner Carol Ash

Lev Kushner, Representing NYCDPR Commissioner Adrian Benepe

Susan Mattei, Representing NYSDEC Commissioner Pete Grannis

For the Corporation:

Connie Fishman, President

Noreen Doyle, Executive Vice President

Laurie Silberfeld, General Counsel

Maryann Monte, Assistant Secretary

Karen Jennings, Assistant Treasurer

HRPT Staff:

James Koth

David Katz

Other Staff

Also Present:

Jed Howbert, Deputy Mayor Lieber's Office
Arthur Schwartz, Chair HRPT Advisory Council
Marc Ameruso, Vice-Chair HRPT Advisory Council
Robert T. Maher, New York Cruise Lines, Inc.
Youngwoo & Associates
The Public
The Press

Vice Chair Robert Lieber led the meeting. In advance of calling the meeting to order, Deputy Mayor Lieber stated that he wanted to publicly thank Mr. Theodore Roosevelt IV for his service to the Hudson River Park Trust Board of Directors. He stated that Mr. Roosevelt has made an incredible contribution to the Park project and has done it with passion. His presence will be missed.

Vice Chair Lieber then asked the Advisory Council Vice Chair, Marc Ameruso, to give the Advisory Council report before addressing any Board approval items (Mr. Schwartz, Chair of the Advisory Council, had not yet arrived the meeting), while additional board members were arriving.

Mr. Ameruso informed the Directors that the Pier 57 working group had presented their recommendations and resolution to the Advisory Council, which supported an award of the Pier 57 development project to Youngwoo.

Mr. Ameruso talked about Piers 25 and 26 and asked that the Advisory Council see the schematics for the piers, so that the public would see just what was planned for them. Additionally, he asked if there was funding for an Estuarium and a dog run, and when construction on the boathouse would begin.

Ms. Doyle explained that the Trust had previously committed to expand the boathouse and to share the plans with the downtown boathouse before they were sent out to bid. That meeting is being worked on now, and as soon as plans are finalized they will be sent out.

Mr. Ameruso informed the Directors that the Board's Pier 40 letter in support of a statutory amendment of the Hudson River Park Act to allow for an extension of the Pier 40 lease term was a major topic of discussion at the Advisory Council meeting. He advised that many members were opposed to such an amendment, and that a resolution on that issue will be forthcoming.

Director Leichter told Mr. Ameruso that he would be happy to attend the next Advisory Board meeting to discuss the Pier 40 lease and the appropriate kind of development for the Pier.

Mr. Ameruso also spoke about reconstituting the Pier 40 Working Group in the near future.

Mr. Ameruso reiterated the need for more safety devices on the waterfront.

Director Stern inquired if anyone has fallen into the water and drowned.

President Fishman informed the Board that there were two incidents and both people had gone into the water intentionally.

Ms. Mattei asked if they intentionally jumped in the water for purposes of drowning or intentionally jumped in the water and then drowned.

President Fishman stated that there was one of each.

Mr. Ameruso also reported that the Council held a meeting on bike safety and planned to invite Transportation Alternatives to their next meeting to hear any suggestions that TA might have respecting safety on the bikeway.

President Fishman noted that there was a quorum present and requested that the balance of the Advisory Report be given after the business portion of the meeting is finished.

With a quorum of Trust Directors present, Vice Chair Lieber called the July 30th, 2009 meeting of the Hudson River Park Trust to order.

The first order of business was the approval of the Minutes of the May 28, 2009 Board of Directors meeting. Vice Chair Lieber asked if there were any comments or questions. There being none, he then asked for a motion to approve. Ms. Gordon moved and Ms. Mattei seconded the motion. A vote was then taken and the following resolution was unanimously adopted:

HUDSON RIVER PARK TRUST - Approval of Minutes, and Ratification of the Actions Taken at the May 28, 2009 Meeting of the Directors of Hudson River Park Trust

RESOLVED, that the Minutes of the Meeting of the Hudson River Park Trust Board of Directors held on May 29, 2009 are hereby approved, all actions taken by the Directors present at such meeting, as set forth in the individual Minutes of such meeting, are hereby, in all respects, approved and ratified as actions of the Hudson River Park Trust, and copies of such approved Minutes are hereby ordered filed with the records of the Corporation.

Vice Chair Lieber then asked President Fishman to present the next item before the Board, authorization to contract with Berardi Stone Setting Inc. for Segment 3.

President Fishman explained that the proposed contract provides for furnishing and installing stone pavers, curbing and other units of fabricated stone in the Chambers to No. Moore Street area of Tribeca. The contract was procured in the form of a lump sum bid for all work in accordance with our procurement guidelines. A total of seven firms picked up bid packages and four bids were submitted and publicly opened on July 16th. Bids received ranged from \$1,039,000 to \$1,487,878.

A committee comprised of Trust staff and Turner Construction evaluated the proposals and determined that Berardi Stone Setting Inc. was the lowest qualified and responsive bidder for the proposed work. References and background checks of Berardi Stone Setting were also found to be supportive. She noted that Berardi has done quite a bit of work in several sections of the park already.

President Fishman requested authorization to contract with Berardi Stone Setting in an amount of \$1,039,000 plus a 10% contingency, for a total contract authorization of \$1,142,900 for furnishing and installing the Chambers to N. Moore Street Stone Materials.

Vice Chair Lieber asked if there were any questions or comments. There being none, he called for a motion. Ms. Gordon moved, and Director Frederick seconded such motion. A vote was then taken and the following resolution was unanimously adopted:

HUDSON RIVER PARK TRUST -Authorization for Hudson River Park Trust to Contract with Berardi Stone Setting Inc. for Segment 3 – Chambers to N. Moore St. Stone Materials Construction for \$1,039,000 plus a 10% contingency, for a total contract authorization not to exceed \$1,142,900.00.

RESOLVED, based on the materials presented to this meeting, a copy of which is ordered filed with the records of the Corporation, the Directors hereby authorize the Hudson River Park Trust to contract with Berardi Stone Setting Inc. for \$1,039,000 plus a 10% contingency, for a total contract authorization not to exceed \$1,142,900.00 for Chambers to N. Moore Street Stone Materials Construction; and be it further

RESOLVED, that the President or her designee(s) be, and each of them is hereby authorized to take such actions as the President or his designee(s) may deem necessary or appropriate in order to implement the foregoing resolution.

Vice Chair Lieber asked President Fishman to continue.

President Fishman advised that the next item before the Board was a request for authorization to contract with Materials Testing Laboratory Inc. She explained that to support the construction of Hudson River Park, the Trust requires the services of an inspection and

testing laboratory to perform various inspections and quality control tests associated with Park development. In June 2006, the Trust contracted with Materials Testing Laboratory Inc., following a competitive bidding process and Board approval. The initial authorization was for \$132,000. In January 2008, the Board authorized a contract amendment of \$297,600 to provide continued services in the Chelsea and Tribeca areas. At that time, it was projected that the amended authorization would be sufficient to cover scheduled construction work through this coming December. However, that projection did not account for work on the redevelopment of Pier 53's new marine and firehouse structures (those costs are subject to reimbursement by the Fire Department), or for accelerated productivity by the Chelsea upland park contractor, who now anticipates substantial completion late this year rather than in 2010. As a result, there was a greater amount of testing per month and therefore higher costs in 2009 than initially projected. Lower costs are anticipated over the coming years as construction in both Chelsea and at Pier 53 wraps up. The requested amount, \$225,000 plus a 10% contingency, is projected to cover the completion of work currently underway in Tribeca and Chelsea, but not any additional construction that will occur in the future for the reconstruction of Pier 54, Pier 97, the Pier 26 Estuarium, or other new Park areas that are not yet funded.

President Fishman requested authorization to amend the contract with Materials Testing Laboratory Inc. in an additional amount of \$247,500 for a total not to exceed contract amount of \$677,160 for Parkwide Testing and Inspection Services.

Vice Chair Lieber asked if there were any questions or comments. There being none, Mr. Lieber requested a motion. Director Ullman moved, and Ms. Gordon seconded the motion. A vote was then taken and the following resolution was unanimously adopted:

HUDSON RIVER PARK TRUST -Authorization for Hudson River Park Trust to Amend the Contract with Materials Testing Laboratory Inc. for Parkwide Testing and Inspection Services for an additional amount of \$247,500.00 for a total not to exceed contract amount to date of \$677, 160.00.

RESOLVED, based on the materials presented to this meeting, a copy of which is ordered filed with the records of the Corporation, the Directors hereby authorize the Hudson River Park Trust to Amend the Parkwide Testing and Inspection Services contract with Materials Testing Laboratory Inc. for an additional amount of \$247,500.00 for a total not to exceed contract amount of \$677,160.00; and be it further

RESOLVED, that the President or her designee(s) be, and each of them is hereby authorized to take such actions as the President or her designee(s) may deem necessary or appropriate in order to implement the foregoing resolution.

Vice Chair Lieber asked President Fishman to present the next item before the Board.

President Fishman informed the Directors that the landscaped medians and buffers along Hudson River Park were constructed as part of the redevelopment of Route 9A and are under the jurisdiction of the State Department of Transportation. The Trust maintains these areas in accordance with a series of reimbursement agreements with SDOT that cover the cost of landscaping, maintenance and trash removal. All work within the road areas of Route 9A will be performed in conformance with City and State DOT requirements.

Currently, landscape work in Segments 2-4 is done by Kelco Construction following competitive procurement and Trust Board authorization in May of 2007. This contract provides for a one year term with three optional annual renewals at the Trust's discretion. The overall scope of work to be performed includes plant and tree maintenance, soil testing and fertilizing, irrigation system maintenance, and replacement plants.

The Trust has been satisfied with Kelco's performance and accordingly, staff is seeking Board authorization to exercise the contract renewal option through the end of FY2010 for

Segments 2-4 of Route 9A in the amount of \$302,427 for a total authorization under the 2007 contract of \$907,281.

Vice Chair Lieber asked if there were any comments or questions.

Director Goldberg asked if there were any problems with the funding for this contract.

President Fishman explained that we have an agreement that is in the Commissioner's office at State DOT and has been approved for both last year and this year.

Director Ullman inquired if we had to go through this each time.

President Fishman explained that last year was the first year we had trouble with the contract. She explained that this contract will take the Trust through March 31, 2010.

A detailed discussion ensued regarding the funding from State DOT.

Vice Chair Lieber asked if there were any other questions or comments. There being none, Vice Chair Lieber asked for a motion. Director Frederick moved, and Ms. Gordon seconded. A vote was then taken and the following resolution was unanimously adopted:

HUDSON RIVER PARK TRUST -Authorization for Hudson River Park Trust to Renew the Contract with Kelco Construction Inc. for Segments 2-4 - Route 9A Landscape Maintenance for a period of one year, for an amount Not to Exceed \$302,427.00, for a total Contract Authorization to date of \$907,281.00.

RESOLVED, based on the materials presented to this meeting, a copy of which is ordered filed with the records of the Corporation, the Directors hereby authorize the Hudson River Park Trust to renew the contract with Kelco Construction Inc. for Segments 2-4 Route 9A Landscape Maintenance for a one year term, in an amount not to exceed \$302,427.00 for a total contract authorization to date of \$907,281.00; and be it further

RESOLVED, that the President or her designee(s) be, and each of them is hereby authorized to take such actions as the President or her designee(s) may deem necessary or appropriate in order to implement the foregoing resolution.

Vice Chair Lieber asked President Fishman to present the next item before the Directors.

President Fishman explained that similar to the previous item, Kelco won a competitive bidding process in 2007 for maintenance of the Route 9A medians and buffers in segments 5-7.

President Fishman requested authorization from the Board for the annual renewal term to run through the end of FY2010 in the amount of \$375,166 for a total authorization under the 2007 contract of \$1,125,348.

Vice Chair Lieber asked if there were questions or comments. There being none, Ms. Gordon moved, and Director Frederick seconded. A vote was then taken and the following resolution was unanimously adopted:

HUDSON RIVER PARK TRUST -Authorization for Hudson River Park Trust to Renew the Contract with Kelco Construction Inc. for Segments 5-7 - Route 9A Landscape Maintenance for a period of one year, for an amount Not to Exceed \$375,116.00, for a total Contract Authorization to date of \$1,125,348.00.

RESOLVED, based on the materials presented to this meeting, a copy of which is ordered filed with the records of the Corporation, the Directors hereby authorize the Hudson River Park Trust to exercise the second of three renewal options with Kelco Construction Inc. for Segments 5-7 Route 9A Landscape Maintenance for a one year term, in an amount not to exceed \$375,116.00, for a total contract authorization to date of \$1,125,348.00; and be it further

RESOLVED, that the President or her designee(s) be, and each of them is hereby authorized to take such actions as the President or her designee(s) may deem necessary or appropriate in order to implement the foregoing resolution.

The Vice Chair asked President Fishman to present the next item before the Directors.

President Fishman explained that back in January of 2008 the Trust issued an "RFP" for Employment and Labor Counsel in conformance with our Procurement Guidelines. Fourteen firms submitted proposals which were evaluated by the staff of our Legal Department. Bond Schoeneck and King (BSK)'s proposal was rated the highest of all of the responses. They have

offices in New York City, Garden City, Albany, Syracuse and elsewhere in the state and country. Their attorneys represent both public and private employers throughout the state and the lead partner assigned to the Trust has over 35 years experience in labor and employment matters.

Since their initial retention in 2008, they have worked on a broad range of labor law and employment matters, including assisting in the overhaul our Employee Handbook, the approval of which is also on today's agenda. While a number of the issues that BSK has worked on in the past 1 ½ years are being concluded, other confidential employee matters continue to be active and will require additional counsel, including possible representation over the course of the coming year. BSK continues to effectively protect the Trust's interests in all labor and employment matters at a fair and reasonable rate, significantly below the \$400 per hour State-approved rate for partners. They have committed to maintaining those rates through October 2010.

President Fishman requested authorization to amend the contract with the law firm of Bond, Schoeneck & King for Labor and Employment Law services in the additional amount of \$100,000 for a total contract not to exceed \$200,000.

The Vice Chair asked if there were any questions or comments.

Director Leichter stated that he was familiar with the firm, and that it is a very fine firm. He asked about the term of the contract.

President Fishman stated that there is no time period connected with this item, it's just a monetary amount.

Director Leichter asked for the dollar amount of the last contract.

President Fishman explained that under the initial authorization we are just or about to reach the \$100,000 limit. The President explained that since the initial amount was under

\$100,000 it did not have to be presented to the Directors for approval. This amendment is before the Board because it brings the total allocation to more than \$100,000.

Director Leichter inquired as to what period of time the initial authorization covered.

Ms. Fishman advised that it covered approximately 18 months.

Director Leichter asked how many of the hours were partner time, and how many were billed by associates.

General Counsel Silberfeld explained that the Trust primarily worked with one partner and sometimes two mid-level associates. The associates do most of the work, but the partner has a great deal of input because of his expertise.

President Fishman suggested that we table this item until the end of the meeting and go into Executive Session if there are further questions because of the confidential legal matters that have been dealt with.

Director Goldberg explained that he has reviewed everything in his role on the Governance Committee and he is satisfied with the resolution and request. He moved for a motion to approve the contract.

Discussion ensued regarding whether the Board should go into Executive Session because of the confidential nature of the issues the law firm handles or just vote on the item. The Directors decided to vote on the items and if anyone had any further questions, General Counsel Silberfeld would provide the information that was provided to the Governance Committee.

Director Ullman asked if this amount is in the 2009-2010 budget.

General Council Silberfeld explained that there were sufficient funds in the noncapital portion of the legal budget.

Director Stern asked who the different law firms that were used by the Trust.

General Counsel Silberfeld enumerated the names of the law firms that the Trust has contracts with.

Director Leichter inquired about the yearly HRPT budget for non-capital matters.

President Fishman stated that the number do not match up, because the legal contracts are not done on an annual basis. Some contracts are for multiple years, others are task oriented. President Fishman informed the Directors that the Legal Dept. has had a budget for outside attorneys for the past ten years and has never exceeded it on an annual basis.

Vice Chair Lieber asked if there were any additional questions or comments. There being none, Vice Chair asked whether there was a motion. Director Goldberg confirmed his earlier motion, and Director Rose seconded. A vote was then taken and the following resolution was unanimously adopted:

HUDSON RIVER PARK TRUST - Authorization to Amend the Contract for Legal Services with the law firm of Bond Schoeneck & King for Labor and Employment Law counseling and representation services in the Amount of \$100,000.00 for a Total Contract Authorization to date not to exceed \$200,000.00.

RESOLVED, by the Board of Directors of Hudson River Park Trust, that based on the materials presented to this meeting, a copy of which is ordered filed with the records of the Corporation, the Directors hereby authorize the Hudson River Park Trust to amend the contract with the law firm of Bond Schoeneck & King for Labor and Employment Law counseling and representation services in the amount of \$100,000.00 for a total contract authorization to date not to exceed \$200,000.00; and it be further

RESOLVED, that the President or her designee(s) be, and each of them is hereby authorized to take such actions as the President or her designee(s) may deem necessary or appropriate in order to implement the foregoing resolution.

The Vice Chair then asked President Fishman to present the next item.

President Fishman explained that the Trust's Employee Handbook, originally adopted in 2000, sets forth the applicable policies and procedures for Trust employees. Modifications to the handbook were last approved by the Board in 2002. In 2006, a proposed update was presented to the Trust's Governance Committee, which requested a number of changes, the result of which was that staff began working on further revisions. Then in 2007, new laws, including changes to the Public Authorities Accountability Act and developments in relevant case law, generated the need for additional sections of the Handbook to be included. Also, in response to an overarching position by the Board's Governance Committee that much procedural information be limited, a number of the day-to-day operating procedures as well as the discussion of discretionary benefits were removed and instead will be addressed through the issuance of periodic "circulars" to staff.

Prior to finalizing the draft Handbook, the Trust consulted at length with its outside counsel, Bond, Schoeneck and King. Once approved by the Board, the new Handbook will be distributed to staff and training will be provided to highlight the various changes that have occurred since the adoption of the 2002 version. A summary of the substantive changes that have been made in the new Handbook are included in your board materials.

Last month, Trust staff circulated copies of the proposed update to the Board's Governance Committee and responded to their questions and comments. While the committee did not take a formal vote, its members have consented to bringing the proposed Employee Handbook to the full Board for its approval.

President Fishman requested that the Board approve the 2009 Hudson River Park Trust Employee Handbook as appended in your board materials.

Vice Chair Lieber asked if there were any questions or comments.

Director Leichter asked if there were any changes in the code for ethical conduct.

President Fishman explained that the code of ethical conduct was amended to conform with changes required by the 2007 Public Authorities Accountability Act.

General Counsel Silberfeld informed the Directors that the substantive change was to make the \$75 gift reference now be zero.

The following is verbatim of the balance of the discussion on the request to approve the Employee Handbook:

“DIRECTOR LEICHTER: That was the only change?”

MS. SILBERFELD: Yes.

DIRECTOR LEICHTER: I just want to just affirm that we had a very full discussion about the code of ethics when it first came up. It was made very clear that nothing in the code of ethics prevents any officer or director from having conversation with community boards or advisory council or working group. So that we're in no way limited as to sharing information, which is part of our official duty.

PRESIDENT FISHMAN: I don't think that's completely correct. I think that the changes in 2007 clarified that limitations on those conversations existed where there were matters pending that involved active procurements, such as contracts, RFPs, things like that. I think other than those matters, you are correct.

DIRECTOR LEICHTER: I am not sure that's right, Connie, because you have just mentioned everything that would be of interest. We certainly discussed RFPs with a working group.

PRESIDENT FISHMAN: Certain of the information that gets discussed when the Board is in executive session, that is confidential and conversations in that context are not public information.

DIRECTOR LEICHTER: That's very different than what you previously said.

PRESIDENT FISHMAN: I am asking Laurie to look, which I think she is doing. But I believe that in 2007 what the Governor's office, under the Public Authorities Accountability Act, changed that to was to say in an active procurement, the agency, in this case the Trust, needed to designate an individual who would represent communications from and by the agency with the public, including being able to tell Board members that there was no reason to not discuss any matters or if there was reason to withhold certain information. I don't think it meant that only that person could talk to anybody. I think it meant that one person was essentially coordinating the communications on behalf of the agency.

MS. SILBERFELD: The provision reads as follows -- and it's essentially the same as what the Board passed about ex parte communications in 2006. It says: The Trust directors, officers, employees shall avoid any ex parte – any unauthorized ex parte communications concerning a pending matter and avoid comments about such a matter outside the Trust directors', officers' and employees' official duties in accordance with the requirements of Section 139 J of the State Finance Law, which is part of the amendment. A matter, as used herein, shall mean any contract for a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or acquisition or granting of such other interest in real property with an annualized value of \$15,000 or more. A matter shall be considered pending for purposes hereof from the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bid or

solicitation of proposals or any other method for soliciting a response from officers intending to result in a procurement contract with the Trust and ending with a final contract award and approval by the Trust.

DIRECTOR LEICHTER: I don't know whether there was any change in the 2007 law. What I read is very much what I recollect we had discussed. And it was particularly important for those of us who are community directors and therefore have an obligation to inform various community bodies of what's going on. And I think that's what why we wrote in the word -- if I am correct, I think I did that with Trip -- official duties. So I just want to be very clear that there is an obligation that we have to keep community organizations or just members of the community informed of activities or events or policies or plans that the Trust is considering. And nothing in this language in any way limits or impedes us in carrying out that function.

PRESIDENT FISHMAN: The language in the handbook is essentially the same language as we approved in the prior --

DIRECTOR LEICHTER: That's my understanding.

PRESIDENT FISHMAN: Yes.

DIRECTOR LEICHTER: Therefore, it has the same intent and meaning as our discussions previously?

MS. SILBERFELD: So long as --

PRESIDENT FISHMAN: The language is the same. That is the fact. I can't say what its intent is.

DIRECTOR LEICHTER: I can say my understanding of what the intent is. I think our previous discussion certainly will make it clear, because I think we specifically concern ourselves with this provision.

THE VICE CHAIR: Were there any material changes between this version --

PRESIDENT FISHMAN: As Laurie pointed out, the change that was different than we had in the previous version had to do with the gift limitation, and that was the only one.

THE VICE CHAIR: Everything else was basically the same?

PRESIDENT FISHMAN: Yes.”

* * *

The Vice Chair then asked if there were any additional questions or comments. There being none, Director Frederick moved, and Director Goldberg seconded. A vote was then taken and the following resolution was unanimously adopted:

HUDSON RIVER PARK TRUST - Approval of the 2009 Hudson River Park Trust Employee Handbook

RESOLVED, based on the materials presented at this meeting, a copy of which is ordered filed with the records of the Corporation, the Directors hereby approve the 2009 Hudson River Park Trust Employee Handbook; and be it further

RESOLVED, that the President or her designee(s) be, and each of them is hereby authorized to take such actions as the President or her designee(s) may deem necessary or appropriate in order to implement the foregoing resolution.

Vice Chair Lieber asked President Fishman to present the next item before the Directors.

President Fishman informed the Board that the Trust’s Procurement Guidelines, originally adopted in 2000, were last amended by the board in 2006. They set forth the rules, standards and procedures to be followed when procuring commodities and services on behalf of the Trust. Mandated periodic review and updating warranted this evaluation and update of these Guidelines.

As outlined in the memorandum to the Audit Committee, by and large, the 2009 Guidelines do not involve significant changes from the Trust's existing procurement rules and practices. Rather, the proposed update clarifies our existing procurement policies and provides additional explanation of the procurement requirements, such as a more detailed description of certain procurement techniques and processes, and the addition of a procurement technique flow chart. New restrictions and processes mandated by recent legislation are highlighted to assist Trust personnel in identifying the additional procurement requirements.

In May, Trust staff circulated copies of the proposed update to the Board's Audit Committee and addressed questions and comments from its members. Members of the committee have agreed to recommended changes as outlined in the memo to the directors, and to requesting that the Board take up the proposed Guidelines for its review and approval. One recommendation by Director Ullman, which does not affect the guidelines themselves, was that annually a list of procurements for goods and services that are procured for less than \$100,000 be distributed to the board for informational purposes.

President Fishman requested that the Board approve the 2009 Updated Procurement Guidelines.

The Vice Chair asked if there were any questions or comments. There being none, Ms. Gordon moved, and Director Frederick seconded. A vote was then taken and the following resolution was unanimously adopted:

HUDSON RIVER PARK TRUST –Approval of the 2009 Updated Trust Procurement Guidelines

RESOLVED, based on the materials presented to this meeting, a copy of which is ordered filed with the records of the Corporation, the Directors hereby approve the 2009 Updated Hudson River Park Trust Procurement Guidelines; and be it further

RESOLVED, that the President or her designee(s) be, and each of them is hereby authorized to take such actions as the President or her designee(s) may deem necessary or appropriate in order to implement the foregoing resolution.

Vice Chair Lieber then asked Ms. Fishman to present the next item before the Board; approval of a 30-year lease with Circle Line Sightseeing Yachts for Piers 81 and 83.

The following is the verbatim discussion on the Circle Line Lease item:

“PRESIDENT FISHMAN: As staff has informed the Board in previous communications, several years ago the Trust received a request from New York Cruise Lines for an extension to its long-term leases at Piers 81 and 83, which expire in 2018 and 2016. New York Cruise Lines conducts Circle Line sightseeing and World Yacht cruises from Piers 81 and 83 and Hudson River Park Midtown Maritime District. Parking for their customers currently extends along the bulkhead on Pier 81 and a two-level garage structure that is located on Pier 83. Trash storage also occurs on the bulkhead. As outlined in your previous materials, the benefits of the proposed lease to the Trust would be:

An opportunity to significantly increase the total rent paid to the Trust eight to ten years ahead of schedule;

The removal of vehicle parking and trash storage from the bulkhead;

And the relinquishment of the upland area between 40th and 43rd Streets to the Trust for Park development;

The explicit affirmation by New York Cruise Lines that it is solely responsible for all pier, pile, building and other infrastructure maintenance and repair for the proposed lease term, which would run for 30 years beginning in 2009.

Complete details of all of the lease terms, in fact, I believe the lease itself, was attached to your briefing materials.

Because the proposed term is longer than ten years, the Hudson River Park Act requires a formal public notice, hearing and comment period before approval by the Board. In accordance with that requirement the proposed lease was posted on the Trust web site and a public notice was published in local paper and in the Contract Reporter for the State and the City Register and circulated to local elected officials, Community Board 4, the Hudson River Park Advisory Council, and Friends of Hudson River Park. A public hearing was held on June 18th in Community Board 4. Following the closure of public comment period on July 23rd, staff provided to the Board memorandum detailing the comments received and the responses to those comments. On the basis of the materials presented to the Board and reviewed both by Trust Board and staff, we hereby request the approval of the proposed lease between the Hudson River Park Trust and Circle Line Sightseeing Yachts, Inc. for Piers 81 and 83 for a period of 30 years.

THE VICE CHAIR: Any questions? No?

DIRECTOR FREDERICK: May I?

THE VICE CHAIR: Yes.

DIRECTOR FREDERICK: The upland areas there, one of the advantages to you guys, are there plans and funding for that? This is going way back, right?

PRESIDENT FISHMAN: There is not funding in this year's appropriation. If, in fact, this lease is executed, then this would be one of the things to move to the top of our list to begin construction with after this. There are plans for the reconstruction of the marine structure itself. There are no plans for the pretty stuff, for the park stuff.

DIRECTOR FREDERICK: That's what I care about.

PRESIDENT FISHMAN: There's enough room in between the bus lay-by area and the water area for probably a 20 to 25-foot esplanade and some sort of varying planted area, depending on the width of landscaping. And one of the things that we would begin doing immediately would be to go to Community Board 4 and look at this part of the park. There were some rough schematics that were done by Richard Dattner at the time. And given that the restoration of the property wasn't until 2018 they were never completed at the time.

DIRECTOR FREDERICK: So you could go back to Dattner or something like that?

PRESIDENT FISHMAN: Or issue a new design contract. We have a few things that will be coming up in the next year that need design completion.

DIRECTOR FREDERICK: So where is their trash going? Are they parking on the second roof?

PRESIDENT FISHMAN: I think it's going into the shed at Pier 83.

DIRECTOR FREDERICK: Wasn't there ages ago discussion of parking on the two roofs?

PRESIDENT FISHMAN: Pier 83 has a double-deck structure now. A number of years ago there was a discussion of putting a similar structure on Pier 81. That discussion seems to have come and gone. It is not part of this agreement.

DIRECTOR FREDERICK: So they figured out a place to put their cars?

PRESIDENT FISHMAN: They're just going to have fewer parking spaces.

DIRECTOR FREDERICK: Oh, there you go. What do they do with the trash?

PRESIDENT FISHMAN: It's going inside the shed at 83.

DIRECTOR STERN: What is it that expires in 2018?

PRESIDENT FISHMAN: The current lease.

DIRECTOR STERN: The new lease?

PRESIDENT FISHMAN: The new lease begins now. It effectively terminates the existing leases immediately and begins the new leases in 2009 instead of 2019.

DIRECTOR STERN: I understand. Is the new lessee part of the old lessee?

PRESIDENT FISHMAN: It's the same.

DIRECTOR STERN: In effect you're rewriting the lease for an existing tenant?

MS. GORDON: To get more money.

DIRECTOR STERN: Not only to get more money.

(Inaudible.)

DIRECTOR STERN: And the other terms and conditions are the same? No capital expenditure required?

PRESIDENT FISHMAN: Most of the terms and conditions are the same. We have clarified terms and conditions that we thought were vague, so that they were absolutely clear. The lease itself, I think, is approximately from the '60s, so the language and the way leases were written in those days was far different. I think the lease has probably gone from 15 to 150 pages to incorporate all of the City's new provisions because it is the underlying property owner.

DIRECTOR STERN: My experience, we had a number of cases where there was existing lessor renting --

DIRECTOR GOLDBERG: I can't hear you.

DIRECTOR STERN: We had a number of cases where there was an existing license which went on for another five or ten years and the leaseholder applied for an extension and usually for capital funds and was granted. We were always concerned about that because it

deprived other people a chance to compete for the lease when the term expired. So, one, what are the special circumstances?

PRESIDENT FISHMAN: Their lease doesn't end until 2018 so --

DIRECTOR STERN: Yes, but is there a procedure in 2009 such that other companies could come and bid on the lease?

PRESIDENT FISHMAN: No. The only way we would have a bid on this is if we were waiting until the end of the current lease.

DIRECTOR STERN: I understand that. Isn't there a certain unfairness in granting a lease for an additional 20 years? This is a 30-year lease beginning in 2009.

PRESIDENT FISHMAN: This is essentially a 20-year extension.

DIRECTOR STERN: A 20-year extension, yes. Right. You're giving a 20-year extension without having other people having a chance to compete.

PRESIDENT FISHMAN: The advantages to the Park and the Trust are such that we think it is in the interest of the Park to entertain the early termination of this lease in exchange for the extension.

DIRECTOR STERN: Well, you don't know what the extension is worth if you went out ten years from now, what the effects of inflation could be.

PRESIDENT FISHMAN: That's true. It could also be worth less. Ten years from now we'll have piers that are ten years older and depending on their condition at the time may require much larger capital investment on the part of the public in order to attract a bidder.

DIRECTOR STERN: If it's worth less, at least in my experience, the bidder, private corporation just walks away from it and leaves the --

DIRECTOR ROSE: It's a present value calculation, Henry. What the capital dollars up front in exchange --

(Inaudible.)

DIRECTOR STERN: I don't know enough about it. But I just wanted to express concern that an insider now operating this is getting an exclusive opportunity to present a proposal to extend the term by 20 years.

PRESIDENT FISHMAN: In exchange for what they are giving up, which is the final ten years of their current lease --

DIRECTOR STERN: They're paying more rent.

PRESIDENT FISHMAN: Sorry?

DIRECTOR STERN: They're paying more rent.

PRESIDENT FISHMAN: They are paying more rent and they're obligating themselves to terms that are to the benefit of the public and the Trust.

THE VICE CHAIR: It's not just a rent calculation. They are paying more rent, clarifying the responsibility around the maintenance and giving up other parts of the land that they currently occupy for the benefit of the Trust; correct?

PRESIDENT FISHMAN: Correct.

DIRECTOR GOLDBERG: They are giving up parts of the property. And there's also a provision, if I recall, as I read the materials, that protects against profits and gives a percentage of profits --

PRESIDENT FISHMAN: Yes, as part of the calculation, share in the revenue.

DIRECTOR GOLDBERG: Also have to account, new accounting provisions. And the Trust gets additional information that they didn't get before and additional maintenance that they

didn't get before. Because I was looking at that as well and thinking about that point and was trying to see if there was enough value.

DIRECTOR ROSE: The question, I think, Henry, raises a valid point. Presumably, let's assume, accept as I think we have all accepted the particulars, the rational is a legitimate one and a correct one. And we think this is a deal, a legitimate deal on the economic terms, it's not a bad deal. It is theoretically plausible that there could be another situation under completely different management, someone would come and say, okay, for a marginal difference we'll make this, in effect, a sole source -- it's a way of sole-sourcing. Do we have a threshold or a practice or a standard, are we comfortable that this is within whatever statutory or procurement requirements we have; and how going forward do we make sure that they're acting with appropriate precedents of making sure that we just don't roll over existing leases in advance for some concession?

DIRECTOR STERN: Thank you.

DIRECTOR GOLDBERG: That's the question I had in my office looking at it, the same thing. It comes with almost -- you know, we get into a comfort zone of renewals and we renew many contracts and we're satisfied with many vendors. And they do a good job for us.

DIRECTOR ROSE: Are we under any statutory requirement, counsel?

DIRECTOR GOLDBERG: Not all the time.

DIRECTOR ROSE: What do we have to do and how do we make sure that we're operating in a way that allows for appropriate competition when major concessions or leases are expected to become due? How do we make sure we don't find ourselves sliding into an act of simply renewing things already there as opposed to giving others opportunities on those?

PRESIDENT FISHMAN: I think there was a question to you about the statutes --

DIRECTOR ROSE: What's your statutory requirement?

MS. SILBERFELD: Our statutory requirement is set up by our legislation. We go through the public process, which we have gone through. And as far as other statutory requirements it is to make sure we are getting a fair market valuation for the property, and we believe that we have done that hard look; that we not only in terms of the rental increase but other benefits as noted here to the Park of taking back the bulkhead area, which has considerable value to the Trust, and confirming the inspection and maintenance obligation for the piers, which we know from our own experience has considerable cost and therefore a benefit to the Trust; as well as the additional rent provisions and the ability to check the books and records to make sure that we're getting the moneys that are due us, are all very worthwhile benefits to the Park that more than compensate for the choice to sole, what you would call sole source.

THE VICE CHAIR: To just answer the question, we're specifically within the statutory rights --

MS. SILBERFELD: We are well within our rights, yes.

THE VICE CHAIR: And the question is how the guidelines and practice and judgment were arrived at in making this recommendation.

DIRECTOR STERN: Who initiated the negotiations?

PRESIDENT FISHMAN: Circle Line several years ago approached us because they were -- they wanted to buy a new fleet or have built actually a new fleet of vessels to replace their aging fleet.

DIRECTOR STERN: Same question: Is there any company out there which is in a position to compete with Circle Line or is this the only company that is likely to be opening for bidding?

PRESIDENT FISHMAN: Well, I can't foresee who will be in business ten years from now. If the same companies were in business ten years from now as are in business today and this was a competitive bid, then there are maritime businesses that do sightseeing from Battery Park to the Statue of Liberty. From Chelsea Piers, there's Spirit Cruise Lines and Bateaux New York and a couple of other dinner-type operations. From Pier 40 there are Harbor Cruise-kind of party boats. From Pier 78 there are the New York Waterway Cruises, as well as the New York Duck boats. From Pier 84 we have the water taxis, although those are transportation rather than sightseeing vessels.

DIRECTOR STERN: There are other firms that run boats?

DIRECTOR FREDERICK: They are listed in Exhibit A too, A 1 and 2.

PRESIDENT FISHMAN: I don't have the entire --

DIRECTOR FREDERICK: They're on page, in the Circle Line Business Summary, they list their competitors.

DIRECTOR STERN: I am not questioning whether this is good deal for the Trust. I know you worked on it and worked the terms out. But if no one will be able to compete, no competitor will be able to put in a bid until the year 2040, unless the Circle Line comes in in 2030 and tells our successors that they want to buy new boats so give us until 2060.

DIRECTOR ROSE: Let me ask a question, if I might. Can we just review the public process by which this has been proceeding? And can staff inform us if there has been any question or issue or objection raised by anybody in regard to this along the way? I think that's a critical part. Has there been adequate notice that this is something we're considering doing? Has it been reviewed? And if there is anybody that might have an alternative approach, have they had a chance to comment or object?

PRESIDENT FISHMAN: All of the comments that were received are actually in your materials. I think there were a total of seven; five at the meeting itself and two that came in via e-mail afterwards during the 60-day comment period. Since I don't have that copy, are the people who actually made the comments listed on that as opposed to just the comments themselves?

MS. SILBERFELD: No, just the comments themselves. But the people who made the comments are Harbor Experience companies, Denise Levine, Luke Tainy, who I understand works for Harbor Experience; Marcy Benstock, Allison Tucker, Community Board 4, which issued a resolution in support. I have them all here.

DIRECTOR STERN: What were the views of Marcie Benstock on this issue? Could you tell us that, the comment that Marcie Benstock made?

PRESIDENT FISHMAN: I have to ask Laurie, I don't have --

THE VICE CHAIR: Do you have the comments and who to attribute the comments to?

MS. SILBERFELD: Yes, I do. Ms. Benstock asked a couple of questions. She wanted to know what the finite number of parking spaces on the piers would be. She wanted to know what the boundaries of the premises would be; how many cars were parked there. She had a question about whether the two-story garage structure on Pier 83 was being authorized to be built; we clarified that it already existed. I think that's the balance of her comments.

DIRECTOR STERN: Thank you.

DIRECTOR FREDERICK: I just, while I appreciate the discussion of fairness and all this stuff, I do think that the community for a long time has wanted to reclaim this parkland. I mean this was discussions going back more than ten years. And the resolution is better than what we were talking about way back when by reducing the number of parking spaces and getting the trash off and then turning that into public parkland as it's intended to be. And it's a

decade earlier than anyone ever thought we would get. And the Trust is getting more money. And I do think there has to be some consideration that this is Circle Line, it's not just any vendor. I don't want to get all misty-eyed on Circle Line, but it is like a New York institution. While maybe that doesn't get them a free ride, I think it must get them some consideration when you're thinking about how you negotiate with people. I think this is a great resolution for the Park.

DIRECTOR STERN: If all the people who are involved are satisfied with it, I am certainly willing to go along with their judgment. Let me just ask: Is this the line that was owned by the Barry Family? Did they sell it? Does anybody know who owns Circle Line?

PRESIDENT FISHMAN: The president of Circle Line is here actually, Mr. Robert Maher. I assume you know who owns Circle Line.

MR. MAHER: Lise and Siri Stolt-Nielsen.

DIRECTOR STERN: Is it a family business?

MR. MAHER: Yes, sir.

DIRECTOR STERN: Closely held?

MR. MAHER: Yes, sir.

DIRECTOR STERN: Did you acquire it from the Barrys?

MR. MAHER: I actually worked for Mr. Barry when I was a young man.

DIRECTOR STERN: He was a giant in the field.

MR. MAHER: Yes.

(Inaudible.)

DIRECTOR STERN: There's a Francis J. Barry that works for Mayor Bloomberg who has written a book; do you know him?

MR. MAHER: I don't. I knew FJB, Senior.

THE VICE CHAIR: It's a great book too.

DIRECTOR STERN: It's terrific.

THE VICE CHAIR: Any other comments on the lease?

DIRECTOR ULLMAN: Not on the lease, but just two more questions. One, how much more revenue is this going to produce for the Trust in the fiscal '09 and '10?

PRESIDENT FISHMAN: I am doing this from memory. Dan Kurtz is here if I get it wrong. I believe that the immediate year, which is retroactive to January 1st, slightly more than doubles the current rent. The effect over the first ten years is between two and a half times the existing rent, on top of the resources that will go into the maintenance and the inspections. And a yet-to-be negotiated concession agreement, which is not part of this.

DIRECTOR STERN: Who oversees the concession?

PRESIDENT FISHMAN: We do.

DIRECTOR STERN: Who determines who the concessionaire is?

PRESIDENT FISHMAN: No. It is a separate concession agreement with them, which they currently have. But it will be renegotiated.

THE VICE CHAIR: Did you have another question?

DIRECTOR ULLMAN: Yes. Has your budget been revised to reflect --

PRESIDENT FISHMAN: No, not yet. We don't do that until something gets approved.

DIRECTOR ULLMAN: But you will?

PRESIDENT FISHMAN: But we will.

THE VICE CHAIR: Joe.

DIRECTOR ROSE: There's a memo in the packet which says: Following closure of the public comment period on July 23rd, staff provided the Board with additional memorandum

detailing the comments received, the staff's position, each in advance of the Trust Board meeting.

Have we received that?

PRESIDENT FISHMAN: Yes.

DIRECTOR ROSE: I don't see that.

PRESIDENT FISHMAN: Was it in your packet? I know you received it.

DIRECTOR FREDERICK: It wasn't in this package.

MS. SILBERFELD: It was a separate e-mail that was sent out.

DIRECTOR GOLDBERG: We got it a couple of days ago.

PRESIDENT FISHMAN: I think it was sent out at the end of the 24th, after the comment period closed.

THE VICE CHAIR: Any other questions, comments?

(No response.)

THE VICE CHAIR: I will entertain a motion to approve.

MS. GORDON: So moved.

THE VICE CHAIR: Second?

DIRECTOR FREDERICK: Second.

THE VICE CHAIR: All in favor?

(Chorus of "ayes.")

THE VICE CHAIR: Any opposed?

(No response.)”

The following resolution was unanimously adopted:

HUDSON RIVER PARK TRUST - Approval of the Proposed Thirty (30) Year Lease Between Hudson River Park Trust and Circle Line Sightseeing Yachts, Inc.

RESOLVED, based on the materials presented at this meeting, a copy of which is ordered filed with the records of the Corporation, the Directors hereby authorize the execution of the proposed Thirty (30) year Lease between Hudson River Park Trust and Circle Line Sightseeing Yachts, Inc.; and be it further

RESOLVED, that the President or her designee(s) be, and each of them is hereby authorized to take such actions as the President or her designee(s) may deem necessary or appropriate in order to implement the foregoing resolution.

* * *

The Vice Chair then asked Ms. Fishman to present the next item before the Board- a Conditional Designation in connection with Pier 57 redevelopment.

The following is a verbatim transcript of the discussion had on such item:

“PRESIDENT FISHMAN: Thank you. On June 30, 2008 the Trust issued a request for proposals for the redevelopment of Pier 57. In October of last year we received proposals from three teams. One, the Durst Organization and C&K Properties, the second Related Companies, and the third, Youngwoo and Associates. The staff wrote to the three teams on October 31st to request clarifications and/or missing information. On the 14th of November, submissions from the three teams were received and after review found all to be sufficiently responsive to most of the RFP's requirements. As you know from the materials we have distributed to the Board on a number of separate occasions, staff analysis has been proceeding since that time. Throughout this period, all three teams have spent many hours working with the Trust Board staff and community members to explain and elaborate on their proposals. And we would like to extend our appreciation to all of the developers for their willingness to address the Trust's many requests. However, in our opinion one team stands out as having satisfied the Trust's

requirements. Based on the criteria established in the RFP, input from Board members, multiple public hearings, meetings and specific input from the Pier 57 Working Group, composed of members of the Advisory Council, community boards and elected officials, it is staff's opinion that the proposal from Youngwoo & Associates is the most responsive in each of the following key respects:

First, creating a quality park enhancing development.

Next, creating new public open space.

Third, relating to the park and surrounding areas.

Fourth, being a strong preference of the community working group.

Fifth, financial feasibility.

And sixth, a superior rent proposal.

Because of implementation of this project requiring a number of discretionary approvals and permits from government agencies at the federal, state and city levels as well as review by local community groups, elected officials, we think that the expressed public support of Youngwoo's submission will continue to be important to the successful completion of this complex project.

In addition, I understand at the last Advisory Council meeting, as was previously mentioned, they voted overwhelming to support this proposal.

A preliminary analysis of the traffic for both the park and the community indicated that Youngwoo's proposal would also generate the lowest amount of vehicular traffic. Issues relating to traffic and circulation and the potential solutions for both will continue to be examined in a progressively more detailed manner during the conditional designation and MOU period,

including through the environmental review required by the City and State SEQRA processes and with the goal of addressing these issues as effectively as possible.

The Trust and Youngwoo will continue to review certain aspects of their submission, including the rent proposal, during the conditional designation period to determine the best way to ensure the successful development of the pier combined with most advantageous offer to the Trust.

Staff will consult with the Board's Audit Committee regarding discussions as they progress.

If approved, the Board – if approved by the Board the Trust would enter into a conditional designation letter, or CDL, with the development team that will commit the Trust to negotiating exclusively with Youngwoo & Associates for a prescribed period of time subject, but not limited to, the following conditions:

The Trust will require them to enter into a CDL within 30 days of receipt of a draft. During that period the conditionally designated developer will be required to secure a title report for a developmental entity and undertake additional due diligence on the physical conditions at Pier 57.

The developer may at his option also undertake other pre-development work as well.

The developer must provide \$250,000 conditional designation fee upon execution of the letter; and termination of the CDL; and a refund of the fee will be allowable only under specific conditions as outlined in your Board materials; otherwise, the fee will become the property of the Trust.

Within 30 days the Trust and the designee will negotiate and initial MOU setting forth the respective obligations of the parties during the predevelopment period and the essential terms

of the lease itself. The Trust will require the designee to provide a \$2 million letter of credit upon CDL execution, which will secure the developer's obligations, including its obligation to execute the MOU under the conditions set forth in the CDL. The development team will provide updated background information, including completion of the City of New York's VENDEX questionnaire and cooperate with any required City or State background investigations.

The Developer will notify the Trust of any changes in the accuracy or the completeness of its representations or its proposed development proposal. Material changes will be subject to Trust Board approval and such further conditions as the Board deems appropriate.

Based on the aforementioned and the materials that have been provided to you previously, staff recommends that the Board approve the selection of the Youngwoo & Associates' proposal and authorize staff to proceed with the conditional designation of that proposal for the redevelopment of Hudson River Park, Pier 57.

THE VICE CHAIR: Thank you. Any questions or comments?

DIRECTOR STERN: I think it's wonderful. Is Youngwoo here or representatives?

PRESIDENT FISHMAN: I believe they have a number of representatives here.

(Youngwoo & Associates representatives standing.)

DIRECTOR STERN: I admire their courage --

PRESIDENT FISHMAN: Sorry? You admire their courage?

DIRECTOR STERN: -- to run this gauntlet. And I hope it's successful and --

PRESIDENT FISHMAN: I am sorry. Can you speak up?

DIRECTOR STERN: It is novel to have your presentation about the development and the community is so enthusiastic about it. And it's a good thing.

PRESIDENT FISHMAN: We agree.

THE VICE CHAIR: Franz.

DIRECTOR STERN: I particularly hope that they have the resources for the project.

PRESIDENT FISHMAN: Everything that we have seen up to now indicates they do.

DIRECTOR STERN: Does the Republic of South Korea stand behind them?

PRESIDENT FISHMAN: I cannot speak for them.

THE VICE CHAIR: Franz.

DIRECTOR LEICHTER: I want to say how pleased I am that, I think, we got a developer who is a very innovative and interesting developer. I think it was heartening that in these very tough economic times we had three responsible developers that responded to the RFP. I agree, I think Youngwoo is the most interesting of the three. And I know that over many months the staff worked carefully and thoroughly in examining the three proposals. We had meetings of the various committees of the Board, executive sessions. Dan Kurtz has reviewed the financial aspects. We had discussions with the financial backer, the Kumho Bank, the staff. And I think Paul and I also attended that teleconference that we had with those officials in Seoul, Korea. I am also very grateful, I think all of us should be thankful for the valuable work of the Working Group. I think they were very intimately involved and certainly their support for this proposal is very meaningful for me. All in all I think we can be very comfortable and very satisfied with this proposal. And that we have now for the second of the three great piers on the river that we have a developer. We had one before that, as we know, didn't work out. I think this one will. And I think we will have a very worthwhile development for this pier and one that is consummate with the uses and attraction that we expect the waterfront park to have. So I very heartfully endorse this.

THE VICE CHAIR: Suzanne.

MS. MATTEI: Yes. Because I am representing -- I am representing the Department of Environmental Conservation, which will have a permitting role in this project, I am going to very courteously abstain from the vote. Thank you.

THE VICE CHAIR: Any other questions or comments?

DIRECTOR GOLDBERG: That's the most courteous abstention I have ever heard.

(Laughter.)

THE VICE CHAIR: With that, I will entertain a motion to approve.

DIRECTOR FREDERICK: So moved.

DIRECTOR GOLDBERG: Second.

THE VICE CHAIR: All in favor?

(Chorus of "ayes" with Ms. Mattei abstaining.)

THE VICE CHAIR: Any opposed?

(No response.)

THE VICE CHAIR: Let the record note -- Are there any other abstentions?

(No response.)

DIRECTOR GOLDBERG: Let the record note that there is an abstention.

THE VICE CHAIR: Yes.”

The following resolution was passed:

HUDSON RIVER PARK TRUST – Conditional Designation and Authorization for the Hudson River Park Trust to Negotiate with and Enter into a Conditional Designation Letter, Memorandum of Understanding, and Property Maintenance and Security Agreement with Youngwoo & Associates Team in Furtherance of their Redevelopment plan of Pier 57 in Hudson River Park.

RESOLVED, based on the materials presented to this meeting, a copy of which is ordered filed with the records of the Corporation, the Directors hereby conditionally designate the “Pier 57”

development team of Youngwoo & Associates as the selected developer for the redevelopment of Pier 57 in Hudson River Park; and be it further

RESOLVED, that the President or her designee(s) be, and each of them is hereby authorized to further negotiate and enter into a Conditional Designation Letter, Memorandum of Understanding, Property Maintenance and Security Agreement and such other pre-leasing agreements, following consultation and input from the Trust Board's Audit Committee, as may be deemed necessary or appropriate in furtherance of Pier 57 redevelopment; and be it further

RESOLVED, that the Trust Board of Directors' Audit Committee is hereby authorized to act on behalf of the Board in consulting with and providing direction to the Trust staff on Pier 57 development issues and that the President or her designee(s) shall regularly update and seek consultation from the Audit Committee as the Pier 57 development negotiations progress; and be it further

RESOLVED, that it is contemplated that such negotiations, if fruitful, will culminate in a Lease Agreement for a term of up to Forty-nine (49) years, the terms and conditions of which shall be subject to a separate Trust Board approval prior to execution; and be it further

RESOLVED, that the President or her designee(s) be, and each of them is hereby authorized to take such actions as the President or his designee(s) may deem necessary or appropriate in order to implement the forgoing resolutions.

* * * * *

The Vice Chair then recognized Director Rose. The following is a verbatim transcript of the discussion and action that followed:

“DIRECTOR ROSE: I do this reluctantly. It's about the previous item.

THE VICE CHAIR: The motion is carried. Go ahead.

DIRECTOR ROSE: In looking at the comments -- I apologize. I was out of town. I missed the e-mail about the public comments – I just want to reopen the discussion. The one comment that is troubling to me is about the Circle Line, the extension of the non-compete provision. There is a half mile non-compete provision in the Circle Line lease for a half mile north and south. I don't know, I don't know that it's the practice of government to give non-compete provisions. I know, I understand it's in the lease going back to 1960s. I wasn't there in the 1960s issuing leases. I don't know. We certainly don't give Chelsea Piers a non-compete on

tennis courts, or basketball courts or catering events. I am concerned that that represents an indication on our governmental prerogative, not that we have any intention of creating -- but I think that strikes me as a legitimate concern. Can someone just speak to that issue? It's the only thing that leaps out.

PRESIDENT FISHMAN: The issue was inherited from the current lease. It was a provision that the City of New York included. If you actually look at the opportunities to effectively compete within that ten blocks that it describes, it is sort of moot because the competition currently -- first, we don't own Pier 76, so we have no right to lease that one for anything, unless the City of New York wants to lease it there and that is not subject to our leases. Pier 78 already has a competing business, and isn't subject because it's a private pier. Pier 79 has ferry transportation and I believe because it was built specifically for that purpose with federal dollars, it is only allowed for transportation purposes. Pier 81 and 83 are part of this lease, so they're -- they are the subject of the provision. Pier 84 is not commercial pier. I think probably in the early '90s before the legislation, Pier 84 was considered originally to be a park and commercial pier and that was changed in the legislation, so we don't have a lease that we would enter into at Pier 84 for that purpose anyway. Pier 86 has a prohibition against this use in it already. And that's where the line stops.

DIRECTOR ROSE: In which case, why wouldn't it be appropriate to simply, to remove - - since what you're saying is it's an immaterial provision. But it strikes me, at least, that it's an inappropriate provision. I don't think the Hudson River Park Trust should be issuing non-competes. There's perfectly compelling reasons why it can't, because there's no opportunity for competition. I would suggest that the approval be conditioned on eliminating that non-compete clause.

DIRECTOR GOLDBERG: Would this have some effect on their ability to borrow money to get new fleets and to do maintenance? Because I looked at that as well. I looked at the comments. One of the things that they're going to have to do is get some loans and get some money to do the structural work we're asking them to do and repair their fleet over this period of time. And this may be, these are among those items that might be assisting them.

DIRECTOR LEICHTER: Joe, I am not sure you're correct when you say that the Government doesn't have non-competes. You may be. Let me ask Henry. When the Parks Department gives a concessionaire a license, do you ever provide that you're not going -- somebody can sell hot dogs, do you also provide that you're not going to have anybody else sell hot dogs at that same location?

PRESIDENT FISHMAN: Yes.

DIRECTOR STERN: We grant exclusive license to sell hot dogs. But we would not preclude -- For example, the Tavern on the Green is the largest concession. They have the sole right to be a restaurant there. But as the Parks Department if we want to license a restaurant across the street, in Sheep Meadow, they wouldn't be precluded by the Tavern on the Green license from issuing another one. I don't know of any. Usually Parks licenses are for a specific location. This license is for a half mile. Is that half mile in diameter or radius, half mile in each direction?

PRESIDENT FISHMAN: That is from 36th Street to 46th Street.

DIRECTOR STERN: So the diameter is a half mile. So it's really five blocks.

PRESIDENT FISHMAN: I think it's ten.

DIRECTOR FREDERICK: The radius is a half mile.

PRESIDENT FISHMAN: It starts at 46th and it goes to 36th.

DIRECTOR LEICHTER: Which is a half mile.

DIRECTOR STERN: It's really only a quarter of a mile north and a quarter of a mile south.

DIRECTOR FREDERICK: Yes.

DIRECTOR STERN: That makes it less.

THE VICE CHAIR: So it's a quarter mile in each direction, a half mile in total, the extension of a preexisting lease; and there are a number of restrictions outside of any of the piers that the Trust controls as well; is that correct

PRESIDENT FISHMAN: That is correct.

DIRECTOR ROSE: I understand. I am not trying to be difficult. I want to know if I could be listed as voting no on that?

THE VICE CHAIR: Could we have the record reflect that?

PRESIDENT FISHMAN: Is that – I will ask Robert of the Robert Rules of Order here.

MS. SILBERFELD: I didn't bring Robert's with me.

THE VICE CHAIR: Okay. Are you prepared to present the President's report?

PRESIDENT FISHMAN: I will make it as brief as possible. Noreen, would you stand up?

(Ms. Doyle stands.)

PRESIDENT FISHMAN: I just want to thank Noreen of the Trust for so ably leading the RFP process for Pier 57. It was an incredible amount of work and she did an absolutely stellar job. And I would like to acknowledge her. And I would also like to thank Laurie, our counsel, and our real estate consultant Dan Kurtz, who also performed admirably. This was a great process to be a part of. You know, lucky for me, I had very little to do with it.

DIRECTOR STERN: Question.

PRESIDENT FISHMAN: The other thing I would like to do is thank Ed Kirkland of the working group. They had a very, very thoughtful, intelligent, dedicated group working on this. They showed that they cared not just for this pier, but for all of Hudson River Park. And I want to thank them for all of their work. At this point I would like to turn to Arthur to finish his Advisory report.

THE VICE CHAIR: Just one point.

First of all, I want to recognize Henry's question for you on the president's report.

PRESIDENT FISHMAN: Oh, I'm sorry.

DIRECTOR STERN: I want to join in your thanks to the skilled people who did it. Were they able to accomplish this without retaining outside counsel?

(Laughter.)

PRESIDENT FISHMAN: Probably not.

THE VICE CHAIR: The other thing I would like to do, for the record, I would like to revisit the vote earlier on the 30-year lease with Circle Line. I would like to ask for a motion to approve -- I want to revisit the procedures -- we did that. I would, subject to Laurie's input, I would like to ask for a motion to approve.

MS. GORDON: So moved.

THE VICE CHAIR: Second?

DIRECTOR GOLDBERG: Second.

THE VICE CHAIR: All in favor?

(Chorus of "ayes.")

(Mr. Rose opposed and Ms. Mattei abstained.)

THE VICE CHAIR: Any opposed?

DIRECTOR ROSE: Yes.

THE VICE CHAIR: Please let the record show Ms. Mattei abstained.

PRESIDENT FISHMAN: I am sorry. Could counsel please count the votes in favor?

MS. SILBERFELD: Eight votes in favor. Mr. Leichter does not count for voting purposes.

THE VICE CHAIR: Sorry, Franz.”

* * * * *

Vice Chair Lieber thanked President Fishman and asked Mr. Arthur Schwartz to please give the Advisory Council Report. (Please see attached report).

There being no further business, Vice Chair Lieber requested a motion to adjourn. Director Rose moved; Ms. Goldberg seconded. All voted in favor and the meeting was adjourned at 5:45 p.m.

Respectfully submitted,



Maryann Monte