

DRAFT - SUBJECT TO REVIEW AND REVISION

LOWER MANHATTAN DEVELOPMENT CORPORATION

Meeting of the Directors
Held at the Offices of the Corporation
One Liberty Plaza - 20th Floor
New York, New York 10006

May 18, 2007

MINUTES

In Attendance

Directors:

Avi Schick, Chairman
Laurence T. Babbio
Robert Balachandran
Amanda Burden
Daniel Doctoroff
Robert Douglass
Robert Harding
Thomas Johnson
Kevin M. Rampe
Martha E. Stark
Carl B. Weisbrod
James Whelan

(via telephone)

James Kallstrom

Staff Attending:

For Lower Manhattan Development Corporation:

David Emil, President
Irene Chang, General Counsel and Secretary
of the Corporation
Daniel Ciniello, Senior Vice President -
Operation
Stephen Konopko, Vice President - Internal
Audit
Eileen McEvoy, Assistant Secretary
Robert Miller, Chief Financial Officer
Avalon Simon, Paralegal
Andrew Wu, Deputy General Counsel

Other Staff

Counsel to the Board:

Elizabeth Condren, Esq., Fulbright & Jaworski

For the Lower Manhattan Construction Command Center:

Charles Maikish, Executive Director
Daniel McCormack, First Deputy Director
Robert Harvey, Deputy Executive Director for
Capital Planning & Construction

For Empire State Development Corporation:

Errol Cockfield, Public Affairs
Shafali Puri, Senior Advisor to President
and Chief Operating Officer

Also Present:

The Public
The Media and Press

The meeting of the Lower Manhattan Development Corporation ("LMDC") was called to order at 8:03 a.m. It was noted for the record that notice to the public and news media of the time and place of the meeting had been given in compliance with the New York State Open Meetings Law.

The first order of business was the approval of the Minutes of the April 17, 2007 Directors' Meeting.

There being no corrections, additions or deletions, upon motion duly made and seconded, the following resolution was unanimously adopted:

APPROVAL OF MINUTES AND RATIFICATIONS OF ACTIONS TAKEN AT THE APRIL 17, 2007 MEETING OF THE DIRECTORS OF THE LOWER MANHATTAN DEVELOPMENT CORPORATION

RESOLVED, that the minutes of the meeting of the Corporation held on April 17, 2007, as presented to this meeting, are hereby approved and all actions taken by the Directors presented at such meeting, as set forth in such minutes, are hereby in all respects and approved as actions of the Corporation.

* * *

Chairman Schick then asked the Directors to approve the appointment of David Emil as the President of LMDC. Before calling for the vote, the Chairman provided background information on Mr. Emil.

Among other things, Chairman Schick noted that Mr. Emil spent approximately 15 years in State government in a variety of capacities including President and CEO of the Battery Park City Authority.

Additionally, Chairman Schick noted that Mr. Emil was the owner and operator of the Windows of the World restaurant which lost 79 employees on September 11th. Subsequent to that,

Chairman Schick explained, Mr. Emil and others started the Windows of Hope Foundation to provide for the families of restaurant workers who were affected throughout Lower Manhattan.

Chairman Schick then read the resolution electing Mr. Emil President, into the record and upon motion duly made and seconded, the following resolution was unanimously adopted:

Election of Officer

RESOLVED, that David Emil is hereby elected President of the Corporation, and shall serve until such time as his successor is duly elected and qualified or until his earlier resignation or removal.

* * *

Chairman Schick then provided a brief Chairman's Report providing information regarding various recent issues of concern for the Board's information.

Chairman Schick briefly outlined the status of the Community Enhancement Fund process noting, in part, that the goal is to have recommendations regarding the allocation of those funds before the Board in September.

The Chairman also noted that as recommended at the last Board meeting, a subcommittee of the Board has been formed to

focus on Lower Manhattan Construction Command Center issues. The Chairman further noted that he is a member of the subcommittee along with Directors Doctoroff, Weisbrod and Douglass.

Chairman Schick then addressed a recent construction incident concerning 130 Liberty Street. He explained that safety is LMDC's primary concern and he outlined the three levels of protection in effect to oversee the safety measures presently in place. The Chairman further explained that the job has been suspended pending a full investigation of the occurrence. Any information garnered, he went on to note, will be shared with the Directors.

The Chairman then asked Director Johnson to provide the Audit and Finance Report. Director Johnson reported that the Committee met to review the items being presented for consideration today and that the Committee is satisfied that all of the items should move forward.

Director Johnson explained that in addition to reviewing the finances, another of the Committee's goals is to ensure that the other involved committees have reviewed the various matters and have found them to be sound.

Director Johnson further noted that Mr. Konopko, the Vice President for Audit, continues to operate in a very diligent and professional manner. This is particularly important, Director Johnson explained, given the sparsity of staff available to oversee all of the projects that have gotten started over the years.

The Chairman then called upon Mr. Emil to present three items relating to the World Trade Center Memorial and Cultural Program.

First, Mr. Emil thanked the Board for their confidence in him as President. He then asked the Directors to authorize LMDC to transfer the ownership of certain assets and intellectual property rights relating to the World Trade Center Memorial and Cultural Programs to the World Trade Center Memorial Foundation, Inc.

Following the full presentation, Chairman Schick read the relevant resolution into the record and upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Transfer Certain Assets Relating to the World Trade Center Memorial and Cultural Programs to the

World Trade Center Memorial Foundation, Inc.

RESOLVED, that the Corporation is hereby authorized to enter into an agreement, or otherwise amend or supplement its subrecipient agreement, with The World Trade Center Memorial Foundation, Inc. (the "Foundation"), to transfer ownership of certain assets and certain intellectual property rights relating to the World Trade Center Memorial and Cultural Programs to the Foundation, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Next, Mr. Emil asked the Directors to authorize LMDC to amend its contract with Studio Daniel Libeskind for planning services. Among other things, Mr. Emil explained that this request involves an extension of time and is not a request for additional funds.

Chairman Schick read the relevant resolution into the record and upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Amend Contract with Studio Daniel Libeskind

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Studio Daniel Libeskind for planning services, to extend the term of such agreement for an additional

one-year period, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Mr. Emil then asked the Directors to authorize LMDC to amend its contract with Faithful & Gould, Inc. for cost estimating and preconstruction services.

Mr. Emil presented the specifics of the proposed amendment and noted that this was also a request for a time extension and not a request for additional funding.

Following Mr. Emil's full presentation, Chairman Schick read the relevant resolution into the record and upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Amend Contract with Faithful & Gould, Inc.

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Faithful & Gould, Inc. for cost estimating and pre-construction services, to extend the term of such agreement for an additional one-year period, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to

execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Next, Mr. Maikish noted, with regard to the following item, that the request for the additional increase in capital was provided for in the budget that was approved at the last LMDC Board meeting. Secondly, Mr. Maikish explained that as LMCCC had previously informed the Audit Committee and the Directors, this is an interim authorization and that the additional funds required under the budget will require further deliberation.

Mr. Harvey then asked the Directors to authorize LMDC to amend its contract with LiRo Program and Construction Management P.C. for services in connection with the Lower Manhattan Construction Command Center.

Mr. Harvey provided a detailed synopsis of both the background information and the current details relating to this request.

Following this presentation, the Chairman read the relevant resolution into the record and upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Amend Contract with LiRo Program & Construction Management P.C.

RESOLVED, that the Corporation is hereby authorized to amend its agreement with LiRo Program & Construction Management P.C. for program and construction management services, to increase the authorized expenditures thereunder by an additional \$1,000,000 to an amount not to exceed \$3,250,000 in the aggregate, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be funded through the Lower Manhattan Construction Command Center's (LMCCC's) Federal Transit Administration (FTA) grant and through contributions by The Port Authority of New York and New Jersey, the Metropolitan Transportation Authority and the New York State Department of Transportation to the Corporation for LMCCC's continuing operations; and be it

FURTHER RESOLVED, that the Corporation is hereby authorized to amend its grant agreement with the FTA for this project, to increase the authorized amount of such grant and the amount of funds the Corporation is authorized to accept on behalf of LMCCC from \$2,000,000 to \$2,600,000; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Chairman Schick then presented a request with regard to providing authorization for LMDC to enter into a Subrecipient Agreement with Soho Repertory Theatre, Inc. for costs associated with renovating its theatre in Lower Manhattan.

Following his full presentation of the specifics of this request, Chairman Schick read the relevant resolution into the

record and upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Enter into Subrecipient Agreement with Soho Repertory Theatre, Inc.

RESOLVED, that the Corporation is hereby authorized to enter into a subrecipient agreement with Soho Repertory Theatre, Inc. for costs associated with renovating its theater in Lower Manhattan, as part of the Cultural Enhancement Fund grants, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the amount to be expended by the Corporation pursuant to such subrecipient agreement shall not exceed \$100,000 in the aggregate, which expenditures shall be allocated from funds included in Partial Action Plan 11; and be it

FURTHER RESOLVED, that the previous authorization to enter into a subrecipient agreement with Soho Repertory Theatre, Inc. for costs associated with planning for the renovation of its theater is superseded hereby, and no funds shall be allocated pursuant to such previous authorization; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Next, Chairman Schick presented a request relating to providing authorization to LMDC to enter into a Subrecipient Agreement with International Studio and Curatorial Program for costs associated with planning the Downtown Center for the Arts in Lower Manhattan.

Following his presentation of the specifics of this request, the Chairman read the relevant resolution into the record and upon motion duly made and seconded the following resolution was adopted:

Authorization to Enter into Subrecipient Agreement with International Studio and Curatorial Program

RESOLVED, that the Corporation is hereby authorized to enter into a subrecipient agreement with the International Studio and Curatorial Program for costs associated with planning the Downtown Center for the Arts in Lower Manhattan, as part of the Cultural Enhancement Fund grants, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the amount to be expended by the Corporation pursuant to such subrecipient agreement shall not exceed \$173,000 in the aggregate, which expenditures shall be allocated from funds included in Partial Action Plan 11; and be it

FURTHER RESOLVED, that the previous authorization to enter into a subrecipient agreement directly with the College Art Association, as fiscal conduit for International Studio and Curatorial Program, is superseded hereby, and no funds shall be allocated pursuant to such previous authorization; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Mr. Miller then asked the Directors to authorize LMDC to enter into a contract with UHY, LLP to provide independent auditing services.

Among other things, Mr. Miller explained that UHY is currently serving as the independent auditor for the Empire State Development Corporation, LMDC's sole shareholder. It is anticipated, Mr. Miller continued, that the selection of UHY as LMDC's auditor will improve the efficiency of the audit process for both LMDC and ESD.

Following the full presentation, the Chairman read the relative resolution into the record and called for questions and/or comments on same.

Director Johnson commented that the Audit Committee had engaged in a full discussion regarding the pros and cons of having the same auditor as ESD and that the committee is completely satisfied that at this point in the relationship between LMDC and ESD, that this is a positive move to make.

There being no further comments, upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Enter into Contract with UHY LLP

RESOLVED, that the Corporation is hereby authorized to enter into an agreement with UHY LLP for independent auditing services and related expenses, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that such agreement shall be for a one-year term in an amount not to exceed \$80,000, which expenditures shall be allocated from funds included in the Finance Department's Planning and Administration Budget for the fiscal year ending March 31, 2008; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Ms. Chang then presented a request for approval and release for public comment of the Final Environmental Impact Statement relating to the Draft Conformity Determination and for approval of the proposed Final Programmatic Agreement for the East River Waterfront Esplanade and Piers Project.

Ms. Chang utilized a powerpoint presentation to assist in providing the Directors with the relevant background information regarding this request.

Following Ms. Chang's detailed presentation, the Chairman called for questions or comments on same. Director Weisbrod commented positively with regard to this project. Ms. Rapfogel echoed Director Weisbrod's sentiments.

There being no further comments, Chairman Schick noted that the entire resolution had been provided to the Directors, along

with the relevant materials prior to the meeting and that therefore, he would not read the entire resolution but only refer to the heading.

Following the Chairman's recitation of the relevant resolution heading and upon motion duly made and seconded, the following resolution was unanimously adopted:

East River Waterfront Esplanade and Piers Project Final
Environmental Impact Statement and Related Matters

RESOLVED, that, on the basis of the materials presented at this meeting, copies of which are hereby ordered filed with the records of the Corporation, the Corporation hereby approves and adopts the Final Environmental Impact Statement (FEIS) for the East River Waterfront Esplanade and Piers Project in the form submitted at this meeting, a copy of which FEIS is hereby ordered filed with the records of the Corporation, and finds that the FEIS meets the requirements of the National Environmental Policy Act and National Historic Preservation Act; and be it

FURTHER RESOLVED, that the President of the Corporation or his designee is hereby authorized to take all such action, if any, necessary or appropriate in connection with the FEIS or any attachments thereto pursuant to the National Environmental Policy Act, the National Historic Preservation Act, the New York State Environmental Quality Review Act, the New York State Historic Preservation Act, and any other applicable laws and regulations, including without limitation, the providing, filing or making available of copies of the FEIS and/or digests thereof, the publication of the notices relating to the FEIS, and the making of a report or reports to the Board of Directors on written comments received respecting the FEIS; and be it

FURTHER RESOLVED, that, on the basis of the materials presented at this meeting, copies of which are hereby ordered filed with the records of the Corporation, the President of the Corporation or his designee is hereby authorized, in the name

and on behalf of the Corporation, to enter into the East River Esplanade and Piers Project Programmatic Agreement, substantially in the form as presented at this meeting, with the New York State Historic Preservation Officer, the Advisory Council on Historic Preservation and, if necessary, other agencies, in order to carry out LMDC's obligations under the National Historic Preservation Act, and to take all such other actions as may be required in connection with such Programmatic Agreement; and be it

FURTHER RESOLVED, that the President of the Corporation or his designee is hereby authorized to execute and deliver any and all documents and take all related actions as he may in his discretion consider necessary or appropriate to effectuate the foregoing resolutions.

* * *

There being no further business, the meeting was adjourned at 8:42 a.m.

Respectfully submitted,

Eileen McEvoy
Assistant Secretary