

HUGH L. CAREY BATTERY PARK CITY AUTHORITY  
Meeting of the Members  
200 Liberty Street, 24<sup>th</sup> Floor  
New York, NY 10281  
June 29, 2022

Members Present

Martha Gallo, Acting Chair (via video)  
Louis Bevilacqua, Member (via video)  
Donald Capoccia, Member (via video)  
Anthony Kendall, Member (via video)  
Catherine McVay Hughes, Member (via video)  
Lester Petracca, Member (via video)

Authority Staff in Attendance: Benjamin Jones, President and Chief Executive Officer (via video)  
Sharmila Baichu, Vice President of Human Resources (via video)  
Brett Beecham, Associate General Counsel (via video)  
Gwen Dawson, Vice President, Real Property (via video)  
Pamela Frederick, Chief Financial Officer/Treasurer (via video)  
James Gallagher, Special Counsel (via phone)  
Abigail Goldenberg, General Counsel (via video)  
Craig Hudon, Vice President of Parks Programming (via phone)  
Karl Koenig, Controller (via phone)  
Eric Munson, Chief Operating Officer (via video)  
Lauren Murtha, Paralegal/Assistant Corporate Secretary (via video)  
Jahmeliah Nathan, Vice President of Administration (via video)  
Robert Nesmith, Chief Contracting Officer (via phone)  
Nicholas Sbordone, Vice President of Communications and Public Affairs (via video)  
Alexis Torres, Chief of Staff (via phone)  
Ryan Torres, Vice President of Parks Operations (via video)

The meeting, called on public notice in accordance with the New York State Open Meetings Law, convened at 2:03 pm. All participants attended the meeting via videoconference or via telephone.

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The first item on the agenda was a request for approval of the minutes of the May 25, 2022 meeting. Upon a motion made by Mr. Bevilacqua and seconded by Ms. McVay Hughes, the following resolution was unanimously adopted:

**APPROVAL OF MINUTES OF THE MAY 25, 2022 MEETING**

BE IT RESOLVED, that the minutes of the meeting of the Members of the Hugh L. Carey Battery Park City Authority held on May 25, 2022, are hereby approved.

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Next, there were three comments submitted by the public that were read by Pat Smith, Jennifer Jones, and Maryanne Braverman, and one comment included for the record.

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The next item on the agenda was the M/WBE Utilization Report presented by Ms. Nathan.

Mr. Nathan reported that for the month of April 2022, 34.76% of the Authority's total qualifying expenditure of approximately \$900,000.00 was paid to MWBEs. Of that total amount, 33.09% was paid to MBEs, 4.24% as prime contractors, and 28.85% to MBE subcontractors. And of that total expenditure, 1.67% was paid to WBE prime contractors.

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The next item on the agenda was an update on the Authority's resiliency projects by Mr. Jones.

Mr. Jones began by noting that we have continued to get the word out about our resiliency efforts in South Battery Park City. BPCA was recently featured on PIX11 Morning News talking about the project, mailings have been sent throughout the neighborhood, our signage was increased about the upcoming project, and elected officials are also helping to get the word out. Council Member Marte held a townhall attended by Senator Kavanagh and Manhattan Borough President Levine for us to present on the South BPC Resiliency Project, and to take questions from the audience in-person and via Zoom. Also, the public comment period was concluded for our Environmental Impact Statement on June 10<sup>th</sup>, and 96 public comments were received which will be incorporated into the final impact statement expected to be published in August. Procurements for the project were ongoing with interviewing of the contractors for the first package now and responses on the second package expected in July. The Pier A and Battery component would then follow suit.

On the Northwest Battery Park City resiliency front, the proposals submitted from the short-listed vendors were being reviewed, and the Open House took place continuing our efforts to engage the community on the resiliency projects. Word was sent out via e-mail and through ads in the local media, and the Community was also asked to help spread the word to get input on potential alignments so we can consider inputting ideas and concerns from stakeholders. An online version was to be made available beyond the Open House.

Lastly, on the Sustainability front, Jones briefly mentioned the ongoing Zero Waste efforts as we endeavor ambitiously to become the first organization certified for Zero Waste parks and open spaces. The Zero Waste team conducted an audit of our garbage in the parks and we were very encouraged by the results of our efforts over the past year with recyclables and composting taking up a much, much smaller portion of the landfill containers a year after our last audit.

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The next item on the agenda, presented by Mr. Munson, was an authorization to accept the 2022-23 Insurance Program and authorization to pay the related insurance premiums.

Mr. Munson began by explaining that, as done every year, we worked with the New York State Office of General Services Bureau of Risk and Insurance Management and our broker of record to evaluate our insurance needs and secure the appropriate coverage. He reminded the Members that OGS procured the services of our broker of record, A.J. Gallagher, for most of our policies, on behalf of the Authority and other similar organizations across the state through a competitive process, most recently in 2018. Though we don't work with Gallagher on all of our policies, they assist us with most of them as well as with the daily work of transferring risk to lessees, vendors, permittees, and other parties as appropriate. The process by which we went about securing this year's renewals was the same as last year's in that A.J. Gallagher engaged dozens of potential carriers to market each of our policies and secure the best terms and premiums possible. As a general matter, for the same levels of coverage our renewal premiums have been limited to modest increases compared to current policies with a few notable exceptions yielding a 5% aggregate premium increase over last year's program overall.

Mr. Munson then mentioned three of those particular outliers. The first was the property insurance coverage for our park's public spaces, the Esplanade, and the Battery Park City Ballfields and other locations has increased by slightly over \$100,000.00 or 7%. Though the property insurance markets have largely leveled off as a general matter, given the risk profile of the spaces, we haven't enjoyed the benefits of that trend and an increase of 7% was incurred for this year's renewal.

Secondly, our general liability policy premium increased \$82,000.00 or 13% over the current premium. This increase can be attributed entirely to the additional construction cost expected to be incurred during the renewal period as the South Resiliency Project construction commences along with the rest of our capital plan.

Thirdly, the cyber liability insurance markets continue to harden significantly with many carriers just unwilling to take on public sector clients overall. Mr. Munson expressed being relieved that the cyber security efforts put in place at the Authority have given the carrier the confidence to place coverage and limit the premium increase this year to \$27,000.00 or 35%. He reminded the Members that last year the premium more than doubled.

Finally, in light of the significant policy premiums paid particularly for the property and GL policies, the services of Artex Risk Solutions were procured to assess the feasibility of implementing captive insurance here at the Authority. The feasibility study would include recommendations regarding potential structure for the captive, funding and capital requirements, five-year financial pro forma, and an assessment of regulatory and legal issues. Mr. Munson then requested approval of the Authority's 2022/2023 insurance program as presented, and authorization to pay insurance premiums totaling a not to exceed amount of \$5,726,223, which is an increase of \$253,557.00 over last year's program. Paul Hennessey from A.J. Gallagher was available to take your questions.

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

**AUTHORIZATION TO ACCEPT THE 2022-23 INSURANCE PROGRAM AND AUTHORIZATION TO PAY THE RELATED INSURANCE PREMIUMS**

BE IT RESOLVED, that the Members hereby authorize the President and Chief Executive Officer (the "President") of the Authority or her/his designee(s) be, and each of them hereby is, authorized and empowered to accept the 2022-23 Insurance Program and to authorize the payment of the insurance premiums in the total amount not to exceed \$5,726,223 subject to such changes as the officer or officers, with the advice of counsel, shall approve as necessary and appropriate and in the best interest of the Authority; and be it further

RESOLVED, that the President of the Authority or her/his designee(s) be, and each of them hereby is, authorized and empowered to execute any documents, file said budgeted and related information with all parties as required pursuant to all outstanding bond resolutions, agreements and requirements of law 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 resolution, 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 on the agenda, presented by Ms. Goldenberg, was an approval of increase to Fiscal Year 2022 spending authority for external law firm expenses.

Ms. Goldenberg began by explaining that in addition to the very talented members of the in-house legal staff, the legal issues of the Authority were handled by outside counsel. The legal team both in-house and externally were involved in almost all of the business of the Authority, and as the Members know, a great deal of work was being done on a wide variety of sophisticated subjects. As a result, it was necessary to exceed the budgeted amount for our fiscal year 2022 that was allotted for the use of external law firms. And in anticipation of exceeding the allotted budget for that, the request was an increase in the budget line for external law firms by \$500,000.00.

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

**APPROVAL OF INCREASE OF FISCAL YEAR 2022 PRE-QUALIFIED LEGAL PANEL SPENDING AUTHORITY AND APPROVAL OF FUTURE AUTHORITY**

RESOLVED, the Fiscal Year 2022 annual spending authority for the previously-approved Pre-Qualified Legal Panel is hereby increased from \$1,300,000 to \$1,800,000; and be it further,

RESOLVED, for future fiscal years, the annual spending authority for the previously-approved Pre-Qualified Legal Panel shall be the amount approved by the Board for external law firms in the Authority's Operating Budget *plus* the amount included as a footnote for legal services in the Authority's Capital budget; and be it further,

RESOLVED, that the President of the Authority or her/his designee(s) be, and each of them hereby is, authorized and empowered to execute any documents, file said budgeted and related information with all parties as required pursuant to all outstanding bond resolutions, agreements and requirements of law 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

resolution, 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. Petracca made a motion to enter Executive Session, which was seconded by Mr. Kendall, to discuss the negotiations related to the lease of real property, the publicity of which could substantially affect the value of the relevant properties. The Members entered Executive Session at 2:45 p.m.

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The Members exited Executive Session at 3:54 p.m.

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There being no further business, upon a motion made by Mr. Petracca and seconded by Mr. Kendall, the Members unanimously voted to adjourn the meeting. The meeting thereupon adjourned at 3:55 p.m.

Respectfully submitted,

*Lauren Murtha*

Lauren Murtha  
Assistant Corporate Secretary

**Public Comment**  
**April 27, 2022**

**1. Pat Smith, President Battery Park City Homeowners Coalition**

Members of the Battery Park City Authority (BPCA) Board of Directors:

As you are aware, the New York State Legislature passed by overwhelming margins this month legislation requiring the Governor to name Battery Park City residents to a majority of the positions on an expanded nine-member BPCA Board of Directors. The residents of this community are confident that Gov. Kathy Hochul will sign this legislation. Until then, residents urge the current BPCA Board of Directors and executive leadership to redeem its lackluster record by engaging in good faith negotiations with the Battery Park City Homeowners Coalition and achieving a fair and reasonable global ground rent agreement. Battery Park City residents further demand that the BPCA leadership take no other substantial action, such as executing contracts with individual condo buildings or other property, executing consultant contracts or initiating other financial transactions until Gov. Hochul has an opportunity to review the pending legislation noted above. If the current leadership is unwilling or unable to undertake this mission, to negotiate with the Homeowners Coalition while suspending all other action, then members of the BPCA Board and executive leadership should resign so Gov. Hochul can start her management of Battery Park City with a clean slate. As most of you are serving long past the expiration of your term, the best service you can provide the people of this community and all New Yorkers is to resign. Thank you very much.

**2. Ms. Jennifer Jones, Green Ivy School**

Thank you all. I appreciate the time, and thank you also for the work that I know you do on behalf of Battery Park. I'm here to speak in relation to the South Battery Park Resiliency Project, which I understand is a standing item on your agenda. A little about me, I have lived in South Battery Park City for 14 years, since my son was born, and I have raised him there especially in Wagner Park, and I am also the founder of two long-standing schools in the area, Battery Park Montessori, which is perched right on the northern tip of Wagner Park celebrating our tenth year, and Pine Street School, which is at Sister School in FiDi. We serve over 500 families right now across Lower Manhattan with a large percentage of them in Battery Park. And our alumni base includes thousands of Lower Manhattan families, most of whom have enjoyed Wagner Park for a significant part of their family experience there. We are a body of people that are deeply devoted to community and green space, and we're also wide awake when it comes to climate change and sustainability, and the issues I know that you're bravely tackling. However, the current proposed plan, the resiliency plan for Wagner Park will have deep and lasting negative impacts on the usable green space in our community. And to be very clear, we do not support the removal of mature trees. We do not support the raising of Wagner Park and we do not support the reduction of any usable green space. So again, just to clarify, our concerns are about the lack of data and the lack of independent analysis for this project. So we are joining this call. I know that this has been something requested for quite some time. We are now actively involved in that request, and we are also asking the members kindly for a significantly more robust outreach to the stakeholders in this area. And we want to offer our help in that regard. More than happy to help you with that outreach. More than happy to mobilize the community as a partner in getting that data and getting a really nice thorough vetting of the plan. So thank you all once again. I really appreciate the time.

### **3. Maryanne Braverman, Battery Park City Senior's Organization**

However, I will stick to my reading and tell you why I am on. I am here to talk about Asphalt Green and their relationship with the Authority and with the Battery Park City Senior's group. I have two requests of the Authority. First is that Asphalt Green's finances be reviewed professionally, and by that I mean Pam and her team, in light of Asphalt Green's obligation to give back to the community and the costs that might be involved. Secondly, that the Chairman and/or a Board Member, along with B.J., Battery Park City's President, communicate with Asphalt Green's CEO about their obligation to give back to the community. So why am I asking this? I'll give you a little history. Starting in 2016, Asphalt Green began offering classes specific to seniors. And over a short time that grew to six classes a week for seniors. Then COVID began and everything shut down. Asphalt Green reopened to their regular members in the fall of 2020, with many precautions. There was still no vaccination, so I did not push for senior programming at that point. Seniors were really staying in and avoiding any exposures. I waited until the summer of 2021. People were vaccinated and so on, and found the new manager. Finally was able to meet with her, and discuss started the senior programming back in the fall of 2021. She offered the seniors eventually a day membership that started in October last year, and then chair yoga, which is specific to seniors was added in March of this year. Day membership, so you understand what it is they were giving, simply allows access to the facility between 8:00 a.m. and 3:00 p.m. and only on weekdays. So in effect, they were offering the seniors access to their facility with nothing customized for them until they started this chair yoga. But it did give seniors access to the pool, which some people like. It also gave them access to the weight training room, and they could join in on classes that were held during that window of time 8:00 a.m. to 3:00 p.m. At this moment, in order for Asphalt Green to accommodate the summer day camp, all adult classes were first cancelled completely during the day hours, then some were moved to the afternoon, and then finally as of the day before yesterday, seniors were given access to the 4:00 p.m. classes which they would not be able to access normally with their day membership. Now to compare this summer with previous summers, before COVID there were room changes to accommodate all groups, the olders and the youngsters, and sometimes we were in a tiny room, but we did our yoga with, you know, bent arms instead wide stretched arms, it worked. I don't know what's different this year. Are they trying to get more paying youngsters on board, and make up some of their deficits? Is it new management that just doesn't understand or wasn't capable of organizing it the way others had done in the past? So I don't know what's different this year, but it's just turned things upside down. I want more than lip service from Asphalt Green about their obligations to the community. Every change of manager, and we're talking about really a seven-year period, there are gaps in communications. If a problem arises and I hear about it then I can take action, but I have never been contacted by a new manager to say I'm new here, can we talk about your group and how it's going. There was a time before COVID when there was an Asphalt Green employee who did senior programming and she did it up in the uptown location, and then began to do it with our community back in 2016, but she -- it was clear that her job was not well respected in the organization, that requests for her clientele were at the bottom of the list. She would maneuver to help us out with certain things, but COVID came and she was gone, and they don't seem to have a senior programmer back anymore. So the problem is that there may be management, the CEO may know that there's an obligation, but it is never communicated directly to the managers and it is never acted upon. It creates a lot of work for me to try to move things along. I often have to drag Nick into the mix. And why Nick? Because the contract between Asphalt Green Battery Park City states that there is to be a liaison and my understanding its Nick to deal with, you know, to deal with Asphalt Green's accessing Asphalt Green and the space and/or

programming that they are obligated to give. So that's what I wanted to say. If there's questions of course I will answer.

#### **4. Dr. Klejda Bega**

My name is Dr. Klejda Bega and I am a science lecturer at Columbia University. I call for a pause in the Wagner Park Resiliency project because it is based on outdated, incorrect and exaggerated data. For more detail, please refer to the attached letter that BPCNA sent to BPCA. My position is summed up as follows:

BPCA and AECOM based their numbers for the Wagner Park Resiliency Project on the 2013 FEMA Flood Insurance Maps which predict a storm surge for the 100-year storm at the Battery (close to the project site) of 11.3 feet (this also matches exactly what the AECOM model predicts). However, in 2016 the city of New York won an appeal against FEMA, because the FEMA maps were shown to use a methodology that was scientifically and technically incorrect, and, as a result, the FEMA maps overstate both the storm surge heights and the size of the flood basin. Here is the link to the appeal:

<https://www1.nyc.gov/site/floodmaps/appeals/overview.page>

The city's analysis (which won the appeal because it was the more correct analysis) predicts a storm surge height of 9.2 feet at the Battery, so over 2 feet lower than what you use. The height of the storm surge is the entire foundation this project is based upon, and given such a shaky and incorrect foundation, it is imperative that the project is paused immediately so that this very important number can be properly reviewed and validated.

Moreover, other research shows that Sandy was not the once in 100 year storm, but much bigger and rarer than that. It was the once in 260 year storm and the biggest storm to have hit the New York harbor since the 1700s. Not only the current park withstood the 100-year storm, as it was designed to do, but it withstood a much bigger storm, the once in 260 years storm.

Another concern is the sea level rise predictions that BPCA and AECOM use. You have chosen to use the High Projection path from the NPCC report, which predicts a 10" sea level rise by the 2020s and 30" by the 2050". We are already in the 2020s decade and the NOAA data from the tide gauge at the Battery indicates that we continue to be on trend for 1 inch sea level rise per decade and not 10 inches as predicted. There are no natural processes that would cause the sea level rise rate to increase by more than a factor of 10 in the next remaining 8 years of this decade. Furthermore, latest projections from NASA, based on the 2022 IPCC report and taking into account local conditions in the US Northeast predict only 15 inches sea level rise by the 2050s and not 30 inches as you use. Even the least likely, lowest confidence scenario, as estimated by NASA, only goes as high as 20 inches. It is clear that the High Projection path is not the best path to choose for sea level rises.

The good news is that any significant sea level rise that may affect the project site, even if it does follow these higher projections, will only start happening after 2050s. This means that we have decades of time to wait and see which one of the sea level rise projections will occur and there is no urgency to start tearing down the existing park right now at a significant cost to all of us BPC residents and all New Yorkers who currently enjoy the park. Let us use this time that we have wisely by pausing this project and reviewing your numbers and assumptions again. Thank you, Klejda Bega