

ADDITIONAL INFORMATION THAT WILL HELP INFORM THE WORKING GROUP PROCESS

July 27, 2017 Meeting of Community Board 2 Pier 40 Task Force
(Text in red indicates questions previously provided by CB2)

- **Current Pier 40 revenue details: how much and from what**
 - *See presentation materials from 4/27/17 showing total Pier 40 revenue from FY06-07, FY11-12 and FY16-17 as well as costs to HRPT to maintain Pier 40 for each year.*
 - For the most recently completed fiscal year (2016-17), Pier 40 revenue was:
 - Parking (net of parking taxes): \$7,218,000
 - Dinner and event cruise vessels: \$489,000
 - Commercial recreational/recreational retail: \$115,000
 - Miscellaneous commercial: \$103,000
 - Not-for-profit recreation and educational: \$1

- **Capital maintenance update at Pier 40: what's done; what needs doing to upgrade current structure**
 - See attached summary of repairs from 2012 to Current Budget Year.
 - Remaining essential repairs are for maintaining current use, and upgrades are primarily for safety and to maintain the structural integrity of the existing building and pier. Bandaging an old building is not cost effective if some or all of it will not remain in the future.

- **What are the zoning restrictions at Pier 40 including allowed uses and floor area? Are there existing height restrictions for a new building at Pier 40?**
 - Pier 40 is zoned M2-3, and structures and at least some of the open space on the pier are further subject to Waterfront Zoning restrictions. In NYC zoning, waterfront zoning exists to maximize "the public's access to, and enjoyment of, the city's waterfront resources while enabling appropriate redevelopment along the shoreline." Special bulk, height and use regulations apply on waterfront blocks and piers; these requirements are very detailed. Properties may seek modifications through normal City Planning processes ranging from a Chairman's certification to full ULURP.
 - Under the Act, many uses otherwise permitted within M2-3 districts are prohibited.
 - In practice, this means that HRPT must first ensure that a proposed use is permissible under the Act. If it is, HRPT looks next to zoning. If a use is not permitted in an M2-3 district, it either must be rejected OR the Trust may seek to try to change zoning through ULURP.

- To date, HRPT has only sought to rezone one pier -- Pier 57. In that case, zoning was changed from M2-3 to M1-5.
- **Has Trust evaluated the possibility of air rights transfers to UPS site or other sites outside areas currently allowed?**
 - No for two reasons. First, the Act does not allow a transfer beyond the one-block inland area. Second, as part of the St. John's transfer approval the Trust was prohibited from selling further air rights from Pier 40.
- **Is Pier 40 a viable site for a public high school?**
 - A public high school is a permissible use under the Act, and HRPT discussed this potential use with the School Construction Authority (SCA) during the 2006 RFP process. At that time, the SCA determined not to pursue the school given the cost factor. The SCA would have to determine whether Pier 40 is viable, and whether it meets cost and criteria.
- **The WG understands that the Trust will seek an amendment to the Act to allow commercial office use at Pier 40. What lease term would be required for this use?**
 - Under any circumstance in which Pier 40 is developed privately, even if only part of it is developed privately, HRPT will need to be able to offer a longer lease term than the 30 years currently permissible under the Act. This is because the cost of redeveloping a project of this magnitude requires a longer term to secure financing.
 - As shown in the handouts provided to CB2 in April, the Act allows up to 99 years at all park/commercial piers but Pier 40.
 - For Pier 57, which includes commercial office use for Google as the anchor tenant, the developer's investment is approximately \$350 million and a 99-year term was needed to secure financing.
- **What other changes will the Trust seek?**
 - HRPT is participating in the CB2 Task Force process to explore this question. At present, aside from lease term, the only other change we imagine seeking is the ability to have office use consistent with the language currently in the Act for Pier 57.
- **Pile repair planning update: What is the planned construction schedule including anticipated start date and completion date? How will work affect current park uses or other uses on the pier?**
 - HRPT has hired the pile repair designer and a dive/inspection contractor. Staff has completed review of the design development drawings and the design team is preparing

60% construction documents. HRPT will need to secure permits from the Army Corps and NYS DEC; we hope to file for permits before the end of the calendar year, and to start bidding by January 2018, with the first phase of pile repairs starting in Spring 2018.

- Given the nature of the pile repair construction (performed under water by divers working in dark spaces under the pier), construction phasing is planned over a multi-year period – likely 5 years.
- Having a Pier 40 development plan in place prior to completion of pile repairs would help inform construction schedule and phasing, and would allow efficiencies so that portions of the pier do not need to be disturbed twice.
- We expect to start on the southeast side of the pier. Once we have more information, which will be based on a combination of bid responses/prices/work schedule proposals *and* the actual pace of construction for the first phase, we will be better able to define the overall schedule.
- During the work, vehicle/equipment/materials access will need to occur from the edges of the courtyard ballfields, and small openings in the deck will need to be created. Partial closures of the ballfields will likely be needed during certain work phases, but these would rotate throughout construction. Boating operations will need to shift during repairs of adjacent pile sections.
- **Has Trust evaluated whether to what extent pile repairs will reduce development costs and thereby the required scale of projects?**
 - Yes, although this question cannot be properly analyzed without positing a future development program.
 - An HRPT pile repair expenditure of \$100 million will lessen the developer’s portion of the overall project cost by an equal amount. The financial impact will depend on factors such as equity and debt market conditions prevailing at the time (including investor and lender expectations), and risk profile of permissible uses (e.g., retail may be higher risk than office), prospective tenants (national companies are often less risky) and lease term (longer term is less risky than a shorter). This all gets summarized in what is called “required yield on total project cost”. Lower risk gets translated into lower required yield.
 - As a purely illustrative example, in today’s market an office use development with a solid anchor tenant may demand a 7% yield on total project cost (a more risky project may require 11% or more). A decrease of \$100 million in total project costs would therefore be translated into a \$7 million reduction in required annual yield. Assuming income sources were available to support a total project cost that included the \$100 million, savings could be applied to rent to the Trust, the creation and operation of

public space, or other purposes. On the other hand, if the development costs for the private portion of the pier are very high, or income potential is limited (say, by reducing rentable area or restricting types of tenancies), the \$7 million may simply make the difference between a financially feasible project and one that isn't.

- **Is the existing structure viable to be adapted for modern office use or would demolition and rebuild be required? Has the Trust evaluated the feasibility of an alternative of incremental repair and re-use of the existing structure at Pier 40? How does the Trust view the trade-offs between building height and expansion of open areas?**
 - The existing structure, if repurposed for different uses, does not comply with modern codes; furthermore, any substantial reconstruction of the building, even within the same configuration, would trigger a required upgrade of the pier's structural components to comply with the seismic and other requirements of the current NYCDOB code.
 - For this reason, the redevelopment options are limited to a gut rehabilitation, a tear-down and rebuild, or a combination of both at different portions of the site. Some phasing will be necessary regardless. However, given the scale of Pier 40, proceeding on an incremental basis could also create inefficiencies. For a comprehensive redevelopment, whether rehab, new construction or a combination of the two, phasing would need to be analyzed for a specific development program.
 - HRPT has heard from the ballfield community that adding fields is desirable. HRPT also has a long list of potential teams and ball field users that are unable to get time on the fields. Therefore, we would be open to the concept of reconfiguring bulk (with no towers!) to accommodate both ballfields and commercial uses.
- **Can the existing structure support additional stories? How many? Has the Trust assessed whether the existing structure is required for structural integrity of the platform? Can parts of the building be removed without affecting the integrity of the slab? Can the existing piles, after repair, support a taller building? How tall?**
 - Yes, but this answer still depends on design, use, and the seismic requirement.
 - Yes, the building is designed in a way that would make it feasible to remove sections of it without affecting the platform (which would still need pile repair).
- **Why were there so few responses to prior RFPs?**
 - Background: In 2003, HRPT issues an RFEI that yielded four major proposals including big box retail, a large retail/aquarium complex, and another proposal that involved substantial public subsidies. Ultimately, HRPT's Board decided not to accept any of these proposals. The 2006 RFP resulted in two formal proposals followed by a

community driven study that attempted to combine aspects of one proposal with ideas that would have improved it. HRPT's Board again determined not to select any proposals.

- HRPT can provide its opinion on this question, but CB2 and others doubtless of have their opinions too. As Tobi has stated, responding to a public RFP is a very expensive proposition, entailing hundreds of thousands of dollars. Given the costs to redevelop the pier (at the time of the RFPs, the developer would have been responsible for repairing all of the piles); constraints of the Act regarding uses and the 30-year lease term; developer capacity needed to undertake such a substantial project (including persuading a lending institution to provide sufficient capital and ability to generate enough profit to repay the debt); requirement in the 2006 RFP to include an least 1,800 parking spaces as well as ballfields, we believe many developers likely determined that they were unable to undertake the project.
- What was the range of income offered by prior proposals?
 - The 2006 RFP required a minimum of \$5 million in rent to HRPT each year. That amount was determined based on the annual parking income stream at that time, coupled with the park's operating and capital maintenance budgets at that time, but it did not fully consider long-term park maintenance and operating budgets.
- What have been to costs to the Trust of maintaining the city's shoreline and related general infrastructure?
 - Morton Street Bulkhead – 690 linear feet – cost is approximately \$14 million
 - Pier 81 collapse following Tropical Storm Irene – cost was approximately \$6.8 million
 - Other sections of the bulkhead have been repaired in tandem with associated park construction, or have required less extensive repairs over the years (such as an area near Pier 84).
- What have been the city and state funding levels for each year since 1997?
 - See attached.
- Has the Trust analyzed the value the park has added to real estate and thereby property tax revenues?
 - Friends of Hudson River Park worked with the Regional Plan Association which produced a report in 2016 called "Realizing the Benefits of Hudson River Park." The report is on our website: <https://www.hudsonriverpark.org/Realizing-the-Benefits-of-Hudson-River-Park>. The attached page is a summary page of sorts.

Other Piers and Issues:

- **Pier 76 agreement update**

- Under the Act, the City is required to use “best efforts” to relocate the tow pound. HRPT has always worked to ensure each administration is aware of this requirement, and the current administration has taken it seriously, in part because they are aware of Pier 76’s importance to the park financially. However, a suitable relocation site that meets NYPD’s requirements for the tow pound has not yet been identified.
- Assuming the tow pound can be relocated, the 2013 Act amendment allows up to a 99-year lease on no less than 50% of the pier footprint for permissible park/commercial uses, with the balance for passive and active open space that are contiguous to water.

- **Summary of Act amendments pertaining to passenger ship fees and related revenue status.**

- The 2013 Act amendment allows the Trust to establish and collect a fee of up to \$2.00 from each passenger traveling on a commercial passenger vessel carrying passengers for the primary purpose of entertainment, sightseeing, day or dinner cruises, provided the vessel embarks or disembarks within the boundaries of the park. Passengers on ferries and those using vessels docking at the Passenger Ship Terminal are excluded.
- HRPT sought an amendment along these lines, and retained outside counsel to assist in understanding how this could be accomplished. We learned that our ability to implement the fees is subject to provisions of the Maritime Transportation Security Act and other applicable Federal law and court decisions where port and landing fees are imposed by localities.
 - In general, the passenger fee amount charged must be commensurate with the costs imposed on the Trust and its facilities by the operation of the vessels and use by the passengers. These permissible costs are largely limited to the construction and maintenance of certain maritime structures, access ways across the Park to the docks, and related facilities which are used by the vessels and/or the passengers, etc.
 - Since the Trust’s leases with entities such as Circle Line, Chelsea Piers and Hornblower shift responsibility for most of these maintenance and operating costs to the vessel operators, the potential for collecting unallocated costs is constrained, and requires extensive and precise analysis and documentation.
 - The day after the Governor signed the 2013 Act amendment, Circle Line brought a federal suit claiming the amendment’s passenger fee provision is unconstitutional. The Trust was represented by the NYS Attorney General in the litigation. While the suit was ultimately dismissed since the action was deemed

premature, it is clear that surmounting hurdles to implementing the fees will require a substantial expenditure of time and resources, and that benefits are limited.

- **Update of passenger ship terminal (PST) agreement and related revenue.**
 - The Act requires the City to pay HRPT 20% of any revenues it receives from the passenger ship terminal piers.
 - In 2006 the PST was determined to be physically and economically obsolete, and the City pledged to spend in excess of \$400 million to upgrade and repair the facility to assure its continuing viability as a cruise port. The City then took the position that “revenues” under the Act meant revenues “net” an amortization credit for necessary capital repair costs.
 - In 2006, the Trust was asked by the City to agree to allow that amortization credit to at least 2025, and as a result the City’s annual payment to the Trust was effectively reduced from approximately \$500,000 per year to zero.
 - In May of this year, Council Member Johnson secured a commitment from the City that the Trust must receive not less than \$500,000 annually from revenue collected from the PST, and that in 2026 the Trust would receive 20% of the “top line” gross amount collected without deduction or credit.

- **City revenue from Piers 92, 94 and parking taxes at Pier 40**
 - Based on the payments made to HRPT, in 2016, NYC’s revenue for each pier is estimated as:
 - Pier 79 (municipal ferry terminal): approximately \$716,000 (HRPT received \$143,172)
 - Piers 92& 94 (trade shows): approximately \$1.64 million (HRPT received \$327,756)
 - In 2016, HRPT collected and provided \$1.1 million in parking tax revenue to NYC and NYS.

- **What are the factors to be considered to evaluate park-compatibility? Type of use? Project size and intensity of use? Positive and negative impacts on specific recreational open space uses? Does the Trust have in place a standard to assure that park/commercial uses are compatible with park uses as required by the Act?**
 - HRPT looks at all of these factors and more. We also look at surrounding park uses, surrounding inland land uses, surrounding water uses, layout of the potential use at the proposed location, nature and times of the traffic/customers the use would

generate, potential for environmental concerns, degree to which the use takes advantage of the proposed location, degree to which HRPT staff or PEP would have to heavily manage/oversee the use, feasibility of securing additional permits if needed, etc.

- Obviously, we also consider its legality under the Act, and compliance with zoning, regulatory permits, and the General Project Plan. The Act itself is complex, and proposed uses need to be examined from multiple perspectives. Ultimately, the General Counsel is the official interpreter the Act for the Trust.
- For certain uses, additional studies have to be conducted before a decision can be made. For example, the Trust determined to disallow banquet spaces at Pier 57 RFP even though they were a permissible use under the Act; in the Trust's determination, the site constraints at Pier 57 including the historic building façade, coupled with the traffic patterns for large banquet uses, would have created too many issues for the site.

Additional Working Group Questions

HRPT will be prepared to discuss in September:

To be able to weigh the extent to which a project will meet the income needs of the park against potential negative impacts, the WG needs the Trust's assessment of its income needs and the opportunities at Pier 40 to contribute to these needs:

- What is the anticipated budget upon completion of the park?
- Other than Pier 40, what increased income is anticipated?
- Has the Trust done an assessment to determine the practical level of income from park/commercial use generally and from new development at Pier 40 specifically?
- Has the Trust assessed the viability of office use based on proximity to retail and food and public transportation?
- Will long term car parking will continue to be viable?
- Has the Trust assessed the viability of park enhancing commercial uses such as commercial recreation and fitness uses?
- Can the Trust provide any studies or reports describing likely development scenarios based on the change?
- Based on an assessment of a viable commercial office project at the pier:
 - How much commercial office floor area would be needed or anticipated? How many people would work at the pier?
 - How much restaurant and other retail would be needed to support the office use?
 - Is the current pier structure viable for this use?
 - What would be the development cost?
 - Could development proceed without disrupting current recreational uses?