



**REGULAR SESSION BOARD MEETING  
FRIDAY, MAY 17, 2013**

A Special Board meeting of the New Jersey Sports and Exposition Authority was held on Friday, May 17, 2013, at 12:00 p.m., in the NJSEA Executive Offices in East Rutherford, New Jersey.

**Members in Attendance:**

Mike Ferguson, Chairman  
Joseph Buckelew, Vice Chairman  
John Ballantyne, Member  
Richard Constable, New Jersey Meadowlands Commission  
Armando Fontoura, Member  
Michael H. Gluck, Esq., Member  
LeRoy Jones, Member  
Harry Harchetts, Member  
Robert Harris, PhD., Member  
Wayne Hasenbalg, Esq., President and Chief Executive Officer  
George Kolber, Member  
Jim Leonard, Chief of Staff, NJ State Treasurer's Representative  
Michael Neglia, Member  
Steven Plofker, Member  
Anthony Scardino, Member  
Robert Yudin, Member

**Members Absent:**

None

**Also Attending:**

Giuseppina Coppa, Vice President Information Technology  
John Duffy, Vice President Engineering, Construction and Regulatory Affairs  
Regina Egea, Director, Governor's Authorities Unit  
Amy Herbold, Assistant Counsel, Governor's Authorities Unit  
Ralph J. Marra, Jr., Esq., Sr. Vice President Legal and Governmental Affairs (telephonic participation)  
Jim Minish, Executive Vice President, COO  
Robert Weakley, Sr. Vice President Human Resources and Labor Relations  
George Zahn, Vice President Purchasing and Risk Management  
Peter Torcicollo, Esq., Gibbons P.C.  
Kevin Evans, Esq., Gibbons P.C.  
Kevin Weber, Esq., Gibbons P.C.  
Scott Parker, Jacobs Engineering

Chairman Ferguson stated that the New Jersey Sports and Exposition Authority gave notice of the time, place, and date of this meeting by providing such notice to the Secretary of State for the State of New Jersey, The Star-Ledger, The Record, and other newspapers and by posting the notice at the offices of the Authority.

Chairman Ferguson called the meeting to order at 12:02 p.m.

## **I. AGENDA**

- Chairman Ferguson advised that there were four (4) items on today's agenda, as follows:
  - RESOLUTION APPROVING TRANSFER OF GROUND LEASES AND DEVELOPMENT RIGHTS TO TRIPLE FIVE
  - RESOLUTION APPROVING A LIMITED ACCESS AGREEMENT TO PERMIT CERTAIN AMERICAN DREAM PREPARATORY CONSTRUCTION WORK
  - RESOLUTION DELINEATING THE PROJECT SITE AND THE AP/WP SITE AS AN AREA IN NEED OF REDEVELOPMENT AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH
  - RESOLUTION ADOPTING THE REPORT AND RECOMMENDATION OF THE MASTER PLAN COMMITTEE AND ITS HEARING OFFICER REGARDING THE PROPOSED MAJOR MODIFICATION TO THE XANADU PROJECT SUBMITTED BY TRIPLE FIVE

## **II. PRESENTATION REGARDING RESOLUTION TO TRANSFER GROUND LEASES & DEVELOPMENT RIGHTS TO TRIPLE FIVE.**

- Chairman Ferguson called on Kevin Evans, Gibbons P.C. to present on the first agenda item.
- Mr. Evans stated as follows:
  - Under the Redevelopment Agreement and the various Ground Leases, the NJSEA's consent is required for certain transfers of control and for the transfer of lease and development rights.
  - The proposed transactions between T5 and the ERC Lenders and T5 and Colony require the consent of the NJSEA.
  - T5 has formally requested that the NJSEA consent to the transfer of the ERC rights and the transfer of the Colony rights.
  - The Resolution approves the form of the Consent that NJSEA has been asked to provide.
  - The Consent provides the following:

- It is subject to the Governor’s veto rights in N.J.S.A. 5:10-4(i);
  - The parties agree to finalize the necessary documents, including amending the Ground Leases, to properly reflect the transfers to T5;
  - T5 is not permitted to start physical construction activity until the revised documents are in place;
  - The NJSEA can withdraw the consent on 30-days written notice but not before June 30, 2013 (which is shortly after the longstop date for T5’s completion of the Colony transaction);
  - The transfer requirements and notice periods in the Ground Leases are waived;
  - None of the transferees are released; and
  - No approval of the Major Modification can be implied from the Consent.
- Chairman Ferguson thanked Mr. Evans for his presentation and asked for questions from the Board. No questions were posed.

### **III. PRESENTATION REGARDING RESOLUTION APPROVING A LIMITED ACCESS AGREEMENT TO PERMIT CERTAIN AMERICAN DREAM PREPARATORY CONSTRUCTION WORK**

- Chairman Ferguson called on John Duffy, of the NJSEA engineering department, to present on the second agenda item.
  - Mr. Duffy stated that Triple Five have requested that the Sports Authority allow Triple Five access to the Project Site to perform certain surcharge and preparatory site work.
  - Construction includes installation of the required soil erosion control measures, removing of the existing asphalt pavement surfacing, furnishing and installing 500 feet of precast concrete jersey barrier, installing settlement plate assemblies, importing and placing of clean compactable fill in the lower surcharge areas, and placing existing stockpiled material which shall be subsequently removed once the surcharging is completed.
  - The Resolution approves the form of the Limited Access Agreement that NJSEA has been asked to provide.
  - The Limited Access Agreement provides:
    - Access is not granted until T5 provides (a) evidence of adequate insurance (provided), (b) evidence that it has all the necessary approvals it needs for

the work (not yet provided), and (c) a performance bond to ensure that the work is completed (not yet provided);

- T5 need to provide advance notice of its intention to commence the work and receive the consent of the NJSEA to start;
  - The work is limited to the surcharge work described above although T5 can request additional related work;
  - T5 must comply with the existing Construction Coordination Agreement;
  - The NJSEA will retain a licensed site remediation professional for purposes of evaluating material proposed to be used during the surcharge work. The cost is paid by T5;
  - T5 provides the NJSEA with an indemnity relating to the surcharge work;
  - Access can be terminated by the NJSEA at any time otherwise access expires after 180 days (unless extended).
- No approval of the Major Modification can be implied from the Limited Access Agreement.
  - Chairman Ferguson thanked Mr. Duffy for his presentation and asked for questions from the Board. No questions were posed.

#### **IV. RESOLUTION DELINEATING THE PROJECT SITE AND THE AP/WP SITE AS AN AREA IN NEED OF REDEVELOPMENT**

- Chairman Ferguson called on Kevin Evans, Gibbons P.C. to present on the third agenda item.
- Mr. Evans stated that the Bergen County Improvement Authority together with the Borough of East Rutherford and the East Rutherford Redevelopment Agency have been working with T5 to provide approximately \$250 million in tax-exempt bond financing through the issuance of RAB bonds pursuant to the Redevelopment Area Bond Law (“RAB Law”).
- A RAB bond financing, in which the NJSEA was to be the conduit issuer, was something that was also contemplated by Mills/Mack-Cali in 2005 but never finalized.
- The NJSEA’s role in the current financing is much reduced but the RAB Law requirements necessitate that the NJSEA provide some assistance.
- The RAB bond financing will result in the PILOT payments that the NJSEA is currently required to pay to East Rutherford on opening of the ERC being extinguished. Instead, T5 will make PILOT payments direct to East Rutherford part of which will be used to secure the bonds.

- T5 has requested the NJSEA provide certain assistance in advance of the Local Finance Board application submission deadline of May 22 for its June 12 meeting.
- NJSEA’s assistance at this stage comprises certain resolutions and entering into of a State Entity Redevelopment Agreement and Option Agreement (“Agreement”).
- The resolutions are to satisfy the technical requirements of the RAB Law including designating the ERC Site and the AP/WP Site as an area in need of redevelopment.
- The Agreement provides:
  - The NJSEA with an 18 month option to purchase the AP/WP Site;
  - Recognizes that the NJSEA will enter into a Ground Lease with T5 and that T5 will acquire developments rights under the existing Redevelopment Agreement;
  - The Agreement can be cancelled at any time if T5 determines that it will not proceed with the AP/WP Component, or the NJSEA determines that it is in its best interests to do so;
  - T5 provides the NJSEA with an indemnity for matters relating to the Agreement.
- No approval of the Major Modification can be implied from the Agreement.
- Chairman Ferguson thanked Mr. Evans for his presentation and asked for questions from the Board. No questions were posed.

**V. PRESENTATION REGARDING RESOLUTION ADOPTING THE REPORT AND RECOMMENDATION OF THE MASTER PLAN COMMITTEE AND ITS HEARING OFFICER REGARDING THE PROPOSED MAJOR MODIFICATION TO THE XANADU PROJECT SUBMITTED BY TRIPLE FIVE**

- Chairman Ferguson called on Member Joseph Buckelew to present on the fourth agenda item.
- Commissioner Buckelew updated the members on American Dream matters including status of the Report & Recommendation of the Master Plan Committee’s Hearing Officer regarding Triple Five’s Proposed Major Modification to the Xanadu Master Plan.
- Mr. Buckelew introduced Peter Torcicollo of Gibbons P.C. to give an overview of the Report & Recommendation.
- Mr. Torcicollo gave an overview of the minutes from the Master Plan Subcommittee meeting held at 10:00, May 17, 2013.
- Mr. Torcicollo summarized the minutes of the morning’s Master Plan Subcommittee meeting as follows:

- Chairman Buckelew (“Chairman”) commenced the meeting by welcoming the members of the Master Plan Committee (“MPC”) and invited guests. The Chairman reminded the Master Plan Committee of the background and context to today’s meeting and its intended purpose.
- In May 2011 the NJSEA announced that Triple Five, the developer of the Mall of America, had been identified as the preferred party to take over the Xanadu Project, which was to be renamed “American Dream at Meadowlands.”
- Then, in September 2011, Triple Five submitted to the NJSEA a proposal for a “Major Modification” to the Xanadu Master Plan (“Major Modification”). Essentially, Triple Five’s proposed Major Modification was to add an Amusement Park and Water Park component to the already-approved Xanadu Project.
- Consistent with the NJSEA’s normal practice, the proposal was sent to the NJSEA’s Master Plan Committee for its review and consideration. Based on some initial design concepts, the Master Plan Committee met on October 4, 2011 and recommended that the NJSEA issued a preliminary and conditional approval which it did on October 13, 2011.
- The Master Plan Committee, working with NJSEA staff, continued its review process, which included ongoing discussions with Triple Five’s engineers and consultants. During this process, Triple Five continued to obtain other necessary permits and approvals. To date, all the other government agencies have signed off on this proposal, including the New Jersey Meadowlands Commission, Department of Environmental Protection, and the Department of Transportation.
- In June 2012 the Giants and Jets (the “Teams”) filed a lawsuit to stop the NJSEA from approving Triple Five’s proposal. That lawsuit was dismissed on August 9, 2012 by Judge Peter Doyne, who held that the lawsuit was premature as the NJSEA had not yet acted on Triple Five’s proposal.
- Following the lawsuit, the Master Plan Committee continued its review process, and appointed Ralph J. Marra, Jr. as Hearing Officer to assist the Master Plan Committee in reviewing the submissions and coordinating with the parties.
- Throughout the fall of 2012, the Master Plan Committee requested follow-up information from Triple Five on numerous aspects of its proposal, and asked the Teams to review and comment on Triple Five’s proposal. The Master Plan Committee received voluminous submissions from all parties.
- The Master Plan Committee has worked with its Hearing Officer, the NJSEA engineering and facilities staff, its outside traffic consultant, and its legal counsel to review the submissions.

- This morning, the Master Plan Committee is asked to review and consider the final Report & Recommendation of its Hearing Officer dated May 16, 2013 (the “Report”).
- Following a presentation from the Hearing Officer and the NJSEA’s counsel, Gibbons P.C., a discussion of the Report and its conclusions will take place, following such deliberations the Master Plan Committee will be asked to vote on whether to adopt the Report & Recommendation.
- Depending upon the outcome of the vote, the Master Plan Committee will recommend that the Board of Commissioners of the NJSEA (the “Board”), which meets later today, adopt a resolution, the form of which will be determined at this meeting.
- The Chairman turned the meeting over to Ralph J. Marra, Jr., the Master Plan Committee’s appointed Hearing Officer (the “Hearing Officer”).
- The Hearing Officer then asked Mr. Torricollo to take the Master Plan Committee through the Parts I through IV of the Report, including the status of the conditions listed above.
- Mr. Torricollo made a presentation to the Master Plan Committee regarding Parts I through IV of the Report, as follows:
  - The proposed Major Modification only includes the addition of a 22-acre site for the amusement park and water park. The proposal does not include any proposals relating to the existing approved Xanadu Master Plan or the development of the original hotel, office and baseball components. Nor does the proposal include the multi-level connector bridge that has received publicity of late. The submission modifies the existing Xanadu Master Plan only by adding the water park and amusement park. Triple Five will need to request further modifications to the Master Plan for each of these matters.
  - The proposal includes an indoor amusement park consisting of 318,000 sq. feet; a 236,000 square foot water park; and 85,000 square feet of common area for food court, restaurants, changing facilities, ticketing and guest services for a total of 639,000 square feet. There is no additional on-site parking for the facility.
  - Following the October 12, 2011 meeting, Triple Five was asked to provide further information relating to the proposal regarding the following:
    - a. updates to the Site Plan;
    - b. additional information depicting temporary and permanent rights-of-way and easements;

- c. a detailed Site Plan depicting vehicular circulation;
  - d. a detailed landscape plan;
  - e. a Project sequencing plan;
  - f. a traffic and infrastructure sequencing plan;
  - g. receipt of all development approvals;
  - h. detailed design criteria to be followed on the exterior project signage;
  - i. detailed architectural design criteria and exterior building finishes;
  - j. an updated traffic study for the amusement park and water park; and
  - k. any additional information the Authority may reasonably request.
- All of the requirements that could have been satisfied have been satisfied. The items that remain incomplete are all at stages of completeness typical in a proposal of this type, such as was the case when the Committee was considering the New Meadowlands Stadium proposal.
  - The Hearing Officer then asked Mr. Evans to take the Master Plan Committee through Part V of the Report. Mr. Evans concluded by reporting that after giving full and fair consideration to the Teams' objections to the proposed Major Modification, the Hearing Officer finds them to be without sufficient merit to warrant rejection of the proposed Major Modification. Accordingly, the Hearing Officer finds that the Teams consent is not required prior to approval of the proposed Major Modification.
  - The Hearing Officer asked the Master Plan Committee to adopt the Report and recommend that the Board adopt a resolution modifying the Xanadu Master Plan in accordance with Triple Five's Proposed Major Modification subject to (a) Triple Five satisfying the conditions set forth in the Report (or the NJSEA waiving such conditions), and (b) such further conditions or requirements that the NJSEA may in its sole discretion deem necessary or appropriate. It was noted that the Proposed Major Modification shall become effective immediately following Triple Five's acquisition of the rights, title and interest in and to the Entertainment/Retail Component Ground Lease.
  - The Chairman opened the meeting for questions regarding the Report or the presentations made today.
  - Mr. Buckelew asked if the resolution and the conditions imposed on Triple Five would permit the NJSEA to require Triple Five to modify the amusement park and water park opening hours should this be deemed necessary by the NJSEA. It was confirmed that the conditions attached to the approval of the Major Modification would permit the NJSEA to impose such requirements. It was noted that these matters would be further discussed with Triple Five during negotiations regarding the new ground lease for the amusement park and water park.

- Mr. Neglia asked about wetland mitigation plans. Mr. Evans confirmed that the impacted wetlands include two (2) parcels of isolated wetlands and three (3) acres of regulated wetlands. The Army Corps has assumed jurisdiction over all of the parcels. It was the NJSEA's understanding that Triple Five had made arrangements with the Corps to purchase credits from the NJMC for three (3) acres. In addition, the NJSEA had agreed to enter into a conservation easement to dedicate the 125+/- acres known as "Walden Swamp" for conservation purposes. The wetlands permit had been agreed with the Corps and the NJSEA and Triple Five were finalizing the arrangements.
- Following confirmation that there were no further questions, a motion was made by Commissioner Plofker and seconded by Commissioner Kolber to adopt the Report and recommend that the Board adopt a resolution modifying the Xanadu Master Plan in accordance with Triple Five's Proposed Major Modification subject to (a) Triple Five satisfying the conditions set forth in the Report (or the NJSEA waiving such conditions), and (b) such further conditions or requirements that the NJSEA may in its sole discretion deem necessary or appropriate.
- The members of the Master Plan Committee voted unanimously in favor of the motion.
- There being no further business, the MPC meeting was closed at 11:35 a.m.
- Chairman Ferguson thanked Mr. Torcicollo for his comments.
- Commissioner Buckelew commented that the Jets and Giants are important to the NJSEA.
- Chairman Ferguson opened the agenda item up to questions from the Board Members.

## **VI. PUBLIC COMMENTS**

- Chairman Ferguson opened the meeting to public comments.
- Jana Chernetz, New Jersey Advocate, Tri-state Transportation Campaign:
  - urged the Board to vote against Triple 5's proposal;
  - congestion will have an impact on the quality of life of people living in the area; will bring roadways to a halt.
- Jeff Tittel, Director, NJ Chapter Sierra Club
  - Mr. Tittel stated that he was here when the project was being pushed through;
  - this is the wrong project, in the wrong place, at the wrong time;

- public wants downtown shopping center like Georgetown;
- every time the project stalls, it get bigger;
- the fact that there has not been any financing shows that it is not a good idea;
- there are still environmental issues that need to be addressed;
- the only issue that is being looked at is the wetlands;
- the biggest issues is thee traffic;
- there is only one chance to get it right. It is not being suggested that there should not be anything here; but at least part of what is already here should be used;
- it will only be worse if it is done wrong in this state.

### **III. EXECUTIVE SESSION**

- Chairman Ferguson stated a need for the Board to enter into Executive Session to discuss matters falling within the attorney-client privilege related to today's agenda items.
- **RESOLUTION AUTHORIZING THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY TO CONDUCT A MEETING TO WHICH THE GENERAL PUBLIC SHALL NOT BE ADMITTED**
- Upon motion made by Commissioner Plofker and seconded by Commissioner Buckelew
- Resolution was approved by a vote of 16-0.
- Executive Session commenced at 12:35.

### **VII. VOTING ON FOUR AGENDA ITEMS**

- Public session resumed at 1:15.
- Chairman Ferguson called the meeting back to order and stated that the Board was prepared to act on the four resolutions on today's agenda.
- **RESOLUTION 2013 - 10: RESOLUTION APPROVING TRANSFER OF GROUND LEASES AND DEVELOPMENT RIGHTS TO TRIPLE FIVE**
- Chairman Ferguson presented the resolution Approving Transfer of Ground Leases and Development Rights to Triple Five.
- Upon motion by Commissioner Plofker and seconded by Commissioner Scardino, was approved by a vote of 16-0.
- **RESOLUTION 2013 - 11: RESOLUTION APPROVING A LIMITED ACCESS AGREEMENT TO PERMIT CERTAIN AMERICAN DREAM PREPARATORY CONSTRUCTION WORK**

- Commissioner Ferguson presented the Resolution Approving a Limited Access Agreement to Permit Certain American Dream Preparatory Construction Work.
  - Upon motion by Commissioner Scardino and seconded by Commissioner Fontoura, was approved by a vote of 16-0.
  - **RESOLUTION 2013 - 12: RESOLUTION DELINEATING THE PROJECT SITE AND THE AP/WP SITE AS AN AREA IN NEED OF REDEVELOPMENT AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH**
  - Chairman Ferguson presented the Resolution Delineating the Project Site and the AP/WP Site as an Area in Need of Redevelopment and Determining Other Matters in Connection Therewith.
  - Upon motion by Commissioner Buckelew and seconded by Commissioner Ballantyne, was approved by a vote of 16-0.
  - **RESOLUTION ADOPTING THE REPORT AND RECOMMENDATION OF THE MASTER PLAN COMMITTEE AND ITS HEARING OFFICER REGARDING THE PROPOSED MAJOR MODIFICATION TO THE XANADU PROJECT SUBMITTED BY TRIPLE FIVE**
  - Chairman Ferguson presented the Resolution Adopting the Report and Recommendation of the Master Plan Committee and its Hearing Officer Regarding the Proposed Major Modification to the Xanadu Project Submitted by Triple Five.
  - Commissioner Jones asked what legal rights the NJSEA has in the current position.
  - Mr. Torcicollo stated that the resolution contains two conditions, the most important being condition “b”, which states, (b) such further conditions or requirements that the NJSEA may in its sole discretion deem necessary or appropriate.
  - Commissioner Kolber asked Mr. Parker to explain the traffic report.
- Mr. Parker briefed the members on his report.
- Chairman Ferguson showed the members the enormous amount of data that has been collected, a copy of which is attached and made a part of these minutes.
  - Commissioner Plofker asked for clarification – that the teams have a couple of years to protest after American Dream is opened.
  - Mr. Evans said the teams have the right to go to court to have the facility closed on game days. There is a two-year window following the opening.
  - Upon motion by Commissioner Gluck and seconded by Commissioner Fontoura, was approved by a vote of 16-0.

- The Chairman requested a motion to conclude the meeting. Upon motion made by Commissioner Fontoura and seconded by Commissioner Scardino, the public meeting was adjourned by a vote of 16-0 at 1:35 p.m.

**I certify that this is a true and accurate transcript of the Regular Session Minutes of the New Jersey Sports and Exposition Authority's Special Board Meeting of May 17, 2013.**

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**Lennon Register, Sr. VP, CFO**  
**Assistant Secretary**