



MEMORANDUM

TO: Members of the Board of Directors

FROM: Bruce Steadman
Secretary & Executive Director

DATE: August 17, 2011

SUBJECT: Agenda for Board Meeting of the Authority

1. Call to Order – James Gorman, Chairman
2. Pledge of Allegiance
3. Notice of Public Meeting - Roll Call – Bruce Steadman, Secretary
4. Approval of Previous Month’s Board Meeting Minutes
5. Welcome – James Gorman, Chairman
6. Public Comment Regarding Agenda Items
7. Treasurer’s Report:
 - Summary of Status of Federal Grant and FMERA Financials
8. Secretary’s Report:
 - Status of any FMERA discussion items
9. Executive Director’s Report:
 - Decision on the Fort Monmouth Commissary
 - Update on Meetings with Matrix Design Group
 - Update on Meetings with Army Representatives
 - Update on Fort Security
 - Update on Planning Firm’s Progress
 - Update on Action Items for Next Month
10. Committee Reports:
 - Audit Committee – James Gorman, Chairman
 - Real Estate Committee – Michael Pane, Esq., Chairman
 - Environmental Staff Advisory Committee – Michele Siekerka, Chairwoman
 - Historical Preservation Staff Advisory Committee – Bruce Steadman, Interim Chair
 - Housing Staff Advisory Committee – Charles Richman, Chairman

- Veterans Staff Advisory Committee – Lillian Burry, Chairwoman

11. **Board Actions:**

- Consideration of Approval of Proposed Rules for Sale of Real and Personal Property
- Consideration of Award of Golf Course Operator Contract for Suneagles Golf Course and Associated Banquet Restaurant/Facilities Request for Proposals

12. **Other Items**

13. **Public Comment**

14. **Executive Session – OPMA EXEMPTION N.J.S.A 10:4-12b(5) and (7):** Pending Real Estate & Contract Negotiations with the Army

15. **Adjournment**

Fort Monmouth Economic Revitalization Authority
Board Meeting
July 20, 2011
Tinton Falls Municipal Building, Tinton Falls, New Jersey

MINUTES OF THE MEETING

I.

Members of the Authority present:

- Michael Pane, Jr. Esq., Vice Chairman of the Fort Monmouth Economic Revitalization Authority (FMERA) - **V**
- Alfred Koepp, Chairman of the New Jersey Economic Development Authority (NJEDA) - **V**
- Dr. Robert Lucky, Public Member - **V**
- Lillian Burry, Monmouth County Freeholder - **V**
- Gerald Tarantolo, Mayor of Eatontown - **V**
- Michael Mahon, Mayor of Oceanport - **V**
- Michael Skudera, Mayor of Tinton Falls - **V**
- Michele Siekerka, Assistant Commissioner, NJ Department of Environmental Protection (DEP)
- Jonathan Lowy, Director of Community and Constituent Relations, NJ Department of Transportation (DOT)
- Charles Richman, Assistant Commissioner, NJ Department of Community Affairs (DCA)
- Mary Ellen Clark, Assistant Commissioner, NJ Department of Labor and Workforce Development (LWD)

Members of the Authority not present:

- James Gorman, Chairman of FMERA - **V**
- Brandon Minde, Assistant Counsel, Office of the Governor, Authorities Unit - **V**

V- Denotes Voting Member

Also present:

- Bruce Steadman, Executive Director, FMERA
- Caren Franzini, CEO, NJEDA
- NJ Economic Development Authority Staff: Eatontown & Trenton Offices
- Gabriel Chacon, Deputy Attorney General

II.

The meeting was called to order by Vice Chairman Pane at 7:03 pm who led the meeting in the Pledge of Allegiance.

In accordance with the Open Public Meetings Act, FMERA Executive Director and Secretary, Bruce Steadman announced that notice of this meeting has been sent to the Asbury Park Press

and the Star Ledger at least 48 hours prior to the meeting, that a meeting notice has been duly posted on the Secretary of State's bulletin board at the State House, and the FMERA and the NJEDA websites.

The first item of business was the approval of the June 15, 2011 meeting minutes. A motion was made to approve the minutes by Alfred Koeppel, seconded by Mayor Gerald Tarantolo and unanimously approved by all voting members present.

III.

WELCOME

Vice Chairman Pane explained that the purpose of the Authority is to guide the reintegration of the Fort Monmouth property into the host communities. The Authority was created by state law and he explained that the Board is comprised of individuals with different areas of expertise. Vice Chairman Pane continued by stating that the Board serves without compensation and the motivation of the Board Members is based on what is best for the community. Mr. Pane explained how public comment would proceed at the meeting, with the first public comment period being for agenda items only and the second public comment period being for general comments and questions.

IV.

PUBLIC COMMENT REGARDING AGENDA ITEMS

Tom Mahedy of Wall Township asked about the executive session that was being held following the public session. Mr. Mahedy expressed concern over what he perceives to be quick action being made without public comment. Mr. Mahedy questioned NJDEP's coordination meeting with the Army and noted his concern that members of the public cannot attend the meeting. Mr. Mahedy was told by board member and Assistant DEP Commissioner Michele Siekerka that it is standard NJDEP practice to conduct a coordination meeting with property owners only. Mr. Mahedy continued by saying that he is concerned over the possible demolition of Howard Commons. Mr. Mahedy was told by Mr. Steadman that the Army allowed Howard Commons to deteriorate to such a level that it is not reusable and not up to code in its current condition. Mr. Mahedy also asked why FMERA staff was not present at the Army's Restoration Advisory Board (RAB) meeting.

VI.

TREASURER'S REPORT

Beverlee Akerblom, Senior Finance Officer for FMERA, noted that the Authority's Grant Extension and Additional Funds request for the grant scheduled to end June 30, 2011 has been reviewed and approved by the Office of Economic Adjustment and extended through September 30, 2011.

A Grant Amendment request for additional funds for the grant scheduled to end March 31, 2012, is being prepared for submission to the Office of Economic Adjustment. The Authority is

preparing several requests for proposals at this time, and securing the federal funding prior to award of the contracts is required.

Spending continues to be strictly monitored and managed.

VII.

SECRETARY'S REPORT

Bruce Steadman stated that there are no issues to report at this time.

Mayor Michael Mahon arrived at 7:32 pm.

VIII.

EXECUTIVE DIRECTOR'S REPORT

Odis Jones, FMERA Director of Real Estate, provided an update on The U.S. Department of Housing and Urban Development's (HUD) approval of the Fort Monmouth Reuse and Redevelopment Plan and Homeless Assistance Submission (HAS) on June 16, 2011.

Mr. Jones stated that FMERA continues to meet with the Matrix Design Group on the business plan and environmental issues. In addition, as the Army begins to prepare Findings Of Suitability to Transfer (FOSTs) for property to be transferred to FMERA, then to buyers through a competitive process, Matrix will advise FMERA on the contents of each FOST.

Frank Cosentino, FMERA Director of Plans and Programs, gave an update on the Authority Staff's continued weekly conference calls with with Army Representatives regarding property disposition and the Business Plan. Mr. Cosentino also stated that Fort security remains a top priority of FMERA. Mr. Cosentino commented on the work being done with the New Jersey State Police (NJSP) and the Office of Homeland Security and Preparedness (OHSP) regarding a policing plan for the Fort property. In addition, Mr. Cosentino noted that a Fire Response Planning meeting was held with fire officials from the three host municipalities.

Mayor Gerald Tarantolo asked who will cover the cost for security. Frank Cosentino explained that it is the intent and desire of FMERA to not financially impact the three host municipalities and the County. Mr. Cosentino explained that emergency services will be addressed in the Memorandum of Understanding (MOU) between FMERA and each town and the County. Frank Cosentino further explained that the proposed policing plan is a supplement to the Caretaker Agreement with the Army. Bruce Steadman stated that it is FMERA's goal to set aside funds from lease and sale proceeds to support law enforcement services. Freeholder Lillian Burry stated that the Sheriff's Department is prepared to assist with 911 response.

Bruce Steadman provided an update regarding the Commissary. Mr. Steadman stated that Governor Christie sent a letter to the Under Secretary of Defense for Personnel and Readiness in support of the Commissary remaining open. FMERA is awaiting a response from the U.S. Department of Defense. Mr. Steadman also stated that FMERA issued an RFP (Request for Proposals) for a professional manager and operator for Suneagles Golf Course and Gibbs Hall. A pre-proposal conference was held on Tuesday, July 19, 2011 and bids are due on August 1, 2011.

In addition, Mr. Steadman noted that the Office of the Attorney General issued a RFQ (Request for Qualifications) for special counsel for municipal law as it relates to FMERA. Proposals have been received and the review is ongoing.

The Executive Director's Report concluded with Mr. Steadman providing an overview of FMERA action items for the next month.

IX.

COMMITTEE REPORTS

- a) AUDIT COMMITTEE (BEVERLEE AKERBLUM, FMERA): Beverlee Akerblom stated that there was no meeting this month of the Audit Committee. The Audit Committee will meet upon the completion of the audit - scheduled for late July.
- b) REAL ESTATE COMMITTEE (MICHAEL PANE, CHAIR): Mr. Pane noted that the Real Estate Committee is a sub-committee of the Board. The Real Estate Committee met on July 11, 2011 at the FMERA Office. Mr. Pane stated that Committee discussed the Memorandum of Agreement (MOA). Mr. Pane went on to state that because FMERA now has HUD approval a written agreement with the Army can be developed and formalized. Mr. Pane stated the Committee discussed the Economic Development Conveyance (EDC) Application and that it will be reviewed as it relates to the MOA during the executive session following the public session. In addition, there will be no board action after the executive session. In closing, Mr. Pane stated that the Committee discussed proposed rules for sale and recommended that the rules be moved to the Board pending review by the Attorney General's Office.
- c) ENVIRONMENTAL STAFF ADVISORY COMMITTEE (MICHELE SIEKERKA - NJDEP): Michele Siekerka noted that the Environmental Staff Advisory Committee met on July 12, 2011 at the FMERA Office. The Committee discussed a future coordination meeting with NJDEP and the Army to determine a process for how FOSTs will be achieved for phase 1 parcels (Tinton Falls Acreage, Marina, Howard Commons and the Golf Course). Ms. Siekerka gave a status update on NJDEP's review of the Army's Baseline Ecological Evaluation (BEE) stating that NJDEP is reviewing the document and hopes to have an assessment in a month or so. Ms. Siekerka went on to note that Bruce Steadman, and Dan Schnepf and Julie Carver of Matrix Design Group, provided an overview of lead paint and asbestos abatement. Ms. Siekerka noted that there was a lengthy discussion regarding friable vs. non-friable asbestos. The Army has removed friable asbestos to the extent that it was known. Ms. Siekerka further stated that Matrix Design Group has agreed to review two studies regarding the possible contamination of Wampum Lake in order to ensure due diligence in Fort cleanup. Mayor Tarantolo asked if Matrix could update him with regard to their review of the studies. Wampum Lake is not on the Fort Property, but there is concern in the Community that because of activity on the Fort, the Lake is contaminated.

- d) HISTORICAL PRESERVATION STAFF ADVISORY COMMITTEE (BRUCE STEADMAN, FMERA) Bruce Steadman noted that the Historical Preservation Staff Advisory Committee met on July 18, 2011 at the FMERA Office. Bruce stated that the Committee watched a video regarding the history of Fort Monmouth and were given a status update on the 3M's (Monuments, Memorials, and Markers).
- e) HOUSING STAFF ADVISORY COMMITTEE (CHARLES RICHMAN, NJDCA): Mr. Richman noted that the Committee did not meet last month, but there will be a meeting before the August board meeting. Mr. Richman stated that the next Committee meeting will involve discussion of sustainable construction techniques and materials.
- f) VETERANS STAFF ADVISORY COMMITTEE (FREEHOLDER LILLIAN BURRY): Lillian Burry stated that the Committee did not meet last month. Ms. Burry stated that the Committee continues to explore possibilities for a Veterans Clinic with private medical providers. In addition, Ms. Burry noted the continued work on a Veterans Transition Center.

X.

Public Comment

Linda Zucaro of Tinton Falls asked when the public can expect to have access to the business plan. Bruce Steadman stated that the business plan will be made public after the completion of the Economic Development Conveyance (EDC) Application. Ms. Zucaro also asked if all of Tinton Falls acreage is included in phase 1. Bruce Steadman explained that in discussions with the Army all of the Tinton Falls acreage will be in phase 1.

Ken Brody of Wayne asked if FMERA is only marketing the property locally and statewide. Michael Pane explained that before property can be conveyed the Authority needs to establish rules for leasing and sale and that the rules will most likely be adopted in August along with the Agreement with the Army for the transfer of property. Mr. Brody asked to go on a tour of Fort Monmouth and was told to contact the FMERA office for more information.

Bob English of Eatontown asked if the NJSP or OHS&P will handle all security on the Fort or will each municipality handle separately. Bruce Steadman stated that an independent law enforcement service will have overall security and there should be a plan available at a future meeting. Mr. English also asked if the gates will be unlocked after September 15 and was told they would continue to be locked. He also asked the mayors of the host municipalities if they are satisfied with their respective municipality's representation on the Environmental Staff Advisory Committee. Mayor Tarantolo stated that he is aware and concerned about environmental issues and will take a "wait and see" approach as it pertains to the Army's handling of environmental matters.

Ernest Jansen of Colts Neck asked who will receive the funds from the lease and sale of the Fort property. Michael Pane explained that the information is contained in the agreement with the Army. Bruce Steadman stated that the property will be conveyed to FMERA and the division of funds is included in the EDC Application which will be made available to the public at a future

meeting. Mr. Jansen also asked if a major environmental issue is found, will the project be stopped. Michael Pane explained that the overall project would not stop if major environmental issue was identified, but that work would probably stop on the parcel involved.

Harry Harrup of Fair Haven asked if FMERA is soliciting jobs from out of state in an effort to not cannibalize jobs from places like Industrial Way in Eatontown. Mr. Harrup stated soliciting jobs from out of state would improve real estate and property values.

Tom Mahedy of Wall Township asked again about who will attend NJDEP's coordination meeting with the Army. Mr. Mahedy also commented on FMERA's Staff Advisory Committees versus Board Committees.

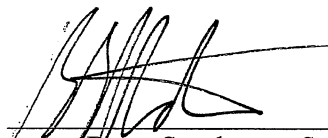
The next item was to adjourn the public session of the meeting and enter into executive session - OPMA Exemption N.J.S.A. 10:4-12b(5) and (7) to discuss pending real estate and contract negotiations with the Army. A motion was made to enter into executive session by Mayor Michael Mahon, seconded by Freeholder Lillian Burry and unanimously approved by all voting members present.

There being no further business in executive session a motion was to go back into public session by Alfred Koeppe, seconded by Mayor Michael Mahon and unanimously approved by all voting members present.

The Board returned to public session.

There being no further business, on a motion by Alfred Koeppe, seconded by Mayor Michael Mahon and unanimously approved by all voting members the meeting was adjourned at 9:55 p.m.

Certification: The foregoing and attachments represent a true and complete summary of the actions taken by the Fort Monmouth Economic Revitalization Authority at its Board Meeting.



Bruce Steadman – Secretary



MEMORANDUM

TO: Members of the Board of Directors

FROM: Bruce Steadman
Executive Director

DATE: August 17, 2011

SUBJECT: Monthly Status Report

Summary

The following are brief descriptions of the Fort Monmouth Economic Revitalization Authority (FMERA) Staff's monthly activities which include an Update on the Status of the Federal Grant and FMERA Financials; Decision on the Fort Monmouth Commissary; Update on Meetings with Matrix Design Group; Update on Meetings with Army Representatives; Update on Fort Security; Update on Planning Firm's Progress; and Action Items for Next Month.

Treasurer's Report.

1. Budget Overview:

FMERA fiscal year (FY) 2011 Budget totals \$2,877,550. FY2011 expenses through June 30, 2011 total \$1,565,169.

Direct Office Support costs are under budget due to a reduction in staffing levels and hiring of additional staff occurring later in the year than projected.

Progress payments against the fixed cost consulting engagements for the Planning, Engineering, Architectural Consulting Services and the Business and Operating Plan, are being managed in accordance with the projects' deliverables.

Environmental Consulting Services is over budget due to the accelerated pace of the negotiations with the Department of the Army, and the corresponding front-loading of environmental services, which was not anticipated at the time the budget was prepared. The work being performed by the environmental consultant is being managed in a task order manner, and the need for additional grant funding is expected to be favorably reviewed by the Office of Economic Adjustment.

2. Looking ahead in FY2011 and beyond:

The budget continues to be actively managed.

In preparation for a potential Economic Development Conveyance, staff will be reviewing and analyzing the financial reporting requirements under the Economic Development Conveyance method of property transfer and reporting to the audit committee any changes required in the Authority's procedures and policies.

In August, the Authority received its fiscal 2012 appropriation of \$263,000 from the State of New Jersey, to satisfy the ten percent local match requirement for federal grants through the Office of Economic Adjustment.

Status of other potential sources of funding during FY2011: Lease revenue late FY 2011 Early FY 2012.

Executive Director's Report.

1. Decision on the Fort Monmouth Commissary.

The Governor's Office received word from Department of Defense (DOD) Undersecretary Dr. Clifford Stanley that the DOD has decided to close the Commissary on September 13, 2011. FMERA is disappointed that the DOD did not take Governor Christie's recommendation to keep the Commissary open for 2 more years. Army Secretary McHugh had made the same recommendation. This is a huge disappointment, not only for FMERA, but for the community, the customers of the Commissary, and for the rest of our stakeholders.

2. Meetings with Matrix Design Group.

FMERA Staff continue to hold weekly conference calls with the Matrix Design Group. The Conference Calls include status updates and discussions on environmental data and infrastructure analysis, the business plan and 20 year pro forma. As the Army begins to prepare Findings of Suitability to Transfer (FOSTs) for property to be transferred to FMERA, then to buyers through a competitive process, Matrix will advise FMERA on the contents of each FOST. The Matrix Design Group participated in a coordination meeting between the Army and the Department of Environmental Protection (DEP) regarding the development of a process to achieve FOSTs for the parcels contained in the first phase of the transfer process.

In addition, Matrix Staff continue to participate in the monthly meetings of the FMERA Environmental Staff Advisory Committee and, in the development of a draft Economic Development Conveyance (EDC) application.

3. Meetings with Army Representatives.

FMERA Staff continue its discussions with representatives of the Office of the Deputy Assistant Secretary of the Army for Installation and Housing, related to the closure process and property disposition. Weekly conference calls are used to update the status of key issues, such as the draft Memorandum of Agreement (MOA), draft business plan, the environmental work plan, utilities and others. These discussions continue to build a working relationship with the Army toward finding appropriate solutions to mutual issues FMERA must address. Further, it is anticipated that FMERA staff will recommend to the Board that a final MOA be approved for signature at the September board meeting.

The Army was in New Jersey on August 9 and 10 to further discussions regarding the eventual conveyance of the Fort property.

4. Update on Fort Security.

Ensuring the Fort is secure at noon on September 15, 2011, when the Army vacates the property, remains FMERA's top priority. FMERA Staff continue their work with the New Jersey State Police and New Jersey Office of Homeland Security and Preparedness on a policing plan for the Post. The goal is to have a highly trained, professional police force on-site to protect the Fort property after September 15, 2011. This will promote the safety and security of all of FMERA's visitors, tenants, buyers, facilities, and employees and employers, and facilitate job creation.

FMERA anticipates receiving a draft policing plan from the New Jersey State Police this month.


5. Update on Planning Firm's Progress.

Phillips Pries Grygiel LLC (PPG), the planning firm approved by the FMERA Board in May to prepare and finalize land use regulations and design guidelines for the Fort property, is well underway with its work. PPG has met with the Mayor of each of the three host municipalities and their respective planners. The Firm has outlined their deliverables, with the first deliverable expected in September.

6. Action Items for Next Month.

- Continued work with Matrix to finalize the EDC application, business plan, and pro forma
- Continued work with Matrix and the NJDEP to identify environmental issues of concern
- Continued work with Washington, D.C. and local Army/BRAC representatives regarding property transfer, environmental issues, costs and timing; and continued work towards delivering a final MOA to the Board for review and approval
- Continued meetings and tours with the interested prospective employers and investors
- Continued outreach to our stakeholders

- Continued collaboration with our Trenton office on marketing and business development opportunities
- FMERA anticipates issuing RFPs for an Appraiser and a Surveyor in the upcoming weeks.


Bruce Steadman

Prepared by: Bruce Steadman & Katie Hedden



MEMORANDUM

TO: Members of the Board of Directors
FROM: Bruce Steadman, Executive Director
RE: Real and Personal Property Sale – Proposed New Rules
DATE: August 17, 2011

Request:

The Members of the Board are requested to approve proposed new rules to govern the sale of real property and accompanying personal property by the Fort Monmouth Economic Revitalization Authority. The proposed new rules are intended to support the redevelopment and reuse of Fort Monmouth and provide transparency to the public and stakeholders alike in the sale of real and personal property at the Fort.

Background:

Governor Christie signed P.L. 2010 c. 51 on August 17, 2010 to create the Fort Monmouth Economic Revitalization Authority (FMERA or the Authority). The economies, environment, and quality of life of the host municipalities, Monmouth County, and the State will benefit from the efficient, coordinated, and comprehensive redevelopment and revitalization of Fort Monmouth. Section 9(kk) of the FMERA Act (P.L. 2010 c. 51) authorizes rulemaking by the Authority in furtherance of its responsibilities and mission.

The Authority is currently engaged on several fronts to advance the redevelopment and reuse of Fort Monmouth, which includes negotiating an Economic Development Conveyance Agreement with the Army, establishing caretaking responsibilities, and beginning to market the site to prospective users, in anticipation of the Army leaving the Fort property on September 15, 2011. In furtherance of the redevelopment effort, the Authority is proposing the attached new rules for the sale of real and personal property. The proposed new rules are intended to formalize FMERA's real estate disposition procedures for the sale of property, ensure a transparent process and prioritize job creation and economic redevelopment.

In addition to providing a transparent process to facilitate the sale of Fort property, the proposed sale rules will allow for real estate disposition to occur in a timely manner, in an effort to minimize adverse effects to the local and regional economy. The timely conveyance of real estate will provide value to all stakeholders involved through the generation of economic activity and job creation. The proposed rules lay out the roles and responsibilities of the Authority as well as the potential buyers in the sale of property, and establish a more efficient way to end negotiations if the Authority chose to do so.

The proposed new rules have been reviewed by the Authority's Real Estate Committee and are being submitted to the Board for final review and approval.

Summary:

The proposed new rules are summarized as follows:

Summary

The Fort Monmouth Economic Revitalization Authority ("FMERA" or "Authority"), pursuant to P.L. 2010, c.10 (N.J.S.A. 52:27I-18 et seq.), is responsible for the efficient redevelopment and reuse of Fort Monmouth. In furtherance of its mission, FMERA is proposing these rules to establish procedures for the sale of real property and accompanying personal property. The following summarizes the contents of each section of the proposal:

N.J.A.C. 19:31C-2.1 Applicability and Scope – Addresses the statutory authority and summarizes the scope and purpose of the subchapter;

N.J.A.C. 19:31C-2.2 Definitions – Defines certain terms used in the subchapter, incorporates terms used in the Fort Monmouth Economic Revitalization Authority Act, and provides additional terms included governing the sale of real and accompanying personal property at Fort Monmouth;

N.J.A.C. 19:31C-2.3 Sealed bid sale process – Outlines procedures for the public notice and outreach to potential purchasers for sales of real and accompanying personal property at Fort Monmouth through the sealed bid process;

N.J.A.C. 19:31C-2.4 Sealed bid requests – Establishes the required information and procedures for the notice of solicitation for a sale of a particular parcel or building through the sealed bid process;

N.J.A.C. 19:31C-2.5 Offer to purchase process – Outlines procedures for the public notice and outreach to potential purchasers for sales of real and accompanying personal property at Fort Monmouth through the offer to purchase process;

N.J.A.C. 19:31C-2.6 Submission of sealed bids – Establishes requirements for submitting and opening sealed bids for the purchase of property, including payment of ten percent of proposed purchase price which shall be held as a deposit and applied to purchase price at closing, and returned to all others;

N.J.A.C. 19:31C-2.7 Submission of offers to purchase – Establishes requirements for submitting offers to purchase property, including an initial deposit of 5 percent of the purchase price and an additional deposit of 10 percent of the purchase price, which shall be held by the Authority as a deposit and applied to the purchase price at closing;

N.J.A.C. 19:31-2C-2.8 Extension of time to submit sealed bids – Authorizes the Director, at the request of a potential purchaser, to extend the time to submit a sealed bid and establishes requirements for such requests, including the applicability to all potential purchasers;

N.J.A.C. 19:31C-2.9 Sealed bid prices – Requires that sealed bids shall include all material

price information required by the notice which shall remain effective for 90 days after the opening date, subject to any negotiations conducted in accordance with N.J.A.C. 19:31C-2.15;

N.J.A.C. 19:31C-2.10 Withdrawal of sealed bid – Establishes factors upon which a potential purchaser may request the withdrawal of a sealed bid, including instances in which the potential purchaser(s) or the Authority discovers a material error in a sealed bid;

N.J.A.C. 19:31C-2.11 Correction of pricing error – Identifies the circumstances under which the Authority shall correct a pricing error in a sealed bid;

N.J.A.C. 19:31C-2.12 Verification of sealed bid or offer to purchase – Concerns means by which the Authority may seek to verify the accuracy and responsiveness of a sealed bid or offer to purchase, including contacting the potential purchaser surety companies, financial institutions, and review of corporate or personal financial records, reports and statements;

N.J.A.C. 19:31C-2.13 Rejection, of all sealed bids or offers to purchase, re-advertisement and termination – Establishes reservation of right of the Authority to reject all sealed bids and offers to purchase and to either re-advertise or terminate an advertised solicitation to sale upon certain instances;

N.J.A.C. 19:31C-2.14 Evaluation – Identifies that sealed bids and offers to purchase shall be evaluated based on the provisions of the subchapter and determined whether to be responsive to all material elements as set forth in the notice and as referenced in the section;

N.J.A.C. 19:31C-2.15 Negotiations – Clarifies the extent to which the Authority may negotiate terms with potential purchaser(s), may exclude bidders from negotiations based on initial submissions and may negotiate with multiple parties who submit offers to purchase;

N.J.A.C. 19:31C-2.16 Exclusive negotiating period – Establishes criteria and the process for entering into exclusive negotiations with one party who submitted an offer to purchase a property;


N.J.A.C. 19:31C-2.17 Recommendation, review and award – Establishes the process for the recommendation, review and awards of sales and sales agreements;

N.J.A.C. 19:31C-2.18 Challenges – Provides that written notice shall be given to all unsuccessful bidders or parties who submitted an offer to purchase for the particular sale approved by the Board; unsuccessful bidders and parties who submitted an offer shall be entitled to review the Authority's recorded related to the sale and also provides requirements for submitting a challenge and the process the Authority will follow to review challenges received; and

N.J.A.C. 19:31C-2.19 Documents considered public information – Clarifies that all documents submitted by potential purchaser(s), excluding certain documents exempted by statute, shall be considered public information.

Recommendation:

The Members of the Board are requested to approve the proposed new rules and authorize staff to submit the rules for publication in the New Jersey Register, subject to final review and approval by the office of the Attorney General and the Office of Administrative Law (OAL).

A handwritten signature in black ink, appearing to read "Bruce Steadman", written over a horizontal line.

Bruce Steadman

ATTACHMENT: Real and Personal Property Sale – Proposed New Rules

Prepared by: Odis Jones & Katie Hedden

OTHER AGENCIES

FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY

Sale of Real and Personal Property

Proposed New Rules: N.J.A.C. 19:31C-2

Authorized By: Fort Monmouth Economic Revitalization Authority, Bruce Steadman, Director.

Authority: N.J.S.A. 52:27I-18 et seq., specifically N.J.S.A. 52:27I-26kk.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2011-

Submit written comments by _____, 2011 to:

Bruce Steadman, Director

Fort Monmouth Economic Revitalization Authority

2-12 Corbett Way

Suite C

Eatontown, NJ 07724

The agency proposal follows:

Summary

The Fort Monmouth Economic Revitalization Authority (“FMERA” or “Authority”), pursuant to P.L. 2010, c.10 (N.J.S.A. 52:27I-18 et seq.), is responsible for the efficient redevelopment and reuse of Fort Monmouth. In furtherance of its mission, FMERA is proposing these rules to establish procedures for the sale of real property and accompanying personal property. The following summarizes the contents of each section of the proposal:

N.J.A.C. 19:31C-2.1 Applicability and Scope – Addresses the statutory authority and summarizes the scope and purpose of the subchapter;

N.J.A.C. 19:31C-2.2 Definitions – Defines certain terms used in the subchapter, incorporates terms used in the Fort Monmouth Economic Revitalization Authority Act, and provides additional terms included governing the sale of real and accompanying personal property at Fort Monmouth;

N.J.A.C. 19:31C-2.3 Sealed bid sale process – Outlines procedures for the public notice and outreach to potential purchasers for sales of real and accompanying personal property at Fort Monmouth through the sealed bid process;

N.J.A.C. 19:31C-2.4 Sealed bid requests – Establishes the required information and procedures for the notice of solicitation for a sale of a particular parcel or building through the sealed bid process;

N.J.A.C. 19:31C-2.5 Offer to purchase process – Outlines procedures for the public notice and outreach to potential purchasers for sales of real and accompanying personal property at Fort Monmouth through the offer to purchase process;

N.J.A.C. 19:31C-2.6 Submission of sealed bids – Establishes requirements for submitting and opening sealed bids for the purchase of property, including payment of ten percent of proposed

purchase price which shall be held as a deposit and applied to purchase price at closing, and returned to all others;

N.J.A.C. 19:31C-2.7 Submission of offers to purchase – Establishes requirements for submitting offers to purchase property, including an initial deposit of 5 percent of the purchase price and an additional deposit of 10 percent of the purchase price, which shall be held by the Authority as a deposit and applied to the purchase price at closing;

N.J.A.C. 19:31-2C-2.8 Extension of time to submit sealed bids – Authorizes the Director, at the request of a potential purchaser, to extend the time to submit a sealed bid and establishes requirements for such requests, including the applicability to all potential purchasers;

N.J.A.C. 19:31C-2.9 Sealed bid prices – Requires that sealed bids shall include all material price information required by the notice which shall remain effective for 90 days after the opening date, subject to any negotiations conducted in accordance with N.J.A.C. 19:31C-2.15;

N.J.A.C. 19:31C-2.10 Withdrawal of sealed bid – Establishes factors upon which a potential purchaser may request the withdrawal of a sealed bid, including instances in which the potential purchaser(s) or the Authority discovers a material error in a sealed bid;

N.J.A.C. 19:31C-2.11 Correction of pricing error – Identifies the circumstances under which the Authority shall correct a pricing error in a sealed bid;

N.J.A.C. 19:31C-2.12 Verification of sealed bid or offer to purchase – Concerns means by which the Authority may seek to verify the accuracy and responsiveness of a sealed bid or offer to purchase, including contacting the potential purchaser surety companies, financial institutions, and review of corporate or personal financial records, reports and statements;

N.J.A.C. 19:31C-2.13 Rejection, of all sealed bids or offers to purchase, re-advertisement and termination – Establishes reservation of right of the Authority to reject all sealed bids and offers to purchase and to either re-advertise or terminate an advertised solicitation to sale upon certain instances;

N.J.A.C. 19:31C-2.14 Evaluation – Identifies that sealed bids and offers to purchase shall be evaluated based on the provisions of the subchapter and determined whether to be responsive to all material elements as set forth in the notice and as referenced in the section;

N.J.A.C. 19:31C-2.15 Negotiations – Clarifies the extent to which the Authority may negotiate terms with potential purchaser(s), may exclude bidders from negotiations based on initial submissions and may negotiate with multiple parties who submit offers to purchase;

N.J.A.C. 19:31C-2.16 Exclusive negotiating period – Establishes criteria and the process for entering into exclusive negotiations with one party who submitted an offer to purchase a property;

N.J.A.C. 19:31C-2.17 Recommendation, review and award – Establishes the process for the recommendation, review and awards of sales and sales agreements;

N.J.A.C. 19:31C-2.18 Challenges – Provides that written notice shall be given to all unsuccessful bidders or parties who submitted an offer to purchase for the particular sale approved by the Board; unsuccessful bidders and parties who submitted an offer shall be entitled to review the Authority’s records related to the sale and also provides requirements for submitting a challenge and the process the Authority will follow to review challenges received; and

N.J.A.C. 19:31C-2.19 Documents considered public information – Clarifies that all documents submitted by potential purchaser(s), excluding certain documents exempted by statute, shall be considered public information.

As the Authority has provided a 60-day comment period in this notice proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed new rules are intended to encourage the use of existing structures at Fort Monmouth and, in so doing, preserve the existing local residential or commercial real estate markets and prioritize job creation and economic activity at Fort Monmouth.

Economic Impact

The proposed new rules, which govern the sale of real and personal property at Fort Monmouth, are intended to have a positive fiscal impact for the host municipalities through the preservation and use of existing structures and property at Fort Monmouth. The proposed new rules will require that sealed bids shall include payment of ten percent of the proposed purchase price and offers to purchase shall include payment of fifteen percent of the proposed purchase price which shall be held as a deposit by the Authority and applied to the purchase price at closing. The Authority is not able to estimate the impact of the requirement, which will vary based on the size (square foot and/or acreage) of the actual building and/or property to be sold by the Authority.

Federal Standards Statement

A Federal standards analysis is not required because the new rules are not subject to any Federal requirements or standards.

Jobs Impact

The proposed new rules may result in stimulating the creation of new private sector jobs and/or maintaining private sector jobs at Fort Monmouth and in the surrounding host municipalities.

Agriculture Industry Impact

The proposed new rules will have no impact on the agriculture industry of the State of New Jersey.

Regulatory Flexibility Analysis

The proposed new rules may directly impact businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. where a small business is interested in a sale opportunity of real and accompanying personal property at Fort Monmouth. The proposed new rules establish basic procedures for the submittal of sealed bids and offers to purchase by potential purchasers and should not require any professional services contracts. The potential costs which may ensue, as related to the deposit payment required for all submitted bids and offers and discussed in the Economic Impact Statement, shall apply to all potential purchasers regardless of size of business. Consequently, the proposed new rules do not allow for exceptions based on business size, particularly since the provisions contained therein are not excessively onerous to small businesses or unnecessary.

Smart Growth Impact

The proposed new rules, which govern the sale of real and accompanying personal property at Fort Monmouth, may achieve smart growth and implement the State Development and Redevelopment Plan where sale opportunities support development of centers and/or sustainable development in the host municipalities comprising Fort Monmouth.

Housing Affordability Impact

The proposed new rules may increase an indeterminate amount of housing units, including multi-family rental housing and for sale housing in the host municipalities, where sale opportunities involve residential or mixed-use projects at Fort Monmouth. The number of any

housing units, as well as any increase or decrease in the average cost of housing affected by the new rules may not be estimated, because the actual sale opportunities are not known.

Smart Growth Development Impact

The proposed new rules are intended to advance the sale of real and accompanying personal property which may include commercial and/or residential components in the host municipalities comprising Fort Monmouth. The number of housing units, as well as any increase or decrease in the average cost of housing affected by the proposed new rules, may not be estimated, because the actual uses are not known. The Fort Monmouth Reuse and Redevelopment Plan recommends the development of a center in each of the three Fort Monmouth municipalities. The proposed new rules, which pertain largely to the sale of existing facilities at Fort Monmouth, may result in new smart growth construction where a purchaser undertakes an expansion of an existing building in one of the proposed centers. The proposed new rules will not affect new construction within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the proposed new rules follows:

CHAPTER 31C

SUBCHAPTER 2. SALE OF REAL AND PERSONAL PROPERTY

19:31C-2.1 Applicability and scope

The Fort Monmouth Economic Revitalization Authority is promulgating these rules to govern the sale of real property and accompanying personal property as part of its mission in

planning and implementing the redevelopment and reuse of Fort Monmouth and pursuant to authorization under P.L. 2010, c.51 (N.J.S.A. 52:27I-18). The Authority intends to execute the aforementioned task through the two processes set forth in these rules: the sealed bid process and the offer to purchase process when real and personal property have been advertised for sale.

19:31C-2.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Authority” means the Fort Monmouth Economic Revitalization Authority.

“Board” means the Board of the Fort Monmouth Economic Revitalization Authority.

“Director” means the Director of the Fort Monmouth Economic Revitalization Authority.

“FMERA” means the staff responsible for carrying out the policies, mission and purpose of the Fort Monmouth Economic Revitalization Authority.

“Plan” means the Fort Monmouth Reuse and Redevelopment Plan prepared and adopted by the Authority’s predecessor authority.

“Offer to purchase process” means an invitation to submit an offer to purchase a particular parcel that has been advertised as being available for sale through the offer to purchase process with the offer period remaining open until the date specified in the advertisement.

“Sealed bid process” means a solicitation for competitive sealed bids to purchase a particular parcel that has been advertised as being available for sale through the sealed bid process with a requirement that sealed bids be received by the advertised bid due date.

19:31C-2.3 Sealed bid process

(a) For any real property and accompanying personal property to be sold through the sealed bid process, FMERA shall advertise a notice of each solicitation for sealed bids on the

Authority's website and on the NJ State business portal and shall place an advertisement for same in the "Public/Legal Notice" section of the Star Ledger, the Asbury Park Press and if FMERA deems it appropriate, in other regional newspaper(s) or other publications.

Advertisements on the Authority's website and the NJ State business portal shall be maintained until the close of the bidding period.

(b) In addition, FMERA may contact potential purchaser(s) directly to seek to increase the number of sealed bids received in response to an advertised solicitation to purchase.

19:31C-2.4 Sealed bid requests

(a) The notice of solicitation for sealed bids shall request sealed bids for the purchase of a particular parcel of real property and accompanying personal property and shall include the time, date and format in which the sealed bids are to be submitted. The notice shall also include a name and phone number or other contact information potential purchaser(s) can use to obtain additional information about the solicitation.

(b) Each solicitation to purchase through the sealed bid process shall specify material terms of the sale that are to be proposed by bidders and material terms of sale that are required for the particular sale and not subject to bid which shall be specified either through the solicitation to purchase, a specimen form of purchase agreement, or on the Authority's website.

(c) Sealed bids will be opened on the date specified in the solicitation. After sealed bids have been publicly opened, FMERA may seek best and final sealed bids from one or more bidders that timely submitted a responsive bid for the particular real property and accompanying personal property.

19:31C-2.5 Offer to purchase process

(a) Before advertising a particular parcel of real property and accompanying personal property as being available for sale through the offer to purchase process, the Board shall review and approve a recommendation of the Director and FMERA to offer the property for sale through the offer to purchase process. In its determination to use the offer to purchase process, the Board also may consider various factors including, but not limited to, purchase price, jobs to be created and timing, to determine whether the offer to purchase process will enhance the economic value to FMERA or Fort Monmouth. If a party has approached the FMERA with an offer, in its determination to use the offer to purchase process, the Board also may consider the proposed purchase price as compared to a valuation of the real and/or personal property established by an appraisal report prepared by a professional licensed appraiser.

(b) For any real property and accompanying personal property to be sold through the offer to purchase process, FMERA shall advertise a notice of the availability of the property for sale through the offer to purchase process on the Authority's website, on the NJ State business portal and shall place an advertisement for same in the "Public/Legal Notice section of the Star Ledger, the Asbury Park Press and if FMERA deems it appropriate, in possibly other regional newspaper(s) or publications.

(c) Each notice of availability for sale through the offer to purchase process shall specify the period of time for submitting an offer to purchase the particular property which period for submitting offers to purchase shall not be less than thirty days.

(d) In addition, FMERA may contact potential purchaser(s) directly to seek to increase the number of offers to purchase received in response to an advertised solicitation.

19:31C-2.6 Submission of sealed bids

(a) All sealed bids shall be submitted on or before the specified time and date required by the public notice and contain all information requested by FMERA. Unless otherwise specified in the notice, a sealed bid shall not be submitted by telephone, facsimile, or other electronic means.

(b) All sealed bids shall include a certified, cashiers or bank check made payable to the Authority in the amount of ten percent of the bid price, which shall be held by the Authority as a deposit and applied to the purchase price at closing for the accepted bid, and returned to all others.

(c) Deposit checks shall be deposited by FMERA into an interest bearing account with interest accruing to the benefit of the bidder. Deposits paid by unsuccessful bidders, with accrued interest, shall be returned when FMERA issues its notice of intent to award a purchase contract in accordance with N.J.A.C. 19:31C-2.17(e).

(d) Sealed bids received by FMERA shall be held unopened until the close of the bidding period, at which time all bids received shall be publicly opened and the identities of the bidders, but not the substance of the bids, will be read.

19:31C-2.7 Submission of offers to purchase

(a) The time for submitting an offer to purchase shall remain open until the date specified in the advertisement. Unless otherwise specified in the notice, an offer to purchase shall not be submitted by telephone, facsimile, or other electronic means.

(b) All offers to purchase shall include a certified, cashiers or bank check made payable to the Authority in the amount of five percent of the offer price, which shall be held as an initial deposit. An additional deposit of ten percent of the offer price shall be payable to the Authority on the earlier of: (i) FMERA and the potential purchaser entering into an exclusive negotiating period in accordance with N.J.A.C. 19:31C-2.16; or (ii) a purchase agreement being

fully negotiated and signed by the purchaser. The initial deposit and the additional deposit shall be applied to the purchase price at closing.

(c) Deposit checks shall be deposited by FMERA into an interest bearing account with interest accruing to the benefit of the party who submitted the offer to purchase. In the event an offer to purchase cannot be negotiated into an acceptable offer, deposits paid by the party that submitted the offer, with accrued interest, shall be returned when the Board determines to terminate negotiations regarding the particular offer to purchase.

19:31C-2.8 Extension of time to submit sealed bids

The Director may extend the time for opening sealed bids at the request of a potential purchaser who notifies FMERA that he or she intends to submit a sealed bid and gives valid reasons why he or she will not meet the formal opening date. The potential purchaser making this request shall do so in writing and specify the length of additional time requested. The written request must be received by FMERA no later than one week prior to the close of the bid submission period. If granted, extensions of time for opening of sealed bid(s) shall be applicable to all potential purchaser(s) and shall be posted only on the Authority's website. All sealed bid(s) shall be held and remain sealed until the expiration of the time extension granted by the Director.

19:31C-2.9 Sealed bid prices

(a) A sealed bid shall include all material information required by the solicitation. Prices shall be typewritten, photocopied, or written in ink or some other indelible substance.

(b) Unless the solicitation states otherwise, the prices submitted with a sealed bid shall remain effective for 90 days after the opening date, subject to any negotiations conducted in accordance with N.J.A.C. 19:31C-2.15(a).

19:31C-2.10 Withdrawal of sealed bid

(a) Prior to the opening of the sealed bid(s), a potential purchaser may, for any reason, request the withdrawal of his or her sealed bid. The request shall be made in writing to FMERA and shall be signed by a person authorized to submit the sealed bid (such as the owner or owner's designated representative, or an attorney or real estate broker with written permission to negotiate and act as attorney in fact for owner). Proof of authorization shall accompany the request.

(b) After the opening of the sealed bid(s), if either the potential purchaser(s) or FMERA discover a material error in a sealed bid, the potential purchaser(s) may request the withdrawal of the sealed bid. If the error is discovered by FMERA, the potential purchaser(s) will be notified in writing, and the potential purchaser will have five business days from receipt of the notice to request withdrawal of the sealed bid. Any request to withdraw from the potential purchaser(s) shall be addressed to FMERA which will return the sealed bid if the potential purchaser(s) can demonstrate that he or she exercised reasonable care in preparing and submitting the sealed bid, and that it would be unconscionable for FMERA to enforce the proposed purchase agreement. The decision to grant or deny any such request shall be at the sole discretion of the Director.

19:31C-2.11 Correction of pricing error

FMERA shall correct a pricing error in a sealed bid under the following circumstance: Unless the solicitation states otherwise, or the result would be unconscionable, where a sealed bid price contains a discrepancy between a unit price and a total price based on those units, the unit price shall govern. Where the sealed bid price contains any other price discrepancy, FMERA shall determine the price if the sealed bid contains clear evidence of the intended price.

19:31C-2.12 Verification of sealed bid or offer to purchase

FMERA may seek information outside of the sealed bid or offer to purchase to verify the accuracy and responsiveness of the sealed bid or offer to purchase, and whether the potential purchaser(s) is responsible. FMERA may request such information from the potential purchaser(s), from public records, or from others familiar with the potential purchaser(s). Such information may clarify, but not modify, a sealed bid or offer to purchase. Such investigation may include, but shall not be limited to, contacting the potential purchaser surety companies, financial institutions, and review of corporate or personal financial records, reports and statements;

19:31C-2.13 Rejection of all sealed bids or offers to purchase, re-advertisement and termination

The Authority reserves the right to reject all sealed bid(s) and offer(s) to purchase and to either re-advertise or terminate an advertised solicitation if the Authority determines that insufficient competition results from the initial advertisement, the price is unfavorable in the current market, or for any other reason in the best interests of the Authority or the redevelopment plans for Fort Monmouth as determined by the Authority.

19:31C-2.14 Evaluation

a. FMERA shall evaluate each sealed bid and offer to purchase received in accordance with this subchapter and shall identify the sealed bid(s) or offer(s) to purchase determined to be responsive to all material elements set forth in the solicitation or notice of availability, respectively.. Material elements may include but are not limited to: (i) purchase price (ii) estimated jobs to be created at or relocated to the parcel; (iii) purchase term including due diligence period as well as payment for such period; (iv) proposed project capital investment; (v) the potential purchaser(s) financial capacity to meet the proposed terms of purchase and project

completion; (vi) future use of property; (vii) impact to host municipality; (viii) contribution to affordable housing, if any; and (ix) confirmation that the potential purchaser's proposed use is consistent with the Plan.

b. Evaluation of sealed bids and offers to purchase will be made based on the best interests of the Authority and the redevelopment plans for Fort Monmouth, price and other factors considered. In evaluating purchase price, FMERA will consider purchase price as compared to a valuation of the real and/or personal property established by an appraisal report prepared by a professional licensed appraiser. FMERA may accept a lower purchase price from a governmental purchaser or public/private partnership if the proposal is based upon: (i) a significant creation of jobs; (ii) contribution to affordable housing; or (iii) investment in the technology sector.

19:31C-2.15 Negotiations

(a) When the sealed bid process is used to sell property, FMERA may negotiate with one or more bidders that have submitted advantageous sealed bid(s) terms that are in the best interests of the Authority and the redevelopment plans for Fort Monmouth, price and other factors considered, in accordance with the above noted evaluation criteria. FMERA reserves the right to negotiate with some but not all potential purchasers who submitted a sealed bid based on initial submissions.

(b) When the offer to purchase process is used to sell property, from time to time as offers are received, FMERA may negotiate terms of sale that are in the best interests of the Authority and the redevelopment plans for Fort Monmouth, price and other factors considered, in accordance with the above noted evaluation criteria. Negotiating with a potential purchaser will not preclude FMERA from negotiating with other potential purchasers unless FMERA has

entered into an exclusive negotiating period with a potential purchaser in accordance with N.J.A.C. 19:31C-2.16.

19:31C-2.16 Exclusive negotiating period

(a) When the offer to purchase process is used to sell property and upon the request of a party who has made an offer to purchase a particular parcel of real property and accompanying personal property, FMERA may agree that it will not negotiate with any other party for that particular property provided that the following conditions are met: (i) the time for submitting offers to purchase that particular property has expired; (ii) FMERA determines there is a reasonable likelihood that the exclusive negotiating period will lead to an offer to purchase that will be acceptable to the Authority; (iii) subject to extensions pursuant to paragraphs (b) and (c) below, the exclusive negotiating period shall not exceed forty-five days; (iv) the prospective purchaser makes an addition deposit of ten percent of the purchase price; and (v) the prospective purchaser agrees in writing to negotiate exclusively with FMERA during the exclusive negotiating period and terminate negotiations and discussions with other parties who seek to sell or lease competing real property.

(b) The Director may extend an exclusive negotiating period for an additional thirty days.

(c) The Board may extend an exclusive negotiating period for such period of time and upon such terms and conditions as the Board determines to be in the best interests of the Authority and the redevelopment plans for Fort Monmouth considering price and other factors.

19:31C-2.17 Recommendation, review and award

(a) The Director and FMERA shall recommend to the Board bids and offers to purchase, which may have been modified through negotiations, that will provide purchase agreements which are in the best interests of the Authority and the redevelopment plans for Fort Monmouth

considering price and other factors. Any recommendation to accept a bid or offer to purchase shall also identify competing bids or offers to purchase that will be rejected by awarding a purchase agreement to the selected purchaser.

(b) For sales conducted through the sealed bid process, the Director and FMERA may recommend to the Board that all bids should be rejected and no notice of intent to award a purchase agreement be made and that the real property and accompanying personal property be re-advertised for bids or any other appropriate action.

(c) For sales conducted through the offer to purchase process, the Director and FMERA may recommend to the Board that negotiations regarding a particular offer to purchase should terminate and the potential purchaser's deposit, with accrued interest, be returned.

(d) The Board shall determine whether to issue a notice of intent to award a purchase agreement and reject competing bids and offers to purchase; to reject all bids; to terminate negotiations regarding a particular offer to purchase; to issue a new notice of availability of property for sale; or to take other appropriate action.

(e) Upon approval by the Board of an award of a purchase contract, FMERA shall issue a notice of intent to award a purchase agreement and send it to all bidders or parties who submitted an offer to purchase. The notice of intent to award a purchase agreement shall set forth all of the material terms of the purchase agreement. FMERA shall finalize the purchase agreement which shall be executed by the Director.

19:31C-2.18 Challenges

(a) After the date of the notice of intent to award a particular purchase agreement, unsuccessful bidders or parties who submitted an offer to purchase for the particular property, as applicable, will have 10 business days from the date of the notice to review: (i) sealed bids or

offers to purchase submitted by other potential purchasers; (ii) FMERA's comparative summary of sealed bids or offers to purchase received; (iii) records of the negotiations, if any; and (iv) any supporting documents to the above. Challenges to the notice of intent to award a particular purchase agreement shall be submitted in writing to the Director within 10 business days from the date of issuing letters giving notice of intent to award in accordance with N.J.A.C. 19:31C-2.17(e) and shall state with specificity all arguments, materials and/or other documents that may support the challenger's position that the proposed award should be overturned. The Director may extend the time for reviewing documents or submitting a challenge on good grounds shown to the satisfaction of the Director in his/her sole discretion.

(b) If a challenge is timely received, the Director shall assign a hearing officer to review the challenge and make a final recommendation to the Board. The Director, in consultation with the hearing officer, has sole discretion to determine if an oral presentation by the challenger is necessary to reach an informed decision on the merits of the challenge. Challenges of the type described in this subchapter, for the purpose of this chapter, are not contested cases subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

19:31C-2.19 Documents considered public information

(a) For sales conducted through the sealed bid process, after FMERA's issuance of notice of intent to award a purchase agreement, sealed bids and other documents submitted by potential purchasers (excluding those items exempt from public access pursuant to N.J.S.A. 47:1A-1 et seq.) shall be considered public information, notwithstanding any disclaimers submitted by the potential purchaser(s) to the contrary.

(b) For sales conducted through the offer to purchase process, after a purchase agreement has been signed by the Authority and a purchaser, documents submitted by potential purchasers (excluding those items exempt from public access pursuant to N.J.S.A. 47:1A-1 et seq.) shall be considered public information, notwithstanding any disclaimers submitted by the potential purchaser(s) to the contrary.

DRAFT



MEMORANDUM

TO: Members of the Board of Directors

FROM: Bruce Steadman
Executive Director

RE: Selection of Professional Management Services for Suneagles Golf Course

DATE: August 17, 2011

Request

I am requesting the Members to consider approving the selection of Atlantic Golf Management (“Atlantic”) for Professional Management and Maintenance Services at the Fort Monmouth Suneagles Golf Course and Associated Banquet/Restaurant Facilities.

Background

Governor Christie signed P.L. 2010 c. 51 on August 17, 2010 to create the Fort Monmouth Economic Revitalization Authority (FMERA or the Authority). The economies, environment, and quality of life of the host municipalities, Monmouth County, and the State will benefit from the efficient, coordinated, and comprehensive redevelopment and revitalization of Fort Monmouth.

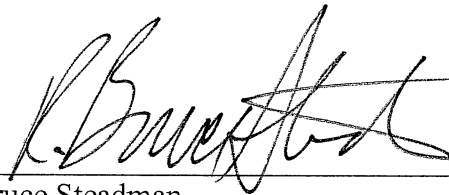
In accordance with the federal Base Realignment and Closure (BRAC) law, Fort Monmouth is in the process of being closed and must cease current operations no later than September 15, 2011. The Army will continue to own the Fort property until such time as it can be conveyed to the Authority. The award of this contract is contingent on the Army granting to the Authority a license or lease for the golf course. The Army has verbally agreed to provide a license or lease to the Authority to operate the golf course and associated equipment and facilities until the property is conveyed to the Authority, or sold to a private owner. A license or lease agreement with the Army will be presented to the Members for approval in the near future. Transfer of ownership from the Army to the Authority is likely to occur within the next 10 to 20 months and will most likely occur simultaneously with an agreement by the Authority to sell the golf course and associated facilities to a third party.

Managing and maintaining the Suneagles Golf Course on Fort Monmouth and its associated banquet/restaurant facilities is key to preserving the property’s value. Therefore, a Request for Proposals (RFP) for the Professional Management and Maintenance for Fort Monmouth’s Suneagles Golf Course and Associated Banquet/Restaurant Facilities was issued and publicly advertised by FMERA on July 8, 2011 and a mandatory pre-proposal conference was held on July 19, 2011. Proposals were due on Tuesday, August 2, 2011 and two were received from the following firms: Atlantic and Applied Golf. The golf course manager approved by the Board will be engaged for a term of up to a maximum of twelve (12) months.

The two technical proposals were distributed to an Evaluation Committee. The Committee was made up of 4 New Jersey Economic Development Authority employees, all of which are assigned to the FMERA Office. Cost proposals were analyzed by FMERA's Senior Finance Officer and the RFP Coordinator. The Evaluation Committee met on Monday, August 8, 2011 to review technical proposals, fee proposals and fee proposal analysis. The technical evaluation scoring is based upon a comparative ranking with an emphasis on relevant experience and management approach. The technical rankings were 263 points and 300 points, with the highest technically ranked firm being Atlantic. Atlantic also proposed the best price. As requested by the RFP, Atlantic's fee proposal generates revenue for the Authority. Atlantic will pay the Authority between \$5,000 per month and \$11,000 per month during the term of the contract with revenue to the Authority increasing if Atlantic's receipts exceed \$1 million. Applied Golf's fee proposal requires the Authority to expend funds. The highest ranked firm, based on all selection criteria including fees, is Atlantic, and therefore the Evaluation Committee recommends that the Board approve the selection of Atlantic Golf Management as manager of the Fort Monmouth Suneagles Golf Course and Associated Banquet/Restaurant Facilities.

Recommendation

In summary, I am requesting the Members' approval to enter into a contract with Atlantic Golf Management for services sought in the Request for Proposals for Professional Management and Maintenance for Fort Monmouth Suneagles Golf Course and Associated Banquet/Restaurant Facilities.



Bruce Steadman

Prepared by: Katie Hedden & Rick Harrison