



Board Meeting

Thursday, September 21, 2017

10:00 a.m.



**AGENDA  
REGULAR SESSION**

Thursday, September 21, 2017 - 10:00 a.m.  
Two DeKorte Park Plaza, Lyndhurst, NJ

I. **APPROVAL OF MINUTES** - (Action)

- Approval of Regular Session Meeting Minutes of July 20, 2017.

II. **PUBLIC PARTICIPATION ON RESOLUTIONS**

III. **APPROVALS** – (Action)

Cash Disbursements Approval and/or Ratification of Cash Disbursements over \$100,000 for July and August 2017.

Resolution 2017-26 Consideration of a Resolution authorizing NJSEA staff to investigate the redevelopment potential of the MORI Tract identified as Block 227, Lot 9 in Secaucus.

IV. **COMMITTEE REPORTS**

- American Dream Master Plan Committee Report

V. **PUBLIC COMMENT**

VI. **EXECUTIVE SESSION**

Resolution 2017-27 Consideration of a Resolution authorizing the New Jersey Sports and Exposition Authority to conduct a meeting, to which the general public shall not be admitted for the purposes of discussing legal matters, personnel matters and contract negotiations.

- Consideration of a Resolution on pending litigation regarding File No. 15-100 – MEPT Lincoln Crossing/2701 Rt. 3 East - New Building/Variance

VII. **MOTION TO ADJOURN**

**MINUTES**



## REGULAR SESSION BOARD MEETING

DATE: July 20, 2017  
TIME: 10:00 a.m.  
PLACE: 2 DeKorte Park Plaza - Lyndhurst, NJ  
RE: **REGULAR SESSION MEETING MINUTES**

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### **Members in Attendance:**

Michael Ferguson, Chairman (via phone)  
Joseph Buckelew, Vice Chairman  
Wayne Hasenbalg, Esq., President and Chief Executive Officer  
John Ballantyne, Member  
Armando Fontoura, Member  
Michael H. Gluck, Esq., Member (via phone)  
LeRoy Jones, Member  
George Kolber, Member  
Steven Plofker, Member  
Anthony Scardino, Member  
Robert Yudin, Member  
Peter Simon, NJ State Treasurer's Representative (via phone)

### **Absent:**

Michael Gonnelli, Member  
Andrew Scala, Member

### **Also Attending:**

Ralph J. Marra, Jr., Sr. Vice President of Legal and Regulatory Affairs  
Christine Sanz, Sr. Vice President/Chief Operating Officer  
Adam Levy, Vice President of Legal & Regulatory Affairs  
John Yarenis, Director of Finance/CFO  
Sharon Mascaro, Deputy Director of Land Use Management and Deputy Chief Engineer  
Lisa LeBoeuf, Governor's Authorities Unit  
Christine Ferrante, Executive Assistant/Paralegal

Vice Chairman Buckelew called the meeting to order.

Vice Chairman Buckelew 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.

## **I. APPROVAL OF MINUTES**

Vice Chairman Buckelew presented the minutes of the Regular Session Board Meeting held on June 15, 2017.

Upon motion made by Commissioner Ballantyne and seconded by Commissioner Scardino, the minutes of the Regular Session Board Meeting held on June 15, 2017 were unanimously approved by a vote of 12-0.

**III. PUBLIC PARTICIPATING ON RESOLUTIONS -**

- Mayor Fred Dressel, HMMC Executive Director – spoke on Resolution 2017-22.

**IV. APPROVALS**

- Approval of Cash Disbursements Over \$100,000 and Professional Invoices

Vice Chairman Buckelew presented the report of cash disbursements over \$100,000 and Professional Invoices for the month of June 2017.

Upon motion by Commissioner Plofker and seconded by Commissioner Yudin, the cash disbursements over \$100,000 for the month of June 2017 were approved subject to the following recusals:

<u>Member</u>	<u>Recused as to</u>
Commissioner Buckelew	Borough of Oceanport

Resolution 2017-21 Resolution Authorizing NJSEA Staff to Investigate the Redevelopment Potential of the Property Identified as 1631 Paterson Plank Road, Block 191, Lots 15, 15.01, 15.02, & 15.03, in the Town of Secaucus, New Jersey.

Ms. Mascaro explained that Schmitt Realty Co. Inc. is the current owner of the property and that Pirhl, the contract purchaser of the subject property, submitted a petition requesting that the NJSEA initiate an investigation to determine whether the property, which contains the remains of a former concrete plant and is currently vacant, can be designated as an area in need of redevelopment. Ms. Mascaro further explained that NJSEA staff prepared a preliminary analysis of the subject property and is requesting authorization from the Board of Commissioners to conduct an investigation to determine if the properties may potentially be deemed in need of redevelopment, in accordance with the regulations at N.J.A.C. 19:3-5.2(a). Ms. Mascaro stated that if the property is deemed to be an area in need of redevelopment, Pirhl intends to propose a multi-family residential project on the site. Ms. Mascaro also stated that the surrounding properties all contain existing residential uses.

Vice Chairman Buckelew presented Resolution 2017-21. Upon motion by Commissioner Ballantyne and seconded by Commissioner Plofker, proposed resolution 2017-21 was unanimously approved by 12-0 vote.

Resolution 2017-22 Resolution to Adopt an Amendment to the Secaucus Transit Village Redevelopment Plan (File No. SP-728)

Ms. Mascaro explained that Edison Properties submitted a petition to amend the Secaucus Transit Village Redevelopment Plan. She went on to explain that the petitioner owns two lots within the Station Square zone of the redevelopment area. The first property is vacant and the second property contains the existing Edison ParkFast commercial off-street parking facility located near NJ Transit's Secaucus Junction rail station. Ms. Mascaro stated that the proposed amendments to the redevelopment plan

include (1) the extension of the time period for commercial off-street parking as an interim use from 7 to 10 years; (2) an increase in the maximum number of parking spaces permitted for commercial off-street parking as an interim use within the Station Square zone from 1,100 to 2,200; (3) the establishment of a requirement that any application for an interim use shall be submitted within two years of adoption of this amendment to the redevelopment plan; (4) the provision of a maximum height limitation of 20 feet for vehicle lifts, car stackers and/or similar structures; (5) the provision of a minimum 10 foot setback from any property line for vehicle lifts, car stackers and/or similar structures for parking vehicles. Ms. Mascaro stated that staff held a public hearing to obtain comments on the proposed amendment. She went on to state that a representative of a neighboring business, Command Web Offset Co., offered comments at the public hearing. Written comments were received from Command Web Offset Co., the Hudson County Division of Planning, and the Meadowlands Regional Chamber of Commerce. Ms. Mascaro explained that in response to the public comments, the NJSEA staff made several modifications to the draft plan amendment, including the inclusion of additional provisions regarding traffic impact assessments and corresponding mitigation measures. This matter was forwarded to the Hackensack Meadowlands Municipal Committee, which voted in favor of the amendment at their meeting on July 17, 2017.

Vice Chairman Buckelew presented Resolution 2017-22. Upon motion by Commissioner Scardino and seconded by Commissioner Plofker, proposed resolution 2017-22 was unanimously approved by 12-0 vote.

Resolution 2017-23 Resolution Issuing a Decision on the Variance Application Submitted as part of File No. 16-541 WIP Moonachie, LLC/Use Change, Site Improvements & Variance, 77 Moonachie Avenue, Block 69, Lot 10 and Block 70, Lot 5.02, in the Borough of Moonachie, New Jersey.

Ms. Mascaro explained that WIP Moonachie, LLC has requested two bulk variances in connection with their zoning certificate application to renovate an existing building at 77 Moonachie Avenue in Moonachie, which is located in the District's Light Industrial B zone. Ms. Mascaro further explained that the first variance request involves the construction of four proposed loading doors in the front yard facing Grand Street, whereas front yard loading is prohibited in the District. The second variance request involves the applicant's proposal to provide 101 parking spaces, whereas the regulations require 106 parking spaces to accommodate the proposed uses within the renovated building. Ms. Mascaro stated that the configuration of the existing building and site improvements on the subject property, which has three front yards and environmental constraints in the rear yard, does not provide any opportunities for conforming loading docks.

She further stated that the location of the proposed docks on the site, along with the restriction of three of the docks for use by trucks under 40 feet in length, ensure that all truck maneuvering required to access the doors will occur on site. Ms. Mascaro explained that the applicant has proposed a landscaped berm to screen the loading doors from view of the industrial, commercial and preexisting nonconforming residential structures located across Grand Street. The parking for the existing building is proposed to be located on both the subject property and on an adjacent lot across Grand Street that is owned by the applicant. Ms. Mascaro stated that the proposed number of parking spaces will maintain the preexisting parking deficit of 6 spaces for this building and will be adequate to satisfy the anticipated parking demand. She also stated that no public

comments were offered prior to or at the public hearing. Ms. Mascaro stated that staff is recommending the conditional approval of the bulk variance for front yard loading for the reasons stated in the recommendation, which include the limitations associated with the layout of the existing building on the site, and that all proposed loading operations will occur on-site and maneuvering to access the proposed loading area will not occur within the right of way or on neighboring properties and will be screened by a landscaped buffer from adjacent properties. This approval is conditioned upon the restriction of the use of three loading spaces by trucks not exceeding 40 feet in length. The NJSEA staff recommends the conditional approval of the bulk variance to approve a parking deficit of 6 spaces for the reasons stated in the recommendation report, which include that there will be sufficient parking available on site to accommodate the specific parking demand for the site's uses and the requested variance will not result in any overflow parking on neighboring properties. This approval is conditioned upon the provision of a crosswalk and pedestrian signage to ensure a safe route of travel for pedestrians crossing Grand Street.

Commissioner Buckelew inquired about residential in the area and if there were any written complaints. Ms. Mascaro stated there are three or four existing residences on Grant Street with no complaints.

Commissioner Yudin asked about the loading docks and whether larger trailers would extend onto the street. Ms. Mascaro answered that they would not as the building is sufficiently set back on the property. Commissioner Yudin also asked if the applicant spoke with the residents. Ms. Mascaro replied that she is not aware of that. She also replied that a public notice was sent to all property owners. It was also stated that the applicant has agreed to put raised berms and landscaping to screen the loading doors. Commissioner Yudin inquired if a restriction can be put on the timing of operation. Ms. Mascaro stated that it is not within the NJSEA's jurisdiction.

Vice Chairman Buckelew presented Resolution 2017-23. Upon motion by Commissioner Plofker and seconded by Commissioner Ballantyne, proposed resolution 2017-23 was approved by 11-1 vote with Commissioner Yudin voting no.

#### **V. AWARDS/CONTRACTS**

Resolution 2017-24 Resolution Authorizing the Purchase of a 2017 Ford E-450 Medex Type III – 14 foot Ambulance.

Mr. Marra explained that the ambulance currently being used is approximately 13 years old and has had frequent maintenance issues, including a breakdown on a game day. Mr. Marra stated that, as in the past, the NJSEA will use a government cooperative purchasing program to obtain a slightly used ambulance at a competitive price.

#### **VI. PUBLIC COMMENTS - None**

#### **VII. EXECUTIVE SESSION**

Vice Chairman Buckelew stated a need for the Board to enter into Executive Session to discuss contractual matters and litigation matters.

Resolution 2017-25 Resolution authorizing the NJSEA to enter into a meeting to which the general public shall not be admitted to discuss legal matters, personnel matters and contract negotiations.

Upon motion made by Commissioner Yudin and seconded by Commissioner Ballantyne Resolution 2017-25 was approved by a vote of 12-0.

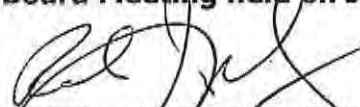
Motion was made and seconded to enter into open session.

**VII. MOTION TO ADJOURN**

With no further business, motion to adjourn the meeting was made by Commissioner Ballantyne and second by Commissioner Fontoura with all in favor.

Meeting adjourned at 10:45 a.m.

**I certify that on information and belief this is a true and accurate transcript of the Minutes of the Regular Session of the New Jersey Sports and Exposition Authority Board Meeting held on July 20, 2017.**



**Ralph J. Marra, Jr., Esq.**  
Assistant Secretary

July 20, 2017

Commissioner	Roll Call	2017-21	2017-22	2017-23	2017-24	2017-25
Ferguson	P (via phone)	Y	Y	Y	Y	Y
Buckelew	P	Y	Y	Y	Y	Y
Hasenbalg	P	Y	Y	Y	Y	Y
Ballantyne	P	Y	Y	Y	Y	Y
Fontoura	P	Y	Y	Y	Y	Y
Gluck	P (via phone)	Y	Y	Y	Y	Y
Gonnelli	--	--	--	--	--	--
Jones	P	Y	Y	Y	Y	Y
Kolber	P	Y	Y	Y	Y	Y
Plofker	P	Y	Y	Y	Y	Y
Scala	--	--	--	--	--	--
Scardino	P	Y	Y	Y	Y	Y
Yudin	P	Y	Y	N	Y	Y
Treasury Rep Simon	P (via phone)	Y	Y	Y	Y	Y

P - Present      A - Abstain  
 -- Absent      R = Recuse  
 Y = Affirmative      N = Negative



# **APPROVALS**



CASH DISBURSEMENTS  
\$100,000 OR MORE  
JULY 2017

**SPORTS COMPLEX**

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
NEW JERSEY RACING COMMISSION	120,000.00	A	RACING PERMIT: FY 2017
NEW JERSEY STATE POLICE	241,176.33	A/L	OVERTIME CHARGES: MAY 2017 - JUN 2017
NRG BUSINESS SOLUTIONS	771,753.88	A/L	ELECTRICITY CHARGES: MAY 2017 - JUN 2017
PUBLIC SERVICE ELECTRIC & GAS	121,629.92	A/L	ELECTRIC TRANSMISSION: JUN 2017
SPORTS ARENA EMPLOYEES RETIREMENT FUND LOCAL 137	234,185.01	A	PENSION WITHDRAWAL LIABILITY PAYMENT: MAY 2017 - JUL 2017
STATE OF NEW JERSEY TREASURY DEPARTMENT	444,300.26	A	WORKERS' COMPENSATION COVERAGE: JAN 2017 - JUN 2017
<b>SPORTS COMPLEX TOTAL</b>	<b><u>1,933,045.40</u></b>		

**OTHER**

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
JERSEY CITY, CITY OF	492,566.27	I	TAX SHARING: CY 2016
KEARNY, TOWN OF	1,499,955.07	I	TAX SHARING: CY 2016
NORTH ARLINGTON, BOROUGH OF	387,527.52	I	TAX SHARING: CY 2016
RIDGEFIELD, BOROUGH OF	429,351.65	I	TAX SHARING: CY 2016
RUTHERFORD, BOROUGH OF	104,579.30	I	TAX SHARING: CY 2016
WASTE MANAGEMENT OF NEW JERSEY	235,595.58	A	OPERATIONS CONTRACT - KEEGAN LANDFILL: JUN 2017
<b>OTHER TOTAL</b>	<b><u>3,149,575.39</u></b>		



CASH DISBURSEMENTS  
\$100,000 OR MORE  
AUGUST 2017

**SPORTS COMPLEX**

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
BOROUGH OF EAST RUTHERFORD	2,142,496.02	I	PAYMENT IN LIEU OF TAXES: 3rd QUARTER 2017
NRG BUSINESS SOLUTIONS	431,744.80	A/L	ELECTRICITY CHARGES: JUL 2017
PUBLIC SERVICE ELECTRIC & GAS	116,656.90	A/L	ELECTRIC TRANSMISSION: JUL 2017
SOUTHWEST AMBULANCE SALES, LLC	132,000.00	A	PURCHASE OF AMBULANCE TRUCK
<b>SPORTS COMPLEX TOTAL</b>	<b>2,822,897.72</b>		

**MONMOUTH PARK RACETRACK**

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
BOROUGH OF OCEANPORT	465,402.79	I	REAL ESTATE TAXES: 3rd QTR 2017
TWO RIVERS WATER RECLAMATION AUTHORITY	200,000.00	A	2017 STABLE WASTE WATER SERVICE AGREEMENT
<b>MPR TOTAL</b>	<b>665,402.79</b>		

**OTHER**

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
JERSEY CITY, CITY OF	209,953.08	I	TAX SHARING: CALENDAR YEAR 2017
KEARNY MUNICIPAL UTILITIES AUTHORITY	402,025.00	A	KEEGAN LANDFILL - SEWER USER FEES FOR PERIOD 2
KEARNY, TOWN OF	795,702.59	I	TAX SHARING: CALENDAR YEAR 2017
NORTH ARLINGTON, BOROUGH OF	177,931.88	I	TAX SHARING: CALENDAR YEAR 2017
RAMAPO COLLEGE FOUNDATION	250,000.00	A	2017 FUNDING PER MOU - 2nd PAYMENT
RIDGEFIELD, BOROUGH OF	158,263.42	I	TAX SHARING: CALENDAR YEAR 2017
WASTE MANAGEMENT OF NEW JERSEY	214,920.67	A	OPERATIONS CONTRACT - KEEGAN LANDFILL: JUL 2017
<b>OTHER TOTAL</b>	<b>2,208,796.64</b>		



CASH DISBURSEMENTS  
\$100,000 OR MORE

<u>REFERENCE LETTER</u>	<u>TYPE</u>
A	CONTRACT ON FILE
B	PURCHASE AWARDS - APPROVED AT MONTHLY BOARD MEETING
C	STATE REQUIREMENT FOR RACING
D	STATE VENDOR
E	SOLE SOURCE*
F	APPOINTED BY RACING COMMISSION
G	ADVERTISED BID
H	PRESIDENT/CEO APPROVAL
I	STATUTORY PAYMENT
J	UTILITIES
K	LOWEST PROPOSAL
L	REIMBURSABLE
M	OUTSTANDING PROFESSIONAL INVOICES APPROVED AT MONTHLY BOARD MEETING
N	PURCHASES ON BASIS OF EXIGENCY
*	PURCHASES DIRECT FROM SOURCE
	EXPENDITURE TO BE CHARGED TO MAINTENANCE RESERVE FUND

**RESOLUTION 2017-26**

**RESOLUTION AUTHORIZING NJSEA STAFF TO INVESTIGATE  
THE REDEVELOPMENT POTENTIAL OF THE MORI TRACT  
IDENTIFIED AS BLOCK 227, LOT 9, IN THE  
TOWN OF SECAUCUS, NEW JERSEY  
FILE NO. SP-748**

**WHEREAS**, N.J.S.A. 5:10A-7(j) authorizes the New Jersey Sports and Exposition Authority (NJSEA) to determine the existence of areas in need of redevelopment or rehabilitation and to approve or undertake redevelopment projects therein; and

**WHEREAS**, N.J.A.C. 19:3-5.1 *et seq.* provides the regulations governing redevelopment within the Hackensack Meadowlands District, including the process and criteria for establishing redevelopment areas and the preparation and adoption of redevelopment plans; and

**WHEREAS**, a petition dated July 18, 2017, was received from Gary M. Jeffas, Secaucus Town Administrator, submitted on behalf of the Town of Secaucus, requesting that the NJSEA investigate the redevelopment potential of the property known as the Mori Tract, owned by the Mori Revocable Trust, which is located along Paterson Plank Road/Hudson County Route 681, and specifically identified as Block 227, Lot 9, in the Town of Secaucus; and

**WHEREAS**, the NJSEA staff has compiled preliminary information regarding the subject properties in accordance with the requirements of N.J.A.C. 19:3-5.2 to support this request; and

**WHEREAS**, in accordance with N.J.A.C. 19:3-5.3(e), the NJSEA staff must request authorization from the NJSEA Board of Commissioners to conduct an investigation of areas that may potentially be deemed in need of redevelopment; and

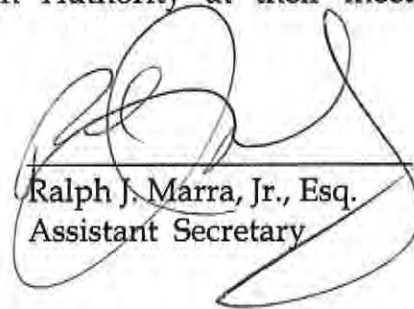
**WHEREAS**, the NJSEA staff requests authorization to conduct an investigation of the property located along Paterson Plank Road/Hudson County 681, and identified as Block 227, Lot 9, in the Town of Secaucus, to examine its redevelopment potential; and

**WHEREAS**, the NJSEA staff requests authorization to prepare an "In Need of Redevelopment Report" pursuant to N.J.A.C. 19:3-5.4 and to hold a public hearing to obtain public comment on the report and its findings.

**NOW THEREFORE BE IT RESOLVED**, that the NJSEA staff is hereby authorized to conduct an investigation of the property located along Paterson Plank Road/Hudson County 681, specifically identified as Block 227, Lot 9, in the Town of Secaucus, to examine its redevelopment potential.

**BE IT FURTHER RESOLVED**, that the NJSEA staff is hereby authorized to prepare an "In Need of Redevelopment Report" pursuant to N.J.A.C. 19:3-5.4 and hold a public hearing to obtain public comment on the report and its findings.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of September 21, 2017.



Ralph J. Marra, Jr., Esq.  
Assistant Secretary



## MEMORANDUM

*To:* NJSEA Board Members and Wayne Hasenbalg, President/CEO

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*From:* Sara J. Sundell *Date:* September 21, 2017

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*Subject:* Request for Authorization to Conduct an Investigation of the Redevelopment Potential of the Mori Tract in Town of Secaucus (File No. SP-748)

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On July 18, 2017, the New Jersey Sports and Exposition Authority (NJSEA) received a petition from Gary M. Jeffas, Secaucus Town Administrator, on behalf of the Town of Secaucus, requesting that the NJSEA investigate the redevelopment potential of the property known as the Mori Tract, which is owned by the Mori Revocable Trust and located along Paterson Plank Road/Hudson County 681, on the property identified as Block 227, Lot 9, in the Town of Secaucus.

The NJSEA staff undertook a preliminary review of the subject property and prepared a summary report of its findings. Pursuant to N.J.A.C. 19:3-5.2, the NJSEA staff requests authorization from the Board of Commissioners to conduct a detailed investigation of the redevelopment potential of the property located along Paterson Plank Road/Hudson County 681, identified as Block 227, Lot 9, in the Town of Secaucus, to determine if it contains the conditions to be designated an area in need of redevelopment. The results of this investigation will be compiled in an "In Need of Redevelopment Report," in accordance with the requirements of N.J.A.C. 19:3-5.4.

Authorization is also requested to hold a public hearing to obtain public comment on this report and its findings.

**PRELIMINARY INFORMATION TO SUPPORT THE**  
**REQUEST FOR AUTHORIZATION TO INVESTIGATE THE**  
**REDEVELOPMENT POTENTIAL OF**  
**THE MORI TRACT LOCATED ALONG**  
**PATERSON PLANK ROAD/HUDSON COUNTY 681**  
**BLOCK 227, LOT 9,**  
**IN THE TOWN OF SECAUCUS, NEW JERSEY**  
**FILE NO. SP-748**

In a letter dated July 18, 2017, the New Jersey Sports and Exposition Authority (NJSEA) received a petition from Gary M. Jeffas, Town Administrator, submitted on behalf of the Town of Secaucus, requesting that the NJSEA investigate the redevelopment potential of the Mori Tract property located along Paterson Plank Road/Hudson County Route 681 and identified as Block 227, Lot 9, in the Town of Secaucus. The parcel is under the ownership of Mori Revocable Trust and is currently vacant.

Pursuant to N.J.A.C. 19:3-5.2, the NJSEA staff must request authorization from the Board of Commissioners to conduct an investigation of areas that may potentially be deemed in need of redevelopment. The request must include the following:

1. The block and lot number designation of the properties;
2. The existing zoning and land use of the properties;
3. A map showing the boundaries of the area to be investigated;
4. A description of all existing structures on each site; and
5. A statement indicating why the property may be in need of redevelopment.

The Town's petition met these requirements and the NJSEA staff conducted a preliminary review and field inspection of the subject property.

The proposed in need of redevelopment investigation area is comprised of one tax lot, Block 227, Lot 9, totaling approximately 136 acres in area, and delineated by a red boundary line on Figure 1. The subject property fronts on Paterson Plank Road to the south, which is also designated as Hudson County Route 681, and is bounded by Harmon Meadow, a commercial/retail/residential development, to the west. A small portion of the north-west corner of the property fronts on the Eastern Spur of the New Jersey Turnpike. The northern property line is the municipal boundary line between Secaucus and North Bergen. The adjacent property located north of the subject site in North Bergen is comprised of undeveloped wetlands. The eastern border of the subject property adjoins a stretch of PSE&G-owned property containing electric transmission towers.



The subject property is located in both the District's Regional Commercial and Environmental Conservation zones, as shown on Figure 2, which depicts the existing zoning designations for the redevelopment investigation area.

According to the petition, the property has been vacant and unimproved for a period of ten years. A review of historic aerial maps available to the NJSEA indicates that the subject property has remained vacant as far back as 1930. This Office has no evidence of development on the subject property. In addition, the petition states that there are areas within the subject property where there is evidence of illegal dumping activities. The NJSEA currently has open violations regarding illegal fill on the subject property and is aware of violations from the NJDEP and the U.S. Army Corps of Engineers for the same illegal fill.

**Conclusion:**




Based on the above information, the NJSEA staff requests authorization to conduct a more detailed study of the subject property to analyze its redevelopment potential. The findings resulting from this investigation will be compiled into an "In Need of Redevelopment Report," in accordance with the requirements of N.J.A.C. 19:3-5.4, and a public hearing will be held to obtain public comment on the report and its findings.

# Redevelopment Investigation: Location Map: Block 227, Lot 9, Secaucus



**Figure 1**


**LEGEND**


-  NJSEA District Boundary
-  Municipal Boundary
-  Redevelopment Investigation Boundary

0 500 1,000 Feet  
1 inch = 1,000 feet

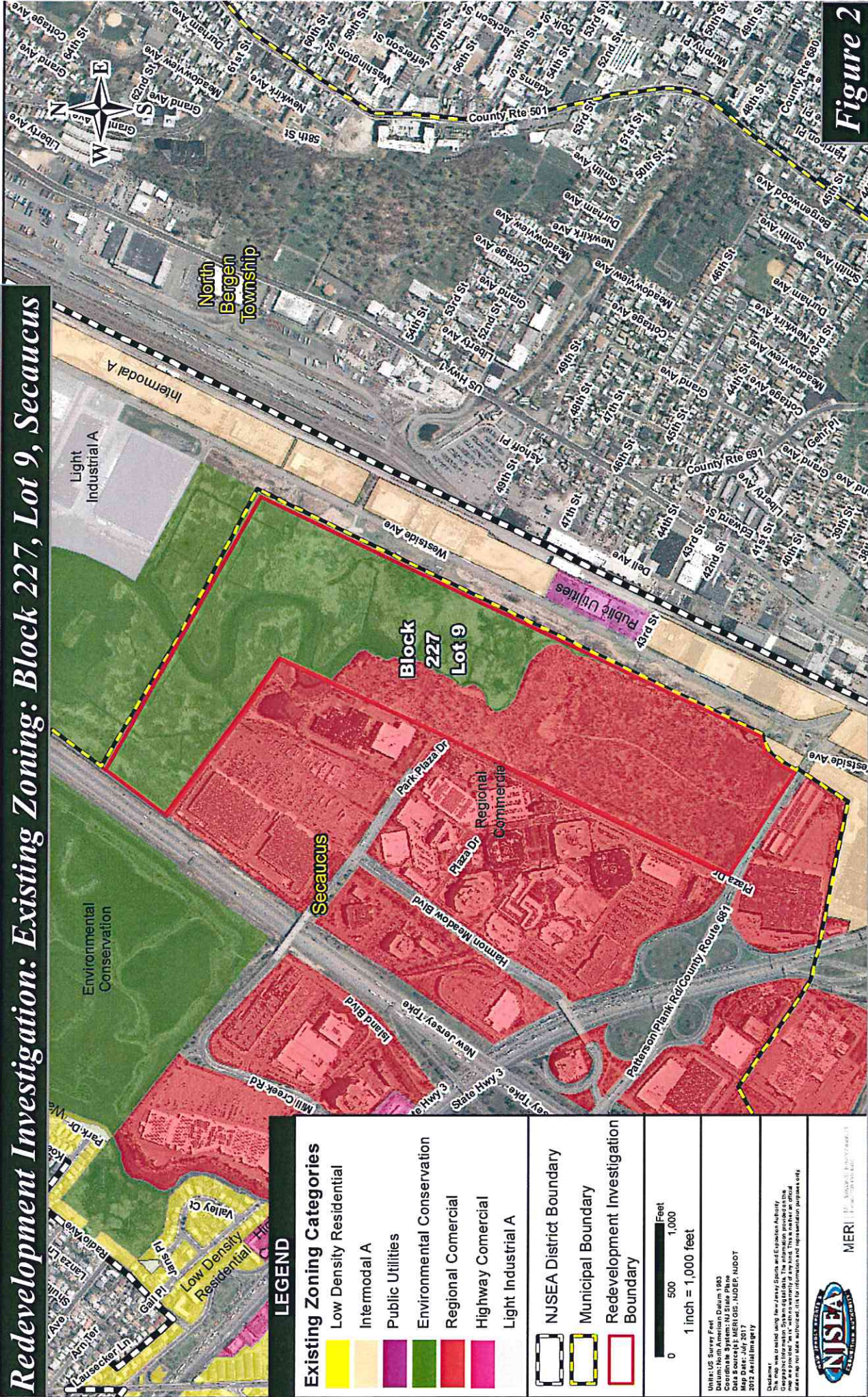
UNIK.US Survey Feet  
Datum: North American Datum 1983  
Data Source: MERIS GIS, NJDEP, HUDOT  
Map Date: July 2017  
2012 Aerial Imagery

Disclaimer: This map was created using New Jersey State and Expansion Authority data. It is not intended to be used for legal purposes. The user assumes all liability for any use of this map. This map is not intended to be used for legal purposes. The user assumes all liability for any use of this map.

 NJSEA  
New Jersey State and Expansion Authority

 MERIS  
Meadowlands Environmental Research Institute (MERI)

# Redevelopment Investigation: Existing Zoning: Block 227, Lot 9, Secaucus



**Figure 2**

**LEGEND**

**Existing Zoning Categories**

- Low Density Residential
- Intermodal A
- Public Utilities
- Environmental Conservation
- Regional Commercial
- Highway Commercial
- Light Industrial A

**Boundaries**

- NJSEA District Boundary
- Municipal Boundary
- Redevelopment Investigation Boundary

0 500 1,000 Feet  
1 inch = 1,000 feet

Units: US Survey Feet  
Datum: North American Datum 1983  
Data Source: MERI GIS, NJDEP, NJDOT  
Map Date: July 2017  
2012 Aerial Imagery

Disclaimer:  
This map was created using New Jersey Sports and Exposition Authority  
data. The NJSEA is not responsible for any errors or omissions in this  
map or any information derived therefrom. This is not an official  
map and is for informational purposes only.

**NJSEA**  
New Jersey Sports and Exposition Authority

MERI  
Map & GIS Services

# **EXECUTIVE SESSION**

**RESOLUTION 2017-27**

**RESOLUTION AUTHORIZING THE  
NEW JERSEY SPORTS AND EXPOSITION AUTHORITY  
TO CONDUCT A MEETING TO WHICH  
THE GENERAL PUBLIC SHALL NOT BE ADMITTED**

**BE IT RESOLVED** by the New Jersey Sports and Exposition authority ("Authority") that it shall conduct a meeting to which the general public shall not be admitted to discuss personnel matters, the status of pending and anticipated litigation and other matters within the attorney client privilege, contract negotiations, and, if necessary, to act upon pending contracts.

**BE IT FURTHER RESOLVED** that the time when such discussions may be disclosed to the public shall be when and as such disclosure may be made without adversely affecting the Authority's pending and/or anticipated legal, personnel, contractual matters and other matters within the exceptions provided for by the statute.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of September 21, 2017.

  
Ralph J. Marra, Jr., Esq.  
Assistant Secretary

**RESOLUTION 2017-28**

**RESOLUTION DENYING TOWERS ASSOCIATES' MOTION REQUESTING THAT MEPT LINCOLN CROSSING'S WITHDRAWAL OF ITS VARIANCE APPLICATION BE CONSIDERED AS WITH PREJUDICE**

**WHEREAS**, in March 2015, MEPT Lincoln Crossing, LLC ("MEPT") applied to the New Jersey Sports and Exposition Authority ("NJSEA") for a zoning regulation variance for the property located at 2701 Route 3 East in North Bergen and Secaucus to construct a warehouse and distribution facility; and

**WHEREAS**, Towers Associates objected to the variance application; and

**WHEREAS**, public hearings regarding the variance application were held by the NJSEA staff on October 13, 2015, November 5, 2015, November 6, 2015, November 12, 2015, November 13, 2015 and December 3, 2015; and

**WHEREAS**, at the conclusion of the December 3, 2015, hearing, counsel represented that additional hearing dates for witness testimony were required; and

**WHEREAS**, at the conclusion of the December 3, 2015, hearing, NJSEA staff had yet to hear and consider all evidence and testimony in support of and/or in opposition to the application nor had NJSEA staff been presented with sufficient evidence or testimony to submit a recommendation to the NJSEA Board; and

**WHEREAS**, in lieu of continuing with the hearings, on February 23, 2016, MEPT withdrew its application without prejudice; and

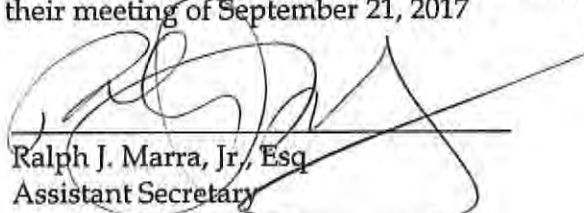
**WHEREAS**, on April 8, 2016, Towers Associates submitted to NJSEA staff a Notice of Motion for Order that MEPT's withdrawal of the application be with prejudice; and

**WHEREAS**, MEPT and Towers Associates thereafter submitted additional arguments supporting their respective positions on the February 23, 2016, withdrawal; and

**WHEREAS**, the NJSEA Board seeks to resolve this matter and address those arguments set forth in MEPT and Towers Associates' submissions to the staff.

**NOW, THEREFORE IT BE RESOLVED**, by the Board of Commissioners of the New Jersey Sports and Exposition Authority that Towers Associates' Motion requesting that MEPT's February 23, 2016, withdrawal of its variance application be considered as with prejudice is **DENIED** for those reasons set forth in the document annexed hereto.

I hereby certify that the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of September 21, 2017

  
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Ralph J. Marra, Jr., Esq.  
Assistant Secretary

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**IMO OF TOWERS ASSOCIATES' MOTION  
REQUESTING THAT MEPT LINCOLN  
CROSSING'S WITHDRAWAL OF ITS  
VARIANCE APPLICATION BE  
CONSIDERED AS WITH PREJUDICE**

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: New Jersey Sports and Exposition Authority  
: File No. 15-100  
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This matter concerns the April 8, 2016, Motion submitted by Towers Associates (“Towers”) requesting that the withdrawal of a variance application submitted by MEPT Lincoln Crossings (“MEPT”) be considered as with prejudice or in the alternative, if the withdrawal is without prejudice MEPT be required to pay Towers’ attorney and expert fees and costs. For the reasons set forth below, the New Jersey Sports and Exposition Authority (“NJSEA”) denies Towers’ Motion.

I.

This matter arises out of an application submitted by MEPT in March of 2015 for a zoning regulation variance for the property located at 2701 Route 3 East in both North Bergen and Secaucus to construct a warehouse and distribution facility. The application for the variance was filed with the NJSEA staff in accordance with N.J.A.C. 19:4-4.14(b). Pursuant to N.J.A.C. 19:4-4.14(d) and N.J.A.C. 19:4-4.17, public hearings were held and Towers voluntarily participated in the hearings as an objector. Public hearings regarding the variance application were held by the NJSEA staff on October 13, 2015, November 5, 2015, November 6, 2015, November 12, 2015, November 13, 2015 and December 3, 2015. Upon conclusion of the December 3, 2015, hearing additional cross-examination of witnesses, presentation of experts, hearing of public comments and final statements and had not yet been conducted. Therefore, an additional hearing date of January 12, 2016, was scheduled. On January 8, 2016, MEPT

requested a postponement of the January 12, 2016, public hearing to consider further changes to the site plan. On February 23, 2016, MEPT submitted formal notice to the NJSEA staff of the withdrawal of its application without prejudice. Towers' Motion followed.

## II.

Foremost, Towers submitted its Motion to NJSEA staff as opposed to the NJSEA Board of Commissioners ("Board"). Although the Board may assign NJSEA staff the responsibility to assemble information relevant to a variance application, and to conduct any hearing that may be appropriate and make recommendations to the Board regarding the application, final decisions regarding variance applications are specifically reserved for the Board. In Re Amico/Tunnel Carwash, 371 N.J. Super. 199, 215 (App. Div. 2004). Notwithstanding the improper filing of the Motion before the staff as opposed to the Board, in the interests of resolving the Motion, the Board sets forth the following findings and conclusions.

Towers argues that MEPT's withdrawal of the variance application should be considered with prejudice. Towers principal support for this argument is that MEPT's testimony on the application was completed and that MEPT's withdrawal "appears" to be an attempt to avoid a decision by staff on the application's record. To support its legal argument, Towers relies primarily on Sansone Oldsmobile-Cadillac, Inc. v. Bd. of Adj. of the Borough of Shrewsbury, 211 N.J. Super. 304 (Law. Div. 1986).

The issue presented in Sansone was whether an applicant before a board of adjustment has an absolute right to withdraw a pending variance application, without prejudice, prior to a formal vote thereon. Id. at 305. On June 19, 1984, Sansone applied to the Shrewsbury Board of Adjustment for a preliminary and final site plan approval, use and bulk variances, permission to erect an eight-foot high buffer fence and approval for an oversized free-standing sign. Public



hearings were held before the Shrewsbury Board of Adjustment on July 5, August 1, September 5, October 3, and November 7, 1984. Id. at 305-6.

On December 5, 1984, the Shrewsbury Board of Adjustment deliberated on the application and decided to deny the variance. Id. at 307. At the conclusion of these discussions, the Chairman directed the board attorney, "...to put together a Resolution denying the application as [that] was the consensus of the board." The Chairman added that the Resolution would be submitted for a vote at the regular meeting scheduled for January 2, 1985. By letter dated December 12, 1984, Sansone attempted to withdraw its application without prejudice. At the meeting of the board on January 2, 1985, the request to withdraw the application was discussed at length. All four members voted to deny the request, whereupon they proceeded to discuss the Resolution prepared by the board attorney. After certain revisions, the same four members adopted the Resolution denying Sansone's variance application. Id. at 308.

In Sansone, the trial court reasoned that a request to withdraw a variance application without prejudice is akin to a motion by a plaintiff in the Superior Court for leave to take a voluntary dismissal of his complaint without prejudice pursuant to R. 4:37-1(b) and was subject to the board's discretion. Sansone, supra, 211 N.J. Super. at 312-13. There are no reported court decisions directly addressing the NJSEA's compliance with R. 4:37-1(b), but the reasoning in Sansone nonetheless provides guidance to this Board.

In Sansone, the trial court referenced a history of jurisprudence finding that court fashioned doctrines for handling litigation do in fact have some genuine utility and relevance in administrative proceedings. Sansone, supra, 211 N.J. Super. at 310-11; citing City of Hackensack v. Winner, 82 N.J. 1 (1980); see also, Princeton Research Lands, Inc. v. Princeton Tp. Planning Bd., 112 N.J. Super. 467 (App. Div.) certif. denied 57 N.J. 291 (stating that, "since the township

committee was acting in a quasi-judicial capacity in hearing an appeal from the planning board, it should have applied R. 1:3-3.”). Thus, the Sansone court found that the policy considerations which underpin the application of quasi-judicial administrative principles also support the selective application of the New Jersey Court Rules. Sansone, supra, 211 N.J. Super. at 311. Because the Board is an independent administrative body acting in a quasi-judicial capacity, the Board will utilize the selective application of R. 4:37-1(b) and determines that a withdrawal in this matter is subject to the discretion of the Board.

The Board cautions that the selective application of R. 4:37-1(b) in this matter is not to be interpreted as an invitation for applicants and/or objectors to utilize court procedures and techniques in toto during the application process. Such matters should be held in abeyance until such time as a final recommendation has been made by the staff and, equally important, the matter has been fully presented to the Board for decision making purposes. Motions such as the one presented here submitted during the pendency of an application before the staff would undermine the NJSEA’s ability to fulfill its statutory functions in an orderly fashion and thus, such actions must be tempered by a full appreciation of the agency’s functions.

Furthermore, it should be noted that Motions such as this should not be submitted to the staff. In comparison to the inherent powers of the Board, staff’s authority is limited with respect to the present issue. A staff decision on a Motion that could effectively deny a variance application would be tantamount to a final agency action and exceeds the inherent authority of the staff. Decisions of this type are specifically reserved for the Board. In Re Amico/Tunnel Carwash, supra, 371 N.J. Super. 199.

Turning to the merits of the Motion, the Sansone case fails to provide any support for Towers’ request to dismiss MEPT’s application with prejudice. Unlike the application in

Sansone, this matter was far from complete. Additional hearing dates had been scheduled and there remained additional testimony, cross-examination, presentation of expert witnesses and documents, the hearing of public comments and final statements. Thus, unlike in Sansone, the public record was not closed and the public hearing process was incomplete.

Furthermore, once a public record in this matter is closed, the staff is required to submit a copy of the record to the Board. N.J.A.C. 19:4-4.14(g). Thereafter, a comprehensive report containing the findings, conclusions, and/or recommendations regarding the variance shall be prepared by the staff and signed by the Executive Director and the Director of Land Use Management. N.J.A.C. 19:4-4.14(h). This report is then transmitted to the applicant. N.J.A.C. 19:4-4.14(i). After an appeal period, only then does the staff transmit a copy of the report to the Board for its review wherein the matter is placed on the agenda at the next available scheduled meeting. N.J.A.C. 19:4-4.14(j). The Board then decides, by a concurring vote of its members, whether to grant or deny the variance requested, based upon the record of the matter. N.J.A.C. 19:4-4.14(l). These regulatory steps further distinguish this matter from the Sansone case and demonstrate that the staff process had not been concluded and the application was not before the Board.

In Sansone, it was clear that that the board members had already publically determined their intentions to deny the variance application, and that the applicant had attempted to withdraw the same at the eleventh hour to avoid denial. Unlike in Sansone, here there is no indication that the Board would have approved, denied or imposed other conditions on the variance application. As such, there is no basis in fact to conclude that the Board or staff gave any indications as to the expected decision of MEPT's application.

While it is the determination of the Board that MEPT'S withdrawal of its variance application without prejudice is proper, the Board is cognizant of the fact that a considerable amount of time was spent on this application and that Towers incurred counsel fees and expert expenses. While Towers might have expected a conclusion to this matter and some semblance of finality, at this stage of the proceedings such expectations are unreasonable. Often in land use hearings such as this, applicants amend and/or withdraw and resubmit applications to address concerns raised by objectors and/or the governing authority. Such cooperation is encouraged and allows the concerns of the objectors to be addressed while at the same time protecting the rights of property owners. To suggest that an applicant may not withdraw an application to address such concerns would discourage cooperation and defeat NJSEA's ability to perform its stated mission.

As the hearing was not complete and the procedures set forth in N.J.A.C. 19:4-4.14 had not concluded, MEPT's application was properly withdrawn without prejudice.

### III.

Towers also requests that NJSEA impose conditions on the withdrawal, specifically Towers asks the NJSEA to order MEPT to reimburse Towers for the attorney fees and costs incurred in objecting to MEPT's application. As there is no fee-shifting provision within the NJSEA's regulations, Towers again relies upon R. 4:37-1(b). The Rule's aim is to prevent instances,

“...in which a defendant is damaged by being dragged into court and put to expenses with no chance whatever of having the suit determined in his favor. The obvious purport of our rule is to protect a litigant where the termination of the proceedings without prejudice will place him in the probable position of having to defend, at additional expense, another action based upon similar changes at another time.”

Union Carbide Corp. v. Litton Prec. Prods., Inc., 94 N.J. Super. 315, 317 (Ch. Div. 1967).

A motion based on R. 4:37-1(b) involves three sequential inquiries: (a) whether the matter should be dismissed without prejudice, (b) if so, whether terms should be imposed, and (c) if so, what terms will alleviate any prejudice to the defendant and prevent injury to the efficient administration of justice generated by the ensuing delay and duplication of effort. Shulas v. Estabrook, 385 N.J. Super. 91, 98 (App. Div. 2006). “[A]n examination into the propriety of a voluntary dismissal without prejudice requires the investigation into the reasons why the order was sought as well as the actions or inactions of the parties that preceded its entry.” Id. at 101-02. It is clear that the purpose of the rule is the prevention of intolerable manipulation of the court’s calendar and the defendant’s resources. Id. at 101.

Applying the principles of R. 4:37-1(b) as espoused by the courts, the circumstances justifying an imposition of fees and costs are not present here. MEPT stated in its February 23, 2016, letter that it originally requested an adjournment of the January 12, 2016, public hearing to consider changes to the site plan. MEPT further stated that it decided to evaluate alternative designs which would necessitate the submission of new plans and technical reports. Thus, the dismissal without prejudice was premised upon MEPT’s desire to amend its original submission presumably to address concerns which may have arisen through the public hearings. There is no indication that MEPT’s actions were for nefarious purposes or to intolerably manipulate the time and resources of the NJSEA or Towers. To the contrary, MEPT’s decision to withdraw and amend its pending application to address public concerns ought to be encouraged as an example of sound land use and development policy.

Lastly, this matter is distinguishable from the concerns the court held in Union Carbide Corp. as Towers is not a defendant unwillingly dragged into these proceedings. Towers

voluntarily participated in these hearings and was not compelled to do so. Tower's costs and expenses were of its own volition and thus the circumstances here do not warrant the imposition of any special conditions or fees and costs.