

BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY

185 Court Street

Binghamton, New York 13901

Friday, June 7, 2013, 12:00 pm

SYNOPSIS OF MEETING

PRESENT: J. Davis, T. Kane, R. Keibel, W. Howard D. Preston, D. Reynolds, J. Rounds and J. Stevens

ABSENT: R. Nielsen

GUESTS: Jerry Marinich, Broome County Legislature Chairman
Aaron Martin, Broome County Legislature Clerk
Bijoy Datta, Deputy Broome County Executive
Ken Kamlet, HH&K, Representing Good Shepherd Village at Endwell, Inc
Denise Johnson, Vestal Park Rehabilitation and Nursing Center
Hans Dalmolen, Valletta Ritson
Matt Ryan, Mayor of City of Binghamton
Merry Harris, City of Binghamton
Emmanuel Priest, Representing Robert Nielsen
John Solak, City of Binghamton resident
Nathan VanWhy, City of Binghamton resident
Scott Colton, Carpenters Local 277
Brian Noteboom, Carpenters Local 277
Howard Lucy, STOC

STAFF: R. D'Attilio, P. Doyle, T. Gray, R. Fiato and C. Campon

COUNSEL: J. Meagher

PRESIDING: T. Kane

Mr. Kane called the meeting to order at 12:07 pm.

ITEM #1. APPROVE MINUTES FOR MAY 10, 2013 BOARD MEETING AND THE MAY 10, 2013

AUDIT COMMITTEE MEETING: Mr. Kane requested approval of the minutes for the May 10, 2013 board meeting and the May 10, 2013 Audit Committee meeting.

MOTION: Resolution to approve the May 10, 2013 board meeting and the May 10, 2013 Audit Committee meeting minutes. On a MOTION by Mr. Stevens, seconded by Mr. Howard, the MOTION CARRIED UNANIMOUSLY.

ITEM #2. PUBLIC COMMENT: Mr. John Solak said Ron Simons pleading guilty to a Federal financial crime and then acting as the IDA's auditor is unacceptable. Mr. Solak said he has filed a complaint with the FDA for Sonostics' Myowave technology. He suggested tabling Item 8 on the agenda regarding the Vestal Nursing Home because he said the project has already received government assistance, and he feels a sale-leaseback would be unfair. Mr. Solak requested that a provision be added that would not allow the Vestal Nursing Home to import nursing staff from out of the country. Mr. Solak said he supports the Dick's Sporting Goods Open, but he feels the event should stand alone without the IDA's sponsorship. Lastly, he took issue with the development of the 20 Hawley Street project and stated he hopes to see local labor used in a future expansion. Matt Ryan spoke next in favor of the 20 Hawley project. He said the City of Binghamton is in favor of the expansion moving forward as soon as possible.

Mr. Ryan suggested accepting the application and setting the public hearing for August, giving the developers and City time to work through all necessary approvals and variances. He said the public hearing would be the appropriate place to address local labor issues.

MOTION: No motion necessary.

ITEM #3. EXECUTIVE DIRECTOR'S REPORT: Mr. D'Attilio said the Agency received a demand notice from the former owner of the Carnegie Library. The Agency submitted a \$150,000 appraisal to the Court; the former owner has not yet submitted his appraisal. Although the price has not yet been determined, the Agency has complete control of the building. Delta Engineers is doing a feasibility study for BCC's use of the building. Mr. D'Attilio said the Agency has closed on another property at the incubator site. He expects to be ready to put out bids for site demo by the end of the summer. Lastly, Mr. D'Attilio said there will be a groundbreaking ceremony for the Broome Community College student housing project on campus at the end of the month.

MOTION: No motion necessary.

ITEM #4. LOAN FUNDS AVAILABILITY AS OF JANUARY 31, 2013: Mr. Gray presented the Loan Funds Availability report to the Board. The balances available to lend are \$434,568.77(STEED) and \$905,152.67 (BDF). Mr. Gray said he is looking at two proposals for a total of \$400,000.

MOTION: No motion necessary.

NEW BUSINESS

ITEM #5. RESOLUTION TO ACCEPT THE SALE LEASEBACK APPLICATION FROM HAWLEY STREET MEMBERS LLC FOR THE REDEVELOPMENT AND EXPANSION OF THE 20 HAWLEY STREET, BINGHAMTON, NY: Mr. D'Attilio said an application has been submitted from Alfred Weissman, LLC to redevelop and expand 20 Hawley Street. The proposed project will add an additional 180 beds and will cost \$10.6 million. Mr. D'Attilio has spoken with Mr. Weissmann and the City of Binghamton regarding the necessary approvals and parking variances. At this time, the Board will only vote to accept the application and authorize the Executive Director to set a public hearing. A public hearing will only be set after all necessary City approvals have been granted. Mr. Howard assured that accepting an application is in no way a commitment to a project. Mr. D'Attilio said he would invite the developer to a board meeting in the near future to answer any outstanding questions before the Board takes any action.

MOTION: To accept the application. On a MOTION by Mr. Davis, seconded by Mr. Stevens, the MOTION CARRIED UNANIMOUSLY.

ITEM #6. RESOLUTION TO AUTHORIZE THE SETTING OF A PUBLIC HEARING FOR THE HAWLEY STREET MEMBERS LLC TO REDEVELOP AND EXPAND 20 HAWLEY STREET, BINGHAMTON, NY: In reference to Mr. Ryan's request to schedule the public hearing for August, Ms. Preston asked why the Board shouldn't delay authorization until the July meeting. She wanted to be assured that all City approvals are met before a meeting is set. Mr. Meagher explained that in the case that the July board meeting be cancelled, it would be helpful to already have the authorization granted so as not to delay the process. Mr. D'Attilio reiterated that a public hearing would not be set without all proper approvals in place. The City has planned public hearings for July 1, 2013 and July 19, 2013. Ms.

Preston suggested amending the resolution to authorize the setting of a public hearing dependent on City approvals and assurance to the Board of such approvals.

MOTION: Resolution to authorize setting of public hearing dependent on City approvals and assurance to the Board of approvals. On a MOTION by Mr. Davis, seconded by Mr. Reynolds, the MOTION CARRIED UNANIMOUSLY.

ITEM #7. RESOLUTION AUTHORIZING THE FIRST SUPPLEMENTAL INDENTURE OF TRUST OF THE ISSUER'S CONTINUING CARE RETIREMENT COMMUNITY FIXED RATE REVENUE BONDS (GOOD SHEPHERD VILLAGE AT ENDWELL, INC. PROJECT), SERIES 2008 AND THE

EXECUTION OF RELATED DOCUMENTS: Mr. D'Attilio explained that certain provisions will not allow money to be moved between bond funds. He said there is no liability and no recourse to the Agency for this transaction. Mr. Meagher recommending amending the resolution to include the phrase "subject to counsel review".

MOTION: To approve the Resolution subject to counsel review. On a MOTION by Mr. Howard, seconded by Mr. Stevens, the MOTION CARRIED UNANIMOUSLY.

ITEM #8. RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO AMEND THE PILOT AND ALL OTHER RELATED DOCUMENTS FOR 83 STELLAR 83 COURT LLC REDEVELOPMENT

PROJECT: Mr. D'Attilio explained that the project financing and PILOT were already closed before a fire at the site postponed all project construction indefinitely. The proposed amendment to the PILOT would adjust the timeframe to fit with new construction. All terms and conditions would remain although the project will actually pay more taxes over the course of the PILOT because of risen rates. The City has asked for an agreement under their terms; a deviation of standard PILOT has been signed by the City Mayor. Since the agreement is under deviation, if the City does not approve, then the IDA approval is void. Mr. Keibel asked what would happen to the project without IDA approval. Mr. D'Attilio said the project would move forward under the unamended PILOT, but the new PILOT will derive more tax money if amended.

MOTION: To approve the Resolution conditioned upon City amendment approval. On a MOTION by Mr. Davis, seconded by Mr. Keibel, the MOTION CARRIED. Mr. Howard abstained as his company is bidding on the construction job.

ITEM #9. RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO SIGN THE MULTI-MODAL PROGRAM CAPITAL PROJECT AGREEMENT FOR THE CONSTRUCTION OF RAIL SPURS

AT NATIONAL PIPE & PLASTICS IN ENDICOTT, NY: Mr. D'Attilio explained that this is a pass-through grant where the IDA is serving as the governmental agency conduit. The grant was been orchestrated by Empire State Development through the CFA. The grant requires that the Agency is owner of the project, but the Agency will enter into an agreement with National Pipe & Plastics that mirrors the agreement between the Agency and the DOT to make National Pipe & Plastics responsible for all terms and conditions. This resolution is subject to that contract being approved by National Pipe. Mr. D'Attilio suggested the Board consider incorporating a nominal administrative fee. Mr. Kane recommended a one-time fee of \$1,500. Ms. Preston suggested the Audit Committee review the administrative fee procedure.

MOTION: To approve the Resolution. On a MOTION by Mr. Howard, seconded by Mr. Stevens, the MOTION CARRIED UNANIMOUSLY.

MOTION: To have the BCIDA Audit Committee review administrative fee procedure. On a MOTION by Ms. Preston, seconded by Mr. Reynolds, the MOTION CARRIED UNANIMOUSLY.

ITEM #10. REVIEW OF THE BCIDA DICK'S SPORTING GOODS OPEN SPONSORSHIP

PACKAGE SUBMITTED BY JOHN KAREDES, TOURNAMENT DIRECTOR: Mr. Howard felt Mr. Solak made a good point in saying the event should stand alone; the IDA is not the right agency to contribute. Mr. D'Attilio recommended the Board consider the NYS Authority Budget Office guidelines in proceeding. Mr. Kane said the golf tournament is a good marketing opportunity that includes national TV spots. Mr. Doyle said the corporate tent has been a good event in past years, and the package is a good value to the Agency. Mr. Keibel asked if it was possible to get more commercials in exchange for another part of the package. Mr. Kane said it was not as the TV spots cost the event money whereas in-event marketing bears them no cost.

MOTION: To approve the sponsorship package. On a MOTION by Mr. Stevens, seconded by Ms. Preston, the MOTION CARRIED. Mr. Howard and Mr. Keibel opposed.

ITEM #11. REVIEW OF COST BENEFIT ANALYSIS OF THE UPSTATE SK, LLC PROJECT:

Mr. D'Attilio said a public hearing had previously been scheduled and postponed so as to complete the cost-benefit analysis that was included in the board packet. The project is a significant community benefit, and all town approvals have been received. The Board authorized the Executive Director to set the public hearing at the February 8, 2013 board meeting. Mr. Stevens asked if there are any plans for the old site. Mr. Ken Kamlett said the developer is considering two options including donating the site and putting it on the market for sale and hopefully redevelopment. Ms. Denise Johnson said there has been some commercial interest in the property. Mr. Kamlett clarified that the developer and former property owner are two legally distinct entities.

MOTION: No motion necessary.

ITEM #12. EXECUTIVE SESSION TO DISCUSS CONFIDENTIAL PLANS OF CERTAIN AGENCY CLIENTS AND PERSONNEL MATTERS:

MOTION: To convene to executive session. On a MOTION by Mr. Stevens, seconded by Mr. Howard, the MOTION CARRIED UNANIMOUSLY.

ITEM #13. RESUMPTION OF PUBLIC SESSION:

MOTION: To reconvene back to public session. On a MOTION by Mr. Stevens, seconded by Mr. Davis, the MOTION CARRIED UNANIMOUSLY.

ITEM #14. ADJOURNMENT: Mr. Kane requested a motion for adjournment.

MOTION: To adjourn the meeting. On a MOTION by Mr. Stevens, seconded by Mr. Davis, the MOTION CARRIED UNANIMOUSLY, and the meeting was adjourned.

The next meeting of the BCIDA Board of Directors is scheduled for July 19, 2013 at 12:00 p.m. at the Broome County Public Library, 185 Court Street, Binghamton, NY.