

**BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY
BOARD MEETING
FIVE South College Drive; Suite 201, 2nd Floor
Binghamton, New York 13905
Wednesday, May 15, 2019, 12:00 pm**

SYNOPSIS OF MEETING

PRESENT: J. Bernardo, J. Stevens, R. Bucci, D. Crocker, J. Peduto, B. Rose, C. Sacco and J. Mirabito

ABSENT: W. Howard

GUESTS: J. Platsky, Press & Sun-Bulletin
J. Solak, Binghamton, NY
K. McManus, Broome County Executive's Office
T. Augostini, Town of Union
C. Chapman, Endicott Trustee
J. Cook, Town of Union Assessor
A. Paniccia, Delta
T. Grubham
B. Haynes, Haynes NY
P. Brigham, Neighborhood Watch

STAFF: K. McLaughlin, S. Duncan, T. Gray, N. Abbadessa, C. Hornbeck and T. Ryan

COUNSEL: J. Meagher

PRESIDING: J. Bernardo

The meeting was called to order at 12:00 p.m.

ITEM #1. APPROVE MINUTES FOR THE MARCH 20, 2019 BOARD MEETING AND APRIL 1, 2019 SPECIAL MEETING: Chairman Bernardo asked if there were any comments or suggested changes to the minutes; hearing none, requested a motion to approve the minutes of the March 20, 2019 and April 1, 2019 meetings.

MOTION: On a MOTION by Mr. Crocker, seconded by Mr. Stevens, Chairman Bernardo stated the minutes are accepted.

ITEM #2. PUBLIC COMMENT: Chairman Bernardo asked if there were any public comments.

Mr. Solak, Binghamton, NY, addressed the Board, regarding:

The Agency Building / ADA Compliance

PILOTS

Issuer, Principals

Disclosures

Standard vs. Deviated PILOTS

50 Front Street / Morgan Communities

Non-transferable PILOTS

Skyview Heights

Executive Director Appointment

Mr. Bernardo asked if there was other public comment.

At this time, Mr. Augostini, Town of Union, provided a letter to the Board regarding the Marchuska, LLC Application (Agenda Item #9). Mr. Augostini highlighted the following issues related to the proposed deviated PILOT:

The proposed PILOT does not deal with improvements to the land or structures on the land;

Length of PILOT – 22 years, based on land-value only;

What is the return on the PILOT? / How to measure benefits of the PILOT?

Tax Revenue Sacrifice

No Increased Traffic

Should an existing business transferring three miles be entitled to an abatement of this size?

No substantial job creation – no substantial tax abatement;

Does 69% ending abatement remain at 69%? Why not full assessment at some point?

PILOTS should be logical and defensible.

Mr. Augostini asked the Board for a rejection or no vote for Agenda Item #9.

Mr. Bernardo asked if there was other public comment.

At this time, Ms. Chapman, Village of Endicott Trustee, provided a letter to the Board from Village of Endicott Trustee, Linda Jackson. Ms. Chapman stated the Village of Endicott had a vote on the Marchuska proposal, wherein Ms. Chapman and Ms. Jackson voted no for insufficient information and assumptions

on value of land and possible building construction. Ms. Chapman continued that neither their Board, nor the IDA, received adequate information regarding the project. Ms. Chapman commented regarding:

- Taxation on the land and (possible) two buildings only;
- Future sale entitles land owner to huge profit, due to taxes based on land value only;
- Should be a clause if buildings or property are sold, property value should equal that of sale;
- PILOT should not be transferable based on value at inception of PILOT;
- Applicant has not gone to Planning Board, has no site plan;
- Inability to make an accurate decision based on information provided.

Ms. Chapman stated she represents concerns of the Village of Endicott. Ms. Chapman clarified the Village of Endicott is not against PILOTS, knowing they are essential to grow a developing community and attract developers to the area. Ms. Chapman asked the Board to vote against this PILOT.

Ms. Chapman requested, and was granted permission, to read Ms. Jackson's letter to the Board.

Mr. Bernardo asked if there was other public comment.

At this time, Ms. Brigham, of West Endicott Neighborhood Watch, stated that representatives running for office attended their last monthly meeting, during which the question was posed: how representatives voted on the Marchuska application and why. Ms. Brigham felt the answers of the representatives who voted in favor of the application were without substance.

Chairman Bernardo asked if there was any other public comment. Hearing none, brought the public comment period to a close.

ITEM #3. EXECUTIVE DIRECTOR'S REPORT:

Ms. Duncan provided updates on the following:

THE AGENCY ANNUAL BREAKFAST

Ms. Duncan thanked all those who were able to attend The Agency's Annual Breakfast on May 7, 2019, which had a great turnout with a nice program and send-off to Mr. McLaughlin.

50 FRONT STREET

Ms. Duncan stated that some of The Agency's staff and Board Members were able to take a tour of 50 Front Street recently, which is near completion, renting and leasing well. The official grand opening deadline is July, 2019.

CLOSINGS

Buckingham Manufacturing: The Agency closed on Buckingham Manufacturing's expansion in the Town of Kirkwood in March.

AOM 128 Grand Avenue: Just recently, The Agency closed with AOM. The AOM project was slightly stalled, but is back on-line. Today there was a ground-breaking event. Ms. Duncan stated this project is the tear-down of a former Dollar Store in Johnson City, 128 Grand Avenue, and the construction of modern market-rate apartments, ranging from one, two and three-bedrooms. The apartments are expected to serve a variety of populations, hoping to attract young professionals associated with UHS or the University facilities, including potential graduate students.

BROOME TALENT TASK FORCE

The Agency issued the first Workforce Development Progress Report of the Broome Talent Task Force in March; hard copies were mailed to Board Members. The downloadable report is available on The Agency's website. Ms. Duncan stated the report showed foundational success in creating a strong workforce network in the community.

SUPERINTENDENT'S MEETING

At the request of Ms. Sue McLeod, Superintendent of Union-Endicott, on April 24th, The Agency made a presentation on PILOTS to the chief school officers (all the school superintendents in the Broome-Tioga BOCES area), explaining what they are and how they are implemented. Ms. Duncan stated there was great, very open dialogue, questions and answers. Ms. Duncan further stated The Agency is always open and willing to provide this information, when asked.

BAE

Ms. Duncan advised that on April 22nd, The Agency completed an Expression of Interest for the BAE site. The Agency has received five respondents, ranging from a variety of housing – affordable senior, to mixed-rate market – to a sports facility, to a mix of commercial space with housing. The Agency is working with Planning Consultant, Elan, to apply for an additional influx of grant funding to complete that project to SEQR New York State review standards, which will satisfy those requirements on the behalf of the developer selected. Interviews with respondents will follow.

NYS ECONOMIC DEVELOPMENT COUNCIL ANNUAL MEETING

Ms. Duncan, Mr. McLaughlin and Mr. Gray will be attending the New York State Economic Development Council Annual Meeting in Cooperstown next week. The council will be presenting Mr. McLaughlin with a Lifetime Achievement Award.

Chairman Bernardo thanked Ms. Duncan.

ITEM #4. LOAN FUNDS AVAILABILITY AS OF APRIL 30, 2019: The Loan Funds Availability Reports for March and April were presented to the Board. The balances available to lend are \$652,143.39 (STEED), \$315,267.29 (BDF) and \$101,219.48 (BR + E). Treasurer Stevens commented that the April Statement Transition Account shows \$271,672.05; however, is now \$800.00. Treasurer Stevens explained that money was reinvested. Mr. Gray advised that The Agency is looking at potential deals that will impact these numbers in the vicinity of \$350,000.00; this information will be presented at the next Board meeting. Chairman Bernardo asked if there were any questions or comments of Mr. Gray, relative to the financial statements or loan status reports. Hearing none, Chairman Bernardo moved on to New Business.

MOTION: No motion necessary.

ITEM #6. RESOLUTION AUTHORIZING STACEY DUNCAN, DEPUTY DIRECTOR FOR COMMUNITY AND ECONOMIC DEVELOPMENT, TO EXECUTE DOCUMENTS ON BEHALF OF THE BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY, IN HER CURRENT CAPACITY: Mr. McLaughlin stated that Attorney

Meagher requested the resolution be brought before the Board. Chairman Bernardo asked if there were any questions, comments or concerns. Hearing none, Chairman Bernardo asked for a motion.

MOTION: To Authorize Stacey Duncan, Deputy Director for Community and Economic Development, to Execute Documents on Behalf of the Broome County Industrial Development Agency, in her Current Capacity. On a MOTION by Ms. Sacco; seconded by Mr. Peduto, the MOTION CARRIED UNANIMOUSLY.

ITEM #7. RESOLUTION AUTHORIZING THE AGENCY TO ENTER INTO THREE (3) YEAR TERM CONTRACT(S) FOR ARCHITECTURAL, ENGINEERING, CIVIL AND ENVIRONMENTAL SERVICES:

Ms. Duncan stated The Agency typically issues RFP's for a number of Agency services, such as audit, investment services, creative, etc. The Agency typically issues said RFP's every three to four years. One of those includes services for architecture and engineering, which might be needed in a relatively short timeframe. The Agency issued an RFP earlier this spring; a dozen responses were received. This resolution would authorize The Agency to enter into a three-year contract, as the county does for similar services, with Delta Engineers, Shumaker Engineering and C & S Companies, for work such as site surveys, or an estimate of cost on a building for abatement. In addition, Elan Consulting has been added, given the fact that The Agency has some grant applications pending for feasibility and market studies. The Agency has worked well with Elan on the BAE project. These contracts would enable The Agency to access services, should the need arise. Mr. Bucci asked if there was a cap on expenditures; Ms. Duncan responded that if it is within the limit of The Agency's Procurement Policy, The Agency can just select the firm. Otherwise, Board approval will be requested. Chairman Bernardo asked if there were any additional questions or comments; hearing none, Chairman Bernardo asked for a motion.

MOTION: To Authorize The Agency to Enter into Three (3) Year Term Contract(s) for Architectural, Engineering, Civil and Environmental Services. Mr. Stevens moved to approve the MOTION; seconded by Mr. Rose, the MOTION CARRIED (7 to 1 – Mr. Peduto abstained).

ITEM #8: RESOLUTION AUTHORIZING THE EXTENSION OF THE LEASE AGREEMENT BY AND BETWEEN THE AGENCY, BOSCOV'S DEPARTMENT STORE, LLC, THE BINGHAMTON LOCAL DEVELOPMENT CORPORATION, AND THE CITY OF BINGHAMTON DATED AS OF MAY 1, 2013, FOR AN ADDITIONAL ONE (1) YEAR TERM COMMENCING MAY 1, 2019 AND TERMINATING APRIL 30, 2020, ON THE SAME TERMS AND CONDITIONS AS SET FORTH THEREIN, INCLUDING THE PAYMENT OF RENT IN THE AMOUNT OF \$135,061.00 DURING THE EXTENSION TERM:

Ms. Duncan stated this is an administrative action by the Board to extend the lease agreement for Boscov's. Mr. McLaughlin added this is nothing more than that. Boscov's makes this request of the city, and in turn, the city makes this request of the IDA. If the IDA does not approve this request, then that lease agreement will terminate and Boscov's could vacate. Chairman

Bernardo asked if there were any additional questions or comments. Mr. Bucci commented about the impact of Boscov's on downtown Binghamton, saying that Binghamton is only one of two cities who have a downtown department store and it has significant value to the community, being a major anchor, contributing to the convention business. Mr. Bucci continued that Boscov's commitment to staying in Binghamton is positive for the region; Mr. Bucci endorsed Boscov's continued presence. Chairman Bernardo requested a motion.

MOTION: To Authorize the Extension of the Lease Agreement by and Between The Agency, Boscov's Department Store, LLC, the Binghamton Local Development Corporation and the City of Binghamton Dated as of May 1, 2013, for an Additional One (1) Year Term Commencing May 1, 2019 and Terminating April 30, 2020, on the Same Terms and Conditions as set Forth Therein, Including the Payment of Rent in the Amount of \$135,061.00 During the Extension Term: Mr. Crocker made a MOTION to extend the Lease Agreement; seconded by Mr. Bucci, the MOTION CARRIED UNANIMOUSLY.

ITEM #9: RESOLUTION ACCEPTING AN APPLICATION FROM 1435-1439 MARCHUSKA, LLC FOR A SALE LEASEBACK OR A LEASE/LEASEBACK TRANSACTION TO FACILITATE THE FINANCING OF THE CONSTRUCTION AND EQUIPPING OF 1405 EAST MAIN STREET, VILLAGE OF ENDICOTT, BROOME COUNTY, NEW YORK AND AUTHORIZING THE AGENCY TO SET AND CONDUCT A PUBLIC HEARING WITH RESPECT THERETO: Chairman Bernardo asked if The Agency staff would like to make a comment. Mr. McLaughlin stated that Mr. Augostini outlined Mr. McLaughlin's concerns. Mr. McLaughlin believes that in looking at the PILOT Schedule, the amount only increases by \$700.00 in the third year. Mr. McLaughlin has never seen a PILOT with that small of an increase; the understanding is the PILOT is on land, not on any improvements. The abatement never ends, going to 69%. The Agency has never moved an application forward to the Board that does not become a full assessment. Mr. McLaughlin would not recommend this PILOT to the Board. Attorney Meagher stated that a motion is just to hold a public hearing. Chairman Bernardo asked for comment before proceeding to the motion. Mr. Bucci commented that the motion is to accept the application, which Chairman Bernardo confirmed. Mr. Stevens stated the Board should not accept the application in its current form; suggesting the Board send it back to the Village and ask for a re-evaluation. Listening to the comments that have been made, reviewing this package, Mr. Stevens has never seen an application like this presented for approval. Mr. Stevens agrees with Mr. McLaughlin that the application is primarily a land PILOT, which The Agency does not do. Mr. Stevens commented that the application is not in the best interest of the Village of Endicott, suggesting that The Agency refer it back to the Village of Endicott for reconsideration. Mr. Rose asked if the Board sends the application back to the Village of Endicott, should guidance on the Board's concerns be provided. Mr.

McLaughlin answered that The Agency staff would be more than willing, at the request of the Village, to consult with their representatives and Joe Cook, the Assessor for the Village, to discuss what typically is acceptable to The Agency and other municipalities throughout the county and talk through these issues. Mr. Bucci stated the resolution is up for a motion to accept the application; someone has to move it, someone has to second it. If the resolution does not move, it goes back to the Village of Endicott. Chairman Bernardo concurred; the application goes back to the developer and the Village. A lengthy discussion followed. Chairman Bernardo asked about a motion; Attorney Meagher advised that if no Board member moves the resolution, it is dead. If the developer/Village re-submit, the Board can consider the revised application. Attorney Meagher stated the Board needs to ask for a motion. Chairman Bernardo then asked if any Board member would like to make a motion; hearing none, Chairman Bernardo stated the resolution is dead. Chairman Bernardo suggested The Agency offer to engage with the Village and with the developer regarding more appropriate terms that would be acceptable, given all the failings of this particular application. Discussion followed regarding a variety of solutions.

MOTION: To Authorize a Resolution Accepting from 1435-1439 Marchuska, LLC for a Sale/Leaseback or a Lease/Leaseback Transaction to Facilitate the Financing of the Construction and Equipping of 1405 East Main Street, Village of Endicott, Broome County, New York and Authorizing The Agency to Set and Conduct a Public Hearing with Respect Thereto. There was no MOTION and the resolution does not pass.

ITEM #10: RESOLUTION ACCEPTING AN APPLICATION FROM NATIONAL PIPE & PLASTICS, INC. AND AUTHORIZING A SALES AND USE TAX EXEMPTION, CONSISTENT WITH THE POLICIES OF THE AGENCY, IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF THE PROPERTY AND BUILDING LOCATED AT 1 N. PAGE AVENUE, ENDICOTT, TOWN OF UNION, BROOME COUNTY, NEW YORK: Ms. Duncan stated this application enables The Agency, outside the property tax abatement PILOT, to offer a Sales and Use Tax Exemption on materials for building, renovation, construction, etc. The Agency had several conversations with Mr. Culbertson, President and CEO of National Pipe & Plastics, Inc., given their construction of their new headquarters in the Village of Endicott. National Pipe & Plastics, Inc. did reach out to Mr. Cook, Town of Union Assessor's office, and felt that a PILOT was not needed, but wished to pursue National Pipe & Plastic Inc.'s option to receive a sales tax exemption benefit through The Agency. Chairman Bernardo re-stated National Pipe & Plastics, Inc. is not asking for a PILOT, but for an exemption on construction materials. Attorney Meagher recommended that the resolution be amended to authorize the setting and conducting of a public hearing. Ms. Duncan agreed, stating the request for sales tax exemption net benefit is in excess of \$100,000.00. As a result, The Agency will be required to hold a public hearing. Attorney Meagher will prepare the amended resolution. Ms. Duncan continued that National Pipe & Plastics, Inc. will be required to satisfy all of The Agency labor requirements, as a condition of

granting the exemption. Chairman Bernardo asked for other questions or comments; hearing none, requested a motion.

MOTION: To Accept an Application from National Pipe & Plastics, Inc. and Authorizing a Sales and Use Tax Exemption, Consistent with the Policies of The Agency, in Connection with the Construction and Equipping of the Property and Building Located at 1 N. Page Avenue, Endicott, Town of Union, Broome County, New York. On a MOTION by Mr. Bucci, seconded by Mr. Mirabito, the MOTION CARRIED UNANIMOUSLY.

ITEM #11: RESOLUTION CONSENTING TO THE TRANSFER OF PREMISES LOCATED AT 20 HAWLEY STREET, CITY OF BINGHAMTON, COUNTY OF BROOME, NEW YORK, BY HAWLEY STREET MEMBERS LLC TO VESPER HAWLEY LLC, TOGETHER WITH ALL THE RIGHT, TITLE AND INTEREST IN AND TO A CERTAIN PAYMENT IN LIEU OF TAX AGREEMENT BY AND BETWEEN HAWLEY STREET MEMBERS LLC AND THE

AGENCY: Ms. Duncan stated that The Agency was contacted by the soon-to-be new owner of this property, Vesper Hawley LLC, with a request that the PILOT be transferred. The Agency asked about the substantive use of the property once it is in new ownership; it will be used for the same purposes as it is now and when the PILOT was approved, to provide student housing at that site. As such, Vesper Hawley LLC has provided all documentation related to the ownership structure and attested the use of the property, as approved by the PILOT. Ms. Duncan asked the Board to approve the request for transfer to the new owner. Mr. Bucci asked where the new owner was located; Mr. McLaughlin replied Manhattan, New York City. Chairman Bernardo asked about the remaining life of the PILOT. Ms. Duncan stated it was a standard PILOT, and believes it is coming due in 2022. A short discussion followed. Chairman Bernardo asked for a motion.

MOTION: To Consent to the Transfer of Premises Located at 20 Hawley Street, City of Binghamton, County of Broome, New York, by Hawley Street Members LLC to Vesper Hawley LLC, together with all the Right, Title and Interest in and to a Certain Payment in Lieu of Tax Agreement by and Between Hawley Street Members LLC and The Agency. On a MOTION by Mr. Stevens, seconded by Mr. Bucci, the MOTION CARRIED (7 to 1 – Ms. Sacco abstained).

ITEM #12: EXECUTIVE SESSION: TO DISCUSS THE SALE OF LAND.

MOTION: To Convene to Executive Session at 12:54 p.m. On a MOTION by Mr. Bucci, seconded by Mr. Peduto, the MOTION CARRIED UNANIMOUSLY.

ITEM #13: RECONVENE FROM EXECUTIVE SESSION.

MOTION: To Reconvene back to Public Session at 1:30 p.m. On a MOTION by Ms. Sacco, seconded by Mr. Stevens, the MOTION CARRIED UNANIMOUSLY.

ITEM #14: ADJOURNMENT: Chairman Bernardo requested a motion to adjourn.

MOTION: On a MOTION by Mr. Rose, seconded by Mr. Bucci, the MOTION CARRIED UNANIMOUSLY, and the meeting was adjourned at 1:31 p.m.

The next meeting of The Agency Board of Directors is scheduled for Wednesday, June 19, 2019 at 12:00 p.m. at FIVE South College Drive, Suite 201, Binghamton, NY 13905.