

**TOWN OF AMHERST INDUSTRIAL DEVELOPMENT
AGENCY**

**Agenda – 499th Meeting
February 16, 2018**

Agency Offices – 4287 Main Street, Amherst, NY 14226

1. Roll Call of Members
2. Reading and Approval of Minutes
3. Bills & Communications
4. Treasurer's Report
5. Public Comment
 - a. Speakers Limited to Three (3) Minutes
6. Executive Director's Report
7. Committee Reports
 - a. Governance Committee
 - i. Statement of Board Member Skills, Qualities and Experiences
 - ii. AIDA Sublease Consent Policy and Resolution
8. Unfinished Business
9. New Business
10. Adjournment

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Minutes of the 498th Meeting
January 19, 2018– 8:30 am
Agency Offices, 4287 Main Street

PRESENT: Michele Marconi
Steven Sanders
E. Marshall Wood, Jr.
Michael R. Szukala
William W. Tuyn
Hon. Timothy J. Drury
David S. Mingoia, Executive Director
Kevin J. Zanner, Hurwitz & Fine PC

ABSENT: Carlton N. Brock, Jr.

GUESTS: AIDA Staff
Brian J. Kulpa, TOA Supervisor
Maggie Winship, TOA
Jim Walfrand, Williamsville Co-Op
Lynn Schwab, Williamsville Co-Op
Al Yates, Village of Williamsville Trustee
Steven Watson, Buffalo News
David Tytko, Uniland Development

Vice Chairperson Michele Marconi called the meeting to order and reminded everyone that the meeting was being audio recorded.

MINUTES

The minutes of the December 2017 meeting were approved after a recommendation from Agency Counsel, Kevin Zanner for a more concise description of the Daemen College resolution.

BILLS & COMMUNICATIONS

There were no Bills & Communications presented at this meeting

TREASURER'S REPORT

The Treasurer Reports for November 2017 and December 2017 were approved as presented.

At the point in the meeting, Vice Chairperson Michele Marconi introduced the Agency's newest board member Judge Timothy J. Drury, The board welcomed Judge Drury.

PUBLIC COMMENT

There was no Public Comment at this meeting.

EXECUTIVE DIRECTOR REPORT

Executive Director Mingoia gave his report. Notes are attached to these minutes.

COMMITTEE REPORTS

Nominating Committee presented the following slate of officers for 2018. The Slate being

Chairman – Carlton N. Brock, Jr.
Vice Chairman – Michele Marconi
Treasurer – Steven Sanders
Secretary – E. Marshall Wood, Jr.
Assistant Secretary – Kevin J. Zanner
Assistant Secretary – Joseph M. Reynolds

Michael Szukala made a motion to approve the Slate of Officers for 2018. Marshall Wood seconded the motion. There was no discussion. Votes of aye made by Marconi, Sanders, Wood, Szukala, Tuyn and Drury. The motion to approve passed 6-0.

Committee appointments were made as outlined in the AIDA By-Laws and Committee Charters:

Governance Committee – Chairman, Michael Szukala, Marshall Wood
Audit/Finance Committee – Treasurer, William Tuyn, Timothy Drury

UNFINISHED BUSINESS

There was no Unfinished Business at the meeting.

NEW BUSINESS

- I. Members of the newly formed Williamsville Food Cooperative made a presentation regarding the feasibility of locating a food co-op in the Village of Williamsville. The presentation included a request for supplemental funding for their pro-forma and feasibility study.

There was a brief discussion between the Co-Op representatives and the board of directors. Steven Sanders suggested that their request for funding be outlined in writing and that the board would review the request at its next meeting.

- II. Supervisor Brian Kulpa made a presentation to the board about his vision of future economic development initiatives within the Town of Amherst. The presentation cited the need for cooperative planning and discussions with all the stakeholders. Re-development of various sectors within the Town were cited to be of the utmost importance.

9:12 am – meeting adjourned.

Executive Director's Report

February 16, 2018

CBRE 2017 Market Review

CBRE's Buffalo Office released its analysis of 2017 Market Review Reports for *Office, Industrial, Retail* and *Multi-Family* Sectors in Erie and Niagara Counties. Each report focuses on that sector's total inventory of space and vacancy, new construction, and absorption rate, and benchmarks those factors against previous annual results locally and nationally.

2017 Highlights:

- Office Vacancy had a slight uptick of 0.6% to 13.1%, but overall absorption increased by 208,430 SF with 400,000 SF of new construction completed.
- The North Submarket, of which Amherst makes up most of the inventory, saw a decrease in overall vacancy. We assisted three large users last year with the move of Tops to larger space and the siting of Strategic Financial Solutions and Northwest Bank to existing vacant property.
- The Industrial Sector continues to have a low vacancy rate of 3.5%, driven by Amazon's acquisition of 510,000 SF in Lancaster.
- Industrial Sector Speculative Development is low, as market confidence in filling this product remains low.
- The Retail Sector realized an increase in vacancy to 11.3% (increase of 1%) as big box retailers closed. Nationally, vacancy in this sector is 7%.
- Conversion of 365,853 SF to other uses (mainly Industrial), decreased the impact of the vacancy increase.

We have full copies of the reports (each is 4 pages) if anyone is interested.

Advanced Business Services

Invest Buffalo Niagara completed an analysis on 18 North American Industrial Classification Codes (NAICS) to determine how best to increase opportunities to grow this important part of the regional economy. The analysis entailed the use of location quotients and forecast models for the studied NAICS codes producing the key subsectors we outperform the national average, ranging from talent availability to existing firms and employment in the region.

Priority Sub Clusters:

1. Insurance (direct distribution i.e. GEICO)
2. Back Office (finance i.e. Citi)
3. IT Consulting (Canadian Opportunity)
4. Data Processing and Hosting (Blackrock)

Invest Buffalo Niagara is compiling a list of company targets and channel resources to target with print and social media. Anticipated results include an increase in the amount of leads and landed prospects through a targeted business attraction.

If you are interested in the full report (166 pages), we can provide it.

Niagara Falls Boulevard

A draft Charter (fancy name for Project Plan) that would guide the joint Town of Amherst/Town of Tonawanda planning initiative is being prepared. Supervisor Kulpa requested our involvement at our January Board of Director's Meeting. The Charter will identify key stakeholders and participants and focus on four (4) areas:

1. Land Use/Economics
2. Traffic
3. Engineering
4. Public Engagement

The Town Planning Department prepared an existing conditions survey on the approximately 6.5 miles corridor, which provides an excellent baseline for consultants and the committees.

We expect to finalize the Charter by the end of March and kick off the project in June. The planning portion is expected to last a year.

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

**STATEMENT OF BOARD MEMBER
SKILLS, QUALITIES AND EXPERIENCES**

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**ARTICLE I
Background; Purpose**

Pursuant to Article I, subsection (d) of the Governance Committee Charter, the Governance Committee (the “Committee”) has adopted this statement to assist those responsible for appointing members to the Board of Directors of the Town of Amherst Industrial Development Agency (the “Agency”). This statement sets forth certain skills, qualities and professional experiences that the Committee believes a board member should possess to effectively carry out the mission and purpose of the Agency. The ensuing list of desirable skills, qualities and professional experiences is non-exclusive and is not intended to restrict the appointing authority from considering other skills, qualities and experiences of a potential and desirable candidate.

ARTICLE II

Experience

Potential board members should have some or all of the following experience:

1. General business, financial, legal, real estate and/or regional planning experience.
2. Experience or service with other industrial development agencies, economic development organizations and/or governmental entities.
3. Service on other boards and/or other leadership or management experience.
4. Experience starting or operating businesses including, but not limited to, industrial, commercial, real estate, construction and/or not-for-profit businesses.
5. Community and economic development experience including, but not limited to, creating employment and recreational opportunities and advancing economic welfare.

ARTICLE III

Skills and Qualities

Potential board members should demonstrate the ability and desire to:

1. Understand the mission and purpose of the Agency.
2. Comprehend their role as board members and, specifically, their fiduciary responsibilities to the Agency.
3. Become knowledgeable about the Agency's transactions, financial statements and reporting requirements, and analyze and evaluate financial and project development information.
4. Exercise independent judgment and deliberation, free of self-interest.
5. Communicate effectively with others, including other board members, employees and volunteers of the Agency and other Agency stakeholders.
6. Become knowledgeable regarding the statutory obligations of the Agency.

ARTICLE IV

Review; Amendment

The Committee may review and recommend proposed amendments to this statement for consideration by the Agency Board of Directors.

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

POLICY FOR AGENCY CONSENT TO NON-MATERIAL AMENDMENTS TO SUBLEASES

A project beneficiary operating under a lease agreement with the Town of Amherst Industrial Development Agency (“AIDA” or the “Agency”) is generally required, pursuant to the lease agreement, to obtain AIDA’s prior approval and written consent before amending a sublease agreement pursuant to which the project beneficiary has sublet the project site to a sublessee (each a “Sublease” and collectively, “Subleases”). Prior to the date of this policy, AIDA’s general practice was for its Board of Directors (the “Board”) to take action to approve of and provide AIDA’s written consent to any desired Sublease modifications or amendments that were proposed by project beneficiaries.

AIDA has undertaken a review of its Sublease amendment approval practices. AIDA hereby adopts this Policy for Agency Consent to Non-Material Amendments to Subleases (the “Policy”) to authorize its Chairperson, Vice Chairperson, Treasurer, Secretary, any Assistant Secretary, Executive Director/CEO and CFO (each an “Officer” and collectively “Officers”), each in his or her respective official capacity, to approve of certain non-material amendments to Subleases on behalf of the Agency and without any vote or further action of the Board, subject to the provisions set forth herein.

1. AIDA hereby authorizes an Officer to approve of and provide AIDA’s written consent to Sublease modifications or amendments proposed by project beneficiaries, under the following conditions:
 - a. The project beneficiary is not seeking additional financial assistance from AIDA;
 - b. The proposed modification or amendment would not affect the project’s eligibility as a “Project”, as such term is defined in Section 854 of the New York General Municipal Law, or any successor provision;
 - c. The proposed modification or amendment would not violate any provision of the project beneficiary’s lease agreement or any other agreement with AIDA; and
 - d. The proposed modification or amendment would not impair the obligation of the project beneficiary to perform all of the terms, covenants and conditions of the project beneficiary’s lease agreement with AIDA.
2. The Executive Director/CEO shall consult with AIDA legal counsel regarding whether a particular request for consent to a modification or amendment to a Sublease meets the requirements set forth in subparagraphs 1(b), (c) and (d) of this Policy.

3. The Executive Director/CEO shall report all approvals and consents issued pursuant to this Policy to the AIDA Board at its next regularly scheduled meeting subsequent to such approval and written consent.
4. Nothing in this Policy shall be construed as prohibiting the AIDA Board from considering a request to approve and consent to a proposed amendment or modification to a Sublease.

Adopted by the AIDA Board of Directors as of
the 16 day of February, 2018.

RESOLUTION OF THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY TO AUTHORIZE AGENCY OFFICERS TO APPROVE NON-MATERIAL AMENDMENTS TO PROJECT SUBLEASES

WHEREAS, the Town of Amherst Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Section 914-a of the General Municipal Law, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, to accomplish the purposes of the Act, the Agency will, from time to time, acquire an interest in real property (each a “Project Site” and collectively “Project Sites”) (either by acquiring fee title or a leasehold interest) from individuals or entities undertaking a “Project” (as defined in the Act) (each a “Project Beneficiary” and collectively, the “Project Beneficiaries”) and will lease such Project Sites back to the Project Beneficiaries pursuant to a lease agreement (each a “Lease Agreement”), all in connection with the provision of financial assistance in the form of tax exemptions or abatements to assist such projects; and

WHEREAS, from time to time a Project Beneficiary may, with the Agency’s written consent, enter into and execute a sublease, as sublessor, pursuant to which it sublets a Project Site, or a portion thereof, to a sublessee (each a “Sublease” and collectively, “Subleases”), subject to certain conditions set forth in such Project Beneficiary’s Lease Agreement; and

WHEREAS, pursuant to the Lease Agreement, a Project Beneficiary is generally prohibited from amending or modifying a Sublease without the approval and prior written consent of the Agency, which requires action on the part of the Agency’s Board of Directors (the “Board”); and

WHEREAS, certain Sublease amendments are ministerial in nature and do not materially affect the Agency’s interest with respect to the Project Beneficiary’s Sublease, Lease Agreement or the subject Project; and

WHEREAS, to help facilitate Agency approval of and written consent to such proposed non-material amendments to Subleases, the Agency desires to adopt a policy that authorizes Agency officers to approve of and provide written consent to such proposed non-material amendments to Subleases on behalf of the Agency and without any vote or action by the Board, subject to the provisions set forth in the policy.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

1. The Agency hereby adopts the attached “Policy for Agency Consent to Non-Material Amendments to Subleases,” setting forth the circumstances under which Agency officers are authorized to approve of and provide written consent to non-material amendments to Subleases on behalf of the Agency.
2. This resolution shall take effect immediately and the policy adopted by this resolution shall apply to all Projects approved by the Agency subsequent to the effective date of this resolution and to all requests by Project Beneficiaries to amend a Sublease submitted subsequent to the effective date of this resolution.

ADOPTED: February 16, 2018