

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Agenda – 509th Meeting
Thursday, April 18, 2019-8:30 am

James J. Allen Boardroom
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
8. Unfinished Business
 - I. Amendment to Authorization Resolution
 - Fredonia Place @ Williamsville
9. New Business
10. Adjournment

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Minutes of the 508th Meeting
March 29, 2019 – 8:30 am
James J. Allen Boardroom
Agency Offices, 4287 Main Street

PRESENT: Steven Sanders
Michael R. Szukala
William W. Tuyn
Hon. Timothy J. Drury
Hadar Borden
Jacqualine Berger, Town Board Liaison
David S. Mingoia, Executive Director
Kevin J. Zanner, Hurwitz & Fine PC

ABSENT: Carlton N. Brock, Jr.
Philip Meyer

GUESTS: AIDA Staff
Justin Reid, Bonadio Group
David Tytko, Uniland Development Co.
Maggie Winship, Town of Amherst

Vice Chairman Steven Sanders called the meeting to order and reminded everyone that the meeting was being audio recorded.

MINUTES

The minutes of the March 8, 2019 meeting were approved as presented.

BILLS & COMMUNICATIONS

There were no Bills & Communications at this meeting.

TREASURER'S REPORT

The Treasurer's Report for February 2019 was approved as presented.

PUBLIC COMMENT

There was no Public Comment at this meeting.

EXECUTIVE DIRECTOR'S REPORT

The Executive Director's Report is attached to these minutes.

COMMITTEE REPORTS

Audit & Finance Committee – Michael Szukala informed the board that the Audit & Finance Committee had met with the Agency's auditor, Justin Reid from The Bonadio Group the earlier in the

month. They invited Mr. Reid to speak to the board. Mr. Reid gave the board a presentation of the 2018 Audited Financial Statements and Management Letter.

There was a brief discussion after the presentation. Michael Szukala made a motion to accept the 2018 Audited Financial Statements as presented. Hadar Borden seconded the motion. Votes of aye to accept the 2018 Audited Financial Statements were made by Sanders, Szukala, Tuyn, Drury and Borden. Motion to approve passed 5-0.

Governance Committee – The Governance Committee met earlier in the month and recommended the approval the 2018 Mission Statement and Measurement Report as presented. William Tuyn made a motion to approve the 2018 Mission Statement and Measurement Report. Michael Szukala seconded the motion. Votes of aye were cast by Sanders, Szukala, Tuyn, Drury and Borden. Motion to approve passed 5-0.

UNFINISHED BUSINESS

There was no Unfinished Business at this meeting.

NEW BUSINESS

I. Tenant Approval – Reliant Capital Solutions – 6363 Main Street

The Agency was requested to approve a sub-sublessee request from National Fuel Gas for its property located at 6363 Main Street in Amherst, NY. The sublessee being Reliant Capital Solutions, who will occupy 22,812 square feet.

Michael Szukala made a motion to approve the sub-sublessee request for Reliant Capital Solutions for property located at 6363 Main Street. William Tuyn seconded the request. Votes of aye were cast by Sanders, Szukala, Tuyn, Drury and Borden. Motion to approve passed 5-0.

II. Contract Extension for Executive Director

Steven Sanders made a motion to approve the contract exertion for the Executive Director. William Tuyn seconded the motion. Votes of aye were cast by Sanders, Szukala, Tuyn, Drury and Borden. Motion to approve passed 5-0.

9:03 am – Meeting adjourned.

**AMENDATORY RESOLUTION OF THE TOWN OF AMHERST
INDUSTRIAL DEVELOPMENT AGENCY WITH REGARDS TO THE
2019 THE TZETZO COMPANIES LLC PROJECT.**

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 Chapter 918 of the 1971 Laws of New York, 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, on March 8, 2019, the Agency adopted an inducement resolution (the “Inducement Resolution”) with respect to the renovation of an existing 107,441+/- square foot building, for the purpose of providing a licensed assisted living facility, all to be used for commercial purposes (the “Project”) and conveyance of the Project to The Tzetzso Companies LLC for itself or for a related entity to be formed (the “Company”) pursuant to the lease of the Project to the Company, such Project to be located at 201 Reist Street, Amherst, New York; and

WHEREAS, Section 2 of the Inducement Resolution authorizes the Agency to provide financial assistance to the Company in the form of an exemption from mortgage recording taxes for a mortgage having a principal amount not to exceed \$9,837,092.00; and

WHEREAS, the Company is requesting that the Agency increase the mortgage recording tax exemption for a mortgage having a principal amount not to exceed \$10,500,000.00.

NOW, THEREFORE, THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

1. Section 2 of the Inducement Resolution is hereby amended to read in its entirety as follows:

Section 2. The Project is described in the recitals to this Resolution. The financial assistance to be provided in connection therewith includes: (i) an exemption from sales and use taxes for building materials and machinery, equipment, fixtures and furnishings purchased for incorporation into or use at the Project location having a total cost not to exceed \$3,089,271.00, (ii) an exemption from mortgage recording taxes for a mortgage having a principal amount not to exceed \$10,500,000.00 and (iii) an abatement from real property taxes in accordance with the Agency’s standard 7-year payment in lieu of tax schedule (collectively, the “Financial Assistance”). In addition to any other covenants, obligations and agreements which may be contained in the Project Documents (as hereinafter defined), the provision by the Agency of the Financial Assistance is made subject to the agreement by the Company to comply, throughout the period during which the Company is receiving Financial Assistance from the Agency (the “Compliance Period”), with the following covenants and agreements, each of which shall constitute a “Material Factor”:

- (a) compliance with the Agency's Local Labor Policy in connection with the construction of the Project; and
- (b) achievement of a total of forty-nine (49) full-time equivalent at the Project location and retention of such jobs throughout the Compliance Period; and
- (c) investment of not less than \$11,148,704.00 in the construction and equipping of the Project prior to Project completion.

2. Section 8 of the Inducement Resolution is hereby amended to read in its entirety as follows:

Section 8. In the event the Company obtains one or more conventional loans to finance the cost of the Project, the Agency is hereby authorized to execute and deliver to the lender(s) one or more collateral mortgages on the Project given to secure such loans, and such other documents as may be necessary to fulfill the intent of the parties to the transaction in form satisfactory to Agency counsel provided that the aggregate amount of such mortgages shall not exceed \$10,500,000.00. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and any Assistant Secretary are each authorized to execute such collateral mortgages and to make or approve such amendment(s) or modifications to such collateral mortgages and other documents executed and delivered in connection therewith as they may deem necessary under the circumstances, provided, however, that such modifications do not materially alter the risk to the Agency.

3. Except as amended by paragraphs 1 and 2 of this Amendatory Resolution, the terms of the Inducement Resolution are unchanged and remain in full force and effect.

4. This Resolution shall take effect immediately.

ADOPTED: _____, 2019