

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Minutes of the 473rd Meeting
November 20, 2015 – 8:30 am
Agency Offices, 4287 Main Street

The meeting of the above captioned Agency was called to order by Chairman Fredrick A. Vilonen.

PRESENT:	Fredrick A. Vilonen Edward F. Stachura Aaron Stanley Carlton Brock Steven Sanders Michele Marconi James Allen, Executive Director Nathan Neill, Esq.
EXCUSED:	E. Marshall Wood, Jr.
GUESTS:	AIDA Staff Matt Drosendahl, Uniland Development Earl McCartney, Hamister Group Brian Kulpa, Mayor, Village of Williamsville Charlie Specht, Village of Williamsville Camille Farkas, CBRE Chris Jerzewski, Nidus Development Jim Fink, Business First Sean Hopkins, Hopkins Sorgi Peter Sayadoff, Uniland Development Jonathan Bevilacqua, Bevilacqua Development Tim Gelder, Bevilacqua Development David Robinson, Buffalo News Dave Tytka, Uniland Development Chris Duquin, Village of Williamsville

Chairman Vilonen called the meeting to order and reminded everyone that the meeting was being audio recorded.

MINUTES

The minutes for the September 2015 board of directors meeting were approved with the following changes as requested by Michele Marconi:

1. Brompton Heights, Inc. project – Mrs. Marconi noted that she abstained from voting on the project because she was not on the board of directors when the project was first approved. Mrs. Marconi also noted that her abstention was not to be considered a vote in the affirmative or a conflict of interest as was outlined by Agency Counsel Nathan Neill at the September meeting. Mr. Neill then clarified his statements regarding a vote of abstention. He noted that other boards, including the Amherst Town Board, treat a vote of abstention

as a vote in the affirmative and said that the AIDA does not make that determination, nor has it ever.

2. Sheridan Properties II, LLC project – Mrs. Marconi noted that she voted no on the refinancing project due to the applicant taking cash out of a project that is retail in nature and would be receiving additional mortgage tax exemption, however little.
3. But for determination being removed from the authorization resolution – Mrs. Marconi noted her objection to the word “dismay” as to the description of her strong objections of the fact that changes were made to Agency authorization resolutions pertaining to board findings on project eligibility without board consultation. Mrs. Marconi requested that the board revisit this matter and place it on the agenda at an upcoming board meeting.

BILLS & COMMUNICATIONS

There were no Bills & Communications presented at this meeting.

TREASURER’S REPORT

The Treasurer’s Report for September and October 2015 was approved as presented. Treasurer Aaron Stanley noted that the Agency closed on a number of significant projects in October and the Agency was currently on solid financial ground.

PUBLIC COMMENT

There was no public comment at this meeting.

EXECUTIVE DIRECTOR’S REPORT

Executive Director Allen reported that the Agency continues to work with the Town of Amherst Planning Department regarding the Update to the Comprehensive Master Plan. He also noted that Agency staff is working on the development of a study about the need to repurpose and retro-fit existing building stock in the Town in order to prevent vacancy.

Mr. Allen also reported that Agency staff is working with the Village of Williamsville on a re-branding strategy for the Village. Mr. Allen noted that the Village will be requesting financial assistance from the Agency once the final bids for the projects come in. It was noted that the amount may be in the \$20,000 range.

COMMITTEE REPORTS

Audit/Finance Committee - The Committee met on Tuesday, November 17, 2015 at 8:30 am to discuss the proposed 2016 AIDA Budget Proposal and recommended approval of the 2016 Budget proposal.

Steven Sanders questioned the true viability on the closings of those projects on the proposed project list associated with the budget proposals.

Executive Director Allen noted that there was no way of knowing for sure if the proposed projects would eventually seek IDA assistance, but the past history has proved that it was more than likely the Agency would make its budgeted projections.

Mr. Sanders made a motion to amend the 2016 budget proposal by decreasing the 2016 budget revenues by \$20,000 and offset the decrease by removing the Agency’s Buffalo Niagara Enterprise contribution of \$20,000 for 2016. The motion was seconded by Aaron Stanley, a vote of no by Edward

Stachura and aye votes from Michele Marconi , Carlton Brock, Steven Sanders, Aaron Stanley and Fredrick Vilonen. The board agreed to revisit its contribution to the BNE in 2016 as project closings and budget amendments take place. The motion carried.

Michele Marconi then made a motion to increase the Legal Fee expenditures in the 2016 budget proposal by \$20,000. Carlton Brock seconded the motion. Steven Sanders said he wouldn't vote for the amendment unless another \$20,000 was offset in the budget proposal. There was no discussion of Mr. Sanders suggestion. Chairman Vilonen called for a vote and with votes of nay by Edward Stachura, Fredrick Vilonen, Steven Sanders and Aaron Stanley, the motion to increase the Legal Fee expenditure in the 2016 budget proposal failed.

Motion by Stachura, seconded by Sanders, Aye votes: Vilonen, Stanley and Stachura. Nay votes: Brock, Marconi. The 2016 Budget Proposal was approved as amended.

NEW BUSINESS

I. Amendment to Authorization Resolution – Brompton Heights, Inc.

Brompton Heights, Inc. – The applicant is requesting Agency consent to amend the authorization resolution adopted at its September 2015 board of directors meeting. The amendment involves increasing the amount of the refinancing transaction from \$30,000,000 to \$32,775,000. The application states that the original request was made prior to the completion of the lender's appraisal of the property which provides for a loan at the higher amount. The project would receive an additional \$27,775 in mortgage tax exemption for a total of \$183,275.

Walker & Dunlop, LLC is providing the financing for this transaction.

Recommendation: approval

A brief discussion took place. Mrs. Marconi noted that refinancing transactions are administrative tasks and are OK to do, but she said that additional mortgage tax exemption is "a second bite of the apple" and that there is no further economic benefit to the community and that the Agency should not allow it.

The board asked Mr. Earl McCartney a representative of the applicant, to explain what the proceeds of the transaction were to be used for. Mr. McCartney explained that the funds would be invested and then put back into the property at a later date.

Motion by Stachura, seconded by Stanley. Aye votes: Sanders, Stanley, Stachura and Vilonen. Nay votes: Marconi, Brock, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AMEND THE PRIOR RESOLUTION ADOPTED ON SEPTEMBER 18, 2015, AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED LEASE AGREEMENT, A MORTGAGE IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$30,000,000 AND OTHER SECURITY DOCUMENTS REQUIRED IN CONNECTION THEREWITH IN CONNECTION WITH THE REFINANCING OF THE BROMPTON HEIGHTS, INC. PROJECT AND THE EXECUTION

AND DELIVERY OF A DEED FROM THE AGENCY TO BROMPTON HEIGHTS, INC. AND A LEASE TO AGENCY BETWEEN BROMPTON HEIGHTS, INC. AND THE AGENCY, TO INCREASE THE AMOUNT OF THE MORTGAGE TO \$32,775,000

II. Authorization Resolution – 45 Bryant Woods, LLC-Refinancing

45 Bryant Woods, LLC - The applicant is requesting Agency consent to refinance the existing mortgages on its property located at 45 Bryant Woods North, Amherst, New York. The original 2004 project involved the construction and equipping of a 16,000 square foot square foot single tenant office facility for Chiampou, Travis, Besaw & Kershner, LLP. In 2005 the Agency authorized an Amended and Restated Lease Agreement and authorized the mortgage for permanent financing in the amount of \$3,250,000.

In 2008, the Agency authorized a 7,800 square foot expansion to the original facility and a collateral mortgage in the amount of \$1,400,000 was approved.

The total amount of the proposed refinancing and consolidation of the two mortgage transactions will not exceed \$2,613,750. The applicant would not pay mortgage tax on this transaction regardless of AIDA involvement.

The applicant states that the purpose of this transaction is to take advantage of lower interest rates.

The project is located within the Williamsville Central School District. The PILOT agreement on the original project expires in 2021. The PILOT agreement on the addition expires in 2026. Neither PILOT agreement will be affected by this request.

Five Star Bank will provide the financing for this transaction.

Recommendation: approval

Motion by Stanley, seconded by Stachura. Aye votes: Sanders, Vilonen, Stanley, Brock, Marconi and Stachura; it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZE THE EXECUTION AND DELIVERY OF AN THIRD AMENDED AND RESTATED LEASE AGREEMENT, A MORTGAGE IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$2,613,750 AND OTHER SECURITY DOCUMENTS REQUIRED IN CONNECTION THEREWITH IN CONNECTION WITH THE REFINANCING OF 2004 BRYANT WOODS, LLC PROJECT (THE "ORIGINAL PROJECT") AND THE 2008 BRYANT WOODS LLC PROJECT (THE "2008 PROJECT") AND THE EXECUTION AND DELIVERY OF A DEED FROM THE AGENCY TO 45 BRYANT WOODS, LLC AND A LEASE TO AGENCY BETWEEN 45 BRYANT WOODS, LLC AND THE AGENCY

III. Authorization Resolution – Uniland Development I, LLC – 540 CrossPoint – Refinancing Uniland Development I, LLC

– The applicant is requesting Agency consent to refinance the existing mortgage on its property located at 540 CrossPoint Parkway, Getzville, New York. The project was originally authorized in September 2005 and consisted of the construction and equipping of a 90,672 square foot office facility for CitiCorp. The original mortgage was in the amount of \$15,500,000, with a current balance of \$7,853,764.

The amount of the refinancing request is \$11,000,000. The purpose of the request is to take advantage of more favorable financing terms available in the current market and to extend the loan term. A portion of the loan proceeds will be used to pay off the existing debt and pay any closing costs associated with the refinance. Applicant states that there are no specific plans for the remainder of the proceeds but that it is possible that a portion may be used for future investment projects. The project is eligible to receive \$31,462.96 in mortgage tax exemption.

The PILOT expires in 2023 and will not be affected by this transaction.

United Bank (f/k/a Rockville Bank) will provide the financing for this transaction.

Recommendation: approval

Mr. Sanders noted that this is clearly another cash-out situation and questioned whether the refinancing transactions could be done without forgiving the mortgage tax.

Peter Sayadoff a representative of Uniland Development stated that, their position is similar of that to the previous Brompton Heights project. He said, in general the proceeds of refinancing transactions are re-invested in the buildings and used for tenant improvements. He also said that any savings remain with the project and help to keep rental rates competitive. He noted this transaction in particular enabled Uniland to have the current tenant remain in the building and extend their lease.

Motion by Stachura, seconded by Stanley. Aye votes: Sanders, Stachura, Stanley and Vilonen. Nay votes: Brock, Marconi, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZE THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED LEASE AGREEMENT, A GAP MORTGAGE AND A MORTGAGE CONSOLIDATION AGREEMENT OR CONMOD AGREEMENT FOR A COMBINED PRINCIPAL AMOUNT OF \$11,000,000 AND OTHER SECURITY DOCUMENTS REQUIRED IN CONNECTION THEREWITH IN CONNECTION WITH THE REFINANCING OF 2006 540 CROSSPOINT PARKWAY PROJECT AND THE EXECUTION AND DELIVERY OF A DEED FROM THE AGENCY TO UNILAND DEVELOPMENT I, LLC AND A LEASE TO AGENCY BETWEEN UNILAND DEVELOPMENT I, LLC AND THE AGENCY

IV. Authorization Resolution

Project Applicant

5933 Main Street, LLC
9332 Transit Rd. Suite B
East Amherst, NY 14051
Jonathan Bevilacqua, Managing Member

Project Address

5933 Main Street
Williamsville, NY 14221

Project Eligibility

- The purposes of an industrial development agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities per Section 858 of General Municipal Law.
- The project is eligible under the Countywide Eligibility Policy as it is located in Neighborhood Enhancement Area as designated by the Town of Amherst and Village of Williamsville.
- The project complies with the Town of Amherst Comprehensive Plan as it maintains and grows the tax base through a high quality development that includes job creation.

Project Summary

The applicant is requesting authorization for a lease transaction in an amount not to exceed \$9,150,000 for the purchase and demolition of an existing structure and the construction of a three-story 56,000 square foot mixed use office, retail and residential facility. The project is located on three parcels that will be merged to create 5933 Main Street. The three parcels are identified as 5927-5933 Main Street, 5949-5951 Main Street and 17-21 Richfield within the Williamsville Central School District.

The project will be comprised of 16,000 square feet of retail and office space on the first floor and 20 residential units on the second and third floors. The applicant states that no tenants have been identified for the retail and office space.

The applicant states that the project site is currently comprised of a retail building and parking lot, which has been vacant for almost one year. AIDA assistance is necessary due to the challenges in redeveloping the infill Project Site as a mixed-use project and added costs versus greenfield development. The Project Site is a brownfield site with an environmental cleanup required per NYSDEC standards. The applicant notes that there are significant obstacles relating to the demolition of the existing vacant building, which likely contains asbestos. There are also added costs due to the presence of existing utility structures (overhead power lines, public water pit, water and sanitary sewer lines) that have to be relocated. Design and construction of the new three-story mixed will need to contend with foundation limitations due to bedrock existing at a depth of 2-3 feet in many areas and added costs of design in creating required façade treatments on all sides of the building.

Employment

Two years after completion of the project it is anticipated that there will be 1 full time position and 2 part-time with estimated salary ranges from \$30,000 to \$48,000 annually associated with the management and maintenance of the building.

PILOT Schedule

The property currently pays an estimated \$24,371 in annual Town, County and School taxes. This will generate \$243,712 during the abatement period.

The project is eligible for the Agency's 485(b) equivalent of the 10-year PILOT schedule on the increased assessed value. During the abatement period, the project will pay an estimated \$1,395,705 in additional property taxes, \$336,915 the Town of Amherst, \$226,200 to Erie County and \$832,590 to the Williamsville Central School District.

Project Tax Savings

As a result of the Agency's participation in this transaction, the project applicant will realize up to an estimated \$341,250 in sales tax savings, and estimated \$528,033 in property tax savings and an estimated \$60,000 in mortgage recording tax savings.

Recommendation

Approval

Discussion on this project began with Michele Marconi questioning the need for taxpayers to subsidize luxury apartments.

Steven Sanders said that he felt that this was a fantastic project and reminded the board that no policy exists that differentiates between luxury apartments and market rate apartments.

James Allen noted the project was in a long established redevelopment area and that there are significant cost associated with redeveloping an infill site for a mixed use project.

Carlton Brock then questioned the rental rates of the apartments and if they would be affordable to the surrounding community.

Sean Hopkins, counsel for the applicant informed the board that the rental rates were approximately \$1.30/square foot and the apartments would range in size of 1,200 square feet to 1,850 square feet.

Mayor Brian Kulpa then noted that the project would fit well within the price range of Village residents and that there is a need for more market rate rental product in his community.

Carlton Brock then asked about the breakdown of costs associated with the project in terms of retail.

James Allen reminded the board that pursuant to IDA statute on this type of project, the retail component cannot exceed one-third of the project cost. Mr. Hopkins told the board that 78% of the project cost was for the construction of the apartment portion of the project.

Edward Stachura reminded the board that the Village and Town have been looking for a project like this for the neighborhood for many years.

Aaron Stanley also stated that this property has been an eyesore for nearly thirty years.

Motion by Stachura, seconded by Stanley. Aye votes Sanders, Stachura, Stanley and Vilonen.
Nay votes: by Brock, Marconi, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZE THE ACQUISITION BY 5933 MAIN STREET LLC (THE "LESSEE") OF THREE PARCELS OF LAND AT 5927-5933 MAIN STREET, 5949-5951 MAIN STREET AND 17-21 21 RICHFIELD ROAD, AMHERST, NEW YORK AND THE DEMOLITION OF THE EXISTING BUILDING, THE CONSTRUCTION OF AN APPROXIMATELY 56,000 SQUARE FOOT MIXED USE BUILDING THEREON AND THE ACQUISITION AND INSTALLATION OF MACHINERY, EQUIPMENT, FURNISHINGS AND FIXTURES BY THE LESSEE, AS AGENT FOR THE AGENCY, FOR LEASE TO THE AGENCY AND SUBLEASE BACK TO THE LESSEE FOR SUB-SUBLEASE TO OTHER TENANTS, ALL FOR A MIXED USE OFFICE, RETAIL AND RESIDENTIAL FACILITY

V. Authorization Resolution

Project Applicant

2150 Wehrle Drive, LLC
Nidus Development Company
8899 Main Street
Amherst, New York 14221

Project Address

2150 Wehrle Drive
Amherst, NY 14221

Project Eligibility

- The purposes of an industrial development agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities per Section 858 of General Municipal Law.
- The project is eligible under the Countywide Eligibility Policy – 5511 – Corporate Managing Offices
- The project complies with the Town of Amherst Comprehensive Plan as it maintains and grows the tax base through a high quality development that includes job creation.

Project Summary

The applicant is requesting authorization for a lease transaction in an amount not to exceed \$2,700,000 for the purchase, renovation and equipping of an existing 18,125 square foot office facility. The project is located at 2150 Wehrle Drive, within the Williamsville Central School District.

The applicant states that the proposed project will be the headquarters and back office (legal, accounting, HR, senior management) for a number of enterprises owned or managed by Nidus Development and Dr. Gregory Daniel, MD. The interior space will be redesigned to accommodate various company professionals who are working in different locations as well as new hires. The project will include the construction of a data center to centralize the IT functions that are currently either outsourced or in different locations.

Nidus Development will occupy 7,300 of the building's 18,125 rentable square feet. The building has two other lessees, Visiting Nurses Association (VNA, approximately 5,950 square feet) and Supportive Medical Partners (who sublets their space to Premier Mortgage, approximately 4,930 square feet).

The applicant states that AIDA assistance is essential to retain Nidus Development in New York State, as they must move because their current offices offer no room for expansion. Costs in other states where the company develops properties, such as Maryland and Georgia, have lower occupancy costs and offer incentives for investment and new jobs. Properties under contract and development in these states have enough space to accommodate Nidus Development's expanding corporate presence. The Town of Clarence and its IDA were notified of this project in accordance to the inter-municipal move guidelines in the Countywide Eligibility Policy. The company searched applicable buildings to buy in Clarence but none met their specifications of size and design.

Employment

The project will retain 6 full time positions. Two years after completion of the project it is anticipated that there will be 10 additional full time and 4 part-time positions with estimated annual salaries ranging from \$30,000 to \$200,000 annually.

PILOT Schedule

The property currently pays an estimated \$42,799 in annual Town, County and School taxes. This will generate \$299,596 during the abatement period.

The renovation project is eligible for the Agency's 7-year PILOT schedule on the value added. During the abatement period, the project will pay an estimated \$45,902 in additional property taxes; \$21,480 to the Town of Amherst, \$5,186 to Erie County and \$19,236 to the Williamsville Central School District.

Project Tax Savings

As a result of the Agency's participation in this transaction, the project applicant will realize up to an estimated \$52,500 in sales tax savings, and estimated \$105,022 in property tax savings and an estimated \$27,000 in mortgage recording tax savings.

Recommendation

Approval

Michele Marconi stated she took issue with the company moving from Clarence and that this was not economic development.

Steven Sanders replied that Clarence issued no objections to the move and this was an eligible, back-office project and that being able to offer incentives has allowed the company to stay in the area.

Motion by Stachura, seconded by Sanders. Aye votes: Stachura, Sanders, Brock, Stanley and Vilonen. Nay vote: Marconi, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY ("AGENCY") AUTHORIZE 2150 WEHRLE DRIVE, LLC (THE "LESSEE") TO ACQUIRE AN EXISTING APPROXIMATELY 18,125 SQUARE FOOT MULTI-TENANT OFFICE BUILDING LOCATED AT 2150 WEHRLE DRIVE, AMHERST, NEW YORK TO RENOVATE A PORTION

OF THE EXISTING BUILDING AND TO ACQUIRE AND INSTALL MACHINERY, EQUIPMENT, FURNISHINGS AND FIXTURES REQUIRED IN CONNECTION THEREWITH, FOR LEASE TO THE AGENCY AND SUBLEASE BACK TO THE LESSEE FOR SUB-SUBLEASE TO NIDUS DEVELOPMENT AND OTHER TENANTS

VI. Authorization Resolution

Buffalo Archives, LLC – Company is requesting Agency consent to convey its property at 3850 Rensch Road to State University of New York or such other entity of the State of New York.

Recommendation: approval

Motion by Marconi, seconded by Sanders. Aye votes: Stachura, Stanley, Brock, Marconi, Sanders and Vilonen, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZE THE CONVEYANCE OF THE BUFFALO ARCHIVES, LLC PROJECT TO THE STATE OF NEW YORK.

VII. Authorization Resolution

Authorization of AIDA Officers to Execute Documents relating to Lease Terminations, Property Conveyance and Transfers

Agency Counsel and Staff are requesting Board of Directors approval to authorize the Chairman, Vice Chairman, Treasurer, Secretary, Assistant Secretary, Executive Director or other officer of the Agency to execute and deliver such to documents that they determine are required or necessary in connection with the granting of easements and rights-of-way and other agreements required in connection with the operation of the various Projects of the Agency and authorizing them to execute and deliver lease termination agreements, deeds and other documents or instruments required in connection with the termination of existing leases and conveyance of real estate back to the applicants.

Recommendation: approval

Motion by Stachura, seconded by Stanley. Aye votes: Marconi, Sanders, Brock, Stachura, Stanley and Vilonen, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY (THE “AGENCY”) AUTHORIZE THE CHAIRMAN, VICE CHAIRMAN, TREASURER, SECRETARY, ASSISTANT SECRETARY, EXECUTIVE DIRECTOR OR OTHER OFFICERS TO EXECUTE AND DELIVER ANY AND ALL DOCUMENTS REQUIRED IN CONNECTION WITH THE TERMINATION OF LEASE AGREEMENTS AND/OR THE CONVEYANCE OF PROPERTY BACK TO THE APPLICANT

Michele Marconi proposed the board amend its By-Laws to include normal parliamentary rules as in Robert’s Rules of Order. The board agreed to review discuss at a future date.

Carlton Brock then asked about the various committees of the Agency. Mr. Allen told the board that certain committees such as the Governance Committee, Audit and Finance Committee are mandated by the NYS Authorities Budget Office and that from time to time other committees are formed. Mr. Brock expressed concern that the same board members served on each of the current committees. Mr. Allen reminded the board that any board member and member of the public are welcomed and encouraged to attend any meeting and committee meeting of the Agency.

Mr. Stachura noted that when the current committees were formed, the Agency had a difficult filling the seats required and therefore ended up with the same members on each committee.

Mr. Brock said he thought the time had come to mix up the committees and everyone agreed.

10:27 am – meeting adjourned.