

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

Minutes of the 424th Meeting

March 19, 2010 – 8:30 am

Agency Offices, 4287 Main Street

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

PRESENT: Fredrick A. Vilonen
Randall Clark
John DeLuca
Ayesha Nariman
Stuart Shaprio
Aaron Stanley
James Allen, Executive Director
Nathan Neill, Esq.
Steven Sanders, Town Board Liaison

ABSENT: Robert Ciesielski

GUESTS: AIDA Staff
Jeff Teredo, Bryant & Stratton College
Doreen Justinger, Bryant & Stratton College
Peter Sayadoff, Uniland Development
David Tytka, Uniland Development
Jim Fink, Business First
David Robinson, Buffalo News

Chairman Vilonen reminded everyone that the meeting was being tape-recorded. He then asked the Board of Directors to skip over the administrative information and move to the portion of the agenda that required the Board to take action on due to a board member needing to leave to catch a plane. There were no objections.

TREASURER'S REPORT

The Treasurer's Reports for January & February 2010 were approved as presented.

COMMITTEE REPORTS

The Audit Committee met on Tuesday, March 16 to review the 2009 Audited Financial Statements as prepared by Toski, Schafer & Company, PC.

After a brief discussion and a motion by Randall Clark, seconded by Ayesha Nariman and unanimously carried, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY APPROVE THE 2009 FINANCIAL STATEMENTS AS PREPARED BY TOSKI, SCHAFFER AND COMPANY, PC.

NEW BUSINESS

AUTHORIZATION RESOLUTIONS

APPLICANT

Bryant & Stratton College, Inc.
40 Hazelwood Drive
Amherst, New York 14228
Dr. Marvel E. Ross-Jones, Campus Director

REQUEST

The applicant is requesting authorization for a \$5,930,300 lease transaction for the construction and equipping of a 29,000 square-foot facility for use as its campus serving the northern region of Western New York for Bryant & Stratton College. The project is located at 3650 Millersport Hwy. within the Williamsville Central School District and is relocating from 21,700 square feet at 40 Hazelwood Drive in Amherst. The NAICS for this company is 61 – Educational Services. Pursuant to the Countywide eligibility policy the project is “*generally*” ineligible for IDA assistance. Staff has determined this expansion project provides a public benefit and is eligible based on its educational offerings and contributions to providing a trained workforce for current and future employers. Bryant & Stratton is a fully accredited educational institution. Its 16 campuses, Professional Skills Center and online education division are accredited by the Commission on Higher Education of the Middle States Association of Colleges and Schools.

The application states: “Bryant & Stratton is a career college delivering outcome based education and training through a flexible, contemporary curriculum in a personalized environment. Bryant & Stratton services the 17-year old fresh out of high school, all the way to the 50+ year-old who has lost a job or needs a degree to get promoted and/or receive a salary increase”.

The applicant explains that Amherst IDA participation in the project is necessary because “the savings will allow the College to put in additional technology, allowing for better teaching and training of students for the marketplace, that otherwise would not be implemented until future years”.

When asked to describe any unique features and/or community benefits that the project would have on the area, the applicant says in terms of the setting on Millersport Highway, that “1) the location provides an ideal setting for the symbiotic relationships that B & SC has cultivated with its business partners via advisory boards, internships and placements and 2) the wetlands adjacent to the building provide a wonderful opportunity for ecology students to learn about the environment and the value of preserving natural land treasures”. They also state that “the more spacious facility will allow us to increase course offerings in areas of high employment potential”.

The application says that the project is necessary in order to remain competitive within their industry and that their current facility is outdated and lacks the necessary space needed to deliver contemporary curriculum in an environment that is their hallmark for personalized education.

EMPLOYMENT

Project will retain 115 jobs in Amherst, 55 full-time and 60 part-time and create an additional 15 upon completion of the project, 5 full-time and 10 part-time. Payroll is expected to increase from \$2,385,785 annually to \$2,666,933 annually.

PILOT SCHEDULE

Based on the information contained within the application and applying it to the newly adopted PILOT criterion, the project would be eligible for the Agency's 7 year PILOT policy. During the abatement period, project will pay an estimated \$366,410 in property taxes; \$147,538 to the Town of Amherst, \$51,327 to Erie County and \$167,545 to the Williamsville Central School District.

The vacant land currently generates approximately \$15,220 in annual Town, County and School taxes. Over the abatement period this amount would be \$106,540. Should this project proceed, the net revenue gain over the abatement period would be \$259,870.

Project Tax Savings

As a result of the Agency's participation in this transaction, the project applicant would realize an estimated \$219,730 in sales tax savings, \$512,242 in property tax savings and \$59,303 in mortgage recording tax savings.

Recommendation

Approval

A discussion took place in regard to State Law governing Industrial Development Agencies with respect to retail provisions and the appropriateness of assisting private educational institutions.

Upon a motion by Ayesha Nariman, seconded by Aaron Stanley, a vote of no by Stuart Shapiro, it was

RESOLVED THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZE BRYANT & STRATTON COLLEGE, INC. (THE "LESSEE") TO ACQUIRE AN APPROXIMATELY 9.2 ACRE PARCEL OF LAND LOCATED AT 3650 MILLERSPORT HIGHWAY, AMHERST, NEW YORK, TO CONSTRUCT AN APPROXIMATELY 29,000 SQUARE FOOT BUILDING THEREON AND TO ACQUIRE AND INSTALL MACHINERY AND EQUIPMENT REQUIRED IN CONNECTION THEREWITH, FOR LEASE BY LESSEE TO THE AGENCY FOR SUBLEASE FROM THE AGENCY TO THE LESSEE AND TO TAKE OTHER PRELIMINARY ACTION.

APPLICANT

The Uniland Partnership of Delaware, LP
100 Corporate Parkway, Suite 500
Amherst, New York 14226
Carl J. Montante, President

REQUEST

The applicant is requesting authorization for a \$15,269,154 lease transaction for the construction and equipping of a 90,000 square-foot, single tenant facility for Fidelis Care New York. Fidelis provides government sponsored health care programs, such as Medicaid, Family Health Plus and Child Health Plus. The project is located at 480 CrossPoint Parkway within the Williamsville Central School District and is relocating from 40,300 square feet at 40 John Glenn Drive in Amherst. The NAICS for this company is 5241-Business Services, thus qualifying it under the county-wide eligibility policy.

The application states "Fidelis' business has grown tremendously over the past several years, and continued growth is projected in the future. It has outgrown its current 40,000 square foot office space in the Audubon Industrial Park and needs to re-locate to significantly larger space. This project, which entails approximately 90,000 square feet of office space built to Fidelis' specification, will accommodate Fidelis' growing number of employees and will yield greater efficiencies resulting from facilities tailored to Fidelis' needs and avoidance of the need to spread its operations over more than one location.

The application also states that 95% of Fidelis' gross revenues are derived from outside Erie County. Company primarily services 50 of New York's 62 counties, including the greater NYC area, Western New York, Central New York and Northeastern New York.

The applicant notes that the project will permit Fidelis' continued growth and will result in operation efficiencies that will further enhance its ability to grow in its highly competitive market.

EMPLOYMENT

The project will retain 429 full-time and 5 part-time jobs in Amherst and create 138 new full-time jobs within two years of completion of the project. Payroll is expected to increase from \$20,049,698 annually to \$26,949,698 annually.

PILOT SCHEDULE

Based on the information contained within the application and applying it to the newly adopted PILOT criterion, the project would be eligible for the Agency's 10 year PILOT policy. During the abatement period, project will pay an estimated \$1,065,596 in property taxes; \$487,351 to the Town of Amherst, \$135,603 to Erie County and \$442,643 to the Williamsville Central School District.

The vacant land currently generates approximately \$5,500 in annual Town, County and School taxes. Over the abatement period this amount would be \$55,000. Should this project proceed, the net revenue gain over the abatement period would be \$1,010,596.

Project Tax Savings

As a result of the Agency's participation in this transaction, the project applicant would realize an estimated \$623,795 in sales tax savings, \$2,108,190 in property tax savings and \$131,600 in mortgage recording tax savings.

Recommendation

Approval

Upon a motion by Randall Clark, seconded by Aaron Stanley and unanimously carried, it was

RESOLVED THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZE THE UNILAND PARTNERSHIP OF DELAWARE L.P. (THE "LESSEE") TO CONSTRUCT AN APPROXIMATELY 90,000 SQUARE FOOT BUILDING ON AN APPROXIMATELY 11.66 ACRE PARCEL OF LAND ALREADY OWNED BY THE AGENCY, ALL FOR A NON-RETAIL SINGLE-TENANT OFFICE FACILITY FOR LEASE BY THE AGENCY TO THE LESSEE FOR SUBLEASE TO FIDELIS CARE NEW YORK (THE "SUBLESSEE") OR IN THE ALTERNATIVE TO LEASE THE FACILITY FROM THE LESSEE, SUBLEASE IT BACK TO THE LESSEE FOR SUB-SUBLEASE TO THE SUBLESSEE AND TO TAKE OTHER PRELIMINARY ACTION.

ELECTION OF OFFICERS

The board voted in favor of the following slate of officers for 2010:

Fredrick Vilonen – Chairman
Randall Clark – Vice Chairman
John DeLuca – Treasurer
Stuart Shapiro - Secretary

MINUTES

The minutes of the February 2010 meeting were approved as presented.

BILLS & COMMUNICATIONS

Executive Director Allen reminded the board that the Agency received an IDA Assessment letter dated February 8, 2010 from the Department of Taxation & Financing stating we owe \$44,217. The Public Authorities Law section 2975 established a cost recovery of central governmental services to be assessed to all the IDA's in the State. The Agency is working with the NYSEDC, Buffalo Niagara Partnership along with all the other IDA's across the State and the Legislator in WNY to repeal this charge. Assemblyman Robin Shimminger has submitted a Bill rescinding this assessment and Senator Bill Stachowski has a Bill that does the same. The Agency owes this as of March 31, 2010. Absent a legislative remedy, there is a class action law suit against New York State on the constitutionality of taxing IDAs. Mr. Allen asked the Board to authorize the Agency to contribute \$1,000.00 toward the litigation fund.

Upon a motion by John DeLuca, seconded by Randall Clark, a vote of no by Aaron Stanley, it was authorized the Agency to allocate \$1,000.00 to the litigation fund.

Mr. Allen informed the board that the Agency & Development Corporation received notification from the Authority Budget Office on March 1 2010 in regard to the Public Authorities Reform Act. There were two specific items that we are required to act on. The first one is before May 1st of this year each Board member must sign a statement acknowledging they understand their fiduciary responsibilities and affirm their commitment to the authority and to the public that is served by the authority. Secondly, the Public Authority Reform Act requires state and local authorities to develop and adopt a mission statement. The law also requires public authorities to develop performance measures to assist the authority determine how well it is carrying out its mission. This requirement must be fulfilled by March 31, 2011. The Agency currently has a mission statement however the Corporation does not. The matter was referred to the Governance Committee for both the Agency & Corporation to meet to discuss this matter and bring their recommendations before the board.

Executive Direction Allen informed the board that the Agency received a letter from the Williamsville Central School District in regard to the Bryant & Stratton College project (See Minutes book). He would like to refer the second part of the letter having to do with PILOT's to the Executive Committee or the Finance Committee to discuss. The Executive Committee will discuss this matter at their next meeting to resolve this issue.

PUBLIC COMMENT

There were no comments from the public at this meeting.

EXECUTIVE DIRECTOR'S REPORT

There was no Executive Director's report at this meeting.

UNFINISHED BUSINESS

Recommendation for Administrative Fee Policy regarding tax-exempt financing – At the February 5, 2010 board of directors meeting, the board was requested by UBF-Student Faculty Housing Corporation to reduce the standard Agency fee of 1% of project value to .5% of the project value. The board did agree to this but requested staff to develop a policy specifically for tax-exempt projects.

Agency staff hereby recommends the following policy pertaining to tax-exempt financing:

The Agency Administrative Fee for Tax-Exempt Financing is one percent (1%) of the bond amount for projects that are provided a PILOT in addition to a mortgage tax exemption. For those projects provided a mortgage recording tax exemption ONLY, the fee is one-half percent (.5%) of the bond amount.

Upon a motion by Randall Clark, seconded by Aaron Stanley and unanimously carried, the fee policy was amended to include the tax-exempt financing fee.

9:15 am – meeting adjourned.