

TOWN OF AMHERST DEVELOPMENT CORPORATION

Agenda – 163rd Meeting

Friday, November 5, 2021 – 8:30 am

James J. Allen Boardroom

Corporation Offices, 4287 Main Street

1. Roll Call of Members
2. Reading and Approval of Minutes
3. Public Hearing
 - UBF Faculty-Student Housing Corp-Creekside/Flint Village-
Refunding of Tax-Exempt Bond Issue
4. Committee Reports
5. New Business
 - I. Committee Appointments
 - Finance Committee
6. Adjournment

TOWN OF AMHERST DEVELOPMENT CORPORATION
Minutes of the 162nd Meeting
March 19, 2021 – 8:30 am
James J. Allen Boardroom
Corporation Offices, 4287 Main Street

Due to the Covid-19 Pandemic and pursuant to Governor Andrew Cuomo’s Executive Order No.202.1, the Town of Amherst Development Corporation Board of Directors meeting was conducted through Zoom.com and live streamed at www.AmherstIDA.com. In physical attendance at the meeting at AIDA/ADC offices was Executive Director David Mingoia. A video recording of the meeting can be accessed and viewed at www.AmherstIDA.com.

PRESENT via Zoom.com: Carlton N. Brock, Jr.
William Tuyn
Anthony Agostino
Hon. Timothy J. Drury
Philip Meyer
Frank LoTempio
Kevin J. Zanner, Hurwitz & Fine PC

ABSENT: Hadar Borden

GUESTS via Zoom.com AIDA Staff
Jacqueline Berger, TOA
Justin Reid, The Bonadio Group

Chairman Brock called the meeting to order and reminded everyone that the meeting was being live-streamed and video recorded.

MINUTES

Executive Director Mingoia informed the Board that the draft minutes of the January 2021 meeting are to be amended to include Kevin J. Zanner, Esq., and Joseph M. Reynolds being voted in as Assistant Secretaries of the Amherst Development Corporation.

Upon a motion by William Tuyn, seconded by Anthony Agostino and unanimously carried, the minutes of the January 2021 meeting were approved with the amendment to include Kevin J. Zanner, Esq. and Joseph M. Reynolds as being voted in as Assistant Secretaries.

BILLS & COMMUNICATIONS

The Agency received correspondence from the Internal Revenue Service regarding the audit of 2017 tax returns. The letter stated that the ADC continues to qualify for exemption from federal taxes under Section 501(c)(3) of the IRS code. They accept the returns as filed.

COMMITTEE REPORTS

Audit & Finance Committee – Anthony Agostino informed the board that the Audit & Finance Committee had met with the Agency’s auditor, Justin Reid from The Bonadio Group in February. Mr. Reid was invited to speak to the board. Mr. Reid gave the board a presentation of the 2020 Audited Financial Statements and Management Letter.

There was a brief discussion after the presentation. Frank LoTempio made a motion to accept the 2020 Audited Financial Statements as presented. Judge Drury seconded the motion. Votes of aye to accept the 2020 Audited Financial Statements were made by Brock, Tuyn, Agostino, Drury, Meyer and LoTempio. Motion to approve passed 6-0.

Governance Committee – The Governance Committee met earlier in the month and recommended the approval the 2020 Mission Statement and Measurement Report as presented. After a brief discussion, William Tuyn made a motion to approve the 2020 Mission Statement and Measurement Report. Judge Drury seconded the motion. Votes of aye were cast by Brock, Tuyn, Agostino, Drury, Meyer and LoTempio. Motion to approve passed 6-0.

UNFINISHED BUSINESS

There was no Unfinished Business presented at this meeting.

NEW BUSINESS

There was no New Business presented at this meeting.

ADJOURMENT

8:48 am – Philip Meyer made a motion to adjourn the meeting. Frank LoTempio seconded the motion. Vote of aye to adjourn were cast by Brock, Tuyn, Agostino, Drury, Meyer and LoTempio. Motion to approve passed 6-0.

NOTICE OF PUBLIC HEARING
ON PROPOSED PROJECT
AND FINANCIAL ASSISTANCE
RELATING THERETO

Notice is hereby given by Town of Amherst Development Corporation (the “Issuer”) that a public hearing (the “Public Hearing”) pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), and, as required by the Issuer’s certificate of reincorporation, Section 859-a of the General Municipal Law of the State of New York, will be held by the Issuer on the 5th day of November, 2021 at 8:30 o’clock a.m., local time, in connection with the Project (as defined herein). The Public Hearing will be held electronically via Zoom rather than in person. Members of the public may attend the Public Hearing and comment on the Project pursuant to the following:

<https://us02web.zoom.us/j/83689961314?pwd=ZlZvaEs1TVl5ZS9YV05mMGloUmNoQT09>

Meeting ID: 836 8996 1314
Passcode: 071176

UBF Faculty-Student Housing Corp., a State of New York not-for-profit corporation (the “Institution”) has submitted an application (the “Application”) to the Issuer, a copy of which Application is on file at the office of the Issuer, which Application requested that the Issuer consider undertaking a project (the “Project”) for the benefit of the Institution, said Project consisting of the following: (A) the refinancing, in whole or in part, of the Town of Amherst Development Corporation Tax-Exempt Multi-Mode Revenue Bonds (Flint Village/Creekside Village Project), Series 2012A issued on June 15, 2012 in the original aggregate principal amount of \$32,465,000 (the “Prior Bonds”), which Prior Bonds financed the following project: (1) the refinancing and/or refunding of the Town of Amherst Industrial Development Agency Civic Facility Revenue Bonds (UBF Faculty-Student Housing Corp. – Creekside Village Project), Series 2002A issued on January 23, 2002 in the aggregate principal amount of \$14,475,000 (the “Series 2002A Bonds”), which Series 2002A Bonds were issued to finance a project consisting of the following: (a) the acquisition by the Town of Amherst Industrial Development Agency (the “Prior Issuer”) of a sub-leasehold interest in an approximately 12.3 acre parcel of land (the “Ground Lease Land”) in the Town on the North Campus (the “Campus”) of the State University of New York at Buffalo (the “University”), (b) the construction of an apartment-style student housing complex, containing approximately 116 apartments and a community building, on the Ground Lease Land (collectively, the “Creekside Village Facility”) and (c) the acquisition and installation therein and thereon of certain machinery and equipment (the “Creekside Village Equipment”), all of the foregoing to constitute an approximately 232 bedroom apartment-style student housing complex (the Ground Lease Land, the Creekside Village Facility and the Creekside Village Equipment being collectively referred to as the “Creekside Village Project Facility”); (2) the refinancing and/or refunding of the Prior Issuer’s Civic Facility Revenue Bonds (UBF Faculty-Student Housing Corp. – Flint Village East Project), Series 2000A issued on December 22, 2000 in the aggregate principal amount of \$14,570,000 (the “Series 2000A Bonds”), which Series 2000A Bonds were issued to finance a project consisting of the following: (a) the acquisition by the Prior Issuer of a sub-leasehold interest in an approximately 7 acre parcel of land on the Campus (the “Flint Village East Land”), (b) the construction of four (4) two and three story apartment-style dormitory buildings and one community building (the “Flint Village East Facility”) and (c) the acquisition and installation therein and thereon of certain machinery and equipment (the “Flint Village East Equipment”), all of the foregoing to constitute an approximately 100 unit apartment-style dormitory (the Flint Village East Land, the Flint Village East Facility and the Flint Village East Equipment being collectively referred to as the “Flint Village East Project Facility”); (3) the refinancing

and/or refunding of the Prior Issuer's Civic Facility Revenue Bonds (UBF Faculty-Student Housing Corp. – Flint Village West Project), Series 2000B issued on December 22, 2000 in the aggregate principal amount of \$12,415,000 (the "Series 2000B Bonds"), which Series 2000B Bonds were issued to finance a project consisting of the following: (a) the acquisition by the Prior Issuer of a sub-leasehold interest in an approximately 12.3 acre parcel of land on the Campus (the "Flint Village West Land"), (b) the construction of five (5) two and three story apartment-style dormitory buildings (the "Flint Village West Facility") and (c) the acquisition and installation therein and thereon of certain machinery and equipment (the "Flint Village West Equipment"), all of the foregoing to constitute an approximately 136 unit apartment-style dormitory (the Flint Village West Land, the Flint Village West Facility and the Flint Village West Equipment being collectively referred to as the "Flint Village West Project Facility," and together with the Flint Village East Project Facility and the Creekside Village Project Facility, being collectively referred to hereinafter as the "Project Facility"); (B) the financing of all or a portion of the costs of the foregoing by the issuance of tax-exempt and/or taxable revenue bonds of the Issuer in one or more issues or series in an aggregate principal amount sufficient to pay the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to be \$28,000,000 and in any event not to exceed \$30,000,000 (the "Obligations"); (C) the payment of all or a portion of the costs incidental to the issuance of the Obligations, including issuance costs of the Obligations, any hedge termination fees and any reserve funds as may be necessary to secure the Obligations; and (D) the making of a loan (the "Loan") of the proceeds of the Obligations to the Institution or such other person as may be designated by the Institution and agreed upon by the Issuer.

The Issuer is considering whether (A) to undertake the Project, (B) to finance the Project by issuing, from time to time, the Obligations, (C) to use the proceeds of the Obligations to pay the cost of undertaking the Project, together with necessary incidental costs in connection therewith, and (D) to provide certain exemptions from taxation with respect to the Project, including exemption from mortgage recording taxes with respect to any documents, if any, recorded by the Issuer with respect to the Project in the office of the County Clerk of Erie County, New York or elsewhere.

If the issuance of the Obligations is approved, with respect to any portion of the Obligations to be intended to be issued as federally tax-exempt obligations, the interest on such portion of the Obligations will not be excludable from gross income for federal income tax purposes unless (A) pursuant to Section 147(f) of the Code and the regulations of the United States Treasury Department thereunder (the "Treasury Regulations"), the issuance of such portion of the Obligations is approved by the Town Board of the Town of Amherst, New York (the "Town Board") after the Issuer has held a public hearing on the nature and location of the Project Facility and the issuance of such portion of the Obligations; and (B) pursuant to Section 145(a) of the Code, all property which is to be provided by the net proceeds of the Obligations is to be owned by a Section 501(c)(3) organization or a governmental unit and at least ninety-five percent (95%) of the net proceeds of such portion of the Obligations are used with respect to (1) governmental units and/or (2) the activities of Section 501(c)(3) organizations which do not constitute "unrelated trades or businesses" (as defined in Section 513(a) of the Code) with respect to such Section 501(c)(3) organizations.

If the Issuer determines to proceed with the Project and the issuance of the Obligations, (A) the proceeds of the Obligations will be loaned by the Issuer to the Institution pursuant to a loan agreement (the "Agreement") requiring that the Institution or its designee make payments equal to debt service on the Obligations and make certain other payments to the Issuer and (B) the Obligations will be a special obligation of the Issuer payable solely out of certain of the proceeds of the Agreement and certain other assets of the Issuer pledged to the repayment of the Obligations. **THE OBLIGATIONS SHALL NOT BE A DEBT OF THE STATE OF NEW YORK OR THE TOWN OF AMHERST, NEW YORK, AND NEITHER THE STATE OF NEW YORK NOR THE TOWN OF AMHERST, NEW YORK SHALL BE LIABLE THEREON.**

It is anticipated that the Issuer will determine that the Project constitutes a “Type II action”, as said quoted term is defined in the regulations issued pursuant to Article 8 of the Environmental Conservation Law (the “Regulations”), and accordingly, that no environmental impact statement or any other determination or procedure is required under the Regulations regarding the potential environmental impact of the Project.

The Issuer will at said time and place hear all persons with views on the location and nature of the proposed Project, the financial assistance being contemplated by the Issuer in connection with the proposed Project or the proposed plan of financing of the proposed Project by the issuance from time to time of the Obligations. A copy of the Application filed by the Institution with the Issuer with respect to the Project is available for public inspection during business hours at the offices of the Issuer. A transcript or summary report of the hearing will be made available to the members of the board of directors of the Issuer and to the Town Board. Approval of the issuance of any portion of the Obligations intended to be issued as federally tax-exempt obligations by the Town of Amherst, New York, acting through its elected Town Board, is necessary in order for the interest on such portion of the Obligations to qualify for exemption from federal income taxation.

Additional information can be obtained from, and written comments may be addressed to: David S. Mingoia, Chief Executive Officer, Town of Amherst Development Corporation, 4287 Main Street, Amherst, New York 14226; Telephone: (716) 688-9000.

Dated: October __, 2021

TOWN OF AMHERST
DEVELOPMENT CORPORATION

BY: :/s/ David S. Mingoia _____
David S. Mingoia
Chief Executive Officer