

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Minutes of the 444th Meeting
April 20, 2012 – 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
Ayesha Nariman
Stuart Shapiro
Robert M. Ciesielski
Barry A. Weinstein, MD
James Allen, Executive Director
Nathan Neill, Esq.

ABSENT: Aaron Stanley

GUESTS: AIDA Staff
Rich Kustich, UB Foundation
Terry Gilbride, Hodgson Russ
Chris Udy, Ciminelli Development Co.
Jim Herr, WGRZ
Jeff Lehrbach, McGuire Development
Danielle Shainbrown, McGuire Development
Dennis Szymkowiak, Szymkowiak & Assoc.
Laurie Dohn, Szymkowiak & Assoc.
Jim Fink, Business First
David Tytko, Uniland Development Co.
Robert Albini, Occupy Buffalo
Eric Barber, Occupy Buffalo

Chairman Vilonen reminded everyone that the meeting was being tape-recorded.

MINUTES

The minutes of the February 2012 meeting were approved as presented.

BILLS & COMMUNICATIONS

The Agency received a letter from the Town of Amherst Supervisor requesting the 2nd transfer of the \$76,000 CDBG funds to be made in April. There was an agreement between the Agency & the Town that the funds would be transferred back to the town over a period of time.

Mr. Allen brought to the attention of the Board a resolution that was adopted by the Town Board on March 19, 2012. The resolution states that the Amherst Town Board is in support of the IDA

and in opposition of any legislation to restrict the local IDA's in particular the Amherst IDA as it affects the town's ability to implement its Masterplan.

TREASURER'S REPORT

The Treasurer's Reports February & March 2012 were approved as presented.

PUBLIC COMMENT

There was no public comment at this meeting.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Allen informed the board that he would keep his report brief. He told the board that he attended the last 2 meeting of the ECIDA policy committee. He stated that they had not discussed any of the general policy questions because the meetings were in regard to the Millenium Hotel and the 2nd was the Greystone project in the City. He was told that at the next meeting there would be discussion on the more generic policy questions.

Mr. Allen also informed the board that he attended the Town Board work session from the Supervisor the week after the Town passed the IDA resolution. Richard Tobe, Deputy County Executive & Colleen DiPirro, Pres. Of the Amherst Chamber asked to speak on behalf of the Ryan Legislation. He stated that if the Ryan Legislation was to pass and the IDA is restricted to the point we could do nothing. A transcript of the work session would be sent to the Agency's board.

Mr. Allen mentioned to the board that there have been 2 meetings with the local IDA's over the past several weeks. He stated that they are not in support of the Ryan Legislation. In addition each of their Town Boards have passed resolutions similar to the one the Town of Amherst passed, supporting their IDA's. He also stated that each of the Chambers of Commerce are also in opposition to the legislation. He said there is a lot of support for the local IDA's and in opposition to having one IDA.

COMMITTEE REPORTS

Audit Committee – Executive Director informed the board that they had the audit and management letter in front of them. He stated that a couple of items that were listed on the letter have been addressed and taken care of.

Upon a motion by Ayesha Nariman, seconded by Edward Stachura and unanimously carried, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY APPROVE THE 2011 AUDITED FINANCIAL STATEMENTS AS PRESENTED.

NEW BUSINESS

I. Authorization Resolution – 6325 Main St. Associates, Ltd.

Project Applicant

6325 Main St Associates, Ltd
560 Delaware Ave, Suite 300
Buffalo, New York 14203
Daneille E. Shainbrown, Esq., Vice President

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 Countywide Eligibility Policy allows for incentives for multi-tenant buildings as long as 2/3rd of the building is leased to eligible firms.
- The first tenant is eligible under NAICS 5421 as a back-office professional services firm.
- The project complies with the Town of Amherst Comprehensive Plan as it maintains and grows the tax base through a high quality development leveraging existing infrastructure.

Project Description

6325 Main St Associates, Ltd. is requesting assistance for a Lease Transaction not to exceed \$3,000,000. The project involves the construction and equipping of a 15,000 square foot multi-tenant office facility located at 6325 Main Street within the Williamsville Central School District.

The Applicant purchased the parcel, which formerly was the home of the Newman Center, from the Catholic Diocese of Buffalo and as a condition of rezoning had to dismantle and transfer the historic structures on the property to the Amherst Museum for donation, adding significant expense to the acquisition. The facility was exempt from real property taxes. The next phase of the project will involve the development of a professional services building.

Symkowiak & Associates, CPAs P.C., specializing in servicing multi-national businesses involved in the metals industry is the first tenant of the property. This highly specialized accounting firm is closely affiliated with one of its large clients, housing employees of that multi-national entity to better service the client. This firm is currently located in the Town of Amherst and it is contemplating relocating all or a significant portion of its operation out of the area, including Mississippi where one of its major customers has available space. The accounting firm has noted that if this client relocates its employees and major presence to an area other than the Town of Amherst, the accounting firm could be forced to reduce its current employment and/or terminate any future hiring plans. In order to make it financially feasible to retain this growing international services firm in the Town of Amherst and to take advantage of its impending continued growth, incentives are necessary to offset costs associated with developing this former tax-exempt property.

Employment

The project will retain 18 full-time and 2 part-time employment opportunities and create an additional 3 full-time and 1 part jobs upon completion with an estimated payroll of \$1,765,000.

PILOT SCHEDULE

The property was formerly tax-exempt and generated \$547 in annual town, county and school taxes. Through the Town's rezoning of the property and impending project, the estimated value of the land is \$250,000 and will generate \$55,510 in property taxes over the 7-year analysis period. This is \$51,681 in new property taxes that are not subject to abatement as IDAs do not abate land value.

Based on the information contained within the application, the new building constructed on the site would be eligible for the Agency's 7-year graduated PILOT schedule. During the abatement period, the building would pay an estimated \$161,695 in property taxes broken down as follows: \$69,015 to the Town of Amherst, \$20,800 to Erie County and \$71,880 to the Williamsville Central School District.

Should this project proceed, the estimated net revenue gain would be \$157,866.

Project Tax Savings

As a result of the Agency's participation in this transaction, the project applicant would realize an estimated \$105,525 in sales tax savings, an estimated \$30,000 in mortgage recording tax savings and approximately \$226,875 in property tax savings broken down as follows: \$36,341 Town of Amherst, \$42,900, Erie County and \$148,252 Williamsville Central School District.

After a lengthy discussion between the Board and representatives from McGuire Development & Symkowiak & Associates, CPAs P.C. and upon a motion by Edward Stachura, seconded by Ayesha Nariman and a vote of no by Supervisor Barry Weinstein & Stuart Shapiro, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZE 6325 MAIN STREET ASSOCIATES LLC (THE "LESSEE") TO CONSTRUCT A NEW APPROXIMATELY 15,000 SQUARE FOOT MULTI-TENANT OFFICE BUILDING ON AN APPROXIMATELY 1.5 ACRE PARCEL OF LAND ALREADY ACQUIRED BY THE LESSEE FROM THE CATHOLIC DIOSES OF BUFFALO, WHICH PARCEL WAS FORMERLY THE HOME OF THE NEWMAN CENTER, FOR LEASE TO THE AGENCY AND SUBSEQUENT SUBLEASE TO THE LESSEE FOR SUB-SUBLEASE TO OTHER TENANTS, AND TO TAKE OTHER PRELIMINARY ACTION.

II. Authorization Resolution – Refinancing Transaction

Village Park Associates, LLC is requesting the refinancing of their project located at 6400 Main Street. The project was originally for the construction of a 100,000 square foot office facility. The Agency closed on the \$12,000,000 mortgage in May 2002. The mortgage matures June 1, 2012.

They are requesting a refinancing amount of \$10,000,000. M & T Bank will provide the financing. The PILOT agreement expires in 2017.

Upon a motion by Supervisor Barry Weinstein, seconded by Ayesha Nariman and unanimously carried, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZE THE EXECUTION AND DELIVERY OF AMENDED AND RESTATED LEASE AGREEMENTS, A MORTGAGE AND THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS AND AGREEMENTS REQUIRED IN CONNECTION THEREWITH IN CONNECTION WITH THE REFINANCING OF THE 2002 VILLAGE PARK ASSOCIATES LLC PROJECT

III. Amendment to Authorization Resolution – Prometheus Books

Prometheus Books Expansion Project - Agency Counsel Nathan Neill determined that the Authorization Resolution dated November 19, 2010 requires an amendment. The application indicated that Paul Kurtz was the owner and the Agency authorized a lease leaseback transaction with Paul Kurtz. It turns out that the Agency was already in title and that Paul Kurtz was not the lessee but two separate living trusts. The amendment will correct the Lessee to the two trusts and then have the Lessee sublease the property to the Agency and the Agency will sub-sublease it back.

Upon a motion by Stuart Shapiro, seconded by Ayesha Nariman and unanimously carried, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AMEND THE PRIOR RESOLUTION ADOPTED ON NOVEMBER 19, 2010 AUTHORIZING PAUL KURTZ (AS THE "LESSEE") TO CONSTRUCT AN APPROXIMATELY 4,800 SQUARE FOOT WAREHOUSE ADDITION TO HIS EXISTING BUILDING LOCATED AT 59 JOHN GLENN DRIVE, AMHERST, NEW YORK WHICH BUILDING IS OWNED BY THE LESSEE AND LEASED TO PROMETHEUS BOOKS, INC. (THE "SUBLESSEE") AND AUTHORIZING THE SUBLESSEE TO ACQUIRE AND INSTALL MACHINERY AND EQUIPMENT REQUIRED IN CONNECTION THEREWITH, ALL FOR A BOOK PUBLISHING, SALES AND DISTRIBUTION FACILITY FOR SALE TO THE AGENCY AND SUBSEQUENT LEASE TO THE LESSEE FOR SUBLEASE TO THE SUBLESSEE WITH THE EQUIPMENT TO BE LEASED TO THE SUBLESSEE OR SOLD TO THE SUBLESSEE PURSUANT TO AN INSTALLMENT SALE TRANSACTION AND TO TAKE OTHER PRELIMINARY ACTION

IV. Amendment to Authorization Resolution – 5000 Group LLC

5000 Group, LLC is requesting an increase in the project cost from \$22,749,300 TO \$28,000,000. On January 18, 2012, the Agency authorized the Project with a cost estimated at \$22,749,300. Since that time, costs have increased associated with the change from one hotel brand to another and general increases over early bid estimates. Original plans were based upon an Aloft hotel, but were later changed to a Wyndham Garden hotel.

The overall size of the building and site plan remain unchanged.

Upon a motion by Edward Stachura, seconded by Ayesha Nariman and a vote of no by Robert Ciesielski, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AMEND THE PRIOR RESOLUTION ADOPTED ON JANUARY 18, 2012, AUTHORIZING 5000 GROUP, LLC (THE "LESSEE") TO ACQUIRE AN APPROXIMATELY 2.29 ACRE PARCEL OF LAND LOCATED AT 5195 MAIN STREET AND 36 S. FOREST ROAD, AMHERST, NEW YORK, TO DEMOLISH THE EXISTING BUILDING LOCATED THEREON, TO CONSTRUCT AN APPROXIMATELY 219,640 SQUARE FOOT, 6-STORY, MIXED-USE COMMERCIAL AND RESIDENTIAL FACILITY THEREON AND TO ACQUIRE AND INSTALL MACHINERY AND EQUIPMENT REQUIRED IN CONNECTION THEREWITH, ALL FOR A MIXED-USE COMMERCIAL AND RESIDENTIAL FACILITY FOR LEASE BY THE LESSEE TO THE AGENCY AND SUBSEQUENT SUBLEASE BY THE AGENCY TO THE LESSEE FOR SUB-SUBLEASE IN PART TO OTHER TENANTS AND TO TAKE OTHER PRELIMINARY ACTION TO INCREASE THE PROJECT COST FROM \$22,749,300 TO \$28,000,000 AND TO INCREASE THE AUTHORIZED AMOUNT OF THE MORTGAGE FROM \$22,749,300 TO \$28,000,000

8:54 am – meeting adjourned.