

TOWN OF AMHERST DEVELOPMENT CORPORATION
Minutes of the 137TH Meeting
October 17, 2014 – 8:30 am
Agency Office, 4287 Main Street

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

PRESENT: Fredrick A. Vilonen
Edward F. Stachura
Aaron Stanley
Barry A. Weinstein, MD
Stuart Shapiro
Carlton N. Brock, Jr.
E. Marshall Wood, Jr.
James Allen, Executive Director
Nathan Neill, Esq.

GUESTS: AIDA Staff
Jim Wells, Millennia Housing Development
Terrance Gilbride Esq., Hodgson Russ
Jim Fink, Business First

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

MINUTES

The minutes of the March 2014 meeting were approved as presented.

BILLS & COMMUNICATIONS

There were no Bills & Communications at this meeting.

TREASURER'S REPORT

There was no Treasurer's Report at this meeting

COMMITTEE REPORTS

There were no Committee Reports at this meeting

UNFINISHED BUSINESS

There was no Unfinished Business at this meeting.

NEW BUSINESS

Millennia Housing Development, Ltd. Or its designee – Company requested consent for a tax-exempt bond issue in an approximate amount of \$11,450,000 and in no event to exceed \$12,500,000. The tax-exempt bond issue will finance the acquisition of a 133,000 square foot, 160-unit, project-based, section 8 affordable housing apartment community located at 2171-2235 North French Road, Getzville. Property is also known as the Jackson Square Apartments and is located within the Williamsville Central School District.

As part of the project, Millennia Housing Development, Ltd (or its designee) is applying to the AIDA for an installment sales transaction for the rehabilitation, renovation and equipping of the apartments.

As noted in the application, the apartment community is over 30 years old and is need of rehabilitation to meet the evolving needs of current and future residents.

Recommendation: approval

After an overview of the project was provided by ADC Bond Counsel, Terrance Gilbride and upon a motion by Aaron Stanley, seconded by Edward Stachura and unanimously carried, it was

RESOLVED, THAT THE TOWN OF AMHERST DEVELOPMENT CORPORATION TAKE OFFICIAL ACTION TOWARD THE ISSUANCE OF REVENUE BONDS IN AN AMOUNT SUFFICIENT TO FINANCE THE ACQUISITION, RENOVATION, RECONSTRUCTION, AND INSTALLATION OF THE MILLENIA HOUSING DEVELOPMENT PROJECT.

8:48 – meeting adjourned.

**INDUCEMENT RESOLUTION
MILLENNIA HOUSING DEVELOPMENT PROJECT**

A regular meeting of the Board of Directors of Town of Amherst Development Corporation (the “Issuer”) was convened in public session at the offices of the Issuer located at 4287 Main Street in the Town of Amherst, Erie County, New York on October 17, 2014 at 8:30 o’clock, a.m., local time.

The meeting was called to order by the (Vice) Chairman of the Board of Directors of the Issuer and, upon roll being called, the following members of the Board of Directors of the Issuer were:

PRESENT:

Frederick A. Vilonen	Chairman
Edward Stachura	Vice Chairman
Aaron J. Stanley	Treasurer
Stuart C. Shapiro	Secretary
Barry A. Weinstein	Member
E. Marshall Wood, Jr.	Member
Carlton N. Brock, Jr.	Member

ABSENT:

ISSUER STAFF PRESENT INCLUDED THE FOLLOWING:

James J. Allen	Chief Executive Officer/Executive Director
David Mingoia	Deputy Director
Nathan S. Neill, Esq.	Issuer Counsel

The following resolution was offered by _____, seconded by _____, to wit:

Resolution No. __

**RESOLUTION TAKING OFFICIAL ACTION TOWARD THE ISSUANCE OF
REVENUE BONDS IN AN AMOUNT SUFFICIENT TO FINANCE THE
ACQUISITION, RENOVATION, RECONSTRUCTION, AND INSTALLATION OF
THE MILLENIA HOUSING DEVELOPMENT PROJECT.**

WHEREAS, the Issuer was created pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended (the “Enabling Act”). Pursuant to the provisions of the Enabling Act and Revenue Ruling 57-187 and Private Letter Ruling 200936012, the Town Board of the Town of Amherst, New York (the “Town”) adopted a resolution on October 5, 2009 (the “Sponsor Resolution”) (A) authorizing the incorporation of the Issuer under the Enabling Act and (B) appointing the initial members of the board of directors of the Issuer. In February, 2010, a certificate of

reincorporation was filed with the New York Secretary of State's Office (the "Certificate of Reincorporation") creating the Issuer as a public instrumentality of the Town; and

WHEREAS, the Issuer is authorized and empowered by the provisions of the Enabling Act to relieve and reduce unemployment, promote and provide for additional and maximum employment, better and maintain job opportunities, and lessen the burdens of government and act in the public interest, and in carrying out the aforesaid purposes and in exercising the powers conferred in the Enabling Act, the Enabling Act declares that the Issuer will be performing essential governmental functions; and

WHEREAS, to accomplish its stated purposes, the Issuer is authorized and empowered under the Enabling Act to acquire real and personal property; to borrow money and issue negotiable bonds, notes and other obligations therefore; to lease, sell, mortgage or otherwise dispose of or encumber any of its real or personal property upon such terms as it may determine; and otherwise to carry out its corporate purposes in the territory in which the operations of the Issuer are principally to be conducted; and

WHEREAS, Millennia Housing Development, Ltd. (the "Company"), an Ohio limited liability company, presented an application (the "Application") to the Issuer, which Application requested that the Issuer consider undertaking a project (the "Project") for the benefit of the Company or such other person or entity as may be designated by the Company and agreed upon by the Issuer, said Project to consist of the following: (A)(1) the acquisition of an interest in a parcel of land containing approximately 12.3 acres located at 2171-2235 Millersport Highway, in the Town of Amherst, Erie County, New York (the "Land") together with the existing 160-unit housing apartment community located thereon (the "Facility"), (2) the renovation and reconstruction of the Facility, and (3) the acquisition and installation therein and thereon of machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"); (B) the financing of all or a portion of the costs of the foregoing by the issuance of tax-exempt 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 approximately \$11,450,000 and in no event to exceed \$12,500,000 (the "Obligations"); (C) paying a portion of the costs incidental to the issuance of the Obligations, including issuance costs of the Obligations and any reserve funds as may be necessary to secure the Obligations; (D) the granting of certain financial assistance, including potential exemptions from real property transfer taxes and mortgage recording taxes; and (E) the making of a loan (the "Loan") of the proceeds of the Obligations to the Company or such other person or entity as may be designated by the Company and agreed upon by the Issuer; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (the "DEC Regulations", and collectively with the "SEQR Act", "SEQRA"), the Issuer (or any other "involved agency") (as such quoted phrase is defined in SEQRA), the Issuer has not yet made a preliminary determination as to the potential environmental significance of the Project and therefore has not yet determined whether an environmental impact statement is required to be prepared with respect to the Project; and

WHEREAS, pursuant to the Act, any approval of the Project contained herein is contingent upon a determination by the members of the Issuer to proceed with the Project following satisfaction of the public hearing and notice requirements and other procedural requirements contained in Section 859-a of the General Municipal Law that relate to the Project; and

WHEREAS, with respect to any portion of the Obligations intended to be issued as federally tax-exempt obligations (“Tax-Exempt Bonds”), 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 Internal Revenue Code of 1986, as amended (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 after the Issuer has held a public hearing on the nature and location of the Project Facility and the issuance of the Obligations; (B) pursuant to Section 142(d) of the Code, at least ninety-five percent (95%) of the net proceeds of such portion of the Obligations are used to provide a “qualified residential rental project,” as defined in Section 142 of the Code to include a project for residential rental property where, for a period at least as long as the Tax-Exempt Bonds remain outstanding, at least 20% of such units are occupied by individuals whose income is 50% or less of area median gross income or at least 40% of such units are occupied by individuals whose income is 60% or less of area median gross income; and (C) pursuant to Section 146 of the Code, there is allocated to such Tax-Exempt Bonds a portion of the private activity bond volume cap of the State of New York sufficient to equal the face amount of the Tax-Exempt Bonds; and

WHEREAS, the Issuer has given due consideration to the representations by the Company that approval of the issuance of the Obligations will be an inducement to the Company to provide and preserve adequate, safe and sanitary affordable housing accommodations in the Town for low income seniors; and

WHEREAS, the Issuer desires to encourage the Company to provide and preserve adequate, safe and sanitary affordable housing accommodations in the Town for low income seniors;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE BOARD OF DIRECTORS OF TOWN OF AMHERST DEVELOPMENT CORPORATION, AS FOLLOWS:

Section 1. The Issuer has reviewed the Application and, based upon the representations made by the Company to the Issuer in the Application and at this meeting, the Issuer hereby makes the following findings and determinations with respect to the Project:

(A) The issuance of the Obligations by the Issuer with respect to the Project will be an inducement to the Company to undertake the Project in the Town, thereby providing and preserving adequate, safe and sanitary affordable dwelling accommodations for persons of low income in the Town; and

(B) It is desirable and in the public interest for the Issuer to issue the Obligations or cause the Obligations to be issued on behalf of the Issuer in a principal amount sufficient to pay the costs of undertaking the Project, together with certain related costs and amounts, which costs are presently estimated to be approximately \$11,450,000.

Section 2. The Issuer will (A) authorize the issuance of the Obligations in such principal amount and with such maturities, interest rate or rates, redemption terms and other terms and provisions as shall be determined in accordance with the provisions of a further resolution of the Issuer; (B) make a loan to the Company of the proceeds of the Obligations (the “Loan”) for the purpose of assisting in financing the Project; (C) enter into a loan agreement (hereinafter, the “Loan Agreement”) between the Issuer and the Company whereby the Company will be obligated, among other things, (1) to make payments to the Issuer in amounts and at times so that such payments will be adequate to pay the

principal of, premium, if any, and interest on the Obligations and (2) to pay all costs incurred by the Issuer with respect to the Project and/or the Project Facility, including all costs of operation and maintenance, all taxes and other governmental charges, any required payments in lieu of taxes, and all reasonable fees and expenses incurred by the Issuer with respect to or in connection with the Project and/or the Project Facility; and (D) secure the Obligations in such manner as the Issuer, the Company and the purchasers of the Obligations shall mutually deem appropriate. If the proceeds from the sale of the Obligations are insufficient to finance the entire cost of the acquisition, renovation/reconstruction, installation, and financing of the Project Facility, the Issuer will, upon request of the Company and subject to Section 3 hereof, use its best efforts to effect the issuance from time to time in the future of additional bonds, whether on a parity with the Obligations or otherwise, for the purpose of paying the cost of completing the acquisition, renovation/reconstruction and installation of the Project Facility.

Section 3. The issuance of the Obligations and any additional bonds by the Issuer, as contemplated by Section 2 of this Resolution, shall be subject to: (A) agreement by the Issuer, the Company and the purchasers of the Obligations on mutually acceptable terms for the Obligations and for the sale and delivery thereof and mutually acceptable terms and conditions for the security for the payment thereof; (B) agreement between the Company and the Issuer as to payment by the Company of the administrative fee of the Issuer with respect to the Project; (C) if interest on any portion of the Obligations is to be treated as excludable from gross income for federal income tax purposes, (1) at least ninety-five percent (95%) of the net proceeds of such portion of the Obligations must be used to provide a “qualified residential rental project,” as defined in Section 142 of the Code to include a project for residential rental property where, for a period at least as long as the Obligations remain outstanding, at least 20% of such units are occupied by individuals whose income is 50% or less of area median gross income or at least 40% of such units are occupied by individuals whose income is 60% or less of area median gross income, and (2) the Town Board of Town of Amherst, New York must have approved the issuance of such portion of the Obligations after a public hearing on the issuance of the Obligations and the nature and location of the Project Facility has been held by the Issuer, as required by Section 147(f) of the Code; and (D) the following additional condition(s): NONE

Section 4. From and after the adoption of this Resolution, the officers, agents and employees of the Issuer are hereby authorized, empowered and directed to proceed with the undertakings provided for therein on the part of the Issuer and are further authorized to do all such acts and things and to execute all such documents as may be necessary or convenient to carry out and comply with the terms and provisions of this Resolution.

Section 6. The Company is hereby authorized to undertake the Project, and the Company is further authorized to advance such funds as may be necessary for such purpose, subject, to the extent permitted by law, to reimbursement from the proceeds of the sale of the Obligations, if the Obligations are issued.

Section 7. It is intended that this Resolution shall constitute an affirmative official action toward the issuance of the Obligations within the meaning of Section 1.103-8(a)(5) of the United States Treasury Regulations.

Section 8. The law firm of Hodgson Russ LLP is hereby appointed Bond Counsel to the Issuer with respect to all matters in connection with the Project and the issuance of the Obligations. Bond Counsel for the Issuer is hereby authorized, at the expense of the Company, to work with the Company, counsel to the Company, counsel to the Issuer, the purchasers of the Obligations and others to prepare, for

submission to the Issuer, all documents necessary to effect the authorization, issuance, sale and delivery of the Obligations and the other transactions contemplated by this Resolution.

Section 9. The Issuer hereby authorizes the Chief Executive Officer of the Issuer, prior to the issuance of any portion of the Obligations or the granting of any other financial assistance with respect to the Project, after consultation with the members of the Issuer, Issuer Counsel, and Bond Counsel, (A) to establish time, date and place for a public hearing of the Issuer to hear all persons interested in the Project, said public hearing to be held in the Town of Amherst, Erie County, New York; (B) to cause notice of such public hearing to be given to the public by publishing a notice of such hearing in a newspaper of general circulation available to residents of the Town of Amherst, Erie County, New York, such notice to comply with the requirements of Section 859-a of the General Municipal Law and to be published no fewer than fifteen (15) days prior to the date established for such public hearing; (C) to cause notice of said public hearing to be given to the chief executive officer of the county and each town, village and school district in which the Project Facility is or is to be located no fewer than fifteen (15) days prior to the date established for said public hearing; (D) to conduct such public hearing; (E) to cause a report of said public hearing fairly summarizing the views presented at said public hearing to be promptly prepared and cause copies of said report to be made available to the members of the Issuer and, if any portion of the Obligations are intended to be issued as federally tax-exempt obligations, to the Town Board of the Town of Amherst, New York; and (F) to request that the Town Board of the Town of Amherst, New York approve the issuance of any portion of the Obligations intended to be issued as federally tax-exempt obligations. The Issuer hereby further authorizes the Chief Executive Officer of the Issuer to take all actions required to comply with Section 146 of the Code.

Section 10. The Chairman, the Vice Chairman and/or the Chief Executive Officer of the Issuer is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 11. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Frederick A. Vilonen	VOTING	_____
Edward Stachura	VOTING	_____
Aaron J. Stanley	VOTING	_____
Stuart C. Shapiro	VOTING	_____
Barry A. Weinstein	VOTING	_____
E. Marshall Wood, Jr.	VOTING	_____
Carlton N. Brock, Jr.	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ERIE)

I, the undersigned (Assistant) Secretary of Town of Amherst Development Corporation (the “Issuer”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Issuer, including the Resolution contained therein, held on October 17, 2014 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Issuer had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the “Open Meetings Law”), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Issuer present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 17th day of October, 2014.

(Assistant) Secretary

(SEAL)