

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Minutes of the 387th Meeting
June 16, 2006 – 8:30 am
Agency Offices, 4287 Main Street

The meeting of the above captioned Agency was called to order by Chairman Edward Stachura.

PRESENT: Edward F. Stachura
Barbara J. Batchen
Fredrick A. Vilonen
Robert L. Miller
Randall L. Clark
Ayesha Nariman
Nathan S. Neill, Esq.
James J. Allen, Executive Director

EXCUSED: John P. DeLuca

GUESTS: AIDA Staff
David Tytka, Uniland Development Company
Tom Dolan, Buffalo News
Jim Fink, Business First
Jim Cullinan
Terrance M. Gilbride, Esq. – Hodgson Russ, LLP
William M. Murray, Esq. – Hodgson Russ, LLP

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

MINUTES

The Minutes of the May 2006 meeting were approved as presented.

BILLS & COMMUNICATIONS

There were no Bills & Communications at this meeting

TREASURER'S REPORT

The Treasurer's Report for May 2006 was approved as presented.

PUBLIC COMMENT

There was no public comment at this meeting.

EXECUTIVE DIRECTOR'S REPORT (See Attached)

UNFINISHED BUSINESS

I. BOND RESOLUTION

Daemen College Refinancings and Library Project – Company is requesting the adoption of a single bond resolution for the Student Housing Refinancing project, the Business & Commerce Building and Rosary Hall refinancing project and the Library Project. The Agency approved the inducement of these tax exempt bond issues at the May 2006 meeting. The aggregate principal amount of the bonds will not exceed \$38,000,000.

Manufacturers and Traders Trust Company will act as the Trustee.

Upon a motion by Barbara Batchen, seconded by Randall Clark and unanimously carried, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZE THE ISSUANCE AND SALE OF ITS MULTI-MODE CIVIC FACILITY REVENUE BONDS (DAEMEN COLLEGE PROJECT), SERIES 2006A AND MULTI-MODE CIVIC FACILITY REVENUE BONDS (DAEMEN COLLEGE PROJECT), SERIES 2006B IN THE AGGREGATE PRINCIPAL AMOUNT OF THIRTY-EIGHT MILLION DOLLARS(\$38,000,000) AND THE EXECUTION OF RELATED DOCUMENTS.

NEW BUSINESS

AUTHORIZATION RESOLUTIONS

Project Applicant

130 Bryant Woods South, LLC
300 Corporate Parkway
Amherst, New York 14226
Keith Bookbinder, Member

Request

Company is requesting Agency consent to a lease transaction in the amount of \$990,150 for the construction of a 7,500 square foot single tenant office facility to be located at 130 Bryant Woods South. Project is for occupancy of Lougen, Valenti, Bookbinder and Weintraub, a tax, consulting and accounting firm. The NAICS for this company is 5412 which under the county-wide eligibility policy is classified as generally eligible for assistance, but requires the Agency to make findings to confirm eligibility. Company is currently located in 6,000 square feet at 300 Corporate Parkway.

Applicant states that the new facility would be specifically designed with the flexibility required for their growing business. The new space would allow for optimal efficiency as

it will be custom built according to their current and future business plans, including ample room for expansion, which is unavailable at their current location. The proposed facility will immediately enable the company to house their offsite storage, which will enable them to greatly improve their response time to clients and curtail the current expense of the offsite storage.

Applicant also states that the new facility will enable them to have ample room for the ever-increasing technology requirements of their profession. They also state that it is critical to their operations that their computer capabilities are up to date and that in their rented facility the space for their servers, computerized telephone technology, racks, back up systems and related equipment is extremely limited and very cumbersome. The proposed facility will enable them to house the latest computer technology more efficiently.

Applicant states that Agency participation is necessary for this project to proceed because the sales tax and property tax savings will relieve the anticipated total operating costs associated with constructing and occupying their own facility. The savings are critical to the feasibility of the project. Without such assistance, it is unlikely that they would be able to proceed with the plans for expansion and growth within the boundaries of the Town of Amherst.

Employment

Project will retain 23 jobs and create an additional 1 upon completion of the project.

PILOT Schedule

Project may be eligible for the Agency's 15 year PILOT policy. During the abatement period, project will pay an estimated \$229,806 in property taxes based on the improved value to the property; \$74,669 to the Town of Amherst, \$31,012 to Erie County and \$124,126 to the Williamsville Central School District.

The vacant land is currently owned by NYS UDC and is exempt from Town, County and School taxes. Property pays approximately \$2,335 in annual special district charges, which over the term of the abatement period would be \$35,024. Should this project proceed the net PILOT revenue would be approximately \$194,782.

Exemptions

Applicant would realize approximately \$26,250 in sales tax exemption along with an estimated \$146,289 in property tax savings and an estimated \$8,758 in mortgage recording tax savings.

Recommendation: It should be noted this project is akin to recently approved Agency projects, Dopkins & Company; and Chiampou, Travis, Besaw & Kershner. All companies are locally owned and operated and are primarily considered back office operations. Agency staff therefore recommends approval.

Upon a motion by Robert Miller, seconded by Fredrick Vilonen and unanimously carried, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZE 130 BRYANT WOODS SOUTH, LLC (THE “LESSEE”) TO ACQUIRE AN APPROXIMATELY ONE ACRE PARCEL OF LAND LOCATED 130 BRYANT WOODS SOUTH, AMHERST, NEW YORK, TO CONSTRUCT AN APPROXIMATELY 7,500 SQUARE FOOT BUILDING THEREON AND TO ACQUIRE AND INSTALL MACHINERY AND EQUIPMENT REQUIRED IN CONNECTION THEREWITH, ALL FOR A SINGLE-TENANT OFFICE FACILITY FOR SALE TO THE AGENCY AND SUBSEQUENT LEASE TO THE LESSEE FOR SUBLEASE TO LOUGEN, VALENTI, BOOKBINDER & WEINTRAUB, LLP (THE “SUBLESSEE”) AND TO TAKE OTHER PRELIMINARY ACTION.

Project Applicant

5505 Main Street, LLC
5505 Main Street
Williamsville, New York 14221
James A. Zaepfel, Member

Request

Company is requesting Agency consent for a \$300,000 Installment Sale Transaction for the renovation and equipping of an existing 6,450 square foot multi-tenant facility located at 5505 Main Street in Williamsville. Property is located within a Town of Amherst designated redevelopment zone. Zaepfel Development Company headquarters is located in this facility.

Applicant states that the current facility which is located in the heart of Williamsville, is antiquated and needs work. This project will provide and enhanced exterior to make for a more desirable presentation to future clients.

Applicant states that Agency participation is necessary in order to make the project financially viable.

Employment

Project will retain 15 jobs and create an additional 3.

PILOT Schedule

No PILOT is being requested on the project.

Exemptions

Applicant would realize approximately \$13,125 in sales tax exemption.

Recommendation: approval

Upon a motion by Barbara Batchen, seconded by Robert Miller and unanimously carried, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZE AND APPROVE THE EXECUTION AND DELIVERY OF AN INSTALLMENT SALE AGREEMENT WITH 5505 MAIN STREET, LLC AND OTHER INSTRUMENTS AND MATTERS IN CONNECTION THEREWITH.

AUTHORIZATION RESOLUTION FOR PERMANENT FINANCING

Iskalo 65 LB, LLC – Company is requesting Agency consent to a mortgage resolution in the amount of \$5,600,000. This would represent the permanent financing for this project. National Life Insurance Company will be providing the permanent financing for this transaction.

In December 2005, the Agency authorized a \$5,200,000 an assignment of lease along with a mortgage transaction for the purchase and renovation of the property located at 65 Lawrence Bell Drive. The property was originally owned by Birdair, Inc. and was sold to Wilson Greatbatch in 2000. Wilson Greatbatch vacated the facility in 2002.

Birdair continues to occupy 30,000 square feet within the facility and Northrup Grumman Amherst Systems will lease the remaining 50,000 square feet.

The PILOT agreements are not affected by this transaction.

Recommendation: approval

Upon a motion by Randall Clark, seconded by Fredrick Vilonen and unanimously carried, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZE THE EXECUTION AND DELIVERY OF A MORTGAGE IN AN AMOUNT NOT TO EXCEED \$5,600,000, AN AMENDED AND RESTATED LEASE AGREEMENT, IF REQUIRED, AND OTHER DOCUMENTS REQUIRED IN CONNECTION WITH SUCH MORTGAGE IN CONNECTION WITH THE PERMANENT FINANCING OF THE 2005 65 LAWRENCE BELL DRIVE PROJECT, AND FURTHER AUTHORIZE AND APPROVE THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS IN CONNECTION THEREWITH.

AMENDMENT (ALLONGE) TO BOND RESOLUTION

Empbanque Center Associates Project – Company is requesting Agency consent to amend a taxable bond resolution issued in April 1987. The amendment would reflect a change in the interest rate and the amortization schedule.

Project was originally for the construction of an 83,000 square foot multi-tenant office facility. The bond amount at that time was \$6,800,000. The remaining balance is approximately \$4,300,000.

The PILOT agreement will not be affected by this transaction. The tax abatement has expired and company pays the full equivalent of taxes.

M & T Bank, the bondholder has agreed to this transaction.

Recommendation: approval

Upon a motion by Fredrick Vilonen, seconded by Randall Clark and unanimously carried, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZE THE EXECUTION AND DELIVERY OF AN OMNIBUS AMENDMENT TO SECURITY DOCUMENTS, AN ALLONGE TO THE BOND PREVIOUSLY ISSUED ON APRIL 14, 1987 AND SUCH OTHER DOCUMENTS AS MAY BE REQUIRED IN CONNECTION WITH THE MODIFICATION OF THE INTERST RATE AND OTHER TERMS OF THE OBND ISSUED IN CONNECTION WITH THE 1987 EMPBANQUE CENTER ASSOCIATES PROJECT.

9:38 am Meeting adjourned.

Executive Director Report- June 2006

- ✓ We have won an award for our Visualization Project that we did in collaboration with National Grid, the Amherst chamber of commerce and the TOA Planning department. We will receive the award from the Upstate Chapter of the American Planning Association (APA) next Thursday, June 22. We are also submitting it for consideration at the state level.
- ✓ Bring to your attention the report prepared for M&T Bank that shows that from 1990-2004, the number of 25-to-34 year old residents has declined by more than 30% in Buffalo Niagara region. It also states that the magnitude and duration of this population loss is unprecedented in our history. There has never been a previous 10-year period in the history of upstate where there has been any decline in this most vital portion of the population. Overall, our population rose only 1.1% in the '90s slower than the rate of only two states- West Virginia and North Dakota. (And the population growth would have lagged even more except for the influx of 21,000 inmates.
- ✓ Comptroller Report: we have met with ECIDA staff to prepare a joint response to the Comptroller's recommendations and we will meet again next Wednesday to further discuss our response. We have been hesitant to finalize our response until we know the outcome of the Maziarz-Sweeney legislation (NYS Legislature is still in session for another couple of weeks).
- ✓ I arranged a meeting with our Supervisor and Dr. Bob Genco to discuss the Office of Science, Technology Transfer, and Economic Outreach (STOR). Dr. Mohan had on several occasions stated that we (AIDA) have not done enough to encourage technology-based firms to come to Amherst. As most of you know, we have worked very closely with the University since the time of Steve Sample and that we have been involved with a myriad of initiatives designed to encourage science/technology start-ups and to facilitate the linkage between our existing firms and UB. Dr. Genco gave the Supervisor an excellent synopsis of the history of these efforts as well as an update on the success of STOR and the Baird Research Park. The outcome of the meeting was that Dr. Mohan has been asked to work with STOR and the administration of the University to develop a Community forum to discuss the various initiatives re: technology-based development. The tentative date of the forum is October 27 or October 31. I thought that our meeting was very productive and afterward I stayed to discuss economic development, the town's master plan and the need for collaboration, cooperation, and leadership in order to help our region move forward into the 21st century. He indicated that he wanted to meet with me more often to further these ideas.
- ✓ At a meeting with Supervisor Mohan and the Supervisors of the towns that have their own IDAs (and Dennis Gabryczak, who wishes he did!), there was a discussion in re: the comptroller's report and specifically, clawbacks. I and the

other IDAs stated that we thought imposing clawbacks was a bad idea and that none of the Erie County IDAs would support them (and that there is an agreement that we do everything as a group or not at all... i.e. the County-wide eligibility policy). Supervisor Mohan made it very clear to everyone that he doesn't care about the county-wide policy and that the town will insist the AIDA include clawbacks in our documents.

He also discussed the resolution adopted last Monday modifying the previous resolution directing us not to incentivize any new construction until 95% of existing space was occupied. The resolution was modified to 85% which is the national average across all Metro regions. The percentage is reasonable but he also informed everyone that he wants all vacant space full but any new construction is permitted. He showed us maps that included vacant retail space on Sheridan Drive and stated that he wanted that converted into Class A office space.

He also stated to the other supervisors that the town board does not want its own IDA; they want us to merge with ECIDA and that if we do not do so voluntarily, the town WILL pursue legislation to force us to merge.