

CHEMUNG COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
Minutes of Meeting  
July 26, 2016

A meeting of the Chemung County Industrial Development Agency was held on Tuesday, July 26, 2016, at 8:40 a.m. in 5<sup>th</sup> floor conference room of the Hazlett Building, 203 Lake Street, Elmira, New York. The following members were present: Dawn Burlew, Donna Draxler, Michael Hosey, Donald Quick, Thomas Santulli and Alan Winston.

Also present were Michael Krusen, Executive Director to the Agency; Thomas F. O'Mara and Susan Katzoff, Agency Counsel; Patricia Sandore, substitute Recording Secretary, media and local labor representatives.

On Motion No. 2016-67 by Mr. Santulli, seconded by Ms. Draxler, and unanimously carried, Executive Session was convened at 8:42 a.m.

On Motion No. 2016-68, by Mr. Hosey, seconded by Mr. Santulli, and unanimously carried, Executive Session was dismissed at 9:15 a.m.

Chairman Winston called the meeting to order at 9:18 a.m.

There was public comment by Chuck Smith, a local labor union representative asking about the local labor policy. Mr. Winston replied that the IDA Board has not taken up that matter recently, but that the Board is still sensitive to that issue.

On Motion No. 2016-69 by Mr. Santulli, seconded by Mr. Hosey, and unanimously carried, the Minutes of the June 14, 2016 meeting were approved.

Mr. Quick stated that there was no Audit report.

Mr. Quick presented the financial report. For the first six months of the year, the IDA is showing total revenue is \$393,558, mainly made up of fees and rental income. The IDA's total expenses are \$388,581, showing a modest income of \$4,977. The IDA has \$160,000 in project costs which are consistent with prior months and that the Schweitzer building is the bulk of that (\$137,000). As to the Balance Sheet, depending on what the IDA does with the Arena, that balance will decrease. All receivables are current and are being paid on time. On Motion No. 2016-70 made by Ms. Draxler, seconded by Ms. Burlew, and unanimously carried, the financial report was approved.

Mr. Hosey stated that there was no Governance report.

As to the First Arena, Attorney Katzoff reported that, in conjunction with the IDA's efforts to gain control of the Arena, there are three resolutions before the Board today:

1. The authorization to pledge certain collateral in the form of the stream of revenue from gas leases, and the stream of revenue from an assignment of leases and rents on property known as 17-2 located at HOST in the Village of Horseheads, to collateralize certain obligations in order

to entice the hockey team to continue to skate at the Arena, and to collateralize the acquisition of the first mortgage on the Arena. The Board is being asked to approve the pledging of those items as collateral to those two matters. Mr. Quick indicated that those items are already pledged at this point. By Motion No. 2016-71 by Mr. Quick, seconded by Mr. Hosey, and unanimously carried, the continued pledging of the revenue from gas leases, and from assignment of leases and rents on property known as 17-2, as collateral to entice the hockey team to continue to skate at the Arena, and as collateral for the acquisition of the first mortgage on the Arena were approved.

2. The authorization of the Board to grant authority to the Chairman and the Executive Director to execute and deliver the Memorandum of Understanding that has been and continues to be negotiated with all of the parties involved with respect to the acquisition of the Arena. Ms. Katzoff indicated that the MOU will be executed in substantially the form that was provided; however, it is still a working document. The Board is being asked to authorize the ongoing negotiation of final terms by the Executive Director and the Chairman. On Motion No. 2016-72 made by Ms. Draxler, seconded by Mr. Quick, and unanimously carried, the continued negotiation of the final terms, and execution and delivery of the final MOU, was approved.

3. The authorization of the Board to execute and deliver a License Agreement between the IDA and Victory Associates to provide the hockey team with access to the Arena to continue skating there, and that the team operate the facility as an ongoing operation once the IDA takes title to the facility. On Motion No. 2016-73, made by Mr. Quick, seconded by Mr. Hosey, and unanimously carried, the execution and delivery of a License Agreement is approved.

Mr. Santulli added that he is hoping that all documents relative to the Arena are in signed and in place by Friday, July 29, 2016, and that the IDA will be moving ahead immediately with the sale of the Arena to, and operation and management of the hockey team by, a certain party who is knowledgeable as to its operation and oversight.

As to DeMet's Candy Company, Mr. Krusen indicated that he received a letter from Scott Hilley outlining some corporate restructuring and asking the IDA's approval to change the PILOT documents, due to DeMet's Candy Company having been renamed as Star Brands North America, Inc. Mr. O'Mara proposed the resolution authorizing the assignment of the DeMet's Candy Company project (the lease back transaction on the PILOT) to their new entity, DeMet's Candy LLC. On Motion No. 2016-74 made by Mr. Hosey, seconded by Ms. Draxler, and unanimously carried, the authorization of the assignment of the lease back transaction on the PILOT to DeMet's Candy LLC is approved.

As to the commercial lease of 1250 Schweizer Road to Emission Logistics, a company being transferred from Las Vegas, they have moved their equipment under the lease into that property. At some point, Mr. Krusen will be bringing back to the Board a project for the sale of that property. The company is now storing its equipment at 1250 Schweizer Road, so this commercial lease simply accomplishes that. On Motion No. 2016-75 made by Mr. Santulli, seconded by Ms. Draxler and unanimously carried, the lease of 1250 Schweizer Road to Emission Logistics is approved.

As to Three Cities Research, Inc., Mr. Krusen reported that the IDA has closed on the sale of 41 Aviation Drive to 43 Aviation Drive, LLC, a subsidiary of Three Cities Research. The County had transferred the property to the IDA, and the sale to 43 Aviation Drive, LLC was for the sum

of \$750,000. Mr. Krusen is asking the Board for approval of the payment of the brokerage fee of Pyramid Brokerage in the amount of \$37,500. The IDA will also, at some point, be paying a utility-separation charge. The Wings of Eagles Museum and the restoration hangar at 41 Aviation Drive were all on one system, so there needed to be a separation of the utilities. The new owner of 41 Aviation Drive has provided a \$10,000 utility retainer for the IDA, in the interim, until the separation is completed. When all of that has been completed, there will remain the approximate sum of \$650,000. As to those proceeds, the IDA has made commitments against some of those funds: \$100,000 to the potential E-commerce business in Airport Corporate Park, \$75,000 for the Werdenberg's project which will start August 1, and \$50,000 for the West Water Street project to start the architectural drawings for the new facility to be built there. The IDA will thereafter have about \$425,000 to \$450,000 remaining for development, per the condition of the County for the transfer of the property to the IDA. On Motion No. 2016-76, made by Mr. Quick, seconded by Ms. Draxler, and unanimously carried, the payment to Pyramid Brokerage in the amount of \$37,500 is approved.

As to re-adoption of the policies, the Authority Mission Statement and Performance Measures, the Investment Policies and Guidelines, the Compensation Schedule, the Procurement Policy, the Property Acquisition Policy, and Property Disposition Policy, upon Motion No. 2016-77 made by Mr. Quick, seconded by Mr. Santulli, and unanimously carried, the said policies are re-adopted.

As to Finger Lake LLC sales tax extension, Mr. Krusen reports that the IDA had previously extended this for six months. This project is the building behind Friendly's in Horseheads that was to become a hotel. This would be the IDA's third sales tax extension to Finger Lake LLC, and Mr. Krusen indicates that he is not sure what the IDA can do to compel completion. Mr. Krusen is proposing extending the sales tax for one more year and sending a Substantial-Completion Notice to the owner to the effect that the IDA is indicating that the project needs to be completed during the one-year period. Attorney Katzoff indicates that the IDA should also include a copy of the new Recapture Policy, and tell Finger Lake LLC that the extension is contingent upon the funds. Mr. Santulli indicated that project is a very visible sight, so something needs to be done. On Motion No. 2016-78 made by Ms. Draxler, seconded by Mr. Quick, and unanimously carried, the one-year sales tax extension to Finger Lake LLC is approved, with substantial-completion notice and recapture policy to be sent to Finger Lake LLC.

As to Emhart Glass sales tax extension, Mr. Krusen indicated that Emhart is wrapping up their project and believes that a six-month extension would be more than sufficient. On Motion No. 2016-79 made by Mr. Santulli, seconded by Ms. Draxler, and unanimously carried, the six-month sales tax extension to Emhart Glass is approved.

As to approving the resolutions for current projects, Mr. Krusen indicated that there are two issues he wanted to point out:

1. As to Envision Elmira (the Werdenberg's project), upon closing on the Arena transaction, Envision would like an easement to allow for them to have a dumpster behind their property which, in essence, would be on Arena property. There is an easement currently in place, which is the same as this easement request, for the facility owned by Brian Adams. In anticipation of ownership, the IDA would need Board approval to allow Mr. Krusen to execute an easement to Envision Elmira. On Motion No. 2016-80 made by Mr. Santulli, seconded by Ms. Draxler, and

unanimously carried, the execution of an easement in favor of Envision Elmira for the purpose of placement of a dumpster is approved.

2. As to New York Beauty and Barber Academy, Mr. Krusen reported that he has met with the owners, and it was a fairly confused process that occurred during the transition at STEG and for the Executive Director's position. This project would have been entitled to other considerations that did not occur because of the transition. The IDA was able to provide for a fairly substantial PILOT that was consistent with other PILOTs in the Refresh Elmira area, which is 100 percent abatement for a five-year period on any improvements to the property and a sliding scale after the 5 year period. Mr. Krusen is asking the Board to consider, in light of some of the other lost opportunities for this project, waiving the IDA fee which is approximately \$4,000 (1 percent of the total project). Mr. Santulli added that the owners have added a lot of personal money into the building, which was in severe disrepair, and they have done a terrific job. Mr. Krusen also added that, when the Academy got its license from New York State for the barber and cosmetology school, there is a provision in New York State that they cannot allow students to have student loans for a two-year period. Mr. Santulli added that the owners are two people that are very much invested in this project. Mr. Krusen indicated that waiving of the IDA fees should be a rarity, but this is one project that justifies the waiver in light of their having lost the sales tax exemption and grant opportunities that would have been available to them if the IDA had packaged it differently. On Motion No. 2016-81 made by Mr. Quick, seconded by Mr. Hosey, and unanimously carried, the waiver of IDA fees to New York Beauty and Barber Academy is approved.

As to the resolution of Capriotti Properties and the row houses at 389-391, 393-395 and 397-399 West Water Street, that matter is tabled.

As to other business, the IDA has the opportunity to move forward with the purchase of 110-112 Baldwin Street. Counsel has recommended that the IDA go through an appraisal process and, subject to such appraisal, the IDA would purchase the building for \$80,000. On Motion No. 2016-82 made by Mr. Santulli, seconded by Ms. Draxler, and unanimously carried, the IDA shall proceed with the appraisal of 110-112 Baldwin Street, and, subject to such appraisal, purchase the property for the sum of \$80,000.

There being no further business, on Motion No. 2016-83 by Ms. Draxler, seconded by Mr. Santulli and unanimously carried, the meeting was adjourned at 9:45 a.m.

Respectfully submitted,

Patricia A. Sandore  
Substitute Recording Secretary