

TOWN OF BROOKHAVEN
INDUSTRIAL DEVELOPMENT AGENCY

MEETING MINUTES

MARCH 21, 2012

MEMBERS PRESENT: Frederick C. Braun, III, Chairman
Gasper C. Celauro
Joseph R. Kessel, Jr.
Ronald J. LaVita
John Rose
Ann-Marie Scheidt

EXCUSED MEMBER: Peter G. Moloney

ALSO PRESENT: Lisa M. G. Mulligan, Chief Executive Officer
James Ryan, Chief Financial Officer
Yves R. Michel, Deputy Director
James M. Tullo, Deputy Director
Annette Eaderesto, IDA Counsel
Howard Gross, Weinberg, Gross & Pergament
William Weir, Nixon Peabody (via conference call)
Jocelyn Brinka, Assistant

Chairman Braun called the meeting to order at 7:55 A.M. on Wednesday, March 21, 2012, in the Work Session Room on the Third Floor at Brookhaven Town Hall, One Independence Hill, Farmingville, New York.

MEETING MINUTES OF FEBRUARY 15, 2012

The Minutes of February 15, 2012 had previously been sent to the Members for review. The motion to approve these Minutes as presented was made by Ms. Scheidt, seconded by Mr. Rose and unanimously approved.

MINUTES OF FEBRUARY 29, 2012

The Minutes of February 29, 2012 were also previously sent to the Members for review. The motion to approve these Minutes as presented was made by Ms. Scheidt and seconded by Mr. Rose. All were in favor.

Mr. Braun noted that perhaps Danford's is not the best place for a luncheon meeting as there was too much activity and it was difficult to hear. The resolution that was passed at that meeting was to transfer the title for Cross Sound Cable to the Industrial Development Agency so that a PILOT Agreement can be negotiated and put in place prior to May 31, 2012. This PILOT will not take

place until next year. Subsequent to the meeting Mr. Braun and Mr. Ryan visited the Cross Sound Cable property in Shoreham next to the old power plant and found it to be a highly sophisticated and secure facility. Mr. Braun added that Cross Sound indicated that there are \$140 million in capital investments.

CFO'S REPORT

Mr. Ryan presented the Operating Statement for February. He detailed the deposits and expenditures for the month and informed the Board that the interest rate for the money market account is higher than what we have gotten on Treasury Notes and Certificates of Deposit, so funds have remained in that account. PILOT disbursements are ongoing. Mr. Ryan noted that Drive Train had paid the balance of their arrears for 2010-2011, but the check was returned. They have since delivered a bank check and their arrears are now paid in full. Ms. Mulligan informed the Board that Drive Train has not paid anything towards their 2011-2012 taxes, and we are still waiting for interest that is due from Precision Estates (Anorad). Mr. Braun added that non-interest bearing deposits are still fully guaranteed, but \$250,000 may be the maximum on FDIC insurance on interest bearing accounts so the amount of money in the money market account should be closely monitored. Mr. Celauro inquired if the Agency keeps the interest in the PILOT account. Ms. Mulligan and Mr. Weir both responded that bank interest is kept by the Agency and that the IDA initially funded this account. Ms. Mulligan added that this provided a cushion when the Drive Train check bounced as it took a few weeks for the bank to alert us that their check had not cleared and the funds had already been disbursed to the taxing jurisdictions.

The motion to accept the Operating Statement was made by Mr. Celauro and seconded by Ms. Scheidt. All were in favor.

INTERCOUNTY APPLIANCE – APPLICATION

Mr. Gross reminded the Board that the Agency assisted Intercounty Appliance in constructing a 250,000 square foot facility in Medford in 2005. Intercounty is a cooperative of independent retail appliance dealers in the Northeast. They are looking to expand their building by about 75,000 square feet. Intercounty may request that the IDA issue a taxable bond supplemental to the bonds already issued or a straight lease. This is a roughly \$4.6 million project with Capital One Bank funding \$4 million and Intercounty funding the balance. Mr. Braun inquired what the advantage is for a taxable bond versus a straight lease. Mr. Gross responded that if it's large enough, the interest rate on the taxable bonds will be a lower floater, which is currently being

marketed at roughly half of one percent. Mr. Gross said that Intercounty's cost is roughly 1.75 percent per annum (including various letter of credit and trustee remarketing fees). Mr. Weir explained more about what lower floaters are and how interest rates are adjusted. Mr. Gross added that investors in this area are usually institutions looking for short-term secure investments. As the letter of credit issuer, Capital One is obligated to pay investors; Intercounty must then immediately reimburse Capital One. If there aren't any funds in the account then a lien is put on the property. Mr. Weir pointed out that the bonds for the Methodist Retirement project are structured the same way. The projected number of jobs in their application does not include "captive truckers". Mr. Gross explained that since Intercounty is part of a cooperative of appliance dealers, the better they do the more jobs the local businesses in their cooperative are able to create.

The Board agreed to accept the application for Intercounty Appliance.

AMNEAL PHARMACEUTICALS – PRELIMINARY INDUCEMENT RESOLUTION

The Board reviewed and accepted the application for Amneal Pharmaceuticals in November of last year. Amneal has since made a few slight changes to their plan; they are still building a 265,000 square foot addition to their manufacturing facility and adding a 35,000 sq. ft. building to perform research and development of hormonal drugs. The facility will cost roughly \$30 million and they will have about \$20 million of new equipment and \$1.5 million in soft costs. The original estimate was for \$60 million in total, but they have been able to find about \$10 million in savings. Amneal currently has 700 employees and as a result of this project they will add 400 new jobs. A preliminary inducement resolution is being considered today as their SEQRA Review is not yet completed. Ms. Mulligan will find out who the Lead Agency will be on this project (either the Town Board or the Planning Board) and the IDA will participate in a coordinated review. It is not clear if Amneal still intends to construct a sewage treatment plant at the site. If they do, Suffolk County will also be involved. It is also unknown who will perform the financing for this project, perhaps GE Capital.

The motion to approve the Preliminary Inducement Resolution was made by Ms. Scheidt, seconded by Mr. Rose and unanimously approved.

OMEGA MOULDING – RE-FINANCING RESOLUTION

Mr. Braun informed the Board that Omega Moulding is looking to re-finance their first mortgage for an amount slightly greater than what is still outstanding. Mr. Braun's only concern is that there is a JDA second mortgage behind this and he doesn't believe the JDA will allow them to put a larger amount than currently exists. It was decided to pass this resolution for an amount estimated up to \$3,950,000 in case the amount is lower.

The motion to approve this resolution was made by Mr. LaVita and seconded by Mr. Celauro. All were in favor.

IDA WORKDAY HOURS REQUIREMENT – RESOLUTION

Ms. Mulligan explained that originally an IDA workday was considered to be six hours. Since IDA staff consisted only of Town employees working part-time for the IDA these hours were fine. With the addition of our two new Deputy Directors a reporting issue has arisen with the Retirement System. The appointment resolutions require that the Deputy Directors work 35 hours per week, the resolution on the table today changes an IDA workday to seven hours a day. Mr. Ryan explained that you can't receive more than one year's credit for one year's time. If they are required to work 7 hours a day and a workday is 6 hours a day, they would be working more than a year in one year.

The motion to change the number of hours required in an IDA workday to seven hours was made by Ms. Scheidt, seconded by Mr. LaVita and unanimously approved.

ADDITIONAL/CONDITIONAL COMPENSATION POLICY

Mr. Braun explained that this policy refers to incentive compensation or bonuses. Mr. Braun recommends that the Agency adopt a policy that until further notice there will be no bonuses or incentive compensation. This type of compensation would need to be tied to specific goals, not project fees. Ms. Eaderesto will prepare a resolution which will be posted on our website and submitted to the PARIS reporting system.

The motion to approve this resolution was made by Mr. Braun and seconded by Mr. Rose. All were in favor.

CEO'S REPORT

MCRS Brookhaven LLC

Ms. Mulligan informed the Board that MCRS Brookhaven LLC (formerly Briad) who owns the Marriott Springhill Suites Hotel on Sawgrass Drive in Bellport would like to take a mortgage out on the property. Mr. Gross added that there is currently no mortgage on the property, and they are considering borrowing up to \$10,350,000 on a five year loan. They are seeking an exemption for the mortgage recording tax. The public hearing for this request is scheduled for April 3, 2012 and after that a special meeting may be needed to vote on a resolution. Mr. Braun noted that the financing is being done by a bank in Rhode Island. Mr. Gross has been in contact with the Counsel for MCRS and feels they have a good understanding of how the IDA works. Discussion followed on what the appraised value is for MCRS. Mr. Braun inquired if it would be helpful to obtain appraisals on all of our projects when their PILOT expires. The Agency currently receives the environmental report, it was decided that the appraisal will also be requested. From now on, this will be required before an authorizing resolution is passed.

Motorola

Mr. Ryan updated the Board on the status of Motorola's property. Motorola lost their property to Suffolk County due to non-payment of sewer charges. Every effort was made to avoid this situation including a 3-year grace period granted from the County. The grace period is generally one year for commercial property. As soon as this was discovered, the IDA began the application process to redeem it before it went to auction. The problem was that it had to be redeemed prior to March 1st or Motorola would be liable for school district taxes of roughly \$1,000,000. The application was submitted in time but the County failed to pass a resolution authorizing re-conveyance or to issue a Certificate of Necessity from the County Executive. This matter has since been corrected and the title is back in the IDA's name. While researching this matter Mr. Ryan found there were two sewer districts near Motorola that merged together. When they were merged a list was issued by Suffolk County of the properties in the sewer district; Motorola was omitted for some reason. Mr. Ryan believes a contract exists for Motorola to pay their sewer charge but has not been able to get the contract from the County to determine their future liabilities. Mr. Gross inquired if a title search was completed because Sewer Agency Agreements are recorded against the property. Mr. Ryan replied that a chain of title search was run. Mr. Gross advised that a title search be completed since the record should be in the County Clerk's Office. Mr. Ryan will contact Motorola's attorney to perform the title search. There are outstanding fees owed by Motorola to the IDA for application fees for the title redemption.

Framerica

Framerica has accepted the IDA's offer and apparently will keep their operations in Brookhaven. They have agreed to the clawback provisions, which include their commitment to remain in Brookhaven for five years after the PILOT is signed. PILOT benefits will be extended for the next ten years with the first five being held at 100% property tax abatement, and then ramped up 20% per year for the last years. Framerica has new contracts coming in and will either add on to their Todd Court facility or add a third shift. Mr. Tullo recently spoke with Gordon Van Vechten of Framerica and was told that they have taken the Waverly Avenue building off the market. Ms. Mulligan informed the Board she has already heard from other companies looking for similar assistance.

Baseball Heaven

Baseball Heaven is an Empire Zone certified company that is planning on expanding their operations on Sills Road in Yaphank. Baseball Heaven is a regional facility for baseball tournaments and training camps. It was noted that they help a lot of the local businesses like the Marriott Springhill Suites Hotel as they host roughly 1,600 teams a year. There is a 25-acre parcel adjacent to their current location that they will be purchasing. This piece of property has site plan approval to build a 90,000 square foot intermodal transportation facility (formerly Riegel Warehouse) but instead they would like to construct a 15,000 square foot training center with 5,000 square feet for offices and concession stands. This project will cost about \$14 million and will create 5 new full-time jobs and 25 part-time seasonal jobs. They estimate 400,000 visitors annually.

Ms. Mulligan inquired if the Board feels this project is a good fit for the IDA as it is not your typical manufacturing project, it is more of a destination project. Mr. LaVita questioned if the benefits are warranted due to the low number of employees. More information is needed to perform a cost benefit analysis. Mr. Tullo added that they are also exploring adding soccer and lacrosse to see if they can make it into a year round facility, which will also help employment. Ms. Mulligan pointed out that this is a \$14 million investment in the community. Mr. Celauro informed the Board that Baseball Heaven purchased 10 acres to the south of their property four years ago. Ms. Eaderesto said that Baseball Heaven is now under new ownership. Discussion followed on whether this type of project is within the scope of the IDA. Ms. Mulligan will encourage the company to submit an application.

Deferred Compensation

Mr. Ryan recently attended a Deferred Compensation meeting and it was questioned if the IDA could offer its employees this benefit. A resolution from the Board authorizing the administration of the Deferred Compensation Program is all that's required. There is no cost to the IDA and the program would be run by the same group that administers the program for the Town of Brookhaven. This is pre-tax money that employees can put into a number of different investments. Ms. Eaderesto will prepare a resolution for this matter and specify that there will be no cost to the Agency.

The motion to approve this resolution was made by Mr. LaVita, seconded by Mr. Celauro and unanimously approved.

BST Risk Assessment

Mr. Braun and Mr. Ryan attended a presentation by this group that performs risk assessments. They are auditors that have worked with the Economic Development Council to set up a program that examines policies and procedures to help identify potential issues at a cost of \$2,400. Mr. Braun stated that this would be money well spent and from an internal control standpoint; it could point out some weaknesses that need to be addressed. These findings would be shared with our accounting firm. This risk assessment could be performed one time or periodically. The Board agreed to allow Ms. Eaderesto to enter into a contract for this service.

Board Assessment Results

The results from the 2011 Board Assessment were included in the meeting packets. Mr. Braun noted that the lowest rating involved the convenience of meeting times which has been addressed. Community outreach was also rated rather low; Mr. Braun asked the Board for suggestions of what they would like to do that is not already being done. More education for Board Members was mentioned such as the annual seminars that are held upstate. Agency staff attends these seminars every year, board members will begin to attend on a rotating basis. Ms. Mulligan will also send the PowerPoint presentation that is shown to prospective clients to the Board.

Smart Growth Public Infrastructure Policy Act of 2010 (PIPA)

Mr. Braun shared a letter he recently received from a Smart Growth organization that states the IDA needs to form a Stakeholder Advisory Committee, evaluate infrastructure projects

considered since October 1, 2010, and then issue a Smart Growth Impact Statement. Mr. Braun has conferred with other local IDAs and they have no knowledge of this new legislation either.

Committee Meetings

Meetings of the Governance, Audit and Finance Committees will be occurring on a semi-annual basis. The Governance Committee will be meeting today immediately following the Local Development Corporation meeting.

New York Youth Works Program

Information about a new Department of Labor program called New York State Youth Works was included in the meeting packets. This program's goal is to certify businesses to hire youth and there are a series of benefits for participating. Ms. Mulligan asked the members to help spread the word.

At 9:10 A.M. Mr. LaVita made a motion to go into Executive Session to discuss personnel related matters. This motion was seconded by Mr. Rose and unanimously approved.

At 9:15 A.M. Ms. Scheidt made a motion to return to the regular agenda. This motion was seconded by Mr. Rose. All were in favor.

Appointment of Clerical Assistant

Mr. LaVita made a motion to hire Annmarie Hallock as a Clerical Assistant. This motion was seconded by Mr. Celauro and unanimously approved.

Luitpold Pharmaceuticals

Ms. Mulligan recently met with Luitpold Pharmaceuticals who are considering an 88,000 square foot expansion to their facility in Shirley. There has been an almost complete staff turnover at this project so the Agency is assisting the new management with applying for IDA assistance, as well as how their current deal is structured. This is potentially a \$100 million project depending on equipment costs. Mr. Braun requested that Ms. Mulligan reach out to the original attorney for Luitpold to help answer any questions.

The motion to adjourn the meeting at 9:17 A.M. was made by Mr. LaVita and seconded by Mr. Rose. All were in favor.

*The next meeting of the IDA is scheduled for **April 18, 2012 at CEWIT at Stony Brook**. A tour of the facility will occur after the meeting.*