

TOWN OF BROOKHAVEN
INDUSTRIAL DEVELOPMENT AGENCY

MEETING MINUTES

MAY 16, 2011

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

EXCUSED MEMBERS: Peter G. Moloney

ALSO PRESENT: Lisa M. G. Mulligan, CEO
James Ryan, CFO
Annette Eaderesto, IDA Counsel
Jim Morgo, Economic Development
Bill Weir, Nixon Peabody, LLP
Howard Gross, Weinberg, Gross & Pergament
Jocelyn Brinka, IDA Assistant

INVITED GUESTS: Michael Reeves, Sini & Reeves, LLP
Lori LaPonte, Sini & Reeves, LLP

Chairman Braun opened the meeting at 7:53 A.M. on Monday, May 16, 2011, at Stafford Associates, 21 Bennetts Road, Setauket, New York. This meeting was graciously hosted by Dolores and Ken Stafford.

MEETING MINUTES OF APRIL 18, 2011

The Minutes of April 18, 2011 had previously been sent to the members for review. The motion to approve these Minutes as presented was made by Mr. Rose, seconded by Mr. Celauro and unanimously approved.

SINI & REEVES, LLP PRESENTATION

Mr. Ryan introduced Michael Reeves and Lori LaPonte, our independent auditors from Sini & Reeves, LLP. Mr. Reeves informed the Board that the 2010 Annual Financial Reports for both the IDA and the Local Development Corporation have been successfully completed and submitted to the NYS Comptroller's online reporting system (PARIS). The audit, that did not show any material findings, was completed on March 23rd, well before the final deadline. Ms.

LaPonte noted that prior audits were completed closer to the deadline, usually as a result of issues with the internal software (the Public Reporting System). She pointed out a few highlights of the financial statements to the members, noting the loan to the LDC and the purchase of the IDA vehicle. The income statement shows a loss and a decrease of net assets of \$247,000.00, attributable to a decrease in administrative fees and an increase in expenditures such as the Blight to Light and Collaborative Economics/Accelerate LI initiatives. The report includes detailed PARIS schedules for each Agency project. The auditors determined there are no significant or material weaknesses or reportable conditions in internal controls, and the IDA has been given a “clean opinion”. Mr. Braun noted that Sini & Reeves have been our auditors for the past 10 years, and he is confident that revenue will go up in 2011, and we will see a reduction in expenses.

For efficiency purposes, the auditors presented the LDC Annual Report immediately following the IDA Annual Report.

Ms. LaPonte presented the 2010 Annual Report for the LDC to the Board. She explained that all public authorities must have an audit regardless of the level of activity. There is no activity to report since this is a start-up entity with no projects as of yet. The only money received has been a loan from the IDA, and the expenses have just been bank charges. The report has been submitted to the State’s PARIS System, prior to the deadline.

At 8:05 AM, Mr. Reeves and Ms. LaPonte were thanked for their presentation and excused.

Mr. Braun stated that we can put out a Request for Proposals for accounting services if the Board wishes to, but he believes we are getting a good price. Mr. Weir advised that there is no requirement to put this out for an RFP, but the “Partner-in-Charge” has to change every 5 years. Mr. Reeves led the audit for the first 5 years, and Ms. LaPonte has been handling it for the last 4 years. This rule went into effect in 2006.

RESOLUTIONS AUTHORIZING PAYMENT & RETAINING OF SINI & REEVES

Due to an internal error, the amount indicated in the original resolution authorizing the services of Sini & Reeves was incorrect. A motion to amend the resolution approving the fee for Sini & Reeves for the completion of the IDA’s 2010 Annual Report to \$14,500, rather than the \$12,000 previously approved, was made by Mr. Celauro and seconded by Mr. Kessel. All were in favor.

A motion to retain Sini & Reeve’s services for the 2011 audit at a cost of up to \$15,000 was made by Mr. Rose, seconded by Mr. Celauro and unanimously approved.

Mr. Weir noted that while a Request for Proposals is not required, most IDAs perform one roughly every 5 years. The Suffolk IDA seeks proposals every 3 years.

CFO’S REPORT

Mr. Ryan presented the Operating Statement for April 30, 2011. The Certificate of Deposit from Roslyn Savings Bank came due; these funds were used to purchase T-notes. The usual expenses

were noted, including a payment to Sini & Reeves and insurance premiums. A new account is being listed in the operating statement, the LPL cash account, where a transfer of \$302,426.51 was made. LPL is a separate corporation that makes investment purchases on behalf of Suffolk County National Bank (SCNB). This account is used to hold money while it is redeemed in T-notes, and then purchased out again. Mr. Ryan is trying to determine what the interest rate is for the LPL account compared to the Money Market account to see where the best place to hold these funds is. All first-half PILOT payments have been received and disbursed, with the exception of J. Young Mechanical who has not paid. Discussion followed regarding the recent difficulties that SCNB has been experiencing lately. It was noted that our accounts are collateralized for up to 105% of market value.

The motion to approve the April report was made by Mr. LaVita and seconded by Mr. Rose. All were in favor.

RATIFICATION OF RESOLUTION AUTHORIZING TRANSFER OF FUNDS TO LDC

Ms. Mulligan presented a resolution ratifying the transfer of \$5,000 to the LDC to cover expenses including website development, and auditing services, which was made in April. This brings the total amount loaned to the LDC to \$7,500. When the LDC closes on a project, this money will be repaid.

The motion to ratify this resolution was made by Ms. Scheidt, seconded by Mr. Kessel, and unanimously approved.

RESOLUTION - WOODCREST

Mr. Weir provided a brief summary on this proposed resolution to re-finance the bonds for Woodcrest Estates, a senior housing facility in Port Jefferson Station. There was no PILOT Agreement for this project, and this was one of the first affordable housing projects on Long Island. Tax-exempt bonds were issued, and the building was only in the IDA's name during the construction period. It has been on the tax rolls since 1999. The bonds they are looking to re-finance presently have about \$13.24 million outstanding, and Citibank has agreed to buy the bonds under their Community Reinvestment Act requirements. Mr. Weir explained the structure of this proposed re-financing, where the old bonds will be redeemed, new bonds issued, and the property will be leased to the IDA and subleased to Woodcrest. Under the IDA Act, the IDA must have an interest in the real estate. Mr. Braun asked if the property on which they may expand to Phase 2 at some point, was encumbered in the bonds. Mr. Weir responded that this is all one tax lot, and if they build an addition to the facility, it will not be subject to the lien of the current mortgage, that will be released. There would be one lot that's leased to the IDA and subleased back to Woodcrest.

The motion to approve this resolution was made by Mr. Celauro and seconded by Mr. Rose. The resolution was approved with Ms. Scheidt abstaining as she is on the Board of the CDC, who has a minor interest in this project. Mr. Braun would like it noted that he is a member of the Advisory Board for the Community Development Corporation. His position on that committee is strictly of an advisory nature, and has no relation to the application of Woodcrest Associates.

RESOLUTION – FRANK LOWE RUBBER & GASKET

Ms. Mulligan invited Mr. Weir to discuss this resolution. This is a manufacturing company that the IDA assisted in 2006. At the time of financing, there had been additional office space allocated for Frank Lowe to lease out. No bond proceeds were allocated for this space. Brookhaven Science Associates, LLC (BSA), the entity that operates Brookhaven Lab, under contract with the Department of Energy, will have a three-year lease with Frank Lowe. They will have 40 employees at this location and it will be used as general office space. It was noted that these additional employees should be reported to the State in the Annual Report. Ms. Scheidt inquired about this matter and learned that there is construction occurring at the Lab and operations are being shifted temporarily during the construction period. The BSA representatives are overseers for the operations of the Lab, but not day-to-day administration. The total size of the Frank Lowe building is 61,118 square feet; the portion being rented to BSA involves roughly 15% of the facility. The PILOT will not be amended as renting this portion of the building was accounted for in the original application, and was also in the public hearing notice.

The motion to approve this resolution was made by Ms. Scheidt, seconded by Mr. Rose, and all were in favor.

RESOLUTION - CMD WOODWORKING

Mr. Weir reminded the members of this Industrial Condominium Project, CMD Woodworking is the first tenant. The building CMD will occupy is approximately 5,000 square feet, and this is a roughly \$750,000 project. Mr. Ryan crafted the PILOT Agreement, which hopefully can be used as a model for future tenants, though not all tenants will necessarily be assisted by the IDA.

The motion to approve the resolution for CMD Woodworking was made by Mr. LaVita, seconded by Mr. Rose, and unanimously approved

RESOLUTION – MCKEON ROLLING STEEL DOOR

Mr. Weir explained that this resolution is for their new location, down the street from their current facility on Sawgrass Drive. This will be the same as the first transaction. An issue recently arose involving their existing facility, where they built a storage shed that was not part of the original facility. Under the PILOT Agreement, additional improvements are considered 100% taxable, unless the Board consents to it. The storage shed is a 3,000 sq. ft. building with approximately 5 employees working in it. McKeon claims that they thought it was covered under the original deal and would be included in the PILOT Agreement. The Board approved the inclusion of their mezzanine space at a past meeting; the company came to the IDA for approval before the mezzanine was constructed. Ms. Mulligan informed the Board that Mr. Lambridis of McKeon was very upset that they will be charged an additional \$6,000 per year in their taxes for the storage space, and that he thought that his attorney had informed the IDA. McKeon did receive a building permit for the new storage building. Mr. Celauro questioned if this should have triggered something within the Town. Ms. Mulligan answered that it wouldn't

mean that the Building Department would inform us. The IDA's name should come up as the owner of the property, and it was asked by Mr. Kessel if there could be a procedure put in place to alert the IDA in these cases. Mr. Morgo will look into this. Mr. Gross noted that there have been a number of people coming in to get approvals for these types of issues, due to the fact that the IDA has terminated projects for this and similar reasons. Mr. Braun mentioned that the company was concerned since they have multiple corporations set up for tax reasons and employees allocated to the various corporations. The McKeon representatives wanted to be sure that the IDA would consider their entire workforce, rather than just those employed by a specific company, as this relates to clawback provisions. They were assured that we would consider all the corporations as a whole, rather than just a specific company. Mr. Weir said that for the purposes of the IDA Act, the State doesn't require that these employees are from a specific company, only the number of employees at the location. In the case of Frank Lowe, they will be able to report 40 additional employees once BSA moves in. The Empire Zone was different, where it was required that the employees had to be employed by the certified company.

The motion to approve the resolution for the new facility was made by Mr. Rose and seconded by Ms. Scheidt. All were in favor.

NIXON PEABODY

Ms. Mulligan directed the members to a letter from Nixon Peabody, regarding work it has done for Wilder Balter (parent company for Woodcrest) on other matters. Mr. Weir explained that this was a letter to waive any potential conflict of interest. A signed copy of this letter is attached to these minutes.

LI PRECAST

Ms. Mulligan reminded the Board that this project was recently closed. They came back to the IDA very shortly after closing to discuss amending their original application to build a 6,000 sq. ft. office building addition. Business has been going so well for them that they need to hire more sales people, engineers and draftsmen. Mr. Gross explained that this was on their original site plan that was approved by the Planning Board; they just didn't plan on proceeding with it so soon. Bethpage Federal Credit Union has approved the financing. Mr. Braun asked if this would be a separate closing, Mr. Gross answered that we will amend the original documents to include it, and there will be an additional fee. A public hearing will be scheduled for next month.

ATLANTIC FLUID

Ms. Mulligan updated the Board on the status of the sales tax exemption extension request for this company. In their original application, they had grossly underestimated the purchases they would make to equip the facility. She informed Atlantic Fluid that the Board was willing to extend the exemption, but they would need to pay what was owed on the original application, as well as for the new extension since it included items that weren't originally considered. There is also a balance due to Mr. Gross. They are moving forward with the extension, and we expect payment shortly. Their business was also recently featured in Newsday. Ms Mulligan sent a letter recognizing the article.

STAFFORD ASSOCIATES

Ms. Mulligan informed the Board that Stafford Associates has requested a sales tax exemption extension to complete renovations on the historic building located at their site. It was on their original application, but for various reasons, it has taken longer than expected to finish the rehabilitation. Mr. Braun asked Mr. Gross if the IDA held title to this building, he responded that 'yes, we do'.

The motion to approve the sales tax extension for the historic building until December 21, 2012 was made by Mr. Celauro, seconded by Ms. Scheidt, and unanimously approved.

Ms. Mulligan added that there has been a recent assessment change for Stafford Associates and asked Mr. Ryan to go into more detail. He explained that their tentative assessment had been increased from \$27,615 to \$30,625. It had originally been assessed as a light manufacturing building. When the Assessor's Office realized it was in fact an office building, their taxes went up. Ms. Mulligan said that the original PILOT agreement is for a 50% abatement on the improvements. Mr. Braun questioned if the historic building was exempt and Mr. Ryan answered that it was not, but that if it's a site that's more for observational purposes, rather than functional space, the assessed value would probably not change. However, if it is leased out, as it is intended to be, the assessed value would be raised. Stafford needs to occupy 51% of the aggregate space, as per the PILOT Agreement.

QUALITY KING DISTRIBUTORS

Ms. Mulligan informed the Board that Quality King is installing solar panels on their building. She has spoken with Marc Garrett and work on this project has already begun. The plans involve adding 2 megawatts of solar panels to the facility. The work will be performed by Island Solar, and is expected to be completed by the fall of this year. Island Solar will need to provide the IDA with an insurance certificate, as is noted in the Lease Agreement. Quality King has not yet sought a sales tax exemption for this project. It was discussed if a new application would be required. Mr. Ryan noted that this will add significantly to their assessment, however, they can apply for a solar panel exemption for 15 years through the Town Assessor's Office. Mr. Weir pointed out that if the IDA approves it, this improvement can be included in the PILOT. It was decided that more information on the structure of this deal is needed. Mr. Weir will reach out to their attorneys, and Ms. Mulligan will reach out to Mr. Garrett.

SILLS ROAD REALTY

A brief discussion was held regarding the progress of this railroad project. Mr. Braun informed the members of a Brookhaven Industrial Group meeting at the site on County Road 101 in Yaphank on May 19, 2011.

ANORAD

Ms. Mulligan received a call from Andrea Lohneiss from ESDC regarding this project. Anorad is owned by Rockwell International, who has offices worldwide. Precision Estates owns the building, and Anorad and Rockwell lease 100% of it from them. She spoke with Andy Cohen from Anorad, and he informed her that they have subleased 25,000 to 30,000 square feet of that space to Riverhead Building and Uncle Wally's. The IDA was not informed of this. Anorad is only using roughly 100,000 square feet of the building. Mr. Cone said they don't need this much space as they have been "shrinking" for the past few years. He added that their rent is rather high, and Precision Estates will not reduce it to market value. They would like to stay in Brookhaven, their IDA benefits run out in 2013, and they have 90 full-time employees (which is less than projected on their application). Since Rockwell has so many facilities worldwide and with their rent so high, and their benefits ending soon, there is concern that they could pull operations off of Long Island and we could lose the 90 jobs. Mr. Cone asked if the IDA would extend their PILOT. Ms. Mulligan said that since they only have about one-third of the jobs they promised, and are subleasing without permission, she wasn't optimistic about the prospect of extending benefits. Mr. Weir explained that under Section 9.3 of the Lease Agreement with Precision Estates, they are responsible for seeking permission to sublease. There isn't anything in the Lease Agreement that states Anorad can't sublease, so technically, Precision Estates is in default. Ms. Scheidt offered to investigate this further as the former President of Anorad is now working for Stony Brook University. It was decided to defer this matter for one month, and let Ms. Scheidt look into this.

RENAISSANCE TECHNOLOGIES – LETTER FROM MR. NOLAN

Ms. Mulligan informed the members of a letter the Agency recently received from Richard Nolan objecting to the benefits extended to Renaissance Technologies. Mr. Braun noted that there is still a bill pending in Albany to exempt fire districts from the PILOT program. Ms. Eaderesto sent a response letter to Mr. Nolan regarding previous correspondence he sent in which she mentioned the bill pending in Albany.

ADVERTISING - BUILDING LI PROPOSAL

Ms. Mulligan and Ms. Scheidt were both approached by Deborah Herman, publisher of Building LI magazine. For a number of years, the Town of Islip has run an insert of a quarterly newsletter in their magazine. Building LI has sent a proposal to Ms. Mulligan for \$6,715.00 for 4,000 reprints, four times a year. Building LI will design the template of the newsletter; the IDA would supply the content. Ms. Scheidt noted that she has spoken with Bill Mannix and this made advertising easier for the Islip IDA. The magazine's distribution is 5,000. Mr. Morgo noted that this is a pro-development publication; they are strongly supported by the Association for a Better LI, and the LI Builders Institute. They also did a feature story on the Blight to Light initiative. It was discussed whether it would be more beneficial to periodically run ads in Long Island Business News since they have a larger circulation. Mr. Celauro suggested forming a marketing committee to develop a strategy first before we commit to any expenditure. This committee will be led by Mr. Celauro, and will consist of Mr. LaVita, Mr. Rose, and Mr. Moloney. Ms. Scheidt suggested that the committee look into "tombstone" ads to commemorate

closings. Mr. Morgo inquired if we have signage at the construction sites of our projects that show this is an IDA assisted facility. Currently, we do not. Mr. Morgo stated that the Suffolk County IDA (SCIDA) puts a clause in their contracts that the developer must install a sign at the worksite noting that it is a SCIDA project. Mr. Weir informed the members that the Town of Hempstead has their Building Department make up the signs, install them, and then charge the IDA. Mr. Morgo said these signs have helped the visibility of the SCIDA. As far as advertising out-of-state goes, Mr. Braun mentioned that after having a conversation with Kevin Law of the LI Association, he learned that Kentucky brought all of their IDAs under a united banner to New York City to solicit companies to move to Kentucky, and the Governor of Virginia was also in New York marketing their state. Mr. Celauro suggested that an occasional advertisement in the International Wall Street Journal may help as well.

UPDATES

TOP MYTHS VS. TRUTHS

Mr. Braun presented a document, Top Myths vs. Truths of IDAs, which he created to help people understand what IDAs really do. This has been presented to the LI IDA Coalition for comment. He would like the Board to review this as well, and once it has been finalized, have it posted on our website. He added that there are still a few changes to be made. Mr. Braun stated that the Governor has discussed setting up ten economic development councils throughout the state, and they should be named sometime in mid-June with one located on Long Island. Some of the individuals on the IDA Coalition will most likely be on this council but it will be comprised of people from the education and labor fields, and will have both voting and non-voting members. The function of these councils is to compete for \$200 to \$300 million dollars for projects across the State. Mr. Morgo noted that the Hempstead IDA had been against the LI Coalition originally because they thought it was an attempt to recreate the LI Partnership, whose purpose was to attract companies to LI. The full-time Director was kept busy raising funds to keep the partnership afloat, and the organization was rather ineffective. The IDA Coalition is not an attempt to recreate the LI Partnership. Ms. Mulligan is in contact with Andrea Lohneiss at ESDC to keep up-to-date on all programs and grants available for new projects.

ACCELERATE LI

Mr. Morgo updated the members that the Town passed Accelerate LI over to the LIA. Supervisor Lesko felt this initiative needed to be regional in order for it to be effective. Accelerate LI is still working on their articles of incorporation, and they are funded for the next three years through private capital.

LIBDC

The IDA will be hosting the August LIBDC Dinner; the topic might be the Ronkonkoma Hub project. As soon as the details of this are set, the Board will be informed.

OTHER

Ms. Mulligan provided the Board with four articles regarding topics such as the recent Nassau IDA audit, prevailing wage issues, and an interview with one of our clients, Lee Browning.

At 9:33 AM, the Board went into Executive Session to discuss personnel related matters including potential hirings and salary adjustments. At 9:43 AM, they resumed the open session.

A motion to increase Ms. Brinka's compensation was made by Ms. Scheidt, seconded by Mr. LaVita and unanimously approved.

Discussion then returned to Renaissance Technologies and the significant investment that they make in our community.

A motion to adjourn the meeting was made at 9:50 AM by Ms. Scheidt, seconded by Mr. Rose and unanimously approved.

The next meeting is scheduled for Monday, June 20, 2011.