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TOWN OF BROOKHAVEN  
INDUSTRIAL DEVELOPMENT AGENCY

- - - - -x

BOARD MEETING  
HELD BY CONFERENCE CALL

- - - - -x

June 17, 2020  
12:18 p.m.

TRANSCRIPT OF PROCEEDINGS

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A P P E A R A N C E S :

**MEMBERS :**

FREDERICK C. BRAUN, III  
MARTIN CALLAHAN  
FELIX J. GRUCCI, JR.  
GARY POLLAKUSKY  
ANN-MARIE SCHEIDT  
FRANK C. TROTTA

**ALSO PRESENT :**

LISA M.G. MULLIGAN, CHIEF EXECUTIVE OFFICER  
LORI LaPONTE, CHIEF FINANCIAL OFFICER  
JAMES M. TULLO, DEPUTY DIRECTOR  
JOCELYN LINSE, EXECUTIVE ASSISTANT  
TERRI ALKON, ADMINISTRATIVE ASSISTANT  
AMY ILLARDO, ADMINISTRATIVE ASSISTANT  
ANNETTE EADERESTO, ESQ., AGENCY COUNSEL  
WILLIAM F. WEIR, ESQ., NIXON PEABODY  
HOWARD R. GROSS, ESQ.,  
WEINBERG GROSS & PERGAMENT, LLP  
PETER L. CURRY, ESQ., FARRELL FRITZ  
DANIEL P. DEEGAN, ESQ.,  
FORCHELLI DEEGAN TERRANA  
ERIC J. RUSSO, ESQ.,  
VANBRUNT, JUZWIAK & RUSSO  
GWEN O'SHEA, CDCLI  
PHILLIP BARTKOVICH, CONIFER REALTY, LLC  
JOANNA CUEVAS, CONIFER REALTY, LLC  
ALLEN HANDELMAN, CONIFER REALTY, LLC  
ROGER PANAY, CONIFER REALTY, LLC  
RUSSELL A. MOHR, THE BENJAMIN COMPANIES  
MEREDITH BLACK, ESQ., THE BENJAMIN COMPANIES  
DANIELLE L. RIZZO, ESQ.,  
THE BENJAMIN COMPANIES  
CAROLE TROTERRE, TODD SHAPIRO ASSOCIATES

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MR. BRAUN: This is the Industrial Development Agency meeting for June 17th. It is 12:18.

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Board members present: Mr. Braun, Mr. Callahan, Mr. Grucci, Mr. Pollakusky, Ms. Scheidt and Mr. Trotta.

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Lisa and the staff members are?

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MS. MULLIGAN: On the call is Lisa Mulligan, Lori LaPonte, Jocelyn Linse, Annette Eaderesto, James Tullo, Amy Illardo, Bill Weir, Howard Gross, Terri Alkon and then I think we have members of the public, Phil Bartkovich from Conifer, Gwen O'Shea from CDC Long Island, Peter Curry from Farrell Fritz, Carole Troterre from Todd Shapiro Associates and Dan Deegan.

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Did I miss anybody?

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MR. RUSSO: Yes, Lisa, Eric Russo and also Russ Mohr, Meredith Black and Danielle Rizzo from The Benjamin Companies concerning The Vistas of Port Jeff.

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MR. HANDELMAN: Hi, it's Allen Handelman from Conifer.

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MR. PANAY: And Roger Panay from

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Conifer as well.

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MS. LINSE: I know somebody else spoke,  
what was the name?

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MS. CUEVAS: Joanna Cuevas from Conifer  
Realty.

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MR. RUSSO: There's also Danielle  
Rizzo, another attorney of The Benjamin  
Companies.

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MR. BRAUN: Welcome everyone. Full  
house.

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Moving to the minutes, minutes of our  
meeting of May 13th have been sent to  
everyone.

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May I have a motion to accept those  
minutes?

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MR. CALLAHAN: So moved.

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MR. TROTTA: Second.

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MR. BRAUN: Are there any corrections  
or questions?

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(No response.)

22

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MR. BRAUN: I have one on page five,  
second paragraph. It says the accept of the  
changes in the rates. It should say the  
affect of the changes in the rates. Other

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than that, I have no corrections, unless

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anyone else has.

4

(No response.)

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MR. BRAUN: There's a motion on the

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floor.

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Mr. Braun votes yes.

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Mr. Callahan?

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MR. CALLAHAN: Yes.

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MR. BRAUN: Mr. Grucci?

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MR. GRUCCI: Yes.

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MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

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MR. BRAUN: Ms. Scheidt?

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MS. SCHEIDT: Yes.

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MR. BRAUN: Mr. Trotta?

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MR. TROTTA: Yes.

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MR. BRAUN: Motion carries.

19

I will turn it over to Lori LaPonte for

20

the CFO's report.

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MS. LaPONTE: Good afternoon everyone.

22

Included in the package is the profit

23

and loss statement budget versus actual for

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January through May 2020. I want to point out

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the second column is actually our May activity

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and then next to it, to the right of it, is  
our year-to-date activity.

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During the month to review, we had  
three applications received. One subtenant  
application fee. We actually had some  
recapture fee for sales tax, some of the  
administration costs and one closing included,  
so that brought our total operating revenue  
for the one month 120,000.

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Also included in our expenses below are  
our regular recurring monthly payrolls, our  
regular recurring rental and insurance  
expenses as well as all of our accruals.

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I did want to mention that as of today,  
I believe, we've received all the PILOT's  
including the interest and penalties and have  
been disbursing them. We had a disbursement  
yesterday, so all of our PILOT's have been  
received for the year.

21

22

MS. LINSE: We are waiting for one more  
interest payment from Amneal.

23

24

25

MS. LaPONTE: Correct. Yesterday we  
got one that was open, so we do have one more;  
thank you, Jocelyn.

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2

So we're pretty much up to date on all  
the PILOT's, getting the disbursements out.

3

4

All the PILOT billings have been billed, we're  
just waiting, as Jocelyn mentioned, for the

5

6

one interest for the late payment.

7

Any questions on the financial report?

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(No response.)

9

MR. BRAUN: Hearing none, I'll take a  
motion to accept the report.

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11

MR. POLLAKUSKY: So moved.

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MR. BRAUN: Second?

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MR. GRUCCI: Second.

14

MR. BRAUN: Mr. Braun votes yes.

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Mr. Callahan?

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MR. CALLAHAN: Yes.

17

MR. BRAUN: Mr. Grucci?

18

MR. GRUCCI: Yes.

19

MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

21

MR. BRAUN: Ms. Scheidt?

22

MS. SCHEIDT: Yes.

23

MR. BRAUN: Mr. Trotta?

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MR. TROTTA: Yes.

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MR. BRAUN: Thank you. Motion carries.

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Lori, back to you.

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MS. LaPONTE: Okay.

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Included in the package is a draft of our audit report for the year ended December 31, 2019 from AVZ. Again, we received this report back in March, had given them comment. We didn't get the draft til actually May 30th with our comments all included, so I reviewed it and I'm comfortable with all the changes that were made. They were really -- at this point they were minor changes, but they did add some items and I just want to point out the major items in the report, but feel free to let me know if you have any other questions.

So starting on the IDA financial statement, the opinions on pages one and two, it's a clean opinion and right now it currently has like a draft date of May 2020. If the board approves the report, I will provide them with a rough letter, probably the report will be dated today.

On page six of the MD&A, there's a three-year summary looking at our revenue from



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2

year to year and our expenses from year to

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year, so that outlines where we've been for

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the past couple of years.

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Also, in the footnote, starting back on

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page 12 and through 16, they talk about

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certain accounting principles. I want to

8

mention GASB has delayed all the principles

9

that would be effective for us to implement in

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2020. I reviewed all those principles,

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whether they're required to be implemented in

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2020 or in the future. There will be no

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effect, but it's something the auditors I

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understand have to put in there. They also

15

added at the end of our financial statements

16

about the effect of the unknown for COVID,

17

which again is something that we've all --

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DAICPA has issued information stating that's a

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required disclosure.

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On the last page of the report is the

21

compliance opinion over our controls,

22

compliance with laws and regulations, that's a

23

clean opinion and then the last page is our

24

compliance opinion with investments and that

25

we have everything documented and we're

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2 following our policy. That's also a clean  
3 opinion.

4 The auditors provide a direct  
5 communication with the board in cases where  
6 they don't get to meet with the board and  
7 that's also included in your letter and it's  
8 pretty much spelled out in writing to you that  
9 they didn't have any disagreements with  
10 management, any problems or issues. They  
11 would have liked to present this report, but  
12 we have a packed agenda and we thought we  
13 could just keep the meeting a little bit more  
14 concise this way.

15 Is there any questions?

16 (No response.)

17 MR. BRAUN: I need a motion to accept  
18 the financial report for the year ended  
19 12/31/19.

20 MS. SCHEIDT: So moved.

21 MR. POLLAKUSKY: Second.

22 MR. BRAUN: Any questions?

23 (No response.)

24 MR. BRAUN: Hearing none, Mr. Braun  
25 votes yes.

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2

Mr. Callahan?

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MR. CALLAHAN: Yes.

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MR. BRAUN: Mr. Grucci?

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MR. GRUCCI: Yes.

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MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

8

MR. BRAUN: Ms. Scheidt?

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MS. SCHEIDT: Yes.

10

MR. BRAUN: Mr. Trotta?

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MR. TROTTA: Yes.

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MR. BRAUN: Motion carries.

13

Lori, back to you on PARIS.

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MS. LaPONTE: So now that we have our

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audit received, we're going to finish up our

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PARIS reporting and we should be able to

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present it, have the board approve it in our

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next meeting on July 15th. We needed the

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audit to complete this. The ADL did give

20

everyone an extension because of COVID through

21

the end of June, so we're going to ask for a

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few extra days, which I don't see a problem

23

with and we should have everything done and

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ready to present to you at the next meeting

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and we can get everything filed and up to

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date.

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MR. BRAUN: Just to be specific, have we asked for a 30-day extension to make sure it goes beyond our next scheduled meeting?

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MS. MULLIGAN: We have not yet asked for an extension, but I'm going to ask, but I'm going to wait until we get a little closer to June 30th so that it's 30 days from my request and that pushes us out past our next meeting.

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MR. BRAUN: Thank you.

Any additional questions for Lori?

(No response.)

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MR. BRAUN: Hearing none, Lisa, I will turn it back over to you.

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MS. MULLIGAN: The next item on our agenda is a resolution for South Setauket ILU --

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MR. WEIR: Lisa, did you see the email I sent you a few minutes ago?

22

23

24

MS. MULLIGAN: Hold on.

MR. WEIR: I think you need to address the UTEP before we talk about South Setauket.

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MS. MULLIGAN: Oh, okay. I was

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thinking we only needed it for Port Jeff  
Crossing, but excellent point.

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I'm going to take the UTEP, I  
apologize, we should have put them in the  
opposite order. I'm going to take the UTEP  
out of order.

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Also included in your packets was a  
draft of our UTEP. Bill has worked very hard  
on incorporating the edits and the changes to  
our UTEP. Included in your packets, like I  
said, is a draft of that. I think there are  
still a couple of slight edits, mostly  
scrivener's errors, but for the most part, you  
have seen the most up-to-date version.

16

Does anyone have any questions?

17

(No response.)

18

MR. BRAUN: I will move the resolution.

19

It needs a second.

20

MR. GRUCCI: So moved.

21

MR. BRAUN: Thank you.

22

Questions?

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MR. CALLAHAN: I have a question.

24

Hey, Bill, how do you feel about the

25

new UTEP compared to the old one because

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basically, I know you were working with Lisa

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like she just said, it is 19 pages long, so

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it's hard to go back to the old one to the new

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one we have, so I just figured I'd throw it

6

out to you as our counselor; what do you

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think?

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MR. WEIR: So what we did is we took

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into account comments that we received over

10

the last year when we were addressing this

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with the board, the year and from the various

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different taxing jurisdictions as well as

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applicants.

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The biggest change here from the

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previous UTEP is we specifically broke out

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different types of projects that are eligible

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for different types of PILOT agreements. So,

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for example, we have our IDA standard PILOT

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that you've seen for years with respect to

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commercial, industrial, warehousing projects,

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things like that, then we broke it out to

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really follow what we've been doing plus some

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of the comments we were hearing from the

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taxing jurisdictions. We have separate

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standards for different types of housing

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2 including affordable housing projects. These  
3 are true affordable housing projects eligible  
4 for the taxes and bond financing, low income  
5 housing tax credits or other funding from  
6 people like, you know, organizations like HUD  
7 and so forth and the type of PILOT's that  
8 they're eligible for. We also have projects  
9 for assisted living and senior housing and  
10 then we had -- and this is where the board has  
11 had the most concerns, you know, over the last  
12 several years is market rate housing and you  
13 know, again, the first requirement is that the  
14 board imposed over a year ago or considered  
15 below market rate housing, you know, the Town  
16 requires five percent of affordable units as  
17 defined in the Town, which is 80 percent of  
18 the median area income and ten percent  
19 workforce, which is 120 percent of the median  
20 area income.

21 What the board had said previously was  
22 that that's the minimum, you had to comply  
23 with the Town code in order for market rate  
24 housing to be able to have a PILOT. They  
25 wanted ten percent affordable units and ten

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percent workforce, so that's in there.

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The other major difference here is that -- and again, this is coming from concerns we've had from various taxing jurisdictions including the Town, itself -- for market rate housing, a standard PILOT will be for seven years post completion of construction. However, if the project is located in certain areas that need redevelopment and again, this is what we've talked about a number of times with the board, so it's in a community development block grant area, an opportunity zone, a revitalization area, transit-oriented development, a highly distressed area defined by the IDA Act, an established downtown, a blighted area or a parcel of land, blighted per the Town code or if such market rating house is part of a Town or village plan redevelopment zone, then it would be eligible for an enhanced PILOT, which could go out for up to 15 years. So the idea is seven years for a normal PILOT, 15 years if it's in a highly distressed area.

Any market rate housing that's not in



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one of those areas that need redevelopment

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that is requesting a PILOT longer than seven

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years post completion, they would have to make

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a case to the board that they would be

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eligible for and need a deviation.

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So I mean those are the biggest ones

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and then we also broke out a little more with

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specificity for what I would call electrical

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and power generating or storage facilities and

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transmission facilities. As you know,

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Brookhaven IDA has been at the forefront of

13

Long Island for renewable energy. We've done

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quite a few large solar projects. We closed

15

on a fuel cell project, the first on Long

16

Island. We also have Cross-Sound Cable, we

17

have Caithness. We've received a preliminary

18

application, very preliminary draft form, for

19

an offshore cable coming from some of the

20

proposed offshore wind turbines that the

21

governor wants to see, so we put electrical

22

facilities in a separate category. Before it

23

was all lumped into one giant paragraph, very

24

hard to read. That's the biggest change and

25

then the other thing that we added to this was

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we took our standard recapture provisions that

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we have in our lease and project agreements

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and we added that to this document before we

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had recapture provisions with respect to sales

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tax, recapture provisions with respect to

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mortgage recording tax and also PILOT's, it

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was just kind of, again, hard to read, so it

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was just created a standard recapture that,

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you know, reflects what we have in our

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documents, it was just put all into one

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category.

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Those are the biggest changes and

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again, all things that we've been talking

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about at board meetings since last April or

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May.

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MR. CALLAHAN: Great. Sounds like you

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covered a lot in there.

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Last question I have is how does that

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compare to the other IDA's on the Island?

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MR. WEIR: In some ways, I think it's

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maybe the most comprehensive or one of the

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most comprehensive UTEP's. Nassau County IDA,

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their UTEP was about 30 pages; yours is a

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little bit shorter.

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MR. CALLAHAN: Okay.

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MR. CALLAHAN: Sounds like you did a good job, Bill, thanks.

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MR. WEIR: We had a lot of input from a lot of people. Fred and Lisa and Howard all put a lot of time on this as well, so . . .

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24

MR. GRUCCI: How do we measure the affordability, what's the formula for it?

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MR. WEIR: Well, for market rate

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2 housing, the Town code says it's 80 percent of  
3 area median income for affordable. For true  
4 affordable housing, if you're using taxes and  
5 bond financing or low income housing tax  
6 credits, the Internal Revenue code sets that  
7 limit at 20 percent of the units have to be  
8 set aside for people at 50 percent or less of  
9 the area median income or 40 percent of the  
10 units at 60 percent of the area median income  
11 and then for certain other HUD programs that  
12 may bring you into that affordable housing,  
13 HUD will have its own affordable standards  
14 that we would follow in that category.

15 MR. GRUCCI: So there's definitely a  
16 formula for any type of affordable or market  
17 rate housing that comes in front of us?

18 MR. WEIR: Yes.

19 MR. GRUCCI: It's not left up to the  
20 discretion of the board?

21 MR. WEIR: No. We're following  
22 standards and that information will have to be  
23 supplied with the application and on the two  
24 affordable housing projects, they'll have to  
25 show -- actually that and market rate housing,

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2

they'll have to show compliance with our

3

requirements in our documents for maintaining

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those units.

5

MR. GRUCCI: So the applicant will make

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the decision as to what type of affordable or

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market rate housing comes in front of the

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board and then if we apply the formula and it

9

meets the test, then based upon other

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criteria, they may be entitled to the

11

exemptions that the IDA has to offer; is that

12

right?

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MR. WEIR: That's right.

14

The applicant will bring a project

15

before the IDA and the staff will review it

16

with the applicant and figure out which one of

17

these types of projects it would fall into.

18

MR. GRUCCI: Okay.

19

MR. TROTTA: Bill, first I want to

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thank you and Howard and Annette, who I worked

21

very hard on this, I know you led it and we

22

addressed a lot of variations that we've

23

talked about and then some things that we

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didn't and you did a great job there.

25

I am concerned with regard to the

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market rate housing section and I'm a little

3

confused with regard to that as opposed to

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affordable housing and I go back to some of

5

the conversations we had earlier at other

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board meetings with regard to should we be

7

subsidizing developers or developments with

8

units that are unaffordable, so I kind of, you

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know and how do other IDA's address market

10

rate housing, for example, Islip or

11

neighboring townships, concern being our

12

mission and how it relates to the taxpayers

13

with regard to subsidies.

14

MR. WEIR: Well, as I said, the Town

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code, the market rating housing does require

16

five percent affordable, five percent

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workforce. So the first thing, again, that we

18

talked about is saying if you have to do at

19

least five percent affordable, five percent

20

workforce just to get the thing built to get a

21

site plan approval that we thought market rate

22

housing should be held to a higher standard

23

and that's why we've gone to ten percent

24

affordable and ten percent workforce as

25

defined by the Town code, to my knowledge, no

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2

other IDA on Long Island has done that, so I think protecting the taxpayers and protecting the taxing jurisdictions, I think the direction that the board gave us, you know, going back a year ago, was probably the most protective of the taxpayers and taxing jurisdictions of any IDA that I'm aware of on Long Island.

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MR. TROTTA: How does Islip, for example, address market rate housing or the County?

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13

MR. WEIR: They don't. They just all lump together, there's no distinction.

14

15

MR. TROTTA: Okay.

16

Do you think we're going far enough with regard to the percentages that you talked about in relation to --

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19

MR. WEIR: Again, I think it's a fair balance between protecting the residents and the taxpayers and the taxing jurisdiction on the one hand and still being able to induce developers to come into the Town to do a project, so it's not -- it's a balancing act and there may be -- as I said earlier, there

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may be projects that come in who say we do

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need a ten- or 12-year PILOT, but they're

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going to have to demonstrate to the IDA that

5

they meet or need a deviation from this

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policy, so I think it's a little bit shorter.

7

You know, if you look at what Islip would do,

8

they would normally do a ten-year PILOT and

9

Suffolk County in areas have done ten-year

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PILOT's.

11

So it is, you know, as I said, a

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balancing act and I think this kind of is as

13

fair as we could come up with among our

14

working group team as, you know, as possible.

15

So it's not overly favorable to the developers

16

and not onerously restricted on the taxing

17

jurisdictions.

18

Some of the other IDA's, where some of

19

them have school districts, have been, you

20

know, overly impacted by housing, some of

21

them, you know, one or two school districts in

22

those towns or counties, there have been times

23

where they've told the developer go do some

24

kind of host benefit agreement with the school

25

district that covers -- you know, I've always



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been leery of those types of agreements

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because it looks like it's a hidden PILOT

4

payment, so that one taxing jurisdiction is

5

getting higher payments than others and

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generally I'm not a big fan of doing that, but

7

there have been a few where one particular

8

school district has been uniquely impacted by

9

a significant number of PILOT's, so I think

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that is one of the things that does take into

11

account.

12

One of the issues, as you know,

13

independent senior housing and assisted living

14

facilities are not going to be generating

15

children from the school districts, but market

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rate housing and affordable housing do have

17

the potential to impact the school districts

18

and that's always been . . . the school

19

districts will tell you it's going to produce

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hundreds and hundreds of students and I think

21

the studies that we have seen to date

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generally show fewer students coming out of,

23

you know, the market rate housing and

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affordable housing than the school districts

25

sometimes believe will come out, but that's

1

2

always an issue that has been, so and when

3

we've done a number of these projects and we

4

do get, you know, either the school district

5

coming to the meeting to talk about the

6

project or sending a letter, usually their

7

biggest concern is the number of students that

8

may be generated at this project. So that's

9

something that, again, we try to balance. I

10

think that's the one area where the school

11

districts tend to have the biggest concern.

12

MR. TROTTA: In --

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MR. WEIR: And the developers really

14

have a good understanding of what they will

15

expect in students from the mix of apartment

16

sizes.

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MR. TROTTA: Speaking of the apartment

18

sizes, with regard to market rate housing, did

19

the legal staff review the range of rates for

20

what would be market rate housing projects?

21

MR. WEIR: That gets factored into the

22

cost benefit analysis and also, you know, we

23

typically for market rate housing, staff will

24

rely on a consultant to help develop the PILOT

25

and they do look at the rents that are being

1

2

charged, that's an important part of

3

developing the PILOT.

4

5

MR. TROTTA: So does our subsidy or the benefit, I should say, the benefits of the IDA, is that going to be able to drop down some of those rates, do we believe?

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MR. WEIR: We believe it does. It makes the project economically viable.

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MR. TROTTA: It goes to the core if we didn't do this, this project would not be built in the Town of Brookhaven, is that, you know, correct?

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MR. WEIR: That is correct. And we say that, that every project has to meet that but-for test. But for the IDA's benefits, the project would not get built.

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MR. TROTTA: My concern is at the end of the day after we approve market rate housing, what actual numbers those -- the change in the rates with what we're -- the benefit package that we're offering and is it affordable or more affordable, I should say, than it would have been and that I know is a hard thing to figure, but that kind of bothers

1

2

me because of some of the projects that we

3

looked at that might fall into this category,

4

I truly don't believe, you know, that they're

5

at a rate that is affordable for, you know, an

6

average person and not that every project is

7

like that, but if we're providing a benefit, I

8

certainly believe that we should be seeing a

9

benefit on the other end to the consumer or

10

the resident and I'm not totally sure we are.

11

That's my concern. I just want to raise that

12

as we go through this.

13

MR. WEIR: That is one of the things

14

that gets addressed in the cost benefit

15

analysis and when the consultants help develop

16

the PILOT agreement.

17

MR. TROTTA: Yeah.

18

MR. GRUCCI: Can I ask a question of

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Annette?

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MS. SCHEIDT: Felix, I'd like to follow

21

up on Frank briefly --

22

MR. GRUCCI: Sure.

23

MS. SCHEIDT: -- unless that's what

24

you're doing.

25

Thank you, sir.

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Frank, I'd like to endorse what you have just said and agree with you and trust our staff to identify those issues as they go through any market rate housing applications that we have and again, thank Bill and Howard and Lisa and all of you who contributed so much to what was a very difficult effort and I think came to a very reasonable outcome, so thank you for that and for your continued vigilance.

12

MR. GRUCCI: Annette, are you there?

13

MS. EADERESTO: Yes, Felix.

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MR. GRUCCI: As the attorney who will most likely be charged with defending the board in an action that it takes, would you care to comment on what we did with the UTEP?

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MS. EADERESTO: Well, I think Frank brought up the pertinent point. That there's still the but-for test and if you don't believe that this will get built but for IDA involvement, then you don't have to give the benefits. So it's ultimately still going to be up to the board.

25

So if these market rate projects come

1

2

in that really have no benefit in my opinion

3

to the taxpayers or the Town of Brookhaven and

4

all we're doing is increasing the profits of

5

for-profit entities that will build this

6

anyway, then the board still has the

7

discretion to say no.

8

MR. GRUCCI: Okay. Thank you.

9

MR. TROTTA: You know, my concern is,

10

you know, we're going to see these projects,

11

we're going to possibly see, you know, things

12

that we may think are not the rates that we

13

were anticipating and I think we're

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potentially giving developers false hope and

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parading them before the board with regard to

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applications that may not be acceptable, so I

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don't know how you can fine tune it better to

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be able to achieve that, but I think it's

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wrong to have a developer come before us and

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then, you know, pull the rug because we see

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rates that are not affordable -- you know, not

22

acceptable and at the same time, you know,

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that may be what the rate is based on the cost

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that the developer needs to go through. So

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I'm trying to balance out both sides of the

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equation, meaning the taxpayer and the

3

developer in that process of going through

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this, but I don't feel comfortable with what

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we have now, although I think it's a thousand

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times better. I just am not sure if I'm there

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yet, but I may be the exception. I apologize.

8

MS. SCHEIDT: Fred or Lisa, don't you

9

normally talk to a prospective applicant

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before the application is received and try to

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walk through what it is that the agency

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requires and what these kind of situations,

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what it may expect in order precisely to do

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what Frank is concerned about, discourage

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people from submitting applications that

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really don't have much of a chance?

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MS. MULLIGAN: Yes, we certainly do

18

that. Jim and I routinely meet with projects,

19

speak to them about what they would like to

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do. There's many meetings that Jim and I have

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that never come to fruition, don't result in

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an application. Multiple, multiple meetings,

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going over things, sort of fine tuning,

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figuring out if it makes sense because if it

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doesn't make sense, then it doesn't come

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forward.

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There's also many times that Jim and I say you're on the edge of our board's comfort zone, send us a letter, we'll present it to the board to get their feedback if we think an application should come forward. So we certainly do do that on a regular basis.

9

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MR. BRAUN: I mean just a couple of disjointed thoughts perhaps.

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I have seen -- and to address Frank's issues as well -- I have seen commitment from financial institutions that have said absent the benefits from the IDA, they would not fund the project.

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We have also seen a project within the past year where they said they would build a project without our benefits and we declined that application.

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Let's also remember two other things, that Long Island remains considerably under competing areas in and around New York City as it relates to the availability of rental housing and at the end of the day, the market is going to determine whether or not the



1

2 prices that are being offered are too high.

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MS. EADERESTO: Just to add to that, Fred, we also saw a project that indicated to us that it wouldn't be built but for IDA funding, the IDA refused to fund it and voila, it's being built.

8

9

MR. BRAUN: Frank, I don't know if those comments address some of your issues.

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MR. TROTTA: Yeah. No, they're good thoughts, also. You know, I think . . .

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MR. GRUCCI: Frank, do you have a suggestion to make to improve the UTEP to your liking?

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MR. TROTTA: I don't know if I have a suggestion, but I -- you know, the concerns that I raised, I would, you know, wish that we could, you know, go a little deeper on it and look at it a little further, that one section. I'm good with everything else.

21

22

23

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25

MR. BRAUN: I think what we need to do is when we get the applications in, I mean we go through them fairly much in depth as it is now. We have somebody reviewing our PILOT's. We've got at least three attorneys on all of

1

2

those in-person meetings and/or calls plus

3

usually the attorney for the project, so I

4

think that all of these going forward are

5

going to get the due diligence that's needed

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before we say yea or nay.

7

MR. WEIR: As I said and as Annette

8

said, ultimately the board has to be convinced

9

that but for the IDA's incentives, the project

10

would not get built and we had one project

11

where the board was not convinced of that and

12

turned it down, at least one recently I should

13

say, there's been others over the years, so

14

and again, the staff will vet a lot of this

15

before the application's even submitted to the

16

board for consideration, so . . .

17

MR. TROTTA: And I do agree with you

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that, you know, staff and legal staff can do

19

that. I'm just trying to avoid a circus on

20

the side of the public and the board, for ones

21

that, you know, are inappropriate, but wind up

22

in front of us and that's my concern and I

23

think, you know, everybody clearly understands

24

what I'm referring to, to try to avoid, that's

25

all.

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2

MR. WEIR: And Lisa and her staff --

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MR. TROTTA: Sometimes you can't, I get it.

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MR. WEIR: They do an excellent job of vetting projects.

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MR. GRUCCI: If we had to go back in at some point and tweak the UTEP, is that a major project?

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MR. TROTTA: Yes.

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MR. WEIR: If you look at the front, we do this every two or three years, so the very first paragraph of the UTEP lists the year it was first adopted and every year that it's been amended, it's about every three years, so as you get experience with the UTEP and we see projects coming in and if there are problems with it, we come back and address it, but you need a little bit of experience to see where there's going to be projects, so if it turns out if there's any part of this UTEP that we feel or the board feels is not meeting the goals and objectives that they want, staff will come back, make recommendations and we go through the process of amending it again. But

1

2

this is not a static -- at least in your IDA,

3

it's not a static document, never has been and

4

I doubt it ever will be, so I would anticipate

5

if we have a couple of years of experience

6

dealing with this UTEP, if we see it needs

7

amendments, that we'll bring that back to the

8

board's attention or the board may very well

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say hey, we need to change this. You do need

10

a little bit of time with a few projects under

11

your belt to see if there's any glitches with

12

this UTEP.

13

MR. TROTTA: Bill, Howard or Annette,

14

you heard the concerns that I've had.

15

Is there anything that you might

16

suggest that either you considered, but

17

rejected in putting this together or something

18

that you thought of in the process of this

19

conversation that might help to avoid some

20

issues or to tighten it up a little bit more

21

or not; I just, you know . . .

22

MR. WEIR: Well, yes, you know, I think

23

we did take into consideration the concerns

24

that the board had expressed over the last

25

year, particularly with market rate housing,

1

2

that's why we doubled the Town's requirements

3

and we shortened the period of those PILOT's

4

as the board had suggested and we also made it

5

clear in the PILOT, even though it was under

6

the law, but that it's clearly in the UTEP,

7

that it has to meet the but-for test. So I

8

think we've done that, I'm not quite sure what

9

else you would put at this point in the UTEP

10

to address those concerns other than the fact

11

that the staff in reviewing these and the

12

board approving it, will be looking at a whole

13

host of factors and we did put in there the

14

list of all the factors that we do consider,

15

so there's a lot in there now, but if there's

16

any additional suggestions, we'd be open to

17

them.

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MR. TROTTA: Bill, do you have any

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comments?

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MR. WEIR: Who?

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MR. TROTTA: Bill Weir.

22

(No response.)

23

MR. TROTTA: Howard; I'm sorry, Bill.

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MR. GROSS: No, I have nothing to add

25

to that, Bill spearheaded this and he did an

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excellent job I thought and I agree with him

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wholeheartedly.

4

MR. TROTTA: Annette?

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MS. EADERESTO: Well, basically, you

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know, I think the board is well aware of my

7

feelings on this, I think I've said more than

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enough, but it's a threshold question of

9

whether you want to be in this business or not

10

and the board has decided that with

11

modifications, they want to look at these, but

12

I think it's clear from some of the board

13

members' comments that staff needs to really

14

sit with the applicants before they accept an

15

application or encourage an application

16

because we don't want people wasting their

17

money and that but-for question is a tough one

18

to get over with residential housing out here

19

on market rate.

20

MR. TROTTA: Thank you.

21

And Bill, I want to again reiterate,

22

you know, you did a great job and my comments,

23

my reluctance in that one area doesn't reflect

24

the overall work that was done on this, so

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thank you.

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MR. WEIR: And one other thing to consider starting in the end of next year, there will be, the projects, really amount of the IDA benefits are more than a third of the total cost, the minimum wage policies will come in mandated by the State as well as and MWBE construction contracts as well. So people coming in before an IDA PILOT in a couple of years from now, a year and a half from now, potentially could be looking at much higher costs for the project, so that may impact projects coming in and may impact our UTEP, so that's something that some IDA's are actually waiting until that happens to amend their UTEP. I think we have enough projects that potentially we need to address, I wouldn't recommend waiting till then and again, until -- you also remember at the May, I believe it was the May 2019 meeting, the board, in anticipation of adopting this UTEP, it's taken us since then to get here, has had a moratorium on accepting applications for market rate housing, so at this point, if the board is so inclined adopting the UTEP, it

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2

would at least allow you to start seeing,

3

potentially seeing, new applications coming

4

in.

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MR. BRAUN: Unless there are any

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overriding questions, I would like a motion to

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accept the UTEP with the understanding that as

8

Bill said, it is subject to change and if over

9

the next several months or year, we think it

10

needs to be changed, we will address that

11

change. So I'll entertain a motion to accept

12

the UTEP.

13

MR. GRUCCI: I'll make the motion.

14

MR. BRAUN: Thank you.

15

Is there a second?

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MR. CALLAHAN: Second.

17

MR. BRAUN: Mr. Braun votes yes.

18

Mr. Callahan?

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MR. CALLAHAN: Yes.

20

MR. BRAUN: Mr. Grucci?

21

MR. GRUCCI: Yes.

22

MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

24

MR. BRAUN: Ms. Scheidt?

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MS. SCHEIDT: Yes.



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MR. BRAUN: Mr. Trotta?

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MR. TROTТА: Yes, I'm voting yes, but again, reflecting my comments with regard to the one section.

5

6

MR. BRAUN: Thank you. Motion carries.

7

8

Thank you all for your time and effort into this. As Bill said, it's been about a year we've had the moratorium since December, so we know there are a number of projects that we will be considering in the near future.

10

11

12

Lisa, I will turn it back to you.

13

MS. MULLIGAN: Thank you, Fred.

14

15

Do we need to pass a resolution lifting the moratorium?

16

MR. WEIR: Yeah, actually we do, yes.

17

MR. BRAUN: I will make that.

18

MR. TROTТА: Second.

19

MR. BRAUN: Mr. Braun votes yes.

20

Mr. Callahan?

21

MR. CALLAHAN: Yes.

22

MR. BRAUN: Mr. Grucci?

23

MR. GRUCCI: Yes.

24

MR. BRAUN: Mr. Pollakusky?

25

MR. POLLAKUSKY: Yes.

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MR. BRAUN: Ms. Scheidt?

3

MS. SCHEIDT: Yes.

4

MR. BRAUN: Mr. Trotta?

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MR. TROTTA: Yes.

6

MR. BRAUN: Thank you. Motion carries.

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Now, Lisa, it's yours.

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MS. MULLIGAN: Thank you, Fred.

9

10

I'm going to continue to take a couple of pieces out of order since we do have guests that have joined us.

11

12

The next item that I'm going to bring to the board's attention is an application for Port Jefferson Crossings LLC.

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Just quickly, this is a \$24 million project in upper Port Jefferson, it's actually in the Comsewogue school district. It's 45 units of a hundred percent affordable housing. It's going to be an approximately 72,000 square foot three-story building on .68 acres. It's immediately adjacent, immediately north of the parking lot for the Port Jefferson train station.

24

25

So the application and the cover letter are in your packets. It's got some features

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2

that I think are worth mentioning including

3

two vision impaired units, five mobility

4

impaired units; obviously, as I said, it's a

5

TOD. There will be a commercial component to

6

this, but it will not be included in our PILOT

7

and it's currently a blighted area, there's

8

two buildings, vacant residential/commercial

9

buildings that will be demolished and they're

10

requesting a mortgage recording tax exemption,

11

a sales tax exemption and a 30-year shelter

12

rent PILOT, which is outlined in detail in the

13

UTEP that we just adopted and Dan Deegan, did

14

you have anything that you wanted to add or

15

your clients?

16

MR. DEEGAN: Yeah. Well, let me just

17

introduce my clients.

18

This is Dan Deegan with the law firm of

19

Forchelli Deegan Terrana representing the

20

applicant. The applicant is a joint venture

21

between Conifer, which is a well-known and

22

respected housing developer, one of the

23

largest in the country and on behalf of

24

Conifer, we have Joanna Cuevas, who you heard

25

before and also Allen Handelman as well as

1

2 several other people that are listening in.

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As I said, it's a joint venture between Conifer and their not-for-profit partner, which is the Community Development Corporation, CDC of Long Island and we have Gwen O'Shea from CDC here as well.

I think you did a pretty good job of hitting the high points of the project. It is a 100 percent affordable project. It's removal of blight in the village. It's consistent with the village's comprehensive plan, their renewal plan and the revitalization efforts. It's right next to the train station that's been newly renovated. It's being funded with tax credits and also Empire State Development Council has recognized it as a priority project and is providing some funding as well. It would be targeted to individuals making between 30 percent and 95 percent of the area's median income. As you said, it's a three-story building, about 70,000 square feet. It's very high quality construction, it will have amenities like a gym, laundry, community room.

1

2

Probably talking about an 18-month

3

construction schedule. It will consist it

4

with the village's plan. It will have a

5

ground floor retail component of about 3,100

6

feet; as you pointed out, that would not be

7

subject to the PILOT, that would be paying

8

full taxes.

9

So we're looking for a sales tax

10

exemption on materials, mortgage recording tax

11

and then a PILOT that's still terminus with

12

the regulatory agreement with the amount of

13

time that we have to -- and would continue to

14

keep it, you know, affordable pursuant to the

15

parameters required by the financing.

16

With that being said, we're certainly

17

here to take any questions anybody has.

18

MR. BRAUN: Any questions from the

19

board for Dan, Gwen or Allen?

20

MR. TROTTA: Yes, just one.

21

Regarding the Village of Port

22

Jefferson, any comments from them with regard

23

to the project?

24

MR. DEEGAN: They've been generally

25

supportive. It is consistent with their plan,

1

2 but I don't know, Allen or Joanna, do you want  
3 to speak to that or Gwen?

4 MS. O'SHEA: I would add that the mayor  
5 did write a letter of support for the  
6 development when the application was submitted  
7 to New York State Office of Housing and  
8 Community Renewal as well as was very  
9 supportive of the development when the  
10 application was put forward to the Long Island  
11 Regional Economic Development Council.

12 MR. TROTTA: Thank you, Gwen.

13 MR. GRUCCI: What are the rentals that  
14 you're considering affordable?

15 MR. DEEGAN: The target AMI ranges is  
16 between 30 percent and 95 percent and it's a  
17 range in between. In terms of what that  
18 translates into rent -- and I should mention  
19 it's got 37 one-bedrooms and eight  
20 two-bedrooms.

21 Joanna or Allen, do you want to speak  
22 to how that translates into what the range of  
23 rents might be?

24 MS. CUEVAS: Sure.

25 The 30 percent AMI rents are targeting

1

2 a net rent of starting at 579 to about \$685  
3 for a one-bedroom and a two-bedroom. We have  
4 60 percent AMI units that are showing a target  
5 of net rent 1,200 to \$1,500 for a one- and  
6 two-bedroom and the 95 percent AMI units are  
7 targeting in that rent of 1,900 to \$2,300 for  
8 a one- and two-bedroom.

9 MR. GRUCCI: How many square feet are  
10 we talking about for the one-bedroom and the  
11 two-bedroom?

12 MS. CUEVAS: The one-bedrooms are  
13 approximately 780 square feet and the  
14 two-bedrooms are approximately 1,000 square  
15 feet.

16 MR. GRUCCI: Okay, thank you.

17 MR. BRAUN: Are there other questions  
18 from the board?

19 (No response.)

20 MS. MULLIGAN: I just wanted to mention  
21 that this is also using the Enterprise Green  
22 Communities standards in their building, so we  
23 recently added a question about green standard  
24 and I just wanted to make sure that I pointed  
25 that out to everyone.

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2

MR. BRAUN: I will entertain a motion  
to accept the application.

3

4

MR. GRUCCI: So moved.

5

MR. POLLAKUSKY: Second.

6

MR. BRAUN: Thank you.

7

Mr. Braun votes yes.

8

Mr. Callahan?

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MR. CALLAHAN: Yes.

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MR. BRAUN: Mr. Grucci?

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MR. GRUCCI: Yes.

12

MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

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MR. BRAUN: Ms. Scheidt?

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MS. SCHEIDT: I would vote yes. I

16

serve on the board of the Community

17

Development Corporation of Long Island and I

18

ask on advice from counsel whether I should

19

abstain from this vote.

20

MR. BRAUN: Yes, you should.

21

MS. SCHEIDT: I hereby abstain from

22

this vote. Thank you.

23

MR. BRAUN: Mr. Trotta?

24

MR. TROTTA: Yes.

25

MR. BRAUN: Motion carries. Thank you.



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MR. DEEGAN: Thank you very much,  
Chairman and members of the board.

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4

MS. MULLIGAN: I think in keeping  
things out of order, I'm going to continue to  
the next item on the agenda since we have  
guests for this as well.

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8

The Vistas at Port Jefferson PILOT.

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Included in your packets is a letter  
that we received regarding this request.

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Right now the PILOT on The Vistas at  
Port Jefferson project, which just to remind  
everybody is west of 112, sort of tucked  
behind the Uncle Giuseppe's shopping center.  
It's a senior housing complex. The PILOT is  
set to start in the '22/'23 tax year. The  
project came to us and asked if we would start  
their PILOT in the 2020/2021 tax year, which  
is this December coming up. Their  
construction went quicker than anticipated and  
they are ready to begin the PILOT now.

22

23

Howard, did you have anything that you  
wanted to add to that?

24

MR. GROSS: No, that's fine, thank you.

25

MS. MULLIGAN: Eric Russo is counsel

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for the project.

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Did you have anything you wanted to add?

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MR. RUSSO: No, Ms. Mulligan and as I indicated earlier, Russ Mohr, who is with The Benjamin Companies as well as their in-house counsel, Meredith Black and Danielle Rizzo, are also on the conference call and earlier today I spoke with Fred Braun, who asked how much of the project was completed and how many were occupied he inquired and if you look at the documents we provided to you, there were 34 building permits issued, 22 certificates of occupancy have already been also followed up and issued after the building permit and in response to Fred's question earlier today, there are 74 units presently occupied on site in addition to the superintendent's space and the pool, community center, bocci courts, maintenance building and gazebos are there as well as the barbecue pit. So yes, they're ready to continue renting and proceed and the assessor sent a new notice of assessment out as of June 1st, which has changed the value

1

2

and I gave you a copy of that, which prompted

3

us to make this request and we would

4

appreciate it if it could go forward at this

5

time as you're right, they did an excellent

6

job of completing everything so that they

7

could get occupancy going sooner than they

8

anticipated. So if the board is willing to

9

and consider moving and advancing the PILOT

10

forward so it starts in this new tax year in

11

2021, that would be greatly appreciated.

12

MR. BRAUN: Are there questions from

13

the board?

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MR. GRUCCI: Is this one of the

15

affordable units or is this a market value

16

unit?

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MR. RUSSO: Russ, you want to advance

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the information?

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MR. MOHR: Yeah. Good afternoon ladies

20

and gentlemen. This is Russ Mohr from The

21

Benjamin Companies regarding The Vistas at

22

Port Jefferson. This is a 244-unit complex of

23

which 20 percent is affordable. There are

24

different levels of affordability. We work

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together with the Long Island Housing

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Partnership in leasing up these units.

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Obviously we've been, you know, terribly negatively affected over the last three months with our lease-up with regards to COVID-19 and we hopefully will pick up again back here in June, but it does have 20 percent affordable, 80 percent is market rate.

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MR. GRUCCI: What does that convert out to to dollars and cents for the rental of the units as well as the square footage of the units that are being rented?

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MR. MOHR: Sure. The square footage runs around 880 square feet for a one-bedroom and just about 1,200 square feet for a two-bedroom and then there are townhouses, which are about 1,600 square feet with one-car garages. The affordable units are spread out through the community and we've leased quite a few of them and we are continuing to lease those now.

22

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Phase one, which was the northern section of the project, the first 120 units or the majority of the units, are being occupied now. We received five buildings of

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2

certificates of occupancy in May for the

3

beginning of phase two and then the balance of

4

the last nine buildings, which are ready for

5

final inspection once all site work is

6

completed, will follow the rental rates for

7

the affordable units go for . . . I'm going to

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just . . . for about 1,300 for one; there are

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different levels of affordability. There is

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80 percent of AMI and 120 percent of AMI and

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the 80 percent of one-bedrooms go for about

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1,100, the 120 percents go for 1,300 and the

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two-bedroom units are approximately 1,700 and

14

1,500 respectively 50's and 80's and the

15

market rate rents go from about 2,250 up to

16

3,500.

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MR. GRUCCI: Thank you.

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MR. BRAUN: Any other questions from

19

the board?

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(No response.)

21

MR. BRAUN: Hearing none, I'll

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entertain a motion to move this PILOT up.

23

PILOT'S already there and all we're doing is

24

moving it up.

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MR. GROSS: Fred, if I may, we're going

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to do a public hearing and then pass the resolution next board meeting, if that's all right.

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MR. BRAUN: Thank you very much.

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MR. BRAUN: The time frame for a public hearing before our June 15th meeting and the approval, assuming we approve it, June 15th, that works?

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MR. RUSSO: You mean July 15th?

23

MR. BRAUN: Yes, I'm sorry. Thank you.

24

25

MR. RUSSO: I believe it should if Howard and I are able to get everything

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together, we should be able to be finished in  
a relative fashion.

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MR. GROSS: Yes. My understanding is  
that we have sufficient time to accomplish  
this.

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MR. BRAUN: Okay.

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MS. MULLIGAN: I think since this is  
already off the tax rolls in our name, it  
should be a smooth transition.

10

11

MR. BRAUN: We need not take any action  
today?

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13

MS. MULLIGAN: I think you just have to  
have us set the public hearing and have us  
move forward with it.

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MR. BRAUN: Before we conclude this,  
are there any other questions from the board?

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(No response.)

19

MR. BRAUN: All right.

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Thank you very much.

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MS. MULLIGAN: Howard, do we need a  
vote?

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MS. EADERESTO: Howard, do you want a  
resolution authorizing the public hearing?

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MS. MULLIGAN: Yes, I think so.

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2 MR. GROSS: Yes.

3 MS. EADERESTO: Yes, I do, too.

4 MR. GROSS: Yes, you're right.

5 Thanks, Annette.

6 MS. EADERESTO: Okay.

7 MR. BRAUN: Somebody care to make that  
8 resolution?

9 MR. CALLAHAN: Martin Callahan.

10 MR. TROTTA: I'll make that motion.

11 MR. BRAUN: I heard a first and a  
12 second.

13 Mr. Braun votes yes.

14 Mr. Callahan?

15 MR. CALLAHAN: Yes.

16 MR. BRAUN: Mr. Grucci?

17 MR. GRUCCI: Yes.

18 MR. BRAUN: Mr. Pollakusky?

19 MR. POLLAKUSKY: Yes.

20 MR. BRAUN: Ms. Scheidt?

21 MS. SCHEIDT: Yes.

22 MR. BRAUN: Mr. Trotta?

23 MR. TROTTA: Yes.

24 MR. BRAUN: Motion carries. Thank you.

25 MR. RUSSO: Thank you, Mr. Chairman,



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2

members of the board on behalf of Russ Mohr

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and his legal counsel and The Benjamin

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Companies, we greatly appreciate it.

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MR. BRAUN: Thank you.

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MS. MULLIGAN: I'm going to jump back

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up in the agenda to the South Setauket ILU

8

resolution.

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Included in your packets is the cost

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benefit analysis for the South Setauket ILU,

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LLC. In addition is a PILOT that's listed as

12

Jefferson's Ferry. It's just tied in my brain

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that it's the Jefferson's Ferry project, it

14

really should be titled South Setauket ILU,

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LLC; for that PILOT, the name of the file

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needs to be corrected.

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We had a public hearing on this project

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this morning and there were no comments and to

19

remind the board members, this is the

20

for-profit side of the Jefferson's Ferry

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project, but it's South Setauket ILU, LLC.

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They have come to us and requested a PILOT,

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which like I said, is included in your packets

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and this is the final authorizing resolution.

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Bill, did you have anything you wanted

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to add?

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MR. WEIR: Yes.

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Just like Port Jefferson, there are pending tax certs with respect to the independent living units that would be covered by this PILOT. As part of the consideration of the PILOT, they will withdraw that tax cert. It will also kind of settle the record straight and it covers the existing independent living units are going forward and the new ones to be built with the proceeds of the tax exempt bonds that you previously authorized for Active Retirement/Jefferson's Ferry project, so it will be covering both the existing ones and going forward as the new ones are phased in and the lease also has two percent tax rate increases as well as phasing in the new units.

MR. BRAUN: I'll entertain a motion to approve the final authorizing resolution for South Setauket ILU, LLC.

MR. GRUCCI: So moved.

MR. POLLAKUSKY: Second.

MR. BRAUN: Thank you.

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Mr. Braun votes yes.

3

Mr. Callahan?

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MR. CALLAHAN: Yes.

5

MR. BRAUN: Mr. Grucci?

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MR. GRUCCI: Yes.

7

MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

9

MR. BRAUN: Ms. Scheidt?

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MS. SCHEIDT: Yes.

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MR. BRAUN: Mr. Trotta?

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MR. TROTTA: Yes.

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MR. BRAUN: Motion carries.

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MS. MULLIGAN: Thank you.

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The next item on the agenda is a letter that we received from MS Packaging; it was also included in your packets. They are requesting the board's support for an increase in their mortgage from roughly three million to 6.5 million. They're also asking for a mortgage recording tax exemption, although they outline in the letter that they will not be using the increased money to reinvest in their current location, so what they have asked is they'd like to use that money to buy

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land and build an additional hundred thousand square foot building and what they've told us is that they will repay the savings from the mortgage recording tax exemption if they do not commence a new project in the Town of Brookhaven within the next year.

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Howard, did you have anything you wanted to add to that?

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MR. GROSS: Yes.

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The board --

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MS. MULLIGAN: Howard, you're breaking up a little bit.

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MR. TROTTA: I didn't hear anything what Howard said.

16

MR. CALLAHAN: Me, neither.

17

MS. MULLIGAN: Okay.

18

(Inaudible.)

19

MS. MULLIGAN: Howard?

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MR. GROSS: Yeah.

21

MS. MULLIGAN: I can hear you now.

22

MR. GROSS: I'll try it again.

23

The question I have for the board is does it matter to you whether or not the new project that this company does is an IDA

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project or so long as they put a new facility  
3 in Brookhaven within the time period, is that  
4 adequate for you to provide them with the  
5 additional benefit?

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MR. BRAUN: My personal opinion is as  
long as it's within the Town of Brookhaven,  
they continue to invest capital and the new  
building will require additional jobs, again,  
my personal feeling is that would qualify.

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My only question is to acquire land,  
get all the permits and everything else in a  
12-month period seems rather short. I would  
suggest that we go further than that, whether  
it's 18 or 24 months.

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MS. MULLIGAN: I think it depends, how  
do we define commence; is starting the process  
to get those permits sufficient? Putting in  
an application to the IDA, is that sufficient?

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MR. BRAUN: Mine would be --

MR. GROSS: Well, if I may, I would  
suggest that in order for them to earn the  
right to keep the benefit, it should be that  
they've completed the project and occupied it.  
So I would suggest, therefore, that Fred's

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point is well taken, that we should provide

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them additional time, even as much as say

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three years in order to complete construction

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and occupy and operate the facility. Whether

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it's through the IDA or not is not the issue

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then and then if you agree, then we will amend

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their documents to include in the recapture

9

provisions a failure to accomplish that

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project within the time frames would

11

constitute a recapture at least for the amount

12

of the savings on the mortgage recording tax

13

that's realized in this case.

14

MR. GRUCCI: Could I ask a question?

15

Am I understanding this correctly, that

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this applicant is looking to expand benefits

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already in existence on an existing project to

18

be able to use those benefits for a new

19

project?

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MR. GROSS: Essentially, yes.

21

What he's looking to do is, the

22

additional equity, the existing building that

23

we sponsored has increased in value. He can

24

now refinance the mortgage and take some extra

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cash out of that mortgage. He then intends to

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2

use it to invest into a new project within the

3

Town to enlarge his business, so you're

4

encouraging the growth of the business within

5

the Town.

6

MR. GRUCCI: Why would he not just make

7

an application to the IDA for the new project

8

once he gets underway with it; this is like a

9

little complex for me?

10

MR. GROSS: Felix, because in most

11

projects, the lender will want to see an

12

equity infusion and he is probably intending

13

to use this money as an equity infusion into

14

the new project so that a lender on the new

15

project will not be lending him a hundred

16

percent, they will still only be lending him

17

perhaps 70 percent. So I actually think if he

18

built up enough equity in the current project,

19

it's actually a very clever way of raising the

20

additional capital, equity capital, he needs

21

in order to pursue --

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MR. GRUCCI: Howard, I follow that

23

piece. What I'm guess confused over is why

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does he need to get the mortgage recording tax

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relief now rather than wait for the project to

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get underway to request that? I understand

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that he can take the equity out of his

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building and I don't think, unless we have to

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approve that, he can do that without us, take

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the equity out of the building that he

7

currently owns and invest it into whatever new

8

project he wants and then as he acquires the

9

land and gets underway, then come back to us

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for the mortgage tax recording.

11

MR. GROSS: But he ruins the

12

opportunity to get the mortgage recording tax

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savings on the additional money he's taking

14

out of the existing building.

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MR. BRAUN: For which he needs our

16

approval.

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MR. GROSS: Yes.

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MS. MULLIGAN: I just wanted to

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mention, this project came, met with me and

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Jim I would say in February, told us that they

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were looking for land to build an additional

22

facility. They only built this facility that

23

they're in right now, which is at the end of

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Zorn Boulevard, a few years ago. It's a

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relatively new facility, they're doing really



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well and they're growing.

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The reason that he is coming to us with this right now is because he has an opportunity to get a very low interest rate and he feels like if he doesn't take advantage of this now, he doesn't know what the future might bring as far as rates. He wants to lock this in now, knowing that he has not yet found the location for his new facility, but feeling like timing is off for him, so I just wanted to add that in.

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16

MR. GRUCCI: I can appreciate his desire to do that. It just seems like this is a little of a convoluted way to get to a new project.

17

18

Have we ever done anything like this in the past?

19

20

21

MR. BRAUN: We have approved people refinancing their existing facilities and they do need our approval for that.

22

23

24

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If they're going to refinance for a greater amount, there's a mortgage recording tax for that increased amount, so we're giving him the benefit of that increase on the

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refinancing.

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Now what I can't answer is if he builds this new building, whether he comes to us or not, whether he keeps the old building and if he decides to sell that building, we always have the opportunity to consider continuing the benefits for the new occupant, depending on the circumstances at the time.

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14

MR. GRUCCI: I hear what you're saying, Fred, it just seems to be a little confusing to me, but, you know, I don't want to dominate the conversation; if there's anyone else that wants to add to it, that's fine.

15

(No response.)

16

17

MR. BRAUN: Are there any other questions?

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19

MR. TROTTA: Felix, I would agree with you.

20

21

22

23

I agree with Felix, a little convoluted and different, but, you know, being one of the newer members, I've not seen anything, but maybe in past practice was prior to me.

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MR. BRAUN: And it could well be.

25

MS. MULLIGAN: I just wanted to add to

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2

the conversation, I have not seen a request

3

like this previously, not to say that we've

4

never done it. I have seen this board say to

5

someone you're certainly welcome to refinance

6

your mortgage, take additional money, but we

7

are not going to give you the mortgage

8

recording tax exemption if that project was

9

not reinvesting the money back into the

10

facility that we were involved with.

11

The one thing about this that caught my

12

attention was they were saying we're not going

13

to invest it back into the facility, but we

14

are going to invest it in a new facility in

15

the Town of Brookhaven, which I think is

16

something that this board would want to

17

encourage and if for some reason they don't,

18

they came to us and said we will, I don't

19

know, I shouldn't put words in their mouth,

20

maybe not happily, but they will pay back the

21

mortgage recording tax exemption.

22

So I felt like it gave us a little bit

23

of a fail-safe. We could allow them this

24

opportunity to take advantage of something

25

that was available to them, but still know

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2

that we could pull back the benefit if it

3

didn't end up doing the thing that we wanted

4

to support.

5

MR. GRUCCI: And I understand that and

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that part of it makes sense to be able to claw

7

it back in case they don't go forward, but it

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just seems to me that he's asking the Town of

9

Brookhaven to advance him the mortgage

10

recording tax so he can invest into a new

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project. That's basically what it's coming

12

from my perspective and I could be wrong and

13

somebody could correct me, but what I'm

14

hearing is that he wants us to forgive the

15

mortgage recording tax so that he doesn't have

16

to come up with that money so that he can use

17

that money to reinvest in a project that's not

18

associated with the current project that we've

19

given the benefits on. That seems to be awful

20

generous on the Town of Brookhaven's part.

21

Annette, are you able to speak for this

22

recording mortgage tax issue?

23

MS. EADERESTO: I'll just say as the

24

Town Attorney of Brookhaven, we like mortgage

25

tax.

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MS. MULLIGAN: You're not on this call  
as the Town of Brookhaven Attorney.

3

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MS. EADERESTO: He asked me the Town.

5

6

MR. GRUCCI: Show me what government  
doesn't like tax. It's our job to prevent it  
from getting tax.

7

8

9

MR. CALLAHAN: What is the recording  
tax, how much is this? I mean I can see the  
difference of the building being from three  
million to 66.5 million, but what's the  
recording tax?

10

11

12

13

MS. MULLIGAN: Marty, in Suffolk  
County, the mortgage recording tax is 1.05  
percent. We're only permitted to abate .75  
percent of that.

14

15

16

17

MR. GRUCCI: So we're abating three  
quarters of a percent of a million?

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19

MR. CALLAHAN: No, of 2.9 million.

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MR. GRUCCI: I'm sorry, 2.9 million.

21

22

MR. CALLAHAN: So it's about 21,  
\$22,000 in total. 22,000 and then he may turn  
around and use the difference here to buy  
another building within the Town.

23

24

25

MR. GROSS: That's where I think this

1  
2 is an encouragement, I think it's a novel  
3 thing that they came up with. I have not seen  
4 it before, but I give them credit for  
5 considering this. It's giving them an  
6 opportunity to raise capital, invest it in  
7 back into the Town and frankly, if they didn't  
8 come to the IDA for the new project, it's  
9 actually better for the Town because its taxes  
10 would be better, but I suspect they will come  
11 to the agency for benefits on that as well and  
12 if I may, my way of thinking in past years  
13 when we used to be able to do tax exempt  
14 bonds, banks used to fund a hundred percent of  
15 the financing, so the entire mortgage  
16 recording tax was exempt, so if you did that,  
17 if you made that analogy to this project,  
18 that's essentially what he's trying to do,  
19 he's trying to take his equity contribution,  
20 avoid any mortgage recording tax on that and  
21 then he'll come to us when he does his regular  
22 financing for the new project and he'll look  
23 to avoid that mortgage recording tax on the  
24 construction funds as well.

25 MR. WEIR: Actually, when we do tax

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2

exempt bonds financing on this kind of

3

project, it's more likely 110, 115 percent

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financing, the state of financing, that's why

5

his interest during the construction period

6

and on the cost of issuance, so it's actually

7

more than that.

8

MR. GROSS: Yes.

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MR. BRAUN: You're going way back in

10

time.

11

MR. GRUCCI: Howard, you said that you

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haven't seen this before; were you just

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referring to Brookhaven or anywhere in your

14

travels?

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MR. GROSS: Bill certainly would know,

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maybe he would have been more likely to have

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seen this than I have.

18

I have not seen somebody come up with

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this particular scenario and I think it's

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novel and I give them credit for thinking of

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it frankly, but it's also, as Lisa said, I

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think it's something to be encouraged for them

23

to build another facility within the Town and

24

operate a new facility and employ more people.

25

MR. CALLAHAN: That's what I just was

1

2 going to say about the employment.

3

4 How many employment numbers do they  
5 have currently?

6

7 MS. MULLIGAN: Marty, you're asking at  
8 their current facility?

9

10 MR. CALLAHAN: Well, just to see, yeah,  
11 how many they have today and what we maybe  
12 assume what they would have for another  
13 building.

14

15 MS. MULLIGAN: I'm not sure what  
16 they're going to have at the new facility  
17 because we just talked into the general terms  
18 with them about it, but let me just get my  
19 draft of our PILOT and I'll tell you what we  
20 had. Hold on one second.

21

(Pause.)

22

23 MR. GRUCCI: While Lisa's looking for  
24 that, Bill or Howard, I assume that since  
25 we're kind of, you know, forging a trail  
through the wilderness on this if nobody else  
has done anything in this, you know, the  
thought provocative, have we looked at all of  
the regulations to make sure that we're not in  
violation of any of the IDA requirements?



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MR. GROSS: I have. I have not found any violation, I think we're in compliance.

3

4

MR. GRUCCI: There's no opinions that say that this shouldn't be done?

5

6

MR. GROSS: No.

7

MR. CALLAHAN: Bill?

8

MR. WEIR: This is a perfectly legitimate request.

9

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MR. CALLAHAN: Okay.

11

MR. BRAUN: I look at it as a simple refinancing.

12

13

You'll see it in the next one we discuss where there is a refinance and the project is not going to invest the money back into the business and we're not going to give them a tax exemption. This we're giving him the exemption, he's going to put this money back in the Town; if he doesn't, we can recapture and it's an incentive for him to continue to want to purchase land and build this new building in the Town of Brookhaven. What happens to the old building will be determined down the road whether he needs two or he sells it and then we'll deal with that

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at the time.

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MS. MULLIGAN: I just wanted to let you know that they told us that they had four FTE's prior to coming into the IDA's name and as of December 31st of 2019, they told us that they had 25 employees, they promised us four additional employees, so they have well exceeded what they told us they would do and our conversation when Jim and I met with them a few months ago, they indicated that they would not be -- and I know things can change, but what they indicated to us was that they would not be selling the facility, that they needed an additional hundred thousand square feet of space.

MR. TULLO: That's correct. They're bursting at the seams. They have 75,000 square feet currently and this extra hundred thousand square feet that they're proposing, they were originally looking at the ten acres to the south of their building, but unfortunately I don't think that's going to work out, I think somebody else swooped in and purchased it. But now I heard as of last week

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2

that they're still looking for ten acres

3

somewhere in the Town of Brookhaven that they

4

could do warehouse and distribution of box

5

products.

6

MR. BRAUN: Are there any additional

7

questions?

8

(No response.)

9

MR. BRAUN: I will entertain a motion

10

for the refinance of MS Packaging's current

11

mortgage with a stipulation; Howard, correct

12

me if I'm wrong, do we want to extend this

13

from one-year to a three-year completion of

14

the project; is that correct?

15

MR. GROSS: Yes. I would recommend

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that. I think it would be in our best

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interest to make certain that they've

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completed that project and it's up and running

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before we set . . . you know, the time frame,

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it shouldn't be shorter than that.

21

If I may, Fred, one thing I'd like to

22

add, I had not anticipated you were going to

23

adopt a resolution adopting this today because

24

I just wanted to flush out a few things, so

25

can you approve it for these purposes to

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2

proceed? I don't think a public hearing is necessary, but I would like to prepare a more formal resolution for the next board meeting.

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5

MR. BRAUN: So do you want us to adopt this; how do you want us to proceed, Howard?

6

7

MS. MULLIGAN: Accept the "application"?

8

9

MR. GROSS: Yes.

10

MS. MULLIGAN: The concept, I guess.

11

MR. BRAUN: That's a good way to put it.

12

13

Do I have a motion to accept the concept of the refinancing with the monies to be reinvested in the Town of Brookhaven and the project completed within a 36-month time frame?

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MR. CALLAHAN: So moved.

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MS. SCHEIDT: Second.

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MR. BRAUN: Mr. Braun votes yes.

21

Mr. Callahan?

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MR. CALLAHAN: Yes.

23

MR. BRAUN: Mr. Grucci?

24

MR. GRUCCI: Yes.

25

MR. BRAUN: Mr. Pollakusky?

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2

MR. POLLAKUSKY: Yes.

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MR. BRAUN: Ms. Scheidt?

4

MS. SCHEIDT: Yes.

5

MR. BRAUN: Mr. Trotta?

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MR. TROTTA: Yes.

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MR. BRAUN: Motion carries.

8

Lisa.

9

MS. MULLIGAN: Thank you, Fred.

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To continue in this general vein, the next item on the agenda is a request from Island Air, which is a project on Belle Meade Road towards the west end of Belle Meade Road. They've requested permission to refinance. They are not requesting the mortgage recording tax exemption, their mortgage is going to go from roughly 3.6 million to 4.5 million.

In this case, they did not request the mortgage recording tax, I presume because they will not be reinvesting the money back into our facility; that's an assumption on my part, but they did not request it.

23

Does anyone have any questions?

24

(No response.)

25

MS. MULLIGAN: Howard, is there

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2

anything we should add?

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MR. GROSS: No, there's nothing

4

further.

5

MS. MULLIGAN: I just thought of one

6

other thing.

7

Maybe a year ago, you approved a

8

subtenant in the facility. The subtenant has

9

dissolved and is no longer in the facility, so

10

it's just an aside really, but I figured I

11

would mention it and this is, in fact, a

12

resolution.

13

MR. BRAUN: Somebody care to move that?

14

MR. GRUCCI: So moved.

15

MR. TROTTA: Second.

16

MR. BRAUN: Thank you.

17

Any other questions?

18

(No response.)

19

MR. BRAUN: Mr. Braun votes yes.

20

Mr. Callahan?

21

MR. CALLAHAN: Yes.

22

MR. BRAUN: Mr. Grucci?

23

MR. GRUCCI: Yes.

24

MR. BRAUN: Mr. Pollakusky?

25

MR. POLLAKUSKY: Yes.

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MR. BRAUN: Ms. Scheidt?

3

MS. SCHEIDT: Yes.

4

MR. BRAUN: Mr. Trotta?

5

MR. TROTTA: Yes.

6

MR. BRAUN: Motion carries.

7

MS. MULLIGAN: Thank you.

8

MR. BRAUN: Lisa, is there anything

9

else?

10

MS. MULLIGAN: The only other item on

11

the agenda is the sales tax recapture.

12

So I just wanted to update the board

13

that I have spoken to Taxation and Finance

14

twice now. It took a little time to get to

15

the right person, but I have been in touch

16

with the gentleman there who fully understood

17

our concerns, our issues, appreciated how

18

diligent this staff has been to track and

19

review and monitor sales tax and was very

20

willing to work with us to help balance the

21

needs of the State versus the needs of the

22

project. I think that I've stumbled upon

23

someone who's really going to be able to help

24

us get to a good place on our sales tax.

25

I don't have a resolution yet, but I

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2

did want to just update everyone that as early

3

as 11:00 this morning, I was speaking with

4

them about next steps and how we can continue

5

to move the sales tax recaptures and sales tax

6

issues that we're having forward, so I just

7

really wanted to update the board on it.

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MR. CALLAHAN: FYI.

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MS. MULLIGAN: FYI.

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MR. CALLAHAN: Thank you.

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MS. MULLIGAN: Did anyone have anything

12

else?

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MR. TROTTA: Lisa, I want to again

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thank you and the staff for your hard work on

15

your response to the State there. Thank you.

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MS. MULLIGAN: You're very welcome.

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The ABO letter, it was definitely a team

18

effort.

19

MR. GRUCCI: Did you ever get a

20

response to that letter?

21

MS. MULLIGAN: The only response that I

22

received was an acknowledgment that it had

23

been received. I haven't gotten anything else

24

from them. I suspect the next contact we will

25

have is here's the report with our letter



1

2 included in it, but I'm not sure, we might get  
3 something back from them.

4

5

MR. BRAUN: Just one quick question for  
Lisa.

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7

8

They will eventually post it to their  
website; do we have to post their report  
and/or our response to our website?

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12

MS. MULLIGAN: We do not have to. If  
you want to, we certainly can, but there's no  
requirement that we do. They will post it to  
their website, though.

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14

15

MR. BRAUN: Okay.

At this point I'll entertain a motion  
to adjourn.

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MR. GRUCCI: So moved.

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MR. BRAUN: Second?

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MS. SCHEIDT: Second.

19

MR. BRAUN: Mr. Braun votes yes.

20

Mr. Callahan?

21

MR. CALLAHAN: Yes.

22

MR. BRAUN: Mr. Grucci?

23

MR. GRUCCI: Yes.

24

MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

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MR. BRAUN: Ms. Scheidt?

MS. SCHEIDT: Yes.

MR. BRAUN: Mr. Trotta?

MR. TROTTA: Yes.

MR. BRAUN: We're now adjourned.

Thank you.

(Time noted: 1:52 p.m.)

I, JOANN O'LOUGHLIN, a Notary Public  
for and within the State of New York, do hereby  
certify that the above is a correct transcription  
of my stenographic notes.

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JOANN O'LOUGHLIN