

Hamburg Industrial Development Agency

**Board of Directors Meeting
June 19, 2015
Room 7B- Hamburg Town Hall**

Present

Steve Walters
Patricia Paul
Patricia Brunner-Collins
Mike Quinn
Norma Rusert-Kelly
Tom Moses

Excused

Mike Sendor
Lou McDonald
Janet Plarr

Guests

Craig Cwick

Executive Director

Michael J. Bartlett

- **Move** to open the Board of Directors meeting at 8:05 am.

- Executive Director Bartlett called for the following resolution to be moved:

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") FURTHER AMENDING A RESOLUTION ADOPTED ON SEPTEMBER 19, 2014 AND AMENDED ON MARCH 24, 2015 AUTHORIZING JR FORT COLLINS, L.L.C (THE "LESSEE") TO ACQUIRE AN APPROXIMATELY 50 ACRE PARCEL OF LAND LOCATED AT BAYVIEW ROAD AND ROUTE 5 IN THE TOWN OF HAMBURG, TO CONSTRUCT AN APPROXIMATELY 317,148 SQUARE FOOT WAREHOUSE/DISTRIBUTION FACILITY AND TO CONSTRUCT AND INSTALL THE REQUIRED INFRASTRUCTURE INCLUDING, BUT NOT LIMITED TO, ROAD, SEWERS, PARKING LOT, LIGHTING, DETENTION, PONDS AND SITE WORK, AS AGENT FOR THE AGENCY, FOR LEASE TO THE AGENCY AND SUBLEASE BACK TO THE LESSEE, FOR SUB-SUBLEASE TO FEDEX GROUND PACKAGE SYSTEM, INC., ALL FOR A GROUND SHIPPING WAREHOUSING AND DISTRIBUTION FACILITY TO INCREASE THE PROJECT COST FROM \$30,882,000 TO \$34,500,000.

Moved: Steve Walters

Seconded: Tom Moses

Ayes: Paul, Rusert-Kelly, Brunner-Collins, Walters, Moses

Nays: Quinn

Carried

- Executive Director Bartlett informed the Board that Sharma Development, LLC's request for Agency assistance for their project in the Town of Hamburg be tabled until they have received their Certificate of Need for their proposed Ambulatory Surgery Center from New York State.

- Executive Director Bartlett presented a resolution approving the Assignment and Assumption by CCP Autumn View 7580 LLC of the leasehold interest of Nationwide Health Properties LLC in the 2010 Autumn View Health Care Facility Project. It was explained that CCP Autumn View took over Nationwide Health Properties and the Agency is allowing them to assume the benefits remaining for the project. The facility itself will continue to be operated locally by the McGuire Group.

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") APPROVING THE ASSIGNMENT TO AND ASSUMPTION BY CCP AUTUMN VIEW 7580 LLC OF THE LEASEHOLD INTEREST OF NATIONWIDE HEALTH PROPERTIES, LLC IN THE 2010 AUTUMN VIEW HEALTH CARE FACILITY PROJECT AND AUTHORIZING THE EXECUTION AND DELIVERY OF A DEED FROM THE

AGENCY TO CCP AUTUMN VIEW 7580 LLC AND A LEASE TO AGENCY FROM CCP
AUTUMN VIEW 7580 LLC TO THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT
AGENCY

Moved: Patti Paul **Seconded:** Norma Rusert-Kelly
Ayes: Walters, Moses, Quinn, Brunner-Collins, Paul, Rusert-Kelly
Nays: none
Carried

- A Public Hearing on the JGM Associates Limited Partnership Project was held on June 5, 2015. The following resolution was moved in regards to this project:

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY (“THE AGENCY”) AUTHORIZING JGM ASSOCIATES LIMITED PARTNERSHIP (THE “LESSEE”) TO CONSTRUCT AN APPROXIMATELY 16,000 SQUARE FOOT INDUSTRIAL WAREHOUSING FACILITY ON A PARCEL OF LAND LOCATED ON JEFFREY BOULEVARD IN THE TOWN OF HAMBURG AND TO ACQUIRE AND INSTALL MACHINERY, EQUIPMENT, FURNISHINGS AND FIXTURES REQUIRED IN CONNECTION THEREWITH, ALL FOR AN INDUSTRIAL/WAREHOUSING FACILITY, FOR LEASE TO THE AGENCY AND SUBSEQUENT LEASEBACK TO THE LESSEE FOR SUB-SUBLEASE TO FRONTIER SOTEK, INC. (THE “SUBLESSEE”) AND TO TAKE OTHERS PRELIMINARY ACTION.

Moved: Steve Walters **Seconded:** Patti Brunner-Collins
Ayes: Moses, Rusert-Kelly, Paul, Quinn, Walters, Brunner-Collins
Nays: none
Carried

-A comparison of the local labor policies adopted by the ECIDA, the Amherst IDA and a proposal submitted by Director Quinn was discussed. Executive Director Bartlett requested feedback from the Board in regards to their thoughts on the three local labor policies. Once feedback is received the Governance Committee will review any comments and have a proposed HIDA Policy to present to the full Board for consideration.

- A comparison of all the local IDAs in Erie County compared to the state averages based on information contained in the latest State Comptroller’s Audit of IDAs was discussed. It was agreed that all local IDAs look very good when compared against the state averages.

- Executive Director Bartlett informed the Board that the State Comptroller’s Audit of the Agency listed eight recommendations that the Agency should consider. These related to the following:

1. Review and update the UTEP to ensure that it includes clear guidance, documentation requirements and criteria specific to the needs of HIDA
2. Develop a recapture policy that allows for the recapture of financial assistance if businesses fall short of their performance goals.
3. Monitor whether PILOTs are accurately billed and collected in accordance with authorized agreements.
4. Evaluate if the businesses’ actual capital investments are consistent with those specified on the applications and document action taken if their performance is less than intended or required information is not received.
5. Ensure the project files contain all necessary information including capital investment cost affidavits and job surveys.
6. Verify the employment data that businesses report annually is accurate, evaluate performance, and document action taken if their performance is less than intended.
7. Request applicable documentation to monitor sales tax benefits received by each project to determine if the project was entitled to the exemption and enforce the recapture resolution for those benefits deemed unauthorized.
8. Notify taxing jurisdictions and request updated bills be sent to businesses when bills do not agree with PILOT payments.

-The Board was informed that a letter addressing each of these concerns had been drafted by Kevin Kreutzer and is being edited by Executive Director Bartlett. The letter will be sent prior to the June 10th deadline and a copy will be sent to each Board member. Following this, we have 90 days to submit a Corrective Action Plan to the State.

- Nathan Neill updated the Board on the Article 78 action brought against the Agency and Land Development Corporation by Michael Kowalski. It was suggested by Chairman Walters that consideration be given to amend the 2015 HIDA budget to reflect a \$20,000 increase for legal resources in case Executive Director Bartlett needed funds in regards to the current Article 78 action. IT was emphasized that this was a precaution and the money may or may not be used. Executive Director Bartlett will present an amended budget for Board consideration at the next Board meeting.

-Executive Director Bartlett informed the Board that a new FOIL request had been received from State Senator Marc Panepinto dated May 27, 2015. The letter from Senator Panepinto and Executive Director Bartlett's response were reviewed. The response and corresponding documents were personally picked up by a representative from the Senator's office on June 3rd.

-The Board was told that Jennifer Reinagel, the Administrative Assistant currently shared with Community Development is leaving around July 1st due to the impending birth of her 3rd child. One candidate had indicated an interest in the position and is scheduled to be interviewed on Wednesday, June 10th. Her name is Melody Cole and she comes highly recommended by Patrick Heraty, a professor at Hilbert College. Supervisor Walters is following up with a potential second candidate and the Board was asked to refer other candidates that may have an interest. The position would be no more than 19 ½ hours a week, would not include benefits, and it was agreed the starting salary would be \$13.00 an hour.

Moved: Tom Moses **Seconded:** Patti Brunner-Collins
Ayes: Walters, Paul, Quinn, Rusert-Kelly, Moses, Brunner-Collins
Nays: none
Carried

-**Motion** to approve the minutes from the May 1, 2015 Board of Directors meeting.

Moved: Tom Moses **Seconded:** Steve Walters
Ayes: Brunner-Collins, Rusert-Kelly, Paul, Walters, Quinn, Moses
Nays: none
Carried

-**Motion** to approve the April 2015 Treasurer's Reports.

Moved: Steve Walters **Seconded:** Mike Quinn
Ayes: Walters, Rusert-Kelly, Brunner-Collins, Quinn, Paul, Moses
Nays: none
Carried

-Executive Director Bartlett related a conversation he had with Village of Blasdell officials in regards to the Pine Hills Fresh Foods, Inc. Project located at 4233 Lake Avenue in the Town. The project was originally approved on November 9, 2012. The building was originally going to be used as a food processing and distribution facility. Due to the loss of a major customer, the building was never used for this purpose. The inducement was kept in place in the hope that the tax incentives would assist the owner in leasing the building. To date, the building is still empty. It was agreed that this violates the lease agreement with the owner and the HIDA and Executive Director Bartlett was instructed to notify the owner of this and start the process to return the property to the tax roles.

- A request to move into Executive Session was made to discuss legal issues. Due to a perceived conflict of interest, Board Member Michael Quinn was asked to recuse himself which he did at 8:28 am.

- **Motion** to move into Executive Session at 8:29 am.
Moved: Steve Walters **Seconded:** Tom Moses
Ayes: Brunner-Collins, Rusert-Kelly, Paul, Walters, Moses
Nays: None
Carried

- **Motion** to move out of Executive Session at 8:56 am.
Moved: Patricia Paul **Seconded:** Steve Walters
Ayes: Moses, Rusert-Kelly, Brunner Collins, Paul, Walters
Nays: None
Carried

- **Motion** to adjourn at 8:56 am.

Moved: Tom Moses **Seconded:** Patricia Brunner-Collins
Ayes: Walters, Brunner-Collins, Rusert-Kelly, Paul, Quinn
Nays: None
Carried

Sincerely,

Michael J. Bartlett
Executive Director