



6122 South Park Avenue
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**Hamburg Industrial Development Agency
Board of Directors Meeting
December 15, 2021, 7:30am
Blasdell Village Hall**

Present

Andy Palmer
Tom Moses
Davis Podkulski
Bob Hutchison-(via Zoom no vote)
Cam Hall
Robert Reynolds
Janet Plarr
Norma Rusert-Kelly

Excused

Wence Valentin

Guests

Jennifer Strong, Neill & Strong
Mary Doran, HIDA
Francesca Bond, Hamburg Sun - Zoom
Anthony Cutaia, Owner Rane Mgmt-Zoom
Elise Hake, Finance Director Rane Mgmt-Zoom

Executive Director

Sean Doyle

-Pledge of Allegiance

-Roll Call

-Motion to open the board meeting at 7:34am.

Moved: Norma Rusert-Kelly **Seconded:** Tom Moses

Ayes: Moses, Podkulski, Hall, Reynolds, Rusert-Kelly, Plarr, Palmer

Nays: none

Carried

-Motion to approve the November 2021 board meeting minutes

Moved: Bob Reynolds **Seconded:** Cam Hall

Ayes: Moses, Podkulski, Hall, Reynolds, Rusert-Kelly, Plarr, Palmer

Nays: none

Carried

Treasurer, Bob Reynold's gave an update on the financials. HIDA received administrative fees of \$97,213.69 in November net income for the month \$85,226.26. January thru November net income for the HIDA totaled \$449,215.63. January 2021 liabilities and equity totaled \$652,221.45, as of November 30, 2021 liabilities and equity total \$1,100,937.08.

Motion to approve the November 2021 Treasurer Report

Moved: Andy Palmer **Seconded:** Janet Plarr

Ayes: Moses, Podkulski, Hall, Reynolds, Rusert-Kelly, Plarr, Palmer

Nays: none

Carried

Executive Director Update:

- E-One was supposed to close on December 17th, however that will not happen. Doyle will work with Attorney Strong to send them a 30 day notice before recapture procedures will begin. Per HIDA policy E-One representatives will have to appear in person before the board and present their case to stop the recapture proceedings.
- Key Energy and Johnson's Brewhouse have both received their sales tax letters and paid 25% of their HIDA administrative fees. The 17 Long Project has closed.
- Palace Theatre has fully refunded their draw portion of the HNYLDC loan. Doyle will speak to this further in the HNYLDC board meeting.
- CARES Grant info is now available on the website. Applicants can start the process.
- Legislation, Senate Bill S1634 has been passed by both the Senate and Assembly. It is on the Governor's desk for final signature. The bill requires local IDAs to change their fee schedule to match their county's fee schedule. Based on the HIDAs gross income for this year, if we matched Erie County's fees our revenue would have increased by \$150,000 for 2021. The justification for this bill is it supposed to reduce shopping among IDA's for project savings. Conversely, it could also be argued that local IDAs are trying to be cost effective with their fee schedules. Also, IDA fees are not a determining factor in the site selection process. This bill was previously vetoed by the Governor Cuomo. Doyle will keep the board informed.
- Board will be invited the Annual HDC meeting in January. Incoming supervisor Randy Hoak will be the guest speaker. Additionally the board will be invited to a meeting with Hoak.
- An RFP for marketing has been sent out.
- Annual Chamber Christmas Bash has been cancelled due to covid concerns.
- The proposal for development at Sowels and South Park is continuing to move along.
- IDA Leadership Council continues to work on the UTEP.
- Doyle will be on the WNYSCAR Board as well as the ECC Business Advisory Council
- UB Center for Urban Planning, Citizen Planning School will be help develop a local project in Hamburg.
- Changes have been made to the Local Labor Policy per the discussion at the last board meeting. The changes reflect a wavier fee that will be imposed based on the percentage of non-local employees. All fees will be donated to a local adult career training programs. Amended policy below:

TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY

LOCAL LABOR POLICY

(Attachment to HIDA Application for Financial Assistance)

Adopted: August 7, 2015, re-adopted as written January 26, 2021,

re-adopted as written June 16, 2021

Local Labor Workforce Certification

Project applicants (the "Company"), as a condition to receiving Financial Assistance (including a sales tax exemption, mortgage recording tax exemption, real property tax abatement, and/or bond proceeds) from the Town of Hamburg Industrial Development Agency (the "Agency"), will be required to utilize Local Labor, as defined below, for all projects involving the construction, expansion, equipping, demolition and/or remediation of new, existing, expanded or renovated facilities (collectively, the "Project").

Local Labor Defined

Local Labor is defined as individuals residing in Erie County, Niagara County, Chautauqua County, Cattaraugus County, Allegany County, Wyoming County, Genesee County, and Orleans County (collectively, the "Local Labor Area").

Local Labor Requirement

At least 90% of all Project employees of the general contractor, subcontractor, or subcontractor to a subcontractor (collectively, the "Workers") working on the Project must reside within the Local Labor Area. Companies do not have to be local companies as defined herein, but must employ local Workers residing within the Local Labor Area to qualify under the 90% local labor criteria.

Waiver of Requirement

It is understood that at certain times, Workers residing within the Local Labor Area may not be available with respect to a Project. Under this condition, the Company is required to contact the Agency to request a waiver of the Local Labor Requirement (the "Local Labor Waiver Request") contingent on board approval and subject to agency fees.

Local Labor Requirement	Waiver Fee**
Less than 90% local labor	10% of the agency project fee
Less than 80% local labor	30% of the agency project fee
Less than 70% local labor	50% of the agency project fee
Less than 60% local labor	100% of the agency project fee

** Agency fees associated with local labor waivers will be utilized to promote adult career training in Erie County. These fees will be remitted to The Erie 1 BOCES Educational Foundation, Inc. or a similar not for profit agency.

Local Labor Reporting Requirement

Companies authorized to receive Financial Assistance from the Agency will be required to file or cause to be filed a Local Labor Utilization Report (the "Report") on such form as made available by the Agency, and as directed by the Agency, which will identify, for each Worker, the city, town, or village and associated zip code that each such Worker is domiciled in. The Report shall be submitted to the Agency as follows: (i) immediately prior to commencement of construction activities; and (ii) on or by the next following quarterly dates of January 1, April 1, July 1, and October 1 and each quarterly date thereafter through the construction completion date.

In addition, the Agency, or its designated agents, shall have the right, during normal business hours, to examine and copy the applicable books and records of the Company and to perform spot checks of all Workers at the Project site to verify compliance with the Local Labor Requirement throughout the construction period.

Enforcement

If Agency staff determines that: (i) the Local Labor Requirement is not being met; or (ii) Agency staff, upon use of its reasonable discretion, discovers or becomes aware of a compliance issue related to the Local Labor Requirement, then written notice of said Local Labor Requirement violation (the "Notice of Violation") shall be provided to the Company. The Company shall have 10 business days thereafter to either: (i) provide written confirmation to the Agency indicating that it has cured the violation and is now in compliance with the Local Labor Requirement; (ii) submit the Local Labor Waiver Request as described above; or (iii) confirm in writing its inability to meet the Local Labor Requirement. If the Company does not respond to the Agency's Notice of Violation, or if the Company confirms its inability to meet the Local Labor Requirement then the Agency shall immediately terminate any and all Financial Assistance being provided to the Project in accordance with the terms of the underlying agreements between the Agency and the Company with respect to the Project. If a Local Labor Waiver Request is submitted and the Agency declines to issue the requested waiver, then the Company shall have 10 business days after receipt of the notice of the waiver request denial to provide written confirmation to the Agency indicating that it has cured the violation and is now in compliance with the Local Labor Requirement. If the Agency does not receive such confirmation, the Agency shall then immediately terminate any and all Financial Assistance being provided to the Project in accordance with the terms of the underlying agreements between the Agency and the Company with respect to the Project.

The foregoing terms have been read, reviewed and understood by the Company and all appropriate personnel. The undersigned agrees and understands that the information contained herein must be transmitted and conveyed in a timely fashion to all applicable subcontractors, suppliers and materialmen. Furthermore, the undersigned realizes and understands that failure to abide by the terms herein could result in the Agency revoking all or any portion of Financial Assistance, whether already received or to be received by the Company, as it deems reasonable in its sole discretion for any violation hereof.

-Motion to approve the Local Labor Policy as amended above, imposing a fee requirement.

Moved: Bob Reynolds

Seconded: Davis Podkulski

Ayes: Moses, Podkulski, Hall, Reynolds, Rusert-Kelly, Plarr, Palmer

Nays: none

Carried

-Supervisor, Jim Shaw's last Town of Hamburg Board meeting was this past Monday. Doyle, Palmer, Hutchison and Moses were in attendance. Palmer read the resolution approved at the last HIDA board meeting recognizing Shaw for his service. It was well received. Plarr stated she talked to Shaw after the meeting and he was touched by the kind words.

-The January 2022 meeting currently scheduled for the 19th will be changed to the 12th due to a conflict with the annual New York State Economic Development Conference Doyle will be attending.

-**Motion** to reschedule the January 2022 board meeting to January 12th at 7:30am Blasdell Village Hall

Moved: Cam Hall

Seconded: Andy Palmer

Ayes: Moses, Podkulski, Hall, Reynolds, Rusert-Kelly, Plarr, Palmer

Nays: none

Carried

-**Privilege of the Floor** – no comments

-Doyle read the following resolution for the Oaks at South Park.

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY EXTENDING THE INDUCEMENT PERIOD AND THE SALES TAX PERIOD FOR THE OAKS AT SOUTH PARK, LLC, UNTIL JUNE 15, 2022

WHEREAS, the Town of Hamburg Industrial Development Agency (the "Agency") by resolution adopted on June 25, 2019 induced The Oaks at South Park, LLC (the "Lessee") with respect to the acquisition and equipping by the Agency with the proceeds of a lease with mortgage for the acquisition by the Lessee of an approximately 27 acre parcel of land located at 5138 South Park Avenue in the Town of Hamburg, the construction by the Lessee, as agent for the Agency (i) the adaptive re-use of a former school building and re-development the parcel of land for construction of 19 two-story buildings totaling 152 housing units and (ii) installation of baseball and softball fields and other amenities and the acquisition and installation of machinery, equipment, furnishings and fixtures by the Lessee, as agent for the Agency, all for a residential housing complex with additional services (the "Project"). The project will be leased by the Lessee to the Agency for sublease back to the Lessee for sub-sublease to residential tenants which will be the occupants of the project.

WHEREAS, due to COVID - 19 pandemic and the mandated construction shutdown and the supply-chain delays as a result of border closings and supply demands, the Lessee has been unable to complete the Project within the time frame originally anticipated and has requested that the time period for completion be extended for an additional six months; and

WHEREAS, The Town of Hamburg Industrial Development Agency approved a temporary policy to waive extension fees for project extensions for COVID-19 Pandemic related delays on May 26, 2020 to lessen the economic burden of induced project delays related to the COVID-19 Pandemic.

NOW, THEREFORE, BE IT RESOLVED BY THE AGENCY AS FOLLOWS:

- 1. The Agency does hereby extend the inducement period and the sales tax period for the Lessee from December 15, 2021 until June 15, 2022 and waives the extension fee; and*
- 2. This resolution shall take effect immediately.*

Elise Hake and Anthony Cutaia, were present via Zoom to speak on behalf of Rane Management's request for a 4th extension on the project. Cutaia stated the completion date is 12 months out and in addition to covid, supply chain issues have really slowed down the project more than anything else. He stated it is an

active construction site and they are doing all they can to keep the project moving. There is currently a wait list for units. Additionally he stated they have also had labor issues.

Bob Reynolds stated since the completion date is still 12 months out and this extension request expires in June, if they come back to the HIDA in June the extension fee may not be waived. He does not want to set a precedent of waving fees.

Janet Plarr asked if they are meeting their compliance requirements for low income housing. Cutaia stated 5 units are already occupied per the requirement.

Andy Palmer stated he would be hesitant to extend past June.

Bob Hutchison stated each project needs to be looked at on its own merit. He asked Doyle about the amount of waived fees for this project. Doyle estimated \$60,000 in savings to date. \$20,000 for each extension.

-Motion to approve the above resolution extending the inducement period and the sales tax period for The Oaks at South Park, LLC, until June 15, 2022.

Moved: Norma Rusert-Kelly **Seconded:** Cam Hall
Ayes: Moses, Podkulski, Hall, Reynolds, Rusert-Kelly, Plarr, Palmer
Nays: none
Carried

Bob Hutchison left the meeting at 8:06am.

-Motion to go into Executive Session for personnel issues at 8:07am

Moved: Andy Palmer **Seconded:** Cam Hall
Ayes: Moses, Podkulski, Hall, Reynolds, Rusert-Kelly, Plarr, Palmer
Nays: none
Carried

-Motion to move out of Executive Session with no action taken at 8:20am

Moved: Norma Rusert-Kelly **Seconded:** Janet Plarr
Ayes: Moses, Podkulski, Hall, Reynolds, Rusert-Kelly, Plarr, Palmer
Nays: none
Carried

-Motion by Andy Palmer for the following staff compensation bonuses; Sean Doyle, \$12,000, Mary Doran \$3,000.

Moved: Norma Rusert-Kelly **Seconded:** Janet Plarr
Ayes: Moses, Podkulski, Hall, Reynolds, Rusert-Kelly, Plarr, Palmer
Nays: none
Carried

The board was in consensus - jobs well done especially amid trying times with covid etc.

Much appreciated by Doyle and Doran.

*One last note by Attorney Strong, new legislation now requires meeting minutes to be posted on website within 2 weeks of the meeting.

Doyle stated the HIDA will notate on minutes they are an “unapproved/draft” post, once approved will remove notation and repost website.

**At the end of the meeting Norma Rusert-Kelly announced that it would be her last meeting. She is stepping down from the board after 20+ years. She thanked everyone on the board and would like to see another representative from the Village of Hamburg on the board.*

Director Doyle thanked her for her service and wished her well along with the other members of the board.

-Motion to adjourn at 8:24am

Moved: Tom Moses

Seconded: Davis Podkulski

Ayes: Moses, Podkulski, Hall, Reynolds, Rusert-Kelly, Plarr, Palmer

Nays: none

Carried

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Doyle', written in a cursive style.

Sean Doyle, Executive Director