

SARATOGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY MEETING**JUNE 9, 2014 – 8:00 A.M.****At 50 West High St., Ballston Spa, NY**

The meeting was called to order by Chairman Callanan.

PRESENT: Members: Raymond F. Callanan, Chairman, Richard Dunn, Charles Hanehan, Arthur Johnson, Glenn Rockwood, Rodney Sutton

Staff & Guests: Lawrence Benton, CEO; Michael Valentine, Sr. Planner; Michael Toohey, Agency Counsel; John Murray, CFO; James Carminucci, Bond Counsel; James Angus, SEDC; Stephen Williams, Daily Gazette; Robin Cooper, Business Review

APPROVAL OF MINUTES

Mr. Dunn moved to approve the minutes of the meeting of May 12, 2014. The motion was seconded by Mr. Sutton and approved with all in favor.

SARATOGA COUNTY WATER AUTHORITY: LOAN AGREEMENT

Chairman Callanan stated last year, the Board entered into an agreement with the Saratoga County Water Authority for a \$1 million loan and a \$525,000 grant to build an outfall for the discharge of water with high levels of organics.

Mr. Toohey said part of their financing package requires an escrow account to insure payment of principal and interest. The way this agreement was written was that all of the money that we ever give goes directly to the project. This proposed set aside of a portion of the loan is going in support of the project, but it is related to construction. The Authority counsel wanted Mr. Toohey to confirm that it was alright for a portion of the loan to be allocated in that fashion, but he told them he did not have the authority to do that, and it would require a decision by this Agency. We have always given loans and grants to direct capital things – engineering, legal, architectural, etc. tangential to the building project. This is more tangential to the financing. Mr. Carminucci stated original bond financing has different categories of indebtedness. There is something called parity indebtedness which means you would be on equal footing as with bond indebtedness. In order to qualify, you have to take a portion of your loan proceeds and create a debt service reserve fund which would be used to pay off your loan if the Water Authority did not have ample revenue to do that. He explained instead of 100% of the loan proceeds going to the project, a portion goes into a fund to repay the loan. The amount is around 10%. Mr. Toohey said with this, we would be more secure than we were before, because that \$100,000 would be set aside to help secure the project. He stated the resolution stated \$1 million/\$500,000 for doing the outfall and things tangential to it. This would have to do with their internal financing mechanisms. He said as a practical matter, we would be better off, but it would not be going to where the resolution stated. He stated \$900,000 would be going towards the bricks and

mortar, and \$100,000 would be set aside. Mr. Johnson stated the Water Authority is still waiting on Brookfield for the easement, other than that, they are ready to go.

Mr. Dunn moved to authorize amending the resolution to state that of the \$1 million loan, a percentage would be placed into a fund to support repayment of the loan and not all used for the construction of the project. The motion was seconded by Mr. Rockwood.

Chairman Callanan asked how the Water Authority would pick up the balance, and Mr. Johnson said he was not sure, but they have been selling more water.

RESOLUTION NO. 1225

Resolved, that the Saratoga County Industrial Development Agency amends Resolution No. 1198 of July 15, 2013 to allow the Saratoga County Water Authority to set aside a percentage of the Agency's \$1 million loan into a reserve fund to support the repayment of the loan.

AYES – Messrs. Dunn, Hanehan, Johnson, Rockwood, Sutton and Callanan.

NOES – 0.

Adopted 6-0.

BALLSTON SPA CENTRAL SCHOOL DISTRICT: FUNDING REQUEST FOR HIGH TECH EDU PRORAM

Chairman Callanan stated everyone should have received a copy of a letter from the School District Superintendent requesting funding. Mr. Benton said the request is for \$35,000 to use to cover the operating cost of the Tech Smart Program for one year. The Board has discussed operating vs. long term capital grant approvals, so it would be up to the Board to make this decision. Mr. Sutton asked if Global Foundries participated at all for any type of financing for this. Mr. Murray stated they do contribute, as Global has first refusal for participants of the program. Mr. Benton stated Global's personnel are very active in the educational part. Mr. Murray stated we have rules that state we only contribute to municipalities, and this facility is not part of any municipality. Chairman Callanan said a few years ago, we gave the Burnt Hills-Ballston Lake School District money for one year, and we denied their request for additional funding after that. He said he does not believe this fits into our program. Mr. Sutton said he would rather see Global, IBM or the ones that will benefit from having these kids contribute toward this. He stated it is a pleasure to see these kids going to school to learn the different technologies, but this is a stretch for us. Mr. Johnson said there was a list of people who did participate. Mr. Dunn stated we share a role in trying to make sure we have a trained work force available. Part of our role is to make sure we have trained people to staff the projects we want to induce.

Mr. Benton said he spoke to the Superintendent after last month's presentation and asked him if there was a capital investment the Agency could make that would be a long term benefit to the program, and he said there were no significant capital needs at this time. Mr. Benton stated schools have hefty budgets, and he is concerned about the on-going cost to the Agency. He said he would have preferred to have seen their budget. We don't even know what percentage of the annual program cost the \$35,000 represents. Mr. Dunn asked if we could request to see their budget. Mr. Murray said we should also see who contributes and how much. Mr. Toohey asked how it will be funded next year. Mr. Dunn stated they have an \$8 or \$9 million tax windfall from Global Foundries on the tax side.

Mr. Hanehan moved to table this request until further information is provided. The motion was seconded by Mr. Dunn and approved with all in favor.

FUND BALANCE REPORT: PROPOSAL TO INCREASE ALLOCATION

Mr. Benton stated he sent the members an updated fund balance report with the grants and loans. Recently, with the Geyser Road signalization grant that the Board agreed to would provide for the local match of \$40,000. He said even though it has not been spent as yet, that pushed us over our current allocation. We started with \$1,500,000 of fund balance, and we went to \$2,500,000 when we did the Water Authority. The reserve fund is \$40,000 short, so the Board needs to address covering the \$40,000 and how much more you want to set aside towards future grants and loans. Chairman Callanan asked how much money is available. Mr. Benton said he did a cash balance for the Board. The cash on hand as of the audit 12/31/13 was about \$3.9 million. From that, you will have to deduct the \$1 million loan to the Water Authority and the \$525,000 grant. The Board committed \$17,000 under the Memorandum of Understanding with the County for the Regional Traffic Study, \$40,000 for the Geyser Road/Route 50 intersection and \$45,000 towards the Cady Hill rail spur upgrades. After deducting these from the cash balance, it leaves about a \$2.3 million fund balance. He mentioned adding to this is the \$250,000 loan to Mr. Rossi. He said we are in the fourth year of that, and he assumes if the Walmart project is approved, that loan would be repaid at that time. He stated Tom Savino gave him that indication. Mr. Dunn said isn't there a balloon provision in year five, and Mr. Benton said yes. He said he also has the \$650,000 loan to Luther Forest coming back to the Agency because it has not been written off. Mr. Dunn stated so if \$2.5 million was increased to \$3 million, would that be enough of a cushion, and Mr. Benton said yes. He stated it can always be changed by the Board.

Mr. Dunn moved to increase the IDA's grants/loans fund balance from \$2.5 million to \$3 million. The motion was seconded by Mr. Rockwood.

RESOLUTION NO. 1226

Resolved that the Saratoga County Industrial Development Agency hereby increases its grants/loan fund balance from \$2.5 million to \$3 million.

AYES – Messrs. Dunn, Hanehan, Johnson, Rockwood, Sutton and Callanan.

NOES – 0.

Adopted 6-0

NYSEDC: PROPOSED LEGISLATION, STATE/LOCAL PUBLIC AUTHORITIES & LDC'S

Mr. Benton stated everyone should have received an e-mail from the NYS Economic Development Council on proposed legislation, S.6870 (Savino) concerning the imposition of significant new regulatory requirements on State and Local economic development organizations. He stated this legislation is outrageous. They are talking about the remaining 140 IDA's across the State that are created by counties and towns. With this proposal, with any project and IDA has, it has to be brought before some State Agency before Board approval, and it is taking away the discretionary authority of all IDA's in the State. Mr. Dunn said he believes this has been through the Assembly already. Mr. Murray said if the Authorities Budget Officer had an issue with a company, who would force the company to do the claw back of any abatements which had been granted? Mr. Dunn stated we are already required to do that with sales tax. He said he does not believe we have any guidelines for the present claw back. Mr. Murray said in reading this, whatever happened to NYS Tax & Finance? If there was a sales tax issue, shouldn't they be handling it? Mr. Valentine stated the legislation takes Tax & Finance out of it. Mr. Dunn said the most critical part is removing 72% of the construction work force (non-union) out of the IDA business. Mr. Benton stated all of this makes no sense. All this would be doing is stopping the development process. Mr. Dunn said he personally sent this to Senator Marchione's office, and she did oppose it. Mr. Murray suggested a letter should be sent from this IDA opposing this legislation. Mr. Benton said he will check with Brian McMahon on the timing. Mr. Johnson stated the Legislature will adjourn next week. Mr. Toohy stated they will assume a non-response is a positive response.

Mr. Hanehan moved to oppose S.6870 and to notify our local Legislators of this opposition. The motion was seconded by Mr. Sutton and approved with all in favor.

UTEP: PROPOSED AMENDMENTS

Mr. Benton distributed copies of the Board's UTEP Policy. He said this was started in 2013, and it is time to finish up with the UTEP amendments. He said he has sent this out several times to the Board members, and he has received comments from Mr. Dunn and Mr. Valentine and no one else. He said the major change was with the current policy on tax abatements for manufacturing. Currently, it is 10 years at 100%. It does not give the Board flexibility. He believes the Board wanted the opportunity to lessen the amount of abatement over time. He mentioned this is a 30 year old policy. Years ago, tax rates were lower than they are today. By going from year one to ten, we talked about a flat 0 to 100%. It seems if there was eligible

manufacturing, for the first five years, a minimum of 50% abatement, and that could go up to 100%. When you get into the latter half of the abatement period, years six through ten, then you could go from 0 to 100% abatement. Mr. Dunn said a good example is Specialty Silicone Products where we are treating this as a deviation from our UTEP. If we had this in play, in years six through ten, it would not be a deviation. Mr. Benton said we have looked at many other IDA's, and they are all different. Our Board has always been straight forward based on the nature of the company. He said this would be the primary change to the UTEP.

Mr. Benton said as part of the amendments, we have added performance criteria. When we look at a company, we always talk about jobs created, salaries, the impact on the public infrastructure, etc. Because of the age of this policy, we have a 30-day public notice on project deviation which was comparable with our public hearing requirement, but that has expired. This should be changed to 10 days. A deviation would be rare once we make this change. Mr. Dunn stated there are a few other minor changes we need to make. He said he wanted the co-generation references to remain in the policy, as he believes co-generation will be coming back to us. Mr. Benton pointed out we will be asking for a public hearing to be set for SSP, and that will correspond with our July 14th meeting. Because it is a deviation, that will require a 30-day notice. He said he believes to amend the UTEP requires a ten day notice. Mr. Carminucci stated the statute does not talk about a procedure on how to go about modifying it. On the last paragraph of the UTEP on page 2, it states it is a 60-day public notice. He said if that is the case, it may have to be 60 days as a default, as there is no guidance. He said he will have to check to see if that 60-day period was ever changed. Mr. Benton requested the Board to send him any comments they may have on the UTEP Policy so that it can be amended for a final copy. He said in July, we can set a public hearing. Mr. Rockwood asked if there is a subcommittee on this. Mr. Benton said there was, and that Mr. Rockwood was appointed to it.

Mr. Benton stated we were going to set a public hearing for SSP for the June meeting, but they wanted to go back to BBL to insure that their construction costs were solid. They have come back, through SEDC, stating that they are comfortable with the figure they gave us - \$2 million, and we will need to set a public hearing for July 14th. Mr. Carminucci advised that a deviation letter must go out as soon as possible to meet the 30-day requirement. He said he will do the public hearing notice. He said registered notices will be sent to the County, Town of Ballston and the Ballston Spa Central School District.

OTHER BUSINESS

Mr. Dunn moved to authorize a **public hearing** to be set for Monday, July 14, 2014 at 8:00 a.m. in the Town of Ballston on the application of Specialty Silicone Products. The motion was seconded by Mr. Rockwood and approved with all in favor.

Mr. Benton mentioned that **Step Tech** was the spec building that the IDA provided initial incentives to in the form of a mortgage tax abatement and sales tax abatement for construction

and equipping of the building which is over 100,000 sf. He said Global became one of the major tenants there, and that is a long-term relationship. He stated this project has exceeded its initial sales tax certificate expiration date. It was extended to June 30th of this year. He said they have approached Mr. Valentine for another extension. Mr. Benton stated the issue with this is that the IDA does not hold title to this property any more. We transferred title back to the company at its request. He said it makes him uncomfortable giving sales tax abatements to projects we do not hold title to, and he recommended that the Board not extend this sales tax certificate beyond the current certificate. At this point, we should tell them technically, they are not our agent any more. Mr. Carminucci stated that 60 days after the closing, we were not in title any more. Mr. Valentine stated that he sent them a letter requesting their construction completion report by July 15th. He said he does not believe there is a reason to write them a letter stating it is complete. Mr. Benton said there is no presumption that we were going to extend it anyway. Chairman Callanan stated no action will be taken by this Board to consider this extension.

Mr. Benton stated he has met with Mr. Toohey on the **rail spur**, and they are trying to put together a contract for upgrades and improvements. He said he will need to meet with the subcommittee. He mentioned the appraisal included the entire property. We need to get back to the appraiser telling him we do not own the portion of the track along the warehouse, nor do we have an easement for that section. We have to come up with a fair price if we want to dispose of the property at this time. Mr. Dunn said that committee consists of Chairman Callanan, Mr. Mooney, Mr. Benton, Mr. Valentine, counsel and himself. Mr. Benton said he will talk to the appraiser and contact the committee for a meeting. There are other bills that have to be taken care of with the Canadian-Pacific RR Co. which are the responsibility of Logistics One.

Mr. Dunn asked about the status of the **Victory project**. Mr. Hanehan stated he heard that Mr. Kaufman is looking for financing for that project. Mr. Angus said Mr. Kaufman is looking to start the project in October.

Mr. Dunn moved to authorize a one year extension for **Mr. Benton's contract**, as CEO of the IDA, in the amount of \$33,000. The motion was seconded by Mr. Johnson.

RESOLUTION NO. 1227

Resolved, that the contract between the Agency and the CEO is hereby extended for the period April 17, 2014 to April 16, 2015 at the rate of \$33,000. Per annum to be paid quarterly.

AYES – Messrs. Dunn, Hanehan, Johnson, Rockwood, Sutton and Callanan.

Noes: 0

Adopted: 6-0

Mr. Hanehan mentioned that on Sunday, June 15th, if you would like to see a Saratoga County development project, **Sundae on the Farm** will be held in Bacon Hill. The Peck family will display their new milking facility. They are investing \$2 million in this project, and it should be starting up next week. He distributed copies of a flyer on this event. He said there will be many things for kids to do there. He said he believes this is the 20th year for this event. He stated it has been held twice on his farm. Mr. Benton stated the County Planning Department was involved in this event in the very beginning.

Mr. Valentine mentioned **letters for field audits** have been sent out to Creatacor, Columbia/HPS and United Step One.

Being no further business, Mr. Dunn moved to adjourn the meeting. The motion was seconded by Mr. Hanehan and approved with all in favor.

Respectfully submitted,

Elaine M. Sodemann