

SARATOGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY MEETING**March 10, 2014 – 8:00 A.M.****At 50 West High Street, Ballston Spa, NY**

Vice-Chairman Dunn called the meeting to order.

PRESENT: Members: Richard Dunn, Vice- Chairman; Charles Hanehan; Arthur Johnson; Michael Mooney; Glenn Rockwood; Rodney Sutton

Staff & Guests: Michael Toohey, Agency Counsel; John Murray, CFO; James Carminucci, Bond Counsel; Michael Valentine, Sr. Planner; Jim Angus, SEDC; Stephen Williams, Daily Gazette; Paul Post, The Saratogian

APPROVAL OF MINUTES

Mr. Hanehan moved to approve the minutes of the meeting of February 10, 2014. The motion was seconded by Mr. Mooney and approved with all in favor.

Mr. Valentine stated that in January's minutes, the name of the Village of Victory's Mayor should be Patrick Dewey.

UNITED STEP 1: CHAIRMAN'S EXECUTION OF FINANCE MODIFICATION

Mr. Toohey stated we have a request for modification to some of their financing documents. Because the Agency is involved in this project, the lending institution needs Agency approval of any change in the agreements. United Step 1 has not complied with financing arrangements they have with their banker, and the banker is willing to reconfigure their financing. They want the IDA to acknowledge the reconfiguration of their finances. It does not change our responsibility in any way.

Mr. Mooney moved to sign documentation that would change the financial terms for United Step 1. The motion was seconded by Mr. Johnson and approved with all in favor.

LUTHER FOREST TECHNOLOGY CAMPUS EDC: LOAN AMENDMENT #4

Vice-Chairman Dunn stated the proposed sale of a lot by LFTCEDC to Stewart's Corp. was discussed last month. He said he did talk to Tom Roohan, the chairman. The open question is the amount of the sale proceeds the State will receive. He stated that historically, the State has taken 66% of any land sale, although there is not a written agreement. We did approve the principal and interest rate restructure of the Agency loan, and he suggested we approve 10% of the LFTCEDC's land sale rather than the 75% in the current loan agreement. On a projected \$600,000 sale, which may or may not

take place, the State would take two-thirds of that, the IDA would receive 10%, and Luther Forest would receive the remaining balance. That would make the IDA whole with our principal payment of \$50,000 that is due July 31st if, in fact, there is a sale. Mr. Sutton asked where the sale stood at this point. Vice-Chairman Dunn said the last he heard, there is a water issue that needs to be resolved before they sell some of their land. Mr. Sutton asked if they were waiting for County water. Mr. Johnson stated Mackay is going to purchase it from the County Water Authority and then sell it to Stewart's. Malta wants to supply water to Maltaville with water too, and that is still outstanding. Mr. Toohey said the Agency can apply the future sale proceeds against the \$50,000 principal due in July per the loan agreement.

Vice-Chairman Dunn stated we have already approved by resolution the interest rate change and principal structure change. We do need approval to change the 75% to 10%.

Mr. Sutton moved to authorize receiving 10% of LFTCEDC's land sale rather than 75%. The motion was seconded by Mr. Mooney.

RESOLUTION NO. 1216

Resolved, that the Saratoga County Industrial Development Agency authorizes an amendment to its loan agreement with the LFTCEDC to require that a minimum of 10% of the proceeds from any land sale by the Luther Forest Technology Campus' EDC be paid to the Agency to reduce the principal owed.

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

NOES – o.

Adopted 6-0.

AUDIT: SCIDA, FY 2013

Vice-Chairman Dunn said he has a copy of the audit for the Board's review. Last year, we had a couple of extensions, but this year, it was ready by January 30th, but it needed some signatures, and that is why it was not discussed at February's meeting. It was a very clean audit. Mr. Valentine said he met with the Auditor twice, and Mr. Benton had met with him also. Mr. Mooney asked if Cusack did the input on the PARIS site, and Mr. Valentine said Mr. Benton does the input for that.

OPERATIONS/ACCOMPLISHMENTS REPORT 2013

Vice-Chairman Dunn stated everyone should have received this via e-mail from Mr. Benton. He said he would consider this a draft at this point in time. There is a measurement report that was included with this. He said it states that Global Foundries

has 1 billion square feet, but it should read 1 million square feet. This was designed to be a draft, and we do not need to take any action on it. It gives you a good idea of what the IDA has done, because the way Mr. Benton has written this, it shows the history of where we have been and what has been done in the current year. There is also policy information in there which is very helpful. He suggested that the Board review it. Mr. Murray stated it shows where the Board has not gone in the past where some IDAs have. Vice-Chairman Dunn said it should be available at the next meeting. He said Mr. Benton has just streamlined the measurement report. Under the PARIS reporting, the system is cumbersome that the State has, and Mr. Benton was trying to make it into a way that we routinely look at things. We will take formal action on it next month.

WATER AUTHORITY GRANT/LOAN AGREEMENT: STATUS

Mr. Toohey stated that he has not heard anything on this. From our point of view, everything is done, and the County has provided its guarantee of the loan, but the Water Authority has not responded with everything we need to finalize the agreement. Mr. Johnson said the engineering has been completed, and DEC has reviewed and approved the plan. The easements from Brookfield Power have been secured. He stated Craig Crist, the Water Authority's attorney, will be contacting Mr. Toohey about getting the loan/grant agreement in place, and he will follow up with him today. Mr. Mooney asked if the easements were holding this up. Mr. Johnson said it had, and in addition, the DEC had to sign off on the plans. The project is scheduled to begin in the Spring. Vice-Chairman Dunn said from the DEC's perspective, is the plan a technical analysis or an outfall analysis, and Mr. Johnson stated the outfall.

COUNTY ETHICS/FINANCIAL DISCLOSURE FORMS

Vice-Chairman Dunn requested that everyone mail these forms back to the County.

NYS SALES TAX EXEMPTION: NEW FORM, ST-123

Mr. Valentine said we have been back and forth with the State with regard to sales tax reporting. He said the ST-340 is a form that is filed by the end of February by the company reporting how much sales tax they had abated in the construction of their facility. The ST-60 is a form that we use to appoint a company as agent of the Agency. The State is now looking at producing another form called ST-123 which takes the place of the sales tax exemption letter which is issued through Mr. Carminucci's office to us and then sent out to the company. With Global Foundries, we have many layers of companies, and when someone makes a purchase, whoever the vendor/supplier is at the time needs to know that they are exempt. He said he received a call from someone stating that they clean out the trailers for the contractors on the site, and they wondered if they were exempt. He told them no; this sales tax exemption is for the construction

and equipping of the facility. He said he receives three or four call per week related to Global Foundries.

Mr. Valentine said we had the issue with the State regarding the recapture of sales taxes. They are giving us a form now that is all that will be needed. Mr. Carminucci, Mr. Benton and he will be meeting to review this. Is this a form we use going forward with any projects, or do we go backward with any projects that already have a sales tax exemption. This form is the only thing needed for a company to use. The bottom line is getting the end suppliers to recognize it. It is a matter for the State to try to simplify things. Mr. Carminucci said in situations where we give a sales tax exemption, before we close, we will have to change the form we use and have our agent counter-sign it.

Vice-Chairman Dunn said it talks about recapture and taxes, penalties and interest. It looks like the IDA will have to calculate that. How do we do that for the State? Mr. Carminucci said it was unclear when the law was written who had the responsibility for doing what and whether the IDA had to actually try to collect it. The State, at some point, had the ability to step in if the IDA wasn't able to. Vice-Chairman Dunn asked how the IDA would calculate interest and penalties? Mr. Carminucci said without receiving assisting from Tax & Finance, he does not know how the IDA would do that. If there was a situation where you would need to recapture, you would have to coordinate with the State on how that calculation should occur. Vice-Chairman Dunn said when we were in Albany in January, it was really clear the State Tax & Finance had no idea what they were going to do. Mr. Toohey said he does not believe they know who is going to bear the cost of that recapture. Mr. Carminucci said he understood that if there was a problem estimating the sales tax benefit initially, it appears you could go back and try to amend the figures with the applicant so that you wouldn't have to experience a recapture situation. Mr. Valentine said with Global, there are additions to contracts. M&W and LaChase & Turner are big firms there, and they may go from one phase of the construction to another phase. We have them down for an original estimate with an ST-60, and then all of a sudden that changes. Mr. Carminucci said the recapture is based upon receiving a sales tax benefit that was not authorized.

OTHER BUSINESS

Mr. Toohey said a month or so ago, we had a discussion that National Grid wanted to amend a historic easement they had on the **Moreau rail spur**. There was an agreed upon price that the IDA approved, and they have sent us a check in the amount of \$1,296. for that.

Mr. Valentine stated we have **construction completion agreements** when a company finishes up their construction. We send them a letter requesting them to report back to us the number of employees during the course of construction, where the firms were from, duration of construction, etc. We have sent two of those letters to

Jersen, (Step Tech), and we have not received a report back from them. We sent one out to Bonocio for the theatre construction. We received an inquiry from two union representatives as far as the status of the employment there. We told them we would give them a copy of Bonocio's construction completion report when we receive it. We have letters that go out as closings occur. We sent one to Finch Paper and one to Creatacor for their addition. This is a closing report advising them what they need to provide during the course of the year.

Mr. Valentine said we received a County resolution on the **reappointment of Members** for the IDA. Chairman Callanan, Mr. Johnson and Mr. Hanehan have been extended to December 31, 2015.

Mr. Valentine said **Mr. Toohey's law firm** has been working on things they he sends to them with regard to Global Foundries (mechanic's liens, injuries and falls, etc.). The personal injury claim of Pasquale has been resolved. Mr. Toohey stated it has been resolved as far as the IDA is concerned, as we have been taken out of this. Mr. Valentine stated the IDA is served as owners of the property.

Mr. Valentine stated **site visitations** will be made to Columbia, Creatacor and United Step 1 to match the employment numbers at the time compared to what they had on their application.

Mr. Valentine said **PILOT payments** for local taxes have been received except for one which will be coming in today or tomorrow. Distribution checks will be made to Town of Malta, City of Saratoga Springs and Saratoga County.

Mr. Angus reported **SEDC's annual dinner** will be held May 7th at 5:30 at the City Center in Saratoga Springs. He said should the IDA be interested in being a sponsor, he will leave a list of the sponsor descriptions for the IDA's consideration. Vice-Chairman Dunn said in the past, we have offered to pay for dinner for IDA members and their guest, and that offers still stands.

Vice-Chairman Dunn asked Mr. Angus if there were any **new projects** to discuss. Mr. Angus said there are none to discuss, but he said one is continuing, and he has been contacted about one recently.

Vice-Chairman Dunn requested an update on **Riverview Realty**. Mr. Valentine said there is always a gap in time once there is an inducement until they get to their finance resolution. Mr. Carminucci said he will speak to Mr. McAuliffe to see if he has an update.

Vice-Chairman Dunn requested an update on the **Champlain/Hudson River Partnership**. Mr. Carminucci said he has not heard anything on this in a while. Vice-Chairman Dunn said this is the project to bring power down from Montreal, Canada

through Champlain across Saratoga County and down to a little bit of Schenectady and Albany back into the Hudson River. Mr. Toohey stated many places have to agree to that even down in New York City.

Vice-Chairman Dunn said he received a call that **Saratoga County Fairgrounds** is looking for help on a project with engineering and drawings. He said he suggested a subcommittee meet with them to find out what exactly they are looking for. Mr. Hanehan said he has not heard anything on this. Mr. Angus said he will be meeting with them later this week. Vice-Chairman Dunn said our subcommittee will figure out what they need and what they are trying to accomplish.

Mr. Hanehan moved to go into executive session to discuss the **rail spur transfer** contract in Grande Industrial Park. The motion was seconded by Mr. Johnson and approved with all in favor.

Mr. Mooney moved to return to open session. The motion was seconded by Mr. Hanehan and approved with all in favor.

Vice-Chairman Dunn stated a **working committee**, consisting of Messrs. Benton, Toohey, Mooney, Valentine and himself, has been established with regard to negotiating an agreement with Logistics One for the rail spur in Grande Industrial Park.

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

Respectfully submitted,

Elaine M. Sodemann