



RODNEY J. SUTTON  
CHAIRMAN

## SARATOGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

### SARATOGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY MEETING

October 3, 2016 – 8:00 a.m.

County Planning Offices #5

50 West High Street, Ballston Spa

**PRESENT:** Members: Chairman Rod Sutton, Mary Beth Hynes-Walsh, Glenn Rockwood, and Phil Klein.

**STAFF & GUESTS:** Richard Ferguson, CEO; Michael J. Toohey, Esq., Counsel to the Agency; James A. Carminucci, Esq., Bond Counsel; Mr. Valentine, Administrative Assistant; Mr. Vanags, Saratoga Prosperity Partnership; Ms. Shelby Schneider, Saratoga Prosperity Partnership; Mr. Ryan VanAmburgh; SEDC; Mr. Steve Williams, Gazette; Lori Eddy, Administrative Secretary.

**Guests:** Mr. Mark Rekucki, M.J. Properties of Clifton Park, Inc.

**ABSENT:** Mr. Johnson, Mr. Mooney, and Ms. DiDomenico.

Chairman Sutton called the meeting to order at 8:00 a.m.

#### **APPROVAL OF MINUTES:**

Chairman Sutton asked if there were any additions or corrections to the August 17, 2016 meeting minutes. Mr. Rockwood stated on page five, paragraph three, the third line states "leads are in terms of advertising" and it should say "needs are in terms of advertising". Mr. Rockwood made the motion to approve the minutes with the stated change and it was seconded by Mr. Klein. All were in favor and the minutes were approved 4-0.

#### **Application: MJ Properties of Clifton Park, Inc.:**

Chairman Sutton stated we have an application from Prosperity Partnership on the MJ Properties of Clifton Park. This is a project that is at 7 Stonebreak Road in Malta and it is a development for warehousing. It is spec buildings at this point. Chairman Sutton asked Mr. Vanags to explain the project to the Board.

Mr. Vanags thanked the Board for allowing them to present this application. He stated he is the President of the Saratoga County Prosperity Partnership. Also in attendance is Shelby Schneider and Mr. Mark Rekucki, President of the family owned company is here representing the Company and will be able to answer questions.

Mr. Vanags stated that MJ Properties of Clifton Park, Inc. has recently purchased 4.37 acres in Malta and it is known as 7 Stonebreak Road, it is near Global Foundries and they propose to develop under the plans presented. They are asking for inducement relief to account for the competitive rents that they have to compete with in the marketplace including Counties outside of Saratoga. Upon completion of the 1.55 acre lot they will have a remaining 2.2 acres and they will eventually build two 25,000 square foot buildings and one 5,000 square foot building. The company plans to approach the IDA later when additional assistance is needed for the second portion of the property. Today we are only talking about this one 25,000 square foot building on what is called lot 2 of the development.

MJ Properties is seeking the following relief pursuant to the Saratoga County Industrial Development Agency Uniform Tax Exemption Policy. First, in terms of the criteria, MJ Properties needs the inducement to complete the project in Saratoga County and remain competitive, as he mentioned, in

the marketplace. This demonstrates under your criteria that the assistance would induce the location or expansion of a project in Saratoga County. Number two, the company is providing much needed warehouse and light manufacturing inventory for the County. Many companies seeking buildings and space to operate often require buildings to be completed or near completion and so the company will fulfill this need for the greater economy. Under your criteria this demonstrates the need for the project and the economic benefits. Number three, the building is meant to attract new employment or existing companies and this demonstrates the project will not cause substantial disruption of existing employment at similar facilities in Saratoga County. Number four, the project will provide for construction jobs for County residents as well as a place for a company to locate and provide full time jobs for other County residents demonstrating the project will provide employment for Saratoga County residents or provide a service which is demonstrated to be in the best interest of the taxpayers of this County. Finally, the Company is taking a former vacant and unproductive property and adding new value and new future tax base with the construction of 25,000 square feet and hopefully in the future, another 30,000 square feet as this map depicts demonstrated that the project involves the development of new facilities.

Therefore, the request for tax incentives are as follows: A five year tax abatement @ 100% on real estate improvements to the property on lot 2 at 7 Stonebreak Road in Malta. The total amount of tax relief abatement credited the company is estimated to be \$168,975 over five years. Number two, an exemption of the sales tax of purchase or rental of material supplies, tools and equipment which is provided for in the IDA UTEP and this would provide a benefit of approximately \$52,500. Finally, a mortgage recording tax exemption which would be estimated at about \$13,750 for that portion on lot 2 of that property. The total benefit under this application would total \$209,100 estimated based on what we know, after payment of the application fee, bond counsel and IDA counsel of \$26,125.

Mr. Vanags stated you have a copy of the narrative and the application before you. As usual, there are probably a few T's to cross and i's to dot before we get to a closing. Mr. Vanags stated he would ask at this time if Mr. Rekucki had any comments he would like to make or anything he would like to say.

Mr. Rekucki stated they started the business in 1986. They have been in business for 30 years. They have built projects from Albany up to Lake George. They have built just about every type of project, office retail, dentists, doctor's offices, and self-storage. Currently, they are doing warehousing. There is a need for it in the Capital District. Their current project is an industrial park off Exit 10 west off of the Northway, about ¼ mile down the road. It is called Fairchild Square Industrial Park. They started the project 10 years ago when Global first announced that they were coming this way. He bought an existing building. It used to be Shenendehowa School District and half the building was another company called Everett Charles Technology. He bought the building half vacant when the School District moved out. He filled that space. That is 60,000 SF.

We have since grown over 22 acres. We have grown it to nine buildings, about 270,000 square feet. We employ amongst those buildings around 300 people. Ten other companies in that space now are affiliated with Global Foundries. We currently have one building up and another one under construction. Their business model is to get the sites ready, get their Planning Board approvals, clear the sites from trees and shrubs, get the utilities in and then hold at shovel ready. The model we produce is, if you've heard the phrase flex space has been kicked around over the years. Our buildings are clear span shell. They can be broken up into many various configurations. The typical model right now is about 25,000 square feet. We have two in there that are 40,000 square feet. We break them up into four quadrants, do our underground plumbing.

There are some plans that were passed out and a site map of the Fairchild Park. We have been successful over the past ten years. This is what our concentration has been. He has since brought his three children into the business. We have been successful with this model. There is a need for it. One of the things that he has found in Saratoga County, over 30 years, things have gotten complicated, bureaucratic and costly. Saratoga is a great place to live. Land values have escalated. Also, just Town fees have gone up to probably support the population, he is not sure what the reasoning is. The overall cost of doing business in the County is coming up compared to other Counties. Albany is really pushing hard, you have Mechanicville, Wilton, just a lot of other municipalities. It is less costly to do business. Although they don't have the amenities, they don't have the proximity of jobs, but that is coming. You see, over 30 years how Albany has grown, which is great. Troy is picking up, Schenectady is doing fantastic. It won't be long before their rates come up just like Saratoga County, but Saratoga County has always been the leader in this area.

To be competitive, he is looking for this assistance. One building that he has right now in Clifton Park, we are renting between \$8-\$9 a square foot and when you add insurance, taxes, common area fees, we are up in the \$10-\$11 square foot range. In Albany he is in negotiations with another client that is telling him that rates are somewhere between \$5 & \$6 a square foot. It is quite a distance from his place of business, but when you add up the dollars it might make sense for that company to go outside a certain mile radius. That is why he is here this morning to see if there is any interest in helping him with this project. The Fairchild Park has benefited from the Clifton Park IDA and that has proven to be a benefit to induce people there. As he said, they have about 10 Global Foundries Companies in the space.

This is his first foray into Malta. It usually takes him, by the time he acquires the property, about two years, to get through all the land purchase, planning, the architectures, engineering, get the building in the ground and finished. So, if a company is looking today, I have to tell them come back and see me in two years. It is not business conducive. So his model has been get everything ready, get all the ducks lined up, and we have our own real estate company that we market. Once we get it ready, we hit the ground and try to find a tenant. Our model has been successful and with word of Global seems to be doing something, we hope to capitalize on that being in this location.

One thing he would like to hit on real quick is kind of a shock to the system in going through the Malta process, he did his homework. He has been looking at this piece for four years. He was told by the Planner this isn't a PDD, that there were no mitigation fees. About ¾ of the way through the project he found out in fact there were. In the mitigation, this was \$105,000. What he has here is a staggering amount. He paid \$700,000 for the property. He tried to negotiate that. But, any developer coming in the area has to know the rules. It was in writing that there wasn't any in this place. The relationship of warehousing and mitigation, which 75% of it is for Parks and Recreation, is a staggering number, and developers ought to be aware of that because it just makes a huge economic sense and also just in fairness that it needs to be publicized or brought out or modified. Others talk about it, but overall that really hit hard in the overall development. He just brings this to the Board's attention. That is all he really has to say about the project.

Mr. Klein questioned based on the last factoid that you threw at us there, have you talked to either the Planning Board or the Malta Town Board with regards to your mitigation fees and the fact that they came up on you in a surprise type way? Mr. Rekucki replied he hasn't spoken to the Town Board, he has spoken to the Supervisor and he spoke to the Planning Department. Both of them, initially, when he found out, and the sad part was, he had it in writing, which they said was no legal basis for the dealing, the second was when I explained to them the economics and showed them on paper, they said there is

some wiggle room. Yet, within a few days we got a letter saying that basically you are stuck. What I ended up doing is having to pass that cost on because my business model is set on certain numbers. It puts me at a disadvantage economically. He is not trying to cry about it, but it is one of the reasons he can see why Malta isn't exactly catching fire in terms of development. It is just a staggering amount of money. He has paid mitigation fees in a lot of different communities. A lot of it is tied to traffic and traffic studies. Again, the bulk of this is Parks and Recreation. He tried to argue his job creation based on Parks, there is no rationale for it. They said tractor trailers, you are going to have all this heavy use. He gets it. If somebody puts up a 55,000 square foot office building with 200 people, okay, a lot of impact. A warehouse project that is a mile from Global, it's going to be trucking, minimal employment compared to the same type of density you could put in any other project, a least amount of traffic.

Chairman Sutton asked if there were any further questions. Mr. Rockwood questioned just as a follow-up to that, the mitigation fees are based on the square footage of what you are building, correct? Mr. Rekucki responded that is correct. Mr. Rockwood asked if this building is 100,000 or is it 100,000 for 55,000 square feet. Mr. Rekucki responded it is 55,000 square feet, the fees are just over \$100,000. Mr. Rockwood stated this building is going to be about \$50,000, \$46,000, or \$45,000. Mr. Rekucki stated per building. His building permit is waiting for him. To pick it up, he has to write a check for about \$55,000, compared to Clifton Park, this square footage is about 11,000. Chairman Sutton questioned if he had the Planning approvals. Mr. Rekucki stated everything is approved.

Chairman Sutton stated he likes the idea that you have the history of creating jobs. You mentioned creating jobs in these other projects. One thing that did concern him a little bit is you get involved in storage facilities. If this does not work, will this be turned into a storage facility which does not create jobs? Mr. Rekucki stated it is his understanding that self-storage is not zoned in Malta, unless you go to PDD. The reason he knows that is he owns self-storage and he tried to get into the market up here and he was a little surprised when one got approved through a PDD. The guy was very smart to do it that way. He owned Clifton Park self-storage for 15 years and we had about 900 units. He was trying to get into Malta, trying to get into Latham to try to get off the exit, but found in Malta, it was not zoned. At that time, he was dealing with Dave Meagher, but no, he has no interest considering here for the record this will not be self-storage.

Chairman Sutton questioned the marketing tool, do you have any prospects at this point? Mr. Rekucki stated he has people interested, but when is it going to be ready. Chairman Sutton questioned the length of time from construction to finished product? Mr. Rekucki stated it depends on the time of year. Winter time is terrible. Mr. Vanags questioned if this is approved, what is your best timeframe right now. Mr. Rekucki stated we have the sight cleared, the permit is ready. If we have somebody that is really serious, we were prepared to start, with the winter time, five months, six at the outside if we get a terrible winter.

Chairman Sutton asked if there were further questions. Mr. Rockwood stated he had a couple of questions. Is this going to be subdivided, did you subdivide this? Mr. Rekucki stated we did already into two lots. Mr. Rockwood stated he asked this because it sounds like you are asking for benefits on the entire four acres. Mr. Vanags stated just the one. Mr. Rockwood questioned if that one small parcel is a \$700,000 expense or \$400,000 tax value. Mr. Vanags stated it has been modified since you received the application. Mr. Toohey stated that question came to him as well. The application now has a valuation placed on the subdivided lot? Mr. Vanags stated right. Mr. Rockwood questioned if that came from the Malta Town Assessor? Mr. Vanags stated for purposes of the application we took the total assessed value and created a square foot formula to determine what that assessed value would be on a smaller

lot. Mr. Rockwood questioned if there would be a reconciliation. Mr. Vanags stated yes. Mr. Rockwood stated the Town may come in and say if you just paid \$700,000 for this we want to assess it for \$700,000 or \$650,000 or some number, have you had that conversation? Mr. Rekucki stated no he has not, hopefully they do not do that. Mr. Valentine stated that is an important point because that will be the basis of the PILOT, the land value, and just for the first parcel. Mr. Rekucki stated their valuation right now is \$414,800 for the whole parcel. Mr. Rockwood stated that number has now gone down to some other number, \$700,000 divided by 3 or something. But your valuation that the Town puts on it might be more like \$250,000. Mr. Valentine stated the Town will set that at the March 1<sup>st</sup> taxable status date. That will be their date for doing their assessed value on it. Mr. Toohey questioned did they file the subdivision map? Mr. Rekucki stated about a month ago. Mr. Valentine stated there is no value on it. Mr. Toohey stated yes. Mr. Toohey stated the back lot has no street frontage. Mr. Rekucki stated correct. Mr. Toohey stated he is assuming you are maintaining some level of a cross lot easement for people to get to the warehousing operation. Mr. Rekucki stated no it actually does have frontage. Mr. Toohey stated but not an access portal. Mr. Rekucki stated what they did down at Fairchild Park was they developed a common area easement that addresses everybody sharing parking and green space and maintenance. That is why you are able to cross over one another's property and share in those costs. Mr. Toohey stated the map that was handed out has nothing to do with this, it is an example. Mr. Vanags stated that is just an example.

Mr. Klein questioned as far as timing goes, he's already gotten all of the approvals, and all he needs is to drop a check off to the Malta Town Office. Isn't it late in the game to come to us? Mr. Toohey stated it is relatively late in the game, we have had applications come in at this time period, but very often they would come in as early as I am under contract to buy this property and this is what I would like to do and for me to be able to put this plan together, I need your incentive. Mr. Rockwood stated he had one more question. In this configuration, do you have any historical data that would tell us how many jobs are typically in your other projects based on square footage? Mr. Rekucki stated approximately. Mr. Rockwood continued you have four companies here, assuming there are a couple of people in the office, three or four people in the warehouse, there could be thirty people in the building at one time? Mr. Rekucki stated possibly. We have one tenant down there that actually took two bays. They are an electrical sub to Global and they have a ten year contract to provide electrical services to hook up the chip machines, they employ thirty people. Some others only have two, they have a receiver of equipment and a stock person. So it depends on the type of tenant. Mr. Rockwood questioned what your estimates on the final document are. Mr. Rekucki stated total he thinks he has thirty between both buildings. He was very conservative. Mr. Rockwood questioned for this building it would be fifteen people correct. Mr. Rekucki stated yes. Mr. Rockwood questioned if there is a way for us to tie the benefit to a minimum number of employees, a minimum number of jobs over a certain time period? If we end up with one business in here that has four people in it, is that what we are really trying to do or are we trying to get thirty or twenty people in the building?

Mr. Klein stated there is no way to know who the tenant is going to be at this time. Mr. Toohey stated we have just gone through this process of employers not meeting employee levels. Part of what we have to do is base that not only are we developing land, but there is in fact employment being created. Mr. Valentine stated the application is going to call out those numbers and that will be the basis of our tracking each year. Mr. Rockwood questioned if three bays are empty but one bay is employing twelve people are we okay with that. Giving benefits on the whole building because our employment numbers, we are getting them from one quarter of the building? Mr. Klein stated if that is the number that we pick and assign to that. Mr. Toohey stated we don't care how many employees are in any of the bays or if in fact there are four bays, what we are saying is we are going to have this warehousing space and the

applicant is saying he is going to have fifteen employees in there. Wherever the fifteen employees are, that is still fifteen people who are receiving a paycheck based on our inducing this project. Mr. Rockwood stated is that what you are saying? Mr. Rekucki stated yes, basically he has been through the process with Clifton Park and they have an annual reporting requirement and they haven't had any issues meeting their requirements. They have been doing this for over ten years so they have a pretty good handle on the type of use. His numbers are conservative, they didn't want to blow it out of proportion because they have to meet that criteria. To the point that in a year's time if he has three bays open and one filled, he is in financial trouble so we do what we have to do to put people in the seats. Mr. Valentine stated to that question, could he ask about the employment. Can you give us what those jobs numbers are for year one, year two? Is it year one ten and then twenty, two. Mr. Vanags stated yes. Mr. Toohey stated he thinks thirty something jobs on two buildings. But you are here only on one building, correct. Mr. Rekucki stated correct. He stated there are multiple applications. He split them up into the three buildings on the application. Mr. Vanags stated the application that has the cover letter dated September 29<sup>th</sup>, the estimated number of jobs for the first building is fifteen total. If he came back to you on the second building and perhaps the third building it would be another fifteen jobs. Ultimately the property is looking at a minimum of thirty jobs. Mr. Rockwood questioned if year one would be fifteen, year two would be fifteen, year three would be fifteen. Mr. Vanags stated actually in your application if financial assistance is granted, the project number of FTE and PTE jobs to be created upon two years after project completion is fifteen, twelve full-time and three part-time for a total of fifteen. Mr. Valentine stated that the projected employment plan towards the end has year one at ten, year two is twenty two and year three twenty six. Mr. Ferguson stated he and Mr. Valentine will work with Mr. Vanags to get that issue resolved.

Mr. Rockwood stated that what you are saying is we are going to have fifteen within two years and you are willing to commit to that so that we have a number to base our decision on. Mr. Rekucki stated yes, and again he thinks some average a couple, some average a lot depending on who this subcontractor or vendor is. It is hard to say so he has to guess. He understands that if he doesn't meet his criteria there are penalties. He hasn't had that problem yet. He understands that risk he takes. Chairman Sutton asked if there were any further questions. Mr. Rockwood stated that the only other question he has is what are we going to do about tagging the land value? It doesn't matter he guesses because the benefit is going to go up or down based upon whatever the land value is. Chairman Sutton stated this sales tax incentive is just for the one building at this point and the mortgage recording fee is for that one project at this point, only to come back to us in Phase 2 say, for the second building, on the construction. So we are really tied into what the assessment might be on the entire parcel or the subdivision of the parcel. He doesn't think we can answer that question.

Mr. Toohey stated what he thinks they can do is go the Assessor and say they have to file a subdivision map. They know what the valuation of that land is going to be. He would imagine the Town of Malta, understanding what is going on, could make a pre-determination as to what the valuation is, assuming nothing else changes between now and the action date. Mr. Carminucci stated we don't need to know that number. As we write the PILOT Agreement it is just going to say the PILOT payments are based upon whatever the assessed value is on the land. Whatever it ends up being, that is what determines the payments. Mr. Valentine stated we would take title to only the subdivided parcel. Mr. Carminucci stated right. Mr. Valentine stated Mr. Toohey made reference to a cross lot easement Mr. Toohey stated there would need to be a cross lot easement on this. Mr. Rekucki stated they have been doing this and the document has been developed and accepted by everybody. Mr. Toohey stated there is something out there that already defines how you are going to get to the back lot, there has to be something.

Mr. Valentine questioned past agency action and approvals, when you get into rental rates, do we get into that discussion on this project, the pass through of the savings. The market value versus. Chairman Sutton stated he assumes that the rental rate would be tied in with the savings that would take place for that five year period with looking at a five year PILOT. The other project was based on percentage of occupancy. Mr. Carminucci questioned if Mr. Rekucki's leases aren't triple net are they? Mr. Rekucki stated yes, again it is non-negotiable. Typically he tries to do that. We try to have a base rate of say \$8.00-\$9.00. Historically, warehousing in Saratoga County hasn't gone up a whole lot. They are starting to come up a little bit. Typically, we are in the \$8.00-\$9.00 depending on how much fit-up we do for the company. Then, the taxes are pass-through which before the company would pay insurance and common area which is snow plow and lawn which is pass-through. Basically, our benefit is if someone comes in it is an \$8.00 base plus their taxes plus their insurance plus their snow plow. The taxes are waived. There is a land value tax we pay and it is part of the incentive and we pay that as part of the Company.

Chairman Sutton asked if there were any further questions. Mr. Toohey questioned Mr. Rekucki if he has expressed to the Town that you are going to be seeking a tax abatement on the property. Mr. Rekucki stated he has not. Mr. Toohey asked Mr. Vanags if anyone has spoken to the Supervisor or the Town Board. Mr. Vanags stated he has not. Mr. Toohey stated when we call and ask for a public meeting and they ask what for, is the Town going to be surprised about this project. Mr. Vanags stated he would talk to them today. Chairman Sutton questioned Mr. Carminucci if we were to approve this project, what would be his timetable on this. Chairman Sutton stated we have an October 31<sup>st</sup> meeting date. Mr. Carminucci stated you could have the public hearing on that date.

Ms. Schneider stated she would like to make a very brief point about Mr. Rekucki's past experience of building space. When he built at Fairchild Square, he built first at 6 Fairchild Square and it sat vacant for roughly a year. The Park was zoned for both industrial and warehousing. Had that building not been there, one of their clients which happened to be the brewery, would not have located there. They were supposed to locate in Wilton and had a lease agreement fall through. Since that building was available, they were able to sign a new lease at Fairchild Square within a month and be fully operational by the spring. So, in the absence of that building being there built on spec, that project would not have been located in Saratoga County. A second project that was at that site, Danforth Mechanical Contractor based out of Buffalo started their operations at Fairchild Square because the space was there and readily available and also flexible with the warehouse plus the offices. I believe you have since seen a project from them and it gave them the opportunity to start their business here, test the market and grow eventually. Chairman Sutton questioned what kind of incentives were given to those tenants in terms of a break in rents to move from Wilton down there. Mr. Rekucki stated on that building none.

We built it on spec. We basically put it up and he has done that quite a bit over 30 years. Since then, he has done three IDA, Clifton Park, on the Fairchild Square Park. Mr. Toohey questioned is this a pure spec building, are you going to build it and pray that they come. Mr. Toohey questioned if Mr. Rekucki has tenants for this building. Mr. Rekucki stated no they do not. He stated his plan right now is not to start it. Again, the model we are going by is get everything ready to literally be shovel ready so that we could literally start in a week's time if we were able to get somebody. Because he has already had a few started this will probably just be inventory right now until he gets somebody serious enough to start. He doesn't necessarily have to have signed leases, but he has to have enough interest to get going to actually start the project. Mr. Toohey stated so this building may not be built for years depending on how the remaining part of your inventory goes. Mr. Rekucki stated based on 30 years, it has never

happened. Mr. Toohey questioned when you anticipate the building, within a year, he is just trying to get a ballpark guess when we are going to close this thing. Mr. Rekucki stated we are talking to a few companies. One is actually in the Park now and is busting at the seams and would love to move right in. So he has three different realtors, three different companies. But, their question is when you can have it. Historically, people don't trust developers because of a lot of bureaucracy. If a Company is going to move they would rather see it, touch it, feel it than wait for a developer to put it up because there is a lag. He tries to get it ready as possible. He gives his best guess but a lot of times he is locked into a contract and he has had penalty clauses which have cost him hundreds of thousands. One was a building in McCreia Hill Park for Mullen's Movers and that cost him over \$100,000 because the building was completed and they couldn't get power and Ni Mo was either on strike or the unions wouldn't do something, but my transformer was in Buffalo and nobody would go get it. He lost \$100,000 on a penalty clause. He has had it both ways, where developers will put a building up but yet there are things out of my control. To answer your question, without incentives right now, he is just going to lay back because he has space, but based on Global coming, he is confident that doing some future things, he is excited and optimistic that we could put something together in the next few months.

Mr. Vanags stated they have two or three companies they are working with right now that could possibly go in there. His sense is he will be building fairly soon. Chairman Sutton questioned if financing is not predicated by occupancy. Mr. Rekucki stated no. Mr. Rockwood stated he would like to comment on what Ms. Schneider had said. We are not opposed to flex space in general, this is what we are supposed to do but we have had some projects that maybe bend the rules a little bit in the past and we are under so much scrutiny from the ABO now that we want to make sure we are doing it fairly for both of us. Ms. Schneider agreed. Mr. Rekucki questioned in terms of the comment about flex space, what in particular so he knows, what has happened in the past with flex space is his question. Mr. Valentine stated we have had fit-ups going on for a long time and we have a Sales Tax Exemption Certificate that has an end date on it. We have one that has been extended seven times. Mr. Rekucki stated he has gone back to the Clifton Park IDA for extensions on fit-ups because again a tenant will come in and take a month or two. He thinks it was a year for approvals on that. Again, it may take a year to fill up, he doesn't know. Mr. Valentine stated that is just an exaggerated example. It catches us when we have something that has been on the books for how long for construction time. Sales Tax Exemption you are still affording them and it looks like maybe the client is taking advantage of that. That is the concerns that come up. Mr. Rekucki stated he realizes the Boards are under scrutiny because the paperwork he now receives from Clifton Park is a lot more daunting than it was previously. The State is basically looking at things under a microscope. Mr. Rekucki stated he doesn't pass on the sales tax exemption to the tenants, he didn't know if he could or couldn't do that. For a fit-up, he is responsible as a landlord to do a fit-up, but we turn the space over with a CO. If a tenant goes and does additional work, he doesn't pass on that benefit. He's not sure he is allowed to and he never asked the question. Mr. Rockwood stated he did not believe they are allowed to.

Chairman Sutton stated after a lengthy discussion, we have before us an applicant. MJ Properties of Clifton Park, Inc. is looking for a five year PILOT on that portion, one section of the property. They are looking for incentives of whatever the taxable PILOT is, \$868,000.00, \$2,000.00 in sales tax and about \$18,000.00 plus for mortgage recording fees. We don't know about the jobs at this point in time. We could tie this into job creation. It is going to be audited by us. It is again a 5 year PILOT. Mr. Toohey stated 15 jobs. Mr. Rockwood stated he would like to get the opinion of the assessor so that we have something more final. Mr. Ferguson stated he will also assist the office to complete the application.



Chairman Sutton asked that the application presented regarding the MJ Properties of Clifton Park, Inc. be acted upon and to set the date for a public hearing to be held in the Town of Malta on October 31, 2016. Mr. Rockwood moved to act upon the MJ Properties of Clifton Park, Inc. application as presented. Mr. Klein seconded the motion.

### **RESOLUTION #1343**

The results of the roll call vote were as follows:

AYES: Mr. Klein, Ms. Hynes-Walsh, Mr. Rockwood, and Chairman Sutton.

NOES: 0

ADOPTED: 4-0

#### **Financial Report:**

Chairman Sutton asked Mr. Ferguson to discuss the financial report. Mr. Ferguson stated as he has previously discussed with the Board and the approval of, the Agency purchased the QuickBooks software. Over the past couple of month's he has input all of the transactions this agency has had for 2016. In doing so, it has enabled him to generate a financial statement package which is included in your packet. The software was also a great help in putting together the budget in about half the time as last year. On the first page you have a balance sheet. Just a couple of key facts. The total assets and hopefully balance sheets balance and the total liabilities and equity, are \$5.41 million dollars. Of that, our cash liquidity is \$3.572 million. We have no liabilities. Our total equity is \$5.140 million. You will see in the equity section there is a net loss of \$67,863, and he will discuss that on the income statement. He would also point out that there is another line item at \$28,000 negative unrestricted net assets. That at this point is his inability to figure out how to account for two accounts payable that we had in January which he paid and somehow it hasn't cleared the books. He needs to do some more research and perhaps reach out to their CPA. At some point he will figure that out.

The balance sheet balances and we are in very strong financial condition. The second page is the income statement. This tracks our revenues and expenses from the first of the year through the 28<sup>th</sup> of September. You can see that our main sources of revenue are our administrative fees and then the Town and County PILOT tax receipts. As well, you will see that we have interest earned on our three bank accounts and the interest earned on the loans, the Luther Forest Technology Campus and the Installment Sale Agreement that we have with the County Water Authority. Our total operating expenses of \$246,000.00 include the administrative fee splits that we have paid this year to Saratoga Economic Development, his salary, secretarial services, our legal retainer and the other major expense is the pass through PILOT dollars that we receive from our project companies which we then pay to the affected taxing municipalities.

You will see after total income and total expense that there is a net ordinary income of \$31,173.00. As we operate the office, we collected our revenues, we paid our expenses and we showed a modest surplus. From that, we then deduct what he calls our capital reserve, or fund balance, projects. The Geyser Road Signalization Project, the Historic Hudson Hoosick Visitors Center and the dollars that we spent this year for due diligence on the land purchase at Luther Forest. Those are outside of operating the office and so he shows them separately. Those were approved with the knowledge that we would be dipping into our bank accounts to pay for these and not hoping to pay for them out of fees collected. Total income less all expenses, \$67,863.37 that we dipped into our bank accounts to pay for.

Mr. Ferguson stated he would do his best to answer any questions on this. Mr. Rockwood questioned what was our interest income? Mr. Ferguson stated interest on bank accounts, \$2,401.99 year to date on \$3.5 million dollars. The Installment Sale Agreement for the County Water Authority, \$6,900.00. Interest on the loans, both Luther Forest and the Rossi loan, \$5,410.00. So operating the office, we are doing that profitably, we are not doing that at a deficit and then we paid for the three projects that we have previously approved. Chairman Sutton questioned if there is any more obligation on those three projects at this point. Mr. Ferguson stated there is \$17,000.00 left on Geyser Road. That was a total of \$40,000.00. Chairman Sutton asked if we know when that might be. Mr. Ferguson is projecting by the end of the year, it is reflected in our budget.

Mr. Ferguson stated it is his goal to have these two pages for you every time we meet. Chairman Sutton asked if there were any more questions on this report. Mr. Rockwood asked if Mr. Ferguson could do the month and then the year so we can see what is changing every month. Mr. Ferguson stated yes he could. This is his first blush at it. He still has to figure out the two accounts payable. The CPA stated he would help him with this program.

Mr. Ferguson stated the next item he would like to discuss is the budget. On the first page you will see a detail of our revenue streams. On the second page you will see a detail of our expenses. Subsequent to those two pages are narratives, notes, on each column. The budget report is presented going left to right. The first column is what we budgeted for this year. The second column is where we are year-to-date. The third column is what we project out to year-end. The final column on the right is the 2017 budget. This document forms the foundation, it forms the basis of our ABO Paris reporting that will be done on November 1<sup>st</sup>. That is the reason why it is structured this way although it tells a decent story.

The first thing he would like to quickly point out is the year-to-date column, page two expenses, you will see the surplus deficit at \$67,863.00, that tracks to the penny to the QuickBooks and was really a great aid in putting this together. What he would like to talk about briefly is the third column, the projected 12/31/16 and looking at what streams of expenses and income will occur over the next three months, he is projecting a surplus to the Agency at \$19,078.00. That's prior to paying those capital reserve expenses, which again were the Visitor's Center, the Geyser Road, and the due diligence expenses that we incurred for Luther Forest. In particular, that has been dollars that have been spent for survey and for a utilities project. Those fund balance capital reserve expenses are detailed in the line item that is called contribution from fund balance. So, this budget not only shows income expenses, if there is a surplus or deficit, but where that money is funded from.

The 2017 budget is balanced. That is by legislation and it also reflects what we did and similar to 2016. That budget reflects our continued desire to purchase a piece of property. We don't know what that is going to be, but he figured he would use the same number as he did last year, and a budgeted projected estimation of \$50,000.00 in closing costs. Based on historic administrative fees and the fees that we expect to collect on applications which have already been approved, we are going to collect around \$320,000.00 in administrative fees in 2017. Those dollars will be more than sufficient to cover any of our operating expenses and he is projecting a surplus of about \$54,000.00. Those dollars will then flow back into our capital reserve. In addition, for 2017, there is approximately \$6,000-\$7,000 in marketing expenses. That is a new figure for us. That ties into the redesign of our website, the redesign of a new logo and some related marketing expenses. Those estimates come from Mr. Vanags and his staff at Prosperity Partnership and have been derived from a couple of meetings that I have had as they are working to provide us with a Marketing Plan. If he remembers correctly, either at the next meeting or

the subsequent meeting, Mr. Vanags will present that Plan to the Board. Chairman Sutton questioned where is that reflected on here. Mr. Ferguson stated it is part of general expenses and if you go the second to the last page, it is detailed in the narrative notes. Mr. Klein questioned it seems that we know what that category is and what it represents, although it is not the biggest number on the page, but why couldn't we identify it as such. Mr. Ferguson stated he would be happy to do that. To lump it into general expenses it gets lost. Mr. Ferguson stated he would be happy to do that. Mr. Ferguson further stated that you will see that moving forward when we look at the monthly financial statements, he will clearly have that broken out as a subcategory. Chairman Sutton stated this is basically what we have been doing year after year. Mr. Toohey questioned the difference in amounts for PILOT payments amounts coming in and going out. Mr. Ferguson stated there is as \$2,000.00 difference between what we received for County payments from our project companies and what we paid to the affected municipalities. He has not had a chance to track where exactly that difference is. He plans to. In terms of getting this budget to the meeting, he did not have the chance. Mr. Valentine stated it would be to just go through the two time periods in the checking ledger versus the distribution letters going out. Mr. Ferguson stated that should be a wash number. Mr. Ferguson stated if there weren't any other questions. Mr. Ferguson stated the next step within the office is to publish the availability of the budget in the Saratogian. That gives the public a comment period. On the 31<sup>st</sup> he will ask that you approve the budget post any public comment. The goal will be to do the PARIS Reporting right after the Board meeting. Mr. Toohey questioned if it is after the press notification, you have to wait 30 days. Chairman Sutton stated you can approve the budget prior to that. Mr. Ferguson stated he thinks you can. Mr. Toohey stated subject to any public disclosure comments. Chairman Sutton stated we will put that on the agenda for the meeting.

Mr. Klein questioned why the fee number twice as much in the 2017 budget as in the 2016 budget. Mr. Ferguson stated if you go to the last page, the second set of numbers, 2017 budgeted administrative fees. Look at the bottom line, Ace Hardware. That's going to close next year and that really drives the increase. We know that is coming. In addition to that, Land Development and JW Danforth are going to close. The top line he based just on prior years. With two economic development companies now providing us with applications, he doesn't see our volume going down. What this report does is it evens out the year by showing where we dipped into our capital reserve if we didn't budget correctly or where we put into our capital reserve based upon either a surplus or revenue streams which we knew were coming like principal payments and the like. Mr. Klein's stated that Mr. Rockwood's suggestion is a good one then if we can track the year-to-date compared to what we did and we can see where we are in June or July. Mr. Ferguson stated as soon as he figures out how to get the budget into QuickBooks, then he can track actual versus budget. Chairman Sutton asked if there were any further questions.

Mr. Ferguson stated the next item he would like to discuss is the packet of information in colored chart form. On September 20<sup>th</sup> this office sent out the school tax PILOT invoices to 17 project companies. Total payments that we expect to receive just shy of \$514,000.00. This chart, which Cindy Nick did a great job on, details project company, assessments, section lot and blocks, tax rates, what the normal tax would be, what the PILOT payment was. It is interesting to note that this table then gets incorporated into our annual report which is published both on our website and also with the Authorities Budget Office. This is an important piece of paper. On the 29<sup>th</sup> of September, after Mr. Valentine and I did many calculations in finding a three cent difference on a \$13,000,000.00 billing, we sent out the PILOT billing to Global Foundries. It is a little bit different from our other billings because it reflects both the County tax and the School tax PILOT. It is all incorporated into one and he believes that was written based on the original PILOT Agreement. Altogether, we expect to receive \$13,605,433.91. He is hoping this year all our PILOT companies pay us on time.

Mr. Rockwood questioned we have already funded those payments, yes. Mr. Ferguson stated no we pass them along. Mr. Valentine stated one thing that is different, Global Foundries is different in that it goes out and gets distributed in a different formula so when you look on here and see how much it says under Malta and how much it says under Stillwater. That isn't the amount that goes to Malta or to Stillwater. It is a 25-75 formula and based on a proration of the tax rates. That is another exercise we will have to go through. Mr. Ferguson stated it is interesting to note that last year, and for whatever reason, Mr. Valentine and he had a delay in doing that funding calculation to send, in specific, the Global dollars out, and that actually affected our budget because when you put \$13,000,000 in the bank, even at 10 basis points it amounts to something. So our interest figure spiked a little bit for the month of October last year

### **Other Business:**

Chairman Sutton asked for a discussion on Monmouth Albatross.

Mr. Ferguson stated in previous meetings throughout this year and last year, we talked about the Office of the Comptroller of the Currency's audit recommendation for us to put together a procedure for dealing with companies that don't meet their employment targets. We did that and we had two companies, SESPA North America, otherwise known as Albatross, and Monmouth Real Estate Investment Trust, not meet those goals. We invited them to the Board. They made their presentations. After much discussion, we voted to give them an additional two years to work on their employment targets. We ramped up our auditing of those targets and Mr. Valentine and he will do field audits on both of those companies. Mr. Ferguson crafted an Agreement and Mr. Toohey assisted him in getting that corrected and out to our two project companies. In the beginning of August, he got that Agreement back from Monmouth Real Estate Investment Trust. As an interesting side note, the tenant, if you remember, a gentlemen named Scott Tincher, represented them, he had that Agreement back in 24-48 hours. He was thrilled to get it back. It took about another month longer to get it back from the property owner. He was getting concerned because he had not received the Agreement back from SEPSA North America, from Albatross. He did finally receive that last Friday signed by both the Chairman and our local contact Jessica Braun. Both of those companies have agreed to our terms which basically states they have two years to get their employment targets back to speed or by our UTEP and by the individual PILOT documents, if they don't meet their goals, their benefits could be reduced by 50%. He is happy that finally came to fruition.

We will wait to see what the employment numbers are we get back in January. Mr. Valentine stated that the one thing that is interesting even more so is the fact that we will be done with one of the two companies before that two year time period expires. So we will have to keep track on that employment number going forward. Mr. Rockwood questioned if that was the one that returned it in 48 hours. Mr. Valentine stated yes, the tenant did and the owner didn't.

Mr. Ferguson stated the next item on other business is you received in your Board packet an article from Capital District Business review on a project that we approved last year for e.nfrastructure. They are facing \$126,500.00 in State fines because they did not follow the process regarding contractors, specifically Women and Minority Owned. Their project hasn't started. Mr. Ferguson reached out to our contacts there and scheduled a meeting for next Tuesday to meet with them to find out what is going on. Mr. Ferguson will report back on this in October and we will see.

Mr. Ferguson stated the next business for discussion is outstanding projects/potential closings. Mr. Valentine stated this is an update on where we are with these companies. In 2015, we had two projects that haven't closed yet, Ace Hardware for a 400,000 square foot addition in Wilton and Land Remediation in the Town of Waterford. We approved them in 2015. They are still ongoing. As an update, Ace is ongoing with their construction. They look to be closing in April-May of 2017. Mr. Carminucci stated actually he thinks we will be closing with them before March 1<sup>st</sup> based upon conversations. They think the building is going to be far enough along. Mr. Klein questioned what was the reason for that holdup? Mr. Carminucci stated he thought they came in pretty early with their application for SCIDA approval. Mr. Valentine stated they had a request for an extension of the sales tax and they recognized that dollar amount may increase so they wanted to cover. We will probably be looking at a request to extend the expiration date because we told them we would take it to year-end this year. Based upon what their knowledge was and as Mr. Carminucci was just saying March, we were thinking April or May, we would be looking at probably the October meeting for a request to extend that to meet their construction schedule. Mr. Toohey questioned if we are going to anticipate that or is someone going to ask them to make that request. Mr. Valentine stated that has already been talked about with them, that they submit something in writing as a formal request for that.

Mr. Valentine further stated that in 2016 we had four projects that were on the books. One of them has closed. Arnoff has closed. We have Core Tech in Ballston, we have McNeary in Saratoga Springs and then we have Danforth in Halfmoon. So we have three not closed. The Arnoff project closed on August 30, 2016. Mr. Valentine questioned Mr. Vanags regarding Land Remediation. Mr. Vanags stated the last communication he had with them was they wanted to close in November. Their attorney is Kevin Tolleson. Mr. Carminucci stated he would reach out to Mr. Tolleson. Mr. Valentine then stated regarding McNeary, he has had correspondence with Pat Green. Right now they are working with the City Assessor to suffix the part where the new building is being constructed, like Ace Hardware did, because they have existing Logistic One operations out there. Separate them for our purposes for the PILOT and the tax payments. That is something Pat Green is taking care of. Mr. Vanags questioned Mr. Carminucci if Mr. Green has also communicated with him. Mr. Carminucci stated they are also getting their ducks in a line for the financing, there is an SBA component, and he thinks the appraisal has been ordered by Citizens. They are progressing along.

Mr. Valentine questioned Mr. VanAmburgh regarding Danforth. Mr. VanAmburgh stated they submitted for a CFA and things are on hold until they hear from that is his understanding. Mr. Ferguson questioned Mr. VanAmburgh what is a CFA. Mr. VanAmburgh stated it is a consolidated funding application through New York State.

Mr. Valentine stated that leaves us with the only thing that has come up sort of as an outstanding item. The article that came to you in the mail which is the news story on the project in the Village of Victory. We approved a PILOT with them. We were all set with them. Then the principal had his Albany International project come in and the word was that he was concentrating on Albany International, not on Victory. Mr. Valentine then heard word from the Town of Saratoga and people there that Uri Kaufmann, was not going to follow through with what he had approval for through the IDA. The article in the Business Review last week says he has all intent to go ahead with the project as approved by the IDA. Mr. Valentine doesn't know if Mr. Brobston or Mr. VanAmburgh has had any conversation with him. Mr. VanAmburgh stated not recently. Mr. Valentine stated what that brings up is we have a customary two year sort of approval. If you are not acting on it in two years, we send a letter questioning the status of the project. Mr. Carminucci stated it is actually in the Resolution, there is a

two year. Mr. Valentine stated his would be June of next summer. Mr. VanAmburgh will reach out to him.

Chairman Sutton asked if there was any further business to discuss.

Mr. Ferguson stated there are two more items quickly. The next item is CEO on site meeting in Moreau/South Glens Falls. We have a rail spur in South Glens Falls. The IDA purchased he believes in 1996. It is overgrown. It is more of a forest or bramble than it is a rail spur. There is a gentleman by the name of Justin Gonyea who is the General Manager of Saratoga North Creek Railway which is a subsidiary of the Iowa Pacific Railway. He prefaces all of this with he is being driven by profit motive. He gets that. But, Mr. Gonyea would like to apply for New York State Transportation Authority grants on our behalf to get the money to clear our rail spur which interestingly enough has as it terminus, the SCA Tissue Plant and also look to buy a spur off of ours which runs to the East called the Fennimore branch which would service the Moreau Industrial Park. Mr. Ferguson met with him. It was all interesting. Mr. Ferguson then went and did a site visit. He failed to see 90% of our rail spur because we couldn't get to it at one point. We tried but the bramble precluded us from getting to it. Mr. Ferguson also toured the Moreau Industrial Park which is a lot of open land and one quiet company. Mr. Ferguson's thought was if somebody else pays to do this, and we would have to do our due diligence and make sure that this all worked and there was no additional liability upon us. If somebody else paid to do the work to get both of those rail lines operational again, it could only assist in economic development and what he is asking is just allow him to continue to talk to Mr. Gonyea and to bring forth to the Board his proposal unless you feel otherwise. We have done nothing with the rail spur. If that is our desire then he would suggest to Mr. Gonyea to buy it from us.

Mr. Klein questioned if we list that as an asset. Mr. Ferguson stated yes we do. Mr. Klein asked what the value is on it. Mr. Valentine stated it was \$3,000,000 to upgrade it based upon a study that the IDA did a couple of years ago. Mr. Ferguson stated the two rail spurs, the one that he just talked about and the one in Grande Industrial Park, have an asset value of \$168,000. Mr. Rockwood questioned are we able to sell that for less than appraised value. Mr. Carminucci stated there is a procedure you have to go through. Mr. Ferguson stated disposal of assets. Mr. Carminucci stated we haven't had to actually draw into it, but there is a procedure. Mr. Rockwood questioned if something comes up and the guy wants to buy it and we really want to unload it, we could conceivably. Mr. Carminucci stated he thinks they are the same ones that operate the line up North. They made a proposal at some point, they were trying to get Warren County or Corinth to allow them to store something on the rail line. Hopefully, they are not planning that for this. Mr. Ferguson stated he talked about that because he got the money to do that by filling for one of these grants. Mr. Ferguson stated his desire is to have his parent freight the raw product to SCA Tissue. That is his whole thing. Yet Mr. Gonyea hasn't talked with SCA. At present, SCA gets its raw product via truck from Saratoga by Logistics One. Mr. Valentine stated he walked that rail line three or four years ago and it was like going through a jungle. That rail is not usable in the state that it is right now. If he was to go in there he has got to clear and pull railroad ties and rails. It is a restart all over.

Mr. Toohey stated one of the things that we have always been concerned about and we are now facing in the Grande Industrial Park is that if we have control of rail, we have to make sure that if we ever lose control of that rail that it is very clear that that is open rail that can be used by a broad range of people, not controlled by that company to the exclusion of other people. However, if this works itself to fruition, that has to be part of the deal. Mr. Valentine stated we have not finalized that transaction between McNeary and the Agency on the sale of that. Mr. Ferguson stated he is not really asking for

anything action specific at this point. He is saying that he talked with this guy. He would like to get more information from him. And to do that it just requires another meeting. Or he can go back to him and say we are not interested or you make a proposal and buy it from us. Mr. Valentine stated there is a County interest in that land also that hasn't made it across the street, but has been talked about within here. It is a six mile rail and it has the potential to become a say Zim Smith North and that would be a transfer from the IDA to Saratoga County if that went on. That is just out there that is all. Mr. Klein stated two things, one, if it's too good to be true, then it probably is not a good deal. The other thing, if it involves the State of New York and they are willing to put the money up for the improvement, then he thinks that is something we should at least investigate thoroughly to see what the pitfalls are. Mr. Ferguson stated apparently there is \$80,000,000 available on an annual basis. Mr. Klein stated if it's there and we can use it for our purposes and there are no strings attached to him filing the request, then that is something we may want to consider. Even if we eventually give or sell it to the County, that is going to have to be cleaned up to begin with. Mr. Vanags stated he worked at the Silo Rail Company back in the Midwest. Not only in Illinois, they run a lot of grain lines. But also they operate the four Amtrak between Indianapolis and Chicago. They are a legitimate company because of a lot of these little rail type projects.

Mr. Ferguson stated to Mr. Klein that his concern was is it going to cost us anything even though he is saying he is going to get grant money to do it. I would be curious as to what he is going to charge us to write the grant. Number two, what sort of liabilities open up to us as owner of the line and other people working on it and such. Whether the project gets started and doesn't get completed, does that open us up to liability, etc.? Mr. Ferguson just wanted to have another meeting with him but he just wanted to let the Board know what he was doing.

Finally, Mr. Ferguson stated he had a meeting with a gentlemen named Shawn McGuire of the Capital District Regional Planning Commission. He came to us and said he would like to help, he has Economic Development capabilities. In particular he can do economic impact analysis on projects and regional economic development efforts. It was interesting what he heard and he asked if he could give a short presentation at the next meeting. Mr. Ferguson will put him on the next meeting agenda. Chairman Sutton questioned why he is coming in. Mr. Ferguson stated his feeling is that he can help us and also help our economic development partners in preparing applications. Chairman Sutton questioned if he would be a paid consultant. Mr. Ferguson stated he does it all for free. It's on their budget line.

Chairman Sutton asked Mr. Vanags and Mr. VanAmburgh if they were familiar with this gentleman. Mr. Vanags stated they are acquiring something called implant which is a software that allows you to look at the economic impact of projects, look at total number of jobs, and it produces numbers that show indirect jobs and expenditure on the community. So, if we have a project that has 100 jobs, we can show as we walk into the application process, the impact of those jobs across the board. It is a very powerful program. Mr. Ferguson stated we should at least hear him out. Mr. Vanags stated he runs the Foreign Trade Zone for the Capital District.

Mr. Valentine stated we will have a request probably from Global Foundries to extend. Remember, the two parts to Global. We had the TDC and one we extended to December of 2016. TDC was 2020. They are still going on and there may be some extra work there so they would be looking at taking that December 31, 2016 and extending the date on that sales tax exemption.

Chairman Sutton asked if there were any further discussions or any other business to come before the Board today. There being no further business, Chairman Sutton asked for a motion to adjourn the

meeting. A motion to adjourn the meeting was made by Chairman Sutton, seconded by Mr. Klein, with all voting in favor.

Respectfully submitted,

Lori A. Eddy