

**SARATOGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY MEETING**

**December 10, 2019 – 8:00 a.m.**  
**Village of Victory Mills Town Hall**  
**23 Pine Street, Victory Mills, NY**

**PRESENT:** Members: Chairman Rod Sutton, Art Johnson, Patrick Greene, Michael Mooney, Andrea DiDomenico, and Walter Wintsch.

**ABSENT:** Tom Lewis.

**STAFF & GUESTS:** Scott Duffy, CEO; Jeff Many, CFO; Michael J. Toohey, Counsel to the Agency; James Carminucci, Bond Counsel; Michael Valentine, Administrator; Marty Vanags and Shelby Schneider of Saratoga Prosperity Partnership; Larry Regan, applicant (Victory Mills, LLC;) Geoffrey Cannon (counsel to applicant); Pat Dewey (village Mayor); Thomas Wood town Supervisor; and Robin Cooper, *Business Review*.

Chairman Sutton called the meeting to order at 8:00 a.m. and explained that following a review of previous meeting minutes the initial discussion will be addressing the minor amendments to the Victory application followed by the opening of the 8:30 public hearing of the project application.

**Approval of Meeting Minutes: November 12, 2019:**

Chairman Sutton stated the first agenda item is the approval of the meeting minutes of November 12, 2019. Chairman Sutton asked for a motion to approve the minutes. A motion to approve the minutes of November 12, 2019 was made by Mr. Greene, seconded by Mr. Mooney with all in favor.

**Application Amendment: Regan/Victory Mills, LLC:**

Chairman Sutton stated that since the Board's last meeting with the applicant staff has met with Mr. Vanags re minor application amendments to reflect that meeting's discussion. In reviewing and processing the Regan/Victory Mills, LLC application members and staff noted the need for some edits to it. An example of one of the changes (see Page 11) needed is to indicate that the project will have no mortgage and an accompanying exemption (Mortgage Recording Tax, MRT). Chairman Sutton also indicated that the second amendment is on page 14 and regards projected employment. Mr. Vanags deferred to Mr. Duffy regarding amended employment numbers and he stated that FTE jobs created will be 8 as opposed to 28 in the original application. Mr. Valentine added that this employment level remains the same for both the first and second year of the project. Chairman Sutton stated that on Page 15 of the application the indicated the total annual payroll has been reduced from an initial range of \$1.0 - \$1.4M for 28 jobs to a range of \$210,000 to \$400,000 estimated for the first year of payroll for 8 FTEs.

Regarding the re-distribution of the PILOT taxes to the various tax jurisdictions, Mr. Valentine stated that the Local Tax Rates listed on Page 19 of the original application indicated only the rate for the town of Saratoga, at 1.134/\$1,000 of assessed value. Following a meeting between he and Mr. Duffy and Mr. Vanags the application page was amended include the village of Victory rate of 8.59/\$1,000. The total rate changed to 9.724. He stated that the reason why this amendment is important is because on the next

page you will see the 30-Year PILOT distribution chart, which is greatly affected by the inclusion of the Victory tax rate into the distribution formula. Over the 30 years presented here it can be noted, he added, that the proposed PILOT amount to be paid in Year One starts out as \$157,793.00. In accord with legislation, the taxing jurisdictions are to receive distributions from the PILOT payment in the same proportion as what their rates are now. The County tax rate, the Town and Village tax rates and the School tax rate are combined, then a ratio of the whole sum is calculated for each individual jurisdiction which is multiplied by that Year's PILOT revenue to determine a dollar amount that goes to each one of those entities. In effect, that is creating that same ratio going to each jurisdiction as now exists. Mr. Carminucci added to Mr. Valentine's explanation by stating that these are revenue projections because rates will change from the time of the application. Mr. Carminucci stated the only numbers that are fixed in the Distribution Chart are the first columns and the last, which state each year's PILOT revenue and then the total of the amount distributed to each jurisdiction. Mr. Toohey stated it is also important for the public to recognize that the amount that is claimed here will in fact change and the exemption will in fact go up because the tax rates usually, by his experience, go up.

Chairman Sutton asked if there were any questions of Mr. Valentine on the distribution of the taxes? Mr. Mooney asked roughly what are the annual taxes paid now and Mr. Valentine stated the annual tax revenue generated by the property is roughly \$10,800. Chairman Sutton stated those are the changes of the amended application.

Chairman Sutton then asked for a motion to approve the amended application for Regan/Victory Mills, LLC. Mr. Johnson moved to act upon the motion as presented. Mr. Wintsch seconded the motion.

#### **RESOLUTION #1448**

RESOLVED, THAT the Saratoga County IDA accepts the amended application pages for Regan/Victory Mills, LLC as presented.

The results of the roll call vote were as follows:

AYES: Mr. Wintsch, Mr. Greene, Ms. DiDomenico, Mr. Mooney, Mr. Johnson and Chairman Sutton.

NOES: 0

ADOPTED: 6-0.

#### **Victory Mills, LLC: Inducement Resolution:**

Chairman Sutton stated this next agenda item, the Inducement Resolution, will be discussed and considered after the Public Hearing.

#### **CEO Report:**

Chairman Sutton asked Mr. Duffy to discuss the next agenda item, CEO Report. Mr. Duffy stated in this segment here there are a couple of things. The Agency received an annual invoice from the Center for Economic Growth in the amount of \$5,000. He added that we have also received an invoice in the amount of \$1,250 from New York State EDC as well. He is looking for approval of both budgeted expenditures. Regarding CEG, John Giordano, the Vice President, wants to come and speak before the Board in either January or February to let the Agency know what CEG is involved in and how Saratoga County is affected and benefitted.

As far as our video capabilities, he explained that he and Mr. Valentine met with Ms. Schneider (of the Prosperity Partnership) last week and we should be up and capable of providing video records for our meetings starting with the January meeting. The cost is to be somewhere less than \$1,000.00 all in. Chairman Sutton asked him if this is a system that will be transportable for wherever we might be meeting and Mr. Duffy replied that it is. He noted that as it was discussed at the last meeting we will be operating under a five-and-five rule here, following the established ABO procedures: we have to post the videod meeting within five days and keep the records for five years. It is not going to be “live”.

Chairman Sutton stated that for the fees for the CEG of \$5,000.00 we need an approval for that. We have done this for a number of years now. Mr. Many asked if this fee is for 2020. Chairman Sutton stated yes. Mr. Duffy stated it is for January-December, 2020. He also has the EDC as well for \$1,250.00.

Chairman Sutton asked for a motion to accept the invoice and approve the payment to CEG in the budgeted amount of \$5,000. A motion was made to approve the payment of the CEG invoice by Mr. Greene and seconded by Ms. DiDomenico. Chairman Sutton asked if there was any further discussion. There being no further discussion, all were in favor and the approval of the payment of the invoice to CEG in the amount of \$5,000 was approved.

Chairman Sutton then asked for a motion to accept the invoice and approve the payment to New York State Economic Development Council in the budgeted amount \$1,250. A motion to approve the payment of the invoice to New York State Economic Development Council in the amount \$1,250.00 was made by Mr. Wintsch and seconded by Mr. Johnson. Chairman Sutton asked if there was any further discussion. There being no further discussion, all were in favor and the approval of the payment of the invoice to New York State Economic Development Council in the amount \$1,250 was approved.

### **CFO Report:**

Chairman Sutton asked Mr. Many to present his CFO Report for November. Mr. Many stated the renewal of our Saratoga National Bank Certificate of Deposit in the amount of \$500,000.00 is all set up. That account is earning 1.6% annually. He noted that the Ballston Spa CD (\$250,000) is currently generating 2.25% interest.

Reviewing the balance sheet, he indicated that at the end of November we had a receivable and that has now been paid. The Report indicates payables that are somewhat routine. Thus far, by the end of November we show a surplus of \$32,000.00 for the year. On the second page of the Report, there is a comparison of January through November, 2018 and 2019 and he noted that there are no unusual items to speak of. Also provided was a comparison of the year-to-date status of this year against our budget and it indicates that pretty much everything is coming in online. Major expenses remaining for the remainder of the year (one month) entail contractual/professional staff expenses and the annual County Administrative fee of \$22,500 (for which we will be getting a bill for before the end of the year. These will probably bring us closer to a \$10,000.00 year-end surplus, or within that range. Chairman Sutton thanked Mr. Many and asked if there were any questions of Mr. Many on the Report. There was no further discussion.

### **2019/2020 PILOT Payments for School Taxes – final distribution:**

Mr. Valentine presented and update from last month of the final distribution of PILOT payments received for 2019/20 school taxes. As previously described, the PILOT amount billed to Land Remediation of New York of Waterford was initially (Jan. 2019) sent in error without taking into consideration the

PILOT Agreement's increase in billing amount based on land value plus 20% of the value of the improvement (new building). The billing for school taxes in September should have increased over land value by 40% of the building's value. Corrected bills for January (town, county) and September (school) were sent to the project owner which reflected these increases. These amended payments results in three separate payments back to the Town of Waterford, the County of Saratoga and also to the Waterford/Halfmoon school district. Those have all been paid and they have all been rectified. Chairman Sutton thanked Mr. Valentine.

**Status of Projects – Assignment, Terminations, Upcoming Closing, Reconveyances:**

Mr. Valentine stated that recently Closing Letters were sent to project owners for MGrove (Greenfield Manufacturing) and Smith Cassier (Airosmith) within which he provides information on IDA reporting that the Company will now be responsible; for example, sales tax reporting and construction employment reporting for year-end activity. Also noted in the correspondence is the filing required by the end of February to NYS Tax and Finance related to sales taxes exempted in 2019. Three Freight Guys, LLC just closed in November and will be sent a letter in December. The basis of such reporting is the associated application pages reviewed by the Board, he stated. That is why it is important that we discuss the application pages in the manner we have today, so all parties understand how these pages form the basis of reporting on the State level.

Regarding project employment verifications, Mr. Valentine stated that he and Mr. Duffy have determined four companies that they will make appointments to meet with either a CEO or someone from their Human Resources Department to go over the present jobs, making a comparison between the present number of FTEs and the number of jobs that were projected in their application. Usually it is in the second year after closing and construction is completed that there will be seen the bump in created jobs.

Mr. Duffy stated we are going to send year-end surveys to all active project companies after Christmas, surveys that helps him, Mr. Many and Mr. Valentine go through PARIS Reporting to the state. This year's survey has been expanded beyond the previous years' format of 4 principal questions related to construction jobs, sales taxes exempted, and FTEs at the facility. This updated survey that will go out will make inquiry on one page of the items that correspond to the data sought in the PARIS reporting. now to try to update it so we can get our resources from one page. Chairman Sutton asked if there was a deadline date that they have to respond to you. Mr. Valentine stated we send the survey out around Christmas and each Company is given a date in late January (Jan. 20) by which to respond so that the information that comes back timely for Mr. Duffy can just start dropping that in to the PARIS Report. Chairman Sutton thanked them for their discussion.

Mr. Valentine has provided correspondence from Smith Cassier (Airosmith) requesting to extend the expiration date on their sales tax exemption to 3/31/20. While construction has slowed down a little bit and is ongoing, Mr. Valentine stated that the expiration date of December 31<sup>st</sup> is approaching. He recommended that the Company request of the Board to extend the expiration date to take construction through spring time and the end of March. The Chairman noted that we are just looking for Board approval for that extension.

A motion was made by Mr. Mooney to approve extending the expiration date on the sales tax exemption for Smith Cassier/Airosmith until March 31, 2020 and seconded by Mr. Wintsch. Chairman Sutton asked

if there was any further discussion. There being no further discussion, all were in favor and the motion was approved

### **Adjourn Regular Meeting for Public Hearing**

Chairman Sutton stated at this point he would like to adjourn the regular portion of the Saratoga County Industrial Development Agency meeting and we will set up for the public hearing that will take place promptly at 8:30. Chairman Sutton then asked for a motion to adjourn the regular portion of the meeting. A motion to adjourn was made by Ms. DiDomenico. The motion was seconded by Mr. Wintsch. Chairman Sutton asked if there was any further discussion. There being no further discussion, all were in favor and the meeting was adjourned to go in to the Public Hearing at this time.

At the conclusion of the Public Hearing, Chairman Sutton asked for a motion to reconvene the regular meeting of the Saratoga County Industrial Development Agency. A motion to reconvene the regular meeting was made by Mr. Mooney. The motion was seconded by Mr. Wintsch. All were in favor and the meeting was reconvened.

### **Regan Development/Victory Mills, LLC: Inducement Resolution**

Chairman Sutton stated if we would look back on our agenda items, the next item for discussion is the application for the Regan/Victory Mills, LLC and the inducement resolution. Having talked about this project now for the better part of nine, almost ten or twelve months now, we have the application before us that we went through and we saw the amendments to the original application which we approved previously this morning. Chairman Sutton asked if anyone has any other comments or concerns with the application as stated to us at this point? Mr. Toohey stated as we recognized in the past that this is a deviation from our standard procedures with regard to the issuance of projects and PILOTs, but through our bylaws, rules and regulations we have the right to deviate. The deviation has to do with the historic nature of this building. It has to do with the importance of the structure to the Community in which it is located and that is unusual with regard to buildings and structures and the historic nature of those structures within the Towns and Villages, within the Community, and as a result there is a basis for a deviation from our standard. Chairman Sutton thanked Mr. Toohey. Mr. Greene stated maybe we could add to that and ask Mr. Carminucci and Mr. Toohey to weigh in on the other considerations on occasion that we would have to take a look at the project like this and it also provides potential economic stimulus to a community by the very nature of the project itself for providing affordable housing in this case coupled with the historic nature. There are a number of points we took a look at that allowed us to deviate from our more standard approach to a project. Mr. Carminucci stated there are a number of housing projects undertaken by Industrial Development Agencies that are based upon what you just described like the broader economic impact that it would have on the Community. Mr. Toohey stated traditionally our applicants have employment records and employment within the four walls of the structure themselves. We recognize that there are not a significant number of employees that will be part of this, but what it will do for the Community, the Village, and the Town is create a plethora of new individuals who are within the Community and those people will generate business throughout the Community, various and sundry opportunities and that becomes an important aspect for especially a small Village and a smaller more rural Town. Mr. Mooney stated it is also important to note that there is overwhelming support of the local Town and Village. Ms. DiDomenico questioned Mr. Toohey if they needed to add what he is saying to the Resolution? Mr. Toohey stated he thinks it is in within the records, it is fine. Our record, as we know, are very, very detailed so he is convinced it will be reflected in the

minutes and part of any motion that is made. He would ask to have it part of any motion that is made. Ms. DiDomenico stated ok. She further stated that she had a question for Mr. Regan. She thinks at the meeting in November, he mentioned that the 30 years needs to run in conjunction with your application that you have with the State Agency is she remembers correctly, you need that 30 year to run in conjunction. Mr. Regan stated that is correct, it is synonymous with the term of the bond financing which allows conservative underwriting for the full 30 years so that the State and all of the participants in the development can rely on the financial underwriting for that full 30 years and it doesn't go out of whack after the term fifteen years or twenty years where a normal PILOTs are. This allows them to be underwritten conservatively for the full term. Ms. DiDomenico questioned if we didn't grant you the thirty you would lose all those State grants and everything? Mr. Regan stated it would be very difficult to make the deal financially viable, yes. Mr. Greene stated for the record, they are approved without PILOTs, but the important part is it is probably far more likely the project would be approved and financed through the PILOT. It is critical. Chairman Sutton stated in regard to Supervisor Woods proposal, he does want to recognize that the last paragraph of your Resolution, we do not as the IDA get involved in the Sewer, that was not part of our purview of this project. That is something between the developer and the Towns to rectify that portion. Mr. Mooney stated and the State Agencies will review the full water and sewer for the project. Mr. Regan stated he spoke to the Supervisor between the regular meeting and the public hearing and he offered their civil engineer from M.J. Engineering, Jamie Easton, to go to a public session at the Town and work on any of these issues and we will be cooperating in any way we can to resolve any of the concerns that anyone has brought up. Chairman Sutton thanked Mr. Regan. Ms DiDomenico questioned Mayor Dewey that he was here on behalf of the Village Board reporting their consent for this project. Mayor Dewey responded absolutely. They passed a Resolution and he will have a copy provided with the unanimous support of the Village Board. Ms. DiDomenico stated okay, and maybe you could provide that to Mr. Valentine so it could be made a part of the record. Mayor Dewey stated yes. Ms. DiDomenico thanked him. Chairman Sutton asked if there were any further comments or discussion. Ms. DiDomenico stated she would just like to put on the record the fact that this is a deviation from what we have done in the past and she concurs with what Attorney Toohey has provided for the definition of our variation from what we have done in the past with regard to our PILOTs. She concurs with the fact that this will be an economic boost to this part of our County even though the application was amended to reduce the number of jobs onsite, hopefully it will exceed what you project. But, with the clawback provision we have, hopefully the number of jobs that you put down, 8 jobs, that will far exceed that once people see that this is a nice area of the County to live in. She supports the proposition that this deviation from what we have done in the past will certainly help this part of Saratoga County. Chairman Sutton thanked Ms. DiDomenico. Chairman Sutton then asked if there were any further comments from any Board members. Mr. Valentine questioned Mr. Carminucci if that was looking at the Resolution he provided? Mr. Carminucci stated yes. He further stated he does have a question on the 30-year PILOT. He does not know what the timing is going to be if this does close, whether we close before the renovation begins. He does not know if the payments would be due during the renovation period or that stub period would be handled differently or whether it is just going to be a straight 30-year PILOT and the first payment would be due when it would be due. He doesn't know if we are actually talking about a 32-year PILOT and what gets paid at that interim period or whether it is a 30-year PILOT. He doesn't know if that makes sense. Mr. Mooney stated it makes sense. It is just based on the schedule so it starts right away. Mr. Duffy questioned Mr. Regan what his intent was. Mr. Regan replied that during the construction period normally what happens with all of our developments is that we pay whatever the per taxes are and that PILOT kicks in once the project goes into occupancy and CO'd. At that point, that is when it starts. Mr. Toohey questioned if that was when it starts. Mr. Regan stated yes, that is the way we've always proceeded. Mr. Cannon stated he thinks that is correct.

Typically, for yours and similar projects, taxes are paid during the construction term, in this case it's 24 months plus or minus and then when a CO or a TCO is issued, then the PILOT kicks in. Mr. Regan further stated because that is when we would have the income available to pay that much higher amount. Until then, we would pay whatever the current taxes are going forward. Mr. Toohey questioned if that would be a part when you would get your financing? Mr. Cannon stated we would close on the acquisition of the site and we would close on the project's financing. It would occur simultaneously. So, Uri's entity would continue to pay taxes until we acquire the site. Mr. Regan stated once we acquire the site, then we would pay the current taxes until occupancy and then once the revenues come in from the occupants, that is when the funding is there to pay the much higher level of the PILOT and what the current taxes are. Mr. Valentine questioned so the Agency will not be issuing a bill, that is what we are saying here right? We don't issue a bill even on the current values. They would be billed by the taxing **jurisdictions to the current owner. Mr. Cannon stated right. Mr. Regan continued we would pay the fees** associated with the transactional costs of the PILOT at construction closing. However, the 30-year payments wouldn't kick in until occupancy. Mr. Toohey questioned Mr. Carminucci if this makes it a 32-year PILOT. Mr. Carminucci stated well potentially. A lot depends upon the timing of the closing. In other words, if we were to close in September, the IDA ownership wouldn't be picked up until the following March 1. The first tax year that would be impacted would be the subsequent tax year. It could be a 2-year stub period. It could be less; it depends upon when the closing occurs. He thinks you just want to reflect the fact that there might be a stub period in there after the IDA ownership is reflected in the tax rolls which would compel them to pay current taxes on the property and then that 30 year schedule would kick in once the project is complete and occupied. Chairman Sutton questioned when we say complete, is that a CO is issued. Mr. Carminucci replied yes, that is typically what happens. Mr. Valentine questioned Mr. Carminucci to that point, what you are saying then we are in and we are in an ownership position, so we should be issuing the bill and not the jurisdictions. Mr. Carminucci replied well once you get past the tax status date and you have a tax year impacted by IDA ownership, then yes, you would be doing the bill. Mr. Valentine questioned at those current rates then? Mr. Carminucci replied yes. Mr. Toohey stated we also want to note within the record and within the motion that this is a deviation from our normal standards and that the Board recognizes that and accepts that. Ms. DiDomenico stated she thinks that the motion should also set forth that the deviation is based upon the fact of the historical significance of the building and the fact that the current state of the physical condition of the building and the fact that if something is not done sooner, that the building is looking at being totally demolished and the general economic impact to the surrounding communities and the Village of Victory, the fact that the work is going to be done, the economic impact on the area and after it is completed and people are living there, that they will provide for economic support. Mr. Carminucci stated to Chairman Sutton that it should also reflect the fact that to the extent you are describing a deviation, not only is the deviation because of the length of the PILOT, but it is also probably a deviation in terms of the nature of the project because you typically don't do market rate housing projects.

As there were no further questions on the application and the project, the Chairman asked for a motion on the proposed Inducement Resolution as presented and discussed. Mr. Johnson moved for approval of the Resolution, with Mr. Greene seconding the motion **Resolution #1449, attached**).

The results of the roll call vote were as follows:

AYES: Ms. DiDomenico, Mr. Johnson, Mr. Greene, Mr. Wintch, Mr. Mooney and Chairman Sutton.

NOES: 0

ADOPTED: 6-0.

Chairman Sutton thanked Mr. Regan and stated that he has proposed an ambitious project and we look forward to seeing it in two years. Mr. Regan stated that he, too, looks forward to construction. The next step, he explained, is to meet in Albany with HFA on December 23<sup>rd</sup> about scheduling this project into the financing. Mr. Regan asked Mr. Cannon to discuss how the financing mechanics work. Mr. Cannon stated HFA has pooled financing, typically four times a year: spring, summer, fall and at the end of the year. Right now, his firm is closing a project for Mr. Regan next week through HFA. It depends on what is in the pipeline with HFA and when they can slot us in. His best guess, and he'll defer to Mr. Regan, but his best guess is for financing this time next year. Mr. Regan stated he would think that is realistic. We know they are very supportive of the project but they are also very supportive of projects throughout New York State. There is no issue with moving forward on the project, we are just sort of subject and captive to where HFA wants to plug us in. MJ Engineering is working with the village Planning Board on its site plan review and approval is anticipated for within the next couple of weeks. After that, all of our local and State approvals are done except for the HFA. They can't really do anything until your Board acted and the Planning Board is pretty well done. Chairman Sutton asked Mr. Regan if we could get a monthly status report sent to Mr. Duffy, our CEO, to keep us informed so that we have a handle as to where this project is going. Mr. Regan stated absolutely.

#### **LFTC EDC: Request for Loan Repayment Extension**

Chairman Sutton stated the next item on the Agenda is the request by Luther Forest Technology Campus EDC to extend the scheduled debt repayment with the IDA. Mr. Toohey stated we have had this conversation a couple of times and we haven't come up with a resolution. He explained that the IDA has provided six or seven extensions on the due date for the debt that LFTCEDC has with the Agency and has been very understanding with regard to the repayment of that obligation. Meeting or extending that obligation through the latest Extension Agreement has been stalled, he stated, because we anticipated that there would be a closing with the Agency regarding the land to be purchased by SCIDA from the EDC. That closing hasn't taken place and it will not take place during this calendar year.

Primarily, the reason for the closing not yet having taken place is that the infrastructure is not in the ground and the Agency is not expending its money with regard to that. Mr. Toohey emphasized that the IDA really should have an agreement that is current, to date. The other component to the stalled status of purchase and repayment is that there was always the anticipation that LFTCEDC would pay to the IDA a significant portion of their indebtedness at the time of purchase and the transfer of title. The EDC, however has other obligations that require a significant amount of money from a sale will have to go to pay the cost for infrastructure and, of the \$770,000 coming to Luther Forest Technology EDC from a sale to the IDA, the EDC is obligated to pay 2/3 of that amount back to NY State. Additionally, it appears that the EDC was unaware of another obligation and had not or was not able to paying the school taxes due; so, there is a significant school tax payment that is due. Mr. Toohey stated that the amount of money that the EDC is in fact getting out of this will be relatively minimal with regard to the size of the transaction itself.

What they have proposed for the IDA's consideration is that when this deal is completed that they will pay us \$25,000 towards the outstanding obligation. If that is acceptable to the Board, understanding that there is not a lot of money out there, then Mr. Toohey suggested he draft up the next extension of the loan agreement with that in effect.



Mr. Johnson asked if the EDC expects any other closings to have funds available to pay us back and Mr. Toohey stated they have been talking about closings for an extended period of time. They are working very hard at that. He does not know of any other projects that are going on at this moment, none that have been revealed to him. Mr. Mooney stated he is kind of surprised that they are not tax exempt. Mr. Toohey replied that was part of the deal when they were first established - that the two towns (Malta and Stillwater) required that they not be tax exempt. That was part of the original PDD. Ms. DiDomenico asked Mr. Toohey if when EDC pays this money back to the State will they then have fulfilled their obligation and thereby guaranteeing that the State will not be getting a further piece of the pie? Mr. Carminucci stated, no, they always will. Mr. Johnson stated that with every closing NYS is going to get 2/3. Mr. Toohey stated that the State put in a lot of money into this and the deal was, and this is the original deal, it had nothing to do with us, that the State gets 2/3 of the net number off of these transfers.

Mr. Johnson asked when do we expect to close on the land for which we are under contract? Mr. Toohey replied he is thinking in the first quarter based on the information that he has gotten regarding the infrastructure (it is started but it is not going to be done by the end of this calendar year). Mr. Duffy stated the weather forced National Grid to stop that project and focus on power outages and citizens needing power restored.

Mr. Toohey continued that National Grid sees this as a project that will have a future but they've got projects that they need to hook up structures in spaces for buildings that are being constructed now and as a result National Grid tends to prioritize those existing structures and existing projects as opposed to future projects.

Chairman Sutton questioned Mr. Toohey if we are asking them to pay basically \$25,000 on any particular closing that may come about. Mr. Toohey stated that is the number that they came up with. Chairman Sutton then asked for an approval for Mr. Toohey to draft a note back to Theresa Skaine, their attorney, to present back to the Luther Forest Board that we will continue to work closely with them and accept whatever payments, with the minimum payment of \$25,000.00 on any closing to go against the principal of the loan to the IDA. Chairman Sutton asked Mr. Toohey if we needed to have an extended date? Mr. Toohey stated he would extend it and it will be reviewed by the Board. Mr. Wintsch questioned if the \$25,000 is our figure or that is from them. Chairman Sutton stated that is what they stated is more affordable to them. Mr. Toohey stated that is not their net out of this deal, but they really don't have any money for themselves for operating purposes so it's one of those that we've got to leave something in the coffers and that is the story that is being presented. Mr. Mooney stated but they aren't doing very much so they don't have a lot of operating costs, right? Mr. Duffy stated they've got very little revenue and very little expenses. Chairman Sutton stated well they have attorney's fees; they have taxes as well which is the biggest item.

Ms. DiDomenico questioned the length of time for the extension though is coming back to us for further discussion correct? Mr. Toohey stated yes. He has always kept that pretty controlled. He doesn't want this thing to go out way out in the future so it gets forgotten. He thinks there is value to us having this conversation so that the members of the Board understand what is going on. Mr. Valentine stated it is based on a recurring date just in a different year. Mr. Greene stated what is the consequence of that? Mr. Toohey stated there is not much consequence. It was always anticipated that this area would become a hotter seller than it is in fact proven out to be. As a result, the utilization of those funds were key to them to be able to present this project and the project has not generated as much and as many structures as we

thought it was going to generate. Mr. Greene stated but again the decision made at the time was a sound decision with a lot of thought placed into it. He thinks as a Board we've discharged our obligations properly all along the way.

There being no further comments or questions, Ms. DiDomenico moved to approve the proposed loan repayment amount and the proposed Extension of the Loan Agreement. Mr. Wintsch seconded the motion.

**Resolution #1450**

RESOLVED THAT the Saratoga County IDA does hereby grant approval for Counsel to draft correspondence to LFTCEDC Counsel (Theresa Skaine) for submittal to the LFTCEDC Board stating that the SCIDA will continue to work closely with them and accept minimum payments of \$25,000 on any closing to go against the principal of the outstanding loan to the IDA.

BE IT FURTHER RESOLVED THAT this amendment will be reflected in an update of the Extension of the Loan Repayment Agreement which is to be drafted by Counsel and submitted to the Agency Board for final review prior to provision to the EDC.

**Ayes:** 6

**Noes:** none

**Adopted:** 6-0

**Reconveyance of Title to Properties: e.nfrastructure Technologies, Inc. & UPH Saratoga, LLC**

Mr. Valentine stated to Chairman Sutton that he had one other item mainly for Mr. Toohey and Mr. Carminucci and input on this one. As Mr. Duffy, Mr. Many and he were going through records, we were looking at two projects and wondering if we couldn't have titles returned to these two projects at this point or soon, one being Enfrastructure. Regarding that project, it originally came to the Board with e.nfrastructure being a tenant of Robert Marini as Fortress Partners. Fortress' 10-year abatement began in 2006 but in 2015 there was an assignment and assumption to/by e.nfrastructure and the Company brought the project back to the Agency on its own in June of 2015 for its own PILOT Agreement and a 10-yr. abatement period. We took on Enfrastructure as a new project, issued a sales tax exemption for interior fit-ups. The construction work was never undertaken and the exemption certificate has expired. However, the PILOT Agreement stipulated that the assessed value for property taxes to fixed for that period at the value determined by the assessor at the time of closing. We still have title to that property and issue PILOT bills. The Company is never going to exercise the sales tax exemptions or do any improvements inside. Is that something that we can just send off a letter and say we would like to have that title reconveyed to us? Mr. Toohey stated he is going to send Mr. Valentine an email to give him both of these to let you know what we should do. Mr. Valentine stated ok. UPH is the other one as well. Mr. Toohey stated right.

**Follow-Up to Prior Executive Session: Lemery Greisler Project Costs**

Chairman Sutton stated there are two other items that are not listed on the agenda but need to be taken up under Other Business and the discussion involves the prior meeting's discussion during and following its Executive Session. He would like to clarify and get a proposal from our Board and so he would like Mr. Carminucci and Mr. Toohey to recuse themselves at this point for the Board to continue its discussion

(not in executive discussion). Mr. Carminucci and Mr. Toohey were excused from the remainder of the meeting.

Chairman Sutton stated that when we had Executive Session last month, there was discussion regarding a proposal for reimbursing Mr. Carminucci as bond counsel for expenses incurred for work completed on projects that after approval never moved to completion or closing. In discussion, the Board agreed that Mr. Carminucci would bill for his time, time of his paralegal and for any advertising that he might do as long as those were fair and normal expenses. Chairman Sutton stated he would need a motion to approve that we go forward and that Mr. Carminucci can bill us for that time for those projects that do not come to closure. Chairman Sutton stated that what has happened is that the Agency processed three project applications, moving ahead with them toward closing but they never did closed and Mr. Carminucci's firm/staff had expended his time and that of his paralegal, resulting in costs that range anywhere from \$1,000 to maybe \$1,800 or \$1,900.

Mr. Greene stated that Mr. Carminucci has kept track such time and services since January of 2019. Mr. Wintsch stated we agreed in Executive Session that as you did the work you should be compensated for it. Chairman Sutton agreed. Ms. DiDomenico asked what was the hourly rate agreed upon (as she was not there for the Executive Session)? Chairman Sutton replied we didn't set the hourly cost, it is just what the normal standard fee might be, most likely something that would be looked at on a per project basis. Ms. DiDomenico asked if consideration couldn't be given for something like not to exceed \$1,000 per project? Chairman Sutton indicated that it is difficult to pigeonhole him into \$1,000-per-project formula. As long as it is fair and equitable and it is a standard rate. If he is going to charge us \$500.00 an hour that is a different story but that is not the case. Ms. DiDomenico stated she is concerned that every time that an invoice is submitted he will have to come before the Board for an approval if we don't set a cap. Mr. Many is not going to be in a position to write a check unless we know what it is that it is going to be written for because we have left it open-ended. Mr. Mooney stated he thinks the staff is capable of paying any bills. Mr. Greene stated that if we feel a bill has been submitted for which we have some questions or that we feel are in some way are extraordinarily high for the work that was involved, then they would be presented to the Board. But he thinks for the projects that we discussed already Mr. Carminucci proposed that he bill us for the time that he spent. Ms. DiDomenico stated she doesn't have a problem with that, she just doesn't want some State agency looking down and auditing us and saying how did you come up with the figure to pay this firm this much money when we don't have anything in the resolution saying not to exceed a certain dollar figure. Mr. Valentine stated we never had that in the audits we've had. Ms. DiDomenico stated we've never had this before. She is all in favor for Mr. Carminucci being compensated for what he is proposing for so she would just suggest that we put a dollar figure not to exceed say \$2,000. If it comes in at more than \$2,000.00 then it has to be looked at because then there is a problem if the applicant is not getting something accomplished and our counsel is spending all this time then maybe we need to look at the way the applicants come to us and maybe they need to pay us up front. Mr. Greene stated Mr. Carminucci did propose and he made the suggestion that for any application there be a fee charged, non-refundable, if the deal doesn't close but he thinks that for a different discussion. Ms. DiDomenico stated she agrees. Mr. Greene stated he thinks for this past one, he would like to clean up for 2019 and if you want to put a cap for the three projects. Mr. Duffy stated he would do it per project. Chairman Sutton agreed and not to exceed say \$2,500 per project.

There being no further discussion, Mr. Greene moved to authorize reimbursable expenses to Bond Counsel. Mr. Mooney seconded the motion.

**Resolution #1451**

RESOLVED THAT the Saratoga County IDA does authorize payment to be made to Lemery Greisler as Agency Bond Counsel for reimbursable expenses related to three past projects as discussed in an amount not to exceed \$2,500 per project (accompanied with noted expenditures to verify said expenditures and costs), payable upon favorable review by staff. If said project costs exceed \$2,500 such payment request would be submitted to the Board for review and approval.

**Ayes:** 6

**Noes:** none

**Adopted:** 6-0

**Follow-up to Prior Executive Session Discussion: Counsel Expenses for LFTCEDC Land Purchase**

Chairman Sutton stated that the second item discussed in the previous Executive Session was the extent that the Luther Forest project is taking on extra work for Mr. Toohey. He has had to spend a fair amount of time working with Theresa Skaine (counsel) and CT Male (surveying and engineering) to continue moving the project along and keeping it on track for closing. According to that discussion it was established that this work was above and beyond the normal day-to-day project administration and commitment of time on behalf of the IDA. The prior discussion centered around compensating Counselor Toohey \$5,000 for that time, travel, information gathering and reporting to the Agency. From the discussion it is understood that this commitment of funds by the Agency is a one-time expenditure and in response to a question by Mr. Mooney, there should be a contract submitted by Counsel indicating the parameters of costs and time to be borne by Counsel as commitment to this project and seeing that the land purchase continues on to its conclusion and the closing of our agreement with MRFA and Luther Forest. Mr. Many noted for the Board's consideration that the Agency did budget for expenses relating to this project because we knew Mr. Toohey was going to spend additional time on his part. We had actually budgeted up to \$5,000 because we knew the Luther Forest land purchase issue was coming.

There being no further discussion, Mr. Mooney moved to authorize reimbursable expenses to the law firm of Snyder Kiley Toohey Corbett and Cox as Agency Counsel. Mr. Wintsch seconded the motion.

**Resolution #1452**

RESOLVED THAT the Saratoga County IDA does authorize payment to be made to Agency Counsel in the amount of \$5,000 for time, research and reimbursable expenditures associated with the SCIDA's land purchase from LFTCEDC. Counsel is to present to the Chairman a contract itemizing the work items to be completed (as well as those not to be contracted for) as part of this allotment of Agency funds.

Chairman Sutton asked if there was any further discussion. There being no further discussion, all were in favor and the motion was approved.

## Other Business

Mr. Duffy stated he had two quick items to discuss before adjournment. First, the Comptroller's Audit for ABO filing and so forth, we have done the second round of questions and that is going to be filed today.

The other item of business is that Dennis Brobston is down in Washington, D.C. right now and SEDC is meeting with Senator Schumer and Assemblywoman Stefanik regarding funding options for railroad construction and use. Mr. Duffy indicated that he has requested in the past to have a meeting involving the Agency's sub-committee along with the Supervisor of the Town of Moreau. His point is that there will be a change in the sub-committee in January as Mr. Johnson served on it but his term on the IDA Board (as a Supervisor appointed by the County Board of Supervisors) will have expired. He asked if the Board's sub-committee doesn't meet before January, is there a replacement for that position? Mr. Johnson stated that Ms. DiDomenico is the alternate the sub-committee position. Chairman Sutton stated that is correct. Mr. Duffy stated he is just putting it out there and he will talk with Mr. Brobston further on that.

Chairman Sutton thanked everyone for a good year within which he thinks a lot was accomplished. For example, he stated that this Victory Mills project was a long time in coming to fruition, since 2011 with the Agency. He and Mr. Johnson have been on the Board for the near-ten years that the proposals have been before us. He thinks we have come to conclusion with it. He thinks it is for the benefit of the whole area, for the whole County. He emphasized that he looks forward to seeing this project come to fruition. He wants to thank everybody for their support throughout the year. Again, the IDA is a critical component of economic development to the County and he thinks everyone should be proud of the time and effort they have put in. Thank you very much and Happy Holidays to everybody, he stated. Mr. Johnson stated he would just like to say this is his last meeting and that it has been a pleasure working with everyone. The Board thanked Mr. Johnson. Chairman Sutton thanked Mr. Johnson for his time and stated that he has learned a lot from Mr. Johnson, whom he has known for about 30 years – stating also that he now deserves retirement. Thank you.

Chairman Sutton asked if there was any further business to discuss. He reminded members and staff that we will be meeting on the 2<sup>nd</sup> Tuesday of the month (January 14<sup>th</sup>) at 8:30 a.m. in Ballston Spa. As there was no further business, Chairman Sutton asked for a motion to adjourn the meeting. The meeting was adjourned on a motion made by Mr. Johnson, seconded by Ms. DiDomenico, with all voting in favor.

Respectfully submitted,

Lori A. Eddy