

**TOWN OF CLARENCE, ERIE COUNTY
INDUSTRIAL DEVELOPMENT AGENCY
MINUTES
December 20, 2012**

Mr. Hartzell called the meeting to order at 8:00 a.m.

Roll call was taken and present were Elaine Wolfe, David Schuster, Michael Buettner, Christopher Kempton, Clayt Ertel and Chairman Hartzell. Mary Powell arrived at 8:05 a.m. Also attending were Paul Leone, Nathan Neill, Larry Meckler, Steve Bengart, Pam Smith and Cindi Rosel. Guests were Horace Gioia, Esq., Frank Downing of Towne Mini, Robert Geiger, Jim Rash, and Kim Jackson. Also attending were Matt Glynn from the Buffalo News and Scott Brown from Channel 2.

Minutes of November 15, 2012.

There was a motion by Clayt Ertel with a second by Elaine Wolfe to approve the minutes of the November 15, 2012 meeting as submitted. There was nothing on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Ertel, Hartzell. Noes: None
Absent: Powell. Recuse: None. Motion carried.

Treasurer's Report.

Chris Kempton presented the Treasurer's report through December 29, 2012. He went over the Balance Sheet and the Profit and Loss Statement. He reported on the balances in the checking and money market accounts. Revenues to date are \$28,332.11 and expenses are \$45,754.59. Interest earned was \$1,738.19. The net income is for year to date is negative \$15,684.29. There were some expenses since the last meeting, the largest of which is the renewal of the general liability insurance in the amount of \$3,056.00. Mr. Kempton will make a motion to authorize payment. Mr. Kempton added that the budgeted revenues did not come in as expected. Initiatives were taken to keep expenses down. The only line item that is slightly above budget is the Marketing and Promotion line. All the other line items were less than budgeted for. Mr. Kempton asked if there is any expectation that any funds will be forth-coming in the next month or within the next two weeks of January. Mr. Leone and Mr. Bengart answered no. There was a motion made by David Schuster with a second by Michael Buettner to accept the Treasurer's Report as presented. There was nothing on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Ertel, Hartzell. Noes: None
Absent: Powell. Recuse: None. Motion carried.

Mr. Kempton moved to authorize the annual payment to renew the General Liability Insurance in the amount of \$3,056.00 to the Floss Agency. There was a second by Clayt Ertel. There was nothing on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Ertel, Hartzell. Noes: None
Absent: Powell. Recuse: None. Motion carried.

Mr. Kempton moved to authorize the transfer of \$20,000 from the First Niagara Bank Account to the Bank of Akron Account based on the needs of the Agency to meet the expenses over the next 30 to 60 days. There was a second by Mr. Schuster. There was nothing on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Ertel, Hartzell. Noes: None
Absent: Powell. Recuse: None. Motion carried.

Correspondence.

Ms. Rosel reported that notices of public hearings from the Town of Amherst and the Town of Lancaster were e-mailed to the Board. A copy of a letter from the Hamburg IDA to the ECIDA was received yesterday and Mr. Hartzell has copies for the Board that will be passed out to the Board for review.

New Business.

Mr. Leone reported that there is a meeting scheduled at 9:30 a.m. this morning regarding the Kittinger project. Mr. Hartzell said that the project has been approved by the Town Board and the Planning Board. An application will be submitted this morning.

Old Business.

Mr. Hartzell would like to approve the appointment of the EDO today. He and Mr. Ertel have looked at the candidates applications and have come up with what they believe is the best person for the position. Mr. Hartzell would like to appoint Jim Rash. Mr. Rash was asked to speak about his qualifications. Mr. Rash has been a Town resident for 48 years. He retired a little under 3 years ago from Avox Systems, Inc., formerly Scott Aviation, where he was in charge of Business Development for 16 of the 24 years he was with the company. He specialized mainly in forming strategic partnerships, business to business relationships, building, and other disciplines in marketing and sales. He was very interested in the possibility of working in a part time position for the CIDA after he reviewed the EDO job description. After attending the meetings over the past several months, he is very impressed with the mission of the CIDA and its accomplishments in helping the economy here in the Town. He is looking forward to learning from and working with everyone on the CIDA. Mr. Ertel added that Mr. Rash is a long time Clarence resident and is familiar with the community.

EDO Position.

Mr. Hartzell moved to appoint Mr. Rash as the EDO for the CIDA and there was a second by Clayt Ertel. On the question, Ms. Powell asked if this would be an annual appointment. Mr. Hartzell said that it would be a one year renewable on an annual basis. There will be an office in the Town Hall and at the Chamber. Mr. Bengart asked if it will be subject to a contract that will be worked out by Mr. Meckler and Mr. Bengart. Mr. Hartzell answered yes. There was nothing further on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Powell, Ertel, Hartzell. Noes: None
Absent: None. Recuse: None. Motion carried.

Mr. Hartzell welcomed Mr. Rash.

ECIDA Adaptive Re-use Policy.

Mr. Hartzell addressed the copy of the letter that was received from the Hamburg IDA signed by Michael Bartlett its Executive Director. Mr. Bartlett was responding to a letter from ECIDA Policy Committee Chair, Andrew Rudnick. Mr. Hartzell added that we have an Adaptive Re-Use Policy and was not sure exactly what they are asking us to do. Mr. Leone said that Mr. Rudnick sent a letter and is asking the all the IDA's adopt a resolution concerning possible amendments or revisions to the existing Redevelopment Policy. They are asking for the IDA's to cooperate to discuss revisions to the existing policy. Mr. Ertel asked if we are supposed to respond to the Rudnick letter. Mr. Hartzell will send a letter to the ECIDA saying the CIDA is willing to cooperate and looking forward to meeting to discuss same.

Laptop.

Cindi Rosel reported that Mr. Schuster graciously donated a laptop to the CIDA. She will meet with Mr. Schuster to determine what program needs to be purchased and the cost. This will enable the development of the power point presentation.

ECIDA Conference Calls.

Mr. Hartzell asked Ms. Powell to talk about the ECIDA Conference calls. The ECIDA has conference calls with all the IDA's throughout the State. The reason for this discussion is that someone had mentioned that the notice for the calls was too short and they could not participate. They were also at inconvenient times. Mr. Hartzell gets the notice and sends to all the members and they can sign on to be a part of them. There is not a set agenda and topics are random. Mr. Leone said some of the topics are what the state is doing, regional development monies that the governor will be offering and other topics of interest to IDA's and other agencies and groups. Sometimes there is a week's notice but not always. Everyone is eligible to participate. It was suggested that the newly appointed EDO listen in and report back to the members.

Mr. Hartzell talked about an article regarding a "buy-local" proposal he received from Mr. Manna from the Town of Amherst. Mr. Manna was talking about the Amherst IDA. The Town of Clarence adopted a policy suggesting "buy-local". Mr. Neill said that the question becomes how this would this be monitored cost effectively. There was further discussion about everything that comes into play with this type of policy. Mr. Leone said that Monroe County does do the monitoring of projects. Mr. Neill said most projects use local companies.

Towne Mini.

Mr. Ertel had to recuse himself from the meeting. Mr. Leone wanted to clarify that this project does not need a public hearing as the benefits would be below \$100,000.00. The project would consist of the construction of a 10,000 sq. ft. building and site work on the parcel of land located at 8230-8240 Main Street in the Town of Clarence in the Main Street Enhancement Zone. The project amount is approximately \$1,900,000. There will be no Pilot on this project. Sales Tax exemptions would only be on construction materials and they will get the mortgage recording tax

exemption. Mr. Leone said that the Impact Analysis shows the total benefit to the applicant is \$84,625 and the benefit to the community would be \$1,789,829. Mr. Leone added that after speaking with the applicant and their attorney, they had anticipated that they would get CIDA benefits. The employees would be from various areas in the County. Ms. Powell said Paul Leone did a good job explaining the project. Ms. Powell also addressed the designation of the enhancement zones in the Town of Clarence. The reasoning behind the Enhancement Zones was to attract different types of businesses to the Clarence Area. The Enhancement Zones have to be approved by the Town Board.

Mr. Kempton added that at the Strategic Plan meeting in May, one of the issues that a fair amount of time was spent on was the Enhancement Zones. The issue was debated looking at the pros and cons of the Enhancement Zones. Mr. Kempton added that he asked if the CIDA wanted to place any limits or further restrictions on the Enhancement Zones. At that particular time, the Board did not want to. He would recommend that they should sometime in the spring of 2013 revisit this issue.

Ms. Powell wanted Mr. Leone to speak about the real property tax exemption on this project. Mr. Leone said that because of the controversy about this project all the parties met and agreed that only the sales tax exemption would be considered. Ms. Powell said they would be eligible for property tax reduction with the 485-b. Mr. Leone said that is a not through the CIDA.

Mr. Neill added that the resolution he prepared will have to be amended.

Mr. Leone said that to sum it up, the objection was that this was an auto dealership. We have done them before. It was decided, and the company has agreed to the sales tax only benefit on the construction materials.

Mr. Schuster said the sales tax that will be generated from the sales on the cars is not reflected on the IMPLAN. He thinks that should be noted. Mr. Kempton asked the applicant what how many cars are they selling now and what the sales tax is on each sale. Mr. Downy said they have 200 cars with sales tax at about \$2,500 per car. Mr. Meckler said that it would be 100 units more at \$2,500. Mr. Leone said there would be 300 more cars.

Mr. Kempton also added that the property only generates \$8,000 in property tax now. After the project is complete the value of the property will about \$1.9 million. So the property tax would go from \$8,000 to about \$50,000 in property tax per year. The revenues will go up. Mr. Buettner said that includes the County.

Mr. Bengart added that he wanted it on the record that the Board has taken into consideration any letters or any information that has been previously received that the Board is aware of regarding the project.

Mr. Hartzell said that before the Board votes; he will take any comments from the public. Mr. Hartzell asked if there were any other comments or questions and if anyone wanted to speak about the project pro or con. There were no comments from the floor.

Mr. Neill said that there are two separate resolutions. The first would be the Neg Dec. The Town has gone through the review in May and issued its Neg Dec. Mr. Neill passed out the resolutions with the Towns SEQR attached to the CIDA Neg Dec. The CIDA's resolution basically agrees with the Town's determination.

Neill read the following resolution into the record for board consideration:

RESOLUTION OF THE TOWN OF CLARENCE, ERIE COUNTY,
INDUSTRIAL DEVELOPMENT AGENCY CONCURRING WITH
THE NEGATIVE DECLARATION ADOPTED BY THE TOWN OF
CLARENCE IN CONNECTION WITH THE APPLICATION FOR
PROJECT FINANCING BY TOWNE AUTO REAL ESTATE LLC
(THE "LESSEE") AND TOWNE AUTOMOTIVE GROUP, INC.
(THE "SUBLESSEE").

Mr. Hartzell moved to approve the SEQR resolution as submitted by Mr. Neill with a second by David Schuster. There was nothing on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Powell, Hartzell. Noes: None
Absent: None. Recuse: Ertel. Motion carried.

Mr. Neill said the next step is to approve a resolution for the actual project. When he prepared the resolution he did not realize that the approval would be only be for the building and not for the equipment. The references authorizing to acquire machinery and equipment will be removed from the resolution. He read the revised resolution into the record as follow:

RESOLUTION OF THE TOWN OF CLARENCE, ERIE COUNTY,
INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY")
AUTHORIZING TOWNE AUTO REAL ESTATE LLC (THE "LESSEE")
TO CONSTRUCT AN APPROXIMATELY 10,000 SQUARE FOOT
BUILDING ON A PARCEL OF LAND LOCATED AT 8230-8240 MAIN
STREET IN THE MAIN STREET ENHANCEMENT AREA OF THE TOWN
OF CLARENCE, NEW YORK, ALL FOR A MINI COOPER AUTOMOBILE
DEALERSHIP, FOR LEASE TO THE AGENCY AND SUBSEQUENT LEASE
BACK TO THE LESSEE FOR SUBLEASE TO THE SUBLESSEE AND TO
TAKE OTHER PRELIMINARY ACTION.

Mr. Meckler asked if that will impact the WHEREAS clauses. Mr. Neill said that he will send a revised version to the members. They will not be getting sales tax abatement on the equipment.

Mr. Hartzell moved to approve the resolution as read by Mr. Neill with a second by Mr. Schuster. There was nothing further on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Powell, Hartzell. Noes: None
Absent: None. Recuse: Ertel. Motion carried.

Mr. Leone said there will a 1% Agency Fee on the amount we give a benefit that will be due to the Agency.

Mr. Hartzell congratulated Mr. Downing of Mini Cooper and welcomed them to Clarence.

Mr. Leone stated that this was a very complex project. Ms. Powell added that this was a well thought out project. Mr. Kempton added that the project will bring more revenue to the Town and County. Mr. Leone said that the project, if they received the pilot, would be abated at 50%. Mr. Kempton said that would still bring in more revenue that the property tax is at the present time. Mr. Schuster said that no revenue would be lost. The taxes revenues would increase. Mr. Meckler noted that even with the controversy, there was no one present to comment on the project, pro or con. Everyone was aware that the meeting was here today, but no one showed up.

Ms. Powell wanted to go back to the intended purpose of the Enhancement Zones to attract the types of business Clarence wants in the Enhancement areas. There was discussion about the Enhancement Zones being a tool to allow the CIDA to be selective on how the properties are used.

Mr. Leone added that the project could have also qualified under the removal of slums and blights if it was not in and Enhancement Zone. Mr. Ertel added that it was an Adaptive Re-use. Ms. Powell agreed. Mr. Leone said that it could have qualified under Adaptive Re-Use because of the removal of the two buildings. Mr. Meckler said he thinks a major point is that it is not as if this project would not have been eligible, for example, at the ECIDA or any other IDA and as Adaptive Re-Use in an Enhancement Zone in the City of Buffalo. It is not as if our policy is different or that we are somehow applying different standards or guidelines to this project that any other IDA in this area would have applied to this project.

Mr. Buettner added that the IMPLAN shows exactly, in numbers, what the community benefit is. There is going to be about \$250,000 generated in additional sales tax on the sales of the mini-coopers. Mr. Neill added that this is the only mini-cooper here. Mr. Meckler added it is not like the cars are coming from another dealership, this is the only one in WNY. Mr. Hartzell added that he said was in favor of the project because it was unique and it was the only Mini-Cooper dealership in this area. It is not competing for that type of vehicle with any other area dealership. If it was a dealership that was already there, he would not have considered it.

Mr. Kempton suggested that the Enhancement Zones be looked at again at the Strategic Plan meeting in the spring. It has been 12 years since the Enhancement Zones were created. After we look at it and review the areas designated in the Enhancement Zones, we can make a recommendation to the Town Board. Ms. Powell added that the discussion should include what areas in the Town can we add value. There is not a lot of land where we can add value; it is getting smaller and smaller. Mr. Hartzell added that the Local Multi-Family Housing Law that the Planning Board is working on specifically breaks out commercial in the front of every multi-family piece that goes out. Before you did not have that. Now you have designated commercial with every multi-family project. Jim Callahan is aware that the Town needs more business and Zoning is actively working to help us enhance business in the Town of Clarence.

There was a question about the minutes and agenda being on the website on time. Ms. Rosel said that the minutes did not get on the website and she will make sure that they are posted timely going forward. The agenda will not go on until the agenda is completed, hopefully, by the Friday before the meeting on the following Thursday.

Mr. Schuster mentioned that because the accounting program crashed, Pam Smith had to re-input the information from February of 2008 forward manually. The new software has been installed. He wanted to thank Pam for updating the information.

Mr. Hartzell thanked the Board, they are all volunteers, and he wanted to thank them for the effort they put into the CIDA. There was a friendly motion to adjourn by Mr. Hartzell.

Meeting adjourned at 9:07 a.m.

Respectfully submitted,
Cynthia Rosel