

**TOWN OF CLARENCE, ERIE COUNTY
INDUSTRIAL DEVELOPMENT AGENCY**

MINUTES

February 26, 2009

Meeting

Present:	David C. Hartzell	Paul Leone
	Christopher Kempton	Steven B. Bengart
	Mary Powell	Nathan Neill
	Michael Buettner	Pamela Smith
	Scott Bylewski	Cynthia Rosel

Excused Clayt Ertel

Chairman Hartzell called the meeting to order at 8:04 a.m.

Roll call taken by Cindi Rosel. Present were Scott Bylewski, Michael Buettner, Christopher Kempton, and Chairman Hartzell. Clayt Ertel was excused and Mary Powell arrived at 8:15 a.m.

Mr. Hartzell wanted to go on the record, on behalf of the CIDA Board members and all the businessmen in Clarence, to thank Scott Bylewski and Steven Bengart for all the work and effort they put forth on the night of and during the days following the tragedy of flight 3407.

Minutes – (January 15, 2009)

Chairman Hartzell asked if everyone had a chance to review the minutes of the January 15, 2009 meeting and if there were any comments. There being none a motion was made by Scott Bylewski with a second by Chris Kempton to approve the minutes of January 15, 2009. There was nothing on the question.

Vote: Ayes: Buettner, Bylewski, Hartzell, Kempton.Noes: None
Excused: Ertel, Powell Recuse: None

Treasurer's Report

Mr. Kempton reported that there was not much activity since the last report and went over the Balance Sheet and the various accounts. The rate on the checking account is at .10% and the money market account is at .75%. Mr. Kempton will transfer \$134,000 from checking to the money market account. He has been monitoring the CD rates. The CD rates are for a period of 4 months would be .60% and for 9 months - 1.25%. If the money market goes under \$500,000 the interest rate goes down to .25%. The rates being as they are, the Board decided to leave the funds in the money market account until the rates improve. Mr. Kempton went over the Profit &

Loss Statement. There were fees received in the amount of \$107,750. Mr. Kempton also noted that a copy of the 2009 approved budget was attached for comparison to the reports and where we are on each budget line each month. There being nothing further, a motion was made by Scott Bylewski with a second by Michael Buettner to approve the Treasurer's report as submitted. There was nothing on the question.

Vote: Ayes: Buettner, Bylewski, Hartzell, Kempton, Powell.Noes: None
Excused: Ertel Recuse: None

Auditor's Report:

Wayne Drescher presented the annual Audit Report. Mr. Drescher discussed the draft letter dated February 26, 2009 relative to the audit of the Agency's financial statements for year ending December 31, 2008. He also went over the yearly Basic Financial Statements, Report Supplementary Information and Supplemental Information Report. The CIDA assets increased for 2008 and expenses were down. There was some discussion regarding what the fund balance can be used for. Mr. Drescher said the Board, under State Law, has flexibility for use of the funds. They can be used to improve the Town's economic conditions, for projects for industrial access, grants in aid or assistance, but the use must be within the purview of Industrial Development. There was further discussion regarding the fund balance and IDA's. Mr. Drescher also reminded the Board that the PARIS reports must be in to the State by March 31, 2009 and on the website. There are still some projects that have not returned the annual report request letter. Mr. Drescher discussed the Management letter and the importance of documenting expenses and how they further the economic development of the Town. Mr. Drescher was asked about posting of the financial statements on the website and said that it will be taken care of by the CFO. They could accept the financial statements today. Mr. Kempton asked if there would be any reason not to accept them today. Ms. Powell said that the report is pretty straight forward and does not see the need to wait till the March meeting. There was a motion by Chairman David Hartzell with a second by Chris Kempton to accept the Financial Statements for 2008. Scott Bylewski added that we are accepting the Audited Financial Statements for 2008. There was nothing further on the question.

Vote: Ayes: Buettner, Bylewski, Hartzell, Kempton, Powell.Noes: None
Excused: Ertel. Recuse: None

Before going on the New Business, Mr. Hartzell said that there was a question about approving the Attorney's Fees and an e-mail was sent around. Mr. Buettner had a question regarding what the fees totaled for the year. He also wanted to know what the CIDA was paying for and if it was something that the Board voted on. Mr. Bengart reminded the Board that the Attorney's fees are not paid by the CIDA nor out of the fund balance. Mr. Neill reminded the Board that the fees are paid according to the approved fee schedule, which has been adopted by the Board and is part of the CIDA Policy Manual. He also suggested that the schedule should be looked at and approved annually.

New Business

10,000 Wehrle Drive – Greatbatch, Inc. Project. Mr. Neill reported that the project has closed but the applicant has modified the plans for a 3,300 square foot addition on the east side of the building to provide space to improve the appearance of the existing building. As a result of the addition, the costs of the project have increased from the \$9,850,000 authorized in the resolution adopted on July 19, 2007, to \$10,956,000. Mr. Neill has prepared an amended resolution to include the increase and the addition. There will not be separate closing. They will get the abatement on the added amount. Mr. Leone also extended the sales tax on the addition. There was a motion by Scott Bylewski to approve the amended resolution as written with a second by Chris Kempton. There was nothing further on the question.

Vote: Ayes: Buettner, Bylewski, Hartzell, Kempton, Powell.....Noes: None
Excused: Ertel. Recuse: None

County Road –Milherst Construction, Inc. – Mr. Leone has received an application from MCI Ventures, LLC for a project on County Road for Milherst Construction, Inc. The public hearing will take place at the April meeting. The Town has completed the SEQR on the project. They are relocating from Amherst to the County Road location and that is not an issue. There will be someone from the project at the public hearing.

Mr. Hartzell reported that there will be a Seminar at UB on March 11, 2009 at the Center For Tomorrow at which Paul Leone will be a presenter. There was one last Fall presented by UB and the CIDA sent out a slinger. There were about a dozen people from Clarence that attended. It is free of charge to attendees. Mr. Hartzell would like to send out a slinger again this year. Ms. Powell wanted to know how many slingers went out to the businesses in the Town. Mr. Hartzell said that they are sent to every business, doctor and dentist in the Town. There was a motion by Scott Bylewski to approve that a slinger be mailed to all the businesses in the Town of Clarence advertising the seminar at UB on March 11, 2009 at cost not to exceed \$2,000 with a second by Michael Buettner. On the question, Mr. Kempton added that this expense should be under the Marketing and Promotion. Mr. Buettner asked if the cost last year was around \$1,200? Mr. Hartzell it should be about \$1,500 or \$1,575. Mary Powell asked if there is a sign up? Mr. Hartzell said yes there is and there is a list. Ms. Powell asked if there are thank you notes sent to the businesses that attend from the Town of Clarence? Mr. Leone added that the SBA sends them out. Ms. Powell thought it would be a good gesture for the CIDA to also send out thank you notes to the people from Clarence who attended and agreed to be in charge of that. There was nothing further on the question.

Vote: Ayes: Buettner, Bylewski, Hartzell, Kempton, Powell.Noes: None
Excused: Ertel. Recuse: None

Paul Leone added that on Friday, March 13, 2009, at 8:30 a.m. the ECIDA is sponsoring a 275 Oak Street where National Grid will be presenting new energy programs that will be offered to existing companies on ways to reduce energy cost.

Streaming Video and for CIDA Website

Mr. Hartzell found a great example for a Streaming Video website and had the members view it so that they could discuss the possibility of the CIDA doing this for to upgrade its website. After viewing same, David Hartzell said that he thought that this would be a great addition to the CIDA website. Mr. Hartzell spoke to Don Festaiuti and Mr. Festaiuti would do 2 streaming videos for \$500.00. He would also do a photo montage for \$250. Mr. Bengart wanted to know if there has been any thought put into scripting the videos. Mr. Hartzell's idea is that he would like to have one with Scott Bylewski with general information promoting the Town and why you should come to the Town of Clarence, great schools, smart growth, great location, etc. and one with Paul Leone which would be project specific. It is open to discussion. Mr. Buettner said it would be a great leap forward from what we have now. Mr. Hartzell agreed. Ms. Powell added that some thought should be put in to have a professional person to do the speaking. Mr. Bylewski said if it was decided to go that way, it should be reviewed annually. Ms. Powell agreed. This part of the discussion was tabled to the next meeting to talk about other ideas on this project.

Vote: Ayes: Buettner, Bylewski, Hartzell, Kempton, Powell.Noes: None
Excused: Ertel. Recuse: None

Mr. Hartzell added that a few meeting ago, Clayt Ertel asked if Mr. Festuati could add the Harris Hill, Clarence Center and Sheridan Drive commercial properties for sale on the website. Mr. Hartzell spoke to Don Festuati about it and Mr. Festuati said that he could do that for an additional \$50 per property. It was also discussed about adding the contact person for each property. The contact person information issue was tabled and will be discussed at a later date. Mary Powell said she will speak with Clayt Ertel about this to what would be the best way to proceed with adding contact information to the listings of properties.

The discussion went back to the Streaming Video and Photo Montage for the website proposed by Chairman Hartzell. There was a motion made by Michael Buettner with a second by Chris Kempton to hire Don Festaiuti to do a Photo Montage and two (2) videos for the CIDA at a cost not to exceed \$750.00. On the question Chris Kempton added that this expense should be put under the Advertising budget line. Mr. Bengart asked about payment and if we pay when we the product is finished? Mr. Hartzell said yes, that was how we would pay for them. Ms. Powell asked if a down payment would be required. Mr. Bylewski, as well as Mr. Buettner, had no problem with paying something up front. It was suggested that it may be one-third up front as earnest fee. He would leave that up to the discretion of the Chairman.

Mr. Leone added that there will be public hearing in Albany, NY on March 4, 2009 at 11:00 a.m. on Assemblyman Sam Hoyt's proposed bill A30659 relative to amending the general municipal law and other law relating to the tax exemption status of IDA's . There is plan to arrange for a luncheon for all six (6) IDA's to make a joint presentation to all of the Chambers of Commerce in Erie County. Paul will let the Board know when there is a date set up for this.

IDA Leadership Council and “Recapture Provision” (Claw Back) Policy

Mr. Neill explained that the IDA’s have never had a provision that in the event that a approved project failed to conform to the Agency agreement. the IDA could stop the benefits going forward. The State has been pushing for this provision and that it would be employment driven. Being uncomfortable with that, language has been tied to employment. The “Recapture Provision” that the Board has today for their review. This provision would be triggered and based on the intentional misleading of the Agency to get benefits by an applicant. Mr. Neill said that if we do not have a provision we may be required to adopt one that we don’t necessarily agree with. Mr. Hartzell said we need to vote on this. Scott Bylewski made a motion to adopt the “Recapture Provision” that was presented to the Board with the cover letter from the IDA Leadership Council dated February 18, 2009, with a second by Michael Buettner.

Vote: Ayes: Buettner, Bylewski, Hartzell, Kempton, Powell.Noes: None
Excused: Ertel. Recuse: None

Mary Powell asked about the marketing efforts and contributing to media public awareness/publicity campaign. Mr. Leone and Mr. Neill were there and no one at the meeting was interested in contributing to this. It was too expensive for what they would be getting on this.

There was further discussion on the proposed Hoyt Bill.

There was also discussion regarding the proposed changes in the Pilot programs and the point system presented at one of the IDA Leadership Council for a common system. Mr. Neill said that the CIDA does not have to adopt the policy and can continue with its policies and not have a common policy.

Mr. Neill introduced Chris Fusco, Assessor Town of Clarence. Mr. Neill and she spoke about the billings of the pilot payments and having one person responsible for sending out the billings for all the taxing jurisdictions. The problem has been that all jurisdictions bill for the Pilots separately and we may not find out until 6 months down the road that the payment for that jurisdictions is still outstanding. It is also important that all taxing jurisdictions are using the same numbers so that the billings are correct. Mr. Neill said that an audit be done first by Ms. Fusco to see if anything is mixed up. The Town has been alright. She could be paid by the CIDA through the Town. A motion was made by Chairman Hartzell to authorize Christine Fusco to do an audit of all the pilots to see if anything needs to be corrected for an amount not to exceed \$2,000 with a second by Michael Buettner. On the question, Mr. Hartzell said this will be revisited at the next meeting. There was nothing further on the question.

Vote: Ayes: Buettner, Bylewski, Hartzell, Kempton, Powell.Noes: None
Excused: Ertel. Recuse: None

Ms. Fusco asked that once the audit is done and we know where we stand, would it be the intent of the CIDA that we should calculate from this point forward, once we get everything cleared up,

School and County in addition to the Town portion. Mr. Hartzell answered yes that we should know where we are and what, if anything, is outstanding. There are some bills that are still outstanding.

Mr. Hartzell said that we will discuss the request for CIDA funds at the next meeting.

Paul Leone will be out of Town the week of the March 16th and therefore, Mr. Hartzell asked that the March meeting be moved to March 26th.

Nathan will not be at the meeting on the 26th.

The meeting was adjourned at 9:30 a.m.

THE NEXT MEETING WILL BE MARCH 26, 2009

Respectfully submitted,

Cynthia M. Rosel