

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

MINUTES

March 18, 2010

Present:	David C. Hartzell	Paul Leone
	Christopher Kempton	Steven B. Bengart
	Michael Buettner	Nathan Neill
	Scott Bylewski	Pam Smith
	David Schuster	Cynthia M. Rosel
Guests:	Larry Schreiber	Brian Parisi
	Craig Schreiber	Karen Parisi
	Richard Pieri	
	Harold Erbacher	
Absent:	Clayt Ertel	
	Mary Powell	

Meeting was opened by Chairman Hartzell at 8:00 a.m.

Mr. Hartzell asked Cindi Rosel to call the roll. Present were David Schuster, Christopher Kempton, Michael Buettner, and Chairman Hartzell. Scott Bylewski arrived at 8:02 a.m. Mary Powell was excused as was Clayt Ertel as they were out of town.

8135 Main Street-Northtown Volvo Porsche Land Rover Expansion & Renovation Project

The applicant for the project is Northtown Transit LLC & Schreiber and Schreiber Partnership. Mr. Schreiber explained the expansion and renovation of the property at 8135 Main Street. He met Mr. Leone last summer along with several others from Auto Place. Mr. Leone gave a presentation to the group regarding IDA benefits and the eligibility requirements that could be available in a redevelopment zone. Due to time restraints they had to move forward on the project. They received approval by the Town to complete the Porsche phase of the project. He is here today to ask for assistance in the form of sales tax exemption to complete the project in the manner in which they would like it to be completed in order to have first class facilities. They hope to complete the entire project by June of 2010. Mr. Bylewski asked the applicant that if they did not receive the CIDA benefits, what would happen to the project. Mr. Schreiber answered that they would have to scale back the project. Mr. Kempton added that this would not be for the Porsche part of the project because that project was already started. The benefit would be on a portion of the project, not the total amount of \$965,500. There would be not pilot, just sales tax benefits. The sales tax would be on \$150,000 for construction materials and office equipment. Mr. Hartzell thanked the applicant for bringing their business to the Town of Clarence. Mr. Kempton asked if there was an issue with Land Rover moving from Amherst to Clarence. Mr. Leone said that there was not issue, Amherst has already been contacted and they do not have a problem with it.

Parisi Property Management, LLC

Mr. Parisi and his wife Karen were present. Mr. Parisi is asking for a pilot and sales tax. They anticipate adding approximately 5 more employees. Mr. Parisi added that they would be adding around 2,500 sq. ft. on the addition. Mr. Kempton wanted to know the total value of the project. The total amount of the project would be \$150,000. The building has already been started and the foundation poured. They have put a hold on the rest of the project pending the outcome of today's meeting. They are also asking for sales tax benefit. Mr. Bylewski asked the applicant what would happen to the project if they did not receive CIDA benefits. Mr. Parisi answered that they could not go forward. There was nothing further and Mr. Leone thanked the applicant for coming in.

Minutes: January 28, 2010 and February 18, 2010

Mr. Hartzell asked if everyone read the minutes of the meetings on January 28, 2010 and February 18, 2010. There **was** a motion by Chris Kempton with a second by Scott Bylewski to approve the minutes from both meetings. There was nothing on the question.

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

Treasurer's Report:

Mr. Kempton handed out the financial report as of March 18, 2010. He went over the Balance Sheet, Profit & Loss Statement. The Detail Summary was also included in the packet along with the Profit and Loss - Budget vs. Actual report for comparison with the amounts expended to date and the budgeted figures for each item. The CD has matured and the monies have been moved to the Money Market Account until the market improves. Pam Smith will continue to check on the rates as she does for the Town. There have been expenses and no fees have been received year to date. Mr. Kempton went over the expenses and the budget. Mr. Kempton went over the budget and comparison and pointed out that that one line is at 100% and one is at 70%. A motion to approve the Treasurer's Report was made by David Schuster with a second by Michael Buettner. There was nothing further on the question.

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

Correspondence:

Mr. Hartzell passed out a pamphlet he received and passed out to the members.

Other correspondence was forwarded via e-mail.

Audit Committee Report

Mr. Kempton recommended that the Audit Committee should set up a schedule to meet for the remainder of this year and for 2011. He also suggested that the committee (Mr. Hartzell, Mr. Schuster and Mr. Kempton) meet for a few minutes after the April meeting to accomplish this. .

Audit Report

Wayne Drescher of Drescher and Malecki passed out the draft report and the Audit Report. He went over the draft and reported that there were no issues and no problems what-so-ever. He then proceeded with the Financial Statements for Years ended December 31, 2009 and 2008 and Independent Auditor's Reports. Mr. Drescher reported that the CIDA has had a good financial year. He also spoke on the PARIS electronic reporting system. New York State is revamping the system and won't be complete with updates until April 30, 2010 or later. We will have to submit the reports ten days after completion. All of the open projects have completed the required reports except for one. Motion to accept the Independent Auditor Report and Financial Statement as reported was made by Chris Kempton with a second by Scott Bylewski. There was nothing further on the question.

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

Mr. Hartzell thanked Mr. Drescher for presenting the report and for coming in this morning.

NYS Department of Taxation and Finance on IDA's

Mr. Neill addressed the letter from the State Department of Taxation and Finance regarding the assessment imposed on public authorities pursuant to Public authorities Law Section 2975. The amount assessed for the CIDA is based on 2008 revenues in the amount of \$5,643.00. The legislation provides that the public authorities are to be notified the public authorities in November. They never did because they did not know the amount. For some agencies, the State based the fees on monies that were passed through the agencies, for example, grants funneled through the agency for some other entity and pilot payments because of the way they were reported as revenue on the PARIS report. Mr. Neill said that is unfair to base the fees on something such a long removed and on revenues that are not really revenues. Mr. Hartzell asked if Mr. Neill recommends that we pay the fee. Mr. Neill suggested that payment be made at the very last part of March, in the event that somebody is able to get it postponed. There was further discussion regarding other agencies paying or not paying and the issues they have that CIDA does not have. Mr. Kempton added that we have to be prepared to pay but not until the deadline of March 31, 2010. Mr. Neill added that there is a group that is trying to solicit other agencies to join in an effort to litigate this. They would ask that other agencies support the effort with a fee proportionate to the assessment imposed on the other public entities. The CIDA contribution would be \$1,000. Mr. Neill also added that if we do not pay the fee to the State, the CIDA would be shutdown. Mr. Leone said that some smaller IDAs have paid and the ECIDA is not paying. They are going to Appeal it. Mr. Leone also brought in a copy of Schimminger's proposal to repeal the law regarding the IDA tax. Mr. Hartzell added that he thinks the fee

should be paid but wait until March 31, 2010 and asked if anyone was opposed or in support of paying. Mr. Buettner was opposed to it and though CIDA should support the ECIDA in not paying it and support the lawsuit. Mr. Hartzell said that there is no formal movement by to collect or pool any money from the IDAs at this point. Mr. Neill added that if the fee is not paid, the CIDA will lose the ability to collect on CIDA transactions. Mr. Buettner asked what if there is legal action pending if there is suit against the state? He thinks the CIDA should support the ECIDA. Mr. Bengart explained that there would have to be a “Stay Order” granted from a court saying you do not have to pay, otherwise, the CIDA would be shut down.

Mr. Kempton made a motion that the CIDA pay the assessed fee of \$5,643, but not until March 31, 2010, subject to, that if before the deadline for payment is reached, there is “Stay” from a Court; the CIDA would not make the payment. Second by David Schuster. On the question, Mr. Bylewski added that the Clarence Town Board passed a resolution urging the repeal of this assessment and sent it to the Governor and the State Legislature. As a result, the Town received an answer from the Governor thanking the Town for a copy of the resolution and they would keep it in mind. Senator Ranzenhofer supporting the resolution that the fee should not exist. There was nothing further on the question. The motion to pay the State assessed fee was voted on.

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

Mr. Kempton directed Pam Smith to pay the fee out of the contingency line.

Mr. Neill said that the information he saw regarding amounts for the litigation would put the CIDA in the \$1,000 fee for a contribution towards litigation. Mr. Kempton made a motion to authorize the Chairman to contribute up to \$1,000 to support legal activity to fight the the fees being imposed on IDAs by the State. Mr. Bengart asked if this would be for litigation only, not lobbying or advertising. If it is, there is a budget line for that purpose. Mr. Kempton said that it would be for litigation only. Mr. Bylewski seconded the motion. There was nothing further on question.

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

Mr. Bylewski made a motion to adopt the resolution as prepared and is in the packet in opposition to IDA Tax imposed on all local IDAs by NYS. The resolution essentially mirrors the one adopted by the Clarence Town Board. There was a second by Chris Kempton. There was nothing further on the question.

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

New Business:

8316 Main Street Parisi Property Management LLC

Mr. Leone is asking for approval on the property tax and sale tax benefits. There was discussion regarding the project as presented by Mr. Parisi. The project has already started and the foundation is in. Mr. Kempton thought we should consider the sales tax benefit only. Mr. Kempton moved to approve the sales tax benefit only for any purchases made on the project going forward. There was a second by Michael Buettner. Mr. Neill said that this would be done by installment not by lease. There was nothing further on the question.

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

The discussion continued with Mr. Hartzell saying that the CIDA has to consider how far a project has progressed for the CIDA to approve benefits. There have been other projects that were started and at 50% complete that have come before the board that have not been approved. This project is only at the foundation stage and has been halted. There was motion by Mr. Bylewski to adopt the resolution as submitted with a second by Mr. Kempton. On the question Mr. Buettner disagreed with approving property tax abatement. His added that the applicant had plenty of time to do what he had to do and should have been submitted the application before starting the project. There was further discussion regarding how the CIDA approved other projects relative to approving pilots. There was nothing further.

Vote: Ayes: Bylewski, Kempton, Schuster. Noes: Buettner, Hartzell
Absent: Ertel and Powell. Recuse: None Motion failed.

(Project was approved for sales tax only, there will be not pilot).

8135 Main Street Northtown Volvo Porsche Land Rover Expansion and Renovation

Mr. Leone asked for approval for sales tax only on the project as presented earlier in the meeting by the applicant. There would be no pilot on this project. Mr. Leone asked if there were any questions. There being none, Mr. Bylewski, based on the testimony given by the applicant earlier in the meeting, moved to approve the resolution as prepared by Mr. Neill for sales tax only for construction materials and office equipment for the project at 8135 Main Street and a second Chris Kempton.

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

5840 Goodrich Road-The Curious Minds Montessori School

Mr. Leone just got the information on the Montessori School project on Goodrich Road. This would be for sales tax only. He does not have the application as of yet so is not asking for approval today. The project would be for sales tax only and is about \$80,000 for construction

and approximately \$20,000 on equipment. It is in an enhancement zone. Mr. Neill will get back to Paul Leone on the fees and Mr. Leone will get back to the applicant.

Mr. Leone also received a request for a three-month extension on the sales tax for the 4125 Transit Road project. The applicant needs the extension to purchase the equipment he needs to complete the project. There was a motion by Christopher Kempton with a second by Scott Bylewski to extend the sales tax exemption benefit for an additional 3 months for this project.

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

Inlighten (proposed project)

Mr. Leone has met many times with this company. They are looking to purchase the building at 9645 Wehrle Drive. They are looking for three things; freeze the assessment at what it is today, sales tax exemption benefits and the new 10 year pilot on the new assessment. Mr. Neill said the CIDA could do it but there would have to be a special pilot to freeze the assessment. Mr. Leone asked the Board what they would like to do. Mr. Bylewski asked if the Board has ever done a special pilot to freeze the value. Mr. Neill said that we have frozen the assessment but have not given an abatement pilot along with it. Mr. Neill said that it has been done to keep a company in the area. Mr. Buettner asked what they do. Mr. Leone said that he does not have the application. It is a business support venture. They employ approximately 70 people. Mr. Kempton suggested that Mr. Leone let the proposed applicant know that they will consider a 10 year freeze on the assessment and sales tax. Mr. Leone will report back at the next meeting.

Mr. DiCostanzo called Mr. Leone regarding an expansion that is being considered for the Niagara Produce Market. Mr. Leone is trying to get a hold of the owner.

SBA Matchmaker Expo and Luncheon

The CIDA has two recipients this year. We will need two tables this year and two plaques. There was a motion by Mr. Hartzell to approve an amount of \$800 to reserve two tables for the luncheon and \$200 for plaques. There was a second by Mr. Bylewski.

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

Old Business:

Pilot billings.

Chris Fusco reported that pilot payments went great this year. We only have one that has not paid and that is the Castilone Project. She is trying to contact him to make arrangements for payment. He has not paid the Town, County Pilot or special districts. There are a few county charge backs from 2008 that are minimal that involve three projects. They will be given to the end of the March to pay through the Town and if not paid by then, they will sent to the County

for collection. Mr. Bengart said if they do not pay by then, he would send the appropriate letter to them.

Mr. Hartzell asked the new printing company to contact the companies that have completed projects with the CIDA to see if they have before and after pictures that we could use in an ad for adaptive use properties. They received pictures from Hayes and Staybridge Suites Hotel. A motion would be needed to run an ad that would show examples of adaptive use projects. Mr. Buettner made a motion to authorize an amount not to exceed \$10,000 for design fees and to run ads in the Clarence Bee and the Buffalo News showing before and after pictures of Hayes and Staybridge. There was a second by David Schuster. There was nothing further on the question.

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

Request For Funds.

Mr. Hartzell recused himself and left the room along with Mr. Geiger as they are both involved with the Clarence Chamber of Commerce. Mr. Kempton reported that the Clarence Chamber was the only applicant. They have asked for funding in the amount of \$40,000 broken down into four different categories. Mr. Kempton would like to have a representative at the April meeting to go over the requests. After the presentation, a decision will be made after the meeting to decide exactly what the CIDA would be willing to specifically allocate funds to. He would like the Board to review the letter and be prepared to address this at the April meeting.

LDC (Local Development Corporation formation):

Mr. Bengart has been working on the formation of the LDC. Mr. Bengart said that it has to be done correctly. Mr. Neill has been great in getting him the forms. Mr. Hartzell said that there seems not to be a sense of immediacy to get this done. Mr. Bengart will hopefully have it done for the next meeting. Mr. Neill suggested that the LDC funds be kept separate from the CIDA.

Meeting adjourned at 9:31 am.

Next Meeting - April 15, 2010

Respectfully submitted

Cynthia M. Rosel