

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

**MINUTES**

**MEETING OF JUNE 18, 2009**

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

Guests:       Pat Ball, HSBC Bank  
                  John Wabick, Vice President West Herr  
                  Elaine Wolfe, Clarence Hollow Association

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

Chairman Hartzell asked Cindi Rosel to take roll call. Present were Scott Bylewski, Christopher Kempton, Clayt Ertel and Chairman Hartzell. Mr. Buettner arrived at 8:03 a.m. and Mary Powell arrived at 8:08 a.m.

Before the start of public hearing, Mr. Hartzell introduced Elaine Wolfe from the Clarence Hollow Association who had a special announcement. Ms. Wolfe informed the Board that she has learned that the Town of Clarence has definitely been chosen to be one of the Towns showcased on the WNED "Our Town" program in the fall of 2010. WNED will advertise when they will be in Town which will be sometime in April and/or May of next spring. This is open to everyone who would like to take part and be "showcased" on the program. WNED will meet with the first 25 people/organizations who contact them. There will be two "brainstorming" sessions and where they will come up with 20 to 22 different topics about the Town for the program. Each group chosen has to take their own video of at least 1 hour in length. Elaine will be contacted ahead of time and will inform all the major organizations and groups in the Town know with the dates. Ms. Wolfe wanted to give the Board a heads-up so that if they want to be part of this, they can get started, especially, if there is something of interest going on now. Mr. Bylewski asked what Ms. Wolfe meant by 3-minute segments. Would that be for the Town's portion of the program? Ms. Wolfe said that the program is 1 hour long. The 3 minute segments will be on the various interesting topics that are chosen from the brain storming sessions. She will get back to the CIDA as soon as she has more information. Mr. Hartzell thanked her for coming in to let the Board know about this project and asked that she please contact the CIDA as soon as she learns of the dates.

## Public Hearing

8:05 a.m. - A Public Hearing was held on the 8129 Main Street – BHWL, LLC Project. Paul Leone introduced, John Wabick, Vice President of West Herr, who was representing the applicant. BHWL Real, LLC is a real estate holding company established to acquire the project property and lease to a related entity, BHWL, LLC, d/b/a West Herr Toyota of Williamsville. The project entails the renovation of an existing facility of approximately 40,000 sq. ft. in the Town of Clarence Main Street Enhancement Area and to acquire and install machinery, equipment, furnishings and fixtures in connection for the provision of a state of the art Toyota dealership. The project is necessary to allow the existing dealership to upgrade to meet Toyota's new requirements and allow the occupant to continue to operate as a Toyota franchised dealership. The project amount is the amount of \$2,000,000. Mr. Leone said that he and Mr. Wabick will be happy to address and answer any questions on the project.

Mr. Hartzell asked Nathan Neill to present the Impact Analysis prepared on this project before questions were asked of the applicant. Mr. Neill explained that the IMPLAN Pro is a widely accepted software application and an industry standard for economic impact modeling, measuring employment and salary impacts and facility output on the community for a given project. This report did not figure in the property tax abatement because we are not sure what the impact would be because of the existing buildings and we do not know if that is going to change in real property tax. The other benefits shown are the sales tax exemption, mortgage tax exemption and it shows what the community benefits are in terms of additional payroll, sales tax generated from it, and property tax increases. The program is based only on Erie County Tax. The benefit to the community is significant versus the cost to the taxpayer for the project. The benefit to the applicant is in the amount of \$118,833. The benefit to the community would be \$2,432,190.

Mr. Bylewski asked Mr. Wabick that if the applicant did not to receive CIDA benefits, what they would end up doing. Mr. Wabick answered, that at this point, as we are all aware, the project is well under way. It was really started with the anticipation of receiving CIDA benefits. The adjustments that would have to be made within the facility would be with the employees. He added that they would have to pull in back certain areas. Mr. Bylewski asked if he was correct in his understanding that the Toyota building will still house multiple franchises or is it just the Toyota franchise that will be within it? Mr. Wabick wanted to clarify this because there are three facilities on that site. The building being renovated will strictly be Toyota/Sion. Toyota is Sion's mother company, it will be one franchise. There was further discussion and Mr. Wabick added that to acquire the franchise, they had to build a state of the art building that would be a "stand alone" facility. Toyota has site control now and it will continue to be a "stand alone" facility. Mr. Bylewski said that this expansion is necessary for franchise and as well as economic realities that they have. Mr. Wabick said that would be correct. There was nothing further.

Motion by Scott Bylewski with a second by Chris Kempton to close the public hearing.

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

## **Minutes – May 21, 2009**

Chairman Hartzell asked if everyone had a chance to review the minutes of the May 21, 2009 that were e-mailed and asked if there were any comments. There was a motion made by Scott Bylewski to approve the minutes as presented with a second by Clayt Ertel. There was nothing on the question.

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

## **Treasurer's Report**

Chris Kempton reviewed the Treasurer's report as of June 18, 2009. He went over the Balance Sheet, the Profit and Loss Statements and added that all the details are attached. Mr. Kempton opened up a 9-month CD with HSBC in the amount of \$290,000 at an interest rate of 1.06%. The money market is yielding .50% and he must keep a \$500,000 balance in that account, otherwise the interest rate will fall to .25%. Fees received as of May 12, 2009 were a down payment towards the Agency Administrative Fee from MCI Ventures, LLC Project-Milherst Construction in the amount of \$4,588.38 and a \$500 public hearing fee from Four M's Development. Mr. Kempton continued that the donations that were made last month to the four organizations were placed under the budget line, Marketing and Promotion. There has to be an adjustment made as there was not enough budgeted for the donations. Pam Smith recommended that they make a motion for the record for the transfer and amend the budget. Mr. Kempton said that there are actually two transactions going on. Mr. Kempton made the first motion to increase the budget for Community Relations from the current \$3,000 to \$15,000 with a second by Clayt Ertel. On the question, Mr. Buettner asked why the budget has to be increased. Mr. Kempton said that we will have it on the record. Mr. Hartzell added that Pam Smith, CFO recommend the to make the adjustments by motion for the record. This will give everyone a chance to agree or disagree to amend the budget and vote on it. There was nothing further.

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

Mr. Kempton moved to transfer \$13,750 from the Marketing and Promotion budget line to the Community Relations budget line with a second by Scott Bylewski. There was nothing further the question.

Mr. Bylewski moved to accept the Treasurer's Report with a second by Mary Powell. There was nothing on the question.

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

## Correspondence

Ms. Rosel had one item which was a notice of public hearing from the Town of Amherst that will be held on June 19, 2009 at the agency office. This was also e-mailed to the Board June 10, 2009..

## New Business:

### **Inducement Resolution - 8129 Main Street – BHWL, LLC Project**

Mr. Leone asked Mr. Neill if we need to do the Neg Dec first. Mr. Neill answered the Neg Dec is in the resolution itself because this Type II action. Mr. Leone reported that BHWL Real, LLC is a real estate holding company established to acquire the project property and lease to a related entity, BHWL, LLC, d/b/a West Herr Toyota of Williamsville. The project entails the renovation of an existing facility approximately 40,000 sq. ft. located at 8129 Main Street in the Town of Clarence Main Street Enhancement Area and to acquire and install machinery, equipment, furnishings and fixtures in connection for the provision of a state of the art Toyota dealership. The public hearing was held earlier at today's meeting and there were no objections. Mr. Leone asked for the approval of the Board for the inducement of a \$2,000,000 project for the applicant. Mr. Neill added that the inducement is broken down in two different categories. The BHWL Real LLC, the real estate holding company will do the renovations to the existing building and the actual operating company, BHWL, LLC d/b/a West Herr Toyota of Williamsville, will acquire and install the machinery and equipment. Mr. Bylewski had some questions regarding the Impact Analysis and inquired if the listed community benefit is the total benefit or is it an annual benefit? Mr. Neill answered that impact will continue. It is a mixture of two. The construction benefit is a one time benefit. The payroll will continue. Applicant benefits are a one time thing. Community Benefits are continuous. Mr. Bylewski asked if it is taken into consideration that the impact may be two years down the road. Mr. Neill said he believes it is but suggested that perhaps it would be a good idea to have Mr. Mingoia, who prepared the analysis, come in to explain the particulars the impact analysis. Mr. Bylewski moved to approve the resolution as submitted by Nathan Neill regarding the 8129 Main Street – BHWL Real, LLC and BHWL, LLC Project with a second by Chris Kempton. There was nothing on the question.

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

Mr. Leone received a request from Dr. Altman for an extension for the 8421 Sheridan Drive. The sales tax exemption expires in September of 2009 and Dr. Altman would like it extended to December of 2009 because of some trouble with some contractors going out of business. The project is not complete. Motion by Clayt Ertel with a second by Clayt Ertel to extend the exemption letter for 8421 Sheridan Drive Project to December of 2009. There was nothing further on the question.

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

Mr. Leone also reported that in the next few weeks, construction will be underway for the 8584 Sheridan Drive – Doodle Bugs Project. He issued them a sales tax letter for approximately 36 vendors.

Mr. Leone reported that he attended the ECIDA meeting and they have now approved the Family Dollar Project, doing some of the same types of projects that the other IDA's have been approving.

### **DiCostanzo/Chamber of Commerce Marketing Plan.**

Mr. Hartzell reported that Councilman Peter DiCostanzo, the liaison for the Town of Clarence to the Chamber, met with the Chamber regarding revitalizing Main Street. Peter DiCostanzo's idea is for the Chamber to form a Commerce Marketing Committee to develop a plan to determine what businesses that the Chamber and the Town would like to attract to Main Street to fill some of the vacant buildings. Mr. Hartzell told him that the CIDA might be interested in doing some of the advertising with him if he could come with some type of a comprehensive plan. He has not heard back from Mr. DiCostanzo and he will table this until the next meeting when he has more information.

### **Old Business:**

#### **Fund Policy Amendments**

At the last meeting, Steven Bengart was asked to put together the amended language for section 5 of the policy which would be the process for requesting funds from the CIDA in order to have a protocol for next year. Mr. Bengart suggested that they can look at today and decide on it at the next meeting or read it now and pass on it. Whatever may be the pleasure of the Board is.

While the Board was reviewing the amendments, Mr. Leone introduced Pat Ball from HSBC who was attending the meeting. He was also at the last meeting.

Mr. Hartzell said he would not mind if the decision to fund would be moved back to March. Mr. Bengart said that at the last meeting, the Board chose April as the deadline. Decisions could be made sooner if the Board would like. Mary Powell said that the lettering needs to be corrected. Mr. Bengart said that it should read A-H and the correction will be made. There was a motion made by Michael Buettner to approve the amendment to the Fund Policy with a second by Clayt Ertel. There was nothing on the question.

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

Mr. Leone also passed out a Your Local IDA publication prepared by the New York State Economic Development Council of which we are a member. It did not include the CIDA, the HIDA, LIDA and the TCIDA. The ECIDA and AIDA were included in the publication. He does not know why they did not include the other Erie county IDA's. He will call the paper to

find out why these were eliminated. This is a paper that comes out of Albany. Mr. Leone will report back at the next meeting.

### **Review of the proposal on the Photography Project.**

Mr. Hartzell reminded the Board that at the last meeting there was a question whether Don Festaiuti was working for \$700 a quarter or for \$700 a year. He reviewed the proposal for the photography project and the amount is \$700 for the year. Mr. Hartzell will contact Mr. Festaiuti to review the proposal with him and make sure he is updating the photos he's agreed to take.

### **Additional Old Business:**

Mary Powell asked to speak under old business regarding the 8755 Sheridan Drive Project. Her extension expires today. She wanted to know what the procedure would be, should she ask for another extension. Mr. Leone said she can ask for a 6 or 12 month extension. Ms. Powell added that the project is still in play, has been approved by the Town and has potential. The last partner they were working with went elsewhere. They decided that geography just was not right for their type of operation and did not want to be located there. They are looking at Amherst. Mr. Buettner asked her to elaborate on the reasons for the delay in the project. Ms. Powell added that they still have partnership agreements on paper with some of the companies. It has just been timing, economics and the state of the real estate business. She is asking for a 6 but would like a 12 month extension if the Board is willing to grant it. Mr. Leone and Mr. Hartzell recommended a 12 month extension. Mary Powell left the room. There was a motion made by Clayt Ertel with second Scott Bylewski to grant the 8755 Sheridan Drive Project an extension with a \$250.00 extension fee due to the Agency.

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

Ms. Powell was invited back into the meeting.

### **Items Not on the Agenda:**

Mr. Leone added that he spoke with the doctor from OMFS on Transit Road. They are looking at another project but it will not be in Clarence. Mr. Hartzell asked if when businesses want to locate on Transit Road, could he steer them to Main Street...can he suggest that to them? Paul said that he does not know what is available on Main Street. Mr. Hartzell reminded him that they are listed on the website. There was some further discussion regarding attracting businesses to Main Street, sewers, Sheridan Drive, and traffic patterns.

There was some discussion regarding Wegman's relocating to Clarence. Mr. Bylewski added that the only thing that is before the Town Board is a Master Plan issue on zoning depth in that area. Mr. Bengart said that there is only an application by someone representing Wegman's to see if there can be a change to the Master Plan and then the Zoning.

Mr. Hartzell met with Roy Jordan last month and the ads coming along well for Mr. Jordan and his properties. He is very pleased that we have taken interest and he is going to continue to build in Clarence. Mr. Hartzell added that Mr. Jordan's projects are good for the Town of Clarence and for the CIDA. The ad will run sometime in the middle of July.

Mr. Leone inquired about the Phoenix Development Project on Transit Road located in front of Toys-R-Us. Mr. Leone said that it looks like the project is complete on that. Mr. Neill has not heard anything on it. He said it looks like it is close to completion. They have asked for sales tax letters. Mr. Ertel added that it is a very nice looking building. Mr. Bylewski has not heard anything about the completion of the project.

There was some discussion regarding Phase II in the back of Benchmark. Mr. Bengart said he has not heard anything about the backside of Clarence Mall. There was also discussion regarding the road behind Eastern Hills Mall, which Mr. Bengart said it is a dead deal.

There was also a brief discussion on the Benchmark Project and the possible car dealership on the on the north side of Main Street.

Mr. Leone will schedule David Mingoia to come in to speak with the Board about the IMPLAN Analysis Program for the July meeting.

Mr. Hartzell asked Cindi Rosel to explain the insurance issue that came up with the application for the additional amount on the Crime Policy. Hartford had a problem with internal controls involving deposits and reconciling the bank statements. These operations need to be separated, performed by two, separate individuals. Mr. Hartzell asked Chris Kempton and Pam Smith to work this out. A decision will also have to be made if CIDA still wants to go forward with the increase in the Crime Policy. They will vote at the next meeting.

Mr. Buettner wanted to know if Paul is going to speak with the person that prepared the impact analysis. Mr. Leone will try to schedule David Mingoia to come in to speak with the Board about the IMPLAN Analysis Program at the July meeting. He would schedule him for after the meeting.

Chris Fusco, Town Assessor came in just before the meeting ended to let the Board know that all of the CIDA bills have been paid in full and the County has received the payment from Mr. Castilone and we are clear from this cycle on. Mr. Neill asked if the

Motion by Mr. Hartzell with a second by Mr. Kempton to adjourn the meeting at 9:02 a.m.

Mr. Hartzell added that he wanted like to thank everyone for coming in. We are all volunteers and your their time and effort is much appreciated.

Next meeting is July 16, 2009

Respectfully submitted:  
Cynthia M. Rosel