

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

**MINUTES  
OF  
MEETING  
OF  
NOVEMBER 20, 2008**

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

Excused: Jack Willert

Meeting called to order at 8:03 a.m. by Chairman Hartzell.

Mr. Hartzell called on Cindi Rosel to take the roll call. Scott Bylewski arrived at about 8:05 a.m. Jack Willert was excused.

**MINUTES – October 16, 2008**

Mr. Hartzell asked the Board if they had a chance to review the minutes from the October 16, 2008 meeting and asked if there were any questions. There being none, there was a motion made by Christopher Kempton with a second by Clayt Ertel to approve the minutes of the October 16, 2008 meeting.

**VOTE:** Ayes: Buettner, Ertel, Hartzell, Kempton, Powell. Noes: None.  
Absent: Bylewski, Willert Recuse: None. Motioned carried.

**Added Agenda Item:**

Mr. Hartzell explained that Curtis Scott, Vice President of Scott Enterprises requested to come in to speak to the members of the CIDA for a few minutes regarding the Staybridge Hotel Project at 8005 Sheridan Drive. Mr. Hartzell introduced Mr. Scott and Mr. Ehrenreich, the attorney for Scott Enterprises and its subsidiary, Scott's Buffalo Suites. Mr. Ehrenreich gave some background on the company and the project. There was further discussion regarding the CIDA application process and benefits. The project consists of a \$9,780,000 hotel of approximately 80,000 square feet and will have 80 rooms. The hotel is being built on the former site of the abandoned Sheridan Hotels which Mr. Ehrenreich, in his opinion is a blighted property, especially after the 2006 October Storm. The property is not up to par with the rest of that portion of Transit Road. The company is here today to ask the CIDA if they would consider granting sales tax benefits for the project going forward. Mr. Ertel asked if they had their financing in place at this point and Mr. Ehrenreich answered that they do not. Mr. Leone added that the application that was presented in July would not be eligible for

complete benefits. The Company is here today to ask for Sales Tax Benefits only going forward. Mr. Scott added that he is appreciative of the Board taking the time today to hear the company's request. Mr. Kempton asked if this was for sales tax only and if anything been purchased. Mr. Scott answered that nothing has been purchased yet. Mr. Bengart said that they would discuss this with the Board to determine if they can grant Sales Tax Benefits to the company and it would be going forward only. Mr. Ehrenreich agreed. Ms. Powell added that the CIDA would have to make a decision today so that the company can go forward. There was further discussion relative to the amount of sales tax benefits that can be approved. Mr. Leone wanted to make it clear that they are not asking for a pilot. Mr. Bylewski said he appreciated the company bringing this to the CIDA's attention and that Town Board is very pleased with the Staybridge project going forward and is looking forward to that second piece that has been talked about as well. Mr. Scott asked what time frame for CIDA approval are we looking at as they need to get started with purchasing. Mr. Hartzell added that the request will be discussed today CIDA will get back to him. Mr. Hartzell thanked the parties for coming in and informed them that they will be notified.

Mr. Bylewski arrived at about 8:06 a.m. in time for most of the discussion on the Staybridge Hotel project.

### **TREASURER'S REPORT**

Mr. Kempton noted that he was not at the October meeting and the Treasurer's report from that meeting needs to be approved. Mr. Kempton said that they will need a motion to approve the October report. Mr. Bylewski moved to approve the October 16, 2008 Treasurer's report as previously submitted at the October meeting and there was a second by Mary Powell. There was nothing on the question.

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

Mr. Kempton continued with the November report. He reviewed the Balance Sheet and the Profit and Loss Statement. Mr. Kempton also reminded the board that the two CD's will be maturing in December. The current rate on the larger CD is at 2.9%. Mr. Kempton will look the options that will be available at that time. Mr. Kempton also made a recommendation to update the reports to include more information so that the board can make comparisons to the prior year, current year and the budgeted amount on the reports so that the budget can be monitored. This will be started in 2009 and will be listed as current, prior and budget on the monthly reports. Mr. Hartzell added that it was a great idea. There was a motion by Clayt Ertel and a second by Michael Buettner to accept the Treasurer's Report for November. There was nothing on the question.

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

### **Buffalo Filter Project**

Mr. Leone was in touch with Buffalo Filter relative to the fees. Mr. Neill added that he has been working with the company as there was a typographical error on the application relative to the number of employees that Buffalo Filter will be starting with. Mr. Neill amended the resolution that was made August 21, 2008 to correct the expected amount of employees when the company opens at

the site to be 57, not 67. Mr. Buettner added that the understanding is that there will be a creation of 50. Mr. Neill answered that the additional 50 employees would be added over 3 years.

Scott Bylewski moved to amend the resolution of August 21, 2008 regarding the Buffalo Filter Project application to read as per the resolution provided this morning by Nathan Neill with a second by Mary Powell. On the question Mr. Bylewski wanted the record to reiterate and capsule what was presented by Mr. Neill regarding the change in employees as being a typo. There was nothing further.

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

### **New Business:**

### **BENCHMARK**

Mr. Leone introduced Steve Long CFO for the Benchmark Corporation who was present to answer any questions by the board regarding the collateral mortgage that the Corporation is asking for. Mr. Neill explained that originally the CIDA took an application for the whole site title to the whole property. CIDA did financing. They broke off the shops at the Main Street section to release that portion from the lease agreement and they have a separate agreement for the Shops at Main Street. A public hearing will have to be held to approve mortgage tax abatement. Mr. Neill has a resolution amending the prior resolution of May 19, 2008 to add the new building. He also has a SEQR resolution.

There was a motion made by Clayt Ertel to approve the Neg Dec SEQR resolution with a second by Scott Bylewski. There was nothing on the question.

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

Mr. Neill presented the resolution amending the prior resolution adopted on May 19, 2005 to add the additional building. There was a motion made by Scott Bylewski to adopt the resolution as presented by Nathan Neill at this meeting. There was a second by Mary Powell. Mr. Leone asked about billing. Mr. Neill said that they will be billed properly for the additional amount. There will be a public hearing next month and there will be a pilot involved.

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

### **Correspondence**

Mr. Hartzell asked Cindi Rosel to go over the correspondence. There were two public hearing notices received, one from the LICA and the ECIDA. There were two invoices received for renewal for EDC Council membership in the amount of \$300 and one from the Floss Agency, Inc .for the renewal of the D and O policy in the amount of \$3,345. Motions would be needed to approve payment for both of these invoices.

There was some discussion regarding the NYSEDEC membership. Mr. Ertel stated that we joined late in the year 2008. They do have several meetings but there are two major meetings. Mary Powell asked if there is a cost for the meetings. Mr. Ertel was not sure, but if there are it would not be much. There is a three day meeting but he does not see that one to be necessary to attend. Clayt Ertel is designated as the Board member to attend the meeting.

There was a motion by Chris Kempton to approve payment to the New York State Economic Development Council for CIDA membership renewal for 2009 in the amount of \$300. There was a second by Michael Buettner. There was nothing on the question.

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

Mr. Hartzell presented the billing from the Floss Agency, Inc. for the renewal of the Directors & Officers Liability & Employment Practice Liability Insurance Policy. Mary Powell asked about the coverage and what is covered. Mr. Hartzell said that it is complicated and Mary Powell suggested that Mr. Floss come in to explain the coverage. Mr. Bylewski added that this is basically for the same coverage and is the renewal. Mr. Bengart added that this is the coverage we approved previously. Mr. Buettner asked what the premium was last year and Mr. Kempton added that he believes it is the same.

There was a motion by Mary Powell and second by Michael Buettner to pay bill for the renewal of the Directors & Officers Liability & Employment Practice Liability Insurance Policy in the amount of \$3,345 to the Floss Agency. On the question, Mary Powell would like Mr. Floss be invited to the January meeting to go over the insurance for the CIDA. Mr. Hartzell asked Cindi Rosel to put that on the agenda for January and to invite Mr. Floss.

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

Mr. Leone had some announcements. There will be a 13<sup>th</sup> Annual Straight Talk Conference on January 24, 2009 from 8:00 a.m. to 1:30 p.m. at the Buffalo Convention Center. Mr. Hartzell asked if the CIDA was a sponsor and Mr. Leone said that all the IDA's are a part of it. Mr. Hartzell asked if this is could benefit Clarence businessmen and Mr. Leone said yes, if they attend. Mr. Ertel asked if the CIDA should advertise. Mr. Bengart went over the agenda and listed the seminars that will be scheduled. Mr. Hartzell added that it sounded like a great presentation and asked if the CIDA wanted to send a flyer to all the businesses. There is a fee for the conference. Mr. Bengart said it would be a great idea to notice the businesses and the organizations in Clarence. Mary Powell also said that it would be a good idea but we should be careful how much we spend. Mr. Leone would have additional flyers sent to the Clarence Chamber to include in its mailing to its members. It would cost about \$50. There was a motion made by Michael Buettner with a second by Clayt Ertel to approve inserting the Straight Talk brochure in the mailing to the members of the Chamber of Commerce at a cost not to exceed \$50. Mr. Ertel asked about informing the Bee and Mr. Bylewski said we could contact the Clarence editor and they can put a announcement in the Bee.

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

Mr. Leone will let Mr. Sorrentino form the SBA know that the CIDA is supporting this seminar. Paul also said that there will be another seminar in March. Mr. Hartzell and Mr. Bengart added that CIDA should support that meeting a little harder. Mr. Hartzell said that we can discuss the March seminar at the beginning of 2009.

### **Old Business:**

Mary Powell passed around the last green line revision to the CIDA Policy Regarding Donation/Providing of Funds that she had in her file. There was some discussion regarding the revisions to the policy. Mr. Bylewski has received a number of calls and communications regarding the policy and said that we need to vote on it. He added that we need to have policy in place so that when requests come in, we can refer to it. He thinks that we should vote on it today, either up or down. There was a question regarding recreation opportunities in the policy. Mr. Bengart, Mr. Neill and Mr. Bylewski said that the language is exactly as it is stated in the statute. Mr. Bylewski said that is what he read from the statute at one of the last meeting. Mr. Ertel wanted to know if that was legal and just wanted to make sure that the CIDA was not doing something it should not. There was a motion by Scott Bylewski to adopt the Policy Regarding Donation/Providing of Funds as presented by Mary Powell. There was a second by Clayt Ertel.

On the question, Mary Powell wanted to discuss this the provisions of the changes especially if organizations are calling and asking for donations or funding for a certain project, how are we going to tell them we cannot fund under this policy?. Mr. Ertel said that would be discretionary of the CIDA Board, we still have our discretion correct? Mr. Bengart said that was correct. Mr. Kempton said it may depend on how tight we want to make the policy. Mr. Hartzell said that the policy should rule out some of these. Mr. Kempton said that it seems pretty open. Mr. Bylewski added that applicant can ask for secondary funding, but it would be the decision of the Board to grant or not. We need to have a policy in place. It can always be amended. Mr. Leone also asked about an applicant is looking for secondary funding. Mr. Bengart and Mr. Ertel agreed that it would discretionary. Mr. Buettner pointed out the provision in the second paragraph and meeting the criteria. Mr. Bengart agreed. Mr. Bylewski would like to get a policy in place. He would like to look at the budget and how much the CIDA would want to allocate for secondary projects. He would also like to the Board to review the "Meet in the Center" project and be ready to vote it up or down at the next meeting. Everyone agreed. Mr. Hartzell said that there is a motion on the table and if there was anything further on the question. There was not.

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

Mary Powell added that the Board should consider the Staybridge Hotel project. Mr. Hartzell wanted to know what the repercussions would be if we approve a project that has already built. Mr. Leone said in the past we have denied projects in the past because they were asking for a pilot, not just purchases. Mr. Neill said as long as there have not been any purchases made, the CIDA can approve sales tax only benefits. Mr. Buettner also mentioned another project that approval was not granted. Mr. Bengart said that was a qualification issue on that particular. Mr. Buettner was not in favor of doing this. Mary Powell added that the project is in a zone and we would not be granting benefits on construction. It is for purchases going forward only. Mr. Kempton wanted to be sure that we can do this comfortably. Mr. Neill said that we are approving purchases to equip and furnish the building, going forward. Mr. Kempton added that he was in favor as long as this meets the

criteria that the CIDA is required to follow. Mr. Bengart felt was in agreement. The CIDA would be approving furnishings and equipment that has not been ordered. Mr. Bylewski moved to approve the request of Scott Enterprises for sales tax abatement for new equipment and furnishings that will be purchased going forward, with the benefit not to exceed \$100,000. There was a second by Clayt Ertel. On the question Mr. Bengart wanted all the discussion had prior to the motion be incorporated in the minutes.

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

Mr. Leone said that he will inform Mr. Scott of the approval.

Mr. Hartzell wanted to discuss the possibility of a CIDA credit card. Mr. Kempton would not be in favor. Mr. Buettner agreed. There was a brief discussion and the members of the board were not in favor of a CIDA credit card.

### **EDO**

Mr. Hartzell wanted to know if the Board was still looking at an EDO for the CIDA. Everyone was in agreement that the possibility should be discussed further. Mr. Hartzell asked if Thursday, December 11, 2008 from 6:00 p.m. to no later than 8:30 p.m. at Orazio's. Mr. Hartzell asked Cindi to send out a notice to everyone. Whoever wants to attend should contact Cindi.

Mr. Ertel wanted to mention the derelict buildings around town and that the CIDA should approach the Town Board relative to these buildings to see if the Town has any authority regarding these buildings and what can be done about them. Mr. Bylewski said that there really is no municipal law that can tell property owners how they maintain the buildings. They would have to be unsafe. There are some things the Town can do.

Mr. Hartzell also mentioned the photography project for the website. The gentleman who submitted the most reasonable bid would like to get started. His bid was under \$750 for one year. Mr. Kempton thought it was approved already. The project was approved. Mr. Leone wanted to know if he could have a list of these properties that would be considered blighted; the CIDA could notify the owners that the CIDA might be able to help them if they improve the buildings, make it a spec building, there may be CIDA benefits available to them. Everyone was in agreement to hire the photographer and have him get started.

Meeting was adjourned at 9:20 a.m.

The next meeting will be held on December 18, 2008.

Respectfully submitted by:

Cynthia M. Rosel