

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

MINUTES

MEETING OF DECEMBER 17, 2009

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

Guests: Stephen Lelinski, VP of Key Bank

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

Chairman Hartzell asked Cindi Rosel to take roll call. Present were Clayt Ertel, Chris Kempton, Michael Buettner and Chairman Hartzell. Mr. Bylewski arrived at 8:05 a.m. and Mary Powell arrived at 8:09 a.m. Also present were Nathan Neill, Steven Bengart, Paul Leone, Pam Smith, Cynthia Rosel and Bob Geiger. Mr. Hartzell inquired about the new member. Mr. Bengart added that the new member will be appointed at the Clarence Town Board organizational meeting.

Minutes – October 15, 2009.

Mr. Hartzell asked if everyone had a chance to review the minutes of the meeting of October 15, 2009 and if there were any comments or questions. Motion by Clayt Ertel with a second by Michael Buettner to approve the minutes. There was nothing on the question.

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

Treasurer's Report.

Mr. Hartzell asked Chris Kempton to present the Treasurer's Report. Mr. Kempton reported that the financial statement handouts include the November 2009 and December 2009 reports as there was no meeting in November. Mr. Kempton said that he will report from the December financial statement as it contains all the financials and are current to date. Mr. Kempton reminded everyone that Pam Smith will begin looking at the different options available to obtain the best rates for CD's. Rates are not that competitive right now. His goal is to ladder the CD's investments to have a CD maturing in each of the four quarters of the year. Interest rates will determine how that is going to be structured. It will happen overtime and he will report back next month with an update. Mr. Kempton reminded the members that the rates for governments

and the private sector are different because of collateralization. He went over the Profit and Loss Statement. The detail sheet and the budget sheets are also attached. Mr. Bengart suggested that everyone take a look at the November report as it needs to be approved at this meeting. Mr. Bylewski moved to approve the December Treasurer's report which includes the November financials. Second by Clayt Ertel. There was nothing on the question.

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

Mr. Hartzell noted for the record that Mr. Bylewski and Ms. Powell were now present. Mr. Hartzell also acknowledged that Stephen Lelinski from Key Bank was in attendance along with Bob Geiger.

Correspondence.

Ms. Rosel reported that there was a renewal notice from the NYS Economic Development Council for Mr. Ertel. Mr. Ertel thinks that it would worthwhile to join again this year. There are some interesting agenda items forthcoming. Mr. Bylewski asked if this was the first renewal. Mr. Ertel answered that it was. Meetings are held quarterly and when deemed necessary. Mr. Neill said that the council reported on the recent proposed legislation on the living wage that the governor was proposing and there was quite an amount of response back from businesses and IDA's. The fee is \$300 for the year and Mr. Ertel feels it would be worthwhile to stick with it this year. There was some further discussion regarding the meeting when they meet. There was a motion by Clayt Ertel with a second by Mary Powell to renew the membership in the NYSEDC for an amount not to exceed \$300. There was nothing further on the question.

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

There were also letters from Business First for the Board members relative to subscribing or renewing subscriptions to the periodical. If members want to subscribe or renew, please let Pam Smith know.

There was a Holiday card and box of candy from Nathan Neill for the CIDA. Everyone thanked Nathan.

Mr. Hartzell moved that the Board go into Attorney Client privilege at this point to confer with Counsel. (time 8:18 a.m.)

The regular meeting was resumed at meeting at 8:25 a.m.

New Business:

Mr. Leone reported that there have been several meetings with the Braden family, owners of Lakeside Sod Supply Company, regarding their proposed Industrial Park on County Road. They are supposed to get back to Paul Leone with the Engineering and infrastructure costs. After the

last meeting, Paul asked them what the engineering and construction costs would be. They answered approximately between \$400,000 and \$550,000. There are two potential tenants; one would be an automotive repair garage and the other a self storage. These do not qualify for the industrial access program with the State. Mr. Leone received a call from the Braden's attorney, Mr. Bolas, who said that they are still waiting for the new engineering costs. Since they most likely will not get funding from the State, they asked if the CIDA would consider a grant or loan for the infrastructure in an amount between \$100,000 and \$150,000. Mr. Leone advised the Braden's that he would take that to the CIDA Board for consideration. At this point Mr. Leone does not know the status of the project because of the infrastructure costs. Mr. Ertel is recusing himself from any further discussion as the applicants are clients of his. Mr. Kempton asked if the project zoned industrial. It is. Mr. Leone had a map of the site and some leases from the automotive repair and self storage potential tenants if anyone would like to look at them. Mr. Hartzell added that the applicant has asked if the CIDA could help them find a manufacturing tenant for the park. The applicants think they would be able to get money for the road which would allow them to get the first two tenants in if they could secure a small manufacturing company coming into the park. Mr. Hartzell inquired if the Board would be willing to run an ad for a small manufacturing company to move to the Park. Mr. Bylewski added that there may be a business, a green technology company that may be considering establishing their business in Clarence. He would have to look into that possibility further. Mr. Neill suggested that maybe the CIDA should consider a loan instead of a grant for public benefit to help the Braden's get the infrastructure in. The CIDA would be paid with interest, as the lots are developed. Before going down that road, Mr. Hartzell suggested that the CIDA should wait to see if there is some interest from the company mentioned by Mr. Bylewski. Mr. Leone added that we should wait until we get the costs from the applicant also and then consider a loan. Mr. Kempton suggested that Mr. Leone go back to the Braden family to let them know that the CIDA would consider the request to assist with the infrastructure with more information. Ms. Powell inquired about the build out of the project. Paul does have all that information if Ms. Powell would like to see it.

Mr. Hartzell said that one question that came up at the October meeting was if the CIDA would have any interest in doing a business incubator in Clarence for small businesses. Ms. Powell wanted to know what that was. Mr. Hartzell said that the CIDA would lease a building, divide the space, and lease it to small businesses. Ms. Powell answered no. There are private enterprises already doing it. Mr. Hartzell agreed that this is something CIDA may not want to get involved in. Mary Powell said that the CIDA would not want to compete with private enterprise.

There will be a special meeting held on Friday, January 15, 2010 at 6:00 p.m. The suggested venue is the Asa Ransom House. Dinner will follow the meeting. If there are any changes, the members will be notified.

UTEP Policy (Uniform Tax Exempt Policy)

Mr. Hartzell asked if everyone had a chance to review the Countywide IDA UTEP (Uniform Tax Exempt Policy). Mr. Leone and Mr. Neill spoke briefly about the policy. The new policy includes a three tiered PILOT incentive schedule. Certain criteria will be utilized in analyzing and selecting the appropriate tiered PILOT schedule for each project. The term for the PILOTS

will be shortened from the 10/15 year PILOTS to 7/10 year PILOTS and will be related to employment/jobs. A point system will be used to determine what benefit the applicant would qualify for. Mr. Leone added that the new process is more detailed and would require more meetings with the applicants to assist them in filling out the work sheet. The new policy will be effective as of January 1, 2010. All of the other IDA's have agreed with the policy. Ms. Powell was concerned with language that would not be beneficial to the individual IDA's. There was discussion regarding the language in Paragraph F, section XI and the ECIDA. There was also brief discussion about the policy and how it protects the IDA's from lawsuits. Mr. Neill said that this is not a legally binding document and it is a voluntary policy. There is a section allowing for and IDA to amend the policy from time to time. Mr. Leone asked the Board for its approval of the policy. Mr. Bylewski had a question about the recapture policy. Mr. Neill said there was a change in that section Paul Leone said that there was a slight change to make it clearer. Motion made by Mr. Bylewski to adopt the Countywide Industrial Development Agency Uniform Tax Exemption Policy as written with a second by Mr. Ertel. There was nothing on the question.

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

Mary Powell wanted to know if there is still the media blitz in the works. There was a brief report by Paul Leone on this regarding an invitation to a press conference that the Amherst IDA received regarding the public relations campaign. The other IDA's were not invited to the press conference as far as Mr. Leone is aware.

8215 Main Street-Downing Family Project

Mr. Neill reported that there was an overpayment made by the applicant on this project. The project is in an Enhancement Zone. The project also came in under the estimated cost. The overpayment would be \$250. There was a motion by Mr. Ertel that the CIDA adjust the fees accordingly and refund and the amount of \$250 to the applicant. There was a second by Mary Powell. There was nothing further on the question.

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

Mr. Hartzell gave an update on the ads. Mr. Hartzell added that CIDA will be using a new ad company. If anyone has any suggestions regarding ads, please let Chairman Hartzell know. There is nothing new to report on the mailer update.

Mr. Hartzell reported that the ECIDA has asked the CIDA for funds for a joint advertising campaign. They would like approximately \$7,000. Mary Powell reported that she was at the meeting at the Leadership Council. She was looking into radio time and got a quote back within 24 hours. She e-mailed everyone on the council involved with the publicity campaign with the information and did not get an answer back. It was decided that it would be better to do print and radio advertising. There was no further discussion and Mr. Hartzell said that the radio advertising was agreed upon at the last meeting. Mr. Hartzell said that there are two issues here. One has to do with the issue regarding the media meeting held this morning and the other issue is

all the IDA's doing a joint advertising campaign. It was agreed that the CIDA would be part of the joint ad campaign with the condition that Mary Powell gets to see the ad first. Ms. Powell said that she would report back to everyone when she sees the ad content. Mr. Bylewski made a motion that the CIDA approve an amount not to exceed \$7,000 to participate in the ad campaign with the other IDA's provided that the CIDA has approval of the ad content. There was a second by Clayt Ertel. On the question, there was discussion about the types of ads. Mr. Bylewski added to the motion that the approval on ad content would be for whatever media is used for the advertising, print or radio or whatever. Mr. Buettner will be voting against the expenditure. He thinks that the money would be better spent on doing our own advertising and the fact that the County does not include us in things like not being invited to the press conference this morning, especially in what is supposed to be a team effort. Mr. Bylewski said that the funds are contingent on the CIDA having final approval of the ad and if we do not approve, then they do not get the funds. Mr. Ertel though the fact that the CIDA was not invited to the press conference be addressed. Mr. Hartzell said that he would like to nominate Clayt Ertel to draft the letter to Travis and Collins relative to Clarence, Concord, Hamburg and Lancaster not being invited to the press conference this morning. He asked Mr. Ertel to e-mail it to the Board for approval before sending.

Mr. Leone reported that he is setting up a meeting with a company called ACS, a collection agency that collects from construction companies that lease equipment. They are looking at a 10,000 square foot building at 3500 Wehrle Drive.

He is also setting up a meeting with John Roba. He is thinking about expanding. Mr. Roba did a project with the CIDA before.

Mr. Leone also reported that the ECIDA has adopted an adaptive re-use policy. They approved a bond for a mixed use facility with residential and commercial space involving apartment buildings and apartment space. Mr. Leone is proposing that the CIDA should have a seminar regarding antiquated buildings and what kind of benefits could be offered to owners or prospective applicants of antiquated buildings for adaptive use. Mr. Bylewski mentioned the live-in work type of re-use. Everyone was in agreement especially for the Hollow. Mr. Bengart thought it would be a good idea to have some other organizations involved such as the Chamber and the Hollow Association. Mr. Leone agreed that any organization that does public works should be involved. Mr. Bylewski added that this should be advertised as soon as possible. It was agreed that it should be done in March and get the ball rolling now. Mr. Hartzell asked that this be an Agenda item in January and February to work out and adopt an Adoptive Re-Use Policy for the CIDA.

Mr. Bengart discussed the request and subpoena from the Justice Department for records from the CIDA regarding the Bristol Village Project. The CIDA's involvement is not direct but indirect. Bristol Village was not made a party but had bonds sold through this one company in New York City. There were several indictments such as Rubin, Chambers and Dunhill Insurance Services, Rubin and Company, CDR Financial Products, Inc., David Rubin as well as others. It had to do as to how the bonds were sold on the Bristol Village project as well as other by this one company. The CIDA involvement is not direct but indirect. Mr. Bengart wanted to update the Board on that issue.

Mr. Bylewski wanted to add that the Clarence Town Board will be appointing a new member to the CIDA. There were no comments or objections to the application that was circulated to the CIDA Board and that applicant will be appointed at the Organizational Meeting on January 6, 2010. There were no objections.

Mr. Hartzell thanked everyone for coming as they are volunteers and their time is appreciated.

Meeting adjourned at 9:30 a.m.

The next meeting is January 21, 2010.

Respectfully submitted by:

Cynthia M. Rosel