

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

**MINUTES
OF
MEETING
OF
DECEMBER 18, 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 8:04 a.m. by Chairman Hartzell.

Mr. Hartzell called on Cindi Rosel to take the roll call. Jack Willert was excused with all other members in attendance.

PUBLIC HEARINGS:

8:00 a.m. - Benchmark Main Transit Associates, LLC

8:05 a.m. – 8209 Main Street Project

Mr. Hartzell called the public hearing to order for the 8209 Main Street Project. The applicant, North Forest Properties #5, LLC, is requesting financial assistance from the Agency for the construction of an 18,228 sq. ft., single story office building on a two acre parcel for lease to multiple tenants. The project amount is \$1,600,000. Mr. Leone introduced Roy Jordan of North Forest Properties who was present to answer any questions. Mr. Ertel asked Mr. Jordan if this was the continuation of the project located behind the auto dealerships on Main Street and if this was the end of the project. Mr. Jordan answered that this was a continuation and that there would be two more projects. There was further discussion regarding the occupancy of the existing buildings which is at approximately at 95%. Mr. Bylewski added that as of the last PARIS Audit, the expansion of the office park has well exceeded the estimated number of employees from 15 to 62. Mr. Bylewski also asked Mr. Jordan what he would do if benefits from the Agency were not approved. Mr. Jordan answered that they probably would not proceed forward. There was no further discussion at the public hearing.

The next public hearing was for the Benchmark Main Transit Associates, LLC Project. Mr. Neill said that the applicant is borrowing \$1,650,000. The cost of the project is \$2,119,000. Mr. Leone added that the project entails the construction and equipping of a 9,100 sq. ft. multi-tenant retail building and is part of the redevelopment of a shopping plaza project located at 4375 Main Street. There will be 10 new employees added. Mr. Bylewski added that the applicant was at the last

meeting. Mr. Neill had a survey and identified where the new building would be. He continued that this would be a lease. There was nothing further.

There was a motion to close the public hearings by Clayt Ertel with a second by Scott Bylewski. There was nothing on the question.

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

MINUTES – November 20, 2008

Mr. Hartzell asked the Board if they had a chance to review the minutes from the November 20, 2008 and asked if there were any questions. There being none, there was a motion made by Chris Kempton with a second by Scott Bylewski to approve the minutes of the November 20, 2008 meeting. On the question, Mr. Bylewski noted that there was an error in the date on the minutes and the date of the next meeting and those corrections should be made to the minutes. There was a word processing error. The motion is amended to approve the minutes as corrected.

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

CORRESPONDENCE

Cindi Rosel reported that the CIDA received two hearing notices from the LIDA, a bill from Mr. Festaiuti for the photography project, a bill from the Floss Agency, Inc. for renewal of the Crime Commercial policy, and a resolution adopted by the Common Council of the City of Buffalo. Mr. Hartzell also had correspondence from Casilio Companies regarding the 8755 Sheridan Drive Project asking for a six-month extension on the project. Motions will be needed for approval on the Festaiuti, Floss and Casilio matters and are part of the Agenda.

TREASURER'S REPORT

Mr. Kempton presented the Treasurer's report dated December 18, 2008 and noted that the two CD's will be maturing this month and can be renewed at the same time. He has been looking at the rates that are now being offered for 3, 6, 7, 9 and 12 months. The 7 month rate is at 2.5 rate as of two days ago. Mr. Hartzell asked Chris if the IDA could buy bonds and there was some further discussion among the members. The CIDA has an Investment Policy with an appendix schedule of securities eligible for collateralization of Agency deposits and refers to GML §10. Mr. Bengart will research GML §10. It was agreed that Mr. Kempton would renew the CD's for 7 months and research the investment policy. Mr. Kempton continued with the report going over the balance sheet, Profit and Loss statement. There were fees received in December and the details are noted on the attached summary. There was a motion by Scott Bylewski with a second by Mary Powell to accept the Treasurer's Report through December 18, 2008 as presented. There was nothing further on the question.

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

NEW BUSINESS:

Inducement Resolutions:

Benchmark Main Transit Associates, LLC Project

Mr. Leone asked the members to refer to the project log that was presented at the public hearing this morning for the Benchmark Main Transit Associates LLC and asked the Board to approve the inducement resolution prepared by Nathan Neill. Mr. Leone asked if a SEQR resolution was necessary. Mr. Neill explained that the SEQR resolution was approved previously for the whole site. There being no further discussion, a motion was made by Clayt Ertel with a second by Michael Buettner to approve the inducement resolution for the Benchmark Main Transit Associates as presented. There was nothing on the question.

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

8209 Main Street Project

Mr. Leone referred to the project log for this project which was the subject of a public hearing earlier this morning and asked for approval of the inducement resolution as prepared by Nathan Neill. Mr. Neill stated that the SEQR resolution was passed previously in 2006 for the whole site and is included for reference only. There was a motion by Scott Bylewski with a second by Clayt Ertel to approve the inducement resolution for the 8209 Main Street project as presented. Mr. Buettner will be recuse.

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

Mr. Neill has a resolution for Buffalo Filter for taxable exempt borrowing. Buffalo Filter is trying to see if they qualify for tax exempt borrowing and if they are eligible, this resolution would allow them to be reimbursed from bond proceeds. It does not change the project cost. Mary Powell would like some clarification. Mr. Neill answered that they were authorized to proceed for \$3,100,000. We were not contemplating at the time of the approval for any taxable bond issue in the original resolution.. In order to be able to recapture the money spent, there needs to be a resolution authorizing reimbursement from bond proceeds for expenditures. This resolution does not change anything else. This would cover them for expenditures if they need to start constructing. Mr. Bengart added that Mr. Neill has been looking into this for some time and it is all right to proceed with this resolution. There was a motion by Clayt Ertel with a second by Mary Powell to approve the resolution as prepared and presented by Nathan Neill. On the question, Mr. Buettner will be recusing. There was nothing further on the question.

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

8755 Sheridan Drive – Extension

Mr. Leone received a letter from Casilio Companies requesting an additional six-month extension for the 8755 Sheridan Drive Project. There will be fee due for the first extension and an additional fee for this additional six-month extension. Mr. Leone would like the Board to approve this extension. Ms. Powell added that the building size has been reduced and had to be redesigned. The original tenant has moved elsewhere and Casilio Companies has secured another partner/tenant. They are looking to secure favorable financing. Mr. Leone and Mr. Bengart added that the expiration of the extension should be noted in the minutes. Ms. Powell also asked that if the extension is approved, she would like a letter stating the expiration date. Ms. Powell left the meeting. Mr. Bylewski added that given what has been stated at this meeting regarding the change in plans by the applicant, the extension fees having been paid for the previous extension and that the fee will be paid for the additional six-months, moved to approve the additional six-month extension for the 8755 Sheridan Drive project said extension to expire on June 18, 2009, with a second by Chris Kempton. On the question, Mr. Buettner asked if the fees have been paid. Mr. Leone answered that the fee for the previous extension has been paid and that the additional fee will be paid upon approval of the extension. Mr. Bylewski amended his motion to approve the extension contingent on the receipt of the extension fee being paid on or before January 5, 2009. There was nothing further on the question.

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

Ms. Powell reentered the meeting.

Mr. Leone has a meeting at 10 a.m. this morning with Towne BMW, Mike Smith, regarding the expansion of their operation in the Enhancement Zone. A 1,685 sq. ft. expansion of the showroom is being proposed but he does not have the cost figures as yet.

He also met with Greatbatch Ltd. regarding an additional project.

He also met with Next Financial Group that is looking at the property at 8310 Wehrle in the Town of Clarence. The building was started in 2004 and is an unfinished office building consisting of approximately 8,800 sq. ft. The cost of the building is \$1,300,000. They employ 15 at the present time and would be adding approximately another 20 employees. They may be coming to the CIDA for help depending on the assessment. It is near the Golf Dome across from the Rose Garden. Mr. Leone added that it is not a spec building and it is in the Enhancement Zone. We will know more at a later date.

Mr. Ertel would have to recuse himself on the BMW project .

Renewal of Insurance

Mr. Hartzell discussed the renewal of the Crime Commercial Policy in the amount of \$540. It was discussed that Joe Floss attend a meeting to discuss CIDA insurance coverage. It was decided that Mr. Floss be invited to the February 2009 meeting to go over the insurance coverage. There was a

motion by Scott Bylewski with a second by Clayt Ertel to approve payment of the premium for the renewal of the Crime Commercial-Public Employee Bond Insurance in the amount of \$540. There was nothing on the question.

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

Requests for funds.

Mr. Hartzell began with item "G" on the agenda. He noted that he has not had the opportunity to review the proposal from the Clarence Hollow Association's request for funds from the agency.

Mr. Bylewski started the discussion saying that there is a threshold question the CIDA needs to address. He added that we are being asked to grant funding for projects for the public good and there should be a budgeted amount for said purposes. He referred to Mr. Kempton for suggestions. Mr. Kempton said that these requests are probably coming in to be paid out in the calendar year of 2009. The first thing the CIDA needs to do is come up with an amount, not necessarily to approve to pay out, but to make an amount available for such requests. It could be done as a percentage of the capital balance or look at interest income and take a percentage of that and make that amount available. That would set the budget amount available for the requests. These projects are secondary to the main objectives and purposes of the CIDA. We would have to prioritize and choose those projects that make the most sense to approve. Mr. Hartzell added that he would like to see organized standards for such requests that would be coming in and suggested that all proposals would have to come in 30 days in advance of the meeting, be in writing and have a representative available at that meeting to speak about the proposal. Obviously, the projects that are to be presented today would not be subject to that criteria, but future requests would. A form letter could be sent with the requirements for said projects. Mr. Bylewski said that he has made these suggestions to those who have come to him with such requests. Especially, that a representative be available at a meeting to explain the projects. Mr. Bengart said that 30 days may too long, that could send the request out two meetings and suggested 21 days. There was further discussion with suggestion from Mr. Buettner, and Mr. Ertel. The Board agreed that these projects have to be looked prudently. Mr. Bengart said that we can develop a policy today and approve at the next meeting. Mr. Bylewski, for discussion purposes, in the form of a motion, proposed that the budget for these types of discretionary monies that have been set forth in the policy that we adopted at the November 20, 2008 meeting, given that policy, that 5% of the capital funds available be set aside, all applications to be submitted, after today, in writing at least one week in advance of the meeting that the CIDA would be reviewing that proposal. Mr. Hartzell added that a representative should attend that meeting to speak on that proposal Mr. Ertel asked if we need to put the percentage in now because that has not been determined it? Mr. Bylewski said that he is making the motion for discussion purposes. Mr. Bengart added that we have a motion and if there is a second and discuss it on the question. Mr. Hartzell asked for a second. There was a second by Chris Kempton. On the question, Mary Powell asked if it is 5% of the capital funds, 5% of what...of the balance? Mr. Kempton said that his thought is that you take the balance as of 12/31 of the prior year, which would be based on the money market and the CD's. Mr. Bengart asked, to make it clear, that figure would be less what is in the checking account? Mr. Kempton answered that was correct. Mr. Bylewski amended the motion that 5% of the capital, defining capital to be monies in what are considered cash, certificates of deposit and all other forms of assets excluding the operating checking account. Discussion continued by Mr. Buettner that previously there was not a percentage put on these types

of request, that the vote would be on the merit of the type of project and felt that if we put a number on it we would be changing the philosophy of the CIDA. Mary Powell added that this is for budget purposes only, to create a budgeted amount. Mary Powell said that she thinks 5% is too high. Mr. Bengart said that we can adopt a policy now and amend it later. Mr. Bengart wanted to know if everyone was in agreement with the definition of capital funds. Everyone agreed. Mr. Kempton said that we may need to put language in the policy to differentiate on the type of projects...community support or capital investment. Mr. Bengart and Mr. Hartzell agreed. Mr. Bylewski agreed and said we do not need to decide on that today. Mr. Kempton discussed that the amount should probably 3%. Ms. Powell said that the percentage for 2009 should be between 1.5 and 2%, that would be more realistic for 2009. Mr. Kempton and Mr. Hartzell agreed. We look at what we have on hand not what is expected. Mr. Kempton said that the percentage should be determined an annual basis. For 2009, 2% of the capital balance should be used. Mr. Bylewski amended the motion to reflect that the figure for 2009 would be 2% of the capital balance as of December 31, 2008 and said percentage will be reviewed on an annual basis at the end of the fiscal year. Mr. Kempton seconded the amended motion. On the question, Mr. Bengart added that he believes this is the prudent way to handle these types of projects. We now have a basis and a policy going forward that can be looked at. There was nothing further.

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

A synopsis of the policy will be handed out and then add to the policy manual.

Chamber of Commerce Request

Darlene Feinin, Executive Director of the Clarence Chamber of Commerce presented a proposal requesting a grant from the CIDA in the amount of \$35,000 to cover the cost of fees for a consultant, the upgrade of all Chamber electronic equipment and purchase of new software and for the design and to produce effective collateral materials. Clayt Ertel asked if there is any community development grant money available for such purposes. Mr. Bylewski answered that some of the proposals presented would not be appropriate based on the criteria for CDBG funding. Mr. Buettner asked if they did not receive funds from the CIDA, where would they get the funding. Ms. Feinin added that they would have to look at other sources for grants and perhaps raise membership fees, although they do not want to have to go that route. Mr. Ertel thanked Ms. Feinin for her presentation. Mr. Bylewski thanked Ms. Feinin on behalf of the Town Board for her attendance at and her participation at the Town Board meetings. It is much appreciated and it is nice to see the interest in the Chamber is picking up again due to her leadership.

Clarence Center Community Association Street Clock Project

Tim Pazda was present on behalf of the Clarence Center Community Association to speak to the Board regarding a project to purchase a street clock of a Historic nature for the Clarence Center Area. Mr. Pazda said that the ultimate goal of the Association is to make the Clarence Center area a more desirable area to increase business. They do have a banner project to help to finance the project but must sell 200 banners to support the project so he is coming to the CIDA. Mr. Pazda added that because of the current economic times, he is not sure that he can sell 200 banners. He is pretty sure that he can sell 100 banners but that would leave a \$10,000 shortfall for the clock. Mr. Bengart added that as of last night, they did receive approval from the Akron Bank to either grant an

easement to put the clock on their land and/or deed the property over to the Town. Mr. Pazda said that was correct. Mr. Pazda said they hope that the Town would take over the clock and the maintenance of same. He does not know what the intention is regarding the Bank of Akron sign. There is not room on the other side at the Emporium. Mr. Pazda is here today to ask the CIDA for funding for the clock. There was further discussion regarding the clock and the location. Mr. Kempton asked if the Rotary is donating. Mr. Pazda said they are acting as a pass through. There is a Phase II of the project which would be the lighting for the business district. Mr. Hartzell thanked Mr. Pazda for his presentation and wished him luck on.

Meet in the Center Project (Marta Carney)

Marta Carney was not present at the meeting. Mr. Bylewski said that this proposal was the first one to initiate the discussion on these types of projects. The applicant was requesting \$10,000 in start up funds to establish a Merchants Association [501 (c) 6] entity. Mr. Hartzell asked if they would like to invite her to the January meeting.

Clarence Hollow Association

It was decided to look at this project as well as the Meet in the Center Project in January.

Mr. Hartzell asked that these two Associations should be invited to present the projects to the CIDA at the January meeting.

OLD BUSINESS:

Mr. Hartzell said that we need approval for payment to Don Festaiuti Photography/Video per the proposal submitted. The proposal is for one year and will include the commercial, residential and possible Industrial sites in Clarence New York on Main Street from Transit Road to Davison Road. The fee for the year is \$700 to be paid quarterly. A motion was made by Scott Bylewski with a second by Chris Kempton to approve the expenditure of \$700 to be paid quarterly for the proposal submitted by Don Festaiuti Photography/Video for the photography project. On the question, Mr. Ertel asked if this is only for the properties on Main Street. Mr. Hartzell said that was correct. Mr. Ertel asked if he could include the properties on Sheridan Drive. Mr. Hartzell said he would ask. There was nothing further on the question.

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

Mr. Hartzell added that in the future, he would like to pursue a video for the website to promote the CIDA and the Town of Clarence. This can be discussed in 2009.

Mr., Bylewski added that he received an e-mail from Jack Willert that he would not seek reappointment to the CIDA. Mr. Willert stated that he appreciated being part of the agency.

Mr. Buettner asked about the EDO meeting and Mr. Hartzell said that will be discussed in January 2009. It was decided at the meeting that those attending would recommend that EDO position be

pursued. Mr. Bengart added that the committee did come up with some ideas regarding the position and what it would entail.

There being nothing further, the meeting was adjourned at 9:46 a.m.

The next meeting will be held on January 15, 2009.

Respectfully submitted by:

Cynthia M. Rosel