

Nassau County Industrial Development Agency (the “Agency”)

Board Meeting Minutes

November 21, 2019

6:45 PM

I. Board Roll Call

John Coumatos	Present
Amy Flores	Present
Christopher Fusco	Excused
Richard Kessel	Present
Anthony Simon	Excused
Lewis M. Warren	Present
Timothy Williams	Present

Others Present:

Harry Coghlan	Chief Executive Officer / Executive Director
Danielle Oglesby	Chief Operating Officer/ Deputy Executive Director
Catherine Fee	Director of Business Development/Chief Marketing Officer
Carlene Wynter	Compliance Assistant
Thomas D. Glascock, Esq.	General Counsel
Andrew D. Komaromi, Esq.	Bond/Transactional Counsel

Excused:

Colleen Pereira	Administrative Director
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II. Public Comment Period

A. Public Comment

None.

III. Chair Report / Chief Executive Officer Report

Chair Kessel discussed the idea of helping small businesses, and working with Ryan Silva (Executive Director of the NYS Economic Development Council) concerning a possible amendment to the laws that govern New York industrial development agencies, to allow industrial development agencies to better assist downtown areas. He also described a meeting with County Executive Laura Curran, concerning helping downtown areas.

Chair Kessel further stated that at this November 2019 Agency board meeting, the Agency will be considering 2 important housing projects, one in Lynbrook and the other in Farmingdale. He also mentioned a recent Newsday article describing inequality in housing choice and opportunities. The contemplated Farmingdale project is 100 % affordable housing, and the contemplated Lynbrook project is transit oriented development.

Chair Kessel stated that we need to encourage developers and other interested parties to come to the Agency with interesting projects offering affordable components. The Agency can encourage affordable housing by providing incentives, for example with extended PILOT freezes and longer PILOT schedules for major housing projects offering an affordable component. Housing will be a big focus for the Agency during 2020, particularly new housing in currently blighted areas. NCIDA would like to assist developers to increase housing choice, provide greater affordability, add more diversity, and remove blight.

Member Warren voiced his agreement with the importance of increased housing stock on Long Island, and that the Agency should focus on this need. He stated that housing choice is needed foreconomic growth, and that this is part of the Agency's charter. You cannot grow if there is no housing.

Member Williams asked if discrimination is a default under the Agency's transaction documents, and stated that there should also be a means to report discrimination to the NCIDA.

Chair Kessel concurred with Member Williams' statements, and asked that counsel review the covenants made within the Agency's standard agreements.

Member Warren then reiterated the importance of housing fairness.

Next, CEO / Executive Director Coghlan gave a monthly activity report. The Deutsche Lufthansa project closed. Further, on November 12, 2019, Agency staff met with representatives of the Workforce Development Institute and the Nassau County Office of Minority Affairs, to discuss job creation with a focus on off shore wind employment opportunities. Staff will also be meeting with the applicant on the Woodcrest project, to check status, and met with representatives of the NYS Economic Development Council concerning downtown revitalization, and to review best practices. The Agency is also facilitating a shop local campaign, to assist downtown small retail businesses.

Mr. Coghlan then gave an update of the Agency's issued RFP for marketing services, stating that he hoped a firm will be selected by the Agency's Board at the December 2019 board meeting. Further, the interim-CFO is doing a good job cleaning-up the Agency's financial books and records, and updating its financial software.

Further, staff will soon be meeting with representatives of T-Mobile, who plans to locate offices on Long Island. T-Mobile will not be seeking NCIDA incentives, but its presence in Nassau County will be vital to creating jobs for our residents.

Chair Kessel praised staff for its efforts and follow-up.

Member Warren praised Mr. Coghlan and Chief Operating Officer / Deputy Executive Director Danielle Oglesby, for their efforts updating the Agency's financial systems.

Chair Kessel then praised Member Flores, for her efforts with regard to the Agency's financial software and financial record keeping too. Member Flores responded, affirming the good progress made with updating the Agency's financial software, from on or about 1999 Peachtree software to a current QuickBooks platform.

IV. Existing Business and Discussion

A. Approval Resolutions

None

V. New Business and Discussion

A. Preliminary Resolutions.

i. Sterling Green at Farmingdale, LLC, and D & F Development XXVII, LLC (its managing member)

Counsel Daniel P. Deegan, presented the application to the Board, with the applicants' representative Bruce Peterson. Applicant representative Peter Florey was also originally present, but had to leave for another meeting.

The applicants propose the construction of a 61-unit affordable, workforce housing development within the Village of Farmingdale, to provide affordable housing within the Village at a time when housing is in particularly high demand.

The applicants have presented an application for financial assistance, requesting that the Agency consider undertaking a project consisting of: (A)(1) the acquisition of an interest in an approximately 1.99 acre parcel of land located at 860-906 Fulton Street, Farmingdale, Town of Oyster Bay, NY (2) the construction of a building (the "Building") on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (collectively, the "Project Facility"), all of the foregoing for use by the applicants as a workforce, multi-family house-development facility consisting of approximately 61 affordable residential rental apartments; (B) the granting of certain financial assistance with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes; and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the applicants or such other entity as may be designated by the applicants and agreed upon by the Agency.

As described by Mr. Deegan, the applicants have developed multiple assisted living facilities and affordable housing projects on Long Island, and recently constructed their own headquarters in Nassau County. Moreover, the proposed project is consistent with Farmingdale Mayor Ralph Ekstrand's efforts towards developing affordable housing within the community.

The project would remove blighted housing, and in its place provide 60 affordable units plus one unit for a superintendent. The affordable units would be made available through a lottery system, with the help of Long Island Housing Partnership. Moreover, the estimated \$31,000,000 project would provide be a significant investment in the community.

Mr. Deegan also stated that the applicant is applying for 9 percent tax credits from New York State to help finance the project, and that a preliminary inducement from the Agency would be helpful in its application for tax credits. Nassau County HOME funds have also been allocated for the project, and the Village of Farmingdale has already rezoned the property to make the anticipated project a permitted use. Anticipated rents would be approximately \$700 to \$1,900 per month, depending on the unit size.

Member Williams described the importance of disclosure when a project anticipates using public funding, such as tax credits.

Chair Kessel then moved to adopt the preliminary resolution, which was seconded by Member Williams. The preliminary resolution was approved unanimously.

- ii. Terwilliger & Bartone Properties LLC and an affiliate to be created

Counsel Daniel P. Deegan, presented the application to the Board, with the applicant's representative Anthony Bartone.

For years, the 1.09 acre project facility (the "Project Facility") has housed The Capri Motor Inn, which has been the site of various unsavory and criminal activities, including drug use and prostitution. During 2016, the Village of Lynbrook terminated the motel's license to operate. However, the motel continues to operate, while the termination is appealed. Per a 2016 request for proposal ("RFP") seeking a developer for the property issued by the Village, the applicants were selected and have negotiated and executed a contract of sale with the existing property owners.

Applicant proposes to demolish The Capri Motor Inn located at 5 Freer Street, Lynbrook, Town of Hempstead, NY, and to construct an approximately 97,482 square foot building for use by the applicant as a multi-family transit-oriented-development facility consisting of approximately 80 residential rental apartment units, including 8 affordable residential rental apartments, consistent with the Village's downtown revitalization plan and the RFP.

Mr. Deegan stated that the Lynbrook Mayor Alan Beach and the village trustees support the project, which would remove existing blight, and the applicant is currently in contract to purchase the property, subject to a condition that an Agency inducement be granted. The applicant requests a 20 year PILOT schedule.

Mr. Deegan reported that the project facility is 4/10 of a mile from a LIRR station, which creates transit-oriented development opportunities.

Chair Kessel requested that, in addition to the planned 8 affordable units, the applicant consider increasing the number of affordable units. He then acknowledged Anthony

Bartone for his continued efforts with the project, including revising it in response to articulated Village concerns. Chair Kessel also praised County Executive Laura Curran for her focus on this project.

Member Williams encouraged the applicant's outreach to the unions, which Mr. Bartone responded he would do. Mr. Bartone then stated that the project would consist primarily of 1 bedroom and studio units, but is planned to have eight 2 bedroom units.

Member Flores then asked about the anticipated rental amounts. Mr. Bartone responded that the project is planned to be a luxury product, with rents commensurate with this. The 1 bedroom unit rent would be approximately \$2,100 per month, studio unit rent would be approximately \$2,300 to \$2,400 per month, and 2 bedroom unit rent would be approximately \$3,000 per month.

Member Warren then asked about the anticipated renters. Mr. Bartone responded that he anticipated baby boomers and millennials to comprise the majority of renters.

Member Williams then asked about the homeless population that might be displaced if the current hotel provides housing for them through the Department of Social Services, and articulated the importance of efforts to address this.

Member Warren then moved to adopt the preliminary resolution, which was seconded by Member Williams. The preliminary resolution was approved unanimously.

B. Consent Resolution

i. SLC Development LLC (555 Stewart Ave)

Bond/Transactional Counsel Andrew Komaromi described this requested consent resolution.

The project facility is an approximately 4.45 acre parcel which, for the past 20 years, has remained a vacant paved lot (the "Project Facility"). During early 2019, the applicant presented to the Agency an application for the purchase of the project facility and construction of an approximately 207,800 square foot, four story, 150 unit multi-family residential building, at least 10 percent of which units shall be affordable units consistent with the Village of Garden City's affordable housing requirements.

The Agency approved the project on May 16, 2019, pursuant to an approval resolution (the "Approval Resolution") and subject to the require that (A) the applicant will execute and deliver a certain bargain and sale deed, assignment of lease or company lease to the Agency, pursuant to which the applicant will convey an interest in the Land and the Building to the Agency (the "Conveyance Instrument"), (B) the applicant will execute and deliver a Uniform Project Agreement between the Agency and the applicant, pursuant to which the Agency will appoint to the applicant as its agent ("Project Agreement") (C) the applicant will execute and deliver a certain Bill of Sale (the "Bill of Sale to Agency") to the Agency, pursuant to which the applicant will convey to the Agency its interest in the furniture, fixtures, machinery and equipment at the Project Facility, (D) the applicant will execute

and deliver a Lease Agreement or Sublease Agreement (the “Lease”), between the Agency and the applicant, pursuant to which the Agency will grant to the applicant a leasehold interest in the Project Facility, (E) the applicant will cause to be executed and delivered a certain Environmental Compliance and Indemnification Agreement (the “Environmental indemnification”) pursuant to which the Agency will be indemnified from and against certain losses, costs, damages and liabilities, (F) the applicant will execute and deliver or cause to be executed and delivered a certain Payment in Lieu of Taxes Agreement (the “PILOT Agreement”) to the Agency, and, to secure the obligations thereunder, a certain Mortgage and Assignment of Leases and Rents in favor of the County of Nassau, New York (the “PILOT Mortgage”), and (F) the applicant will execute and deliver and/or cause to be executed and delivered certain other certificates, documents, instruments and agreements related to the project (together with the Conveyance Instrument, the Project Agreement, the Bill of Sale to Agency, the Lease, the Environmental Indemnification, the PILOT Agreement and the PILOT Mortgage, collectively, the “Transaction Documents”).

In addition to the forgoing, the Agency required that the Transaction Documents be executed within one hundred eighty (180) days from the May 16, 2019 approval date.

The applicant has requested that the Agency consent to the amendment of the Approval Resolution to allow the applicant to execute the Transaction Documents on or before July 9, 2020. No additional financial assistance is being requested by the applicant, with respect to such request.

Chair Kessel asked when the Project Facility is anticipated to be completed. Applicant counsel, Daniel P. Deegan, responded by describing the Village of Garden City and its consent order relevant to housing. He then stated that the applicant had to modify the configuration of units, and then go back to the Village for approvals, which has delayed completion.

Chair Kessel then requested that the applicant keep the Agency informed as to progress, and to inform the Agency if it can be helpful in that regard.

Member Williams then moved to adopt the preliminary resolution, which was seconded by Chair Kessel. The consent resolution was approved unanimously.

ii. The Carlyle Building LLC

Bond/Transactional Counsel Andrew Komaromi described this requested consent resolution.

In response to the Company presented application for financial assistance, by Approval Resolution dated August 6, 2017, the Agency authorized the granting of financial assistance with respect to (1) the acquisition of an interest in an approximately 0.79 acre parcel of land located at 776-780 Fulton Street, Incorporated Village of Farmingdale, Town of Oyster Bay, Nassau County, New York (Section: 49 Block: 166 Lots: 56-57) (the “Land”), (2) the demolition of the existing structures on the Land, (3) the construction of an approximately 50,497 square foot building on the Land, together with parking and related improvements to the Land, and (4) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof, all of the foregoing for use by the Company as a residential facility consisting of approximately

twenty-four (24) residential rental units which shall constitute "Housing for Older Persons" (i.e., intended and operated for occupancy by persons 55 years of age or older in accordance with the Fair Housing Act), of which two (2) units shall be affordable units.

At present, the project has not yet closed.

The project has been delayed due to certain health problems concerning Robert Lee, one of the principals of the Company, and therefore, the Company's time to close was previously extended first to March 31, 2019 and then again to September 30, 2019, as the project was still not ready to close.

As the project is advanced, to allow its continuation and completion, the Company now requests a further extension of the time to close for an additional 180 days. This is not a request for additional financial assistance; rather, instead a request for an extension of the time to close.

Member Flores then moved to adopt the preliminary resolution, which was seconded by Member Williams. The consent resolution was approved unanimously.

iii. Sovran Acquisition Limited Partnership

Bond/Transactional Counsel Andrew Komaromi described this requested consent resolution.

During 2013, the Company presented an application for financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (consisting of the following: (A)(1) the acquisition of an interest in an approximately 2.26 acre parcel of land located at 65 West John Street, Hicksville, Town of Oyster Bay, Nassau County, New York (Section: 11; Block: 184; Lots: 5-9 and 11) (the "Land"), (2) the renovation of the existing approximately 175,664 square foot, four-story building (collectively, the "Building") on the Land, together with related improvements to the Land, and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "Equipment"), all of the foregoing for use by the Company as a self-storage facility (collectively, the "Project Facility"); (B) the granting of financial assistance in the form of potential exemptions or partial exemptions from real property taxes and sales and use taxes; and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Company or such other entity as may be designated by the Company and agreed upon by the Agency. Thereafter, the Agency appointed the Company as agent of the Agency, to undertake the acquisition, renovation, installation and equipping of the Project Facility, and the Agency has subleased the Project Facility to the Company, all pursuant to the terms and conditions set forth in the Sublease Agreement dated as of December 1, 2013 made by and between the Company and the Agency (as amended to date, the "Lease"), and the other Transaction Documents (as defined in the Lease).

The Transactions Documents provide for the Company's employment of not less than 3.5 full-time equivalent ("FTE") employees until the expiration of the Lease. However, given the Company existing staffing needs (which are less than what was anticipated in 2013), it requests

that the Agency consent to the amendment of the Lease and the other Transaction Documents, to allow the applicant to employ not less than 3 FTE until the expiration of the Lease.

This is not a request for additional financial assistance.

Chair Kessel stated that this is a self-storage project approved by a prior Agency board, and that the Agency is no longer entertaining self-storage projects. That said, Agency staff noticed noncompliance with the applicant's job requirements, and the applicant has requested a modification in these requirements to prevent a future noncompliance.

Member Williams then suggested that the Agency charge for such amendments, to recoup its costs incurred because of them.

Bond/Transactional Counsel Andrew Komaromi stated the Agency's current fee in these circumstances is a standard \$1,000 consent fee, but suggested that these fee amounts be reviewed in the New Year, that is, 2020.

CEO / Executive Director Harry Coghlan then stated that the Agency will be reviewing these.

Member Coumatos then moved to adopt the preliminary resolution, which was seconded by Member Williams. The consent resolution was approved unanimously.

C. Other

- i. None

VI. Committee Reports

- A. None.

VII. Other Business

A. Minutes

- i. Approval of October 17, 2019

Member Flores moved to approve the October 17, 2019 minutes. Member Warren seconded the motion. The motion carried by a vote of 4 ayes, with Member Williams abstaining given his excused absence from the October 17, 2019 Agency board meeting.

B. Other

i. Resolution to extend the term of an agreement, with SJC Computing LLC

Member Williams moved to adopt the Resolution to extend the term of an agreement, with SJC Computing LLC. Member Warren seconded the motion. The motion carried unanimously.

ii. 2019 Vision Long Island Smart Growth Summit Event

Member Williams moved to adopt the 2019 Vision Long Island Smart Growth Summit Event Resolution. Member Flores seconded the motion. The motion carried by a vote of 4 ayes, with Chair Kessel abstaining given his position as a director of Vision Long Island.

iii. Long Island Hispanic Chamber of Commerce Event

Member Warren moved to adopt the Long Island Hispanic Chamber of Commerce Event Resolution. Chair Kessel seconded the motion. The motion carried unanimously.

VIII. Bills and Communications

Chair Kessel reported that there were no bills and communications to report.

IX. Unfinished Business

Member Williams described the importance of developers not abusing the taking of public resources, including projects where the original owners have cashed-out despite asserting the “but for” test in their Agency application. He expressed particular concern with tax credit projects, stating that the transaction documents should require disclosure by the applicant in the event they later sell tax credits.

Responding to Member Williams’ comments, Bond/Transactional Counsel Andrew Komaromi stated that the Agency can communicate with counsel for the NYS Housing Finance Agency (“HFA”) concerning safeguards, and look into whether HFA goes further with its information and disclosure requirements.

The next Agency board meeting is scheduled for Thursday, December 12, 2019, with the time moved to 2:00 pm. The Agency’s December 12, 2019 board meeting will be a quarterly meeting, and its January 2020 meeting will be its annual meeting.

X. Adjournment

A motion to adjourn was made by Member Williams, which was seconded by Member Flores. The Resolution was approved unanimously.