

Nassau County Industrial Development IDA (“IDA”)

Board Meeting Minutes

May 16, 2019

6:30 PM

I. Board Roll Call

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

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.
Colleen Pereira	Administrative Director
Thomas D. Glascock	Agency Counsel
Andrew D. Komaromi, Esq.	Bond/Transactional Counsel

Excused / Not Present:

Joseph Foarile	Chief Financial Officer
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II. Public Comment Period

A. Public Comment

The meeting was called to order, and Chair Kessel opened the meeting to public comment.

Matthew Aracich, President of the Building and Construction Trades Council of Nassau & Suffolk Counties, spoke. He stated that there is now good outreach being made to the building trades on active projects, and that he was pleased that the role of labor was discussed at the 2019 Nassau County IDA Power Breakfast. Chair Kessel responded that the IDA will continue to encourage a dialogue between applicants and union labor.

Chair Kessel then spoke, communicating that he is seeking recommendations regarding the process and holding of public hearings. He has implemented a procedure of contacting relevant elected officials concerning public hearings for those projects that might affect their constituents, and delivering to Nassau County legislators the agenda for IDA board meetings. That said, it is important

that the IDA's procedure improve, particularly in this era of social media. The public should know about scheduled public hearings. This could also be reflected in the timing for hearings. And the IDA board could receive meeting materials earlier too.

Chair Kessel then raised the topic of applicants who wish to renew and extend PILOT schedules. He stated that the criteria for assessing such a request should be different from that for a new PILOT, because in the first circumstance the applicant has already enjoyed the benefit of a PILOT. As such, Chair Kessel suggested that the IDA develop a process for assessing a potential extended PILOT, reviewing it with different standards for consideration and qualification. He requested that staff and counsel to the IDA assess the process, and then report back to the IDA board.

Chair Kessel described the issue of termination payments paid to employees not terminated by the IDA. He stated that the IDA board and management is continuing to review the matter, and then described the changes made to the IDA policies to prevent this from happening again. And he stated that the IDA board and management is continuing to review how to address prior actions.

There being no further comment, the Chair moved to New Business.

III. New Business

A. Preliminary Resolutions.

a. Engel Burman Bethpage

David Burman, the applicant's representative, along with its counsel Peter Curry, presented the application and distributed a rendering of the proposed project to the IDA board, describing the contemplated project as very similar to its new Jericho facility.

The applicant would develop a 150-unit, first-class assisted living community, which would include 40 units in Engel Burman's specialized reflections program designed for residents suffering from dementia and Alzheimer's. The community will have common areas (e.g., common meeting and reading areas) and various other specialized amenities, including exercise and fitness opportunities, art classes, hair and nail salons, educational and wellness programs, and special culinary experience programs catering to the needs of seniors, those suffering from dementia and/or Alzheimer's, and the families that visit them.

With total project costs anticipated to total approximately \$50,500,000, to make the project financially feasible, the applicant seeks a mortgage recording tax exemption of approximately \$303,000, a sales/use tax exemption of approximately \$2,190,000, and a real property tax exemption pursuant to a PILOT schedule in duration and amounts yet to be determined.

The contemplated project location is currently a vacant parking lot. The applicant's Westbury, Lake Success, Jericho and additional projects were previously assisted by the IDA. Moreover, the applicant has 2,500 employees spread over its facilities. Presently, it is proceeding through the land-use process within the Town of Oyster Bay.

Chair Kessel asked if the project location is currently taxed as a vacant lot. Peter Curry responded that it is, and added that the Town of Oyster Bay is acting favorably upon the project's applications.

Chair Kessel then asked if there is sufficient need to support the facility. Peter Curry responded that there is, and that the area is currently underserved. Further, the applicant is working closely with Northwell Hospital regarding the research needs of its dementia patients.

Chair Kessel asked how the applicant will approach the affordability issue. Peter Curry stated that this is not really an issue, given the anticipated age of the contemplated facility's patients. These persons are no longer earning incomes, and so the facility's pricing and rates will really be dictated by the market. All services will be provided to the residents. To this, Chair Kessel requested the applicant discuss with IDA staff the possibility of preserving some units as more affordable.

Member Fusco then asked about the square footage of the contemplated facility, and its anticipated work force. Peter Curry stated that the applicant would hire local, with union participation, and will reach out to the trades' council.

Member Warren asked about the applicable planning application process. Peter Curry stated that the intended use is an exception to the designated zoning, and that the applicant is currently working on its Town applications.

Member Flores asked about the breakdown of the anticipated workforce, and mentioned the importance of the facility being available to all seniors, regardless of means.

Member Warren asked about the applicant's community outreach on the project. Peter Curry responded, informing that the applicant will work with community groups.

Member Simon then encouraged the applicant's outreach to local civic organizations.

Hearing no further comment, Member Warren moved to approve a preliminary inducement resolution. Member Simon seconded the motion. The resolution was approved unanimously.

b. CK-HP 1985 Marcus Avenue LLC and Feiga Holly Hall / 1985 Marcus Avenue LLC

Peter Glass and Justin Glazer, the applicant's representatives, along with its counsel Daniel P. Deegan, presented the application to the IDA board.

The applicant is the owner of the facility located at 1985 Marcus Avenue, Lake Success, New York, which contains an approximately 314,000 square foot, three (3) story office building originally constructed in 1985. Through 2010, JPMorgan Chase Bank occupied the entire

building, but it has recently decided to downsize its premises in the building to 76,126 feet which (along with other vacancies) will leave the building approximately 57% vacant. In addition, the facility has become dilapidated and outdated, and requires significant renovations to convert and reposition to be a modern, state-of-the-art multi-tenant office building. That said, 700 people still work out of the building, and the applicant wants to improve its condition for the existing tenants and to attract high class tenants. But, to do this, it needs significant financial assistance.

Project costs will total approximately \$15,887,610.00, and to make the project financially feasible, the applicant seeks a mortgage recording tax exemption of approximately \$303,000, a sales/use tax exemption of approximately \$822,184.00 and a real property tax exemption pursuant to a proposed 20-year PILOT payment schedule. No mortgage recording tax exemption is requested.

To proceed with the project, the applicant needs that predictability with the facility's future real estate tax burden made possible by a PILOT schedule which would lock in a number and then increase a set amount annually. Moreover, the applicant will have tenant improvement requests, and will be performing considerable construction work. Therefore, a sales tax exemption would be helpful. In performing this work, the applicant will reach out to the trades' council.

Chair Kessel asked if there is an existing PILOT for the facility, with Mr. Deegan responding that there is none. Mr. Deegan then stated again that the applicant needs predictability and sustainability with its real estate tax obligation. This can be provided by a 3 year freeze, and an annual 2 percent increase thereafter tied to the tax cap.

Chair Kessel then asked if, with the requested assistance, the applicant can attract high class tenants. Mr. Deegan responded in the affirmative, stating that with IDA assistance the applicant can bring the building back to what it once was (a premier commercial office building).

Chair Kessel inquired whether the project documents can provide for a claw back, in the event the applicant does not attract the anticipated tenants. Transaction Counsel Andrew Komaromi responded that the documents could do this, with their providing for an employment commitment and including a recapture provision.

Mr. Deegan then stated that the facility is an existing facility, with a track record of high employment.

Member Warren asked about the high water mark of employment, to which Mr. Deegan responded that this is dictated by the square footage of the building. Member Warren then asked about the contemplated PILOT structure and length.

Member Flores asked about the possibility of preserving the existing tenants during the contemplated project construction period, and Member Fusco asked whether a general contractor or construction manager was yet in place. Mr. Deegan responded that the applicant will act as its own construction manager.

Hearing no further comment, Member Flores moved to approve a preliminary inducement resolution. Member Simon seconded the motion. The resolution was approved, with Member Warren abstaining.

B. Other

None.

IV. Old Business

A. Document Processing

a. Deutsche Lufthansa AG

Edward Puerta of Nixon Peabody, the applicant's counsel, presented the application to the IDA board.

The applicant was previously party with the IDA to a certain Payment in Lieu of Taxes Agreement made dated October 1, 2007, for its facility located at 1640 Hempstead Turnpike, East Meadow, New York. It now intends to sell and relocate from this facility, to 47,143 square feet of leased office space located at 400 RXR Plaza, Uniondale, NY. That said, absent financial assistance, the Applicant would consider relocation to a different county.

The applicant seeks exemptions from sales and use taxes in connection with the renovation and build-out of the new leased facility. The project budget is approximately \$5,658,000, and the applicant requests a sales/use tax exemption only, in the approximate amount of \$247,968.

Transaction Counsel Andrew Komaromi spoke, describing the benefits requested by the applicant, that is, sales tax only. The applicant had previously been granted a PILOT, but its term has ended. Now, the applicant seeks to sell the building, and it seeks only sales tax relief of approximately \$247,968 for its build-out of the new space.

Arthur Phillips on behalf of Unite Here then spoke on behalf of airline catering workers, including the approximately 11,000 working out of JFK airport. Despite record profits realized by the airlines, these workers have low pay and about 1/5 are without health insurance. Moreover, given high premiums and high deductibles, about 1/2 of these workers receive public assistance for health care. Therefore, Mr. Phillips does not support the requested financial assistance, when airline catering workers have to subsist on public assistance.

Several airline catering workers then spoke, including one who has worked at JFK airport for 11 years, but still only earns minimum wage. Another, Carl Walters, has worked for 34 years, but still must work 12 hours per day, is paid only \$15 per hour, has no pension, and he cannot afford medical insurance.

Member Simon expressed his concern for these workers. He described the financial assistance as small for the applicant, and referenced the important needs of the airline catering workers. He asked that the applicant communicate with the airline catering workers, and that they be treated fairly.

Members Warren, Flores, and Fusco echoed Member Simon's comments. Chair Kessel then suggested that the IDA board help draft a letter coming from its Chair and the IDA's Chief Executive Officer, requesting that the applicant work with the airline catering workers for their better welfare.

Member Simon moved to approve the following Resolutions:

- i. SEQRA Resolution
- ii. Approving Resolution

Member Fusco seconded the motion. The Resolutions were approved unanimously.

- b. North Shore Millbrook, LLC

Lynn Wenkert and Paul Bloom, the applicant's counsel, presented the application to the IDA board.

This application concerns the acquisition of an interest in a 4.35 acre parcel of land, the partial demolition and renovation of certain existing buildings on the land, together with the construction of three separate new buildings on the land, all of such buildings aggregating approximately 205,535 square feet of space, together with related improvements to the land, including underground and surface parking spaces, and the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion of the Project Facility. The Project Facility shall be used as a residential rental facility consisting of approximately 185 residential rental units, including approximately 67 newly constructed residential units (at least seven of which shall be affordable units) and 75 currently existing units which shall be rent stabilized. Approximately 10% will be affordable, which will be comprised of studio, one-bedroom, two-bedroom, and three bedroom units.

Because anticipated project costs would total approximately \$83,400,000, to make the project financial feasible, the applicant seeks a mortgage recording tax exemption of approximately \$427,500, a sales/use tax exemption of approximately \$1,931,253, and real property tax exemption of approximately \$19,816,878 over a proposed 21-year PILOT payment schedule.

The same family has owned the property for more than 55 years, and during that time, they have been very active in the community. With regard to the facility, it is located less than 1 mile from the local Long Island Rail Road station, and it would offer a shuttle bus to and from the station. Moreover, the applicant will contribute more than \$1.3 million in project fees to the Village of Great Neck, and over the PILOT schedule would pay approximately \$10 million more than would be paid in real estate taxes if the facility stays in its existing condition. Moreover, 2 new full-time equivalent jobs would be created by the project, and approximately 140 construction jobs.

Kevin Gremse of National Development Council spoke, and explained that a PILOT is needed to make the project financially feasible. At the expected increased real estate taxation, the project simply could not support such an expense. Moreover, the project has

considerable capital costs to pay too. And the existing rent stabilized units will continue as such. So, the project satisfies the “but for” test, and no undue enrichment would result from the financial assistance. Instead, the anticipated return on investment is on the low end.

Chair Kessel then mentioned that the IDA has for the first time brought in a housing expert to assess a proposed housing project. Now, the IDA has an independent valuation too. This gives assurance as to whether a project is viable and appropriate.

Member Warren echoed the importance of an independent evaluation, and then Member Flores asked about the anticipated unit composition and affordability.

Legislator Ellen W. Birnbaum then spoke, to thank the IDA for the notice provided to her about the contemplated project and the independent analysis made. Given these actions, she is very satisfied.

Chair Kessel then noted that he had also notified Town of North Hempstead Supervisor Judi Bosworth about the contemplated project.

The school district’s Assistant Superintendent for Business Development then spoke, to express concern with the possible number of new students resulting from the contemplated project. Paul Bloom responded, stating that a prepared study to analyze the proposed project estimated that only 12 to 15 new school age children would result, based on unit composition. Most units will be 1 bedroom, and are intended for either young and older couples, who will not have school age children. Moreover, those children resulting from the project will vary in age, with some likely to soon age out of the district.

The Assistant Superintended for Business Development also expressed concern with the real property taxes and with PILOT schedules increasing in duration, given the importance of real estate taxes in financially supporting the school district.

Member Warren then commented on the significant economic benefit described in the Camoin Report.

Member Simon moved to approve the following Resolutions:

- i. SEQRA Resolution
- ii. PILOT Deviation Resolution
- iii. Approving Resolution

Member Warren seconded the motion. The Resolutions were approved unanimously.

- c. 275 Oak Drive LLC and Nestle Waters North America Inc.

Daniel O’Leary and Stan Finkelstein, the applicant’s representative, along with its counsel Daniel P. Deegan, presented the application to the IDA board.

The Applicant was previously party with the IDA to a certain Payment in Lieu of Taxes Agreement made dated December 30, 2008, for its facility located at 275-280 Oak Drive, Syosset, New York, with a 10 year job commitment of 101 jobs. The Payment In Lieu of Taxes Agreement made at that time is due to expire on June 30, 2019.

The applicant is currently addressing a potential lease renewal. As such, in exchange for an increased 116 job commitment, it seeks to extend the term of The Payment In Lieu of Taxes Agreement for an additional period of 10 years, and exemptions from sales and use taxes in connection with respect to certain renovations and installations needed to bring the facility up to the standards of Nestle Waters North America Inc.'s other facilities. Absent financial assistance, the Applicant would consider relocation to a different county.

Project costs will total approximately \$1,235,000, and to make the project financial feasible, the applicant seeks a sales/use tax exemption of approximately \$53,259 and real property tax exemption of approximately \$1,692,362 over a proposed 10-year PILOT payment schedule. No mortgage recording tax exemption is requested. As stated by Mr. Deegan, the anticipated economic benefit well exceeds the financial assistance.

Carrie Ann Tondo, counsel to the Syosset Public School District, and its Superintendent Dr. Rogers then spoke. They described 5 areas of concern, including what they characterized as a defective notice, the applicant was not being a party to the 2008 agreement, and that the 2008 documents did not contemplate a 20 year PILOT – but, that instead it was intended that the facility return to the real estate tax roles at the expiration of the 10 year PILOT period. Dr. Rogers further stated that the cost of a PILOT is borne at the local level, with the real estate tax burden. Moreover, no full economic analysis was performed to determine the impact of the proposed project.

Dr. Rogers explained that the school district was trying very hard to stay below the tax cap, but, that this is made harder by the existence of PILOTs. Moreover, the assumption that if the applicant left, there would be a vacancy and no jobs at the facility is flawed. As such, the school board opposes the proposed project, and all IDA projects within the district which have a PILOT component.

Chair Kessel responded that Camoin prepared an economic analysis, and that the IDA will send the district a copy of the report.

Transaction Counsel Andrew Komaromi then stated that Camoin did prepare a study, which staff reviewed before recommending approval of the proposed project. Concerning the legal objections articulated by the district (including that regarding notice and the project documents), Mr. Komaromi respectfully disagreed with them.

Member Simon then asked about the documents requested, and Chair Kessel again stated that the IDA will provide a copy of the prepared economic analysis to Ms. Tondo.

Member Warren asked about the anticipated economic benefit to be caused by the project, and Mr. Komaromi stated that it exceeds \$437 million.

Member Simon moved to approve the following Resolutions:

- i. SEQRA Resolution
- ii. PILOT Deviation Resolution
- iii. Approving Resolution

Chair Kessel seconded the motion. The Resolutions were approved unanimously.

- d. Blue Cassel Realty, LLC

Ira Lichtiger, the applicant's representative, along with its counsel Michael Guerriero, presented the application to the IDA board.

During 2008, the applicant constructed a 123,250 square foot mixed-use building located at 701, 715, 721 and 729 Prospect Avenue, New Cassel, Town of North Hempstead, County of Nassau, New York, with 19,740 square feet of ground floor commercial space and three stories of mixed income affordable housing. The development, known as The Gateway to New Cassel, was part of a coordinated effort by the Town of North Hempstead to facilitate revitalization and create a walkable downtown within the Hamlet of New Cassel, to serve low and moderate income residents of the community. The IDA provided 2 PILOTs for the 2008 project, a 20 year PILOT for the residential realty and a 10 year PILOT for the commercial realty.

The 10 year PILOT for the commercial realty is in its final year, and after almost 10 years, 4,000 square feet of the commercial realty has yet to be leased. As such, the Applicant seeks a new 10 year PILOT on commercial realty. The applicant also seeks a real property exemption in the approximate amount of \$1,240,017 over a proposed 10-year PILOT payment schedule. It is currently working hard to lease the empty space, but it still needs this requested financial assistance for the facility to be financially sustainable.

Chair Kessel commented that this is an extension of the existing PILOT for the commercial space. He further stated that the IDA will be reviewing the criteria for granting extensions to a PILOT, but that he understands the economic needs of the project's surrounding area and the corresponding burdens placed on the project.

Rosemary Olsen then spoke, and described the efforts to lease the vacant commercial space. This project was part of the New Cassel Revitalization Plan, with Kevin Gremse preparing an economic analysis at the time. It is an attractive building, and provides affordable housing opportunities.

Member Flores thanked Rosemary Olsen for her explanation, and Member Warren stated that he recognizes and understands the importance of economic development to a community.

Transaction Counsel Andrew Komaromi then further explained that this is an extension of an existing PILOT, and that no other financial assistance is requested. This project was a component of a broader project, and its stabilization is important to that of the broader project's stabilization.

Member Flores moved to approve the following Resolutions:

- i. SEQRA Resolution
- ii. PILOT Deviation Resolution
- iii. Approving Resolution

Member Warren seconded the motion. The Resolutions were approved unanimously.

- e. SLC Development, LLC

Justin Downey and Joe Rossi, the applicant's representatives, along with its counsel Daniel P. Deegan, presented the application to the IDA board.

This application involves the purchase of an approximately 4.45 acre parcel (which for the past 20 years has remained vacant), and the construction of an approximately 194,033 square foot, five story, 150 unit multi-family residential building facility, with a fifth floor penthouse to be used as a 82,037 square foot exercise facility. Of the 150 units, 15 would be affordable and targeted to tenants at or below 80%, 60% and 40% AMI for Nassau County, consistent with the Village of Garden City's affordable housing requirements.

Project costs will total approximately \$90,853,622, and, therefore, to make the project financially feasible, the applicant seeks a mortgage recording tax exemption of approximately \$476,981.51, a sales/use tax exemption of approximately \$2,652,256, and real property tax exemption of approximately \$22,273,488 over a proposed 21-year PILOT payment schedule.

The project is not expected to result in many school age children, and the project has the Garden City School District's support and the necessary Village of Garden City approvals. The applicant has also reached out to the Nassau / Suffolk Building Trades, for their involvement in the project. That said, the property has been blighted for approximately 20 years, and the applicant needs a PILOT to proceed.

Kevin Gremse then spoke, stating that but for the financial assistance, the project is not economically feasible. Moreover, no undue enrichment would result from the requested financial assistance, but a significant economic benefit would result to the community.

Member Warren then commented that no affordable housing units have been constructed in Garden City in generations. In response, Daniel Deegan mentioned that the County and Village must operate under a court order, to make available affordable housing.

Member Flores asked about the character of the developer. Daniel Deegan responded that the developer is well known for the attractive character of its communities.

Member Fusco asked about parking. Approximately 350 spaces are planned, including the construction of a parking garage with subsurface parking.

Member Flores asked about the timing for construction. Daniel Deegan responded that final approvals are anticipated to be received within 60 to 90 days, and that construction would then commence within approximately 90 days thereafter.

Member Fusco asked what other projects the applicant has constructed locally. Justin Downey responded that the applicant currently has several local projects in development, or which have been completed.

Chair Kessel then thanked the work of the IDA board, and stated that through its efforts 2 additional workforce units are planned for the project. He then described this property as the gateway to Garden City, and the contemplated project as healthy for the community. A significant increase in tax revenue would result, which would be a huge win for the residents, the taxpayers, and the school district. And the project would help the County and Village satisfy its obligations under the affordable housing agreement made in response to the referenced court order. Chair Kessel also thanked County Executive Laura Curran, for her leadership and efforts.

Member Warren then stated that it is a great benefit having a quality developer constructing beautiful communities like Southern Land, and Member Flores commented that the affordable housing is a great benefit.

Member Simon moved to approve the following Resolutions:

- i. SEQRA Resolution
- ii. PILOT Deviation Resolution
- iii. Approving Resolution

Member Flores seconded the motion. The Resolutions were approved unanimously.

B. Other Business

a. Minutes

- i. Approval of April 1, 2019 Meeting Minutes

Member Simon moved to approve the April 1, 2019 minutes. Member Flores seconded the motion. The motion carried unanimously.

- ii. Approval of April 18, 2019 Meeting Minutes

Member Simon moved to approve the April 18, 2019 minutes. Member Fusco seconded the motion. The motion carried unanimously.

b. Other

- i. 2019 Long Beach International Film Festival, HIA-LI's 31st Annual Trade Show & Conference, and 2019 Long Island Power 100 Resolutions

Chair Kessel moved to adopt the 2019 Long Beach International Film Festival, HIA-LI's 31st Annual Trade Show & Conference, and 2019 Long Island Power 100 Resolutions. Member Warren seconded the motion, and the motion was approved unanimously.

IV. Bills and Communications

CEO Harry Coghlan described the IDA's successful 2019 power breakfast, which was attended by approximately 300 persons, and described the great effort made by staff with helping making the breakfast successful. CEO Coghlan then described the IDA sponsorship and planned presence at the PGA. Further, the IDA is now active on social media for the first time, and it is receiving an unprecedented number of information requests. CEO Coghlan also thanked Colleen Pereira for her good and hard work, and congratulated Catherine Fee on her upcoming graduation with a Master's degree.

Chair Kessel then described the great work performed by CEO Coghlan.

V. Committee Reports

Chair Kessel reported that there were no committee reports to be given.

VI. Unfinished Business

None.

VII. Treasurer's Report

Chair Kessel stated that updated financial statements had been distributed for the IDA board members' review prior to the meeting.

VIII. Nassau County Local Economic Assistance Corporation

Member Simon then made a motion from the floor that the IDA board temporarily adjourn the meeting, to convene as the board of the Nassau County Local Economic Assistance Corporation. Member Fusco seconded the motion, and the resolution was approved unanimously.

Upon motion made by Member Simon, seconded by Member Fusco, and unanimously approved, the Meeting reconvened following the Nassau County Local Economic Assistance Corporation board meeting.

IX. Executive Session

Member Simon then made a motion from the floor that the IDA board convene the meeting into executive session pursuant to NY Public Officers Law Article 7, Section 105(f) for the purpose of discussion the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation. Member Fusco seconded the motion, and the resolution was approved unanimously.

The Meeting reconvened, following executive session.

X. Adjournment

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