

**BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY
BOARD MEETING
185 Court Street
Binghamton, New York 13901
Wednesday, December 21, 2016, 12:00 pm**

SYNOPSIS OF MEETING

PRESENT: T. Kane, J. Stevens, J. Bernardo, D. Marusich, L. Pinker, R. Bucci, W. Howard, S. Feehan, and J. Rounds

ABSENT: None

GUESTS: Jeff Platsky, Press & Sun Bulletin
Marc Newman, Newman Development
Howard Rittberg, Levene, Gouldin and Thompson, LLP
Jared Kraham, City of Binghamton
John Solak, Binghamton Resident
Todd Grubham, Lew Grubham General Construction
Anthony Panicca, Delta Engineers
Mark Whalen, County Legislature, District 15

STAFF: K. McLaughlin, T. Gray, S. Duncan, C. Campon, and N. Abbadessa

COUNSEL: J. Meagher

PRESIDING: T. Kane

Chairman Kane called the meeting to order at 12:00 p.m.

ITEM #1. APPROVE MINUTES FOR THE NOVEMBER 16, 2016 BOARD MEETING: Chairman Kane requested approval of the minutes for the November 16, 2016 Board Meeting.

MOTION: Resolution to approve the amended November 16, 2016 Board Meeting minutes. On a MOTION by Mr. Stevens, seconded by Mr. Bernardo, the MOTION CARRIED. Mr. Rounds and Mr. Howard abstained, they were not present at the November 16, 2016 Board meeting.

ITEM #2. PUBLIC COMMENT: Mr. Solak stated the Agency's rebrand was not creative and they are not receiving full value from Hue. He said the Agency is obligated to have full disclosure when things occur and when things do not occur. Mr. Solak received documents from the Office of Public Authority. In these documents there was information on real estate the Agency is going to sell. He stated no one seems to know what is actually happening to these properties. Mr. Solak stated the 50 Front Street project is one of the better projects the Agency has participated in, but he would like to know when the favors are going to

end. He feels there is never any negotiation when it comes to giving these projects tax breaks. Mr. Solak said the tax abatement that is going to be given is far too long. Next to speak is Mr. Whalen. He has concerns with the amendment to the Agency's Tax Exemption Policy that is being proposed for the 50 Front Street project. Mr. Whalen stated he is not against this project, and feels it will be good for Binghamton and the West Side. He is against giving tax incentives when Broome County is in severe financial stress, according to the State Comptroller. Mr. Whalen is also concerned that this project will not create jobs and feels it is a bad business decision.

MOTION: No motion necessary.

ITEM #3. EXECUTIVE DIRECTOR'S REPORT: Mr. McLaughlin, along with staff attended Mountain Fresh Dairy's ribbon cutting ceremony. He said the milk was delicious and is happy to see the plant finally up and running; It was well received by the community. Mr. McLaughlin was in Albany last week for the REDC awards. He said a few major projects were approved in Broome County. He also thanked and recognized Ms. Duncan who wrote an application for Binghamton Precast who was awarded money for their expansion. Mr. McLaughlin attended the monthly meeting for the Binghamton Relators. He said he received great information and will continue to attend these meetings. The Agency has been working on a number of projects that will come before the Board in the following months. The Agency also participated in the 76 West awards. Mr. McLaughlin stated the majority of the awards were given out to companies in the Southern Tier. The Library project is still moving forward. Mr. McLaughlin is working with BCC and NYS to try and secure new market tax credits for the project.

MOTION: No motion necessary.

ITEM #4. THE AGENCY ONE-STOP FACILITY UPDATE: Ms. Duncan said since the groundbreaking Fahs Construction went right to work. They are making great progress on the new building and are still on schedule for an August 2017 completion. The Agency has started regular construction meetings with Delta and Fahs. Ms. Duncan stated communications with tenants and finalizing leases will continue.

MOTION: No motion necessary.

ITEM #5. LOAN FUNDS AVAILABILITY AS OF NOVEMBER 30, 2016: Mr. Gray presented the Loan Funds Availability report to the Board. The balances available to lend are \$635,091.90 (STEED) and \$190,445.85 (BDF). Mr. Gray wanted to remind the Board that as of the first of the year Mr. McLaughlin has recommended the Grow America account be returned back to the Local Business Development Fund. This action will help assist with the BR+E program. Mr. Stevens pointed out that all loans were current.

MOTION: No motion necessary.

ITEM #6. RECOMMENDATION FROM THE BDF LOAN COMMITTEE FOR A NEW LOAN COMMITTEE MEMBER: Mr. Gray stated Gerald Gaube, a member of the BDF loan committee is having difficulties making meetings due to his private business and schedule. Mr. Gaube agreed he should step down from the loan committee.

The recommendation to fill this position is Joanne Jones. Ms. Jones has a considerable amount of underwriting experience and also represents NYBDC. Mr. Gray feels Ms. Jones is a great candidate to replace Mr. Gaube. The Business Development Fund loan committee is requesting the Board approve the appointment of Ms. Jones to the loan committee. Ms. Marusich asked if Ms. Jones would fulfil Mr. Gaube's unexpired term. Mr. Gray stated yes and explained the committee does not have terms like the Agency Board of Directors.

MOTION: To approve the recommendation from the BDF loan committee for a new loan committee member. On a MOTION by Mr. Stevens, seconded by Mr. Feehan. The MOTION CARRIED UNANIMOUSLY.

ITEM #7. RESOLUTION AUTHORIZING A LEASE/LEASEBACK TRANSACTION TO FACILITATE THE CONSTRUCTION AND EQUIPPING OF A CERTAIN MIXED-USE RESIDENTIAL AND COMMERCIAL BUILDING PROJECT APPOINTING 50 FRONT STREET ASSOCIATES, LLC (THE "COMPANY") AGENT OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, AND EQUIPPING THE PROJECT AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS WITH RESPECT THERETO, INCLUDING A PAYMENT IN LIEU OF TAX AGREEMENT DEVIATING FROM THE AGENCY'S UNIFORM TAX EXEMPTION

POLICY: Mr. McLaughlin explained this \$31 million dollar project initially entails the remediation and demolition of 50 Front Street in Binghamton which was a former hotel and nursing facility. Once demolition is completed 122 market rate apartments will be constructed on the site with 7,500 square feet of commercial space. Mr. McLaughlin stated once this building is complete it will be a striking building. The development group has agreed to pay the Land Bank and Broome County \$250,000 each. He feels this is quite a gift because the building is so blighted and run down. 50 Front Street Associates is asking for a 28 year deviated PILOT agreement. The developers have negotiated this PILOT with the City and the tax accessor. It has also been reviewed and approved by the Mayor's office and City Council. The project expects to create 40 construction jobs, 3 full time and 2 part time permanent jobs. Mr. McLaughlin feels this project is extremely important to the City of Binghamton and recommends approval of the requested PILOT from the Board.

MOTION: To approve a resolution authorizing a lease/leaseback transaction to facilitate the construction and equipping of a certain mixed-use residential and commercial building project appointing 50 Front Street Associates, LLC (the "company") agent of the agency for the purpose of acquiring, constructing, and equipping the project and authorizing the execution and delivery of certain documents with respect thereto, including a payment in lieu of tax agreement deviating from the Agency's Uniform Tax Exemption Policy. On a MOTION by Mr. Bernardo, seconded by Mr. Stevens, Mr. Feehan abstained, the MOTION CARRIED.

ITEM #8. RESOLUTION AMENDING THE AGENCY'S TAX EXEMPTION POLICY TO PROVIDE FOR AN EIGHT PERCENT (8%) SALES TAX ABATEMENT AND A MORTGAGE RECORDING TAX BENEFIT FOR ALL**SALE/LEASEBACK OR LEASE/LEASEBACK TRANSACTIONS CLOSED BY THE AGENCY ON OR AFTER THE**

DATE HEREOF: Mr. McLaughlin stated there have been many discussions with regard to the Agency's Tax Exemption Policy. The Board received information that Mr. McLaughlin believes is relevant to make changes to this policy. When the policy was approved a few years ago Mr. McLaughlin felt no one realized the impact it would have and how tough the policy would be to administer. He said at the end of the day there is not a 4% sales tax button on a cash register, so one will either get an 8% sales tax exemption or a 0% exemption. Mr. McLaughlin said Broome County is the only county in New York State that does not offer a full 8% sales tax exemption. He explained if anyone from any other part of NYS was granted this 8% sales tax exemption they can use it in Broome County and receive the full 8% exemption. Mr. McLaughlin stated the existing tax exemption policy is not consistent and does not make sense. Mr. Rounds asked for further clarification. Mr. Meagher went into detail on how the exemption works and explained the sales tax letter can be used throughout the state. Mr. Meagher made it very clear Broome County is losing their portion of the sales tax when outsiders are granted the exemption and they come into Broome County to purchase items needed for their projects. Mr. Rounds stated he has a problem changing policies ambivalently. He feels it is not a good policy of the Board. Mr. McLaughlin feels the Agency made a mistake changing the policy in the first place. Mr. Bucci is concerned with the financial distress of Broome County. He would like to understand how the county would be affected if they lose additional revenue if the policy is changed. Mr. Meagher said there is not a way to know what the ramifications would be. There is not a way to track what is purchased in the county and what is purchased outside the county. He said the Agency can tell from the application what the company anticipates to spend that would be subject to the sales tax exemption. Mr. Bernardo stated he feels the county is not on the verge of bankruptcy. He said there is certainly fiscal stress but not to the extent Mr. Whalen was stating. Mr. Bernardo asked if other counties give a 1% mortgage tax exemption. Mr. McLaughlin said all but Tompkins County. Ms. Marusich stated she appreciates what Mr. Whalen said but feels the problems of the county are not going to be resolved simply by the sales tax abatement. Ms. Marusich said the construction process cannot be fully funded out of Broome County. Contractors will need to go to other areas. She feels Broome County should be put in a competitive position along with all the other counties. Ms. Marusich said until the legislature quantifies how the sales tax incentives effect their budget and until the Board sits down and quantifies what it means to the tax payers, why should they say no. She feels amending this policy is the correct thing to do. Mr. Stevens completely agrees with Ms. Marusich. He feels it is very important to attract businesses and the Agency needs to do whatever is necessary to be and stay competitive. Mr. Stevens is in full support of the policy change. Mr. Bernardo

stated no matter what the Board does, they need to stay consistent and objective. If the policy stays the way it is currently structured the Board will be guilty of being inconsistent and picking winners and losers. Mr. Bernardo is not comfortable with that. Mr. Feehan feels the current policy makes absolutely no sense. Mr. Howard asked how long other counties have been giving the 8% sales tax abatement. Mr. Meagher said the abatement has been given since IDA's were formed in the 1970's.

MOTION: To approve a resolution amending the agency's tax exemption policy to provide for an eight percent (8%) sales tax abatement and a mortgage recording tax benefit for all sale/leaseback or lease/leaseback transactions closed by the agency on or after the date hereof. On a MOTION by Mr. Stevens, seconded by Mr. Howard, the MOTION CARRIED UNANIMOUSLY.

ITEM #9. RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY TO 50 FRONT STREET ASSOCIATES, LLC (THE "COMPANY") OF A SALES TAX EXEMPTION LETTER AND A MORTGAGE TAX EXEMPTION WITH REGARD TO THE LEASE/LEASEBACK TRANSACTION TO FACILITATE THE CONSTRUCTION AND EQUIPPING OF A CERTAIN MIXED-USE RESIDENTIAL AND COMMERCIAL BUILDING PROJECT TO BE LOCATED AT 50 FRONT STREET IN THE CITY OF BINGHAMTON, BROOME COUNTY, NEW YORK: Because agenda item #8 was passed there is no need to discuss or approve the above resolution.

MOTION: No motion necessary.

ITEM #10. A REQUESTED AMENDMENT TO THE APPROVED LOAN FOR 1ST THAI BASIL, LLC: Mr. Gray stated the Board approved a \$50,000 loan back in September to 1st Thai Basil, LLC. While preparing for the closing the deed search revealed that the property to be pledged as collateral for the loan was not actually owned by Mr. Homsombat, but rather his two daughters. In April of this year Mr. Homsombat's estate plan was developed which placed the property on Washington Avenue in his daughters' names. Apparently, Mr. Homsombat believed the property would still be in his name until his death. In order to allow the project to proceed both daughters have agreed to pledge the building at 29 Washington Ave. as collateral for the loan as well as pledge their individual personal guarantees. Since the collateral pledged to secure the loan remains the same and because the BCIDA has secured two additional guarantees the amended loan request is more secure than the original loan approved on September 19, 2016. Therefore, Mr. Gray is recommending that the requested amendment to the loan be approved.

MOTION: To approve a requested amendment to the approved loan for 1st Thai basil, LLC. On a MOTION by Mr. Howard seconded by Mr. Rounds, the MOTION CARRIED UNANIMOUSLY.

ITEM #11. A \$46,000 LOAN REQUEST FROM T-SQUARED CUSTOM MILLWORK, INC., FROM THE STEED LOAN FUNDS TO ASSIST IT IN THE ACQUISITION OF MACHINERY AND EQUIPMENT FOR USE AT ITS FACILITY LOCATED AT 127 RUSSELL LANE IN OXFORD, NY: Mr. Gray stated TER Cabinetworks, established in 1995, is a manufacturer of commercial cabinetry purchased by long-term employee Tracy Tarbell in 2010 and renamed T-Squared Custom Millworks, Inc. Since purchasing the business, with the

assistance from the IDA, Tracy Tarbell and his wife Tamara have stabilized sales and generated continuous operating profits. T-Squared Custom Millworks has and still is current with their loan from the IDA. The Tarbell's are now interested in purchasing a new Edgebander to replace a 20 year old model that no longer functions efficiently. They believe the new state-of-the-art machine will allow the company to remain competitive by significantly improving capabilities and output. In addition, the Tarbell's are also interested in retaining their skilled workforce. The loan committee and Mr. Gray ask the Board to look favorably on this loan request for the following reasons; there is adequate cash flow to cover the debt, the Agency will have a strong collateral position with a shared pro rata first security position on the equipment to be purchased, and the borrowers have agreed to retain the 12.5 jobs they currently have.

MOTION: To approve a \$46,000 loan request from T-squared Custom Millwork, Inc., from the Steed loan funds to assist it in the acquisition of machinery and equipment for use at its facility located at 127 Russell Lane in Oxford, NY. On a MOTION by Ms. Marusich, seconded by Mr. Feehan, the MOTION CARRIED UNANIMOUSLY.

ITEM #12. AGENCY STAFF HAVE SELECTED ROBERT J. HANAFIN, A DIVISION OF IOA AS THEIR NEW

INSURANCE BROKERAGE FIRM: Mr. McLaughlin explained the Agency had the same insurance brokerage firm for years. He stated RFP's were sent out to four companies. All four companies responded and after evaluating all the proposals the Agency recommends selecting Robert J. Hanafin. Mr. McLaughlin said from a response and price perspective Robert J. Hanafin was the best choice. Mr. Bernardo ask if there would be significant savings. Mr. McLaughlin stated there would be a few thousand dollars in savings but the ultimate decision was based on response time. Mr. Bernardo asked if Mr. McLaughlin could elaborate. Mr. Gray responded and said the Agency had difficulties with the previous broker. Their response time for issues was unacceptable. Mr. Gray gave a few examples of these issues.

MOTION: To approve Robert J. Hanafin as the Agency's new Insurance Brokerage Firm. On a MOTION by Mr. Stevens, seconded by Mr. Feehan, Ms. Marusich abstained, the MOTION CARRIED.

ITEM #13. MODIFICATION TO THE AGENCY'S EXTENSION OF A CREATIVE SERVICE CONTRACT WITH

HUE: Ms. Duncan stated this is a modification to the extension of the one year contract with Hue for 2017. She said this extension and modification was precipitated by the launch of the Broome campaign. Ms. Duncan explained due to the launch and the execution of the campaign the Agency anticipates there will be more video production and promotional pieces that Hue will need to create. Because of this additional work Hue will provide more hours monthly. The current contract states Hue will complete 40 hours monthly with the modified contract stating 60 hours per month. The total annual contract would be \$54,000. Ms. Duncan stated the additional funding for the contract would come from a NYSEG

marketing grant the Agency received. She said the grant funds were not allocated so the approved 2017 IDA budget will not be affected. After a series of questions by the Board a motion took place.

MOTION: To approve a modification of the Agency's extension to the creative service contract with Hue. On a MOTION by Ms. Marusich seconded by Mr. Feehan, the MOTION CARRIED UNANIMOUSLY.

ITEM #14. EXECUTIVE SESSION: TO DISCUSS THE PROPOSED ACQUISITION AND SALE OF REAL PROPERTY FOR THE BCIDA:

MOTION: To convene to Executive Session at 1:04 p.m. On a MOTION by Mr. Bucci seconded by Mr. Pinker, the MOTION CARRIED UNANIMOUSLY.

ITEM #15. RECONVENE TO PUBLIC SESSION:

MOTION: To reconvene back to public session at 1:45 p.m. On a MOTION by Mr. Bernardo, seconded by Mr. Bucci, the MOTION CARRIED UNANIMOUSLY.

ITEM #16. RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR, ON BEHALF OF THE AGENCY, TO ENTER INTO A MONTH TO MONTH MASTER LEASE TO BEGIN JANUARY 1, 2017 WITH 265 INDUSTRIAL PARK DRIVE, LLC FOR PROPERTY LOCATED AT 265 AND 121 INDUSTRIAL PARK DRIVE IN THE TOWN OF KIRKWOOD, BROOME COUNTY, NEW YORK, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A"

ATTACHED HERETO, TO BEGIN AS OF JANUARY 1, 2017: Mr. McLaughlin explained a group intends to rent the Link building from the Agency for a period of three months or so. This will be a month to month lease. He said the Agency fully expects to have a full contract of purchase before the Board at the January Board meeting. Mr. McLaughlin stated the Agency has full intent to sell the property and the twelve acres of land for \$3.7 million dollars. The lease will allow the principles to take over the building immediately on January 1, 2017, while the Agency is in the process of preparing the closing documents and getting the Payment in Lieu of Tax agreement together. The principles will be solely responsible for the entire building, including all the tenants and the land. This will alleviate the Agency from further management and interaction with the building and its tenants. Ms. Marusich asked if Rogers Trucking was still a tenant in the building. Mr. McLaughlin said yes, they have a month to month lease.

MOTION: To approve a resolution authorizing the Executive Director, on behalf of the Agency, to enter into a month to month master lease to begin January 1, 2017 with 265 Industrial Park Drive, LLC for property located at 265 and 121 Industrial Park Drive in the Town of Kirkwood, Broome County, New York, more particularly described in exhibit "a" attached hereto, to begin as of January 1, 2017. On a MOTION by Mr. Bernardo, seconded by Mr. Bucci, Mr. Feehan abstained, the MOTION CARRIED.

ITEM #17. ADJOURNMENT: Chairman Kane requested a motion for adjournment.

MOTION: To adjourn the meeting. On a MOTION by Mr. Stevens, seconded by Mr. Bucci, the MOTION CARRIED UNANIMOUSLY, and the meeting was adjourned at 1:50 p.m.

The next meeting of the BCIDA Board of Directors is scheduled for Wednesday, January 18, 2017 at 12:00 p.m. at the Broome County Public Library, 185 Court Street, Binghamton, NY.