

BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Broome County Public Library

185 Court Street

Binghamton, New York 13901

Friday, April 30, 12:00 p.m.

SYNOPSIS OF MEETING

PRESENT: G. Akel, E. Burns, B. Fiala, T. Grippen, P. Hankin, S. Herz, W. Howard, V. Pasquale, and J. Rounds

ABSENT: None

GUESTS: Darcy Fauci, Deputy Broome County Executive
Dan Reynolds, Broome County Legislature Chairman
Mario Nirchi, Broome County Legislature
Mark Whalen, Broome County Legislature
Angelo Gallo, Piaker & Lyons, CPA
Jeri Fiorentino, Piaker & Lyons, CPA
Jeff Smetana, Washington Development Associates, LLC
Howard Rittberg, Washington Development Associates, LLC
Ken Kamlet, Washington Development Associates, LLC
Nancy Dooling, Press & Sun Bulletin
Tony Butkewich, Marchuska Bros. Construction

COUNSEL: D. Seiden

STAFF: R. D'Attilio, P. Doyle, T. Gray, R. Fiato and C. Campon

PRESIDING: G. Akel

Mr. Akel called the meeting to order at 12:00 pm.

ITEM # 1. APPROVE MINUTES FOR FEBRUARY 12, 2010 REGULAR MEETING: Mr. Rounds requested a revision to the February minutes; under the adjournment section there was a reference that Mr. Akel made a motion to adjourn the meeting but in actuality, Ms. Fiala requested the motion for adjournment since Mr. Akel was absent from the last meeting. Mr. Akel requested approval of the minutes for the February 12, 2010 meeting with the correction noted.

MOTION: To approve the February 12, 2010 minutes. On a MOTION by Mr. Burns, seconded by Mr. Pasquale, MOTION CARRIED UNANIMOUSLY.

ITEM # 2. PRESENTATION OF THE 2009 AUDITED FINANCIAL STATEMENT BY MR. ANGELO GALLO FROM PIAKER & LYONS AND THE RECOMMENDATION FROM THE CHAIRMAN OF THE AUDIT COMMITTEE TO ACCEPT THE AUDITED FINANCIAL STATEMENT:

Mr. Grippen, Chairman of the Audit Committee introduced Mr. Angelo Gallo from Piaker & Lyons and asked him to give a brief overview of the 2009 audited financial statement to the Board. Mr. Gallo stated during the audit no deficiencies, difficulties or disagreements with management were encountered or identified during the conduct of their audit. Mr. Gallo advised the Board that he has issued an unqualified opinion, which is the highest level a CPA firm can issue on a financial statement. Mr. Grippen stated that the Audit Committee met prior to the board meeting and unanimously recommends that the entire Board approve the financial statement as presented. Mr. Burns asked if the report would be made available online upon its acceptance; Mr. D'Attilio stated that it would be posted on the BCIDA website as soon as possible.

MOTION: To approve the 2009 Audited Financial Statement. On a MOTION by Mr. Pasquale, seconded by Ms. Fiala, MOTION CARRIED UNANIMOUSLY.

ITEM # 3. WASHINGTON DEVELOPMENT ASSOCIATES, LLC PRESENTATION: Mr. Akel disclosed to the Board his conflict of interest regarding this project and excused himself from the room. Mr. D'Attilio stated that Mr. Akel has not participated in any discussion regarding this project since the Agency received the application for this project. Mr. Smetana then gave an overview of the student housing project proposal. Based on a third-party feasibility study, a waiting list to get into University Plaza, and polling of students and administration, the development group concluded that there is a demand for 680 beds in the urban core near the downtown academic center, similar to those found at University Plaza. The project will be located at the confluence of the Chenango and Susquehanna Rivers in Downtown Binghamton adjacent to the Binghamton University Downtown Academic Center. The building will be comprised of 173,600 square feet and will include 113 fully furnished high-end student apartments with 80 four-bedroom/four-bath units and 33 two-bedroom/two-bath units with onsite 24-hour security for Binghamton University and Broome Community College Students. Each apartment will have a full kitchen, including a range, refrigerator, dishwasher, microwave, disposal and washer/dryer. The common areas in the building will include a community room, social lounge, exercise room, game room and computer lab/business center. Rents will be comparable to the suites at University Plaza and slightly less than on-campus housing at around \$720 per bed per month. It would bring an estimated \$1.7 million annually in business to downtown as well as 28 new jobs. NYSEG has already begun the \$7 million environmental cleanup of the contamination left on the site that would not likely occur if not for this project. As proposed, the developer would pay approximately \$8 million more in taxes under the PILOT agreement over 20 years than if the property stayed the same. The Binghamton City School Board has voted in support of the project and the proposed PILOT Agreement. The Agency held a public hearing on April 28, 2010, and there was no public comment either for or against the project. The IDA will vote on the PILOT only after the City of Binghamton formally endorses the PILOT. The City will vote on Wednesday May 5, 2010. Mr. Burns asked if the land was in the Empire Zone, and if so, does it affect the project? Mr. Kamlet responded that it is technically in the Empire Zone, but since New York State is phasing out the Empire Zone program in June, they will not receive EDZ benefits. Mr. Burns then asked about the nature of the jobs the project would create. Mr. Kamlet explained that job creation is possibly the smallest benefit of the project because their focus is on increasing business to existing businesses in the area. It will however create jobs for facilities and maintenance staff, security and resident advisors on site as well as approximately 100 construction jobs during the development phase. Mr. Pasquale referred to modifications that were made to the PILOT agreement with the Town of Vestal in the development of University Plaza. He asked if Washington Development Associates was comfortable with the current terms posed by the City of Binghamton for this particular development project. Mr. Rittberg assured the Board that they were absolutely trying to avoid a situation requiring any PILOT modifications. With City and IDA approval, Washington Development Associates intends to begin the 12-month construction phase immediately with an occupancy date of August 2011.

MOTION: No motion necessary.

ITEM # 4. PUBLIC COMMENT: Mr. Mark Whalen, Broome County Legislature, asked if the BCIDA has a written policy regarding residential development. Mr. D'Attilio responded that New York State requires the Agency to have a uniform tax exemption policy; however New York State also grants the Agency the power to deviate from that policy with the consent of the chief elective official of the affected municipality. This project would be a deviation, going forward only with the consent of the City of Binghamton. Mr. D'Attilio explained that for this particular project, the IDA would enter into a lease-leaseback transaction. The developer would also be exempt from sales tax on materials used to construct the project as well as a mortgage recording tax abatement since these are

standard benefits of the Agency's tax exempt status. Mr. Whalen asked if another developer will get a comparable package on a future project. Mr. D'Attilio emphasized that the IDA accepts projects on a case-by-case basis, working only on a go-forward basis, not offering incentives on projects already in development. Mr. Whalen then asked if the Agency and/or Washington Development have done any research on the impact this project may have on available rentals and the high vacancy rate in the area. Mr. Rittberg explained that in doing considerable research via student-interviews, a significant majority expressed the importance of price when considering housing options. Based on price, the primary competition for the Washington Development project will come from on-campus and University Plaza rather than the rental properties located throughout Binghamton, primarily the Westside and the Southside. Mr. Smetana added that this project will simply add to the housing options, rather than compete with existing ones and fit a specific niche. Mr. Reynolds then requested that the Washington Development Associates present the project proposal to the Broome County Legislature for informational purposes on Tuesday, May 4, 2010. The developers agreed.

MOTION: No motion necessary.

ITEM #5. EXECUTIVE DIRECTOR'S REPORT: Mr. D'Attilio advised the Board that the Agency made the required payment of \$148,253 to New York State Department of Tax & Finance as payment of its assessment under Section 2975-Aof the Public Authorities Law. Shortly after the March 31st deadline for this payment, New York State suspended all further payments by public authorities regarding this act and is working to resolve the issue. Mr. D'Attilio is confident that the Agency will get some if not all the monies refunded back once the issue is resolved. Mr. D'Attilio said he has been meeting with Delta Engineering regarding the feasibility study for redevelopment on the old library. The study should conclude in May or June 2010. Regarding the DOT property, the County has agreed to use residual funds for a Phase I environmental study before the IDA moves to accept it. The internal deadline the DOT has to move on this transaction is August 2010. Mr. D'Attilio stated that the Agency has about \$300,000 of expenses left to be completed at the Charles Street Business Park in order to fulfill the NYSEDC grant and apply for the million dollar reimbursement on this project. Mr. Doyle then updated the Board on recent marketing initiatives including participation in the Greater Binghamton Chamber Business Show, the CoreNet show in New Orleans and the upcoming BIOMed show in Chicago. Mr. Herz asked if the IDA has was aware of new flood map information affecting the Charles Street Business Park. Mr. D'Attilio said he would look into it. Mr. Herz asked if there has been any interest in gas-drilling in the area. Mr. Doyle confirmed that there have been several inquiries.

MOTION: No motion necessary.

ITEM # 6. LOAN FUNDS AVAILABILITY AS OF MARCH 31, 2010: Mr. Gray presented the Loan Funds Availability report to the Board. The balances available to lend are \$316,046.83 (STEED) and \$610,949.94 (TITLE IX).

MOTION: No motion necessary.

NEW BUSINESS:

ITEM# 7. A REQUEST FROM STEED BORROWER T. MITCHELL HOLDINGS TO CONTINUE REGULAR P&I PAYMENTS FOR AN ADDITIONAL FIVE YEARS: Discussed in Executive Session.

ITEM # 8. A REQUEST FROM STEED BORROWER MARATHON BOAT GROUP FOR AN ADDITIONAL TWO MONTHS OF INTEREST ONLY PAYMENT: Discussed in Executive Session.

ITEM # 9. A REQUEST NOT TO TAKE ACTION AGAINST A STEED BORROWER WHO HAS NOT MET ITS JOB CREATION REQUIRMENTS: Discussed in Executive Session.

ITEM # 10. RESOLUTION CONSENTING TO THE COLLATERAL ASSIGNMENT AND SECURITIZATION OF THE AGENCY'S LEASEHOLD INTEREST IN PREMISES LOCATED AT 299 BROOME CORPORATE PARKWAY, CONKLIN, NEW YORK IN FAVOR OF PEOPLE'S UNITED BANK WITH RESPECT TO THE REFINANCING OF THE INTEREST OF 299 BROOME CORPORATE PARKWAY LLC AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AND DELIVER AN ASSIGNMENT OF LEASES AND RENTS AND A FEE, LEASEHOLD AND SUBLEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT, IN THE FORM ATTACHED HERETO, AS WELL AS ANY OTHER DOCUMENTS NECESSARY TO EFFECT SAID TRANSACTION:

MOTION: On a MOTION by Mr. Grippen, seconded by Mr. Howard, the MOTION CARRIED UNANIMOUSLY.

ITEM # 11. EXECUTIVE SESSION TO DISCUSS CONFIDENTIAL PLANS OF CERTAIN AGENCY MATTERS:

MOTION: To convene to executive session. On a MOTION by Mr. Hankin, seconded by Mr. Grippen, the MOTION CARRIED UNANIMOUSLY.

ITEM # 12. RESUMPTION OF PUBLIC SESSION:

MOTION: To reconvene back to public session. On a MOTION by Mr. Pasquale, seconded by Mr. Hankin, the MOTION CARRIED UNANIMOUSLY.

MOTION: To approve a request from STEED borrower T. Mitchell Holdings to continue regular P&I payments. On a MOTION by Mr. Grippen, seconded by Mr. Hankin, the MOTION CARRIED UNANIMOUSLY.

MOTION: To approve a request from STEED borrower Marathon Boat Group for a two month extension on interest only payments. On a MOTION by Mr. Grippen, seconded by Mr. Howard, the MOTION CARRIED UNANIMOUSLY.

MOTION: To approve not to take action against STEED borrower Devonian Stone for not meeting their job creation requirements. On a MOTION by Mr. Herz, seconded by Mr. Hankin, the MOTION CARRIED UNANIMOUSLY.

OLD BUSINESS:

ITEM # 13. ADJOURNMENT: Chairman Akel requested a motion for adjournment.

MOTION: To adjourn the meeting. On a MOTION by Mr. Rounds, seconded by Mr. Howard the MOTION CARRIED UNANIMOUSLY and the meeting was adjourned.

The next scheduled Board Meeting of the BCIDA Board of Directors is Monday, May 10, 2010 at 12:00 p.m., Broome County Public Library, Binghamton, NY.