

# UCIDA

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Ulster County Industrial Development Agency

**Ulster County Industrial Development Agency  
Minutes  
February 13, 2013**

A regular monthly meeting of the Ulster County Industrial Development Agency was held at 8:00 a.m., Wednesday, February 13, 2013, Legislative Chambers, 6<sup>th</sup> Floor, Ulster County Office Building, 244 Fair Street, Kingston, NY.

The following agency members were present:

Michael Horodyski	Assistant Chair/Assistant Secretary
Robert Kinnin	Assistant Chair/Assistant Secretary
James Malcolm	Assistant Chair/Assistant Secretary
John Morrow	Secretary
David O'Halloran	Chair
Steve Perfit	Treasurer

The following agency members were absent:

Paul Colucci	Assistant Chair/Assistant Secretary
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Offices of Business Services Staff:

Linda Clark  
March Gallagher

UCIDA Attorney and Bond Counsel:

A. Joseph Scott	Hodgson Russ LLP
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Additional Attendees:

Paul Brown	New Paltz
Bob Cook	New Paltz
Bob Fagan	New Paltz Public Access
Timothy Frateschi	Harris Beach PLLC
Bob Gabrielli	Town of New Paltz
Ethan Garr	Side South Associates
Tom George	Wilmorite
Burton Gulnick	Ulster County Commissioner of Finance
Jeff Kane	MHMG-KM Kingston LLC
James Maloney	Assessor, Town of Ulster and Chair, Ulster County Economic Development and Tourism Committee
Hugh Reynolds	Ulster Publishing
Tim Rodgers	New Paltz Planning Board
George Sifre	New Paltz
Matthew Stoddard	Iron Workers Local 417
Dean Tamburri	Laborers' International Union of North America AFL-CIO Local Union 17

Chair David O'Halloran called the meeting to order at 8:07 a.m.

### **PLEDGE OF ALLEGIANCE**

The members of the Agency participated in the Pledge of Allegiance to the flag.

### **PUBLIC COMMENT**

Chair O'Halloran opened the meeting for Public Comment. The following individuals requested the Privilege of the Floor:

1. Mr. Paul Brown, a resident of the Town of New Paltz, addressed the members of the Agency. He was here to understand more of what the UCIDA does and how citizens of his town which are affected by one of the applications that the Agency has before them today, can get involved and become part of the public process. He really wants to understand the methodology and the process. He is watching the Wilmorite application because there is some type of tax benefit that they may be entitled to; it is some type of legal process. He have read over that application materials; it was very helpful to have it on the web. The Town of New Paltz is the lead agency in SEQR; it was disappointing to see that Wilmorite has sent a 43 page document supporting its application which is a financial analysis that supported their application to the Town of New Paltz Planning Board. The Town of New Paltz Planning Board has already thrown that document out and told the applicant to revise it but they have decided to hire their own independent financial consultant. The Town's letter should be entered into the public record. It is a little disingenuous to send a financial analysis and to know that the Town Planning Board rejected it and told them to re-do it. The applicant has submitted a two-page letter defending their methodology but it is a flawed document and the town would be happy to forward that, we just need to know how to get in and provide the documentation.

Chair O'Halloran stated that Wilmorite is on the Agenda for a presentation regarding the Park Point project. There will be no action taken by the Agency today on this. It is an opportunity for the applicant to present their plan. At next month's meeting there will be discussion by the members on whether or not to go to public hearing. Once that is done, a Notice of Public Hearing to all taxing authorities will be sent, including the Town of New Paltz, as well as posted in the newspaper and posting, for public comment for a period of time. There will absolutely be a mechanism and an opportunity for all public comment. It is also our intent, once a public comment period has been established, to hold a meeting of the Agency in the Town of New Paltz. You will be engaged and have an opportunity to speak. We are not open for public record on that application at this time. Everything you say may go into our minutes but will not be attached to the application, which is very important because you want all those comments with that application for our consideration when we make the final determination. He encouraged individuals to follow the process and the Agency will make sure that you are aware of the process.

2. Mr. Ben Miller addressed the members of the Agency. The current financial impact of this project is still being evaluated. There is supposed to be an independent agency performing a financial evaluation. At what point does this matter in this process; do you wait for all the information to be gathered before you start the process on this?

Chair O'Halloran responded that the membership will be hearing the presentation today for the first time; our members may be asking for additional information as well. What he believed Mr. Miller was referring to is that the SEQR process

is not complete in the town. One of the things that the Agency, as a policy, does is to do our very best to maintain consistency with previous applications; we follow the lead agency. We basically adopt your SEQR. The Agency will not make any decisions on the application until your SEQR is complete.

Mr. Miller continued by asking if the Planning Board or the lead agency in New Paltz, can submit a conditional approval. Since the Agency is making a decision based upon what they have done, can they say this approval is conditional on not receiving a PILOT for example.

Chair O'Halloran responded that he could not say what a town's board or planning board can do; that has to do with their code. The Agency looks for public input from all taxing authorities, in this particular case, the Town of New Paltz, the New Paltz School District, as well as Ulster County. We are looking for comment back from them. It was his understanding that the project was seeking an adopted PILOT; not a deviated process. We will be setting up the public comment and we will listen to the comment and weigh that as an Agency. We are a seven member independent board. We are not dictated by the town, county or school board. We will make an independent decision on this application ourselves.

Mr. James Malcolm stated that the Agency is very sensitive to partnership with municipalities. The Agency has started to streamline their processes in the last couple of years so that a potential applicant can move forward in the process a little faster. We are not stating that the Town of New Paltz will be bypassed they will certainly have an opportunity to speak to the board.

Mr. Miller asked how often the Agency makes a decision that would be considered against what the local municipalities....

Chair O'Halloran responded that he did not believe that the seven members of this board have participated in a decision against the taxing authority. Prior to our tenure there was an application that did go against one of the three taxing authorities involved. The Agency has the authority to do that. The Agency has to go back to these "wells", which are the taxing authorities; it is vital to this Agency to have a very good working relationship with all the taxing authorities. When you look at our Enforcement Policy, this particular board of the UCIDA has gone to tremendous lengths to show accountability to these taxing authorities. The Agency has taken some of the roles of the taxing authorities, enforcement of PILOTs, enforcement of defaults which typically would be the responsibility of the taxing authorities to go after delinquent defaults, etc. If you look in New York State you will not find this, you will find it in Ulster County. We have taken on the legal costs, enforcement costs for the taxing authorities. We are developing an excellent relationship because they have not only found that what we are asking for is generally a job producing investment growth for their community, but more importantly what was promised. What the applicant states we hold them accountable. That is the difference with the seven members here on what we believe is important to Ulster County. We are very accountable with our taxing authorities. We work hand in hand.

3. Dean Tamburri representing Laborers' International Union of North America, AFL-CIO Local Union #17 addressed the members of the Agency. Mr. Tamburri asked after reviewing the Wilmorite project, will there be a period for questions after the presentation?

Chair O'Halloran responded no there will not.

Mr. Tamburri asked are you going to be voting on MHMG-KM LLC project today and if so, will there be opportunity for comment?

Chair O'Halloran responded that this is the only opportunity for comment during the meeting. There is no action to be taken today on Park Point or MHMG-KM (Medical Arts Building in the Town of Ulster). We are waiting for one of the taxing authorities to complete their resolution process.

Mr. Perfit stated that the Agency has always adopted a policy of transparency. The meetings are public; we are here and the meetings are open.

4. Mr. Bob Gabrielli of New Paltz, stated that the SEQR process has to evaluate the fiscal impact. If the Agency does not make a decision until after SEQR is done, your decision would have significant consequences on the SEQR evaluation. The second point was that he was confused with the nuances with the board with reference to "industry". He did not think of industry as a residential building. A comment was made at a town board meeting that the Agency's Bylaws were amended in January to include residential dormitory buildings. He did not know if that was correct or not, but asked for a clarification.

Chair O'Halloran responded that everything the Agency has is very transparent. Tax exemption policies which are being solicited from us are a matter of public record. They have been adopted through a public hearing process; involving all the taxing authorities. That is a process that we go through with the taxing authorities and the public to adopt these policies. Your SEQR process is fully aware of all our adopted policies and the benefits that they are potentially able to do. Your SEQR process has all the information that the Agency has in order to make determinations. As far as financial information from this board and what the potential tax benefits are, they are public record. That is available to your Planning Board or Town Board or to the engineers or consultants involved. That information is out there. We do not make a determination on a project until SEQR is completed. If you do not approve the application we are not going to grant tax benefits to an organization that isn't going to build; they are not going to pay our fees in order to get tax benefits for something they can't build. The Agency will await your process. The second part was "industrial". The UCIDA is an economic development organization. We are here to promote economic development in Ulster County; it is our mission and goal. We are charged, and our abilities are defined, by the State of New York. The State of New York has expanded it and changed it over the years and expanded it to include commercial residences and even retail. We are authorized by the State of New York to do so. All our limits and taxing authorities are authorized by the State of New York and this project does fall within those parameters.

Mr. Perfit stated that those Bylaws changes were not done in January. They were done last year and it was aired to all the towns per the state.

Chair O'Halloran stated that the additions/changes were made to the Uniform Tax Exemption Policy (UTEP) and are done periodically and will continue to do so as we feel it is appropriate to adjust our Tax Exemption Policy with the change in economic conditions/opportunities.

5. An unidentified individual followed with an additional question. The decision for what projects are within the scope of the Agency, they are determined by the state or determined by a local body?

Chair O'Halloran responded that he wasn't sure if he fully understood the question. The State of New York provides the authority to give, to encourage economic development via tax benefits. Our authority is based upon the State of New York. The Agency is appointed by the Ulster County Legislature as independent members to serve on this board. That is our authority. According to state guidelines, we have developed and adopted tax exempt policies, which in the case of Wilmorite is one; we also have a process for deviated process, much like the medical arts building in the Town

of Ulster; that is a deviated process. Applicants have those opportunities, it is built into our adopted policies and they make independent decisions on their side as to what they want to present to us.

6. Mr. Rodgers was curious about a "but-for" provision since this applicant has begun to pursue this project. Should they have applied for this IDA prior to starting the project?

Chair O'Halloran responded we received the application now which is typical of most projects. It may be premature; we generally don't see projects until they have completed their planning process. They basically have to get through those "road block" processes to define their project and once they are able to build, they come to us. This is the typical process of an application. The second part, the "but for"; all of our resolutions, if we make a determination, the "but for" is the first thing we go through in all of our documents as far as justification for what we are doing. It is required by the State of New York and is part of our process.

Mr. Perfit stated that the Agency does not recognize the project until we receive something in writing. This is our first review of the application.

Mr. Rodgers asked if the applicant could apply prior to pursuing the project; because once they have determined the "line in the sand" and decided to pursue the project, have they basically indicated that they are willing to do the project with or without the bonding? So wouldn't they need a "but for".

Chair O'Halloran responded that this is not unique to Ulster County. Our counsel represents over 20 IDAs in New York State. The projects don't present to an IDA board prior to the planning process.

7. Mr. Ethan Garr, representing Southside Associates, stated that Chair O'Halloran explained that there are different types of PILOT applications. One company may apply for a PILOT under a certain criteria. As a member of the public, is there a way for us to look at what the specific criteria Wilmorite must meet.

Chair O'Halloran responded that everything is located on our website. When you review them all; this applicant would have two paths available to them. One of the four adopted PILOTs includes a housing component which applies to dormitories, which the applicant has chosen. The other option would be a deviated PILOT. That would be an absolute option for all applicants of any type of project; they are welcomed to take the deviated path. This is a higher bar actually.

James Malcolm stated that he hoped Wilmorite was not trying to circumvent or side-step the Town of New Paltz. He did not think that was the case. Rest assured, no matter which way you ask the question, we are certainly not going to entertain Wilmorite until we feel that they have gone through the channels they have to. He could understand the concern of the members from the Town of New Paltz and no one is going to by-pass the Town of New Paltz. Whichever way someone may entertain or ask the question, he thought that was the answer. Is that the correct representatives of Wilmorite?

Representatives from Wilmorite responded that they are not by-passing New Paltz; that is what we have been doing the whole time.

Mr. Malcolm responded there, they are on the record they aren't going to bypass New Paltz.

8. Legislator Kenneth Wishnick, legislative representative from the Town of New Paltz, asked regarding the grading criteria for the project, he did not recall seeing anything that addresses the amount of land and buildings that are currently off the assessment roles in New Paltz for one reason for another, leading to New

Paltz having one of the highest tax rates in the county. Is that something that enters into the consideration when reviewing this project and if so what is the criterion?

Chair O'Halloran responded that the quick answer would be no. When we look at an application, we do not look at other sites or other taxes. For example in the Town of Ulster where we have another project today, we are not looking at other buildings that are or are not on the tax roles. He would have to say that in all the years that he has sat on the IDA, we have never reviewed information such as that for our determinations.

Counsel A. Joseph Scott responded that it is very preliminary. We haven't seen anything in writing yet so it is very preliminary to make that decision. Based upon past conduct, what we have done is look at projects itself, pro-formas of the projects.

Chair O'Halloran stated but we have never looked in the towns to see how much state land they have – we've never done that before.

Mr. Perfit stated that that is why we have the public comment period. We are not a taxing authority.

Chair O'Halloran stated that the public hearing process which we will establish at some point, would provide an opportunity if there is a link between that information you think we should have between the amounts of properties in the Town of New Paltz that are not on the tax roles and you think if affects this applicant, please provide this information to us.

Legislator Wishnick asked if it would impact the scoring.

Chair O'Halloran responded it would impact our decision; all public comment does. He could not predict what it is going to do to the application. He could tell him this, if it is a direct link to this application and it would affect this application, it certainly would be considered by the Agency.

Legislator Wishnick stated that he had a concern because he understood that there was a structured approach; you need a certain score to qualify for a PILOT. If something is there as a comment, but not there as a scoring criteria and it may be something of interest to the UCIDA, but not something that you add or subtract a value for.

Chair O'Halloran responded that the matrix generally provides a typical application with a score in the end where they are going to come out as far as an option as to which PILOT would apply to them. In this particular application, there is only one PILOT that applies to them, a non-deviated PILOT, the housing PILOT – a 20 year PILOT. Their application, when you go through the process, meets the requirements to have this opportunity for our decision. The only thing the Agency is going to be scoring, and it is not through score necessarily but through deliberation, is the range from the 450 per unit to the 750. The information you will provide, could very well have an effect on that range; that would be part of that deliberation process. He did think that it was important to have that information.

Legislator Wishnick stated that based upon what he heard, by virtual of making application, they will be given a PILOT. It is a question of how much.

Chair O'Halloran responded no, Legislator Wishnick misunderstood or the Chair did not make himself clear. At this point, we do not know any tax benefit that they will or will not receive. They provided their application and the opportunity to present to us. At some point, once we feel we have enough information and once we feel we have been presented what is anticipated to be the tax benefits for the project, we set the date for the public hearing. We wait for

the information to come back. When it comes back, we deliberate and decide independent of those decisions on what tax benefits we feel may or may not belong with this project. There is no "you are receiving a PILOT because you have filled out an application". There is a but-for, there has to be a justified reason for the tax benefit, it has to satisfy our mission of economic development in Ulster County. There is a full range of things; (1) a bonding opportunity, (2) Payment in Lieu of Tax (PILOT) opportunity, (3) mortgage tax exemption opportunity and (4) lease-back which provides sales tax opportunity. Those are four considerations for all applications. Not all applications receive four, not all receive three, two or one. We also turn away applications. It is all independent decisions on each application.

Chair O'Halloran closed the public comment section of the Agenda.

### **MINUTES**

**Motion** Robert Kinnin, seconded by Michael Horodyski, moved to approve the Minutes of the December 12, 2012 meeting. A copy of said Minutes is on file.

**Vote:** The motion was adopted.

### **FINANCIALS**

**Motion:** James Malcolm, seconded by Michael Horodyski, moved to approve the Financials for the period ending December 31, 2012. A copy of said Financials is on file.

**Vote:** The motion was adopted.

**Motion:** Michael Horodyski, seconded by Robert Kinnin, moved to approve the Financials for the period ending January 31, 2013. A copy of said Financials is on file.

**Vote:** The motion was adopted.

Chair O'Halloran requested that since the administration of the Agency has changed and adjustments should be considered to be made, the Audit Committee convene and review the 2013 Budget.

Chair O'Halloran introduced the Commissioner of Finance for Ulster County Burton Gulnick, Jr. Mr. Gulnick also introduced Deputy Commissioner C. J. Rioux who will be helping working with the UCIDA and the Office of Business Services and provide the Agency with financial reports as needed.

Ms. March Gallagher stated that the administrative fees that appear on the January financials are for "left-over" fees owned to UCDC. The fees paid to Ulster County will be on a quarterly basis; so you will not see anything in the financials until March or April.

### **COMMITTEE REPORTS**

**Audit Committee.** Mr. Steve Perfit, Chair of the Audit Committee, reported that the committee had not met.

**Governance Committee.** Mr. John Morrow, Chair of the Governance Committee reported that the Committee had met on December 18, 2012. The committee met to perform the annual review of the Agency's policies. A copy of the Minutes is on file. The following policies were approved without amendment and were recommended for consideration by the members of the Agency: Code of Ethics, Compensation Policy, Defense and Indemnification Policy, Fee

Schedule Guidelines, Investment and Deposit Policy, Procurement Policy, Property Disposition Policy, Travel Policy, Uniform Tax Exemption Policy and Whistle-Blower Protection/Code of Conduct Policy. In addition, the committee recommended the following policies for consideration by the Agency as amended: Authority Mission Statement and Performance Measurements, Enforcement Policy and Uniform Tax Policy Matrix. Copies of said policies are on file. The committee will take under advisement at their next meeting the proposed Policy Governing the Use of Authority Discretionary Funds and the Grant Funding Application/Criteria.

Ready2Go Committee. March Gallagher reported that the committee met on February 12, 2013. The final invoice for the Leading Edge property was authorized to be paid. It is still well under budget. We talked about how that site is going to be developed by communicating the availability of the site to Empire State Development in Albany. There has been an initial show of interest on the property, although the user may not fit with the zoning in the Town of Saugerties. Regardless it indicates the market value of the property. We are working on a call for proposals for additional sites and will likely communicate this in a public way through a public meeting that will give planning board members planning board training credits. It will be sent to supervisors and others involved in the planning process to encourage more sites to enter the pipeline. There is a new brochure that final comments are being taken from the committee.

Chair O'Halloran stated that the Agency's investment in the Ready2Go is believed to be a major step in the future for economic development in Ulster County. The Agency wished to be asked, if needed, if there is any help needed for additional marketing of the program. Anything that the Agency can assist and what we can do to get the information out.

**RESOLUTIONS**

2013 Annual Housekeeping Resolution

**RESOLUTION APPROVING CERTAIN APPOINTMENTS AND ADMINISTRATIVE MATTERS OF THE AGENCY**

**Motion:** James Malcolm, seconded by John Morrow, moved to approve said resolution as follows:

Confirmation of Regular Agency Meeting Schedule	8:00 a.m. the second Wednesday of each month
Officers of the Agency	David O'Halloran, Chairman Steve Perfit, Treasurer John Morrow, Secretary Paul Colucci, Vice Chairman/Assistant Secretary Michael Horodyski, Vice Chairman/Assistant Secretary Robert Kinnin, Vice Chairman/Assistant Secretary James Malcolm, Vice Chairman/Assistant Secretary
Appointment of Chief Executive Officer and Staff to the Agency	David O'Halloran, CEO
Appointment of Chief Financial Officer to the Agency	Burton Gulnick, Jr., CFO
Staff of the Agency	Ulster County Office of Business Services
Appointment of Accounting Firm of the Agency	Teal, Becker & Chiamonte, CPAs
Appointment of Agency Counsel	Hodgson Russ LLP
Appointment of Bond Counsel to the Agency	Hodgson Russ LLP
Appointment of Bank of the Agency and Accounts	Key Bank and M&T Bank
Approval and Confirmation of Agency Policies	Mission Statement Code of Ethics Compensation Policy Defense and Indemnification Policy

	Enforcement of Agency Projects Policy Fee Schedule Policy Grant Funding Criteria and Application Investment and Deposit Policy Procurement Policy Property Disposition Policy Travel Policy and Reconciliation of Expense Uniform Tax Exemption Policy Uniform Tax Policy Matrix Whistleblower Policy
Appointment of Contract Officer	David O'Halloran
Appointment of Investment Officer	David O'Halloran
Appointment of Governance Committee Members	John Morrow, Chair Robert Kinnin James Malcolm
Appointment of Audit Committee Members	Steve Perfit, Chair Paul Colucci Michael Horodyski
Appointment of Finance Committee Members	David O'Halloran, Chair Paul Colucci Michael Horodyski Robert Kinnin James Malcolm John Morrow Steve Perfit

Chair O'Halloran announced that it is the intent of the Agency to move the Agency's meetings around the county. It is our goal to be in the different towns and make ourselves available.

**Vote:** The motion was adopted.

### **PROJECTS**

#### **Wolf-tec/Stavo Industries**

Chair O'Halloran announced that the projects closed on December 20, 2012. The Chair expressed his appreciation to all those involved. The Agency successfully retained two manufacturers that are growing during these recessionary times. It was the efforts and vision of this Agency that created a circumstance that once we got the information out there, we were able to keep these companies in Ulster County and we filled the Colony Building.

#### **MHMG-KM Kingston, LLC (a/k/a Medical Arts Building)**

Jeff Kane, representing MHMG-Kingston, LLC updated the members of the Agency on recent developments. Mr. Kane stated that they appeared before the Kingston City School District on February 6, 2013 with unanimous approval of the proposed deviated PILOT; on February 7, 2013 they met with the Town of Ulster Town Board and received unanimous approval of the proposed deviated PILOT; this evening the project was being considered by the Economic Development Committee of the Legislature, and would be considered the County Legislature on the 19<sup>th</sup> with the hope

of a favorable outcome. As you know that is a project that was approved by the Town of Ulster in April of last year. This is the "kick-start" to the project.

Chair O'Halloran stated that the Agency deliberations do not begin until we receive the "green light" from the taxing authorities. In addition, Chair O'Halloran stated that he chaired the Agency's Public Hearing on this project on January 31, 2013. A copy of the transcript is on file. Comments received were all supportive and favorable.

It should be noted that there was no official taken at this meeting regarding said project.

#### Park Point Project (a/k/a Wilmorite)

Tom George, representing Wilmorite, addressed the members of the Agency. A copy of the formal application submitted for the Park Point Project is on file. Mr. George gave an overview of the project. No action would be taken on said project today. The project is a proposed private student dormitory and faculty housing project on private, tax exempt lands immediately adjacent to the SUNY New Paltz campus. Discussion included, but was not limited to the following:

- The project has been in process since 2009
- The project is in the final stages of SEQR
- Currently drafting their FEIS for SEQR and submitting to the Town of New Paltz Planning Board within the next month and a half.
- The application is not seeking any bond financing; the project is 100% funded by Wilmorite
- The application is seeking sales tax exemption, mortgage recording tax exemption and real estate tax exemption under the Agency's Uniform Tax Exemption Policy.
- They are under a ground lease agreement with SUNY New Paltz's Foundation
  - In 2007 they purchased 42 acres adjacent to the campus
  - Wilmorite is leasing that property for the term of 46 years
- They will build 228 student units and 30 faculty/staff units; it will be a phased approach over five years

Mr. Malcolm asked if this is a leaseback project.

Mr. George and Chair O'Halloran responded not to the Agency.

Mr. Malcolm continued it was mentioned that SUNY New Paltz purchased the property.

Mr. George responded no, an affiliation of SUNY New Paltz's Foundation purchased the property.... Goshawk, LLC (an entity of the SUNY New Paltz Foundation).

Mr. Malcolm replied a public entity.

Mr. George responded no; not a public entity. Goshawk LLC is a private company.

Mr. Malcolm stated so they used state funds to funnel into a private entity to purchase the property.

Mr. George replied it is private funds, private foundation.

Mr. Malcolm stated that there were the same sort of issues in Dutchess and Sullivan counties, whatever the foundation was called or whatever agency it went through, it did kick-start the prevailing wage issue.

Mr. George responded that Wilmorite was in direct conversation with the DOL (Department of Labor) and direct contact with David Bouchard.

Mr. Malcolm replied that he was in direct conversation with Chris Alant, he runs it, and they are under the impression that this would kick-start prevailing wage. Unless you received a different answer from the DOL.

Mr. George responded that he didn't have an answer for him.

Mr. Malcolm stated than it would be fair to say that Wilmorite cannot say that it isn't prevailing wage; it is prevailing wage. You don't know at this point.

Mr. George responded that we don't know at this moment, we are having conversations with the Department of Labor.

Mr. Malcolm responded that it was important when you come in front of this Agency to have the answers to these questions.

Mr. Tim Frateschi, Harris Beach PLLC, attorney for this project, stated that this is a precedent setting issue.

Mr. Malcolm replied not really; Dutchess Community College just did a dorm project and they fall within the SUNY Group and the land was held in trust.

Mr. Frateschi stated that the foundation owns the property; we are working with the department of Labor. Mr. George has been talking to them. He did not think it was a settled issue and he thought that they are working with the Department of Labor to determine whether or not prevailing wage ...

Mr. Malcolm replied that his concern is that when a public entity has a plan in place and they try to circumvent prevailing wage by putting it into what they consider, although it has not been determined yet, if it is a public trust. If it is put out there by SUNY, it is a concern. As an individual board member it is very hard to go out there and think that we are going to allocate tax incentives with public taxpayer funds if we don't have these answers yet.

Mr. Frateschi responded that it is an unsettled issue and we are working with the Department of Labor to come to answer on that.

Chair O'Halloran asked Mr. George, it could be just language that we are confused about, it is his understanding that the applicant is asking for consideration for PILOT and also for consideration of sales tax exemption via our leaseback.

Mr. Frateschi responded yes that is correct; it is will be a leaseback for the sales tax component.

Mr. Malcolm stated that was what he asked.

Chair O'Halloran stated that the way it was presented there was a little confusion.

Counsel A. Joseph Scott stated that the reason that there is some confusion is that the real estate is leased to them and then they are going to lease it to us, a sub-lease to us and then a leaseback. The Chair is absolutely right this will be a straight lease transaction for us.

Chair O'Halloran stated that we should look at it to be clear. We are looking at a PILOT, a leaseback for sales tax exemption, mortgage tax exemption request and no bonding.

Mr. Perfit stated that the Agency did not have a prevailing wage policy, however the Agency strongly encourages that you hire locally.

Mr. Malcolm responded that prevailing wage was in the Matrix.

Mr. George stated that they are currently in the SEQR review process. Obviously the Agency cannot make a decision until SEQR is complete. It is a little of the "chicken and the egg". It has been a very public process with public participation. It has been a long process. Various documents have been included for the members of the Agency's review with the application.

Continuing, Mr. George stated that the thirty units for faculty housing, Wilmorite is not applying for any PILOT for those buildings/units. There is a small possibility of school age to be occupying those units, so they are not applying for tax benefits. There is a need for quality safe housing; it is a very tight vacancy rate there. There is very limited housing for students; some live as far away as 40 miles. SUNY does not have funds to build their own projects; there is no bonding capacity at the state level to fund those projects. Over the current course of 25 years, the college has no plans to build additional housing. The community, from what they have heard, supports this project.

In addition, Wilmorite is also building the infrastructure for this location. North Putt Corners has been identified by the town long-term growth region. There is no water or sewer infrastructure at this time; Wilmorite is investing five million dollars in infrastructure improvements for this project alone. We are designing it with the Town of New Paltz Town engineer for the potential of future expansion of growth. If the growth in the corridor, both water supply and water treatment, will have excess capacity to service additional users. We have been working diligently with the town to design a project, along with the Ulster County Department of Health and the DEC have all be involved in that process and are fully aware of the additional infrastructure that is being put in there. The University has had a stagnant enrollment over the last several years. The big concern to the community is that the college will grow and create a much greater burden on the community. The college cannot afford to grow. These beds are not being created to support a higher enrollment but to satisfy the current demand for housing. The college has been at about 7,500 student enrollment for the last eight years, but that will not change. The residents that would live in this project will go to school there; just live just outside the community. By providing a place for them to live it would reduce the amount of commuter traffic and burden that the road infrastructure has at peak commuting hours.

Chair O'Halloran asked about the number of faculty units that were anticipated; 30 units. There is a potential for faculty units to have children. Is it a correct statement that Wilmorite will not ask for PILOT consideration for those units.

Mr. George responded that is correct. The New Paltz School Superintendent has written a letter that she does not see a significant impact to her school district because 90% of it is designated for SUNY students.

Chair O'Halloran stated so that there is no potential for someone in the community to have a nice place to live. They have to be an enrolled SUNY student.

Mr. George responded they have to be an enrolled student.

Chair O'Halloran asked about the units themselves. The two types of units are 2 bedroom and 4 bedroom. When looking at the 2 bedroom based upon the square footage, it looks like the 2 bedroom could house between 2 and 4 students and it looks like the 4 bedroom is not designed to accommodate 8, it is designed to accommodate 4 or is the 4 bedroom potentially able to accommodate 8.

Mr. George responded that the design and operation is intended for 1 occupant per bedroom. Sizing is based upon an operational efficiency design, providing the student enough personal space within their bedroom unit and then enough common space in the other units. There is a high demand for privacy and what is called one to one ratio, one bedroom to one bathroom ratio. There is a high demand for that by both students and parents. Our project is majority four bedroom two bath; 30% of the project is two bedroom two baths to provide students who want that. Back to the design question, the size; it could accommodate an additional person. We are not designed and we do not operate with the intent of double occupancy; it does have the ability from a size standpoint to do that but that isn't our operational standard.

Mr. Horodyski asked what the economic development zone that they were sitting in.

Chair O'Halloran economic or property zone.

Mr. Horodyski stated it says that it is located in an economic development zone.

March Gallagher responded that it has to do with the census tract that surrounds New Paltz which is a federal designation. That census track is eligible for some federal programs including new market tax credits and EB5 regional center status because of the low income that college residents have. The census track itself has a special designation.

Mr. Horodyski responded then it isn't an economic development zone. Because when you say an area designed as an economic development zone pursuant to Article 18-B of the General Municipal Law or a census track of block numbering area (or census track or block contiguous thereto) where according to most recent census data has a poverty rate of at least 20% per year.

Ms. Gallagher responded it does shockingly.

Mr. Horodyski replied then it isn't in an economic development zone, it is in that census track.

Mr. Gallagher responded yes.

Mr. Kinnin stated that he thought that as a member of the Kingston/Ulster Empire Zone Board, he believed that a portion of New Paltz was part of that and could be what they were referring to.

Mr. Horodyski asked given the transient nature of student's schedules, is it really going to have an impact on commuter traffic?

Mr. George responded that there are high volume times that are directly related to commuter traffic. They have performed their own traffic study analysis, in coordination with the town's traffic consultant, who agreed with all of their findings. There will be a reduction in commuter traffic as a result of this project.

Mr. Malcolm asked is it the contention that by building these that it will increase enrollment. He remembers that Mr. George had previously stated that enrollment was going down. Is this the college's standpoint, that by taking on this project it will increase enrollment. Because you said that enrollment has been going down.

Mr. George responded that enrollment has been steady over the past eight years with fluctuation by a few percent.

Mr. Malcolm stated that if enrollment is going down, why is we building more housing.

Mr. George replied because the demand for housing is so high.

Mr. Malcolm asked what percentage of the students at SUNY New Paltz lives off campus?

Mr. George responded approximately 51% live off campus. On campus inventory they are 100% occupied and they continue every year to have a waiting list.

Mr. Malcolm asked what the ball park number of full-time enrollment.

Mr. George responded 7,500 full time students.

Mr. Malcolm asked how many stay on campus.

Mr. George responded about 3,000.

Chair O'Halloran stated that in addition to the considerations of these tax benefits, while we go through the public comment period and while our members ask questions, they will keep these questions and concerns as we move down the process and if we get to the point of the approval process we often have conditions that go with. He did not unfortunately get the New Paltz paper, but he did have the opportunity to listening to a planning board members at a previous meeting of the Agency from the Town of New Paltz, one of the concerns for example answered at that time was police. A student dorm encourages a requirement for certain police activities to respond to and take care by police or other first responders. If the town at any point, because this is a twenty year PILOT, while at this time the town, as well as the NYS police and Ulster County Sheriff, is able and capable to manage the responses that are required at this time, he knew one of the conditions that he would be making at that point is that any time during that twenty years the determination, and we would determine who would make that decision – the Ulster County Sheriff or Town of New Paltz police, feels unable to properly or satisfactorily respond to incidents it would then be the responsibility of the developer, in this case Wilmorite, to increase security or whatever is necessary to meet those responsibilities or possibly help fund.

Mr. Morrow stated that it is SUNY New Paltz and the NYS Police.

Chair O'Halloran responded well then SUNY pulls back or can't service that dorm to the level which is required for the safety of the students. That financial responsibility to cover that would then fall back to the developer. That would be a condition that he would work with counsel to make sure that it was for the entire 20 years. You don't know what tomorrow will bring and will condition things are they are exposed to us and bring peace of mind to the taxing authorities and the individuals of Ulster County to move us forward.

Mr. George stated that to your point, previously when the process was started, the Town of New Paltz and SUNY had a Co-jurisdictional agreement. They sat down with the Chief of Police, the Fire Marshall and the emergency services folks and tried to get their information. At the time, the SUNY police assumed that they would be servicing this

property as a SUNY project. It is clearly not a SUNY project. They have no contracts with SUNY at all. It wasn't appropriate to say that they could service the project. There has been conversations in the town about the Memorandum of Understanding and how enforceable it was at the town level. Through the process, the open public process, as part of the their final EIS they are revising their assumptions on the economic impact to not include any service from SUNY; their final numbers and assumptions on economic impact are going to be based upon if the town police were to police this property and be first responder to the project. In support of some of the assumptions, they used two other projects in Syracuse and Rochester as a base-line as to how many calls could be expected as they are very similar in proximity to the campus and similar in exact the same way operationally. There are on-site staff (7-8 people) security cameras and over night guards. It is a very elaborate project.

Mr. Malcolm asked if they had their own emergency services ... fire department.

Mr. George responded they do not; he would assume the equation that the Agency uses to determine what they would pay on a per unit basis would cover all these expenses.

Mr. Malcolm stated that it would just seem to him, and it may be questions for counsel, you have SUNY New Paltz students are going to solicit to live there yet there is no liability .... Where is the liability there. If something happens there and your private security force is manning it, does that open up SUNY up for litigation because there is an entity there where students are staying.

Mr. Frateschi responded that he was not the attorney for SUNY New Paltz. He would tell his client, Wilmorite that if something happened on their property it would be their responsibility.

Mr. Malcolm responded so the state would not be open to litigation.

Chair O'Halloran asked to clarify because this is New York State and everyone gets sued. In the end, the liability will end up with the property owner. In the beginning yes they are brought in and they have to work to get off and it is just a process they have to go through. As an example, if something happened to his daughter; she is registered at SUNY New Paltz, she lives in this building and something happens in the building and I have to sue, my attorney will sue SUNY New Paltz, Wilmorite and everybody else they can find. That is the reality of New York State.

Mr. Malcolm stated these are the questions that we have to ask as a board. Knowing prior to the project what is involved you should ask these questions.

Mr. Frateschi stated that they would be fully prepared to defend our LLC for the operation of the building and frankly the liability should be on the property owners.

Mr. Horodyski stated that he had a hard time getting his head around the fact that a foundation of SUNY New Paltz is leasing the land, you are going exclusively going to lease to SUNY New Paltz students, but SUNY is going to basically wash their hands.

Mr. Kinnin replied that is actually not correct. The memorandum from Donald Christian, on file, on page 8 that he remains hopeful that we can establish a modified MOU that will make it possible to fulfill our objective of having University Police, rather than New Paltz Town Police, be the primary respondent for police calls to Park Point, as has been our intention since the start of this project.

Chair O'Halloran stated like all state projects they are trying to deregulate and put it back in private hands. This is a very common process that the state is trying to do.

Mr. Horodyski stated that if you go to a four-year school in a census tract with 7,500 students you are going to have that and he thought it was disingenuous. The spirit of that law was to go in and incent areas that are truly hurting. In this case they aren't necessarily truly hurting, they are starving students. They aren't necessarily the starving group that was intended.

Mr. Frateschi responded was his recollection what they were talking about was the old Empire Zone Program. They are not pursuing benefits through that program.

Counsel Scott stated that the reason the question is in there is that under the law, IDAs could not do retail projects and one of the exceptions to do retail projects was if you were located within one of those areas. This question is not really germane to this application.

Mr. Horodyski stated that none of your full-time equivalent employees are going to be residents of the location ... your leasing agent, etc.

Mr. George responded no they will live in the area.

Mr. Horodyski stated that you mentioned security guards, but your application indicates one guard.

Mr. George responded there will be one overnight security guard.

Mr. Malcolm asked how many units?

Mr. George responded total build out is 258 with 732 people with one security officer.

Mr. Malcolm stated you are going to a college and they are going out at night; there is a potential for things to happen. It may be short-sighted to have only one security guard.

Chair O'Halloran stated there are seven on-site jobs.

Mr. Horodyski stated those are forever jobs; once you are leased up you will still require two leasing agents.

Mr. George responded that lease agents may not be the best term. It is a 24/7 365 days year around. They are property agents, there are programs, organize events, etc.

Mr. Horodyski stated the Marketing Director does more than market necessarily. He thought of the marketing director if there is going to be this collaboration with SUNY that SUNY will market it for you.

Mr. George responded that by law they cannot market this property.

Chair O'Halloran stated that what was not there was a maintenance employee. Is it your intent to contract out locally for all this?

Mr. George responded that there will be one on-site facilities manager and most of the other 90% of that will be contracted out locally .... i.e. plowing, plumbing, landscaping, etc.

Chair O'Halloran stated that Mr. Malcolm mentioned earlier the prevailing wage issue and Mr. Perfit mentioned what we considered local regional multi-county area as far encouraging employment particularly during the construction phase process of all applicants. When you come before you us next time we would like to have in much greater detail

a description of the construction project and how you will be applying our mission/goal of creating opportunity for local employment. Hopefully, at that point you will know partial or all non-prevailing wage. When that information comes, regardless of meeting date, please communicate that.

Mr. George responded that they will come back with a commitment for percentage of local/regional labor. We are working with the Department of Labor.

Mr. Malcolm asked if state financial aide packages that are out can they be allocated for housing.

Mr. George responded yes they absolutely can. State financial aide is used across the state for housing.

Mr. Perfit asked if we take ownership, going to back to the liability question, do we get complete indemnification from the tenants.

Counsel Scott responded that we would take indemnification from them; we are only going to take a lease-hold interest and we are going to minimize our interest in the building. We are also going to require them to have a significant amount of insurance.

Mr. Malcolm asked what the vacancy rate in the Town of New Paltz as far as housing?

Mr. George responded their assessment is approximately 1%.

Mr. Malcolm asked where these numbers were derived from.

Mr. George responded the 2010 US Census states that the residential vacancy in the town and village of New Paltz is approximately 7%. Additionally, there is the rental vacancy in the village is 2.3% and in the town is 3%; that is all US Census. Ulster County performed their own survey and they come up with .03%. It is pretty wide spread. We went from .03% to 7%; 7% is really out because that is all residential. When you focus on the rental vacancy of 2% in the village and 3% in the town, we get a little bit closer; we threw out the .03% and have been using 1% in their assumptions. Additionally, they performed their own market studies; they do their own analysis. He has called every single apartment complex in the community multiple times per year, called two-dozen single family homes that have been converted into housing that probably have 30 people living in them.

Mr. Malcolm stated that it is a transient group. We have a FTE's we would do a study at some point in the year and you we have had seasonal businesses that have come before us.

Mr. George stated the assumption we were using is 1%. It is tough to get an exact amount.

Mr. Malcolm stated that he didn't know where the Town of New Paltz got their numbers from ... 7%, but it seems to be a huge spread between 1% and 7%.

Mr. George responded just to clarify, we are taking about the rental vacancy.

Chair O'Halloran pointed out that correspondence from Mr. and Mrs. Cook. The Agency will not be reading it or discussing it at this time. We have asked the Cooks to submit when the public hearing process opens so that it will become a part of the public record.

Continuing Chair O'Halloran asked the members of the Agency during the next few weeks to think of information that will help them. What additional information may be needed for you to decide between 450 and 750 per unit. This is a 25 year PILOT with stated values of PILOT cost to the applicant between 450 and 750 per unit. In addition to what you have received, what other information we can get for you; whether it is from Ulster County, State of New York, etc. Feed it to us and he will try to have the information disseminated to all members.

Mr. Perfit asked being that it may be premature until they finish the SEQR process. How much longer will that take?

Chair O'Halloran responded what he was suggesting was to begin to collect information to assist in making a decision.

Chair O'Halloran asked the status of SEQR.

Mr. George responded that the draft environmental impact statement was finished and was accepted last October. Public comment was opened in late October, early November and closed in January. They are now in the process of drafting the final environmental impact statement based upon the comments received both oral and written. There were five public hearings held on the project. They anticipate submitting a draft FEIS next month which would then be before the town for full review once again. Findings are dependent upon the town organizing/reviewing; he believed there would be a second public hearing on the FEIS. He anticipated another two to three months.

## **CORRESPONDENCE**

### **Empire State Development – Notification of Initial Allocation.**

Counsel Scott stated that there is a federal bond limits on the amount of certain types of bonds that may be issued by Industrial Development Agencies. This is you notification from the state as to what your limit is with respect to those particular types of bonds. The Agency's 2013 allocation is \$5,778,128 based upon 2010 census. There is a statewide reserve cap that the state maintains that we can get additional cap if needed. A copy of said correspondence is on file.

### **M&T Certificate of Deposit Worksheet**

Back in October M&T rolled the Industrial Development Agency's Certificate of Deposit over to Ulster County Development Corporation. This has occurred in the past. Audit Committee should follow up on this letter and to make recommendations. A copy of said correspondence is on file.

### **HVADC Budget, Financial Statements and Contract**

HVADC came before the board last year in 2012. Due to transition they made their final presentation in December. At the December meeting, it was asked that they provide financials and the contract be executed. They have signed the contract and they are hopeful for payment. They would ask for consideration in 2013; there are provisions for them in the adopted 2013 Budget. Copies of contract and financials are on file.

**Motion:** Steve Perfit, seconded by John Morrow, moved to release the 2012 monies now that they have supplied the requested information. The Agency will discuss future contractual services at a future date.

**Vote:** The motion was adopted.

2/10/13 Correspondence from Bob and Eileen Cook. Correspondence on file.

## **PROJECTS**

### **Lloyd Park II.**

An executed modified PILOT has been received. This is the first conclusion of our Enforcement Policy for 2011 regarding underperformance where we held the applicant accountable to the original application and reduced their PILOT moving forward, which means that the taxing authority will receive a little more money going forward until he is able to get himself out of the underperformance position. The information should be relayed to the appropriate taxing authorities so the tax roles reflect the new agreed upon agreement.

### **Spotted Dog/Fort Shandaken (The Emerson)**

Spotted Dog somehow missed review when the previous CFO performed underperformance review to the Governance Committee. Spotted Dog is the Emerson. They are very much out of compliance to the tune of 50% and the reason being that the past CFO interpreted that after the fire she did not realize that it was a continuation of the original application. Not a new application. The board did not terminate the existing application at the time of the fire and start a new one. Therefore, the original numbers stand with the ABO. We are judging this property on the original application.

At the December meeting of the Agency to provide information on number of FTE's based upon hours. They submitted information for 2012. The 2012 numbers were 99 jobs; the application totals indicate 163. The applicant actually believes that an off-site restaurant in Woodstock was included in those job numbers. They are looking at the 163 numbers. It was recommended that the project make an appearance in March, to explain 2011 numbers.

### **Hudson Valley Domicile (Hudson Valley Sportsdome)**

Conversations have been held with the project owner. The Chair was working on a solution that is responsive and accountable to the taxpayers and taxing authorities at the same time continue to encourage and support the economic development his property provides Ulster County. The project owner has requested a modification to the Voluntary Agreement be sent that would apply PILOT reduction for 2014 and 2015 totaling a reduction of around \$12,000 from the original reduction of approximately \$20,000. Counsel will prepare and it will be sent to the project owner. If the signed agreement is not received by the March meeting, the Chair may be asking to take a different course of action.

### **TLB Management (Skatetime 209)**

Discussion continues with the project owners. They have not made a determination to agree to voluntary reduction in PILOT benefits and/or litigate against the Agency. The matter will be placed on the March Agenda for further discussion and possible action.

It was noted by the Chairman that the sentiments of the Agency be relayed to both projects, Hudson Valley Domicile (Hudson Valley Sportsdome) and TLB Management (Skatetime) that there is going to be action taken in March unless they work something out with the Chair for presentation in March.

## **PARIS Update**

A copy of the PARIS status document is on file. At this time, it was anticipated that the PARIS deadline will be met.

## **OLD BUSINES**

The contracts have been signed for the administration of the Agency. A copy of said contract is on file.

**NEW BUSINESS**

**Limited Services Hotel**

Governance is assigned the preparation of a new PILOT for limited services hotel. At this time our PILOTs are not a right match for a limited services hotel. Current PILOTs are too long and too big; perhaps a five year PILOT. There is a huge difference between the Emerson and the Hampton Inn.

**ADJOURNMENT**

**Motion:** James Malcolm, seconded by Robert Kinnin, moved to adjourn the meeting

**Vote:** The motion was adopted.

The meeting was adjourned.

Respectfully submitted,

John Morrow  
Secretary