

UCIDA

Ulster County Industrial Development Agency

Ulster County Industrial Development Agency Minutes August 13, 2014

A regular monthly meeting of the Ulster County Industrial Development Agency was held at 8:00 a.m., Wednesday, August 13, 2014, Karen Binder Library, 6th Floor, Ulster County Office Building, 244 Fair Street, Kingston, NY.

The following agency members were present:

Michael Horodyski	Chair
Robert Kinnin	Assistant Chair/Assistant Secretary
Floyd Lattin	Member
John Livermore	Member
John Morrow	Secretary
Mary Sheeley	Member

The following agency members were absent:

James Malcolm	Assistant Chair/Assistant Secretary
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Offices of Business Services Staff:

Linda Clark
Suzanne Holt
Karl Schlegel

Ulster County Finance Office:

Christopher Rioux

UCIDA Attorney and Bond Counsel:

A. Joseph Scott	Hodgson Russ LLP
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Additional Attendees:

Chris Allen	Ulster County Legislator
Lynn Archer	Ulster County Legislator
Thomas J. Briggs	Chair, Ulster County Legislature Economic Development & Tourism Committee
Manna Jo Greene	Ulster County Legislator
Paul Hakim	Pioneer Capital Group – representing the Nevele
Bill Kimble	Daily Freeman
James Maloney	Ulster County Legislator/Assessor Town of Ulster
James Nani	Times Herald Record
Michael Smith	Nevele
Geddy Sveikauskas	Ulster Publishing

Chair Horodyski called the meeting to order at 8:05 a.m.

PLEDGE OF ALLEGIANCE

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

READING OF THE UCIDA MISSION STATEMENT

Chair Horodyski read the Mission Statement of the Agency.

The mission of the Ulster County Industrial Development Agency is to advance the job opportunities, general prosperity and long-term economic vitality of Ulster County residents by targeting tax incentives, bonding and other assistance to foster creation and attraction of new business and the retention and expansion of existing business.

MINUTES

Motion John Morrow, seconded by Robert Kinnin, moved to approve the Minutes of the July 9, 2014, meeting. A copy of said Minutes is on file.

Vote: The motion was adopted.

FINANCIALS

Christopher Rioux, CFO, presented the financials for the periods ending June 30, 2014 and July 31, 2014. Mr. Rioux stated that the June financials were very simple. There was a post office box fee of \$232.00 and income from a FOIL request of \$271.00; along with some interest income of \$56.00. In July there was an application fee of \$500; the second quarter administrative fee for Ulster County which has not been paid so it will appear in Accounts Payable and also the Expense. In addition, payment was made on the two Project Benefit Agreements ... Stavo and Wolf-tec in the amount of \$50,000.

Mr. Rioux asked if the banking signatories were going to change.

Chair Horodyski responded no. The signatories will not be changing. As of right now the Audit Committee, at least until the re-organization in January, will be comprised of Floyd Lattin, John Livermore and Mary Sheeley; the Governance Committee, which is basically your signers, will remain the same. That should not be an issue.

Motion: John Morrow, seconded by Mary Sheeley, moved to accept the financials as presented. Copies of said financials are on file.

Vote: The motion was adopted.

OATHS OF OFFICE

Ulster County Clerk, Nina Postupack, administered the Oath of Office to all members of the Agency; said oaths will be recorded in the Offices of the County Clerk.

ELECTION OF TREASURER

Chair Horodyski stated that in speaking with each of the new Agency members, Floyd Lattin has expressed interest and a willingness to serve as Treasurer. At this time, we are expecting our normal re-organization in January, 2015.

Motion: John Morrow, seconded by Mary Sheeley, moved to appoint Floyd Lattin Treasurer of the Ulster County Industrial Development Agency.

Vote: The motion as adopted.

COMMITTEE APPOINTMENTS

The following appointments to the Audit Committee were made by Chair Horodyski:

Floyd Lattin, Chair
John Livermore
Mary Sheeley

The following appointments to the Governance Committee were made by Chair Horodyski:

John Morrow, Chair
Robert Kinnin
James Malcolm,

The following appointments to the Finance Committee were made by Chair Horodyski:

Michael Horodyski, Chair
Robert Kinnin
Floyd Lattin
John Livermore
James Malcolm
John Morrow
Mary Sheeley

COMMITTEE REPORTS

Ready2Go Committee. Suzanne Holt, Director, Office of Economic Development, reported that the committee had met to discuss the program. The program is for projects to receive benefits; the Agency, Ulster County and Central Hudson have contributed money to the program. It has not had a lot of activity as of late. A meeting was recently held to discuss ways to revamp and revitalize the program.

PROJECTS

Nevele-R LLC

Chair Horodyski stated that this is the Nevele project. He was sure everyone was familiar with it. It will be located in the Ellenville area as a potential casino/resort/destination tourism spot. A public hearing was held last Thursday, August 7, 2014, in the Auditorium of the Ellenville High School. Chair Horodyski stated that he chaired said public hearing and in his opinion the hearing was overwhelmingly positive. Comments were resoundingly in favor; it obviously will be a huge economic stimulus to the Ellenville/Wawarsing/Napanoch area. He would mention, that he thought that there were some very well said and pointed comments from the Superintendent of Schools with reference to PILOTs in general and how PILOTs are treated as far as revenue for them and how they impact their tax cap calculation. Chair Horodyski has asked Counsel Scott to reach out to the Superintendent of Schools and obviously

with the Nevele folks, to work as best we can, if we choose to approve the incentive package to work with the school district to help mitigate the impacts of a PILOT. It is really an unintended consequence; at least he would like to believe that it is an unintended consequence, from the Albany lawmakers when they passed the cap law and how they are using the PILOTs as revenue and not as a quasi-tax. That is what we are dealing with now. It is certainly not helpful to the school districts, at least from their tax cap calculation. He thought that the real dollars that go into the school obviously are going to be helpful. Chair Horodyski requested that Counsel Scott speak to this with reference to PILOTs.

Agency Counsel, A. Joseph Scott, stated that the background to that is actually somewhat complicated. Everyone has heard and talks about the 2% tax cap. It is really a misnomer. The 2% is really not 2%; it is based upon a really complicated calculation. The impact that the school district is posing or raising with the Agency is the following. In computing the cap for purposes of limiting your tax increases for the next year, the cap is applied to your existing assessed value with its normal increases. The cap is applied to your existing assessed value as it increases from year to year. If someone comes in and decides to do a new building that increase in assessed value, that increased value is not part of the limit that limits your tax increase for the following year. In other words, it is treated as new value and you tax that ... that is part of an increased amount of taxes that you can impose for the following year. It is "free money" if you will to the municipality ... it is "free value" ... it is not subject to that 2% limit. The problem with IDA projects and it was a glitch in the statute is that when you do an IDA project and that project, because it is an IDA project, is off the tax roles it is not treated as "free" or "open" if you will assessed value or leviable revenue to the municipality. So while the municipality gets the benefit of the PILOT payments, it doesn't get the value of that increased and "free" value added to the tax base of the municipality. What has been investigated and done with some projects is to delay the PILOT for a year so that the property goes on the tax roles and is treated as that value for tax purposes. The problem there is that it creates a potential tax flow issue to the project applicant because they will be paying full taxes on that facility in that first year.

Mr. Floyd Lattin stated but the property has to be completed too.

Counsel Scott agreed; it has to be completed.

Mr. Lattin responded so that construction project, that could be the third year.

Counsel Scott agreed; that could be the third year. There may be some lag there. It is a very complicated issue as the Chairman alluded to. It involves a glitch in the statute. They have talked to school districts, his firm represents a number of IDAs throughout the state, and they have talked to school districts in various jurisdictions and have tried to address the issue. It was his thought that the Agency was open to communication and perhaps acting as intermediary between the project applicant and the school district to try to address these issues.

Mr. Lattin stated but there is no obvious mitigant.

Counsel Scott responded no.

Mr. Lattin asked if there was any chance that Albany would

Counsel Scott responded that one of the state organizations, the New York State Economic Development Corporation, the entity that, in affect, provides educational lobbying services for IDAs, they are pushing legislation to address that ... to make IDA projects treated like taxable property for purposes of the cap formula. In other words to eliminate the glitch in the statute.

Chair Horodyski stated that is where we are. He thought it important that everyone recognizes that we are understanding obviously of the school district's plight and will do what we can to work through that with the project and the school district. At the end of the day it is an issue. There is no question about it.

Continuing Chair Horodyski stated that that was the most pointed comment that came out. Again, everything else at the public hearing was overwhelmingly positive. There were a number of personal people that got up, not necessarily affiliated with the project, life-long Ellenville/Napanoch residents that were almost giddy, and he did not mean to make less of their comments, but they were so excited about the potential of that level of economic stimulus to their area. At the end of the day, there has been some decimation of some industries that have been there for a long long time. At the end of the day this good is a real shot in the arm. It was his opinion that from the Agency's standpoint, the spirit of why they intended to plant casinos around the state as an economic stimulus to depressed areas, he thought that there was no better face to that poster than our town in Ellenville.

Chair Horodyski brought to the members of the Agency's attention the fact that we did receive one piece of correspondence that was included in the hearing transcript behind the stenographer's certification. It was received the day after. In speaking with Counsel Scott it was felt that it was important that that comment was heard. In addition, a copy of the Mitigation Agreement has been included per the Agency's request from the July 9th, 2014 meeting. A copy of said Agreement is on file.

It is noted as part of the record that the transcript of the Nevele-R LLC is on file.

Chair Horodyski stated that as part of the Agency's approval process and they usually "piggy back" onto the town's SEQR process; this is the State Environmental Quality Review Act. We "piggy back" for the most part, along with the town as lead agency in conducting the SEQR and the Agency adopts a SEQR determination of our own. Chair Horodyski differed to Counsel Scott for an explanation of the Resolution.

Counsel Scott suggested that he start with the Synopsis of the Project which has been included in the board member's packets. The project applicant is Nevele-R, LLC a limited liability company. Representatives of the project applicant are in attendance and available to answer questions if need be. They made presentations at prior meetings of the Agency and at the public hearing. The project is described in summary form under roman numeral I. number II. It is obviously a very significant sized project. Prior action taken by the Agency with respect to the project involved the public hearing resolution adopted in July. A variety of actions were taken to publicize and provide for the public hearing and that is all outlined in the items under roman numeral II., number 3(B) including holding the public hearing at the local high school so that the Agency could accommodate the people attending. In addition, arrangements were made for a stenographer to take an accurate reading or report of the comments. The top of Page 2 describes the PILOT structure. This structure is taken directly out of the Uniform Tax Exemption Policy (UTEP). This IDA has a PILOT Points calculator whereby a project applicant can, based upon the elements of the project, accrue a certain number of points and based upon the number of points they receive, it places them in a category with respect to a particular abatement schedule that is derived from the analysis of their application. Proposed Agency action for today is, as the Chairman indicated, a SEQR Resolution and again, the Agency's typical procedure is to differ to the local decision makers with respect to the Environmental Review and that is what we are doing on this project particularly a project of this size where we are going to be considering the adoption of the Findings of the Town of Wawarsing Town Board. Item 6 is an Approving Resolution where the Agency approves the PILOT Agreement, the Lease Agreement and a variety of other documents that are entered into in connection with this Straight Lease Transaction. Item 4 describes in summary form the Straight Lease Transaction. Essentially the Agency takes a lease-hold interest in the property and then leases it back to the company. The Agency will receive an administrative fee in connection with that transaction. The Agency's administrative fee policy is 1% of the amount of the project costs and that calculation is

done in roman numeral IV, number 8. The documents that are entered into in connection with this straight lease transaction is the lease from the company into us, there is a License Agreement Bill of Sale. The property is then leased back to them. As part of that leaseback, they agree to indemnify the Agency in connection with any liability incurred by the Agency in connection with the project and they agree to provide the Agency with insurance with respect to any potential liability that the Agency will have with respect to the project. Item (E) is the Payment in Lieu of Tax Agreement which will implement the abatement schedule that is described at the top of the page. This IDA, as part of their policy, a Project Benefit Agreement, which in the market is described as or talked about as a "Claw Back Agreement" whereby the company agrees to maintain certain levels of jobs and if they fail to do so, one of the potential options and/or remedies under that Agreement is a return of the abatements originally given and a termination of the transaction. The last item referred to is the Section 875 GML Recapture Agreement, that is a separate Recapture Agreement imposed on IDAs through state government whereby the sales tax, if the company misuses the sales tax letter that is issued to them in connection with the exemption of sales tax on the project, that they are required to repay that amount to the state. The Agency will be working with the project applicant about a proposed closing date that is based a large part upon on how they do with respect to the state's review of their Gaming Application.

Mr. Lattin stated that he had read the SEQR and there were a couple of items that struck him as being vague with respect to reimbursement. One had to do with the Fire Company and the ambulance squad. It basically says that about \$750,000 will go to support the fire district and the rescue squad. It was unclear to him that the additional tax revenues, if the Agency grants a PILOT, would be available for those purposes. Has anyone spoken about that?

Mr. Paul Hakim, representing the Nevele-R, LLC project, responded that was encompassed in the Community Litigation Plan which was negotiated with the Town of Wawarsing. He did not believe that was additional tax, those were direct payments.

Mr. Lattin replied that the SEQR specifically says that it assumes \$66,000, for example on page 32, under paragraph U, it assumes \$66,931 increased revenue for property tax. Is that outside of that PILOT or is that included in the PILOT.

Mr. Hakim responded that he did not know where that statement came from.

Mr. Lattin stated that on page 31, paragraph O, \$693,359 in additional tax revenue annually for the fire district.

Chair Horodyski asked Mr. Hakim when the Mitigation Agreement was negotiated.

Mr. Hakim responded that it was finalized about three or four months ago.

Mr. Lattin thought that it was an inconsistency with respect to the SEQR.

Chair Horodyski asked when was SEQR "wrapped up".

Mr. Hakim responded mid-June.

Counsel Scott addressing Mr. Lattin, thought what was going on is this is obviously the town's document.

Mr. Lattin understood that it was the town's document.

Continuing Counsel Scott stated that the IDA's PILOTs do not cover district charges. So the district payment is made regardless of what the PILOT payment is For instance, if the town has a water district and they charge water/sewer ...

Mr. Lattin responded that this specifically says property tax. This is not a district taxable item; property taxes are specifically identified.

Ms. Mary Sheeley stated that they are both taxing districts. Does that make a difference?

Mr. Lattin asked if the rescue squad a taxing district.

Unknown Speaker. Yes they have a component that is a separate taxing district.

Mr. Lattin stated then the fire district would be a separate taxing district, too, based upon property values. So that may answer that question.

Continuing, Mr. Lattin stated that in the July 9, 2014 Minutes, Mr. Hakim stated that the PILOT is not affecting the Gaming License Application. He said that this was a destination resort project with a casino amenity and it will help round out the financing. Without the gaming license that will be much harder to obtain. Is that still the case? Do you still think that the project will go forward if the Gaming License is not awarded.

Mr. Hakim responded probably not.

Mr. Lattin stated probably not.

Mr. Hakim replied that that component is necessary to meet the economics. It is one of the main reasons why the majority of the resorts have not been revitalized or renovated.

Mr. Lattin stated he understood. He just wanted to clarify the statement made in July.

Continuing, Mr. Lattin stated that in the Minutes of July 9, 2014, that the construction is anticipated to start prior to the casino license being awarded. So that is probably not the case.

Mr. Hakim replied that some demolition and site prep work probably will start prior to the license being awarded just to meet the timeline. Once the license is awarded, there is a two year deadline to have the project up and running, imposed by the state otherwise there are huge penalties. So to meet that two year timeline to meet the construction, they need a bit of a head start.

Mr. Lattin asked what was the status of the financing currently.

Mr. Hakim replied that the financing is pretty close to being finalized. Like with any other construction or development project until everything is in place we won't have a final commitment.

Mr. Lattin asked who the construction lender will be Do we know? Is it a bank.

Mr. Hakim responded that it a group. There is \$400,000,000 worth of financing going in there so there is a lot going into the capital stack.

Mr. Lattin replied a great deal. He stated that he was familiar with construction financing and he thought that a 70% construction loan is probably going to be difficult to get, but even at a 70% construction loan, you are looking at an equity requirement of about \$120,000,000. He didn't know if that was fair. He was wondering if Mr. Hakim could speak to where the equity is coming from.

Mr. Hakim responded from bank and non-bank financing.

Mr. Lattin stated then there would be mezzanine preferred equity

Mr. Hakim stated that there would be 70% and 80%; loan to value ratios would not necessarily apply here because of the type of investors coming in ... not bank investors.

Mr. Lattin stated that he actually saw in the application that the Nevele-R, LLC is the applicant, but the ownership of the Nevele-R, LLC is 64.46%, by Nevele Investors, LLC and Claremont US Partners owns 34.29% and Claremont NY Partners LP owns 1.25%. Who is the managing member of the Nevele-R LLC.

Mr. Hakim responded that he believed the managing partner of Nevele-R LLC is Claremont.

Mr. Lattin asked Claremont Partners, LP?

Mr. Hakim responded yes.

Mr. Lattin stated the 1.25% owner. Claremont Partners LP's parent is a UK based fund ... he presumes that Mr. Hakim is aware of that ... which is a publicly traded entity in the United Kingdom. It is a entity of SVMUK Equities Fund PLC and it is registered in the United Kingdom with headquarters in Edinburgh. It is publicly traded and in their most recent financial statements they list the Claremont equity, their total capitalization is about \$5.53 million ... the parent. They list their current investment in Claremont at 106,000£ or about \$170,000 and they say in their statements that their managers do not plan to make any new investments in the current year. Is that the case?

Mr. Hakim responded that they are a project sponsor, so equity will come in around them.

Mr. Lattin asked if that equity coming in around them probably relate to, what is it, E5B. Is that the major source of equity.

Mr. Hakim replied not major; there is a component of E5B investment.

Mr. Lattin asked what the major source of equity was.

Mr. Hakim responded the hedge funds, banks, and private equity.

Mr. Lattin stated that EB5, in the Freeman today, looks like they are taking over the project ... right and Angelique Brunner.

Mr. Michael Smith, representing the Nevele project, responded yes Angel Brunner. Their firm is investing a large amount of money as well.

Mr. Lattin asked if they were the lead investor.

Mr. Smith responded that they are the lead investors.

Mr. Lattin stated that they are the lead investors and so they will be taking day to day operating control of the property.

Mr. Smith responded yes, but actually Michael Treanor at this stage, since the application is complete, he is still the CEO and will be present and will be investing in the project hopefully once the license is obtained.

Mr. Lattin asked so E5B is an interim lead investor or interim leader of it.

Mr. Smith responded that they have an interest; they want to be involved in it.

Mr. Lattin asked if Mr. Smith could give the members a sense of what amount of equity they are putting into the project.

Mr. Smith responded that it is quite substantial. You are invited tomorrow. We are having a meet and greet with Angel Brunner. She will be there in our office and you are invited to come.

Mr. Lattin stated that E5B is an entity based in Washington which basically pulls investments from foreign nationals at a minimum of \$500,000 per foreign national in order to get a green card for permanent residency in the United States. Their website talks about the fact that they look at projects that have an identified exit strategy of five to six years for their investors. So, is this part of....

Mr. Hakim responded that that exit strategy for them, they would be considered mezzanine financing, so they are a short-term component.

Mr. Lattin stated that he was asking these kinds of questions because there is a lot the Nevele was in the New York Times on Monday with a lovely photograph of it and talked about gaming in New York State in general, but Revel in Atlantic City has announced that it is closing on September 2nd after two years ... a cost of \$2 billion and they are laying off 3,100 people. He thought that the obligation, not only that the Agency has to foster employment growth, but also to foster sustainable employment growth. He thought the capitalization of the Nevele is very important to the Agency. It is very important to understand how secure and stable it is going forward because if the UCIDA gives you \$100,000,000 in tax incentives, it is a dramatic amount and we all hope that the project is successful, but if we give you the tax incentives and you basically are unsuccessful and we face an Atlantic City sort of situation in two years it is not a great use of your time or our time. Unfortunately, people will be employed and then loose their jobs.

Mr. Hakim responded that he totally agreed and obviously there is a huge investment being made here and multiple economic studies have been completed and due diligence has been completed by the investors. The gravity models which he believed that they submitted a copy of the Camion Study, which has the results of the gravity model, where they mapped the effects of all the other casinos on the east coast and what the potential draw is here. One of the major draws is we have a beautiful area here and he stressed that in the public hearing, this is a destination resort and in his opinion, the casino is an amenity that is going to round out the attraction that is going to help make and put that viability of the project just to the next level so that it is economically feasible.

Mr. Lattin responded which is exactly the business plan of the Revel Casino which is going bankrupt after two years.

Chair Horodyski stated that he had to be honest with Mr. Lattin. If you put a casino in and you put the actual gaming floor on the fifth floor and you put check-in on the tenth you don't force people to walk through you gaming floor, it is a bad model for a casino and at the end of the day, Revel blew it. They went bankrupt three times.

Mr. Hakim stated that it was his opinion that that area has declined dramatically over the past ten years or so and unfortunately when people go there, they just go there and gamble and then they leave. We have much more to offer in that area ... a destination resort.

Mr. Smith stated a destination resort with miles of rail trail and all the amenities that are associated. This is a hospitality county. This is for Ulster County to benefit with the jobs. It is anticipated that they will generate almost

\$100,000,000 in the first year of operations. The payback in taxes is substantial. Again, the focus is on the Hudson Valley

Mr. Lattin stated that if your capital stack is short-term and hot money, you have to be successful out of the box otherwise these people will do what hedge funds do.

Mr. Smith responded that they were very much aware of that; that is why this is a Hudson Valley project.

Mr. Lattin asked if there would be a no flag on the hotel or casino operator that has been identified.

Mr. Hakim responded that they were negotiating with flags right now. There are a couple that are close in negotiation, but at this time they would rather not disclose.

Mr. Lattin replied for the hotel.

Mr. Hakim responded yes.

Mr. Lattin asked and operations for the casino?

Mr. Hakim responded that those negotiations were underway.

Mr. Lattin stated also, but nothing has been identified.

Mr. Hakim they have been identified, that will be all happening at the same time the license is awarded.

Mr. Lattin asked when they expected the license to be awarded.

Mr. Hakim respond they said this fall.

Mr. Lattin stated probably after the election.

Mr. Smith replied they said early fall; Governor Cuomo has stated that often. Now what that means, Fall begins on September 21st between that and elections It is in the range of a couple of months.

Mr. Hakim stated that he believed that there are hearings set, September 6th and 7th there are individual interviews and a regional public hearing has been scheduled in Poughkeepsie on the 23rd or so at the Grandview.

Mr. Lattin commented that he thought the disclosure of their capitalization could have been more complete.

Chair Horodyski stated that at the end of the day if the project does "fall off" and it is not successful, our claw back provisions allows us to put it back on the tax roles. It does not mitigate the fact that 25 people went to work for a couple of years and now 25 people are not looking for a job. He thought that part of the PILOT here is to give it the best opportunity to be successful and basically a 100% abatement is going to be helpful to the Nevele and to its cash flow and to its operations to pay back its early mezzanine investors and hopefully move on to a successful project. We all know there are a lot of unknowns with your application ... with all the applications. If Woodbury get one, Sullivan and Ulster County go away ... nobody is probably building. So there are a lot of unknowns. Our business here is to give the Nevele the best opportunity to successfully grab one of those licenses and one of their tools in their tool box is going to potentially be a PILOT Agreement.

Mr. Lattin stated that it will have no effect on their license being awarded. Will it?

Chair Horodyski stated that it won't affect the license award, no, but it will certainly give them the ability to enhance the project potentially because they wouldn't have the \$11,000,000 a year going out in taxes. They could reinvest the \$11,000,000.

Mr. Smith stated that because of the competitive nature with the competition and so forth, even with these tax incentives we will be paying a lot of taxes and the tax incentives will allow them to build a world-class facility that will attract people from all over and that is the key to benefit Ulster County.

Mr. Robert Kinnin stated that he has a question with reference to Counsel's synopsis. Several meetings ago, the Agency developed the Post Closing Affidavit; based upon that, could counsel elaborate on that.

Counsel Scott responded that a fee would be collected up front based upon the amount described in the synopsis. A post closing will be done when they complete the project and the Agency will receive an accounting of the project costs. It only goes one-way. If they are higher than what was originally estimated then that difference will be collected as an additional fee. This will be included in the closing documents.

Chair Horodyski stated that very rarely do construction projects come in under budget; at least not in his world.

RESOLUTION AUTHORIZING THE ISSUANCE OF A FINDINGS STATEMENT RELATIVE TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT FOR THE NEVELE-R LLC, PROJECT

Counsel Scott presented an overview of the Resolution to the members of the Agency. The meat of the resolution starts at the bottom of page 2, top of page 3 where it is acknowledged that as a governmental body we need to take action with respect to SEQR before taking any final action. The WHEREAS paragraph at the top of page 3 at the beginning of Section 1. of the resolution describes the prior actions of the Town Board of the Town of Wawarsing about how they went through a full blown Environmental Impact Statement process holding hearings, development of an EIS, finalization of an EIS and the preparation of a Findings Statement. As one of the involved agencies for this process and project, the Ulster County IDA now needs to consider the Findings Statements adopted by the Town Board that is described in Section 1. The Agency makes their determinations that they are required to make under the SEQR regulations in Section 2 and then in Section 3 based upon those findings and determinations, the Agency determines to proceed further with the project. In Section 4 of the resolution a direction on the part of the staff to file and make and send copies of this resolution to the various parties. The highlight of this is as per our typical operating procedure the Agency is differing to the local decision makers with respect to the environmental review and given that they went through an EIS process, it was robust and involved.

Mr. Lattin asked if the Agency should approve this today and the Gaming License is not awarded and the project doesn't go forward does this by its' terms disappear.

Mr. Kinnin responded that there would not be a closing date of the application.

Mr. Lattin stated then it could not be revived without

Chair Horodyski replied that it would have to come back as a new application.

Counsel Scott stated that these documents, the second resolution authorizes the Agency to move forward with this applicant. If this license is not granted, there is an authorization "floating" out there, but there is no closing, because no

one comes back to the Agency to finalize the documents and close. He continued by stating that he has some clients that actually have a formal termination resolution when it is clear that a project is not going to move forward. He thought as one of the other members indicated, if Company B comes to the Agency for a similar project, it is a whole different process. We start over again. This cannot be ... it can be assigned over, but only with the Agency's consent and the Agency would have to approve it. It would have to be essentially the same project.

Motion: Mary Sheeley, seconded by John Livermore, moved to approve said resolution as presented.

Vote: The motion was adopted. Floyd Lattin abstained from the vote.

RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION FOR A PROJECT FOR NEVELE-R, LLC (THE "COMPANY")

Counsel Scott presented an overview of the resolution to the members of the Agency. The WHEREAS paragraphs beginning on Page 1 and 2, talk about the formation of the UCIDA, the description of the project, and the holding of the public hearing. The WHEREAS paragraph at the top of Page 3 talks about the SEQR process that has just been undertaken with respect to the project, including the Agency's consideration of the previous resolution. There are several findings that are required to be made under New York law in the middle of Page 3. The last WHEREAS paragraph on the bottom of Page 3 and the top of Page 4 describes the documents that are entered into in connection with a straight lease set of papers. On Page 4, Section 1 authorizes and ratifies prior action with respect with the holding of the public hearing; Section 2 ratifies counsel's actions on the Agency's behalf; Section 3 talks about various findings and determinations including that the project is a "project under New York law". It talks about the project costs; the anti-pirating provisions; the retail prohibitions, but because this is a "tourist determination project" as defined under the statute, the Agency is able to move forward with this project. Additionally, there are several other findings in g, h, and i. Section 4 is the Agency's determination to move forward with respect to the documents and undertake the project. Section 5 goes into more detail with respect to the actions that will be taken including acquiring a leasehold interest in the project. Sections 6, 7, and 8 authorize the appropriate officers to enter into the documents. Section 9 covers any additional actions needed to be taken in connection with the undertaking of the project. Section 10 makes clear that the resolution takes effect immediately under New York State law.

Motion: John Morrow, seconded by Mary Sheeley, moved to approve said resolution as presented.

Vote: The motion was adopted.

Darienlake-Kingston

RESOLUTION AUTHORIZING THE DIRECTOR OF THE OFFICE OF ECONOMIC DEVELOPMENT OF ULSTER COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO HOLD A PUBLIC HEARING REGARDING A PROPOSED PROJECT TO BE UNDERTAKEN FOR THE BENEFIT OF DARIENLAKE KINGSTON LLC

Chair Horodyski stated that this was a proposed Holiday Inn Express in the Town of Ulster. Basically what is being done is setting the date for the public hearing. Continuing, Chair Horodyski stated that the application has been revised; this is the newest application.

Motion: John Morrow, seconded by Robert Kinnin, moved to approve said resolution as presented.

Vote: The motion was adopted.

ADDITIONAL BUSINESS

Chair Horodyski pointed out to the members of the Agency that in the resolution the members are noted as Chairman/Vice Chairman. He stated that they were all Vice Chairman, with the exception of the Treasurer and Secretary.

Mr. Morrow stated not Vice Chairman, but Assistant Chairman. He thought that should be discussed in Governance; the actual appointment of a Vice Chairman. When we walk into a meeting and everyone is an Assistant Chairman, but nobody is specifically the Chairman of that meeting. He specifically is looking for a Vice Chairman of the UCIDA.

OLD BUSINESS

ARHC BCKNGNY01 – LaSalle Benedictine

Chair Horodyski stated that LaSalle Benedictine is obviously here in Kingston. The project had come before the Agency to basically transfer their rights to somebody else. What is done by this Agency to protect the municipalities who so graciously, for the most part, allow or sign-on to the tax incentives, to make sure that when these things do come up they are made whole. Are they current on their sewer rents, current on PILOT payments, etc. In this case LaSalle Benedictine approached us, that is great on the face of it there were no issues, but let's check with the City of Kingston to make sure everything is good. To LaSalle's credit they also came forward and stated that they had been making PILOT payments that the City of Kingston does not necessarily agree with. The UCIDA used their position to kind of hold the transfer in abeyance until they and the City of Kingston worked out an agreement. He thought that at this point, the City of Kingston and LaSalle had come to an agreement. He wanted to make note that the Agency is looking to protect the jurisdictions. We go hat in hand back to them many times and it is important when these opportunities arise that we do our job to make sure that they are made whole. This is an instance where we did that. To the City's and to LaSalle's credit they struck an agreement, but if not for the Agency holding up that assignment/transfer, it might not have happened. He felt that that was important.

Counsel Scott stated that it is expected that this transaction will be finished up at the end of this month.

Chair Horodyski stated that he has signed some documents for the anticipated closing at the end of the month. That will take LaSalle Benedictine off our old business.

14 Pine Street – Blue Haven Hosiery

Chair Horodyski stated that this was a "hurry-up and wait" project. This was a project that Ellenville moved quick through their process; the Agency moved quickly and now we wait. It appears that there is an issue with insurance claims between the owner of the building and the insurance company. We are continuing to wait. We are poised and ready. This was a fire and the owners are looking to replace the business.

Ulster Commons

Counsel Scott reported that this project remains on hold. The applicant has come to the Agency to provide an update at least twice. They have a noise issue on that site and they are still trying to figure out how to deal with that. If he had to guess on how it was going to ultimately shake out, they are going to move the site of the overall parcel to a site farther away from the railroad and that will reduce the noise issue and they will have to come back to the Agency because the site has changed within that parcel. He imagined that some amendment work would have to be done to the previous action taken by the board. He expects them to come back to the Agency shortly.

Chair Horodyski stated that this is the project located on Ulster Avenue near the Kirchhoff Medical Building. It was a conceptual site plan for four or five spots in that site. One was the medical building itself, a hotel The hotel was here and their hold up was the noise from the train going by. It was not meeting whatever requirements with regard to noise for the rooms. They are looking perhaps to re-site the hotel on a different site on that same parcel.

NEW BUSINESS

Ms. Suzanne Holt reported that she has received calls from one to two other hotels but nothing that is ready to go forward.

PUBLIC COMMENT

Chair Horodyski opened the meeting for public comment. There were no individuals who requested the Privilege of the Floor. The public comment section of the Agenda was closed.

EXECUTIVE SESSION

Chair Horodyski requested a motion to move into Executive Session for the purpose of discussion of potential litigation.

Motion: Mary Sheeley, seconded by Floyd Lattin moved to adjourn into Executive Session.

Vote: The motion was adopted.

The Agency adjourned into Executive Session at 9:02 a.m. for the purpose of discussion of potential litigation.

Motion: John Morrow, seconded by Robert Kinnin, moved to adjourn out of Executive Session.

Vote: The motion was adopted.

The Agency adjourned out of Executive Session at 9:14 a.m. No action was taken during Executive Session.

ADJOURNMENT

Motion: Mary Sheeley, seconded by John Livermore, moved to adjourn the meeting

Vote: The motion was adopted.

The meeting was adjourned at 9:15 a.m.

Respectfully submitted,

John Morrow
Secretary