

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

THURSDAY
JUNE 25, 2015
8:00 A.M.

PLANNING DEPARTMENT CONFERENCE ROOM

AGENDA

PRESENT:

___ TODD RULISON, CHAIRMAN
___ JOSEPH SEMIONE, VICE CHAIRMAN
___ WILLIAM SULLIVAN, TREASURER
___ JOE GILLIS, SECRETARY
___ DIANA PUTNAM, MEMBER
___ DAVE D'AMORE, MEMBER
___ JAMES MRAZ, IDA EXECUTIVE DIRECTOR
___ KARA LAIS, FITZGERALD, MORRIS, BAKER, FIRTH PC
___ RON PETERS, PRESIDENT, FULTON COUNTY CRG
___ BILL WALDRON, LIAISON, ECONOMIC DEVELOPMENT COMMITTEE
___ MIKE ANICH, LEADER-HERALD

I. MINUTES FROM JUNE 9, 2015 MEETING:

MOTION :
MADE BY :
SECONDED :
VOTE :

II. BUDGET REPORT:

MOTION :
MADE BY :
SECONDED :
VOTE :

III. COMMITTEE REPORTS:

A. Nominating Committee:

- No Report.

B. Audit Committee:

- No Report.

C. Governance Committee:

- No Report.

D. Finance Committee:

- No Report.

IV. OLD BUSINESS:

A. Tryon Technology Park and Incubator Center Project:

1. Roof Leaks in Building 3:

- IDA previously authorized Correll to perform emergency roof repairs at an estimated cost of \$6,700.
- Correll found an additional cracked roof drain pipe in Gym.
- Cracked pipe was replaced.
- There are two (2) small areas of gym floor where boards have severely warped due to water leaks.
- There remains two (2) leaks in building that have not yet been fixed.
- Correll has submitted invoice. Total invoice amount: \$6,775.00

IDA ACTION:

MOTION: To authorize a payment in the amount of \$6,775.00 to Correll Contracting Corp.

MADE BY:

SECONDED:

VOTE:

2. Invoice from Department of Solid Waste:

- Department of Solid Waste provided a dumpster for CIC's workers to use to clean out debris left over auctioning off all equipment from Kitchen in Building 3.
- Department of Solid Waste has submitted invoice.
- Total Invoice: \$76.00

IDA ACTION:

MOTION: To authorize a payment in the amount of \$76.00 to the Department of Solid Waste.

MADE BY:

SECONDED:

VOTE:

3. Empire State Health Solutions' (ESHS) Proposed Project:
 - a. The following questions/comments have been sent to ESHS to respond to:
 1. What will the exterior of the existing building look like once completed? Will windows and exterior doors be replaced? Will the building be sided or just painted? Will the existing roof be refinished? What landscaping will be provided around the building and fencing? Please provide Elevation Drawings for the existing and proposed new buildings and an overall Landscaping Plan for the entire Site.
 2. A Stormwater Management Plan prepared by a New York State Licensed Professional Engineer and prepared in accordance with NYS's Department of Environmental Conservation's Stormwater Regulations must be prepared and submitted to the IDA before it can conclude SEQR.
 3. The metes and bounds description of the property to be acquired from the IDA must be transferred from Ferguson & Foss' survey drawing onto the Site Plan.
 - b. With respect to the SEQR review the IDA is conducting, several questions were asked:
 1. The EAF indicates that there will be two (2) shifts working at the manufacturing facility. Is this correct? How many people will be working at the facility during each shift?
 2. What type of vehicles will be used to transport medicines from the manufacturing facility at Tryon to the dispensaries? How many vehicle trips a day are projected? Will any 48' or 53' tractor trailers be utilized by ESHS?
 3. What specific pesticides and herbicides will be utilized in the growing areas? Specify how they will be contained?
 4. Where does ESHS anticipate installing solar panels on the site? Would they be ground-mounted or mounted on top of a building?
 5. How will the new buildings be connected to onsite utilities including water, wastewater, gas, electric and communications?
 6. What is the projected average daily water usage from the municipal water system and projected average daily wastewater discharge into the municipal wastewater system?
 7. What exterior building and freestanding signage is proposed to be installed? Provide illustrations of all proposed signage.

V. **NEW BUSINESS:**

A. **IDA Property at 160 Enterprise Drive, Johnstown Industrial Park:**

1. **Lease Agreement:**

- IDA executed a Lease with the Crossroads Incubator Corporation (CIC) on July 1, 1995.
- Lease expires on June 30, 2016.
- The property was initially occupied by Ozark Electronics. It was occupied by Finkle Distributors until 2010. Yusen currently leases most of the building.

2. **PILOT Agreement:**

- IDA executed PILOT Agreement with CIC on September 1, 1995.
- PILOT afforded property tax exemptions from 1996-2005. Exemptions ended in 2005.
- Since 2006, CIC was making PILOT payments equaling 100% of what they would have been paying in property taxes if there was no PILOT.
- Finkle moved out of building in 2010. CIC was not able to find a new tenant.
- As a result, CIC became delinquent in making PILOT payments to local taxing jurisdictions after Finkle moved out in 2010.
- These delinquencies in PILOT payments represent a default under the PILOT and Lease.
- In 2012, IDA sent letters to local taxing jurisdictions advising them that since the CIC was delinquent in making PILOT payments, they should pursue whatever actions they could to protect their interests.
- The IDA sent another letter to local taxing jurisdictions in June, 2015.

3. **NBT Mortgage:**

- This property is included in a Mortgage the CIC has with NBT Bank.
- CIC has been delinquent on its payments to NBT Bank.
- CIC is in default on this Mortgage.

4. **Foreclosure:**

- As a result of being in default on its Mortgage payments, NBT has filed a Foreclosure Action in State Supreme Court.
- The IDA has been served a Summons as part of this Foreclosure Action.

5. **Forbearance Agreement:**

- NBT asked both the CIC and IDA to execute a Forbearance Agreement. The intent of the Forbearance Agreement is to delay a foreclosure to give the CIC time to sell the property.
- If the property is sold, proceeds from the sale would go to NBT Bank.
- To date, neither the CIC nor IDA have not executed this Agreement.

6. **Potential Sale:**

- CIC has an offer to purchase the property.
- NBT Bank needs to sign off on this sale.

- As the current owner of the property, the IDA would also have to sign off on the sale by terminating its lease with the CIC.

7. CIC Request for Early Lease Termination:

- CIC has the right to request an early termination of the Lease. To do so, it must make a payment to the IDA of \$1,000 per year of occupancy under the Lease.
- IDA received a letter dated May 26, 2015 from the CIC’s attorney advising that they were exercising their right under Section 11.1 of Lease to an early lease termination.
- The CIC has asked the IDA to waive the 90-day notice requirement in the Lease.
- CIC has agreed to the following conditions:
 - a. Make a payment to the IDA per Section 11.1 of the Lease Agreement.
 - b. Make a payment to the IDA for expenses incurred related to the CIC’s default of its Lease and PILOT and the early termination, including Attorney fees, incurred by the IDA per Section 5.03 of the PILOT Agreement.
 - c. Execute a Judgment by Confession with the IDA that can be placed on record in the amount of outstanding PILOT payments plus accrued interest.

8. Review proposed Resolution approving a Deed of Conveyance from the IDA to the Crossroads Incubator Corporation and Lease Termination for the property at 160 Enterprise Drive in the Johnstown Industrial Park and authorizing execution and delivery of same.

- See handout.

IDA DISCUSSION:

IDA ACTION:

MOTION: To approve a Resolution approving a Deed of Conveyance from the IDA to Crossroads Incubator Corporation and Lease Termination for the property at 160 Enterprise Drive in the Johnstown Industrial Park and authorizing execution and delivery of same.

MADE BY:
 SECONDED:
 VOTE:

MOTION: To authorize the IDA Attorney to execute a Judgment by Confession acknowledging the outstanding PILOT payments plus accrued interest due local taxing jurisdictions from the CIC for the property at 160 Enterprise Drive in the Johnstown Industrial Park and to have said Judgment filed in the County Clerk’s Office.

MADE BY:
 SECONDED:
 VOTE:

B. CFO:

- IDA has received an invoice from Carol Ellis, CFO, for a payment due her per her Agreement with the IDA.
- Total Invoice: \$309.00

MOTION: To authorize the issuance of a payment in the amount of \$309.00 to Carol Ellis per her Agreement with the IDA to serve as the CFO.

MADE BY:
SECONDED:
VOTE:

C. Executive Session:

1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:
 - i. matters which will imperil the public safety if disclosed;
 - ii. any matter which may disclose the identity of a law enforcement agent or informer;
 - iii. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
 - iv. discussions regarding proposed, pending or current litigation;
 - v. collective negotiations pursuant to article fourteen of the civil service law;
 - vi. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
 - vii. the preparation, grading or administration of examinations;
 - viii. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.**

MOTION: To go into Executive Session to discuss, **“the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.”**

MADE BY :
SECOND :
VOTE :
TIME :

MOTION : To go out of Executive Session.
MADE BY :
SECOND :
VOTE :
TIME :

VI. OTHER BUSINESS:

1. Next Meeting:

Tuesday
July 14, 2015
8:00 a.m.

VII. CLOSE MEETING:

MOTION : To close the meeting.
MADE BY :
SECONDED :
VOTE :
TIME :