

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

**THURSDAY
SEPTEMBER 13, 2012
8:00 A.M.**

PLANNING DEPARTMENT CONFERENCE ROOM

MEETING NOTES

PRESENT:

JOE GILLIS, CHAIRMAN
LEN HOUSE, VICE CHAIRMAN
FRAN REED, TREASURER
ARLENE M. SITTERLY, MEMBER
JAMES MRAZ, IDA EXECUTIVE DIRECTOR
KARA LAIS, FITZGERALD, MORRIS, BAKER, FIRTH, P.C.
MIKE REESE, PRESIDENT, FULTON COUNTY CENTER FOR REGIONAL GROWTH

I. MINUTES FROM AUGUST 23, 2012 MEETING:

MOTION : Accept as presented.
MADE BY : Arlene Sitterly
SECONDED : Fran Reed
VOTE : Unanimous

II. BUDGET REPORT:

MOTION : Accept as presented.
MADE BY : Fran Reed
SECONDED : Len House
VOTE : Unanimous

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. 1988 Incubator Building Project in Crossroads Industrial Park:

- No new information to report.

B. Tryon Technology Park and Incubator Center Project:

1. SEQR:

a. Proposed Action:

- The proposed action is just the transfer of 515 acres of land, 40+/- buildings and infrastructure from the State of New York to the IDA.
- The proposed action does not include the redevelopment of the former Tryon Campus into the Tryon Technology Park and Incubator Center. This is because the Site Plan for how Tryon would be redeveloped has not been completed. As a result, potential environmental impacts cannot be identified at this time. A SEQR review of the potential environmental impacts of the redevelopment of Tryon will occur once a Site Plan is developed and potential environmental impacts can be assessed.

b. Actions Taken to Date:

- At the August 23rd meeting, IDA classified the proposed action as a Type I Action.
- At the August 23rd meeting, IDA proposed itself as Lead Agency and authorized the distribution of a Part I EAF to all Involved Agencies.
- On August 23rd, letters were sent to all Involved Agencies advising that the IDA had proposed itself to be Lead Agency and asked all Involved Agencies to submit, by September 10, 2012, any comments they may have on the IDA serving as Lead Agency.

c. Comments from Involved Agencies:

- IDA received no objections from NYS Office of General Services or Empire State Development to the IDA serving as Lead Agency.

d. Lead Agency:

- It is recommended that the IDA Board designate itself as Lead Agency to complete the coordinated SEQR review on the proposed action.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda confirming what the proposed action was and the actions taken to date. He stated that the IDA received no written comments back from either the Empire State Development or Office of General Services. This indicates that they have no objections to the IDA serving as Lead Agency.

IDA ACTION:

MOTION: To designate the IDA Board as Lead Agency.

MADE BY: Len House

SECONDED: Fran Reed

VOTE: Unanimous

e. Permissible Segmentation under SEQR:

1. Background:

- a. Segmentation is defined as the division of the environmental review of a proposed action so that various activities or stages are addressed as though they were independent, unrelated activities needing individual determination of significance. Except in certain circumstances, considering only a part, or segment, of an overall action is contrary to the intent of SEQR.
- b. There are two (2) types of situations where segmentation typically occurs:
 - 1) Where a project sponsor attempts to avoid a thorough environmental review (often an EIS) of a whole action by splitting a project into two (2) or more smaller projects.
 - 2) Where activities that may be occurring at different times or places are excluded from the scope of the environmental review. By excluding subsequent phases or associated project components from the environmental review, the project may appear more acceptable to the reviewing agencies and the public.

2. Are segmented reviews allowable under SEQR:

- a. Yes. There are circumstances where a segmented review is allowable. For example, the following circumstances, when considered together, may warrant segmentation when a project has several phases:
 - Information on future project phases(s) is too speculative;
 - Future phase(s) may not occur;
 - Future phase(s) are functionally independent of current phase(s).
- b. If circumstances suggest that a segmented review is appropriate, such justification must be clearly noted in the Determination of Significance by providing supporting reasons and demonstrating that such review will be no less protective of the environment.

3. Who is responsible for making the decision to proceed with a segmented review?

Lead Agency

4. Is there a basis for permitting a segmented SEQR review of this proposed action?

Yes, due to the following circumstances:

- a. The transfer of title of the former Tryon Campus from New York State to the IDA must occur first before the IDA can proceed with preparing a Site Plan for the redevelopment of Tryon.
- b. Since no Site Plan for the redevelopment of Tryon has been prepared, it is not possible for the Lead Agency, at this time, to assess the potential environmental impacts of the redevelopment of Tryon. This assessment could only be conducted once a Site Plan for the redevelopment of Tryon has been prepared.
- c. The redevelopment of Tryon is functionally independent of the transferring of title of the former Tryon Campus to the IDA.
- d. The IDA will conduct a separate SEQR Review of the proposed redevelopment of the former Tryon Campus when a Site Plan is finalized. This approach will ensure that all potential environmental impacts from the redevelopment of the former Tryon Campus can be identified to ensure that all potential environmental impacts can be appropriately mitigated.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He stated that Kara Lais has advised that the IDA can conduct a permissible segmentation on this proposed action. He stated that the intent here is to have the records show that the IDA Board, as Lead Agency, reviewed the circumstances for which a permissible segmentation is being sought and determined that it was acceptable.

IDA ACTION:

MOTION: To acknowledge that the IDA Board has determined that due to certain circumstances, a segmented SEQR review of the proposed redevelopment of the former Tryon Campus is permissible.

MADE BY: Arlene Sitterly

SECONDED: Len House

VOTE: Unanimous

- f. Determination of Significance:

1. After reviewing the Parts I and II of the Environmental Assessment Form and all pertinent information regarding the proposed action, Lead Agency must issue a Determination of Significance. Two (2) options exist:

- a) Positive Declaration: Lead Agency determines that the proposed action may create at least one (1) significant adverse environmental impact. As a result, SEQR continues and Lead Agency proceeds with preparing a Draft Environmental Impact Statement (DEIS).

- b) Negative Declaration: Lead Agency determines that proposed action can be undertaken without creating significant adverse environmental impacts. SEQR would be concluded.

2. Positive Declaration:

- a) If the Lead Agency desires to issue a Positive Declaration, the Lead Agency must:
 - 1) Approve a Positive Declaration.
 - 2) Prepare Environmental Impact Statement.

3. Negative Declaration:

- a) If the Lead Agency desires to issue a Negative Declaration, the Lead Agency must:
 - 1) Approve a Negative Declaration.
 - See handout.
 - 2) File the Negative Declaration per Section 617.12 of the SEQR Regulations.

DISCUSSION: Jim Mraz reviewed the information on the Agenda. He reviewed the resolution that was attached to the Agenda, as well as the proposed Negative Declaration. He asked if there were any questions. There were none.

IDA ACTION:

MOTION: To approve a Resolution issuing a SEQR Determination of Significance on the transfer of the former Tryon Campus from New York State to the Fulton County Industrial Development Agency.

MADE BY: Fran Reed

SECONDED: Joseph Gillis

VOTE: Unanimous

C. CG Roxane Water Bottling Plant Project:

1. Closing:

- Lease and PILOT Agreements have been finalized.
- Waiting for final metes and bounds description of land parcel to be transferred to IDA along with map prepared by licensed land surveyor.

2. Status of Construction:

- Site has been cleared.
- Concrete footings/walls being poured.
- Trees cleared for Old Sweet Road.

- Grading for Old Sweet Road ongoing.

D. Mission Statement:

1. At August 23, 2012 meeting, the IDA adopted a new Mission Statement.
2. On August 24, 2012, the new Mission Statement was e-mailed to the ABO.
3. On August 28, 2012, the ABO sent an e-mail to the IDA advising that the IDA's new Mission Statement "addresses the criteria listed in the ABO Policy Guidance."
4. The ABO has posted the IDA's new Mission Statement to its website.

E. IDA Parcel on West Side of NYS Route 30A:

1. Background:

- At August 23, 2012 meeting, IDA Board authorized the Chairman to execute an Agreement with C.T. Male to conduct an asbestos containing material survey on the abandoned house the IDA owns on the west side of NYS Route 30A in the City of Johnstown.
- If the survey identified the existence of asbestos containing materials in the building, these materials would need to be removed before the building could be demolished.
- Estimated cost of survey: \$1,500 - \$2,000
- Estimated cost of asbestos removal: unknown

2. Condemned Buildings:

- There is an alternative approach available to demolish a building.
- If a building has been condemned, it can be removed without removing asbestos containing materials.
- Fulton County's Code Enforcement Officer has looked at building and has determined it can be condemned.
- A NYS Department of Labor waiver must be obtained for demolishing condemned municipally-owned buildings.
- Application Fee: \$2,000
- In addition, if a condemned building is demolished without having an asbestos survey conducted, air monitoring must be conducted during demolition.
- Air Monitoring Fees: \$450-\$700/day: Estimated total: \$1,200
- Total estimated fee to demolish condemned building: \$3,200

3. Disposal Fee:

- Regardless of what approach is taken, IDA must pay for cost of disposing of the demolition debris into Fulton County Landfill.
- Tipping fee is \$25.00/ton
- Total estimated disposal fee: \$2,500-\$3,000

IDA DISCUSSION: Jim Mraz stated that, at the last IDA meeting, the Board approved hiring C.T. Male to perform an asbestos survey on this building. He stated he spoke with Jeff Bouchard, Director of Solid Waste, who advised that there is an alternative approach to demolishing a building containing asbestos materials. Jeff Bouchard advised that if a particular building has been condemned, it can be demolished without removing asbestos containing materials. Jim Mraz reviewed the information on the Agenda regarding potential costs. He stated that the potential of going this route would be approximately \$3,200.

He stated Jeff Bouchard did inspect the interior of the house to be demolished. Jeff Bouchard indicated that it appears that there are some asbestos containing materials in the building that would have to be removed if the IDA was to follow the current approach. Jim Mraz stated, however, it is unknown what the total cost would be to perform this abatement.

There was a brief discussion regarding the two (2) options available for proceeding. It was the consensus of all present that having the building condemned would be the better approach to take.

IDA ACTION:

MOTION: To terminate the previously-approved agreement with C.T. Male to perform an asbestos survey, to request the Department of Solid Waste to proceed with demolishing the building on the west side of NYS Route 30A, to authorize the issuance of a \$2,000 payment for a Department of Labor waiver, to authorize a payment estimated of approximately \$1,200-\$1,500 for air monitoring services during building demolition and to authorize a payment to the Department of Solid Waste for the disposal of the debris to be demolished at a cost of \$25/hour.

MADE BY: Arlene Sitterly

SECONDED: Len House

VOTE: Unanimous

V. NEW BUSINESS:

A. 2013 IDA Budget:

	2011 ACTUAL	2012 BUDGET	2013 BUDGET
REVENUE:			
Operating Revenues			
Charges for services	\$ -	\$ -	
Rental & financing income		\$ -	
Other operating revenues	\$ 112,500.00	\$ -	\$ 400.00
-FAGE lot sale	\$ 24,325.00		
-STAG Early Termination	\$ 88,175.00		
Nonoperating Revenues			
Investment earnings	\$ 563.84	\$ 550.00	\$ 500.00
State/Federal subsidies/grants	\$ -	\$ -	
Municipal/Public authority subsidies/ grants	\$ -	\$ -	
Other nonoperating revenues	\$ (37,510.51)	\$ 57,718.00	\$ 67,468.00
Total Revenues & Financing Sources	\$ 75,553.33	\$ 58,268.00	\$ 68,368.00
EXPENDITURES:			
Operating Expenditures			
Salaries and wages	\$ 20,001.06	\$ 20,268.00	\$ 20,268.00
Other employee benefits	\$ -	\$ -	\$ -
Professional services contracts	\$ 32,250.00	\$ 20,500.00	\$ 23,500.00
-West & Company	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
-FCCRG Marketing	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00
-Legal	\$ 15,350.00	\$ 5,000.00	\$ 8,000.00
-CFO	\$ 500.00	\$ 500.00	\$ 500.00
-ABD Engineers Surveyors (STAG early termination)	\$ 1,400.00		
Supplies and materials	\$ -	\$ -	\$ -
Other operating expenditures	\$ 23,302.27	\$ 17,500.00	\$ 24,600.00
-Insurance	\$ 847.60	\$ 900.00	\$ 3,000.00
-Meetings	\$ 438.34	\$ 700.00	\$ 700.00
-NYSEDC Membership	\$ 450.00	\$ 500.00	\$ 500.00
-Park Maintenance	\$ -	\$ 200.00	\$ 200.00
-Miscellaneous	\$ 176.33	\$ 200.00	\$ 200.00
-FAGE Lot Sale (City of Johnstown Deposit and Payment)	\$ 21,390.00	\$ -	\$ -
-Tryon Technology Park Marketing Project	\$ -	\$ 15,000.00	\$ 20,000.00
Nonoperating Expenditures	\$ -	\$ -	\$ -
Payment of principal on debt	\$ -	\$ -	\$ -
Interest and other financing charges	\$ -	\$ -	\$ -
Grants and donations	\$ -	\$ -	\$ -
Other nonoperating expenditures	\$ -	\$ -	\$ -
Total Expenditures	\$ 75,553.33	\$ 58,268.00	\$ 68,368.00

IDA DISCUSSION: Jim Mraz presented the proposed 2013 IDA Budget. Joe Gillis stated the Governance Committee discussed the Executive Director's position. The Governance Committee recommends that the position be budgeted again for the \$18,000 amount.

Jim Mraz stated that he is recommending that the legal fees be increased from \$5,000 to \$8,000. He stated that he sent an e-mail to IDA Board members recently explaining this proposed increase. He stated the proposed increase is attributed to the work Fitzgerald, Morris, Baker, Firth PC is performing on the Tryon Project. He is recommending that their retainer for \$5,000 for general work with the IDA remain and that a separate retainer of \$3,000 be approved for their work on the Tryon Project. It was the consensus of all present that this was acceptable.

There was a discussion regarding some potential cost increases that could result from the Tryon Project. It was the consensus of all present to increase the insurance line item from \$900 to \$3,000 and for the Tryon Project from \$10,000 to \$20,000.

IDA ACTION:

MOTION: To approve the Budget as amended.
MADE BY: Joseph Gillis
SECONDED: Len House
VOTE: Unanimous

B. Fee Schedule:

1. Background:
 - At its August 23, 2012 meeting, the IDA Board approved a revised Uniform Tax Exemption Policy (UTEP).
 - The new UTEP identified two (2) fees not currently identified in the IDA's Fee Schedule that is a part of the IDA's Project Application.
 - Audit Committee recommends that the IDA's Fee Schedule be amended to include these fees identified in the UTEP.
2. Fee Schedule:
 - Review handout.

IDA ACTION:

MOTION: To approve the revised Fee Schedule as presented.
MADE BY: Fran Reed
SECONDED: Arlene Sitterly
VOTE: Unanimous

VI. OTHER BUSINESS:

A. Executive Session:

1. Background:

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 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.”**

MADE BY : Joseph Gillis
SECOND : Len House
VOTE : Unanimous
TIME : 8:30 a.m.

MOTION : To go out of Executive Session.
MADE BY : Arlene Sitterly
SECOND : Fran Reed
VOTE : Unanimous
TIME : 9:05 a.m.

V. CLOSE MEETING:

MOTION : To close the meeting.
MADE BY : Fran Reed
SECONDED : Arlene Sitterly
VOTE : Unanimous
TIME : 9:05 a.m.