

Town of Colonie Industrial Development Agency

Board Minutes
April 23, 2018 Meeting

Public Hearing related to the applications for financial assistance of the Starlite Associates, LLC and The Ayco Company, LP was called to order by John Kearney, Chairman, at 6:07 pm.

See transcript of the public hearing on file in Mr. LaCivita's Office.

Mr. Kearney closed the public hearing at 6:53.

Meeting called to order by John Kearney, Chairman, at 6:55 pm. The Agency meeting was conducted simultaneously with the Town of Colonie Local Development Corporation meeting due to common actions necessary this evening.

Members in attendance:

John Kearney, Chairman

Alison Blessing

Peter Gannon

Benjamin Syden (Entered a 7:00 pm)

Carmino Basile

Gary Rinaldi

Members absent:

Eric Phillips

Other Persons in attendance:

Agency Counsel: Connie Cahill and Melissa Bennett, Barclay Damon LLP

Chief Executive Officer: Joseph LaCivita

Chief Fiscal Officer: Christopher Kelsey

Approval of the Minutes

Mr. Kearney indicated the draft of the March 19, 2018 minutes were in the Board packets for review.

MOTION: To accept the March 19, 2018 minutes as provided. Motion offered by Peter Gannon and seconded by Carmino Basile. Mr. Syden was not present. Motion was unanimously approved by the remaining members in attendance.

Mr. Syden entered the meeting

Chief Executive Officer's Report

Mr. LaCivita indicated he was in preliminary discussions with a manufacture, to be named, interested in expanding its existing operations within the Town. It is a business with a long history in the Town and was recently accepted into the State's Brownfield grant system. Mr. LaCivita hopes to iron out the specifics and have an application presented to the Board at some point this year.

Chief Fiscal Officer's Report

Mr. Kelsey indicated the internal financial statements for the quarter ended March 31, 2018 were included with the board package this evening. He provided a brief overview of the statements.

Old Business

Website Updates: Mr. Gannon indicated he, with a significant amount of help from Ms. Bennett, had spent the last month reviewing websites of other IDAs. He narrowed the list of best sites identified by Ms. Bennett to about 10 sites. Within the 10 there were three that he felt were excellent sites and had items he would like to see our website mirror. Specifically the Suffolk County, Dutchess County and Genesee County IDAs websites were examples of his thoughts on best practices the Agency could manage at its size and budget.

All three incorporated aspects of social media as part of the outreach to the prospective markets. This would necessitate a staffing commitment on the part of the Agency which needs to be considered. They all discuss the incentives available at the local, county and state levels, identify/discuss Agency targeted sites, and available sites. They also concentrate on attracting the "target" industries of each Agency.

Mr. Syden thanked Mr. Gannon for his work and commitment to this project.

Mr. Kearney then appointed the new "Website Committee". Mr. Gannon, Mr. Phillips and Mr. Syden will serve on the Committee with Mr. Gannon as Chairperson.

New Business

Shaker Pointe at Carondelet, Inc. – Ms. Cahill indicated there was a resolution before the members this evening consenting to a mortgage in connection with the Shaker Pointe at Carondelet, Inc. Project, Phase IV, of the Local Development Corporation (LDC). Earlier this evening the LDC authorized the issuance of a series 2018 bond for the project. This resolution is just a formality as the Agency has a leasehold interest in the land pursuant to a December 1, 2011 lease agreement related to the financial assistance it provided to the project at that time.

Ms. Cahill advised the Board, that Ms. Blessing advised her of a conflict with this project and she will be recusing herself from all actions taken related to this project.

RESOLUTION 2018-008: Consenting to a mortgage in connection with a certain project of the Town of Colonie Local Development Corporation on behalf of Shaker Pointe at Carondelet, Inc. and determining other matters in connection therewith. Resolution offered by Mr. Rinaldi and seconded by Mr. Gannon. Ms. Blessing recused herself. Resolution was unanimously approved by the remaining members in attendance.

Meeting adjourned at 7:15 pm.

Next meeting will be June 18, 2018 at 6:00 pm at 347 Old Niskayuna Road, Latham, NY 12110.

RESOLUTION 2018-008 - RESOLUTION CONSENTING TO A MORTGAGE IN CONNECTION WITH A CERTAIN PROJECT OF THE TOWN OF COLONIE LOCAL DEVELOPMENT CORPORATION ON BEHALF OF SHAKER POINTE AT CARONDELET, INC. ("COMPANY") AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, Town of Colonie Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 594 of the Laws of 1980 of New York, as amended, constituting Section 911-d of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, renovating, improving, maintaining, equipping and furnishing of commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install "projects" (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, at the request of Shaker Pointe at Carondelet, Inc. (the "Company"), the Agency has undertaken a project (the "Original Project") on behalf of the Company consisting of the following: (A)(1) the acquisition of a leasehold interest in approximately 30.5 acres of land located at 42 and 48 Delatour Road, in the Town of Colonie, Albany County, New York (the "Land"), and the existing buildings located thereon (the "Existing Buildings"), (2) the demolition of the Existing Buildings, (3) construction of up to thirteen (13) buildings consisting of various apartments with common areas, single family, duplex and triplex housing units, a multi-faceted community building, and several one-story parking garages in locations as shown on the site plan approved by the Town of Colonie Planning Board with multiple car capacity (collectively, the "Facility"), and (4) the acquisition and installation therein and thereon of various machinery and equipment (the "Equipment") (the Land, the demolition of the Existing Buildings, the Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing including potential exemption from real estate taxes; and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, as part of the Original Project, the Agency holds a leasehold interest in the Land pursuant to an Underlying Lease between the Company and the Agency dated as of December 1, 2011, and has subleased its interest in the Land to the Company pursuant to a Lease Agreement between the Company and the Agency dated as of December 1, 2011 (the "Lease Agreement"); and

WHEREAS, as part of the Original Project, the Agency entered into a Payment in Lieu of Taxes Agreement dated as of December 1, 2011 with the Company (the "PILOT Agreement"); and

WHEREAS, in order to finance an additional phase of the Original Project, at the request of the Company, the Town of Colonie Local Development Corporation (the “LDC”) is expected to undertake a project (the “LDC Project”) on behalf of the Company consisting of the following: (A) the issuance and sale of the LDC’s tax-exempt revenue bond to finance (1) the construction of a 3-story building containing approximately 35 independent living units for senior citizens (the “Facility”) located on the Land, and the acquisition and installation therein and thereon of various furniture, machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Series 2018 Project Facility”); and (2) the refinancing of the outstanding principal balance of the LDC’s \$15,000,000 Tax-Exempt Revenue Bond (Shaker Pointe at Carondelet, Inc. Project), Series 2014 (the “Series 2014 Bond”); and (B) the granting of the mortgage recording tax exemption (except as may be limited by Chapter 394 of the Laws of 2016 of the State, amended by Chapter 3 of the Laws of 2017 of the State) with respect to the recording of any mortgage with the County Clerk of the County of Albany; and

WHEREAS, the Bond will be issued pursuant to a Bond Purchase Agreement dated as of May 1, 2018 (the “Bond Purchase Agreement”) by and among the LDC, the Company and M&T Bank (the “Holder”), as purchaser of the Bond, and to provide a source of payment for the Bond, the LDC and the Company will enter into a loan agreement dated as of May 1, 2018 (the “Loan Agreement”), which Loan Agreement, among other things, (A) obligates the Company to undertake and complete the Project, (B) obligates the Company to make basic loan payments (the “Basic Payments”) equal to the principal and interest coming due on the Bond, and (C) obligates the Company to make all payments and perform all other obligations of the LDC pursuant to the Bond and the documents relating thereto; and

WHEREAS, to secure the Company’s obligations under the Bond Purchase Agreement and the Loan Agreement, the Company and the Society of the Sisters of St. Joseph (the “Society”) will deliver to the LDC and the Holder a mortgage dated the date of delivery of the Bond (the “Mortgage”); and

WHEREAS, the Company has requested that the Agency consent to the Mortgage, in which Mortgage the LDC and the Holder acknowledge and agree that their rights under the Mortgage are subordinate to the rights of the Agency to receive payments in lieu of taxes under the PILOT Agreement and that such payments in lieu of taxes to be made by the Company to the Agency shall have the same force, priority and effect as a real property tax lien under State law against the mortgaged property; and

WHEREAS, the requirements of Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York as amended (the “SEQR Act”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York being 6NYCRR Part 617, as amended (the “Regulations collectively with the SEQR Act, “SEQRA”) applicable to the Project have been complied with; and

WHEREAS, the Agency will not provide a mortgage recording tax exemption with respect to the recording of the Mortgage;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN OF COLONIE INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Agency hereby consents to the Mortgage, in substantially the form presented at this meeting with such changes, variation, omissions and insertions as the Chairman (or Vice Chairman), with the advice of Agency counsel, shall approve. The Agency is hereby further authorized to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such consent are hereby ratified, confirmed and approved.

Section 2. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required to effectuate the provisions of Section 1, and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution.

Section 3. This resolution shall take effect immediately upon adoption.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>	<u>RECUSED</u>	<u>ABSENT</u>
Carmino Basile		X		
Alison Blessing			X	
Peter Gannon	X			
John Kearney	X			
Eric Phillips				X
Gary Rinaldi	X			
Benjamin Syden	X			

The Resolution was thereupon declared adopted.