

Town of Colonie Industrial Development Agency

Board Minutes July 10, 2017 Meeting

Meeting called to order by John Kearney, Chairman, at 5:40 pm. The Agency meeting was conducted simultaneously with the Town of Colonie Local Development Corporation meeting due to the common actions necessary this evening.

Members in attendance:

John Kearney, Chairman

Peter Gannon

Gary Rinaldi

Eric Phillips

Benjamin Syden

Members absent:

Carmen Basile

David DeLuca

Other Persons in attendance:

Agency Counsel: M. Cornelia Cahill, Barclay Damon, LLP

Executive Director: Joseph LaCivita

Chief Fiscal Officer: Christopher Kelsey

Guests: Afrim Nejzaj, Afrim Realty Company, LLC, Member

Paul Sciocchetti, Esq., Sciocchetti & Abbott, PLLC

John King, New York State Small Business Development Center

Approval of the Minutes

Mr. Kearney indicated the draft of the March 20, 2017 minutes were in the Board packets for review.

MOTION: To accept the March 20, 2017 minutes as provided. Motion offered by Benjamin Syden and seconded by Eric Phillips. Motion was unanimously approved by the members in attendance.

Committee Reports

Governance –Mr. Syden indicated the Committee had nothing to report this evening.

Finance – On behalf of Mr. DeLuca, Mr. Kelsey indicated there was no Committee report this evening. Mr. Kelsey stated preliminary 2018 budgets will be distributed at the August 2017 meeting so the Committee members should plan on meeting at 5:30 prior to August's meeting to discuss the preliminary budget.

Audit – On behalf of Mr. DeLuca, Mr. Kelsey indicated there was no Committee report this evening.

Executive Director Report

1) Afrim Realty Company, LLC

Mr. LaCivita welcomed back the representatives from the Afrim's project and turned the floor over to Mr. Sciocchetti. Mr. Sciocchetti indicated this was the project's third time before the Agency and believe they have addressed the three items open from the March meeting. Enclosed in the Board packets this evening is a copy of the formal economic impact report for the project which conservatively supports all the prior economic benefit assertions of Mr. Nejzaj.

Mr. Sciocchetti introduced John King of the NY SBDC, who was assisting to secure Federal SBA funding for the project who explained in detail how the project costs escalated once the project had to connect to the public water and sewer infrastructure. As a result the project costs are quickly approaching the appraised value of the project, and without the appraised benefit of the IDA assistance (primarily the proposed payment in lieu of taxes (PILOT)), the project may not meet the appraised value it needs to secure its financing.

Currently the project's bank has committed to \$5.75 million in loans, SBA has committed to \$4,025 million, and the Chamber's Altec Loan Fund has committed \$1 million to fund the project. The remaining approximately \$850,000, of the \$11.62 million of project costs has come from Mr. Nejzaj. Mr. King stressed the fact that the project is on tight deadlines and the strong potential for the inability to extend the bank and SBA funding if the project does not get approval soon. Mr. Nejzaj did note that if the project could not be started soon it was going to become cost prohibitive and he would have to abandon this project, but would still develop the property.

Mr. Sciocchetti addressed the Agency's third request, communication with South Colonie School District (SCCSD) to get input on the PILOT and overall project. The project representatives explained the numerous unsuccessful attempts to reach out to the school. The Agency had hoped to get input from the school before it took action, and asked Mr. Sciocchetti to keep trying.

The members again expressed their favorable views toward the project. To that extent a public hearing will be held on August 14, 2017 related to the project. Additionally, a deviation letter, related to the PILOT, will be sent to all the taxing jurisdiction explaining the Agency is considering acting on a PILOT for the project. The letter will explain that the Agency is considering the requested 20 year PILOT, in addition to a 10 or 15 year term.

Mr. Kearney thanked project representatives for their time.

Ms. Cahill indicated there were two resolutions before the Agency this evening related to this project the first a SEQR resolution and the second a resolution authorizing Mr. LaCivita to hold a public hearing regarding the project.

RESOLUTION 2017-005 – Resolution determining that a certain project for Afrim Realty Company, LLC will not have a significant effect on the environment pursuant to the State Environmental Quality Review Act. Resolution offered by Benjamin Syden and seconded by Eric Phillips. Resolution unanimously approved by members in attendance.

RESOLUTION 2017-006 – Resolution of the Town of Colonie Industrial Development Agency authorizing the Executive Director to hold a public hearing regarding a certain project for Afrim Realty Company, LLC. Resolution offered by Benjamin Syden and seconded by Eric Phillips. Resolution unanimously approved by members in attendance.

2) Demolition of 272 Maxwell Road

Mr. LaCivita indicated at long last all the permits had been issued and the demolition of 272 Maxwell Road is scheduled to begin on Thursday July 20, 2017. The contractor expects to begin at about 9:00 am.

3) Camoin Associates Economic Assessment Study

The contract for Camoin Associates to perform the economic assessment study of various business sectors within the Town of Colonie is at Camoin's Office for execution, and it is expected they will begin the study shortly after the contract is fully executed.

4) Lincoln Avenue Brownfield Opportunity Area

The Agency now has a fully executed contract with New York State Department of State and a kickoff meeting has been scheduled with Barton & Loguidice to begin the BOA project.

Old Business

None

New Business

None

Meeting adjourned at 6:45 pm.

Next meeting will be August 14, 2017 at 6:00 pm at 347 Old Niskayuna Road, Latham, NY 12110.

RESOLUTION 2017-005 – RESOLUTION DETERMINING THAT A CERTAIN PROJECT FOR AFRIM REALTY COMPANY, LLC (THE “COMPANY”) WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT

WHEREAS, the Town of Colonie Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 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 232 of the Laws of 1977 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, Afrim Realty Company, LLC, on behalf of itself and entities formed on behalf of the foregoing, including Afrim’s Sports, Inc. (the “Company”), has presented an application (the “Application”) to the Agency, a copy of which was presented at this meeting and copies of which are on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in approximately 28.6 acres of land located at 969 Watervliet Shaker Road (Tax Map # 30.-2-2.21) in the Town of Colonie, Albany County, New York (the “Land”), (2) the construction of an approximately 86,400 square foot air supported dome, an approximately 12,000 square foot building and an approximately 900 square foot building (collectively, the “Facility”), and (3) the acquisition and installation therein and thereon of various machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”), such Project Facility to constitute a recreation project providing facilities for sporting events, including, but not limited to, soccer and lacrosse games and tournaments; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from mortgage recording taxes (except as limited by Section 874 of the Act), real estate transfer taxes, sales and uses taxes and real property taxes (collectively, the “Financial Assistance”); 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, pursuant to 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 (collectively with the SEQR Act, “SEQRA”), the Agency has not yet made a determination of the potential environmental significance of the Project and the execution and delivery of the documents related thereto;

WHEREAS, pursuant to the New York State Environmental Quality Review Act (“SEQRA”), the Agency is required to make a determination with respect to the environmental impact of any “action” (as defined by SEQRA) to be taken by the Agency and the Project constitutes such an action; and

WHEREAS, the Town of Colonie Planning Board previously classified the Project as a Type 1 action and declared its intent to act as lead agency for the purpose of performing a coordinated review of the Project pursuant to SEQRA; and

WHEREAS, on December 13, 2016, following a thorough review of the environmental assessment form prepared for the Project and related Project materials, the Town of Colonie Planning Board determined that the Project would not result in any significant adverse environmental impacts and issued a negative declaration pursuant to SEQRA;

NOW, THEREFORE, be it resolved by the members of the Town of Colonie Industrial Development Agency, as follows:

(1) Based upon an examination of the Application and related Project materials, including the negative declaration issued by the Town of Colonie Planning Board, the Agency makes the following findings and determinations with respect to the action pursuant to SEQRA:

(a) The Project constitutes a “Type 1 Action” (as said quoted term is defined in SEQRA).

(b) The Applicant’s request for Financial Assistance was not contemplated at the time of the Town of Colonie Planning Board’s review of the Project under SEQRA, and therefore the Agency was not identified as an ‘involved agency’, as that term is defined under SEQRA, at that time.

(c) Had the Agency’s involvement in the Project been known at the time of the Town of Colonie Planning Board’s SEQRA review, the Agency would have been considered an involved agency and bound by the Planning Board’s negative declaration.

(d) The Project scope has not changed since the issuance of the negative declaration by the Town of Colonie Planning Board on December 13, 2016, and the Financial Assistance requested by the Applicant will not require changes to the scope of the Project.

(e) The Agency hereby accepts and affirms the negative declaration adopted by the Town of Colonie Planning Board, and incorporates such negative declaration herein by reference.

(2) A copy of this Resolution shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

(3) The Secretary of the Agency is hereby authorized and directed to distribute copies of this Resolution and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

**RESOLUTION 2017-006 – RESOLUTION OF THE TOWN OF COLONIE
INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE EXECUTIVE
DIRECTOR TO HOLD A PUBLIC HEARING REGARDING A CERTAIN PROJECT
FOR AFRIM REALTY COMPANY, LLC (THE “COMPANY”)**

WHEREAS, the Town of Colonie Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 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 industrial, manufacturing, warehousing, commercial, research, and recreation 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, Afrim Realty Company, LLC, on behalf of itself and entities formed on behalf of the foregoing, including Afrim’s Sports, Inc. (the “Company”) has presented an application (the “Application”) to the Agency, a copy of which was presented at this meeting and copies of which are on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in approximately 28.6 acres of land located at 969 Watervliet Shaker Road (Tax Map # 30.-2-2.21) in the Town of Colonie, Albany County, New York (the “Land”), (2) the construction of an approximately 86,400 square foot air supported dome, an approximately 12,000 square foot building and an approximately 900 square foot building (collectively, the “Facility”), and (3) the acquisition and installation therein and thereon of various machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”), such Project Facility to constitute a recreation project providing facilities for sporting events, including, but not limited to, soccer and lacrosse games and tournaments; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from mortgage recording taxes (except as limited by Section 874 of the Act), real estate transfer taxes, sales and uses taxes and real property taxes (collectively, the “Financial Assistance”); 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, the Company has requested that the Agency enter into a payment in lieu of tax agreement (the “Proposed PILOT Agreement”), the terms of which deviate from the standard terms of a payment in lieu of tax agreement under the Agency’s Uniform Tax Exemption Policy (the “UTEP”); and

WHEREAS, the Agency desires to comply with the public hearing and notice requirements contained in Section 859-a of the Act and the procedure and notice requirements for a deviation from the UTEP with respect to the Proposed PILOT Agreement contained in Section 874 of the Act and the UTEP;

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

Section 1. The Agency hereby authorizes the Executive Director of the Agency, after consultation with the members of the Agency and counsel to the Agency, (A) to establish a time, date and place for a public hearing of the Agency to hear all persons interested in the location and nature of the Project Facility and the proposed Financial Assistance being contemplated by the Agency with respect to the Project, said public hearing to be held in the city, town or village where the Project Facility will be located; (B) to cause notice of such public hearing to be given to the public by publishing a notice of such hearing in a newspaper of general circulation available to residents of the governmental units where the Project Facility is or is to be located, such notice and publication to comply with the requirements of Section 859-a of the Act; (C) to cause notice of said public hearing to be given to the chief executive officer of the county and each city, town, village and school district in which the Project Facility is or is to be located; (C) to conduct such public hearing; and (E) to cause a report of said public hearing fairly summarizing the views presented at a public hearing to be promptly prepared and cause copies of said report to be made available to the members of the Agency.

Section 2. The Agency hereby further authorizes the Executive Director of the Agency, after consultation with the members of the Agency and counsel to the Agency, to (A) establish a time, date and place for a meeting of the Agency to consider the approval by the Members of the Agency of the Proposed PILOT Agreement; and (B) cause notice of said meeting to be given to the chief executive officer of the county and each city, town, village and school district in which the Project Facility is or will be located, such notice to comply with the requirements of Section 874 of the Act and the UTEP.

Section 3. The Executive Director of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 4. This Resolution shall take effect immediately.