

TOWN OF CLARENCE, ERIE COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

MINUTES

June 20, 2013

Mr. Hartzell called the meeting to order at 8:00 a.m.

Present were Elaine Wolfe, David Schuster, Michael Buettner, Chris Kempton, Mary Powell (arrived at about 8:03 a.m.) and Chairman Hartzell. Clayt Ertel was not present as he was out of Town. Also present were Paul Leone, Nathan Neill, Lawrence Meckler, Pamela CuvIELLO, Cynthia Rosel and Jim Rash. Guests were James Dorigo and Brandon Houck.

Public Hearings:

A-9785 County Road Project - Canine Kennels of Clarence.

Chairman Hartzell opened the public hearing for the 9785 County Road-Canine Kennels of Clarence. Mr. Hartzell said that due to a change in the law, we can't do retail projects. They could apply for a 485-b. which is what he suggested. Mr. Kempton referred to Mr. Neill's e-mail and asked if we could go back to the law and review what it provides. Mr. Neill explained that the law provides that in order to approve a retail project the Agency must make a finding that "...the predominant purpose of the project would be to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the city, town or village within which the proposed project would be located." The applicant must provide the facts as proof that that the facility meets those requirements. Otherwise the CIDA cannot make that finding. Mr. Dorigo, the applicant, explained the project and why there is a need for the kennel in the Town of Clarence. Mr. Dorigo handed out information regarding data on dog boarding kennels near the Clarence area. He explained that the Amherst Boarding Kennel is the largest boarding facility in the area with about 150 kennels. He tried to board his dog there 4 months in advance of a scheduled vacation and there was nothing available. He was 80th on the waiting list. Mr. Kempton added that he has also had this problem. Reservations have to be done well in advance. Some of the other facilities can only accommodate smaller dogs and larger dogs would be in cramped spaces. This facility would provide boarding for dogs and cats, overnight or long term, Doggie Day Care, dog training, grooming and sell pet supplies. Some of the other facilities in the area are just for overnight and not long-term. Mr. Neill asked about capacity of some the other local facilities. Rozek's advertises that they have room for 30 dogs as per their website. Amherst Kennels has room for 150-175. Mr. Dorigo added that there are 3,000 licensed dogs in the Town of Clarence and there are approximately a few hundred more that are not registered. Mr. Dorigo added that this will be a new construction. There is going to be a very small retail area in the lobby.

Mr. Hartzell understood that in order to approve a retail project there has to be a need and the project has to be unique. Mr. Neill said the standard is that it has to be reasonably accessible and there has to be the capacity. Mary Powell asked about the other dog kennels and if the services they offer are the same. There was discussion regarding other local dog kennels.

Mr. Leone added that Mark Poloncarz sent a letter and a survey done by the Deputy County Executive. to the Board about the project. The survey indicates that there are 37 facilities in proximity to Clarence.

Mr. Meckler added that this is a tough and a difficult standard. It becomes incumbent upon the applicant to make the presentation to put in the proof. Mr. Dorigo gave his presentation with all the facts and information about the project. It is up to the Board to make the decision. They just passed this law recently and it is a very difficult and tough standard. Unless there is clear and convincing indications from the information submitted that it meets the standard, speaking generally, I think we will be put in a very difficult position.

Joe Floss was present and spoke in favor of the project. He takes his dog to a facility in Clarence and it is like taking him to jail. He is in favor of this project. It will be in an industrial area with absolutely no road frontage. This will be a facility that will feature services that are not available anywhere else in WNY.

Mr. Buettner wanted to put on the record what the 485-b would allow that is difference from the CIDA benefits. Mr. Leone said that there will be no school or sales tax abatement. It is for 10 years and abatement on town and county taxes. He goes to the Assessor to apply. The abatement starts at 50% and it drops by 5% each year for 10 years. They have to spend \$10,000. This is a \$750,000.00 project.

Mr. Bengart added that as Mr. Meckler stated it is a strict standard. The Board has to weigh the evidence provided and make a decision once this hearing is completed.

There was a motion by David Schuster to close the Public Hearing with a second by Elaine Wolfe.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Powell, Hartzell. Noes: None
Absent: Ertel. Recuse: None. Motion carried.

B-8555 Transit Road Project – Niagara Produce Project.

Mr. Hartzell opened the public hearing on the 8555 Transit Road-Niagara Produce Project. Mr. Neill explained that the second public hearing is necessary because the cost of the project has gone up from the \$6,000,000 it was originally induced for to \$9,500,000. The Board has to authorize the increase in the cost. Brandon Houck from Niagara County Produce explained that the project was originally approved about a year ago for \$6,000,000. The original budget amount was from the preliminary work. They have spent over 2 years dealing with the DEC and Army Core of Engineers working out wetland issues. They were never able to finalize the plans with an architect because the amount of land they could use was constantly changing do to this process involving wetlands. After the design phase, budgeting and getting all the numbers, there has been a significant increase in the project amount but they have also done some things differently. Originally, the building was going to be a pole barn type building and is now a more appealing masonry building with a metal standing seam roof. There have been soil issues and the footers have to be bigger and they have to put more stone in for the building pad and the

roadways. After code review, they have to install the sprinkler system to the entire building. They have added a fresh seafood department and a cooking area for prepared meals that were not in the original plans. Without the assistance of the CIDA this project would not have been able to go forward.

Mr. Leone said that the original project was approved in July of 2012. He just granted the Niagara Produce project a 6 month extension. Construction is on-going and everything is moving right along. Mr. Leone has issued several vendor letters for the project. This is just adding to the \$6,000,000.

Mr. Houck added that the \$6,000,000 never had a contingency which the \$9,500,000 does. If anything comes up, they should be able to deal with it.

Nathan Neill added that this is basically the same project. There have been some changes. We approved it before and the price has gone up.

Mr. Leone added that he and Chairman Hartzell are going to visit the project after today's meeting. Anyone who would like to join them is welcome.

Mr. Buettner added that if the amount of the value of the project goes up to \$9,500,000, eventually the assessment will go higher too, right? Mr. Hartzell answered that yes, eventually it will. Mr. Buettner added that the overall benefits to the Town will increase proportionally. Mr. Bengart added that is correct and the County and the School taxes will also increase.

Mr. Schuster asked that in lieu to the discussions in the previous public hearing, will there be a problem approving this project. Mr. Neill answered that this was approved before the new law went into effect.

Mr. Neill added that there is one provision that will apply and that is the "claw back provision". If they spend money beyond what they are authorized to spend the state could require to claw back the 4% portion on the sales tax only on the additional amount. Anything approved after March 28' 2013 has to have that "claw back" provision. Mr. Meckler added that the applicant is well aware of that.

There was a motion by Chris Kempton and a second by Michael Buettner to close the public hearing.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Powell, Hartzell. Noes: None
Absent: Ertel. Recuse: None. Motion carried.

Carolyn Powell – BNE (Buffalo Niagara Enterprise)

Mr. Hartzell welcomed Carolyn Powell from the BNE. Ms. Powell gave a brief presentation on the BNE. She thanked Paul Leone for inviting her to the meeting. She wanted to give an update on what the BNE is doing especially on the Canadian Cross Border piece...that is where she focuses her time and attention. The BNE is different from the BNP (Buffalo Niagara Partnership), in that the BNE deals mainly with Economic Development. Its sole mission is on

business attraction to the region and the Buffalo Niagara Partnership (BNP) does the Chamber functions. They travel around finding companies that may want to relocate to the Buffalo/Niagara region. Ms. Powell handed out a copy of the 2013 Buffalo Niagara Enterprise Economic Guide that is one of the resources the BNE uses. Ms. Powell spoke mainly on Canadian Companies explaining that BNE concentrates on expansion projects not relocation projects. She explained that the BNE provides assistance to Canadian companies that want to expand their business in the US to support their US sales. Most of the time it is for a warehousing distribution location or manufacturing. The companies are looking to come over mostly because they may have a bridge issue that may be the cost of the bridge or delays on the bridge; they may have a “made in the U.S.A.” requirement they are trying to meet, and/or they are purchasing high numbers of raw materials from the US, shipping it to Canada and then shipping it back here which sometimes does not make sense. She also passed out a sheet that shows companies from Canada that have expanded in the US since 2003. Some are small with as little as 3 jobs to as many as over 200 employees. When working with companies from the US the BNE helps with site location, with regional demographics, workforce issues and incentives. With Canadian companies they start with the Cross Border piece helping them understand and go through due diligence of how to incorporate your business in the US, how do you deal with immigration, what to expect with US tax and accounting, and how do they set up basic bank accounts. The long term vision is to keep the companies in the US. There was some discussion about the recent bridge controversy regarding Canadian businesses expanding in the US. Ms. Powell said that if anyone has any questions she would be happy to answer them. She would welcome your call or e-mails. Mr. Rash added that he was in contact with a Canadian company from a trade show he attended recently and will be contacting Ms. Powell regarding this company. Mary Powell asked if it is hard to capture some of the Canadian companies in New York. Carolyn Powell answered that it all depends on the convenience for the company. They usually like to locate in close proximity stay near the border but not always. She added that if anyone has any questions to please feel free to contact her and informed the Board that they do respect where leads come from and would assist if at all possible to keep a project in your area. She is in Canada regularly and visits with companies if that is something that the Board would like to do with this company or any other. She did work with Paul Leone with a company from Cambridge Ontario for a company that did locate to Lancaster. The company is very happy there and it keeps on growing. Mr. Leone and Mr. Hartzell thanked Ms. Powell for her very interesting and informative presentation and she thanked the Board for having her.

Minutes of May 16, 2013.

There was a motion by Elaine Wolf with a second by Chris Kempton to approve the minutes of the May 16, 2013 meeting. There was nothing on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Powell, Hartzell. Noes: None
Absent: Ertel. Recuse: None. Motion carried.

Treasurer's Report.

Mr. Kempton went over the profit and loss statement and balances in the bank accounts through June 20, 2013. The fees received are \$13,000 to date. Total expenses are \$37,284.59. Interest is \$530.66. The negative net income is -\$23,753.93.

Mr. Kempton added that the Niagara Produce Project looks like it is closing soon. Mr. Leone said that we have received \$15,000 that was the ¼ of 1% on the \$6,000,000. There will be an additional payment of approximately \$75,000+/- at closing.

Mr. Kempton asked if there is anything else that would be closing. Mr. Leone said that there would not be in the near future.

There was motion by Michael Buettner with a second by David Schuster to accept the Treasurer's Report. There was nothing on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Powell, Hartzell. Noes: None
Absent: Ertel. Recuse: None. Motion carried.

Correspondence.

There was a letter from County Executive Poloncarz regarding the 9785 County Road-Canine Kennels of Clarence Project. It was e-mailed to everyone and a hard copy was distributed at this meeting. The letter went to Chairman Hartzell and everyone else was copied.

New Business.

Mr. Leone received a request from Picone Construction for another 6 month extension on the sales tax exemption letter. He did extend it once before. Construction is still ongoing. Mr. Hartzell moved to extend the sales tax exemption for an additional 6 months for the Picone Construction Project at 10995 Main Streets with a second by David Schuster. There was nothing on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Powell, Hartzell. Noes: None
Absent: Ertel. Recuse: None. Motion to carried.

Mr. Leone has not heard back from the landscaping business at 8565 Roll Road.

9785 County Road-Canine Kennels of Clarence

Mr. Neill had two resolutions prepared for this project. The first was the SEQRA which is 9785 County Road-Canine Kennels of Clarence and the inducement resolution. The Board will have to make a determination based on the facts presented at the public hearing. There was a discussion regarding the project and if the CIDA can make a determination of whether or not to approve. Mr. Bengart added that this is a tough issue and there is no clear cut answer. The Board has to make its decision based on the facts presented here today. Ms. Powell asked to see the application. Mr. Neill also had additional information from the applicant with a summary and information on other kennels. Ms. Powell wanted to review that information. Mr. Hartzell asked what the consensus of the Board was regarding this project. There are several kennels in the area and it is not unique. We cannot do retail. He would like to move forward unless someone feels differently. Ms. Powell said she thinks that residents should be able to stay in their own community whether for pediatrics or your pet and not have to travel outside of the

area. What the attorneys say is that you have to make a determination on the facts presented today. Mr. Hartzell said that the applicant can get the 485-b by walking down to the Assessor's office. Mr. Kempton added that there are not that many places available to Board dogs. He has run into this problem when he needed to Board his dog. There are kennels out there but there is not always space available at the time you may need one. Ms. Powell said you also have to look at the quality of the care. Mr. Bengart went over the various options the Board has.

Mr. Hartzell made a motion to decline the project with a second by David Schuster. There was nothing further on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Powell, Hartzell. Noes: Kempton, None
Absent: Ertel. Recuse: None. Motion carried.

8555 Transit Road Project – Niagara Produce Project

Mr. Neill had prepared a resolution amending the original inducement of July 19, 2012. It is the same project with a few changes. The original amount was \$6,000,000. The applicant is asking to increase the amount due to additional costs for the project as presented at the public hearing. They are asking for an increase from \$6,000,000 to \$9,500,000. Mr. Hartzell moved to approve the increase and adopt the resolution as written with a second by Chris Kempton. There was nothing further on the question

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Powell, Hartzell. Noes: None
Absent: Ertel. Recuse: None. Motion to carried.

Mr. Neill has a resolution regarding the 2004-Main Ridge LLC Project. They are refinancing the project. There will be some additional fess due the agency in the amount of 1% of the refinance amount. The CIDA needs to approve because we own the building. There was a motion by Chairman Hartzell with a second by Chris Kempton to approve the refinancing of the project as presented in the resolution prepared by Nathan Neill.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Powell, Hartzell. Noes: None
Absent: Ertel. Recuse: None. Motion to carried.

Strategic Plan Meeting.

A new date was set for the Strategic Plan Meeting. It is scheduled for September 17, 2013 at 6:00 p.m. at the Town Hall in the Hallock Conference Room.

Mr. Leone will invite Franklin J. Sciortino, District Director of the SBA to the July meeting.

EDO

Mr. Rash submitted his report to the Board. He attended the Clarence Hollow Association quarterly meeting; followed up the Canadian company; Groundheat System, Inc. regarding

cross-border expansion into Clarence; solicited and received quotes for 3-yr. marketing plan from ad/marketing agencies; received prices for flyers and ad posters from John Arnold; talked to major area businesses about expansion into Clarence but can't go in to it right now; as soon as he gets to the point where he can name names he will go into that, and he is researching school tax portion of abatements.

Mr. Rash spoke about the real estate listings on the website. He mentioned a website that he has been looking into for the real estate listings. There is a fee of \$2,200 per year for this service. It would be a link from the website that the realtors would have access to for updates with a secure password. Mr. Hartzell said the question is how much would it be used. He does not think the expense would be worth it for the amount of hits we get on the website. Mr. Meckler said that is a lot of money and does not think it is a necessary expense. Mr. Buettner thought it was a lot of money also. Mr. Leone added that the BNE has a list of commercial property on its website that you can get for free.

Mr. Rash also added that website redesign would be about \$6,000 to have it done professionally.

He will be attending a Buffalo Billion Breakfast on Tuesday with the Chairman.

He will be attending some other meetings on 6/21; 25; 27/13.

There was a brief discussion regarding the Linda Mosher letter.

There was brief additional discussion regarding the Poloncarz letter and the recent projects that have been approved by the ECIDA.

Motion to adjourn the meeting by Chairman Hartzell with a second by David Schuster. There was nothing further on the question.

Meeting adjourned at 9:28 a.m.

Respectfully submitted:

Cynthia M. Rosel