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JOSEPH HOBIKA
CHAIRMAN

JACK SPAETH
EXECUTIVE DIRECTOR

April 7, 2009
Utica Industrial Development Agency Regular Meeting
8:30 a.m.

Members Present: Emmett Martin, Angela Vanderhoof, Nancy Pattarini, John Buffa

Excused: Joseph Hobika, Sr

Also Present: Jack Spaeth (Executive Director); Linda Romano and Laura Ruberto (Bond, Schoeneck & King – Agency transaction counsel); Robert Sullivan (U&ED Commissioner); Scott Hosler and Dick Zweifel (Gruver, Zweifel & Scott); Stephen Reilly, Jim Soos and Erin Maloney (Pyramid Group)

CALL MEETING TO ORDER: The meeting was called to order by the Executive Director at 8:35 a.m.

APPROVAL OF MINUTES: A motion was made by Ms. Pattarini and seconded by Ms. Vanderhoof to approve the minutes of the March 3, 2009 meeting. With no discussion, the motion passed unanimously.

OLD BUSINESS: Harza Building:

Mr. Spaeth began discussion by informing the members that he had received a response from the state as to the funding for the roof, although from a different pot of money within the State. He indicated that he still has not been able to secure a letter or guarantee for the \$1.0M grant nor does he expect one. Ms. Romano stated that she has spoke with Tom Clark regarding possible options for the purchase of the property and per the Agency's request, and that she has forwarded a letter to Larry Gerson, attorney for Empire State Development regarding the lack of action on the State's part and an eminent transfer of the property back to NYS. Ms. Romano is waiting for a response. The suggestion was made that a copy of the letter sent to Mr. Gerson be forwarded to Assemblywoman Destito and Senator Griffo cc'ing agency members.

The issue of property insurance arose and Mr. Spaeth and Mr. Martin informed those present that insurance for the property expired on April 4, 2009. Mr. Martin explained that the insurance carrier would not provide renew the policy due to occupancy rate. Ms. Romano indicated that as the Agency has no funds to seek and secure another carrier, she will detail this in a follow-up letter to Mr. Gerson. The question arose as to whether the Harza Building could be put into the City of Utica's portfolio for insurance reasons so as to insure the building but also alleviate the UIDA of premium costs. Mr. Sullivan will be asked on behalf of the City.

OLD BUSINESS: Accounting Request for Proposal

Mr. Spaeth was not able to provide a list of accountants to the members as previously requested. As discussed in the last meeting of the Agency, Mr. Spaeth indicated that he had received only one response to the RFP previously sent for accounting services which was much greater than the current fee. Ms. Pattarini suggested that, per the PAAA, a public notice should be posted in the newspaper. Perhaps that would open our request out to a larger audience. Mr. Spaeth will review the Agency's Procurement Policy for guidance.

OLD BUSINESS: Directors and Officers Insurance

Mr. Spaeth deferred to Mr. Martin. Mr. Martin said he had been in contact with the Eisnor Insurance Agency and suggested a Broker of Record letter to assume the current policy into their book of business. He has had no response and requested Mr. Spaeth to follow-up.

NEW BUSINESS: Resource Center for Independent Living (RCIL)

The Agency has received a request from Burt Danovitz, Executive Director of RCIL as it relates to their project on Genesee Street. RCIL has taken a second mortgage on their properties located at 1607 Genesee Street and 401-409 Columbia Street in order to complete renovations at 1607 Genesee Street. As provided for in documents of the Industrial Revenue Bond issuance, changes in the financing structure of the project must be brought before the UIDA for acknowledgement.

A motion was made by Ms. Vanderhoof and seconded by Mr. Buffa to authorize the Chairman to execute any and all documents related to the inducement of the transaction. The motion passed unanimously.

NEW BUSINESS: CWC-ZuZu LLC

Mr. Spaeth had received a request from Mr. JK Hage to appear before the Agency as it related to legal counsel's fees pursuant to the assignment of the Genesee Street facility (CWC ZuZu LLC as the Agency's original agent) to Adirondack Capital LLC. Transaction Counsel (BS&K) has taken exception to this as the Agency was not informed by Mr. Hage of this action though Mr. Hage feels it was contemplated for in the original Lease Agreement documents and has since filed a Warranty Deed to that end. It is transaction counsel's opinion that the only action taken by the Agency and approved in this matter is the granting of a SubLease Agreement to Hage & Hage, LLC, not that of transferring all rights and provisions to a new Lessor.

Mr. Hage, upon learning that the Chairman would not be present at this meeting, opted to wait until full Agency representation was present to discuss his concerns.

After some discussion, Agency members stood firm in its position to stand by the opinion of Counsel. Mr. Spaeth was directed to inform Mr. Hobika, Sr. of this decision.

NEW BUSINESS: Riverside Enterprises, LLC

Riverside Enterprises LLC has contacted the Agency as part of their proposed new development of the Riverside Mall property. Riverside looks to create four out-parcels in the parking lot area of the property facing Route 12 for restaurant/retail use. Mr. Soos gave an overview of the project and Riverside's request for real property tax relief through a PILOT and other benefits.

Mr. Soos added further that the Burlington Coat Factory is expected to open in July. Steve & Barry's closed due to bankruptcy. Some vacant space still exists. Due to market constraints, Pyramid has been unable to secure a cinema for the vacated Hoyt Theater.

Discussion ensued and Mr. Soos was made aware that Pyramid would need to contact the City Assessor to sub-divide the four individual lots. It was made known that each tenant would need to present individually for UIDA consideration.

A motion was made by Ms. Pattarini and seconded by Mr. Martin calling for a public hearing as it relates to the proposed new development of the Riverside Mall transaction subject to Agency Counsel review. The motion will include a provision that Pyramid provide to the Agency, and benefits are subject to review of, architectural scheme and exterior design of the facilities. The motion passed unanimously.

NEW BUSINESS: HTC Realty, LLC

As part of HTC Realty, LLC's proposed purchase of the Harza Building, it has requested a PILOT and other UIDA benefits in an effort to offset costs associated with the property. An application and Cost Benefit Analysis have been submitted and reviewed.

A motion was made by Ms. Vanderhoof and seconded by Mr. Martin to authorize the Chairman to execute any and all documents related to the inducement of the transaction. The motion passed unanimously.

NEW BUSINESS: Buck Construction/Colonial Square.

Mr. Spaeth informed the Agency that he has met with Steve and Rich Buck from Buck Construction. The Bucks are negotiating with United Group for the purchase of up to 20 lots in the Trenton Road development for the construction and eventual sale of single family homes and townhouses. No application or supporting materials have been received to date. Mr. Spaeth stated he has scheduled a meeting with the Bucks on Thursday of this week to review their documentation.

NEW BUSINESS: Audit Review

Mr. Spaeth introduced Dick Zweifel and Scott Hosler from Gruver, Zweifel and Scott, the Agency's auditors. Mr. Zweifel informed the Agency that while the audit is going well and will be completed soon, the audit will contain a paragraph denoting the UIDA as a going concern. Agency members expressed their concern over this. Mr. Zweifel added that the financial condition of the Agency is due in most part to its ownership of the Harza Building and the continuing cost of operations and maintenance. Adding to the negative impact on the agency financials is the tremendous debt structure associated with the building. Mr. Zweifel asked about resolve to the outstanding debt. Mr. Spaeth answered that he will be securing a letter from the Mayor to the UIDA calling for the release of the \$1,327,000 debt. Further, though implied by NYS JDA/ESDC, the mortgage and note payable (\$3,759,527.46) will be released once the property has been disposed. While it can only be noted in the comment section of the audit, Mr. Spaeth will provide Mr. Hosler with a copy of the City's letter when available (by week's end). Another reason for the negative financial position is that the auditors wrote the value of the property down to its current value, based upon the proposed purchase price offered by HTC Realty, LLC which is less than the appraised value of \$600,000.

Mr. Zweifel and Mr. Hosler expressed to members that once the Agency disposes of the Harza Building, the Agency's financial position both on and off the balance sheet will be considerably better.

Mr. Spaeth informed the Agency that he has been inputting information into the PARIS System for compliance with PAAA. This includes posting required documents to the Agency's webpage on the City of Utica website. Mr. Spaeth stated that he is working with Mr. Hosler towards that end.

NEW BUSINESS: Committee Charters (Audit and Governance)

Mr. Spaeth provided Agency members with charters outlining basic parameters and duties of the Audit and Governance Committees. Members will review and discuss at next meeting of the Agency.

NEW BUSINESS: Agency Counsel Engagement

Mr. Spaeth had received an engagement letter from BS&K and forwarded it to Agency members for review and comment.

Having discussed and feeling comfortable with the level of service and expertise of the firm, a motion was made by Ms. Vanderhoof and seconded by Mr. Buffa to engage Linda Romano through Bond, Schoeneck and King as Agency Counsel. The motion passed unanimously.

EXECUTIVE SESSION:

A motion was made by Mr. Martin and seconded by Ms. Vanderhoof to enter Executive Session. The motion passed unanimously at 10:06am.

A motion was made by Mr. Martin and seconded by Ms. Vanderhoof to exit Executive Session. The motion passed unanimously at 10:18am.

ADJOURNMENT: There being no further business brought before the Agency, Mr. Buffa made a motion to adjourn which was seconded by Mr. Martin and the meeting was adjourned at 10:23 a.m.