

City of Syracuse Industrial Development Agency

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Minutes

Board of Directors Meeting
Tuesday, December 16, 2020

Due to the declaration of a public health emergency and the social distancing requirements imposed at the Federal, State and local level, this meeting was held in accordance with Executive Order 202.1 by video/telephone conference that was made available to the public.

Board Members Present: Kathleen Murphy, Steven Thompson, Kenneth Kinsey, Rickey T. Brown and Dirk Sonneborn, all via tele/videoconference (in accordance with the Governor's Executive Order 202.1).

Staff Present: Judith DeLaney, Susan Katzoff, Esq., John Vavonese, Lori McRobbie, all via tele/videoconference (in accordance with the Governor's Executive Order 202.1).

Others Present: Maarten Jacobs, Nicholas Petragani, Gail Cawley, Gail Montplaisir, Daniel Schulman, Esq., Suzanne Slack, Donna Harris, Lauryn LaBorde, Doug Sutherland, all via tele/videoconference (in accordance with the Governor's Executive Order 202.1).

I. Call Meeting to Order

Ms. Murphy called the meeting to order at 8:04 a.m.

II. Public Hearing –

Joint Schools Construction Board¹

Ms. Murphy opened the Hearing at 8:04 a.m. and asked Ms. DeLaney to read the Notice of Public Hearing on the Project. A copy of the notice is attached and included in the minutes.

Ms. DeLaney read the notice and indicated that no written comments were received. Ms. Murphy asked if anyone wished to speak in favor of the Project. No one spoke in favor of the Project.

¹ The hearing was open to the public in accordance with Executive Order 202.1.

Ms. Murphy then asked numerous times if anyone wished to speak in opposition to the Project. No one spoke in opposition of the Project.

Ms. Murphy closed the Public Hearing at 8:09 a.m.

III. Roll Call

Ms. Murphy acknowledged that in addition to herself, Board members Steven Thompson, Kenneth Kinsey, Rickey T. Brown and Dirk Sonneborn were present.

IV. Proof of Notice

Ms. Murphy acknowledged that notice of the meeting had been duly and properly provided.

V. Minutes

Ms. Murphy asked for a motion approving the minutes from the November 23, 2020 Board of Directors meeting. Mr. Brown made the motion. Mr. Kinsey seconded the motion. **THE MOTION TO APPROVE THE MINUTES FROM THE NOVEMBER 23, 2020 BOARD OF DIRECTORS MEETING WAS UNANIMOUSLY APPROVED.**

VI. New Business

Joint Schools Construction Board

Ms. Katzoff noting a Public Hearing had just concluded requested the Board consider a resolution authorizing the sale of the Agency's refunding bonds.

The resolution seeks the authority of the Board to issue up to \$30,000,000 to refund all or a portion of two series of bonds previously issued by the Agency in 2010 and 2011, to execute and deliver all the necessary bond transactional documents and to take all other necessary actions necessary to effectuate the issuance of the refunding bonds. The resolution also seeks the authorization, at the request of the school district, to reduce the Agency's administrative fee to ½ of the amount of the bonds which historically has been the request and has been authorized by the board as these funds are being used to improve the school district.

Ms. Katzoff noted there were people from the district on the call if anyone had questions. She also noted it is the anticipation that the bonds will be issued in the first quarter of 2021. They are currently shooting to issue in February.

There being no discussion Ms. Murphy asked for a motion to approve the bond sale resolution. Mr. Kinsey made the motion. Mr. Thompson seconded the motion. **ALL BOARD MEMBERS PRESENT UNANIMOUSLY APPROVED A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF THE ISSUER'S SCHOOL FACILITY REVENUE REFUNDING BONDS (SYRACUSE CITY SCHOOL DISTRICT PROJECT), SERIES 2021 (TAXABLE AND/OR TAX-EXEMPT) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$30,000,000 AND THE EXECUTION OF RELATED DOCUMENTS.**

Salina First LLC

Ms. Katzoff reported that Salina 1st is the project being undertaken at 1081 South Salina Street_. The Board previously approved this project and authorized all of the resolutions. It has been a couple of years since the original inducement, however, there was an initial delay as a result of zoning and permitting issues which have been resolved and thereafter the pandemic hit. Ms. Katzoff noted that there was a representative on the call today (Gail Montplaisir) to answer any questions. All permitting issues have been resolved with the City and the company is now in the process of putting final financing together but need a little more time to finalize. The Company is requesting the Agency Agreement be extended to June 30, 2021 to provide sufficient time to finalize financing and close on the transaction. No additional Financial Assistance is being requested.

There being no discussion Ms. Murphy asked for a motion to approve the request. Mr. Brown made the motion. Mr. Kinsey seconded the motion. **ALL BOARD MEMBERS PRESENT UNANIMOUSLY APPROVED A RESOLUTION APPROVING AN EXTENSION OF THE AGENCY AGREEMENT BETWEEN THE AGENCY AND THE COMPANY UNTIL JUNE 30, 2021; AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.**

JMA Tech Properties LLC

Ms. DeLaney reported that the Agency received correspondence from the Company requesting a waiver of the Agency's Local Access Policy for one subcontractor on the project. The Company sought bids and received three responses. Two from within the six-county area (MSA Region) and one from Chemung County company which was substantially lower. Request is for the Agency to waive its Local Access Policy for this one instance to authorize the Company to accept this lower bid. Ms. DeLaney stated that Gail Cawley is on the call if any board members had questions.

Mr. Thompson asked if the Chemung County company brings their own workers. Ms. Cawley said it is for fabrication and supervision will come from CF Evans, ideally, they will work with a local contractor for the actual labor to install.

There being no further discussion, Ms. Murphy asked for a motion to approve the request. Mr. Sonneborn made the motion. Mr. Brown seconded the motion. **ALL BOARD MEMBERS PRESENT UNANIMOUSLY APPROVED A RESOLUTION AUTHORIZING A WAIVER OF THE AGENCY'S LOCAL ACCESS POLICY.**

Franklin Lofts LLC

Ms. Katzoff reported that the Agency has received a request to waive certain provisions of the Agency Lease for the Franklin Lofts project. The Agency Lease states that transfer, sale or assignment of documents is not allowed without the prior consent of the Agency. These provisions protect the Agency so they know who the developer is, to ensure that the developer has the financial wherewithal to manage the project and that appropriate investments are being made with respect to the project.

The project closed in 2002 or 2003. The Company was given a 20-year PILOT which has approximately 3 ½ years left. The Company is looking to refinance the project so they can re-invest all of the money back into the project to replace all of the windows in the building. The total cost is over \$2,000,000. Ms. Katzoff noted that Doug Sutherland was on the call to answer any questions. The replacement of the windows is necessary to keep the project viable going forward. Refinance is through Freddie Mac and Freddie Mac refuses to refinance unless the lease transactional documents would remain in place in the event of a foreclosure. In the event of a foreclosure Freddie Mac wants to maintain the lease and PILOT structure and they want it to remain in place for one subsequent sale without the need for the Agency's prior approval.

As part of the refinance, Freddie Mac would agree to assume, in the event of a foreclosure, all of the obligations under the lease transactional documents, to operate it as a project, agree to comply with all of terms a developer would expect the need or prior consent for one subsequent assignment.

Ms. Katzoff recommended the board consider the following in making a determination: this was a 20-year PILOT and you are 17 years into the PILOT and there has never been a late payment or default under the transactional documents. There are only approximately 3 1/2 years left on the PILOT and the last year ramps up to 100% of real property taxes. This is an exceptional request because of how Freddie Mac is doing business right now. Another consideration to be taken into account is that lenders are underwriting and looking at projects differently than they did before because of the worldwide pandemic. There are other industrial development agencies that have allowed this kind of transfer to take place because you are maintaining economic development. The risk to the Agency of not knowing who the new developer would be in the event of a foreclosure.

Ms. Katzoff noted that the developer, Doug Sutherland and Nick Petragani from the lending side are on the call to answer any questions.

Mr. Petragani, Senior Vice President and Regional Director of the Community Preservation Corporation (CPC), spoke about the request from an underwriting perspective. CPC is an affordable housing and community revitalization finance firm and a seller servicer for Freddie Mac which allows CPC to originate loans on behalf of Freddie Mac which they end up purchasing. CPC did the construction and permanent financing on this project and is now working on the refinancing to allow the Company to pull some equity out to finance the window replacement project. The challenge is the underwriting issue. Since the COVID pandemic Freddie Mac has become more conservative in their underwriting by greatly reduced any income associated with mixed-use projects that have a commercial component. For this project they have completely discounted the income from 2 tenants and with the remaining commercial tenants they have taken a 30% vacancy and collection factor despite the fact that the commercial side has been fully leased since day one and the residential side has maintained a high occupancy rate. The underwriting being undertaken by Freddie Mac is very conservative and they are requiring that the abated/PILOT be included in the unlikely event at there is a foreclosure they want to make sure the PILOT survives so the underwriting is maintained.

Mr. Sutherland talked about the project and showed a slide show regarding the removal of the old factory windows. A copy of the side show is attached. Mr. Sutherland explained that during

construction, the factory windows could not be removed for historic reasons. The windows were restored which was just a band-aid but not a permanent solution. The windows have been leaking and freezing. The frames are rusted which causes glass panes to break. Mr. Sutherland outlined the plan for the refinance funds which are outlined in the attached slides.

Ms. Katzoff asked Mr. Petragani to confirm that if the board agrees to the waiver, Freddie Mac will agree (now) to assume the leases and the PILOT Agreement in the event of a future foreclosure. Mr. Petragani said yes. Mr. Schulman, counsel for the developer said that was his understanding as well that Freddie Mac would assume the obligations under the leases. Ms. Katzoff said this provides protection for the Agency in terms of maintaining the project as a qualified project under the General Municipal Law and making the PILOT payments. Freddie Mac would assume the obligations in the first instance and be permitted to sell the property/project to one subsequent owner without requiring SIDA's consent. The subsequent owner would likewise have to assume the obligations under the lease documents.

Ms. Murphy stated that she asked Ms. Katzoff to work with counsel for both the lender and the developer and just confirm in the documents, if this is approved, should the developer be in foreclosure, that the lender would provide notice to the IDA so they would know who the next owner or operator would be.

Mr. Sonneborn asked Ms. Katzoff for simplification and quantification of the board's risk. Ms. Katzoff said the only risk to the Agency is that they would not know ahead of time who the developer/owner becomes in the unlikely event of a foreclosure. Protection for the Agency is that Freddie Mac would be obligated to assume all of the obligations under the leases including reporting and use of the project.

Ms. Katzoff said financial exposure is no greater than now. Lender would have to cure default and make payments so in some ways there is greater security.

Ms. Murphy reminded everyone that the refinance includes a \$475,000 reserve fund.

Mr. Sutherland said they have been through a rigorous underwriting process with the lender and it was determined that they are not a bad risk.

Mr. Petragani said the reserve fund is there for debt service issues.

Ms. Murphy asked Mr. Sutherland if residential side is holding up since the pandemic. Mr. Sutherland reported that occupancy rates are no different than last year. The coffee shop and hair salon have taken a hit.

There being no further discussion, Ms. Murphy asked for a motion to approve the request. Mr. Sonneborn made the motion. Mr. Kinsey seconded the motion. **ALL BOARD MEMBERS PRESENT UNANIMOUSLY APPROVED A RESOLUTION AUTHORIZING A WAIVER OF THE AGENCY'S POLICY RELATIVE TO THE SURVIVABILITY OF A PILOT AGREEMENT.**

Volunteer Lawyers Project of Onondaga County Inc.

Ms. Murphy asked that Ms. Katzoff step out of the meeting as she is on the board of the Volunteer Lawyers Project.

Ms. DeLaney reported that in July 2020 the Board of Directors approved a resolution establishing a COVID-19 Emergency Grant and Loan Program. It was anticipated that loans may be given to both commercial and not-for-profits. One of the provisions of the resolution for the loans was that a borrower had to provide collateral satisfactory to the Agency. The only loan approved was to the Volunteer Lawyers Project (VLP) who was approved for a loan in the amount of \$25,000. VLP has advised that their New York State funding has been delayed and they would like to initiate the loan. As a non-profit, VLP is not able to provide a personal or corporate guarantees or collateral and as such, staff is requesting a waiver of this requirement.

Mr. Sonneborn asked if it was a timing circumstance with the State it is not a question of collectability issue and Ms. DeLaney confirmed it was a timing issue. Mr. Sonneborn said he would like to see that representation to that fact formal documented. Ms. DeLaney said she will request the formal written correspondence advising of that.

There being no further discussion, Ms. Murphy asked for a motion to approve the request. Mr. Sonneborn made the motion. Mr. Kinsey seconded the motion. **ALL BOARD MEMBERS PRESENT UNANIMOUSLY APPROVED A WAIVER OF A TERM AND CONDITION THE COVID-19 EMERGENCY LOAN PROGRAM RELATIVE TO THE VOLUNTEER LAWYERS PROJECT OF ONONDAGA COUNTY.**

Ms. DeLaney reported that with regard to the grant portion of the program they have disbursed approximately \$171,000 and they have \$110,000 left. She expects that balance will be disbursed by the end of the year.

2021 Board of Directors Meeting Schedule

Ms. Murphy invited Ms. Katzoff back into the meeting. Ms. Katzoff rejoined.

Ms. Murphy indicated that the new board meeting schedule is attached to the agenda.

Ms. Katzoff reported to the Board that the Dupli Associates project was closing the following day and that the Smith Building project closed approximately 10 days ago. The Maguire project and the Salt City Market projects are set to close on Monday, December 21, 2020. She congratulated the board on all really great projects and a successful year end.

VII. Adjournment

There being no further business to discuss Ms. Murphy asked for a motion to adjourn the meeting. Mr. Brown made a motion. Mr. Kinsey seconded the motion. **ALL BOARD MEMBERS PRESENT UNANIMOUSLY APPROVED A MOTION TO ADJOURN THE MEETING AT 8:50 AM.**