

Frank S. Venezia
Chairman
Joseph P. Richardson
Vice Chairman
Tim McCann
Secretary
Victoria Storrs
Assistant Secretary
Sandra Shapard
Member
Tim Maniccia
Member
David Kidera
Member

TOWN OF BETHLEHEM
Albany County - New York
INDUSTRIAL DEVELOPMENT AGENCY

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 DELMAR, NEW YORK 12054
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Regular Meeting Minutes
Friday, April 28, 2017
8:00 AM
Town Hall Auditorium

Thomas P. Connolly
*Executive Director,
 Assistant Secretary and
 Agency Counsel*
 518-447-3303
Allen F. Maikels
*Treasurer, Chief Financial Officer
 and Contracting Officer*
 518-487-4679
Elizabeth Staubach
*Economic Development
 Coordinator*
 Ext. 1189
Robin Nagengast
*Assistant to the Executive Director
 and Clerk*
 Ext. 1164

I. Call to Order/Roll Call/Quorum Determination

A Regular Meeting of the Bethlehem Industrial Development Agency of the Town of Bethlehem was held on the above date at the Town Hall Auditorium, 445 Delaware Avenue, Delmar, NY. The Meeting was called to order at 8:00 AM with the presence of a quorum noted.

Attendee Name	Title	Status	Arrived
Frank S. Venezia	Board Member/Chairman	Present	
Joseph P. Richardson	Board Member/Vice Chairman	Absent	
Tim McCann	Board Member/Secretary	Absent	
Victoria Storrs	Board Member/Assistant Secretary	Present	
Sandra Shapard	Board Member	Present	
Tim Maniccia	Board Member	Absent	
David Kidera	Board Member	Present	
Thomas P. Connolly	Executive Director/Agency Counsel	Present	
Joe Scott	Bond Counsel	Absent	
Allen F. Maikels	CFO and Contracting Officer	Present	
Robin Nagengast	Assistant to the Executive Director	Present	
Elizabeth Staubach	Senior Planner/ED Coordinator	Absent	
Robert Leslie	Director of Planning	Present	
Nadene Ziegler	Hodgson Russ	Present	

II. Minutes Approval

- **SPECIAL MEETING MINUTES WEDNESDAY, MARCH 22, 2017**

RESULT: APPROVED [UNANIMOUS]
MOVER: Sandra Shapard, Board Member
SECONDER: Victoria Storrs, Board Member/Assistant Secretary
AYES: Frank S. Venezia, Victoria Storrs, Sandra Shapard, David Kidera
ABSENT: Joseph P. Richardson, Tim McCann, Tim Maniccia

2. Thursday, March 23, 2017

RESULT: ACCEPTED [UNANIMOUS]
MOVER: David Kidera, Board Member
SECONDER: Victoria Storrs, Board Member/Assistant Secretary
AYES: Frank S. Venezia, Victoria Storrs, Sandra Shapard, David Kidera
ABSENT: Joseph P. Richardson, Tim McCann, Tim Maniccia

III. Reports of Committees

No reports of committees.

IV. Communications

No communications to report on.

V. Old Business

- **PLANNING BOARD UPDATE (LESLIE)**

Air Products is under review and the project may be approved at the first Planning Board meeting in May.

Carver Laraway project's phase 2 is under review - phase 2 is a permanent inlet for bringing in boats and barges for repair.

NYS DOT awarded Bethlehem a grant for intersection improvements at 9W and Feura Bush Road which include a roundabout and sidewalks. The design phase is expected to start in 2018; construction would be a couple of years later.

- **REPORT OF ED COORDINATOR (LESLIE)**

Microenterprise Grant applications are being accepted. Committee meetings will be scheduled in May.

Liz Staubach returns from maternity leave May 1.

The Economic Development Marketing Event is scheduled for June 15 at 1273 River Road in Selkirk, a location that ties in well with current Town initiatives, including LWRP. Save the dates have been emailed - formal invites to follow.

- **COLUMBIA 15 PROJECT (CONNOLLY)**

No new information.

- **SAE SUN (MONOLITH) PROJECT (JENNIFER PICKETT)**

Ms. Pickett reported the loan is being considered by the loan committee at NYBDC and SBA should receive the application soon. She expects an answer from Key Bank early next week.

- **AIR PRODUCTS PROJECT (CONNOLLY)**

Air Products expects to close within the next two weeks.

VI. New Business

- **APPLICATION CPI BETHLEHEM BERK III LLC & CPI BETHLEHEM BERK IV LLC FOR ASSIGNMENT, ASSUMPTION, CONSENT AND RELEASE OF FINANCIAL ASSISTANCE DOCUMENTS NOW OWNED BY CPI BETHLEHEM BERK I LLC AND CPI BETHLEHEM BERK II LLC (CONNOLLY)**

The current project tenants requested to transfer a percentage of ownership to two additional companies. Ms. Ziegler presented the resolution. No additional benefits will be provided by the Agency. The fee will be \$1,500.

- **A. AGENCY FEE (CONNOLLY)**

- **B. RESOLUTION (ZEIGLER)**

RESOLUTION CONSENTING TO CONVEYANCE OF A PORTION OF FEE INTEREST IN CONNECTION WITH THE VISTA 11 PROJECT AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS WITH RESPECT THERETO.

WHEREAS, Town of Bethlehem Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws 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 582 of the 1973 Laws of New York, as amended, constituting Section 909-b 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, reconstructing, 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 one or more “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, on May 9, 2012, (the “Closing Date”), the Agency entered into a lease agreement dated as of May 1, 2012 (the “Lease Agreement”) by and between the Agency and Columbia Bethlehem Berk LLC (the “Original Company”) for the purpose of undertaking a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest in an approximately 0.57 acre parcel of land located at 11 Vista Boulevard in the Town of Bethlehem, Albany County, New York (the “Land”), (2) the construction on the Land of an approximately 2,500 square foot building (the “Facility”), (3) the further construction on the Land of related parking and other infrastructure improvements (collectively, the “Improvements”) and (4) the acquisition and

installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property including without limitation tenant improvement and finish (collectively, the “Equipment”) (the Land, the Facility, the Improvements and the

Equipment being collectively referred to as the “Project Facility”), all of the foregoing to be owned by the Original Company and leased to a tenant for use by the tenant as a financial branch center for banking services and other related uses; (B) the granting of certain financial assistance with respect to the foregoing, including exemptions from real estate transfer taxes, sales taxes and mortgage taxes (the “Financial Assistance”); and (C) the lease of the Project Facility to the Original Company pursuant to the Lease Agreement; and WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the “Closing”), (A) the Original Company executed and delivered to the Agency (1) a certain lease to Agency dated as of May 1, 2012 (the “Lease to Agency”) from the Original Company to the Agency, (2) a certain license agreement dated as of May 1, 2012 (the “License to Agency”) by and between the Original Company, as licensor, and the Agency, as licensee, pursuant to which the Original Company granted to the Agency (a) a license to enter upon the balance of the Land (the “Licensed Premises”) for the purpose of undertaking and completing the Project and (b) in the event of an occurrence of an Event of Default by the Original Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement, (3) a bill of sale dated as of May 1, 2012 (the “Bill of Sale to Agency”), which conveyed to the Agency all right, title and interest of the Original Company in the Equipment and (4) a payment in lieu of tax agreement dated as of May 1, 2012 (the

“Payment in Lieu of Tax Agreement”) by and between the Agency and the Original Company, pursuant to which the Original Company agreed to pay certain payments in lieu of taxes with respect to the Project Facility and (B) the Agency (1) mailed to the assessor and the chief executive officer of each “affected tax jurisdiction” (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the “Real Property Tax Exemption Form”) relating to the Project Facility and the Payment in Lieu of Tax Agreement and (2) executed and delivered to the Original Company a sales tax exemption letter (the “Sales Tax Exemption Letter”) to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance (collectively, with the Lease Agreement, the “Basic Documents”); and WHEREAS, on or about December 19, 2012, the Agency and the Original Company entered into an assignment and assumption agreement (the “Assignment and Assumption Agreement”), whereby the Original Company assigned the Project Facility and the interests of the Original Company in the Basic Documents to RSN Bethlehem LLC (“RSN”); and WHEREAS, on or about January 9, 2017, the Agency and RSN entered into an assignment and assumption agreement (the “Second Assignment and Assumption Agreement”), whereby RSN assigned the Project Facility and the interests of RSN in the Basic Documents to CPI Bethlehem Berk I LLC (“CPI Berk I”) and CPI Bethlehem Berk II LLC (“CPI Berk II”); and WHEREAS, pursuant to correspondence dated March 13, 2017, attached hereto as Exhibit A (the “Request”), the CPI Berk I has requested the Agency to (A) consent to the conveyance (the “Conveyance”) of a portion of CPI Berk I’s fee interest in the Land and the Facility to CPI Bethlehem Berk III LLC (“CPI Berk III”) and CPI Bethlehem Berk IV LLC (“CPI Berk IV”) and collectively with CPI Berk III, “CPI”), each a New York limited liability company (information regarding CPI is attached hereto as Exhibit B) and (B) authorize the Agency to modify the Second Assignment and Assumption Agreement to allow for the Conveyance pursuant to a modification agreement (the “Modification

Agreement”) by and among the Agency, CPI Berk I, CPI Berk II and CPI; 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 adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to proceed with the Request; and WHEREAS, pursuant to SEQRA, the Agency has examined the Request in order to make a determination as to whether the Request is subject to SEQRA, and, based on discussions with Agency Special Counsel, it appears that the Request constitutes a Type II action under SEQRA; NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF TOWN OF BETHLEHEM INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Based upon an examination of the Request and discussions with Agency Special Counsel, the Agency hereby makes the following determinations: (A) The Request constitutes a “Type II action” pursuant to 6 NYCRR 617.5(c)(23) and (26), and therefor that, pursuant to 6 NYCRR 617.6(a)(1)(i), the Agency has no further responsibilities under SEQRA with respect to the Request.

(B) That since compliance by the Agency with the Request will not result in the Agency providing more than \$100,000 of “financial assistance” (as such quoted term is defined in the Act) to the CPI Berk I or CPI Berk II, Section 859-a of the Act does not require a public hearing to be held with respect to the Request.

Section 2. The Agency hereby approves the Request and consents to (A) the Conveyance subject in each case, however to the following conditions: (1) receipt of confirmation that all real property taxes and payments in lieu of taxes required by the Project have been satisfied; (2) that the Agency does not intend to grant any further benefits in connection with the Request; (3) receipt by Agency Counsel of the written consent of any holder of any mortgage on the Project Facility or evidence that there are no security documents filed relating to the Project; (4) compliance with the terms and conditions contained in the Second Assignment and Assumption Agreement and the Basic Documents; (5) approval by Special Counsel to the Agency of the form of the documents to be executed by the Agency in connection with the Request, including the Modification Agreement (collectively, the “Modification Documents”); (6) receipt by the Agency of its administrative fee relating to the Request in an amount equal to \$1,500 and all fees and expenses incurred by the Agency with respect to the Request, including the fees and expenses incurred by Agency Counsel and Special Counsel with respect thereto; (7) that no mortgage tax exemption shall be granted by the Agency in connection with the execution and delivery of the Modification Agreement; and (8) the following additional conditions: _____.

Section 3. Subject to (A) satisfaction of the conditions contained in Section 2 hereof, including the condition that no modifications provide any new tax relief for the Project (such as an extension of the term, increase in abatement or change in the Payment in Lieu of Tax Agreement); and (B) the execution and delivery of the Modification Documents by the other parties thereto, the Chairman (or Vice Chairman) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Modification Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the forms thereof approved by counsel to the Agency, with such changes, variations, omissions and insertions as the Chairman (or Vice Chairman) shall approve, the execution thereof by the Chairman (or Vice Chairman) to constitute conclusive evidence of such approval.

Section 4. 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 or provided for by the provisions of the Modification Documents, and to execute and deliver all such additional 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 this Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Modification Documents binding upon the Agency.

Section 5. This Resolution shall take effect immediately.

RESULT: APPROVED [UNANIMOUS]
MOVER: Victoria Storrs, Board Member/Assistant Secretary
SECONDER: David Kidera, Board Member
AYES: Frank S. Venezia, Victoria Storrs, Sandra Shapard, David Kidera
ABSENT: Joseph P. Richardson, Tim McCann, Tim Maniccia

- **FINANCIAL STATEMENTS 3/31/17 (MAIKELS)**

Mr. Maikels presented the financials as of March 31, 2017.

- **REPORT: EMPLOYMENT ANALYSIS OF PROJECTS 12/31/16 (CONNOLLY)**

The project employment analysis discussion was tabled due to time constraints.

- **CENTER FOR ECONOMIC GROWTH REQUEST FOR INCREASE IN INVESTMENT TO \$3,000 (CONNOLLY, DAVID ROONEY, JOHN GIORDANO)**

- **A. CEG MATERIALS: REPORT CARD, CASE STATEMENT & INVESTOR BY LEVEL (ROONEY & GIORDANO)**

John Giordano and David Rooney presented on behalf of CEG and answered board member questions. Further discussion and a vote were tabled.

- **REGULAR MEETING - FRIDAY, MAY 26, 2017 8:00 A.M. AUDITORIUM**

VII. Adjournment

Motion To: Adjourn

RESULT: ADJOURN [UNANIMOUS]
MOVER: Victoria Storrs, Board Member/Assistant Secretary
SECONDER: Sandra Shapard, Board Member
AYES: Frank S. Venezia, Victoria Storrs, Sandra Shapard, David Kidera
ABSENT: Joseph P. Richardson, Tim McCann, Tim Maniccia