



ACCEPTED BY BOARD MEMBERS
JUNE 24, 2021

DRAFT MINUTES
IDA REGULAR MEETING
MAY 20, 2021

Present: Natalie Wright, Chair
Kevin Harvey, Vice Chair
Anthony Giordano, Secretary
Sondra Cochran, Treasurer
Brian Beedenbender, Member
Josh Slaughter, Member

Excused Absence: Gregory Casamento, Member

Also Present: Anthony Catapano, Executive Director
Kelly Murphy, Deputy Executive Director
Daryl Leonette, Executive Assistant
Regina Halliday, Bookkeeper
William Wexler, Esq., Agency Counsel
Andrew Komaromi, Esq., Harris Beach PLLC, Transaction Counsel
William Dudine, Esq., Katten Muchin Rosenman LLP, Transaction Counsel
Gary Basso, Esq., Katten Muchin Rosenman LLP, Transaction Counsel
William Weir, Esq., Nixon Peabody LLP, Transaction Counsel
Melissa Bennett, Esq., Barclay Damon, LLP, Transaction Counsel
Greg Gordon, ZE Creative Communications
David Chauvin, ZE Creative Communications
Grant Havasy, Managing Partner, BGNV AVE LLC
Daniel Baker, Esq., Counsel to BGNV AVE LLC
Jay Rhatican, Hartz Mountain Industries, Inc.
Sal Gentile, Hartz Mountain Industries, Inc.
Mark Wolf, CEO, Contract Pharmacal Corporation
Garrett Gray, Esq., Counsel to Contract Pharmacal Corporation
Jason Stern, Esq., Counsel to Contract Pharmacal Corporation
Eric Antman, CFO, Contract Pharmacal Corporation
Stephanie Handel, Sheehan & Company, CPA, PC
Joseph Alvarez, Sheehan & Company, CPA, PC
Anthony Mariani, Sheehan & Company, CPA, PC
Brian Petersen, Partner, PKF O'Connor Davies Accountants & Advisors

The Regular Meeting of the Suffolk County Industrial Development Agency was held remotely via Zoom. Members of the public were able to listen and view the Meeting through the Agency's website via its YouTube Channel. The Meeting was called to order at 12:35 p.m. by Natalie Wright, Chair of the IDA.

Ms. Wright stated this is the May 20, 2021 Regular Meeting of the Suffolk County Industrial Development Agency and for the record we have a quorum present on Zoom. The notice of the meeting followed the Open Meetings Law and the Meeting is being held pursuant to Executive Order 202.1 (2020) and further extended as set forth by the Governor of NYS.

Ms. Wright asked Mr. Catapano to proceed with the Meeting. Mr. Catapano proceeded with the roll call of Board Members. Also present were staff members, agency counsel, transaction counsels, agency accounting firm and auditors.

Ms. Wright stated for the Public Comment portion of the Agenda the public may submit comments via email to info@suffolkida.org or they may be mailed to the Suffolk County Industrial Development Agency.

Ms. Wright stated that the IDA provides an opportunity for public comment at our Meetings although legally we are not required to do so. We do this in addition to the public hearings that are held for every IDA project. As a result of the pandemic, the Agency was forced to switch to virtual meetings but continued to maintain the public comment period at these meetings. The Agency switched it to a written collection format throughout the pandemic and the collection of written public comment has worked well and was what most other public bodies including the County Legislature were following. We received no concerns and or questions regarding that practice. Ms. Wright indicated in the last 24 hours we received requests to have spoken public open comments again. In response to this request we will develop a process that the next meeting will allow for spoken public comment. Furthermore, the opportunity for public comment can also be done at any of the public hearings that are held for the project.

Mr. Catapano stated that we currently have received eight public comment letters and we are in the process of posting them to our website SCIDA.org. The full IDA Meeting packet can also be found on the website. Mr. Slaughter asked when did the Agency switch to a written comment process, last year Legislator Trotta spoke through video. Mr. Catapano responded it was done once last year and there were some technical issues, throughout the pandemic we have been utilizing written comments. We can consider and review and possibly change this process at an upcoming meeting. To try to do this now for this meeting is difficult, we did not give notice to the public of a possible change and as Ms. Wright pointed out previously some Agencies do not have public comments at all. The Agency allows it and we are transparent. Mr. Slaughter indicated that he spoke with some Legislator's and they were frustrated that they were unable to speak at the meeting and felt as elected officials they should have the ability to. Mr. Catapano replied physically it would be impossible, these meetings are very challenging as within the last 24hrs. receiving many requests and making sure nothing was missed. It puts additional strain on everyone including the Board Members. Mr. Giordano asked are the comments related to one subject and Mr. Catapano responded most of them are related to the Long Island First Policy and Hartz Mountain. Mr. Giordano asked most of the comments were received today and yesterday and Mr. Catapano responded correct and late afternoon yesterday. Mr. Catapano stated we received a letter from Legislator Hahn on April 29, 2021. Mr. Giordano stated the people that are making these comments were they made aware that the Long Island First Policy was going to be on the Agenda. Mr. Catapano said the policy has been on the Agenda previously. Mr. Giordano asked when were the people that are making comments made aware of it and Mr. Catapano responded we sent the draft agenda last night. Mr. Giordano said I can understand people making comments when they only received the information yesterday. Mr. Catapano said the individuals who wish to speak at the meeting today have submitted written comments but they also wanted to speak. Mr. Catapano said all of this information was posted on the website on the Monday before the meeting. Mr. Giordano there are so many comments coming in on one item on the Agenda we need to discuss it. Ms. Wright said your point is taken; we want to provide the opportunity in the future that will insure that everyone receives the notice. We want to make sure that technology wise and logistically that it works well and we will be prepared for the next meeting. Ms. Murphy indicated that she has one additional letter from Legislator McCaffrey. Mr. Beedenbender asked do we have to sit and have you read eight letters, Mr. Wexler said they don't need to be read. Ms. Cochran said we have reviewed the letters they have the same concerns maybe read one or two. Mr. Harvey said you included most in the packet why don't you read the letters that the Board didn't see and everyone agreed.

Mr. Catapano read the following letters from Kara Hahn, Suffolk County Legislator 5th. District; Anthony Villa, Business Manager, North Atlantic States Regional Council of Carpenters; Danny Grodotzke, Business Manager, Plumbers Local Union No. 200 of United Association of Journeymen and Apprentice of the Plumbing & Pipe Fitting Industry; Bridget Fleming, Suffolk County Legislator, 2nd District; Kevin McCaffrey, Suffolk County Legislator, 14th. District; Ryan Stanton, Political Director, Long Island Federal of Labor; John Cush, Business Agent/V.P., Iron Workers Local Union 361; Tom Donnelly, Suffolk County Legislator, 17th. District.

NEW BUSINESS

Long Island First Policy: Proposed additional language to clarify the policy.

Mr. Catapano presented Exhibit A. Ms. Wright stated that the IDA has no authority to mandate the use of local labor, the Agency does urge applicants to utilize local goods and services providers. We currently have a Long Island First Policy the IDA mission is to grow the economy and grow local job opportunities. This policy is an extension of this all-encompassing purpose, the Agency outside the Hartz Mountain application had already been discussing revising the policy. The Suffolk County IDA is the only IDA in the State with a policy requiring consideration of an active pursuit of local labor with an IDA incentivized project. The purpose of the Long Island First Policy is to provide notification of business opportunities on IDA incentivized projects for all contractors, vendors and service providers. We have worked with a broad base of stake holders and a broad base of viewpoints in revising the policy with a goal of achieving a policy that is operationally reasonable for all involved. The new policy language requires the applicant to notify the Building and Construction Trades Council of Nassau & Suffolk Counties to encourage participation in bids for local contractors. This pertains to any project regardless of size. Project applicants must also obtain three bids from Nassau and Suffolk contractors for all construction contracts in excess of \$3 million dollars. Ms. Wright stated if applicants cannot adhere to the policy, they must demonstrate attempts made to comply with the Long Island First Policy.

Ms. Murphy indicated that she received another letter via the website. Mr. Catapano read the letter from Kyle Strober, Executive Director, Association for a Better Long Island (ABLI) to Board Members.

Ms. Wright stated regarding the aspect of not having authority to mandate the use of all local labor can you please speak about that and the ability to not mandate a preference. Mr. Wexler provided a brief background and said Ms. Wright, Mr. Catapano, Mr. Harvey, Mr. Slaughter and I have been working on this a long time. We have had two meetings with stakeholders from labor and business. Preliminarily, the IDA cannot compel or set up disadvantages for out of Suffolk County businesses it violates the Interstate Commerce clause. Mr. Wexler indicated that he saw the letters stating we must prevent, we cannot do that all we can do is encourage. We are not a regulatory Agency, we don't have law enforcement powers and the United States Supreme Court has said you can encourage. We are using the strongest language and cannot penalize a company for using out-of-state labor. We try to set up this policy, we have all been working on it at the end of day we want to give labor a fair shot but we cannot force a company to use Long Island labor. Mr. Harvey stated in answer to what Mr. Wexler said we cannot force corporation's to use Long Island labor that may violate Interstate Commerce Clause we have plenty of corporate neighbors that have been given IDA breaks that have used Long Island labor. Some of those companies are Henry Schein and Computer Associates they honored the Long Island First Policy to the best of their ability. We do understand that there are many companies that are willing to work with us and try and work with the Long Island First Policy and also receive tax breaks. Mr. Harvey stated that he was involved along with Mr. Slaughter in trying to implement language that was constructive to make the Long Island First Policy friendlier to everyone including labor on Long Island. The policy is headed in the right direction, there have been changes made recently that he does not agree with. Mr. Harvey said he would like to know where the \$3 million dollar threshold regarding construction projects per individual contract came from how it was suggested and was it debated, analyzed and or discussed with other people. Mr. Harvey stated he did not remember hearing anything about a threshold. Ms. Wright stated there was a discussion of a threshold at our last conversation with the building trades, Kyle Strober, Federation of Labor, the threshold was a higher number we were trying to strike a balance and provide an aspect of clarity around a number. The intention around the number is that smaller contractors may have difficulty obtaining three bids on smaller contracts that is where the idea of having a number generated from. We wanted to insure on large contracts that there was at least three local bids that were received either union or non-union, we chose large contract per value rather than a per contract value. Mr. Harvey stated union or non-union is not an issue it's about providing jobs for Long Island. Mr. Harvey said he recalls in conversation Kyle Strober putting out a number and it wasn't discussed any further and it was his suggestion. It states that in all contracts in excess of \$3 million, does that mean that if there was an electrical contract of \$3.1 million and the plumbing contract was \$2.9 million that the plumbing contract would not have to go out for three separate bids. Ms. Wright stated that is the way it is currently written, notification to the building trades is required for every contract regardless of contract value. The thought process is that if notice is provided and the requirement is to provide notice to the building trades and to a broad base of local contractors they are not the only source of notification there needs to be multiple sources. If contractors are interested in bidding on the work then we would expect that it is likely to receive multiple bids on all contract sizes regardless of the \$3 million dollar threshold we put that in the policy to try and insure to the extent practical that we receive three bids on the larger contracts. Mr. Harvey stated that he believes the \$3 million dollar threshold is too high, and it is a toothless tiger when it comes to protect the Long Island worker. With the changes that have been made more recently, I am not in favor of the policy as it stands. Ms. Cochran said regarding

and still comply with the Long Island First Policy”. This maybe a way for them to get around it. Mr. Giordano stated Mr. Harvey was sitting on the panel discussing this language and not aware of this, what is Mr. Slaughter’s opinion he sat on the panel as well. Mr. Slaughter stated he is definitely disappointed with the process he spent over a decade in government and worked on public policy and crafting public policy. When you bring all parties together for a discussion to come to a compromise and find a solution that works for everybody there has to be dialogue back and forth. There was a comprehensive proposal given, we went months without having any discussion and within two weeks of this meeting they presented us with a proposal to review. We had one meeting and were told we need to figure this out for the next meeting which is May 20, 2021. There was some compromise on a few things I thought we felt all parties weren’t going to be happy but we could live with it. In the eleventh hour things got changed without any input, questions or debate about it and there was also the language of retraction of benefits. If someone violates the policy we were very clear we thought that should be stronger. Mr. Slaughter thought that we had agreed that this was going to be changed, and a decision was made to not change that language and the board was notified of it. This was disappointing, and he doesn’t think this is a good way to come together on public policy. Regarding the threshold, he thinks there are too many loopholes, it can be broken up into phases too get under the threshold and to not have to comply with three bids. Three bids is general practice in the industry union, non-union it doesn’t matter if you want the best price it is standard to get three bids. A threshold should be per project, \$3 million dollars is a big threshold almost nothing would have to comply with this. Mr. Slaughter stated this is an arbitrary number no one thought it out, how it would work or how it would be applied he would not support the project with that in it. Mr. Slaughter indicated that he thinks we are doing a disservice to the other Board Members to not give them an opportunity to at least have input in this process. He feels the other Board Members should have had an opportunity to review the policy and have some input before two days before the meeting. Ms. Cochran stated that she agrees, she is a little confused going back to Mr. Wexler’s comments you said that we cannot penalize a company if they violate the Interstate Commerce Clause how can we penalize for not adhering to the Long Island First Policy. Mr. Wexler replied one is contractual and the other is constitutional if a company enters a lease agreement for 15 years that is contractual. Mr. Wexler stated we can do a claw back but we can’t go the other way. Mr. Wexler stated he was in this process from the very beginning of working on the Long Island First Policy and thinks it was very fair. We had many drafts of this policy and worked very hard, Ms. Cochran replied I know they worked hard. Mr. Wexler stated the reality is we have a monthly board meeting and we can’t have a separate meeting with more than three people because it then becomes a public meeting/board meeting we have stringent limitations that we must follow. We came up with a policy, but nobody is going to make everybody happy, we are trying to fashion what we believe is a fair policy for the Board to consider. We did not pick these numbers out of the sky \$3 million was chosen, for example if a company is in the middle of building the project and they have to put another \$30,000 into it what do they have to do stop and start soliciting bids. Mr. Giordano stated whether we agree or disagree with the language, the threshold and the other issues he agrees with Mr. Slaughter he found out about this yesterday and would love to have been involved in the process as well. Mr. Giordano stated he is voting on something today that he hasn’t given much thought to and see’s there is some controversy on it. Mr. Beedenbender stated he had a question for Mr. Wexler, thank you for clarifying everything. This board has no power to immunize people from being protested by Labor Unions is that correct and Mr. Wexler replied yes it’s called the First Amendment. Some people have asked that we claw back benefits, if as a Board we can’t mandate how we take it back if they don’t do it in this case they would agree to contractual language and it would be to the Board’s discretion. Mr. Beedenbender asked if that is accurate and Mr. Wexler replied yes it is existing. Mr. Beedenbender asked when was the last time this Board clawed back a project and Mr. Catapano replied last month and since 2014 we clawed back almost \$3 million dollars. Mr. Wexler indicated that the Agency clawed back about 5 times, we have not had one where we had to litigate. Mr. Catapano stated Mr. Wexler is correct, we have not had anyone object to it. Mr. Harvey said, Ms. Wright I am getting the sense that some of the Board would have liked greater participation so I am requesting a motion to table this request. Ms. Cochran stated that she would like to clarify her purpose for being involved in the discussion about the policy; it’s not that she doesn’t trust the process. Ms. Wright stated the materials were sent out to Board Members on Monday afternoon with the revised proposed policy and she reached out to the Board on Tuesday to make sure they were aware. Mr. Harvey stated that he was part of the discussion along with Mr. Slaughter and the industry leaders, everyone worked very hard as Mr. Wexler stated. This is not to put a black mark on the Long Island First Policy as it was presented there is good language in it. It could be better and maybe some of the other Board Members being part of the discussion may come up with different ideas as to how we can make everything work. We were not happy when we saw the extra added language to the policy. Mr. Harvey indicated that he just doesn’t think the Long Island First Policy is quite there yet and further discussion is needed. Mr. Wexler stated since we are not constituted as a Board and we are all here if anybody has any other issues they would like to raise, the reason is it is very cumbersome to loop in two Board Members at a time. We cannot have three separate meetings to try and loop in everybody. We should have all discussions now so that everyone is on board before a motion is made. Mr. Beedenbender stated he would start, he would prefer that the dollar threshold be on the entirety of the project as opposed to segments. He would like to ask staff if we can look at some of the projects that we have approved and decipher what is the average size of a project that this IDA supports that would give him some thought process of putting any dollar amount in its context. Mr.

and start getting three separate bids. These are all the things that keep coming up if the Board says yes we want them to do that we can, are we putting undue burden on a \$12,500 job. Mr. Slaughter said we continue giving examples of something small like \$12,000 are we going to make someone go out and get bids but then we come up with a number like \$3 million as a threshold it is not a small contract. Mr. Slaughter stated that he does not think a threshold is necessary. If you want to come up with an exemption for something tiny, getting three bids is good business for the contractor. Mr. Wexler said what if you are in the middle of a project and some other work needs to be done for \$30,000 do they have to stop work and pursue three bids. They have to keep coming back to the Board and our staff is Tony, Kelly, Daryl and Regina, part-time bookkeeper we have considered everything these are the issues what happens in all of these events. Mr. Giordano said it was discerning that Mr. Harvey found out about the threshold after the fact, both Mr. Slaughter and Mr. Harvey being in the trades union I would think it would be an important part of your discussion with them as opposed to having it now. Mr. Giordano asked why the threshold was brought in without the advice of Mr. Slaughter and Mr. Harvey. Mr. Wexler replied we had a meeting several days ago with the various trades and some of the participants had to leave, toward the end of the meeting Mr. Catapano brought up the threshold. The meeting was very long and we did not have the time to thrash it out fully, it was not discussed at length we were trying to put this together after working on it for several months. Mr. Giordano indicated that this was put together quickly and you would like us to make a decision, my opinion would be to table this and see if we can clarify this language. Ms. Wright stated there has been a tremendous amount of work on this to try and strike a balance, it sounds like there is additional work that is needed. Ms. Cochran asked when they have to bid is it a formal bidding process, advertising or sealed bid or regular bid. Mr. Catapano stated there are no bidding requirements it is in the private sector not a public project. Mr. Catapano stated to answer Mr. Beedenbender's question the State just instituted in April 2020 a Prevailing Wage Law on IDA's for the first time they use the threshold of project costs of over \$5 million dollars. This will take effect in January 2022, there are a lot of details to be worked out with the legislation. Mr. Harvey asked when was the last time the Long Island First Policy was amended or changed and Mr. Wexler said about 10 years ago. Mr. Catapano said the policy was really vendor based, not construction based. Mr. Harvey said if we are going to make a change let's do it right we want this to work for the future this will be in place probably for the next 10 years. Mr. Slaughter stated Ms. Cochran made a good point, what kind of bidding process is this, these are private companies that we are dealing with this is tax payer dollars and this Board represents the Suffolk County tax payers. You are taking private development and infusing tax payers money into it, we need to have accountability and responsible contractors and to make sure the process is transparent, open and fair. Mr. Slaughter stated in the past it has been a bit of a free for all, I understand it's not the expertise of the IDA and the staff is limited we don't expect you to oversee every construction project. We need to insure that the tax-payers are protected and their dollars are being used wisely and we are doing the best of our ability to insure its being reinvested in Suffolk County. The tax-payers are investing in the businesses and the businesses are supposed to be investing back in Suffolk County. Mr. Slaughter addressed Mr. Wexler obviously there is a lot of discretion for the Board as to whether an applicant can receive tax benefits, no one is entitled to tax benefits it's up to us as to whether they are deserving. Once we approve tax benefits is our discretion still open ended as far as to recapture, or is it specific and we are more restricted in what we can recapture for. Mr. Wexler replied we have in lease agreements and documents is that we can recapture it is up to the Board as long as constitutional provisions are followed, notice and the right to be heard. The language in the lease agreements states we have the right to do it, the question is then how do we enforce it we are going to have to set up numerous board meetings to have hearings. We cannot just say you are losing your benefits, let's say it is contested it will become a whole process the law does not anticipate neither do the IDA statutes. Mr. Wexler stated he doesn't think we are equipped to do this we don't have the expertise and I don't know anything about building. Mr. Wexler said we do have the right to claw back, luckily they have never been contested. When they are contested we are going to have to set up protocol and require the entire board to be in on it this is the board's decision. Mr. Catapano stated if the Board agrees they can direct us to hold a public hearing for the Policy where all the comments could be heard and with Board questions can be asked because it is a public hearing. The hearing could be specifically for the Long Island First issue. Mr. Slaughter stated when there is a claw back does the board vote on it or does it just happen because it is part of the contract and you are authorized to do it and the Board doesn't play a role. Mr. Wexler replied staff and I have agreed about the breach of contract and notified the company and the company paid and it was a non-event. Ms. Cochran stated in the past, she remembers a claw back being brought before the Board you let the Board know what was going on. Mr. Wexler said he believes that was OSI Pharmaceuticals. Mr. Slaughter stated there were instances where this policy was violated and there were claw backs and the Board was not made aware of it. When we take action and vote on a project and things don't go right we need to know, you can't leave Board Members in the dark. Mr. Wexler replied understood, but we may involve ourselves in 100 issues a month staff has to determine what of those are the most relevant that need to go to the Board. The Board is not being paid and these Board meetings would last hours if all was presented to them. Ms. Cochran said since I have been on the Board we have not had this type of problem they usually keep us informed as to what is going on.

After further discussion and;

Upon a motion by Mr. Harvey, seconded by Mr. Beedenbender it was;

RESOLVED, to table the request for proposed additional language to clarify the Long Island First policy.

Unanimously carried to table the Long Island First Policy 6/0.

Ms. Wright stated the policy goes above and beyond what any other IDA's do to encourage local labor. We are looking to further better the policy we were trying to strike the right balance with notification to Board Members. Maybe we did not hit the balance perfectly tabling this is more than appropriate to get it right we are looking to raise the bar for other IDA's.

Mr. Catapano read another public comment letter from Pratt Brothers General Inc., Contractor to Board Members.

Contract Pharmacal Corp.: Request for an inducement resolution for a lease transaction.

Mr. Catapano presented Exhibit B. Contract Pharmacal Corporation develops, manufactures and packages pharmaceuticals, over-the-counter drugs & dietary supplements for pharmaceutical companies, retail and wholesalers. Mr. Catapano stated the company is headquartered at 165 Oser Avenue, Hauppauge, NY 11788. The Agency has done many projects with Contract Pharmacal Corp. and this project involves 250 Kennedy Drive, Hauppauge in the industrial park. The Company seeks to renew the lease, renovate and equip a 128,000 square foot building that they currently lease located at 250 Kennedy Drive, Hauppauge, NY 11788. This facility will be used for warehouse, laboratory and pharmacy operations. The total project cost is approximately \$3.4 million involving \$100,000 in renovations, purchase of non-manufacturing equipment for \$200,000 and lease costs of approximately \$1 million. Overall the project is approximately \$1.4 million and they currently have 1,358 employees and are looking to create 25 net new jobs. The 25 net new jobs average salary is approximately \$60,000. The Agency has been involved with Contract Pharmacal Corp. going back to the late 1980's at that time they had 127 employees, currently they have over 1,300 employees.

Mr. Catapano introduced Jason Stern, Esq., Weber Law Group, Counsel to Contract Pharmacal Corp. and Eric Antman, CFO, Contract Pharmacal Corp. to Board Members. Mr. Stern stated Contract Pharmacal Corp. was founded in 1971 as a small family owned business with one location. Since that time, the Company has grown to own and or lease 11 buildings in the Hauppauge Industrial Park and have in access of 1,300 employees. Contract Pharmacal Corp. has a habit of under promising and over delivering it has exceeded its employee projections in connection with every IDA application it has made. This application is in connection with 250 Kennedy Drive, Hauppauge a leased building with 128,000 square feet on approximately 7 acres the lease is expiring. Mr. Stern stated that the landlord is looking to significantly raise the rent and the IDA assistance will allow Contract Pharmacal Corp. to enter a new 8 year lease with a 3 year option to retain 92 employees at this location. In addition, they plan to hire 25 new employees' full time employees as a result of renovations and additional laboratory expansion that they will undertake at this location. Mr. Slaughter stated your company is a success story it has expanded significantly over the last decade and receiving assistance from the IDA. Mr. Slaughter's concern is to whether there is a true need, how many IDA benefits do you have over all of your facilities and Mr. Antman replied he doesn't know the total number there are several. Mr. Slaughter asked Mr. Catapano how many the IDA assisted and Mr. Catapano replied there are 6 active projects. Mr. Slaughter asked when do those expire and Mr. Catapano stated they expire at different times, they were eligible for a 20 year tax abatement on certain projects because of the size of their employment, based on their employment and the Uniform Tax Exemption Policy (UTEP). Other projects expire 2036, 2028, 2030 and the last two were last year and were 10 year agreements 2031 and 2032. Mr. Slaughter asked how long they have been in this facility Mr. Antman replied approximately 5 years. Mr. Slaughter indicated his concern is that IDA benefits are to allow you to stay on Long Island if you are in jeopardy of leaving and taking the jobs elsewhere. We have provided significant assistance to the Company and they have grown to be large and successful there are many active benefits already in place I don't see the IDA as an indefinite benefit for a company. At some point these expire and you are expected to pay full taxes and continue operating, we have tens of thousands of businesses that have to get by without tax help. Ten years ago, you said you were in jeopardy and maybe relocating to Florida but for 10 years we have helped you stay here and get established. Mr. Slaughter's concern is that he doesn't that as the mechanism that this IDA should be providing, it is supposed to be for a certain time span and you indicated that your landlord is raising the rent. I would like to see the justification for raising the rent none of that information is in the application as far as what the landlord is doing. The landlord is getting the tax break I would like to see more information on that; there are already a significant amount of benefits being offered for this company across all facilities. Mr. Stern stated it is not simply a matter of keeping the business of Long Island also a matter of facilitating it here, the landlord is raising the rent and you are asking us for information that we don't have as to why their doing that or

assistance and renew the lease we will have to see what other options there are. Mr. Giordano said so potentially 92 people will lose their jobs and Mr. Stern said that is correct. Mr. Slaughter stated that he would not have a problem providing assistance on the renovations, to help the Company expand, sales tax helping you to expand in that capacity makes sense. The continuation of another 15 years of PILOTS at what point are you going to be able to survive without needing assistance. You have been paying rent in the facility for the past 5 years without assistance; he would like to see documents that indicate they are in jeopardy of staying in the building. Mr. Antman said the rent is a tremendous increase, Mr. Stern stated the point is that this benefit is for the survivability of the Company and maintenance of the facility. Mr. Slaughter indicated that he would like to see the significant increase and know why, if its justified providing assistance to keep a landlord from gauging the Company. Mr. Slaughter stated he didn't know if that's going on and there is no documentation. Mr. Stern we can't go back to landlord to ask him to explain himself and we don't have the documentation. Mr. Slaughter stated the landlord is asking for a tax break, you are the applicant and he is going to receive the benefit they own the property. Mr. Stern stated that is not correct we are requesting the tax break.

Mr. Catapano said the property tax benefit being proposed is 10 years and not 15 they don't qualify for that. The landlord is not involved in this, when a landlord leases property if they have a tenant in place the tenant are the ones that pay the property taxes or their portion of it. The only time a landlord pays is when there is an unoccupied suite or building and the landlord would be responsible for the taxes. Mr. Dudine stated this is a triple net lease and that lease requires the tenant to pay the taxes all the IDA documents provide that once the tenant "CPC" is no longer under that lease with the owner the IDA benefits stop immediately. Mr. Slaughter said to clarify, the landlord is not paying property taxes the tenant is and Mr. Dudine replied it is the tenant's responsibility. Mr. Slaughter stated that he would like to know why the landlord is significantly raising the rent when they are not responsible for the property taxes. Ms. Cochran said I don't think the landlord has to tell us that. Mr. Dudine asked if we have general information as to the magnitude of the general rent increase Mr. Antman replied we don't have that information. Mr. Beedenbender stated he is supportive of this application when I read the application it says applicant may be forced to relocate facilities to Florida without the assistance from the IDA. He stated he understands that but that it is a little hollow, there are 11 facilities I think this would be a difficult thing for the Company to do. What you are saying is that you were 180 and now you are over 1,300 employees you are thriving and you want to renovate the facility and you are going to hire more people. Mr. Beedenbender stated that for him that is compelling enough, he is going to support this application. Mr. Harvey said to address Mr. Slaughter it can be perceived as going to the well to much sort of speak since we have these long standing contracts Local 25 headquarters is over in the Hauppauge Industrial Park. The park was desolate 15 years ago, the pharmaceutical industry revitalized the whole industrial park. To speak to Mr. Beedenbender's point when you say how good you are doing it can be taken another way, the reality is that taxpayer's money can be spent in other areas so that we can assist other businesses that may have to leave the Island. Mr. Slaughter responded allowing the companies to grow is the number one priority he wants to feel comfortable that the documentation presented shows that it is needed for them to grow. He wants to understand why it's happening and what we do is going to lead to growth he would like more information. Mr. Beedenbender and Ms. Cochran agreed, Mr. Beedenbender indicated that it is possible that if a landlord knows a tenant can get the relief, they can raise their rent. Mr. Beedenbender requested to be given a percentage of the increase of rent from Contract Pharmacal Corporation's landlord before the final approval of this project.

After further discussion and;

Upon a motion by Mr. Beedenbender, seconded by Mr. Giordano, it was:

RESOLVED, to approve an inducement resolution for a lease transaction in the approximate amount of \$1,356,297 for Contract Phamacal Corporation facility.

Unanimously carried 6/0. A roll call was taken and it was unanimously carried 6/0.

Hartz Mountain Industries, Inc.: Request for an inducement resolution for a lease transaction.

Mr. Catapano presented Exhibit C; Hartz Mountain Industries, Inc. The Company is a real estate acquisition, development and management company. Mr. Catapano stated the facility site is located on vacant land on Spagnoli Road and was formerly owned by National Grid which used the site for outside training for their workforce. Hartz Mountain is based in Secaucus, New Jersey they are planning to construct a 411,000 square foot building on this site. The new building will be leased to prospective tenants and used for manufacturing, warehousing and distribution operations. The Agency previously did a project with Hartz Mountain at the former Newsday site on Pinelawn Road in Melville, NY which closed earlier this year. The Spagnoli project will create approximately 200 – 300 net new jobs with an

average salary of \$45,000. Hartz Mountain has submitted an economic fiscal analysis prepared by Nelson & Pope Voorhis based on the Implan economic model.

Mr. Catapano introduced James Rhatican and Sal Gentile, Hartz Mountain Industries to make a presentation to Board Members. Mr. Rhatican thanked Mr. Catapano and Ms. Murphy for all their help and hard work. Mr. Rhatican stated that Hartz Mountain is one of the largest privately owned real estate companies in the country we intend to build a state of the art warehouse distribution facility at the former National Grid site located on Spagnoli Road, Melville, NY. This proposed facility will create a substantial number of jobs, permanent and construction jobs are projected at approximately 250. The project will bring a substantial tax revenue to the region as well. Mr. Rhatican indicated that it is important to attract tenants and the incentive package on the former Newsday site has been very important we have been marketing it for months. Mr. Rhatican stated he wanted to speak to some of the concerns from the letters that Mr. Catapano read. The letter from the IBEW claims that Hartz has hired sub-contractors from out of state and there were suggestions of that in some of the other letters. We are a developer using a general contractor on the former Newsday site we hire one contractor and that is the general contractor. We also have hired professionals all local labor, in terms of construction there is one contract awarded to a local general contractor. A local general contractor that was recommended to us urged us to retain is from some of the people that wrote letters objecting to this current application and some people on this call. We did the right thing and hired a local general contractor and they are to comply with the Long Island First Policy. Hartz has contracted \$69 million dollars of services on this project all except \$2.8 million went local that's 96% of the money that Hartz's is paying out or \$65 million dollars is going to local service providers, professionals and a local general contractor. We do not interfere with the general contractor and who he chooses as a sub-contractor they are hired to build a project. A smart developer does not impose its will on the general contractor that only leads to finger pointing and litigation. We asked our general contractor to reach out to local firms and he contacted 652 local trades in Nassau and Suffolk County. We met with representatives of local union organizations my colleague Sal Gentile met with Kelly and Tony and a few representatives of the Board. We have done everything in our power to assure that our general contractor advertised, communicated with the local trades. It's unfortunate that maybe people that didn't get contracts are reaching out pressing objection to this application. Mr. Rhatican stated the contract for demolition was not part of our application it went to an Orange County, NY contractor and was before the first hearing of the first project it was about two years ago. To try and do the right thing we selected a general contractor with which we had no experience they have done a fine job. We wanted to come to the region as a good neighbor and select a general contractor that everyone recommended. The Trades Council letter is an objection to the application there are no specifics as to the reason and the president of that council is in a more delicate situation as some of his constituents are getting work from this project and some are not happy they are not getting work. The president of that organization has met with Hartz and our general contractor and we have made it clear with our general contractor they have to keep an open line of communication with the trades. Mr. Rhatican indicated that he sent Mr. Catapano a list of all the contacts 652 that our general contractor made. They solicited bids from a lot of companies, 28 site work companies, 10 paving companies, 10 fence and gate and 10 landscaping companies. We hope to get one tenant for the building although it can be subdivided it will create a substantial number of jobs and generate a tax revenue for the region for that reason we ask that you vote positively for Hartz Mountain.

Mr. Giordano stated this project and the initial project for Hartz has so much outcry from the trades union much more than the first project. He voted initially to approve the first Hartz project but at the end there was so much outcry from the unions and a lot of unanswered questions. Mr. Giordano requested the first project be tabled and to discuss and try and work it out. Now there is another project and there is another outcry from the trade unions why is there so much outcry on this project why can't the difficulty with the trades and unions be worked out. Mr. Giordano stated that he has reservations about this project. Maybe the Board or the staff can reply to why we are getting so many letters about this project. Mr. Rhatican replied he can only assume that some of the letters are from organizations that didn't get work and they are upset about it. Mr. Giordano said since the last approval have you tried to have discussions with the trades/unions to determine why there is such disapproval of this project. Mr. Rhatican replied we have reached out and had discussions and we have continued to instruct our general contractor to do the same. Mr. Harvey stated he voted in favor of the original project because he believed it could be worked out. He is concerned that there were 12 letters received in which 10 of them were not favorable of the project. He has been hearing that the general contractor is not as much a contractor but a construction manager. Mr. Rhatican interjected and said he would like to know who said this and Mr. Harvey replied there were several sources. Mr. Harvey stated that he would like to see how many people you contacted for contract before he makes a decision. Mr. Harvey said he has not seen the 652 list of contacts and Mr. Rhatican indicated that he sent a letter April 26, 2021 to Mr. Catapano that includes the number of local people contacted and for what trade. Mr. Harvey stated we see numbers but no names, how can that be verified Mr. Rhatican asked if he would like to see the list of 652 names. Mr. Harvey indicated that he wants to make sure the process plays out he took it in good faith the last time that he voted favorably that there was going to be a fair process. This is a spec project why are you piggy backing this project with another project in less than a year for IDA benefits what is the reason and Mr. Rhatican replied we think it is a market that would allow us to get tenants in all the buildings. Mr. Harvey stated there are several Long Island contractors

that have been here for many years as you can see the buildings traveling along the expressway they were built by local developers that used a lot of Long Island people. You are saying whatever Long Island contractors that are not being used is because this was initiated by your general contractor and Mr. Rhatican replied the general contractor selects all
SCIDA MINUTES -9- MAY 20, 2021

the sub-contractors. The general contractor has been instructed to comply with the Long Island First Policy. We have also instructed the general contractor to speak with all the local union representatives and the Hartz employees have spoken with the local union representatives. Mr. Harvey stated you are saying the general contractor is contractually held responsible to use Long Island people first and Mr. Rhatican replied our master agreement with the IDA requires us to impose that condition on our general contractor. Mr. Harvey asked if it is being monitored and Mr. Rhatican said we have been informing Mr. Catapano periodically as contracts get awarded we have been going back to Aurora to communicate with Mr. Catapano about who has been selected as we find out. Mr. Giordano asked Mr. Catapano in his experience have you seen this much controversy on projects from the unions and Mr. Catapano replied no. Mr. Giordano said why do you think there is controversy, Mr. Rhatican is implying probably because the project is large and there not getting their fair share is that accurate. Mr. Catapano said some of it could be sour grapes like Mr. Rhatican stated if someone didn't get the job. Mr. Giordano stated as Executive Director of the IDA you are overseeing the projects that everything is complied with do you believe that Hartz is complying based on their other project and Mr. Catapano said yes I believe they are and they are not in default of anything in our agreements. Mr. Giordano stated some of the comments were over exaggerated. Mr. Catapano replied some were not factually true, the Orange County based company that was used we were being told it was in Orange County, Florida. Ms. Cochran stated her concern is that the IDA has never had this type of negative feedback from all the different agencies and elected officials. The previous Hartz project was concerning as well but Mr. Rhatican satisfied that. Is there anything that Mr. Rhatican can say to reassure us and Mr. Rhatican said he wishes there was an easy yes to that. Mr. Rhatican said why the opposition to this he thinks it is because it is a big pie and everyone wants a piece and we selected an Orange County, NY non Long Island demo contractor two years ago. We selected a very reputable general contractor from Ronkonkoma they are doing great work for us we are very happy to use them we thought that would be the right thing to do. We thought by using a Suffolk County contractor everything would fall into place. Mr. Giordano asked Mr. Wexler if the Agency is allowed to question the general contractor via a questionnaire, to see what he is doing is that expected of us in our due diligence and Mr. Wexler responded I think that is taking it a bit far who is going to be arbiter and review. Mr. Giordano indicated if we can get clarity from the general contractor as to why he is doing what he is doing it will help us make a better decision. Ms. Cochran said we do not have a contract with the general contractor we should request it from Mr. Rhatican and Mr. Wexler agreed. Ms. Cochran asked if the staff could create a questionnaire for the general contractor to complete it may help to resolve the unanswered questions Mr. Rhatican said he would speak to Mr. Catapano about that. Ms. Wright stated it was mentioned that 95% of the contracts that have been awarded have gone to local workers is that correct and Mr. Rhatican replied 95% of the Hartz dollars were paid to local firms. Much of that money is going to the general contractor they pay and retain the sub-contractors the other part is the professionals, attorneys, engineers, architects, environmental consultants, security and landscaping people that we have retained directly. Mr. Rhatican stated the only contract we have entered into is with the general contractor for the construction of this project. Ms. Wright stated it appears that you are moving forward in good faith with the Long Island First Policy, demolition contract was in the past not part of the IDA benefits package. There has been an overwhelming outpouring of public comment related to this second application there is some clarity that could be had by all to verify the information. It sounds like you are doing your due diligence to comply with the policy by hiring a local general contractor there are some very opposing viewpoints. Mr. Rhatican stated some of the letters said Hartz Mountain hired this out-of-state firm for the construction this is not true; we only hired the general contractor for the construction. Mr. Giordano said that is why we would like to get answers from the general contractor that will give us clarity. Mr. Rhatican said he is happy to try and get that from the general contractor my question would then be then what? Mr. Giordano said at least we will be able to respond to some of the letters we are receiving. Ms. Cochran stated we supported Hartz the first time, we are concerned about all the feedback we have received if we can satisfy that how can we hold anything against you. Mr. Harvey said I hope you would trust in us that we wear our fiduciary hats on this board we don't play favorites we do look out for the tax-payer and the Long Island First Policy. Please get us the information and we can make an informed decision. Mr. Rhatican stated you have a difficult job to do you are protecting the people of Long Island and we will work with the staff and try and get the additional information requested. Mr. Beedenbender stated he was not on the Board for the last Hartz application and he has several questions. Hartz acquired this property in 2019; Mr. Rhatican said yes that is correct. Mr. Beedenbender asked the principle business of Hartz is real estate development, you locate a piece of property and purchase it at a fair price then figure out what is the highest and best use from a business perspective is that fair and Mr. Rhatican said yes. Do you own this land and Mr. Rhatican said yes. You spent \$37 million on a piece of land to build a warehouse because your economic study from Nelson Pope and Voorhees and your team believes you can make money on that the difficult thing is that if you picked this space it could not have been contingent on this he agrees with Mr. Rhatican. These benefits would likely make the project more marketable to your speculative tenants and make it financially feasible but he is not sure that it doesn't get built without our benefits. Mr. Beedenbender said his question would be does this project not get built without the Suffolk County IDA benefits. Mr. Rhatican replied it might not get built the way we are proposing it; there are challenges to the site, there is a large ridge behind the site that requires a retaining wall topographical challenges to the site. There are some additional

costs to this site, the lions chair to this package if it were approved is real tax property abatements and that would benefit the tenant and bring jobs to the area preferably off of Long Island. Hartz would get the sales tax break in respect to the

construction, there is a modest mortgage tax rate that may not be used the real property tax is the overwhelming largest portion of the package and that is to attract tenants. Mr. Beedenbender said in the application it states that Hartz was looking at a perspective rate of \$11 a square foot it stated it was lower than competing rates in the area. Mr. Beedenbender said the \$11 a square foot is in the Nelson Pope & Voorhees report on page 8 where it states that it is a low rate in the region. A successful company decided that a piece of land for \$37 million and decided the best way to get their money back on that project is to build a warehouse at this point it seems that this would be a project without the IDA. The report is suggesting that the strategy is to market below other rates to attract tenants in sales sometimes that is done to retain business. Mr. Beedenbender is trying to understand the mix of the Agencies benefits and the necessity of your product are these benefits being used to make a market rate that's below others. Generally that does not make sense to Mr. Beedenbender and the reason is warehouse/industrial space is in short supply and doesn't seem like it would need to be discounted Mr. Rhatican stated he cannot speak to that he does not know the answer. Mr. Beedenbender said if the Board could be supplied with the answer to this we would appreciate it. Mr. Slaughter addressed some of the comments made about the on-going construction at the existing site Hartz has committed to the Long Island First Policy and passed it on to the general contractor he feels it is disingenuous to say that 95% of Hartz money is being used locally because the money is being given to the general contractor because he is based on Long Island. They are distributing Hartz's money to other parts of the Country, not just South Carolina and Alabama and we discussed Orange County in the past which was prior to approval. We are seeing similar problems that we had with the first project, the issues have not been addressed. Mr. Slaughter said Mr. Catapano I don't think that it is accurate that it is miss-information, do you have an Alabama and South Carolina sub-contractor is that accurate and Mr. Rhatican replied Hartz has not retained outside contractors that is not true. Mr. Rhatican stated he found out recently that his general contractor retained a South Carolina steel fabricator because they were not comfortable with the locals. Mr. Slaughter the economic impact beginning on page 10-12 it states during construction you will be using the mean annual wage for Long Island which is roughly \$71,000 and discusses the ancillary impact of the wages on Long Island and indirect and reduced jobs as a result of that can anyone explain induced jobs and what that means. Mr. Rhatican replied it means you have people who are working on the job site and then going to the local sandwich shop, local supermarket, retailers and creating economic trickle down to the economy at large and that in turn creates additional jobs as well to take on additional work. Mr. Slaughter stated you are paying a standard wage of \$71,000 a year to a local worker that will spend that money locally, what is the mean annual wage of Orange County and Alabama and Mr. Rhatican said Orange County was a contract from 2 years ago for another project. Mr. Rhatican asked why Mr. Slaughter is asking there is no demolition this is a vacant parcel. Mr. Slaughter asked what is the mean annual wage in South Carolina, Mr. Rhatican replied that is where they are buying the steel no workers are coming up from there. Mr. Slaughter asked the erectors are coming from Alabama and Mr. Rhatican indicated he heard that this morning but they may be asking some local people to take on some local jobs. Mr. Slaughter is it safe to say that not everyone on the job site is being paid the equivalent of \$71,000 a year a mean annual labor wage Mr. Rhatican said he cannot say anything about that. Mr. Slaughter states this report says all the great economic impact it is going to bring, these numbers are not reality because they are assumptions that you are going to use local workers and you're not he cannot take this report seriously. Many of the millions of dollars are going back to those states because that is where the companies are from. We represent the Suffolk County taxpayers and they are providing you an investment in your company so that you can operate here and invest back into the community and that is not what Mr. Slaughter sees. We continue to go through the same problems; Mr. Rhatican said we hired a local general contractor and paying him close to \$60 million dollars and \$5 million to local professionals. Mr. Slaughter and the general contractor is spending a lot of that money outside of the area that is not helping Suffolk County taxpayers. There are many contractors that are out of work now and very capable of working on your project and they need to earn a good wage to survive on Long Island as you need tax incentive to survive on Long Island. Mr. Rhatican stated the region will have a huge increase in tax revenue when this project is operational. Mr. Slaughter stated I didn't support the project initially and he doesn't see that anything has changed and he does not see any reason to move forward today.

After further discussion and upon a motion by Mr. Slaughter and seconded by Mr. Harvey it was;

RESOLVED, to Table the application for Hartz Mountain Industries, Inc.

The motion carried to table 5/1 with Ms. Wright opposed and voting not to table. A roll call was taken and the project was tabled 5/1.

BGNYAVE, LLC – Northridge Square: Request for a final resolution for a lease transaction.

Mr. Catapano presented Exhibit D. BGNY AVE., LLC is a real estate development company (Blue & Gold Holdings). Mr. Catapano indicated this project is a multi-family mixed use 16 one bedroom rental units (13 market rate & 3 affordable) located in Huntington Station to further revitalize that area. This is a \$5.7 million dollar project, the public hearing was held this week and there were no comments received. The public hearing was kept open for an additional day for any written comments and we did not receive any comments. Ms. Cochran asked how many total units and Mr. Catapano replied 16 units, 13 market rate and 3 affordable and there are one or two on the ground floor for retail tenants.

After further discussion and upon a motion by Mr. Giordano, seconded by Ms. Cochran, it was:

RESOLVED, to approve a final resolution for a lease transaction in the approximate amount of \$5,742,800 for BGNYAVE, LLC – Northridge Square facility.

The motion carried 5/1 with Mr. Beedenbender opposed. A roll call was taken and the motion carried 5/1 to approve.

Sterling North America, Inc. (Sterling Digital Print): Request for a final resolution for a lease transaction.

Mr. Catapano presented Exhibit E. Sterling North America, Inc. (Sterling Digital Print) is a full service commercial printing business including digital printing production & print management services for the financial services industry and the tri-state business community. The project was approved at the April 22, 2021 IDA Meeting and a public hearing was held and no comments were received. The public hearing was held open for an additional day for any written comments and none were received. This project involves the consolidation of two existing leases into a larger facility located at 70 Corporate Drive, Hauppauge. The Company intends to create 12 new jobs over the first two years of operation and an additional 18 jobs in year 3 – 5 and within five years they are estimated to create 30 net new jobs. The Company currently has 127 employees and they will have 139 employees in total for IDA tracking purposes after two years of project completion.

After further discussion and;

Upon a motion by Mr. Beedenbender, seconded by Mr. Slaughter, it was:

RESOLVED, to approve a final resolution for a lease transaction in the approximate amount of \$3,750,000 for Sterling North American, Inc. (Sterling Digital Print) facility.

Unanimously carried 6/0. A roll call was taken and it was unanimously carried 6/0.

D3, LLC: Request for a final resolution for a lease transaction.

Mr. Catapano presented Exhibit F. D3, LLC is a manufacturer of retail displays including in-store furniture, cabinets, shelving and digital displays for the travel/retail industry (airport stores), Nordstrom's, Kohls/Sephora and many luxury retailers. This project was approved at the last IDA Board Meeting; it is a French based company. The Company has their Americas (North & South America) operation based in Melville. They are expanding one of the buildings and creating additional jobs, approximately 65 new jobs over the first two years after renovations are completed. A public hearing was held this week and no comments were received the hearing was left open for an additional day and no comments were received.

After further discussion and;

Upon a motion by Mr. Harvey, seconded by Mr. Giordano, it was:

RESOLVED, to approve a final resolution for a lease transaction in the approximate amount of \$3,035,509 for D3, LLC facility.

Unanimously carried 6/0. A roll call was taken and it was unanimously carried 6/0.

Minutes

The Minutes of the April 22, 2021 were accepted by Board Members.

2020 Draft Financial Report

Mr. Catapano stated prior to the Meeting an Audit & Finance Committee Meeting took place with all Board Members in attendance, Mr. Harvey is the Committee Chair of the Audit & Finance Committee. Mr. Harvey indicated that the Audit & Finance Committee members met to review with the vendors (the accounting and audit firms) our reports for year 2020. The committee voted on accepting the findings issued by both, the reports were detailed and complementary. The committee voted to accept them as is and bring them to the full Board for acceptance.

After further discussion and;

Upon a motion by Ms. Wright, seconded by Ms. Cochran, it was:

RESOLVED, to approve the draft financial report of 2020 for the Suffolk County Industrial Development Agency.

Unanimously carried 6/0. A roll call was taken and it was unanimously carried 6/0.

Upon a motion by Mr. Beedenbender, seconded by Mr. Giordano, it was:

RESOLVED, to adjourn the Regular Meeting of the Suffolk County Industrial Development Agency.

Unanimously carried 6/0. A roll call was taken and it was unanimously carried 6/0.

The Meeting adjourned at 3:55 p.m.

The next Regular Meeting of the Suffolk County Industrial Development Agency is tentatively scheduled for June 24, 2021.