

MINUTES  
IDA REGULAR MEETING  
SEPTEMBER 14, 2021

Present: Natalie Wright, Chair  
Kevin Harvey, Vice Chair  
Anthony Giordano, Secretary  
Brian Beedenbender, Member  
Gregory Casamento, Member  
Josh Slaughter, Member

Excused Absence: Sondra Cochran, Treasurer

Also Present: Anthony Catapano, Executive Director  
Kelly Murphy, Deputy Executive Director  
Daryl Leonette, Executive Assistant  
William Wexler, Esq., Agency Counsel  
Andrew Komaromi, Esq., Harris Beach PLLC, Transaction Counsel  
William Weir, Esq., Nixon Peabody LLP, Transaction Counsel  
William Dudine, Esq., Katten Muchin Rosenman LLP, Transaction Counsel  
Melissa Bennett, Esq., Barclay Damon, LLP, Transaction Counsel  
Carolyn Trespasz, Esq., Barclay Damon, LLP, Transaction Counsel  
Greg Gordon, ZE Creative Communications  
Lisa Broughton, S.C. Department of Economic Development & Planning  
Jonathan Keyes, S.C. Department of Economic Development & Planning  
Ashton Saber, S.C. Department of Economic Development & Planning  
Jacqueline McCormack, S.C. Department of Economic Development & Planning  
James O'Boyle, President, Trophy Depot, Inc./JIMAR Realty, LLC  
Mark Blaustein, Esq., Counsel to Trophy Depot, Inc./JIMAR Realty, LLC  
Alan Sasserath, CPA MS, Sasserath & Co., for Trophy Depot, Inc./JIMAR Realty, LLC  
William J. Camera, CPA, William J. Camera & Co. Certified Public Accountants & Advisors for Trophy Depot, Inc./JIMAR Realty, LLC  
David Rosenberg, Esq., Rosenberg Fortuna & Laitman LLP, Counsel to Trophy Depot, Inc./JIMAR Realty, LLC  
Katie Rivas, Director, 104 Lake Avenue South, LLC  
Jay Rhatican, Hartz Mountain Industries, Inc.  
Brian Petersen, CPA Partner, PKF O'Connor Davies, LLP, Agency Accountants  
Stephanie Handel, CPA, Sheehan & Company, Agency Auditors  
Anthony P. Mariani, CPA, Sheehan & Company, Agency Auditors  
Kevin Gremse, National Development Council (NDC)  
Lori LaPonte, CPA, PC  
Robert Trotta, Suffolk County Legislator  
Christina DeLisi, Aide to Presiding Officer of the S.C. Legislor Calarco  
John Cush, Iron Workers Local Union 361  
Nicole Grodner, Carpenters Union Local 290  
Joseph Padilla, Painters and Long Island Trades Union District Council 9  
Don Grande, Bricklayers Union Local 1  
Natasha Snook, Owner, NSG Court Reporting

Ms. Wright indicated that the documents for this meeting can be accessed and are posted to the IDA's website at <https://www.suffolkida.org/resources/> under the Board Meetings tab.

The Regular Meeting of the Suffolk County Industrial Development Agency held in Media Room #182 located in the lower level of the H. Lee Dennison Building, 100 Veterans Memorial Highway, Hauppauge, NY was called to order at 12:30 p.m. by Ms. Wright, Chair of the IDA.

Members of the public were able to listen and view the Meeting through the Agency's website and will be connected to the Agency's YouTube Channel. Ms. Wright indicated that there is a stenographer in attendance today. Ms. Wright asked visitors of the meeting if vaccinated you are not required to wear a mask, if you are not vaccinated please wear a mask when inside the building.

Ms. Wright asked Mr. Catapano to proceed with the Meeting.

### **PUBLIC COMMENT**

Ms. Wright asked if there was any public comment at this time and Ms. Murphy stated that Suffolk County Legislator Robert Trotta would like to address the Board. Mr. Trotta said he provided the Board with documentation on the Amazon project that they falsified their record and he wanted to know if legal counsel had an opportunity to look at it. Amazon on their application indicated that they would move out of state if they were not granted benefits. Mr. Trotta stated this was their last mile warehouse, unless they decide to move to Connecticut and boat the stuff over I don't think this was a truthful statement. Small businesses are hurting this is direct competition with our small businesses. I expect when Rechler or Amazon or some billionaire lies on their application that it should be taken very seriously. This is a serious matter that I don't think is being taken seriously and should have been addressed immediately. Mr. Trotta indicated that this will not go away because Amazon lied, when someone submits a document to this organization you should make sure it is truthful. Mr. Trotta indicated there is more coming down the pipe, this in kindergarten compared to what is coming. This is the start, I am going to look at everything they do some of them are okay but many are total disasters. I think you have a responsibility to say something; you can't let people lie on their applications and pretend it didn't happen.

Ms. Murphy introduced Nicole Grodner, Carpenters Unions 290 and Ms. Grodner addressed Board Members. Ms. Grodner stated she is a Council Representative with the North Atlantic States Regional Council of Carpenters in Hauppauge, NY. The local union represents approximately 1,500 members most of them residing in Suffolk County and are paying the highest taxes in the country. I would hope that the tax dollars accumulated on the backs of the hard working men and women of organized labor is being utilized responsibly and accordingly to the IDA policy. The board recently awarded a company called Hartz Mountain millions of dollars in tax breaks for a project in Melville that employed multiple contractors from out of state. This is a violation of Suffolk County IDA's policy and a deterrent to the men and women residing in Suffolk County that are trying to remain gainfully employed in order to continue to pay the taxes and other responsibilities needed to be a resident here. If the company has or has not followed the guidelines laid out by your board I would respectfully ask that further requested incentives on their behalf be suspended until they prove to be in compliance with IDA protocol and the Long Island First Policy is enacted and practiced. Please note, that I do look favorable on all IDA's and what they are intended to do, however follow up accountability and holding the receiver of incentives to the letter of the law must become more prevalent in day-to-day operations in order to see that the IDA's true intention of drumming up business is not only met but succeeds.

Ms. Murphy introduced Joseph Padilla, District Council 9 Painters Union Long Island Trades to Board Members. Mr. Padilla stated this is in regard to Hartz Mountain I believe that they are trying to go for an amendment of the current application. I feel that the IDA should not have to bail them out because of their own way of applying their application for their own interests. I believe it is because of financial issues and getting money from the financial institutions should not be on the back of the IDA to bail them out. If you could please consider this when you are reviewing the application and amendment.

Mr. Catapano proceeded with the roll call of Board Members; Sondra Cochran was not available for this Board Meeting and there are six Board Members are present.

### **OLD BUSINESS**

#### **104 Lake Avenue South LLC:** Request for a final resolution for a lease transaction.

Mr. Catapano presented Exhibit A. O'Shea Properties is a commercial real estate, family-run owner, management and developer of industrial, commercial and office buildings. The Company currently maintains 45 multi-tenant commercial buildings. Mr. Catapano indicated that 104 Lake Avenue South LLC was approved at the July 22, 2021 IDA Meeting. The project involves the construction of 3 buildings, approximately 20,000 square feet for a total of 60,000 square feet on Lake Avenue South in Nesconset located in the Town of Smithtown. The project will consist of 27 industrial units in three sizes (1,961 sq. ft. (15 units); 2,738 sq. ft. (3 units) and 2,405 sq. ft. (9 units) to be used for small businesses. The Board had some questions from the July 2021 meeting and Kevin Gremse and Geoff Person from the National Development Council (NDC) worked on this report and Mr. Gremse is here to go over the details of that report. Mr. Gremse indicated that he prepared a report after the analysis of the application and financial information were submitted by the applicant. The total project cost is \$8.7 million dollars the applicant mentioned a credit facility. The applicant is going to build the facility without a construction loan and once it is built and occupied they will secure a permanent loan which will not be for a few years until it is totally built and leased, prior to that time the applicant will fund it itself. The \$8.7 million is equivalent to \$146.00 a square foot for a light industrial space that seems to be reasonable and consistent with the product that has been built by the applicant. The application is for mortgage recording tax, sales tax exemption as well as the Payment In Lieu of Taxes (PILOT). The Uniform Tax Exemption Policy (UTEP) allows for up to a 15 year PILOT. This project is going to create 135 jobs which is a significant job creation. The current taxes on the property are \$3,000, complete taxes will be \$160,000 over the course of the PILOT the average annual tax will be about \$115,000. There is very significant revenue growth taxes even with the partial during the time of the PILOT. Mr. Gremse stated we analyzed the operations for the facility, it will take a while to occupy, the applicant reports a significant interest for this type of facility. The units are from 1,500 to 2,900 square feet a lot of businesses are interested in that kind of space but not every business will qualify in terms of their credit worthiness and ability to occupy right away. It may be two to three years for full occupancy. In terms of the arrangements with the tenants, the developer will absorb the baseline PILOT. The PILOT will start at less than \$90,000 and what will be passed on to the tenant is the increment based upon the phase-in of full taxes they are absorbing based upon the increment. Mr. Gremse indicated that Mr. Slaughter and Mr. Beedenbender raised very good questions during the course of looking at the report and what they heard previously. In the stabilized pro-forma that I shared with you it showed that the building absorbed the PILOT and it is an accurate representation that is the arrangement with the tenants they are going to absorb the increases in the PILOT during the term. With full taxes it is a highly marginalized development that does not pencil out in terms of the metrics required of investors and lenders. The developer is not getting a construction loan because they would have to show evidence of all the leases pre-signed. The applicant said they would use their own money to build and lease it once the buildings are constructed. The PILOT will establish the predictability that provides comfort that will meet the metrics required by the investors and lenders. Once the building gets occupied they will have a predictable schedule there is significant revenue growth. It was represented that if not for a 27 unit the alternative is to build a single user facility that will not have the same type of impact in terms of jobs and nurturing smaller businesses. Mr. Gremse said he would be happy to answer any questions.

Mr. Beedenbender thanked Mr. Gremse and said this is what he was looking for some context. The rents that the developer is looking to charge for this type of space your analysis seems to be in align with what the market is. Mr. Gremse stated it wasn't a market study but I spoke with an appraiser that is well experienced in the Long Island market place and \$12 - \$14 a square foot was within reason for the product that was described. Mr. Beedenbender stated your report says the benefit packet is reasonably aligned with projects this similar size. Mr. Beedenbender said you spent a lot of time the analysis states the market standards for financing would not be met without PILOT. Based on what you said is that different now if the applicant is financing this on their own and not getting a construction loan does that change the analysis you provided us.

Mr. Gremse responded if they got a construction loan it would make it worse because they would have to absorb capitalized construction interests that would increase their development costs. This helps the developer not having a construction loan. Mr. Beedenbender stated this information is very helpful. Mr. Slaughter asked who is going to be responsible for the PILOT payment is it going to be covered by the landlord. Mr. Gremse stated on page 7 of the report it has the PILOT schedule the starting PILOT is \$78,000 and next year \$83,000 that increment between the first and the second year the \$6,000 that is what is going to be passed on to the tenants. The base line PILOT is being absorbed by the developer, the PILOT allows for less of those taxes to be passed on to the tenants. Tenants that are on the fence in terms of financial strength to absorb these leases it is going to be more attractive for them to go into that facility. Mr. Slaughter asked based on the numbers in your opinion if they are at full occupancy in the first year, would that change the metrics as far as them being able to do this project with or without our help. Mr. Gremse replied I assume that the stabilization of 15% that is a little over \$100,000 the difference between the reported operating expenses and the actual estimated operating expenses are about the same amount. If there were 0% vacancy but an increase in the operating expenses as reported by the applicant it would offset that not having a vacancy it would be about the same. Ms. Wright stated we are able to assist small businesses through the IDA by providing these sort of spaces where they can grow and cultivate and continue to foster the industrial sector and cluster that is hear that we need to maintain. One year of taxes with the PILOT is more money than 15 years without the building being there combined.

After further discussion and;

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

RESOLVED, to approve a final resolution for a lease transaction in the approximate amount of \$8,415,520 for 104 Lake Avenue South LLC facility.

Unanimously carried 6/0.

**Trophy Depot, Inc./JIMAR Realty, LLC:** Request to waive recapture of benefits.

Mr. Catapano presented Exhibit B. Ms. Wright asked Mr. Catapano to give Board Members an overview of this project. Trophy Depot/JIMAR Realty LLC has requested that the IDA waive the recapture of the IDA benefits that have been provided to the Company during the past seven years in the amount of approximately \$670,000 consisting of sales and mortgage recording tax exemptions and real property tax abatements. Mr. Catapano stated the documents state if there is a sale of a building then it triggers a recapture event but the Board has the ability to waive or modify the recapture amount according to the documents. Trophy Depot/JIMAR Realty LLC is claiming the sale of the building was caused by a force majeure event in this case COVID-19. The Company is a manufacturer of trophies and awards and are sold online through the internet. The Company claims the pandemic shut down all of the schools, colleges, community sports and youth leagues and business recognition awards and impacted the Company's business. There were several presentations from the last IDA meeting and there were some things that have been updated for this meeting for Board Members. Ms. Wright asked Board Members if they would like a summary and Mr. Giordano indicated that he would.

Ms. Wright introduced Mr. William Camera, CPA, William J. Camera and Co., Certified Public Accountants and Advisors for Trophy Depot, Inc./JIMAR Realty, LLC and he gave an update to Board Members. Mr. David Rosenberg, Esq., Rosenberg Fortuna Laitman, LLC, Counsel to Trophy Depot, Inc./JIMAR Realty LLC also spoke briefly to Board Members. Natasha Snook, Court Reporter/Stenographer, NSG Court Reporting is present and transcribing the record of the Trophy Depot, Inc./JIMAR Realty, LLC presentations and portion of the Board Meeting which is contained in a separate transcript.

After further discussion and;

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

RESOLVED, to table the request to waive the recapture of benefits for Trophy Depot, Inc./JIMAR Realty, LLC.

Unanimously carried 6/0.

(There is a separate transcript of the minutes of the proceedings of the Trophy Depot, Inc./JIMAR Realty, LLC presentations and discussion taken by NSG Court Reporting, LLC.)

**Hartz Mountain Industries, Inc.:** Request to amend the closing documents (Lease and Project Agreements).

Mr. Catapano presented Exhibit C. Ms. Bennett, Esq. Barclay Damon LLP, Transaction Counsel for Hartz Mountain Industries, Inc. addressed the Board. Ms. Bennett indicated that Hartz Mountain has requested to Mr. Catapano and myself that technical modifications be made to the recent project agreements that were previously delivered at closing in February 2021. Ms. Wright indicated that is project Number 1 to be clear. In connection with that project we did two separate sets of closing documents as under the standard IDA provision. This was an order to address that one application was made to the IDA and one set of approvals were given for the overall project. The project consists of two separate buildings and parcels that were being constructed on different schedules. In order to accomplish the Payment-In-Lieu-of-Taxes (PILOTS) and two separate real estate holding companies there were two separate sets of documents. The negotiation process is consistent with prior IDA transactions the two closing documents had various provisions that crossed the two projects together. There was cross events of default and recapture events as well as standard documentation for early termination of the transaction. These are the final sets of closing documents they are provided to the assessor's office for the PILOT provision and filed at the Suffolk County Clerk's office. These requests will come back to the Board for consideration. Any default events will remain specific to each building and the recapture events will remain in place. If there were one building for example, the sale of one building would not cause recapture of both locations. If one of the real estate holding companies would like to terminate the transaction early it would end the benefits sooner than anticipated. Each building will have the benefits of the straight lease transaction. Ms. Bennett stated essentially had the company come forward with two separate applications the documents would have been separate from the beginning. Following the IDA precedent they have been tied together and I believe there is a representative from the company here to discuss the reasoning behind their request.

Mr. Beedenbender asked has the Agency done something like this before and Ms. Bennett replied typically there has been one set of closing documents. Mr. Catapano stated this is a very large project, two buildings, two tax lots, two LLC's affiliated with the parent company. There was a situation about 20 years ago and Mr. Weir said approximately 15 years ago 100 Motor Parkway came in as one application and we split it and each project stood on its own almost identical facts. Mr. Weir indicated there were two separate lenders. Mr. Beedenbender said we have done this before and Mr. Weir said yes. Mr. Beedenbender stated that he had a question for staff this application came before us as one, and it received benefits if it came as two applications would you have added them together and it would have been the same amount of benefit and Mr. Catapano said correct. Mr. Beedenbender asked there was no additional benefit that the applicant received by applying as one then they would have gotten this too and Mr. Catapano replied correct. Mr. Slaughter asked if we have job commitments for each building separately, do we have those numbers Mr. Catapano replied it is together 800 is the maximum the documents say 600. Mr. Slaughter said we are treating the job numbers and commitment as one but we want to treat the buildings separately how does that work. Ms. Bennett replied the application was a combined request in terms of job creation and total exemption benefits. The documents retain the language of what the benefits are each set of documents references the maximum amount of benefits that were requested. The Board previously approved this subject to the two separate buildings combined amounts and exceeds the total amount. In those instances those provisions will still remain in terms of what the benefits are. Mr. Harvey asked why did the company complete one application for two buildings what is the advantage and Ms. Bennett replied I am not aware of that maybe the Company can speak to that.

Mr. Catapano said it was made by staff it is one project. Mr. Harvey said was the process initiated by the applicant Mr. Catapano said no by the staff it was considered one project and we see now that it is becoming an issue but initially it was not. It was the macro view of it all even the economic feasibility study was done combined as one project. At the time of application the LLC's were not created yet.

Mr. Jay Rhatican, Hartz Mountain Industries Inc. addressed Board Members. Mr. Rhatican stated we are not looking to change any of the benefits or not looking for additional monies. We are not asking that our assistance be modified, in a material or financial way it is a technical legal modification of the agreements. This issue arose when we were nearing completion of the northern building which is the smaller of the two buildings we have gone out to market for financing and perspective tenants and it has become clear that these provisions are concerning to prospective tenants. To answer Mr. Harvey's question we came in and contemplated that this would be treated for the purpose of financial assistance from the County as a single project we didn't have the holding company set up at the time we applied. We came in early because we wanted to make sure that we felt confident that we could get some financial assistance from the county before we went too far along in the design and approval process. We came before the Board approximately two years ago and at the time it was a single project and as we started getting into details looking at the agreements we felt that it would be in our tenants best interest to separate the assistance of two separate agreements and projects. We initially thought that we would build the smaller building first and the larger building later as it would take much longer to build and it would be complete a year later. If we had one collective project lease agreements for the two buildings the clock would start clicking on the term of the assistance on the north building and the south building would be in a year in a half we would lose a year in a half on the real estate tax abatement. To make it more appealing to tenants and since they are creating the jobs we felt it would be in their interest to separate them into two projects. Mr. Rhatican said Hartz created two tax lots so the tenants would get the most benefit from this and there was no objection to this from anyone in the IDA staff. This was not until a year and a half later after we closed that we are starting to see as we go out to the market with lenders and tenants there concerned about these cross default provisions and we should have known at the time of the close of documents but we did not pick it up. Mr. Rhatican stated when he reached out to Mr. Catapano about this three or four months ago to raise the issue it was on the financing side that our broker said mortgages have to have certain provisions in them. He indicated you have these cross default provisions we are not going out to financing for the south building yet and it may not be the same lender so the broker on the north building said if there is a default in the south building the IDA could call both of us. There is a tenant interested in the north building but they are concerned about the cross default provision. If the tenants in the south building for example don't meet the report/job requirements or otherwise, it causes a default in the south building we lose our incentives/assistance. Mr. Rhatican stated that is what brings us here today we feel it is a reasonable request to facilitate the leasing of ultimately both but the north building is going to bring jobs. We would really like to get this done now, modify the agreements and convince a perspective tenant that there is no risk here. Mr. Harvey asked when did you know of this problem and Mr. Rhatican replied a month ago is when a broker on the financial side pointed out the concern that lenders would have with this. Mr. Harvey said would you admit that it would have been better to come back with two applications and Mr. Rhatican said yes that wasn't the concept for the reasons I stated outside of my comments. It would not have changed the amount of assistance we were seeking or received and would not have changed the job creation projections. Mr. Harvey stated it would have changed the fact that you wouldn't have had to come back and Mr. Rhatican said yes procedurally that is correct. Mr. Harvey asked was the Suffolk County IDA the only governmental agency that you ever requested tax breaks from and Mr. Rhatican replied no. Mr. Slaughter stated this question is for counsel, the closing documents were agreed upon and signed by everybody. What is the reason for us to put that analytic in there, is it for protection of taxpayers, give us more flexibility what would be the legal reasons. Ms. Bennett replied the provision is one and the project can come forward as one application. In a normal project these provisions are not in there. Mr. Slaughter said there are two properties, two separate closing documents and you tied the two together in this way and my question is why. Ms. Bennett said we had a few prior deals that the IDA did this way. Mr. Slaughter said yes but why, Mr. Casamento said she tied the projects together because that is logically what you would do there are two parcels. The benefit is if one defaults you go after the other property. Mr. Casamento said it is going to be an issue for financing no one is going to finance property subject to performance. They should have caught it at the end of the day a mistake was made. We are revisiting this because they cannot get financing in place or it

could be more expensive because property is tied together. Mr. Casamento stated it is a technical separation, two different projects I don't see it as an issue. Mr. Giordano stated he voted against this originally everything is to try to solve the technical issues but not the labor issues. I have been on this board since 2013 and I have never seen more acrimony amongst labor for one project and that concerns me. Are we going to ignore this, they are not addressing the primary issue. Ms. Wright stated we are not ignoring the other issue we are well aware we are working through it. Ms. Wright stated this is a technical issue about the closing documents and about how it was structured. Based on what Ms. Bennett said input from staff and prior deals we have done this in the past. Mr. Giordano asked is this needed now for the importance of their company or can it remain as is I would prefer to address the first issue. Mr. Rhatican replied if you want to bring jobs, which I think is the mission of this organization through a perspective tenant employing a two hundred thousand square foot building I would ask that we take care of this now. Mr. Casamento stated this is not an issue that we should hang the labor issue on, this is an issue that we should solve separately. Mr. Giordano said the labor issue is a very important issue many people are here that have spoken about it and we want to address that. This is just a technical financial issue; we approved this project previously they are asking us now to separate this into two pieces to assist the financing issue. Mr. Giordano said that would be benefitting the company and Mr. Casamento said it is benefitting everyone. Mr. Giordano said if this doesn't get done it will affect jobs and Mr. Casamento replied yes it could. Mr. Rhatican said I understand the concern over the labor issues, the jobs that will be created by tenants in this building will be 100% local people. When you account for the combination of construction jobs and the projected jobs 600 full-time jobs set forth in the agreements between the two buildings that is 87% of the jobs to be created by this. Mr. Rhatican said I understand there are some local labor organizations that feel they should be on this job and they are not. The reality is the 87% of the jobs to be created by this project will be local jobs and that is the mission of this organization. Mr. Harvey said I don't think we need you to reiterate what our mission is we understand that. Mr. Harvey stated you are coming here asking us to do you a favor and this project has been two years in the making. You have to understand the Board we have reached out to you several times to try and make sure you incorporate the Long Island First Policy to the best of your ability and I think there is an attitude by some Board Members that was not accomplished. We feel that you did not make the best case effort to honor that policy and now you are asking us to help you out, it doesn't sit well and I can only speak for myself but there may be others that agree. If you are going to have a working relationship with a developer or builder there has to be a sense of trust between the two groups. Trust was broken early on in our relationship so moving forward as Mr. Casamento mentioned this is a technical issue, but it is really a trust issue now. Mr. Rhatican indicated that he is not sure where the breach of trust came at the outset, but after we applied for this financial assistance we hired directly no one but local professionals. The general contractor that was hired is local and people in this room advised us to use him. The general contractor asked them as a result from a meeting with Mr. Catapano, Ms. Wright, Mr. Harvey, Mr. Slaughter, Bill Wexler and union representatives and others we committed to have our general contractor reach out to local union representatives and once they were selected we did that. Once we selected our general contractor and as part of one of the bid documents they knew they had to commit as we did to the Long Island First Policy. Mr. Rhatican stated we met with staff at our site, we offered to have our general contractor meet with individual Board Members, speak by phone, video conference and no one has taken us up on that. Ms. Wright organized a video conference with certain IDA staff and the general contractor and representatives of local union organizations to answer questions about the bidding process. Mr. Rhatican stated we have tried to be open and good corporate citizens in Suffolk County and I will add, any developer will not ask the general contractor what sub-contractors to use. The general contractor selects the sub-contractors that is the way it is. Mr. Rhatican said to Mr. Giordano's question about the acrimony there are certain organizations that did not get in on this job for reasons that we were not involved with and have asked our general contractor to explain. They were explained a month ago with IDA staff and we have offered every opportunity to present our general contractor for you to hear directly the explanation. Our general contractor invited approximately 600 bids from local trades and sub-contractors and there were a couple of unions that did not get jobs. I think there is one trade in particular that is most of the acrimony that you are asking about and that had highly volatile steel prices and the general contractor asked them to hold their prices and they did not. The one that the general contractor selected did hold their prices and if not they probably would not have gotten the job. What they had to do to hold their steel prices has created some of the acrimony that is not something we were privy to at the time. We have listened to IDA staff and Rosalie Drago, Labor Department we explained all of this and tried to do the right thing. Mr. Giordano stated we have been receiving numerous

letters from different unions including the last project and it is not going away. Mr. Giordano stated that he was under the impression that Mr. Rhatican was going to meet with the trades and try and resolve this and it is still continuing and seems to be getting worse. Mr. Rhatican replied nothing has changed the general contractor has not awarded any new contracts, Mr. Giordano said from my stand point it seems like nothing has changed with communication. Mr. Rhatican stated I met with IDA staff and union members. Mr. Wexler stated we had a long meeting with Mr. Rhatican, staff and union members and went over it. Mr. Rhatican stated we instructed our general contractor to go back to the steel fabricator who bid on the fabrication and installation and asked if there is something they can do to open up opportunities for local persons to get on the job. The steel fabricators said they don't want to split the job because they see how acrimonious the unions are being and they don't want to have a split crew. Mr. Rhatican stated that is what was asked of us at that meeting by the and we did it. Mr. Wexler stated in early summer Tony, Kelly and myself went to the construction site and met with Mr. Rhatican the general contractor and Frank Vero, Jr. and discussed this in great detail. Mr. Wexler stated we were told that the amount of steel required was massive at that time, and to this day there is not that sort of construction industry steel on Long Island. The steel prices are volatile and the general contractor would be liable to Hartz Mountain if they could not produce steel. Such consternation concerning gathering the steel and also a company that can build 800,000 square feet of construction steel doesn't exist on Long Island that is why they went to Alabama. Mr. Rhatican stated they are bringing in concrete wall panels from Pennsylvania it is not available on Long Island. Mr. Wexler said we had another meeting and discussed the demolition goals and the demolition contract that the contractor left was substantially less than the bids that they had obtained locally. Mr. Rhatican stated if the project was in New Jersey we would have general contracted it ourselves and used a lot of union people. Mr. Rhatican said not everyone that wanted to be on this job could be on it.

Mr. Beedenbender asked a question directed at counsel, have we done this in the past and had this cross language where a company has two buildings and they tie them together, this seems like it would be different. Ms. Bennett replied Mr. Rhatican raised this issue and it was discussed with IDA staff. Mr. Beedenbender said it makes sense if it was built by the same entity but it doesn't make sense for this particular situation two buildings being controlled by two different entities. It seems like this clause was misplaced not a benefit being granted now in my opinion. Mr. Rhatican stated the IDA retains all the rights if there was default on one building you still would call a default and the same for a clawback there is nothing diminishing any rights of the IDA. Ms. Wright indicated to Mr. Beedenbender's point if it was one application the whole way through this would not be an issue. It would have been better to have chosen one of the other routes and we would not be here. Ms. Wright said not diminishing the Long Island First Policy conversation and topic at all, but it is not what we are here to discuss today. If this was any other applicant we would probably arrive at the decision with the administrative proposal that is in front of us today more quickly and I want to insure that when we do discuss the Long Island First Policy that we discuss it on its own merits and don't mix the two. Mr. Slaughter stated if we approve this today and after the fact you are going to come up with a plan of how to deal with the job creation I don't know how you are going to figure that out after the fact. Ms. Wright said I don't disagree with you if the two buildings were of similar size the one building is significantly smaller so if it were pro-rata maybe. Mr. Slaughter said if the larger building has issues of default we need to figure out what the total commitment is of each building. Mr. Rhatican replied when we applied it was in the aggregate the job creation projection was based on the square footage of the buildings that we proposed at the time if that is the direction the Board wants to go. Mr. Beedenbender we could apply the square footage of each building using the same total that is in your application and Mr. Rhatican said we would not object to that. Mr. Rhatican said the two sets of closing documents require us to create in the aggregate 600 jobs so if you would like to allocate the 600 jobs between the two projects I will leave that to your counsel to see if that is appropriate. Our goal is to have the north building complete by first quarter 2022 and the south building complete by the fourth quarter 2022 or the first quarter 2023.

After further discussion and upon a motion by Mr. Beedenbender, seconded by Mr. Casamento it was;

RESOLVED, to table the request for document amendments for Hartz Mountain Industries, Inc.

The motion did not carry to table 3/3 with Mr. Beedenbender, Mr. Casamento and Ms. Wright opposed and voting not to table.

Mr. Giordano stated we are receiving letters all the time, one was from a Congressman. Mr. Rhatican said he did not see that and Mr. Giordano said it was from Congressman Suozzi it was for the first Hartz project. Mr. Giordano said I know we were invited to the construction site I feel it was inappropriate I prefer to be in a public space. Mr. Giordano stated I am not questioning that there may be a way to resolve this, I don't know enough about it. I have never heard the dissention that I hear now. Mr. Rhatican said this has no bearing on my request. Mr. Giordano stated it is because we are giving you another opportunity to enhance your business, this may come back to haunt us down the road.

Mr. Casamento suggested that we put this on the agenda for next month and Mr. Catapano can supply us with a report of the status of construction and the dispute between the Company and Labor. Mr. Catapano replied the dispute is well known, we can get the status on the project. Mr. Casamento said I am referring to who the general contractor is and what percentage of the sub-contractors are Long Island based. Mr. Rhatican said we have provided all that information you have had it for a least a month. Mr. Catapano stated this is not just staff but Ms. Wright has been involved in it and the Labor Department as well, this has been well documented. Mr. Casamento said do you think the Company has violated the Long Island First Policy and Ms. Wright stated Long Island First Policy is to make first best efforts. Mr. Catapano said it is not a legal requirement it is best effort. Mr. Harvey stated Mr. Rhatican gave us an update on everything that has transpired but there are two sides to every story. Mr. Harvey said in fairness to the public comment this letter was provided to us on Friday the day before September 11<sup>th</sup> we have the meeting on September 14<sup>th</sup>. I personally don't consider that to be a timely notification. There were people that wanted to speak but could not make it due to prior commitments. The reality is to move forward let's try to increase the level of trust between your company and the people of Long Island that includes continued conversations with the Board Members and the people you are going to do business with. Mr. Rhatican asked if there is anything specific that the Board would like to hear that they did not hear today or from any prior meetings/letters. Dealing with the labor issues seems to be the issue driving this request. Mr. Giordano said preferably I would like to hear from labor, maybe between now and the next meeting you can have something worked out with the trades. Mr. Rhatican said you will only approve this request if there is a change in how the contracts are awarded. Mr. Giordano replied no, I would like to hear it seems there is something more than meets the eye the fact that the trades are writing letters, appearing at our meetings and contacting members of the Board. I would like to hear what they are looking for and to see if it is a reasonable compromise. Mr. Rhatican stated is the solution that we hire more union workers, that is what it sounds like to me. Mr. Rhatican said we have met several times and Mr. Giordano said I have only heard one side and he doesn't know what is going on. Mr. Casamento addressed Mr. Rhatican and stated you hired a general contractor and based on the bids he put in to various trades some from Long Island were selected and some were not. Some of the trades that were not chosen there was a price deferential and you continued to meet with them and they were upset that they were not being selected. Mr. Rhatican stated we had this conversation in greater detail at a video conference a month ago and our general contractor explained for example with the electrical contract. We are using a union shop located in Brooklyn, NY not based in Suffolk County and some of their employees are Suffolk County residents. Our general contractor went back to local electrical sub-contractors here to try and get them to match the pricing and he couldn't there were efforts made to try and get this done.

Mr. Beedenbender left the Meeting at 3:00 p.m.

Mr. Casamento asked Mr. Wexler can representatives that were not selected come and present at these meetings and Mr. Wexler replied they are entitled to come to any meeting they would like and express their opinion in the public session.

Mr. Rhatican indicated that Hartz Mountain has a perspective tenant that would like to sign the lease for this building although they are very concerned and will not sign the lease unless this issue is resolved. The reality is we would like to bring jobs here by way of the tenant to occupy a substantial building that has been constructed on spec and this is an impediment to that. Mr. Casamento stated we will keep that in mind it is not

leverage as much as it is making sure that we hear all sides of the interested parties. Mr. Rhatican said he understands and stated all sides have made themselves well known and articulated all their positions. Mr. Casamento said I don't dispute anything that has been said to us but we want to hear from others. Mr. Rhatican said you want to hear from others what else do you expect to hear from others. Mr. Casamento said most likely we will want to hear a response from you. Mr. Slaughter said to be more specific the Long Island First Policy has to be looked at and it is best effort of the Board. The Board has to determine what our definition is of best efforts and whether that was followed. That is why it is important for us to hear both sides so that we can figure out, was it the best effort.

### **Minutes**

The Minutes of the August 18, 2021 were accepted by Board Members.

**Accounting Services & Audit Services:** To appoint the firms for the accounting and audit services which was undertaken through a Request for Qualifications (RFQ) process jointly by the IDA and EDC for the new RFQ services.

Ms. Wright indicated the Audit & Finance Committee met prior to the regular meeting and approved the firms for Accounting and Audit Services for the Agency.

After further discussion and;

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

RESOLVED, to approve the appointment of PKF O'Connor Davies Accountants & Advisors for accounting services and Sheehan & Company C.P.A., P.C. for auditing services for the Suffolk County Industrial Development Agency.

Unanimously carried 6/0.

**Administrative:** To appoint Lori J. LaPonte, CPA, PC, to assist with administrative operations as needed.

Ms. Wright stated this is a request to hire Lori J. LaPonte to assist with administrative operations, Ms. LaPonte has extensive IDA experience. Mr. Slaughter asked if Ms. LaPonte will be paid per diem or hourly. Mr. Catapano said Ms. LaPonte works for the Brookhaven IDA and we estimate approximately 20 hours and it will be as needed she will be a 1099 vendor and she will not be an employee. Mr. Harvey asked if Ms. LaPonte hours will be flexible and Mr. Catapano said yes and some weeks she may not work at all. Mr. Slaughter said if we wanted to bring on staff to help with other things would it impact the budgetary constraints or do we still have flexibility. Mr. Catapano said we would have to take a look at that but currently this seemed to be more economical; with a full time employee there would be employee benefits to consider and payroll taxes, etc. Mr. Catapano stated we needed someone to help out with administrative work. Mr. Catapano stated the Agency never had a marketing person prior to when the previous person left the position in March 2020.

After further discussion and;

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

RESOLVED, to appoint Lori J. LaPonte, CPA, PC to assist with administrative operations as needed for the Suffolk County Industrial Development Agency.

Unanimously carried 6/0.

**LaunchPad Huntington:** To approve a marketing sponsorship.

Mr. Catapano presented Exhibit D. The purpose of LaunchPad Huntington is to provide a low-cost collaborative and supportive work environment for early stage companies, connecting them to an ecosystem and resources to help them grow. Mr. Catapano stated the Agency assisted in creating LaunchPad. Mr. Catapano previously circulated photographs to Board Members of the tech space; including the Agency has a prominent sign on the main floor area. We have sponsored it for the last six years and we intended to renew the sponsorship previously it was around \$13,600 each year. This year it is \$7,500, we have a prominent sign there and a desk is available for us to use on occasion, it is in a great location. This is a way for us to help small tech companies that are trying to develop into larger companies. Mr. Catapano stated this marketing sponsorship is supporting LaunchPad overall and they are allowing us to use the space for our public hearings if needed.

After further discussion and;

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

RESOLVED, to approve a sponsorship in the amount of \$7,500 for LaunchPad Huntington.

Unanimously carried 6/0.

After further discussion and;

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

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

Unanimously carried 6/0.

The Meeting adjourned at 3:10 p.m.

The next Regular Meeting of the Suffolk County Industrial Development Agency is tentatively scheduled for October 27, 2021.