



ACCEPTED BY BOARD MEMBERS  
JANUARY 27, 2022

MINUTES  
IDA REGULAR MEETING  
DECEMBER 14, 2021

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

Excused Absence: None

Also Present: Anthony Catapano, Executive Director  
Kelly Murphy, Deputy Executive Director  
Daryl Leonette, Executive Assistant  
Regina Halliday, Bookkeeper  
Lori LaPonte, Agency Accountant  
William Wexler, Esq., Agency Counsel  
Andrew Komaromi, Esq., Harris Beach PLLC, Transaction Counsel  
William Dudine, 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  
Jay Rhatican, Hartz Mountain Industries, Inc.  
Steven Levitt, Esq., Levitt LLP, Counsel to Hartz Mountain Industries, Inc.  
James Madore, Newsday  
Jayne Orlin, Sr. Managing Director, Cushman Wakefield for David Peyser  
Sportswear, Inc. (100 Spence St., Associates LLC)  
Daniel J. Baker, Esq., Certilman Balin, Counsel to David Peyser Sportswear, Inc. &  
Ascend Rlty. Partners, LLC and North Shore Hematology/Oncology Assoc. P.C.  
Patrick Halpin, Mercury LLC  
Martin Kelly, President, MTK 200 Crossways LLC & E & M Logistics, Inc.  
Thomas Marshall, MTK 200 Crossways LLC & E & M Logistics, Inc.  
Daniel Dornfeld, Esq., Forchelli Deegan Terrana, LLP, Counsel to MTK 200 Crossways  
LLC & E & M Logistics, Inc.  
Rosalie Drago, Commissioner, Suffolk County Department of Labor  
Blake Hyatt, Suffolk County Department of Labor  
Robert Trotta, Suffolk County Legislator  
Matthew Aracich, President, Building & Construction Trades Council of Nassau  
& Suffolk Counties

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 the Arthur Kunz Memorial Planning Library Conference Room located on the 2<sup>nd</sup> Floor of the H. Lee Dennison Building, 100 Veterans Memorial Highway, Hauppauge, NY was called to order at 10:32 a.m. by Ms. Wright, Chair of the IDA.

This is the December 14, 2021 Regular Board Meeting of the Suffolk County Industrial Development Agency and for the record, we do have a quorum present. The Meeting is being held both as an in-person Meeting and remote via Zoom. Pursuant to “Chapter 417 of the Laws of 2021 of New York State, effective September 2, 2021 through January 15, 2022, permitting, among others, local public corporations, including industrial development agencies, to hold public meetings by telephone and video conference and/or similar device.” The Meeting is also being live streamed. Members of the public may listen and view the Meeting via the Agency’s website [www.suffolkida.org](http://www.suffolkida.org), Watch Meeting menu option, and will be linked to the Agency’s YouTube Channel.

Ms. Wright stated with recent Covid 19 protocols in place if you are in the building you must be wearing a mask.

### **PUBLIC COMMENT**

Ms. Wright asked if there was any public comment at this time and indicated there will be a 3 minute limit on public comments. Ms. Murphy replied yes and introduced Legislator Robert Trotta. Legislator Trotta stated he would like to speak about the Hartz Mountain project. Legislator Trotta stated that he has learned that Hartz Mountain is going to be an Amazon warehouse can you confirm or deny that. The IDA is supposedly revitalizing downtowns, and giving tax breaks to billionaires. Mr. Besos made \$21 billion in profit last year. Legislator Trotta stated you have granted them a tax break which hurts every single downtown on Long Island and then you waste money giving them downtown revitalization money in hope of building it up. The Agency has outside contractors, unlicensed electrician’s not local people working there it’s like the Bad News Bears. This is something that should be on the cover of every newspaper and on News 12 on how you are messing up Suffolk County by giving tax breaks to billionaires, it is obscene. In downtown Kings Park people are struggling to bring customers in and you are giving tax breaks to the people that deliver to your house who basically are employed at the lowest wages. The Selden complex the Agency said there were 5 kids living there and there are 49 kids. The day will come that I bring the school board here and wreak havoc. Legislator Trotta stated you can allow Fairfield to lie on their application and get a \$7 million dollar tax break. The day of reckoning comes January 2, 2022, thank you.

Mr. Catapano proceeded with the roll call and all seven Board Members are present with six Members attending in-person and Ms. Cochrane attending remotely.

### **NEW BUSINESS**

**MTK 200 Crossways LLC & E & M Logistics, Inc.:** Request for an inducement resolution for a lease transaction.

Mr. Catapano presented Exhibit A. MTK 200 Crossways LLC & E & M Logistics, Inc. is a distributor of high profile brands of ice cream and frozen foods, including Haagen-Dazs, Dolly Madison, Tombstone and DiGiorno pizza. Mr. Catapano stated the Company operates out of several locations, Bronx, Nassau County, Hicksville and Woodbury and they are looking to demolish a 20,000 square foot building located at 380 Oser Avenue, Hauppauge. The Company intends to construct a 58,000 square foot building on that same property for warehousing and distribution. The project is approximately \$13 million dollars and is located at the same property as Deliver My Meds a project of the IDA’s that unfortunately went out of business in August, 2021. Mr. Catapano stated the Agency will be doing some recapture on Deliver My Meds. The recapture is approximately \$100,000 a combination of property tax, sales tax and mortgage recording tax exemption. The recapture funds will be collected when they sell the building and will be distributed to the various taxing jurisdictions. MTK 200 Crossways LLC & E & M Logistics, Inc. is projecting 85 jobs at this location; they are a distributor and a logistics company. The building will be used for a combination of office space, dry good storage, refrigeration and freezer. At the new facility, the Company will be projecting approximately 85 new jobs with an average salary of approximately \$55,000. The Company will create approximately 50 construction jobs.

Mr. Catapano introduced Daniel Dornfeld, Esq., Forchelli Deegan Terrana LLP, Counsel and Martin Kelly, President to MTK 200 Crossways LLC and E & M Logistics, Inc. to Board Members. Mr. Dornfeld said the intention is to demolish the current building and build a state-of-the-art frozen and refrigerated warehouse and distribution center. When the construction is complete we expect to bring 53 jobs to the area with an aggregate salary of over \$3 million dollars. Mr. Dornfeld stated by year two we expect to have 85 people working with an aggregate salary of \$4.5 million dollars. This is a great project we are bringing in a lot of high paying jobs and it will be an economic boom. Unfortunately, during the pandemic and afterwards we have learned what it means to the supply chain and people are always taking that for granted. We expect this project to be a driver of economic activity. They be hiring new employees and the expectations that sub-distributors will also locate in that general vicinity because of the quality of the facilities. The only issue is that new construction gets taxed at a higher rate. MTK 200 Crossways LLC & E & M Logistics, Inc. also have facilities in the Bronx, Hicksville and New Jersey. The facility in Crossways Park in Nassau County will be sold. The economics could be prohibitive, which is why we are seeking assistance from the IDA, if it is necessary we could operate to our distribution business from the other facilities and have a much smaller hub.

Mr. Dornfeld introduced Martin Kelly, President, to Board Members. Mr. Kelly said we have a facility in New Jersey, Bronx and Nassau County and those three facilities feed Suffolk and Nassau Counties. Nassau County is the facility used to ship our product. Mr. Kelly said we want to reverse it, build the facility here in Hauppauge and all the jobs that we mentioned, move them into the new facility. Our system is a direct store delivery system; we are in every single store in New York with the exception of Whole Foods. We supply bodegas, delis, super markets and drug stores with milk, juice and fresh foods we have grown a lot outside of ice cream. Mr. Kelly said we are not only going to create jobs but also businesses, we are going to grow small businesses into larger businesses. This has all been done before we have done it already in New Jersey and New York and we can do it in Hauppauge.

Mr. Harvey stated you mentioned a transplant operation you will close the Nassau facility and you have 53 employees with an average salary of \$61,000 and the second year salary of \$39,000 why is there a large difference in those average salaries. Mr. Dornfeld said Mr. Kelly did not crunch the numbers, the reason is on first flush we are transplanting people who are already here and some from the City. We are transplanting the executives and the salary wage earners the first year. In the second year, we are transplanting more hourly work. We intend to make Hauppauge our corporate office which is not going to be simple because Haagen Dazs is in the Bronx. Mr. Slaughter stated referring to the Long Island First Policy it states in the application that you need the benefits from the Agency in order to afford the construction, labor and operating costs in Suffolk County. Since you are currently in the Bronx at this point you have not prioritizing Long Island based vendors. Mr. Slaughter said you certainly want to do your part to do that. Mr. Slaughter stated you have a great construction project coming up and I ask that you engage with Long Island vendors, businesses and contractors. Mr. Kelly replied we want to use local people, we prefer that the only thing that when you are building a refrigerated warehouse, we haven't looked into to see who can do it here. If we can find a group that does it we will not have a problem hiring them. Mr. Beedenbender said this project benefits dollar for dollar because we are getting a much bigger building and a higher tax base. Mr. Catapano stated we did a study several years ago of the Hauppauge Industrial Park and the report identified the food industry on Long Island as an important economic engine for Long Island.

After further discussion and;

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

RESOLVED, to approve an inducement resolution for a lease transaction in the approximate amount of \$13,350,000 for MTK 200 Crossways, LLC and E & M Logistics, Inc. facility.

Unanimously carried 7/0. A roll call was taken for the vote.

**Ascend Realty Partners, LLC and North Shore Hematology-Oncology Associates, P.C.:** Request for a final resolution for a lease transaction. Mr. Catapano presented Exhibit B. Ascend Realty Partners is a health care service provider (North Shore Hematology-Oncology Assoc., P.C. d/b/a New York Cancer & Blood Specialists (NY Cancer). This is a multi-specialty practice including oncology treatment facilities employing 150 doctors, 54 physician assistants, nurse practitioners, billing, back office and administrative personnel. The project is for the executive, technology, business and administrative functions and not any provision of medical and health care.

Mr. Catapano indicated that this project was initially approved by the Board at the October 26, 2021 IDA Meeting. A public hearing was held on November 15, 2021 and no comments were received.

After further discussion and;

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

RESOLVED, to approve a final resolution for a lease transaction in the approximate amount of \$12,265,000 for Ascend Realty Partners, LLC and North Shore Hematology-Oncology Associates, P.C. facility.

Unanimously carried 7/0. A roll call was taken for the vote.

**David Peyser Sportswear, Inc. (100 Spence Street Associates LLC):** Request for a final resolution for a lease transaction.

Mr. Catapano presented Exhibit C. David Peyser Sportswear, Inc. (100 Spence Street Associates LLC) is a manufacturer, importer and distributor of men's and women's sportswear, outerwear, active wear and accessories.

Mr. Catapano indicated that this project was initially approved by the Board at the October 26, 2021 IDA Meeting. A public hearing was held on November 15, 2021 and no comments were received. It is projected that this project will close sometime in January 2022.

After further discussion and;

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

RESOLVED to approve a final resolution for a lease transaction in the approximate amount of \$33,650,000 for David Peyser Sportswear, Inc. (100 Spence Street Associates LLC) facility.

Unanimously carried 7/0. A roll call was taken for the vote.

Pursuant to the Open Meetings Law, Ms. Wright suggested the Board go into Executive Session to consider discussions regarding proposed, pending or current litigation.

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

RESOLVED, to go into Executive Session at 10:57 a.m.

Unanimously carried 7/0. A roll call was taken for the vote.

At 10:57 a.m. to make the process easier for attendees, individuals remained in the Meeting room while all Board Members, Anthony Catapano, Kelly Murphy and William Wexler, Agency Counsel left the room and conducted Executive Session in a conference room on the 11th floor of the building. Ms. Cochran, Board member attended the Executive Session remotely.

At 11:42 a.m. all Board Members, Anthony Catapano, Kelly Murphy and William Wexler re-entered the Meeting and Ms. Cochran re-entered remotely.

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

RESOLVED, to end the Executive Session at 11:42 a.m. and reconvene the Regular Meeting.

Unanimously carried 7/0. A roll call was taken for the vote.

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

Mr. Catapano presented Exhibit D. Hartz Mountain Industries, Inc. is a real estate acquisition, development and management company. The project closed in February 2021. The Company plans to construct two new warehouse buildings on a 53 acre site on two separate parcels located at 235 Pinelawn Road, Melville, NY 11747. The new buildings will be leased to third party tenants for warehousing and distribution.

Ms. Wright stated this is a request to amend the closing documents of the lease and project agreements for Hartz Mountain Industries, Inc.

After further discussion and;

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

RESOLVED, to approve the resolution for the amendment to closing documents (Lease and Project Agreements) for Hartz Mountain Industries, Inc. facility.

Unanimously carried 7/0. A roll call was taken for the vote.

### **Minutes**

The Minutes of the October 26, 2021 were accepted by Board Members.

**Long Island First Policy:** Proposed revisions to policy.

Mr. Catapano presented Exhibit E. Ms. Wright stated all Board Members have received a copy of the existing Long Island First Policy and the new proposed policy. There has been a lot of work to develop this new policy in conjunction with stakeholders including; Federation of Labor, Nassau Suffolk Building Trades Council, Board Members, ABLI, LIBI, Suffolk County Department of Labor and County Dept of Economic Development have all participated. Mr. Casamento stated that he had suggested on Page 2, where the policy reads: "if a project applicant or any sub-contractor of whatever tier is not hiring a Long Island based provider, they must notify the IDA before selecting a non-Long Island based provider." His concern is that the requirement of notification before is going to put a project applicant or sub-contractor in a position where for example, they have to hire someone immediately or on short notice or if they accidentally overlook it that this provision will operate as a "gottcha provision". Technically they will have violated this provision if it is not done beforehand; he thinks we should change the language to "before or soon thereafter". We do not want to put applicants or sub-contractors in the position of absolutely requiring notice beforehand and we don't want to put the Board in a position if someone violates this we have to take action. Mr. Slaughter stated it says a simple notification, it doesn't say that we are going to take action just to notify us and tell us why. Mr. Casamento said what if they don't notify us before for any reason and Mr. Wexler replied they will have to answer to the Board what is the purpose. Mr. Casamento said what remedies do we have available to us if someone doesn't supply us with the notification. Mr. Wexler said failure to comply with the policy may result with loss and/or recapture of your benefits it brings it back before the Board. Mr. Casamento stated can't we say before or soon thereafter is practical, something to that effect. We are the decision makers of what was reasonable or not in either

scenario. Mr. Wexler replied give me a for instance where somebody elected a general contractor that did not use Long Island base and could not notify us. Mr. Casamento stated it also applies to sub-contractors, Mr. Wexler said so say they can't use a Long Island based why would they not be able to send us an email. Mr. Casamento said if there were some kind of emergency on the site and they had to make a decision about what to do and Mr. Wexler replied that would be legitimate if that came up they just need to provide an explanation. Mr. Harvey stated when we were discussing this we didn't want it to be to nebulous, something that extended out, we wanted to make the applicant know that these are the rules. Mr. Beedenbender stated he knows what Mr. Casamento is trying to say, failure to notify shouldn't be the trigger to kill somebody that may have a problem or some other issue as much as non-compliance with the policy should be. Ms. Wright stated she thinks the reason why the sentence proposed as it reads as a conclusion to failure to comply with the policy may result this example is perfect that "may" is the right word choice. Ms. Wright stated the advanced notice is reasonable to request, if they have an emergency and notified us the next day that is where "may" comes into play because it wasn't ill will or trying to evade the policy. Mr. Casamento stated he does not disagree with anything being said, he thinks it is unfriendly to applicants, contractors and sub-contractors to make it a violation of the policy. If for whatever reason they don't provide the notification before that is the issue and he is not going to vote against it. Mr. Casamento would like to balance this provision fairly by not leaving it up to the discretion of the Board with the "may" language by putting something in there that is a little more friendly to applicants, contractors and sub-contractors. Mr. Casamento stated it is a balance to totality, the policy strikes the right balance, but this provision concerns him he totally supports the policy, if no one else thinks it is a concern. Mr. Slaughter said the builders, developer organizations that were involved in this process discussed that language and they were comfortable with it. Mr. Weir stated that the Town of Hempstead IDA has a very similar policy. Mr. Beedenbender stated something we should consider "about sending notice via email" we should consider publicizing that this is a big change from the past. There are going to be bids for projects and materials, computers in offices we should consider this is a new thing and not everyone knows that the IDA has this posting of these opportunities. We should look at some ways to publicize this and everybody that might be interested in the job knows that it is there. Mr. Wexler stated we have discussed this policy a lot and "may and shall" have been discussed and "may" gives the Board more discretion. Mr. Harvey the policy has changed for the better and feels the new language that has been put in is more positive and protective of the Board. Mr. Catapano asked to confirm the Board is in agreement of using "may" and the Memnners said yes to use "may". Mr. Slaughter mentioned on the first page of the policy it states "For purpose of this Policy, Long Island Based Provider means: Business with a history of performing work in Nassau and/or Suffolk County" he suggested some language. Mr. Slaughter suggested adding in "Businesses with a significant commitment in history performing work can utilize local workers in Nassau and Suffolk County". Mr. Slaughter felt it was important to show a significant history of their work here, we have a large amount of contractors in the Region and New York City. Ms. Wright stated her concern with the language is that it is not significantly clarified is or is not. Mr. Wexler stated it is hard to quantify suppose a company did a large project 15 years ago is that significant and if another company has done 5 projects is that significant he doesn't know how to quantify it. Mr. Slaughter said he doesn't know if anyone has any other suggestions he thinks to leave it "history" is very broad. Mr. Slaughter suggested adding "responsible history" and Mr. Wexler said the less you do to hamstring the Board, because it is the Boards determination anyway. Mr. Casamento stated if you are looking at people that are based in Long Island, Nassau and Suffolk County employees or residents to accomplish other than creating a situation where someone can make the argument that I don't meet bullet 1 or 3 but have done business here before. Mr. Slaughter said it makes sense to use the word "residents" rather than "employees". Mr. Harvey said many years ago there was a large contractor from Boston and they did multi-million dollar jobs but they would be an example of someone that hasn't done work in the area. They are familiar with the Long Island workforce they have hired subs here before and they now have decided to pick up a project someplace else he thinks that we should keep the wording of the policy because it covers this type of contractor. It covers this type of contractor that doesn't do work here on a regular basis, but is familiar with the Long Island economy and workforce. Mr. Slaughter said can we tie bullet 2 and 3 together instead of it being an "or" so either have a physical location on Long Island or a history of performing and employing Suffolk County residents. Ms. Wright stated that she would like to keep the policy as is and allowing the Board the option to interpret it as the situations potentially arise. Mr. Wexler suggested leaving it in place and it can always be amended if needed. Ms. Wright stated we will leave bullet (2) as is and change bullet (3) to read: Business employing majority Nassau and/or Suffolk County residents (instead of employees).

Mr. Beedenbender stated we are also approving an addition to the Agency application in the new language (2) paragraph he has a question for Mr. Wexler. This talks about contractors and also includes purchase of goods and raw materials locally it does not say that is it necessary for that to be here. It is talking about the workers not the purchase of local goods. Mr. Wexler replied we wanted it in there to emphasize. Mr. Beedenbender indicated that he does not object to anything written here, do we need to have something about goods and services there or is it sufficient that it is written in the policy and doesn't need to also be in the application. Ms. Murphy stated the policy is part of the application. Mr. Komaromi asked what is the effective date is it for projects that will apply from this date forward and Mr. Wexler replied yes. Mr. Slaughter asked about another item on the application, looking back three years for any debarments or suspensions. Typically when a business is debarred by the Department of Labor it is a 5 year debarment. Ms. Wright indicated that she looked this up and it referenced not to exceed three years online in several locations. Mr. Wexler asked the Rosalie Drago, Commission, Suffolk County Department of Labor in the audience is the debarment period 3 years or 5 years and she said she would have to look it up she does not know. Mr. Beedenbender said our language is not about how long they have been debarred if we look back 3 years it effectively would be a maximum of 6 years. If you were debarred in 2020 and it is 2022 we still can't give anything. Mr. Wexler said we should stay consistent with what the County does and Ms. Drago, stated she would get back to us with the information.

After further discussion and;

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

RESOLVED, to approve the amendments of the Long Island First Policy.

Unanimously carried 7/0. A roll call was taken for the vote.

After further discussion and;

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

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

Unanimously carried 7/0. A roll call was taken for the vote.

Mr. Giordano stated he will be resigning as a Board Member as of January 1, 2022 and he said it has been a pleasure he has enjoyed working with everyone, the staff has been great and he feels like we have accomplished a lot. Mr. Giordano will be spending time in South Carolina and continuing his position as a baseball agent. All the Board Members thank Mr. Giordano for his time and service as a Member of both the IDA and EDC Boards and everyone in the room gave him a round of applause to show their appreciation.

The Meeting adjourned at 12:14 p.m.

The next Regular Meeting of the Suffolk County Industrial Development Agency is tentatively scheduled for January 25, 2022.