

Town of Montgomery Industrial Development Agency  
IDA Special Meeting Minutes  
Town of Montgomery Government Center  
110 Bracken Road  
Montgomery, New York 12549

Tuesday, December 03, 2019  
5:30 PM

Present: Jeffrey D. Crist, Chairman  
Edwin Williams, First Vice-Chairman  
Stephen Rainaldi, Second Vice-Chairman - Left the meeting early  
John W. Dickson, Member  
Robert Santo, Member  
John Macioce, Member

Absent: Matthew P. Stoddard, Treasurer and Member

Also Present: Robert McLaughlin, Esq. Hodgson Russ Attorneys  
Members of the Audience  
Suzanne Hadden, Recording Clerk

AGENDA

Call to Order

1. Quorum
2. Public Hearing - Tarrunum Murad Irrevocable Trust I & Grapnel, LLC
3. SEQR Resolution – Grapnel, LLC
4. Approving Resolution – Grapnel, LLC
5. Public Hearing – Matrix Maple Development, LLC
6. Annual Housekeeping Resolution – 2019
7. Local Labor Law Compliance – Assignment and Update
8. Notice of Pilot Deviation Resolution – USEF Sailfish, LLC
9. Public Hearing Resolution – USEF Sailfish, LLC
10. CEO Job Description
11. Video/Live Streaming Update
12. Financial Report – November
13. Counsel Report – Training
14. Proposed 2020 Meeting Dates
15. Other
16. Adjournment

Call to Order

Chairman Crist called the meeting to order and introduced the Board to the audience.

Public Hearing - Tarrunum Murad Irrevocable Trust I

SEE TRANSCRIPT OF PUBLIC HEARING ATTACHED TO THESE MINUTES

Public Hearing – Matrix Maple Development, LLC

SEE TRANSCRIPT OF PUBLIC HEARING ATTACHED TO THESE MINUTES

SEQR Resolution – Tarrunum Murad Irrevocable Trust I

Attorney McLaughlin reviewed the SEQR Resolution for the Board.

Member Santo motioned to accept the SEQR Resolution for the Holiday Inn Express & Suites Project, seconded by First Vice Chairman Williams. After a roll call was taken, all in favor, all ayes, Member Stoddard was absent, motion carried.

Approving Resolution - Tarrunum Murad Irrevocable Trust I

Attorney McLaughlin explained the procedure for this Approving Resolution for an Assignment and Assumption of an existing PILOT and other benefits.

Chairman Crist suggested consideration of the existing PILOT as the Board's first step.

First Vice Chairman Williams motioned to grant the continuation of the existing PILOT for the Tarrunum Murad Irrevocable Trust I and its successor in interest Grapnel, LLC (the "Company"), seconded by Second Vice Chairman Rainaldi. After a roll call, all in favor, all ayes, Member Stoddard was absent, motion carried.

Chairman Crist raised the assignment of the sales tax exemption next.

Attorney McLaughlin said the sales tax would be for fixtures, furnishings and equipment that they are purchased by Grapnel LLC as they stated during the public hearing for the purposes of remaining competitive in the market place. Mr. McLaughlin noted that the existing owner received the same sales tax benefit back in 2013 upon original consideration of the Project by the Agency. The sales tax exemption letter was issued to the current owner, but they did not use it (for whatever reason). Mr. McLaughlin stated that in the Spring, the current owner provided sufficient proof to the Agency that they did not use that exemption letter.

Chairman Crist asked if the Board did approve this, would that require Grapnel LLC to comply with the Agency Local Labor Policy?

Attorney McLaughlin stated that was correct.

First Vice Chairman Williams motioned to accept the sales tax exemption portion of this application.

Chairman Crist said hearing no second, we would table that part of the application.

Attorney McLaughlin stated that a Board member should second the motion and take an up or down vote.

Member Santo asked if a motion has to be made to table it or does it automatically get tabled if the motion offered does not get a second?

Attorney McLaughlin said that considering comments that have already been made, he recommended that the Board consider an Executive Session to discuss potential litigation that involved the Agency.

Member Dickson motioned to hold an Executive Session to discuss potential litigation that could be raised against the Agency, seconded by First Vice Chairman Williams. After a roll call, all in favor, all ayes, Member Stoddard was absent, motion carried.

Member Dickson motioned to adjourn the Executive Session, seconded by Second Vice Chairman Rainaldi. All in favor, all ayes, Member Stoddard was absent, motion carried.

Chairman Crist reported that no action was taken in Executive Session. Member Steve Rainaldi had another commitment and had to depart. We were in the midst of considering a motion for the sales tax exemption before we went into Executive Session. We had a motion to consider the sales tax exemption by Ed Williams and I'll again ask if there is a second to that motion from the Board.

Member Santo motioned to second the motion made by First Vice Chairman Williams.

Chairman Crist said that brings us to other discussion on the motion and I'd open that up for Board discussion.

Member Dickson asked this motion is for the sales tax? How much would that total amount cost if you gave that exemption on the Town of Montgomery?

Attorney McLaughlin stated that during the public hearing as well as set forth in the assignment application, it is disclosed that the new owner intends to spend about 700,000 dollars in fixtures and furniture. The sales tax on that would be 8 ¼%. Half of that goes to the state, half of that goes to the county. The town gets approximately 1% of what goes to the county.

First Vice Chairman Williams asked about the use of local labor. Attorney McLaughlin said if the Board granted the sales tax exemption, under the Agency Local Labor Policy, the Agency would then be authorized as part of the assignment and assumption to monitor the use of local labor for the installation of the fixtures and furniture that would be purchased and installed; that usage would come under the 85% requirement of the Agency's Local Labor Policy. If the Board denies the sales tax exemption, which is in the Board's discretion, unless the Board granted the mortgage recording tax exemption, the Local Labor Policy be in effect since the PILOT is already existing and it predates the Agency Local Labor Policy.

Chairman Crist asked if there were any other discussion or comments on this motion? Hearing from no one, he called the question, starting with Member Macioce voted no, Member Dickson, voted no, First Vice Chairman voted yes, Chairman Crist voted yes, Member Santo voted no.

Chairman Crist said the motion is defeated. Moving on to our last item for this application, is the mortgage tax and I would ask for a motion to consider that question from the Board?

Member Dickson asked if this was used in the past?

Attorney McLaughlin said yes, it was provided.

Member Dickson motioned to grant the mortgage recording tax exemption by Resolution for the Grapnel, LLC application, seconded by First Vice Chairman Williams. A roll call of the Board, Member Macioce voted yes, Member Dickson voted no, First Vice Chairman Williams voted yes, Chairman Crist voted yes, Member Santo voted yes. All in favor, all ayes, Member Dickson voted no, Second Vice Chairman Rainaldi and Member Stoddard were absent, motion granted.

Annual Housekeeping Resolution – 2019

Attorney McLaughlin said this Resolution just approves the existing policies for 2020 that the Board already has in place which are the Code of Ethics, Conflicts of Interest, Freedom of Information Law Policy, Investment Policy, Local Labor Policy, Procurement Policy, Property Acquisition, Property Disposition, Retaliatory Action Policy, which is also known as the Whistle Blower Policy, the Uniform Criteria for the Evaluation of Projects Policy as well as the Agency's UTEP Policy. Does the Agency have a meeting scheduled beyond January 14<sup>th</sup> of 2020?

Chairman Crist said no.

Attorney McLaughlin said then we'll abate the approval of the 2020 calendar until the January 14<sup>th</sup> meeting. This also would approve an accounting firm, which presumably would be the Agency's existing accounting firm.

Chairman Crist said I would suggest Nugent and Haeussler.

Attorney McLaughlin said and we would request reappointment of Hodgson Russ as agency and bond counsel for 2020.

Chairman Crist asked if there were any questions on this Resolution from the Members. Hearing from no one, he asked for a motion to approve the Annual Housekeeping Resolution as this is required by the state regulation to be done on some of the items before the first of the year.

Member Santo motioned to approve the Annual Housekeeping Resolution, seconded by First Vice Chairman Williams. After a roll call, all in favor, all ayes, Second Vice Chairman Rainaldi and Member Stoddard were absent, motion carried.

Notice of Pilot Deviation Resolution – USEF Sailfish, LLC

Chairman Crist said next we will consider the Notice of Pilot Deviation Resolution for USEF Sailfish LLC.

Attorney McLaughlin said on November 12, 2019, the Board approved certain financial assistance for the Bluewater project. Subsequent to that approval, the project applicant Bluewater has sought to assign the application to USEF Sailfish, LLC. Mr. McLaughlin noted that as part of the Approving Resolution from November 12, 2019, the Board did approve a PILOT that contained a deviation from the Agency's existing UTEP; specifically, the exemption instead of being 100% for the first five-years was approved at 90% for the first five years. Given that the application is being assigned to a new applicant, a Deviation Resolution has been prepared which states the proposed deviation for the project from the Agency's existing UTEP. This will allow the Board to provide notice to the involved taxing authorities; advising those entities of the proposed deviation (i.e., a 90% exemption during the PILOT's first five years rather than 100% exemption) and to seek their comments.

Chairman Crist asked when would you suggest we ask the applicant to review the change to USEF Sailfish?

Attorney McLaughlin said right now this motion is just for the deviation notice, and so the Board is authorizing the issuance by the Chair of a notice to the taxing authorities of the change from the Uniform Tax Exempt Policy (UTEP), which again is instead of 100% for the first five-years, this Board approved a 90% exemption for the first five-years.

Chairman Crist said I would ask for a motion to approve that Resolution?

Member Dickson motioned to approve the Notice of Pilot Deviation Resolution, seconded by First Vice Chairman Williams.

Chairman Crist asked if there was another discussion on the motion? Hearing from no one, he said we decided this at the last meeting, but with the assignment we're taking this next formality.

Member Santo asked if this is the schedule on B3, on PILOT deviation?

Chairman Crist said correct and the first five-years it shows the 90% as opposed to the standard 100% exemption. Any other questions? Hearing from no one he took a roll call of the Board on the vote, Member Macioce, yes, Member Dickson, yes, First Vice Chairman Williams, yes, Chairman Crist, yes, Member Santo, yes. Second Vice Chairman Rainaldi and Member Stoddard were absent. The Resolution for the Notice of Pilot Deviation was approved.

#### Public Hearing Resolution – USEF Sailfish, LLC

Chairman Crist said moving on to the Public Hearing Resolution for the same applicant - USEF Sailfish, LLC.

Attorney McLaughlin stated that this Resolution is to hold a public hearing on the USEF Sailfish project, currently known as the Bluewater Project. USEF Sailfish has submitted an assignment application. They have also as part of that submitted a request to consider their assignment application. Bluewater, the existing applicant who has received the financial assistance already approved by the Agency at the November meeting, has also submitted a letter consenting to the transfer and this Resolution would allow the Board, as required by the General Municipal Law, to hold a public hearing for the project (which would be second public hearing for this Project) because there is a new applicant for the public to consider. It is the same project, but the statute requires a disclosure to the public of the applicant as well as the project.

Chairman Crist asked Don Chase, representing Bluewater, to brief the Board on this process.

Donald Chase, part of the Bluewater Property Group, said to refresh the Board's memories, late 2017, about two-years ago, we assembled and contracted for the property as Project Sailfish and began the approval process for the project. In July of 2018, about 6-months later, we partnered with USA Real Estate. If you're familiar with USA, this is their real estate investment subsidiary. We partnered with them to make a proposal to our client, to build a new building and lease on a long-term basis. This assignment essentially is an assignment of the benefits approved by the Agency in November 2019 to the entity that was created by the partnership to clone and develop and be a long-term owner of the project. It's just a technical transition from Bluewater as the initial developer, and we brought in USEF, our financial partner. We will continue to be involved as the developer, throughout the development of the project and beyond and they will continue to be the owner of the project through a long-term basis. My partner Steve Butte and I, this would be our 12<sup>th</sup> project for this client, where we can go across the United

States and totaling over 10-million square feet. For USA, this would be their 37<sup>th</sup> project for this client across the United States and Europe. The application that you have, their application USEF application is virtually identical to the Bluewater application that we submitted to you a year ago.

Chairman Crist asked this was part of a plan that this step would take place?

Mr. Chase said that's right.

Attorney McLaughlin stated that when the Bluewater application was submitted, the application from December of last year contemplated an assignment to some future owner of the facility and that has now taken place; but then again, since that party was not disclosed until after the Board already approved financial assistance in November, 2019, and the assignment application is before closing on the approved financial assistance, the General Municipal Law requires a public hearing to advise the public of who the new entity, the new applicant, is.

Chairman Crist asked this Resolution authorizes that public hearing to be scheduled?

Attorney McLaughlin said all the Board is doing is approving the scheduling of the public hearing.

Chairman Crist asked the Board if they had any questions? Hearing from no one he said I would entertain a motion to approve this Resolution for a public hearing.

Member Dickson motioned to approve the Public Hearing Resolution for USEF Sailfish LLC, seconded by First Vice Chairman Williams. After a roll call was taken, all in favor, all ayes, Second Vice Chairman Rainaldi and Member Stoddard were absent, motion carried.

#### Local Labor Law Compliance – Assignment and Update

Attorney McLaughlin said the local labor compliance question is in connection to the Stewart Holdings project. The Board approved that project subject to the Agency Local Labor Policy. The Project Sponsor has made two exemption requests under the Local Labor Policy: one for the curtain wall that needs to be constructed for the glass wall that they are going to utilize as part of their showroom, and the second was for the erection of the steel at the project site. Mr. McLaughlin noted the recommendation of the Agency's consultant to grant the curtain wall exemption; there is an open question about the steel contractor. With respect to the steel contractor, Mr. McLaughlin noted that the Agency consultant stated very little local labor was used; however the consultant has also stated that except for that part of the project, the Project Sponsor has made a good faith effort to comply with the Local Labor Policy and if you extract out that one piece, the Agency consultant believes local labor is approaching 100% usage for the project.

Chairman Crist called for a motion to grant the Project Sponsor both exemptions from the Agency Local Labor Policy. The motion was made by Member Santo and seconded by First Vice Chairman Williams. After a roll call was taken, all in favor, all ayes, Second Vice Chairman Rainaldi and Member Stoddard were absent, motion carried.

### CEO Job Description

Chairman Crist said the next item we have it listed as CEO job description, but I suggest we describe it as an Executive Director. It's the same job description that was used in the past, it's very detailed and I've also spoken to Supervisor Elect, Brian Maher about his thoughts on it because the job description for Executive Director involves working in the Town, working on our behalf, but really in the interest of the community. We should have a consolidated and a situation where we get input from all parties as we lead the Montgomery IDA ahead, but the job description states the Mission of the agency. A number of leadership attributes we would be looking for are operational planning and management, overseeing the day to day operation and I can tell you that without an Executive Director it has been quite demanding on myself and Mr. McLaughlin and his firm has played a big role in filing all of our reports and that would be the duty of this person. If we did need further staff, this person would take a lead on who we need, and job descriptions and they would also be involved in the financial planning and management. Mr. McLaughlin alluded to it during one of the public hearings that we get fees from the applicants on approved projects, which are quite substantial and, in some cases, well into six figures and that money is intended through certain regulatory direction to be used for the benefit of the town. We need to look at how we can best benefit the town with the use of those fees. Community relations, risk management and as far as qualifications it would require certain education and experience. We're suggesting 5-years related experience and training. Knowledge skills and abilities without a lot of supervision from us. Proficiency in computers and flexible to attend meetings and act ethically. The salary would be commensurate with experience and within agency budget limitations. Will usually work in an office environment, but also has to be flexible to go to non-standard work places including representing us at community events. Would be employed either on a part-time or a full-time basis, depending on the capability of the person, and that would be determined as we interview that person. Brian would you care to make any comments on this?

Brian Maher, Supervisor Elect, said I appreciate the opportunity to comment. I envision this person hopefully if you have the resources it being full-time, he or she to work here in Town Hall. There are a lot of things that were in the job description as Executive Director that I'd love to see the Town IDA become a part of. I mentioned this on the campaign trail, I'd like to follow through with that in terms of when I take office in January and it's just a flow of communication. I think having a seamless relationship with whoever your Executive Director is, and my office is hugely important. I would go out of my way to try to create a space and office for this person right next to mine and I know there obviously needs to be separation and there will be, but there are such a myriad of issues where we are going to have to work together and should work together from the very first planning stages to what to do with those fees. How that give back to the town occurs and being lock and step with how we operate the Comprehensive Plan and how we want to push it all moving forward. The closer that we are together, the better we are going to be to maximize the result. The job description for Executive Director, I was so excited when I read it because it spoke to the local town non-profits, it spoke to commerce, it spoke to small businesses and not just big box stores. I think it's something that's a huge opportunity and I really look forward to potentially working with this person hand and hand in the future. Does that sound similar to your thought process?

Chairman Crist asked if everyone was okay with those comments? Hearing from no one he said I think a part of that is to better bring in the public in a proactive manner, even before we have applications, it could possibly entail studies of some uses, maybe tied in with the Comprehensive Plan review.

Mr. Maher said yes, and one thing that I want to do off the top is regain the public trust and I don't think that's a knock on anyone, I think we're just a matter of our certain circumstance and the more that we create open government and transparency in all ways possible, the better off we are going to be. I think there are a lot of people saying a lot of the same things, but sometimes we just talk past each other, instead of to each other and having the right person in this position is going to go a long way to help with communication. I think that if communication were better, things would be going a lot differently and we would all be on the same page more often. Any way that I can be more involved in the process, I'd love to be.

Chairman Crist asked we would form this in an RFP with help from your office, Bob?

Attorney McLaughlin the notice could just be posted. I would recommend posting it and if you wanted to mail it out, send it out to some job sites.

Chairman Crist said I would like to have action on this because it has some tweaks from what we approved earlier, and we have two new Board members. Would anyone care to make a motion?

Member Dickson motioned to approve the RFP and the job description for an Executive Director to the IDA, seconded by Member Macioce. All in favor, all ayes, Second Vice Chairman Rainaldi and Member Stoddard were absent, motion carried.

#### Video/Live Streaming Update

Chairman Crist said just a quick update, video/live streaming, as you all know we are required to get that ramped up very early next year and we heard at our last meeting that Supervisor Elect is working on that. Any updates, Brian?

Supervisor Elect Maher said the first meeting, our reorg meeting is going to be January 2<sup>nd</sup>, that's going to be live streamed. Right now, we are going through a couple different options, first of which is interviewing our current IT Department, figuring out what their capabilities are. The second would be figuring out cost estimates from local Town of Montgomery based businesses. Also, we could find a more inhouse way to do it, but we're having a lot of conversations. I will tell you that we're on it. If it will cost less for you guys to do your own thing. You can rely on the work that we are doing and January 14<sup>th</sup> the dates in our minds, in terms of what we're doing. Right now our main priorities should be the IDA, Town Board and Planning Board meetings and then scaling out from there to try and cover every single meeting for the Ethics Board, CAC and every board of the town, but those three boards would be our priority and they would be included in anything that we try to do.

### Financial Report – November

Chairman Crist said our Treasurer is not here this evening and we do not have the November Report available, so we will take care of that at our January meeting.

### Counsel Report – Training

Attorney McLaughlin said two things from my report, one we did make the ABO PARIS Report on the budget that was approved last month, for both the IDA and the CRC. With respect to training, the ABO encourages annual training of Board members and I would like you to propose some dates or times that we can do a similar training especially for the new members. I would also note again that the State EDC is having their annual Albany meeting at the end of January and the IDA is a member of the EDC and even though it is in Albany, I recommend you consider going for a day. Other Board members will be there from other IDAs and it's usually a good information day.

### Proposed 2020 Meeting Dates

Chairman Crist said as a reminder we have January 14<sup>th</sup> meeting scheduled, that's a Tuesday night and it's a night where there are not other Board meetings afterwards.

### Other

Member Dickson asked do we always have to have a special meeting for the public comment, or can we do that during our regular meetings?

Attorney McLaughlin said public hearings can be held during a regular Board meeting, can be during a special meeting or through no meeting at all. A public hearing only requires someone to conduct the hearing with the public and a transcriber, in this case we have a tape recorder. In other situations, we get a court reporter, but the Board or chair do not need to be there. A lot of IDAs as the chair has done here, encourages the public hearings to be held during a Board meeting so the Board can hear the comments and concerns raised and what the issues are.

Member Dickson asked if somebody comes to us, we don't always have to have an emergency meeting?

Attorney McLaughlin said it is entirely up to the Board's consideration.

Chairman Crist said related to that John, when we only have meetings every other month, it's such a big space, I don't know if this Board would prefer to schedule a meeting every month and if we have nothing to do cancel it. Would that be better?

Member Dickson said no, it seemed to me that there were a lot of emergency meetings that we had to have.

First Vice Chairman Williams asked Mr. McLaughlin about the CEO – is the Agency in need of a full-time CEO?

Attorney McLaughlin stated that it was not his decision, but noted that many IDA's have full-time executor directors, many have full-time managing directors, and some have part-time executive directors.

First Vice-Chairman Williams asked the young fellow we had before, the director, what has changed so? He certainly did not do what we are talking about now.

Attorney McLaughlin said the job description that the former CEO came into the job with had expectations of time commitments and it turned out to be not the reality of where this IDA was at that time. He was hired with the expectation that on a monthly basis, he work between 10 and 20 hours. The job quickly became a lot more than that and he had other job commitments. Mr. McLaughlin noted the need for the Agency to have a director or manager, but whether or not that is full-time or part-time, it is a Board decision.

First Vice Chairman Williams said many years ago for training, we had to go to Albany and spend 2-days there and we weren't able to do it locally and I found it very beneficial. You totally understand what you're here for and what you're going to do.

Attorney McLaughlin said if the Board would prefer to take an afternoon, not in Albany, I'll be in the town for you if you want to take an afternoon or a morning and take more than an hour; I'm happy to do that. It's whatever the Board has time and inclination to do. The bottom line is you're encouraged annually for training, certain provisions of statutes change annually. We help in that respect, we keep you up to date with your policies, but especially for new Board members, that's what the training is for. The training should be for 3-hours because you can't accomplish everything in 1-hour.

### Adjournment

Member Dickson motioned to adjourn the meeting, seconded by First Vice Chairman Williams. All in favor, all ayes, Second Vice Chairman Rainaldi and Member Stoddard were absent, motion carried