

**MINUTES OF THE MEETING
RIVERHEAD INDUSTRIAL DEVELOPMENT AGENCY**

December 7, 2020

Meeting was called to order at 5:08PM by Chairman Thomas Cruso.

Present: Thomas (Tom) Cruso, Chairman
Lori Ann Pipczynski, Vice Chairwoman
Bob Kern, Treasurer
Anthony (Tony) Barresi, Secretary
James Farley, Asst. Treasurer

Absent:

Signifying a quorum.

Others in Attendance: Tracy Stark-James, Executive Director
Richard Ehlers, Counsel

Anthony Barresi moved to adopt the proposed agenda. Lori Ann Pipczynski seconded. The agenda was adopted.

MINUTES:

The Board moved to dispense with the reading of and voted on the November 2, 2020 meeting minutes.

#47-20 RESOLUTION APPROVES MINUTES OF REGULAR MEETING OF November 2, 2020. Member Lori Ann Pipczynski offered the following resolution, which was seconded by Member Anthony Barresi.

RESOLVED, the minutes of the meeting of November 2, 2020 as prepared and e-mailed be and are hereby approved, and

BE IT FURTHER RESOLVED, that the copies of said minutes be maintained in the files of the Agency and become a part of the record of the Agency.

VOTE: 5 Yes

CORRESPONDENCE: To be discussed under Old Business

TREASURER'S REPORT:

Cash Balance in as of November 30th \$ 8,970.85

Money Market	\$ 95,534.12
Revenue for October	\$ 6.69
Profit and Loss	\$ -17,415.96
Total Expenses Paid	\$ 34,215.60

#48 -20 RESOLUTION ACCEPTS REPORT OF EXPENSES AND AUTHORIZES PAYMENT OF BILLS AS OF November 30, 2020

WHEREAS, Denise Cooper, CPA and Tracy Stark-James, Executive Director, submitted monthly financial reports, including a report of expenses, to the Riverhead Industrial Development Agency for the period of November 1 to November 30, 2020 **as attached**,

RESOLVED, that fifty thousand (\$50,000) be transferred from RIDA money market account to the Riverhead Industrial Development Agency operating account for use by the Agency for its corporate purpose of economic development for the Town of Riverhead.

NOW, THEREFORE, BE IT RESOLVED, said monthly financial report dated December 2, 2020 covering the month of November be and are hereby accepted and expenses as listed are authorized for payment.

Member Lori Ann Pipczynski made a motion to accept Treasurer's Report, which was seconded by Member Bob Kern. **Motion approved.**

VOTE: 5 Yes

COMMITTEE REPORTS:

Audit: None

Governance Committee: Chairwoman Lori Ann Pipczynski reported that the committee had met regarding the annual compliance report. That a draft had been sent around to the board for comment on the content and that the agency was still streamlining the format. The committee also reviewed the fee schedule and continues to evaluate the potential increase in fees with more research. The committee also had a discussion regarding participation in the Town's Comprehensive Development Plan process. The board was sent a questionnaire from the consultants for input. The ED compiled the view of the members and relayed the position of the agency during the interview with AKRF AND LKMA. The ED will forward her notes to the board.

Finance Committee: None

OLD BUSINESS:

The ED read correspondence from the attorney representing John Wesley Village LP into the record to update the board on the project's status.

November 30, 2020

Tracy Stark-James,
Executive Director
Town of Riverhead Industrial Development Agency
209 W Main Street
Riverhead, NY 11901

Re: Update Regarding Straight Lease Agreement (the "IDA Agreement") by and between John Wesley Village LP ("JWV") and the Town of Riverhead IDA (TORIDA")

Dear Ms. Stark-James:

Please take this letter as an update to the status of the improvements at the property located at 1 Aldergate, Riverhead NY known as John Wesley Village that JWV agreed to make pursuant to the IDA Agreement (the "Project").

As you are aware, the Town Assessor for the Town of Riverhead failed to honor a portion of the IDA Agreement as to the timing and implementation of the pilot schedule. As a result, the Assessor determined that the property was taxable during the 17/18 and 18/19 tax years and collected:

- 17/18- \$395,000 (pro-rated for transfer date)
- 18/19- \$361,000

The payment of these amounts had put great strain on JWV's ability to complete the Project.

As you are also aware, pursuant to the order of Hon. Joseph Farneti dated May 14, 2020, this assessment was annulled and the Assessor's actions were adjudicated to be unlawful. Unfortunately, the amounts paid by JWV have yet to be refunded.

Despite the fact that the court's decision was rendered in May 2020, the amounts owed have not been paid and we understand that JWV probably will not get paid for another 6-8 months still. This has created cashflow issues for JWV and prevents it from funding the full scope of work that was agreed to. This is compounded by the fact that the judgment is income and taxable in 2020 even though JWV will not receive that money anytime soon. Additionally, so far, JWV has accrued legal fees in excess of \$76,000, in addition to the TORIDA legal fees it will be obligated to pay.

Finally, the Assessor's actions will likely have long-term ramifications on John Wesley Village. The delay in making the renovations will very likely cost the property substantially when HUD does its rent basis step up review (inflation adjuster and local market comparison). HUD sets rent adjustments based on market forces and property condition. The new basis is used each year thereafter for a cost of living adjustment. The lower the basis at its next review (approximately 18 months from now) is the basis for all future rent adjustments. This means even a modest loss in rent growth at the next review will have a lifetime effect on the site. The interference by the assessor means JWV did not get its interior work done before the pandemic and we cannot be sure when it can be completed. Furthermore, JWV had represented to HUD that the renovations were being performed. The fact that the renovations will not be done when promised, will adversely affect JWV's relationship with HUD.

Regardless, JWV has worked hard to complete a substantial portion of the Project and expects to complete everything, albeit over a longer period of time than originally contemplated. Below is the status of the improvements JWV agreed to make.

- Asphalt Work: The entire site with exception of one thirty car parking area has been milled in place, repaved, seal coated and striped.
- Concrete Work: the addition of handicap accessible ramps has been completed. The replacement of damaged/aged areas of concrete walkways have been completed
- the number and size of handicap parking spaces have been expanded
- The six fully handicapped accessible apartments have been fully renovated with exception of gas to electric stove conversion.
- Medical attention needed pull cord system has been replaced by the wireless pendant system
- The electrical upgrade to each individual unit is partially complete. The power supply lines are in place in the attics and can be completed once Covid access restrictions are lifted
- The irrigation wells are currently out for bid
- The common area solar (PV) systems are also out for bid
- The kitchen cabinets have been ordered and can be installed once access restrictions are lifted

In addition to the harm caused to the Project by the Town of Riverhead Town Assessor's failure to comply with the IDA Agreement, much of the work has been and will be delayed by the Covid pandemic. This is especially problematic because the residents of the Project are vulnerable due to their advanced age.

We estimate the balance of the work can be completed in 6-8 months once workers can return to normal access routines.

In conclusion, given that the Assessor has collected \$756,000 in funds that it was not entitled to receive which are substantially in excess of what JWV was obligated to pay and budgeted to pay, JWV's ability to complete the Project work and pay its pilot have been greatly diminished. We would appreciate any assistance that the TORIDA can provide to minimize such impact. We would be happy to discuss this matter in person, or remotely, with the TORIDA directly.

Thank you for your consideration.

Very truly yours,

Forchelli Deegan Terrana LLP

By: _____
Daniel S. Dornfeld

Counsel explained that the amount HUD reduces the rent is not a subsidy to the tenants, but rather provides a payment to JW based on the condition of the facility. Therefore if the payment is reduced the rent increases for tenants. Additionally the pro rata that the assessors assessed does not procure additional money to the taxing jurisdictions. For example: If the school needs to levy \$10,000 from the taxpayers, they will levy the \$10,000. It is unfortunate for the community since the project was off the tax rolls and with the proposed financial restructure was going to contribute \$75,000 to the taxing jurisdictions annually. However because JW has already paid the taxes, the agency cannot have them make a duplicate payment through the PILOT. Therefore the board considered the following resolution:

#51-2020 AUTHORIZES NOTIFICATION TO JOHN WESLEY VILLAGE LP RE: PILOT PAYMENT FOR 2020/2021 TAX YEAR

Lori Ann Pipczynski offered the following resolution as amended with changes, which was seconded by Anthony Barresi.

WHEREAS, John Wesley Village LP has entered into a Payment In Lieu of Tax Agreement (“PILOT”) with the Agency dated March 28, 2018 which requires a PILOT payment of \$75,000. for the 2020/2021 tax year, and

WHEREAS, John Wesley Village LP has received and owes a property tax payment for 2019/2020 in the amount of \$788,748.18, which bill was paid in full, and

WHEREAS, John Wesley Village LP commenced litigation to challenge this erroneous tax, which litigation has been determined in favor of John Wesley Village LP. However, the tax refund and interest owed have not been refunded by the appropriate jurisdiction and therefore, real property taxes paid greatly exceed the 2020 and 2021 PILOT payment, and

WHEREAS, Section 2.01(b) of the PILOT provides that PILOT payments are replaced by the obligation to pay Real Estate Taxes.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the Payment In Lieu of Tax Agreement between John Wesley Village LP and the Agency dated March 28, 2018, no PILOT payment shall be due and owing for the 2020/2021 tax year, and

BE IT FURTHER RESOLVED, that upon receipt of the erroneous tax refund, an accounting shall be made by John Wesley Village LP detailing all costs and expenses of the erroneous tax charge and reconciling such costs with all monies refunded to determine if a PILOT payment for 2020 and 2021 is due and such amount, if any, and

BE IT FURTHER RESOLVED that the Executive Director shall send a copy of this resolution to John Wesley Village LP. and the taxing jurisdictions.

Vote: 5 Yes

NEW BUSINESS:

Counsel explained that the first phase of the Peconic Management Group project has completed. The second phase which was built on adjacent property that was ultimately merged is in its last year and set to be transferred to new owners that do not fit the criteria for continuation of benefits. Therefore, it is recommended to authorize a termination agreement in the final year and ensure the PILOT payment is still made to the school district.

RESOLUTION #49A-20 AUTHORIZES CHAIRMAN TO EXECUTE BENEFITS TERMINATION AGREEMENT REGARDING PECONIC MANAGEMENT GROUP RE: 2011 PROJECT

Lori Ann Pipeczynski offered the following resolution, which was seconded by James Farley.

WHEREAS, an application has been made by Peconic Management Group LLC (the “Company”) to terminate its benefits with the Agency with respect to the acquisition by the Agency of a leasehold interest in a parcel of real property located at Roanoke Avenue in the Town of Riverhead, S.C.T.M. No. 0600-126.000-002-009.001, and the construction thereon of a 5,700

square foot medical facility, and incidental expenses in connection therewith, including any structures or improvements affixed or attached thereto and the furnishing and equipping of same for use by the Company and other related entities for provision of medical offices with a Regional Outpatient Pulmonary Rehabilitation Center and Bariatric Center of Excellence (the "Project"); and

WHEREAS, the Agency entered into the leasehold interest through the execution of a Ground Lease Agreement, Lease Agreement, Memo of Ground Lease Agreement, Memo of Lease Agreement, and PILOT Agreement all dated as of August 18, 2011 between the Agency and the Company (the "Agreements"); and

WHEREAS, the Project has been constructed and put in service in accordance with the terms of the Agreements and operated in compliance while under Agency supervision and control, and

WHEREAS, the Agency is not aware of any event of default or other legal impediment preventing the Agency from permitting such termination.

NOW, THEREFORE, BE IT RESOLVED, that upon the payment of Agency processing fee of \$250 and all necessary Agency attorney fees, the Chairman be and hereby is authorized to execute and deliver a Benefits Termination Agreement and any recording documents. Company also agrees to file a final Annual Compliance Report and pay the necessary fee as required by the Agency being due in 2021.

VOTE:5 Yes

RESOLUTION #49B-20 AUTHORIZES CHAIRMAN TO EXECUTE BENEFITS TERMINATION AGREEMENT REGARDING PECONIC MANAGEMENT GROUP RE: 2015 PROJECT

Lori Ann Pipczynski offered the following resolution, which was seconded by James Farley.

WHEREAS, an application has been made by Peconic Management Group LLC (the "Company") to terminate its benefits with the Agency with respect to the acquisition by the Agency of a leasehold interest in a parcel of real property located at 715 Roanoke Avenue in the Town of Riverhead, S.C.T.M. No. 0600-126.000-002-009.001, and the construction thereon by the Company of Buildings B and C as part of Phase II expansion of its medical complex, including any structures or improvements affixed or attached thereto and the furnishing and equipping of same for use by the Company and other related entities as a women's health center, a sleep center and physical therapy facility (the "Project"); and

WHEREAS, the Agency entered into the leasehold interest through the execution of a Ground Lease Agreement, Lease Agreement, Memo of Ground Lease Agreement, Memo of Lease Agreement, and PILOT Agreement all dated as of June 15, 2015 between the Agency and the Company (the "Agreements"); and

WHEREAS, the Project has been constructed and put in service in accordance with the terms of the Agreements and operated in compliance while under Agency supervision and control, and

WHEREAS, the Agency is not aware of any event of default or other legal impediment preventing the Agency from permitting such termination.

NOW, THEREFORE, BE IT RESOLVED, that upon the payment of Agency processing fee of \$250 and all necessary Agency attorney fees, the Chairman be and hereby is authorized to execute and deliver a Benefits Termination Agreement and any recording documents. Company also agrees to file a final Annual Compliance Report and pay the necessary fee as required by the Agency being due in 2021.

Vote: 5 Yes

#50-20 RESOLUTION AUTHORIZES PUBLICATION OF NOTICE OF MEETING

Lori Ann Pipczynski offered the following resolution, which was seconded by Anthony Barresi.

RESOLVED, that the following Notice of Meeting shall be published once in The Riverhead News Review:

PUBLIC NOTICE

PLEASE TAKE NOTICE, that the meetings of the Riverhead Industrial Development Agency and the Riverhead IDA Economic Job Development Corporation shall take place on the first Monday of each month at 5:00pm at the Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York. The annual meetings will take place in January of the calendar year. If a legal holiday should occur on the first Monday of a month then the meeting will be held on the second Monday of that month, unless otherwise amended by resolution of this Board. One additional meeting is scheduled at the end of March and only held as necessary to meet NYS deadlines.

BY ORDER OF THE BOARD OF DIRECTORS
RIVERHEAD INDUSTRIAL DEVELOPMENT AGENCY

Anthony Barresi, Secretary

2021 Meeting Schedule

January 4, 2021 Annual
February 1, 2021
March 1, 2021
March 29, 2021
April 5, 2021
May 3, 2021
June 7, 2021
July 12, 2020
August 2, 2021
September 14, 2021
October 4, 2021
November 1, 2021
December 6, 2021

Vote: 5 Yes

Lori Ann Pipczynski requested to take a motion from the floor to approve the recommended changes to the annual compliance report with the provision that the formatting will be changed. Anthony Barresi seconded. The board unanimously approved the amended annual compliance report.

Seeing no further business, Lori Ann Pipczynski motioned to adjourn the meeting. Anthony Baressi seconded. The meeting adjourned at 5:48pm

Dated: 2/22/21

A black rectangular redaction box covers the signature of the Secretary/Asst.

Secretary/Asst.