

**DERRY TOWNSHIP
INDUSTRIAL & COMMERCIAL DEVELOPMENT AUTHORITY
235 HOCKERSVILLE ROAD, HERSHEY, PENNSYLVANIA 17033
April 19, 2007
MEETING MINUTES**

I. CALL TO ORDER

The April meeting of the Derry Township Industrial & Commercial Development Authority was called to order at 5:32 p.m. by Chairman J. Scot Chadwick.

II. PLEDGE OF ALLEGIANCE

All present stood for the Pledge of Allegiance.

III. ROLL CALL

Members Present:

J. Scot Chadwick, Chairman
August T. Memmi, Secretary
Todd Pagliarulo, Vice Chairman
Michael H. W. Pries
Richard E. Lenker, Jr.

Also Present:

Joseph D. Caraciolo (Foreman & Foreman, P.C.)
James N. Negley, Manager/Treasurer/Asst. Secretary
Marie C. Sirkot, Administrative Assistant

Public Present:

Bill Davies, H.E. & R.
Dave Boyer, Buchart Horn, Inc.
Dave Lavery, H.E. & R.
Bruce Yerger, Buchart Horn, Inc. /Basco Associates
Cameron Readnour, Quandel

IV. PUBLIC COMMENT

No discussion.

V. APPROVAL OF MINUTES

Mr. Pagliarulo moved and Mr. Memmi seconded the approval of the minutes of the March 15, 2007 meeting.

Motion carried, 4-0, with Mr. Lenker abstaining.

VI. MODERN TRANSIT PARTNERSHIP LETTER

Mr. Memmi reported that the Modern Transit Partnership is currently putting together the funding for a feasibility study on Corridor 2. There are significant partners from HE&R, Hershey Foods, Hershey Trust, Hershey Medical Center, and others. Corridor 2 will run from a minimum of Lebanon to Harrisburg, through Hershey and the partnership has requested that the ICDA make a contribution of \$10,000. This money will be requested over a period of time; they don't need it immediately, but will ask for it as other money is depleted. There is a cost of approximately \$400,000 associated with the feasibility study. Mr. Memmi asked if there were any questions.

Mr. Pries asked Mr. Negley if there were funds available for the ICDA to assist the Modern Transit Partnership and Mr. Negley replied that we have \$108,000 per year for the next five years coming from the bond swap that can be used. Mr. Chadwick commented that this clearly meets the criteria of economic development for the region. Mr. Pagliarulo believes that the \$10,000 will come back to the township one hundred fold.

Mr. Lenker moved to approve the contribution of \$10,000 to the Modern Transit Partnership and Mr. Pries seconded the motion.

Motion carried, 5-0.

VII. HERSHEY MUSEUM PROJECT

Solicitor Caraciolo advised that his office had been contacted by Mr. Malpezzi concerning a potential conflict of interest between his representation of PNC Bank with The Hershey Story. His letter indicated that if a conflict were to occur, he would withdraw from his representation of PNC Bank. The letter has been reviewed and it does comply with the rules.

Mr. Pagliarulo moved and Mr. Lenker seconded the motion to approve the letter.

Motion carried, 5-0.

David Sweet of Buchanan Ingersoll is being suggested to be the bond council and we will need a motion to approve him. I believe we have had dealings with Attorney Sweet in the past and we're comfortable with him.

Mr. Lenker moved that David Sweet be approved and Mr. Pagliarulo seconded the motion.

Motion carried, 5-0.

VIII. COCOA AVENUE PLAZA FACILITY UPGRADE/ADDITIONS

Mr. Pries expressed some concerns that have been presented to him by various residents regarding the condition of the Plaza facility. Mr. Pries has been copying Mr. Mandia on any correspondence concerning these issues and is wondering if there is anything the ICDA Board can do to assist and what our involvement might be to help in upgrades or new construction there. Mr. Pries recently spoke to Mr. Shuster who might be able to assist in some way, but Mr. Pries is getting information at this time – is this a project the ICDA could help with or does it need to go back to the township for a referendum and vote? Any input from the board would be appreciated.

Mr. Negley reported that a \$3,000,000 bond was received last year for parks and recreation and \$650,000 of that money is earmarked for the following repairs at the Plaza: removal and restoration of tile panels on the south wall and roof area of the pool, an updated control panel for tracks and motors for

the dome structure, a complete inside/outside painting of the dome structure, install and increase ventilation within the dome structure, underwater security lights, a family changing room, restrooms, access and security partition installed in the lobby area, locker room upgrades, replacement of partitions in public lobby and restrooms, replacement of the baby pool spray apparatus, and installation of small spray park in south end of outdoor area. This may not seem like a lot and perhaps we should look forward and see what else should be done, but at least you know that plans are in place for some renovation. Mr. Pries commented that this seemed like a lot of renovation for \$650,000. Mr. Negley replied that Matt Mandia says it can be done for that amount. Mr. Pagliarulo commended Mr. Pries for taking the initiative on this matter. He has been in the plaza facility recently and agrees wholeheartedly that many repairs are needed, but feels that the Derry Township Board of Supervisors as a project should do it. He has also received comments from citizens concerning upgrading the facility and feels that a study should be done regarding the scope of work needed and then it should be decided whose responsibility it is to follow through with the project.

Mr. Lenker asked Mr. Pries whether the citizens he spoke to were looking for expanded services or just restoration of what we have. Mr. Pries replied that some people would like to see the swimming pool area expanded and made into a first class facility, but some complaints were bathrooms, etc. and this was mentioned on the list of repairs already slated for the plaza. Mr. Pries said he is under the impression that it is more of an expanded upgrade that people would like to see done. He has also asked Mr. Mandia for a wish list of what he would like to see done down the road and maybe it can be budgeted in for next year. Mr. Negley suggested that Matt make a report of what upgrades are scheduled to be done. This may satisfy some people.

Mr. Memmi agreed with Mr. Pries and added that maybe there is some grant money available and that Mr. Mandia could check into that. DCNR has a 50/50 match program. If we can get \$30,000-\$50,000 we would have to be able to match that, but that would get us a feasibility study and give the Board of Supervisors some direction as to what they could do given the existing site and the conditions that are there.

Mr. Pries asked Mr. Pagliarulo what was the estimated cost that was going to be expended for updates and repairs to the Plaza facility when he was on the board in approximately 1994. Mr. Pagliarulo replied that the lobby was

expanded, some lockers were put in and the pool filtration system was worked on. Mr. Negley remembered that in 1992 the director's office was where the fireplace is now. Mr. Memmi asked Mr. Pagliarulo if he was on the board when the referendum was voted down and Mr. Pries asked if he remembered the dollar amount involved. Mr. Memmi replied that he didn't remember a dollar amount, but it was a much more extensive plan, a really elaborate plan that was voted down. It was a non-binding referendum at that time and the board chose to do the library instead, but did a limited amount at the recreation center; including what Mr. Negley mentioned plus expanding the parking area and some landscaping and maybe the two lower tennis courts. Mr. Memmi said that as a member of the Board of Supervisors he would like to see a feasibility study get underway for this project.

Mr. Caraciolo commented that he needed to talk this over with Mr. Foreman to see whether the ICDA should be involved or the Board of Supervisors. Mr. Memmi mentioned that the contract with the consultant is through the ICDA. We should ask Mr. Shuster to come in and discuss this issue to see if there is any opportunity for him to try and find some funding? Mr. Pries added that this would be for 2008, since it is too late to start something in fiscal year 2007. Mr. Lenker thinks that there may already be some engineering studies in place that could be used for this project. Mr. Pries thanked everyone for their input.

Mr. Memmi asked if there were any items that would need a vote because he has to leave by 6:00. Supervisor Chadwick asked to skip to Item 11 on the agenda since it will require a vote.

IX. NEW MUNICIPAL BUILDING PROJECT CHANGE ORDERS

Mr. Yerger handed out an executive summary, which shows that this project is 96% complete by cost and 100% complete by time with the exception of the punch list cleanup, and some issues that are still being repaired (the uninterruptible power supply "UPS" system that is being addressed by the equipment suppliers). Repair parts were shipped by airfreight and their people will work through the weekend to complete the installation. The final cleaning and moving in of furniture is ongoing and expected to be completed by May 1st. The 8-1/2 x 14" spreadsheet identifies those change orders that have been reviewed with Jim Negley and are submitted here for consideration. These change orders total \$35,171.00 for CH&E (a large part

of this is the sign out in front of the entrance to identify the new location). Continuing on, we have W.G. Tomko \$3,475.00, MBR 2,116.86, and Pagoda Elect. \$16,663.47. Some of these are based on estimates from Quandel. We would like your consideration on Items 128, 129, and 138 for approval and invite Mr. Negley to offer any comments he might have before you vote. Supervisor Chadwick asked for clarification that if a motion is approved tonight it should be subject to final determination of the price on those three items and Mr. Yerger replied that this is correct. Mr. Negley commented that the sign already had a fund, which was transferred to CH&E, the general contractor, because it eliminated our legal responsibility to bid for the sign. So the \$35,000 was just a transfer, it isn't money that we didn't have. Everything else is acceptable. The solicitor advised that these were reviewed for sufficiency and legality.

Mr. Memmi asked David Boyer whether he was actually reading this correctly – are we \$495,198 below budget? Mr. Boyer answered; referring to the large spreadsheet, when we consider approval the total \$57,000.00 reduces two categories up at the second line to the very far right “balances available” it says \$187,000, reducing that by \$57,000, that line item the 3% contingency allocation is reduced to \$130,000 and correspondingly it reduces the balance available highlighted below which is \$495,000 – this is the picture **before** your consideration would be \$437,000.

Mr. Negley added that Buchart Horn has been negotiating design omission issues with him and Buchart has agreed to reimburse the township in excess of \$120,000. Is that correct? David Boyer answered, “Correct.”

Supervisor Chadwick asked for a motion to approve the change orders subject to resolution of a final price on Items 128, 129, and 138. Mr. Lenker moved to approve and Mr. Memmi seconded the motion.

Motion carried, 5-0.

X. DERRY TOWNSHIP ICDA WEBSITE CONSIDERATION

Mr. Negley reported that there has been some interest in creating a website for the ICDA. Michael Macchioni, a former township employee, has offered to create a website for the cost of \$3,295.00 and some associated costs for training and configuration. Supervisor Chadwick commented that for well

under \$5,000.00 we could have a website. Mr. Negley added that the website for the New Year's Eve celebration was also created by Mr. Macchioni. Mr. Pries said he was very pleased with that website and if anyone wanted to look at it they could go to www.hersheynewyears.org and check it out.

Mr. Memmi moved to hire Mr. Macchioni to create this website and Mr. Pagliarulo seconded the motion.

Motion carried, 5-0.

XI. INTERMODAL TRANSPORTATION FACILITY UPDATE

Mr. Yerger reported on the PP&L duct bank conflict that a 4-day delay was projected, but that he feels this time will be made up. He mentioned the aerial photos of the project contained in the executive report. Percent of completion is about 55% and the parking garage concrete walls are about 95% complete. Precast is being erected and the bus station precast is projected to begin on or about May 11. There are some forms, which the solicitor was approved to sign back at the February meeting, and we will need his signature on those (including the FTA for 2007). Cameron Readnour is here tonight as well as myself to answer any questions.

Mr. Memmi asked where we stand in collection of money and Mr. Boyer replied that Mr. Shuster should be asked about this. Supervisor Chadwick asked Mr. Negley to put this item on a list of things to address to Mr. Shuster.

Mr. Memmi advised that he has seen an explosion of emails regarding payments to Buchart Horn and their subs and asked where we stand on this and is there any action the board needs to take. Mr. Davies replied that there is currently \$338,000 in outstanding bills, and through discussions with their attorneys, they feel the best approach is to withhold \$200,000 and cut a check for \$138,000 to Buchart with a letter explaining the purpose of the hold back. We are waiting for some of the language to be worked out, but have been in touch with Buchart and they are aware that is being done.

Mr. Lavery added the current change order estimate for that work is actually \$186,000 and that there are still some conversations going back and forth

between the attorneys. He added that a payment of \$138,000 will be sent out but the rest will be subject to discussion among Jeff, Diane and John Sylvanis. Supervisor Chadwick asked if releasing the \$138,000 would require a vote of the ICDA board and Mr. Lavery replied that they have been approving payments as agents for the board, so he doesn't feel that it would.

Mr. Yerger pointed out that there is still \$678,000 worth of items out there, and he differs in that he thought it would be at the end of the project. His solicitor has not been able to make contact after several attempts and there has been no further discussion since February 15 on the tolling agreement. He stated that all the billings that are out there now have nothing to do with any duct bank issues, they are all basic services with contracts that had been drawn up 2 or 3 years ago. He wants to go on record that he thought they were looking at the back end rather than now.

Mr. Lavery explained that they are willing to cut a check as soon as tomorrow for the \$138,000 with the understanding that they have discussions as soon as possible with Diane, Jeff Foreman and John Sylvanis to determine the path for the future as to how we'll handle this. Supervisor Chadwick asked Mr. Caraciolo to make this a priority and he agreed to do so.

Mr. Memmi excused himself from the meeting at 6:00 p.m.

Mr. Yerger advised that they would like the solicitor to advise them on recouping their money from PP&L in regard to the miswiring of the connection when powering to the police building. Is there a possibility of reimbursement from the owner's "builder's risk" policy as opposed to legal action? The solicitor's office will advise the board on a course of action for this matter. Mr. Lenker asked if anyone had talked to PP&L about this matter and he was advised that a letter had been sent to them, but no response has been received. Is there a possibility of reimbursement from the owner's "builder's risk" policy as opposed to legal action? The solicitor's office will advise the board on a course of action for this matter.

Mr. Caraciolo reported in regard to the duct bank issue that Buchart Horn is taking the position that it is PP&L's responsibility and PP&L is saying it is Buchart Horn's responsibility. The only opinion the solicitor's office has at this time is that it is not the ICDA's responsibility. He will make it a

priority to speak to Jeff Foreman and get the tolling agreement moved forward.

XII. MUNICIPAL BLDG. AT HOCKERSVILLE RD. UPDATE

Mr. Pries stated that the PATT group pulled back their project request and they will come back with a new request. He asked what the time line is for our contract with them. Mr. Negley replied that he isn't sure of the time frame. They are coming back with a scaled down plan, but he hasn't seen it yet. Ed Small advised Mr. Negley that it might be the end of April or early May. They are moving forward and they are within their time frame. Mr. Pries asked what would happen if their next proposal did not pass; then where would we be. Mr. Negley replied that he thinks they would have to withdraw. Mr. Pries inquired whether another group or individual could then purchase the property and Mr. Negley said absolutely. It is Mr. Negley's understanding that if the Zoning Hearing Board does not approve their proposal; they can either walk away from the project or appeal. Mr. Caraciolo stated that there is a time limit involved and the PATT group has already been granted an extension. At some future time if the decision to grant an extension were not made, then they would be in default. The solicitor commented that some of the variances they are asking for are very substantial.

XIII. FIELD OF DREAMS PROJECT

Supervisor Chadwick reported that no change has been made since the last meeting. He did get a phone call from Mr. Marcucci while he was out of town and he will return that phone call tomorrow.

XIV. PUBLIC COMMENT

None at this time. No public in attendance.

XV. ADJOURNMENT

Mr. Chadwick asked for a motion to adjourn. Mr. Lenker moved and Mr. Pries seconded the motion for adjournment. Meeting was adjourned at 6:30 p.m.

Motion carried, 5-0

Approved:

James N. Negley
Manager/Treasurer/Assistant Secretary

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