

**DERRY TOWNSHIP**  
**INDUSTRIAL & COMMERCIAL DEVELOPMENT AUTHORITY**  
235 HOCKERSVILLE ROAD, HERSHEY, PENNSYLVANIA 17033  
February 15, 2007  
**MEETING MINUTES**

**CALL TO ORDER**

The February meeting of the Derry Township Industrial & Commercial Development Authority was called to order at 5:42 p.m. by Chairman J. Scot Chadwick.

**PLEDGE OF ALLEGIANCE**

All present stood for the Pledge of Allegiance.

**ROLL CALL**

Members Present:

J. Scot Chadwick, Chairman  
Richard Lenker, Jr.  
August T. Memmi, Secretary  
Todd Pagliarulo, Vice Chairman  
Michael Pries (arrival at 5:50 p.m. due to weather)

Also Present:

Jeff Foreman (Foreman & Foreman, P.C.) ICDA Solicitor (arrival at 5.52 p.m.  
due to weather)  
James N. Negley, Manager/Asst. Secretary/Treasurer  
Marie C. Sirkot, Administrative Assistant

Public Present:

Lou Verdelli, R.B.C.  
Bill Davies, H.E. & R.  
Bruce Yerger, Buchart Horn, Inc. /Basco Associates  
Becky Delia, PNC  
Diana Reed, D.R.A.  
Dave Lavery, H.E & R.  
Kyle Patino, PNC  
Tom Fowlston, PNC  
Al Fricke, Field of Dreams  
Glen DeWillie, Field of Dreams  
Joseph Conway, Field of Dreams  
John Marcucci, Field of Dreams  
Brion Smoker, Smoker, Smith  
Michael Corado, Field of Dreams

## **PUBLIC COMMENT**

No discussion.

## **APPROVAL OF MINUTES**

Mr. Lenker moved and Mr. Pagliarulo seconded the approval of the minutes of the January 18, 2007 meeting.

**Motion carried, 4-0.**

## **FINANCING ISSUES**

### **Granada Project Bonds**

Mr. Verdelli reported that in last month's meeting he asked for approval of a parameters resolution and with the drop in interest rates over the last few days he was able to hit our savings target, locking in an interest rate and saving \$125,000. Since the school district pays 81% of the debt service on those bonds, they will get about \$100,000 of the savings from the transaction and the township gets the remaining \$25,000 from refunding that. He added that with signatures on the final documents tonight, the transaction could be completed on March 7, 2007.

### **Giant Center Swaps Proposal**

Mr. Verdelli updated the board on the swap transactions. He reported that all the information needed for the credit approval was gathered two weeks ago so we are basically clear to enter into this transaction from a credit standpoint. The past two weeks have been spent negotiating business terms, which is usual for these types of transactions and we are down to the last item where there may be some compromise available that we're trying to work through.

On the first page of the document you've been given, at the top of the page (Series A Bonds – tax exempt issue; supported by hotel taxes) looking at the "terms" section, the target has been to lock in a fixed rate of 5.15% for the remaining life of these bonds, which is the year 2030. In exchange for that the authority would receive five annual cash payments of approximately \$82,000. Based on interest rates dropping this afternoon we are showing five cash payments of about \$99,000.

The Series B of 2001 on the arena revenue issue (taxable bonds) the current rate is 5.51% through 2011 and what we are looking at is locking in the interest rate from 2011 to the final maturity of the bonds, which is 2030, so those remaining 19 years (as of this afternoon's rates) the rate is 5.57% on that issue. Page three of your document illustrates the drop in interest rates in the last two weeks. If we're able to negotiate the final business terms we'd be prepared to implement the transaction on very short notice; probably early next week.

Mr. Chadwick asked Mr. Verdelli what additional authority he needs beyond what the board has already given. Mr. Verdelli replied that he basically has what he needs; as long

as the payments to the board are in excess of \$50,000 with Bill Davies' agreement and Jim Negley on the phone, they should be able to complete this transaction.

Mr. Pries arrived at 5:50 p.m. and Mr. Chadwick asked that he be added to the roll.

Mr. Pagliarulo asked what chances the board might be taking by waiting until the middle of next week before completing this transaction. Mr. Verdelli feels that nothing too significant should be happening before next Tuesday morning. There would be no major economic impact.

Mr. Foreman arrived at 5:52 p.m. and was added to the roll.

Mr. Memmi asked Mr. Kyle Patino (representing PNC Bank) if it is the language of the termination agreement that is holding us up on this and Mr. Patino replied that it is. Mr. Memmi continued; as our financial advisor on this deal, are the terms negotiated to the best we're going to get on this deal or is RBC asking for something out of line on a deal of this magnitude if someone else was doing the transaction? Mr. Patino answered that the hang up is in the additional termination event language. What this language does is allow the counter party an ability based on certain criteria to terminate the transaction earlier than its stated maturity date, which is typically a right on a shorter swap that most counter parties do not have. However, the ICDA always has the ability to exit a contract early. It's important to remember that because it is an additional termination event, it is not an automatic termination event. Mr. Patino added that based on structures going out for this long, RBC's priority position in payments; they are basically subordinate to bondholders and the existing bank group, which they're not a participant in at this time. That being said, they're very much last in line in priority of payments, whether it be swap payments or in the case of any termination payment due. That termination payment would only be allowed to be made subject to the bank group's approval. My professional opinion and as your advisor – I don't think it's an unreasonable request of RBC putting everything into context. I believe it is reasonable language.

Mr. Memmi inquired whether PNC is a participant in the bank group to which Mr. Patino replied that they were. Mr. Memmi asked if Mr. Patino had an opinion on this language being sought by RBC and did it give him pause? Mr. Patino asked if Mr. Fowlston wanted to comment and Mr. Fowlston stated that it doesn't really affect them that much because these swaps are all after their letter of credit expires. Mr. Patino explained that the intent is to structure the language as identical as possible to the security reimbursement agreement currently.

Mr. Memmi then asked Bill Davies whether this could be negotiated in the next day or two in a way that is comfortable from HE&R's perspective and he replied yes and that it was the right time to lock in for the long term. The issue that we've identified, Mr. Davies continued, is in a default scenario. Language isn't the answer, because what would happen is we would default and there would be a termination price, so we'd be negotiating from the position of how much do we owe them? So I don't feel that it's necessarily the language. I think the real issue is do we want to live with that clause or

not? From HE&R's perspective it puts more risk in a termination situation. HE&R fully believes that it can operate the facility at 125/1 and we believe the hotel taxes will perform at 105/1, but going into a deal you try to negotiate both the up and the down sides, so if there is an economic downside, we'll be negotiating with not just one party, but two parties. Mr. Memmi said that he appreciates the scrutiny and the ongoing negotiations between all parties involved and echoed Mr. Pagliarulo's position that interest rates being what they are, we need to work this out so that by Tuesday hopefully they can lock in on these rates.

## **INTERMODAL TRANSPORTATION PROJECT UPDATE**

Mr. Yerger handed out Executive Summary Report No. 6 and highlighted some of the important points. In terms of the duct bank conflict, meetings have taken place with Lobar to review the bus station pre-cast fabrication and schedule impacts and I understand that Lobar has been extremely cooperative in trying to move this project forward. The 55-day potential delay has been reduced to only nine days. The percentage of completion by time is about 42% and by cost 28%, the big differential being the pre-cast, which will drive the number up once those costs come in. The parking garage precast should start being erected on March 7<sup>th</sup> and bridge across the railroad tracks sometime between March 20<sup>th</sup> and 25<sup>th</sup>. The bus station pre-cast should begin on or about May 8<sup>th</sup>.

We have had to reschedule a meeting with the police department regarding the impact of traffic on Park Boulevard. RACP information has been submitted for approximately \$643,000 and we're looking for a check release back to the ICDA of sometime in May. Mr. Yerger asked if there were any questions.

Mr. Pagliarulo asked about the void in the parking garage between the connection to Phase 3 and what's going to happen there – how will it be tied in? Dave Lavery explained that it will be cantilevered over to the other section and more details can be provided later.

Mr. Memmi commented that it looks like Lobar is continuing to fix Phase 1 and Mr. Yerger added that the weather has not helped the situation, but they have committed to having all seams repaired and recaulked by April. Mr. Memmi asked if any resolution had been made regarding the stop sign at Linden and First Streets and Mr. Yerger replied that Larry Grave had just finished up an analysis and was sending information to Mr. Negley.

### **Consideration of Tolling Agreement, Utility Bank Issue**

Mr. Foreman explained that this agreement deals with the utility bank issue and Buchart Horn each month is submitting bills to the authority, which we are accepting, but not paying yet while we are proceeding with the claim to see what the outcome might be. The tolling agreement would toll the time that people would have to file claims as between the parties to the agreement. There is language there that is not entirely agreed to, but it is not very substantial. Our position is that none of these claims are our

responsibility, which is not to say that they are entirely the responsibility of the utility company. What I am requesting tonight is to accept the substance of the agreement while we negotiate the final few points that we hope to have negotiated among the three parties very shortly.

A motion was made by Mr. Pries to accept the substance of the tolling agreement and seconded by Mr. Lenker.

**Motion carried, 5-0.**

**Resolution Accepting FTA Conditions for Funding**

Mr. Foreman explained that in the packets handed out there was a copy of a resolution authorizing us to submit a current annual certification to the Federal Transit Authority accepting their requirements for a grant that they are administering for us. We have done this in the past; each fiscal year they give us a list of what it is that we have to agree to and it's pretty much the same each year, they change a few things. They're asking for our chairman to sign the certification and attach to it the specific requirements they have for the year 2007.

Chairman Lenker moved and Supervisor Pries seconded the motion to approve and call this **Resolution 2007-03**.

**Discussion:** Mr. Memmi asked if there were any conditions in the resolution that appear problematic and Mr. Foreman replied that there weren't.

**Motion carried, 5-0.**

The second part of this is a certification Mr. Foreman continued, and Mr. Negley assigned this second section Resolution 2007-04. Mr. Pagliarulo moved and was seconded by Mr. Pries to approve **Resolution 2007-04**.

**Motion carried, 5-0.**

**NEW MUNICIPAL BUILDING PROJECT UPDATE**

Mr. Yerger handed out Executive Summary Report #11 regarding the new municipal building project. He reported that construction is now 90% complete and the latest update shows that construction is still on schedule for an on-time completion of March 30, 2007. He spoke to Quandel yesterday and they are planning punch list cleanup and furniture installation for April. The traffic signal has been installed and is being processed through the turnover phase and the interior designer has continued to work with township staff with scheduling the installations.

There is a letter in your packet from Pagoda regarding the mispowering of the police station. They indicate that the main breaker was switched off and there should be no problems with the switchboard in the future as a result of this.

Mr. Yerger then mentioned the change order log, which is also contained in the handouts. There have been approximately \$27,000 worth of change orders given to the manager for approval; right now we've got requests for \$46,611.50 to be considered for approval. With those items we have an updated contingency; with the proposed change orders the balance available is \$215,000. Mr. Yerger asked the board to consider the change orders and asked if there were any questions.

Mr. Pries asked Mr. Negley if 16.3 million is the cost of the entire project and Mr. Negley answered that \$16,962,000 is the cost of the whole project, including the furniture. Mr. Negley advised that Hurricane Katrina drove prices up, but the project is still \$600,000 under budget. Chairman Chadwick asked what the likelihood was of any more substantial changes and Mr. Yerger estimated about \$20,000, and that he would work with the manager as they come up.

Mr. Chadwick asked for a motion to accept the changes that Mr. Yerger had outlined. Mr. Lenker moved and Mr. Pagliarulo seconded the motion.

**Motion carried, 5-0.**

### **CURRENT MUNICIPAL BUILDING PROJECT UPDATE**

Mr. Foreman sent an email to all board members earlier today, which discussed environmental issues on the site from the study done. He will work with Jim. Jim will keep board members advised via e-mail as he receives information. When three members approve, they will proceed.

### **HERSHEY MUSEUM PROJECT CONTRACTS**

Mr. Foreman reported that he has submitted to the board three drafts of contracts. Basically it is the same contract and the same organizational scheme as many projects before – the ground lease is where we release the ground, the museum acts as our construction agent to build the facility and then we would lease it back to them in a building lease. We are not responsible for any ongoing expenses and the only stream of revenue at risk for the authority is the stream of revenue from the project itself. There are a few minor changes, which are underlined, and I would request that the board endorse the substance of the agreement. Mr. Pries moved to accept the substance of the agreement and Mr. Pagliarulo seconded the motion.

**Motion carried, 5-0.**

## **REVIEW OF PROJECT PRIORITIZATION LIST**

Mr. Negley feels that the projects are accurately represented on this list. Mr. Foreman felt that the board did not have to take a vote on it at this time; the list was more informational than anything else.

Mr. Pries asked Mr. Memmi if “B1” is the rail trolley system to connect the museum and the park. There was discussion regarding the old #3 trolley car that is being restored and whether using it would be an option or whether the monorail could be extended. Mr. Pagliarulo commented that to extend the monorail is not viable because it would be too costly. He mentioned there is a trolley in Dillsburg currently being repaired and being brought back to the standards of what it once was. Parts are being custom manufactured. An actual trolley system would also be too costly. A trolley would be more doable and there might be federal funds available to subsidize.

## **FIELD OF DREAMS PROJECT**

Mr. Chadwick explained that it was his intention to have Mr. Marcucci, Dr. Brewer, and the board members all together tonight for a discussion about the Field of Dreams Project. Since Dr. Brewer could not make it because of weather, this will not be possible, but Mr. Chadwick invited anyone having information or comments regarding Field of Dreams to feel free to speak. When Mr. Chadwick last spoke with Dr. Brewer she expressed interest in improving the baseball field, but stated that they are interested in other athletic facility projects as well and had questions about funding, questions about the Trojan Foundation being involved, etc. and that is why he was hoping to get all three parties together.

Mr. Marcucci said that he feels that Dr. Brewer’s concerns are mostly financial and that he had assured her that there would be no cost to the school. This being the case, he feels that they will back the idea 100%. Mr. Marcucci introduced Brion Smoker who is working on financial projections for the project. Mr. Smoker said he feels that he and Mr. Marcucci need to try to meet with Dr. Brewer together and come back to the board with more information. Mr. Pagliarulo commented that the board is working as a facilitator, trying to help the two groups come to an agreement. If they can develop a Letter of Understanding, then we can move on. Mr. Chadwick suggested that if the Field of Dreams group and Dr. Brewer could come to some agreement as to what needs to be accomplished, the ICDA board will be more than happy to be helpful in any way possible. Mr. Marcucci asked what the pros and cons were to using the ICDA 501C3 or the Trojan Foundation 501C3. Mr. Foreman replied that it should be the same in both cases.

## **PUBLIC COMMENT**

None at this time.

## **ADJOURNMENT**

Mr. Chadwick adjourned the meeting at 7:02 p.m. after a unanimous vote.

Approved:

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James N. Negley  
Manager/Treasurer/Assistant Secretary