

DERRY TOWNSHIP  
INDUSTRIAL & COMMERCIAL DEVELOPMENT AUTHORITY  
235 HOCKERSVILLE ROAD, HERSHEY, PENNSYLVANIA 17033  
January 18, 2007  
MEETING MINUTES

CALL TO ORDER

The January meeting of the Derry Township Industrial & Commercial Development Authority was called to order at 5:35 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

Also Present:

Jeff Foreman (Foreman & Foreman, P.C.) ICDA Solicitor  
James N. Negley, Manager/Secretary/Treasurer  
Marie C. Sirkot, Administrative Assistant

Public Present:

Dave Boyer, Buchart Horn, Inc. /Basco Associates  
Marlin Coon, Summit Twp., Erie County, PA  
Becky Christoff Delia, PNC Capital Markets  
Chris Gradler, Summit Twp.  
Tim Haaf, STIEDA  
Dan Malpezzi  
Marty McAtee, Summit Twp. Sewer Authority  
Brian McGowan, STIEDA  
Kyle Patino, PNC Bank  
Diana Reed, D.R.A.  
John Troutman, STIEDA, Summit Twp. Water Authority  
Lou Verdelli, R.B.C.  
Dan Victor, Patriot News  
Bruce Yerger, Buchart Horn, Inc. /Basco Associates  
William Davies, HE & R

## PUBLIC COMMENT

No discussion.

## REORGANIZATION OF THE DT ICDA BOARD

Mr. Foreman asked for nominations for the 2007 Board and Mr. Pries nominated the following:

Chairman:	J. Scot Chadwick
Vice Chairman:	Todd Pagliarulo
Secretary:	August T. Memmi Richard Lenker, Jr. Mike Pries
Manager/Treasurer/ Assistant Secretary:	James N. Negley

Mr. Pries made a motion to accept members present. Seconded by Mr. Lenker.

**Motion carried, 5-0.**

Mr. Foreman mentioned a letter regarding representation of the Board by McNees Wallace and asked if all members had a chance to read over it. Mr. Chadwick stated that he has looked closely at this and it contains all safeguards necessary to move forward; he feels very comfortable with this. Mr. Memmi reclused himself from any action on this motion. Motion to approve by Todd Pagliarulo and seconded by Mr. Pries.

**Motion carried, 4-0.**

## APPROVAL OF MINUTES

Mr. Pries moved and Mr. Pagliarulo seconded the approval of the minutes of the December 14, 2006 meeting.

**Motion carried, 5-0.**

## FINANCING ISSUE – ITF

Mr. Lou Verdelli requested that item (b) be discussed first, as Mr. Malpezzi was not present yet and the board agreed. Item VII (b) is in regard to authorizing a financing team to proceed with locking in some interest rates on the financing for the Giant Center. As was discussed a month ago, long term interest rates have hit a 36 year low, so now would be an opportune time to lock in an interest rate for the remaining life of both the Series A and Series B bonds that paid for the construction of the Giant Center. Mr. Verdelli stated that he has worked very closely with the entire team; HE&R, PNC Bank, the board's legal team, Rhodes & Sinon, and has prepared a resolution that authorizes everything to proceed. There are still some credit approvals happening, hopefully with approval to proceed tonight, some parameters can be built into the resolution to authorize

your manager and a representative of HE&R to be on a phone call next week to lock in an interest rate.

In the handout just passed around, the left side of page two shows that long term interest rates are at historic lows; in the blue center block, the index as of this week is 4.12%. The low we have seen since 1970 is a 4.03, so that's why we want to take advantage of the market. Page 3 – there are two issues of bonds outstanding on the Giant Center; the series A bonds (tax exempt), which currently have a SWAP in place which is scheduled to mature in November of 2015, but there is a chance that it would mature early based on the right that Wachovia has to terminate it early in November of 2010. What we're trying to hedge against is the risk that we're backed into a variable interest rate mode when that SWAP matures. The other issue of bonds is a series B at the bottom of page 3 – there we know we're locked in at a 5.51 through November 1, 2011; both issues of bonds mature in November of 2030. Mr. Verdelli stated that currently the Series A bonds would have a new SWAP effective date of November 2015, when the current one is scheduled to mature; however it would have with it an option that if the old SWAP does go away in 2010, this would start five years early so that we would be covered with a fixed rate. The rate under the term section would be a 5.15 and in exchange for that there would also be 5 annual payments coming to the Authority (based on market conditions this afternoon with a fixed rate of 5.15 to maturity, the annual payment would be \$78,000). The first payment would be made when the contract is executed (hopefully within the next few weeks) and on the anniversary date for the next four years. Mr. Verdelli continued by saying that the payment number will fluctuate; an earlier draft showed an annual payment of \$80,000, however, the interest rates have moved up a couple basis points in the last week, so that number has gone down. The rate of 5.15 is obviously very attractive to lock into the maturity and then the up front payments could be used for other projects being worked on.

The series B bond SWAP would be identical in its terms; begin in 2011, go to the final maturity date of 2030, right now estimating that rate to be 5.57 and that would not involve anything, the authority would receive a fixed rate on Series B bonds.

Mr. Verdelli concluded by saying that these are the two transactions of the resolution that Mr. Twaddell will review and as long as we stay within some parameters we can lock in and execute these and we would have pretty much eliminated the interest rate risk on the financing.

Chairman Chadwick asked if there were any questions for Mr. Verdelli. Mr. Memmi asked if HE&R is comfortable with everything that is being proposed and Mr. Davies said that they are.

Mr. David Twaddell of Rhodes & Sinon was introduced. He stated that everyone should have a resolution in front of him, which begins with a preamble that recites the same information that Lou just gave. He made a suggestion to appoint a swap advisor as there are two new swaps being authorized in Paragraph 2, under a master agreement which is identical to the original one except for the payment amounts – one with Wachovia and

one with PNC Bank. The documents were negotiated at some length originally when the first swap transaction was done. You required the second swap to be done following the same terms and conditions. Acknowledgement of the additional payment that you are receiving is available to you because the fixed interest rates that you'll be paying in the first swap from the 2000 bond issue is currently expected to be above market rate of 5.15; the higher interest that you would be paying if you locked it in today. In exchange for agreement to pay back slightly above market rate, you'll get additional payment.

In Paragraph 4 Mr. Twaddell advised that we are authorizing this adopted resolution to take the format of this swap and then delegating to the manager of the authority and then to an authorized representative of a management company to review and accept the final terms of the swap; additional payments of not less than \$50,000 per year and interest not to exceed 5.65%. Those are the parameters. We expect this to happen within the next week or so and any payments will flow into the surplus fund. Mr. Twaddell stated that he would be happy to answer any questions.

Chairman Chadwick thanked Mr. Twaddell and asked if there were any questions. Mr. Foreman spoke as solicitor for the authority and stated that he has reviewed the resolution and finds it to be appropriate as to form and legality. Mr. Negley asked that this be referred to as Resolution 2007-01. Motion was made by Mr. Lenker and seconded by Mr. Pagliarulo.

**Motion for Resolution No. 2007-01 carried, 5-0.**

Mr. Verdelli stated that Mr. Malpezzi was present now with his resolutions and gave a quick update on the refinancing of the ICDA bonds that were issued in 2002 to pay for the Granada project involving the township and the school district. Mr. Verdelli came to the authority last month and said that the small refinancing had a sufficient level of savings to proceed and also went to both the township and school district to receive their authorization to proceed with the refinancing. All the documents are in place, credit ratings are in place, interest rates have moved a few basis points higher. This was a relatively small refunding; about 3.5 million dollars. Based on that slight movement higher in interest rates we didn't feel that the savings were sufficient for the transaction to proceed. It's within \$15,000 of where it would be most beneficial for the township and the school district, so we modified the resolution that Mr. Malpezzi just handed to you and turned it into a parameters resolution saying that we're authorized to proceed as soon as we get back to those interest rates that produced a sufficient savings to the school and the township. We're only about five basis points away, so once we have the authorization and we have an improvement of a couple basis points, we can lock in an interest rate and still hit the initial savings amounts that we had shown you. On Monday we'll be going to the school district and they'll be approving their guarantee of this financing. It's most important that they guarantee your bonds because they make the majority of the payments on this issue anyway so their guarantee agreement will only be effective once the transaction is complete.

Mr. Chadwick asked if there were any questions. Mr. Memmi asked what the authority's bond rating is right now. Mr. Verdelli replied that on this issue, because the school district guarantees this financing, the rating agencies rate the school district. Our school district, like our township, is rated AA2 and that is one of the highest ratings in the state. Only four school districts and only three or four townships in the state have a higher credit rating than that, so these bonds would be sold with that AA2 credit rating. Mr. Memmi asked if we had the language in the resolution that the township approved giving us the latitude that this one does and Mr. Verdelli answered yes. Mr. Chadwick asked Mr. Malpezzi if he had any comments to add on this resolution. Mr. Malpezzi explained that this is a parameters resolution where, once the interest rates are in place for the savings that you're looking for, we can issue the bonds without further action by the authority. It will authorize the issuance of refunding bonds not to exceed \$4,000,000 to refund the series of 2002 bonds that were issued for the Granada School property. The parameters are that the average interest rate of the bonds would not exceed 5% and that the net present value savings of the bonds would be at least \$120,000. It's a typical bond resolution authorizing the execution of the indenture in escrow agreement (there may be a couple of months in which, although it's a current refunding, we'd have to invest the proceeds of the bonds in treasury securities, so we'll need an escrow agreement to accomplish that; although if the refunding gets pushed back to the point where we can do a current refunding without having to do an escrow agreement, the current resolution will allow you to do that.) The resolution appoints bond council; it appoints M & T Bank as the trustee. It would allow and authorize the amendment of the existing lease and sublease agreements between the authority and the school district to reflect the financing terms of the new bonds. It would authorize the authority to enter into a bond insurance commitment with a bond insurer to be approved by the authority. It would authorize the acceptance of a bond purchase agreement with RBC Capital Markets for purchase of the bonds and it has the general miscellaneous authority authorizations to allow you to execute whatever closing documents, certificates, etc. you need to close the bonds and affect the savings to the authority and the school district. Are there any questions?

Mr. Memmi asked if there were any issues on arbitrage if we invested in an escrow act. Mr. Malpezzi answered that it would have to be monitored and that Mr. Verdelli has looked into that and will make sure that those are observed. Mr. Chadwick asked Mr. Foreman whether he had a look at this and Mr. Foreman replied yes, and it is proper as to form and legality.

Mr. Negley stated that this would be Resolution 2007-02. Mr. Lenker moved and Mr. Pries seconded the motion.

**Motion for Resolution No. 2007-02 carried, 5-0.**

Mr. Verdelli said that there are certain tax rules that must be met so that the majority of this refunding does not count toward some of the tax limitations for the calendar year borrowing plans. Any other plans the authority has for this year that would be considered bank qualified borrowing; there should be about \$9.8 million of capacity to do that for calendar year 2007.

Mr. Malpezzi stated that the only amount that would count against the \$10 million limitation is the amount of the refunding bonds that we receive and the amount of the outstanding bonds that are being refunded. There is also a limitation on the average maturity of the refunding bonds that they cannot exceed the average date of the funded bonds, but they'll be structured so that those are met. The authority should have about \$9.7 million in bank qualified capacity for 2007.

Mr. Memmi asked if there was any way that an agreement could be structured with the township's General Authority to utilize them to give additional capacity if there is a need and Mr. Verdelli answered yes, the \$10 million cap is a "per issuer" cap. There are rules on aggregating issues, but I think if we separate them sufficiently we should be able to have that other capacity that you're looking for.

### VIII. INTERMODAL TRANSPORTATION FACILITY UPDATE

Mr. Boyer began by giving an update on the bus station duct bank conflict issue and scheduled progress to date. All the redesigned plans are with the contractors for pricing reviews and construction. The micro pile installation for the revised bus station foundations is underway. Meetings are scheduled for Tuesday and Thursday of next week to review the bus station precast fabrication and schedule impacts with Lobar. At this time, the delays that result from the duct bank conflict are 47 days. We originally talked about 55 days, but we've been working to expedite contractor progress and fully expect that the time will be reduced. Regarding Executive Summary Report #5, construction activity is continuing on concrete footer placement; rebar placement and concrete wall construction for the garage. Installation is nearly complete for new PP&L and communication duct bank behind the garage and the Press Building on the south side of the Norfolk and Southern Railroad, which was a change to put the feed lines below ground, feeding into the Press Building and minimize future outages. Percent complete by time is 34% construction, and we've paid out 24% completion.

HE&R continues to review and approve the change orders and billings for professional fees and contractor payments and also processing of the invoicing for owner purchase materials where you're saving the sales tax.

Special conditions requirements for the Redevelopment Assistance Capital Project Grant have been submitted to the Office of the Budget. A meeting between the auditor and Diana Reed has occurred and Diana is in the process of requisitioning funds from that grant. We have been working with Fred Clark to investigate whether additional funds can be obtained through that grant to cover expenses related to the bus station duct bank conflict. Mr. Boyer asked for questions or comments.

Mr. Memmi asked where we stood relevant to activities that have taken place in Washington in the federal side of the house, basically freezing earmarks. How is this affecting our project and getting monies out? Mr. Boyer answered that he had verified through the feds (at Mr. Memmi's suggestion) that there would be an expectation that they are committed to having funds available at the time frame in the schedule, but, that

said, we also suggest that the authority continue to monitor that because “nothing in life is guaranteed”.

Mr. Pagliarulo commented that Bill Davies is in the audience from HE&R. He is assuming that Mr. Lavery and his people are fine with everything that is going on. Mr. Davies replied that he was, but they’re keeping an eye on the construction site and the activities there, also on the progress payments and the RACP grant situation. They are also trying to resolve the duct bank conflict as quickly as they can.

Mr. Pries asked what SWAG means in some of the reports and was told that it’s a term used by Quandel – basically it’s an educated guess.

Mr. Memmi commented that he attended the owner’s meeting this morning representing the authority and that all issues are being discussed thoroughly and things are going well.

Mr. Lenker expressed concern about the lack of signage for “No Trespassing” and “Danger, Work Zone Area” as he has driven by the construction area and asked that this be mentioned at the next meeting.

#### IX MUNICIPAL BUILDING PROJECT CONSTRUCTION UPDATE

Bruce Yerger handed out Executive Summary Report #10. Mr. Boyer reported that construction is at 83% and the project is still on schedule for on time completion. He added that on January 3<sup>rd</sup>, PP&L miswired the permanent power connection. Siemens has been out to verify that there was no damage to the equipment and they believe the only impact was to some temporary electrical connections. Contractors have been asked to give any additional costs that were involved and PP&L has been put on notice that they are responsible for that miswired connection. Permanent power is now up to all facilities.

Mr. Boyer added that they are now preparing for punch list inspections and at the start of project closeout. Since Mr. Memmi attends all construction meetings, he may want to comment.

The traffic signal at Hersheypark Drive and Clearwater Drive is installed and bagged for the moment as we go through processing the turnover phase with PennDot. Our interior designer has been working with Jim and his staff for furniture ordering, finishes and scheduling for those installations. Mr. Boyer feels that during the upcoming tour everyone will be pleased with the progress and the quality of the contractor’s work.

Mr. Boyer presented some change orders, which have been reviewed with Jim Negley and recommended for approval. Change orders for CH&E total \$32,250.00, MBR change orders total \$30,118.00, and Pagoda Electrical totals \$14,748.95. He explained that because components of these change orders are construction cost directives and the time will be kept track of on a T & M basis, the estimated numbers are probably high and can be reduced by tracking their actual progress and installation. The total being

presented tonight is expected to be less than \$77,116.95. If the change orders are approved tonight, there will still be over \$230,000 in the segregated contingency funds that we talked about last month. Total contingencies and other balances, FF&E, permits, moving, signage; there are other categories in addition to the contingencies which still have about \$780,000 available unexpended.

Mr. Chadwick asked if many more of these change orders were anticipated. Mr. Boyer replied that he knows of one for \$21,000 that was just received and Mr. Negley had looked at it, but they elected to pull it from tonight because there was different pricing to review and negotiate with the contractor. He stated that he doesn't think there are any more – he believes they've all been taken care of.

Mr. Memmi asked Mr. Boyer if this would impact the schedule because March 31<sup>st</sup> is soon approaching Mr. Boyer answered that the process is moving along. Our team along with Bucharth Horne and Quandel and others has kept it moving. They are trying to resolve any potential bid time delays; if there are any it will be while they're doing the punch list reviews. It should not impact our ability to put in furniture, fixtures and equipment and have that operational by the beginning of May. Mr. Boyer added that he hopes everyone can make the tour and he thinks all will be surprised.

Mr. Lenker asked if there was any thermal imaging done to trace any damage to the system with regard to the over current incident that occurred. He suggested that while they may feel that they've captured it at this point in time, the insurance carriers might want to send someone out to take a look to see if anything was compromised. They may pay for thermal imaging now rather than pay for the loss later on. Mr. Boyer thanked Mr. Lenker and he will follow up on that suggestion.

Mr. Lenker then asked where we are on the radio tower. Mr. Boyer replied that the radio tower and the radio room are in progress, he's not sure exactly when it will be set up. Mr. Pries was contacted by someone at the county solicitor's office as he walked down the hall and signed off on appropriate paperwork moving that forward. Mr. Memmi added that he was told not more than 90 days, but probably more like 45 days they'll have the tower up and all the equipment installed.

Mr. Pagliarulo moved to accept the change orders and Mr. Lenker seconded the motion.  
**Motion carried, 5-0.**

Mr. Pagliarulo asked if a plaque would be ordered for the building and Mr. Negley said it was being taken care of.

#### X. CURRENT MUNICIPAL BUILDING PROJECT UPDATE

Mr. Foreman reported that at the last board meeting the developer was trying to obtain a zoning change and the zoning hearing was last evening I am told. I'll keep the board advised.



## XI. E.A. SPORTS

We had previously circulated an email to the board and had gained your general approval to move ahead with an agreement between E.A. Sports and the American Hockey League in order to allow the likeness of the arena and the logo of the arena to be used in promotional materials. Everyone agreed that this would be helpful to the project and was agreed to by our agent RAM Co. This evening I would ask that the board confirm in public session its approval of the agreement. Mr. Memmi asked if the Giant Corporation was OK with moving forward on this. Mr. Foreman said that it would be hard to believe they'd have a problem, but he'll check on it and see that that was done. Mr. Memmi asked if the board could approve contingent on Giant Foods' agreement. Mr. Pagliarulo agreed with Mr. Memmi. Mr. Memmi moved that the DT ICDA enter into an agreement with E.A. Sports for the use of the Giant Center logo contingent on Giant Foods giving their approval. Seconded by Mr. Pries.

**Motion carried, 5-0.**

## XII. DT ICDA LOBBYING REGISTRATION

Mr. Chadwick stated that late last year, house bill 700 became Act and has new lobbying registration and reporting requirements and the ICDA does employ lobbyists. Mr. Foreman was asked to update the authority on this subject. Mr. Foreman reported that under the new lobbying registration act we are covered as a principal (a principal being any corporation or association that employs lobbyists). We do employ lobbyists. The law went into effect on January 1<sup>st</sup>, and registrations had to be filed by January 12<sup>th</sup>. Ours were filed on time and we are in compliance with the law. Mr. Chadwick added that our authority files the amount spent on our consultant and they have to itemize what they do in their filings. If we make direct expenditures in outreach they will have to be tracked and we will have to file quarterly as a principal, but the only things we'd have to itemize are the things that we directly spend. Our lobbyists will have to itemize everything they spend and that would be the bulk of it. Mr. Foreman agreed that this was correct.

## XIII. NEW YEAR'S EVE CELEBRATION REPORT

Mr. Pries thanked the ICDA for their sponsorship of the event as well as the Hershey Company, HE&R, Hershey Medical Center, Buchanan Ingersoll & Rooney, Buchart Horn and the many others who stepped up to be corporate sponsors this year. It was another tremendous event. As the chairman for year one and year two, we had 8,000 people attend in year one and about 10,000 people in year two. Zero police incidents were reported which is fantastic. The weather did not cooperate, it was a rainstorm the last hour, but we had two stages set up. In the last 10 days we had the unexpected death

of the drummer of our headlining band, but we moved forward and moved other bands in there. The vendors were there, the people came, the children were there and at midnight the kiss was raised and there was a 15-minute fireworks display that people are still talking about. Todd Pagliarulo was in charge of the fireworks. All I've heard is people saying what a wonderful time they had and they're looking forward to next year. It was great being in charge for year one and two and I plan to stay active in the future – people are already planning for year three! Thank you to all of you for being there from day one and helping kick this thing off. In year three someone else will step up and be chairman, but I will help out in whatever way I can. Again, thank you for all the help. Mr. Chadwick congratulated Mr. Pries on a terrific job.

Mr. Memmi asked how the vendors did and the restaurants that are adjacent to the property. Mr. Pries answered that everyone was pretty much filled to capacity. The vendors would like to be extended along Chocolate Avenue this year instead of inside the parking facility as they have been so that people could get to them as they are walking up and down and seeing the entertainment. Mr. Memmi suggested having the people in Houlihans use the intermodal parking area if the vendors are to be out on Chocolate Avenue and Mr. Pries agreed that this would be a good idea. Hopefully with the completion of Intermodal Phase 3 that would open up some more parking spots.

#### XIV. FIELD OF DREAMS

Mr. Foreman reported that at the last board meeting the representatives from the Field of Dreams appeared before the board and said that one of the ways we could be of help to them is to serve as a conduit for 501C3 status for fundraising. We have had conversations with Mr. Marcucci and told him that he can use the 501C3 status if he complies with the procedures of the authority and the fundraiser has to be approved by the board, but they can take our status and get deductions for any donors.

#### XV.PUBLIC COMMENT

No public comment.

#### XVI. ADJOURNMENT

Mr. Chadwick asked for a motion to adjourn and Mr. Pries seconded the motion.  
**Motion carried, 5-0.**

Meeting was adjourned at 6:40 p.m.

Approved:

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James N. Negley  
Assistant Secretary