

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

Minutes

April 8, 2019

The Regular Meeting of the Danville-Pittsylvania Regional Industrial Facility Authority convened at 12:16 p.m. on the above date at the Institute for Advanced Learning and Research, 150 Slayton Drive, Room 206, Danville, Virginia. Present were City of Danville Members Chairman Fred O. Shanks, III, Sherman M. Saunders, and Alternate J. Lee Vogler. Pittsylvania County Members present were Vice Chairman Robert W. Warren, Ronald S. Searce and Elton W. Blackstock.

City/County staff members attending were: City Manager Ken Larking, Deputy City Manager Earl Reynolds, Pittsylvania County Administrator David Smitherman, City of Danville Project Manager Kelvin Perry, Assistant County Administrator for Planning & Development Gregory Sides, Pittsylvania County Director of Economic Development Matt Rowe, City of Danville Director of Finance Michael Adkins, Clement Wheatley Attorneys Michael Guanzon and Jennifer Burnette, and Secretary to the Authority Susan DeMasi. Also present were Brian Bradner and Shawn Harden from Dewberry & Davis, and Will Mckman from the Danville Regional Foundation.

PUBLIC COMMENT PERIOD

No one desired to be heard.

APPROVAL OF MINUTES OF THE MARCH 11, 2019 MEETING AND THE MARCH 18, 2019 SPECIAL MEETING

Upon **Motion** by Mr. Saunders and **second** by Mr. Warren, Minutes of the March 11, 2019 Meeting and the March 18, 2019 Special Meeting were approved as presented. Draft copies had been distributed to Authority Members prior to the Meeting.

NEW BUSINESS

5A. CONSIDERATION OF RESOLUTION NO. 2019-04-08-5A APPROVING A ONE YEAR LEASE RENEWAL WITH THE OSBORNE COMPANY

Authority Attorney Michael Guanzon explained this was another one year renewal of the sod lease to the Osborne Company of North Carolina, which is about 100 acres in the Southern Virginia Mega Site with a \$1,000 annual rental fee. The lease is renewable every year, RIFA can terminate it on thirty days notice, and there is a confidentiality requirement if RIFA brings a potential recruit to the site. The benefit of this lease is it provides indirect surveillance of the property. Staff recommends renewal of another one year term.

Mr. Warren **moved** for adoption of *Resolution No. 2019-04-08-5A approving a one-year renewal of the Lease to The Osborne Company of North Carolina, Inc., a North Carolina corporation, of approximately 100 acres of pastureland in the Authority's Southern Virginia Megasite at Berry Hill Project (a portion of GPINs 1366-78-4718 and 1367-70-4519), commonly known as 4380 Berry Hill Road, in Pittsylvania County, Virginia; the Lease Term shall be subject to a right of Landlord to show the demised premises upon 24-hours notice and the obligation of Tenant to keep the identity of any prospective business recruits confidential until a public announcement is made, if ever, or as otherwise required by law; the Authority shall have the right to early terminate the Lease with at least 30-days notice; and*

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the Lease shall be for the use of harvesting grass hay and incidental uses acceptable to the Authority, at a total rental fee of \$1,000.

The Motion was **seconded** by Mr. Saunders and carried by the following vote:

VOTE: 4-0
AYE: Warren, Searce, Shanks, Saunders (4)
NAY: None (0)

5B. CONSIDERATION OF RESOLUTION 2019-04-08-5B AUTHORIZING A ONE YEAR LICENSE AGREEMENT FOR AXXOR

Pittsylvania County Director of Economic Development Matt Rowe noted he had received an email from Axxor NA in the Ringgold East Industrial Park about their desire to locate a wayfinding sign on the entrance sign to Cane Creek. They are proposing an annual fee of \$500 which would go to any maintenance or beautification of the entranceway. Axxor understands should RIFA need the sign space in the future, it could be subject to early termination within thirty days with notice. Mr. Guanzon noted their location actually has an address of Cane Creek Parkway; although it was not technically within the Cane Creek Industrial Park, it fronts on the street that bears the same name.

Mr. Saunders **moved** for adoption of *Resolution No. 2019-04-08-5B, authorizing a one-year license agreement for Axxor N.A., LLC, a Virginia limited liability company, to have its name added to the entrance sign of the Authority's Cane Creek Centre Industrial Park in Pittsylvania County, Virginia, for an annual fee of \$500, subject to early termination by the Authority upon 30-days written notice.*

The Motion was **seconded** by Mr. Warren and carried by the following vote:

VOTE: 4-0
AYE: Warren, Searce, Shanks, Saunders (4)
NAY: None (0)

5C. FINANCIAL STATUS REPORTS AS OF MARCH 31, 2019

Authority Treasurer Michael Adkins gave the Financial Status report as of March 31, 2019 beginning with the Cane Creek Bonds which show no activity for March. General Expenditures for FY 2019 show RIFA paid \$239 in meals and \$31 for monthly utilities. The Mega Site Funding Other Than Bonds shows RIFA received \$500,000 from the County representing their local share of TCR Grant #2264. Lot 4 Site Development, Lot 8 Site Development, and Water and Sewer show no activity for March. Rent, Interest and Other Income shows RIFA received rent from the Institute for the Hawkins Building of \$25,412, and also paid that amount for Hawkins' Building maintenance. RIFA also received \$398 in interest income, and \$10,000 from Hairston and Bates for a purchase option. There was activity related to Harlow with respect to their incentive; RIFA received \$315,000 from the Tobacco Commission, and \$19,342 each from the City and the County. This money was also expended during March with \$316,794 paid to Gerfertec for a deposit on Harlow equipment, \$29,014 paid to Philips Corp. for Harlow equipment, and \$9,671 was reimbursed to Harlow for the same equipment.

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Mr. Saunders **moved** to accept the Financial Report as presented. The Motion was **seconded** by Mr. Warren and carried by the following vote:

VOTE: 4-0
AYE: Warren, Searce, Shanks, Saunders (4)
NAY: None (0)

5D. PRESENTATION OF VIRGINIA CODE §15.2-6407 REVENUE SHARING AGREEMENTS

Mr. Guanzon noted he wanted to clarify what the law provides with respect to how the money works with the City, County and RIFA. Virginia Code 15.2 is the enabling statute that allows the creation of RIFAs. Section 6407 states that revenues and other incomes can be, by agreement, split by the member localities; the October 2, 2001 agreement is a cost sharing and revenue sharing agreement between the City and the County. Under that provision, any type of income that comes in through RIFA activities, becomes an asset of RIFA's, it is not an asset of the City or the County, and can only be used for RIFA purposes. Can that money be taken out and given to the localities; the answer is possibly, but not directly. If RIFA sells some of their properties and get cash up front, that goes into RIFA's funding source, but that doesn't necessarily mean they split it in half and give it to the City and County. Also in the Revenue Cost Sharing Agreement is the issue about utilities; it says that if the project is located in the City, then the City is responsible for providing utilities to the site. But there is a caveat that says: *according to the rules and regulations of the City*. If the City cannot afford or chooses not to provide that service, then it will not happen. Likewise with the County, if PCSA doesn't have the funds to do something to bring utilities, for example, to the Southern Virginia Megasite, then there is nothing contractually requiring them to do so. With respect to the City and County, the jurisdiction in which the project is located essentially has first say on how to put that utility in place. Essentially that is what this agreement says.

Mr. Shanks stated he believed the County incurred the expense of the utilities in Cane Creek and Mr. Harden noted for the water and sewer. Mr. Guanzon explained that is where the due to/due from analysis comes into place to make sure it is close to even as far as contributions are concerned. An example of this is Kent Shelton's service for supervision of some of the work at the Megasite; staff has that as the City's contribution because they are the ones bearing the expense as they have the direct contract with Mr. Shelton.

Mr. Shanks questioned how would it work with the Tobacco Commission allocations, each locality is responsible and Mr. Guanzon explained staff has been trying to be more specific; if the contract is signed by RIFA, then RIFA was responsible. There have been items in the past where the City or County took it upon themselves and by agreement, said they would take care of those together as part of the obligations. When staff gets the grant agreement from the Tobacco Commission, they have been tightening up to make it clear that it was a RIFA project, or having to use an allocation from the City or the County.

Mr. Guanzon stated when he first started as counsel for RIFA, they did a clean up for this Cost Revenue and Sharing Agreement. The City Manager and County Administrator at the time, wrote letters to each other confirming how those contributions would be done so they could get to that due to/due from. Moving forward, since the last five to seven years, staff has been very precise on how to calculate every expenditure, where it is coming from, whose it is, and

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in the resolutions, they also make sure they indicate in the budget item where the money is coming from.

Mr. Guanzon noted this item was for informational purposes only. As RIFA is developing lots that might be for sale and may receive some cash up front, he wanted to make that everyone knows what the money can be used for and what the expectation is.

6. CLOSED SESSION

[During the closed session, all matters discussed shall involve receiving advice from legal counsel, and as such all communications during the closed session shall be considered attorney-client privileged.]

At 12:41 p.m. Mr. Warren **moved** that the Meeting of the Danville-Pittsylvania Regional Industrial Facility Authority be recessed in a Closed Meeting for the following purposes:

A. As permitted by Section 2.2-3711(A)(5) of the Code of Virginia, 1950, as amended ("Virginia Code"), for discussion concerning one or more prospective businesses where no previous announcement has been made of that business's interest in locating its facilities in one or more of the Authority's projects located in Pittsylvania County, Virginia, and/or Danville, Virginia;

B. As permitted by Virginia Code § 2.2-3711(A)(39) for discussion or consideration of records excluded under Virginia Code § 2.2-3705.6(3) (including without limitation (i) those certain confidential proprietary records voluntarily provided by private business pursuant to a promise of confidentiality from the Authority, and used by the Authority for business and trade development and (ii) those certain memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by the Authority, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the Authority); such information being excluded from mandatory disclosure under Virginia Code §2.2-3705.1(12) (information relating to the negotiation and award of a specific contract pertaining to the Authority's Berry Hill Mega Site project where competition or bargaining is involved and where the release of such information would adversely affect the bargaining power or negotiating strategy of the Authority) and Virginia Code § 2.2-3705.1(8) (appraisals and cost estimates of real property in the Authority's Berry Hill Mega Site project subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease); and

C. As permitted by Virginia Code §§ 2.2-3711(A)(3) for discussion or consideration of the acquisition and/or the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Authority.

The Motion was **seconded** by Mr. Saunders and carried by the following vote:

VOTE: 4-0
AYE: Warren, Searce, Shanks, Saunders (4)
NAY: None (0)

D. On **Motion** by Mr. Saunders and **second** by Mr. Warren and by unanimous vote at 1:45 p.m., the Authority returned to open meeting.

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E. Mr. Saunders **moved** for adoption of the following Resolution:

WHEREAS, the Authority convened in Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia, 1950, as amended, requires a Certification by the Authority that such Closed Meeting was conducted in conformity with Virginia Law;

NOW, THEREFORE, BE IT RESOLVED that the Authority hereby certifies that, to the best of each Member's knowledge, (i) only public business matters lawfully exempted by the open meeting requirements of Virginia Law were discussed in the Closed Meeting to which this Certification Resolution applies, and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed, or considered by the Authority.

The Motion was **seconded** by Mr. Searce and carried by the following vote:

VOTE: 4-0
AYE: Warren, Searce, Shanks, Saunders (4)
NAY: None (0)

7. COMMUNICATIONS

Board Members thanked staff for the work they do.

Meeting adjourned at 1:49 p.m.

APPROVED:

s/Fred O. Shanks, III
Chairman

s/Susan M. DeMasi
Secretary to the Authority