

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

Minutes

November 9, 2020

A Meeting of the Danville-Pittsylvania Regional Industrial Facility Authority convened at 12:04 p.m. on the above date at the Institute for Advanced Learning and Research, 150 Slayton Avenue, Room 207, Danville, Virginia. Present were City of Danville Members Vice Chairman J. Lee Vogler, Jr., Sherman M. Saunders and Alternate Dr. Gary P. Miller. Pittsylvania County Members present were Chairman Robert W. Warren, Ronald S. Searce, and Alternate Vic Ingram.

City/County staff members attending were: City Manager Ken Larking, Deputy City Manager Earl Reynolds, Pittsylvania County Administrator David Smitherman, City of Danville Director of Economic Development Corrie Bobe, Pittsylvania County Director of Economic Development Matt Rowe, Christian & Barton Attorney Michael C. Guanzon, and Secretary to the Authority Susan DeMasi. Also present were Shawn Harden and Brian Bradner from Dewberry. *City of Danville Director of Finance Michael Adkins and Accountant Henrietta Weaver, attended the meeting electronically.*

Chairman Robert W. Warren presided.

**PUBLIC COMMENT PERIOD**

No one present desired to be heard.

**APPROVAL OF MINUTES OF THE OCTOBER 13, 2020 MEETING**

Upon **Motion** by Mr. Saunders and **second** by Mr. Searce, Minutes of the October 13, 2020 Meeting were approved as presented. Draft copies had been distributed to Authority Members prior to the Meeting.

**NEW BUSINESS**

**5A. CONSIDERATION OF RESOLUTION 2020-11-09-5A, APPROVING THE EXECUTION AND DELIVERY OF A TRIPLE NET GROUND LEASE WITH THE INSTITUTE FOR ADVANCED LEARNING AND RESEARCH**

Authority Attorney Michael Guanzon explained this item was a follow up from last year regarding the building of the Center for Manufacturing Advancement, to approve the lease which will be a ground lease. The construction of the facility itself will be done at the expense of the Institute, the rent will be \$100 per year while they are the ones who were occupying it, and the set-up was similar to the Sentec building.

Mr. Warren stated RIFA does not have control over who they put in the building, it was such a long time, he guessed they need that to make the ROI on the building. Mr. Guanzon noted that was correct and their counsel indicated they were going to have some of it just be a short term license, they would just be leasing a bay, and they were going to do a different set up to get the tax credits and have ability to assign it. If they have somebody in there in their normal course of dealing, then they will have to pay some type of rent for taxes that they would have had to pay to RIFA. They were going to have a lien on the building because they own the building and are paying for all of it; if that gets foreclosed upon, then the lease term converts to a five year term and RIFA renegotiates the amount of the lease payments.

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Mr. Warren questioned if it stated in the agreements the percentage of rent and Mr. Guanzon explained it would be what the real estate taxes would be paid if the Institute were not tax exempt. The City of Danville did the appraisals and tax assessments and they would break that down; that was what they agreed to in concept. Mr. Guanzon noted if it was empty, they would not pay RIFA anything other than the \$100 per year. As part of the additional rent, they were also paying for the upkeep of the road that would go through the service road. The only thing that needs to be done now was to get the subdivision plat recorded, then when RIFA signs their document, the Institute has their meeting this month and they will approve that.

Mr. Vogler **moved** for adoption of *Resolution 2020-11-09-5A, approving the execution and delivery of a Triple Net Ground Lease with the Institute for Advanced Learning and Research, a political subdivision of the Commonwealth of Virginia, where funding for the construction and management of the Center for Manufacturing Advancement will be provided by either the Virginia Public Building Authority or the Virginia College Building Authority, on Lot 12B of the Authority's Cyber Park Project (part of PIN 76441), located in the City of Danville, Virginia, under which the lessee, at its expense, would cause to be installed an approximately 51,000 square feet building and related parking lot and driveway.*

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

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

**5B. CONSIDERATION OF RESOLUTION 2020-11-09-5B, APPROVING CHANGE ORDER 6 TO THE PHASE I SANITARY SEWER PROJECT WORK BY HAYMES BROTHERS, INC.**

Brian Bradner of Dewberry explained this item was for Change Order 6 for Haymes to extend the gravity sanitary sewer service up to Lots 1 and 2 at the Megasite; it will also provide service for a portion of Lot 3. The work was designed and permitted with the exception of a few items they will need to take care of once the work was authorized. The contractor was scheduled to complete the work next year; their recommendation was to approve this item.

Mr. Searce noted he was concerned about the regional estimator on this; why was there such a huge difference between the original contract, and then the letter that was sent by Haymes that stated the person who did the initial project was gone. This was a pretty extreme cost, \$1.8M plus, can they justify that and explain where all this was coming from. Mr. Bradner explained part of the delta was in terms of the time when it was originally bid; it was originally bid as part of the overall project when they first started the sewer work about two years ago. Some of the delta was due to product increase and inflation. They have reviewed that with the contractor; their increases were still at or below the costs that were bid from the other contractors at the time that the total work was put out to bid. Based on current pricing they saw in the market today, they feel the pricing was about right.

Mr. Warren noted his agreement with Mr. Searce, it was somewhat alarming after reading their letter where they admit part of the problem comes from the fact that the estimator who did the original work for them was gone; he does not know how that was RIFA's problem and Mr. Bradner noted his agreement. Mr. Warren stated he would like to see RIFA staff, in conjunction with Mr. Guanzon, look at some kind of delta, if RIFA has a change order come

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in at a certain percentage over the project, that RIFA look to bid it out again. This has turned into over \$8M for Haymes Brothers to this point; it was a lot of money and tax money, and they want to be transparent and accountable with those tax dollars. Mr. Saunders questioned when RIFA gets these change orders and needs more work for whatever prospect may come in, does RIFA have local contractors that can do the same things as Haymes Brothers was doing. Mr. Harden noted in terms of larger projects, there was probably not another local one that can move as much dirt as quickly as RIFA needs them to do, as Haymes Brothers.

Mr. Warren noted his agreement with Mr. Saunders, he was happy that RIFA had Haymes Brothers as a local contractor, but he would also like to ask how the \$1.8 M was broken down, was this part of the utilities the City was doing. Mr. Larking noted he believed they were still waiting for the signing of the Memorandum of Understanding between the County and the City, some details needed to be worked out. They were proceeding as if that were already agreed upon; his understanding was, whatever that cost was, it will borne by the City. Mr. Bradner noted Jason Grey, Danville Director of Utilities, has reviewed this as well. Mr. Ingram questioned what would preclude staff from bidding this out again in lieu of the changing of the initial estimate. Mr. Bradner stated there was nothing that prohibits the Authority from putting this out for bid again. Would they get the benefit of the economy of scale with Haymes Brothers still localized, on site, as they continue to do work on the water line to Eden and other work for the Authority at the Megasite. RIFA could put it back out, but he could not predict what the pricing would be. What they were doing was very large scale utility work, there were a finite amount of contractors in the region that have the capability to do that.

Mr. Vogler **moved** for adoption of *Resolution 2020-11-09-5B, approving Change Order 6 to the Phase I Sanitary Sewer Project Work by Haymes Brothers, Inc., a Virginia Corporation, originally approved under Resolution No. 2018-03-12-5A, including completion of the sewer force main along Berry Hill Road, in the Authority's Southern Virginia Megasite at Berry Hill, located in Pittsylvania County, Virginia, increasing the contract price by \$1,889,962.00.*

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

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

**5C. CONSIDERATION OF RESOLUTION NO. 2020-11-09-5C, SELECTION OF LEGAL COUNSEL (TABLED FROM OCTOBER 13, 2020 MEETING AS AGENDA ITEM 7A) /NO WRITTEN RESOLUTION.]**

Mr. Searce **moved** to TABLE Item 5C until after the Closed Session. The Motion was **seconded** by Mr. Vogler and carried by the following vote:

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

**5D. FINANCIAL STATUS REPORT AS OF OCTOBER 31, 2020**

City of Danville Director of Finance Michael Adkins gave the Financial Status report as of October 31, 2020, beginning with the Cane Creek Bonds which showed no expenditures for

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the month of October. General Expenditures for FY 2021 show RIFA paid \$40,140 to Christian and Barton for legal fees, \$254 for meals and \$31 for monthly utilities. Funding Other than Bonds for Berry Hill, RIFA expended \$68,140 to Dewberry for continued work under Amendment #29. Lot 4 and Lot 8 Site Development showed no activity for October; Water and Sewer show RIFA expended \$46,170 to Dewberry for work on Amendment #28 and \$62,483 to Haymes Brothers for continued work on Sanitary Sewer Phase 1. Mr. Adkins noted the Unexpended/Unencumbered balance on this sheet was \$465,000. That does not include the Change Order that was just approved, nor does it include the funding from Danville Utilities for that; staff will be adding both of those items to the funding sheet going forward. Under Rent, Interest and Other Income, RIFA received \$25,148 from the Institute related to the Hawkins Building rent, and \$1,057 from Pittsylvania County for their share of monthly rent for Gefertec. RIFA paid \$25,148 to the Institute for the Hawkins' maintenance and \$2,115 to the Institute for Gefertec rent.

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

VOTE: 4-0  
AYE: Warren, Scarce, Saunders, Vogler (4)  
NAY: None (0)

## 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 12:29 p.m. Mr. Scarce **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; and
- 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 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 Southern Virginia Megasite at Berry Hill project, Cyber Park project and/or Cane Creek Centre project, where competition or bargaining is involved and where the release of such information would adversely affect the bargaining power or negotiating

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strategy of the Authority) and Virginia Code § 2.2- 3705.1(8) (appraisals and cost estimates of real property in one or more of the Authority's projects 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; and
- D. As permitted by Virginia Code § 2.2-3711(A)(8) for consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.

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

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

**RETURN TO OPEN SESSION**

On **Motion** by Mr. Vogler and **second** by Mr. Searce and by unanimous vote at 2:35 p.m., the Authority returned to open meeting. (Reinstatement/Unmuting of Conference Line [see Agenda Item 5D above].)

Mr. Searce **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. Vogler and carried by the following vote:

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

**7. NEW BUSINESS CONTINUED**

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**5C. CONSIDERATION OF RESOLUTION NO. 2020-11-09-5C, SELECTION OF LEGAL COUNSEL (TABLED FROM OCTOBER 13, 2020 MEETING AS AGENDA ITEM 7A) [NO WRITTEN RESOLUTION.]**

Mr. Searce **moved** for adoption of Resolution No. 2020-11-09-5C, with the adjustments on the automatic renewal. The Motion was **seconded** by Mr. Saunders and carried by the following vote:

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

**7A. CONSIDERATION OF RESOLUTION NO. 2020-11-09-7A SUBMISSION OF THREE APPLICATIONS TO REGISTER FEDERAL TRADEMARK REGISTRATIONS**

Mr. Guanzon explained this item was to do and additional Federal trademark application for the name of Southern Virginia Megasite at Berry Hill, to have federal protection in addition to the state applications that have been filed and provisionally approved.

Mr. Vogler **moved** for adoption of Resolution No. 2020-11-09-7A, approving the submission of three applications to register federal trademark registrations being used in connection with the Authority's Southern Virginia Megasite at Berry Hill project, located in Pittsylvania County, Virginia, for a fee of \$225 per application [*no written resolution.*]

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

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

**8. COMMUNICATIONS:**

Update on Morgan Olsen Way - Matthew Rowe, Pittsylvania County Director of Economic Development - Mr. Rowe noted Morgan Olsen Way has been approved as far as the resolution from the County Board; that was the last step to get that roadway back onto the state system.

Update of MVP – Mr. Rowe - Mr. Rowe noted this has to be recorded in the Clerk's office; that was the last step for that as well.

Meeting adjourned at 2:39 p.m.

APPROVED:

s/ Robert W. Warren  
Chairman

s/ Susan M. DeMasi  
Secretary to the Authority