

**Yonkers Industrial Development Agency  
Regular Board Meeting  
December 3, 2008**

**Present-Board Members**

Mayor Amicone, Chairman  
Peter Kischak  
William Regan, Secretary  
Michael Baratta  
Joy Lawrence, Treasurer  
Michael Ball, Sr. Vice Chairman  
Cecile Singer

**Non-Members Present**

Ellen Lynch, Yonkers IDA President/CEO (VIA Conference Call)  
Melvina Carter, Yonkers IDA CFO  
Chuck Lesnick, Council President Yonkers City Hall  
Dennis Lynch, General Counsel  
Shawn Griffin, Harris Beach  
David Rothman, Harris Beach  
Patrick Serenson, IDA Accountant  
Michael Petralia, LAK  
Martin McGloin, Yonkers Resident  
Alex Saidak, Regency Extended Care Center  
Peter Bassano, Attorney for St. Joseph's Hospital  
Jon Cortell, 326 Riverdale Representative

**Roll Call**

Mayor Amicone called the Board Meeting to order at 8:35a.m. Roll call was taken. The following Board Members were noted to be present: Mayor Amicone, Peter Kishak, William Regan, Michael Baratta, Martin Ball, Cecile Singer, and Joy Lawrence. A quorum was established for the conduct of business.

**Approval of Minutes of October 22, 2008**

Mayor Amicone referenced the first item on the Agenda and noted that all the Board Members were provided with a copy of the draft Minutes for the October 22, 2008 Meeting in their folder. Chairman Amicone provided ample time for review and then asked if there were any changes, and if the Board was ready to approve the Minutes. None of the Board Members indicated any changes were necessary.

A motion to approve the Minutes of the October 22, 2008 was made by William Regan and seconded by Peter Kischak. **Approved 7-0**

#### **Approval of Treasurer's Report for September 2008**

Chairman Amicone indicated that all of the Board Members should have received a copy of the Treasurer's Report before the Meeting. President Ellen Lynch was conferenced by telephone into the Board Meeting. President Lynch indicated that the Report set forth financial information that was as expected. Ms. Lynch remarked that the Report showed the expected status quo through September, but with a revenue decrease in October and November. President Lynch noted that revenue will increase in December for year end. President Lynch observed that the Agency was in the financial condition where it was projected to be at this time. Mayor Amicone inquired if there are questions about the Treasurer's Report. No questions were raised. Mayor Amicone noted that CFO Melvina Carter was available if there were any follow-up issues by the Board Members on the Treasurer's Report.

A motion to accept the Treasurer's Report was made by Peter Kishak and second by Joy Lawrence. **Approved 7-0**

#### **Approval of Final Resolution on 326 Riverdale Avenue**

Mayor Amicone next directed the Board's attention to the Final Resolution for the Riverdale Project. Shawn Griffin was requested by the Mayor to address the Board and Mr. Griffin noted that this Project was previously before the Board for inducement and a public hearing has been conducted. Mr. Griffin noted this is an affordable housing project on Riverdale Avenue where there is currently a vacant lot. At this time, Mr. Griffin noted that the applicant was proceeding to a closing. In addition, Mr. Griffin provided the Board with a description of the financial assistance being provided for this Project in the form of Sales Tax Exemption, Mortgage Tax Exemption and property tax agreement. Mayor Amicone thanked Mr. Griffin for providing the Board with the foregoing information and asked if any Board Members had any questions on this Project. There were no questions raised by the Board Members.

A motion to approve the Final Resolution on 326 Riverdale was made by Cecile Singer and second Martin Ball. **Approved 7-0**

#### **Approval of Resolution - Brook Shopping Center LLC**

Mayor Amicone introduced the next agenda item which is a Final Resolution for Brook Shopping Center. The Mayor request Attorney Shawn Griffin to provide the Board Members with an overview and history of the Project. Mr. Griffin do so and later Mr. Griffin directed the Board members attention to that portion of the Resolution noting

that this Project started from a total amount of \$105 million to \$174 million and then to \$350 million dollars. Mr. Griffin gave an analysis of Project benefits that includes the Sales Tax, Mortgage Tax and Property Tax Agreement and confirmed to the Board that this requested approval referenced approving the larger Project amount for sales tax and mortgage tax exemption. Board Member Cecile Singer stated that the Brook Shopping Center Project is a very substantial and significant Project for the City of Yonkers. President Ellen Lynch added that the Project is a high quality project that will attract new businesses into the City. Mayor Amicone indicated that the Project Applicant is in the process of completing the Planning Board review and should be ready for completion of the environmental review process to finish their Site Plan approval. Shawn Griffin noted that based upon the available information that the estimated time of completion would be around 2010.

Motion to approve the Final Resolution for Brook Shopping Center was made by Cecile Singer and second Peter Kischak. **Approved 7-0**

#### **Approval of Resolution - Riverview II Preservation, L.P.**

Chairman Amicone proceeded with the next item on the Agenda which was a Resolution for Riverview II. Mayor Amicone requested Counsel to provide the Board with background information. Attorney Shawn Griffin provided background information for this Riverview II Project regarding the monies involved and the time restrictions involved. Mayor Amicone expressed his concern about the length of housing restrictions, but recognized the Project required support because it was an effort to remedy one of the most challenging housing projects in the City from a quality of life viewpoint. Mayor Amicone noted the substantial improvements proposed in this Project. William Regan interjected that the City of Yonkers is creating and maintaining affordable housing more successfully than elsewhere in Westchester County and noted the other municipalities should follow how the City of Yonkers was able to successfully accomplish this result. Board Member Peter Kishak inquired about the number of units proposed in this Project. President Ellen Lynch replied that there are 343 units planned. Further, President Lynch also addressed the length of the Tax Agreement.

A motion to approve the Resolution for Riverview II was made by Joy Lawrence and second Michael Baratta. **Approved 7-0**

#### **Approval of Resolution – Main Street Lofts**

Chairman Amicone advised the Board that the next Agenda item was a Resolution on the Main Street Lofts Project. The Mayor inquired if Counsel could present information to the Board and Attorney Shawn Griffin related to the Board the background of this Main Street Loft Application. Mr. Griffin advised that usually after construction

financing is completed, permanent financing needs to be obtained. In this Main Street Lofts Project as part of permanent financing, the credit facility will change. Since the Agency issued the Bond, the YIDA must approve the change. Attorney Shawn Griffin observed that this change was originally contemplated and will help to keep the Project affordable. Chairman Amicone thanked Mr. Griffin for the presentation and informed the Board Members that Main Street Lofts is fully rented

A motion to approve the Main Street Lofts Resolution was made by Michael Baratta and second Peter Kischak. **Cecile Singer has abstained. Approved 6-0**

### **Approval of Resolution – Collins II**

Mayor Amicone next addressed the Agenda item concerning the Collins II Project. The Mayor noted that this Project involves the newest building to be built and is located on the north side of the Saw Mill River. Attorney Shawn Griffin indicated to the Board that the original project included City owned land held by the CDA. Mr. Griffin noted that the background was that the CDA leased the property to YIDA. As part of the financing at that time, the YIDA next subleased the property during the construction stage. Now with completed construction, the CDA will no longer remain in title and the Resolution addresses the change of title for the property. This Resolution is to terminate the lease from CDA to YIDA. Chairman Amicone discussed with the Board the efforts concerning the Brownfield Program and how it was helpful in allowing construction at this property to take place. Chairman Amicone related that information is to be provided by DEC at the end of this month to hopefully conclude all outstanding issue for the Program at this site.

Motion to approve Collins II Resolution was made by Martin Ball and second Peter Kischak. **Approved 7-0**

### **Approval of Consent Sub-Lease for St. Joseph's Hospital, Yonkers**

Chairman Amicone proceeded next on the Agenda to the item for St. Joseph's Hospital. Counsel Dennis Lynch stated that St. Joseph's Hospital Attorney Peter Bassano was present to answer any question that the Board might have on this matter. Mr. Lynch then proceeded to provide the Board with background concerning this matter. Counsel Lynch summarized that this transaction is just a request for a consent by the YIDA for a change in the sublease tenancy by St. Joseph's since St. Joseph's has indicated the Hospital is releasing a tenant in arrears and substituting a tenant with the means to make current rental payments. Counsel Lynch recommended that the Board approve the request. Board Member Regan related that approving this change in the sublease tenancy is very important to the future viability of the Hospital since all Hospitals need whatever positive income can be obtained at these times and St. Joseph's Hospital is no exception to that general need. Mayor Amicone noted that St. Joseph's Hospital treats people regardless of coverage and does not turn anyone away. Accordingly, Mayor

Amicone remarked that obtaining rental income is a need for this Hospital. Peter Bassano wanted to add that the new tenancy will be associated with Dr. Nadeem Sayegh who has a good history of improving financial viability in health care matters.

For the record, Bill Regan excused himself because of his association with the Hospital. Cecile Singer and Joy Lawrence excused themselves from voting on the matter because of their relationship with St. Joseph's Hospital through Hudson Valley Bank.

A motion to approve the sublease for St. Joseph's was made by Martin Ball and second Michael Baratta. **Approved 4-0**

### Legal Updates

Counsel Dennis Lynch updated the Board members on the Morris litigation. He advised that efforts continue to reach a settlement to avoid the uncertainty and cost of continued litigation. Attorney Lynch provided the Board with background information about the Morris matter. Counsel Shawn Griffin discussed with the Board the financial aspects of the existing agreement with the Morris Brothers entity and how proposed settlement terms could change the financial issues. Mr. Lynch noted that litigation with the Morris Brothers entity is not something new for the Agency and that the litigation would proceed contemporaneously with efforts to settle this matter and obtain the maximum income possible for the Agency. Mr. Lynch noted that he will report further to the Board at the January 2009 Meeting regarding settlement efforts by his office and Mr. Griffin's office.

Attorney Griffin next introduced the Fencliff matter and advised that this Project is Yonkers based and provides handicap children skill opportunities. The Project Sponsors were looking for a 10 acre site to be acquired with New York State financial assistance. The Project will have housing as well as a main community center, but most of the 10 acre sit will be undisturbed. Mr. Griffin then provided to the Board the background concerning financial issues as well as appraisal considerations and the interplay between the County of Westchester IDA and the YIDA. Attorney Lynch indicted that there currently was a dispute about the respective roles of each entity, but that the most important issue was to provide appropriately for the handicapped individuals in this Project. Mr. Griffin noted that this Project is part of the whole site that was included in the 1985 Agreement.

Mr. Lynch indicated that after extensive efforts to resolve the issues on the Austin Avenue site, there had been no agreement and that litigation appeared to be the only likely method of resolution. Attorney Lynch noted that there may be agreement by all the parties to proceed with arbitration rather than continue with litigation. Board Members Ball and Singer expressed concerns that settlement efforts are usually the best way to resolve issues. Both Attorneys Lynch and Griffin indicated that settlements are usually the best way to resolve issues, but it takes all parties to agree to a settlement and so far despite much effort that has not happened. Further Board discussion ensued about the merits of continued settlement efforts versus either litigation

or arbitration. After considerable discussion, Mayor Amicone said that he will attempt to set up a meeting with the County Executive to approach settlement and if that is not productive, then appropriate litigation or arbitration can take place if this was satisfactory to the Board. Mr. Lynch indicated that the Mayor would need certain parameters for any settlement discussion before litigation was filed and that should be done in Executive Session. Mayor Amicone joined in the recommendation that the Board enter into Executive Session to discuss settlement authority in this potential litigation if settlement did not take place

### **Executive Session**

Joy Lawrence motioned to enter into Executive Session, the motion was seconded by Martin Ball. **Approved 7-0.** Members of the public that were present were excused. **The Board entered Executive Session at 9:20 a.m..** A motion to terminate Executive Session and resume the regular meeting was made by William Regan and seconded by Peter Kischak. **Approved 7-0. The Board concluded Executive Session at 10:06 a.m.** Members of the public were asked to rejoin the meeting.

### **Other Business**

Mayor Amicone next introduced Alex Ajax from the Regency Nursing home. Mr. Ajax indicated he is looking to expand, but cannot expand without additional parking. Mr. Ajax noted that there is a lot of parking space on the northeast corner of North Broadway and Ashburton Ave across from the Church that was vacant for many years. Mr. Ajax discussed further issues regarding the property. Mayor Amicone indicated that the City wanted to see that there was adequate parking to address the reasonable needs of those who employ people in this area of the City. The Mayor indicated that there was a need to attempt and address legitimate parking issues and that he was requesting authority from the Board to enter into negotiations to accomplish that result. The Board Members present indicated that the Mayor should undertake such negotiations. The Mayor indicated he would do so and report back to the Board before any commitments were made by the Agency.

Mayor Amicone inquired if there was any further business. Attorney Lynch indicated that the Personnel Policies were continued to be updated for consideration by the Board on the issue of unpaid sick leave. Mr. Lynch noted that some suggested revisions were being developed and he would report back to the Board at the next Meeting regarding specific changes. Mayor Amicone asked if there were any further business items to be consider and no issues were raised.

**Adjournment** A motion to adjourn was made at 10:13a.m. by Michael Baratta and second by William Regan. **Approved 7-0**