

MINUTES OF THE WORK SESSION OF THE  
VILLAGE OF PORT CHESTER  
INDUSTRIAL DEVELOPMENT AGENCY

**HELD:** October 6, 2010

**TIME AND PLACE:** 6:30 P.M., Village Hall, Conference Room, 222 Grace Church Street, Port Chester, New York

**ROLL CALL:** In attendance were Chairman Neil Pagano and members James Taylor, John Hiensch, and Richard Cuddy

Also in attendance were PCIIDA Secretary, Elisa Sciarabba, PCIDA Administrative Director, Dwight Douglas and PCIDA Counsel, Justin Miller of Harris Beach, PLLC.

Vice-chairman Kenner arrived at 6:40

Absent was member Phillip Semprevivo and Member Pilla

Chairman Pagano called the meeting to order at 6:30 pm.

Chairman Pagano explained that this was a two part work session. The first part would be for discussion on the JETRO application and to go over documents provided by Mr. Miller outlining what the deal would look like. The second part of the meeting would be for discussion of future applications and putting together a Standardized Applicant Qualification Matrix.

Mr. Cuddy asked what the timeframe would be for Jetro. Mr. Miller explained that if the Jetro application is approved by the Planning Commission on the following Tuesday, then the PCIDA could consider the application on Wednesday. There would be a resolution in the Board packets for review.

Mr. Taylor noted that the Board members need to make sure, when speaking with the press to let them know the Board always meets the second Wednesday of every month. This is not just because the Planning Commission is meeting the night before.

There was a discussion of the Board concerning the potential for an Article 78 proceedings and what the remedies for such a dispute might entail. Mr. Miller explained that theoretically, the courts could overturn an approving resolution and the PCIDA would have to start the process over.

Mr. Miller explained that Jetro still has a lot of design work to do before they build. If they close next Friday, they would pay the PCIDA administrative fee of \$130,000, and additionally the PCIDA would also probably ask for about \$20,000-\$30,000 to be put in the escrow in case of legal action. On Wednesday, the PCIDA would also take a look at the Planning Commission record before approving.

Mr. Miller explained that there are two agents of the PCIDA in connection with the Jetro transaction; RD America and JMDH Real Estate of Port Chester, LLC. RD America

may not realize financial assistance. JMDH, as the Mortgagor, will receive the benefit of a PILOT, Sales Tax Exemption and Mortgage Recording Tax . Mr. Miller noted that G&S was structured as sale lease backs whereas this transaction is structured as a lease-leaseback

Vice –Chairman Kenner asked what the benefit of lease, lease-back versus sale, lease back and Mr. Miller explained that the lease, lease-back agreements are more flexible if there is a default.

Mr. Miller reviewed the documents which outlined a similar deal by the Peekskill IDA to give the Board members an overview of what the Jetro deal would look like. The example used was for a Coat & Apron Company that came into Peekskill involving the purchase of a lot and the construction of a connecting building between two existing buildings.

Mr. Miller explained that the Board could put an expiration date of September 2011 for the sales tax letter, meaning the construction would have to be done by then, if not, they would be able to request an extension.

Chairman Pagano asked about the sales tax with G&S and the firehouse project on South Main Street and how they bought the material. Mr. Miller noted that they may have done it as an agent of the PCIDA.

Mr. Taylor asked Mr. Miller if there was a difference between General Counsel and Transaction Counsel and whether Mr. Miller could provide all the opinions necessary while acting in both capacities. Mr. Miller answered that he could and noted that the Board of Trustees has not been involved in the Jetro matter at all because there were no zoning changes, therefore it would not be a conflict of interest.

Mr. Hiensch asked what the obligation is if there is a default and whether the lease could be terminated. He wanted to ensure that the PCIDA has the best possible remedy. Mr. Miller explained the lease- leaseback could be terminated.

Mr. Hiensch asked if there is a clause if Jetro dumps the PCIDA after the construction is completed. Mr. Miller explained that under the UTEP, the sales tax could be recaptured.

Mr. Cuddy asked about the media and how the Board should deal with questions if someone gets contacted. He asked if one person should be designated to answer all of the questions. Chairman Pagano asked if it was necessary for the Board to adopt a policy to determine who should be the point of contact for the media. Either Mr. Miller, Mr. Douglas or Chairman Pagano should be the point of contact. Mr. Douglas noted that the UTEP should always be referred to, ensuring residents that no revenue is being cut. The projects will continue to pay the same tax revenue as before.

Mr. Cuddy asked if the property on 305 South Regent Street was originally bought under a PILOT. Mr. Miller confirmed that it was and noted that the PILOT expired in June of 1989.

Vice-Chairman Kenner left the meeting at 7:15 pm

There were no other questions raised by the Board with regard to the documents that Mr. Miller presented. Mr. Miller noted that the Board could ask any questions before the next meeting.

Chairman Pagano handed out a draft Standardization Applicant Qualification Matrix that could be used as a basis in evaluating the criteria for potential projects. He asked for input from the members as to what criteria the Board should take into account when a new applicant approaches it for consideration. Mr. Douglas explained that economic viability of the applicant is important. Mr. Hiensch agreed that the applicant's financial capability should be added. Mr. Douglas also noted that site control should be added. Chairman Pagano said community involvement may be important also. Mr. Taylor said job creation is an important factor and should be added. Mr. Taylor raised concerns about questions that may overlap with the Zoning Board. He said it should be noted whether or not the applicant has gone or is planning to go to the Board for any approvals.

Mr. Douglas noted that he has a good basis with the draft list provided by the Chairman as well as the feedback from the Board to develop a checklist. Mr. Douglas said he would work on a checklist. He noted that when discussing the development goals of the Village, it really speaks to the Mission statement of the PCIDA.

Mr. Miller noted that the answers could be compared to the other policies in the community, such as the Comprehensive Master Plan.

Mr. Douglas said he would work on the checklist for the next meeting.

Mr. Miller explained that it could be read into the record with the resolution. Mr. Taylor noted that it is important to read into the record to show that the Board is doing its due diligence. John Hiensch noted that the project would also be an added improvement to the Village of Port Chester. Mr. Cuddy discussed the Restaurant Depot in Mt. Vernon, NY and noted that it is a wonderful operation.

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There being no further business before the Board, Chairman Pagano adjourned the meeting at 8:16 pm

Respectfully submitted,

*Elisa Sciarabba*

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Secretary