

**MINUTES OF THE MEETING OF THE  
VILLAGE OF PORT CHESTER  
INDUSTRIAL DEVELOPMENT AGENCY**

**HELD: February 8, 2012**

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

A regular meeting of the Village of Port Chester Industrial Development Agency was convened on Wednesday February 8, 2012 at 6:30 p.m. at 222 Grace Church Street, Port Chester, New York. 10573.

**Roll Call:**

The meeting was called to order by Chairman Neil Pagano with the following Board members being present: Vice Chairman Joseph Kenner, Mayor Dennis Pilla, Board members Richard Cuddy, John Hiensch, James Taylor and Phil Semprevivo.

Also in attendance were Administrative Director Dwight Douglas, Treasurer Leonie Douglas, Board Counsel Justin Miller, Director of Planning Christopher Gomez and Board Secretary Constance Phillips, Village Engineer Dolph Rotfeld and a member of the public Billy Frenz (owner of the Showboat)

**Moment of Silence**

On the motion of Board member Richard Cuddy, which was seconded by Vice Chairman Joseph Kenner, a moment of silence was observed in remembrance of the late former Mayor Peter Iasillo, who passed away on February 7, 2012.

**Minutes**

On the motion of Board member Richard Cuddy, which was seconded by Mayor Dennis Pilla, the minutes of the December meeting were accepted.

**Invoices:**

A brief review of the submitted invoices was held. Invoices were submitted from Harris Beach - Justin Miller (Corporate matters and G&S PILOT Amendment) Dwight Douglas (regular monthly invoice and Reimbursement of Conference expenses), Leonie Douglas and Constance Phillips. On the motion of Board member Richard Cuddy, which was seconded by Board member James Taylor the payment of submitted invoices were authorized.

**Treasurers Report**

Ms, Douglas provided the treasurers report as of 12/31/2011

Bills paid totaled \$50,138

Cash Balance \$285,889

Ms. Douglas stated that in January \$90,000 was received from G&S regarding the Global Settlement Agreement. \$34,077.17 will be divided among the Town, Village Schools, and Westchester County to reconcile the PILOT Agreement. The remaining balance of \$55,922.83 will be recorded as miscellaneous Revenue for IDA expenses for legal and administrative expenses incurred to modify the PILOT Agreement will also be deducted from that Amount.

On the motion of Board member Richard Cuddy, which was seconded by James Taylor the allocation and distribution of monies was accepted and approved and the FY 2011-12 PCIDA Budget be modified as follows:

Increase Revenues

9.9.27322	Miscellaneous Revenue	\$55,922.83
-----------	-----------------------	-------------

Increase Appropriation

9.1420.472	G & S Administrative/Legal	\$55,922.83
------------	----------------------------	-------------

A brief discussion ensued regarding Legal Expenses from Harris Beach regarding G&S. It was noted that this item was discussed with the Village Board of Trustees.

Ms. Douglas conveyed to the Board that IDA has an old Account in Wells Fargo Bank that has been significantly reduced by excessive service charges and fees. Ms Douglas suggested the monies could be transferred to the IDA Account at Chase Bank.

On the motion of Vice Chairman Joseph Kenner, which was seconded by Mayor Dennis Pilla, the Treasurer, Leonie Douglas will close the account and transfer the monies accordingly.

On the motion of Board member Richard Cuddy, which was seconded by James Taylor the Treasures Report was accepted.

**Reduced IDA Fee Schedule**

A discussion was held regarding Sales and Use Tax Exemption for renovations to The Capitol Theatre. Some highlights of the discussion were as follows:

It was noted that a Public Hearing is needed/ A Public Hearing was set for March 14, 2012.

**Project Authorizing Resolution**

**PROJECT AUTHORIZING RESOLUTION**

A regular meeting of the Village of Port Chester Industrial Development Agency was convened on Wednesday February 8, 2012, at 6:30 p.m. at 222 Grace Church Street, Port Chester, New York 10573.

The meeting was called to order by the Chairman, with the following members being:

PRESENT: Vice Chairman Joseph Kenner, Mayor Dennis Pilla, Board members Richard Cuddy, James Taylor, John Hiensch and Phil Semprevivo

ABSENT:

THE FOLLOWING PERSONS WERE ALSO PRESENT:

Administrative Director Dwight Douglas, Treasurer Leonie Douglas, Board Counsel Justin Miller, Director of Planning Christopher Gomez and Board Secretary Constance Phillips

On motion duly made and seconded, the following resolution was placed before the members of the Village of Port Chester Industrial Development Agency:

Resolution No. 2012 - \_\_\_\_

RESOLUTION OF THE VILLAGE OF PORT CHESTER INDUSTRIAL DEVELOPMENT AGENCY (i) ACCEPTING THE APPLICATION OF CAPITOL ENTERPRISES, INC. (THE "COMPANY") WITH RESPECT TO A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW); (ii) AUTHORIZING THE UNDERTAKING OF THE PROJECT AND APPOINTING THE COMPANY AS ITS AGENT TO UNDERTAKE THE PROJECT; (iii) AUTHORIZING THE PROVISION OF FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF A SALES TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE

ACQUISITION, RENOVATION, CONSTRUCTION AND EQUIPPING OF THE PROJECT; (iv) IDENTIFYING THE PROJECT PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; AND (vi) AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGENT AGREEMENT AND RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 632 of the Laws of 1972 of the State of New York, as amended (hereinafter collectively called the "Act"), the **VILLAGE OF PORT CHESTER INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **CAPITOL ENTERPRISES, INC.** (the "Company"), a domestic business corporation having offices at 149 Westchester Avenue, Port Chester, New York 10573, has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the appointment by the Agency of the Company as agent to undertake the planning, design, construction, renovation and equipping of leasehold improvements to an existing 1,835 seat theater facility located at 149 Westchester Avenue in the Village Port Chester, New York (the "Existing Improvements"), including extensive interior renovations and upgrades to theater stage, offices, dressing rooms, common areas, bar and amenities, along with various mechanical improvements (collectively, the "Improvements"); (B) the acquisition and installation in and around the Existing Improvements and Improvements of certain machinery, equipment and other items of tangible personal property, including lighting, video and sound systems (the "Equipment" and collectively with the Existing Improvements and the Improvements, the "Facility"); and (C) upon completion of the Project, transfer title to all tangible items and Equipment purchased by the Company as agent of the Agency to the Company; and

WHEREAS, it is contemplated that the Agency will (i) enter into an agent agreement (the "Agent Agreement"), pursuant to which the Agency will appoint the Company as its agent for the purpose of acquiring, constructing and equipping the Facility, and (ii) provide financial assistance to the Company in the form of a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Facility (collectively, the "Financial Assistance"); and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance, with such Financial Assistance to not exceed \$100,000 [until a public hearing is scheduled and conducted by the Agency in accordance with the Act]; and

WHEREAS, the Agency has identified the Project as a “Type II” Action as defined pursuant to the State Environmental Quality Review Act, as codified under Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, “SEQRA”); and

WHEREAS, the Agency desires to approve the undertaking of the Project, appoint the Company agent of the Agency to undertake same, and authorize the execution and delivery of an Agent Agreement and related documents.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE VILLAGE OF PORT CHESTER INDUSTRIAL AGENCY AS FOLLOWS:

Section 1. The Company has presented the Application and related information in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) The Agency has the authority to take the actions contemplated herein under the Act; and

(C) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in the Village of Port Chester, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(D) The Project will not result in the removal of a facility or plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the “State”) to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company’s Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other facility or plant to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries.

(E) Based upon a review of the Application submitted to the Agency by the Company, along with related materials, the Agency has identified the Project as a “Type II Action” within the meaning of SEQRA. No further SEQRA review is necessary.

Section 2. The Agency hereby authorizes the undertaking of the Project and the provision of the Financial Assistance to the Company. [The Financial Assistance shall not exceed \$100,000 and therefore the Agency is not required to conduct a public hearing pursuant to the Act.] [The Financial Assistance shall not exceed \$100,000 until the Agency has duly scheduled and conducted conduct a public hearing in accordance with the Act. In furtherance of same, the Agency hereby authorizes the scheduling and conduct of a public hearing relating to the Project.]

Section 3. Subject to the Company executing the Agent Agreement in substantially the form attached hereto as Exhibit A and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, the Agent Agreement shall expire on August 31, 2012 (unless extended for good cause by the Chairman of the Agency). The Agency hereby authorizes the Chairman, Vice Chairman, and/or the Administrative Director of the Agency, on behalf of the Agency, to execute and deliver the Agent Agreement, related sales and use tax exemption materials and bills of sale.

Section 4. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 5. These Resolutions shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

	YEA	NAY	ABSTAIN	ABSENT
Neil Pagano	[ x ]	[ ]	[ ]	[ ]
Hon. Dennis Pilla	[x ]	[ ]	[ ]	[ ]
Hon. Joseph Kenner	[ x ]	[ ]	[ ]	[ ]
James Taylor	[ x ]	[ ]	[ ]	[ ]
John Hiensch	[ x ]	[ ]	[ ]	[ ]
Philip C. Semprevivo	[x ]	[ ]	[ ]	[ ]
Richard Cuddy	[x ]	[ ]	[ ]	[ ]

The Resolution was thereupon duly adopted.

[The Balance of This Page Intentionally Left Blank]

### **Discussion: License Agreement - Showboat**

Highlights of this discussion are as follows:

- Application is an issue that the Board of Trustees has been discussing as well as the IDA Board
- RFP's have been considered
- Concerns about the regulation of the Dock Area
- Additional Issues still to be resolved defining the structure "type" in order to move forward
- More discussions are needed with the building inspector and the applicant and the IDA Board

### **Equipment Purchase/Space Leasing**

A discussion was held regarding IDA leasing space within the Planning and Zoning Department in Village Hall. A sharing of resources would be cost effective for both all departments and The Village Office will be used as a home for all IDA files equipment and associated documents.

On the motion of Board member Richard Cuddy, which was seconded by Vice Chairman Joseph Kenner, the IDA Board would enter into a Lease Agreement with the Village of Port Chester, leasing office space and equipment within the Planning and Zoning Department area.

### **Executive Session**

On the motion of Board member Richard Cuddy which was seconded by Board member John Hiensch, the Board entered into Executive Session for the purposes of potential litigation regarding the Global Agreements.

On the motion of Mayor Dennis Pilla which was seconded by Richard Cuddy, the Board ended the Executive Session.

### **Discussion: Parking Deck Financing**

Board Counsel Justin Miller led a discussion with the Board regarding the role of the LDC in parking deck financing and construction. Yankee Stadium was cited as an example of the LDC Model which was said to be losing money. Ideas were suggested for generating revenue through parking. Metered parking was deemed an efficient way to generate revenue and would help eliminate the parking debt responsibilities of the Village. It was noted that more discussions are needed on this topic.

A motion to adjourn was entered by Board Member James Taylor and seconded by Chairman Neil Pagano.

The meeting was adjourned at 9:18PM

Respectfully submitted,

CONSTANCE PHILLIPS  
Secretary