

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

Minutes

December 9, 2019

A Meeting of the Danville-Pittsylvania Regional Industrial Facility Authority convened at 12:15 p.m. on the above date at the Institute for Advanced Learning and Research, 150 Slayton Avenue, 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 Alternate Elton Blackstock.

City/County staff members attending were: County Administrator David Smitherman, Assistant County Administrator Greg Sides, City of Danville Director of Economic Development Telly Tucker, Assistant Director of Economic Development Corrie Bobe, Project Manager Kelvin Perry, Pittsylvania County Director of Economic Development Matt Rowe, Project Manager Susan McCullough, City of Danville Director of Finance Michael Adkins, City of Danville Accountant Henrietta Weaver, Christian & Barton Attorneys Michael C. Guanzon and Steven Lippman, and Secretary to the Authority Susan DeMasi. Also present were Shawn Harden and Brian Bradner from Dewberry, and Chris Murray of Brown, Edwards.

PUBLIC COMMENT PERIOD

No one present desired to be heard.

APPROVAL OF MINUTES OF THE NOVEMBER 8, 2019 SPECIAL MEETING, AND NOVEMBER 12, 2019 REGULAR MEETING

Upon **Motion** by Mr. Saunders and **second** by Mr. Searce, Minutes of the November 8, 2019 Special Meeting and November 12, 2019 Regular Meeting were approved as presented. Draft copies had been distributed to Authority Members prior to the Meeting.

NEW BUSINESS

5A. CONSIDERATION OF RESOLUTION NO. 2019-12-09-5A REQUIRING ONLY ONE AUTHORIZED SIGNER FOR SIGNING CHECKS

Authority Treasurer Michael Adkins explained RIFA often has items such as permit fees that are small amounts. For items under \$300, staff was seeking permission to have just one of the authorized signers sign the check to facilitate the process. Staff would continue with two signatures for large expenditures.

Mr. Saunders **moved** for adoption of *Resolution No. 2019-12-09-5A, requiring only one authorized signer for the signing of a check, draft, note, bond, bill of exchange, orders or other negotiable instrument drawn against an account of the Authority for an amount of \$300.00 or less.*

The Motion was **seconded** by Mr. Searce.

Mr. Warren stated since the board was doing this, could members get a list every month of all checks written, and Mr. Adkins noted it could be included in the monthly financial report.

The **Motion** was carried by the following vote:

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

5B. CONSIDERATION OF RESOLUTION NO. 2019-12-09-5B RATIFYING A CONTRACT OF SALE DATED NOVEMBER 21, 2019 WITH REALTYLINK

Authority Attorney Michael Guanzon explained this transaction has already been authorized in a series of resolutions; RealtyLink, requested a clean up of the resolutions. This was confirming what the Board has signed already.

Mr. Warren **moved** for adoption of *Resolution No. 2019-12-09-5B, ratifying that certain Contract of Sale dated November 21, 2019, between the Authority and RealtyLink Investments, LLC, a South Carolina limited liability company, pursuant to Resolution Nos. 2019-09-09-5E and 2019-11-12-5A, for Lots 3A and 3B in the Authority's Cane Creek Centre project, located in Pittsylvania County, Virginia.*

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)

5C. CONSIDERATION OF RESOLUTION NO. 2019-12-09-5C APPROVING THE EXPANDED ROLE OF A. KENT SHELTON

Mr. Guanzon explained in 2017, the Board approved using Kent Shelton for monitoring services for contract work being done in certain parks; it was agreed the City would pay for those services under an existing contract. The cost of those fees to Kent Shelton would be a member locality contribution through the due to/from; this was extending it for the water line and sanitary sewer line. Mr. Harden noted he has been a tremendous help to them keeping track of where the construction projects were; it has been very beneficial to everyone.

Mr. Saunders **moved** for adoption of *Resolution No. 2019-12-09-5C, approving the expanded role of A. Kent Shelton, P.E., as set forth in Resolutions 2017-03-13-5C, 2017-11-15-5D and 2018-12-10-5A, to serve as the project monitor and limited inspector for the changes to the Phase I Virginia Water Line Project and the Phase I Sanitary Sewer Project to serve Lot 7 at the Authority's Southern Virginia Mega Site at Berry Hill project, at an estimated additional cost of \$27,560.00 (existing hourly rate of \$38).*

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)

5D. DISCUSSION OF ROUTE 311 AND ROUTE 58 INTERSECTION IMPROVEMENTS

Board Member Ron Searce noted there was a property adjacent to this intersection, owned by Mr. Ferguson who has a used car dealership. Back when they realigned 311, they needed

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part of his property. There was an issue with the way things were lining up where he wouldn't have access to his dealership, so VDOT put in a driveway entrance for him. But VDOT did not put it on any records, so it wasn't part of the consideration when they put the new project in for extending the turning lanes. Effectively, they are going to get rid of his driveway access, which was really the only access into his property off of 58. VDOT said the only thing they would do was put in a driveway further behind on his property; it will only allow access from the back of his property. Mr. Ferguson has hired a lawyer, and Mr. Scarce noted his concern was an order of injunction on the intersection project. Mr. Ferguson requested this be brought to RIFA to see if there was any Tobacco Commission money to help him relocate his business or buy his property. That was where it was going because VDOT was not willing to help Mr. Ferguson out. Mr. Shanks stated, there was the original construction that was done, there must have been some type of agreement, verbal or not. But there is another widening of that intersection, not related to interchange connector, and Mr. Scarce noted that was correct.

Mr. Guanzon stated, speaking generally, when they have a type of injunctive relief, they would have the right to condemn the property during their normal course of business. The person's lawyer will have to decide whether that will happen. He would say he does not think that will hold it up more so than a normal eminent domain condemnation proceeding because if they are taking property for a project and it essentially renders the property value to zero, then the government has taken that property. Under the law, they are required to compensate them for fair market value. Depending on what documents were or were not signed, recorded or not, that was for the property owner's lawyer to go through the documents and see whether that happens. Secondly, unless it was part of one of RIFA's other projects, RIFA's sources of money are limited to whether those projects are approvable or not. If the Board wanted staff to look at it further, they would need more information. It needs to come from the Board and not from Mr. Ferguson, because they don't represent him, they represent RIFA. Staff has their pre-RIFA meeting next Monday, if Mr. Scarce can get them the information, they can take a look. Mr. Scarce noted his concern was the threat of an injunction, because this was an important property for Berry Hill. Mr. Saunders noted he would like to hear more discussion of this matter and Mr. Warren noted he thought it was appropriate to be proactive, allow the attorneys to look into it if Mr. Scarce can provide more information. Mr. Shanks asked that Dewberry be included in that as well. Mr. Scarce noted his appreciation and Mr. Shanks stated there was no action needed, other than review by staff to report back at the next meeting.

5E. PRESENTATION OF AUDIT OF AUTHORITY'S FINANCIAL STATEMENTS FOR YEAR ENDING JUNE 30, 2019

Mr. Adkins introduced Chris Murray from Brown, Edwards, senior manager of the audit for RIFA. Mr. Murray noted there were three documents, the first was the Financial Statements for which they issued a clean, unmodified opinion again this year. The Statement of Net Position showed a lot of consistency. There was a decrease in the restricted cash, that came down to bonds payable, and there was a consistent decrease in bonds payable under current liabilities. Under Noncurrent Assets, Construction in Progress continues to increase as expected; it was a little over a \$4.8M increase which was the continued development at the Cyber Park and Mega Park. Under the Statement of Revenue and Expenses there was an increase in the Tobacco Commission Grant, which was the grant money for the development of the Mega Park. One thing new was the Economic Development Incentive Revenue, the money coming in from the City, the County, and the Foundation that goes to the companies for its incentives; it was nearly all Harlow Fastech and Unison. Under Operating Expenses,

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the money going back out was Economic Development for Cane Creek Centre, \$2.2M. Also under that, the Cane Creek Centre balance shows the incentive for Ikea where the land valued at \$952,000 was sold for \$1. Mr. Murray noted the Required Communications with those Charged with Governance was standard, letting the Board know what the Auditors' responsibilities were and what the management's responsibilities were. It lets the Board know there were no disagreements with management and it was another year with no audit adjustments. The final letter was Comments on Internal Controls; one comment that has appeared in the audit was the segregated duties. This was related to the limited staffing, the duties cannot be separated too much, and it was not a material weakness. There were no other comments this year.

Mr. Saunders **moved** to accept the Audit Report as presented. 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)

5F. FINANCIAL STATUS REPORTS AS OF NOVEMBER 30, 2019

Authority Treasurer Michael Adkins gave the Financial Status report as of November 30, 2019 beginning with the \$7.3M Cane Creek Bonds, noting RIFA expended \$1,315 to Dewberry for Lot 6 surveying and wetland monitoring, and \$26 to Clement Wheatley for legal fees. General Expenditures show RIFA paid \$7,582 to Sellers Brothers for mowing and clearing, \$5,000 to Brown, Edwards for the Annual Audit, \$3,618 to Liquid Asset Partners for Machine Appraisals, \$370 for meals and \$31 for monthly utilities. Under Berry Hill Funding Other than Bonds, RIFA expended its first payment to AEP, of \$200,000, for Right of Way acquisition. Under Lot 4 Site Development, RIFA expended \$700 to the State Treasurer for Stormwater permitting. Lot 8 Site Development had no expenditures for November. For Water and Sewer, RIFA paid \$344,850 to CW Cauley and Son for continued work on Phase I of the water construction, and \$11,050 for Dewberry for Amendment #20. Rent, Interest and Other Income shows RIFA received \$25,412 from the Institute for the Hawkins' Building, \$443 in interest income, \$147,000 from the Commonwealth Opportunity Fund for Harlow, \$17,500 from Pittsylvania County, their share of the Harlow housing reimbursement, and there was a little bit of money left over in the bond service account for the Berry Hill Bonds of \$6. RIFA paid \$25,412 to the Institute for the Hawkins' Building maintenance, and \$254,236 to Gefertec, which was for Harlow equipment.

Mr. Saunders **moved** to accept the Financial Report as presented. 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)

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.]

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At 12:41 p.m. Mr. Saunders **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 or industry's interest in locating its facilities in one or more of the Authority's projects located in Pittsylvania County, Virginia; and

B. As permitted by Virginia Code §2.2-3711(A)(4) 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

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 located in Pittsylvania County, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of 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)

D. On **Motion** by Mr. Searce and **second** by Mr. Saunders and by unanimous vote at 2:30 p.m., the Authority returned to open meeting.

E. 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. Saunders and carried by the following vote:

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

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7. OPEN SESSION – NEW BUSINESS CONTINUED

7A. CONSIDERATION OF RESOLUTION 2019-12-09-7A

Mr. Warren **moved** for adoption of *Resolution No. 2019-12-09-7A, authorizing the negotiation, execution and delivery of a local performance agreement for whom an announcement will be made by the Governor's Office of the Commonwealth of Virginia on or about December 11, 2019, under which the Authority would provide at a minimum an industrial enhancement grant in the form of annual tax rebates on real estate and tangible personal property for the establishment of a manufacturing facility at one of its projects located in Pittsylvania County, Virginia, in exchange for certain minimum performance parameters as those required by the Governor's office and/or the Tobacco Region Revitalization Commission.*

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)

8. COMMUNICATIONS

Mr. Warren thanked Mr. Blackstock for his service to RIFA and hopes he enjoys his retirement. Mr. Saunders noted his agreement with Mr. Warren, and suggested a plaque. Mr. Shanks noted he would be going to the Board of Supervisors meeting to present that to him.

Mr. Warren noted that Morgan Olsen was interested in a name change for a road.

Mr. Shanks stated it was his last meeting as the Chair, it has been a pleasure working with the board members and staff, and appreciates everything everyone contributes to the team.

Update on Project Lignum

Mr. Guanzon noted staff was having continued communications with them and will have a better report at the next meeting.

Meeting adjourned at 2:38 p.m.

APPROVED:

s/Fred O. Shanks, III
Chairman

s/Susan M. DeMasi
Secretary to the Authority