

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY
Minutes
February 11, 2013

The Regular Meeting of the Danville-Pittsylvania Regional Industrial Facility Authority convened at 12:13 p.m. on the above date in the Danville Regional Airport Conference Room, 424 Airport Drive, Danville, Virginia. Present were City of Danville Members Chairman Sherman M. Saunders, Fred O. Shanks, III and Alternate J. Lee Vogler. Pittsylvania County Members present were Vice Chairman Coy E. Harville, James Snead and Alternate Jessie L. Barksdale.

City/County staff members attending were: City Manager Joe King, County Administrator Dan Sleeper, Danville Finance Director/Authority Treasurer Barbara Dameron, Pittsylvania County Director of Economic Development Ken Bowman, Assistant County Administrator for Planning & Development Gregory Sides, City of Danville Director of Economic Development Jeremy Stratton, City of Danville Project Manager Corrie Teague, City of Danville Director of Planning/Zoning Administrator Kenny Gillie, City of Danville Senior Accountant Patricia Conner, Clement and Wheatley Attorney Michael Guanzon and Secretary to the Authority Susan DeMasi. Also present were Dewberry and Davis Project Manager Brian Bradner and Clement & Wheatley Attorney Jennifer Burnette.

Chairman Saunders called the Meeting to order.

PUBLIC COMMENT PERIOD

No one desired to be heard.

APPROVAL OF MINUTES OF THE DECEMBER 10, 2012 MEETING

Mr. Harville made a **motion** to approve the minutes with a correction to show the vote for item 6A in the December 10, 2012 minutes is 4-0 instead of 5-0. After discussion by the Board, the Motion was **seconded** by Mr. Snead, and the Minutes of the January 14, 2013 meeting were approved as amended. Draft copies had been distributed to Authority Members prior to the Meeting.

OLD BUSINESS

5A. CONSIDERATION – RESOLUTION 2013-01-14-6B – AMENDING BY-LAWS

Authority Attorney Michael Guanzon noted this item is a carryover from the last meeting, and because of the notice requirements, action had to be taken at this meeting. The City of Danville has a term limit for its appointees to this Board, the County does not. This leaves it up to the City or the County to determine whether term limits should be imposed by them instead of RIFA.

Mr. Harville **moved** adoption of *Resolution 2013-01-14-6B, amending paragraph 2 of Article V (“Board of Directors”) of the Bylaws of the Authority by deleting “... and no director or alternative director may serve more than one (1) additional term”.*

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

VOTE: 4-0
AYE: Harville, Snead, Saunders, Shanks (4)
NAY: None (0)

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NEW BUSINESS

6A. CONSIDERATION – RESOLUTION NO. 2013-02-11-6A – APPROVING A LICENSE TO THE CITY OF DANVILLE TO USE A PORTION OF LOT B IN CANE CREEK

City Manager Joe King explained that rebuilding the substation is a large job and area to lay down the materials is needed. What is being proposed would be to use part of RIFA's property and at the end of the project, it will be restored to its original condition.

Mr. Harville **moved** adoption of *Resolution 2013-02-11-6A, approving a license to the City of Danville to use a portion of Lot 7B, fronting on Tom Fork Road, in the Authority's Cane Creek project in Pittsylvania County, Virginia, for the purpose of storing materials and installing and using a temporary gravel road in support of the City of Danville's utility project to rebuild the 69kV transmission line between Brantley Substation and Airside Substation.*

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

VOTE: 4-0
AYE: Harville, Snead, Saunders, Shanks (4)
NAY: None (0)

6B. NOTICE FROM THE DANVILLE CITY PLANNING COMMISSION – FOR AN SUP FILED BY KELVIN MILLER TO OPERATE AN AUTOMOBILE REPAIR FACILITY AT 705 RIVER PARK DRIVE

City of Danville Director of Planning Kenny Gillie noted the City has had a request for a Special Use Permit to operate a body shop in what used to be Rock on Wood and now is owned by Riverside Roof Truss. Riverside Roof Truss has expanded their operation but doesn't need all the buildings. They have petitioned to allow the lease of one of the buildings for a body shop.

Mr. Saunders asked would the Board wish to oppose, not oppose or express no opinion.

Mr. Shanks asked Mr. Gillie if this would have any adverse effect on the Welcome Center. Mr. Gillie noted that staff is recommending if they approve it, that they add some conditions, including no external storage of vehicles or parts thereof, no work on vehicles to the exterior of the property, they are limited to using only one building and also their hours are limited.

Mr. Snead noted he had viewed the area and believed it would have an adverse effect to the Welcome Center, and that a precedent may be set the Board may not want to go into. From his point, he would say no. Mr. Harville also noted his opposition to this request, that it would have a negative impact. Mr. King pointed out that this property is not actually located in the Cyber Park.

Mr. Gillie noted he would make RIFA's recommendations known to the Planning Commission. Staff has given a tentative recommendation for it because it is in a district that is allowed by special use permit. If the Board has additional conditions or concerns, they would be presented to the Planning Commission and they will make a recommendation to City Council.

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Mr. Saunders questioned Mr. Guanzon that there are four voting members and two have pleaded opposition, does that take care of this matter.

Mr. Harville then stated that as it had been clarified that the property is not in the Cyber Park he believes this falls back to the City. Mr. Harville noted he would withdraw his comments because it is not in the Cyber Park it wouldn't be valid for him to make a comment on that.

Mr. Saunders asked Mr. King to comment on this request and Mr. King noted that when the City receives an application for a zoning issue, a certain number of adjoining property owners are notified. The purpose of this is to get the property owner, that is RIFA, an opportunity to express an opinion. That is why it is before the Board and it is perfectly appropriate for RIFA to take whatever position the Board thinks is best to protect RIFA's interest.

Mr. Shanks stated it would be appropriate for him to abstain from this, as he has represented the applicant in recent months. Mr. Saunders noted he would take no opinion, giving three out of four with no opinion. (No written Resolution)

6C. CONSIDERATION – RESOLUTION 2013-02-11-6C – APPROVING THE ASSIGNMENTS BY DEWBERRY & DAVIS

Authority Attorney Michael Guanzon explained the Board has a request from Dewberry that they want to put their engineering services into one corporation which includes the two contracts with RIFA.

Board Members discussed the possibility of litigation regarding RIFA's contracts and Mr. Guanzon stated that the contracts in which state law applies is dependent on what the contract had indicated. In each of these, it did indicate that Virginia law would apply. Mr. Shanks questioned in the event of litigation, can RIFA make sure any litigation be held locally instead of somewhere else. Mr. Guanzon confirmed that that could be done and that in the contract for the connector road, Virginia is the law that will be applied and he will double check the other contract. In response to Mr. Shanks, Mr. Guanzon noted he put in a venue provision for Pittsylvania County for any state issues and for federal claims it will be the Danville federal court as there is not a federal court in Pittsylvania County.

Mr. Shanks **moved** that adoption of *Resolution No. 2013-02-11-6C, approving the assignments by Dewberry & Davis, Inc., a North Carolina corporation, to Dewberry Engineers Inc., a New York corporation, of (i) that certain Standard Form of Agreement Between Owner and Engineer for Professional Services dated as of June 21, 2012, as amended (Project #50018376), which pertains to work in the Authority's Mega Park project in Pittsylvania County, Virginia; and (ii) that certain Proposal for Technical Services dated April 1, 2003, Wetlands Monitoring of Impact and Non-Impact Areas at the Cane Creek Center Post-Construction Monitoring at the Anglers Park Wetland Mitigation Site, Monitoring Year 2009-2010, as amended (Project #50003249) Wetlands), which pertains to work in the Authority's Cane Creek project in Pittsylvania County, Virginia, and Danville, Virginia, and authorizing the Chairman and/or Vice Chairman of the Authority to execute on its behalf a consent to such assignments - subject to the following conditions, pertaining to the two contracts that RIFA currently has with Dewberry that the contracts be reviewed to insure and if not, to revise, that any litigation be held in a local venue under Virginia State Law. (No written Resolution)*

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

VOTE: 4-0
AYE: Harville, Snead, Saunders, Shanks (4)
NAY: None (0)

6D. CONSIDERATION – RESOLUTION NO. 2013-02-11-6D – APPROVING TRANSFER OF \$181,000 TO LOT 4 SITE DEVELOPMENT

Barbara Dameron explained that the Tobacco Commission awarded RIFA a grant for the development of Lot 4 at the Berry Hill Mega Park and the grant requires that RIFA have a \$181,000 match. Staff is asking to provide for the funding of that match by moving \$175,316.17 from the Funds Available for Appropriation Sheet and the remaining balance of that or \$5,683.83 from the Rent and Interest and Other Income Realized. The reason staff is making the request now is that RIFA needs to cover the expense of the required Virginia Water Protection Permit from the Department of Environmental Qualities Water Division for a fee of \$57,840.00.

Mr. Harville **moved** adoption of *Resolution No. 2013-02-11-6D, approving the transfer of an aggregate of \$181,000 from the "Funds Available for Appropriation" budget sheet and from the "Rent, Interest & Other Income Realized" budget sheet to a new "Berry Hill Mega Park – Lot 4 Site Development" budget sheet to fund the Authority's required local match under a grant from the Tobacco Indemnification and Community Revitalization Commission.* (No written Resolution)

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

VOTE: 4-0
AYE: Harville, Snead, Saunders, Shanks (4)
NAY: None (0)

6E. FINANCIAL REPORT AS OF JANUARY 31, 2013

Authority Treasurer Barbara Dameron gave the Financial Report and noted that under Cane Creek Center, the only change is approximately \$4.00 in interest income. There is \$11,590 in expenses for January, all are general expenses: \$10,800 for legal, \$500 for the U.S. Bank administration fee for the Cane Creek Bonds and the remainder for miscellaneous expenses such as meals, utilities and postage. The Mega Park Fund has been updated to reflect the transfer requested in December of \$11,854 from the Funds Available, and likewise under Funds Available, showing a decrease for that transfer. Under rent income: \$3,905.00 from IALR, \$300 from Securitas and approximately \$29 in interest income. The Financials are on pages 46-48 and the Statement of Net Assets reflects the debt service payment for Cane Creek Bonds of \$300,000. \$315,000 was moved from Long Term Liabilities to Current Bond Liability for the upcoming Cane Creek Bond.

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

VOTE: 4-0

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AYE: Harville, Snead, Saunders, Shanks (4)
NAY: None (0)

7A. - CLOSED SESSION

At 12:53 p.m., Mr. Snead **moved** that the Meeting of the Danville-Pittsylvania Regional Industrial Facility Authority be recessed in a Closed Meeting as permitted by Section 2.2-3711(A)(7) of the Code of Virginia, 1950, as amended, for consultation with the Authority's legal counsel, Clement & Wheatley, and briefings by the Authority staff or consultants on *Danville-Pittsylvania Regional Industrial Facility Authority v. AVRC, Inc.*, Case No. CL 12000634-00, in the Circuit Court for the City of Danville, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Authority.

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

VOTE: 4-0
AYE: Harville, Snead, Saunders, Shanks (4)
NAY: None (0)

On **Motion** by Mr. Snead and **second** by Mr. Shanks, and by unanimous vote at 1:00 p.m., the Authority returned to open meeting.

Mr. Snead **moved** 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. Shanks and carried by the following vote:

VOTE: 4-0
AYE: Harville, Snead, Saunders, Shanks (4)
NAY: None (0)

COMMUNICATIONS

Mr. Saunders questioned Mr. King about the letter from IALR, will that be discussed in March and what impact if any will that have on the efforts at the Dan River Business

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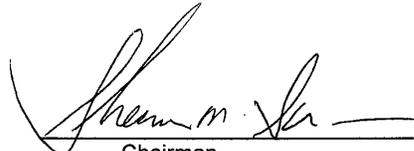
Development Center. Mr. King responded that they are going discuss this with the Institute and it will be brought back to RIFA at the March meeting.

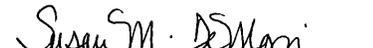
Also to be considered is the terms and conditions that the Economic Development Administration, who funded the construction of the building and under which contract RIFA has to operate, under what conditions can it be transferred and is the Institute an eligible entity to which it can be transferred.

Director of Economic Development Jeremy Stratton explained that the City hired a consultant last fall to look at a manufacturing space needs assessment because there is a covert of companies that want to be in the River District. That report is going to be given on March 5th, in the City's conference room, and Crystal Morphis will give the City a synopsis of what to expect in absorption rates, what is best to have over at the DRBDC and a little on the River District.

Mr. King noted staff will issue information on when that the meeting is going to take place and that report will be available for everybody. The idea was to answer the question, does the City have enough space, what locations can be configured appropriately and part of this helps make the right decision on the business development center. Mr. King discussed the space needs at DRBDC and companies that want incubator space in the River District. Mr. King noted the City doesn't have any such facilities there, so staff is trying to determine if there is enough demand to use some of the building space that the IDA has for incubator type operations. Mr. Saunders questioned if the DRBDC board was aware of the IALR letter and Mr. King was not sure if they were.

MEETING ADJOURNED AT 1:14 P.M.


Chairman


Secretary to the Authority