

# UCIDA

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Ulster County Industrial Development Agency

## Ulster County Industrial Development Agency Minutes May 13, 2015

A regular monthly meeting of the Ulster County Industrial Development Agency was held at 8:00 a.m., Wednesday, May 13, 2015, Karen Binder Library, 6<sup>th</sup> Floor, Ulster County Office Building, 244 Fair Street, Kingston, NY.

The following agency members were present:

Michael Horodyski	Chair
Robert Kinnin	Secretary
Floyd Lattin	Treasurer
John Livermore	Assistant Secretary
James Malcolm	Assistant Treasurer
John Morrow	Vice Chair
Mary Sheeley	Member

The following agency members were absent:

None.

Office of Economic Development Staff:

Linda Clark  
Suzanne Holt  
Karl Schlegel

UCIDA Attorney and Bond Counsel:

A. Joseph Scott      Hodgson Russ LLP

Additional Attendees:

T. J. Briggs	Ulster County Legislator
Kyle Carson	Turk Hospitality
Christopher Hotaling	Turk Hospitality
William Kemble	Daily Freeman
Robert Levine	Cuddy & Feder LLP/Wildberry Lodge
James Nanni	Times Herald Record
Eon Nichols	Cuddy & Feder LLP/Wildberry Lodge
Geddy Sveikauskas	Ulster Publishing
Steve Turk	Wildberry Lodge

Chair Horodyski called the meeting to order at 8:00 a.m.

### PLEDGE OF ALLEGIANCE

The members of the Agency participated in the Pledge of Allegiance to the flag.

### READING OF THE UCIDA MISSION STATEMENT

P.O. Box 4265, Kingston, NY 12402-4265

Chair Horodyski read the Mission Statement of the Agency.

The mission of the Ulster County Industrial Development Agency is to advance the job opportunities, general prosperity and long-term economic vitality of Ulster County residents by targeting tax incentives, bonding and other assistance to foster creation and attraction of new business and the retention and expansion of existing business.

### MINUTES

**Motion** James Malcolm, seconded by Floyd Lattin, moved to approve the Minutes of the March 11, 2015, meeting. A copy of said Minutes is on file.

**Vote:** The motion was adopted.

### FINANCIALS

**Motion** Floyd Lattin, seconded by James Malcolm, moved to approve the Financials for the periods ending March 31, 2015 and April 30, 2015. Copies of said Financials are on file.

**Vote:** The motion was adopted.

### COMMITTEE REPORTS

#### AUDIT COMMITTEE

Committee Chair Floyd Lattin reported that the Audit Committee would meet at 7:30 a.m., Wednesday, July 8, 2015, to review 2015 first and second quarter financial statements.

#### GOVERNANCE COMMITTEE

Committee Chair John Morrow reported that the committee had not met.

#### READY2GO

Ms. Suzanne Holt reported that there was no report from the Ready2Go Committee.

#### WILDBERRY LODGE

Chair Horodyski stated that a preliminary application has been received from Wildberry Lodge, a large scale tourist destination in the Town of New Paltz. The preliminary application was reviewed by staff and returned to the applicant for additional information.

Mr. Eon Nichols, representing Wildberry Lodge, addressed the members of the Agency. An eighty million dollar bond financing application was submitted. The project is about eighty million, but the numbers are changing because the project is in the early stages. The application states that they want to do tax exempt or taxable bonds; the tax exempt bonds may not be a possibility and the costs can be very high for taxable bonds. They are uncertain as to where they are going to go. They are in the early stages of developing the project and the financing structure. At the end of the day, they are requesting the UCIDA's involvement in the project to make it economically feasible and whether that is by

bond financing or straight lease transaction, Mr. Turk does need mortgage tax exemption, some sort of real property tax abatement and sales tax exemption.

Mr. Steve Turk addressed the members of the Agency. Mr. Turk stated that over the past year Turk Hospitality Group was formed. The central management team was established which consolidated and handles the operations of Splash Down Beach and Rocking Horse Ranch. He made introductions of Kyle Carson acting as General Manager of Rocking Horse Ranch, Scott Butler, Engineer, Christopher Hotaling, CFO.

Mr. Turk provided a power point presentation to the members of the Agency. Highlights included, but were not limited to the following:

- Rocking Horse Ranch – has provided family fun since 1958 – top rated family destination.
  - Time-Out Kids New York – rated Rocking Horse Ranch Number 2 in the northeast as a family destination.
- 2004 purchased Splash Down Beach Water Park.
- Five years ago purchased the only “Bob the Builder” license in North America.
- River Otter – Mascot/Branding.
- Eco-Friendly Theme – Dragonfly Bay, Firefly Falls; Wildberry Lodge theme ties in with the history of huckleberry farming in the Shawangunk Ridge.
- Parking will be available for 550.
- 57 acre parcel; working to close on an option and take ownership of additional site.
- 60,000 sq. ft. water park, 256 guest room units attached in a hotel/lodge setting; main lobby and restaurant, 10,000 sq. ft. conference/meeting space.
- In summer outdoor attractions include an aquatics area (waterslides), cafes, fountains; in winter, ice skating rink; heavy landscaping included.
- Presentation of facility to mirror Hudson Valley meets California, meets Adirondack look; a lot of stone, color and earth tones.
- Try to purchase as much American made as possible; and the use of contractors/vendors in the immediate Hudson Valley.
- Facility can accommodate up to 1,200 to 1,500 guests at one time.
- Important to maintain the appeal of an indoor/outdoor recreational facility.
- 5-6 story climbing wall; wish to bring in outside local vendors to instruct/operate.
- 6-8 buses will be available to shuttle guests to golf course(s), Walkway Over the Hudson, town, etc.

- Rope Ladders, Zip Line Stations, Outdoor Adventure, Exploration Station, 12 lane Bowling Alley (open to the public), Ice Skating, Hot Springs, 4-6 outdoor tennis courts, Spa, Fitness Center, Demonstration Kitchen, Conference Center.
- 400 full time jobs/500 construction jobs.
- Day Guests – Season/Local Pass – there will be exclusions.
- Will try to meet LEEDS standards.
- Potentially looking at taxable bonds; still in early stages of structuring the deal.

Agency Counsel A. Joseph Scott stated that SEQR has been mentioned several times. For the board's information, the UCIDA is listed as an involved agency in the documents that have been submitted to the Town of New Paltz Planning Board. The UCIDA will not be a decision maker; the Town of New Paltz Planning Board will be lead agency with respect to SEQR.

Mr. Turk mentioned the competing forces – the Kalahari Resort and Camelback/Camelbeach. These project(s) were offered some significant incentives.

Chair Horodyski asked for confirmation that the project was looking for a standard PILOT – not a PILOT deviation.

Mr. Turk responded yes. He felt that they had met the expectation of the Matrix.

Chair Horodyski stated that the preliminary application is still being reviewed/revised. The final application will be presented to the members of the Agency as soon as practical at which time the members of the Agency will be asked to consider setting a date for a public hearing on the project.

## OLD BUSINESS

### Birchwood Village

#### RESOLUTION AUTHORIZING THE EXECUTION OF VARIOUS SETTLEMENT DOCUMENTS RELATING TO THE BIRCHWOOD VILLAGE LIMITED PARTNERSHIP PROJECT PILOT LITIGATION

Chair Horodyski stated that as reported in the media, Birchwood Village has struck a deal, and the City of Kingston Common Council has given approval. It is now incumbent upon the UCIDA to approve the settlement. The Agency is not giving Birchwood Village anything, this is just purely settling.

As background, Chair Horodyski stated, the UCIDA was the impetus to the City of Kingston to be able to go back and collect on that money when we negated Birchwood Village's PILOT Agreement for lack of non-payment. The UCIDA supported the City in their motions to go and collect the money. It all came down to Birchwood Village believing that a 485(b) exemption would be more advantageous for them than the current PILOT Agreement that they had signed in 2006. They basically stopped paying the PILOT and believed that they were eligible for a different exemption. You can't do that; you can either have one or the other, but not both. The PILOT was pulled; putting it back on the tax roles and opening it up for litigation by the City of Kingston to now go after them.

Counsel Scott stated that to underscore the Agency's early role in this, when there were defaults, the City of Kingston came to the UCIDA; we initiated meetings and required the company to anti-up some money early on to pay a portion of the PILOT payment. The Agency got \$50,000 out of the company to go to the taxing jurisdictions. Then the litigation transpired, the Agency terminated their involvement, additional litigation transpired and now it is coming to a close. In terms of inviting people to attend the meeting, candidly we were pushing and following the lead of the two parties of interest here – the City, the School District, etc. There is some discussion in the stipulation that was distributed about a PILOT. There has been no application to the UCIDA for that. It appears after reading the media article that was distributed that Birchwood may be attempting to get a PILOT through the City of Kingston. In limited housing situations, cities can offer PILOT Agreements; it was his thought that that was what was potentially going on. There is no application to the UCIDA; the Agency is just consenting to a settlement worked out by the affected taxing jurisdictions. One of the conditions contained within the resolution, is that the Agency have evidence of the affected taxing jurisdictions consenting to this before we consent to it. It is his legal advice to the Agency to follow the lead of the taxing jurisdictions. The UCIDA has played a significant role in pushing this thing. The Agency has tried to be a good partner. There is no approval of a PILOT contained within the resolution.

Mr. Floyd Lattin asked if there was a way to "beef-up" the language to make it quite clear that the PILOT that was talked about in the stipulation .....

Counsel Scott responded the reference to the PILOT Agreement in the Stipulation will not and does not involve the UCIDA.

Supervisor James Quigley addressed the members of the Agency by stating the UCIDA has spent a considerable amount of time in the last couple of years about standards to be applied in future PILOTs in relation to claw backs. Claw backs of benefits upon non-performance or default. This original PILOT had many benefits other than a real property tax exemption. You have declared a default. His question is .....

Chair Horodyski responded by stating that the documents pre-dated the Agency's establishment of claw backs. It would have been a much different picture had the Agency had claw backs.

Supervisor Quigley stated that as a municipality, the new PILOT Agreement does not contain many of the provisions of benefits that the Agency provided for in the original PILOT Agreement. That is why he raised the question.

Chair Horodyski clarified – the new one for Birchwood.

Supervisor Quigley responded yes.

Mr. Robert Kinnin expressed his concern regarding the Stipulation having PILOT written all over it.

Chair Horodyski called for a vote on the resolution with the addition of making it blatantly clear that whatever PILOT Agreement should be entered into between the City of Kingston and Birchwood Village, it is not something that is sponsored or brought through this body.

**Motion:** James Malcolm, seconded by Floyd Lattin, moved to approve said resolution as amended as follows:

In Section 1 of the resolution, the addition of the following language (D) the following additional conditions: the Settlement Documents refer to a "PILOT Agreement" and the members expressly made clear at this meeting that any "PILOT Agreement" entered into by the Company and part of the Birchwood Village Litigation has not been approved by nor does it involve the Agency.

**Vote:** The motion was adopted as amended.

Park Point

Chair Horodyski stated that the lawsuit against us was thrown out by the judge basically because he believes he rendered it moot by his initial decision in upholding the Planning Board's right to violation. Other than that, there have been some conversations that Counsel Scott has had, but there is no further information as to game plan necessarily. It will be something that evolves from the folks at Park Point if they decide to do something different.

Counsel Scott stated that as a matter of public record they are preserving their options. They are looking to proceed against the original decision and they have filed a Notice of Appeal. They are preserving their options to move forward to challenge the lower court decision.

Ms. Holt announced that Counsel Scott will be speaking about the impact of this decision at the NYSEDC Conference next week.

Mr. Lattin asked Counsel Scott if he thought this was a question of law involved here.

Counsel Scott responded, candidly, most practitioners were surprised by the decision to bring in a PILOT as an element to the Planning Board's SEQR review. That was a surprise. It has garnered a lot of attention.

Darienlake – Kingston

Counsel Scott reported that no additional information has been received regarding a closing date.

Ulster Commons

Counsel Scott stated that there was nothing new to report.

14 Pine Street

Counsel Scott stated that there was nothing to report.

**NEW BUSINESS**

Resolution 157

A copy of the UCIDA's report/response to Resolution 157 of 2012 is on file.

informANALYTICS

A brief discussion was held regarding the informANALYTICS program. This is a program that staff makes use of in reviewing applications.

Application for Contract for Services

Mr. Lattin stated that with reference to the Application for Contract Services for the Hudson Valley Film Commission, it involved some potential funding of capital by the organization. He has a fundamental problem that any Contract for

Services that we approve should not provide basic operating support it should be specific to an economic project or a program.

Chair Horodyski stated that Mr. Lattin's comment is duly noted. He felt that the Hudson Valley Film Commission provides a lot of economic benefit to the county and the Agency's contract with the Commission is in support of the continuance of the Film Festival, etc.

Mr. Lattin stated perhaps the Application should become more specific.

Mr. Malcolm thought that Governance should take this under advisement.

#### PUBLIC COMMENT

Chair Horodyski opened the meeting for public comment. There were no individuals who requested the Privilege of the Floor. The public comment section of the Agenda was closed.

#### ADJOURNMENT

**Motion:** Mary Sheeley, seconded by Robert Kinnin, moved to adjourn the meeting

**Vote:** The motion was adopted.

The meeting was adjourned at 9:00 a.m.

Respectfully submitted,

  
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Robert Kinnin  
Secretary