

Frank S. Venezia
Chairman
Joseph P. Richardson
Vice Chairman
Tim McCann
Secretary
Victoria Storrs
Assistant Secretary
Tim Maniccia
Member
David Kidera
Member
Richard Kotlow
Member

TOWN OF BETHLEHEM
Albany County - New York
INDUSTRIAL DEVELOPMENT AGENCY

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Elizabeth Staubach
*Economic Development
 Coordinator
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*Assistant to the Executive Director
 and Clerk
 Ext. 1164*

Regular Meeting Minutes
Friday, January 24, 2020
8:00 AM
Town Hall Auditorium

I. Call to Order/Roll Call/Quorum Determination

A Regular Meeting of the Bethlehem Industrial Development Agency of the Town of Bethlehem was held on the above date at the Town Hall Auditorium, 445 Delaware Avenue, Delmar, NY. The Meeting was called to order at 8:02 AM with the presence of a quorum noted.

Attendee Name	Title	Status	Arrived
Frank S. Venezia	Board Member/Chairman	Present	
Joseph P. Richardson	Board Member/Vice Chairman	Present	
Richard Kotlow	Board Member	Present	
Tim McCann	Board Member/Secretary	Present	
Victoria Storrs	Board Member/Assistant Secretary	Present	
David Kidera	Board Member	Present	
Tim Maniccia	Board Member	Absent	
Thomas P. Connolly	Executive Director/Agency Counsel	Present	
Joe Scott	Bond Counsel	Present	
Allen F. Maikels	CFO and Contracting Officer	Present	
Robin Nagengast	Assistant to the Executive Director	Present	
Elizabeth Staubach	Senior Planner/ED Coordinator	Present	
Robert Leslie	Director of Planning	Present	
David VanLuven	Town Supervisor	Present	

II. Minutes Approval

1. Friday, October 25, 2019

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Victoria Storrs, Board Member/Assistant Secretary
SECONDER: Joseph P. Richardson, Board Member/Vice Chairman
AYES: Venezia, Richardson, Kotlow, McCann, Storrs, Kidera

III. Reports of Committees

No committee meetings to report on. The audit committee meets today after the full board.

IV. Communications

- **PRIVATE ACTIVITY BOND ALLOCATION FOR 2020 (CONNOLLY)**

The Agency received notice from the NYS Department of Economic Development of its initial private equity bond allocation for 2020.

V. Old Business

- **PLANNING BOARD UPDATE (LESLIE)**

Port of Albany concluding EIS supplemental submissions. Diversified Auto, West Yard Road, and Burt Crane are under review. Comp plan update consultant to facilitate industrial development conversations. Annual economic development event is on pause, focusing on strategy.

- **REPORT OF ED COORDINATOR (STAUBACH)**

Microenterprise grant applications under review. There is \$74,200 remaining for new businesses. Reapplying for the program this summer. A communications consultant has been hired to develop an outreach plan for businesses during road constructions projects.

- **COLUMBIA 15 PROJECT (CONNOLLY)**

There is no update. The financial assistance was granted 7-8 years ago. The agenda item will no longer be included.

- **PIONEER FORECLOSURE MONOLITH (CONNOLLY)**

Foreclosure is going slowly. The engagement with Hodgson Russ to monitor is no longer needed and will be terminated.

VI. New Business

- **APPLICATION CANNON DEVELOPMENT LLC (BURT CRANE & RIGGING) (DEBRA LAMBEK)**

Debra Lambek and Bridget Hubal presented the project, a 28,000 square foot warehouse on River Road, to be built on vacant land. The project calls for \$4.5million of private investment and five jobs will be added. Further development at the site is under consideration.

Motion To: Approve Resolution Authorizing Hearing

RESULT: APPROVED [UNANIMOUS]
MOVER: Joseph P. Richardson, Board Member/Vice Chairman
SECONDER: David Kidera, Board Member
AYES: Venezia, Richardson, Kotlow, McCann, Storrs, Kidera

Upon motion by Mr. Richardson, seconded by Mr. Kidera, unanimously approved by all members present, the Agency set the public hearing for Cannon Development LLP/Burt Crane for Wednesday, February 26 at 5pm in the Town Hall Auditorium.

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OF TOWN OF BETHLEHEM INDUSTRIAL DEVELOPMENT AGENCY TO HOLD A PUBLIC HEARING REGARDING A PROPOSED PROJECT TO BE UNDERTAKEN FOR THE BENEFIT OF SCHEIB CORPORATION D/B/A BURT CRANE & RIGGING.

WHEREAS, Town of Bethlehem Industrial Development Agency (the Agency) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the Enabling Act) and Chapter 582 of the 1973 Laws of New York, as amended, constituting Section 909-b of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the Act) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more projects (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Cannon Development, LLC, a State of Vermont limited liability company (the Applicant), on behalf of Scheib Corporation d/b/a Burt Crane & Rigging, a State of Vermont business corporation (the Company), has presented an application (the Application) to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the Project) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 26.83 acre parcel of land located on River Road in the Town of Bethlehem, Albany County, New York (tax map number 134-3-2) (the Land), (2) the construction on the Land of an approximately 28,000 square foot building and warehouse facility with related parking (the Facility) and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the Equipment) (the Land, the Facility, and the Equipment being collectively hereinafter referred to as the Project Facility), all of the foregoing to constitute an industrial facility to be owned and operated by the Company as a crane and storage facility and any other directly and indirectly related activities; (B) the granting of certain financial assistance (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the Financial Assistance);

and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Company has requested that the Agency grant the Project an Enhanced Tax Abatement Program (beginning with a 100% abatement of the increase in the assessed valuation in Years 1 and 2 and thereafter declining at 10% per year over a twelve year period) for the Project Facility; and

WHEREAS, pursuant to Section 859-a of the Act, prior to the Agency providing any financial assistance (as defined in the Act) of more than \$100,000 to any project, the Agency, among other things, must hold a public hearing pursuant to Section 859-a of the Act with respect to said project; and

WHEREAS, the Agency desires to provide for compliance with the provisions of Section 859-a of the Act with respect to the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF TOWN OF BETHLEHEM INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. The Agency hereby authorizes the Executive Director of the Agency, after consultation with the members of the Agency and Agency Counsel, (A) to establish the time, date and place for a public hearing of the Agency to hear all persons interested in the Project (the Public Hearing); (B) to cause the Public Hearing to be held in a city, town or village where the Project Facility is or is to be located, and to cause notice of such Public Hearing to be given to the public by publishing a notice or notices of such Public Hearing in a newspaper of general circulation available to the residents of the governmental units where the Project Facility is or is to be located, such notice or notices to comply with the requirements of Section 859-a of the Act; (C) to cause notice of the Public Hearing to be given to the chief executive officer of the county and of each city, town, village and school district in which the Project Facility is or is to be located to comply with the requirements of Section 859-a of the Act; (D) to conduct such Public Hearing; (E) to cause a report of the Public Hearing fairly summarizing the views presented at such Public Hearing (the Report) to be prepared; and (F) to cause a copy of the Report to be made available to the members of the Agency.

Section 2. The Chairman, Vice Chairman and/or Executive Director of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 3. All action taken by the Executive Director of the Agency in connection with the Public Hearing with respect to the Project prior to the date of this Resolution is hereby ratified and confirmed.

Section 4. All commitments of the Agency hereunder are subject to the condition that the following events shall have occurred not later than one (1) year from the date hereof (or such other date as shall be mutually satisfactory to the Agency and the Company):

(A) The Agency and the Company shall have agreed on mutually acceptable terms and conditions of the agreements to be entered into with respect to the Project; and

(B) All necessary governmental approvals shall be obtained.

Section 5. If the events set forth in Section 4 hereof do not take place within the time set forth in said Section 4, or any extension thereof, or if the Company provides written notice of its intent to not proceed with the Project upon thirty (30) days prior written notice to the Agency, the Company agrees that it will promptly reimburse the Agency (and its officers, members, agents or employees) for all reasonable and necessary direct out-of-pocket expenses (including legal fees and expenses) which the Agency (and its officers, members, agents or employees) may incur with respect to the Project.

Section 6. This Resolution shall take effect immediately.

- **APPLICATION SALE: CPI BETHLEHEM SEF I LLC & CPI ... II LLC TO CNLV II SEFSLNY LLC/ASSIGNMENT AND ASSUMPTION AND REFINANCE WITH SANTANDER BANK (EVIN FELICIANO)**

Evin Feliciano presented the application to reassign the IDA PILOT of a current project to a new owner for the purpose of refinancing. There are 3 years remaining on the PILOT agreement. No new benefits will be granted. A fee of \$1,500 was proposed.

- **A. RESOLUTION (SCOTT)**

Upon motion by Mr. McCann, seconded by Ms. Storrs, and approved by all members present, the Agency accepted the following resolution:

RESOLUTION CONSENTING TO AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS WITH RESPECT TO THE ASSIGNMENT AND ASSUMPTION OF THE FIRST COLUMBIA BETHLEHEM SEF LLC PROJECT.

WHEREAS, Town of Bethlehem Industrial Development Agency (the Agency) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the Enabling Act) and Chapter 582 of the 1973 Laws of New York, as amended, constituting Section 909-b of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the Act) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, on May 9, 2012, (the Closing Date), the Agency entered into a lease agreement dated as of May 1, 2012 (the Lease Agreement) by and between the Agency and Columbia Bethlehem SEF LLC (the Original Company) for the purpose of undertaking a project (the Project) consisting of the following: (A) (1) the acquisition of an interest in an approximately 1.0 acre parcel of land located at 12 Vista Boulevard in the Town of Bethlehem, Albany County, New York (the Land), (2) the construction on the Land of an approximately 2,500 square foot building (the Facility), (3) the further construction on the Land of related parking and other infrastructure improvements (collectively, the Improvements) and (4) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property including without limitation tenant improvement and finish (collectively, the Equipment) (the Land, the Facility, the Improvements and the Equipment being collectively referred to as the Project Facility), all of the foregoing to be owned by the Original Company and leased to a tenant for use by the tenant as a financial branch center for banking services and other related uses; (B) the lease (with or without an option to purchase) or sale of the Project Facility to the Original Company and (C) the granting of certain financial assistance with respect to the foregoing, including exemptions from real estate transfer taxes, sales taxes and mortgage taxes (Financing Assistance); and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the Closing), (A) the Original Company executed and delivered to the Agency (1) a certain lease to Agency dated as of May 1, 2012 (the Lease to Agency) from the Original Company to the Agency, (2) a certain license agreement dated as of May 1, 2012 (the License to Agency) by and between the Original Company, as licensor, and the Agency, as licensee, pursuant to which the Original Company granted to the Agency (a) a license to enter upon the balance of the Land (the Licensed Premises) for the purpose of undertaking and completing the Project and (b) in the event of an occurrence of an Event of Default by the Original Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement, (3) a bill of sale dated as of May 1, 2012 (the Bill of Sale to Agency), which conveyed to the Agency all right, title and interest of the Original Company in the Equipment and (4) a payment in lieu of tax agreement dated as of May 1, 2012 (the Payment in Lieu of Tax Agreement) by and between the Agency and the Original Company, pursuant to which the Original Company agreed to pay certain payments in lieu of taxes with respect to the Project Facility and (B) the Agency (1) mailed to the assessor and the chief executive officer of each "affected tax jurisdiction" (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the Real Property Tax Exemption Form) relating to the Project Facility and the Payment in Lieu of Tax Agreement and (2) executed and delivered to the Original Company a sales tax exemption letter (the Sales Tax Exemption Letter) to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance (collectively, with the Lease Agreement, the Basic Documents); and

WHEREAS, on or about December 19, 2012, the Agency and the Original Company entered into an assignment and assumption agreement (the Assignment and Assumption Agreement), whereby the Original Company assigned the Project Facility (as defined in the Lease Agreement) and the interests of the Original Company in the Basic Documents to RSN Bethlehem LLC (the "Previous Company"); and

WHEREAS, on or about December 28, 2016, the Agency and the Previous Company entered into an assignment and assumption agreement dated as of December 1, 2016 (the Second

Assignment Agreement), whereby the Previous Company assigned the Project Facility and the interests of the Previous Company in the Basic Documents to CPI Bethlehem SEF I LLC and CPI Bethlehem SEF II LLC (collectively, the Current Company); and

WHEREAS, pursuant to an application (the Application) submitted to the Agency by CNLV II SEFSLNY LLC, a limited liability company organized and existing under the laws of the State of New York (the New Company), the Agency was notified that the Current Company desires to convey the Project Facility and its interests in the Basic Documents to the New Company and, in connection with such conveyance, provide for the assignment of the Basic Documents from the Current Company to the New Company, as described in the Application; and

WHEREAS, the Lease Agreement provides that the Current Company is prohibited from selling, leasing, transferring or otherwise conveying any part of the Project Facility without the prior written consent of the Agency; and

WHEREAS, in connection with the conveyance of the Project Facility, the Current Company and the New Company have requested (the Request) that the Agency execute documents providing for the following (the Conveyance and Assignment Documents): the consent by the Agency of the conveyance of the Project Facility and the assignment and assumption of the Basic Documents from the Current Company to the New Company; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the SEQR Act) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the "Regulations" and collectively with the SEQR Act, SEQRA), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to proceed with the execution and delivery of the Conveyance and Assignment Documents; and

WHEREAS, pursuant to SEQRA, the Agency has reviewed the Request in order to make a determination as to whether the execution and delivery of the Conveyance and Assignment Documents is subject to SEQRA, and it appears that the Request is not an Action under SEQRA;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF TOWN OF BETHLEHEM INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. Based upon an examination of the Request, the Agency hereby makes the following determinations:

(A) Pursuant to SEQRA, the approval of the Request is not an Action under SEQRA and therefore is not subject to SEQRA review by the Agency.

(B) The Agency will not be granting any mortgage recording tax exemption relating to the Request.

(C) That since compliance by the Agency with the Request will not result in the Agency providing more than \$100,000 of financial assistance (as such quoted term is defined in the Act) to the Purchaser, Section 859-a of the Act does not require a public hearing to be held with respect to the Request.

Section 2. The Agency hereby approves (A) the assignment to, and assumption by, the New Company of all of the Current Company's interest in the Project Facility, and the Basic Documents, including but not limited to the benefits of the Lease Agreement and the

Payment in Lieu of Tax Agreement, and (B) the assumption by the New Company of all obligations of the Current Company under the Basic Documents pursuant to an assignment and assumption agreement (the Third Assignment and Assumption Agreement); subject in each case, however to the following conditions: (1) receipt by Special Counsel to the Agency of the formation documents of the New Company and certified copies of the authority of the New Company to do business in New York State from the New York State Department of State; (2) receipt of confirmation that all real property taxes and payments in lieu of taxes required by the Project have been satisfied; (3) evidence of current certificates of insurance acceptable to the Agency; (4) receipt of confirmation from Agency counsel that no modifications shall result from the Request that result in any new tax relief for the Project (such as an extension of the term, increase in abatement or change in the Payment in Lieu of Tax Agreement); (5) receipt by Special Counsel of the written consent of any holder of any mortgage on the Project Facility OR evidence that there are no security documents filed relating to the Project; (6) compliance with the terms and conditions contained in the Third Assignment and Assumption Agreement and the Basic Documents; (7) approval by counsel to the Agency of the form of the documents to be executed by the Agency in connection with the assignment and assumption, including the Third Assignment and Assumption Agreement (collectively, the Assignment Documents); (8) receipt by the Agency of its administrative fee relating to the Assignment, as reviewed by the Chair and Agency Counsel, and all fees and expenses incurred by the Agency with respect to the Assignment, including the fees and expenses incurred by Agency counsel with respect thereto; and (9) the following additional conditions: _____.

Section 3. Subject to (A) satisfaction of the conditions contained in Section 2 hereof, including the condition that no modifications provide any new tax relief for the Project (such as an extension of the term, increase in abatement or change in the Payment in Lieu of Tax Agreement); and (B) the execution and delivery of the Assignment Documents by the other parties thereto, the Chairman (or Vice Chairman) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Assignment Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the forms thereof approved by Counsel to the Agency, with such changes, variations, omissions and insertions as the Chairman (or Vice Chairman) shall approve, the execution thereof by the Chairman (or Vice Chairman) to constitute conclusive evidence of such approval.

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 or provided for by the provisions of the Request, and to execute and deliver all such additional 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 Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Request.

Section 5. This Resolution shall take effect immediately.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Tim McCann, Board Member/Secretary
SECONDER:	Victoria Storrs, Board Member/Assistant Secretary
AYES:	Venezia, Richardson, Kotlow, McCann, Storrs, Kidera

Motion To: Approve Administrative Fee of \$1,500

RESULT: APPROVED [UNANIMOUS]
MOVER: Victoria Storrs, Board Member/Assistant Secretary
SECONDER: Tim McCann, Board Member/Secretary
AYES: Venezia, Richardson, Kotlow, McCann, Storrs, Kidera

- **FINANCIAL STATEMENTS 12/31/19 (MAIKELS)**

One of two CDs approved by the Finance Committee has been purchased.

- **2019 OPERATIONS AND ACCOMPLISHMENTS/RESOLUTION (CONNOLLY)**

Upon motion by Mr. Kotlow , seconded by Mr. Kidera, with all members in favor, the Agency approved the amended 2019 Operations and Accomplishments for inclusion in its annual reporting.

RESULT: APPROVED AS AMENDED [UNANIMOUS]
MOVER: Richard Kotlow, Board Member
SECONDER: David Kidera, Board Member
AYES: Venezia, Richardson, Kotlow, McCann, Storrs, Kidera

- **REPORT: ANNUAL PROJECT QUESTIONNAIRES (MAIKELS)**

Questionnaires were sent to projects in late 2019 and responses are coming in.

- **REPORT: BILLING OF 2020 ANNUAL ADMINISTRATIVE FEES (MAIKELS)**

Invoices for fees were sent to projects in early January and checks are being received.

- **ANNUAL MEETING AND REGULAR MEETING – FRIDAY FEBRUARY 28, 2020 8:00 A.M. AUDITORIUM**

The annual and regular meetings are scheduled Friday, February 28 at 8am in the Auditorium.

- **LEGISLATIVE CHANGES**

Mr. Scott described some items in the Governor's budget and the potential affects on IDAs.

VII. Adjournment

Motion To: Adjourn

RESULT: ADJOURN [UNANIMOUS]
MOVER: David Kidera, Board Member
SECONDER: Richard Kotlow, Board Member
AYES: Venezia, Richardson, Kotlow, McCann, Storrs, Kidera