

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

Minutes

April 8, 2024

A Meeting of the Danville-Pittsylvania Regional Industrial Facility Authority convened at 12:13 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 Vice Chairman Sherman M. Saunders, J. Lee Vogler, Jr. and Alternate Dr. Gary P. Miller. Pittsylvania County Members present were Robert Tucker and Alternate Darrell Dalton. Chairman William V. Ingram was absent.

City/County staff members attending were: City Manager Ken Larking, County Administrator Stuart Turille, Pittsylvania County Director of Finance Kim Van Der Hyde, Authority Treasurer Michael Adkins, City of Danville Accountants Meredith Franklin and Jaime Pritchett, Assistant Director of Economic Development Kelvin Perry (via zoom), Pittsylvania County Director of Economic Development Matt Rowe (via zoom), Pittsylvania County Project Manager Kattie Saunders, Legal Counsel to the Authority Michael Guanzon and Secretary to the Authority Susan DeMasi. Also present were Brian Bradner, Shawn Harden and Joseph Snead from Dewberry, and Pittsylvania County Board Supervisor Ken Bowman.

Vice Chairman Sherman M. Saunders presided.

PUBLIC COMMENT PERIOD

No one present desired to be heard.

APPROVAL OF MINUTES OF THE MARCH 11, 2024, REGULAR MEETING

Upon **Motion** by Mr. Vogler and **second** by Mr. Tucker, Minutes of the March 11, 2024, Regular Meeting were approved as presented. Draft copies had been distributed to Authority Members prior to the Meeting.

NEW BUSINESS

5A. PRESENTATION OF THE AUTHORITY'S FISCAL YEAR 2023 AUDIT REPORT

Authority Treasurer Michael Adkins explained that RIFA had their external audit done by Brown Edwards once again, and there were three documents for the Board's review. The first document was the Financial Report, which had the year end financials for RIFA. The most important things they look at in this document was on the first page, which was the letter from the auditors, the auditor's report. Paragraph two on that page shows that RIFA received a clean opinion, which means that RIFA's financial statements do adequately reflect the financial condition of RIFA. In addition, on page 16, the auditors also provide a letter of Internal Controls. What they were looking for was perhaps something that would cause RIFA not to recognize an error in the financial statements or have a procedure in place that would recognize an error and allow it to be corrected. Companies can receive a deficiency, a significant deficiency and the worst was a material weakness; Mr. Adkins noted he was pleased to say that RIFA did not receive a deficiency, a significant deficiency or a material weakness for Fiscal Year 2023. Inside that booklet was a stapled letter, this was a required communication from the auditors to the board. In this, they indicate if they encountered any difficulties performing the audit, if there were any corrections they made or if there were any corrections that were so small in material that they did not make them but waived them. For RIFA, there were no corrections or uncorrected immaterial misstatements. Also, if they had any disagreements with staff as they performed the audit, that would also be communicated

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to the Board in this letter; there were no disagreements to report as well. The third item, which was the second bound book, were the Comments on Internal Controls, there were two, which they always have. They always focus on segregation of duties; as the Board knows, they have very limited staff that deals with RIFA and RIFA transactions. In their letter, they go on to say that they think RIFA had enough procedures and enough segregation of duties for it not to be a concern. Right now, staff accounts for the Megasite as one fixed asset in the financials; work for infrastructure, brand or roadwork, all that was put into that one asset, the Megasite. The Auditors point out and remind staff that as they progress, staff will have to break that physical asset out into four sections. If they convey land to an end user as part of the development, they will have to segregate that to have a transaction where they were transferring that land. As utility infrastructure was completed, that utility infrastructure in some cases will be transferred back to the City for ownership and maintenance; when that happens, they will have to pull that out. Also, any roadwork and road improvements that may be held over from VDOT for repairs or maintenance in the future would have to be segregated and turned over to VDOT. Finally, any land that was going to be held by RIFA indefinitely, for instance, land where the entrance signs were located was something that the park would always own. They were just reminding staff they would have to break that asset apart into four categories; that was the only other thing mentioned in the document. Mr. Adkins stated it was a clean audit, and recognized staff Jaime Pritchett and Meredith Franklin, who handled all the processing transactions and coordinated the audit; he appreciated their efforts.

Mr. Tucker **moved** accept the Audit Report as presented; the Motion was **seconded** by Mr. Vogler and carried by the following vote:

VOTE: 4-0
AYE: Tucker, Dalton, Saunders, Vogler (4)
NAY: None (0)

5B. CONSIDERATION OF RESOLUTION 2024-04-08-5B APPROVING A MODIFICATION TO THE OPTION AND GROUND LEASE AGREEMENT WITH CROWN CASTLE TOWERS

Legal Counsel for the Authority Michael Guanzon explained last June RIFA had approved the business terms for the cell tower option and ground lease for the Southern Virginia Megasite; staff had gone back and forth to negotiate within those parameters. Because the terms they ended up with were a little different than the resolution, staff was here to present it for approval. Initially, the amount of money was the same as was approved last year; instead of a five year initial term with nine, five year extensions, this would be an initial term of fifteen years with seven, five year extensions; the money will still be the same at \$21,000.

Mr. Dalton **moved** to adopt *Resolution 2024-04-08-5B a Resolution approving a modification to that certain Option and Ground Lease Agreement with Crown Castle Towers 06-2 LLC, a Delaware Limited Liability Company, approved under Resolution No. 2023-06-12-5B, where minimum business terms of the construction and operation of the communications facility have been modified.*

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

VOTE: 4-0
AYE: Tucker, Dalton, Saunders, Vogler (4)
NAY: None (0)

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5C. CONSIDERATION OF RESOLUTION 2024-04-08-5C APPROVING A ONE YEAR LEASE RENEWAL WITH OSBORNE COMPANY OF NORTH CAROLINA

Mr. Guanzon explained this was a sod lease, it was \$1,000 for the year, they cannot grow tobacco or crops like that, just ground cover. RIFA has the ability to terminate this within 30 days' notice so that if they have someone who was interested in that space, they could be removed, and there was a confidentiality clause in there. Staff recommends renewal of this lease for another year. Last year, there was a holdover, it fell through the cracks; Osborne Company will pay for last year's occupancy and use of the property as well.

Mr. Tucker **moved** for adoption of *Resolution 2024-04-08-5C a resolution approving a one-year renewal of the lease to the Osborne Company of North Carolina, Inc., a North Carolina corporation, of approximately 100 acres of pastureland in the Authority's Southern Virginia Megasite at Berry Hill project (a portion of GPINS 1366-78-4718 and 1367-70-4519), commonly known as 4380 Berry Hill Road, in Pittsylvania County, Virginia; the lease term shall be subject to a right of landlord to show the demised premises upon at least 24-hours notice and the obligation of tenant to keep the identity of any prospective business recruits confidential until a public announcement is made, if ever, or as otherwise required by law; the Authority shall have the right to early terminate the Lease with at least 30-days notice; and the Lease shall be for the use of harvesting grass hay and incidental uses acceptable to the Authority, at a total rental fee of \$1,000.00.*

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

VOTE: 4-0
AYE: Tucker, Dalton, Saunders, Vogler (4)
NAY: None (0)

5D. CONSIDERATION OF RESOLUTION 2024-04-08-5D REGARDING THE THIRD AMENDMENT TO THE BERRY HILL SUPPLEMENTAL DECLARATION OF RESTRICTIVE COVENANTS

Brian Bradner from Dewberry explained this item was a modification of vegetative buffers along Berry Hill Road which had been discussed previously; it was in support of VDOT's widening project there. This was an amendment to the restrictive covenants that currently exist, previous amendments have also recognized previous revisions to the buffers. This amendment recognizes the new location of the buffers, and there was a survey attached that was completed with the details of where those revisions to the buffers will exist. This has been coordinated with VDOT and the regulatory parties. Mr. Guanzon noted next month, staff will have the revised plats of survey that will help with the widening, what VDOT was doing with the connector road, and will be donating those small portions around the road for the widening project. Now that staff has the map, the restrictive covenants had to be revised because it has the property description as to what it covers. Next month will be the donation part by RIFA to VDOT for that portion that was being widened.

Mr. Vogler **moved** for adoption of *Resolution 2024-04-08-5D, a resolution authorizing the Chairman of the Authority to Negotiate, Execute, Deliver and Record that Third Amendment to Berry Hill Industrial Park Supplemental Declaration of Restrictive Covenants, amending the original Supplemental Declaration of Protective Covenants dated October 1, 2017, and*

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recorded in the Pittsylvania County Land Records as Instrument No. 17-05662 (as amended), providing for the modification of certain Vegetative Buffers relating to an Amendment to the State Programmatic General Permit for Vegetative Buffers along U.S. Highway 311 and Oak Hill Road for the Authority's Southern Virginia Mega Site Project, in furtherance of facilitating the Virginia Department of Transportation's Construction of the Berry Hill Connector Road.

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

VOTE: 4-0
AYE: Tucker, Dalton, Saunders, Vogler (4)
NAY: None (0)

5E. CONSIDERATION OF RESOLUTION 2024-04-08-5E REGARDING AMENDMENT TO TIMBER SALE CONTRACT WITH HOPKINS LUMBER

Pittsylvania County Director of Economic Development Matt Rowe explained this item was proposing to amend the existing contract with Hopkins' Lumber and extend it up to one year. RIFA has been timbering property for about the past 18 months, with the proceeds at approximately \$1.5M. There was additional timber that could be harvested, and this will allow them to do so. The current contract legally ends at the end of March, and staff was supportive of keeping the timber crews to continue to timber and generate revenue for RIFA.

Mr. Tucker **moved** to adopt *Resolution 2024-04-08-5E, a resolution authorizing the Negotiation, Execution and Delivery of an Amendment to that certain Timber Sale Contract dated June 16, 2022, by and between the Authority and Hopkins Lumber Contractors, Inc., a Virginia Corporation, for the sale of timber within the Authority's Southern Virginia Megasite at Berry Hill Project, located in Pittsylvania County, Virginia, with a variable sales price based on tree species type.*

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

VOTE: 4-0
AYE: Tucker, Dalton, Saunders, Miller (4)
NAY: None (0)
(Mr. Vogler had stepped out of the meeting)

5F. FINANCIAL STATUS REPORTS AS OF MARCH 31, 2024

Authority Treasurer Michael Adkins gave the Financial Status report as of March 31, 2024, beginning with the \$7.3M Bonds for Cane Creek, which had no activity for March. Under General Expenditures for the current fiscal year, RIFA paid legal fees to Christian & Barton of \$13,609, meals at the Institute of \$457, monthly utilities of \$167, and monthly maintenance from Sellars Brothers for Cane Creek and Berry Hill in the amount of \$4,890. Funding Other than Bonds for Berry Hill had a payment to Sellars Brothers of \$24,500 for building demolition, Troutman Pepper Hamilton Sanders of \$3,360 for legal services and HBS, also known as Resources Environmental Solutions, was paid \$79,575 for environmental mitigation at the Megapark. Lot 4 Site Development, Lots 1 and 2, Water and Sewer, and Cyber Park Site Development had no expenditures for the month of March. Rent, Interest and Other Income for March show RIFA received rent from the Institute for the Hawkins' Building of \$23,342, interest on the money market account of \$7,457, and timber sales from Hopkins Lumber was

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\$38,158. Mr. Adkins noted from inception to date, RIFA has actually received about \$1.8M in timber sales. The expense for March was a payment to the Institute for Hawkins Building Maintenance in the amount of \$23,342.

Mr. Dalton **moved** to accept the Financial Report as presented; the Motion was **seconded** by Mr. Tucker and carried by the following vote:

VOTE: 4-0

AYE: Tucker, Dalton, Saunders, Vogler (4)

NAY: None (0)

6. CLOSED SESSION

At 12:31 p.m. Mr. Tucker **moved** that the Meeting of the Danville-Pittsylvania Regional Industrial Facility Authority be recessed in a Closed Meeting for the following purposes:

[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.]

- 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's interest in locating its facilities in one or more of the Authority's projects, located in Pittsylvania County, Virginia, and/or Danville, Virginia; and
- B. As permitted by Virginia Code § 2.2-3711(A)(39) for discussion or consideration of records excluded under Virginia Code § 2.2-3705.6(3) (including without limitation (i) 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 (ii) those certain memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by the Authority, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the Authority); such information being excluded from mandatory disclosure under Virginia Code § 2.2-3705.1(12) (information relating to the negotiation and award of a specific contract pertaining to the Authority's Southern Virginia Megasite at Berry Hill project, Cyber Park project and/or Cane Creek Centre project, where competition or bargaining is involved and where the release of such information would adversely affect the bargaining power or negotiating strategy of the Authority) and Virginia Code § 2.2- 3705.1(8) (appraisals and cost estimates of real property in one or more of the Authority's projects subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease); 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, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Authority; and

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- D. As permitted by Virginia Code § 2.2-3711(A)(8) for consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel; and
- E. As permitted by Virginia Code § 2.2-3711(A)(29) for discussion of the award of a public contract involving the expenditures of public funds where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the Authority.

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

VOTE: 4-0
AYE: Tucker, Dalton, Saunders, Vogler (4)
NAY: None (0)

7. RETURN TO OPEN SESSION

On **Motion** by Mr. Vogler and **second** by Mr. Tucker and by unanimous vote at 1:09 p.m., the Authority returned to open meeting.

Mr. Dalton **moved** for adoption of the following Resolution:

That the Authority certify that, to the best of each Member's knowledge:

- (i) only public business matters lawfully exempted from 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 Authority.

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

VOTE: 4-0
AYE: Tucker, Dalton, Saunders, Vogler (4)
NAY: None (0)

8. COMMUNICATIONS

Mr. Saunders asked everyone to say a prayer for Mr. Ingram and thanked everyone for the prayers they said for him.

Mr. Dalton thanked everyone for the great job they were doing, the great finance report and audit and noted Mr. Ingram and Mr. Saunders were in his prayers.

Mr. Tucker noted it was a good meeting and he was excited to be a part of the collaboration between the city and county and was anticipating great things this year. Mr. Tucker thanked the staff for all the work they do, appreciated the sacrifices they make, and noted his agreement with keeping Mr. Ingram in his prayers as well as Mr. Ingram's family.

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Mr. Vogler thanked the staff, stating exciting times lay ahead for the region, and noted they prayed for Mr. Saunders and will now pray for Mr. Ingram and his family.

Dr. Miller noted that many people prayed for Mr. Saunders, and they will be praying for Mr. Ingram. Dr. Miller stated it looked like it would be an exciting year, hopefully with more ribbon cuttings, and noted the staff was doing a great job.

Mr. Turille noted he has been here a year and has seen so much progress with so much happening and would emphasize the importance of visualizing success, and believe in it; it will happen, it was already happening.

Mr. Bowman noted he believed Mr. Ingram was on the mend, with a lot of support for him, and discussed a groundbreaking and ribbon cutting in the county.

Meeting adjourned at 1:18 p.m.

APPROVED:

s/ William V. Ingram
Chairman

s/ Susan M. DeMasi
Secretary to the Authority