

COUNTIES OF WARREN AND WASHINGTON
INDUSTRIAL DEVELOPMENT AGENCY

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Glens Falls, New York 12801

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At the Board Meeting of the Counties of Warren and Washington Industrial Development Agency held on **May 16, 2016** at the Washington County Municipal Center in Fort Edward, NY, the following members were:

PRESENT:	Bud Taylor	Chairman
	Bruce Ferguson	Vice & Park Chairman/Contracting Officer
	Joseph LaFiura	Secretary/Treasurer
	Matt Simpson	At Large Member
	Lou Tessier	
	Jim Lindsay	
	Dave O'Brien*	

ABSENT:	John W. Weber
	Brian R. Campbell

ALSO PRESENT:	Robert Morris, Esquire	FitzGerald Morris Baker Firth PC
	Bhavik Jariwala	Big Bay Lodging LLC
	Jack Kelley	Coldwell Banker
	Deborah Mineconzo	Office Administrator

The minutes of the meeting were taken by the Office Administrator. The Chairman called the meeting to order at 4:00 pm. After attendance was taken the Chairman determined a quorum was present.

Approval of minutes:

Mr. Simpson made a motion to approve the April 18, 2016 Board Meeting minutes. Mr. Lindsay seconded the motion and all voted in favor of the motion by voice vote.

Accounts Payable:

Mr. LaFiura moved to approve the accounts payables as presented with Mr. Tessier seconding. The motion was approved by roll call vote.

*Dave O'Brien arrives

Old/Unfinished Business:

Big Bay Lodging LLC:

Mr. Taylor reported the Public Hearing was held for Big Bay Lodging LLC and the Town Supervisor attended. He informed the members the Supervisor commented that he was in favor of sales tax and mortgage tax abatements but not a PILOT for the project. Mr. Morris reviewed for the members the proposed draft resolution outlining the project specifics. Mr. Morris informed the members the resolution approves the project subject to the SEQR analysis from Queensbury and contingent upon Agency approval of a PILOT Agreement (at a later date before the closing).

Mr. Ferguson asked the members if the subject of a PILOT Agreement could be discussed today to see if everyone is in agreement one way or the other. Mr. Tessier stated he did not support giving this project a PILOT. He added that sometime in the earlier years the members had decided that with hotel projects, it would not be fair to give certain hotels PILOT benefits but not others. Mr. Tessier had no concerns with giving projects sales and mortgage tax benefits. He stated that how we handled the (recent) Lake George project and it seems we should stick with our decision on the subject.

Mr. Kelley, representative for applicant Mr. Jariwala. He said at earlier meetings they concurred with concerns relating to a PILOT. However, at the recent Public Hearing, the subject of a 485b which is a real property tax reduction for the Town and County but not the school taxes. Mr. Kelley added the sales tax and mortgage tax exemptions help considerably with this projects large investment. They would appreciate the passing of the resolution today so they can break ground and move construction along this spring. The 485b is a law the State adopted several years ago. The Town did not opt out of the law but the school district did.

Mr. Morris informed the members a 485b gives 50% on the new construction property tax the first year and reduces the abatement by 5% per year for ten years. Mr. Morris stated since the Agency would be taking Title on the project, there has to be an agreement from the Agency regarding their real property taxes. Mr. Ferguson moved to pass the proposed inducement resolution with Mr. Lindsay seconding. The motion passed by roll call vote.

Resolution No. 16-07

Adopted May 16, 2016

**RESOLUTION TAKING PRELIMINARY ACTION TOWARD UNDERTAKING A CERTAIN PROJECT, AS DEFINED HEREIN, APPOINTING BIG BAY LODGING LLC, AGENT OF THE AGENCY FOR THE PURPOSE OF CONSTRUCTING AND EQUIPPING THE PROJECT FACILITY (AS DEFINED HEREIN) AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BY AND BETWEEN THE AGENCY AND BIG BAY LODGING LLC
(Complete resolution annexed to this document)**

Kenny & Dittrich Amherst – Update:

Mr. Morris reported everything is ready for the Kenny & Dittrich Amherst project to close on our end. They are just waiting to finalize their financing. Mr. Morris spoke with Jon Lapper, Attorney for the developer, and was advised they hoped to close this week.

354 Broadway/Price Chopper (Fort Edward) Closing Update:

Mr. Morris reported the 354 Broadway/Price Chopper (Fort Edward) closed recently.

Park Business:

Allen Forestry:

Mr. Ferguson reported his understanding via our engineer, Tom Jarrett, per Jim Allen is there isn't a lot of timber to try and sell at this time. The market isn't good right now. Mr. Taylor added that our engineer recommended we leave the timing decision for selling our timber to Jim Allen.

Sewer District #1:

Mr. Ferguson informed the members Joe Brillong from the Washington County Sewer District meet with the Park Committee recently. Mr. Ferguson stated he had discussed several times over the years the possibility of the Sewer District turning over their small parcel, adjacent to ours in the southern end of the Park, to our Agency for future sale and development. Mainly, Mr. Brillong advised the Committee Sewer District #1(which services our Park) has clay piping which is starting to deteriorate and needs to have new linings put in. The cost is estimated at \$600,000 and the Sewer District is applying for some Grant funding. As a result of the needed work, rates for the businesses in Phase I may increase significantly. Mr. Ferguson stated there may be a way for our IDA to help but no decisions were made at this time.

New Business:

Manchester Wood – Resolution to Transfer Title:

Regarding our project Manchester Wood, a manufacturing facility, Mr. Morris informed everyone the project dates back to 1989. At that time the Agency gave them a ten year PILOT. Since the PILOT ended they have been paying 100% of all taxes with us continuing to hold Title. The project has refinanced over the years never seeking to have the Title transferred. The Company is now refinancing again and has requested the Title be transferred to them.

Mr. O’Brien moved to pass the resolution with Mr. Simpson seconding. All voted in favor of the motion by roll call vote. Mr. Ferguson requested Mrs. Mineconzo send a thank you letter to them.

Resolution No. 16-08
Adopted May 16, 2016

**RESOLUTION APPROVING DEED OF CONVEYANCE AND BILL OF SALE FROM THE
AGENCY TO MANCHESTER WOOD, INC. AND AUTHORIZING EXECUTION AND
DELIVERY OF THE SAME
(Complete resolution annexed to this document)**

There being no further business to discuss, Mr. Taylor adjourned the meeting at 4:30 pm.

Dated

Joseph LaFiura, Secretary

Resolution No. 16-07
Adopted May 16, 2016

Introduced by Bruce Ferguson
who moved its adoption.

Seconded by James Lindsay

RESOLUTION TAKING PRELIMINARY ACTION TOWARD UNDERTAKING A CERTAIN PROJECT, AS DEFINED HEREIN, APPOINTING BIG BAY LODGING LLC, AGENT OF THE AGENCY FOR THE PURPOSE OF CONSTRUCTING AND EQUIPPING THE PROJECT FACILITY (AS DEFINED HEREIN) AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BY AND BETWEEN THE AGENCY AND BIG BAY LODGING LLC

WHEREAS, the Counties of Warren and Washington Industrial Development Agency (the "Agency") is a body corporate and politic duly organized and existing under Sections 856 and 890-c of the General Municipal Law ("GML") of the State of New York (the "State"), with its principal place of business at 5 Warren Street, Glens Falls, New York; and

WHEREAS, Big Bay Lodging LLC (the "Company"), having an address of 906 State Route 9, Queensbury, New York 12804, is a limited liability company created pursuant to the Laws of the State of New York; and

WHEREAS, the Company has submitted an Application for Assistance ("Application") requesting that the Agency provide financial assistance in the form of a payment of lieu of taxes, mortgage tax exemption and sales tax abatements regarding a tourist destination retail construction project (the "Project") to consist of: (i) the acquisition of an interest in a certain commercial parcel or parcels of land located at 199 Corinth Road, Town of Queensbury, County of Warren, State of New York (the "Land"); (ii) the construction and equipping of a 15,095+/- square foot 89 room hotel (the "Facility"); (iii) the acquisition and installation therein of certain furnishings and fixtures (the "Equipment" together with the Land and the Facility, collectively the "Project Facility") to be used in connection with the contemplated uses; and (iv) the lease of the Project Facility to the Company, all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, under Article 18-A of the General Municipal Law (the "Act"), the Legislature of the State of New York has granted the Agency the power and authority to undertake the Project; and

WHEREAS, the Project will require the Agency and the Company to enter into an agreement whereby the Company will acquire, by deed or by lease, and construct the Project Facility and the Agency will lease or sell the Project Facility to the Company with an option to buy; and

WHEREAS, the Agency is a state agency under Section 8-0105 of the Environmental Conservation Law of the State of New York and the Project is an action under Article 8 of said law (Article 8 hereinafter being referred to as the "State Environmental Quality Review Act" or "SEQRA") and under 6 NYCRR Part 617, §§ 617.2(b) and 617.3(g). The Agency has not yet made a preliminary determination as to the potential environmental significance of the Project and therefore has not yet

determined whether an environmental impact statement is required to be prepared with respect to the Project; and

WHEREAS, pursuant to the Act, any approval of the Project contained herein is contingent upon a determination by the members of the Agency to proceed with the Project following satisfaction of all requirements of SEQRA that relate to the Project; and

WHEREAS, the acquisition, construction and installation of the Project Facility has not been commenced, and the Agency has not yet authorized the Project; and

WHEREAS, the Agency conducted a public hearing pursuant to Article 18-A of the New York State General Municipal Law (the “Law”) before taking official action relating to the Project.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. Findings. The Agency has reviewed the application together with the environmental assessment form to determine compliance with the requirements of the Act and based on the representations of the Company to the Agency in said application and elsewhere, the Agency hereby makes the following findings and determinations with respect to the Project:

(A) The Project is a permitted project under the Act; and

(B) Undertaking the Project will advance the Agency’s corporate purposes by leading to the creation of job opportunities for the inhabitants of the Counties of Warren and Washington, New York and the State of New York. The Project will also promote the health, prosperity, and economic welfare of the inhabitants of the Counties of Warren and Washington and the State of New York and improve their standards of living; and

(C) The Project is an “Unlisted Action” under SEQRA for which the Town of Queensbury Planning Board (the “Planning Board”) will act as lead agency. A final determination (the “Closing Resolution”) by the members of the Agency to proceed with the Project and to enter into a lease agreement with the Company will follow a determination by the members of the Agency that all requirements of SEQRA that relate to the Project have been fulfilled. The Agency will not make a SEQRA determination until after the Planning Board review; and

(D) It is in the public interest for the Agency to undertake the Project on behalf of the Company; and

(E) The completion of the Project will not result in the removal of a commercial, industrial or manufacturing plant of the Company from one area of the State of New York to another area of the State of New York, as the Company’s lease at its current location will not be renewed. Further, the completion of the Project will not result in any loss of jobs and all existing jobs will be retained nor will the completion of the Project result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Facility located within the State of New York.

SECTION 2. Preliminary Agreement. The proposed preliminary project agreement by and between the Agency and the Company (the “Preliminary Agreement”), as presented to this meeting, is hereby approved as to substance and form. The proposed agreement outlines the Agency’s and the Company’s rights and duties with respect to the undertaking of the Project. Subject to such changes as

the Chairman of the Agency, upon advice of counsel, may reasonably deem necessary, the Chairman is authorized to execute the Preliminary Agreement, and the Secretary of the Agency is authorized to affix a facsimile of the corporate seal thereto and to attest to the same. Execution and attestation shall be conclusive evidence that the Agency has approved the Preliminary Agreement.

SECTION 3. Description of Project.

Subject to the conditions set forth herein and in Section 4.02 of the Preliminary Agreement, the Agency shall:

- (A) acquire an interest in, construct and install the Project Facility; and
- (B) lease or sell the Project Facility to the Company pursuant to an agreement or agreements whereby the Company will obligate itself, among other things, to undertake the Project on behalf of the Agency.

SECTION 4. Company Appointed Agent of Agency.

- (A) The Company is hereby appointed the true and lawful agent of the Agency to:
 - (1) construct and install the Project Facility;
 - (2) make, execute, acknowledge, and deliver all contracts, orders, receipts, instructions, and writings needed to complete the Project; and
 - (3) do all other things requisite and proper for the completion of the Project.
- (B) The Company is authorized to proceed with the acquisition, construction and installation of the Project Facility, subject to receiving appropriate municipal approvals needed prior to commencement of construction, and to advance such funds as may be necessary to accomplish these goals.
- (C) The Company is also authorized to appoint third party agents to undertake the Project and thereby make available to such third party agents an exemption from New York State sales and use taxes in connection with undertaking the Project. This provision is subject to the Company entering into an Agent Agreement with the Agency.

SECTION 5. §144 Election. Not Applicable.

SECTION 6. Bond Counsel. Not Applicable.

SECTION 7. Document Preparation. Counsel to the Agency is hereby authorized and directed to cooperate with counsel to the Company, as well as all other necessary parties, in order to prepare the documents needed to undertake the Project.

SECTION 8. Payment in Lieu of Tax (PILOT) Agreement. The Agency's approval is subject to the Company entering into a PILOT Agreement with the Agency whereby the Company agrees to make payments in lieu of taxes in an amount pursuant to the Agency's Uniform Tax Abatement Policy, or pursuant to a schedule that is otherwise agreed upon by the Agency and the Company, in any given year as if the Company were the owner of the Project and not the Agency. The Agency's approval is also subject to the Company agreeing to the terms of the Agency's Recapture Policy.

SECTION 9. Public Inspection. A copy of this resolution and a copy of the Company’s Application for Assistance, together with all other application materials not protected under applicable Freedom of Information Laws, shall be placed on file in the office of the Agency. Such documents shall be available for public inspection during normal business hours.

SECTION 10. Distribution of Resolution. The Chairman of the Agency is hereby authorized to distribute copies of this resolution to the Company and all other persons requesting it.

SECTION 11. Public Hearing. A public hearing for this Project was duly authorized and held on May 11, 2016 in accordance with the provisions of Article 18-A of the General Municipal Law.

SECTION 12. Further Action. The Chairman of the Agency is authorized to take such further action as shall be necessary to give effect to and implement this resolution.

SECTION 13. Effective Date. This resolution shall not take effect until the Company delivers to the Agency of a fully executed Preliminary Agreement, as defined herein, together with an \$25,000.00 security deposit.

The question of the adoption of the foregoing resolution was duly put to a vote by roll call, which resulted as follows:

VOTING:	AYES	NAYS	ABSTAIN	ABSENT
Harold G. Taylor	1			
Bruce A. Ferguson	1			
Joseph P. LaFiura	1			
Louis Tessier	1			
James T. Lindsay	1			
Dave O'Brien	1			
John W. Weber				1
Matthew Simpson	1			
Brian R. Campbell				1
TOTALS	7	0	0	2

The foregoing resolution was thereupon declared duly adopted.

Resolution No. 16 – 08

Adopted May 16, 2016

Introduced by Dave O'Brien
who moved its adoption.

Seconded by Matt Simpson

**RESOLUTION APPROVING DEED OF CONVEYANCE AND BILL OF SALE FROM THE
AGENCY TO MANCHESTER WOOD, INC. AND AUTHORIZING EXECUTION AND
DELIVERY OF THE SAME**

WHEREAS, the Counties of Warren and Washington Industrial Development Agency (the “Agency”) is a body corporate and politic duly organized and existing under Sections 856 and 890-c of the General Municipal Law (“GML”) of the State of New York (the “State”), with its principal place of business at 5 Warren Street, Glens Falls, New York; and

WHEREAS, Manchester Wood, Inc. (the “Company”) is a New York business corporation with corporate offices and manufacturing facilities located at 1159 County Route 24, Granville, New York, 12832; and

WHEREAS, the Agency entered into an Installment Sale Agreement with Clifford Pierce Incorporated dated November 1, 1989 with respect to a certain project (the “Project”), as more particularly defined therein, a memorandum of which was recorded in the Washington County Clerk’s Office on December 7, 1989 in Book 613 of Deeds at Page 325; and

WHEREAS, on January 7, 1999, Clifford Pierce Incorporated assigned the Installment Sale Agreement to Manchester Wood, Inc., said Assignment of Installment Sale Agreement was approved by the Agency on November 16, 1998 by Resolution No. 98-24 and said Assignment of Installment Sale Agreement was recorded in the Washington County Clerk’s Office on January 11, 1999 in Book 818 of Deeds at Page 183; and

WHEREAS, also on January 7, 1999, Clifford Pierce Incorporated assigned the Payment in Lieu of Taxes Agreement to Manchester Wood, Inc., said Assignment of Right, Title and Interest to Payment In Lieu of Taxes Agreement (the “PILOT”) was approved by the Agency on November 16, 1998 by Resolution No. 98-24 and said Assignment of Right, Title and Interest to Payment In Lieu of Taxes Agreement was recorded in the Washington County Clerk’s Office on January 11, 1999 in Book 818 of Deeds at Page 188; and

WHEREAS, on April 19, 2016, the Company requested that the Installment Sale Agreement, as assigned, with the Agency be terminated; and

WHEREAS, the Company is not in default of any of the terms of the Installment Sale Agreement or the PILOT and the Company has the authority to seek an early termination pursuant to the Installment Sale Agreement.

NOW, THEREFORE, BE IT RESOLVED

1. That the Agency does hereby approve of the termination of the Installment Sale Agreement dated November 1, 1989 as assigned on January 7, 1999 and the simultaneous termination of the PILOT Agreement.

2. That the Agency does hereby approve the conveyance of the real property known as 1159 County Route 24, Town of Granville, County of Washington, State of New York and referred to as tax map parcel number 117.-1-3.8 and the conveyance of the assets held in the name of the Agency to the Company.

3. That the Company shall be responsible for any expenses relating to the preparation of the conveyance documents, including legal fees and County recording fees.

4. That the Agency does hereby authorize the Chairman of the Agency, or in the absence of the Chairman, the Vice Chairman, upon advise and consent of Agency Counsel, to execute and deliver on behalf of the Agency, the Deed, the Bill of Sale to the Company, and any other documents necessary to consummate the transaction.

5. That the Agency hereby directs legal counsel to notify the taxing jurisdictions of the conveyance of the above-referenced real property pursuant to the provisions of Real Property Tax Law section 520.

6. This Resolution shall take effect immediately.

VOTING:	AYES	NAYS	ABSTAIN	ABSENT
Harold G. Taylor	1			
Bruce A. Ferguson	1			
Joseph P. LaFiura	1			
Louis Tessier	1			
James T. Lindsay	1			
Dave O'Brien	1			
John W. Weber				1
Matthew Simpson	1			
Brian R. Campbell				1
TOTALS	7	0	0	2