

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

**December 1, 2010**

**MINUTES OF THE SPECIAL MEETING**

Members of the Authority present: Al Koepp, Chairman; Steve Petrecca representing the State Treasurer; Joe Latoof representing the Commissioner of the Department of Labor and Workforce Development, Wayne Staub representing the Commissioner of the Department of Environment Protection, and Public Members Joseph McNamara, Vice Chairman; Tim Carden, and Raymond Burke, First Alternate Public Member.

Present via conference call: John Hutchison representing the Lt. Governor's office, Richard Tolson, Marjorie Perry, Charles Sarlo, and Elliot M. Kosoffsky, Second Alternate Public Member.

Absent: Richard Poliner representing the Commissioner of the Department of Banking and Insurance, Public Members: Laurence Downes, Steve Plofker, Kevin Brown, Third Alternate Public Member; and Rodney Sadler, Non-Voting Member.

Also present: Caren Franzini, Chief Executive Officer of the Authority; Bette Renaud, Deputy Attorney General; Debra Gramiccioni, Director, Governor's Authorities' Unit; and guests.

Chairman Koepp called the meeting to order at 10:30 a.m.

In accordance with the Open Public Meetings Act, Ms. Franzini announced that notice of this meeting has been sent to the *Star Ledger* and the *Trenton Times* at least 48 hours prior to the meeting, and that a meeting notice has been duly posted on the Secretary of State's bulletin board at the State House.

**BOND RESOLUTIONS**

**PROJECT:** TDAF Pru Hotel Urban Renewal Co, LLC

**APPL.#32289**

**LOCATION:** Newark/Essex Cty.

**PROCEEDS FOR:** new construction or addition

**MOTION TO APPROVE: Mr. Carden SECOND: Mr. Burke AYES: 10**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 1**

**Ms. Perry recused herself because she may have the potential opportunity to work on the project.**

**Mr. Hutchinson joined the call at this time.**

## INCENTIVE PROGRAMS

### BUSINESS INCENTIVE EMPLOYMENT PROGRAM

The next item is a request to approve an amendment to the Authority's scoring criteria for the Business Employment Incentive Program (BEIP) to allow existing buildings that have been vacant for 12 months in other areas of the State to receive the same incentive bonus points that Planning Areas (PA) 1 and 2 currently receive.

**MOTION TO APPROVE: Mr. Latoof    SECOND: Mr. McNamara    AYES: 12**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 2**

### URBAN TRANSIT HUB TAX CREDIT PROGRAM

**PROJECT:** Wakefern Food Corp.

**LOCATION:** Elizabeth/Union Cty.

**MAX AMOUNT OF TAX CREDITS:** Not to exceed \$58,000,000

**MOTION TO APPROVE: Mr. Poliner    SECOND: Mr. Carden    AYES:11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 3**

**Mr. Kosoffsky abstained because his company has a current relationship with Elboren Development and may be involved with this particular project.**

### TECHNOLOGY BUSINESS TAX CERTIFICATE TRANSFER PROGRAM

Ms. Franzini reviewed prior actions by the Board on this year's applicant pool and summarized the staff review process. She noted that this year's review tracked changes to the legislation effected earlier this year. She also noted that a new organizational step was added this year, the appointment of Lisa Coane, Director Portfolio Services, as a hearing officer who reviewed the circumstances of the 13 companies that had been disapproved for benefits.

The next item was to review the Hearing Officer's report on appeals to board actions and to approve the request to 1) approve nine appeals; 2) and to not approve the four other appeals as set forth in the memorandum.

**MOTION TO APPROVE: Mr. Poliner    SECOND: Mr. Carden    AYES: 12**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 4**

Ms. Coane then described her work, which entailed reviewing the previous staff work and reaching out to companies as necessary for clarifying information. She noted assistance from the Attorney General's Office and Mike Wiley, Venture Officer in EDA's Technology and Life Sciences unit. Based on the review and facts, today she is recommending overturning 9 disapprovals of the 13 applicants who appealed. She believes that the remaining four companies recommended for disapprovals did not prove that they met the eligibility requirements under the law.

Chairman Koepp asked for public comment.

Dr. Jeff Feldman, CEO of EveresTV, Inc., provided background to the Board on his company and his appeal of staff's determination that the company should be denied because it does not meet the statutory requirement that it is a technology company and that its primary business provides a scientific process or technology. He first acknowledged the work and professionalism of EDA staff. He then noted that his company, which is involved in the distribution of broadband services, acquired patent/patent applications in the end of June and that the acquisition of this PPIP, together with a joint venture executed with Genergy/Power Box, Inc. meets the requirements of the statute. He then provided additional information about the education and skills of his employees, outreach to several considered experts in the field of telecommunications, broadband, and engineering and those experts' conclusion that the technology of the joint venture should be considered as meeting the program eligibility requirements.

### **EXECUTIVE SESSION**

The next item was to adjourn the public session of the meeting and enter into Executive Session to receive legal counsel on the program's statutory requirements.

**MOTION TO APPROVE: Mr. Carden SECOND: Mr. Latoof AYES: 12  
RESOLUTION ATTACHED AND MARKED EXHIBIT: 5**

### **PUBLIC SESSION**

Chairman Koeppe observed that in his view EveresTV has undergone a business transformation in 2010 that reflects many months of planning and strategy prior to the acquisition of intellectual property in June 2010. Additionally, there appears to be no dispute with the IP as meeting the requirement for a technology business and that the questions around the issue of primary business were answered satisfactorily. As such, he was comfortable in recommending that the disapproval of EveresTV be overturned. Mr. Burke and Mr. McNamara voiced their support as well.

Upon returning to Public Session, the next item was to 1) amend the resolution to disapprove Evers TV and 2) remove Evers TV from the disapprovals to the approvals.

**MOTION TO APPROVE: Mr. Carden SECOND: Mr. McNamara AYES: 12  
RESOLUTION ATTACHED AND MARKED EXHIBIT: 6**

The next item was to acknowledge the amended resolution and act on the balance of the Hearing Officers' report for a total of ten approvals and three disapprovals.

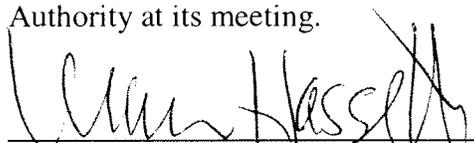
**MOTION TO APPROVE: Mr. Carden SECOND: Mr. McNamara AYES: 12  
RESOLUTION ATTACHED AND MARKED EXHIBIT: 7**

**PUBLIC COMMENT**

There was no comment from the public.

There being no further business, on a motion by Mr. Carden, and seconded by Mr. McNamara, the meeting was adjourned at 11:35 a.m.

Certification: The foregoing and attachments represent a true and complete summary of the actions taken by the New Jersey Economic Development Authority at its meeting.

  
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Maureen Hassett, Assistant Secretary