

Township of Hamilton, NJ
September 2, 2009

A meeting of the Township of Hamilton Industrial Commission was held on the above date with Chairman Robert RaVell presiding. Members present were Eric Aiken, Gordon Craig, Carmen Fichetola, Rob Kealey, Ariane Newman and Rocco Policarpo. Also present were Randolph Lafferty, Solicitor, and Tony Didio, Real Estate Agent.

Compliance with the Open Public Meetings Law was acknowledged.

Approval of Minutes – Mr. Policarpo moved, seconded by Mr. Kealey, to approve the minutes of the meeting of June 3, 2009, as published.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Aiken – Aye
Mr. Craig – Abstain
Mr. Fichetola – Abstain

Mr. Kealey - Aye
Ms. Newman - Aye
Mr. Policarpo – Aye
Mr. RaVell – Aye

SAID MOTION CARRIED.

Magic Sports and Health Complex, LLC (Request for Extension of Agreement) – Christopher Baylinson, Attorney, and Ronald Nametko were present.

Mr. Craig recused himself due to a conflict of interest involving Magic Sports' legal representative.

Mr. RaVell stated that the extension request of Magic Sports and Health Complex, LLC, would be discussed in Regular Session, but if the discussion becomes such that there is a need to do so, the discussion would be continued in executive session.

Mr. Baylinson requested that the Commission grant a three month extension of the Agreement to purchase Lots 3, 23.01, 28, 33 and 34 in Block 991, from September 18, 2009, to December 18, 2009. He stated that the required \$25,000.00 would be posted on or before September 18, 2009.

Mr. Baylinson reported that the Planning Board had granted preliminary site plan approval for Phase One of the project. He noted that final approval had not been granted, and commented that the Commission may take the position that final approval, at the very least, would be necessary in order to close on the property.

Mr. RaVell referred to the provision within the Agreement that addressed extensions, and noted that the Commission would have to decide if Magic Sports was diligently moving forward with the approval process in order to grant the extension request. Mr. RaVell commented that

there were many items, involving the Contract, that the Commission would be discussing at a later date.

Mr. Baylinson related what had taken place to date with regard to the Planning Board process, and stated that much of the time spent during the hearings had been consumed by the objectors' testimony. He advised that the plans would be revised to comply with the conditions of preliminary approval that had been granted by the Board, and it was anticipated that an application would be submitted for final approval within the three-month extension period.

Mr. RaVell reiterated the Commission's position with regard to getting involved in the approval process, and emphasized that the Commission's charge is economic development.

Ms. Newman questioned whether anything would impede the progress of the application for final approval. Mr. Baylinson responded that they would need to address the conditions of preliminary approval first and would, also, have to submit the approved documents to the Pinelands Commission.

Mr. Kealey stated that he had a couple of questions related to financing of the project, and Mr. RaVell requested that he defer the questions until after the Commission had considered the extension request and whether Magic Sports had been diligently pursuing its approvals.

Mr. Policarpo moved, seconded by Mr. Aiken, to grant a three-month extension of the Agreement of Sale between the Township of Hamilton Industrial Commission and Magic Sports and Health Complex, LLC, to purchase Lots 3, 23.01, 28, 33 and 34 in Block 991, to expire on December 18, 2009, conditioned upon posting a non-refundable payment in the amount of \$25,000.00, pursuant to the terms of Section 3.4 of the Agreement on or before September 18, 2009.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Aiken – Aye
Mr. Craig – Recused
Mr. Fichetola – Aye

Mr. Kealey - Aye
Ms. Newman - Aye
Mr. Policarpo – Aye
Mr. RaVell – Aye

SAID MOTION CARRIED.

Mr. Kealey questioned whether the project was funded, and commented that he was aware financing had been in place at one time, but conditions had changed.

Mr. Baylinson stated that his Client informed him that the funding is in place to close on the land, and that presentation of the decision and resolution, memorializing the preliminary approval, to the funding source would trigger final "tweaking" and signing of the final funding agreement. He commented that the preliminary approval was the last hurdle for the final funding agreement for construction.

Mr. RaVell requested that proof of construction funding be presented to the Commission to satisfy its fiduciary responsibility. Mr. Baylinson agreed to provide a copy of the agreement to the Commission, after it's signed, but he stated that his client is not at liberty to reveal the funding source.

In response to Mr. RaVell's question with regard to when it is anticipated that construction would commence, Mr. Baylinson stated that the question could not be answered at this time because it takes many months to perfect construction plans for a project of this magnitude.

Harrison Beverage – Mr. DiDio reported that Harrison Beverage is still in the process of trying to resolve issues with the Pinelands Commission.

Business Park Streets – Mr. RaVell expressed concern with regard to the appearance of the streets in the Business Park. He asked Mr. Fichetola and Mr. Craig to assess the condition of grass and weeds on the streets, and to determine how many linear feet would need attention, in an effort to decide whether to seek proposals to cut the grass and remove the weeds. He commented that the Township's Public Works Department is short staffed and may not be able to do the work.

Public Comment – Mr. RaVell opened the meeting to public comment.

Bruce Strigh commented that he hadn't heard the Commission ask certain questions of Magic Sports and Health Complex, LLC's representatives. He asked questions, made comments and expressed concern with regard to the two phases of the project, the provisions of the Agreement with the Commission, representations made during the Planning Board hearing and funding of the project and land purchase. Mr. Strigh expressed his opinion with regard to the Ordinance that provides for the uses contained within the project.

Mr. RaVell responded to Mr. Strigh's comments and concerns, and advised that, ultimately, everything that had been represented would be evaluated and decisions would be made in the best interest of the Municipality.

Mr. Lafferty cautioned members not to comment on the terms of the Contract because there were issues involving interpretation of that document that would have to be addressed eventually. He, also, pointed out that the planning process was separate and apart from the contractual process, and any timetable contained within the Contract that the Commission determines to be applicable to the Project is independent from any references, any comments or duration of any approvals associated with the Planning Board process.

Adjournment – There being no further business, the meeting was adjourned.

Respectfully submitted,

Nancy Rainbow, Secretary

