

Township of Hamilton, NJ  
December 17, 2008

A special meeting of the Township of Hamilton Industrial Commission was held on the above date with Chairman Robert RaVell presiding. Members present were Gordon Craig, Richard Cheek, Carmen Fichetola, Robin Kealey and Rocco Policarpo. Also present was Randolph Lafferty, Solicitor.

Compliance with the Open Public Meetings Law was acknowledged.

Magic Sports and Health Complex, LLC – Mr. RaVell announced that the purpose of the special meeting was to consider the request of Magic Sports and Health Complex, LLC, for a three- month extension of its Agreement of Sale with the Commission to purchase Lots 3, 23.01, 28, 33 and 34 in Block 991. Mr. RaVell emphasized that the Commission would be discussing the request and rendering a decision without entertaining public comment, but he noted that there would be an opportunity before the meeting is adjourned for the public to comment.

Mr. RaVell encouraged Commission members to conduct the deliberation in Regular Session, but stated that the meeting would be adjourned to Executive Session if any member felt that the discussion was of such a nature that executive session was warranted. Mr. Lafferty added that, if an executive session is conducted, the Commission would affirm in Regular Session whatever was discussed, immediately following the conclusion of executive session.

Mr. RaVell stated that he had found a copy of Mr. Nehmad's September quarterly report, which he had not been able to find previously.

Mr. RaVell informed those present that he and Mr. Policarpo had met with Mr. Nehmad and Mr. Nametko to discuss the proposed extension request. He noted that the questions presented had been answered to his satisfaction, and the expectation is that the project will be constructed.

Stephen Nehmad, Attorney, and Ronald Nametko were present.

Mr. Nehmad stated that his client has spent significant sums of money in reliance upon the contract with the Commission, and had issued quarterly status reports, as required. He referred to his letter of December 8, 2008, within which he requested that the Commission grant an additional three-month extension of the closing date; provided a status report; advised that the plan was revised, at considerable expense, in response to neighborhood concerns; and set forth reasons why he could not predict when the approvals would be secured, nor when there would be funding source committed for the permanent improvements. A \$25,000.00 check had been included with the letter.

Mr. Nehmad described the state of the economy, pointing specifically to the present situation involving the credit markets. He advised that, due to the recession and the economic climate, his client had experienced funding difficulties, but has now located funding sources to

pursue the approval process, and is conducting discussions with lenders concerning the funding of the permanent improvements.

Mr. Nehmad stated that his client would not be able to provide a definite timetable for the approval process, due to the nature of the opposition to the project, but he is prepared to proceed as diligently as possible, and the initial hearing has been scheduled for February. He reviewed the history of the application process, including the application to the Pinelands Commission, and what had been done to address the issues raised by individuals that own property in the area of the project.

Mr. Nehmad briefly described the modified project, and expressed the opinion that the proposed, permitted use would have less of an impact with regard to traffic, noise, air and open space than other uses that could conceivably be developed as permitted uses on the entire tract.

Mr. Nehmad pointed out that the Industrial Commission's goal is to sell land in an effort to stimulate economic growth, and he expressed the opinion that his client's project would further that goal by bringing people to the Township that would visit existing business and generate the need for additional business development.

Mr. RaVell emphasized that the Industrial Commission's decision with regard to Magic Sports' request would be based strictly on the terms of the contract, and he noted the effort to make the process as transparent as possible.

In response to questions of Commission members, Mr. Lafferty advised that the present extension request was for three months, at a cost of \$25,000.00, which would be non-refundable and would not be applied to the purchase price upon closing. He advised members that it would be appropriate to consider the degree of diligence pursued by the contract purchaser and the unpredictable economic climate.

Commission members asked additional questions, to which Mr. Nehmad responded.

Mr. Policarpo moved, seconded by Mr. Craig, to grant a three month extension of the Agreement of Sale with Magic Sports and Health Complex, LLC, to purchase Lots 3, 23.01, 28, 33 and 34 in Block 991, conditioned upon the posting of \$25,000.00, pursuant to the terms of the Contract, as it has been determined that the recession and economic conditions prevented the contract purchaser for a period of time from securing the funding necessary to continue the pursuit of the approvals, but that the funding to go forward with the approval process has been secured and a date to continue the Planning Board process has been established. It is anticipated that the contract purchaser will return to the Commission, with additional extension requests, which would result in the posting additional non-refundable deposits in the about of \$25,000.00, pursuant to the terms of the contract. It is understood that, due to the extraordinary state of the economy, it is uncertain, at this point in time, as to when construction of the project will commence.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Craig – Aye, based on the information provided and the Contract language.  
Mr. Cheek - Abstain  
Mr. Fichetola – Aye  
Mr. Kealey – Aye  
Mr. Policarpo – Aye  
Mr. RaVell – Aye

SAID MOTION CARRIED.

Mr. RaVell opened the meeting to public comment.

Bruce Strigh expressed the opinion that more time was spent discussing Planning Board issues than contract issues; stated that he had expected the Commission to spend more time discussing whether the applicant was diligent in pursuing the necessary approvals; advised of his conversation with the Municipal Utilities Authority Executive Director; and advised of his discussion with the Planning Board Administrator regarding the status of the project before the Planning Board.

Mr. Strigh questioned whether Magic Sports had adequate project financing. He pointed out that it had struggled to pay the review escrow, and there had been a request to waive the \$25,000.00 deposit at the time of the first extension request. Mr. Strigh referred to the construction cost quoted in the fiscal impact statement that had been submitted to the Planning Board by Magic Sports, and expressed the opinion that the Commission should be concerned.

Mr. Strigh stated he was disappointed that very specific issues that were within the contract were not questioned or addressed.

Mr. RaVell noted that the Commission had not seen the revised plan of the project, and he commented that Mr. Nehmad should not be faulted because he described the project. He stated that the Commission had not addressed Planning Board issues, and that it had discussed whether Magic Sports had made every effort to move forward. Mr. RaVell acknowledged what had taken place with regard to the Planning Board review escrow, but noted that the escrow account was now current.

Mr. RaVell asked Mr. Strigh to state specifically what he would have liked answered.

Mr. Strigh stated that he wanted to know if Magic Sports is a qualified buyer and how the project would be funded. He pointed out that there were other properties within the Business Park that had received approvals and were purchased, but not developed.

Mr. RaVell stated that it has been acknowledged that there is a liquidity problem at this particular point in time due to present, extraordinary economic conditions, and the Commission needed to have faith that Magic Sports will proceed as it has indicated it will proceed. He noted that the Commission does not want to sell the property until the necessary approvals have been secured.

Mr. RaVell suggested that Mr. Strigh contact Mr. Nehmad at his office to discuss any issues he may have.

Mr. RaVell summarized the history of the project, as it related to the Industrial Commission's involvement, and he expressed the opinion that the project would be in a better position with regard to marketing for financing once the approvals are in place.

Mr. Strigh discussed the Commission's mission and stated he would like the Commission to consider only the issues of the contract.

Mr. RaVell stated that the Commission had based its decision on whether it felt Magic Sports had diligently pursued the approvals, and Mr. Strigh disagreed.

Mr. RaVell asked Mr. Strigh how he would have liked to see the Commission vote, taking into consideration the best interests of Township taxpayers.

Mr. Strigh stated that he had many concerns about the impact of the project, and Mr. RaVell pointed out that those types of issues would be addressed during the Planning Board hearing.

Mr. RaVell asked Mr. Strigh what he would have liked the Commission to do.

Mr. Strigh stated that, based on the diligence issue, he would have liked the Commission to vote against the extension.

Adjournment – Mr. Fichetola moved, seconded by Mr. Policarpo, to adjourn the meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Respectfully submitted,

Nancy Rainbow,  
Secretary