

Town of Montgomery Capital Resource Corporation
Special CRC Meeting
Town of Montgomery Government Center
110 Bracken Road
Montgomery, New York 12549

Wednesday
September 30, 2015
6:00 PM

Present: F. Edward Devitt, Chairman
Edwin Williams, First Vice-Chairman
Stephen Rainaldi, Second Vice-Chairman
Michael Hayes, Town Supervisor and Member

Absent: Donna Jennings, Treasurer and Member
Richard Lomazzo, Secretary and Member

Also Present: Members of the Audience
Christopher Martell, IDA Attorney, Hodgson Russ LLP
Suzanne Hadden, Recording Clerk

AGENDA

Call to Order

Taylor Montgomery LLC – Neelytown Road – Discussion

Other Business

Approval of the June 22, 2015 Meeting Minutes

Adjournment

Taylor Montgomery LLC – Neelytown Road – Discussion

Chairman Devitt called the CRC special meeting to order and said that the Members were to discuss whether or not there would be any fees established for the Taylor Montgomery project. He said with all of the other fees that Taylor is putting forth to the Town and to the tax base; he thinks that the CRC should waive the fee at this time.

Member Hayes said that may be harder to get across because when the CRC was created they knew that the benefit was roughly 1.2 million in savings and the CRC went to the Town Board and told them also about the savings for the project. The CRC would have a hard time for people to approve that the CRC did this but did not get some sort of fee from it for creating a CRC. The CRC told people that there would be a fee and one of the things discussed was that the CRC can spend money a little differently than the IDA and at that time the IDA was trying to fund the sign at the high school. He said that the CRC would have a harder time selling it to people if there was no fee at all. Member Hayes said that he doesn't think that it has to be the full fee and he would put a maximum that it would not be any more than the IDA fee. There should be some sort of fee to show people that this was done in good faith and are willing to go out and approve the project; but we should have some sort of fee for that.

Attorney Martell said he has seen other CRCs with light fees and he has also seen split fees between the two groups. He has seen an ongoing small annual fee to cover costs of the CRC, since there are probably going to be \$3,000.00 a year in audit fees. There is not another project in sight and there will be incurring costs with the CRC with no way to pay for them; unless you were to borrow money from the IDA, which technically an IDA is not supposed to be making loans. There are a few things that the CRC can do and he would advise to at least have a small fee to cover until there is another project that will be paying fees as well. The CRC could take a vote to charge a fee and split a portion with the IDA, so that the CRC ends up with something as well. The CRC should not be left without any money in its fund balance, to avoid the CRC getting an audit bill and then not being able to pay it.

Member Hayes asked if a CRC doesn't have any activity or a new project, but it still functions, is that similar to the IDA if you don't have a project for so long it can stay?

Attorney Martell said it can stay.

Member Hayes asked if a CRC hasn't any income or expenses, because there isn't a project, does it still have to have a full audit?

Attorney Martell said when the CRC enters into this project; until these bonds are paid off, the CRC will have outstanding obligations. The CRC will be in existence while this project has outstanding debt. The CRC is issuing bonds and is making a loan to Taylor; but the payback for that loan is going to be all on Taylor. There are guarantees and mortgages and the CRC steps away; there is an indenture and a loan agreement. The loan is to Taylor and Taylor has the responsibility for paying it back; it is never an obligation of the CRC to pay it back. It is a special obligation that is only repayable through revenue generated from the project facility, which in this case is the entire Taylor project. He said that he is not saying that the CRC has to charge something at all; if zero is the position of the board, then the CRC could vote to request for the IDA to split the fee with the CRC. If the CRC wants to charge in addition to charging an administrative annual fee while the bonds are outstanding; that can be done as well.

Taylor Montgomery LLC – Neelytown Road – Discussion

First Vice Chairman asked if the CRC would be obligated for auditing fees?

Attorney Martell said correct.

Member Hayes asked if the bonds are for 15 years?

James Taylor, President and CEO of Taylor Montgomery LLC said they are 20 and it could be 22 years because of the two years of construction.

Member Hayes asked if they had to be paid while the project was under construction?

Mr. Taylor said they pay the interest only under the full amount for the two years under construction and that is one of the negatives of doing tax exempt bonds, because whatever the bond is, 200 million dollars, that money is deposited in an escrow account from day one. Paying interest on 200 million dollars for two years ends up to another big added number, when typically the construction loan draw down monthly as the project goes along and you only pay a monthly draw. In this case you borrow all of the money from day one.

Chairman Devitt said when the CRC was adopted it was set up like the IDA and that set the fee schedule, however there was never any fee talked about upfront.

Member Hayes said the Members didn't discuss an exact number, it was discussed that there would be fees because that is how other things would be paid. The CRC didn't have a final number and there was a timing issue to get the CRC going for the bonds. This is something different if the CRC is allowed to charge instead of a lump sum fee up front; charge a per year fee. If the CRC is responsible for auditing for the life of these bonds, the CRC is going to have a fee for auditing; if it is \$4,000.00 a year, the CRC wouldn't have any money to fund it. The IDA can't pay for that, because that is a separate organization.

Chairman Devitt asked if the board would be happy if the CRC established a fee of \$5,000.00 a year, until it closes?

Attorney Martell asked Mr. Taylor if he understood? He said these are usually set up as not for profit and this is only the second bond transaction any issuer for the Town of Montgomery has ever done and the likelihood of another one coming along anytime soon is fairly rare. The CRC would not have money to fund the mandatory audits required under New York State Law, which are around four thousand right now. The CRC is proposing a \$5,000.00 annual fee, while the bonds are outstanding.

Mr. Taylor said that he understood.

Second Vice Chairman motioned to accept \$5,000.00 a year from the day of issuance of the bonds, until their satisfaction as an annual fee, to cover the CRC expenses, seconded by Member Hayes. All in favor, all ayes, Members Jennings and Lomazzo were absent, motion carried.

Other Business

There was no other business discussed.

Approval of the June 22, 2015 CRC Meeting Minutes

Member Hayes motioned to approve the June 22, 2015 CRC meeting minutes, seconded by Second Vice Chairman Rainaldi. All in favor, all ayes, Members Jennings and Lomazzo were absent, motion carried.

Chairman Devitt discussed with the Members and Attorney the revised IDA application for the Taylor Montgomery LLC project. The Members reviewed the date the CRC form for the NYS information for PARIS had been filed. He handed out a letter from the ABO that cited the website requirements for the CRC and it included an article from the State Comptroller's office.

The Members will discuss the website for the CRC and IDA at the next meeting.

Member Hayes motioned to adjourn the CRC meeting, seconded by Second Vice Chairman Rainaldi. All in favor, all ayes, Members Jennings and Lomazzo were absent, motion carried.