

TOWN OF NORTH HEMPSTEAD COMMUNITY DEVELOPMENT AGENCY

**Minutes of
REGULAR MEETING
March 20, 2013
7:30 PM**

Call to Order

Mr. Bailey, Chairman of the Agency, called the meeting to order at 7:40 p.m.

Attendance

Members of the Agency (the “Members”) in attendance were:

Lamont R. Bailey

Jeffrey M. Greilsheimer

Howard Weitzman

Rodney A. Caines

Agency staff present consisted of:

Dermot F. Kelly, Executive Director

Joseph Santamaria, Assistant Director/Project Manager

Patrice P. Allen, Administrative Assistant

Peter Dzwilewski, In-house Counsel

Minutes of Meeting Held on January 30, 2013

Upon the motion of Mr. Bailey, seconded by Mr. Greilsheimer, the minutes of the meeting held on January 30, 2013 were accepted.

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Executive Director's Report

The Executive Director's Report consisted of the following:

Operations:

Copies of the Chart of Accounts Balance from the County Office of Community Development (the "OCD"), and monthly Bank Statements were given to the Members for review.

The Agency's current Chart of Accounts Balance as per the OCD, as of 3/5/13 is \$1,891,803.37

Cash Balances:

- Citibank –Lump Sum Account - \$314,391
- Valley National Bank - Program Income Account - \$825,693
- Citibank –Escrow Account - \$7,062

New Cassel Urban Renewal Plan

Site A - No Change - The Board of Zoning and Appeals ("BZA") approved the Master Plan for this Site. The plan pre-approves zoning variances and architectural design, which allows Bluestone to market the remaining 10,540 square feet of vacant retail space for prospective tenants.

Paradise Cove Restaurant hosted its Grand Opening on Wednesday, February 27th.

Site B - The Supermarket - Tony and Eddie's purchased the condominium unit and awaits approval for the amended plans from the Building Department. An agreement was signed with a cooperative "Ideal Food Basket" and anticipates opening in April.

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The remaining 3,180 sq. ft. of retail condominium space was sold to Prospect New Castle Realty, Inc. (Prospect”) the holding company for Worthy NYC, Inc. (“Worthy”) for \$425,000.00 (“Worthy”) has applied for permits with the Town for a sneaker and apparel store and anticipates to be opened by April.

Site C - No Change in this site’s status. The Bank of New York Mellon (“BONYM”) is still seeking a purchaser for the remaining 3,800 sq. ft. of commercial space.

Site D - No Change. BONYM and 139 LLC a holding company for James J. Vilardi (“Developer”) has signed an agreement to complete the development, construction and sale of the project. The Developer will sign the Amended Land Disposition Agreement; (approved by the Agency in September 2011) and complete the foreclosure process started by BONYM to complete the project. The agreement is subject to Nassau County IDA approval, which is expected in February. The Developer will execute the Land Disposition Agreement and other documents.

Site E –Site work has begun and is on schedule to be completed by October 2013.

Site I – A proposal that was presented to the Board in January will be continued at the March 20th Meeting.

The Agency issued an RFP on February 29, 2012, but due to lack of submissions and based on feed back from the registrants the Agency re-issued the RFP on June 4th, with several changes to the design elements and increased the cap of down payment assistance from \$25,000 to \$30,000 per unit to eligible purchasers. The Agency received one proposal on the due date, August 8th, and has been working with the developer since then to address the financing and marketing of the project. Those concerns have been satisfactorily addressed and the Agency will make a recommendation at the Board Meeting.

Upon the motion of Mr. Bailey, duly seconded by the Board, the Executive Director’s Report, to the extent of the Members’ knowledge of the events referred to, was accepted and approved unanimously.

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For Consideration

RESOLUTION NO. 1 (2013)

A RESOLUTION SELECTING A PROPOSAL FOR THE REDEVELOPMENT OF THE PROPERTY IDENTIFIED ON THE NASSAU COUNTY LAND AND TAX MAP AS SECTION 11, BLOCK 91, Lots 67-70 (SITE "I"), AND SELECTING CORNERSTONE PROPERTIES OF NEW YORK, INC. ("CORNERSTONE") AS THE REDEVELOPER AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A LAND DISPOSITION AGREEMENT BETWEEN CORNERSTONE AND TOWN OF NORTH HEMPSTEAD COMMUNITY DEVELOPMENT AGENCY TO PURCHASE AND DEVELOP SITE I.

WHEREAS, the Town of North Hempstead Community Development Agency (the "Agency"), in conjunction with the Town of North Hempstead (the "Town"), issued a request for proposals (the "RFP") on June 4, 2012 for the development of Site I; and

WHEREAS, the Agency received 1 proposal from developers (which was opened on August 8, 2012 in the presence of Agency Staff, Outside Counsel and the Agency's Accountant) seeking to be designated by the Agency as a qualified and eligible sponsor to enable it to enter in to an acquisition and disposition agreement for Site I; and

WHEREAS, in accordance with the RFP, and in the furtherance of the implementation of the policies and procedures detailed in the document entitled *Seeking A Shared Vision for New Cassel*, the Agency Staff and ("the Reviews") evaluated the Proposals in accordance with the criteria set forth in the RFP (the "RFP Evaluation Criteria"); and

WHEREAS, the Agency staff has recommended that the proposal submitted by Cornerstone to develop 11 three (3) bedroom modular townhouses in two phases. Phase I will consist of the construction and sale of five (5) townhouses on the west side of Site I and the construction of a 50' by 150' roadway (a public right of way) that shall be subsequently upon its completion be dedicated to the Town of North Hempstead. Upon the sale of the fourth townhouse in the Phase I, Phase II the construction and sale of six (6) townhouses will begin on the east side of Site I. All of the townhouses will have a garage and be individually owned. CDA staff recommends that the proposal be accepted because it is consistent with the Urban Renewal Plan for the New Cassel Renewal Area and is a qualified proposal; and

WHEREAS, the Agency and Cornerstone have negotiated and wish to execute a land disposition agreement for the disposition and development of the Property to and by

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Cornerstone, substantially in the form set forth in the materials presented to the Members at this meeting (the “LDA”); and

WHEREAS, pursuant to the SEQRA regulations, the awarding of a contract to Cornerstone is not an action, so the SEQRA review is not required to be completed at this time; and

WHEREAS, Cornerstone has offered a purchase price of \$100,000, which is less than the \$547,000 appraised of Site I set forth in an appraisal dated July 6, 2012 by Michael Haberman Associates, Inc.; and

WHEREAS, under the Public Authorities Reform Act of 2009, the Agency is prohibited from disposing of Site I for less than its market value unless (i) the disposition is within the mission of the Agency, as defined by its enabling statute; and (ii) the Members determine that there is no other reasonable alternative to the proposed below market transfer that would achieve the same transfer; and

WHEREAS, located in the New Cassel Urban Renewal Area, the redevelopment of Site I for residential housing for low and moderate income households is consistent with the Agency’s mission pursuant to General Municipal Law Section 554 (1), which is to plan and undertake one or more urban renewal projects (the “Mission Finding”); and

WHEREAS, to develop housing affordable for low and moderate income households as provided for in the Modified Development Plan, there is no other reasonable alternative to the proposed below market transfer of Site I that would achieve the same transfer as is contemplated by Cornerstone under its Development Plan (the “Determination of No Reasonable Alternative”).

NOW, THEREFORE, BE IT

RESOLVED, that the Members select Cornerstone the Redeveloper of Site I; and be it further

RESOLVED, that the Agency agrees to sell the property identified as Site I pursuant to the Land Disposition Agreement (attached to this resolution) for the purchase price of \$100,000 to Cornerstone; and be it further

RESOLVED, that the Members hereby accept the determination of the Executive Director of the Agency; and be it further

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RESOLVED, that the Members hereby authorize the Agency to enter into the LDA with Cornerstone, and to dispose of the Property substantially in accordance with the terms and conditions thereof for the development of 11 three (3) bedroom modular townhouses in two phases with each unit having a minimum width of 20 feet; and be it further

RESOLVED, that the execution of the LDA will be subject to the Agency noticing the publication of sale, upon ten (10) days written notice; and the Town Board Approval of Disposition, following the public hearing held on no less than ten (10) days notice of Agency's Publication of Notice of Sale; and be it further

RESOLVED, that the Executive Director and any other officer of the Agency are hereby authorized to execute the Land Disposition Agreement and other documents, and to take such other action, as may be necessary to implement the foregoing.

Upon the motion of Mr. Caines and seconded by Mr. Greilsheimer, the resolution was unanimously adopted.

RESOLUTION NO. 10 (2013)

A RESOLUTION AUTHORIZING THE MAKING OF DOWN PAYMENT ASSISTANCE TO SITE I HOMEBUYERS.

WHEREAS, on behalf of the Town of North Hempstead (the "Town"), the Town of North Hempstead Community Development ("Agency") administers Community Development Block Grant ("CDBG") funds pursuant to an intergovernmental contract for services, dated June 1, 2002, with the Town, as same may be amended from time to time; and

WHEREAS, pursuant to Resolution No.1(2013), duly adopted at a meeting of the members (the "Members") of the Town of North Hempstead (the "Town") Community Development Agency (the "Agency") duly held on March 20, 2013, the Agency, is party to a land disposition agreement, dated as of August 6, 2012 (the "LDA") with Cornerstone Properties, LLC (the "Redeveloper") for the redevelopment of real property identified as Site I and located at 275 Costar Street, 276 Sohmer Place, 335 Rose Place, 336 Rose Place, Westbury New York, 11590, identified on the Land and Tax Map as Section 11 Block 91, Lots

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67-70 (the “Premises”) for the construction of eleven (11) modular townhouses in two phases (the “Project”). Phase I of the Project will consist of the construction and sale of five (5) townhouses on the west side of the Premises and the construction of an approximately 50’ by 150’ roadway (a public right of way) that shall, upon its completion, be dedicated to the Town of North Hempstead. Upon the sale of the fourth townhouse in the Phase I, Phase II, the construction and sale of six (6) townhouses, will begin on the east side of the Premises. Each townhouse will be individually owned consisting of three (3) bedrooms, one (1) full bathroom, one (1) half bathroom and a one (1) car garage; and

WHEREAS, as a part of the process of soliciting proposals from redevelopers for the Premises, the Agency has agreed to make available to the home buyers of the townhouses down payment assistance in the total amount of \$330,000 or \$30,000 for each of the townhouse units being constructed; and

WHEREAS, Agency staff recommends that the Members agree to make the down payment assistance grant available pursuant to the Down Payment Assistance guidelines outlined by Agency Staff (“ Site I Down Payment Assistance”) (the “Staff Recommendation”); and

WHEREAS, the Members wish to authorize and adopt the Staff Recommendation.

NOW THEREFORE, BE IT

RESOLVED, that the Executive Director of the Agency and any officer thereof are hereby authorized to execute such instruments and documents and to take such other action as may necessary to carry out the foregoing.

Upon the motion of Mr. Bailey seconded by Mr. Greilsheimer, the resolution was unanimously adopted.

RESOLUTION NO. 11 (2013)

**A RESOLUTION AUTHORIZING SUBMISSION OF THE AGENCY’S
39TH PROGRAM YEAR COMMUNITY DEVELOPMENT BLOCK
GRANT APPLICATION.**

WHEREAS, the Town of North Hempstead Community Development Agency (the “Agency”) is a member of the Nassau County Community Development Block Grant (“CDBG”) Consortium, and wishes to apply for an allocation of 39th Program Year CDBG Funds (the “Allocation”); and

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WHEREAS, to apply for and receive the Allocation (the “Application”), it is required that the Agency seek public comment at a public hearing on its Application (the “Public Hearing”); and

WHEREAS, on March 11, 2013, the Agency held the Public Hearing.

NOW, THEREFORE, BE IT

RESOLVED, that the Members hereby authorize the Agency to submit the Application; and be it further

RESOLVED, that the Executive Director of the Agency and any other officer thereof is hereby authorized to execute such instruments and documents and to take such other action as may be necessary to carry out the foregoing.

Upon the motion of Mr. Greilshheimer seconded by Mr. Caines , the resolution was unanimously adopted.

RESOLUTION NO. 12 (2013)

A RESOLUTION APPROVING A BUDGET TRANSFER FROM THE EMPLOYEE BENEFITS ACCOUNT LINE TO THE PERSONAL SERVICES ACCOUNT LINE AND A BUDGET TRANSFER FROM THE OTHER OPERATING EXPENSES ACCOUNT LINE TO THE PUBLIC SERVICE GRANTS ACCOUNT LINE.

WHEREAS, pursuant to Resolution No. 33 (2011), duly adopted at its meeting held on October 19, 2011, members (the “Members”) of the Town of North Hempstead Community Development Agency (the “Agency”) adopted and approved a budget for the 2012 fiscal year (the “Budget”); and

WHEREAS, Agency staff recommends (the “Staff Recommendation”) that the Members adopt and approve modifications to the Budget by transferring funds as follows:

- \$1,031 from the Employee Benefits account line to the Personal Services account line
- \$7,189 from the Other Operating Expenditures account line to the Public Service Grants account line

; and

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WHEREAS, the Members wish to authorize and adopt the Staff Recommendation.

NOW THEREFORE, BE IT

RESOLVED, that the Members hereby authorize and adopt the Staff Recommendation; and be it further

RESOLVED, that the Executive Director of the Agency and any officer thereof are hereby authorized to execute such instruments and documents and to take such other action as may be necessary to carry out the foregoing.

Upon the motion of Mr. Greilshheimer seconded by Mr. Caines, the resolution was unanimously adopted.

RESOLUTION NO. 13 (2013)

A RESOLUTION AUTHORIZING THE RECEIPT AND FILING OF THE 2013 AUDITED FINANCIAL STATEMENTS AND RELATED DOCUMENTS AS RECOMMENDED BY THE AUDIT COMMITTEE OF THE AGENCY.

WHEREAS, the independent certified public accounting firm of Bollam, Sheedy Torani & Co. LLP (the "Auditors") has completed and submitted (i) a report related to its audit (the "Audit") of the financial statements of Town of North Hempstead Community Development Agency (the "Agency") for the fiscal year ended December 31, 2012 (the "Financial Statements"), (ii) Statement on Auditing Standards No. 114, titled *The Auditor's Communication to Those Charged With Governance*, with respect to the audit of the Financial Statements (the "SAS No. 114"), and (iii) the Single Audit Reports for the Agency for the year ended December 31, 2012 (the "Single Audit"; the Audit, the SAS No. 114, and the Single Audit are hereinafter referred to as the "Audit Documents"); and

WHEREAS, the Audit Committee of the Agency has reviewed drafts of the Audit Documents and has met with the Auditors, and has recommended that the final Audit Documents be received and filed, as long as they agree with the reviewed drafts as modified by the Audit Committee (the "Audit Committee Recommendation"); and

WHEREAS, the Members wish to adopt the Audit Committee Recommendation.

NOW THEREFORE, BE IT

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RESOLVED, that the Members hereby adopt the Audit Committee Recommendation; and be it further

RESOLVED, that the Executive Director of the Agency or any officer thereof is hereby directed to post the Financial Statements where legally required and to take any action as may be reasonably necessary to effectuate the foregoing.

Upon the motion of Mr. Greilsheimer seconded by Mr. Bailey, the resolution was unanimously adopted.

RESOLUTION NO. 14(2013)

A RESOLUTION AUTHORIZING AMENDMENT NO. ONE TO THE CDBG SUBRECIPIENT AGREEMENT WITH THE NASSAU COUNTY OFFICE OF HOUSING AND INTERGOVERNMENTAL AFFAIRS

WHEREAS, the Secretary of the U.S. Department of Housing and Urban Development (the "Secretary") is authorized under Title I of the Housing and Community Development Act of 1974, as amended (the "Act"), to make grants to states and other local governments ("CDBG Funds") to help finance their Community Development Programs; and

WHEREAS, Nassau County (the "County") and the Town of North Hempstead (the "Town") previously entered into a Cooperative Agreement, as amended, to participate in Community Development Programs (the "Cooperative Agreement"); and

WHEREAS, pursuant to the Cooperative Agreement, the County and the Town, acting by and through the Town of North Hempstead Community Development Agency (the "Agency") agreed to undertake project activities ("Project Activities") using CDBG Funds under the Act, to be received by the County for the 36th Program Year; and

WHEREAS, the Secretary has approved an application for Community Development Block Grant Funds under the Act, submitted by the County and participating municipalities for the 36th Program Year; and

WHEREAS, the County has allocated CDBG Funds in the amount of One Million Sixty Three Thousand (\$1,063,000) Dollars to the Town for the 36th Program Year (the "CDBG Allocation"), and has proposed that the County and the Town enter into an agreement for the payment of the CDBG Allocation as consideration for the Agency, as the Town's

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representative, undertaking and completing the Project Activities (the “CDBG Subrecipient Agreement”); and

WHEREAS, the members of the Agency (the “Members”) authorized the Agency to enter into the CDBG Subrecipient Agreement by Resolution No. 43 (2010); and

WHEREAS, on June 14, 2011, the Agency executed the CDBG Subrecipient Agreement, which provided for a term beginning September 1, 2010 through and including August 31, 2012; and

WHEREAS, the County and the Agency desire to extend the term and to amend the budget to change the description of program activities in order to undertake eligible community development activities; and

WHEREAS, the attached Amendment No. One to the CDBG Subrecipient Agreement (“Amendment No. One”) reflects the changes desired by the County and the Agency; and

WHEREAS, the members of the Agency (the “Members”) wish to authorize the Agency to execute Amendment No. One.

NOW, THEREFORE, BE IT

RESOLVED, that the Members hereby authorize the Agency to enter into the Amendment No. One to the CDBG Subrecipient Agreement; and it is further

RESOLVED that the Executive Director and any officer of the Agency is hereby authorized to execute Amendment No. One, and to take such other action as may be reasonable and necessary to effectuate the foregoing.

Upon the motion of Mr. Bailey seconded by Mr. Greilsheimer, the resolution was unanimously adopted.

Adjournment

Upon a motion by Mr. Caines, the members of the Agency, by unanimous vote, adjourned the meeting at 8:30 p.m.