

MIDDLESEX COUNTY IMPROVEMENT AUTHORITY
MINUTES

Wednesday, June 8, 2022 6:00 PM

(Held via Zoom)

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Meeting ID: 851 3323 2749
Passcode: 7384145971

Middlesex County Improvement Authority Office
101 Interchange Plaza, Second Floor, Cranbury (South Brunswick), New Jersey

1. **SALUTE TO FLAG/CALL TO ORDER:** Meeting was called to order by Chairman Nolan at 6:00 p.m.

2. **ROLL CALL OF OFFICERS**
James P. Nolan Present
Anthony Raczynski Present
Paul Abbey Present
Christine D'Agostino Present
Others Present: Executive Director H. James Polos, General Counsel Carol Berlen, Esq., Chief Financial Officer William Brennan, Bond Counsel Bakari Lee, Esq., Scott Coggins from Silver Street, Alexander Rosso from Nixon Peabody

3. **SUNSHINE LAW STATEMENT:** Carol Berlen, Esq. read the following statement into the record: "This meeting today conforms with Chapter 231, P.L. 1975 called the 'Open Public Meeting Act' and as per the requirements of the statute, notification of the meeting was published in the Star Ledger and Home News Tribune and filed with the Clerk of Middlesex County."

4. **COMMITTEE REPORTS**
a) Recycling: Executive Director James Polos reports on the impact of staffing with contractors, which appears to be industry wide and still related to covid. These staffing shortages have impacted contractors ability to be more efficient, but the team is otherwise doing a good job on following up and quantifying recycling.

5. **CORRESPONDENCE**

No correspondence.

6. **OLD BUSINESS**

No old business.

7. **NEW BUSINESS**

a) Train Station: Executive Director James Polos reports on the success of meeting with engineers, getting staff on property, and surveys that have begun. Design Phase Agreement with Amtrak is about to be adopted tonight. There have been successful meetings with companies with easements and access along the tracks and moving to the next level. Engineer is scheduling with NJ Transit Access to get survey work done on tracks 5 and 6 which will should be done within the next week or two.

b) New Brunswick Projects: Executive Director James Polos reports that the steel is underway at the new school project, 25% of the steel has been installed, and expected to complete the steel by August. Exterior work will begin thereafter. They are on track for project completion by August 2023.

c) Cancer Center: Executive Director James Polos reports that the steel is underway. Approximately 20% of the steel has been installed and expected to complete structural steel on 12-story building by December 2022.

d) Parking Garage: Executive Director James Polos reports that footings, foundations, and waterproofing, as well as cast and placed concrete work for the lower level are currently underway. Installation of precast concrete is expected to commence by the end of 2022.

8. **DISCUSSION OF RESOLUTIONS**

8(a) RESOLUTION OF THE MIDDLESEX COUNTY IMPROVEMENT AUTHORITY AUTHORIZING AND CONSENTING TO THE EXECUTION OF AN AMENDMENT TO THAT CERTAIN TAX REGULATORY AGREEMENT IN CONNECTION WITH THE SALE OF THE NEW BRUNSWICK APARTMENTS AND OTHER MATTERS RELATED THERETO

8(b) RESOLUTION OF THE MIDDLESEX COUNTY IMPROVEMENT AUTHORITY AUTHORIZING EXECUTION OF THE DESIGN PHASE AGREEMENT WITH AMTRAK FOR THE DESIGN OF THE NORTH BRUNSWICK TRAIN STATION PROJECT

8(c) RESOLUTION OF THE MIDDLESEX COUNTY IMPROVEMENT AUTHORITY AUTHORIZING SUBMISSION OF THE 2022 LOCAL FINANCE BOARD APPLICATION REGARDING THE CAPITAL EQUIPMENT LEASE PROGRAM (CELP) FOR AN AMOUNT NOT TO EXCEED \$20,000,000

8(d) RESOLUTION OF THE MIDDLESEX COUNTY IMPROVEMENT AUTHORITY
PAYMENT OF EXPENSES

9. **APPROVAL OF MINUTES**

a) Motion for approval of the Minutes of the Agenda Session and Regular Meeting of May 11, 2022 made by Commissioner D'Agostino, seconded by Commissioner Abbey. Approved by unanimous vote.

10. **PUBLIC COMMENTS ON RESOLUTIONS**

Charlie Kratovil asks what role the MCIA has with regard to the New Brunswick Apartments. Mr. Lee responds that the New Brunswick Apartments resolution (8(a)) is for the sale of a 206-unit housing project located in New Brunswick that is designated for low-income residents. Mr. Lee explains that in 2002 MCIA issued \$14,940,000 million in revenue bonds as part of the funding sources for this project. In connection with the issuance of these bonds, the MCIA, the borrower and project developer, as well as the trustee for the bonds, entered into a tax regulatory agreement, which imposed certain restrictions in terms of who could live in the development, restricted by the IRS code for tax exemption. Mr. Lee further explains that in 2014, the bonds that were issued in 2002 were redeemed and are no longer outstanding. Despite that, the tax regulatory agreement is still in effect because the project continues to benefit from Section 8 housing, which is a requirement of the tax regulatory agreement. Today, a new developer is seeking to acquire the development from the current owner and in connection with that, they need to amend the tax regulatory agreement to remove the old owner and add the new owner. The tax regulatory agreement requires that the new purchaser secure the consent of the MCIA, even though the bonds are no longer outstanding.

Mr. Kratovil asks where Silver Street is based out of Portland, Maine and what is the sale price for the development. Mr. Coggins from Silver Street advises that the sale price is \$20.5 million.

Kratovil asks whether all 206 units will continue to be exclusively for low income tenants. Mr. Coggins advises, without having the documentation on hand, that he believes 195 of 206 units are currently low income housing tax credit units and that the property will be "recapitalized" and then all 206 units will be low income housing units.

Mr. Kratovil asks about the records he has that shows that the housing development was built in 1975 and he wants to know how and/or why the MCIA got involved with an almost 30 year old complex. Mr. Lee advises that the McManimon law firm did not represent the MCIA back in 2002 and that he has no personal knowledge as to why the MCIA became involved. Mr. Lee states he assumes that the project was resyndicated and recapitalized and rehabilitated improvements occurred, inclusive of which were the funds issued by the MCIA. He also advises that pursuant to Section 54 of the MCIA law, it authorizes improvement authorities to provide loans and financial assistance with the construction and preservation of low and moderate income housing.

Mr. Kratovil asks for an update on the North Brunswick train station project. Chairman Nolan references the prior report given today by Executive Director Polos as the update and Executive Director James Polos further advises that surveys are in process, meetings have taken place regarding easements, progress is good and tonight the Design Phase Agreement with Amtrak will be adopted.

11. **APPROVAL OF RESOLUTIONS**

Motion to approve resolutions made by Commissioner D'Agostino, seconded by Commissioner Abbey. Approved by unanimous vote.

12. **PAYMENT OF VOUCHERS**

Motion to approve payment of expenses made by Commissioner Raczynski, seconded by Commissioner D'Agostino. Approved by unanimous vote.

13. **PUBLIC SESSION**

No public comments.

14. **ADJOURNMENT**

Motion to adjourn made by Commissioner D'Agostino, seconded by Commissioner Abbey. Meeting adjourned by Chairman Nolan.

RESOLUTION OF THE MIDDLESEX COUNTY IMPROVEMENT AUTHORITY AUTHORIZING AND CONSENTING TO THE EXECUTION OF AN AMENDMENT TO THAT CERTAIN TAX REGULATORY AGREEMENT IN CONNECTION WITH THE SALE OF THE NEW BRUNSWICK APARTMENTS AND OTHER MATTERS RELATED THERETO

WHEREAS, the Authority (the "Authority") has been duly created by resolution of the Board of County Commissioners of the County of Middlesex, State of New Jersey (the "County"), duly adopted September 6, 1990, as a public body corporate and politic of the State of New Jersey pursuant to and in accordance with the county improvement authorities law, *N.J.S.A. 40:37A-44 et seq.* (the "Act"); and

WHEREAS, the County has created the Authority for the express purpose, among other things, of providing loans and other financial assistance and technical assistance for the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities designed to provide decent, safe and sanitary dwelling units for persons of low and moderate income in need of housing; and

WHEREAS, NBA-New Brunswick LLC (the "Borrower" or "Owner") has obtained financing from PGIM Real Estate Authority Financing, LLC (the "Lender") for the benefit of the project known as New Brunswick Apartments (FHA Project No. 031-35333) (the "Project"), which loan shall be secured by a Multifamily Mortgage, Assignment of Leases and Rents and Security Instrument (the "Security Instrument") dated as of even date herewith, and to be recorded in the Office of the Recorder of Middlesex County, New Jersey (the "Records"), and shall be insured by the United States Department of Housing and Urban Development ("HUD");

WHEREAS, New Brunswick Apartments, L.L.C. (the "Seller") has previously received a bond allocation from the Authority, pursuant to which the Authority has required certain restrictions be recorded against the Project; and

WHEREAS, the Seller, the Authority and TD Bank, N.A. have entered into that certain Tax Regulatory Agreement with respect to the Project, as more particularly described in Exhibit A attached hereto, dated as of December 1, 2002 and recorded in the Records in Book 5125, Page 1, as amended by the Amendatory Tax Regulatory Agreement dated as of October 31, 2014 and recorded in the Records in Book 6630, Page 558 (the "Restrictive Covenants"); and

WHEREAS, Seller shall convey the Project to the Owner pursuant to that certain Bargain and Sale Deed dated on or about the date hereof and recorded herewith; and

WHEREAS, HUD requires as a condition of its insuring Lender's financing to the Project, that the lien and covenants of the Restrictive Covenants be subordinated to the lien, covenants, and enforcement of the Security Instrument; and

WHEREAS, the Authority has agreed to subordinate the Restrictive Covenants to the lien of the loan made by the Lender to the Borrower pursuant to the Security Instrument, the HUD

Regulatory Agreement and all other documents required by HUD or the Lender in connection with the such loan in accordance with the terms of this Amendment.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE MIDDLESEX COUNTY IMPROVEMENT AUTHORITY, as follows:

Section 1. The recitals to this resolution are hereby incorporated as if set forth in full herein.

Section 2. The Authority hereby authorizes the execution of an amendment to the Tax Regulatory Agreement in connection with the sale of the New Brunswick Apartments by New Brunswick Apartments, L.L.C. to NBA-New Brunswick LLC as more fully set forth in Exhibit B attached hereto (the "Amendment"). The Authority further authorizes the Chairman, Vice Chairman and Executive Director (each, an "Authority Officer"), in consultation with counsel to the Authority, to execute the Amendment and such documents in connection therewith.

Section 3. This resolution shall take effect immediately.

<u>Recorded Vote:</u>	<u>Aye</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
James P. Nolan	X			
Anthony Raczynski	X			
Paul Abbey	X			
Christine D'Agostino	X			

**RESOLUTION OF THE
MIDDLESEX COUNTY IMPROVEMENT AUTHORITY
AUTHORIZING EXECUTION OF THE DESIGN PHASE AGREEMENT WITH
AMTRAK FOR THE DESIGN OF THE NORTH BRUNSWICK TRAIN
STATION PROJECT**

WHEREAS, a regular meeting of the Middlesex County Improvement Authority (the "Authority") was held on June 8, 2022; and

WHEREAS, pursuant to N.J.S.A. 40:37A-55(t), the Authority is empowered to enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts and things necessary, convenient or desirable for the purposes of the Authority, subject to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.; and

WHEREAS, passenger demand and rail service congestion along the Northeast Corridor ("NEC") has created a public need for a new train station in North Brunswick, New Jersey a municipality within Middlesex County; and

WHEREAS, the Project is being built for the joint benefit of the County of Middlesex, MCIA, the Township of North Brunswick and NJT (the intended user of the station); and

WHEREAS, entering into the Design Phase Agreement is in the best interest of the parties to achieve efficient project design oversight of the Project; and

WHEREAS, the work to be performed in connection with the Project will require the MCIA and its contractors to enter onto, over, under and/or adjacent to Amtrak's property, will require various assistance from Amtrak and may require alterations to certain Amtrak facilities; and

WHEREAS, due to the proximity of the Project to Amtrak's property, tracks and right-of-way, MCIA desires input and/or approval from Amtrak on the potential impact of the Project on Amtrak's property and railroad operations thereon; and

WHEREAS, the Parties agree that the protection of Amtrak's property and railroad operations is a paramount public safety concern; and

WHEREAS, all work arising out of or connected with the Project must be closely and safely coordinated with Amtrak so as not to impede or interfere with said safe railroad operations; and

WHEREAS, the Parties have agreed to set forth the services to be performed by Amtrak during the design phase of the Project, and the costs thereof; and

WHEREAS, the Parties represent that they are authorized by law to enter into this Agreement; and

WHEREAS, the Authority desires to authorize the Executive Director, or his designee, to execute the Design Phase Agreement on behalf of the Authority.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE MEMBERS OF THE MIDDLESEX COUNTY IMPROVEMENT AUTHORITY AS FOLLOWS:

1. The Chairman, Executive Director or his designee, and all other appropriate officials shall be and are hereby authorized, upon final review and approval, in substantial form attached hereto with modifications made upon advice of Counsel to execute the Design Phase Agreement;

2. The Secretary, or their designee, is hereby directed to attest said Design Phase Agreement and affix thereto the corporate seal of the Middlesex County Improvement Authority.

<u>Recorded Vote:</u>	<u>Aye</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
James P. Nolan	X			
Anthony Raczynski	X			
Paul Abbey	X			
Christine D'Agostino	X			

RESOLUTION OF THE MIDDLESEX COUNTY IMPROVEMENT AUTHORITY AUTHORIZING APPLICATION TO BE MADE TO THE LOCAL FINANCE BOARD PURSUANT TO N.J.S.A. 40A:5A-6 AND N.J.S.A. 40:37A-80 FOR REVIEW OF PROPOSED RESOLUTIONS OF THE MIDDLESEX COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE ISSUANCE OF BONDS IN CONNECTION WITH ITS 2022 CAPITAL EQUIPMENT AND IMPROVEMENT FINANCING PROGRAM, PROPOSED LEASE AGREEMENT AND LOAN AGREEMENT, PROPOSED COUNTY GUARANTY ORDINANCE AND PROPOSED COUNTY GUARANTY AGREEMENT IN CONJUNCTION WITH THE CAPITAL EQUIPMENT AND IMPROVEMENT PROGRAM FOR THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY

WHEREAS, a regular meeting of the Middlesex County Improvement Authority (the "Authority") was held on June 8, 2022; and

WHEREAS, the Authority has heretofore by resolution adopted on this date determined to provide financing for the issuance of the Authority's Bonds in one or more series (the "Bonds") in connection with the Authority's 2022 Capital Equipment and Improvement Financing Program for the proposed project involving the financing of capital equipment and capital improvements (hereinafter the "Project") for various governmental units in the County of Middlesex (the "County"), and the County itself (hereinafter the "Participants"); and

WHEREAS, any proposed project financing undertaken by the Authority must be reviewed by the Local Finance Board prior to proceeding with the Project; and

WHEREAS, subject to the approval of the Middlesex County Board of Commissioners of the Project, the leasing of the capital equipment and/or loan for capital improvements by the Authority to the applicable Participants and the guaranty by the County of the performance of the Bonds, the Authority will make application to the Local Finance Board for review of the proposed project financing by the Authority for the Project in an amount not to exceed \$20,000,000, proposed resolutions of the Authority

authorizing the issuance of the applicable series of Bonds, a proposed form of County Guaranty Ordinance, a proposed Guaranty Agreement, and proposed Lease and/or Loan Agreements between the Authority and the applicable Participants; and

WHEREAS, the Authority believes that:

- (a) it is in the public interest to accomplish such purpose;
- (b) such purpose or improvement is for the health, welfare, convenience or betterment of the inhabitants of the County;
- (c) the amounts to be expended for said purpose or improvement are not unreasonable or exorbitant; and
- (d) the proposal is an efficient and reasonable means of providing services for the needs of the inhabitants of the County and such purpose or improvement will not cause an undue financial burden to be placed upon the Participants or the County.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE MEMBERS OF THE MIDDLESEX COUNTY IMPROVEMENT AUTHORITY AS FOLLOWS:

Section 1. The application to the Local Finance Board is hereby approved, and the preparation and filing of the application by McManimon Scotland & Baumann, LLC, Bond Counsel to the Authority ("Bond Counsel") and Phoenix Advisors, LLC, the Municipal Advisor for the Project ("Municipal Advisor"), along with other representatives of the Authority, is hereby authorized and Bond Counsel, the Municipal Advisor and other representatives of the Authority are each hereby authorized and directed to represent the Authority in matters pertaining thereto.

Section 2. The Local Finance Board is hereby respectfully requested to consider such application and to record its findings, recommendations and/or approvals as provided by the applicable New Jersey Statutes.

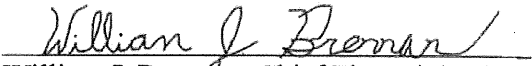
Section 3. This resolution shall take effect immediately.

<u>Recorded Vote:</u>	<u>Aye</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
James P. Nolan	X			
Anthony Raczynski	X			
Paul Abbey	X			
Christine D'Agostino	X			

**RESOLUTION OF THE
MIDDLESEX COUNTY IMPROVEMENT AUTHORITY
PAYMENT OF EXPENSES**

It is hereby resolved by the members of the Middlesex County Improvement Authority at its meeting of June 08, 2022, that payments as itemized on the attached bill list, attached hereto and made a part hereof, in the total amount of \$4,505,351.94 be authorized to be paid out of the Middlesex County Improvement Authority account.

This is to certify that the payments on the attached bill list, in the total amount of \$4,505,351.94 are correct and just and payment should be approved.


William J. Brennan, Chief Financial Officer

James P. Nolan, Chairman

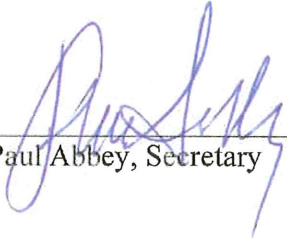
This is to certify that the above is a true copy of a Resolution adopted by the Middlesex County Improvement Authority at a meeting held on June 08, 2022, at which a quorum of the membership was present.

Paul Abbey, Secretary

<u>Recorded Vote:</u>	<u>Aye</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
James P. Nolan	X			
Anthony Raczynski	X			
Paul Abbey	X			
Christine D'Agostino	X			

CERTIFICATION

I, Paul Abbey, Secretary and Certifying Agent of the Middlesex County Improvement Authority, hereby certify that the attached is a true copy of the Minutes of the meeting of the Middlesex County Improvement Authority held on the 8th day of June, 2022.



Paul Abbey, Secretary