

PUBLIC HEARING

December 3, 2008 – 5:00 p.m.

Chairman Hargrave called the public hearing to order.

The Clerk read the Notice of Public Hearing on a proposed local law “Approving The Allocation Of Zone Lands For The Proposed Expansion Of AMD FAB Technologies US, Inc. Manufacturing Project As A Regionally Significant Project Of The Saratoga County Empire Zone.”

Chairman Hargrave asked if there was anyone wishing to speak.

Kyle York, 59 Railroad Place, Saratoga Springs, asked if there is a legally binding commitment from Luther Forest to build that plant. It seems that there is a lot of give and take, he said. He stated this State and County have given a lot to AMD to have them bring 1400 jobs and prosperity to Malta. It started off with this Board and the Empire Zone offering them \$1.2 billion, and then a \$67 million water project of which they contributed nothing. At that point in the give and take, I thought we might have this carved in stone with a legally binding commitment, he said. This County spent another \$54 million to upgrade our sewer to handle their water, and then again, I was hoping to have something given back to us by AMD in the way of a signed agreement. He stated \$27 million in sales tax breaks will be discussed on December 10th in Stillwater and Malta. There is \$5 million in new road construction and Malta, through Luther Forest Technology Park, will pick up the tab for a \$4.5 million water tank that will hold a day’s supply for AMD, and there is no contribution back. There is a \$300,000 commitment to clear and maintain the roads from Malta and Stillwater which they were told by AMD representatives they would not be getting help. When you add this all up, this incentive package is about one billion, 367 million dollars, and we have nothing in a way of a commitment. I would hope that as a result of this transfer, we could get a commitment back in kind.

Mr. York mentioned another issue is the change of their board. He said it’s been presented as a simple transfer, but there is a lot to be considered with what we are entering into. In 2006, Advanced Micro Dynamics (AMD) came here and promised to build a plant. He said he has heard from Shelby Schneider, of the Empire Zone, “This is basically a repetition of what was filed at the very end of 2007. The reason is due to the change of ownership,

and the entity is different.” Mr. York said to say the entity is different is an understatement. He said he respectfully disagrees with this oversimplification. The Empire Zone has more substance than the simplified version often stated in our media, he said. You must establish a need and you must promise the tax-paying business will provide at least 50 jobs. Bringing a business to New York State means bringing taxable revenues to the State, he said. In an April, 2007 Empire Zone report, on page 14 it states “Empire State Development needs to insure that firms, and employment and tax dollars they represent, remain in New York State.” When this program began in 2006, it was a company in Sunnydale, California. Today, they have offices in Sunnydale, CA and in Austin, TX, and as of this past Monday, they have an office here in an office park with 12 employees. If they keep moving forward, the chip plant will be owned by a company formed in August called AMD Fab Technologies US, Inc. That company was formed in Delaware, and there is no Delaware corporate income tax for corporations so long as they do not transact business in Delaware. There may be significant federal tax advantages to incorporating as well. Shares of stock in Delaware corporations are not subject to Delaware taxes if the owner lives outside the state. That’s well and good for the corporations and for Delaware, but it does absolutely nothing for the tax coffers in New York State, he said. Generous incentives of an Empire Zone and of this County should go to a company based in the Empire State, he said. Now, today, you are being asked to transfer \$1.2 billion in incentives to the foundry company – a lucrative and profitable venture composed of nine subsidiaries. Out of those nine subsidiaries, eight are in Germany, and the ninth is the AMD Fab Technology. That multi-national company with net sales of over \$6 billion is made up almost entirely of foreign entities with major facilities in Dresden, Canada, Finland, Netherlands, China, Malaysia, Singapore, and Sunnydale and Austin and maybe Saratoga. So, to date, the Foundry company is asking you for \$1.2 billion in New York State incentives, he said. He said the foundry is not based in any of those countries. According to the SEC filings, the Foundry Company will be an exempted company duly formed under the laws of the Cayman Islands. It is a company that exists only on paper, he said. It is an off-shore tax shelter, he said. They are asking you to transfer AMD’s \$1.2 billion to this foundry company, he said.

Mr. York stated in the Cayman Islands, the majority stakeholder of this parent company, with a commitment to buy out more of AMD, is called Advanced Technologies Investment Company, LLC (ATIC). They are the

primary financial beneficiary of this upstate NY Empire Zone established under the laws of the Emirates of Abu Dhabi and wholly owned by the government of the Emirates of Abu Dhabi. Abu Dhabi was recently named as the richest city in the world, he added. So the \$1.2 billion package that was offered to AMD of Sunnydale, CA in the USA in 2006; you are now being asked to give that same \$1.2 billion paper to a tax shelter based in Delaware after which the processed profits will go to an off shore paper tax haven in the Cayman Islands after which the processed and sanitized wealth generated in our Empire Zone will go to Abu Dhabi and into their swollen bank accounts of the governments of the richest people of the world, he stated. In these times of economic hardship, I cannot see how you can justify any of the decisions. I would hope they would take the New York contingent, AFT, incorporate that into New York State, and let their other eight subsidiaries benefit from their tax breaks. I hope you will reconsider, he added.

Supervisor Jack Lawler, Chairman of the Saratoga County Water Authority, said he wanted to address the \$67 million water system. Mr. York had that lumped in there as a direct benefit being provided to AMD. He pointed out half of that \$67 million will be paid by users. Those contracts are in effect. The grant money that was provided there was provided through programs that specifically exist to assist economic development in New York State, he said. As elected officials and individuals here representing Saratoga Economic Development Corp. would be remiss in our duties if we did not aggressively pursue grant opportunities that are available to us, he said. Congratulations to the people who secured \$33 million in State funding to assist us in developing this water system. He said as far as the \$4.5 million for the water tank, that will not be borne by the Town of Malta. He said LFTC is expected to execute a grant, and the New York State Dormitory Authority will provide the funding for that.

Mr. Lawler said the \$1.2 billion incentive is a huge number. He stated this is the biggest economic development project in Upstate New York's history. Of that \$1.2 billion, half of that doesn't happen if AMD doesn't build a plant, he said. He stated one of the most obvious intentions of the Empire Zone Corporation legislation is to generate tax revenue. We are at the top of the charts when it comes to business costs, he said. If this State does not get into the business and stay in the business of assisting businesses to locate here, we will be sitting on our hands with a tale of woe lamenting ourselves with the demise of Upstate New York as a great place to live and work.

Upstate New York's economic problems are not going to fix themselves, he said. It is important that as local leaders, we get off our seats and make an effort, and we have put a lot of effort and a fair amount of money into this, and at the end of the day, the 1,465 jobs will pay an enormous benefit to this State simply through the income taxes those people will pay, sales tax when they spend the dollars they earn, and real estate and mortgage taxes when they buy homes, he said. I quite agree it is a huge incentive package, but I think it is a good idea to help whoever brings those 1,465 jobs to Saratoga County, he stated. He stated Momentive Performance in his town announced a pay cut for 450 of their people, and another 250 received short-term lay offs, Super Steel closed yesterday, Kesselring laid off people last week. We are in difficult economic times, and this is the shining star, he said. He said it is a huge package, and it deserves scrutiny, review and criticism. They should not be allowed to deviate from whatever the final agreement is, he said. Either we make something in Upstate New York, or we condemn ourselves to another 20 or 30 years of our young people getting out of here as fast as they can, and our property values and economic structure collapsing, he said. If you want to see the future of Saratoga County, go over to Schenectady County, he stated. We have a chance to do something good here for the entire Capital District region. He thanked Mr. York for his criticisms and his questions and for his presentation. We have to make sure the people involved in this deal at every level do what they have to do, he said.

Chairman Hargrave asked if any written communications were received. Being none, the public hearing adjourned at 5:27 p.m.

Respectfully submitted,

Elaine M. Sodemann