

**TOWN OF UNION
HURON TAX ASSESSMENT
NEGOTIATION TIMELINE**

About 10 years ago, as part of a broader effort to create and retain jobs in Broome County, Huron purchased the old IBM campus with the assistance of the Broome County IDA. Huron and the Broome County IDA entered into a Payment In Lieu Of Taxes (“PILOT”) agreement for a term not to exceed ten (10) years. One of the provisions in the PILOT agreement was that during the term of the PILOT, Huron could not contest the then current tax assessment of the industrial campus which at that time equated to a fair market value of about \$150-160 million. The Town of Union understands that Huron’s purchase price was significantly lower than the equalized assessed value. It was reported that of the total purchase price of \$65 million, the actual purchase price for the land and buildings was around \$35 million. Pursuant to that 10 year deal, real estate tax bills were generated every year as if the Huron campus had a fair market value of over 4 times its purchase price.

There is no question that for the past 10 years, the Village of Endicott, Town of Union, County of Broome, UE School District and ME School District have known that this 10 year agreement would be coming to an end in 2012. In fact, the Press did an article in about 2007 warning of the fact that this 10 year agreement would be coming to an end and that the Village, Town, County and School Districts needed to be prepared.

Huron also applied to New York State for certification as Empire Zone Business Enterprise, a State program designed to stimulate economic growth, to attract new businesses to New York State and to enable existing businesses to expand and create more jobs. The Town understands Huron became a Qualified Empire Zone Enterprise (QEZE) in 2002. The PILOT agreement was terminated in about 2008.

The Town has been advised that under the EZ program, so long as Huron meets its obligations, it is entitled to all benefits available to a QEZE, including a wage tax credit and a real property tax credit under Section 15 of the New York Tax Law. This credit is calculated by the State based on several factors, including an employment increase factor and a benefit period factor. These credits have been used, among other things, to sustain the business operations at the campus, to retain jobs, and to ensure that Huron continues to qualify under the EZ program. In practical effect, these credits from State were used to offset or pay the real estate

taxes. These credits that Huron has had through the State program were implemented for a period of 10 years, and then starting in year 2012, there is a phase out of those credit reimbursements where the State will pay 80%, then 60%, then 40%, then 20%, and then 0%.

Starting almost a year ago in 2011, while John Bernardo was still Supervisor of the Town of Union, the Town of Union began having general discussions with Huron about the need to change its tax assessment to an amount more in line with a current fair market value like all other commercial properties in the Town of Union. The Mayor of the Village of Endicott was at that first meeting. The discussions with Huron were on-going for about ten months. The Mayor of Endicott could have inquired about these discussion meetings at any time within that period. The initial meetings were information gathering meetings. Only when the Town of Union's experts had sufficient information did the meetings shift to both information gathering and negotiations. During this process, and solely at the expense of the Town of Union, appraisal experts were retained to help assist the Town of Union in those discussions.

In order to preserve its rights under the New York Real Property Tax Law, Huron filed grievances with the Board of Assessment Review in May 2012, and Huron then filed an Article 7 tax certiorari proceeding in July 2012.

The Town of Union met with the UE School District officials, and separately with the County of Broome Deputy Executive and County Attorney, to fully inform them of the status of the information gathered and negotiations. Several attempts were made to meet with the Village of Endicott to share information about the discussions the Town of Union had had with Huron. A June 27 email was sent to the Village Attorney requesting a meeting with the Village Attorney and the Mayor. On July 3 a message was left with the Mayor's administrative assistant about a meeting. On July 5, a letter was sent to the Village Attorney. Finally, on July 16, a meeting was held between the Mayor, the Village Attorney, Town Assessor and Town Attorney. On July 31, at the behest of Judge Lebous, another meeting was held with the Village Attorney. A scheduled August 2 meeting with the Mayor and Village Attorney was cancelled by the Village Attorney.

The UE School District, ME School District and the County of Broome fully supported the several month effort of the Town of Union in working with Huron to attempt to bring the Huron campus fairly in line with other commercial tax assessments in the Town of Union. The New York State Supreme Court had the attorneys for the Village of Endicott, County of Broome, Town of Union, UE

School District and Huron come to Court on July 30 for a formal conference on the Huron matter. Thereafter, the New York State Supreme Court reviewed the settlement terms and issued a formal Court Order dated August 10, 2012 approving the settlement without modification of any of the terms. In other words, after full input from all of the parties, including the Village of Endicott, the Court independently approved the settlement. If the Mayor of the Village of Endicott had had any legitimate legal positions, the Court would not have issued an Order approving the settlement without any modifications.

The settlement with Huron provides for a new assessment on all of the parcels that make up the Huron campus, which new assessment is approximately 27.5% of the year 2011 assessment. The year 2011 assessment was based on a ten year artificially high market value of the Huron campus of about \$150-160 million. The year 2012 assessment is based on a more realistic agreed upon current market value of \$40 million. As part of the settlement, Huron will not be able to contest its assessment for three years thereby providing some stability to the residents, School Districts, and other taxpayers.

The reduction was largely based on the Town of Union's internal expertise and a nationally recognized appraisal company's conclusions that the current market value of the Huron campus is less than \$40 million. Ten years ago, the Huron campus was not worth \$40 million and since then a number of buildings on the Huron campus have been decommissioned and are not in use. The Town of Union had access to two prior limited appraisals that identified the market value at between \$15 and \$25 million. The Village of Endicott separately on its own commissioned a well known expert, who, the Town was advised, had valued the Huron campus comparatively to the Town of Union's evaluation. The Village of Endicott should have shared its own expert evaluation with its residents.

The Town of Union also took into consideration the fact that the litigation expenses were estimated to be about \$450,000.00, including the costs of a full commercial appraisal for this industrial campus, the costs of a forensic accountant, and attorney's fees. Not only would these exorbitant costs have been borne by only the Town of Union, but such litigation would have ultimately resulted in a market value number well below the settlement number of \$40 million. The Town of Union was not about to place the residents and taxpayers in a worse position by the needless continuation of the litigation.

In more practical terms, what this means is that less tax revenue will come from Huron for year 2012/2013 due to the reduction in the assessed value of the Huron

campus. Assuming the Village of Endicott, the County of Broome, the School Districts and the Town of Union cannot dramatically reduce their budgets, the differential in real estate taxes that will no longer be paid by Huron will be spread across the remainder of the taxpayers.

By way of example with respect to the actual settlement with Huron, using a house in the Village of Endicott valued at \$75,000, that property owner will pay approximately \$125-\$150 more in school taxes, approximately \$225-250 more in Village taxes, approximately \$20-25 more in County taxes, and under \$5 more in Town taxes.

If, however, Huron had prevailed in its tax assessment litigation that the true market value of the Huron campus was \$15 million as opposed to the settlement of \$40 million, then that same property owner in the Village of Endicott would have paid approximately \$500 in total increased real estate taxes, plus the crippling effects of having to refund Huron millions of dollars, which the taxpayers would have had to pay in addition to the above amount. In addition, as noted above, the Town of Union would have wasted \$450,000 in litigation expenses to end up in a much worse position than the Court approved settlement. The Town of Union understood that such monumental refunds would have had the real potential to bankrupt the Village of Endicott and UE School District, which the Town of Union was not about to allow to occur once Huron agreed to a reasonable settlement of the litigation.

The Town of Union believes that the settlement was in the best interests of its residents, the School Districts, the Village of Endicott, the County of Broome and the Town of Union.

From: Alan Pope
Sent: Wednesday, June 27, 2012 4:55 PM
To: ccollision@tcmslaw.com
Subject: TOU VOE Items - Huron and Planning Services Agreement

Charlie,

I am contacting you on two important matters.

1. HURON. Our Assessor Joe Cook and I would like to come over and meet with you and Mayor Bertoni to discuss this assessment issue. I think this is an extremely important issue and we would like to meet as soon as possible. Let me know what your schedules are like Friday morning or Monday.
2. PLANNING SERVICES. I understand you came over to the Town yesterday and had some kind and thoughtful words for all of us. I think it would be best if you, Mayor Bertoni, Rose Sotak and I met to discuss this agreement. We should also discuss the separate agreement dealing with the composition and operation of the proposed Joint Planning Board. This issue is not as urgent, but clearly important.

Thank you.

Alan

Alan J. Pope
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POPE & SCHRADER, LLP

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July 5, 2012

VIA FACSIMILE (754-6293 & 757-2481)

Charles Collison, Esq.
1201 Monroe Street
Endicott, NY 13760

Re: Town of Union – Huron and Joint Planning
Our File No. 856-13697

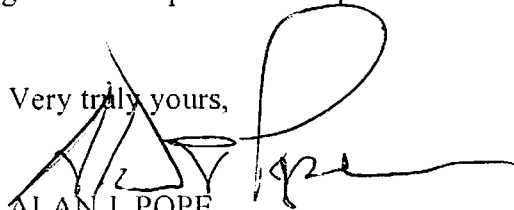
Dear Charlie:

I typed up your voice mail to me verbatim and provided it to the Town Board Members so they would have the full understanding of the Village of Endicott's position on the Huron Tax Assessment matter and the Planning Services/Joint Planning Board matter.

For the Huron matter, on behalf of the Town of Union, I will once again offer you and the Mayor a meeting to discuss this important matter. In order for our Assessor Joe Cook and I to meet and to provide you with confidential and proprietary information, it will require you and the Mayor to sign a Confidentiality Agreement. We have offered the same informational details to the County and to the School Board, and in both situations they have executed the Confidentiality Agreements and we then provided the information and details. I understand your voicemail message was very clear that the Village of Endicott objects to any change of assessment of Huron. If the Village of Endicott would like to meet, please just let me know and we will line up a time so that you can execute the Confidentiality Agreements and we can immediately provide you with the details.

It has been over a week since I first sent you an email about such an important meeting with our Assessor Joe Cook and me, and therefore, if the Village of Endicott wishes to meet with Joe Cook and me, we need to get it lined up as soon as possible. If not, please just tell me so.

Very truly yours,


ALAN J. POPE

AJP/hd
cc: Town Board

POPE & SCHRADER, LLP

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ALAN J. POPE
KURT D. SCHRADER

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DATE: July 5, 2012
TO: Charles Collison, Esq.
FIRM: Thomas, Collison, Meagher & Seiden
FAX NO.: 754-6293
PHONE NO.:
FROM: ALAN J. POPE
RE: Town of Union - Huron and Joint Planning

Total Number of Pages (including this cover page): 2

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.....

DATE: July 5, 2012
TO: Charles Collison, Esq.
FIRM: Village of Endicott
FAX NO.: 757-2481
PHONE NO.:
FROM: ALAN J. POPE
RE: Town of Union - Huron and Joint Planning

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End of Huron's tax deal looms as problem

Endicott, Union could lose revenue

Press & Sun-Bulletin - Binghamton, N.Y.

Author: Tom Wilber
Date: Jun 10, 2007
Start Page: A.1
Section: FRONT
Text Word Count: 884

Document Text

By Tom Wilber

twilber@pressconnects.com

Press & Sun-Bulletin

ENDICOTT - Under a deal that has existed since 2002, New York state reimburses Huron Real Estate Associates for its property tax bill. But that deal will expire in 2016, raising the prospect of a future assessment battle that could have significant implications for the area's economic welfare.

From 2002 - when Huron bought the sprawling circuit board assembly site from IBM - through 2005, the state has paid more than \$23 million in property tax credits, according to information from the Empire State Development Corp. The 2005 payment was about \$6.5 million. Figures for 2006 are not yet available.

Huron's property tax assessment is no small thing. It represents about 28 percent of the tax base in the village and about 6.5 percent of the tax base in the Town of Union. Even minor adjustments would have a significant economic ripple effect.

With the state paying the tax bill, the assessed value of the 63-building campus has little impact on Huron or local governments. But when the state stops paying, a \$4 million problem crops up.

That's because IBM sold the property to Huron for about \$65 million - about one third of its fully assessed value. If the property's assessment reflected its selling price, the village, the town, Broome County and the Union-Endicott School District would stand to lose about \$4 million in tax revenue, based on the 2005 tax bill.

Declining property values, often gauged by selling price, can lead to lower assessments, and that means lower tax revenue for municipal services and schools. Lower tax revenues mean elected officials must cut services or raise rates for the remaining taxpayers.

It has happened before, a dramatic example being in 1998, when IBM received a 45 percent cut in assessment that cost the town, Village of Endicott and U-E school district about \$3.18 million a year in lost tax revenue. That's more than \$3.6 million in today's dollars.

Taxes went up, and the village went into a financial tailspin. Facing a \$1.3 million deficit near the end of fiscal year 2004, the village had to secure emergency state legislation needed to allow bonding to cover operational expenses, including payroll and capital upgrades.

Some elected officials, including Endicott Mayor Joan Hickey Pulse, are reluctant to address the possibility of another big hit in the future.

"I think it's premature to be talking about this right now," she said.

Others feel differently.

"It's never too early to be concerned," said John Bernardo, Town of Union supervisor. The solution, he said, is to foster a healthier economic climate, such as a measure recently passed by the town board to offer property tax breaks for developing businesses along Watson Boulevard, west of Hooper Road to the village line. He also noted efforts to clean and reclaim the Endicott Forging property, a polluted and condemned 6-acre site in the heart of the village.

There also needs to be more sharing of services, he said, such as a plan to consolidate code enforcement, planning and zoning functions in Union, Johnson City and Endicott.

Ultimately, he said, it is up to village residents to decide whether they want to consider a merge with the Town of Union or face a growing tax burden. Bernardo, a village resident, said he personally would favor consolidation.

"I think village residents would be better off economically," he said.

State Sen. Thomas W. Libous, R-Binghamton, who helped champion the deal with local investors, the state and IBM Corp. to save jobs at the micro-electronics plant, said it is up to local municipal officials to discuss consolidation options.

The prospect of a significant decline in the village tax base "gets into this whole issue of whether Endicott should remain a village," he said.

Joseph Moody, economic development director for the Town of Union, said he expected Huron executives to grieve the assessment when they are faced with paying the bill.

"I understand the implications of what might occur in the future. But I like to dwell on the positive," he said. "I'm hopeful."

His hopes are based partly on the prospects of Endicott Interconnect Technologies, the core business at the Huron campus. Moody says he expects the company to expand employment and bring enough new home buyers to the area to help offset the declining tax base.

James McNamara, president of Endicott Interconnect, said late last week he could not comment on the tax assessment issue, but the prospects for growth are high. The company, spurred by recent defense contracts, has more than 110 open positions.

"We have a ton of work here," he said. "We're having a hard time finding talent in the professional ranks, including scientists and engineers."

The company employs about 1,850 people, about 90 fewer than when it bought the micro-electronics business from IBM. But it is enough to meet the employment objectives outlined in a 2002 deal with the Empire State Development Corp. for \$4 million in funding in return for preserving jobs at the site.

Bernardo remains confident that the future will be bright with the right type of foresight among elected officials.

"I paint a rosy picture because I truly believe we are rebounding," he said. "Now, am I being blind? I don't think so. Am I being overly optimistic? Maybe."

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Abstract (Document Summary)

From 2002 - when Huron bought the sprawling circuit board assembly site from IBM - through 2005, the state has paid more than \$23 million in property tax credits, according to information from the Empire State Development Corp. The 2005 payment was about \$6.5 million. The solution, he said, is to foster a healthier economic climate, such as a measure recently passed by the town board to offer property tax breaks for developing businesses along Watson Boulevard, west of Hooper Road to the village line.