

Onondaga County Industrial Development Agency  
Regular Meeting Minutes  
May 14, 2009

The regular meeting of the Onondaga County Industrial Development Agency was held on Thursday, May 14, 2009 at the Eastside Business Center, 1201 East Fayette Street, Syracuse, New York.

Chairperson Robert Baldwin called the meeting to order at 8:05a.m. with the following:

PRESENT:

Robert Baldwin  
Karen Kitney  
William Towsley  
Russell Andrews  
David Knapp

ABSENT:

Joseph Scuderi  
Gregg Kidd

ALSO PRESENT:

Mark Arbon, Agency Counsel, Gilberti Law Firm  
Mary Beth Primo, Executive Director, Agency  
Gregory Hitchin, Business Development Manager, Office of Economic Development  
Kim Hall, Management Analyst, Office of Economic Development  
Carolyn May, Sr. Economic Development Specialist, Office of Economic Development  
Karen Doster, Recording Secretary  
Donna Herlihy, NY Family Business Center  
Shelli Ryan, Gilberti Law Firm

APPROVAL OF REGULAR MEETING MINUTES – APRIL 9, 2009

Upon a motion by Russell Andrews, seconded by David Knapp, the OCIDA Board approved the minutes of April 9, 2009 regular meeting with Robert Baldwin, Karen Kitney and William Towsley voting yes. Motion was carried.

TREASURER'S REPORT

Greg Hitchin gave a brief review of the OCIDA investments and accounts for the month of April 2009.

Russell Andrews asked if the Treasury was obtained at a discount. Greg Hitchin stated that it was at a discount but not sure why.

Upon a motion by William Towsley, seconded by Russell Andrews, the OCIDA Board approved the Treasurer's Report for the month of April 2009 with Robert Baldwin, Karen Kitney and David Knapp voting yes. Motion was carried.

#### PAYMENT OF BILLS – SCHEDULE # 321

Greg Hitchin gave a brief review of the Payment of Bills, Schedule #321.

David Knapp asked if there were any comments at the meeting of Corporate Real Estate Executives. Greg Hitchin stated that there were not any specific questions about the Clay Business Park.

Upon a motion by David Knapp, seconded by Karen Kitney, the OCIDA Board approved the Payment of Bills Schedule #321 with General Expenses being \$36,999.05, Marketing Expenses being \$10,101.06 and PILOT payments to Town of Camillus for \$1,015.17, Town of DeWitt for \$35.06, Town of Elbridge for \$1,174.58, Town of Geddes for \$743.90, Town of Onondaga for \$7.14, Village of Camillus for \$548.14, Village of Solvay for \$106.27, Jamesville DeWitt Schools for \$229.44, Jordan Elbridge Schools \$6,001.53, Marcellus Schools for \$86.69, Solvay Schools for \$4,197.71, West Genesee Schools for \$5,190.51, City of Syracuse for \$3,557.24 and Onondaga County for \$11,188.82 with Robert Baldwin, William Towsley and Russell Andrews voting yes. Motion was carried.

#### FW WEBB COMPANY – AMENDMENT OF THE APPLICATION TO THE AGENCY

Mark Arbon stated that the name should be JNT Investments, not J & T on the agenda write up.

William Towsley stated that he has no questions specific to the resolution but after reading the materials sent, he still has a problem with the Local Access Agreement. He stated that the form doesn't spell out the employer. He stated that it spells out the type of work but doesn't say who the contractor is. He stated that when the local labor is revised, the form should be revised so the local contractor will be included and the board can decide if it is local or not. He stated that he has no idea who has the HVAC, plumbing, masonry, site work, foundation and footings and he believes it is necessary to determine local employer. He stated that when he reads the explanation regarding Panko electric he does not believe it is a good enough reason to hire an out of area employer. He stated that he is not going to raise an objection but because the company works with somebody in the past is not a reason to eliminate local employers. He stated that there are numerous electrical contractors in Onondaga County and the counties included in the Agency's local access agreement that can do this work to the expertise needed. He stated that he does not believe that is the goal of economic development and if it is then the doors should be closed because the local employers would be locked out. He stated that it is a silly reason that they have worked with them before. He stated that another reason they use Panko is cost and Pankos historically pays below area standard wages with little or no benefits. He stated that it can be researched. He stated that the labor costs are probably half of what legitimate employers in our area would pay. He stated that if he had to do this over again he would reject this application for the reason of Panko electric.

Mary Beth Primo stated that the application is going to be changed to fit with the new policy and the applicant will be ask to name the general and subcontractors and give addresses.

David Knapp stated that as he understands it, the new revisions will take care of the use of local labor.

William Towsley stated that he does not believe that the revision addresses the employer. Mary Beth Primo stated that the application is going to be changed to fit with the new policy and will ask for the name of the general and subcontractors because those people will have to be local.

Upon a motion by Karen Kitney, seconded by David Knapp, the OCIDA Board approved a resolution adding JNT Investments, LLC as an applicant to the application made by FW Webb Company to the Agency and to all Agency resolutions affecting the FW Webb Company Project with Robert Baldwin, William Towsley and Russell Andrews voting yes. Motion was carried.

#### TERMINATION AND RECONVEYANCE OF FIVE AGENCY PROJECTS

Mark Arbon stated that all the projects listed for termination did not involve a PILOT agreement. He stated that the Agency provided sales tax exemption on construction or purchase of equipment and possibly a mortgage tax exemption. He stated that the leases have expired. He stated that now the Agency is terminating any memorandum of lease recorded in the County Clerk's Office and conveying the facility back to the company. He stated that it also takes it off the Agency's books so we do not have to record it to the State every year.

#### APPLIED THEORY – TERMINATION

Upon a motion by David Knapp, seconded by Karen Kitney, the OCIDA Board approved a resolution terminating the Agency Installment Sale Agreement and authorizing the reconveyance of the equipment at 225 Harrison Street, Syracuse and the Applied Theory project facility located at 125 Elwood Davis Road, Town of Salina, undertaken as an Agency project in 2000, and authorizing an officer of the Agency to sign the necessary documents with Robert Baldwin, Russell Andrews and William Towsley voting yes. Motion was carried.

#### BENDERSON DEVELOPMENT COMPANY – TERMINATION

Upon a motion by William Towsley, seconded by Russell Andrews, the OCIDA Board approved a resolution terminating the Agency Installment Sale Agreement and authorizing the reconveyance of the Benderson Development Company project facility located at 5801 East Taft Road, Town of Cicero, undertaken as an Agency project in 2006, and authorizing an officer of the Agency to sign the necessary documents with Robert Baldwin, Karen Kitney and David Knapp voting yes. Motion was carried.

SUTTON INVESTING CORP – TERMINATION

Mark Arbon stated that Stewart Drive Road is located on this project and the Agency had authorized to convey it to the Town. He stated that the Town attorneys advised that a subdivision was required in order to convey the road to the Town. He stated that the MDA's counsel is taking care of the subdivision. He stated that once that is done Stewart Drive will be conveyed to the Town and the property to Sutton Investing Corp.

Upon a motion by Karen Kitney, seconded by Russell Andrews, the OCIDA Board approved a resolution terminating the Agency Lease Agreement and authorizing the reconveyance of the Sutton Investing Corp. project facility located at 510 Stewart Drive, Town of Cicero, undertaken as an Agency project in 2006, and authorizing an officer of the Agency to sign the necessary documents with Robert Baldwin, David Knapp and William Towsley voting yes. Motion was carried.

GREATER SYRACUSE CHAMBER OF COMMERCE – TERMINATION

Upon a motion by William Towsley, seconded by David Knapp, the OCIDA Board approved a resolution terminating the Agency Lease Agreement and authorizing the reconveyance of the Greater Syracuse Chamber of Commerce project facility located in MONY Plaza, Syracuse, undertaken as an Agency project in 2003, and authorizing an officer of the Agency to sign the necessary documents with Robert Baldwin, Karen Kitney and Russell Andrews voting yes. Motion was carried.

WYNIT - TERMINATION

Upon a motion by William Towsley, seconded by David Knapp, the OCIDA Board approved a resolution terminating the Agency Installment Lease Agreement and authorizing the

reconveyance of the WYNIT project facility located at 5801 East Taft Road, Cicero, undertaken as an Agency project in 2006, and authorizing an officer of the Agency to sign the necessary documents with Robert Baldwin, Karen Kitney and Russell Andrews voting yes. Motion was carried.

P. DRESCHER CO., INC. – RATIFICATION OF RECONVEYANCE

Upon a motion by Karen Kitney, seconded by David Knapp, the OCIDA Board approved a resolution ratifying the reconveyance by the Agency of the Renovations and Equipment located at 7546 (A/K/A 7526, Building A) Morgan Road, Town of Clay, undertaken as an Agency project in 2006, and the Bill of Sale to Company executed by Donald Western on March 7, 2008 with Robert Baldwin, Russell Andrews and William Towsley voting yes. Motion was carried.

FAMILY BUSINESS CENTER – QUARTERLY REPORT TO THE AGENCY

Donna Herlihy stated that she is acting as the Director of Operations of the New York Family Business Center. She stated that they appreciate the \$50,000 and are using it wisely. She stated that they have had several other sponsors step up with five sponsors at the \$10,000 level, one sponsor at a \$2,500 level and a couple other sponsors that are helping with event sponsorship. She stated that they applied for a grant to the federal government for \$350,000 which Congressman Maffei moved forward to the next level. She stated that hopefully in a few months they will hear more about that grant to see if it will be received in 2010. She stated that of the \$50,000, \$9,400 has been spent and mostly spent on the website. She stated that the new website will be more interactive.

Robert Baldwin asked who hosts the website. Donna Herlihy stated that they are using Campaign Now which is located at the Tech Garden. She stated that the other money was spent on marketing materials and they bought a data base. She stated that originally a lot of their mailings were through the Chamber data base and it wasn't hitting the people that they wanted to

hit so they bought an ACT database. She stated that now their mailings will be just to family businesses and not to the rest of the world. She stated that it will help with better attendance at the events. She stated that on May 7 they had an event at the Palace Theater which is a third generation family business. She stated that there were about 15 family businesses represented and the meeting was awesome. She stated the family businesses told them what they wanted to hear from the Family Business Center so they will be able to focus a lot of the upcoming workshops and events on what they said. She stated that all of the print material has the sponsors on the back and on the website.

Robert Baldwin asked if there is a relationship with Syracuse University. Donna Herlihy stated that Craig Waters is on the Board of Directors. She stated that he has not attended any of the meetings yet but they have met with him a couple times. She stated that they received a grant from Syracuse University for \$20,000 and they hope to use it this fall for students and professors. She stated that Jason Fulner from LeMoyne College and Matthew Clark from Cazenovia are on the Board so there are some different resources. She stated that they are interested in this and contacted the Family Business Center wanting to be a part of it. She stated that they still have about nine seats to fill on the Board of Directors and those will be filled mostly with family businesses.

David Knapp asked how many businesses have a membership at this time. Donna Herlihy stated that as far as paid membership dues there are only two. She stated that they have not solicited full memberships yet. She stated that they are first trying to get a base of events and workshops that they can attend. She stated that with all the seminars and workshops they have held, they engaged with maybe 25 to 30 different businesses.

Robert Baldwin stated that people who graduated from the entrepreneurship bootcamp created an alumni group called the Bootcamp II. He suggested to Donna Herlihy that she request from Craig Waters their mailing list to cross network and prevent duplication. He stated that he believes it will be helpful for family businesses to participate in both.

Mary Beth Primo asked Donna Herlihy to send her a written account of the expenditures. Donna Herlihy gave Mary Beth Primo a short version of the expenditures. Mary Beth Primo stated that she will go over it with her after the meeting.

Greg Hitchin asked what the web address is. Donna Herlihy stated that the web address is [WWW.NYFAMILYBUSINESSCENTER.COM](http://WWW.NYFAMILYBUSINESSCENTER.COM).

Robert Baldwin asked if the SyracuseCentral webpage should be linked to their site. Greg Hitchin stated he is going to set up the link.

David Knapp asked who represents the IDA on the Board. Donna Herlihy stated that it was Cheryl Menzel but she put Mary Beth Primo as the contact. Mary Beth Primo stated that the information should be sent to her for now on.

Mark Arbon stated that he received a call last night regarding the Thompson and Johnson project and they are doing a refinancing. He stated that they are asking the Agency to sign a mortgage but they are not asking for any mortgage tax exemption. He stated that a resolution authorizing the execution of a mortgage with the Thompson and Johnson project is needed.

Mary Beth Primo asked what benefit they will receive. Mark Arbon stated that the company is doing a consolidation and the original mortgage the Agency was a party to. He stated that they want the Agency to join in the new mortgage for consistency.

Upon a motion by William Towsley, seconded by David Knapp the OCIDA Board approved a resolution authorizing the execution of a mortgage with the Thompson and Johnson project with Robert Baldwin, Karen Kitney and Russell Andrews voting yes. Motion was carried.

#### LOCAL ACCESS POLICY – REVIEW OF THE REVISED LOCAL ACCESS POLICY

Mary Beth Primo stated that while devising the Local Access Policy, Carolyn May and herself spoke to an experienced project manager and reviewed the minutes on what the board thought was important. She stated that they also talked with Monroe County IDA to get an idea of what they are doing. She stated that Monroe County IDA's local access policy requires that just the

labor be local. She stated that they are working on making a policy mandating that general and subcontractors as well as local labor be within the 10 county region. She stated that there is a provision in the agreement that allows a project to seek a waiver should the Board feel that their circumstances warrant one. She stated that the waiver would be available when needed skills are not locally available, if there are significant cost differentials or other compelling circumstances. She stated that should they seek a waiver, they would provide the Agency with a written application and the Board would make a decision. She stated that the application is not yet drafted but it has been discussed. She stated that it will include the name and addresses of the subs and the general contractors with a sworn statement that they know that all laborers must be from the ten county region. She stated that it will be in large print on the application that if the policy is not followed, there will be the possibility of recapture.

Russell Andrews asked who makes the recapture decision. Mary Beth Primo stated that the IDA Board will make the decision.

Karen Kitney asked if Monroe County limits their labor to residents of Monroe County. Mary Beth Primo stated that they have a region.

Karen Kitney asked if there have been any effects, either positive or negative, on administration being able to get the projects done successfully. Mary Beth Primo stated that she did not ask that question but they do cover a good size region. Mark Arbon stated that Monroe County hires an outside consultant. Mary Beth Primo stated that they do have an outside consultant administering it and policing it. She stated that their policy is different from OCIDA and because they are not using local and general contractors there is more of an opportunity for non-local labor to be on the project. She stated that they put in a lot of money policing the policy. She stated that at this point she does not feel there is a need to hire outside consultants but we can see how things go.

Karen Kitney asked if Monroe County requires the submission of payrolls.

William Towsley stated that Monroe County requires certified payrolls on projects.

Carolyn May stated that the Agency also does on site inspections.

Mark Arbon stated that under our policy, the project cannot have a non local contractor or subcontractor come in and hire local people to do the work without a waiver.

Karen Kitney asked if the Board has thought about enforcement or are we assuming it won't be necessary. Mary Beth Primo stated that enforcement has been thought about but given the difference between the Onondaga County and the Monroe County policies, she does not feel the need at this point.

Karen Kitney stated that she is just concerned that someone is going to say the IDA didn't do the job we said we were going to do.

William Towsley stated that there will be policing by the local community, local employers and local laborer. He stated that when the Agency gets informed that there is a violation, it needs to be checked out and if it is being violated, claw backs need to be implemented. He stated that the first time a claw back is implemented then people will think twice about violating down the road. He stated that the local employers are very enthused about this policy and that the Agency is going to limit it to a certain area because they are paying taxes in Onondaga County. He stated that they are very enthusiastic that the Agency is considering a policy that will allow them more fair competition for the local jobs.

Robert Baldwin asked if the policy should be adopted today or wait for the application to be completed. Mary Beth Primo stated that she believes that the policy should be adopted and the application will be drafted.

Upon a motion by William Towsley, seconded by Russell Andrews, the OCIDA Board approved a resolution adopting the Agency Local Access Policy with Robert Baldwin, Karen Kitney and David Knapp voting yes. Motion was carried.

William Towsley stated that his remarks are by no means an attack on Mary Beth Primo but he has seen that she signed on an editorial about IDA reforms. He stated that he has received a number of phone calls from people wanting to know if the IDA Board made a resolution and agreed to not support IDA reform in the State government. He stated that he told them no and that he believes that the letter was signed on by Mary Beth Primo but because she is the Economic Development Director it is taken as policy or statement that OCIDA is against IDA reform. He stated that that as a board we need to look at the IDA reform bill and form a statement or maybe not. He stated that the IDA Board should look at the IDA reform legislation in its entirety. He stated that there are certain things in the reform that he disagrees with and can not support but the main thing in the editorial that he takes very much objection to is the prevailing wage mandate and that it increases project costs 28% according to independent studies. He stated that every independent study that has been out there has been disputed and their methodology is inaccurate. He stated that labor on a construction project is roughly 30 to 33% so if the project is increased by 28% by putting a wage standard on there, it means the labor would be almost doubled. He stated that it can be proven and has been proven on other studies to be totally inaccurate. He stated that he is going to leave Mary Beth Primo with two studies that support prevailing wage and he is prepared to give her four more. He stated that he does not know what the independent studies are but he would like to see them and show her the inaccuracies. He stated that prevailing rate gives much more than just a living wage, health benefits and pension benefits to workers. He stated that it benefits greatly the community and allows apprentices to work on the job at a lower rate which lowers the cost. He stated that it allows training in the construction industry. He stated that one of the reasons Panko was successful is because they pay well below prevailing wage and it is documented. He stated that if there are no health benefits or pension then costs are lowered and the company is successful but there are no benefits to the worker or the community because they have to seek benefits elsewhere. He stated that he does not know who wrote the letter but he thinks there are some inaccuracies. He stated that the people that are providing the information to the Chamber and the MDA are totally anti-prevailing wage rate which is perceived as a union wage. He stated that prevailing rate is determined by the State of New York by surveys and if the people against prevailing rate want another rate that is prevailing, all they have to do is ask the State of New

York to do a survey. He stated that prevailing rate as a rule in IDAs has a lot more benefits than negatives. He stated that to say it raises the cost is totally inaccurate. How could anyone who provides prevailing rate survive in an industry that is 28% higher. He stated that it is not a union-nonunion issue, it is an issue about what is a just wage to be working on construction including benefits and that is what he supports in IDA reform. He stated that he believes that is what this Board should be determining. He stated that if there are portions of the IDA reform that can be supported, then we should say that but if he is the only one and in the minority so be it but to say some of the things about this bill especially prevailing rate is totally inaccurate.

Mary Beth Primo stated that she signed on to the letter as Director of Economic Development. She stated that she had read early on in a report that was provided to her that imposing a prevailing wage would raise the cost of projects and would put us at a great disadvantage to our neighboring states that do not impose a prevailing wage. She stated that just this week she had conversation with Mike Treadwell from Oswego County IDA and he believed that 28% might not be accurate based on conversations with labor representatives but that imposing a prevailing wage did increase the project costs. She stated that she has heard from a number of different sources that Ulster County imposed a prevailing wage and after a year they had to rescind it because the projects dried up. She stated that she wears a couple of different hats and she knows how William Towsley feels but does not know how the whole board feels about the issue. She stated that this legislation is critical in determining where IDAs go in the future and any provision that makes it more difficult for projects to get done, not just the prevailing wage provision, will make doing business with IDA less attractive. She stated that she believes that prevailing wage will be one of the issues that companies will look at and then might conclude that the IDA will not be much help to them.

Karen Kitney asked who determines prevailing wage. William Towsley stated that it is determined by Counties. He stated that surveys are completed and submitted by employers.

William Towsley stated that there are a number of studies that show that prevailing wage is less costly if you determine everything in that. He stated that there are four states that repealed prevailing wage back in because costs increased. He stated that Missouri, Ohio and Utah have

put the prevailing rate back because the cost skyrocketed. He stated that it is the opponents of the union structure that have put out the studies. He stated that it is not about what the prevailing rate would do for the economy and the worker on construction but a debate between a union and non-union structure. He stated that if there is any cost it is determined between 1% and 4%. He stated that when there is no rate structure, it allows the employer to go down to minimum wage to pay his workers. He stated that in today's world why wouldn't you want some type of wage structure that people can live on then just above the minimum wage. He stated that you will hear all kinds of opposition to this by the other people and the main promoter of this is the ABC.

Robert Baldwin suggested William Towsley and Mary Beth Primo get together to discuss this issue.

William Towsley stated that he brings this up because when people read a letter signed by the Director of the Office of Economic Development, they are believing that this Board doesn't believe in the IDA reform. He stated that discussions were never held. He stated that he has some negative feelings about some of the reform and it should be discussed or the Economic Development Director makes a statement that it is her opinion not the Board's.

Mary Beth Primo stated that she believes she made a statement as Economic Development Director not as Executive Director of the IDA by signing as the Director of Economic Development.

Robert Baldwin stated that that is the problem with having two hats.

Mary Beth Primo stated that she answers to other people not just this IDA Board. She stated that if the Board wants to decide something that would be great and then the Board can put out a statement in favor or opposed to IDA reform. She stated that she has her hands tied because the IDA Board hasn't taken any action but her office and the County Executive have a position that is different from William Towsley's.

Robert Baldwin suggested that the Board can go through the Hoyt Bill at the next meeting. He stated that it will be a healthy discussion for the IDA.

Mark Arbon stated that some material can be circulated in the meantime.

Upon a motion by William Towsley, seconded by David Knapp, the OCIDA Board adjourned the regular Agency meeting at 8:52 am with Robert Baldwin, Karen Kitney and Russell Andrews voting yes. Motion was carried.

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Mary Beth Primo, Executive Director