

Onondaga County Industrial Development Agency
Regular Meeting Minutes
March 12, 2009

The regular meeting of the Onondaga County Industrial Development Agency was held on Thursday, March 12, 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
Joseph Scuderi
William Towsley
David Knapp

ABSENT:

Russell Andrews
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
Cheryl Menzel, Sr Economic Development Specialist, Office of Economic Development
Karen Doster, Recording Secretary
Kevin McAuliffe, Hiscock & Barclay
Eric Spomer, Catalyst
Jim Morrison, Catalyst
Derek Benson, Catalyst
Carol Thimot, Catalyst
Charles Wemyss, Atlantic Power
Shelli Ryan, Gilberti Law Firm
Sue Stanczyk, County Legislature
Casey Jordan, County Legislature

Robert Baldwin welcomed David Knapp who was appointed by the County Legislature as a new member to the IDA Board and asked him to say a few words about himself. David Knapp stated that he grew up in Central New York in the Lafayette area on his family farm. He stated that he graduated from Lafayette High School and went to West Point. He stated that he served in the military for several years and worked his way back after leaving the military. He stated that he wanted to raise a family here in Central New York. He stated that he has served on the Lafayette Town Board for about 10 years and involved in the community in Lafayette. He stated that on the County level he has served for several years on the Onondaga County Youth Board and was the President for the past few years but has rotated out of that position about six months ago. He stated that for an actual paying job he works for a microbiology company called Remel which is a division of Thermo Fisher Scientific. He stated that he works with micro departments in

hospitals and research laboratories. He stated that his company grows specialty organisms. He stated that he is looking forward to getting up to speed as quickly as possible with the Board and being a good contributing member.

APPROVAL OF ANNUAL MEETING MINUTES – JANUARY 8, 2009

Upon a motion by Joseph Scuderi, seconded by William Towsley, the OCIDA Board approved the minutes of January 8, 2009 annual meeting with Robert Baldwin, Karen Kitney and David Knapp voting yes. Motion was carried.

APPROVAL OF SPECIAL MEETING MINUTES – FEBRUARY 3, 2009

Karen Kitney stated that she was at the meeting and it was not noted.

Upon a motion by Joseph Scuderi, seconded by William Towsley, the OCIDA Board approved the minutes of February 3, 2009 special meeting with Robert Baldwin, Karen Kitney and David Knapp voting yes. Motion was carried.

APPROVAL OF REGULAR MEETING MINUTES – FEBRUARY 12, 2009

Robert Baldwin stated that Vice Chairperson Karen Kitney called the meeting to order.

Upon a motion by William Towsley, seconded by Joseph Scuderi, the OCIDA Board approved the minutes of February 12, 2009 meeting with Robert Baldwin, Karen Kitney and David Knapp voting yes. Motion was carried.

TREASURER'S REPORT

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

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

PAYMENT OF BILLS – SCHEDULE # 319

Greg Hitchin gave a brief review of the Payment of Bills, Schedule #318.

Upon a motion by Joseph Scuderi, seconded by David Knapp, the OCIDA Board approved the Payment of Bills Schedule #319 with General Expenses being \$79,118.65, Marketing Expenses being \$ 11,137.66 and PILOT payments to Town of Cicero for \$5,659.53, Town of Clay for

427,673.29, Town of DeWitt for \$29,66187, East Syracuse Minoa Schools for \$151,221.62, Liverpool Schools for \$475,339.87, North Syracuse Schools for \$31,228.52 and Onondaga County for \$94,492.99 with Robert Baldwin, Karen Kitney and William Towsley voting yes. Motion was carried.

CNY ASC, LLC – CLOSING RESOLUTION

Mark Arbon stated that he believes CNY ASC, LLC is closing today and the closing resolution represents the equipment portion of the Central Land transaction.

Upon a motion by Karen Kitney, seconded by David Knapp, the OCIDA Board approved a resolution authorizing the signature by an office of the Agency of the documents necessary to enter into an installment sale agreement with the CNY ASC, LLC project with Robert Baldwin and William Towsley voting yes. Joseph Scuderi abstained from voting. Motion was carried.

F.W. WEBB – CLOSING RESOLUTION

William Towsley stated that his understanding is that some of the contracts for construction have been awarded to out of area employers. He stated that when reading the local access agreement he does not believe they have lived up to the intent of the agreement. He stated that the agreement states that “the company understands that it is the Agency’s policy that benefitting companies should be utilize local labor and businesses particularly in the construction phase of a project.” He stated that he only knows of three bid outcomes, two he understands because of specialty work being outside local area because of specialty work, but he does not know the outcome of the other contracts whether they are out of the local area. He stated that he does not believe that the Agency should be inducing projects where in the bid stage they solicit out of area employers, knowing they have to live up to this agreement.

Mary Beth Primo stated that she has had conversations with Mr. Towsley over the past couple weeks and this is something that is going to be added to the study session agenda. She stated that her understanding of the local access agreement indicates that the Agency encourages the use of local labor. She stated that perhaps a discussion needs to take place on whether the Board wants to require the use of local labor or local contracts and if so the language needs to be changed. She stated that “should” does not mean “must”. She stated that if the Agency is going to encourage the use of local labor, the way things are being done now need to be shifted because there are no teeth in the agreement now.

Robert Baldwin asked if FW Webb sent out bids to local contractors. Mary Beth Primo stated that they did send out bids to local contractors. She stated that Mr. Towsley called her on the electrical bid that was awarded to a company in Binghamton. She asked Mr. Towsley if there were four bids sent out. William Towsley stated that there were four bids sent out with three being local and one was not.

Mary Beth Primo stated that they chose the electrical contractor from Binghamton because it was the lowest bidder.

William Towsley stated that the definition of “should” is quite clear to him but not to some people. He stated that the local access agreement doesn’t mean anything and if the board is about to induce projects that give them the opportunity to use out of area contractors then we might as well tear up the local access agreement. He stated that the company knew what they agreed to and they shouldn’t even have had out of area contractors bidding on the project. He stated that he does not know where the HVAC, plumbing or any of the general contracting subs are. He stated that it is quite clear to him that the company should utilize local labor and they didn’t by allowing someone from out of the area to bid it. He stated that they could have included a fourth local contractor and whoever was lowest they could move from there. He stated that they are not living up to the intent of the local access agreement and he has not seen a completed agreement yet. He stated that if the intent of the OCIDA is to use local labor then stronger language is needed.

Mary Beth Primo stated that the information she shared with Mr. Towsley did indicate that on every facet of the project they were receiving bids from all over from this County as well as outside the county. She stated that we do not know at this point who they have chosen for the different aspects of the project other than electric. She stated that if the intent of the Board was to ensure that only local labor was used, the agreement does not do that.

Mark Arbon stated that he does not think that the intent of the Board was to make it mandatory and that was why the sales tax exemption certificate was limited to 90 days and not renewable unless the company submitted an updated contract status report. He stated that it wasn’t mandatory that the company uses local labor but it was mandatory that they submit the access report to see what companies they were using.

Robert Baldwin stated that the local access agreement needs to be reviewed.

Mark Arbon stated that he believes there was a project that came before the Board with a specialized building and there was a limited number of contractors that specialized in that type of work and the company preferred to use a contractor that was out of state.

Robert Baldwin stated that it can be provided in an agreement that exceptions can be made by the Agency but this needs to be discussed.

Mark Arbon stated that instead of using all local contractors maybe a percentage of contractors must be local with some exception for specialized situations.

Robert Baldwin asked when the project is due to close. Mark Arbon stated that he believes they were trying to close this month.

Robert Baldwin stated that the project has already been induced.

William Towsley asked if there is a representative from the company here that could answer some questions. Mark Arbon stated that there is no representative here today and the Agency doesn’t generally require anyone to appear when there is a closing.

William Towsley asked when the Agency requires the Local Access Agreement to be filled out completely. He stated that he has not seen a completed agreement from this company. Mark Arbon stated that we generally have the agreement before the issuance of the sales tax exemption certificate and it has to be updated to get the renewed sales tax exemption certificate. He stated that the tax exempt certificate is only valid for 90 days and to renew the certificate, the company must submit a request for renewal and an updated contract status report.

William Towsley stated that he understands there is specialty work and there may not be enough employers locally to do that. He stated that he does not believe there are four crane companies in the five counties but he doesn't believe that electrical, plumbing or HVAC is a specialty and there is enough in five counties to cover this clause. He asked if the question has been asked of FW Webb why they solicited bids for mechanical and electrical outside the counties covered under the local access agreement. He stated that he would like to hear their response to that. Mary Beth Primo stated that the question has not been asked of FW Webb.

William Towsley stated that the Agency needs to look at the agreement quickly but if not then throw it out. He stated that it doesn't mean anything if they are not going to follow the agreement at the bid stage or construction stage. He stated that he understands the specialty type work but the majority of construction is not specialty and there are employers within the five counties that can handle it locally and then use local workers.

Mary Beth Primo stated that she agrees with William Towsley that the agreement needs to be looked at because what he wants the Local Access Agreement to do, it is not doing. She stated that she does not think at this point that the Agency can hold FW Webb accountable for something that the Agency may want them to do but it is not actually requiring it.

William Towsley stated that the definition of should and what is told to the companies at the time of inducement could be a lot more clear and told that the bidders have to be from the five counties and that is it. He stated that he is quite sure that they understood what they were doing because when they solicit three or four what is considered local companies and then go outside for one, there is something odd about that to him.

Mark Arbon gave a brief review of the Local Access Agreement to the board members.

Robert Baldwin stated that at the time the process was started, there were cases where local contractors weren't even brought into the bid process. He stated that the Agency wanted to make sure that the local contractors had the opportunity to bid for jobs. He stated that this local access agreement takes it a step further. He stated that the project was induced and they should have completed a local access agreement.

William Towsley stated that he does not believe there is a completed agreement at this time. Greg Hitchin stated that the project is still out to bid.

Mark Arbon stated that the project can be approved with the condition that the local access agreement is completed.

Karen Kitney made a motion to approve the project with the condition that the local access agreement is completed.

Joseph Scuderi asked who reviews the local access agreement. Mark Arbon stated that staff reviews the local access agreement and it can be circulated to the Board.

Mary Beth Primo asked what is acceptable because the project was sent out to bid to four different companies, 3 local and 1 not local and they chose the non local company because it was the lowest bidder. She stated that if that is still a problem then what is the Agency looking for.

Joseph Scuderi stated that William Towsley is looking for the status of the rest of the contracts and looking for the local access agreement to be filled out.

Mary Beth Primo stated that she agrees that the local access agreements need to be completely filled out but what is acceptable once it is completed.

William Towsley stated that if Board isn't going to instruct the developer, customer or owner that they have to use local labor, then the agreement doesn't mean anything. He stated that if the stance of the Board is to use the local access agreement as written, then it doesn't mean anything and can't be enforced so there is no sense in talking to the project because they are going to use the low bidder. He stated that we are into a situation, especially now because of the economy, where people will come in from anywhere to bid on work. He stated that if that is what the Agency is going to allow, and it will continue for years to come and it was said that it was going to be addressed, then so be it but he will not vote for any resolution in the future until he sees local access agreements completed. He stated if they know the intent was to use local area employers and then solicit bids from outside the area, it violates the intent of the local access agreement. He stated that he would tell them to rebid the electrical and include one, two or three more contractors and do it within the area.

Carolyn May stated that she was Board Chair when the local access agreement was adopted and it was never the intent to require local labor. She stated that the process used was to essentially do a survey of the IDAs throughout the State and see who required local labor and who did not. She stated that most did not require local labor. She stated that what was suppose to happen but did not happen was that the local access agreement was adopted and was voluntary, then they were to go back maybe a year later to look at them to see what the result was and see if indeed there was a problem or not. She stated that that piece never got done but the initial intent of the Board was not to require local labor.

Robert Baldwin stated that he believes that the local access agreement needs to be revisited and look at the last twelve months of the agreements to see what the percentage is.

William Towsley stated that he would like to see local access agreement filled out completely and would like to know why they went outside the area for some of their solicited bids.

Joseph Scuderi stated that he would be willing to second the motion as long as the local access agreement is circulated to the Board members before the project is closed.

Upon a motion by Karen Kitney, seconded by Joseph Scuderi, the OCIDA Board approved a resolution authorizing the signature by an officer of the Agency of the documents necessary to enter into a straight lease agreement with the FW Webb project with the condition that the local access agreement is completed and distributed to the Board with Robert Baldwin, William Towsley and David Knapp voting yes. Motion was carried.

ONONDAGA RENEWABLES, LLC – PROJECT REVIEW AND AUTHORIZATION OF THE PUBLIC HEARING.

Kevin McAuliffe stated that Onondaga Renewables does not have a contractor yet and it is a very specialized project. He stated that there are multiple opportunities for bids but they have no one identified yet. He stated that they will be identified before coming back before the Board. He stated that the DEC is the Lead Agency on this action and the project needs two permits from them. He stated that they need a SPEDES water discharge permit and an air permit. He stated that the water permit is in place but the air permit application can not be completed until they have the contractor. He stated that only when they have the contractor will the general scope of environmentally sensitive machinery will be identified specifically so DEC approval can be obtained. He stated that before the project is back before the Board the final time, they will have obtained the final sign off from DEC which includes the completion of the SEQRA and in turn the contractor. He stated that this project is the rebirth of the Onondaga Cogen facility in the Town of Solvay. He stated that it is a bio mass facility.

Eric Spomer, President of Catalyst, stated that Catalyst Renewables is the mother ship with two affiliates, one being Catalyst Geothermal located in Southern California and the other is CRC headquartered in Armory Square. He stated that they have teamed up with Atlantic Power who was the owner of the Onondaga Cogen project. He stated that they were looking at solving a problem in the Solvay area for a need for base load renewable energy and they found each other. He stated that the Onondaga Cogen plant was kind of defunct and was barely running. He stated that it was an opportunity to bring it out of the ashes and turn it into a new renewable energy project which will have the impact of not only helping Solvay and Geddes directly but further the region because it will ease transmission constraints. He stated that it will create a lot of jobs all of which are local. He stated that there are 24 scheduled to be full time employees at the plant including using existing personnel from Onondaga Cogen. He stated that there will be indirect jobs created with truckloads of full process wood waste, which would be otherwise left rotting in the forest and never be used. He stated that they do not cut down trees for the use of bio mass fuel so they give the loggers an additional revenue stream, local land owners an additional revenue stream, guys running chippers and guys driving trucks. He stated that they spend about \$12,000,000 in just fuel acquisition all within 50 to 75 mile radius of the plant.

Derek Benson gave a review of the site. He stated that they are going to convert the main boiler building to accommodate a solid wood fuel as opposed to a natural gas. He stated that they intend to buy wood primarily in summer and winter and store it and as they go into the spring and the fall, they need to maintain a fairly good supply on site. He stated that the permitting process is well underway and should be wrapped up in the April to May time frame. He stated that the facility will be a state of the art from an emissions control standpoint with all of the best equipment available to control emissions. He stated that it is about a 24 month construction

schedule. He stated that they will have 24 permanent jobs and have an upward of 100 people procuring wood on behalf of the project and during construction they will have 85 to 100 highly skilled employees working with high temperature high pressure boiler application. He stated that they will be high skilled, high paying positions supporting the construction. He stated that the wood that they purchase generally comes as a by product of existing logging operations. He stated that the guys in the woods harvest for dimensional lumber and pulp chips and then they take the non merchantable material. He stated that there tends to be a misconception of logging and lots are thinned out but the lots still have a lot of standing timber. He stated that it actually improves forest health in the region because the low grade inferior trees are cleaned out. He stated that the loggers had to rely on the high grade market because there was no low grade market so they would go in and take out the best trees but leave the low grade, ending up with a financially and environmentally less productive forest. He stated that they are working with SUNY ESF looking at an alternative wood supply. He stated that they have been planting their fast growing hybrid willows to see if they can be a commercially viable source. He stated that it would be harvested in the winter so they will be able to leverage existing farming equipment that would otherwise be sitting idle for the winter. He stated that the project is 40 megawatts of gross electrical generation. He stated that it is about half the size of what Onondaga Cogen is as a natural gas facility. He stated that they are reducing overall output but using the existing electrical connections and water connections that the facility is already permitted for. He stated that it has its SPEDES water discharge permit in place.

Kevin McAuliffe stated that the total project is more than the \$86,000,000 stated on the application. He stated that it is really around \$121,000,000 but under the New York State tax law the equipment that is used directly for electric generation is purchasable free of sales tax.

Upon a motion by William Towsley, seconded by Karen Kitney, the OCIDA Board approved a resolution describing the proposed Onondaga Renewables, LLC project, located in the Town of Geddes consisting of a \$86 million, renewable-energy, bio-mass facility consists of a main boiler house, a maintenance building, electrical switchgear, a cooling tower and exhaust stack and a fuel area with scales and tanks with Robert Baldwin, David Knapp and Joseph Scuderi voting yes. Motion was carried.

Upon a motion by William Towsley, seconded by David Knapp, the OCIDA Board approved a resolution authorizing a public hearing for the Onondaga Renewables project with Robert Baldwin, Joseph Scuderi and Karen Kitney voting yes. Motion was carried.

Kevin McAuliffe stated that he would like to talk to the Board at some time about their Uniform Tax Exemption Policy. He stated that the Agency passed a policy which provided certain tax credits for LEED certified projects. He stated that when you compare the benefits of a LEED certified project to what this project does in terms of reducing the carbon footprint, reducing energy, replacing consumed energy in our area with renewable energy, this is many times over what a platinum building does. He stated that with the economy the way it is, the old existing buildings in the area will not be converted to LEED certified buildings in the near future. He stated that this will have the capability of imposing that benefit of a LEED certified building by the virtue of the renewable energy production and the fact that the facility will be carbon neutral.

He stated that as the project moves forward, he would like to sit with staff and bring back a proposal for a slight modification to the existing uniform tax exemption policy that in some fashion to be determined would qualify this project with some green credit treatment.

Mark Arbon stated that it may also be accomplished by a deviation from the existing policy. He stated that a provision was added for deviating from the policy.

Karen Kitney asked if the referable distance is not 500 feet. Kevin McAuliffe stated that of all the actions they have pending is the site plan approval with the Town of Geddes. He stated that there are site modifications but he will check to see whether if it was referred to SOCPA or if they should refer it to SOCPA in the interim.

AGENCY BUDGET FOR FISCAL YEAR – JULY 1, 2009-JUNE 30, 2010

Greg Hitchin reviewed the budget. He stated that he knows it is a lot to look at to have comments on it right away but welcomes any comments today or before the next meeting.

Robert Baldwin stated that if we had civic facility bonding authority the budget would look better or even be a positive.

Karen Kitney asked if the budget addresses the relationship with the County that was discussed at the last meeting. Mary Beth Primo stated that this budget does not indicate any type of change in the relationship but they are working towards a change. She stated that there is a date set for a meeting with herself, Greg Hitchin, Jim Rowley, the County Legislature and Ed Kochian to discuss the relationship. Greg Hitchin stated that the meeting has been scheduled for March 25.

Joseph Scuderi asked what the Agency fees are based on. Greg Hitchin stated that the Agency fees are based on 12 new application fees plus the current pending projects assuming that most of them will close during the course of the year. He stated that he is contemplating that three of the new projects will close during the course of the year.

Joseph Scuderi stated that there are 12 new projects and asked how many were new last fiscal year. Greg Hitchin stated that there were 15 or 16 projects last fiscal year.

ONTRACK – ARMORY SQUARE STATION LEASES

Mary Beth Primo stated that the City is in negotiations with Joe Hucko who wants to buy the property. She stated that the City felt that if they could unwind the lease it has with OCIDA, then it could get a better price from Joe Hucko which Joe Hucko also has stated. She stated that after discussing this matter with the City, the City understands OCIDA's concern with unwinding the lease at this point especially with rail coming back into play. She stated that once the property is given up, we will probably never get it back. She stated that we are not sure what type of use it will have but hopefully with rail possibly running again there will be a use and that is what we are working toward.

Robert Baldwin stated that we are working and have been working on the Park Street Bridge project to try and get the rest of the funding in place. He stated that giving up this property would almost be a contradiction to the goals relative to that work.

Joseph Scuderi asked how much we pay. Mary Beth Primo stated that we don't pay anything.

Joseph Scuderi asked if Joe Hucko pays the Agency. Mark Arbon stated that Hucko has a sublease from NYS & W with half going to the City and half goes to the Agency. He stated that the Agency portion can be used to make repairs and other site work to the rail line. He stated that part of that is that Joe Hucko is subleasing the building and the parking area. He stated that the building is being utilized by him through a sublease and he is paying rent on it.

Joseph Scuderi asked if the property is being used just for parking. Mark Arbon stated that he is using the parking lot for parking and has the use of the building to create offices and lease them out as long as he preserves the waiting area and the ability to use the building for a passenger terminal.

Joseph Scuderi asked how long his lease is. Mark Arbon stated that his lease is as long as the NYS & W lease and the Agency lease. He stated that if the lease runs out in 2029, the residual value and the fee interest from the City would be a lot less but if we were to unwind the deal, the City's fee interest would be a lot more. He stated that although we would like to help out the City and give them a better value, it doesn't seem practicable for the Agency to unwind the transaction or even modify it.

Joseph Scuderi stated that he has use of the building and parking lot and it reserves the Agency's ability to do something in the future.

Mark Arbon stated that the Agency has the right to terminate the lease with the City with 90 days notice through 2029. He stated that any potential tenants that Joe Hucko has are subject to that potential termination. He stated that his use and sublease is conditioned upon the City and IDA terminating its lease. He stated that Joe Hucko is just trying to protect himself.

Karen Kitney stated that there is no reason to jeopardize our potential benefits from the regional transportation.

Mary Beth Primo stated that there is going to be a study session to discuss the local access agreement, determine whether the green PILOT program should be extended to renewable energy or to companies that are developing green products and do we need a separate green credit policy extension or just do a deviation on a case by case basis and discuss the changes to the handbook. She stated that she will get a date out to see what works best for the Agency Board.

Robert Baldwin stated that he noticed that a bill was passed in the Assembly that would require that local planning and zoning boards take into consideration renewable energy in all projects. He stated that he is not sure what happened to it but it did pass the Assembly. He stated that if it becomes law, every project we ever see is going to have some element of renewable energy in it.

Upon a motion by Joseph Scuderi, seconded by Karen Kitney, the OCIDA Board adjourned the regular Agency meeting at 9:03 am with Robert Baldwin, William Towsley and David Knapp voting yes. Motion was carried.

Mary Beth Primo, Executive Director