

Onondaga County Industrial Development Agency
Special Meeting Minutes
October 23, 2008

The special meeting of the Onondaga County Industrial Development Agency was held on Thursday, October 23, 2008 at the Baldwin & Sutphen Law Offices, 126 North Salina Street, Syracuse, New York.

Chairperson Robert Baldwin called the meeting to order at 8:03 a.m. with the following:

PRESENT:

Robert Baldwin
Joseph Scuderi
William Towsley
Dan Healy
Russell Andrews

ABSENT:

Gregg Kidd
John Rizzo

ALSO PRESENT:

Mark Arbon, Agency Counsel, Gilberti Law Firm
Carolyn May, Interim Executive Director
Greg Hitchin, Business Development Manager, Office of Economic Development
Karen Doster, Recording Secretary, Agency
Melissa Dujaic, Gilberti Law Firm
Andy Leja,
Charlie Wallace, VIP
Vince Raymond, VIP

CENTRAL LAND, LLC – SEQRA, INDUCEMENT AND CLOSING RESOLUTIONS

Mark Arbon stated that the Agency designated itself as lead agency and letters were sent to the involved agencies. He stated that the 30 day period has not run yet but all the involved agencies have consented to the IDA being lead agency.

Russ Andrews asked who owns the property for the development. Carolyn May stated that the owner consists of a number of the partners under a separate LLC.

Joseph Scuderi asked if the hospital has any interest. Carolyn May stated that the hospital does not have an ownership interest. Mark Arbon stated that the project is going to be operated by a practice group and each practice is its own entity or partnership.

Joseph Scuderi stated that he read that the hospital was taking a 10.256 share. Robert Baldwin stated that FSA of SUNY is a foundation.

William Towsley stated that the local access agreement is not complete. He asked when the project is going to bid and if it has gone to bid why are the contractors not listed. Andy Leja stated that the project has not been bid yet but is scheduled to be bid very soon. He stated that

when the contractors are know, they will be listed on the local access agreement. Mark Arbon stated that his office called Central Land about the incomplete local access agreement and they stated that they are waiting to close on their financing.

Upon a motion by William Towsley, seconded by Russell Andrews, the OCIDA Board approved a resolution adopting a negative declaration for the Central Land, LLC project located in the Town of DeWitt as an unlisted action with no significant effect on the environment with Robert Baldwin and Dan Healy voting yes. Joseph Scuderi abstained. Motion was carried.

Upon a motion by Russell Andrews, seconded by William Towsley, the OCIDA Board approved an inducement resolution for a straight lease transaction consisting of the construction of a 92,000 square foot, high tech medical/educational center located in the Town of DeWitt with Robert Baldwin and Dan Healy voting yes. Joseph Scuderi abstained. Motion was carried.

Upon a motion by William Towsley, seconded by Russell Andrews, the OCIDA Board approved a closing resolution authorizing the signature by an officer of the Agency of the documents necessary to enter into a straight lease transaction consisting of the construction of a 92,000 square foot high tech medical/educational center located in the Town of DeWitt with the Central Land, LLC project with Robert Baldwin and Dan Healy voting yes. Joseph Scuderi abstained. Motion was carried.

GREEN BUILDING PILOT POLICY

Carolyn May stated that she would like the Board Members to understand the process of green building. She stated that what needs to occur is an agreement with the policy today, it would be circulated to the taxing jurisdictions throughout the county and then in November the Board will vote on it. She stated that when November comes and there is a want for the change in policy, the process would have to be restarted. She stated that it would be very helpful if the Board feels very comfortable with the policy so it can be voted on in November.

Mark Arbon stated that the Agency's current policy states that if the project is a net wealth generator or manufacturing, then the decision is based on a case-by-case basis for a PILOT agreement. He stated that the law states that the percentage and the term should be listed so he revised the exemption policy to incorporate the unwritten policy which is the PILOT received for a net wealth generator is a 10 year PILOT using 485b exemption regardless of whether or not the taxing jurisdiction had opted out of it, based upon a value that the Agency determines the project to be worth based upon the cost data provided by the company, times the tax rate and increase 3% per year with a fixed payment. He stated that it has been our policy for several years but not written into the uniform tax exemption policy. He stated that the Agency also doesn't have in the uniform tax exemption policy a procedure for deviation. He stated that the procedure for deviation was the taxing jurisdictions had to consent but a deviation policy has been added so that on a particular project give something different than the standard policy. He stated that the procedure for deviating would be to notify the taxing jurisdictions 30 days prior to the meeting, which is standard for many of the uniform tax exempt policies that have been reviewed. He stated that the sales tax exemption material was updated. He stated that it still says that a sales

tax exemption certificate is given for one year and is renewable but in fact it is given for three months and renewable based upon providing a contract status report.

Carolyn May stated that if the local access agreement is not submitted to the Agency after three months, the sales tax exemption certificate is not renewed.

Vince Raymond stated that he reviewed the draft and thinks that it makes sense but there are a couple minor comments.

Carolyn May asked Vince Raymond to revisit the rationale behind the Green Building PILOT policy. Vince Raymond stated that basically there is only one way to measure sustainable buildings and that is to use the LEED certification system because the companies have to run their buildings through the LEED system and receive one of four levels of certification. He stated that the higher levels are stricter and add cost to the project but it will end up with a better building. He stated that the Agency realizes this and wants to help with green buildings in the area. He stated that they have come up with estimates of what the premium that would be paid above the normal construction costs for a typical IDA project and those percentages are 4%, 7%, 10% and 13%. He stated that every project is different, LEED certified building is different and the company gets to choose what LEED points they are shooting for. He stated that some people are doing some elements of green even though they are not doing LEED certified. He stated that it is impossible to answer accurately how much the cost is to build green but he believes the percentages they came up with is a fair estimation for an IDA project.

Charlie Wallace stated that between the research they did and their experience with IDA projects there was thought put into the percentages but depending on the type of project will depend on the project cost. He stated that there are certain soft costs that every LEED project will incur including the fee to the US Green Building Council, commissioning the project and additional time it will take to build the project.

Vince Raymond stated that he believes the end user should receive an incentive for building green not only having their expenses covered. He suggested 20% of the premium costs. He stated that if the program is to be done, you want people to take advantage of it and not just a piece of legislation that never gets used. He stated that the company will be getting money back from their PILOT payment.

Charlie Wallace stated that Dan Healy had asked what specific criteria was used to determine whether it is certified silver, gold or platinum. He handed out an example of the criteria used to determine the level of LEED certification. He stated that there are specific things that a company can do to acquire points when abiding by the USGBC guidelines.

Russell Andrews asked if building Green takes more time. Charlie Wallace stated that it does take more time up front and will take more time with the commissioning at the end. He stated that it doesn't necessarily effect the ability to get a certificate of occupancy and use the facility but it does add on time to get the actual certification in the end. Vince Raymond stated that the company would need to know that they want to build green early on.

Dan Healy asked about the upfront fees. Vince Raymond stated that there are soft costs such as a small fee with GSBDC. He stated that energy modeling needs to be completed and additional paperwork and administrative work that needs to be done by the design professionals so the design fee will be a little bit higher.

Carolyn May stated that another piece added to the policy is the local contractor's incentive so that the percentages are increased by 20% if the project uses local contractors. She stated that the definition of local contractor is anyone within 200 miles of Onondaga County. She stated that it is not punitive if local contractor's are not used and the company is still eligible to qualify for the other part of the Green incentive.

Charlie Wallace stated that he believes that instead of the policy stating 75% or more of the projects prime and subcontractors are located within 200 miles, it should read the volume that they are completing should be 75% or more because the game could be played that 12 subcontractors are hired and 8 of them are doing very minimal things. He stated that the intent is to give them additional incentive if 75% of the construction cost and work is done by local contractor.

Carolyn May stated that the intent of the policy is to state that and asked how the Board feels about the clarification. Robert Baldwin stated that it makes more sense to change it.

Mark Arbon stated that local contractors extra percentage is only for green projects.

Joseph Scuderi asked if this incentive did not exist what other incentives are there for companies to build green. Charlie Wallace stated that NYSERDA does offer credits and rebates for using high efficiency mechanical systems and light fixtures. He stated that as far as LEED is concerned he is unaware of any other credits a company can receive.

Greg Hitchin stated that he has been asking national site consultants about incentive programs for Green building and he found that there are few communities that have some type of LEED criteria built into their basic program. He stated that he did not hear of any incentives like the one before the board today and he believes Onondaga County is on the cutting edge of building green.

Carolyn May stated that one of the residuals is when the office does attractions, one of the great challenges are the utility costs because they tend to be higher than other places. She stated that if they build a green building, it will result in competitive utility costs. She asked if green buildings are more durable. Charlie Wallace stated that the building is going to be from an operational standpoint much more efficient so the life cycle cost of the building is going to be less over time. He stated that he is not sure durability is the right word but the building will be more efficient therefore cost less over time.

Carolyn May asked if it could be characterized as a better asset. Charlie Wallace stated that it would be viewed as a better asset.

Charlie Wallace stated that he believes the purpose should not be to encourage the construction of LEED certified building but the construction of green sustainable buildings having LEED being the avenue used to measure. He stated that the policy should encourage to build green. He stated that an additional incentive they would suggest for a business would be getting 20% more to build green aside from the local contractors incentive. Carolyn May stated that the additional 20% credit for building green is the intent of the Agency and is in the policy but the wrong table was attached.

Vince Raymond stated that under eligibility the policy should clearly state that the incentives are for new development only.

Mark Arbon stated that he believes the intent was that the PILOT does not apply to improved land or buildings. He stated that if there are multiple buildings on a site, it will only apply to the building that is being improved or constructed on the site. He stated that the PILOT will not apply to the buildings not being worked on. He stated that it can be rephrased.

Vince Raymond stated that it was their impression that the policy applies for new construction, not renovations.

Robert Baldwin stated that there are issues because there are different types of incentives for different types of construction.

Carolyn May stated that she can not remember a PILOT being applied for reconstruction. He stated that the Agency does not displace existing taxes. She stated that the policy should be reworded to address the questions VIP has and make sure it is clearer.

Charlie Wallace stated that he would make sure that people understand that at this point it applies to new construction but maybe in the future it could be extended to renovations.

Mark Arbon stated that he will revise the draft and recirculate. He asked Charlie Wallace and Vince Raymond to email him with any additional comments.

Dan Healy stated that a building being renovated should not be restricted. He stated that the Agency should look into it. He asked Joseph Scuderi his thoughts. Joseph Scuderi stated that that the overall intention of the Agency is not to displace taxes.

Carolyn May stated that talking with the taxing jurisdictions would be a good place to start and see how they would receive it because this would be taking money away from their budgets.

Charlie Wallace stated that reusing a existing facility is very important aspect of sustainability. He stated that LEED and USGBC really encourages the reuse of existing facilities so it would be a good thing to do but there will be a lot of issues that need to be addressed.

Carolyn May stated that if someone did a substantial renovation for a building so that it effected its assessment significantly, the Agency has done PILOTs on the difference from the old taxes and the new taxes. She stated that she is not sure LEED would do that and it needs to be thought about.

Mark Arbon stated that until there is something developed for renovations, if someone came before the Board and asked for the PILOT, the Agency could deviate and apply a schedule on a case by case basis. He stated that the particular taxing jurisdictions that the Agency is deviating from the schedule and propose to apply a green building policy to the particular project.

Vince Raymond asked if the renovations are part of the green portion of the PILOT. Mark Arbon stated that it is not written or part of the uniform tax exemption policy. He stated that its an issue of how much renovation is being undertaken. He stated that if it is a renovation large enough to effect the assessment, they could possibly qualify for a PILOT agreement.

Joseph Scuderi asked if the applicant would be entitled to the PILOT if they meet the criteria. Carolyn May stated yes.

Mark Arbon stated that he has a question about the Technical Assistance Group. He stated that the PILOT policy has been based on a case by case basis although there was an unwritten policy of what was provided. He stated that if the Agency puts in the policy that if your company is manufacturing and net wealth generating this is what benefits you will receive and if you are green this is what benefits you will get, is the Technical Assistance Group required for anything other than a deviation.

Carolyn May stated that it would make things much cleaner if it wasn't necessary to run it through another body.

Mark Arbon stated that it doesn't make sense to have a Technical Assistance Group to advise the board when the policy states what will be received if the project qualifies.

Joseph Scuderi asked what happens if other incentives become available from other agencies. He asked if the incentives will be on top of others being offered and is this the intent of the Agency. Mark Arbon stated that they would not get any other incentives under tax exemptions.

Joseph Scuderi asked how the Agency will look at the other incentives that could possibly be given to projects on top of the IDA incentives. He asked if the policy should be left somewhat objective so that the Agency has the opportunity to look at the whole project including costs and whether incentives are available. Mark Arbon stated that the policy is written that the Agency "may" provide the benefits.

Carolyn May stated that the percentages should be looked at periodically too because as more green buildings get built, the cost to build should decrease.

Mark Arbon stated that the tax exemptions are permissive and do not have to be given to every project. He stated that he does not believe the Technical Assistance Group needs to sign off on these types of projects and asked if the Technical Assistance Group should be kept, removed or just use them for deviations.

Carolyn May stated that the strength in the Technical Assistance Group regarding deviations really has to do with protecting the Agency Board Members. She stated that the Group consists of the Deputy County Executive and the Real Property Tax Director. She stated that the group helps decide whether it is good public policy.

Mark Arbon stated that the policy is set up that the Technical Assistance Group would be involved on a deviation from the standard policy or a case where the taxing jurisdictions have consented and asked the Agency to implement.

Carolyn May stated that VIP did an enormous amount of work on the policy as well as Mark Arbon. She stated that everyone should thank VIP for the amount of work and hours they contributed.

Upon a motion by Dan Healy, seconded by Joseph Scuderi, the OCIDA Board adjourned the regular Agency meeting at 8:49 am with Robert Baldwin, Russell Andrews and William Towsley and voting yes. Motion was carried.

Carolyn May