

Approved 9-17-2021

**Minutes of the Meeting of the  
Oneida County Industrial Development Agency  
August 20, 2021**

**In person at 584 Phoenix Drive, Rome, NY and Webex Video/Teleconference**

**Members Present:** David Grow; Kirk Hinman; L. Michael Fitzgerald; Steve Zogby.

**Members Present Webex/Teleconference:** Ferris Betrus; Mary Faith Messenger; E. Quadraro.

**EDGE Staff Present:** Shawna Papale; Jennifer Waters; Mark Kaucher; Bill Van Shufflin. **EDGE Staff Webex:** Maureen Carney, Tim Fitzgerald

**Others Present:** Rome Mayor Jackie Izzo; Kate Jarosh, B240 LLC.

**Others Present Webex/Teleconference:** Linda Romano & Laura Ruberto, Bond, Schoeneck & King; Mark Levitt & Jenna Peppenelli, Levitt & Gordon; Ryan McCune, representing Camden Renewables; Genevieve Trigg, Barclay Damon, representing GSPP 7024 Fox Rd, LLC.; Jolene Cleaver, Rome Sentinel.

Chair Grow called the meeting to order at 9:24 AM.

**Executive Session:** Chair Grow asked if there were any requests for Executive Session. At 9:35 AM, M. Fitzgerald motioned to enter executive session to discuss contracts and our policy with regard to insurance and possible litigation matters. K. Hinman seconded the motion, which carried 7-0.

At 9:50 AM, a motion to exit executive session and return to the open meeting was moved by F. Betrus, seconded by K. Hinman, and carried 7-0.

**June 18, 2021 Minutes:** M. Fitzgerald requested clarification on Camden Renewables. S. Papale responded that it is new and not a re-application. A motion to approve the June 18 minutes was moved by S. Zogby, seconded by E. Quadraro, and carried 7-0.

**July 16, 2021 Minutes:** M. Fitzgerald noted an error in the Matt Brewing Final Authorizing Resolution paragraph. In the sixth sentence of discussion, "six hours per day" should be "six days per week" A motion to approve the July 16 minutes, as corrected, was moved by S. Zogby, seconded by E. Quadraro, and carried 7-0.

**Financial Report**

M. Carney reviewed the interim financial statements from July 31, 2021. She noted the cash balance of just under \$600,000. No new application fees were received but One-Pull Wire and Cable closed so there was a fee income from that. Cumulative closing and application fees to 7/31/2021 are just under \$60,000. She reiterated completion of MSP clawback payments. The audit committee met and the RFP for audit services was discussed. The RFP was approved by the Committee to be sent out. Six companies were sent RFPs. The request covers three reporting years: 2021, 2022, and 2023. Proposals are due back on September 17<sup>th</sup>. Work has commenced on the 2022 budget, which needs to be reported to NYS OSC by 9/30/2021. A finance committee will be held as soon as a draft budget is ready, before the September board meeting. The financial report was received as presented, subject to audit.

**B240 LLC (Air City Lofts Phase 3) – Inducement Resolution**

Chair Grow introduced a request from B240, LLC for the agency to consider an amended inducement resolution relating to the 240 LLC (Air City Lofts Phase 3) Facility. **A motion to approve an inducement resolution for the benefit of B240 LLC (Air City Lofts Phase 3) Facility, providing preliminary approval for financial assistance in the form of exemptions from sales tax (estimated at \$648,925 not to exceed \$713,817), exemptions from mortgage recording tax (estimated at \$136,628 not to exceed \$150,291), and reduction of real property tax for a period of 10 years, which proposed financial assistance is consistent with the Agency's Uniform Tax Exemption Policy (Housing Policy), and authorizing the Agency to conduct a public hearing, was moved by S. Zogby and seconded by M. Fitzgerald.** Discussion: M. Fitzgerald clarified that the PILOT for this phase of the project is not a deviation from standard housing policy, as compared to Phases 1 & 2. S. Papale introduced K. Jarosh who gave a brief presentation on the proposed project, and

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an update on the two earlier phases of Air City Lofts. Phase 3 does not contain any retail space. Parking for Phase 3 was included in Phase 2 of the project, so there is enough parking for all four phases of the project. Phase 1 residential is 100% leased (84 units), with its retail space at 22% leased. The covid situation was cited as one probable cause. Phase 2, building 1 is on schedule for November 2021 completion, with building 2 completion anticipated for February 2022. Forty-seven percent of Phase 2's seventy-two residential units are already leased and 0% of the commercial space leased. They will be meeting with the City Zoning board in October requesting issuance of a special use permit to allow first-floor residential in Phase 3. One-hundred apartments will be offered in Phase 3, including the introduction of 1-bedroom, 1-bath, and 2-bedroom, 1-bath units. These are in response to interest expressed by the Air Force. Construction would start in the fall with completion in 2022. Projected rents are tentative. In Phase 2, a 1-BR unit rents at \$1,300 monthly and 2-BR go for around \$1,900. There is the possibility day care will be incorporated into the commercial space of Phase 2 and there is space for an outside playground. The Air Force is being consulted with as they are interested in both housing and day care. Stewarts is serving a valuable amenity role in the area. **There being no further questions from the board, Chair Grow called for a vote on the motion. Motion carried, 7-0.**

#### **B240 LLC (Air City Lofts) Phase 3 – Ratification of May 15, 2020 SEQR Resolution**

Chair Grow introduced a SEQR resolution relating to the B2400 LLC (Air City Lofts Phase 3) Facility. The SEQR resolution adopted by the Agency on May 15, 2020 relating to Air City Lofts Phase 2 was based on the lead agency's determination, which included Phases 2, 3 and 4. **A motion to ratify the determinations made on May 15, 2020 as it pertains to SEQR, and that no further review is required for the B240 LLC (Air City Lofts Phase 3) Facility, was moved by S. Zogby, seconded by K. Hinman, and carried 7-0.**

#### **B240 LLC (Air City Lofts Phase 2) – Ratification of Sales Tax Exemption Term Extension Approval**

Chair Grow introduced a request to ratify the earlier approved unanimous consent vote approving the sales tax exemption term extension for the benefit of B240 LLC (Phase 2) Facility through May 31<sup>st</sup>, 2022. This vote was done through e-mail with the entire board of directors participating and with full disclosure. **A motion to ratify the previously held unanimous consent vote approving the sales tax exemption term for the benefit of B240 LLC (Phase 2) Facility through May 31<sup>st</sup>, 2022, was made by M. Fitzgerald, seconded by K. Hinman, and carried 7-0.**

#### **Woodhaven Ventures, LLC – Final Authorizing Resolution**

Chair Grow introduced a request for the Agency to consider a Final Authorizing Resolution for the Woodhaven Ventures, LLC facility. The Agency conducted a public hearing on August 12, 2021 and mailed notices on August 13, 2021 to the taxing jurisdictions notifying of the deviation from Policy. It was noted that the Rome Area Chamber of Commerce spoke in support of the project and provided a written letter of support. **A motion to approve a final authorizing resolution relating to the Woodhaven Ventures, LLC Facility, providing financial assistance in the form of exemptions from sales tax (value estimated at \$2,852,490 but not to exceed \$3,137,739), exemptions from mortgage recording tax (value estimated at \$39,700 but not to exceed \$43,670), reduction in real property tax (value estimated at \$23,569,871) by providing a Master PILOT to the developer for an exemption period of 15 years, and to each Homeowner for an exemption period of up to eighteen years, which is assignable to future homeowners and will be available starting with the 2023 taxable status date through and including the 2040 taxable status date, which financial assistance is a deviation from the Agency's Uniform Tax Exemption Policy (Housing Policy), and authorizing the form and execution of related documents, all subject to counsel review, was moved by F. Betrus and seconded by M. Fitzgerald.**

Discussion: Chair Grow noted that this has been a long process, unique in scope, and thanked Mayor Izzo, counsel, and staff for pulling it all together and making it happen **There being no further discussion, Chair Grow called for a vote on the resolution: The motion carried, 7-0.** Ms. Jarosh thanked the board and exited the meeting. Mayor Izzo also exited the meeting at this time.

#### **MVHS Project – Request from OCLDC related to potential eminent domain**

M. Fitzgerald requested that the Agency deviate from the agenda to address a matter related to the Oneida County Local Development Corporation's issuance of bonds for the MVHS hospital in Utica. Chair Grow granted this request. M. Fitzgerald explained that the OCLDC has asked the Agency to consider the potential disruption of the MVHS project in Utica. The OCLDC has assisted with about \$295 million in bonding authority for the project, and desires the project not be disrupted. It is asking the Agency to consider condemning and acquiring property located at 411 Columbia Street,

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Utica, as this property is essential for the project to move forward and be successful. **M. Fitzgerald moved to direct Agency counsel to explore the avenues and report back as soon as possible, with the methodologies and documentation that the Agency would need to have in order to move forward with condemnation under eminent domain of 411 Columbia Street in Utica. S. Zogby seconded the motion, which carried 7-0.**

#### **Solar/Renewable Energy Project PILOT Billing & Agency Fees**

M. Fitzgerald requested that the Agency again deviate from the agenda to address administrative concerns related to the solar projects. He cited an 'administrative buzz-saw' experienced by staff and counsel in processing applications for these projects and the degree of complexity involved. In some cases, where the Agency induced the projects, the applicant returns to the Agency (before the closing the project with the Agency) and requests additional benefits. This results in a lot of extra time and effort by all involved. **M. Fitzgerald moved to clarify an administrative change as such that the policy be (1) the taxing jurisdictions, not the Agency, are responsible for billing and collecting PILOT payments from the developer; and (2) that all future solar/renewable energy projects induced, and any induced projects that have not yet proceeded to a final authorizing resolution, and are asking for an increase in benefits, that the Agency fee be one and a half times the Agency's normal fee. K. Hinman seconded the motion, which carried 7-0.**

#### **GSPP 7024 Fox Rd, LLC (Marcy Solar) – Final Authorizing Resolution**

Chair Grow introduced a request for final authorizing resolution relating the GSPP 7024 Fox Rd, LLC (Marcy Solar) Facility. The Agency conducted a public hearing on August 17, 2021, the minutes of which the board has been provided. The amended inducement resolution adopted on July 16, 2021 conditioned final approval on the applicant providing an acceptable decommissioning plan, the completed Agency solar project checklist, and clarification on what the bond is going to cover. The IDA has received a fully executed Host Community Agreement (HCA); a fully executed decommissioning plan, and evidence of a bond signed by the developer and the Town that includes a 2% increase per year, with 10-year amounts (2031, 2041, 2051). Staff has been communicating regularly with Town Supervisor Brian Scala, who confirmed the Host Community Agreement and decommissioning plan/bond is satisfactory with the Town. **A motion approving a final authorizing resolution approving financial assistance in the form of reduction of real property tax for a period of 25 years (estimated at \$1,106,924), which proposed financial assistance is consistent with the Agency's Uniform Tax Exemption Policy (Community Solar Policy), and authorizing the form and execution of related documents, all in the Agency's standard form and subject to counsel approval, was moved by S. Zogby, and seconded by F. Betrus.** Discussion: M. Fitzgerald clarified that this project would be affected by the updated fee policy the board just approved. There was also discussion on the term of the Decommissioning bond associated with the project. G. Trigg clarified that the bond premium is paid up-front and covers the entire term, and that the bond is subject to review/renewal every ten years. Payments are also due at the ten-year renewals. The bond document also states that if the premium isn't paid, bond goes away. M. Fitzgerald expressed concern about bond cancellation. Board consensus was that the Agency closing documents must contain wording that requires the Agency be notified of any lapse in the bond status. And, if there is no bond, the PILOT is void, which would return the facility to the tax roll. L. Romano stated that BS&K will insure that is the case. G. Trigg requested that the Agency waive, in this instance, the earlier-adopted higher fee structure for projects requesting change in benefit value status. The board gave G. Trigg the option of keeping the original PILOT plan in place and paying the original fee structure or proceeding with the request for amending the PILOT and paying the revised fee. G. Trigg asked the board to proceed with the resolution on the table. Copies of the signed HCA and decommissioning documents are in Agency possession. S. Papale stated that she has had communication with the school district informing them where we were with the project, and this was acceptable to them. **There being no further discussion, Chair Grow called for a vote on the motion: Motion carried, 7-0.**

#### **Camden Renewables, LLC – Final Authorizing Resolution**

Chair Grow introduced a request for the agency to consider a final authorizing resolution relating to the Camden Renewables, LLC (Camden Solar) Facility. The Agency conducted a public hearing on August 10, 2021. The inducement resolution was conditioned upon receipt of the property lease, proof of decommissioning bond, clarification on the computation of the \$3,431,092 benefit, and a town-approved decommissioning plan. The IDA received the property lease and computation of the benefit. The decommissioning plan and Host Community Agreement are being voted on at the August 16, 2021 Town board meeting. The bond has been approved by the Town but will not be signed until closing.

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**A motion approving a final authorizing resolution approving financial assistance in the form of reduction of real property tax for a period of 25 years (estimated at \$3,448,324), which proposed financial assistance is consistent with the Agency's Uniform Tax Exemption Policy (Community Solar Policy), and authorizing the form and execution of related documents, all in the Agency's standard form and subject to counsel approval, was moved by F. Betrus, seconded by E. Quadraro.** Discussion: M. Fitzgerald noted that we required a bond but that all we have from them is a statement that they will get a bond. R. McCune explained that the bond language and structure has been approved by the Town and is out for signature. The agreement with the Town is that the bond will be posted prior to operation and the town is comfortable with that arrangement. S. Papale stated that we will not draft a single document until we have the executed bond and suggested that the resolution be subject to receiving the final bond documents acceptable to counsel. L. Romano said that they will get the executed bond agreement for delivery to the board. Mr. McCune said the bond was attached to the back of the decommissioning plan they already provided to the board and that it is the actual legal bond form, though it is unexecuted. L. Romano asked for an executed copy be delivered to her as soon as it is available. Board members questioned why the bond company is holding off on signing. Mr. McCune said generally when they get such bonds executed and signed the effective date follows upon filing with all parties, but he would investigate possibly getting the documents executed and signed with the effective date contingent upon commercial operation, similar to, the town agreement. Chair Grow replied that would be acceptable. The bond is one-year renewable bond and needs to be renewed annually to comply with the town's requirements. The town's certificate of occupancy is contingent upon receiving annual notification that the bond has been renewed and in place. The 2% annual escalator is applied annually. This was set-up to insure there is no lapse in coverage. The decommissioning plan states that they need to have a bond in place but does not stipulate that it must be any specific bond provider. They can move to another bond provider. Chair Grow asked that the Agency be notified in all correspondence related to the bond and Mr. McCune replied that should not be an issue. Should the premium not be paid, the question of recourse was addressed. Mr. McCune did not have an answer as to whether Nexamp would ultimately be liable and said he would have to consult with counsel. G. Trigg noted that if the individual municipalities have legislation in place that requires a decommissioning bond, she doesn't believe it's in the IDA's authority to require an escrow account. Chair Grow replied that the Agency retains the authority to grant PILOTs under terms satisfactory to it and doesn't have to grant benefits if it is not satisfied with the process. He added that the Agency cannot dictate but also that it doesn't have to grant benefits. He added that the Agency, from the start of this process, aimed to make sure that many years into the future, there is a process in place that protects people living around these facilities, and that the developer does what it is supposed to do. It was noted that the lease provided to the Agency between the landholder and the developer was a redacted version. Mr. McCune clarified that under the terms of their lease, any increase in real property taxes that is attributable to their project will be the responsibility of Camden Renewables. The property owner will only be responsible for that portion of the real property taxes that existed before construction of the facility. The PILOT payments outlined under "Total Payments to Jurisdictions" in the benefit value calculations document provided to the board by the applicant is in line with the Agency's standard Solar PILOT program. **There being no further discussion, Chair Grow called for a vote on the motion: Motion carried, 7-0.**

Discussion: M. Fitzgerald noted that we required a bond but that all we have from them is a statement that they will get a bond. R. McCune explained that the bond language and structure has been approved by the Town and is out for signature. The agreement with the Town is that the bond will be posted prior to operation and the town is comfortable with that arrangement. S. Papale stated that we will not draft a single document until we have the executed bond and suggested that the resolution be subject to receiving the final bond documents acceptable to counsel. L. Romano said that they will get the executed bond agreement for delivery to the board. Mr. McCune said the bond was attached to the back of the decommissioning plan they already provided to the board and that it is the actual legal bond form, though it is unexecuted. L. Romano asked for an executed copy be delivered to her as soon as it is available. Board members questioned why the bond company is holding off on signing. Mr. McCune said generally when they get such bonds executed and signed the effective date follows upon filing with all parties, but he would investigate possibly getting the documents executed and signed with the effective date contingent upon commercial operation, similar to, the town agreement. Chair Grow replied that would be acceptable. The bond is one-year renewable bond and needs to be renewed annually to comply with the town's requirements. The town's certificate of occupancy is contingent upon receiving annual notification that the bond has been renewed and in place. The 2% annual escalator is applied annually. This was set-up to insure there is no lapse in coverage. The decommissioning plan states that they need to have a bond in place but does not stipulate that it must be any specific bond provider. They can move to another bond provider. Chair Grow asked that the Agency be notified in all correspondence related to the bond and Mr. McCune replied that should not be an issue. Should the premium not be paid, the question of recourse was addressed. Mr. McCune did not have an answer as to whether Nexamp would ultimately be liable and said he would have to consult with counsel. G. Trigg noted that if the individual municipalities have legislation in place that requires a decommissioning bond, she doesn't believe it's in the IDA's authority to require an escrow account. Chair Grow replied that the Agency retains the authority to grant PILOTs under terms satisfactory to it and doesn't have to grant benefits if it is not satisfied with the process. He added that the Agency cannot dictate but also that it doesn't have to grant benefits. He added that the Agency, from the start of this process, aimed to make sure that many years into the future, there is a process in place that protects people living around these facilities, and that the developer does what it is supposed to do. It was noted that the lease provided to the Agency between the landholder and the developer was a redacted version. Mr. McCune clarified that under the terms of their lease, any increase in real property taxes that is attributable to their project will be the responsibility of Camden Renewables. The property owner will only be responsible for that portion of the real property taxes that existed before construction of the facility. The PILOT payments outlined under "Total Payments to Jurisdictions" in the benefit value calculations document provided to the board by the applicant is in line with the Agency's standard Solar PILOT program. **There being no further discussion, Chair Grow called for a vote on the motion: Motion carried, 7-0.**

There being no further business, Chair Grow asked for a resolution to adjourn the meeting. At 10.46 AM a motion to adjourn the meeting was moved by F. Betrus, seconded by E Quadraro, and carried unanimously.

Respectfully Submitted,

Mark Kaucher