

Approved as corrected 11/19/2021

**Minutes of the Meeting of the
Oneida County Industrial Development Agency
October 21, 2021**

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

Members Present: David Grow; L. Michael Fitzgerald; Steve Zogby; Ferris Betrus.

Members Present Webex/Teleconference: Kirk Hinman; Mary Faith Messenger.

EDGE Staff Present: Shawna Papale; Jennifer Waters; Mark Kaucher; Steven J. DiMeo; Bill Van Shufflin; Maureen Carney; Tim Fitzgerald.

Others Present: Rome Mayor Jackie Izzo;

Others Present Webex/Teleconference: Laura Ruberto & Linda Romano, Bond, Schoeneck & King; Mark Levitt & Jenna Peppenelli, Levitt & Gordon; Kate Jarosh, Bonacio Construction; Margaret Campbell, EDF Renewables/Quiet Meadows; Barry Carrigan, Nixon-Peabody/Quiet Meadows.

Chair Grow called the meeting to order at 8:05 AM.

Executive Session: Chair Grow asked if there were any requests for Executive Session. At 8:05 AM, F. Betrus motioned to enter executive session to discuss pending contracts and possible litigation matters. M. Fitzgerald seconded the motion, which carried 6-0.

At 9:12 AM, a motion to exit executive session and return to the open meeting was moved by S. Zogby, seconded by F. Betrus, and carried 6-0.

Minutes: The September 17, 2021 meeting minutes were reviewed. Chair Grow noted that on the top of page 2, regarding the Agency's budget, the mention of "OCLDC" should be changed to "OCIDA." **A motion to approve the minutes, as corrected, was moved by S. Zogby, seconded by M. Fitzgerald and carried 6-0.**

Financial Report

M. Carney reviewed the interim financial statements from September 31, 2021. She identified the current cash on hand at \$648,100, with an additional \$567,599 in restricted cash that are for PILOT distributions relating to the Hartford and Hampton Inn PILOTs. This amount is higher than it has been in years past because the PILOTs have progressed closer to the end of their lifespan, which means a higher amount is being paid by the businesses. Additionally, the EDF Renewables and Fox Rd projects have closed, resulting in another \$103,000+ in application and commitment fees received. Several other projects are still scheduled to be closed upon during the remaining months of 2021. M. Carney also noted that all necessary reports and proposed budgets have been uploaded into the PARIS reporting system online prior to the September 30 deadline.

The financial report was accepted as presented.

M. Messenger then explained to the Audit Committee recently met to review the proposals that were received in response to the RFP for auditing services that was sent out earlier this Fall. The lowest bid by far came from The Bonadio Group. This firm conducted the Agency's audit last year. The Audit Committee was pleased with their work and pleased to see that their bid was the lowest. The Audit Committee has recommended that the Agency engage The Bonadio Group to perform its auditing services. The RFP stated that such services would be offered for a three year period. M. Carney pointed out that The Bonadio Group was \$4,000 to \$5,000 cheaper than the other respondents to the RFP. With no other questions or comments, **M. Messenger moved to engage The Bonadio Group to perform audit services for the Agency for a three year period. S. Zogby seconded the motion and it was carried 6-0.**

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B240 LLC (Air City Lofts Phase 3) Facility

Chair Grow introduced a final authorizing resolution relating to the B240 LLC (Air City Lofts Phase 3) facility, approving 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 (estimated at \$753,348), which proposed financial assistance is consistent with the Agency's Uniform Tax Exemption Policy (Housing Policy), and authorizing the form and execution of related documents, subject to counsel review. The Agency conducted a public hearing on October 5, 2021. There were no comments made at that public hearing. **A motion to approve the final authorizing resolution relating to the B240 LLC (Air City Lofts Phase 3) facility was moved by F. Betrus and seconded by M. Fitzgerald. With no further discussion, the motion carried, 6-0.**

Griffiss Local Development Corporation Request concerning Air City Lofts Phase 3

Chair Grow introduced a request from Griffiss Local Development Corporation (Building 240 Facility) consenting to the release of lands from the Prime Lease for sale to B240 LLC in furtherance of the Air City Lofts Phase 3 project, and authorizing the form and execution of related documents, subject to counsel approval. M. Fitzgerald pointed out for the record that GLDC has sold all of the land in this development area at a price of \$70,000 per acre. The proceeds from the sale of property are all retained by GLDC. **A motion authorizing GLDC to release of lands from the Prime Lease for sale to B240 LLC in furtherance of the Air City Lofts Phase 3 project, and authorizing the form and execution of related documents, subject to counsel approval, was made by S. Zogby, seconded by F. Betrus, and carried 6-0.**

Heartford Luxury Apartments, LLC

Chair Grow introduced a request from Heartford Luxury Apartments, LLC to extend the time of its existing sales tax exemption (from September 27, 2021 to December 31, 2023) and to increase the value of its existing sales tax exemption (from \$772,200 to \$842,200, an increase of \$70,000). S. Papale pointed out that when the Agency most recently granted an extension of benefits to the Heartford projects, the minutes stated that that would be the last extension offered. S. Zogby stated that there was nothing in the request that would have him change his mind regarding the Agency's stance on extending benefits. No motion was made to offer an extension of sales tax exemption. This decision is consistent with prior discussions among the board.

Rome Community Brownfield Restoration Corporation

Chair Grow introduced a resolution relating to the Rome Community Brownfield Restoration Corporation (Complex 4) Facility, extending the lease term for an additional five years to allow the continued remediation and remarketing of the site, and authorizing the form and execution of a First Amended and Restated Lease Agreement in the Agency's current form, subject to counsel approval. S. Papale reminded the board that this was on the previous meeting agenda, but it was tabled so that the proposed lease can be put into a new format that is consistent the Agency's other current lease documents. Previously, the lease memo had not been signed, and a description of the land was not recorded nor attached to the lease. There is also a need for stronger indemnifications that are consistent with other Agency documents, especially considering the potential environmental exposures associated with this site. Chair Grow reiterated that this was a good opportunity to look back on all these documents and bring them up to date. **A motion to extend the Rome Community Brownfield Restoration Corporation (Complex 4) Facility lease term for an additional five years, to allow the continued remediation and remarketing of the site, accomplished by the parties entering into a First Amended and Restated Lease Agreement in the Agency's current form, and upon terms and conditions acceptable to the Agency and subject to approval by counsel, was moved by F. Betrus and seconded by S. Zogby. With no further discussion, the motion passed 6-0.**

Quiet Meadows Solar Farm 1, LLC (Verona Solar)

Chair Grow introduced a request from Quiet Meadows Solar Farm 1, LLC (Verona Solar) to consent to the transfer of the Company's membership interest from EDF Renewables Distributed Solutions, Inc. to ASA Holding NY I LLC. Chair Grow presented the letter from Nixon-Peabody, as well as the decommissioning plan pertaining to this property. M. Fitzgerald asked if this decommissioning plan included a cash deposit, which S. Papale confirmed it did. F. Betrus asked who owns ASA Holding NY I LLC. B. Carrigan explained that this is a special purpose entity that is owned by AMP Solar

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Development. AMP Solar Development is a solar developer based in Toronto that owns solar installations across the Northeast United States. It is a privately-owned US company but maintains a headquarters in Canada. Chair Grow pointed out that this consolidation of solar firms is similar to what previously happened with cell phone tower consolidation, in which they become investment properties with a steady return on investment. M. Fitzgerald pointed out that Agency policy is to identify those with 15% or greater ownership interest for any project receiving benefits through the Agency. Chair Grow stated that with this request for approval to transfer membership interest, ASA Holding NY I LLC essentially becomes an alternate applicant. The Agency is agreeable to allowing a proprietary disclosure of this information. B. Carrigan stated that Nixon-Peabody would work on providing that information to the Agency. Chair Grow stated that the Agency can approve this request, subject to receiving the requested ownership information. M. Campbell from EDF Renewables then provided a brief update on the status of this project – it is under construction – and some additional information about the nature of AMP Solar Development and its projects across the country. **A motion to approve the request from Quiet Meadows Solar Farm 1, LLC (Verona Solar) to consent to the transfer of the Company's membership interest from EDF Renewables Distributed Solutions, Inc. to ASA Holding NY I LLC, subject to receipt of ownership information of the company, was moved by M. Fitzgerald and seconded by M. Messenger. With no further discussion, the motion passed 6-0.**

Quiet Meadows Solar Farm 2, LLC (Vernon Solar)

Chair Grow introduced a request from Quiet Meadows Solar Farm 2, LLC (Vernon Solar) to consent to the transfer of the Company's membership interest from EDF Renewables Distributed Solutions, Inc. to ASA Holding NY I LLC. Chair Grow confirmed that this project also has an approved decommissioning plan and a cash deposit, and that ownership would be transferred to the same company identified in the previous action item. **A motion to approve the request from Quiet Meadows Solar Farm 2, LLC (Vernon Solar) to consent to the transfer of the Company's membership interest from EDF Renewables Distributed Solutions, Inc. to ASA Holding NY I LLC, subject to receipt of ownership information of the company, was moved by S. Zogby and seconded by M. Fitzgerald. With no further discussion, the motion passed 6-0.**

Old Business

Mid-State Raceway, Inc. refinance and estoppel

S. Papale stated that the Agency has received a request from Mid-State Raceway, Inc. asking the Agency to agree to the mortgage documents as part of the company's refinancing. She stated that staff and counsel have reviewed whether all PILOT payments have been received, as the company is approaching the end of its property tax abatement schedule. The company does still have some remaining payments to taxing jurisdictions, and the Agency still needs to monitor the job numbers associated with this project. L. Ruberto added that the new lender did not request that the Agency to join into the new financing documents. But the lender did ask the Agency to sign an estoppel certificate confirming the terms of the Agency documents. She stated that counsel did prepare this certificate and that Chair Grow has signed it. There are no other official actions required to confirm the terms of Agency documents. She also confirmed that there was no increase in mortgage benefits to the company as part of this action. She explained that the Agency's leasehold interest will expire at the end of this tax year (December 31), and that the company has to complete one more employment report in January of 2022.

Prevailing Wage

S. Papale stated that Agency staff and counsel continue to monitor any new developments pertaining to the implementation of prevailing wage rules concerning IDAs in New York State. J. Waters stated that no updates had been provided by NYSEDC at its recent annual conference, but that it is on the agenda for NYSEDC's upcoming Virtual Academy. Staff and counsel were unsure if the total project cost threshold for being subject to these new rules was \$5 million or \$10 million but was confident that projects meeting the threshold would be subject to prevailing wage rules if 30% or more of the project value came from public benefits. So, this rule would indeed impact larger projects assisted by the Agency. L. Romano stated that she has researched other IDAs around New York State to see if there have been any actions taken to prepare for these new rules, but so far, no agencies have done anything. The consensus is that agencies would like to see guidance from NYSEDC, and until then, everyone is just watching out for new developments.

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Bond Project Memo Update

Chair Grow thanked L. Ruberto and L. Romano for preparing a new project summary list, which was included in the meeting packet. S. Papale then stated that with several upcoming projects looking to close by the end of the year, staff and counsel will have to manage that carefully in order to be considerate of everyone's time.

S. Zogby shared a concern that with an expected increase in the number of solar projects requesting approval to transfer ownership, is the Agency's fee schedule adequate to cover the cost of work being done by staff. S. Papale stated that she'd like the Agency to review its current fee schedule and put together a fee schedule "menu" together that would what is covered, and when. For example, if such transfers would take place within the same year of the project closing, that might be included in the original project fee. S. Zogby also stated that he wants the Agency to consider that since transfer in ownership may be expected in the future, is staff considering that in the Agency's calculated fee up front. Chair Grow stated that, like a bank, it would not be unreasonable for the Agency to charge a fee for any supplemental requests from a project. S. Papale also suggested an additional fee schedule for sales tax extension requests, since such requests are becoming more frequent and more complicated.

There being no further business, Chair Grow asked for a resolution to adjourn the meeting. At 9:56 AM a motion to adjourn the meeting was moved by F. Betrus, seconded by S. Zogby, and carried unanimously.

Respectfully Submitted,

Tim Fitzgerald