

ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

MINUTES

November 18, 2009

A regular meeting of the Orange County Industrial Development Agency was convened in public session on November 18, 2009 at 3:00 P.M. at the County Government Center, Goshen, in Orange County, New York.

The meeting was called to order by the Chairman, James Petro, and upon roll being called, the following were

PRESENT: James Petro, Stephen Brescia, John Steinberg, Mary Ellen Rogulski, Robert Armistead

ABSENT: Henry Van Leeuwen, Daniel Coleman

ALSO PRESENT: James O'Donnell – Acting Executive Director  
Edda Eller – Recording Secretary/Bookkeeper  
Joel Kleiman – Chief Financial Officer  
Phil Crotty – Attorney  
Maureen Halahan, Marge LaPerle – Orange County Partnership  
Michael DiTullo – Orange County Business Accelerator  
Peter Gregory – Bright Garden Strategies for OC Business Accelerator  
Wayne Spinei – IBM Corporation  
Noel Spear – C&S Wholesale Grocers  
Bob Ambrosetti, Tom Gandolfini, Bud Whittington, Pete Gandolfini – Local 373  
Matt Stoddard – Ironworkers 417  
Michael Blustein, Larry Grossbard – President Container  
Bob Seeger – Millwright Local 740  
Steve Neuhaus – Chester Town Supervisor  
Michael Levensohn – Times Herald-Record

Chairman, James Petro asked for a motion to approve October 21, 2009 minutes. John Steinberg made a motion seconded by Mary Ellen Rogulski to approve minutes as presented. Affirmative votes of all members present resulted in motion carried.

Chief Financial Officer Joel Kleiman presented the financial report for October 2009 pointing out that expenditures exceed revenues by approx. \$350,000. The good news is that IBM is extending their fees, which will increase the revenue. He distributed an Investment Portfolio as of October 19, 2009 and also showing the maturity of the Orange County Trust Company CD on December 16, 2009. Also presented were the following vouchers and payments: Received from North Jersey Trailer & Truck Service \$21,250 closing fee; voucher and payment to: Orange County Partnership \$1,375 for table reservation for their annual event, NYS Dept. of Environmental Conservation \$568.78 for SPDES fee, Phillip Crotty \$6,672.87 for legal fees September, Michael DiTullo \$2,486.86 paycheck 11/9-11/20/09, Kelly Reilly \$1,090.91 paycheck 11/9-11/20/09, Edda Eller \$1,925 4<sup>th</sup> quarter including \$300 for extra payroll time, Michael DiTullo \$2,486.86 paycheck 11/23-12/4/09, Kelly Reilly \$1,090.91 paycheck 11/23-12/4/09, Chase Bank \$2,297.42 November liability, NYS Income \$481.94 November liability, Commissioner of Taxation and Finance \$33.35 MTA payroll tax. Stephen Brescia made a motion seconded by Robert Armistead to approve financial report and vouchers and payments as presented. Affirmative votes of all members present resulted in motion carried.

Presented was a Resolution regarding IBM and IDA long-term internal Sales Tax Pilot. IBM and the IDA have had an agreement in place since May 28, 1993, including extensions in 1993 and 1998, regarding "internal sales" transfers, which involve the IBM facility at Sterling Forest, Orange County, whereby IBM pays 2% of the value of such transfers to the IDA for the accrual period May 29 of one year to May 28 of the following year, such payments usually being received in August of each year, except that such payment was not received in August 2009. IBM has expanded its Sterling Forest facility via an IDA financing transaction in January 2008 for which IBM was induced by this IDA and remains induced. It is in the interest of the parties to continue the internal sales arrangement for an additional five-plus years, that is from January 1, 2010 to May 28, 2015; and the IDA is desirous that IBM maintain the level of full-time employees at Sterling Forest at five-hundred fifty. IBM has stated that it cannot commit to such level of employment for five years, and has prepared a matrix, whereby IBM will pay more than the 2% fee to the IDA for internal sales, if full-time employment levels fall. Therefore be it resolved that this IDA agrees to continue the IBM internal sales arrangement from January 1, 2010 to May 28, 2015, provided that IBM pays to the IDA the agreed-upon fee of \$750,000 as an up-front, one-time payment required to secure the five-year, five-month agreement for the sales tax agreement, prior to December 31, 2009 for the internal sales accrual period of May 29, 2008 to May 28, 2009; and that the IDA will provide sales tax exemption forms to IBM for internal sales, so long as IBM is in accord with this agreement including Schedule A; and the IDA bond counsel

is authorized to amend the 2008 closing documents as necessary to reflect the terms of this resolution. Robert Armistead made a motion seconded by Stephen Brescia to approve Resolution as presented. Affirmative votes of all members present resulted in motion carried.

Stephen Brescia informed members of the Governance Committee's decision regarding GET's request of \$75,000 per year for 3 years for funding from the IDA and additional \$125,000 for a GET micro-grant program. At this time they would go with a one-year grant for 2010 in the amount of \$35,000, subject to the IDA's usual grant agreement, with further consideration for calendar year 2011. Phillip Crotty drafted a Resolution accordingly. Stephen Brescia made a motion seconded by John Steinberg to approve Resolution as presented. Affirmative votes of all members present resulted in motion carried.

Presented was a Resolution approving IDA acquisition of Orange County Capital Development Corporation. OCCDC is a NYS for-profit corporation, which is owned in full by Orange County Partnership; and Orange County Partnership has offered to transfer all OCCDC shares to this IDA, which has for the most part funded the OCCDC's operations and its OCCDC Fund #1. The IDA Attorney has requested and reviewed corporate documents, the 2008 audited financial statement for OCCDC and Fund #1, and other information including a certificate from the OCCDC Chairman, which indicate OCCDC can be acquired without impediment, including the OCCDC bank balance of approximately \$100,000 at Riverside Bank. OCCDC is the General Partner, and the IDA the Limited Partner, in OCCDC Fund #1, L.P., which owns one investment, specifically certain rights in New Hampton Technologies, LLC, (Roadlok), and also possesses approximately \$366,600 in cash or CD's at TD Bank and the Hudson Valley Credit Union. Now therefore be it resolved that this IDA shall acquire all shares of stock in OCCDC for no consideration; and that there is no intent to alter the OCCDC Fund #1 status at this time. The IDA Attorney may engage tax counsel to advise regarding the disposition of OCCDC Fund #1, L.P., being that the IDA will be in the position of General Partner and Limited Partner. Robert Armistead made a motion seconded by John Steinberg to approve Resolution as presented. Affirmative votes of all members present resulted in motion carried. After the IDA meeting the President and CEO of Orange County Partnership, Maureen Halahan, signed over the 100 shares of OCCDC to Orange County IDA, and turned over corporate book and records. IDA now owns OCCDC.

Recognized was Michael Blustein of President Container stating that President Container is moving from New Jersey to Orange County and asking for an \$18 million Mortgage Tax Exemption and \$15 million in bond money for new equipment. They are in contract to purchase property and site plan is approved and closing in January 2010. He also feels that the \$90,000 IDA fee is surprisingly extensive and was not informed of this prior. They offered \$10,000 but will go to \$20,000 and feel this would be fair since the IDA does not have to do any oversight or extra time for the board. After some discussions a draft Resolution was prepared by IDA Attorney as follows: President Container has requested an IDA fee reduction; and President Container does not need the IDA benefit of a Sales Tax Exemption nor PILOT by reason of Empire Zone status. The IDA has considered such request and all its ramifications including two hundred jobs to be created by President Container. The IDA fee for President Container be reduced to .0025 of the final mortgage amount, which is expected to be approximately \$45,000, and other fees shall stay in place. Stephen Brescia made a motion seconded by Mary Ellen Rogulski to approve Resolution as presented. Affirmative votes of all members resulted in motion carried.

Also presented was a Final Resolution for President Container authorizing the Orange County IDA to take title to or a leasehold interest in an approximately 44.25-acre parcel of land located at 290 Ballard Road in the Town of Wallkill, Orange County, New York; appoint President Container Holdings, Inc. as its agent to undertake a certain project and negotiate and execute a lease agreement, leaseback agreement and related payment-in-lieu-of-tax agreement; provide financial assistance to the company in the form of a Sales Tax Exemption for purchase and rentals related to the acquisition, construction and equipping of the project, partial Real Property Tax Abatement through the PILOT agreement, and a Mortgage Recording Tax Exemption for the financing related to the project; and execute related documents. Stephen Brescia made a motion seconded by John Steinberg to approve Resolution as presented. Affirmative votes of all members present resulted in motion carried.

Presented was a Resolution allocating Federal Recovery Bonds. The Orange County IDA has been allocated \$15 million in Federal Recovery Bonds, and the Orange County Legislature has approved the IDA as the agent to distribute such bonds by Resolution as of November 2009; and President Container and C&S Wholesale Grocers are projects in process and each has requested the bonds; and this IDA wants to retain \$5 million for future projects in 2010. President Container and C&S Wholesale Grocers are each allocated \$5 million in Federal Recovery Bonds, provided their respective projects close by January 31, 2010; and the IDA shall retain \$5 million for future projects in 2010. Stephen Brescia made a motion seconded by Mary Ellen Rogulski to approve Resolution as presented. Affirmative votes of all members present resulted in motion carried.

Recognized was Noel Spear of C&S Wholesale Grocers informing members that they are the second largest wholesale distributors and explaining their plans for expansion of their facility in Chester. In Orange County, C&S Wholesale Grocers operates warehouses in Chester, Montgomery and Newburgh, employing over 850 full-time employees. These are well paying, stable jobs with generous benefits and offer substantial opportunities for advancement. The current starting wage rate for selectors with no

experience in Chester is \$11.85 per hour and the average rate is \$15.53. The facility in Chester is 175,000 square feet and they propose to build an additional 348,000 square feet of refrigerated space. The project has been fully approved by the Town and Village of Chester, as well as DEC, DOT and all other relevant agencies. When fully operational, they will employ 330 additional full-time employees, in addition to the 285 currently employed, for a total of 615. The project is expected to generate 275 construction jobs, of which over 200 will be from the local area. Robert Armistead was concerned regarding local labor and would like to see local people working their site. Noel Spear said that five estimates of local refrigeration companies were 50% higher than out of state. Pete Gondolfini of Local 373 felt that this could not be. Both parties agreed to get together and try to work this out.

Presented was a Final Resolution for C&S Wholesale Grocers, Inc. Project authorizing the Orange County IDA to take title to or a leasehold interest in an approximately 75-acre parcel of land located at 1 Elizabeth Drive in the Village and Town of Chester, Orange County, New York; appoint C&S Wholesale Grocers, Inc. as its agent to undertake a certain project; negotiate and execute a Lease Agreement, Leaseback Agreement and related Payment-in-Lieu-of-Tax Agreement; provide financial assistance to the company in the form of a Sales Tax Exemption for purchases and rentals related to acquisition, construction and equipping of the project, partial Real Property Tax Abatement through the PILOT for the financing related to the project; and execute related documents. Mary Ellen Rogulski made a motion seconded by John Steinberg to approve Resolution as presented. Affirmative votes of all members present resulted in motion carried.

Presented was a voucher from Hudson Valley AgriBusiness Development Corp. for \$25,000 for support for year 2007, 2008 and 2009 as per agreement or April 18, 2007. Robert Armistead made a motion seconded by Stephen Brescia to pay voucher of \$75,000. Affirmative votes of all members present resulted in motion carried.

Michael DiTullo of Orange County Business Accelerator presented the current financials and also informed members that they had their ribbon cutting with nearly 200 people attending. They are finishing putting in their high speed technology and spoke to several clients interested and hoping to have one by the end of the year.

Peter Gregory presented a proposal of a strategic plan. Jim Petro agreed to pay \$1,000 a week to Peter Gregory until the end of the year.

John Steinberg made a motion seconded by Robert Armistead that this meeting be duly adjourned, the time being 5:10 pm.

Edda Eller  
Recording Secretary