

Onondaga County Industrial Development Agency  
Governance Committee Meeting Minutes  
January 13, 2022

The Governance Committee meeting of the Onondaga County Industrial Development Agency was held on Thursday, January 13, 2022 at 333 West Washington Street, Syracuse, New York in the large conference room on the first floor.

Kevin Ryan called the meeting to order at 8:32 am with the following:

PRESENT:

Kevin Ryan  
Fanny Villarreal  
Patrick Hogan

ALSO PRESENT:

Robert M. Petrovich, Executive Director  
Nate Stevens, Treasurer  
Nancy Lowery, Secretary  
Karen Doster, Recording Secretary  
Jeff Davis, Barclay Damon Law Firm  
Samantha Podlas, Barclay Damon Law Firm

APPROVAL OF GOVERNANCE COMMITTEE MEETING MINUTES-SEPTEMBER 14, 2021

Kevin Ryan stated the September 14, 2021 minutes state he was present and he believes he was absent as well as Patrick Hogan was noted as making motions but noted as being absent.

Upon a motion by Kevin Ryan, seconded by Fanny Villarreal, the OCIDA Board approved the regular meeting minutes of September 14, 2021 with correction to Kevin Ryan as being absent and Patrick Hogan as being present. Motion was carried.

UNIFORM TAX EXEMPTION POLICY

Upon a motion by Patrick Hogan, seconded by Fanny Villarreal, the OCIDA Governance Committee approved a resolution to transmit the Uniform Tax Exemption without comment to the Agency Board for review and acceptance. Motion was carried.

## PROCUREMENT POLICY

Upon a motion by Patrick Hogan, seconded by Fanny Villarreal, the OCIDA Governance Committee approved a resolution to transmit the Procurement Policy without comment to the Agency Board for review and acceptance. Motion was carried.

## BY-LAWS

Robert Petrovich stated staff is recommending two By-Law changes. He stated the first deals with Article 7 and clean up language saying the Onondaga County Director of Economic Development shall be the Executive Director of the IDA. He stated the second is any future By-Law changes for the organization will require super majorities to make sure anything substantive will have more than a 4-3 vote. He stated on a going forward basis staff is recommending By-Law changes would need a super majority of 5-2.

Kevin Ryan stated it is always a good thing to require substantive changes to be made by more than simple majority. He stated that is important.

Kevin Ryan asked when Robert Petrovich was appointed Director of Economic Development did the Board appoint him as Executive Director of the IDA. Robert Petrovich stated yes.

Kevin Ryan asked if the Board can appoint a different Executive Director. Robert Petrovich stated it is not the custom or practice and it is not how other IDAs do it across the State but it is not impossible to do.

Patrick Hogan stated procedurally we have always had the Executive Director as the Director of Economic Development.

Robert Petrovich stated it makes sense on a lot of different levels including financially because the Executive Director is a non-compensated position.

Kevin Ryan stated this would make it automatic. Robert Petrovich stated it would codify in the future for how it would occur.

Patrick Hogan asked Jeff Davis how this will be handled. Jeff Davis stated there will be two resolutions before the full Board that would be redlined to show the changes. He stated the super majority resolution under Article 7 will be simple because the word "super" is going to be added in front of the word "majority". He stated it will read "the By-Laws of the Agency may be amended with the approval of a super majority of all the Board members at a meeting".

Robert Petrovich stated the distinction is all regular business of the IDA will be simple majority, 4-3 and this only pertains to the By-Laws.

Jeff Davis stated he agrees and this is really consistent with a Board of 7 members. He stated it is common practice to have it be a super majority vote to change the By-Laws of the organization. He stated the second would be a redline that simply says "the Executive Director shall be the Onondaga County Director of Economic Development, a position that is appointed by the Onondaga County Executive and confirmed by affirmative vote by the Onondaga County Legislature." He stated we could go on to say the Executive Director shall have general supervision and all the current language that currently exists in that section.

Kevin Ryan asked in as much as we are a quasi-governmental agency or an independent agency, is that allowable and we are not going to run afoul of any of the rules by having that person being codified into the role of Executive Director. Jeff Davis stated he does not believe so and this is how most IDAs function across the State. He stated in most cases the Economic Development Director for the County is the Executive Director for the IDA and in some cases it is the Chairman of the IDA.

Upon a motion by Patrick Hogan, seconded by Fanny Villarreal, the OCIDA Governance Committee approved a resolution to transmit the By-Laws with comment to the Agency Board for review and acceptance. Motion was carried.

#### STRUCTURE AND MAKE UP OF BOARD COMMITTEES

No changes or recommendation.

## PROPERTY ACQUISITION POLICIES

Nancy Lowery stated this is a result of the ABO reviewing our policy and them saying we did not have this document on our website, Counsel created this document. She stated once it is approved, staff will post it and we will be in compliance.

Upon a motion by Patrick Hogan, seconded by Fanny Villarreal, the OCIDA Governance Committee approved a resolution to transmit the Property Acquisition Policy to the Board for review and acceptance. Motion was carried.

## OCIDA APPLICATION REVIEW

Nancy Lowery stated NYS changed its prevailing wage law and as a result of that it is included into the application because it will affect the applicants should they have \$5,000,000 or 30% of their construction costs. She stated they will have to consider the benefits received from the OCIDA because they are public funds. She stated there are two references to prevailing wage in the application. She stated on the first page there was addition to discussion on the NYS Labor Law being changed. She stated there was some cleanup language because it was redundant. She stated the Agency Fee Schedule has been discussed at full Board meetings and this change is a reflection of that. She stated the application fee is the same for regular applicants like manufacturing but the fee for solar projects has been increased.

Kevin Ryan asked why. Nancy Lowery stated of all the solar projects that have come before the Board maybe two have closed. She stated we are increasing the threshold and their commitment. She stated the amount of work that goes into these projects by staff and counsel is quite a bit before we see any benefit from these projects.

Kevin Ryan asked what two solar projects closed. Nancy Lowery stated CES has closed and one has rescinded. Samantha Podlas stated SSC Cicero closed the end of December and Taft Road rescinded. She stated we are waiting on GSPP which the Board just approved a membership change at the December meeting as well as RPNY Solar, OYA A and OYA B.

Jeff Davis stated Abundant Solar in Skaneateles and Elbridge have closed. He stated what we are seeing with the solar applications in particular, unlike any other application before the Board, an application is made, we go through the process, it sits there for a while then we get a request for a name change and then it sits for a while. He stated sometimes we get a request for a third name change and it sits there for a while. He stated when they get all their ducks in a row perhaps then they want to close. He stated more recently we had one that they are not going to close because they didn't see the benefit of the PILOT agreement because of the change in the NYS Tax Law with regard to renewable energy facilities. He stated the reflection seen here is the amount of work by staff garnering the local support for the PILOT agreement. He stated working through all of that is much greater than any other of the typical applications that we are getting that are manufacturing type applications that are creating jobs and doing different things communities are behind and support.

Kevin Ryan asked if increasing the fee to \$10,000 is enough. Jeff Davis stated he thinks it is enough.

Patrick Hogan stated it involves a lot of work for staff and he commends staff for bringing this before the Committee. He stated it brings to mind historically the issues of shirt changing that happened in other funding mechanisms the State went through many years ago. He stated he thinks this is a good way to act aggressively on this and heartedly approves this change.

Kevin Ryan stated he knows there was conversation at the last meeting about shirt changing and the question is what is the impact of that to this organization. He asked how it affects our liabilities and our benefits. He stated the fact that Jeff Davis and his staff put in all the time and effort to protect us when all the shirt changings take place, this makes perfect sense.

Nancy Lowery stated the last recommendation are any amendments or modifications of the OCIDA document, including but not limited to, name organization change, refinance, etc. a fee would be attached. She stated at one point there was a discussion of creating language saying the company needs to close first before entertaining any modifications and that would be part of new solar guidelines. She asked the committee if they wanted to discuss the change to include amendment/modification to additional fees for a company. She asked if we want to see closings before we do modifications.

Robert Petrovich stated generally speaking most projects close in the entity that they bring forward. He stated sometimes post-closing we get modifications where they are refinancing and additional documents need to be produced and he thinks that is generally manageable and something we can certainly accommodate within a modest additional fee for that work. He stated the problem as we know and have been experiencing with these solar projects is we get an application and then there potentially 4 if not more changes in the ownership structure and the entities. He stated everyone is running around trying to get it done including legal counsel and then sometimes we get a notice that they are not now going to close the project at all. He stated if they do close and put it on the secondary market and sell the cash flow stream then we have to redo documents. He stated he thinks on solar we should have some caveat in there. He asked if the committee has a problem with the caveat as proposed that they have to close first.

Nancy Lowery stated the suggested wording would be the company will close with agency on project prior to any modification of project such as name change or organization structure or we could have that as an option.

Jeff Davis stated the only issue there is if their closing is lined up with their financing agency. He stated in order to accomplish the financing for the project they are going to get approval for the name change so the new entity has the financing. He stated we could be in a catch 22 situation where the bank and the financing arm is saying we can't proceed until this new entity we are going to be a part of and taking an active interest in is the entity that we are investing in. He stated he could see us running into an issue.

Robert Petrovich asked if a way to deal with that could be that we condition it subject to the Agency's discretion. He stated obviously if they come in with that story I think we would want to be helpful but we also if we are going to redo everything, we don't want to keep doing it over and over again.

Jeff Davis stated he agrees and we can put in some language that suggests at the sole discretion of the Agency etc. He stated we also have to remember as well that we must comply with the terms of public notice under the General Municipal Law in terms of what we have done for a public hearing standpoint. He stated the entity that is receiving the benefits still needs to remain the entity has been noticed in a public hearing. He stated there were a few instances where we had to push back in the past saying no you can't do that without us starting the clock all over and

holding a new public hearing. He stated it is an education process with this new industry type in New York and we are getting there. He stated he wouldn't want to box ourselves in by saying it can never happen but he thinks we should add some language that says in the sole discretion of the Board and we can work on that between now and Tuesday if that is one of the recommendations of this committee.

Kevin Ryan stated he would like to do that.

Patrick Hogan stated this conversation is indicative of the amount of work, time and effort to go into something that doesn't create a lot of jobs but something we want to entertain because of the new energy concept.

Nancy Lowery asked if the committee is comfortable with having the flexibility to assess a fee of up to 5% if they come back for a modification or amendment to their benefit package.

Kevin Ryan stated he is comfortable with it and thinks it is a great idea. He stated his concern is we don't want to be so difficult and not user friendly so that they locate in a different county but at the same time with the amount of time and effort we deal with these things that creates almost zero jobs and almost minimal revenue for the community, by all means lets do it.

Robert Petrovich asked Kevin Ryan if it is his directive as Chair of the Governance Committee that legal counsel will work up some language between now and Tuesday. Kevin Ryan stated yes.

Robert Petrovich stated staff will put that language before the full board for action.

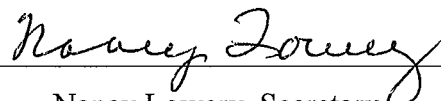
Jeff Davis stated he thinks these overall these clarifications discussed are going to be helpful for us as a tool in our toolbox to allow these things to move forward and not have to continually come back to the Board. He stated we have had in the past several board meetings 20 to 30 minute discussions over changes in names of entities and who's who and who is what now and are they still the owner etc. He stated we have had to dive in and review all that to make sure we are in compliance and we have been but it is taking up a significant amount of time of this Board. He stated he is hopeful these changes will address that.

Nancy Lowery stated there is one other change and that reflects prevailing wage. She stated it is a notification to the applicants within the application.

Patrick Hogan asked if we need a motion. Nancy Lowery stated she thinks it is just awareness to the Board that these are the changes.

Upon a motion by Fanny Villarreal, seconded by Patrick Hogan, the OCIDA Board approved a resolution to transmit the OCIDA application to the full OCIDA Board. Motion was carried.

Upon a motion by Patrick Hogan, seconded by Fanny Villarreal, the OCIDA Board adjourned the meeting at 8:56 am. Motion was carried.

  
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Nancy Lowery, Secretary