

**Cayuga County Industrial Development Agency
Regular Meeting
Cayuga County Chamber of Commerce
2 State Street, Auburn, NY
March 17, 2020 at 4:00pm**

Chairman Lockwood called the meeting to order at 4:00pm, noting that a quorum was present.

ROLL CALL:

Present: Ray Lockwood, Herb Marshall (via phone), Ben Vitale, John Latanyshyn (via phone), Andrew Rindfleisch, Paul Lattimore (via phone)

Excused: Gina Speno

Others Present: Tracy Verrier, Samantha Frugé (CEDA); Elaine Buffington (Buffington & Hoatland CPAs, via phone) Rick Galbato (Galbato Law Firm, via phone); Mike Beckner (SunEast Dog Corners Solar, LLC, via phone)

MEETING MINUTES:

Mr. Rindfleisch moved to approve the minutes of the January 21st Regular Meeting, seconded by Mr. Vitale. All members present voted in favor; the motion carried.

BILLS AND COMMUNICATIONS:

Ms. Frugé presented the following bills: NYSEG for electric at the Industrial Park for the period between December-February (\$442.08), the Probst Group for preliminary engineering study for the sewer line at the Industrial Park (\$20,770.00), CEDA for the corrected 2019 Q4 administrative invoice (\$11,612.40), and the Citizen for a public hearing notice (\$50.60). Mr. Rindfleisch moved to pay the bills, seconded by Mr. Vitale. All members present voted in favor; the motion carried.

REPORT OF THE TREASURER

Ms. Frugé reviewed the budget report, noting income generated from interest accounts in the amount of \$524.67. Mr. Vitale moved to accept the budget report with an amended December statement, seconded by Mr. Lattimore. All members present voted in favor; the motion carried.

Ms. Verrier said that it had been around 6 months since the last bank transfer, and they should do a small \$5.00 transfer from savings to checking to prevent an inactivity fee. The Board was agreeable. Ms. Frugé reviewed the PILOT invoice disbursement report and noted that they received most 2020 County/Town tax PILOT payments and were waiting on payment from Inns of Aurora. Mr. Rindfleisch moved to approve the Treasurer's Report, seconded by Mr. Vitale. All members present voted in favor; the motion carried.

NEW BUSINESS

Mr. Lockwood moved new business up the agenda and recommended to start with the Audit Report.

2020 Financial Audit Review: Elaine Buffington advised that the audit went very well and had no significant audit entries. She noted a small entry to correct interest for a CD account, but the amount was small. Testing and controls had no material weaknesses or significant deficiencies.

She began with reviewing the financial statements, noting that total current assets increased from \$696,000 to \$804,000. The increase consisted of cash and cash equivalent increase of about \$90,000 as well as about \$20,000 in PILOT payments received but not yet disbursed. Investments, which consisted of CD accounts, decreased due to one CD account was cashed into savings where the rate was better. Total assets were just over \$1.56 million with liabilities around \$67,000, leaving the net position at \$1.52 million. On the statement of revenue expenses, admin fees were collected totaling \$86,926 which increased by \$74,000 from the prior year. She noted that expenses were similar to the year prior except for property taxes that increased to \$18,000 from \$2,500 the year prior. Ms. Buffington pointed out that they had a good year for accrued interest on savings accounts, noting interest income of \$12,000. She added that she wasn't sure if they would continue to see rates like that, but the organization was able to capitalize on good income for 2019. She said the change in net position was around \$44,000, resulting in a positive year for the organization. Ms. Buffington noted that accounting standards for revenue recognition changed, but did not affect the organization's financials much for the year. Mr. Marshall asked if the increase in property tax liability reflected the new parcels that were not taken off the tax rolls for 2019? Ms. Buffington said that was correct. Mr. Rindfleisch moved to approve the Auditor's Report, seconded by Mr. Marshall. All members present voted in favor; the motion carried.

UNFINISHED BUSINESS

Authorizing Resolution: SunEast Dog Corners Solar, LLC: Ms. Verrier said that the public hearing for SunEast Solar went well, and those who attended had questions about PILOTs and solar projects in general, but no questions about the project specifically. She said that Mr. Marshall and Mr. Lattimore attended as representatives of the Board. Mr. Marshall said that the Town Supervisor and several Town Board members were concerned with new State legislation that would allow the State to push through projects without Town approval as a way to expedite the projects. He added that the residents were concerned they would no longer have any say in these types of projects and wanted to know how the IDA planned to address these concerns. Mr. Marshall said that, from his understanding, the IDA had the ability to not approve projects if the municipalities did not support the project. Mr. Beckner provided an overview of the legislation that the residents were concerned with, noting it sounded like the State was in the process of approving a three-fold legislative process for renewable energy projects. The first part of the legislation would expedite Article 10, which was a State permitting process that applied to projects greater than 25 megawatts in size. He said that Article 10 was introduced in 2011, and to date only one project had been approved using that permitting process. The 2nd part of the legislation was for the State to propose expedited local permitting. He said that he did not think many developers would opt to go through this expedited process because the State would still ask the local community if they supported the project, and without their support the project could not move forward. The 3rd part of the legislation was a forced PILOT calculated on the net present value of future revenue of the project, which differed from the PILOT guidance provided by the State. Mr. Beckner said that in regards to the resident's concerns with this legislation, he did not think that developers would opt to go through that process and circumvent the local municipalities as it was not in their best interest. Mr. Marshall asked if these projects were viable without a PILOT? Mr. Beckner said that they were not. Mr. Marshall asked if the IDA's final decision to approve or deny a PILOT could make or break a project like this? Mr. Beckner said that these types of projects could not move forward without a PILOT due to the high NYS taxes. Mr. Beckner added that this project was one of the projects with the least amount of opposition

that he'd ever worked on. Mr. Marshall moved to approve the Authorizing Resolution, seconded by Mr. Rindfleisch. Mr. Vitale noted that the wrong county was printed on page 3 of the Authorizing Resolution. Ms. Verrier said that would be corrected. Mr. Marshall asked if the project had reached an agreement for the decommissioning bond? Mr. Beckner said that they were close to reaching an agreement. Mr. Marshall suggested they approve the resolution subject to the project reaching a decommissioning agreement. Mr. Beckner was agreeable.

Mr. Lockwood requested a roll call vote, which was recorded as follows:

NAME	Yes	Nay	Absent	Abstain
BEN VITALE	X			
JOHN LATANYSHYN	X			
PAUL LATTIMORE	X			
RAYMOND LOCKWOOD	X			
HERB MARSHALL	X			
ANDREW RINDFLEISCH	X			
GINA SPENO			X	

Mr. Beckner asked if the Board was comfortable with closing on the PILOT prior to issuance on the building permit, which would happen at closing? Ms. Verrier said that generally their process was combine the IDA closing with all other closings to streamline the process.

CEDA Staff Update: Ms. Verrier provided an update on the sewer line, noting they did get the preliminary engineering submitted to DEC. She had followed up with DEC and they had not had the chance to review it yet. Once DEC approves the report, they go to the Town and EDA. For the moment, they are in a holding pattern until DEC's decision is made.

Ms. Verrier advised that CEDA staff were working on communicating information such as how to support local businesses, sharing information with businesses about policies, resources, procedures that they can utilize. She said CEDA was working on using their micro-loan program as an emergency fund for businesses. The fund was not meant to replace revenue, but to provide something to help businesses for smaller ticket items to help keep them running. She said they were hoping to push that out within the next 24-48 hours. The program only had around \$12,000 at the moment, but they were looking at ways to add to the funds and was reaching out to the City and County for additional resources. Ms. Verrier advised that CEDA activities were being moved online or postponed and that at the moment they had three staff in the office, with the remaining staff working remotely so that everyone was available.

NEW BUSINESS

Cayuga Milk Ingredients Mortgage Modification: Ms. Verrier advised that Cayuga Milk Ingredients were planning to move forward with their next stage of equipment purchases. They would need another mortgage modification to sign off on the financing for the equipment due to the IDA's interest in the building in relation to the PILOT. She added that legal counsel was looking into whether or not the Board needed to sign off on it or not. She suggested they have a motion on record, if the Board was agreeable. Mr. Rindfleisch moved to approve the mortgage modification, seconded by Mr. Vitale. Mr. Vitale suggested they approve contingent on the attorney's approval. All members present voted in favor; the motion carried.

Upcoming Events: Ms. Verrier advised that the upcoming events have been postponed for the time being.

Motion to adjourn at 4:41pm by Mr. Vitale, seconded by Mr. Rindfleisch. All members present voted in favor; motion carried.

Respectfully submitted,
Samantha Frugé

Next regularly scheduled meeting: Tuesday, April 21st, 2020 @ 4pm

PROJECT AUTHORIZING RESOLUTION
(SunEast Dog Corners Solar LLC Project)

A regular meeting of Cayuga County Industrial Development Agency was convened on Tuesday, March 17, 2020 at 4:00 p.m.

The following resolution was duly offered and seconded, to wit:

Resolution No. 03/2020 - ____

RESOLUTION OF THE CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) APPOINTING SUNEAST DOG CORNERS SOLAR LLC (THE "COMPANY") AS ITS AGENT TO UNDERTAKE A CERTAIN PROJECT (AS MORE FULLY DESCRIBED BELOW); (ii) AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGENT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT; (iii) AUTHORIZING THE PROVISION OF CERTAIN FINANCIAL ASSISTANCE TO THE COMPANY (AS FURTHER DEFINED HEREIN); (iv) ADOPTING FINDINGS WITH RESPECT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT ("SEQRA"); AND (v) AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 688 of the Laws of 1970 of the State of New York, (hereinafter collectively called the "Act"), the **CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called the "Agency") was created with the authority and power to promote, develop, encourage and assist in acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research, and recreational facilities as authorized by the Act, and in connection therewith to issue its revenue bonds, enter into straight lease transactions and provide other forms of financial assistance; and

WHEREAS, **SUNEAST DOG CORNERS SOLAR LLC** for itself or on behalf of an entity to be formed (herein, the "Company"), previously submitted an application (the "Application") to the Agency requesting that the Agency consider undertaking a Project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold interest in approximately 140 acres of real property located at 2663 Dog Corners Road in the Town of Ledyard, New York (the "Land", being more particularly described as a portion of tax parcel No. 182.00-1-48.12, as may be subdivided); (ii) the planning, design, construction and operation of a 20MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, on and offsite utility connections, sitework, landscaping, fencing, security and related improvements (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment")

and, collectively with, the Land and the Improvements, the “Facility”); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the “Straight Lease Transaction”); and

WHEREAS, on September 17, 2019, the Agency adopted an initial project resolution (the “Initial Project Resolution”) which (i) accepted the Company’s application, (ii) authorized the scheduling and conduct of a public hearing in compliance with the Act, (iii) described the contemplated forms of financial assistance to be provided by the Agency (the “Financial Assistance”, as described herein); and (iv) authorized the negotiation of an Agent and Financial Assistance and Project Agreement (the “Agent Agreement”), Lease Agreement (the “Lease Agreement”), Leaseback Agreement (the “Leaseback Agreement”) and Payment-in-lieu-of-Tax agreement (the “PILOT Agreement”) to be entered into with respect to the Project; and

WHEREAS, in accordance with the Initial Project Resolution, the Agency published and forwarded a Notice of Public Hearing to the Town of Ledyard (the “Town”), the County of Cayuga (the “County”), and the Southern Cayuga Central School District (the “School”, and together with the Town and County, the “Affected Tax Jurisdictions) at least ten (10) days prior to said Public Hearing are attached hereto as **Exhibit A**; and

WHEREAS, pursuant to Section 859-a of the Act, the Agency held a public hearing on Monday March 2, 2020 at 6:30 p.m. at Ledyard Town Hall, 1099 Poplar Ridge Road, Aurora, New York 13026 with respect to the Project (the “Public Hearing”) and the proposed Financial Assistance (as further defined herein) being contemplated by the Agency whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views, a copy of the minutes of the Public Hearing also being attached hereto within **Exhibit A**; and

WHEREAS, the Town reviewed the proposed Project as lead agency pursuant to the State Environmental Quality Review Act, as codified under Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, “SEQRA”) and related Environmental Assessment Form (“EAF”) and issued a negative declaration (the “Negative Declaration”), a copy of which, along with the EAF, are attached hereto as **Exhibit B**; and

WHEREAS, in furtherance of the foregoing, the Agency desires to authorize (i) the appointment of the Company as agent of the Agency to undertake the Project; (ii) the execution and delivery of the Agent Agreement, Lease Agreement, the Leaseback Agreement, the PILOT Agreement, and related documents; (iii) the provision of the Financial Assistance to the Company, which shall include (a) an exemption from all state and local sales and use taxes with respect to the qualifying personal property included in or incorporated into the Facility or used in the construction and equipping of the Facility, (b) mortgage recording tax exemption(s), and (c) a partial real property tax abatement through the execution of an agreement with the Agency regarding payments in lieu of real property taxes to be made for the benefit of the Affected Tax Jurisdictions; and (iv) the review and ratification of findings pursuant to SEQRA in connection with the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Based upon the representations made by the Company to the Agency in the Application, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) It is desirable and in the public interest for the Agency to (i) acquire title to or other interest in the Land, the Existing Improvements, Improvements and the Equipment constituting the Facility, (ii) lease or sell the Agency's interest in the Land, Existing Improvements, Improvements and Equipment constituting the Facility to the Company pursuant to a lease agreement or sale agreement, and (iii) enter into a Straight Lease Transaction with the Company; and

(C) The action to be taken by the Agency will induce the Company to undertake the Project, thereby increasing employment opportunities in the Town, which is located within Cayuga County, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(D) The Project will not result in the removal of a facility or plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other facility or plant to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(E) Based upon a review of the Application, the EAF and the Negative Declaration issued by the Town and submitted to the Agency, the Agency hereby:

(i) consents to and affirms the status of the Town as Lead Agency for review of the Facility, within the meaning of, and for all purposes of complying with SEQRA;

(ii) ratifies the proceedings undertaken by the Town as Lead Agency under SEQRA with respect to the construction and equipping of the Facility pursuant to SEQRA; and

(iii) finds that the Project involves a "Type I" (as such quoted term is defined under SEQRA) for which the Town served as Lead Agency. Based upon the review by the Agency of the EAF and related documents delivered by the Company to the Agency

and other representations made by the Company to the Agency in connection with the Project, the Agency hereby finds that (i) the Project will result in no major impacts and, therefore, is one which may not cause significant damage to the environment; (ii) the Project will not have a “significant effect on the environment” (as such quoted term is defined under SEQRA); and (iii) no “environmental impact statement” (as such quoted term is defined under SEQRA) need be prepared for this action. This determination constitutes a “negative declaration” (as such quoted terms are defined under SEQRA) for purposes of SEQRA.

Section 2. Subject to (i) the Company executing the Agent Agreement and Leaseback Agreement, and (ii) the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, renovation, construction, reconstruction, rehabilitation and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; *provided, however*, the Agent Agreement shall expire on December 31, 2020 (*unless extended for good cause by the Executive Director of the Agency*).

Section 3. Based upon the representation and warranties made by the Company the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount up to approximately \$18,200,000.00, which result in New York State and local sales and use tax exemption benefits (“sales and use tax exemption benefits”) not to exceed \$1,456,000.00. The Agency agrees to consider any requests by the Company for increase to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services, and, to the extent required, the Agency authorizes and conducts any supplemental public hearing(s).

Section 4. Pursuant to Section 875(3) of the Act, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; (iv) the Company has made a material false statement on its application for financial assistance; (v) the sales and

use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project; and/or (vi) the Company obtains mortgage recording tax benefits and/or real property tax abatements and fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project (collectively, items (i) through (vi) hereby defined as a “Recapture Event”).

As a condition precedent of receiving sales and use tax exemption benefits and real property tax abatement benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must (i) if a Recapture Event determination is made by the Agency, cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, mortgage recording tax benefits and/or real property tax abatements abatement benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands, if and as so required to be paid over as determined by the Agency.

Section 5. The Chairman, Vice Chairman and/or Executive Director (or Deputy Executive Director) of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Agent Agreement, Lease Agreement, Leaseback Agreement, PILOT Agreement, PILOT Mortgage, and related documents with such changes as shall be approved by the Chairman, Vice Chairman, the Executive Director and counsel to the Agency upon execution.

Section 6. The Chairman (or Vice Chairman), Executive Director (or Deputy Executive Director) of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the “Lender”) up to a maximum principal amount necessary to undertake the Project, acquire the Facility and/or finance or refinance equipment and other personal property and related transactional costs (hereinafter with the Straight Lease Documents, the “Agency Documents”); and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman (or Vice Chairman), Executive Director (or Deputy Executive Director) of the Agency shall approve, the execution thereof by the Chairman (or Vice Chairman), Executive Director (or Deputy Executive Director) of the Agency to constitute conclusive evidence of such approval; provided, that, in all events, recourse against the Agency is limited to the Agency's interest in the Project.

Section 7. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of

the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 8. These Resolutions shall take effect immediately upon adoption.

The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

	<u><i>Yea</i></u>	<u><i>Nay</i></u>	<u><i>Absent</i></u>	<u><i>Abstain</i></u>
Paul Lattimore	[X]	[]	[]	[]
Hon. Benjamin Vitale	[x]	[]	[]	[]
John Latanyshyn	[x]	[]	[]	[]
Raymond Lockwood	[x]	[]	[]	[]
Herb Marshall	[x]	[]	[]	[]
Gina Speno	[]	[]	[x]	[]
Andrew Rindfleisch	[x]	[]	[]	[]

The Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF CAYUGA)

I, the undersigned, Acting Secretary of the CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY, DO HEREBY CERTIFY:

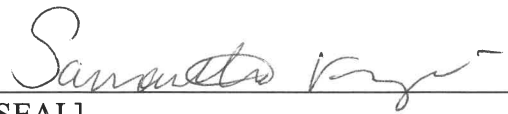
That I have compared the annexed extract of minutes of the regular meeting of the Cayuga County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on March 17, 2020, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of the Agency had due notice of said special meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 17 day of MARCH, 2020.


[SEAL]