

**Tompkins County Industrial Development Agency  
Board of Directors Meeting Final Minutes  
May 12, 2021 - 4:00 PM  
Via Zoom Conference Call and LiveStream**

**Present:** Rich John, Martha Robertson, Laura Lewis, Jeff Gorsky, John Guttridge, Mike Sigler, Todd Bruer

**Guests:** David Norbut (NSF Solar), Barry Carrigan (Nixon Peabody), Tim Kalnin, Jeff Githens (McKinley Development)

**Staff Present:** Heather McDaniel, Ina Arthur (IAED), Russ Gaenzle (Harris Beach), Rick Snyder (TC Finance)

**CALL TO ORDER**

Rich John called the special meeting of the **Tompkins County Industrial Development Agency** to order at 2:33 pm.

**PRIVILEGE OF THE FLOOR** (the following statements were read into the record)

**Peter Wissoker, Ithaca NY**

I am writing to ask that you reject McKinley Development/Blue Vista's request for a tax abatement tied to the apartment complex they are proposing on E. State/Martin Luther King, Jr. Street. The parties in this joint venture simply do not need the funds, despite their claims to the contrary: one is a substantial developer of residential projects in Atlanta and NYC and the other a provider of real estate capital and real estate investment opportunities. Knowing that you may well go ahead and grant the abatement, if you do, please demand more in the way of concessions for it.

Blue Vista is a large investment firm looking to invest in a hot market, a firm that does not need our help. According to their website, Blue Vista has "invested and provided" over \$10 billion in capital for real estate projects, including more than \$3 billion in student housing. They are a player in the real estate markets nationally. If you look at the real estate sector at that scale (as an investment category), within the sector student housing and university community housing remain a hot commodity. As a result, there is a lot of capital looking for projects like the one that has been proposed, which makes the cost of capital for firms like Blue Vista lower, and that's before accounting for record-low interest rates. Given this, having the county cover 15% of the firm's costs when they are only putting down less than 40% in equity, is unnecessary. Investors can do it for them. These are our future tax revenues. Over the next 7-10 years, the city, the school district, and the county will need those monies more than Blue Vista's investors. And, yes, I do believe that someone else will build on the site if they walk away. For these reasons, I would ask that you reject the request.

If you decide to approve the abatement, I would ask that you:

1) Demand 15% of any profits from resale of the complex that takes place before the abatement terminates—to compensate for our covering 15% of the costs

2) Insist that all subcontracted workers at the building, including janitors, landscapers, maintenance workers, etc., be paid a living wage, ideally in perpetuity

3) Insist that all workers on the construction site be paid prevailing wages

4) Have at least 40% of the borrowed funds be borrowed locally if possible

Needless to say, I hope you choose the first course, turning down the request for the abatement. But if you do not, please protect our local economy by negotiating the elements suggested herein.

I'm happy to address any questions or issues. You may reach me via e-mail at [wissoker@lightink.com](mailto:wissoker@lightink.com).

Thank you, Peter Wissoker

**Robert A. Lynch, Councilperson, Town of Enfield**

I write today in my dual capacity as one of five elected or appointed members of the Enfield Town Board, and also as a taxpaying resident of the Town of Enfield, the Ithaca School District and Tompkins County. In each capacity, I urge you to delay immediate action on the above- referenced applications for Payment in Lieu of Tax (PILOT) Agreements to benefit Norbut Solar Farms (Norbut) in its proposal to construct three, 5-Megawatt photovoltaic arrays east of Applegate Road South in the Town of Enfield. I write in my two limited capacities. I do not necessarily speak for the Town Board as a whole.

I, as Town Councilperson, maintain that before your Board of Directors acts on these applications, we as a Town Board deserve the opportunity to review the proposed terms collectively and determine whether they stand as satisfactory to our Town. We have not done so and will not have the occasion to do so before your May 12<sup>th</sup> afternoon meeting.

I learned of Norbut's proposed terms for this PILOT when you released your agency's Agenda Packet last Thursday, May sixth. I promptly alerted my fellow Town Board members via email that evening and suggested that our Board convene a Special Meeting to review the proposal's terms. My request went unanswered long enough so as to preclude such a meeting with its 48- hours' required notice. We will next meet in Regular Monthly Session the evening of May 12<sup>th</sup>, convening some four hours after your agency's session takes place. A discussion of the Norbut project is on our agenda. But it will come too late to provide your agency timely input.

Delaying action serves not only Enfield's best interests, but also that of Tompkins County and the Ithaca City School District, whose leaders also may choose to weigh in with their opinions.

My initial review of the Norbut PILOT applications disturbs me. As your agency's Project Overview makes clear, Norbut's proposed initial annual combined PILOT payment of a mere \$3,000 per Megawatt generated falls a full \$1,200, or 28.6%, beneath the *low-end* of your "standard solar PILOT" payment range of \$4,200 to \$4,800 per Megawatt. Accordingly, Norbut seeks exceptions to the compensation benchmarks your agency has traditionally applied.

To attempt to make up for this shortfall—and perhaps also to entice our Town Board's acceptance—Norbut proposes a host community agreement that would provide the Town of Enfield a base payment of \$1,200 per Megawatt annually. Together, the PILOT and the host community agreement would raise Norbut's contribution to taxing authorities to the base minimum \$4,200 per Megawatt standard payment

range. The plan might disproportionately benefit our Town. But it would adversely impact and disadvantage other taxing jurisdictions.

Taking the broader view, the PILOT Agreement Norbut requests would save the solar developer a windfall in taxes over the plan's 30-year life. We must craft its terms correctly up front or else live with their unpleasant consequences for decades. Patient deliberation will serve us well.

Norbut's representation to your agency places its total investment in labor and capital at \$6,700,000 per site, or \$20,100,000 total for three sites. Using the admittedly imperfect estimate that cost equals market value, were the Town of Enfield to tax this solar farm at its full investment value at the Town's current 2021 tax rate of (approximately) \$ 7.0639/thousand, full-value taxation would bring the Town \$141,985 in year one revenues.

Under Norbut's proposed PILOT Agreement, Norbut would pay combined taxing authorities \$45,000 in year one (\$3,000/Megawatt x 15 Megawatts). Given the IDA's apportionment guidelines, provided by the company's representative to our Planning Board in late-2020, 28.29 per cent of PILOT revenues would go to the Town, 5.47 per cent to Tompkins County, and 66.24 per cent to the Ithaca City School District. Using these percentages, the PILOT Agreement alone in year one would bring Enfield government \$12,730.50 (\$45,000 x 0.2829).

Add to the PILOT's receipts the \$18,000 host community payment in year one, and Enfield's total receipts from Norbut would reach \$30,730 in year one. This may be "as good as it gets," some may say. But is it good enough? Compare the figures. This PILOT + host community payment totals only 21.64 per cent of the revenue full-value taxation would generate.

Using a different, perhaps more accurate taxing method, that employed by New York State assessing authorities, your agency's Cost-Benefit Analysis represents that without this PILOT, Norbut's "estimated tax payment could be as high as \$400,000," a level that would make the Enfield project "not financially feasible." Nonetheless, Enfield's share of that \$400,000 payment would total \$113,160 at the 28.29 per cent allocation rate. The proposed PILOT + host community agreement would bring Enfield only 27.1 per cent of this second taxing method's estimate (\$30,730/\$113,160).

Moreover, your agenda packet's administrative summary makes questionably misleading and conclusory statements about Enfield's position on this matter, statements that I as Town Councilperson stand obligated to correct:

Your administrative summary states (Page 3 of packet; paragraph 5):

*"A letter from the Town of Enfield supporting the IDA delivering a PILOT for this project is currently included in the application materials. The Town is also receptive to receiving the suggested host community agreement amount of \$1,200 per megawatt per year."*

First point: A review of the Town's attached letter provides merely a statement of historical fact, not "[a] letter from the Town of Enfield supporting the IDA delivering a PILOT for this project..." The agenda's attached letter represents nothing beyond a statement of fact, a cursory message from (then Acting) Supervisor Stephanie Redmond to Norbut's former representative in December 2020 that Enfield is an "opt-out" community, a status established by a prior Town Board with respect to the previously-proposed, but now-abandoned Black Oak Wind Farm. That our Town will "entertain PILOT proposals, as and when appropriate" states obvious fact and does not imply endorsed acceptance of *this particular* PILOT Agreement.

Second point: Your administrative summary's statement that "The Town is also receptive to receiving the suggested host community agreement amount of \$1,200 per megawatt per year" conveys individual opinion only, not controlling authority. As you must certainly be aware, authority at the Town level flows from the Town Board, not from the Town's Supervisor or from his or her designee. The Enfield Town Board has not stated its position on a host community agreement, let alone the amount deemed satisfactory. We as a Board have not discussed this matter, either in public or in executive session. Until we do, individual Town officials' opinions are merely their own, nothing more.

In my view and my view alone as one Town Board member among five, the base floor amount for any PILOT Agreement authorized for Norbut Solar Farms Enfield project should be at the IDA's "standard solar PILOT range" of \$4,200 per Megawatt, and no lower. I view a \$3,000 per Megawatt compensation rate as unacceptably low. Moreover, any host community agreement offered by the developer should stand *in addition to, not in substitution for* adequate compensation under the PILOT. Abandoning these principles would be in contravention of your agency's standards and would inflict unfairness upon both the Town of Enfield, and more egregiously, upon other affected taxing authorities.

In my view, neither your agency nor the Town of Enfield should accord Norbut's offer "*take-it- or-leave-it*" status. Contract terms demand negotiation. This PILOT should be negotiated, too.

In summary, I would urge your Board postpone action on the proposed Norbut Solar Farms Enfield PILOT Agreement for at least another month. Reasonable delay would permit affected municipal authorities, including the Enfield Town Board, time to discuss and evaluate the Agreement's proposed terms more thoughtfully and without haste.

Respectfully submitted, Robert A. Lynch Councilperson Town of Enfield

**ADDITIONS TO THE AGENDA – None**

## **NEW BUSINESS**

### NSF Enfield 1, 2, 3 (off-site community solar) – Applications

Heather McDaniel introduces the three applications.

Norbut Solar Farms is proposing the construction of three separate 5-Megawatt AC Community Distributed Generation (CDG) photovoltaic arrays on 157 acres, or 62%, of a 252.54-acre parcel on Applegate Road in the Town of Enfield.

Commercial and residential customers who purchase electricity from NYSEG will be able to purchase "green" solar energy at a discount without investing in their own systems. The combined annual savings on electricity and delivery charges on an estimated mix of 40% residential and 60% commercial customer bills could amount to \$80,000-\$100,000 a year in savings, or over \$2,000,000 over the life of the project.

The IDA's standard solar PILOT is range of \$4,200-\$4,800 per megawatt with a 2% annual increase for 25 years. **The applicant is requesting a deviation from this policy**, suggesting a PILOT payment in year one of \$3,000 per megawatt plus a host community agreement of \$1,200 paid directly to the Town of Enfield – both amounts to increase 2% per year for 30 years. The applicant addresses this request in a cover letter accompanying the applications for the three projects.

The Town supervisor did indicate support of these projects. When municipalities opt out of 487, they cannot negotiate a PILOT agreement with solar projects. This is why the IDA steps in to deliver a PILOT agreement.

Ms. McDaniel asked that the Board accepts the applications as complete and move the projects to a public hearing.

Barry Carrigan (Nixon Peabody) stated that there are three separate applications each for a 5MW off-site community solar project in the Town of Enfield. Each project will be set on 50 acres of land. The projects will not create any permanent jobs, but they have committed to 35% local construction labor during the building period.

David Norbut, Norbut Solar Farms, spoke about how the projects are working to navigate the 13 wetlands on the total acreage. They have also created large set backs for future development. He stated that the \$3,000/mw PILOT amount plus the \$1,200 community host agreement payment is what the projects can support without delaying the projects.

John Guttridge commented that he feels that the Town of Enfield should have time to discuss the host community agreement and suggested moving the projects to a public hearing.

Martha Robertson asked is the Town of Enfield has accepted the proposed host community agreement? No, they have not. She feels that the IDA should wait for the Town of Enfield to weigh in as to their support of the projects. In fact, she stated that that municipal support is part of the IDA's requirements.

Mike Sigler commented that he feels that the small PILOT amounts is not worth the IDA's time.

Todd Bruer asked why each projects required 50 acres of land? This is a town code requirement.

Rich John stated that he has similar concerns regarding process and feels that the Town of Enfield should agree to the host community agreement before the IDA moves forward.

Laura Lewis echoed Rich John's concerns as well. She suggested moving consideration of the applications to the next scheduled board meeting so that more time could be given to the Town of Enfield to review things.

Heather McDaniel addressed the concerns about a tax rate split for the affected taxing jurisdictions. The IDA decided not to approve tax rates splits during the discussion of the solar projects in the Town of Dryden. This host community agreement is something different; it is not a request to change the tax rates. Any negotiation of a host community agreement is between the applicant and the municipality.

Barry Carrigan suggested increasing the PILOT amount to \$4,200/mw and not having a host community agreement. David Norbut stated that he would agreeable to that change.

Martha Robertson stated that she could support a PILOT amount of \$4,200/mw.

The Board tabled the discussion so that the projects could return with amended applications and so that the Town of Enfield might have more time to deliberate.

## McKinley Development (401 E State Street) – Application

Heather McDaniel introduced the project.

The Project seeks to redevelop the existing surface parking lot of Gateway Center located at 401 E. State Street and provide 7 levels that includes 353 residential apartments and a parking structure with 267 parking stalls. Over 7,500 SF of amenity space will be provided as well as outdoor courtyards and seating areas. The Project will also extend the Six Mile Creek trail from its current terminus to the eastern edge of the property and onto City owned property creating a tremendous public benefit.

While parking is not required within CBD-60 zoning, the Project replaces the existing Gateway Center surface parking (152 spaces) that are being displaced with this Project. The Project also provides 115 parking spaces for residents of the Project. 122 spaces of the total 267 spaces will be available to the public after business hours providing another meaningful public benefit given the current constraints in parking supply in downtown Ithaca.

The Project is consistent with the Comprehensive Plan and the Downtown Design Guidelines for the Tuning Fork Character Area. The Project will help to relieve downtown Ithaca's housing shortage and provide a well-conceived pedestrian-oriented apartment community in the heart of downtown to serve a variety of residents from the local community and universities.

The applicant is requesting the CIITAP Financial Need / Enhanced Energy Large Multi-Family Project Incentive. The project is being designed to achieve the 12 points required under the 'Easy Path' compliance path of the 2025 requirements for the City of Ithaca's Green Building Policy. The green building practices are outlined on page 5 of the project application. The applicant will comply with the Workforce Housing Policy and remit payment of \$1,765,000 to the Community Housing Development Fund at Closing.

Jeff Githens and Tim Kalnin commented that they have been working on development opportunities in Ithaca for a number of years and hope that this one can move forward. They are working with the City of Ithaca on site plan review and planning board approval.

Martha Robertson commented that this is a creative way to use underused space. She noted that a print shop used to be on the same site. Will there be any environmental issues due to this? None other than asbestos removal from a building that will be torn down.

Martha Robertson asked about the rents for the units. The rents will be competitive and should be about \$50/\$75 dollars less than other similar size and type rental units.

Martha Robertson asked about application page 12 and the question on relocation of jobs. This is checked yes due to the fact that the company (BSI) that was located in the building at the back of the site has relocated to another state. This actual project will not relocate any jobs.

The projected length of construction will be 24 months and the general contractor will be Purcell. The GC has indicated that they will not be paying a prevailing wage to construction workers.

**John Guttridge made a motion to accept the application as complete and to move the project to a public hearing. Martha Robertson seconded the motion. Jeff Gorsky stated that he will recuse himself from the vote due to a possible conflict of interest. The motion was approved 6 – 0 with one abstention (Jeff Gorsky).**

Due to time constraints, the remainder of the agenda items will be considered at a future meeting.

## **ADJOURNMENT**

**Todd Bruer made a motion to adjourn the meeting. Jeff Gorsky seconded the motion. The motion was approved 7-0.**

The meeting was adjourned at 4:14 PM.

**Minutes were approved at the June 9, 2021 meeting.**