

DELAWARE INFRASTRUCTURE INVESTMENT COMMITTEE

April 25, 2013

PUBLIC MEETING 9

THOSE PRESENT:

Director Alan Levin, Chairman
Secretary Shailen Bhatt
Representative Helene M. Keeley
Mr. Michael Ratchford
Senator Robert Venables
Representative Quinton Johnson

ALSO PRESENT: **Projects:** **The Milton and Hattie Kutz Home, Inc.** – Ms. Karen Friedman with the Project, Mr. Marcus Henry, Policy Director Overseeing Economic Development for New Castle County, and Mr. Shane Minner, Landmark Engineering; **Delaware AeroSpace Education Foundation** – Ms. Stephanie Wright, Mr. Marc Sheffler and Mr. Gary Bell, and Mr. Brooks Banta with Kent County Levy Court and Mr. Rich Heffron, Delaware State Chamber of Commerce; **Sussex Entertainment Enterprises** – Mr. Jonathan Silver, Ms. Marisa Erdmann, Mr. Robert Stickles, Mr. Garth Jones, Mr. Tyler Davidson, Mr. Gene Dvornick – Town of Georgetown, Ms. Joycelyn Godwin, Ms. J. Julie Wheatley, Ms. Bobbi Batends, Mr. Jeffrey Freid; **The Data Centers, LLC** – Mr. Gene Kern, Mr. Andrew Wolf, Mr. Michael Bednar, Mr. Brian Honish, Mr. Harry Gravell – Building Trades, Mr. Andy Lubin and Mr. Brian McGlinchy - LECET, Ms. Maureen Feeney Roser, Ms. Carol Houcle and Mr. Rick Vitelli - City of Newark, Mr. Robert Krizman, Mr. Fred Wass, Mr. Cob Bauer, Mr. Brendan Duval, Mr. Sam Lathem; Mr. Al Kemp, *Newark Post*; Ms. Courtney Stewart with the Controller General's Office; and Ms. Bernice Whaley with DEDO

LOCATION: Delaware Economic Development Office, 99 Kings Highway, Dover, Delaware 19901

TIME: 10:30 A.M.

CALL TO ORDER

The meeting was called to order at 10:30 A.M. by Chairman Levin, Chairperson, on Thursday, April 25, 2013.

OLD BUSINESS:

Mr. Ratchford made a motion that the minutes of the March 19, 2013 Infrastructure Investment Committee (the "Committee") meeting be approved as presented. Secretary Bhatt seconded the motion which was then adopted by unanimous vote.

NEW BUSINESS:

The Milton and Hattie Kutz Home, Inc. ("Milton & Hattie Kutz Home" or the "Applicant") (Assisted Living Facility Storm Water and Road Enhancement Project) Public Sponsor is New Castle County: At the March 19, 2013 Committee meeting, the Applicant requested up to \$137,350 in funds which will be used for infrastructure needs for the Assisted Living Facility Storm Water and Road Enhancement Project (the "Project"). At that meeting the Committee decided to defer action until information could be received regarding a legal interpretation by DEDO's counsel to determine if the storm water improvements and the road were eligible under Section 4.2 of the Committee's guidelines.

Chairman Levin recused himself from action on this Project as he stated that he and his wife have made annual contributions to the Milton & Hattie Kutz Home. Secretary Bhatt Chaired the discussion on this Project.

Secretary Bhatt stated that at the last meeting, the Committee had requested certain information needed before they felt they could make a decision on this Project. Director Levin stated that legal counsel had informed him that the Committee has broad discretion on what it needs to do; basically it is within the Committee's discretion to make a decision one way or another.

Mr. Henry was back as the Public Sponsor and reiterated the County's support of this Project. Mrs. Friedman stated that at the last meeting she was unable to answer certain questions about the storm water management improvements and therefore, asked Shane Minner with Landmark Engineering, as Engineer for the Project to attend the meeting today for that purpose.

Mr. Minner stated that the storm water pipes are currently maintained by New Castle County and that the need exceeds the capacity. He added that there are broken up drainage areas, overflowing retention areas causing floods downstream on the neighbors' properties. He stated that what is being done is capturing ninety-five percent of the run off on site, holding the water on site and releasing it at a flow to meet the capacity of the pipe. This should take care of any flooding onto the neighbors' property. Secretary Bhatt asked how many neighbors were being flooded. Mrs. Friedman stated that there were two business associates and that they will encounter these problems until these improvements are completed.

Director Levin asked how much of the engineering costs were required versus how much was over and above. Mrs. Friedman stated that it was \$30,000.

Mr. Minner stated that the existing main access for the road is off of River Road and that the new entrance will be off of Lodge Lane. He stated that they will have to clear the access and the whole road will be milled and overlaid. He further stated that the busses traveling down the road now are going to United Cerebral Palsy or to a shelter.

Mrs. Friedman stated that the Kutz Home would be plowing the snow and taking that responsibility off of New Castle County. Director Levin stated that these improvements would have to be done anyway but not to that extent. It was asked how the Project would be funded if the Infrastructure funds were not received. Mrs. Friedman stated that they have a bank loan which is their major source of funding and which is a challenge.

Representative Keeley stated that she supports the drainage portion of the Project but not the road portion; she doesn't see how it is helping the greater public.

Senator Venables stated that he is unfamiliar with the road but asked if they are widening the road and asking if they are going back further than they had to. Mrs. Friedman stated that they are widening Lodge Lane and Lodge Lane passes the new entrance to the assisted living facility. Director Levin asked if they didn't have to, why were they widening the road? Mrs. Friedman stated that it was a previous promise that all the construction vehicles would come through Governor Printz Boulevard and the Applicant wanted to make sure they were a good neighbor. She stated that they feel it is very important to keep a good relationship with its neighbors. Mr. Minner stated if Kutz Home was allowed to take the access off of River Road, it would have had to widen that also.

Mr. Ratchford stated that he is still struggling with the public purpose of this Project. His concern is that the Project would have gone ahead without this funding, and he is not clear that it creates other businesses. He is trying to distinguish if there are any other drainage problems from other projects with the same problem in this area.

Representative Keeley stated that she knows that there are constant drainage problems in this area. She stated that she believes this is something that can help the neighbors downstream which would prevent them from having to go before the Conservation District for funds which can take over a year to get completed.

Mr. Ratchford questioned if the Infrastructure Fund is the proper fund for this assistance.

Motion Made By: Senator Venables

Motion Seconded By:

Motion

Failed for Lack of a Second.

Motion: To approve Applicant's request for \$137,350 in funds to be used for infrastructure needs for the Assisted Living Facility Storm Water and Road Enhancement Project.

Motion Made By: Representative Keeley
Motion Seconded By: Secretary Bhatt
Motion Passed 4 to 1 Mr. Ratchford voted Not in Favor.

Motion: To approve an amount not to exceed \$32,000 to be used for the enhancement improvements portion of the Assisted Living Facility Storm Water and Road Enhancement Project.

Delaware AeroSpace Education Foundation. (“Delaware AeroSpace Education Foundation” or “DASEF” or the “Applicant”) (Geothermal System Project); Public sponsor is Kent County Levy Court: The Applicant is requesting up to \$563,552 in funds which will be used for infrastructure needs for the Delaware AeroSpace Education Foundation Geothermal System Project (the “Project”).

Mr. Banta stated that ten years ago, Kent County Levy Court gave forty acres of land to the Delaware AeroSpace Education. He stated that he believes it will bring more jobs to Kent County. He stated he further believed it would allow people to stay at the facility overnight and these activities would benefit restaurants, hotels, stores, etc. Mr. Banta stated that he feels this organization is similar to the Boys Scouts of America. He added that this organization is very wise in expenditures; pay as they go and move forward at a slow pace. He stated that he had spoken with Cindy Small, Kent County Tourism and Linda Parkowski, State Tourism, and that both of them supported this Project.

Mrs. Wright stated that this facility is an operational building which is full every day when kids are normally in school. She stated they receive tuition fees in conjunction with the astronomy fees and Saturday fees. She stated that the bigger building will fulfill the demand from schools up and down the State and even some from out of state. Mrs. Wright stated that this organization has been in a stem partnership with Kent County. She stated that the roads were put in at the start of the Project. Then through Artesian Water, DASEF put fire hydrants which are maintained by DASEF. She stated that Kent County reimburses DASEF for supplies. DASEF charges a \$4.00 fee which is affordable.

Mrs. Wright stated that ILC has met with Chairman Levin and Governor Markell expressing their need for stem projects. She stated that DASEF has something valuable to offer to children and it could encourage new businesses to come to Delaware. Mrs. Wright stated that Saturday is “family day”. There is an outdoor exhibit, a planetary walk that is free, a butterfly garden, a nature walk, etc.

Mrs. Wright stated that with this Project, DASEF will be paying 40-60 percent of what they are now paying. She stated that the other building which is heated and cooled by solar energy, the costs are about \$150.00 a year. She stated the geothermal building will have outdoor exhibits available to the public. She added that DASEF hopes to have a

platinum building which will be free admission. She stated that Kent County has given approval that once DASEF gets the geothermal project done, it can start with the platinum building. It will provide 14-15 classrooms. She stated that DASEF's mission is to serve the public and that all monies go back to serve the children.

Chairman Levin stated that he has watched the progress over the last several years and feels DASEF deserves much credit. He added that he also believes there is definitely a public purpose with this Project. It was asked how much State funding had DASEF received to date. Mrs. Wright stated that it had received \$1.25 million over the last twelve years and that Kent County had donated the land.

Secretary Bhatt asked how many children attended the facility on a daily basis. Mrs. Wright stated that it ranged from 30-100 children a day. She added that it is their goal to reach 22-25,000 in a year. She stated that when a school/group can't afford to bring a bus to the facility, then DASEF goes to them. She believes that stem education is very important. She added that many groups have made return visits. Mrs. Wright stated that they are limited to how many students they can handle on a daily basis. She stated that the other component of DASEF is that it makes sure the teachers are fully prepared after their visits to the facility. DASEF provides packets to take back to the classrooms to reinforce and continue the education.

Secretary Bhatt asked the amount of DASEF's budget. Mrs. Wright stated the budget is \$300,000 a year and that about two-thirds of it comes from tuition.

Mrs. Wright stated that once DASEF gets into the big building, the primary mission is stem and there will also be a museum piece; but not a traditional museum.

Mrs. Wright stated that the building had been constructed and this was the last part needed. Chairman Levin asked if there was a cheaper way to do this Project. Mrs. Wright stated that there may be other ways to go but that this Geothermal System seems to be the best way. She stated that once they are in the building, the less they will pay which would mean the more than can give to the children.

Mrs. Wright stated that she feels that DASEF is serving the public. She added that DASEF has just written a big grant to get a galaxy garden – it would be the second one in the world; the other is in Hawaii.

Mr. Ratchford asked what would happen if DASEF did not get this funding. Mrs. Wright stated that DASEF will not be moving into the building until the geothermal portion is done. Mr. Ratchford stated that he believes that the facility as a whole does serve the public, but is concerned that it's for this one specific site.

Senator Venables stated that he has visited the site and found it to be amazing. He also expressed his amazement that everything is paid for.

Mrs. Wright stated that DASEF has the second largest telescope in the country. She stated that with this particular project, it is a show place and people will see the benefit of green energy – they can see it firsthand.

Representative Keeley questions whether the Committee would be opening up the flood gate for every nonprofit to request funds for some type of enhancement.

Secretary Bhatt stated that he believe the Committee must be satisfied that the Project meets the public purpose and satisfied with what the State is getting from it. He stated that there is an energy transmission, there will be 23 jobs that are not currently there, and it is benefiting DASEF but that the Committee must also consider what it does for Delaware and he believes DASEF will make Delaware more competitive.

Chairman Levin stated that geothermal does fit the standard criteria and he supports trying to educate Delaware's children in science technology. He added that it will also generate jobs, tourism activity and other activities will follow.

Mr. Ratchford asked if DNREC had a green energy fund. Mrs. Wright stated that DASEF has been to DNREC and there is no funding available.

Mrs. Wright stated that DASEF serves the entire State. Secretary Bhatt stated that most of the improvements are site specific but that he is okay with that because it is valuable to the entire State. It was asked if DASEF had considered dumping electricity back into the grid. Mrs. Wright stated that they were currently working with Delaware Electric Coop on that matter.

Chairman Levin stated that in referring to a project being site specific, an example could be a hotel. He stated further that this Project is to educate children - will educate the next generation. Representative Keeley stated that she disagreed because with a hotel, there could have been a benefit to hundreds of people and for less money. Mrs. Wright stated that she felt comparing those two examples was like comparing apples and oranges.

Representative Quinn asked what the Committee would do if a Senior Center requests funding to save money. Chairman Levin stated that the Committee has to look at the whole project and it is case by case.

Motion Made By: Secretary Bhatt

Motion Seconded By: Secretary Venables

Motion Passed 3 to 2; Representative Keeley and Mr. Ratchford voted not in favor.

MOTION: To approve Applicant's request for an amount up to \$563,552 in funds which will be used for infrastructure needs for the Delaware AeroSpace Education Foundation Geothermal System Project in Kent County, Delaware.

Sussex Entertainment Enterprises. (“Sussex Entertainment Enterprises” or the “Applicant”) (College Park Project); Public sponsor is the Town of Georgetown:

The Applicant is requesting up to \$3,951,000.00 in funds which will be used for infrastructure needs for the College Park Project (the “Project”).

Mr. Stickles stated that this has been the most progressive project in Sussex for the last several years. He stated that the infrastructure improvements will enhance regional necessities for the area, employment opportunities will be created in the county with the highest unemployment rate. He added that this Project is necessary and it will also provide public safety improvements for the area.

Mr. Dvornick stated that these infrastructure improvements will allow for future development of this particular parcel, there will be traffic improvements for Route 404 and Route 18 and provide much needed jobs for Georgetown.

Ms. Wheatley stated that there will be a diversity of jobs – including healthcare positions. She stated that three hundred direct, diverse jobs are projected but that they anticipate that number being significantly higher. She stated that she feels with the hotel planned, the Sports of the Beach activities and the beach traffic, this Project is very much needed.

Ms. Barends stated that DelTech is located across the street from the proposed Project. She stated that the Route 404/Route 18 intersection which leads directly into this area is a really dangerous intersection. She added that DelTech being a hub of activity has many venues at this facility. She also expressed her concern with the inevitable increased pedestrian traffic. Ms. Barends stated that she strongly supported this project and believes that a traffic light, a cross walk and a button call at this intersection will resolve current and potential issues.

Mr. Freid stated that he is also very excited about this Project. He stated that with the many changes coming with healthcare reform and with Sussex County growing, he believes that Beebe Hospital must expand its services into Georgetown. He stated that Beebe is excited about the opportunity to bring services to this area. He added that there will be walk in services and other services that will prevent people from having to travel as far.

Mr. Silver stated that Sussex Entertainment Enterprises has owned this land for several years and they are very excited to bring on a mixed use development to the area which will also bring quality jobs to Sussex County. He stated that the Project will have an immediate impact. He stated that the medical office building of approximately 46,600 square feet is going to be anchored by Beebe Hospital. He added that there will be retail shops and a ninety room hotel such as a Marriott, Fairfield or a Hampton Inn. There will be a commercial pad site and the hotel is going to be adjacent to the medical arts facility. He stated that within the first year, they expect three hundred jobs to be created; Beebe will be bringing about 140. He added that after two years, they expect that number to

increase to 406. He stated that the average salary for the Beebe employees will be \$70,000.

Mr. Freid stated that Beebe will provide outpatient assistance for CT scans, MRIs, an express walk-in area, laboratory, rehab and primary care and specialty care such as pediatrics and orthopaedics. He added that there will also be a large conference room and a board center where patient education care will take place. Mr. Fried stated that these services provided will take healthcare to a whole another level. He stated that these high quality jobs will have an average salary of \$75,000.

Mr. Silver stated that there is interest from other retail users such as cellular, fast food, a discount store, optometry and a liquor store. He stated that they anticipate 266 jobs from the retail component.

Mr. Jones stated that this area is a very heavily traveled site with nine million cars passing this site each year. He added that there are serious safety problems. He stated that College Park Drive is right in, right out; there is truck traffic, other users, pedestrian traffic, DelTech traffic, etc. He stated that there are currently no pedestrian signals or walkways and there are going to be a lot of students going into this area. He stated that the way this area exists today, there are serious safety issues.

Chairman Levin asked if these improvements were being necessitated by the site. Mr. Jones stated that to a part they are; the road part and the signalization, those are more for safety improvements and that even if the development didn't come in, these improvements are necessary. Chairman Levin asked if the Project moves forward, would those improvements be required. Secretary Bhatt stated that the Project can't get a Letter of No Objection unless these improvements are made. Mr. Jones stated that at this point these improvements have not been required. Chairman Levin stated he believes that is because no work has been started as of yet.

It was stated that to provide service to all of the new tenants, the sewer will have to be extended. Chairman Levin stated that the conditions will only get worse because of the additional tax that is going to be put on the site. Mr. Stickles stated that there are failing intersections today and that what is going to be done will create more traffic, but even if this project doesn't happen, you are still going to have failing intersections with unsafe conditions.

Secretary Bhatt asked if the group had talked with DeIDOT as of yet. Mr. Jones stated that they have not identified what improvements would be needed. He added that they are currently going through process for retail development but that the Route 113 College Park Drive was not something that DeIDOT told them to do but something that Sussex Entertainment chose to do.

Mr. Stickles stated that the sewer system that is there currently, is only servicing Wal-Mart and that they are putting in the added capacity that will be needed. Chairman Levin asked the cost for what was need and for what was requested. He stated that there will be a lease arrangement with Beebe and that part of these costs are attributed to that lease and further, that the red lights costs were not factored in with Beebe's lease but was factored in with Redner's lease.

Secretary Bhatt asked if the \$2,000,000 for signals was for two signals. Mr. Silver stated that it did include College Park's signal also. Secretary Bhatt asked if DelDOT was contributing to the costs of the signals. Mr. Jones stated that DelDOT normally contributes to those costs. Secretary Bhatt stated that it was his opinion that some part of the costs for the signals would be paid by DelDOT.

Chairman Levin stated that he was having difficulties in separating the "true" costs of the Project. He recommended that Sussex Entertainment Enterprises meet with DelDOT to determine the specific costs and to further determine what was Sussex Entertainment's responsibility versus what it would also like to do to make it a better site.

Secretary Bhatt explained that the Committee had to defend the public's interest and that these funds could not be used to maximize a developer's project when it would be making the improvements any way. He also stated that the costs and exact requirements needed to be refined.

Mr. Silver stated that the Project itself will cost over \$37,000,000 and that they are requesting the funds today for infrastructure improvements.

Chairman Levin stated that the Committee needs to see the costs for what is necessary for the site to go forward and what is over and above that number. He stated that the Committee has to determine if there is a public purpose and ensure that it is paying for improvements that are allowed by the Committee's guidelines. Secretary Bhatt stated that the Committee needed to justify the costs.

Chairman Levin recommended that action on this Project be tabled until the Committee could receive supplemental information showing a specific breakdown of the costs for the funds being requested.

The Data Centers, LLC. ("The Data Centers, LLC" or the "Applicant") (Wolf Technology Center 1 Facility Project); Public sponsor is the City of Newark: The Applicant is requesting up to \$7,500,000 in funds which will be used for infrastructure needs for the Wolf Technology Center 1 Facility Project (the "Project").

Ms. Houcle stated that the City of Newark is pleased to be the Public Sponsor for this Project. She stated that she believes that the arrival of the Data Center here will bring many benefits. Ms. Houcle stated that without this Project, the substation would not be

built at this time and certainly not to this magnitude as the City of Newark would not be in a position to do it. She stated that she feels this will be a great motivator for other firms looking for a location that will have this service. She added that this Project will benefit more than the Applicant. She stated that the area will get greater reliability from this service and it will help reduce electrical shortages. Ms. Houcle stated that the City of Newark will be one of nine municipal members that will benefit across the State. She further added that jobs will be produced and that she feels there will be a boost in the lodging, retail and dining sectors.

Chairman Levin questioned if there was current problem with reliability. It was stated that the lines go from north to south and that the longer the lines, the more exposure. He added, that however, with this substation going on the southern end of the City, lines will be shortened by half and therefore, the exposure will go down. He stated that today it is not a big issue, but could be in the future. Chairman Levin asked if the savings from this Project will be passed on. Ms. Houcle stated that the savings will go into DEMAC's portfolio and will be done at a favorable rate and that all will benefit equally. Ms. Houcle stated that each entity will benefit from each other's projects.

Mr. Ratchford asked if this would be a better deal for DEMAC than for another company. Mr. Krizman stated that there would be several advantages. He stated that there will not be transmission costs to worry about, so overall the price to DEMAC will be less.

Senator Venables asked who was supplying the other funding – are there that many investors? He stated that his concern is that the Project will get started and then run out of money. Mr. Krizman stated that this asset is very attractive to investors. He stated that the funds from the grant would be sufficient to get the Project up and running and then with the incoming revenues, the types of tenants that have an excellent stability of cash flows, it ensures success. He added that this is a very methodical funding.

Senator Venables expressed his concern on the discharge of water – where it would all be going. Mr. Krizman stated that they are not putting the water back into the equestriennes. He explained that they will be getting the water from United Water so there will be no discharge; it will evaporate.

Chairman Levin asked how the \$7.5 million would be spent. Mr. Krizman stated that they are hoping to start construction with nine months and the first emphasis is on the substation and getting the natural gas lines building. Mr. Ratchford asked if other entities could tap into the gas lines. Mr. Krizman stated that there would be that capability and that fifty percent of what they were building would be available to existing businesses. Mr. Krizman stated that in their discussions with Chesapeake Utilities, it has led them down a path of where they can store the gas.

Mr. Ratchford stated that the Committee is trying to determine if it serves others than just serving this Project and he believes it does.

Mr. Krizman stated that there will be an investment of \$1.1 billion dollars. He stated that this facility is being built to meet today's and tomorrow's needs. He stated that they have a seventy-five year lease.

Representative Keeley asked if they had looked at any other sites. Mr. Krizman stated that they had looked at other sites. Chairman Levin asked why they picked this particular area. Mr. Krizman stated that when doing a Data Center, you look for certain things such as safe air traffic, east to access and get to, power lines, fiber optics, etc. He stated that being on tar campus has benefit to others. He stated that they feel that this location is in the best interest to all.

It was stated that with the Bloom Energy project of \$7,000,000, half of the funds were to prepare and the balance was for inside infrastructure improvements. It was asked if any of these funds would be used for that purpose; it was stated that this Project is exclusive of the Bloom Project. Mr. Krizman stated these funds will be used for infrastructure upgrades. Representative Keeley asked if the University of Delaware would also be able to use this energy; the reply was that it would.

Chairman Levin questioned that the Data Center has agreed to some campus infrastructure improvements and asked if the Committee would be in a way subsidizing the campus. Mr. Krizman stated that at the end of the Project, there will be a new substation and new gas lines. Chairman Levin stated that his concern is that what the Project is doing is over and above and that it could be considered as something that will benefit the campus. Representative Keeley stated that the Committee has to make sure that these funds are used most wisely. She added that the Committee strongly supports the Star Fund but that this Committee has an obligation and that it has already allotted funds for infrastructure needs for the Star project.

Chairman Levin stated that he believes the Project has met the public purpose as it offers opportunities for other businesses but he still has issues on the financing end. He added that he would like to see things in the agreement to satisfy the Committee that the funds were being used to meet the Committee's criteria.

Representative Keeley stated that she would like to see more specific details regarding the "Other" costs listed in the application. She is concerned that the funds would be used for design costs. She believes that legal counsel should work with the Data Center to make sure the Grant Agreement aligns with the Committee's guidelines.

It was suggested that the approval be contingent upon an acceptable agreement that mirrors the guidelines of the Committee. Chairman Levin suggested a letter of intent/term sheet be sent to the Applicant within the next ten days to be approved by the Applicant and the Committee.

Motion Made By: Senator Venables

Motion Seconded By: Mr. Ratchford

Motion Passed 4 to 1; Representative Keeley Abstained.

Motion: To approve Applicant's request for funds in an amount of up to \$7,500,000; contingent upon the execution of an acceptable Term Sheet between the Applicant and the Committee. The funds will be used for infrastructure needs for the Wolf Technology Center 1 Facility located in New Castle County.

ADJOURNMENT:

The meeting was adjourned at 12:55 A.M.

Sincerely,

Lee K. Porter

Cc: Members of the Infrastructure Committee
Cynthia Collins, Esquire