

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

September 25, 2008

MINUTES OF THE SPECIAL MEETING

Members of the Authority present: James Kelly, representing the State Treasurer; Joe Latoof representing the Commissioner of the Department of Labor and Workforce Development.

Present via phone: Joseph McNamara, Vice Chairman; Angie McGuire representing the Governor's Office; Eric Wachter representing the Commissioner of the Department of Environment Protection; Public Members Phil Kirschner, Steve Plofker, Charles Sarlo and Raymond Burke; First Alternate Public Member.

Absent from the meeting: Carl Van Horn, Chairman; Michael Sheridan representing the Commissioner of the Department of Banking and Insurance; Public Members: Tim Carden, Richard Tolson, Thomas Manning, Elliot M. Kosoffsky, Second Alternate Public Member; and Rodney Sadler, Non-Voting Member.

Also present: Caren Franzini, Chief Executive Officer of the Authority, by phone, Maureen Hassett, Senior Vice President of Governance & Communications, Ed Pillsbury, Deputy Attorney General, and staff.

Ms. Hassett called the meeting to order at 11 a.m.

In accordance with the Open Public Meetings Act, Ms. Hassett announced that notice of this meeting has been sent to the *Star Ledger* and the *Trenton Times* at least 48 hours prior to the meeting, and that a meeting notice has been duly posted on the Secretary of State's bulletin board at the State House.

AUTHORITY MATTERS

The next item was to approve the changes to the draft rule proposal previously approved by the Members at the September 9, 2008 Board Meeting and authorize staff to submit to the Office of Administrative Law for publication in the New Jersey Register. The Authority will initiate the processing of applications with applicants at risk if the rules are not adopted as proposed herein.

Several material changes necessitate amendments to the draft regulations previously approved by the Board. These changes are highlighted as follows:

- At **19:31-9.6(b) (Application and Servicing Fees)**, the consumer price index adjustment to the annual servicing fee cap of \$40,000, which was included in the rule proposal by the Commerce Commission published in the New Jersey Register in May, is eliminated as the fee has been increased sufficiently to cover costs of program implementation.

- At New 19:31-9.8(b)8 and 10 (Project Agreement), the regulations now contemplate allowing the applicant to retroactively adjust the allocation of tax credits among its affiliates as a result of an audit by the IRS or the State Division of Taxation, where previously retroactivity was prohibited.
- At New 19:31-9.11(a)1 and 2 (Reporting Requirements), require submission of a certified report on job creation, lease payments and default status, if any, of project agreement after the project is certified complete and capital investment and employment requirements satisfied. The requirement to provide an annual report after Board approval, but prior to certification is eliminated.
- At New 19:31-9.11(b) (Reporting Requirements), the circumstances in which EDA would require the business to forfeit annual tax credits for reporting compliance is narrowed and clarified that the Authority would not recapture credits if an annual report is not filed.
- At 19:31-9.12(2) (Events of Default), debarment violations added as an event of default.
- Other additional changes are summarized in the memo provided to the Board.

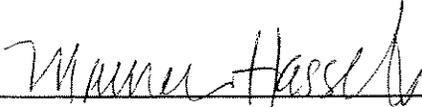
**MOTION TO APPROVE: Mr. Burke SECOND: Ms. McGuire AYES: 8
RESOLUTION ATTACHED AND MARKED EXHIBIT:1**

PUBLIC COMMENT

There was no comment from the public.

There being no further business, on a motion by Mr. Latoof, and seconded by Mr. Kelly, the meeting was adjourned at 11:20 a.m.

Certification: The foregoing and attachments represent a true and complete summary of the actions taken by the New Jersey Economic Development Authority at its meeting.



Maureen Hassett, Assistant Secretary