

Economic Development Committee Minutes
December 5, 2019 – 3:00 p.m.

Present: Chairman Phil Barrett; Committee Members Todd Kusnierz, Tim Szczepaniak, Matt Veitch; Supervisor Tara Gaston; Spencer Hellwig, County Administrator; Steve Dorsey, County Attorney; Craig Hayner, County Clerk; Jenniffer McCloskey, Employment & Training; Andrew Jarosh, Treasurer; Marty Vanags, Saratoga County Prosperity Partnership; Press.

Chairman Barrett called the meeting to order and welcomed all in attendance.

On a motion made by Mr. Kusnierz, seconded by Mr. Veitch, the minutes of the November 7, 2019 meeting were approved unanimously.

Mr. Barrett said that at the last Economic Development Committee meeting it was discussed that SEDC would submit their most recent audited financial statements as part of their public services contract with Saratoga County. These statements have been completed and sent to the County. Mr. Barrett said that the County Administrator will send them out to the entire Board of Supervisors.

Mr. Barrett distributed handouts. A memo from him to the County Board of Supervisors regarding the Supreme Court Decision on petition by the Orange County Partnership Inc. appealing the State of New York Authorities Budget Office (ABO) claim asserting OCT was a “local authority” subject to State ABO oversight. A copy of the memo is attached to these minutes. Mr. Barrett said that there are items in the decision that are relevant to discussions this committee and board has had during the past year. Mr. Barrett also distributed a copy of the decision and a copy of a newspaper article regarding the decision.

Mr. Barrett thanked the members of the Economic Development for their efforts during the past year. Mr. Barrett thanked SEDC and the Partnership for working together and making great strides for the betterment of the economic development climate, execution of their stated goals and elimination of duplicative services.

A motion was made by Mr. Szczepaniak, seconded by Mr. Veitch the meeting was adjourned unanimously.

Respectfully submitted,

Therese Connolly
Deputy Clerk of the Board

MEMORANDUM

TO: County Board of Supervisors

FROM: Supervisor Phil Barrett, Chair, Economic Development Committee

Date: December 5, 2019

RE: SUPREME COURT Decision on petition by the Orange County Partnership Inc. (OCP) appealing the State of New York Authorities Budget Office (ABO) claim asserting OCP was a “local authority” subject to state ABO oversight

The 2020 budget includes economic development reforms approved by the Board of Supervisors, many area employers and residents of Saratoga County. One important element of the reforms was the recent budget amendment of \$150,000 for a public services contract with SEDC.

During discussions about the prospect of the County entering into a public services contract with SEDC, the situation involving the Orange County Partnership and ABO oversight, became a part of the conversation. I very recently received a copy of the Court decision from November 2019 that rejected the asserted NYS ABO oversight of another privately formed and primarily privately funded economic development organization in Orange County. Within the decision are important items relevant to our discussion about SEDC as a contractor to the County.

I have attached the complete Court ruling. Please review some elements of the Court’s decision below and its relevance to Saratoga County, Saratoga County Prosperity Partnership (SCPP) and SEDC’s standing.

- 1) The Court holds that the Orange County Partnership (OCP) was a local authority when created, but *changes* over time have taken OCP out from under that designation.
- 2) *Changes* made by OCP to its by-laws *included prohibition of elected or appointed public officials from serving as directors and removing ex-officio positions*. SEDC *never* required local officials on its board or in its by-laws and has operated under these standards without public officials on its Board for many years.
- 3) In Saratoga County, the BOS authorized and created the SCPP by resolution. Even though the SCPP is not a county department, it was clearly created by the County.
- 4) SEDC was created by certificate of incorporation signed by a private businessman. SEDC was not created by government.
- 5) The OCP’s purposes include private business development, performance of contractual marketing services and collaboration with private business groups, chambers of commerce and trade associations.
- 6) SEDC’s purposes as contained in the Certificate of Incorporation are similar. SEDC’s activities are centered around marketing to private businesses and groups to entice new private investment, growth, entrepreneurship and job creation.

- 7) The OCP currently receives the vast majority of its funding from private sources. Less than 5% of its revenue is from municipalities through contracts or investment payments. Using SEDC's current budget figures, the \$150,000 from Saratoga County would equate to < 16%. How much of the percentage of an organizations' s budget is considered significant? A threshold is not identified in the decision that I could find. However, a point of information that may be useful: for a charity to be considered "public," as opposed to a private foundation, one-third of the organization's support must be derived from the general public or government.
- 8) Orange County can oversee the activities of its internal economic development departments and determine the extent to which OCP's services are required. This is similar to the Saratoga County reforms, which included, the SCPP and SEDC working together on a menu of services each organization will pursue in the future, while removing duplicative services. The contract with SEDC identifies specific marketing tasks and activities to be executed by the contractor (SEDC).
- 9) OCP's activities, which are very similar to SEDC's, do not necessitate a finding that it operates as an information adjunct of Orange County This is the case even though the OCP assists businesses with municipal approval processes and IDA applications, as SEDC does in Saratoga County. A new, ANNUAL public services contract with SEDC is a similar relationship the County has with many other organizations. The County is the client in a vendor/client relationship.