

PUBLIC HEARING MINUTES
VILLAGE OF PORT CHESTER INDUSTRIAL DEVELOPMENT AGENCY

(Uniform Tax Exemption Policy DRAFT Amendment)
Wednesday September 8, 2021 and Wednesday October 13, 2021, both at 6:30 p.m.
Town of Rye Justice Court, 350 North Main Street, Port Chester, New York 10573

ATTENDANCE LIST:

Agency Staff and Board Members:

Board Members Daniel Brakewood (remotely in October), Michael Brescio (October only), Richard Cuddy, Frank Ferrara, John Hiensch (September only), Richard O’Connell, and James Taylor
Christopher Steers, PCIDA Administrative Director
Anthony Siligato, PCIDA Treasurer
Constance Phillips, Acting Secretary

CALL TO ORDER September 8, 2021: (Time: 6:30 p.m.).

The PCIDA Public Hearing was called to order at 6:30 p.m. by Chairman Frank Ferrara. On the motion of Board member Richard Cuddy, which was seconded by Board member Richard O’Connell, the workshop was called to order.

Roll Call

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>
<u>BRAKEWOOD</u>			<u>x</u>		
<u>BRESCIO</u>			<u>absent</u>		
<u>CUDDY</u>	<u>x</u>		<u>x</u>		
<u>FERRARA</u>			<u>x</u>		
<u>HIENSCH</u>			<u>x</u>		
<u>O’CONNELL</u>		<u>x</u>	<u>x</u>		
<u>TAYLOR</u>			<u>x</u>		

PURPOSE:

Chairman Ferrara pointed out that this Public Hearing was optional, but the Board felt it important to encourage public input. What the PCIDA is obligated to do is notify the tax jurisdictions it serves and solicit and consider their comment. To date no comment has been received from these jurisdictions, which have generally been supportive of the PCIDA’s mission

in the past. They appreciate that the impacts of development have been largely mitigated under the new code, and thus incentivizing new development unlocks revenues that would not otherwise be realized.

DISCUSSION:

Chairman Ferrara explained the IDA was created under that portion of the NYS General Municipal Law known as The IDA Act and is governed by its Uniform Tax Exemption Policy (hereinafter UTEP) which it must publish. Prior to last year it had been ten years since it had been amended. At the time the intention was to better align PCIDA incentive practices with the Village's newly passed Form Based Code, as it is the intention of the PCIDA to follow Village policy, not make its own.

The current amendment being considered is designed to "fine tune" the prior amendment by addressing three areas:

- The Board's desire to chart a more defined path to awarding lengthier benefit, which it now restricts to the areas of the Village where development is encouraged, namely the CD5, CD6, and CD6T districts.
- To eliminate separate scopes of benefits for Commercial and Residential projects, given that most projects being proposed in the Village are referred to as Mixed Use and have elements of both.
- To respond to public comment that IDA processes are difficult to understand. While all IDA policies are available on the website, the amendment now incorporates the broad intention of these policies, rather than merely referring to them in the text.

Mr. Ferrara then described the proposed amendments section by section, and included a summary of changes made in the previous UTEP amendment last year:

- Section 5 – Standard Incentive Program
 - Last year - established our Standard Incentive Program to limit PILOTs from 20 years to just 10
 - Last year – Referenced "Uniform Project Evaluation Policy" which describes our process and the minimum project attributes and qualifications we must consider for all projects according to Section 874(4) of the IDA Act
 - This year - the salient points of Section 874(4) are enumerated to give the reader a better understanding
- Section 6 – Enhanced Incentive Program
 - Last year - Enhanced PILOTs of up to 20 years are only now encouraged in the areas favored by the Master Plan and FBC – CD5, CD6, PMU
 - This year – further detail in how we grant PILOTs of up to 20 years to ensure we obtain sufficient benefit – Appendix B

- Section 7 - Deviations
 - By law IDAs must adopt a “deviation” policy, whereby the Agency has the option to deviate from its UTEP in certain instances where such deviation is considered desirable.
 - This year - The list has been pared to eliminate redundancy and include items not previously considered, such as infill projects
- Section 9 – Clawback Policy
 - Last year - In accord with Section 874 (10)-(12), the Agency referenced its procedure to recapture benefits known as the “Project Recapture, Termination and Assignment Policy” – intentionally disappointed
 - This year - the salient points of the policy are enumerated to give the reader a better understanding
- Appendix A – PILOT matrix
 - Last year - the PCIDA had adopted discrete “Residential” and “Commercial” PILOT schedules
 - This year - Given the number of mixed-use projects that have both residential and commercial components, we believe it best to simply maintain one schedule

PUBLIC COMMENT:

Mr. Ferrara then opened the hearing up to public comment. A summary of the comment, both received written and oral, with PCIDA responses, is attached as **Appendix A** of these minutes.

Given the breadth of comment received the Board opted to continue the Public Hearing at its next meeting and schedule a workshop to consider adjustments it might consider in response to the comments. Written comment will continue to be accepted.

On the motion of Board member Richard Cuddy, which was seconded by Board member Daniel Brakewood, the hearing was adjourned at 8:20 p.m. until date certain October 13, 2021.

Roll Call

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>
<u>BRAKEWOOD</u>		<u>x</u>	<u>x</u>		
<u>BRESCIO</u>			<u>absent</u>		
<u>CUDDY</u>	<u>x</u>		<u>x</u>		
<u>FERRARA</u>			<u>x</u>		
<u>HIENSCH</u>			<u>x</u>		
<u>O’CONNELL</u>			<u>x</u>		
<u>TAYLOR</u>			<u>x</u>		

CALL TO ORDER October 13, 2021: (Time: 6:30 p.m.).

The PCIDA Public Hearing was called to order at 6:30 p.m. by Chairman Frank Ferrara. On the motion of Board member Richard Cuddy, which was seconded by Board member James Taylor, the workshop was called to order.

Roll Call

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>
<u>BRAKEWOOD</u>			<u>X</u>		
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<u>FERRARA</u>			<u>X</u>		
<u>HIENSCH</u>			<u>absent</u>		
<u>O'CONNELL</u>			<u>X</u>		
<u>TAYLOR</u>		<u>X</u>	<u>X</u>		

DISCUSSION:

Chairman Ferrara briefly summarized the rationale behind the UTEP amendment that he had explained more fully at the public hearing last month. He also detailed the impact public comment had on a revised Appendix B in the UTEP and changes made by the IDA, including introducing translation on its website and resolve to hire an independent monitor in the months ahead.

PUBLIC COMMENT:

Mr. Ferrara then invited additional public comment.

Speakers

Name	Address	Representing
Gregg Hamilton	Village Green	Sustainable Port Chester Alliance and himself
Tom Ceruzzi	Hobart Ave	himself

Submitted Written Comment

Name	Address	Representing
Monica Fonseca	Westchester Ave	herself
Kiki Short	Quintard Drive	herself
Arianna Christopher	Betsy Brown Road	herself

Verbal comments paraphrased

Gregg Hamilton

I acknowledge the smart, thoughtful discussion on this topic but I ask for additional common sense. When it comes to satisfying the IDA's "but for" test can you really believe your consultants. I believe applicants underestimate revenues and overestimate costs and just don't trust the numbers. I continue to doubt the need for abatements given the eagerness on the part of developers.

We need to throttle back the pace of development as things are unfolding too quickly. The Form Based Code 20 year build out analysis will be realized within just a few years.

Tom Ceruzzi

I agree with Mr. Hamilton. I urge the Board to exercise discretion and question the need for 20 year PILOTS.

Monica Fonseca

I am still concerned with developers being granted 20 year pilots while they are already amply compensated through opportunity zone tax deferments. As a result we have developers eager to come to our village. We do not need to then give them further tax breaks in the form of PILOTS. I am in favor of development, responsible smart development that assimilates with the character of the village, provides living wage jobs, provides affordable housing for working class people, mitigates flooding, employs green energy and infrastructure, and helps not harms our already overwhelmed infrastructure and village services. In addition, if the aim is to truly increase the tax base, that is only achieved when everyone pays their fair share, including developers and development projects. Thank you for your time and I hope that common sense and fairness for the existing residents of Port Chester prevails.

Kikki Short

The new revision to the draft UTEP does not substantially improve the policies therein.

First, the "enhanced incentive via deviation" lays out a series of factors that are not weighted in any way and would seem to make a 15 year PILOT the new standard.

- It would make sense to weight "projects that promote infill of vacate parcels within developed blocks" for BOTH a 15 year PILOT and a 20 year PILOT
- How will the IDA assess "Projects will create or retain permanent, private sector jobs" when the IDA does not currently do any independent assessment of jobs?

- What method is used for “Project that will have a positive impact on existing and proposed businesses and economic development projects in the vicinity? This seems like a core idea, rather than a reason for an extension of tax benefits. What accountability is there?
- How will the IDA assess a “historically or architecturally significant structure” and what weight will be given to that area? Methods? Criteria?

Second, although the new Appendix B contains negative points, it does not have any negative categories. Why not have a negative category such as, “Removes local business” or “Demolishes historically significant building based on NYSHPO assessment?”

Appendix B: I will discuss each category individually.

“Level of direct support for PC businesses and Residents”

- How can this be a part of earning a 20 year PILOT when the execution of this (“successful outreach effort”) would fall entirely after the approval of a new application?
- How will the IDA track and assess the “commitment” that developers would make?

“Worker Protections”

- Again, the IDA would be delivering 20 year PILOTs based on a criteria that is only accessible AFTER the development is completed. This suggests that the IDA would simply rubberstamp every 20 year PILOT application and is putting this in for clawback purposes rather than as an assessment tool for eligibility for 20 year PILOTs.
- Given that OSHA has its own criteria and enforcement, why is this a priority for the PCIDA?
- What methods would the PCIDA use to track and assess violations to state law?

“Fire Prevention and Safety Measures”

- Why is exceeding code a priority for the PCIDA? Is this a recognition that current code is inadequate?
- Giving tax breaks for going beyond code seems arbitrary - if code needs to be improved, why is the IDA putting itself forward as the appropriate agency for this?
- Why require information as to the costs of going beyond code? Again, why would the taxpayers of Port Chester be subsidizing going beyond code?

“Additional Affordable Housing over Level in Form Based Code”

- This does not include specification as to affordability. Westchester County has a series of guidelines the PCIDA could use for this. Why not set up rigorous numbers or ratios? Again, why not specify what “credit will be given?”

“Mobility Improvements”

- This appears to be written that the developer merely has to “provide data” to qualify. Does the developer have to make any promises or commitments? Adhere to any targets? Is there any clawback here?

“Public Parking”

- Again, this appears to be written that the “applicant will provide data” but will not be required to follow through.

“Green infrastructure”

- Again, this appears to be written that the “applicant will provide data” but will not be required to follow through.
- Why not have longer term goals in here, such as green improvements to current infrastructure?
- Flooding mitigation?
- How will the IDA assess and track these? What expertise will be used?

“Public Amenities and Responsiveness to Community Input”

- Again, this appears to be written that the “applicant will provide data” but will not be required to follow through.
- How will the IDA gather “community input?” What is the timeline for this? What methods will the IDA use to assess “community input” and provide it to the developer? Is all “community input” equally valid? How will the PCIDA accept or reject “community input?”
- Given that the IDA currently publishes almost nothing in Spanish, it would seem that the IDA would either have to make a commitment to rendering all IDA documents in Spanish and doing community outreach itself, or would have to acknowledge that “community input” would be coming predominantly from the English-speaking community.
- This seems to suggest that the Village would be eating the cost [via a 20 year PILOT] to the developer (“potential foregone revenue”) of serving the community. Why should the taxpayers of Port Chester bear the costs of a developer? Business is business and it would seem to be the developer’s job to come up with a viable business - why is this a priority for the PCIDA?

“Economic Revitalization and Growth”

- This should clearly be given considerable weight. How is this equal to all other aspects?

- Why are there only 5 negative points when there are 10 positive points? Why not have “demolishes existing thriving business” = -10?
- What could the “anticipated benefits not reflected in the project financial projections” be? This is incredibly vague and would seem to cover anything and everything.

In short, I think you need to make substantial changes before you move forward.

Arianna Christopher

Comments for Proposed Amendment to Port Chester IDA UTEP

1. General Framework recommendation –

Any use of a scoring matrix or point system should be implemented as an initial screening tool only.

Ensure robust review of all relevant factors.

Ensure that IDA retains full discretion over selection of projects.

Minimize risk of expensive lawsuits. Use of a numeric evaluation system establishes a mechanism for developers to assert claims they should have qualified for IDA assistance.

Example review method:

- a. Scoring matrix/criteria as an initial screening tool
- b. State requirements
- c. Village requirements

2. 20 year abatement scoring matrix considers fewer benefit categories than standard

- a. 20 yr should require a showing of substantially more benefit
- b. If use matrix for any, should use for all, to ensure that the requirements are cumulative

3. Amendment unclear regarding whether Appendix A matrix is considered a deviation

4. “Attributes” and “minimum scoring criteria” establish an unduly limited set of criteria

- a. May make it easier for developers to bring claims against Village (will assert they should have been granted the PILOT because they purportedly met the criteria)
 - b. Separation of attributes and Section 7 criteria creates ambiguity about whether all categories should always be considered. Shouldn't they?
5. Attributes do not indicate a base line that the overall benefit to the Village is at least equivalent to what Village would otherwise receive without the abatement
- a. Need to expand evaluation of value of non-PILOT impact
 - b. Would solidify IDA ability to abate to lower level than prior improvements
 - c. Doesn't account for cumulative impact of developments
 - d. Rationale for considering rental developments for abatements
 - e. Doesn't adequately address school impact which is an overarching Village concern that IDA committed to account for (no meaningful review is happening, data is stale
 - i.E.g., student population supposed to go down, actually going up
 - ii.Conclusion that 'tax benefits' generated for School District and "overall benefits" will outweigh additional school children not supported
 - iii.Huge bonds born by residents to meet school needs
6. Insufficient details to support conclusions/resolutions
7. Evaluation of projects
- a. Costs to properly evaluate whether to give PILOT should be borne by developer unless potential grant is for a underserved community or existing business/resident etc.
 - b. One size does not fit all. The more valuable the abatement, the more thorough the evaluation
8. The longer and more valuable abatements should have greater oversight and more significant review process (e.g., public notice, BOT approval)

ADJOURNMENT

Chairman Ferrara thanked everyone for their comment. He suggested to the Board that while the comment received is valuable, there were not new avenues of thought introduced tonight, and that the comments received on the specifics of the revised Appendix B would help to finalize it prior to approval. He asked the Board to consider closing the hearing.

On the motion of Board member Richard Cuddy, which was seconded by Board member Daniel Brakewood, the hearing was adjourned.

Roll Call

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>
<u>BRAKEWOOD</u>			<u>x</u>		
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<u>FERRARA</u>			<u>x</u>		
<u>HIENSCH</u>			<u>absent</u>		
<u>O'CONNELL</u>			<u>x</u>		
<u>TAYLOR</u>			<u>x</u>		

Respectfully submitted,

Frank Ferrara

APPENDIX A

September 8th collated written and oral public comment with PCIDA responses