

Syosset Central School District

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Board of Education

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June 25, 2019

Ms. Laura Curran
Nassau County Executive
Office of the County Executive
1550 Franklin Avenue
Mineola, NY 11501

Dear County Executive Curran,

This letter is sent on behalf of the Board of Education of the Syosset Central School District (the "School District") to inform you of recent experiences that the School District has encountered before the Nassau County Industrial Development Agency ("IDA"). At the May 16, 2019 meeting of the IDA, Chairman Kessel mentioned your leadership as having been instrumental in bringing about several "transparency" initiatives undertaken by the IDA Board including the use of "independent" consultants to evaluate the economic viability and value of projects before the IDA Board. We applaud any initiative on your part to improve the functioning of the IDA and build confidence in the IDA's decision-making.

We write you however out of concern that those initiatives have yet to achieve their potential. At the IDA meeting held on December 12, 2018, in response to our concerns regarding the limited notice that the School District received regarding projects directly affecting our School District and school community, Chairman Kessel informed our representatives that the IDA would be modifying its notification procedures to better inform affected jurisdictions, such as school districts. That did not occur and as a result, the School District believes that our public was shortchanged by the abbreviated opportunity the IDA Board gave us to evaluate, consider and comment on an application before the IDA at its May 16th meeting. Moreover, Chairman Kessel at that May 16 meeting indicated that the IDA would be pursuing the creation of a parallel process to evaluate PILOT renewals as the considerations differ from those for initial PILOT applications. Despite this implicit acknowledgement that PILOT extensions should be held to a different standard, the IDA nevertheless approved the PILOT renewal application for Nestlé Waters, located in our school district, despite the following process shortcomings:

- the promise of improved notice remains unfulfilled;
- the consultant used for "independence" may not be truly independent; and
- the IDA has not held PILOT extensions to a more rigorous criteria.

In detail:

1. Process Shortcomings

For both the recent Nestlé Waters and the Southern Glaziers PILOT renewal applications, the IDA gave the School District 5 and 7 business days of notice of the public hearing respectively. Moreover, the School District was not given notice of the earlier meeting wherein the IDA considered a preliminary inducement resolution for these projects, nor was the School District notified that an inducement resolution for each project was adopted.

In both cases, on short notice, the School District was forced to seek copies of documents related to the application from the IDA through the Freedom of Information Law (FOIL) process, which imposes a duty to fulfill the request within 20 business days. However, the Nassau IDA has short (10-day) notification timelines. Thus, the IDA could legally comply with its notice requirements, avoid disclosing any inducements, and delay the production of any relevant materials under FOIL until after a decision was already reached by the IDA Board. That design could inhibit the transparency you seek and in fact, perhaps unintentionally, this is exactly what occurred at the May 16 meeting.

Although we had requested “any economic analyses” of the Nestlé Waters renewal application, our FOIL request was denied based on the assertion that “no responsive documents exist.” However, during our testimony, Chairman Kessel indicated that such a study had in fact been conducted by Camoin Associates. Although he apologized for the oversight in conveying it to us and offered to make it available to us at a future date,¹ the lack of production made it impossible to comment on it prior to the IDA’s vote.

2. Consultant Independence Concerns

Camoin’s study of the Nestlé Waters application contains significant analytical assumptions which are critiqued below. However, the use of Camoin is intended to provide the Nassau IDA with an independent evaluation of the merits of an application before the IDA Board. We are concerned that because Camoin also evaluates the IDA Board itself², it is inherently not independent.

If Camoin were truly “independent in the evaluation of an applicant’s assertions of economic benefits, then the Nassau IDA could freely question its methodology and conclusions without any risk to itself. Unfortunately, the opposite appears true since Camoin not only evaluates applications, but appears to aggregate the value of the applications to evaluate the IDA itself. Thus, any exaggeration of the benefits of a project before the IDA would, in turn, exaggerate the economic value of the IDA’s decision to approve it.

Conversely, the IDA lacks the independence to question Camoin’s assessment of individual projects, since doing so would bring into question Camoin’s analysis of the total economic benefit of the Nassau IDA. Camoin’s evaluation of the Southern Glaziers application was built on the same assumption we critique below, suggesting their evaluation of other projects also used the same methodology. Having the Nassau IDA’s evaluation tied so closely to its assessment of projects before it creates the appearance of a potential conflict – i.e. were the IDA to critique Camoin’s methodology for any applicant, it would risk jeopardizing Camoin’s assessment of its own effectiveness measured by the same methodology.

In my February 8, 2019 letter to Chairman Kessel, I asked how the IDA would address the above potential conflict. But my letter and question have remained unanswered. Had we been notified Camoin evaluated the Nestlé Waters application prior to the May 16 meeting, we could have reiterated this question during my comments.

¹ The analysis was subsequently shared with the District and the document’s metadata indicated it was created on 5/9/19 10:18:02 a.m., the same day that our request was denied under FOIL.

² Camoin Associates produced the Nassau IDA’s 2010-2017 Economic Impact Report https://nassauida.org/wp-content/uploads/2018/03/NCIDA_%20%20and_NCLEAC_Economic_Impact_Report_2010-2017.pdf

3. Weaknesses in the Nestlé Waters Application Specifically

Consideration of this particular project, and indeed any PILOT extension application, should have a rigorous analysis of its economic benefits. The Camoin report estimates that the economic benefit of extending the existing PILOT to be 211 jobs, \$14.4 million per year in salaries, and an additional \$43.6 million in sales:

Annual Economic Impact - Occupation Phase			
	Direct	Indirect	Total
Jobs	117	94	211
Earnings	\$ 8,321,403	\$ 6,123,412	\$ 14,444,815
Sales	\$ 27,010,862	\$ 16,574,261	\$ 43,585,122

Source: EMSI, Camoin Associates

We believe each of these conclusions to be significantly exaggerated, premised on two assumptions Camoin used which we find flawed:

- Nestlé's threat to relocate existing positions should be treated as in a total loss to Nassau County's economy and thus even the continuation of existing activity would be considered new activity.
- Pass-through sales activity between retailers and a multi-national corporation are considered local economic activity for purposes of estimating sales.

The first assumption seems puzzlingly superficial: Nestlé's relocation would leave the site temporarily vacant until a new tenant was secured. Camoin's assumption presumes the loss of this particular tenant would mean this warehouse space would be idle for 10 years, which is hard to reconcile with the Long Island Business News calling the Long Island warehouse market "white-hot"³, suggesting that a successor tenant is not just possible, but likely.

Camoin does not appear to have taken these market conditions into consideration or even attempted to estimate the differential in economic activity between the existing renewal and a likely successor tenant in a high-demand market. The failure to perform this analysis presumably overstates each of their economic estimates:

- Jobs – The report states: "The Applicant is considering relocating these positions to locations outside of the County absent Agency assistance... Therefore, 117 jobs are considered to be net new to the County." However, the plain fact is that only 12 positions would actually be new to the County, and even if a successor tenant employed merely 50 positions, an estimated "net" jobs number should take only the difference into account. Similarly, the indirect jobs created should also be calculated from this difference.
- Earnings – Similarly, net new earnings should not be calculated as though the warehouse property would remain idle for a decade, but should be based on solely new activity, or at least a differential between what the applicant projects and what could be reasonably estimated as lease proceeds from a successor tenant for the warehouse property. These could be easily estimated by multiplying market warehouse lease rates by the square footage of the property in question. Again, the indirect earnings created should be calculated based only on this difference.

³ <https://libn.com/2019/03/14/developers-pursue-new-syosset-park-plan/> "... would enable developers to take advantage of a white-hot industrial market amid the strong demand for warehousing and distribution from e-commerce operations."

Similarly, Camoin makes the puzzling assumption that sales should be recorded as local economic activity, much less new economic activity. A “big box” retailer (like Costco™) or a grocery chain will order its inventory of bottled water based on their sales projections, irrespective of the location of the fulfillment center from which the product is shipped. This is self-evident from the application: Nestlé Waters’ threat to relocate a warehouse wouldn’t be credible if it significantly jeopardized sales. Thus, crediting the estimate of existing sales as new economic activity dependent on the PILOT extension is illogical:

- The sales figure cited is merely existing economic activity that would simply continue irrespective of where the warehouse is located, not new economic activity to be generated by the extension of the PILOT solely in its existing location.
- Moreover, those sales generate little local economic activity; to the extent they are instead transactions between an out-of-state bottler and volume retailers, nothing about that sale is dependent on whether the product is shipped straight from the bottling plant, an out-of-state warehouse or makes a pit stop in a Nassau warehouse.

Conclusion

The Syosset Board of Education is not opposed to economic development, nor the Nassau IDA’s mission of creating economic growth and prosperity. However, as State Comptroller Thomas DiNapoli recently said, “The need for close scrutiny of economic development efforts has never been higher”⁴ (emphasis added).

We concur.

The taxpayers of Syosset rely on the IDA to perform this function on their behalf, but the recent approvals of these PILOT extensions, the superficiality of the independent analyses, and the continued abbreviated notification that constrains our effort to participate have undermined the School District’s confidence in the Nassau IDA’s process and conclusions.

At the May 16 IDA meeting, the attorney for the applicant implied these decisions are made at the county level to dilute the impact of local opposition.⁵ However, it shouldn’t also shield these projects from “close scrutiny” and analysis. As we have become more involved, we are concerned that analysis is too cursory, overly reliant on a consultant that may have a conflict, and built on the same questionable economic assumptions we flagged when the Nassau IDA approved the PILOT extension application for the Southern Glazers liquor distributorship earlier this year.⁶

We do not object to the use of all tools at the IDA’s disposal, rather our concern is the ease with which it awards tax abatements – since the IDA doesn’t fund these subsidies with county or state resources, it actually passes much of the cost along to local property taxpayers, often without their knowledge. As the State Comptroller’s Office indicated: “as long as an IDA project is receiving property tax exemptions, it

⁴ <https://osc.state.ny.us/press/releases/may19/052919.htm> DiNapoli also said, “My office releases IDA data so New Yorkers can examine if incentives given out to create and retain jobs in their communities are worth it.”

⁵ <https://www.newsday.com/business/Nestlé-nassau-ida-tax-breaks-syosset-1.31423582> “Daniel P. Deegan, Nestlé’s attorney, said at a meeting May 16 that ... ‘We understand there’s some objections because we’ve engaged in discussions with the [Syosset] school district, but ... there’s a reason why these types of decisions are made at a regional level and not at a very localized level.’ ”

⁶ <https://nassauida.org/wp-content/uploads/2019/01/IDA-Meeting-Minutes-12.12.2018-D1E-12-20-2018-DRAFT.pdf>

can reduce a local government's or school district's property tax base, which may then increase other residents' property tax bills.”⁷

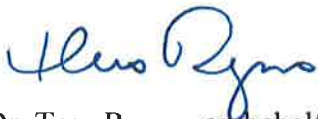
In theory, the public receives a long-term benefit for this short-term cost – new businesses (and jobs) are attracted, and the employer ultimately rejoins the tax base paying taxes on a property made more valuable as a result of initially subsidized growth. Granting PILOT extensions (“perpetual PILOTS”), as the Nassau IDA has done twice recently for businesses in Syosset, means that the taxpaying public never receives its end of the bargain. Together these two projects will result in almost \$20 million in taxes shifted from the applicants to other Syosset property tax payers.

In Syosset, over the last five years on average, we have kept annual tax levy increases more than 0.6% below the permitted tax cap for a total savings of 3.1% vs. the allowable cap. Yet the impact of these efforts is diluted by the Nassau IDA’s tax abatements subsidized by residential property taxes.

Given Mr. Kessel’s comments about the attention your office has given to improving both the economic climate in Nassau County as well as the function of the Nassau IDA, we wanted to ensure that you were aware of our concerns with the progress of those efforts.

Accordingly, until such time as the Nassau IDA provides the School District with adequate notice, implements a different approval process for PILOT renewals, and illustrates how the independence of the consultant is maintained, the Board of Education has passed resolution number B-6 (May 13, 2019) in blanket opposition to all future PILOT renewals affecting the Syosset School District.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read "Tom Rogers", is written over a horizontal line.

Dr. Tom Rogers on behalf of the Syosset Board of Education

cc: County Legislator Joshua Lafazan
County Legislator Arnold Drucker
Chairman Richard Kessel
Individual members of the Nassau County IDA Board

⁷ https://osc.state.ny.us/localgov/pubs/research/ida_reports/2019/ida-performance-fiscal-year-ending-2017.pdf page 1.