

COUNCIL ON DEVELOPMENT FINANCE

March 23, 2009
PUBLIC HEARING 351

THOSE PRESENT:

Mr. Andy Lubin, Chairperson
Mr. Steve Biener
Honorable Nancy Cook
Mr. Tom Gilligan
Mr. James Hutchison
Honorable Gregory Lavelle
Mrs. Richelle Vible

Mr. Alan Levin
Mr. Gary Smith
Mr. Stephen Bach
Mrs. Lee Porter
Mr. Jeff Stone
Mrs. Bernice Whaley
Mrs. Dina Reider-Hicks
Elio Battista, Esquire

ALSO PRESENT: Representing: **Barclays Bank Delaware** – Lawrence Drexler; **Accudyne Systems, Inc.** – Mark Gruber; **Alstom Train Life Services** – Dina Behrens, Phil Cribbin; **Coastal Brewing Company, LLC** – Marc Krens, Garry Williams; **Modular Carpet Recycling** – Ron Sinovetti; **Scientific Products & Systems, Inc.** – David Bach, **The News Journal** - Andrew Eder; **Office of the Controller General** – Mike Morton; and **Office of Management and Budget** - Chris Vennard

LOCATION: Buena Vista, 661 South DuPont Highway in New Castle, Delaware 19720

TIME: 9:00 A.M.

CALL TO ORDER

The meeting was called to order at 9:00 A.M. by Mr. Lubin, Chairperson, on Monday, March 23, 2009.

OLD BUSINESS:

Mr. Hutchison made a motion that the minutes of the February 23, 2009 Council on Development Finance meeting be approved as presented. Representative Lavelle seconded the motion, which was then adopted by unanimous vote.

NEW BUSINESS:

Barclays Bank Delaware (“Barclays” or the “Applicant”) - The Applicant is requesting a grant from the Delaware Strategic Fund of the State of Delaware in the amount of \$900,000. The Applicant proposes to use the funds to open a new customer

contact center in Newark, Delaware to support its growing payment card operations (the "Project").

Mr. Smith presented this request to the Council. He stated that the credit card market is growing rapidly. He stated this operation's growth is not the result of a relocation of an operation to Delaware but is needed because of its increased business due to the penetration of the Barclays card throughout the world.

Mr. Drexler stated that the new facility will initially create 300 to 500 jobs. They hope to be in operation by the beginning of summer. He stated they "have not taken any bailout funds." He stated Barclays Bank Delaware is in the top ten. It currently employs approximately 1400 people. It is very active with the community. Mr. Drexler stated that this year they will add 300 positions with full benefits. He stated that some employees may move from Wilmington to Newark but those Wilmington positions will also be filled. He emphasized that there will be 300 new jobs.

Mrs. Vible asked about Barclays recruiting efforts. Mr. Drexler stated there were a lot of people interested and applying.

Mr. Biener asked about Barclays' situation with the bad debt experience. Mr. Drexler stated that Barclays is a little bit better off because it is a younger bank.

Mr. Smith stated that the claw back is for five years. Representative Lavelle stated that it will be good to have activity in this area.

Mr. Lubin asked if there were any public comments; there were none.

After duly considering, inter alia, the nature of the business, its competitive situation in Delaware, its location, the employment and other requirements under applicable statutory and regulatory provisions, the Council made the following findings: (i) the Project will contribute to the maintaining or providing of gainful employment of the citizens of the State, (ii) the Project will serve a public purpose by contributing to the prosperity, health or general welfare of the State; (iii) the Project will require a capital investment of at least \$10,000, which funds, including the grant proceeds, will be available or expended on the date on which The Delaware Economic Development Authority disburses the requested grant funds; (iv) the Grant will effectuate the purposes of Chapter 50, Subchapter IV of Title 29 of the *Delaware Code*, and (v) the Applicant is a financially responsible person to the extent required by statute and has not been convicted of a major labor law violation or other illegal conduct involving moral turpitude by any agency or court of the federal government or agency or court of any state in the two-year period immediately prior to the approval of the Applicant's application for assistance, Representative Lavelle made a motion that the Council recommend to Mr. Alan Levin, Chairperson, The Delaware Economic Development Authority, approval of a grant in the amount not to exceed Nine Hundred Thousand Dollars (\$900,000) to be disbursed from the Delaware Strategic Fund, for the Project, contingent upon the approval remaining in effect through and including

March 23, 2010. Senator Cook seconded the motion, which was then unanimously approved.

Accudyne Systems, Inc. (“Accudyne” or the “Applicant”) - The Applicant is requesting a matching grant from the Delaware Strategic Fund under the Delaware Technical Innovation Program in the amount of \$50,000. The proceeds will be used as a bridge until Accudyne receives federal funding on its SBIR Phase II project with Naval Air systems command. Accudyne’s facility is located at Newark, Delaware (the “Project”).

Mrs. Whaley presented this request to the Council. She stated that Accudyne was founded and incorporated in Delaware in 1996 as an engineering firm. She stated Accudyne’s expertise and scope of work is in the design and manufacturing of unique custom manufacturing equipment. Mrs. Whaley stated they currently employ 30 people. She stated that the Phase II technology development is to develop the machinery stations encompassing the material lay-up portion of the proposed work cell, and then demonstrate the equipment and process for inclusion in a follow-on full design.

Mr. Gruber stated he had been before the Council two times previously. He stated they will be hiring three people. He stated they build custom equipment for all sorts of applications. He stated for this particular program, they have a Phase I award from the Naval Air Systems Command.

Accudyne will be making helicopter blades. Mr. Gruber stated that currently it takes about seven people, forty hours to make these blades. With this new equipment, Accudyne will be able to make a blade in approximately nineteen hours using three people. He stated that this would be just for this particular helicopter. He believes this technology can be transferred to other helicopters and possibly to windmill blades. He believes the State will benefit through the hiring of some employees. Accudyne hires through the University of Delaware and DelTech. Accudyne supports its employees going back to school of which some are attending the UofD and DelTech.

Mr. Lubin asked about Accudyne’s previous SBIRs. Mr. Gruber stated they have been converted into commercialization and have been very successful. They have actually patented some equipment out of those projects. Mr. Gruber stated Accudyne is currently in negotiation with Spirit Airlines in building a similar piece of equipment. He stated the SBIR grants have been very beneficial to Accudyne.

Mrs. Vible stated that she has visited Accudyne and she found it to be a very interesting and exciting operation. She stated she has referred high school students to them and it has worked out well. She stated Accudyne is a good corporate citizen.

Mr. Lubin asked if there were any public comments; there were none.

After duly considering, *inter alia*, the nature of the business, that the Applicant is a “small business” within the meaning of 29 Del. C. §5035 (b)(3), that the Applicant has won a Phase I award in the Federal SBIR Program, that the Applicant has submitted a proposal for a Phase II SBIR award but has not yet received such award, that the Applicant’s principal place of business will be located in the State of Delaware; and that the research to be conducted will benefit the Delaware economy, and other requirements under applicable statutory and regulatory provisions, Mr. Gilligan made a motion that the Council recommend to Mr. Alan Levin, Chairperson of The Delaware Economic Development Authority, approval of a grant in an amount not to exceed Fifty Thousand Dollars (\$50,000) to be disbursed from the Delaware Technical Innovation Program (“DTIP”), to be used for the Project, contingent upon the approval remaining in effect through and including March 23, 2010. Mrs. Vible seconded the motion, which was then adopted by unanimous vote.

Alstom Train Life Services (“Alstom” or the “Applicant”) - The Applicant is requesting a grant in the amount of \$90,000 from the Delaware Competitiveness Fund. The Applicant proposes to use the funds for improvements to an existing industrial building located in New Castle, Delaware (the “Project”). Alstom provides parts; maintenance and technology support to Amtrak’s Acela trains and provides parts inventory and repairs for a number of other transit agencies.

Mr. Stone presented this request to the Council. He stated that Alstom is moving its DC operations to Delaware and has signed a lease for a building. Mr. Stone stated that Alstom would be hiring sixteen new employees and relocating nine. Alstom is leasing a 22 year old facility and putting in \$3,000,000 of improvements to bring the building up to standard. It will be a state-of-the-art facility. Mr. Stone stated Alstom is asking the State for a \$90,000 Competitiveness Fund grant for this upgrade. Alstom will be required to maintain those employees in Delaware for two years.

Mr. Bach stated that Alstom was as financially sound as you could be in this environment. He stated the cash flow has doubled, it has bought back a lot of bonds, there is no debt on the books and it is projecting margins of at least ten percent. He stated the financials are great.

Mr. Cribbin stated Alstom provides a 24-7 supply chain. He stated they have outgrown their current facility and have signed a contract to support this expansion.

Mr. Lubin asked if there were any public comments; there were none.

After duly considering, inter alia, the nature of the business, its competitive situation in Delaware, its location, the employment and other requirements under applicable statutory and regulatory provisions, the Council made the following findings: (i) the Project will provide a matching grant to induce the Applicant to modernize its facility and preserve high-wage jobs, (ii) the Project will assist the Applicant in the transformation to updated processes that that will keep the facility in operation, (iii) the Project is feasible because

the Applicant has the necessary financial and management resources to execute the Competitiveness Fund Project, (vi) the Applicant is at a disadvantage to national competitors who can operate with newer, more efficient technology and international competitors who compete on price through reduced labor costs, (vii) the Applicant is a profitable and growing going concern that is financially capable to make the proposed capital investment, (viii) the Applicant is current on State business taxes, (ix) the Grant will effectuate the purposes of the Program and of subchapter IV of chapter 50 of title 29 of the Delaware Code (x) the Project will maintain or provide gainful employment for citizens of the State, (xi) the Project will serve a public purpose by contributing to the prosperity, health or general welfare of the citizens of the State, (xii) the Project will require a capital investment of at least Ten Thousand Dollars (\$10,000), which funds, including the Grant funds, will be available or already expended on the date of the first disbursement of the Grant, (xiii) the Applicant is not a chronic violator according to 7 Del. C., c. 7904, and (xiv) the Applicant is a financially responsible assisted person and has not been convicted of a major labor law violation or of illegal conduct involving moral turpitude by any agency or court of the federal government or agency or court of any state in the two-year period immediately prior to the date of the Grant Agreement. Mr. Biener made a motion that the Council recommend to Mr. Alan B. Levin, Chairperson, The Delaware Economic Development Authority, approval of a grant in the amount of Ninety Thousand Dollars (\$90,000) to be disbursed from the Delaware Competitiveness Fund for the Project, contingent upon the approval remaining in effect through and including March 23, 2010. Mr. Hutchison seconded the motion, which was then unanimously approved.

Coastal Brewing Company, LLC (“Coastal” or the “Applicant”) - The Applicant is requesting a loan in the amount of \$500,000 from the Delaware Competitiveness Fund. The applicant proposes to use the funds for improvements to an existing industrial building and the expansion of its current operations located in Dover, Delaware (the Project).

Mr. Stone presented this request to the Council. He stated Coastal was formed in 2007. He stated Coastal is a partnership between Anheuser-Busch and an LLC. Coastal is currently headquartered in Annapolis, Maryland. Coastal Brewing combines the operations of Fordham Brewing which recently bought Old Dominion Brewing Company of Ashburn, Virginia. Mr. Stone stated the plan was to consolidate all operations under Coastal Brewing’s existing facility in Dover, Delaware. He stated that this has been a challenging time because of the various locations. This will allow Coastal to consolidate the operations into a single company. He stated this will allow the Dover facility to go from 20,000 barrels per year to a potential for 80,000 barrels per year. The request today is for a \$500,000 Competitiveness Fund loan with a 0% interest for the first year followed by interest and principal payments for the remainder of the loan’s term. Mr. Stone stated this will give Coastal the opportunity to increase its barrel production and will allow them to do entire operation in one facility area.

Mr. Bach stated that currently there are eight employees and this should ramp up to about twenty-four. He stated the economic impact of this expansion totals \$4,452,823 to the State of Delaware. It will create about \$74,259 in personal income taxes when the project is complete. Mr. Bach stated that Coastal's revenues have grown but because of the inefficiencies, it has taken a loss. He stated that this loan will stress the cash flow but Coastal does need to do this consolidation so the operations will benefit.

Senator Cook asked where the Dover facility was located. It is near Horse Pond Road, behind the Dover Air Force Base.

Mr. Levin asked if Coastal had received all of the required approvals from the City. Mr. Williams stated all permits were in place. He stated Coastal was hoping to consolidate all of the operations in April. Mr. Williams stated that in addition to having Anheuser-Busch as a partner, Fordham is also committed to this project and Old Dominion has been around for at least twenty years. He stated Coastal has the ability to use Anheuser-Busch's network. He stated Coastal is going in this as an alliance partnership. He stated that with a strong sales plan in place, and with the efficiency they will be picking up at this state-of-the-art facility in Delaware, he feels they will be very successful. He stated they will be doing business from Maine to Florida.

Mr. Lubin asked Mr. Williams what kind of a sense did he get from the alliance with Anheuser-Busch and if he felt the alliance was sustainable. Mr. Williams stated he really did feel that it was sustainable. He stated that after Coastal was formed, another alliance was formed in Virginia. He stated that Anheuser-Busch is well known for domestic brands and Coastal is the niche they don't have.

Mr. Hutchison asked if training was done on site or if staff had to be sent out for training. Mr. Williams stated it is a combination of both and is based on the position. He stated Coastal works well with other alliance partners. He stated the Brew Master has been there since the beginning. He stated that out of the 27,500 barrels produced last year, only 7,000 were done in Dover. They expect this number to increase to 80,000. They produce about twenty different brands.

Mrs. Vible asked about Coastal's efficiencies – she wanted to know how much was due to efficiency or how much was due to projections. Mr. Krens stated that Coastal now has to underutilize the breweries and the inefficiencies are significant. He stated that in moving it all into one brewery, it will have everyone in one location and all the knowledge will be in one location. Mrs. Vible asked if Coastal's sales stayed flat, did Coastal think it would have a loss. Mr. Krens stated it would probably be a break even situation.

Mr. Lubin asked if Coastal was going to dismantle Old Dominion. Mr. Krens stated this has already been started.

Mrs. Vible asked in the scale of beer choices – where does this fit economically – where does your product fit in that scheme. Mr. Williams stated that he believes that generally when they step down, domestic brands have flattened. He stated that Heineken and two other imports have stepped down. He stated they take a price increase each year. They have not seen the step down. He stated Coastal has the ability to introduce new beers all the time. He stated they are comfortable where their sales projections are strong even though the imports have slowed a little bit. He stated they have wholesalers asking that Coastal raise prices more.

Mr. Kerns stated that Coastal has a new brand. He stated three Viet Nam veterans approached Coastal with their own brand called Defenders Choice. Coastal donates \$.50 on every case it sells. The proceeds go to veterans being treated in veteran hospitals. He stated they produce it under Coastal Brewing. Coastal has the ability to take it throughout the country. Coastal has had a very good reception.

Mr. Lubin asked if there were any public comments; there were none.

After duly considering, inter alia, the nature of the business, its competitive situation in Delaware, its location, the employment and other requirements under applicable statutory and regulatory provisions, the Council made the following findings: (i) the Project will provide a matching grant to induce the Applicant to modernize its facility and preserve high-wage jobs, (ii) the Project will assist the Applicant in the transformation to updated processes that that will keep the facility in operation, (iii) the Project is feasible because the Applicant has the necessary financial and management resources to execute the Competitiveness Fund Project, (vi) the Applicant is at a disadvantage to national competitors who can operate with newer, more efficient technology and international competitors who compete on price through reduced labor costs, (vii) the Applicant is a profitable and growing going concern that is financially capable to make the proposed capital investment, (viii) the Applicant is current on State business taxes, (ix) the Grant will effectuate the purposes of the Program and of subchapter IV of chapter 50 of title 29 of the Delaware Code (x) the Project will maintain or provide gainful employment for citizens of the State, (xi) the Project will serve a public purpose by contributing to the prosperity, health or general welfare of the citizens of the State, (xii) the Project will require a capital investment of at least Ten Thousand Dollars (\$10,000), which funds, including the Grant funds, will be available or already expended on the date of the first disbursement of the Grant, (xiii) the Applicant is not a chronic violator according to 7 Del. C., c. 7904, and (xiv) the Applicant is a financially responsible assisted person and has not been convicted of a major labor law violation or of illegal conduct involving moral turpitude by any agency or court of the federal government or agency or court of any state in the two-year period immediately prior to the date of the Grant Agreement. Senator Cook made a motion that the Council recommend to Mr. Alan B. Levin, Chairperson, The Delaware Economic Development Authority, approval of a loan in the amount of Five Hundred Thousand Dollars (\$500,000) to be disbursed from the Delaware Competitiveness Fund for the Project, contingent upon the approval remaining in effect

through and including March 23, 2010. Mr. Hutchison seconded the motion, which was then unanimously approved.

Modular Carpet Recycling (“MCR” or the “Applicant”) - The Applicant is requesting a loan in the amount of \$604,304 from the Delaware Competitiveness Fund. The Applicant proposes to use the funds to purchase manufacturing equipment for this new start-up business that will be leasing space in New Castle County, Delaware (the “Project”). MCR is a start-up company in carpet recycling solutions to provide plants using patented clean technology for efficient regional processing of used carpets and market channels for recovered products. MCR has an exclusive license to a patent from Auburn University for recovering polyamides from commingled materials and is developing further complimentary separation technologies.

Mrs. Whalen presented this request to the CDF. Mr. Smith handed out a letter from INVISTA S.a.r.l. stating its interest in working with MCR. Mr. Smith stated MCR will be creating thirty jobs with a total PIT of \$186,804. Mr. Smith stated that MCR is anxious to establish its headquarters and build its first commercial recovery site this summer. He stated they have a rapid expansion ahead of them. It expects to have new operations in Louisiana in 2010, New York, New Jersey and Georgia in 2011, Chicago, Houston, Dallas in 2012, Washington, Virginia, Miami in 2013, San Francisco, San Diego, Vegas and Detroit in 2014 and Phoenix in 2015.

Mr. Smith stated that DEDO has offered MCR a low-interest Competitiveness Fund equipment loan of up to \$603,304 for the purchase of a Shred and Grind system. The loan will be fully-amortized over a five-year term loan carrying a Prime rate + 0% interest rate which would be fixed at closing. In addition, the loan would be conditioned on the following: 1) Proof of an equity capital raise designated as ‘Phase III’ tranche in an amount equal to or greater than \$508,000 to be secured after the launch of the pilot plant on or before March 27, 2009; 2) Proof of an equity capital raise designated as ‘Final tranche’ in an amount equal or greater to \$1,605,000 to be secured when the Delaware plant becomes fully operational, slated on or before June, 30, 2009; 3) A 110% collateralization of the loan of which 100% will be carved out as a first lien to be held by The Delaware Economic Development Authority (Authority) and the remainder as a second or third lien behind other financing parties; 4) A satisfactory personal guarantee from Mr. Simonetti; 5) Proof of contracts supporting the projected revenue stream of \$1,600,000 in 2009 and letters of interest supporting the projected revenue stream of \$13,750,000 in 2010, 6) Submission of a proof of purchase (or a Purchase Order) of the Shred and Grind system in the amount of \$603,304; and 7) Full disclosure and approval to be obtained by the Authority for any and all future debt financing taken on by MCR, irrespective of creditor.

Mr. Simonetti stated that the major problem is 5,000,000 pounds of waste carpet that goes to the landfill. Further, only about six percent of that material is recycled. He handed out a sheet describing the problem, the opportunity, the mission and the tactics.

He stated MCR has raised \$2.8 funds in angel funding. MCR will be leasing a facility at 239 Lisa Drive in New Castle, County, Delaware.

Mr. Simonetti stated that MCR's costs are so much lower because they are taking recyclable material, operations costs are very low and they recapture chemicals they use. He stated that once the process is completed, MCR is responsible for shipping it out. Mrs. Vible asked where MCR gets the carpet. Mr. Simonetti stated they get the carpet from all over the country. He stated there is a whole recycling operation now but MCR is in a different process. He stated the goal is to have zero waste recovery.

Mrs. Vible stated that the CDF doesn't usually see start ups and asked the DEDO staff what the thought process was behind this project. Mr. Smith stated that the unique feature about this project is that it is in the green industries area and the State is trying to put focus on that area. He said that the corporate headquarters will be housed here; we will be getting jobs, and will be getting even higher paying jobs down the road. He also said that DEDO is not funding this Project 100 percent. DEDO is in this with some other lenders such as the SBA, the bank and therefore DEDO is minimizing its risk.

Mr. Lubin asked if the manufacturing component weighed heavily on DEDO's willingness to do this Project. Mr. Smith said it was a factor and that it is a unique industry.

Mr. Levin stated that this was an effort on our part to look at the future. It is consistent with the Governor's feelings as well; although the Governor is not aware of this specific project.

Senator Cook asked if anyone had looked for stimulus money from DNREC that could be used for this Project. Mr. Levin stated that had been discussed and there was none available for this type of project. Mr. Smith stated that most available funds were for energy projects.

Mr. Lubin asked if there were any public comments; there were none.

After duly considering, inter alia, the nature of the business, its competitive situation in Delaware, its location, the employment and other requirements under applicable statutory and regulatory provisions, the Council made the following findings: (i) the Project will provide a matching grant to induce the Applicant to modernize its facility and preserve high-wage jobs, (ii) the Project will assist the Applicant in the transformation to updated processes that that will keep the facility in operation, (iii) the Project is feasible because the Applicant has the necessary financial and management resources to execute the Competitiveness Fund Project, (vi) the Applicant is at a disadvantage to national competitors who can operate with newer, more efficient technology and international competitors who compete on price through reduced labor costs, (vii) the Applicant is a profitable and growing going concern that is financially capable to make the proposed capital investment, (viii) the Applicant is current on State business taxes, (ix) the Grant

will effectuate the purposes of the Program and of subchapter IV of chapter 50 of title 29 of the Delaware Code (x) the Project will maintain or provide gainful employment for citizens of the State, (xi) the Project will serve a public purpose by contributing to the prosperity, health or general welfare of the citizens of the State, (xii) the Project will require a capital investment of at least Ten Thousand Dollars (\$10,000), which funds, including the Grant funds, will be available or already expended on the date of the first disbursement of the Grant, (xiii) the Applicant is not a chronic violator according to 7 Del. C., c. 7904, and (xiv) the Applicant is a financially responsible assisted person and has not been convicted of a major labor law violation or of illegal conduct involving moral turpitude by any agency or court of the federal government or agency or court of any state in the two-year period immediately prior to the date of the Grant Agreement. Mr. Biener made a motion that the Council recommend to Mr. Alan B. Levin, Chairperson, The Delaware Economic Development Authority, approval of a loan in the amount of Six Hundred Three Thousand Dollars (\$603,000) to be disbursed from the Delaware Competitiveness Fund for the Project, contingent upon the loan terms containing covenants of distribution to the shareholders that will protect the State and upon the approval remaining in effect through and including March 23, 2010. Representative Lavelle seconded the motion, which was then unanimously approved.

Delaware Economic Development Office Marketing Plan (“DEDO” or the “Applicant”) – The Applicant is requesting a grant from the Delaware Strategic Fund in the amount of \$300,000. The Applicant proposes to use the funds for business marketing and recruitment efforts (the “Project”).

Mr. Smith stated that as the Council is aware, the interest earnings of the Delaware Strategic Fund are used for four specific “buckets”. The first “bucket” is for DEDO’s general operating expenses, the second “bucket” is for the operation of a trade development office in Taiwan, the third “bucket” is to the SBDC and the fourth “bucket” is for the Marketing and Communications Department of DEDO.

Mr. Smith stated that the Marketing Plan was approved at the last Council meeting. He also reminded the Council that at that same meeting, the Council recommended approval of funds for the Delaware Small Business Development Center (“DSBDC”) project. He stated that the funding for the DSBDC project was necessary because of the shortfall in interest earnings. DEDO is not expecting to earn any interest income to cover the fourth “bucket” for the Marketing Plan and it is felt that it is now necessary to submit a request for the funding of 100% of the budget for the Marketing Plan which is the last “bucket”.

Mrs. Reider-Hicks thanked the Council for its previous support. She stated that the Marketing and Communications Department was able to do a number of projects as a result of last year’s marketing plan. It accomplished a lot of rebuilding and marketing outreach. She stated they have been able to add a lot of interactive units to DEDO’s website. Mrs. Reider-Hicks stated that the current plan as reviewed by the Council at its last meeting, was designed with the previous administration’s focus. Therefore, some of

those projects are on hold and several are being revised. She stated however the efforts with small businesses and BRAC will go forward.

Mr. Gilligan asked how much was spent last year. Mrs. Reider-Hicks stated that last year \$500,000 was spent and that they could do \$570,000 this year but are not going to do so. She stated it will most likely be \$300,000.

Mrs. Vible asked if this request was a permissible use of funds. Mr. Smith stated that it was and that in fact, the Legislature dictates that this is where the funding comes from.

Mr. Lubin asked if there were any public comments; there were none.

After duly considering, *inter alia*, the nature of the business, its competitive situation in Delaware, its location, the employment and other requirements under applicable statutory and regulatory provisions, the Council made the following findings: (i) based solely on the information supplied by the Applicant and the representations that it has made, the Applicant is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the "Code") and will use no portion of the Grant funds in an "unrelated trade or business," as defined in Section 513 of the Code; accordingly, the Applicant is an "exempt person" within the meaning of 29 Del. C. § 5052(7); (ii) the Grant and the Project will effectuate the financing of facilities and activities of an exempt person in order to contribute to the prosperity, health or general welfare of the citizens of the State. Mr. Hutchison made a motion that the Council recommend to Mr. Alan B. Levin, Chairperson, The Delaware Economic Development Authority, approval of a grant in an amount not to exceed Three Hundred Thousand Dollars (\$300,000) to be disbursed from the Delaware Strategic Fund, for the Project, contingent upon the stipulation that before any funds are distributed from the Delaware Strategic Fund to the Marketing and Communications Department of the Delaware Economic Development Office, the interest earnings from the Strategic Fund will be applied and upon the approval for the grant remaining in effect through and including March 23, 2010. Senator Cook seconded the motion, which was then adopted by unanimous vote.

Scientific Products & Services, Inc. ("SP&S" or the "Applicant") - SP&S, received a \$1,000,000 convertible loan through the Delaware Strategic Fund on November 30, 2006. SP&S was previously a Maryland Corporation, and an incubator company founded in 2000 by David Bach and was located at the UMBC Technology Center in Baltimore, Maryland. SP&S has established a pipeline of intellectual property and highly differentiated products. SP&S produces quality tools for precision liquid dispensing.

Mr. David Bach stated that earlier in 2001, this company started. He stated they have established a pipeline of intellectual property. He stated the key feature of the technology is pumping. Mr. David Bach stated he went to DEDO in 2006, closed on a \$1,000,000 loan, made interest payments. He stated that as of today, SP&S has drawn down \$750,000. He stated that in this whole venture, DEDO has the right to convert the

Note. He stated SP&S does have some other investors. There is patent ledger which is the basis of this company. SP&S has registered the trademarks.

Mr. David Bach stated there are a series of products that are in the market place and which are functioning. He stated that in looking at the sales, SP&S had done about \$1,047,000. He stated what has happened is SP&S did not hook up enough engines to deliver this product. The engine was not big enough. He stated they have eight open orders - \$215,000 balance to be paid. He stated the market place for this technology is sound.

Mr. David Bach stated what he is looking for is taking this technology and moving it forward which will let SP&S complete the outstanding orders. When that \$215,000 is paid to SP&S, he would propose paying \$25,000 to two former employees for pre-existing unpaid labor costs and \$104,500 to be paid to Fala Technologies, for parts and labor associated with the completion of these orders. The remaining funds of approximately \$86,000 would be treated as the State of Delaware's cash collateral.

Mr. Levin asked Mr. Battista to walk the staff and Council through what Mr. Sullivan, Mr. Bach's legal counsel, has proposed.

Mr. Battista stated that on the \$750,000 loan, DEDA is the first priority secured party. He stated the bulk of the collateral is in patents which are viable and in use. However, right now they can't pay anybody, but as first priority secured creditor, DEDA can use that money. Mr. Battista stated that if the company files for bankruptcy, it means that any money that is paid out, the bankruptcy trustee may potentially recover as a preferential transfer. SP&S wants the Authority to say that they can use those monies, and that DEDA would agree to reduce the outstanding principal by \$86,000. He stated basically SP&S wants forbearance on the loan where they won't have to pay anything for an agreed time period, and they would look for new partners – patents would be assigned to new partners and any royalties would be put upstream and used to pay secured creditors.

Senator Cook asked if the Council had the authority to go into executive session. Mr. Battista stated it did. Senator Cook made a motion that the Council go into executive session in accordance with 29 Del. C. §10004(b)(4). The motion was seconded by Mr. Hutchison, which was then adopted by unanimous vote except for Representative Lavelle who abstained from voting due to a possible conflict of interest.

Senator Cook made a motion that the Council go out of executive session. The motion was seconded by Mr. Hutchison which was then adopted by unanimous vote.

Mr. Gilligan made a recommendation that no action be taken at this time regarding SP&S' request. The motion was seconded by Mr. Hutchison, which was then adopted by unanimous vote except for Representative Lavelle who abstained from voting due to a possible conflict of interest.

Governor Markell's Small Business Support Initiative - Mrs. Vible made a motion that the Council go into executive session in accordance with 29 Del. C. §10004(b)(4). The motion was seconded by Mr. Gilligan, which was then adopted by unanimous vote.

Mr. Hutchison made a motion that the Council go out of executive session. The motion was seconded by Representative Lavelle which was then adopted by unanimous vote.

Senator Cook made a motion that the Council recommend to Mr. Alan B. Levin, Chairperson of The Delaware Economic Development Authority, approval of the submitted proposal for a new financing program under Governor Markell's Small Business Support Initiative from the Delaware Strategic Fund in the amount of up to \$5,000,000, contingent upon the approval remaining in effect through and including June 20, 2011. Mr. Hutchison seconded the motion, which was then adopted by unanimous vote.

Industrial Revenue Bonds – Mr. Smith discussed the stimulus situation concerning Industrial Revenue Bonds. He stated there have been some additional rulings. He stated the money will pass through the states and go to the counties. There will be no cap on the current restriction of \$40,000,000 total issuance nationwide. Mr. Smith stated that the counties will also determine where the recovery zones are. He stated the State determines the distribution to the counties. The State's bond counsel, Tim Frey with Saul Ewing, is reviewing this matter to see if the counties can revert the funds back to the State. He also said that this is just a conduit – these bonds are not bank eligible and most everything is allowable such as hotels, doctor's office, restaurants, etc.

Sky-Trax, Inc. – Mr. Smith informed the Council of the latest accomplishment of Sky-Trax. This company received a \$50,000 Technology-Based Seed Fund/Phase II loan and a \$50,000 Strategic Fund loan in April 2007. Sky-Trax, Inc. is an early stage technology company that has specialized in developing solutions for the distribution/warehousing industry such as an indoor tracking system. Mr. Smith informed the Council that Sky-Trax has just obtained an angel investor of \$1.5 million, and another funding round of \$5-10 million. It also just hired a new CFO and a new sales person. He stated the company is doing a lot of things in Europe. He stated that DEDO has a convertible note and may be converting.

The meeting adjourned at 11:15 a.m.

Respectfully submitted,

Lee Porter, Secretary

LKP

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cc: Members of the Council on Development Finance
Director Alan Levin
Elio Battista, Jr., Esquire

The next CDF meeting is scheduled for ***Monday, April 27, 2009*** at 9:00 A.M. at Buena Vista in New Castle, County, Delaware.