

City of Newburgh
INDUSTRIAL DEVELOPMENT AGENCY
(“IDA”)
MINUTES OF MEETING
DECEMBER 21 , 2009

Present

Board Members: Michael Curry, Treasurer
Richard Bedrosian
John Penney, Secretary
Joshua Smith, Vice-Chairman (via telephone)
Jerry Maldonado
Sean O'Shea
Excused Absence: Spencer Gulliver, Chair
Of Counsel: Thomas Whyatt, Esq.
Interim Administrative Director: Courtney Kain

1. **Roll Call.** The Meeting was called to order by Mr. Penney, who chaired in the absence of Messrs. Gulliver and Smith.
2. **Proof of Notice of Meeting.** Accepted
3. **Request for Bills and Communications.** Mr. Curry reported current bank statements, invoices paid and received.

Mr. Maldonado: Motion to approve payments:
Mr. Curry: Motion Seconded:
Vote: Unanimously approved

4. **Approval of Minutes of November 16 Meeting.**

Mr. Penney: Motion to approve.
Mr. Curry: Motion seconded.
VOTE: Unanimously approved.

5. **Reports on Committees.**

Treasurer's Report. See Budget Report, Old Business.

Governance: Mr. Maldonado reported that only the Procurement Policy remains to be adopted by the Board. The Westchester County version is a satisfactory template to be customized. Mr. Maldonado recommended adopting the pro forma policy now and customizing as necessary. Mr. Penney concurred that it can be adopted now and refined by the committee at a later date, rather than holding up the process.

Mr. Maldonado: Motion to adopt the Procurement Policy template
Mr. O'Shea: Motion Seconded
Discussion: The Governance Committee should review the template at its next meeting and make any necessary changes.
VOTE: Unanimously Approved

Regarding the By-Laws, Mr. Maldonado asked Mr. Whyatt for clarification of certain sections regarding "voting": Question as to "by ballot for election of officers",

teleconferencing and proxy situations. Voting must be in person. Page 15: annual audits certified by CFO or CEO or 'other authorized to certify. Mr. Whyatt explained who would certify "or other authorized persons serving in those capacities. Mr. Whyatt suggested that the Annual Meeting date read 'or as soon thereafter as possible". Actions by telephone: a member can participate, but can't vote or be considered part of the quorum.

Mr. Curry: Motion to adopt the By-Laws with changes as proposed

Mr. O'Shea: Motion seconded

VOTE: Unanimous adopted.

6. Old Business

- Mr. O' Shea and Mr. Maldonado briefed the Board on the working group meeting with the City Council. Attendees included Messrs. Gulliver, O'Shea, Maldonado (via telephone), Mayor Valentine, Interim City Manager Herbek, Councilwoman Bell, and Ms. Kain.
 - Regarding the 80-acre Pierces Road/Dupont BOA application, unfortunately, the City is looking favorably upon the current BOA application by NCAC for 40 acres. This applicant does not have possession of any of the acres. The working group decided to submit a joint application that looks at the entire 80 acres. We also agreed to reach out to Dupont attorneys to begin discussion with them about our joint interest in developing that comprehensively.
 - Regarding the Armory Site. A site visit was conducted with Senator Larkin and representatives from Assemblyman Skartados' office, the State Office of General Services, and City representatives. Ms. Kain: The OGS indicated that the sale process can move forward quickly. Public Lands Law requires that a municipality needs to utilize 51% of land for transportation, parks and/or recreation activities. The remainder could be used in other capacities. The site tour showed that the property is in generally good condition but needs work. The OGS says if the City is interested in purchasing, a sale could happen in the next 60-90 days. Ms. Kain's department is putting together a "White Paper" on the feasibility, transaction, etc. This information will be given to council for its review and determination. The City is reviewing Environmental Analysis with the State, and operating expenditures. The \$10mm stimulus bond might be a source for plans with the site, so we've been working with the county to review deadlines to take advantage of this. Mr. O'Shea asked who is responsible for environmental clean-up. Ms. Kain said all of the state reports will determine what our liability would be. Mr. Wyatt said that is part of the due diligence to be done and that the owner is responsible for certain identified remediation. Mr. Maldonado asked if a cost-benefit analysis is being done on the 49%. Who is the City engaging to consider that piece? Ms. Kain said a government consolidation would be extensive and an internal analysis has just begun. The Council is being asked whether they want to select someone to do a feasibility study. Mr. Penney suggested that the issue will come up in January, and the IDA should wait to see how that unfolds. Mr. Curry stated that in order for the City to accomplish its vision, all city government agencies must be aligned. Mr. Wyatt indicated that the IDA needs to confirm what the 49% can include, and that all use possibilities need to be on the table.
 - Regarding 132 B'way: There were three Requests for Qualifications received for development of the site. The Working Committee agreed the responses did not meet the broader strategy for development of lower Broadway. Ms. Kain reported that she and the City Manager have one interview to complete. Next step will be

funding for a site study, and Senator Schumer has appropriated funding. Mr. Maldonado emphasized that studies have already been done and it is important not to reinvent the wheel. Mr. Bedrosian asked if the City is clearly indicating to applicants what the vision is for Lower Broadway. Ms. Kain said that is the intent. Mr. Bedrosian asked if this is integrated with the Master Plan, the Land Use Plan, and other Zoning. Mr. Maldonado emphasized the IDA's concerns about synchronizing all components to create a cohesive plan. Ms. Kain indicated that nothing has been determined yet, and that the council still needs to review everything. Messrs. Curry and Maldonado requested that RFP's or RFQ's should have significant public notice, regionally for a robust pool of respondents. Land Use plan should be a six-month operation, beginning January. Ms. Kain anticipates that the entire process should be completed by August.

- Response to the State Comptroller's Office: Ms. Kain distributed copies of a letter for the Board to review, with minor grammatical changes.
- Budget for 2010. Mr. Curry said the expected income is \$116,956. Due to two audits, we project a loss. We modeled two budget versions. Mr. Curry reviewed each, neither of which balances the budget without dropping some services. The IDA can amend the previous year's budget to the State, showing that the 2008 audit was paid for in 2009. Mr. Curry is not sure what the State will approve. Mr. Penney asked if the IDA can come up with a budget which can be posted? Mr. Whyatt discussed the new revised ABO authority, which will expand what they can allow. Mr. Curry said that we need to show the State which 2007 and 2008 expenses we have paid for in 2009. Mr. Maldonado asked if the January meeting can have a tentative budget. Mr. Whyatt asked if the City has a line item for income from IDA. Ms. Kain said no.
- Murphy's Ditch Easement: Ms. Kain reported that Mr. Korn's attorney is drafting documents to be signed, and will be finalized in the beginning of January. Mr. Penney asked for clarification on the amount of the three payments. Mr. Korn's November 10, 2009 proposal is to pay the IDA \$45,000 immediately, with two subsequent payments of \$55,000 each.
- 1 Corwin Court: Mr. Whyatt asked who is confirming that payments are being made as required. The Comptroller's office needs to verify the dates and amounts of the last four last payments.
- EDA Award Update: Ms. Kain reported that they are still waiting for the Title Opinion. The EDA will provide comments prior to approval of the Master Sales Agreement and Easement Agreement to be signed.
- West Street Parcel Boundaries and the DEC voluntary compliance agreement. Mr. Whyatt indicated that that this will be completed after all EDA work has been done.
- Verizon Building Status – Ms. Kain contacted John Butler in the government relations division. He is looking at a few dates in the New Year and Ms. Kain will send an e-mail to the Board with a few options. Verizon is looking for a partner because they still need a portion of the space, but not all.
- IDA Property list. Mr. Whyatt distributed a draft spreadsheet with information on all properties sold within last 3 years. The researcher had been asked to pull the deeds for 2007, 2008 and 2009 to aid in the PARIS reporting. Mr. Maldonado asked about the Lake

Street Properties which appear to have been conveyed to the IDA in 2004. Who is managing them? Does IDA own them? Mr. Smith asked where the income is going? Mr. Whyatt indicated that would be a question for the auditors. Mr. Smith reported that the IDA received a violation notice from Codes on this property. Mr. Whyatt will add to the list those properties which have been conveyed out. This spreadsheet can be reformatted to prepare PARIS as well as to broaden the research as needed. The Board can submit any additional information it needs for the spreadsheet to be reformatted. Mr. Curry wants an additional column of Subsequent Conveyances to indicate who, how much, for the IDA's purposes.

- IDA Computer Purchase. Mr. O'Shea indicated that Councilwoman Bell is looking into space for IDA, and will check with Councilwoman Angelo.
- Director's Insurance: Mr. Curry will draft language for Ms. Kain to circulate for comment. He will also ask for a separate proposal for the IDA's entire risk/management situation. Mr. Curry offered to prepare an RFP which such services.

8. New Business

Mr. Wyatt reported on the ABO's New Rules signed by governor 2 weeks ago. The ABO will be independent and no longer simply an umbrella agency. It will have the authority to investigate, subpoena. This is major change. The State Comptroller has the ability to review any contracts of \$1mm +. There is an expanded list of reporting requirements and under certain circumstances; the ABO can waive some of these. It can now assist in approving best management practices. IDA Board Members must sign acknowledgement that they are aware of these new rules, within 60 days. This is a popular enactment for 'good=government' agencies, and it supports this IDA Board's actions.

Ms. Kain said the 2007 Audit has been input and it still needs to be certified. The 2007 Annual Report is begun. Mr. Smith asked what the process is for removing a board member? Mr. Whyatt read Section 2827 of the new Act provides removal provisions of specific grounds such as bad actions, breach of fiduciary responsibility, neglect of duty or misconduct in office. Mr. Smith: in other words, there is no summary dismissal and part of the fiduciary responsibility is to 'preserve the agency's treasury'.

- M&T Bank Bond Certificate. In 1996, a \$6mm bond was issued through the City with Gemma Properties for the 'new' armory site on Broadway. The IDA has been asked to sign a re-issuance. Mr. Ken Bond is the City's bond counsel. He will forward in writing a recommendation to the IDA saying that they will not incur any liability and that they should sign the recertification. Mr. Bedrosian asked if there is a cost to the IDA. Ms. Kain says there is no liability or cost to the IDA. Mr. Whyatt asked if this is a transfer of debt? Ms. Kain said that is correct. Mr. Whyatt said he cannot advice the board on bond issues, but bond counsel needs to give advice on this. Mr. Curry asked is the principal of Gemma is current on payments. Ms. Kain said that Mr. Bond confirmed that they are current with their obligations.

Mr. Penney adjourned the regular meeting to the Annual Meeting

Open Annual Meeting

Election of Officers: Mr. O'Shea read a letter from Chairman Gulliver regarding officer positions and his recommendations for officers for 2010.

Nominations for Chair:

Mr. Maldonado nominated Mr. Smith. There were no other nominations.

Vote: Unanimously in favor of Mr. Smith for Chair.

Nominations for Vice Chair:

Mr. O'Shea nominated Mr. Bedrosian. There were no other nominations.

Vote: Unanimously in favor of Mr. Bedrosian for Vice Chair.

Nominations for Secretary:

Mr. Smith nominated Mr. Penney. There were no other nominations.

Vote: Unanimously in favor of Mr. Penney for Secretary.

Nominations for Treasurer:

Mr. Smith nominated Mr. Curry. There were no other nominations.

Vote: Unanimously in favor of Mr. Curry for Treasurer.

Nomination for Assistant Treasurer:

Mr. Curry nominated Mr. O'Shea. There were no other nominations.

Vote: Unanimously in favor of Mr. O'Shea for Assistant Treasurer.

Mr. Maldonado volunteered to act as Assistant Secretary:

Vote: Unanimously in favor of Mr. Maldonado for Assistant Secretary.

Mr. Curry will obtain signature cards from officers for banking purposes.

SCHEDULE of meetings for 2010:

Jan: 19 (Tuesday)	Feb: 23 (Tuesday) LDC Annual Meeting
Mar 22	Apr 19
May 17	June 21
July 19	Aug 23
Sept. 20	Oct. 18
Nov. 22	Dec. 20

Mr. Maldonado requested a Property Task Force meeting towards the end of January and Ms. Kain will coordinate a date after the developer interviews have been finalized.

CEO and CFO Signatories: ABO requires that certifications must be signed by CEO or CFO who cannot be board members.

Mr. Curry: Motion to name Ms. Kain as acting CEO and acting CFO

Mr. Bedrosian: Motion Seconded

VOTE: Unanimously Approved

Mr. Curry suggested initiating a business 'summit' in next few months to introduce board members to the business community. Whether it would be to the local community or broader, this is an opportunity. Ms. Kain indicated that there is increased interest from businesses who are seeking local support from the City. Mr. Maldonado asked whether the LDA is more appropriate for this function, and Mr. O'Shea said the benefit would be to raise awareness in the business community for opportunities, whether or not all projects are applicable for the IDA. Mr. Curry asked Board members to think strategically as they interact in and around the community.

Mr. Curry: Motion to adjourn.

Mr. O'Shea: Seconded.

VOTE: Unanimously Approved to Adjourn the 2009 Annual Meeting.