

# City of Newburgh Industrial Development Agency

## ANNUAL REPORT -- January 1 to December 31, 2010

**NOTE:** The City of Newburgh Industrial Development Agency was decertified by the NYS Authority Budget Office due to non-compliance with the Public Authorities Accountability Act of 2005 and 2009. Currently, the Agency has adopted policies and procedures as required. It is anticipated that all audits and PARIS (Years 2007 to 2011) will be submitted by April of 2011.

**1. Principal Address:** City Hall, 83 Broadway, Newburgh, NY 12250

**2. Agency and Mission:** The Agency was re-established in 1982 under New York State General Municipal Law 18A, section Section 913:

*For the benefit of the city of Newburgh and the inhabitants thereof, an industrial development agency, to be known as the CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY, is hereby established for the accomplishment of any or all of the purposes specified in title one of article eighteen-A of this chapter. It shall constitute a body corporate and politic, and be perpetual in duration. It shall have the powers and duties now or hereafter conferred by title one of article eighteen-A of his chapter upon industrial development agencies. It shall organize in a manner prescribed by and be subject to the provisions of title one of article eighteen-A of this chapter. Its members shall be appointed by the governing body of the city of Newburgh. The agency, its members, officers and employees, and its operations and activities shall in all respects be governed by the provisions of title one of article eighteen-A of this chapter. It shall be the successor in interest to the agency created by chapter three hundred four of the laws of nineteen hundred seventy-one.*

**3. Membership:** The Agency consists of seven member appointed by the governing body of the City of Newburgh. The agency's bylaws states that any one or of the members may be an officer or employee of the City. A member may continue to hold office until a successor is appointed.

**4. Acts of the Agency** require a quorum of four members and majority vote of four (4) on any action

### **5. Board Members – January 1 to December 31, 2010;**

#### **Name**

\*Richard Bedrosian - **Vice Chair**

\*Michael Curry – **Treasurer**

Spencer Gulliver

\*Jerry Maldonado

\*Sean O'Shea - **Asst Treas.**

\*John Penney – **Secretary**

#### **Profession**

College Professor, retired

Regional Businessman

Maritime officer

Ford Foundation Program Manager

Bouillon Inventory Accountant, US Mint

Retired: Public Safety Officer and Union leader, and local business man

Joshua Smith – **Chair**

Former: College President /Chancellor  
(California, NYC and New Jersey), Ford  
Foundation Program Manager

**Members are all Independent Members**

**ABO Training: was completed in 2009** by all members at CUNY or Albany Law.

\* A number of Board Members attended a second training session in 2010.

**Meeting Attendance: There were 12 meeting in 2010**

<b>Member:</b>	<b>Number of Meetings attended*</b>
Richard Bedrosian	11
Michael Curry – <b>Treasurer</b>	11
Spencer Gulliver – <b>Chair</b>	2
Jerry Maldonado	7
Sean O’Shea	9
John Penney – <b>Secretary</b>	12
Joshua Smith – <b>Vice Chair</b>	9

\*Absent members are encouraged to participate by conference call.  
(Participation is not counted for a quorum, no vote is permitted.)

**5. Committees of the Board:**

**Governance Committee:** Spencer Gulliver, Jack Penny, Joshua Smith and Jerry Maldonado

**Audit and Finance Committee:** Michael Curry, Richard Bedrosian, Sean O’Shea, Jack Penny

**6. Fiscal Management/Internal Controls:**

The Board continued to refine its fiscal management, banking transactions and internal controls. Procedures were instituted. All disbursements are approved by the Board at their monthly meetings. As the Agency transitioned into compliance, it issued an RFP for hourly services of a financial officer. A contract was approved in February 2011.

**7. Lateness of Annual Audits, Report and Decertification:**

As previously reported, the Agency failed to undertake audits and submit PARIS reports in a timely fashion. The 2010 Audit was reviewed by the Audit/Finance Committee and adopted by the Board in March 2012.

Background: The current Board members, appointed in 2008, were faced with bringing the Agency into compliance with state laws and policies. To do so, the Board with little resources wrested financial control of its funds from the city, sued the city for inappropriately reimbursing itself for 'services,' investigated contracts and property records and began the process to separate agency files and records that were co-mingled with the files of the Department of Planning and Development.

Minutes detailing the Board efforts, findings of the independent auditors and responses by the current board can be reviewed at the audit section of <http://www.cityofnewburgh-ny.gov>

## **7. Executive Officer, Personnel and Agency Operations:**

### **a. Administration**

Operations: The Agency's operations are guided by the Administrator as directed by the Board. The Board had full control of the Agency's policies, administration, management and finances.

Budget: The Agency adopted a budget for 2010.

Personnel: As reported in previous annual reports, ARTICLE XIV of the City of Newburgh City Charter states that the Agency is:

- an integral part of the Department of Planning and Development,
- requires that the Director of the Department of Planning and Development also served as Administrator of the Agency, and
- that the Administrator served at the pleasure of the city manager.

Please note that in February 2011, the Agency hired a compliance consultant. Then, in September of 2012, the Agency appointed a part-time Executive Director knowledgeable in the administration and management of industrial development agencies.

Agency Director: In 2010, the City Manager appointed a new Director of the Dept. of Planning and Development, thereby replacing the Agency's Administrator that was appointed in 2009.

Recertification: By the end of 2010, the Board realized that its City assigned personnel were unable, notwithstanding the Stipulation Order of Settlement of 2009\*, to complete the tasks for compliance reporting. The Board asked its Counsel to assist them in securing a consultant to facilitate the recertification process. (This was accomplished in February, 2012.)

\* As detailed in the 2009 Annual Report, the City removed more \$388,000 funds from the Agency for reimbursement of services without the Agency's knowledge or

approval. The Agency filed an Article 78, resulting in a Stipulation Order of Settlement requiring the City to complete the filing of reports required for recertification and to return funds that were found to be incorrectly attributed to the Agency.

**b. Agency Staff and Compensation Schedule:**

No staff received an annual of Salary of \$100,000 or more. The Agency and City approved an interagency agreement for the following positions from the Department of Development and Planning and from the City of Newburgh Archivist for storage of IDA records at a cost of \$45,492.

Administrator (Courtney Kain followed by Edward Lynch) \*  
Secretary/Assistant to the Administrator (Tara Miller)  
City Planner (Ian McDougall  
Archivist. and Archive Space

A recording secretary, hired in 2009, is paid on an hourly salary.

**8. Activities/ Management/Compliance January 1- December 31. 2010:**

**a. Procurement/ Services:**

Directors and Officers Insurance was secured.

.A contract with Sedore was executed for undertaking annual audit for 2010 for \$15,750.

The Agency authorized the Administrator to negotiate an agreement for 20 hours of services from C.T Male Engineering to represent the IDA at a stakeholders meeting of the Newburgh Community Action Committee in conjunction with implementation of a NYS Department of State grant under the Brownfield Opportunities Assessment program for a parcel that included 20 +/- acres of Agency owned land.

**d. Audit and Finance Committee:** The 2008 Audit was completed and approved in late 2010 and work began on the 2009 audit began.

**e. Governance Committee:** The committee continued its work in reviewing and/or finalizing the Agency's policies, sharp tuning the by-laws, review of the Agency's website and review of the newly enacted Public Authorities Accountability Act of 2009. The Committee and Counsel presented the new requirement of the Act to the full Board.

#### **f. Grants:**

The US Economic Development Administration Public Work grant was closed out for \$858,345. The Agency received its share of the reimbursement. The grant was for construction of infrastructure for adjacent commercial/industrial parcels owned individually by the City and Agency.

#### **g. IDA-owned and fee-owned Property:**

The 20-/+ acre Scobie Drive Industrial site is under investigation by EPA as it may contain buried drum from nearby Dupont-Stauffer superfund site.

City records of properties owned by the Agency were reviewed. Ownership and PILOT records were refined to only include properties owned by the Agency and actual PILOTs approved by the Agency.

#### **h. Projects:**

- **PILOTs:**
  1. A PILOT for Unitex, aka, Fifth Generation and A&P Linen Supply Company was approved by the Agency in 2006, but the PILOT for the project was not finalized. The Agency executed a PILOT in 2010 for the recently completed commercial laundry which would create new entry level jobs.
  2. Corwin Management PILOT – requests for PILOT payments were ignored. Agency Counsel is pursuing payment with the company and its attorney. It should be noted that the files indicate the Agency approved a lease for the project that enabled a PILOT for the commercial development BUT no job creation reporting was required. This project was not ‘listed’ in the 2005 or 2006 Comptroller’s report.
- **GEMMA Bond Default:** Notice and Demand to Bondholders: M&T bank advised the Agency that the GEMMA project was in default as a result of not making 3 bond payments. The payments are made by Orange County government as lessee of the commercial office space. The Agency issued a FOIL request to Orange County to determine why the payments were not made. The Agency learned via press that the County has issued the bond payments to the project owner. The owner did not forward the payment to the Trustee. The Agency’s secured bond counsel advise, a new trustee was appointed at the request of the counsel for the bond holders, but despite Agency efforts and requests, neither M&T nor the new trustee have pursued

clearing the default or requiring the project developer to respond to a code violation or Agency request for co-insurance.

- **St. Luke's Garage 2005 Bond Issuance:** Bond Issuance was audited by the IRS. The Agency authorized Counsel to seek assistance from bond counsel (Robinson & Cole) as needed. The audit was completed in 2011.
- The Agency approved a resolution to amend the 2005 bond agreement to permit a "bond swap."