

MINUTES NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY SPECIAL MEETING, JANUARY 9, 2009

The meeting was called to order at 7:05 p.m.

Present: Richard Bedrosian, Michael Curry, Spencer Gulliver, John Penney, and Joshua Smith. Jerry Maldonado joined the meeting at 7:10 p.m.

Absent: Sean O'Shea.

Mr. Gulliver opened the meeting and read the notice of the meeting. He then proceeded to announce that the meeting was being held to examine IDA finances and to ascertain what additional information is needed for the board to carry out its work. He described his meeting with Ms. Lourdes Zapata, current IDA administrative director, to discuss access to the records of the IDA

Chairman Gulliver then turned to Treasurer Michael Curry who explained that he requested a special meeting because he realized that the IDA board of directors has a contract to receive administrative services from the Office of Economic Development. He noted that the administrative director was selected by the city manager with no consultation with the IDA board; he further stated that there is no written agreement describing the services and that he feels uncomfortable working with the city; he also stated that since there has not been a budget approved by the board, he needs to know how far he can proceed.

Secondly he described the meeting at the regional offices of the Controller of the State of New York; this meeting was attended by Treasurer Michael Curry and vice chair Joshua Smith. The chief Examiner, Mr. Ellis, advised them to set parameters with the staff and to get answers. "Look at the records and whatever else is appropriate." Curry explained that it has been very difficult to gain access to any records since attending that meeting. Mr. Penney interjected that he in his new role as Secretary of the board went to the Office of Economic Development to look at the records and was told that he needed an appointment and should return another day because the office was too busy.

Chair Gulliver then quoted the 2005 agreement (section 3) between the city and the IDA which stated: "Such records shall be kept in audit ready condition at all times and shall remain available for inspection and review by both parties" He further explained that during the meeting he and Mr. Curry had with Ms. Zapata she indicated that the records of the IDA and City of Newburgh files are too intermingled to be separated.

Mr., Maldonado observed that the files should be separated by the city and copies given to the IDA.

Mr. Curry noted that the IDA apparently funded the Office of Economic Development for \$517,000 in 2007 and \$385,000 in 2006. Given that amount, the IDA should expect that

the records would be clean; the city staff did the intermingling and therefore the city must perform the untangling at its cost.

Mr. Curry moved to the second agenda item "Confidentiality of Records" and reminded the board of Ms. Zapata's email informing us we would have to sign a confidentiality agreement before gaining access to the records. (The agreement was supposed to be in our document packet, but it was not.) Ensuing discussion ranged from concern that the agreement would be drafted by the attorney for the city (not an attorney for the IDA). Vice chair Smith and Secretary Penney saw this as a problem, especially since all of us had taken an oath, as Mr. Penney observed, to uphold the constitutions of the United States, the State of New York, and the Charter of the City of Newburgh. Secretary Penney further stated that the IDA should have its own files in its own locked files.

Vice chair Smith then asked Treasurer Curry how many bank accounts exist for the IDA (item #3). Mr. Curry said he believes two, but had not seen the bank statements or bank books; he does not know the total in the checking account and believes that the savings account has \$6000, but he does not have documentary evidence. After Mr. Maldonado asked how many times he had asked for the records, Mr. Curry asked the chair to read a memo he wrote to his own files:

January 5 Monday

After the IDA meeting, Treasurer Curry made a verbal appointment with Ms. Zapata to go together to the bank to become co-signatories on Thursday, January 8 after 2 p.m. when Mr. McKenna was expected to be there.

January 6 Tuesday

Secretary Penney requests to be shown the location of the IDA records and seal. Ms. Miranda, the only person in the office, takes a message.

January 7 Wednesday

Treasurer Curry attempts to confirm the appointment by telephone and leaves a message on the voicemail of Ms. Zapata.

January 8 Thursday afternoon

Secretary Penney, hearing no reply from Tuesday's requests, attempts to be shown the location of the records and seal; Ms. Zapata indicates she would "need a resolution of the board" in order to take action. Treasurer Curry arrives at his appointment as he hangs up a telephone call with Chairman Gulliver. Both assure Ms. Zapata both have full of authority of the agency to inspect the records as outlined in the bylaws. Ms. Zapata indicated that the office was busy, Ms. Miller had been sick, and a request should be made indicating what specific documents are being sought and then she would make an appointment for the record(s) to be reviewed. Curry indicated this was not going to be acceptable: requests have been made at open meetings, via e-mail and letter to Mr. McKenna. (Ms. Zapata should have been made privy to these requests.) Neither Mr. Curry nor Mr. Penney would be leaving until access was granted to the records. After much wrangling, Curry noting he would have only the option to tell the press that the

files may not exist and agreed not to ask for copies (as they were busy). Curry and Penny were allowed to view some recent bank statements. Curry and Penney asked Ms. Zapata for confirmation that the files had been transferred from the offices of Stewart Glenn, the former IDA attorney. (Note: Previous requests had been made to Mr. McKenna.) They did not receive a satisfactory response.

January 9 Friday

Curry calls Ms. Miller to inquire about the IDA preapproved vendor list (she is listed in the RFP as the person to ask). Refusing to reply or even take a message, she huffed, "I know nothing about that! You need to speak to Lourdes!"

Curry requests via e-mail a copy of bank statements and a disk copy of financial records (to reduce copy time). He again asked clarification about whether the records from Mr. Glenn's office are in possession of the city or still at Mr. Glenn's office; to this date there has been no reply.

January 12 Monday

Chairman Gulliver and Treasurer Curry meet with Ms. Zapata. Curry indicates he wishes to prepare a Treasurer's report "to the extent I had access to records." Ms. Zapata states that she has requested Mr. Chanin (city corporation Counsel) to draft a "confidentiality agreement" she wishes IDA members sign.

January 13 Tuesday

Ms. Zapata e-mails a copy of the 2008 profit and loss statement to the board.

January Wednesday

Curry notifies Ms. Zapata via e-mail that background information is required for a treasurer's report. Despite the requests above, Mr. Curry has had five minutes access to the September and November (he later said October, not November at the meeting) 2008 bank statements only. Ms. Zapata notes she only received one e-mail request. Mr. Curry suggests one written request with four days to prepare copies should be sufficient.

After describing six checks which were issued between September 6 and October 17 with no supporting documentation, Mr. Curry stated that this points out that the board has not been receiving monthly reports. He also expressed concern that the RFP for accountants has a March closing date and noted that the IDA is already late in filing audited financial statements with the state of New York.

A lengthy discussion ensued during which Chairman Gulliver revealed that on December 9, 2008 Mr. McKenna had signed a \$12,000 contract with Nugent & Haeussler, PC to conduct an audit for the IDA financial statements 2007. The IDA board was not informed of this action that at either of its December meetings.

We were also reminded by Mr. Bedrosian that Ms. Zapata had told us at our last December meeting that the property on Broadway sold by the IDA to Mr. Robert Carchietta had become the subject of foreclosure proceedings and that the IDA which supported the mortgage application was a "subject of interest." He pointed out that we

have yet to receive the appropriate documents which clarify our relationship and explain why the IDA is a “subject of interest.”

The discussion culminated with three resolutions:

1. Moved by Mr. Curry and seconded by Mr. Smith:

Until the board of the IDA has access to information owned by the IDA including financial statements, bank statements, and IDA project activity, all financial activity is frozen, effective immediately. Vote: 6 yes, 0 no.

2. Moved by Mr. Bedrosian and seconded by Mr. Maldonado:

Effective immediately, the Chairman, Vice Chairman, Secretary, and Treasurer of the IDA shall be the only authorized signatures on bank accounts of the IDA. The Treasurer will sign checks up to \$1000 and all other checks will be countersigned by one of the officers of the board. This resolution will be transmitted to the banks immediately. Vote: 5 yes, 0 no, abstention (Mr. Curry) 1.

3. Moved by Mr. Penney and seconded by Mr. Maldonado

Effective immediately, all previous signatories on IDA accounts are null and void and shall be removed from the accounts. Vote: 6 yes, 0 no.

The meeting adjourned at 9:10 pm.

Submitted by Joshua L. Smith, temporary recording secretary