

**City of Newburgh
INDUSTRIAL DEVELOPMENT AGENCY
("IDA")
MINUTES OF MEETING
MAY 17, 2010**

Present

Board Members: Josh Smith
Michael Curry
Spencer Gulliver
John Penney
Sean O'Shea
Excused Absences: Richard Bedrosian, Jerry Maldonado
Administrative Director: Courtney Kain
Counsel: Thomas Whyatt, Esq.
Corporation Counsel: Bernis Nelson, Esq.
Guest: Richard J. Drake, Esq.

1. **Roll Call.** Mr. Smith called the meeting to order.
2. **Proof of Notice of Meeting.** Accepted
3. **Unitex (Fifth Generation):** Mr. Drake, representing Unitex (5th Generation) gave a brief history of his client's association with the IDA. On March 1, 2009 the property was to return to the tax rolls. Unitex tried to file a 45-B form, but the Assessor could not accept it because title to the property is still in the IDA's name. Either the Title needs to be transferred from the IDA to Unitex to return it to the tax roll or a PILOT lease agreement should be constructed. The CofO was issued 6-9-2008. March 1, 2009 is when the City should have begun collecting taxes. 140 people were employed when the application was filed. The law might not allow the IDA to back-date an agreement to January 1, 2009. If back-dating is legal, Mr. Drake's client will pay what is owed for 2009, 2010 and then build in PILOT agreement.

Additionally, the had IDA issued a 2-year sales tax exemption letter on October 6, 2006 for the parent company, A&P Co. Linen Supply Company. There was a discussion of how to continue the sales tax exemption, and whether a PILOT would now be possible. Mr. Curry asked for copies of the exemption letter that was authorized by the IDA.

Mr. Curry stated that a formal application to the IDA needs to be made. The application would involve the standard fee as well as legal time. Counsel would need to review the mortgage and the 45-B application. Corporation Counsel also requested copies of those documents. The Board concluded that counsel is authorized to proceed with work necessary to meet the request of A&P Linen Company.

Mr. Penney asked if PILOT negotiations now would result in a different revenue stream to the IDA than before? Mr. Curry said that administrative costs, including the IDA's reporting requirements, should be built into negotiations, since this is to settle a former project.

4. **Approval of Minutes of April 19 Meeting.**
Mr. Penney: Motion to approve the minutes as corrected.
Mr. Curri: Motion seconded
Vote: Unanimously approved.

5. Request for Bills and Communications.

A legal bill for West Street was received for work in 2008. Ms. Nelson stated that the City will be responsible for any 2008 expenses. Mr. Smith stated that Certificates of Completion were received and distributed to those who attended the ABO required training.

6. Reports on Committees.

Audit Committee. There was no meeting. Mr. Smith asked for an update on the audits. The 2008 from Sedore (our auditors) should be received shortly. Mr. Curry will circulate it to the audit committee and then recommend to that the full board accept the 2008 Audit, so that Sedore can move forward with the 2009 Audit.

New signature cards are being sent to the bank due to the Change of Officers. June agenda The signatures will be witnessed. The Bank of America account has long been directed closed.

Sprint (a cell tower lessee), in preparing for an audit, found that it owes the IDA back lease payments totaling \$103, 265. Mr. Curry stated that the Board needs a complete review of all income streams to be certain they are being received.

Use of space: The IDA will need to purchase filing cabinets and a desktop computer. Mr. Curry asked that the Procurement Policy be in place prior to buying any equipment. He also said that the Board is spending money for projects that have not been accounted for in the budget and that it needs to track items.

Governance. Mr. Maldonado was not present to give an update. He intends to convene a meeting before next full board. Ms. Kain distributed final drafts of policies to all board members. Mr. Smith requested that the Board direct their comments, if any, directly to Mr. Maldonado.

Treasurer's Report. Mr. Curry notified the Board that at the end of 2010 he will turn over treasurer responsibilities to a Chief Financial Officer. Since only a few checks are written each month, Mr. Curry recommended that a City staff person could provide that service. Interim City Manager Herbek has indicated that someone could take this on by year end.

The monthly interest payment of \$6500, plus a \$250 late fee, was received from Leyland Alliance. The following invoices were received: \$25.77 for Federal Express; \$350 for title search work associated with the EDA Grant, \$200 from CK Boyle for recording secretary, and \$4,207.50 from Oxman Tulis for legal services. The current balance is \$263, 809.44.

Mr. Penney: Motion to approve payment of the invoices.

Mr. Gulliver: Motion Seconded.

Vote: Unanimously approved.

7. Old Business

Mission Statement Revision:

Mr. Gulliver stated that the ABO approved IDA missions are directed toward industrial development, not social development. This statement opens us up for more opportunities

with City using Smart Growth principles. Mr. Smith asked for a short professional explanation of Smart Growth. Mr. MacDougall stated that it is a planning philosophy which uses existing infrastructure in an urban approach. It sets out a series of 10 principles, such as increasing density, and initiating solid public transportation systems. Mr. MacDougall will forward these principles to the Board who can then determine if they support the mission of the Board. The Governance Committee will also review prior to its report at the next monthly meeting.

Ms. Nelson questioned whether the Board's intention was to limit the types of financings it can do? She suggested they consider broader language so that opportunities beyond straight financial benefits can be considered. Structures such as tax exemptions and other devices might have a benefit to citizens or residents which carry out the board's mission. The Governance Committee should review again.

IDA/City Council Working Committee: Ms. Kain requested that topics be reserved for executive session. The Verizon Building will be placed on the next Agenda, because Ms. Kain said the Working Committee is focusing on only one topic right now.

Pierces Road/Dupont Site BOA: Hudson Valley Lighting will be discussed in Executive Session

Armory Acquisition. Ms. Kain is finalizing the transfer documentation with NYS.

132 Broadway. A site tour is scheduled with Pace for Friday, May 21.

Murphy's Ditch. Mr. Whyatt read the proposed new language for the Easement Agreement. Recorded copies will be given to Town of Newburgh planning board and the Clerk so they are on notice. Any applications for building permits would trigger this condition. If payment is not made, IDA needs to issue a notice of non-payment, which allows foreclosure on the easement.

This is a 60-year Easement Agreement , which automatically renews for 5-year terms with a \$10,000 cost of living increase. Mr. Whyatt said the IDA needs to keep track of this through a system of 'institutional memory'. Ms. Nelson suggested that an Estoppel Certificate from grantee to as a guarantee be added, and Mr. Whyatt will add late fee language. The final agreement, with resolution for the Board, will be ready at the next meeting.

EDA Award The Site Certificate was approved, and there is no need to send edits on the Master Sales Agreement. Ms. Kain will research "non-relocation" language for Ms. Nelson.

West Street Project Mr. Whyatt is waiting for the EDA grant to be completed. He recommended reviewing co-ownership by IDA and City. The Deed is completed. Northeast Development agreed to remove the encumbrance, but there has been no action taken.

Verizon Building Inspection. Mr. Gulliver asked for a review. Ms. Kain said there are some interested parties, including a renewable energy company. She will set up a walk-thru. City engineer Craig Marti is working with the committees.

1 Corwin Court. Mr. Curry recapped the history of the project which is near its 20-year lease end. Ms. Kain said the audit report and the Comptroller should have the figures on whether the payments are accurate. Mr. Gulliver asked for a full list of all PILOT

agreements and payment history and schedules. Mr. Whyatt said a City Audit will show the figures. .

Directors' Insurance. Mr. Smith asked for a status report on the RFP and said that each board member should have an umbrella insurance policy. He also suggested sending out requests to local agents. Mr. Curry said the procurement policy should be in place first. The Board read the procurement policy so a vote could proceed. Mr. Curry suggested that the Board agree to the current draft with the proviso that the City's policy be attached. Ms. Nelson said a new City procurement policy will be out in a few months. Mr. Whyatt suggested adding language that the 'natural person' hired by the city would be the same person for the IDA. Mr. Whyatt advised that there was no legal reason not to adopt the policy tonight. Mr. Gulliver said that any references to general law should be checked and confirmed.

Mr. Penney: Motion to adopt the Procurement Policy tonight and make any adjustments at the Governance Committee meeting.

Mr. Gulliver: Motion seconded.

VOTE: Procurement Policy is unanimously approved and adopted, subject to revisions by the Governance Committee.

Mr. Whyatt said insurers need to see what the City's current policy is. Ms. Nelson suggested the IDA might get a traditional policy with a small deductible such as \$25000.

7. New Business

GIS Mapping: Ms. Kain distributed an Empire Zone map, and Business Development. She said it has been helpful in working with Orange County Partnership.

The Foundry Development Group will attend next meeting.

207 Lake St. Court Appearance. The item was adjourned until June 7. Belvedere will develop a corrective Action Plan. The Codes Department will conduct an inspection. It will also implement a way to notify all parties in the future. Mr. Whyatt suggested that notification copies should be sent to County Housing, since it is more their responsibility than IDA's to ensure code compliance.

8. Adjournment The next IDA Meeting is scheduled for Monday, June 21, 2010.

Mr. Penney: Motion to adjourn and move into Executive Session on Property Disposition.

Mr. Curry: Motion seconded.

Vote: Unanimously approved.