

**CITY OF NEWBURGH  
INDUSTRIAL DEVELOPMENT AGENCY  
("IDA")  
MINUTES OF SPECIAL MEETING  
September 1, 2010**

**Present**

Board Members: Josh Smith  
Richard Bedrosian  
Michael Curry  
John Penney  
Sean O'Shea  
Jerry Maldonado  
Excused Absences: Spencer Gulliver  
Administrative Director: Edward Lynch  
Counsel: Thomas Whyatt, Esq.

City of Newburgh Bernis Nelson, Esq.  
Corporation Counsel:

Guest: Edward Lynch, Director of Planning & Development

1. **Roll Call.** Mr. Smith called the roll; a quorum was present.

2. **Proof of Notice of Meeting.** Accepted.

3. **2008 Independent Audit Review and Recommendations**

Mr. Curry reported that Sedore & Co. has corrected liabilities and assets to properly reflect the EDA award. Mr. Curry read the Revised Note 7 language ("Judgments and Claims") which now indicates \$196,170.

Mr. Curry: Motion to Accept the 2008 Audit

Mr. Bedrosian: Motion Seconded.

**VOTE:** The 2008 Audit is Unanimously Approved.

Mr. Smith asked for the 2008 Audit to be posted to PARIS and the website as quickly as possible. Mr. Curry explained that the Response to Findings and Cover Letter need to be finalized, since they become part of the completed Audit, and the Governance Policies should be finalized and adopted if not already done. As soon as the open items are resolved, Mr. Curry will sign the letter.

4. **Request for Bills and Communications:** None.

5. **Internal Revenue Service Audit of the 2005 Bond Issue.** Letter, dated August 25, 2010, from the IRS read into the Record by Mr. Lynch.

Mr. Smith reported the results of his examination of the Attorney/Client Privilege records. There were five closing binders. Harris Beech was bond counsel. There is a second folder and two CD-Rom's which we believes are possibly what the IRS is requesting. The Board questioned who third parties are. Mr., Smith asked Mr. Whyatt to be the IDA's official representative, and Mr. Lynch is already in contact with the IRS. The Board will sign Form 2848 appointing Mr. Whyatt as the

representative, and Mr. Lynch will sign the Power of Attorney to Mr. Whyatt. Mr. Whyatt asked for approval to consult other bond and tax counsel, including Harris Beach, Robinson & Cole.

Mr. Maldonado: Motion to authorize Mr. Whyatt as the Board's representative, with powers to work with other attorneys.

Mr. O'Shea: Motion Seconded

Discussion: Mr. Curry noted that this is a non-budgeted expense. Mr. Penney asked that the motion be amended to add specifically to execute Forms 2848, Form 8821 and Third-Party Notification. Form 8821 relates to Community Development Properties. Mr. Smith mentioned that Dan Marsh and National Development Council might be third parties. Due Diligence is required to ascertain if the City is involved.

Mr. Smith called for a vote on the Motion, with Amendments.

**VOTE:** Unanimously approved.

Mr. Smith will send a letter to the ABO making them aware of this action and advising them that the Board is moving quickly and cooperating.

The Board noted that when the 2008 October Bond Swap took place, the IDA was not informed. Mr. Smith asked for further research to find the Memorandum and Resolution which gave the Director authority to sign without the Board's approval. Mr. Curry noted that the Board needs to go on record as to its lack of knowledge about this issue.

The next scheduled IDA Board Meeting is September 27, 2010.

Mr. Penney: Motion to Adjourn

Mr. Maldonado Motion Seconded

**VOTE:** Unanimously approved.

