

# UCIDA

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Ulster County Industrial Development Agency

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## ULSTER COUNTY INDUSTRIAL DEVELOPMENT AGENCY GOVERNANCE COMMITTEE MINUTES November 5, 2020

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A special meeting of the Governance Committee of the Ulster County Industrial Development Agency was held on Thursday, November 5, 2020, at 1:30 P.M. at the Legislative Chambers in the County Office Building, 244 Fair Street, 6<sup>th</sup> Floor, Kingston, NY.

**Roll Call:**

The following committee members were present:

Michael J. Ham	Committee Chairman
Richard O. Jones	
Diane Eynon	

The following committee members were absent with notice:

The following additional Agency members were present:

James Malcolm	Left at 2:09 P.M.
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Additional Attendees:

Rose Woodworth	Chief Executive Officer
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The meeting was called to order at 1:31 P.M. by Committee Chairman Michael J. Ham.

**PLEDGE OF ALLEGIANCE**

The members of the Agency participated in the Pledge of Allegiance to the flag.

**ROLL CALL**

The roll was read, and it was noted that a quorum was present.

### **APPROVAL OF MINUTES**

The members of the Committee reviewed the draft minutes from the August 4, 2020 meeting.

**Motion:** Diane Eynon, seconded by Richard Jones, moved to approve the minutes of the August 4, 2020 meeting.

**Vote:** The motion was unanimously adopted (3-0).

### **OLD BUSINESS**

#### **Project Compliance**

##### **I. Projects with overdue fees**

The CEO presented the statements that were most recently sent out to projects with outstanding fees. Most of what is outstanding still is for the annual fees that were due August 31, 2020. (after the Board granted multiple extensions respecting the hardships that Projects could have been facing from COVID and/or mandatory shutdowns). The Committee and the CEO agreed the late fee from ARHC will most likely not be collected as the Agency has been unable to contact anyone related to the Project. Golden Hill Acquisitions, LLC is the prior owner of Golden Hill, and the annual fee for Golden Hill Acquisitions was not collected prior to transfer to the new owner. The Committee suggested not finalizing transfers to new owners until the Agency is made whole by the any project's current owner. Viking Industries is questioning whether they have to pay their annual fee because they no longer have a PILOT, but they do have a bond still. The CEO is working with Joseph Scott to address their concerns. Gardiner Library believes that they do not have to pay the fee because they closed out their bonds, but they did not get approval from the Board, and the bonds were not closed out properly. The CEO has asked Joseph Eriole to follow up with the Project to complete the closeout. However, Joseph Eriole asked that all closeouts be referred to Joseph Scott. The CEO will call projects with outstanding fees.

##### **II. Project Compliance**

The CEO noted that all projects are finally in compliance with regards to documentation submission. The Committee has been tasked with discussing how to handle projects that are still out of compliance based on job numbers. James Malcolm suggested drafting a sliding scale for clawbacks. The CEO noted that each project has a clawback percentage in its closing documents. The Agency needs to draft a clawback policy. The Committee discussed the Project Compliance 2019 document. A copy of the document is on file.

### **Amthor Welding Service**

Amthor Welding Service had agreed to meet with the full Board, but no one from the Project showed up to the meeting. After multiple attempts at contact, non-compliance letters, and a letter informing the Project that the Agency intended to take legal action, the Project finally submitted the rest of the 2019 annual reporting information on September 30, 2020 (8 months late). Complete annual reporting information has not come in on time if at all for at least several years in a row. Based on prior submissions, the Project's job numbers have been out of compliance for at least three years. It was also noted that if the Project only had 75% of the total jobs promised, they had actually not added any full-time-equivalent jobs since receiving IDA benefits. The Project does not have a PILOT agreement, only a bond. The Agency is able to recall the bond, and the Project would have to pay it in full or refinance it.

**Motion:** Richard Jones, seconded by Diane Eynon, moved to recommend to the full Board that the Agency recalls the bond.

**Vote:** The motion was unanimously adopted (3-0).

### **ARHC BCKNGNY01**

The Committee agreed that the late fee for ARHC BCKNGNY01, the prior owners of 111 Mary's Avenue (now Kingston Medical Properties) should be written off since Agency staff has not been able to get a hold of any of the contacts at the Project.

### **Benedictine Hospital**

Benedictine Hospital previously met with the full Board. Richard Jones pointed out that after the meeting, he became aware that the Project has discontinued their mental health and addiction services, and he feels that the Agency should reconsider its course of action for the Project's noncompliance based on the new information. From a legality standpoint the contract with the IDA does not dictate what type of services must be provided. Mr. Jones suggested recalling the bond on the basis of the important services being removed. The Committee members did not agree, but they agreed that this will be brought up if the Project comes before the Board looking for assistance again. Mr. Jones will draft a letter expressing the Agency's disappointment for the Committee to review.

**Note: James Malcolm left during the discussion on Benedictine Hospital at 2:09 PM.**

### **Darienlake Kingston**

The CEO reminded the Board that, at the September Board meeting, Amit Shah, the owner of Darienlake Kingston (Holiday Inn Express Lake Katrine) stated that, as a new owner, he was unaware of the full-time-equivalent jobs promised in the application and PILOT agreement. When making this claim, he and his general manager agreed that the full-time-equivalent jobs promised in the application were overstated. When reviewing the original Project's documents prior to this meeting, the CEO discovered that Mr. Shah was actually one of the original members of the LLC and, certainly, at the time they applied for IDA benefits. There is no reason that he would not have been aware of all parts of the agreement. Ms. Woodworth presented

the Project's current PILOT structure along with what are now the Agency's current standard PILOTS. The CEO also referenced the Inform Analytics study that was done when the Project applied: At that time, the benefits were \$900,000 at a cost of \$1.3 million to the community. The Project sent the Agency their current job postings, but it was unable to produce any historical information. The Committee discussed some of the options available for dealing with the Project's noncompliance: The Agency could claw back, put the project back on the tax rolls, and/or change the PILOT structure to the current standard 10-year PILOT. In an effort to be sensitive to the financial burdens involved, and, in an effort to not put the Project out of business, the Committee agreed to moving the Project to the 10-year current standard PILOT.

**Motion:** Richard Jones, seconded by Diane Eynon, moved to recommend to the full Board that the Agency changes the PILOT to the current UTEP's Category 3 10-Year PILOT.

**Vote:** The motion was unanimously adopted (3-0).

#### **Hudson Valley Kingston Development**

Hudson Valley Kingston Development (The Kinsley) previously reported to the Board that COVID was a factor in their low job numbers even though that was not a factor in 2019 (the year in question). However, Ms. Woodworth noted that the actual reason for underperforming on promised full-time-equivalent jobs was due to the Project still being under construction two years after the proposed construction timeline. Mr. Ham informed the Committee that it has been brought to his attention that the Project allegedly has not been paying contractors which could be why the construction is lagging. Richard Jones noted that he had heard the same thing. The Committee discussed sending Loewke Brill to the site to determine if contractors are being paid in a timely manner. If Loewke Brill is unable to perform the service, the Agency will investigate in-house. The Project's sales tax exemption expires on November 15, 2020. The CEO will send an email reminding the Project that they can no longer use the exemption after that date.

#### **The Greenhouses Hotel**

Doug Posey, the owner of The Greenhouses & Audrey's Farm, met with the full Board and argued that although his employment numbers are low, he is paying double the wages that he promised to pay. The Board has not been presented with documentation that supports such a claim. The Project was only at 50% of the promised full-time-equivalent jobs for 2019, and the Agency and the Project agreed on restructuring the PILOT to match the Project's current business model. As with the Darienlake Project, the Committee considered the options available and thought very seriously about the impact that the choice would have on the business. They specifically discussed reducing the 15-year PILOT to a 10-year PILOT, but ultimately, the Committee did not want to be punitive. Mr. Jones suggested moving to the current 15-year PILOT as to not cripple the existing business.

**Motion:** Richard Jones, seconded by Diane Eynon, moved to recommend to the full Board that the Agency changes the PILOT to the 15-year current standard PILOT based on the new UTEP.

**Vote:** The motion was unanimously adopted (3-0).

### **NEW BUSINESS**

#### **Review of Current Policies**

The Committee is continuing to work on reviewing all of the Agency's policies:

- No Extension of Credit Policy: No changes necessary.
- Organizational Chart: The CEO/Chair box will be changed to CEO. The Chair will be above the CEO. The CEO and CFO will be shown as reporting to the Board (with a dotted line) and the Chair (with a solid line). The Executive Director will be removed. The Staff, Counsel and Consultants will report to the CEO instead of the CEO.

**Motion:** Richard Jones, seconded by Diane Eynon, moved to present the changes to the Organizational Chart to the full Board.

**Vote:** The motion was unanimously adopted (3-0).

- Property Disposition Policy: The Designated Contracting Officer will be changed from the Chair to the CEO (as is written in the bylaws).

**Motion:** Richard Jones, seconded by Diane Eynon, moved to present the changes to the Property Disposition Policy to the full Board.

**Vote:** The motion was unanimously adopted (3-0).

- Whistle-Blower Protection/Code of Conduct Policy: Richard Jones pointed out that the policy does not include harassment. The Committee discussed adopting a separate policy based on Ulster County's policy for harassment.

**Motion:** Richard Jones, seconded by Diane Eynon, moved to accept the policy as is and create a harassment policy that will specifically address sexual harassment and a hostile work environment.

**Vote:** The motion was unanimously adopted (3-0).

### **Policies to be Created**

- FOIL Policy: Agency Counsel created a FOIL Policy for the Committee to review. The Policy will be amended to remove Joseph Eriole's name and replace it with "Board Counsel" as to not have to update the policy if counsel changes at any point in the future. The Committee discussed fees for FOIL requests and agreed that they Agency should charge 25-cents per page on any FOIL over 10 pages, as well as an hourly rate of \$50 after the first hour spent processing the request.

**Motion:** Diane Eynon, seconded by Richard Jones, moved to present the policy with the changes discussed to the full Board.

**Vote:** The motion was unanimously adopted (3-0).

- Policy for Retained Jobs: The definition presented will be used to draft the Policy for Retained Jobs.

**Motion:** Richard Jones, seconded by Diane Eynon, moved to accept the Policy for Retained Jobs.

**Vote:** The motion was unanimously adopted (3-0).

### **PUBLIC COMMENT**

No public comment received.

### **ADJOURNMENT**

**Motion:** Diane Eynon, seconded by Richard Jones, moved to adjourn the meeting.

**Vote:** The motion was unanimously adopted (3-0).

The meeting was adjourned at 3:12 P.M.

Respectfully submitted,

Michael J. Ham, Committee Chair