

UCIDA

Ulster County Industrial Development Agency

ULSTER COUNTY INDUSTRIAL DEVELOPMENT AGENCY MINUTES July 28, 2021

A regular monthly meeting of the Ulster County Industrial Development Agency was held on Wednesday, July 28, 2021 at 9:00 A.M. at the Legislative Chambers in the County Building, 244 Fair Street, 6th Floor, Kingston NY.

Roll Call:

The following agency members were present:

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| James Malcolm | Chair |
| Dr. Diane Eynon | Vice Chair/Treasurer |
| Faye Storms | Assistant Treasurer |
| Michael J. Ham | Secretary |
| Orlando Reece | Assistant Secretary |
| Daniel Savona | Assistant Secretary |
| Richard O. Jones | Member/Chief Financial Officer |

Arrived at 9:11 A.M.

The following agency members were absent with notice:

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| Orlando Reece | Assistant Secretary |
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Additional Attendees:

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|----------------------------|-------------------------|
| Rose Woodworth | Chief Executive Officer |
| A. Joseph Scott, III, Esq. | Agency Counsel |

The meeting was called to order at 9:00 A.M. by Chair James Malcolm.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Roll was called, and it was noted that a quorum was present.

READING OF THE UCIDA MISSION STATEMENT

The mission of the Ulster County Industrial Development Agency is to advance the job opportunities, general prosperity and long-term economic vitality of Ulster County residents by targeting tax incentives, bonding, and other assistance to foster creation and attraction of new business and the retention and expansion of existing business.

MINUTES

Motion: Michael J. Ham, seconded by Richard O. Jones, moved to approve the minutes of the June 16, 2021 regular meeting as presented.

Vote: The motion was unanimously adopted (5-0).

Executive Session

Motion: Michael J. Ham, seconded by Daniel Savona, made a motion to enter Executive Session for the purpose of discussing current litigation, personnel matters, and the advice of Counsel.

Vote: The motion was unanimously adopted (5-0)

The Board entered Executive Session at 9:01 A.M.

Faye Storms arrived during Executive Session at 9:11 A.M.

Motion: Richard O. Jones, seconded by Michael J. Ham, made a motion to come out of Executive Session.

Vote: The motion was unanimously adopted (6-0).

The Board came out of Executive Session at 10:05 A.M.

No action was taken during Executive Session.

FINANCIALS

Chief Financial Officer Richard O. Jones presented the June financial report. Income is currently under budget, but that will change once the approved projects close. The administrative fees are at 53% of the year's budget and are the largest expense item. All other expenses are under budget. Cash on hand is \$746,555.69. The Bank of Greene County holds collateral; therefore, no FDIC insurance is needed. A large amount of money has been moved from M&T Bank to The Bank of Greene County due to the interest rate being higher.

Motion: Faye Storms, seconded by Michael J. Ham, made a motion to accept the financial report for June 2021 as presented.

Vote: The motion was unanimously adopted (6-0).

CHAIR'S REPORT

James Malcolm presented the Chair's Report. As part of his report, the Chair reported that it has been busy. There is a lot of potential, on-going business, and clarification being done. The Chair is happy with the direction the Board is moving and thoroughness of its work.

CHIEF EXECUTIVE OFFICER'S REPORT

Rose Woodworth presented the Chief Executive Officer's report. As part of her report, she reported on the following:

- A. Projects – There is a project going through the pre-screening process for a potential housing project.
- B. Agency Insurance – The insurance bill was significantly higher this year (approximately a 25% increase). It was sent back to the broker to find out the reason for the increase or if we needed to shop it around. The broker informed us that there is an industry-wide increase to liability rates this year, and they were unable to get a better rate for us due to regulations on policy.
- C. Board Training Day – We are looking to schedule a Board Training Day in September or October. The Chair and the CEO have discussed several topics so it is not redundant in what was done last year. An email was sent out to start to nail down dates, but nothing has been able to be scheduled yet.
- D. Economic Development, Tourism, Planning, and Transit Committee – All Board members were invited to the August 3 meeting at 6:00 P.M.

- E. Project Post-Closing Affidavits – The Affidavits were sent out with a firm return due date of June 30. All projects have submitted their Affidavits. Henry Stout from Creative Environments, LLC sent back a payment because the project cost more than anticipated. He asked the Board to not charge the 1% fee which is approximately \$5,000 due to the pandemic. The CEO advised him that it would not be something the Agency could likely do. If the Agency didn't charge him, it would set a precedent for all projects. There was consensus amongst the Board members with the CEO's statement.
- F. Star Estate – The Project paid the School District and Town. The payment was short a couple of months of interest and penalties. The School District has decided not to pursue the interest and penalties and thanked the IDA for our assistance.
- G. New Paltz Letter – Richard O. Jones asked about the status of the letter. The CEO let the Board know that a response was already given to the Village of New Paltz letting them know that all the information they were requesting is available on the UCIDA website.
- H. Grant Program – Total of grants in 2020-2021 for the UCIDA and UCCRC totaled \$295,124. Administrative fees totaled \$23,800 and postage was \$72. The grant total spent on the PPE Grant Program was \$318,997.
- I. The CEO asked Joseph Scott, Agency Counsel, to present an update on the Legislative Laws that effect the IDAs, and Mr. Scott explained the following:
 - 1. A large piece of legislation supported by the ABO enacted a lot of additional regulations and penalties. Many of these are already being done by the UCIDA.
 - 2. Legislation that did not get enacted was the prohibition on pirating by IDAs. There are exceptions such as if the project applicant is going to move out of state or if the move is necessary for the applicant to increase its competitive position in its industry. The proposed legislation would have eliminated the second position.
 - 3. Legislation that prohibits elected officials from being appointed to an IDA board was enacted.
 - 4. Legislation enacted by the Assembly and Senate, but not (to Counsel's knowledge) signed by the Governor, prohibits elected officials from being hired by an IDA to act as a paid official or paid staff member.
 - 5. Legislation to extend the loan and grant program was enacted.
 - 6. Legislation that requires all local IDAs (towns, village, etc.) to charge the same administrative fees as the county IDAs was enacted.

7. Legislation, that Agency's Counsel does not believe was enacted, would expand an IDA's power to include the ability to issue bonds for a city school district. This would allow the IDA to issue the bond on behalf of the city school district and then enter into a lease agreement with the city school district. This lease agreement would not count against the city school district's constitutional debt allowing them to proceed with their capital project. Currently under local finance law, a city school district can exceed its constitutional debit if it gets 60% of the voters to approve the capital project and if they go through an approval process with the office of the State Comptroller and the Board of Regents.

COMMITTEE REPORTS

Audit Committee

Audit Committee report was presented by Committee Chair Dr. Diane Eynon.

- A. Construction Labor Monitoring Report – Loewke Brill reported Inness to be at 93% total average monthly compliance. Overall project compliance is 82%.
- B. UHY Invoice – Engagement letter was reviewed, and it states any significant increase over the \$10,000 the Agency would be notified ahead of time. The Agency was not notified ahead of time of the 7.5% increase. As a result, the Audit Committee makes the recommendation to the Board that the invoice is not paid until the engagement letter language is changed to reflect that the Agency will be notified ahead of time of any potential increase in cost. Once the agreement is reached and the language is changed, the original estimated amount of \$10,000 be paid.

Motion: Michael J. Ham, seconded by Daniel Savona, made a motion concurrence for the recommendation of the Audit Committee on UHY invoice.

Vote: The motion was unanimously adopted (6-0).

- C. Loewke Brill Contract – The Audit Committee recommended that the Board revise the contract for the construction labor reporting to include monthly on-site visits instead of bimonthly on-site visits for all new projects. Also, the Audit Committee suggested that the Board have Agency Counsel draft language that would bind all subcontractors to the General Contractors holding them accountable. Lastly, the Committee recommended that the Agency add a one-year expiration date to the contract. In conjunction with that, the Audit Committee also recommends to Governance Committee that an expiration date be added to all contracts.

Motion: Daniel Savona, seconded by Richard O. Jones, made a motion concurrence for the recommendation of the Audit Committee on the Loewke Brill contract.

Vote: The motion was unanimously adopted (6-0).

- D. Updates to Post-Closing Affidavit – Reminder emails were sent to projects who have not completed their post-closing affidavits with a deadline of June 30. The Audit Committee recommends to the Board to include a final release/waiver of claims & liens & release of rights form. Also, a firm submission date of 60 days from the date of completion of construction and add a spot for the projects CPA to sign. Counsel has reviewed these changes.

Motion: Faye Storms, seconded by Richard O. Jones, made a motion concurrence for the recommendation of the Audit Committee to make changes to the Post-Closing Affidavit.

Vote: The motion was unanimously adopted (6-0).

- E. Cost Benefit Analysis – The Audit Committee discussed creating a policy on when to use a third-party cost benefit analysis report or some kind of financial report. Criteria needs to be established to determine when a third-party would be used (possibly for potential projects asking for endorsements over a certain dollar amount or projects with certain complexities such as remote employees). The Committee’s recommendation was to move this over to the Governance Committee for further discussion.

Finance

No report.

Governance

Governance Committee Chair Michael J. Ham presented the Governance Committee report.

- A. Mentoring Program Update – An applicant checklist has been reviewed and revised. It will always be a work-in-progress. The Committee’s recommendation is to accept what we have and put it on the website for future and current applicants.
- B. Resolution Authorizing Enforcement Action – Ulster NH Realty, LLC Project – Katie Perez spoke on behalf of Ulster NH Realty LLC. (Golden Hill). Ms. Perez claimed Golden Hill currently has 310 employees, that they have hired 91 employees since they took over, and that there have been no layoffs, (just people have leaving due to COVID and other reasons). She stated that Golden Hill has brought the dietary and laundry department in-house from being outsourced, and positions were created by adding the Unit Assistant Program to hire individuals to assist the CNAs on the floor with feeding, transportation, and other patient assistance. An old BOCES Instructor was hired to bring back staff education. Ms. Perez also spoke about a new CNA class that is being started for Golden Hill employees to take. Chair, James Malcolm expressed to Ms. Perez that it is not just the quality of care that brought Ulster NH Realty to this point, it is the disregard for the process and lack of communication. He made it clear that Ulster NH Realty has a responsibility to the IDA to report why people have left or are no longer employed at Golden Hill. CEO Rose Woodworth stated that the contract says Ulster NH Realty has to have 330 FTEs (based on a 35-hour work week) and that has gone down, according to the numbers provided by Ulster NH

Realty, to 205.8 for the last quarter of 2020. The CEO explained that member/manager Sol Klein never mentioned any kind of issue with employees or people leaving. Diane Eynon said the Board understands changes going on in business, but the UCIDA reached out to Sol for three months. He did not reply and never notified the UCIDA of any issues. A letter was sent to Sol from the Agency's Counsel notifying him the UCIDA was taking enforcement action at this meeting.

Motion: James Malcolm, seconded by Faye Storms, made a motion to enter Executive Session for the advice of Counsel.

Vote: The motion was unanimously adopted (6-0).

The Board entered Executive Session at 11:02 A.M.

Motion: Michael J. Ham, seconded by Daniel Savona, made a motion to come out of Executive Session.

Vote: The motion was unanimously adopted (6-0).

The Board came out of Executive Session at 11:10 A.M.

No action was taken during Executive Session.

The recommendation of the Governance Committee was to put Ulster NH Realty back on the tax rolls and ask for a clawback of all taxes. Agency Counsel, Joseph Scott, reviewed the Resolution Authorizing Enforcement Action Ulster NH Realty, LLC Project. Schedule A on page 35 will be completed after the discussion.

Motion: Michael J. Ham, seconded by Daniel Savona, moved to approve the resolution authorizing enforcement action Ulster NH Realty, LLC Project

Vote: The Board voted as follows:

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|------------------|--------------------|
| James Malcolm | Aye |
| Faye Storms | Aye |
| Dr. Diane Eynon | Aye |
| Michael J. Ham | Aye |
| Orlando Reece | Absent with notice |
| Daniel Savona | Abstain |
| Richard O. Jones | Aye |

The resolution was there upon declared duly adopted.

Daniel Savona abstained from the vote due to conflicts with Golden Hill. The conflict is not a legal conflict, and Daniel Savona made his support the Board's decision clear.

- C. Resolution Regarding Freedom of Information Law Policy – Technical changes and cleaning up of language was done to the draft FOIL Policy that has been in the works for several months. A clear separation between the administration of the policy and legal counsel was made with respect to the policy.

Motion: Faye Storms, seconded by Michael J. Ham, moved to approve the resolution regarding Freedom of Information Law Policy.

Vote: The Board voted as follows:

| | |
|------------------|--------------------|
| James Malcolm | Aye |
| Faye Storms | Aye |
| Dr. Diane Eynon | Aye |
| Michael J. Ham | Aye |
| Orlando Reece | Absent with notice |
| Daniel Savona | Aye |
| Richard O. Jones | Aye |

The resolution was there upon declared duly adopted.

- D. Resolution Regarding Public Comment at Agency Meetings Policy – The resolution adopts a policy that confirms action that is already being taken. There will be public comment allowed at the beginning of the meeting for items being voted on up to 15 minutes total.

Motion: Michael J. Ham, seconded by Daniel Savona, moved to approve the resolution regarding public comment at Agency meeting policy.

Vote: The Board voted as follows:

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|------------------|--------------------|
| James Malcolm | Aye |
| Faye Storms | Aye |
| Dr. Diane Eynon | Aye |
| Michael J. Ham | Aye |
| Orlando Reece | Absent with notice |
| Daniel Savona | Aye |
| Richard O. Jones | Aye |

The resolution was there upon declared duly adopted.

- E. Resolution Regarding Record Retention Policy – This resolution is to adopt a policy for record retention. The policy describes best practices and is also required by law.

Motion: Michael J. Ham, seconded by Daniel Savona, moved to approve the resolution regarding record retention policy.

Vote: The Board voted as follows:

| | |
|------------------|--------------------|
| James Malcolm | Aye |
| Faye Storms | Aye |
| Dr. Diane Eynon | Aye |
| Michael J. Ham | Aye |
| Orlando Reece | Absent with notice |
| Daniel Savona | Aye |
| Richard O. Jones | Aye |

The resolution was there upon declared duly adopted.

- F. Resolution Approving Amendments to Procurement Policy – Revisions were made to the policy to review contracts for all professional services over \$5,000 per year, at a minimum of once a year. Formal RFPs will be advertised at least every three years. A non-collusion for all offers, bidders, and respondents must be submitted along with a code of ethics stating there is no conflict of interest with any Board members.

Motion: Daniel Savona, seconded by Michael J. Ham, moved to approve the resolution approving amendments to procurement policy.

Vote: The Board voted as follows:

| | |
|------------------|--------------------|
| James Malcolm | Aye |
| Faye Storms | Aye |
| Dr. Diane Eynon | Aye |
| Michael J. Ham | Aye |
| Orlando Reece | Absent with notice |
| Daniel Savona | Aye |
| Richard O. Jones | Aye |

The resolution was there upon declared duly adopted.

- G. Resolution Approving Amendments to Compensation Policy – The change to the policy came out of the Audit Committee. The ABO requires a time and attendance policy so the Committee recommended that if a member of the Board misses five meetings in twelve months, the Board Chair may report these absences to the ABO and County Legislature, at his discretion.

Motion: Michael J. Ham, seconded by Daniel Savona, moved to approve the resolution approving amendments to compensation policy.

Vote: The Board voted as follows:

| | |
|------------------|--------------------|
| James Malcolm | Aye |
| Faye Storms | Aye |
| Dr. Diane Eynon | Aye |
| Michael J. Ham | Aye |
| Orlando Reece | Absent with notice |
| Daniel Savona | Aye |
| Richard O. Jones | Aye |

The resolution was there upon declared duly adopted.

OLD BUSINESS

Status of Pending Projects

Board Counsel, A. Joseph Scott, Esq., reported on the status of pending projects:

- Wildberry Lodge, LLC – Project applicant is completing SEQR process. UCIDA cannot take any action until SEQR process is complete.
- Kingstonian Development, LLC – The Project wants the Agency to move forward to finalize closing documents. There is pending litigation challenging the Agency’s approval of the Project.
- Apherea, Inc. – Ready to move forward to closing once the project applicant finalizes timetable.
- Magruder Solar, LLC – The Project is working on finalizing their application in order to move forward with scheduling a Public Hearing.
- RBW Studio LLC – Matter has closed, and the UCIDA administrative fees have been paid.

- Romeo Enterprises, LLC – A Public Hearing was held on April 9, 2021. Closing timetable and remaining procedural requirements are being reviewed. It is currently waiting on the County Executive's office for required paperwork.

NEW BUSINESS

Chair, James Malcolm made a statement that it seems potential applicants are perhaps asking for too many inducements.

PUBLIC COMMENT

No public Comment.

ADJOURNMENT

Motion: Michael J. Ham, seconded by Daniel Savona, moved to adjourn the meeting.

Vote: The motion was unanimously adopted (6-0).

The meeting was adjourned at 11:29 A.M.

Respectfully submitted,

Michael J. Ham, Secretary