

# UCIDA

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Ulster County Industrial Development Agency

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## ULSTER COUNTY INDUSTRIAL DEVELOPMENT AGENCY MINUTES August 14, 2019

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A regular monthly meeting of the Ulster County Industrial Development Agency was held on Wednesday, August 14, 2019, at 9:00 A.M. at SUNY Ulster, 94 Mary's Avenue, Room 210, Kingston, NY.

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### **Roll Call:**

The following agency members were present:

Randall Leverette	Chair
Michael Ham	Secretary
Paul Andreassen	Assistant Secretary
Richard O. Jones	Treasurer
James Malcolm	Member

The following agency members were absent (with notice):

Daniel Savona	Member
Faye Storms	Vice Chair/Assistant Treasurer

UCIDA Attorneys and Bond Counsel:

A. Joseph Scott, III, Esq.	Agency Counsel via conference call
Christopher Canada	Agency Counsel
Charles Malcomb	Agency Counsel

Additional Attendees:

Rose Woodworth	Agency Staff
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The meeting was called to order at 8:59 A.M. by Chair Randall Leverette.

Rose Woodworth read the roll and 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 Ham, seconded by Richard Jones, moved to approve the minutes of the July 10, 2019 meeting. A copy of said minutes is on file.

**Vote:** The motion was unanimously adopted.

### **EXECUTIVE SESSION**

**Motion:** James Malcolm, seconded by Michael Ham, made a motion to deviate from the written agenda and go into Executive Session for the purpose of discussing current litigation and to review the financial and employment history of a proposing firm as a possible vendor for the agency in the area of background check services for project applicants.

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

The board then went into Executive Session at 9:02 A.M.

**Motion:** James Malcolm, seconded by Richard Jones, made a motion to come out of Executive Session.

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

The board came out of executive session at 9:49 A.M.

No action was taken during the Executive Session.

### **FINANCIALS**

Treasurer Richard Jones reviewed the financial report with the board members. A copy of the report of the Treasurer is attached. First, Richard Jones went over financials for the IDA. He called attention to various monthly expenses including accounting fees and insurance premiums. Mr. Jones noted that he and Rose Woodworth intend to schedule a meeting with the insurance broker to review the current insurance policies and determine if any changes should be made. Changes will be presented to the board prior to action being taken. Mr. Jones then told the board that Rose Woodworth caught an error made

by the bank on the \$50,000 CD which contains IDA funds. The interest was supposed to accrue monthly but was not posting each month. The Bank of Greene County said that it was an error on their part, and they will credit the past accrued interest to the account on August 15<sup>th</sup>. Going forward, interest will accrue on the 15<sup>th</sup> of each month. Richard Jones then pointed out the income line and explained that the \$20,300 income categorized as administrative fees includes \$19,830 from Star Estate. There were no major items to address on the financial report for the CRC.

**Motion:** James Malcolm, seconded by Michael Ham, moved to accept the monthly financial report, as presented.

**Vote:** The motion was unanimously adopted.

### **CHAIR'S REPORT**

Chair Leverette presented his Chair's Report. As part of his report, the Chair reported on the following:

- A. Kingston Medical Assignment – The final paperwork has been signed but hasn't closed yet. There was a \$6,500 fee charged by the IDA for moving the PILOT to the new owner.
- B. FOIL Request – New England Council of Carpenters has requested inducement information dating back to 2017. Agency staff has responded within the five-day period acknowledging that the request was received, and the Chair and Agency Counsel will work to get the requested information out within the next 20 days.
- C. Ellenbogen – The Chair, along with Rose Woodworth and Faye Storms, met with Jeremy Ellenbogen to begin work on the informational video that they will produce for the IDA. The contract for the work was signed in August 2018.
- D. Brooklyn Bottling – The Agency received a reply to the clarification email that was sent. Counsel will review first and then the board can review at the next meeting and begin to prepare for public hearing.
- E. Senator Skoufus – The Chair was invited to and attended a small meeting with Senator Skoufus in which he discussed IDA reform. The Chair asked the Senator to keep in mind that IDAs come in all sizes and requested that he takes into consideration the effects that large fees, etc. will have on small IDAs.
- F. Letter from the NY Department of Economic Development – The letter was sent to inquire whether or not the Agency will use the Federal Bond Volume Cap for 2019. Counsel is working on a response which is due September 1, 2019.

## **COMMITTEE REPORTS**

### **Audit Committee**

Richard Jones, Chair of the Audit Committee, informed the board that he is concerned with the lack of tracking related to the UTEP category of construction labor coming from Ulster County or the contiguous 6 counties. Although it is outlined in each contract, Mr. Jones believes that the Agency needs to verify that projects are following through. He noted that there have been several recent projects that have been awarded three points for this category, and, in many cases, it bumps them up to receive higher inducements. The Committee cannot verify if the projects are following the contract, but he thinks that it is important to look into it. Unfortunately, Loewke Brill cannot come down on their price to track this information, but Mr. Jones is tasking the Agency to find a solution to ensure that points are being properly awarded. Mr. Malcolm suggested that the Agency request that each project send in certified payroll including each employees address. Mr. Jones did not believe that this was an adequate solution. Randall Leverette suggested that the Audit Committee have a meeting to develop a solution at a reasonable price and present it to the full board.

Mr. Jones informed the board that as part of the ABO requirement all clients need to be visited at least once per year, although twice is suggested. He will likely be asking for volunteers from the board to help complete the task of visiting 28 current projects. He will create a worksheet with the types of things that need to be addressed at the visit.

Lastly, Mr. Jones cited Resolution 181 which was passed by the Legislature in May 2019 and encourages the Finance Dapratment to share school tax bills and town and county bills with the IDA. Mr. Jones requested that the Executive Director contacts the Finance Department and reminds them that this resolution was passed so that the IDA receives copies of all bills needed to complete the ABO report. Randall Leverette explained that since it is now a County resolution, we should be able to call and quickly obtain bills when needed.

### **Finance Committee**

No report. Chair Leverette noted that Richard Jones, Rose Woodworth and himself are working on a budget to present to the board. The budget needs to be finalized by November 1, 2019.

### **Governance Committee**

Paul Andreassen, Chair of the Governance Committee, reported that the Committee met on July 22, 2019. At the meeting they discussed the Agency Matrix. Under the projected wages category, the Committee felt that the column was rarely used and speculated that the salaries listed are too high. Under the environmental sustainability category, the Committee discussed awarding one point for each of the options that are currently listed on the Matrix, with a maximum of three possible points. Mr. Andreassen will work with staff and counsel to obtain more information regarding Brownfield exemptions and will present the findings for discussion at the next Governance Committee meeting.

Under the community investment category, no changes were recommended for the one-point criteria. For the two-point criteria the Committee recommended changing the definition of “economically-distressed area” to match the IDA statute. For the three-point criteria, the Committee noted that “Ulster Tomorrow” will be removed because it is outdated. The Committee also reviewed Counsel’s proposed definitions of certain defined terms. Some of the terms discussed included:

- The use of “health benefits” as it pertains to its use in the Matrix.
- Using the statute definition for educational or cultural facilities under the definition of “arts and museum.”
- “Civic facility” will pertain to the UCCRC applicants only.
- Clarification of differences between “contract worker” / “leased worker” and “full-time equivalent” for purposes of denoting an employee’s presence on the project company payroll. Clarification was also noted that an independent contractor is not considered an employee.
- “Retained jobs” the current definition allows for a misinterpretation by the applicant and needs to be modified: It should not be used by companies to obtain points who do not intend to or are not planning on moving without showing ample evidence. The committee is also recommending the definition should include moving to another county, not just another state.
- “Tourist destination” follows IDA statute language, together with additional language requiring activities at the project site designed to attract people from outside the economic development region.

The Committee plans to have one more meeting to tie up loose ends and will then present its recommendations to the full board for approval.

### **EXECUTIVE DIRECTOR’S REPORT**

#### **A. Miscellaneous Updates –**

- As requested, the meeting material packets are now double-sided and do not have filler pages.
- The Executive Director is working with Query Creative on designing the tab for the UCCRC as part of the IDA website.

- The Executive Director is working to design letterhead and have envelopes and business cards printed.
  - Due to all the changes the Agency has gone through this year, the 2019 budget and the proposed 2020-2022 budgets need to be amended. The 2023 budget also needs to be prepared. These are due November 1, 2019.
  - The September – December board meetings will be moved to room 101.
- B. Background Checks – The Executive Director spoke with the owner of NexGen about changing the proposal to meet the Agency’s needs. He sent a revised document stating that he would include the DOL and WC searches in the standard \$199 report for no extra charge. Counsel is reviewing the form that NexGen prepared for applicants to fill out, and then background checks can begin.
- Background Check Policy – A redline copy of the current policy is included.
    - The Executive Director suggested changing the percentage of ownership that would make someone subject to a background check. The board agreed on 25% or greater.
    - The Executive Director noted that she added wording to the application review process.
    - The Executive Director added that the background check can be conducted by a firm of the Agency’s choosing.
    - The Executive Director added that the expense for background checks will be collected up front.
    - The Executive Director revised the fees to reflect the fees being charged by the vendor the Agency is currently using.

**Motion:** James Malcolm, seconded by Paul Andreassen, moved to accept the recommendations for the changes Background Check Policy, as presented.

**Vote:** The motion was unanimously adopted.

**OLD BUSINESS**

**Inness NY, LLC**

**Note: Mr. Jones recused himself on this matter.**

The Chair introduced the project and noted that they are back to present a revised application as part of the conditional approval that was issued at the last board meeting. Mr. Paul Hakim, Mr. Mike Moriello, and Mr. Taavo Somer presented the revised application with the golf course removed. Mr. Paul Hakim noted that removing the golf course did not change the number of full-time equivalents provided on the original application. In reference to the PILOT, Mr. Hakim cited his letter to the board, which is attached, that demonstrates that the removal of the golf course does not affect the increase in the assessment. The assessment was based on the new buildings not the golf course. Mr. Hakim stated that the biggest change that came from removing that golf course was the sales tax. This incentive was reduced by approximately \$58,000. This number represents the materials of the project that are subject to sales tax, but the bulk of the cost comes from labor which is not subject to sales tax. The Chair reiterated that by removal of the golf course, they mean all aspects of the golf course and anything associated with it such as a Club House, golf carts, signage etc. Mr. Hakim informed the board that there will be an activity building that will handle all activities including golf but no buildings solely dedicated to golfers.

The Chair then called attention to the attached letter from Riseley & Moriello, Attorneys at Law. The Chair informed the Project that they were indeed issued conditional approval, but they were not guaranteed a Tax Exemption Letter within a week of the last meeting as conveyed in the letter. The Chair explained that the letter reads as blaming the Agency for the Project's delay, but, in reality, it seems that the Project is trying to moving forward without the Agency's approval. Agency Counsel stated that the delivery of any materials from the IDA was expressly conditioned on the satisfaction of the conditions described at the previous IDA meeting. The Project needed to address all questions that were raised by the board before the Agency could deliver any documentation. Company counsel agreed and indicated that he and the project applicant would work with the Agency on moving forward with the Project.

**Motion:** James Malcolm, seconded by Paul Andreassen, made a motion for full board approval of the Inness NY, LLC Project.

**Vote:** The motion was unanimously adopted.

**Status of Pending Projects**

Agency Counsel reported on the status of pending projects:

- Star Estate Development Group, LLC – Project has closed and the IDA fee has been collected.
- Wildberry Lodge, LLC – Awaiting completed SEQR process, the board will not take any action until that process is complete.

- Kingston Medical Assignment – Purchaser has accepted the IDA’s position on claw back. Documents have been signed and expect to close this month.
- Inness NY, LLC – Action taken today: Project accepted by the board.
- Brooklyn Bottling Project – The Agency has sent the applicant follow-up questions and is waiting to review at next board meeting before scheduling a public hearing.

### **PUBLIC COMMENT**

Public comments were received as follows:

Bill Kimball asked why Richard Jones was recused from all matters related to Inness NY, LLC, but he will be conducting site visits in his role as the Audit Committee Chair. Randall Leverette explained that Mr. Jones was previously on the Planning Board in the Town of Rochester and that prior to being on the IDA board, he had made decisions regarding zoning and other matters for the Project. Now that the IDA decision has been made, Mr. Jones is free to act as Audit Chair to ensure that the Project meets Agency standards.

Press asked that if, in light of Governor Cuomo’s new bill, the Agency has considered adding energy conservation standards to the UTEP. Chair Leverette informed her that environmental sustainability is a factor on the Matrix. She then asked if the Agency has considered speeding up the process since the goal of Cuomo’s new bill is net zero by 2050. Paul Andreassen explained that the Agency cannot require more than what is required by building code but can offer more points for energy incentives. Randall Leverette explained that although conservation is important, the Agency’s main goal is not energy conservation. Paul Andreassen noted that the board does factor in outside opinions and that nothing is off of the table.

Mike Baden, Supervisor of the Town of Rochester thanked the board for moving the Inness NY, LLC project along. He then asked when the 10-year period for property tax takes effect. Randall Leverette answered that it begins when they receive the Certificate of Occupancy because the assed value cannot be calculated until the project is completed. Press asked if the sales tax agreement is effective before the Certificate of Occupancy is issued. Randall Leverette explained that it is effective right away so the project can begin purchasing material, etc.

### **ADJOURNMENT**

**Motion:** James Malcolm, seconded by Richard Jones, moved to adjourn the meeting.

**Vote:** The motion was unanimously adopted.

The meeting was adjourned at 11:15 A.M.



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Respectfully submitted,

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Michael Ham, Secretary