

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

**TUESDAY
MARCH 19, 2019
8:00 A.M.**

PLANNING DEPARTMENT CONFERENCE ROOM

MEETING NOTES

PRESENT:

DAVE D'AMORE, CHAIRMAN
TIM MUNN, VICE CHAIRMAN
JOE GILLIS, SECRETARY
GEORGE DOHERTY, MEMBER
JANE KELLEY, MEMBER
JAMES MRAZ, EXECUTIVE DIRECTOR
KARA LAIS, FITZGERALD, MORRIS, BAKER, FIRTH PC
SCOTT HENZE, PLANNING DIRECTOR
RON PETERS, FULTON COUNTY CENTER FOR REGIONAL GROWTH
MARIE BORN, LIAISON, ECONOMIC DEVELOPMENT AND ENVIRONMENT COMMITTEE
MIKE ROSSI, WEST & COMPANY
AMY PEDRICK, WEST & COMPANY

I. MINUTES FROM FEBRUARY 12, 2019 MEETING:

MOTION : Accept as presented.
MADE BY : Jane Kelley
SECONDED : Joseph Gillis
VOTE : Unanimous

II. BUDGET REPORT:

MOTION : Accept as presented.
MADE BY : Tim Munn
SECONDED : George Doherty
VOTE : Unanimous

III. COMMITTEE REPORTS:

A. Nominating Committee:

- No report.

B. Audit Committee:

- No report.

C. Governance Committee:

- No report.

D. Finance Committee:

- No report.

IV. OLD BUSINESS:

A. Century Linen Project:

1. Background:

- At the February 12, 2019 meeting, IDA Board adopted a Resolution approving sales tax exemptions for the proposed Century Linen Project.
- The Project Application identified the project as an \$8.25 million project.
- However, Century Linen had already committed to spend \$1.9+/- million on machinery and equipment that would not be eligible for sales tax exemptions.
- As a result, the total project cost was revised to \$6.4+/- million.

2. Revised Project Cost:

- After the February 12, 2019 meeting, Century Linen advised the IDA that the \$8.25 million figure in the Project Application was incorrect. That was the total project cost for the original project proposed for Union Avenue in the City of Johnstown.
- The current proposed project has a total project cost of \$6.25 million.
- Given that \$1.9+/- million has already been committed to purchasing machinery and equipment that will not obtain sales tax exemptions from the IDA, the revised total project cost is now \$4.35+/- million.
- IDA members were sent an e-mail on February 15, 2019 advising of this revised project cost and asked if they would be willing to accept these revised numbers.
- All IDA members who responded agreed to accept these revised figures.

3. Revised Project Application:

- Century Linen has submitted a new Project Application that incorporates the revised project cost of \$4.35 million.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He stated that he had previously e-mailed all IDA members regarding this matter. He asked if there were any questions. There were none.

IDA ACTION:

MOTION: To approve the revised Project Application submitted by Century Linen showing the total project cost to be \$4.35 million effective as of February 12, 2019.

MADE BY: Joseph Gillis
SECONDED: George Doherty
VOTE: Unanimous

4. Invoice:
 - Fitzgerald Morris Baker Firth has submitted its invoice for legal work provided for the Century Linen Project.
 - Total Invoice: \$4,712.22

IDA DISCUSSION: Jim Mraz stated that the IDA received a payment from Century Linen in the amount of the invoice to pay for this invoice.

IDA ACTION:

MOTION: To authorize paying this invoice.

MADE BY: Jane Kelley
SECONDED: Tim Munn
VOTE: Unanimous

B. 2019 Goals:

1. Background:
 - At the last meeting, the Board discussed establishing some goals for 2019.
2. 2019 Goal:
 - a. Market Tryon Development Area:
 - 1) Conduct desktop environmental assessment and prepare basemap.
 - 2) Prepare Sell Sheet.
3. Other Potential Goals:
 - a. Identify Sites for Potential Development:
 - Obtain site control
 - Conduct desktop environmental assessment and prepare basemap
 - Develop and implement marketing strategy.
 - b. Market Lands on South Side of CR107 at Tryon Technology Park.

IDA DISCUSSION: Dave D'Amore stated that he would like to continue the discussions started at the last meeting regarding the IDA's potential role in identifying undeveloped and underutilized properties in Fulton County. He stated that one potential role the IDA could play is to conduct an assessment of these properties to try and generate interest in getting them developed. He used, as an example, a vacant property on West State Street in the City of Johnstown. He asked IDA members if there were other potential sites that could be considered? Joe Gillis referenced properties on the west side of NYS Route 30A between South Kingsboro Avenue and Steele Avenue. He stated the City of Gloversville needs new housing developed within the City. He stated this site may be conducive to having new housing constructed on it. He stated the property is currently for sale. Jane Kelley asked about the potential for looking in the Village of Northville. She stated that a resort/hotel is needed there. George Doherty asked about the status of the entity in the City of Gloversville that was taking properties on Burr Street in hopes of redeveloping them. He asked if that organization is still active? Ron Peters stated that that organization has asked the Fulton County Center for Regional Growth (FCCRG) to take over the ten (10) properties that it now has. Ron Peters estimated that it would take six (6) months for the FCCRG to take over these properties.

Scott Henze stated that, in February of each year, he receives the list of properties that are up for foreclosure by the County. He stated this may be an opportunity for IDA officials to look at this list to see if there is any potential properties on it that the IDA may want to consider for redevelopment.

Joe Gillis cautioned that the IDA should not get involved with projects that could drain its resources. He cited the former Economic Development Corporation's (EDC) getting involved with the Estee Project. While the project got completed, it resulted in a major financial drain on the EDC. Jim Mraz stated that, if the IDA is going to get involved with these types of sites, it would need to assess both the risks and rewards for getting involved with every project. Projects that are too risky, the IDA should avoid getting involved with them. However, if there are projects where the rewards outweigh the risks, those are the projects that the IDA may want to consider.

Jim Mraz suggested that he take a site and use it as an illustration/example of the process that the IDA would go through in conducting an assessment of a site and its potential for redevelopment. He stated that he would like to do so and present his analysis at a future meeting for the IDA Board to review and assess whether or not this is a process it may want to get involved with. It was the unanimous consensus of all IDA Board members present to have Jim Mraz prepare this illustrative example.

V. NEW BUSINESS:

A. Review Draft Audit of IDA's 2018 Financial Statements:

1. Key Finding:

- Based upon West & Company's review of the IDA's 2018 financial records, West & Company has issued an "unmodified opinion."
- This is the best opinion the IDA can receive.
- The IDA has consistently received unmodified opinions on its audits.

2. Presentation by West & Company:

A. Monthly reconciliation of Bank Statements:

- West & Company recommends that two (2) persons review and approve monthly bank statements.
- It is recommended that the Audit Committee members be authorized to approve monthly bank statements.
- Audit Committee Members: Dave D'Amore, Todd Rulison, Joe Semione and George Doherty

IDA DISCUSSION: Jim Mraz introduced Mike Rossi and Amy Pedrick from West & Company. He stated that Amy Pedrick has been West & Company's Lead Auditor over the past five (5) years. He stated the ABO, however, requires the auditing firm to change its Lead Auditor every five (5) years. As a result, Mike Rossi is now the Lead Auditor for West & Company.

Mike Rossi stated that there is a new ABO mandate dealing with investment audits. He stated that Jim Mraz forwarded this new requirement to West & Company several months ago and asked that West & Company incorporate this additional work task into its Audit. He stated that West & Company did not charge the IDA, this year, for conducting this audit of its investments. He stated that West & Company has issued an "unmodified opinion" on the IDA's investments. He referenced the Schedule of Investments included in the report. He stated that the IDA currently has zero investments. The IDA currently has its reserve funds in a money market account. He said money market accounts have no strings attached to them so they are not classified as an investment. He stated the investment report identifies what permitted investments the IDA can make. They are defined by New York State. They have to be backed by the U.S. Treasury or federal insurance for all investments greater than \$250,000. These backings are provided in the event of a bank failure. He stated that this investment report must be filed under PARIS. He asked if there were any questions regarding the investment report? There were none.

Mike Rossi then reviewed the draft Audit the West & Company has prepared based upon its review of the IDA's 2018 Financial Statements prepared and submitted to the West & Company by IDA's management. He stated that the West & Company's opinion is that the Financial Statements submitted by management accurately reflect the financial position of the IDA as of December 31, 2018. He stated that West & Company has therefore issued an "unmodified opinion" which is the best opinion that can be issued for this type of audit.

Mike Rossi reviewed the Management Discussion and Analysis (MDA) component of the Audit. He stated the MDA is prepared by management. It's been a component of the West & Company's Audit for the last 10+/- years.

Mike Rossi reviewed the net position or balance sheet shown on page 13 of the draft Audit. He then reviewed the statement of activities as shown on page 14, as well as the statement of cash flows on page 15. Mike Rossi then discussed the notes to the Basic Financial Statements that start on page 16 of the draft Audit. He reviewed Note 3, Development Projects, with IDA members. He referred to what the IDA's development projects, as of December 31st, are valued at as shown in Note 3. He then explained Note 4 and the long-term debt the IDA has associated with the development of the Crossroads Business Park Project. He reviewed the one (1) project that the IDA has that still has outstanding bonds. The project is the Fulton County YMCA Project. He then referenced the Code of Ethics which are attached to the Audit Report. He then referred to the final page of the Audit which are where the Chief Executive Officer and Chief Financial Officer of the IDA certify and sign the Audit Report.

Mike Rossi stated that, once the IDA Board approves the draft Audit, he will ask Jim and Carol to sign a Governance Letter certifying that they have provided all financial statements and records to the West & Company.

Mike Rossi asked if there were any questions? George Doherty asked if the IDA is considered a not-for-profit? Mike Rossi stated, "No." He stated the IDA is considered a Corporate Government Entity and is not subject to the requirements imposed upon not-for-project entities.

Mike Rossi then reviewed a recommendation they had regarding monthly reconciliations of bank statements. He stated that NBT Bank currently has its cutoff for monthly bank statements in the middle of the month. He recommended asking NBT Bank to change that cutoff to the end of the month so that monthly reconciliations of bank statements could be accurately prepared. Jim Mraz stated that he's discussed this issue with Mike Rossi and agrees that it would be good to do so. He stated that West & Company has provided a template to use in preparing these monthly reconciliations of the IDA's bank statements. He recommended that Carol Ellis, as CFO, to prepare these monthly reconciliation forms and sign it. The form would then also be signed by a member of the Audit Committee. The Audit Committee would, on a rotational basis, review each month's reconciliation statement and, if found to be in agreement with the report to sign it with the CFO. Jim Mraz asked if there were any questions regarding this recommendation. There were none.

IDA ACTION:

MOTION: To authorize and direct the CFO and Audit Committee members to review and approve monthly bank statements.

MADE BY: Joseph Gillis
SECONDED: Dave D'Amore
VOTE: Unanimous

IDA ACTION:

MOTION: To approve the Audit as submitted by the West & Company and authorize West & Company and the Executive Director to file the Audit in PARIS and Fulton County Treasurer.

MADE BY: Jane Kelley
SECONDED: Dave D'Amore
VOTE: Unanimous

3. Executive Session:

1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:

- i. matters which will imperil the public safety if disclosed;
- ii. any matter which may disclose the identity of a law enforcement agent or informer;
- iii. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
- iv. discussions regarding proposed, pending or current litigation;
- v. collective negotiations pursuant to article fourteen of the civil service law;
- vi. **the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;**
- vii. the preparation, grading or administration of examinations;
- viii. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

MOTION: To go into Executive Session to discuss the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.

MADE BY : Joseph Gillis
 SECOND : Tim Munn
 VOTE : Unanimous
 TIME : 8:20 a.m.

MOTION : To go out of Executive Session.

MADE BY : Dave D'Amore
 SECOND : Joseph Gillis
 VOTE : Unanimous
 TIME : 8:25 a.m.

B. Chief Financial Officer:

- At present, the Chief Financial Officer is retained by contract as a consultant.
- West & Company recommended that the Chief Financial Officer become an employee of the IDA.

MOTION : To terminate the 2019 Consultant Agreement with Carol Ellis and to authorize Carol Ellis becoming an employee of the Fulton County IDA at an annual salary of \$2,210.

MADE BY : Joseph Gillis
 SECONDED : Tim Munn
 VOTE : Unanimous

C. Potential Investment of IDA Funds:

1. Background:

- At present, the IDA has its reserve funds in an NBT money market account earning minimal interest.

2. Certificate of Deposits (CD's):

- NBT is currently offering 6 and 12 month CD's:
 - 6 months : 2.0%
 - 12 months : 2.15%
- It is recommended that authorization be given for the CFO to transfer funds from the NBT's money market fund to CD's.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He stated that the IDA's reserve funds are currently housed in a money market account which is drawing minimal interest. He stated that the IDA Board, at its Annual Meeting, designated NBT Bank as its depository for IDA funds for 2019. He stated that he would recommend investing the IDA's funds into NBT's CD's for this year. Next year, the IDA Board should identify all banks in Fulton County as potential repositories of IDA funds. At that time, the IDA can review what CD rates are in all banks and determine which bank it wanted to invest monies into for CD's. He asked if there were any concerns with this approach? There were none.

George Doherty recommended that, for 15 basis points, he would go with the 6-month CD. He stated that given that rates are increasing, there may be a higher rate available in six (6) months. Joe Gillis recommended transferring \$500,000 from the IDA's investment account to this CD. Jim Mraz asked if there were any additional questions? There were none.

IDA ACTION:

MOTION: To authorize the CFO to transfer \$500,000 to a 6-month CD at NBT Bank.

MADE BY: Jane Kelley

SECONDED: Tim Munn

VOTE: Unanimous

D. Board Training:

1. Background:

- The annual evaluations IDA Board members completed last fall indicated a desire to conduct more training and updates for members.
- As a result, it is proposed that time be allocated at each IDA meeting to provide training.

2. Governing Legislation:

a) Background:

- There are three (3) laws that govern how IDA's operate:
 - Sections 850-888 of NYS General Municipal Law
 - Public Authorities Accountability Act of 2005 (PAAA)
 - Public Authorities Reform Act of 2009 (PARA)

b) General Municipal Law:

- IDA's are created under Article 18-A of NYS's General Municipal Law (GML).
- Section 852 of GML states that it is the policy of New York State:
 1. "To promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation, economically sound commerce and industry and economically sound projects through governmental action for the purpose of preventing unemployment and economic deterioration by the creation of industrial development agencies which are hereby declared to be governmental agencies and instrumentalities."
 2. "To protect and promote the health of the inhabitants of this state by the conservation, protection and improvement of the natural and cultural or historic resources and environment and to control land, sewer, water, air, noise or general environmental pollution derived from the operation of industrial, manufacturing, warehousing, commercial, recreation, horse racing facilities, railroad facilities, automobile racing facilities and research facilities and to grant such industrial development agencies the rights and powers provided by this article with respect to industrial pollution control facilities."
 3. "To protect and promote the health of the inhabitants of this state and to increase trade through promoting the development of facilities to provide recreation for the citizens of the state and to attract tourists from other states."
- Section 856 of GML states:
 1. An IDA shall be a corporate governmental agency, constituting a public benefit corporation.
 2. An IDA shall consist of not less than three (3) nor more than seven (7) members who shall be appointed by the governing body of each municipality and who shall serve at the pleasure of the appointing authority.
 3. A member shall continue to hold office until his successor is appointed and has qualified.
 4. Members shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties.
 5. A majority of the members of an agency shall constitute a quorum.
- Section 858 of GML authorize IDA's:
 1. To promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities, automobile racing facilities and continuing care retirement communities;
 2. To sue and be sued;
 3. To have a seal and alter the same at pleasure;
 4. To acquire, hold and dispose of personal property for its corporate purposes;
 5. To acquire by purchase, grant, lease, gift, pursuant to the provisions of the Eminent Domain Procedure Law, or otherwise and to use, real property, rights or easements therein necessary for its corporate purposes in compliance with the local zoning and planning regulations and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the agency shall determine;
 6. To make bylaws for the management and regulation of its affairs;
 7. With the consent of the municipality, to use agents, employees and facilities of the municipality, paying the municipality its agreed proportion of the compensation or costs;

8. To appoint officers, agents and employees, to prescribe their qualifications, to fix their compensation and to pay the same out of funds of the agency;
9. To appoint an attorney, who may be the counsel of the municipality, and to fix the attorney's compensation for services which shall be payable to the attorney, and to retain and employ private consultants for professional and technical assistance and advice;
10. To make contracts and leases;
11. To acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects;
12. To accept gifts, grants, loans, or contributions from, and enter into contracts or other transactions with, the United States, the state or any agency of either of them, any municipality, any public or private corporation or any other legal entity, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;
13. To borrow money and to issue bonds;
14. To grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the agency may deem desirable;
15. To designate the depositories of its money;
16. To enter into agreements requiring payments in lieu of taxes. Such agreements shall be in writing and in addition to other terms shall contain: the amount due annually to each affected tax jurisdiction (or a formula by which the amount due annually to each affected tax jurisdiction (or a formula by which the amount due can be calculated), the name and address of the person, office or agency to which payment shall be delivered, the date on which payment shall be made, and the date on which payment shall be considered delinquent if not paid. Unless otherwise agreed by the affected tax jurisdictions, any such agreement shall provide that payments in lieu of taxes shall be allocated among affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the agency involved in the project. A copy of any such agreement shall be delivered to each affected tax jurisdiction within fifteen days of signing the agreement. In the absence of any such written agreement, payments in lieu of taxes made by an agency shall be allocated in the same proportions as they had been prior to January first, nineteen hundred ninety-three for so long as the agency's activities render a project non-taxable by affected tax jurisdictions;
17. To establish and reestablish its fiscal year; and
18. To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

c) Public Authorities Accountability Act of 2005 (PAAA) and Public Authorities Reform Act of 2009 (PARA):

➤ The primary purposes of PAAA and PARA were:

1. To create an independent Authority Budget Office (ABO) to:
 - a. Promulgate rules and regulations.
 - b. Receive and act upon complaints.
 - c. Initiate formal investigations in response to complaints or non-compliance.
 - d. Issue subpoenas pertaining to investigations.
 - e. Publicly warn and censure authorities for non-compliance.
 - f. Report suspected criminal activity to the attorney general.
 - g. Compel any non-compliant authority to submit an explanation.
 - h. Commence special proceedings in Supreme Court seeking an order for the production of documents or information.
 - i. Develop with the Attorney General a written acknowledgement for board members.
 - j. Assess the ability of individual authorities to implement PARA 2009 and set a date for which changes must be implemented by.
 - k. Recommend to appointing authority the suspension or dismissal of officers or directors.
2. To provide greater efficiency, openness and accountability for New York's public authorities which includes IDA's.

3. To establish comprehensive reporting, auditing, governance and property disposition requirements including:
 - a. Board Responsibilities:
 - (1) Appoint a Chief Executive Officer (CEO) and Chief Financial Officer (CFO).
 - (2) Execute direct oversight of CEO and CFO.
 - (3) Create, review and monitor financial and management controls and operational decisions.
 - (4) Adopt a code of ethics applicable to each officer, director and employee that, at a minimum, includes the standards established in Section 74 of the Public Officers Law.
 - (5) Establish policies regarding the payment of salary, compensation and reimbursements to, and establish rules for the time and attendance of management.
 - (6) Establish written policies and procedures on personnel including policies protecting employees from retaliation for disclosing information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee or board member of the authority, investments, travel, the acquisition of real property and the disposition of real and personal property and the procurement of goods and services.
 - (7) Adopt a defense and indemnification policy and disclose such plan to any and all prospective board members.
 - (8) Conduct an annual evaluation of the Board's performance.
 - b. Board Training:
 - New IDA Board members must participate in State-approved training regarding their legal, fiduciary, financial and ethical responsibilities as directors of the authority within one year of appointment to the board.
 - New Board members must complete this training within one (1) year of their appointment to the Board.
 - IDA Board members must participate in continuing training as may be required to remain informed of best practices, and regulatory and statutory changes relating to effective oversight of management and financial activities of authorities.
 - See attached record of FCIDA Board member training.
 - c. Extension of Credit:
 - An IDA Board is prohibited from extending or maintaining credit, arranging for the extension of credit, or renewing an extension of credit, in the form of a personal loan to or for any officer, board member or employee of the IDA.
 - d. Committees:
 1. Audit Committee:
 - An Audit Committee must be established and comprised of at least three independent members who shall constitute a majority on the Committee.
 - Members of the Audit Committee should be familiar with corporate financial and accounting practices. The Audit Committee must recommend to the board the hiring of a CPA firm, establish compensation to be paid to the CPA firm and provide direct oversight of the performance of the independent annual audit performed by the CPA firm.
 2. Governance Committee:
 - A Governance Committee must be established and be comprised of at least three independent members who shall constitute a majority on the Committee.
 - The Governance Committee must keep the board informed of current best governance practices, review corporate governance trends, update the authority's governance principles, and advise appointing authorities of the skills and experiences required of potential board members. In addition, PARA

requires that the committee examine ethical and conflicts of interest issues; perform board self-evaluations; and recommend by-laws which include rules and procedures for conduct of board business.

3. Finance Committee:

- If the IDA issues debt, it must establish a Finance Committee. The Finance Committee must have at least three independent members who shall constitute a majority on the committee.
- The Committee shall review proposals for the issuance of debt by the authority and its subsidiaries and make recommendations.

e. Independence:

- PARA stated that a “majority” of Board members appointed on or after January 13, 2006 must be “independent”. An “independent” member is one who:
 1. Is not, and in the past two years has not been, employed by the public authority or an affiliate in an executive capacity.
 2. Is not, and in the past two years has not been, employed by an entity that received remuneration valued at more than \$16,000 for goods and services provided to the public authority or received any other form of financial assistance valued at more than \$15,000 from the public authority.
 3. Is not a relative of an executive officer or employee in an executive position of the public authority or an affiliate.
 4. Is not, and in the past two years has not been, a lobbyist registered under a State or local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the public authority or an affiliate. The new Audit Committee would be required to make recommendations to the board concerning the engagement of a certified independent accounting firm, compensation to be paid for same, and to provide direct oversight of the engagement.
- PARA changed PAAA as follows: Board members, including the chairperson, may serve as the chief executive officer, executive director, chief financial officer, comptroller, or hold any other equivalent position while also serving as a member of the board. However, no chair who is also the chief executive officer shall participate in determining the level of compensation or reimbursement, or time and attendance rules for the position of chief executive officer.

f. Financial Disclosure:

- Board members, officers, and employees must file annual financial disclosure statements with the County Board of Ethics pursuant to Article 18 pursuant to the Act.
- FCIDA Board members file their financial disclosure forms with the Fulton County Attorney.

g. IDA Statement:

- PARA requires that all new IDA Board members, at the time of appointment, must sign an Acknowledgement of Fiduciary Duties and Responsibilities statement that acknowledges that they understand their fiduciary responsibilities.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. Dave D'Amore stated that, for some IDA Board members, some of this information may be repetitive. He stated, however, he supports having this type of regular training conducted for IDA members.

Jim Mraz stated that all work of IDA's in New York State are governed by three (3) key pieces of legislation as referenced in the Agenda. He pointed to Section 856 which identifies IDA's as being a Corporate Governmental Agency and not a not-for-profit. He reviewed Section 858 which authorizes IDA's to undertake projects. He reviewed Paragraph 1 under the Agenda. He stated that the IDA must pass a resolution for each project that it undertakes. That resolution incorporates language to verify that the project the IDA is considering is in conformance with this paragraph. Jim Mraz then reviewed the Public Authorities Accountability Act (PAAA) of 2005 and Public Authorities Reform Act (PARA) of 2009. Under Independence, Jim Mraz referred to the change made under PARA that allows Board members to serve as the Chief Executive Officer of an IDA. He asked Kara Lais to research this provision and verify that he has interpreted it correctly.

With respect to IDA Statements, he stated George Doherty and Jane Kelley just signed and filed their statements.

Jim Mraz asked if there were any questions regarding the information on the Agenda? George Doherty stated that he doesn't see residential uses being allowed for IDA's to get involved with. Kara Lais stated that other IDA's have done certain residential projects. These were mixed-use projects where the commercial/retail component was the primary use and the residential component was a smaller part of the project. He stated this is the way in which IDA's can be involved with residential properties. She stated that IDA's typically cannot do single-family housing or a project involving just the subdivision of single-family homes.

Jim Mraz asked Kara Lais to explain whether an IDA can be involved with a retail project. She stated an IDA can be involved with a retail project as long as it's a small component of a larger project that an IDA is authorized to be involved with. She stated that, for projects that involve retail, the IDA must determine what percentage of the entire project the retail component will consist of. This is typically based upon the cost of the retail component relative to the cost of the entire project.

Jim Mraz stated that when he receives inquiries from companies regarding potential projects for the IDA to get involved with, he always refers them to Kara Lais to determine whether or not the proposed project is one that the IDA can be involved with. He stated that once a determination is made that an IDA can be involved with the project, the entity is then advised to submit a Project Application. In a Project Application, the total project cost and the number of jobs to be created and other information is presented to the IDA Board. The IDA Board is then required now by the ABO to conduct a Cost Benefit Analysis on potential projects. So even though a project may be deemed eligible to receive IDA benefits, the Cost Benefit Analysis needs to show that the project will generate enough benefits to justify providing a sales and/or property tax exemptions to the proposed project. He cited, for example, if a project was going to request property and sales tax exemptions but only create one (1) new job and result in a total private investment of a \$100, the Cost Benefit Analysis would determine that the project was not going to create enough benefit to justify granting the exemptions.

Jim Mraz asked if there were any further questions? There were none.

E. Review New ABO Regulations for IDA's:

1. Background:

- The ABO recently adopted new regulations that all IDA's must comply with.

2. Summary of New Regulations:

1) Standard Application Form:

- a. Each IDA shall adopt a Standard Application Form (SAF).
- b. The SAF shall be publicly available on IDA websites.
- c. The SAF shall include:
 - Name/address of Applicant
 - Description of proposed project, location and purpose
 - Amount and type of financial assistance being requested including an itemized estimated value of each type of tax exemption.
 - A statement that there is a likelihood that the project would not be undertaken but for the financial assistance provided by the IDA or, if the project could be undertaken without financial assistance provided by the IDA, a statement indicating why the project should be undertaken by the IDA.
 - An itemized estimate of capital costs of the project, including real property, equipment and building construction or reconstruction, financed from private sector sources, an estimate of the percentage of project costs financed from public sector sources, and an estimate of both the total amount to be invested by the applicant and the amount to be borrowed to finance the project.
 - The projected number of full-time equivalent jobs that would be retained and created if the request for financial assistance is granted (and if part-time jobs are part of the financial assistance a proportion of a full-time equivalent job is to be calculated), the projected monthly timeframe for the creation of new jobs per year, the estimated salary and fringe benefit averages or ranges for categories of the jobs that would be retained or created if the request for financial assistance is granted, and an estimate of the number of residents of the economic development region or the labor market area as defined by the IDA, in which the project is located that would fill such jobs. The labor market area defined by the IDA for this purpose may include no more than six contiguous counties in the state, including the county in which the project is to be located.
 - A statement, signed by an individual authorized to bind the project applicant, expressing that the provisions of subdivision one of section eight hundred sixty-two of this chapter will not be violated if financial assistance is provided for the proposed project; i.e., for interstate moves, "The completion of this entire project will not result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state."
 - A statement signed by an individual authorized to bind the project applicant that the owner, occupant or operator receiving financial assistance is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
 - A statement signed an individual authorized to bind the project applicant, acknowledging that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any financial assistance and the reimbursement of an amount equal to all or part of any tax exemptions claimed by reason of agency or authority involvement in the project as well as may lead to other possible enforcement actions.

- 2) IDA's shall develop and adopt by Resolution, which shall be made publicly available and posted on its website, the uniform criteria for the evaluation and selection for each category of projects for which financial assistance will be provided. The Criteria shall include, but not limited to require that, for each project, the following must occur prior to the approval of financial assistance:
 - a. An assessment by the IDA of all material information included in connection with the application for financial assistance, as necessary to afford a reasonable basis for the decision by the IDA.
 - b. A written cost-benefit analysis by the IDA that identifies the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided; the amount of private sector investment generated or likely to be generated by the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts; and any other public benefits that may occur as a result of the project.
 - c. A statement by an individual authorized to bind the project applicant, as of the date of the completed and submitted application, is in substantial compliance with all the requirements of Chapter 563 of the Law of 2015 and subdivision one of section eight hundred sixty-two of the general municipal law.
 - d. If the project involves the removal or abandonment of a facility or plant within the state, notification by the IDA to the chief executive officer or officers of the municipality or municipalities in which the facility or plant was located.
- 3) IDA's shall conspicuously post on their website:
 - a. The IDA's completed Uniform Project Agreement and all attachments, appendixes and any other relevant records that sets forth terms and conditions under which financial assistance shall be provided.
 - b. The completed Project Application submitted by the project applicant.
- 4) Uniform Project Agreements shall, at a minimum:
 - a. Describe the project and the financial assistance, including the amount and type, to be provided, and the IDA purpose to be achieved.
 - b. Require each project owner, occupant or operator receiving financial benefits to provide annually a certified statement and supporting documentation:
 - (i) Enumerating the full-time equivalent jobs retained and the full-time equivalent jobs created as a result of the financial assistance, by category, including full-time equivalent independent contractors or employees of independent contractors that work at the project location, and
 - (ii) Indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created, and an explanation for why it is not still accurate.

- c. Indicate the dates when payments in lieu of taxes are to be made and provide an estimate of the amounts for each affected tax jurisdiction of any payments in lieu of taxes that are included as part of the transaction, or formula or formulas by which those amounts may be calculated. In lieu of providing such information, a copy of an executed payment in lieu of tax agreement that contains the same information may be attached to the uniform project agreement.
 - d. Provide for the suspension or discontinuance of financial assistance, or for the modification of any payment in lieu of tax agreement to require increased payments, in accordance with policies developed by the IDA pursuant to general municipal law section eight hundred seventy-four.
 - e. Provide for the return of all or a part of the financial assistance provided for the project, including all or part of the amount of any tax exemptions, which shall be redistributed to the appropriate affected tax jurisdiction, as provided for in policies developed by the agency or authority pursuant to general municipal law section eight hundred seventy-four, unless agreed to otherwise in writing by any local taxing jurisdiction or jurisdictions; and
 - f. Provide that the owner, occupant or operator receiving financial assistance shall certify, under penalty of perjury, that it is in substantial compliance with all local, state and federal tax, worker protection and environmental laws, rules and regulations.
- 5) IDA's shall establish and make conspicuously available on their websites:
- a. IDA policies for the suspension or discontinuance of financial assistance, or for the modification of any payment in lieu of tax agreement to require increased payments under circumstances as specified in the policy, which may include but shall not be limited to events of material violation of the terms and conditions of a project agreement made pursuant to section eight hundred seventy-four of the general municipal law;
 - b. IDA policies for the return of all or a part of the financial assistance provided for the project, including all or part of the amount of any tax exemptions or payments in lieu of taxes, as specified in the policy, which may include but shall not be limited to material shortfalls in job creation and retention projections or material violations of the terms and conditions of project agreements. All such returned amounts of tax exemptions shall be redistributed to the appropriate affected tax jurisdiction, unless agreed to otherwise by any local taxing jurisdiction.
 - c. Annual assessments of the progress of each project for which bonds or notes remain outstanding or straight-lease transactions have not terminated, or which continue to receive financial assistance or are otherwise active, toward achieving the investment, job retention or creation, or other objectives of the project indicated in the project application. Such assessments shall be provided to board members and shall be made available to the public on the authority website.

3. IDA Actions Needed:

- A. Put Project Applications and Project Agreements onto IDA website.
- B. Put Uniform Criteria for reviewing Project Applications onto IDA website.
- C. Prepare annual assessments of each project for which bonds remain outstanding and put those assessments on IDA website.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He reviewed the three (3) actions the IDA needs to take as a result of these new requirements from the ABO. He stated that Items A and B above can be completed. He stated that the IDA will need to have Emery Designs to modify the IDA's website to include new tabs for this new information. With respect to the new annual assessments that need to be conducted, he asked Kara Lais if she had any guidance to offer on what these assessments need to include? She stated she participated in a recent meeting with ABO officials who advised that the ABO is still working on what these assessments should include. She stated once she receives information on what these assessments should include, she will pass that information along to Jim Mraz.

F. NYS Economic Development Council:

1. Background:

- There are a number of bills the Legislature is reviewing that could impact IDA's in New York State.

2. Summary of Proposed Bills:

Bill No. S1947:

- Expands the definition of "public works" to require that all projects receiving IDA benefits to pay prevailing wages.

Bill No. S00088:

- Requires each industrial development agency to live stream and post video recordings of all open meetings and public hearings; requires each industrial development agency to post such recordings for a period of not less than five years.
- IDA's shall, to the extent practicable, stream all open meetings and public hearings on its website in real-time.

Bill No. A00587:

- Requires members of an industrial development agency be appointed in a manner which will ensure that women comprise approximately fifty percent (50%) of the membership.

Bill No. S1923:

- Enacts the corporate accountability for tax expenditures act; standardizes applications for state development assistance for empire zone assistance and industrial development agency assistance; requires submission of certain development assistance agreements to the department of taxation and finance; requires recipients of certain development assistance to submit progress reports which include certain information and disclosures; makes certain recapture provisions; and defines relevant terms.

Bill No. S2637:

- Makes various provisions to reform local development corporations and industrial development agencies: conflicts of interest, standard tax exemption policies, municipal input, more information to be made public, economic impact statements, public hearings, and payment of prevailing wages.

Bill No. S2769:

- Requires IDA's to deliver a copy of the resolution adopted pursuant to approve exemptions by certified mail, return receipt requested, to the chief executive officer of each affected local taxing jurisdiction. When the affected local taxing jurisdiction is a school district, the agency shall deliver a copy of such resolution by certified mail, return receipt requested, to the school board and district superintendent of each affected school district.

Bill No. A3449:

- Increases the minimum number of members of an industrial development agencies' board of directors from three to four; provides that the board must include representatives of labor, business, local government and local school boards.

Bill No. A3351:

- Authorizes industrial development agencies to provide technical and financial assistance to qualified residential facilities.

Bill No. A2737:

- Requires that prior to the approval of any application for a payment in lieu of taxes agreement by an industrial development agency, the agency shall notify certain school boards and consult with certain district superintendents.

3. Request from NYS Economic Development Council:

- The IDA received a request from the NYS Economic Development Council for funding to allow the EDC to hire a consultant to manage its advocacy with the NYS Legislature during the current session.
- Amount Requested: \$500

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He pointed particular attention to the first piece of legislation shown on the Agenda which would mandate that prevailing wages be paid by private companies who seek benefits from an IDA. He cited the Century Linen Project as an example. He estimated that the additional cost to the company for having to pay prevailing wages would, in essence, wipe out the sales tax exemption benefits it would be receiving from the IDA. This State mandate would, therefore, eliminate many projects seeking IDA benefits because the added cost for complying with the prevailing wage requirements would negate the financial benefits the company was seeking from an IDA. Jim Mraz also reviewed additional components of the various pieces of legislation identified on the Agenda. He asked if there were any questions. There were none.

IDA ACTION:

MOTION: To authorize a \$500 payment to the NYS Economic Development Council.

MADE BY: Joseph Gillis

SECONDED: Jane Kelley

VOTE: Unanimous

MOTION: To authorize the Chairman to send a letter in opposition to proposed Bill S1947.

MADE BY: George Doherty

SECONDED: Tim Munn

VOTE: Unanimous

G. Don Brown Bus Sales:

1. Background:

- Don Brown Bus Sales is located on CR107 adjacent to the Tryon Technology Park.
- The Company is conducting an onsite auction on Saturday, April 27, 2019.
- All vehicles currently located at their facility that will not be part of the Auction need to be moved offsite.

2. Request to Use Tryon Technology Park:

- Don Brown Bus Sales has requested to use four (4) parking lots at the Tryon Technology Park to park vehicles:
 - Building 3 : 3 lots
 - Building 60 : 1 lot
- Vehicles would be relocated there starting Saturday, April 20, 2019, and be removed by Friday, May 3, 2019.
- Don Brown Bus Sales would handle the moving of all vehicles to and from Tryon.
- Don Brown Bus Sales will provide an insurance certificate to the IDA.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. Tim Munn requested that a Certificate of Insurance be obtained naming the IDA as an additional insured party on Don Brown's auto and liability policies to be obtained. Jim Mraz stated that he already requested that Certificate of Insurance from Don Brown's Bus Sales. He asked if there were any additional questions. There were none.

IDA ACTION:

MOTION: To authorize Don Brown Bus Sales to utilize the parking lots at the Tryon Technology Park to park vehicles there starting Saturday, April 20, 2019, through Friday, May 3, 2019.

MADE BY: Dave D'Amore

SECONDED: Jane Kelley

VOTE: Unanimous

H. Form ST-62:

1. Background:

- Jim Mraz stated that the ABO now requires IDA's to annually file an ST-62 Form.
- The form is titled "IDA Annual Compliance Report State Sales Tax Recapture."

- This requirement was part of a State legislation adopted a couple of years ago. However, the ABO just recently completed the form that it now is requiring IDA's to complete.
- The form asks if an IDA granted any sales tax exemption in the previous calendar year or moved to recapture sales tax benefits given to a company.
- In 2018, no projects were approved where sales tax exemption benefits were granted.
- In 2019, the IDA will need to report the Century Linen Project because it granted sales tax exemptions to that project.
- IDA Chairman needs to be authorized to sign and submit this ST-62 form for the fiscal year ending December 31, 2018.

DISCUSSION: Jim Mraz reviewed the information on the Agenda. He asked if there were any questions. There were none.

MOTION: To authorize the Chairman to sign and submit Form ST-62 for fiscal year ending December 31, 2018.

MADE BY: Joseph Gillis
 SECONDED: Tim Munn
 VOTE: Unanimous

VI. OTHER BUSINESS:

A. Executive Session:

1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:
 - ix. matters which will imperil the public safety if disclosed;
 - x. any matter which may disclose the identity of a law enforcement agent or informer;
 - xi. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
 - xii. discussions regarding proposed, pending or current litigation;
 - xiii. collective negotiations pursuant to article fourteen of the civil service law;
 - xiv. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
 - xv. the preparation, grading or administration of examinations;

- xvi. **the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.**

MOTION: To go into Executive Session to discuss the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

MADE BY : Joseph Gillis
SECOND : George Doherty
VOTE : Unanimous
TIME : 9:30 a.m.

MOTION : To go out of Executive Session.

MADE BY : Jane Kelley
SECOND : Tim Munn
VOTE : Unanimous
TIME : 9:40 a.m.

B. Purchase and Sale Agreement:

1. Background:

- Pure Development from Indianapolis, Indiana desires to execute a Purchase and Sale Agreement with the Fulton County IDA for a 108+/- acre tract of land at the Tryon Technology Park.
- Pure Development has executed this Agreement.
- Authorization needs to be given to have the IDA Chairman to execute this Agreement.

IDA ACTION:

MOTION: To authorize the Chairman to execute a Purchase and Sale Agreement with Pure Development for a 108+/- acre parcel at the Tryon Technology Park.

MADE BY: Joseph Gillis
SECONDED: George Doherty
VOTE: Unanimous

VII. NEXT MEETING:

Tuesday
April 9, 2019
8:00 a.m.

VIII. CLOSE MEETING:

MOTION : To close the meeting.
MADE BY : Joseph Gillis
SECONDED : Tim Munn
VOTE : Unanimous
TIME : 9:47 a.m.