

CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY
83 Broadway, Newburgh, NY 12550
(845) 569-7369 ida@cityofnewburgh-ny.gov

BOARD MEETING

6:00 p.m., Wednesday, January 26, 2022
Via Zoom

Due to the current State of Emergency, and in order to mitigate the spread of COVID-19, the following meeting changes are in effect. IDA meetings will be held via Zoom. All meetings will be recorded. Both the recording and a transcript will be made available at a later date on the IDA's webpage and YouTube channel.

To attend or to submit comments regarding the agenda and general matters of City business email idadirector@cityofnewburgh-ny.gov with the Subject Line in this format: "PUBLIC COMMENT ITEM" by 4:00 p.m. before the board meeting.

AGENDA

1. Roll Call
2. Proof of Notice of Meeting
3. Executive Session
Discussion and consideration of proposed, pending, or current litigation
4. Reading and approval of minutes of the previous meeting
5. Report of the Treasurer
Approval of Treasurer's Report for December 2021
Approval of payment of bills for December 2021
6. Chairman's Report
Strategic Economic Development Advisory Council update
7. Counsel's Report
8. Executive Director's Report
9. New Business
Vacant Property Insurance
Labor Policy

10. Old Business
Re-Adoption of Mission Statement for 2022 Resolution # 2022-01-26-01
FHS Hotel Newburgh – follow up from Public Hearing
11. Adjournment

DRAFT
CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY (IDA)
MINUTES OF BOARD MEETING
December 20, 2021

Present

Board Members: Austin DuBois, Chairman
Gregory Nato, Adam Pollick, Marlon Ramos, Michael Kelly
and Nancy Thomas

Excused: Christina Amato

Staff: Cherisse Vickers, Executive Director
Counsel: Robert McLaughlin, Whiteman Osterman & Hanna LLP

GUESTS: Sims Foster, FSH Newburgh Hotel

1. **Roll Call**: Board Chair Austin DuBois called the meeting to order.
2. **Proof of Meeting Notice**: Accepted.
3. **Executive Session**: On a motion made by Adam Pollick and seconded by Michael Kelly, the board voted unanimously to go into Executive Session to discuss matters relating to possible litigation. Counsel Robert McLaughlin and Sims Foster were invited into Executive Session.

On a motion made by Michael Kelly and seconded by Marlon Ramos, the board voted unanimously to leave Executive Session and return to the regular board meeting.

No formal actions or decisions were taken during Executive Session.

4. **Reading and Approval of Minutes of the Previous Meeting**

Minutes from the regular board meeting of November 15, 2021 were distributed to the board via e-mail.

Motion to approve the minutes as presented:

Mr. Ramos: Motion to approve the minutes
Ms. Thomas: Motion seconded
Discussion: None.
VOTE: Unanimously adopted.

5. **Report of the Treasurer; Approval of Payment of Bills**

Treasurer Marlon Ramos presented the October 18, 2021 Treasurer's Report to the board.

On a motion made by Michael Kelly and seconded by Adam Pollick, the Oct 18, 2021 Treasurer's Report was approved; unanimously approved.

Treasurer Marlon Ramos presented the November 30, 2021 Treasurer's Report to the board. On a motion made by Nancy Thomas and seconded by Michael Kelly, the board approved the November 2021 Treasurer's Report.

A motion to pay November 2021 bills as presented (check numbers 985-989) was made by Michael Kelly and seconded by Gregory Nato; unanimously approved.

The Audit/Finance Committee met and discussed the following policies: Investment Policy, Policies Governing the Use of Authority Discretionary Funds, Procurement Policy Property Disposition Policy, Recapture Policy, Uniform Tax Exempt Policy (UTEP), Uniform Criteria for Evaluation of Projects Policy, Property Acquisition Policy. A decision was made to table the adoption of the UTEP until further consideration and analysis can be made. Revisions that were approved by the committee for recommendation to the full board where sent electronically before the board meeting for comments. None were received.

For the Agency's 2021 audit, auditor BST & Co. provided a quote for \$11,250.00 in their engagement letter.

6. **Chairman's Report**

Strategic Economic Development Council: Chair Austin DuBois: no update for Governance Committee.

The board reviewed the IDA mission statement. No updates were recommended.

The Governance Committee reviewed: Agency By-laws, Anti-Harassment Policy, Board of Directors' Duties and Responsibilities, Code of Ethics, Conflict of Interest, Internal Control Policy, and the Whistleblower Protection Policy. Revisions that were approved by the committee for recommendation to the full board where sent electronically before the board meeting for comments. None were received.

7. **Counsel's Report**

Bill A795, passed by legislature last year has been sent to the Governor. If signed into law by the Governor the City of Newburgh IDA will be required to adopt the same fee structure as Orange County IDA within 90 days. Counsel will email the Board the new fee structure if bill/law is passed.

Project, The Foundry Phase 3 has closed. 104 Washington is projected to close in January.

5 Scobie Drive attorneys have been contacted regarding amendment to their contract. No response. DEC was also contacted. No response, possibly due to limited staffing. Counsel will follow up with both.

8. Executive Director's Report

Executive Director gave possible dates for meetings in January and February because the usual meeting dates are affected by holidays. By consensus, Jan 26 & Feb 16 were agreed upon as the next meeting dates.

The IDA Board was polled regarding positions. There are no changes or challenges to any Board position. The Chair, Vice Chair, Secretary and Treasurer will all remain the same.

9. New Business

Resolution No. 2021-12-20-01, Annual Housekeeping

1. Approval and Confirmation of Agency Policies and Procedures for Calendar Year 2022.

By-laws

Anti-Harassment

Code of Ethics

Conflicts of Interest

Board of Directors Duties and Responsibilities

Internal Controls

FOIL Policy

Investment Policy

Policies Governing the Use of Agency Discretionary Funds

Procurement Policy

Property Acquisition Policy

Property Disposition Policy

Retaliatory Action policy (Whistleblower Policy)

Uniform Criteria for the Evaluation of Projects Policy

Recapture Policy

2. Confirmation of Regular Agency Meeting Schedule for Calendar Year 2022

3. Appointment of Executive Director and Staff to Agency – Cherrisse Vickers and Michele Gruber

4. Appointment of Accounting Firm for the Agency for Annual Audit – BST & Co. CPAs, LLP

5. Appointment of Agency Counsel and Bond Counsel - Robert J. McLaughlin, Esq of Whiteman Osterman & Hanna LLP

6. Appointment of Bank and Agency and Accounts – TD Bank

7. Fee structure of Agency – See attached

A motion was made by Michael Kelly and seconded by Gregory Nato.

Ayes: Austin DuBois, Michael Kelly, Gregory Nato, Adam Pollick, Marlon Ramos, and Nancy Thomas. Absent from roll call: Christina Amato.

10. Old Business

None

11. Adjournment

As there is no further business to come before the board, a motion to adjourn was made by Michael Kelly and seconded by Nancy Thomas; unanimously passed.

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY
Treasurer's Report for the January 26, 2021 Meeting

OPERATING Account

Opening Balance As of December 1, 2021 **\$ 325,108.05**
from Quickbooks

<i>Deposits</i>	Payor	Amount	Remarks
12/1/2021	AT&T	3,657.55	Cell tower
12/2/2021	Central Hudson	2,091.56	Cell tower
12/2/2021	T-Mobile	4,914.83	Cell tower
12/2/2021	T-Mobile	2,077.02	Cell tower
12/15/2021	The Foundry	66,970.04	Wire
12/30/2021	104 Washington St	668.44	Check
12/31/2021	Whiteman, Osterman & Hanna, LLP	1,002.00	IDA Void
	TOTAL	\$81,381.44	

Disbursements

Check Number	Check Date	Payee	Amount	Remarks
993	12/2/2021	Michele Gruber	450.00	Inv. #12-02-2021
994	12/2/2021	MRB Group	8,250.00	Inv. #41201
995	12/2/2021	Whiteman, Osterman, & Hanna LLP	1,095.00	Inv. #536356
996	12/2/2021	Whiteman, Osterman, & Hanna LLP	4,079.37	Inv. #505572
997	12/2/2021	Whiteman, Osterman, & Hanna LLP	1,684.79	Inv. #536357
998	12/2/2021	Cherisse Vickers	2,625.93	Inv #181

1004	12/20/2021	NYS EDC	850.00	Inv #13014
1005	12/20/2021	MRB Group	2,750.00	Inv #41655
1006	12/20/2021	Michele Gruber	420.00	Inv #12-15-2021
1007	12/20/2021	Mary T. Babiarz	1,170.30	Inv #204930
1008	12/20/2022	Cherisse Vickers	2,574.99	Inv #182
1010	12/30/2021	Michele Gruber	930.00	Inv #1010
1011	12/30/2021	Cherisse Vickers	2,576.21	Inv #183
		TOTAL	\$29,456.59	

Closing Balance As of December 31, 2021 **\$ 377,032.90**
from Quickbooks

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY
Treasurer's Report for the January 26, 2022 Meeting

APPLICATIONS FUND Account

Opening Balance As of December 1, 2021 \$ 14,137.50
Closing Balance As of December 31, 2021 \$ 14,137.50

LESSOR/TENANT Account

Opening Balance As of December 1, 2021 \$ 2,400.00
Closing Balance As of December 31, 2021 \$ 2,400.00

MONEY MARKET Account

Opening Balance As of December 1, 2021 \$ 750,519.68
Interest credit 63.74
Closing Balance As of December 31, 2021 \$ 750,583.42

CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY

Resolution No. 2022-01-26-01

Be it resolved, that the Board of Directors of the City of Newburgh Industrial Development Agency, in compliance with transparency requirements of the New York State Authorities Budget Office, does hereby re-adopt for 2022 the IDA Mission Statement:

The mission of the City of Newburgh Industrial Development Agency (IDA) is to help attract and contribute to Newburgh's job opportunities, a diverse and net positive tax base to provide long term economic prosperity and sustainability and advance the general welfare and standard of living for the city and its residents through the promotion, development, encouragement, and assistance of industrial, manufacturing, warehousing, commercial, technology, tourism initiatives, and recreational facilities, utilizing Green practices and adaptive re-use where available.

The Board further resolves that the Agency will comply with laws and amendments enacted by the State Legislature guiding practices in its operations.

The foregoing resolution was duly put to vote, which resulted as follows:

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Austin DuBois				
Nancy Thomas				
Adam Pollick				
Marlon Ramos				
Christina Amato				
Michael Kelly				
Gregory Nato				

The resolution was thereupon duly adopted.

Christina Amato, Secretary
January __, 2022

DRAFT LOCAL LABOR POLICY

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

ADOPTED _____, 2022

Section 1: Purpose and Authority

The City of Newburgh Industrial Development Agency (the "Agency") was created for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of, the residents of the City of Newburgh, Orange County, New York. The Agency offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in the City of Newburgh. When the Agency approves a project, it enters into agreements to extend these incentives and benefits to the applicant.

Construction jobs, though limited in time duration, are vital to the overall employment opportunities and economic growth in the City of Newburgh specifically and in Orange County generally. The Agency believes that companies benefiting from its financial assistance programs should employ local laborers, mechanics, craft persons, journey workers, equipment operators, truck drivers and apprentices (hereinafter "construction workers"), including those who have returned from military service, during the construction phase of projects. In this way, the Agency can generate significant benefits to advance the City of Newburgh 's general prosperity. It is also the goal of the Agency to promote the use of local veterans on projects receiving Agency benefits. By partnering with local contractors, local contractor groups, local trade unions and contractors awarded work on Agency projects, there are opportunities for veterans to gain both short-term and long-term careers in the construction industry.

Section 2: General Provisions

It is, therefore, the policy of the Agency that firms benefiting from its programs shall employ workers from the City of Newburgh and the "local labor" market for (i) the site preparation and construction phases of the project, (ii) the installation of the internal furnishings and equipment outfitting if, and to the extent, that the Agency granted benefits regarding such internal furnishings and equipment outfitting of the constructed facility (*e.g.*, sales tax benefits on such furnishings and/or equipment), and (iii) all renovations and additions if, and to the extent, that the Agency granted benefits for such renovations and additions.

For the purpose of this policy (" Policy"), the "local labor" market for construction workers shall be defined as those individuals living in City of Newburgh or in the following Counties: Orange, Ulster, Sullivan, Dutchess, Putnam, Rockland and Westchester. The Agency encourages each applicant receiving financial assistance to utilize labor from the City of Newburgh and/or Orange County to the extent possible. Each applicant ("Applicant") receiving Agency financial assistance

(collectively, "Agency Benefits") shall ensure that contractor(s) and developer(s) engage or hire at least 85% from the "local labor" market for their approved projects. The 85% shall be borne by each primary contractor including their subcontractors and in total at the time of completion of the project. The contractor/developer is mandated to keep daily log sheets of all field workers, commencing on the date of application. Any work performed after application shall be included in the determination of overall compliance with the 85% hiring requirements of this Policy. A third-party auditing firm will be engaged to monitor construction work commencing on the date Agency Benefits are granted by resolution of the Agency. Monitoring on site by the third-party auditing firm may be performed with or without prior notice to the Applicant to ensure accuracy of the monitoring information and reporting. Each Applicant will be responsible for the payment of such auditing firm.

Section 3: Exemptions

The Agency recognizes, however, that the use of local labor may not be possible for several reasons, and the Applicant may request an exemption on a particular contract or trade scope for the following reasons:

1. Warranty issues
 - a. In the case a specialized manufacturing warranty is required by the applicant in which no local labor can manufacture an "all equal" product
 - b. In the case an installation warranty is required by the applicant in which no local labor can install an "all equal" product
2. Specialized construction is required and no local contractors or local construction workers have the required skills, certifications or training to perform the work;

3. Cost Differentials:

- a. For projects whose project cost are equal to or in excess \$15,000,000, significant cost differentials in bid prices whereby the use of local labor and materials significantly increases the subcontract or contract of a particular trade or work scope by 30%. Every reasonable effort should be made by the Applicant and or the Applicants' contractor to get below the 30% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as the local Contractor Associations. If the applicant or applicants' contractors cannot get below the 30% cost differential, the applicant must give the otherwise preferred local bidder one final chance to get below the 30% cost differential. This effort must be documented and presented to the Agency's third-party local labor monitoring firm.

- b. For projects whose project cost is less than \$15,000,000, significant cost differentials in bid prices whereby the use of local labor and materials significantly increases the subcontract or contract of a particular trade or work scope by 15% or more. Every reasonable effort should be made by the Applicant and or the Applicants' contractor to get below the 15% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as the local Contractor Associations. If the applicant or applicants' contractors

cannot get below the 15% cost differential, the applicant must give the otherwise preferred local bidder one final chance to get below the 15% cost differential. This effort must be documented and presented to the Agency's third-party local labor monitoring firm.

4. No local labor is available for the project; and

5. The contractor requires key or core persons such as supervisors, foreman or "construction workers" having special skills that are not available in the "local labor" market.

The request to secure an exemption for the use of non-local labor must be received from the Applicant on the exemption form provided by the Agency or the third-party monitor and received in advance of work commencing. The request will be reviewed by the third-party monitor and forwarded to the Agency, at which time the Agency's Audit Committee shall have the authority to approve or disapprove the exemption. The third-party monitor shall report each authorized exemption to the Board of Directors at its' bi-monthly meeting.

Section 4: Certified Payroll Records and Monitoring Requirement

A certified payroll requirement improves record keeping and accountability about job descriptions, hours worked and wages earned on an IDA Project site. Accordingly, the designated construction manager for the IDA Project, acting as agent for the applicant, on the IDA Project shall: (i) provide to the duly designated IDA Project Monitor (the "Monitor") within 30 days of the end of the month being reported a certified monthly payroll report of all construction workers working on the IDA Project site, which include names, days/hours worked, and rate of pay, and worker classification, and (ii) annually certify to the Agency that the IDA Project is in compliance with state laws related to environmental quality, worker safety and protection, and wages and hours.

The Monitor shall issue a report to the Executive Director relative to compliance with this policy who shall share such information with the IDA Board of Directors. All applicants have a duty to cooperate with the Monitor. All costs of the Monitor shall be the obligation of the applicant. If a violation of the policy has occurred, the Executive Director shall notify the applicant in writing and give such applicant a warning of such violation. In the event there is a subsequent violation of the policy, the Executive Director shall bring such information to the IDA Board of Directors which may, in its discretion, take action to revoke or recapture IDA benefits

Section 5: Project Information

Applicants receiving Agency financial assistance, as well as contractor(s)/developer(s) on the project, shall make every effort to utilize vendors, material suppliers, subcontractors and professional services from the City of Newburgh and the surrounding counties identified above. Applicant(s), contractor(s) and developer(s) shall be required to keep records of those local vendor(s), material supplier(s), contractor(s) and professional services whom they have solicited and with whom they have contracted with or made awards to. This shall be stored in a binder on the project site during construction and shall be easily available for review by an authorized

representative of the Agency, such as the Agency's third-party Monitor. Such binder shall also include any documents for solicitation and the final contracts. Once approved for Agency Benefits, all Applicants will be required to provide to the Agency's staff the following information:

1. Contact information for the Applicant's representative who will be responsible and accountable for providing information about the bidding and awarding of construction contracts relative to the Applicant's project;
2. Description of the nature of construction jobs created by the project, including in as much detail as possible, the number, type and duration of construction positions;
3. The names, contact information, certificate of authorization to do business in the State of New York and copies of current Certificates of NYS Workers' Compensation Insurance, NYS Disability Insurance, General Liability Insurance and proof of current OSHA training certification from all contractors' employees performing work on the site; and
4. A Construction Completion Report listing the names and business locations of prime contractors, subcontractors and vendors who have been engaged in the construction phase of the project.

All Agency projects are subject to local monitoring by the Agency and the third-party Monitor. The Applicant and/or construction manager or general contractor acting as agent for the Applicant on the project, shall keep a log book on site detailing the number of workers, hours worked and counties and states in which they reside. Proof of residency or copy of drivers' license shall be included in the log book, along with evidence of necessary OSHA Certifications. Reports will be on forms provided by the Agency or weekly payroll reports which contain the same information as required on the Agency issued form. The Applicant(s), contractor(s) and developer(s) are subject to periodic inspection or monitoring by the Agency or its third-party Monitor.

Section 6: Bulletin Board

The Agency will use a third-party firm(s) to Monitor and audit compliance with this Policy, the cost of which shall be paid for by the Applicant at closing in advance of future audits and held in a non-interest bearing escrow account by the Agency until all such audits are completed. The Applicant of an Agency approved project, unless otherwise agreed by the Agency, shall be required to maintain a 4' X 8' bulletin board on the project site. The bulletin board shall be located in an area that is accessible to onsite workers and visitor, which should be clear and legible at least 10 feet from said bulletin board, and contain the following information:

1. Contact information for the Applicant;
2. Summary of the Agency Benefits received;
3. Contractor's name(s) and contact information;
4. Copies of proof of exemption (if any) from this Policy;

5. Copies of any warnings or violations (if any) of this Policy; and
6. Copy of this Policy executed by the Applicant.

Section 7: Compliance

The third-party Monitor shall issue a report to the Agency immediately when an Applicant or Applicants' contractor (or developer) is not in compliance of this Policy. Agency staff shall advise the Audit Committee and/or Agency Board on non-compliance by email or at the next scheduled meeting. If a violation of this Policy has occurred, Agency staff shall notify the Applicant and contractor in writing of noncompliance and give Applicant a warning of violation and 72 hours in which to correct such violation. Upon evidence of continued non-compliance or additional violations, the Agency and/or its third-party Monitor shall notify the Applicant that the project is in violation of this Policy and is subject to Agency Board action which may result in the revocation, termination and/or recapture of any or all Agency Benefits conferred by the Agency as provided in the project closing documents.