

Minutes of the Board of Directors Meeting Buffalo Urban Development Corporation

Empire State Development Corporation Offices
95 Perry Street
Buffalo, New York 14203

September 29, 2011
12:00 p.m.

1.0 Call to Order

Directors Present:

Hon. Byron W. Brown (Chair)
James W. Comerford
Thomas P. Dee
Hon. David A. Franczyk
Darren E. Kempner
Kathy Konst
Thomas A. Kucharski
Brendan R. Mehaffy
Kimberley Minkel
Benjamin N. Oblatz
Christina P. Orsi
Dennis M. Penman (Vice Chair)
Andrew J. Rudnick
Craig A. Slater

Directors Absent:

Catherine M. Braniecki
Dennis W. Eisenbeck
Woodrow W. Maggard
Sundra L. Ryce

Officers Present:

Peter M. Cammarata, President
David A. Stebbins, Vice President
Andrew Schoepich, Treasurer
Kevin J. Zanner, Esq., Secretary

ECIDA Staff Present: Dawn Boudreau and Al Culliton.

Guests Present: James Fink, *Buffalo Business First*; Daryl McPherson, City of Buffalo Comptroller's Office; Larry Mietus, Speaking of Strategy; and Laura St. Pierre Smith, Buffalo Niagara Partnership.

Roll Call: The Secretary called the roll of directors at 12:15 p.m. and a quorum was determined to be present. Mr. Slater joined the meeting during the presentation of item 4.2. Mayor Brown left the meeting following the presentation and vote on item 4.5.

2.0 Reading of the Minutes – The minutes of the August 30, 2011 meeting of the Board of Directors were presented. Upon motion made by Dr. Rudnick, seconded by Mr. Comerford and unanimously carried, the minutes of the meeting of August 30, 2011 were approved.

3.0 Monthly Financial Report – Mr. Schoepich presented the BUDC monthly financial report for the period ending August 31, 2011. The cash balance at the end of the period was \$225,238 and unrestricted net assets at the end of the period were \$10,956,035. Year-to-date revenue was \$1,636,991 and year-to-date expenses were \$2,088,681, resulting in a year-to-date net loss of

(\$451,691). Upon motion made by Mr. Penman, seconded by Mr. Kempner and unanimously carried, the Board accepted the monthly financial report for the period ending August 31, 2011.

4.0 New Business

- 4.1 Banking RFP Results** – Mr. Schoeppich presented his September 29, 2011 memorandum to the Board and a proposed resolution regarding the request for proposals for banking services. Mr. Schoeppich explained the RFP process and noted that the Finance & Audit Committee is recommending the selection of First Niagara Bank to provide banking, cash management and investment services to BUDC.

Upon motion made by Mr. Kucharski, seconded by Ms. Minkel and unanimously carried, it was resolved, that the Board adopt a resolution in the form annexed hereto approving the selection of First Niagara Bank to provide banking, cash management and investment services to BUDC.

- 4.2 Audit Extension and Internal Controls Audit** – Mr. Schoeppich presented his September 29, 2011 memorandum to the Board regarding proposals from Toski, Schaefer & Co., P.C. to provide auditing services and an internal controls audit for the period ending December 31, 2011. The auditing services proposal would authorize a renewal of the auditor's services for the second of the one-year options under the auditor's contract with BUDC. Next year, a request for proposals for auditing services will be jointly conducted with ECIDA. Mr. Schoeppich then explained the internal controls audit to be performed by the auditor. The cost of the internal controls audit is \$3900.00. Mr. Schoeppich also noted that the Finance & Audit Committee reviewed both proposals and is recommending approval of both by the Board.

Upon motion made by Dr. Rudnick, seconded by Mr. Franczyk and unanimously carried, it was resolved, that the Board hereby exercises the option to retain Toski, Schaefer and Co., P.C. to perform auditing services for the period ending December 31, 2011, and approves the retention of Toski, Schaefer and Co., P.C. to perform an internal controls audit at a cost of \$3900.

- 4.3 BLCP - 193 Ship Canal Parkway: Designated Developer Extension** – Mr. Cammarata presented his September 29, 2011 memorandum to the Board regarding a proposal to extend the term of a June 8, 2010 letter agreement with The Krog Corp ("Krog"). A copy of Krog's September 14, 2011 letter to BUDC requesting an extension of the agreement was also included in the materials distributed to the Board. The proposed extension is for a period of six months. Mr. Cammarata noted that Krog has agreed to perform additional marketing activities for the 193 Ship Canal site in accordance with the September 14th letter and is presently working with a prospect that has executed a non-binding letter of intent to purchase the property.

Upon motion made by Mr. Slater, seconded by Mr. Kempner and unanimously carried, it was resolved, that the Board approve a six-month extension to March 31, 2011 of the letter agreement dated June 8, 2010 between The Krog Corp. and BUDC.

- 4.4 Ship Canal Commons – Arcadis Task Order – Supplemental Grants** – Mr. Stebbins presented his September 29, 2011 memorandum to the Board regarding a proposed task order between BUDC and Arcadis for construction administration and inspection services relating to supplemental bid items for the Parcel 3 project. The total cost of services is \$12,500 and will be paid for from grant funding from the Buffalo & Erie County Standing Committee of the Greenway Commission.

Upon motion made by Mr. Penman, seconded by Mr. Slater and unanimously carried, it was resolved, that the Board approve Professional Services Task Order No. 3 ("Task Order") with Arcadis in the amount of \$12,500 for construction administration and inspection of the Ship Canal Commons boardwalk, railing and interpretive signage to be paid for from the Buffalo and

Erie County Standing Committee grant, and to authorize the President or Vice President to execute the Task Order.

- 4.5 Ship Canal Commons – Native Tree Planting Bid Results** – Mr. Stebbins presented his September 29, 2011 memorandum to the Board regarding competitive bids for the purchase and planting of approximately 700 trees at Buffalo Lakeside Commerce Park. Mr. Stebbins reported that Natural Restorations by Linda J was the lowest responsible bidder for the work. He noted, however, that the bid price of \$125,125.00 exceeded the amount of funds available under the grant from the Niagara Greenway Commission Ecological Committee by approximately \$33,000. He then outlined potential options to resolve the budget gap for the work, including the use of funds from the Buffalo Brownfields Redevelopment Fund (BBRF) and the reduction of the amount of trees to be planted. The Board then discussed the competitive bid results. Board members Obletz and Dee commented on the wide disparity in bid prices received from the contractors that responded to the bid solicitation. Mr. Stebbins indicated that the bid prices were confirmed with Natural Restorations and that staff will also discuss this issue with the sub-consultant on the project. Dr. Rudnick and Mr. Slater commented that BBRF funding should not be used to cover the gap in funding.

Mr. Slater made a motion to award the contract to Natural Restorations, with the direction to reduce the contract to \$92,000, with the balance of the contract to be contingent upon BUDC's receipt of funding for same; and (ii) that the BBRF not be used to pay for the balance of the work. Mr. Slater's motion was seconded by Dr. Rudnick and unanimously carried.

- 4.6 Strategic Planning Update** – Dr. Rudnick commented on the strategic planning session that was held immediately prior to today's Board meeting. He noted that the goal of the process is to have both a strategic plan and business plan for BUDC. Mr. Cammarata noted that the next strategic planning session will be held at the Buffalo Club on October 11, 2011 at 9:00 a.m.
- 4.7 BLCP Parcel 3 Project Update** – Mr. Cammarata updated the Board regarding the Parcel 3 Open Space project. The project is substantially complete, with the exception of the pedestrian bridge, which will be delivered and installed in mid-October. The contractor is working on punch list items and should complete those items within a week to ten days. A ribbon-cutting event for the official opening of the park is being coordinated with NYSDEC.
- 4.8 BLCP Phase IV Project Update** – Mr. Cammarata reported that National Grid has agreed to an installment payment arrangement by which BUDC will pay National Grid \$74,000 of the electrical service installation cost upfront, and the \$100,000 balance at the end of the 2011 calendar year. The cost for the electrical service installation will be paid from the Buffalo Brownfields Redevelopment Fund (BBRF). Mr. Cammarata also reported that the force main project for Erie County Sewer District #6 is approximately 90% complete. Once the Phase IV project, the Parcel 3 project and force main are complete, all of the infrastructure improvements at Buffalo Lakeside Commerce Park will be completed, and this will allow BUDC to utilize BBRF funds for other projects in the City of Buffalo.
- 4.9 RiverBend Master Plan Project Update** – Mr. Stebbins reported on the intent to include grant funding for Republic Park as part of the consolidated funding application to be submitted to the WNY regional economic development council. Mr. Stebbins also reported that staff is working on an application to the Niagara Greenway Commission to secure a consistency determination for the RiverBend project. Obtaining the determination would allow BUDC to apply for grant funding from the Commission. Staff is also working with Buffalo Niagara Enterprise to put together marketing materials for RiverBend. Dr. Rudnick asked whether RiverBend is ready to be marketed. Mr. Stebbins responded that the parcels along South Park Avenue and the parcels along Rittling Avenue near the Hydro-Air facility are serviced by all necessary utilities and are ready to be marketed.

4.10 South Buffalo BOA Project Update – Mr. Stebbins reported that the BOA grant agreement continues to work its way through the State approval process. Staff will continue to monitor the State's progress in finalizing the agreement.

4.11 Information Package – Mr. Cammarata reviewed a number of information items, including the 2012 Board meeting schedule, a grant award letter from National Grid regarding a \$200,000 grant for RiverBend and recent news articles regarding BUDC projects. Mr. Cammarata also reported that Board member Christina Orsi was recently named a "Woman of Influence" by *Business First* and that Board member Benjamin Obletz was recently named to the "40 Under Forty" list by the same publication. He also noted that Sasaki Associates will present the RiverBend project at the 2011 Annual Water Resources Conferences to be held in Albuquerque, New Mexico.

5.0 Late Files – None.

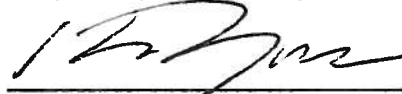
6.0 Tabled Items

6.1 RiverBend Solar Project – TM Montante Proposal – No action was taken by the Board on this item. The item remains tabled.

7.0 Executive Session – None.

8.0 Adjournment – Upon motion made by Dr. Rudnick, seconded by Mr. Comerford and unanimously carried, the Board of Directors meeting of September 29, 2011 was adjourned at 12:55 p.m.

Respectfully submitted by:



Kevin J. Zanner, Secretary