

CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY (IDA)
MINUTES OF MEETING
March 24, 2014

Present

Board Members: Joshua Smith, Chairman
Richard Bedrosian, Mike Curry, John Penney, Nancy Thomas
Excused: Jerry Maldonado
Counsel: Thomas Whyatt
Staff: Theresa Waivada, Executive Director
Craig Skelly, CFO
Guests: Austin DuBois and Jimmy Mera, potential board members

1. **Roll Call:** Mr. Smith called the meeting to order at 7:10 pm. A quorum is present.

2. **Proof of Notice of March 24, 2014 Meeting**

3. **Approval of the January 27, 2013 Minutes**

Mr. Penney: Motion to approve the January 27, 2014 minutes

Ms. Thomas: Motion seconded.

Discussion: No discussion.

VOTE: Unanimously passed.

4. **Request for Communications**

The Executive Director noted no communications to speak of.

5. **Request for Bills; Treasurer's Report**

IDA Treasurer Mike Curry gave the Treasurer's Report as of January 27th. The opening balance is \$726,901.12, disbursements totaling \$19,090.53, deposits totaling \$146,471.27 (including the AT&T check), with an ending balance of \$854,281.86. The Applications Fund opening balance is \$30,009.94, with an ending balance including interest of \$30,011.69. The four checks highlighted in bold on the Treasurer's Report were made by the Executive Director and co-signed by a Board member. The Agency permits payment of obligations in months when there is no IDA meeting. It was also noted that the Agency should transfer \$5,000 from the Applications Fund to the checking account as the Agency has expended costs for activities fundable by the Hudson Valley Lighting deposit.

Mr. Penny: Motion to pay checks numbered 2138 through 2143 as presented

Mr. Bedrosian: Motion seconded.

Discussion: None.

VOTE: Unanimously passed.

6. **Report from the Chair**

The Chairman reported that for the next Board meeting in April, first on the agenda will be Dr. Richards, President of Orange County Community College (OCC). He will present the plans for a STARTUP New York program being considered by the College for the Newburgh Campus.

Cell Tower: It was reported that AT&T is now current with its lease payments per its agreement with the Agency.

Chairman participated in a tour of the waterfront relative to existing uses, ownership and potential development. He also discussed the city's watershed, Murphy's Ditch, and Washington Lake. There is a great deal of concern over pollutants entering into the drinking water supply for the City of Newburgh—Washington Lake—and no authority/enforcement to mitigate them. Also, a couple of towns surrounding the lake are potentially seeking to tap into the lake for their drinking supply when the NYC DEP closes down their water supply tunnel that the towns tap into. While this is not a direct concern of the IDA, economic development is a concern and water is required in order to retain, as well as expand, businesses.

7. **Report from the Executive Director**

The Executive Director reported that Steelways has been meeting with several agencies, including Orange County IDA and elected officials concerning the plans for a Port of Newburgh. The Port proposal will enable Steelways to fabricate items needed in the construction of the new Tappan Zee Bridge and other bridges in New York State. There was discussion on the participation of the Orange County IDA relative to providing grants to facilitate the project. The Executive Director will contact the Orange County IDA to advise them that the City of Newburgh IDA's operation is to provide benefits to projects within the city.

The Executive Director reported on the submission of an application by the City requesting federal assistance for the cost of public infrastructure required for the Hudson Valley Lighting Project. The Board reviewed Resolution No. 2014-3-24-4, authorizing executions of agreements that may be required to undertake the public works project if it is approved by the U.S. Economic Development Administration.

Mr. Penney: Motion to approve Resolution No. 2014-3-24-4 as presented
Mr. Bedrosian: Motion seconded.
Discussion: None.
VOTE: Unanimously passed.

Before moving to the Counsel's Report, the board voted to go into Executive Session to review litigation action on a PILOT and Cell Tower decommissioning.

Mr. Curry: Motion for the Board to go into Executive Session
Mr. Bedrosian: Motion seconded.
Discussion: None.
VOTE: Unanimously passed.

Mr. Penny: Motion for the Board to end Executive Session and resume Board meeting
Mr. Bedrosian: Motion seconded.
Discussion: None.
VOTE: Unanimously passed.

8. **Report from Counsel**

IDA Counsel Tom Whyatt asked the board to review and vote on Resolution No. 2014-3-24-2, authorizing commencement of legal action to enforce PILOT terms of a Lease between the City of Newburgh IDA as Lessor and Corwin Management LLC as Lessee.

Mr. Curry: Motion to approve Resolution No. 2014-3-24-2
Mr. Penney: Motion seconded.
Discussion: None.
VOTE: Unanimously passed.

IDA Counsel Tom Whyatt also discussed the Sprint/Nextel merger relative to the cell tower leases. He advised that Nextel does not have legal standing to terminate their cell tower lease and as Agency Counsel asked the Board to review and vote on Resolution 2014-3-24-3, authorizing commencement of legal action to enforce a Lease between the City of Newburgh IDA as Sublessor and Nextel of New York Inc. as Sublessee.

Mr. Penney: Motion to approve Resolution No. 2014-3-24-3
Ms. Thomas: Motion seconded.
Discussion: None.
VOTE: Unanimously passed.

9. **Committee Reports**

Audit and Finance Committee: Committee Chair Mike Curry reported that the committee met earlier this evening, and unanimously recommend that the agency adopt the draft audit, with the following notables: reclassification of \$197,000 Scobie Drive property, and opening a bank account for security deposits.

Mr. Curry: Motion to adopt the Audit and Finance Committee's recommendation
Mr. Penney: Motion seconded.
Discussion: None.
VOTE: Unanimously passed.

Governance Committee: Committee Chair Josh Smith reported that the Governance Committee met on March 8, 2014 to interview two potential candidates for IDA board members. The Committee recommends forwarding these two candidates' names to the City Council for appointment to the IDA Board (minutes of the Governance Committee meeting are attached).

10. **Old Business**

There was no old business to come before the board.

11. **New Business**

The Board reviewed the following annual reports: 2013 Investment Report and the 2013 Performance Measurements and Accomplishments and Operations Report and the 2013 Annual Audit. [The minutes of the Audit Committee review and recommendation of the 2013 Audit is attached.] Look at resolution and add all the items in the resolution. After discussion, the Board voted on Resolution No. 2014-3-24-1.

Mr. Penney: Motion to adopt Resolution No. 2014-3-24-1, Items 1-4
Ms. Thomas: Motion seconded.
Discussion: None.
VOTE: Unanimously passed.

With no other business to come before the board, a motion to adjourn was made by Mike Curry, seconded by Jack Penney, and unanimously passed.

The meeting was adjourned at 9:10 p.m.

The City of Newburgh
Industrial Development Agency

RESOLUTION NO.: 2014-3-24-1

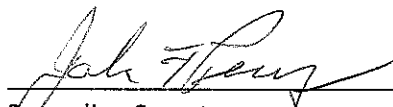
BE IT RESOLVED THAT the Board of Directors of the City of Newburgh Industrial Development Agency, in compliance with transparency requirements of the New York State Authorities Budget Office, does hereby:

1. Adopt the Performance, Measurement and Operations Reports for 2013
2. Adopt the 2013 Investment Report
3. Approve and adopt the 2013 Annual Audit
4. Authorize the Executive Director to certify the submission of the 2013 Annual PARIS Report to the Authorities Budget Office and Office of the State Comptroller.

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

Yea 5 Nays 0 Absent 2 Abstain 0

The resolution was thereupon duly adopted.



Recording Secretary
March 24, 2014

**CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY**

RESOLUTION NO. 2014-3-24-2

Authorizing commencement of legal action to enforce PILOT terms of a
Lease between the City of Newburgh IDA as Lessor and Corwin
Management LLC as Lessee

WHEREAS:

The City of Newburgh Industrial Development Agency ("IDA") entered into a lease agreement dated April 27, 2001 ("Lease") with Corwin Management LLC, a New York Limited Liability Company with offices at 5 Krolla Drive, Monroe, New York 10950 ("Lessee");

The Lease remains in force and requires Lessee to make annual PILOT payments to the City of Newburgh pursuant to a schedule set forth in the Lease;

Lessee has stopped making the required payments;

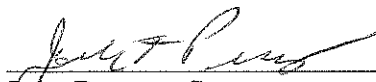
The Lease provides that in the event the IDA incurs costs including legal fees in enforcing the Lease and Forbearance Agreement, Lessee is obligated to reimburse same.

NOW THEREFORE BE IT RESOLVED:

The IDA hereby authorizes and directs its counsel, Oxman Tulis Kirkpatrick Whyatt & Geiger LLP, to serve notice of unpaid back rent file and timely serve Summons and Complaint, motion papers as needed, make appearances and take all other steps as are required to commence and prosecute legal action in this matter for the purpose of collecting all funds due, the costs and legal fees incurred in the action, and such other remedies as may be had.

The Chairman is authorized to execute such documents and make such appearances as are required for prosecution of the action.

The above is hereby certified to be an accurate copy of Resolution No. 2014-3-24-2, duly adopted by the City of Newburgh Industrial Development Agency at its regularly scheduled meeting held March 24, 2014.



John Penney, Secretary

**CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY**

RESOLUTION NO. 2014-3-24-3

Authorizing commencement of legal action to enforce a Lease
between the City of Newburgh IDA as Sublessor and Nextel of
New York, Inc. as Sublessee

WHEREAS:

The City of Newburgh Industrial Development Agency ("IDA") entered into a sublease agreement effective ("Ground Lease") as of October 1, 2001 with Nextel of New York, Inc. a Delaware corporation d/b/a Nextel Communications, as sublessee ("Sublessee");

The Ground Lease provides for Sublessee's use of approximately 200 square feet of IDA's leased property and terminates after approximately 26 years commencing September 30, 2001, unless terminated earlier pursuant to the terms of the contract; it remains in force and requires Sublessee to make lease payments to the IDA pursuant to a schedule set forth in the Lease. Commencing at \$1,200 per month during the first year and increasing by 3% each year thereafter; current rent is \$1,494.97 per month.

Sublessee has notified the IDA of its intention to terminate the Ground Lease as of August 31, 2014 or as soon as it can vacate the site. Counsel has advised the IDA that the grounds cited by Sublessor in its notice of termination, i.e., that the site is no longer suitable for technical reasons, may not comply with the grounds set forth in the Sublease as permitting early termination by Sublessee.

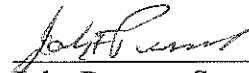
The IDA wishes to preserve its rights under the Sublease.

NOW THEREFORE BE IT RESOLVED:

The IDA hereby authorizes and directs its counsel, Oxman Tulis Kirkpatrick Whyatt & Geiger LLP, to take such actions in New York State Supreme Court, Orange County, as may be needed, including seeking a Declaratory Judgment that Sublessor cannot unilaterally terminate the lease for the reasons stated, file motion papers as needed, make appearances and take all other steps as are required to commence and prosecute legal action in this matter for the purpose of preserving the Sublease and protecting the rights of the IDA thereunder, and seeking such other remedies as may be had.

The Chairman is authorized to execute such documents and make such appearances as are required for prosecution of the action.

The above is hereby certified to be an accurate copy of Resolution
No. 2014-3-24-3, duly adopted by the City of Newburgh Industrial
Development Agency at its regularly scheduled meeting held
March 24, 2014.



John Penney, Secretary

CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY

RESOLUTION NO. 2014-03-24-4

AUTHORIZING THE EXECUTIVE DIRECTOR TO MAKE APPLICATION FOR AN EDA GRANT IN COOPERATION WITH THE CITY OF NEWBURGH AND 5 SCOBIE PARTNERS LLC, AND TO ENTER INTO AGREEMENTS WITH THE CITY OF NEWBURGH AND 5 SCOBIE PARTNERS LLC IN SUPPORT OF THE APPLICATION

WHEREAS:

The City of Newburgh Industrial Development Agency (“IDA”) desires to stimulate industrial development in the City of Newburgh in order to create new jobs, expand the tax base and redevelop certain areas of the City of Newburgh in accordance with IDA’s purposes;

The IDA wishes to work in cooperation with the City of Newburgh and 5 Scobie Partners, LLC (the “LLC”) to secure the remediation and improvement of a tract of land owned by the IDA, and under contract to the LLC, located at 5 Scobie Drive in the City of Newburgh (the “Property”), for the purposes of industrial development and creation of jobs in the City of Newburgh;

To that end, the IDA has joined with the LLC in applying for participation in the New York State DEC’s Brownfield Cleanup Program (“BCP”) affecting the Property. The property has been accepted into the BCP, but further funds will be required to effect the clean-up program approved. The parties now wish to apply for funds from the Economic Development Administration to help provide additional work as part of the clean-up program.

NOW THEREFORE BE IT RESOLVED:

1. The actions contemplated by the IDA in seeking the EDA grant and granting access to the property to the City of Newburgh for work thereunder have been previously determined by the IDA as environmental investigation, which is a Type II action under SEQRA and requires no further action under SEQRA; additional work as may be performed under the Grant will be carried out pursuant to the BCP clean-up pursuant to a site plan approval process under separate SEQRA review.


2. The Executive Director is hereby authorized to participate in the application process and negotiate supportive agreements with the other parties. Upon review and approval of

the application and agreement documents by Counsel and the Chairman, the Executive Director and the Chairman are authorized to execute and deliver the documents as required.

The foregoing resolution Number 2014-03-24-4 was duly put to vote, which resulted as follows:

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Joshua Smith	✓			
Nancy Thomas	✓			
Richard Bedrosian	✓			
Michael Curry	✓			
Jerry Maldonado			✓	
Sean O'Shea			✓	
John Penney	✓			

The resolution was thereupon duly adopted.


John Penney, Secretary
March 24, 2014

STATE OF NEW YORK)
): ss.:
CITY OF NEWBURGH)

I, the undersigned, Recording Secretary of the City of Newburgh Industrial Development Agency, DO HEREBY CERTIFY that:

I have compared the annexed extract of the minutes of the meeting of the City of Newburgh Industrial Development Agency (the "Agency") including the resolution contained therein, held on the 24th of March, 2014 in the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such Resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

I further certify that (i) all members of the Agency had due notice of the meeting, (ii) pursuant to Article 7 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public, and notice of the time and place of such meeting was duly given in accordance with Article 7 of the Public Officers Law, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency as of March 24th, 2014.



Recording Secretary