

CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY (IDA)
MINUTES OF MEETING
May 19, 2014

Present

Board Members: Joshua Smith, Chairman
Mike Curry, Austin DuBois, Jimmy Mera, John Penney, Nancy Thomas
Absent: Richard Bedrosian (excused)
Counsel: Thomas Whyatt
Staff: Theresa Waivada, Executive Director

1. **Roll Call:** Mr. Smith called the meeting to order at 7:04 pm. A quorum is present.
2. **Proof of Notice of May 19, 2014 Meeting**
3. **Approval of the April 21, 2014 Minutes**

Mr. Penney: Motion to approve the April 21, 2014 minutes

Mr. Mera: Motion seconded.

Discussion: No discussion.

**VOTE: Approved by four votes (Curry, Mera, Penney, Smith),
Mr. DuBois abstained as he was not a member in April 2014.
Ms. Thomas joined the meeting 7:15 p.m.**

Request for Communications

Executive Director Teri Waivada advised that:

- A FOIL request has been received from Hudson Valley Press, Chuck Stewart concerning information on the cell tower. The director contacted Mr. Stewart to set a convenient time to review the file. The director is checking into whether the city is using the tower and if not, seek another tenant.
- USEDA grant application re: Scobie Drive. The US Economic Development Administration suggested that the IDA become part of the grant application as the IDA owns the property. A Project Director will be hired for oversight on the project. The IDA Board suggested meeting with the Project Director, Littman, and the city quarterly so that an update on the project could be given to all interested parties at the same time. IDA Counsel Tom Whyatt spoke about the need to modify agreements with the City and 5 Scobie Drive Partners to fulfill obligations of the EDA grant.

Prior to authorizing the application, the Director asked that the language on resolution number one be modified by adding "or the Chairman" after Executive Director in the caption area, and also under number 3 after Executive Director, adding "and the Chairman." All present agreed with the changes.

U.S. Economic Development Administration (EDA) Application Authorization

Mr. Curry: Motion to approve Resolution No. 2014-5-19-1
Mr. DuBois: Motion seconded.
Discussion: With the IDA being a co-applicant, concerns were raised pertaining to its responsibility to match the EDA grant. Counsel assured the Agency that if the grant is approved, an agreement with the City and Developer would require that the matching share be the sole responsibility of Hudson Valley Lighting/5 Scobie Drive LLC.
VOTE: Unanimously passed.

- An email was received from NYS ABO concerning minor changes/corrections to the PARIS Report. The Executive Director and CFO Craig Skelly will make any necessary changes to the financial information.

5. Request for Bills; Treasurer's Report

Treasurer Mike Curry mentioned that an email was received regarding information submitted through the PARIS report. Mr. Curry stated he would like to convene an Audit/Financial Committee before the next board meeting to look into other financial institutions services, fees, etc., with the thought of sending out an RFP for banking services and discussing potential investment of funds. The director offered to check with the city on their RFP and its results.

Mr. Curry gave the Treasurer's Report as of April 21st. The opening balance is \$853,066.03, four vouchers and six checks totaling \$15,430.33, deposits totaling \$13,496.88, with a closing balance of \$851,132.58.

Applicants Funding account has a balance of \$30,012.69, which includes fifty cents (.50) in interest for the last month.

Mr. Penney: Motion to pay checks numbered 2151-2157
Ms. Thomas: Motion seconded.
Discussion: No discussion.
VOTE: Unanimously passed.

Resolution No. 2014-5-19-3, Authorization for Treasurer to Open a New Bank Account at KeyBank for Lessor Security Deposit(s), was presented for passage. It was suggested by the auditor that this account be set up to hold and keep lessor deposit funds separate from other funds.

Mr. Penney: Motion to approve Resolution No. 2014-5-19-3 as presented
Mr. DuBois: Motion seconded.
Discussion: No discussion.
VOTE: Unanimously passed.

6. Report from the Chair

Chairman Josh Smith reported on a workshop he attended at the library entitled, *Green Infrastructure.* Mr. Smith He distributed a two-page paper entitled, "What is Green Infrastructure?"

Mr. Smith also discussed the proposal from the Greater Newburgh Partnership that he sent to the board members on renovating the Broadway corridor (TIGER planning grant).

Chairman Josh Smith noted that the two new board members have taken the oath of office with the City Clerk. He also mentioned that there are two committee openings, one opening for each committee. He suggested that maybe Mr. Mera serve on the Audit/Finance Committee as he is knowledgeable about small businesses, and Mr. DuBois, as a lawyer dealing with laws and regulations, serve on the Governance Committee. After consideration, both men agreed that the suggestions made sense. Mr. DuBois is a new member of the Governance Committee, and Mr. Mera is a new member of the Audit/Finance Committee.

7. **Report from the Executive Director**

Executive Director Teri Waivada reported on a flyer received from Orange County Business Accelerator announcing "Stay tuned for an Exciting STARTUP NY Announcement." As municipalities are part of the STARTUP NY program, it is noted that the City of Newburgh has not been consulted.

Mention was made that President Richards from Orange County Community College has announced his retirement. STARTUP NY projects prior to submission require a 30-day public review.

Mention was made of a meeting Wednesday night (5/21) concerning distressed properties in the city. Mr. Smith said that he attends the meetings of the advisory committee for this group.

Suggestion was made that a list be created on groups that the IDA wants to interact with and invite them to a board meeting.

8. **Report from Counsel**

IDA Counsel Tom Whyatt informed the board of the two legal notices received recently—one was a Petition for Leave to File a Late Notice of Claim (Deborah Danzy), and the other a Notice of Claim (Tamara Brown). Both of these claims are from incidents taking place at Belvedere Housing. Note is made that the Notice of Claim is for an incident from last February 2013 and the Notice was filed timely. Notices of Claim need to be filed within ninety (90) days of the incident. The IDA is being served as it owns the property. Our leases with the two other LLCs being served notice requires them to insure and indemnify the IDA. Mr. Whyatt received an emailed letter from an insurance carrier agreeing to defend the IDA in the Brown case (will provide copy) and the IDA agrees to cooperate with any investigation(s) in these matters. The insurer has not yet agreed to defend the IDA in the Danzy case. The IDA could become a defendant in either both or one of these cases.

Resolution No. 2014-5-19-2, A Resolution Authorizing Representation of the NIDA to defend against two personal injury claims made against the NIDA as owner and lessor of the Belvedere Housing Project, was presented for passage.

Mr. Penney: Motion to approve Resolution No. 2014-5-19-2

Mr. DuBois: Motion seconded.

Discussion: No discussion.

VOTE: Unanimously passed.

Mr. Whyatt updated the board on the status of the Corwin Court PILOT collection. The city is owed money for PILOT payments. Under the IDA's lease with Corwin Court, the IDA can take action on the default with thirty (30) days notice. If Corwin pays before May 30th, the amount owed is \$185,435.24.

After that date, the amount increases to \$187,417.95 through the 30-day period (from May 16th). There is no refinancing without the IDA's authorization.

Mr. Whyatt informed the board on the status of the Northeast Development/IDA re: West Street Project. In going through the documents, he did not find anything in the agreements that prevents the IDA from selling the properties to someone other than NorthEast Industrial Development LLP. The most recent agreement has a provision concerning a construction plan to be done by 2006. During that period, NorthEast Industrial Development LLP could buy one property and then they would be able to buy more or all of the properties for \$20,000 per property, and an additional \$10,000 to go towards the repayment of the \$50,000 loan. As of 2006, IDA is under no obligation to sell properties to NorthEast Industrial Development LLP, and NorthEast Industrial Development LLP has no claims on the property.

Master Sales Agreement will have the requirements that EDA imposes on the sale of the property.

Mr. Whyatt discussed the reduced assessment for the Scobie Drive parcel. He received notice that it had gone down about \$1,500. IDA's assessor had valued the property at \$0 due to the remediation work that is needed on the property. The IDA will need to do an appraisal of the property at the time of conveyance to 5 Scobie Partners LLC.

9. Committee Reports

Audit Committee: No report to present at this time.
Governance Committee: No report to present at this time.

10. Old Business

Mr. Penney told everyone that at the last City Council meeting, it had come up that IDA's property on West Street needs to be cleaned up. Teri Waivada mentioned that she was just informed about the situation and that the IDA has been asked to clean up the property. She will obtain costs for the clean-up.

The Article 78 with the city is an open issue that still needs to be addressed, along with others. Do you want to have an executive session with the City Council? After some discussion, Mr. DuBois made a motion that the IDA meet with the new city manager, seconded by Jimmy Mera, and unanimously approved. The meeting will start the dialogue about issues that are open between the city and the IDA and seek to find resolutions.

11. New Business

Board Member Nancy Thomas will not be able to attend the June board meeting and asked to be excused.

Next month a Foundry report will be due.

12. Adjourn

On a motion made by Jack Penney, seconded by Mike Curry, and unanimously passed, the board adjourned the meeting at 9:04 p.m.

The next meeting of the Agency is tentatively set for June 16.

**CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY**

A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OR THE CHAIRMAN
TO APPLY FOR AND ACCEPT IF AWARDED A FY 2014 ECONOMIC DEVELOPMENT
ASSISTANCE GRANT FROM THE U.S. DEPARTMENT OF COMMERCE
ECONOMIC DEVELOPMENT ADMINISTRATION IN AN AMOUNT NOT TO EXCEED
\$3,275,000.00 FOR THE 5 SCOBIE DRIVE INDUSTRIAL PARK
INFRASTRUCTURE IMPROVEMENTS PROJECT

RESOLUTION NO. 2014-05-19-1

WHEREAS, the City of Newburgh, the City of Newburgh Industrial Development Agency and Hudson Valley Lighting, d/b/a Scobie Partners, are collaborating in the redevelopment of a brownfield site to an industrial park to include the relocation and expansion of Hudson Valley Lighting known as the 5 Scobie Drive Project; and

WHEREAS, the 5 Scobie Drive Project was designated as a Priority Project by the Hudson Valley Regional Economic Development Council; and

WHEREAS, the 5 Scobie Drive Industrial Park Infrastructure Improvements Project received an award of \$250,000.00 in the 2013 Consolidated Funding Application cycle; and

WHEREAS, this 5 Scobie Drive Industrial Park Infrastructure Improvements Project will support and compliment the redevelopment of the entire site by providing infrastructure expansion and upgrades with additional infrastructure capacity created for adjoining industrially zoned properties; and

WHEREAS, additional funding is required to complete the infrastructure expansion and upgrades; and

WHEREAS, the City, the IDA and Scobie Partners propose to submit a joint application for funding to the U.S. Department of Commerce, Economic Development Administration in an amount not to exceed Three Million Two Hundred Seventy-Five Thousand (\$3,275,000.00) Dollars for the Project; and

WHEREAS, any matching funds required by the grant shall be derived from the contribution of Scobie Partners;

NOW, THEREFORE, BE IT RESOLVED, by the City of Newburgh, Industrial Development Agency:


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 in connection with the BCP clean-up pursuant to a site plan approval process under separate SEQRA review;
2. By Resolution 2014-03-24-4 the IDA authorized the Executive Director to participate in the application process and negotiate supportive agreements with the other parties.
3. The Executive Director or the Chairman be and is hereby authorized to apply for and accept if awarded a FY2104 Economic Development Assistance Grant from the U.S. Department of Commerce Economic Development Administration, substantially in the form annexed hereto as may be amended by the Executive Director subject to review by Counsel, in support of the 5 Scobie Drive Industrial Park Improvements Project in an amount not to exceed Three Million Two Hundred Seventy Five Thousand (\$3,275,000.00) Dollars.

The foregoing resolution Number 2014-05-19-1 was duly put to vote, which resulted as follows:

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Joshua Smith	X			
Richard Bedrosian			X	
Michael Curry	X			
Austin DuBois	X			
Jimmy Mera	X			
John Penney	X			
Nancy Thomas	X			

The resolution was thereupon duly adopted.

The above is hereby certified to be an accurate copy of Resolution No. 2014-5-19-1, duly adopted by the City of Newburgh Industrial Development Agency at its regularly scheduled meeting held May 19, 2014.



John Penney, Secretary
May 19, 2014

**CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY**

RESOLUTION NO. 2014-5-19-2

A RESOLUTOIN AUTHORIZING REPRESENTATION OF
THE NIDA TO DEFEND AGAINST TWO PERSONAL INJURY
CLAIMS MADE AGAINST THE NIDA AS OWNER AND
LESSOR OF THE BELVEDERE HOUSING PROJECT

WHEREAS:

The City of Newburgh is the owner of the Belvedere Housing Project (the "Project"), for the purposes of enabling issuance of multifamily housing project bonds.

The Project includes the addresses 289 Lake Drive and 381 Lake Drive;

A resident of 289 Lake Drive has served the NIDA with a Notice of Claim for injuries the claimant allegedly received from scalding water from the shower;

A resident of 381 Lake Drive has petitioned the New York State Supreme Court for permission to file a late notice of claim for injuries allegedly received from slipping and falling on ice outside claimant's premises;

The NIDA as owner of the Project is lessor pursuant to a lease with entities who operate the Project, pursuant to the terms of which the entities have agreed to indemnify and hold the NIDA harmless against injuries arising from the Project;

The NIDA wishes to secure representation and defense of its interests by the lessors' insurance carriers, pursuant to the indemnification terms of the lease;

Until such representation is obtained, the NIDA wishes its general counsel, Oxman Tulis Kirkpatrick Wyatt & Geiger, to represent and defend its interests, to seek acceptance by the lessees' insurers of their responsibility to represent and defend the NIDA in these two matters; and thereafter to oversee the matter as the NIDA's counsel.

NOW THEREFORE BE IT RESOLVED:


The IDA hereby authorizes and directs its counsel, Oxman Tulis Kirkpatrick Wyatt & Geiger LLP, to take such actions as may be needed, to represent and defend its interests with respect to the claims set forth above, to seek acceptance by the lessees' insurers of their responsibility to represent and defend the NIDA in these two matters; and thereafter to oversee

the matter as the NIDA's counsel; and to seek 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 these actions.

Dated: May 19, 2014

The above is hereby certified to be an accurate copy of Resolution No. 2014-5-19-2, duly adopted by the City of Newburgh Industrial Development Agency at its regularly scheduled meeting held May 19, 2014.



John Penney, Secretary

RESOLUTION NUMBER: 2014-5-19-3

AUTHORIZATION FOR TREASURER TO OPEN NEW BANK ACCOUNT AT KEYBANK FOR LESSOR SECURITY DEPOSIT(S)

The City of Newburgh Industrial Development Agency authorizes the Treasurer to:

1. to open a new account at KeyBank for lessor security deposit(s) and to complete and file a signature card consistent with General Municipal Law Article 18A, and
2. Consistent with the Fiduciary Responsibilities established by Public Authorities Accountability Act of 2005 and 2009.

THEREFORE, BE IT RESOLVED that the Agency approves the following signators for its KeyBank account:

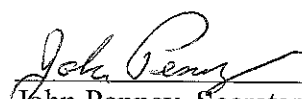
Joshua L. Smith, Chair; Richard Bedrosian, Vice Chair; Michael B. Curry, Treasurer; John Penney, Secretary; and Theresa G. Waivada, Executive Director.

BE IT FURTHER RESOLVED that all checks must be countersigned by two approved signators.

The foregoing resolution was put to a vote on roll call, which resulted as follows:

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Joshua Smith	✓			
Richard Bedrosian			✓	
Michael Curry	✓			
Austin DuBois	✓			
Jimmy Mera	✓			
John Penney	✓			
Nancy Thomas	✓			

The above is hereby certified to be an accurate copy of Resolution No. 2014-5-19-3, duly adopted by the City of Newburgh Industrial Development Agency at its regularly scheduled meeting held May 19, 2014.



John Penney, Secretary

What is Green Infrastructure? ⁱ

Stormwater runoff is a major cause of water pollution in urban areas. When rain falls in undeveloped areas, the water is absorbed and filtered by soil and plants. When rain falls on our roofs, streets, and parking lots, however, the water cannot soak into the ground. In most urban areas, stormwater is drained through engineered collection systems and discharged into nearby waterbodies. The stormwater carries trash, bacteria, heavy metals, and other pollutants from the urban landscape, degrading the quality of the receiving waters. Higher flows can also cause erosion and flooding in urban streams, damaging habitat, property, and infrastructure.

Green infrastructure uses vegetation, soils, and natural processes to manage water and create healthier urban environments. At the scale of a city or county, green infrastructure refers to the patchwork of natural areas that provides habitat, flood protection, cleaner air, and cleaner water. At the scale of a neighborhood or site, green infrastructure refers to stormwater management systems that mimic nature by soaking up and storing water.

Here we review the range of green infrastructure elements that can be woven throughout a watershed, from the smaller scale elements that can be integrated into sites to the larger scale elements that span entire watersheds.



Downspout Disconnection

Downspout disconnection refers to the rerouting of rooftop drainage pipes to drain rainwater to rain barrels, cisterns, or permeable areas instead of the storm sewer. Downspout disconnection stores stormwater and/or allows stormwater to infiltrate into the soil. This simple practice may have particularly great benefits in cities with combined sewer systems.



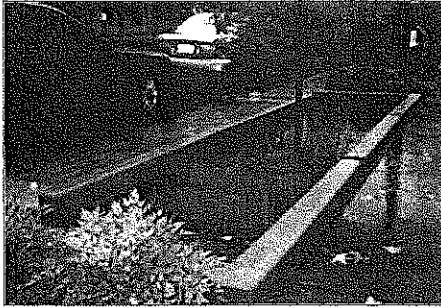
Rainwater Harvesting

Rainwater harvesting systems collect and store rainfall for later use. When designed appropriately, rainwater harvesting systems slow and reduce runoff and provide a source of water. These systems may be particularly attractive in arid regions, where they can reduce demands on increasingly limited water supplies.



Rain Gardens

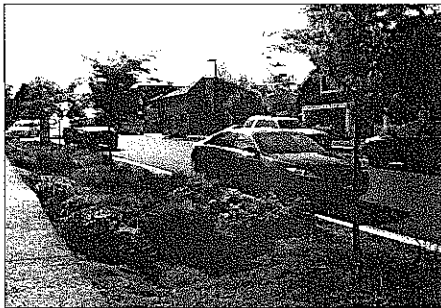
Rain gardens (also known as bioretention or bioinfiltration cells) are shallow, vegetated basins that collect and absorb runoff from rooftops, sidewalks, and streets. Rain gardens mimic natural hydrology by infiltrating and evapotranspiring runoff. Rain gardens are versatile features that can be installed in almost any unpaved space.



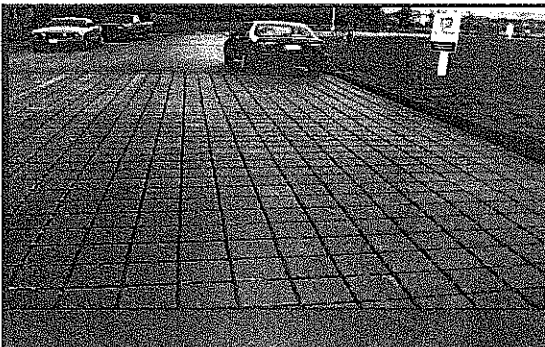
Planter Boxes

Planter boxes are urban rain gardens with vertical walls and open or closed bottoms that collect and absorb runoff from sidewalks, parking lots, and streets. Planter boxes are ideal for space-limited sites in dense urban areas and as a streetscaping element.

Bioswales



Bioswales are vegetated, mulched, or xeriscaped channels that provide treatment and retention as they move stormwater from one place to another. Vegetated swales slow, infiltrate, and filter stormwater flows. As linear features, vegetated swales are particularly suitable along streets and parking lots.



Permeable Pavements

Permeable pavements are paved surfaces that infiltrate, treat, and/or store rainwater where it falls. Permeable pavements may be constructed from pervious concrete, porous asphalt, permeable interlocking pavers, and other materials. They are particularly cost effective where land values are high and where flooding or icing is a problem.

Green Streets and Alleys



Green streets and alleys integrate green infrastructure elements into the street and/or alley design to store, infiltrate, and evapotranspire stormwater. Permeable pavement, bioswales, planter boxes, and trees are among the many green infrastructure features that may be woven into street or alley design.

Green Parking



Many of the green infrastructure elements described above can be seamlessly integrated into parking lot designs. Permeable pavements can be installed in sections of a lot and rain gardens and bioswales can be included in medians and along a parking lot perimeter. Benefits include urban heat island mitigation and a more walkable built environment.

Green Roofs



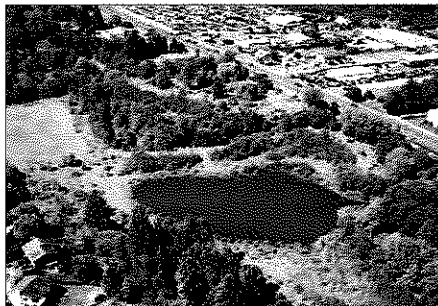
Green roofs are covered with growing media and vegetation that enable rainfall infiltration and evapotranspiration of stored water. Green roofs are particularly cost effective in dense urban areas where land values are high and on large industrial or office buildings where stormwater management costs may be high.

Urban Tree Canopy



Many cities set tree canopy goals to restore some of the benefits provided by trees. Trees reduce and slow stormwater by intercepting precipitation in their leaves and branches. Homeowners, businesses, and cities can all participate in the planting and maintenance of trees throughout the urban environment.

Land Conservation



Protecting open spaces and sensitive natural areas within and adjacent to cities can mitigate the water quality and flooding impacts of urban stormwater while providing recreational opportunities for city residents. Natural areas that are particularly important in addressing water quality and flooding include riparian areas, wetlands, and steep hillsides.