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STATE OF NEW YORK  
CITY OF YONKERS

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Minutes of  
The City of Yonkers IDA Governance Meeting  
March 25, 2019 - 9:00 a.m.  
At  
470 Nepperhan Avenue  
Yonkers, New York 10701  
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B E F O R E:

- PETER KISCHAK, Vice Chairman
- WILSON KIMBALL, Secretary
- MELISSA NACERINO, Treasurer
- CECILE SINGER, Board Member

I D A S T A F F

- JAIME MCGILL - IDA Executive Director
- MARY LYRAS - IDA/YEDC Chief Fiscal Officer

P R E S E N T:

- SHAWN GIFFIN, ESQ. - HARRIS BEACH
- MICHAEL CURTI, ESQ. - HARRIS BEACH
- KARLY GROSZ, ESQ., YONKERS CORP COUNSEL.

1 PROCEEDINGS

2 MR. KISCHAK: I want to start  
3 this meeting, the Governance  
4 Committee Meeting. Roll call.

5 MS. LYRAS: Peter Kischak.

6 MR. KISCHAK: Here.

7 MS. LYRAS: Cecile Singer.

8 MS. SINGER: Here.

9 MS. LYRAS: Wilson Kimball.

10 MS. KIMBALL: Here.

11 MS. LYRAS: Melissa Nacerino.

12 MS. NACERINO: Here.

13 MS. LYRAS: We have a quorum.

14 MR. KISCHAK: Approval of the  
15 minutes for November 30th, 2016.

16 MS. SINGER: Can I --

17 MR. KISCHAK: Cecile makes a  
18 motion, I can second it. Review and  
19 discussion of certain YIDA policies  
20 and procedures.

21 MS. MCGILL: The IDA adopted  
22 new rules to increase accountability  
23 and approve sufficiency and  
24 transparency of IDA operations, so in  
25 order to become fully compliant there

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2 a couple of policies that we need to  
3 adopt. So in order to become fully  
4 compliant there are a policies that  
5 we need to adopt. We have Mike Curti  
6 to go through the policies.

7 MR. CURTI: Michael Curti,  
8 transaction counsel, Harris Beach  
9 PLLC. Good morning, members of the  
10 Governance Committee. As the  
11 Executive Director indicated, there  
12 was the adoption of regulations back  
13 in December of 2018 following a  
14 public comment period whereby the  
15 Authority and Budget Office amplified  
16 the statutory changes that were made  
17 about a year ago to 859A of the  
18 General Municipal Law and also 875 of  
19 the General Municipal Law by which  
20 IDAs, when they provide financial  
21 assistance to companies, provide  
22 certain mechanisms to recapture  
23 benefits and making policies uniform  
24 by way of granting that, so what  
25 these regulations do, they amplify

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2 the statutory language.

3 Quite frankly, a lot of the  
4 language contained herein is a  
5 recitation of the statutory language  
6 with a little bit of embellishment.

7 The four principal things to  
8 take away from this regulation is,  
9 number one, a standard application  
10 has to be adopted. We are already  
11 doing that.

12 We have reviewed the  
13 application that we have been using  
14 here at the IDA and compared it to  
15 the regulation, and for the most part  
16 with very few exceptions, we are  
17 following the regulation to a T.

18 The second thing that we have  
19 been doing for quite some time that  
20 the board will need to adopt is the  
21 Uniform Project Agreement. The  
22 Uniform Project Agreement is probably  
23 the second most important document  
24 so far as the transaction documents  
25 where the agency does provide

1 PROCEEDINGS

2 financial assistance.

3 What the project agreement  
4 basically says is, it lays out the  
5 way the financial assistance is being  
6 provided to the applicant, and it  
7 also importantly has a provision that  
8 talks about recapture in the event  
9 that the applicant does not meet the  
10 representations that they have made  
11 so far as job requirements, so far as  
12 indemnification, insofar as  
13 insurance requirements and things of  
14 that nature.

15 The third thing that the  
16 regulations require is a policy by  
17 the agency to provide the cost  
18 benefit analysis. The staff of the  
19 agency has already started that  
20 process and contracting with the  
21 company to provide those services. I  
22 believe they have spoken to National  
23 Development Council which provides  
24 those services to the City of New  
25 Rochelle IDA. They are also speaking

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2 to Camoin which provides those  
3 services to the Suffolk County and  
4 Nassau County IDAs, just for  
5 comparison.

6 The cost benefit analysis is  
7 basically a requirement to analyze  
8 what are the jobs, the private sector  
9 jobs that would be created, the  
10 estimated value of any tax exemption  
11 that are provided and the amount of  
12 private sector investment generated  
13 or likely to be generated as a result  
14 of that proposed project and that's a  
15 helpful tool to the agency in making  
16 a determination as to whether to  
17 grant financial assistance or not.

18 The other policy that is before  
19 the Governance Committee is a policy  
20 as to suspension and recapture.

21 Now, suspension and recapture  
22 provisions have already been in our  
23 project agreement that we have  
24 instituted since the time that the  
25 statute was adopted.

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2 Our project agreement complies  
3 with the regulations, and so what the  
4 board would be doing here is just  
5 codifying a practice that the IDA has  
6 already been doing for quite some  
7 time now.

8 What the suspension policy and  
9 recapture policy does, it gives the  
10 agency the ability to recapture  
11 financial assistance.

12 In the event there is a  
13 material misrepresentation that was  
14 made so far as the project  
15 application is concerned, insofar as  
16 if someone is not meeting a job's  
17 requirement, so far as if there is  
18 an instance where the agency needs  
19 to be indemnified because something  
20 happened on the project site and  
21 there was a failure to do so, and  
22 that is an important tool because it  
23 makes the applicants accountable and  
24 insures that they continue to comply  
25 with the agency's requirements and

1 PROCEEDINGS

2 providing that financial assistance.

3 The suspension policy and  
4 recapture policy pretty much tracks  
5 the language of the regulation and  
6 the statute. It provides maximum  
7 discretion to this board as to how to  
8 proceed forward, and one of the  
9 reasons being, you may have a  
10 situation where an applicant has not  
11 met their jobs's requirement but  
12 there may be a financial downturn,  
13 something like the great recession.

14 If they were to come to the  
15 board, make an application, put forth  
16 evidence as to why the board should  
17 exercise its discretion and perhaps  
18 assess a different penalty or perhaps  
19 suspend financial assistance until  
20 such time as they were to go into  
21 compliance, it gives you the tools to  
22 do that going forward.

23 So those are basically a high  
24 level review of the regulations. The  
25 last piece, there is a requirement



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2 going forward for IDA staff to put  
3 forth certain information to the ABO  
4 insofar as jobs that have been  
5 generated by virtue of the project.  
6 We'll work with staff to insure that  
7 that's done. That's a requirement  
8 that will have to be performed  
9 annually going forward.

10 MR. KISCHAK: Has that ever  
11 been the case before with the  
12 suspension or trying to get money  
13 back as far as the Yonkers IDA?

14 MR. CURTI: There is an  
15 instance that we'll review in  
16 executive session where we can  
17 exercise that going forward.

18 MS. KIMBALL: I make a motion.

19 MS. NACERINO: Second.

20 THE COURT: Motion accepted.

21 Karly, legal updates?

22 MS. GROSZ: No legal updates.

23 MR. KISCHAK: Other business?

24 MS. KIMBALL: I will make a  
25 motion to adjourn.

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MR. KISCHAK: Okay. Second?  
Cecile.

(Whereupon, at 9:25 a.m., the  
above matter concluded.)

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PROCEEDINGS

C E R T I F I C A T E

STATE OF NEW YORK            )  
  :   SS.:  
COUNTY OF ROCKLAND        )

I, HOWARD BRESHIN, a Notary Public  
for and within the State of New York, do  
hereby certify:

That the above is a correct  
transcription of my stenographic notes.

I further certify that I am not  
related to any of the parties to this  
action by blood or by marriage and that I  
am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 25th day of March 2019.



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HOWARD BRESHIN

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