

THE AGENCY

BROOME COUNTY IDA / LDC

BROOME COUNTY LOCAL DEVELOPMENT CORPORATION

GOVERNANCE COMMITTEE MEETING

June 13, 2022 – 12:30 p.m.
The Agency Conference Room, 2nd Floor
FIVE South College Drive, Suite 201
Binghamton, NY 13905

AGENDA

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| 1. Call to Order | R. Bucci |
| 2. Accept the March 16, 2022 Governance Committee Meeting Transcript | R. Bucci |
| 3. Public Comment | R. Bucci |
| 4. Review/Discussion/Recommendation to Authorize The Agency Broome County LDC Board of Directors and all its Committees to use Videoconferencing Technology to Participate in Public Meetings Under Extraordinary Circumstances, as Set Forth as Exhibit A, Attached Hereto | S. Duncan |
| 5. Adjournment | R. Bucci |

BROOME COUNTY LOCAL DEVELOPMENT CORPORATION

Governance Committee Meeting Transcript

Held via Zoom, March 16, 2022, commencing at
12:01PM. Adjourned at 12:05PM.

[See attendees at end of transcript.]

Digitally recorded proceeding
Transcribed by: Elana Hulsey
Reporters Transcription Center
P.O. Box 903
Binghamton, NY 13902

MR. BUCCI: Okay. Number one, we'll call the Governance Committee Meeting of the LDC to order. First item on the agenda is to accept the February 16, 2022, Governance Committee Meeting transcript that was forwarded to all members. They had an opportunity to review it and send any revisions back to Carrie, so we'll accept that for the record.

At this time, we'll open it up to public comment. Anyone wishing to address the Governance Committee has five minutes. All we ask is you state your name and address, and the floor is yours. Is there anyone who would like to address the LDC Governance Committee at this time?

Okay, hearing none, we'll close that portion of the meeting. We'll move on to our item on the agenda, Review/discussion/recommendation to authorize the sale of the premises located at 4301 Watson Boulevard in the Town of Union, formerly known as the IBM Country Club facility, to 4301 Watson Boulevard, LLC, or an entity to be formed, for the sum of \$300,000, pursuant to the terms of a Contract of Sale to be approved by the BCLDC counsel. Stacey?

MS. DUNCAN: This action will enable us to and authorize me to sign the formal Contract of Sale on the purchase of 4301 Watson Boulevard by Conifer Realty from the LDC. As mentioned previously, we did close a few weeks ago on the purchase, and we are now the owners of the building, and we've come to terms with Conifer Realty for the purchase price of \$300,000. This includes a \$25,000 non-refundable deposit that would be credited towards the ultimate closing of the property. Joe and Conifer's counsel are reviewing and drafting the Contract of Sale which will include one provision of interest for clawbacks. If the project does not materialize, the LDC can get

the property back in a reasonable timeframe. This is also an item that they do need for their application to New York State.

MR. BUCCI: Okay. Are there any questions at this time? This was on the original agenda I believe, right? This action, or is this-

MS. SACCO: We've known about this.

MR. BUCCI: That's what I mean.

MS. SACCO: This was contemplated. We knew that this potentially would be coming so I can make a motion on this.

MR. PEDUTO: I'll second.

MR. BUCCI: All in favor?

ALL: Aye.

MR. BUCCI: Motion carried. At this time, we can adjourn. Is there a motion to adjourn?

[The meeting was adjourned on a motion by Ms. Sacco, seconded by Mr. Peduto, at 12:05PM.]

[Attendees: Rich Bucci, Jim Peduto, Cheryl Sacco, Dan Crocker, John Bernardo, Dan Gates, Joe Mirabito, Stacey Duncan, Natalie Abbadessa, Carrie Hornbeck, Brendan O'Bryan, Theresa Ryan, Amy Williamson, Nicolas Gregoris, Joe Meagher, Margaret Scarinzi, George Slavik, Michael Birkby, Mitch Gorton, Michael Tanzini, Kevin Gremse, Leslie Spurgin, Evan Cleveland, Rita King, Mayor Martin Meaney, Chris Potter, Brenda Lehtonen.]

C E R T I F I C A T E

I, Elana Hulsey, certify that the foregoing transcript of the LDC Governance Committee Meeting on March 16, 2022, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature: _____

A handwritten signature in blue ink, appearing to read "Elana Hulsey", is written over a horizontal line.

Date: March 18, 2022

Extraordinary Circumstances - factors not normally incident to or foreseeable during an administrative proceeding. It includes circumstances beyond a party's control that normal prudence and experience could not foresee, anticipate or provide for:

- Extreme Weather
- Medical Emergency of oneself or a family member
- Car Trouble (or other) Accident
- Personal Illness
- Necessary Medical Appointments
- House Emergency
- Military Obligations
- Jury Duty
- State of Emergency – by County Executive or Governor
- Bereavement



FROM: Ostroff Associates
DATE: April 13, 2022
RE: Status of Open Meetings Law (OML)

On **March 12, 2020**, Executive Order (EO) [202.1](#) was signed as part of the State's COVID-19 Disaster Emergency Declaration, suspending the New York State law that required meetings to take place in person, therefore, allowing for public meetings to be held virtually.

On **June 25, 2021**, the State Disaster Emergency ended, which removed this provision (EO 202.1) that suspended the law.

On **September 2, 2021**, the Governor signed into law Chapter 417 of the Laws of 2021 (S.50001 Kavanagh/A.40001 Dinowitz), which mirrored EO 202.1 and allowed for remote public meetings to continue to be held in the same manner as was allowed during the State Disaster Emergency through January 15, 2022.

On **October 19, 2021**, the Governor signed into law Chapter 481 of the Laws of 2021 (S.1150A Kaplan/A.1228A Paulin) which amends § 103(e) of OML to require that records that will be discussed at a meeting should be made available upon request, as well as posted online at least 24-hours before the meeting.

- The obligation to make records available to the public upon request and to post the records on the agency website has been in effect since February 2012.
- The only change this amendment made was placing a 24-hour minimum time frame for making those records available.

On **November 8, 2021**, the Governor signed into law Chapter 587 of the Laws of 2021 (S.4704A Kaplan/A.1108A Paulin), which amended the OML to require agencies that maintain a website to post meeting minutes on their website within two weeks of the meeting date, or within one week of an executive session.

On **December 21, 2021**, the Governor signed into law Chapter 676 of the Laws of 2021 (S.1625A Skoufis/A.924A Paulin), which amended the definition of “public body” to mean any entity for which a quorum is required in order to conduct public business or where two or more members are performing a governmental function for a public body or entity.

On **January 14, 2022**, Governor Kathy Hochul signed into law Chapter 1 of the Laws of 2022, which was a chapter amendment that amended Chapter 417 of the Laws of 2021 to also allow for meetings to be held by conference call.

- Please note, at this time, Chapter 1 would be repealed should the state disaster emergency end (pursuant to Governor Hochul’s EO 11).
- As of this date, EO 11.3 had extended EO 11 through March 16, 2022.

On **March 16, 2022**, Governor Kathy Hochul signed into law EO [11.4](#) (extending Executive Order 11), which allows for remote public meetings to continue to be held in the same manner as prescribed in Chapter 1, through April 15, 2022.

On **April 9, 2022**, Governor Hochul signed Chapter 56 of the Laws of 2022 (S.8006-C/A.9006-C) relating to ELFA Part WW in the FY22-23 New York State Budget. Included in the bill (ELFA Part WW), was an amendment to OML which would make permanent, the expanded use videoconferencing by public bodies to conduct open meetings, under extraordinary circumstances, regardless of a declaration of emergency, until July 1, 2024.

- Until then, it is important to note that the law permits public bodies to continue to hold remote meetings in the same manner as described in Chapter 1 of the Laws of 2022, for a period of 60 days after its effective date, or until June 8, 2022.

The NYS Committee on Open Government Q&A – Chap. 56 of the Laws of 2022

The full Q&A can be found [here](#).

This new law is not meant to change what has always been required of public bodies complying with the OML. Public bodies may continue to operate now as they did before the onset of the pandemic in early 2020 when the “in person” aspects of the OML were first suspended.

- In other words, if a public body was permitted to do it before the pandemic, this law does not change that.

As noted above, this law is intended to expand, in extraordinary circumstances only, the ability of public bodies to meet using remote access technology.

- Each public body that wishes to allow for remote attendance is required to adopt a local law, joint resolution, or a resolution authorizing remote attendance, and they

must also establish written procedures on what they determine to be “extraordinary circumstances.”

- Any local public body that elects to utilize the “extraordinary circumstances” videoconferencing, must maintain an official website.
- Even if a public body allows its members to participate remotely, under extraordinary circumstances, at locations that do not allow for in-person physical attendance by the public, they still must afford members of the public the opportunity to view the meeting by videoconference.
- Public bodies are not required to allow their members to participate remotely, under extraordinary circumstances, at locations that do not allow for in-person physical attendance by the public. They are allowed to use discretion.

Any member who participates at a physical location that is open to in-person physical attendance by the public (and which location has been included in the meeting notice) may count toward a quorum.

- A member who is participating from a remote location may not be counted toward a quorum of the public body, but can still participate and vote if there is a quorum of members at a physical location.

Each meeting conducted using videoconferencing must be recorded, and posted or linked on the public website of the public body within five business days following the meeting, and remain available for a minimum of five years. These recordings must also be transcribed upon request.

- This law requires that any participating member of a public body must be able to be seen and heard thus, teleconferencing (audio only) is not an acceptable form of member participation under this law.
- Meeting minutes must reflect which members of the public body participated.
- Those participating virtually in a public meeting must have the same access to public participation or testimony as those participating in-person.
- Executive Sessions do not need to be recorded or transcribed. It was determined that this law only applies to portions of the meeting that the public would be able to attend.

Public meetings can still be conducted with members at multiple physical locations as the intent of this expansion was not to limit the existing authority to virtually connect.

- Additionally, fully remote meetings can still be conducted under State Disaster Emergencies or Local State Emergencies.