

THE AGENCY

BROOME COUNTY IDA / LDC

BROOME COUNTY LOCAL DEVELOPMENT CORPORATION

June 15, 2022 • 12:30 p.m. • The Agency Conference Room
FIVE South College Drive, Suite 201, 2nd Floor
Binghamton, New York 13905

REVISED AGENDA

1. Call to Order J. Bernardo
2. Approve Transcript - March 16, 2022 Board Meeting J. Bernardo
3. Public Comment J. Bernardo

New Business

4. Resolution Authorizing 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 in Exhibit A, Attached Hereto S. Duncan
5. Resolution Approving a \$50,000.00 Grant from the Broome County COVID Recovery Fund, New York State Community Development Block Grant (CDBG) to 434 Sportsplex Corp., Located at 1901 Vestal Parkway West in the Town of Vestal, County of Broome and State of New York, as Set Forth in Exhibit A, Attached Hereto B. O'Bryan

Old Business

6. Adjournment J. Bernardo

BROOME COUNTY LOCAL DEVELOPMENT CORPORATION

LDC Board Meeting Transcript

Held via Zoom, March 16, 2022, commencing at
1:28PM. Adjourned at 1:32PM.

[See attendees at end of transcript.]

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

CHAIRMAN BERNARDO: Thank you. I'd like to call to order this meeting of the Broome County Local Development Corporation of March 16, 2022. Looking for a motion to approve the transcript of our last meeting dated February 16, 2022.

MR. CROCKER: I have reviewed the motion, and I'll make a motion to approve.

CHAIRMAN BERNARDO: Dan, thank you. Is there a second?

MS. SACCO: Second by Cheryl.

CHAIRMAN BERNARDO: Thank you, Cheryl. Any discussion? Let's have a vote. All those in favor say aye.

ALL: Aye.

CHAIRMAN BERNARDO: Any opposed? No abstentions? We've come to the part of our agenda where we have a Public Comment session. Anybody wishing to speak on any matter concerning the Broome County Local Development Corporation, please state your name and address for the record, and please limit your comments to five minutes. Moving onward to New Business. Item No. 4, we heard in the last meeting a fairly detailed description of the financial statements, reports associated with those financial statements, and the clean opinion that we received. Looking for a motion to approve 2021 audit of the Broome County Local Development Corporation, conducted by Insero & Co. CPAs, LLP. Is there a motion?

MR. CROCKER: There is a motion.

CHAIRMAN BERNARDO: Thank you, Dan. Is there a second?

MR. MIRABITO: Second.

CHAIRMAN BERNARDO: Joe, thank you. Any discussion? Let's have a vote. All those in favor say aye.

ALL: Aye.

CHAIRMAN BERNARDO: Any opposed? Any abstentions? Thank you. Resolution Approving the Readoption of the BCLDC Investment & Deposit Policy, the Internal Controls and Accountability Policy, Purchasing Policy, the Property Acquisition Guidelines and the Property Disposition Guidelines, with No Changes. Natalie?

MS. ABBADESSA: Thank you, John. Again, this is an annual requirement of the Authority's Budget Office that the LDC review its financial policies every year and either make modifications to the policies or recommend that they be reapproved for the following year. The staff has reviewed these policies and has recommended they be accepted going forward with no changes.

CHAIRMAN BERNARDO: Thank you, Natalie. Any questions for Natalie? Is there a motion?

MR. CROCKER: Motion to approve.

CHAIRMAN BERNARDO: Thank you, Dan. Is there a second?

MR. GATES: Dan. I'll second it.

CHAIRMAN BERNARDO: Appreciate that. Any discussion?
Let's have a vote. All those in favor say aye.

ALL: Aye.

CHAIRMAN BERNARDO: Any opposed? Abstentions? Carried.
Item No. 6, resolution authorizing the sale of premises located at 4301 Watson Boulevard in the Town of Union, Broome County, New York, 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 our friend, Joe, DCLDC counsel. Stacey?

MS. DUNCAN: Yes. Previously the Board had approved essentially a Letter of Intent with Conifer. This just formalizes the contract for sale and sets the terms of the contract for sale, including the sale price of \$300,000. They initially proposed \$175,000 in their RFP. They did agree to the \$300,000, and as well, we'll set the terms for any provisions related to clawbacks if we do need to take the building back or the site at some point in time, so this just codifies that, and they'll include that in their application to the State.

CHAIRMAN BERNARDO: Thank you, Stacey. Are there questions for Stacey? Initial question, Mayor did this go through Governance?

MR. BUCCI: It did. We move it forward as a motion to approve.

CHAIRMAN BERNARDO: Thank you. Is there a second?

MR. CROCKER: Second.

CHAIRMAN BERNARDO: Thank you, Dan. Is there any discussion beyond this, recognizing the clawback provision which is absolutely critical? Let's have a vote. All those in favor say aye.

ALL: Aye.

CHAIRMAN BERNARDO: Any opposed? Any abstentions? Carried. Any Old Business to cover.

MS. DUNCAN: I don't have any.

CHAIRMAN BERNARDO: Looking for a motion to adjourn.

[The meeting was adjourned on a motion by Mr. Crocker, seconded by Mr. Gates, at 1:32PM.]

[Attendees: John Bernardo, Rich Bucci, Jim Peduto, Cheryl Sacco, Dan Crocker, Dan Gates, Joe Mirabito, Stacey Duncan, Natalie Abbadessa, Carrie Hornbeck, Brendan O'Bryan, Theresa Ryan, Amy Williamson, Joe Meagher, Michael Tanzini, Chris Potter.]

C E R T I F I C A T E

I, Elana Hulsey, certify that the foregoing transcript of the Broome County Local Development Corporation Board Meeting on March 16, 2022, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature: _____



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.

CDBG Applicant Financial Analysis and Employee Retention Eligibility

Applicant: 434 Sportsplex Corporation

Purpose: The purpose of this financial analysis is to demonstrate the 434 Sportsplex Corporation's eligibility for receipt of COVID Business Recovery Fund grant monies as well as demonstrate their job retention eligibility, as required by the Grant Guidelines.

Grant Application Summary: 434 Sportsplex Corp. is seeking a grant of \$50,000 from the Broome County COVID Business Recovery Fund. \$26,380.40 of the grant will serve as reimbursement for mortgage payments and the remaining \$23,619.60 will fund the retention of their marketing coordinator.

Revenue Loss and Analysis: As per their tax returns, 434 Sportsplex Corp. **suffered additional losses of (\$85,986)** from 2019 to 2020. These losses well exceed the 1% loss requirement stipulated by the CDBG guidelines. Given the nature of 434 Sportsplex Corp.'s operations (indoor youth recreational sports), and that their net income increased substantially from 2018 to 2019, there is strong evidence to suggest that the increase in losses was primarily due to the impact of COVID-19 and accompanying policies measures, rather than sub-optimal business practices.

Total Number of Employees: 7 **Percentage of LMI Employees:** 71%

Jobs Retained: 1 **Retained Jobs Held by LMI Persons:** 1

Retention Eligibility: In 2019, 434 Sportsplex Corp. employed a full-time marketing coordinator. Following the COVID-19 outbreak, she was laid off, but rehired on an extremely limited basis in the first quarter of 2021. The grant funds would be used to return her to her previous full-time position, and therefore, this job qualifies as a retained position, rather than a new hire.

Impact of Grant Funds: Receipt of grant funds will aid 434 Sportsplex Corp. in stabilizing their financial situation. The reimbursement of mortgage payments would assist in offsetting and/or recouping losses incurred during the COVID-19 pandemic. The retention of their marketing coordinator will allow 434 Sportsplex Corp. to "make up for lost time", insofar as advertising and marketing will be critical in regaining clientele lost in the past 2 years.

Documentation: The following documents were referenced for this financial analysis:

1. 2018/2019/2020 Federal Tax Returns (primarily 1120-S forms)
2. Liability Payment Schedules and relevant Amortization Schedules
3. Weekly Payroll Summaries
 - a. Verified by NY-45 Forms
4. Family Income Statement for the Employee to be Retained
5. Personal Financial Statements
6. Grant Application