

**Minutes of the Meeting
of the
Board of Directors
Buffalo Urban Development Corporation**

95 Perry Street
Buffalo, New York 14203
February 25, 2020
12:00 p.m.

1.0 Call to Order

Directors Present:

Hon. Byron W. Brown (Chair)
Trina Burruss
James W. Comerford
Janique S. Curry
Darby Fishkin
Dottie Gallagher
Thomas Halligan
Thomas A. Kucharski
Amanda Mays
Kimberley A. Minkel
Dennis M. Penman (Vice Chair)
Darius G. Pridgen
Craig A. Slater

Directors Absent:

Dennis W. Eisenbeck
Michael J. Finn
Thomas R. Hersey, Jr.
Brendan R. Mehaffy
David J. Nasca
Maria R. Whyte

Officers Present:

Peter M. Cammarata, President
David A. Stebbins, Executive Vice President
Brandye Merriweather, Vice President
Mollie M. Profic, Treasurer
Kevin J. Zanner, Secretary
Atiqa Abidi, Assistant Treasurer

Others Present: Dawn Boudreau, ECIDA; Evan Y. Bussiere, Hurwitz & Fine, P.C.; Daniel Chorley, Watts Architecture & Engineering; John Cleary, Gilbane Building Company; David Dittmar, 34 Group, Inc.; Jonathan Epstein, *The Buffalo News*; James Fink, *Buffalo Business First*; Garrett Gruendike, Gilbane Building Company; Arthur Hall, BUDC; Kellena Kane, Uniland Development Company; and Michael Montante, Uniland Development Company.

Roll Call – The meeting was called to order at 12:05 p.m. The Secretary called the roll of directors and a quorum was determined to be present. Mr. Kucharski joined during the presentation of item 3.0. Mayor Brown and Ms. Gallagher joined the meeting during the presentation of item 3.2.

2.0 Presentation of the Minutes – The minutes of the January 28, 2020 meeting of the Board of Directors were presented. Mr. Slater made a motion to approve the meeting minutes. The motion was seconded by Ms. Burruss and unanimously carried (11-0-0).

3.0 Monthly Financial Reports

3.1 683 Northland Master Tenant, LLC Financial Statements – Ms. Profic presented for information purposes the financial statements for 683 Northland Master Tenant, LLC for the period ending January 31, 2020.

3.2 BUDC Consolidated Financial Statements – Ms. Profic presented the consolidated financial statements for BUDC and its affiliates, 683 Northland LLC and 683 WTC, LLC for the period ending January 31, 2020. Ms. Profic noted that the auditor's report and cost certification in connection with the tax credits for the project are pending. Mr. Pridgen made a motion to accept the financial report. The motion was seconded by Mr. Comerford and unanimously carried (14-0-0).

3.3 Corporate Lines of Credit – BUDC & 683 Northland LLC – Ms. Profic presented her February 25, 2020 memorandum regarding a proposal to establish lines of credit for BUDC and 683 Northland LLC through KeyBank. She explained the lengthy reimbursement process for project grants, which has resulted in constraints on BUDC's general operating cash. To date, construction costs have exceeded three million dollars, with only \$949,000 reimbursed to BUDC. Ms. Profic also explained the need for a line of credit for 683 Northland LLC. The Audit & Finance Committee reviewed this item at its February 5, 2020 meeting and is recommending that the Board approve pursuing two separate lines of credit from KeyBank, a working capital line of credit for BUDC in the amount of two million dollars and a working capital line of credit for 683 Northland LLC in the amount of one million dollars. The Board discussed the item. In response to a question from Ms. Gallagher, Ms. Profic stated that interest expenses for the proposed lines of credit are not included in the budget, and she also confirmed that there is no present need to draw on either line. Mr. Penman stated that having access to lines of credit is standard operating procedure for a development company and would be appropriate for BUDC. Ms. Profic stated that she would provide monthly updates to the Board regarding any draws made against the lines of credit. Mr. Cammarata added that all draws would be reported to the Audit & Finance Committee and the Board of Directors. At the conclusion of the discussion, Mr. Pridgen made a motion to authorize the President or Executive Vice President to execute and deliver the necessary documents to establish two separate working capital lines of credit for Buffalo Urban Development Corporation and 683 Northland LLC in the amounts of two million dollars and one million dollars, respectively, with terms consistent with the memorandum presented, and with the requirement that all draws be reported on a monthly basis to the Board of Directors and the Audit & Finance Committee. The motion was seconded by Mr. Comerford and unanimously carried (14-0-0).

4.0 New Business

4.1 BLCP – Uniland Development Co. Amendment to Land Sale Agreement – Mr. Cammarata presented his January 28, 2020 memorandum regarding a proposed amendment to the Land Sale Agreement between Uniland Development Company and BUDC for the 255 Ship Canal Parkway property. In the course of Uniland's due diligence, it encountered unanticipated issues including unfavorable soil conditions and potential difficulty utilizing the NYS Brownfield Cleanup Program. Based on these difficulties, Uniland submitted a request for an extension of the contractual due diligence period through August 31, 2020 and a waiver of the \$2,000 per month exclusivity fee requirement during the extended due diligence period. Mr. Cammarata noted that the proposed amendment was reviewed with members of the Real Estate Committee that were present at the Committee's February 28, 2020 meeting, but formal action to approve the item was not taken due to the lack of a quorum. Mr. Slater stated that the members present at the February 28th meeting were in favor of the extension. Mr. Slater then made a motion to approve an amendment to the Land Sale Agreement to extend the due diligence period to August 31, 2020 and to waive the exclusivity fee requirement during the extended due diligence period. The motion was seconded by Mr. Kucharski and unanimously carried (14-0-0).

- 4.2 Ralph C. Wilson, Jr. Centennial Park – Additional Due Diligence** – Mr. Stebbins presented his February 25, 2020 memorandum regarding additional due diligence to be performed in connection with the Ralph C. Wilson, Jr. Centennial Park project. He noted that Gardiner & Theobald has undertaken a thorough review of the due diligence work and is recommending additional hydrological analysis to support design and regulatory approvals for the shoreline improvements, sourcing and analyzing fill material for the project and completing the required State Environmental Quality Review Act (SEQRA) and National Environmental Policy Act (NEPA) processes. Gardiner & Theobald determined that BUDC’s due diligence consultant, Wendel Companies, was best positioned to perform the preparation of materials and managing the SEQRA and NEPA review processes as well as managing and subcontracting with an environmental and geotechnical consultant to assess the fill material. Wendel prepared a proposal to perform the desired work and sought competitive proposals from three subconsultants for environmental and geotechnical services. SJB Services was selected as the lowest cost subconsultant. Mr. Stebbins noted that the proposed not-to-exceed cost of the Wendel proposal is \$84,000. The current contract with Wendel is \$165,000 and upon approval of the Wendel proposal, the total contract amount will be \$249,000 with the entire cost paid from Ralph C. Wilson, Jr. Foundation grant funding. This proposal was reviewed with the Downtown Committee at its February 19, 2020 meeting, but formal action to approve the item was not taken due to the lack of a quorum. Mr. Pridgen made a motion to amend the existing agreement with Wendel Companies for additional due diligence services for the Ralph C. Wilson, Jr. Centennial Park project for the not-to-exceed amount of \$84,000 and to authorize the President or Executive Vice President to take such actions as are necessary to implement the authorization. The motion was seconded by Ms. Curry and unanimously carried (14-0-0).
- 4.3 683 WTC, LLC – Documenting Inter-company Loan Transaction** – Ms. Profic presented her February 25, 2020 memorandum and provided a handout regarding the need for additional documentation for Phase II of the 683 Northland project. Ms. Profic noted that the BUDC Board of Directors had previously approved the tax credits transaction and financial model for Phase I and Phase II of the 683 Northland project in December 2017. At the time of closing, Phase I inter-company grant and loan documents were executed. At the closing of Phase I of the project, Phase II of the project had yet to be designed and final costs for Phase II were estimated so the inter-company grant and loan documents for Phase II were not executed. Ms. Profic stated that now that Phase II is nearly complete, additional documentation to fully document the tax credits model for Phase II of the project is necessary. The additional documentation consists of a promissory note from 683 WTC, LLC to BUDC and a sub-recipient agreement between BUDC and Buffalo Brownfield Restoration Corporation (BBRC) to document a grant from BUDC to BBRC. Ms. Profic noted that the execution of these documents will not create any additional financial obligations for BUDC or its affiliates. She also noted that the BBRC Board of Directors approved the sub-recipient agreement at its meeting, which was held just prior to this Board meeting. Ms. Gallagher made a motion to approve the execution and delivery by 683 WTC, LLC of the Phase II Note, the execution and delivery by BUDC of the Phase II Subrecipient Agreement and to authorize the President or Executive Vice President to execute such other documents or instruments and take such actions as may be necessary in connection with the transactions outlined in the memorandum. The motion was seconded by Mr. Hersey and carried with thirteen affirmative votes (13-0-1). Ms. Mays abstained from the vote.
- 4.4 541 E. Delavan – 34 Group Phase 1C Core & Shell Bids (Roofing, Masonry, Excavation Underpinning, and Framing & Sheathing)** – Mr. Stebbins presented his February 25, 2020 memorandum regarding the balance of Phase 1 Work planned for the restoration and renovation of the eastern plant building. He noted that the 34 Group had released bid documents for the Phase 1C work on behalf of NorDel I, LLC. Proposals were received and were de-scoped by Watts and 34 Group. Each recommended bidder submitted a M/WBE Utilization Plan. Mr. Stebbins noted that the work will be funded with the Restore NY V grant and a 10% local match from the Buffalo Brownfields Redevelopment Fund. This item was reviewed by the Real Estate Committee at its February 18, 2020 meeting but no formal action to approve the

item was taken due to the lack of a quorum. Mr. Pridgen made a motion to (i) approve (a) the roofing contract with Jos. A. Sanders & Sons, Inc. in the amount of \$829,765, (b) the framing and sheathing contract with Datz Dat! Construction, Inc. in the amount of \$97,000, (c) the masonry contract with Thomas Johnson, Inc. in the amount of \$242,000 and (d) the excavation and underpinning contract with DMyles, Inc. in the amount of \$143,840, (ii) approve the use of the Buffalo Brownfields Redevelopment Fund for the 10% match, or up to \$131,261 and (iii) to authorize the President or Executive Vice President to execute contracts with each of the contractors on behalf of NorDel I, LLC and take such actions as are reasonably necessary in connection with the work. The motion was seconded by Ms. Minkel and carried with thirteen affirmative votes (13-0-1). Ms. Mays abstained from the vote. Mr. Pridgen left the meeting after the presentation of this item.

- 4.5 541 E. Delavan – Apollo Steel Change Order** – Mr. Cammarata presented his February 25, 2020 memorandum regarding a change order to the Apollo Steel Corporation contract for the repair of significant structural deficiencies that were discovered during the final demolition phase of the project. This additional work includes reconstruction of the corners of the building and replacement of steel lintels on the north facade. The cost of this work is \$175,545 and is reimbursable through the Restore NY V grant. The Real Estate Committee reviewed the proposed change order at its February 18, 2020 meeting but no formal action to approve the item was taken due to the lack of a quorum. Mr. Slater made a motion to amend the existing construction contract with Apollo Steel Corporation for additional structural steel reconstruction and replacement work at 541 E. Delevan Avenue for a net additional change order cost of \$175,545 and to authorize the President or Executive Vice President to execute and deliver the amendment to the construction contract on behalf of NorDel I, LLC. The motion was seconded by Ms. Minkel and carried with twelve affirmative votes (12-0-1). Ms. Mays abstained from the vote.
- 4.6 683 Northland Phase 2B (NWTC Expansion Space) – Gilbane Change Order** – Mr. Stebbins presented his February 25, 2020 memorandum regarding a proposed Gilbane Building Company change order in the amount of \$15,967.22 to cover extra costs associated with the expansion of the Northland Workforce Training Center (NWTC) into Area 3 at 683 Northland. The work includes final cleaning expenses in connection with preparing the Area 3 space for occupancy. Mr. Stebbins noted that the cost of this work will be funded through the ESD equipment grant. The Real Estate Committee reviewed the proposed change order at its February 18, 2020 meeting but no formal action to approve the item was taken due to the lack of a quorum. Mr. Penman made a motion to amend the existing construction management agreement with Gilbane Building Company to cover the extra costs associated with the expansion of the NWTC into 9,505 square feet of space in Area 3 at a cost of \$15,967.22 and to authorize the President or Executive Vice President to execute and deliver the amendment to the construction management agreement on behalf of 683 Northland LLC. The motion was seconded by Ms. Burruss and carried with twelve affirmative votes (12-0-1). Ms. Mays abstained from the vote.
- 4.7 Northland Beltline Corridor Project Update** - Mr. Hall circulated a handout outlining the progress of the construction projects at 612 Northland, 537 and 541 E. Delavan Avenue. He reported that interviews will be held this week with respondents to the Northland Community Solar and Microgrid RFP. He also discussed progress on the Brownfield Opportunity Area, noting that a public meeting has been scheduled for March 5, 2020 to discuss the BOA project. He also reported that the next session of the Northland Business Network Series will be held on March 26th. He noted that BUDC staff is investigating whether to apply for an Economic Development Assistance Grant through the EDA for 631 Northland and 541 E. Delavan. He completed his report with an update regarding the commencement of landlord improvements for the Retech Systems space at 683 Northland.
- 4.8 Buffalo Building Reuse Project Update** – Ms. Merriweather presented an update regarding Buffalo Building Reuse Project matters. She reported on the rollout of the Race for Place initiative program which will enhance efforts for attracting talent to the downtown core. She also discussed

the Smart Cities technology initiative and efforts to create a modern technology eco-system in the downtown area. Ms. Merriweather also reported on progress on the entertainment district project, including a report on the current responses to the public art RFP which are due on March 16th. She completed her report with an update on the Congress for New Urbanism event. Ms. Gallagher left after the presentation of the item.

4.9 Waterfront-RCWJ Centennial Park Project Update – Mr. Stebbins reported that MVVA is in the process of refining its schematic design work and is conducting value engineering. Design work for the pedestrian bridge is underway. The next community workshop is scheduled for March 10th to review the park design.

4.10 Buffalo Lakeside Commerce Park Project Update – Mr. Cammarata reported that the three land sale agreements for parcels in the park are currently in their respective due diligence periods.

4.11 Information Package – Mr. Cammarata reviewed the informational, marketing and media materials that were included in the monthly information package.

5.0 Late Files – Ralph C. Wilson, Jr. Centennial Park – City Funding Agreement – Following the presentation and vote on item 4.6, Mr. Stebbins introduced a late file item relating to the Ralph C. Wilson, Jr. Centennial Park project. Ms. Gallagher made a motion to accept the late file. The motion was seconded by Mr. Kucharski and unanimously carried (13-0-0). Mr. Stebbins then presented his February 25, 2020 memorandum regarding the funding agreement between BUDC and the City of Buffalo. BUDC has been asked to advance funding to the City of Buffalo for the next phase of bridge design work from the design grant previously awarded to BUDC by the Ralph C. Wilson, Jr. Foundation. The estimated cost of the work is \$975,148. To accomplish this, BUDC executive staff is seeking Board authorization to amend the previously approved funding agreement between BUDC and the City of Buffalo to authorize the transfer of \$975,148 to the City of Buffalo from the second Foundation grant. Mr. Slater made a motion to approve the amendment to the funding agreement between BUDC and the City of Buffalo to facilitate the transfer of \$975,148 to the City of Buffalo from the second Ralph C. Wilson, Jr. Foundation grant for the pedestrian bridge design work and to authorize the President or Executive Vice President to take such actions as are necessary to implement the amendment. The motion was seconded by Mr. Comerford and unanimously carried (12-0-0). Mr. Kucharski was absent during the vote on this item.

6.0 Tabled Items – None.

7.0 Executive Session – None.

8.0 Adjournment – Upon motion made by Mr. Kucharski, seconded by Ms. Curry and unanimously carried, the February 25, 2020 meeting of the Board of Directors was adjourned at 1:10 p.m.

Respectfully submitted,

/s/ Kevin J. Zanner

Kevin J. Zanner, Secretary