

**Minutes of the Real Estate Committee Meeting
Buffalo Urban Development Corporation
95 Perry Street
Buffalo, New York
April 21, 2014
12:00 p.m.**

Call to Order

Committee Members Present:

Thomas A. Kucharski
Brendan R. Mehaffy
Dennis M. Penman
Craig A. Slater (Committee Chair)
Richard M. Tobe

Committee Members Absent:

Kimberley A. Minkel

Officers Present:

Peter M. Cammarata, President
David A. Stebbins, Vice President
Kevin J. Zanner, Esq., Secretary

Others Present: Dawn Boudreau, ECIDA Compliance Officer; and Brandye Merriweather, BUDC Project Coordinator.

Roll Call – The Secretary called the roll at 12:15 p.m. and reported that a quorum of the Committee was not present. The Committee Chair requested that item 3 of the agenda be presented pending the arrival of other Committee members. Messrs. Mehaffy and Penman joined the meeting during the presentation of item 3(b), at which time a quorum of the Committee was present.

- 1.0** **Approval of Meeting Minutes – March 13, 2014** – The minutes of the March 13, 2014 meeting of the Real Estate Committee were presented. Upon motion made by Mr. Kucharski, seconded by Mr. Penman and unanimously carried, the minutes of the March 13, 2014 meeting of the Real Estate Committee were approved.

2.0 **RiverBend**

- (a) Fort Schuyler Management Corp. / RiverBend LLC Purchase Agreement** – Prior to the Committee's discussion of this item, Mr. Penman informed the Committee that he is employed as Executive Vice President of Ciminelli Real Estate Corporation, and that LP Ciminelli, Inc. was recently retained by Fort Schuyler Management Corporation (FSMC) as designated developer for the construction of the RiverBend project. Mr. Penman indicated that he is providing this information to the Committee to evaluate whether he has a conflict of interest. The Committee considered the conflict of interest issue. In response to questions from Mr. Zanner, Mr. Penman indicated that he is not an equity owner in either LP Ciminelli or Ciminelli Real Estate Corporation, and that Ciminelli Real Estate Corporation is not a party to the designated developer agreement with FSMC. Mr. Zanner indicated that in his opinion, a prohibited conflict of interest does not exist based on the information provided by Mr. Penman.

Mr. Kucharski then made a motion for the Committee to enter executive session to discuss the proposed disposition of Area I of the RiverBend property to FSMC on the basis that the discussion would substantially affect the value of the property if discussed in public. The motion was seconded by Mr. Tobe and unanimously carried. At the conclusion of executive

session, Mr. Kucharski made a motion to exit executive session. The motion was seconded by Mr. Penman and unanimously carried. Mr. Zanner reported that no votes were taken during executive session.

Mr. Mehaffy then made a motion to recommend that the BUDC Board of Directors authorize RiverBend LLC to sell approximately 88 acres of real property at RiverBend to Fort Schuyler Management Corporation for the purpose of constructing the "Buffalo Hi-Tech Manufacturing Innovation Hub at RiverBend," subject to negotiation and clarification of contract terms relating to construction project details, project funding and payment-in-lieu-of-tax (PILOT) arrangements. The motion was seconded by Mr. Tobe and unanimously carried.

- (b) **Property Owners Association – Declaration of Covenants** – Mr. Zanner reported that FSMC has tentatively agreed to participate in the RiverBend Property Owners Association and contribute \$50,000 towards environmental operations, monitoring and maintenance (OM&M) costs for the entire RiverBend property. A declaration of covenants will be filed with the Erie County Clerk's office immediately prior to the closing of the real property sale to FSMC. Mr. Zanner also noted that the declaration will provide for an easement for public access along the Buffalo River. A discussion followed regarding the declaration of covenants and property owners association. Mr. Tobe suggested that an easement be retained off South Park Avenue to permit pedestrian and vehicular access across the private road to be constructed by FSMC on Area I. This easement may be needed in the event that FSMC decides to extend a road across the Norfolk Southern property that bisects Area I and Area II. The Committee concurred with Mr. Tobe's suggestion and requested that Mr. Zanner include the access right in the final version of the declaration of covenants.

There being no further discussion, Mr. Mehaffy made a motion to recommend that the BUDC Board of Directors authorize RiverBend LLC to form a property owners association and file a declaration of covenants for the entire RiverBend site, subject to negotiations with FSMC for the inclusion in the declaration of access easement rights from South Park Avenue. The motion was seconded by Mr. Kucharski and unanimously carried.

- (c) **Riverkeeper Phase II Shoreline Restoration Project** – Presentation of this item was deferred.
- (d) **Adjacent Property Opportunity – 1390 South Park Avenue** – Presentation of this item was deferred.

3.0 **Buffalo Lakeside Commerce Park Updates**

- (a) **Parcel 3 Contract(s) Close-Out** – Mr. Zanner updated the Committee regarding the close-out of the Parcel 3 construction contracts. BUDC has been working with the contractor's surety, The Hanover Insurance Company to arrange for final inspections relating to work performed under the main construction contract and the boardwalk construction contract. While a number of deliverables remain outstanding, progress continues to be made, and it appears that the next round of discussions will include proposals for a complete resolution of the matter.
- (b) **Ladle Project Spring Close-Out** – Mr. Stebbins reported that some minor work on the ladle project, which had been deferred until this Spring, will be completed soon. The final work includes cleaning and applying a coating to the ladle and some lawn restoration work. Mr. Stebbins indicated that an event at the ladle site may be scheduled in the coming months with the Wendt Foundation, which provided part of the grant funding for this project.
- (d) **Parcel 4 NYSDEC Superfund Project** – Mr. Cammarata reported that the 90% design drawings for this project were provided for BUDC review and that the NYSDEC will start work on this project later this Spring.

4.0 South Buffalo BOA Project Updates

- (a) **Overall Step 3 Coordination** – Presentation of this item was deferred.
- (b) **Golf Course Feasibility Study** – Presentation of this item was deferred.
- (c) **Recreational Needs Assessment** – Presentation of this item was deferred.

5.0 General Items

- (a) **Environmental Condition Analysis – 537 East Delavan** – Mr. Cammarata reported that GZA Environmental is working on the environmental condition analysis report for the 537 East Delavan property and is expected to issue the report in the next two weeks.
- (b) **NPCR Albany Brownfield Summit** – Presentation of this item was deferred.

6.0 Adjournment – There being no further business to come before the Real Estate Committee, upon motion made by Mr. Kucharski, seconded by Mr. Tobe and unanimously carried, the April 21, 2014 meeting of the Real Estate Committee was adjourned at 1:30 p.m.

Respectfully submitted,



Kevin J. Zanner, Secretary