

**NIAGARA FALLS URBAN RENEWAL AGENCY  
745 MAIN STREET  
NIAGARA FALLS, NEW YORK 14302**

**TO:** The Members of the Niagara Falls Urban Renewal Agency  
**FROM:** Mayor Paul A. Dyster, Chairman  
**DATE:** June 14, 2013  
**RE:** **Notice of Special NFURA Meeting**

Please be informed that a Special Meeting of the Niagara Falls Urban Renewal Agency is scheduled for:

**DATE:** Thursday, June 27, 2013

**TIME:** 4:15 p.m. (or immediately following the N.F.C. meeting that will be held prior to the URA meeting)

**LOCATION:** City Hall – Committee-of-the-Whole Room #117  
745 Main Street, Niagara Falls, NY

The Agenda is as follows:

**AGENDA**

1. Roll Call
2. Welcome new member Christopher Robins (Jeff Paterson replacement)
3. Approve March 25, 2013, Minutes of Meeting VOTE
4. Amend November 9, 2009, minutes to correct amount of General Counsel compensation. VOTE
5. Amend 2010-2012 and 2013-16 budgets adopted at Meeting of March 25, 2013. VOTE
6. Receive and file memo on sale of 4101 Highland Avenue R & F
7. Adjournment

If you cannot attend this Special Meeting, please contact MaryAnn Colangelo at 286-8812.

**NIAGARA FALLS URBAN RENEWAL AGENCY**  
**Minutes of Meeting – March 25, 2013**  
**City Hall – 745 Main Street – Committee-of-the-Whole Room**  
**Niagara Falls, New York**

**Present:** Mayor Paul A. Dyster, Chairman  
Council Member Kristen Grandinetti  
Council Member Charles Walker  
Mr. Michael Hooper  
Ms. Janet Markarian  
Mr. Jeffrey Paterson

**Absent:** Council Member Robert Anderson  
Council Member Glenn Choolokian  
Council Member Samuel Fruscione  
Ms. Doreen O'Connor

**Staff**

**Present:** Mr. Richard Zucco, Legal Counsel  
Ms. MaryAnn Colangelo, Recording Secretary

**Others** Mr. Craig Johnson  
**Present:** Mr. Randall Shepard, Bonadio & Co.  
Niagara Gazette Reporter

Mayor Dyster called the meeting to order at 5:08 p.m. Roll was called and a quorum was present (6 Members).

**Minutes of Meeting**

The Minutes of January 28, 2013, were put before the Board. There were no questions or comments concerning the minutes. Motion for approval of the minutes was made by Mr. Paterson, second made by Council Member Grandinetti. Unanimously approved by voice vote (6 members).

**Approval of Compensation to Bonadio & Co. for Preparation of Reports Necessary for the Authorities Budget Office Filing:**

Mr. Zucco stated that on January 28, 2013, the Board approved hiring Bonadio & Company to prepare an audit of the Agency and to prepare the reports necessary for the Authorities Budget Office (ABO) Filing at a fee of \$5,000. Bonadio was chosen because they are the City's current auditors and have also performed the ABO filings for N.F.C. Development Corp. Because of that, they are familiar with the Agency, especially since the Agency's finances are intertwined with the City's. It would have been inefficient to have two sets of auditors looking at the same sets of books at the same time. Due to the need to approve the hiring of Bonadio to complete this work before March 31, 2013, the filing deadline, the Agency did not have a chance to discuss the exact fee with them in advance. Bonadio has requested \$5,500 for the NFURA work; therefore, an additional \$500.00 in compensation was being requested from the Agency.

There being no questions or comments, a motion to approve an additional \$500.00 in payment to Bonadio & Co. for audit and ABO filing work was made by Mr. Paterson, second made by Council Member Walker.

POLLED VOTE:

In Favor                   6  
 Opposed                   0  
 Approved

**#4: Resolution: Adoption of 2010-2012 Administrative Budgets and 2013-2016 Administrative Budgets:**

The following Resolution was put before the Board:

In order to comply with the Public Authorities Reform Act, Public Authorities law and other state laws regulating the Agency, it is hereby RESOLVED, that the Niagara Falls Urban Renewal Agency does hereby adopt the 2010-2012 Administrative Budgets and the 2013-2016 Administrative Budgets:

NIAGARA FALLS URBAN RENEWAL AGENCY  
 ADMINISTRATIVE BUDGETS  
 2010-2012

Revenues:

Parking Lot Lease Payments.....	\$5,400.00
(ParMed @ \$150/month and Jefferson Apts @\$300/month)	
Interest on bank deposits.....	+350.00
Total Revenues.....	<u>5,750.00</u>

Expenses:

Legal Counsel .....	\$6,000.00*
Recording Secretary .....	1,750.00*
Office Supplies, postage .....	<u>+100.00</u>
Total Expenses .....	<u>-7,850.00</u>
Appropriated Fund Balance .....	(2,450.00)

Deficit paid from cash on hand

All additional expenses paid with board of directors' approval

\*plus payroll taxes, etc.; paid by City and reimbursed

NIAGARA FALLS URBAN RENEWAL AGENCY  
ANNUAL ADMINISTRATIVE BUDGETS  
2013-2016

Revenues:

Parking Lot Lease Payments.....	\$5,400.00
(ParMed @ \$150/month and Jefferson Apts @\$300/month)	
Interest on bank deposits.....	<u>+350.00</u>
Total Revenues.....	5,750.00

Expenses:

Legal Counsel .....	\$6,000.00*
Recording Secretary.....	1,750.00*
Audit for ABO compliance.....	2,500.00
Office Supplies, postage .....	<u>+100.00</u>
Total Expenses.....	<u>-10,350.00</u>
Appropriated Fund Balance .....	(4,600.00)

Deficit paid from cash on hand

All additional expenses paid with board of directors' approval

\*plus payroll taxes, etc.; paid by City and reimbursed

There being no comments or questions, motion to approve the adoption of the 2010-2012 and 2013-2016 Administrative Budgets was made by Mr. Paterson, second made by Council Member Grandinetti.

POLLED VOTE:

In Favor: 6  
Opposed 0  
Approved

**#5: Resolution: Adoption of URA Mission Statement and Policies: Mission Statement, Defense and Indemnification Policy, Purchasing Policy:**

The following Resolution was put before the Board:

In order to comply with the Public Authorities Reform Act, Public Authorities Law and other state laws regulating the Agency, it is hereby

**RESOLVED**, that Niagara Falls Urban Renewal Agency does hereby adopt the attached mission statement and policies:

Mission Statement  
Defense and Indemnification Policy  
Purchasing Policy

NIAGARA FALLS URBAN RENEWAL AGENCY  
Mission Statement  
03-25-13

The mission of Niagara Falls Urban Renewal Agency is to protect and promote the safety, health, morals and welfare of the people of Niagara Falls, to promote the sound growth and development, to correct substandard, insanitary, blighted, deteriorated or deteriorating conditions, factors and characteristics by the clearance, re-planning, reconstruction, redevelopment, rehabilitation, restoration or conservation of such areas, to undertake public and private improvement programs related thereto and to encourage of participation in these programs by private enterprise, and to undertake any or all of the purposes specified in Articles 15 and 15-A of the General Municipal Law and in accordance with Article 18 of the Constitution of the State of New York.

Performance Goals:

No current performance goals.

Additional state questions:

- 1) Have board members acknowledged that they have read and understood the missions of the public authority: Yes
- 2) Who has the power to appoint the management of the public authority: The Board of Directors has the power to appoint management.
- 3) If the Board appoints management, do you have policy you follow when appointing the management of the public authority: The City of Niagara Falls Administration suggests a candidate for the position from the City of Niagara Falls Economic Development Department. After review of the candidate's credentials and an interview, the Board has the option to accept or deny the candidate. The management appointment requires a majority vote of the Board
- 4) Briefly describe the role of the Board and the role of management in the implementation of the mission: The Board of Directors is responsible for the establishment of Niagara Falls Urban Renewal areas and management is responsible for executing any action plans approved by the directors, all in accordance with state law governing the Agency.
- 5) Has the Board acknowledged that they have read and understood the responses to each of these questions: Yes

**NFURA DEFENSE AND INDEMNIFICATION POLICY**

03-25-13

Niagara Fall Urban Renewal Agency (the "Agency") shall indemnify all directors of the Agency and each officer and employee thereof, in the performance of their duties, and to the extent authorized by the Agency, each other person authorized to act for the Agency or on its behalf, to the full extent to which indemnification is permitted under the laws of the State of New York, and shall defend such directors, officers, employees and other persons in connection with any lawsuits brought against as a result of the performance of their duties and responsibilities.

**NIAGARA FALLS URBAN RENEWAL AGENCY**  
**PURCHASING POLICY**

03-25-13

Niagara Falls Urban Renewal Agency shall adhere to the requirements of the General Municipal Law of the State of New York applicable to competitive bidding and purchases applicable to the City of Niagara Falls in the State of New York and to Municipal Urban Renewal Agencies

There being no questions or comments, motion for approval of the above Mission Statement, Defense and Indemnification Policy and Purchasing Policy was made by Council Member Walker, second made by Council Member Grandinetti.

**POLLED VOTE:**

In Favor:                 6  
Opposed:                 0  
Approved

**#6: Resolution: Approval of 2012 URA Financial Statements:**

Mr. Randall Shepard from Bonadio & Company distributed the URA 2012 Financial Statements to the Board (copy of the 2012 financials included in official minute book). He noted that this was the first time the URA had a stand alone audit and it was because of the State Budget Authority requirements. Usually, the audit was always part of the City's financial statements. Mr. Shepard stated that it was an unqualified clean audit report. He noted that they were able to satisfy themselves with the opening numbers and the audit evidence. He reviewed the audit with the Board. He noted that after the Board's approval of the necessary policy and financial information being presented to the Board the necessary information will be submitted to the State Budget Authority office and the URA will be in full compliance with State regulations.

There being no questions or comments, the below Resolution was put before the board.

**RESOLUTION NIAGARA FALLS URBAN RENEWAL AGENCY**  
**2012 Financial Statement**  
**March 25, 2013**

**RESOLVED**, that Niagara Falls Urban Renewal Agency does hereby accept and approve the 2012 Financial Statements prepared by its auditors, Bonadio & Company, LLP.

Motion for approval of the 2012 URA Financial Statements was made by Council Member Grandinetti, second made by Council Member Walker.

**POLLED VOTE:**

In Favor                 6  
Opposed                 0  
Approved

**#7: Resolution: Adoption of the filing of reports to comply with the Public Authorities Reform Act, Public Authorities Law and other State laws regulating the NFURA as a public authority:**

RESOLUTION  
NIAGARA FALLS URBAN RENEWAL AGENCY  
March 25, 2013

Whereas, the requirements of the Public Authorities law and other state laws regarding the required filing of reports and the contents of the reports have been discussed with the NFURA directors, NOW, THEREFORE, in order to comply with the Public Authorities Reform Act, Public Authorities law and other state laws regulating the Niagara Falls Urban Renewal Agency as a public authority, it is hereby RESOLVED, that the Board of Directors of the Niagara Falls Urban Renewal Agency does hereby approve the filing of the following required reports:

12-31-12 Annual Report  
12-31-12 Investment Report  
12-31-12 Procurement Report  
2012 Budget Report  
2013 Budget Report  
2014 Budget Report

There being no questions or comments, a motion for approval of the Resolution adopting the filing of the above reports to comply with the Public Authorities Reform Act, Public Authorities law and other State laws regulating the NFURA as a public authority was made by Council Member Grandinetti, second made by Mr. Hooper.

**POLLED VOTE:**

In Favor: 6  
Opposed: 0  
Approved

**Old Business:**

Mayor Dyster stated that the position of Sr. Business Development officer for the City of Niagara Falls included among its duties serving as director of the NFC Development Corp. That position was eliminated during the budget even though it had been funded with N.F.C. funds and not general fund monies. The URA Board had approved a resolution authorizing payment of approximately \$10,000 to hire a Director of URA and adding that duty onto the position of Sr. Business Development Director. So not having the position of Sr. Business Development Director, we currently have a stipend but no Sr. Business Development Director position to establish a Director of the URA. The Mayor stated that he felt both the N.F.C. and the URA needed to have a Director. He felt that unless anyone has any strong objection we should wait until the Casino issues resolve and then we may be able to get back to a more normal staffing situation and we will again look at addressing the URA Director position. The Mayor stated that previously Peter Kay served as URA director as part of his duties as Economic Development Director. There was no specific URA stipend given to Mr. Kay. He continued that we will either utilize the existing resolution that was passed for a URA director or come back and modify the resolution.

Mayor Dyster stated that we are still having discussions with the Erie County Land Bank and we continue to have assurances that at some point in the near future we will be added to that land bank. He stated that this could result in a lot more activity for the Urban Renewal Agency going forward.

**New Business:**

There was no new business brought before the Agency.

**Adjournment:**

There being no further business a motion for adjournment was made by Council Member Grandinetti, second made by Mr. Paterson. Unanimously approved by voice vote (6 members). The meeting was adjourned at 5:27 p.m.



## NIAGARA FALLS URBAN RENEWAL AGENCY

June 27, 2013

**TO:** NFURA Directors  
**FROM:** Richard Zucco, General Counsel *RZ*  
**RE:** Correction of November 9, 2009 Minutes Regarding General Counsel Compensation

Attached is a copy of the agenda item regarding general counsel compensation which was approved by the Agency at its November 9, 2009 meeting. Also attached is the page from the approved November 9, 2009 minutes for that meeting. As you can see, there is a discrepancy between the amount of compensation reflected in the agenda item and the minutes. This discrepancy was noticed when the Agency was responding to a FOIL request regarding compensation. The payment since January 1, 2010 has reflected the \$4,000.00 increase set out in the agenda item.

Because of this discrepancy, the recording of the meeting was reviewed. There was no mention of a specific amount in the discussion. The action of the Agency was to approve the increased compensation as set out in the agenda item.

Will the Agency vote to amend the November 9, 2009 minutes to reflect the increase of \$4,000.00 in general counsel compensation which was approved at the November 9, 2009 meeting?

# NIAGARA FALLS URBAN RENEWAL AGENCY

November 9, 2009

**TO:** NFURA Directors  
**FROM:** Richard Zucco, NFURA General Counsel *RZ*  
**RE:** General Counsel Compensation

In March, 2004, I was retained as general counsel to the Niagara Falls Urban Renewal Agency at annual compensation of \$3,000.00. Prior general counsel received annual compensation of \$15,000.00.

I have represented the Agency in litigation concerning Parcel 11, Parcel 8 and other matters. I have successfully argued 11 cases in the Fourth Department. Eight of those cases involved the Urban Renewal Agency and Agency real property. I appeared on behalf of the Agency in some of those cases as special counsel, without compensation.

In 2008, the Agency was named in two more lawsuits, one concerning Parcel 8 and one concerning the Old Falls Street lease. The motions to dismiss those actions are scheduled before Judge Kloch on November 12. I expect the actions to be dismissed and the dismissal of those actions to be appealed.

We have substantially expanded the areas in which the Agency can operate. This year, we have embarked on adopting a new Urban Renewal Plan, the proposed Core City Urban Renewal Plan, for the expanded area.

Given the on-going litigation and the work connected with the Core City Urban Renewal Plan, I am requesting that the Agency approve a \$4,000.00 annual increase in my compensation, to \$7,000.00 per year, starting January 1, 2010. The Agency is a municipal urban renewal agency created by state statute, so this compensation also earns credit in the State retirement system. My Urban Renewal compensation and retirement participation is included in my City salary and reimbursed to the City by the Agency. The increase in compensation would include a commensurate increase in reimbursement for pension participation.

Will the NFURA Board vote to confirm my continuation as general counsel at the annual compensation as of January 1, 2010 of \$7,000.00 plus the benefits as set forth herein?

development proposals if we have to bring the Urban Renewal Agency into play to accomplish any project either in the north end or the south end.

Mr. Zucco continued that the procedure to approve the new URA Plan is to receive a recommendation from the Urban Renewal Agency and send it to the Planning Board. The Planning Board will hold a public hearing and then make their recommendation to the Council. The Council will hold another public hearing and then vote on the adoption of the plan.

Mr. DeSantis stated that adoption of this plan will make the URA and Comprehensive Plan consistent, which will assist in being able to fast tract potential future projects.

There being no questions or comments, motion for approval of the Core City Urban Renewal Plan dated November 9, 2009, was made by Council Member Fruscione, second made by Council Member Anderson.

**POLLED VOTE**

IN FAVOR: 9  
OPPOSED: 0  
APPROVED

**General Counsel Compensation**

Mayor Dyster stated an increase in the stipend for Richard Zucco in the amount of \$3,000 per year was very justly deserved. There has been a string of litigations that he has been successful in and the cost savings occurring from those successes has resulted in substantial savings to the City. He noted that Mr. Zucco has paid himself many times over with the result of his work. He said he has no difficulty whatsoever in recommending this action to the Board. The Mayor also noted that last year Mr. O'Donnell was given an increase and he felt it only fair that Mr. Zucco be given an increase as well.

Mr. Anderson stated that a couple of months ago he went on record that due to the poor state of the economy he would not approve a raise for anyone unless it had to do with longevity. He said it was nothing personal against Mr. Zucco but he would not be voting for any pay increases for anyone.

Motion for approval of stipend increase for Richard Zucco in the amount of \$3,000 to commence January 1, 2010 was made by Council Member Robins, second made by Council Member Walker.

**POLLED VOTE**

IN FAVOR: 6  
OPPOSED: 3 (Anderson, Fournier, Fruscione)  
APPROVED

# NIAGARA FALLSURBAN RENEWAL AGENCY

June 27, 2013

**TO:** NFURA Directors  
**FROM:** Richard Zucco, General Counsel  
**RE:** Correction of March 25, 2013 Budgets *RZ*

The budgets adopted by the Agency on March 25, 2013 reflect the lower general counsel compensation as set out in the minutes, not the actual compensation approved by the Agency. Attached are amended budgets setting out the compensation which had been approved by the Agency.

Will the Agency vote to amend the Agency budgets as attached?

NIAGARA FALLS URBAN RENEWAL AGENCY  
ANNUAL ADMINISTRATIVE BUDGETS (AMENDED)  
2013-2016

Revenues:

Parking Lot Lease Payments.....	\$5,400.00
(ParMed @ \$150/month and Jefferson Apts @\$300/month)	
Interest on bank deposits.....	<u>+350.00</u>
Total Revenues.....	5,750.00

Expenses:

Legal Counsel .....	\$7,000.00*
Recording Secretary.....	1,750.00*
Audit for ABO compliance.....	2,500.00
Office Supplies, postage .....	<u>+100.00</u>
Total Expenses.....	<u>-11,350.00</u>
Appropriated Fund Balance .....	(5,600.00)

Deficit paid from cash on hand

All additional expenses paid with board of directors' approval

\*plus payroll taxes, etc.; paid by City and reimbursed

NIAGARA FALLS URBAN RENEWAL AGENCY  
ADMINISTRATIVE BUDGETS (AMENDED)  
2010-2012

Revenues:

Parking Lot Lease Payments.....	\$5,400.00
(ParMed @ \$150/month and Jefferson Apts @\$300/month)	
Interest on bank deposits.....	<u>+350.00</u>
Total Revenues.....	<u>5,750.00</u>

Expenses:

Legal Counsel .....	\$7,000.00*
Recording Secretary.....	1,750.00*
Office Supplies, postage .....	<u>+100.00</u>
Total Expenses .....	<u>-8,850.00</u>
Appropriated Fund Balance .....	(3,100.00)

Deficit paid from cash on hand

All additional expenses paid with board of directors' approval

\*plus payroll taxes, etc.; paid by City and reimbursed

## N IAGARA FALLS URBAN RENEWAL AGENCY

June 27, 2013

**TO:** NFURA Directors  
**FROM:** Richard Zucco, General Counsel  
**RE:** Sale of NFURA NYR-91 Land

I understand that sale of NFURA land in the former Highland-Hyde Park NYR-91 Area has been proposed. This area is still subject to the NYR-91 Urban Renewal Plan, which expires on March 15, 2014. While the plan has not expired, the HUD-funded project for the area was completed and closed out in 1973. The net sale proceeds of any land sold in the NYR-91 area are to be sent to HUD. Attached is a copy of the 1990 resolution completing the close-out.

Disposition of Urban Renewal land is covered by General Municipal Law §507. The applicable subsections provide that land may be sold:

(c) to any person, firm or corporation designated by the agency and approved by the governing body as a qualified and eligible sponsor in accordance with established rules and procedures prescribed by the agency, provided that (1) the agency has published, in at least one newspaper of general circulation in the municipality at least ten days prior to such sale, lease or other disposition, a notice which shall include a statement of the identity of the proposed sponsor and of his proposed use or reuse of the urban renewal area or of the applicable portion thereof; such notice shall be in such form and manner as may be prescribed by the agency and, in the case of projects aided by a state loan, periodic subsidy or capital grant or in which application has been made for such loan, subsidy or grant, as approved by the commissioner; (2) such proposed sponsor agrees to pay the minimum price or rental fixed by the agency for such real property; (3) such proposed sponsor matches any bid higher than the said minimum price or rental, and (4) such sale, lease or other disposition shall require effectuation of the purpose thereof within a definite and reasonable period of time. In the event that such qualified and eligible sponsor does not agree to pay the minimum price or rental fixed by the agency or fails to match any higher bid than such minimum price or rental, a municipality may, in its sole discretion and only if consistent with the urban renewal plan, sell or lease for a term not exceeding ninety-nine years any such real property and appurtenances thereto, to any person, firm or corporation, the property acquired from such person, firm or corporation or substantially equivalent property within the urban renewal area, provided that such former owner (1) agrees to pay the said minimum price or rental and (2) matches any higher bid than said minimum price or rental, and

(d) to any person, firm or corporation designated by the agency as a qualified and eligible sponsor pursuant to the provisions of clause (1) of subsection (c) of this subdivision without public auction or sealed bids, provided that (1) the price or rental to be paid by such sponsor for such property and all other essential terms and conditions of such sale, lease or other disposition shall be included in the notice published by the agency pursuant to the said clause (1) of subsection (c) of

this subdivision, (2) that such sale, lease or other disposition be approved by the governing body after a public hearing held not less than ten days after the publication of such notice, and (3) such sale, lease or other disposition shall, in the case of projects aided by a state loan, periodic subsidy or capital grant or in which application has been made for such loan, subsidy or grant, be approved by the commissioner.

NFURA obtained an appraisal of land in the area for a proposed sale to Par-Med Pharmaceutical in 2010. The appraised value was \$2.00 per square foot.

The HUD nomenclature for the developer was "redeveloper." The redeveloper is called the "sponsor" under state law. The NFURA disposition documents are relics of the HUD-funded projects. Therefore, the Agency uses its Redeveloper Statement to obtain the information to designate the sponsor.

Here are the procedural steps to be taken in this transaction, which will be a sale without public auction or bid, pursuant to GML §507(d):

1. Receive redeveloper (sponsor) statement and review for completeness;
2. Negotiate a sale price;
3. Contact HUD to obtain approval of price and confirm that net proceeds will be sent to HUD;
4. Submit redeveloper statement to Agency. Agency acts on sponsor and price and, if approved, directs publication in Niagara Gazette;
5. Publication of "statement of the identity of the proposed sponsor and of his proposed use or reuse of the urban renewal area or of the applicable portion thereof." The notice should also include a statement of "the price or rental to be paid by such sponsor for such property and all other essential terms and conditions of such sale...that such sale, lease or other disposition be approved by the governing body after a public hearing held not less than ten days after the publication of such notice." The notice should also state that state loan, periodic grant or capital subsidy aided the Urban Renewal project.
6. Ten days after publication, the City Council ("governing body") must act on the sale.

In the past, there was a public hearing on the proposed sale. This would require action at two Council meetings. While a public hearing is not strictly required, it would be acceptable for the Agency to send the named sponsor, price, etc. to the Council and have the Council direct the publication, with or without a public hearing.

Upon approval of the sale, the Agency will order the search, survey and other closing documentation, prepare the deed and close the sale. These costs will be reimbursed from the sale proceeds, and the balance will be remitted to HUD.

Even though this is a closed out project, there will be a reverted clause in the deed for failure to complete the construction of the proposed improvements. In addition, the transfer will close when the developer certifies that financing or equity is available, site plan approval has been obtained and a building permit has been issued.