

MINUTES OF MEETING HELD APRIL 26, 2012

**THE MEMBERS OF THE BOARD OF DIRECTORS OF THE
WARREN COUNTY LOCAL DEVELOPMENT CORPORATION**

A meeting of the Members of the Board of Directors of the above-captioned Corporation was held on April 26, 2012, pursuant to the Notice of Meeting dated April 16, 2012, at 1:00 p.m., in the Committee Room.

The meeting was called to order by Harold G. Taylor, Chairman of the Warren County Local Development Corporation, at 1:02 p.m.

The following Directors were present:

Harold Taylor	Evelyn Wood
Peter McDevitt	Frederick Monroe
Dennis Dickinson	William Mason

The following Director was absent:

Eugene Merlino

Others Present:

Victoria Pratt-Gerbino, EDC President
Jennifer Switzer, LDC Treasurer
Daniel G. Stec, Chairman of the Board of Supervisors
Paul Dusek, County Administrator
Martin D. Auffredou, Warren County Attorney
Patricia Tatich, Planning & Community Development
Wanda Smith, Confidential Secretary to the County Administrator
Scott Donnelly, *The Post Star*

Chairman Taylor called the meeting to order. Chairman Taylor asked for a motion to approve the minutes of the March 28, 2012 meeting. Motion made by Director Wood and seconded by Director Dickinson. Motion carried unanimously.

Chairman Taylor continued with the agenda regarding the RFP for Legal Counsel. He asked Vicki Pratt Gerbino or Jennifer Switzer to discuss the RFP with the Board.

Director Mason entered the meeting at 1:03 p.m.

Ms. Switzer briefly discussed the contents of the RFP and changes made as recommended by Martin Auffredou. Discussion ensued.

Pat Tatich entered the meeting at 1:08 p.m.

Ms. Gerbino asked for a deadline for the RFP, a week before the next meeting date. Following the discussion, Director Monroe motioned to approve the RFP for legal counsel. Motion seconded by Director Wood. The following motion was unanimously carried:

RESOLVED, that the Warren County Local Development Corporation ("LDC") hereby approves the request for proposals for legal services, and the Chairman of the Warren County Local Development Corporation be, and hereby is, authorized to execute any and all documents as may be necessary to carry out this resolution.

Ms. Gerbino reiterated that the deadline for the RFP needs to be set prior to the next LDC Board meeting. Chairman Taylor set the next LDC Board meeting for May 31, 2012, with the time to be determined later.

Ms. Gerbino continued with the agenda regarding a review of the Loan Status Report and Historical Loan Report. She stated a few of the loans were not current, but a vast majority were. Director Mason asked for clarification on a few of the loans. Director Monroe requested that the current principal balances be added to the Loan Status Report in the future. Director Mason suggested adding the current principal balance as of January 1st each year only. Chairman Taylor asked Mr. Auffredou if he had anything to add regarding the Loan Status Report. He did not.

Director Dickinson questioned the status of the loan for Emmy's Video. Ms. Gerbino advised that the large payment from Emmy's Video was returned for insufficient funds. They notified the borrower by letter, but have not heard back. This loan has a very small balance remaining of \$840.77. The business has been closed, but the borrower has continued to make their payments.

Director Monroe questioned the varying interest rates. Ms. Switzer advised that there are established guidelines that are in place today with a floor. She further stated that the Business Review Committee reviews each loan and helps determine the interest rates based upon market rates, risk and where the floor is currently.

Mr. Auffredou advised that the loan for The Barking Spider is currently in default and he has notified the borrower. He will discuss this loan further at the May meeting. Ms. Gerbino advised that the outstanding balance was \$38,276.

Director McDevitt questioned the status of the loan for TV 8 - UnReal Realty. Ms. Switzer advised that the original loan was from 2004 and there was a balloon payment made. The term of the loan was extended for an additional five (5) years, but none of the original collateral security agreements were extended to cover the additional period. The balance was currently \$59,600.

Ms. Switzer and Ms. Gerbino discussed the contents of the Historical Loan Report. Discussion ensued. Ms. Gerbino advised that the recommended loss rate should be kept below 5%. Director Monroe added that if the loss rate should be 5%, he recommended keeping the loans smaller in the future.

Chairman Taylor continued with the agenda regarding the Application and asked Ms. Gerbino to discuss. Ms. Gerbino advised that the application is online. She advised Mr. Auffredou and the Business Review Committee have reviewed the application and provided feedback. Brief discussion ensued.

Following the discussion, Director Mason made a motion to approve the application. Motion was seconded by Director Dickinson. The following motion was unanimously carried:

RESOLVED, that the Warren County Local Development Corporation ("LDC") hereby approves the Application for Economic Development Loan Fund.

Chairman Taylor continued with the agenda regarding the current loan collateral issue. He asked Mr. Auffredou to discuss this matter. Mr. Auffredou stated this matter was relating to Unreal Realty, TV8. He further stated that this was a loan from December, 2004 in the original amount of \$100,000. The loan was current and the outstanding balance was approximately \$59,000. He was in receipt of a letter from Attorney Michael O'Connor bringing to his attention that when the loan closed in 2004, the LDC mortgage took a first position. Upon a review of the commitment letter, he confirmed that the LDC was not intended to take the first place, but rather third place. He also reviewed the meeting minutes, stating there was nothing specific about what place the LDC was suppose to take or anything about subordination. It appeared that the LDC closing went forward, and for reasons unknown, the SBA closing was delayed. Once the LDC closing took place, the mortgage was recorded, thereby taking first place, above TD Banknorth and SBA. Bruce Carr's recollection was that the LDC would be subordinate.

Mr. Auffredou further stated that Unreal Realty, TV8, is in the process of refinancing the TD Banknorth loan and in order for them to complete this transaction, Attorney O'Connor has asked the LDC to execute a subordination agreement. He advised that he asked Mr. O'Connor if Unreal Realty, TV8, would be in a position to pay off the LDC loan in the process of this refinance. He stated that Mr. O'Connor did not have an answer, but indicated that he would look into it. Mr. Auffredou stated that the LDC had two choices, either execute the subordination agreement or chose not to, which may invite litigation. His recommendation would be to have the Board authorize the Chairman to execute the subordination agreement.

Director McDevitt questioned if the LDC could take the position, that they sign the subordination agreement, so the borrower could go forward with the refinance, contingent upon the borrower paying the LDC loan off as part of the refinance. Mr. Auffredou advised the LDC could take that position.

Director Monroe asked if this loan was one without an extension agreement and is therefore in default. Ms. Switzer confirmed the loan agreement was extended, but the paperwork to extend the collateral was never adjusted. The action proposed here would give the LDC a better position since the original collateral was never extended. Ms. Gerbino mentioned that this would give the LDC the opportunity to ask for up-to-date financials. Chairman Taylor expressed his concern that if the LDC gave a tough stance in this matter, banks could be concerned with entering into agreements where the LDC was involved in gap financing. Discussion ensued.

Following the discussion, Director Mason made a motion to authorize the Chairman to execute the Subordination Agreement, upon review and approval by LDC counsel, but contingent upon receipt of current financials and updating the collateral, and seconded by Director Dickinson. The following motion was unanimously carried:

RESOLVED, that the Warren County Local Development Corporation ("LDC") hereby authorizes the Chairman to execute the Subordination Agreement (Unreal Realty), upon review and approval by LDC counsel, and contingent upon receipt of current financials and update of the collateral.

(Acting Secretary's Notation: Per discussion with the County Attorney, the above resolution should be rescinded at the May 31, 2012 LDC Meeting.)

Pat Tatich asked to speak regarding her knowledge of the history of the above loan transaction. She asked for the Board to do a thorough investigation of the collateral, which she believes launched the LDC into the first position. There were some discussions that took place regarding other items of collateral being offered at the time, such as a resort piece of property. Director McDevitt questioned how Banknorth was not notified that LDC was taking the first place. Ms. Tatich stated she believed the applicant made a strong case that the LDC should be in that position. Chairman Taylor stated there was nothing in the minutes regarding this. Mr. Auffredou stated this is contrary to the application. Ms. Tatich mentioned there was nothing in writing, but she was involved in conversations between Jessie and TD Banknorth regarding this. Discussion ensued. Ms. Gerbino advised there is an executed and undated Security Agreement in the file, which pledges all accounts receivable, equipment, machinery, furnishing and fixtures, now or hereafter acquired, but does not mention real estate. Mr. Auffredou mentioned that the LDC mortgage was recorded December 9, 2004, the TD Banknorth mortgage was recorded March 31, 2005, and the mortgage to SBA was recorded September 6, 2005.

Further discussion ensued regarding the history and Chairman Taylor again mentioned there was a motion on the floor with a second to take a subordinate third position and to obtain an updated list of financials. He asked for a vote. Directors Taylor, Wood, Dickinson and Mason voted in favor of the motion and Directors McDevitt and Monroe voted against the motion. The following motion passed:

RESOLVED, that the Warren County Local Development Corporation ("LDC") hereby acknowledges and takes a subordinate third position and obtain an updated list of financials, and further authorizes the Chairman to execute the Subordination Agreement (Unreal Realty).

Director McDevitt stated, in the interest of full disclosure, that he was on the City Council at the time of the TV8 loan and spoke in favor of Mr. Jackson's application for his financing because he thought it was a good idea for a radio station moving into Glens Falls.

Chairman Taylor continued with the agenda. He asked Ms. Switzer to continue with the LDC financials. She discussed the contents with the Board. Discussion ensued. Motion made by Director Wood to approve the Financial Reports for March 31, 2012, and seconded by Director Mason. The following motion was unanimously carried:

RESOLVED, that the Warren County Local Development Corporation ("LDC") hereby approves the Financial Reports from March 31, 2012.

Chairman Taylor continued with the agenda regarding other business. He asked if the CBH agreement needed to be approved today. Ms. Gerbino confirmed that the agreement needed to be approved in order for the taxes to be submitted by May 15th. She advised that in the past the LDC had contracted

with CBH to prepare the tax return. She further stated that Ms. Hudy's hourly fee of \$80/hr. has not changed, but it is not stated in this letter agreement. Ms. Switzer stated that she has requested confirmation in writing from Ms. Hudy to provide a not to exceed number. Chairman Taylor asked if the Board would like to approve the letter agreement at the \$80/hr. rate and at a not to exceed what was paid last year. Discussion ensued. Director Mason agreed with the Chairman's suggestion. Chairman asked for a motion. Director Monroe made the motion. The following motion carried unanimously:

RESOLVED, that the Warren County Local Development Corporation ("LDC") hereby approves the CBH letter agreement dated December 1, 2011 at an hourly rate of \$80 per hour and the total amount not to exceed what LDC paid CBH in the previous calendar year, and the Chairman of the Warren County Local Development Corporation be, and hereby is, authorized to execute any and all documents as may be necessary to carry out this resolution.

Chairman Taylor mentioned Mr. Dusek had provided him with a flyer for Free Energy Seminars for Businesses. He asked the Board to hang the flyer at their different locations.

Chairman Taylor asked if there was any further business to come before the Board. Mr. Auffredou advised an executive session was needed.

Ms. Switzer advised that she and Ms. Gerbino had a brief conversation with Ms. Tatich the previous evening regarding the Mission Statement and the process of applying for various housing programs. She asked if there was something in the By-Laws, Organizational Resolution or contract that allowed for those types of grant opportunities, with the work being performed by the Planning Department upon the request of the Board of Supervisors. Mr. Dusek confirmed this understanding. Ms. Tatich stated that in the past the LDC was the applicant for funding under Access to Home, which is a program of the Division of Housing. She wanted to confirm that the LDC would be the vehicle through which to achieve this funding. Mr. Dusek stated that it was his understanding that the Board of Supervisors' intent was to keep the planning grant elements that the Planning Department had always worked on alive, and further that the intent was to have the Planning Department there to assist communities and use the LDC from time to time. It was his further understanding that the LDC would have a dual purpose, the micro-enterprise loans and economic development, as well as housing and other types of grants. Ms. Switzer and Ms. Gerbino would be servicing the economic arm, while Ms. Tatich, Mr. LaMothe, Mr. Auffredou and/or myself would be servicing the other side of the LDC's functions, which are the housing and other types of grants.

Chairman Taylor asked Mr. Auffredou to word the motion to go into executive session. Mr. Auffredou stated that the motion was to convene in executive session for the purpose of discussing a pending litigation involving the Stonecast loan and Mr. Karanikas. Motion was made by Director Mason, seconded by Director Dickinson and carried unanimously that executive session be declared.

Executive session was declared at 2:11 p.m. to 2:40 p.m.

Following executive session, Chairman Taylor asked for a motion to approve an independent appraisal of 51 Boulevard, with the appraiser to be approved by the Chairman upon recommendation of the County Attorney, with an amount not to exceed \$2,500. Motion made by Director Dickinson and seconded by Director Monroe. The following motion carried unanimously:

RESOLVED, that the Warren County Local Development Corporation ("LDC") hereby approves obtaining an independent appraisal of 51 Boulevard in an amount not to exceed \$2,500, with the appraiser to be approved by the Chairman, upon the recommendation of the County Attorney, and the Chairman of the Warren County Local Development Corporation be, and hereby is, authorized to execute any and all documents as may be necessary to carry out this resolution.

As there was no further business to come before the LDC Board, motion was made by Director Dickinson to adjourn the meeting, seconded by Director Monroe, and carried unanimously.

Chairman Taylor adjourned the meeting at 2:41 p.m.

Dated: May 31, 2012



Peter McDevitt, Secretary