

Victoria Storrs
Chair

Catherine M. Hedgeman, Esq.
Vice Chair/ Assistant Secretary

Tim Maniccia
Secretary

Richard Kotlow
Treasurer

David Kidera
Member

Jared Finke
Member

Christopher Bub
Member

TOWN OF BETHLEHEM
Albany County - New York

INDUSTRIAL DEVELOPMENT AGENCY

445 DELAWARE AVENUE
DELMAR, NEW YORK 12054
Telephone: (518) 439-4955
Email: info@bethlehemida.com
www.bethlehemida.com

Regular Meeting Minutes
Friday, November 19, 2021
8:00 AM
Town Hall Auditorium

Thomas P. Connolly
*Executive Director,
Assistant Secretary and
Agency Counsel*
518-573-2200

Allen F. Maikels
*Chief Financial Officer and
Contracting Officer*
518-487-4679

Vacant
*Economic Development
Coordinator*
Ext. 1189

Robin Nagengast
*Assistant to the Executive Director
and Clerk*
Ext. 1164

I. Notice

- **MEETINGS TO BE HELD ELECTRONICALLY DUE TO THE NOVEL CORONAVIRUS (COVID-19) AND THE DELTA VARIANT, THE BETHLEHEM IDA WILL MEET REMOTELY VIA VIDEO CONFERENCE/WEBINAR. LEGISLATION (S.50001/A.40001) SIGNED BY GOVERNOR KATHY HOCHUL ON 9/2/21 EXTENDED VIRTUAL PUBLIC MEETINGS. MEMBERS OF THE PUBLIC MAY VIEW AND LISTEN TO THE LIVE MEETINGS BY VISITING THE TOWN OF BETHLEHEM WEBSITE/MEETING PORTAL, SELECTING THE MEETING DATE, AND CLICKING ON THE VIDEO ICON. AGENDAS, MINUTES, AND VIDEOS ARE AVAILABLE AT THIS SAME LINK. PLEASE CHECK THE TOWN WEBSITE FOR UPDATES.**

I. Call to Order/Roll Call/Quorum Determination

A Regular Meeting of the Bethlehem Industrial Development Agency of the Town of Bethlehem was held on the above date at the Town Hall Auditorium, 445 Delaware Avenue, Delmar, NY. The Meeting was called to order at 8:04 AM with the presence of a quorum noted.

Attendee Name	Title	Status	Arrived
Victoria Storrs	Chair	Remote	
Catherine Hedgeman	Vice Chair/Asst Secretary	Remote	
Tim Maniccia	Secretary	Remote	
Richard Kotlow	Treasurer	Remote	
David Kidera	Board Member	Remote	
Jared Finke	Board Member	Remote	
Christopher Bub	Board Member	Remote	
Thomas P. Connolly	Executive Director/Agency Counsel	Remote	
Joe Scott	Bond Counsel	Remote	
Allen F. Maikels	CFO and Contracting Officer	Remote	
Robin Nagengast	Assistant to the Executive Director	Remote	
Robert Leslie	Director of Planning	Remote	
David VanLuven	Town Supervisor	Remote	

III. Welcome Chris Bub as New Member

The Bethlehem IDA welcomed new member Chris Bub and introduced themselves.

IV. Minutes Approval

1. Friday, October 22, 2021

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Richard Kotlow, Treasurer
SECONDER:	Catherine Hedgeman, Vice Chair/Asst Secretary
AYES:	Storrs, Hedgeman, Maniccia, Kotlow, Kidera, Finke, Bub

V. Reports of Committees

Upon motion by Ms. Hedgeman, seconded by Mr. Kidera, the Agency unanimously approved appointing Chris Bub to the Audit Committee.

- **NONE**

VI. Communications

- **NONE**

No communications to report.

VII. Executive Session on Personnel Matters (Storrs)

Mr. Connolly is retiring after many years of distinguished service to the Agency. In accordance with the Procurement Policy, the BIDA issued an RFP for a consultant to provide services as an Executive Director and Agency Counsel. Ms. Hedgeman was the sole respondent. Chair Storrs excused most staff and Ms. Hedgeman and went into Executive Session to discuss a personnel matter at 8:15am. Chair Storrs closed the Executive Session at 9:16am with no action taken.

VIII. Old Business

- **EXECUTIVE DIRECTOR/AGENCY COUNSEL (STORRS)**

Resolution Executive Director Approval

RESOLVED, that the Agency accepts the proposal of Catherine M. Hedgeman, as modified by the attached Consultant Agreement, and authorizes the Chair to negotiate the attached Consultant Agreement, and if there are not substantial changes, to execute the attached Consultant Agreement on behalf of the Agency.

CONSULTANT AGREEMENT

This Agreement is made and entered into this ____ day of November, by and between the Bethlehem Industrial Development Agency, a public benefit corporation of the State of New York whose address is 445 Delaware Avenue, Delmar, NY 12054 (the "Client") and Catherine

M. Hedgeman, Esq., (herein, the "Consultant"), an individual having an address Hedgeman Law Firm, 52 Surrey Mall, PO Box 177, Slingerlands, NY 12159.

WHEREAS, the Town of Bethlehem Industrial Development Agency (herein "BIDA") desires to appoint and secure the services of an Executive Director and Agency Counsel, and;

WHEREAS, BIDA desires to appoint the Consultant Executive Director and Agency Counsel and formalize the duties of BIDA's Executive Director and Agency Counsel, and;

WHEREAS, the BIDA and the Consultant desire to enter into this Agreement to memorialize the Consultant's appointment as BIDA Executive Director and Agency Counsel and set forth the services to be provided by Consultant to BIDA as an independent contractor.

NOW THEREFORE, in consideration of the above-mentioned premises and of the mutual covenants contained herein, the parties hereto agree as follows:

I. Scope of Services:

Duties of the Executive Director/Agency Counsel

This part-time position is responsible for all aspects of management and promotion of the BIDA except for financial reporting. The Executive Director/Agency Counsel reports directly to the BIDA Chair, and is expected to be responsive to inquiries and requests from all board members. Duties include, but are not limited to:

1. Planning regular and special meetings of the Agency and of Agency committees;
2. Reviewing and finalizing minutes of meetings;
3. Undertaking special projects requested by the Agency such as drafting a grant policy, grant application or grant agreement;
4. Providing orientation for new Agency board members;
5. Drafting policy documents for the Agency;
6. Providing clear, accurate and appropriate materials for Agency consideration, including but not limited to, project applications, resolutions, agendas and amendments to by-laws and policies;
7. Causing to be prepared and submitted timely accurate and complete reports as required by State law;
8. Interfacing with agencies such as the NYS Authorities Budget Office, the Office of the NYS Comptroller, NYS Economic Development Council, the Center for Economic Growth, and the Town of Bethlehem;
9. As directed by the board, promoting marketing endeavors, and directing Agency resources in such endeavors, consistent with the Mission Statement and strategic goals of the Agency.

The Executive Director is also responsible for shepherding applications for financial assistance through the Agency review and approval process culminating in a decision whether to grant financial assistance. The process requires the Executive Director/Agency Counsel to:

- A. Oversee the preparation of a project report with a cost/benefit analysis;
- B. Coordinate a public hearing;
- C. Coordinate a discussion meeting and a decision meeting where an approving resolution may be adopted, such as sharing documents and materials sufficiently in advance of meetings to facilitate productive discussion and informed action and providing accurate and informed responses to inquiries raised by Agency board members; and
- D. Be responsible for the annual review of active projects for compliance with closing documents and financial assistance agreements.

The responsibilities of the Executive Director also include the responsibilities of Agency Counsel.

These duties include:

- E. Assisting board members with fulfilling their governance duties;
- F. Providing the Chair and the Agency with legal advice, as needed, and representing the Agency in legal matters that come before the Agency; and
- G. Interpreting provisions of State and federal law that govern the operations and activities of the BIDA.

II. Additional Services as Agency Counsel Specific to Applications and Projects that are Reimbursed by the Applicant or Project

The Agency, from time to time, may request that the Agency Counsel undertake tasks specific to an application or project closing, the costs of which are, under the Agency's policies and procedures, billed to and reimbursed by the applicant or project owner.

Term of Appointment; Delivery of Services as Independent Contractor:

The consultant services detailed above will commence on January 1, 2022 and, unless extended upon mutual consent, terminate on December 31, 2022, as may be extended by the BIDA board. The parties hereto mutually agree that the Base Fee to be paid hereunder shall be the exclusive remuneration of Consultant for the Scope of Services to be provided to BIDA herein and that any and all costs incurred by Consultant in furtherance of providing said Scope of Services shall be exclusively borne by Consultant without further reimbursement or remittance by the Client, unless as otherwise approved by BIDA in accordance with its policies. As an independent contractor, Consultant shall be responsible for all taxes and other benefits and nothing contained herein shall be interpreted as creating a relationship of servant, employee, partnership, or agency between BIDA and Consultant.

Payment by BIDA for services rendered under this Agreement evidences the Consultant's acceptance of such status as independent contractor in accordance with the terms of this Agreement. The Consultant shall not make any claim, demand or application for any right or privilege applicable to an officer or employee of the BIDA, including, but not limited to worker's compensation coverage, unemployment insurance benefits, social security coverage, or retirement system membership or credit.

Payment for Services:

A. Payment for Services Provided under ?I. Scope of Services?

Consultant shall bill for work performed according to the ?Rate Schedule? attached to this Agreement as Exhibit A.

During the term of this agreement, payment of will be made monthly to the consultant upon receipt of a completed standard invoice and summary statement of the work performed for that month. It is anticipated and herein acknowledged that the actual workload will vary from one month to another. It is herein further acknowledged that said monthly payment is all- inclusive and is not an employment agreement with concomitant entitlement to certain fringe benefits and/or other remuneration.

B. Payment for Services Requested and Provided under ?II. Additional Services as Agency Counsel Specific to Applications and Projects that are Reimbursed by the Applicant or Project?

If requested by the Agency to provide services under Section II., the Consultant shall submit to the Agency a written estimate of the hours expected to be incurred, according to the ?Rate Schedule? attached to this Agreement as Exhibit A, and which the Agency will review prior to authorizing the work.

During the conduct of the work, the Consultant shall maintain a separate record of the hours incurred, and notify the Agency of any increases in the time estimated, which are subject to the Agency's approval. Upon completion of the work, the Consultant shall present a detailed bill which, after review and approval by the Agency, will be submitted to the applicant or project owner for payment. Payments from the applicant or project owner will be directed to the Agency and the Agency will pay the Consultant solely with the amounts reimbursed by the applicant or project owner.

Liability and Indemnification:

Termination of Services:

The consultant services detailed above may be terminated by either party upon Thirty (30) days' written notice.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first written above.

Town of Bethlehem Industrial Development Agency

By: Victoria Storrs, Chair

Catherine M. Hedgeman, Esq.

Exhibit A

Rate Schedule

Legal

Catherine M. Hedgeman \$250/hr

Executive Director Rate

Catherine M. Hedgeman \$150/hr

Annual Fee: \$50,000

Additional time over the proposed Hours may be requested by the Agency at the billable as determined by the Agency and Consultant/Counsel.

Administrative tasks, including but not limited to copying, mailing, and scanning documents, will be undertaken by Town of Bethlehem staff at the direction of the Consultant, as Executive Director, under the 2022 Administrative Services Contract between the Agency and the Town of Bethlehem. Additional administrative charges incurred by the Consultant will be reimbursed at cost by the Agency with prior written approval.

RESULT: **APPROVED [6 TO 0]**
MOVER: David Kidera, Board Member
SECONDER: Jared Finke, Board Member
AYES: Storrs, Maniccia, Kotlow, Kidera, Finke, Bub
ABSTAIN: Catherine Hedgeman

- **PLANNING BOARD UPDATE (LESLIE)**

A December 7 public hearing has been scheduled for the Port project; written comments are due December 17. Columbia Development presented an application by Plug Power for a 350,000sf facility at the end of Vista Blvd. The site is expected to bring 600 employees, including current employees from the Latham site, where operations will continue.

- **REPORT OF ED COORDINATOR (LESLIE)**

The Town Board approved the hire of John Taylor as Senior Economic Developer. The third comp plan update public meeting was well attended.

- **CANNON/BURT CRANE STATUS UPDATE (CONNOLLY)**

Costs increased significantly in 2021, and Burt Crane didn't move forward with construction. Sunset provisions call for a construction start within one year of December 18, 2020 and for construction to be completed within two years of December 18, 2020. Construction started with site work in April 2021.

IX. New Business

- **FINANCIAL STATEMENTS 10/31/21 (MAIKELS)**

With PSEG reimbursements, the BIDA is ahead of budget for 2021, but will finish the year behind due to no closings.

- **ALBANY PORT DISTRICT COMMISSION TERM SHEET (CONNOLLY)**

Mr. Scott described the Port project term sheet, noting it is heavily conditioned and includes no formal approvals. After a discussion, at the suggestion of Mr. Connolly, members referred to the Finance Committee for review at a meeting to be scheduled.

- **2022 ADMINISTRATIVE SERVICES CONTRACT/RESOLUTION (STORRS)**

The updates to the 2022 Services Agreement between BIDA and the Town of Bethlehem are primarily the addition of Exhibits B and C, formalizing the duties of staff.

RESULT:	APPROVED [6 TO 0]
MOVER:	Tim Maniccia, Secretary
SECONDER:	David Kidera, Board Member
AYES:	Hedgeman, Maniccia, Kotlow, Kidera, Finke, Bub
RECUSED:	Victoria Storrs

X. Future Meetings

The next regular IDA meeting is scheduled for Friday, December 17 at 8am and is expected to be remote.

- **REGULAR MEETING - FRIDAY, DECEMBER 17, 2021 8:00 A.M.**

XI. Adjournment

Motion To: Adjourn

RESULT:	ADJOURN [UNANIMOUS]
MOVER:	David Kidera, Board Member
SECONDER:	Jared Finke, Board Member
AYES:	Storrs, Hedgeman, Maniccia, Kotlow, Kidera, Finke, Bub