

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

**95 Perry Street  
Buffalo, New York  
August 31, 2021  
12:00 p.m.**

Directors Present:

Mayor Byron W. Brown (Chair)  
Trina Burruss  
Janique S. Curry  
Dennis W. Elsenbeck  
Darby Fishkin  
Thomas Halligan  
Thomas A. Kucharski  
Brendan R. Mehaffy  
Kimberley A. Minkel  
David J. Nasca  
Dennis M. Penman (Vice Chair)  
Darius G. Pridgen

Directors Absent:

James Comerford  
Michael J. Finn  
Dottie Gallagher  
Amanda Mays  
Maria R. Whyte

Officers Present:

Brandye Merriweather, President  
Rebecca Gandour, Executive Vice President  
Mollie M. Profic, Treasurer  
Kevin J. Zanner, Secretary  
Atiqah Abidi, Assistant Treasurer

**Guests Present:** Jonathan D. Epstein, *The Buffalo News*; James Fink, *Buffalo Business First*; Alexis M. Florczak, Hurwitz & Fine, P.C.; Arthur Hall, BUDC Senior Project Manager; Jamee Lanthier, ECIDA Compliance Officer; and Antonio Parker, BUDC Project Manager.

- 1.0 Roll Call** – The Chair called the meeting to order at 12:06 p.m. The Secretary called the roll and a quorum of the Board was determined to be present. Agenda items 4.1 and 4.2 were presented first, followed by agenda item 3.2. Ms. Minkel joined the meeting during the presentation of agenda item 4.1.
- 2.0 Approval of Minutes – Meeting of June 29, 2021** – The minutes of the June 29, 2021 meeting of the Board of Directors were presented. Mr. Pridgen made a motion to approve the meeting minutes. The motion was seconded by Ms. Burruss and unanimously carried (12-0-0).
- 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 July 31, 2021.

- 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 July 31, 2021. Ms. Burruss made a motion to accept the BUDC consolidated financial statements. The motion was seconded by Ms. Minkel and unanimously carried (12-0-0).

#### **4.0 New Business**

- 4.1 Ralph C. Wilson, Jr. Centennial Park – Edith Wilson and Linda Bodgan Garden & Tennis Fund of the Community Foundation for Southeast Michigan Award** – Ms. Gandour presented her August 31, 2021 memorandum regarding a grant award from the Edith Wilson and Linda Bodgan Garden Tennis Fund of the Community Foundation for Southeast Michigan (the “Fund”). BUDC recently received notification of a \$300,000 award from the Fund, which will be used to support capital construction of Centennial Park, including seasonal plantings, irrigation and development of the Edith Wilson and Linda Bodgan Garden. This item was reviewed by and recommended for approval by the Downtown Committee at its August 18<sup>th</sup> meeting. Ms. Curry made a motion to: (i) accept the \$300,000 grant award from the Edith Wilson and Linda Bodgan Garden and Tennis Fund of the Community Foundation of Southeast Michigan to support the construction of the entry garden for Centennial Park; and (ii) authorize each of the President and Executive Vice President to take such actions as are necessary to implement this authorization. The motion was seconded by Mr. Nasca and unanimously carried (12-0-0).
- 4.2 Ralph C. Wilson, Jr. Centennial Park – SJB Contract Amendment** – Ms. Gandour presented her August 31, 2021 memorandum regarding a proposed amendment to the due diligence services agreement with SJB Services, Inc. BUDC, through its project manager, Gardiner & Theobald identified the need for additional due diligence services, including soil borings and underground tank investigation. The proposed contract amendment is for an amount not to exceed \$92,500 and would be paid for with previously awarded grant funds from the Ralph C. Wilson, Jr. Foundation. The proposed amendment was discussed with members of the BUDC Board of Directors at the July 27, 2021 meeting, but due to a lack of quorum formal action could not be taken. In the interim, BUDC asked SJB Services to proceed with the work to avoid delaying the project. Mr. Pridgen made a motion to: (i) ratify the authorization to proceed with necessary and timely due diligence work; (ii) approve an amendment to the agreement with SJB Services, Inc. for an amount not to exceed \$92,500 for additional due diligence services in support of the Centennial Park project; and (iii) authorize each of the President and Executive Vice President to take such actions as are necessary to implement this authorization. The motion was seconded by Mr. Penman and unanimously carried (12-0-0).
- 4.3 Buffalo Lakeside Commerce Park – Zephyr Investors LSA Due Diligence Extension** – Ms. Merriweather presented her August 31, 2021 memorandum regarding the request of Zephyr Investors, LLC for an additional extension of the due diligence period under the Land Sale Agreement (LSA). The due diligence period currently runs through September 30, 2021. Zephyr has proposed that the due diligence period be extended until the earlier of either July 31, 2022 or 120 days from the date that Zephyr obtains its MRTA license. In consideration for the proposed extension, Zephyr has offered to pay BUDC non-refundable extension fees of \$1,000 for each month of the extended due diligence period. These fees will not be applied as a credit against the purchase price at closing. Ms. Merriweather indicated that Zephyr also requested an option for an additional one-year extension of the due diligence period through July 31, 2023 due to the present uncertainty regarding MRTA licensing requirements. She noted that if this extension is utilized, Zephyr would make \$3,000 monthly exclusivity fee payments from August 1, 2022 through December 31, 2022 and \$7,500 monthly exclusivity fee payments for the period from January 1, 2023 through July 31, 2023. Zephyr has also agreed to deliver an additional \$67,000 deposit on

August 1, 2022 which will be held in escrow. Ms. Merriweather noted that the proposed extension was discussed with members of the BUDC Board of Directors at the July 27 2021 meeting; however, due to the lack of quorum, formal action could not be taken. In the interim, BUDC issued a letter for a short-term 60-day extension of the due diligence period through September 30, 2021. This item was reviewed and recommended for approval by the Real Estate Committee at its August 24<sup>th</sup> meeting.

The Board discussed the extension request. Mr. Pridgen commented on the length of the proposed extension and queried as to the purpose of the additional due diligence period. He also commented that there would be strong interest in this property if it were placed back on the market. Ms. Merriweather responded that the developer's need for additional time is due to the uncertainty relating to MRTA licensing. Ms. Minkel commented that the Real Estate Committee meeting reviewed the proposal at length and noted the additional compensation to be received under the proposal. Mr. Kucharski noted that the property has not been marketed due to the existing agreement with Zephyr and agreed that there would be interest in the property if it was on the market. Mr. Penman commented that Zephyr has made significant investments in this project, and the delays relating to MRTA licensing are beyond the developer's control.

At the conclusion of the discussion, Ms. Minkel made a motion to: (i) ratify the granting of a short-term 60-day extension of the due diligence period ending September 30, 2021; (ii) approve the extension of the due diligence period consistent with the terms outlined in the August 31, 2021 memorandum and such additional terms as may be negotiated by the President and Executive Vice President; and (iii) authorize the President and Executive Vice President to execute an amendment to the Land Sale Agreement and take such other actions as are necessary or appropriate to implement this action. The motion was seconded by Mr. Mehaffy and carried with ten affirmative votes (10-2-0), with Mr. Pridgen and Ms. Burruss voting against.

#### **4.4 Buffalo Lakeside Commerce Park – Canal Park and Canal Bridge Maintenance**

**Agreements** – Ms. Gandour presented her August 31, 2021 memorandum regarding the Canal Park and Canal Bridge Maintenance Agreements. In October 2011, BUDC and the City of Buffalo entered into two ten-year maintenance agreements with respect to maintenance of Ship Canal Commons and the pedestrian bridge that spans Union Ship Canal. These agreements are set to expire on October 28, 2021. Following the initial ten-year term, either BUDC or the City may terminate the agreements upon at least one-year written notice to the other party. Ms. Gandour noted that over the past ten years, BUDC has incurred almost \$1.5 million in costs under these agreements for property maintenance obligations. She also noted that BUDC's responsibility for maintenance obligations at Ship Canal Commons was not intended to be a long-term obligation; rather, these obligations were intended to be assigned to the BLCP Property Owners Association (POA). The Real Estate Committee reviewed this item at its August 24, 2021 meeting and recommended approval, subject to BUDC staff consulting with Commissioner Finn regarding the matter. Ms. Gandour reported that BUDC staff consulted with Commissioner Finn, who expressed support for assigning the maintenance agreements to the POA and indicated that the maintenance of the pedestrian bridge would be turned over to the Department of Public Works, and park maintenance would be turned over to the POA. Mr. Mehaffy made a motion to: (i) approve the assignment of the maintenance agreements to the POA; (ii) approve the issuance of a notice of termination of the maintenance agreements; and (iii) authorize each of the BUDC President and Executive Vice President to execute such documents and take such actions as are necessary to implement these actions. The motion was seconded by Mr. Elsenbeck and unanimously carried (12-0-0).

**4.5 Buffalo Lakeside Commerce Park – Project Update** – Mr. Kucharski made a motion for the Board to enter into executive session to discuss litigation strategy relating to the Sonwil Article 78 proceeding. The motion was seconded by Mr. Halligan and unanimously carried (12-0-0). At the

conclusion of the discussion in executive session, Mr. Kucharski made a motion to exit executive session, which was seconded by Mr. Nasca and unanimously carried (12-0-0).

**4.6 Ralph C. Wilson, Jr. Centennial Park – Project Update** – Ms. Merriweather presented a general update regarding the Centennial Park project and introduced Antonio Parker, who recently joined BUDC to work as Project Manager for the Centennial Park project. Mr. Parker reported that work on Centennial Park is moving forward and remains on track. Staff is reviewing funding for core park construction relating to the play garden. Site visits with MVVA, G&T and the Ralph C. Wilson, Jr. Foundation are taking place on September 8<sup>th</sup> and 9<sup>th</sup>. Work on the construction documents and funding for the inlet and shoreline elements of the project is also progressing. Mayor Brown, Ms. Burruss and Mr. Pridgen left the meeting following the presentation of this item. Mr. Penman chaired the remainder of the meeting.

**4.7 Northland Beltline Corridor Update** – Mr. Hall presented the Northland Beltline Corridor Project update as follows:

Northland Central –NWTC/ESD/BUDC Memorandum of Understanding: The company that was initially engaged to perform an equipment inventory has been re-engaged to update the equipment inventory list.

Northland Central –LEED Certification/NYSERDA Update: BUDC has received the \$23,136 award for the achievement of LEED silver status for 683 Northland.

683 Northland: BUDC submitted a reimbursement request in the amount of \$47,272.85 from the ESD equipment grant.

Community Solar & Microgrid Project Update: BUDC submitted a first draw request to ESD for approximately \$50,261.88 in connection with the Microgrid project.

612 Northland: Albright Knox continues to showcase the Herve Tullet exhibit, which runs through September 12<sup>th</sup>.

714 Northland: Albright Knox continues to make progress on the mural for 714 Northland—three murals have been completed.

537/541 E. Delavan: BUDC is working on a prospectus for the property in coordination with the Center for Creative Land Recycling (CCLR).

Neighborhood Planning and Development: A grant application was submitted to the National Endowment for the Arts in the amount of \$150,000 for creative placemaking to advance local economic and social outcomes.

Community Outreach: The Northland Beltline Taxpayers Association is hosting its Fall Festival on October 23<sup>rd</sup>.

Business Network Services: A meeting was held on August 25<sup>th</sup> to plan the next Business Network Series on October 28, 2021, which will focus on contractors.

**4.8 Race for Place Project Update** – Ms. Merriweather presented an update on BBRP and the Race for Place project. Several teams that submitted proposals for the Mohawk Ramp RFP have been interviewed. Ms. Merriweather commented on the overall good quality of the proposals. The City is working on a plan for public engagement with respect to the proposals. BUDC is also working with the City of Buffalo on two CFA applications for Erie-Shelton Square Greenway construction

and public realm planning for the inner harbor. Wendel Companies presented a preview of the Ellicott Street placemaking strategy to the Downtown Committee. The final plan document is expected to be released in September. Construction in the entertainment district continues to move forward.

**4.9 308 Crowley Project Update** – Ms. Merriweather reported that demolition at the site is moving forward and approximately 70% complete. Enterprise Folding Box Company is making progress on the rebuilding of its wall following the on-site fire. The City of Buffalo and BUDC are pursuing funding for Phase 2 of the demolition work.

**5.0 Late Files** – None.

**6.0 Tabled Items** – None.

**7.0 Executive Session** – Yes, item 4.5.

**8.0 Adjournment** – There being no further business to come before the Board, the August 31, 2021 Board of Directors meeting was adjourned at 1:00 p.m.

Respectfully submitted,



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Kevin J. Zanner, Secretary