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City Of Yonkers
Industrial Development Agency
Governance Committee Meeting

May 12, 2016
9:21 a.m.
40 South Broadway
Yonkers, New York 10701

TRANSCRIPT OF PROCEEDINGS

AGENDA

- =====
- 1. Roll Call
- 2. Approval for Minutes for December 16, 2014 Meeting
- 3. Review and Discussion:
 - I. By-Laws (last June 26, 2013)
 - II. Review of Guidelines & Procedures (last January 30, 2014)
 - III. Review of Personnel Policies & Procedures (last January 20, 2015)
 - IV. Revision of IDA project application
- 4. Legal Updates
- 5. Other Business
- 6. Adjournment

2 Reported By:

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Margaret Prendergast
902 Pleasantville Road
Briarcliff, New York 10510

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2 A P P E A R A N C E S

3 BOARD MEMBERS

4 PETER KISCHAK - CHAIRPERSON

5 DEPUTY MAYOR SUSAN GERRY - MEMBER

6 MELISSA NACERINO - BOARD MEMBER

7 CECILE SINGER - BOARD MEMBER

8

9 IDA STAFF

10 KEN JENKINS - IDA PRESIDENT

11 JAIME MCGILL - IDA EXECUTIVE DIRECTOR

12 DEEPIKA MEHRA - IDA/YEDC CHIEF FISCAL OFFICER

13

14 OTHER

15 MAYOR MIKE SPANO

16 GREGORY P. YOUNG, ESQ. - IDA COUNSEL

17 DAVID ROTHMAN, ESQ. - HARRIS BEACH PLLC/TRANSACTION
COUNSEL

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1 Proceedings

2 MR. KISCHAK: All right. We're going to
3 open this Governance Committee Meeting. It's May
4 12th. It is 9:21.

5 Roll Call?

6 MS. MEHRA: Pete Kischak?

7 MR. KISCHAK: Here.

8 MS. MEHRA: Sue Gerry?

9 MS. GERRY: Here.

10 MS. MEHRA: Melissa Nacerino?

11 MS. NACERINO: Here.

12 MS. MEHRA: Cecile Singer is excused.

13 We have a quorum.

14 MR. KISCHAK: Okay.

15 MR. JENKINS: Mr. Kischak, you might
16 want to note for the record, the appointment of
17 the members, Deepika --

18 MS. MCGILL: Melissa Nacerino and
19 Cecile Singer.

20 MS. MEHRA: Right.

21 MR. JENKINS: Were appointed by the
22 Mayor to serve on the Governance Committee.

23 MR. KISCHAK: Okay.

24 MR. JENKINS: Okay.

25 MR. KISCHAK: Do we need a motion?

1 Proceedings

2 MR. JENKINS: No.

3 MR. KISCHAK: Okay. Just letting you
4 know.

5 MR. KISCHAK: All right. The Approval
6 of the Minutes for December 16, 2014.

7 MS. GERRY: Motion.

8 MS. NACERINO: Motion.

9 MR. KISCHAK: Motion is accepted.

10 MS. GERRY: It's a small group.

11 MR. KISCHAK: Review and Discussion:
12 Number I, By-Laws (last June 26, 2013).

13 MR. YOUNG: David, do you want to walk
14 us through each one?

15 MR. ROTHMAN: Yes.

16 MR. JENKINS: There were no changes.

17 MR. YOUNG: No changes on the By-Laws.

18 MR. JENKINS: No changes that are
19 recommended for the By-Laws at this time. As a
20 Governance Committee, by statute, we still review
21 the various Procedures and By-Laws of the
22 organization, such as Guidelines, Procedures,
23 By-Laws, etc., and Personnel Policies. And as of
24 this meeting today, there are no changes that are
25 being forwarded or recommended at this time to the

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By-Laws, so --

MR. KISCHAK: Okay. So, we just need a motion.

MS. NACERINO: Motion.

MS. GERRY: Second.

MR. KISCHAK: Okay.

Review of Guidelines and Procedures
(last January 30, 2014).

Any Updates?

MR. JENKINS: Yes. So, there are two Updates.

MS. MCGILL: Harris Beach has recommended two additional policies that are in line with compliance for acquisition.

MR. ROTHMAN: David Rothman. You may have read, over the last year or two years, about a couple of cases that made some state-wide attention for IDAs. Perhaps having some shoddy recordkeeping or not following up on projects that had representation in terms of jobs or what they were going to do. And those projects were not well received in the press.

The State Assembly and the Legislature, as a whole, enacted two legislations at the very

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2 end of last year, which the Governor signed into a
3 law in December, which is intended to provide
4 greater clarity, transparency and oversight for
5 IDAs in terms of what's within the application.
6 What kind of recapture policies the IDAs enacts
7 and how an IDA evaluates a project that comes in
8 seeking IDA benefits. I think they have it
9 redlined, right? The application?

10 If you look at it, it looks like there
11 are a lot of changes but actually, if you were to
12 compare, a good bit of it is actually just
13 shuffling where things are. You already had a lot
14 of this information within your application in
15 terms of the benefits sought, what the savings
16 would be, how many jobs would be created. This is
17 intended by the state to flush some of that out.
18 Like I said, you already had a lot of that. But,
19 these requirements are consistent with or --
20 excuse me, let me back up.

21 These proposed changes are consistent
22 with the state legislation that was enacted.
23 We've done this with a lot of our other IDA
24 clients as well. These policies are consistent
25 with both what other IDAs are doing and with the

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2 expressed language within this legislation that
3 was just signed into law six months ago. That
4 legislation -- or five months ago. That
5 legislation requires adoption of policies and
6 procedures consistent with that legislation by
7 what would be the end of June of this year.

8 MS. GERRY: So, if I understand it, in
9 the Guidelines there's something about agency fee
10 reduction. Can you explain that? And is that
11 something that's going to be applicable --

12 MS. MCGILL: So, that's in your redline
13 copies, your redline copy of Guidelines and
14 Procedures. And it's referenced on page three and
15 four and five as well. It should be highlighted
16 in your redline copies.

17 MS. GERRY: I don't see it.

18 MR. JENKINS: In the Guidelines and
19 Procedures.

20 So, there's two different documents.
21 The one that we're looking at is the one that says
22 Guidelines --

23 MS. MCGILL: It's the gray panel there.

24 MR. JENKINS: And the red-line is --

25 MS. MCGILL: Highlighted.

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MR. JENKINS: On the side.

MS. GERRY: Okay. Thank you.

MR. ROTHMAN: So, what's been highlighted is in the, I believe, in the existing Policies and Procedures. It's highlighted as a question, actually. The IDA has the ability to, for our projects, if it wishes, negotiate a reduced fee. It states, in essence, one half of one percent on straight lease and one percent on transactions -- --

(Whereupon, Cecile Singer joined by conference call.)

MR. JENKINS: She can't vote, though. She can't vote.

MR. KISCHAK: It says "may".

MR. ROTHMAN: Correct. Right.

MS. GERRY: Here's my problem. When we arrived here, Mayor Spano, the IDA, was barely solvent. We didn't collect fees. We were always very sympathetic, like, "Oh, we want all your benefits but we really can't afford your fees and we're going to make a lot profit from this project." I know I speak for the Mayor when I say, that our unequivocal policy of "You must pay

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2 your agency fees and if you're solvent enough to
3 do a project of this magnitude, take all of these
4 benefits, then you pay our fee." Because we have
5 staff that's required to comply with all kinds of
6 laws. And we're called upon to provide a high
7 quality of work-product and to be out in the
8 community promoting these projects. And I would
9 liken this to the Mayor's Executive Order that
10 says, "We don't do business with people who owe us
11 money." If we could and we might, then the axe is
12 always going to be there. And it's going to be
13 pressure, pressure, pressure aftertime to the last
14 minute. And the thing that would concern me, and
15 which is why I would not want that language is,
16 that every single project is going invoke that and
17 it's hard to say no. Because they're going to go
18 "We're going to take our project and go somewhere
19 else." And it's always the same. But, when we
20 insist on a mandate, they all pay it and our IDA
21 is solvent. And we're like in a full lunar of IDA
22 solvency. So, that would be my thoughts on it.

23 MR. KISCHAK: So, we don't have to abide
24 by that. It says "may," so we don't have to do
25 this?

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MR. ROTHMAN: Correct. I think what the Deputy Mayor is saying is if you removed the discretionary action, then there is no wiggle room for a company to come in and say, "I'm bringing in \$100,000,000 project but I don't want to pay the half the point. I don't want to pay 500,000."

MS. GERRY: Exactly. I just would have to say that on both the city side and the IDA side, if there's any discretion, you know, there's sixteen phone calls coming to sixteen different people, every single board member, you know, "Please, please, please, I can't afford it." You know, in the cases of these projects, it's all a sliding scale as it relates to the value of the project. So, if you can afford to do the project, you can afford to pay us for our time in helping you get this project done. So, that would be my opinion. I would want to take "may" out.

MR. JENKINS: So, that's the recommendation at this time?

MR. KISCHAK: Right. So, we want to --

MS. GERRY: Well, I don't know. That's just my opinion.

MR. KISCHAK: So, you want to put this

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up for a vote?

MS. GERRY: I just wanted to bring --
Cecile can hear us?

MS. SINGER: Yes, but it's breaking up a
little. It's fine, I'll manage.

MS. GERRY: Okay. If there's anything
you want to talk about after, I can give you an
update.

We were just talking about including or
excluding language which would give us the ability
to waive or alter or adjust the agency fee with
new projects. And I was just expressing the
Mayor's stated position, to date, is that having
no discretion and saying the agency fee is a
mandate has served us quite well and it's put the
IDA back in a solvency position. And because it's
a percentage of the overall project, it's not like
it's a great hardship for the smaller projects,
it's on a sliding scale. So, I would like to keep
our IDA well-employed with very competent people.
So, that's my opinion but that's just one opinion
of one member of the committee.

MR. KISCHAK: This is open for
discussion?

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MS. GERRY: Absolutely.

MS. NACERINO: When they passed this legislation, is the thought process that some of these businesses will have the ability to try to waive that?

MR. ROTHMAN: Well, the legislation -- the recently enacted legislation has nothing to do with this particular language. This language previously existed. The legislation itself doesn't set a fee schedule.

MS. NACERINO: Okay.

MR. ROTHMAN: This is discretionary for each IDA. Various IDAs charge a fee based upon different criteria.

MS. GERRY: I think when we arrived, we weren't charging anything. And we did a lot of research about --

MS. MCGILL: We had two projects during this administration but we inherited those commitments for reduction in the fee but nothing during this administration has been reduced.

MR. JENKINS: Everybody asks for it, everybody. No matter what size the project is, you know, you could be doing a \$100,000,000

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2 project and trying to extract lower fees, for
3 whatever set of reasons, so, we could suggest that
4 recommendation is voted by the board members.

5 MS. MCGILL: And, if I can say, our
6 standard answer to them is that we don't want to
7 set the precedent. So, if they do see this in
8 there, it kind of sets us back.

9 MS. GERRY: Right. It's an expression
10 of policy --

11 MS. SINGER: Pardon me. Are the
12 speakers of the phone, do you have a wall thing
13 with speakers on it?

14 MR. JENKINS: You're right in the middle
15 of the table. I'm sorry, Cecile. We'll speak up
16 a little more and try to do that.

17 But, the discussion right now is
18 surrounding language that is in the Guidelines and
19 Procedures that suggest that there is flexibility
20 in the agency fee and the discussion is about
21 removing that language. So, that there's a
22 consistent policy so that when people -- when
23 applicants come in, depending on the size of their
24 project, it's a sliding scale. And the percentage
25 based on the size of the project so that there is

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no ability to continue to negotiate and try to reduce those fees that help our agency stay afloat and keep us in a good position. So, that's the recommendation.

MR. KISCHAK: Okay. My position is that you know, if it's not broke, leave it alone. We're getting business coming in. So, as well as we're getting businesses coming in and this is the way it's working, leave it alone. I'm going to have to agree with Sue and the Mayor.

MR. JENKINS: Okay.

MR. KISCHAK: We'll take a vote?

MS. GERRY: So, what are we voting for? To take it out? Take the language out?

MR. KISCHAK: Yes. I would say take it out. That's my opinion. What do you think Greg?

MR. YOUNG: I agree.

MR. KISCHAK: Do we need a --

MS. GERRY: Motion?

MR. KISCHAK: A motion?

MR. YOUNG: I think so.

MR. KISCHAK: Okay.

MS. GERRY: So, a motion to remove the language in Section 3a-1 Procedures.

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2 MR. KISCHAK: Let me ask you a question.

3 As Chairperson, I can't vote?

4 MS. GERRY: As what?

5 MR. KISCHAK: I can vote?

6 MS. GERRY: Sure.

7 MR. KISCHAK: Oh, okay.

8 MS. GERRY: Just if you're on the phone,
9 you can't vote.

10 MR. KISCHAK: What's that?

11 MS. GERRY: If you're on the phone, you
12 can't vote.

13 MR. KISCHAK: Oh.

14 MS. GERRY: Okay. So, motion.

15 MR. KISCHAK: Motion is accepted.
16 Anything else?

17 MR. JENKINS: You have to vote.

18 MR. KISCHAK: We voted.

19 MS. GERRY: Aye.

20 MS. NACERINO: Aye.

21 MR. KISCHAK: Aye.

22 MR. JENKINS: And, Mr. Rothman, you were
23 discussing the other section of the application
24 that was with the other conversation that you were
25 just having with the modifications that came with

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2 the recommendations. You were halfway through the
3 list.

4 MR. ROTHMAN: Right. The application of
5 a lot of the changes, a lot of comments were more
6 shuffling where things were located within each
7 section. But, some of it is new information.
8 Some of it is new information in terms as you go
9 through. As you look at the redline, a lot of
10 this, the first few pages especially, really are
11 consistent with what was already there.

12 Section H -- I'm sorry. H in Section 2,
13 Inter-municipal mode determination, there's
14 already representation. It's referred to as
15 anti-piracy. You're not inducing a project that
16 already has IDA benefits to come to the City of
17 Yonkers. This is just flushing that out. You
18 already had that. A lot of these requirements
19 already existed. The recommendations were already
20 made. This is just additional information within
21 it. They do the math in Section 3. Like I said,
22 a lot of that was already there. A lot of this
23 was already within it. The employment plan, it's
24 flushed out a little bit more.

25 MR. JENKINS: So, there's a checklist

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that is -- it's a checklist for new IDA legislation requirements, right here. That is a checklist that should aquait to the modification that we've made in the application.

MR. ROTHMAN: Correct. Yes. And that checklist is based upon the enacted legislation.

MR. KISCHAK: Okay.

MS. GERRY: So, really we can't give money if somebody wants to relocate just for the sake of relocating?

MR. JENKINS: What's happening a lot at the federal level when people back the infra-structure. So, there is this language specifically that prevented people from doing that like Connecticut, which did it a few times. Right? Which was an issue.

MR. ROTHMAN: There are some exceptions on the piracy, namely if a company were looking to moving out of state, rather than just moving to Yonkers solely because the city, the IDA said, "Hey, move here." There have been some companies that have moved to Yonkers and were looking at moving from -- I can't remember where, New York City, somewhere. They were looking to moving to

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New Jersey.

MS. MCGILL: Oz.

MR. ROTHMAN: Thank you. Were looking to moving to New Jersey and decided to stay in New York solely because the IDA agreed to provide some benefits. That is the exception. So, you can induce somebody who's looking to move out of state. You just can't call up a company and say "Hey. I know you're in Queens or Brooklyn or White Plains. Move to Yonkers, we'll give you a great deal." That's the distinction.

MS. GERRY: Would it be --

MS. MCGILL: You could have them sign a statement saying that --

MR. ROTHMAN: Yes.

MS. MCGILL: They sought us out.

MR. ROTHMAN: Yes.

MS. GERRY: Like if Pete has a factory and he wants to triple its size and there's no room where it is, one would think he could move anywhere.

MR. ROTHMAN: Yes.

MS. GERRY: And be entitled to the benefits.

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MR. ROTHMAN: Correct. He would be entitled -- that example, would be entitled to the benefits. It's you -- it's the IDA, when I say, "you," it's the IDA, calling him, cold call. Someone saying, "Hey."

MR. KISCHAK: Did we have a Linen company that did that? On Nepperhan Avenue?

MS. MCGILL: Yes.

MR. ROTHMAN: Fast Linen. Fast Linen, they were outsized. They didn't have enough space in their -- I think they were in the Bronx.

MR. KISCHAK: Right.

MR. ROTHMAN: They didn't have enough space in their facility in the Bronx. They were looking to stay nearby the New York City area because that's where their clients existed.

MR. KISCHAK: Right.

MR. ROTHMAN: And looked around and found out about Yonkers and were put in touch, Fast Linen and the IDA. It's a different example than the cold calling.

MR. KISCHAK: Okay.

MS. NACERINO: So, expansion, need new space, looking to move out of state, are those

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outlined somewhere?

MR. ROTHMAN: Well, it's outlined in the existing legislation. The application is just flushing it out a little bit more.

MS. NACERINO: You get an affidavit?

MR. ROTHMAN: Yes.

MS. MCGILL: Normally, that comes out in the conversation, now we're securing it in the application when we have one assigned to you.

MR. KISCHAK: Do we need a motion?

MR. JENKINS: You have to finish -- you have to finish up our Guidelines and Procedures.

MR. KISCHAK: Okay.

MR. ROTHMAN: So, David, more about these applications under discussion so --

MR. KISCHAK: You want to just like go through everything and then make a motion?

MR. JENKINS: You have to do one at a time.

MR. KISCHAK: Okay.

MR. JENKINS: So, we're at Guidelines and Procedures. Were there any additional items in the policies -- I think there is either one --

MS. MCGILL: There were two. Revision

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of fees and some additional policies which David
--
MR. JENKINS: Gotcha.
MS. GERRY: We would do a motion to
approve it --
MR. YOUNG: Right.
MS. GERRY: As amended?
MS. MCGILL: Yes.
MS. GERRY: Motion to approve as
amended.
MR. KISCHAK: Second.
MR. JENKINS: So, it was moved by the
Deputy Mayor --
MR. YOUNG: Right.
MR. JENKINS: And seconded by the Chair.
MR. YOUNG: By the Chair, okay.
MR. JENKINS: You have to vote. So, may
I have a vote for the --
MS. GERRY: Aye.
MR. KISCHAK: Aye.
MS. NACERINO: Aye.
MR. YOUNG: Aye.
MR. JENKINS: Awesome.
MR. KISCHAK: All right.

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MR. JENKINS: All right. Now, you have Personnel Policies and Procedures. So, 3? And there are just -- there were no recommendations for modification in the Personnel Policies and Procedures.

MR. KISCHAK: Okay. So, motion?

MS. NACERINO: I make a motion.

MS. GERRY: Second.

MR. KISCHAK: All right. We're voting on it?

(Chorus of Ayes.)

MR. KISCHAK: Okay.

MR. JENKINS: Awesome.

MS. GERRY: Between us, we'll get it done.

MR. KISCHAK: Yes.

MR. JENKINS: Absolutely.

All right. And the final item 3-IV, is the Revision of the IDA project application. We were going through this, so, I guess a motion would be in order.

MR. KISCHAK: I make a motion.

(Chorus of Ayes.)

MR. KISCHAK: Motion accepted, voted on

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unanimously.

Any Updates?

MR. YOUNG: No Legal Updates.

MR. KISCHAK: Okay.

Other Business?

MS. GERRY: So, we wanted to have -- use this forum to have a conversation about the ongoing question of whether the IDA should consider having a PLA policy, a prevailing wage policy. Your CI friends from the Carpentry's Union and the front were rather concerned that we don't have a mandate for prevailing wage or PLA associated with our benefits. At the last IDA meeting, you all heard from labor leaders regarding their position. Yesterday, we met with some developers. And it was typical of other developers who are saying that they just simply can't build with the prevailing wage requirement. That it just puts them outside of the realm of their financing. You know, it's also kind of like the conversation about, you know, "We can only afford the project if we can't pay the agency fee." You know, there's always, you know, blurred lines. It's not completely black and white.

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But, what we wanted to do was to do some research around the state, see what has been done by other IDAs or what is being done with their experiences. Whether it's had any kind of effective driving development in or out and what they have had so far. So, what Jaime just circulated was a polling of most of the IDAs, if all of the IDAs.

MS. MCGILL: Most of them.

MS. GERRY: Yes. All of the IDAs of any magnitude in the state. And as you can see, most, if not all, none have a PLA requirement. The prevailing wage policy which we would like to look at and maybe discuss a little bit in this forum. If we want to discuss it a few times and bring it back to the IDA board to discuss it more. We can do that too. Nassau, Rockland and -

MS. MCGILL: Suffolk.

MS. GERRY: Suffolk have various policies that we wanted to look over and maybe Jaime can kind of distribute them, maybe give a little overview. Typically, those communities are not imposing PLA unless the IDA or its affiliation, the YEDC, are actually financing the

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2 project. So, when it becomes a publicly financed
3 or quasi-public financing source, that's where the
4 trigger is for the prevailing wage. But, if it
5 remains an entirely private project, they're not
6 requiring prevailing wage. So, and there's also
7 fractual, it's like \$5,000,000. So, we wanted to
8 just want to look -- look it over maybe change it.
9 Maybe Jaime can take us through each one and we
10 can kind of just talk about what feels right to
11 us, if anything.

12 MS. MCGILL: Sure. So, Nassau, Suffolk
13 and Hempstead all have pretty much the same policy
14 with slight verbal deviations. But, they are on
15 projects that are on projects. I'm not sure if
16 their transactions, which is primarily what we do
17 that are greater than \$5,000,000. And then they
18 require prevailing wage, the applicant can opt for
19 a PLA.

20 I spoke to all of them directly. All of
21 them do say that that they don't do many PLA
22 projects. So, it's not something that they're
23 actually practicing. Rockland, who I spoke to,
24 does actually police their prevailing wage policy
25 which they said was extremely burdensome too. And

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2 they're actually looking at changing the language.
3 The other thing is some of them have had reference
4 to local hire. None of them were a requirement
5 but it is highly encouraged in their language.

6 MS. GERRY: We understand that a local
7 hire requirement, while admirable, could violate
8 the Commerce Clause of the United States
9 Constitution. So, we're not necessarily
10 interested in doing that. You know, when it's a
11 strictly private deal there's, you know, private
12 companies are entitled to hire employees and they
13 may cross state lines to do it. We can't limit
14 that because of the Constitution. So, we have to
15 be very careful. You know, what's local? What's
16 not local? You know, you can't hire people from
17 Virginia. It's not an allowed or legal approach.

18 MS. MCGILL: Nassau did have an
19 interesting policy, if you turn to the back page
20 of the Nassau. Their county contractor policy
21 which require their applicants on all contracts
22 and subcontracts of the project to receive at
23 least one local bid.

24 MS. GERRY: Do they have to report on
25 it? If we did that, could we require them to

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report their results?

MS. MCGILL: They do. They ask for them to show --

MR. YOUNG: They're required.

MS. GERRY: Because I know that, that would maybe make some of our board members happy to know that it was legitimately signed and we could understand -- we could see and understand the difference --

MR. YOUNG: Right.

MS. GERRY: Between bids.

MR. KISCHAK: I wouldn't have a problem with that. You know, it gives us some ammunition, if somebody were to ask, saying, "Listen, this is the difference." Like you were talking before, 5,000,000 --

MR. JENKINS: That's different. The bid is different. So, in a lot of the research, because some of the IDAs have local laws that are attached to them that come from -- in cases of Nassau and Rockland and Suffolk, that come from the county board as well as combined with state law. Right? So, the prevailing wage piece was from state law.

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2 MS. MCGILL: It's okay to require
3 prevailing wage, they have to follow state pattern
4 for it.

5 MR. JENKINS: So, the county has a
6 Project Labor Agreement clause, but that's only
7 for the color board. That's really a big
8 distinction that it's hard to explain that to our
9 friends in the construction trades because they
10 just see the project and that the quasi-government
11 agency did something with it, right? So, in
12 having all of the discussions and the research
13 from the IDA's side, it is clear that they only --
14 the four that have the kind of requirements to
15 have either local options which helps address an
16 issue Deputy Mayor brought up earlier which was
17 that we have developers come to the table and say
18 that, "This project will not be able to be done if
19 we have to pay prevailing wage." And then we have
20 labor on the other side saying, "Well, that's not
21 really true." This eliminates that argument,
22 right? So, having that information that's
23 provided, in Rockland's IDA's perspective, they
24 have a requirement that they will put that
25 information up on a website that allows -- it

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2 reports that come back in. But, that's the other
3 issue and Jaime, you may want to --

4 MS. MCGILL: That was Rockland's big
5 issue. That it is a huge burden --

6 MS. SINGER: Ken, I'm having trouble
7 with everything, you know, it breaks up. So, what
8 is it about prevailing wage?

9 MR. JENKINS: So, the prevailing wage
10 concerns -- the prevailing wage concern as far as
11 the opportunities are concerned for private
12 development versus the public work. When public
13 work, the legislative body works with the
14 executive branch, here in Yonkers, it would be the
15 City Council, the Mayor working together to do
16 something more public work, right? And the school
17 district would be separate, right? Because they
18 have their own governing body, right? So, in
19 those governing bodies, they can say, "You must
20 pay prevailing wage."

21 MS. SINGER: Who else is the governing
22 body?

23 MR. JENKINS: I'm sorry. Say that
24 again, Cecile.

25 MS. SINGER: It's still -- it's very

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difficult to hear.

So, what you were saying is that the conclusion is that it belongs with the governing body not with the IDA?

MR. JENKINS: That would be correct. So, and no matter what, we would absolutely make sure to get information that we're talking about here so we can summarize and we'll talk to you offline and directly about it.

But, the conversation right now is for the private development where someone comes to the table with a project, and the example I like to use when I speak with the folks out there about this is, \$100,000,000 because it's nice and easy to do. So, if you have a \$100,000,000 project and the person is getting \$10,000,000 worth of public benefit, right? To induce through mortgage tax reduction, sales tax reduction and maybe a pilot, if they have it because they might not have that. So, the building and construction folks look out and see \$100,000,000 project but there's only \$10,000,000 worth of public benefit and that is the limit for all of the places. Even the IDA ones that have prevailing wage situations that are

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2 outlined in their policies. It's limited to that
3 amount of money. And the Mayor just joined us and
4 the Mayor was talking with me earlier about this,
5 that the Mayor, the Deputy Mayor, the Planning
6 Department, along with us in the IDA have been
7 able to be very successful in talking and
8 encouraging those developers to do more than that
9 they would do in the private projects if this
10 language was enacted. Right? So, it's really
11 difficult to just explain that to the building and
12 trades folks and construction trade folks but, at
13 the same time, having a policy that includes a
14 local option that says that you must have a local
15 bid and have that requirement to be able to
16 monitor, at least the bidding process, will help
17 eliminate some of the discourse where people are
18 just making stuff up. Right? Because that's
19 really the hard part. Everyone has paid a -- that
20 can show that their point is accurate on X
21 project. But they're apples to apples. They're
22 not apples to apples. They're apples to oranges.
23 So, that language would be helpful to do. And
24 that's --

25 MS. GERRY: Jaime, do you know if in

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these communities --

MS. SINGER: You know, it's very -- it's something about the echo that makes it almost impossible to hear. Could you pick up the phone and just say that into the phone?

MS. GERRY: Hold on. We're going to try to fix the phone.

Just to kind of recap because the Mayor also just entered the room. We've been talking about the three policies in the state, which are the only policies basically, of any IDA that have a requirement that where the IDA finances part of the project up at over the level of 5,000,000. There is a requirement for prevailing wage or PLA. And in Nassau, they also have an interesting provision that we are seemingly kind of liking that each developer would be required to solicit at least on local bid and report to us on the results of those bids. I don't know if they're going to claim some kind of proprietary interest but it doesn't have to be public like in Rockland. But at least they can share with us so we can --

MS. SINGER: Right. This is a state requirement?

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MS. GERRY: No. There's no requirement at all. We're just considering options that are employed by other IDAs and there's only three IDAs that have any kind of labor-based PLA or prevailing wage requirement.

I guess my question, Jaime, was in Nassau did they solicit a local bid for every trade?

MS. MCGILL: For every sub -- every contractor and subcontractor.

MR. KISCHAK: It has to be a union?

MS. MCGILL: It just has to be a local bid.

MR. YOUNG: Yes, just a local bid.

MS. GERRY: Does that necessarily guarantee labor?

MS. SINGER: So, once the --

MAYOR SPANO: It's consistent with what Eddie Doyle has said over and over again, which is, "You know, we just want to be able to have a shot at it." If we have a shot at it, they believe they would win the bid.

MR. YOUNG: Right.

MS. GERRY: Right. So, this guarantees

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them a seat at the table with every trade, on every job.

MAYOR SPANO: Right.

MS. NACERINO: And we talked about --

MS. SINGER: But there is no guarantee that they will receive a contract?

MR. YOUNG: No, none at all.

MS. GERRY: No, they're just guaranteed to compete.

MS. SINGER: They're only guaranteed a presence at a bid?

MR. YOUNG: Right.

MR. JENKINS: Well, the way that the language is, at least in that one version, is that it's a local bid. It doesn't mean that -- because that was another concern that they had at one project.

MS. SINGER: I know that there's no local presence.

MR. JENKINS: Right. They were like, "Oh, yeah. The union -- it is union but it's not from Westchester." I was like, you know, at that point, I was on the phone throwing my hands up. We can't really do anything about that.

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2 MS. SINGER: So, they can sit at the
3 table and they can bid but if the bid is not
4 accepted, we have nothing to do with that.

5 MR. YOUNG: Exactly.

6 MR. KISCHAK: So, let me just ask the
7 question --

8 MS. SINGER: So, it opens the process
9 but it doesn't go beyond opening the process?

10 MS. GERRY: That's correct. And
11 requires the developer to report on that to verify
12 that they went through the process.

13 MR. KISCHAK: So, is it up to the unions
14 to contact the --

15 MS. MCGILL: They are the ones to
16 solicit the bids --

17 MR. KISCHAK: But they could solicit to
18 any -- it doesn't have to be a union?

19 MR. JENKINS: Right.

20 MR. KISCHAK: That's still not going to
21 appease the unions.

22 MR. JENKINS: And that's the point that
23 Jaime was bringing up with the Rockland law.
24 Because the Rockland laws says that they're
25 required to use prevailing wage or a Project Labor

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Agreement.

MS. SINGER: I understand the Rockland board is in a tiny place. It has really -- what you have to do is look at the magnitude in areas that are as large as we are, with the kind of development that we have and we're continuous to New York City. We're sitting on the border. So, that, that Rockland -- we brought up the Rockland issue at the last IDA meeting.

MR. JENKINS: Yes.

MS. GERRY: And they want to change theirs anyway. So, they're not satisfied.

MR. JENKINS: Exactly. And that was part of the research that Jaime did.

MS. MCGILL: They did. Even in their conversation, they said, you know, that they are a much smaller IDA, with much smaller development. And policing them is --

MS. SINGER: It really has no relevance to what we're doing.

MR. JENKINS: Well, the only relevance to us is because, as a neighbor, even though they have no, you know, they're not close to what we do as far as work here. As far as the IDA work, as

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2 far as Yonkers being the fourth largest city in
3 New York State, it's not close. But what happens
4 is people take a piece of paper and they try to
5 utilize that. And in evaluating the Rockland
6 policy, it still says, "make an effort to do local
7 contractors." So, it doesn't even require them to
8 have local contractors in a particular job so --

9 MS. SINGER: I think what, in fairness,
10 I think it's very -- we should -- certainly we
11 would like our own people to work there. And
12 certainly we would like us to get as much as
13 possible. So, what's the objective of an IDA? It
14 is to create jobs and in our city it's also to
15 broaden the tax base because we have -- so that we
16 can pay for our schools and for our other things.
17 So, we have a dual objective. And so, all we have
18 to do is be careful as we consider these things,
19 that it's not a deterrent to development. We need
20 something that's there for people but is not a
21 deterrent to development.

22 MR. JENKINS: Absolutely. And again,
23 the Mayor and Deputy Mayor and Commissioner
24 Kimball in Planning have been awesome working with
25 the folks when they're coming in and having those

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2 discussions. And the truth is, hopefully, that we
3 have a, you know, a document that shows that
4 because I believe it's true that they've been more
5 successful in the approach that has been done.

6 MS. SINGER: That they considered it.

7 MR. JENKINS: Not only did they consider
8 it, not the best effort language. That the
9 conversations that happened with the developers
10 had actually brought in results that are greater
11 than any of the -- in any of the requirements that
12 they've been asking for. Right? It's just
13 worth -- because consistency by making, at the IDA
14 cases, consistent from across the board and having
15 the developers work with us to be able to get
16 things done and get those labor folks on --

17 MS. SINGER: No. Look, where ever we
18 get a consideration of local labor, a
19 consideration of paying a fair wage, it certainly
20 behooves us to do it. It's just that the language
21 should not be such that it's a deterrent because
22 people have a lot of choices. You know, what's
23 happening right now is what we're seeing across
24 the whole metropolitan area is a pull back in
25 construction. So, that we just have to be

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careful.

MR. JENKINS: Yes. We're on the downside of a cycle. Right? So, things go in waves. So, we're on the downside of the wave for right now and the wave will go back. But, Yonkers has been positioned awesomely to be able to take advantage of that, unlike some of our neighbors. Right?

MS. GERRY: So, right --

MS. SINGER: Right. So, as long as the language, as I said, is not a deterrent.

MS. GERRY: I think, let's recirculate after the meeting, the Nassau language to you.

So, there were two components, right? So, there's this must solicit a bid locally and record on it, so we can at least verify. And we can also from that kind of data, we could determine who they're soliciting locally to make sure it's legitimately a local sourcing.

But then there's also this component about if there's public financing or quasi-public financing from the IDA at a level of \$5,000,000, do we require a prevailing wage? And it seems like that's kind of been the threshold that --

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2 MAYOR SPANO: Let's have a little
3 discussion about that. I think that's an
4 important discussion.

5 MS. MCGILL: At least as it relates to
6 bonds.

7 MS. GERRY: Right. So, that would be
8 categorized --

9 MAYOR SPANO: It should be 100 percent
10 of the project. The fraction --

11 (Inaudible.)

12 MS. SINGER: It would be interesting to
13 see how many meet that criteria. And then with
14 the big ones, when we would get a big one, it's a
15 tricky thing. It's tricky --

16 MS. GERRY: It is.

17 MS. SINGER: In a lot of ways.

18 MS. GERRY: It is tricky because --

19 MS. SINGER: As we all understand. But,
20 you know, it's -- was never really the duty of an
21 IDA to look at -- they're different, for different
22 reasons and in different structures. It's really
23 the City of Yonkers that needs to look at of all
24 of that, however --

25 MS. GERRY: I mean, I think, you know,

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2 occasionally, we haven't done a bond issue through
3 the YEDC in a while, but occasionally, we are
4 solicited. We have the ability to do that. And
5 so the question is, okay, if somebody, a developer
6 uses a 100 percent of YEDC financing, should then
7 the project be a 100 percent prevailing wage?
8 What if the developer only uses YEDC money for 5
9 percent of the job? Should that 5 percent
10 financing trigger 100 percent PLA or prevailing
11 wage? And so that's, you know, that's a big
12 question, especially for the developers because,
13 you know, as we've seen, some of them will say,
14 "No, thank you. We're not going to the project."
15 or "No, thank you. We don't need your financing."
16 But, should there be a sliding scale in terms of
17 how much financing you get --

18 MS. SINGER: Or they don't use the City
19 of Yonkers.

20 MS. GERRY: Right.

21 MR. JENKINS: From across the state
22 where these have happened, it's limited to the
23 amount of financing. So, if the IDA financed or
24 the YEDC financed, you know, \$10,000,000 worth of
25 stuff, that's what it would be limited to.

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MS. GERRY: How do they limit that in the language, though?

MS. SINGER: It's certainly been -- so, let's look at the language to see what percentage of our projects it would effect.

MAYOR SPANO: I got to think, Cecile, that they wouldn't -- it wouldn't be a problem for us to do something like this. I'm just throwing this out there. Let's say it's a \$10,000,000. You know, it's \$100,000,000 job, so it's 10 percent of the project. Even if we had a policy that we bonded and you got \$10,000,000, times 5, should be considered prevailing wage. It's 5 times what we're giving you, right? It's 50 percent of the project. These guys are doing probably 60, 70 percent anyway, organized labor.

MS. GERRY: It could be --

MAYOR SPANO: I don't think -- it kind of helps both sides.

MR. KISCHAK: How do we police that?

MR. JENKINS: Sometimes --

MAYOR SPANO: Sometimes I think we -- I don't know. How do we police anything, honestly?

MR. JENKINS: In the language here, in

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Nassau they require them to submit a report and then the IDA is analyzing that.

MS. GERRY: But in Nassau, I just wanted to clarify. Nassau requires -- if you borrow \$5,000,000, whether it's a \$5,000,000 project or a \$100,000,000 project, the entire project is prevailing wage or PLA.

MR. ROTHMAN: When it comes to prevailing wage, if the Department of Labor is involved, there are certified payrolls that have to be provided. Perhaps the IDA could just get a copy of those certified payrolls as additional evidence that they're paying the prevailing wage.

MS. GERRY: Yes. I mean in some cases you have to --

MS. NACERINO: How hard is that process? That sounds easy but --

MR. ROTHMAN: Well, the payroll -- the certified payroll process is actually an Excel sheet that the Department of Labor has provided a sample on their webpage. Different municipalities have a form but there is a sample template and a lot of contractors can work with municipalities on a whole or have their own payroll processing

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formula, spreadsheet, that just inputs the data,
"Joe worked 35 hours at X dollars." Here are the
benefits.

MR. YOUNG: It's a certified payroll
though. It's already a requirements.

MR. ROTHMAN: Right.

MR. YOUNG: It exists.

MAYOR SPANO: What if we said we're
giving you \$10,000,000 -- we're bonding you
\$10,000,000 for a \$100,000,000 job or you just
know that 10,000,000 of that job will be subject
to prevailing wage, whatever. And then we would
expect them to be 100 percent of that \$10,000,000,
right? And they would apply it to, let's say, the
foundation or apply it to the, you know, building
the structure or the electrical, whatever. They
could pick, I guess, where they want to apply it
and where they apply it, it should be 100 percent.

MS. GERRY: Yes. It would be like
whatever percent that we finance of the project is
the percentage that you --

MR. KISCHAK: Right.

MS. GERRY: Yes. It would be whatever
percentage of the total project we finance, you

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use PLA.

MR. JENKINS: For a tax exempt bonds only.

MS. GERRY: Tax exempt bonds only.

I can summarize that. What the Mayor is saying is just summarize, whatever percentage of the total project cost is publicly funded by tax exempt bonds is equal to the percentage of the project that must be prevailing wage.

MAYOR SPANO: Correct.

MS. GERRY: And they have to prove --

MAYOR SPANO: Our board should be subject to 100 percent of the borrowed money to fund the investment by the IDA. Or we can say, "Subject to 200 percent of the investment dollar, total amount.

MS. GERRY: Unless we find that --

MS. SINGER: You want to do something that's reasonable.

MAYOR SPANO: Yes. I want to do something that's reasonable. I think that this language here -- the Nassau County language, I think is reasonable. In my opinion, we should do something very close to that. That's

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2 reasonable. And I think we can add to this other
3 component of what we're bonding. We just have to
4 come to an agreement on what we think that should
5 be. And then, you know what? We've done more
6 than anyone else has ever done, so --

7 MS. GERRY: So, I have a question. If
8 we were to write up these components, do we need
9 to meet again in Governance Committee or can we
10 bring it to the IDA for a --

11 MR. YOUNG: Bring it to the IDA.

12 MS. GERRY: A global discussion? And
13 then, do we have to bring it back to Governance
14 Committee to vote it?

15 MS. SINGER: You should bring it back to
16 the Governance Committee because the Governance
17 Committee has to recommend it to the IDA --

18 MR. YOUNG: Recommend the changes.

19 MS. SINGER: To take a vote to
20 recommend. That's the way the committee is
21 suppose to work.

22 MS. GERRY: Do we feel like we're ready
23 to do that? Or do we want to draft it? Take a
24 look, talk about it in the IDA and come back --

25 MAYOR SPANO: No. We should draft it.

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2 I don't think that this -- just because there's a
3 sign in front of the city offices, it doesn't
4 dictate how fast we move. We're going to -- our
5 policy is going to be done right and correctly.

6 MS. GERRY: Okay.

7 MAYOR SPANO: I mean, we'll move
8 quickly.

9 MS. GERRY: Okay. So --

10 MAYOR SPANO: But, I don't think we need
11 to rush it.

12 MR. KISCHAK: So, we can have our
13 Governance Committee Meeting after the IDA Meeting
14 and we can do it --

15 MS. GERRY: Yes. So, I guess I would
16 ask Jaime and Ken and the team to draft something
17 that looks like this but limits the amount of the
18 investment to the percentage of the total project
19 cost. Limits the prevailing wage to the total
20 project cost.

21 MS. SINGER: Right. And could you run
22 what we haven't seen how much -- what percentage
23 would be applicable to this? What would be
24 effective so we understand what we're doing?

25 MR. JENKINS: Okay. Yes, we could do

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2 that. So, we actually can do that for both
3 things. So, we can run numbers, because in order
4 for the bonds, by the way, someone can't just walk
5 in and say, "I'd like an IDA bond or an EDC bond."
6 So, it's only specific types of projects anyway.
7 So, we would be able to get -- we'll be able to
8 draft up some numbers so people can see the
9 differences based on their starting number.

10 MAYOR SPANO: And there's going to be
11 language in there about encouraging local labor.

12 MS. GERRY: Yes. I think what we would
13 try to do is mirror the Nassau language.

14 MAYOR SPANO: And I just thought of this
15 one. And maybe give the board a little leeway if
16 they're willing to do an apprenticeship. In other
17 words, have the board offer as an additional
18 incentive, if they choose to, for companies that
19 would offer or allow for -- what did I just say?
20 What was the word I just used?

21 MR. KISCHAK: Apprenticeship.

22 MAYOR SPANO: Apprenticeship.

23 MS. SINGER: I think that anything we
24 could do where you can give an incentive --

25 MAYOR SPANO: Yes. That's like --

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MS. SINGER: -- to create a --

MAYOR SPANO: So, that's like four or five components.

MS. SINGER: A very good way to refurbish it.

MAYOR SPANO: Yes. That's like four or five components. And I don't think anybody here objects to giving them an incentive to do the apprenticeship. That's a good policy for us.

MS. GERRY: Great.

MAYOR SPANO: So, it's a little comprehensive little package we put together. We should let them know we worked out something. They're never going to be happy.

MR. YOUNG: No. No question about that.

MR. JENKINS: So, what we're going to do is we're going to take information, summarize a draft of some language, submit that to the committee and we'll have both numbers as well as language that tracts to the Nassau County one.

MS. SINGER: And we could actually meet just before the IDA meeting.

MS. GERRY: I guess that was my question. Were we going to have a more broad

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2 discussion with the entire IDA board to see what
3 they recommend? Then bring it back to Governance
4 and so, potentially vote on it two IDA meetings
5 from now?

6 MR. KISCHAK: Well, can we just bring
7 this up --

8 MR. YOUNG: I'm sure it's the Mayor's
9 position that we meet.

10 MS. GERRY: Right.

11 MR. YOUNG: So, let's do it at a
12 Governance Committee Meeting following the IDA.

13 MS. GERRY: After full IDA discussion.

14 MR. YOUNG: Full IDA board, after that.

15 MAYOR SPANO: Yes. So, it won't be this
16 IDA, the one after that.

17 MS. GERRY: Right.

18 MAYOR SPANO: Okay.

19 MR. JENKINS: And we can report to the
20 board that this is -- we're working on something.

21 MS. SINGER: Correct. Because I think
22 when we go --

23 MS. GERRY: And I mean, I think we'll
24 need a little bit more time to flush out that
25 apprenticeship language and what we mean by

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apprenticeship. It still needs a little bit of time and space.

MS. SINGER: I think the apprenticeship is a very, very good thing to use because what we're trying to do is to create jobs for people. And it's one of the ways that we can do it.

MAYOR SPANO: Yes.

MR. JENKINS: Yes. And that's when the language refers to Nassau County Law 9-2002 or successor. So, that will --

MS. NACERINO: Ken, I think the other thing --

MS. SINGER: Can you give us a copy of that?

MR. JENKINS: Yes, we will. We'll get that to you.

MS. SINGER: All right. Thanks.

MS. NACERINO: The other thing that you brought up, I think it was Rockland, you said that they also put it on their website.

MR. JENKINS: Yes.

MS. NACERINO: Do you agree also possibly there's some concerns around privacies. If that's feasible and if it's not, why not? Put

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2 that in the language for -- at least address the
3 -- even when they ask questions, type up a
4 document. I imagine that there would be a lot of
5 questions like that. How are we going to govern
6 it? How are we going to monitor it? And that's
7 probably --

8 MAYOR SPANO: The best way to do that is
9 just like Ken says, have them just issue us a
10 report. We don't have the staff to start policing
11 these things.

12 MS. GERRY: Maybe what we could do in
13 the meantime is speak to a few developers and just
14 ask about what their concerns may be regarding
15 privacy about having their bids publicly -- shared
16 publicly, publicized. I mean, I'm not sure if
17 they hold that stuff close to the vest.

18 MAYOR SPANO: I'm sure they do. I think
19 that's going a little far to ask them to publicize
20 their bids. I think that there are companies that
21 are actually happy that their bids are publicized.

22 MS. GERRY: I think it's -- it hurts
23 their competitiveness.

24 MS. SINGER: You know, but, if you
25 wanted to sit down with some of these bigger ones,

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they could give you a better picture of what it means and what it doesn't.

MR. JENKINS: Absolutely. We'll follow up with them because again, the Rockland website, for the job side, for the two questions that were asked on it, it says the IDA will just post the contact information and description of the construction jobs. So, they're not putting up the bid number. They're just saying, this is the kind of things that are available. So, we'll work through the language to make some jobs. Thank you, Cecile. Awesome.

MR. KISCHAK: So, we have a motion to adjourn?

MR. JENKINS: I don't think there's any other --

MR. KISCHAK: Okay. Motion to adjourn?

MS. NACERINO: (Hand Raised).

MS. GERRY: Second.

(Whereupon, the Board Meeting

concludes at 10:15 a.m.)

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C E R T I F I C A T I O N

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

I, MARGARET PRENDERGAST, Court Reporter and Notary Public within and for the County of Westchester, State of New York, do hereby certify:

That I reported the proceedings that are hereinbefore set forth, and that such transcript is a true and accurate record of said proceedings.

AND, I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of. _____, 2016.

MARGARET PRENDERGAST