

Capitalize Albany Corporation Board of Directors Meeting

Agenda

- 1. Review of Minutes from the Regular Meeting of June 25, 2019
- 2. Report of Executive Staff Corporation Update
- 3. Report of Governance Committee
 - a. Legal Opinion
 - i. Resolution 15-2019 Acceptance of Legal Opinion
 - b. Compensation, Time & Attendance and Staffing
 - Resolution 16-2019 Updates to Policy Manual Regarding Compensation, Time & Attendance
 - c. Nomination of Board Officer
 - i. Resolution 17-2019 Appointment of John Vero as Secretary
- 4. Report of Finance and Investment Committee
 - a. 174 North Pearl Street/Palace Theatre Expansion
 - i. Resolution 18-2019 Approval of Payment for Demolition of 174 N. Pearl
- 5. Other Business
 - a. General Authorization and Assignment of ACCA PSA to Liberty Square Development, LLC
 - i. Resolution 19-2019 General Authorization and Assignment of ACCA PSA to LLC
- 6. Board Only and/or Executive Session (if necessary)

Capitalize Albany Corporation Board Meeting MINUTES June 25, 2019

The meeting of the Capitalize Albany Corporation Board of Directors was held at 8:00 a.m., Tuesday, June 25, 2019 at 21 Lodge Street, Albany, NY.

The following were in attendance:

Board of Directors:

Michael Castellana	Sonya del Peral	Susan Pedo	Karen Torrejon
Kaweeda Adams	Michael Fancher	Jeff Sperry	Michele Vennard
Heather Briccetti	John Harris	Anders Tomson	John Vero

Other: Thomas M. Owens, Esq.

Staff: Sarah Reginelli, Joe Landy, Mark Opalka, Mike Bohne and Genevieve Zurowski

Excused: Bob Curley, David Parente, Matthew Peter, Havidán Rodríguez

Chairman Michael Castellana called the regular meeting of the Capitalize Albany Corporation ("Corporation") Board to order at 8:04 a.m.

Approval of Minutes for the May 28, 2019 Regular Board Meeting

The Board reviewed the minutes of the May 28, 2019 Regular Board meeting. Jeff Sperry made a motion for approval, Anders Tomson seconded. The Board agreed unanimously to approve the minutes.

Report of Executive Staff – Corporation Update

Staff presented an update on ongoing projects including the Downtown Revitalization (DRI) projects, Consolidated Funding Application (CFA), and the Skyway. Staff discussed the importance of the upcoming Census effort. Staff made the Board aware of an upcoming letter to the editor in the Times Union from the City of Albany Industrial Development Agency in response to a recent editorial. Staff updated the Board on ongoing discussions with the Palace Theatre regarding the Corporation's properties surrounding the theater. The Board voiced support for the potential economic impact of an expansion project at the Palace and encouraged continued discussions with representatives of the Palace.

Report of Liberty Park Committee

Staff discussed the progress of the Liberty Park project, and reported that Empire State Development held a Public Hearing last week for the recent Upstate Revitalization Initiative funding award, and expressed the outcome was positive, with no concerns raised.

A motion to enter into executive session was made by Heather Briccetti, seconded by John Harris and unanimously approved to discuss matters related to proposed acquisition of real estate the public disclosure of which would substantially affect its value. The Board entered into executive session at 8:23 a.m., and Staff stayed in the room. Executive session ended at 8:38 a.m. on a motion by Jeff Sperry, seconded by John Harris and unanimously approved. No actions were taken during executive session.

Funding Update

a. ESD Grant Disbursement Agreement (Resolution 9-2019)

Chair Michael Castellana introduced the ESD Grant Disbursement Agreement (Resolution 9-2019) to the Board. The ESD Grant Disbursement Agreement was reviewed/discussed at the most recent Finance and Liberty Park Committee meetings. Staff and the Board reviewed and discussed the Grant Disbursement Agreement's terms and conditions including fees, MWBE goals, and actions prior to execution. A motion to adopt the ESD Grant Disbursement Agreement (Resolution 9-2019) was made by Heather Briccetti, seconded by Kaweeda Adams. A vote being taken, the motion passed unanimously.

Acquisition Update

a. Chambers Purchase and Sale Agreement (Resolution 10-2019)

Chair Michael Castellana introduced the *Chambers Purchase and Sale Agreement* (Resolution 10-2019) to the Board. The Purchase and Sale Agreement was reviewed/discussed at the most recent Finance and Liberty Park Committee meetings. Staff and the Board reviewed/discussed the terms and conditions of real property purchase and sale agreement ("PSA") between Liberty Square Development, LLC and the Chambers Trust related to Liberty's acquisition of twelve parcels. The Board discussed in detail the terms and conditions of the PSA, including the purchase price of \$3.3M, various PSA contingencies/dates, the environmental and title due diligence, appraisal results and that this acquisition was necessary for CAC to further its mission. A motion to approve the PSA and the acquisition by Liberty Square Development, LLC of the property pursuant to the PSA Chambers Purchase and Sale Agreement (Resolution 10-2019) was made by Jeff Sperry, seconded by Anders Tomson with certain modifications to the resolution to be clear that it was Liberty Square Development acquiring the property. A vote being taken, the motion passed unanimously.

Property Management Services

Board and staff discussed existing conditions of the Liberty Park site and various strategies for property maintenance and management once additional properties are acquired. Staff informed the Board that an RFP will be generated to procure the services of one or more property maintenance and management groups.

Report of Finance and Investment Committee

Liberty Park Update

a. Imprest Account (Resolution 11-2019)

Chair Michael Castellana introduced the *Imprest Account (Resolution 11-2019)* to the Board. Members of the Finance and Investment Committee noted that this topic was reviewed and discussed at the most recent Finance Committee meeting, and that any bank employing a Capitalize Albany Board member had been excluded from consideration. Staff discussed the potential banks for holding the Imprest Account related to the ESD Grant Disbursement Agreement and the terms/fees associated with each bank. The Finance Committee recommended Keybank as the most appropriate bank for the Imprest Account. The Board suggested increasing the number of withdrawals able to be requested per month. A motion to accept the *Imprest Account (Resolution 11-2019)* was made by John Harris, and Heather Briccetti seconded. A vote being taken, the motion passed unanimously.

Loan Requests

a. Ten Broeck (Resolution 12-2019)

Chair Michael Castellana introduced the *Ten Broeck (Resolution 12-2019)* to the Board. Members of the Finance and Investment Committee noted that this topic was reviewed/discussed at the last Finance Committee meeting. Pursuant to Committee recommendation, staff reached out to the borrower to discuss additional payment options and the borrower's willingness to pay the proposed settlement offer of \$10,000 for their loan during this calendar year. The Board reviewed and discussed the request from the borrower in detail. A motion to accept the *Ten Broeck (Resolution 12-2019)* was made by Jeff Sperry, and John Harris seconded. A vote being taken, the motion passed unanimously.

b. Enterprise (Resolution 13-2019)

Anders Tomson recused himself from the discussion and vote due to being employed several years ago with another lender to this borrower, and left the room at 8:47 a.m. Chair Michael Castellana introduced the *Enterprise (Resolution 13-2019)* to the remaining Board Members, and indicated that this loan matter was reviewed/discussed at last Finance Committee meeting. The Board discussed the communication with the borrower regarding their existing Bankruptcy Plan and the payments due to Corporation pursuant to the plan. Staff reviewed with the Board the status of the original loans, bankruptcy and the restructuring plan for the borrower. The amount recommended by the Finance Committee for satisfaction of the Plan amount is \$9,000. A motion to accept *Enterprise (Resolution 13-2019)* was made by Heather Briccetti and Susan Pedo seconded. A vote being taken, the motion passed with all other members voting aye.

Anders Tomson re-entered the room at 8:53 a.m.

a. Hugh Johnson Advisors Merger

Approval for Continued Services (Resolution 14-2019)

Chair Michael Castellana introduced the *Approval for Continued Services (Resolution 14-2019)* to the Board, which was reviewed/discussed at the last Finance Committee Meeting. It was discussed and reviewed that Hugh Johnson Advisors (HJA) notified the Corporation it was merging its operation with Bender Lane Advisory, LLC. The surviving entity will be JNB Advisors, LLC, and HJA has requested the consent of the Corporation to assign its Investment Management Agreement to the new entity. The Finance Committee recommends the Board provide such consent. Following discussion, a motion to recommend *Approval for Continued Services (Resolution 14-2019)* was made by John Harris, and Anders Tomson seconded. A vote being taken, the motion passed unanimously.

Other Business

All staff with the exception of the President left the room at 8:54 a.m., and the President provided an update to the Board regarding the Corporation's national search for a candidate for Vice President.

There being no further business, the Capitalize Albany Corporation Board of Directors regular meeting was adjourned at 9:05 a.m.

Capitalize Albany Corporation 21 Lodge Street Albany, New York 12207

MEMORANDUM

TO: Capitalize Albany Board of Directors FROM: Capitalize Albany Governance Committee

RE: Governance Committee Report on Legal Opinion

DATE: August 27, 2019

Pursuant to the CAC Conflict of Interest Policy, each Board Member annually completes and submits to the Corporation a written Conflict of Interest Declaration which identifies other positions/activities of each such Board Member so that the Corporation/Governance Committee/Board can review and be aware of potential conflicts of interest.

As documented in the annual Conflict of Interest Declaration Forms submitted to the Corporation by all Board Members, it has been disclosed in writing to Corporation/Governance Committee/Board that one Board Member (Ms. Susan Pedo) is a member of the City of Albany IDA, and the Governance Committee has reviewed/approved such Board Member's potential interest in the IDA. With respect to the specific/immediate matter of CAC submitting an application to the IDA for the IDA to consider exercising their condemnation authority to acquire certain property interests, the Governance Committee has reviewed and approved such Board Member's potential interest in the IDA (specifically related to submitting the referenced application to the IDA), subject to recusal of the overlapping CAC/IDA Board Member from any deliberation and voting on any matter dealing with the CAC application to the IDA.

Furthermore, the Corporation/Governance Committee/Board are aware that certain CAC staff members perform services for the IDA pursuant to an annually approved CAC-IDA contract (since at least 2010), and that CAC staff members serve as staff for the IDA, and certain CAC staff serve in the following IDA positions: Sarah Reginelli, IDA President; Mark Opalka, IDA Chief Financial Officer. With respect to the specific/immediate matter of CAC submitting an application to the IDA for the IDA to consider exercising their condemnation authority to acquire certain property interests, the Governance Committee has reviewed and approved such CAC staff's potential IDA interest. It is noted that CAC staff will not be reviewing the application on behalf of the IDA.

Pursuant to CAC Resolution 07-2019 approved in April 2019, CAC authorized the preparation and submission of an application to the IDA, however such preparation/submission of such application to the IDA was conditioned on the Corporation's receipt/review of a satisfactory third-party legal opinion. The Governance Committee has now received, reviewed and briefed the Board on such third-party legal opinion, and now recommends that the Board accept such third-party legal opinion and direct CAC staff to now commence the preparation of the subject application to the IDA in accordance with CAC Resolution 07-2019.

RESOLUTION 15-2019 OF THE CAPITALIZE ALBANY CORPORATION

WHEREAS, pursuant to Resolution 07-2019, the Board authorized the Corporation's counsel to submit an application to the CAIDA requesting that the CAIDA acquire the fee interests to the certain ACCA Leasehold Properties by eminent domain, but conditioned any action by the Corporation on such Resolution on the receipt of a satisfactory third party legal review of any potential conflicts of interest due to the Corporation and CAIDA having one common board member and common staff;

WHEREAS, the Corporation and CAIDA reviewed this matter with its own respective counsel and then also retained special outside counsel, Damon Barclay LLP ("Damon Barclay") to review the matter; and

WHEREAS, the Corporation is in receipt of the findings of Damon Barclay, and such findings have been reviewed and discussed by Corporation counsel, the Governance Committee and Board; and

WHEREAS, the Governance Committee recommends that the Board accept such third-party legal opinion and, in accordance with the steps contained in the "Governance Committee Report to the Board 27 Aug 2019" ("Report") concerning the one common board member and common staff, direct Corporation staff to now commence the preparation of the subject application to the CAIDA and that such application be submitted to the CAIDA in accordance with CAC Resolution 07-2019; and

NOW, THEREFORE, **BE IT RESOLVED**, that the Board accepts such third-party legal opinion and, in accordance with the steps contained in the Report concerning the one common board member and common staff, the Board directs that Corporation staff now begin the preparation of the subject application to the CAIDA and that such application be submitted to the CAIDA in accordance with CAC Resolution 07-2019.

Signed:	
	Thomas M. Owens, Esq.
	Secretary
	uthorization: August 27, 2019 by: Thomas M. Owens

Board Member	Voting	Board Member	Voting	Board Member	Voting
Kaweeda Adams		John Harris		Anders Tomson	
Heather Briccetti		David Parente		Karen Torrejon	
Michael Castellana		Susan Pedo		Michele Vennard	
Bob Curley		Matthew Peter		John Vero	
Sonya del Peral		Havidan Rodriguez			
Michael Fancher		Jeffrey Sperry			

RESOLUTION 16-2019 OF THE CAPITALIZE ALBANY CORPORATION

WHEREAS, the Board realizes that the successful implementation of CAC's mission is due to CAC being able to attract and retain talented and motivated officers and staff;

WHEREAS, the CAC Board believes that attracting/retaining talented and motivated management and staff is due in part to the benefit programs offered to CAC employees; and

WHEREAS, following a review by the CAC Governance Committee, and based on the recommendations of the CAC Governance Committee that CAC's Compensation Policy and Time and Attendance Policy be amended, and

NOW THEREFORE BE IT RESOLVED, that the CAC President is authorized to implement the following policy amendments effective January 1, 2020:

- (1) Amend the Compensation Policy to:
 - a. Revise the Fringe Benefits to include a company-sponsored 401(k) plan, replacing the existing SEP-IRA plan, and
 - b. Eliminate at-risk compensation; and
- (2) Amend the Time and Attendance Policy to:
 - a. Provide guidelines for Remote Work;
 - b. Revise the Holidays Resulting in Office Closure; and
 - c. Adopt an Unlimited Encouraged Leave plan, replacing the existing personal, vacation and sick leave plans.

Signed:		
	Sarah M. Reginelli	
	President	

Date of Authorization: August 27, 2019 Prepared by: Thomas M. Owens

Board Member	Voting	Board Member	Voting	Board Member	Voting
Kaweeda Adams		John Harris		Anders Tomson	
Heather Briccetti		David Parente		Karen Torrejon	
Michael Castellana		Susan Pedo		Michele Vennard	
Bob Curley		Matthew Peter		John Vero	
Sonya del Peral		Havidan Rodriguez			
Michael Fancher		Jeffrey Sperry			

RESOLUTION 17-2019 OF THE CAPITALIZE ALBANY CORPORATION

WHEREAS, Article IV (section 2) of the bylaws of the Capitalize Albany Corporation ("CAC") provide that the Board of Directors shall annually elect individuals to the positions of President, Vice President (if any), Treasurer, and Secretary and such Board elected officers continue to serve in such positions until the next annual election or vacancy; and

WHEREAS, the individual elected and serving as Secretary has resigned from this position; and

NOW THEREFORE BE IT RESOLVED, that the Board of Directors elects John Vero, Esq. to serve as Secretary until the next annual election of CAC officers.

Signed:	
	Michael Castellana, Chairman
Date of Authorization:	August 27, 2019

Board Member	Voting	Board Member	Voting	Board Member	Voting
Kaweeda Adams		John Harris		Anders Tomson	
Heather Briccetti		David Parente		Karen Torrejon	
Michael Castellana		Susan Pedo		Michele Vennard	
Bob Curley		Matthew Peter		John Vero	
Sonya del Peral		Havidan Rodriguez			
Michael Fancher		Jeffrey Sperry			

Capitalize Albany Corporation 21 Lodge Street Albany, New York 12207

MEMORANDUM

TO: Capitalize Albany Board of Directors

FROM: Corporation Staff
RE: 174 North Pearl Street
DATE: August 27, 2019

The Corporation's building at 174 North Pearl Street behind the Palace Theatre was demolished by the City of Albany as an emergency demolition during the evening of Thursday, August 22. The City will bill the Corporation directly for the demolition services, air quality monitoring for asbestos levels, codes services and related costs.

We have been in long-term discussions with the Palace regarding the Corporation's land-banking of adjacent properties for eventual expansion of the Theatre. In order to advance these discussions, staff was in the process of receiving quotes for demolition of 174 North Pearl after having issued a request for proposals (RFP) for demolition services following the Finance Committee's review on Monday, August 19.

At 3:45 p.m. Wednesday, the Corporation hosted an information session for contractors who were interested in responding to the RFP. Staff asked representatives from the City's Buildings and Regulatory Compliance department to attend to assist in evaluating the building and subsequent bids. While on site, codes officers noticed deterioration that had advanced significantly since their last review of the property this spring. They continued to analyze the property into Thursday, August 22.

Due to the City's determination that the building was in a condition that required emergency demolition, the RFP process was nullified, the City took over jurisdiction of the process and bidding was done on site.

Staff is requesting that the Board authorize payment to the City of Albany as required to reimburse the costs associated with this demolition.



KATHY M. SHEEHAN MAYOR

CITY OF ALBANY DEPARTMENT OF BUILDINGS AND REGULATORY COMPLIANCE 200 HENRY JOHNSON BLVD. - SUITE 1 ALBANY, NY 12210

(518) 434-5165 FAX (518) 434-6015

8/22/2019

RICHARD J. LaJOY

DIRECTOR

Sarah Regionalli Capitalize Albany Corp. 21 Lodge Street Albany, NY 12207

RE: 174 NORTH PEARL STREET Tax Acct No.: 9389

NOTICE AND ORDER

(INCLUDING DECLARATION OF EMERGENCY DEMOLITION)

TAKE NOTICE that the building, a vacant attached row building, known as 174 NORTH PEARL STREET located in the City of Albany, NY has been determined to be UNSAFE and UNFIT under the terms of Section 133-54 of the Code of the City of Albany, NY and CONDEMNED under the defination of Section 202 of the Property Maintenance Code of the State of New York.

BE ADVISED that an investigation, of the premises at 174 NORTH PEARL STREET was performed by the Department of Building and Regulatory Compliance on 8/21/2019. That investigation revealed that the building is unsound, unstable and is in imminent danger of collapse.

These conditions cause the building to be an imminent hazard to public health and safety and to the health, safety and welfare of potential users of the building, adjacent properties and adjacent public areas.

BE FURTHER ADVISED that this building has been ordered demolished as an emergency under the provisions of Chapter 133-55 of the Code of the City of Albany.

BE FURTHER ADVISED that the demolition will be carried out by DiTonno & Sons Demolition. You have agreed to pay the contractor directly for this cost.

For the Director.

Valerie Scott, CEO

Department Supervisor

Sent Certified Mail: via email only

RESOLUTION 18-2019 OF THE CAPITALIZE ALBANY CORPORATION

WHEREAS, Capitalize Albany Corporation ("CAC"), pursuant to its mission of facilitating strategic economic development and stimulating transformative investment throughout the City of Albany, making New York's Capital a vibrant place to thrive. owns and landbanks property for strategic redevelopment; and

WHEREAS, the purchased property adjacent to the Palace Theatre ("Palace") to facilitate new development as part of an expansion of the historic and cultural community anchor; and

WHEREAS, the acquisition of this property included the purchase of a building at 174 North Pearl Street in 1999, which as part of the Palace's expansion project was planned to be demolished in order to clear the site for development; and

WHEREAS, CAC issued a request for proposals for demolition services for 174 North Pearl Street on August 19, 2019; and

WHEREAS, an investigation of the property performed by the City of Albany's Department of Regulatory Compliance on August 22, 2019 revealed that the building was unsound, unstable and in imminent danger of collapse; and

WHEREAS, the building, a vacant attached row building, known as 174 North Pearl Street located in the City of Albany, NY was determined to be unsafe and unfit under the terms of Section 133-54 of the Code of the City of Albany, NY and condemned under the defination of Section 202 of the Property Maintenance Code of the State of New York; and

WHEREAS, the building was ordered demolished as an emergency demolition under the provisions of Chapter 1233-55 of the Code of the City of Albany, and said demolition was carried out by DiTonno & Sons Demolition; and

WHEREAS, under said provision of the Code of the City of Albany the property owner is responsible for paying all costs associated with the demolition; and

WHEREAS, CAC's Procurement Policy provides an exception for emergency purchases when goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the public;

	E BE IT RESOLVED, that the Board of Directors authorizes ment to the City of Albany and/or its demolition contractors at
a cost not to exceed	
Signed:	Sarah Reginelli, President

Date of Authorization: August 27, 2019

Board Member	Voting	Board Member	Voting	Board Member	Voting
Kaweeda Adams		John Harris		Anders Tomson	
Heather Briccetti		David Parente		Karen Torrejon	
Michael Castellana		Susan Pedo		Michele Vennard	
Bob Curley		Matthew Peter		John Vero	
Sonya del Peral		Havidan Rodriguez			
Michael Fancher		Jeffrey Sperry			

RESOLUTION 19-2019 OF THE CAPITALIZE ALBANY CORPORATION

WHEREAS, pursuant to Resolution 21-2017, Capitalize Albany Corporation ("CAC") entered into a Purchase and Sale Agreement with the Albany Convention Center Authority ("ACCA") on December 15, 2017 and formed Liberty Square Development, LLC ("LLC"), an entity of which CAC is the sole owner and manager; and

WHEREAS, pursuant to Resolution 9-2018, CAC executed the "First Amendment to the Purchase and Sale Agreement" which amended the Purchase and Sale Agreement (as amended, the "PSA") to remove one of the parcels from the PSA which was not owned by ACCA; and

WHEREAS, pursuant to section 6(F) of the PSA, CAC "may assign its interest, rights and obligations in this Agreement to another entity which is wholly owned by Buyer"; and

NOW, THEREFORE, BE IT RESOLVED, that that the CAC Chairman is duly authorized to assign CAC's interest in the PSA to the LLC, and the LLC is authorized to accept such assignment and assume the rights and obligations in the PSA; and

FURTHER RESOLVED, that CAC authorizes the LLC to acquire the properties from ACCA in accordance with the terms and conditions of the PSA, pursuant to one or more closings with ACCA if needed, and authorizes the CAC Chairman on behalf of CAC and the LLC to execute any and all documents required to facilitate the acquisition of the ACCA properties by the LLC at a place, date and time mutually agreeable among the parties.

Signed:	
_	Thomas M. Owens, Esq.
	Secretary

Date of Authorization: August 27, 2019 Prepared by: Thomas M. Owens

Board Member	Voting	Board Member	Voting	Board Member	Voting
Kaweeda Adams		John Harris		Anders Tomson	
Heather Briccetti		David Parente		Karen Torrejon	
Michael Castellana		Susan Pedo		Michele Vennard	
Bob Curley		Matthew Peter		John Vero	
Sonya del Peral		Havidan Rodriguez			
Michael Fancher		Jeffrey Sperry			