

**STEBEN COUNTY LAND BANK CORPORATION (SCLBC)**

*Wednesday, June 28, 2017*

*9:00 a.m.*

*Legislative Committee Room  
Steuben County Office Building  
Bath, New York 14810*

**\*\*MINUTES\*\***

**PRESENT:** Scott J. Van Etten, Chair, Legislator, District 13  
Joseph J. Hauryski, Vice Chair, Legislator, District 8  
William VonHagn, Mayor, Village of Bath  
Jack K. Wheeler, Steuben County Manager  
Patrick F. Donnelly, Steuben County Commissioner of Finance

**OTHERS:** Mitchell Alger, Deputy County Manager  
Jennifer Prossick, Deputy County Attorney  
Kelly H. Fitzpatrick, Legislator, District 3  
Carol A. Ferratella, Legislator, District 13  
Hilda T. Lando, Legislator, District 2  
Jeff Eaton, Executive Director, Arbor Development  
Rocco Soda, Arbor Development  
Carol Cook, Arbor Development  
Jeanie Glass, Arbor Development  
Lee Pollock, Rose & Kiernan (by phone conference)

**ABSENT:** Shawn D. Hogan, Mayor, City of Hornell  
Mark L. Ryckman, Corning City Manager

**I. CALL TO ORDER**

Mr. Van Etten called the meeting to order at 9:00 a.m. and led the Pledge of Allegiance.

**II. APPROVAL OF MINUTES**

**MOTION: APPROVING THE MINUTES OF THE MAY 31, 2017, MEETING MADE BY MAYOR VONHAGN. SECONDED BY MR. DONNELLY. ALL BEING IN FAVOR. MOTION CARRIES 5-0.**

**III. DISCUSSION**

A. **Tax Sale List/Work Plan** – Mr. Eaton introduced Rocco Soda, Real Estate Development, Carl Cook, Construction Rehabilitation and Jeanie Glass, Project Manager. He stated that Mr. Cook and Ms. Glass have gone through a very detailed process. Mr. Soda stated you provided us with a list of nine properties to evaluate. We looked at multiple things. Mr. Cook provided rehab estimates. We conducted an exterior evaluation and reviewed public records. Included with our evaluation is a neighborhood impact, which is rated on a scale of 1 – 10, with 10 representing the highest positive impact. Discussion followed regarding the nine properties.

Mr. Eaton commented that the two properties they are recommending for rehab are not considered blight properties, but they will generate some income for the land bank, which will allow for potential losses on other properties. Mr. Wheeler stated from the County’s perspective, having a couple of “wins” at the get go is not a bad idea. We are not taking the risk to rehab a fully blighted home, and it gives us some surety going forward. Mr. Alger commented we are trying to strike a balance of not having too many properties in our inventory.

Mr. Eaton explained our process is that we look at whether we can keep a property in home ownership. An investment may have been a rental and we have been trying to work to balance rentals and home ownership. Mr. Van Etten stated you made a comment earlier that it would keep these from being a rental. Is that our mission, to prevent rentals? Mr. Eaton replied a little less than 60 percent of properties are rentals. It is about maintaining a mix and having different levels so that neighborhoods can accommodate those.

Mr. Wheeler commented the Finance Committee holds the final say. LISC wants the land banks to negotiate with the counties. Mr. Donnelly asked with the grant agreement, is there a provision that these be sold to first-time home buyers? Mr. Wheeler replied there is a provision that 50 percent of the properties the first time through the grant process need to be moderate-income.

Mrs. Ferratella asked what is the estimated turnaround time on a rehabilitation project? Mr. Soda replied that is unknown. At Arbor, we put 90 days on a whole home rehabilitation. It may be less.

Mr. Alger stated one topic the board needs to discuss is the number of houses to take. In his discussions with Mr. Wheeler, they thought we could take one or two from this tax sale. Mr. Van Etten asked would they be from different areas within the County. Mr. Wheeler replied yes.

Mayor VonHagn commented that he understands the importance of the return on investment, but we also need to consider the community impact. A little spark could help to turn things around. He stated that he would like the Board to consider property on East Washington and Pine Streets in the Village of Bath. If the intent is to get the best return and if we want to get a mix, there will be some loss. There will be a loss to the Land Bank and/or an improvement to the community. He stated that he sees and understands the financial end, but without the assistance of the Land Bank, we will not be able to turn things around. He would encourage looking at a mix of properties.

Mr. Van Etten stated he agrees. However, if you can cherry pick a couple of good ones and make a good return, that will pay for fixing others and that is a good balance. Our mission is to change blight, not to make money.

Mrs. Lando asked if there was a property that we decided to demolish, would we sell the land? Mr. Alger replied yes. Typically, we would look for a neighboring homeowner that would like a larger lot.

Mr. Eaton stated that when they first spoke with Mr. Wheeler and Mr. Alger about this, our concern is the money will not go very far. Many of these you will lose money on the acquisition and/or rehabilitation, or by tearing them down. Our idea is if you can make some money and put money in the kitty, then you can take out the blight. Mr. Alger stated the other hope is that the grant funding will continue and with this model, we will need grant money to make it sustainable. Our hope is to have enough income from the rehabilitations.

Mayor VonHagn asked is this the first round on the grant? Mr. Alger replied, yes, for us it is. Mrs. Lando asked what are other land banks doing? Mr. Alger replied they are doing similar things.

Mr. Van Etten asked what is the goal/target to do in a year? Mr. Wheeler replied our tax sale is only one avenue. Bank foreclosures are another. We could take two or three properties out of the tax auction. Then keep our options open for acquiring additional properties through bank foreclosure. We had talked about doing eight to ten properties over the course of two years. Mr. Alger commented several of the properties on the list that Mayor Hogan distributed last month were bank owned. Mr. Wheeler stated Legislator Roush also sent us a list, but many of those are privately owned. Mr. Soda commented they have not yet had an opportunity to look at the Erwin or Hornell properties. Mr. Wheeler stated it would be good to also look at the two properties that Mayor VonHagn suggested.

Mr. Eaton stated the grant talks about doing eight to ten properties. Is the intent to complete those properties at the end of the two years? If you have to have them done in that timeframe, we need to acquire properties earlier to allow for more time for the evaluation and acquisition. Mr. Alger replied the grant's intent is to have the projects completed within two years.

**MOTION: RECOMMENDING TO THE STEUBEN COUNTY FINANCE COMMITTEE, THE REMOVAL OF THE FOLLOWING PARCELS FROM THE 2017 TAX SALE AUCTION: SALE PARCEL #55, SALE PARCEL #92 AND SALE PARCEL #49 MADE BY MR. WHEELER. SECONDED BY MR. HAURYSKI. ALL BEING IN FAVOR. MOTION CARRIES 5-0.**

Mr. Hauryski stated that he also agrees with Mayor VonHagn and thinks that should be considered part of the mission. He also likes the recommendation to look at the properties on East Washington and Pine Streets in the Village of Bath. These three choices are good and he would prefer that we start out slow.

Mr. Wheeler stated we can get the information on the two Village of Bath properties and schedule a special meeting.

**IV. ACTION ITEMS**

A. **Procurement Policy** – Mr. Van Etten stated the first sentence of Section 8.2 is incomplete. Mr. Alger stated that will be changed to read “Selection of a provider of Professional Services up to \$10,000 per instance shall be at the discretion of the SCLBC Treasurer, Chairperson of the SCLBC, or authorized designee”.

**MOTION: ADOPTING THE PROCUREMENT POLICY AS PRESENTED WITH THE AMENDMENT TO THE FIRST SENTENCE IN SECTION 8.2 AS FOLLOWS: “SELECTION OF A PROVIDER OF PROFESSIONAL SERVICES UP TO \$10,000 PER INSTANCE SHALL BE AT THE DIRECTION OF THE SCLBC TREASURER, CHAIRPERSON OF THE SCLBC, OR AUTHORIZED DESIGNEE” MADE BY MAYOR VONHAGN. SECONDED BY MR. WHEELER. ALL BEING IN FAVOR. MOTION CARRIES 5-0.**

B. **Property Acquisition Policy** – Mr. Alger distributed the Property Acquisition policy which was drafted by Arbor Development. The intent is to give us a structure for how we acquire properties. Mayor VonHagn asked on the last page, under the list of details regarding every parcel, should it also include neighborhood impact? Mr. Van Etten replied it should.

**MOTION: ADOPTING THE REAL PROPERTY ACQUISITION POLICY WITH THE INCLUSION OF “NEIGHBORHOOD IMPACT” UNDER THE LIST OF DETAILS REGARDING EVERY PARCEL MADE BY MR. HAURYSKI. SECONDED BY MR. DONNELLY. ALL BEING IN FAVOR. MOTION CARRIES 5-0.**

C. **Budget** – Mr. Alger explained the NYS Public Authorities Office wants us to have a budget plan. He stated this includes a half-year budget for 2017. Mayor VonHagn asked for a definition of the municipal contribution. Mr. Alger replied that was the contribution from the City of Hornell.

*Secretary’s Note: Mayor VonHagn was excused from the meeting.*

D. **Contract with Law Department** – Ms. Prossick stated the Law Department can represent you on certain issues, but we need to have a contract in place. Mr. Alger stated they will do what they can, but with anything where there is a conflict, Jeff Squires will pick it up. Mr. Van Etten asked would the transfer of properties from the tax sale to the land bank be a conflict? Ms. Prossick replied yes and Mr. Squires will pick those up at a cost of \$500 per closing. We will draft up a contract template for consideration by the Administration Committee.

E. **Ratifying \$400 Expense for IRS Application** –

**MOTION: RATIYING THE EXPENDITURE OF \$400 FOR IRS APPLICATION FOR RECOGNITION OF TAX-EXEMPT STATUS MADE BY MR. WHEELER. SECONDED BY MR. DONNELLY. ALL BEING IN FAVOR. MOTION CARRIES 4-0. (MAYOR VONHAGN ABSENT FOR VOTE)**

F. **Audit Proposal – Bonadio** – Mr. Alger informed the Board they received a proposal from Bonadio to provide Audit services at a cost of \$6,500 per year and for subsequent years, up to \$7,000 per year.

**MOTION: AWARDING THE PROPOSAL FOR AUDIT SERVICES TO BONADIO FOR A FEE NOT TO EXCEED \$6,500 FOR YEAR ENDING DECEMBER 31, 2017; AND NOT TO EXCEED AN AMOUNT BETWEEN \$6,500 AND \$7,000 FOR EACH OF THE YEARS ENDING DECEMBER 31, 2018 AND 2019 MADE BY MR. HAURYSKI. SECONDED BY MR. DONNELLY. ALL BEING IN FAVOR. MOTION CARRIES 5-0. (MAYOR VONHAGN ABSENT FOR VOTE)**

G. **RFP Results – Insurance/Indemnification** – Mr. Alger informed the Board that they received one response from Rose & Kiernan, who is also the County’s insurance broker. He requested the Board approve having Rose & Kiernan as their broker. The fee will be based on a commission. After that, he would like to have a phone conference with Lee Pollock to discuss what we received for quotes on coverage.

**MOTION: NAMING ROSE & KIERNAN AS THE INSURANCE BROKER FOR THE STEUBEN COUNTY LAND BANK CORPORATION MADE BY MR. DONNELLY. SECONDED BY MR. VAN ETTEN. ALL BEING IN FAVOR. MOTION CARRIES 5-0. (MAYOR VONHAGN ABSENT FOR VOTE)**

Mr. Alger stated the gist of what we are up against is the New York State Scaffold Law. Without going into the ins and outs of insurance, there are two levels of coverage. We have talked with several different carriers to find coverage. Evanston has coverage that is not as comprehensive and the estimate is \$6,500 - \$7,000 annually. If we wanted to have full coverage, which would cover the Scaffold Law, we are talking between \$25,000 - \$30,000 annually. If we opted for the lower cost coverage, we would need to make sure that the land bank was named the additional insured, and we would need to make sure that all of the contractors named us additional insured. There would be more due diligence on our end, but would be at less cost.

Mr. Van Etten commented we would need to be the additional insured and be held harmless with them. Mr. Alger stated that is correct. That risk/liability is transferred back to us as we are the property owner. Ms. Prossick commented that cost gets pushed to the contractor. You would have to include in the specs that you have that rider.

Mr. Donnelly asked the County controls the land bank with directors. Even if we have insurance on the land bank, is the County likely to get sued? Ms. Prossick replied there is that possibility and we need to make sure the lines between the County and the land bank are clearly defined.

Phone conference initiated with Lee Pollock of Rose & Kiernan.

Mr. Pollock stated that he will summarize the issue and discuss the levels of coverage. Essentially, there are two issues. The first is Directors/Officers coverage. We received a quote from Philadelphia, which has excellent coverage. The second issue is general liability; primarily the land bank’s ownership of properties around the County while being renovated or demolished. In New York State, the owner of a property has a non-delegable duty to make sure, while construction is going on, that the property is safe. There are two ways to do that. The first is to purchase insurance and the second is to hire many lawyers to enforce contractual rights. To purchase insurance is expensive. We are waiting on those numbers, however, we expect the cost to be in the range of \$30,000 per year. A general contractor that is a not-for-profit will be paying \$25,000 - \$30,000 to subcontract out, but still acts on your behalf.

Mr. Pollock stated Evanston provided a quote of \$3,000 per year to provide coverage, except they will not enforce your contractual rights for an uninsured contractor. You only are relying upon your contractual obligation for contractors to protect you against these types of claims.

Mr. Van Etten stated the \$3,000 quote for coverage is just for basic insurance, but not anything to cover Labor Law or accidents on the job site. If we did the additional coverage, that would be another \$20,000 on top of the \$3,000? Mr. Pollock replied no, it would not be another \$20,000. It would be \$20,000. We are working to firm that number up. On your behalf, we have been going to insurance companies searching for quotes.

*Secretary’s Note: Mr. Hauryski was excused from meeting.*

Mr. Alger stated the quote from Evanston, for a total of \$3,000 includes \$1,700 - \$1,800 for D & O and \$500.00 per project for builders' risk. He asked, in Mr. Pollock's opinion, is that sufficient coverage? Mr. Pollock replied he cannot make that decision for you. The D & O and builders' risk is sufficient. The problem with the Labor Law coverage is that in New York State, it is a big exposure. Someone could sue you for duties under the Labor Law, but also as an officer of a corporation. Your D & O would respond to that. You have legal costs to enforce your contractual rights should there be a Labor Law claim at one of the sites you own. Mr. Pollock stated he cannot make that decision for you regarding a recommendation. If you can afford to buy the Labor Law protection, buy it. If you have a claim, you turn it over to your insurance carrier and you are done. If you do not purchase that coverage, then that falls in the realm of legal.

Mr. Alger asked would you like us to get more quotes? Mr. Van Etten replied he thinks that would be a good idea. It pains him to think we would spend that money and not have a claim, but to not have that coverage is foolish in this State. Mr. Alger stated they will explore this issue more.

Mr. Pollock stated he has gone to the four other land bank corporations through the State and asked who is providing coverage. Half of the corporations have responded and he will be making a report by email shortly. It sounds as though you are on the right track.

**V. OTHER BUSINESS**

A. **Next Meeting** – The proposed date for the next meeting was Wednesday, July 26, 2017; however, due to conflicts for many of the board members present, an email poll will be sent to members to determine a new date.

**MOTION: TO ADJOURN MADE BY MR. WHEELER. SECONDED BY MR. DONNELLY. ALL BEING IN FAVOR. MOTION CARRIES 3-0. (MAYOR VONHAGN AND MR. HAURYSKI ABSENT FOR VOTE)**

Respectfully Submitted by

Amanda L. Chapman  
Deputy Clerk  
Steuben County Legislature