

Town of Brookhaven

Local Development Corporation

MEETING AGENDA

Tuesday, July 19, 2022

1. ROLL CALL

2. MINUTES

June 8, 2022

3. CFO'S REPORT

Actual vs. Budget Report – May 31, 2022
Timely Payments

4. CEO'S REPORT

Board Assessments
Mather Hospital Letter

*The next IDA meeting is scheduled for **Wednesday, August 24, 2022.***

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TOWN OF BROOKHAVEN
LOCAL DEVELOPMENT CORPORATION

- - - - -x

BOARD MEETING
HELD VIA ZOOM VIDEOCONFERENCE

- - - - -x

June 8, 2022
9:32 a.m.

TRANSCRIPT OF PROCEEDINGS

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A P P E A R A N C E S :

MEMBERS :

FREDERICK C. BRAUN III
MARTIN G. CALLAHAN III
FELIX J. GRUCCI, JR.
LENORE PAPROCKY
GARY POLLAKUSKY
ANN-MARIE SCHEIDT
FRANK C. TROTTA

ALSO PRESENT :

LISA M.G. MULLIGAN, CHIEF EXECUTIVE OFFICER
LORI J. LaPONTE, CHIEF FINANCIAL OFFICER
JOCELYN LINSE, EXECUTIVE ASSISTANT
TERRI ALKON, ADMINISTRATIVE ASSISTANT
AMY ILLARDO, ADMINISTRATIVE ASSISTANT
WILLIAM F. WEIR, ESQ., NIXON PEABODY
HOWARD R. GROSS, ESQ.,
WEINBERG GROSS & PERGAMENT, LLP

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MR. BRAUN: We will now open the
meeting of the Local Development Corporation.

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It is Wednesday, June 8th.

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The following board members are
present: Mr. Callahan, Mr. Grucci,
Ms. Paprocky, Mr. Pollakusky, Ms. Scheidt,
Mr. Trotta, Mr. Braun. A quorum is present.

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Lisa.

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MS. MULLIGAN: It's 9:32 a.m. and
today's meeting has been convened in
accordance with Chapter 56 of the laws of 2022
effective April 9, 2022 permitting local
governments to hold public meetings by
telephone and videoconference.

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MR. BRAUN: First order of business are
the minutes of March 16th.

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May I have a motion?

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MR. POLLAKUSKY: So moved.

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MR. BRAUN: Second?

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MS. PAPROCKY: Second.

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MR. BRAUN: Are there any questions?

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(No response.)

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MR. BRAUN: Hearing none, on the vote,
Mr. Callahan?

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MR. CALLAHAN: Yes.

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MR. BRAUN: Mr. Grucci?

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MR. GRUCCI: Yes.

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MR. BRAUN: Ms. Paprocky?

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MS. PAPROCKY: Yes.

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MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

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MR. BRAUN: Ms. Scheidt?

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MS. SCHEIDT: Yes.

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MR. BRAUN: Mr. Trotta?

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MR. TROTTA: Yes.

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MR. BRAUN: Mr. Braun votes yes.

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The minutes of March 16th have been

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accepted.

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For the minutes of April 13, 2022, a

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motion, please.

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MR. CALLAHAN: So moved.

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MR. POLLAKUSKY: So moved.

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MS. SCHEIDT: So moved.

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Second to Marty.

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MS. MULLIGAN: Okay. Thank you,

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Ann-Marie.

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MR. BRAUN: Questions?

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(No response.)

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2 MR. BRAUN: Hearing none, Mr. Trotta?

3 MR. TROTTA: Yes.

4 MR. BRAUN: Ms. Scheidt?

5 MS. SCHEIDT: Yes.

6 MR. BRAUN: Mr. Pollakusky?

7 MR. POLLAKUSKY: Yes.

8 MR. BRAUN: Ms. Paprocky?

9 MS. PAPROCKY: Yes.

10 MR. BRAUN: Mr. Grucci?

11 MR. GRUCCI: Yes.

12 MR. BRAUN: Mr. Callahan?

13 MR. CALLAHAN: Yes.

14 MR. BRAUN: Mr. Braun votes yes. The
15 minutes are accepted.

16 Lisa.

17 MS. MULLIGAN: The only resolution that
18 we have on the agenda is for appoint --
19 appointing our . . . it says auditors, but
20 that might not actually be the best title for
21 this, but when we did this resolution in
22 January, we put a placeholder estimate of what
23 Jones Little's fees would be for the year and
24 we were under what their proposal came in, so
25 . . . I think we approved up to a thousand

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2

dollars and they've come back and said it's

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actually going to be \$1,240, so I am bringing

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this back to you to have you revamp this.

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They handle the payroll taxes and . . .

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the payroll taxes for the LDC.

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MS. LaPONTE: W-2's and all the state

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reporting.

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MR. BRAUN: Yeah, not the full audit,

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this is just for payroll taxes.

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MS. LaPONTE: Right.

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MS. MULLIGAN: Yeah.

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MR. BRAUN: May I have a motion?

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MR. POLLAKUSKY: So moved.

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MR. BRAUN: Second?

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MR. TROTTA: Frank.

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MS. SCHEIDT: Third to Frank.

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MR. BRAUN: Are there any questions?

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(No response.)

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MR. BRAUN: On the vote, Mr. Callahan?

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MR. CALLAHAN: Yes.

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MR. BRAUN: Mr. Grucci?

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MR. GRUCCI: Yes.

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MR. BRAUN: Ms. Paprocky?

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MS. PAPROCKY: Yes.

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MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

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MR. BRAUN: Ms. Scheidt?

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MS. SCHEIDT: Yes.

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MR. BRAUN: Mr. Trotta?

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MR. TROTTA: Yes.

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MR. BRAUN: Mr. Braun votes yes.

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Unanimous.

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Lori, I'll turn it over to you.

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MS. LaPONTE: Okay.

12

Included in your package is the actual

13

versus budget reports for both March and

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April 2022. I'll be reviewing them together.

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There was no activity as far as any

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closings, et cetera, during the month, those

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two months.

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The expenses are our normal recurring

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budgeted expenses for those two months as

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presented.

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Is there any questions on the operating

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reports for both April and March 2022?

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(No response.)

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MR. BRAUN: No questions for Lori?

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(No response.)

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MR. BRAUN: I need a motion to accept
her report then.

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MR. GRUCCI: So moved.

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MR. BRAUN: Second?

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MR. POLLAKUSKY: Seconded.

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MR. BRAUN: Mr. Callahan?

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MR. CALLAHAN: Yes.

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MR. BRAUN: Mr. Grucci?

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MR. GRUCCI: Yes.

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MR. BRAUN: Ms. Paprocky?

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MS. PAPROCKY: Yes.

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MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

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MR. BRAUN: Ms. Scheidt?

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MS. SCHEIDT: Yes.

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MR. BRAUN: Mr. Trotta?

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MR. TROTTA: Yes.

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MR. BRAUN: Mr. Braun votes yes. The
report is accepted.

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MS. LaPONTE: And the only other two
items I wanted to mention quickly, all of our
required legal contractual payments have been
made timely.

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I also wanted to mention at our banking

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relationship with Flushing, we added a

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positive pay access to our accounts, which is

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just an extra fraud detection, so every time

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we write a check, we send them notification,

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this way there -- it could deter anybody

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trying to submit checks to our account without

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our knowledge. It's just an extra protection

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for our accounts.

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MR. TROTTA: What's --

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MS. LaPONTE: No charge by the bank.

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MR. TROTTA: What's it called?

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MS. LaPONTE: Positive pay.

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MR. TROTTA: Never heard of it. Okay.

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MS. MULLIGAN: So, Frank, basically we

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tell them we wrote these checks and if they

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get a check that isn't in that list -- I'm

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simplifying it obviously -- but if they get a

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check that's not in that list, they come to us

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and say what's the deal with this check and we

21

can either say oh, yeah.

22

Like right now, we've had -- because we

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had checks that were outstanding prior to

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positive pay, so we've had a lot of them that

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are coming in, suspicious is how they list

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them. It's just because they were

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pre-positive pay, so we haven't -- we didn't

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go back in time, we're just dealing with them

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as they come in, but going forward, if they're

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not on the list, they'll come to us and say

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what's the deal with this, we'll say oops, we

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missed one or yeah, I don't what that is,

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don't pay that, so it's an extra step

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internally, but it is a protection that we

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think is important.

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MR. TROTTA: Yeah, sounds good.

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MS. LaPONTE: I think it's a needed

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step, yeah.

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MR. BRAUN: It's a feature that's been

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around for quite a while and it's a nice add

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for us.

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MR. TROTTA: Good.

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MR. BRAUN: Lisa?

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MS. LaPONTE: That's it on the CFO

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report.

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MR. BRAUN: Thank you.

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MS. MULLIGAN: Okay.

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So the next items on our agenda, the

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first one. The investment audit, this came

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out of the IDA's ABO audit, but when we

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realized that they didn't get . . . our

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investment audit wasn't meeting the threshold

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for the IDA, we realized we needed to do it

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for the LDC, also, so, Lori, do you want to

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talk a little bit about the investment audit?

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MS. LaPONTE: Certainly.

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MS. MULLIGAN: They're included in your

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packets.

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MS. LaPONTE: We've always had a

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review, an investment audit done as part of

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our regular audit and we've had a separate

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report and we posted it on our website.

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The auditors, PKF, also do many other

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IDA's, so the format of that report is what we

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have been going with.

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The ABO, when they looked at our

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website, had criticism about the format of the

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report that PKF had presented us as part of

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our investment audit.

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We went back to PKF, they called the

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ABO, they hashed it out, they reissued our

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investment audit report for the LDC and that's

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what, you know, it's a more expanded report

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than in the past, it was a one-page, now there's several pages explaining what our investments are, which are basically cash.

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MR. BRAUN: Lori, am I correct in saying that their actual audit for our books and records didn't change, it's just how they summed it up --

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MS. LaPONTE: Exactly.

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MR. BRAUN: -- our investment letter, which changes how they will do all the other IDA's as far as investment reporting is concerned; is that correct?

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MS. LaPONTE: Exactly. Exactly, Fred. Nothing changed. The audit was fine as is, it was just they wanted more detail by the external auditors, so it was nothing on our end, it was just PKF needed to update their audit report, which they did and they did it both for the IDA and LDC, but obviously we're here in LDC just accepting that.

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MS. MULLIGAN: And this triggered, I would say PKF definitely, but I bet you it's being felt throughout all the auditing firms that everybody is going to have to change

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2 because this was a standard, this wasn't like
3 we had some anomaly and everybody else was
4 doing it the right way, this is what everybody
5 was doing, so I suspect that all the auditing
6 firms are reacting now, so lucky us. We were
7 ahead of the curve.

8 MR. TROTTA: Trailblazers they call it.

9 MS. MULLIGAN: Yes, we're blazing
10 trails.

11 So I guess we should just have you guys
12 accept that audit and we will subsequently
13 post it on our website as is required, we're
14 taking down the old one, putting up the new
15 one.

16 MR. TROTTA: Is that item on the agenda
17 or am I missing something or are we just
18 bringing it up?

19 MR. BRAUN: No --

20 MS. LaPONTE: It's under the CEO
21 report.

22 MR. TROTTA: Okay.

23 MS. MULLIGAN: Do you see it?

24 MR. TROTTA: Yeah.

25 MS. MULLIGAN: We're in the LDC regular

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meeting now.

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MR. TROTTA: Yeah, okay, I found it.

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MS. MULLIGAN: Okay.

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Do we have a motion?

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MR. TROTTA: Motion.

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MS. SCHEIDT: So moved.

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MS. MULLIGAN: Okay. I think I saw

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Frank raise his hand first, so, Frank, you

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made the motion --

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MS. PAPROCKY: Lenore second.

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MS. MULLIGAN: -- and Lenore seconded.

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Sorry if I missed somebody.

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MR. BRAUN: Mr. Trotta?

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MR. TROTTA: Yes, sir. Yes.

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MR. BRAUN: Ms. Scheidt?

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MS. SCHEIDT: Yes.

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MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

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MR. BRAUN: Ms. Paprocky?

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MS. PAPROCKY: Yes.

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MR. BRAUN: Mr. Grucci?

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MR. GRUCCI: Yes.

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MR. BRAUN: Mr. Callahan?

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MR. CALLAHAN: Yes.

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MR. BRAUN: Mr. Braun votes yes. It's unanimous.

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MS. MULLIGAN: Thank you.

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The next item on the agenda is the Office of the State Comptroller report, which we discussed in the Governance Committee.

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I think probably what we should do, just the cleanest way to handle it is for you to adopt the recommendations and report of the Governance Committee; if you'd like, I can go back over that.

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MR. BRAUN: Not necessary.

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MS. MULLIGAN: Okay, thank you.

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MR. GRUCCI: I'll make a motion to adopt the recommendations of the Governance Committee as it pertains to the Mather Hospital administration fees.

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MS. MULLIGAN: Well, actually, just the whole -- not just that, the full report we need to -- the whole Governance Committee report because it was more than that, it was the corrective action plan and --

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MR. GRUCCI: Okay. Then I amend the motion to include the full report of the

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Governance Committee.

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MS. MULLIGAN: Thank you, Felix.

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MR. BRAUN: Thank you.

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MR. GRUCCI: You're welcome.

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MR. BRAUN: Second?

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MR. POLLAKUSKY: Gary Pollakusky.

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MR. BRAUN: Thank you, Gary.

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MS. MULLIGAN: Thank you, Gary.

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MR. BRAUN: Mr. Callahan?

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MR. CALLAHAN: Yes.

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MR. BRAUN: Mr. Grucci?

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MR. GRUCCI: Yes.

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MR. BRAUN: Ms. Paprocky?

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MS. PAPROCKY: Yes.

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MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

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MR. BRAUN: Ms. Scheidt?

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MS. SCHEIDT: Yes.

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MR. BRAUN: Mr. Trotta?

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MR. TROTTA: Yes.

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MR. BRAUN: Mr. Braun votes yes.

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Motion carries.

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MS. MULLIGAN: And I think that in that

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motion, we covered the next item on the agenda

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and then we come to job creation numbers,

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which sort of ties into the Office of the

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State Comptroller report, sort of it doesn't.

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Part of what they told us is that we

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should be reviewing job creation numbers for

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each of our projects. Part of what we argued

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was we're not doing these projects solely for

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job creation. If the hospital is able to

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automate something and provide better services

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for the community, we wouldn't hold them to

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that they have to have, you know, three

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employees, we would say they're providing

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services.

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Having said all of that, we do track

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this information, it has been provided to you,

17

it's in your packets.

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Fred and I are still reviewing both the

19

LDC and the IDA job creation information and

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we will come back to you with any

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recommendations, but I feel like for the LDC,

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it's not as hard and fast as it is with the

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IDA.

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So it is included in your packets if

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you'd like to review those, I recommend that

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you do review the numbers, but Fred and I will

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come back with an action plan for -- if

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there's anything that needs to be addressed

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for any of those.

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Does anyone have any questions?

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MR. GRUCCI: Are they asking us to do

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anything or just to be aware of it?

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MS. MULLIGAN: I don't know what

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they're -- as far as the audit is concerned,

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they're not saying we have to do anything,

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they were just saying that they wanted more

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specific "measurable goals."

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What we have right now is basically we

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support the LDC projects because we want to

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make sure that these types of entities, these

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services are available in our community and

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they said no, you have to be more specific.

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So I think what we're going to end up doing is

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saying -- having them attest to the fact that

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their mission statement remains basically the

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same as it was when we initially did these

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projects, but honestly, this isn't -- it is

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what it is for the six projects that we have

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right now, it's not until we do a new project

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that we can enact any of this. So as far as job creation numbers are concerned, you should be aware, but I don't believe there's going to be any action to take.

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MR. GRUCCI: My personal feeling is that under the LDC, job creation isn't the most important factor in my decision making, it's as you say, what is the services that the not-for-profit is providing and how important is that to the community.

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I think we have an obligation to not only create jobs, but to provide a higher quality of life if we have the opportunity to do so, so my suggestion would be as to each application that comes in, we find the value to the community and respond accordingly to the report.

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MS. MULLIGAN: And Felix, I agree a hundred percent, that was our argument to them.

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I pointed out to them that I used to live in a place that did not have health care readily accessible, you had to take a plane to get to a hospital unless you had just like

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basic needs and when you don't have that, you realize how important it is to have a hospital within driving distance for health care.

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They didn't completely -- they didn't disagree with our argument, they didn't agree with our argument, what they were saying is that if that's what we care about, then we have to articulate that more clearly in our resolutions, that they felt our resolutions were too broad.

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Now Bill has said that the law requires that we cover certain topics and that our . . . the official statements outline everything that we expect them to do and they had to update those annually, so it may have been a disconnect, but honestly, the job creation numbers are something that we will present to you every year, but if they have fewer jobs one year than the next --

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MS. LaPONTE: Right.

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And they pointed out, Lisa, specifically when it's a bond project and the bond project says they're going to give four jobs and we're presenting them with all of the

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2 hospital jobs where there's a disconnect, so
3 they understood that you couldn't tie a job to
4 a bond project.

5 MS. MULLIGAN: Well, this is what they
6 said to us.

7 So if -- just to clarify what Lori's
8 saying, if the bond project was to rehab the
9 lobby, let's say and they're telling us that
10 as a result of this, they're going to hire
11 four people, are those four people going to
12 actually be in the lobby and how do we know
13 that they've got, you know, 2,000 employees
14 that those -- and it was, you know, 2,900,
15 that those additional employees that they have
16 are as a result of that lobby, which that gets
17 to a granular level that I don't think anybody
18 can really analyze.

19 MR. TROTTA: Bill, can we strengthen
20 the resolution to oblige them in a better way
21 or --

22 MR. WEIR: I mean I suppose so.

23 MR. TROTTA: -- I mean what's your
24 thoughts?

25 MR. WEIR: If you look at our

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resolutions and the only thing the resolutions

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do is they incorporate and approve all of the

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documents that are part of the financing and a

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lot of the information that they're looking

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for . . .

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(Inaudible comments.)

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MS. MULLIGAN: Ann-Marie, can you hit

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mute, please?

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Joce, can you mute her?

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Thank you.

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Sorry, Bill.

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MR. WEIR: So, for example and this

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might be pointed out to them, you know, a lot

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of the information that we have that is

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presented to the LDC, staff and board members,

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are contained in the actual documents that

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you're reviewing, you have for review and that

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you're approving. So you look at the

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(inaudible) agreement, the indenture trust,

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there's all the information on the bonds, the

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project has all the requirements for reporting

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in there as well as the continuing disclosure

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agreement.

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The official statement, which again, is

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2 the LDC's official statement for the issuance
3 of the bonds, has probably 150 pages of
4 detailed information say, for example, about
5 the hospital, everything from its licensing,
6 number of jobs, different types of services
7 they provide, where they provide it, their
8 competition, who they serve, their audited
9 annual financial statements, all of which has
10 to be updated every year as required by the
11 Federal Securities Laws and uploaded to the
12 electronic data system called EMMA, which is
13 again, required by the Federal Securities Laws
14 and copies of that are sent to the LDC. So
15 for them to say the LDC doesn't have this
16 information, hasn't been reviewed, again,
17 shows their lack of knowledge and experience
18 because they had no idea what they were
19 looking at.

20 So having said that, you know, could we
21 put anything more in our resolutions, sure,
22 but, you know --

23 MR. TROTTA: It's covered. They're
24 just not going that deep and they don't
25 understand the requirements from other

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agencies.

MR. WEIR: Right.

So federal and state securities laws, federal and state tax laws, you know, those are the most important things that we are dealing with as well as other, when you have the secured financing, you're issuing tax-exempt bonds, there are federal securities laws, there are federal securities you have to file and then there's also what's called a blue sky survey memo that says for all 50 states as well as U.S. territories, what you need to do to market those bonds and those states, so there's extensive, extensive information that's covered by that resolution. They didn't know how, to be honest with you, read the resolution and everything that was attached to it, so in our response, we did send to them the official statements for both Long Island Community Hospital and Jefferson's Ferry and showed them all the information including the continuing disclosure agreements, which attach to those documents everything that was required and those

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documents also summarize all the bond

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documents in excruciating detail and list all

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the annual reporting requirements that the

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bondholders have to the bond trustee, to the

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LDC and what they have to post data, so --

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MS. MULLIGAN: That was included not

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only in the work sessions that we did with

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them, it was included in our response letter

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and that was included in your packets, so you

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can see and you got -- like before you pass

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the resolutions, those are provided to you,

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also, so -- and you guys got them, they got

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them, they got them again, you got them again.

15

MR. WEIR: So again, I guess, Lisa,

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when can you -- you can post your response

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when they give the final audit; is that

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correct?

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MS. MULLIGAN: Yes.

20

They asked us not to share this audit

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while it's in draft format and I don't know if

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they're going to tell us, I have to check, I

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didn't check the ABO website this morning, I

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try not to look at it every day, I'm sorry,

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the (inaudible comments). I don't look at

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either of them every day, I do look at them

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pretty regularly, though, so it might be on

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their website already, I just -- I don't know,

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I'm not sure if they would alert us that it's

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been finalized or not, but obviously we need

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to review it and see what their final report

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says because what we have is in draft format

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and we did ask them to make a couple of

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corrections, which they told us it was 50/50

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whether they would. One of them was a typo

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and they corrected it right away; the other

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one, it was kind of 50/50 they were going to

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try to get it corrected.

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MR. BRAUN: When is the plan of

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corrections due?

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MS. LaPONTE: Ninety days, 90 days from

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their report when they issue it.

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MS. MULLIGAN: When they issue it or 90

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days from when we got it April 13th?

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MS. LaPONTE: My understanding is when

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they finally issue it because it's not issued

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until the public sees it, so it's 90 days.

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MS. MULLIGAN: Okay and I apologize, of

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course they're mowing right now.

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MR. BRAUN: Lisa.

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MS. MULLIGAN: Okay. Guys, I apologize, the lawn mower is right outside my

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window.

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The next item on the agenda as long as nobody has any other questions is the property acquisition policy.

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I mentioned in the IDA's Governance Committee that part of our audit was that we needed a couple of documents, like the investment audit, we decided to do that for the LDC as well and we also need an acquisition of real property policy, which basically just says that if we purchase property, not our relationship with the project as far as a straight lease or a bond deal is concerned, but if we were to buy something outside of supporting a company or a not-for-profit, we have to have an acquisition of real property policy.

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This . . . we got a -- sort of a standard and adjusted it for our needs, Annette signed off on it and so we just need a motion to accept it and then that will be

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posted on our website as well.

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MR. POLLAKUSKY: So moved.

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MS. MULLIGAN: Thank you, Gary.

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MR. BRAUN: Is there a second?

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MR. GRUCCI: I'll second it.

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MS. MULLIGAN: Thank you, Felix.

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MR. BRAUN: Are there questions about

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the property acquisition policy?

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(No response.)

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MR. BRAUN: Hearing none, on the vote,

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Mr. Callahan?

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MR. CALLAHAN: Yes.

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MR. BRAUN: Mr. Grucci?

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MR. GRUCCI: Yes.

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MR. BRAUN: Ms. Paprocky?

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MS. PAPROCKY: Yes.

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MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

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MR. BRAUN: Ms. Scheidt?

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(No response.)

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MR. BRAUN: You are unmuted (sic),

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please.

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Mr. Trotta?

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MR. TROTTA: Yes.

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MR. BRAUN: Ms. Scheidt?

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MS. SCHEIDT: Yes. Sorry.

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MR. BRAUN: Mr. Braun votes yes.

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Motion carries.

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Lisa, do you have anything else?

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MS. MULLIGAN: I don't have anything

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else for the LDC.

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MR. BRAUN: Okay.

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Motion to adjourn.

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MR. TROTTA: Motion.

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MS. SCHEIDT: Second.

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MR. BRAUN: It is now 9:56.

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Mr. Trotta?

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MR. TROTTA: Yes.

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MR. BRAUN: Ms. Scheidt?

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MS. SCHEIDT: Yes.

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MR. BRAUN: Mr. Pollakusky?

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MR. POLLAKUSKY: Yes.

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MR. BRAUN: Ms. Paprocky?

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MS. PAPROCKY: Yes.

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MR. BRAUN: Mr. Grucci?

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MR. GRUCCI: Yes.

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MR. BRAUN: Mr. Callahan?

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MR. CALLAHAN: Yes.

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MR. BRAUN: Mr. Braun votes yes.
We are adjourned.

(Time noted: 9:57 a.m.)

I, JOANN O'LOUGHLIN, a Notary Public
for and within the State of New York, do hereby
certify that the above is a correct transcription
of my stenographic notes.

JOANN O'LOUGHLIN