

MINUTES OF THE PHILIPSTOWN DEPOT THEATRE BOARD MEETING
November 14, 2021

Present: Steve Ives, Jerry Singer, Caitlin Chadwick, Claudio Marzollo Chris Nowak, Charlie Dupree, Byron Stinson, Jack Goldstein, Jim Semmelman, Kathy Plummer, Peter Weed

Not Present: Terry Turner, Sheila Rauch

Also Present: Amy Dul Executive Director, Nancy Swann, Artistic Director, Mona Smith, Development Consultant

The meeting was called to order by Board President, Steve Ives, at Winter Hill, 20 Nazareth Way, Garrison, NY at 9:45 AM.

A motion to approve the minutes was made, seconded, and passed by the board.

Byron Stinson presented a summary of the the balance sheet from the point of view of the Finance Committee.

Jack Goldstein presented a resolution to continue the 2021 budget through the first half of 2022 pending any recommendations of the working session and any budgetary changes that might flow from them.

A motion to adopt this resolution was made, seconded, and passed by the board.

At this point the the meeting was paused for the board to go into a work session facilitated by Mona Smith to identify short and long term priorities, guide budget planning, and lay groundwork for the creation a long term strategy plan.

The work session ended at 12:15 PM. After the work session, a motion to enter Executive session was made, seconded and passed by the board.

After a full and fruitful discussion, a motion to come out of Executive Session was made, seconded and passed by the board.

Jerry Singer moved that the following resolution which has been approved by the Finance Committee be adopted by the board. Resolved, By- law article VII is amended to replace and be superseded by the following Appendix A with the attached conflict of Interest Policy:

PHILIPSTOWN DEPOT THEATRE INC -

**Appendix A to By-laws:
Conflict of Interest Policy**

Article I
Purpose

The purpose of the conflict of interest policy is to protect this tax-exempt organizations (Corporation) interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or Director of the Corporation, key person, or any relative of or related party to them, or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

Article II
Definitions

1. Interested Person: Any Director, principal officer, key person, or member of a committee with Board of Directors delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

"Key person" means any person, other than a director or officer, whether or not an employee of the corporation, who (i) has responsibilities, or exercises powers or influence over the corporation as a whole similar to the responsibilities, powers, or influence of directors and officers; (ii) manages the corporation, or a segment of the corporation that represents a substantial portion of the activities, assets, income or expenses of the corporation; or (iii) alone or with others controls or determines a substantial portion of the corporation's capital expenditures or operating budget.

2. Financial Interest: A person has a financial interest if the person, relative or related party of the person, has, directly or indirectly, through business, investment, or family:

- a. An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement,
- b. A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement, or
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

A "relative" means a) his or her spouse or domestic partner, b) his or her ancestors, brothers and sisters (whether whole or half blood), children (whether natural or adopted), grandchildren, great-grandchildren; or c) the spouse or domestic partner of his or her brothers, sisters, children, grandchildren, and great-grandchildren.

A "related party" means any entity in which a director, officer, key person, or relative of them has a thirty-five percent or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent.

3. Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

4. A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest

may have a conflict of interest only if the appropriate Board of Directors or committee decides that a conflict of interest exists. A financial interest in a transaction is not a conflict if (i) the transaction or the related party's financial interest in the transaction is de minimis, (ii) the transaction would not customarily be reviewed by the board or boards of similar organizations in the ordinary course of business and is available to others on the same or similar terms, or (iii) the transaction constitutes a benefit provided to a related party solely as a member of a class of the beneficiaries that the corporation intends to benefit as part of the accomplishment of its mission which benefit is available to all similarly situated members of the same class on the same terms. Transactions with the Town of Philipstown do not present conflicts of interest.

Article III Procedures

1. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the Directors and members of committees with Board of Directors delegated powers considering the proposed transaction or arrangement. The disclosure must be made before the Corporation enters into the transaction.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the Board of Directors or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or committee members shall decide if a conflict of interest exists. The person with the conflict is prohibited from making any attempt to improperly influence the deliberations or voting on the matter giving rise to the conflict.

3. Procedures for Addressing the Conflict of Interest

- a. An interested person may make a presentation at the Board of Directors or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest
- b. The chairperson of the Board of Directors or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement
- c. After exercising due diligence, the Board of Directors or committee shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board of Directors or committee shall determine by a majority vote of the disinterested Directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflicts of Interest Policy

- a. If the Board of Directors or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the members response and after making further investigation as warranted by the circumstances, the Board of Directors or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

Article IV Records of Proceedings

The minutes of the Board of Directors and all committees with Board delegated powers shall contain:

- a. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board of Directors' or committee's decision as to whether a conflict of interest in fact existed.
- b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Article V Compensation

- a. A voting member of the Board of Directors who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.
- b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.
- c. No voting member of the Board of Directors or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Article VI Annual Statements

Each Director, key person, principal officer and member of a committee with Board of Directors delegated powers shall annually sign and submit to the Secretary a statement, which affirms such person:

- a. Has received a copy of the conflicts of interest policy,
- b. Has read and understands the policy.
- c. Has agreed to comply with the policy, and
- d. Understands the Corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

The statement shall identify, to the best of the person's knowledge, any entity of which the Director, key person, principal officer and committee member may have a conflicting interest.

The Secretary shall submit the statements to the Board chair and the chair of the Finance Committee for the purpose of initiating compliance with this policy.

Article VII Periodic Reviews

To ensure the Corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.

b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

Article VIII
Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, the Corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of Directors of its responsibility for ensuring periodic reviews are conducted.

PHILIPSTOWN DEPOT THEATRE
ANNUAL CONFLICTS OF INTEREST ACKNOWLEDGEMENT

Name _____ Please type

1. I acknowledge that I:

- a. Have received a copy of the theatre's conflicts of interest policy as amended July 2021,
- b. Have read and understand the policy,
- c. Agree to comply with the policy, and
- d. Understand the theatre is a non-profit tax exempt corporation and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

2. I have identified the following entities and financial transactions which, to the best of my knowledge, may present a conflicting interest to be addressed by the officers of the theatre:

[Insert if any, or state "NONE"]

3. I have no family relationship or a business relationship with another officer, trustee, or key employee other than:

[Insert, if any, or state "NONE"]

Signed _____
(or sent via my email address which shall serve as my signature)

The motion was seconded and unanimously approved by the board.

A motion to adjourn was made, seconded and approved by the board.

Respectfully submitted,

Kathy Plummer, Secretary