

**MINUTES OF A MEETING OF THE  
POLICY COMMITTEE OF THE  
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**DATE AND PLACE:** March 7, 2024 at the Erie County Industrial Development Agency, 95 Perry Street, 4th Floor Conference Room, Buffalo, New York 14203

**PRESENT:** Denise Abbott, Rev. Mark Blue, Zachary Evans, Brenda W. McDuffie, Dr. Susan McCartney, Hon. Glenn Nellis, Laura Smith, David J. State, Lavon Stephens and Paul Vukelic

**EXCUSED:** A.J. Baynes, Hon. April Baskin, Hon. Byron W. Brown, Richard Lipsitz and Hon. John Tobia

**OTHERS PRESENT:** John Cappellino, President & CEO; Beth O’Keefe, Vice President of Operations; Mollie Profic, Chief Financial Officer; Grant Lesswing, Director of Business Development; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant/ Assistant Secretary; Robbie Ann McPherson, Director of Marketing & Communications; Soma Hawramee, Compliance Portfolio Manager; Michelle Moore, Compliance Associate; Andrew Pawenski, Esq./Harris Beach PLLC and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC]

**GUESTS:** Paul Lavoie on behalf of SL Evans and Enrico D’Abate & Eric Eckman on behalf of 1016 East Delvan, LLC

There being a quorum present at 9:06 a.m., the Meeting of the Policy Committee was called to order by Chair McDuffie.

**MINUTES**

The minutes of the February 1, 2024 Policy Committee meeting were presented. Upon motion made by Ms. Abbott to approve of the minutes noting the correction, and seconded by Mr. Nellis, the Policy Committee meeting minutes were unanimously approved.

**PROJECT PRESENTATION**

SL Evans, 7612 & 7690 Southwestern Blvd., Evans, New York 14057. Ms. O’Keefe presented this proposed sales and use tax and real property tax abatement benefits project consisting of the ground mounted installation of 2 solar arrays producing a combined 8.25 MW of AC power that will be located on approximately 33 acres of undeveloped land. Ms. O’Keefe confirmed that SL Evans is seeking approximately \$4,238,477 in assistance including sales and use tax exemption and real property tax abatement benefits. The cost benefit is 4:1 so for every

\$1 of incentives the community benefit is \$4 in payroll & tax revenue. For Erie County, every \$1 of incentives provides \$4 in community benefits.

At this point in time, Mr. Evans joined the meeting.

General discussion ensued.

Mr. Cappellino explained the company could have applied for the New York State Section 487 real property tax exemption benefit, which can provide up to a 100% abatement from real property taxes, but has opted to utilize the ECIDA PILOT real property tax abatement.

Ms. McCartney spoke in favor of the project, and inquired as to how many homes could be powered by the project. Mr. Lavoie spoke on behalf of the company and stated that enough energy could be generated to supply about 1,000 homes.

Ms. O’Keefe stated that in exchange for providing the sales and use tax and real property tax abatement benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to the potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$20,769,000 85% = \$17,653,650
Employment	Coincides with 20-Year PILOT	No employment to be created as part of this project
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 20-Year PILOT	Adherence to policy
Unpaid Tax	Coincides with 20-Year PILOT	Adherence to policy
Recapture Period	Coincides with 20-Year PILOT	Recapture of state and local sales taxes and real property tax

Mr. Vukelic moved and Ms. McCartney seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Ms. McDuffie called for the vote and the project was then unanimously recommended to be forwarded to the Board for approval.

At this point in time, Mr. Blue joined the meeting.

Amendatory Inducement Resolution - 1016 East Delavan, LLC (BPS Commissary Kitchen), 1016-1044 East Delavan Avenue, Buffalo, New York 14215. Ms. O’Keefe presented

this proposed sales tax and mortgage recording tax benefits project involving the construction of a 67,000 sq. ft. single story commissary kitchen for the sole use of the Buffalo Public Schools (BPS) to prepare and distribute school meals to all schools in the district. Ms. O’Keefe noted this project was originally approved on July 26, 2023, and confirmed that since the original approval, the Company has eliminated its request for a PILOT benefit, and has increased its request with respect to the sales tax benefit amount and the mortgage recording tax benefit amount.

Ms. O’Keef explained that the existing facility could not meet the needs of the new programming requirements of the student meal plan created by the BPS. As part of this initiative, the facility will cook onsite, using locally grown products, creating fresh and high-quality meal options for students. The new building will include office space for administration and a test kitchen that will serve as a conference room/community space available for local community meetings and training for food service employees. The BPS needed a facility that can function at a higher level, promoting healthier meals for students and promoting a safe environment for its staff.

Ms. O’Keefe confirmed that 1016 East Delavan, LLC is seeking \$1,479,997 in incentives including sales tax and mortgage recording tax exemption benefits. The Projected Community Benefit includes a total payroll for the direct and indirect jobs created including 156 construction jobs over the project period of more than \$31.4M. The resulting cost benefit is 22:1 so for every \$1 of incentives the community benefit is \$22 in payroll & tax revenue. For Erie County, every \$1 of incentives provides \$22 in community benefits.

Ms. O’Keefe stated that in exchange for providing the sales and use tax and mortgage recording tax benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to the potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$34,135,084 85% = \$29,014,821
Employment	Coincides with recapture period	Maintain Base = 16 FT, 35 PT (33 FTE) Create 85% of Projected Projected = 15 PT 85% = 12 PT (6 FTE) Recapture Employment = 39 FTE
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with recapture period	Adherence to policy

Unpaid Tax	Coincides with recapture period	Adherence to policy
Recapture Period	Coincides with recapture period	Recapture of state and local sales taxes and mortgage recording tax

Ms. McDuffie spoke in favor of the project.

Mr. Eckman spoke on behalf of the applicant to further describe the project.

Mr. Blue moved and Mr. Evans seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Ms. McDuffie called for the vote and the project was then unanimously recommended to be forwarded to the Board for approval.

**ADAPTIVE REUSE DISCUSSION**

Housing Background. Mr. Cappellino outlined the potential goals of the Policy Committee as it contemplates establishing a housing policy:

1. Modify/formalize an affordable housing component that is currently in practice within the Adaptive Resue Policy (ADR).
2. Define specific affordable housing parameters within the adaptive reuse policy
3. Establish affordable housing compliance requirements.

Mr. Cappellino presented a power point describing the current ECIDA Adaptive Reuse Policy and practices as well as concepts for establishing a percentage affordable housing set aside, requiring rental rate limits based on AMI guidelines, required a certain size or number of bedrooms, or person(s) in a unit and rental rate limits.

General discussion ensued.

There being no further business to discuss, the meeting was adjourned at 10:15 a.m.

Dated: March 7, 2024

  
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 Elizabeth A. O'Keefe, Secretary