

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

- MEETING:** May 8, 2014, at Erie County Industrial Development Agency, 95 Perry Street, 5th Floor Conference Room, Buffalo, New York.
- PRESENT:** James J. Allen, Hon. Mary Cooke, Michael Hoffert, Hon. Mary F. Holtz, Hon. Chris T. Johnston, Richard Lipsitz, Jr., Brenda W. McDuffie, Frank Mesiah, Laura Smith and Richard M. Tobe
- ABSENT:** Hon. Byron W. Brown, Hon. Glenn Nellis and Hon. Edward A. Rath, III
- OTHERS PRESENT:** Steven Weathers, CEO; John Cappellino, Executive Vice President; Karen M. Fiala, Assistant Treasurer; Theresa Carpenter, Assistant Treasurer; Dawn Boudreau, Compliance Officer; and Robert G. Murray, Assistant Secretary
- GUESTS:** Raymond Carr; Brendan Mehaffy, Executive Director, City of Buffalo Office of Strategic Planning; Mr. Peter Demakos from Niagara Blower; and Matt Connors from 995 West Ferry

There being a quorum present at 8:35 a.m., the meeting of the Policy Committee was called to order by Policy Committee Chair Tobe.

MATERIAL FACTOR/RECAPTURE MONITORING ISSUE – NIAGARA BLOWER

A motion to enter executive session to discuss the financial and employment history of Niagara Blower Heat Transfer Solutions (“Niagara Blower”) was then made by Ms. McDuffie and seconded by Mr. Mesiah and unanimously approved. At 8:37 a.m., the members of the committee and Mr Peter Demakos, on behalf of Niagara Blower, entered into Executive Session.

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

At 9:05 a.m. a motion to end Executive Session was made by Ms. McDuffie and seconded by Mr. Johnston and unanimously approved and the members ended their Executive Session.

Mr. Tobe then stated that the members have reviewed the Niagara Blower quarterly employment reports with respect to the material terms and conditions related to the provision of financial assistance to Niagara Blower as contained in its inducement resolution requiring maintenance of base line employment numbers. Mr. Tobe then asked for a motion requiring the company to report with respect to, and Agency staff to monitor, the Niagara Blower employment situation and efforts to increase employment numbers, requiring the Company to provide the Agency with an updated employment report through June 2014, and as a procedural step, to

require that the full board of the Agency be notified of this matter. Mr. Mesiah and Mr. Johnston provided a first and second to support the motion. The motion was then unanimously approved.

MINUTES

The minutes of the April 10, 2014 Policy Committee were presented, and upon motion made by Mr. Allen, and seconded by Mr. Mesiah, the aforementioned minutes were unanimously approved.

PROJECT PRESENTATION

945 West Ferry, LLC (Sinatra Development), 1526 Main Street, Buffalo, New York.

Mr. Cappellino described this proposed sales tax and mortgage recording tax benefit project in connection with the adaptive reuse of the existing facility located at 1526 Main Street, Buffalo, New York. This project involves the adaptive reuse of the existing facility into approximately 7,000 sq. ft. of commercial/retail space and 23,000 sq. ft. of market-rate apartment space. Mr. Cappellino noted that the company will apply to the City of Buffalo for the statutory 485-a Real Property Tax Exemption and will not require a PILOT Agreement. In addition, Mr. Cappellino noted that IDA sales tax benefits for the commercial/retail portion of the facility will be limited to costs related to the core and shell only. Last, Mr. Cappellino noted that any future Agency assistance for build-out/FFE improvements for the commercial/retail tenants will be subject to a separate application by either the company or the tenant.

In exchange for providing the sales and mortgage recording tax benefits, the approval of this project is conditioned on adherence to certain material terms and conditions with respect to potential recapture of financial assistance as follows:

Material Terms and Conditions

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of Project Amount = \$1,615,000 85% = \$1,372,750
Employment	Construction period	85% of projected construction jobs- Estimated Construction Jobs = 58 85% = 49
Local Labor	Construction period	Adherence to policy including quarterly reporting
Recapture Period	The greater of 2 years or termination of Agent and Financial Assistance Agreement	Recapture of state & local sales tax and mortgage recording tax

Mr. Connors, Vice President of 945 West Ferry, provided additional background with respect to the development of the project.

Mr. Cappellino also confirmed that the project is not a retail project as defined under the New York General Municipal Law as only 12% of the project costs are being allocated to space where retail activities could occur.

Mr. Tobe noted that the Committee has received support letters from Senator Grisanti and City of Buffalo Common Council President Pridgen.

Mr. Tobe expressed his concern in that the application states that financial assistance would be helpful, but not necessary. Mr. Tobe then asked Mr. Connors if the project would move forward without financial assistance. Mr. Connors responded that he suspects the project would move forward because the company has already made financial commitments and because the company has already proceeded to make required structural repairs in an effort to shore up the facility.

At this point in time, Mr. Brendan Mehaffy joined the meeting.

Mr. Mehaffy then spoke in favor of the project noting that the City has been encouraging private investment in this area of the City and is supportive of the company's application and investment.

Ms. Carpenter then reviewed the return on investment calculations noting that without Agency assistance, the return on investment is projected to be -0.4%, and the return on investment with Agency assistance is projected to be 9.2%. Mr. Allen stated that a 9% return is marginal at best. Ms. Smith commented that there is a need for investment in this area of the City. Ms. McDuffie stated that she supports the City's efforts in this area of the City, supports private investment in this area of the City, noted that the project benefits the Buffalo Medical Campus, and that she would like to make a motion in support of the project. Mr. Johnston then seconded the motion.

Mr. Tobe stated that he is struggling to determine whether the requested financial assistance is required or just an add on. He noted that if the project had a higher rate of return and the company said they would do the project even without Agency financial assistance, then perhaps he would vote against the project.

Mr. Lipsitz complimented the company on its honesty in saying that it would do the project even without Agency assistance. He concluded that he is inclined to vote for the project because of its low return on investment.

Mr. Mehaffy noted that with respect to adaptive reuse projects, capital is mobile and from the City's prospective, he noted that the City has just reduced real property taxes again, and in an effort to fight against sprawl, the City needs to encourage this exact type of investment.

Mr. Allen suggested that the Agency should be very aggressive in encouraging investment in areas where there is already existing infrastructure, such as is the case here. Ms. McDuffie confirmed Mr. Allen's statement and suggested the Agency should support smart growth projects. Mr. Tobe stated that the issue is not the desirability of the project itself; the question is whether the project needs Agency financial assistance. Because the return on investment even with Agency financial assistance is low, Mr. Tobe stated that he would be supporting this project. At this point in time, Mr. Tobe called for the vote and the project was then unanimously approved.

INFORMATION ITEM

Update on DNC 250 Legal Action.

Mr. Tobe noted that on May 1, 2014, the court ruled in favor of the Agency's grant of financial assistance to DNC 250 and denied, in its entirety, petitioner's challenge to the Agency's inducement resolution. Mr. Murray noted that the court determined that the Agency did not act arbitrarily or in a capricious manner or otherwise contrary to law. Mr. Murray commented that the court stated that it cannot determine that the Agency had no rational basis for its decision, that all procedures were followed, and that the petitioner did not meet the high burden of challenging an administrative agency's decision-making process. Mr. Murray commented that the Agency's strong administrative record and its adherence to its project review policies were significant contributing factors to the Agency's success in this matter.

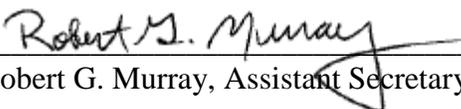
MONITOR POSITION AND SENIOR HOUSING POLICY UPDATE

Mr. Weathers commented that the IDA Leadership Council will be meeting next week to discuss a draft senior housing policy and upcoming public meetings on the same issue will be held thereafter. Mr. Cappellino thanked Mr. Nellis, Mr. Mingoia, and Ms. Holtz for their efforts in drafting and framing the proposed senior housing draft policy.

Mr. Weathers and Ms. Boudreau gave members an update on its monitoring initiative noting that the Agency has identified certain criteria and information to be gathered during monitor/site visits. General discussion then ensued with respect to best practices of gathering employment/hiring information. Mr. Tobe asked Mr. Weathers for the Agency staff to put together a report on how local labor reporting is currently being undertaken.

At this point in time, Mr. Lipsitz and Mr. Hoffert left the meeting.

There being no further business to come before the Policy Committee, upon motion made by Mr. Tobe and seconded by Mr. Johnston, the meeting was adjourned at 9:53 a.m.


Robert G. Murray, Assistant Secretary