

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

- MEETING:** September 4, 2014, at Erie County Industrial Development Agency, 95 Perry Street, 5th Floor Conference Room, Buffalo, New York.
- PRESENT:** James J. Allen, Hon. Byron W. Brown, Michael Hoffert, Brenda W. McDuffie, Frank Mesiah, Hon. Glenn Nellis, Hon. Edward A. Rath, III, and Richard M. Tobe
- ABSENT:** Hon. Mary Cooke, Hon. Mary F. Holtz, Chris T. Johnston, Richard Lipsitz, Jr. and Laura Smith
- OTHERS PRESENT:** Steven Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; Andrew Schoepich, Chief Financial Officer; Karen M. Fiala, Assistant Treasurer; Theresa Carpenter, Assistant Treasurer; and Robert G. Murray, Secretary
- GUESTS:** Dave Ricketts, Unifrax 1, LLC.

Ms. McDuffie confirmed that under the authority granted to her as Chair of the Erie County Industrial Development Agency, she has, effective as of September 4, 2014, appointed herself to fill the vacant committee member position of the Policy Committee.

There now being a quorum present at 8:42 a.m., the meeting of the Policy Committee was called to order by Policy Committee Chair Tobe.

MINUTES

The minutes of the August 7, 2014 Policy Committee were presented, and upon motion made by Mr. Allen, and seconded by Mr. Nellis, the minutes of the August 7, 2014 Policy Committee meeting were unanimously approved.

PROJECT PRESENTATIONS

Unifrax 1, LLC, North Youngmann Commerce Center Business Park, Tonawanda, New York. Mr. Cappellino introduced this proposed sales tax and real property tax abatement benefits project in connection with the company's construction and equipping of a new 76,000 sq. ft. manufacturing facility. Mr. Cappellino also stated that, as a result of the project, it is also anticipated that 25 new jobs will be created.

Mr. Cappellino noted that in exchange for providing the sales 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 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 Total Project Amount = \$18,108,000 85% of Total Project Amount = \$15,315,300
Employment	Coincides with 10-Year PILOT term	Projected Jobs: 25 85% of projected jobs = 21
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Recapture Period	Coincides with 10-Year PILOT term	Recapture of state and local sales tax and real property taxes

Mr. Rath expressed his strong support for the project.

Dave Ricketts, on behalf of the company, generally described the project and confirmed that this project could be undertaken at other Unifrax facilities located out of state.

Mr. Hoffert expressed his support for the project. Upon motion made by Mr. Hoffert and seconded by Mr. Rath, the project was unanimously approved.

SENIOR HOUSING POLICY

Mr. Tobe next briefly reminded Policy Committee members of progress made to date with respect to establishing a Senior Housing Policy. Mr. Tobe noted that the draft policy contained in the Policy Committee package is a redraft of the prior policy that members have been reviewing and also contains significant revisions as follows.

The first revision is based on a premise that the Policy Committee accepts that there is not a significant economic development purpose behind a senior housing project, based upon the University at Buffalo study, related thereto. However, at the same time, the Policy Committee accepts that there are strong community benefits behind supporting seniors and in particular facilitating the ability of seniors to continue to age and live within the towns and communities that they currently live within and as such, it is necessary to establish housing to ensure that seniors can stay in their communities. In regard to this issue, the policy now contains an enhanced PILOT abatement benefit, premised upon a local government request for same.

The second significant change is based upon consideration of establishing a benchmark median income level of the local population in the area in which the project is located.

The last new concept involves consideration of the willingness of a project applicant to accept senior citizens of limited means and who receive forms of public assistance and the willingness of the project applicant to make a commitment that residents will not be relocated out of the project when their personal resources are exhausted.

Mr. Tobe emphasized that these are the only new considerations and that he will not be asking the Committee to take any action today and instead will ask Committee members to review the draft policy for consideration at next month's Policy Committee meeting.

Mr. Tobe then asked Jim Allen to provide members with an update on the Amherst Industrial Development Agency ("AIDA") approval of a senior housing project located in the Town of Amherst, New York. Mr. Allen commented that this project was not a high-end market rate senior housing project but instead was a senior housing project targeted for people at the 60-80% median income level of Erie County. Mr. Allen commented that this project was initially presented to the AIDA over one year ago, that the AIDA established a moratorium on senior housing projects in order to develop criteria and analyze such projects, that the AIDA developed a six criteria policy of factors to be considered in review of senior housing projects including consideration of walkability/closeness of the housing project to stores, restaurants, and other facilities frequently visited by seniors, as well as the 60-80% median income level threshold.

Mr. Allen commented that the project met several, but not all of the six AIDA senior housing project criteria. The project was ultimately approved by a vote of 5-2. In conclusion, Mr. Allen confirmed that this project was not a high-end senior housing project, that this project scored well on the walkability score, and projected a 9% ROI which was the minimum ROI that the lender was willing to accept.

Mr. Tobe thanked Mr. Allen for his presentation and asked members to review the policy and be prepared to discuss the policy at next month's meeting.

REAL PROPERTY TAX – GOOD STANDING REQUIREMENT

Mr. Tobe presented a draft proposal regarding the proposed new policy and a table that described the different times that the policy would or could be applied. Both the draft policy and table are attached to these minutes. The policy called for a new certification to be made by applicants seeking IDA financial assistance requiring confirmation that: (i) the applicant did not have any unpaid and past due real property taxes, PILOT payments, special district charges, fees or unpaid interest or penalties ("Real Property Assessments") thereon; and (ii) the applicant was not subject to a foreclosure of its interest in real property via a real property tax foreclosure proceeding within the prior five years. The policy would apply to anyone who had a 25% or greater interest in property on which Real Property Assessments are past due. The Policy would apply to real property located anywhere in New York State. In addition the policy would require the applicant to pledge to continue to pay and stay current with respect to all Real Property Assessments during the IDA's material terms and conditions monitoring period.

General discussion ensued and several members expressed concern with respect to application of the policy to related parties and with respect to application of the policy to real property located outside of Erie County.

At this point in time, Mayor Brown joined the meeting.

Mr. Allen also expressed concern regarding the state-wide application of the policy noting that it would put Erie County at a disadvantage unless all other IDAs in New York State adopted a similar policy.

Mr. Tobe noted that related party ownership is a complex issue and that he selected a 25% related party threshold as a starting point for discussion.

Mr. Rath expressed concern for the application of the policy to other pieces of real property beyond the particular piece of property that would be subject to an IDA financial assistance package.

Mr. Brown stated that in Buffalo, the City does not grant licenses or other real property tax abatements if an applicant has unpaid taxes in the City unless such taxes are paid in full. As such, Mr. Brown stated that he did not think the policy should be extended to properties outside of Erie County.

Mr. Rath again expressed concern about the 25% related party ownership threshold particularly because a 25% owner will, most likely, have no control over whether the majority ownership pays any such unpaid taxes.

Mr. Tobe stated that his concern with respect to making the policy applicable to real property located outside of Erie County is based on a concern that an applicant who is delinquent on paying taxes on real property located outside of Erie County could otherwise be treated better than a taxpayer who is delinquent on paying real property taxes on property actually located within Erie County.

Mr. Allen noted that this concern, in his experience, rarely comes to pass so, instead of establishing such a policy, perhaps the Agency could simply hold a project for consideration until the applicant resolves its tax issues.

Mr. Rath suggested that the related party unpaid taxes criteria be established as a guideline instead of a requirement.

Mr. Tobe confirmed that the Policy Committee could make that change.

Ms. McDuffie expressed her support for a concept that an applicant would not get IDA assistance if it was otherwise not current with its taxes in Erie County, but expressed concern for expanding this policy outside of Erie County.

Mr. Rath suggested that the Agency consider establishing a waiver policy, similar to the Local Labor Workforce Waiver provision to enable the Agency to consider exceptions to this policy. Mr. Tobe, Ms. McDuffie, Mr. Brown and Mr. Nellis all then expressed support for inserting a waiver process.

At this point in time, Mr. Nellis left the meeting.

Mr. Tobe then asked the Committee to consider whether or not to limit the policy to only Erie County or allow it to apply state-wide. Mr. Cappellino commented that certification and monitoring becomes increasingly more difficult if a policy expands outside of Erie County.

Mr. Allen expressed his support for limiting the policy to property located only within Erie County. Mr. Brown and Mr. Rath also expressed support for only making the policy applicable within Erie County.

Several parties indicated that they might be willing to approve a policy that applied to out of county properties if the policy allowed the ECIDA board to use discretion in the application of the policy, particularly at the inducement stage.

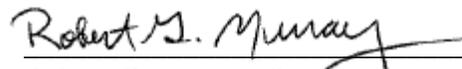
The Committee requested that the Policy be redrafted in accordance with the Committee's discussion.

OTHER BUSINESS

Mr. Tobe asked Mr. Hoffert to distribute a handout regarding living wages to Committee members. Mr. Hoffert stated his belief that projects given IDA financial assistance should be required to create living wage jobs as a condition of approval. Mr. Tobe stated that he will add this issue to the list of issues to be address by the Policy Committee. Mr. Allen suggested that perhaps a living wage criteria should be added to the PILOT scoring process to enable an applicant to obtain a greater PILOT benefit if it creates living wage jobs.

On Mr. Allen's suggestion, Mr. Tobe asked that next month the Policy Committee hold two meetings, one to discuss policy and a second meeting to review projects.

There being no further business to discuss, the meeting was adjourned at 10:03 a.m.



Robert G. Murray, Secretary