

**MINUTES OF A MEETING OF THE  
FINANCE & AUDIT COMMITTEES OF THE  
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (ECIDA)  
THE BUFFALO & ERIE COUNTY REGIONAL DEVELOPMENT CORPORATION (RDC)  
AND THE  
BUFFALO & ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION (ILDC)**

**MEETING:** March 11, 2014, at the Erie County Industrial Development Agency, 95 Perry Street, Suite 403, Buffalo, New York 14203

**PRESENT:** Raymond L. Carr, James F. Doherty, Chris T. Johnston and Brenda W. McDuffie

**ABSENT:** None.

**GUESTS:** Liz Burakowski from Rich Tobe's office; Mr. Seth Hennard and Ms. Sarah Dayton from Lumsden & McCormick

Also present at the meeting were Steve Weathers, Chief Executive Officer; Andrew Schoepich, Treasurer; Theresa Carpenter, Assistant Treasurer; Karen M. Fiala, Assistant Treasurer; Dawn Boudreau, Compliance Officer; and Pietra G. Lettieri, Assistant Secretary

There being a quorum present at 12:04 p.m., the meeting of the Joint Finance & Audit Committee was called to order by Mr. Johnston.

**MINUTES**

The December 13, 2013 minutes of the joint meeting of the Finance & Audit Committee for the ECIDA, RDC and ILDC were presented. Upon motion made by Mr. Carr, and seconded by Mr. Doherty, the approval of the minutes was unanimously carried.

**LUMSDEN & MCCORMICK**

Ms. Sarah Dayton and Mr. Seth Hennard from Lumsden & McCormick (the "Auditors") presented their Independent Auditors' Opinion on the Financial Statements and audits of the ECIDA, RDC and ILDC. Ms. Dayton remarked that this was the second annual audit Lumsden & McCormick had performed for the ECIDA and its affiliates, noting that the first year resulted in a "clean" opinion. Ms. Dayton reported that the Auditors issued a clean, unmodified opinion on the Financial Statements of the ECIDA, RDC and ILDC. Ms. Dayton also noted that the Auditors have no matters to report on yellow book standards. Ms. Dayton also reported that in accordance with Section 2929(3)(f) of the PAAA, ECIDA investments are within regulation guidelines.

Ms. Dayton then reported that the Auditors had drafted a report on the Buffalo Brownfield Redevelopment Fund (the "Fund"), noting that the Auditors were reporting on this Fund due to the fact its cash flows through ECIDA, and that the Fund received a clean opinion. Ms. Dayton reported that they were working to complete the Single Audit report which is due September 30 for the EDA. The Single Audit will report that the loan funds' utilization rate is 48% at December 31, 2013, which should be 75% or higher.

Ms. Dayton reported that there are no material weaknesses in internal controls, and that the Form 990 filings are due on May 15 for ILDC and RDC. Ms. Dayton also reported that on July 1<sup>st</sup> 2014, the terms of the Non-Profit Revitalization Act (the "Act") take effect. One of the changes set forth in the Act is to allow for email notifications and video conference abilities for the Finance & Audit Committee. Ms. McDuffie inquired as to whether the Committee may conduct a meeting by video conference. Ms. Lettieri replied that, notwithstanding the changes in the Act, the Open Meetings Law controls and meetings by video conference would not be permissible.

Thereafter, Mr. Hennard gave an overview of the Condensed Financial Information by Entity, contained in the handout materials. Mr. Hennard reviewed a graphical representation of ECIDA revenues and expenses for the past four years, noting that G&A expenses such as rent and insurance had increased. Mr. Doherty inquired as to whether the ECIDA had budgeted for an increase in insurance expenses. Mr. Schoepich stated that the 2014 budget reflects an increase in liability insurance, but noted that recently, the insurance cost has gone back down by \$110,000 because of the ECIDA's fee to lease conversion project.

Ms. McDuffie then noted that in 2012-13, the ECIDA did not report any Provision for Uncollectible Loans ("Provision"), and wanted to know if the ECIDA has a Provision. Ms. Carpenter responded that the ECIDA did not require a Provision in 2012-13 as it only has a few loans outstanding, and some of these were reserved a few years ago.

Upon motion made by Ms. McDuffie and seconded by Mr. Doherty the Draft 2013 Audited Financial Statements were unanimously approved.

## **PUBLIC AUTHORITIES 2013 REPORT**

Mr. Schoepich then presented the Public Authorities 2013 Annual Report for Committee consideration, noting that the Report will be presented to the Governance Committee for review, then sent to the Board for approval, in addition to being posted on the website. A new schedule of attendance at Board meetings was also presented.

Upon motion made by Ms. McDuffie and seconded by Mr. Carr, the Public Authorities 2013 Annual Report was unanimously approved.

Ms. McDuffie asked whether there were any compliance issues regarding attendance, and Mr. Schoepich replied in the negative, noting that the Board has good attendance. Ms. McDuffie noted that, to take action, the Board needs a quorum, and she has never been to a meeting without a quorum.

## **INVESTMENT REPORT**

Ms. Carpenter then reviewed the Investment Report, on pages 130-133 of the Committee package, noting that it is a required Report. Ms. McDuffie inquired as to whether the ECIDA “sweeps” its cash accounts, and Ms. Carpenter replied that the ECIDA does not participate in sweeps, as the investment vehicle is not permitted per the investment guidelines. Upon motion made by Mr. Carr and seconded by Ms. McDuffie the Investment Report was unanimously approved.

## **INVESTMENT GUIDELINES**

Ms. Carpenter reviewed the Investment Guidelines and noted that the ECIDA is limited in its investment options. Upon motion made by Mr. Johnston and seconded by Ms. McDuffie the Investment Guidelines were unanimously readopted.

## **RE-ADOPTION OF FINANCE & AUDIT COMMITTEE CHARTER**

Ms. Carpenter reviewed the Finance and Audit Committee Charter (“Charter”) for purposes of re-adoption; noting that there were no changes since the last Charter was approved.

Upon motion made by Mr. Johnston and seconded by Mr. Carr, the Charter was unanimously approved.

## **FINANCE & AUDIT COMMITTEE SELF-EVALUATION**

Ms. Boudreau reviewed the Finance & Audit Committee self-evaluation required by the State. Ms. Boudreau stated that her responsibilities as Compliance Officer included reviewing the Charter to see if its requirements are being met. Ms. Boudreau reported that she has found no issues with Charter compliance this year.

Upon motion made by Mr. Carr and seconded by Ms. McDuffie the Finance & Audit Committee Self-Evaluation was unanimously approved.

## **REAPPOINTMENT OF LUMSDEN & MCCORMICK**

Ms. Carpenter then discussed the reappointment of Lumsden & McCormick as the ECIDA’s outside audit firm. Ms. Carpenter reviewed the original RFP from 2012, noting that it was initially approved for two years, with an option to approve each additional one year period. Ms. Carpenter stated that Lumsden & McCormick was the lowest bidder and the staff is happy with the firm. Ms. Carpenter stated that the staff recommends the selection of Lumsden & McCormick to provide professional audit and tax services for an additional year.

Upon motion made by Ms. McDuffie and seconded by Mr. Johnston, the Committee approved and recommended the selection of Lumsden & McCormick to provide professional audit and tax services to the ECIDA, RDC, and ILDC for the 2014 fiscal year.

## **DESIGNATION OF NET POSITION POLICY**

Ms. Carpenter then reviewed the ECIDA's cash flow projections and proposal for a general fund reserve equal to one year of operating expenses, or \$2.8 million. Mr. Johnson inquired as to how accessing the reserve would be triggered. Ms. Carpenter replied that if the reserve falls below the pre-determined limit, staff would notify the Board and present a plan to restore the minimum amount within two fiscal years. Mr. Doherty inquired why the plan to restore the reserves, once tapped, would take two years. Mr. Schoepich stated that due to fluctuation in revenue that are not predictable, such as income impacted by economy; competing programs such as START UP NY, and regulations impacting customers, it was determined that two years would be a sufficient period of time to account for such fluctuations and restore the reserve.

Mr. Doherty inquired whether staff had any preliminary ideas to restore reserve amounts should they need to be utilized. Mr. Schoepich stated that head count would be the first place to look. In response, Mr. Doherty stated that it does not seem that a reduction in head count would help in long term; that reducing staff may be short-sighted and not a long term solution.

Ms. McDuffie stated that two years seems like reasonable time, and a good start, to get back to the reserve limit without asking drastic means. Mr. Johnston inquired whether notifying Board is it part of the draft Net Position Policy. Ms. Carpenter stated that Board notification was not part of the draft Net Position Policy, but that she would modify policy to add that requirement. Mr. Johnston stated that it is a good practice to notify the Board of such matters and suggested that the Policy should require Board notification when (1) the reserves are approaching the limit; and (2) when a plan of restoring reserve within two years is devised.

Upon motion made by Ms. McDuffie and seconded by Mr. Carr the Net Position Policy was unanimously approved, with Mr. Johnston's proposed modifications.

## **REVIEW OF STRATEGIC INITIATIVES-MANUFACTURING INITIATIVE**

Mr. Johnston discussed the status of the Manufacturing Initiative. Mr. Johnston reported that he is working with Mr. Weathers to create a program that meets some of the Initiatives for a Smart Economy goals. The initiative is a pilot program for fall and would involve a certification course for the manufacturing community for small scale projects. Ms. McDuffie reported that the Western New York Regional Economic Development Council has a committee headed by Tom Kucharski that is focusing on the export initiative and suggested that perhaps Mr. Johnston could also serve on the committee. Ms. Burakowski noted that she had spoken to Mike Ball and she too will be involved with the committee. Ms. McDuffie noted that the synergy will bring development to the area, and remarked about what Syracuse has accomplished with Brookings.

## **NEW POSITION-DIRECTOR OF MARKETING**

Mr. Weathers presented an organizational chart for the ECIDA and discussed Initiatives for a Smart Economy, with a goal of bringing IDAs cohesively together and relying on someone to tell story. Mr. Weathers recommended the hiring of a marketing position.

Mr. Schoepich then gave an estimated budget of expenses for the marketing position, noting that the total cost with benefits would be \$81,500. Mr. Schoepich pointed out that the total savings between a recent resignation of Ms. Stein and the decreases in insurance premium would offset this cost. Mr. Johnston noted that the position could also support the business development side, and it flows well with the Western New York Regional Economic Development Council export initiatives to work toward further collaboration.

Ms. McDuffie inquired whether there would be any use of consulting for external PR. Mr. Weathers noted that from time to time there would be use of an outside firm but they want to squeeze as much benefit for the money spent as possible. Ms. McDuffie stated that because of the nature of the business and the public's lack of education of what the ECIDA does, the money will go a long way. Mr. Schoepich noted that the Agency's contract with Travers & Collins has a five year term that expires in June, and an RFP will be conducted at that time.

## **FOREIGN TRADE ZONE ("FTZ")**

Mr. Schoepich reported that, on behalf of Erie County, the ECIDA has administered the FTZ for many years. Mr. Schoepich then gave of summary of who is using the FTZ and for what purpose. It was noted that perhaps there is more opportunity for manufacturers to make use of the FTZ as an opportunity to reduce, eliminate or defer duties; but it is being softly marketed.

Mr. Weathers reported that he met with Mr. Johnston to discuss the operation of the FTZ and the possibility of subcontracting the operation to the World Trade Center ("WTC"). It was noted that CFOs like the FTZs for cash management. Mr. Weathers reported that in some areas of the country fees charged to companies to participate in a FTZ can average between \$15-17,0000 a year, while the ECIDA is charging \$4,000. Mr. Johnston remarked that FTZs are underutilized in this area.

Mr. Doherty inquired as to whether the FTZ is a physical area. Mr. Weathers responded that it is, and that under a new application process it takes about 2 months to get the approval, as opposed to the 18 months it used to take.

Mr. Johnston remarked that he has approached New Era about the possible use of the FTZ and suggested also looking to BNE & BNP to promote the FTZ, with a delegation of responsibility to WTZ. Mr. Schoepich reviewed the summary of FTZ activity for 2012 and 2013 and mentioned that the ECIDA has a five year agreement to operate the FTZ from 2011-2016. Ms. McDuffie noted that she would prefer to subcontract marketing to WTC in exchange for the annual fee.

## NEW BUSINESS

Ms. Carpenter presented information on AndroBioSys. Ms. Carpenter reported that the ECIDA had written off a \$150,000 loan to the Company in 2011. The Company has now requested that the debt held by the ECIDA be converted to equity, as part of an overall plan to obtain additional potential funding.

Upon motion made by Ms. McDuffie and seconded by Mr. Doherty, a motion to approve AndroBioSys' request for conversion of the ECIDA's debt to equity was approved, contingent on and based upon a legal analysis of the request by Harris Beach, was unanimously approved.

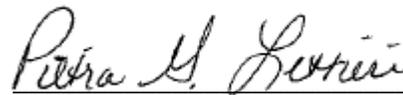
Mr. Schoeppich reviewed old GEMS grants that are outstanding. The grants were getting very old. Out of the \$190,000 original grant amount, \$8,000 had not been spent, \$41,000 had been previously collected, and \$105,000 was received in February 2014. After deducting a prior reserve established for the grants of \$31,000, the net income statement impact was only a \$5,000 loss in 2013.

Mr. Schoeppich next reviewed the requirements for education for the Committee, and handed out materials on Nonprofit Standards, entitled "What are the Basic Responsibilities of an Audit Committee", prepared by BDO.

Mr. Weathers discussed the upcoming IEDC Spring conference in June. Mr. Weathers discussed the possibility of sponsoring Mr. Johnston to attend the conference, noting that the theme of the conference is foreign investment. Mr. Weathers stated that the total cost to attend the conference is estimated at \$1,500 to \$1,600. Ms. McDuffie stated that in her opinion it would be a good thing to have Mr. Johnston attend the IEDC conference, in that its agenda aligns with what our community supports. The other Members of the Committee agreed and expressed support in having Mr. Johnston attend the IEDC conference and be reimbursed by the ECIDA for such cost.

Upon motion made by Mr. Carr and seconded by Ms. McDuffie, there being no further business, the meeting was adjourned at 1:29 p.m.

Dated: March 11, 2014



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Pietra G. Lettieri