

**MINUTES OF THE MEETING
OF THE
MEMBERSHIP OF THE
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (ECIDA)**

DATE AND PLACE: February 26, 2020, at the Erie County Industrial Development Agency (the “ECIDA” or “Agency”), 95 Perry Street, 5th Floor ESD Conference Room, Buffalo, New York 14203

LIVE STREAMED: This Board meeting is being live-streamed and made accessible on the Agency’s website at www.ecidany.com.

PRESENT: Denise Abbott, Hon. Diane Benczkowski, Rev. Mark E. Blue, Hon. Bryon W. Brown, Hon. Joseph H. Emminger, Tyra Johnson-Hux, Brenda W. McDuffie, Hon. Glenn R. Nellis, Hon. Mark C. Poloncarz, Hon. Darius G. Pridgen, Sister Denise Roche, Kenneth A. Schoetz and Art Wingerter

EXCUSED: James F. Doherty, Dottie Gallagher, Hon. Howard Johnson, Hon. Brian J. Kulpa, Richard Lipsitz, Jr., and Charles F. Specht

OTHERS PRESENT: Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; Atiqa Abidi, Assistant Treasurer; Gerald Manhard, Chief Lending Officer; Daryl Spulecki, Credit Analyst; Beth O’Keefe, Business Development Officer; Dawn Boudreau, Assistant Treasurer; Robert G. Murray, Esq., General Counsel/Harris Beach PLLC; and Grant Lesswing, Business Development Officer

GUESTS: Kevin Zanner, Hurwitz & Fine; Maria Whyte, Deputy County Executive; Andrew Federick, Erie County Senior Economic Development Specialist

There being a quorum present at 12:16 p.m., the meeting of the ECIDA Board of Directors was called to order by its Chair, Ms. McDuffie.

MINUTES

The minutes of the January 22, 2020 meeting of the members were presented. Mr. Poloncarz moved and Mr. Blue seconded, to approve of the minutes. Ms. McDuffie called for the vote, and the minutes were then unanimously approved.

REPORTS/ACTION ITEMS/INFORMATION ITEMS

Financial Report. Ms. Abidi presented the January 2020 financial report, noting that the balance sheet shows that the Agency ended 2019 with total assets of \$30.0 million and net assets of \$22.6 million, reflecting net income of \$507,000 for the year. As a reminder, the draft 2019 financial statements will be reviewed in detail at the Finance and Audit Committee meeting on March 9, 2020 and presented to this Board at the March 25, 2020 meeting. The Agency finished the month of January with total assets of \$29.6 million and net assets of \$22.5 million. The monthly income statement shows an operating loss of \$144,000 for January. Operating revenue of \$76,000 was under budget by about \$156,000. Operating expenses of \$220,000 were about \$9,000 under budget. After depreciation, there was a net loss of \$155,000 for the month. Ms. McDuffie directed that the report be received and filed.

Governance Committee Update. Ms. McDuffie presented this report. Ms. McDuffie directed that the report be received and filed.

Policy Committee Update. Mr. Weathers presented this report. Ms. McDuffie directed that the report be received and filed.

INDUCEMENT RESOLUTION

Barcalo Living & Commerce/Barcalo Buffalo, LLC

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

Mr. Cappellino then reviewed the proposed project which entails the adaptive re-use of the former 175,000 sq. ft. Barcalo Manufacturing plant in the Old First Ward into a mixed-use structure containing approximately 30,000 sq. ft. of commercial and light industrial space and 118 residential units.

As a condition precedent of receiving Financial Assistance, and as a material term or condition established by the Agency in connection with its approval of the Project, Mr. Cappellino noted that the Company must, subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain the commitments and thresholds as described below, submit, on an annual basis or as otherwise indicated below through the conclusion of the later of two (2) years following either (i) the construction completion date, or (ii) the termination of the Agent Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment- the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$29,518,332.00 (which represents the product of 85% multiplied by \$34,727,449.00, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment - that there are at least nine (9) existing full time equivalent ("FTE") employees located at, or to be located at, the Facility as stated in the Company's application for Financial Assistance (the "Baseline FTE"); and

- the number of current FTE employees in the then current year at the Facility; and
 - that the Company has maintained and created FTE employment at the Facility equal to 34 FTE employees [representing the product of 85% multiplied by 30 (being the 25 new FTE employee positions plus 10 new part-time equivalent (“PTE”) employees (with 2 PTE employees counting as 1 FTE employee) as proposed to be created by the Company as stated in the Company’s application for Financial Assistance)]. In an effort to confirm and verify the Company’s employment numbers, the Agency requires that, at a minimum, the Company provide employment data on a quarterly basis to the Agency, said information to be provided on the Agency’s “Quarterly Employment Survey” form to be made available to the Company by the Agency.
- (iii) Local Labor Commitment - that the Company adheres to and complies with the Agency’s Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iv) Equal Pay Commitment – that the Company adheres to and complies with the Agency’s Pay Equity Policy.
- (v) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Agency’s Unpaid Real Property Tax Policy.

General discussion ensued.

Mr. Brown confirmed the Company’s pledge to work towards a goal of 25% MWBE participation.

Mr. Brown moved and Mr. Pridgen seconded to approve the Project as proposed. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF BARCALO BUFFALO LLC, AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE “COMPANY”) IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iv) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (v) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, AND (B) A MORTGAGE RECORDING TAX EXEMPTION

BENEFIT FOR FINANCING RELATED TO THE PROJECT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

MANAGEMENT TEAM REPORT

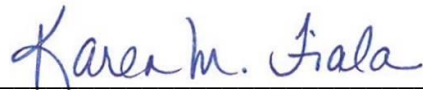
Mr. Weathers noted that the ILDC has released an RFP for a spec building at the Bethlehem Steel site.

Mr. Weathers confirmed the Agency recovered \$1 million from the Gemcor Escrow Fund which will be deposited within the Agency's UDAG Fund.

Mr. Weathers then asked Board members to enter into an attorney-client privilege to discuss a legal matter and to seek advice from its general counsel. Mr. Emminger moved and Sister Denise seconded to enter into an attorney-client privilege session. Ms. McDuffie called for the vote and the Agency entered into attorney-client privilege at 12:31 p.m. with only counsel present. Upon motion made by Mr. Poloncarz and seconded by Mr. Blue, and unanimously approved, the Agency terminated Executive Session at 12:49 p.m.

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 12:50 p.m.

Dated: February 26, 2020



Karen M. Fiala, Secretary