

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

DATE AND PLACE: November 18, 2020, held via telephone conference. Governor Cuomo's Executive Order 202.1, as amended from time to time, issued in response to the Coronavirus (COVID-19) crisis, suspended Article 7 of the Public Officers Law to the extent necessary to permit any public body to take actions without permitting in public in-person access to such meetings and authorized such meetings to be held remotely by conference call or other similar service, provided the public has the ability to view or listen to such proceedings and that the meeting is recorded and transcribed.

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

PRESENT: Hon. Diane Benczkowski, Rev. Mark E. Blue, Hon. Bryon W. Brown, Hon. Joseph Emminger, Tyra Johnson, Hon. Brian Kulpa, Richard Lipsitz, Hon. Glenn R. Nellis, Hon. Mark C. Poloncarz, Hon. Darius G. Pridgen, Sister Denise Roche, Kenneth A. Schoetz and Art Wingerter

EXCUSED: Denise Abbott, James Doherty, Dottie Gallagher, Hon. Howard Johnson, Brenda W. McDuffie, and Renee Wilson

OTHERS PRESENT: John Cappellino, President & CEO; Mollie Profic, Chief Financial Officer; Karen M. Fiala, Vice President/Secretary; Atiqa Abidi, Assistant Treasurer; Gerald Manhard, Chief Lending Officer; Beth O'Keefe, Business Development Officer; Grant Lesswing, Business Development Officer; Brian Krygier, Systems Analyst; Carrie Hocieniec, Administrative Coordinator; Lori Szewczyk, Director of Grants; Robbie Ann McPherson, and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

GUESTS: Andrew Federick, Erie County Senior Economic Development Specialist; Deputy County Executive Maria Whyte; Leo Schultz on behalf of Tight Holdings; Dean Burrows on behalf of Gear Motions; Gregory Zaepfel on behalf of Zaepfel Development and Jonathan Schechter on behalf of Gross Shuman

There being a quorum present at 12:02 p.m., the Meeting of the Board of Directors of the Erie County Industrial Development Agency was called to order by Mr. Lipsitz who presided over the meeting in the absence of Chair McDuffie.

MINUTES

The minutes of the October 28, 2020 meeting of the members were presented. Sister Denise moved and Rev. Blue seconded, to approve of the minutes. Mr. Lipsitz called for the vote and the minutes were unanimously approved.

REPORTS/ACTION ITEMS/INFORMATION ITEMS

Financial Report. Ms. Profic presented the October 2020 financial report, noting that the balance sheet shows that the Agency finished the month with total assets of \$27.7 million, a small decrease from \$28.1 million at the end of September. This includes over \$7.3 million of unrestricted cash available for Agency operations. Net assets at the end of October remained over \$21 million. The monthly income statement shows net loss from operations of \$128,000. Operating revenue was below monthly budget by \$246,000, due mainly to administrative fee receipts of \$24,000 in October. Operating expenses were \$200,000, under budget by \$31,000. After depreciation, there was a net loss of \$139,000 for the month. The year-to-date income statement showing operating revenue of nearly \$2.0 million, \$361,000 below budget for the year and expenses of \$2.2 million, \$213,000 below budget. Combined with special project grants, the operational side/top half of the income statement shows a net loss of \$225,000 through October. After factoring in strategic initiatives and depreciation, there is currently an overall net loss of \$1.6 million for the year. Mr. Lipsitz directed that the report be received and filed.

2020 Tax Incentive Induced/Closing Schedule/Estimated Real Property Tax Impact. Ms. Fiala presented this report. Mr. Lipsitz directed that the report be received and filed.

Approval of COVID-19 Disaster Emergency Grant Application. Mr. Cappellino reviewed applications for the ECIDA Disaster Emergency Grants, both approved to date, and applications to be considered by the members today. Mr. Cappellino noted that the grant review committee has approved all applications for consideration for the members today. Mr. Wingerter moved and Mr. Emminger seconded to approve the seventeen (17) grant applications. Mr. Lipsitz called for the vote and the following seventeen (17) grant applications were unanimously approved:

1. 110 Moreland Street, Inc.
2. 716 Limousine LLC
3. Babz BBQ
4. Bikeorbar LLC
5. Buffalo & Erie County Naval & Military Park
6. Buffalo Girlchoir
7. Buffalo Pediatric Associates, LLC
8. C&R Housing
9. Computers for Children (aka Mission Ignite)
10. Dasa Properties LLC
11. Gerard Place Housing Development Fund Company
12. Great Expectations Child Care Center, Inc.
13. La Casa De Nacho Inc.
14. Little Spanish Garden LLC

15. Nurse Practitioner Adult Health P.C.
16. Schutte-Buffalo Hammermill
17. Weaver Metal & Roofing, Inc.

Policy Committee Update. Mr. Lipsitz noted that the Policy Committee approved both applications presented for consideration of the members at today's meeting. Ms. Whyte provided members with an update on the status of the MWBE policy initiative as discussed and considered by the Policy Committee at its most recently held meeting. Mr. Lipsitz directed that the report be received and filed.

INDUCEMENT RESOLUTION

Tight Holdings LLC/Mean Guppy, 2505 Main Street, Buffalo, New York

Ms. Fiala reviewed the adaptive reuse of the former Ken-Ton Fabricators building on Main Street in the City of Buffalo. The facility is 26,000 sq. ft., over 100 years old and has been vacant for approximately 8 years. Mean Guppy will relocate its offices currently leased from 43 North on Ellicott Street and Washington Street. Five non-revenue producing apartments will be used by engineers coming from outside the area. In addition, a café/dining area is planned. The apartments will alleviate the company having to house people in other apartment buildings throughout the City. The project will retain the 34 existing jobs. No new jobs are being proposed and layoffs due to pandemic are not anticipated.

As a condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it 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 termination of the PILOT 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 \$1,882,750 (which represents the product of 85% multiplied by \$2,215,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 34 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; and
- (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.

Mr. Brown moved and Mr. Pridgen seconded to approve the Project. Mr. Poloncarz spoke in favor of the Project. Mr. Lipsitz 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 TIGHT HOLDINGS 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, (B) A PARTIAL ABATEMENT FROM REAL PROPERTY TAXES BENEFIT THROUGH THE PILOT AGREEMENT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

Tonawanda Pirson, LLC/Gear Motions, North Youngman Commerce Park, Pirson Parkway, Tonawanda, New York

Ms. Fiala reviewed the proposed project involving the construction of an approximately 56,000 sq. ft. manufacturing facility that will be leased to Gear Motions. The company will be combining both the Niagara Street and Military Road operations into one facility within the industrial park.

Mr. Cappellino mentioned Mr. Emminger, Supervisor of the Town of Tonawanda, had reached out to staff noting substantial subdivision and site plan issues remain unresolved. Mr. Cappellino said he spoke with the developer regarding same and in response thereto, the developer has submitted a letter to the Agency containing the tenant’s request that the project not be tabled for consideration by the Agency.

General discussed ensued between Mr. Emminger and the developer. Mr. Poloncarz stated the Agency’s general proposition that it wants to work with all applicants but typically does not approve of a project unless underlying Town issues are satisfied or resolved.

Mr. Emminger then moved to table the application for consideration until next month.

Mr. Poloncarz stated his support for the project and queried if the Agency could approve the project contingent upon ultimate approval by the Town.

Mr. Kulpa asked Mr. Burrows, from Gear Motions, to confirm if having the endorsement of the Policy Committee, plus allowing the Agency time to permit the Town and the developer to resolve issues, alleviates the company's concerns. Mr. Burrows stated that he is not privy to the Town and developer issues, noted that COVID has delayed the company's action for most of this year, and that the company needs to plan now for this expansion as it is continually getting offers from other counties and states to relocate, but that an employee owned entity, it desires to stay in Erie County. However, Mr. Burrows stated that if this project approval keeps moving out, then we cannot plan for our financial future, so if the parties can work together, I would appreciate approval now, which will give us time to plan because we need to be in the building by October 2021.

The motion to table this matter until next month was then seconded by Ms. Benczkowski.

Mr. Poloncarz again queried if members would be receptive to a contingent resolution. Mr. Murray then suggested that the Agency could resolve to induce the project, but add contingency language as follows:

“notwithstanding anything contained within this resolution to the contrary, the Agency's authorization and approvals with respect to the Project are contingent up the Town, and any of its related departments, issuing any and all required approvals with respect to the Project and such confirmation of same being provided to the Agency.”

Mr. Lipsitz then asked Mr. Emminger if the proposed contingency language was acceptable and if so, if he would withdraw his motion to table based on Mr. Murray's suggested “contingent” resolution language.

Mr. Emminger then withdrew his motion.

Based on the foregoing, Mr. Cappellino then stated that, as a condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it 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 termination PILOT 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 \$3,654,184 (which represents the product of 85% multiplied by \$4,299,040, being the total project cost as stated in the Company's application for Financial Assistance).

- (ii) Employment Commitment – that there are at least 35 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 within two (2) years of Project completion, the Company has maintained and created FTE employment at the Facility equal to 37 FTE employees [representing the sum of (i) 35 Baseline FTE employees and (ii) 2 FTE employees, being the product of 85% and 2 (representing the 2 new FTE employee positions proposed to be created by the Company as stated in its Application). In an effort to confirm and verify the Company’s employment numbers, the Agency requires that, at a minimum, the Company provide employment data to the Agency on a quarterly basis, 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.

Mr. Emminger moved and Mr. Blue seconded to approve the Project provided that the contingency language, as provided for herein, be so included. Mr. Lipsitz 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 TONAWANDA PIRSON 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, (B) A MORTGAGE RECORDING TAX EXEMPTION BENEFIT FOR FINANCING RELATED TO THE PROJECT, AND (C) A PARTIAL ABATEMENT FROM REAL PROPERTY TAXES BENEFIT THROUGH THE PILOT AGREEMENT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

MANAGEMENT TEAM REPORT

COVID-19 Response Update. Mr. Cappellino updated members on ECIDA/RDC COVID-19 response.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting of the Agency at 12:56 p.m.

Dated: November 18, 2020



Karen M. Fiala, Secretary