

**MINUTES OF THE
MEETING OF THE BOARD OF DIRECTORS
OF THE
BUFFALO AND ERIE COUNTY REGIONAL
DEVELOPMENT CORPORATION
(RDC)**

DATE: March 23, 2022

LIVE STREAMED: This Board meeting is being live-streamed and made accessible on the Erie County Industrial Development Agency website at www.ecidany.com.

PRESENT: Rev. Mark E. Blue, Dottie Gallagher, Hon. Howard Johnson, Tyra Johnson, Hon. Brian Kulpa, Richard Lipsitz, Brenda W. McDuffie, Hon. Glenn R. Nellis, Hon. Mark C. Poloncarz, Hon. Darius G. Pridgen, Sister Denise Roche and Renee Wilson

EXCUSED: Denise Abbott, Hon. Diane Benczkowski, Hon. Bryon W. Brown, James Doherty, Hon. Joseph Emminger, Kenneth A. Schoetz and Paul Vukelic

OTHERS PRESENT: John Cappellino, President & CEO; Mollie Profic, Chief Financial Officer/Assistant Secretary; Beth O’Keefe, Vice President of Operations; Atiqa Abidi, Assistant Treasurer; Gerald Manhard, Chief Lending Officer/Assistant Secretary; Grant Lesswing, Director of Business Development; Andrew Federick, Business Development Officer; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant; Robbie Ann McPherson, Director of Marketing & Communications, Sean Fallon, Project Manager; Pat Smith, Senior Bookkeeper; and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

GUESTS: Maria Whyte, Deputy County Executive, Erie County; Zachary Evans, Erie County; Lisa Hicks and Alex Carducci on behalf of the City of Buffalo; Karen Brown on behalf of the Buffalo Niagara Partnership and Matt Connors on behalf of 471 Elmwood Avenue, LLC

There being a quorum present at 12:58 p.m., the Meeting of the Board of Directors of the Buffalo and Erie County Regional Development Corporation was called to order by Chairwoman McDuffie.

MINUTES

The minutes of the October 27, 2021 meeting of the members were presented. Ms. Gallagher moved and Sister Denise seconded, to approve of the minutes. Ms. McDuffie called for the vote, and the minutes were then unanimously approved.

REPORTS/ACTION ITEMS/INFORMATION ITEMS

Audited Financial Statements. Ms. Profic provided the draft 2021 audited financial statements and report to the Board, which documents the auditors' required communications, a summary of accounting estimates made within the financials, some recently issued accounting standards, and the management letter noting no significant deficiencies or material weaknesses. Ms. Profic mentioned an unmodified opinion was issued on the statements. The most significant estimate for RDC is the allowance for uncollectible accounts. As a special-purpose government engaged in business-type activities, the RDC's financial statements are prepared based on Governmental Accounting Standards and include a Management's Discussion and Analysis section which provides a condensed overview of the statements. The statements of net position (balance sheets), show total assets of \$22M at December 31, 2021, an increase of \$4.7M (27%) from 2020. Loans receivable increased \$3.5M due to 33 loans closed in 2021 and principal repayments. The statements of revenues, expenses, and changes in net position (income statements) show a \$4.7M increase in net position for the year. Operating revenues of \$447,000 were up from \$388,000 in 2020, due to the expiration of deferral periods granted in 2020. Operating expenses increased from \$541,000 in 2020 to \$823,000 in 2021, due to an increase in loan loss expense in 2021. There were no loan write-offs in 2021, however we did establish a 10% reserve on the CARES Act RLF portfolio, as there is not yet any repayment history. Once payments become due, we should be able to specifically identify any loans that require reserve. Grant contributions of \$5.1M represent the CARES Act RLF grant funds passed through ECIDA. The cash flows statements detail the changes in cash balances from year to year. The remainder of the financials are the notes, supplementary information, and the Schedule of Expenditures of Federal Awards. Since the Federal interest in the legacy (original) RLF was released effective October 1, 2021, nine months of Federal expenditures under that program were included for single audit purposes. Going forward, only the CARES Act RLF will require a single audit. There were no findings or questioned costs noted as a result of the Single Audit. These drafts were reviewed and discussed in detail with the Finance & Audit Committee on March 16, and they recommended approval to the Board. We will continue to work with Freed Maxick to file IRS Form 990 and the Data Collection Form.

Mr. Nellis moved and Mr. Johnson seconded to approve of the 2021 Audited Financial Statements. Ms. McDuffie then called for the vote and the 2021 Audited Financial Statements were unanimously approved.

2021 Investment Report. This report is required by Public Authorities Law and includes RDC's investment guidelines, the results of our annual audit, and detail of investment income and fees for the year. One note is that this is in draft form pending the date of the auditor's report. Investment income of \$2,600 was earned on these accounts during 2021, and no fees were paid. This report was reviewed by the Finance & Audit Committee at their March 16 meeting and recommended to the Board for approval.

Mr. Nellis moved and Mr. Johnson seconded to approve of the 2021 Investment Report. Ms. McDuffie then called for the vote and the 2021 Investment Report was unanimously approved.

Approval of Board Certification of RLF Plan CARES Act. Mr. Manhard discussed this matter with members.

Mr. Lipsitz moved and Mr. Poloncarz seconded to certify CARES ACT RLF is being operated consistent with the LAP. Ms. McDuffie then called for the vote and the following resolution was unanimously approved.

RESOLUTION OF THE BUFFALO AND ERIE COUNTY REGIONAL DEVELOPMENT CORPORATION (THE “RLF LOAN BOARD” OR “RDC”) IN CONNECTION WITH AN ANNUAL CERTIFICATION TO BE MADE UNDER THE STANDARD TERMS AND CONDITIONS AND ADMINISTRATIVE MANUAL REQUIREMENTS OF THE FEDERAL ECONOMIC DEVELOPMENT ADMINISTRATION

REVIEW AND ADOPTION OF POLICIES, REPORTS AND COMMITTEE CHARTERS.

2021 Mission Statement, Performance Measures and Results. Ms. O’Keefe reviewed the 2021 Mission Statement and related results. Mr. Johnson moved and Mr. Lipsitz seconded to approve of the 2021 Mission Statement and results. Ms. McDuffie called for the vote and the 2021 Mission Statement and results were unanimously approved.

2022 Mission Statement and Performance Measures. Ms. O’Keefe reviewed the 2022 Mission Statement. Mr. Johnson moved and Mr. Lipsitz seconded to approve of the 2022 Mission Statement. Ms. McDuffie called for the vote and the 2022 Mission Statement and Performance Measures were unanimously approved.

2021 Public Authorities Report. Ms. Profic noted that as a Public Authority of the State of New York, ECIDA and its affiliates are required to comply with the NYS Public Authorities Law and submit a comprehensive annual report including information on several topics. Several of the items are covered by other documents, like the operations and accomplishments and financial statements, which are noted throughout the document. The Mission Statement & Performance Measurements are updated each year with actual results (and was just reviewed) and is part of this report. Many of the items included are standard from year to year and are also approved or re-adopted by the Board annually. Section 13 was updated for 2021 to include the work underway at ILDC-owned properties, ECIDA’s COVID-19 PPE grant program and the loans made under the recently established CARES Act revolving loan fund. Attachments include outstanding bond information, salary & benefit information, projects undertaken by each entity, our Property Report, Board Member attendance, and the Procurement Reports for each entity. Once approved, Mr. Cappellino and Ms. Profic will sign the certification and the report will be posted to our website. This report was provided to the Governance Committee for review and reviewed by the Finance & Audit Committee at their meeting on March 16 and has been recommended to the Board for approval.

Mr. Johnson moved and Mr. Lipsitz seconded to approve of the 2021 Public Authorities Report. Ms. McDuffie called for the vote and the 2021 Public Authorities Report was unanimously approved.

RE-ADOPT POLICIES AND CHARTERS

Ms. McDuffie noted that Items 5-20 on the agenda were reviewed by counsel, the Board Committees recommended no changes, and as such, the staff recommends that the policies and charters items numbered 5-20 be approved without any changes. Mr. Lipsitz moved and Ms. Gallagher seconded to approve of the various policies and charters as itemized below. Ms. McDuffie called for the vote and the following policies and charters were then unanimously approved:

- Board Member Compensation, Reimbursement & Attendance Policy
- Code of Ethics & Conflict of Interest Policy
- Corporate Credit Card Policy
- Defense & Indemnification Policy
- Employee Compensation Program
- Finance & Audit Committee Charter
- Governance Committee Charter
- Investment & Deposit Policy
- Procurement Policy
- Property Disposition Guidelines
- Real Property Acquisition Policy
- Sexual Harassment Policy
- Statement of Duties & Responsibilities of the Board of Directors
- Statement of the Competencies & Personal Attributes Required by Board Members
- Travel, Conferences, Meals & Entertainment Policy
- Whistleblower Policy and Procedures

Financial Report. Ms. Profic presented the February 2022 financial report, noting that the balance sheet shows that the RDC ended the month with total assets of \$22.1M, consisting of cash and loans receivable. Liabilities reflect amounts due to ECIDA for 2021 costs (paid in March) and net assets are \$21.8M. The February income statement shows \$35,000 of revenue, mostly loan interest income, and \$26,000 of expenses, netting to income of \$9,000 in February. The year-to-date income statement shows revenues of \$73,000 and \$56,000 of expenses, for net income of \$18,000 through the first two months of the year. Ms. McDuffie directed that the report be received and filed.

Finance & Audit Committee Update. Ms. Profic reviewed the memo summarizing the joint Finance & Audit Committee meeting held on March 16. Our auditors from Freed Maxick presented the draft 2021 audited financial statements. The three main points of the presentation were an unmodified (clean) opinion on the financial statements, there were no uncorrected audit adjustments, and there were no material weaknesses or significant deficiencies noted (no management letter comments). The Committee also reviewed and recommend the following for approval: 2021 Public Authorities Report, 2021 Investment Reports, Investment & Deposit Policy, Committee Charter, Committee Self-Evaluation, Management's Assessment of the Effectiveness of Internal Controls, and Corporate Credit Card Policy with no suggested changes.

The Committee Self-Evaluations were presented. Ms. Profic stated that each year the Committee completes a self-evaluation, based on the Committee Charter. In 2021, the Committee convened a total of five times and fulfilled its duties as documented.

Governance Committee. Ms. Profic presented a review of the most recently completed Governance Committee meeting. Ms. McDuffie directed that the report be received and filed.

Loan Status Report. Mr. Manhard presented this report. Ms. McDuffie directed that the report be received and filed.

MANAGEMENT TEAM REPORT

Mr. Cappellino presented the report. Ms. McDuffie directed that the report be received and filed.

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 1:15 p.m.

Dated: March 23, 2022



Gerald Manhard, Assistant Secretary