



**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (ECIDA)
BUFFALO & ERIE COUNTY REGIONAL DEVELOPMENT CORP (RDC)**

Executive Committee Meeting

Wednesday, June 15, 2016

At 2:00 P.M.

ECIDA Offices

95 Perry Street

4th Floor - Perry Room

Buffalo, New York 14203

1. Approval of Minutes –March 22, 2016
2. Staffing Update - Senior Accountant
3. Zero Energy Building Update
4. Adaptive Reuse Bus Tour
5. Proposed Property Acquisition
6. Adjournment - Next Meeting – Tuesday, September 20, 2016 at 12:00 p.m.

**MINUTES OF A MEETING OF THE
JOINT EXECUTIVE COMMITTEE OF THE
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (ECIDA)
AND
BUFFALO & ERIE COUNTY REGIONAL DEVELOPMENT CORPORATION (RDC)**

- DATE AND PLACE:** March 22, 2016, at the Erie County Industrial Development Agency, 95 Perry Street, Suite 403, Buffalo, New York 14203
- MEMBERS PRESENT:** Hon. Bryon W. Brown, Richard Lipsitz, Jr., Brenda W. McDuffie and Hon. Mark C. Poloncarz
- ABSENT:** Hon. Anthony F. Caruana, Chris Johnston, and Hon. Darius G. Pridgen
- OTHERS PRESENT:** Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; Andrew Schoeppich, Treasurer; Karen M. Fiala, Assistant Treasurer; Dawn Boudreau, Compliance Officer; and Robert G. Murray, Secretary
- GUESTS:** Becky Emminger, City of Buffalo and Andrew Federick, Erie County Senior Economic Development Specialist

In the absence of the presence of Ms. McDuffie, Mr. Lipsitz called the meeting to order at 12:04 p.m. noting that there was no quorum.

PROPOSED 2016/2017 BOARD COMMITTEE MEMBERSHIP

Mr. Schoeppich presented a slate of proposed committee members to the members present at the Executive Committee meeting. Mr. Schoeppich noted that the slate of proposed 2016/2017 ECIDA, RDC and ILDC board committees and officers have been vetted through the Nominating Committee for approval. Mr. Lipsitz opened up the floor to any questions or comments. Hearing none, the proposed slate was submitted and received.

STAFFING UPDATE - DIRECTOR OF GRANTS

Mr. Weathers then gave an update regarding staffing and the creation of a Director of Grants who will be starting on April 4th. Mr. Weathers noted that the goal of the person filling the position is to work on other projects outside of the ECIDA in addition to supporting internal projects such as the Net Zero project. Other tasks to be performed by the individual will be for example to research policy issues as they come up and advise the Board accordingly.

ZERO ENERGY BUILDING UPDATE

Mr. Weathers then reviewed the status of the ECIDA Zero Energy Light Manufacturing Building project. Mr. Weathers reported that a \$140,000 feasibility study has been approved. Mr. Weathers noted that the next step after the feasibility study will be to review and approve a proposal for engineering services however the feasibility study will need to be completed first. Mr. Poloncarz noted that progress has been made between the County and Tecumseh to allow for the County to proceed with a purchase of a large portion of the Bethlehem Steel site. Mr. Weathers directed the Committee's attention to the proposed timeline for approvals for completion of the project.

EMPLOYMENT CLAWBACK/RECAPTURE & SALES TAX COMPLIANCE

Mr. Cappellino then reviewed the background surrounding an issue that has come up with the request of a retroactive approval of an increase in sales tax incentives. Mr. Cappellino stated that the requested retroactive approval issue will be discussed on April 6th at the Agency's Policy Committee meeting. Mr. Cappellino then gave an overview of a memorandum prepared to the members of the Policy Committee to give a background of the request and proposed actions to be taken. Mr. Cappellino explained that recent legislation, most notably the 2003 amendments to the General Municipal Law § 875, creating an obligation for IDAs to monitor and recover sales tax overages. In contrast the ST-60 provides for an estimate in the reporting of the dollar amounts approved for sales tax exemptions. In accordance with the requirements of GML 875, Agency staff presently monitors projects for aggregate sales tax exemption amounts to insure that applicants due not receive sales tax exemptions in excess of what the Agency has authorized during the approval process. The project at issue, Zaepfel Development for First Source project, has sent a letter to the Agency requesting that it take action to retroactively increase their sales tax exemption benefit amounts taken into account increased costs that have been incurred due to unforeseen site conditions and other factors on the project. Mr. Cappellino explained that even if the IDA Board were to retroactively raise the authorized incentive amount, it is possible that New York State Sales Tax and Finance could take position that taxes would be owed anyway and pursue enforcement action against the company.

Given the lack of guidance and the relative newness of the GML 875 provisions, and in consultation with Agency counsel, staff has prepared a list of three options that are available to the Agency including:

1. Continue to operate under the current practice and not allow for retroactive approvals and require repayment of sales tax exemption overage amount.
2. Entertain requests for retroactive approvals and allow the board to determine the merits of the request based on the specific circumstances of the request.
3. Seek an opinion from the Office of the State Comptroller regarding the ability of an IDA to retroactively raise the authorized sales tax incentive amount.

Mr. Poloncarz stated that he is against approving anything retroactively noting that company made a good faith representation as to the dollar amount that the project would cost.

Ms. Lettieri then gave an overview of the legal considerations surrounding a project applicants request for retroactive approval of an increase in sales tax exemption benefit amounts.

At this point in time, Ms. McDuffie joined the meeting and a quorum was then present.

MINUTES

The minutes of the December 8, 2015 Joint Executive Committee of the ECIDA and RDC was presented. Upon motion made by Mr. Brown and seconded by Mr. Poloncarz, the approval of the December 8, 2015 minutes were unanimously carried.

SPECIAL PROJECTS – BEVERLY GRAY BUSINESS EXCHANGE CENTER

Mr. Weathers gave a background of the Beverly Gray Business Exchange project noting that the City of Buffalo submitted a funding request to the Agency for inclusion in the 2016-18 special projects budget in the amount of \$250,000. Mr. Weathers noted that the project will serve to support business formation, job growth and economic expansion concentrating on underserved markets on the City's east side.

Mr. Schoeppich explained the three options that were considered by staff in determining a recommended ECIDA funding formula. Mr. Schoeppich explained that the three options considered were ECIDA funding formulas at 30% with a 30% ECIDA matching funding; 50% ECIDA matching funding formula; and comprehensive model with estimated total funding required of \$845,000. Mr. Weathers stated that the staff recommends option three where the ECIDA funding formula is at 30% noting that the proposal would account for the Agency having a seat on the Board of Directors. Mr. Schoeppich would sit on the Governance Committee of the organization and also have representative on the Fundraising Committee. Mr. Weathers noted that the Agency wants to commit to a success of the project beyond funding only and in order to do so would require active participation. Mr. Weathers noted that the organization needs an Executive Director to really get the Board running. Mr. Brown noted that Acea Mosey and Alphonso O'Neil-White are fundraiser co-chairs for the organization. Ms. Emminger noted that the next step is to find other funding sources. Mr. Poloncarz expressed his concerns regarding budgetary shortfalls in the future. He stated that he is in favor of one year funding with the 30% model noting that it is comparable to the County's contribution but ongoing financial support should be raised outside the Agency.

Mr. Brown noted that he is confident that the organization will be able to raise private funds as reflected in its careful selection of effective fundraising co-chairs. Mr. Brown noted that the fundraising co-chairs are clear in their roles as moving forward. Mr. Poloncarz inquired whether this arrangement is similar to the LaunchNY project. Mr. Weathers replied that LaunchNY is focused on technology and advancement and explained that Agency staff would be actively involved in the Beverly Gray relationship.

Mr. Brown stated that there has been a build-up of support for the concept over two years with advisory committee and lending partners weighing in on the best plan to advance the project. Mr. Brown noted that the organization will be headquartered at the intersection of Jefferson and Utica streets on the east side in an old library building that is vacant. It is a high traffic area and close proximity to Canisius College and in the heart of a minority community. The building will undergo \$2.3 million in renovations by the City of Buffalo. Noting that there is no action required on the agenda item, Mr. Lipsitz directed that the report be received and filed.

LEGAL RFP UPDATE

At 12:57 p.m. Ms. Lettieri offered to recuse herself should the Committee desire to discuss the legal RFP. Ms. Lettieri then left the room. Ms. Lettieri then returned to the Committee meeting.

There being no further business to discuss, the meeting was adjourned at 1:09 p.m.

Pietra G. Lettieri, Assistant Secretary