

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

DATE AND PLACE: April 25, 2018, at the Erie County Industrial Development Agency, 95 Perry Street, 5th Floor ESD Conference Room, Buffalo, New York 14203

PRESENT: Hon. Diane Benczkowski, Rev. Mark E. Blue, Hon. Byron W. Brown, Hon. Joseph H. Emminger, Dottie Gallagher-Cohen, Tyra Johnson, Hon. Brian J. Kulpa, Brenda W. McDuffie, John J. Mudie, Hon. Glenn R. Nellis, Louis Panzica, Hon. Mark C. Poloncarz, Hon. Darius G. Pridgen, Sister Denise Roche, and Kenneth A. Schoetz

EXCUSED: Hon. Patrick B. Burke, James F. Doherty, Richard Lipsitz, Jr., and David L. Lowrey

OTHERS PRESENT: Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; Mollie Profic, Treasurer; Karen M. Fiala, Assistant Treasurer; and Robert G. Murray, Secretary

GUESTS: Maria Whyte, Deputy County Executive; Andrew Federick, Erie County Senior Economic Development Specialist; Jesse L. Burnette, Director, Erie County Division of Equal Employment Opportunity.

At 9:13 a.m., there being a quorum present, Ms. McDuffie called the meeting to order.

MINUTES

The minutes of the March 21, 2018 meeting of the members were presented. Mr. Brown moved, and Mr. Nellis seconded, to approve of the meeting minutes. Ms. McDuffie called for the vote and the minutes were unanimously approved.

REPORTS/ACTION ITEMS/INFORMATION ITEMS

Financial Report. Ms. Profic reviewed the March 2018 financial report noting that the balance sheet shows that the Agency finished the month with total assets of \$33.3 million and net assets of \$21.0 million. The monthly income statement shows an operating net loss of \$182,000. Operating revenue was under budget by \$159,000, due mainly to administrative fees. Total operating expenses were under budget by \$1,600. After factoring in strategic investments and depreciation, there was a net loss of \$309,000 for the month. The year to date income statement shows revenue of \$291,000, which is \$388,000 below budget for the year and expenses of \$683,000, which are \$10,000 below budget for the year. After special project grants, strategic initiatives and depreciation, there is currently a net loss of \$635,000 for the year. Mr. Emminger noted that the Agency is below budget on the revenue side and asked if there is reason for concern. Ms. Profic responded that revenues are

a timing issue based on deal closings. Ms. Gallagher-Cohen asked if she could expand on the status of receipt of administrative fees. Ms. Profic again stated that Agency administrative fees are received based on project closings, and as such, are a timing issue. Ms. Gallagher-Cohen questioned if the Agency will be able to catch up. Ms. Profic responded that the Agency is hopeful but may not know until the fourth quarter. Ms. Gallagher-Cohen asked how the Agency is controlling its expenses. Ms. Profic responded that the Agency is trying to stick with its budgeted expenses per the approved budget. There being no further questions or comments, Ms. McDuffie directed that the report be received and filed.

Safety Deposit Box Resolution. Ms. Profic commented that the Agency uses a safe deposit box to retain various original legal documents. There are currently two safe deposit boxes at Northwest Bank, as a result of the First Niagara Bank acquisition. Northwest requires that the Agency resolve to and enter into a new safe deposit box rental agreement in order to then allow the Agency to close out the box as the original agreements were signed with First Niagara and were not renewed upon Northwest's acquisition of the First Niagara safe deposit boxes. Once the signed rental agreements are on file, Agency staff will be able to close the safe deposit boxes and open a new safe deposit box with M&T Bank. Related thereto, Ms. Profic presented a resolution to the members authorizing the Agency to enter into a safe deposit box rental agreement with Northwest Bank and further authorizing the Agency to close the safe deposit box. Ms. Gallagher-Cohen moved and Mr. Kulpa seconded, to authorize the Agency to enter into the rental agreement. Ms. McDuffie called for the vote and the resolution was unanimously approved.

2018 Tax Incentive Induced/Closing Schedule/Estimated Real Property Tax Impact. Ms. Fiala presented this report. Ms. McDuffie directed that the report be received and filed.

Nominating Committee Update. Mr. Poloncarz, being the chair of the Nominating Committee, reviewed the proposed committee membership and ECIDA officer positions. Ms. Gallagher-Cohen moved and Mr. Blue seconded to approve of the proposed slate of committee members and officer positions. Ms. McDuffie called for the vote and proposed slate of committee members and officers were unanimously approved.

Bethlehem Steel Project Funding Resolution. Mr. Cappellino reviewed the Bethlehem Steel Rail improvement project for members of the Agency noting that in April 2013, the various land owners and Erie County entered into a certain Site Infrastructure Agreement which outlined three phases of redevelopment for the former Bethlehem Steel site. These phases included the construction of a water line to service the Welded Tube facility, the construction of a new access road corridor at Dona Street, and the construction of new rail facilities along with the removal of certain rail facilities along Route 5. Funding for the construction portion of the project was approved by the Erie County Legislature in February 2017 in an amount not to exceed \$4,550,000. On June 28, 2017, the Agency resolved to enter into partnership with Erie County to serve as project administrator for the design and engineering of the rail relocation and removal project. On July 5, 2017, the Agency entered into an agreement with Erie County to take all actions reasonably necessary to complete the Bethlehem Steel rail improvements project including contracting for engineering, construction and construction management services for an aggregate funding amount not to exceed \$4,550,000. Project costs have since increased by \$650,000 due to an unexpected underground utility conflict. It is anticipated that Erie County Legislature will approve the additional expenditures in the amount of \$650,000, such that total project costs to be approved for the project will be in an amount not to exceed \$5,200,000. Mr. Cappellino stated that a resolution has been presented to members seeking approval to amend the June 28, 2017 agreement with Erie County and to take all actions reasonably necessary to complete

the Bethlehem Steel rail improvement project including contracting for engineering, construction and construction management services for an aggregate funding amount not to exceed \$5,200,000. Ms. Whyte then noted that the Erie County Legislature Committee approved of the \$650,000 expenditure last week and the Erie County Legislature itself will be considering this matter at its next regularly scheduled meeting date. Mr. Poloncarz moved and Mr. Blue seconded to approve of the increase in expenditures. Ms. McDuffie called for the vote, and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE AGENCY TO ENTER INTO AND TO AMEND IF NECESSARY CONTRACTS WITH THE COUNTY OF ERIE AND/OR THE NYSDOT, OTHER STATE AND FEDERAL AGENCIES, AND APPROPRIATE CONTRACTORS OR CONSULTANT(S), IN AMOUNTS NOT TO EXCEED AN ADDITIONAL \$650,000, FOR A GRAND TOTAL OF \$5,200,000, FOR THE PURPOSE OF CONSTRUCTION RELATED TO PHASE II RAIL IMPROVEMENTS WORK ON THE FORMER BETHLEHEM STEEL SITE

MANAGEMENT TEAM REPORT

At this point time, Mr. Pridgen joined the meeting.

Pay Equity Presentation. Mr. Weathers introduced Mr. Burnette as the Erie County Director of the Division of EEO and reviewed the Agency's Pay Equity policy and the related Memorandum of Understanding between the ECIDA and Erie County with respect to undertaking pay equity audits. Mr. Weathers noted that there are currently 37 companies that are in the pool for the pay equity policy to be audited but at this point in time Mr. Weathers is recommending that the Agency only select one company for audit, as opposed to 10% of the available pool, which would be 3-4 companies, to insure that the first audit can be undertaken in an efficient manner. General discussion ensued and Mr. Weathers confirmed that the company will be randomly selected via a random computer generated process and also emphasized that it is a paper audit and not a field audit. Mr. Weathers then asked if any board member would object if the Agency only undertook its first audit with respect to one company as opposed to selecting 10% of the 37 companies that are in the pay equity pool. No member objected. Mr. Weathers then reminded members that the Agency had Mr. Burnette conduct a pay equity audit of the Agency itself, as a test run, to confirm the processes and procedures as related to the pay equity policy. Mr. Burnette then presented the results of the Agency's pay equity audit including a discussion on the pay equity audit methodology and use of statistical models. General discussion ensued regarding use and selection of the appropriate statistical tests as related to sample size. Mr. Burnette confirmed that Erie County has to date, with respect to its pay equity policy, conducted eight pay equity audits and confirmed that no adverse findings were made.

Mr. Panzica queried as to the effective date of the pay equity policy and also queried as to why senior ECIDA officers were not included in the audit. Mr. Weathers confirmed the effective date was September 1, 2015 and Mr. Burnette commented that senior management was not included in the audit because the numbers were too small, being that there were only two male and one female member of the senior management class. Ms. Gallagher-Cohen expressed concern that audits may not pick up years of service which she believed to be a consideration with respect to why or why not

Mr. Burnette chose not to audit senior level management. Mr. Burnette responded that he chose not to conduct the senior management audit, but he did disclose the issue so it would have been up to the Agency to consider whether or not to audit senior management.

Mr. Brown asked if there is a nation-wide pay equity audit standard. Mr. Burnette noted that he has reviewed pay equity audits standards and procedures globally and confirmed that the same statistical methods as considered and used here are the same statistical methods being used nation-wide and globally.

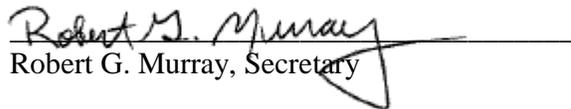
Ms. Gallagher-Cohen suggested that the Agency consider amending the policy to identify the statistical test and procedures for choosing which tests to use. She expressed concern that the EEO does not have expertise to do this and noted other state and federal agencies already do this. Mr. Poloncarz responded that the other state and federal agencies do not get involved in ECIDA projects. Sister Denise then stated that if any concerns are found, she believes it would be important to allow the company to respond and explain the various factors that may come into play during such an audit.

Mr. Weathers confirmed that as the Agency implements the policy, staff will come back to the Board with updates and requests for input.

Ms. Gallagher-Cohen then expressed her desire to have the pay equity policy based on a company's self-reporting, as opposed to the Agency actually undertaking an audit.

There being no further business to discuss, Ms. McDuffie adjourned the meeting at 10:16 a.m.

Dated: April 25, 2018


Robert G. Murray, Secretary