

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

- DATE AND PLACE:** March 21, 2018, at the Erie County Industrial Development Agency, 95 Perry Street, 5th Floor ESD Conference Room, Buffalo, New York 14203
- PRESENT:** Rev. Mark E. Blue, Hon. Byron W. Brown, Hon. Patrick B. Burke, Hon. Joseph H. Emminger, Tyra Johnson, Hon. Brian J. Kulpa, Richard Lipsitz, Jr., David L. Lowrey, Brenda W. McDuffie, John J. Mudie, Hon. Glenn R. Nellis, Louis Panzica, Hon. Mark C. Poloncarz, Hon. Darius G. Pridgen, and Sister Denise Roche
- EXCUSED:** Hon. Diane Benczkowski, James F. Doherty, Dottie Gallagher-Cohen, and Paul V. Vukelic
- OTHERS PRESENT:** Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; Mollie Profic, Treasurer; Karen M. Fiala, Assistant Treasurer; Dawn Boudreau, Compliance Officer and Robert G. Murray, Secretary
- GUESTS:** Maria Whyte, Deputy County Executive; Andrew Federick, Erie County Senior Economic Development Specialist; and Michael Szukala, Chair of the Finance and Audit Committee

At 9:12 a.m., there being a quorum present, Ms. McDuffie called the meeting to order.

MINUTES

The minutes of the February 21, 2018 meeting of the members were presented. Mr. Blue moved, and Sister Denise 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 presented the financial statements for February 2018 noting that the balance sheet shows that the Agency finished the month with total assets of \$33.7 million and net assets of \$21.3 million. The monthly income statement shows an operating net loss of \$68,000. Operating revenue was under budget by \$64,000, due mainly to administrative fees. Total operating expenses were under budget by \$12,000. After factoring in strategic investments and depreciation, there was a net loss of \$150,000 for the month. The year to date income statement shows revenue of \$221,000, \$229,000 below budget for the year and expenses of \$454,000, about \$7,000 below budget. After special project grants, strategic initiatives and depreciation, there is currently a net loss of \$326,000 for the year. Ms. McDuffie directed that the report be received and filed.

Finance and Audit Committee Update. Ms. Profic provided members with an update of the most recently completed Finance and Audit Committee meeting and introduced members to Mr. Michael Szukala, Chair of the Finance and Audit Committee. Ms. Profic confirmed that the committee reviewed the Freed Maxick CPAs report including draft 2017 Audited Financial Statements, the 2017 Public Authorities Report, the 2017 Investment Report, the Investment and Deposit Policy, the Finance and Audit Committee Charter, the Corporate Credit Card Policy and the Finance and Audit Committee self-evaluation. Ms. McDuffie asked if Ms. Profic could request that the Agency's auditors issue a management letter even if the management letter states that there are no issues. Ms. Profic stated that she would make the request. Ms. McDuffie directed that the report be received and filed.

2017 Audited Financial Statements. Ms. Profic mentioned that the auditors issued an unmodified opinion on the Agency's 2017 Audited Financial Statements. As a public authority, Ms. Profic noted that the Agency's financial statements are prepared based on governmental auditing standards and include a management discussion and analysis which provides an overview of the statements. The balance sheet shows that there were total assets of \$33.8 million at December 31, 2017, a decrease from \$35.1 million in 2016. The majority of assets are current, with cash comprising the largest portion at \$17 million. This is a decrease of \$7.4 million from 2016 and is largely a result of UDAG monies granted to the ILDC for purchase of the Bethlehem Steel property. There was also a \$5.3 million increase in grant receivables to \$7.3 million from \$2 million in 2016, as additional grants were awarded in 2017. Under non-current assets, the most significant change is a \$487,000 increase in investments. This represents an unrealized gain on the shares of Athenex stock held by the Agency at year end. When the shares are sold in 2018, the unrealized gain will be adjusted up or down. Moving further down on the balance sheet, Ms. Profic stated that current liabilities increased to \$7 million from \$2.9 million in 2016, mainly due to an increase in unearned revenue of \$4.3 million. This figure reflects unearned grant revenue and corresponds to the increase in grants receivable previously discussed. This amount will decrease as grant revenue is recognized. Non-current liabilities increased by \$1.3 million to \$5.1 million at year end. Note 3 details these funds, which are held in restricted cash accounts. The Agency's net position decreased from \$28.3 million in 2016 to \$21.6 million in 2017. This is a result of a \$6.7 million net loss for 2017, due in large part to \$6.5 million granted to the ILDC. The statements of revenues, expenses and changes in net position detail the decrease in net position for the year. Operating revenues of \$2.7 million were up compared to \$2.3 million in 2016, due mainly to an increase in administrative fees. Administrative fees were just under \$2.0 million in 2017, in excess of our \$1.8 million budget for the year and an increase of \$435,000 from 2016. Operating revenues remained flat at \$3.5 million. Salaries and benefits increased \$96,000 (approximately 5%) due to a cost of living increase, and about an 8% overall increase in employee benefit cost. General administrative expenses decreased \$95,000 due to a decrease in consultant and legal costs. Special project revenues of \$1 million represent grant revenues recognized income in the Railroad Trust Fund. Special project expenses of \$7.4 million include \$6.5 million granted to the ILDC for the Bethlehem Steel purchase and grant expenses of \$758,000. Non-operating revenues include the unrealized gain on Athenex stock.

The remainder of the financials are the notes and supplementary information, which show the statements at the fund level. Additional information includes the auditors required communications, a summary of accounting estimates made within the financials, some recently issued accounting standards, and copies of the representation letters. These drafts were reviewed in detail with the Finance and Audit Committee on March 12th. Mr. Nellis moved and Mr. Lowrey seconded to approve of the 2017 Audited Financial Statements. Ms. McDuffie called for the vote and the 2017 Audited Financial Statements were unanimously approved.

2017 Investment Report. Ms. Profic reviewed the 2017 Investment Report. There being no questions, Mr. Poloncarz moved and Mr. Emminger seconded to approve of the 2017 Investment Report. Ms. McDuffie called for the vote and the 2017 Investment Report was unanimously approved.

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

Governance Committee Update and Committee Self-Evaluation. Ms. Boudreau provided members with an update of the most recently completed Governance Committee meeting. Ms. McDuffie directed that the report be received and filed.

Beverly Gray BEREC/Extension of Funding Agreement. Mr. Cappellino reviewed the resolution presented to Board members permitting the Agency to consent to the assignment of the existing agreement between the Agency and the Buffalo Economic Renaissance Corporation with respect to the Beverly Gray Business Exchange Center to be assigned to Community Development Properties, Buffalo, Inc., and also permitting the Agency to extend the termination date of the Agreement from December 31, 2017 to December 31, 2019.

At this point in time, Mr. Brown stated that he would be abstaining from discussions and actions with respect to this matter. Mr. Pridgen also stated he would be abstaining from any discussion and action with respect to this matter. Mr. Poloncarz then moved and Mr. Blue seconded to approve of the assignment and extension date as proposed. Ms. McDuffie then called for the vote and the following resolution, with two abstentions as previously disclosed, was unanimously approved as follows:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (“AGENCY”) TO AMEND THAT CERTAIN FUNDING AGREEMENT FOR ECONOMIC DEVELOPMENT PURPOSES WITH BUFFALO ECONOMIC RENAISSANCE CORPORATION TO PROVIDE FUNDING TO SERVICE CERTAIN BUSINESS DEVELOPMENT NEEDS OF MWBE BUSINESS ENTERPRISES USING FUNDS FROM THE AGENCY’S U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (“HUD”) URBAN DEVELOPMENT ACTION GRANT (“UDAG”) REFLOW FUND AND TO CONSENT TO THE ASSIGNMENT OF THE FUNDING AGREEMENT TO COMMUNITY DEVELOPMENT PROPERTIES, BUFFALO, INC.

REVIEW AND ADOPTION OF POLICIES, REPORTS AND COMMITTEE CHARTERS

The 2017 Mission Statement, Performance Measures and Results. Ms. Profic reviewed the 2017 Mission Statement and related results. Mr. Poloncarz moved and Mr. Blue seconded to approve of the statement and results. Ms. McDuffie called for the vote and 2017 Mission Statement, Performance Measures and Results was unanimously approved.

The 2018 Mission Statement, Performance Measures and Results. Ms. Profic reviewed the 2018 Mission Statement and related results noting that most of the objectives remain the same, while the matrix was updated to reflect the rolling average of the last three years (2015-2017). Ms. Profic also noted that Objective E on page 7 of the Performance Matrix regarding redevelopment of land

was added as a result of discussion at the Governance Committee held on March 13, 2018. Mr. Burke moved and Sister Denise seconded to approve of the 2018 Mission Statement and Performance Measures. Ms. McDuffie called for the vote and 2018 Mission Statement and Performance Measures were unanimously approved.

2017 Public Authorities Report. Ms. Boudreau reviewed the Agency's 2017 Public Authorities Report. Sister Denise moved and Mr. Blue seconded to approve of the 2017 Public Authorities Report. Ms. McDuffie called for the vote and 2017 Public Authorities Report was then unanimously approved.

Procurement Policy. Ms. Profic reviewed an amended version of the Procurement Policy noting the addition of certain new language as a requirement under uniform guidance related to the expenditure of federal funds. Ms. Profic noted that while the Agency did not expend any federal funds in 2017, auditors brought this issue including the requested language forward in the event the Agency is subject to a single audit in the future. This policy was reviewed in detail by the Finance and Audit Committee. Mr. Brown then noted that at the most recently completed meeting of the Buffalo and Erie County Industrial Land Development Corporation, the same Procurement Policy was presented and discussion regarding MWBE procurement and goals was held by ILDC Board members. Mr. Brown noted that the ILDC and the Agency use County and State MWBE guidance and procurement policies depending on the source of money and Mr. Brown also noted that the ILDC approved of the Procurement Policy, as presented today, based on an understanding that Agency staff would develop MWBE goals. Mr. Brown then moved and Mr. Mudie seconded to approve of the Procurement Policy, as amended. Ms. McDuffie called for the vote and the Procurement Policy was then unanimously approved.

Professional Services RFP Process. Mr. Weathers reviewed the proposed amendments to the Agency's Professional Services RFP Process and Policy noting changes being made to the term of engagement with respect to professionals so engaged. Mr. Poloncarz moved and Mr. Nellis seconded to approve of the Policy as proposed. Ms. McDuffie called for the vote and the Agency's Professional Services RFP Process and Policy, as amended, was unanimously approved.

Investment and Deposit Policy. Ms. Profic reviewed the proposed amendments to the Agency's Investment and Deposit Policy noting the only area where changes have been made is to a list outlining the methods that are deemed acceptable for collateralization of deposits. Ms. Profic stated that this change is proactive but noted that if our bank uses any of the new methods to collateralize deposits, then our Policy will already include such collateralization methods. This Policy was also reviewed in detail by Finance and Audit Committee. Mr. Nellis moved and Sister Denise seconded to approve of the Policy as proposed. Ms. McDuffie called for the vote and the Agency's Investment and Deposit Policy, as amended, was unanimously approved.

RE-ADOPTION OF POLICIES AND CHARTERS

Ms. Boudreau noted that Items 7-19 on the agenda were reviewed by counsel, that no Authority Budget Office recommended changes had been made, and as such, the staff recommends that the policies and charters items numbered 7-19 be approved without any changes. Mr. Lowrey then moved and Mr. Blue seconded to approve of the various polices and charters. Ms. McDuffie called for the vote and the following policies and charters were then unanimously approved:

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

MANAGEMENT TEAM REPORTS

Mr. Weathers reviewed the Agency's annual report and distributed the annual report to the members while simultaneously thanking members of the Agency and Agency staff for their leadership and great efforts.

Mr. Weathers informed members that the Hamburg Industrial Development Agency has asked if Agency staff would be able to assist the Hamburg Industrial Development Agency with certain discrete matters during this interim period when the Executive Director position remains vacant. Mr. Weathers mentioned that the Agency and the Hamburg Industrial Development Agency would be entering into an appropriate Shared Services Agreement. Mr. Poloncarz then stated that now may be an appropriate time to consider merging the Hamburg Industrial Development Agency with the Erie County Industrial Development Agency.

Mr. Weathers then asked for the Agency to enter into Executive Session to discuss a certain legal matter. Mr. Murray advised members that the Agency can enter Executive Session for the purpose of discussing the financial history of a particular person or corporation and as such, the request to enter into Executive Session is to permit the Agency to discuss the financial history of a particular person or corporation. Mr. Blue moved and Sister Denise seconded to enter into Executive Session for the purpose as described above. The motion was then unanimously approved. At 9:47 a.m., the Agency entered into Executive Session. Upon motion made by Mr. Emminger and seconded by Sister Denise, and unanimously approved, the Agency terminated Executive Session at 10:09 a.m.

There being no further business to discuss, Ms. McDuffie adjourned the meeting at 10:09 a.m.

Dated: March 21, 2018


Robert G. Murray, Secretary