

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

**DATE AND PLACE:** November 28, 2018, at the Erie County Industrial Development Agency (the “ECIDA” or “Agency”), 95 Perry Street, 5<sup>th</sup> Floor ESD Conference Room, Buffalo, New York 14203

**PRESENT:** Hon. Bryon W. Brown, Dottie Gallagher, Hon. Brian J. Kulpa, Richard Lipsitz, Jr., Brenda W. McDuffie, John J. Mudie, Hon. Mark C. Poloncarz, Hon. Darius G. Pridgen, Kenneth A. Schoetz, and Art Wingerter

**EXCUSED:** Hon. Diane Benczkowski, Rev. Mark E. Blue, Hon. Patrick B. Burke, James F. Doherty, Hon. Joseph H. Emminger, Tyra Johnson, Hon. Glenn R. Nellis, Sister Denise Roche and Charles F. Specht

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

**GUESTS:** Christopher Pawenski, Coordinator, Industrial Assistance Program, of the Erie County Environment & Planning Department

There being a quorum present at 9:21 a.m., the meeting was called to order by Ms. McDuffie.

**MINUTES**

The minutes of the October 24, 2018 meeting of the members were presented. Mr. Poloncarz moved and Ms. Gallagher seconded, to approve of the minutes. Ms. McDuffie called for the vote, and the minutes were then unanimously approved.

**REPORTS/ACTION ITEMS/INFORMATION ITEMS**

Financial Report. Ms. Profic presented the October 2018 financial report, noting that the balance sheet shows that the Agency finished the month with total assets of \$29.5 million and net assets of \$22.3 million. The monthly income statement shows operating income of \$43,000. Operating revenue was below budget for the month by \$96,000 due mainly to administrative fees. Operating expenses were below budget by \$157,000, with the largest variance in other expenses, due to the payoff of a loan that has been fully reserved in a prior year. After special

project grants, strategic initiatives and depreciation, there is net income of \$43,000 for the month. The year to date income statement reflects operating revenue of \$1.7 million, being \$617,000 behind budget for the year. Operating expenses of \$2.2 million are \$227,000 below budget for the year. After special project grants, strategic initiatives and depreciation, there is currently net income of \$632,000 for the year. Ms. McDuffie directed that the report be received and filed.

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.

Policy Committee Update. Mr. Lipsitz provided members with an update from the most recently completed Policy Committee meeting noting that the Policy Committee approved of the REVPAC amendatory inducement resolution to be considered by the Agency at today's meeting. Ms. McDuffie directed that the report be received and filed.

Bethlehem Steel Land Purchase. Mr. Cappellino began his presentation by providing members with an update of the status of the Agency's UDAG Fund. Mr. Poloncarz then updated members on the proposed acquisition of an additional approximately 93 acres of real property at the former Bethlehem Steel site to the immediate south of the 150 acres acquired by the ILDC in 2017. Mr. Poloncarz commented that this is the next piece of property to be acquired as planned and noted that Erie County currently does not have a portfolio of developable real property in the 40-50 acre size category and this acquisition, along with the real property already owned at the Bethlehem Steel site, will position Erie County for significant new business attraction. Ms. Gallagher confirmed Mr. Poloncarz's assessment regarding available sites in the 40-50 acre category and expressed her support in the continued acquisition of real property at the Bethlehem Steel site. Mr. Cappellino then reviewed the proposed 93 acre acquisition which would ultimately allow the ILDC to expand its overall property holdings to roughly 240 acres by purchasing the remainder of Business Park II at the Bethlehem Steel site. Mr. Cappellino commented that this will allow for the continued redevelopment of the frontage of the site along Route 5, the extension of the bike path and the incorporation of the main road and utility corridors as proposed in the master planning efforts. As such, Agency staff is seeking approval for the Agency to enter into a funding agreement in the form a partially refundable grant to the ILDC to provide up to \$1,750,000 of UDAG funds for the acquisition, carrying and miscellaneous costs of approximately 93 acres of real property. As a condition of the funding agreement, \$1,500,000 would be returned to the ECIDA UDAG fund from the ILDC upon the ILDC's receipt of grant funding from the New York State Empire State Development for the property acquisition. In addition, the ILDC will return 50% of any future land sale proceeds to the ECIDA UDAG fund in an amount up to \$250,000. Mr. Poloncarz thanked Governor Cuomo, the New York State Empire State Development Corporation, Erie County and the ILDC for their efforts and support. Mr. Poloncarz then moved to approve of the grant funding noting that this is a 30 year legacy project to remediate and redevelop vacant land and that this is a significant acquisition and project for Erie County. Mr. Brown seconded the motion. Ms. McDuffie called for the vote, and the following resolution as unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (“AGENCY”): (i) TO ENTER INTO A FUNDING AGREEMENT FOR ECONOMIC DEVELOPMENT PURPOSES WITH THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION TO GRANT \$1,750,000 IN THE FORM OF A PARTIALLY REFUNDABLE GRANT FROM THE AGENCY’S U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT URBAN DEVELOPMENT ACTION GRANT (“UDAG”) REFLOW FUND; AND (ii) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT

## **AMENDATORY INDUCEMENT RESOLUTIONS**

REVPAC/467 Richmond Avenue LLC, 467 Richmond Avenue, Buffalo, New York. Mr. Cappellino noted that two actions are requested today with respect to the REVPAC project, being the approval of an amendment to the project description to allow for the construction of a single residential unit, and a second action to ratify and confirm a new tax certification.

Mr. Cappellino explained that at the time of the initial project approval in June 2017, the company signed the unpaid tax certification indicating that there were no unpaid taxes on the property. Upon verification, it has been determined that at the time of the certification, that there were past taxes owing on the property. Agency staff informed the company that the certificate was signed while back taxes were due and owed and the company indicated to staff that their intentions were to pay off the remaining unpaid taxes as part of the overall financing for the project. On October 24, 2018, the company paid all unpaid taxes on the property and provided proof of payment to the Agency. Mr. Cappellino noted that as part of the Agency’s application process, the certification of unpaid taxes is treated as a material term and the unpaid tax policy adopted by the Agency in 2015 states that the Agency, in its discretion, will consider the disclosure of information and any additional information related to unpaid property taxes as a critical component in its determination to issue financial assistance. Mr. Cappellino noted that Agency staff recommends, and the Policy Committee confirmed, that the members of the Agency should review relevant facts regarding the REVPAC tax certification, consider that the unpaid taxes are now paid and determine whether the Agency should ratify the project based on submission of a new unpaid tax certification which has been deemed to be accurate. General discussion ensued.

Mr. Lipsitz then moved and Mr. Kulpa seconded to accept the new tax certification and to ratify and confirm the project as originally approved. Ms. McDuffie called for the vote and the following resolution was unanimously approved:

RATIFYING AND AMENDATORY INDUCEMENT RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) RATIFYING AND CONFIRMING THE FINDINGS OF THE AGENCY AND DETERMINATION TO PROVIDE FINANCIAL ASSISTANCE MADE IN THE RESOLUTION ADOPTED BY THE AGENCY ON JUNE 28, 2017, (ii) RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A

PUBLIC HEARING IN CONNECTION WITH THE AMENDED PROJECT,  
(iii) AMENDING THE PROJECT DESCRIPTION, AND (iv) AUTHORIZING  
THE EXECUTION AND DELIVERY OF DOCUMENTS IN CONNECTION  
WITH SUCH PROJECT AS AMENDED

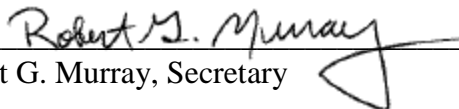
Mr. Cappellino next explained the amended project description which now includes a single residential unit to be made available as an affordable housing unit. Mr. Pridgen requested and received confirmation that the unit will rent for \$800 per month. Mr. Lipsitz then moved and Mr. Brown seconded to approve of the project as amended to include a single residential unit. Ms. McDuffie called for the vote and the following resolution was unanimously approved:

RATIFYING AND AMENDATORY INDUCEMENT RESOLUTION OF THE  
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) RATIFYING  
AND CONFIRMING THE FINDINGS OF THE AGENCY AND  
DETERMINATION TO PROVIDE FINANCIAL ASSISTANCE MADE IN  
THE RESOLUTION ADOPTED BY THE AGENCY ON JUNE 28, 2017, (ii)  
RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A  
PUBLIC HEARING IN CONNECTION WITH THE AMENDED PROJECT,  
(iii) AMENDING THE PROJECT DESCRIPTION, AND (iv) AUTHORIZING  
THE EXECUTION AND DELIVERY OF DOCUMENTS IN CONNECTION  
WITH SUCH PROJECT AS AMENDED

At this point in time, Ms. McDuffie adjourned the meeting of the Agency and called the meeting of the Buffalo and Erie County Regional Development Corporation to order at 9:46 a.m.

At 9:53 a.m., Mr. Lipsitz called the meeting of the Agency back to order. There being no further business to discuss, Mr. Lipsitz adjourned the meeting of the Agency at 9:54 a.m.

Dated: November 28, 2018

  
Robert G. Murray, Secretary