

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

**DATE AND PLACE:** February 24, 2016, at the Erie County Industrial Development Agency, 95 Perry Street, 5<sup>th</sup> Floor ESD Conference Room, Buffalo, New York 14203

**PRESENT:** Hon. Diane Benczkowski, Hon. Byron W. Brown, James F. Doherty, Dennis Elsenbeck, Dottie Gallagher-Cohen, Brenda W. McDuffie, Frank B. Mesiah, Hon. Glenn R. Nellis, Dr. Carol Nowak, Hon. Mark C. Poloncarz, Hon. Edward A. Rath, III and David J. State

**EXCUSED:** Hon. Joseph H. Emminger, Chris Johnston, Richard Lipsitz, Jr., John J. Mudie, Hon. Darius G. Pridgen, Paul V. Vukelic and Hon. Barry A. Weinstein

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

**GUESTS:** Thomas A. Kucharski, President and CEO of the Buffalo Niagara Enterprises; Rebecca Gandour, Director of Development, City of Buffalo Office of Strategic Planning

There being a quorum present at 11:06 a.m., the meeting of the members of the Erie County Industrial Development Agency was called to order by its Chair, Ms. McDuffie.

**MINUTES**

The minutes of the January 27, 2016 Meeting of the Members were presented. Upon motion made by Mr. Mesiah, and seconded by Mr. Rath, the minutes were unanimously approved.

**REPORTS/ACTION ITEMS/INFORMATION ITEMS**

Legal RFP. Mr. Weathers introduced and reviewed the Legal Request for Proposals time table. At this point in time, Mr. Murray recused himself and left the meeting stating he did not wish to be seen as influencing the Board and its deliberations by sitting at the table during the discussion in which his firm, Harris Beach PLLC, would be considered for appointment. Mr. Weathers continued to review the Legal RFP process and informed members that he had retained a third party law firm to provide a legal opinion on whether a board member that receives a campaign contribution from one of the respondent law firms has a conflict of interest. At this

point in time, Mr. Poloncarz, Mr. Rath, Ms. Benczkowski and Mr. Brown all stated that they have a conflict of interest. Mr. Weathers concluded that the opinion states that a board member receiving a contribution within the prior twelve months should recuse himself/herself from any deliberations and abstain from voting on the matter creating the conflict.

Mr. Doherty stated that he does not understand the legal opinion. Mr. Mesiah stated that if a board member has a conflict, that board member would not be able to vote. Mr. Mesiah continued on stating that if we follow through with this concern, we will never vote on this matter and other matters. Ms. McDuffie agreed with Mr. Mesiah's concerns stating that the Agency will not have enough votes with the conflicts. Mr. Elsenbeck queried Mr. Weathers as to how the Agency has handled this concern in the past. Mr. Cappellino responded that there have been changes in law and ethics policies and in the past, this issue was not raised.

Mr. Nellis stated that the Board should be able to make a decision.

Ms. McDuffie stated that board members have an obligation to disclose their conflict but not abstain from voting.

Mr. Elsenbeck queried as to what would happen if the Legal RFP gets postponed. Ms. McDuffie stated that the contract would be extended on a month-by-month basis until the Agency chooses a law firm. Ms. McDuffie stated that the item will be tabled until we get clarification on the matter. Mr. Doherty moved and Mr. Elsenbeck seconded, to extend the existing general counsel contract through April 29, 2016, and to table the Legal RFP until the next board meeting. Ms. McDuffie called for a vote and the motion was unanimously approved.

At this point in time, Mr. Murray joined the meeting again.

Financial Report. Ms. Profic presented the financial statements, noting that the Agency, as of January 31, 2016, has net assets of approximately \$23,800,000. Revenues for the month of January, 2016, were approximately \$500,000, leaving the Agency approximately \$300,000 ahead of budget. Administrative fees collected in January 2016 were almost \$460,000, which includes \$400,000 from the HARBORCenter project representing the fourth of five administrative fee installment payments. Operating expenses for January 2016 total \$221,000, which were almost \$27,000 below budget for the month.

Ms. Profic then reviewed the 2015 year-end information, noting that the Agency ended 2015 with net assets of approximately \$23,600,000, with approximately \$12,500,000 in the general fund and \$11,100,000 in the UDAG restricted fund. Ms. Profic noted that the 2015 income statement shows the Agency received total revenues of approximately \$5,600,000, which exceeded budget by approximately \$2,700,000. The largest variance was related to Agency administrative fees received, the Agency's main source of revenue, which at \$3,700,000 for the year, exceeded budget by approximately \$2,000,000. Of the \$3,700,000 collected, \$1,700,000 resulted from tax-exempt bond issuances. The other significant positive variance was the last revenue line as shown on the financial statements, the UDAG venture investment reflow line, which shows distributions received during 2015 were more than twice the budgeted amount, at \$1,200,000. Total operating expenses were about \$2,700,000 for 2015, slightly under budget. Professional services expenses totaled \$191,000 for the year, almost \$39,000 below budget as a

result of lower than expected consultant and legal expenses. Under non-recurring items, \$375,000 was used for strategic initiatives in 2015. After depreciation, net income for 2015 was approximately \$2,400,000.

There being no further questions or comments, Ms. McDuffie directed that the report be received and filed.

2016 Tax Incentive Induced/Closing Schedule. Mr. Cappellino presented this report. There being no comments, Ms. McDuffie directed that the report be received and filed.

RDC Loan Status Report. Mr. Manhard presented this report. There being no comments, Ms. McDuffie directed that the report be received and filed.

Policy Committee Update. Mr. Cappellino provided members with an update on the most recently completed Policy Committee meeting, noting that Policy Committee members were briefed on activities undertaken by the Regional Economic Development Council and on proposed legislation requiring IDA projects financed by tax-exempt private activity bonds to be approved by the State Public Authority Control Board. Ms. McDuffie commented that the Policy Committee is in the process of revising its agenda of action items and noted that the next Policy Committee meeting will include a presentation by One Region Forward.

Ms. Gallagher-Cohen noted that the Buffalo Niagara Partnership opposes the proposed IDA legislation as referenced by Mr. Cappellino, because the legislation would take local decision-making away from IDAs.

There being no further comments, Ms. McDuffie directed that the report be received and filed.

## **SPECIAL PROJECTS**

BNE-Labor Market Assessment. Ms. McDuffie introduced this item, noting that any Buffalo Niagara Enterprise board of director who is also a member of the ECIDA will not be able to vote on this matter, which includes Ms. Gallagher-Cohen, Mr. Brown and Mr. Elsenbeck. Due to the fact that only 9 members then would be able to vote, and noting that there would not be enough votes to carry and approve of the funding request, Ms. McDuffie concluded that this item will be presented as an information item only today and action will be taken at a subsequent meeting.

Mr. Weathers then reviewed the Buffalo Niagara Enterprise Labor Market Assessment \$75,000.00 funding proposal, noting that as part of the ECIDA's 2016 budget, \$750,000 was set aside to fund external special projects. In December 2015, Mr. Weathers reminded board members that the ECIDA board approved two such special projects for funding, totally \$175,000 for LaunchNY and the Buffalo Urban Development Corporation. Today, Mr. Weathers noted he will be presenting the board with information regarding three additional special projects for funding totaling \$425,000 in total. Mr. Weathers emphasized that the special project funding requests are all consistent with the County Executive's *Initiatives for a Smart Economy* and with state and regional economic strategies.

At this point in time, Mr. Weathers introduced Tom Kucharski, President and CEO of the Buffalo Niagara Enterprises (“BNE”). Mr. Kucharski stated that the funding request represents a needed update on the 2010 Comprehensive Labor Market study conducted by the University of Buffalo Regional Institute (“UBRI”). This funding would be used by the ECIDA and the BNE to engage UBRI to update the 2010 study and build upon it, incorporating new analysis and research driven supports for talent attraction, under employment, workforce development and training, employers costs, employer union success stories and expansion of workplace best practices.

Ms. McDuffie commented on the importance of having a quality workforce and a qualified employment base when attempting to attract new investment and new business and business expansion and the importance of this study in assessing the strength of our local workforce.

Erie County Canadian Lead Generation. Mr. Weathers then commented on the Buffalo Niagara Enterprise \$100,000 funding request proposal to attract investment from Canada for Erie County. Mr. Weathers again introduced Mr. Kucharski, on behalf of BNE, and Mr. Kucharski reviewed the BNE approach to Canadian lead generation to include, with Erie County’s approval, the engagement of CIDEP, a lead generation firm based in Montreal, to drive contacts with prospect companies. It is proposed that BNE will pair CIDEP efforts with an aggressive call campaign to prospective companies identified for potential growth and line up speaking engagements and sponsor events to get the word out about BNE efforts. BNE also anticipates co-branding a video of Canadian success stories within Erie County, all in an effort to develop quality leads identified by Canadian representatives.

Mr. Poloncarz expressed support for this funding proposal in light of the Erie County Legislature’s decision to cut funding for this program from Erie County’s 2016 budget.

Mr. Rath noted that the Erie County Legislature did not approve of the funding for this initiative because it believed that the return on the investment has not been made clear but did emphasize that the Erie County Legislature believes in this endeavor and believes there are opportunities to attract Canadian businesses. Mr. Rath concluded that this is a better fit for the ECIDA as opposed to an Erie County Legislature expenditure and requested that the BNE provide a report to the Agency with its successes.

Mr. State, Mr. Mesiah and Ms. Gallagher-Cohen expressed their support for this initiative.

Beverly Gray Business Exchange Center. Mr. Weathers asked Mr. Brown to introduce this \$240,000 Beverly Gray Business Exchange Center funding request proposal. Mr. Brown introduced the Beverly Gray Business Exchange Center special project which will enable the Buffalo Economic Renaissance Corporation to implement and operate the Beverly Gray Business Exchange Center in the eastside of the City of Buffalo with a mission to create a one-stop shop that builds the capacity and enhances the number of Buffalo based minority/women owned and disadvantaged small business enterprises to meet the contractual needs of local anchor institutions and governmental agencies. Ms. Gandour, the City of Buffalo’s Director of

Development, then provided additional information regarding the anticipated business services to be offered by the Beverly Gray Business Exchange Center.

## **MANAGEMENT TEAM REPORTS**

Mr. Weathers informed members that the Agency has terminated the Lease, Leaseback and PILOT Agreement with the NRG Huntley facility due to the anticipated March 1, 2016 closure of the facility. Mr. Weathers stated that this will result in the facility being placed on the taxable side of the rolls.

Mr. Weathers updated members on the Agency's internal pay equity audit being undertaken in coordination with the County's EEO office and being undertaken utilizing the policy as previously approved by the Agency, all in an effort to get the kinks worked out.

Mr. Weathers encouraged all board members who have not completed their New York State Authority Budget Office board surveys to do so.

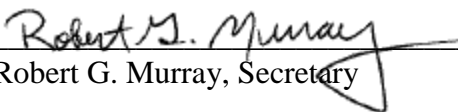
Mr. Weathers then recognized John Cappellino for receiving the 2015 Meritorious Service Award from the Western New York Chapter of the New York State Commercial Association of Realtors at their February 11, 2016 annual awards ceremony.

Mr. Poloncarz then noted that his office is working closely with the Town of Tonawanda and the Tonawanda School District as each is losing millions of dollars in tax revenues as a result of the closure of the NRG Huntley facility.

Mr. Poloncarz then suggested, in regard to the conflict of interest opinion issued by the Taratino Law Firm, that the Agency should attempt to obtain a further opinion from JCOPE or the New York State Attorney General.

There being no further business to discuss, upon motion made by Mr. Mesiah and seconded by Mr. Poloncarz, the meeting was adjourned at 12:33 p.m.

Dated: February 24, 2016

  
Robert G. Murray, Secretary