

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

DATE AND PLACE: November 30, 2016, at the Erie County Industrial Development Agency, 95 Perry Street, 5th Floor ESD Conference Room, Buffalo, New York 14203

PRESENT: James F. Doherty, Hon. Joseph H. Emminger, Dottie Gallagher-Cohen, Richard Lipsitz, Jr., David L. Lowrey, Brenda W. McDuffie, Frank B. Mesiah, John J. Mudie, Hon. Glenn R. Nellis, Louis Panzica, Hon. Mark C. Poloncarz, Hon. Darius G. Pridgen, Hon. Edward A. Rath, III, Sister Denise Roche, Paul V. Vukelic and Hon. Barry A. Weinstein

EXCUSED: Hon. Diane Benczkowski and Hon. Byron W. Brown

OTHERS PRESENT: Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President, Mollie Profic, Treasurer; Gerald Manhard, Chief Lending Officer; and Robert G. Murray, Secretary

GUESTS: Maria Whyte, Erie County Deputy County Executive; Andrew Federick, Erie County Senior Economic Development Specialist; Amy Judd on behalf of Alexandre Apartments, LLC

There being a quorum present at 11:05 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 October 26, 2016 Meeting of the Members were presented. Mr. Nellis moved and Mr. Mesiah seconded to approve of the 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 October 2016 noting the balance sheet shows that the Agency ended October with total assets of approximately \$31.4 million and net assets of approximately \$27.5 million. The monthly income statement shows an overall net loss of \$267,000 for October. Operating revenue was below budget by about \$122,000 due to the timing of receipt of administrative fees. Total operating expenses were over budget by \$36,000 due to higher than expected professional service fees. The year-to-date income statement shows total operating revenue of approximately \$1.9 million and total operating expenses of \$2.6 million. The year-to-date operating revenues are behind budget by

approximately \$214,000 and operating expenses are below budget by \$76,000. Net income year-to-date is approximately \$3.9 million when taking into account special project grants, depreciation, and non-recurring items. Ms. Gallagher-Cohen noted that Agency administrative fees are less than half of what was received in the prior year, the number of projects induced is about half of the number induced over the prior year, and noted that this is the smallest number of projects she has seen induced since her tenure on the Board. She expressed a concern that the Agency's operations are funded from administrative fees and she wants to draw attention to this because if the trend is that fewer projects will be approved, then there will be an impact on administrative fees. Ms. Gallagher-Cohen noted that Mr. Weathers is working on new ideas or projects to create new revenue streams but at this point in time believes the board needs to become aware of the situation. Ms. McDuffie thanked Ms. Gallagher-Cohen for her comments and stated the Agency had a record high number of projects over the prior two years and concluded the Agency probably wouldn't be able to maintain that same pace in future years. There being no further questions, Ms. McDuffie directed that the report be received and filed.

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

NYS DOT Transit Road Bridge Agreement. Mr. Cappellino reviewed this item noting that the Agency manages certain railroads on behalf of Erie County and stated that the Agency is in receipt of certain grant funds authorizing the repair of a railroad bridge overpass on Transit Avenue. Mr. Cappellino stated that the Agency needs to authorize receipt of the funds and then must then enter into a certain standard agreement with the New York State Department of Transportation to implement the bridge repair project.

Ms. Gallagher-Cohen moved and Mr. Rath seconded to approve of the following resolution, Ms. McDuffie called for the vote, and the following resolution was unanimously approved:

AUTHORIZING THE IMPLEMENTATION AND FUNDING OF A STATE
"MARCHISELLI" PROGRAM AID ELIGIBLE TRANSPORTATION
FEDERAL AID PROJECT TO FULLY FUND THE LOCAL SHARE OF
FEDERAL AND STATE AID ELIGIBLE AND INELIGIBLE PROJECT
COSTS AND APPROPRIATING FUNDS THEREFORE

Policy Committee Update. Mr. Lipsitz provided members with an update of the most recently concluded Policy Committee meeting and confirmed that the Committee approved of the Alexandre Street apartments project to be presented to the Board today. Mr. Lipsitz also stated the Policy Committee reviewed potential financial assistance recapture issues related to the Niagara Blower, and Seneca Mortgage projects and stated that further discussion will be had at the Policy Committee's next meeting with respect to these same two companies.

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

INDUCEMENT RESOLUTIONS

The Alexandre Apartments, LLC, 510 Washington Street, Buffalo, New York. Mr. Cappellino reviewed this proposed sales tax exemption and mortgage recording tax exemption benefits project involving the adaptive reuse of the former Loew's Theatre Warehouse. The building has been vacant for 19 years and the rehabilitation includes the development of residential and commercial space components. A commercial bakery is expected to occupy the first floor retail space and is expected to create 5 new full-time jobs.

As a condition precedent of receiving financial assistance and as a material term and condition established by the Agency in connection with its approval of the project, Mr. Cappellino noted that the Company must, subject to potential termination and/or modification and/or recapture of financial assistance, submit on at least an annual basis or as otherwise indicated below, through the conclusion of the later of two (2) years following either: (i) the construction completion date; or (ii) the termination of the Agent Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment- the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$3,629,165.00 (which represents the product of 85% multiplied by \$4,269,606.00, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment - that the Company has maintained and created FTE employment at the Facility equal to four (4) FTE employees, representing the product of 85% multiplied by five (5) (being the total number of new FTE employee positions as proposed to be created by the Company as stated in the Company's application for Financial Assistance). In an effort to confirm and verify the Company's employment numbers, the Agency requires that, at a minimum, the Company provide employment data to the Agency on a quarterly basis, said information to be provided on the Agency's "Quarterly Employment Survey" form to be made available to the Company by the Agency.
- (iii) Local Labor Commitment - that the Company adheres to and complies with the Agency's Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iv) Equal Pay Commitment – that the Company adheres to and complies with the Agency's Pay Equity Policy.
- (v) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Agency's Unpaid Real Property Tax Policy.

Mr. Pridgen queried as to whether all of the apartments would be market rate units. Mr. Cappellino responded in the affirmative.

Mr. Emminger asked if the developer would like to add anything to the discussion. Ms. Judd then thanked the members for considering the project, emphasized the various redevelopment challenges faced by the Company, noted that the Company has been working

with the National Parks Service and the New York State Historic Preservation Office for over two years to obtain historic project approvals and also stated that increased costs related to the foregoing require the Company to seek Agency financial assistance.

Mr. Emminger commented that in his opinion, the construction costs for the commercial space seem high. Ms. Judd stated that costs of infrastructure improvements including new water and utility lines, elevator repairs, and construction of a new stairwell to come into compliance with City codes have increased the cost per square foot construction costs. Mr. Emminger asked about the new bakery jobs. Ms. Judd responded that approximately five new jobs will be created with wages between \$30,000 and \$40,000 per year.

Ms. Roche stated her concern regarding the loss of affordable housing opportunities and questioned what the Agency is doing to address affordable housing issues. Ms. McDuffie thanked Ms. Roche for her concerns and responded that the Agency is currently involved in policy discussions on this very issue to help develop mixed income neighborhoods.

Mr. Poloncarz asked staff to explain the fact that there is not much difference between the ROI with or without ECIDA financial assistance. Mr. Cappellino stated that the Agency is only providing sales tax and mortgage recording tax exemption benefits, because the Company is relying on the City's 485 Real Property Tax Abatement benefit which is by far the largest benefit, and not included within the ROI ratio.

Mr. Pridgen then expressed his concern that financial assistance is being provided without any below market rate housing options and stated his belief that Buffalo is becoming too expensive for people who are already living within the City. Mr. Pridgen stated his understanding that the numbers must work in order for the banks and the companies to make the investments but also stated his concern that there are thousands of people who live in downtown Buffalo and who will not be able to afford to live in these new housing projects. Mr. Pridgen asked what else the Agency can do to make the numbers work to encourage an investment such as this but at the same time, also giving consideration to including a below market housing component within such a project.

Ms. Gallagher-Cohen agreed with Mr. Pridgen's concern and noted that there have been recent community discussions on how to make affordable housing work. She also noted that the City of Buffalo is currently doing a city-wide housing study which should be the backbone of any new policy. Ms. Gallagher-Cohen thanked the developer for taking on this project which has been vacant for over 19 years.

Mr. Poloncarz stated that the Agency, as it considers revising its adaptive reuse project policy, should be looking at affordable housing issues. Mr. Cappellino stated that the Agency is currently reviewing its adaptive reuse policy and has engaged a consultant to assist in this endeavor. Mr. Cappellino also stated that the Agency is going to have professionals who work within the affordable housing area review their projects with the Agency, and noted that the Agency does not see these types of projects because in general, those types of projects rely on their own incentives unrelated to the Agency.

Ms. McDuffie called for the vote and Ms. Roche moved, and Mr. Rath seconded, to approve of the Project. The following Resolutions were then unanimously approved.

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY THAT ACTION TO UNDERTAKE THE ALEXANDRE APARTMENTS, LLC PROJECT WILL NOT HAVE A SIGNIFICANT ADVERSE IMPACT ON THE ENVIRONMENT

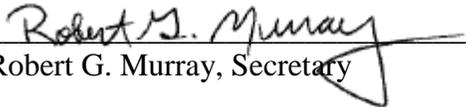
RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF THE ALEXANDRE APARTMENTS, LLC AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE "COMPANY") IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (iv) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT AND (B) A MORTGAGE RECORDING TAX EXEMPTION BENEFIT FOR FINANCING RELATED TO THE PROJECT; AND (v) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

MANAGEMENT TEAM REPORTS

Mr. Weathers noted that Ms. Dawn Boudreau will provide a compliance report to the members at the December 21, 2016 meeting. Mr. Weathers also stated that the Agency will provide members with an update of the Net Zero building project at the December meeting as well.

There being no further business to discuss, Ms. McDuffie adjourned the meeting at 11:45 a.m.

Dated: November 30, 2016


Robert G. Murray, Secretary