

**MINUTES OF A MEETING OF THE  
POLICY COMMITTEE OF THE  
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

- MEETING:** April 6, 2017, at Erie County Industrial Development Agency, 95 Perry Street, 5<sup>th</sup> Floor Conference Room, Buffalo, New York
- PRESENT:** Rev. Mark E. Blue, Colleen DiPirro, Richard Lipsitz, Jr., Brenda W. McDuffie, John J. Mudie, Hon. Glenn R. Nellis, Laura Smith, David J. State, Paul V. Vukelic and Maria Whyte
- ABSENT:** Hon. Byron W. Brown, Hon. Johanna Coleman, and Hon. Geoff Szymanski
- OTHERS PRESENT:** Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; Karen M. Fiala, Assistant Treasurer; Robert G. Murray, Secretary
- GUESTS:** Hon. Joseph C. Lorigo; Rebecca Gandour, Director of Development, City of Buffalo Office of Strategic Planning; Andrew Federick, Erie County Senior Economic Development Specialist; William Jackson, on behalf of Sumitomo Rubber; Mr. David Ricketts, on behalf of Unifrax 1, LLC; Mr. Brian Kulpa and Ms. Patty Miller, on behalf of Delaware Lodge, LLC; Mr. Todd Potter and Mr. Larry Bicz, on behalf of Double Eagle Kenmore, LLC; Mr. Jake Schneider, on behalf of Shea's Seneca, LLC

There being a quorum present at 8:34 a.m., the Policy Committee meeting was called to order by its Chair, Mr. Lipsitz.

**MINUTES**

The minutes of the March 9, 2017 Policy Committee meeting were presented. Upon motion made by Mr. Nellis, and seconded by Mr. State, the aforementioned Policy Committee meeting minutes were unanimously approved.

**PROJECT MATRIX**

Mr. Cappellino reviewed the Agency's project matrix. Mr. Lipsitz directed that the report be received and filed.

**PROJECT AMENDMENTS**

Pilgrim Village Associates, III, LP, Campus Square Housing Development Fund Company, Inc. and Pilgrim Village Associates IV L.P., 903 Ellicott Street, Buffalo, New York. Mr. Cappellino reviewed this proposed sales tax benefit project that was originally approved by the Agency on December 16, 2015 and noted that the company is asking for the original inducement resolution and project to be amended to account for a change in the named applicant, and an increase in the sales tax exemption expenditure amount. Specifically Mr. Cappellino noted that the sales tax and use tax exemption benefit would increase from approximately \$1,388,000 to approximately \$2,100,000. General discussion ensued. Ms. McDuffie commented that this project will be bringing much needed new and approved affordable housing to the medical campus community. Ms. McDuffie then moved, and Mr. Nellis seconded to approve of the project. Ms. Whyte then expressed her support for the project. Mr. Cappellino then reviewed the material terms as follows:

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment for Affordable Portion of Project	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$62,244,351 85% = \$52,907,698
Employment	See recapture period	Maintain Base = 4 31 Projected 85% of Projected = 26 Recapture Jobs = 30
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	See recapture period	Adherence to Pay Equity Policy
Recapture Period	2 years after project completion	Recapture of State and Local Sales Taxes and Mortgage Recording Taxes

Mr. Lipsitz called for the vote and the project was unanimously approved as amended.

**PROJECT PRESENTATIONS**

Aakron Rule, 8 Indianola Avenue, Akron, New York. Mr. Cappellino reviewed this proposed real property tax, sales tax and mortgage recording tax exemption benefits project involving the reconfiguration and operation of Aakron Rule’s existing 77,000 sq. ft. facility within the Village of Akron and the addition of a 25,000 sq. ft. addition which will expand the company’s existing warehouse and molding operations space. Mr. Cappellino also explained that the company will be acquiring additional machinery and equipment.

Mr. Cappellino stated that in exchange for providing the sales tax, mortgage recording tax and real property tax exemption benefits, the approval of this project will be conditioned

upon adherence to certain material terms and conditions with respect to potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$2,670,000 85% = \$2,269,500
Employment	Coincides with 10-Year PILOT	Maintain Base = 145 Create 85% of Projected Projected = 13 85% = 11 Recapture Employment: 156
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 10-Year PILOT	Adherence to policy
Unpaid Tax	Coincides with 10-Year PILOT	Adherence to policy
Recapture Period	Coincides with 10-Year PILOT	Recapture of State and Local Sales Taxes Mortgage Tax and Real Property Taxes

Ms. McDuffie moved to approve of the project and also expressed her support for the project. Ms. Whyte seconded the motion. Mr. Lipsitz called for the vote and the project was then unanimously approved.

Sumitomo Rubber, 10 Sheridan Drive, Tonawanda, New York. Mr. Cappellino reviewed this proposed real property tax abatement and sales and use tax exemption benefits project involving the company’s construction of a 35,000 sq. ft. expansion to its existing manufacturing operations in the Town of Tonawanda. Mr. Cappellino explained the expanded production capability will increase tire production from 5,000 tires per day to 10,000 tires per day by year 2019.

Mr. Cappellino stated that in exchange for providing the real property tax abatement and sales and use tax exemption benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to potential modification, recapture and/or termination of financial assistance as follows:

### Draft Recapture Material Terms

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of the project amount. Project Amount = \$9,709,000 85% = \$8,252,650
Employment	Coincides with 10-Year PILOT	Maintain Base = 1,241
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 10-Year PILOT	Adherence to policy
Unpaid Tax	Same as recapture period	Adherence to policy
Recapture Period	10-Year PILOT term	Real Property Taxes State and Local Sales Taxes

Ms. DiPirro queried as to whether any new employees will be hired. Mr. Jackson then spoke on behalf of the company and confirmed that this project is about retention, as opposed to job creation, but did confirm that Sumitomo has increased its employment level by 100 new positions since 2015 when it acquired the company. Mr. Jackson also confirmed that if the company does not make this investment the facility will then remain inefficient and the likely scenario is that the facility will be closed.

Ms. McDuffie then expressed her support for the project and moved to approve of the project. Ms. DiPirro seconded the motion. Mr. Lipsitz called for the vote and the project was then unanimously approved.

Tecumseh Redevelopment, Inc., 2303 Hamburg Turnpike, Lackawanna, New York. Mr. Cappellino reviewed this proposed sales tax exemption benefits project involving the environmental remediation of an approximately 100 acre site including the construction of a 12 inch thick slag remedial cover system upon a piece of this former Bethlehem Steel site. Mr. Cappellino explained the project includes the clearing, sub grading, and placement of a plastic demarcation layer and a 12 inch cap over the subgrade, construction related storm water controls, community air monitoring and related engineering and documentation under the New York State Brownfield Cleanup Program. Mr. Cappellino explained the proposed project is related to the contemplated land purchase agreement being negotiated between the applicant and the Buffalo and Erie County Industrial Land Development Corporation.

At this point in time, Mr. Blue joined the meeting.

Mr. Cappellino stated that in exchange for providing the sales and use tax exemption benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to potential modification, recapture and/or termination of financial assistance as follows:

### Draft Recapture Material Terms

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of the project amount. Total Project Amount = \$3,455,556 85% = \$2,937,222
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Unpaid Tax Policy	Through Project Completion	Adherence to policy
Equal Pay Policy	Through Project Completion	Adherence to policy
Recapture Period	Project Completion	State and Local Sales Taxes

Ms. Whyte spoke in favor of the project, noting that the sales tax savings will be passed through to the purchaser, the Buffalo and Erie County Industrial Land Development Corporation (“ILDC”), in the form of a lower purchase price for the benefit of Erie County taxpayers. Ms. Whyte confirmed that the ILDC continues to negotiate a purchase sale agreement and stated that the approval of the sales tax exemption benefit should be conditioned upon the execution and implementation of a land purchase agreement by the ILDC. Ms. Whyte then moved and Mr. Mudie seconded to approve of the project. Mr. Lipsitz and Ms. Smith spoke in favor of the project and in favor of redeveloping the former Bethlehem Steel site. Mr. Lipsitz then called for the vote and the project was approved with the condition that the sales tax exemption benefit only be provided in the event the purchase sale agreement between the company and the ILDC is executed and implemented.

Unifrax 1, LLC, North Youngmann Commerce Center Business Park, Tonawanda, New York. Mr. Cappellino reviewed this proposed real property tax and sales tax exemption benefits project involving the company’s construction of a new 83,000 sq. ft. manufacturing facility and related purchase of machinery and equipment.

Mr. Cappellino stated that in exchange for providing the sales and use tax exemption benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to potential modification, recapture and/or termination of financial assistance as follows:

#### **Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$24,000,000 85% of total project amount = \$20,400,000
Employment	Coincides with 7-Year PILOT term	Projected Jobs = 25 85% of projected jobs = 21

Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Same as Recapture Period	Adherence to policy
Unpaid Tax	Same as Recapture Period	Adherence to policy
Recapture Period	Coincides with 7-Year PILOT term	Recapture of Real Property Taxes, State and Local Sales Taxes

Ms. Smith spoke in favor of the project. Ms. Smith then moved and Ms. McDuffie seconded to approve of the project. Mr. Ricketts then spoke on behalf of the company with respect to its proposed project.

Mr. Lipsitz then called for the vote and the project was then unanimously approved.

Delaware Lodge, LLC, 173 Delaware Road, Kenmore, New York. Mr. Cappellino reviewed this proposed sales tax and mortgage recording tax exemption benefits project involving the adaptive reuse of the existing Masonic Lodge, which has been vacant for over 5 years, into a new 7 unit one and two bedroom apartment facility. Mr. Cappellino also explained that at this point in time, it is anticipated that a part-time building maintenance position will be made available on an as needed basis.

Mr. Cappellino stated that in exchange for providing the sales tax exemption and mortgage recording tax exemption benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to potential modification, recapture and/or termination of financial assistance as follows:

#### **Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Project Amount = \$1,246,000 85% = \$1,059,100
Employment	N/A	N/A
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Same as Recapture Period	Adherence to policy

Unpaid Tax	Same as Recapture Period	Adherence to policy
Recapture Period	2 years after project completion	State and Local Sales Taxes and Mortgage Tax

Mr. Brian Kulpa and Ms. Patty Miller then spoke on behalf of the company with respect to the project. Ms. DiPirro expressed her support for the project due to the increasing amount of vacancy in the first ring suburbs of the City of Buffalo and due to the difficulty in rehabilitating buildings like this. Ms. Smith then spoke in favor of the project.

Ms. DiPirro then moved and Ms. Whyte seconded to approve of the project. Mr. Lipsitz called for the vote and the project was unanimously approved.

At this point in time, Mr. Nellis left the meeting.

Double Eagle Kenmore, LLC, 45 Victoria Boulevard, Kenmore, New York. Mr. Cappellino reviewed this proposed mortgage recording tax and sales tax exemption benefits project involving the rehabilitation and conversion of the former 50,000 sq. ft. St. Paul School Building into 37 market rate apartments.

Mr. Cappellino stated that in exchange for providing the sales tax exemption and mortgage recording tax exemption benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to potential modification, recapture and/or termination of financial assistance as follows:

#### **Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Project Amount = \$4,250,000 85% = \$3,612,500
Employment	2 Years After Project Completion	Create 85% of Projected: Projected: 2 85% = 2
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Same as Recapture Period	Adherence to policy
Unpaid Tax	Same as Recapture Period	Adherence to policy
Recapture Period	2 Years After Project Completion	Mortgage Recording Tax State and Local Sales Taxes

Mr. Potter and Mr. Bicz then spoke on behalf of the company with respect to the project and emphasized the difficult and practical problems faced by the company in its efforts to rehabilitate this building.

Ms. McDuffie expressed her support for the project but also expressed a concern that the project not be made available to only the parishioners of the St. Paul’s Church. Mr. Potter then responded on behalf of the company and confirmed that that would not be the case as the facility would be made available to any and all interested tenants. Mr. Lipsitz stated that the Agency cannot only approve of a project that benefits certain people, such as the Catholic parishioners of St. Paul’s Church. Mr. Potter again confirmed that that will not be the case in this instance.

Ms. Smith then moved and Ms. McDuffie seconded to approve of the project. Mr. Lipsitz called for the vote and the project was unanimously approved.

At this point in time, Ms. McDuffie left the meeting.

Shea’s Seneca, LLC, 2178 Seneca Street, Buffalo, New York. Mr. Cappellino reviewed this proposed mortgage recording tax and sales tax exemption benefits project involving the adaptive reuse of the historic Shea’s Seneca building involving the redevelopment of the facility into approximately 25 apartments and approximately 20,000 sq. ft. of commercial space. Mr. Cappellino explained that commercial tenants include a non-profit community theatre group that will be sharing space with other non-profit performance groups, a banquet facility, and an approximately 3,000 sq. ft. space area designated for neighborhood and retail businesses yet to be identified.

Mr. Cappellino stated that in exchange for providing the sales tax exemption and mortgage recording tax exemption benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Project Amount = \$9,041,730 85% = \$7,685,470
Employment	See Recapture Period	Projected Jobs: 4 FT / 27 PT Create 85% of Projected: 85% = 14 FTE’s
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity Policy	See Recapture Period	Adherence to policy



Unpaid Tax Policy	See Recapture Period	Adherence to policy
Recapture Period	2 Years After Project Completion	State and Local Sales Taxes Mortgage Tax

Mr. Cappellino noted that the project is located in a highly distressed area and noted that the project will require the confirmation of the Erie County Executive due to potential retail uses that will occupy more than 1/3<sup>rd</sup> of the space and expenditures of the project.

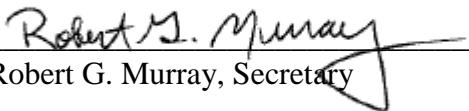
Mr. Schneider then spoke on behalf of the company and described the project.

Mr. Mudie spoke in favor of the project and expressed hope that this project will be a catalyst for future investment and development within the neighborhood. Mr. Mudie then moved and Ms. Whyte seconded to approve of the project. Mr. Lipsitz called for the vote and the project was then unanimously approved.

Ms. Smith then commented that the Policy Committee has, in the past, had extensive discussion on providing affordable housing for adaptive reuse market rate apartment projects located within the City of Buffalo, however, Ms. Smith contrasted that with the three adaptive reuse market rate apartment projects reviewed at today's meeting, two of which were located outside of the City of Buffalo, and remarked that no discussion on providing affordable housing units was held at all. Ms. Whyte noted that the Erie County Legislature is considering passing a fair housing bill which will address affordable housing issues and also stated her belief that affordable housing should be considered in all areas of the county, not just the City of Buffalo.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 9:55 a.m.

Dated: April 6, 2017

  
Robert G. Murray, Secretary