

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

- MEETING:** June 1, 2017, at Erie County Industrial Development Agency, 95 Perry Street, 5th Floor Conference Room, Buffalo, New York
- PRESENT:** Rev. Mark E. Blue, Colleen DiPirro, Richard Lipsitz, Jr., Brenda W. McDuffie, John J. Mudie, Laura Smith, David J. State, Paul V. Vukelic and Maria Whyte
- ABSENT:** Hon. Byron W. Brown, Hon. Johanna Coleman, Hon. Glenn R. Nellis, and Hon. Geoff Szymanski
- OTHERS PRESENT:** Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; and Robert G. Murray, Secretary
- GUESTS:** Hon. Joseph C. Lorigo; Rebecca Gandour, Director of Development, City of Buffalo Office of Strategic Planning; Kenneth Swanekamp, Director of Business Assistance, Erie County Environment & Planning; Andrew Federick, Erie County Senior Economic Development Specialist; Tim Palisano, on behalf of Western New York Foreign Trade Zone Operators, Inc.; Rachel Heckl, on behalf of 467 Richmond Avenue LLC; Olivia Hill, on behalf of the Hamburg IDA and David Mingoia, on behalf of the Amherst IDA

There being a quorum present at 8:39 a.m., the Policy Committee meeting was called to order by its Chair, Mr. Lipsitz.

MINUTES

The minutes of the April 6, 2017 Policy Committee meeting were presented. Upon motion made by Mr. Mudie, and seconded by Ms. McDuffie, 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 PRESENTATIONS

467 Richmond Avenue, LLC (Rosanna Elizabeth Visual & Performing Arts Campus (“REVPAC”)), 467 Richmond Avenue, Buffalo, New York. Mr. Cappellino reviewed this proposed sales and use tax and mortgage recording tax exemption benefits project involving the renovation and adaptive reuse of the property which is the former Richmond Methodist Episcopal Church. The facility, which consists of 36,000 sq. ft., will be a campus for the utilization by performing arts groups and will include corporate and business meeting space and a recording studio.

Mr. Cappellino stated that in exchange for providing the sales and use tax 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. Total Project Amount = \$10,775,636 85% = \$9,159,290
Employment	See Recapture Term	Maintain Base = 3 Create 85% of Projected Projected = 1 85% = 1 Recapture Employment: 4
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Unpaid Tax	See Recapture Term	Adherence to policy
Pay Equity	See Recapture Term	Adherence to policy
Recapture Period	2 years after project completion	State and Local Sales Taxes Mortgage Recording Tax

Mr. Cappellino confirmed that the project is located within a highly distressed area and also confirmed that the project qualifies as a retail project under the New York General Municipal Law, and as such, will require the confirmation of the Erie County Executive.

Mr. Cappellino introduced Rachel Heckl, who spoke on behalf of REVPAC.

Ms. McDuffie spoke in favor of the project and confirmed that the Agency would not be providing any incentives to the housing component of the project.

Ms. Whyte spoke in favor of the project and noted that the County Executive will be providing his confirmation per Section 862 of the New York General Municipal Law. Ms. DiPirro, Ms. Smith and Ms. Gandour all spoke in favor of the project.

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

Western New York Foreign Trade Zone Operators (Punto Franco Ltd.), 10 Gates Avenue, Lackawanna, New York. Mr. Cappellino presented this proposed sales and use tax, mortgage recording tax and real property tax abatement benefits project involving the construction of a new 20,000 sq. ft. facility resulting in the expansion of the company’s existing warehouse operations along with the purchase of related machinery and equipment.

Mr. Cappellino stated that in exchange for providing the sales and use tax exemption, mortgage recording tax exemption and real property tax abatement 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 = \$1,760,000 85% = \$1,496,000
Employment	See Recapture Term	Maintain Base = 5 FTE Create 85% of Projected: Projected = 3 FTE 85% = 2 Recapture Employment = 7 FTE
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Unpaid Tax	Coincides with 7-Year PILOT	Adherence to policy
Pay Equity	Coincides with 7-Year PILOT	Adherence to policy
Recapture Period	7-Year PILOT term	State and Local Sales Taxes Mortgage Recording Tax Real Property Tax

Ms. Whyte queried as to the request for real property tax abatement benefits and specifically asked what would happen if the company did not get the PILOT benefit. Mr. Palisano, a representative of the company, noted that the City of Lackawanna has a non-homestead real property tax provision which “kills” businesses, and Mr. Palisano then provided an example of the amount of taxes his company pays in Lackawanna compared with what it

would pay in Buffalo and Syracuse for the exact same sized building. Without the PILOT benefit, Mr. Palisano stated that the company would not do the project.

Ms. Smith noted that this project is in the logistics and transportation targeted industry sector and that Committee members must recognize that New York State is the third highest taxed state in the nation such that the company could also do this investment elsewhere for less cost.

Mr. Lipsitz queried as to the pay for the new jobs. Mr. Palisano responded that the job titles will range from warehousing to managerial positions with pay between \$30,000 and \$60,000.

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

UPDATES/DISCUSSION

Adaptive Reuse Study Update. Mr. Cappellino provided members with an update on the final Adaptive Reuse Report which will be released on June 15, 2017. Mr. Cappellino then thanked Dave Mingoia, Laura Smith and Rebecca Gandour for their assistance on this project. Ms. McDuffie then encouraged all members to attend the Adaptive Reuse Report unveiling on June 15, 2017.

Ms. DiPirro noted that Amherst is looking at how to reuse the Boulevard Mall and is considering how this facility could be adaptively reused because it is no longer viable as a retail mall facility. Ms. DiPirro expressed concern that first ring suburbs will need to rely on the adaptive reuse program going forward.

Best Practice Recommendations. Ms. Whyte referred Committee members to the draft Best Practice – Core Principles Recommendations that have been reviewed by this Committee and provided to Committee members in the past. Ms. Whyte expressed her preference that these best practice recommendations be provided to the Board, with no changes, for approval.

Mr. Cappellino commented that all Erie County industrial development agencies are looking at amending the County-wide Uniform Tax Exemption Policy (“UTEP”) and noted that the core principles will assist in guiding revisions to the UTEP.

Ms. Whyte then moved to send the Best Practice recommendations to the Agency for approval. Ms. McDuffie seconded the motion.

Mr. Vukelic asked Mr. Cappellino to explain next steps. Mr. Cappellino confirmed that the core principles will be the precursor to establishing practices and policies at later dates. Mr. Vukelic then spoke in favor of establishing core principles but expressed concern that the core principles not make the development process more difficult and that the core principles not unnecessarily duplicate other efforts.

Ms. Smith suggested adding non-duplicative language into core principle number 6, such that ECIDA policies will avoid duplication of other areas of policies and procedures. Ms. Whyte then withdrew her motion to approve of the core principles. Ms. Smith then made a motion to amend core principle number 6 to add such non-duplicative language such that ECIDA policies will avoid duplication of other area policies and procedures. Ms. McDuffie seconded the motion and stated that the express goal of the core principles is to create a regional policy to advance our region for all.

Mr. State asked as to whether the core principles support the Agency's mission statement. Mr. Lipsitz responded in the affirmative.

Ms. Gandour asked if the draft Best Practice Recommendations have been reviewed by the other IDAs within Erie County. Mr. Cappellino responded in the affirmative and also stated that he has not seen anything from other IDAs that are contradictory to the draft core principles.

Ms. Whyte expressed her support for Ms. Smith's amendment but noted the issue of duplication will be a matter of interpretation, for example, Ms. Whyte stated that some members think the Agency's Pay Equity Policy is duplicative, but from her perspective, Ms. Whyte stated she finds that the Pay Equity Policy is necessary particularly as it relates to the provision of financial incentives.

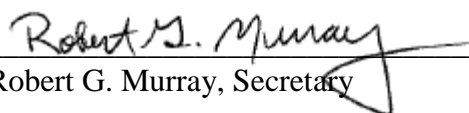
Ms. Smith stated that applicants are already required to adhere to federal pay equity laws, such that she finds the Pay Equity Policy to be duplicative, and in sum, Ms. Smith stated that the point is whether the Agency is an auditing or economic development agency.

Ms. Whyte said she appreciates Ms. Smith's position but disagrees with it, however, confirmed that she will support Ms. Smith's amendatory language because while the Agency shouldn't necessarily be an auditing entity, there are some instances where it may be necessary as a condition of approving financial assistance.

Mr. Lipsitz called for the vote and the Best Practice - Core Principles recommendations, as amended, were unanimously approved.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 9:30 a.m.

Dated: June 1, 2017


Robert G. Murray, Secretary