

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

DATE AND PLACE: May 24, 2017, at the Erie County Industrial Development Agency, 95 Perry Street, 5th Floor ESD Conference Room, Buffalo, New York 14203

PRESENT: Hon. Diane Benczkowski, Rev. Mark E. Blue, Hon. Joseph H. Emminger, Dottie Gallagher-Cohen, Tyra Johnson, Richard Lipsitz, Jr., Hon. Joseph C. Lorigo, Brenda W. McDuffie, John J. Mudie, Hon. Glenn R. Nellis, Louis Panzica, Hon. Mark C. Poloncarz, Sister Denise Roche, Paul V. Vukelic and Hon. Barry A. Weinstein

EXCUSED: Hon. Byron W. Brown, Hon. Darius G. Pridgen, James F. Doherty, and David L. Lowrey

OTHERS PRESENT: Steve Weathers, Chief Executive Officer; Mollie Profic, Treasurer; Karen M. Fiala, Assistant Treasurer; Gerald Manhard, Chief Lending Officer; and Robert G. Murray, Secretary

GUESTS: Maria Whyte, Deputy County Executive; Christopher Pawenski, Coordinator, Industrial Assistance Program, Erie County Environment & Planning; Andrew Federick, Erie County Senior Economic Development Specialist; Rebecca Gandour, Director of Development, City of Buffalo Office of Strategic Planning

At 9:00 a.m., there being a quorum present, Ms. McDuffie, called the meeting to order.

At this point in time, Ms. McDuffie welcomed new ECIDA board member, Tyra Johnson, to the board.

INDUCEMENT RESOLUTIONS

683 Northland, LLC, 683 Northland Avenue, Buffalo, New York. Ms. Fiala described this proposed sales tax, mortgage recording tax and real property tax abatement benefits project involving the adaptive reuse of the existing and vacant facility located at 683 Northland Avenue to house the WNY Workforce Training Center for Advanced Manufacturing and Electrical Utilities, as well as the creation of a small business center. Ms. Fiala confirmed that this project represents a major initiative under the Buffalo Billion program and New York State is providing substantial funding through the Regional Economic Development Corporation for undertaking the project. Ms. Fiala then confirmed that the project has been determined to be a retail project under Section 862 of the New York General Municipal Law, but confirmed that the project is located within a Highly Distressed Area under the New York General Municipal Law and as

such, the project can be approved as a retail project due the fact that it is also located within a Highly Distressed Area, upon confirmation of same from the Erie County Executive.

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, Ms. Fiala noted that the Company must, subject to potential termination and/or modification and/or recapture of financial assistance, submit, on an annual basis or as otherwise indicated below, through the conclusion of the termination of PILOT 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 \$49,357,729 (which represents the product of 85% multiplied by \$58,067,917, 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 full time equivalent (“FTE”) employment at the Facility equal to 7 FTE employees [representing the product of 85% multiplied by 8 (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. Weinstein moved and Mr. Blue seconded to approve of the project.

Mr. Poloncarz commented that this is a key component project of the Buffalo Billion plan and is the type of project, in particular, with its emphasis on workforce development, that will generate an outstanding return on county taxpayer investment.

Mr. Blue expressed his support for the project.

Ms. McDuffie stated that she will be recusing herself from discussion of this project and abstaining from voting on this project because the Buffalo Urban League is a partner with respect to the workforce development plan to be undertaken within the facility. Ms. Johnson also stated that she will be abstaining from voting on the project because she is a new member and unfamiliar with the ECIDA processes.

Mr. Weathers then called for the vote and the following resolution was approved with 13 members voting for the project, and with Ms. McDuffie and Ms. Johnson abstaining:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF 683 NORTHLAND 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) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iv) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (v) 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, (B) A MORTGAGE RECORDING TAX EXEMPTION BENEFIT FOR FINANCING RELATED TO THE PROJECT, AND (C) A PARTIAL ABATEMENT FROM REAL PROPERTY TAXES BENEFIT THROUGH THE PILOT AGREEMENT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

Glendale Development, LLC, 31 Barker Street, Buffalo, New York. Ms. Fiala reviewed this proposed sales tax and mortgage recording tax exemption benefits project involving the adaptive reuse of an existing facility into 21 market rate apartment units and commercial space along with 21 indoor car parking spaces.

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, Ms. Fiala noted that the Company must, subject to potential termination and/or modification and/or recapture of financial assistance, submit, on an annual basis or as otherwise indicated below, through the conclusion of the later of two years following either the construction completion date or 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 \$4,243,200.00 (which represents the product of 85% multiplied by \$4,992,000.00, being the total project cost as stated in the Company's application for Financial Assistance).

- (ii) Employment Commitment – that there are at least 2 existing part-time equivalent (“PTE”) employees located at, or to be located at, the Facility as stated in the Company’s application for Financial Assistance (the “Baseline PTE”); and
 - the number of current PTE employees in the then current year at the Facility; and
 - that the Company has maintained PTE employment at the Facility equal to 2 PTE employees. 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. Weinstein moved and Mr. Lorigo seconded to approve of the project.

Mr. Poloncarz queried as to the rental rates. Ms. Fiala responded that market rates will be charged ranging from \$1,000 to \$2,000 per month for one to three bedroom units. Mr. Poloncarz then commented that he has observed that market rate apartment rents for adaptive reuse projects are now increasing to upwards to \$2,000 per month and here, based on the return on investment figure both with and without IDA financial assistance suggests that the project can succeed without ECIDA financial assistance.

Ms. McDuffie then called for the vote and the following resolutions were approved with 13 members voting in the affirmative, Mr. Poloncarz voting in the negative, and with one abstention by Ms. Johnson:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY THAT ACTION TO UNDERTAKE THE GLENDALE DEVELOPMENT, LLC, (THE “COMPANY”) PROJECT WILL NOT HAVE A SIGNIFICANT ADVERSE IMPACT ON THE ENVIRONMENT

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF GLENDALE DEVELOPMENT, 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) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iv) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (v) 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 (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

Silos at Elk Street, LLC, 50 Elk Street, Buffalo, New York. Ms. Fiala reviewed this proposed sales tax and mortgage recording tax exemption benefits project involving the adaptive reuse of the existing facility located in the former Buffalo Malt Group complex. The project involves the redevelopment of the project into a mix of light industrial office and residential space. An architectural firm will occupy a portion of the building and two apartment units are also to be developed. Ms. Fiala then confirmed that the project has been determined to be a retail project under Section 862 of the New York General Municipal Law, but confirmed that the project is located within a Highly Distressed Area under the New York General Municipal Law and as such, the project can be approved as a retail project due the fact that it is also located within a Highly Distressed Area, upon confirmation of same from the Erie County Executive.

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, Ms. Fiala noted that the Company must, subject to potential termination and/or modification and/or recapture of financial assistance, submit, on an annual basis or as otherwise indicated below, through the conclusion of the later of two years following either the construction completion date or 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 \$1,746,750.00 (which represents the product of 85% multiplied by \$2,055,000.00, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment - that there are at least 32 existing full time equivalent ("FTE") employees located at, or to be located at, the Facility as stated in the Company's application for Financial Assistance (the "Baseline FTE"); and
 - the number of current FTE employees in the then current year at the Facility; and

- that the Company has maintained and created FTE employment at the Facility equal to 35 FTE employees [representing the sum of the Baseline FTE plus 3 (the product of 85% multiplied by 4 (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.

Ms. Gallagher-Cohen moved and Mr. Weinstein seconded to approve of the project. Ms. McDuffie then called for the vote and the following resolutions were approved with 14 members voting in favor and one abstention by Ms. Johnson:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF SILOS AT ELK STREET, 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) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iv) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (v) 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 (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

REPORTS/ACTION ITEMS/INFORMATION ITEMS

BERC Loan Fund Release Agreement. Ms. Profic reviewed the facts behind the Buffalo Economic Renaissance Corporation (BERC) revolving loan fund which was funded by the Agency's contribution of Federal Economic Development Agency ("EDA") funds made to BERC between 1979 and 1983 to create BERC's "204 Land Reclamation Revolving Loan Fund" (the "Fund"). Ms. Profic noted that BERC is going through the process of dissolution, and because the Agency is the original grantee of the EDA funds, it is ultimately responsible for the Fund. Ms. Profic commented that EDA rules do not allow the Fund to be absorbed into the RDC's loan fund or otherwise reprogrammed and as such, the EDA amounts must be partially terminated or re-established. The funds can only be re-established for the original purpose which is to rehabilitate underutilized industrial facilities in blighted areas of the City of Buffalo, because no loans have been funded for at least the past 15 years by BERC, it is questionable as to the usefulness of the Fund in today's economic development climate. As of April 2017, the Fund consists of approximately \$2,300,000 in cash and one active loan with a principal balance of \$116,483.00. The Fund has not complied with EDA reporting requirements for at least the last 10 years. After discussions with all parties and review with the Finance and Audit Committee and Executive Committee the Agency has determined that it is in its best interests to execute a partial termination of the Fund and to refinance the existing BERC loan into the RDC's loan portfolio. BERC has provided a letter requesting this action on its behalf and this will result in monies being returned to the EDA. The Agency is also requiring that BERC enter into an agreement to absolve the Agency from future liability related to the original subgrant agreement. As such, Ms. Profic stated that the action today is for the Board to approve of the Agency's execution of a release agreement between the Agency and BERC.

Mr. Weinstein moved and Mr. Nellis seconded to approve of the resolution. Ms. McDuffie called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZING THE EXECUTION OF A MUTUAL RELEASE AGREEMENT WITH THE BUFFALO ECONOMIC RENAISSANCE CORPORATION

Approval of Loan Administration Plan (LAP). Mr. Weathers and Mr. Manhard reviewed the proposed changes to the 2017 Loan Administration Plan. In particular, Mr. Manhard reviewed the history of the fund and then detailed the changes as found on page 27 of the Board materials made available to Board members and as made a part of these minutes.

Mr. Emminger noted that the RDC Loan Committee unanimously approved the proposed amendments to the Loan Administration Plan.

Mr. Poloncarz queried as to the size of the loan fund. Mr. Manhard responded that approximately \$18,000,000 remains in the fund. Mr. Poloncarz expressed concern related to the proposed increase in RDC Loan Committee authority to approve loans up to \$500,000. Mr. Weathers stated the reason for the change at the RDC Loan Committee authority level is because of difficulty in getting quorums for the RDC board approvals and because RDC staff has implemented certain procedural changes to insure much more thorough underwriting than has taken place in the past.

Ms. Gallagher-Cohen spoke in favor of the amendments because the amendments will increase the efficiency of the RDC Loan Committee and allow money to get into the business community faster, which will support new and small businesses alike.

Ms. Gallagher-Cohen moved and Mr. Lorigo seconded to approve of the 2017 proposed changes to the Loan Administration Plan. Ms. McDuffie called for the vote and the following resolution was unanimously approved:


RESOLUTION OF THE BUFFALO AND ERIE COUNTY REGIONAL DEVELOPMENT CORPORATION (THE "RDC") APPROVING AN UPDATED LOAN ADMINISTRATION PLAN AS REQUIRED BY 13 C.F.R. SECTION 307.9 PRIOR TO SUBMISSION TO THE ECONOMIC DEVELOPMENT ADMINISTRATION (THE "EDA") FOR APPROVAL

MANAGEMENT TEAM REPORT

Mr. Weathers requested an attorney-client session for purposes of soliciting and receiving legal advice.

Upon the conclusion of the attorney-client session, there being no further business to discuss, Ms. McDuffie adjourned the meeting at 9:45 a.m.

Dated: May 24, 2017


Robert G. Murray, Secretary