

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

DATE AND PLACE: June 28, 2017, at the Erie County Industrial Development Agency, 95 Perry Street, 5th Floor ESD Conference Room, Buffalo, New York 14203

PRESENT: James F. Doherty, Dottie Gallagher-Cohen, Tyra Johnson, Richard Lipsitz, Jr., Hon. Joseph C. Lorigo, David L. Lowrey, Brenda W. McDuffie, John J. Mudie, Hon. Glenn R. Nellis, Louis Panzica, Sister Denise Roche, and Hon. Barry A. Weinstein

EXCUSED: Hon. Diane Benczkowski, Rev. Mark E. Blue, Hon. Byron W. Brown, Hon. Joseph H. Emminger, Hon. Mark C. Poloncarz, Hon. Darius G. Pridgen and Paul V. Vukelic

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

GUESTS: Maria Whyte, Deputy County Executive; Andrew Federick, Erie County Senior Economic Development Specialist; Laura Smith, Buffalo Niagara Partnership

At 9:01 a.m., there being a quorum present, Ms. McDuffie, called the meeting to order.

MINUTES

The minutes of the April 26, 2017 meeting of the members, and the May 24, 2017 meeting of the members, were presented. Mr. Nellis moved and Mr. Lowrey seconded, to approve of both the April 26, 2017 and May 24, 2017 meeting minutes. Ms. McDuffie called for the vote and the minutes were unanimously approved.

REPORTS/ACTION ITEMS/INFORMATION ITEMS

Financial Report. Ms. Profic reviewed the May 2017 financial statements noting that the balance sheet shows that the Agency finished the month with total assets of \$34.1 million and net assets of \$28.2 million. The monthly income statement shows a net loss of \$21,000 before depreciation. Operating revenue for the month of May was \$379,000 putting the Agency ahead of budget by \$173,000 due to the timing of fees received. Operating expenses for May were over budget by \$125,000 mainly as a result of costs incurred related to the Net Zero building design costs. After depreciation, there was a net loss of \$33,000 for the month. The year to date income statement reflects operating revenue of \$1.4 million, which is \$357,000 ahead of budget

for the year. The driver of that variance is receipt of administrative fees, which, at \$1.1 million, are in excess of budget by approximately \$365,000 through the month of May. Operating expenses of \$1.6 million are under budget by \$154,000. Net special project grant revenue of \$255,000 brings net income for the year to \$72,000. After factoring in strategic investments and depreciation, there is a year to date net loss of \$111,000. Ms. McDuffie requested that the report be received and filed.

2017 Tax Incentive Induced/Closing Schedule/Estimated Real Property Tax Impact. Ms. Fiala presented this report. There being no questions, Ms. McDuffie requested that the report be received and filed.

Grant Approval for Rail Work out at Sumitomo. Mr. Cappellino described an action item for the Agency seeking approval to enter into a contract with the New York State Department of Transportation to receive a grant of approximately \$365,950 to restore to a state of good repair the rail spur at the Sumitomo Rubber facility located in Tonawanda, New York. Mr. Cappellino explained that the Agency applied for the grant on behalf of Sumitomo Rubber in the Fall of 2016 and Sumitomo is in the process of a major capital expansion that will significantly expand their production capacity, and as a result, the current rail infrastructure needs to be rehabilitated to allow for the increase in raw materials storage and railcar movements. Mr. Lowrey moved and Sister Denise seconded to approve of the proposal. Ms. McDuffie then called for the vote, and the following resolution was then unanimously approved.

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT
AGENCY AUTHORIZING THE EXECUTION AND DELIVERY OF A
GRANT AGREEMENT FOR THE DESIGN, CONSTRUCTION,
RECONSTRUCTION, IMPROVEMENT AND REHABILITATION OF
CERTAIN RAILROAD FACILITIES.

Nominating Committee Update: Election of Officers/Committee Appointments. Mr. Lipsitz confirmed that the Nominating Committee, at its most recently conducted meeting, unanimously approved the slate of proposed committee members and officers as presented to the board today for its approval. Mr. Lipsitz moved and Mr. Mudie seconded, to approve of the proposed 2017-2018 ECIDA/RDC/ILDC board committees and officers as contained within the materials presented to the board members and included within these minutes. Ms. McDuffie called for the vote and the 2017-2018 ECIDA/RDC/ILDC board committees and officers were unanimously approved.

Policy Committee Update. Mr. Lipsitz provided members with an update on the most recently completed Policy Committee meeting noting that the committee unanimously approved the 467 Richmond Avenue project which is before the board today and reviewed, and recommended for approval, the ECIDA Best Practice recommendations to be discussed at today's meeting. Ms. McDuffie requested that the report be received and filed.

Best Practices Recommendations. Mr. Cappellino reviewed the Core Principles recommendations, dated as of June 28, 2017, and as presented to the members and incorporated into the minutes. Mr. Cappellino reviewed the six core principles that have been developed by the Agency's working group and in particular, Mr. Cappellino thanked Deputy County Executive Maria Whyte and Buffalo Niagara Partnership Vice President of Economic Development, Ms.

Laura Smith, for their guidance and input. Mr. Cappellino explained that the goal is to use the core principles to guide the Agency as it pursues new policies and to assist the agency as it measures the results of such new policy endeavors. Ms. Gallagher-Cohen moved and Mr. Lowrey seconded to approve of the core principles. Ms. McDuffie called for the vote and the following resolution was unanimously approved:

RESOLUTION AUTHORIZING THE ADOPTION OF CORE PRINCIPLES TO
GUIDE AND SHAPE ECONOMIC DEVELOPMENT POLICY AND
PROGRAMMING FOR THE ERIE COUNTY INDUSTRIAL DEVELOPMENT
AGENCY AND ITS AFFILIATED ENTITIES

INDUCEMENT RESOLUTIONS

467 Richmond Avenue, LLC/Rosanna Elizabeth Visual & Performing Arts Campus (REVPAC), 467 Richmond Avenue, Buffalo, New York. Ms. Fiala reviewed this proposed sales tax and mortgage recording tax exemption benefits project involving the renovation and adaptive reuse of the existing facility located at 467 Richmond Avenue which is the former Richmond Methodist Episcopal Church. The facility will be renovated as a campus for the utilization by performing arts groups and will include corporate and business meeting space and a recording studio.

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 \$9,159,290.00 (which represents the product of 85% multiplied by \$10,775,636.00, being the total project cost as stated in the Company’s application for Financial Assistance).
- (ii) Employment Commitment – that there are at least three (3) 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 four (4) FTE employees [representing the sum of the Baseline FTE plus one (1) (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. Lorigo seconded to approve of the project as proposed. Ms. McDuffie thanked the company for undertaking its project.

Ms. Johnson noted that in the past, she provided certain consulting services to REVPAC and as a result, will recuse herself from participating in discussing the project and abstain from voting on the project.

Ms. McDuffie called for the vote and the following resolution was unanimously approved with Ms. Johnson abstaining:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF 467 RICHMOND AVENUE, LLC/ROSANNA ELIZABETH VISUAL & PERFORMING ARTS CAMPUS (REVPAC), 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

LATE ITEMS:

Bethlehem Steel Rail Phase II Authorizing Resolution. Mr. Cappellino explained to members that the Agency is seeking approval to enter into a contract with Erie County, and to take all actions reasonably necessary to complete the Bethlehem Steel Rail Improvements project including contracting for engineering, construction and construction management services in an amount not to exceed approximately \$4,550,000. Mr. Cappellino noted that, in partnership with Erie County, the Agency is presently serving as Project Administrator for the design and engineering of the rail relocation and removal project at the former Bethlehem Steel site. Mr. Cappellino explained that it is anticipated that the project will be moving to the bidding and construction phase over the next two months and explained that the rail relocation is an important part of the overall redevelopment of the Bethlehem Steel site which will allow for the construction of the new access road and utility corridor to be located at Dona Street. Mr. Weinstein moved and Mr. Vukelic 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 AUTHORIZING THE AGENCY TO ENTER INTO CONTRACTS WITH THE COUNTY OF ERIE AND/OR THE NYSDOT, OTHER STATE AND FEDERAL AGENCIES, AND APPROPRIATE CONTRACTORS OR CONSULTANT(S), IN AMOUNTS NOT TO EXCEED A TOTAL OF \$4,550,000, FOR THE PURPOSE OF CONSTRUCTION RELATED TO PHASE II RAILROAD WORK ON THE FORMER BETHLEHEM STEEL SITE

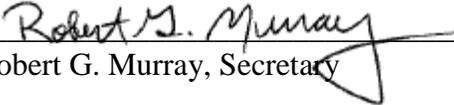
Real Property Tax Cap PILOT Legislation. Mr. Cappellino provided members with an update of New York State proposed legislation that would allow assessed property under a PILOT Agreement to be factored into the calculation for determining the Tax Levy Growth Factor, which governs how much a local taxing jurisdiction can increase its tax levy. Mr. Cappellino explained that this legislation would allow for properties that are subject to a PILOT to be included within the Tax Levy Growth Factor and is a measure that IDAs across the state should support. Mr. Weinstein moved and Mr. Lorigo seconded to authorize the Chair to send a letter of support to the Governor urging the Governor to support the new legislation. Ms. McDuffie called for the vote and the resolution as unanimously approved.

MANAGEMENT TEAM REPORT

Mr. Weathers provided members with an update of the status of the Agency's history of administrative fee receipts for the 2006-2016 time period. Mr. Weathers stated the report is to be presented in final form at the next meeting of the members.

There being no further business to discuss, the meeting was adjourned at 9:20 a.m.

Dated: June 28, 2017


Robert G. Murray, Secretary