

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

- MEETING:** September 6, 2018, at Erie County Industrial Development Agency, 95 Perry Street, 5th Floor Conference Room, Buffalo, New York
- PRESENT:** Hon. April Baskin, Rev. Mark E. Blue, Hon. Johanna Coleman, Mr. Richard Cummings, Colleen DiPirro, Hon. William J. Krebs, Richard Lipsitz, Jr., Hon. Glenn R. Nellis, Laura Smith, and Brenda W. McDuffie,
- ABSENT:** Hon. Byron W. Brown, John J. Mudie, David J. State and Maria Whyte
- OTHERS PRESENT:** Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; and Robert G. Murray, Secretary

There being a quorum present at 8:44 a.m., Mr. Lipsitz called the meeting of the Policy Committee to order.

MINUTES

The minutes of the July 12, 2018 Policy Committee meeting were presented. Upon motion made by Rev. Blue, and seconded by Mr. Krebs, 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.

POLICY DISCUSSION

Job Retention Material Terms Recommendation. Mr. Cappellino provided Committee members with background regarding the establishment of the job creation and job retention material factors established as a condition of providing financial assistance to project applicants since 2013. Mr. Cappellino noted that the current job creation material factor requires applicants commit to meeting 85% of their job creation goals. The job retention material factor, Mr. Cappellino noted, requires recipients of financial assistance to commit to retaining 100% of the jobs that exist at the time of the project approval for the life of the incentive recapture period.

Mr. Cappellino commented that Agency staff has begun to experience instances where companies have compliance issues with the 100% retention requirement as a result of typical workforce turnover including employees leaving unexpectedly, end of year retirements, deaths, etc. With the current requirement at 100% job retention, the unexpected or temporary loss of just

one employee can result in a technical default of a company's agreement with the IDA triggering recapture proceedings. Additionally, Mr. Cappellino noted that some companies are experiencing difficulties filling open positions for extended periods of time leading them to run afoul of their IDA job retention requirement, and Mr. Cappellino emphasized the current IDA recapture policy does not account for such understandable dips in job retention.

Mr. Cappellino reviewed the proposed two-tier retention goal structure, which has been reviewed by the Policy Committee at prior meetings, to address difficulties found with the 100% threshold job retention material term requirement. Mr. Cappellino noted the two-tier structure has been revised since the Policy Committee reviewed the proposal at its most recent meeting to address and distinguish the typical temporary workforce turnover issues from events and issues related to a company's actual failure to uphold the job retention requirement. Mr. Cappellino emphasized this new retention goal would be applicable to job creation projects that also have a retention component, as well as job retention only projects for the designated recapture monitoring time period. Mr. Cappellino also emphasized that the new retention goal policy would only impact companies that experience temporary workforce turnover events, such that companies that permanently layoff or eliminate jobs would not be subject to the proposed new retention goals and as such, permanent job layoffs would trigger the ECIDA's implementation of its recapture policy and processes in the event the company's employment, under such circumstances, drops below the 100% job retention goal.

Mr. Cappellino explained the two-tiered systems as follows:

Proposed Two-Tier Retention Goal:

1. Companies with employment at application of 150 employees or less would be required to maintain 90% of their retained employment level for the recapture period as set at project approval.
2. Companies with more than 150 employees would be required to maintain 95% of their retained employment level for the recapture period as set at project approval.

Mr. Cappellino stated that the two-tiered system establishes two differing percentages because if the same percentage goal for companies of all sizes is used, it may cause companies with small work forces to run afoul of a high percentage goal, while a low percentage goal could cause companies with large work forces to remain compliant even while having a large number of layoffs. The two-tiered system addresses these concerns while still maintaining the overall intent of the retention goal material factors.

General discussion ensued. Ms. DiPirro queried as how this new policy will affect projects that have multi-tenants. Mr. Cappellino explained that in these situations, the job retention and creation commitments, while made with the building owner/landlord, typically involve side agreements by and between the landlord and tenant(s) where tenants agree to hold the landlord harmless in the event the job creation and job retention requirements are not met.

More discussion ensued. Ms. McDuffie expressed support for the revised policy, noting it is responsive to typical temporary job number fluctuations that businesses experience, and distinguishes those situations from permanent layoff situations.

Mr. Cappellino explained the two-tiered system would be established and be made applicable to all projects induced since 2013 that have the 100% job retention material term requirement.

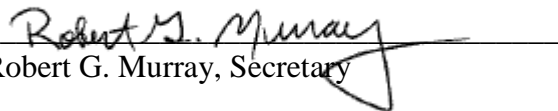
Ms. McDuffie moved and Mr. Blue seconded to approve of the two-tier job retention material term. Mr. Lipsitz called for the vote, and the proposed two-tiered job retention material term was then unanimously approved for recommendation to members of the Agency for ultimate approval.

UPDATES/DISCUSSION

Adaptive Reuse Working Group. Mr. Cappellino provided members with an update of the Adaptive Reuse Working Committee.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 9:21 a.m.

Dated: September 6, 2018


Robert G. Murray, Secretary