

**MINUTES OF THE
BOARD OF DIRECTORS
OF THE
BUFFALO AND ERIE COUNTY
INDUSTRIAL LAND DEVELOPMENT CORPORATION
(ILDC)**

DATE AND PLACE: September 27, 2017, at the Erie County Industrial Development Agency, 95 Perry Street, 5th Floor ESD Conference Room, Buffalo, New York 14203

PRESENT: Richard Lipsitz, Jr., Hon. Joseph C. Lorigo, Hon. John Mills, Hon. Mark C. Poloncarz and Maria Whyte

EXCUSED: Hon. Byron W. Brown and John J. Mudie

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

GUESTS: Andrew Federick, Erie County Senior Economic Development Specialist and Mike Szukala

There being a quorum present at 8:45 a.m., the meeting of the Board of Directors of the ILDC was called to order by Mr. Poloncarz.

MINUTES

Upon motion made by Mr. Lorigo, and seconded by Mr. Lipsitz, the August 23, 2017 minutes of the Board of Directors of the Buffalo and Erie County Industrial Land Development Corporation (“ILDC”) meeting were unanimously approved.

REPORTS / ACTION ITEMS / INFORMATION ITEMS

Financial Report. Ms. Profic presented the August 2017 Financial Report and noted that the ILDC finished the month with total assets of \$2.75 million and net assets of \$2.7 million. Ms. Profic commented that the monthly income statement shows revenue of \$339,000 and expenses of \$361,000, plus grant income from the ECIDA of \$25,000, resulting in net income of \$2,600 for the month. Other income of \$339,000 represents the administrative fee received from the ILDC Tapestry Charter School bond closing. Ms. Profic noted that fee income was then passed through to the ECIDA. Professional services for August were related to legal costs associated with the ILDC’s Bethlehem Steel land purchase. To date, the income statement reflects operating revenues of \$486,000 and expenses of \$610,000, combined with grant income

of \$2.6 million resulting in net income of \$2.5 million so far in 2017. Mr. Poloncarz directed that the report be received and filed.

At this point in time, Ms. Whyte joined the meeting.

Finance & Audit Committee Update. Ms. Profic introduced Mike Szukala, as Chair of the Finance and Audit Committee. Ms. Profic noted that at the most recently completed joint meeting of the ECIDA, RDC and ILDC Finance and Audit Committee, that the professional auditing services request for proposals was reviewed, and the draft 2018 budgets and three-year forecasts for the ECIDA, RDC and ILDC were also reviewed. Mr. Poloncarz directed that the report be received and filed.

Proposed Budget Timetable. Ms. Profic reviewed the 2018 budget timetable including upcoming events and due dates. Mr. Poloncarz directed that the report be received and filed.

Review of the 2018 Budget. Ms. Profic noted that the proposed budget is included within the Board packet materials and stated that revenue is budgeted at \$500 from loan interest income. As in the past, Ms. Profic noted that the ILDC's budget does not include any bond issuance fees because such bond issuances cannot be reasonably predicted such that the budget is a conservative budget. In the expenses, Ms. Profic noted that the ILDC has increased the budgeted amount for ECIDA management fees because ECIDA staff is spending more time on ILDC projects, and particularly the Bethlehem Steel project, than in prior years. There are also increases in professional services for audit and legal fees, and other expenses (including sewer tax and insurance related to the Bethlehem Steel project). Ms. Profic commended that the special project revenue and expenses budgeted for 2018 include \$1.4 million reimbursement from the New York State Empire State Development Corporation's \$2,780,000 grant for the Bethlehem Steel land acquisition which will be reimbursed by the ILDC to the ECIDA's UDAG fund as well as \$200,000 granted from the ECIDA as an estimate of carrying costs related to the land purchase. This leads to a budgeted net loss of \$35,000 for 2018. In addition, Ms. Profic reviewed the 2018 proposed three-year forecast noting that land sales of the Bethlehem Steel property are contemplated to be initiated in 2020-2021. Mr. Poloncarz directed that the report be received and filed.

Auditing Services Procurement Memo. Ms. Profic outlined the auditing services procurement process undertaken for the recent auditing services request for proposals. Ms. Profic noted that proposals were solicited in July, 2017, and five responses were received. Three staff members reviewed the proposals and scored them based on criteria contained within the materials presented to you today. As previously mentioned, the Finance and Audit Committee met on September 12, 2017 and concurred with the staff committee recommendation selecting Freed Maxick to provide professional auditing services to the ILDC for the 2017 and 2018 audits, with an option of contracting with the firm for 2019, 2020, and 2021. Mr. Lipsitz moved, and Ms. Whyte seconded, to select Freed Maxick to provide professional auditing services for the 2017 and 2018 fiscal years and to continue to allow Freed Maxick to be retained to provide auditing services for 2019, 2020 and 2021 based on satisfactory review and approval of the ILDC's Finance and Audit Committee of Freed Maxick's prior performance. Mr. Poloncarz called for the vote, and the motion was unanimously approved.

Banking Resolution Approval. Ms. Profic reminded Board members that on August 23, 2017, the ILDC approved designation of M&T Bank as the official depository of funds. Related thereto, M&T Bank has a standard form of a public funds certified resolution which they require be approved by this Board. Mr. Lorigo moved, and Ms. Whyte seconded, to approve of this M&T Bank public funds certified resolution. Mr. Poloncarz called for the vote, and the aforementioned motion was unanimously approved.

BCP Cover Change Order. Mr. Cappellino updated members on the acquisition and remediation of the Bethlehem Steel real property recalling that in February of 2017, the ECIDA resolved to grant the ILDC \$6,700,000 to fund the carrying and acquisition costs for the purchase of approximately 150 acres of the former Bethlehem Steel site in Lackawanna, New York. As a condition of the purchase, the ILDC required the current property owner to install a certain land cover system to meet New York State Brownfield Cleanup program requirements on approximately 90 acres of the property by December 31, 2017. This would ensure the ILDC that the property would receive a certificate of completion for the remediation and future projects would be eligible for Brownfield Cleanup Program tax credits. Mr. Cappellino noted the original budget request for the acquisition was based on costs associated with utilizing slag as the cover material for the 90 acres. Due to a delay in gaining Albany DEC approval for the slag cover system, the cover system was switched to a soil cover system. The switch to soil allowed for the property to continue to be covered in an effort to meet the December 31, 2017 Brownfield Cleanup Program deadline. The change in cover material from slag to soil will result in an increased cost of approximately \$700,000 to cover the full 90 acres of property as was originally planned. Mr. Cappellino noted that the original funding allocation will allow for the installation of the soil cover system on approximately 70 acres of the site such that this change order request of an additional \$700,000 will allow the ILDC to pursue covering an additional 20 acres which will allow for the cover system to be installed on the full 90 acres as originally planned should the schedule allow. In the event the schedule does not allow for the full completion of the additional 20 acre cover system, any unused funds associated with this change order would be returned to the ECIDA UDAG fund.

Mr. Lorigo asked how much money is in the ECIDA's UDAG fund. Mr. Cappellino responded that the UDAG fund consists of approximately \$13 million and noted that if the ILDC is able to sell the Bethlehem Steel property, 50% of all such sale proceeds will be returned to the ECIDA's UDAG fund.

Mr. Poloncarz noted that the ILDC has already purchased real property associated with Phase 1 and Phase 2 of the Bethlehem Steel site and noted that ECIDA UDAG funds are extremely restrictive, however, such funds can be used for land acquisition.

Mr. Lipsitz moved, and Ms. Whyte seconded, to approve of the following resolution:

RESOLUTION OF THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION (THE "ILDC") AUTHORIZING THE ILDC TO RECEIVE ADDITIONAL FUNDING IN THE AMOUNT OF \$700,000 FROM THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY'S ("AGENCY") U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT URBAN DEVELOPMENT ACTION GRANT ("UDAG") REFLOW FUND TO ENABLE THE ILDC TO COMPLETE ITS PURCHASE OF

CERTAIN REAL PROPERTY LOCATED ON THE FORMER BETHLEHEM STEEL SITE
IN LACKAWANNA, NEW YORK (THE "REAL PROPERTY")

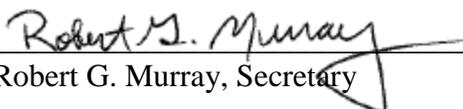
Mr. Poloncarz called for the vote, and the aforementioned resolution was unanimously approved.

ILDC Tax Exempt Bonds 2016/2017. Ms. Fiala reviewed ILDC tax exempt bond closings with Board members. Mr. Poloncarz directed that the report be received and filed.

2018 ILDC Board Meeting Schedule. Mr. Poloncarz reviewed the 2018 ILDC Board Meeting Schedule with the members. Mr. Poloncarz then directed that the report be received and filed.

There being no further business to discuss, Mr. Poloncarz adjourned the meeting at 9:03 a.m.

Dated: September 27, 2017


Robert G. Murray, Secretary