

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

DATE: March 23, 2022

LIVE STREAMED: This Board meeting is being live-streamed and made accessible on the Erie County Industrial Development Agency website at www.ecidany.com.

PRESENT: Hon. Howard Johnson, Richard Lipsitz, Jr., Hon. Mark C. Poloncarz and Hon. Maria Whyte

EXCUSED: Denise Abbott, Hon. April Baskin and Hon. Byron W. Brown

OTHERS PRESENT: John Cappellino, President & CEO; Mollie Profic, Chief Financial Officer/Assistant Secretary; Beth O’Keefe, Vice President of Operations; Atiqa Abidi, Assistant Treasurer; Gerald Manhard, Chief Lending Officer/Assistant Secretary; Grant Lesswing, Business Development Officer; Andrew Federick, Business Development Officer; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant; Robbie Ann McPherson, Director of Marketing & Communications, Sean Fallon, Project Manager; Pat Smith, Senior Bookkeeper; and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

GUESTS: Zachary Evans, Erie County

There being a quorum present at 1:16 p.m., the Meeting of the Board of Directors of the Buffalo and Erie County Industrial Land Development Corporation was called to order by Chair Poloncarz.

MINUTES

Mr. Johnson moved and Ms. Whyte seconded to approve of the February 23, 2022 minutes. Mr. Poloncarz called for the vote and the minutes were unanimously approved.

REPORTS / ACTION ITEMS / INFORMATION ITEMS

Financial Report. Ms. Profic presented the February 2022 financial report. The balance sheet shows the month ended with total assets of \$17.5M. Grants receivable of \$7.6M represent amounts awarded by several sources, the largest being Buffalo Billion II funds of \$6.7M from Empire State Development. Liabilities of \$9.7M are mainly deferred grant revenue of \$9.2M. Net assets total \$7.8M. The February income statement shows \$1,000 of revenue, \$12,000 of expenses and \$7,300 of special project expenses, netting to a (\$18,000) net loss in February. The year to date income statement shows revenues of \$134,000 and expenses of \$122,000. Included in this figure is \$100,000 of bond administrative fee revenue that was subsequently paid to ECIDA under the existing shared services agreement. Special project expenses of \$77,000 lead to a net loss of \$65,000 so far in 2022. Mr. Poloncarz directed that the report be received and filed.

Finance and Audit Committee Update and Committee Self-Evaluation. Ms. Profic reviewed the memo summarizing the joint Finance & Audit Committee meeting held on March 16, 2022. Our auditors from Freed Maxick presented the draft 2021 audited financial statements. The three main points of the presentation were an unmodified (clean) opinion on the financial statements, there were no uncorrected audit adjustments, and there were no material weaknesses or significant deficiencies noted (no management letter comments). The Committee also reviewed and recommend the following for approval: 2021 Public Authorities Report, 2021 Investment Reports, Investment & Deposit Policy, Committee Charter, Committee Self-Evaluation, Management's Assessment of the Effectiveness of Internal Controls, and Corporate Credit Card Policy with no suggested changes.

The Committee Self-Evaluations were presented. Ms. Profic stated that each year the Committee completes a self-evaluation, based on the Committee Charter. In 2021, the Committee convened a total of five times and fulfilled its duties as documented.

Audited Financial Statements. Ms. Profic provided the draft 2021 audited financial statements and report to the Board, which documents the auditors' required communications, a summary of accounting estimates made within the financials, some recently issued accounting standards, and the management letter noting no significant deficiencies or material weaknesses. The most significant estimates for ILDC are the depreciation of capital assets and the allowance for uncollectible accounts. Ms. Profic mentioned an unmodified opinion was issued on the statements. As a component unit of Erie County, the ILDC's financial statements are prepared based on Governmental Accounting Standards and include a Management's Discussion and Analysis, which provides a condensed overview of the statements. The statements of net position (balance sheets), there were total assets of \$17.6M at December 31, 2021, compared to \$9.4M at the end of 2020. Current assets increased \$7.3M, due mainly to an increase in grants receivable. Loans receivable increased \$581,000 due to 22 loans closed during the year, net of the establishment of a reserve for loan losses. Total liabilities increased \$7.4M, again due mainly to an increase in unearned revenue associated with grants awarded but not yet spent/earned. There was an increase in total net position of \$820,000. The statements of revenues, expenses, and changes in net position (income statements) detail the change in net position for the year. The operating loss of \$495,000 was driven by increased expenses and a loss on the sale of land. This

occurred because the book value of the land sold exceeded the sale price, which can be common for entities like ILDC due to the costs involved in acquiring and remediating land. Operating expenses of \$360,000 increased due mainly to a grant application fee associated with the Buffalo Billion II grant from ESD. Non-operating revenues are grant income - including \$715,000 from ESD (Phase II land purchase and engineering costs), \$560,000 from Erie County for new loans in the Microloan fund. Grant expenses include \$104,500 returned to ECIDA's UDAG fund from the sale of land at Renaissance Commerce Park and \$14,000 in the Microloan fund – the first borrower that received a 40% grant after repaying 60% of the loan. There was also bad debt expense of \$74,000, representing 10% of the outstanding loan balance in the Microloan fund. Overall there was an increase in net position of \$820,000 in 2021. The cash flows statements detail the changes in cash each year. The remainder of the financials are the notes and supplementary information, which show the balance sheet and income statement at the fund level. These drafts were reviewed and discussed in detail with the Finance & Audit Committee on March 16, and they recommended approval to the Board. We will continue to work with Freed Maxick to file IRS Form 990.

Mr. Lipsitz moved and Ms. Whyte seconded to approve of the 2021 Audited Financial Statements. Mr. Poloncarz then called for the vote and the 2021 Audited Financial Statements were unanimously approved.

2021 Investment Report. Ms. Profic stated this report is required by Public Authorities Law and includes ILDC's investment guidelines, the results of our annual audit, and detail of investment income and fees for the year. One note that it is in draft form pending the date of the auditor's report. There was one new account opened in 2021 as required by Empire State Development's grant conditions. Investment income of \$275 was earned on these accounts during 2021 (compared to \$86 in 2020), and no fees were paid. This report was reviewed by the Finance & Audit Committee at their March 16 meeting and recommended to the Board for approval. Ms. Whyte moved, and Mr. Lipsitz seconded to approve of the report. Mr. Poloncarz called for the vote, and the 2021 Investment Report was unanimously approved.

Governance Committee Update and Committee Self-Evaluation. Ms. Profic presented a review of the most recently completed governance committee meeting. Mr. Poloncarz directed that the report be received and filed.

ILDC Loan Status Report. Mr. Manhard provided this report to members. Mr. Poloncarz directed that the report be received and filed.

Agreement to Authorize Execution and Delivery of Community Development Block Grant Sub-Recipient Agreement. Mr. Manhard reviewed this agreement. Ms. Whyte spoke in favor of the CDBG program.

Mr. Lipsitz moved and Mr. Johnson seconded to approve of the execution and delivery of the Community Development Block Grant from the Erie County Industrial Development Agency. Mr. Poloncarz then called for the vote and the following resolution was unanimously approved.

RESOLUTION AUTHORIZING (i) THE ADOPTION, NEGOTIATION AND EXECUTION OF A SUB-SUBRECIPIENT AGREEMENT OR SUCH SIMILAR AGREEMENT WITH THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AS APPROPRIATE, RELATED TO THE CONTINUED RECEIPT AND ADMINISTRATION OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS; AND (ii) THE ALLOCATION OF \$367,387 OF SUCH FUNDS TOWARDS A MICROENTERPRISE LOAN FUND.

REVIEW AND ADOPTION OF POLICIES, REPORTS AND COMMITTEE CHARTERS.

2021 Mission Statement, Performance Measures and Results. Ms. O’Keefe reviewed the 2021 Mission Statement and related results. Mr. Lipsitz moved and Mr. Johnson seconded to approve of the 2021 Mission Statement and results. Mr. Poloncarz called for the vote and the 2021 Mission Statement and results were unanimously approved.

2022 Mission Statement and Performance Measures. Ms. O’Keefe reviewed the 2022 Mission Statement. Mr. Lipsitz moved and Mr. Johnson seconded to approve of the 2022 Mission Statement. Mr. Poloncarz called for the vote and the 2022 Mission Statement and Performance Measures were unanimously approved.

2021 Public Authorities Report. Ms. Profic noted that as a Public Authority of the State of New York, ECIDA and its affiliates are required to comply with the NYS Public Authorities Law and submit a comprehensive annual report including information on several topics. Several of the items are covered by other documents, like the operations and accomplishments and financial statements, which are noted throughout the document. The Mission Statement & Performance Measurements are updated each year with actual results (and was just reviewed) and is part of this report. Many of the items included are standard from year to year and are also approved or re-adopted by the Board annually. Section 13 was updated for 2021 to include the work underway at ILDC-owned properties, ECIDA’s COVID-19 PPE grant program and the loans made under the recently established CARES Act revolving loan fund. Attachments include outstanding bond information, salary & benefit information, projects undertaken by each entity, our Property Report, Board Member attendance, and the Procurement Reports for each entity. Once approved, Mr. Cappellino and Ms. Profic will sign the certification and the report will be posted to our website. This report was provided to the Governance Committee for review and reviewed by the Finance & Audit Committee at their meeting on March 16 and has been recommended to the Board for approval.

Mr. Lipsitz moved and Mr. Johnson seconded to approve of the 2021 Public Authorities Report. Mr. Poloncarz called for the vote and the 2021 Public Authorities Report was unanimously approved.

Fee Structure Policy. Mr. Cappellino reviewed the Fee Structure Policy. Mr. Lipsitz moved and Mr. Johnson seconded to approve of the Fee Structure Policy. Mr. Poloncarz called for the vote and the Fee Structure Policy was unanimously approved.

RE-ADOPT POLICIES AND CHARTERS

Mr. Poloncarz noted that Items 5-20 on the agenda were reviewed by counsel, the Board Committees recommended no changes, and as such, the staff recommends that the policies and charters items numbered 5-20 be approved without any changes. Mr. Lipsitz moved and Mr. Johnson seconded to approve of the various polices and charters as itemized below. Mr. Poloncarz called for the vote and the following policies and charters were then unanimously approved:

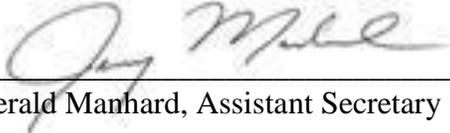
- Board Member Compensation, Reimbursement & Attendance Policy
- Code of Ethics & Conflict of Interest Policy
- Corporate Credit Card Policy
- Defense & Indemnification Policy
- Employee Compensation Program
- Finance & Audit Committee Charter
- Governance Committee Charter
- Investment & Deposit Policy
- Procurement Policy
- Property Disposition Guidelines
- Real Property Acquisition Policy
- Sexual Harassment Policy
- Statement of Duties & Responsibilities of the Board of Directors
- Statement of the Competencies & Personal Attributes Required by Board Members
- Travel, Conferences, Meals & Entertainment Policy
- Whistleblower Policy and Procedures

MANAGEMENT TEAM REPORTS

Mr. Cappellino presented the report. Mr. Poloncarz directed that the report be received and filed.

There being no further business to discuss, Mr. Poloncarz adjourned the meeting at 1:40 p.m.

Dated: March 23, 2022



Gerald Manhard, Assistant Secretary