

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

**DATE AND PLACE:** July 13, 2023 at the Erie County Industrial Development Agency, 95 Perry Street, 4<sup>th</sup> Floor Conference Room, Buffalo, New York 14203

**PRESENT:** Denise Abbott; Hon. A.J. Baynes; Rev. Mark E. Blue; Zachary Evans; Richard Lipsitz, Jr.; Dr. Susan McCartney; Brenda W. McDuffie<sup>1</sup>; Hon. Glenn R. Nellis; Laura Smith, David J. State; Lavon Stephens; Hon. John Tobia and Paul Vukelic

**EXCUSED:** April Baskin and Hon. Bryon W. Brown

**OTHERS PRESENT:** John Cappellino, President and Chief Executive Officer; Beth O’Keefe, Vice President of Operations; Grant Lesswing, Director of Business Development; Brian Krygier, Director of Information Technology; Carrie Hocienec, Operations Assistant; and Robert G. Murray, General Counsel/Harris Beach PLLC

**GUESTS:** Enrico D’Abate, David Van Deran on behalf of McGuire Development; Matt Quinn, Bridget O’Brien-Wood, Ruth Connor, Mel Alston on behalf of Buffalo Public Schools; Marc Romanowski on behalf of Rupp Pfalzgraf, LLC; John Daly and Mark Daly on behalf of Trautman Associations; Alex Carducci on behalf of the City of Buffalo; and Josh Veronica on behalf of Buffalo Niagara Partnership

There being a quorum present at 9:02 a.m., the Meeting of the Policy Committee was called to order by Mr. Lipsitz.

**MINUTES**

The minutes of the June 1, 2023 Policy Committee meeting were presented. Upon motion made by Ms. McCartney to approve of the minutes, and seconded by Ms. Smith, 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.

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<sup>1</sup> Ms. McDuffie participated via video conference, and counted for quorum purposes, pursuant to Section 103-A of the New York State Public Officer’s Law and the Agency’s Videoconferencing Participation Policy.

**PROJECT PRESENTATION**

1016 East Delavan, LLC (BPS Commissary Kitchen), 1016-1044 East Delavan Avenue, Buffalo, New York 14215. Ms. O’Keefe presented this proposed sales tax, mortgage recording tax and real property tax abatement benefits project involving the construction of a 67,000 sq. ft. single story commissary kitchen for the sole use of the Buffalo Public Schools (BPS) to prepare and distribute school meals to all schools in the district using locally grown products, creating fresh and high-quality meal options for students. The new building will include office space for administration, a test kitchen that will serve as a conference room/community space available for local community meetings and training for food service employees.

At this point in time, Mr. Evans joined the meeting.

Ms. O’Keefe confirmed that 1016 East Delavan, LLC is seeking approximately \$4,212,686 in assistance including sales tax exemption, mortgage tax exemption and real property tax exemption. Total payroll is projected at \$57,525,129 which includes the direct and indirect jobs for both the temporary and ongoing positions over the life of the PILOT. Created jobs include 151 construction jobs. The resulting cost benefit is 15:1 so for every \$1 of incentives the community benefit is \$15 in payroll & tax revenue. Erie County: for every \$1 of incentives the community benefit is \$17 in benefits to the community.

Ms. O’Keefe stated that in exchange for providing the sales and use tax, mortgage recording tax exemption and real property tax abatement benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to the potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$33,067,799 85% = \$28,107,629
Employment	Coincides with 10-year PILOT	Maintain Base = 16 FTE, 35 PTE Create 85% of Projected Projected = 15 PTE 85% = 12 PTE Recapture Employment = 16 FTE, 47 PTE
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 10-year PILOT	Adherence to policy
Unpaid Tax	Coincides with 10-year PILOT	Adherence to policy

Recapture Period	Coincides with 10-year PILOT	Recapture of state and local sales taxes, mortgage recording tax and real property tax
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Mr. Evans expressed his strong support for the project and also noted that if BPS undertook the construction project directly, it would be tax exempt in any event.

General discussion ensued. Mr. Lipsitz asked for confirmation of wages for the PTE positions. Ms. O’Brien-Wood spoke on behalf of BPS and confirmed wages were \$30,000 with no benefits.

Mr. Evans moved and Mr. Vukelic seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Mr. Lipsitz called for the vote and the project was then unanimously approved.

130 Pearl LLC (Trautman Associates), 130-132 Pearl Street, Buffalo, New York 14202. Ms. O’Keefe presented this proposed sales tax and mortgage recording tax benefits project involving the redevelopment of the 21,000 sq. ft. 3-story Underwood Building to include 18 apartments with a mix of one- and two-bedroom units. Commercial/retail space will occupy the remaining 3,200 sq. ft.

Ms. O’Keefe confirmed that 130 Pearl LLC is seeking approximately \$153,750 in assistance including sales tax exemption and mortgage recording tax exemption. As depicted within the materials presented to the committee, the resulting cost benefit is 1:21 so for every \$1 of incentives the community benefit is \$21 in payroll & tax revenue and for Erie County, for every \$1 of incentives the community benefit is \$39 in benefits to the community.

Ms. O’Keefe stated that in exchange for providing the sales and use tax and mortgage recording tax exemption benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to the potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$5,477,047 85% = \$4,655,489
Employment	Coincides with recapture period	Maintain Base = 0 Create 85% of Projected Projected = 2 PT (1 FTE) 85% = 0 Recapture Employment = N/A
Local Labor	Construction Period	Adherence to policy including quarterly reporting

Pay Equity	Coincides with recapture period	Adherence to policy
Unpaid Tax	Coincides with recapture period	Adherence to policy
Recapture Period	2 years after project completion	Recapture of state and local sales taxes and mortgage recording tax

Mr. Nellis queried as to differences between affordable and workforce housing.

Mr. Cappellino provided general background noting that certain state programs specifically define low or affordable housing thresholds based on certain income levels of the intended occupants and then fixing rent and the number of residents/units that must be provided or otherwise made available to those persons for the particular project.

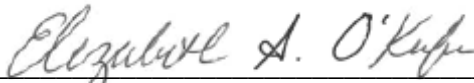
Ms. McCarthy spoke in favor of the project.

General discussion ensued. Mr. Baynes then moved and Ms. McCartney seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Mr. Lipsitz called for the vote and the project was then unanimously approved.

Mr. Cappellino confirmed that soon, this committee will be discussing housing needs and work from home issues.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 9:35 a.m.

Dated: July 13, 2023

  
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Elizabeth A. O'Keefe, Secretary