

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

DATE AND PLACE: March 27, 2024, at the Erie County Industrial Development Agency, 95 Perry Street, 4th Floor Conference Room, Buffalo, New York 14203

PRESENT: Denise Abbott, Hon. Daniel Castle, Hon. Howard Johnson and Richard Lipsitz, Jr.

EXCUSED: April Baskin, Hon. Byron W. Brown and Hon. Mark C. Poloncarz

OTHERS PRESENT: John Cappellino, President & CEO; Beth O’Keefe, Vice President of Operations; Mollie Profic, Chief Financial Officers; Grant Lesswing, Director of Business Development; Gerald Manhard, Chief Lending Officer; Soma Hawramee, Compliance Portfolio Manager; Michelle Moore, Compliance Associate; Atiqah Abidi, Accounting Manager; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant/Assistant Secretary; Andrew Pawenski, Harris Beach PLLC and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

GUESTS: Zachary Evans on behalf of Erie County

There being a quorum present at 1:17 p.m., the Meeting of the Board of Directors of the Buffalo and Erie County Industrial Land Development Corporation was called to order by Mr. Lipsitz, who presided over the meeting in the absence of Chair Poloncarz.

MINUTES

Ms. Abbott moved, and Mr. Johnson seconded to approve of the February 28, 2024 minutes. Mr. Lipsitz called for the vote and the minutes were unanimously approved.

REPORTS / ACTION ITEMS / INFORMATION ITEMS

Financial Report. Ms. Profic presented the February financial reports. The balance sheet shows ILDC ended the month with total assets of \$17.1M. All the line items have been pretty consistent since the end of 2023. Liabilities of \$9.5M are amounts owed to ECIDA (\$5.4M) and deferred grant revenue. Net assets total \$7.6M. The February income statement shows \$1,600 of revenue, \$2,000 of expenses and \$400 of net special project expenses. Factoring in non-

operating income, there was a \$600 loss in February. The year-to-date income statement shows operating revenues of \$3,000 and expenses of \$4,000. Special project expenses of \$3,200 and \$300 of non-operating income led to a net loss of \$4,400 so far in 2024. Mr. Lipsitz directed that the report be received and filed.

Finance & Audit Committee Update. Ms. Profic provided a summary of the joint Finance & Audit Committee meeting held on March 21st. Our auditors from Lumsden McCormick presented draft 2023 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 items listed under #2-8 for approval or re-adoption: 2023 Public Authorities Report, 2023 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.

Ms. Profic reviewed the Committee's Self-Evaluation. She stated that each year the Committee completes a self-evaluation, as required by the Committee Charter. Essentially, did the Committee fulfill its duties per the Committee Charter? Comments in the rightmost column give some detail of the Committee activity throughout the year, and additional notes were provided. In 2023, the Committee officially convened a total of 5 times and fulfilled its duties as documented. Mr. Lipsitz directed that the report be received and filed.

Audited Financial Statements. Ms. Profic reviewed the draft 2023 audited financial statements, required communications, and management letter. Lumsden McCormick's required communications with those charged with governance, which documents the auditors' responsibility related to the financial statement audit, notes that there were no matters of concern that arose related to the significant risks identified, a summary of accounting estimates made within the financials, that there were no uncorrected audit adjustments, and no disagreements with management. The most significant estimates for ILDC are the depreciation of capital assets and the allowance for uncollectible loans. She mentioned an unmodified opinion was issued on the statements. The management letter notes no significant deficiencies or material weaknesses. The Representation Letter will be signed once the audit is approved by the board. Ms. Profic reviewed the draft financial 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 section, which provides a condensed overview of the statements. The balance sheets show there were total assets of \$17.1M as of December 31, 2023, compared to \$18.9M at the end of 2022. Current assets decreased \$1.9M, due to decreases in cash and grants receivable. Noncurrent assets increased slightly from \$7.3M to \$7.4M due to an increase in capital assets. Liabilities decreased \$2.0M, due to a \$6.4M decrease in unearned revenue associated with grants awarded but not yet spent/earned, combined with a \$4.3M increase in amounts due to ECIDA. ILDC has been borrowing funds from ECIDA's UDAG fund to cash flow projects that are being funded with reimbursable grants. There was an increase in net position of \$236,000, mostly due to an increase in net investment in capital assets. The statements of revenues, expenses, and changes in net position (income statements) detail the change in net position for the year. Operating revenues of \$35,000 include interest on loans and administrative fees related to bond modifications. Operating expenses of \$288,000 consists

mainly of the \$189,000 provision for uncollectible loans under the Microloan program administered by ILDC on behalf of Erie County. Most of these microloans have a forgiveness component if a certain amount of principal is paid as agreed. What this provision for uncollectible loans does is recognize the best-case scenario, where borrowers are repaying 50% or 60% of their loan and the rest being forgiven. Special project grants include income and expenses related to grants, including \$3.6M from Empire State Development and \$2.6 from the Economic Development Administration (“EDA”) related to sewer work at Renaissance Commerce Park (“RCP”), as well as \$129,000 sub granted from Erie County for new loans in the Microloan fund. Grant expenses of \$6.3M are mainly related to RCP. Overall there was an increase in net position of \$236,000 in 2023, compared to a decrease of \$513,000 in 2022. The cash flows statements detail the changes in cash each year. The remainder of the financials are the notes, supplementary information, and the Schedule of Expenditures of Federal Awards. The expenditures related to the RCP sewer project funded by EDA triggered a Single Audit for 2023. Ms. Profic is pleased to report there were no findings or questioned costs noted as a result of the Single Audit. These drafts were reviewed and discussed in detail with the Finance & Audit Committee on March 21, and they recommended approval to the Board. We will continue to work with Lumsden McCormick to file IRS Form 990 and the Data Collection Form related to the single audit.

Mr. Castle moved and Ms. Abott seconded to approve of the audited financial statements. Mr. Lipsitz called for the vote and the audited financial statements were unanimously approved.

2023 Investment Report. Ms. Profic reviewed this report which is required by Public Authorities Law and includes ILDC’s investment guidelines, the results of the annual audit of these guidelines, and detail of investment income and fees for the year. \$6,400 of investment income was earned on the accounts during 2023, and no fees were paid. This report was reviewed by the Finance & Audit Committee at their March 21 meeting and recommended to the Board for approval.

Mr. Johnson moved and Ms. Abbott seconded to approve of the 2023 Investment Report. Mr. Lipsitz then called for the vote and the 2023 Investment Report was unanimously approved.

Governance Committee Update: Ms. O’Keefe provided the Board members with an update. Mr. Lipsitz directed that the report be received and filed.

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

REVIEW AND ADOPTION OF POLICIES, REPORTS AND COMMITTEE CHARTERS.

2023 Mission Statement, Performance Measures and Results; 2024 Mission Statement and Performance Measures and 2023 Public Authorities Report. Ms. O’Keefe reviewed the 2023 Mission Statement, Performance Measures and Results and the 2024 Mission Statement and Performance Measures. Ms. Profic reviewed the 2023 Public Authorities Report. Ms. Profic stated 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 note throughout the document. The third item, Mission Statement & Performance Measurements, is updated each year with actual results. Many of the items included are standard from year to year and are also approved or re-adopted by the Board annually and was updated for 2023 to update the work underway at ILDC-owned properties, the RDC's lending activity, and the approval of the Economic Inclusion Policy. 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, the certification will be signed by Mr. Cappellino and Ms. Profic and the report will be posted to the website. This report was reviewed by the Governance Committee at their meeting on March 20th and the Finance & Audit Committee at their meeting on March 21st and has been recommended to the Board for approval.

Ms. Abbott moved and Mr. Castle seconded to approve of the 2023 Mission Statement, Performance Measures and Results; 2024 Mission Statement and Performance Measures and 2023 Public Authorities Report. Mr. Lipsitz called for the vote and the 2023 Mission Statement, Performance Measures and Results; 2024 Mission Statement and Performance Measures and 2023 Public Authorities Report was unanimously approved.

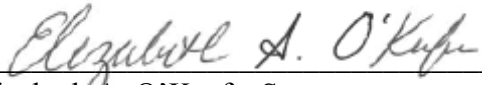
RE-ADOPT POLICIES AND CHARTERS

Mr. Lipsitz noted that Items 4-23 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 4-23 be approved without any changes. Ms. Abott moved and Mr. Castle seconded to approve of the various polices and charters as itemized below. Mr. Lipsitz called for the vote and the following policies and charters were then unanimously approved:

- Airborne Infectious Disease Policy
- Board Member Compensation, Reimbursement & Attendance Policy
- Code of Ethics & Conflict of Interest Policy
- Defense & Indemnification Policy
- Corporate Credit Card Policy
- ECIDA Employee Compensation Program
- Fee Structure Policy
- Finance & Audit Committee Charter
- Governance Committee Charter
- Investment & Deposit Policy
- Procurement Policy
- Professional Services RFP Process and 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
- Video Conferencing Policy
- Whistleblower Policy and Procedures

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 1:30 p.m.

Dated: March 27, 2024



Elizabeth A. O'Keefe, Secretary