

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

- MEETING:** July 7, 2016, at Erie County Industrial Development Agency, 95 Perry Street, 5th Floor Conference Room, Buffalo, New York
- PRESENT:** Hon. Johanna Coleman, Richard Lipsitz, Jr., Brenda W. McDuffie, Frank B. Mesiah, John J. Mudie, Glenn R. Nellis, Hon. Edward A. Rath, Laura Smith, Hon. Geoff Szymanski and Maria Whyte
- ABSENT:** Hon. Byron W. Brown, David J. State, and Paul V. Vukelic
- OTHERS PRESENT:** John Cappellino, Executive Vice President; Karen M. Fiala, Assistant Treasurer; Robert G. Murray, Secretary
- GUESTS:** Andrew Federick, Erie County Senior Economic Development Specialist; Rebecca Gandour, City of Buffalo Office of Strategic Planning; Ed Smouse and Jeff Lennox, on behalf of API Heat Transfer

There being a quorum present at 8:35 a.m., Mr. Lipsitz called the meeting to order.

MINUTES

The minutes of the May 5, 2016 Policy Committee meeting were presented. Upon motion made by Mr. Mesiah, and seconded by Mr. Rath, the aforementioned Policy Committee meeting minutes were unanimously approved.

The minutes of the June 2, 2016 Policy Committee meeting were presented. Upon motion made by Mr. Nellis, and seconded by Mr. Mesiah, the aforementioned Policy Committee meeting minutes were unanimously approved.

PROJECT MATRIX

Mr. Cappellino reviewed the Agency's project matrix. There being no comments, Mr. Lipsitz directed that the report be received and filed.

COMPLIANCE ISSUES – EMPLOYMENT: API HEAT TRANSFER

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

Mr. Cappellino reviewed the status of the API Heat Transfer employment issue. By way of background, Mr. Cappellino mentioned that API Heat Transfer is a global leader in the heat

transfer industry for various commercial applications. The company has customers in the oil and gas industry and has six locations in the United States, two in Europe, one in India and one in China. The Walden Avenue location functions as the company's global headquarters.

Mr. Cappellino noted the Agency has had multiple incentive projects with API over the years associated with growth and expansion at their Walden Avenue location. It is only the 2013 expansion project that is subject to the Agency's recapture policy. In 2013, the company undertook a 1.7 million dollar expansion of the facility on Walden Avenue. The project was approved for sales tax and PILOT incentives by the Agency in November 2013. The project recapture terms included the standard investment and employment retention and creation requirements. The employment requirement was for maintaining 287 jobs and adding 6 new positions.

Due to a global downturn in the oil and gas industry sector, Mr. Cappellino stated that the company experienced layoffs related to less demand for its products in 2015 and as of December 31, 2015, the Agency's employment survey for API reported 247 FTE positions. For the 2013 project, the company is not meeting the job retention requirement of 287 jobs that were required to be maintained.

To date, Mr. Cappellino noted that the company has received sales and use tax incentives of \$73,866. The total amount subject to sales tax recapture would then equal \$73,866. The project will receive PILOT benefits for the school tax year in July 2016, and will receive a PILTO benefit for the county/town taxes as of December 2016. Estimated total PILOT benefits received to date are approximately \$12,379.

Mr. Cappellino noted that the company proactively reached out to the Agency regarding the anticipated decrease in employment. Mr. Cappellino also noted that the Agency received email correspondence from Supervisor Benczkowski asking the Policy Committee to extend the timeframe for API Heat Transfer to meet its employment projections.

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

Upon motion made by Ms. McDuffie, seconded by Mr. Rath, a motion was made to move the Policy Committee meeting into Executive Session for the purpose of discussing API Heat Transfer's financial and employment history and matters. The motion was then unanimously approved. At 8:43 a.m., the Policy Committee entered into executive session.

Upon motion made by Ms. Whyte, and seconded by Mr. Mesiah, the Policy Committee resolved to terminate executive session at 9:22 a.m.

At this point in time, Mr. Lipsitz asked for a motion to direct staff to prepare recapture options related to API Heat Transfer and present those options at the next Policy Committee meeting. Mr. Mudie moved and Mr. Mesiah seconded to approve of Mr. Lipsitz's recommendation. Mr. Lipsitz called for the vote and the aforementioned recommendation was unanimously approved.

WORK PLAN ITEMS DISCUSSION

Ms. Whyte briefly reviewed the Policy Committee's current task at hand being to identify guiding principles for better economic development. Ms. Whyte stated that she envisions having the Agency adopt a resolution that defines certain strategies and best practices as policies of the Agency to help guide the Agency in the better implementation of its economic development powers and purposes.

Ms. Whyte and Ms. Smith then both stated that it makes sense for recognized experts to provide presentations to Agency members on the state of best economic development practices. Ms. Smith further commented that the idea would be to have the Agency approve of a best practice resolution, and then, step two would be for the Agency to review all existing policies to ensure consistency with such a best practices resolution.

INFORMATION ITEMS

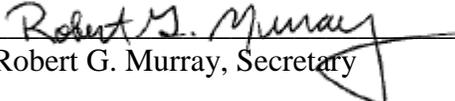
Mortgage Recording Tax Legislation. Mr. Cappellino briefly reviewed new legislation that would prohibit an IDA from exempting the mortgage recording tax associated with the Niagara Frontier Transportation Authority. Mr. Cappellino confirmed that this amounts to approximately 25% of the overall mortgage recording tax benefit.

Adaptive Reuse Study. Mr. Cappellino reviewed the anticipated project schedule for the adaptive reuse study and in particular, reviewed the purposes behind the existing adaptive reuse policy and the three areas that the Agency desires to be addressed including evaluating program results, evaluating current conditions and impacts of the project in today's marketplace, and providing any recommended changes to the policy given new or different market conditions.

Derrick Corporation Update. Mr. Cappellino updated Committee members on Derrick Corporation's request to terminate its existing PILOTs for its two most recent expansion projects and also noted that Derrick Corporation will be providing a check in the amount of \$509,000 as a reimbursement for sales and use tax incentives received as related to their two expansion projects.

There being no further business to discuss, upon motion made by Mr. Rath, seconded by Ms. Whyte, and unanimously approved, the Policy Committee meeting was adjourned at 9:50 a.m.

Dated: July 7, 2016


Robert G. Murray, Secretary