

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

- MEETING:** December 6, 2018, at Erie County Industrial Development Agency, 95 Perry Street, 5<sup>th</sup> Floor Conference Room, Buffalo, New York
- PRESENT:** Rev. Mark E. Blue, Hon. William J. Krebs, Richard Lipsitz, Jr., Brenda W. McDuffie, Hon. Glenn R. Nellis, Laura Smith, David J. State and Maria Whyte
- ABSENT:** Hon. April Baskin, Hon. Byron W. Brown, Hon. Johanna Coleman, Mr. Richard Cummings, Colleen DiPirro and John J. Mudie
- OTHERS PRESENT:** Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; Karen M. Fiala, Assistant Treasurer; and Robert G. Murray, Secretary

There being a quorum present at 8:53 a.m., Mr. Lipsitz called the meeting of the Policy Committee to order.

**MINUTES**

The minutes of the November 1, 2018 Policy Committee meeting were presented. Upon motion made by Ms. McDuffie, and seconded by Ms. Whyte, the aforementioned Policy Committee meeting minutes were unanimously approved.

**PROJECT MATRIX**

Mr. Lipsitz reviewed the Agency's project matrix and directed that the report be received and filed.

**UNPAID TAX PROCEDURES**

Mr. Cappellino reviewed the current process that Agency staff follows to implement the Agency's unpaid real property tax certification policy. Mr. Cappellino confirmed that prior to submitting applications, applicants are required to sign a certification stating that neither the owners of the company nor the company and its affiliates have any unpaid real property taxes on any properties located within Erie County. When applications are received, Agency staff requests that the Erie County Tax Department perform a search on the applicant and the property address to ensure that taxes are current. Staff also conducts a search on the Erie County's real property website to determine if there are any outstanding taxes.

Going forward, Agency staff has proposed to revise its procedures by amending the Agency's application for financial assistance to include a section requiring applicants to list all

Erie County properties in which the applicant holds at least a 25% ownership interest and thereafter staff will request the Erie County Tax Department to perform a search on the applicant and on those property addresses to confirm if taxes are current. In addition, prior to the project's closing date, Agency staff will perform an additional search on the Erie County tax website to ensure that no outstanding tax events have occurred between approval and closing. In addition, staff will require that all clients that have active PILOT Agreements be required to annually re-certify that all taxes are current. Staff has indicated the certificate will be included within the fourth quarter employment surveys that are provided to all recipients of financial assistance and this new change will be implemented in the 2018 fourth quarter survey. General discussion ensued and committee members requested that up to a 60-day cure period be incorporated, in the event an unpaid tax issue arises to allow the company to cure the issue prior to triggering the recapture policy.

Ms. Whyte then moved and Ms. McDuffie seconded to approve of the new procedures, with the inclusion of a 60-day cure period, with respect to monitoring and enforcing the Agency's unpaid real property tax policy. Mr. Lipsitz called for the vote and the resolution was unanimously approved.

#### **UNIFRAX EMPLOYMENT DISCUSSION**

Mr. Cappellino noted that in August 2014 the Agency approved of a sales tax and PILOT abatement benefit to assist Unifrax in the expansion of its facility at Fire Tower Drive in the Town of Tonawanda. As part of the material terms approved by the Board, Unifrax was required to retain 268 employees and create an additional 21 positions by June 30, 2018. Accordingly, Unifrax was required to have 289 employees as of June 30, 2018. As of September 30, 2018, Unifrax was compliant with all employment retention and job creation requirements by reporting 323 employees. Representatives from Unifrax contacted the Agency in late September to indicate they would be announcing permanent layoffs at the Fire Tower facility, and on October 12, 2018, Unifrax announced the permanent layoffs of approximately 45 employees. Unifrax is now reporting a total of 257 employees at the Fire Tower location, which is 32 employees short of its employment requirements.

Mr. Cappellino noted that Unifrax has two other locations in Erie County, at 95 Pirson Parkway and at the corporate headquarters at 600 Riverwalk Parkway, both in the Town of Tonawanda. Mr. Cappellino noted that the 95 Pirson Parkway project is subject to a continuing incentive on that facility but noted both facilities have employment which is not part of the numbers for the Fire Tower complex as described above.

Mr. Cappellino noted several recapture options were discussed by staff and the staff has initially concluded by making two recommendations as follows: Option 1: Effectively suspend Unifrax PILOT program until it meets its employment requirements - Unifrax would pay full taxes until it reached its goal of 289 employees; Option 2: Increase Unifrax's PILOT payment amount based on the percentage that Unifrax is out of compliance with its employee headcount requirement. Under Option 2, because Unifrax current employee headcount number represents an 11% shortfall, the Agency would require Unifrax to pay an additional 11% above its 2019 PILOT amount for County, Town and School PILOT payments.

General discussion ensued. Ms. Whyte expressed support for the second option, noting that this seems consistent with past practices. Ms. McDuffie questioned whether the solution implemented for the FedEx project could be applied here where employee headcount at all facilities is combined as a way of showing the company is maintaining its job commitments. Mr. Cappellino responded that in this case, even if combined, the employee headcount would still be below the overall job requirement number. Discussion continued and Ms. Smith presented a third option that would allow a watch period to be implemented until 2019 and if by the end of 2019, the company is not at its required employment number, then the PILOT could be retroactively amended to recapture PILOT benefits and in this way, the company would be encouraged to create new jobs.

Mr. Krebs stated that Option 2 seems reasonable and noted in the company's correspondence to the Agency that the company states that it will exceed its job requirements when job numbers at both the Fire Tower and Pirson locations are considered by the third quarter of 2019.

Mr. Lipsitz suggested that Option 2 is rational and related to the current project and did not express support for combining employment numbers at various facilities.

Ms. McDuffie then expressed her support for Option 2.

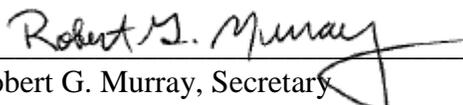
Ms. Whyte requested that the item be tabled until the next Policy Committee meeting whereat the company will be asked to attend so that more information could be gathered.

Ms. Smith asked if the "do nothing and monitor option with retroactive recapture" could be considered.

Mr. Lipsitz stated his concern that the Policy Committee is making this too complicated but did determine to table the matter and invite the company to attend the Policy Committee's January 2019 meeting, and to continue the discussion thereafter.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 10:09 a.m.

Dated: December 6, 2018

  
Robert G. Murray, Secretary