

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

- MEETING:** December 7, 2017, at Erie County Industrial Development Agency, 95 Perry Street, 5<sup>th</sup> Floor Conference Room, Buffalo, New York
- PRESENT:** Richard Lipsitz, Jr., Brenda W. McDuffie, John J. Mudie, Hon. Glenn R. Nellis, Laura Smith, David J. State, Paul V. Vukelic and Maria Whyte
- ABSENT:** Rev. Mark E. Blue, Hon. Byron W. Brown, Hon. Johanna Coleman, Colleen DiPirro, Hon. Joseph C. Lorigo and Hon. Geoffrey M. Szymanski
- OTHERS PRESENT:** Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; Karen M. Fiala, Assistant Treasurer; and Robert G. Murray, Secretary
- GUESTS:** Andrew Federick, Erie County Senior Economic Development Specialist; Rebecca Gandour, City of Buffalo Office of Strategic Planning; Mr. Dave Carswell, on behalf of Emerson Huron, LLC; and Tom Fox, on behalf of St. Paul Group, LLC

There being a quorum present at 8:50 a.m., Mr. Lipsitz called the meeting of the Policy Committee to order.

**MINUTES**

The minutes of the October 12, 2017 Policy Committee meeting were presented. Upon motion made by Mr. Vukelic, and seconded by Mr. State, the aforementioned Policy Committee meeting minutes were unanimously approved.

**PROJECT MATRIX**

Mr. Cappellino reviewed the Agency's project matrix.

**PROJECT PRESENTATIONS**

Emerson Huron, LLC, 75 Huron West, Buffalo, New York. Mr. Cappellino reviewed this proposed sales tax and mortgage recording tax exemption benefits project involving the renovation and redevelopment of the former C.W. Miller Livery facility to serve as the site for a new Buffalo Culinary School to be operated and leased solely by the Buffalo public schools. Mr.

Cappellino stated that in exchange for providing the sales and use tax and mortgage recording 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 = \$36,798,900 85% = \$31,279,065
Employment	Same as recapture period	Maintain 100% of base = 60
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Same as recapture period	Adherence to policy
Unpaid Tax	Same as recapture period	Adherence to policy
Recapture Period	2 years after project completion	Recapture of state and local sales taxes and mortgage recording tax

Mr. Cappellino then introduced Dave Carswell who spoke to Policy Committee members on behalf of the applicant.

Ms. McDuffie noted that the application calls for the construction of a single new approximately 600 sq. ft. apartment and stated her belief that the apartment is being established solely for purposes of obtaining the City of Buffalo Section 485-a real property tax abatement. Ms. McDuffie asked if the company would consider making the apartment available to a person of low or moderate income. Mr. Carswell responded that the small unit doesn't have significant value to the overall project and as such, the developer would consider renting the unit as a low-mod income apartment.

Ms. Whyte asked the developer to describe the challenges to redevelopment. Mr. Carswell stated that the developer has faced significant structural issues including a major need to meet seismic support requirements to bring the building to code.

Ms. McDuffie moved, and Mr. Mudie seconded to approve of the project as proposed. Mr. Lipsitz called for the vote, and the project was then unanimously approved.

St. Paul Group, LLC, 1115 Main Street, Buffalo, New York. Mr. Cappellino reviewed this proposed sales tax and mortgage recording tax exemption benefits project involving the full scale renovation of an existing vacant structure originally constructed in 1898 and known as Our Lady of Lourdes Church. The proposed renovation includes the construction of two new floors within the open cathedral which will result in a building that will measure approximately

32,000 sq. ft. to be used for commercial, retail and residential purposes. It is anticipated that the residential units will be made available at market rate. Mr. Cappellino also noted that the project is located in a highly distressed area and, due to the large amount of speculative vacant space that could be used for retail purposes, and in compliance with Section 862 of the NY General Municipal Law, the Chief Executive Officer of Erie County shall provide written confirmation confirming the issuance of financial assistance for this project. Mr. Cappellino then stated that in exchange for providing the sales and use tax and mortgage recording 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 = \$3,785,000 85% = \$3,217,250
Employment	Same as recapture period	Create 85% of projected: Projected = 18 Recapture Employment = 15
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Same as recapture period	Adherence to policy
Unpaid Tax	Same as recapture period	Adherence to policy
Recapture Period	2 years after project completion	Recapture of state and local sales taxes and mortgage recording tax

Mr. Lipsitz asked Mr. Cappellino how many apartment units will be constructed. Mr. Cappellino responded that three apartment units will be constructed.

Mr. Cappellino then introduced Tom Fox who spoke on behalf of the project and presented a PowerPoint presentation to Policy Committee members.

Mr. Vukelic queried as to whether financing for the project is separate, or associated, with the adjacent medical facility construction project being undertaken by the developer. Mr. Fox stated that the financing is bundled together.

Ms. Smith expressed support for the project and the important positive impact that this project will have within the community. Ms. Smith noted the large financial risk combined with the significant and expensive structural challenges that must be overcome to support the walls and roof of the facility and noted that 18 new jobs will be created as well, and compared this project to prior projects approved by the Agency including the Shea’s Seneca project that also has a similar positive community impact and that was approved by this committee.

Ms. Whyte queried as to what percentage of square footage will be made available for the residential units. Mr. Fox responded that approximately 30% of the space will be allocated to the three residential unit apartments. Ms. Whyte asked how the bank would react to the Agency being involved in the project. Mr. Fox responded that while the ECIDA financial assistance is only a small piece of the overall project and budget, it is the “buy-in” from the ECIDA that is useful and important for getting bank approval.

Ms. Whyte then asked if the Agency does not provide financial assistance, what then would the lender do? Mr. Fox responded that the bank probably would not support the project and provide its lending approval.

Mr. Cappellino confirmed that the bank is looking to finance both the project as before Policy Committee members and the adjacent new medical office building, however, Agency financial assistance will only be provided to the church component of the project.

Ms. Gandour expressed that the Mayor of the City of Buffalo is supportive of this project and the related community benefits and new jobs that will result.

Mr. State noted that comments in the public hearing transcript were inaccurate as related to the NFTA being denied revenues due to the mortgage recording tax exemption benefit. Mr. State then spoke in favor of the project and noted its close proximity to access to public transportation.

Ms. Whyte also then referenced comments made at the public hearing and as recorded in the public hearing transcript, and noted that most of the comments reflected a desire for the construction of affordable housing, however, Ms. Whyte noted that this project is not a housing project, referring to the fact that only about 30% of the total square footage is being allocated to housing purposes, stating that this is a mixed use project consistent with the Agency’s current adaptive reuse project policies and as such, is not a housing project in and of itself. Ms. Whyte also expressed support for the company’s efforts to create 18 new jobs.

Ms. Whyte moved and Mr. Nellis seconded to approve of the project as proposed.

Ms. Smith then commented that the public hearing comments as provided within the public hearing transcript contradict the Agency’s evaluative project criteria and the Agency’s adaptive reuse policy so, while the public hearing input is important, it is also important that the Agency filter through the comments and utilize the Agency’s approved evaluative criteria and policies as it evaluates projects on a case by case basis.

Mr. Lipsitz then called for the vote, and the project was then unanimously approved.

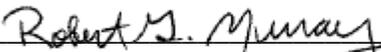
At this point in time, Mr. Nellis left the meeting.

## UPDATES/DISCUSSION

Adaptive Reuse Working Group Update. Mr. Cappellino provided members with an update of the Adaptive Reuse project working group meetings. General discussion ensued. Mr. Cappellino noted that the next Adaptive Reuse Working Group meeting will occur on December 19, 2017. Mr. Lipsitz then directed that the report be received and filed.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 9:53 a.m.

Dated: December 7, 2017

  
Robert G. Murray, Secretary