

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

**MEETING:** January 3, 2019, 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. Johanna Coleman, Richard Cummings, Colleen DiPirro, Hon. William J. Krebs, Richard Lipsitz, Jr., Brenda W. McDuffie, Laura Smith, David J. State and Maria Whyte

**ABSENT:** Hon. April Baskin, Hon. Byron W. Brown, John J. Mudie and Hon. Glenn R. Nellis

**OTHERS PRESENT:** Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; Karen M. Fiala, Assistant Treasurer; and Robert G. Murray, Secretary

**GUESTS:** John Thurber, Jeff Lupinacci, John Dandolph, on behalf of Unifrax; Jim Briggs and Valerie Thomas, on behalf of United Steel Workers; Andrew Federick, Erie County Senior Economic Development Specialist; and Hon. Joseph H. Emminger

There being a quorum present at 9:03 a.m., Mr. Lipsitz called the meeting of the Policy Committee to order.

**MINUTES**

The minutes of the December 6, 2018 Policy Committee meeting were presented. Upon motion made by Ms. McDuffie, and seconded by Mr. Krebs, 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.

**UNIFRAX EMPLOYMENT DISCUSSION**

At this point in time, Mr. Cappellino introduced Mr. Thurber, Mr. Lupinacci and Mr. Dandolph as representatives of Unifrax to the committee. Mr. Cappellino also introduced Mr. Briggs and Ms. Thomas as representatives of United Steel Workers.

Mr. Cappellino provided an overview of the Unifrax Firetower project and related material terms and conditions required to be met and obtained by Unifrax as a condition of receipt of financial assistance. Mr. Cappellino noted that the Agency approved an approximately \$33,000,000 project for a new Unifrax facility located at 360 Firetower Drive in the Town of Tonawanda in 2014. In exchange for sales tax benefits and a real property tax abatement, Unifrax was required to retain 268 employees and create an additional 21 positions by June 2018. Accordingly, Unifrax was required to have 289 employees as of June 30, 2018.

On September 30, 2018, Unifrax provided certification that it was compliant with all job creation requirements and reported 323 employees. However, on October 12, 2018, Unifrax, subsequent to informing the Agency with respect to its September 30, 2018 employment numbers, informed the Agency of a pending permanent layoff of approximately 45 employees. Unifrax is now reporting a total of 257 employees at the Firetower location, which is 32 employees short of its employment requirement of 289 employees. Mr. Cappellino noted that the Agency, in September 2018, approved a two-tiered retention goal of 90% or 95% (depending on the number of employees a company has), however, the policy specifically does not apply to permanently laid off employees.

Mr. Cappellino noted that Unifrax has two other locations in Erie County, at 95 Pirson Parkway and 600 Riverwalk Parkway, both in the Town of Tonawanda. Mr. Cappellino noted the Agency does have a continuing incentive on the Pirson Parkway facility. Mr. Cappellino noted that both facilities have employment which is not part of the numbers for the Firetower complex as just described, and specifically noted as of October 2018, there are 27 FTE employee positions at the Pirson Parkway facility and 117 FTE employees at the 600 Riverwalk Parkway facility. Mr. Cappellino then reviewed the two options for recapture of real property tax abatement benefits as previously discussed with the Policy Committee as follows:

Option 1 would effectively suspend Unifrax's PILOT benefit until it meets its employment requirements and as such, Unifrax would pay full taxes until it obtained its goal of 289 employees.

Under Option 2, the Agency would increase Unifrax's PILOT payment amount that it must pay based on the percentage that Unifrax is out of compliance with its employment commitment. Because Unifrax has an 11% shortfall in overall employment requirements, under Option 2, the Agency would require Unifrax to pay an additional 11% above its 2019 PILOT payment amount for county, town and school taxes.

Mr. Cappellino also noted that these two options were discussed at the last meeting of the Policy Committee and the matter was tabled for additional discussion at today's meeting whereat representatives of Unifrax, who are here today, were requested to be present.

Mr. Lupinacci provided members with an update of Unifrax business operations and noted that global demand for products produced at the Firetower location have changed, affecting the production line at Firetower, but at the same time, noted that other product line demands is growing. Mr. Lupinacci noted that half of what is produced by Unifrax is exported out of New York State and also commented that the company considers all of its New York State

locations to be a single production system, instead of separate projects, and as such, by the end of 2019, Unifrax expects that its total employment will rebound statewide to the original number.

Mr. Briggs then spoke on behalf of United Steel Workers, noting that the union membership numbers have grown at Unifrax facilities and also urged Agency Policy Committee members to consider implementing the lowest possible recapture provisions in the best interests of Unifrax and the community.

Mr. Lipsitz then summarized the employment shortfall and recapture situations, commenting that the company is in breach of its job commitment obligation and confirming that two recapture options have been proposed and presented for discussion today.

Ms. Whyte stated her disapproval of Option 1 because the Agency has a past practice of not terminating 100% of financial assistance at the first instance of a material term violation and stated her preference for Option 2 because it acknowledges the company's job commitment but also recognizes the Agency's commitment to the company's growth as exhibited in the past and as is anticipated in 2019 and going forward.

Ms. Smith reiterated her concerns that she raised at last month's Policy Committee meeting noting that although these are permanent layoffs, the company did state that in 2019 it anticipated a significant amount of new hiring to allow the company to create new jobs and meet its job commitment. Ms. Smith asked if committee members would consider implementing a watch period to allow for a wait-and-see approach in recognition of the company's system-wide production activities similar to the FedEx solution implemented in the past. In this manner, we would allow time for the company to come back into compliance.

Ms. McDuffie expressed her support for looking at all of Unifrax's operations as a single system but noted that the Federal Express project did not involve a permanent layoff. Ms. McDuffie queried if laid off workers would be rehired. Mr. Lupinacci stated that laid off employees have a two year call back preference for re-hiring.

Ms. McDuffie stated she is not in favor of Option 1 and prefers Option 2.

Mr. Blue expressed support for allowing the company some amount of time to create the new jobs and rehire laid off employees.

Mr. State queried the company about how realistic their new hiring outlook and timeframe is. Mr. Dandolph responded that Unifrax has fully committed to making new investments in 2019 thus allowing the new hires to be made.

Mr. Krebs then asked for confirmation as to whether a third option was on the table to allow a watch period or some time to see if Unifrax is able to restore its job numbers.

Mr. Emminger then expressed support for Option 3 and noted that Unifrax has had a very good corporate presence in Erie County for decades but also stated that Unifrax should be accountable for job commitment requirements and the watch period would allow time for Unifrax to establish new hires and if not met, there should be consequences.

Ms. Whyte asked for clarity on the FedEx resolution and whether all locations of FedEx were considered. Mr. Cappellino noted that FedEx had two facilities and had proposed only adding jobs at one facility, however, due to the physical layout of the facility, it was unable to fit all new hires into the initially proposed facility and as such, the Agency resolved to allow jobs at the second facility to be considered to allow the company to meet its job commitment goals.

Ms. McDuffie then asked if the company would be interested in having Pirson employment numbers applied to potential recapture scenarios. Mr. Cappellino commented that the Pirson project already has recapture material terms in place and commented on the difficulties in including and monitoring employee numbers at multiple locations.

Mr. Dandolph noted that products are first machined at the Pirson Parkway facility, then finished at the Firetower facility such that product lines and facilities are mutually dependent upon each other.

Ms. McDuffie asked for clarity as to whether laid off employees have hiring preferences. Mr. Cappellino noted that the new jobs proposed to be created will be at the Pirson Parkway facility and laid off Firetower employees may not have job preferences at the Pirson Parkway facility. Mr. Briggs confirmed that the Pirson Parkway facility is a non-union facility and stated that displaced Firetower employees should be given preference at the Pirson facility. Mr. Lupinacci concluded by stating displaced Firetower employees only have hiring preferences for new jobs at the Firetower facility.

Mr. Lipsitz stated that the proposed solution does not need to be this complicated and emphasized his support for Option 2 as a mild rebuke for failure by the company to meet its job commitments but also stated his belief that Option 2 was not too disruptive in total dollar amount.

Ms. Smith asked if the Committee would consider implementing Option 2 but with a watch period.

Ms. Whyte stated that if the layoffs were anything other than permanent layoffs, that she would be willing to accept Ms. Smith's proposal.

Mr. Weathers cautioned that the Policy Committee should consider that a solution proposed for Unifrax today will most likely need to be replicated to avoid being accused of being arbitrary and capricious in the future should a different approach be taken.

Mr. Krebs expressed his support for Option 2.

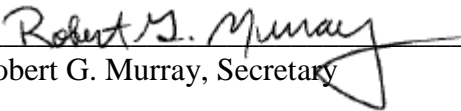
Ms. McDuffie expressed her preference for Option 2 because the employment shortfall involves the permanent layoff of employees. Ms. McDuffie then moved to support Option 2.

Ms. Whyte seconded the motion to approve of Option 2.

Mr. Murray and Mr. Cappellino then asked for confirmation that Option 2 should be amended to allow staff, on a year-to-year basis, to consider the percentage shortfall of employment numbers at the Unifrax Firetower location only, to avoid having to otherwise, on a year-to-year basis, present this issue to the Policy Committee in the future, until Unifrax comes back into compliance. Mr. Lipsitz confirmed and agreed with Mr. Murray's and Mr. Cappellino's statements amending the motion. Mr. Lipsitz then called for the vote, and the following resolution was unanimously approved: to increase Unifrax's Firetower PILOT payment amount based on the percentage that Unifrax is out of compliance with its job commitments at the Unifrax facility, as determined by staff on a year to year basis, being in the current year an 11% additional payment amount required to be made above its 2019 PILOT amounts for the county, town, and school.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 10:00 a.m.

Dated: January 3, 2019

  
Robert G. Murray, Secretary