

TOWN OF CLARENCE, ERIE COUNTY  
INDUSTRIAL DEVELOPMENT AGENCY

MINUTES  
May 21, 2020 (Via ZOOM)

Chris Kempton called the meeting to order at 8:24 a.m.

Present were Peter DiBiase, Robert Dixon, Patrick Johnson, Elaine Wolfe, Mary Powell, Clayt Ertel, and Chris Kempton. Also present were Paul Leone, Jennifer Strong, Steven Bengart and Cynthia Rosel.

**New Business.**

**9865 Main Street-Bank on Buffalo – Assignment and Assumption of the Bank of Akron PILOT**

Chairman Kempton explained that the purpose of this meeting is to consider a request from Bank on Buffalo to assume the PILOT incentive from the Bank of Akron. The Bank of Akron and Bank on Buffalo are merging the banking operations which will be finalized sometime in the middle of July. Mr. Leone has been in touch with Martin Griffith, President of Bank on Buffalo, and an application was submitted. The application was forwarded to Jennifer Strong, the Board members and the attorneys for review. Jennifer Strong explained that the applicant is requesting to assume the remaining term of the Bank of Akron PILOT. This was a 7 year PILOT that has 5 years remaining set to expire December 31, 2025. There is no mortgage or sales tax incentive involved. The employment numbers will remain the same as the Bank of Akron numbers. A resolution adopted by the CIDA Board consenting and authorizing the execution and delivery of a Lease Assignment is necessary for the approval of the Assignment and Assumption of the PILOT. The resolution was prepared by Ms. Strong and submitted to the Board members, Paul Leone and the Attorneys via e-mail for review in preparation for the meeting today.

The discussion concluded and Chairman Kempton moved to adopt the resolution as prepared by Ms. Strong approving the Assignment and Assumption by CNB Bank-DBA Bank on Buffalo of the leasehold interest of the Bank of Akron in the 2017 9865 Main Street Street-Bank of Akron Project. There was a second by Clayt Ertel. On the question, Mr. Dixon asked Ms. Strong if the resolution refers to the rules and regulations for the Assignment and Assumption Bank on Buffalo. Ms. Strong stated that the resolution includes the appropriate language. There was nothing further on the question.

**VOTE:** Ayes: DiBiase, Dixon, Johnson, Wolfe, Powell, Ertel, Kempton. Noes: None  
Recuse: None. Absent. None. Motion carried. Unanimous.  
(Resolution attached hereto as "Exhibit A")

**Old Business:**

Paul Leone asked Jennifer Strong about the APEX project. She replied that the project closed on last week (May 14, 2020).

There being nothing further, there was a motion to adjourn the meeting by Clayt Ertel with a second by Mary Powell.

Meeting Adjourned at 8:32 a.m.

Next Meeting: June 18, 2020

**EXHIBIT "A"**

RESOLUTION OF THE TOWN OF CLARENCE, ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE ASSIGNMENT TO AND ASSUMPTION BY CNB BANK DBA BANK ON BUFFALO OF THE LEASEHOLD INTEREST OF BANK OF AKRON IN THE 2017 9865 MAIN STREET PROJECT AND THE EXECUTION AND DELIVERY BY THE AGENCY OF A CONSENT TO A LEASE ASSIGNMENT AND ASSUMPTION AGREEMENT, AN AMENDED AND RESTATED LEASE TO AGENCY AND AN AMENDED AND RESTATED LEASEBACK AGREEMENT

WHEREAS, the Town of Clarence Erie County Industrial Development Agency (the "Agency") by resolution adopted on December 15, 2016 (the "Inducement Resolution") with respect to the acquisition and equipping by the Agency with the proceeds of a lease only transaction of a back office facility consisting of the renovation of an approximately 200 square foot portion of their existing building located at 9865 Main Street in the Town of Clarence, the construction of an approximately 1,300 square foot addition thereto and the acquisition and installation of machinery, equipment, furnishings and fixtures required in connection therewith, by the Lessee as agent for the Agency, for lease to the Agency and subsequent leaseback to the Lessee, all for a back office facility for lease, (the "Project"); and

WHEREAS, pursuant to such Inducement Resolution, the Agency acquired a leasehold interest in the Facility pursuant to a certain Lease to Agency, dated as of September 1, 2017, between Bank of Akron, as lessor, and the Agency, as lessee, (the "Lease to Agency") and leased the Facility back to Bank of Akron pursuant to a certain Leaseback Agreement, dated as of September 1, 2016, between the Agency, as lessor, and Bryant, as lessee, (the "Leaseback Agreement"); and

WHEREAS, the Agency has now received a request for the Agency's consent to (i) the assignment of Bank of Akron's leasehold interest in the Facility Realty as defined in the Leaseback Agreement, to CNB BANK dba Bank on Buffalo ("CNB"); (ii) the assumption by CNB of the obligations of Bank of Akron under the Leaseback Agreement; and

WHEREAS, the facility will remain a bank branch with administrative offices with CNB as the occupant; accordingly, there will be no change in the Payment in Lieu of Taxes ("PILOT") Provisions attached as Exhibit C to the Leaseback Agreement; and

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

Section 1. The Agency hereby consents and authorizes the execution and delivery of a Lease Assignment and Assumption Agreement between Bank of Akron and CNB & S with respect to the Leaseback Agreement.

Section 2. The Agency approves the execution and delivery of an Amended and Restated Lease to Agency between CNB and the Agency and an Amended and Restated Leaseback Agreement, between the Agency and CNB.

Section 3. The Agency determines that the PILOT provisions shall remain unchanged as there is no change in use or in the occupancy of the Facility.

Section 4. The Agency agrees to release Bank of Akron with respect to obligations arising under the Leaseback Agreement arising after the date of the assignment and assumption by CNB, provided that Bank of Akron shall remain obligated with respect to obligations arising during the time period it was the lessee under the Leaseback Agreement.

Section 5. The Chairman, Vice Chairman, Treasurer, Secretary, Assistant Secretary or other officer of the Agency are hereby authorized to execute and deliver the Lease Assignment and Assumption Agreement, an Amended and Restated Lease to Agency, an Amended and Restated Leaseback Agreement, and such other agreements as may be desirable or required in connection with the assignment to and assumption by CNB of the leasehold interest of Bank of Akron in the Facility Realty and the financing of such transaction and the Secretary and the Assistant Secretary are hereby authorized to affix the seal of the Agency on each such agreement, as applicable, and attest to the same. The execution and delivery of each such agreement by said officer shall be conclusive evidence of due authorization and approval.

Section 6. The Chairman, Vice Chairman, Treasurer, Secretary, Assistant Secretary or other officer of the Agency are hereby designated the authorized representative of the Agency, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits or other documents to do and cause to be done any and all acts and things necessary or proper for the carrying out of this resolution.

Section 7. The Agency hereby determines, based upon information furnished to the Agency by CNB and such other information as the Agency has deemed necessary to make this determination, that the Project constitutes a Type II action under the State Environmental Quality Review Act, being Article 8 of the New York State Environmental Conservation law, and the contemplated actions will not have a significant effect on the environment.

Section 8. CNB agrees that it will pay all Agency Administrative Fees and reimburse the Agency for all its expenses in connection with this transaction, including reasonable legal fees, and by accepting this resolution it agrees to such fees and consent to the transaction.

Section 9. This resolution shall take effect immediately.

Adopted: May 21, 2020

Accepted:

By: \_\_\_\_\_  
Name:  
Title:  
Date:

Bank of Akron  
CNB Bank dba Bank on Buffalo  
By: \_\_\_\_\_  
Name:  
Title:  
Date: