

TOWN OF CLARENCE, ERIE COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

MINUTES

March 17, 2022
(In Person and ZOOM)

Chris Kempton called the meeting to order at 8:15 a.m.

Present were Lauren Fix, Peter DiBiase, Mary Powell, and Chris Kempton. Joining via ZOOM was Clayt Ertel. Also present were Larry Meckler, Steven Bengart, Paul Leone, Jennifer Strong, Kimberly Ignatowski, Cynthia Rosel, and from the Town of Clarence Planning and Zoning Department were Jonathan Bleuer, Director of Community Development and Andrew Schaefer, Junior Planner. (Lauren Fix arrived at 8:22 a.m.) Elaine Wolfe and Robert Dixon were out of Town.

Minutes of February 17, 2022.

There was a motion to approve the minutes of the February 17, 2022 meeting by Mary Powell with a second by Peter DiBiase. There was nothing on the question. The vote was as follows:

Vote: Ayes: DiBiase, Powell, Ertel, Kempton. Noes: None
Recuse: None. Absent: Wolfe, Dixon, Fix. Motion carried.

Mr. Kempton reminded the members that there is a Finance and Audit Committee Meeting after this meeting.

Treasurer's Report.

Peter DiBiase went over the financial report as of March 17, 2022. There were no fees received to date. The expenses for the period were in the amount of \$1,478.50 bringing the total expenses from January to March 17 to \$20,714.50. Total interest earned to date is \$45.39. Net income is -20,669.11 to date. Mr. DiBiase asked if there were any questions or comments. Mary Powell asked about the Marketing and Promotion fee and if it was a one-time fee or annually. Mr. Kempton answered that it was for the membership fee for Invest Buffalo Niagara for the first year. Mr. Kempton asked if there was anything else regarding the financials. There were none. Mary Powell moved to accept the Treasurer's Report as presented with a second by Clayt Ertel. There was nothing further on the question. The vote was as follows:

Vote: Ayes: DiBiase, Powell, Ertel, Kempton. Noes: None
Recuse: None. Absent: Wolfe, Dixon, Fix. Motion carried.

Correspondence.

A Notice of Public Hearing was received from the Town of Amherst IDA and was e-mailed to everyone. There were several e-mails from the NYSEDC that were forwarded to all.

New Business.

Paul Leone met with Paul Stephan regarding possible new projects that are being considered for Main Street. Mr. Leone also asked Ms. Strong to report on the Greens on Sheridan Project that closed in December. Ms. Strong did speak with the applicant's attorney and the financing is still being worked on. Ms. Strong also has been contacted regarding the Niagara Produce Project and a name change on the project. The project was in the name of This would be an Assignment/Assumption of the PILOT. The amended application has been submitted and the proof of the filing of the new entity needs to be on file. Ms. Strong has checked and the new LLC has not been filed yet. As soon it has been confirmed that the LLC has been formed and is on file, an Assignment/Assumption resolution will be presented to the Board to consider approval of the change. They are not asking for any additional benefits, just the name change.

Old Business:

New Cost Analysis Benefit Program Agreement.

The Chairman said that the company who was doing the IMPLAN for the Town is no longer providing that service. The new company that supports the new study would charge a one-time fee of \$1,000. Mr. Bengart will look at the agreement further and has some changes that he would like to see made before it is signed. There has been discussion regarding how the IMPLAN would now be completed. Ms. Rosel and Ms. Ignatowski have looked at the model and tutorial provided by the MRB Group. It was decided that Ms. Ignatowski and Ms. Rosel would prepare the IMPLAN Study at least for a year. Paul Leone said that Dave Mingoia would still be available to complete the Cost Benefit Analysis. Ms. Rosel added that she is sure that Mr. Mingoia would be available to ask questions if we have any since he has been preparing the IMPLAN's for the CIDA. Each IDA will have to have to sign on individually with this company. Mr. Bengart has several questions regarding the agreement such as support fee expenses. He will see what he can negotiate with the company. Ms. Powell would like to see what they would charge for the "help desk" if whoever is filling out the information has a simple question. The Chairman moved for the CIDA to enter into an agreement and the agreement will include language that would allow the CIDA support staff to contact the MRB Group with whatever questions/issues they may have up to 5 hours of assistance. The motion was seconded by Clayt Ertel. On the question, Steve Bengart will further review the agreement and contact MRB Group to discuss the changes. There was nothing further on the question. The vote was as follows:

Vote: Ayes: Fix, DiBiase, Powell, Ertel, Kempton. Noes: None
Recuse: None. Absent: Wolfe, Dixon. Motion carried.

UTEP – Uniform Tax-Exempt Policy – Further discussion regarding the amended/restated Policy.

At 8:30 a.m. the Chairman gave brief comments on the new policy. A letter was sent to the appropriate tax jurisdictions for the Clarence IDA with the draft of the proposed new policy inviting them to attend this meeting to offer any comments they may have. The meeting Notice was posted on the CIDA website also inviting written comments. There were no representatives from the tax jurisdictions present and there were no written comments received regarding the new Policy. The ECIDA did have its virtual meeting in January sending out letters notifying the tax jurisdictions about the new policy, many of which are the same as the Town of Clarence jurisdictions as that would be county wide.

Since there was no-one present from the tax jurisdictions, no one on ZOOM and no written comments to address, the Chairman moved to adopt the resolution as presented to accept the amended/restated UTEP policy with a second by Clayt Ertel. Mr. Kempton asked if there was anything on the question. Mary Powell is not happy with the new policy and believes that there was not enough effort put forth to review the changes. She does not like the point system. She was not at any of the meetings regarding these changes. She is not in favor of the 5-year PILOT. Mr. Kempton met with Mr. Leone and Ms. Rosel and took several of the approved projects and used the new point system to see what benefit they would qualify for under this new point system. There was further discussion regarding the new tiers and what an applicant would qualify for. Would applicants go forward with the project if they would receive the 5-year benefit when the project would qualify for a 7-year project at different rates. Ms. Fix asked if this is mandated. Mr. Kempton answered that yes, the CIDA must have a policy. There was discussion regarding projects going forward without IDA benefits. It was also mentioned that this may be poor timing to make these changes. Projects are not going forward for many reasons, inflation, labor shortages, and material shortages. Mr. Kempton said that conceptually, he understands the new policy, he does not think it is perfect. There was also discussion regarding deviation of the policy. and legislation that may be considered regarding the local IDA's. The final discussion was that the Board members will adopt the policy.

Mr. Kempton said that we have a motion and a second on the table and asked for a vote. The vote was as follows:

Vote: Ayes: Fix, DiBiase, Powell, Ertel, Kempton. Noes: None
Recuse: None. Absent: Wolfe, Dixon. Motion carried.

Vision Sheridan Drive Project (RFP).

Jonathan Bleuer and Andrew Schaefer were present to discuss the RFP that they have prepared. This document was forwarded to the members, Mr. Leone, to the attorneys for review. Mr. Kempton said the CIDA commissioned a study, actually two studies, for the development of Main Street. One was the Vision Main Street Corridor Project and the other was an Economic Study to support that project. The Town ended up incorporating the Vision Main Street Study into the Master Plan.

Jonathan met with the Board regarding the activity on Sheridan Drive between Main Street and Transit Road and suggested another study be done in that area. Mr. Kempton added that the study has been a guide for developers along Main Street. Mr. Bleuer added that it makes for clarity, allows for a smoother review process, it is quicker...

The proposal now is that the CIDA commission a study for Sheridan Drive. The RFP was created and it was forwarded to the Board members for review. It is also in the packet. It is ready to go out. Mr. Bleuer said that it is ready.

The Chairman moved to authorize the Town of Clarence to proceed with the RFP process for Sheridan Drive (The Sheridan Drive Corridor Economic Redevelopment Plan) for an amount not to exceed \$50,000 as part of the RFP document. There was a second by Clayt Ertel. On the question, Mary Powell asked if Mr. Bleuer and Mr. Schaefer worked this RFP off of the Main Street RFT. Mr. Bleuer said that the technical elements are drawn straight from the Main Street RFP. They were able to simplify it based on experience from the RFP for the Vision Mains Street Project, knowing what worked and what didn't.

This RFP is a bit simpler. They also added in the Harris Hill corridor which makes sense. Mr. Kempton asked who will the RFP be going out to. Mr. Bleuer said that there is a list of over 30 consultants they have compiled that the RFP will be sent to. There was further comment on the language in the RFP regarding fees. Mr. Meckler said that the proposal will be looked at very carefully and Mr. Bleuer added that all factors will be considered for all submitted proposals. There being nothing further the vote was as follows:

Vote: Ayes: Fix, DiBiase, Powell, Ertel, Kempton. Noes: None
Recuse: None. Absent: Wolfe, Dixon. Motion carried.

(The adopted resolution is attached as Exhibit “A” and incorporated as part of the minutes)

After the RFP has been awarded, there will be meetings set up to meet with the community invited residents and business to be part of the process and to see what the ultimate design looks like. This gives the community the opportunity to comment...especially the home owners in the area.

2021 Audit Report – Drescher and Malecki.

Nicole Ruf from Drescher and Malecki presented the Auditors Report for 2021. Miss Ruf went over the Audit packets that contained the Independents Auditors Report and Analysis. There was discussion on the Annual Questionnaire and if there were any projects that have not responded. There are two projects that have still not sent in the completed questionnaire. Follow-up will be done. The response for the questionnaires has been much better over the last few years. All of the PILOT payments have been made. The PARIS report needs to be certified by March 31st. All the information is uploaded by the Auditor and must be uploaded by the March 31st

There was a motion by Mary Powell to accept the 2021 Audit Report with a second by Lauren Fix. There was nothing on the question.

Vote: Ayes: Fix, DiBiase, Powell, Ertel, Kempton. Noes: None
Recuse: None. Absent: Wolfe, Dixon. Motion carried.

Items not on the Agenda.

None.

Public Comment.

None.

The meeting was adjourned at 9:46 a.m.

Respectfully submitted,
Cynthia Rosel

Exhibit "A"

RESOLUTION OF THE TOWN OF CLARENCE, ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("AGENCY") ADOPTING AN AMENDED AND RESTATED COUNTYWIDE INDUSTRIAL DEVELOPMENT AGENCY UNIFORM TAX EXEMPTION POLICY ("UTEP")

WHEREAS, New York State General Municipal Law ("GML") Section 874(4) requires that every Industrial Development Agency adopt a UTEP to establish guidelines for the provision by an Agency for real property tax, mortgage tax, and sales and use tax exemptions; and

WHEREAS, in 2001, a Countywide Industrial Development Agency UTEP was established and adopted for use by the industrial development agencies in Erie County (the Town of Amherst Industrial Development Agency, the Town of Clarence Industrial Development Agency, the Town of Concord Industrial Development Agency, the Town of Hamburg Industrial Development Agency, the Town of Lancaster Industrial Development Agency and the Erie County Industrial Development Agency, collectively, the "IDAs") and entitled the Countywide Industrial Development Agency Uniform Tax Exemption Policy ("Countywide Policy"); and

WHEREAS, the IDAs have determined that it is in the best interest of the IDAs and the residents of Erie County and the various Towns, Villages and Schools within the jurisdiction of the IDAs to amend and restate the Countywide Policy, in its entirety, to ensure consistency and compliance with the GML and to ensure efficient ease of use for IDA Financial Assistance recipients; and

WHEREAS, officials and staff from the IDAs have jointly drafted an Amended and Restated Countywide Industrial Development Agency Uniform Tax Exemption Policy, that amends and restates in its entirety the Countywide Policy (hereinafter, the "Amended and Restated Countywide UTEP"), and in this effort, have considered the following issues as so related thereto, all as required by the GML: (i) the extent to which a project will create or retain permanent private sector jobs; (ii) the estimated value of any tax exemptions to be provided; (iii) whether affected taxing jurisdictions shall be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; (iv) the impact of a proposed project on existing and proposed business and economic development projects in the vicinity; (v) the amount of private sector investment generated or likely to be generated by the proposed project; (vi) the demonstrated public support for a proposed project; (vii) the likelihood of accomplishing the proposed project in a timely fashion; (viii) the effect of the proposed project upon the environment; (ix) the extent to which the proposed project will require the provision of additional services; and (x) the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts (collectively, items (i) through (x), hereinafter referred to as "UTEP Considerations"); and

WHEREAS, on February 18, 2022, the Agency provided written notification to the affected tax jurisdictions of, and provided the contemplated draft Amended and Restated Countywide UTEP to, the affected tax jurisdictions, as so required by the GML, and

WHEREAS, on January 27, 2022, the Erie County Industrial Development Agency hosted a Zoom/video/telephonic informational meeting attending by the IDAs and various affected tax jurisdictions whereat the draft Amended and Restated Countywide UTEP was presented and discussed; and

WHEREAS, on March 17, 2022, the Agency reviewed and discussed the draft Amended and Restated Countywide UTEP; and

WHEREAS, attached hereto within Exhibit A is the proposed Amended and Restated Countywide UTEP; and

WHEREAS, the Agency, having considered all comments received from the affected tax jurisdictions, now desires to adopt the proposed Amended and Restated Countywide UTEP.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The Agency hereby determines that the adoption of the proposed Amended and Restated Countywide UTEP is a Type II Action within the meaning of the State Environmental Quality Review Act ("SEQR") and therefore no further actions under SEQR need be undertaken by the Agency.

Section 2. The Agency hereby adopts the Amended and Restated Countywide UTEP which is set forth within Exhibit A attached hereto,

Section 3. The Agency, acting by and through its Chair, Vice Chair, Secretary, Assistant Secretary, or any other designated officer or director, is hereby authorized to do all things necessary or appropriate for the accomplishment of the purposes of this resolution, and all acts heretofore taken by the Agency with respect to the Amended and Restated Countywide UTEP are hereby approved, ratified and confirmed,

Section 4. This Amended and Restated Countywide UTEP shall be effective on April 1, 2022 (the "Effective Date") and shall apply to all projects for which the Agency has adopted or adopts an Inducement Resolution after the Effective Date.

Dated: March 17, 2022