

**MINUTES OF THE MEETING OF THE
BOARD OF DIRECTORS OF THE
BUFFALO AND ERIE COUNTY REGIONAL
DEVELOPMENT CORPORATION
(RDC)**

DATE AND PLACE: March 27, 2024, at the Erie County Industrial Development Agency, 95 Perry Street, 4th Floor Conference Room, Buffalo, New York 14203

PRESENT: Denise Abbott, Rev. Mark Blue, Hon. Joseph Emminger, Dottie Gallagher, Michael P. Hughes, Hon. Howard Johnson, Tyra Johnson, Hon. Brian Kulpa, Richard Lipsitz, Jr., Denise McCowan, Brenda McDuffie, Hon. Glenn R. Nellis, Hon. Brian Nowak, Kenneth A. Schoetz and Paul Vukelic

EXCUSED: Hon. Bryon W. Brown, James Doherty, Hon. Mark Poloncarz and Hon. Christopher Scanlon

OTHERS PRESENT: John Cappellino, President & CEO; Beth O’Keefe, Vice President of Operations; Mollie Profic, Chief Financial Officer; Grant Lesswing, Director of Business Development; Gerald Manhard, Chief Lending Officer; Atiqa Abidi, Accounting Manager; Soma Hawramee, Compliance Portfolio Manager; Michelle Moore, Compliance Associate; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant/Assistant Secretary; Andrew Pawenski, Esq., Harris Beach PLLC and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

GUESTS: Zachary Evans and Daniel Castle on behalf of Erie County

There being a quorum present at 12:58 p.m., the meeting of the Buffalo and Erie County Regional Development Corporation (the “RDC”), was called to order by its Chair, Ms. McDuffie.

MINUTES

The minutes of the October 25, 2023, meeting of the members were presented. Mr. Lipsitz moved, and Ms. Gallagher seconded, to approve of the minutes. Ms. McDuffie called for the vote, and the minutes were then unanimously approved.

REPORTS/ACTION ITEMS/INFORMATION ITEMS

Financial Report. Ms. Profic presented the February financial reports. The balance sheet shows that the RDC finished the month with total assets of \$23.1M, consisting of cash and loans receivable. Liabilities reflect amounts due to ECIDA for 2023 costs and a small amount of deferred revenue related to the CARES Act RLF administrative funds. Fund balance is \$22.7M.

The February income statement shows \$50,000 of revenue, all loan interest income, and \$28,000 of expenses. After non-operating revenue of \$10,700, net income for February was \$32,600. The year-to-date income statement shows revenue of \$101,000, \$47,000 of expenses, and \$21,000 of non-operating revenue, combining for net income of \$67,500 through the first two months of the year. Ms. McDuffie directed that the report be received and filed.

Finance & Audit Committee Update. Ms. Profic provided a summary of the joint Finance & Audit Committee meeting held on March 21st. Our auditors from Lumsden McCormick presented draft 2023 audited financial statements. The three main points of the presentation were an unmodified (clean) opinion on the financial statements, there were no uncorrected audit adjustments, and there were no material weaknesses or significant deficiencies noted (no management letter comments). The Committee also reviewed and recommend the items listed under #2-8 for approval or re-adoption: 2023 Public Authorities Report, 2023 Investment Reports, Investment & Deposit Policy, Committee Charter, Committee Self-Evaluation, Management's Assessment of the Effectiveness of Internal Controls, and Corporate Credit Card Policy with no suggested changes.

Ms. Profic reviewed the Committee's Self-Evaluation. She stated that each year the Committee completes a self-evaluation, as required by the Committee Charter. Essentially, did the Committee fulfill its duties per the Committee Charter? Comments in the rightmost column give some detail of the Committee activity throughout the year, and additional notes were provided. In 2023, the Committee officially convened a total of 5 times and fulfilled its duties as documented. Ms. McDuffie directed that the report be received and filed.

Audited Financial Statements. Ms. Profic reviewed the draft 2023 audited financial statements, required communications, and management letter. Lumsden McCormick's required communications with those charged with governance, which documents the auditors' responsibility related to the financial statement audit, notes that there were no matters of concern that arose related to the significant risks identified, a summary of accounting estimates made within the financials, that there were no uncorrected audit adjustments, and no disagreements with management. The most significant estimate for RDC is the allowance for uncollectible loans. She mentioned that an unmodified opinion was issued on the statements. The management letter notes no significant deficiencies or material weaknesses. The Representation Letter will be signed once the audit is approved by the board. Ms. Profic reviewed the draft financial statements. As a special-purpose government engaged in business-type activities, the RDC's financial statements are prepared based on Governmental Accounting Standards and include a Management's Discussion and Analysis section, which provides a condensed overview of the statements. The balance sheets show total assets of \$23.0M at December 31, 2023, an increase of \$431,000 (2%) from 2022. Loans receivable increased \$1.6M due to six loans closed in 2023 combined with principal repayments. Under current liabilities, there is \$12,000 of unearned revenue related to CARES Act grant funding that is earmarked for future administrative costs related to that loan fund. Net position is grouped into Restricted (CARES Act RLF) and Unrestricted (Legacy RLF), reflective of the Federal and non-Federal nature of the two Revolving Loan Funds. The statements of revenues, expenses, and changes in net position (income statements) detail the \$506,000 increase in net position for the year. Operating revenues of \$673,000 were up from \$555,000 in 2022, due to an increase in loans receivable and higher interest rates on more recently closed loans. Operating expenses increased from \$243,000 in

2022 to \$324,000 in 2023, due to increased general & administrative expenses and a lower negative loan loss expense. In 2023 RDC incurred higher legal costs associated with specific loans and performed targeted marketing of the loan funds. There was also a reduction in the loan loss allowance of \$26,000. Under non-operating revenues, \$84,000 of grant revenue related to CARES Act RLF administrative costs was recognized in 2023, along with \$72,000 of bank interest income. The cash flows statements detail the changes in cash balances from year to year. The overall decrease in cash was due to loans closed during the year. The remainder of the financials are the notes, supplementary information, and the Schedule of Expenditures of Federal Awards. Ms. Profic is pleased to report there were no findings or questioned costs noted as a result of the Single Audit of the CARES Act RLF. These drafts were reviewed and discussed in detail with the Finance & Audit Committee on March 21, and they recommended approval to the Board. We will continue to work with Lumsden McCormick to file IRS Form 990 and the Data Collection Form related to the single audit.

Mr. Nellis moved and Mr. Johnson seconded to approve of the audited financial statements. Ms. McDuffie called for the vote and the audited financial statements were unanimously approved.

2023 Investment Report. Ms. Profic reviewed this report which is required by Public Authorities Law and includes RDC's investment guidelines, the results of the annual audit of these guidelines, and detail of investment income and fees for the year. \$72,600 of investment income was earned on the accounts during 2023, and no fees were paid. This report was reviewed by the Finance & Audit Committee at their March 21 meeting and recommended to the Board for approval.

Mr. Hughes moved and Mr. Blue seconded to approve of the 2023 Investment Report. Ms. McDuffie then called for the vote and the 2023 Investment Report was unanimously approved.

Governance Committee Update: Ms. O'Keefe provided the Board members with an update. Ms. McDuffie directed that the report be received and filed.

ILDC Loan Status Report. Mr. Manhard provided this report to Board members. Ms. McDuffie directed that the report be received and filed.

Approval of Board Certification of Loan Administration Plan-CARES Act RLF. Ms. McDuffie reviewed this resolution with Board members. Mr. Kulpa moved and Mr. Emminger seconded to approve of Board Certification of Loan Administration Plan-CARES Act RLF as proposed. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE BUFFALO AND ERIE COUNTY REGIONAL DEVELOPMENT CORPORATION (THE "RLF LOAN BOARD" OR "RDC") IN CONNECTION WITH AN ANNUAL CERTIFICATION TO BE MADE UNDER THE STANDARD TERMS AND CONDITIONS AND ADMINISTRATIVE MANUAL REQUIREMENTS OF THE FEDERAL ECONOMIC DEVELOPMENT ADMINISTRATION

REVIEW AND ADOPTION OF POLICIES, REPORTS AND COMMITTEE CHARTERS.

2023 Mission Statement, Performance Measures and Results; 2024 Mission Statement and Performance Measures and 2023 Public Authorities Report. Ms. O’Keefe reviewed the 2023 Mission Statement, the 2024 Mission Statement and performance measures and the 2023 Public Authorities Annual Report. Ms. Profic stated as a Public Authority of the State of New York, ECIDA and its affiliates are required to comply with the NYS Public Authorities Law and submit a comprehensive annual report including information on several topics. Several of the items are covered by other documents, like the operations and accomplishments and financial statements, which are note throughout the document. The third item, Mission Statement & Performance Measurements, is updated each year with actual results (and was just reviewed). Many of the items included are standard from year to year and are also approved or re-adopted by the Board annually and was updated for 2023 to update the work underway at ILDC-owned properties, the RDC’s lending activity, and the approval of the Economic Inclusion Policy. Attachments include outstanding bond information, salary & benefit information, projects undertaken by each entity, our Property Report, Board Member attendance, and the Procurement Reports for each entity. Once approved, the certification will be signed by Mr. Cappellino and Ms. Profic and the report will be posted to the website. This report was reviewed by the Governance Committee at their meeting on March 20th and the Finance & Audit Committee at their meeting on March 21st and has been recommended to the Board for approval.

Ms. Gallagher moved, and Mr. Johnson seconded to approve of the 2023 Mission Statement, Performance Measures and Results; 2024 Mission Statement and Performance Measures and 2023 Public Authorities Report. Ms. McDuffie called for the vote and the 2023 Mission Statement, Performance Measures and Results; 2024 Mission Statement and Performance Measures and 2023 Public Authorities Report was unanimously approved.

RE-ADOPT POLICIES AND CHARTERS

Ms. O’Keefe noted that Items 4-23 on the agenda were reviewed by counsel, the Board Committees recommended no changes, and as such, the staff recommends that the policies and charters items numbered 4-23 be approved without any changes. Mr. Blue moved and Ms. Johnson seconded to approve of the various polices and charters as itemized below. Ms. McDuffie called for the vote and the following policies and charters were then unanimously approved:

- Airborne Infectious Disease Policy
- Board Member Compensation, Reimbursement & Attendance Policy
- Code of Ethics & Conflict of Interest Policy
- Defense & Indemnification Policy
- Corporate Credit Card Policy
- ECIDA Employee Compensation Program
- Fee Structure Policy

- Finance & Audit Committee Charter
- Governance Committee Charter
- Investment & Deposit Policy
- Procurement Policy
- Professional Services RFP Process and Policy
- Property Disposition Guidelines
- Real Property Acquisition Policy
- Sexual Harassment Policy
- Statement of Duties & Responsibilities of the Board of Directors
- Statement of the Competencies & Personal Attributes Required by Board Members
- Travel, Conferences, Meals & Entertainment Policy
- Video Conferencing Policy
- Whistleblower Policy and Procedures

There being no further business to discuss, Ms. McDuffie adjourned the meeting at 1:15 p.m.

Dated: March 27, 2024



Elizabeth A. O'Keefe, Secretary