

**TOWN OF UNION
LOCAL DEVELOPMENT CORPORATION
MINUTES
THURSDAY, DECEMBER 20, 2018**

SYNOPSIS OF MEETING

The Town of Union Local Development Corporation met for a regular meeting on Thursday, December 20, 2018 at the Town of Union Office Building, located at 3111 East Main Street, Endwell, NY 13760.

I. THE MEETING WAS CALLED TO ORDER AT 8:00 A.M.

MEMBERS PRESENT: Stephen Trichka, Diane Julian, Robert Corwin, Gary Leighton, James Peduto, Mary O'Malley-Trumble, Timothy Strong

MEMBERS ABSENT: Jeffrey L'Amoreaux

OTHERS PRESENT: Rosemarie Pope (LDC Board Attorney)

STAFF PRESENT: Joseph Moody (LDC Director), Robin Shimer (Admin. Asst.)

II. APPROVAL OF THE MINUTES

Minutes of the regular LDC Board Meeting of November 15, 2018 were reviewed and approved.

Motion: Mary O'Malley-Trumble

Motion 2nd: Diane Julian

Motion: To approve the minutes of the regular LDC Board Meeting held on November 15, 2018, as written.

Vote: All yes, motion approved [6 - Yes, 0 - No, 1 - Absent].

III. PRESIDENT'S REMARKS

President Trichka shared welcoming remarks and offered his best wishes for an enjoyable holiday season.

IV. DIRECTOR'S REMARKS

Director Moody referenced the topics of Board discussion and consideration as listed on the meeting agenda.

V. OLD BUSINESS

- A. Director Moody sought LDC rescinding of the previously approved \$50,000.00 Central Business District (CBD) loan to HealthWear Rental, Inc. after his discussion with the loan applicant. The loan had been approved to provide business relocation assistance to acquire property and a building at 400 North Street in Endicott. Rescinding of the loan is desired due to two factors: (1) the business's decision to not relocate at 400 North Street and non-identification of a relocation site and (2) expiration of the LDC Commitment Letter's August 15, 2018 loan closing deadline. Following Board discussion, President Trichka requested a motion to rescind the Central Business District (CBD) loan to HealthWear Rental, Inc. The loan was earlier approved by the LDC Board on February, 15, 2018.

Motion: Jim Peduto
Motion 2nd: Diane Julian
Motion: To rescind Town of Union Local Development Corporation (LDC) Central Business District (CBD) loan financing to HealthWear Rental, Inc. in an amount not to exceed \$50,000.00. The loan was previously approved by the LDC Board of Directors on February 15, 2018. The LDC desires to rescind the previously approved loan financing due to (1) reconsideration of business site relocation and non-utilization by HealthWear Rental, Inc. of the approved loan financing and (2) expiration of the LDC Commitment Letter's loan closing deadline of August 15, 2018.
Vote: Motion approved [6 - Yes, 0 - No, 1 - Absent].

- B. Director Moody sought LDC rescinding of the previously approved \$13,000.00 Central Business District (CBD) loan to Taylor Irene Properties, LLC. He did so due to two factors: (1) the business's reconsideration of utilization of the approved financing and (2) expiration of the LDC Commitment Letter's March 30, 2017 loan closing deadline. Following Board discussion, President Trichka requested a motion to rescind the Central Business District (CBD) loan to Taylor Irene Properties, LLC. The loan was earlier approved by the LDC Board on November 30, 2016.

Motion: Mary O'Malley-Trumble
Motion 2nd: Gary Leighton
Motion: To rescind Town of Union Local Development Corporation (LDC) Central Business District (CBD) loan financing to Taylor Irene Properties, LLC in an amount not to exceed \$13,000.00. The loan was previously approved by the LDC Board of Directors on November 30, 2016. The LDC desires to rescind the previously approved loan financing due to (1) reconsideration by Taylor Irene Properties, LLC of utilization of the approved financing and (2)

expiration of the LDC Commitment Letter's loan closing deadline of March 30, 2017.

Vote: Motion approved [6 - Yes, 0 - No, 1 - Absent].

Also, Counselor Pope asked Mr. Moody if he had been contacted about potential loan closing dates pertaining to Endicott's 1 North Page Avenue (National Pipe & Plastics, Inc.) and 17 Kentucky Avenue (17 Kentucky Avenue, LLC) properties. Mr. Moody said he has not heard from the business owners. Counselor Pope said the attorneys for the two businesses have yet to contact her. She stated that she will reach out to those attorneys.

VI. NEW BUSINESS

- A. Director Moody presented to the Board a loan request by Samuel A. Lupo, Jr. of SSE3, LLC. Mr. Lupo is seeking Town of Union Business Assistance (TUBA) Loan Program financing, via CDBG funds, in an amount not to exceed \$300,000.00. The loan is to be paid back over a 20 year term at 3% interest. The purpose of the loan is to assist in the purchase of property and 10,500 square feet of buildings located at 625 Dickinson Street, Endicott and thereby expand the operation of Sam A. Lupo and Sons by obtaining additional office and storage space, and by constructing a building addition of about 9,000 square feet to serve as a refrigerated work area for food processing purposes.

Mr. Moody shared with Board members that funding from SSE3, LLC's primary lender, Visions Federal Credit Union, has been secured. He also said the project's environmental assessment review resulted in a satisfactory finding by the Town's Director of Planning and Community Development. Mr. Moody presented his narrative that summarized the application and related information.

Mr. Moody informed the Board that Mr. Lupo also requested a \$425,000.00 grant from Empire State Development (ESD). Mr. Moody has not yet received written verification from ESD attesting to its commitment to the project. He noted there is favorable outlook of ESD granting funding to SSE3, LLC; however, the level of financing is uncertain. Mr. Leighton asked what the consequences would be if ESD approved only a partial amount of the \$425,000.00 grant request. Mr. Moody replied that, in addition to providing a 12 month bridge loan of \$425,000.00, Visions Federal Credit Union (VFCU) indicated there may be opportunity for providing financing supplemental to any shortfall of ESD grant financing. Mr. Strong inquired if the ESD grant would be that of all or zero financing of the requested amount, or if ESD could counter with a partial amount of the requested \$425,000.00. Mr. Moody said ESD would offer a counter amount if the \$425,000.00 grant request is not completely provided.

Mr. Trichka asked if ESD's grant to SSE3, LLC would fall outside the realm of New York State Regional Economic Development Council (REDC), Consolidated Funding Application (CFA) or any other state economic development grant programs. Mr. Moody

said that, due to the timing of the SSE3, LLC request, a grant to that business would fall outside of the REDC and CFA process, and instead would be financed from within ESD's own grant programs. Ms. Julian inquired, as a point of verification, if ESD review of a business's grant request is typically a long process. Mr. Moody affirmed that such a timeframe for ESD grant review, approval and financing distribution is not uncommon.

Mr. Moody said the potential TUBA loan to SSE3, LLC would be in an amount not to exceed \$300,00.00. The loan terms include repayment over a 20 year period at 3% interest. He noted the LDC would hold a second mortgage lien position behind VFCU. He said the credit union has requested an appraisal of the 625 Dickson Street property. Mr. Moody then commented on the loan-to-value ratio, and also the business's workforce of 21 full-time equivalent positions. Mr. Trichka inquired about the loan's job fulfillment requirement. Mr. Moody said the loan compels the hiring of 10 new employees. He then asked Credit Committee member Leighton to provide a review of the financial documents submitted by Mr. Lupo. Mr. Leighton shared insight about operational and performance aspects of the business, as ascertained from his prior analysis of the financial documents. That analysis was largely performed with focus on comparative and historical aspects of the documents. The documents included a statement of assets, liabilities and equity; a statement of revenues and expenses; a statement of cash flows; and income statement projections. After Mr. Leighton's presentation there was further discussion of the loan, including Mr. Moody's affirmation of availability of financing to assist SSE3, LLC.

Mr. Trichka inquired about the year's CDBG and UDAG draw-down levels. Mr. Moody said there was a commitment of UDAG funds of \$200,000.00 to 17 Kentucky Avenue, LLC and \$300,000.00 to National Pipe & Plastics, Inc. The current total level of available funds is approximately \$600,000.00 in UDAG funds and \$425,000.00 in CDBG funds.

Mr. Corwin stated that he was impressed with the operation and projected plans of Mr. Lupo's business. Mr. Leighton expressed favorable opinion of the business's earnings. Ms. O'Malley-Trumble shared her appreciation for the business to locally conduct its operations. Ms. Julian attested to the character of the Lupo family members and their demonstrated commitment to the community.

Mr. Moody asked Board members about their comfort level with the business equity, collateral and financing request. Mr. Trichka expressed consternation about the financing consequences of a possible shortfall of ESD financing. Mr. Trichka and Mr. Moody shared the perspective that a potential result of ESD financing of less than \$425,000.00 may be provision of greater personal equity financing by Mr. Lupo. Mr. Leighton sought definition and verification of LDC recovery means. Mr. Moody said the LDC would have a 2nd mortgage lien positioning on the 625 Dickson Street property.

Ms. Julian inquired to seek affirmation of the securing of cross-guarantees. Mr. Moody said cross-guarantees will be provided by the corporate guarantees of Sam A. Lupo and

Sons, Inc. and BMEJ, LLC. Mr. Strong then asked what the projected timeframe is to begin operations. Mr. Moody indicated that Mr. Lupo is in the process of receiving planning approval for the project, so the intent is to move forward depending on ESD financing. In discussing projected profit, Mr. Peduto noted that the business's projections showed every year to be better than the year before. Mr. Corwin and Mr. Moody spoke about the modest profit margin that is typical of the food industry. Mr. Leighton asked if LDC action to approved the loan would be done subject to ESD grant request approval. The Board and Mr. Moody determined that LDC action on the loan request must be made on the basis of ESD approving the grant request. Mr. Leighton asked if VFCU loan actions were contingent on ESD grant approval. Mr. Moody said VFCU approved a long-term and short-term loan due to grant request.

Mr. Trichka inquired if fixtures are to be included as an aspect of the lien property value. Such improvements would enhance the property value. Counselor Pose said inclusion of the fixtures would be affirmed as an aspect of U.C.C. filing. Mr. Moody said the LDC's loan approval, as stated in the correlative resolution, would accurately note improvement to the 625 Dickson Street building and property, and will be covered by U.C.C. filing.

Mr. Peduto suggested that, supplemental to provision to the LDC of personal guarantees of Samuel Lupo, Jr. and Stephen Lupo, the Board may desire to also obtain a personal guarantee of fellow shareholder Elliot Lupo. The Board members and Mr. Moody agreed with Mr. Peduto's recommendation, although Elliot Lupo's percentage of ownership is less than 20%. Mr. Moody asked what the LDC Board's desired action would be if ESD does not approve the entirety of the desired \$425,000.00 grant. The Board members and Mr. Moody decided that, in recognition of their responsibilities to exercise due diligence, there should be LDC re-evaluation of the SSE3, LLC loan if that situation evolves.

The LDC Board members ultimately determined they would approve a \$300,000.00 CDBG loan with three additional stipulations: (1) provision by Elliot Lupo of a Personal Guarantee to accompany Samuel Lupo, Jr.'s and Stephen Lupo's Personal Guarantees, (2) filing by the LDC of a Uniform Commercial Code furniture, fixtures and equipment lien with the New York State Department of State, and (3) subject to ESD's approval of a \$425,000.00 grant. If the event that the ESD grant amount is less than \$425,000.00, the LDC's approval of \$300,000.00 would then become non-binding. President Trichka requested a motion to approve the loan to SSE3, LLC in conjunction with the previously stated three additional LDC Board-requested stipulations.

Motion: Diane Julian

Motion 2nd: Gary Leighton

Motion: To approve a Town of Union Business Assistance (TUBA) loan request to SSE3, LLC in an amount not to exceed \$300,000.00 in CDBG funds. The purpose of the loan is to assist in purchasing property and a buildings located at 625 Dickson Street, Endicott,

and thereby expand the operation of Sam A. Lupo and Sons, Inc. by building an additional 9,000 square feet to serve as a refrigerated work area for food processing purposes. The loan is to be paid back over a 20 year term at a 3% interest rate. The loan shall be subject to the stipulations of: (1) provision by Elliot Lupo of a Personal Guarantee to accompany Samuel A. Lupo, Jr.'s and Stephen J. Lupo's Personal Guarantees, (2) filing by the LDC of a Uniform Commercial Code furniture, fixtures and equipment lien with the New York State Department of State, (3) subject to ESD approval of a grant to SSE3, LLC in an amount of \$425,000.00 and (4) LDC holding of a 2nd mortgage lien position on the property and buildings at 625 Dickson Street, Endicott. If the ESD grant is less than \$425,000.00, the LDC's approval of a \$300,000.00 loan to SSE3, LLC would then become non-binding. President Trichka requested a motion to approve the loan to SSE3, LLC in conjunction with the above stated terms.

Vote: Motion approved [5 - Yes, 0 - No, 1 - Absent, 1 - Abstain (Mr. Strong)].

VII. OTHER BUSINESS

- A. Director Moody provided the Board with documentation of required enactment of sexual harassment policy and complaint form by New York state municipalities. Mr. Moody said the policy pertains to all state employers. Counselor Pope provided an overview of the policy, complaint form, and tool kit before the Board members. Counselor Pope and Mr. Moody have revised, with greater specification and expanded content for adoption as LDC sexual harassment policy, key aspects of the general state sexual harassment policy. Mr. Moody said that, just as LDC employees are required to take training, LDC Board members are also required to do so by October, 2019. Such training is provided annually at the Town of Union Office Building and through all other New York state employers. After thorough discussion, including Board members' agreement to have LDC reporting and investigative policy adhere to town process guidelines, President Trichka asked for a motion to approve the presented Sexual Harassment Policy for All Employers in New York State and the Model Complaint Form for Reporting Sexual Harassment.

Motion: Jim Peduto

Motion 2nd: Mary O'Malley-Trumble

Motion: To approve compliance of the Town of Union Local Development Corporation (LDC) with, and adoption of, all aspects of the Sexual Harassment Policy for All Employers in New York State and the Model Complaint Form for Reporting Sexual Harassment.

Vote: Motion approved [6 - Yes, 0 - No, 1 - Absent].

- B. The Board was presented with a request to approve the charge-off of Coco Mojo, LLC's loan balance. Mr. Moody and Mr. Leighton provided the corresponding amounts pertaining to offsetting debits of provision for loan loss (\$747.53) and reserve for loan loss (\$2,166.68) and credit of loans outstanding of \$2,914.21. Following thorough Board discussion, President Trichka asked for a motion to approve a charge-off of Coco Mojo, LLC's outstanding balance of \$2,914.21.

Motion: Gary Leighton

Motion 2nd: Diane Julian

Motion: To approve the charge-off of Coco Mojo, LLC's total outstanding loan balance amount of \$2,914.21. Entries associated with the charge-off include Debit Provision for Loan Losses of \$747.53 and Debit Reserve for Loan Losses of \$2,166.68, and an offsetting Credit Loans Outstanding amount of \$2,914.21.

Vote: Motion approved [6 - Yes, 0 - No, 1 - Absent].

- C. Mr. Moody informed the Board that the loan closing for the new owners of the Endicott Inn will occur on December 21, 2018 and demolition soon to follow. There is an anticipated two-year timeframe for demolition and construction of the new hotel. Also, nearby development is anticipated in the mixed use commercial property across from Dunkin' Donuts.

- D. Mr. Moody referenced the Jewels of Java, LLC site. He said he heard that the building may currently be serving as the property owner's residence.

VIII. ADJOURNMENT

- A. President Trichka asked the Board members, Director Moody and Counselor Pope if they had any additional topics to consider. Due to the completion of discussion and consideration of all pertinent Board matters, Mr. Trichka requested a motion to adjourn the meeting at 9:07 a.m.

Motion: Diane Julian

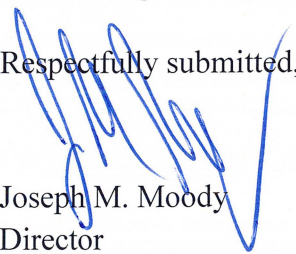
Motion 2nd: Mary O'Malley-Trumble

Motion: To adjourn the regular meeting of December 20, 2018.

Vote: Motion approved [6 - Yes, 0 - No, 1 - Absent].

The meeting was adjourned at 9:07 a.m.

Respectfully submitted,


Joseph M. Moody
Director