



**BUFFALO ECONOMIC**  
RENAISSANCE CORPORATION

**Buffalo Economic Renaissance Corporation**

**Minutes of the Meeting of the Board of Directors**

**920 City Hall**

**March 30, 2010**

1.0 **Roll Call**

Members Present

Clifford Bell  
Kevin Brady  
Mayor Brown  
Donna Brown  
Carolyn Murray  
Adam Walters

Members Absent

Michael Kubala  
Frank Mesiah

Staff

Dennis Penman  
Divitta Alexander  
Eric Gadley  
E.J. Walton  
Stewart Levy  
Kathleen Peterson  
Gina Granville  
Lanette Boulware-Wright  
Talisha Myles

**Guest:**

Scott Billman, BURA-General Counsel  
James Heaney, Buffalo News  
Darryl McPherson, City Auditor  
Brendan Mehaffy, Exec. Director/Chief Development Officer of OSP  
Ann O'Donnell, City Comptroller's Officer  
Janet Penksa, City Commissioner of Administration, Policy, Finance and Urban Affairs  
Peter Savage III, City of Buffalo  
James Wimbley, BURA Director of Administration/Finance

2.0 **Reading of the Minutes** - Upon motion by Mr. Brady, seconded by Mr. Walters and unanimously carried the waiving of the reading and acceptance of the minutes of February 17, 2010 was approved.

3.0 **Monthly Financial Report**- Upon motion by Mr. Bell, seconded by Mr. Walters and unanimously carried the monthly financial report dated March 2, 2010 was approved.

4.0 **President's Report**- Mr. Penman highlighted the following:

- A. Real Estate- Mr. Penman stated that the following four (4) leases were reviewed by the Real Estate Committee and are recommended for approval by the Board:
1. **Carl Morgan**- Residential tenant - one (1) year renewal.
  2. **Terry Messmer**- Residential tenant - one (1) year renewal.
  3. **Shakespeare in the Park**- Administrative office for the theatre company. It is leasing 2800 sq ft of space in the Market Arcade Complex; it renewed its lease for one (1) year.
  4. **Pettit Printing**- Tenant is located in the River Rock Industrial Incubator. Tenant renewed its lease for one (1) year.

Upon motion by Mr. Brady, seconded by Ms. Murray unanimously carried, the above leases were approved.

- B. **Empire Zone** - Mr. Penman stated that Geraldine Ford is no longer acting as Empire Zone Coordinator and that Kathleen Peterson has taken over the responsibilities of the Empire Zone Coordinator.

Ms. Peterson reported that since the last board meeting, two (2) Empire Zone applications were reviewed by the Zone Administrative Board (ZAB) - one was approved and one is pending. Avalon Copy Centers of America, Inc. was approved by the ZAB. There will be a special ZAB meeting on March 31, 2010 to consider the application of JJP Contract Packaging, Inc. d/b/a Plesh Contract Packaging.

The total number of applications pending with Empire State Development (ESD) is currently 14. The two recently submitted and 14 pending applications, are expected to result in investment of \$2,905,000 and job creation of 128 new positions over the next three (3) years.

#### C&D. **Lending/Business Development**

Loans Closed- No loans closed.

Loans Approved Pending Closing- The following five (5) loans were approved but have not yet closed: **Chima & Bains, Flexo Transparent, Inc., Industrial Support, Inc., Cedar's Bakery** and **Wellness Family Practice** totaling \$550,000.

The Board was advised that staff has been directed to inform clients that BERC will not be receiving any applications for new loans until further notice.

E. **President's Report – Miscellaneous Notifications**

1. Solicitations – BERC will solicit for the following services:
  - a. Legal – General Not For Profit Corporate
2. Resignation of Thomas Kucharski

Upon motion by Mr. Walters, seconded by Ms. Brown and unanimously carried the president's report was approved.

5.0 **Committee Reports**

- 5.1 **Finance & Audit-** No report
- 5.2 **Real Estate-** No report
- 5.3 **Governance-** No report

6.0 **Action Items**

- 6.1 **William Gaiter Business Complex – J&L Ice Service Inc. Lease-** Submitted to the BERC Board of Directors (“Board”) is a request to modify the payment terms of the commercial lease between BERC and J&L Ice Service Inc. (“J&L Ice”) for space in the William Gaiter Business Complex to Provide for the following:
  1. Suspend rent payments for the months of March, April, and May 2010;
  2. Resume full rent payment in June 2010; and
  3. In July, August and September 2010, make double rent payments.

The remaining terms of the lease would remain unchanged, and late fees from March through September 2010 would be waived provided J&L Ice timely makes all future payments.

In addition, BERC requests authority from the BERC Board of Directors to take all such action, provide all such information, expend or apply such BERC funds, execute all documents, and exercise all such decision making as is in the discretion of the BERC President, reasonably necessary to effectuate the above lease terms.

Upon motion by Mr. Bell, seconded by Ms. Murray and unanimously carried the above item was approved in its entirety.

- 6.2 **Buffalo Free Trade Complex – Tomric Plastics, Inc. Lease-** Submitted to the BEREC Board of Directors (“Board”) is a request to: 1. Extend the commercial lease between BEREC and Tomric Plastics, Inc. (“Tomric”) for space in the Buffalo Free Trade Complex, for an additional one year period (May 1, 2010 until June 30, 2011) at a rent of \$8771/month with two five year extension options at rent increases of 5% per year, 2. Permit Tomric to exercise the first five year Option on or before March 31, 2011 (60 days notice to BEREC) 3. Amend the lease to provide that the tenant is “Chocolate Delivery Systems, Inc.” (a Tomric controlled entity) and that any of Chocolate Delivery System, Inc.’s affiliates or subsidiaries may utilize the premises.

In addition, BEREC is seeking authority from the BEREC Board of Directors to take all such action, provide all such information, expend or apply such BEREC funds, execute all documents, and exercise all such decision making as is in the discretion of the BEREC President, reasonably necessary to effectuate the above lease terms.

Upon motion by Mr. Walters, seconded by Ms. Murray and unanimously carried the above item was approved in its entirety with the condition that tenant provides at least 90 (as opposed to 60) days notice to BEREC of its intent to exercise the 1<sup>st</sup> five year option.

- 6.3 **136 Lakeview – Land Disposition Agreement – Amendment and Construction Plans -** Submitted to the BEREC Board of Directors (“Board”) is a request to modify the terms of the land disposition agreement between BEREC and Anthony Previte concerning the disposition of 136 Lakeview as described in the attached proposed amendment (the “Amendment”).

BEREC is also requesting approval of the attached construction plans.

In addition, BEREC is seeking authority from the BEREC Board of Directors to take all such action, provide all such information, expend or apply such BEREC funds, execute all documents, and exercise all such decision making as is in the discretion of the BEREC President, reasonably necessary to effectuate the Amendment.

Upon motion by Ms. Murray, seconded by Mr. Brady and unanimously carried the LDA Amendment was approved.

Upon motion by Mr. Walters, seconded by Mr. Bell and unanimously carried the construction plans and the balance of this item were approved in their entirety.

6.4 **Legal Services – Information-** Staff will begin to solicit for legal services related to the BERC transition.

6.5 **Accounting Services – Information-** Freed Maxick under its existing engagement, will provide accounting assistance to BERC in connection with BERC's transition.

7.0 **Special Projects**- There were no special projects to discuss.

8.0 **Tabled Items**- There were no tabled items.

9.0 **Executive Session**- Upon motion by Mr. Walters, seconded by Ms. Brown and unanimously carried the Board went into executive session to discuss matters related to the appointment, promotion, demotion, dismissal or removal of person(s).

A motion to end executive session and return to open meeting was made by Mr. Walters, seconded by Mr. Bell and unanimously carried.

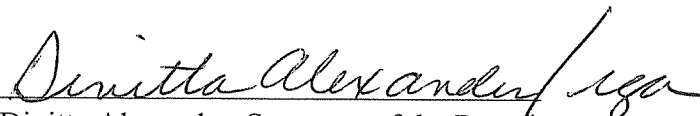
10.0 **Adjournment**- Upon motion by Mr. Bell, seconded by Mr. Walters and unanimously carried the meeting was adjourned at 9:35 a. m.

Respectfully submitted,

By:

  
Talisha Myles, Recording Secretary

Approved by:

  
Divitta Alexander, Secretary of the Board