PROVIDENCE ECONOMIC DEVELOPMENT PARTNERSHIP, INC.
THURSDAY, APRIL 17, 2014
LOAN COMMITTEE SPECIAL MEETING MINUTES

A special meeting of the Providence Economic Development Partnership, Inc. (PEDP) Loan Committee was held at the office of the Department of Planning and Development, 444 Westminster Street, Providence, Rhode Island, in the 1st Floor Conference Room on April 17, 2014. The Loan Committee meeting was called to order at 12:23 P.M, with Gonzalo Cuervo presiding. Roll call of the members was conducted.

MEMBERS IN ATTENDANCE
Members of the Loan Committee in attendance included Gonzalo Cuervo, Doris Blanchard, Carmen Diaz-Jusino and Donald Gralnek.

MEMBERS ABSENT
Members not in attendance were Manny Barrows, Renee Bailey and Frank Benell.

STAFF MEMBERS IN ATTENDANCE
Staff members in attendance included: Stuart MacDonald, Director of Fiscal Operations, Department of Planning and Development (DPD) and Assistant Director, PEDP; and Gail McGowan.

OTHERS IN ATTENDANCE
Others in attendance were John J. Garrahy, Esq., Moses Afonso Ryan, PEDP legal counsel; and Thomas Hoagland, PEDP contract underwriter.

MEETING MINUTES
The minutes of the March 13, 2014 PEDP Loan Committee meeting were submitted for review and approval. Upon a motion made by Donald Gralnek and seconded by Doris Blanchard, it was voted to approve the minutes of the March 13, 2014 meeting. Motion passed by unanimous vote.

REPORT OF THE ASSISTANT DIRECTOR
Stuart MacDonald stated that there was not much to report today, just the items on the agenda.

NEW BUSINESS
The first agenda item entertained by the Loan Committee under New Business was the re-presentation of the loan request of Nikki's Liquor (DMR Enterprises, Inc.), Michael Iannozzi and David Iannozzi, 32 Branch Avenue, Providence, Rhode Island, 02904, in the amount of $150,000.00. Mr. MacDonald presented the request. The loan request was tabled at the March 2014 meeting subject to the submission of appraisals for both real properties being pledged as collateral as well as for the submission of updated financial statements for 2013. We had numerous requests and good questions regarding the business and the industry.

One question raised was regarding the margins. Mr. MacDonald has obtained the industry standards and research. Nikki's reporting is within the scope of the industry standards, as provided in the report he purchased for them. The report is the 2014 standard report on liquor stores. They are almost right where they need to be. The average revenue is $1.5 million and they are almost there now and with their projections, they are right around the same area. The gross profit percentage is twenty-two percent (22%). Any of the members that want to see the report after the fact, he can provide a copy to later. The margins are okay. They were looking thin, but we now have documentation that they are within where they are supposed to be. According to the projections, they are at nineteen percent (19%) right now and will be at twenty-one percent (21%) at the end of the year and twenty-two percent (22%) at the end of next year, which is the industry standard according to the report. Mr. MacDonald asked if there were any questions on the margins. It was questioned how this relates to the ability to pay back the loan. Mr. MacDonald responded that if the margins are too small, the business could never generate enough cash flow to pay back the loan. Profitability is also documented in the report. If it meets the margins, it will be profitable and able to pay back. Thomas Hoagland added that the profitability issue is also addressed by the new rent. The business is increasing space in the new location by decreasing its rental expense from $80,000 to $50,000 annually, which is significant. The applicant has signed a lease for $50,000 for 5,000 square-feet from $81,000 for 2,000 square-feet and are getting a better location. It was questioned whether it is safe to say that sales will increase based upon visibility alone. Mr. Hoagland responded that they did a traffic survey. He does not have a lot of experience with the industry but a major portion of their sales is beer and craft beers. The new location being closer to the East Side would be better than the West Side location now. Mr. MacDonald added that the bigger space will make them able to offer snacks and that for the impulse buy the margins are closer to one hundred percent (100%).

The collateral being pledged as collateral was questioned and reviewed. Mr. MacDonald stated that we are getting both properties as collateral. We are securing those properties as psychological, as they are loaned-up over eighty percent (80%) and we are not including those in our calculation. Mr. Hoagland added that we do have appraisals on both now. Mr. MacDonald stated that the appraisals are part of the presentation. Attorney John Garrahy questioned for clarification purposes that the father is providing a limited guaranty of up to $50,000.00 secured by his vacation home. Mr. Hoagland responded in the affirmative. Mr. MacDonald stated that it was not limited, we are getting a mortgage. Attorney Garrahy and Mr. Hoagland replied that it is limited to $50,000.00, however.

It was requested that Mr. MacDonald review the sequence of realizing on collateral pledged. Mr. MacDonald responded that you take whatever you can get as fast as you can get it. We do not take collateral in pieces; we go after all collateral at once because we are afraid it will walk away. It was questioned how we realize on a liquor license. Mr. MacDonald responded that it is marketable but we don't know the value. There was a liquor license for sale on Craigslist for $260,000.00, but we do not know if that is a pie in the sky value. According to Serena Conley, who runs the licenses, there have not been any transfers and they are not writing anymore – they have to be acquired. It was questioned how a liquor license is secured. Mr. Hoagland responded through a UCC filing. Attorney Garrahy noted that he is not sure, but there may be governmental approvals involved in that. It was always a convoluted process in getting a collateral assignment of a license. It may not be just a UCC filing. Mr. MacDonald stated that we will do it. It was questioned if it will be secured before the loan is disbursed. Mr. MacDonald responded in the affirmative and added that Serena is on the same committees that he and Donald Gralnek are and therefore we have a friend there and they are not going to get it released without us knowing about it. Mr. Cuervo stated anecdotally that from his many years at 25 Dorrance Street, a liquor license is not worth anywhere near that amount, but rather in the $75,000.00 to $100,000.00 range. Mr. MacDonald stated that is what they have for a value.

It was questioned whether restrictions previously discussed will be included in the documents. Mr. MacDonald questioned which restrictions. It was responded restrictions on the salaries of the principals. Mr. MacDonald responded that we would get to those.

Attorney Garrahy stated that staying on the matter of collateral, he noted the following regarding the pledge of an out of state residence: 1) is more expensive in the first instance of going through the process of getting a mortgage; they are not Florida lawyers and have to get a title company in Florida to provide us with whatever is necessary and sufficient; and 2) when you go to foreclose, they do not know that process either – we will have a $50,000.00 guaranty and therefore have to go through a foreclosure in Florida, which is more difficult. Mr. MacDonald responded that the property is valued at $250,000.00 and that it would never go to foreclosure; they would find the money elsewhere. Attorney Garrahy stated that PEDP would still have to start the process of foreclosing. Mr. MacDonald stated that he has experience in Florida and that the process is not that difficult. They have title companies down there that do this and not the attorneys. It is a much easier process. It was questioned why the guaranty is limited to $50,000.00 and whether it was the amount he was only willing to provide. Mr. MacDonald responded that the guarantor thought it was enough, but that it is not up to him to say that it is enough, it is up to the committee.

A discussion followed with regard to the negative income being reported over the last three (3) years and whether increased inventory will increase sales or whether better traffic will. The number of new jobs being created was questioned. Mr. MacDonald responded five (5) and reviewed how the job creation is documented. Gail McGowan monitors the businesses. We document a baseline by getting payroll records at closing. It is informational. The jobs are fte's [full-time equivalents]. The period of time to create the jobs was then questioned. Mr. MacDonald responded that we require that they be created in two (2) years, but we have some leniency on that. It was stated that it is presumed that the loan documents will be written to limit their use of the loan funds for the stated purpose. Mr. MacDonald responded that the documents will be written as presented in the sources and uses. Mr. Hoagland added that we also monitor that by them submitting invoices. Mr. MacDonald added that Borrowers will come back from time to time for changes to the use of funds, which needs to be approved.

Mr. MacDonald continued that he would go back to the questions raised last time. The committee had questioned restrictions. Mr. MacDonald stated that he got the lease. It has been e-mailed to him twice, but he has not seen it yet. The compensation of the principals will be frozen at $90,000.00, which is $45,000.00 for each owner. Any changes in compensation will require PEDP approval. Mr. MacDonald went over this with the Borrower, who was fine with it. With regard to the paydown, the loan funds are to be used specifically for what is presented. The shareholder's loan of $257,000.00, is a loan to start-up the business from the grandmother that was not intended to be paid back. They are capitalizing that loan. This is better for them; it makes the balance sheet look better. It cleans out retained earnings and they have a positive net worth. We can make this a requirement of the loan. It was expressed that we should. It was questioned whether that loan then goes away. Mr. MacDonald responded in the affirmative and that it converts to equity. Attorney Garrahy inquired about the question on compensation and whether we are restricting salary and distributions. Mr. MacDonald responded in the affirmative.

Mr. MacDonald stated that we have the current financial statements. We have answered all the questions of the committee that were raised at the March 2014 meeting, at which time the request was tabled. Mr. Cuervo stated that he would like to entertain a motion to approve the loan request of Nikki's Liquors. Upon a motion made by Donald Gralnek and seconded by Doris Blanchard, it was voted to recommend the approval of a loan, in the amount of $150,000.00, to Nikki's Liquors. Attorney Garrahy suggested that the motion include all terms and conditions set forth in the loan write-up with the additional conditions being the restrictions on the compensation that we talked about and the capitalization. Mr. Gralnek stated that was assumed in his motion. Mr. Cuervo questioned whether the conditions will be in the motion. Mr. MacDonald responded that they will be in the minutes. The recommendation for approval of the loan to Nikki's Liquors is subject to the following conditions: the compensation of the principals will be frozen at $90,000.00 ($45,000.00 for each principal), and any changes thereto require PEDP prior approval; the PEDP loan funds are to be used specifically for the uses outlined in the loan write-up; and the capitalization of the shareholder's loan. Motion passed by unanimous vote.

The next agenda item entertained by the Loan Committee was the loan request of Julian's Restaurant (JRB, LLC) and The Bus, LLC, Julian Forgue, Randy Kass and Brian Oakley, 318 Broadway, Providence, Rhode Island, 02903, in the amount of $75,000.00. Mr. MacDonald presented the loan request. Mr. MacDonald stated that we are going to ask you to look at Julian's knowing that it is subject to HUD approval. There is an environmental issue that we need to get satisfied with HUD. He thinks we structured the loan, we wouldn't be showing you if we didn't. Environmental issues are hot with HUD, so we don't know where this is going. The loan may not be going anywhere, if the environmental turns out to be a major problem. We presented the loan on face value, assuming we can get HUD approval. Whether we are aware of the nature of the HUD approval was questioned. Mr. MacDonald and Mr. Hoagland responded in the affirmative. What the issue is was then questioned. Mr. MacDonald responded that that is the issue. The loan write-up does not even talk about it. The property that has the issue is not part of this loan. However, they applied to us for a loan on that property and ran into environmental issues, so the application got curtailed. That is why it got taken off the agenda last time. All the knowledge that we have may cause a problem for HUD. Mr. MacDonald added that all loans are subject to HUD approval, but this particular one we want to point out the need for HUD approval of the environmental. It was questioned whether the committee can vote on this. Mr. MacDonald responded in the affirmative. It was questioned if the issue is on the new location on Westminster Street. Mr. MacDonald responded in the affirmative. It was questioned whether that was why they have been stopped for so long. Mr. MacDonald responded in the affirmative. It was questioned whether no action is needed at this point then. Mr. MacDonald responded in the negative and that the committee can take action.

Mr. MacDonald began to present the loan request. The proposal is for a $75,000.00 loan to JRB and The Bus. PEDP already has a loan on The Bus that was approved in 2011. JRB is Julian's, which is a restaurant. We are going to use the assets of both to secure the loan. The loan is for equipment and working capital. The collateral is The Bus and the restaurant equipment. We are behind BankRI on the restaurant equipment. Our loan of $160,000.00 is a combination of both loans. The current loan of $100,000.00 has been paid down to $85,000.00. The applicant has been a good customer.

Mr. Hoagland stated that the Borrower negotiated a permanent location for The Bus at the Newport Yachting Center and will be the sole provider of food service there. The Bus is an extended food truck – a double-decker English bus with seating on the second floor. The Borrower is trying to secure a similar location for Kennedy Plaza for the winter months. The restaurant has been historically profitable and has ample cash flow to service the loan debt. The Bus is now profitable as well. It has also recently gotten a wedding commitment and does private functions as well. Mr. MacDonald added that The Bus has made every payment.

Mr. Hoagland continued that we originally received an application from a third entity – Pizza J, which is owned by the same principals, to create a pizza restaurant and take-out on the Westminster Street property that has the environmental issue that Mr. MacDonald alluded to earlier. They do not own the property, they lease it. The owner does not want to do a Phase II analysis on the property because of the cost. Mr. MacDonald added that it would probably cost $10,000, plus the possible exposure to clean-up. Mr. Hoagland stated that he structured the loan to the other two (2) entities jointly and severally with the principals' guarantees. Mr. MacDonald stated that the loan was structured per the principals' request. Mr. Hoagland stated that they are willing to give us whatever documentation we wish to ensure that none of our loan proceeds go to the Pizza J operation, which would be a default. Mr. MacDonald stated that the principals are going to fund Pizza J, if they go forward, from the operations of the two (2) businesses. Mr. Hoagland added that the funding will be from the principals as well. Mr. MacDonald continued that we are essentially funding the two (2) businesses and as Mr. Hoagland said, the documentation is what we require as our normal business practice. So they have to provide us with the documents showing what we are paying for and that it is related to The Bus and Julian's, and not Pizza J. Mr. Hoagland stated that the additional jobs created will be in Julian's and in The Bus. Those will be the jobs that we will be counting. The suggestion was made that under the Purpose section in the loan write-up that the second sentence should not be there and it was questioned whether that was correct. Mr. Hoagland responded that we are not funding that but perhaps it should be somewhere else. Mr. MacDonald responded that it was a good catch and that it should be under background; it looks like we are funding that. Mr. Hoagland stated that he will move it. It was stated that indirectly they are using the loan to fund Pizza J. Mr. MacDonald responded in the negative, adding indirectly perhaps, because you can say cash if fungible, but the loan is strictly for the two (2) businesses that exist. The reason that the committee is raising these questions is the reason that it has to go to HUD.

The status of the new business and its lease were questioned. It was questioned whether it is safe to say that if Pizza J never opens it doors, they are still in a very good position to pay back. Mr. Hoagland and Mr. MacDonald responded absolutely; the pizza revenues were not considered in the loan underwriting. Mr. MacDonald added that the only reason that we brought up Pizza J is that we have all of this information and feel we have to disclose it in the interest of full disclosure. The loan is to the two (2) entities, both are profitable and one (1) is paying as agreed. Attorney Garrahy questioned if The Bus is a vehicle. Mr. MacDonald responded in the affirmative. It was further questioned if we have a security interest in the title and whether that is what we are seeking to get for this loan as well. Mr. MacDonald and Mr. Hoagland responded in the affirmative. Attorney Garrahy questioned whether we are funding a restaurant that is operating in Newport. Mr. Hoagland responded that they are operating there for three (3) months and the other nine (9) months it is in Providence. It was questioned where it is when it is not in Newport, to which it was responded that it is in Providence. Mr. MacDonald stated that Mr. Garrahy's question is a good one, but we already have a loan to The Bus. Mr. Cuervo added that the Newport revenue for The Bus is them being intelligent in their choices. They could stay in Providence year-round and probably not make as much money as it does in the summer in Newport. Mr. MacDonald stated that the question Mr. Garrahy raised is a good one: is it a loan to a business in Providence or Newport? In this case, it is predominately to Providence. Mr. Hoagland stated that the jobs to be created will be created in Providence, to Julian's. Mr. MacDonald stated that three (3) jobs are to be created. Mr. Cuervo questioned whether The Bus is registered in Providence. Mr. Hoagland thinks so but can verify. It was further questioned whether they are paying tangible taxes on what is in The Bus. It was responded that PEDP can make the loan approval subject to the above.

A discussion followed with regard to the meaning of the personal guarantees, the collateral PEDP would look to first upon a default, PEDP's collection policy, inclusive of when a business is still operating but in default, the meaning of liquidating business assets, and the procedure for pursuing collateral. The committee felt that if we liquidate the assets, it puts the business out of business. Mr. MacDonald stated that liquidating a business is turning assets into cash, not putting it out of business. Mr. MacDonald added that with respect to collateral, in residential or commercial lending it is the first line of defense; it is why we have underwriting. We look to the write-up and financials to make sure the business has the cash flow, but that is only on paper. If the business does not work out for any reason, we have to attack collateral. The primary situation is that you protect the loan, with collateral, which is on a case by case basis. Attorney Garrahy added that exercising rights while a business is still operating is rare.

The action the committee needs to take at this time was questioned. Mr. MacDonald stated that it was to approve the loan or deny it. Mr. Hoagland added that the approval would be subject to HUD's approval of the environmental. Attorney Garrahy added that it should be subject to our own satisfaction as well.

It was stated that the relevance of the environmental issue on this loan was still unclear. Mr. MacDonald stated that it was because HUD has raised the issue. It was added that the environmental issue was on the Westminster Street property. Mr. Hoagland added that the Westminster Street property is not a party to this loan. Attorney Garrahy stated that we are not taking the real estate and questioned why we are concerned. Mr. MacDonald stated that HUD requires us to do an environmental review of the property even if we are not taking the property. Mr. Garrahy stated that it is a related entity that may have a problem. Mr. MacDonald responded that the assistance cannot go to a property with an environmental issue. We have knowledge that they are opening a business at that location. It was requested that legal counsel ensure that the loan documentation have the express prohibition of the loan proceeds going to assist the other business. Mr. MacDonald stated that because we are using federal funds, we feel the need to get assent from HUD.

Mr. Cuervo stated that he would entertain a motion to approve the loan request of Julian's Restaurant and The Bus, subject o HUD approval of any related environmental issues and the revisions of the loan documents as described in the minutes. A motion was made by Donald Gralnek and seconded by Doris Blanchard, and it was voted to recommend the approval of a loan, in the amount of $75,000.00, to Julian's Restaurant and The Bus subject to the following conditions: HUD approval of any related environmental issues; and revision of the loan documents to include the express prohibition of the loan proceeds going to assist the principals' other business, Pizza J. It was questioned whether this matter need to come back to the committee afterward. Mr. Gralnek responded in the negative stating that authority is delegated to staff. Motion passed by unanimous vote.

The next agenda item entertained by the Loan Committee was the report of loans/grants/programs/actions approved or taken by the PEDP Board of Directors. The restructure of the loan to Broad Street Revitalization, LP (Community Works RI f/k/a Elmwood Foundation) recommended by the Loan Committee from its March 13, 2014 meeting was presented to the PEDP Board of Directors at its meeting held on April 2, 2014. Mr. MacDonald presented this agenda item. The board took issue with the restructure and this matter was tabled by the board for additional information. This matter will be brought back to the board. We are reporting this out to the committee because the board had issues with the Borrower affording the restructured loan payment, as modified by Mr. MacDonald. The board was uncertain that the Borrower can afford the increased payment. Attorney Garrahy added that the board also asked him to take a look at and report back to the board with respect to the collateral structure, which is unique. We were going to have a fee interest in the four (4) condos once the condominium was created. They thought that it was too expensive to create, so rather than doing that they split off part of the property to a lease to a related entity, which is Community Works. They gave us a leasehold interest in the lease, which is a $1 per year lease between the two (2) entities and therefore the rent is not substantial. If we were exercising our remedies, there are two (2) remedies available in the event of a default. The first remedy is to cancel the license to obtain rents. There are four entities there. We could exercise our right to the rents. Mr. MacDonald added that the rents are $42,000.00. It was questioned whether we have verified the rents. Mr. MacDonald responded in the negative. It was expressed that it would be valuable to verify. Mr. MacDonald stated that they have been very cooperative and that he can get verification. The loan is in the amount of $819,000.00. The only collateral is the leasehold. The second remedy is to exercise our rights to foreclose on the leasehold. We do not need to foreclose to get the rents. No action is required in connection with this agenda item.

The next agenda items were the Existing Loan Requests and Other Business, which there were none.

The next agenda item was Executive Session. Mr. Cuervo questioned whether there was a need to go into executive session. Mr. MacDonald responded in the negative.

A motion to adjourn was then made by Carmen Jusino-Diaz and seconded by Doris Blanchard, and the meeting was adjourned at 1:15 P.M.

Approved: June 12, 2014