

# NCIDA/NCDC REGULAR BOARD MEETING MINUTES

**Date/Time:** Wednesday, March 11, 2009 – 9:00 a.m.  
**Meeting Place:** Niagara County Industrial Development Agency  
6311 Inducon Corporate Drive, Suite One  
Sanborn, New York 14132

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## 1.0 Meeting Called to Order

The regular meeting of the Niagara County Industrial Development Agency was called to order by Chairman Sloma at 9:00 a.m.

## 2.0 Roll Call

Henry M. Sloma, Chairperson	Present
Mayor Michael Tucker, 1st Vice Chairperson	Present
Stephen F. Brady, 2 <sup>nd</sup> Vice Chairperson	Present
Deanna Brennen, Secretary	Excused
Angelo Massaro, Assistant	Present
John J. Petrozzi, Member	Present
Joseph C. Frain, Member	Excused
Robert Connolly, Member	Present
Rev. Kevin Dobbs, Member	Present

## 3.0 Chairman Sloma led the Pledge of Allegiance.

## 4.0 Introduction of Guests

William L. Ross	Chairman, Niagara County Legislature
Mark Scheer	Niagara Gazette
Karen Carroll	NOAH
Pete DaSilva	NOAH
Catherine Lee	NOAH
M. Grozin	IBEW #237
R. Quarantello	IBEW #237
Frank C. budwey	Budwey Market Place
Ruth Ohol	Niagara County
Tom Prohaska	The Buffalo News
Rose Mary Warren	Taxpayer
Hector Titus	Industrial & Labor Relations Council

### Staff Present

Samuel M. Ferraro, Executive Director  
Larry Witul, Assistant Director  
Susan Langdon, Marketing/Project Manager  
Gary Kelsey, Manager of Finance  
Michael Dudley, Accounting Associate  
Mark Gabriele, Agency Counsel  
Mary P. Melloni, Recording Secretary

## **5.0 2009 Economic Development Address**

Chairman Sloma introduced Legislator Richard Updegrave, Chairperson of the Niagara County Economic Development Committee and Legislator Andrea McNulty, Vice Chairperson of that Committee. Legislator Updegrave explained that much of what will be presented are projects and initiatives that were undertaken by the NCIDA Board. Mr. Updegrave and Ms. McNulty made the presentation to the NCIDA Board [*This presentation will be attached hereto and made a part hereof these minutes*].

## **6.0 NCIDA Annual Meeting – H. Sloma**

### **6.1 Election of Chairperson (H. Sloma)**

*Mayor Tucker nominated Henry M. Sloma for the position of Chairperson of the NCIDA and the NCDC. Mr. Brady seconded the motion. Motion passed.*

*Mayor Tucker made a motion to place one vote for Henry M. Sloma as Chairperson of the NCIDA and the NCDC. Reverend Dobbs seconded the motion. Motion passed.*

### **6.2 Election of Officers/Proposed Slate**

- 6.2.1 First Vice Chairperson (M. Tucker)**
- 6.2.2 Second Vice Chairperson (S. Brady)**
- 6.2.3 Secretary (D. Brennen)**
- 6.2.4 Assistant Secretary (A. Massaro)**
- 6.2.5 Treasurer (S. Ferraro)**

Chairperson Sloma presented the slate of officers as listed above to the Board for approval. *Mr. Petrozzi made a motion, seconded by Mr. Connolly, to accept the slate of officers as presented. Motion passed.*

### **6.3 Ratify Board Meeting Dates/Time (2<sup>nd</sup> Wednesday of Month, 9:00 a.m.)**

*Mr. Brady made a motion, seconded by Mr. Connolly, to ratify the Board Meetings will be held on the 2<sup>nd</sup> Wednesday of the month at 9:00 a.m. Motion passed.*

### **6.4 Appointment of Committees and Charters - H. Sloma**

- 6.4.1 Personnel Committee**
- 6.4.2 Governance Committee**
- 6.4.3 Audit Committee**
- 6.4.4 Real Property Committee**
- 6.4.5 NCDC Review Committee**
- 6.4.6 NCDC Microenterprise Loan Review Panel**
- 6.4.7 NCDC Revolving Loan Fund Committee**
- 6.4.8 NEDF Committee: NCIDA Appointment**

**6.0 NCIDA Annual Meeting – H. Sloma**

**6.4 Appointment of Committees and Charters (Continued...)**

Chairman Sloma reviewed the Committee appointees for the Board:

**Personnel (3)**

*Angelo Massaro, Chairperson*  
Rob Connolly  
Rev Kevin Dobbs

**NCDC Microenterprise Loan Review**

Deanna Brennen

**Governance (3)**

*Steve Brady, Chairperson*  
Deanna Brennen  
Michael Tucker

**NCDC Revolving Loan Fund**

Henry M. Sloma  
Michael Tucker

**Audit (3)**

*Joseph Frain, Chairperson*  
John Petrozzi  
Rob Connolly

**NEDF Committee**

Samuel M. Ferraro

**Real Property (3)**

*John Petrozzi, Chairperson*  
Angelo Massaro  
Michael Tucker

**NCDC Review (3)**

*Deanna Brennen, Chairperson*  
Joseph Frain  
Rev Kevin Dobbs

*Mr. Connolly made a motion, seconded by Reverend Dobbs, to reaffirm the committees as presented for Items 6.4.1 through 6.4.8. Motion passed.*

**6.5 Reaffirm Uniform Tax Exemption Policy – H. Sloma**

*Mayor Tucker made a motion, seconded by Mr. Brady, to reaffirm the Uniform Tax Exemption Policy as presented. Motion passed.*

**7.0 Approval of NCIDA Meeting Minutes**

**7.1 Regular NCIDA Meeting of February 11, 2009**

*Mayor Tucker made a motion, seconded by Mr. Connolly, to approve the meeting minutes of February 11, 2009. Motion passed.*

**8.0 NCIDA Committee Reports**

**8.1 Audit Committee**

**8.1.1 Agency Payables**

Mr. Petrozzi stated that the Payables were reviewed and found to be in order, and the Audit Committee is recommending approval. ***Mr. Petrozzi made a motion, seconded by Mr. Brady, to approve the Payables. Motion passed.***

**8.1.2 Agency Financial Report**

Mr. Petrozzi stated that the Agency financial report through February 28, 2009 was found to be in order and the Audit Committee is recommending approval. ***Mr. Petrozzi made a motion to accept the financial report as recommended, seconded by Mayor Tucker. Motion passed.***

**8.2 NCDC Review Committee Report**

Ms. Brennen is not present for this report; the committee did not meet this month.

**8.3 Real Property Committee Report**

**8.3.1 NIIA Partnership Distribution**

Mr. Petrozzi stated that the Real Property Committee met to review the building located on Niagara Falls Boulevard that is owned in part by the Agency under the partnership known as the Niagara Industrial Incubator Associates (NIIA). Mr. Gabriele explained that the Agency is in the process of planning their annual meeting of the NIIA with the partners; however, prior to making a recommendation to the partners the Staff is asking for the guidance of the NCIDA Board. Information was provided to the Board indicating expenses and income and the amount of the recommended distribution of \$100,000.

***Mr. Massaro made a motion to approve the \$100,000 distribution as recommended; Mr. Connolly seconded the motion.***

***A roll call vote was taken.***

	<u>Yea</u>	<u>Nea</u>	<u>Abstain</u>	<u>Absent</u>
Henry Sloma	[ ]	[ ]	[ X ]	[ ]
Michael W. Tucker	[ X ]	[ ]	[ ]	[ ]
John J. Petrozzi	[ X ]	[ ]	[ ]	[ ]
Stephen Brady	[ X ]	[ ]	[ ]	[ ]
Kevin Dobbs	[ X ]	[ ]	[ ]	[ ]
Deanna Brennen	[ ]	[ ]	[ ]	[ X ]
Robert Connolly	[ X ]	[ ]	[ ]	[ ]
Angelo Massaro	[ X ]	[ ]	[ ]	[ ]
Joseph C. Frain	[ ]	[ ]	[ ]	[ X ]

9.0 NCIDA New Business

9.1 Budwey Market Place, LLC

Mr. Witul explained that Frank Budwey proposes to purchase, renovate and reopen an abandoned grocery store in the town of Newfane. The store had operated as a Shurfine and closed in 2006, forcing residents of the area to travel some distance to the next closest grocery store. Having deteriorated through the years, the Newfane facility requires extensive renovation, new construction and the installation of new machinery and equipment.

Mr. Budwey currently operates supermarkets in North Tonawanda and Buffalo and has 40 years experience in the retail supermarket business. The new store will provide fresh meat, produce, bakery items, dry goods, and health and beauty items. The Newfane community has demonstrated significant support for this project. Supervisor Horanburg of Newfane has continually sought to implement this project over the past several years after losing Shurfine.

The project will utilize an existing vacant facility; it will also be able to serve some of the tourism market that own cabins along the lake. Total project investment is estimated to be \$1.5 million, most in machinery and equipment. Once completed the project will create approximately 23 full time and 70 part time positions. They are seeking a 10-year PILOT as well as mortgage recording and sales tax exemptions.

Mr. Budwey was introduced. He stated that they have received numerous requests to put a store in Newfane. He stated that he turned this down in the past due to economics, however with the help of the NCIDA and the incentives offered, the deal seems to make economic sense for them at this time.

9.1.1 Preliminary Resolution

*Mr. Brady made a motion, seconded by Mr. Massaro, to approve the Preliminary Resolution for Budwey Market Place, LLC.*

*The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:*

	<u>Yea</u>	<u>Nea</u>	<u>Abstain</u>	<u>Absent</u>
Henry Sloma	[ X ]	[ ]	[ ]	[ ]
Michael W. Tucker	[ X ]	[ ]	[ ]	[ ]
John J. Petrozzi	[ X ]	[ ]	[ ]	[ ]
Stephen Brady	[ X ]	[ ]	[ ]	[ ]
Kevin Dobbs	[ X ]	[ ]	[ ]	[ ]
Deanna Brennen	[ X ]	[ ]	[ ]	[ X ]
Robert Connolly	[ X ]	[ ]	[ ]	[ ]
Angelo Massaro	[ X ]	[ ]	[ ]	[ ]
Joseph C. Frain	[ ]	[ ]	[ ]	[ X ]

*The resolution was thereupon duly adopted*

9.1.2 Public Hearing – To Be Scheduled

**9.2 Globe Metallurgical, Inc.**

Mr. Witul explained that due to an industrial accident at the Globe site, they were unable to send a representative to this meeting. Globe’s primary product is that of a high-grade silicone product; the company will have a total investment of \$18 million with a major portion of that being in machinery and equipment. They are currently anticipating the creation of up to 100 full time jobs. They will be adding production personnel, technicians, managers, material handlers and office support. Their estimated payroll to start will be approximately \$5 million.

The Company is acquiring and operating an existing facility in the City of Niagara Falls. They have applied for a received assistance from the New York Power Authority for low cost hydropower and they have been designated as an Empire Zone business within the City of Niagara Falls. The project is consistent with the policies of the Agency and it is a project that will have significant impact on the City of Niagara Falls, Niagara County and the surrounding area. Because the Company has been working closely with the City of Niagara Falls on Empire Zone benefits, the Agency is being asked to consider a PILOT and mortgage recording tax exemption if needed.

Questions were raised and a discussion was held regarding the safety of the employees on projects supported by the Agency and whether or not if these companies are found to be in default the Agency can recoup some of the benefits provided. Mr. Gabriele explained that he is working on possible “clawback” language that will be reviewed by the Governance Committee of the Agency in the near future.

**9.2.1 Preliminary Resolution**

*Mr. Petrozzi made a motion, seconded by Mr. Brady, to approve the Preliminary Resolution for Globe Metallurgical, Inc.*

*The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:*

	<u>Yea</u>	<u>Nea</u>	<u>Abstain</u>	<u>Absent</u>
Henry Sloma	[ X ]	[ ]	[ ]	[ ]
Michael W. Tucker	[ X ]	[ ]	[ ]	[ ]
John J. Petrozzi	[ X ]	[ ]	[ ]	[ ]
Stephen Brady	[ X ]	[ ]	[ ]	[ ]
Kevin Dobbs	[ X ]	[ ]	[ ]	[ ]
Deanna Brennen	[ X ]	[ ]	[ ]	[ X ]
Robert Connolly	[ X ]	[ ]	[ ]	[ ]
Angelo Massaro	[ X ]	[ ]	[ ]	[ ]
Joseph C. Frain	[ ]	[ ]	[ ]	[ X ]

*The resolution was thereupon duly adopted*

**9.1.2 Public Hearing – To be Scheduled**

## **10.0 NCIDA Unfinished Business**

### **10.1 Transcedar Industries, Ltd.**

Mr. Gabriele explained that this is an older PILOT that only has a few years remaining. The business is being sold to a separate group and they are holding an asset sale. That group is asking for permission to assume the leaseback and assume the remainder of the PILOT payments as a condition of the sale. The Company has assured the Agency that they will live up to all the obligations of the seller, including the employment levels (all employees at the facility will remain). There are no additional benefits.

*Mayor Tucker made a motion, seconded by Reverend Dobbs, to approve the request by Transcedar Industries, Ltd. Motion passed.*

### **10.2 Capital Management Group, LLC**

Mr. Gabriele explained that this Company has had some delays and are requesting an extension of their sales tax benefits to June 30, 2009. No additional benefits will be provided.

*Mr. Brady made a motion, seconded by Reverend Dobbs, to approve the extension of the Sales Tax Exemption for Capital Management Group, LLC.*

## **11.0 NCIDA Information Items**

### **Local Hiring Discussion**

Mr. Sloma stated that in January there was a project that appeared before the Board wherein the construction phase of the project was being let to a firm from out of the State. This spurred some discussion regarding the Agency's relationship between the Agency and the projects that are granted PILOTS, what their obligations are and what the Agency's responsibility is in granting the PILOT as it relates to local hiring and employment, and other issues.

Chairman Sloma stated that there has been recent proposed legislation in the Assembly sponsored by Assemblyman Hoyt and Senator Thompson about IDA reform, which spoke to a number of these issues. Chairman Sloma and Mr. Ferraro presented testimony to the Senate standing committee on this bill [*a copy of which is attached hereto and made a part hereof these minutes*]. Mr. Ferraro stated that the testimony (in written form) was presented to the standing committee on March 4, 2009. Those in attendance at the hearing said that many of the individuals were opposed to the legislation, however, not all had the opportunity to speak and were asked to submit their comments in writing. Mr. Ferraro stated that part of the process included a PR campaign by many individuals, including the Harris Beach bumper sticker that has been provided to the Board of Directors.

Chairman Sloma opened the discussion of local hiring by asking Mr. Massaro to begin. Mr. Massaro feels that this proposal is timely from the standpoint of the aforementioned legislation which allows the opportunity to see clearly the distinction between that legislation and what he is going to suggest. Mr. Massaro stated he has not discussed this approach with any Board member. The legislation and Agency comments talk about "mandatory" requirements of

**Local Hiring Discussion (Continued...)**

payments of certain wages. In the construction area it talks about “mandatory” requirements, which the State has long respected—prevailing wages for construction in the building industry. On a long term basis it requires that it be paid the median hour wage for all occupations that continue. The wording in the testimony by the Agency is in opposition to those two points where it was imposing this mandatory burden and would result in negating the purpose of this organization. Mr. Massaro stated he is proposing a “voluntary” approach to implementing these benefits; first and foremost a voluntary approach as far as employment/local hiring in the locality (Niagara County) and secondly, a voluntary aspect of implementing a prevailing wage which is crucial not only to those individuals working in the field in constructing buildings and roads in this community, but particularly it is crucial to the community in the flow of dollars and benefits to those individuals who make up a substantial portion of our community.

Mr. Massaro suggested that the discussion should first be on local hiring and the feasibility of implementing a voluntary program of benefits to encourage local hiring. This discussion should be amplified by implementing as a part of this voluntary program, provisions for additional benefits should certain wages be paid initially in the project. An applicant that comes before the Agency should be provided an opportunity to select whatever portion or all of the benefits. Mr. Massaro suggested that the Board of Directors implement a study to determine the feasibility of a three-tier benefit program in which a prospective applicant could chose to voluntarily participate in total or in part.

- The first tier would be the level of benefits that are presently afforded by the NCIDA and to continue those benefits with the oversight, knowledge and expertise that the Staff has and that this Board considers.
- The second tier would be the intermediate tier of benefits concerned with local employment/hiring. Additional benefits would be afforded applicants if they voluntarily agree to hire on a permanent basis, residents first in the locality of the project, if they are qualified to provide that work. The policy should recognize that there may be some technical requirements of the project. This tier would afford a level of benefits which would include employment.

Mr. Massaro noted that the most important thing in part generated from the NCIDA is the payroll that is generated and the regeneration of those dollars in the community. Because it involves a benefit that may be put aside, then before a benefit is afforded the locality should be brought into the discussion.

- The third tier deals with the initial implementation of the project. This would be further enhancements dealing with the voluntary agreement of the developer/applicant to pay the prevailing rates according to the schedules that are on file in the community. Mr. Massaro stated that this allows the Agency to put people on an equal level, because without health benefits, training, pensions in the construction industry and others, the product is diminished.

**Local Hiring Discussion (Continued...)**

Mr. Massaro requested that a committee be formed to undertake a study and an analysis to implement this three-tier schedule of economic benefits. He requested that Mr. Gabriele determine whether or not this is legal. Mr. Massaro stated that he would like Mr. Gabriele to see if this three-tier is legal and if not, to go to the Legislature to have special legislation to amend the law on something acceptable. He also would like the committee to look into and make an analysis on increased/enhanced benefits in Tier 2 and Tier 3 as compared to the loss of benefits and bring this back to the Board and if this Board feels there is merit, to implement the program to go out to the community, i.e. public hearings and get the input of the community.

Mr. Connolly stated that with the cost of union medical benefits and training, that their product is their employees. He stated that he is for the Hoyt bill and local hiring. He stated that when a Company is provided NCIDA agency benefits and they bring in outside contractors there is no benefit for the County and he therefore is supporting mandatory local hiring.

Chairman Sloma stated that he believes the Board of Directors is supportive of the concept of encouraging developers to hire and invest locally and channel resources back into Niagara County. Chairman Sloma stated that each project brings different things to the table—some have few jobs and large tax revenues and some have many jobs and low tax revenue. However, it has been the spirit of this Board to encourage people to hire and employ people locally, but the Agency cannot enforce that.

Mr. Petrozzi stated that he feels the discussion is going in the wrong direction. He feels that if businesses are told that if they want to do business here they will be required to meet these requirements it will discourage them. It will no longer be economical for businesses to come here. The Agency needs to encourage business by not making it difficult to do business here.

Mr. Massaro stated that his proposal is enhancing the benefits to make it better and as much as the Agency wants to encourage business, they also should be creating jobs for their citizens. Mr. Massaro stated he is requiring a study to either put into effect a mandatory or voluntary program regarding local hiring.

Mr. Brady likes Mr. Massaro's suggestion to look into this issue. The projects before the Board today are so vastly different that one set policy is not going to be appropriate. And although local hiring is a good idea, this should not be so limited that there is a boundary around Niagara County because people who are employed in Niagara County but live in neighboring communities also support Niagara County. Mr. Brady stated that there is a committee that can look into Mr. Massaro's proposal that would be the Governance Committee.

Chairman Sloma stated that this needs to be referred to the Governance Committee which is chaired by Mr. Brady. He would authorize Mr. Brady to bring some adjunct people on board (i.e., economist from a local university). Other members of the committee are Ms. Brennen and Mayor Tucker and of course all members are invited to attend. Chairman Sloma asked that Mr. Brady convene the committee and begin this study as requested.

**12.0 Agency Counsel**

Mr. Gabriele stated that a “clawback” policy will be sent to the Governance committee for discussion.

**13.0 Any Other NCIDA Matters the Board Wishes to Discuss**

**14.0 Next Regular NCDC - NCIDA Board Meeting:**

**DATE:** March 11, 2009

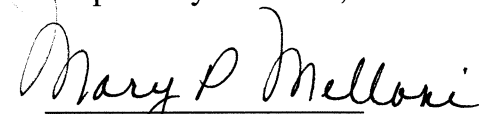
**TIME:** 9:00 a.m.

**PLACE:** Niagara County Center for Economic Development

**15.0 Adjournment**

*Mayor Tucker made a motion, seconded by Mr. Connolly, to adjourn the meeting. Meeting adjourned at 10:45 a.m.*

Respectfully submitted,

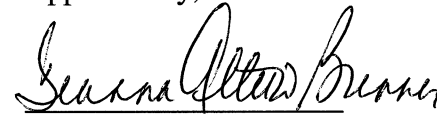


Mary P. Melloni  
Administrative Assistant

Reviewed by,

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Samuel M. Ferraro  
Executive Director

Approved by,



Deanna Alterio-Brennen  
Secretary