

REGULAR NCIDA/NCDC/NADC BOARD MEETING

DATE: June 8, 2022
MEETING TIME: 9:00 a.m.
MEETING PLACE: Niagara County Industrial Development Agency
Vantage Center, Suite One
6311 Inducon Corporate Drive
Sanborn, NY 14132

1.0 Meeting Called to Order

The Regular meeting of the Niagara County Industrial Development Agency was called to order by Chairperson Mark Onesi at 9:00 a.m.

2.0 Roll Call

Mark A. Onesi, Chairperson	Present
Jerald I. Wolfgang, 1 st Vice Chairperson	Present
Kevin McCabe, 2 nd Vice Chairperson	Present
William L. Ross, Secretary	Present
Scott Brydges, Assistant Secretary	Excused
Robert B. Cliffe, Member	Present
Jason Krempe, Member	Present
Clifford Scott, Member	Present
Maria V. Lopez, Member	Excused

3.0 Introduction of Guests

Guests Present:

Jim Fink, Business First
Jonathan Epstein, Buffalo News
Dave Chamberlain, D.R.C. Development
Tracy Sundberg, Edwards Vacuum
Tammy Dodge, Lockport Schools Federal Credit Union

Staff Present:

Susan C. Langdon, Executive Director
Andrea Klyczek, Assistant Director
Michael S. Dudley, Finance Manager
Susan Barone, Project Manager
Julie Lamoreaux, Administrative Assistant
Mark J. Gabriele, Agency Counsel

4.0 Pledge of Allegiance

Mr. Dudley led the Pledge of Allegiance.

5.0 Approval of Meeting Minutes

5.1 Regular NCIDA/NCDC/NADC – May 11, 2022

Mr. Wolfgang motioned to approve the meeting minutes; Mr. Ross seconded the motion. The motion passed.

6.0 Finance & Audit Committee Reports

6.1 Agency Payables – May 31, 2022

Mr. McCabe stated that the monthly payables have been reviewed and found to be in order.

Mr. McCabe made a motion to approve the monthly payables; Mr. Ross seconded the motion. The motion passed.

6.2 Budget Variance Report – May 31, 2022

Mr. McCabe stated that the Budget Variance Report has been reviewed and found to be in order.

Mr. McCabe made a motion to approve the Budget Variance Report; Mr. Ross seconded the motion. The motion passed.

7.0 Governance Committee

7.1 Local Labor Policy

Mr. Wolfgang stated that for the first time in the history of the NCIDA, the Board held a Work Session on June 2, 2022 to discuss the Local Labor Policy. Mr. Wolfgang said that the session went well, and that there was much productive discussion. Mr. Wolfgang stated for the record, that after the work session he was contacted by a number of businesses and legislators in regard to the local labor policy. He stated that, since the Board was appointed by the County Legislature, the Board is a talented diverse group including business people, financial experts, educators, former municipal officials, and labor representation. With these skill sets, expertise and experience, the Board is fully equipped and capable of making and carrying out the Policies of the Agency. The Board concurred with his observations.

Mr. Gabriele stated that there were four items that the Board agreed unanimously on at the Work Session. One was the language in the introduction regarding the NCIDA mission. The second was the elimination of Monroe County in the Local Labor area, pending dismissal of the existing lawsuit. Mr. Gabriele notes that he received notice that the lawsuit had been dropped as of today.

The third item was the Agency, on an annual basis, will select a completed project, either randomly or based upon information proved to the Agency, to conduct an investigation into whether the Company was compliant with the Agency's Local Labor Policy. The Agency, or its designated agents, shall during normal business hours, examine and copy the applicable books and wage records of the Company, Contractor and/or Subcontractor as related to work performed on the Project. If the Agency determines that the local labor requirement is found to be below 90 percent, the Agency may terminate or modify any and all Financial Assistance being proved to the Project in accordance with the terms of the underlying agreements between the Agency and the Company with respect to the project. Mr. Cliffe requested that the language be amended to "at least one company" annually.

Finally, it is understood that at certain times, Workers residing within the Local Labor Area may not be available with respect to a project. Under this condition, the Company is required to contact the Agency to request a waiver of the Local Labor Requirement (the "Local Labor Waiver Request") based on the following circumstances: (i) warranty issues related to installation of specialized equipment or materials whereby the manufacturer requires installation by only approved installers; (ii) specialized construction for which qualified Local Labor Area Workers are not available, (iii) lack of workers that would allow the Company to meet the Local Labor Area requirement. The Agency's Executive Director, in consultation with the Chairman, or Vice Chairman related thereto based upon information received may grant such waiver request.

Mr. Gabriele stated that the staff will make every attempt to compare head count at a project to the number of hours worked to try to ascertain if any issues exist. The Agency will also continue to monitor a potential for abuse by local contractors if they inflate project costs by at least 20 percent, compared to those of out of area Contractors.

Mr. McCabe stated that this Board represents the tax payers of Niagara County and will do what is best for them.

Mr. Wolfgang made a motion to approve the Local Labor Policy. Mr. Cliffe seconded the motion. The motion passed.

The question of the approval of the Resolution as duly put to a vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jerald Wolfgang	x			
Kevin McCabe	x			
William Ross	x			
Maria V. Lopez				x
Robert Cliffe	x			
Scott Brydges				x
Clifford Scott	x			
Jason Krempa	x			
Mark Onesi	x			

The Resolution was thereupon duly adopted.

7.2 Apprenticeship Policy

Mr. Gabriele stated that when this policy was drafted several years ago, staff struggled with how to base the benefit of how to base the benefits. He stated that there are now certified apprentice programs including union and non-union, these are listed in the State directory. If a company hires Contractors that are part of those programs, the Board could give the company 5 percent additional abatement for a period of five years.

Mr. Wolfgang made a motion to approve the Apprenticeship Policy. Mr. Cliffe seconded the motion. The motion passed.

The question of the approval of the Resolution as duly put to a vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jerald Wolfgang	x			
Kevin McCabe	x			
William Ross	x			
Maria V. Lopez				x
Robert Cliffe	x			
Scott Brydges				x
Clifford Scott	x			
Jason Krempa	x			
Mark Onesi	x			

The Resolution was thereupon duly adopted.

8.0 Unfinished Business

8.1 Niacet Corporation (NxTD Project)

Ms. Klyczek stated that on May 31, 2022 at 2:00 p.m., the Agency held a public Hearing at Niagara Falls City Hall. There were no attendees at the Public Hearing, and there were no comments made at the Hearing.

8.1.1 Final Resolution

RESOLUTION OF THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) UNDERTAKE A CERTAIN PROJECT FOR THE BENEFIT OF NIACET CORPORATION AND/OR AN INDIVIDUAL(S) OR AFFILIATE, SUBSIDIARY, OR ENTITY FORMED OR TO BE FORMED ON ITS BEHALF (AS MORE FULLY DEFINED BELOW); (ii) DETERMINE THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT; (iii) NEGOTIATE AND EXECUTE A LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT, PILOT MORTGAGE AND RELATED DOCUMENTS; AND (iv) PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, (B) A MORTGAGE RECORDING TAX EXEMPTION FOR THE FINANCING RELATED TO THE PROJECT; AND (C) A MORTGAGE RECORDING TAX EXEMPTION FOR THE MORTGAGE RELATED TO THE PILOT AGREEMENT.

Mr. Scott made a motion to approve the Final Resolution. Mr. McCabe seconded the motion. The motion passed.

The question of the approval of the Resolution as duly put to a vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jerald Wolfgang	x			
Kevin McCabe	x			
William Ross	x			
Maria V. Lopez				x
Robert Cliffe	x			
Scott Brydges				x
Clifford Scott	x			
Jason Krempa	x			
Mark Onesi	x			

The Resolution was thereupon duly adopted.

8.2 TM Montante Development, LLC (500 3rd Street)

Mr. Gabriele stated that this company has requested to the staff and the Board to have their existing inducement extended for a period of six months.

8.2.1 Inducement Extension

RESOLUTION AUTHORIZING THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO EXTEND THE INDUCEMENT TERM FOR TM MONTANTE DEVELOPMENT, LLC FOR A SIX-MONTH PERIOD WITH RESPECT TO A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW) TO BE UNDERTAKEN BY THE AGENCY FOR THE BENEFIT OF TM MONTANTE DEVELOPMENT, LLC OR AN ENTITY FORMED OR TO BE FORMED.

Mr. Krempa made a motion to approve the Inducement Extension. Mr. Wolfgang seconded the motion. The motion passed.

The question of the approval of the Resolution as duly put to a vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jerald Wolfgang	x			
Kevin McCabe	x			
William Ross	x			
Maria V. Lopez				x
Robert Cliffe	x			
Scott Brydges				x
Clifford Scott	x			
Jason Krempa	x			
Mark Onesi	x			

The Resolution was thereupon duly adopted.

8.3 TM Montante Development, LLC (512 3rd Street)

Mr. Gabriele stated that this company has requested to the staff and the Board to have their existing inducement extended for a period of six months.

8.3.1 Inducement Extension

RESOLUTION AUTHORIZING THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO EXTEND THE INDUCEMENT TERM FOR TM MONTANTE DEVELOPMENT, LLC FOR A SIX-MONTH PERIOD WITH RESPECT TO A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW) TO BE UNDERTAKEN BY THE AGENCY FOR THE BENEFIT OF TM MONTANTE DEVELOPMENT, LLC OR AN ENTITY FORMED OR TO BE FORMED.

Mr. Krempa made a motion to approve the Inducement Extension. Mr. Cliffe seconded the motion. The motion passed.

The question of the approval of the Resolution as duly put to a vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jerald Wolfgang	x			
Kevin McCabe	x			
William Ross	x			
Maria V. Lopez				x
Robert Cliffe	x			
Scott Brydges				x
Clifford Scott	x			
Jason Krempa	x			
Mark Onesi	x			

The Resolution was thereupon duly adopted.

8.4 Indian Ocean LLC

Mr. Gabriele stated that Indian Ocean LLC is refinancing their new debt with a new lender. It is required that they get the consent of our Agency in order to move forward with the refinance.

8.4.1 Consent to Refinance

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MORTGAGE, MORTGAGE TAX EXEMPTION AFFIDAVIT AND OTHER DOCUMENTS WITH REGARD TO THE 2013 INDIAN OCEAN LLC PROJECT.

Mr. Ross made a motion to approve the Consent to Refinance. Mr. McCabe seconded the motion. The motion passed.

The question of the approval of the Resolution as duly put to a vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jerald Wolfgang	x			
Kevin McCabe	x			
William Ross	x			
Maria V. Lopez				x
Robert Cliffe	x			
Scott Brydges				x
Clifford Scott	x			
Jason Krempa	x			
Mark Onesi	x			

The Resolution was thereupon duly adopted.

8.5 Request for MicroEnterprise Grant Approval

8.5.1 North Shores Niagara LLC

Ms. Klyczek stated that she needs to make a change to the Agenda. She mistakenly added Creekside Income Tax LLC to the Agenda, she needs to add North Shores Niagara LLC.

She stated North Shores Niagara LLC was reviewed, but not approved at the last Micro Enterprise Grant Committee meeting. The original application did not have supporting details for the full request of the money requested. Ms. Klyczek stated that she went back to the owner to ask her to elaborate on the costs and works with somebody from SBDC to work on a marketing plan. The business owner of North Shores Niagara LLC has decided to reduce her request to \$900.00 for the cost of equipment to her business that she provided back-up for in the previous Committee meeting.

8.5.1 Northshores Niagara LLC

RESOLUTION OF THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY APPROVING MICRO ENTERPRISE FUND GRANT TO NORTSHORES NIAGARA LLC.

Mr. Krempa made a motion to add Northshores Niagara LLC to the Agenda as a late item; Mr. Scott seconded the motion. The motion passed.

Mr. Wolfgang made a motion to approve the Microenterprise Grant Request; Mr. Cliffe seconded the motion. The motion passed.

The question of the approval of the Resolution as duly put to a vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jerald Wolfgang	x			
Kevin McCabe	x			
William Ross	x			
Maria V. Lopez				x
Robert Cliffe	x			
Scott Brydges				x
Clifford Scott	x			
Jason Krempa	x			
Mark Onesi	x			

The Resolution was thereupon duly adopted.

9.0 New Business

9.1 D.R.C. Development LLC

Ms. Klyczek stated that D.R.C. Development constructed a 64,000 square foot building in VIP in 2012 which was leased to Edwards Vacuum, a manufacturer of vacuum systems. In 2020, manufacturing/assembly activities were moved out of New York State. Since that time, warehousing, office and support activities have remained at this location. Currently, the company's warehousing needs have exceeded the available capacity. Therefore, DRC Development plans to construct a 36,000 square foot addition to the existing building to accommodate Edwards. This represents 30 million dollars in investment and approximately 20 new jobs created.

Mr. Chamberlain stated when he first built this project is was 64,000 square feet, and they did anticipate that eventually they would need an addition. He stated that the time has come where the company needs more warehouse space. He is anticipating that it will be identical to the existing warehouse.

Mr. Sundberg stated that he is the Local Operations Manager at Edwards Vacuum. He stated that his company sells everting related to the vacuum industry including pumps, and abatement systems for contaminated toxins. He explained that his company sells to a lot of different markets.

9.1.1 Preliminary Resolution

RESOLUTION OF THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) ACCEPTING THE APPLICATION OF DRC DEVELOPMENT LLC WITH RESPECT TO A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW) TO BE UNDERTAKEN BY THE AGENCY FOR THE BENEFIT OF DRC DEVELOPMENT LLC OR AN ENTITY FORMED OR TO BE FORMED; (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT; (iii) AUTHORIZING THE EXECUTIVE DIRECTOR OF THE AGENCY TO TAKE CERTAIN ACTIONS UNDER ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW IN CONNECTION WITH THE PROJECT; (iv) PROVIDE SALES TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE RENOVATION, CONSTRUCTION AND EQUIPPING OF THE PROJECT; AND (v) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY.

Mr. Wolfgang made a motion to approve the Preliminary Resolution; Mr. Scott seconded the motion. The motion passed.

The question of the approval of the Resolution as duly put to a vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jerald Wolfgang	x			
Kevin McCabe	x			
William Ross	x			
Maria V. Lopez				x
Robert Cliffe	x			
Scott Brydges				x
Clifford Scott	x			
Jason Krempa	x			
Mark Onesi	x			

The Resolution was thereupon duly adopted.

9.1.2 Authorize Public Hearing

Mr. Scott motioned to authorize the Public Hearing; Mr. Ross seconded the motion. The motion passed.

9.2 Lockport Schools Federal Credit Union

Ms. Klyczek stated that Lockport Schools Federal Credit Union (LSFU) will be demolishing the building that they had previously leased to build a new 2,856 sq. ft. building. The LSFU recently acquired the land in which they currently reside, they will move to a temporary location during demolition and construction. LSFU is a not for profit, that is not subject to sales tax, the benefits from the Niagara County Industrial Development Agency will be limited to property tax abatement. The company is planning to create at least one new job.

Ms. Dodge from LSFU stated that the Credit Union has been in Lockport for over 30 years. She said that when they first opened, they had 1,000 memberships, and now they have close to 1,500. They have been operating out of a very small space, and they are looking to making the building more ADA compliant. They are looking to make the building better for all their members who will benefit form drive through ATM access.

9.2.1 Preliminary Resolution

RESOLUTION OF THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) ACCEPTING THE APPLICATION OF LOCKPORT SCHOOLS FEDERAL CREDIT UNION WITH RESPECT TO A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW) TO BE UNDERTAKEN BY THE AGENCY FOR THE BENEFIT OF LOCKPORT SCHOOLS FEDERAL CREDIT UNION OR AN ENTITY FORMED OR TO BE FORMED; (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT; (iii) AUTHORIZING THE EXECUTIVE DIRECTOR OF THE AGENCY TO TAKE CERTAIN ACTIONS UNDER ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW IN CONNECTION WITH THE PROJECT; (iv) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY.

Mr. Cliffe made a motion to approve the Preliminary Resolution; Mr. Krempa seconded the motion. The motion passed.

The question of the approval of the Resolution as duly put to a vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jerald Wolfgang	x			
Kevin McCabe	x			
William Ross	x			
Maria V. Lopez				x
Robert Cliffe	x			
Scott Brydges				x
Clifford Scott	x			
Jason Krempa	x			
Mark Onesi	x			

The Resolution was thereupon duly adopted.

9.2.2 Authorize Public Hearing

Mr. Cliffe motioned to authorize the Public Hearing; Mr. Krempa seconded the motion. The motion passed.

10.0 Agency Counsel

Mr. Gabriele stated that he would like to request for the Board to go into an executive session.

Mr. Wofgang made a motion to approve the executive Session; Mr. Ross seconded the motion. The motion passed.

11.0 Information Items

There were no information items at this time.

12.0 Any Other Matters the Board Wishes to Discuss

There were no other items the Board wished to discuss.

13.0 Next Regular NCIDA/NCDC/NADC Meeting:

DATE: July 13, 2022

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

PLACE: Niagara County Center for Economic Development

14.0 Adjournment

Mr. Krempa made a motion to adjourn; Mr. Cliffe seconded the motion. The meeting adjourned at 10:00 a.m.

Respectfully Submitted:

Reviewed by:

Approved by:

Julie Lamoreaux
Recording Secretary

Susan C. Langdon
Executive Director

William L. Ross
Secretary