

# ANNUAL NCIDA/NCDC/NADC BOARD MEETING MINUTES

Wednesday, March 9, 2016 – 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, Chairman	Present
Stephen F. Brady, First Vice Chairman	Present
Mark A. Onesi, Second Vice Chairman	Present
Kevin McCabe, Secretary	Present
Jerald I. Wolfgang, Assistant Secretary	Present
Michael W. McNally, Member	Present
Joan G. Aul, Member	Present
Willie C. Dunn	Present
William L. Ross	Present

## 3.0 Chairman Sloma led the Pledge of Allegiance.

## 4.0 Introductions:

### 4.1 Guests Present:

Michael Fogel, Brown Shavlow Duke & Fogel, P.C.  
Tom Prohaska, Buffalo News

### Staff Present:

Samuel M. Ferraro, Executive Director  
Susan C. Langdon, Director of Projects & Finance  
Andrea Klyczek, Director of Regional & International Marketing  
Michael S. Dudley, Finance Manager  
Mark J. Gabriele, Agency Counsel  
Barbara A. Gill, Administrative Coordinator/Recording Secretary

## 5.0 Approval of NCIDA Meeting Minutes

### 5.1 Meeting Minutes of February 10, 2016

Chairman Sloma asked for a motion to approve the meeting minutes of February 10, 2016.

*Mr. McCabe made a motion to approve the meeting minutes; Mr. Onesi seconded the motion. The motion passed.*

**6.0 NCIDA/NCDC/NADC Committee Reports**

**6.1 Finance & Audit Committee**

**6.1.1 February Agency Payables**

Mr. Onesi stated that he had reviewed the monthly payables and found them to be in order.

*Mr. Onesi made a motion to approve the Agency's Monthly Payables; Mr. McCabe seconded the motion. The motion passed.*

**6.1.2 February Budget Variance Report**

Mr. Onesi stated that he had reviewed the Budget Variance Report and found the report to be in order.

*Mr. Onesi made a motion to approve the Report; Mr. McCabe seconded the motion. The motion passed.*

**6.2 Governance Committee**

**6.2.1 Annual Board Evaluations**

Mr. Gabriele explained that under the Public Authorities Accountability Act (PAAA) the Board of Directors of the Agency is required to complete a self-evaluation each year. The Board Evaluations are filled out anonymously as required by PAAA. Questionnaires were sent to all members and then summarized. The evaluation is based on 16 questions with four categories of answers, i.e agree, somewhat agree, somewhat disagree, or disagree. If there were any in the "somewhat disagree" or "disagree" categories that would precipitate a meeting of the committee to remedy the problems noted. Mr. Gabriele stated that ninety percent (90%) of the Board gave positive responses for 2015.

This item is for informational purposes only and no action was necessary.

**7.0 Annual Meetings of the NCIDA, NCDC, and NADC**

**7.1 Election of Chairperson**

At this time, the current Chairperson turned the meeting over to Mark Gabriele, Agency Counsel. Mr. Gabriele stated that he would accept nominations for Chairperson of the NCIDA, NCDC and NADC. Hearing none, Mr. Gabriele closed the nominations.

Mr. Gabriele then requested that Secretary McCabe cast one vote for Mr. Sloma as Chairperson.

**7.0 Annual Meetings Continued**

**7.1 Election of Chairperson Continued**

*Mr. Wolfgang motioned to close the nominations at this time; Mr. Onesi seconded the motion. The motion passed.*

*Mr. Wolfgang motioned to nominate Mr. Sloma as Chairperson; Mr. McNally seconded the motion. The motion passed unanimously.*

Mr. Sloma will continue in the position of NCIDA Chairperson, and he thanked the Board Members for their continued and on-going support.

**7.2 Election of Officers**

Chairperson Sloma stated that he would like to keep the current Slate of Officers for the NCIDA, NCDC and NADC as below:

7.2.1	First Vice Chairperson	Stephen F. Brady
7.2.2	Second Vice Chairperson	Mark A. Onesi
7.2.3	Secretary	Kevin McCabe
7.2.4	Assistant Secretary	Jerald I. Wolfgang
7.2.5	Treasurer	Samuel M. Ferraro

**7.3 Appointment of Committee Members and Committee Chairpersons**

Chairperson Sloma stated that he has chosen the below Chairpersons and Committees for the NCIDA, NCDC and NADC:

**7.3.1 Audit & Finance Committee**

Chairperson Onesi, Members Michael McNally and Kevin McCabe

**7.3.2 Governance Committee**

Chairman Jerald I. Wolfgang, Members Joan G. Aul and William L. Ross

**7.3.3 Revolving Loan Fund Committee**

Henry M. Sloma, Mark A. Onesi, and Deanna Brennen

**7.3.4 Microenterprise Assistance Program Committee**

Wm. Keith McNall and Anthony J. Nemi (Niagara County Legislators)

**7.4 Ratify Board Meeting Dates/Time**

Chairman Sloma referred to the schedule of 2016 of the meeting being held on the 2<sup>nd</sup> Wednesday of the month at 9 a.m.

*Mr. Wolfgang made a motion to continue to hold the monthly Board Meetings on the second (2<sup>nd</sup>) Wednesday of the month at 9 a.m.; Mr. Onesi seconded the motion. The motion passed unanimously.*

**7.0 Annual Meetings Continued**

**7.5 Reaffirm Committee Charters**

**7.5.1 Finance & Audit Committee Charter**

Mr. Gabriele stated that the Charter has not been revised or amended, and that the Charter is required to be reaffirmed at the Annual Board Meeting each year.

*Mr. Brady motioned to approve the Audit Committee Charter; Ms. Aul seconded the motion. The motion passed unanimously.*

**7.5.2 Governance Committee Charter**

Mr. Gabriele stated that the Charter has not been revised or amended, and that the Charter is required to be reaffirmed at the Annual Board Meeting each year.

*Mr. Brady motioned to approve the Governance Committee Charter; Ms. Aul seconded the motion. The motion passed unanimously.*

**7.6 Reaffirm Mission Statement**

Mr. Gabriele stated that the Agency's Mission Statement is required to be reaffirmed at the Annual Board Meeting.

*Mr. Onesi made a motion to reaffirm the Mission Statement; Mr. Wolfgang seconded the motion. The motion passed unanimously.*

**7.7 Reaffirm Administrative Policies for 2016**

*Mr. Brady motioned to reaffirm all existing policies for 2016; Mr. McNally seconded the motion. The motion passed unanimously.*

**7.7.1 Termination/Recapture Policy**

Mr. Gabriele stated that NYS Legislation now requires Industrial Development Agencies (IDAs) to develop policies for the suspension and/or termination of the financial assistance provided by the IDAs. Such policy also includes a process for the modification of PILOT payments, which shall include an event of material violation of the terms and conditions of the project agreement. The financial assistance in question includes sales tax exemptions, mortgage recording tax exemptions, and PILOT benefits.

**7.0 Annual Meetings Continued**

**7.7 Reaffirm Administrative Policies for 2016**

**7.7.1 Termination/Recapture Policy**

The legislation suggests that an IDA require the recapture of financial assistance due to material shortfalls in job creation and retention projects or material violations of the terms and conditions of project agreements. Any recaptured amount of financial assistance is required to be redistributed to the appropriate taxing jurisdiction.

*Mr. Brady motioned to adopt the Termination/Recapture Policy; Mr. Ross seconded the motion. The motion passed unanimously.*

**7.8 Reaffirm Uniform Tax Exemption Policy**

*Mr. Brady made a motion to reaffirm the Policy; Mr. Onesi seconded the motion. The motion passed.*

The question of the reaffirming of the Policy was duly put to a vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Chairman Sloma	[ X ]	[ ]	[ ]	[ ]
Stephen F. Brady	[ X ]	[ ]	[ ]	[ ]
Mark A. Onesi	[ X ]	[ ]	[ ]	[ ]
Michael W. McNally	[ X ]	[ ]	[ ]	[ ]
Kevin McCabe	[ X ]	[ ]	[ ]	[ ]
Jerald I. Wolfgang	[ X ]	[ ]	[ ]	[ ]
Joan G. Aul	[ X ]	[ ]	[ ]	[ ]
Willie C. Dunn	[ X ]	[ ]	[ ]	[ ]
William L. Ross	[ X ]	[ ]	[ ]	[ ]

The Policy was thereupon duly reaffirmed.

**7.9 Niagara Industrial Incubator Associates (“NIIA”)**

Mr. Gabriele stated that Susan Langdon’s appointment as an Agency representative on the NIIA needs approval on an annual basis.

**7.9.1 Appointment of Susan Langdon**

*Mr. Wolfgang motioned to approve the appointment of Ms. Langdon; Ms. Aul seconded the motion. The motion passed.*

**7.0 Annual Meetings Continued**

**7.10 Niagara Industrial Incubator Company (“NIIC”)**

**7.10.1 Appointment of Susan Langdon**

Mr. Gabriele stated that Susan Langdon’s appointment as an Agency representative on the NIIA Committee requires approval on an annual basis.

*Mr. Wolfgang motioned to approve the appointment of Ms. Langdon; Ms. Aul seconded the motion. The motion passed.*

**7.11 Niagara Economic Development Fund (“NEDF”)**

**7.11.1 Appointment of Samuel M. Ferraro**

Mr. Gabriele stated that Samuel Ferraro’s appointment as the Agency’s representative on the NEDF Board requires approval on an annual basis.

*Mr. McCabe motioned to approve the appointment of Mr. Ferraro; Mr. Brady seconded the motion. The motion passed.*

**8.0 Unfinished Business**

**8.1 Somerset Operating Co. LLC (Riesling)**

Riesling has requested consent of the Agency to become the new owner of Somerset in place of Upstate. Consent would include the assumption, continuation and grant of project benefits running to Somerset, including the assumption of the PILOT, along with sales tax and mortgage tax benefits. Somerset would continue to operate the facility under the new ownership of Riesling allowing the retention of 99 jobs.

Ms. Langdon stated that the Public Hearing was held on March 3, 2016 with no speakers.

**8.1.1 Final Resolution**

*Ms. Aul made a motion to approve the Final Resolution; Mr. McNally seconded the motion. The motion passed.*

8.0 Unfinished Business

8.1 Somerset (Riesling) Continued

8.1.1 Final Resolution Continued

RESOLUTION OF THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) UNDERTAKE A CERTAIN PROJECT FOR THE BENEFIT OF SOMERSET OPERATING COMPANY, LLC 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.

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>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Chairman Sloma	[ X ]	[ ]	[ ]	[ ]
Stephen F. Brady	[ X ]	[ ]	[ ]	[ ]
Mark A. Onesi	[ X ]	[ ]	[ ]	[ ]
Michael W. McNally	[ X ]	[ ]	[ ]	[ ]
Kevin McCabe	[ X ]	[ ]	[ ]	[ ]
Jerald I. Wolfgang	[ X ]	[ ]	[ ]	[ ]
Joan G. Aul	[ X ]	[ ]	[ ]	[ ]
Willie C. Dunn	[ X ]	[ ]	[ ]	[ ]
William L. Ross	[ X ]	[ ]	[ ]	[ ]

The Resolution was thereupon duly adopted.

9.0 New Business

9.1 HH 301, LLC (Hamister)

9.1.1 Inducement Resolution Extension Request

The project is a hotel on Rainbow Boulevard in Niagara Falls. In a letter sent to the Agency, the company requested a six (6) month inducement extension which is set to expire on March 31, 2016. The company is working on financial issues at this time.

*Ms. Aul made a motion to approve the Inducement Resolution Extension; Mr. McNally seconded the motion. The motion passed.*

RESOLUTION AUTHORIZING THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO EXTEND THE INDUCEMENT TERM FOR HH 310, 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 HH 310, LLC OR AN ENTITY FORMED OR TO BE FORMED.

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>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Chairman Sloma	[ X ]	[ ]	[ ]	[ ]
Stephen F. Brady	[ X ]	[ ]	[ ]	[ ]
Mark A. Onesi	[ X ]	[ ]	[ ]	[ ]
Michael W. McNally	[ X ]	[ ]	[ ]	[ ]
Kevin McCabe	[ X ]	[ ]	[ ]	[ ]
Jerald I. Wolfgang	[ X ]	[ ]	[ ]	[ ]
Joan G. Aul	[ X ]	[ ]	[ ]	[ ]
Willie C. Dunn	[ X ]	[ ]	[ ]	[ ]
William L. Ross	[ X ]	[ ]	[ ]	[ ]

The Resolution was thereupon duly adopted.



**9.2 Niagara Industrial Incubator Associates (“NIIA”)**

Niagara Wheatfield Investments (“NWI”) has expressed a desire to sell its ownership interest in the Niagara Industrial Incubator Associates Partnership to the General Partner Niagara Industrial Incubator Associates (“NIIA”) along with any rights that exist in the lease agreement. The building was appraised and the NWI partners are now offering their interest in the NIIA for \$625,000 and they would waive any value in the existing lease. As a result, the NCIDA and the NFTA would enter into an agreement to both manage and maintain the property.

**9.2.1 Purchase/Sale Agreement**

*Mr. Brady made a motion to approve the purchase/sale of the Rainbow Industrial Center; Ms. Aul seconded the motion. The motion passed.*

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

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Chairman Sloma	[ ]	[ ]	[ X ]	[ ]
Stephen F. Brady	[ X ]	[ ]	[ ]	[ ]
Mark A. Onesi	[ X ]	[ ]	[ ]	[ ]
Michael W. McNally	[ X ]	[ ]	[ ]	[ ]
Kevin McCabe	[ X ]	[ ]	[ ]	[ ]
Jerald I. Wolfgang	[ X ]	[ ]	[ ]	[ ]
Joan G. Aul	[ X ]	[ ]	[ ]	[ ]
Willie C. Dunn	[ X ]	[ ]	[ ]	[ ]
William L. Ross	[ X ]	[ ]	[ ]	[ ]

The purchase agreement was thereupon duly approved.

**9.3 Greenpac Mill, LLC**

In a letter sent to the Agency, the company requested approval and consent to the assignment and assumption of the mortgage secured credit facilities by a new lending association, and consolidation and modification of all mortgages and the continuation and utilization of the mortgage tax exemption with respect to the entire project.

**9.3.1 Consent to Refinance Mortgage**

*Mr. Wolfgang made a motion to approve the Consent to Mortgage; Mr. Onesi seconded the motion. The motion passed.*

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF MORTGAGES, MORTGAGE TAX EXEMPTION AFFIDAVITS AND OTHER DOCUMENTS WITH REGARD TO THE 2010 GREENPAC MILL, LLC PROJECT.

**9.0 New Business**

**9.3 Greenpac Mill, LLC**

**9.3.1 Consent to Refinance Mortgage**

The question of the approval of the consent to refinance mortgage was duly put to a vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Chairman Sloma	[ X ]	[ ]	[ ]	[ ]
Stephen F. Brady	[ X ]	[ ]	[ ]	[ ]
Mark A. Onesi	[ X ]	[ ]	[ ]	[ ]
Michael W. McNally	[ X ]	[ ]	[ ]	[ ]
Kevin McCabe	[ X ]	[ ]	[ ]	[ ]
Jerald I. Wolfgang	[ X ]	[ ]	[ ]	[ ]
Joan G. Aul	[ X ]	[ ]	[ ]	[ ]
Willie C. Dunn	[ X ]	[ ]	[ ]	[ ]
William L. Ross	[ X ]	[ ]	[ ]	[ ]

The Resolution was thereupon duly adopted.

**10.0 Update on NCIDA Reporting Activities**

Mr. Ferraro updated the Board Members on the Agency's accomplishments regarding required reporting, policies and procedures by the NCIDA. He stated that project applications continue to evolve to insure that all required information is included prior to Board action. There is a new PILOT billing process that was developed working with the Niagara County Real Property Tax Office, the Niagara County Treasurer's Office and all affected taxing jurisdictions for all projects. Employment reporting for all projects will be reviewed on a regular basis. An on-line portal for a fillable project application is being developed and items in the 2016 EDA Reform Legislation are being addressed. Lastly, the Agency is seeking grant funding to create a PILOT data base that can be used to track PILOT payments and be used as a model for other IDA's across New York State.

This update was for informational purposes only, and no action is required by the Board. A copy of the memorandum is attached to, and made a part of, these minutes.

**11.0 Agency Counsel**

There were no items at this time.

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

**13.0 Next Board Meeting:**

**DATE:** April 13, 2016

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

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

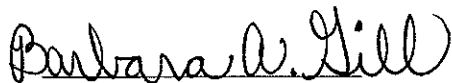
**14.0 Adjournment**

*Mr. Brady made a motion, seconded by Mr. Onesi to adjourn the meeting. The meeting adjourned at 9:50 a.m.*

Respectfully submitted:

Reviewed by:

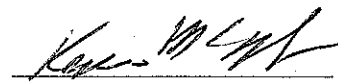
Approved by:



Barbara A. Gill  
Recording Secretary



Samuel M. Ferraro  
Executive Director



Kevin McCabe  
Secretary