

NCIDA/NCDC REGULAR BOARD MEETING MINUTES

Wednesday, October 14, 2009 – 9:00 a.m.

Meeting Place: Niagara County Industrial Development Agency
6311 Inducon Corporate Drive, Suite One
Sanborn, New York 14132

1.0 Meeting Called to Order

The regular meeting of the Niagara County Industrial Development Agency was called to order by Chairman Sloma at 9:01 a.m.

2.0 Roll Call

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

3.0 Chairman Sloma led the Pledge of Allegiance.

4.0 Introduction of Guests

Tom Prohaska	Buffalo News
William L. Ross	Chairman, Niagara County Legislature
Eric Tudor	Coldwell Banker Meridian
Mark Scheer	Niagara Gazette
Basil Elmer	SAI Lodging, LLC
Christopher Casacci	Sunlight Solutions, LLC
Don Hobel	Taxpayer
Timothy A. Mielke	Taxpayer

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 Approval of NCIDA Meeting Minutes

5.1 NCIDA Regular Meeting of September 9, 2009

Chairman Sloma asked for a motion to approve the minutes of September 9, 2009.

Mr. Frain made a motion, seconded by Mr. Connolly, to approve the meeting minutes of September 9, 2009. Motion passed.

6.0 NCIDA Committee Reports

6.1 Audit Committee

6.1.1 Agency Payables

6.1.2 Agency Financial Report

Mr. Frain indicated that the Audit Committee reviewed the Agency payables and financial report through September 30, 2009, found them to be in order and recommends approval.

Mr. Massaro made a motion, seconded by Mr. Petrozzi, to approve the Payables and Agency Financial Report. Motion passed.

6.1.3 2010 NCIDA Budget

Mr. Frain indicated that the Audit Committee reviewed the budget at two Committee meetings and are recommending approval of the budget as presented.

Mr. Connolly made a motion, seconded by Mr. Petrozzi, to approve the 2010 NCIDA Budget as presented.

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]	[]	[]	[]

The motion passed.

6.2 NCDC Review Committee Report

Committee did not meet.

6.3 Real Property Committee Report

Committee did not meet.

6.4 Governance Committee Report

Mr. Brady has had some surgery and will be out for a while; therefore, the Governance Committee did not convene.

7.0 NCIDA Unfinished Business - None.

8.0 New Business

8.1 Sunlight Solutions, LLC

Mr. Witul explained that Sunlight Solutions is a hydroponics manufacturing company operating in the niche market of turn-key residential greenhouses. The company was established in 2003 and is currently located in leased space on Niagara Falls Boulevard. It has outgrown its present space and seeks to construct a 7,500 square foot building at the corner of Walmore and Lockport Roads. The total investment is approximately \$460,000. They do anticipate creating new employment and increased payroll. They are requesting a 15-year PILOT along with sales and mortgage recording tax exemptions. Mr. Witul introduced Mr. Christopher Casacci, owner of Sunlight Solutions.

Mr. Casacci indicated that the project consists of a new build of 7,500 s.f., consisting of loading docks, additional office space, and warehouse space for shipping and receiving and light manufacturing and assembly work. Mr. Casacci stated that the manufacturing and assembly work is the main job of his employees. They currently do not have enough office space and need to expand. He explained that their current rent rate would be higher than their mortgage rate on a new build.

Mr. Sloma asked Mr. Casacci if they manufacture in his facility. Mr. Casacci stated that the majority of what they do is manufacturing. They manufacture different types of greenhouse and lighting equipment (high intensity lighting systems) and they ship nationally. Mr. Sloma stated that he would like to make it clear that the taxpayers of Niagara County are giving a consideration in this and it is encouraged that they hire and buy locally wherever possible.

8.1.1 Preliminary Resolution

Mr. Frain made a motion, seconded by Mr. Petrozzi, to approve the Preliminary Resolution for Sunlight Solutions, 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]
Robert Connolly	[X]	[]	[]	[]
Angelo Massaro	[X]	[]	[]	[]
Joseph C. Frain	[X]	[]	[]	[]

The resolution was thereupon duly adopted

Mr. Sloma stated that the Public Hearing for this project is on November 10, 2009 at 4:30 p.m. at the NCIDA Office.

8.0 New Business (Continued...)

8.2 Wheatfield Family Dentistry

Mr. Witul explained that Wheatfield Family Dentistry provides general dental care for adults and children. The practice was established in 1994 and has been located in rental space since its inception. He stated that they have outgrown their leased space and seek to construct an office building on Niagara Falls Boulevard in the Town of Wheatfield. The building will consist of 2,500 square feet of dental offices, with 1,500 square feet of class-A office space for lease to another tenant. They will invest approximately \$700,000, along with the retention of current employment and the creation of 8 full time and 3 part time jobs within approximately two years. They are seeking sales and property tax exemptions for a 10-year commercial PILOT. The piece of property they are interested in improving is a former kennel on Niagara Falls Boulevard. Mr. Witul explained that Dr. Casacci was unable to be here to represent Wheatfield Dentistry due to other obligations.

Chairman Sloma stated that it is our practice that the applicant be present in order to come to an understanding of why we are providing these benefits and what is important. Chairman Sloma stated that this is a new area of business that the NCIDA is dealing with and he asked that the project be tabled until the November Board meeting so that the applicant can be present and the Board provided with more detailed information in the form of a memorandum from the staff as to why the Agency is moving in this direction with this type of project.

Mr. Massaro made the motion to table the project for reasons stated by Chairman Sloma. The motion was seconded by Mr. Frain. Motion passed.

8.3 SAI Lodging, LLC

Mr. Witul explained that SAI Lodging is an entity formed for the purpose of developing, constructing and operating a lodging facility at 643 Rainbow Boulevard in Niagara Falls. The new facility will be a five story building of approximately 45,000 square feet. It will provide 79 new hotel rooms to assist in meeting the demand for hotel/motel rooms for the convention and tourism trade. The investment is anticipated to be approximately \$6 million. 15 new jobs would be created. The site entails the demolition of an existing building and some site clearance work. The principals currently own and operate the Days Inn on Niagara Falls Boulevard in Wheatfield. Mr. Witul explained that the Agency spoke to Mr. Patel years ago when he was looking to undertake a project on Niagara Falls Boulevard near Ward Road. They redeveloped a property as a Days Inn and have been very successful at that without the assistance of the Agency. They only seek assistance when it is most practical and needed to undertake a project. Mr. Witul introduced Mr. Basil Elmer and Mr. Patel.

Mr. Elmer stated that they acquired the site last year. The Phase I environmental is done on it; asbestos was identified and demolition was undertaken under DEC guidelines and the site is now completely clear. Application is currently in for a franchise.

8.0 New Business

8.3 SAI Lodging, LLC

Mr. Massaro asked what would happen if the franchise were not grant. Mr. Patel stated that they will get the franchise, if not this one they would get another.

Mayor Tucker stated that he recalls that when the Agency did this type of project just recently for the City of Niagara Falls there was some concern from the City that they perhaps did not want our assistance on this type of project. Mayor Tucker stated that he does not want to impose something on the City that they do not want, therefore, he suggested that someone reach out to the Mayor or Economic Development staff to see if they continue to want economic development help from the NCIDA or not. He asked for more clarification on the City's feelings about the Agency providing assistance before moving forward with this project.

Mr. Massaro stated he appreciates the situation; however, he feels the City would certainly be interested in a new hotel / motel on that piece of property. Mr. Massaro stated he feels the Agency should move forward with the next step and in the meantime put the City on notice of the project and provide them the option to come in and discuss it with the Agency.

Mr. Gabriele stated as is the case with all projects that go before this Agency, before the project is presented to the Board, notice is given to each of the affected taxing jurisdictions and in this case notice has been sent to the County, School District and the City of Niagara Falls, and as of this date the Agency has not heard any comments. The action being taken today simply allows the Agency to confirm the public hearing, to receive additional information, and to allow the 30-day comment period. If the City tells us within that time period that they do not want the Agency involved in this type of project, then this Board has the option at that time to vote for or against the project at the final inducement at the November meeting.

Mr. Massaro asked that even though the City received the normal 30-day notice, in this case he would request that there be a more direct notice directly to the Mayor and economic development and if they have any objections, invite them to come before this Board to explain. Mr. Massaro stated he feels there should be more direct notice to the City.

Chairman Sloma stated that the last development done in the City drew some interest from the public and the City. He indicated that he read in the news that the development people in the City had allocated some funds to help the development of the last project, which is an interesting approach when they had objected to our intervention. Chairman Sloma stated that the problem with the economic development people in the City of Niagara Falls, particularly Mr. Kay, is the process we use. Mr. Kay keeps pointing to the fact that the NCIDA should be asking for financials, etc. from the applicant and that the applicant must demonstrate they need this assistance and if it

8.0 New Business

8.3 SAI Lodging, LLC (Continued...)

were not for this assistance the project would not be financially feasible. Chairman Sloma stated that after discussion with Counsel, this is not our legal burden. Our burden is to provide incentives for people to develop and for example, certainly YAHOO! did not necessarily need incentives, but it was an enticement to get them to develop here. He stated that the downtown area of the City of Niagara Falls certainly needs “enticement” to develop, since the progress has been dismal. Therefore, Chairman Sloma stated he thinks the Agency is on target and he understands Mayor Tucker’s concern that we haven’t received the support we would have expected from the City of Niagara Falls when we are helping them develop their downtown area and this is disappointing. This, however, should not interfere with the Agency’s responsibility in helping economic development in Niagara County.

Mayor Tucker stated that he agrees with Chairman Sloma, and the Agency is here to offer the City assistance, but the decisions the IDA makes should weigh on the administration of this municipality and we should not force it on them. He stated he needs some clarification from the City before he can support this project because they may not comment during the 30-day period, but then go to the media indicating that they do not want our assistance.

Mr. Connolly stated that the whole County is distressed and the Agency has to do what they can to move projects along and if the City wants to drag their feet that is their problem. Mr. Massaro stated that if the City does not want the assistance of the IDA in any projects in the City, he would like to hear in public their reason(s) why. Mayor Tucker stated that before he supports any more projects in the City of Niagara Falls he wants someone from the City of Niagara Falls administration to tell him they want the NCIDA’s help. Mr. Massaro stated that if the City does not want the Agency’s assistance and it is a good project, he will still vote to move the project forward.

Chairman Sloma stated that the applicants should not be placed in the middle of this conversation; it is a whole separate issue that needs to be addressed. He stated that he agrees with Mayor Tucker that the Mayor and his economic development people should be invited to come to a meeting with the NCIDA Board to begin to come to an understanding on what the Agency’s role is in this process. Chairman Sloma suggested that the Board approve the Preliminary Resolution for SAI Lodging and hold the public hearing to afford the City to be heard. This project is not final until the Final Resolution is put before the Board in November. At that point if the Agency has had a meeting with the City, a decision can be made then. Chairman Sloma stated that the applicant should not pay the price for some misunderstanding coming from the City.

8.0 New Business

8.3 SAI Lodging, LLC (Continued...)

8.3.1 Preliminary Resolution

Mr. Massaro made a motion, seconded by Mr. Frain, to approve the Preliminary Resolution for SAI Lodging, LLC.

Mr. Connolly asked how the owners hoped to compete with the Casino hotel. Mr. Patel stated that their main business will be with the tourists of Niagara Falls. The Casino is not considered competition; they will be competing mainly against Super 8 and Comfort Inn – in that price range. Mr. Elmer explained that the application is for a mid-scale franchise priced slightly lower than what a person would pay at the Casino hotel. He indicated that it is estimated that to% to 65% of the rooms there in the course of a year have been complimentary. It is really not a market that they would compete with.

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]
Robert Connolly	[X]	[]	[]	[]
Angelo Massaro	[X]	[]	[]	[]
Joseph C. Frain	[X]	[]	[]	[]

The resolution was thereupon duly adopted

Mr. Sloma stated that the Public Hearing for this project is on November 12, 2009 at 4:00 p.m. at City Hall, City of Niagara Falls. He explained that an invitation will be extended to the Mayor of the City of Niagara Falls and his economic development team to meet with them *prior* to the Final Resolution on this project at a public meeting so that everyone is well informed.

9.0 NCIDA Information Items – None.

10.0 Agency Counsel

10.1 Wurlitzer Industrial Park, LLC

10.1.1 Consent to Easement Modification

Mr. Gabriele explained that this is a PILOT that has been in existence for over ten years, located in North Tonawanda. As part of the Agency documents, any changes to property has to be approved because of the Agency's nominal ownership interest in the property. Wurlitzer Industrial Park is requesting that the Agency consent to an easement modification for the property. They are current on their PILOT payments.

Mr. Frain made a motion, seconded by Mr. Connolly, to approve the Consent to Easement Modification.

RESOLUTION AUTHORIZING THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO EXECUTE AND DELIVER AN EASEMENT AGREEMENT, TERMINATION OF EASEMENT, TO CONVEY PROPERTY AND OTHER RELATED DOCUMENTS WITH RESPECT TO THE WURLITZER INDUSTRIAL PARK, INC. PROJECT.

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]
Robert Connolly	[X]	[]	[]	[]
Angelo Massaro	[X]	[]	[]	[]
Joseph C. Frain	[X]	[]	[]	[]

The resolution was thereupon duly adopted

10.0 Agency Counsel

10.2 Student Housing Village Corporation Civic Facility

10.2.1 Bond Modification

Mr. Gabriele explained that this is the for-profit group that has developed the housing at Niagara County Community College and they are requesting for a modification of their existing bond. The Agency, as issuer, must consent to this modification; the modification being changed from a tax exempt to allow it to be bank-qualified which will help them with their rates at this time. No additional benefits are being requested at this time, just the consent as required by the bond documents.

Mr. Frain made a motion, seconded by Mr. Petrozzi, to approve the Consent to Easement Modification.

RESOLUTION APPROVING THE EXECUTION OF A SUPPLEMENTAL INDENTURE, SUPPLEMENTAL INSTALLMENT SALE AGREEMENT, SUPPLEMENTAL TAX COMPLIANCE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE AGENCY'S VARIABLE RATE DEMAND CIVIC FACILITY REVENUE BONDS (**STUDENT HOUSING VILLAGE CORPORATION CIVIC FACILITY**), SERIES 2007A AND SERIES 2007B ISSUED FOR THE BENEFIT OF STUDENT HOUSING VILLAGE CORPORATION.

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]
Robert Connolly	[X]	[]	[]	[]
Angelo Massaro	[X]	[]	[]	[]
Joseph C. Frain	[X]	[]	[]	[]

The resolution was thereupon duly adopted

11.0 Any Other NCIDA Matters the Board Wishes to Discuss – None.

12.0 Regular NCDC - NCIDA Board Meeting:

DATE: November 18, 2009

TIME: 9:00 a.m.

PLACE: Niagara County Center for Economic Development

13.0 Adjournment

*Mr. Frain made a motion, seconded by Mr. Petrozzi, to adjourn the meeting at 9:35 a.m.
Motion passed.*

Respectfully submitted,

Reviewed by,

Approved by,

Mary P. Melloni
Administrative Assistant

Samuel M. Ferraro
Executive Director

Deanna Alterio-Brennen
Secretary