



MINUTES

August 29th, 2023

Herkimer County Industrial Development Agency Board of Directors Meeting

STAFF

JOHN J. PISECK, JR.
Chief Executive Officer

VICTORIA L. ADAMS
Operations Manager

JENNIFER L. YOUNG
Administrative Office
Assistant

ERIN E. SPINA
Marketing & Communications
Specialist

BOARD OF DIRECTORS

VINCENT J. BONO
Chairman

CORY ALBRECHT
Vice Chairman

JOHN SCARANO
Secretary

MICHAEL WERENCZAK
Treasurer

ANN GAWORECKI
Director

TIM DAY
Director

ALANA BASLOE
Director

COUNSEL

ANTHONY G. HALLAK, Esq.
Felt Evans, LLP

The Herkimer County Industrial Development Agency held a regular meeting of the Board of Directors, as well as a meeting of the Audit, governance, and Finance Committees, on Tuesday, August 29th, 2023 at 8:00 AM. The meeting was held electronically via zoom conference as well as a public meeting open for the public to attend in person. Members of the public were invited to join the meeting virtually by going to www.zoom.com or by dialing (929) 205-6099 and entering meeting ID: 886 8128 8098 and passcode: 402411. Members of the public were invited to attend the meeting in person in the Herkimer County Chamber of Commerce conference room at 420 E. German Street, Herkimer, NY 13350.

After the Pledge of Allegiance, Chairman Vincent (Jim) Bono called the meeting to order at 8:00 AM.

The following members were present in person and answered the roll call: Alana Basloe, Vincent (Jim) Bono, Timothy Day, John Scarano, Cory Albrecht, Michael Werenczak and Ann Gaworecki.
(7) Quorum Present

Members Absent: none

Staff Present: John Piseck, Victoria Adams, and Erin Spina

Also Present in Person: Anthony Hallak, Herkimer County Legislator Pete Manno, Assemblyman Robert Smullen, and Garet Livermore (Cornell Cooperative Extension)

Also Present Virtually: Shannon Wagner (Hodgson Russ LLP.) and Dana Nimey-Olney (Office of Assemblywoman Buttenschon)

Mission Statement: Ms. Erin Spina read the agency's mission statement.

Minutes:

July 20th, 2023 Board Meeting: The minutes of the July 20th, 2023 regular meeting were offered for review. **Ann Gaworecki moved, seconded by Timothy Day to approve the minutes as presented. The motion carried with 7 ayes and 0 nays.**

July 31st, 2023 Special Board Meeting: The minutes of the July 31st, 2023 special meeting were offered for review. **Cory Albrecht moved, seconded by Alana Basloe to approve the minutes as presented. The motion carried with 7 ayes and 0 nays.**

420 E. German Street, Box 1 Suite 101A, Herkimer, NY 13350 315-866-3000

"This institution is an equal opportunity provider, employer and lender."

August 14th, 2023 Public Hearing for Colucci Trucking: The minutes of the August 14th, 2023 public hearing were offered for review. **Michael Werenczak moved, seconded by Timothy Day to approve the minutes as presented. The motion carried with 7 ayes and 0 nays.**

Financial Reports: The following financial reports were offered for review and approval: July 2023 Financial Report, Balance Sheet, Check Register, RLF/Lease Balance with payment status, and SBP

Mortgage. Mr. Piseck stated that property maintenance expenses remain high but all other budget items are where they are expected to be. **Timothy Day moved, seconded by John Scarano to approve all financial reports as presented. The motion carried with 7 ayes and 0 nays.**

2024 Fiscal Year Budget: The agency previously held a budget workshop to review in detail all items on the 2024 budget. Following discussion, **Timothy Day moved, seconded by Cory Albrecht to approve the 2024 budget as presented. The motion carried with 7 ayes and 0 nays.**

Resolution: 082931-01

Marketing Update: Erin Spina showed board members a map of colleges with technical and manufacturing courses in the region to show development in these programs.

Ms. Spina also presented a Brownfields logo her and Mr. Piseck have been collaborating on. At this time there is not currently a national symbol to use for brownfields. This logo will be used in marketing material for the various brownfield projects the agency works on. The board was presented with a spec sheet and aerial view of a potential site in the Town of German Flatts.

SG Kingdom PV, LLC: At this time, more information is needed before moving forward. This item has been placed on hold.

LDC Resolution: The agency is seeking support from the board in pursuing a Local Development Corp (LDC). The LDC will be able to assist the county with properties on back tax rolls, while removing potential liability from the agency. The LDC will not be issuing bonds. Following discussion, **Ann Gaworecki made the following motion:**

RESOLUTION REQUESTING THE HERKIMER COUNTY LEGISLATURE APPROVE THE FORMATION OF A LOCAL DEVELOPMENT CORPORATION BY OFFICIALS OF THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY.

Seconded by Cory Albrecht, the motion carried with 7 ayes and 0 nays. The official resolution is attached to the original minutes.

Resolution: 082931-02

160 Pine Grove Road: The agency received a proposal from Weston & Sampson for a structural analysis and building drawings at the former school building located at 160 Pine Grove Road in the Town of Herkimer in the amount of \$17,400. Due to the proposal stating that holes would not be drilled during this analysis, Mr. Piseck would like to renegotiate pricing. Following discussion, **Ann Gaworecki moved, seconded by Cory Albrecht to approve the proposal as written with authorization for Mr. Piseck to negotiate to lower costs NTE \$17,400. The motion carried with 7 ayes and 0 nays.**

Resolution: 082931-03

Bloom Utica, LLC: The agency received a request from Bloom Utica, LLC to extend their sales tax exempt status through the end of the year, an additional 2 months, as they complete construction. Following discussion, **Alana Basloe moved, seconded by Michael Werezak, to approve the extension through the end of 2023. The motion carried with 7 ayes and 0 nays.**

Resolution: 082931-04

Frankfort 5s North Business Park Directory Sign: The agency received a quote for updates to the existing directory sign at the Frankfort 5s North Business Park in the amount of \$6,000. The updated sign will be matching the entrance sign at the Schuyler Business Park. Following review, **John Scarano moved, seconded by Cory Albrecht to move forward with the purchase of the new sign, NTE \$6000.00. The motion carried with 7 ayes and 0 nays.**

Resolution: 082931-05

National Grid Grant – Dairy Industry Analysis: The Agency is intending to apply for a grant through National Grid for a Dairy Industry Analysis to benefit both Herkimer and Oneida counties. If awarded, National Grid will reimburse half of the cost of the study. Following discussion, **Timothy Day moved, seconded by John Scarano, to move forward with the application once all information is received. The motion carried with 7 ayes and 0 nays.**

Resolution: 082931-06

Venue Strategies: The phase one market analysis has been completed and reviewed. The agency and the board discussed what the next steps would be for phase two and what involvement would be required by the agency going forward. There is no action needed at this time.

German Flatts Land Acquisition: Due to negotiations, this item was moved to executive session.

Russell Farm: A pre-bid meeting was held at the site for the water expansion project for bids due on Monday, September 11.

Mr. Bono welcomed comments from elected officials.

Assemblyman Smullen thanked the agency and the board members for all the updates on current projects.

Garet Livermore from Cornell Cooperative Extension discussed the solar project within the town of Columbia and the possibility of having grazing cattle within the enclosure under the panels.

Project Updates/ Other Business:

- *National Grid Grant – The agency received a grant from National Grid in the amount of \$127,001.00 to assist with payment on the installation of electricity at 186 Usyk Drive in the Schuyler Business Park.*
- *Mrs. Adams read aloud a letter from the agencies summer intern to the board*
- *Schuyler Business Park- Currently looking at site for space for a geo-tech water tank*
- *Four Corners Business Park- EDR is moving ahead with perc and geo testing*
- *240 Mary Street- this is now in Amazons' court*
- *EPA Grant- The agency is continuing to work with Yocasta from the EPA and HRP*

- *Paychex- Agency staff met with paychex to review current services, no changes were made at this time*
- *Village of Herkimer- The Village will be applying for a NY Forward Grant for downtown revitalization, the agency will be assisting with the administration of the grant*
- *Village of Ilion- The Village will be applying for a NY Forward Grant for downtown revitalization. The Agency will be assisting with administration of the grant*
- *Leadership Mohawk Valley- Victoria Adams was accepted into this program this fall and will be attending one day per month.*
- *Fuzehub – Ms. Spina will be attending the inFUZEd Marketing workshop on September 19th*
- *This year's IDA academy will be held on November 9th, IDA staff will be attending and board members are encouraged to attend*
- *Center for Family Life & Recovery offers an Employee Assistance Program (EAP). The EAP program includes group trainings required by the ABO. IDA staff will schedule the agencies representative to attend a board meeting to discuss all of the services offered to the staff and board.*
- *CARES Grant extension- the agency is requesting an extension to ensure the grant recipients are able to fulfill their job addition requirements.*
- *Dolgeville WIIA Grant for the water storage tank at Manheim Business Park is set to expire on September 30th, 2023. An extension request has been submitted by the Village of Dolgeville.*

John Scarano moved, seconded by Michael Werenczak to enter into executive session at 9:02 AM to discuss matters of contracts and potential litigation. The motion carried with 7 ayes and 0 nays. All board members, John Piseck, Victoria Adams, Erin Spina, Anthony Hallak, and Shannon Wagner were invited to stay.

Anthony Hallak and Cory Albrecht were excused from the meeting at 9:16AM

John Scarano exited the meeting at 9:25AM

Alana Basloe moved, seconded by Timothy Day to end executive session at 9:30AM. The motion carried with 7 ayes and 0 nays.

Being no other business, Alana Basloe moved, seconded by Timothy Day to adjourn at 9:30 AM. The motion carried with 7 ayes and 0 nays.

Respectfully Submitted,



Victoria Adams
Operations Manager

HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY

RESOLUTION REQUESTING THE HERKIMER COUNTY LEGISLATURE APPROVE THE FORMATION OF A LOCAL DEVELOPMENT CORPORATION BY OFFICIALS OF THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY.

WHEREAS, the Herkimer County Industrial Development Agency (the “Agency”) was established by the State Legislature for the benefit of the County of Herkimer and the inhabitants thereof as set forth in Section 898 of the General Municipal Law (the “GML”); and

WHEREAS, the Agency is endowed with certain purposes and powers by the State Legislature in GML § 858, and among the Agency’s powers includes the following powers: (a) “[t]o acquire by purchase, grant, lease, gift, pursuant to the provisions of the eminent domain procedure law, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes”; (b) “to make contracts and leases, and to execute all instruments necessary or convenient to or with any person, firm, partnership or corporation, either public or private”; (c) “[t]o acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects; (d) “[t]o accept gifts, grants, loans, or contributions from, and enter into contracts or other transactions with, the United States and the state or any agency of either of them, any municipality, any public or private corporation or any other legal entity”; and (e) “[t]o do all things necessary or convenient to carry out its purposes and exercise the powers expressly given [in GML § 858]”; and

WHEREAS, the Agency, in exercising its powers to acquire real property, to make contracts, to enter into projects, has a need and desire to structure transactions appropriately to mitigate risk to the Agency; and

WHEREAS, the local development corporations are a mechanism whereby the Agency may appropriately structure such transaction in accordance with the Agency’s powers, and local development corporations may be formed by, among other mechanisms, direction and authorization by the County, as set forth in Section 1411 of the New York State Not For Profit Corporation Law (the “NFPCL”); and

WHEREAS, local development corporations formed under the NFPCL are created to assist, among others, not for profit corporations that are undertaking projects that further any of the following purposes for which local development corporations are created: (1) relieving and reducing unemployment, (2) promoting and providing for additional and maximum employment, (3) bettering and maintaining job opportunities, (4) instructing or training individuals to improve or develop their capabilities for such jobs, (5) carrying on scientific research for the purpose of aiding a community or geographical area by attracting new industry to the community or area or by encouraging the development of, or retention of, an industry in the community or area, and (6) lessening the burdens of government and acting in the public interest; and

WHEREAS, in furtherance of the public purposes set forth above, a local development corporation formed under the NFPCL is empowered to take the following actions: (1) to

construct, acquire, rehabilitate and improve for use by others industrial or manufacturing plants in the territory in which its operations are principally to be conducted, (2) to assist financially in such construction, acquisition, rehabilitation and improvement, to maintain such plants for others in such territory, (3) to disseminate information and furnish advice, technical assistance and liaison with federal, state and local authorities with respect thereto, (4) to acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein, (5) to borrow money and to issue negotiable bonds, notes and other obligations therefor, and (6) to sell, lease, mortgage or otherwise dispose of or encumber any such plants or any of its real or personal property or any interest therein upon such terms as it may determine to be suitable;

NOW, THEREFORE, BE IT RESOLVED by the Legislature as follows:

Section 1. The Agency hereby requests pursuant to Section 1411(a) of the NFPCL, that the Legislature adopt a resolution (a) directing the Agency to form a local development corporation and (b) consenting to the same.

Section 2. The form and substance of the proposed certificate of incorporation for the local development corporation is attached hereto as **Schedule A**.

Section 3. This resolution shall take effect immediately.

SCHEDULE “A”

PROPOSED CERTIFICATE OF INCORPORATION

[SEE ATTACHED]

CERTIFICATE OF INCORPORATION
of
HERKIMER LOCAL DEVELOPMENT CORPORATION

A Not-For-Profit Local Development Corporation
Under Section 402 and 1411 of the Not-For-Profit
Corporation Law of the State of New York

THE UNDERSIGNED, being over the age of eighteen years, for the purpose of forming a not-for-profit local development corporation pursuant to Section 1411 of the Not For Profit Corporation Law of the State of New York (the "N-PCL"), hereby certifies as follows:

FIRST: The name of the corporation is Herkimer Local Development Corporation (hereinafter referred to as the "Corporation").

SECOND: The Corporation will be a corporation as defined in subparagraph (a)(5) of Section 102 of the N-PCL and, as provided in Section 1411(b) of the N-PCL, will be a Type C Corporation as defined in Section 201 of the N-PCL.

THIRD: The purpose for which the Corporation is to be formed and operated exclusively for charitable purposes of:

(a) promoting community and economic development and the creation of jobs for the citizens of Herkimer County, New York (the "County") by, among other things, facilitating the purchase of real property; and

(b) undertaking projects and activities within the County for the purpose of relieving and reducing unemployment, bettering and maintaining job opportunities, carrying on scientific research for the purpose of aiding the County by attracting new industry to the County or by encouraging the development of, or retention of, an industry in the County, and lessening the burdens of government and acting in the public interest.

By means of engaging in the following activities:

(a) entering into contracts with any other economic development organizations to help achieve the purposes described in paragraph (a) and (b) above; and

(b) in general, performing any and all acts and things, and exercise and any and all powers which may now or hereafter be lawful for the Corporation to do or exercise under and pursuant to the laws of the State of New York for the purpose of accomplishing any of the foregoing purposes of the Corporation.

FOURTH: The activities referred to in subparagraph (a) of paragraph THIRD above will achieve the lawful public objective of lessening the burdens of government, the carrying out of such purposes and the exercise of the powers conferred on the Corporation being the performance of an essential governmental function, it being understood that the performance of

such activities will assist the County in reducing unemployment and promoting additional job growth and economic development.

FIFTH: The operations of the Corporation will be conducted within the territory of the County. Notwithstanding any other provision of this Certificate of Incorporation, the by-laws and any provision of law, so long as any Obligations remain outstanding, the Corporation will not do any of the following:

- (a) engage in any business or activity other than as set forth in paragraph THIRD;
- (b) without the consent of the Herkimer County Industrial Development Agency and the affirmative vote of two thirds of the members of the Board of Directors of the Corporation, (i) dissolve or liquidate, in whole or in part, or institute proceedings to be adjudicated bankrupt or insolvent, (ii) consent to the institution of bankruptcy or insolvency proceedings against it, (iii) file a petition seeking or consent to reorganization or relief under any applicable federal or state law relating to bankruptcy or insolvency, (iv) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Corporation or a substantial part of its property, (v) make a general assignment for the benefit of creditors, (vi) admit in writing its inability to pay its debts generally as they become due or (vii) take any corporate action in furtherance of the actions set forth in clauses (i) through (vi) of this paragraph; or
- (c) without the consent of the Herkimer County Industrial Development Agency and the affirmative vote of two thirds of the members of the Board of Directors of the Corporation, merge or consolidate with any other corporation, company or entity or, except to the extent contemplated by paragraph THIRD hereof, sell all or substantially all of its assets or acquire all or substantially all of the assets or capital stock or other ownership interest of any other corporation, company or entity.

SIXTH: Pursuant to the requirements of Section 1411(e) of the Not-For-Profit Corporation Law:

- (a) All income and earnings of the Corporation will be used exclusively for its corporate purposes or accrue and, subject to the Corporation's responsibilities under the Obligations, be paid to the New York Job Development Authority.
- (b) No part of the income or earnings of the Corporation will inure to the benefit or profit of, nor will any distribution of its property or assets be made to, any member, director or officer of the Corporation, or private person, corporate or individual, or to any other private interest, except that the Corporation may repay loans made to it and may repay contributions (other than dues) made to it to the extent that any such contribution may not be allowable as a deduction in computing taxable income under the Internal Revenue Code of 1986, as amended.
- (c) If the Corporation accepts a mortgage loan or loans from the New York Job Development Authority, the Corporation will dissolve in accordance with the provisions of

paragraph (g) of Section 1411 of the N-PCL upon the repayment or other discharge in full by the Corporation or all such loans.

SEVENTH: (a) The Corporation will not attempt to influence legislation by propaganda or otherwise, or participate in or intervene, directly or indirectly, any political campaign on behalf of or in opposition to any candidate for public office.

(b) The Corporation will not engage in any activities not permitted to be carried on by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

(c) The Corporation will not accept a mortgage loan or loans from the New York Job Development Authority.

EIGHTH: In the event of the dissolution of the Corporation or the winding up of its affairs, the Board of Directors will, after paying or making provision for the payment of all of the liabilities of the Corporation, distribute all of the remaining assets and property of the Corporation to the Herkimer County Industrial Development Agency, so that the Herkimer County Industrial Development Agency can use such assets and property to accomplish the purposes set forth in Section 1411(a) of the N-PCL. Any of such assets not so disposed of will be disposed of by order of the Supreme Court of the State of New York pursuant to Section 1008 of the N-PCL.

NINTH: The office of the Corporation will be located in Herkimer County, New York.

(a) The Corporation will, upon request by the Herkimer County Industrial Development Agency, make available any and all books and records of the Corporation for inspection by the Members of the Herkimer County Industrial Development Agency.

(b) The Corporation will submit to the Herkimer County Industrial Development Agency an annual financial report together with a report of the operations and accomplishments of the Corporation for such annual period.

(c) The governing body of the Herkimer County Industrial Development Agency will have the right to conduct an annual audit of the books and records of the Corporation.

TENTH: The Herkimer County Industrial Development Agency is the sole member of the Corporation.

ELEVENTH: The Corporation will be managed by a Board of Directors, who are to be comprised of those persons named in paragraph TWELFTH hereof (the "Directors"). Each of the Directors will serve at the pleasure of the Herkimer County Industrial Development Agency and continue to hold office until his successor is appointed by the Herkimer County Industrial Development Agency.

The Corporation is deemed to be a public body (as such term is defined in the Open Meetings Law) and, as such, each meeting of the Board of Directors of the Corporation will be conducted in the manner prescribed by the Open Meetings Law. The Directors will not receive compensation for services provided to or on behalf of the Corporation.

TWELFTH: The Corporation will consist of not less than three nor more than seven Directors. The Directors will be appointed by the Herkimer County Industrial Development Agency.

(a) The names and addresses of the initial Directors of the Corporation are as follows:

(i) Vincent Jim Bono, Herkimer Local Development Corporation, 420 East German Street, Suite 101A, Herkimer, New York 13350.

(ii) Cory Albrecht, Herkimer Local Development Corporation, 420 East German Street, Suite 101A, Herkimer, New York 13350.

(iii) Ann Gaworecki, Herkimer Local Development Corporation, 420 East German Street, Suite 101A, Herkimer, New York 13350.

(iv) Alana Basloe, Herkimer Local Development Corporation, 420 East German Street, Suite 101A, Herkimer, New York 13350.

(v) Tim Day, Herkimer Local Development Corporation, 420 East German Street, Suite 101A, Herkimer, New York 13350.

(vi) Michael Werenczak, Herkimer Local Development Corporation, 420 East German Street, Suite 101A, Herkimer, New York 13350.

(vii) John Scarano, Herkimer Local Development Corporation, 420 East German Street, Suite 101A, Herkimer, New York 13350.

THIRTEENTH: The Corporation will be subject to the Public Authorities Accountability Act of 2005 (the "Act"). As such, the Corporation will be required to, among other things: (1) undergo annual independent audits and submit the results of such audits to the County and the New York State Authority Budget Office, (2) prepare and submit its annual budget to the County and the New York State Authority Budget Office, (3) adopt the various ethical, reporting, property disposition and disclosure policies required by the Act, and (4) form governance and audit committees to ensure the Corporation is in compliance with the Act and any other applicable laws.

FOURTEENTH: The Secretary of State of the State of New York is designated as agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State will mail a copy of any process against the Corporation served upon him or her is Herkimer Local Development Corporation, 420 East German Street, Suite 101A, Herkimer, New York 13350.

FIFTEENTH: The By-laws of the Corporation may be adopted, amended or repealed by a majority of the Directors of the Corporation upon 10 days notice to all of the Directors, provided, however, that the Corporation will not amend, alter, change or repeal any provision of the adopted By-laws without the consent of the Chairman of the Herkimer County Industrial Development Agency.

SIXTEENTH: The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in any manner now or hereafter provided herein or by statute; provided, however, that (1) the Corporation will not amend, alter, change or repeal any provision of this Certificate of Incorporation without the affirmative vote of two-thirds of the members of the Board of Directors of the Corporation and the consent of the Chairman of the Herkimer County Industrial Development Agency, and (2) the Corporation will not amend or change any provision of this Certificate of Incorporation without first providing the Chairman of the Herkimer County Industrial Development Agency and the Directors with 10 days advance notice of any proposed amendment, alteration, change or repeal.

IN WITNESS WHEREOF, this certificate has been subscribed by the undersigned this _____ day of _____, 2023.

Charles W. Malcomb II, Incorporator
Hodgson Russ LLP
677 Broadway, Suite 401
Albany, New York 12207