

**NIAGARA POWER COALITION
ANNUAL MEETING MINUTES**

Monday, March 29, 2010 – 12:00 p.m.

Niagara County Department of Economic Development
6311 Inducon Corporate Drive, Suite One
Sanborn, New York 14132

1.0 Call to Order

Chairman Ross called the meeting to order at 12:14 p.m.

2.0 Roll Call

Ms. Melloni performed roll call:

Representatives Present:

William L. Ross, Chairman	Niagara County
Cynthia Bianco, Superintendent	Niagara Falls City School District
Paul A. Dyster, Mayor	City of Niagara Falls
Donald Rappold, Assistant Superintendent	Lewiston-Porter School Dist
Scott Hapeman, Esq., Counsel	Niagara Wheatfield School District
Steven L. Reiter, Supervisor	Town of Lewiston
Michael Risman, Esq.	Town of Niagara

Guests:

Chris Roser	Lewiston Porter School District
Tom Burgasser, Esq.	Niagara County
Jackie Siegmann	Town of Niagara
Michael Johnson	Town of Lewiston
John Schiavone	Lumsden & McCormick
Tom DeSantis	City of Niagara Falls
Angelo Massaro	Niagara Falls City School District

Staff Present:

Charles Miller, President, NPC
John Baird, Treasurer, NPC
Mary Melloni, Recording Secretary
Stan Widger, Esq., NPC Counsel, Nixon Peabody
Samuel M. Ferraro, Executive Director/Commissioner - Niagara County Center for
Economic Development

3.0 Annual Membership Meeting

3.1 Confirm Directors/Members

Chairman Ross reviewed the current membership list and alternates. He asked for a motion to accept the current slate of directors as read. *Ms. Bianco made a motion, seconded by Mr. Hapeman, to keep the current slate of Directors. Motion passed.*

3.0 Annual Membership Meeting (Continued...)

3.2 Elect Chairperson / Vice Chairperson

Mr. Rappold made a motion to nominate Mr. Ross as Chairman of the NPC; seconded by Mayor Dyster. Ms. Bianco made a motion to close the nominations; seconded by Mr. Rappold. Motion passed. The Secretary cast one ballot to elect Mr. Ross as Chairman of the Niagara Power Coalition.

Mr. Ross nominated Cynthia Bianco as Vice Chairperson of the Niagara Power Coalition; seconded by Mr. Rappold. Mr. Risman made a motion to close nominations; seconded by Mayor Dyster. Motion Passed. The Secretary cast one vote for to elect Ms. Bianco as Vice Chairperson of the Niagara Power Coalition.

3.3 Appoint Committees

Mr. Ross reviewed the committees and members. He indicated that the Audit Committee will remain the same (Baird, Miller, Hapeman). *Ms. Bianco made a motions, seconded by Mr. Rappold, to approve the members of the Audit Committee. Motion passed.*

Mr. Ross indicated that the members of the Governance Committee (Ross, Richards, Bianco) will remain the same. *Mr. Rappold made a motion, seconded by Mr. Risman, to approve the members of the Governance Committee. Motion passed.*

Mr. Ross indicated that on the Ad Hoc Committee (Newlin, Richards, Bianco), Mr. Reiter will replace Mr. Newlin. Mr. Reiter stated he will pass on the appointment at this time. Mr. Ross opened the appointment to nominations. Ms. Bianco nominated Mayor Dyster. *Ms. Bianco made a motion, seconded by Mr. Rappold, to accept the committee members. Motion passed.*

3.4 Annual Report

Mr. Widger explained that under PAAA the Annual Report has to be submitted. This is the first full year in which the NPC is under normal operation. A draft of the Annual Report was provided and reviewed by Mr. Widger, along with the Property Disposition report. These reports will be posted on the NPC Web Site. PAAA also requires re-adoption of various policies. In addition to the bylaws, the NPC has a Code of Ethics, Property Disposition Policy, Investment Policy, Procurement Policy, Conflict of Interest Policy, Travel policy, and a Whistleblower Policy. In addition to these which were adopted about three years ago, the Indemnity & Insurance Policy is embodied in Article VII of the bylaws. Mr. Widger suggested that in order to comply with the PAAA requirement, a resolution re-adopting all of the existing policies as none of them have changed in the last year.

3.0 Annual Membership Meeting (Continued...)

3.4 Annual Report (Continued...)

Mr. Risman made a motion, seconded by Mr. Rappold, to readopt the policies as stated by Mr. Widger. Motion passed.

Mr. Widger stated that if there are any changes the members wish to present for any of the existing policies, they should be referred to the Governance Committee who in turn would review the policies, and present any recommendations to the NPC and also this would be a basis for readopting the policies each year.

In regards to PAAA required training, in cases where the alternative representative is typically the one who attends meetings and votes, it is appropriate to have the alternate representative take the training as well.

Mr. Widger reviewed the requirement set forth by PAAA to sign the Acknowledgement of Fiduciary Duty as members of the Board. He explained that this is a requirement under the Reform Act of 2009 of PAAA. Although the Acknowledgement states as one of the requirements that the members will adhere to the Mission Statement and there is no formal mission statement for the NPC at this time, Mr. Widger explained that the mission of the NPC is clear to members and they can execute the document with an understanding of the Mission at this time. He asked that all members and alternates sign and return the form to Ms. Melloni by May 1, 2010.

The NPC needs to develop and maintain a Mission Statement by March 31, 2011. This can be referred to the Governance Committee to work on during the next year. *A motion was made by Mr. Rappold, seconded by Mayor Dyster, that the the Governance Committee work to draft a Mission Statement to be presented to the NPC for discussion/adoption prior to March 31, 2011. Motion passed.*

Mr. Risman made a motion, seconded by Mr. Rappold, to accept the 2009 Annual Report. Motion passed.

3.0 Annual Membership Meeting (Continued...)

3.1.1 Budget Report

3.1.2 Draft 2009 Audit Report

Mr. Schiavone of Lumsden McCormick indicated that there are three draft reports to review—the draft audit (financial statements); the draft Management Letter; and draft Communication to Those Charged with Governance.

He explained that the Public Authorities Accountability Act (PAAA) of 2005 affected LDC's in terms of accountability, necessitating a public web site which the NPC will now be able to post these items on.

Mr. Schiavone stated that the Audit report is a clean audit opinion. The balance sheet indicates that the largest asset/liability on the books is the accountability for the Host Community money that passes through from NYPA at \$3 million a year. It is shown as an Agency transaction; an asset of \$5.7 million because the NPC has fiscal responsibility for that money and then it is shown as a liability because it is an Agency liability to the membership organizations in terms of having projects that meet the requirements of the Act and being able to fund those. Operating: \$64,000 cash; pre-paid items and minor open accounts payable totaling \$4,300.

Mr. Schiavone stated that this is the first time in three years that the NPC has technically shown a profit now that the litigation (Mr. Zito) is completed and settled for \$175,000. He also reviewed the Cash Flow Statement.

Mr. Schiavone stated that Footnote 3 on Page 6 is a summary of the balances that exist at the end of the year based on the member organizations, as well as the activity that has taken place over the last two years for those monies. In 2008 the NPC actually received two \$3 million payments from NYPA because of the timing of the legislation and one payment of \$3 million in 2009. The Host Community Agreement does require an accounting of the ins and outs of those funds and this shows that that accounting has been accomplished. Mr. Schiavone explained that the Report on Internal Controls over financial reporting and compliance with laws and other matters copies the Management Letter.

In closing, Mr. Schiavone addressed the Communication to Those Charged with Governance.

Mr. Rappold made a motion to accept the 2009 Audit as presented by the firm Lumsden & McCormick; seconded by Mr. Hapeman. Motion passed.

4.0 Approval of NPC Meeting Minutes

4.1 Minutes of September 21, 2009 Regular Meeting

Mr. Hapeman made a motion, seconded by Ms. Bianco, to approve the meeting minutes of the September 21, 2009 meeting.

4.2 Minutes of December 10, 2009 Regular Meeting

Mr. Rappoldl made a motion, seconded by Mr. Hapeman, to approve the minutes of the December 10, 2009 meeting. Motion passed.

5.0 Financial Report

5.1 December 2009 – February 2010

Mr. Baird reviewed the financial report for the period of December 2009 - February 2010. *[A copy of which will be attached hereto and made a part hereof these minutes.]*

Mr. Hapeman made a motion, seconded by Ms. Bianco, to approve the Financial Report as presented. Motion passed.

Mr. Hapeman made a motion, seconded by Ms. Bianco, to approve payment of invoices for Martino's Meeting Place (\$117), Nixon Peabody (\$7,168.28), venue (\$1500), and administrative support (\$1,125.33). Motion passed.

5.2 Approve Revised Municipal Bank Resolution

Due to the change in Officers and the replacement of Mr. Newlin, new signatories have been assigned and a revised bank resolution needs to be approved by the members.

Mr. Hapeman made a motion, seconded by Mayor Dyster, to approve the revised Municipal Bank Resolution. Motion passed.

6.0 Correspondence – None.

7.0 Unfinished Business

7.1 Web Site Update

Ms. Melloni reviewed the new web site with members, stating that it will be up and running as soon as final revisions are made.

8.0 New Business – None.

9.0 Legal Counsel

9.1 Public Authorities Reform Act

This was covered under Item 3.4.

9.2 Discussion: IRS Letter Ruling

Mr. Widger stated that this issue came up over a year ago in connection with whether the NPC and the HCSC receipt of funding from the NYPA might put them in a taxable position. At the time this was brought up, the issue was whether it was worthwhile going to the IRS for a private letter ruling. The consensus at the time was no, that the members were comfortable with the interpretation that these organizations were simply a conduit for the funds. The filing fee at the time was approximately \$11,500, not including preparation and arguments in favor of the rule. Estimate from Nixon Peabody was that their fee might run another \$7,000. Mr. Widger asked if there are any further concerns about this; he does not recommend moving forward at this time. The members feel that this can still be put on a back burner at this time.

When asked about his recent fees, Mr. Widger explained the bulk of the charges relate to the current web site, reviewing of the contract and his review of the materials to be posted on the site.

10.0 Next Meeting: To Be Determined

11.0 Adjournment

Mr. Rappold made a motion to adjourn, seconded by Mr. O'Donnell. Motion passed. Meeting adjourned at 1:18 p.m.

Respectfully submitted,

Mary P. Melloni
Secretary