**CITY OF SCOTTSBLUFF**
**Scottsbluff City Hall**
**2525 Circle Drive, Scottsbluff, NE 69361**
**LB 840 Application Review Committee**

**Regular Meeting**
**July 28, 2021**
**2:00 PM**

1. **Roll Call**
2. **For public information, a copy of the Nebraska Open Meetings Act is posted in the back of the room on the south wall.**
3. **Notice of changes in the agenda by the city manager** (Additions may not be made to this agenda less than 24 hours before the beginning of the meeting unless added under Item 4 of this agenda.)
4. **Citizens with business not scheduled on the agenda** (As required by state law, no matter may be considered under this item unless the committee determines that the matter requires emergency action.)
5. **Approval of Minutes**
   a) Approval of minutes for meeting of July 8, 2021.
6. **McKiney Manufacturing**
   a) Receive Information and Consider Action on the Extension Request from McKiney Manufacturing.
7. **Reports from Staff, Boards & Commissions**
   a) Receive Information and Consider Action on the Draft Addition of Retail to Scottsbluff's LB840 Economic Development Plan.
8. **Closed Session (to consider any of the above matters, where an Executive Session is appropriate).**
   a) Following passage of motion to enter into executive session, presiding officer must state purpose of executive session.
9. **Adjournment.**

# City of Scottsbluff, Nebraska
## Wednesday, July 28, 2021
## Regular Meeting

## Item 1

# Approval of minutes for meeting of July 8, 2021.

**Staff Contact:** Starr Lehl

**CITY OF SCOTTSBLUFF**
**ECONOMIC DEVELOPMENT APPLICATION REVIEW COMMITTEE**
**July 8, 2021**

A meeting of the Economic Development Application Review Committee was held on July 8, 2021 at 1:30 p.m. at City Hall, 2525 Circle Drive, Scottsbluff, Nebraska.

Present were committee members Jim Trumbull, Marla Marks, Dave Schaff, Hod Kosman, and Dennis Hadden. Also present were Starr Lehl, Economic Development Director, Dustin Rief, City Manager, and Adam Hoesing, Deputy City Attorney.

The meeting was called to order by Vice Chairman Schaff at 1:30 p.m.

It was moved by member Trumbull and seconded member Hadden to approve the Minutes of the May 20, 2021 Application Review Committee Meeting. Voting yes: Marks, Schaff, Trumbull, Hadden and Kosman. Voting no: None.

The next item on the agenda was consideration of an application from Brandon Brown, Brittany McDonald, and Kevin Harriger regarding the purchase of Quick Care Medical Services in Scottsbluff. All three applicants were available to present on their application.

The Applicant is presenting an application to assist with the purchase of the Quick Care Medical Urgent Care business in Scottsbluff Nebraska. All three applicants are current employees of the business, and are seeking to obtain funding from the City in order to purchase the business and the assets of the business as a going concern from the owner. The Applicants stated that there was a potential the business could close if the current owner could not locate buyers for the business. The current owner is physically unable due to illness to continue owning and operating the business much longer. Currently, the business has about 18 employees, and the applicants would attempt to increase employment by roughly four employees in the next three to five years through the growth of corporate cliental. The Applicants stated that the current business has about 150 corporate clients, which generally are businesses that provide referrals or that direct their employees to the business for their employees urgent care needs. The Applicants also stated that the business provides a needed service to the community, in that it decreases the burden upon other urgent care facilities, including the emergency room at the hospital, to provide primary and urgent care services.

The Applicants stated that as part of the purchase, they would be assuming a $150,000 loan currently with the SBA that was provided by the SBA as part of the pandemic economic stimulus. The loan had a very low interest rate, and included a very favorable amortization schedule with a low payment per month. Outside of that, the Applicants were seeking to buy the assets of the business from the current owner, which would include an X-Ray machine, chair, exam tables, computer, and general office equipment.

The Applicants were asked by the Committee what other urgent care and primary care services are being provided in the area. The Applicants believe that current competitors are Urgent Care owned by Regional West, Complete Care Family Practice LLC, a clinic in Torrington

Wyoming, and the emergency room at the hospital. The Applicants stated that current patients for the Quick Care Clinic include patients from around the Panhandle of Nebraska, as well as patients from Eastern Wyoming and Northern Colorado. The business does attract multi state patients and provides services to many within the greater Panhandle area. The Committee also asked the Applicants whether they reside in the community. Dr. Brown states that he resides in California and commutes both by technology and once a month in person. Ms. McDonald lives in Cheyenne Wyoming and commutes, and Mr. Harriger lives locally.

The Applicants were also asked if they had alternative plans if the full amount of funding requested from the Committee and the City was not approved. The Applicants stated they would have to renegotiate or re-discuss the terms of the purchase from the current owner of the business and that there was some flexibility if that were to occur. The Applicants were asked regarding the ownership of the building for the clinic, and as part of purchase the Applicants stated that they would receive a five-year lease that included a right of first refusal as well as an option to renew or purchase at the end of the five years.

Following presentation from the Applicants, the Committee discussed possible funding of assistance for the Applicants. General discussion was concern with the lack of clarity or preciseness of the manner in which Applicants would be purchasing the current business from the owner. It was felt that there were too many unknowns to move forward with funding the application, and staff was directed to request more information from the Applicants regarding outstanding issues for the Committee. Therefore, no action was taken on the application and the matter was continued to a further time upon receipt of further information.

Following discussion and direction to staff, the Meeting was adjourned at 2:30 p.m.

Starr Lehl, Economic Development Director

# City of Scottsbluff, Nebraska

**Wednesday, July 28, 2021**

**Regular Meeting**

## Item McKiney1

## Receive Information and Consider Action on the Extension Request from McKiney Manufacturing.

**Staff Contact: Starr Lehl**

McKiney Mfg & Sales, LLC
1215 Center Avenue
Mitchell, NE 69357
roger@mckineymfg.com
(W) 308.623.1555
(F) 308.623.1273
(C) 308.631.3335

MCKINEY
MFG & SALES

JUNE 14, 2021

Dear LB 840 Committee Members,

We are writing this letter to request an extension on our LB 840 loan for a period of 5 months. The reason for this request is that our company is experiencing the back end of the pandemic situation. Our two largest customers are directly tied to the oil and gas industry. And with the decline in those industries our customers have dramatically reduced, or even stopped, producing products, and are therefore not placing orders.

One example is our largest customer builds LP/natural gas generators, which was the reason we purchased our CNC tube bending machine and CNC water jet cutting machine to build the exhaust systems and foam insulation kits. Since the decline in the oil fields, our customer is currently no longer building new generators. Therefore, the orders for the products we build are on hold. We are however, working on prototypes for new generators, which we hope will turn into new opportunities and sales for us in the near future.

As a result of the current situation, our sales YTD are down almost 40%. This has had a direct impact on our cash flow, and is why we are asking for your understanding and assistance with extending our loan payments.

We would welcome the opportunity to come in and meet with you to discuss our situation at your convenience.

Thank you in advance for your time and consideration.

Sincerely,

Julie McKiney

Roger & Julie McKiney
McKiney Mfg & Sales, LLC

# City of Scottsbluff, Nebraska

**Wednesday, July 28, 2021**

**Regular Meeting**

## Item Reports1

## Receive Information and Consider Action on the Draft Addition of Retail to Scottsbluff's LB840 Economic Development Plan.

**Staff Contact:** **Starr Lehl**

**City of Scottsbluff, Nebraska**
**Economic Development Plan**
**(as Amended and Renewed)**
**Effective October 1, 2015**
**(with amendments through March 19, 2018)**

## 1. General Community and Economic Development Strategy:

a. The voters of the city of Scottsbluff, Nebraska (the "City") approved an Economic Development Plan (the "Plan") for the City in 1995, pursuant to the Local Option Municipal Economic Development Act (the "Act"), Neb. Rev. Stat. §§ 18-2701, *et. seq.* The Plan was subsequently amended and renewed by the voters in 1999 and 2004. Under the Plan, and its subsequent amendments and renewals, the City has implemented its Economic Development Program (the "Program").

b. The City's intent for the Program is to enhance business and commercial investment in the Scottsbluff area through direct and indirect financial assistance to prospective or current businesses. The Program has enhanced, and will continue to enhance, the City's ability to compete for new businesses and to promote and expand the City's existing businesses. Primarily, the Program's assistance strategy has been the extension of job credits to those businesses that can expand or create jobs in the local area. This strategy required the creation and retention of full-time jobs, along with health insurance and other benefits for those jobs. Thus the projects funded through the Program have generally been connected to businesses where growth is expected.

c. Other Program strategies have been utilized. The most notable strategies, other than job creation, have been job training and public works improvements. The City participated in providing funding to Western Nebraska Community College when it established its Center for Business and Individual Training (the "CBIT"). The CBIT trains employees of Qualifying Businesses (as provided for in this Plan), and has, since its inception, been instrumental to the local area for quality job training and for recruiting new businesses to the local area. In addition, the City has awarded grants for water line extensions to Qualifying Businesses located near Western Nebraska Regional Airport. Other strategies will be considered for activities which are eligible for funding under the Plan.

d. Due to the success of the Program to date, the City now desires to extend funding of the Program and to amend the Plan in total as provided for in this Amendment. Reference to the Plan in the remainder of this document shall include the Plan as amended by the terms of this document.

## 2. General Intent and Proposed Goals of the Program:

The goal of the Program is to provide quality jobs for the citizens of the City and the local area. Funds from the Program will be used to encourage and assist existing and new Qualifying Businesses to create and retain jobs, through direct or indirect financial assistance. This may include direct grants to Qualifying Businesses or indirect assistance through eligible activities under this Plan. The success of the Program will be measured by a combination of (a) jobs created and retained in the City and the local area for the length of the Program, and/or (b) the total payroll provided or increased by Qualifying Businesses participating in the Program.

**3. Businesses Eligible for Financial Assistance under the Program:**

a. A business shall be considered eligible for financial assistance under the Program, and shall be referred to as a "Qualifying Business," if it is any corporation, partnership, limited liability company, or sole proprietorship that derives its principal source of income from any of the following trades:

(1) Manufacturing articles of commerce.

(2) Conducting research and development.

(3) Processing, storing, transporting, or selling goods or commodities sold or traded in interstate commerce.

(4) Selling services in interstate commerce.

(5) Headquarters facilities related to Qualifying Businesses as listed in this paragraph.

(6) Telecommunications activities.

(7) Tourism-related activities.

(8) Any other activities deemed sufficient to establish eligibility for a Qualifying Business through future amendments to the Act, and incorporated into this Plan and the Program by ordinance of the City Council after amendment to the Act.

(9) Construction and rehabilitation of housing pursuant to a Workforce Housing Plan, as provided for below.

(10) Retail trade, but only if (1) the principal source of income is from retail sales of product(s) manufactured on the premises from which the sales take place; provided, or (2) for all other retail businesses, the business and all of its affiliates, branches, franchisees, subsidiaries, parent companies, or other related parties, had no more than twenty employees at any one time during calendar year before the year of application for financial assistance;~~,~~ and provided further that the total amount of incentives devoted to retail trade shall not exceed the limits provided for by Nebraska law.

(11) Production of films, including feature, independent and documentary films, commercials, and television programs.

b. If a Qualifying Business employs people and carries on activities in more than one city in Nebraska, or will do so at any time during the first year after its application for participation in the Program, it shall only be a Qualifying Business if, in each such city, it maintains employment for the first two years after the date on which the business begins operations in the City as a participant in the Program at a level not less than its average employment level in the other city during the twelve months before participation in the Program.

c. A Qualifying Businesses need not be located within the territorial boundaries of the City.

**4. Eligible Economic Activities:**

a. Funds allocated to the Program shall be expended primarily for the purpose of providing direct and indirect financial assistance for Qualifying Businesses. Activities eligible for the Program may include, but are not limited to, the following:

(1) Direct loans or grants to Qualifying Businesses for fixed assets or working capital, or both.

(2) Loan guaranties for Qualifying Businesses.

(3) Grants for public works improvements essential to the location or expansion of, or the provision of new services by, a Qualifying Business.

(4) Grants or loans for job training.

(5) The purchase or real estate, options for real estate purchases, and the renewal or extension of such options. If and when real estate is to be purchased or optioned by the City under the Program, the real estate will be indentified based upon the need of a particular Qualifying Business or based upon potential needs of Qualifying Businesses not yet identified. All such real estate should be properly zoned with no excessive easements, covenants, or other encumbrances. Any proceeds received by the City from the future sale of such real estate shall be returned to the City’s Economic Development Fund for reuse under the Program.

(6) Issuing bonds as provided for in the Act.

(7) Paying salaries and support of City staff to implement the Program, or paying expenses of contracting the administration of the Program to an outside entity.

(8) Providing technical assistance to Qualifying Businesses, such as marketing assistance, management counseling, preparing financial packages, engineering assistance, etc.

(9) Expenses for locating a Qualifying Business to the local area.

(10) Equity investment in a Qualifying Business.

(11) Grants or loans for the construction or rehabilitation for sale or lease of housing as part of a Workforce Housing Plan, as provided for below.

**5. Workforce Housing Plan:**

"Workforce Housing Plan" means a program to construct or rehabilitate single-family housing or market rate multi-family housing which is designed to address a housing shortage that impairs the ability of the City to attract new businesses or impairs the ability of existing businesses to recruit new employees. In connection with the Workforce Housing Plan:

a. The City has participated in a Multi-County Regional Housing Study (the "Housing Study") conducted by Hanna:Keelan Associates, P.C. for Western Nebraska Economic Development Interlocal Group. The Housing Study covered Scotts Bluff, Morrill and Kimball Counties, and communities within those Counties, to include the City. The Housing Study found that the current housing stock in the City and Scotts Bluff County, including both single-family and market rate multi-family housing, was deficient in numbers and quality, and that the City has a housing shortage.

b. The Workforce Housing Plan is intended to include all single-family housing and market rate multi-family housing. No special provisions for housing for persons of low or moderate income are provided for.

c. Due to the lack of available housing within the City and Scotts Bluff County, existing businesses have difficulty in recruiting new employees; and

d. Construction costs, and the cost of providing infrastructure for housing (to include streets and utilities) are adversely impacting the ability to find housing for persons seeking new or rehabilitated housing in the City.

**6. Funding and Preliminary Budget:**

a. The Program will primarily be funded by a portion of the City Sales Tax equal to ¼ of 1%. The sales tax collections to fund the Program will be collected from October 1, 2015 to September 30, 2025. The Program can also accept funding from grants, or from state or federal funds, or from donations.

b. Notwithstanding the actual amount collected by the City for the benefit of the Program, the City shall not appropriate funds derived directly from City sources of revenue in an amount in excess of the maximum permitted by Nebraska law in effect at the time of appropriation. By way of reference, the current limits as provided by Section 18-2717 of the Act prohibit the City from appropriating funds from local sources in excess of:

(1) four-tenths of one percent of the taxable valuation of the City in the year in which the funds are collected;

(2) $4,000,000 per year; and

(3) the amount approved by voters at elections approving the Program and the extension of the Program.

c. The above restrictions shall not apply to the reappropriation of funds which were appropriated but not expended during the previous fiscal years, nor shall they apply to appropriation of funds received from other sources.

d. The total amount proposed to be directly collected from local sources is estimated to be as follows (amounts shown are in addition to amounts shown in the existing Plan which have not yet been collected):

| Fiscal Year Ending: | Estimated Collections |
|---|---|
| September 30, 2016 | $1,000,000 |
| September 30, 2017 | $1,025,000 |
| September 30, 2018 | $1,050,000 |
| September 30, 2019 | $1,075,000 |
| September 30, 2020 | $1,100,000 |
| September 30, 2021 | $1,125,000 |
| September 30, 2022 | $1,150,000 |
| September 30, 2023 | $1,175,000 |
| September 30, 2024 | $1,200,000 |
| September 30, 2025 | $1,225,000 |
| Total: | $11,125,000 |

e. The Basic Preliminary Budget is (October 1, 2015 through September 30, 2025):

| | |
|---|---|
| Administration (2%): | $222,500 |
| Grants for eligible activities: | $10,902,500 |
| Total: | $11,125,000 |

f. The City may issue bonds pursuant to the Act to fund and carry out the Program. The total amount of bonds that may be outstanding at any time shall be set by resolution of the City Council and shall not exceed the anticipated collections and resources which will be available to the Program during its existence.

g. The Program is currently in existence and shall continue in existence through September 30, 2040.

**7. Application Process for Financial Assistance:**

a. For a Qualifying Business to be considered for Program benefits, the Qualifying Business shall first become an “Applicant” by applying to the City for assistance. The application shall contain information as required by this Plan and any additional information as requested by the Administrator and/or Application Review Committee (as explained below).

b. Upon Receipt of an application, the Program Administrator shall make a preliminary determination as to whether: (1) the Applicant is eligible as a Qualifying Business; (2) the proposed activities are eligible; (3) the Applicant has no legal actions underway that may significantly impact its capacity; and (4) the Applicant's business complies with the provisions of the application guidelines.

c. Once the Administrator makes the preliminary determinations above, the application is referred to the Application Review Committee. The Application Review Committee shall review the application, including any financial information furnished, and shall provide recommendations to the Administrator concerning negotiations with the Applicant. Once the Application Review Committee has completed its review, and following any negotiations conducted by the Administrator, the Application Review Committee shall make a recommendation that: (1) the application be approved; (2) the application be disapproved; (3) the Application Review Committee is not able to make a recommendation on the Applicant due to lack of information or other factors cited by the Application Review Committee; or (4) the application be referred to the City Council for a determination of funding as set forth below.

d. Approval or disapproval will be based on whether the Applicant is able to show: (1) eligibility for funding; and (2) that the type of level of assistance will not unduly enrich the business or be unreasonable in relation to the public benefit to be achieved from the funding. If the recommendation is for disapproval or if the Application Review Committee is unable to make a recommendation, it shall provide reasons for its decision.

e. All approval recommendations from the Application Review Committee shall be submitted to the City Council for consideration of funding. The Application Review Committee may also refer to the City Council certain applications, in its sole discretion, where is it unable to make a recommendation. In making its determination, the City Council shall generally not be presented with any information which has been determined by the Administrator or Application Review Committee as confidential.

f. An Applicant which has been awarded funding under the Program shall thereafter be referred to as a "Funded Business."

g. There shall be no limit on the number of times a Qualifying Business may apply for assistance. Applications shall be received until all funds anticipated for the Program have been committed. The decision of whether or not Program funds shall be granted, including the timing and amount and the allocation of funds where there are not sufficient funds to fulfill the requests of all qualified Applicants, is at the sole discretion of the City.

**8. Information Required from Applicants:**

a. Applications for assistance submitted by an Applicant shall include the following information:

(1) Application in a form prescribed and provided by the Administrator;

(2) Business Plan which includes financial projections for the next 3 years where appropriate;

(3) Signed copies of the most recent 2 years' fiscal tax returns, or copies of all years where the applicant has been in existence for less than 2 years.

(4) Signed copies of financial statements of the Applicant for the 2 most recent fiscal years, or copies for all fiscal years where the applicant has been in existence for less than 2 years.

(5) Where the applicant is a closely held entity, signed balance sheets from holders of more than 25% of the ownership interests in the entity; and

(6) Other information as requested by the Administrator or the Application Review Committee.

b. The Administrator may waive the furnishing of all or any portion of the above items where the Administrator is able to obtain reasonable assurances as to the stability of the Applicant from other reliable sources or information to include audited financial statements and filing with regulatory agencies (i.e., SEC filings).

c. The Administrator may also waive the furnishing of all or any portion of the above items where the Applicant agrees that no funds shall be paid to the Applicant until the Applicant has performed according to agreed-upon criteria.

d. The Administrator may use any reasonable methods to verify the information provided by the Applicant.

**9. Confidentiality:**

a. In the process of gathering information about an Applicant or Qualifying Business, the City may receive information about the business which is confidential and, if released, could cause harm to the business or give unfair advantage to competitors. Nebraska law authorizes the City to maintain confidentiality of business and project records which come into its possession.

b. In order to protect the Applicants, and to encourage them to make full and frank disclosures of information relevant and necessary for the application, the City may take the following steps to ensure the confidentiality of the information it receives:

(1) The continuation of any resolution or ordinance which makes such information confidential and punished disclosure;

(2) A restriction on the number of people with access to confidential information, with the Administrator primarily responsible for their safekeeping and any distribution of confidential information; and

(3) Requiring personnel reviewing the applications and other Program review to sign statements of confidentiality regarding all confidential information submitted by Applicants and Qualified Businesses.

**10. Administration:**

a. The Program Administrator shall be the City Manager unless (1) another city official is appointed by the City Council to serve as Administrator, or (2) the City by action of the City Council enters into a contract with a third party to administer the Program.

b. The Administrator shall be responsible for (1) generally administering the Program, (2) monitoring any and all reports required of Funded Businesses, and (3) assisting the Application Review Committee and the Citizen Advisory Committee (as provided below) by providing necessary information.

c. The Application Review Committee will be composed of 5 members to be appointed by the Mayor, subject to the approval of the City Council. At least 3 members of this Committee shall be residents of the City. At least one member must have experience in banking or lending and at least one member must be a Certified Public Accountant. The Program Administrator shall serve as an ex-officio, but non-voting member of the Application Review Committee. The Mayor, subject to the approval of the City Council, may also appoint up to 2 alternate members to the Application Review Committee, at least one of whom shall be a resident of the City. In the event that a Committee member is not available, or has a conflict of interest, with respect to a matter before the Committee, the Program Administrator may designate one of the alternates to act in the place of that Committee member.

d. In the event that the City has contracted with a third party for the administration of the Program, then the City Council shall designate a City employee as “Program Liaison Officer” to serve as an ex-officio, but non-voting member of the Application Review Committee and the Citizen Advisory Committee, and to keep the Council generally informed concerning the Program.

**11. Review Process:**

a. In order to provide assurance that all applicable laws, regulation, and requirements are met by the City and all Funded Businesses, the City shall require annual reports, in the form to be prescribed by the Administrator, from all Funded Businesses unless the circumstances of the grant are such that annual reports are not appropriate and the City determines that annual reports will not be necessary at the time of the grant. In addition, the Administrator may conduct reviews of Funded Businesses as the Administrator deems appropriate.

b. A Citizen Advisory Committee shall be established which shall:

(1) Review the functioning and progress of the Program at regular meetings, and advise the City Council with regard to the Program; and

(2) Report to the City Council on its findings and suggestions at a public hearing called for that purpose, at least once every six months.

c. The Citizen Advisory Committee shall consist of not less than 5 or more than 10 registered voters of the City who shall be appointed by the Mayor subject to the approval of the City Council. At least one member of this Committee shall have expertise or experience in business finance or accounting. Except for ex-officio members, no member shall be an elected or appointed City official, an employee of the City, a participant in a decision-making position regarding expenditures of the Program funds, an official or employee of any Funded Business under the Program, or an official or employee of any financial institution participating directly in the Program.

d. At least once per year, the City shall provide for an outside, independent audit of the Program by a qualified private auditing businesses. The auditing business shall not, at the time of the audit or for any period of the term subject to the audit, have a contractual or business relationship with any Qualifying Business receiving assistance from the Program or any financial institution directly involved with a Qualifying Business receiving assistance from the Program. The results of the audit shall be filed with the City Clerk and made available to the public during normal business hours.

**12. Amendment:**

This Plan shall be amended only to (1) conform to the provisions of any existing or future state or federal law, or (2) when necessary to accomplish the purposes of this amended Plan as presented to the voters of the City. Any amendment shall first require notice and a public hearing and shall be approved by a 2/3 vote of the members of the City Council. No amendment shall fundamentally alter the Plan’s basic structure or goals, either with regard to eligible Qualifying Businesses, the use of the funds collected, or the basic terms set out in the amended Plans as presented to the voters of the City, without submitting the proposed changes to a new vote of the registered voters of the City, except as otherwise permitted by law.

# City of Scottsbluff, Nebraska

**Wednesday, July 28, 2021**

**Regular Meeting**

## Item 1

## Following passage of motion to enter into executive session, presiding officer must state purpose of executive session.

**Staff Contact:**