



**GCEDC Board Meeting
Thursday, May 5, 2022
Location: Electronically
4:00 PM**

GCEDC MINUTES

Attendance

Board Members: M. Clattenburg, M. Gray, P. Battaglia, C. Yunker, C. Kemp
Staff: L. Farrell, M. Masse, S. Hyde, L. Casey, J. Krencik, P. Kennett, C. Suozzi
Guests: T. Felton (GGLDC Board Member), S. Noble-Moag (GGLDC Board Member), G. Torrey (GGLDC Board Member), R. Gaenzle (Harris Beach), Lucas Praticci (La Fermiere)
Absent: P. Zeliff, T. Bender

1.0 Call to Order

M. Gray called the meeting to order at 4:01 p.m via conference call / video conference.

Governor Kathy Hochul signed legislation (S.50001 / A.40001) on September 2, 2021 extending virtual access to public meetings under NYS's Open Meetings Law, which allows virtual participation in local government meetings during the COVID-19 pandemic. This meeting is being held electronically via conference call / video conference.

Presentation: La Fermiere

La Fermiere provided an overview of their project to construct a 50,000 square foot food processing facility to produce premium yogurt at the Genesee Valley Agri Business Park in the Town of Batavia.

1.1 Enter Executive Session

P. Battaglia made a motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105, at 4:22 p.m. for the following reasons:

1. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.

The motion was seconded by C. Yunker and approved by all members present.

C. Kemp joined at 4:29 p.m.

1.2 Enter Public Session

P. Battaglia made a motion to enter back into public session at 4:49 p.m., seconded by C. Yunker and approved by all members present.

2.0 Chairman's Report & Activities

2.1 Upcoming Meetings:

Next Scheduled Board Meeting: Thursday, June 2nd at 4:00 p.m.

Audit & Finance Committee Meeting: Tuesday, May 31st at 8:30 a.m.

STAMP Committee Meeting: Wednesday, June 1st at 8:00 a.m.

Governance & Nominating Committee Meeting: Thursday, June 2nd at 3:00 p.m.

2.2 Agenda Additions / Deletions / Other Business –

C. Yunker made a motion to remove the Governance committee agenda items, 5.1 through 5.6, from the agenda; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia - Yes
T. Bender - Absent
M. Clattenburg - Yes
C. Kemp - Yes

C. Yunker - Yes
P. Zelif - Absent
M. Gray - Yes

The agenda items were removed.

2.3 Minutes: March 29, 2022.

M. Clattenburg made a motion to accept the minutes from March 29, 2022; the motion was seconded by T. Bender. Roll call resulted as follows:

P. Battaglia - Yes
T. Bender - Absent
M. Clattenburg - Yes
C. Kemp - Yes

C. Yunker - Yes
P. Zelif - Absent
M. Gray - Yes

The item was approved as presented.

3.0 Report of Management

3.1 La Fermiere - Initial Resolution- La Fermiere was founded in Marseille, France in 1952. In 2017, they began a USA market study. In 2018, they launched their product on the east coast while using a NY based co-packer. Their USA market success with major retailers has led the company to purchase 20 acres at the Genesee Valley Agri Business Park in the Town of Batavia and construct a 50,000 square foot food processing facility.

The project is planning on investing \$25 million and planning to create 68 FTEs in the first 3 years (and plan to create a total of 135 FTEs by year 5).

The project is seeking assistance from the GCEDC in the form of a property tax abatement (\$926,700) using our standard PILOT schedule 60% savings over 10 years, a sales tax abatement (\$912,000), and a mortgage tax exemption (\$40,000).

For every \$1 of public benefit the company is investing \$43 into the local economy.

A public hearing will be held as benefits are estimated to be over \$100,000.

Resolution No. 05/2022 - 01

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACCEPTING AN APPLICATION OF LA FERMIERE INC. WITH RESPECT TO A CERTAIN PROJECT (THE "PROJECT"), (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT, AND (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT.

P. Battaglia made a motion to accept Initial Resolution #03/2022-01, accepting the application and authorizing the scheduling of a public hearing; the motion was seconded by M. Gray. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Absent	P. Zelif -	Absent
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

3.2 OATKA Milk – Initial Resolution- O-AT-KA Milk Products LLC plans to build a 3,200 square foot addition to its existing facility in the town of Batavia.

The \$3.1 million expansion will house 2 new 18,000-gallon tanks and a dilution tank to increase capacities for cream based liquor beverages, and allow for future expansion.

The project is anticipated to add 2 new jobs.

The project has requested \$208,109 in financial support, including \$148,800 in sales tax exemptions and \$59,309 in property tax abatements using our standard PILOT schedule 60% over 10 years.

For every \$1 of public benefit the company is investing \$27 into the local economy.

A public hearing will be held as benefits are estimated to be over \$100,000.

Resolution No. 05/2022 - 02

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACCEPTING AN APPLICATION OF O-AT-KA MILK PRODUCTS, LLC WITH RESPECT TO A CERTAIN PROJECT (THE "PROJECT"), (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT, AND (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT.

M. Clattenburg made a motion to accept Initial Resolution #03/2022-02, accepting the application and authorizing the scheduling of a public hearing; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia - Yes
T. Bender - Absent
M. Clattenburg - Yes
C. Kemp - Yes

C. Yunker - Yes
P. Zelif - Absent
M. Gray - Yes

The item was approved as presented.

3.3 Apple Tree Acres, LLC (J-Rental)- Final Resolution- Apple Tree Acres, LLC is building a 50,000 sq. ft. stand-alone facility on its property at Apple Tree Acres, in town of Bergen.

The project is investing \$3.15 million and is pledging to create 3 FTEs with an average salary range of \$30,000-\$35,000 annually plus benefits.

The project is seeking assistance from the GCEDC in the form of a property tax abatement (\$355,425) using our standard PILOT schedule 60% savings over 10 years, a sales tax abatement (\$109,600), and a mortgage tax exemption (\$25,200).

For every \$1 of public benefit the company is investing \$7 into the local economy.

A public hearing was held on February 2, 2022. No written or oral comments were received.

See the Statement of Compliance of Project Criteria listed in the Uniform Tax Exemption Policy (UTEP), attached to the minutes for additional Project details and Board approvals.

Resolution No. 05/2022 - 03

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY ON FEBRUARY 2, 2022, WITH RESPECT TO THE APPLTREE ACRES LLC (THE "COMPANY") PROJECT (THE "PROJECT"); (ii) MAKING A DETERMINATION WITH RESPECT TO THE PROJECT PURSUANT TO SEQRA; (iii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY; (iv) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF THE PROJECT, (B) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A TAX AGREEMENT AND (C) A MORTGAGE RECORDING TAX EXEMPTION AS AUTHORIZED BY THE LAWS OF NEW YORK STATE; AND (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, TAX AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

P. Battaglia made a motion to accept Final Resolution #03/2022-03, authorizing incentives as presented; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

P. Battaglia - Yes
T. Bender - Absent

C. Yunker - Yes
P. Zelif - Absent

M. Clattenburg - Yes
C. Kemp - Yes

M. Gray - Yes

The item was approved as presented.

3.4 Local Labor Waiver Request for Ellicott Station Project –

Ellicott Station is currently constructing its housing project in the City of Batavia. Since the project is more than \$5 million in construction costs, it is subject to our Local Labor Policy. In connection with the Local Labor Policy there is a waiver request process that can be made for certain contractors that do not have to be local. The situations that would allow a company to request a waiver are as follows:

“It is understood that at certain times, Workers residing within the Local Labor Area may not be available with respect to a Project. Under this condition, the Company is required to contact the Agency to request a waiver of the Local Labor Requirement (the “Local Labor Waiver Request”) based on the following circumstances: (i) warranty issues related to installation of specialized equipment or materials whereby the manufacturer requires installation by only approved installers; (ii) specialized construction for which qualified Local Labor Area Workers are not available; (iii) documented lack of Workers meeting the Local Labor Area requirement; or (iv) cost differentials in bids whereby use of local labor significantly increases the construction cost of the project. Prior to the granting of said waiver, the lowest bidding contractor which bid said construction project using local labor would have the right of first refusal to bid and match the lowest bid as a remedy to ensure compliance with this policy. Comprehensive documentation and justification will be required including documented evidence and verification by GCEDC staff or agents that the “right of first refusal” remedy has been affected unsuccessfully.

The Agency shall evaluate the Local Labor Waiver Request and make its determination related thereto based upon the supporting documentation received with such waiver request.”

The consultant hired by the GCEDC to oversee the compliance with the Local Labor Policy, Loewke Brill Consulting Group, has reviewed the waiver request and recommended approval. Loewke Brill’s recommendation and back-up documentation was included in the Board packet for review.

Fund Commitment – None.

C. Yunker made a motion to accept the Local Labor Waiver Request for Ellicott Station Project as presented; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia - Yes
T. Bender - Absent
M. Clattenburg - Yes
C. Kemp - Yes

C. Yunker - Yes
P. Zeff - Absent
M. Gray - Yes

The item was approved as presented.

3.5 State Policy – Authorization to Submit Comment on CLCPA – New York State is currently in a 120-day public comment period for the Climate Leadership and Community Protection Act’s (CLCPA) *Draft Scoping Plan*. The public comment period closes on Wednesday, June 10, 2022.

Given the experience and role of the GCEDC and the GGLDC in growing our local and state economy, it is our request that the GCEDC and GGLDC Board of Directors authorize the submission of public comments on the CLCPA's Draft Scoping Plan.

A draft letter was provided with Board materials.

M. Clattenburg made a motion to authorize the submission of public comment on the CLCPA Draft Scoping Plan as presented; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Absent	P. Zelif -	Absent
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

4.0 Audit & Finance Committee

4.1 1st Quarter Financial Statements- L. Farrell reviewed the 1st quarter financial statements with the Board. The following was noted:

- Restricted Cash in the \$8 Million and \$33 Million STAMP Imprest Accounts decreased from year end. Accounts payable decreased by about \$500,000, which was mostly related to STAMP expenditures paid in the first quarter.
- We received project origination fees from Mega Properties and Just Chez.
- Expenditures are as expected for this time of year.
- We received a payment from Empire Pipeline for approximately \$448,000, which is under a CBA. We were able to make a timely payment in the first quarter to the County on the \$4M loan provided for the STAMP project as these funds are the dedicated source for repayment.

The financial statements were reviewed in detail by the Committee and are recommended for approval.

M. Gray made a motion to approve the 1st Quarter Financial Statements as presented; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Absent	P. Zelif -	Absent
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

4.2 Mowing Bids- The GCEDC asked five companies for bids to mow the properties we have acquired at STAMP and the entrance sign to STAMP. The results of the bids are as follows based on 7 mows in the season:

1. Declined to bid – S&S Excavating & Blacktop, Inc.
2. Declined to bid – Scalia's Landscaping

- 3. \$5,110 – Versa Scape
- 4. \$9,950 – Fava Brothers Lawn Care
- 5. Declined to bid – Bubba’s Landscaping

Fund Commitment: Not to exceed \$5,110.

This was recommended for approval by the Committee.

C. Yunker made a motion to approve the mowing bid to Versa Scape not to exceed \$5,110 as presented; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Absent	P. Zelif -	Absent
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

5.0 Governance & Nominating Committee – C. Yunker

5.1 GGLDC Board Member Appointments- Removed from the agenda.

5.2 Officer Appointments- Removed from the agenda.

5.3 Authorized to Request Information Regarding Bank Accounts - Removed from the agenda.

5.4 Authorized Signers of Agreements, Contracts, etc.- Removed from the agenda.

5.5 Authorized Bank Signers – Removed from the agenda.

5.6 Pricing Policy Change - Removed from the agenda.

6.0 STAMP Committee – P. Zelif

6.1 Easement Approval- In conjunction with the installation of the force main from the STAMP site to the direct discharge point at Oak Orchard Creek, there are several easements needed. Based on a compensation model the following payment is needed for one easement:

- 1. Temporary Easement 21 - \$500

Fund Commitment: \$500 from the \$33 million.

This was recommended for approval by the Committee.

C. Yunker made a motion to approve the ROW easement payment not to exceed \$500 as presented; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Absent	P. Zelif -	Absent

M. Clattenburg - Yes
C. Kemp - Yes

M. Gray - Yes

The item was approved as presented.

6.2 Revised Land Lease Agreement for STAMP Farming- The GCEDC has previously approved a standard lease agreement for any farming activities on any of our corporate parks. While discussing some options with a farmer at STAMP to assist with our land management plans as well as the potential for a tenant to commit to STAMP and potentially impact the land prior to the crop being harvested, the farmer has made a request for the STAMP Committee to consider a revision in the lease agreement for 2022. Farming the land at the STAMP site helps with overall maintenance of the property as well as preventing any wetlands from expanding or other things which could cause issues for potential development. The farmer at STAMP is concerned that if he is only reimbursed for the cost of the crop, and not the fair market value, if the lease is cancelled early for a project to start construction, being reimbursed of cost for his crop would have a severe negative impact on his farming operations. His request is to change the reimbursement to be based on the fair market value of the crop that is impacted.

Fund commitment: None.

This was recommended for approval by the Committee.

C. Yunker made a motion to approve the Revised Land Lease Agreement with Norm Giess for STAMP Farming as presented; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

P. Battaglia - Yes
T. Bender - Absent
M. Clattenburg - Yes
C. Kemp - Yes

C. Yunker - Yes
P. Zelif - Absent
M. Gray - Yes

The item was approved as presented.

6.3 NYPA Facilities Study - Upon completion of the SIS study, NYPA required that a Facilities Study (FS) be completed on the proposed substation. NYPA completed the study and requested a deposit of \$100,000 for this work at the signing of the Facilities Study in 2020. This payment and agreement were approved in February of 2020. The original agreement had a scheduled FS completion date of May of 2020. The final Q580 FS Report Rev. 6 was issued on April 7, 2022. It took almost 2 years to finalize the FS due to the major change in the configuration of the Q580 STAMP Station and the associated additional studies needed to justify/confirm the reliability and operability of the revised configuration.

Fund commitment: An increase of \$53,000 covered under the existing \$8 million NYESD grant.

This was recommended for approval by the Committee.

C. Yunker made a motion to approve the payment of an additional \$53,000 for the Facilities Study Agreement as presented; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

P. Battaglia - Yes
T. Bender - Absent

C. Yunker - Yes
P. Zelif - Absent

M. Clattenburg - Yes
C. Kemp - Yes

M. Gray - Yes

The item was approved as presented.

6.4 Access License Agreement for Plug Power and/or Affiliates for Substation Construction -

Phillips Lytle has prepared for the GCEDC an Access License Agreement to allow Plug Power, O'Connell Electric, and their agents to enable construction of the substation on GCEDC owned property until the transfer of the property to National Grid and NYPA can be completed. Any contractors would be required to sign indemnity agreements, provide proof of insurance, and list the GCEDC as an additional insured on their policy with the applicable coverage limits as set forth by the GCEDC.

Fund Commitment: None.

The Committee recommended that under section 3, the automatic termination date should be extended to 365 days from the effective date.

C. Yunker made a motion to approve the Access License Agreement with the above-mentioned amendment; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia - Yes
T. Bender - Absent
M. Clattenburg - Yes
C. Kemp - Yes

C. Yunker - Yes
P. Zeliff - Absent
M. Gray - Yes

The item was approved as presented.

7.0 Employment & Compensation – T. Bender

7.1 Nothing at this time.

8.0 Housing Committee – P. Battaglia

8.1 Nothing at this time.

9.0 Other Business

9.1 Nothing at this time.

10.0 Adjournment

As there was no further business, P. Battaglia made a motion to adjourn at 5:06 p.m., which was seconded by M. Clattenburg and passed unanimously.