



**Thursday, May 5, 2016**  
**Governance & Nominating Committee Meeting – GCEDC**  
**Innovation Zone Conference Room**  
**2:30 pm**  
**MINUTES**

**ATTENDANCE**

Committee Members: J. Rizzo, M. Wiater, C. Yunker, P. Battaglia (video conference)  
GCEDC/GGLDC Board Members:  
Staff: S. Hyde, L. Farrell, M. Masse, E. Richardson, P. Kennett  
Guests:  
Absent:

**CALL TO ORDER / ENTER PUBLIC SESSION**

J. Rizzo called the meeting to order at 2:40 p.m. in the GCEDC Innovation Zone Conference Room.

**CHAIRMAN’S REPORT & ACTIVITIES**

**2a. Agenda Additions / Other Business** – No additions to the agenda were made.

**2b. Minutes: March 1, 2016**

**M. Wiater made a motion to approve the March 1, 2016 Minutes; the motion was seconded by P. Battaglia. Roll call resulted as follows:**

M. Wiater -	Yes
J. Rizzo -	Yes
C. Yunker -	Absent
P. Battaglia -	Yes

**The item was approved as presented.**

**DISCUSSIONS / OFFICIAL RECOMMENDATIONS TO THE BOARD**

J. Rizzo wanted to discuss the items in a different order than on the agenda.

**3b. Authorization of Bank Signers** – L. Farrell reminded the Committee that the Authorized Bank Signers are the Audit & Finance Committee members plus S. Hyde and M. Masse.

**P. Battaglia made a motion to recommend the Authorization of Bank Signers to the full Board; the motion was seconded by M. Wiater. Roll call resulted as follows:**

M. Wiater -	Yes
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J. Rizzo - Yes  
C. Yunker - Absent  
P. Battaglia - Yes

**The item was approved as presented.**

**3c. Authorization of Individuals to Obtain Bank Account Information** – L. Farrell shared that she and P. Kennett are not authorized bank account signers but need authorization to request information regarding the bank accounts.

**M. Wiater made a motion to recommend the Authorization of L. Farrell and P. Kennett to Obtain Bank Account Information to the full Board; the motion was seconded by P. Battaglia. Roll call resulted as follows:**

M. Wiater - Yes  
J. Rizzo - Yes  
C. Yunker - Absent  
P. Battaglia - Yes

**The item was approved as presented.**

**C. Yunker joined the meeting at 2:45pm.**

**3f. Dissolution of Genesee Gateway Development, LLC** – L. Farrell shared that this entity was put into place in 2004. It was formed in order to allow charitable contributions for individuals wishing to donate land to be developed as business parks. The individuals that donated land to the LLC then qualified for Empire Zone tax credits. There is no reason to keep this entity open as there is no activity.

**M. Wiater made a motion to recommend the Dissolution of Genesee Gateway Development, LLC to the full Board; the motion was seconded by C. Yunker. Roll call resulted as follows:**

M. Wiater - Yes  
J. Rizzo - Yes  
C. Yunker - Yes  
P. Battaglia - Yes

**The item was approved as presented.**

**3g. Dissolution of Pembroke Park Development, LLC** – L. Farrell shared that this entity was put into place in 2005. It was formed in order to allow charitable contributions for individuals wishing to donate land to be developed as business parks. The individuals that donated land to the LLC then qualified for Empire Zone tax credits. There is no reason to keep this entity open as there is no activity.

**M. Wiater made a motion to recommend the Dissolution of Pembroke Park Development, LLC to the full Board; the motion was seconded by C. Yunker. Roll call resulted as follows:**

M. Wiater - Yes  
J. Rizzo - Yes  
C. Yunker - Yes  
P. Battaglia - Yes

**The item was approved as presented.**

**3h. Dissolution of Genesee Business Fund, LLC** – L. Farrell shared that this entity was put into place in 2003. The entity was formed as a tool related to new market tax credits (federal tax credits for redevelopment). This LLC has never had any activity, therefore there is no reason to keep this entity open.

**M. Wiater made a motion to recommend the Dissolution of Genesee Business Fund, LLC to the full Board; the motion was seconded by C. Yunker. Roll call resulted as follows:**

M. Wiater - Yes  
J. Rizzo - Yes  
C. Yunker - Yes  
P. Battaglia - Yes

**The item was approved as presented.**

**3a. Officer Appointments** – J. Rizzo suggested keeping the slate of officers for the July 1<sup>st</sup>, 2016 – June 30<sup>th</sup>, 2017 term the same.

L. Farrell shared that P. Zeliff has been reappointed by the Genesee County Legislature with a term ending June 30<sup>th</sup>, 2022.

**C. Yunker made a motion to recommend the 2016-2017 slate of officers as follows: P. Battaglia, Chair, M. Wiater, Vice-Chair, L. Farrell, Treasurer, P. Kennett, Secretary, S. Hyde, President & CEO; the motion was seconded by M. Wiater. Roll call resulted as follows:**

M. Wiater - Yes  
J. Rizzo - Yes  
C. Yunker - Yes  
P. Battaglia - Yes

**The item was approved as presented.**

**3d. Annual Project Performance Review** – M. Masse shared that on an annual basis, all projects that receive financial assistance, are required to report certain information about their projects performance, including total jobs. This information is reported into the Public Authorities Reporting Information System (PARIS). M. Masse shared a spreadsheet with the Committee that shows all projects that were reported into the 2015 PARIS system and their original job creation goals, and how many jobs they have reported since the inception of their project. He also shared a spreadsheet listing all projects that have reported less than 100% achievement of their job creation goals, along with any explanations as to why those goals have not been achieved as of 12/31/15.

J. Rizzo asked if there was any action that needed to be taken by the Board other than reviewing this information.

L. Farrell shared that the Office of the State Comptroller (OSC) requested that the IDA review projects on an annual basis. This request came out of the audit that was performed by the OSC of our projects.

J. Rizzo asked if there were any claw back possibilities with the older projects that are underperforming.

M. Masse shared that there are no claw back possibilities with older projects. It would be the Board's discretion however to cancel benefits if they feel the company has not met its goals.

J. Rizzo added that theoretically the Committee/Board could look at all the projects and review which projects should potentially be cancelled. It might not make much sense to cancel a PILOT of a company that only has one year left of

benefits. Also, it would be highly unlikely to take an action against a company in the first few years of receiving benefits.

M. Masse added that given projects usually take approx. one year to construct their facility, the Agency allows an additional three years for companies to meet their job goals. The Committee will need to keep that in mind while reviewing the information and deciding which projects they would potentially wish to cancel.

J. Rizzo requested that M. Masse circulate this information to the full Board along with a memo for review and questions. After a full review by the Board, maybe the Board can pass a resolution saying that the project information has been reviewed.

**3e. Code of Ethics** – J. Rizzo reminded the Committee that they asked Harris Beach to provide an example of code of ethics policy that met all of NYS requirements. Harris Beach has provided a “model” code. The committee reviewed the “model” code and there were some concerns that the code was impractical for this Agency and didn’t reflect the volunteer nature of the Board and the potential conflicts that might exist in a small community. The Committee asked Harris Beach to contact the Comptroller’s Office (OSC) and inquire about two specific fact patterns of potential conflicts. The Committee has received and reviewed answers to these questions related to specific fact patterns and are now ready to discuss any amendments that should be made to our existing code or the alternative of adopting the model code that was provided by Harris Beach.

R. Gaenzle added that the draft policy that the Committee has before them is the Authority Budget Office’s (ABO) recommended best practices. This policy is the highest level and the most stringent of policies that we have seen. The Committee can “tweak” this code as long as it is not in violation of the statutory requirements regarding conflicts of interest.

J. Rizzo shared that he is sympathetic to the problems of the individual Board members. In the years that he’s been on this Board, everyone at some point has abstained from participating in voting and recused themselves from discussions because they were concerned about the ethics of the situation. Sometimes there was a clear issue and sometimes the issue was murkier, but everyone has exercised their best judgement in deciding whether or not to participate. He is sensitive to the fact that most Board members remain active in their profession and have had to deal with this on a regular basis. That being said, he is a proponent of the ABO’s best practices because of the atmosphere in which the Agency operates and the fact that we seem to be scrutinized closely. Ethics is the primary issue in state government these days. He feels that the Agency is best served by adopting the ABO’s best practices and that is what he would support.

M. Wiater shared that she is in agreement with J. Rizzo. She, along with other attorneys have very high and determined ethical consideration that they have to abide by. She has strict adherence to those rules because it has kept her practice out of trouble for many years. Given the amount of scrutiny that IDA’s are under now, it would be risky for us to have lower standards than the ABO has set for us. Keeping standards high with both direct conflicts and the appearance of conflicts is very important.

C. Yunker shared that ethics are very important. He feels as if he has a high standard with regard to conflicts of interest. The requirement or obligation to disclose or recuse is something that he has followed since he has been in public office. When he reads the ABO recommended practice, it says that this Authority requires a written conflict of interest policy. It does not require that the Agency adopt the model policy. He feels that the Agency’s conflict of interest policy should require disclosure and recusal of any conflicts. He does think that the Agency will continue to have issues if this policy is adopted because it does not take into consideration the monetary amount of the transaction. It would be a shame that we could not bring a client to a restaurant because it is owned by a Board member. This draft policy would prohibit such transactions. He feels that the Agency should adopt a conflict of interest policy that is realistic for the community in which we live in. He is not comfortable with the model that has been set forth.

R. Gaenzle added that there are two types of conflicts; conflicts of interest and prohibitive conflicts of interest. A conflict of interest allows one to disclose and recuse themselves from the conversation and voting. A prohibitive

conflict of interest requires that one not serve on a Board. He is unsure whether this “model” policy would prohibit the staff or board members from bringing a client to a restaurant that a Board member owns. He does not believe that this policy rises to such a level. He added that this is up to the Boards discretion on whether or not to adopt this particular policy.

P. Battaglia asked if there were other rural bodies dealing with this issue and asked what are they doing.

R. Gaenzle shared that there are other Agencies dealing with these same issues but they are adopting this policy because it’s what the ABO wants.

P. Battaglia shared that he understands where J. Rizzo and M. Wiater are coming from with their reasoning. He also understands where C. Yunker is coming from. He also lives by a code of ethics in his profession but he feels that this is difficult to deal with. There is no room for any exceptions under this policy. He is inclined to vote against this policy as a matter of principle, however he is willing to vote based on what the committee wants to do.

J. Rizzo shared, at the risk of being redundant, the Agency is in an atmosphere in the State of New York, where the ethics issue will always be high profile. We are in a situation where we are not allowed subjectivity to some degree and where there is no cause that is so noble that the public will allow ethics to be subordinate.

P. Battaglia shared that if the Committee takes such a narrow view on this, there are going to be conflicts that slip through the cracks that we didn’t even think about. The two potential conflicts that we came up with were not obvious conflicts. He feels that we should adopt a policy with some type of monetary threshold like the County has. We could have something slip through the cracks and then it really would look like we were trying to hide something.

S. Hyde wondered what it would look like if the Agency adheres and adopts the Genesee County code of ethics policy.

J. Rizzo shared that there would be a \$75 exception in the policy and the two fact patterns that were brought before the OSC would have been resolved the exact same way.

R. Gaenzle suggested C. Yunker and P. Battaglia come up with some specific “tweaks” and work that through with Harris Beach and come back to the committee with those suggestions.

J. Rizzo shared that he would be willing to give those Committee members until the next meeting to gather some information and come up with some suggestions or changes to the draft policy. This isn’t an easy subject and he feels that there are differences of opinions that are honest and legitimate.

P. Battaglia shared that he would be willing to work with C. Yunker and Harris Beach to come up with some suggestions. He does not feel as that this will be a difficult task. There needs to be some modest level of disclosure that we can live with. He added that for the record, he does not have any conflicts, he just feels that we needsome flexibility in order to do business every day without running into these issues.

## **ADJOURNMENT**

As there was no further business, C. Yunker made a motion to adjourn at 3:42 p.m., seconded by M. Wiater, and passed unanimously.