



**Meeting Agenda – Governance & Nominating Committee**  
 Genesee County Economic Development Center  
 Thursday, July 1, 2021, 3:00 pm  
 Location: Innovation Zone Conference Room, Suite 107

Page #s	Topic	Discussion Leader	Desired Outcome
	<b>1. Call to Order – Enter Public Session</b>	C. Yunker	
2-5	<b>2. Chairman’s Report &amp; Activities</b> 2a. Agenda Additions / Other Business 2b. Minutes: June 3, 2021	C. Yunker	Vote
6 - 7	<b>3. Discussions / Official Recommendations to the Board:</b> 3a. Code of Ethics	L. Farrell	Disc / Vote
8-11	3b. Travel & Discretionary Funds Policy	L. Farrell	Disc / Vote
12	3c. Commission Fees Policy	M. Masse/ C. Suozzi	Discussion
13	3d. Loewke Brill Consulting Fees	M. Masse	Disc / Vote
	4. Adjournment	C. Yunker	Vote



**GCEDC Governance & Nominating Committee Meeting  
Thursday, June 3, 2021  
Location: Electronically  
3:00 p.m.**

**MINUTES**

**ATTENDANCE**

Committee Members: C. Yunker, M. Gray, T. Bender, P. Zeliff  
Staff: S. Hyde, L. Farrell, M. Masse, P. Kennett, L. Casey, J. Krencik, C. Suozzi  
Guests: S. Noble-Moag (GGLDC Board Member), G. Torrey (GGLDC Board Member)  
Absent:

**1. CALL TO ORDER / ENTER PUBLIC SESSION**

C. Yunker called the meeting to order at 3:03 p.m. via conference call / video conference.

Because of the Novel Coronavirus (COVID-19) Emergency and State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo’s Executive Order 202.1 issued on March 12, 2020 suspending the Open Meetings Law, this Meeting is being held electronically via conference call / video conference instead of a public meeting open for the public to attend in person.

**1a. Executive Session**

P. Zeliff made a motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105, at 3:04 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 M. Gray and approved by all members present.

**1b. Re-Enter Public Session**

M. Gray made a motion to enter back into public session at 3:08 p.m., seconded by P. Zeliff and approved by all.

**2. CHAIRMAN’S REPORT & ACTIVITIES**

**2a. Agenda Additions / Deletions / Other Business** – Nothing at this time.

**2b. Minutes: May 6, 2021**

**T. Bender made a motion to approve the May 6, 2021 meeting minutes as presented; the motion was seconded by M. Gray. Roll call resulted as follows:**

P. Zeliff - Yes  
M. Gray- Yes

C. Yunker - Yes  
T. Bender - Yes

The item was approved as presented.

**3. DISCUSSIONS / OFFICIAL RECOMMENDATIONS TO THE BOARD**

**3a. GGLDC Board Member Appointments** –M. Wiater and G. Torrey have terms ending on 6/30/21. The information below was provided for discussion.

- Gregg Torrey was appointed to the GGLDC Board on 1/19/17 to fulfill Wally Hinchey's term.
- Mary Ann Wiater was appointed to the GGLDC Board on 8/2/13 with a term end date of 6/30/17 (coterminous with her GCEDC term). She was then reappointed in 2017 to fulfill Matt Gray's GGLDC term.
- When the GCEDC approved term limits for the GGLDC, there was no mention of how many terms would be allowed.

In 2014, the GCEDC Board approved GGLDC Board Member term limits as follows:

- Four of the nine board positions will be independent of the GCEDC Board. Those four members will have 6-year terms.
- Five of the nine board positions will be held by GCEDC board members: coterminous with GCEDC appointments. Those five board positions will be filled with the four most senior members of GCEDC board AND legislative liaison OR the four most senior members of the GCEDC board AND any member that is chosen based on current circumstances at the time of vacancy.

G. Torrey confirmed that he is willing to continue to serve on the GGLDC Board for another term. M. Wiater declined reappointment to the GGLDC Board. Her term will expire on 6/30/21.

**M. Gray made a motion to recommend to the full Board the reappointment of G. Torrey to the GGLDC Board; the motion was seconded by T. Bender. Roll call resulted as follows:**

P. Zelif - Yes  
M. Gray - Yes  
C. Yunker - Yes  
T. Bender - Yes

The item was approved as presented.

**P. Zelif made a motion to recommend to the full Board the appointment of Phil Call to the GGLDC Board to replace M. Wiater as an independent member; the motion was seconded by T. Bender. Roll call resulted as follows:**

P. Zelif - Yes  
M. Gray - Yes  
C. Yunker - Yes  
T. Bender - Yes

The item was approved as presented.

**3b. Procurement Policies & Procedures** – L. Farrell shared that this policy is required to be reviewed annually. There are no changes being recommended.

**P. Zeliff made a motion to recommend to the full Board the approval of the Procurement Policies and Procedures as presented; the motion was seconded by M. Gray. Roll call resulted as follows:**

P. Zeliff -	Yes
M. Gray-	Yes
C. Yunker -	Yes
T. Bender -	Yes

**The item was approved as presented.**

**3c. Investment Policy – Investment Policy**– L. Farrell shared that this policy is required to be reviewed annually. There are no changes being recommended.

**T. Bender made a motion to recommend to the full Board the approval of the Investment Policy as presented; the motion was seconded by P. Zeliff. Roll call resulted as follows:**

P. Zeliff -	Yes
M. Gray-	Yes
C. Yunker -	Yes
T. Bender -	Yes

**The item was approved as presented.**

**3d. Disposition of Property Guidelines** – L. Farrell shared that this policy is required to be reviewed annually. There are no changes being recommended.

**T. Bender made a motion to recommend to the full Board the approval of the Disposition of Property Guidelines as presented; the motion was seconded by P. Zeliff. Roll call resulted as follows:**

P. Zeliff -	Yes
M. Gray-	Yes
C. Yunker -	Yes
T. Bender -	Yes

**The item was approved as presented.**

**3e. Governance & Nominating Committee Charter** – L. Farrell shared that this charter is required to be reviewed annually.

**M. Gray made a motion to approve the Governance & Nominating Committee Charter as presented; the motion was seconded by T. Bender. Roll call resulted as follows:**

P. Zeliff -	Yes
M. Gray-	Yes
C. Yunker -	Yes
T. Bender -	Yes

The item was approved as presented.

**3f. Code of Ethics** – L. Farrell stated that the Committee had reviewed this policy at the last Committee meeting. No changes are being recommended by staff, but S. Noble-Moag had asked for clarification regarding Article IV of the Code of Ethics. L. Farrell reported back to the committee that, per the policy, the Ethics Officer defaults to the Board Chair. The Committee requested that the policy language should state that the Ethics Officer “*is*” the Board Chair as opposed to “*defaults*” to the Board Chair.

**3g. Committee Self – Evaluation** – The Committee evaluated its responsibilities and ability to carry out those responsibilities. The Committee is carrying out its duties in line with the Committee Charter.

G. Torrey joined the meeting at 3:22 p.m. C. Suozzi joined the meeting at 3:29 p.m.

**3h. Loewke Brill Consulting Discussion** – At the October 1, 2019 meeting, the GCEDC staff presented a sample proposal from Loewke Brill Consulting Group, Inc. on how they could assist companies that will have to report to the GCEDC under the local labor reporting requirements, including assistance with waiver requests and finding local contractors to bid their projects. Included with meeting materials is an example fee structure that Loewke Brill Consulting provided to the GCEDC.

Fund Commitment: None. Fees to be paid would be covered by companies. Funds would be collected from companies and held in escrow by the GCEDC to be used for their services.

C. Yunker stated that the Local Labor Policy should be reviewed at the next committee meeting for continued discussion regarding a potential change to the existing policy language. The potential change in policy would **require** those companies that are subject to the local labor policy to hire an outside consultant to assist in reviewing any waiver requests that may be submitted.

**P. Zelff made a motion to recommend to the full Board the approval of the proposal from Loewke Brill Consulting as presented on the large projects currently underway, including Plug Power, Ellicott Station, and Excelsior Energy; the motion was seconded by M. Gray. Roll call resulted as follows:**

- P. Zelff - Yes
- M. Gray- Yes
- C. Yunker - Yes
- T. Bender - Yes

The item was approved as presented.

**4. ADJOURNMENT**

As there was no further business, M. Gray made a motion to adjourn at 3:36 p.m., seconded by T. Bender, and passed unanimously.

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**GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
DBA GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER**

**CODE OF ETHICS**

The members of the board (the "Board") of the Genesee County Industrial Development Agency DBA Genesee County Economic Development Center (the "Agency"), a duly established public benefit corporation of the State of New York (the "State"), along with the officers and staff of the Agency, shall comply with and adhere to the provisions of this Code of Ethics ("Code") adopted pursuant to and in accordance with Section 2824 of the Public Authorities Law and Article 18 of the General Municipal Law of the State.

**ARTICLE I  
CONFLICTS OF INTEREST**

A conflict or a potential conflict exists whenever an officer or employee has an interest, direct or indirect, which conflicts with their duty to the Agency or which could adversely affect an individual's judgment in the discharge of his or her responsibilities. No officer or employee shall:

1. Take action or participate in any manner whatsoever in his or her official capacity in the discussion, negotiation or the awarding of any contract or in any business or professional dealings with the Agency in which the official or employee has or will have an interest, direct or indirect, in such contract or professional dealings.
2. Engage in, solicit, negotiate for or promise to accept private employment or render services for his or her personal benefit when such employment or service creates a conflict or impairs the proper discharge of his or her official duties.
3. Directly or indirectly solicit, accept, or agree to accept any gift or financial benefit from any person, other than a family member, who the Agency officer or employee knows is considering, has, or within the previous twelve months has had, any business dealing with the Agency that involves any discretionary act by the Agency officer or employee. An Agency officer or employee may accept from such person a gift or gifts which are customary on family, social, holiday or civic occasions, provided they do not total more than seventy-five dollars from any person within any calendar year, and further provided that they were not received under circumstances in which it reasonably might be inferred that such gift or gifts were intended to influence the officer or employee in the performance of his or her official duties or reward him or her for any official action. A gift or financial benefit shall include money, services, loan, travel, entertainment, hospitality, thing or promise thereof, or any other gratuity or promise thereof, including any financial transaction on terms not available to the general public, but shall not include a campaign contribution. Travel, room and board expenses incurred in the performance of official duties providing a legitimate public purpose shall be excluded from the provisions of this section.

4. Disclose confidential financial information acquired in the course of his or her official duties or use such information to further his or her personal interests.
5. Take action on a matter before the Agency when, to his or her knowledge, the performance of that action would provide a pecuniary or material benefit to himself or herself.

## **ARTICLE II PROCEDURES FOR DISCLOSURE**

All directors, officers or employees of the Agency shall adhere to the following procedures:

1. All conflicts of interest shall be disclosed in writing to the Ethics Officer as soon as practicable after learning of the conflict. In addition, in the event a director on the board of the Agency has a conflict, he or she shall verbally disclose the conflict during a public session of a board meeting at which the matter creating the conflict appears on the agenda. Such verbal disclosure shall be recorded in the minutes of the meeting and be made part of the public record.

2. The director, officer or employee with the conflict of interest shall refrain from participating in discussions or decisions on the matter creating the conflict. In addition, in the event a director on the board of the Agency has a conflict, he or she shall recuse him or herself from any deliberations and abstain from voting on such matter creating the conflict.

## **ARTICLE III PENALTIES**

Failure to comply with this Policy may result in penalties as provided for in law.

## **ARTICLE IV ETHICS OFFICER**

~~The Agency's Board shall designate an officer, director or employee of the Agency to serve as the Ethics Officer of the Agency. In the event of a vacancy, the Agency Board Chair shall serve as the Ethics Officer until such time as the Agency Board appoints a successor.~~

## **ARTICLE V PROHIBITED CONFLICTS OF INTEREST**

General Municipal Law ("GML") Article 18 regulates financial conflicts of interest of directors, officers and employees of the Agency. Therefore, notwithstanding any other provision contained in this Policy, financial conflicts of interest shall be governed by Article 18 of the GML.

Approved and adopted May 4, 2017.

Revised 7.1.21



**GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER**

**TRAVEL & DISCRETIONARY FUNDS POLICY**

**Section 1. PURPOSE**

The purpose of this policy is to implement a provision of the Public Authorities Accountability Act requiring the adoption of certain policies and to adhere to the recommended practices of the NYS Authorities Budget Office (the "ABO") to protect against the use of discretionary funds for purposes that do not advance the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center's (the "Agency") mission and public purposes. Public Authorities Law §2824 requires the Agency to adopt a policy to govern business travel and the ABO Recommended Practice entitled, Written Policies Governing the Use of Authority Discretionary Funds, specifically recommends adoption by the Agency of a policy on the proper use of discretionary funds that incorporates the legal principals set forth in NYS Attorney General in opinion #2007-F4. All funds from all sources to the extent not expressly restricted are Discretionary Funds. Restricted funds should be expended within the express guidelines and restrictions, whether narrower or broader, than the Agency Discretionary Funds Policy.

**Section 2. APPLICABILITY**

This policy shall apply to every member of the board (the "Board") of the Agency, all officers and employees thereof, including subcontractors and agents of the Agency for whom the Agency has agreed to pay for travel expenditures.

**Section 3. TRAVEL**

**A. APPROVAL OF TRAVEL**

Travel involving overnight accommodation or travel outside of New York State requires prior approval of the President & CEO (or the Chairman or Vice-Chairman of the Board), in the case of the CEO).



## B. PAYMENT OF TRAVEL

The Agency will reimburse all reasonable expenses related to meals, travel and lodging that were incurred by any board member, officer or employee as a result of the performance of their official duties. All official travel shall be properly authorized, reported and reimbursed. Under no circumstances shall expenses for personal travel be charged to, or temporarily funded by the Agency. It is the traveler's responsibility to report his or her travel expenses in a responsible and ethical manner, in accordance with this policy.

## C. TRAVEL EXPENSES

Travelers may use their private vehicle for business purposes if it is less expensive than renting a car, taking a taxi, or using alternative transportation, or if it saves time. The traveler will be reimbursed at the standard mileage rate as issued by the Internal Revenue Service.

Meals and/or refreshments will be reimbursed at actual expense. Valid meal and/or refreshment expenses must be properly documented and submitted for reimbursement. Costs of individual meals should generally not exceed \$20 per person for breakfast and lunch and \$35 per person for dinner. Gratuities should generally not exceed 20% of the total bill and are reimbursable if a restaurant receipt is submitted. Documentation to support a valid meal and/or refreshment expense must include a receipt, along with a list of who was in attendance and the general nature of the meeting. Purchases of alcohol or tobacco products are prohibited.

Lodging will be reimbursed at actual expense. Generally, hotel housekeeping gratuities are reimbursable up to \$5 per day. Accommodations are expected to be comfortable and appropriate to the particular purpose of the trip – not luxurious or extravagant.

Reimbursement for miscellaneous travel expenses shall be determined on a case-by-case basis. Examples of miscellaneous travel expenses that **are** reimbursable are the following:

- Reasonable tips for baggage handling,
- Highway and bridge tolls,
- Parking fees,
- Taxi gratuities, not exceeding 20% of the total cost of the charge for the ride.

Wherever possible, the Agency's New York State sales tax exemption should be claimed. Tax exemption letters are available from the Treasurer/CFO.

All expense reimbursement determinations made pursuant to this paragraph C shall be made by the Treasurer/CFO. In the instance where such determinations regard the travel of the Treasurer/CFO, the President & CEO shall make such determinations.

## **Section 4. DISCRETIONARY FUNDS**

### **A. USE OF DISCRETIONARY FUNDS**

The expenditure of Agency funds must relate to an enumerated power, duty or purpose of the Agency. Therefore, the use of discretionary funds shall be limited to expenditures that benefit the Agency in advancing its mission and public purposes. Discretionary funds shall not be used in a manner that primarily benefits the individual board member, officer or employee.

### **B. APPROVAL**

All expenditures of discretionary funds shall be approved by the Treasurer/CFO and fall within Annual Budget Allocations. Provided, however, in the instance where the Treasurer/CFO will seek an expenditure of discretionary funds, such expenditure shall be authorized by the Chairman, President & CEO, or Sr. VP of Operations of the Agency. The President & CEO, the Sr. VP of Operations, the Chairman or the Treasurer/CFO, as the case may be, shall review the proposed use of funds and reasonably determine whether such use (i) primarily benefits the Agency as opposed to an individual board member, officer or employee and (ii) advances the mission and public purpose of the Agency. Scrutiny of all expenses will be guided by judgment relating to the relevance of such costs and the benefits which may accrue from such activities.

### **C. APPROPRIATE EXPENDITURE GUIDANCE**

(i) Membership Dues – Membership dues paid for the Agency to belong to a professional peer organization is a permissible use of Agency funds. However, individual membership costs for board members, officers and employees to belong to a professional, social or fraternal organization whereby the membership is of and the primary benefit is to, the individual rather than the Agency, should not be an Agency expenditure.

(ii) Charitable Contributions & Sponsorships – The appropriateness of such sponsorship or charitable contribution will depend on whether it relates to the powers, duty and purposes of the Agency, and whether such expenditure will advance the Agency's core mission and public purposes.

(iii) Food & Beverages – With the exception of food and beverages purchased during business travel as provided herein and food and beverages during the conduct of Agency board and committee meetings, expenditures of food and beverages for the personal consumption of board members, officers and employees should not be considered an appropriate use of Agency discretionary funds. Provided, however, expenditures for food and beverages purchased for or during the conduct of Agency business with persons that do business with the Agency may be an appropriate expenditure of Agency

discretionary funds, provided that the expense is reasonable in light of the circumstances surrounding the Agency activity and is approved as set forth herein. Purchases of alcohol or tobacco products are prohibited.

(iv) Professional Training, Certification and Licensing - Paying the costs to attend training to secure or maintain certifications or licenses, or to attend professional conferences may be an appropriate expenditure of Agency discretionary funds as determined by the Treasurer/CFO, President & CEO, Sr. VP of Operations, or Chairman of the Agency.

(v) Marketing – Expenses incurred in the course of marketing our area and agency to prospects and relations with existing industries and businesses and supporting partners/stakeholders in the furtherance of our mission may be an appropriate expenditure of Agency discretionary funds as determined by the Treasurer/CFO, President & CEO, Sr. VP of Operations, or Chairman of the Agency.

(vi) Annual Meeting and Conferences – Expenses incurred as a result of a board member, officer or employee's attendance at the Agency's Annual Meeting and the IDA Annual Conference of the New York State Economic Development Council and other related meetings/conferences aligned with the mission of the Agency may be an appropriate expenditure of Agency discretionary funds as determined by the Treasurer/CFO, President & CEO, Sr. VP of Operations, or Chairman of the Agency.

(vii) Special Events / Employee Recognition – The CEO is authorized to spend up to \$3,000 of Discretionary Funds annually, subject to ~~the limitations set forth in this Section 4C and~~ the limitations of the annual budget, for the purpose of special events, employee recognition, morale building, team building efforts and related activities.

(viii) Miscellaneous – Attendance at meetings, conferences and award/recognition ceremonies may be an appropriate expenditure of Agency discretionary funds as determined by the Treasurer/CFO, President & CEO, Sr. VP of Operations, or Chairman of the Agency.

Approved and adopted ~~this 10th day of July 2014.~~ 7/10/14  
Revised 7/1/21

# GCEDC

Chris Suozzi- Vice President of Business & Workforce Development  
**Governance Committee Report**

**July 1, 2021**

## **Commission Fee Policy**

**Discussion:** To discuss the commission to license Real Estate professionals:

GCEDC/GGLDC has been utilizing real estate professionals for years to assist with business development activities.

GCEDC staff has a healthy and productive relationship to the commercial realtors in our local region from Buffalo to Rochester. We are members of NYSCAR and NAIOP in both regions and actively attend meetings.

The GCEDC had a previous policy to pay professionals (Lawyers, accountants, real estate professionals) a commission/referral fee of 6% on any projects referred to the GCEDC that made it to closing. After discussion by the committee at that time they felt that the fixed percentage did not match the current market rate for commissions and that they would prefer to only pay real estate commissions that would be considered on a case-by-case basis. This is how we currently treat all commissions.

Generally, GCEDC/GGLDC has paid market rate commissions to real estate professionals who lead the business development to our agency. These professionals have actively supported GCEDC's goals of increasing opportunities for our communities through expanding capital investment. These real estate professionals are essentially acting as site selectors for these smaller projects or will work with site selectors. In a lot of these instances where our sites get considered it is only because of the relationship that the GCEDC staff has with the realtor.

One example: Project Wave 2011

CBRE brought the deal to GCEDC

Sold 81 acres

\$37,000 per acre

.10% Commission fee paid.

The other issue is that the realtor will mention his commission percentage up front before we start to work with the company and if we negotiate that rate off of market, we will run the risk of them not promoting our site to the company. The realtors do a lot of work in the background marketing our site to the company utilizing their relationship with us to get the promotional information and background to pitch the GCEDC sites. The commission is also usually not brought forward for Board approval until the deal with the company is ready to go and it would make it difficult to try and change the commission rate at the time the deal is being brought forward.

It is recommended by staff to work with our real estate professionals and continue to discuss commission plans on a case-by-case basis.

**GCEDC**  
**Governance Committee Meeting Report**  
**July 1, 2021**

**Consulting assistance on local labor policy reporting and conformity for projects**

At the October 1, 2019 meeting, the GCEDC staff presented a sample proposal from Loewke Brill Consulting Group, Inc. on how they could assist companies that will have to report to the GCEDC under the local labor reporting requirements, including assistance with waiver requests and finding local contractors to bid their projects. Attached is an example fee structure that Loewke Brill Consulting provided to the GCEDC.

**Fund Commitment:** None. Fees to be paid would be covered by companies. Funds would be collected from companies and held in escrow by the GCEDC to be used for their services.

**Committee Action Request:** Recommend to the full Board to move forward with a proposal from Loewke Brill Consulting on the large projects we have underway:

1. Plug Power
2. Ellicott Station
3. Excelsior Energy

The GCEDC Staff had requested quotes for the costs related to the above projects. Copies of the applications for incentives were sent to Loewke Brill for them to calculate the fee. They submitted the following:

Plug Power - \$26,760 - 24 Inspections (\$325 per visit), 24 Monthly Reports (\$690 per month), 1 time set up fee (\$1,250), 5 waiver processing fees (estimated, \$230 per waiver)

Excelsior Energy - \$20,670 - 18 inspections (\$325 per visit), 18 monthly reports (\$690 per month), 1 time set up fee (\$1,250), 5 waiver processing fees (estimated, \$230 per waiver)

Ellicott Station - \$18,540 - 24 Inspections (\$225 per visit), 24 monthly reports (\$460 per month), 1 time set up fee (\$950), 5 waiver processing fees (estimated, \$230 per waiver)

These prices are based on estimated schedules and things certainly change during the course of construction.

The time period was determined by what the projects listed for the duration of construction in their applications. After reviewing these numbers staff has the following recommendation:

1. The GCEDC can pay for the set up fee, monthly inspections and reporting, not to exceed the construction timeline in the application. If it runs over that the company should be responsible.
2. The company should pay for any waiver requests that get submitted and sent to the Board for consideration.