



Livingston County Economic Development
Livingston County Government Center
6 Court Street, Room 306
Geneseo, New York 14454

t: 585.243.7124 | f: 585.243.7126
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www.LivingstonCountyDevelopment.com

Approved by

A handwritten signature in black ink, appearing to read "Robert C. Smith", is written over a horizontal line.

**MINUTES
LIVINGSTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY
Friday, December 15, 2017**

**Livingston County Government Center, Room 205
Geneseo, NY 14454**

Members Attending: P. Brooks; G. Moore; S. Boscoe; R. Smith; E. Gott

Members Absent: P. Yendell; L. Lane

Staff Attending: W. Bacon; M. Wheeler; L. Wadsworth

Guests Attending: J. Coniglio, Esq.

Chairman Brooks welcomed members and guests and called the meeting to order at 9:00 AM.

APPROVAL OF MEETING MINUTES

A motion was made by Mr. Boscoe to approve the October 25, 2017 Meeting Minutes. Seconded by Mr. Smith. All in favor. Carried.

TREASURER'S REPORT

Mr. Bacon reviewed the Treasurer's Report.

A motion was made by Mr. Moore, seconded by Mr. Gott, to accept the Treasurer's Report for the period ending November 30, 2017. All in favor. Carried.

NEW BUSINESS

Authorization to enter into Agreement with Livingston County Development Corporation

A motion was made by Mr. Gott to enter into agreement with the Livingston County Development Corporation for Economic Development services, subject to review by counsel, seconded by Mr. Moore. All in favor. Carried.

New York State Economic Development Conference – January 31 – February 1, 2018 Albany

Mr. Bacon advised members that the Annual New York State Economic Development Conference is January 31 - February 1 in Albany. Anyone that would like to attend should notify Ms. Taylor.



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Discussion of 2018 Meeting Dates

Mr. Bacon presented the proposed 2018 meeting dates:

2018 Meeting Dates:

January 5, 2018 – Government Center, Room 205

February 2, 2018 – Government Center, Room 205

March 2, 2018 – Government Center, Room 205

April 6, 2018 – Government Center, Room 205

May 4, 2018 – Government Center, Room 205

June 1, 2018 – Government Center, Room 205

July 6, 2018 – Government Center, Room 205

August 3, 2018 – Government Center, Room 205

September 7, 2018 – Government Center, Room 205

October 5, 2018 – Government Center, Room 205

November 2, 2017 – Government Center, Room 205

December 7, 2017 – Government Center, Room 205

A motion was made by Mr. Moore to accept the list of 2018 regular meeting dates. Seconded by Mr. Smith. All in favor. Carried.



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WNY Cheese Authorizing Resolution

Mr. Coniglio reviewed the Authorizing Resolution for the restructure of financing:

RESOLUTION OF THE LIVINGSTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") APPROVING THE SALE, CONVEYANCE AND TRANSFER OF TITLE TO WNY CHEESE ENTERPRISE, LLC OF CERTAIN EQUIPMENT ACQUIRED BY THE AGENCY IN CONNECTION WITH THE LIVINGSTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY WNY CHEESE ENTERPRISE, LLC 2016 FACILITY AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 132 of the Laws of 1973 of the State of New York, as may be amended from time to time (collectively, the "Act"), the Livingston County Industrial Development Agency (the "Agency"), was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the 2016 Facility, (as hereinafter defined), and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Agency previously assisted WNY Cheese Enterprise, LLC (the "**Company**") in the acquisition of an approximately 9.282 acre parcel of land located at 1840 Craig Road, in the Town of York, Livingston County, New York (further described as a part of Tax Map No. 49.-1-12.12, and the construction and equipping of a 30,500 square foot manufacturing facility located thereon (the "**Facility**"); and

WHEREAS, the Company leased the 2016 Facility to the Agency pursuant to a certain Company Lease between the Company and the Agency dated as of August 1, 2016; and

WHEREAS, the Agency acquired title to certain equipment installed at the 2016 Facility (the "**Equipment**") pursuant to a certain Bill of Sale, dated as of August 1, 2016 (the "**Bill of Sale**"), from the Company to the Agency; and

WHEREAS, the Agency leased the Facility, including the Equipment back to the Company pursuant to a certain Agency Lease Agreement by and between the Agency and the Company dated as of August 1, 2016; and

WHEREAS, the Company is contemplating entering into a certain equipment lease financing transaction (The "**Equipment Financing**") with Farm Credit East A.C.A. ("**Farm Credit**") whereby the Company would acquire the Equipment from the Agency, sell the Equipment to Farm Credit and then lease the Equipment back from Farm Credit; and

WHEREAS, in connection with the Equipment Financing, the Company has requested that the Agency provide a Bill of Sale to the Company conveying the Equipment to the Company; and

WHEREAS, the Company and Farm Credit have requested that the Agency enter into a First Amendment to Acknowledgement, Consent and Agreement related to Lease (the "**First Amendment**"), an Intercreditor Agreement (the "**Intercreditor Agreement**"), a Landlord and Mortgagee Waiver (the "**Waiver**") and a Subordination Agreement (the "**Subordination Agreement**") (the First Amendment, the Intercreditor Agreement, the Waiver, the Subordination Agreement, together with the Bill of Sale collectively are referred to as the "**Transaction Documents**"); and

WHEREAS, the Agency has given due consideration to the request of the Company and to representations by the Company that the proposed Equipment Financing is either an inducement to the Company to maintain and expand the 2016 Facility in Livingston County or is necessary to maintain the competitive position of the Company in its respective industry; and

WHEREAS, the Company shall indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the Equipment Financing; and

WHEREAS, the execution by the Agency of the Transaction Documents will not constitute or give rise to any financial benefits from the Agency to the Company.

NOW, THEREFORE, BE IT RESOLVED by the Livingston County Industrial Development Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby approves the conveyances of its right, title and interest in the Equipment to the Company.

Section 2. The Agency hereby finds and determines:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and



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- (b) The 2016 Facility will continue to constitute a "project," as such term is defined in the Act; and
- (c) The Equipment Financing will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Livingston County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and
- (d) The Equipment Financing is reasonably necessary to induce the Company to maintain or expand its business operations in the State of New York and is reasonably necessary for the Company to maintain its competitive position in its respective industries; and

Section 3. In consequence of the foregoing, the Agency hereby determines to: (i) convey all of its right, title and interest in the Equipment to the Company, and (ii) execute, deliver and perform the Transaction Documents.

Section 4. The form and substance of each of the Transaction Documents (each in substantially the forms presented to or approved by the Agency and which, prior to the execution and delivery thereof, may be redated and renamed) are hereby approved.

Section 5.

- (a) The Chairman, Director, Deputy Director, or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver each of the Transaction Documents, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Director, Deputy Director, or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman, Director, Deputy Director, and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution. The execution thereof by the Chairman, Director, Deputy Director or any member of the Agency shall constitute conclusive evidence of such approval.
- (b) The Chairman, Director, Deputy Director, or any member of the Agency is further hereby authorized, on behalf of the Agency, to designate any additional authorized representatives of the Agency.

Section 6. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Transaction Documents, and to execute and deliver all such additional certificates, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 7. This Resolution is subject to the Company reimbursing the Agency for all costs and expenses incurred by the Agency, including reasonable Counsel Fees, in the closing of the Transaction contemplated hereby.

Section 8. This resolution shall take effect immediately.

A motion was made by Mr. Moore, seconded by Mr. Gott, to adopt the foregoing resolution. The question of the adoption of the foregoing Resolution was duly put to a vote on roll call which resulted as follows:

	<u>YEA</u>	<u>NEA</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Philip S. Brooks	[X]	[]	[]	[]
Laura Lane	[]	[]	[]	[X]
Eric Gott	[X]	[]	[]	[]
J. Peter Yendell	[]	[]	[]	[X]
Steve Boscoe	[X]	[]	[]	[]
Robert Smith	[X]	[]	[]	[]
Gary Moore	[X]	[]	[]	[]



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The Resolution was thereupon duly adopted.

Discussion of UTEP for Solar

Discussion was had regarding community solar programs and whether our Agency is involved in any. A few of our municipalities have been approached by solar developers and as opposed to attempting to negotiate a PILOT on their own, should the IDA amend the UTEP to include solar. The concerns surrounding solar is that a project is rarely, if ever, feasible without some sort of PILOT or fixed tax payment to jurisdictions. Much of the feasibility lies with the assessment that is placed on the development and whether the assessor uses the project costs for development in addition to the land values as part of their overall valuation. Most IDA's are basing their PILOT on the measured output from the development. For example, a PILOT may assess a \$10,000 fixed tax payment (per megawatt) which will be divided pro-rata between the taxing jurisdictions. The message that needs to be emphasized to the communities is that these developments will not happen unless the community (town boards, village board, planning boards, etc.) put their stamp(s) of approval on the project. The IDA involvement would simply provide the ability to negotiate the tax payment for the jurisdictions without each having to negotiate their own. Staff and counsel will work on amending language for UTEP and bring back to the Board for approval to further present to the public.

CFA Announcements

Mr. Bacon reported that the awards for the Consolidated Funding Applications were announced on Wednesday, December 13. He advised members of the following results for Livingston County:

APPLICANT NAME	PROJECT NAME	AWARDED
Howlett Farms	Howlett Soy & Barley Grain Center	\$1,500,000
RT Solutions	Worm Power	\$300,000
Livingston County Development Corp.	Livingston County Main Street (Avon & Leicester)	\$500,000
Town of Portage	Preservation of GAR Memorial Hall	\$186,500
Village of Avon	EPG POTW Improvements	\$30,000
Village of Geneseo	WQIP Water Effluent Disinfection	\$1,000,000
Village of Mount Morris	Wastewater Treatment Plant Disinfection	\$289,000
Friends of Letchworth State Park	Big Bend Chimney Preservation	\$28,125
Livingston County	Livingston County Water Study – Reservoir Rd. Stormwater & Bank	\$270,000
Livingston County Soil & Water Conservation	Stabilization Project	\$150,000

OLD BUSINESS

Affirmation of Auditors

Mr. Bacon reported that per a unanimous Email vote by members, The Bonadio Group was chosen to be the



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Auditing Firm for the Agency.

A motion was made by Mr. Gott to enter into Agreement with The Bonadio Group for Audit services. Seconded by Mr. Boscoe. All in favor. Carried.

OTHER BUSINESS

Director's Comments

Expansion Solutions Magazine – Livingston County was featured in an article regarding Agriculture Business in the County.

EDA Application – A grant application was submitted for extension of the water line in York for \$750,000.

ADJOURNMENT

With no further business to discuss, a motion was made by Mr. Boscoe, to adjourn the meeting at 9:46 AM, seconded by Mr. Moore. Carried.

Respectfully submitted,

A handwritten signature in cursive script that reads "Tessa Taylor".

Tessa Taylor
Senior Account Clerk/Typist
