

**Cayuga County Industrial Development Agency  
Regular Meeting  
Cayuga County Chamber of Commerce  
2 State Street  
Auburn, NY  
October 15, 2019 at 4:00pm**

Chairman Lockwood called the meeting to order at 4:00pm, noting that a quorum was present.

**ROLL CALL:**

Present: Ray Lockwood, Herb Marshall, Gina Speno, Ben Vitale, John Latanyshyn, Paul Lattimore

Excused: Andrew Rindfleisch

Others Present: Tracy Verrier, Samantha Frugé (CEDA); Rick Galbato (Galbato Law Firm); David Tshudy (Pepper Hamilton, LLP), Jurian Bartelse (Grober Nutrition, LLC), Kevin Ellis, Kevin Buckland (CMI), Bob Foxen (Global Common Energy via conference call)

**MEETING MINUTES:**

Mr. Marshall moved to approve the minutes of the September 17<sup>th</sup> Regular Meeting and the minutes of the September 17<sup>th</sup> Governance Meeting, seconded by Mr. Latanyshyn. All members present voted in favor; the motion carried.

**BILLS AND COMMUNICATIONS:**

Ms. Frugé presented the following bills: NYSEG for electric at the Industrial Park for April (\$134.44), CEDA third quarter administrative invoice (\$5,021.65), and Union Springs School District property taxes for property parcels 115.00-1-54.1 and 114.00-1-53.1 (\$5,114.93). Ms. Verrier explained that the two mall parcels purchased last year were not off the regular tax rolls yet, therefore they needed to pay the school taxes for both parcels. She added that they would be filing the form to get both parcels off the regular tax rolls, but as the school taxes were already levied, there was nothing they could do for this year. Mr. Latanyshyn moved to pay the bills, seconded by Mr. Lattimore. All members present voted in favor; the motion carried.

**REPORT OF THE TREASURER**

Ms. Frugé reviewed the budget report, noting income generated from interest accounts (\$666.17), an application fee received from SunEast Dog Corners Solar, LLC (\$250), and income generated from land rented by Patterson Farms (\$2,718). Mr. Marshall moved to accept the report of the treasurer, seconded by Mr. Latanyshyn. All members present voted in favor; the motion carried.

Ms. Verrier stated that they needed to transfer funds from the savings account to the checking account to cover the bills. The Board was agreeable. Mr. Latanyshyn moved to approve the bank transfer, seconded by Ms. Speno. All members present voted in favor; the motion carried.

**NEW BUSINESS**

Resolution for PILOT Assignment: Grober Nutrition, LLC: Ms. Verrier introduced Jurian Bartelse of Grober Nutrition and David Tshudy, legal counsel for Denkavit. Mr. Bartelse thanked

the Board for their time and explained that Grober Nutrition was in the process of being acquired by Denkavit, a Dutch company looking to expand into the US market for milk replacers. He explained that Grober has enjoyed a longstanding business history with Denkavit, and over the course of two years have come to an agreed acquisition deal between both companies. He added that part of the acquisition deal was to assign the existing PILOT to the new ownership group. He explained that the acquisition by Denkavit would not change the current operations, but would expand on them to increase growth. Mr. Tshudy provided an overview of the transaction structure, explaining that Denkavit formed a U.S. subsidiary as a Delaware LLC, which would be registered to do business in the state of New York. The LLC would be purchasing a fee interest in the real estate and purchasing all of the membership interest in Grober. Mr. Tshudy explained that Denkavit's intent was to continue operations as they were with the same suppliers and sales. He added that they aimed to increase employment to get the plant to its full capacity and potentially increase to a third shift if the business improved. Mr. Tshudy explained that the acquisition would require the Board's consent of the assignment of the IDA agreements from Grober Nutrition to Denkavit for the remaining life of the PILOT.

Mr. Marshall advised that the IDA was planning to construct a sewer upgrade at the Industrial Park, and that there could be capital costs required of Denkavit during that process. Mr. Tshudy said that he would advise the ownership group of that possibility. Mr. Galbato asked who the operating company was? Mr. Tshudy said that Denkavit was the operating company. Mr. Vitale asked if there was a contingency included in the resolution that required Denkavit to have a registered entity to do business in the U.S. before the acquisition? Mr. Tshudy said that they currently had a Delaware LLC and were working on registering the entity in NY.

Mr. Galbato advised the Board that the Authorizing Resolution was included in the meeting materials packet to review. Mr. Marshall motioned to approve the Authorizing Resolution, seconded by Mr. Latanyshyn. A roll call vote was taken and recorded as follows:

NAME	Yes	Nay	Absent	Abstain
BEN VITALE	X			
JOHN LATANYSHYN	X			
PAUL LATTIMORE	X			
RAYMOND LOCKWOOD	X			
HERB MARSHALL	X			
ANDREW RINDFLEISCH			X	
GINA SPENO	X			

All members present voted in favor; motion carried.

Cayuga Milk Ingredients Discussion: Ms. Verrier welcomed Kevin Ellis of Cayuga Milk Ingredients and explained that Mr. Ellis was present to discuss the progress of CMI's expansion. Mr. Ellis said that the expansion is planned in two phases, with the first phase including a new evaporator which would increase the quantity of their powdered product, and the second phase included a new packaging line to assist with packaging products for other companies. He added that the packaging line phase was partially funded through awarded REDC grant funds. Mr. Ellis said that one of the delays for the expansion was the sewer line capacity, noting that they were struggling with their current output on the sewer system and the system could not handle output from the new evaporator. He explained that they did not wish to leave the Industrial Park, but they would need to consider alternative locations for their expansion if the sewer system could not be improved. Mr. Ellis said that CMI hired the Probst Group to do some analysis on their

own connections to the sewer, but they were still paying up to \$7000 per month to have the pump station treated. Mr. Marshall explained that the Board approved a flow analysis to be conducted by the Probst Group that would put them on track for the grant applications to fund the expansion. He added that they anticipated grant funds to cover up to 70% of the project, leaving the IDA to fund the remaining 30%, which could include some capital costs to the largest users of the line (CMI and Grober). Mr. Ellis asked if they should plan to budget for the capital costs or if the costs would be spread out over time? Ms. Verrier said that there needed to be some additional conversation to decide that. Ms. Verrier asked when the first phase was scheduled to be complete? Mr. Buckland said that they planned to have it completed by December 2021. The second phase had an estimated completion timeframe of Summer 2023. Ms. Verrier said that one option was to have the Eagle Drive line done if they could not get DEC to approve the entire expansion by next year. Mr. Ellis said that the Eagle Drive line was likely not the only issue. Ms. Verrier explained that the DEC and EDA were the deciding factors in terms of timeline for the sewer construction, noting the EDA pre-application was due at the end of the next month but needed DEC approval. Mr. Ellis asked if the City needed its own study? Ms. Verrier said that the flow metering between the conveyance line and treatment capacity still needed to be done, after which the engineering report would go to DEC to give approval for EDA. Ms. Verrier asked Mr. Ellis to clarify their estimated usage per day following the expansion? Mr. Ellis said that it could be up to 1 million GPD in about 3 years. Ms. Speno asked what the possibility was that the grant money didn't come through? Ms. Verrier explained that she was relatively confident the funding would come through due to the nature of the project having existing customers and expansion potential.

2020 Draft Budget: Ms. Verrier explained that the Audit/Finance Committee met before the regular meeting and reviewed the draft 2020 budget. She explained that the Committee suggested including \$1,000,000 in the income and expense lines to account for the anticipated sewer line construction. An amended budget reflecting this change was handed out to the Board. Mr. Marshall motioned to approve the 2020 budget as amended, seconded by Mr. Latanyshyn. All members present voted in favor; the motion carried.

December Meeting: Ms. Verrier asked if the Board wished to have their December meeting at the Springside Inn for lunch? The Board was agreeable.

### **UNFINISHED BUSINESS:**

Global Common SEQR Energy Engineering Services: Ms. Verrier advised that Bob Foxen of Global Common Energy was attending via telephone. Ms. Verrier explained that they would be discussing the SEQR process for the project, which due to the project's size and nature it was recommended that an engineering firm be hired. Ms. Verrier went out and got three quotes from CPL, C&S, and KIMA. She noted that all three indicated having experience with energy projects, but KIMA and C&S had the most experience with natural gas. She added that KIMA was recommended by Mr. Foxen who had worked with one of the principals years prior on a different project.

Mr. Lattimore motioned to move into executive session to discuss matters leading to the appointment of a particular corporation, seconded by Mr. Latanyshyn. All members present voted in favor; the motion carried.

The Board entered into executive session at 4:53pm.

Mr. Marshall motioned to exit executive session, seconded by Mr. Latanyshyn. All members present voted in favor; the motion carried.

The Board exited executive session at 5:03pm.

Ms. Verrier asked Mr. Foxen to clarify his relationship with Carol Young of KIMA. Mr. Foxen said that Ms. Young did the analysis for the Greenport Project in NY over 10 years ago and that they had worked in different branches of the same firm. Ms. Verrier explained that there was a price differential between KIMA and CPL. Mr. Foxen noted his preference for KIMA. Ms. Verrier explained that the firm should represent the IDA's interest and there was a concern that Mr. Foxen's relationship with Ms. Young could present a conflict of interest. Mr. Foxen explained that he was not familiar with the other engineering firms and was not confident in their ability to complete the SEQR in a timely manner. Ms. Verrier said she thought all of the engineering firms that responded were capable. Mr. Latanyshyn explained that the IDA could not base their decision on Mr. Foxen's recommendation alone, and that price and presentation were factors to consider for all the firms who responded. Mr. Marshall suggested they table the vote until the next meeting to have more time to review the bids. The Board was agreeable. Mr. Lockwood disclosed that his firm may be involved in this project and he would recuse himself from any vote involving this project. Motion to table made by Mr. Marshall, seconded by Mr. Latanyshyn. A roll call vote was taken and recorded as follows:

<b>NAME</b>	<b>Yes</b>	<b>Nay</b>	<b>Absent</b>	<b>Abstain</b>
BEN VITALE	X			
JOHN LATANYSHYN		X		
PAUL LATTIMORE	X			
RAYMOND LOCKWOOD				X
HERB MARSHALL	X			
ANDREW RINDFLEISCH			X	
GINA SPENO	X			

A majority of members present voted in favor; motion passed.

Ms. Verrier noted that if the engineer needed to be hired before the next meeting to keep the project moving forward, she may reach out to schedule a special meeting. The board was agreeable if that was necessary.

CEDA Staff Update: Ms. Verrier advised that the assessor for the Village of Aurora was reviewing many of the Inns of Aurora properties. She is reassessing the Rowland House (Abbott House) property and the new assessment will be below the PILOT base value. Ms. Verrier will be meeting with the Inns to discuss, but they will likely terminate the PILOT to avoid paying more than their actual tax liability for the property.

Upcoming Events: Ms. Verrier discussed upcoming events.

Motion to adjourn at 5:32pm by Mr. Marshall, seconded by Mr. Latanyshyn. All members present voted in favor; motion carried.

Respectfully submitted,  
Samantha Frugé

Next regularly scheduled meeting: Tuesday, November 19<sup>th</sup>, 2019 @ 4pm

## AUTHORIZING RESOLUTION

A regular meeting of Cayuga County Industrial Development Agency was convened on Tuesday, October 15, 2019 at 4:00 p.m.

The following resolution was duly offered and seconded, to wit:

Resolution No. 10/2019 - \_\_

RESOLUTION OF THE CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING (i) THE ASSIGNMENT OF CERTAIN DOCUMENTS IN CONNECTION WITH A CERTAIN PROJECT (AS FURTHER DEFINED HEREIN) PREVIOUSLY UNDERTAKEN FOR THE BENEFIT OF BOB VEAL CORP. (THE "COMPANY") AND GROBER NUTRITION LLC (THE "OPERATOR") TO DENKAVIT HOLDING USA CORPORATION (THE "ASSIGNEE"); AND (ii) AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS AND AGREEMENTS RELATING THERETO

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 688 of the Laws of 1970 of the State of New York, (hereinafter collectively called the "Act"), the **CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called the "Agency") was created with the Agency and power to promote, develop, encourage and assist in acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research, and recreational facilities as authorized by the Act, and in connection therewith to issue its revenue bonds, enter into straight lease transactions and provide other forms of financial assistance; and

WHEREAS, the Agency previously appointed **BOB VEAL CORP.** (herein, the "Company") as agent to undertake a certain project (the "Project") consisting of (A) the sale by the Agency to the Company (with retained leasehold interest) of an approximately 9.897-acre parcel of land located off Eagle Drive within the Town of Aurelius, Cayuga County, New York (the "Land", being identified as TMID No. 114.00-3-8); (B) the planning, design, construction and on the Land by the Company for lease to and operation by **GROBER NUTRITION LLC** (the "Operator") of an approximately 60,000 square-foot feed ingredients processing and warehouse facility (the "Improvements"), such Improvements to include, but not be limited to (i) production space, warehouse space, lab space, office space and related interior improvements, and (ii) exterior improvements upon, within and adjacent to the Land to include stormwater retention improvements, parking improvements, landscaping, curbage, utility improvements and product and waste transmission conveyance improvements; (C) the acquisition and installation in and around the Improvements of certain machinery, equipment and other items of tangible personal property (the "Equipment", and together with the Land and Improvements, the "Facility"); and the lease of the Facility by the Agency to the Company pursuant to a straight lease transaction as defined within the Act; and

WHEREAS, by resolutions adopted by the Agency on October 5, 2015 and October 20, 2015 (the "Authorizing Resolutions"), the Agency authorized the undertaking of the Project and pursuant to which the Agency and the Company entered into a certain Agent and Financial Assistance Agreement, Lease Agreement, Leaseback Agreement, PILOT Agreement, PILOT Mortgage, and related documents (collectively, the "Agency Documents"); and

WHEREAS, pursuant to Section 6.3 of the Leaseback Agreement, and in connection with the proposed transfer of ownership of the Project to **Denkavit Holding USA Corporation** (the "Assignee"), the Company has requested the Agency's approval of the proposed assignment of the Agency Documents (collectively, the "Assignment") to the Assignee, with the Assignee also becoming sole member of the Operator; and

WHEREAS, the Agency desires to authorize the Assignment subject to the terms and conditions set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Subject to (i) the Company and Assignee executing an Assignment and Assumption Agreement with Acknowledgement and Consent (the "Assignment Agreement"), (ii) the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, and (iii) compliance with Section 6.3 of the Leaseback Agreement, the Agency hereby authorizes the Assignment of the Agency Documents to the Assignee. The Agency hereby finds that the Assignment constitutes a Type II Action, as defined within the State Environmental Quality Review Act ("SEQRA") and regulations adopted pursuant thereto at 6 NYCRR Part 617.5(c)(26) whereby the Assignment constitutes a transfer of leasehold rights with no material change in permitted conditions or activities.

Section 2. The Chairman, Vice Chairman, and/or Executive Director/Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to execute, deliver the Assignment Agreement and related documents; provided the rental payments under the Leaseback Agreement, as assigned, and the Assignment Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and Assignment, along with the prospective indemnification of the Agency by the Assignee for actions taken by the Assignee and/or claims arising out of or related to the Project.

Section 3. 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 and to execute and deliver all such certificates, instruments and documents, to 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 resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 4. These Resolutions shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

	<u><i>Yea</i></u>	<u><i>Nay</i></u>	<u><i>Absent</i></u>	<u><i>Abstain</i></u>
Paul Lattimore	[ × ]	[   ]	[   ]	[   ]
Hon. Benjamin Vitale	[ × ]	[   ]	[   ]	[   ]
John Latanyshyn	[ × ]	[   ]	[   ]	[   ]
Raymond Lockwood	[ × ]	[   ]	[   ]	[   ]
Herb Marshall	[ × ]	[   ]	[   ]	[   ]
Gina Speno	[ × ]	[   ]	[   ]	[   ]
Andrew Rindfleisch	[   ]	[   ]	[ × ]	[   ]

The Resolution was thereupon declared duly adopted.

## SECRETARY'S CERTIFICATION

STATE OF NEW YORK     )  
COUNTY OF CAYUGA    ) SS:

I, the undersigned Acting Secretary of the Cayuga County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Cayuga County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on October 15, 2019, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 15<sup>th</sup> day of October, 2019.



Acting Secretary

[SEAL]