

**Cayuga County Community College  
Auburn, New York**

Minutes of the regular meeting of the Board of Trustees held Monday, September 4, 2012, at 5:30 p.m. in the Business Industry Center, James T. Walsh Regional Economic Center on the Auburn Campus.

Present: Mrs. Jane Bowen  
Mr. Kevin D. Coleman  
Mr. John M. Camardo  
Mrs. Melina Carnicelli  
Mr. Jeffrey Edwards  
Mr. John A. Karpinski  
Mr. John J. Klink  
Mr. Stanley J. Kott  
Dr. Linda P. Van Buskirk

Excused: Hon. George C. Fearon

Also: Dr. Daniel P. Larson, President  
Wendy Marsh, Esq. Hancock Estabrook, LLP  
Mr. Kevin Cox, Camardo Law Firm

Mr. Camardo called the meeting to order at 5:30 p.m.

**1.0 COMMENTS FROM THE PUBLIC**

Mr. Kevin Cox, representing the Camardo Law Firm, spoke regarding the letter that was delivered to the Board of Trustees today.

**5.0 Old Business**

At 5:40 p.m., Wendy Marsh from Hancock Estabrook Law Firm and representing Cayuga Community College began her review of history and the litigation and reviewed various documents with the Board of Trustees, including Part 2 of the Full Environmental Assessment Form.

Motion to accept Part 2 of the EAF with the response to question 19 to be modified to add the word "create" by the bullet discussing employment, made by Mrs. Carnicelli, seconded by Mr. Kott and carried following voice vote with Mr. Camardo abstaining.

5.0 Old Business (continued)

**RESOLUTION OF CAYUGA COMMUNITY COLLEGE BOARD OF TRUSTEES  
ISSUING A NEGATIVE DECLARATION PURSUANT TO THE STATE  
ENVIRONMENTAL QUALITY REVIEW ACT RELATIVE TO THE CENTER  
FOR PERFORMING ARTS AND EDUCATION PROJECT**

**WHEREAS**, the Cayuga Community College Board of Trustees (hereinafter the “College”) proposes to undertake to construct and operate the Center for Performing Arts and Education (hereinafter the “Project”), located at 1-7 State Street, in the City of Auburn, County of Cayuga, New York (“Property”); and

**WHEREAS**, the City of Auburn issued a Negative Declaration pursuant to the State Environmental Quality Review Act (hereinafter “SEQRA”) for the Project on February 25, 2011, which Negative Declaration has been subject to subsequent litigation commenced by Joseph Camardo, and the validity of such Negative Declaration has been called into question; and

**WHEREAS**, the City no longer owns the Property nor any discretionary authority over the Project to allow it to be an Involved Agency; and

**WHEREAS**, it is necessary for the Project to be subject to a review pursuant to SEQRA before an agency may proceed with any discretionary approvals of such Project; and

**WHEREAS**, the College caused to be prepared Part 1 of a Full Environmental Assessment Form dated June 19, 2012 for the Project (hereinafter “FEAF”), which included following attachments: Short Environmental Assessment Form (SEAF) and Attachments as Prepared by The City of Auburn (Ref.: FEAF Project Description), Short EAF Project Description, List of Potentially Involved Agencies, Supplement to Short EAF Part II - Impact Assessment, Short EAF Part III - Determination of Significance; Resolution, Negative Declaration & Attachments (Ref.: FEAF Project Description), SEQR Resolution #21 of 2011, Negative Declaration, Supplement to Negative Declaration; AECC *Soil Vapor Intrusion Sampling Report*; dated February 17, 2011; AECC *Soil Vapor Intrusion Sampling Report - Event #2*; dated May 2, 2011; Site Survey Plan (Ref.: FEAF Question A2); Layout and Planting Plan (Ref.: FEAF Question A2); Soil Map & Descriptions (Ref.: FEAF Question A3); Boring Location Plan & Boring Results (Ref.: FEAF Question A4); January 21, 2011 SHPO Letter (Ref.: FEAF Question A6); March 31, 2009 SHPO Letter (Ref.: FEAF Question A7); Primary Aquifers in New York State Map (Ref.: FEAF Question A9); Sole Source Aquifers in New York State Map (Ref.: FEAF Question A9); NYS DEC Endangered Plants and Species Map (Ref.: FEAF Question A11); Aerial Photograph (Ref.: FEAF Questions A12, A13, A15, A16); NYS DEC Wetlands Map (Ref.: FEAF Question A16); US FWS National Wetlands Inventory Map (Ref.: FEAF Question A16); NYS DEC Webpage; Critical Environmental Areas (Ref.: FEAF Question A19); Tax Parcel Details (Ref.: FEAF Question B1a); Aerial Photograph w/Tax Map Overlay (Ref.: FEAF Question B1a); Ground Floor Plan (Ref.: FEAF Question B1i); Building Elevations (Ref.: FEAF Question B1i); National Flood Insurance Program Flood Insurance Rate Map (Ref.: FEAF Question B15); City of Auburn Zoning Map (Ref.: FEAF Questions C2 & C7), City of Auburn C-2 Zoning; Description/Regulations (Ref.: FEAF Question C3); as well as a letter from Plumley to Cayuga County dated July 9, 2012, confirming the College’s intent to install a vapor barrier as part of the Project; and

**5.0     Old Business (continued)**

**WHEREAS**, the Project is an “Unlisted Action” pursuant to 6 NYCRR §617.2(ak) and therefore coordinated SEQRA review is optional; and

**WHEREAS**, the Cayuga County Legislature had originally declared its intent be Lead Agency with respect to the Project in accordance with the SEQRA regulations at 6 NYCRR §617.6, and in furtherance of this declaration, forwarded the FEAf to the Involved Agencies and Interested relative to the Project; and

**WHEREAS**, all Involved Agencies consented to the Cayuga County Legislature being the Lead Agency; and

**WHEREAS**, the Cayuga County Legislature subsequently declined to accept the responsibility of Lead Agency with respect to the Project; and

**WHEREAS**, on July 30, 2012, the College reviewed the FEAf, and deemed it adequate and accurate relative to the Project; and

**WHEREAS**, on July 30, 2012, the College declared its intent to be Lead Agency with respect to the Project in accordance with the SEQRA regulations at 6 NYCRR §617.6; and

**WHEREAS**, the College notified all Involved and Interested Agencies of its intent to be Lead Agency; and

**WHEREAS**, no Involved Agencies objected to the College being the Lead Agency; and

**WHEREAS**, the College is in receipt of various concerns from Joseph Camardo related to the potential environmental impacts associated with the Project, including, but not limited to an Affidavit of Expert dated July 26, 2012, a letter report from CES dated August 31, 2012, and a package dated September 4, 2012, including numerous exhibits, which have been reviewed and considered by the College; and

**WHEREAS**, the College caused Part 2 of the FEAf for the Project to be prepared; and

**WHEREAS**, the College now seeks to declare itself as the Lead Agency and desires to make its “Determination of Significance” with respect to its undertaking of the Project in accordance with 6 NYCRR §617.7 and to give notice of said determination in accordance with 6 NYCRR §617.12.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE CAYUGA COMMUNITY COLLEGE BOARD OF TRUSTEES AS FOLLOWS:**

1.     The Cayuga Community College Board of Trustees is hereby established as the Lead Agency for purposes of SEQRA relative to the Project.
2.     The Board of Trustees has reviewed Part 2 of the FEAf and accepts the answers set forth therein for the Project as accurate.
3.     Based upon a thorough examination and analysis of the FEAf, along with a review of the SEQRA regulations at 6 NYCRR §617.7 and based further on the Board of

**5.0 Old Business (continued)**

Trustees' knowledge of the area, previous SEQRA review completed by the City of Auburn, pending and previous litigation surrounding the Project, correspondence and comments made by Mr. Joseph Camardo, and such further investigation of the Project and its environmental effects, the College makes the following findings and determinations with respect to the Project:

- a. The Project may cause small to moderate increases in demand for parking. There are approximately 1100 public parking spaces in and around the Downtown area. Of those spaces there are approximately 398 spaces within the Municipal Parking Garage which is within a block of the site. The garage generally operates at 60% to 65% capacity during peak demands on weekdays. This translates to approximately 140 to 160 spaces available. As demonstrated with the significant traffic volume drop-offs in the area that occur after the evening rush hour passes, a similar level drop in parking demand at the garage can be expected. It is not unreasonable to expect at least a 20%-30% increase in available parking spaces which would equate to an additional 65-100 parking spaces during performance times. On-street parking will see a similar reduction in general demand once the evening rush hour has passed. Based on typical traffic operations in city settings there is no reason to expect that there would be insufficient parking for the patrons, as well as the additional spaces needed for performers and other related personnel. It should be noted that the City of Auburn Zoning Code does not require private off-street parking to be provided for non-residential uses within the C2: Central Commercial District, which is where the subject parcel is located. Even if it was required in this district, the City Code would require 1 parking space for every 5 seats for a Theater outside the C2 zone. For the proposed project, this indicates that 77 parking spaces would be sufficient.
- b. The Project may cause small to moderate impacts to existing traffic patterns. Reasonable trip generation assumptions and standard practices of professional engineers in both the private and public practices indicate that a traffic study is not warranted nor is it necessary for this theater. The area roadways are designed to carry peak commuter traffic for the City of Auburn. Peak times of operation for a theater are distinctly separate from the typical morning and evening rush hour periods and occur in the later evenings and on weekends. There is more than sufficient capacity on area city streets to accommodate an additional 100 vehicles during the peak hours of the theater when traffic volumes are 40% or more reduced from typical rush hour conditions. The construction of the Project could also cause minimal interference with roads, streets, walks, walkways, and other adjacent occupied and used facilities. Once constructed, there could be a small to moderate impact to traffic patterns as cars travel to the parking spaces described above. There will also be a minor impact to pedestrian traffic in the vicinity of the Project. As described in the City's Comprehensive Plan, Downtown Auburn is a pedestrian oriented area. Presently there are controlled crosswalks at the signalized intersections and marked crosswalks on Genesee Street.

5.0 Old Business (continued)

The City typically uses additional signage to designate those walks during the spring, summer, and fall. While not every business, it is reasonable to assume that many businesses would benefit from additional pedestrian activity Downtown. The increased pedestrian volumes in the area during performances will not impact overall levels of operation for pedestrian facilities in any way.

- a. The Project will not otherwise cause a substantial adverse change in existing air quality, ground or surface water quality or quantity. Prior to the demolition of the building, the City of Auburn performed soil vapor testing because a former dry cleaning facility was located approximately 150 feet northwest of the property. Additionally, soil vapor investigation monitoring was performed after demolition, and the results were included with the FEAF. The College has decided to install a sub-slab vapor barrier during the construction of the Project, as documented in the bids prepared by the College, and will conduct the necessary testing to confirm that the sub-slab depressurization system is effectively mitigating any intrusion of sub-slab volatile organic compounds.
- b. The Project will not cause an increase in noise levels. The proposed use is a permitted use within the C2: Central Commercial zoning district. The noise generated by the typical operation of a theater is not out of character with other permitted uses in Downtown. There could be a small to moderate increase in noise temporarily during construction.
- c. The Project will not cause a substantial increase in potential for erosion, flooding, leaching or drainage problems. Current laws require that new construction meet sound storm water runoff and erosion control guidelines. Post-development storm water runoff shall not exceed pre-development discharge rates. For the purpose of this project "pre-development levels" refer to the pre-demolition condition. The future footprint of impervious area will not increase as a result of demolition or construction, therefore, no additional storm water quantity or quality mitigation is required and the site meets both the City's and the States standards for storm water. The site is less than one acre, therefore, this project is below the threshold established by the NYSDEC for required coverage under the General Permit for Construction Activities and no Notice of Intent (NOI), SWPPP or other NYSDEC storm water quality or quantity measures are required. Erosion and Sediment Control measures will be implemented and followed during the construction process to minimize tracking of sediment off-site.
- d. The Project will not cause the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resource.

5.0 Old Business (continued)

- e. The Project will not cause the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 617.14(g) of Part 6 of the SEQRA regulations.
- f. The Project will not cause the creation of a material conflict with a community's current plans or goals as officially approved or adopted. In fact, the proposed project is supported by the City of Auburn's Comprehensive Plan, which was adopted by City Council in January 2010. Specifically, Goal 4 of Boosting Downtown states, "Develop downtown Auburn and a center for arts and entertainment." Additionally, Goal 4 of Shaping Business Growth across Auburn states, "Encourage arts and culture as an integral part of Auburn's economy."
- g. the Project will not cause the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character. The New York State Office of Parks, Recreation and Historic Preservation ("OPRHP") was consulted prior to the demolition of the previous structure and it indicated that 1-7 State Street was not eligible for listing on the National Register of Historic Places. Furthermore, OPRHP issued a determination of "no impact/no effect." With regard to community or neighborhood character, this is an urban setting with 1, 2, and 3-story buildings near or adjacent to the site. These buildings are typically built to the edge of the right-of-way. It is important that the construction of a new "in-fill" building is compatible with the neighborhood. The proposed Project as developed will be compatible with the surrounding buildings.
- h. The Project will not cause a major change in the use of either the quantity or type of energy.
- i. The Project will not cause the creation of a hazard to human health.
- j. The Project will not cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses.
- k. The Project will have a small to moderate impact on encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the Project, as the purpose of a Performing Arts Center is to attract patrons. SEQRA regulations state that "the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action" is a criteria for determining significance. This issue depends on two factors: First is the definition of "large" and relative term. Over 20,000 individuals may attend a

5.0 Old Business (continued)

second, a comparison to those who would visit the area without the new theater. Large is a relative term. Over 20,000 individuals may attend a Syracuse University Football game and it would not be considered by most to be a large turnout. However, when 3,000 attend an Auburn Double Days Game, it is a large crowd. In a City of approximately 28,000, 384 additional visitors would not be considered a “large number of people” by most reasonable individuals. Furthermore, it is reasonable to assume that a portion of these visitors already frequent the area to attend the Merry-Go-Round Playhouse and/or the Auburn Public Theater. Merry-Go-Round Playhouse surveys conducted in 2006 and 2007, indicate that most patrons come from outside the area to attend shows at the 500-seat theater. Again, a reasonable person may conclude that a portion of these visitors would attend a show at the Center for Performing Arts and Education, thereby reducing the number of unique additional visitors to the area.

- a. The Project will not cause the creation of a material demand for other actions that would result in one of the above consequences.
- b. The construction of the Project could continue for more than 1 year, which could have a small to moderate impact, as indicated in Part 2 of the FEA. This time frame is not deemed to be significant or important, and the construction outside the building structure is expected to be completed in less than one year.
- c. The Project will not cause changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment.
- d. The Project is not one of two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in 6 NYCRR § 617.7.

4. Based upon the foregoing investigation of the potential environmental impacts of the Project and considering both the magnitude and importance of each environmental impact therein indicated, the College makes the following findings and determinations with respect to the Project:

- a. The Project constitutes an “Unlisted Action” as said quoted term is defined in the SEQRA regulations at 6 NYCRR §617.2(ak);
- b. The Project will result in no significant environmental impacts and, therefore, is one which will not have a significant effect on the environment. Therefore, the College hereby determines that the Project will not have a significant effect on the environment, and the College will not require the preparation of an “Environmental Impact Statement” with respect to the Project;

**5.0 Old Business (continued)**

c. As a consequence of the foregoing, the College has decided to prepare a "Negative Declaration" with respect to the Project.

5. The President of the College is hereby directed to file a "Negative Declaration" with respect to the Project in the main office of the College, to provide a copy of the "Negative Declaration" to all Involved and Interested Agencies.

6. This Resolution shall take effect immediately.

Motion to approve made by Mrs. Carnicelli, seconded by Mr. Edwards and carried following a roll-call vote with Mrs. Bowen, Mrs. Carnicelli, Mr. Edwards, Mr. Fearon, Mr. Karpinski, Mr. Klink, Mr. Kott, and Dr. Van Buskirk voting "yes" and Mr. Camardo "abstaining".

Next steps - Building permits, then bids, review bids and start construction.

**10.0 ADJOURNMENT**

Mrs. Bowen moved to adjourn the meeting, seconded by Mr. Klink and carried by unanimous voice vote. The meeting adjourned at 7:20 p.m.

Transcribed by:

Respectfully submitted:

Carolyn L. Guariglia  
Secretary to the Board of Trustees

Stanley J. Kott, Secretary  
Board of Trustees

9/2012