

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

**TUESDAY
JUNE 11, 2019
8:00 A.M.**

PLANNING DEPARTMENT CONFERENCE ROOM

MEETING NOTES

PRESENT:

DAVE D'AMORE, CHAIRMAN
TIM MUNN, VICE CHAIRMAN
JOSEPH SEMIONE, TREASURER
JOE GILLIS, SECRETARY
TODD RULISON, MEMBER
GEORGE DOHERTY, MEMBER
JANE KELLEY, MEMBER
JAMES MRAZ, EXECUTIVE DIRECTOR
KARA LAIS, FITZGERALD, MORRIS, BAKER, FIRTH PC
MICHAEL BRANDI, FITZGERALD, MORRIS, BAKER, FIRTH PC
MARIE BORN, LIAISON, ECONOMIC DEVELOPMENT AND ENVIRONMENT COMMITTEE
TIM BECKETT, MEMBER, FULTON COUNTY CENTER FOR REGIONAL GROWTH
PUBLIC: 8

I. MINUTES FROM MAY 14, 2019 MEETING:

MOTION : Accept as presented.
MADE BY : George Doherty
SECONDED : Jane Kelley
VOTE : Unanimous

II. BUDGET REPORT:

MOTION : Accept as presented.
MADE BY : Joseph Semione
SECONDED : Tim Munn
VOTE : Unanimous

III. **COMMITTEE REPORTS:**

A. Nominating Committee:

- No report.

B. Audit Committee:

- Monthly Bank Reconciliation Reports.

DISCUSSION: Joe Semione stated that he signed the Monthly Bank Reconciliation Reports.

C. Governance Committee:

- No report.

D. Finance Committee:

- No report.

IV. **OLD BUSINESS:**

A. **Status of Johnstown Renewables (JR) Project:**

- At the May 14, 2019 meeting, the IDA Board approved an Amendment to the IDA's Lease Agreement with Johnstown Renewables to extend the project completion date through December 31, 2019.

IDA DISCUSSION: Jim Mraz stated that he's received the draft Amendment from Kara Lais and had several comments to it. Kara Lais stated that she would review those comments and make any changes to the draft Amendment and resubmit it to Jim Mraz for final review.

V. **NEW BUSINESS:**

A. **Proposed Acquisition of Property along Hales Mills Road Extension:**

1. Background:
 - a. Fulton County's Development Strategy includes the creation of a Primary Development Area called the Hales Mills Development Area.
 - b. The Concept Plan for this Development Area is consistent with the Comprehensive Plan of the Town of Johnstown.
 - c. The Hales Mills Development Area consists of four (4) parcels of land that are owned by two (2) property owners.

- d. Fulton County desires parcel 163.-1-26.12 to be developed into housing, commercial and retail uses identified on the Hales Mills Development Area Concept Plan and the Town of Johnstown desires parcel 163.-1-19.2 to potentially develop into a recreational facility also as identified on the Hales Mills Development Area Concept Plan.
- e. The Hales Mills Development Area Project will address the public need of creating new housing, providing public recreational facilities and generating new property and sales tax revenues to stabilize property tax rates for Fulton County residents.

2. Negotiations:

- a. In June, 2018, Mr. Bowe put these two (2) parcels up for sale.
- b. Fulton County and the Fulton County Industrial Development Agency (IDA) have both attempted to negotiate the purchase of the parcels owned by Mr. Bowe. However, these negotiations have not resulted in the purchase of the parcels.
- c. Independent certified appraisals have determined that Mr. Bowe’s asking price exceeds substantially the appraised value of the land.
- d. The IDA learned last week that Mr. Bowe passed away on May 27, 2019.

3. Eminent Domain:

- a. Fulton County Board of Supervisors’ Resolution #166 dated May 13, 2019 authorized and directed the IDA to initiate an Eminent Domain Procedure Law (EDPL) action to acquire the two (2) parcels owned by Mr. Bowe.
- b. At its May 14, 2019 meeting, in response to the Board of Supervisors’ request, the IDA Board adopted a Resolution to schedule an EDPL Public Hearing.
- c. The IDA Board agreed to continue negotiations with Mr. Bowe to acquire the two (2) parcels. The IDA Board stated it preferred to acquire these parcels by negotiations and would use EDPL only as a last resort.

4. EDPL Public Hearing:

- EDPL Public Hearing was held on Tuesday, June 4, 2019, at 4:00 p.m. in Town of Johnstown Town Hall.
- A total of 75 people were in attendance and 37 people spoke.
- In addition, written comments were received.
- A Summary Report of all written and verbal comments received has been prepared.

5. Summary Report on Public Input Received:

A. EDPL Public Hearing:

1. **RESIDENCE OF SPEAKERS:**

A. Town of Johnstown	:	20
B. Montgomery County	:	7
C. Town of Mayfield	:	5
D. City of Johnstown	:	2
E. Other	:	2
F. <u>Town of Perth</u>	:	<u>1</u>
Total	:	37

2. **SUMMARY OF KEY COMMENTS OFFERED:**

- Eminent Domain should not be used to acquire private property or agricultural land.
- The property owner should be paid what he is asking for his property.
- Fulton County should do more to promote agriculture.
- There is no need for a new Town Park. There are enough parks and trails in Fulton County already.
- There is no need for new housing in Fulton County.
- Nothing said at the Public Hearing will change anything. The decision to use Eminent Domain has already been made.
- It's okay to use Eminent Domain for building roads, or traffic safety.
- Preservation of farmland is important.
- Even though the Bowe property has not been farmed for many years, the soils there are classified as prime farmland.
- Fulton County's beauty is its greatest asset. Building the Hales Mills Development Area (HMDA) would ruin that beauty.
- Fulton County doesn't need another industrial park. When their tax breaks are done, all the companies leave.
- Mr. Bowe was a distinguished veteran who fought in two (2) wars.
- Residential development creates conflicts for farmers.
- Not enough information has been put out on the Hales Mills Development Area (HMDA).
- Fulton County and the Town of Johnstown shouldn't be building housing.
- Using Eminent Domain is like going to a store to buy something and telling the store you're only going to pay them ½ of what they have the item priced for.
- This taking of land is taking it from the people who built the United States.
- Farmers are hard working people.
- Eminent Domain actions can be challenged and won in court.
- Look at alternatives to HMDA.

3. **INCORRECT COMMENTS:**

Comment : Land is stolen when taken by Eminent Domain.
Response : Landowners are paid the fair market value for their property as determined by independent appraisers.

Comment : IDA's are only involved with industrial projects.
Response : IDA can be involved in a variety of projects including industrial, manufacturing, warehousing, distribution, retail, commercial, housing, civic facilities and others.

Comment : Fulton County is seeking to use Eminent Domain to acquire land in the Town of Mohawk in Montgomery County.

Response : Fulton County has not discussed or considered using Eminent Domain to acquire any land in Montgomery County.

Comment : Fulton County has offered the property owners in the Town of Mohawk 3 times the price per acre they offered Mr. Bowe.

Response : Fulton County has not discussed, considered or made any written or verbal offers to any property owner in the Town of Mohawk to purchase any land.

Comment : Fulton County already has a developer for this project.

Response : No developer has been selected. No developer has, to date, expressed an interest/willingness to invest into building out the Hales Mills Development Area.

Comment : The Town of Johnstown or Fulton County should not be getting into the business of building new housing.

Response : The Town or County is not going to be building new housing. The Hales Mills Development Area Project is a private sector project. The new housing, commercial and retail spaces shown in the Hales Mills Development Area would be built and financed by a private developer. The private investment into the proposed Hales Mills Development Area would create new tax base that would help both the Town of Johnstown and Fulton County stabilize Town and County tax rates.

Comment : There are enough industrial parks in Fulton County. We don't need another one on Hales Mills Road.

Response : The Park proposed for the west side of Hales Mills Road Extension would be a Town Park that would include recreational facilities. The Town Park would preserve green space. It would not be an industrial park.

Comment : Fulton County went from promoting the area to building housing.

Response : Fulton County is not going to build the new housing shown in the Hales Mills Development Area. The new housing would be built and financed by private developers. The Hales Mills Development Area

Project is a private sector project. The private investment into the proposed Hales Mills Development Area would create new tax base that would help both the Town of Johnstown and Fulton County stabilize Town and County tax rates.

B. Written Comments:

1. A total of 32 written comments were received:
 - a. 27 were new comments from persons who did not speak at the Public Hearing.
 - b. 5 were the comments made by speakers at the Public Hearing.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He stated that the public hearing held on Tuesday, June 4th, went very well. He stated speakers were orderly and the hearing served the purpose of hearing the public's input on the proposed use of Eminent Domain. He stated at the hearing he would be preparing a Summary Report of all of the verbal comments made at the hearing, as well as all written comments received. He stated he asked those in attendance at the public hearing to submit to him the comments that they made at the public hearing. He stated several people did that and those were included into the Summary Report. He stated written comments were received up until 5:00 p.m. on Friday, June 7th. He stated on Monday, June 10th, the Summary Report was copied. He stated, on Monday, two (2) additional written comments were received that were not included in the Summary Report that he distributed to all present at the IDA meeting. He stated those two (2) additional written comments would be added into the final copy of the Summary Report.

Jim Mraz then reviewed the Summary Report on the public input received. He reviewed all of the key comments that were recorded at the public hearing. He then reviewed several incorrect comments that were made at the public hearing that he felt needed to be responded to.

Jim Mraz advised that several reports on the status of agriculture, prepared by the American Farmland Trust, were submitted with Karen Fagan's comments. He said if any IDA Board members wanted a copy of these reports to advise him and he would send them copies.

Jim Mraz advised the IDA Board that the Board of Supervisors, at its June 10th meeting, voted on a late resolution to rescind Resolution #166 of 2019 that authorized the Fulton County IDA to initiate an Eminent Domain Procedure Law (EDPL) Action to obtain ownership of property owned by the late Mr. Robert Bowe. He stated, given the unfortunate passing of Mr. Bowe, it makes moving forward with the Eminent Domain process a challenge. He stated that Mr. Bowe's passing results in a question mark as to who the current owner of those two (2) parcels of land currently is. He stated the ownership issue will take time to work its way through the legal process. He stated the public input received at the public hearing and from the written comments made a number of points, but two (2) in particular:

1. Eminent Domain should not be used to acquire private property.
2. The owner should be paid what he is asking for.

Given the unfortunate passing of Mr. Bowe, the unknown of who now owns the two (2) parcels and the public input received, Jim Mraz recommended that the IDA Board pass a motion to stop the Eminent Domain action to acquire the two (2) parcels of land from the late Mr. Robert Bowe.

Joe Semione stated that he appreciated the public getting involved with issues like this. He stated, based upon his review of the Summary Report, it's clear that those who commented are not in support of Eminent Domain. He stated that the Summary Report provides an excellent representation of all public input received. He stated that the County Board of Supervisors has listened to the public input provided.

Dave D'Amore asked where the County stands in terms of the process of proceeding with the Hales Mills Development Area. Jim Mraz stated that that discussion still needs to be held. Jim Mraz asked if there were any other questions. There were none.

MOTION: To authorize stopping the Eminent Domain action to acquire two (2) parcels of land from the late Mr. Bowe.

MADE BY: Joseph Gillis
SECONDED: Todd Rulison
VOTE: Unanimous

Subsequent to the vote, several people in attendance made comments. Karen Fagan thanked the IDA Board for taking the action that it did. She stated that, at the public hearing, people in ages ranging from 15 to 80 commented about using Eminent Domain. She stated that "Smart Growth" principles should be utilized in Fulton County. She stated economic development should include sustainable success.

Matt Ebert stated that his organization, the Fulton County Agriculture Development Agency, has ideas for promoting agriculture in Fulton County that he would like to share.

A person asked where she can get information on how much taxpayer money the IDA spends. Jim Mraz stated that the Fulton County IDA is not funded with taxpayer dollars. She asked where the monies come from. Jim Mraz asked the person to contact him and to set up a meeting where she could come in and have a conversation with Mr. Mraz on how IDA's operate.

Jim Mraz asked all present to submit to him, by e-mail, thoughts, ideas or suggestions on how County government can help support and promote agriculture in Fulton County. He stated that he would take all input received and share it with the Economic Development and Environment Committee of the Fulton County Board of Supervisors.

B. National Grid Easement:

- National Grid has requested a 20' wide easement along the former second access route into Tryon.
- This easement will be used to locate National Grid's new overhead electric lines they will be running from CR107 to CR117.
- Kara Lais has reviewed the easement and found it to be acceptable.

DISCUSSION: Jim Mraz reviewed the information on the Agenda. He stated this easement would run from CR117 up to the elevated water tank. Jim Mraz asked if there were any questions. There were none.

MOTION: To authorize Chairman to execute this easement with National Grid.

MADE BY: Joseph Gillis

SECONDED: Todd Rulison

VOTE: Unanimous

C. Request for Information:

1. Background:

- On May 20, 2019, the IDA received a letter dated May 17, 2019 from the NYS Senate's Investigations and Government Operations Committee.
- The 10-page letter requested voluminous information from the IDA.
- The letter advises that, under the Authority of Legislation Law 62-A, the Committee has the authority to issue a subpoena.

2. Draft Response:

- A Draft Response to the Information and Document request has been prepared.
- The Draft Response was e-mailed to IDA members on June 3, 2019.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He reviewed the form and content of the Draft Response to the Senate Committee's request. He stated that he will be sending both a CD and a hard copy of the response back to the Senate Committee. He asked if there were any questions or comments on the Draft Response. There were none.

IDA ACTION:

MOTION: To approve the Draft Response and authorize the Executive Director to submit the response to the NYS Senate's Committee on Investigations and Government Operations.

MADE BY: Dave D'Amore

SECONDED: Tim Munn

VOTE: Unanimous

VI. OTHER BUSINESS:

A. Executive Session:

1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:
 - i. matters which will imperil the public safety if disclosed;
 - ii. any matter which may disclose the identity of a law enforcement agent or informer;

- iii. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
- iv. discussions regarding proposed, pending or current litigation;
- v. collective negotiations pursuant to article fourteen of the civil service law;
- vi. 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;
- vii. the preparation, grading or administration of examinations;
- viii. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.**

MOTION: To go into Executive Session to discuss the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

MADE BY : Dave D'Amore
 SECOND : George Doherty
 VOTE : Unanimous
 TIME : 8:35 a.m.

MOTION : To go out of Executive Session.

MADE BY : Dave D'Amore
 SECOND : George Doherty
 VOTE : Unanimous
 TIME : 10:00 a.m.

VII. NEXT MEETING:

Tuesday
 July 9, 2019
 8:00 a.m.

VIII. CLOSE MEETING:

MOTION : To close the meeting.
 MADE BY : Joseph Semione
 SECONDED : Timothy Munn
 VOTE : Unanimous
 TIME : 10:00 a.m.