

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

TUESDAY
DECEMBER 10, 2019
8:00 A.M.

PLANNING DEPARTMENT CONFERENCE ROOM

AGENDA

PRESENT:

___ DAVE D'AMORE, CHAIRMAN
___ TIM MUNN, VICE CHAIRMAN
___ JOE SEMIONE, TREASURER
___ JOE GILLIS, SECRETARY
___ TODD RULISON, MEMBER
___ JANE KELLEY, MEMBER
___ JAMES MRAZ, EXECUTIVE DIRECTOR
___ KARA LAIS, FITZGERALD, MORRIS, BAKER, FIRTH PC
___ SCOTT HENZE, PLANNING DIRECTOR
___ MARIE BORN, LIAISON, ECONOMIC DEVELOPMENT AND ENVIRONMENT COMMITTEE
___ RON PETERS, FULTON COUNTY CENTER FOR REGIONAL GROWTH
___ KEN ADAMCZYK, ECONOMIC DEVELOPMENT SPECIALIST, FULTON COUNTY CENTER
FOR REGIONAL GROWTH
___ MIKE ANICH, LEADER-HERALD

I. MINUTES FROM NOVEMBER 12, 2019 MEETING:

MOTION :
MADE BY :
SECONDED :
VOTE :

II. BUDGET REPORT:

MOTION :
MADE BY :
SECONDED :
VOTE :

III. COMMITTEE REPORTS:

A. Nominating Committee:

- No report.

B. Audit Committee:

- Monthly Bank Reconciliation Reports: Joe Semione

C. Governance Committee:

- No report.

D. Finance Committee:

- No report.

IV. FULTON COUNTY/FULTON COUNTY CENTER FOR REGIONAL GROWTH (FCCRG) REPORTS:

1. Fulton County Report: Marie Born, Liaison
2. FCCRG Report: Ron Peters, CEO

V. OLD BUSINESS:

A. IDA Property at Tryon Technology Park on South Side of CR107:

1. Background:

- The IDA owns a 26+/- acre parcel of land on south side of CR107 across from the Tryon Technology Park.
- At its October 15, 2019 meeting, the IDA Board decided to list for sale the parcel with Coldwell Banker Arlene M. Sitterly.
- Agreement with Coldwell Banker to list property has been executed.
- Parcel has been shown to several interested parties.

IDA DISCUSSION:

B. Status of Johnstown Renewables (JR) Project:

1. Background:

- In January 2016, JR filed a Project Application with the IDA for a project in the Johnstown Industrial Park.
- JR had two (2) primary stockholders:
 - 1) CRE Capital LLC : 70%
 - 2) New Age Renewable Energy : 30%

- The project involved building an 11,900+/- sf building on a 5.2 acre parcel of land in which ethyl alcohol would be produced from liquid whey from the adjacent FAGE yogurt manufacturing plant.
- The project was projected to involve the investment of \$16+/- million and the creation of 27 jobs.
- The IDA Board executed a 10-year Lease Agreement with JR in March 2017.
- The IDA Board executed a 10-year PILOT Agreement with JR in March 2017. Year 1 of the PILOT was 2017.
- The IDA Board approved a sales tax exemption for the JR project. This sales tax exemption was provided for the period of July 15, 2016 – December 31, 2017.

2. Status Report:

- Construction work on the project commenced in 2017.
- On January 25, 2018, the IDA received a letter from CRE Capital, LLC advising of the passing of Christian Eisenbeiss. Mr. Eisenbeiss was the sole member of CRE Capital, LLC and the managing member of JR.
- At the February 2018 IDA meeting, the IDA Board, in Executive Session, reviewed the January 2018 letter from CRE Capital. The IDA Board authorized and directed IDA Counsel to send a letter to CRE Capital.
- In February 2018, IDA Counsel sent a letter to CRE Capital advising that JR was in default for failure to complete the project by December 31, 2017. The letter asked for a status report.
- In March 2018, IDA contacted County Treasurer to check on status of PILOT payments due the County. Payment had been received.
- In March 2018, IDA Counsel was contacted by a representative of JR advising that, due to FAGE filing a lawsuit against JR, any advancement of the JR project was on hold contingent upon a resolution of the lawsuit.
- In March 2018, The IDA Board was provided an update by IDA Counsel. IDA authorized and directed IDA Counsel to send JR another letter.
- In March 2018, IDA Counsel sent JR another letter advising that JR could request an extension to the project completion date given the circumstances surrounding the sudden passing of its managing member and primary investor.
- In April 2018, IDA sent another letter to JR.
- In May 2018, the IDA received a letter from a law firm representing JR providing a status report on the lawsuit and project.
- In May 2018, the IDA met with representatives of New Age Renewable Energy, the minority member in JR. IDA asked JR to make sure their PILOT payments were being made per the PILOT.
- In April, IDA contacted the Fonda-Fultonville School District to check on status of PILOT payment. Fonda-Fultonville had not issued PILOT invoice. IDA worked with School District to get invoice issued. Invoice was issued and JR paid invoice.
- In June 2018, IDA contacted City of Johnstown to check on status of PILOT payment due the City. City had not received payment. Upon discussion with City, it was determined that the City sent PILOT invoice to wrong address. IDA provided correct address to City. Invoice was sent to correct address and payment was received.

- During the fall of 2018, IDA received two (2) inquiries from companies interested in acquiring the land and partially completed building owned by JR. IDA put these companies in contact with JR.
 - In May 2019, IDA received a letter from JR's law firm providing the following update on their efforts to complete the project:
 - 1) JR was seeking to enter into a new joint venture or find another user for the facility.
 - 2) A couple of entities have toured the facility and had expressed an interest in it.
 - 3) The letter requested an extension until December 31, 2019 to complete the project.
 - 4) At the May 2019 IDA meeting, the Board passed a motion to extend the project completion date for the JR project to December 31, 2019 and to authorize the Chairman to sign an amendment to the Lease Agreement with JR.
 - 5) Kara Lais sent JR an Amendment to the Lease Agreement extending the project completion deadline until December 31, 2019.
 - 6) To date, JR has not returned the executed Amendment.
 - At its May 2019 meeting, the IDA Board authorized the Chairman to execute an amendment to JR's Lease Agreement extending the project completion date to December 31, 2019.
3. Sales Tax Exemptions:
- In early October 2019, the IDA learned that JR was planning on auctioning off materials and equipment currently being stored at the site.
 - At its October 2019 meeting, IDA Board took two (2) actions:
 - 1) Authorized recapturing the estimated \$960,000 in sales tax benefits JR received on this project because JR had not completed the project and created the 27+/- new jobs they committed to create in their Project Application.
 - 2) Authorized executing an Escrow Agreement with JR whereby all proceeds from the Auction would go to an Escrow Agent and eventually paid to NYS's Department of Taxation and Finance to repay the sales tax benefits JR received.
 - Escrow Agreement has been executed.
4. Lease Agreement:
- JR's Lease Agreement with the IDA stated that JR would complete their project by December 31, 2017.
 - IDA Board agreed to extend completion date through December 31, 2019 to give JR more time to complete project.
 - JR has not executed an Amendment to the original Lease Agreement to extend the project completion date through December 31, 2019.

IDA DISCUSSION:

IDA ACTION:

MOTION:

MADE BY:

SECONDED:

VOTE:

C. Vireo Health:

- Vireo Health has requested permission to place excavated materials from their site onto adjacent IDA property.
- Estimated quantity: 10,000 – 15,000 cy
- Vireo would deposit, grade and stabilize material.
- Review map

IDA DISCUSSION:

IDA ACTION:

MOTION:

MADE BY:

SECONDED:

VOTE:

D. IDA Website:

1. Background:

- At November 12, 2019 meeting, IDA Board hired Emery Designs to update IDA's website.
- Participated in three (3) Conference Calls with Emery Designs to discuss various issues:

2. Issues:

a. What is the IDA's "story"

- 50 years of success
- Great place to live and do business
- Expedited approval process
- Other

b. Tag Line

c. 5 Success Stories to Highlight

- d. Professional photography
- e. Maps:
 - 1) NE Market
 - 2) NYS
 - 3) Fulton County
- f. Statebook:
 - 1) EDO Subscription
- g. IDA Board Members:
 - 1) Some IDA Websites have photos of Board members
 - 2) Should website include photos/bios?

IDA DISCUSSION:

E. Tryon Electric Project:

- 1. Status Report:
 - Fulton County executed all Agreements with National Grid and submitted all required payments as of October 2, 2019.
 - National Grid was due to start the overhead line work during week of December 9, 2019.
 - National Grid had yet to provide a schedule to start the underground work as of December 6, 2019.
 - Due to winter conditions and the unknown as to when the underground work will commence, the decision was made to hold off on all work until spring of 2020.
 - Estimated start date of April 6, 2020 has been established.

IDA DISCUSSION:

VI. NEW BUSINESS:

A. Fulton County Local Law 3-2019 Opting out of Section 487 NYS Real Property Tax Law:

- 1. Fulton County Board of Supervisors recently adopted Local Law 3-2019 to opt out of Section 487 of New York State's Real Property Tax Law which affords real property tax exemptions to solar energy systems, wind energy systems and Farm Waste to Energy Projects.
- 2. The Board of Supervisors desires to have collect County property tax revenues from these types of projects.
- 3. IDA's can still offer real property tax exemptions to these types of projects.

4. IDA's can incorporate into their Uniform Tax Exemption Policy a provision to not provide real property tax exemptions to these types of projects.

IDA DISCUSSION:

IDA ACTION:

MOTION:

MADE BY:

SECONDED:

VOTE:

B. Options/Equipment for Video Streaming

1. Presentation by Scott Henze

IDA DISCUSSION:

IDA ACTION:

MOTION:

MADE BY:

SECONDED:

VOTE:

C. NYSEDC Membership Renewal

1. NYSEDC Membership Renewal Fee: \$850

IDA DISCUSSION:

IDA ACTION:

MOTION:

MADE BY:

SECONDED:

VOTE:

VII. OTHER BUSINESS:

A. Invoices from Fitzgerald Morris Baker Firth (FMBF):

1. The IDA has received the following invoices from FMBF:
 - a. General Legal Services : \$7,060.50
 - b. Vireo Health : \$ 486.00
 - c. Union Coast/Pioneer Windows : \$1,706.00

IDA DISCUSSION:

IDA ACTION:

MOTION: To authorize the payment of these three (3) invoices.

MADE BY:

SECONDED:

VOTE:

B. SPEDES Permit for Tryon:

- NYSDEC has advised that SPEDES permit for Tryon must be renewed.
- Fee: \$110

IDA DISCUSSION:

IDA ACTION:

MOTION: To authorize a payment of \$110 to NYSDEC to renew the Tryon SPEDES Permit.

MADE BY:

SECONDED:

VOTE:

C. 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 :
 SECOND :
 VOTE :
 TIME :

MOTION : To go out of Executive Session.

MADE BY :
 SECOND :
 VOTE :
 TIME :

VIII. NEXT MEETING:

Annual Meeting
 Tuesday
 January 14, 2019
 5:00 p.m.

IX. CLOSE MEETING:

MOTION :
 MADE BY :
 SECONDED :
 VOTE :
 TIME :