

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

TUESDAY
JUNE 14, 2022
8:00 A.M.

PLANNING DEPARTMENT CONFERENCE ROOM

MEETING NOTES

PRESENT:

JOSEPH SEMIONE, CHAIRMAN
MIKE FITZGERALD, VICE CHAIRMAN
TODD RULISON, TREASURER
DAVID D'AMORE, MEMBER
SUE COLLINS, MEMBER
DR. GREG TRUCKENMILLER, MEMBER
JAMES MRAZ, EXECUTIVE DIRECTOR
KARA LAIS, FITZGERALD, MORRIS, BAKER, FIRTH PC
SCOTT HENZE, PLANNING DIRECTOR
BRYAN TAYLOR, FULTON COUNTY CENTER FOR REGIONAL GROWTH (ZOOM)

(Jim Mraz opened the public hearing on the Resolution authorizing the use of videoconferencing in extraordinary circumstances by the Fulton County Industrial Development Agency.)

I. MINUTES FROM MAY 10, 2022 MEETING:

MOTION : Accept as presented.
MADE BY : Joe Semione
SECONDED : Mike Fitzgerald
VOTE : Unanimous

II. BUDGET REPORT:

MOTION : Accept as presented.
MADE BY : Dave D'Amore
SECONDED : Todd Rulison
VOTE : Unanimous

III. COMMITTEE REPORTS:

A. Nominating Committee:

- No report.

B. Audit Committee:

- Monthly Bank Reconciliation Report: Dave D'Amore

IDA DISCUSSION: Dave D'Amore approved the Monthly Bank Reconciliation Reports.

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: Jack Wilson (No report.)
2. FCCRG Report: (See attached.) Bryan Taylor

IDA DISCUSSION: Bryan Taylor reviewed the FCCRG Report that was attached to the Agenda. Upon completion, Jim Mraz asked IDA Board members if they had any questions. There were none.

V. OLD BUSINESS:

A. Fulton County Site Inventory Report:

1. Background:
 - The Mohawk Valley Economic Development District (MVEDD) and the FCCRG, in 2021, retained Elan Planning/Landscaping/Architecture/Engineering to prepare a study on potential tracts of land in Fulton County that could be prepared as shovel-ready sites.
 - The Study would also identify potential buildings for redevelopment.
2. Status Report:
 - FCCRG has established a Committee to review the report.

IDA DISCUSSION: Jim Mraz stated that the Committee is scheduled to meet next week. He stated Joe Semione, Mike Fitzgerald and himself will be attending the meeting.

B. Nexus Renewables Project:

1. Status Report:

- Nexus is reissuing an RFP to Engineering, Procurement and Construction (EPCs) companies for new pricing.

2. Option Term:

- IDA executed Solar and Energy Storage Lease Agreement with Nexus on June 25, 2021. This is the “Effective Date of the Lease”.
- The Lease granted Nexus an Option to Lease.
- This Option to Lease was for six (6) months from the Effective Date of the Lease. This Option expired on December 21, 2021.
- The Lease also granted Nexus the right to extend the Option two (2) additional six (6) month periods upon Nexus submitting notice to the IDA within 60 days of the end of the Option term. This would have extended the term to December 21, 2022.
- Nexus did not submit this required Notice to the IDA within 60 days of the end of the Option Term which was December 21, 2021.
- Nexus has been advised of this and further advised that any extension of the Option term must now be approved by the IDA Board.
- Nexus has filed a Notice with the IDA asking the IDA Board to extend the Option term to December 21, 2022.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He stated that he submitted an invoice to Nexus Renewables back in March for \$10,350 for legal services incurred to date. He stated that this invoice has not yet been paid.

IDA ACTION:

MOTION: To authorize the Chairman to execute an amendment to the Lease Agreement to extend the option to lease to December 21, 2022 contingent upon Nexus submitting a payment to the IDA in the amount of \$10,350.76.

MADE BY: Joe Semione
SECONDED: Greg Truckenmiller
VOTE: Unanimous

FURTHER DISCUSSION: Joe Semione stated that the IDA has been put into a situation with Nexus Renewables Project in that it has incurred a large legal services bill that has yet to be paid. He stated that the IDA should look at developing a policy to prevent this from happening again. Kara Lais suggested the IDA Board consider asking for a security deposit that would be received at the time a project application is filed with the IDA. The security deposit could be used to pay for legal services as they are incurred. She suggested a figure of \$5,000 as an initial security deposit. There was a discussion about what would happen if that entire security deposit was utilized and additional legal services still had to be provided. It was suggested that the IDA should then ask for a second security deposit in an amount to be determined at that time. The applicant would have to submit a second security deposit before any additional legal services would be performed. Jim Mraz stated that he would work with Kara on drafting a policy in accordance with the discussion and present that at a future meeting.

C. Vireo Health Project:

1. Sale of Vireo Health to Verano Holdings:
 - Both companies are seeking shareholder approval of the proposed sale.
 - Verano has made some changes to the interior layout of the 324,000 sf building currently under construction.

2. Status of Construction:
 - Construction ongoing.
 - Exterior walls complete.
 - Site work ongoing.
 - Work on interior should commence soon.

3. PILOT/Lease:
 - Working with Vireo Health to complete the Lease/PILOT Agreements for its 324,000 SF building.

IDA DISCUSSION: Jim Mraz stated that Vireo will be asking to amend the deadline for when their sales tax exemptions can be utilized and may be asking to increase the amount of sales tax exemptions to be utilized due to cost escalations in building materials.

D. Hoffman Carwash Project:

- Construction ongoing.

E. Winstanley Enterprises Project:

- Winstanley's Tryon Technology Park website is now up and running:
www.tryontechnologypark.com.

F. Fulton County Sewer District No. 4: Tryon:

1. Back-up Generator Project:
 - EDP has approved Koval's submittal on generator and automatic transfer switch.
 - Both items have been ordered by Koval.

2. Sale of Land to Lott Holdings:
 - a. Background:
 - Lott Holdings desires to acquire 13.2+/- acre parcel of land adjacent to the former Maintenance Building it recently purchased from the IDA.
 - Lott Holdings has offered to purchase these 13.2+/- acres for \$10,000.

 - b. SEQR:
 - 1) Background:
 - The proposed sale of these 13.2+/- acres of land is an Unlisted Action under SEQR.
 - A short form EAF has been prepared.
 - See attached.

- 2) Part 2 EAF:
 - The IDA has completed a Part 2 EAF.
 - See attached.

- 3) Determination of Significance:
 - Based upon its review of the Part 1 and 2 EAF and all project information, the IDA Board now needs to issue a Determination of Significance under SEQR.
 - Two (2) options exist:
 1. Positive Declaration: If the IDA Board determines that the proposed project may create one (1) or more significant environmental impacts, it must issue a Positive Declaration which means a Draft Environmental Impact Statement (DEIS) must be prepared.
 2. Negative Declaration: If the IDA Board determines that the proposed project will not create any significant environmental impacts, it must issue a Negative Declaration which means a DEIS does not have to be prepared and the SEQR process has been completed.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He reviewed the short form EAF and the Part 2 EAF that was attached to the Agenda. He then reviewed the options available to the IDA Board for issuing a determination of significance. He asked if there were any questions. There were none.

IDA ACTION:

MOTION: To issue a negative declaration.

MADE BY: Joe Semione
 SECONDED: Dr. Greg Truckenmiller
 VOTE: Unanimous

- c. Resolution:
 - See attached Resolution.

IDA DISCUSSION: Jim Mraz reviewed the Resolution that was attached to the Agenda. He asked if there were any questions. There were none.

IDA ACTION:

MOTION: To approve the Resolution as presented.

MADE BY: Dr. Greg Truckenmiller
 SECONDED: Sue Collins
 VOTE: Unanimous

3. Survey:
 - At March 8, 2022 meeting, IDA Board authorized Ferguson & Foss to complete survey work on three (3) potential parcels of land at Tryon.
 - The three (3) parcels included:
 - Two (2) parcels to be deeded to Fulton County Sewer District No. 4.
 - One (1) parcel to be deeded to Lott Holdings.

 - Survey work has started.

4. Appraisal:
 - CBRE has completed its appraisal of parcels to be transferred to Sewer District.
 - Appraisal valued land at \$1,200/acre.

5. 90-Day Notice to New York State:
 - The IDA is required to send a letter to New York State whenever it proposes to:
 1. Sell real property valued at over \$100,000 by negotiated sale.
 2. Sell personal property valued at over \$15,000 by negotiated sale.

 - The IDA will be transferring to Sewer District No. 4 personal property valued at over \$15,000. The personal property involved includes the sewer pump station and back-up generator. This will require a letter being sent to New York State.
 - The appraisal concluded that the IDA will be transferring real property to the Sewer District valued at less than \$100,000. As such, a 90-day notice on the transfer of land is not required.
 - Kara Lais sent the 90-day letter to the State on June 10, 2022.

6. Conveyance of Real and Personal Property to Fulton County Sewer District No. 4:
 - a. Background:
 - Authorization is needed to:
 - authorize the Chairman to execute a deed to transfer ownership of 39+/- acres of land to Fulton County Sewer District No. 4.
 - authorize the Chairman to execute a Bill of Sale to transfer ownership of all sewer infrastructure at Tryon to Fulton County Sewer District No. 4.

 - b. SEQR:
 - 1) Background:
 - The proposed sale of these 39+/- acres of land is an Unlisted Action under SEQR.
 - A short form EAF has been prepared.
 - See attached.

 - 2) Part 2 EAF:
 - The IDA has completed a Part 2 EAF.
 - See attached.

3) Determination of Significance:

- Based upon its review of the Part 1 and 2 EAF and all project information, the IDA Board now needs to issue a Determination of Significance under SEQR.
- Two (2) options exist:
 1. Positive Declaration: If the IDA Board determines that the proposed project may create one (1) or more significant environmental impacts, it must issue a Positive Declaration which means a Draft Environmental Impact Statement (DEIS) must be prepared.
 2. Negative Declaration: If the IDA Board determines that the proposed project will not create any significant environmental impacts, it must issue a Negative Declaration which means a DEIS does not have to be prepared and the SEQR process has been completed.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He reviewed the short form EAF and the Part 2 EAF that was attached to the Agenda. He then reviewed the options available to the IDA Board for issuing a determination of significance. He asked if there were any questions. There were none.

IDA ACTION:

MOTION: To issue a negative declaration.

MADE BY: Mike Fitzgerald

SECONDED: Dave D'Amore

VOTE: Unanimous

c. Resolution:

- See attached Resolution.

IDA DISCUSSION: Jim Mraz reviewed the Resolution that was attached to the Agenda. He asked if there were any questions. There were none.

IDA ACTION:

MOTION: To approve the Resolution as presented.

MADE BY: Joe Semione

SECONDED: Sue Collins

VOTE: Unanimous

7. Sewer District Reserve Fund:

a. Background:

- Fulton County Sewer District No. 4 will include all of the IDA-owned lands at Tryon.
- Once created, all of the sewer infrastructure the IDA currently owns, operates and maintains at Tryon will be deeded over to the Sewer District.

- One of the challenges with the new Sewer District is that it will not have a Capital Reserve Fund at the outset to draw upon in the event that costs have to be incurred to fix or repair a problem with the new sewer system. It will take time for funds to accumulate into a Capital Reserve Fund that would be able to be used to pay for repairs.
- At its December 8, 2020 meeting, the IDA Board approved a motion to authorize the Chairman to enter into an Agreement with Fulton County Sewer District No. 4 to reimburse the Sewer District up to \$15,000 m of costs for work performed on the sewer infrastructure for a period of no more than 10 years or until such time as the District's Reserve Fund totals \$15,000.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He stated this Agreement will be entered into at the time of the closing on the transferring of the lands to Sewer District No. 4.

VI. NEW BUSINESS:

A. Continued Use of Videoconferencing:

1. Background:

- Chapter 56 of the laws of 2022 relating to the New York State Budget for 2022-2023 State fiscal year included an Amendment to the Open Meetings Law (OML) to make permanent (until July 1, 2024) the expanded use of videoconferencing by public bodies to conduct meetings, under extraordinary circumstances, regardless of a declaration of emergency.
- Fulton County Industrial Development Agency (IDA) has successfully utilized videoconferencing during the COVID pandemic and would like the ability to continue to utilize videoconferencing.
- Chapter 56 of the laws of 2022 requires that public bodies like the IDA must adopt a resolution to allow IDA members to participate in IDA meetings by remote videoconferencing but only after conducting a Public Hearing.

2. Public Hearing:

- Notice of Public Hearing was published in the Leader Herald on May 23, 2022.
- Notice of Public Hearing was put on IDA's website.

3. Resolution:

- See attached.

IDA DISCUSSION: Jim Mraz asked if there was anyone present or online to speak at the public hearing. No one was present to speak. Jim Mraz closed the public hearing at 8:42 a.m.

Jim Mraz reviewed the Resolution that was attached to the Agenda. He asked if there were any questions. There were none.

IDA ACTION:

MOTION: To approve the Resolution as presented.

MADE BY: Todd Rulison

SECONDED: Dave D'Amore

VOTE: Unanimous

B. Board Training:

1. Code of Ethics Policy:

a. Background:

- The IDA Board adopted a Code of Ethics Policy on September 30, 2008.
- The Policy was based upon the Model Code of Ethics Policy published by the Authority Budget Office (ABO).

b. Public Officers Law:

- Section 74 of Public Officers Law also contains Code of Ethics provisions that apply to IDA's. (See attached.)
- The IDA's existing Code of Ethics Policy does not include a reference to having to comply with Section 74 of Public Officers Law.
- It is recommended that the IDA Board approve a revised Code of Ethics Policy that incorporates a reference to Section 74 of Public Officers Law. (See attached.)

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He asked if there were any questions. There were none.

IDA ACTION:

MOTION: To approve the revised Code of Ethics policy as presented.

MADE BY: Greg Truckenmiller

SECONDED: Dave D'Amore

VOTE: Unanimous

C. New State Laws Impacting IDA's:

1. Background:

- The NYS Economic Development Council distributed to all IDA's in New York State a summary of all bills that passed both the Assembly and Senate.
- These bills are awaiting Governor Hochul's signature or veto.

2. Summary of Bills:

- a. A944: NYS's Real Property Tax Law would be amended by adding a new Section 561-a that would read as follows:

Notwithstanding any other provision of law, any person, firm, partnership, corporation, limited liability company or any other business entity which makes payments in lieu of taxes to any agency, county, town, village, city or school district, shall, prior to filing with such agency, county, town, village, city or school district for a change of assessment, notify such agency, county, town, village, city or school district of such business entity's intention to file for such change. Such notification of intention shall be made in writing and shall be made at least forty-five (45) days prior to such filing for change of assessment.

- b. S3256: NYS's General Municipal Law and Public Authorities Law would be amended to require IDA;s to deliver a copy of a resolution that is adopted to taxing jurisdictions via certified mail return receipt requested including the school board and school superintendent. Note: This bill was originally passed in 2019 but vetoed by Governor Cuomo.
- c. S4471A: NYS's General Municipal Law and Public Authorities Law would be amended to require IDA's to report to all relevant taxing jurisdictions within 2 years when a PILOT ends or "immediately" when revoked or due to early termination.
- d. S7445: Section 883 of NYS's General Municipal Law would be amended by adding the following 2 new paragraphs:

2. No member, officer, employee or independent contractor of any IDA shall take any position, whether paid or unpaid, including but not limited to an independent contractor, with any business or entity applying for or receiving financial assistance from an IDA while employed by or rendering services to such IDA or within 2 years after termination of such employment or rendering of services.

3. Any person who knowingly and willfully violates the provisions of subdivision 2 of this section and is compensated or receives any benefit due to such violation shall pay a civil penalty to the IDA in an amount equal to five times the compensation or benefit received by such person.

D. 2022 State Budget:

- The 2022-23 State Budget includes a number of economic development programs, policies and initiatives.
- See attached summary as prepared by the NYS Economic Development Council.

E. September Meeting:

- It is requested that the September 13th meeting be rescheduled to September 6th.

IDA DISCUSSION: Jim Mraz requested that the September 13th meeting be rescheduled to September 6th. All present agreed to this change.

F. Leasing of Lands at Tryon:

- R & R Farms desires to lease approximately 55 acres of land at Tryon to grow corn. They offered to pay \$30/acre.

IDA DISCUSSION: It was the consensus of all IDA members present to allow R & R Farms to lease these lands in 2022.

VII. 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 : Dr. Greg Truckenmiller
SECOND : Dave D'Amore
VOTE : Unanimous

TIME : 8:55 a.m.

MOTION : To go out of Executive Session.

MADE BY : Dave D'Amore

SECOND : Joe Semione

VOTE : Unanimous

TIME : 9:24 a.m.

VIII. NEXT MEETING:

Tuesday

July 12, 2022

8:00 a.m.

IX. CLOSE MEETING:

MOTION : To close the meeting.

MADE BY : Sue Collins

SECONDED : Mike Fitzgerald

VOTE : Unanimous

TIME : 9:24 a.m.