

FINGER LAKES ECONOMIC DEVELOPMENT CENTER
1 Keuka Business Park, Suite 104
Penn Yan, NY 14527
Telephone: 315-536-7328

MINUTES OF THE REGULAR BOARD MEETING OF THE FINGER LAKES ECONOMIC DEVELOPMENT CENTER

December 16, 2015

FLEDC MEMBERS PRESENT: Jim Long
Gene Pierce
Mary Zelazny
Jim Willson

FLEDC MEMBERS ABSENT: Jerry Hiller
Rita Gow
Mark Morris

STAFF: Steve Griffin
Kari DeWick
Doreen Jensen

GUESTS: Taylor Fitch
Peter Gamba
Tim Dennis

Chair J. Long called the meeting to order at 8:00 A.M.

Roll call was taken; a quorum was present.

A motion was made by J. Willson and seconded by M. Zelazny to go into Executive Session at 8:01 AM to discuss company's delinquent loan payments. Motion passed.

A motion was made by M. Zelazny and seconded by J. Willson to come out of Executive Session at 8:09 AM. Motion passed.

There was no action taken in Executive Session.

AGENDA CHANGES

Under New Business add IDA reform legislation and delete Crestwood Children's Center lease.

NEW BUSINESS

S. Griffin reviewed the Finger Lakes Railway Corp. PILOT. A summary of the changes was given to all Board members. All counties elected to renegotiate their PILOTS with Finger Lakes Railway Corp. The new PILOT will benefit all municipalities. The PILOT will change from a Sale Leaseback to a Straight Lease/Lease Back. This will reduce our liability exposure on potential lawsuits. We are currently

indemnified by Finger Lakes Railway Corp. and they cover all legal expenses but this will add another level of protection for us. Insurance requirements will increase and Finger Lakes Railway Corp. will have to provide new policy binders. PILOT payments will be calculated based on total adjusted gross freight revenue at a flat rate of 2.75% divisible by the six counties involved, for each agency share. Finger Lakes Railway Corp. will provide all agencies with an audited Statement of Adjusted Freight Revenue, not a full audited statement, but which specifically confirms the applicable adjusted freight revenues to be used for each year's PILOT calculation, which would be certified by an independent CPA. PILOT payments would be capped at a maximum of \$25 million adjusted freight revenue during the 10-year extension period. The new PILOT will run through June 30, 2025. The PILOT agreement will also reference a separate easement/crossing agreement that will have a deadline for execution of February 29, 2016 and if the agreement is not in place by the deadline then the PILOT agreement will be revoked. The new agreement allows for all municipal crossings/easements to have no occupation/rent cost associated with the projects (for new projects). The agreement will also allow for all IDA sponsored projects to have no occupations/rent costs associated with crossings/easements (with the limitation of 3 private grade crossings allowed per county/IDA). The New Rail Crossing and Occupation applications and contracts from municipal and IDA-sponsored projects will be handled by this agreement, and as executed in a separate Agency-Railway Occupancy Agreement that will detail the engineering & approval process, fees and annual rents. Same agreement will lay out reasonable and detailed timelines that each party can expect at each step in the application and approval process. This will also detail circumstances of default/breach as determined by the negotiations. Each county will also receive an increase in annual agency fee from the current \$1,000 to \$3,000 in years 1-4; \$3,500 in years 5-7; \$4,000 in years 8-10.

AUTHORIZING RESOLUTION
(Finger Lakes Railway Corp. Project)

The following resolution was duly offered by Gene Pierce and seconded by James Willson, to wit:

Resolution No. 2015-__

**RESOLUTION OF THE YATES COUNTY INDUSTRIAL DEVELOPMENT
AGENCY AUTHORIZING THE UNDERTAKING OF A MODIFICATION
TO A CERTAIN LEASE AGREEMENT (AS FURTHER DESCRIBED
HEREIN) WITH FINGER LAKES RAILWAY CORP. (THE "COMPANY")
ALONG WITH THE EXECUTION AND DELIVERY OF RELATED
DOCUMENTS**

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 113 of the Laws of 1975 of the State of New York, as amended (hereinafter collectively called the "Act"), the **YATES COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, reference is made to that certain Lease Agreement, dated as of July 21, 1995 (the "Lease") entered into by the Agency and Finger Lakes Railway Corp. (the "Company") with respect to a certain Project (the "Project", as defined within the Lease) and Railroad Facility (as defined within the Lease and within Section 854(11) of the Act); and

WHEREAS, pursuant to Section 5.2(d) of the Lease, the Agency previously transmitted written notice of intent to renegotiate terms of the Lease in connection with a possible second renewal term (the “Renewal Term”) that would commence on July 22, 2015, however in the absence of agreement on new terms before the end of the first renewal term (as defined within the Lease), the leasehold estate of the Lease was scheduled to terminate at the end of the first renewal term (at 11:59 p.m. on July 21, 2015), however, the Agency and Company previously tolled the termination of the Lease to December 31, 2015; and

WHEREAS, in furtherance of granting approval for the Renewal Term, the Agency and Company contemplate undertaking modifications to the Lease (collectively, the “Modification”), whereby the parties will converting the “sale-leaseback” structure undertaken for the Project pursuant to the Lease to a contemporary straight-lease transaction (as defined within Section 854(15) of the Act) that will include updated insurance coverages, indemnities, Agency compliance provisions, environmental covenants, rail crossing and occupation requirements, job reporting, and other provisions to accommodate contemporary Agency requirements, along with enhanced requirements for the payments in lieu of taxes (“PILOT Payments”); and

WHEREAS, in furtherance of the foregoing, the Agency desires to authorize (i) the granting of the Renewal Term through the Modification; and (ii) the execution and delivery of a Quitclaim Deed, Lease Agreement, Leaseback Agreement, PILOT Agreement and related documents.

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

Section 1. Subject to (i) the Company executing a Leaseback Agreement (with such terms as set before this meeting), (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) the receipt of all necessary approvals or waivers required pursuant to Section 854(11) of the Act, the Agency hereby authorizes the Modification and the grant of the Renewal Term. The Chairman, Vice Chairman and/or Executive Director/CEO of the Agency are authorized to finalize for execution and delivery a Quitclaim Deed, Lease Agreement, Leaseback Agreement, and PILOT Agreement, along with related documents (the “Modification Documents”).

Section 2. The Chairman, Vice Chairman and CEO/Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Modification Documents with such changes as shall be approved by the Chairman, Vice Chairman, the CEO/Executive Director and counsel to the Agency upon execution.

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 upon adoption.

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

<i>Member</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Absent</i>
<i>Gene Pierce</i>	<i>X</i>			
<i>James Willson</i>	<i>X</i>			
<i>James Long</i>	<i>X</i>			
<i>Mary Zelazny</i>	<i>X</i>			
<i>Rita Gow</i>				<i>X</i>
<i>Mark Morris</i>				<i>X</i>
<i>Jerry Hiller</i>				<i>X</i>

The Resolutions were thereupon duly adopted.

S. Griffin reported that Ken Bushner would like to purchase Lot 1 at Horizon Business Park which is 1.5 acres for \$25,000. Ken Bushner would like to move his B25 studio there. He does high end advertising photography. The price is a little less but it creates activity at Horizon Business Park and the location has a slight slope to it as well. Ken Bushner has also agreed to do up to 3 pro bono advertising photography shots or companies we select as well. The construction for his building will start in the spring. ***A motion was made by M. Zelazny and seconded by J. Long to sell Lot 1.5 acres for \$25,000 To Ken Bushner and three pro bono advertising photography shots. Motion passed.***

K. DeWick reviewed the loan request from Highland Cellars Mobile Services. They are requesting \$50,000 from the Ag Loan Fund at 1% for five years. Collateral will be a first position on the truck and bottling line and with a personal guarantee from Peter Oughterson. The Loan Committee approved this loan. ***A motion was made by G. Pierce and seconded by J. Willson to approve the loan to Highland Cellars Mobile Services for \$50,000 from the Ag Loan Fund. The interest will be 1% for five years. Collateral will be a first position on the truck and bottling line. A personal guarantee from Peter Oughterson is also required. Motion passed.***

D. Jensen reviewed the Crooked Lake Management lease renewal at Keuka Business Park. They rent 3,600 square feet in the pole barn that is part of the Conesus building. The building is just a pole barn. This is a two-year lease renewal with the first year at \$435 a month and the second year \$450 a month. They are not utilizing utilities. ***A motion was made by M. Zelazny and seconded by J. Willson to authorize the Chair sign the lease with Crooked Lake Management as presented. Motion passed.***

S. Griffin reviewed the Intek Fabrication lease. Intek Fabrication wanted to lease at Horizon Business Center at Horizon Business Park. Intek Fabrication will take the space between Estabrook and Catholic Charities. Intek Fabrication does fabrication steel type work. We will need to do approximately \$15,000 worth of renovations. Renovations will be evaluated when we receive a signed lease. Lease rates would be \$4.75 square foot for 3 years and \$200 month for utilities with a 4-month review on utilities. Part of the lease proceeds would be set aside for property purchase at Horizon Business Park. ***A motion was made by M. Zelazny and seconded by J. Long to authorize the Chair to sign the lease with Intek Fabrications as presented. Motion passed.***

S. Griffin reviewed the Kan-Pak, LLC lease for the Horizon Business Center located at Horizon Business Park. They are looking for short term warehousing. S. Griffin reported the lease will be at \$5.50 a square foot, triple net, will cover all work, and insurance. They will be leasing up to 20,000 square foot for Jan and possibly into Feb. ***A motion was made by M. Zelazny and seconded by G. Pierce to authorize the Chair sign the lease with Kan-Pak, LLC as presented. Motion passed.***

S. Griffin reviewed the new IDA Reform Legislation. The new reform legislation requires each IDA to develop (1) a standard application form for requests for financial assistance, (2) uniform criteria for the evaluation and selection for each category of projects for which financial assistance is provided, and (3) uniform project agreements, including recapture provisions, for project benefits. In addition, each IDA is to develop policies (1) for the suspension, discontinuance, or modification of financial assistance provided for a project, (2) for the recapture of all or part of the financial assistance provided for a project, and (3) to annually monitor the progress of projects with respect to investment and job creation/retention goals. S. Griffin reported we are already doing all this.

Another strategic planning meeting will be scheduled soon.

MINUTES

A motion was made by G. Pierce and seconded by J. Long to approve the November 19, 2015 minutes as written. Motion passed.

FINANCE COMMITTEE

D. Jensen reviewed the November financials and all bills to be paid. *A motion was made by M. Zelazny and seconded by J. Willson to approve the November financials, and to pay all bills submitted as presented. Motion passed.*

Receivables and the loan reports were reviewed.

MANAGEMENT REPORT

The following updates were given to the Management Report:

S. Griffin reported that he spoke at the Yates County Cornell Cooperative Extension Annual Dinner. S. Griffin reported he is a huge fan of Cornell Cooperative Extension.

S. Griffin reported on attending the Yates Cultural & Recreational Resources ribbon cutting. Katie Peterson and Pam Griffith deserve a lot of credit to have kept this project moving forward.

S. Griffin reported that the FLEDC will be at 29-30 projects for the end of 2015. We will finalize the numbers for the next meeting. S. Griffin also reported that there were 440 plus meetings attended by FLEDC Staff in 2015!

S. Griffin thanked Jim Long for his efforts and time on our board and work around the Community. He will be missed.

K. DeWick reported the Exploring Club is finally off and running. There are 7 students and 2 from Marcus Whitman enrolled in the Med program with more students signing up. The Advanced Manufacturing and Skilled Trades Club met with Dailey Electric, where four students from Penn Yan participated.

M. Zelazny thanked K. DeWick for her help with the 20/20 Vision group.

S. Griffin reported that Workforce development is still a critical issue in the County. Companies across the region are still complaining about not being able to find workers. There was discussion on trades and how to create interest in these various jobs.

We need to change our January meeting date due to the NYS Economic Development Council's Annual conference conflicting with our regular board meeting. Board members will be emailed for availability.

Peter Gamba thanked the FLEDC for letting him come. He is excited about what the FLEDC is doing especially in the education arena. Education is key and talking to students is a big part of this. He asked that the FLEDC Board look at climate change issue regarding the Greenidge project. Peter Gamba is available if anyone would like more information on renewables.

A motion was made by G. Pierce and seconded by J. Long to adjourn the meeting at 9:08 A.M. Motion passed.

Respectfully submitted,

Doreen J. Jensen