

Public Hearings – 2007 Empire Pipeline Project

Friday, March 16, 2007

Minutes of Proceedings

Attendance at All Public Hearings: Steven E. Isaacs, Executive Director Yates County Industrial Development Agency, Russell E. Gaenzle, Harris Beach & Counsel to YCIDA and from Empire Pipeline Julie C. Cox, Corporate Communications & Patti J. Paul, Government Affairs

Attendance Lists from Each Individual Meeting are attached to the end of these Minutes.

Public Hearings on the proposed assistance from the Yates County Industrial Development Agency on behalf of the Empire Pipeline Project were held according to the following schedule:

(i) on Friday, March 16, 2007, at 9:00 a.m. at the **Benton Town Hall**, 1000 Route 14A, Penn Yan, New York 14527;

(ii) on Friday, March 16, 2007, at 11:00 a.m. at the **Torrey Town Hall**, 56 Geneva Street, Dresden, New York 14441;

(iii) on Friday, March 16, 2007, at 1:00 p.m. at the **Milo Town Hall**, 137 Main Street, Penn Yan, New York 14527;

(iv) on Friday, March 16, 2007, at 3:00 p.m. at the **Barrington Town Hall**, 4424 Old Bath Road, Penn Yan, New York 14527; and

(v) on Friday, March 16, 2007, at 5:00 p.m. at the **Starkey Town Hall**, 40 Seneca Street, Dundee, New York 14837; each in connection with the following matter:

The Public Hearing notice was published in the legal section of The Chronicle Express and The Observer on February 14, 2007. The Notice of Public Hearing was also posted on the bulletin board of the Yates County Courthouse on February 13, 2007, and copies of the Notice were mailed to the affected taxing jurisdictions (Yates County, Town of Barrington, Town of Benton Town of Milo, Town of Torrey, Dundee Central School District and Penn Yan Central School District).

Town of Benton:

The Public Hearing was called to order at 9:00 am by Yates County IDA Executive Director Steve Isaacs and he introduced Russ Gaenzle, Julie Cox and Patti Paul. The purpose of the Public Hearing was explained to hear comments on the proposed financial assistance to Empire Pipeline. The Yates County IDA has received an application for financial assistance and in accordance with GML are holding a series of Public Hearings on the proposed assistance package.

Isaacs explained that no decisions have been reached on the requested financial assistance and that all comments received would become part of the project record and made available to the Yates County IDA Board of Directors.

Russ Gaenzle opened the meeting for comments.

Gary Lilyea: Empire Pipeline has previously stated that they would not be seeking any federal, state or local assistance for this project. No real job creation will result, there has been no contact with landowners about leasing land and waiting until spring/summer work has begun is not acceptable. Recommends no tax breaks be provided.

Julie Cox (Reply): The project has increased \$30M, and while there was no initial intent to ask for local incentives, the company is now reluctantly asking for assistance. Some outreach has been done to landowners, however actual negotiations have been postponed until the decision to move forward with the project has been made.

David Ingram: Discussed issue regarding planned Outlet Crossing location and concern over landmen tactics, including intimidation. Concerned no Yates County IDA Board Members were in attendance.

Fred DeWick: Asked about the actual abatement numbers and commented there are no benefit from the gas line to Yates County.

Russ Gaenzle (Reply): Reviewed the requested abatement schedule, including sales tax. Also reiterated the Agency has not made any formal decision on the request.

Tim Dennis: Asked how the assessment numbers were generated.

Russ Gaenzle (Reply): The projected assessment numbers are estimates based on the formulas of the NYS Office of Real Property Tax Service (ORPS).

Tim Dennis: Is the project in jeopardy?

Julie Cox (Reply): Yes. The decision to move forward has not been made.

Tim Dennis: There are rising costs for everyone in business and there is no assistance for them. Shocked by lack of IDA Board Members present to hear comments. What are the fees to the Agency to be generated by this project and what will they be used for?

Julie Cox (Reply): Project is bound by FERC approval for design costs and use fees. Company looking to other areas to reduce costs.

Steve Isaacs (Reply): The fee schedule is based on a percentage of the total project cost in Yates County. Would be $\frac{3}{4}\%$ on first five million and $\frac{1}{2}\%$ on the balance. The fee has yet to be calculated on this project. The proceeds would be used for economic development purposes, including the operations of the IDA.

Julie Cox (Reply): A portion of the local benefit is the offer of a pre-installed tap for future use.

Fred DeWick: How are the PILOT payments divided up among municipalities?

Russ Gaenzle (Reply): The PILOT payment amount is distributed pro-rata to the affected taxing jurisdictions in the amount they would normally receive from a tax payment.

Tim Dennis: Just what materials for the pipeline would be purchased in Yates County that would make up the suggested \$9M?

Julie Cox (Reply): Any available local products that would reduce transportation costs.

Tim Dennis: What about the impact on local roads from hauling gravel and other heavy equipment?

Julie Cox (Reply): The Company would be responsible for leaving the roads in the same condition they found them.

David Ingram: The multipliers for the economic impact are not realistic for Yates County, just not enough contractors, operators or vendors to actually have the money end up in Yates County. How about crop loss payments?

Julie Cox (Reply): Crop loss payments are included in the project budget.

Russ Gaenzle (Reply): There will be checks and balances in place to monitor all aspects of the project.

Tim Dennis: How could \$9M ever be spent locally? There are not that many suppliers or contractors available, and many of those goods and services will be bought in volume, either regionally or out of the area.

Bob Clark, Town of Benton Supervisor: The Town Board conducted a straw vote at their last Town Board Meeting and was 100% against the tax abatements. They should pay a full taxation. Most of the public comment we have received says they should pay like everyone else.

Alan Tomion: His new business had cost overruns and he did not ask, or get, relief from the town.

Bob Morse: Had similar issues on Bluff Point over the cell tower. That project resulted in land scarring from the activity and the town was left to clean up the mess. All businesses have overruns, you have to plan for and deal with it.

Karen Hudson: Local supply business owner and knows from experience that price is more important than buying local. Not in favor of the abatements.

Guy Christiansen: This request for tax relief feels like we are subsidizing the project. It makes me question the creditability of the entire project.

Glenn Quackenbush: Does accepting this request set precedent for other projects? Then how do you say no to others?

Russ Gaenzle (Reply): Each project can still be judged on its own merits and would go through a similar cost/benefit analysis.

Bob Clark: The Town of Benton would see very little of the PILOT payment, in the range of only \$18,000 out of the \$125,000 received by the county in the first year.

Russ Gaenzle (Reply): Yes, the PILOT payment amount is distributed pro-rata to the affected taxing jurisdictions in the amount they would normally receive from a tax payment. However, IDA involvement does not affect any Special District Taxes, which would be paid in full value.

Tim Dennis: How many full time permanent jobs will be created?

Steve Isaacs (Reply): None and this is a major factor in the Agency's cost/benefit analysis.

Alan Tomion: I support providing no tax breaks for this project and I don't see what services they would be providing the community.

David Ingram: Who would be the actual owner of the pipeline?

Russ Gaenzle (Reply): Empire Pipeline would negotiate leases with affected landowner and then assign the rights to the IDA in order to establish tax exempt status and would remain that way for the term of the PILOT.

Steve Isaacs (Reply): While on paper the IDA would appear to be the owner, all rights and responsibilities remain with the company. It is a third party ownership dictated by the terms of the lease agreement with the Agency.

Julie Cox (Reply): We have the responsibility to maintain the pipeline and all the terms of any agreements in the end.

Gary Lilyea: What does the assessed value look like at the end of the PILOT? Would we ever see full value or is there a depreciation schedule that would ultimately reduce the value after 15 years?

Russ Gaenzle (Reply): As we discussed, ORPS sets the assessment for special projects such as these. The typical useful life of a pipeline would be around 40 years.

Jeff Mann, Town of Benton Highway Superintendent: How are staging areas selected? What about the wear on the local roads? Who controls the actions of the subcontractors? We can not pass the cost of road repairs on to the local taxpayers, the costs are rising rapidly already beyond the ability to pay for them.

Julie Cox (Reply): All the contractors are screened by us and we hold the responsibility for their actions. The company must leave the roads in the condition they were found by order of FERC.

Roger Jensen: Who controls the rates for the transport of the gas within the pipeline? Can the rates be increased, and why hasn't Empire looked at re-filing for higher rates?

Julie Cox (Reply): FERC approves the transport rate, based on our application. The rates can go up in the future. We have not approached FERC for an increase, primarily because that re-opener would set the project back 2-2 1/2 years waiting for the review.

David Ingram: What is the profit margin for Empire at the end of the project? It appears the taxpayers are being asked to subsidize the project in order to maintain that level.

Julie Cox (Reply): The profit margin is 12%.

Gary Lilyea: How many miles of pipeline are planned for Yates County?

Julie Cox (Reply): 22.4 miles in Yates County

David Ingram: I recommend no tax abatements be offered to this project.

Fred DeWick: No tax abatement. Shameful request. It is costing landowners' money everyday to deal with this project. It will have a long term effect on the land that can not be repaired. The purchasing will be done in bulk and not from Yates County businesses.

Hearing no further comment, the Public Hearing was closed at 10:00 am.

Town of Torrey:

The Public Hearing was called to order at 11:00 am by Yates County IDA Executive Director Steve Isaacs and he introduced Russ Gaenzle, Julie Cox and Patti Paul. The purpose of the Public Hearing was explained to hear comments on the proposed financial assistance to Empire Pipeline. The Yates County IDA has received an application for financial assistance and in accordance with GML is holding a series of Public Hearings on the proposed assistance package.

Isaacs explained that no decisions have been reached on the requested financial assistance and the all comments received would become part of the project record and made available to the Yates County IDA Board of Directors. It was also noted at the current path of the proposed pipeline does not cross through any parts of the Town of Torrey.

Russ Gaenzle opened the meeting for comments.

Pat Flynn, Town of Torrey Supervisor: Does this project meet the required legal mission for IDA involvement?

Russ Gaenzle (Reply): It is an eligible project under IDA enabling legislation. There are no legal requirements under the law for job creation.

Dave Christiansen: The company letter claims this project will provide jobs and new tax revenue for the area. Isn't it really tax relief?

Julie Cox (Reply): There would be new tax revenue on the improvements; it would just be phased in over the life of the PILOT. The base land value remains the same and there would be no decrease in existing tax revenue. The jobs would come from the construction, along with the local spending of the workers.

Floyd Hoover: So this is new tax revenue on the top of existing tax base?

Guy Christiansen: Concerns about the impact on local roads. Are there any cost estimates on the impact?

Julie Cox (Reply): No cost estimates. The company is responsible for the repair of any road damage under the FERC approval.

Dave Christiansen: How does the road repair work and is the work bonded?

Julie Cox (Reply): The Company would oversee the repair work.

Pat Flynn: The Town of Torrey would require any contractors to be bonded.

Pat Flynn: Are there any limits to the land use within the ROW of the pipeline?

Julie Cox (Reply): Most any type of farming is allowed, however, no structures or trees may be planted. The pipeline would be buried at "agriculture depth" in anticipation of future cultivation.

Pat Flynn: What is the situation with the access to a tap on the line?

Julie Cox (Reply): Each county is being offered a tap to the line, installed at construction, for future use. It might be usable for a new industrial park, single user or creation of a franchise area.

Dave Christiansen: What will be the landowner reimbursement for the land? Is there an amount per acre?

Julie Cox (Reply): All landowner negotiations will begin after the decision to move forward has been made. There is \$1 million budgeted for leases at this point. The lease rates will be individually negotiated and based on fair market value.

Dave Christiansen: What happens to dissenters who will not lease their land?

Julie Cox (Reply): We will try our best at negotiations first. Ultimately, FERC has provided Empire with eminent domain as a last resort.

Gary Lilyea: Will the lease be reflective of our assessed value?

Julie Cox (Reply): The lease will be negotiated based on fair market value.

Pat Flynn: How is this project assessed and would it ever change? Does the PILOT lock in the percentage of the abatement?

Julie Cox (Reply): The projected assessment numbers are estimates based on the formulas of the NYS Office of Real Property Tax Service (ORPS). They could change as the State changes their formulas. The proposed PILOT does provide for a percentage payment over its life.

Dave Christiansen: Why can't the increased costs be passed to customers?

Julie Cox (Reply): Empire Pipeline provides transportation services only; we do not own the gas and have no influence on the selling price. Our fees for transportation are set by our FERC approval.

Floyd Hoover: Are you paid by the gas owners?

Julie Cox (Reply): Yes.

Guy Christiansen: We want the whole apple (tax revenues), not a portion. The amount of promised local expenditures is questionable.

Hearing no further comment, the Public Hearing was closed at 11:30 am.

Town of Milo:

The Public Hearing was called to order at 1:00 pm by Yates County IDA Executive Director Steve Isaacs and he introduced Russ Gaenzle, Julie Cox and Patti Paul. The purpose of the Public Hearing was explained to hear comments on the proposed financial assistance to Empire Pipeline. The Yates County IDA has received an application for financial assistance and in accordance with GML are holding a series of Public Hearings on the proposed assistance package.

Isaacs explained that no decisions have been reached on the requested financial assistance and that all comments received would become part of the project record and made available to the Yates County IDA Board of Directors.

Russ Gaenzle opened the meeting for comments.

Dale Hallings: Would encourage the IDA not to provide tax incentives to this project. Concern over the lack of long term benefits and the mess to be cleaned up following construction.

Jim Henderson: Expressed concern over the clean up and tile interruptions. Can never be repaired to original condition.

Julie Cox (Reply): We will work with each landowner to create a customized plan for each property, including the repair of drain tiles.

Russ Gaenzle (Reply): Much of the work is mandated by FERC, for both safety and clean up.

Taylor Fitch, Yates County Legislator and IDA Board Member: Describe the landowner negotiations completed so far.

Guy Christiansen: And, when will it be done. There is concern over the timing. Not while farmers are in the field.

Julie Cox (Reply): The ROW negotiations will begin after a decision is made whether to move forward with the project or not. We are looking at construction beginning in the spring of 2008, so landowner negotiations could take place over the next twelve months.

Guy Christiansen: I do not believe the requested tax abatements are equivalent to the community benefits. Once again, we want the whole pie, not a piece of it. Doubtful that local spending would be as advertised. This project is a major inconvenience to the farmer.

Julie Cox (Reply): Inconvenient, yes, but we will do our best. Damage will be compensated, including crop lost, land disturbance and road damages.

Hearing no further comment, the Public Hearing was closed at 1:10 pm.

Town of Barrington:

The Public Hearing was called to order at 3:00 pm by Yates County IDA Executive Director Steve Isaacs and he introduced Russ Gaenzle, Julie Cox and Patti Paul. The purpose of the Public Hearing was explained to hear comments on the proposed financial assistance to Empire Pipeline. The Yates County IDA has received an application for financial assistance and in accordance with GML is holding a series of Public Hearings on the proposed assistance package.

Isaacs explained that no decisions have been reached on the requested financial assistance and that all comments received would become part of the project record and made available to the Yates County IDA Board of Directors.

Russ Gaenzle opened the meeting for comments.

Eileen Farnan, Town of Barrington Supervisor: I have concern over the proposed PILOT. The length of time is too long. The project lacks any new job creation, and there are few benefits to the Town of Barrington.

Julie Cox (Reply): The project would add new tax revenue to the county, at no cost to the constituents and with no demand for services. There would be no reduction in current tax revenues. There would be local benefit to area small businesses.

Freeman Freeman: What does the term "local" mean?

Julie Cox (Reply): Mainly, the local affect would be at the county level, with some regional affect. It would be through purchases, lodging, and essential goods over about a six month period.

Freeman Freeman: There is an extremely small town share of any PILOT payment or small business benefit. My concern is not for any regional effect or larger view, but rather what does it mean to the town.

Eileen Farnan: What about road damage and the cost to repair. Any sales tax generated by the this project or its workers does not help the town, it is all kept by the County.

Julie Cox (Reply): The road repair is the responsibility of Empire Pipeline, in accordance with the FERC permitting process.

Carolyn Benedict: What if there is no PILOT? The PILOT is just a delay to full assessment without any reduction in existing tax revenue.

Julie Cox (Reply): Yes. The project may not go forward without the proposed PILOT.

Jeff Morehouse: What is the assessment of the lands to be included in the ROW now?

Russ Gaenzle (Reply): That is unknown and it would be difficult to calculate without figuring out the amount of property in the ROW from each affected parcel and proportioning out the amount from the assessed value of the entire property.

Eileen Farnan: How does the PILOT calculation take place?

Steve Isaacs (Reply): Each Tax Collector responsible for sending out tax bills hand calculate the PILOT bills based on the ORPS assessment and the percentage of the abatement for that particular year.

Jeff Morehouse: PILOTs have worked well for the Penn Yan CSD in the past.

Eileen Farnan: There is bound to be a negative impact on tiled fields. The support is not there for the proposed abatements.

Carolyn Benedict: PILOTs are typically important for new businesses in the early years of any project.

Freeman Freeman: Will the project go forward without the proposed incentives?

Julie Cox (Reply): In reply to Carolyn's question, yes, the early years are critical. With an increased project cost of \$30M and limited options to reduce other expenses, we are forced to seek tax relief. To the second question, the project might very well not go forward without the proposed tax relief we have requested.

Eileen Farnan: Why a 75% abatement in the beginning? Why that much?

Jeff Morehouse: Are there any negotiations on the PILOT terms?

Steve Isaacs (Reply): The terms of the PILOT have not been decided by the Agency.

Carolyn Benedict: Compared to other PILOTs we have seen with other projects, this one is not as aggressive as we have seen.

Eileen Farnan: This project is not the same as an industrial project, there are no new jobs and limited local benefit. The last gas company that went through the area left a bad situation.

Freeman Freeman: Has the environmental impact been evaluated?

Russ Gaenzle (Reply): The federal review under FERC, called NEPA, has been completed and pre-empts SEQR. The documentation is available on-line and the Town Supervisor has the documents on disc, as well.

Ken Christiansen Jr.: What about abatements on franchise taxes or other taxes based on the volume and cost of the gas? Is this a federal project? How was the route determined? What about the tap to be made available to the county?

Steve Isaacs (Reply): The IDA has no affect on any franchise taxes. Empire Pipeline is the transporter of the gas and does not factor into the sale of the product.

Julie Cox (Reply): The project would be privately owned, but does require federal approval to be granted. The route also required federal approval. The company is offering one tap to the county, at a location of their choice.

Eileen Farnan: If there was no PILOT and the project stopped, would the federal approval be transferable to another company?

Julie Cox (Reply): No

Ken Christiansen Jr.: Would there be any pump stations in Yates County?

Julie Cox (Reply): No. There is just a compressor station located in Oakfield of Genesee County.

Hearing no further comment, the Public Hearing was closed at 3:40 pm.

Town of Starkey:

The Public Hearing was called to order at 5:00 pm by Yates County IDA Executive Director Steve Isaacs and he introduced Russ Gaenzle, Julie Cox and Patti Paul. The purpose of the Public Hearing was explained to hear comments on the proposed financial assistance to Empire Pipeline. The Yates County IDA has received an application for financial assistance and in accordance with GML are holding a series of Public Hearings on the proposed assistance package.

Isaacs explained that no decisions have been reached on the requested financial assistance and that all comments received would become part of the project record and made available to the Yates County IDA Board of Directors.

Russ Gaenzle opened the meeting for comments.

Sayre Fulkerson, Yates County Farm Bureau President: read the attached statement for the record.

Bob Boudinot: The IDA should deny the requested tax abatements.

Julie Cox (Reply): The issue of Empire Pipeline stating initially that we would not be seeking abatements is true, and we regret that. The rising cost of the project made it necessary. It is one of the only expense reduction options left to us.

Sayre Fulkerson: There would be other companies out there to take over if Empire can not complete the project without incentives. If this is lost, it is not lost on the County's account, but company misjudgment on project costs. Concerned about property and land damage as a result of the project.

Bob Boudinot: Our costs are rising, too, and there is no assistance for us.

Julie Cox (Reply): The rising costs of the project were unprecedented in the industry, not a manner of mismanagement by the company. The project will create new tax revenues. There will be a significant program in place for farmland mitigation and we are committed to that process.

Hearing no further comment, the Public Hearing was closed at 5:10 pm.