

FULTON COUNTY INDUSTRIAL DEVELOPMENT
AGENCY

TUESDAY
JANUARY 14, 2025
4:00 P.M.
PLANNING DEPARTMENT CONFERENCE ROOM
ANNUAL MEETING
AGENDA

PRESENT:

- ___ MIKE FITZGERALD, CHAIRMAN
- ___ SUE COLLINS, VICE CHAIRMAN
- ___ JOSEPH SEMIONE, MEMBER
- ___ DAVID D'AMORE, MEMBER
- ___ DR. GREG TRUCKENMILLER, MEMBER
- ___ JOSEPH GILLIS, SECRETARY
- ___ DAN ROUNDS, MEMBER (ZOOM)
- ___ KARA LAIS, FITZGERALD, MORRIS, BAKER, FIRTH PC
- ___ SCOTT HENZE, PLANNING DIRECTOR
- ___ RON PETERS PRESIDENT & CEO, FULTON COUNTY CENTER FOR REGIONAL GROWTH
- ___ JON R. STEAD, FULTON COUNTY ADMINISTRATIVE OFFICER
- ___ JAMES MRAZ

I. MINUTES FROM DECEMBER 10, 2024 MEETING:

** Meeting minutes were emailed to all members on December 11, 2024.*

MOTION:
MADE BY:
SECONDED:
DISCUSSION:
VOTE:

II. BUDGET REPORT:

MOTION:
MADE BY:
SECONDED:
DISCUSSION:
VOTE:

III. COMMITTEE REPORTS:

A. Nominating Committee:

1. Report of Nominating Committee: 2025 Officers

Chairman	:	Sue Collins
Vice-Chairman	:	Dr. Greg Truckenmiller
Treasurer	:	Mike Fitzgerald
Secretary	:	Joe Gillis

IDA DISCUSSION:

IDA ACTION:

MOTION: To accept the report of the Nominating Committee for 2025 IDA Officers

MADE BY:

SECONDED:

DISCUSSION:

VOTE :

B. Audit Committee:

- Monthly Bank Reconciliation Report: Joe Semione

IDA DISCUSSION:

C. Governance Committee:

- No report.

D. Finance Committee:

- No report.

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

1. FCCRG Report: (See attached.) Ron Peters

IDA DISCUSSION:

V. OLD BUSINESS:

A. Nexus Renewables :

- Nexus continues to wait until the Town of Johnstown Moratorium expires so it can file an application for a new Special Use Permit.

B. Crossroads Park Housing:

- Howard Hannah continues to market the 26 +/- acres for housing

VI. NEW BUSINESS:

A. 2025 Committee Appointments:

- Per the IDA's Bylaws, the Chairman shall annually appoint members to the IDA's Committees.
- The following are the Chairman's Committee appointments for 2025.

<u>Committee</u>	<u>2024</u> <u>Appointees</u>	<u>2025</u> <u>Appointees</u>
1. Audit	1. Joseph Semione 2. David D'Amore 3. Dr. Greg Truckenmiller 4. Sue Collins	1. Dr. Greg Truckenmiller 2. Joe Semione 3. Mike Fitzgerald 4. Sue Collins
2. Governance	1. David D'Amore 2. Dr. Greg Truckenmiller 3. Dan Rounds	1. Joe Semione 2. Dr. Greg Truckenmiller 3. Dan Rounds
3. Finance	1. Joe Gillis 2. Mike Fitzgerald 3. Dan Rounds	1. Joe Gillis 2. Dan Rounds 3. Mike Fitzgerald
4. Nominating	1. D. Greg Truckenmiller 2. Mike Fitzgerald 3. Joe Gillis 4. Sue Collins	1. Mike Fitzgerald 2. Joe Gillis 3. Sue Collins 4. Dr. Greg Truckenmiller

B. Staff Appointments:

1. The IDA's Bylaws require that the IDA Board annually appoint:
 - Executive Director
 - Chief Financial Officer
 - Auditor

2. Appointment of Executive Director:

IDA ACTION:

MOTION: To appoint Scott Henze to serve as the IDA's Executive Director for 2025 at a salary of \$25,500 year.

MADE BY:

SECONDED:

DISCUSSION:

VOTE:

3. Appointment of Chief Financial Officer

IDA ACTION:

MOTION: To appoint Carol Ellis as the Chief Financial Officer for 2025 at a salary of \$8,150.

MADE BY:

SECONDED:

DISCUSSION:

VOTE:

4. Appointment of Auditor:

- It is recommended that the IDA retain West & Company as the IDA's Auditor.
- Total Fee: \$10,000
- These funds are included in the 2025 Budget.

IDA ACTION:

MOTION: To appoint West & Company to serve as the IDA's Auditor for 2025 and to authorize the Chairman to execute an Agreement with West & Company to audit the IDA's 2024 financial statements at a fee of \$9,500 and to provide 2025 payroll services for \$500.

MADE BY:

SECONDED:

DISCUSSION:

VOTE:

C. Legal Services:

- It is recommended that the IDA retain Fitzgerald, Morris, Baker, Firth, PC to serve as IDA Counsel in 2025.
- Budgeted: \$9,000

IDA ACTION:

MOTION: To authorize the Chairman to execute an Agreement with Fitzgerald, Morris, Baker and Firth, PC to provide legal services in 2025.

MADE BY:
SECONDED:
DISCUSSION:
VOTE:

D. Consultant Services:

- It is recommended that the IDA retain Jim Mraz as a consultant in 2025.
- Budgeted: \$5,000.

IDA ACTION:

MOTION: To authorize the Chairman to execute an Agreement with Jim Mraz to provide Consulting Services in 2025.

MADE BY:
SECONDED:
DISCUSSION:
VOTE:

E. Depositories of IDA Funds:

- Per the IDA's Investment Policy, it is recommended that NBT Bank, Citizens Bank, Community Bank and Key Bank all be designated as eligible depositories of IDA funds.

IDA ACTION:

MOTION: To designate NBT Bank, Citizens Bank, Community Bank and Key Bank as eligible depositories of IDA funds for 2025.

MADE BY:
SECONDED:
DISCUSSION:
VOTE:

F. 2024 Financial Report:

- Chief Financial Officer has finalized the IDA's 2024 Financial Report.
- The Financial Report has been sent to West & Company to audit.

IDA DISCUSSION:

G. 2024 IDA Board Performance Questionnaire:

- The 2009 Public Authorities Reform Act requires IDA Board members to annually evaluate its performance.
- Evaluation forms were completed by all IDA Board members at the November 12, and December 10, 2024 meetings.
- Executive Director has collected the forms and tallied the results.
- See attached results.

IDA DISCUSSION:

IDA ACTION:

MOTION: To authorize the Executive Director to post the 2024 Summary of IDA Board Performance Questionnaire on the IDA's website and include it into the Annual Report.

MADE BY:

SECONDED:

DISCUSSION:

VOTE :

H. 2024 Performance and Measurement Report:

1. Background:

- The 2009 Public Authorities Reform Act requires public authorities to develop performance measures to help determine how well they are carrying out their mission.
- Performance measures assist the IDA Board and management to evaluate and monitor whether the IDA's authority's policies and operating practices are in accordance with its mission.

2. Review 2024 Performance and Measurement Report:

- See attached.

IDA DISCUSSION:

IDA ACTION:

MOTION: To authorize the Chairman to sign the 2024 Performance and Measurement Report, to authorize the Executive Director to post this report on the IDA's website and to include it into the Annual Report.

MADE BY:
SECONDED:
DISCUSSION:
VOTE:

I. 2024 Assessment of the Effectiveness of the IDA's Internal Financial Control System:

1. Background:

- The IDA's Policy 11 requires the IDA Board and management to complete an Annual Assessment of the Effectiveness of the IDA's Internal Financial Control System.

2. IDA Board's Assessment of IDA's Internal Financial Control System.

- The IDA Board reviewed the financial control system at its December 10, 2024 meeting and found it to be acceptable.

3. Management's Assessment of Internal Financial Control System:

- IDA management has assessed the Internal Financial Control System and has found it to be effective. No changes are recommended at this time.

4. Internal Financial Control System Certification Statement:

- IDA's Policy 11 Annual Assessment of the Effectiveness of Internal Controls requires the IDA Board to adopt a certification statement upon completion of its annual review of the IDA's Internal Financial Control System.

- Proposed 2024 Certification Statement reads as follows:

“The IDA Board has documented and assessed the Internal Financial Control System of the Fulton County Industrial Development Agency for the year ending December 31, 2024. The IDA Board has determined that the existing internal financial controls are acceptable.”

IDA DISCUSSION:

MOTION: To adopt the Certification Statement presented above, to authorize the Executive Director to acknowledge in PARIS that said Certification Statement was approved by the IDA Board, to authorize the Executive Director to post this certification on the IDA's website and to include it into the Annual Report.

MADE BY:
SECONDED:
DISCUSSION:
VOTE:

J. Fulton County Center for Regional Growth Membership:

- In 2016, the IDA became a Gold Member of the FCCRG.
- FCCRG has revised its membership categories to now be:
 - 1) Tier 1 – Level \$150.00 (Tier 1 Micro Business 1-5 employees)
 - 2) Tier 2 – Level \$250.00 (Tier 2 Business w/ 6-20 employees)
 - 3) Tier 3 – Level \$500.00 and up (Tier 3 Business w/21 or more employees)
- In 2024, the IDA was a Tier 3 member at \$1,000.
- It is recommended that the IDA renew as a Tier 3 level for \$1,000.
- \$1,000 is included in the 2025 Budget for this membership.

IDA DISCUSSION:

IDA ACTION:

MOTION:

MADE BY:
SECONDED:
DISCUSSION:
VOTE:

K. 2024 IDA Goals:

1. 2024 Goals:
 - a) Continue Board training.
 - b) Get a liaison from the Board of Supervisors.
 - c) Find shovel-ready sites.
 - d) Market Crossroads Business Park for housing.
 - e) Participate in the preparation of County Economic Development Strategy.
 - f) Hire a grant writer to obtain grants.
 - g) Hold meeting between FCCRG and IDA Boards.

2. 2025 Goals:

- a)
- b)
- c)
- d)
- e)
- f)
- g)

IDA DISCUSSION:

L. 2024 ST-340 Forms:

1. Background:

- Any company receiving sales tax benefits from an IDA is required to file an ST-340 Form with the NYS Department of Taxation and Finance.
- ST-340's must be filed by the end of February for the previous year.
- ABO wants IDA's to review these forms to verify that the project met or exceeded its total project cost.
- Vireo Health has filed their ST340 form for 2024 with NYS Taxation and Finance and the IDA (see attached)

2. Vireo Health Project:

- 1) In 2021, the IDA authorized sales tax exemptions be provided to the proposed Vireo Health Project. The following is a summary of what has transpired since 2021:

➤ Total Project Cost: Original	: \$55,000,000
➤ Total Project Cost: Revised	: \$77,465,438
➤ Total Costs Subject to Sales Tax: Original	: \$28,144,000
➤ Total Cost Subject to Sales Tax: Revised	: \$41,056,682
➤ Total Sales Tax Exemptions Approved: Original	: \$ 2,251,520
➤ Total Sales Tax Exemption Approved: Revised	: \$ 3,284,535
➤ Total Sales Tax Exemptions Claimed in 2021	: \$ 1,086,510
➤ Total Sales Tax Exemptions Claimed in 2022	: \$ 1,010,843
➤ Total Sales Tax Exemptions Claimed in 2023	: \$ 684,574
➤ <u>Total Sales Tax Exemption Claimed in 2024</u>	<u>: \$ 126,039</u>
➤ Total Sales Tax Exemptions Available	: \$ 376,569
➤ Original Deadline for Using Exemptions	: July 31, 2022

- Revised Deadline for Using Exemptions : May 31, 2023
- Revised Deadline for Using Exemptions : March 31, 2024

- 2) As shown above, Vireo did not take more sales tax exemptions than was authorized by the IDA Board.

IDA DISCUSSION:

M. Vireo Sales Tax Exemptions:

1. Background:

- a. In 2021, the IDA Board, authorized granting sales tax exemptions to the Vireo Health Project.
- b. The Project was the construction of a 324,000 sf facility at Tryon.
- c. The IDA Board's basis for granting these exemptions included:
 - 1) **Vireo would make a private sector investment of \$55 million.**
 - 2) **Vireo would create approximately 120 new jobs.**
- d. Vireo has honored its commitment to invest \$55 million however, it has yet to create the 120 new jobs.

2. Status:

- Vireo recently completed the construction of its 324,000 sf facility.
- It took a significantly longer time to complete the construction of this facility.
- At present, Vireo has only completed ½ of the interior spaces on this 324,000 sf facility.
- Vireo is now looking to complete the other ½ of the interior spaces in the facility. However, to do so it needs additional power from National Grid.
- On December 13, 2024, Vireo was asked to develop and submit to the IDA a plan and schedule for creating the 120 new jobs it said it was going to create.
- Vireo has submitted this plan and schedule: See handout.

3. Recapture:

- The IDA Uniform Tax Exemption Policy (UTEP) includes the following language regarding recapturing sales tax exemptions:
 - 1) Pursuant to Section 875 of the Act, the Agency shall recapture unauthorized New York State and local sales and use tax benefits whenever the benefits were:
 - Not entitled or authorized to be taken
 - In excess of the amounts authorized
 - For unauthorized property or services or

- For property or services not used according to the terms of the project agreement with the Agency.
- 2) When the Agency determines that unauthorized sales tax exemption benefits were taken, the Agency shall notify the Project Operator, in writing, that:
 - a. Unauthorized sales tax benefits were taken by the Project Operator.
 - b. Identify the amount of unauthorized sales tax exemption benefits taken that is being recaptured.
 - c. Identify the date when the amount of unauthorized benefits shall be repaid to the Agency.
 - d. The consequences for not repaying the unauthorized sales tax benefits.
 - 3) The failure by a Project Operator to repay the Agency the unauthorized sales tax exemption benefits received shall be ground for the New York State Tax Commissioner to assess and determine State sales and use tax due from the Project Operator under article twenty eight of the New York State Law together with any relevant penalties and interest due on such amounts.
 - 4) When the Agency recovers or recaptures unauthorized or excessive sales tax exemptions the Agency shall, within (30) days, remit said sales tax to the Commissioner of the NYS Department of Taxation and Finance using Form ST-65 IDA Report of Recaptured Sales and Use Tax Benefits.
 - 5) The Agency shall:
 - a. Keep records of the New York State and local sales tax exemptions provided to each project, with such records available to the New York State Tax Commissioner upon request.
 - b. Report with thirty (30) days of providing any financial assistance in the form of a sales and use tax exemption, the project, the estimate amount of the exemption and other information as may be required by the New York State Tax Commissioner (Form ST-60).
 - c. The Agency shall file an annual report Form ST-62 with the New York State Tax Commissioner detailing its terms and conditions and its activities in recapturing any unauthorized New York sales and use tax exemptions.

4. Next Step:

- It is recommended that the IDA Board consent to Vireo's Plan and Schedule to create 120 new jobs and that if this Plan and Schedule is not adhered to, the IDA Board pursue recapturing the sales tax exemptions taken by Vireo.

IDA DISCUSSION:

IDA ACTION: To consent to Vireo's Plan and Schedule for creating 120 new jobs and if that Plan and Schedule is not adhered to, the IDA Board would pursue recapturing all of the sales tax exemptions taken by Vireo.

MADE BY:

SECONDED:

VOTE:

N. Winstanley Enterprises Project:

1. Background:

- In November 2021, the IDA executed a Purchase and Sale Agreement with Winstanley Enterprises (WE) to purchase all 240+/- acres of land at Tryon.
- In November 2022, the IDA and WE executed Amendment No. 1 to reduce the purchase price of the lands higher than anticipated due to the costs WE would incur to demolish the existing buildings.
- In December 2022, the IDA and WE executed Amendment No. 2 to extend the Due Diligence completion date from December 31, 2022 to February 28, 2023.
- In January 2023, the IDA and WE executed Amendment No. 3 to convert the Purchase and Sale Agreement in a 3-year Option Agreement with said option Agreement expiring on February 28, 2026.
- In December 2023, the IDA and WE executed Amendment No. 4 which reduced the annual payment under the Option Agreement to \$25,000 and stipulated that WE would return all Tryon domain names back to the IDA if Winstanley decided to not renew Option Agreement.

2. Proposed Amendment No. 5

- It is recommended that the IDA approve Amendment No. 5, which would extend the expiration date of the Option to February 28, 2029.

IDA DISCUSSION:

IDA ACTION:

MOTION: To authorize the Chairman to execute Amendment No. 5

MADE BY:

SECONDED:

VOTE:

VII. OTHER BUSINESS:

A. Fire Tax Bills:

1. Background:

- IDA owns vacant land on the east side of NYS Route 30A and in the Tryon Technology Park in the Town of Johnstown.

- Even though the IDA is tax exempt, it is not exempt from Fire Taxes.
2. Town of Johnstown Fire Tax Bill for Property on NYS Route 30A:
 - 2025 Fire Tax Bill:
 - 174.-2-65 : \$ 47.89
 3. Town of Johnstown Fire Tax Bill for Tryon Technology Park Property:
 - 2025 Fire Tax Bills are:
 - 164.-2-16.5 : \$ 656.00

IDA DISCUSSION:

IDA ACTION:

MOTION: To authorize the payment of these two (2) Town of Johnstown Fire Tax bills.

MADE BY:

SECONDED:

DISCUSSION:

VOTE:

B. Board Training:

1. Duties and Responsibilities of IDA Board Members per Section 2824 of Public Authorities Law and IDA Bylaws:

- (a) Execute direct oversight of the Agency's Executive Director, Chief Financial Officer, Legal Counsel, Auditor and other staff in the effective and ethical management of the Agency.
- (b) Understand, review and monitor the implementation of fundamental financial and management controls and operational decisions of the Agency.
- (c) Establish policies regarding the payment of salary, compensation and reimbursements to, and establish rules for the time and attendance of, the Executive Director and management. **[NOTE: All adopted.]**
- (d) Adopt a code of ethics applicable to each officer, director and employee that, at a minimum, includes the standards established in section seventy-four of the public officers law. **[NOTE: Adopted]**
- (e) Establish written policies and procedures on personnel including policies protecting employees from retaliation for disclosing information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee or board member of the Agency, investments, travel, the acquisition of real property and the disposition of real and personal property and the procurement of goods and services. **[NOTE: The IDA Board has adopted the following policies]:**

<u>Policy</u>	<u>Date Adopted/Amended</u>
01. Compensation and Reimbursement	9/30/2008
02. Attendance	9/30/2008
03. Travel	9/30/2008

04.	Ethics	6/14/2022
05.	Procurement	9/30/2008
06.	Property Disposition	4/12/2022
07.	Whistleblower Protection	9/30/2008
08.	Extension of Credit to Board Members and Staff	9/30/2008
09.	Check Writing	1/31/2013
10.	Credit Card	9/3/2010
11.	Annual Assessment of the Effectiveness of Internal Controls	1/14/2020
12.	Approval of Subleases	2/11/2011
13.	Discretionary Funds Policy	6/6/2013
14.	Uniform Tax Exemption Policy	10/10/2023
15.	Investment Policy	7/12/2022
16.	Sexual Harassment Prevention Policy	11/14/2018

- (f) Adopt a defense and indemnification policy and disclose such plan to any and all prospective board members. **[NOTE: The IDA Board and staff are covered under the County's Public Officer Liability Policy provided by the New York Municipal Insurance Reciprocal]**
- (g) Perform each of their duties as board members, including but not limited to those imposed by this section, in good faith and with that degree of diligence, care and skill which an ordinarily prudent person in like position would use under similar circumstances, and may take into consideration the views and policies of any elected official or body, or other person and ultimately apply independent judgment in the best interest of the authority, its mission and the public.
- (h) At the time that each members takes and subscribes his or her oath of office, execute an acknowledgment, in the form prescribed by the Authorities Budget Office after consultation with the Attorney General, in which the board member acknowledges that he or she understands his or her role, and fiduciary responsibilities and acknowledges that he or she understands his or her duty of loyalty and care to the organization and commitment to the Agency's mission and the public interest. **[NOTE: All members have signed this Acknowledgement Form]**

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.**

IDA ACTION:

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 :
DISCUSSION:
TIME :

MOTION: To go out of Executive Session.

MADE BY:
SECOND:
DISCUSSION:
VOTE:
TIME:

VIII. NEXT MEETING:

Tuesday
February 11, 2025
8:00 a.m.

IX. CLOSE MEETING:

MOTION:
MADE BY:
SECONDED:
DISCUSSION:
VOTE:



**Adirondack
Park Agency**

KATHY HOCHUL
Governor

BARBARA RICE
Executive Director

December 26, 2024

Scott Henze – Via Email to shenze@fultoncountyny.gov
Fulton County Planning Director
1 East Montgomery Street
Johnstown, NY 12095

RE: R2024-0315
SEQR Lead Agency Status for the Berg Subdivision

Dear Scott Henze:

Thank you for contacting the Adirondack Park Agency regarding the State Environmental Quality Review (SEQR) process for the above referenced project. The Agency has no objection to the designation of the TOWN OF BROADALBIN PLANNING BOARD as lead agency for this project for funding or planning purposes.

Please note that the scope of the Adirondack Park Agency's environmental permitting review is not limited by another agency's findings regarding the significance of any environmental impacts pursuant to SEQR. This letter is not a determination as to whether a permit or variance is required from this Agency for the above-referenced project.

If you have any questions, please feel free to contact me.

Sincerely,

/s/ Matthew Brown

Matthew Brown
Project Administrator