

# FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

THURSDAY  
JUNE 6, 2013  
8:00 A.M.

PLANNING DEPARTMENT CONFERENCE ROOM

## AGENDA

PRESENT:

\_\_\_ JOE GILLIS, CHAIRMAN  
\_\_\_ LEN HOUSE, VICE CHAIRMAN  
\_\_\_ WILLIAM SULLIVAN, TREASURER  
\_\_\_ TODD RULISON, SECRETARY  
\_\_\_ FRAN REED, MEMBER  
\_\_\_ JOSEPH SEMIONE, MEMBER  
\_\_\_ GEORGE BEVINGTON, MEMBER  
\_\_\_ JAMES MRAZ, EXECUTIVE DIRECTOR  
\_\_\_ KARA LAIS, FITZGERALD, MORRIS, BAKER, FIRTH PC  
\_\_\_ RALPH OTTUSO, LIAISON, ECONOMIC DEVELOPMENT COMMITTEE  
\_\_\_ MIKE REESE, PRESIDENT/CEO, FULTON COUNTY CENTER FOR REGIONAL GROWTH  
\_\_\_ LEADER HEARALD

### **I. MINUTES FROM MARCH 19, 2013 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:

- No report.

#### C. Governance Committee:

- Governance Committee has developed Discretionary Funds Policy that will be discussed under New Business.

#### D. Finance Committee:

- No report.

### IV. OLD BUSINESS:

#### A. Tryon Technology Park and Incubator Center Project:

##### 1. Status Report:

- The IDA's requests for additional information and clarifications were sent to OGS/EDS on April 4, 2013.

##### 2. Road Construction Project:

- Fulton County obtained a \$2.0 million grant from ESD to install new water and sewer lines and reconstruct a portion of the existing interior access road.
- Design work on hold until title to property has been deeded to IDA.

IDA DISCUSSION:

V. **NEW BUSINESS:**

A. **CIC Sublease Approval:**

1. **Background:**

- IDA's Policy 12: Approval of Subleases requires the IDA to approve all subleases on properties the IDA owns.

2. **Application for Sublease Approval:**

- IDA has received from the CIC an Application for Sublease Approval.
- The Application requests the IDA's approval of a sublease with Yusen Logistics for the IDA's property at 160 Enterprise Drive in the Johnstown Industrial Park.
- Sublease Term: May 1, 2013 to May 1, 2015
- Area Subleased: 90,000 sf
- Total Building Size: 113,400 sf
- IDA's policy requires Annual Compliance Fee of \$500 payable on January 15<sup>th</sup> of each year. Fee paid by CIC.

IDA DISCUSSION:

IDA ACTION:

MOTION: To approve the CIC's Application to enter into a 2-year sublease with Yusen Logistics for the IDA property at 160 Enterprise Drive in the Johnstown Industrial Park.

MADE BY:

SECONDED:

VOTE:

B. **Proposed Policy 13: Discretionary Funds Policy:**

1. **Background:**

- The Authority Budget Office (ABO) now requires Public Authorities to adopt a Discretionary Funds Policy to help ensure that funds only be expended for purposes that advance an Authority's mission and objectives.
- The ABO offers a Model Policy for Authorities to use. The Executive Director drafted a Discretionary Funds Policy based upon the ABO's Model and reviewed it with the Governance Committee.

2. **Governance Committee Recommendation:**

- The Governance Committee has reviewed the draft Policy and recommends that it be adopted.
- See handout.

IDA DISCUSSION:

IDA ACTION:

MOTION: To approve proposed Policy 13: Discretionary Funds Policy as recommended by the Governance Committee.

MADE BY:

SECONDED:

VOTE:

**C. Proposed “SMART Waters” System:**

1. Background:

A. Water:

At present, there are six (6) municipal water systems operating in Fulton County:

1. City of Gloversville
2. City of Johnstown
3. Village of Broadalbin
4. Village of Mayfield
5. Village of Northville
6. Sacandaga Park in the Town of Northampton

B. Wastewater:

At present there are five (5) municipal wastewater collection and treatment systems operating in Fulton County:

1. City of Gloversville
2. City of Johnstown
3. Village of Broadalbin
4. Village of Mayfield
5. Sacandaga Park

C. At present, the existing delivery approach of providing water and sewer services through the operation and maintenance of six (6) separate municipal water systems and five (5) wastewater collection and treatment systems has its challenges. Each system operates independently of each other and has its own distinct service area. No long-term strategy or plan exists for providing municipal water and sewer services to those areas in the County that desire or need these services.

2. Proposed Fulton County “SMART Waters” System:

Community leaders believe there is a better, more efficient model to provide municipal water and wastewater services to its residents and businesses. Fulton County believes that a regional approach to delivering water and wastewater services would be a more efficient

model than the existing delivery approach. This regional approach would be known as the Fulton County “SMART Waters” System.

The Fulton County Board of Supervisors is seeking proposals from qualified consultants to test the following hypothesis:

**The operation and maintenance of Fulton County’s “SMART Waters” System would be a more efficient model to deliver water and sewer services and to promote economic development in the Region than the existing approach of operating and maintaining independent systems.**

3. Potential Models to be Evaluated:

**Model 1: Create a Fulton County Water and Sewer Authority.**

Option 1: The County Authority would purchase existing water and sewer systems in Fulton County to operate and administer Fulton County’s “SMART Waters” System.

Option 2: The County Authority would purchase water and sewer capacity from existing water and sewer systems in Fulton County and use these capacities to operate and administer Fulton County’s “SMART Waters” System.

**Model 2: The existing Fulton County Water and Sewer Agency creates a Countywide Water and Sewer District.**

Option 1: The Agency would purchase existing water and sewer systems in Fulton County to operate and administer Fulton County’s “SMART Waters” System.

Option 2: The Agency would purchase water and sewer capacities from existing water and sewer systems in Fulton County to operate and administer Fulton County’s “SMART Waters” System.

IDA DISCUSSION:

**D. New Reporting Requirements for IDA’s:**

- Part J of Chapter 59 of the Laws of 2013 amended the General Municipal Law (GML) and the Public Authorities Law to make several reforms to how Industrial Development Agencies and Authorities (IDAs) provide state and local sales and use tax exemption benefits.

- The following is a summary of these new requirements:

a. Pre-2008 Retail Prohibition	No financial assistance shall be provided by IDAs for any project where: (i) Facilities or property are primarily used in making retail sales to customers who personally visit such facilities, and (ii) That facility or property constitutes more than one-third (1/3) of the total project cost.
b. Retail Project Exemptions	1. A tourism destination project. 2. A project in a highly distressed area. 3. A project that provides a product or service to the area that otherwise would not be available.
c. Permanent Private Sector Jobs Requirement	A project authorized under either Retail Exemption 2 or 3 from above must not be approved unless the agency shall find, after a Public Hearing, that undertaking the project will serve the public purpose by: (i) Preserving permanent, private sector jobs, or (ii) Increasing the overall number of permanent, private sector jobs in the State.  Where the agency makes such a finding, prior to providing financial assistance to the project by the agency, the CEO of the municipality for whose benefit the agency was created shall confirm the proposed action of the agency.
d. State and Local Sales Tax Exemption Recordkeeping	IDA's must keep records of State and local sales tax exemptions provided to each project and make such records available to the Tax Commissioner upon request.
e. State and Local Sales Tax Exemption Benefit Reporting	Within 30 days of providing financial assistance in the form of a State sales and use tax exemption benefit, an IDA must report to the Tax Commissioner the: (i) Amount of such benefits, (ii) The project to which they are being provided, and (iii) Any other information the Tax Commissioner may prescribe.  Failure to provide such report will result in an IDA losing its authority to provide State sales tax abatements, until such time as the report is filed.
f. State and Local Sales Tax Exemption Benefit Reporting Method	As determined by the Tax Commissioner, the report may be done: (i) In combination with the form that IDAs must file with the Tax Commissioner designating agents of the IDA, or (ii) It may be submitted separately.
g. Clawback/Recapture Provision	IDAs are required to recapture State sales tax benefits awarded to a project which are: (i) In excess of the amounts authorized, (ii) Are for property or services not authorized, or (iii) A project that failed to comply with a material term or condition to use property or services in the manner required by the agreement with the IDA.
h. Clawback/Recapture Provision Documentation & Use of Funds	IDAs must include in their project documents and resolutions terms and conditions of these provisions.  State sales tax benefits recaptured (including any penalties or interest the IDA imposes on such amounts) shall be remitted to the Department of Taxation and Finance within 30 days of recapturing such benefits.

i. Clawback/Recapture Reporting	IDAs must file an annual report with the Tax Commissioner detailing its terms and conditions related to these provisions and its activities to recapture unauthorized State sales tax benefits. The report is to be filed with Division of Budget, State Comptroller, ESD Commissioner, and legislative body of the jurisdiction served by the IDA.
j. Sales Tax Exemption Certificate	The form that IDAs file with the Tax Commissioner designating agents of the IDA cannot serve as a Sales Tax Exemption certificate. Use of this form for this purpose shall be deemed a fraudulent use or an intent to evade tax.
k. Publication/Availability of Resolutions & Project Agreements	<ol style="list-style-type: none"> <li>1. An IDA shall report and make available on the Internet, without charge, copies of its resolutions and agreements appointing an agent or project operator or otherwise related to any project it establishes.</li> <li>2. It shall also provide, without charge, copies of all such reports and information to a person who asks for it in writing or in person.</li> </ol>
l. State Sales Tax Agent Agreement Modification Reporting	Within thirty (30) days of the date an agent agreement is terminated, amended, revoked, or becomes invalid or ineffective for any reason, an IDA shall report to the Tax Commissioner on a form prescribed by the Tax Commissioner describing the reasons for such changes.

**VI. OTHER BUSINESS:**

**A. Executive Session:**

1. Background:

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 :

**VII. CLOSE MEETING:**

MOTION :  
MADE BY :  
SECONDED :  
VOTE :  
TIME :