

## **SPECIAL SESSION – APRIL 30, 2015**

The Legislature convened in special session, April 30, 2015 at 6:00p.m in the Legislative Chambers with Chairman Dennis presiding and Legislators Banach and Smith absent.

### **PUBLIC COMMENT**

Chris Bailey addressed the Legislature regarding the Fiber Project. Highlights from his comments are below.

Mr. Bailey stated that a lot has gone on regarding the fiber ring and he does not understand it. He doesn't understand the business model and the economics. Mr. Bailey stated the County received a grant and then added some funds. The County retained a local firm to provide guidance, they gave you guidance, giving them the only track to provide the County with the solution. The first solution was abandoned, this raises the question about the professional quality of the guidance. It also raises the question, how much of the funds that have been spent have been wasted. We still hear that the County will not own the ring when it's built, why not? We still hear that large entities such as the Sheriff's Office, the Hospital, Finger Lakes Community Health, and several large businesses will be subscribers to the ring. I've been told that these key players have already made other arrangements and they do not intend to use the ring. With the lost revenues from the players that are not going to play, has this been taken into account in the financial plan? What about the individuals in the county? Are the taxpayers going to benefit directly from the ring? The earlier version of the plan has stipulations that the county was going to guarantee profits to the people who were operating it. Is that stipulation still in the deal? If it is, could you explain why, also can you explain why the legislature would put this future burden on the taxpayers especially when we don't know if there will be a benefit. Why would the legislature guarantee anything to a private business? Mr. Bailey stated that if we have a contract that does include the county guaranteeing some kind of numeration to the owner operator that the statements and financial records should be audited and a provision should be in that agreement that it is subject to audit.

Chairman Dennis stated he has no knowledge of anyone guaranteeing anyone a profit. There is in this agreement once it's passed, a provision that we will be making a limited number of payments. But that does not guarantee a profit, there is no guarantee of profit.

Mr. Sackett moved to enter executive session to discuss a legal contract, seconded by Mrs. Percy.

The Legislature reconvened in open session at 7:45p.m. The following action was taken.

### **RESOLUTION NO. 122-15**

Mr. Paddock offered the following resolution and moved its adoption, seconded by Mr. Montgomery.

#### **AUTHORIZE CHAIRMAN TO SIGN A GRANT DISBURSEMENT AGREEMENT AMENDMENT WITH NEW YORK STATE URBAN DEVELOPMENT**

**CORPORATION d/b/a EMPIRE STATE DEVELOPMENT, REGARDING THE YATES COUNTY OPEN ACCESS FIBER NETWORK**

WHEREAS, regarding the Yates County Open Access Fiber Network, the County has by prior resolution authorized the Chairman to enter into a Grant Disbursement Agreement with New York State Urban Development Corporation d/b/a Empire State Development and upon approval by the County Attorney, to sign such Grant Disbursement Agreement, and any ancillary documentation related to the proper execution thereof; and

WHEREAS, it is contemplated that in connection with the execution of the Grant Disbursement Agreement, the signing of a Grant Disbursement Agreement Amendment will be necessary to make needed revisions to the Grant Disbursement Agreement and effectuate the subject Grant;

NOW, THEREFORE, BE IT RESOLVED, that the County is authorized to enter into a Grant Disbursement Agreement Amendment with New York State Urban Development Corporation d/b/a Empire State Development, and to this end, the Chairman of the Legislature, upon approval by the County Attorney, is hereby authorized to sign such Grant Disbursement Agreement Amendment, and any ancillary documentation related to the proper execution thereof; and be it further

RESOLVED, that copies of this resolution be given to the County Administrator, County Planner, County Treasurer and County Attorney.

VOTE: Unanimous

**RESOLUTION NO. 152-15**

Mr. Paddock offered the following resolution and moved its adoption, seconded by Mrs. Percy.

**AUTHORIZE CHAIRMAN TO ENTER INTO A DARK FIBER IRU AGREEMENT WITH SOUTHERN TIER NETWORK, INC. CONCERNING THE YATES COUNTY OPEN ACCESS FIBER NETWORK**

WHEREAS, Yates County (the "County") desires to establish an Open Access Model backbone network consisting of strands of fiber optic cable within the geographical area of Yates County and portions of Ontario and Schuyler Counties; for the purposes of broadband expansion, enhancement of economic development opportunities, improvement of healthcare and education, as well as general improvement of quality of life for its residents and interconnection with other telecommunications networks (the "Network"); and

WHEREAS, the County wishes to enter into an agreement with Southern Tier Network, Inc. ("STN"), wherein STN would construct, own, operate, manage and market the Network using Rights-of-Way, facilities, aerial attachments, underground conduit, poles and towers of various utilities, railroads and governmental entities and the County would receive an Indefeasible Right of Use to use 12 strands of said Network's dark fiber for the County's exclusive internal use (the "Dark Fiber IRU Agreement"); and

WHEREAS, to this end, a proposed Dark Fiber IRU Agreement between the County and STN has been duly submitted and presented to the Yates County Legislature at its special meeting held this 30th day of April, 2015;

NOW, THEREFORE, BE IT RESOLVED, that the County is authorized to enter into a Dark Fiber IRU Agreement with STN, and be it further

RESOLVED, in exhibit A-1 of the aforementioned Dark Fiber IRU Agreement, the Rushville/Potter connection becomes optional and the Route 14/Dundee connection becomes part of Phase 3, and be it further

RESOLVED, that to this end, the form and substance of the aforementioned proposed Dark Fiber IRU Agreement between Southern Tier Network, Inc. and Yates County presented at this special meeting of the Yates County Legislature on April 30, 2015, is hereby approved and the Chairman of the Legislature is hereby authorized on behalf of the County to sign said Dark Fiber IRU Agreement, and any ancillary documentation related to the proper execution thereof; and be it further

RESOLVED, that copies of this resolution be given to the County Administrator, County Planner, County Treasurer, County Attorney and Southern Tier Network, Inc.

VOTE: Unanimous

#### **RESOLUTION NO. 153-15**

Mr. Paddock offered the following resolution and moved its adoption, seconded by Mrs. Percy.

#### **AUTHORIZE CHAIRMAN TO ENTER INTO AN AGREEMENT AMENDING THE LICENSE AGREEMENT WITH KEUKA OUTLET DEVELOPMENT LLC CONCERNING THE PENN YAN MARINE PROPERTY**

WHEREAS, Yates County and Keuka Outlet Development LLC have entered into a certain License Agreement dated February, 2015 wherein the County granted Keuka Outlet Development LLC access prior to transfer of title to its parcel of real property commonly referred to as the Penn Yan Marine Property; and

WHEREAS, the parties now desire to amend certain provisions of the above recited License Agreement, as more particularly described and set forth in the proposed Amendment to License Agreement between Yates County and Keuka Outlet Development LLC that has been duly submitted and presented to the Yates County Legislature at its meeting held on April 30, 2015;

NOW, THEREFORE, BE IT RESOLVED, that on behalf of Yates County, the Chairman of the Legislature may enter into an agreement amending the aforementioned written License Agreement with Keuka Outlet Development LLC; and be it further

RESOLVED, that to this end, the form and substance of the aforementioned proposed Amendment to Development Agreement presented at the Yates County Legislature meeting held on April 30, 2015, is hereby approved and the Chairman of the Legislature is hereby authorized

on behalf of the County, to execute and deliver said proposed Amendment to License Agreement;  
and be it further

RESOLVED, that a copy of this resolution be given to the County Administrator, County  
Treasurer, County Planner and Keuka Outlet Development LLC.

VOTE: Unanimous

Mr. Paddock moved to enter executive session to discuss contract negotiations, seconded by Mr.  
Sackett.

Meeting adjourned at 7:50p.m.