

**MINUTES  
BOARD OF DIRECTORS  
FINGER LAKES REGIONAL TELECOMMUNICATIONS  
LOCAL DEVELOPMENT CORPORATION  
MARCH 24, 2006**

The meeting of the Finger Lakes Telecommunications Local Development Corporation (LDC) was called to order by Chief Executive Officer Edward Hemminger at 10:30 a.m. on March 24, 2006 in the County's Economic Development Conference Room.

In attendance were:

Members:

Mike Bell, Director of Tech Services, Canandaigua Brands  
Dan Fessenden, Executive Director, Cornell Ag & Food Tech Park  
Edward Hemminger, Chief Information Officer, Ontario County  
Wayne Houseman, Vice Chairman, Ontario County Board of Supervisors  
Michael Manikowski, Ontario County Economic Developer  
David R. Smith, CEO, Infotonics

Guests:

Darlys McDonough, Deputy County Administrator  
Roberta Hutchinson, Assistant Ontario County Economic Developer  
Matthew Crider, ECC Technologies  
Kurt Frenzel, ECC Technologies  
James Townsend, Esq., Remington, Gifford, Williams & Colicchio

Necessarily Absent:

Geoffrey Astles, Ontario County Administrator  
Jack McCabe, Associate Superintendent, BOCES  
Doug Mossbrook, Eagle Mountain, Inc.

### **UPDATES**

Ed Hemminger advised of the following as it related to publicity:

- He met with the combined Victor town and village board. Feedback was positive.
- He traveled to Albany with the BOCES legislative committee and promoted the fiber ring. Senator Nozzolio also spoke highly of the project.
- He provided a fiberoptic overview for the Victor high-tech business council.
- The local chambers will be putting together a program in about one-month, with approximately 150 invites being distributed. Copies of the "draft" information on the presentation were distributed.

### **APPROVAL OF MINUTES - FEBRUARY 24, 2006**

A motion was made by Mike Manikowski to approve the minutes of the February 24, 2006 meeting, seconded by Supervisor Houseman, and carried.

### **BYLAWS**

Members received an updated version of the bylaws. Jim Townsend spoke of membership consisting of persons who are members by virtue of the positions they hold. It was suggested that the bylaws be amended further to include a section allowing for teleconferencing as long as all participants can hear each other.

David Smith distributed a handout listing a few items for consideration. In response to the items listed, Jim Townsend advised that directors and officers would be indemnified while acting in their official capacity, and similar wording could be included in the bylaws. With regard to provisions for action by written consent

without a Board meeting, Jim Townsend advised that public entities have different requirements than private entities. With regard to designating officers authorized to sign checks on behalf of the corporation, Jim Townsend advised that banks will require a resolution designating such officers, and it wouldn't need to be included in the bylaws. Further action will be taken on this item next month when the banking relationships are established.

**ACTION:** Mike Manikowski made a motion to adopt the bylaws to include the teleconferencing and indemnification clause amendments. The motion was seconded by David Smith, and carried.

### **FUNDING**

It was noted that the \$1 million loan (pre-payment for services) would be paid back to the county when other debt had been satisfied. Mention was made of all the time, service, and travel Ed Hemminger has put into promotion efforts for the project, and what would be a reasonable amount to impose on the Council for county time.

Ed Hemminger advised that cable would be laid based upon demands or priority—a process that would be partly determined by the lending institutions. He also spoke of the county's interest in tying in the Hopewell complex, and noted that the complex was in need of fiber. With regard to Infotonics and the Ag Center, the direct link to Corning may be a benefit to the network, as it can be built for less. Ed Hemminger stated that if a piece of fiber could be leased for less than it would cost the LDC to build, then it would make sense to lease. Darlys McDonough reminded everyone that the theoretical priority approach was included in the draft concept of the initial listing, and that the project is for the entire county.

### **CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY (CPCN)**

Mike Manikowski made a motion to prepare a resolution giving authorization to Ed Hemminger to sign and submit the CPCN to New York State for approval by the Public Safety Commission after a 90-day public comment period. The motion was seconded by Wayne Houseman, and carried.

**ACTION:** Resolution to be prepared for Ed Hemminger to sign and submit CPCN.

### **COST PROPOSALS/TIMELINES**

**ECC TECHNOLOGIES** - Ed Hemminger referred to the proposal received from ECC Technologies dated March 15, 2006, and spoke of the scope of work fees amounting to an estimated total of \$143,750 (\$125.00 hour). Board members received the proposed scope of work in spreadsheet form outlining four categories (legal and regulatory, funding and bonding, marketing, operational development) of work required with its estimated time frame. Following discussion on whether to make partial or full payment, Dan Fessenden spoke of the need for outlining the process and why ECC is the vendor of choice for the project.

With regard to ECC, the following was noted:

- ECC has knowledge of the project and the last three studies to enable them to take the county to the next level.
- ECC is on New York State contract as a telecommunications consultant.
- ECC has performed municipal work in the towns.

**JAMES TOWNSEND** – Jim Townsend presented a letter dated March 24, 2006 outlining specific details for proposing a flat monthly fee of \$1,000 for legal services, retroactive to January 1, 2006, plus out-of-pocket expenses. He spoke of the fee including coverage at monthly meetings, telephone conversations, etc. without having to worry about getting billed at the \$200 hourly rate charged by the firm. He further advised that the fee would be re-evaluated in September.

An additional estimated fee of between \$800 - \$1,400 would be charged for the preparation and review of a funding agreement, estimated to take about four to seven hours, and to be completed by May. The agreement will be developed with John Park's assistance. There would also be an additional fee of \$1,200 for preparation, negotiation, and executive of operating agreements with customers, users and providers, including the intermunicipal agreements. Also, if litigation or specialized practice were necessary before the Public Service Commission, there would be an additional charge.

**ACTION:**

1) Ed Hemminger will prepare written documentation/recommendation on ECC's and Jim Townsend's background and how it fits with the vision of the LDC prior to the next meeting. These recommendations would be reviewed and accepted by the Board prior to making final contracts with both ECC and Jim Townsend.

2) Motion made by Mike Manikowski to accept the estimate of \$143,750 submitted by ECC Technologies, noting that invoices would be reviewed as submitted. The motion was seconded by Dan Fessenden, and carried.

3) Mike Manikowski made a motion to move forward with the proposal and to have Jim Townsend forward his resume/credentials and background on similar projects to Ed Hemminger for inclusion in a resolution. In addition, he should also send along the credentials of The Baller Herbst Law Group for specialized legal services before the Public Service Commission, if needed. The motion was seconded by Dan Fessenden, and carried.

**UPDATE – INFOTONICS**

David Smith reported that he had no firm information from Albany about the \$17 million, of which \$2 million would be used for the fiber project. He did indicate that he was still waiting for funding for the past two years.

David Smith advised that the demo he spoke about at the last meeting is no longer available, and he spoke of the need for something similar to be used for teaching labs to expose students to future career opportunities.

**ACTION:** Ed Hemminger and David Smith to contact some big name companies to assist with the demo project. David Smith also indicated that he would continue to work on telecom contacts.

**OPEN DISCUSSION**

Discussion was held on making a recommendation to the Board of Supervisors to encourage consistent zoning or development within the County, allowing for conduit or fiber to homes, and roads when road work is undertaken.

Ed Hemminger talked about the loop concept of the ring and safety issues, and the input needed from the Sheriff with regard to terrorist concerns.

Being no further business to be addressed, Dan Fessenden made a motion to adjourn at approximately noon, seconded by Mike Bell, and carried.

Respectfully submitted,

*Margaret Cooper*

*Secretary to the County Administrator*

**Distribution:**

All attendees, present and absent  
Ontario County Board of Supervisors  
Darlys McDonough, Deputy County Administrator  
Roberta Hutchinson, Asst. Economic Developer

John Park, County Attorney  
Clerk, Board of Supervisors  
Cathy Bentzoni, County Finance Officer

