

**MINUTES**  
**FINGER LAKES REGIONAL TELECOMMUNICATIONS DEVELOPMENT CORPORATION**  
**DbA AXCESS ONTARIO**  
**BOARD OF DIRECTORS MEETING**  
**March 21, 2014**

Members Present:

Sean Barry, CIO  
John Garvey, County Administrator  
Vice Chair Ed Hemminger, SMS  
Michael Manikowski, Ontario County Economic Developer  
John Sheppard, Supervisor, Town of Seneca  
Robert Seem, Cornell Ag & Food Tech Park  
John Dorak, Noyes Memorial Hospital IT Director  
Camille Sorenson, Wayne Finger Lakes BOCES  
David R. Smith, Ontario County Citizen  
Geoff Astles, Retired County Administrator  
Doug Mossbrook, Eagle Mountain, Inc.  
Johnny Walker - SMS  
Mark Tolbert – Toptica USA

Members Absent:

Chair Donna Reeves-Collins, Rich Products

Others Present:

Andy Lukasiewicz, ECC Technologies  
Terry Phillips, Bonadio & Co.  
Gary Edom, CPA, Salmin, Celona, Wehrle & Flaherty, LLP  
Megan Connor Murphy, Dixon Schwabl  
Helen Zamboni, General Counsel

The March 21, 2014 meeting of the Board of Directors of the Finger Lakes Regional Telecommunications Development Corporation, dba Axxcess Ontario was called to order in the Ontario County Economic Development Conference Room, Mezzanine Level, County Municipal Building, 20 Ontario Street, Canandaigua, NY by Vice Chair Ed Hemminger at 1:30 p.m.

**APPROVAL OF THE MINUTES:**

Vice Chair Hemminger requested a motion to approve the minutes of February 21, 2014, with the corrections noted by General Counsel Helen Zamboni.

***Geoff Astles so moved, and David Smith seconded the motion. Motion Carried.***

**FINANCIAL UPDATE:**

Terry Phillips introduced Gary Edom, CPA, from Axxcess Ontario's independent audit firm Salmin, Celona, Wehrle & Flaherty, LLP. Gary noted that he had met with the Audit Committee just before the board meeting. In his presentation, Gary indicated that there were no issues with the audit; no journal entries were made by the auditors following review of management's financial statements; there were no disagreements with management; and that internal controls are sufficient. A "clean" opinion letter will be issued. Gary pointed out to the board that cash was down in 2013 as the corporation has not yet drawn on its line of credit to replenish the amounts laid out for the construction of a number of laterals built for Verizon Wireless during the year. Also, the liability for interest rate swap is considerably lower in 2013

that in was in 2012. However, in 2015, there will be a balloon payment due on the \$4.4M Citizens' in December 2015, so the board needs to be taking steps in 2014 to refinance this debt. Three customers make up 80% of the corporation's revenue. In response to a question from Camille Sorensen, Gary stated that given the long term nature of the contracts with these customers and who they are (Verizon Wireless, Iberdrola and Wayne Finger Lakes BOCES), this is not the kind of risk it would be for other entities in other industries where customers might have short term contracts.

***After discussion, John Sheppard moved that the board be given till noon on Wednesday, March 26, to review the draft audited financials, submit any questions thereon to CEO Sean Barry, and that the Executive Committee be authorized to approve the audited financials thereafter. The motion was seconded by David Smith. Motion carried.***

Gary Edom was then excused from the meeting. Sean Barry was directed to schedule a conference call for the Executive Committee on Wednesday, March 26 for the foregoing purpose.

Terry Phillips, Bonadio & Co. then reviewed the financials for January 2014 and relayed the decision by RBS Citizens to change one of the covenants in the corporation's 2012 non-replenishing line of credit from a debt service coverage ratio to a minimum unrestricted cash balance of \$1.25M. This was apparently done unilaterally by the bank in October 2013, but never communicated to the corporation or documented. A letter amendment will need to be signed once finalized by the bank.

***John Sheppard made the following motion, which was seconded by Johnny Walker, and carried:***

***RESOLVED, that the Chief Executive Officer, the Chairperson and the Treasurer of FLRTDC, or any one of the foregoing, is hereby authorized to execute and deliver a Letter Amendment, effective as of November 29, 2013, to the Non-Replenishing Line of Credit Loan Agreement dated July 13, 2012, as amended by a First Amendment thereto (the "Loan Agreement"), with RBS Citizens, N.A., amending Section 5.22 thereof to eliminate a debt service coverage ratio covenant and replace it with a minimum unrestricted cash on hand test.***

The following item of business was the adoption of the proposed Amended and Restated Bylaws, prepared by General Counsel Helen Zamboni. Ms. Zamboni noted that the changes include correction of some typographical errors, an expended description of the geographical area in which the corporation does business to align it with a similar item in the certificate of incorporation, and to address the extension of the corporation's network into Yates County. The major change to the bylaws is to approve the addition of two representatives from Yates County, to be appointed by Yates County, to the corporation's board. Bob Seem, chair of the Governance Committee, noted that these changes had been reviewed and approved by that committee and recommended for approval by the board.

***Mike Manikowski made the following motion, which was seconded by Bob Seem, and carried:***

***RESOLVED, that the proposed Amended and Restated By-Laws of the Corporation as recommended to the board by the Corporation's Governance Committee in the form attached hereto as Exhibit A be adopted, to be effective upon the execution of the Agreement between the Corporation and Yates County for the construction and operation of an open access network and the grant of an indefeasible right of use thereof to Yates County.***

Yates County has already identified its initial representatives and wanted the corporation to accept them before itself formally adopting a resolution appointing them.

***Doug Mossbrook made the following motion, which was seconded by Geoff Astles, and carried:***

***RESOLVED, that Shawna Bonshak, Yates County Planner, and Michael Linehan, President of the Yates County Chamber of Commerce, be accepted to serve on the corporation's board of directors as representatives of Yates County.***

Andy Lukasiewicz from ECC Technologies will communicate this to Yates County.

**SALES AND OPERATIONS UPDATE:**

*At 2:03p.m, a motion was offered by Mark Tolbert, seconded by John Sheppard to go into executive session for the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale of exchange of securities held by such public body but only when publicity would substantially affect the value thereof. Motion carried.*

*At 2:22 p.m., a motion was offered by Mark Tolbert, seconded by Johnny Walker to leave executive session. Motion carried.*

Andy Lukasiewicz informed the board that New York State has advised that if Syracuse Utilities will be providing construction services in connection with the Yates County project, so long as this company's terms are consistent with those that were the subject of competitive bidding at the start of the corporation's network, no bidding will be required at this time. Andy was instructed to contact Syracuse Utilities and obtain a letter from them to this effect. The Executive Committee, at its meeting on Wednesday, March 26, will review same and determine if acceptable.

Helen Zamboni told the board that she has sent out the job description for the independent consultant "COO" to several contacts to gauge interest, but has not heard anything back to date. Terry Phillips stated that he sent the CV of Mike Tschiderer to several for consideration. Sean was directed to be the contact person for collection of any CVs or resumes for this position.

*A motion was offered by Mark Tolbert, seconded by Doug Mossbrook, to adjourn at 2:45 p.m. Motion carried.*

**Distribution:**

All Board Members, present and absent  
Ontario County Board of Supervisors  
Clerk's Office, Board of Supervisors  
Clerk's Office, Board of Supervisors  
Darlys McDonough, Deputy County Administrator

John Garvey, County Administrator  
John Park, County Attorney  
Cathy Bentzoni, County Finance Officer  
Michael Wojcik, Economic Development