

February 26, 2008

McKean County Commissioners in regular session assembled on Tuesday, February 26, 2008 at 10:00 AM in the Commissioners meeting room, 500 West Main Street, Smethport, Pa. Present were Commissioners Joseph DeMott, Al Pingie, and Judy Church, Chief Clerk, Audrey Irons. Also present were Ray McMahon, Dustin Laurie, Kathy Roche, Dan Hartle, Lori Peace, Breanne Farrell, and George Petrisek.

The meeting was called to order by Mr. DeMott, followed by the Pledge of Allegiance and a moment of silence.

Moved by Mr. Pingie, seconded by Mrs. Church, to appoint the minutes of the February 5, 2008 meeting.

Vote on the above resolution, DeMott – yes. Pingie – yes. Church – yes. Three – yeas. No – nays. Carried.

Mr. DeMott – Opened the meeting for public comment.

No public comment.

Moved by Mr. Pingie, seconded by Mrs. Church, to approve payment of the following invoice:

1. YWCA - \$4,178.00 – representing the February payment for the Homeless Assistance Program they administer for the county – Grants Public Welfare Fund.

Vote on the above resolution, DeMott – yes. Pingie – yes. Church – yes. Three – yeas. No – nays. Carried.

Moved by Mr. Pingie, seconded by Mrs. Church, to enter into an agreement with Inmate Telephone, Inc. (ITI) for providing a non-coin operated telephone system for use by the inmates at the McKean County Prison. The cost of the agreement is \$18,225.00.

Vote on the above resolution, DeMott – yes. Pingie – yes. Church – yes. Three – yeas. No – nays. Carried.

Moved by Mr. Pingie, seconded by Mrs. Church, to enter into an agreement with James L. Baldwin for professional services to develop a plan including specific steps and software/hardware suggestions to implement the recommendations made in the study of the Prothonotary/Clerk of Courts Office by the National Center for State Courts.

Vote on the above resolution, DeMott – yes. Pingie – yes. Church – yes. Three – yeas. No – nays. Carried.

Moved by Mr. Pingie, seconded by Mrs. Church, to adopt the following resolution.

RESOLUTION 8 OF 2008

A RESOLUTION AUTHORIZING MCKEAN COUNTY TO ENTER INTO AN AGREEMENT WITH THE MCKEAN COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY AND ZITO MEDIA

COMMUNICATIONS, LLC TO PLAN, FINANCE, AND CONSTRUCT A CARRIER INDEPENDENT OPTICAL FIBER INFRASTRUCTURE PROJECT IN MCKEAN COUNTY

WHEREAS, it is desirable to have a state of the art carrier independent optical fiber broadband telecommunication system in place to meet the present and future needs of businesses, institutions, and individuals in McKean County; and

WHEREAS, it is recognized that a cooperative effort involving both the public and private sectors will be needed to plan, implement and complete the construction of a major optical fiber broadband telecommunication project; and

WHEREAS, McKean County, the McKean County Industrial Development Authority, and Zito Media Communications, LLC desire to work with one another to construct this telecommunication project in a timely manner; and

WHEREAS, the project will consist of the construction of optical fiber telecommunication infrastructure within McKean County which will provide state of the art telecommunication service to the Borough of Kane, Borough of Mt. Jewett, the Bradford Regional Airport, the Borough of Lewis Run, the City of Bradford, and increased connectivity to the Borough Smethport, the Borough of Port Allegany, and the Borough of Eldred; and

WHEREAS, McKean County, the McKean County Industrial Development Authority, and Zito Media Communications, LLC have agreed to cooperate with one another in order to enable this optical fiber telecommunication project to be constructed and have agreed to enter into an Agreement which identifies the primary elements of this project and which identifies the duties and responsibilities of each of the participating parties; and

WHEREAS, the Board of Commissioners of McKean County desire to enter into an Agreement to cooperate with the McKean County Industrial Development Authority and with Zito Media Communications, LLC to participate in the optical fiber broadband telecommunication project.

NOW THEREFORE, this 26th day of February, 2008 it is hereby **RESOLVED** and enacted as follows:

The Board of Commissioners of McKean County hereby authorize its proper officers to enter into an Agreement, a copy of which is attached and labeled Exhibit "A", with McKean County Industrial Development Authority and Zito Media Communications, LLC dealing with the planning, financing and construction of a carrier independent fiber optical broadband telecommunication infrastructure project.

Exhibit "A"

COOPERATION AGREEMENT

This **COOPERATION AGREEMENT** (this "Agreement"), made this 26th day of February, 2008, between McKean County, with offices at 500 West Main Street, Smethport, PA 16749 and hereafter called the "County", the McKean County Industrial Development Authority, with offices at 17137 Route 6, Smethport, PA 16749, hereafter called the "Authority", and Zito Media Communications, LLC, with its principal place of business at 106 Steerbrook Road, Coudersport, PA 16915, hereafter called the "Company".

WHEREAS, it is desirable to have a state of the art carrier independent optical fiber broadband telecommunication system in place to serve the present and future needs of businesses, institutions, and individuals in McKean County; and

WHEREAS, the County, Authority, and Company desire to complete the construction of a next-generation carrier independent optical fiber infrastructure telecommunication system to meet these needs by providing additional telecommunication capacity and connectivity to businesses, institutions and individuals located in McKean County; and

WHEREAS, a joint cooperative effort between the County and the Authority is needed to address our present and future telecommunication needs in a timely manner, and

WHEREAS, the Company desires to construct additional broadband optical fiber telecommunication infrastructure in McKean County and desires to obtain a loan from the Authority to finance the construction of the project; and

WHEREAS, the project will consist of the construction of an optical fiber telecommunication infrastructure within McKean County which will provide state of the art telecommunications service to the Borough of Kane, the Borough of Mt. Jewett, the Bradford Regional Airport, the Borough of Lewis Run, and the City of Bradford and increased connectivity to the Borough of Port Allegany, the Borough of Smethport, and the Borough of Eldred.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement the parties agree as follows:

1. The County and Authority, jointly and severally, agree to participate in this telecommunication infrastructure project as set forth hereafter and designate the County's Economic Development Office as the coordinator for developing a plan to finance this project and designate the County's telecommunications consultant, Insight Technology LLC, with the responsibility of preparing a (Phase I) Plan Document in accordance with the Professional Services Agreement dated December 18, 2007 between the County and Insight Technology LLC. In addition, Insight Technology LLC will insure the planned broadband optical fiber telecommunication infrastructure improvements are constructed in accordance with the (Phase I) Plan Document, be responsible for monitoring and inspection of all telecommunication improvements and be responsible for all technical related matters dealing with the County's and Authority's interest in the project.
2. The primary elements of the project will include the following: one, construction of a carrier independent optical fiber telecommunication infrastructure with connectivity capabilities, as needed, serving the Borough of Kane, the Borough of Mt. Jewett, the Bradford Regional Airport, the Borough of Lewis Run, the City of Bradford and the Borough of Smethport, the Borough of Port Allegany, and the Borough of Eldred; and two, connecting the eastern terminus of the project to the Company's existing facilities in the Borough of Smethport, connecting to the Company's existing facilities in the Bradford area and connecting the western terminus of the project to the Company's existing facilities in Wilcox, PA. The total estimated cost to complete the project in accordance with the (Phase I) Plan Document prepared by Insight Technology LLC is \$1,160,000.
3. The Authority will use its best efforts to obtain a taxable loan in the amount of \$1,160,000 from a private lender (the "Loan"). Once the Authority obtains the Loan proceeds from the participating private lender it will in turn pass the Loan proceeds to the Company in accordance with the terms and conditions of a loan agreement between the Authority and the Company; said loan agreement will be reviewed and approved by the County. At the request of the Authority, representatives of the County and the Company will attend meetings with potential private lenders and provide reasonable information requested by potential private lenders. The Authority will require the participating private lender to provide information to the Authority concerning the Company's ability to repay the loan and to complete the project in a timely manner. The Loan between the participating private lender and the Authority and the loan between the Authority and the Company will not close until the Local Unit Debt Act review process is complete and the necessary approvals have been obtained by the County from the Pennsylvania Department of Community and Economic Development (the

“PA DCED”). The Company will prepay the Loan with 70% of any revenues derived from telecommunications contracts with the County and 100% of any revenues derived from the sale of dark fiber to competitive telecommunications carriers.

4. The County will use its best efforts to provide a guarantee to the Authority and to the participating private lender dealing with the repayment of the Loan obtained by the Authority and passed on to the Company. The guarantee to be provided by the County will be through the pledge of the full faith and credit of the County, including its ability to tax real estate. The County will also use its best efforts to obtain in a timely manner the necessary approvals from the PA DCED.
5. The Company will apply for a taxable loan from the Authority in the amount of \$1,160,000.
6. After the Authority obtains the necessary approvals from the participating Lender, the Authority and the Company will enter into a Loan Agreement. The terms and conditions to be included in this Loan Agreement with respect to the interest rate, fees, term, payment schedules, and costs will be similar to those included in the Loan obtained by the Authority from the private lender. The Authority will charge a modest fee to the Company to cover its loan servicing costs and the Company will pay a pro rated share of the Authority’s audit costs.
7. The Company will use the proceeds obtained from the loan from the Authority to pay for broadband optical fiber telecommunication infrastructure improvements identified in Item 2 above, in the (Phase I) Plan Document prepared on behalf of the County by Insight Technology LLC, in the Construction and Ownership Agreement between the County and the Company, and other improvements approved by the County. All improvements financed through this Agreement will occur in McKean County, PA with the following exceptions: one, the optical fiber build required from the south boundary line of McKean County to the Companies existing facilities in Wilcox, Elk County, PA; and two, improvements in surrounding areas necessary for upgrades and completion of the optical fiber regional ring and/or for the completion of redundant connectivity for McKean County customers.
8. The Authority will use its best efforts to obtain a commitment for the Loan from a private lender in the amount of \$1,160,000 within 20 days of the date of this Agreement. The Authority will use its best efforts to enter into a Loan Agreement with the Company within 45 days of the date of this Agreement. The County will use its best efforts to take the necessary steps to provide a loan guarantee for the repayment of the \$1,160,000 Loan from the participating lender within 120 days of the date of this Agreement and to obtain the necessary approvals from the PA DCED within 120 days of the date of this Agreement. The Company agrees to use its best efforts to apply for a loan from the Authority in the amount of \$1,160,000 within 20 days of the date of this Agreement and enter into a Loan Agreement within 45 days of the date of this Agreement.

Vote on the above resolution, DeMott – yes. Pingie – yes. Church – yes. Three– yeas. No – nays. Carried.

Moved by Mr. Pingie, seconded by Mrs. Church, to enter into a data processing agreement with Infocon Corporation on behalf of the McKean County Tax Claim Bureau.

Vote on the above resolution, DeMott – yes. Pingie – yes. Church – yes. Three – yeas. No – nays. Carried.

Moved by Mr. Pingie, seconded by Mrs. Church, to adopt the following resolution.

RESOLUTION 9 OF 2008

A RESOLUTION PLACING THE QUESTION OF THE USE OF ELECTRONIC VOTING MACHINES IN

SERGEANT TOWNSHIP ON THE BALLOT ON
APRIL 22nd, 2008

WHEREAS, the McKean County Board of Elections is, pursuant to 25 P.S. 2641 (b), comprised of the county commissioners of such county; and

WHEREAS, pursuant to 25 P.S. 3031.2, any county or municipality may, by a majority vote of its qualified electors at any primary or election authorize and direct the use of an electronic voting system for registering or recording or computing the vote at all elections held at polling places in said jurisdiction; and

WHEREAS, pursuant to 25 P.S. 3031.3, the County Board of Elections may, upon their own motion, submit to the qualified electors of the county or municipality, at any primary or election the question “shall an electronic voting system be used at polling places in the municipality?”; and

WHEREAS, all polling places within McKean County which previously had mechanical voting machines are to be equipped with electronic voting systems beginning with the General Primary of 2006;

WHEREAS, the Townships of Sergeant and Corydon have conducted past elections by the use of paper ballots; and

WHEREAS, Corydon Township has previously elected to use an electronic voting system, leaving Sergeant Township as the only voting district in McKean County which will not be using said system; and

WHEREAS, the County Board of Elections is desirous of having uniformity in the election procedures and opportunities made available to all voters of McKean County; and

WHEREAS, placing electronic voting systems in all polling places, including Sergeant Township, would achieve such uniformity of procedure and opportunity to all voters.

NOW THEREFORE, this 26th day of February, 2008, the McKean County Commissioners acting as the McKean County Board of Elections RESOLVES and enacts as follows:

1. That the question “Shall an electronic voting system be used at the polling location in the Township of Sergeant?” shall be placed upon the ballot in the form of a referendum issue in Sergeant Township at the General Primary Election to be held on April 22, 2008, in accordance with the Pennsylvania Election Code.
2. That said Ballot Question and Explanation shall appear on the ballot in Sergeant Township in the format set forth in Exhibit “A” attached hereto:

EXHIBIT “A”

QUESTION

Shall an electronic voting system be used at the polling location in the Township of Sergeant?

EXPLANATION

If there are more “YES” votes than “no” votes an electronic voting system will be utilized in the Township of Sergeant beginning at the General Election scheduled for November 4th, 2008, to be utilized by all voters within the Township.

If there are more “NO” votes than “yes” votes the Township of Sergeant will continue to utilize the paper ballot method of voting, one electronic system is in place to be utilized by voters with a disability as required by the Help America Vote Act of 2002.

Vote on the above resolution, DeMott – yes. Pingie – yes. Church – yes. Three – yeas. No – nays. Carried.

Moved by Mr. Pingie, seconded by Mrs. Church, to accept an offer from Stanley E. Pecora to purchase property from the McKean County Repository for unsold property (Lots 8, 11, and 15 under Warrant 3907 in Bradford Township) in the amount of \$900.00.

Vote on the above resolution, DeMott – yes. Pingie – yes. Church – yes. Three – yeas. No – nays. Carried.

Moved by Mr. Pingie, seconded by Mrs. Church, to accept an offer from Judith Tierson to purchase property from the McKean County Repository for unsold property in the amount of \$250.00 for property at 90 and 92 Maplewood Avenue, Bradford, Pa.

Vote on the above resolution, DeMott – yes. Pingie – yes. Church – yes. Three – yeas. No – nays. Carried.

Moved by Mr. Pingie, seconded by Mrs. Church, to accept an offer from Richard Smith to purchase property from the McKean County Repository for unsold property in the amount of \$50.00 for a mobile home located at 1350 Looker Mountain Trail, Rixford, Pa.

Vote on the above resolution, DeMott – yes. Pingie – yes. Church – yes. Three – yeas. No – nays. Carried.

Moved by Mr. Pingie, seconded by Mrs. Church, to approve payment to Northwest Engineering, Inc. in the amount of \$3,500.00 representing payment for designing a floor support system for the Prothonotary’s Office.

Vote on the above resolution, DeMott – yes. Pingie – yes. Church – yes. Three – yeas. No – nays. Carried.

Moved by Mr. Pingie, seconded by Mrs. Church, to accept a quote from Strouse Business Products in the amount of \$2,991.04 for purchasing divider panels for the Commissioners Office.

Vote on the above resolution, DeMott – yes. Pingie – yes. Church – yes. Three – yeas. No – nays. Carried.

Mr. DeMott – Opened the meeting for public comment.

Ray McMahan – The Industrial Development Authority will be meeting tomorrow at 1:00 PM to act on their part of the resolution and agreement for the Zito Media Communications, LLC.

Lori Peace and Breanne Farrell introduced themselves to the Commissioners. They are CYS employees that are taking classes under the CWEL program and one of their assignments for their social welfare class is that they attend a County Commissioner’s meeting.

Mr. DeMott – Mentioned that several things happened at today’s meeting that are of interest. We sold several pieces of property that were in the Tax Claim Repository – maybe Kathy can explain how those properties ended up in the repository.

Kathy Roche – The property actually goes through two sales before they end up in the county repository. The first one is the upset sale that is in held in September – those are properties that have liens against them. The second one is the judicial sale. If the properties are not sold at either sale, then they go into the county repository. The County Commissioners accept bids on the property after the approval of the other taxing authorities and then the properties can be put back on the tax rolls.

Moved by Mr. Pingie, seconded by Mrs. Church, to adjourn the meeting.

Vote on the above resolution, DeMott – yes. Pingie – yes. Church – yes. Three – yeas. No – nays. Carried.

Chief Clerk