



Chautauqua, Cattaraugus, Allegany & Steuben Counties Southern Tier Extension Railroad Authority

Center for Regional Excellence, 4039 Route 219, Suite 200, Salamanca, New York 14779

TEL (716) 945-5301 FAX (716) 945-5550 TDD (716) 945-5301

"This institution is an equal opportunity organization"

Terry Everetts, Chairman

Richard Zink, Chief Executive Director

MINUTES OF BOARD OF DIRECTORS MEETING

October 20, 2014

The Board of Directors of the Chautauqua, Cattaraugus, Allegany and Steuben Southern Tier Extension Railroad Authority met at 9:30 AM on October 20, 2014 in the Conference Room in the office of the Southern Tier West Regional Planning and Development Board, 4039 Route 219, Suite 200, Salamanca, New York. The following persons were in attendance:

Board Members In Attendance

Michael Brisky
Seth Corwin
Rich Dixon
Terry Everetts
John Foels
Adam Gorczyca
Jay Gould
Timothy O'Grady
Jerry Scott
Randolph Weaver

Representing

Cattaraugus County
Steuben County
Chautauqua County
Cattaraugus County
Allegany County
Chautauqua County
Chautauqua County
Allegany County
Southern Tier West RPDB
Steuben County

Board Members Not In Attendance

Crystal Abers
Mitchell Alger
James Griffin
Vacant

Representing

Cattaraugus County
Allegany County
Steuben County
Seneca Nation of Indians

Others Attending

Thomas Barnes
Carl Belke
Lucas Brewer
Evan Eisenhandler
Robert Gabbey
Kylie McLaughlin
Richard Zink

Representing

STERA Secretary
WNYP RR
WNYP RR
New York State Operation Lifesaver
New York State Operation Lifesaver
WNYP RR
STERA CEO

1. Call to Order and Introduction of Those Present

Chairman Terry Everetts called the meeting to order at 9:30 AM. He welcomed new member Rich Dixon. Introductions were made of those present.

2. Reading and Approval of the Minutes of the June 16, 2014 Meeting

The Board adopted a resolution approving the minutes of the June 16, 2014 Board Meeting (Brisky, Corwin, passing unanimously).

3. Communications

It was noted that the following communications had been received:

- A letter from Chautauqua County appointing Rich Dixon to the STERA Board, with term expiring February 28, 2017.
- A copy of a resolution from Steuben County reappointing Jim Griffin to the STERA Board, with term expiring August 31, 2017.
- A copy of a resolution from Allegany County reappointing John Foels to the STERA Board, with term expiring August 27, 2017.
- A letter from the City of Olean Department of Fire, Buildings, and E.M.S dated September 8, 2014, indicating that the City has inspected a building at 1401 River Street and had determined that violations of the Local and State Fire Prevention and Building Codes were present. The letter indicated that (a) accessory buildings on the right side of the main structure are decayed and falling apart and must be repaired or demolished within 30 days; (b) all junk, debris, tires and other similar items must be removed from the property within 30 days; (c) the fence around the property is in a state of disrepair and must be taken down within 30 days; and (d) the main garage is dilapidated and beyond repair and needs to be demolished within 30 days. STERA passed this letter on to WNYP for appropriate action.

Mr. Belke indicated that WRC has engaged a contractor that will demolish the facilities. WNYP is working with the City code enforcement Department to obtain a demolition permit. Demolition will occur within 60 days.

- A letter from the City of Olean Department of Fire, Buildings, and E.M.S dated September 8, 2014, indicating that the City has inspected STERA property at East and West Pine Street and Vine Street, and had determined that it was in violation of the City Code of Ordinances, Chapter 16, 16.2b, with respect to the cutting of grass and weeds which exceed 8" in height. The letter indicated that the grass must be cut within five days. STERA passed this letter on to WNYP for appropriate action.

Mr. Belke indicated that the grass and weeds have been cut.

4. Treasurer's Report

A. September 30, 2014 Treasurer's Report

The Treasurer's Report for September 30, 2014 had been posted to the STERA web site.

Mr. Zink noted that due to a lack of a quorum, the Audit Committee had not met earlier that same day to review and discuss the Treasurer's Report. He provided a summary of the Treasurer's Report, noting that the format had changed substantially during the year, as STERA strives to provide more information to enable viewers to track project funds flow. Each project (currently three in number, including the five bridge project, the Falconer track realignment project, and the Buffalo Line project; and shortly to include a fourth project, the FEMA project) is listed separately, and the various funding sources (e.g., NYS DOT, FEMA, other NYS, WNYP) are broken out as separate line items for each project. When funding is obtained, it is listed as a grant receivable, and when STERA receives an invoice for construction, STERA invoices the funding sources, reduces the grants receivables, creates an accounts receivable, and creates an accounts payable. When funds are received from the funding sources, the accounts receivable are decreased, and when STERA pays the original invoice, STERA reduces the accounts payable. He noted that despite the information provided in the new financial statement format, it can be difficult to follow funds flow. He noted that STERA uses several more detailed worksheets that provide a more detailed explanation of funds flow, but doesn't provide them directly to the Board. However, he asked that any Board member that had a question regarding the financial statements should feel free to call him to discuss.

For the year to date ending September 30, 2014, STERA had a net income of \$190,687.40 on revenues of \$466,293.53. As of September 30, 2014, STERA had net assets of \$5,955,844.06 on assets of \$6,112,534.26, with a cash balance of \$212,361.41. Accounts payable as of September 30, 2014 were \$156,690.20, and accounts receivable as of September 30, 2014 were \$72,895.39.

The Board adopted a resolution authorizing paying Hayes Company \$5,274 for directors' and officers' insurance and paying Southern Tier West \$7,500 for administrative services (Weaver, Brisky, passing unanimously).

The Board adopted a resolution approving the Treasurer's Report for September 30, 2014 (Scott, Gould, passing unanimously).

The Board adopted a resolution authorizing Mr. Everetts, Mr. Gould, Mr. Alger, and Mr. Zink to sign checks (Dixon, Corwin, passing unanimously). Mr. Barnes noted that STERA's practice is to have two of the three Board members sign and countersign checks; Mr. Zink does not sign checks; rather, his authorization to sign is provided in order to provide him access to the accounts for administrative purposes.

Reports of Committees

5. Audit Committee

Mr. Zink noted that due to a lack of a quorum, the Audit Committee had not met earlier that same day as had been scheduled. The following two items on the Board's agenda were to have been discussed at

the Committee meeting; the Board proceeded to take action on them without review by the Committee. Both items are required to be submitted to NYS ABO prior to the end of October 2014.

Budget for 2015

The Board discussed the Budget for 2015 and adopted a resolution approving the Budget for 2015 (Gould, Brisky, passing unanimously).

Four Year Financial Plan 2015 - 2018

The Board discussed the Four Year Financial Plan 2015 – 2018 and adopted a resolution approving the Four Year Financial Plan 2015 – 2018 (Corwin, Brisky, passing unanimously).

6. Governance Committee

The Governance Committee had not met, due to a lack of business.

Unfinished Business

7. WNYP RR Operating Status Report

Carl Belke, President and Chief Operating Officer of the WNYP RR, provided a Management Report to the STERA Board. The Management Report covered the areas of Safety and Security, Major Projects, Operations and Customer Service, Marketing and Freight Business, Mechanical Issues, and Engineering and Maintenance of Way.

He began by noting that he may be absent from certain future meetings, as he may be working with another rail carrier. If he cannot attend a given STERA meeting, Lucas Brewer or Kylie McLaughlin will attend representing WNYP and will provide a report. He did note that he is not leaving WNYP.

He discussed the following municipal projects:

- Olean Trail Project – This is a project involving an extension of the existing recreational trail, involving the use of an unused lane of a double wide rail bridge over the Olean Creek behind Jamestown Community College. The project is a “rails with trails” project, involving a trail adjacent to an active rail line, separated by a fence. Norfolk Southern must approve this for it to happen, but perhaps it will, if the length of the lease of the property for the trail is consistent with the WNYP lease. The project would involve NYS funding, and would begin construction in 2015.
- Busti Trail Project – This is a four mile trail that would connect Jamestown to Lakewood, ending at around the Cummins plant.
- Lucy-Desi / National Comedy Center Park Project – This project would involve the leasing and development by the local foundation of some acreage in downtown Jamestown. Safety improvements would include a gated, lighted crossing. Construction is scheduled to start this fall.
- Jamestown Engine House – The foundation also would lease this and make improvements.
- East Branch Trail – This is a trail project in Corry PA.
- Remediation Project – This remediation project in Jamestown has been completed, paid for by NS. The City BPU has not leased the property as of this date.

- Concrete spalling on bridges in Jamestown – Five years after the spalling was addressed, the concrete has begun to spall once again. WNYP will discuss funding of repairs with the County IDA.
- Olean North Unions Street Grade Crossing Project – This project is phase 1 of the North Union Street Reconstruction Project. This \$130,000 project, funded by the City and NYS DOT, will rebuild and improve the grade crossing at Whitney Avenue. The project will involve a rebuild of the crossing and the installation of six new cantilevered crossing gates at the crossing. The project starts today, and this first phase should be completed by the end of November. Construction will be coordinated with WNYP to minimize impacts on rail service.

He also noted that the diversion of traffic into and out of the STERA/WNYP system via the Buffalo and Pittsburgh has been successful. The result has been a better than break even financial position for WNYP, even without the federal tax credit. Business in 2015 is expected to increase, and the WNYP financial picture would be even better if the federal tax credit is extended.

The Board adopted a resolution approving Mr. Belke’s report (Corwin, Brisky, passing unanimously).

Status reports on individual STERA projects, which were discussed during Mr. Belke’s report, are provided below under item #9.

8. Litigation Status Report

Mr. Zink noted that STERA’s attorney Harris Beach has been talking to Norfolk Southern’s and WNYP’s attorney. Norfolk Southern is obligated to indemnify STERA. Carl Belke noted that the attorney for the plaintiff has been quiet recently.

9. Status Reports on Current and Proposed Rehabilitation Projects

NYS DOT 2005 Bond Act Bridge Rehab and Track Realignment (Falconer) Project (Southern Tier Extension Line) – Remaining Project Funds Issue

This STERA project is funded by NYS DOT and WNYP. This project is located in the Falconer area in Chautauqua County, and involves the realignment of track from a bridge that currently had been in service to an adjacent bridge that had not currently been in service. The project’s primary objectives have been completed; the realigned route and bridge crossing were placed back in service in November 2013. The bridge placed back into service has a 315,000 weight limit per carload, above the industry standard of 286,000 pounds, and it replaced a bridge in need of major repair that had only a 273,000 pound per carload weight capacity. There are some funds remaining on the project. With some of the remaining project funds, WNYP will install a walkway and guard rails on the bridge, remove the abandoned track section and welded rail, and, with the remaining funds, install approximately 1,000 ties and switch timbers and a switch at the end of the project area to serve Monofrax. This project should be completed in 2015. The Board authorized submission of a request for an extension through December 31, 2015 (Gould, Scott, passing unanimously).

NYS DOT 2005 Bond Act Bridge Rehab Project (Southern Tier Extension Line)

This STERA project is funded by NYS DOT and WNYP. The project involves the rehabilitation of four railroad bridges in Allegany County (three in Alfred Station and one in Belvidere) and one railroad bridge in Cattaraugus County (Salamanca). WNYP is STERA’s engineering and construction

contractor for the project. WNYP has commenced the project. With STERA's and NYS DOT's approval, WNYP has competitively procured and engaged an engineering subcontractor (C&S Engineers, Inc.). WNYP has completed final engineering design, and has received approval of the engineering design from NYS DOT. With STERA's and NYS DOT's approval, WNYP also has competitively procured and engaged a construction subcontractor (L.C. Whitford) that will undertake construction activities (concrete and steel work) on two of the three Alfred Station bridges, the Belvidere bridge, and the Salamanca bridge. WNYP will undertake construction activities on the remaining Alfred Station bridge. WNYP has ordered materials for the project, and has given the notice to proceed to L.C. Whitford; L.C. Whitford has begun construction. WNYP has begun tie installation in Alfred Station. This project is anticipated to be completed sometime in 2015. STERA and WNYP will coordinate construction activities with the affected municipalities. With the concurrence of NYS DOT, STERA has approved two change orders. The Board authorized submission of a request for an extension through December 31, 2015 (Foels, Brisky, passing unanimously).

NYS DOT PFRAP Tie Replacement and Grade Crossing Repair Project (Buffalo Line)

STERA has received a contract from NYS DOT for funding for the project. The project would involve the replacement of 8,000 cross ties and the rehabilitation of four highway-railroad grade crossings on the section of the Buffalo Railroad Line between Olean and the Pennsylvania State Line. The total proposed project will cost \$1,345,630.56, comprised of \$1,076,504.45 of grant funding from the New York State Department of Transportation Passenger and Freight Rail Assistance Program (PFRAP, at 80%), and \$269,126.11 of cash match funding (20%) provided by WNYP.

With the approval of NYS DOT, STERA and WNYP have executed a letter agreement for services to include construction contracting services. STERA and its engineering/construction agent WNYP will coordinate construction activities with the affected municipalities.

The grade crossing construction has been completed, including a track realignment in Olean. Crossties had been ordered for delivery in August, but ties have been difficult to obtain; only a fraction of the 8,000 ties have been received to date. Tie unavailability will cause installation to be delayed. This project should be completed in 2015, consistent with the NYS DOT contract.

Proposed NYS DOT PFRAP Tie Replacement, Grade Crossing, and Switch Repair Project (Cattaraugus County Rail Rehabilitation Project, Southern Tier Extension Line)

Mr. Barnes noted that the NYS DOT funding application has been submitted.

This is a \$2,478,967.20 million project, involving \$1,983,173.76 of NYS DOT grant funds and approximately \$495,793.44 of WNYP funds (20% match rate). The project involves the installation of 10,000 rail ties between Olean and Killbuck (Cattaraugus County), the repair of 11 rail switches, the installation of 12,000 tons of ballast, surfacing and alignment of track and turnouts, the rehabilitation of three at-grade crossings, and the rehabilitation of 11 turnouts. This project may begin in 2014, but could start in 2015, and it should be completed by the end of 2015.

STERA has not heard from NYS DOT whether this funding application will be approved.

Proposed FEMA Project

FEMA declared a disaster in Allegany, Cattaraugus, Chautauqua, and Steuben Counties relating to a storm occurring May 13 – 22, 2014. The rail line was damaged in this storm. STERA has approached FEMA and NYS DHSES about funding for a remediation/mitigation project, and believes FEMA

funding will be forthcoming. It is possible that NYS DHSES may participate in funding, but it may not. If NYS DHSES does not participate, STERA's match funding requirement will be a higher dollar amount.

There are 47 locations that were damaged in the four counties; 42 of these are classified as small projects and 5 are large projects. The cutoff for determining small versus large size is \$120,000.

WNYP's project engineers are in the process of providing stamped engineering budgets for each of the 47 locations, and WNYP, FEMA, and NYS DHSES personnel have toured the 47 locations. The total estimated project cost is not yet available, and is pending receipt of engineering estimates for all 47 locations.

Most of these 47 projects are at a 75% FEMA, 25% STERA funding package structure. Some of the locations may involve an increased percentage of FEMA participation, reducing the STERA match. This relates to debris removal at certain project locations, which can be reimbursable by FEMA at a higher percentage level.

All projects are reimbursable by FEMA after completion and documentation to FEMA that STERA has incurred 100% of all costs and expended 100% of all funds consistent with project engineering estimates (or by FEMA estimates if an engineer's estimate is not provided) and with STERA's procurement policy.

Staff has proposed that (a) STERA would competitively procure contracting services for the large projects and (b) STERA would contract directly with WNYP for completion of the small projects and for certain project administration services on all projects (i.e., on both large projects and small projects).

WNYP has provided the following written commitment:

- In regards to all project locations, WNYP is willing to perform all project management, engineering, administration, field inspections, flagging services, and site access services, provided that WNYP may subcontract portions thereof.
- In regards to small project locations, WNYP is willing to perform all work for all small project locations, provided that WNYP may subcontract portions thereof. The total project cost for each small project location shall be as agreed upon by STERA and WNYP in accordance with the Engineer's Estimates.

After discussion, the Board approved a resolution, consistent with the STERA procurement policy, making a determination that the public interest is best served by making a purchase of goods and services from WNYP related to FEMA Project without competitive procurement, finding:

- a) that WNYP is qualified to perform the work required or provide the commodities, equipment, goods or services required,
- b) that WNYP is responsible and reliable,
- c) that the price to be set for the procurement is likely to be either the lowest price if a competitive procurement were followed or a fair market price for the goods and services required, that is, the price is likely to be a Best Value, and
- d) that there is some valid public purpose for not undertaking a competitive procurement process, to include but not be limited to public safety, public health, and timeliness,

and therefore, authorizing entering into one or more contracts with WNYP:

- a) In regards to all project locations, for the performance of all project management by WNYP, including engineering, administration, field inspections, flagging services, and site access services, provided that WNYP may subcontract portions thereof.
- b) In regards to small project locations, for the completion of the small project rehabilitation work, provided that WNYP may subcontract portions thereof, with the total project cost for each small project location shall be as agreed upon by STERA and WNYP in accordance with the Engineer's Estimates.

(Corwin, Weaver, passing unanimously). Small project locations will be grouped together into multi-location contracts not to exceed \$100,000; accordingly, there will be several contracts between STERA and WNYP for small project locations. Each large contract will have a separate contract between STERA and the contractor that is competitively procured for each large contract. STERA and WNYP also will have a separate contract that covers all of the large contracts, in which WNYP will agree to provide all project management services, including engineering, administration, field inspections, flagging services, and site access services, provided that WNYP may subcontract portions thereof.

After discussion, the STERA Board adopted a resolution authorizing and ratifying work already done by WNYP in furtherance of the project, as components of one or more small projects (Scott, Corwin, passing unanimously).

After discussion, the STERA Board adopted a resolution authorizing the designation of Lucas Brewer of WNYP as an alternate contact for the FEMA project for the provision of information to FEMA and NYS DHSES personnel, but provided that he shall not be authorized to commit or bind STERA in any fashion or execute any documents on STERA's behalf (Dixon, Foels, passing unanimously).

After discussion, the STERA Board adopted a resolution authorizing developing and issuing a Project Manual (including an RFP) for construction contracting services for the large projects in the FEMA project, and execution of a contract with the low bidder at each location (Gould, Corwin, passing unanimously).

Mr. Barnes will work with WNYP to develop a letter agreement for the construction contracting services. He also will develop the Project Manual (including the RFP) and contracts for the large project elements.

Proposed Multi-Modal Freight Transfer Facility and Manufacturing Center Project (Olean)

Mr. Barnes indicated that there has been no change in this potential initiative. STERA has been unsuccessful to date in obtaining first phase construction funds, but continues to seek funding.

STERA has received communication from a potential developer's agent indicating some interest in developing the project, but the developer has not made any progress toward moving the project forward.

Site Development Project Status

Mr. Barnes indicated that there has been no change in this potential initiative. Southern Tier West has not advanced this project at the current time.

10. Other Old Business

There was no other old or unfinished business discussed at the meeting.

11. Seneca Nation of Indians Representation on STERA Board

There has been no movement on the appointment of a representative to the STERA Board by the Seneca Nation of Indians.

12. Compliance with NYS Public Authorities Accountability Act (PAAA) and Public Authorities Reform Act (PARA) and Other Statutory and Regulatory Requirements

New NYS ABO Policy Guidance

The Authorities Budget Office (ABO) has issued [Policy Guidance 14-02 Formation of a Subsidiary by a Public Authority](#). The NYS ABO has indicated that public authorities, as defined by Section 2 of the Public Authorities Law and established in statute, may only establish subsidiary corporations if legislation provides for such expressed or necessarily implied power. In the past, STERA has noted the possibility of in the future creating a subsidiary corporation for the construction and/or ownership and operation of a transload facility. Although the legislation authorizing STERA does not expressly provide for such authority to create a subsidiary corporation, it may well be that such authority is implied in STERA's authorization legislation, as that authorization legislation provides for STERA's authority to take any steps necessary to effect STERA's corporate purposes. If STERA at some time in the future decides that it would wish to establish a subsidiary corporation, it would be advisable to obtain a legal opinion on STERA's authority to do so.

Training Sessions – now online

Five current members (Mr. Alger, Mr. Brisky, Mr. Weaver, and Mr. O'Grady) have not yet completed NYS ABO's PAAA compliance training sessions. NYS ABO requires Board members to receive training within one year of becoming a STERA Board member. NYS ABO now makes the required training available online. Board members are encouraged to register for this training, as the limited space available fills up quickly. Mr. Barnes has emailed information on the online training sessions to the appropriate members.

Discussion of Any Desired Policy Modifications

Mr. Everett encouraged Board members to bring any desired policy modifications forward at any time of the year.

New Business

13. Presentation: Operation Lifesaver "Railroad Safety for Emergency Responders Training"

Evan Eisenhandler from NYS Operation Lifesaver discussed the organization's training programs, which include:

- Training to deter accidents due to trespass
- Training to avoid grade crossing accidents, including grade crossing vehicular issues
- Railroad Safety for Emergency Responders (RSER)

Southern Tie West will work with NYS Operation Lifesaver to set up training sessions across the region, especially in regard to RSER.

14. Other New Business

There was no other new business discussed at the meeting.

15. Public Comment

There was no public comment.

16. Next Meeting Date and Agenda for Next Meeting

The last regularly scheduled meeting of the STERA Board in 2014 will be on December 15. Special meetings also may be called as needed. Unless otherwise amended, all meetings of the STERA Board will be at 9:30 AM in the Conference Room in the office of the Southern Tier West Regional Planning and Development Board, 4039 Route 219, Suite 200, Salamanca, New York.

There will be an Audit Committee meeting on December 15 at 9:00 AM immediately preceding the December 15 Board meeting. The Governance Committee may meet if required. Additional special meetings of the two committees may be called as needed during 2014. The meetings of the committees will be held at the office of the Southern Tier West Regional Planning and Development Board in Salamanca, NY.

There currently are no meetings of the Executive Committee scheduled to be held during 2014; however, the Board will call special meetings of the Executive Committee as needed.

17. Adjournment

The meeting adjourned at 11:55 AM (Corwin, Gould, passing unanimously).

I certify that this is an accurate summary of the meeting of the Board of Directors of the Chautauqua, Cattaraugus, Allegany and Steuben Southern Tier Extension Railroad Authority held on the date indicated above.

Name: Thomas M. Barnes

Office: Secretary

Date: October 20, 2014