



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

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

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"This institution is an equal opportunity organization"

Terry Everetts, Chairman  
Richard Zink, Chief Executive Director

## MINUTES OF BOARD OF DIRECTORS MEETING

### December 15, 2014

The Board of Directors of the Chautauqua, Cattaraugus, Allegany and Steuben Southern Tier Extension Railroad Authority met at 9:30 AM on December 15, 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

Crystal Abers  
Mitchell Alger  
Michael Brisky  
Seth Corwin  
Rich Dixon  
Terry Everetts  
Adam Gorczyca  
Jay Gould  
James Griffin  
Jerry Scott

#### Representing

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

#### Board Members Not In Attendance

John Foels  
Randolph Weaver  
Vacant  
Vacant

#### Representing

Allegany County  
Steuben County  
Allegany County  
Seneca Nation of Indians

#### Others Attending

Thomas Barnes  
Carl Belke  
Kylie McLaughlin  
Clay Olds  
Casey Whelan  
Richard Zink

#### Representing

STERA Secretary  
WNYP RR  
WNYP RR  
National Grid  
National Grid  
STERA CEO

## **1. Call to Order and Introduction of Those Present**

Chairman Terry Everetts called the meeting to order at 9:30 AM. Introductions were made of those present.

## **2. Reading and Approval of the Minutes of the October 20, 2014 Meeting**

The Board adopted a resolution approving the minutes of the October 20, 2014 Board Meeting (Scott, Dixon, passing unanimously).

## **3. Communications**

It was noted that the following communications had been received:

- A copy of a resolution from Cattaraugus County reappointing Mike Brisky to the STERA Board, with term expiring September 12, 2017.
- A letter of resignation from the STERA Board from Timothy O'Grady (Allegany County).
- Several email communications from National Grid. National Grid would like to move its electrical transmission line that feeds Poland (Chautauqua County) from its present location onto a vacant railroad bed (Quaint Rd to the Poland sub-station). This is an effort to enhance access to the line and increase reliability. Discussion on this matter was deferred until later in the meeting, during Carl Belke's presentation (item #7 herein).

## **4. Treasurer's Report**

### **A. November 30, 2014 Treasurer's Report**

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

Mr. Zink noted the Audit Committee had met earlier that same day and had reviewed and discussed the Treasurer's Report. He provided a summary of the Treasurer's Report. For the year to date ending November 30, 2014, STERA had a net income of \$105,392.59 on revenues of \$539,188.92. As of November 30, 2014, STERA had net assets of \$5,955,844.06 on assets of \$6,037,562.16, with a cash balance of \$126,066.60. Accounts payable as of November 30, 2014 were \$84,218.10, and accounts receivable as of November 30, 2014 were \$84,218.10.

After discussion, the Board adopted a resolution approving the expenditure of \$1,000.00 for renewing its associate membership in RONY (Corwin, Gould, passing unanimously).

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

## **Reports of Committees**

### **5. Audit Committee**

Mr. Zink noted that the Audit Committee had met earlier that same day and had reviewed and recommended that the Board approve the interim Financial Statements for November 30, 2014.

The Committee also discussed the possibility of internally providing interim financing for the FEMA (75%) portion of invoices submitted to STERA by WNYP, pending reimbursement by FEMA. The Committee decided that it would wait to see how long the FEMA reimbursement period is, and discuss with WNYP whether such interim financing is necessary.

The Board adopted a resolution approving the Audit Committee report (Corwin, Scott, 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.

Highlights of his report are:

- Municipal projects:
  - Olean Trail Project – This “rails with trails” project would involve NYS funding, and would begin construction in 2015. A planning meeting is scheduled for January 2015.
  - Busti Trail Project – This project was not funded by NYS, but is still alive as a project.
  - Lucy-Desi / National Comedy Center Park Project – The planned grade crossing has been installed.
  - Jamestown Engine House – A local group would lease this facility and make improvements thereto.
  - East Branch Trail – This is a trail project in Corry PA, involving the transfer of an unused rail bridge overpassing the active rail line to a trail group.
- The operating diversion of traffic by Norfolk Southern of Meadville traffic to Olean via Buffalo (via the B&P) to Salamanca has been ongoing since February 1, 2014 and has been working well. The intended operating efficiencies and financial benefits of this change have been realized.
- Class 1 railroad congestion and Buffalo area lake effect snows have created severe car shortages and service issues for a number of WNYP’s customers. In an effort to relieve this situation, WNYP has accepted and classified one detour train between Meadville and Hornell and has received over 100 cars at Meadville instead of Buffalo/Salamanca.
- Single man remote control locomotive operations. WNYP regularly and safely operates remote control crews in Olean and Emporium PA.

- Aggregate shipping in 2014 has exceeded the target level. Sand delivery for fracking gas wells has returned and has exceeded 2014 target levels; growth in 2015 is expected to be substantial. A new pipe yard has opened in Port Allegany PA. Additional width allowances have allowed the shipment of hi-wide carloads in December, which should continue into 2015.
- Olean-to-Hornell service is operated once per week. Olean-to-Falconer service is operated one to two times per week. Olean-to-Machias is operated as required for pickup of company ballast.
- WNYP has been awarded an \$840,000 PENNDOT RTAP grant for the installation of 12,000 ties on 14.5 miles of the Oil City Branch between Oil City and Sugar Grove PA. WNYP will supply a \$360,000 match on the \$1,200,000 project. The project has been let for construction in 2015.
- WNYP has been awarded a \$448,000 PENNDOT RTAP grant to rehabilitate the timber approaches to a through-truss bridge on the famers Valley Branch in Eldred PA. WNYP will supply a \$192,000 match on the \$640,000 project. The project has been let for construction in 2015.

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

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

### **National Grid Issue**

Mr. Olds of National Grid discussed National Grid's circumstances relating to the need for re-routing the transmission line serving Poland (Chautauqua County) onto the unused former double track alignment, which now has been restored with a second lane of track. He noted that he had been in contact with Norfolk Southern, which had initially been receptive, but then when personnel had changed, seemed less receptive. He then contacted WNYP's real estate consultant REL-Tek, which had indicated to National Grid that the lease and sub-lease effectively prohibit the granting of a permanent easement by Norfolk Southern, WNYP, or STERA. WNYP had offered to sell National Grid an easement license for the remainder of its lease, but National Grid wants a permanent easement so that when the WNYP sub-lease ends (17 years), it doesn't either have to move 2.3 miles of line or be forced to pay an uncertain (but potentially large) occupancy fees. He is contacting STERA to see whether STERA can assist. It was noted that despite being the title holder, STERA has no authority to grant easements. After discussion, National Grid and Mr. Belke agreed that the best path would be to pursue a permanent easement through an agreement by Norfolk Southern, WNYP and National Grid. The Board adopted a resolution indicating that it authorized STERA signing any documents necessary to effect the easement, if any, once such an agreement by Norfolk Southern, WNYP and National Grid is executed and in place, (Corwin, Brisky, passing unanimously).

### **8. Litigation Status Report**

From STERA's perspective, there has been no change in this item. STERA has been sued, but the 1998 MOU requires Norfolk Southern to indemnify STERA. STERA's attorney Harris Beach has been talking to Norfolk Southern's and WNYP's attorney. Mr. Belke indicated that WNYP has counter-sued the plaintiff, and feels confident of prevailing.

## **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)**

This STERA project is funded by NYS DOT and WNYP. This project is located in the Falconer area in Chautauqua County, and consists of the realignment of track from a bridge that in recent years had been in service to an adjacent bridge that in recent years had not 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 project replaced a bridge in need of major repair that had only a 273,000 pound per carload weight capacity with a bridge (the bridge placed back into service) that has a 315,000 weight limit per carload (above the industry standard of 286,000 pounds).

The project has come in under budget and NYS DOT has approved a westward expansion of the project for additional welded rail and ties and the improvement of a switch serving the RHI Monofrax siding. STERA has received (from NYS DOT) and executed a no-cost time extension for the project through December 31, 2015. Final surfacing, alignment, cleanup work, and the installation of the additional rail and crossties, and the improvement of the switch serving the RHI Monofrax siding will occur in 2015. This project should be completed in 2015.

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

This STERA project is funded by NYS DOT and WNYP. The project consists of 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). Work has been completed on the Belvidere, Route 21 and Hartford Hill Road (Alfred), and Salamanca bridges. Tie installation and surfacing operations have been completed. Replacement rail is being distributed for placement at Alfred.

The project has come in under budget and NYS DOT has authorized the installation of an additional 700 ties at the Salamanca bridge in 2015. STERA has received (from NYS DOT) and executed a no-cost time extension for the project through December 31, 2015. This project is anticipated to be completed sometime in 2015.

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

This STERA project is funded by NYS DOT and WNYP. The project involves 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 grade crossing construction has been completed, including a track realignment in Olean. Crosstie shortages and delayed delivery has caused the postponement of the tie installation and surfacing work until 2015. This project should be completed in 2015, consistent with the NYS DOT contract.

### **FEMA Project**

This STERA project, to be funded by FEMA, WNYP, and possibly NYS DHSES, will involve repairs to 47 locations on the Southern Tier Extension that were damaged in a storm occurring May 13 – 22, 2014. FEMA had declared a disaster in Allegany, Cattaraugus, Chautauqua, and Steuben Counties relating to this storm. As noted, there are 47 locations that were damaged in the four counties; 42 of these are classified as small projects and 5 are large projects. Consistent with FEMA rules and STERA's procurement policy, the cutoff for determining small versus large size is \$100,000.

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. As engineering estimates become available and are approved by FEMA, STERA is issuing separate contracts to WNYP for the small projects based on FEMA Project Worksheets (PW's) subsequently issued by FEMA. The total estimated project cost is not yet available, and is pending receipt of engineering estimates for all 47 locations. STERA will procure contractors for the large projects via competitive procurement.

STERA continues to work with WNYP on engineering estimates and FEMA PW's, small project contracts, the Project Manual (including the RFP) for large project, and the contracts for the large project elements. WNYP is securing SHPO, NYSDEC, and/or USACE permits on several locations at which such permits are required.

STERA also declared itself lead agency for an uncoordinated SEQRA review on the project (Griffin, Brisky, passing unanimously). The Board discussed the project, noting that it was a repair and maintenance project, analyzed the work to be done at the 47 locations, discussed a draft Environmental Assessment Form, and adopted a resolution adopting the Environmental Assessment Form, making a finding that the project will pose no significant adverse environmental impact, issuing a negative declaration on the project, and issuing a Record of Decision on the project (Griffin, Brisky, passing unanimously). STERA will now issue a Statement of Negative Finding for Permit Requirements letter regarding the lack of any need for any permits from SHPO, NYSDEC, or USACE for thirty-two (32) specific site locations (of the 47 total), which is required for the FEMA project.

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

The NYS DOT funding application for this project was submitted in June 2014. 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 should start and be completed in 2015.

STERA officially has not heard from NYS DOT whether this funding application will be approved, but there are informal indications that it has been approved and that the approval will be released on December 15, 2014.

Noting that the next Board meeting will occur in March 2015, and with the assumption that NYS DOT will approve funding for the project, and noting that STERA and WNYO would like to begin the project prior to the March meeting, 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 the 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 for the provision of services and the procurement of materials, supplies, and leased equipment in support of the project (Brisky, Abers, passing unanimously). It was noted that WNYP may subcontract portions of the project, and that any such subcontracts must be in compliance with the requirements of NYS DOT and STERA and must be approved in advance by NYS DOT and STERA.

### **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. Operation Lifesaver "Railroad Safety for Emergency Responders Training"**

Southern Tier West will work with NYS Operation Lifesaver to set up training sessions across the region, especially in regard to Railroad Safety for Emergency Responders (RSER). WNYP may be involved in such training activities.

## **11. Other Old Business**

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

## **12. 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.

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

### **Training Sessions – now online**

Two current members (Mr. Alger and Mr. Brisky) 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**

There was no new business discussed at the meeting.

#### **14. WNYP Discussions with Seneca Nation of Indians**

As a consequence of concrete spalling issues on the Main Street Bridge in Salamanca, WNYP will meet with the Seneca Nation of Indians on December 17, 2014 to discuss the potential replacement of the bridge (replacing the 6 lane bridge with a two lane bridge, with higher clearance for Main Street traffic) and the re-routing of the main line in this area to remove the curvature of the line (which is a safety issue and which keeps train speeds down). Such a project would be eligible for NYS DOT funding.

#### **15. Other New Business**

There was no other new business discussed at the meeting.

#### **16. Public Comment**

There was no public comment.

#### **17. Next Meeting Date and Agenda for Next Meeting**

The Board approved a resolution setting the regularly scheduled meetings of the STERA Board in 2015 for the following dates: March 9, 2015; June 15, 2015; October 5, 2015; and December 7, 2015 (Abers, Gould, passing unanimously). The June meeting will be the Annual Meeting. Special meetings may also 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 immediately preceding each scheduled Board meeting. The Governance Committee and Executive Committee will meet as required. Additional special meetings of the committees may be called as needed during 2015. The meetings of the committees will be held at the office of the Southern Tier West Regional Planning and Development Board in Salamanca, NY.

#### **18. Adjournment**

The meeting adjourned at 10:55 AM (Gould, Corwin, 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: December 15, 2014