



**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"**  
**John Margeson, Chairman**

## **MINUTES OF BOARD OF DIRECTORS MEETING**

### **December 3, 2012**

The Board of Directors of the Chautauqua, Cattaraugus, Allegany and Steuben Southern Tier Extension Railroad Authority met at 9:30 AM on December 3, 2012 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  
William Daly  
Joseph Eade  
Terry Everetts  
Adam Gorczyca  
Jay Gould  
James Griffin  
John Margeson  
Thomas Ryan

#### **Representing**

Cattaraugus County  
Steuben County  
Chautauqua County  
Cattaraugus County  
Cattaraugus County  
Chautauqua County  
Chautauqua County  
Steuben County  
Allegany County  
Steuben County

#### **Board Members Not In Attendance**

John Foels  
Timothy O'Grady  
Vacant  
Vacant

#### **Representing**

Allegany County  
Allegany County  
Seneca Nation of Indians  
Southern Tier West RPDB

#### **Others Attending**

Thomas Barnes  
Carl Belke  
Lucas Brewer

#### **Representing**

STERA Secretary  
WNYP RR  
WNYP RR

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

Chairman John Margeson called the meeting to order at 9:40 AM. Introductions were made of those present.

## **2. Reading and Approval of the Minutes of the October 15, 2012 Meeting**

The Board adopted a resolution approving the minutes of the October 15, 2012 Board Meeting (Eade, Daly, passing unanimously).

## **3. Communications**

STERA received a letter from John Lyng Real Estate Development dated November 26, 2012 indicating that it owns property adjacent to a railroad line in Hornell NY that has a number of large trees overhanging its building on the property, which are in danger of damaging this structure should they fall. WNYP has contacted the company and has ascertained that the trees actually are located on Norfolk Southern property, not STERA property. WNYP provided the company with some property information and recommended that he contact Norfolk Southern on this issue.

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

### **A. September 30, 2012 Treasurer's Report**

Mr. Griffin reported that the Audit Committee discussed the Treasurer's Report, which was developed per the newly approved Internal Control Procedure for Separation of Duties. STERA CEO Richard Zink had provided interim monthly financial statements for calendar 2012, the most recent being October 31, 2012. Mr. Barnes had indicated that, because of illness, STERA CFO John Foels had not reviewed the financial statements. However, Mr. Barnes had reviewed the financial statements and bank account statements per the Internal Control Procedure for Separation of Duties, and noted that they reconcile.

As of October 31, 2012, STERA had a cash balance of \$15,093.19, on assets of \$6,154,014.97, with \$337,844.00 of liabilities. For the year to date ending October 31, 2012, STERA had revenues of \$584,386.80, with net income of (\$81,661.33).

The Audit Committee had adopted a resolution recommending that the Board approve the Treasurers' Report for the period ending October 31, 2012. After discussion, the Board adopted a resolution approving the Treasurer's Report for October 31, 2012, and approving the monthly financial statements for calendar 2012 (Griffin, Gould, passing unanimously).

## **Reports of Committees**

### **5. Audit Committee**

Mr. Griffin reported that the Audit Committee had met earlier that same day, and had discussed the Treasurer's Report and the Internal Control procedure.

## **Unfinished Business**

### **6. Operating Status Report by Carl Belke, WNYP RR**

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, Engineering and Maintenance of Way, and Bridges and Culverts.

With respect to major project, Mr. Belke noted that:

- WNYP's PennDOT-funded tie and surface project on the Farmer's Valley Branch of the Buffalo Line has been completed and was approved by PennDOT inspectors in November. The project involved the installation of 5,800 new crossties, ballast, lining, surfacing, removal of waste ties, repair of three grade crossings and three private crossings, repair of two bridges, and realignment of a severe "S" curve. The Farmer's Valley Branch serves WNYP's largest customer.
- STERA's FEMA-funded project has been completed in all eleven locations in Allegany County. No damage was sustained as a consequence of super storm Sandy. STERA is awaiting FEMA reimbursement, so that it can reimburse WNYP for construction financing. Additional discussion on this STERA project is reported later in these minutes.

Mr. Belke noted that he and Mr. Barnes have held discussions with NYS DOT regarding the following rehabilitation projects:

- STERA's repair of five bridges in Allegany and Cattaraugus County, which would be funded through a NYS DOT 2005 Bond Act grant and WNYP match funds. Through the FEMA project, WNYP has been able to make some of the repairs to certain of these bridges that originally had been contemplated in the Bond Act contract scope of work. The discussions with NYS DOT have centered around modifying the scope of work to remove work already accomplished under the FEMA project, and adding additional needed work on several of the project bridges. WNYP will prepare a scope modification proposal, and plans to get underway as soon as is possible on the balance of the Bond Act contract scope of work, acting as STERA's agent.
- STERA's rail and tie replacement project in Cattaraugus County, which would be funded through a NYS DOT 2005 Bond Act grant and WNYP match funds. WNYP's and STERA's discussion with NYS DOT on this project have involved re-purposing these project funds in favor of a bridge project in Falconer, in which the line would be realigned to run across an adjacent bridge, which is in better condition than the bridge currently in service and which is capable of carrying heavier loads. NYS DOT is awaiting the WNY Regional Council's approval of the re-purposing.

More detailed discussion and actions on these two STERA projects mentioned immediately above is reported later in these minutes.

## **7. Status Reports on Current and Proposed Rehabilitation Projects**

### **FEMA Project Status**

As noted above, all construction work relating to STERA's repair of storm washouts in Allegany County, funded through a FEMA/NYS OEM grant and WNYP match funds, has been completed. STERA is in the process of closeout of the project and is awaiting FEMA/OEM reimbursement for the project in order to reimburse WNYP for construction financing.

### **520 West Second Street (Jamestown)**

Mr. Barnes summarized the situation.

The Board approved a motion to enter into Executive Session to discuss potential litigation (Daly, Eade, passing unanimously).

The Board approved a motion to return from Executive Session (Griffin, Eade, passing unanimously).

With Harris Beach's assistance, STERA will write a letter to the NYS Attorney General's office explaining its position.

**NYS 2005 Bond Act Bridge Rehab Project**

WNYP and Mr. Barnes have held a discussion with NYS DOT regarding commencing the project. WNYP noted to NYS DOT that some of the work contemplated on two of the five bridges that were to be rehabbed was completed through the FEMA project, and WNYP proposed revising the scope of work to involve other needed work on these same five bridges. WNYP was to provide a revised scope of work to STERA and NYS DOT. NYS DOT advised that in the interim, STERA should begin the project, and revised the project scope after the project has been commenced.

Accordingly, and with the assumption that NYS DOT eventually will approve a revision of the project scope of work, 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 Bridge Rehab 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, to authorize entering into a contract with WNYP for the completion of the rehabilitation work per the NYS DOT contract for the Bridge Rehab Project (Eade, Gould, passing unanimously).

Mr. Barnes will work with WNYP to develop a letter agreement for the construction contracting services.

Mr. Griffin encouraged WNYP to begin the project this month if possible, as soon as the agreement is executed.

**NYS 2005 Bond Act Welded Rail Project / Proposed Bridge Rehab / Track Realignment Project (Falconer)**

STERA, WNYP, and NYS DOT have discussed re-purposing the welded rail project funds (NYS DOT 2005 Bond Act funds and WNYP match funds) in favor of the bridge project in Falconer. NYS DOT has referred the request to the WNY Regional Council for its approval. STERA hopes that this approval will be in time for commencement of the project during 2012.

Accordingly, and with the assumption that the WNY Regional Council and NYS DOT will approve the re-purposing, 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 Bridge Rehab / Track Realignment 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, to authorize entering into a contract with WNYP for the completion of the rehabilitation work per the NYS DOT contract for the Bridge Rehab / Track Realignment Project (Eade, Corwin, passing unanimously).

Mr. Barnes will work with WNYP to develop a letter agreement for the construction contracting services once the re-purposing has been approved.

**Proposed Dresser Rand Rail Siding Reinstallation / Bridge Clearance Obstruction Project (Wellsville)**

The project as discussed previously was to involve two components, (a) replacement of a railroad bridge to alleviate a clearance obstruction, and (b) reinstallation of a rail spur (siding) into the Dresser Rand facility to provide rail service to this company. The rail bridge project component also will pay longer term dividends, as it would allow for the shipment of larger dimension (height and width) freight that currently cannot be shipped on the line.

Jessica Jeune (Senator Young’s chief of staff) has been investigating the possibility of funding for the project. As of the date of the meeting, STERA has been unable to determine the availability of funding for the project. She has suggested that STERA meet with NYS ESD Buffalo in advance of the next CFA round.

However, Mr. Everetts indicated that Dresser Rand has determined that there is no further need to explore or proceed with this initiative, since the Wellsville bridge clearance window is not the only clearance issue or weight issue on the line. Mr. Belke noted that there are several issues between Wellsville and Hornell.

Accordingly, the siding reinstallation component of the project will be removed from the agenda, and the agenda will just discuss the Weight and Clearance Obstruction Remediation Project, which still remains a valid project for STERA to work on. Mr. Brewer will work with Mr. Barnes to identify the relevant issues on the line in order to develop a project(s).

**Lister Street Project**

The proposed Lister Street Project would involve the closure of a local (City) street grade crossing over the railroad, resulting in creating two cul de sacs on either side of the current grade crossing. To bring about the project, property adjacent to Lister Street would have to be acquired, and there would have to be some building demolition and the relocation of several current building occupants. This would allow (a) snow plow access (either through creation of turnarounds or access/egress through other local streets), and (b) most importantly, in terms of economic development, the installation of a rail siding that would serve two local companies currently located there.

The following is the project cost estimate for the project:

Lister Street Closure:	\$ 368,950
Installation of New Siding:	<u>295,000</u>
Total:	\$ 663,950

The cost estimate for the Lister Street Closure component of the Lister Street Project was developed in 2006, but WNYP has indicated that the cost estimate is still good today. The cost estimate for the new siding component of the Lister Street Project was developed in 2012, based upon the project being a STERA project, and upon STERA contracting directly with WNYP to do the construction work with its own equipment and personnel in order to limit costs.

NYS DOT previously had indicated an interest in providing up to \$169,000 of the funding toward the Lister Street Closure component of the Lister Street Project. WNYP has indicated that match funding might be provide by both WNYP and one of the benefitted companies.

STERA has provided this project budget estimate information to Cathy Young's Chief of Staff in Albany, for assisting with identifying funds for the project. Jessica Jeune (Senator Young's chief of staff) has been investigating the possibility of funding for the project. As of the date of the meeting, STERA has been unable to determine the availability of funding for the project. She has suggested that STERA meet with NYS ESD Buffalo in advance of the next CFA round.

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

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 no progress has been made on moving the project forward.

#### **Site Development Project Status**

Southern Tier West has not advanced this project at the current time.

### **8. Future Status of the Property Tax Abatement Provided by STERA to Norfolk Southern**

The Board previously had discussed the possibility of negotiating with Norfolk Southern concerning extending the abatement period. The Uniform Tax Exemption Policy adopted by STERA will be an element of any such extension. The Board had adopted a resolution authorizing Mr. Margeson and Mr. Zink, with the assistance of Mr. Barnes, to contact Norfolk Southern regarding a potential extension of the abatement term. Mr. Belke has provided contact information for Mr. Chip Metter at Norfolk Southern, who Mr. Belke had indicated would be the appropriate Norfolk Southern contact for this purpose. At December 3 meeting, the Board reaffirmed its direction to Mr. Margeson and Mr. Zink to engage Norfolk Southern in introductory conversations regarding a potential extension of the abatement term.

### **9. 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.

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

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

Several current members (Mr. Brisky, Mr. Gorczyca, Mr. O’Grady, and the member to be appointed by Southern Tier West) 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. The Board noted that all members must receive the required training by the end of 2012. Mr. Barnes indicated that he had emailed information on the online training sessions to the appropriate members.

### **Discussion of Any Desired Policy Modifications**

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

## **11. Other Old Business**

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

### **New Business**

There was no other new business discussed at the meeting.

## **12. Public Comment**

There was no public comment.

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

The Board present agreed to set the following dates for the regularly scheduled meeting of the STERA Board in 2013: March 18, June 17, October 21, and December 16. Special meetings may also be called as needed. Unless otherwise amended, all meetings 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 Governance and Audit Committee meetings on each of the Board meeting dates to be held at 9:00 AM immediately preceding the schedule Board meeting on those dates. Additional special meetings of the two committees may be called as needed during 2013. There may be a special meeting of the Governance Committee called prior to the March 18, 2013 Governance Committee meeting. 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 may be a special meeting of the Executive Committee called prior to the March 18, 2013 Governance Committee meeting. No other regular Executive Committee meetings are scheduled for 2013; the Board will call special meetings of the Executive Committee as needed.

**14. Adjournment**

The meeting adjourned at 11:41 AM (Griffin, 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 3, 2012