



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

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"This institution is an equal opportunity organization"

William Daly, Chairman
Richard Zink, Chief Executive Officer

MINUTES OF BOARD OF DIRECTORS MEETING

May 5, 2014

The Board of Directors of the Chautauqua, Cattaraugus, Allegany and Steuben Southern Tier Extension Railroad Authority met at 9:00 AM on May 5, 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

Mitchell Alger
Michael Brisky
Seth Corwin
William Daly
Terry Everetts
John Foels
Adam Gorczyca
Jay Gould
James Griffin
Timothy O'Grady
Jerry Scott
Randolph Weaver

Representing

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

Board Members Not In Attendance

Crystal Abers
Vacant

Representing

Cattaraugus County
Seneca Nation of Indians

Others Attending

Thomas Barnes
Lucas Brewer
Chris Chapman
Rick Miller
Richard Zink

Representing

STERA Secretary
WNYP RR
Buffalo News/Jamestown Post Journal
Olean Times Herald
STERA CEO

1. Call to Order and Introduction of Those Present

Chairman William Daly called the meeting to order at 9:05 AM. He welcomed Mitch Alger (who is the new Allegany County representative on the STERA Board, replacing John Margeson) and Randolph Weaver (who is the new Steuben County representative on the STERA Board, replacing Dan Farrand). He noted that Crystal Abers (who is the new Cattaraugus County representative, replacing Joseph Eade) was unable to attend. Introductions were made of those present.

2. Reading and Approval of the Minutes of the December 16, 2013 Meeting

The Board adopted a resolution approving the minutes of the December 16, 2013 Board Meeting (Gould, Foels, passing unanimously).

3. Communications

It was noted that a communication had been received from:

- Allegany County appointing Mitchell Alger as its representative for a three year term, replacing the retired John Margeson.
- Cattaraugus County appointing Crystal Abers as its representative for a three year term, replacing the retired Joseph Eade.
- New York State Department of Environmental Conservation, which was a copy of a letter from NYS DEC to Cattaraugus County, indicated that it had received and approved the Periodic Report and Certification transmitted by Cattaraugus County to NYS DEC.
- Railroads of New York (RONY, of which STERA is a member), which noted that there was a RONY meeting that would be held in Albany on May 12, 2014.

4. Treasurer's Report

A. March 31, 2014 and April 30, 2014 Treasurer's Report

The Treasurer's Report for March 31, 2014 had been posted to the STERA web site. Mr. Zink distributed a Treasurer's Report for April 30, 2014. He noted that STERA has begun to show grants receivable on the Treasurer's report, to provide additional information.

For the year to date ending April 30, 2014, STERA had a net income of \$127,166.59 on revenues of \$271,459.75. As of April 30, 2014, STERA had net assets of \$5,894,813.63 on assets of \$5,976,122.06, with a cash balance of \$148,840.60. Accounts payable as of April 30, 2014 were \$81,308.43, and accounts receivable as of April 30, 2014 were \$81,308.43. The accounts receivable/accounts payable balance reflects funds receivable from NYS DOT and WNYP and payable to WNYP for the ongoing NYS DOT construction project on the Southern Tier Extension in Falconer. He noted that the FEMA project has been completed and closed out. He noted that STERA has moved to online banking, and accordingly there would be no more bank fees charged.

After discussion, the Board approved a resolution authorizing STERA to pay \$10,000 of the administrative fee owed to Southern Tier West per the budget for calendar 2014 (Scott, Brisky, passing unanimously).

The Board adopted a resolution approving the Treasurer's Report for April 30, 2014 (Weaver, Everetts, passing unanimously).

Unfinished Business

5. Review of Audit

Mr. Daly noted that although the scheduled March 28, 2014 special meeting of the Board had not been held due to a lack of a quorum, the auditor (Edward Bysiek of Bysiek CPA, PLLC) had presented the audit for the year ending December 31, 2013 to the members present on that date. STERA had not asked him to return and present the audit again. Mr. Barnes noted that the audit included the management letter. The audit indicated an unqualified opinion. The management letter identified no deficiencies in STERA's internal controls. After discussion, the Board adopted a resolution recommending approved the audit for the year ending December 31, 2013 and the accompanying management letter (Brisky, Corwin, passing unanimously).

6. Review of Reports and Policies

Mr. Barnes noted that although the scheduled March 28, 2014 special meeting of the Board had not been held due to a lack of a quorum, there had been discussion by the members present at that date related to the reports and policies. Mr. Barnes had directed Board members to specific aspects of the reports that warranted detailed examination, and indicated that staff was recommending that the Board approve the draft reports. He also had indicated that staff was making no recommendations for the revision of any current policies.

The Board discussed the reports and current policies.

After discussion, the Board adopted a resolution approving the following reports (Griffin, Corwin, passing unanimously):

- Annual Report
- Audit Committee Charter Review Report
- Audit Committee Self-Evaluation Report
- Audit FYE Dec 31, 2013
- Audit Management Letter FYE Dec 31, 2013
- Board Self-Evaluation Report
- Board Self-Evaluation Report 2011 vs 2012 vs 2013
- Board Member Attendance Evaluation Report
- Budget for 2014
- Executive Committee Self-Evaluation Report
- Four-Year Financial Plan for 2014 to 2017
- Governance Committee Charter Review Report
- Governance Committee Self-Evaluation Report
- Investment Report
- Management Evaluation Report
- Management Report: Financial Disclosure and Ethics Report
- Organizational Self-Evaluation Report

Organizational Compliance Evaluation Report
Organizational Effectiveness of Internal Controls Report
Procurement Report
Property Disposition Report
Property Listing Report
Records Management Program Report

The Board noted that the following reports were discussed and approved at the October 21, 2013 Board meeting:

Budget for 2014
Four Year Financial Plan for 2014 to 2017

The Board noted that the following report was discussed and approved at the June 17, 2013 Board meeting:

Management Report: Financial Disclosures and Ethics Report June 2013

After discussion, the Board adopted a resolution making a finding that STERA was in compliance with all of the current policies and applicable laws and that the policies should not be revised (Griffin, Corwin, passing unanimously). These policies are as follows:

Audit Committee Charter
Bylaws
Code of Ethics
Compensation, Reimbursement, and Attendance Policy
Competencies and Personal Attributes Required of Board Members Policy
Defense and Indemnification Policy
Equal Opportunity and Affirmative Action Policy
Governance Committee Charter
Internal Control Procedures
Investment Policy
Lobbying Policy
Management Performance Evaluation Standards
Measurement Standards Performance Evaluation
Mission Statement
New Member Orientation Process
New Member Orientation Process Reference Document
Procurement Guidelines (Contract and Procurement Policy)
Property Disposition Guidelines
Public Access to Records Policy
Public Access to Records - Subject Matter List
Records Management Program
Travel and Use of Discretionary Funds Policy
Uniform Tax Exemption Policy
Whistleblower Policy

The Board noted that the NYS ABO requires STERA to have in place a Personnel Policy and a Labor Policy. The Personnel Policy is perhaps moot, as STERA has no employees, although a draft policy

currently is being developed. Mr. Griffin indicated that he would provide a template Labor Policy and a citation for the requirement for having a Labor Policy.

There was discussion regarding the need for having policies and providing certain reports as are required by NYS ABO. The consensus was that although these requirements seem to be unnecessary for a small, simple local authority such as STERA, it was better to have the policies and submit the reports as required, than to attempt to argue with NYS ABO regarding whether they should be required.

The Board, through the Governance Committee, has responsibilities for reviewing STERA structural, governance and operating policies and activities. Many of the policies and governance practices practiced by STERA derive directly from the cornerstone principles (transparency, independence, accountability, fiduciary responsibilities, and management oversight) prescribed by the State Legislature and NYS ABO, and from model practices recommended or mandated by the NYS ABO.

In this regard, the Board discussed the report on the Board Member Self Evaluation process, and discussed whether to make any changes so as to improve STERA's performance. There actually were improvements in the Board members' sense that STERA was functioning effectively in many of the survey question areas. In fact, there was improvement from the previous year in the percentage of positive responses to several questions. However, there was a decline in the percentage of positive responses to several questions, and additionally, several problem areas exist, including:

- Question 5: The Board sets clear and measurable performance goals for the Authority that contribute to accomplishing its mission.
- Question 8: Board members are knowledgeable about the Authority's programs, financial statements, reporting requirements, and other transactions.

Mr. Barnes noted that although the above two questions were overwhelmingly answered positively, these were the two areas in which the most negativity was expressed. He indicated that the Board could change the performance measures at any time; they have not been changed for years, despite this being an area in which some (i.e., 3) members seemed to think that there could be improvement. He also noted that Mr. Zink and Mr. Barnes would be more than happy to assist Board members with understanding corporate operations and program, financials statements, reporting requirements, and other transactions. He noted that the New Member Reference Document provides a good refresher for Board members in many of these areas. The Board indicated that it might be good for an occasional set aside of time at Board meetings with light agendas for discussion of these topics.

The Board also discussed:

- the Competencies and Personal Attributes Required of Board Members Policy and the New Member Orientation Process Policy, and noted that it had reviewed and approved these policies at this meeting and recommended no changes. It was also noted that the New Member Orientation Process Reference Document has been updated and is now current.
- the number and structure of STERA Committees. The Board noted that STERA does not have a Finance Committee, but is not required to have one as it has not issued any debt. The Board discussed increasing the number of members on the Audit and Governance Committees from four to five, with representation on each committee from each of the four counties, so as to improve the ability to attain quorums for committee meetings. After discussion, the Board approved a resolution increasing the number of members on the Audit and Governance Committees from four to five, with representation on each committee from each of the four counties (Griffin, Gould, passing unanimously).

- Board and staff compliance with NYS ABO training requirements, and noted that staff is in compliance but that several Board members still need to take the required training.

Four 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 indicated that he had emailed information on the online training sessions to the appropriate members.

- the compensation and benefits for the managing director and other senior Authority officials, and noted that the Authority has no direct employees, and accordingly there are no such individuals (Board or corporate officers or other management personnel) receiving compensation and benefits from the Authority, and indicated no need for any action on this matter.

The Board made a finding that the Authority’s policies and procedures are being effectively implemented and are effective in guiding and controlling the Authority’s governance and operations, and decided to make no changes to the Authorities governance and operating policies and procedures (excepting the above changes to the number of persons on the Audit and Governance Committees), but should address the results of the annual Board Self Evaluation process and should require that all Board members receive the training required by the NYS ABO by the end of 2014 (Brisky, Corwin, passing with all ayes except Gould opposed).

7. Ethics Filing

Mr. Barnes noted that there are no issues identified in the Ethics Filings. He will have a complete report at the June meeting.

New Business

8. WNYP RR Operating Status Report

The Board noted that although the scheduled March 28, 2014 special meeting of the Board had not been held due to a lack of a quorum, Carl Belke, President and Chief Operating Officer of the WNYP RR had provided a Management Report to the STERA Board at that time, and the Board had indicated to Mr. Belke that he did not need to appear at the rescheduled meeting date.

9. Appointment of Nominating Committee

Mr. Daly appointed the following members to a nominating committee for the purpose of presenting a slate of Board and Corporate officers for election at the June 16, 2014 Annual Meeting:

Mike Brisky
Seth Corwin
John Foels
Adam Gorczyca
Jerry Scott, Chairperson

The Board adopted a resolution ratifying these appointments (Scott, Brisky, passing unanimously).

10. Appointment of Members to Audit Committee, Executive Committee, and Governance Committee

Mr. Daly appointed the following members to the Audit Committee:

Crystal Abers
Mitch Alger
Jay Gould
Jim Griffin, Chairman
Randy Weaver

The Board adopted a resolution ratifying these appointments (Corwin, O'Grady, passing unanimously).

Mr. Daly appointed the following members to the Governance Committee:

Seth Corwin
Terry Everetts, Chairman
Adam Gorczyca
Tim O'Grady
Jerry Scott

The Board adopted a resolution ratifying these appointments (Gould, Brisky, passing unanimously).

With respect to the Executive Committee, Mr. Barnes noted that per the bylaws, the next Chairman should appoint one member from the county that doesn't have a Board officer. STERA will not know which county this is until after the elections in June. The other Executive Committee members do not need to be appointed; per the bylaws, they consist of the Board officers, the Southern Tier West representative, and the Seneca Nation of Indians representative.

11. Cattaraugus County Rail Rehabilitation Project

Authorization of NYS DOT Funding Application

Lucas Brewer of WNYP discussed WNYP's proposed project, which would involve the replacement of 10,000 ties, the installation of approximately 12,000 tons of ballast, the raising/surfacing/aligning of track and switches, the rehabilitation of three at-grade crossings, and the rehabilitation of eleven switches along 12 linear miles of railroad line between Olean (Milepost JC-397.00) and Killbuck (Milepost JC-409.00) in Cattaraugus County, and within the Olean Rail Yard in Olean, NY.

The project will be a \$2,478,967.20 project. WNYP proposes that STERA seek \$1,983,173.70 of grant funding from the New York State Department of Transportation (80% grant rate) through the NYS DOT Passenger and Freight Rail Assistance Program (PFRAP), and WNYP will provide \$495,793.50 of cash match funding (20%) for the project.

Similar to the NYS DOT PFRAP funds that STERA has received for the Buffalo Line project, these funds will be made available directly from NYS DOT, as opposed to requiring a CFA (Consolidated

Funding Application) application. The NYS DOT Notice of Funding Availability (NOFA) has recently been issued, and the deadline for submission of the PRFAP application to NYS DOT is June 16, 2014.

Mr. Brewer anticipates that if the project is funded, construction will begin in the spring of 2015 and be completed during the 2015 construction season. WNYP proposes to be STERA's agent for the project, providing design, construction, and inspection services.

After discussion, the Board adopted Resolution 14-01, which (1) authorizes STERA to appropriate and accept the state share funds of \$1,983,173.70 from the NYS DOT pursuant to agreement between STERA and NYS DOT and to pay these NYS DOT funds for work for the project, (2) authorizes STERA to appropriate and accept the local share funds of \$495,793.50 from the WNYP and pay these funds for work for the project, (3) that in the event the full state and local share costs of the project exceeds the amount appropriated above, the STERA Board shall convene as soon as possible to appropriate said excess amount immediately from WNYP, and contribute such funds to the project, upon the notification by NYS DOT thereof, (4) authorizes STERA Executive Director Richard T. Zink and the STERA Board Chairman to execute all necessary agreements, certifications or reimbursement requests for State Aid on behalf of STERA with the NYS DOT in connection with the advancement or approval of the project, and (5) authorizes STERA Executive Director Richard T. Zink and the STERA Board Chairman to execute all necessary agreements, certifications or reimbursement requests for local share funds and excess project cost reimbursement on behalf of the STERA with WNYP in connection with the advancement or approval of the project, and (6) authorizes STERA Executive Director Richard T. Zink and the STERA Board Chairman to execute all necessary agreements, contracts, and other documents as may be necessary on behalf of STERA with any contractors or subcontractors as may be necessary and appropriate in connection with the advancement of the project, (7) provides that STERA shall provide for the administration of the project, and shall utilize \$1,983,173.70 of funding from NYS DOT and \$495,793.50 of funding from WNYP for the project, and shall utilize funding from WNYP to pay for all costs of the project in excess of \$2,478,967.20, and (8) authorizes transmission of a certified copy of the resolution to be filed with NYS DOT by attaching it to any necessary agreement in connection with the project (Corwin, Foels, passing unanimously, Griffin abstaining).

NY SEQR Review

After discussion, in which the Board reviewed a draft SEQR Environment Assessment Form (EAF) for the project and noted that the project is a repair project that should not have any environmental impact or require any further environmental impact studies, the Board adopted a resolution authorizing the designation of STERA as lead agent for SEQR review, the issuance of the SEQR short form EAF, the making of a finding that the project will not create any significant adverse environmental impact, and the authorization of the issuance of a negative declaration on the project (Brisky, Corwin, passing unanimously, Griffin abstaining).

Authorization of WNYP Construction Contract

Accordingly, and with the assumption that NYS DOT eventually will approve funding the project, 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, to authorize entering into a contract with WNYP for the completion of the rehabilitation work per the NYS DOT contract for the project (Gould, Corwin, passing unanimously, Griffin abstaining).

Once funding is in hand, Mr. Barnes will work with WNYP to develop an agreement, to be approved by NYS DOT in advance of execution, for the construction contracting services.

12. Public Comment

There was no public comment.

13. Resignation of Chairman Daly

Mr. Daly indicated that he was resigning effective as of the end of this meeting. He thanked the Board, the Counties, WNYP, Mr. Zink, and Mr. Barnes, for their efforts in accomplishing STERA's mission. The Board accepted his resignation with regret (Foels, Griffin, passing unanimously).

14. Next Meeting Date and Agenda for Next Meeting

The following are the upcoming dates for the regularly scheduled meeting of the STERA Board in 2014: June 16 (Annual Meeting), October 20, and December 15. 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 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 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.

15. Adjournment

The meeting adjourned at 9:59 AM (Scott, 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: May 5, 2014