



SEDA-COG JOINT RAIL AUTHORITY MEETING
WEDNESDAY, JULY 13, 2011
SEDA-COG, LEWISBURG, PA
12:30 P.M.

**PRESERVING
RAIL FREIGHT
SERVICE**

serving the counties of

Centre

Clinton

Columbia

Lycoming

Mifflin

Montour

Northumberland

Union

**SEDA-COG JOINT
RAIL AUTHORITY**

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AUTHORITY MEMBERS PRESENT

Frank Dombroski, Montour County
John Gummo, Clinton County
Scott Harvey, Lycoming County
Mike Hawbaker, Centre County (via speaker phone)
Tom Herman, Montour County
Don Kramer, Clinton County
Michael Krentzman, Mifflin County
Dave Park, Columbia County
Rob Postal, Mifflin County
Dennis Reitz, Northumberland County
Dennis Shaffer, Union County
John Showers, Union County
John Spsychalski, Centre County

GUESTS PRESENT

Tom Avery, Railroad Operating Companies
Jim Bowers, CPA, Bowers & Company
Allen Bubbs, NRHS
Tyler Glass, Reading & Northern Railroad
Todd Hunter, Railroad Operating Companies
Don Purcell, Norfolk Southern – Retired
Andrew Richards, Bellefonte Historical Railroad Society
Richard Robey, Railroad Operating Companies
Gary Shields, Railroad Operating Companies
Robert Smith, Retired
Jeb Stotter, Railroad Operating Companies
Diana Williams, Railroad Operating Companies

STAFF PRESENT

Tom Schrack, Esq., McQuaide Blasko Law Offices
Kay Aikey
George Fury
Steve Kusheloff
Jeff Stover

CALL TO ORDER

Call to Order

Vice-Chairman Krentzman called the meeting to order at 12:30 p.m.



Affiliated with
SEDA Council of Governments

Pledge of Allegiance

Vice-Chairman Krentzman led the Pledge of Allegiance.

ADMINISTRATIVE ITEMS

Public Forum

Mr. Bubb stated that he brought with him two railroad valuation maps from the Shamokin Area. The date of the latest revision is 1942, and they will be on display after the meeting.

Approval of the May 11, 2011 Meeting Minutes

Mr. Herman made a motion to approve the May 11, 2011 meeting minutes; Mr. Dombroski seconded the motion.

Dr. Spsychalski commented that under "Legal Issues" on page 8 of the meeting packet, the minutes state as follows: "*Attorney Schrack stated that the Attorney General's Office has sent a letter indicating that after careful consideration, the Attorney General's Office will not*" (the word "be" should be added) "*pursuing any further action against the Authority.*"

Dr. Spsychalski stated that he reread the letter from Mr. Joseph Betsko of April 26, 2011, which reads as follows: "*After careful consideration, we have decided to take no action at this time regarding the freight railroad operation contract. Nothing should be inferred or implied by this decision. We appreciate your cooperation in this matter.*" Dr. Spsychalski drew attention to the words "*at this time*" in the first sentence of Mr. Betsko's letter, and all of the words in the second sentence of Mr. Betsko's letter. Taken together, Dr. Spsychalski stated that these words indicate that "*this matter*" remains open for possible future action.

Attorney Schrack asked Dr. Spsychalski how he would like the minutes to read. Dr. Spsychalski responded that the wording from Attorney General Betsko's letter should be added.

Dr. Spsychalski made a motion to modify the minutes to reflect the language in the letter from Mr. Betsko; Mr. Herman seconded the motion.

Mr. Shaffer stated what might be appropriate is to attach a copy of the letter to the minutes. He further stated that he saw a news release that was similar and it left out a part of the letter. In reading the news release a reasonable person would draw a conclusion that the Attorney General said that the office would not do anything and everything is ok. He added that "at this time" was left out and "inferred or implied" was left out of the news release.

Vice-Chairman Krentzman stated that reading the letter, as an attorney, it is to without prejudice and is boiler plate language stating that if the Attorney General's Office would ever decide to do something it could be brought up again. Any reasonable person would read the letter as it isn't an issue right now.

Mr. Shaffer asked if the motion could be amended to attach the letter to the minutes. Attorney Schrack responded that the actual letter could be quoted in the minutes.

Mr. Stover stated that the Daily Item did have a copy of the letter from Mr. Betsko, and the minutes are a reflection of what was said at the meeting.

Mr. Shaffer recommended that the minutes be corrected.

Mr. Herman withdrew his motion and made a motion as amended to approve the minutes as amended with either the letter being attached or included in the minutes; Mr. Gummo seconded the motion; motion carried.

Dr. Spsychalski also referred to a section in the "Legal Issues" regarding the indemnification provision to be included in the Authority's By-laws and that discussion would be held at the next meeting. He noted that this item is not on the agenda. Mr. Stover stated that no Board member contacted him with nor were any comments received. Attorney Schrack will address this under "Legal Issues".

Dr. Spsychalski made a motion to approve the May 11, 2011 minutes with the modification as noted above; Mr. Kramer seconded the motion; motion carried.

Treasurer's Report

Mr. Reitz presented the Treasurer's Report for the months of May and June 2011.

Dr. Spsychalski made a motion to approve the Treasurer's Report for the months of May and June 2011; Mr. Harvey seconded the motion; motion carried.

Consideration of M&T Bank Loan Payoff

Mr. Stover stated there has been some discussion about whether to retire the loan which funded the Juniata Valley Engine House. Mr. Reitz and Mr. Harvey have discussed this further and will give their thoughts.

Mr. Reitz stated that he and Mr. Harvey have discussed the idea of the Authority paying off the Juniata Valley Engine House loan. Mr. Harvey pointed out that the Authority is at the point of that loan where a large amount of principal is being paid at very little interest. Mr. Harvey suggested the Authority pay down the principal of a different loan so it reduces the amount of interest paid per month.

Mr. Harvey added that when looking at the M&T loan for the JVRR Engine House he estimated that if the loan of \$45,000 is paid off, the Authority would save approximately \$3,000 in interest. If that same amount is taken and put towards the \$2 Million loan with Jersey Shore Bank, the Authority would save approximately \$100,000 in interest. He further stated that the Authority has pending projects in the future, and he and Mr. Reitz discussed what the Authority's cash flow is going to look like when getting into the TIGER II projects. At this time it may not make the most sense to make a one time lump sum adjustment on the pay down on the principal. The Authority may want to take an approach to evaluate each month what to put toward the principal. Mr. Harvey stated that SEDA-COG has the resources to come up with a better recommendation and thinks it would be better to kick this back to some resource within SEDA-COG to help evaluate this and make a recommendation to the Authority.

Mr. Stover stated he will have Mr. Tim Kishbach of SEDA-COG's finance department analyze this and come up with a recommendation for the next meeting.

Mr. Stover referred to the 2011 Passenger Excursions Accounting handout in the meeting packet and stated that monies were recently received from the Columbia/Montour Visitor's Bureau and all checks

are to be signed for disbursement to Penn Valley, Catawissa & Roaring Creek Historical Study Group and the Columbia/Montour Visitors Bureau.

Operator's Accountant Presentation

Mr. Bowers, CPA, Bowers & Company, gave a report on the Operator's Audit for the year ending December 31, 2010. He stated that the results for the year showed a net profit after income taxes of \$2.9 Million as compared to approximately a little over \$1 Million in the prior year. It is a good increase from the prior year and relates to the fact that revenues increased substantially primarily because of car loadings. Car loadings were 26,000 in 2009 and 33,000 in 2010, which created increased revenues of approximately \$4 Million. When you have that type of an increase with about 50% of that being variable expenses, and fixed costs being the same, you will show a healthy increase of approximately \$2 Million. Current assets are approximately \$8 Million and relates to equity of \$7.7 Million. From a cash flow perspective, cash flows generated from operations of over \$4 Million compared to about \$700,000 in the prior year. The company is generating a healthy amount of cash and reflects that fact that as of December 2010, there is over \$5 Million in cash.

Dr. Spychalski referred to Note 2 on page 6 of the report and asked about what the reclassification involves. Mr. Bowers responded that occasionally you will see a reclassification of an item to match up a current year's classification.

Dr. Spychalski asked Mr. Bowers for an explanation of why the provision for state income taxes shown in Note 5 on page 10 is \$468,739, whereas multiplication of \$3,891,003 (as reported on the line "income before provision of income tax" in the income statement on page 3) by the Pennsylvania corporate income tax rate of 9.99% produces a result of \$388,711.

Mr. Bowers responded that the difference is due to the fact that some expenses allowable for deduction under corporate accounting standards for computing "income before provision of income tax" are not allowable for deduction for determining liability for state taxes.

Mr. Shaffer asked for clarification on Note 10 on the tax credit. He noted that in 2009 it was \$725,000 and \$579,000 in 2010 and asked if this was transferred to other income as part of that \$713,064. Mr. Bowers responded that this is shown on page 3 under other income and that contains \$579,000 in tax credit assignment for 2010 and the prior year of \$739,000 contains \$725,000 so substantially all of that has to do with the tax credit assignment.

Mr. Shaffer also asked about the purchase of 107.1 miles of track. Mr. Bowers stated because of the fact that the company has an agreement with the original assignee under an option to transact business with them for 2010, the company needed to go out into the market and buy another 107 miles of assignment credits in order to reduce the taxes of the company. This is called railroad to railroad deals in which other railroads that can't use the credit are willing to assign their miles to railroads that can't use them. Mr. Bowers stated the \$206,000 is an expense as the railroad paid other railroads to buy 107 miles. This relates to the fact that North Shore Railroad Companies has a certain number of miles and therefore you take the number of miles and multiple it by \$3,500. A railroad is limited to what the tax credits can be based on that number.

Mr. Reitz referred to Note 7 – Operating Agreement on page 12 and questioned the rate schedule. He asked if the 25% of car storage rentals comes to the Authority as he does not recall in the financial reports any mention of car storage credits. Mr. Robey responded that the railroad is not storing any cars at the present. He referred to car storage income of \$351,496 on operating revenues on page 3. Ms. Williams stated this is car storage and operating fees. Mr. Stover stated these letters are received each month which identifies each item and totals up the operating fee in one check.

Mr. Reitz asked if this information could be included with the financial reports in the future. Mr. Stover stated that the letter will be included in all future meeting packets.

Mr. Reitz then referred to the last three paragraphs on page 11 regarding the company's effected income tax rate being different from the prevailing statutory rate and the application of the railroad track maintenance credit. He asked what was this saying. He assumed this to say that the accounting methods would withstand an audit. Mr. Bowers stated that the accounting of the company would stand an audit by the IRS.

Legal Issues

Attorney Schrack stated that discussion was held at the last Board meeting involving the rail siding in Wingate. The MacNamaras had the understanding that they were the owners of rail siding and land at Wingate and the Authority took a look at its record and there was a question if the MacNamara's claim was correct. The public records were reviewed and a meeting was held with the MacNamaras and it was determined that the MacNamaras would be amenable to giving up their claim of ownership to this particular property in exchange for a lease with the Authority for use of the rail siding. At this time staff will be meeting with them again to confirm the actual dimensions of the property. Once this has been determined an appropriate agreement will be done whether it is a boundary line agreement and a lease back to the MacNamaras.

Attorney Schrack stated at the last meeting there was some discussion about the amendment to the By-laws. It was the intention to have the amendment distributed to Board members and the Board members were to come back with any comments or questions. No comments have been received from Board members prior to this meeting. There is no intention to adopt any amended by-laws.

Attorney Schrack stated there has been a request to go into Executive Session to discuss a matter pertaining to a Board member.

Attorney Schrack called for an Executive Session at 1:20 p.m. to discuss a matter pertaining to a Board member.

Vice-Chairman Krentzman reconvened the regular meeting at 1:22 p.m.

Events Calendar/Staff Report

Mr. Stover presented the events calendar for July-August 2011 and Projects Status Report.

Mr. Hawbaker extended an invitation to the Board to host the August JRA Board meeting at the Pleasant Gap facility.

Mr. Stover stated that a new group, the Iron Heritage Festival, Inc., is going to be sponsoring a passenger excursion trip this year. Dr. Spsychalski stated that a Board resolution is needed for execution of a Memorandum of Understanding between the Authority, Penn Valley Railroad and the Iron Heritage Festival.

Dr. Spsychalski made a motion for the Board to approve the Memorandum of Understanding with Penn Valley Railroad and the Iron Heritage Festival; Mr. Herman seconded the motion; motion carried.

Operator's Status Report and Business Forecast

Mr. Shields referred to the Operator's Report included in the packet.

Ms. Williams reported that there is a 2.6 percent increase in operating fee revenue from May 2011 over May 2010 and a 2.8 percent increase year-to-date over year 2010. Ms. Christine Witmer from Herring & Roll reviewed the Auditor's financial review and a letter will be provided in August to the Board.

Mr. Avery stated that the interchanges with Norfolk Southern are very variable and North Shore is working on this with NS. Meetings have been held with the various NS divisions and hopefully things will get straightened out.

Mr. Hawbaker asked about the northern link as they are experiencing the worst car turns since the late 90's. He also asked about the Buffalo line because that service has been absolutely deplorable.

Mr. Shields stated that there is a new trainmaster trying to make improvements.

Mr. Hunter reported that the former Smurfit Container plant has announced their closing which will affect 100 jobs in Williamsport and a significant amount of carload traffic for the Lycoming Valley Railroad.

North Shore Railroad was presented with three awards at Norfolk Southern's recent Annual Short Line Meeting.

- Lycoming Valley Railroad secured two awards. One was for "Focus on Customer Service and Marketing" and the other two are for "Business Growth" on both the Nittany & Bald Eagle and Lycoming Valley Railroads.

Mr. Hunter shared a conversation he had with the executives of Pickens Railroad, Pickens, South Carolina. Pickens Railroad thanked North Shore because First Quality Tissue announced a major tissue mill on Pickens Railroad in South Carolina and Pickens was told by First Quality that the service provided by the short line in Pennsylvania convinced First Quality that locating on a short line in South Carolina was the right thing to do.

Dr. Spsychalski stated that looking at the performance data for carloadings on the NBER May 2011 versus May 2010 is almost a 32% drop. Mr. Hunter replied that this is related to the sand bridge which NS has elected to reroute that does not involve the NBER.

Mr. Hawbaker added that they haven't been moving what needs to be moved and would have increased car count if it hadn't been for NS. Mr. Hunter stated that there has been a significant drop in Hawbaker volume for a number of reasons.

Mr. Park asked what the average car loss was for Smurfit Stone. Mr. Hunter responded the range is 400-600 carloads a year.

OLD BUSINESS

TIGER II Projects Status

Mr. Stover stated the FRA staff requested a bound set of plans. We understand all requirements have been fulfilled for approval of the remaining \$3.3 Million TIGER II grant.

Mr. John Conrad is making excellent progress on the White Deer and Bellefonte Bridges plans and these projects will be bid together this fall for spring 2012 construction.

The Authority is holding off on the West Shore Railroad rehab until the railroad lease is completed.

White Deer Creek Bridge – Skelly & Loy Hydraulic Analysis

Mr. Stover stated that in order to secure DEP approval Mr. Conrad needs to update some stream hydrology calculations. These were done originally by the consulting firm of Skelly and Loy. A proposal for Skelly and Loy has been obtained to do the new work at a cost of \$2,500.

Mr. Shaffer made a motion for the Board to engage Skelly and Loy to do additional hydraulic work at the White Deer Creek bridge location; Mr. Reitz seconded the motion; motion carried.

Mr. Stover referred to the TIGER II/PA Capital Budget/PIB Budget Funding Sources and Uses spreadsheet included in the meeting packet and reviewed the projects.

Ratify Bid Advertisement and Review of Bids for TIGER II Task A – Lycoming Valley Railroad

Mr. Stover stated that Mr. Jannotti held a pre-bid meeting on June 28 for TIGER II Task A for all LVRR projects. The bids will be submitted prior to the August meeting and presented for action. A motion is needed to ratify the June 28 pre-bid for TIGER II Task A.

Dr. Spsychalski made a motion for the full Board to ratify the June 28 pre-bid for TIGER II Task A – LVRR projects; Mr. Harvey seconded the motion; motion carried.

Authorization to Advertise for Bids for TIGER II Task B – Nittany & Bld Eagle Railroad

Mr. Stover stated that the Authority needs to authorize bidding for TIGER II Task B. These are all NBER projects and include Bellefonte Yard construction, Miller Siding, and Tyrone Bulk Transfer Facility.

Dr. Spsychalski made a motion for the full Board to authorize bidding of TIGER II Task B; Mr. Reitz seconded the motion; motion carried.

Authorization to Advertise for Bids for TIGER II Task G - LVRR Reach Road Terminal

Mr. Stover stated the Authority needs to authorize bidding for TIGER II Task G-5 which is the LVRR Reach Road Terminal.

Mr. Herman made a motion for the full Board to authorize bidding of TIGER II Task G-5 (Reach Road Terminal); Mr. Hawbaker seconded the motion; motion carried.

Strategic Planning Consulting Proposals

Mr. Stover stated that six proposals were received in response to the RFP. At least two of the firms should be interviewed before making a recommendation. Staff recommends interviewing Barry Isett & Associates and Delta Development as the two lowest cost offerings. The interviews will take place at SEDACOG on Friday, July 15, 2011 beginning at 10:00 a.m. Board members are invited to attend the interviews.

Mr. Herman made a motion for the Board to interview Barry Isett & Associates and Delta Development Group regarding their strategic planning consulting proposals; Mr. Postal seconded the motion; motion carried.

Discussion of NBER Main Ballast Condition

Vice-Chairman Krentzman stated that Board members received an email with a letter from Mr. Jannotti regarding undercutting options on the Nittany and Bald Eagle Railroad. Mr. Jannotti has asked the Board to consider giving him more time to thoroughly review the options regarding the undercutting project.

Dr. Spsychalski asked what the timeframe would be for this additional work. Mr. Stover replied it would be combined with the fall inspections and that it may take 4-5 days working on the NBER. Completion would have to be by December 1, 2011. Dr. Spsychalski stated he would hope that this does not extend any more time than necessary. Mr. Harvey stated that defining the scope as well as you can is the best way to minimize cost but the work needs to be kept moving forward.

Mr. Shields commented that at the May meeting the JRA agreed to contribute 15% of the cost to properly grind the rail on the NBER Main and he stated that the rail grinding on the NBER Main to correct the rail profile is mostly a capital project and the Operator is willing to contribute 85% of the cost. The contractor (Loram) is booked up, but available this November-December or perhaps later. The Operator will make arrangements for that work. He added the Operator's contribution for this capital project is not precedent setting for any future capital project.

Mr. Reitz referred to Mr. Jannotti's letter where he talked about the possibility of numerous "hiccups" in a 20 day period and wanted to know about the 20 days. Mr. Fury replied it is in relation to the undercutting contract and basically you are buying a 20 day window.

NEW BUSINESS

Vail Survey Proposal Selection

Mr. Stover stated there is a need for a detailed boundary and topographic survey of JRA land from Tyrone to a point near Vail. This is approximately 2.5 miles in length. A portion of this proposal survey area is for 3,000 feet long siding to be built using TIGER II funds.

Three proposals were received:

- Taptitch Engineering & Survey, Inc. (Belleville, PA) - \$47,620
- Larson Design Group (Williamsport, PA) - \$107,650
- Keller Engineers (Hollidaysburg, PA) - \$26,250

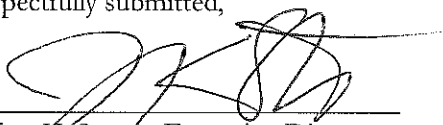
Dr. Spsychalski made a motion for the Board to engage Keller Engineers to do the survey; Mr. Shaffer seconded the motion; motion carried.

Mr. Shields stated that in May he had extended an invitation to the Board for North Shore to host a JRA meeting at the Northumberland facility and asked the Board to consider this invitation. Mr. Stover stated he will discuss this with Mr. Walls.

Mr. Herman asked for an update of the Iron Town Commerce project. Mr. Stover stated the RACP application will be going in to the state and Mr. Conrad has completed his alignments so it is moving along well.

Vice-Chairman Kentzman adjourned the meeting at 2:20 p.m.

Respectfully submitted,



Jeffery K. Stover, Executive Director

I hereby certify these minutes were approved by the SEDA-COG Joint Rail Authority Board of Directors on August 10, 2011.



Secretary/Assistant Secretary



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

April 26, 2011

ANTITRUST SECTION
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RE: SEDA-COG JRA

Dear Mr. Schrack:

After careful consideration, we have decided to take no action at this time regarding the freight railroad operation contract. Nothing should be inferred or implied by this decision. We appreciate your cooperation in this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Joseph S. Betsko".

Joseph S. Betsko
Deputy Attorney General

JSB/lkl/schrack1108