



**SEDA-COG JOINT RAIL AUTHORITY SPECIAL MEETING  
WEDNESDAY, FEBRUARY 25, 2009  
COUNTRY CUPBOARD RESTAURANT  
LEWISBURG, PENNSYLVANIA  
12:30 P.M.**

**PRESERVING  
RAIL FREIGHT  
SERVICE**

*serving the counties of*

**Centre**

**Clinton**

**Columbia**

**Lycoming**

**Mifflin**

**Montour**

**Northumberland**

**Union**

**AUTHORITY MEMBERS PRESENT**

Frank Dombroski, Montour County  
John Gummo, Clinton County  
Scott Harvey, Lycoming County  
Tom Herman, Montour County  
Rick Jenkins, Columbia County  
Don Kramer, Clinton County  
Michael Krentzman, Mifflin County (via cell phone speaker)  
Mike Redin, Centre County  
Dennis Reitz, Northumberland County  
Frank Sawicki, Northumberland County  
Dennis Shaffer, Union County  
John Showers, Union County  
Jim Spendiff, Mifflin County (via cell phone speaker)  
Jerry Walls, Lycoming County  
Bud Henry, Columbia County

**GUESTS PRESENT**

Al Bubb, NRHS  
Fred Flaxmayer, Bulkmatic Transport Co.  
Todd Hunter, Railroad Operating Companies  
Seth Keller, Staiman Recycling  
Jeff Pontius, Railroad Operating Companies  
Dick Robey, Railroad Operating Companies  
Gary Shields, Railroad Operating Companies

**STAFF PRESENT**

Steve Hurvitz, Esq., McQuaide Blasko  
Kay Aikey  
George Fury  
Tim Kishbach  
Jeff Stover

**ADMINISTRATIVE ITEMS**

**Call to Order**

Mr. Walls called the meeting to order at 12:30 p.m.

**SEDA-COG JOINT  
RAIL AUTHORITY**

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**Affiliated with  
SEDA Council of Governments**

### **Pledge of Allegiance**

Mr. Walls led the Pledge of Allegiance.

Mr. Walls welcomed new board member, John Gummo. Mr. Gummo is from Clinton County and owns Eastern Resources, a hospitality design company for restaurants and hotels.

The board members introduced themselves, as there were some guests present.

### **OLD BUSINESS**

#### **Newberry South Bulk Transfer Facility Issues (LVRR)**

Mr. Stover reviewed the following handouts provided to board members:

- Newberry South Bulk Transfer Facility Bid Opening: List of bid results for the building with Hepco Construction being the low bid of \$2,359,855.00. Hepco's detailed bid sheet was also attached.
- Results of Bidding dated February 10, 2009: List of railroad track bid results with Ohio Track being the low bid of \$960,000.00. Ohio Track's detailed bid sheet was also attached.
- LVRR Newberry Bulk Transfer Facility Financing.

Mr. Fury provided a schematic overview of the proposed track work to be done in the Newberry Yard.

Mr. Stover stated the Authority has an approved state capital grant of \$1.505 million, which represents the state share of 70%. With the track bid results being so low, it has allowed for additional track work to be done. The RAM track, which is the one Staiman Recycling will be using, will be totally rebuilt. The owners of Staiman Recycling and Nittany Oil have agreed to pay the 30% local share for the number of feet of track they will be using which will result in approximately \$28,000 between the two. There will also be a contribution from LVRR for the number of ties that have to be installed to bring the RAM track up to JRA standards.

Mr. Flaxmayer, Chief Financial Officer of Bulkmatic, gave an overview of the operations of Bulkmatic. He stated that Bulkmatic has been a bulk trucking company since 1971 moving dry bulk products with the largest commodity being flour. He stated Bulkmatic is approximately a \$110 million privately held U.S. corporation with facilities in Mexico. Bulkmatic runs 550 bulk trailers.

Mr. Stover stated the new facility is intended to be for the sweetener and for the plastics business, but Bulkmatic is also doing frac sand via a lease on the north side of the yard.

Mr. Hunter stated NSHR handled the first five carloads of frac sand in August 2008 and the industry is growing dramatically. Mr. Hunter stated Bulkmatic is providing transload and inventory management services for the gas well service providers and it is a demanding business. It takes a minimum of three cars of sand to frac one well.

Mr. Walls added Lycoming County is expecting 250 or more wells to be drilled this year in Lycoming County alone.

Mr. Stover reviewed the LVRR Newberry Bulk Transfer Facility Financing handout. There is a split between the value of the work of the site building and track work the JRA will be doing on its own versus the work solely for Bulkmatic. Total project cost is \$4,059,855. The JRA needs to borrow \$700,000 from the state and \$1,900,000 from a bank.

The annual debt service for all the loans for the first 10 years is \$237,000. The lease payments proposed to be received from Bulkmatic is based upon a figure of \$11,000 a month which has been discussed with Mr. Flaxmayer and agreed to. There is some liability language in the lease that needs to be changed which Mr. Flaxmayer, his attorney and Attorney Hurvitz will work on. The debt service in years 11-20 is estimated to be \$159,000 a year, leaving a net cost to the JRA of \$27,708.

Mr. Redin asked for clarification of the costs for Bulkmatic. Mr. Stover stated these costs are strictly to the benefit of Bulkmatic and things the Authority would not be doing had there not been a need to have a new bulk transfer facility. The items listed in the JRA column are site development – the new road, water and sewer, some of the paving, and some drainage work.

Mr. Redin asked what Bulkmatic's contribution is. Mr. Stover replied Bulkmatic has some contribution for lease hold improvements – new truck scale, steam boiler, and other proprietary things that they would bring in, but would take out at the end of the lease term or upon vacating the facility.

Mr. Stover further added that Bulkmatic's lease payments do not cover all of the expense, but cover more than half of the expense.

Mr. Walls added the permanent assets are rail facility assets and site improvements.

Mr. Kishbach reviewed the bank proposal comparison spreadsheet and explained the bank fees.

Mr. Shaffer asked if there is a ceiling on the prepayment fee. Mr. Kishbach replied this would need to be negotiated with the bank.

Mr. Stover reminded board members that this list does not show the infrastructure bank loan, it is just the bank loan.

Mr. Walls asked Mr. Kishbach for his advice as to which bank would be the best one for the Rail Authority to go with.

Mr. Kishbach stated with the present economic conditions, he was very surprised the rates were this good. He further stated he doesn't know what is going to happen with the rates in 5 years. PNC bank gives the peace of mind that the rate is locked in for 10 years. The only down side is the Authority would have to refinance after 10 years and that would be an additional cost. With Jersey Shore Bank even though the rate will change every 5 years the loan is for 20 years and there would be no refinance cost.

Mr. Walls asked Mr. Flaxmayer for his perspective on the bank's proposals. Mr. Flaxmayer responded that a 10 year fixed rate would be his choice as the rates aren't going down. There is also the fear of refinancing in 10 years.

Mr. Sawicki stated he favors the PNC proposal because of the fixed rate.

Mr. Hellman asked what the difference would be in the interest rate over the first 10 years between Jersey Shore and PNC. Mr. Kishbach stated with Jersey Shore it would be \$1,541,000 and with PNC it would be \$1,498,000, a difference of approximately \$42,000.

Attorney Hurvitz stated these are not commitment letters; they are proposals from the banks to lend. If the Authority wants to move forward, there is a process that needs to continue which is to negotiate some of these terms from the banks. Attorney Hurvitz has a concern with the PNC proposal. The paragraph under

collateral states that the bank reserves the right to require real estate collateral for this facility. Does the bank understand there will not be real estate for this facility? Mr. Walls stated this was made very clear to the bank during the pre proposal meeting. Attorney Hurvitz further stated there is no reference to a prepayment penalty with PNC. They are locking in funds for 10 years. What normally happens when that occurs is the bank will have a yield maintenance clause in their loan documents which states if you do prepay based upon the cost of funds at that point in time, the bank would have a right to charge a prepayment penalty. This is a fairly standard provision in a fixed interest rate loan.

Mr. Kishbach stated PNC may have a swap included. Susquehanna Bank's proposal was dependent upon a swap. You are basically signing documents for a variable rate but the bank sells the variable rate and locks in a fixed rate. PNC may have some type of swap product in this proposal so it may not truly be a pre payment penalty. This would need to be clarified if PNC is chosen.

Attorney Hurvitz stated the Authority should select an institution that it wants to negotiate with or authorize Mr. Kishbach or some other party to negotiate with the banks in order to get the best possible deal and then come back with a commitment letter that the Authority could act upon.

Mr. Walls entertained a motion to authorize the Executive Director with support from Mr. Kishbach to negotiate the commitment letter with PNC Bank.

Attorney Hurvitz stated the wording for the motion. "To authorize the staff of SEDA-COG to negotiate with the various lending institutions that have submitted proposals for financing for the preparation of a commitment letter subject to approval by the Authority of those terms at a later meeting."

***Mr. Herman made a motion to authorize the staff of SEDA-COG to negotiate with the various lending institutions that have submitted proposals for financing for the preparation of a commitment letter subject to approval by the Authority of those terms at a later meeting; Mr. Redin seconded the motion; motion carried with Mr. Spendiff voting in favor of the motion by speaker phone.***

Mr. Krentzman was not available as he had left the conference call. Mr. Stover called Mr. Krentzman to rejoin the meeting.

Mr. Walls asked Mr. Stover to explain the discrepancy in the spreadsheet for the track work cost of \$1,919,855. Mr. Stover stated the reason for the difference was the track work was edited, thus the reason for the increase.

Mr. Walls entertained a motion to authorize the commitment to a lease with Bulkmatic Corporation for 20 years in the amount of \$11,000 per month contingent upon final review by the Authority's solicitor.

Attorney Hurvitz asked if the lease is conditioned upon financing and Mr. Stover replied, not the way it is written now.

Mr. Redin stated what if in 10 years the payment doubles, would the Authority then have to come up with \$132,000 a year?

Attorney Hurvitz asked if Bulkmatic has approved the lease. Mr. Flaxmayer stated there is some language that needs to be changed regarding indemnification but the changes are very minor.

Mr. Stover stated the leases being used for any lessee have been inherited from Conrail and are railroad centric leases and there have been some clauses in the leases in the past that some tenants have questioned that indemnifies for negligence by the railroad or the Authority.

Attorney Hurvitz questioned if the Authority is expected to be doing the improvements in connection with the lease. Mr. Stover replied yes, the contract would be with the Rail Authority. Attorney Hurvitz stated the lease does not state this. The lease states the premises are being leased to Bulkmatic as is and there is a description of the property but no reference to work that needs to be done by the Authority.

Attorney Hurvitz stated his concern is from the Authority's standpoint of signing a lease saying they are going to go ahead and do this now when there is no final commitment for financing to do it. He also asked what is driving the project.

Mr. Walls stated bids were taken in December and need to be awarded because the companies will not hold the bids forever. Mr. Stover stated Hepco will hold the bid until March 11 which is the next board meeting.

Mr. Walls stated the timetable for Bulkmatic to vacate had been the end of July and it will take time to get the facilities constructed. Bulkmatic feels they may be able to get another month from Wire Rope who has purchased Bulkmatic's property.

Attorney Hurvitz stated the motion should be contingent upon execution of a signed lease and contingent upon receipt of financing in the amount of \$2,619,855 on terms acceptable to the Authority.

A motion would be needed to approve the lease which would be contingent upon review by the solicitor as to form, and receipt by the Authority of a binding commitment letter for financing in an amount not less than \$2,619,855.

Mr. Redin asked what would happen if the Authority is unable to put this building up in the time Bulkmatic needs it.

Attorney Hurvitz stated there is nothing in the existing lease agreement that sets forth time periods for completion of the building and that is why this lease needs to be different than ones done in the past. In this lease the Authority is constructing a building for the tenant. There are no provisions with respect to completion of improvements in the lease.

Mr. Redin asked Mr. Flaxmayer if it is important that this facility be ready in July to which he responded yes.

Attorney Hurvitz stated he would feel more comfortable if the Authority would ratify the final lease when it is completed, if it would be able to meet the timeframes needed. There are some important issues that need to be addressed in the lease.

The next JRA meeting is March 11, 2009 and Attorney Hurvitz asked if this would be sufficient time to have the lease finalized.

Mr. Stover stated Hepco will hold their prices until March 11, and there is no timing issue with the track work.

Mr. Stover stated the Authority solicitor will need to work with Bulkmatic's counsel to work out the terms of the lease. Attorney Hurvitz stated it will also have to be coordinated with the lending institution as well as the facility is the security for the loan. The lease will need to be in final form before the bank is going to approve the lending.

Attorney Hurvitz stated the lease could be contingent upon financing.

Mr. Shaffer asked what the status would be of the \$700,000 needed. Attorney Hurvitz said this amount was included in the \$2,619,855 so everything would be contingent upon the Authority getting total financing in this amount.

Attorney Hurvitz stated if there is no need to vote on this today, his suggestion would be to wait until the March 11 JRA meeting

Mr. Walls charged Attorney Hurvitz with having the lease all worked out with the exact wording a week before the JRA meeting put on paper for the JRA packet. Attorney Hurvitz said he will do everything he can to resolve this.

Mr. Walls stated there is no action taken at this point and this issue will be deferred to the March 11 JRA meeting. Award of track work will also be deferred to the March 11 JRA meeting as well.

### **2009 M/W Program**

Mr. Stover thanked the operator and his staff for their cooperation and for agreeing to a very robust program which was outlined in a handout provided to members. Mr. Stover also thanked the Chairman who sat in all of the meetings for discussion of the M/W program. A letter of acceptance for the M/W Plan 2009 has been received from Mr. Jannotti dated February 22, 2009.

Mr. Fury gave a brief summary of work being done for the 2009 M/W program.

Mr. Stover stated that staff is happy with the program.

Mr. Robey stated the program is meant to meet the requirements of the operating agreement which states that the operator will bring the Authority's track up to the maintenance standards in the operating agreement within a reasonable amount of time. The Authority requested through resolution November 2008 that the reasonable amount of time would be this year and this program was designed to meet that. The Authority's engineer feels this program will bring all the tracks up to operating agreement maintenance standard.

Mr. Walls stated Mr. Jannotti is a specialized railroad track consultant. The operating agreement gives responsibility to the Executive Director and track consultant to review and consider for approval each annual maintenance of way program. No action needs to be taken on this item, just an informational item for board member.

Mr. Reitz raised a question regarding the number of ties being put in on the SVRR. Mr. Stover stated the SVRR will have 2,595 ties renewed. Mr. Reitz stated his two concerns are 1) that Northumberland County Commissioners are working with a few industrial prospects east of Shamokin on that section of track, and 2) the fact that they are not locating a business in Northumberland County on a stretch of track that needs a lot of work in a short period of time.

Mr. Walls thanked the operator for making the effort and especially appreciate him conveying back to Mr. Simcox the professionalism he showed in developing this M/W program.

### **Public Forum**

Mr. Hunter shared that the Authority staff and the operator were in Glenn O. Hawbaker's quarterly news magazine, the January 2009 edition, regarding the 25<sup>th</sup> anniversary of the JRA. A copy will be given to Authority staff.

**Other**

Mr. Walls stated the Executive Director will be in touch with the two new board members to schedule an orientation session which will last for 2-3 hours.

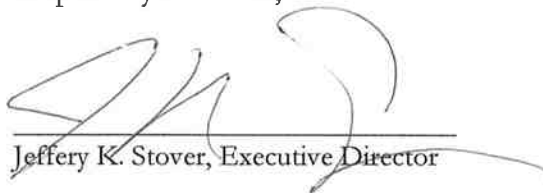
Mr. Robcy extended an invitation to the new board members to visit the North Shore Railroad office in Northumberland.

Mr. Stover stated that on Monday, March 9 there will be a Newberry Yard Strategic Planning Session from 10:30 a.m. to 2:30 p.m. at the Lycoming Valley office in Newberry in the conference room. All are welcome to attend.

**ADJOURNMENT**

Mr. Walls adjourned the meeting at 2:25 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 March 11, 2009.



Donald P. Kromer  
Secretary/Assistant Secretary