



SEDA-COG JOINT RAIL AUTHORITY MEETING
WEDNESDAY, MARCH 9, 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

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
Rick Jenkins, Columbia County
Don Kramer, Clinton County
Michael Krentzman, Mifflin County
Rob Postal, Mifflin County
Dennis Reitz, Northumberland County
Frank Sawicki, Northumberland County
Dennis Shaffer, Union County
John Showers, Union County
John Spsychalski, Centre County
Jerry Walls, Lycoming County

GUESTS PRESENT

Tom Avery, Railroad Operating Companies
Allen Bubbs, NRHS
Jim Conway, Norfolk Southern
Charles Hixon, Bergmann Associates
Todd Hunter, Railroad Operating Companies
Travis McConnell, Norfolk Southern
John Mizerak, Delta Development
Mark Murawski, Lycoming County Planning
Vince Press, Bergmann Associates
Don Purcell, Norfolk Southern – Retired
Andrew Richards, Bellefonte Historical Railroad Society
Gary Shields, Railroad Operating Companies
Pete Simcox, Railroad Operating Companies
Robert Smith, Lycoming County Resident
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

**SEDA-COG JOINT
RAIL AUTHORITY**

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Affiliated with
SEDA Council of Governments

CALL TO ORDER

Call To Order

Chairman Walls called the meeting to order at 12:40 p.m.

Pledge of Allegiance

Chairman Walls led the Pledge of Allegiance.

Special Meeting Report

Chairman Walls reported that the SEDA-COG Joint Rail Authority conducted a special meeting at 10:00 a.m. and went into an Executive Session for personnel and legal matters. Once the Executive Session was over the Board went back into public special meeting session at which time the Board did vote unanimously to authorize the preparation of a communication to the eight Boards of County Commissioners who are members of the SEDA-COG JRA. This communication will relate that the JRA received a letter of inquiry from the Pennsylvania Office of Attorney General (OAG) regarding the JRA's contract with its railroad operator. The OAG contends the 2006 Agreement was entered into with competitive bidding.

Subsequently, the JRA Executive Director and legal counsel met with representatives from the OAG and provided all requested files and offered any and all other documents the OAG might need. To date, no response has been received back from the Attorney General's office. The Executive Director has been asked to look into what the Authority's practice is for procurement of services and construction. A handout entitled "Projects Bid and Awarded by the SEDA-COG Joint Rail Authority" was provided to Board members and guests which tabulates from 2004-2010 all of the procurements that the JRA has done and contracts that were put out to bid. Information was shared with the OAG regarding how the original procurement was undertaken via a request for proposals. In 1984 there were eight company respondents from which the Robey company was chosen to provide that professional service.

Attorney Schrack stated that the Authority is cooperating with the OAG in the production of documents per the Attorney General's request pertaining to the Operating Agreement.

ADMINISTRATIVE ITEMS

Public Forum

Mr. Richards stated that on behalf of the Bellefonte Historical Railroad Society and the Bellefonte Intervalley Area Chamber of Commerce they would like to offer the JRA the opportunity to use the railroad station for the PR event in the Bellefonte area to announce the TIGER II grant for the Tallyrand Bridge. Mr. Stover replied that this event has been cancelled and will be discussed further in the agenda. Mr. Richard stated they would be willing to extend this opportunity for a later date as well as long as there is not another conflict with use of the railroad station.

Chairman Walls stated that he has been contacted by Mr. Gummo asking the Chairman to appoint someone else to chair the Joint Rail Authority's Excursions Committee due to his needs and his own business. Chairman Walls stated that Dr. Spychalski has put a lot of effort into this committee and at this time he will be appointed to chair this committee.

Approval of the February 9, 2011, Meeting Minutes of the SEDA-COG Joint Rail Authority

Mr. Sawicki made a motion to approve the February 9, 2011, meeting minutes of the SEDA-COG Joint Rail Authority; Mr. Herman seconded the motion; motion carried.

Treasurer's Report

Mr. Reitz presented the Treasurer's Report for the month of February 2011.

Mr. Harvey made a motion to approve the Treasurer's Report for the month of February 2011; Mr. Kramer seconded the motion; motion carried.

Mr. Stover stated there was no motion to approve the Treasurer's Report for January 2011.

Mr. Reitz stated that it was stated on page 6 of the meeting packet (page 2 of the February 9, 2011 meeting minutes) that "the Treasurer's Report for the month of January 2011 was unanimously approved". Mr. Stover replied that the report was approved, but there is no record of who made or seconded the motion.

A motion was made by Mr. Reitz to ratify the past approval of the Treasurer's Report for the month of January 2011; Mr. Harvey seconded the motion; motion carried.

Mr. Stover stated that he had reported at last month's meeting to engage Herring and Roll to perform the Maitland DCED project audit. The cost of this audit would cost between \$800 and \$1,300.

Dr. Spychalski made a motion to approve the Herring and Roll engagement letter for the Maitland DCED project audit for an amount not to exceed \$1,300; Mr. Postal seconded the motion; motion carried.

Mr. Stover stated that he has been in contact with the Operator and Mr. Herring and relayed to them that the JRA's auditor would need to review the work product of Bowers and Company. Ms. Williams, the NSHR Treasurer, has spoken to Jim Bowers and Company about the request. Mr. Herring will draft an "agreed upon procedures" letter to the JRA. This letter will lay out what Mr. Herring plans to do regarding the review of the Operator's records and his auditor's work papers so that the JRA Board can affirm they are satisfied with the review procedures. After getting the Board's affirmation, Mr. Herring will draft letters to the Operator and his auditor requesting the information he will need to see and establishing a timeframe for a visit to them.

Legal Issues

Attorney Schrack stated there are no legal issues other than what is stated on the agenda and the Attorney General's matter which was discussed previously.

Events Calendar/Projects Map/Staff Report

Mr. Stover presented the events calendar for March-April 2011 and Projects Status Report.

Operator's Status Report and Business Forecast

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

Ms. Williams reported that the operating fee revenue from January 2011 to January 2010 is up by about 11%; carload numbers are up 15% and operating fees paid to the JRA are up 14.5%

OLD BUSINESS

TIGER II Status

Letter to U.S. Senators Regarding Possible Funding Rescission

Mr. Stover asked Board members to refer to the following handouts: "TIGER II/PA Capital Budget/PIB Budget" and "TIGER II Categorical Exclusion Consultation Matrix". The latter prepared by Barry Isett and Associates, the environmental consultant, which lays out the status of environmental approvals.

Mr. Mizerak provided a status report on the possible funding rescission. He stated that a draft letter was prepared and sent to the federal legislative delegation that covers the region. There has been a series of proposals back and forth between the House and Senate regarding Continuing Resolutions to allow for the federal government to continue operating despite the fact that there is no budget for this year. There was a long term Continuing Resolution passed by the House and in that there was a series of reductions being proposed. Inside that was a proposal to rescind the TIGER II funding or otherwise known as the National Infrastructure Investment Program which is the specific name that was included in the 2010 authorization. The Senate has not taken action on this as of yet.

Mr. Stover stated the action is now in the U.S. Senate. The letter to Senator Casey was provided in the meeting packet and letters have been prepared to the rest of the delegation – Senator Toomey and the U.S. House Representatives – Shuster, Thompson and Marino. The Board needs to ratify the letter sent to Senator Casey and to approve a similar letter to be sent to the other delegation members.

Chairman Walls stated this is not an earmark; it is a competitive grant. The JRA asks that the grant be honored and that the JRA is able to do the 15 projects that were planned that will be economically beneficial for northcentral Pennsylvania – specifically for six counties.

Chairman Walls stated that the Continuing Resolution would cut the grant appropriations by program category for any monies that have not already been obligated by grant agreement. Therefore, the Authority has recognized, and it is the advice from Delta, that JRA do a mad scramble to get all the preliminary requirements satisfied so FRA could issue the grant agreement. This action is likely to protect the Authority from loss of that money. The grant stands if it has been obligated by a formal grant agreement between FRA and the Joint Rail Authority. If the Authority can secure that, it won't matter what the Continuing Resolution says.

Referring to the overall TIGER II budget matrix, Mr. Stover noted the state funds total \$8.3 Million. The more immediate number is \$3.85 Million which has been approved by the state and is secure. Even if the TIGER II money is rescinded the Authority still has \$3.85 Million in state money, but just has to match it with \$1.6 Million, so a lot of the big projects can still get done.

Dr. Spychalski made a motion for the full Board to ratify the letter sent to Senator Casey which was signed by the Chairman and Executive Director on behalf of the Joint Rail Authority and to authorize a similar, somewhat more extensive letter be sent to Senator Toomey and to Congressmen Marino, Thompson and Shuster; Mr. Harvey seconded the motion; motion carried.

Mr. Stover reviewed the handout entitled "TIGER II Categorical Exclusion Consultation Matrix".

Delta Development Group Agreement

Mr. Stover stated that Delta has submitted a proposal to prepare an application for funding from the Pennsylvania DCED for the Irontown Commerce Center project in Danville. Funding up to \$750,000 has been made available from the Redevelopment Assistance Capital Program (RACP). The Authority is looking to engage Delta assistance to get this done.

Mr. Herman made a motion for the full Board to approve Delta Development Group's proposal to prepare the RACP and provide follow-up services; Mr. Dombroski seconded the motion; motion carried.

Resolution Related to PennDOT Capital Budget Grant

Mr. Stover stated that PennDOT requires a resolution by the Joint Rail Authority that would guarantee that the 30% local match would be there for the state capital budget grant. If the TIGER II money is eliminated, the Authority will need to provide the \$1.625 Million to match the \$3.85 Million state grant.

Chairman Walls stated that if the TIGER II money does not materialize the Authority can pull away from the obligation for the Airport Access Road/Railroad Bridge project which is the basis on which the Authority would have the \$1.625 Million match obligation. Mr. Stover stated the Authority is already on the hook to borrow \$4 Million under the Intergovernmental Cooperation Agreement. If the TIGER II money goes through the budget is intact, but if it evaporates then the Intergovernmental Agreement goes away and there is no need to borrow the \$4 Million, but the Authority still needs to match the state money. The Authority will be saving money if the TIGER II goes away as there is less money to be borrowed.

Mr. Shaffer asked how the Authority would be paid back the \$4.3 Million. Mr. Stover stated the Authority would be paying the loan with its revenue stream.

Attorney Schrack stated that it was previously discussed that there should be a force majeure clause in the agreement and the language states that "Neither party should be in breach of this agreement if the party fails to comply with the terms of this Agreement solely by reason of governmental restrictions, rules or regulations or acts beyond the control and without fault of the parties." In this case, if the Authority doesn't get the TIGER II funds you look at the force majeure clause.

Chairman Walls stated the Authority has a bonafide revenue stream for every loan that the Authority is undertaking which provides revenue equal to or potentially greater than the debt service.

Mr. Shaffer stated he thinks the Authority is getting way into debt. He asked if the Authority is committed to doing these projects. Mr. Stover replied that the Authority can back out of some of these on a piece meal basis.

Chairman Walls stated the issue is that the Authority is faced with an unprecedented business opportunity and there is a risk, but the Authority needs to look at it on an investment basis where there is reasonable probability and legal language to assure that there is a revenue stream to cover the debt service.

Mr. Krentzman stated there is certainly risk in anything you decide to do. To grow there are times that you need to take on debt.

Mr. Shaffer asked why the Operator isn't contributing; the Authority should be getting some private capital. Mr. Stover stated on project 14 some of the private money was looked at by the Operator and there was some discussion on a portion of the tax credit money going towards capital projects, but that has not been settled yet.

Mr. Stover stated that he strongly recommends passage of the resolution because the Authority can't let the state money get away. Further, the projects with state dollars are the same ones that provide the most opportunity for new revenue.

Mr. Sawicki made a motion for the full Board to adopt the resolution that the SEDA-COG Joint Rail Authority provide the 30% local share for the Capital Budget projects related to the TIGER II program and execution by the Chairman and Secretary and the match committed by the JRA be \$1,650,000; Mr. Krentzman seconded the motion; motion carried with Mr. Shaffer opposed. (Mr. Hawbaker, who was calling in from another location, did not participate in this vote.)

Koppers/Halliburton Contract Award (LVRR-Montgomery)

Mr. Stover stated that W.E. Yoder is ready to move on the \$985,792.00 project to extend rail service from the LVRR, through the Koppers site and up to the edge of the Halliburton site. The bid package for this work was prepared by Paul Jannotti. A draft Memorandum of Understanding (MOU) between the JRA, Industrial Properties Corporation (IPC) and Halliburton has been circulated amongst the respective attorneys. The MOU governs the transfer of a DCED grant from the IPC to the JRA and requires a Halliburton contribution for any cost in excess of the state grant. This will result in 100% coverage of the track work costs except for engineering. Mr. Stover asked for an award to W.E. Yoder contingent upon receipt of a signed MOU with the IPC and Halliburton.

Mr. Postal made a motion for the full Board to award the contract to W.E. Yoder for \$985,792.00 for track work at Koppers contingent upon a fully executed MOU with the Industrial Properties Corporation of the Williamsport Lycoming County Chamber and Halliburton with no substantive changes to the previous version; Dr. Spsychalski seconded the motion; motion carried with Mr. Hawbaker abstaining.

PROPERTY MANAGEMENT COMMITTEE

Sidetrack Roadbed Conveyance to Airport Authority (LVRR-Montoursville)

Mr. Fury stated there is an old spur off the LVRR called the "Pardee and Ransom Branch of the Catawissa Railroad" that extends about 2800 feet from Loyalsock Avenue down along Loyalsock Creek and through the runway of the Williamsport Regional Airport. The Airport asked if the Rail Authority would convey the old right-of-way to them. The roadbed is of no use to the JRA and its only value is to the airport.

Mr. Herman made a motion for the full Board to convey for \$1.00 the roadbed of the former Pardee and Ransom Branch to the Williamsport Regional Airport Authority; Mr. Reitz seconded the motion; motion carried.

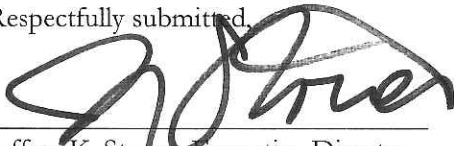
Mr. Stover stated that the Rail Authority never established the quality of the Rail Authority's title so basically this is a quit claim deed.

West Shore Railroad Lease Draft

Mr. Stover stated he has nothing further to report on this other than he will advise the Board when he knows when the upcoming meeting will be held with the West Shore board. The March 10 meeting originally scheduled was postponed and no new date has been set.

Chairman Walls adjourned the meeting at 2:00 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 April 13, 2011.



Secretary/Assistant Secretary