

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: PUBLIC WORKS

DATE: MARCH 29, 2018

COMMITTEE MEMBERS PRESENT:

SUPERVISORS SIMPSON
MERLINO
FRASIER
DICKINSON
LOEB
MAGOWAN

COMMITTEE MEMBERS ABSENT:

SUPERVISORS DIAMOND
HYDE
WILD

OTHERS PRESENT:

KEVIN HAJOS, DEPUTY SUPERINTENDENT OF PUBLIC WORKS
TIM BENWAY, DIRECTOR, PARKS, RECREATION & RAILROAD
REPRESENTING SARATOGA & NORTH CREEK RAILWAY:
ED ELLIS, PRESIDENT & CEO
JUSTIN GONYO, GENERAL SUPERINTENDENT
STEVE TORRICO, FORMER GENERAL MANAGER
RONALD CONOVER, CHAIRMAN OF THE BOARD
KEVIN GERAGHTY, ACTING COUNTY ADMINISTRATOR
MARY ELIZABETH KISSANE, COUNTY ATTORNEY
AMANDA ALLEN, CLERK OF THE BOARD
FRANK THOMAS, BUDGET OFFICER
SUPERVISORS BEATY
BRAYMER
DRISCOLL
HOGAN
LEGGETT
MCDEVITT
SOKOL
STROUGH
MIKE SWAN, COUNTY TREASURER
TRAVIS WHITEHEAD, TOWN OF QUEENSBURY RESIDENT
DON LEHMAN, *THE POST STAR*
THOM RANDALL, ADIRONDACK JOURNAL
SARAH MCLENITHAN, DEPUTY CLERK OF THE BOARD

Please note, the following contains a summarization of the March 29, 2018 meeting of the Public Works Committee; the meeting in its entirety can be viewed on the Warren County website using the following link: <http://www.warrencountyny.gov/gov/comm/Archive/2018/works/>

Mr. Simpson called the meeting of the Public Works Committee to order at 9:01 a.m.

Copies of the Parks, Recreation & Railroad Agenda were distributed to the Committee members, copies of same are on file with the meeting minutes.

Motion was made by Mr. Merlino, seconded by Mr. Loeb and carried unanimously to approve the minutes of the last Committee meeting, subject to correction by the Clerk of the Board.

Mr. Simpson announced the meeting had been scheduled upon the request of Mr. Geraghty and several of the Committee members to afford them the opportunity to meet with Ed Ellis, *President, CEO, SNCR*, to discuss matters concerning the railroad. Mr. Ellis inquired if Richard Lucia, *Supervisor, Town of Corinth*, had been invited to attend today's meeting since the Town of Corinth partnered with Warren County on the contract for the Railroad. He said since the discussion was concerning the contract he felt Mr. Lucia should have been invited to attend the meeting. Mr. Simpson stated the meeting was scheduled upon the request of the Committee members and Mr. Geraghty following his attempts to obtain a response to his inquiries from Mr. Ellis which went unanswered.

Mr. Ellis apprised he was happy to receive the invitation to attend today's meeting because the result of the actions taken by the County with regard to car storage resulted in a devastating situation for his company that cost them million of dollars. He congratulated the Board members on their success, as

the remaining cars were being moved out of storage since no one was willing to do business with them. He remarked it was imperative for the Board to determine whether they wanted to have a railroad because if they did the only way it would be plausible was for the County to purchase the Tahawus portion of the line from them; he added SNCR would not have the financial stability required to continue operating otherwise. He continued, if the County purchased the Tahawus portion of the line from them for \$5 million he would be able to pay all the bills through the remainder of the contract; otherwise, he noted, they did not have the financial means available to sustain the operation.

Mr. Loeb recalled that SNCR was selected as the Railroad Operator they indicated to the County the big issue was it would take a few years to build freight operations here. He said at that point in time the County had been on the cusp of tearing up the tracks since it was proven there was not enough revenue gained through passenger services. He said the Committee members were notified at the March 20th meeting of the Public Works Committee that SNCR had acquired a contract for freight services; however, he noted, it appeared now that Mr. Ellis was indicating they were unable to continue operating. Mr. Ellis interjected that they only had the potential for freight. He apprised they were in their seventh year of operation; however, he noted, he would not have renewed the contract with the County if the former County Administrator had notified them they would not be allowed to store cars. He mentioned he had written to the former County Administrator and it was also on the record that he would renew the contract because of car storage, noting if any indication had been given at that time he would not be permitted to do so he would have walked away regardless of the millions of dollars he had invested in the railroad and before he had brought in millions of dollars worth of equipment such as the dome cars, etc., all of which had resulted in zero return on investment. He pointed out they would obtain more of a return on their investment from that equipment if it was located at one of their other subsidiaries. He reiterated he renewed the contract based on the strength of car storage which the County had now "tanked for them". He commented he would love to have some freight which was why he was suggesting the County purchase the Tahawus line from him for \$5 million thereby allowing SNCR to continue operating and for him to work hard on developing freight; however, he noted, he would not be doing it on "his nickel". Mr. Ellis advised he had invested millions of dollars in the County's railroad in an attempt to try and make it viable. He added he was willing to continue as long as the County purchased the Tahawus line for \$5 million, as it would cost him a minimum of \$3 million to operate the railroad through the duration of the contract with the hopes that freight operations would be developed.

Mr. Loeb advised he did not believe the County would be willing to purchase the Tahawus line for \$5 million, noting the reason they currently had the railroad related to the fact that they thought it was going to be something that was a viable commercial operation and not operated through support from the government. Mr. Ellis interjected the reason they had been interested in operating the railroad here was in the hopes of building a viable commercial operation; however, he noted, their intent had not been to subsidize Warren County and the Town of Corinth. Mr. Ellis pointed out New York State had invested millions of dollars in railroads and he suggested that the County request that the State provide them with the \$5 million in order to move forward with this purchase, as representatives of the State had indicated to him there were funds available for this purpose. He stated by purchasing the Tahawus line the County would have complete control over the tracks, right-of-ways, etc.

A discussion ensued.

During the discussion Ms. Braymer rejected Mr. Ellis's point that the County's action which resulted in the loss of revenue from storing rail cars had caused SNCR's operation to fail.

Mr. Geraghty clarified that the reason he had requested a Committee meeting be scheduled with Mr. Ellis was strictly for the purpose of discussing the past due amount owed to the County, as well as the monthly reports that were supposed to be submitted to the County Treasurer's Office, but had not been

received in a few months. He pointed out he had voted in favor of allowing Mr. Ellis to store the rail cars along the Tahawus line to assist them in acquiring revenue with the hopes that they would become current on their payments to the County, but that resolution had failed due to a lack of majority vote. In regards to the possibility of moving stone from the Tahawus line, he apprised he considered this to be “talk” unless the required contracts were in place and Mr. Ellis concurred. He added there was no way the County would ever consider purchasing the Tahawus line, pointing out years ago the Town of Newcomb had grant money which could have been used to pay for the purchase, but they opted to use these grant funds for sewers instead. He sympathized with the current financial state of SNCR; however, he noted, the County needed to be made whole through SNCR becoming current on its payments up to this point. He remarked he was well aware the County would not be able to find anyone else who had the financial wherewithal to do what was needed to develop freight operations on the line and Mr. Ellis concurred. Mr. Ellis added it would be near impossible to find an operator who could follow through with having the amount of insurance required, make a deal with Canadian Pacific Railway on the interchange at the Saratoga Station, develop freight and the resources to acquire the cars to haul freight, and have the kind of relationship with the Class One Railroads to be able to make viable freight rates. He acknowledged that his company had the ability to do all of these things, but in spite of their best efforts they had been unsuccessful.

A discussion ensued during which Mr. Ellis emphasized although there were three years remaining on the contract with SNCR his company was no longer able to continue operating at a loss. In response to the demand that he remit past due payments, Mr. Ellis advised there was no funding available to make them. He pointed out the winter season had cost them a significant amount of money as a result of the expenses associated with snow removal and that they had to cancel several trips due to the tracks being closed. He reiterated they were not planning on operating the tourist train to North Creek this spring/summer.

Ms. Braymer pointed out when the Board voted in opposition of SNCR’s plans to store rail cars, Mr. Ellis had indicated he planned on storing these cars for as long as possible. She apprised this did not jibe well with SNCR’s plans to seek out freight operations from the Tahawus mine. Mr. Ellis advised he had stated this because he saw the storage as a bridge until they built a viable freight operation out of the Tahawus mine which would take time to do. He added he also stated that once they were able to move the stone out of the Tahawus mine they would move the cars stored there to another location. He concurred that he did want these cars to remain in storage as long as possible so that he could get back a portion of the millions of dollars he had invested in the railroad. Ms. Braymer concurred with Mr. Ellis that he had done his best to make the railroad viable; however, she noted, since it was obvious it was not going to work out she felt it may be the appropriate time to “call it quits” and Mr. Ellis responded that he was providing the County with this option.

Mr. Ellis apprised that he realized the purpose of the meeting was to discuss the past due amount to the County; however, he noted, the reason he wanted to attend today’s meeting related to his company not having the ability to pay the rental fee for the railroad. He said he had expanded on this by explaining why they were unable to make these payments, as well as providing a possible solution which encompassed the County purchasing the Tahawus line from them for \$5 million. He remarked he was happy to answer any questions, but he thoroughly believed it was necessary for the Board to determine whether they wanted a railroad or a trail because if they wanted the railroad they needed to provide assistance to the operator. He apprised through third party conversations with Paul Karas, *Commissioner, New York State Department of Transportation*, Mr. Karas indicated he was fully supportive of having someone purchase the Tahawus line to allow them to continue operating here which was why he did not think they should immediately shoot down this notion. He suggested the Board members lobby in Albany for financial assistance if they were interested in seeing the continued operation of SNCR here.

In response to a question from Mr. McDevitt, Mr. Ellis apprised that he was not seeking a subsidy, but rather an investment to allow SNCR to continue operating, as his company and its shareholders could no longer afford to pay the rental fee for a railroad that was losing money. He pointed out the County had made a number of investments over the years in infrastructure such as the roads and bridges here. He added the investment did not necessarily have to come from Warren County, as it could be from the State, the Town of Corinth, Essex County, the Town of Newcomb or some form of a joint investment in the Tahawus line to keep it available to remove the stone from the mine. He reiterated it would take the purchase price of the Tahawus line to operate SNCR with the hopes of developing freight out of the Tahawus mine to become a viable railroad. Mr. Beaty stated he believed SNCR currently owed the County around \$27,000 in past due payments and he asked Mr. Ellis to clarify this figure; Mr. Ellis informed the actual past due amount equated to \$28,880.

A discussion ensued during which Ms. Hogan questioned how SNCR could cease operating when there was still time remaining on their contract. Mr. Ellis replied although there was a contract his company did not have the financial wherewithal to fulfill their obligation. Ms. Hogan asked whether Mr. Ellis's company would be filing for bankruptcy and he responded they were hoping something could be worked out so they did not have to file for bankruptcy. Mr. Loeb inquired how many years were remaining on the contract and Mr. Simpson replied that there were three years left. Mr. Loeb pointed out \$5 million dollars would provide them with three years of service following which railroad operations would cease. Mr. Ellis interjected that was not necessarily the case, as he believed Paul Mitchell had a good plan pertaining to the Tahawus mine which could result in enough stone being moved out of there via the railroad to become a viable operation. He said he felt the odds of this coming to fruition were 60/40%.

There being no further business to come before the Public Works Committee, on motion made by Mrs. Frasier and seconded by Mr. Loeb, Mr. Simpson adjourned the meeting at 9:56 a.m.

Respectfully submitted,
Sarah McLenithan, Deputy Clerk of the Board