

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: PUBLIC WORKS

DATE: MAY 21, 2018

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COMMITTEE MEMBERS PRESENT:

SUPERVISORS SIMPSON  
MERLINO  
FRASIER  
DIAMOND  
LOEB  
HYDE  
WILD

OTHERS PRESENT:

KEVIN HAJOS, SUPERINTENDENT OF PUBLIC WORKS  
TIM BENWAY, DIRECTOR, PARKS, RECREATION & RAILROAD  
REPRESENTING SARATOGA & NORTH CREEK RAILWAY:  
JUSTIN GONYO, GENERAL SUPERINTENDENT  
RONALD CONOVER, CHAIRMAN OF THE BOARD  
JOANN MCKINSTRY, ASSISTANT TO THE COUNTY ADMINISTRATOR  
SARAH MCLENITHAN, DEPUTY CLERK OF THE BOARD  
FRANK THOMAS, BUDGET OFFICER

COMMITTEE MEMBERS ABSENT:

SUPERVISORS DICKINSON  
MAGOWAN

SUPERVISORS BRAYMER  
DRISCOLL  
GERAGHTY  
LEGGETT  
SOKOL  
MIKE SWAN, COUNTY TREASURER  
TRAVIS WHITEHEAD, TOWN OF QUEENSBURY RESIDENT  
KURT AUSTIN, WARREN COUNTY RESIDENT  
DON LEHMAN, *THE POST STAR*  
MOLLY GANOTES, LEGISLATIVE OFFICE SPECIALIST

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*Please note, the following contains a summarization of the May 21, 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 10:33 a.m.

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

Commencing the review of the Parks, Recreation & Railroad agenda, privilege of the floor was extended to Justin Gonyo, *Saratoga & North Creek Railway (SNCR) General Superintendent*, who announced this would likely be the last time he addressed the Committee in this capacity, apprising it had been a pleasure to work with everyone. He informed SNCR had moved out of the Thurman and North Creek Stations; however, he noted, Revolution Railriders Inc. was still using the North Creek Station for their operation. He said the washout by Mile Post 51.5 had been stabilized with only a few minor repairs remaining. He advised the storage cars had all been removed from the Tahawus line, with the twenty-four remaining cars to be transferred from the North Creek Station to the Interchange tomorrow. He advised the individual who performed the inspections on the railroad crossings had been fully paid to ensure that contract remained in effect.

Kevin Hajos, *Superintendent of Public Works*, remarked it had been a pleasure working with Mr. Gonyo, and he commented that Mr. Gonyo would be an asset to whomever he ended up working for. Mr. Wild questioned when the contract to maintain the railroad crossings would expire and whether the next step would be to have the crossing arms pinned up to ensure that no issues occurred with them. Mr. Gonyo responded they would first need to determine at what point the responsibility for the railroad crossings would change from Iowa Pacific Holdings to the County. He explained as per Federal regulations every railroad crossing, whether in use or not, had to have a blue sign posted which conveyed who was responsible for the crossing and providing a twenty-four hour contact number for that entity. He advised that on the day when the responsibility changed from Iowa Pacific Holdings to Warren County, all of the current signs listing SNCR as the responsible party and providing their

emergency contact number would need to be replaced. In regards to the railroad crossings themselves, Mr. Gonyo informed they could be taken out of service and those with gates could be pinned up in place and the power supply cut off. Mr. Wild inquired whether there was any obligation for the County to take that responsibility from SNCR and Mr. Gonyo replied in the negative. He explained the obligation remained SNCR's as long as their contract with the County remained in place.

Mr. Geraghty opined that Mr. Gonyo's explanation was vague, and he questioned how long Iowa Pacific Holdings would be responsible for the railroad crossings. Mr. Simpson interjected that there were 2.5 years remaining on the contract with Iowa Pacific Holdings during which "in theory" they were supposed to be responsible for the crossings and Mr. Gonyo concurred. Mr. Gonyo added he was providing the Committee members with what the federal regulations were so they would know what would be required of them if the responsibility was transferred to the County. Mr. Geraghty questioned whether any regulations existed which would require the railroad crossings to be pinned up if the operations remained dormant for a specific period of time and Mr. Gonyo replied in the negative. He said the crossings could be pinned up immediately following the removal of all of the trains. Mr. Geraghty voiced his concern regarding vandalism to the railroad crossings, as there had been cases in which this occurred when SNCR was operating. Mr. Gonyo stated that someone, regardless of whether they were a railroad contractor, would have to keep an eye on things like that.

Mr. Wild inquired whether Mr. Gonyo was authorized as a representative of Iowa Pacific Holdings to speak to the terms of the contract which indicated the railroad crossings would be maintained by SNCR and Mr. Gonyo replied in the affirmative, advising he could speak the contract as it was written. Mr. Wild said he was trying to avoid representatives of Iowa Pacific Holdings stating in the future that Mr. Gonyo was not authorized to make such statements. Mr. Gonyo informed he had not stated anything that was not a Federal regulation or a condition of the contract. Mr. Wild questioned whether there was any on-going maintenance taking place on the railroad tracks and Mr. Gonyo replied in the affirmative. He advised they were required to maintain the railroad tracks to the extent that they were running trains. He pointed out this was why they were in the process of repairing the washout and doing railroad track patrols. Mr. Wild asked whether they were pursuing the normal maintenance just as they had in prior years and Mr. Gonyo replied that this was his intention.

Mr. Merlino advised he had received an email, which he forwarded to Messrs. Simpson and Geraghty, as well as the County Administrator, from an individual who had indicated an interest in discussing the possibility of operating freight and tourist trains on the County's rail line. He said he had not replied to the email, as he did not want to take on this responsibility, but felt he should make the Committee aware of the inquiry. He added he had been approached by the Hadley Town Supervisor who inquired whether the County planned on maintaining the Hadley-Luzerne Station such as mowing the grass to prevent the property from becoming unsightly. He stated the Supervisor from Hadley had also indicated to him he was interested in discussing with the Committee the possibility of coming to agreement between the two municipalities which would allow them to use the Station. He said in previous years he had opened the Station and turned on the electricity when the Town of Hadley wanted to use it for an event following which he would close it up and turn everything off when the event was over. He said he was unsure whether anyone would like to use the Thurman Station for events, but the Towns of Luzerne and Hadley would like to continue to use the Hadley-Luzerne Station for some of the events they sponsored.

Mr. Simpson questioned whether SNCR would continue to maintain the Stations and their surrounding property and Mr. Gonyo replied he did not have a good answer for that inquiry, as there would come a point in time when he, as well as any other employees that remained with SNCR, would be laid off.

Mr. Merlino thanked Mr. Gonyo for all of his hard work, noting he had always had a great working relationship with him.

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Chairman Conover advised he was concerned with the aspects of the contract that impacted public safety such as the railroad crossings and insurance. He said his understanding of what Mr. Gonyo had stated today was that these items would be attended to. In regards to the railroad crossings, Mr. Gonyo informed that SNCR had an obligation regardless of their contract with the County to ensure the railroad crossings were maintained and inspected to meet Federal regulations. He continued, once the trains stopped running, if the railroad crossings were taken out of service, pinned up and the power supply was removed, the only maintenance on those crossings would be if there was an issue with a roadway condition or if an incident occurred where a vehicle went off the road and struck one of the electrical boxes. Chairman Conover apprised to the extent that the operating agreement did not entertain this approach, he inquired whether Mr. Gonyo was advancing some sort of amendment to the existing operating agreement and Mr. Gonyo replied in the negative. Mr. Gonyo stated he was only speaking to the contract as it stood. Chairman Conover interjected that he was unsure the contract spoke about what Mr. Gonyo was referring to and he inquired whether SNCR planned on maintaining the insurance for the railroad. Mr. Gonyo replied he would assume as long as they had a contract with the County the insurance would be maintained; however, he noted, he was only answering the questions to the best of his ability. Mr. Gonyo apprised SNCR would have an obligation with regards to maintaining the insurance, as there was the potential for liability issues to take place on property SNCR was responsible for. Chairman Conover requested that Mr. Gonyo notify the management of Iowa Pacific Holdings that he would like them to advise the County in writing whether they intended to honor their obligation to insure the railroad and respond to any other public safety aspects as they were currently worded in the contract and Mr. Gonyo informed that he would convey the message to Iowa Pacific.

Mr. Wild inquired whether Mr. Gonyo had any idea how the maintenance and these public safety matters would be addressed after he was laid off Mr. Gonyo responded these were difficult questions for him to answer. He apprised he could only respond to the extent where Federal laws were applicable, such as when railroads came into contact with the general public and the "operator" of that railroad had an obligation to ensure that Federal obligations were met. He added he could not guarantee anything beyond his tenure of employment with SNCR, other than the fact that the Federal laws would not change.

Chairman Conover requested that Mr. Gonyo convey to Iowa Pacific management that not only would he would like them to provide in writing whether the insurance and public safety aspects of the railroad would continue to be addressed, but also whether SNCR had any intention of taking care of the past due amounts owed the County for the use of the railroad and any delinquent property taxes they owed.

Mr. Wild commented that he believed it was rather obvious there were some concerns regarding the financial stability of Iowa Pacific Holdings; he apprised that as part of this there were obligations that the County, as the owners of the railroad, had. He requested that Mr. Gonyo provide the Committee members with a current copy of the existing insurance certificate which, as indicated in the contract terms, Iowa Pacific Holdings was required to hold and provide upon demand. Mr. Gonyo said he would request the information from SNCR's attorney and would forward it on to the Mr. Simpson once he received it. Mr. Simpson requested that he send a copy to the County Attorney, as well. Chairman Conover advised Mr. Gonyo that any communication from upper management should be sent to the County Attorney, including the information he had requested in writing.

Mr. Simpson thanked Mr. Gonyo, remarking it had been a pleasure to work with him.

Mr. Simpson informed he had requested that Amanda Allen, *Clerk of the Board*, distribute an email to the Committee members which pertained to him requesting that Messrs. Benway and Hajos research what was required in order for snowmobiles to be permitted on the railroad tracks this year. He mentioned he had attended a meeting that the Executive Director of the New York State Snowmobile

Association was also present for last Friday during which a topic of discussion was how the snowmobile clubs would like to use that corridor. Mr. Benway advised he had looked into this and was told a section of the rail would need to be removed thereby taking the track out of service from going to the main line. He continued, the snowmobile club would have to establish a bridge and signal crossings, etc. He apprised this had been done in years past, but would require some effort, as all of the bridges would require railings. Mr. Simpson stated the Executive Director of the New York State Snowmobile Association had indicated to him his organization had worked with the NYSDEC (*New York State Department of Transportation*) on a State-wide TRP (*Temporary Revokable Permit*), and if the County were to move forward with this they would also have to work on getting a TRP in place. He informed the company who was operating the rail bikes on the northern section of the tracks had to remove a section of track for their operation; therefore, he stated, he did not feel there would be any impediments from the County doing this on their rail line.

Ms. Braymer questioned whether there were any impediments to individuals hiking on the railroad this summer since a section of the line had already been removed rather than waiting for snowmobile season this winter given that it was obvious it was not being used for a railroad. Mr. Simpson apprised that Mary Elizabeth Kissane, *County Attorney*, had a prior engagement and was unable to attend the meeting today, but this would be a good question to have her look into. Mr. Hajos stated he was not positive on this, but he thought hiking would not be permissible since there was a contract in place with Iowa Pacific Holdings that required the County to get permission from them to go on the railroad tracks. Ms. Braymer apprised the same would apply for the snowmobiles, as well, adding it was necessary to come up with a solution so the public could be on the railroad tracks. Mr. Simpson stated that he had discussed this with Mr. Gonyo, but since he would not be employed by Iowa Pacific Holdings much longer they would need to work on this with upper management.

A discussion ensued.

Mr. Simpson informed the Self-Insurance Department was working on obtaining quotes for the County's railroad property. He advised the first meeting with the law firm the County had contracted with to assist them with the railroad contract would be held on Wednesday.

Travis Whitehead, *Town of Queensbury Resident*, questioned whether the rail bike operation still dealt directly with Iowa Pacific Holdings and Mr. Simpson replied in the affirmative. Mr. Simpson stated they were in a better position than the County because they collected the money themselves. Mr. Whitehead asked if this meant the money went directly to Iowa Pacific Holdings and Mr. Simpson replied in the negative, explaining the rail bike organization collected the money. Mr. Whitehead inquired whether the County received a portion of the revenue they generated and Mr. Simpson replied in the negative, advising their operation was located on Iowa Pacific Holdings property.

Kurt Austin, *Warren County Resident*, voiced his interest in having the property converted to a rail trail, advising he was surprised how "up in the air" the matter was regarding the railroad. He inquired whether contract termination negotiations were underway and Mr. Simpson replied at their May 15<sup>th</sup> Board Meeting, the County had approved a contract with an attorney who specialized in railroad matters to provide advice on this issue. Mr. Austin suggested the County proceed as he had when he constructed a garage on his property by first making a decision regarding how they would like to proceed, whether by seeking out another railroad operator or converting the property to rail trails, etc.; pursue the proper permits and permissions; and then deal with the complications that followed. He asked whether a working group had been formed to determine how to proceed. Mr. Simpson informed he believed the Committee members all agreed they needed to deal with the issues with the contract before any other decisions were made, as Iowa Pacific Holdings owed the County money for past due payments and delinquent property taxes. Mr. Austin stated he felt it was more important for them to

focus on how they wanted to move forward with the property, as this was a significant asset to the public.

Mr. Merlino stated he concurred with Mr. Austin, as he believed it was necessary for the Committee to determine whether they wanted to talk to the individual who had expressed interest in taking over railroad operations or be done with the railroad industry and move forward using the property for something else. Mr. Simpson apprised this was a question they needed to pose to their legal counsel for the railroad at the meeting on Wednesday, as there was uncertainty regarding what they could do.

A discussion ensued during which Chairman Conover asked Mr. Simpson to send an email to the full Board asking them to provide him with any questions they would like him to pose the County's legal counsel for the railroad on Wednesday to ensure this was handled in an efficient manner.

Mr. Simpson called for a motion to approve the minutes of the last Committee meeting, noting he had inadvertently forgotten to do so at the beginning of the meeting. The necessary motion was made by Mrs. Frasier, 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.

With regard to the question concerning the railroad crossings, Mr. Benway advised when he had spoken to the individual SNCR contracted with for these services they indicated to him they were under contract until June 1<sup>st</sup> following which if SNCR had ceased operating the crossings could be pinned up and the batteries should be removed to stop them from charging. He said he was told maintenance was not needed if there were no trains operating; therefore, he advised, his department would take over maintenance on the station properties to prevent them from becoming unsightly. Mr. Geraghty questioned whether the County planned on pinning up the crossings, voicing that he did not feel the County should be taking on this responsibility. Mr. Hajos stated he was not proposing that the County pin them up, as he felt this was SNCR's responsibility. Mr. Benway asked who should be called if their were issues once these crossings were pinned up and Mr. Geraghty replied as indicated on the signs the calls should go to Iowa Pacific Holdings.

Resuming review of the Parks, Recreation & Railroad agenda, Mr. Benway apprised that they had completed the spring stocking, noting a total of 23,670 brook and rainbow trout were stocked. He referred to the graph included with the agenda which displayed the stocking information.

Next, Mr. Benway provided an update on the Spring Zing event, informing that despite the inclement weather the event was a success and was well attended, with a total of 301 visitors.

In regards to the gas line installation along the Warren County Bike property, Mr. Benway apprised the project had commenced last Wednesday in front of the Coopers Cave Ale facility on Dix Avenue. He said it was his understanding that if there were no issues with the project it would be completed within a four to six week timeframe.

Mr. Simpson thanked the stocking crew for stocking the Mill Pond before the Fishing Derby event, as he heard it was very well attended.

Moving along to the review of the Public Works Agenda, Mr. Hajos presented the following requests:  
Page 1- Request to close Capital Project No. H366, *West Mountain Rd Pavement Preservation (CR58)* and return remaining funds in the amount of \$10,731.52 to the County Road Fund (D.909.00).

Motion was made by Mr. Merlino, seconded by Mrs. Frasier and carried unanimously to approve the

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request and refer same to the Finance Committee. *A copy of the resolution request form is on file with the minutes.*

Page 2- Request for transfer between various budget codes totaling \$3,724.17.

Motion was made by Mrs. Frasier, seconded by Mr. Wild and carried unanimously to approve the request and refer same to Finance Committee. *A copy of the resolution request form is on file with the minutes.*

Page 3- Request to fill the vacant position of MEO Light #27, *Grade 7, Annual Salary \$32,479, due to promotion.*

Motion was made by Mr. Loeb, seconded by Mr. Wild and carried unanimously to approve the request and refer same to the Personnel & Higher Education Committee for reporting purposes. *A copy of the Notice of Intent to Fill Vacant Position is on file with the minutes.*

Mr. Hajos advised he had advertised for temporary help during the summer, but no applications had been received. He requested that anyone aware of individuals seeking to work within the Department of Public Works to refer them to his office. He stated typically around six temporary workers were hired for the summer season with the potential of leading to permanent employment should the opportunity arise. Mr. Geraghty questioned what the hourly pay rate was and Mr. Hajos responded he was unsure of the exact rate off the top of his head, but he knew it was around \$12.00 per hour. Mr. Geraghty inquired whether Mr. Hajos had reached out to the Employment & Training Administration for assistance filling these positions and Mr. Hajos replied he would be contacting them shortly.

Mr. Hajos pointed out the DPW Overtime and Fuel Usage Reports which were included in the agenda packet.

Mr. Geraghty questioned why the overtime hours had increased and Mr. Hajos replied the increase related to the snowstorms the occurred during the month of April.

There being no further business to come before the Public Works Committee, on motion made by Mr. Wild and seconded by Mr. Merlino, Mr. Simpson adjourned the meeting at 11:14 a.m.

Respectfully submitted,  
Molly Ganotes, Legislative Office Specialist  
*(As typed by Sarah McLenithan, Deputy Clerk of the Board)*