

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: PUBLIC WORKS

DATE: AUGUST 30, 2018

COMMITTEE MEMBERS PRESENT:

SUPERVISORS SIMPSON
FRASIER
DICKINSON
DIAMOND
LOEB
HYDE
MAGOWAN
WILD

COMMITTEE MEMBER ABSENT:

SUPERVISOR MERLINO

OTHERS PRESENT:

KEVIN HAJOS, SUPERINTENDENT OF PUBLIC WORKS
RONALD CONOVER, CHAIRMAN OF THE BOARD
RYAN MOORE, COUNTY ADMINISTRATOR
MARY ELIZABETH KISSANE, COUNTY ATTORNEY
AMANDA ALLEN, CLERK OF THE BOARD
FRANK THOMAS, BUDGET OFFICER
SUPERVISORS BEATY
BRAYMER
DRISCOLL
GERAGHTY
HOGAN
LEGGETT
MCDEVITT
SOKOL
STROUGH
MIKE SWAN, COUNTY TREASURER
PATRICIA TATICH, ASSOCIATE PLANNER
NEIL WOODWORTH, EXECUTIVE DIRECTOR, ADIRONDACK MOUNTAIN CLUB
TRAVIS WHITEHEAD, TOWN OF QUEENSBURY RESIDENT
DON LEHMAN, *THE POST STAR*
THOM RANDALL, *ADIRONDACK JOURNAL*
LESLIE LOVELACE, SECRETARY TO THE CLERK OF THE BOARD

Please note, the following contains a summarization of the August 30, 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 11:19 a.m.

Copies of the Parks, Recreation & Railroad agenda were distributed to the Committee members and a copy of same is on file with the meeting minutes.

Motion was made by Mr. Dickinson, 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 began by offering privilege of the floor to the public.

Neil Woodworth, *Executive Director, Adirondack Mountain Club*, apprised his comments were in regard to the Railroad, specifically with respect to one of the groups that had submitted a proposal to the County for operation. He stated his concerns relating to rail car storage and research he had done on Omni Tracks, which he learned had a very active rail car storage business, but lacked storage capability in this area. He suggested that the County Attorney include language banning rail car storage in any potential contract to prevent rail car storage on Warren County's tracks.

Commencing the agenda review Kevin Hajos, *Superintendent of Public Works*, presented the following requests:

Page 2 - To authorize an agreement with Thurman Connection Snowmobile Club to use the County railroad right-of-way from Mile Post 68.30 to Mile Post 72.85 as a snowmobile route for the term commencing upon execution and terminating April 15, 2019.

Mr. Hajos explained this agreement would allow for snowmobiles to travel along the area requested, as

had been authorized in the past, prior to the commencement of the Saratoga & North Creek Railway (SNCR) contract which had made it an active line for the winter months.

Mr. Dickinson asked if the contract would include a clause indicating this authorization would be determined void if the County decided to contract with another railroad operator, once again making it an active rail line, and Mr. Hajos replied this would need to be included in the agreement.

A lengthy discussion ensued with regard to public use of the railroad right-of-way and the possible liability issues such use would create, following which a motion was made by Mr. Loeb, seconded by Mr. Wild and carried unanimously to approve the request and the necessary resolution was authorized for the September 21st Board meeting. *A copy of the resolution request form is on file with the minutes.*

Page 3 - To authorize a use agreement with Revolution Rail Co., c/o Robert Hert, to rent the County-owned building located at 3 Railroad Place in Johnsbury, NY as an office building at a rate of \$750 per month.

Mr. Dickinson inquired what the office building would be used for and Mr. Hajos replied Revolution Rail currently used this location to sell tickets and merchandise; he added that they would continue the current use and add an office for their staff.

Mr. Loeb noted he had driven through North Creek the evening before and despite the rainy weather there was a decent crowd present at the Revolution Rail ticket building; he surmised this appeared to be a profitable business for North Creek.

Motion was made by Mr. Loeb, seconded by Mr. Dickinson and carried unanimously to approve the request and the necessary resolution request was authorized for the September 21st Board meeting. *A copy of the resolution request form is on file with the minutes.*

Page 4 - To ratify the actions of the Chairman of the Board in signing a new contract with Drilling Technologies, Inc. as the lowest responsible bidder to perform directional boring work on the Warrensburg Sewer Project at a rate of \$4,950 per day, with a base bid price of \$51,750.

Privilege of the floor was extended to Patricia Tatich, *Associate Planner*, who explained there had been several setbacks encountered with the Warrensburg Sewer Project; she advised the deadline for completion was fast approaching and so a contract was requested for directional boring to help speed up the work. Ms. Tatich extended her appreciation to the Town of Warrensburg for serving as the lead agency on the project.

Motion was made by Mr. Dickinson, seconded by Mr. Loeb and carried unanimously to approve the request and the necessary resolution was authorized for the September 21st Board meeting. *A copy of the resolution request form is on file with the minutes.*

Continuing with the Information for Discussion/Review portion of the agenda, Mr. Hajos provided a progress update on the exit of Iowa Pacific and the removal of their equipment from County property. He said he'd had several conversations with Jeff Hagan, *a subcontractor for Iowa Pacific*, in regards to the removal of equipment/materials and during each conversation he was informed efforts were ongoing and moving forward. He said Tim Benway, *Director of Parks & Railroad*, went to the site and evaluated what progress had been made; he said Mr. Benway reported that one coach car had been removed, along with some materials, and there were cars lined up and attached to be pulled out, but due to an engine issue they remained parked in front of the Johnsbury Farmers Market. He added that Ms. Hogan shared pictures with him this morning of the materials left as well as an open ten-foot pit in the ground which his department would be putting steel plates over for safety reasons; during this discussion photos of the debris left on and around the rails were distributed.

A discussion ensued with regard to how the Committee should handle the present state of the railroad property, during which Mr. Hajos mentioned Mr. Hagan had informed that because Iowa Pacific had run out of money they had agreed upon an arrangement where Mr. Hagan would acquire Iowa Pacific's remaining property, including the engine, as payment.

Mr. Simpson asked if it was the pleasure of the Committee to discuss a legal strategy to handle the clean up of the remaining property on the railroad in executive session or in open session. He called for a show of hands of those in favor of going into an executive session; Mrs. Frasier and Mr. Dickinson voted in favor of an executive session and Mr. Diamond, Mr. Loeb, Ms. Hyde, Mr. Magowan and Mr. Wild voted against.

Mary Elizabeth Kissane, *County Attorney*, advised if DPW staff moved and locked up the remainder of what was left on the railroad they would make it impossible for Iowa Pacific or their agent to remove it; she commented she was unsure what the legal ramifications would be but believed a judge would rule the County was not acting in good faith by further preventing the removal of any remaining property. With regard to questions posed by Ms. Hogan regarding a timeline for removal of the remaining items, Ms. Kissane indicated there were no legal ramifications; however, she added, the County could file a lawsuit to seek injunctive relief.

A discussion ensued in regards to the possibilities of what to do with the remaining rail cars and debris. Ryan Moore, *County Administrator*, recommended Ms. Kissane compose a letter indicating the County intended to begin moving any remaining items left on the railroad property, but would not be liable for any damage to it, and would seek injunction relief from Iowa Pacific, as well; it was the consensus of the Committee that Ms. Kissane should draft and forward the letter, as suggested by Mr. Moore.

Mr. Moore provided an update on the railroad RFP (*Request for Proposal*) process. He informed he and Julie Butler, *Purchasing Agent*, decided they would do one RFP with an option to buy and/or operate and the respondent could do one or both. Mr. Moore expounded that the content for both buying and operating would speak to the intentions of freight operators and/or tourist train operators and how they would engage businesses along the corridor, as well as to determine recreation uses. He added that if a sale was to be considered, the RFP would address openness to reversion terms and deed restrictions. He informed the Town of Corinth would be included in the operation portion of the RFP, but not in the sale portion. A lengthy discussion ensued.

Mr. Dickinson exited the meeting at 12:10 p.m.; Mr. Diamond at 12:12 p.m.

Ms. Hogan extended appreciation to the Committee in their efforts to remove the remaining debris on the railway.

Mr. Moore informed he had received a copy of a study that had been done on why the tourist train had failed and what would ensure the success of a future tourist train. He said he would forward the study to the Committee later in the day. He apprised Wayne LaMothe, *County Planner*, had conducted a study on creating a trail out of the railway which was in draft form and still needed to be completed before it could be sent on to the Board of Supervisors.

Mr. Leggett commented for the record today's Committee approval of the resolution for the agreement with Thurman Connection established the fact that the railroad serves as public use.

A discussion ensued during which Chairman Conover commended Mr. Moore for the process he was developing and suggested a clear path with professional assistance to develop the product and the intrinsic values was an important tool. Chairman Conover also commented he felt it was important to have a clear understanding of how Federal laws came into play once a railroad ceased to operate and requested he be able to view that information.

Mr. Simpson announced an executive session was required and Mr. Moore notified the reasons were to discuss potential litigation and a potential sale or lease of real property. Ms. Braymer requested an explanation as to why this matter could not be discussed in open session and Mr. Moore replied he was asked by the outfit that had submitted the proposal he wished to discuss to keep it confidential and not share it with the public.

Motion was made by Mrs. Frasier, seconded by Mr. Wild and carried unanimously to enter into an executive session pursuant to Sections 105(d) and 105(h) of the Public Officer's Law.

Ms. Hyde exited the meeting at 12:36 p.m.

Executive session was held from 12:36 p.m. until 1:01 p.m.; Mrs. Frasier exited the meeting during executive session. *(Please note due to a lack of attendance upon Mrs. Frasier's exit, Chairman Conover served to make a quorum of the Committee).*

Upon reconvening, Mr. Simpson announced no action was taken during the executive session.

There being no further business to come before the Public Works Committee, on motion made by Mr. Loeb and seconded by Mr. Magowan, Mr. Simpson adjourned the meeting at 1:02 p.m.

Respectfully submitted,
Leslie Lovelace, Secretary to the Clerk of the Board