

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: PUBLIC WORKS - PARKS, RECREATION & RAILROAD

DATE: JANUARY 14, 2010

COMMITTEE MEMBERS PRESENT:

SUPERVISORS BELDEN
BENTLEY
STEC
MERLINO
CHAMPAGNE
PITKIN
LOEB
MCCOY
CONOVER

OTHERS PRESENT:

WILLIAM LAMY, SUPERINTENDENT OF PUBLIC WORKS
JEFFERY TENNYSON, DEPUTY SUPERINTENDENT OF ENGINEERING
PAUL BUTLER, DIRECTOR OF PARKS, RECREATION & RAILROAD
PAUL DUSEK, COUNTY ATTORNEY
JOAN SADY, CLERK
KEVIN GERAGHTY, BUDGET OFFICER
SUPERVISORS GOODSPEED
STRAINER
TAYLOR
THOMAS
JULIE PACYNA, PURCHASING AGENT
DON LEHMAN, *THE POST STAR*
AMANDA ALLEN, SR. LEGISLATIVE OFFICE SPECIALIST

Mr. Belden called the meeting of the Public Works Committee to order at 9:30 a.m.

Motion was made by Mr. Champagne, seconded by Mr. Pitkin and carried unanimously to approve the minutes of the prior Committee meeting, subject to correction by the Clerk of the Board.

Copies of the meeting agenda were distributed to the Committee members, a copy of which is also on file with the minutes.

Mr. Belden began by welcoming new Supervisors Conover, Loeb and McCoy to the Committee. He noted that the purpose of the meeting was to discuss the response received on the 2011 Railroad Operator RFP (Request for Proposal), a copy of which is on file with the minutes. Mr. Belden apprised that the proposal was submitted by the current operator, Upper Hudson River Railroad (UHRR), whose contract with the County expired December 31, 2010.

William Lamy, DPW Superintendent, advised that the RFP had been advertised over an extensive area which covered the majority of the United States. Julie Pacyna, Purchasing Agent, added that the RFP had been advertised in a number of railroading publications which were distributed as far away as the states of California and Washington; however, she added, UHRR had been the sole responder to the RFP.

Paul Butler, Director of Parks, Recreation & Railroad, pointed out that the agenda cover page outlined sections of the proposal that should be reviewed for consideration as there were a number of costs UHRR sought to transfer to the County through this proposal, such as those associated with maintenance and insurance costs.

Mr. Champagne suggested that the Committee review both the positive and negative sides of the proposal before making a decision. He said that one of the more prominent negative factors was included on page 12 of the proposal, wherein UHRR indicated the realistic annual maintenance cost for the railroad to be \$8,000 to \$10,000 per mile of track; he added that when multiplied by the 55.6 miles of track owned by the County, a total maintenance cost of \$445,000 to \$556,000 was reached. Mr. Champagne questioned whether maintenance costs of this magnitude were being accumulated currently and Mr. Lamy replied in the negative. Mr. Lamy noted that

although the tracks had previously been upgraded using Federal grant funding, as well as some County dollars, expenses would be incurred to maintain the infrastructure and this was the amount estimated by UHRR for such costs. Mr. Champagne responded that based on the projected maintenance costs versus the minimal amount of revenue returned to the County by UHRR, he was not willing to accept the proposal especially in light of the County's current financial constraints. Mr. Pitkin agreed with Mr. Champagne's statements and added that he was not agreeable to the 20-year commitment sought by UHRR in their proposal. Mr. Lamy reminded the Committee that the railroad included 12 bridges which required upkeep and inspection and he wondered if these were included in the estimated maintenance costs.

Mr. Geraghty noted that the estimated costs might be based on another rail line which was used more frequently for freight or passenger services and required more maintenance than the County-owned railroad which was used more infrequently and solely for tourist trains. Mr. Pitkin replied that it was important to remember that the tracks owned by the County were located in mostly hostile environments that allowed for a number of damaging incidents to occur. Mr. Lamy added that the UHRR proposal sought to transfer all maintenance costs to the County, regardless of cost or cause.

Respective to bridge maintenance requirements, Jeffery Tennyson, Deputy Superintendent of Engineering, apprised that the current statutes of the Federal Railroad Administration (FRA) were very lenient, simply requiring the railroad owner to develop and follow a plan for bridge inspections, with no other governing Federal guidelines. He said it was his understanding that in the near future the FRA would be adopting more stringent regulations that would require bridge inspections, similar to the detailed inspections required for highway bridges at least every two years, with more frequent inspections being required for structurally deficient bridges. Mr. Tennyson stated that UHRR currently funded the services of a consulting firm to provide bridge inspections; however, he noted, this was one of the costs that they desired to transfer to the County through their proposal. He concluded that depending upon the increased FRA guidelines anticipated, he would estimate the inspection cost to be approximately \$2,000 for each of the 12 railroad bridges, not including the large culverts which would likely require similar inspections.

Mr. Merlino stated that he had been a perpetual supporter of the railroad project, but was very disappointed with the treatment received from UHRR subsequent to uncontrollable changes to the initial plans for more extravagant Stations for the Towns of Lake Luzerne and Thurman; therefore, he said, he was not in favor of renewing the operator contract with UHRR. He suggested that the Committee reject the UHRR proposal and re-release the RFP again in the future when there might be other parties interested in submitting proposals. Mr. Merlino stated that the Town of North Creek would be the most impacted by the loss of the railroad operator, as a considerable amount of tourism revenue was generated through the train, but he could not justify the continuation of the railroad expenditure, especially in light of the estimated maintenance costs, and considering the current financial state of the County. He said he thought they should allow the railroad operator contract to lapse and review the situation again in 2011 to determine the best options available.

Mr. Taylor stated that the proposal should not even be considered further as the County could not realistically support such financial demands. He said that in his opinion, the only realistic portion of the proposal was the part referring to the use of Edwards Motor Cars, which were small self-propelled rail cars used as an "economical solution for the reduction of operating costs for shortline and tourist runs".

Mr. Goodspeed said he agreed the proposal was not conducive to the needs of the County, nor their available financial abilities; however, he noted, the train successfully operated between the Riparius and North Creek Stations where it generated a considerable amount of revenue in an area that would not otherwise receive the same level of tourist attention. In order for the railroad to be successful, he stated that a connection had to be made with the

main railroad line in the City of Saratoga Springs and if this was accomplished he felt there would be a number of other viable offers for the Railroad Operator Contract. Mr. Goodspeed said that while he understood the County's desire to remove itself from the railroad operation as it was proving to be a considerable expense with little return, he intended to take whatever steps he was able to maintain the railroad operation between the North Creek and Riparius Stations, whether that be with or without the County's continuation of an operator contract. That being said, Mr. Goodspeed agreed that the Committee should not consider accepting a proposal which sought a 20-year commitment term.

When questioned as to the level of interest expressed by Saratoga County in joining with Warren County to extend the rail line to the Saratoga Springs Station, Mr. Goodspeed said that although there was initially no interest in the project on the part of Saratoga County, the level of interest seemed to be increasing somewhat. Mr. Champagne asked if there was any idea when a connection with the Saratoga Springs Station would be available and Mr. Goodspeed replied that although several vague estimates for the connection date had been made by different parties, no one had been able to offer a definite time frame for when the connection would be realized.

Discussion ensued.

Mr. Conover asked how many bid packets had been requested in connection with the RFP and Ms. Pacyna replied that 78 packets had been distributed, some of them to recipients of the 2002 Railroad Operator RFP mailing and others to contacts listed on the Rail USA website. She noted that the RFP had been advertised in *Railfan Magazine*, which reached 30,000 subscribers, and in *The Pocket List of Railroaders*, which reached 25,000 subscribers, as well. Mr. Conover then questioned the number of inquiries received in connection with the advertisements and Ms. Pacyna responded that only two or three organizations had contacted her respective to the RFP, none of which had been serious inquiries. Returning to the topic of estimated maintenance costs, Mr. Conover pointed out that the first page of Appendix D of the UHRR proposal reflected the estimated costs for the annual maintenance plan and budget which included a \$628,500 cost to the County and a cost of \$13,500 to UHRR. He noted that based on the information provided, it appeared that the per mile maintenance fees were more than just an industry standard and were based on the actual conditions of the tracks.

Mr. Belden recommended that the Committee reject the current UHRR proposal and possibly set up meetings with Saratoga County representatives to determine if there was any interest in entering into a joint venture to support the continuation of the railroad and the establishment of a connection with the Saratoga Springs Station, possibly developing a bi-County RFP for railroad operator services in the future. In the meantime, he said that they could continue to gauge the level of service provided by UHRR for the remainder of 2010 to determine if the County should continue its affiliation with the organization once the current contract expired. Mr. Belden stated that it was important to remember that if the County decided to continue its involvement with the railroad, they were likely to incur additional expenses and he could not in good conscience approve a contract involving this magnitude of expense to the County during these difficult economic times.

Motion was made by Mr. Pitkin and seconded by Mr. Merlino to reject the proposal submitted by UHRR.

Mr. Conover reminded the Committee that the RFP was designed to attract a company interested in assuming operation and maintenance of the railroad while the County retained actual ownership. He said that in order to generate renewed interest in the contract, historical revenue data regarding the income generated to the current operator might be helpful and he questioned what UHRR's reporting responsibility was as per the current contract. Mr. Conover stated that any organization attempting to submit a proposal in response to the RFP would be doing so without knowing any of the possible revenue statistics, and this could be dissuading possible responders. Mr.

Butler apprised that UHRR provided an annual report of income which was kept on file with the Board of Supervisors. Paul Dusek, County Attorney, interjected that although there was some income information which UHRR kept confidential, their proposal included a balance sheet which would be available for any interested party to review.

Mr. Merlino questioned whether it was feasible to release an RFP which would offer the lease of the rail line for \$1 per year to an operator willing to assume all maintenance and liability fees, with the lease to be renewed on a yearly basis. That way, he said, they would be alleviating costs to the County while maintaining the asset. Mr. Dusek replied that it was possible for a scenario such as the one suggested by Mr. Merlino to be implemented; however, he noted, the previously issued RFP had been very vague and allowed for this option to be proposed by any responders but this had not occurred. He advised that because the RFP had been open to different proposal scenarios, it was possible to contact UHRR and offer the \$1 per year lease scenario without having to issue a revised RFP. Mr. Dusek cautioned the Committee that if they were interested in further negotiating with UHRR, or offering the \$1 per year lease scenario, he would not recommend rejecting the proposal submitted.

Subsequent to further discussion, Mr. Belden called the question and the motion to reject the UHRR proposal was carried unanimously and the necessary resolution was authorized for the January 15th Board meeting.

Mr. Belden said that because there was some time remaining before the December 31st expiration of the current operator contract, the Committee would be afforded the time to consider alternate RFP options, possibly with Saratoga County if the interest was present, as well as for the operation of the Riparius to North Creek section of the rail line if alternate arrangements could not be made for the entire line.

Mr. Stec questioned whether one-person plowing procedures had been implemented and Mr. Lamy replied affirmatively. Mr. Lamy noted that one-person plowing would be performed during overtime situations; however, he added, no overtime situations had occurred since the procedure began. Mr. Champagne questioned whether one-person plowing was being used in all overtime situations and Mr. Lamy replied that the Union agreement allowed him the flexibility to alter the arrangements to allow for two-person plowing teams as he determined necessary.

Mr. Lamy advised that an executive session was necessary to discuss the employment history of two particular employees.

Motion was made by Mr. Stec, seconded by Mr. Bentley and carried unanimously to enter into executive session to discuss the employment history of a particular person, pursuant to Section 105(f) of the Public Officers Law.

Executive session was held from 10:26 a.m. to 10:47 a.m.

Upon reconvening, Mr. Belden announced that no Committee action had taken place during the executive session.

As there was no further business to come before the Public Works Committee, on motion made by Mr. Pitkin and seconded by Mr. Bentley, Mr. Belden adjourned the meeting at 10:48 a.m.

Respectfully submitted,
Amanda Allen, Sr. Legislative Office Specialist