

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: PUBLIC WORKS - AIRPORT, DPW AND PARKS, RECREATION & RAILROAD

DATE: JUNE 29, 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 PUBLIC WORKS  
DON DEGRAW, AIRPORT MANAGER  
PAUL BUTLER, DIRECTOR OF PARKS, RECREATION & RAILROAD  
FREDERICK MONROE, CHAIRMAN OF THE BOARD  
PAUL DUSEK, COUNTY ATTORNEY/COMMISSIONER OF ADMINISTRATIVE &  
FISCAL SERVICES  
JOAN SADY, CLERK OF THE BOARD  
KEVIN GERAGHTY, BUDGET OFFICER  
SUPERVISORS STRAINER  
TAYLOR  
THOMAS  
JULIE PACYNA, PURCHASING AGENT  
STEVE WILDERMUTH, TOWN OF HADLEY RESIDENT  
DON LEHMAN, *THE POST STAR*  
CHARLENE DiRESTA, 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. Conover, seconded by Mr. McCoy and carried unanimously to approve the minutes of the previous meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to Don DeGraw, Airport Manager, who distributed copies of the agenda to the Committee members; a copy of which is on file with the minutes.

Mr. DeGraw presented a resolution request to close six completed Capital Projects as follows:

1. H213.9550 280, Install Airport Security Fence;
2. H237.9550 280, Construct Airport Lighting;
3. H238.9550 280, Design Maintenance Hangar;
4. H239.9550 280, Airport Wildlife Project;
5. H253.9550 280, Runway 1 Safety Area; and
6. H256.9550 280, Airport Maintenance Hangar.

Mr. Belden asked if all of the Capital Projects were completed within their respective budgets and Mr. DeGraw replied affirmatively, noting that there was approximately \$30,000 remaining unexpended for the six Projects. William Lamy, Superintendent of Public Works, interjected that in the past, unexpended funds were typically reallocated to contribute to the Local Share for other Airport projects. He said that although they were not seeking to do this immediately, he would ask the Committee to keep in mind that \$30,000 was being returned to the General Fund in the event it was needed for future Airport Capital Projects.

Motion was made by Mr. Pitkin, seconded by Mr. McCoy and carried unanimously to authorize the closure of six Capital Projects as outlined above and refer same to the Finance Committee. *A copy of the resolution request form is on file with the minutes.*

Concluding the Airport agenda review, Mr. Lamy apprised there was one pending item for review which pertained to the Committee's previous direction for further studies to be performed relative to the benefits of procuring an easement on the Forest Enterprises parcel, as well as further consideration of a possible exchange of properties. He said he and Mr. DeGraw continued to review this matter with Paul Dusek, County Attorney/Commissioner of Administrative & Fiscal Services, and noted that they had not yet determined an appropriate course of action for recommendation to the Committee. Mr. Dusek advised there were two different points of view to consider with regard to the proposed easement, the first being the County's interest in expanding the Airport runway and the second being that of the property owner who sought to avoid any negative impact to commercial development in the area. Therefore, he said, they were trying to balance the two interests and determine a solution which would appropriately meet the goals of both parties. Additionally, Mr. Dusek noted there was a significant discrepancy in terms of the property value associated with the parcel and they were working to resolve this issue, as well. He concluded that himself, Mr. Lamy and Mr. DeGraw had been working to develop inventive solutions to resolve the prevailing issues, but required more time to perform further research before making any suggestions.

As there was no further Airport business to present, privilege of the floor was extended to Mr. Lamy to begin the DPW portion of the Committee meeting. Copies of the DPW agenda were distributed to the Committee members and a copy is also on file with the minutes.

Proceeding, Mr. Lamy apprised the first agenda item pertained to letters commending the efforts of Departmental staff which were included on pages 1-3. He pointed out that the first letter was written by Mr. McDevitt, and forwarded with a cover letter from Mr. Dusek, expressing his appreciation for the prompt response of Parks, Recreation & Railroad staff to a constituent's request for work required along the Warren County Bikeway. Mr. Lamy further noted that page 3 of the agenda included an email forwarded by Angela Meade, of the Public Health Department, commending Brenda Ashline, a member of the Buildings & Grounds staff, for her hard work in maintaining the Municipal Center grounds, specifically the flower beds located at the main campus entrance. He stated he was very proud of the work completed by all Public Works staff and preferred to consider these actions a part of their typical efforts, rather than isolated incidents.

Mr. Lamy announced that the next agenda item pertained to a request for transfer of funds as follows:

<u>From Code</u>	<u>To Code</u>	<u>Amount</u>
D.5010 410, County Road Admin. - Supplies	D.5010 210, County Road Admin. - Furniture & Furnishings	\$38.48
DM.5130 441, Road Machinery - Repairs & Maintenance	DM.1910 418, Road Machinery - Liability Insurance	264.14

He noted that the request was being presented at the direction of the Treasurer's Office as they had determined these actions necessary to address budgetary code issues.

Motion was made by Mr. Conover, seconded by Mr. Stec and carried unanimously to approve the request for transfer of funds as outlined above and refer same to the Finance Committee. *A copy of the request is on file with the minutes.*

Jeffery Tennyson, Deputy Superintendent of Public Works, addressed the next agenda item which consisted of a request for authorization to award the bid for superstructure replacement work on the Chatiemac Road Bridge Project. He advised the Project would be completed primarily on an in-house basis and would be the largest undertaken by County staff in the current year. Mr. Tennyson said the bid opening for the superstructure work had been held on June 24<sup>th</sup> and although U.S. Bridge appeared to be the lowest bidder thus far, they continued to review and evaluate the submission to ensure that all bid specifications were met. He asked that the Committee approve

the request to award bid to the lowest responsible bidder, which would be determined prior to the July 16<sup>th</sup> Board meeting.

Motion was made by Mr. Stec, seconded by Mr. Bentley and carried unanimously to approve the request as outlined above and the necessary resolution was authorized for the July 16<sup>th</sup> Board meeting. *A copy of the request is on file with the minutes. (Note: Subsequent to the meeting it was determined that a resolution for this project was not necessary as it is considered a commodity.)*

Continuing, Mr. Tennyson presented a request for a new contract for demolition of the Chatiemac Road Bridge with the lowest responsible bidder to be determined subsequent to the July 15<sup>th</sup> bid opening. He advised the demolition could not be done by DPW staff as the bridge was coated with an asbestos based paint.

Motion was made by Mr. McCoy, seconded by Mr. Pitkin and carried unanimously to approve the previous request and the necessary resolution was authorized for the July 16<sup>th</sup> Board meeting. *A copy of the request is on file with the minutes.*

Mr. Tennyson announced that the next agenda item pertained to a request to amend Resolution No. 381 of 2010 to decrease Supplemental Agreement #6 with Clough, Harbour and Associates, LLP (CHA), which was included on page 7 of the agenda. He explained the resolution had authorized the County to contract with CHA for additional design, right-of-way (ROW) and utility coordination work relative to the Corinth Road Project. Mr. Tennyson advised that due to an insurance issue, CHA had subsequently advised they would not be able to provide the specified services; therefore, he added, the Supplemental Agreement amount would be decreased from \$67,000 to \$17,000 to exclude funding for the services that would not be provided.

Motion was made by Mr. Merlino, seconded by Mr. Stec and carried unanimously to approve the request to amend Resolution No. 381 of 2010 as outlined above and the necessary resolution was authorized for the July 16<sup>th</sup> Board meeting. *A copy of the request is on file with the minutes.*

In response to Mr. Stec's inquiry as to who would provide the legal services for condemnation claims since they had been removed from the CHA contract, Mr. Tennyson apprised that agenda page 10 included a request for a new contract with Gervin & Ferlazzo, P.C. in the amount of \$50,000 to provide these services. However, he added, they had subsequently decided to remove this request and work with Mr. Dusek to ensure the proper measures were taken in hiring a firm to address these issues. Mr. Tennyson said he expected the matter to be resolved in the near future and they would either submit a Pre/Post Committee Request for the upcoming Board meeting or address the issue at the next Committee meeting.

Discussion ensued.

Resuming the agenda review, Mr. Tennyson advised that during the prior month the Committee had decided to revise the description of the Glendale Road ROW parcel transfer to include additional excess property. He said it had recently been determined the SEQRA (State Environmental Quality Review Act) review might need to be revisited before the property could be sold as the parcel description had subsequently been expanded by .065 acres, thereby affecting the language included in the initial SEQRA resolution. Joan Sady, Clerk of the Board, interjected that the resolution authorizing the expanded ROW transfer had not been presented at the June 16<sup>th</sup> Board meeting as initially intended for this reason. Mr. Dusek counseled that assuming the change in acreage was the only alternation made to the ROW transfer, he did not feel the increase was significant enough to require a revised SEQRA process and he recommended that the resolution be presented at the July Board meeting to further the

property transfer.

Moving on, Mr. Lamy announced that agenda pages 11-16 included change orders he had already approved relative to the Bolton Sewer Project. In keeping with the regulations of a resolution previously adopted, he said he was authorized to approve change requests below a certain threshold without prior authorization, but was required to present these items to the Committee for their ultimate approvals.

Subsequent to a brief review of the change order documents, it was the consensus of the Committee that they were in agreement with Mr. Lamy's actions in approving the three change orders presented.

In response to Mr. Belden's questioning as to the status of the Bolton Sewer Project, Mr. Conover replied the project was complete and they had received the final sign-off documents from the County and would be acting on them at the upcoming Town of Bolton Board meeting. Mr. Belden then asked Mr. Lamy whether the Hague Sewer Project would be turned over to the Town of Hague before his retirement became effective on July 30<sup>th</sup> and Mr. Lamy replied affirmatively.

Mr. Lamy apprised the next agenda item referred to the submission of a request for a Categorical Exclusion to the USEPA (United States Environmental Protection Agency) on behalf of the Town of Bolton in order to authorize slip-lining of approximately 2,500 linear feet of sanitary collector sewer mains. He said the USEPA had responded in approval of the request and this authorization had been forwarded to CT Male, project engineers, who were initiating contract drawings and documents to begin a bid process for this work. Mr. Lamy noted there was approximately \$350,000 in unexpended grant funds available to fund the slip-lining work, which he felt could be completed by the fall of 2010 if the project proceeded without incident.

Continuing, Mr. Lamy presented a request to authorize in-State travel for Mr. Tennyson to attend the NYSCHSA (New York State County Highway Superintendent's Association) Summer Conference which would be held in Rochester, NY on August 29 - 31, 2010. He said the cost information was not currently available, but noted that funding was included in the Departmental budget to cover the costs.

Motion was made by Mr. Stec, seconded by Mr. McCoy and carried unanimously to authorize Mr. Tennyson to attend the NYSCHSA Summer Conference as outlined above. *A copy of the Authorization to Attend Meeting or Convention form is on file with the minutes.*

Proceeding to the Items of Interest section of the agenda, Mr. Lamy advised he had recently received a letter approving CHIPS (Consolidated Highway Improvement Project) funding which indicated an increase of \$962 over the amount initially anticipated. He reminded the Committee that they had previously authorized his Department to proceed with the scheduled paving projects, without confirmed CHIPS funding amounts, which had allowed them to maintain the schedule for County and Town paving projects.

Mr. Tennyson announced that on June 16<sup>th</sup> a USEPA inspector had visited three County fuel sites, those being the Airport, Lake Luzerne fuel farm and the North Creek DPW Shop, to inspect the underground storage tank systems, as well as the floor drains and catch basin system in order to ensure compliance with USEPA regulations. He directed the Committee members to pages 21-23 on which he had included copies of the reports resulting from the underground fuel storage tank inspection, all of which indicated that no violations had been found. Mr. Tennyson said he had not received reportings relative to the floor drain and catch basin inspections but the initial feedback received was there were no violations with these systems either; however, he added, the inspector had warned that

in some instances the USEPA requested confirmation sampling to determine whether there were any historical discharges. He advised he expected to receive a formal confirmation on all inspections from the USEPA in six to eight months.

Concluding the agenda review, Mr. Lamy addressed the items pending from prior Committee meetings which he outlined as follows:

1. Mr. Lamy said he had no new information to present relative to the Stormwater Officer position; and
2. Respective to the requests to fill vacant positions which were tabled at the prior Committee meeting, Mr. Lamy apprised that he and Mr. Tennyson would be meeting with Mr. Dusek to review the positions and make their recommendations at the upcoming Personnel Committee meeting.

Discussion ensued.

As there was no further DPW business to discuss, Mr. Belden advised the Committee would recess while waiting for Paul Butler, Director of Parks, Recreation & Railroad, to arrive and begin the next portion of the Committee meeting.

Committee recessed from 10:02 a.m. until 10:23 a.m.

Upon reconvening, privilege of the floor was extended to Mr. Butler who distributed copies of the Parks, Recreation & Railroad agenda to the Committee members; *a copy of the agenda is also on file with the minutes.*

Commencing the agenda review with Item 1, Mr. Butler presented a request to accept an \$1,800 contribution to Up Yonda Farm from Daniel R. Lewis of Bolton, NY and authorize the Chairman of the Board to send a letter of gratitude and appreciation on behalf of the Warren County Board of Supervisors for this very generous donation.

Motion was made by Mr. Stec, seconded by Mr. Conover and carried unanimously to accept the donation and authorize the Chairman of the Board to forward a letter of appreciation as indicated above and the necessary resolution was authorized for the July 16<sup>th</sup> Board meeting. *A copy of the request is on file with the minutes.*

Mr. Butler announced that Agenda Item 2 consisted of a request for a new contract with the Lake Champlain-Lake George Regional Planning Board allowing the Up Yonda staff to attend the 2010 Adirondack Waterfest which was being held at Haviland's Cove Park in Glens Falls, NY on July 23<sup>rd</sup> from 9:00 a.m. to 5:00 p.m.

In response to Mr. Loeb's inquiry as to the purpose of the Waterfest event, Mr. Stec replied that this was a public water quality awareness and education event, adding that it was held on an annual basis at varying locations throughout the County. Mr. Butler advised this would serve as an advertising opportunity for the Up Yonda facility.

Motion was made by Mr. Stec, seconded by Mr. McCoy and carried unanimously to approve the request for a new contract as outlined above and the necessary resolution was authorized for the July 16<sup>th</sup> Board meeting. *A copy of the request is on file with the minutes.*

Continuing, Mr. Butler presented a request for a transfer of funds in the amount of \$66.00 from Code A7111.0197 410, Up Yonda Bolton Support - Supplies, to Code A7111.0197 210, Up Yonda Bolton Support - Furniture and Furnishings. He explained that the transfer was necessary to rectify a purchasing code error.

Motion was made by Mr. McCoy, seconded by Mr. Conover and carried unanimously to approve the request for transfer of funds as outlined above and refer same to the Finance Committee. *A copy of the request is on file with the minutes.*

Mr. Butler announced that Agenda Item 4 included a request for a new contract with NERCA (New England Rail Car Association) allowing them to use the Warren County railroad ROW and tracks for a motor car excursion on September 18 - 19, 2010, pending receipt and approval of appropriate insurance documentation by the County Attorney. He added that requests had been approved for similar NERCA events held over the past two years and noted that Warren County would receive a payment of \$35.00 per motor car for the 25 cars they expected to participate.

Motion was made by Mr. Stec, seconded by Mr. Pitkin and carried unanimously to approve the request for a new contract with NERCA as previously noted and the necessary resolution was authorized for the July 16<sup>th</sup> Board meeting. *A copy of the request is on file with the minutes.*

Moving on to Agenda Item 5, Mr. Butler reviewed a request for a new contract with the Village of Lake George to obtain a permanent easement allowing for ingress/egress to the Warren County Sheriff dock located at the south-westerly end of Lake George on Village property (Village of Lake George Tax Map Parcel No. 251.18-3-67). He noted that although there were indications the easement had been approved in the past, he was seeking Committee action because documentation confirming such could not be obtained.

Mr. Belden questioned whether the easement agreement should be secured through the Sheriff's Office since it was their dock and Mr. Butler replied in the negative, noting that although the dock was primarily used by the Sheriff's Boat Patrol and rescue vehicles, it was actually owned by the County. Mr. Dusek confirmed the dock was owned by the County and said it was appropriate for the request to be passed through the current Committee.

Motion was made by Mr. Conover, seconded by Mr. McCoy and carried unanimously to approve the request for a new contract with the Village of Lake George for an easement agreement and the necessary resolution was authorized for the July 16<sup>th</sup> Board meeting. *A copy of the request is on file with the minutes.*

Mr. Butler apprised that in speaking with Robert Blais, Mayor of the Village of Lake George, he had been advised the Village was applying for Department of State grant funding to cover 50% of the costs to replace the current public docking facilities with crib docks and Mayor Blais had offered the County the opportunity to join in this grant application process to replace the Sheriff's dock with a crib dock, as well. He noted that the current plans called for a stake dock structure which would be built using labor provide by County staff and funding contributed by the Lake George Park Commission for material costs. Mr. Butler pointed out that the grant opportunity being sought by Mayor Blais would incur a 50% Local Share and the work would likely have to be bid to an outside source. He added the positive aspect of proceeding with Mayor Blais in securing grant funding was that they would be getting crib docks, which lasted longer than stake docks; however, he said, there would be an increased cost to the County. Mr. Lamy interjected that they could contact the Lake George Park Commission to determine whether the funds they intended to provide for materials costs could be used instead to fund a portion of the Local Share associated with grant funding.

Following further discussion on the matter, it was the consensus of the Committee that the matter should be investigated further by Messrs. Lamy and Butler to determine the options available and related costs for presentation at the next Committee meeting.

Continuing to Agenda Item 6, Mr. Butler presented a request for a new contract with Lyme Adirondack Timberlands, LLC in the amount of \$3,120 authorizing snowmobile license agreement for a six-mile trail in the Town of Hague. He noted that a similar contract had been approved during the prior year and that the necessary funding was available within the existing budget.

Motion was made by Mr. Conover, seconded by Mr. McCoy and carried unanimously to approve the previously mentioned request and the necessary resolution was approved for the July 16<sup>th</sup> Board meeting. *A copy of the request is on file with the minutes.*

Mr. Butler addressed Agenda Item 7, which consisted of another request for a new contract with Lyme Adirondack Timberlands, LLC in the amount of \$1,200 authorizing snowmobile license agreement for a two-mile trail in the Town of Lake Luzerne. He noted that in this case, the \$1,200 fee would be paid by the South Warren Snowmobile Club.

Motion was made by Mr. Conover, seconded by Mr. Merlino and carried unanimously to approve the aforementioned request and the necessary resolution was authorized for the July 16<sup>th</sup> Board meeting. *A copy of the request is on file with the minutes.*

Concluding the agenda review, Mr. Butler addressed the listing of items pending from prior Committee meetings which he addressed as follows:

1. With reference to the Stony Creek Platform, Mr. Butler advised they were currently processing the building and easement plans, but said he did not have information on the exact status of either.

Mr. Dusek reminded the Committee that the initial easement agreement forwarded by the County had included provisions for the adjoining property owner, 1,000 Acres Ranch Resort, to allow a portion of their parking lot to be used for access to the Platform, as well as for parking, which would have to be maintained at standards acceptable to the County. In response, he said the property owner had requested that the County encumber the costs of paving their parking lot in return for the easement. Mr. Dusek noted that in recent discussion with the property owner's attorney, he had suggested that language pertaining to minimum standards for maintenance of the parking lot be removed, with the assumption that the normal maintenance provided would be sufficient, and the property owner would subsequently rescind their request for the County to pave the parking area. He said that this would lead to a very basic easement which would allow access to the Platform through the 1,000 Acres parking lot and also to allow parking at their facility, which the property owner's attorney seemed receptive to and intended to discuss further with his client before returning a decision. Mr. Dusek said he would keep the Committee apprised of the situation as new developments occurred.

2. Mr. Butler advised he had no further information to present relative to the possible transfer of the Kellogg Property to the Town of Johnsburg;
3. Respective to the RFP (request for proposal) for the 2011 Railroad Operator Contract, Mr. Dusek advised they were very close to completing the RFP process. He said a draft RFP had been issued to Mr. Butler and John Lemery, the attorney for the Town of Corinth, who were to review the document and respond with their comments. Mr. Dusek advised he had received a response from Mr. Lemery requesting changes to the document, one of those being a referral to insurance requirements which they were awaiting from CP Rail, and noting that he would provide further comment when he had completed his review. He said he felt the current RFP was a much better version than what was used in the past as it included all previous requirements, but added

information the interested parties had indicated were pertinent, such as clarifying freight rights and line availability and information on the Saratoga Station and CP Rail connections. Mr. Dusek advised the RFP could be completed very quickly upon receipt of Mr. Lemery's final comments and he suggested the Committee authorize him to release the RFP upon completion, rather than waiting for another meeting, in order to expedite the process.

Motion was made by Mr. Pitkin, seconded by Mr. Loeb and carried unanimously to authorize the release of the 2011 Railroad Operator RFP upon completion.

4. Mr. Butler advised the bid opening for the sale of the caboose located at the Riparius Station was scheduled for August 5<sup>th</sup> and he would provide more information at that time;
5. Regarding the sale of the Fairgrounds property, Mr. Dusek advised that it did not appear special State legislation would be put forward to allow the property sale as issues had been raised relative to the lack of survey documents and the need to replace the property with another parkland parcel. He said that at this point his recommendation would be to revisit the topic again in 2011 and he opined that one of the bidders interested in the property would be willing to wait a year to purchase it. Mr. Dusek advised he intended to ask his staff to revisit the entire parkland legislation issue that required parkland sold to be replaced with alternate parkland properties, to determine if there was a way to bypass the issue. Chairman Monroe pointed out that the Gaslight Village property was considered a parkland parcel and he questioned whether the State would consider this a replacement for the Fairgrounds property and Mr. Dusek responded that this was certainly an avenue that could be considered; he added he would continue to consider the issue to determine possible alternatives, but wanted the Committee to be aware that a solution was not imminent. Mr. Conover said that at some point the reasonableness of retaining bids should be considered as if this was going to be a long process, it might be appropriate to release all prior bids and offer a fresh public bidding process when the property was available for sale. Mr. Dusek said he agreed with Mr. Conover's point and would certainly keep this in mind when considering the issues surrounding the property. Mr. Loeb questioned how the use of the Fairgrounds would proceed for the summer season and Mr. Butler apprised that he intended to allow use of the property as usual until it was no longer owned by the County; and
6. Mr. Dusek said he had not prepared guidelines for use of bounce houses on County-owned property but would do so for the next Committee meeting.

Mr. Butler pointed out that Steve Wildermuth, Town of Hadley resident, was in attendance and wished to address the Committee relative to the condition of the rail line. Mr. Wildermuth apprised that as a prospective bidder for the 2011 Railroad Operator RFP, he had recently toured the rail line on a few different occasions to make inspections and had found a few issues he felt should be addressed. He stated himself, or any other bidder, would like to be assured the rail line would allow for Class 2 service, which he did not find evident from his inspection. Mr. Wildermuth said he had prepared a report of his findings and would leave a copy with Mr. Butler for his review. When asked to specify some of the issues that would interfere with Class 2 services, Mr. Wildermuth replied his inspection of the signal houses revealed three that might not work, but he could not verify this because he had not been permitted to operate them as per the current Railroad Operator, Upper Hudson River Railroad (UHRR). Additionally, he said his inspection revealed a broken rail that had been repaired with joint bars placed across the gap and only one bolt placed on either side of the break, which was insufficient for Class 2 traffic which required two bolts on either side. He said this automatically made that section of track able to host only Class 1 traffic. Mr. Wildermuth listed additional issues as follows:

1. A bent antennae on the signal housing at the Jones crossing which he said would eventually weaken and fall off;
2. Broken lights on the buildings; and
3. Drainage problems along the track, such as those prevalent at the Harris Road and McDonald crossings.

Mr. Belden noted that some of the issues cited by Mr. Wildermuth presented safety concerns and he questioned whether UHRR was required to repair them. Mr. Butler replied affirmatively and noted that he had forwarded a letter to UHRR about a month ago requesting information on their maintenance plan for the year, based on the issues that had arisen when reviewing the DPW Bridge Report. He added that a response had been received and he intended to work with Mr. Dusek to draft a second letter addressing the planned maintenance, as well as areas in need of repair, such as those indicated by Mr. Wildermuth.

In response to Mr. Belden's questioning as to who would be responsible for liability costs if an adverse event were to arise in relation to the lack of proper maintenance, Mr. Dusek replied that as the owner of the tracks, Warren County would be liable; however, he noted, insurance coverage was carried through UHRR to address these issues. He stated that it was important to point out the issues impeding the Class 2 status to the current Operator and direct that they be immediately repaired.

Mr. Pitkin suggested that an extensive review of the tracks should be performed to ensure that all classification requirements were being met as were appropriate with Class 2 traffic regulations before releasing an RFP advertising it as such. Mr. Dusek said this was an interesting observation and noted that they had the choice of indicating within the RFP that the tracks were being offered in an "as is" condition which the County believed to be appropriate for Class 2 traffic and allowing the bidder to make their own interpretations or hiring an outside engineering firm to review the tracks in depth to ensure Class 2 regulation compatibility; however, he noted, this might incur a significant cost. Mr. Dusek noted that at the start of the UHRR contract, the County had hired CHA to perform a review of the tracks and certify they were able to support Class 2 service as per Federal Railroad Administration standards.

Mr. Stec questioned whether there might be a need to obtain definitive reports confirming the tracks were certified for Class 2 traffic in order to avoid possible liability exposure in the future and Mr. Dusek replied that when the Railroad Operator Contracts were awarded, it was left to the chosen operator to ascertain whether the tracks are in the appropriate condition and held the correct classification for their intended use. He added that the burden was placed upon the contractor to be the advisor, inspector and technical party to ensure the tracks were maintained in the proper condition for operations and if these regulations were not followed, it placed all of the liability on the contractor, who was required to indemnify the County.

Subsequent to further discussion on the matter, Mr. Dusek said he felt the issues indicated by Mr. Wildermuth were minimal and could be easily addressed in the RFP while protecting the interests of the County. Additionally, he said they should contact the UHRR, address the maintenance concerns cited and demand they certify to the County that the tracks were appropriate for Class 2 traffic as required through their current Operator contract.

Mr. Lamy pointed out that these issues had originally been initiated by himself and Mr. Butler through their review of the UHRR maintenance schedule that was supposed to be in force. He said they had subsequently forwarded the letter drafted by Mr. Butler questioning the maintenance schedule and all of this information had been shared with Mr. Dusek for his review and approval. Mr. Lamy advised the information provided by potential responders to the 2011 Railroad Operator RFP coincided with inquiries they had already made and it was important to note these were

not dormant issues that were not already being addressed. Mr. Lamy advised that he and Mr. Butler were now working with Mr. Dusek to determine an appropriate response to the maintenance information received from UHRR to rectify the matter as quickly as possible.

As there was no further business to come before the Committee, on motion made by Mr. Merlino and seconded by Mr. McCoy, Mr. Belden adjourned the meeting at 11:11 a.m.

Respectfully submitted,  
Charlene DiResta, Sr. Legislative Office Specialist  
*As typed by Amanda Allen, Sr. Legislative Office Specialist*