

SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES

December 16, 2020 at 11:00 a.m. CST

BECKER-HANSEN BUILDING / DOT COMMISSION ROOM
700 EAST BROADWAY AVENUE, PIERRE, SOUTH DAKOTA

MEMBERS PRESENT: Jerry Cope, Chairman
Steve Scharnweber, Secretary/Treasurer
Jack Nelson, Member

MEMBER PRESENT

VIA CONFERENCE CALL: Jeff Burket, Vice-chairman
Greg Carmon, Member
Jon Kirby, Member

DOT STAFF PRESENT: Joel Jundt, Karla Engle, and Kari Kroll

DOT STAFF PRESENT

VIA CONFERENCE CALL: Jack Dokken, Misty Siedschlaw, Perry Griffith, Bonnie Olson, and Kellie Beck

OTHERS PRESENT: Dick Huff; Alex Huff; Toby Morris; and Dustin Buntrock – Agtegra

OTHERS PRESENT

VIA CONFERENCE CALL: Scott Van Den Top – D & I Railroad Co. (D&I); Steve Mousel – D&I; Russ Hazel – Sioux Valley Regional Railroad Authority (SVRRA); Steve Coomes – WATCO; Dan Schulte – Geddes Farmers Coop and the City of Geddes; Steve & Victoria Hebel; Mark Trottier – Dakota Missouri Valley & Western (DMVW); Drew Fredrickson – Marshall Regional Railroad Authority; Mike Traxinger – Agtegra; Dan Kippley – Ellis & Eastern Company; John LeSuer – Slover & Loftus

Chairman Jerry Cope called the meeting of the South Dakota Railroad Board (the “Board”) to order at 11:00 a.m. CST. A roll call was taken, and a quorum was determined.

Cope opened the floor to the Board members to disclose potential conflicts of interest and to present requests for waivers pursuant to the South Dakota Codified Law (SDCL) chapters 3 - 23.

No conflicts of interest were disclosed, and no waivers were requested.

Cope asked for a motion to approve the November 18, 2020, Board meeting minutes.

A MOTION WAS MADE by Nelson and seconded by Scharnweber to approve the November 18, 2020, Board meeting minutes. All present voted aye by roll call vote. The motion carried.

Cope opened the floor to public input.

Dick Huff addressed the Board asking for time on the agenda at a future meeting in order to tie up some loose ends regarding the Mitchell-Rapid City (MRC) and Napa-Platte railroad lines before the potential sale of the MRC line takes place. Huff asked that all parties that may participate in the discussion have documentation to back up their positions. Huff alleged that Dakota Southern Railway Company and Department of Transportation (the "Department") staff have not behaved properly toward the public or worked in the public's best interests. Huff indicated he has additional information relating to these issues that he may share with the Chair after the meeting.

Scharnweber addressed the Board as a retired railroader and not as a Board member. Scharnweber stated that everyone associated with the revitalization of the MRC line should pat themselves on the back for the improvements to the line. He observed that there has been a significant increase in the number of cars now running on the MRC line and the individuals involved should take pride in that.

Cope asked for a motion for the Board to enter into Executive Session.

A MOTION WAS MADE by Nelson and seconded by Scharnweber to enter into executive session pursuant to SDCL 1-25-2(3) for the purpose of consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters. All present voted aye by roll call vote. The motion carried.

Executive session began at 11:08 a.m. CST.

Cope called the meeting back into session at 11:45 a.m. CST. A roll call was taken, and a quorum was determined with same members present (Burket, Carmon, Kirby, Nelson, Scharnweber, Cope).

Joel Jundt, Interim Secretary, presented the Secretary's Report. Jundt updated the Board on the status of federal funding and the Federal Appropriation Bill. Congress previously passed a continuing resolution that will expire on Friday, December 18, 2020. The outcome of the Federal Appropriations Bill will affect Consolidated Rail Infrastructure & Safety Improvements (CRISI) and Special Transportation Circumstances (STC) grant funding.

Jundt also shared that the loan extensions that the Board had granted to Sully County Regional Railroad Authority/Ring-neck Energy & Feed LLC and Hughes County Regional Railroad Authority/Pulse Processors were paid by the amended due dates as approved by the Board.

Jundt presented for Board consideration the sale of the state-owned Sioux Valley rail line to D&I Railroad Co.

Cope opened the floor for public comment.

No members of the public offered any comments.

A MOTION WAS MADE BY Scharnweber and seconded by Nelson to authorize the secretary or interim secretary of the South Dakota Department of Transportation to execute all documents necessary to sell the Sioux Valley line to the D & I Railroad Co. The sale should be subject to the consent of the Governor and satisfaction of all contingencies set out in section 5 of the proposed agreement negotiated by the Department and D & I Railroad Co. All present voted aye by roll call vote. The motion carried.

Jack Dokken, Program Manager of the Office of Air, Rail, and Transit introduced Mark Trottier of Dakota, Missouri Valley & Western (DMVW) to present for the Board's consideration, an extension of the lease and sublease on the Britton rail line. DMVW asked for a 5-year extension to Marshall Regional Railroad Authority's current lease and DMVW's current sublease.

Drew Fredrickson, Secretary/Treasurer, on behalf of the Marshall Regional Railroad Authority concurred with the request from DMVW.

A MOTION WAS MADE by Burket and seconded by Kirby to approve the five-year extension of the lease to Marshall Regional Railroad Authority and the five-year extension of the sublease to DMVW on the Britton rail line. All present voted aye by roll call vote. The motion carried.

Dokken presented the following excess property sales for the Board's consideration. These are follow-up requests from prior sale approvals by the Board. In some instances, after the properties were surveyed, it was found that they could not meet the 8.5 feet safety distance from a siding track to their property line as required by the Board. The Department had the property owners work with WATCO to come to an agreement on the property lines.

Steve and Victoria Hebel asked for additional excess property located in Tyndall as shown on attachment # 2. These parcels do meet the safety distance as imposed by the Board.

A MOTION WAS MADE by Scharnweber and seconded by Nelson to approve the sale of excess property in Tyndall to Steve and Victoria Hebel as shown in attachment #2 subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

Agtegra asked the Board for an amendment to the original approval for the extra property purchase request from August 19, 2020 to allow a different distance from centerline of the mainline. The survey revealed that the building is 5 feet from centerline so they would not be able to meet the safety distance of 8.5 feet originally contemplated in the approval. WATCO has approved the adjustment.

Additionally, the survey showed that the proposed sale lot extends into part of the Main Street right of way because of the building. The City of Kennebec is in approval of Agtegra purchase of a portion of Main Street right of way.

A MOTION WAS MADE by Nelson and seconded by Scharnweber to authorize the sale of real property up to 5 feet from centerline of mainline and including a portion of Main Street right of way as presented by the Department. All present voted aye by roll call vote. The motion carried.

Dan Schulte asked for the sale of excess property in Geddes to the City of Geddes and also the sale of leased property #1425 and excess property to Geddes Farmers Coop as shown on attachment #4. The Department supports the sale except the Department is not recommending the sale of the land over the main line track right of way.

A MOTION WAS MADE by Kirby and seconded by Scharnweber to approve the sale of leased property #1425 and excess property in Geddes to the Geddes Farmers Coop and other excess property to the City of Geddes as recommended by the Department, subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

Elizabeth Grace-Cruz asked for an amendment to the original authorization to purchase property in Beresford to allow for the purchase of additional property up to 8.5 feet from centerline of main line. The request is being made because the building on the sale property is only 8.5 feet from the centerline of main line. The building is the old depot. D & I Railroad Co., approved the adjustment.

A MOTION WAS MADE by Nelson and seconded by Carmon to authorize the sale of property up to 8.5 feet from the centerline on the mainline in Beresford. All present voted aye by roll call vote. The motion carried.

With no other business to come before the Board, Cope adjourned the meeting at 12:39 p.m.