

**Morris County Freight Rail Advisory Committee
 Tuesday, April 13, 2010: 2:00 PM
 Morris County Administration & Records Building
 Fifth Floor, Knox Room
 Morristown, NJ**

The meeting was called to order by Chairman Schrier at 2:00pm.

In Attendance:

Committee Members	Other Attendees	Staff
Freeholder Jack Schrier, Chairperson	Miki Kraukauer, NJDOT	Erik DeLine
Freeholder Margaret Nordstrom	Jakub Rowinski, NJTPA	Frank Pinto
Gary Behrens, Roxbury	Tom Phelan, Eng-Wong, Taub & Associates	Gerald Rohsler
Kathy DeFillippo, Roxbury	Chris Vitz, Morris County Dept. of Engineering	
Gordon Fuller, M&E Railroad	Chris Mazzei, M&E Railroad	
Jack Holland, Holland Manufacturing		
Allen Napoliello, Randolph		
Frank Reilly, Board of Transportation		

I. Welcome

Freeholder Schrier welcomed everyone once again to the Freight Railroad Advisory Committee meeting.

II. Approval of Minutes from January 12, 2010

- Freeholder Nordstrom made a motion to approve the minutes
- Mr. Gordon Fuller seconded the motion.
- The minutes from January 12, 2010 were unanimously approved.

III. Presentation - Morris County Freight Infrastructure and Land Use Analysis

- Mr. Tom Phelan from Eng-Wong, Taub, & Associates gave a presentation on the two year freight transportation and land use study that they are conducting for Morris County. This study is being funded by the North Jersey Transportation Planning Authority (NJTPA).

- In the presentation, Mr. Phelan gave an overview on the purpose and approach of the study, some key issues that affect the region, and covered some of the ongoing project activities for the study.

IV. Discussion Topic - Federal Preemption by Railroads

- Mr. Nathan Fenno, Esq. from the New York Susquehanna, and Western Railroad (NYS&W) gave a presentation on the history and role of federal preemption for railroads.
- Mr. Fenno provided a brief background of the NYS&W, a class three railroad that operates 400 miles of track through New York, Pennsylvania, and New Jersey. 75% of NYS&W's business occurs in New Jersey.
- For a while, railroad operations were controlled by the states and regulated how wide the rails had to be among other things, and created issues with uniformity. The creation of the Interstate Commerce Commission changed all this by giving the federal government control of the railroads and allowed for the standardization of technology. Incorporated powers included the Supremacy Clause and the Commerce Clause.
- Mr. Fenno covered some of the issues that communities and railroads usually find themselves at odds over, including: hours of operation, speed, horns at grade crossings, noise of operations, maintenance of railroad property, and transport of hazardous materials.
- In 1995, the federal government terminated the ICC and created the Surface Transportation Board (STB), and made the jurisdiction over railroads exclusive to the STB.
- Mr. Fenno covered *NYS&W v Ridgefield Park* case which ruled that railroads were exempt from local zoning. Additionally, they are not required to go through planning board process.
- Judge Stanton from New Jersey later ruled that railroads are required to go through the process, but do not have to wait for a decision to proceed. In the instance of the transload facility in Riverdale, the process took eighteen months.
- Freeholder Nordstrom commented that railroads need to be pragmatic as well. It's a balancing act and railroads need incentives to work with towns.
- Mr. Fenno said that it takes both sides. If you go down that path, you might get less than you would otherwise, and ultimately, what is good business for the railroads will rule the day.

V. Downtown Dover

- The committee agreed to hold off discussion until July.

V. Current Initiatives

- Mr. DeLine gave an update on the Chester Branch bid, saying that the decision was made to rebid the contract because of a number of issues, but the bids were

once again due on April 15, 2010 and work would begin at approximately the same time and be completed by November 2010.

VI. Other Business

- The committee had no other business

VII. Adjournment

- Freeholder Schrier thanked everyone for coming and participating in the meeting, reminding everyone the next meeting was Tuesday, July 13.
- Freeholder Nordstrom made a motion to adjourn the meeting and Mr. Fuller seconded the motion.
- The meeting was unanimously adjourned at 3:30pm.

Respectfully submitted,

Erik DeLine
Assistant Planner