

## ICEA EXECUTIVE BOARD MINUTES

Veeder Room @ ISAC Headquarters  
501 SW 7<sup>th</sup> Street, Suite Q  
Des Moines, Iowa

10:00 a.m., Thursday  
February 16, 2006

Present: President Mike McClain, Vice President Keith White, Secretary Jim George, District 2 J. D. King, District 3 Ron Haden, District 4 Jim Ebmeier, District 6 Todd Kinney, John Calhoun, Royce Fichtner, Larry Mattusch, Bob Sperry, and Tom Stoner.

President McClain called the meeting to order at 10:12.

### **APPROVAL OF JANUARY 25, 2006 MEETING MINUTES**

The January 25<sup>th</sup> meeting minutes were posted on the ICEASB website prior to the meeting. Approval of the minutes was moved and seconded by Jim Ebmeier and J.D.King respectively. Motion passed unanimously.

### **FINANCIAL SECRETARY REPORT**

Financial Secretary Rohe was unable to attend, but has documented no income or expenses since the January report. Therefore, the total fund balance remains \$47,426.59.

### **WASHINGTON COUNTY RAILROAD LAWSUIT**

David Patterson was unable to attend but had asked John Calhoun, Calhoun-Burns & Associates, to report on the status of the lawsuit. Mr. Calhoun noted that Washington County has pursued litigation that would require the railroad to maintain and reconstruct crossings and structures as stated by Iowa Code. The County anticipates that legal appeals could continue another five years.

Motion by J.D. King and seconded by Todd Kinney to approve the following Resolution:

### **RESOLUTION**

**WHEREAS**, Washington County has negotiated unsuccessfully with a railroad company (currently Iowa, Chicago & Eastern R.R. Co.) since 1997 to replace four deteriorating bridge/roadway crossings; and

**WHEREAS**, faced with the railroad's intransigence, the County initiated litigation four years ago to require cooperation; and

**WHEREAS**, the County has obtained a successful judgment from the Federal District Court that was subsequently upheld at the Eighth Circuit Court of Appeals; and

**WHEREAS**, the County has sustained considerable expense (re: attached letter) and will incur additional expenses as this litigation continues; and

**WHEREAS**, there are ninety other counties within Iowa with similar deteriorating railroad crossings and structures that will become a financial burden to county road departments if the railroad is unwilling to assist with reconstruction or replacement; and

**WHEREAS**, the precedent established by the Washington County litigation should benefit any county with similar problems;

**NOW THEREFORE BE IT RESOLVED** that the Iowa County Engineer's Association Executive Board endorses Washington County's litigation efforts, supports the effort to share costs with other counties and authorizes the President to sign a resolution to that effect.

_____	ATTEST: _____
Mike McClain, Jones County Engineer President, Iowa County Engineer's Association	Keith White, Muscatine County Engineer Vice-President, I.C.E.A.

### **NACE REPORT**

Larry Mattusch noted that ICEA has supported the annual conference every year since 1996 and recommended a contribution to the Michigan association, this year's host. Jim Ebmeier moved and J.D.King seconded a \$500 contribution to the conference. Motion passed unanimously.

Tom Stoner recommended and President McClain designated Greg Parker, Johnson County Engineer, for free NACE registration as a first time attendee at the upcoming annual conference.

ICEA has nominated Royce Fichtner and Larry Mattusch respectively for Rural and Urban County Engineer of the Year.

### **ISU CAREER FAIR**

Bob Sperry reported that there were 209 booths, which represented a 30% increase by sponsors. Approximately sixty students visited the booth seeking permanent or summer work. Resumes were posted on the Service Bureau. There was discussion about providing a 'souvenir' (i.e. pen or calculator) next year and possibly asking scholarship winners to help with manning the booth.

### **LEGISLATIVE REPORT**

Royce Fichtner has posted current legislation on the Service Bureau website. Briefly:

- The change in pick-up registration fees is probably dead for this session.
- There has been no bill introduced or assigned that would change RUTF distributions.
- The proposed change to Code Section 319 has advanced. The only added requirement for road departments would be a 90-day notice to utilities.
- Eminent Domain has been difficult to track. Road departments have an exemption for parallel takings, however that may exclude commercial and residential with the new bill.

### **OTHER BUSINESS**

Mark Nahra has requested help with proposed changes that would affect HMA inspection.

Ron Haden stressed working with the local Emergency Management Coordinator for a plan that defines potential department involvement. Reimbursement may depend upon such a plan.

The meeting adjourned at 12:05 p.m.

Respectfully submitted,  
Jim George, Secretary

**RECEIVED**

**FEB 14 2006**

**JONES COUNTY ENGINEER**

BOARD OF SUPERVISORS

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ENGINEER

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LYLE J. MOEN, Engr. Tech.  
JEREMY McLAUGHLIN, Engr. Asst.  
JULIE K. MESSER, Ofc. Mgr.  
Students:  
MATTHEW BAUER  
TIMOTHY FLECK  
'DJ' JACKSON  
MICHAEL VITTETOE

LARRY DELONG  
Washington

JACK DILLON  
Wellman

RANDY PAYNE  
Washington

February 13, 2006

TO: Iowa County Engineers Association Executive Board

RE: Washington County Railroad Lawsuit

Dear Members of the Executive Board,

Over the past 4 years Washington County has been engaged in a lawsuit with a railroad company (currently the IC&E) over the repair and replacement of 4 railroad bridges in our county. Our estimate to replace these 4 bridges in 2001 was 6.2 million. Around 1997 we began trying to work with the railroad to assist us in replacing the structures. The railroad refused to cooperate in any financial way. In 2000 we unsuccessfully sought for special funding from our state legislators. In 2002, after exhausting all cooperative efforts to obtain funding for the bridges, we filed suit against the railroad.

In talking with other county engineers throughout the state, it is clear that we are not alone. Numerous other counties have problematic railroad bridges and are receiving no cooperation from the railroads.

Over the past 4 years we have been steadily walking through a lengthy legal process to get the railroad to help fund the replacement of these structures. At every hearing and every appeal, we have had victories. Our state hearing will be at the end of April 2006. We anticipate that this will be a precedent setting case and impact most, if not all, of the counties in Iowa.

The Board of Supervisors in Washington County has been very supportive of this legal process. They had the initiative to start the process 4 years ago knowing it could be long and drawn out. To date, Washington County has been the sole financial provider for this case. Since 2001, we have spent over \$200,000 in legal and consulting fees and at least \$40,000 in county staff time.

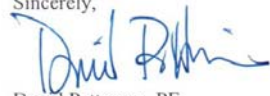
Included with this letter is a map that details the location of railroad crossings and railroad bridges in Iowa. This map highlights the following facts:

- There are 91 counties with railroad crossings in them.
- 63 counties have railroad/county structures (overpasses and underpasses).
- There are 141 railroad overpasses and 135 underpasses on county roads in Iowa.
- With the increased rail traffic on less railroad track mileage, there will be an increasing need for grade separation structures on county roads.

Because of its impact on so many counties in Iowa, I would like to ask the ICEA Executive Board for their support on this issue. I will be in Washington DC during this weeks ICEA Executive Board meeting, but have asked John Calhoun to attend in my absence and make a presentation on this issue. As he will discuss, I would like to seek financial assistance from the other counties and want to have the support of the County Engineers Association before contacting individual counties.

If the Executive Board approves, I would ask to set up a joint meeting between the Engineers and Supervisors Executive Boards to also garner support from the Supervisors Association. By having the backing of both the Engineers and Supervisors Associations, I hope that it will be easier for individual County Engineer's to talk with their boards in asking for support.

Sincerely,



David Patterson, PE  
Washington County Engineer

CC: John Calhoun, Calhoun-Burns & Associates