



Cattaraugus County
John R. Searles, County Administrator

ECLEG HRR01 '11 AM 7:55
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February 22, 2011

Mrs. Barbara Miller-Williams, Chairperson
Erie County Legislature
95 Franklin St., 4th Floor
Buffalo, NY 14202

Dear Mrs. Williams:

Enclosed you will find a certified copy of Act Number 86-2011, adopted by the Cattaraugus County Legislature on February 9, 2011.

If you have any questions, please do not hesitate to contact me at (716) 938-2232.

Sincerely,


Lori A. Pangborn, Deputy Clerk
Cattaraugus County Legislature

Enclosure

AB

**EXPRESSING INTENT TO ABANDON OLD ROUTE 219 BRIDGE OVER CATTARAUGUS CREEK
IF NEW YORK STATE DISCONTINUES MAINTENANCE OF SAME**

Pursuant to Section 153 of the County Law and
Section 62 of the Highway Law.

I. WHEREAS, Cattaraugus and Erie Counties have been notified by the New York State Department of Transportation (NYSDOT), that the State intends to transfer maintenance responsibility for a portion of U.S. Route 219, including a 652 foot long high-level bridge which traverses Cattaraugus Creek, a/k/a Zoar Valley, identified as BIN 1041590 (hereinafter "the bridge") to such counties pursuant to Section 62 of the New York State Highway Law, which authorizes NYSDOT to transfer maintenance responsibility for duplicate routes to counties and other municipalities, and

II. WHEREAS, Highway Law Section 62, prior to 1965, authorized the State to turn over to a county, village or town, a discontinued State road only if it had originally been a local road before becoming part of the State highway system, and

III. WHEREAS, in 1965, Highway Law Section 62 was amended to authorize the State Commissioner of Transportation ("Commissioner") to transfer maintenance responsibilities for discontinued State highways and bridges to counties even in instances where the road was originally a State highway and not part of a county highway system, but such amendment also authorized the Commissioner to continue to maintain duplicate sections of highway, including bridges, with the approval of the State Budget Director, and

IV. WHEREAS, the bridge was originally constructed in 1956 as part of a State highway and was never previously part of a County road system on either side of Cattaraugus Creek, and

V. WHEREAS, after the 2009 biennial state inspection, the bridge was rated as "structurally deficient", and

VI. WHEREAS, Act 523-2007 requested that the Commissioner retain maintenance responsibility for the bridge, and

VII. WHEREAS, by letter dated December 28, 2007, NYS DOT reiterated the State's determination that it would transfer maintenance responsibility for the referenced section of road, including the bridge, upon completion of the state's new four-lane expressway through the area, even though they were and are fully aware of the devastating effects of their proposed action upon the two counties involved, both of which are suffering extreme financial hardship due primarily to the unfunded or underfunded state-mandated programs they are forced to administer, and

VIII. WHEREAS, in November 2010, DOT completed and opened the portion of its four-lane expressway from Springville in Erie County running south across Cattaraugus Creek (Zoar Valley) to Peters Road in Cattaraugus County, thereby rendering the old 2.57 mile stretch of Rt.. 219, including the old bridge, a duplicate route and subject to the process established by §62, and

IX. WHEREAS, DOT now represents that it has every intention of transferring the old road and bridge to the two counties by 2013, but asserts that it will make significant repairs and improvements to the bridge before such transfer takes place, and

X. WHEREAS, it appears from the Legislative history, that the 1965 amendment Section 62 included language authorizing the Commissioner to continue to maintain duplicate highways for the specific purpose of addressing the situation now faced by Cattaraugus and Erie Counties; that is, unless the Commissioner exercises his discretion and retains such

responsibility, the Counties will be forced to take on immense maintenance costs for a highway and bridge not created by either such county and in which neither of them has any interest, now, therefore, be it

I. RESOLVED, that the Cattaraugus County Legislature again urges the Governor, the New York State Legislature, the Commissioner of Transportation, and the Director of the Budget, in the exercise of their discretion and in the best interests of the people of Western New York, to take the necessary actions to retain responsibility for the maintenance of such bridge in the future, and be it further

II. RESOLVED, in the event that the Governor and the Commissioner of Transportation continue the State's unjustified position that the expense of future maintenance of the bridge should be passed to Cattaraugus and Erie Counties, then and in that event, and solely for the purpose of avoiding the burdensome cost of such future maintenance, the Cattaraugus County Legislature recognizes that its only option will be to declare that the old Route 219 bridge which traverses Cattaraugus Creek, a/k/a Zoar Valley, identified as BIN 1041590, is useless and no longer necessary for public convenience and welfare, and direct the Commissioner of Public Works to enter an order abandoning such bridge, and be it further

III. RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute a joint letter, on behalf of Cattaraugus County, with the Erie County Executive, to Governor Andrew Cuomo, expressing the interests and concerns of both counties with regard to this matter, and be it further

IV. RESOLVED, that the Clerk of the Legislature is hereby directed to forward a copy of the above-described letter, together with a certified copy of this resolution, to Governor Cuomo, Acting Commissioner of the New York State Department of Transportation Joan McDonald, Director of the Budget Robert L. Megna, Senators Catharine M. Young and Patrick Gallivan, Assembly Members Joseph M. Giglio and Kevin Smardz, Erie County Executive Chris Collins, Chairperson of the Erie County Legislature Barbara Miller-Williams, and Erie County Commissioner of Public Works Gerard J. Sentz, P.E.

STATE OF NEW YORK)
COUNTY OF CATTARAUGUS)

I, Lori A. Pangborn, Deputy Clerk of the Legislature of the County of Cattaraugus, New York, do hereby certify that I have compared the foregoing resolution with the original thereof on file in my office and duly adopted by said Legislature at a meeting of said Legislature on the 9th day of February, 2011, and that the same is a true and correct copy of such resolution and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said County this 22nd day of February, 2011.



Deputy Clerk Cattaraugus County Legislature