



North Coast Railroad Authority
419 Talmage Road, Suite M
Ukiah, Ca 95482

NORTH COAST RAILROAD AUTHORITY (NCRA) BOARD OF DIRECTORS REGULAR BOARD MEETING

Wednesday, May 13, 2009~ **10:30**
Ukiah Valley Conference Center
200 South School Street, Ukiah
Mendocino County

Draft Minutes

A. CALL TO ORDER - Chairman Hemphill called the meeting to order at 10:35

B. ROLL CALL

Directors Present – Ollivier (leaves at 2:50), Clendenen, Simonson, Colfax, Kelley (leaves at 2:25), Meyers, MacDonald, Hemphill

Directors Absent – Ziedrich

Also Present – Executive Director Mitch Stogner, Legal Counsel C.J. Neary, Project Manager David Anderson, Transportation Planner Angel Lucero, Recording Secretary Heather Lindsteadt

C. AGENDA APPROVAL

Upon Motion by Director Ollivier, seconded by Director Kelley, Agenda item F.6 was moved to F.2. Approved AYES: 8, NOES: 0, ABSTAIN: 0, ABSENT: 1

D. PUBLIC COMMENT

No Public Comment

E. FINANCE COMMITTEE REPORT

Director MacDonald updated the Board on the April 28 NCRA Finance Committee meeting. He said that NCRA needs to continue to pursue revenue sources as well as attempt to reduce expenses. He said that a long term cash flow would be discussed at the August 2009 workshop. He said that the Finance Committee is recommending adoption of the FY 09-10 Draft Agency, TCRP, and F&G Budgets. He noted that the Agency Budget had a significant deficit and that the deficit would be further discussed under agenda item F.3.

F. CONDUCT OF BUSINESS

1. Discussion and Possible Approval of NCRA Financial Statements for Fiscal Year 2007-08 - Aycock & Edgmon

Stacey Edgmon with Aycock and Edgmon presented the Board with the fiscal year 07-08 annual Financial Statements. She answered several questions from Directors and said that the following changes would be made to the final Financial Statements that will be presented to the Board in June:

- a. Advance lease payments that are received from the operator will be classified as Deferred Revenue in the financial statements;
- b. Disclosure of ECD and Novato Consent Decree contingent liabilities;
- c. Elaboration of Schedule of Findings.

Staff was directed to:

- a. Research the Contingent Liabilities in an effort to remove those items from the financial statements;
- b. Send a reminder letter to SMART requesting final resolution of the outstanding loan balance which will be forgiven due to “in-kind” repairs to the SMART owned right-of-way;
- c. Return to the Board with a Corrective Action Plan to resolve the two Conditions and Recommendations outlined in the Schedule of Findings and Responses as well as a Management Discussion & Analysis (MD&A).

Upon Motion by Director Meyers, seconded by Director Kelley the NCRA Financial Statement Audit for Fiscal Year 2007-08 was approved with changes as listed above. Staff was directed to return to the Board with a Corrective Action Plan and Management Discussion & Analysis when the final report is presented to the Board in June. Motion carried **AYES: 8, NOES: 0, ABSTAIN: 0, ABSENT: 1**

Chairman Hemphill convened the meeting to a 10 minute break at 11:51 a.m.

6. Discussion and Possible Adoption of Resolution No. 2009-03 - Resolution Adopting Trail Guidelines

Executive Director Stogner updated the Board on the timeline of events surrounding the Trail Guidelines.

- a. July 2008 NCRA issued draft Trail Guidelines for public comment;
- b. December 2008 public comment period ended;
- c. April 2009 Staff was directed to prepare a recommendation regarding the final Trail Guidelines for Board consideration on May 13;
- d. Staff reviewed the public comments and incorporated the comments into the Trail Guidelines where appropriate;

Legal Counsel Neary summarized the changes to the Draft Trail Guidelines:

- a. Removal of the rigid set-back requirements replaced with a case-by-case analysis of the set-back depending on the project;
- b. Moved all final policy making decisions to member agencies (SMART, NCRA)
- c. Public agencies (sponsoring agency) will present trail proposals to NCRA rather than individual groups;

Legal Counsel Neary said that the Policy issues need to be approved and then the Final Trail Guidelines will be redrafted and presented to the Board in June and incorporated into the NCRA Policies and Procedures Manual. He also said that the Public Safety Section of NCRA's RRD DEIR, which mentions the Trail Guidelines, will be redrafted and recirculated.

Doug Bosco, NWP Co. legal counsel said that the Operator would like to see the trails constructed safely with an eye toward future capacity of the rail line.

Public Comment on Item F.6

Karen Diemer – Supports the redrafted guidelines and said that the Arcata-Eureka trail will provide a good case study of the effectiveness of the new trail guidelines.

Neil Davis – Supports trails and pathways along the railroad right-of-way for the health and economy of the community.

Sue Corbaley – Supports the redrafted guidelines. Spoke briefly about liability issues and public perception after construction of a rail trail.

Mari Rodin – requested that the final decision regarding approval of trail proposals be placed with NCRA and said that she supports rails with trails.

Mike Kirn – Thanked the Board for the redraft of the guidelines and said that the City of Healdsburg is currently under construction on Phase 2 of the Foss Creek Trail.

Christine Culver – Supports the redrafted guidelines and thanked the Board

Sid Moure – Supports rail trails and said that the health of the community depends on construction of more trails and pathways.

Loretta Ellard – Requested that staff remain in touch with MCOG and said that it is important to use the right-of-way to the maximum extent possible. She said there may be funding through MCOG for trail development.

Roger Graeber – Said that the most important aspect of any trail along the right of way is safety, and he said that did not think that a trail should be placed on the NWP right-of-way.

The following written correspondence related to the Trail Guidelines was received and hereby made part of these minutes by reference:

County of Humboldt Re: Recommended Edits to Revised NCRA Rail-with-Trail Guidelines

Kaye Strickland – Citizens for Port/Rail Development

A conversation ensued about the operator's role in the trail approval process. The policy will require the Operator to be involved in the process very early so that the trail proposers are sure to understand what the FRA and PUC require. Director MacDonald requested a letter from the Operator that would outline his understanding and confirm his support for the NCRA Trail Guideline Policy and process. It was the consensus of the Board that the Operator's opinion on the individual trail proposals was an extremely important factor in the development of trail proposals but that the final decision to approve or disapprove a trail proposal resided exclusively with the NCRA Board of Directors.

Director Meyers said that he would like to see a letter from the Operator that confirmed the Operator's support for the NCRA Trail Guidelines. Doug Bosco said that if Director Meyers drafted such a letter he (Mr. Bosco) would discuss it with Mr. Williams.

Director Meyers requested that his changes to the Policy be incorporated. It was decided that he would send the minor changes to staff for incorporation into the Final Trail Guidelines. Director Clendenen requested that the term "NWP Co." be generalized to read "Operator/s"

Motion by Director Kelley, seconded by Director Meyers, to approve Resolution 2009-04 related to the policy issues relating to the Trail Guidelines: 1.) trail proposals will be considered on a case-by-case basis, 2.) trail proposals will be submitted to NCRA by a public agency, 3.) Public Safety section of the DEIR will be redrafted and recirculated, 4.) Operator will have early input into any trail proposal but that NCRA has the final authority of approval or denial. Motion Carried: **AYES: 8, NOES: 0, ABSTAIN: 0, ABSENT: 1**

2. Discussion and Possible Approval of Issuance of RFP for Financial Compliance Audit Services for Fiscal Years 08-09 and 09-10

Executive Director Stogner said that the 3 year contract with Aycock & Edgmon will expire with Board approval of the FY 07-08 Annual Financial Audit that

was discussed earlier under item F.1. He said it is necessary to issue an RFP to solicit a two year contract with a qualified firm to conduct the FY 08-09 and FY 09-10 Annual Financial Audit.

Upon Motion by Director Meyers, seconded by Director Kelley, staff was directed to issue the RFP for Financial Compliance Auditor. Motion carried **AYES: 8, NOES: 0, ABSTAIN: 0, ABSENT: 1**

3. Discussion and Possible Approval of Draft Agency Budget Fiscal year 2009-2010

Upon Motion by Director Ollivier, seconded by Director Meyers the Draft Agency Budget for FY 09-10 was approved with the Board stating that they understood that they were approving a budget with a deficit and directed staff to continue to reduce expenses and look to property leases for additional revenue. Motion carried **AYES: 8, NOES: 0, ABSTAIN: 0, ABSENT: 1**

4. Discussion and Possible Approval of Draft TCRP Budget Fiscal Year 2009-2010

Upon Motion by Director Ollivier, seconded by Director MacDonald, the Draft TCRP Budget for FY 09-10 was approved. Motion carried **AYES: 8, NOES: 0, ABSTAIN: 0, ABSENT: 1**

5. Discussion and Possible Approval of Draft Fish & Game Wingo Camp II Budget Fiscal Year 2009-2010

Upon Motion by Director Meyers, Seconded by Director Simonson the Draft Fish & Game Wingo Camp II Budget for FY 09-10 was approved. Motion carried **AYES: 8, NOES: 0, ABSTAIN: 0, ABSENT: 1**

G. CONSENT CALENDAR

1. Approval of Minutes - Regular Board Meeting – April 8, 2009
2. Acceptance of Minutes – Finance Committee Meeting - April 28, 2009
3. Acceptance of Financial Statements – April 2009
4. Approval of Warrants Issued - Agency 787010 – April 2009
5. Approval of Warrants Issued - TCRP 787101 – April 2009
6. Approval of Warrants Issued – Fish & Game – 787408 – April 2009
7. Approval of CalCard Statement – April 2009

A brief discussion ensued on the type of minutes that were prepared. It was the consensus of the Board that summary minutes were acceptable and that staff should continue to prepare summary minutes of the meetings.

Upon Motion by Director Colfax, seconded by Director Meyers the Consent Calendar items G.1 through G. 7 were approved. Motion carried **AYES: 8, NOES:0, ABSTAIN: 0, ABSENT: 1**

Due to scheduling issues, Staff Reports (Item H. 1 through H.3) were discussed prior to Agenda item F.7 regarding the Ukiah Station.

H. STAFF REPORTS

1. Executive Director – Mitch Stogner

- a.** SMART/NCRA Operating Agreement Meeting
- b.** Economic Stimulus Funding
- c.** Map 21

Executive Director Stogner thanked Director Colfax for his letter of support for MAP 21 funding which was provided to Rep. Mike Thompson's office on May 2. He said that NCRA continues to work cooperatively with SMART through monthly meetings which address a wide range of coordination issues. He said the June meeting still needed to be scheduled. He also said that the Board is scheduled to hold a Board Workshop/Strategic Planning meeting on August 12 and suggested that the workshop be held in place of the regular Board meeting.

Director Kelley leaves at 2:24 p.m.

2. Project Manager – Dave Anderson

Dave Anderson, NCRA project engineer, updated the Board on the rehabilitation projects that are currently underway on the NWP rail line.

- a.** He reported that he is currently working with the signal contractor to organize the remobilization and said that hopefully the remaining signal work will begin in early June. He said he is working with County of Humboldt on a crossing repair project funded through the county;
- b.** He said repair of the 3 bridges that are covered under the JARPA permit will begin in mid August;
- c.** He also pointed out that Balfour Beatty is scheduled to complete the trackway repairs one month early, and that he is currently working with the FRA to update the crossing inventory.

Director Ollivier thanked Mr. Anderson and said that the updates on construction are always a highlight of the meetings and show that the NCRA is making progress to repair the rail line and resume freight service.

3. Legal Counsel – C.J. Neary

Legal Counsel reported that NCRA has received the final court paperwork related to the NWPY claim that was recently dismissed in favor of NCRA.

I. OPERATOR REPORT

1. NWP Co. – John Williams

No Report

F-7. Discussion and Possible Adoption of Resolution No. 2009-04 - Resolution Regarding Ukiah Station

Executive Director Stogner updated the Board on the efforts to separate the Ukiah Station (Depot Building) from the larger Ukiah Depot Property so that the City of Ukiah's grant for rehabilitation of the Depot Station is preserved.

Legal Counsel Neary said that Staff consulted with many agencies including CalTrans, MCOG, County of Mendocino and the City of Ukiah in preparation of Resolution 2009-04. He said that Resolution No. 2009-04 will ensure that the historic Ukiah Depot Rail Station will remain in public ownership in perpetuity, to be used for public transportation purposes. He said that these assurances should preserve grant funding dedicated to the restoration of this historic building. He also said that Resolution 2009-04 will also rescind Resolution 2009-01 that was adopted by the NCRA Board on January 22.

Legal Counsel noted that in paragraph 4 line 20 the Passenger Commute Service Easement was recorded on August 19, 1996 rather than 1997.

Dave Rapport requested that the Resolution be modified at paragraph 2, line 2 to read: "Ukiah Station will be maintained and operated for public transportation purposes or as approved by Caltrans or the CTC."

Director Meyers requested that the Resolution be modified at paragraph 3 line 8 to read: NCRA shall ensure that the foregoing policy determinations shall be binding upon lessees, successors, and assigns...."

Director Ollivier leaves at 2:50

Public Comment on Agenda Item F.7

Loretta Ellard – Supports Board approval of Resolution 2009-04

Upon Motion by Director Colfax, seconded by Director Meyers Motion to Approve Resolution No 2009-04 with above noted changes approved. Motion carried: **AYES: 6, NOES: 0, ABSTAIN: 0, ABSENT: 3**

J. MATTERS FROM THE BOARD

The Board adjourned the meeting to Closed Session at 3:05 p.m.

K. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL - Anticipated Litigation

Initiation of Litigation pursuant to Government Code 54956 (c) (one case)
(Identity of the party at this time will jeopardize the ability of NCRA
to conclude existing settlement discussions)

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: Ukiah Freight Depot Property

Perkins Street, Ukiah, California (excluding Ukiah Station and mainline track)

Agency Negotiators: Mitch Stogner, C.J. Neary, NCRA Board of Directors

Negotiating Parties: County of Mendocino, City of Ukiah

Under Negotiation: Preliminary interest

The Board reconvened into Open Session at 4:01 p.m.

L. ANNOUNCEMENT OUT OF CLOSED SESSION

Legal Counsel Neary reported that the Board met with Counsel received information and gave direction. He said that the Board met with representatives from the City of Ukiah and County of Mendocino and directed staff to draft a letter to the County of Mendocino expressing the NCRA Boards willingness to enter into negotiations regarding agenda item K.2.

M. ANNOUNCEMENT OF NEXT MEETING

June 10, 2009 – 10:30 a.m.
Healdsburg City Council Chambers
401 Grove Street
Sonoma County

N. ADJOURNMENT

Chairman Hemphill adjourned the meeting at 4:05 p.m.

Tuesday May 12, 2009

Members of the Board
North Coast Rail Authority
419 Talmage Road, Suite M
Ukiah, CA 95482

Attn: Chairman Allan Hemphill and Exec.Dir. Mitch Stogner

I reviewed the Draft Trail Guidelines. On Agenda item F.6., I would like these comments to be included in your discussion of the Guidelines and Res. 2009-03.

For the most part, I agree with your draft guidelines, that each proposed trail project should be viewed on a case by case basis. Agreed there are many trails with rails in this country that work very well together.

Our concern is with Humboldt Bay and the Trail that some folks want along the Bay in or near the NCRA Rail R-O-W. We have discussed this and believe that there are safer more appropriate sites for the Trail.

Two suggestions 1)along the east side of Hi-Way 101 between Eureka and Arcata, AKA 'Safety Corridor', and 2)around the west side of the Bay and down the Peninsula to Samoa and on across the Bridge to Eureka. We have had both Kim Floyd and Charlie Fielder to our meetings several times, the most recent this last week, May 6. Each time these alternatives have been discussed.

It looks like Section 4.8.1 covers most of what we are concerned with up here in Humboldt. Final designs to be considered on a case-by-case basis. An we will keep watching as this develops further.

I have told the Trails folks, numerous times, that we have no objections to Trails. as long as they are 'safe, multi-modal, and properly sited along Humboldt Bay.

Sincerely,

Kaye Strickland, Chair
Citizens for port/Rail Development
Kstricklan@humboldt1.com

Cc. Pete Oringer
Charles Ollivier



BOARD OF SUPERVISORS
COUNTY OF HUMBOLDT
825 5TH STREET
EUREKA, CALIFORNIA 95501-1153 PHONE (707) 476-2390 FAX (707) 445-7299

May 11, 2009

Executive Director Mitch Stogner and the Board of Directors
North Coast Railroad Authority
419 Talmage Road, Suite M
Ukiah, CA 95482

Re: Recommended Edits to Revised NCRA Rail-with-Trail Guidelines

Dear Mr. Stogner and Honorable Board of Directors:

Thank you for revising the proposed NCRA Rail-with-Trail Guidelines and for the opportunity to comment on the revised set. We greatly appreciate your willingness to work with trail organizations, cities, and elected officials on this important process. What follows are our comments and requested changes:

- 1) We would like to request NCRA's cooperation in securing approval from the CPUC and FRA, and propose new language in the draft guidelines as follows in 1.4.3a: 'NCRA shall assist the 'public agency' (including organizations working on behalf of local governments per letter from the public agency identifying another lead organization) in approval processes by providing any necessary material from the NCRA or operator pertaining to approval.'
- 2) Section 3.3: there is concern that this language is contrary to the NCRA's contract with the contract operator, therefore we request including language in the resolution committing that NCRA/Operator agreement will be revised to indicate operator is not the decision maker regarding local trail and public access projects and that the contractor's input is considered.
- 3) Please add this language, "All comments NCRA receives on proposed trail projects via public agency applications shall be made public (including those from the operator)." Where appropriate within the resolution.
- 4) Section 3.4: Please include "consultation with RTPAs the MPOs, Caltrans and, where applicable, the Coastal Commission."
- 5) Please add the year that the SMART trail document was released to section 4.8.1.
- 6) In Section 4.3.3, we propose ending the paragraph at 'plan'. Future CEQA documents will address further documentation about safety issues.

7) For easy access to the information by local jurisdictions, we request that documents referenced in 4.3.3 and 4.8.1 be made available on the NCRA website.

8) On page 3 line 25: In the amended 4.8.1 the document notes 4.3.3 when it should be referencing 4.8.1. The language should read "shall be amended and adopted with the following language in place of the draft Section 4.8.1. as follows:"

9) We request removal of photos of train wrecks in original draft of the Guidelines.

10) We would also like to propose the following new language, where deemed appropriate in the document:

A) "For all proposed NCRA projects, NCRA will consult local agencies to ensure project consistency with local jurisdiction transportation goals for the NCRA corridor and facilities, and to avoid the potential for inadvertently precluding future rail-with-trail or other transportation projects."

B) "As opportunities arise for acquisition of land adjacent to the existing ROW, NCRA will cooperate with related public agency/ies to consider acquisition needs for RWT and other transportation projects."

We respectfully request that NCRA vote to adopt these trail guideline revisions at your May 13 meeting in Ukiah, and that NCRA notify the public at that time as to the new DEIR language that will be related to trails, what language will be cut from the DEIR related to trails, and the comment deadline for the new DEIR additions.

Thank you again for your consideration and the opportunity that you have made available for local residents, organizations and governments to provide the NCRA with input to the draft Rails-with-Trails Guidelines.

Sincerely,



Jimmy Smith, Chair
Humboldt County Board of Supervisors

JS:kh