



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

NORTH COAST RAILROAD AUTHORITY (NCRA) REGULAR BOARD MEETING

Wednesday, December 14, 2011- 10:30 a.m.
Novato City Council Chambers
901 Sherman Avenue, Novato
Marin County

DRAFT Minutes

A. CALL TO ORDER

Chairman Wagenet called the meeting to order at 10:30 a.m.

B. ROLL CALL

Directors present: Kelley, MacDonald, Meyers, McCowen, Hemphill, Kier, Clendenen, and Chairman Wagenet

Directors Absent: Wolter

Also Present: Executive Director Mitch Stogner, Legal Counsel CJ Neary, Recording Secretary Heather Lindsteadt

C. AGENDA APPROVAL

Upon Motion by Director Meyers seconded by Director McCowen the Agenda was approved.

D. PUBLIC COMMENT

Roger Graeber – Mr. Graeber requested that the Board consider Executive Director Stogner and Legal Counsel Neary favorably while discussing their employment evaluations in Closed Session.

Loretta Ellard – MCOG – Mrs. Ellard thanked the NCRA Board, NCRA staff and NWP Co. for their participation with the rails to trails corridor plan and said that she appreciates their help.

Robert Tally – Caltrans Dist 4 – Mr. Tally noticed an article in the SF Chronicle article which reported that a company is moving to Mare Island that builds pre-fabricated homes. He said that it may be a good business for NWP Co. and NCRA to contact. He also asked about the lawsuits that had been filed in Marin County and asked if they were in state court or federal court. Legal Counsel Neary said that the cases are still in federal court.

E. CONDUCT OF BUSINESS

1. Discussion and Possible Action Regarding Property Management Services

Executive Director Stogner summarized the history of the Property Management Services RFP. He said that the Board authorized contract negotiations with Epic Land Services. He said that staff concluded that property management services with a large Southern California firm presented issues and that a contract that was agreeable to all parties could not be finalized. He said that it may be that a local rail property expert may be a better way to proceed.

Executive Director Stogner said that staff is requesting that the Board consider soliciting bids from local railroad real estate experts.

John Williams, NWP Co. pointed out that the 2006 Agreement includes potential management of NCRA property and said the property is still a part of the operator's agreement with NCRA. He said that he would like to reserve the right to manage the property in the future, but that NWP Co. has not been willing to take on that responsibility and has left it up to NCRA to manage. He said that the transfer of the property will be renegotiated, and that renegotiation of these issues should happen at the Ad Hoc Operator Committee level. He asked that that the Property Committee consider NWP Co.'s rights and responsibilities as it deliberates NCRA property management issues.

Upon Motion by Director MacDonald, seconded by Director Hemphill the Board directed the Property Committee to oversee the various issues related to property management services and report back to the full Board with a recommendation. Topics that the Committee should discuss are: inventory, revenue projections, compensation for services, splitting territories, NWP Co. rights and interests, possible grants to assist in payment for services, fair market value of property, classifications of leases. Motion carried. **AYES: 8, NOES: 0, ABSTAIN: 0, ABSENT: 1 -Wolter**

2. Consideration of Letter and Memorandum of Understanding (MOU) Regarding Timber Heritage Association Storage of Equipment on NCRA Property in Samoa, Ca

Executive Director Stogner presented the draft Memorandum of Understanding with Timber Heritage Association for Storage of Equipment in Samoa, Ca. He said that since the original letter agreement had been sent, additional comments and questions had been brought to staff's attention.

Director Clendenen requested that staff contact the Humboldt County Directors when situations need to be brought to their attention.

Director Meyers referred to his email dated December 10, 2011 and wondered if any of the items listed in that email were important to include in the agreement. There was a discussion on inclusion of some of the issues in the MOU.

Upon Motion by Director Hemphill, seconded by Director Clendenen the agreement was approved with the following changes. In the cover letter, change the second to the last paragraph, because the letter had not been sent at the time of the meeting. Also add language recommending that THA install fencing and other security measures at the property. The MOU

shall be changed to include an indemnification clause. Motion carried: **AYES: 7, NOES: 1 – Meyers, ABSTAIN: 0, ABSENT: 1 – Wolter**

The Board convened to a break at 12:21 p.m.

The Board reconvened into open session at 12:35 p.m.

3. Consideration of Donation of Gallery Cars to Mendocino County Arts Council and Mendocino County Museum

Upon Motion by Director McCowen, seconded by Director Meyers, the Board authorized staff to begin discussions with Mendocino Arts Council and Mendocino County Museum regarding possible donation of the gallery cars. **AYES: 8, NOES: 0, ABSTAIN: 0, ABSENT: 1-Wolter**

Director Meyers requested additional information regarding the ownership of the cars and the outstanding loan for the gallery cars.

F. CONSENT CALENDAR

1. Approval of Minutes – Regular Board Meeting – November 12, 2011
2. Acceptance of NCRA Financial Statements – November 2011
3. Approval of Warrants Issued – November 2011
4. Approval of Cal Card Statement - November 2011
5. Approval of the 2012 NCRA Regular Board Meeting Schedule
6. Approval of Lease Extension 419 Talmage Road, Ste M, Ukiah (Office)

Items F.1, F.2, F.5 and F.6 were pulled for further discussion.

Upon Motion by Director Hemphill seconded by Director Meyers Items F.3, F.4, were approved. **AYES: 8, NOES: 0, ABSTAIN: 0, ABSENT: 1 – Wolter**

Item F.1 – Minutes for November 2011. Director Meyers pointed out a misspelling in Item H which should be corrected. He also said that Item K.2 was postponed and the word “Performance” was misspelled. Motion to approve by Director Meyers, seconded by Director McCowen, item F.1 was approved. **AYES: 8, NOES: 0, ABSTAIN: 0, ABSENT: 1 – Wolter**

Item F.2 – Financial Statements – November 2011. Upon motion by Director McCowen seconded by Director Hemphill, item F.2 was approved. **AYES: 7, NOES: 1-Meyers, ABSTAIN: 0, ABSENT: 1 – Wolter.**

Item F.5 – Approval of 2012 Board Meeting Schedule. Director MacDonald suggested cancelling meetings if the opportunity arose. Director McCowen said that he would see if the Mendocino County Board of Supervisor Chambers may be available for an alternative Mendocino County meeting location at a lower cost. Upon Motion by Director MacDonald, seconded by Director Kelley, the 2012 Board meeting schedule was approved with possible venue changes. **AYES: 8, NOES: 0, ABSTAIN: 0, ABSENT: 1- Wolter**

Item F.6 – 419 Talmage Road, Ukiah Lease Extension. Upon motion by Director McCowen, seconded by Director Meyers staff was directed to request that the landlord keep the rent at \$900 per month. If an agreement could not be reached for \$900, staff was directed to continue the tenancy on a month-to-month basis. **AYES: 8, NOES: 0, ABSTAIN: 0, ABSENT: 1 – Wolter**

G. STAFF REPORT – Mitch Stogner – Executive Director

H. OPERATOR REPORT – John H. Williams – NWP Co.

John Williams, NWP Co. said that he had received the \$3.180 million RRIF loan. He said that the Sunday Press Democrat article was very informative, and suggested that the Board read the article.

I. LEGAL COUNSEL REPORT – CJ Neary

Mr. Neary Introduced Jennifer O’Brien who was recently admitted to the California Bar. He said that Mrs. O’Brien studied law in his office and congratulated her on her accomplishment.

Mr. Neary also said that the Humboldt Bay Harbor District is considering a proposal to authorize funds for a feasibility study for an East-West rail line corridor going from Eureka to Red Bluff. Mr. Neary also said that NCRA’s operator sent a letter of support regarding this proposal.

J. MATTERS FROM THE BOARD

Director MacDonald said that everyone should take the opportunity to shop Novato while in town.

Director Meyers asked about the Cities’ representative and asked when the Cities would make an appointment. He also said that the January meeting is where the agency should elect the Chair, Vice Chair and make Committee Appointments. He also said that he meant no disrespect to Counsel when offering suggestions on agreements.

Director Meyers also congratulated Jennifer O’Brien on her admission to the California Bar.

With respect to an East-West rail alternative, Director Clendenen said that there is some challenging geology to overcome with the rail line going from Eureka to Red Bluff.

The Board adjourned to Closed Session at 1:02 p.m.

K. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION

Government Code Sections 54956.9(a)

- a. Californians For Alternatives to Toxics v. NCRA et al.; Northern District of California case number C-11-04104
- b. Friends of the Eel River v. NCRA et al.; Northern District of California case number C-11-04103

2. CONFERENCE WITH LEGAL COUNSEL- PUBLIC EMPLOYEE PERFORMANCE EVALUATION - 2 Evaluations

Positions to be evaluated: Executive Director and Legal Counsel

The Board reconvened into Open Session at 1:40 p.m.

L. ANNOUNCEMENT OUT OF CLOSED SESSION

Legal Counsel Neary reported that the Board met in Closed Session on two items of Existing Litigation. He said that the Board appointed an ad hoc committee comprised of Directors Wagenet, McCowen, and Clendenen to oversee the settlement process.

He also reported that the Board continued the employee evaluations to the February meeting.

M. ANNOUNCEMENT OF NEXT MEETING

January 11, 2012 – 10:30 a.m.
Ukiah Valley Conference Center
200 South School Street, Ukiah
Mendocino County

N. ADJOURNMENT

Chairman Wagenet adjourned the meeting at 1:41 p.m.