

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

Wednesday, April 25, 2007 ~ **10:00 a.m.**

Eureka City Council Chambers  
531 K Street, Room 208  
Humboldt County

**Approved Minutes**

**A. CALL TO ORDER**

Chairman Hemphill called the meeting to order at 10:01 a.m.

**B. ROLL CALL**

**Directors Present:** Kelley, Woolley, Ollivier, Colfax, Ziedrich, Chairman Hemphill

**Directors Absent:** Simonson

**Also Present:** Executive Director Mitch Stogner, Legal Counsel Christopher Neary, Recording Secretary Heather Newell

**C. AGENDA APPROVAL**

Motion to approve agenda made by Director Kelley, seconded by Director Ollivier and carried (6-0) with the following change:

1. Agenda Item I.4 description changed to reflect the word “negotiations” stricken. New description will read: Accept proposal and direct staff to enter into contract for Signal Repairs.

**D. MATTERS FROM THE BOARD**

Director Woolley updated the Board on the development of the “rail with trail” proposal between Arcata and Eureka. He said that in May the general plans will be released for public comment and he will keep the Operator and NCRA staff updated on the issue.

**E. CONSENT CALENDAR**

1. Approval of Minutes – March 2007
2. Approval of Property Committee Minutes - March 2007
3. Approval of Finance Committee Minutes - March 2007
4. Approval of Financial Statements – March 2007
5. Approval of Warrants Issued – March 2007
6. Approval of CTC Quarterly Reports

Upon Motion by Director Ollivier, seconded by Director Kelley, and carried unanimously (6-0), the Consent Calendar items E1. through E6 were approved.

**F. PRESENTATION**

**1. Timber Heritage Association – Marcus Brown**

Marcus Brown – President Timber Heritage Association requested the Board’s continued support for an Excursion Train around Humboldt Bay. Mr. Brown said that he is concerned that the right-of-way may become fragmented due to lack of use and lack of right-of-way maintenance. He said the Timber Heritage Association has volunteers available to clean areas of the right-of-way around Arcata and Eureka so that there is activity on the line.

Mr. Brown said that it is important to repair the tracks that were removed by the City of Arcata and suggested that NCRA send a letter requesting repair.

He said that there may be funds available through the Harbor District that were provided to make repairs to the line around Humboldt Bay and that the funds came from Federal TEA funds.

NCRA engineer, Dave Anderson said that he has talked with the City of Arcata about the removal of the rail and that they are aware of the issue, and do have STIP funds available to repair the track. Mr. Anderson also said that CalTrans has allowed the City of Arcata to use CalTrans labor to make the repairs to crossings. He said that he and John Williams will review the plans soon.

Mr. Anderson said that vegetation removal will be possible soon. He said that the biological studies have been done and NCRA will be able to apply for permits.

Legal Counsel said that in order for a property owner to cancel a rail easement he or she would have to prove that NCRA has abandoned the line. He said that since 1998 NCRA has been pursuing resumption of service and that it would be extremely hard for someone to say that NCRA has abandoned the line. He also said that the NWP line is an active rail line according to the STB.

Director Ollivier said that the Timber Heritage Association and the many volunteers have done an exemplary job of maintaining and updating the Samoa Roundhouse property and thanked Mr. Brown for his continued support.

**G. PUBLIC COMMENT**

Pete Orringer – Mr. Orringer said that he is supportive of the use of the many volunteers that are willing to help in Humboldt County and urged the Board to take advantage of the people who are willing to help. Mr. Orringer also thanked Chairman Hemphill for drafting a response to the negative column that ran in the Sacramento Bee recently. He

said that it is important to have perspective on the issue. He said that the article did not touch on the costs of abandoning the line. He said that the cost of abandoning the line was twice as much as repairing the line. He said that the rail infrastructure is an important aspect of goods movement, public transportation, public safety, harbor development, and economic development. He said that there are industries that are leaving the area because of the limited goods movement options on the North Coast.

Melvin McKinney – Mr. McKinney said that he was concerned that the Corps of Engineers needed to sign off on the King Salmon project. He said that under Title 33 any project that caused erosion falls under the Corps of Engineers jurisdiction. He said that the Corps may have funds to help repair the total levee and that MCRA should approach this federal agency with a funding request. He requested that NCRA submit and application into the Corp of Engineers because NCRA may be eligible for funds.

Chris Rawls – He said that he is a member of Greenwheels who advocates for sustainable transportation. He said that Marcus Brown and Kaye Strickland attended a recent Greenwheels meeting and that he felt very optimistic about the prospects of working on mutually beneficial projects. Mr. Rawls asked if decommissioning the railroad was an option through the Eel River Canyon. He said that it would be good to include it as an option. He said it would be helpful to know what the cost of decommissioning would be so that Greenwheels would know how to proceed.

Gary Bounten (SP?) Mr. Bounten said that he is supportive of rail service in Humboldt County and that he is also a volunteer working on the Samoa Roundhouse project.

Gerry Tomsak - Mr. Tomsak thanked the Board and said that he had developed a business plan for the tourist train operating between Eureka and Samoa. He said that it was estimated that 122 jobs would be created once the tourist train was in operation. He said it would reduce vehicles on the roadways, and increase tourism. He said that he hopes to continue the Samoa project and that he believes that there is synergism between the Samoa Cookhouse, the Maritime Museum, and the Timber Heritage Museum potential.

Kaye Strickland – Mrs. Strickland thanked the Board for its continued support and said that she is willing to help in any way possible.

Lawrence Labranche – Mr. Labranche said that the NCRA website needs to be updated on a regular basis and that he would be willing to help with updating it if needed. He also said that the Timber Heritage Association needs to be added as a link on the NCRA website. Mr. Labranche thanked the Board for its hard work.

## ***H. COMMITTEE REPORTS***

### **1. Finance Committee Report – Director Colfax**

Director Colfax updated the Board on the March 30, 2007 Finance Committee meeting and said that there is a Finance Committee recommendation for consideration, agenda item I.2.

**2. Property Committee Report – Director Simonson**

Executive Director Stogner said that the Property Committee met on March 30, 2007 and said that items I.1 and I.2 were a result of the meeting.

***I. CONDUCT OF BUSINESS***

**1. NCRA Policies and Procedures Amendments**

Executive Director Stogner said that Angel Lucero provided updates to the Policy and Procedures Manual in regards to long term lease requests and delinquent lease payments.

**A. Property Policy for Long-Term Lease Requests**

Angel Lucero said that the Property Committee met and discussed NCRA's property lease policies. She said that it is important for NCRA to be reimbursed for the costs associated with long-term lease requests.

Director Kelley said that complicated long-term leases are a drain on NCRA's limited staff and financial resources and said that he is supportive of the proposed policy changes and said that the policy should be reviewed in a year to see if it is working or needs to be further amended.

John Woolley said that the proposal review costs of \$2000.00 seems appropriate, but that if the application will require secondary review, NCRA should request additional reimbursement and the policy needs to reflect what costs will be associated with that additional process. He also suggested using a check list much like what a planning department might use on the application so that applicants can see what the process is.

Chairman Hemphill said that references to construction management should be changed to construction oversight since the person requesting the long-term lease will have to provide their own construction management team.

Dave Anderson said that NCRA will be providing construction oversight, not construction management and that Chairman Hemphill's clarification made sense.

Director Colfax asked about the size of a project and how fees will change for a larger project. Staff acknowledged that further refinement would be required to address larger projects.

Motion to approve Long-term Lease Policy and direct staff to incorporate revisions and bring back to the Property Committee or full Board for approval that include the changes recommended by Director Woolley, seconded by Director Ziedrich and carried unanimously (6-0).

## **B. Property Policy for Collection of Delinquent Lease Accounts**

**Recommendation:** Approve updated Policies and Procedures

Angel Lucero told the Board that there are many delinquent lease holders and a policy needs to be in place to enforce lease agreement payments.

Motion to approve Delinquent Lease Accounts Policy made by Director Kelley, seconded by Director Ziedrich, and carried unanimously (6-0).

## **2. Issuance of an RFP for Specialized Accounting Services**

**Recommendation:** Approve issuance of an RFP for Specialized Accounting Services provided by a Certified Public Accountant (CPA).

Motion to approve issuance of an RFP for Specialized Accounting Services made by Director Kelley, seconded by Director Woolley, and carried unanimously (6-0).

## **3. Proposition 1B Joint Application**

**Recommendation:** Provide direction to staff.

Executive Director Mitch Stogner said that the Joint Port/Rail Committee meeting was held on April 24, 2007, and deferred to Director Woolley to summarize the actions taken at the meeting.

Director Woolley said that the deadline for Prop 1B application submittal has been moved to the Fall of 2007. He said that the committee requested that the Port take action to formally adopt the concept of a joint 1B application to be submitted by the Harbor District and NCRA.

Director Ollivier said that the Harbor District has initiated a study to address Port capacity in conjunction with improvement so the Redwood Dock terminal. He said the Harbor District has hired an engineering firm to complete the feasibility study. He said that he is optimistic that the study will result in a port expansion plan that makes sense. He said that the feasibility report will be issued in late August, or early September and will be a useful tool with regards to the Prop 1B application and the Operators plans.

Chairman Hemphill said that NCRA needs to be working with the decision makers in Sacramento to get support for the Prop 1B application before it is submitted. He also said that the port should agendize and, hopefully, formally approve the concept of a joint application.

Director Woolley said that the Wiggins bill, SB 861, will be a good measure of NCRA's support in the legislature ad with the CTC.

Director Kelley said that the Port and the Rail are key components to the economic vitality of the North Coast. He said a Joint Port/Rail application would provide the greatest chance for funding under the Trade Corridor Improvement provisions of Proposition 1B.

Motion to direct staff to send a letter to the Harbor District requesting that the Harbor District agendize the concept of a Joint Application made by Director Woolley, seconded by Director Kelley, and carried unanimously (6-0).

#### **4. Signal Crossing Repair Proposal**

**Recommendation:** Accept proposal and direct staff to enter into contract for Signal Repairs.

Dave Anderson, NCRA engineer updated the Board on the Bid opening that was held on April 20, 2007. He reported that NCRA received 1 bid and that the bid was over budget. He requested that the Board reject the bid and approve combining the first signal bid and the second bid package.

Motion to approve rejection of the one non-responsive bid received, and rebid with second signal repair package, contingent on CTC funding for the second signal repair project made by Director Kelly, seconded by Director Ziedrich, and carried unanimously (6-0).

#### **5. Authorization for NCRA to issue Grant Anticipation Notes to Sonoma County in an amount not to exceed \$6,000,000. These Funds will be reimbursed by CalTrans for railroad infrastructure repairs authorized under the Traffic Congestion Relief Program (TCRP).**

##### **Documents Requiring Approval:**

##### **A. Note Resolution**

**Recommendation:** Approve Note Resolution

##### **B. Note Purchase Contract**

**Recommendation:** Approve Note Purchase Contract

##### **C. Deed of Trust**

**Recommendation:** Approve Deed of Trust

##### **D. Operator Guaranty of Interest Payments, Attorney's Fees, and Disallowed Costs**

**Recommendation:** Approve Operator Guaranty

##### **E. Put Option Agreement**

**Recommendation:** Approve as to Form

## F. Put Guaranty

### **Recommendation:** Approve as to Form

Executive Director Mitch Stogner summarized the process for the Sonoma County Grant Anticipation Funding and how it relates to NCRA's CTC allocations. He said that the operator has been advancing funds, so that NCRA can pay the vendors, and then receive reimbursement from Caltrans. He said that as we progress with larger projects, the funding need is much higher than what the operator can provide.

Mr. Stogner said that the Sonoma County Board of Supervisors will be approving agenda items 5. A, B, and C at its May 1<sup>st</sup> meeting.

He said that the one document that needs to be finalized is Agenda item I. D, and will require a special meeting for Board approval. He also said that Agenda Items I. E, and I. F are documents that relate to agreements between Sonoma County and NWP Co. provided to the NCRA Board for information only.

Director Kelly said that the recommendation "Approve to Form" should be changed to "Approved as to Concept" and that Sonoma County is prepared to move forward with approval of the documents pending final approval by NCRA. He said that after NCRA approves the complete set of documents, the Sonoma County Board of Supervisors will give its final approval. Director Kelley said that staff needs to finalize the Operator Guarantee and get it approved quickly.

Motion to approve items I. A, I. B, and I. C and approve in concept Items I. E, and I. F and no action taken on Item I. D, made by Director Kelley, seconded by Director Woolley, and carried unanimously (6-0).

## **J. STAFF REPORTS**

### **1. Executive Director – Mitch Stogner**

- A. CTC Update**
- B. SB 861 (Wiggins)**

Executive Director Stogner said that on April 26, 2007 the CTC will consider a \$7.495 million signal repair contract for crossing signals from Ignacio to Windsor.

He also said that SB 861 (Wiggins) passed the Senate Transportation and Housing Committee with a vote of 6-4. He thanked Mr. Bittner for his attendance and presentation before the Committee in support of SB 861.

### **2. Engineer's Report – Dave Anderson - NCRA Project Manager**

Dave Anderson handed out updated Gant Charts. He said that he spent the last couple of days in Baltimore at the Short Line Railroad Association conference and is optimistic about the future for short line railroads.

Mr. Anderson reviewed the schedule and said that repair contract # 1 is completed within budget. He said that the Schellville levee breach is an important issue and needs to be repaired. He said that Fish and game suffered damage also. He said that Fish and Game has submitted for review a draft agreement between NCRA and Fish & Game. He said that he will send the agreement to legal counsel and to SMART for its review.

### 3. Operator's Report - John Williams – NWP Co.

Mr. Williams thanked Marcus Brown for his presentation. He said that the Federal Railroad Administration (FRA) has strict safety standards when a rail line is operating. He said that the FRA is concerned that the track and operation practices are fully complied with in regards to excursion trains on any part of the rail line.

Mr. Williams said that he has met with a potential shipper of rock from the Carlotta Branch to Fields Landing where it would go out by barge. He said that it is a complicated deal and it involves many agencies and he hopes that it will come together shortly. He said that he is hopeful that resumption of independent service on the North End will be possible with private funds. He also updated the Board on other potential shippers along the NWP Line.

Mr. Williams said that NWP Co is willing to take on the responsibility of the guarantee of payment of interest and any project disallowances for the Sonoma County Grant Anticipation Notes.

He said that he met with Mitch Stogner, Dave Anderson and CalTrans to discuss the possibility of change to the Willits Bypass that would impact NCRA right-of-way. He said that CalTrans has proposed bringing the highway across the railroad at the middle of the Willits Yard and connect with existing highway 101, north of Willits. He said that from a railroad standpoint it would create an overpass over the railroad. He said that a better transportation solution would be to keep the bypass on the easterly side of the tracks all the way to the Highway 101 connection. He said that CalTrans said that there are environmental hurdles with that option.

Director Kelley asked Mr. Williams to contact Mendocino Forest Products and said that they were a potential shipper. Mr. Williams said he will contact them and also said that he will contact any business that is interested in using the railroad for commodity transportation.

### 4. Financial Report – Russ Mustola

Mr. Mustola asked if the Board had any questions relative to the 3<sup>rd</sup> quarter CTC financial reports.

Director Kelley said that he appreciates the work that has gone into creating acceptable financial statements. He said that NCRA should eventually take steps to have the “high-risk grantee” designation changed in recognition of the successful accrual accounting system.

### 5. Legal Counsel - Chris Neary

No Report

*Chairman Hemphill adjourned the meeting to closed session at 12:32 p.m.*

***K. CLOSED SESSION***

- 1.*** CONFERENCE WITH LEGAL COUNSEL – Existing Litigation  
(Two Cases) Gov Code Section 54956.9 (a)  
(a) NWPY vs. NCRA  
(b) Humboldt Baykeeper vs. Union Pacific, NCRA et al.  
United States District Court, # C-06-02560 JW
- 2.*** CONFERENCE WITH LEGAL COUNSEL-Initiation of Litigation  
Government Code Section 54956.9 (c)  
Litigation to be discussed: Enforcement of Billboard Removal on NCRA  
property.

***L. ANNOUNCEMENT OUT OF CLOSED SESSION***

*Chairman Hemphill reconvened the meeting to open session at 1:23 p.m.*

The Board met with Legal Counsel, received information and gave direction. No action taken.

***M. ANNOUNCEMENT OF NEXT MEETING***

May 9, 2007 - 10:00 a.m.  
Willits City Council Chambers  
111 East Commercial Street  
Mendocino County

***N. ADJOURNMENT***

*Chairman Hemphill adjourned the meeting at 1:25 p.m.*