

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

Wednesday, February 13, 2008 ~ **11:00**
Ukiah Valley Conference Center
200 South School Street, Ukiah
Mendocino County

Approved Minutes
Approved 03/12/08

A. CALL TO ORDER

Chairman Hemphill called the meeting to order at 11:02 a.m.

B. ROLL CALL

Directors Present: Simonson, Meyers, MacDonald, Ziedrich, Ollivier, Kelley, Woolley,
Chairman Hemphill

Absent: Colfax

Also present: Legal Counsel Christopher Neary, Recording Secretary Heather Lindsteadt

C. AGENDA APPROVAL

Upon Motion by Director Meyers, seconded by Director Ollivier one item was added to Conduct of Business under emergency circumstances as follows:

Item H. 3 – Consideration and Possible Approval of Resolution No. 2008-02 – A Resolution Authorizing Transfer of Funds to California Department of Transportation

Motion carried by following roll call vote: AYES: 8 NOES: None, ABSENT: Colfax, ABSTAIN: None.

D. MATTERS FROM THE BOARD

Director Meyers asked if Staff had a chance to research video taping of the meetings and also if the Board Packet had been uploaded onto the website.

Mrs. Lindsteadt said that the Board Packets will be uploaded to the website along with the agenda each month and that she was still researching video taping the meetings.

Chairman Woolley passed out a letter from the Humboldt County League of Woman Voters supporting NCRA and the resumption of rail service in Humboldt County. He also reported on the Faster Freight Cleaner Air conference will be held Feb 25-Feb 27 in Southern California. He said that a variety of agencies will be attending the conference which will deal with clean air technology and transportation alternatives like rail, which limit greenhouse gas emissions.

E. CONSENT CALENDAR

1. **Approval of Minutes Regular Board Meeting – January 9, 2008**
2. **Approval of Financial Statements – January 2008**
3. **Approval of Warrants Issued Agency 787010–January 2008**
4. **Approval of Warrants Issued TCRP 787101 – January 2008**
5. **Approval of CalCard Statement – January 2008**

Upon Motion by Director MacDonald seconded by Director Ollivier the following amendments were made to the Consent Calendar:

1. Director MacDonald referenced Page 4, paragraphs 3 and 5 included in the January 9, 2008 minutes. He said that his question was about the \$30 million NCRA Project costs, rather than \$38 million.

2. Director Meyers corrected the January 9, 2008 minutes to reflect an omitted statement that he made. He said that his comment regarding the Prop 1B Motion should be changed to read:

“Director Meyers opined that based on the evidence before the Board, the proposal would not relieve any congestion in the Humboldt County area nor would it effect any traffic in the central valley.”

Motion carried by the following vote: **AYES:** Kelley, Ziedrich, Ollivier, Simonson, MacDonald, Woolley, Hemphill **NOES:** None **ABSTAIN:** Director Meyers abstained from Consent Calendar Items E.3, E.3, and E.4 **ABSENT:** Colfax

F. PUBLIC COMMENT

No Public Comments.

G. PRESENTATIONS

1. City of Willits – Willits City Manager, Ross Walker said that the City of Willits noticed an abatement action against NCRA because of the abandoned railcars located at the rail yard in the City of Willits. He said that the City of Willits has a long standing position of support for the railroad and continues to support the railroad. He said that the City hopes that the matter can be resolved without any further legal action regarding the abandoned railcars. He said that there have been fires inside the railcars and these fires pose a serious danger to the firefighters who have to respond to these events. He said that City of Willits representatives and NCRA representatives will meet often until the issues are solved.

Director Ziedrich asked Director Hemphill for a summary of ownership of the railcars. Legal Counsel Neary said that NCRA has identified the ownership of the railcars and will present an Action Plan to the City of Willits for removal of the railcars.

H. CONDUCT OF BUSINESS

1. Consideration and Possible Action Regarding Extension of Edge Wireless Lease Agreement

Motion made by Director Kelley, seconded by Director Ollivier to approve Resolution 2008-02.

Legal Counsel Neary reported that the Edge Wireless Lease has expired and asked the Board to review the renewal agreement. He said that it is for a term of 5 years, with the first three years lease fee being paid in advance.

Director Meyers said that he would like to see staff reports pertaining to agenda items. He said that he has not seen the original Edge Wireless lease agreement, and summarized his understanding of the amendment. He asked Legal Counsel if the 3% increase would be an annual increase or an increase at the beginning of the each term.

Legal Counsel Neary said that the initial term is for 5 years with option for renewal which will be negotiated at the end of the initial 5 years. Legal Counsel Neary said that it is an annual agreement and the increase will take place at the annual anniversary date that the Lease is made effective.

Director Kelley suggested sending Edge Wireless a cover letter explaining the annual percentage increase applicable in the agreement.

Director Ziedrich said that an attachment outlining the annual payments could be another option.

Upon motion by Director Kelley and seconded by Director Oliver motion carried by unanimous AYE votes (8-0, Colfax Absent).

2. Consideration and Possible Action Regarding Approval of Strategic Plan Update February 2008

Motion made by Director Kelley, seconded by Director Woolley to approve February 2008 Strategic Update.

Director MacDonald asked if there was a staff report accompanying the Strategic Plan.

Chairman Hemphill said that the Strategic Updates are prepared for the California Transportation Commission (CTC) and used as a project summary of NCRA projects and goals. Chairman Hemphill said that Executive Director Stogner is currently at the CTC meeting where the Strategic Plan will be presented.

Director Kelley asked that Executive Director Stogner send an update to the Board on the action that the CTC takes at the February 13, meeting.

Director MacDonald referenced the section regarding the Canyon Division of the Strategic Plan. He said that he interprets the section to reflect the belief that opening the railroad through the Canyon is highly speculative and asked for clarification.

Chairman Hemphill said that NCRA has a state legislated mandate to resume freight service on the entire 316 mile railroad and said that NCRA can't ignore the mandate. He said that the canyon repairs right now consists of the study that will analyze the extent of the damage in the Eel River Canyon and that study will be the basis for any environmental document that will, among other things, specify the cost of the repairs required to resume service through the Eel River Canyon.

Director MacDonald said that he believes that the NCRA legislation does not include the word "mandate." He said he interprets the legislation differently than Chairman Hemphill. He paraphrased a section in the legislation that says "reopen the railroad if practicable." Director MacDonald said that in his opinion, "if practicable" does not mean by any means necessary.

Legal Counsel Neary said that one item being considered by the CTC at its February 13 meeting is an allocation for \$840,000 to do the geotechnical studies through the canyon to study the cost of repairs.

Director Meyers said that the Strategic Plans that have been presented to the Board in the past were quite lengthy and included past accomplishments as well as future goals.

Chairman Hemphill said that the Strategic Update is an update to the existing Strategic Plan. He said that the CTC requested a summary of NCRA projects.

Director Meyers said that the Board and NCRA staff should have a workshop so that the Board can identify future goals and added that NCRA needs to search for other funding besides state and federal funding. He said that he was surprised to see that the Novato litigation was not mentioned on the strategic update and said that NCRA is remiss in not informing the CTC of this lawsuit. He said he thinks the Novato litigating should be reflected in the public document.

Chairman Hemphill said that the CTC is a defendant in the litigation and the CTC legal counsel attends all hearings related to the litigation and is completely aware of the situation.

Director Meyers asked for clarification regarding Projects 32.5 and 32.7. He said that 32.5 is listed as complete.

Legal Counsel Neary said that NCRA completed an Environmental Consent Decree, or Project 32.5 allocation in 2005 so that particular project is listed as complete. He added that 32.7 is local match to the ISTEA funds.

Chairman Hemphill said that he agrees with Director Meyers that NCRA Board should have a workshop but it would be difficult to conduct until the litigation with the City of Novato is resolved.

Director Meyers asked staff to present to the Board a review of funds that NCRA has received from the TCRP for projects. He said that he would like to see one document that lists all allocations and what the allocations have been used for.

Leishara Ward, CalTrans District 01, said that she is available to answer questions after the meeting regarding TCRP projects.

Motion Carried the following roll call vote: **AYES:** Simonson, Kelley, Ollivier, Woolley, Ziedrich, Hemphill **NOES:** MacDonald **ABSTAIN:** Meyers **ABSENT:** Colfax

3. Consideration and Possible Approval of Resolution No. 2008-02 – A Resolution Authorizing Transfer of Funds to California Department of Transportation

Motion made by Director Meyers, seconded by Director Kelley to approve Resolution 2008-02.

Legal Counsel Neary said that the CTC has requested that NCRA begin transfer of \$5.5 million which consists of the Q-Fund Loan as well as interest earned from the Local Agency Investment Fund held by NCRA back to the CTC. He said that Resolution 2008-02 approves the transfer of \$5.5 million to CTC and sends the interest payment totaling \$806,304.12 to the Department of Transportation and also names signators that can authorize transfer of the funds.

Director Meyers asked for clarification on how the transfer would be effectuated.

Mrs. Lindsteadt said that the LAIF requires a current NCRA resolution naming signers on the account. She said that the LAIF process does not involve the writing of checks. She explained that the Sonoma County Auditor Controller's Office and then NCRA will authorize payments to the CTC and Caltrans.

Director MacDonald asked how NCRA has been accounting for the interest earned. Scott Catania, Sonoma County Auditor's Office said that the interest is held as restricted funds. He said that it is revenue collected on the Q-Fund and not to be used by NCRA. He said that it is reflected as a liability for accounting purposes.

Upon Motion by Director Meyers, seconded by Director Kelley Resolution 2008-02 was approved unanimously. (8-0, Colfax absent)

I. STAFF REPORTS

1. Executive Director – Mitch Stogner

- a. Upcoming CTC Meetings
- b. Signatures

No report

2. Project Manager – Dave Anderson

No report

3. Legal Counsel - Chris Neary

Legal Counsel passed out an article from the current issue of Trains magazine. He said that is an interesting article discussing whistle free zones vs. Quiet Zones.

Director Meyers asked for recommendations about publications related to shortline railroads. Chairman Hemphill said that Director Meyers should talk with John Williams.

J. OPERATOR REPORT

1. NWP CO. - John H. Williams

No report

Legal Counsel Neary said the Board will meet with Legal Counsel on one case of existing litigation and one case of significant exposure to litigation.

The Board Convened into closed session at 12:05 p.m.

K. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL

Existing Litigation Govt. Code 54956.9(a) NWPY v. NCRA

2. CONFERENCE WITH LEGAL COUNSEL

Anticipated Litigation Govt. Code 54956.9 (b)
Significant Exposure to Litigation (one case)

The Board reconvened into Open Session at 1:12 p.m.

L. ANNOUNCEMENT OUT OF CLOSED SESSION

Legal Counsel reported that the Board met with Counsel, on one matter of pending litigation and one matter of exposure of litigation received information and gave direction.

M. ANNOUNCEMENT OF NEXT MEETING

March 12, 2008 – 11:00
City of Healdsburg Council Chambers
401 Grove Street
Sonoma County

N. ADJOURNMENT

Chairman Hemphill adjourned the meeting at 1:17 p.m.