

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

Wednesday, January 9, 2008 ~ **11:00**
Humboldt County Board of Supervisors Chambers
825 5th Street, Eureka
Humboldt County

Approved MINUTES
Approved with amendments February 13, 2008

A. *CALL TO ORDER*

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

B. *ROLL CALL*

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

Directors Absent: None

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

C. *AGENDA APPROVAL*

Upon motion by Director Ollivier, seconded by Director Meyers, the Agenda was approved unanimously by all AYES voice vote (9-0)

D. *MATTERS FROM THE BOARD*

Director Myers asked if the meetings could be broadcast on the internet and if the meeting materials could be posted on the website along with the agenda.

Director MacDonald asked for clarification in the ownership of NWP Co. Legal Counsel Neary said that John Williams, the principal owner of NWP Co. should be the person to answer that question.

E. *CONSENT CALENDAR*

- 1. Approval of Minutes Regular Board Meeting – December 12, 2007**
- 2. Approval of Minutes Special Board Meeting – December 21, 2007**
- 3. Approval of Financial Statements – December 2007**
- 4. Approval of Warrants Issued –December 2007**
- 5. Approval of CAL Card Usage Summary – December 2007**

Director Meyers corrected the December 2007 Special Board Meeting to reflect that he requested that staff talk to other agencies about financial assistance related to flood control issues.

Director Meyers also corrected the December 2007 Regular Board Meeting minutes and said that he abstained from items E.4, E.6 and E.8. And he said that Item E.2 should be corrected to show that he was appointed to the Property Committee and Director MacDonald was appointed to the Finance Committee.

Director MacDonald abstained from Agenda Items E.2. and Director Meyers abstained from Items E.3, E.4, and E.5.

Director MacDonald asked for clarification regarding Agenda Item E.3 revenue item Rents from Real Estate. He asked why that number was so low. Executive Director Stogner said it is a timing issue and the large lease holders have not submitted payment yet this fiscal year.

Upon motion by Director Meyers, seconded by Director Ollivier, Consent Calendar as amended was approved by the following roll call vote: **AYES:** Simonson, Colfax, Ollivier, Kelley, Ziedrich, Woolley, Hemphill. **NOES:** None. **ABSENT:** None. **ABSTAIN:** MacDonald item E.2, Meyers Items E.3, E.4, and E.5

F. PUBLIC COMMENT

Numerous public participants addressed the Board regarding the proposed Prop 1B application and Humboldt County trail issues. Public speakers expressed both support and opposition to the Joint Prop 1B application and the concept of “rails with trains” as well as “rails to trails” on NCRA right-of-way between Eureka and Arcata.

G. PRESENTATIONS

1. Humboldt Bay Trail Planning Group

Director Woolley introduced Spencer Clifton, Director HCAOG and Karen Diemer, City of Eureka who then presented a PowerPoint prepared by Humboldt County Association of Governments (HCAOG).

Spencer Clifton said that HCAOG was instructed to examine a rail/trail feasibility study from Eureka to Arcata. He said that many agencies were involved in the creation of the feasibility study. He said the study area covers a 6.5 mile corridor that has been broken up into 12 segments. Mr. Clifton said that there are 5 trail alternatives:

1. Construct trail within NCRA ROW (rail-with-trail);
2. Construct trail within Caltrans ROW between rail and highway (trail-with-freeway);
3. Utilize NCRA ROW and Caltrans ROW;
4. Construct trail temporarily entirely upon the NCRA ROW for a temporary period (railbanking);
5. No project

Mr. Clifton said that option number 1 “rails with trail,” was the preferred option at public hearings. He added that each option has separate estimated costs which were listed in the Humboldt Trail Feasibility Study drafted by Alta Planning.

The Humboldt Bay Trail Feasibility Study can be found in its entirety online at www.hcaog.net

Following a question and answer period, the Board thanked Spencer Clifton and Karen Diemer for the informative presentation.

Many public participants addressed the Board regarding the various options listed in the feasibility study. Reasons for support for the trail included: ecotourism, green-friendly economic growth, health and well-being of residents, safety of bicyclists. Those favoring Option 1 expressed support for the railroad and all of the economic benefits it would provide.

John Williams, President NWP Co. said that NCRA needs to keep safety in mind including the set-back distance. He said that the train speed would dictate the set-back. Mr. Williams said the PUC is the authority over safety. He also said that liability issues need to be discussed. He also said that capacity with-in the right-of-way needs to be considered.

Director Kelley said that NCRA needs to work collaboratively and cooperatively with the various agencies involved in the trail issue. He asked Staff to participate in the trail meetings and report back to the Board at future meetings. He also said that NCRA would not be the lead agency, but rather should be involved as a property owner and partner agency.

Director MacDonald said that he supports the trail project and suggests a “rail-loaning” option. He said that the railroad is the breakwater between the bay and the highway and NCRA needs to be sure to maintain the levee.

Director Meyers said that NCRA needs to discuss the issue of the perception of abandonment of the line, and also property ownership along the corridor.

Legal Counsel Neary said that a railroad is in operation so long as it has not been declared abandoned by the Surface Transportation Board (STB). He said that when the STB authorizes abandonment, it then becomes officially abandoned. He said that revisionary clauses do not apply to railroads unless they have been declared abandoned by the STB.

Director Colfax said that NCRA already has a huge state mandate and does not have the staff to assume lead responsibility for the establishment of trails in the corridor.

Director Ziedrich said that it is premature to make any decision because the PUC would have to make the final decisions about safety parameters under any “rails with trails” scenario.

Chairman Hemphill said that the NCRA Board continues its support of a rail-with-trail project between Eureka and Arcata as long as it protects NCRA’s mandate to restore rail service on the North Coast and is completely safe for trail users.

Recess 1:35 to 1:45

H. CONDUCT OF BUSINESS

1. Consideration and Possible Action Regarding Joint Harbor District/NCRA Prop 1B Application

Executive Director Stogner summarized the Prop 1B application. Mr. Stogner said that the Humboldt Bay Harbor District and NCRA have joined forces and prepared a Joint Prop 1B application for submission to the CTC. He said that the application contains a rail component that would receive a total of \$15.1 million and would require a 50% match. He said the port component would include \$4 million with a 50% match. He said that the deadline for submission of the application is January 17, 2008.

John Williams said that he believes there is enough traffic to support a short line railroad in Humboldt County working in conjunction with the port.

Director MacDonald asked about how shipping projections were determined, specifically 6000 car loads. He also asked how approval of the Prop 1B application would relieve congestion if it was only providing funding for a 62 mile stretch of rail line. He also asked how the 50% match would be funded. Director MacDonald also asked why the proposed total project cost of \$30 million is different from the March 2005 NCRA strategic plan which states the estimated cost as \$39.9 million.

John Williams said that estimates were based on the actual costs for recent contracts that have been awarded. He also said that it is a lower volume railroad and therefore the construction cost would decrease.

Dave Anderson, NCRA Project Engineer agreed with Mr. Williams and said that the numbers that were acquired from recent contracts that NCRA has awarded played a large part in the \$38 million estimate.

John Williams made it clear that although he has not done a detailed business plan on the far North End (South Fork – Samoa). He said he will contact the FRA about a loan and then he will do a detailed business plan and also that he has talked to shippers in the area and that is where the projected 6000 car loads came from. Mr. Williams said that merchandize will be railed to the port and then shipped out of Humboldt County.

Director Kelley asked if staff knew when the CTC would be approving applications and if the application included funding for possible excursion trains.

Executive Director Stogner said that the CTC should approve applications in summer of 2008. He also said that because the application is a Joint Port/Rail application some of the language in the application applies to the needs of the Port. He also said that if the CTC takes an interest in the application, NCRA and the Port will likely have to prepare additional documentation to present to the CTC.

John Williams said that he is eager to work with the Timber Heritage Association and that the FRA will be involved with any excursion train operations.

Director Woolley asked if there was any funding for levee repair in Humboldt County and said that it would be beneficial to raise the railroad roadbed around the bay. He said that the rail levee acts as flood protection for Hwy 101.

Public participants addressed the Board and expressed both support and opposition to approval of the proposed Prop 1B application.

Loretta Ellard, MCOG said that the project is a good project, but that the application should be stronger. She said that MCOG is willing to assist NCRA to strengthen the application before submission to the CTC.

Upon motion by Director Kelley, seconded by Director Simonson, Resolution no. 2008-01 was approved and Staff was directed to review and edit the Joint Prop 1B Application as needed and submit the Joint Prop 1B application to the CTC. **Motion Carried** by the following roll call vote: **AYES:** Simonson, Kelley, Ziedrich, Colfax, Woolley, Ollivier, Hemphill. **NOES:** MacDonald, and Meyers who also 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. **ABSENT:** None. **ABSTAIN:** None

I. STAFF REPORTS

1. Executive Director – Mitch Stogner - No Report

- a. Upcoming CTC Meetings
- b. Signatures

2. Project Manager – Dave Anderson

Mr. Anderson reported that that the repairs to the Schellville Levee are complete.

3. Legal Counsel - Chris Neary

Mr. Neary said that a long time rail supporter, Don Edmiston, passed away and, on behalf of the NCRA Board of Directors, expressed his gratitude for all of Mr. Edmiston's support through the years. Mr. Neary said that Mr. Edmiston should always be remembered for his unselfish devotion to the restoration of rail service on the north Coast.

J. OPERATOR REPORT

1. NWP CO. - John H. Williams – No Report

The Board convened into Closed Session at 3:34 p.m.

K. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (2 cases)

Government Code 54656.9(a)

- (1) NWPY vs. NCRA
- (2) City of Novato vs. NCRA; Superior Court of California, County of Marin; case # CV074645

2. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Initiation of Litigation, Government Code 54956.9 9 subdivision c; (one case)

The Board reconvened into closed session at 4:30 p.m.

L. ANNOUNCEMENT OUT OF CLOSED SESSION

The Board met with Counsel, received information and gave direction. The Board authorized the filing of an action against an unnamed defendant and the Board also authorized filing of a motion to compel discovery in the Novato litigation. The vote was unanimous with Director MacDonald abstaining.

M. ANNOUNCEMENT OF NEXT MEETING

February 13, 2008 – 11:00
Ukiah Valley Conference Center
200 S. School Street, Ukiah
Mendocino County

N. ADJOURNMENT

Chairman Hemphill adjourned the meeting at 4:33 p.m.