

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

Wednesday, November 12, 2008 ~ **11:30**  
County of Humboldt Board of Supervisors Chambers  
825 5th Street, Eureka

### **Approved Minutes**

#### **A. CALL TO ORDER**

Chairman Hemphill called the meeting to order at 11:31 a.m.

#### **B. ROLL CALL**

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

Directors Absent: None

Also Present: Executive Director Mitch Stogner, Project Manager Dave Anderson and Recording  
Secretary Heather Lindsteadt.

#### **C. AGENDA APPROVAL**

Agenda stood as presented

#### **D. PUBLIC COMMENT**

**Gerry Tomsak** – Timber heritage Association – Mr. Tomsak expressed his thanks to Mr. John Williams for making possible a cleanup of the right-of-way from Samoa to Arcata. He also urged the Board to remember the North End and said that timber Heritage Association would like to run its excursion train as soon as possible. He said that it is important to have jobs in the current economic times.

**Barbara Kelly** – Mrs. Kelly read a statement from Kaye Strickland who could not be in attendance. Mrs. Strickland's comments are hereby made part of the minutes by reference. Mrs. Kelly also said that the railroad needs to be saved. She said that she supports a trail but not at the expense of the railroad.

**Carlos Quilez** – Mr. Quilez handed NCRA staff a letter that is hereby made part of these minutes by reference. He also read the letter into the record. The letter referenced an agreement between Jack Noble and NCRA for a private roadway in Carlotta and suggested that the private roadway agreement required environmental review. The letter was signed Friends in Small Places and it requested that NCRA rescind any agreement until there is a complete environmental review of the project.

Director Meyers asked if the contract had been signed by all parties. Staff said that it had not been signed.

**Marcus Brown** – Timber Heritage Association – Mr. Brown said that trains are the most efficient environmentally friendly way to move goods over land. He thanked Dave Anderson and John Williams for their assistance in the recent cleanup.

**Cynthia Noble** – Fieldbrook resident – she said she supports resumption of freight service and mass transit and she encouraged the Board to keep up its efforts.

**Nadananda** – Friends of the Eel River – she said that Friends is concerned about the lack of environmental studies that are being conducted through the Eel River Canyon. She said that NCRA's continued delays are only costing the taxpayers more money. She also said that she wished NCRA well as it continued to get the railroad operational again and that Friends will remain diligent in its efforts to ensure environmental compliance.

Chairman Hemphill thanked Nadananda and said that NCRA is dedicated to completing an EIR through the Eel River Canyon prior to making repairs or running trains and has already spent \$840,000 toward a mapping and geotechnical study of the Canyon.

**Patricia Daly** – She said she supports resumption of rail service and said that non-supporters are being irresponsible.

**Jessica Buchineli** – Fortuna resident - She asked if the train would be carrying passengers as well as freight.

Chairman Hemphill said that the SMART measure recently passed and will enable passenger service from Cloverdale south. He also said that Humboldt County would have to tax itself just like Sonoma and Marin Counties in order to generate the funding required to have passenger service.

## **E. CONDUCT OF BUSINESS**

### **1. Discussion and Possible Award of Contract for NCRA Track Rehabilitation Program Contract T1 & T2 – Russian River Division – Lombard to Windsor.**

Executive Director Stogner updated the Board on the removal of an injunction resulting from a lawsuit initiated by the City of Novato that prevented award of the track rehabilitation work. Mr. Stogner said that, with the settlement of the Novato Lawsuit, NCRA is able to finally award the contract.

Dave Anderson said that the bid had two alternatives to allow for flexibility for award. One alternate included hard wood ties, and bid alternative two was for “other than hardwood.”

Dave Anderson said that 5 bids were received and staff recommends approval of the Balfour Beatty bid for alternate bid no. 2 with exercise of the option for an additional 10,000 ties for a total bid price of \$8,722,646.

Chairman Hemphill said that an amendment was handed out prior to the meeting and asked Mr. Anderson to update the Board on the amendment.

Dave Anderson summarized the NCRA/TCRP payment process and explained that NCRA explained to Balfour Betty that there is a \$2 mil limit on the cash flow. He said that if the contractor wanted to do the work quicker, it would prevent NCRA from paying

invoices on time. He said that Balfour Beatty is willing to finance any monthly changes over the \$2 mil. and that NCRA would be liable for the interest charges.

Director Kelley asked if staff had discussions with Balfour Beatty related to early completion of the job and how financing would be handled in the event that they completed the work two months earlier.

Dave Anderson said that that issue has been discussed, but that he has not heard back from Balfour Beatty.

Director Meyers asked questions related to potential interest charges, the December 11 CTC meeting, and whether NCRA will need to be on the CTC agenda. He also inquired as to the number of railroad ties needed to complete the job sufficiently as well as the train speeds in relation to the various classes of freight service.

Director MacDonald asked if SMART had reviewed the contract and if they have comments.

Executive Director Stogner said that NCRA may not need to go to the CTC meeting if the contract has been awarded. He also said that SMART has reviewed and commented on the plans and specs, but that they do not need to review the contracts. He also said that the Notice To Proceed may not be issued until February.

Dave Anderson said that because the contractor is willing to wait until February to begin the work, NCRA will be better able to handle the cash flow needs because the bridge and track work will not be underway simultaneously.

Director Ziedrich asked what the useful life of a railroad tie is.

John Williams said that the life of a hardwood railroad tie is about 25-30 years but can decrease depending on the environment and the quality of the railroad roadbed.

Lawrence Labranch asked if SMART decided to remove ties and replace the ties with something else, could the removed ties be used on other parts of the railroad.

Nadananda asked if Class III will allow for tourist trains.

Upon Motion by Director Meyers seconded by Director Kelley, Resolution No. 2008-25 Awarding the Contract for NCRA Track Rehabilitation Program T1 & T2 – Russian River Division – Lombard to Windsor was approved unanimously with the following word change to paragraph 2 of the Resolution: “any and all” and “and they deem the changes to be minor” by the following roll call vote: **AYES: 9, NOES:0, ABSENT:0.**

## **2. Discussion and Possible Award of Contract for NCRA Movable Bridge Contract S4.**

Executive Director Stogner said that the injunction also prohibited repairs of the timber bridges. He said that the bid opening was held in January 2008 and the successful bidder was Summit Signal for a total bid amount of \$92,112.69.

Director Myers asked if the 5 items outlined in the HNTB letter have been resolved.

Chairman Hemphill said that the Notice to Proceed will not be issued until all issues are resolved.

Upon Motion by Director Woolley, seconded by Director Kelley Contract S4 was awarded to Summit Signal for \$92,112.69 unanimously AYES: 9, NOES: 0, ABSENT: 0

## **F. CONSENT CALENDAR**

1. Approval of Minutes - Regular Board Meeting – October 8, 2008
2. Approval of Minutes – Special Board Meeting – October 27, 2008
3. Acceptance of Minutes – Property Committee Meeting – October 15, 2008
4. Acceptance of Financial Statements – October 2008
5. Approval of Warrants Issued - Agency 787010 – October 2008
6. Approval of Warrants Issued - TCRP 787101 – October 2008
7. Approval of CalCard Statements – October 2008

Upon Motion by Director Meyers, seconded by Director Kelley, the Consent Calendar was approved with Director Ziedrich abstaining from item F.2 and Director Simonson Abstaining from Item F.3, and Director Myers' changes to Item F.1, F.2, and F.3.

## **G. STAFF REPORTS**

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

#### **A. Draft EIR Schedule**

Executive Director Stogner updated the Board on the schedule for release of NCRA's RRD draft EIR. He said that the document cost NCRA over \$3 mil. and is almost ready for release. He said that there will be a 45 day comment period and a public hearing. He said that once responses to the comments are complete, the Board can certify the EIR.

Director Meyers asked how much NCRA has spent on repair of the railroad from Lombard to Windsor vs. other areas of the line such as the King Salmon area. He also asked when the FRA would be requested to inspect the repairs.

Mr. Stogner said that in April 2006, NCRA received its first allocation and has committed a total of \$35 mil. from Lombard to Windsor. He said that the only funds remaining for NCRA under the TCRP program are local match (\$1.8 mil) to the ISTE grant and the Consent Decree balance of \$2.9 mil. King Salmon was \$690,000 and \$840,000 has been set aside for the Canyon mapping and geotech studies. He also said that FEMA funds were used, in part, to purchase signal equipment and repair to 2 swing bridges.

Director Meyers thanked the Ex. Dir. and requested that the information be placed on the NCRA web site, so that the people of the State of California could see how their funds were spent. The Chairman concurred.

John Williams said that the FRA needs 30 days notice to schedule an inspection and he anticipates meeting with FRA in late spring 2009.

Dave Anderson said he has the draft geotech report and the mapping. He said in the next couple of months he will finish his review and draft his comments for submittal to HNTB.

### **B. and C. Coastal Commission Request for Extension – Response to Trail Guidelines and Guidelines Timeline**

Executive Director Stogner said that staff had received a request for a time extension for response to the trail guidelines from the Coastal Commission. He said that the request had been granted by staff. He said that he does not anticipate the Board taking action on the guidelines until early 2009.

The Board directed staff to extend the deadline for all interested parties to December 15, 2008.

**Jen Rice** – Redwood Community Action Agency – She summarized the key points that Humboldt County Dept of Public Works outlined in its response letter which included ways to maximize safety, request of a standard to use “best practices” rather than a rigid set of guidelines, and clarity about who had ultimate authority over trail guidelines. She said it is unclear to the commentators whether NWP Co. will have the final word or NCRA. She said that when agencies seek grant funding for trail construction, there may be confusion as to who finally decides the trail guidelines and that may potentially impact the grant.

Director MacDonald asked Ms. Rice to explain how a dedicated trail may reduce trespassing injuries and also asked if the Humboldt county letter suggested actual wording for the guidelines. Director MacDonald thanked Ms. Rice for her help on the guidelines issue as well as the A&M trail issue.

Ms. Rice said that she has been unable to find a study that specifically looks at trail effects on trespassing. She said that it seems that a trail and fencing may keep people off of the tracks and that Rails-with-Trails is actively looking for a study related to trails and trespassing and safety. She also said that specific wording is included in Humboldt County’s response to the Trail Guidelines.

Chris Rawl – Executive director Greenwheels – Mr. Rawl said that he is not aware of any study that specifically studies the correlation between designated trails and the reduction of injuries and deaths resulting from trespassing. He said that the Rails-with-Trails study -Lessons Learned- studied 61 rails with trails and said that the study shows that the trails are extremely safe when constructed properly. He said that he is happy to hear the guidelines will not apply to the SMART-owned right-of-way. He said that he thinks that NCRA needs to embrace rails with trails much like SMART has done.

Winterson – Eureka Resident, Greenwheels – she said that a trail along the rail is important and said that if people are not going to be on the rail, they should at least be able to take advantage of the trail next to the tracks.

Marcus Brown – he said he supports rails with trails if it is done properly. He said that NCRA has protection under federal law. He said that he has heard disparaging comments from the trail supporters and hopes the rhetoric can get calmed down.

Gerry Tomsak – He said that Durango Colorado has a population of approx 15,000 and is 336 miles away from Denver. He said that during the months of June, July and August the train had 83,000 riders. He said that the Skunk Train has 60,000 passengers annually. He said that the Timber Heritage would need approximately 35,000 riders annually to break even.

### **C. Application for ISTEAFunds**

Executive Director Stogner said that staff had a conference call with FHWA and CalTrans on October 14 to discuss the process for applying for ISTEAFunds. He said that NCRA needs to complete a successful audit and also prepare a scope-of-work for the use of the ISTEAFunds. He said these funds were designated for NCRA in 1996 through an MOU involving the NWPRA.

Dave Anderson said that he will be meeting with CalTrans after the Board meeting to go over the scope-of-work-and plans.

#### **2. Project Manager – Dave Anderson**

Mr. Anderson presented the Board with a PowerPoint presentation on the repairs of the Russian River Division and the current contracts that are underway.

#### **3. Legal Counsel - Chris Neary**

No report – Mr. Neary was absent.

## **H. OPERATOR REPORT**

### **1. NWP Co. – John Williams**

Mr. Williams updated the Board on his application to the FRA to discontinue the interlocking devices on 3 movable bridges. He said that the FRA requested additional information which was in the form of a letter from SMART stating that they agreed to discontinuance of the interlocking devices on the three movable bridges. He said that he found out that FRA published a docket announcement stating that they will take comments for 45 days before issuing a final decision.

Mr. Williams said that both NCRA and NWP Co. will have responsibility over safety along the NWP line depending on the issue. He said that until SMART actually starts operating trains, NWP Co. will be placed in the position of Operator of Record on the SMART portion of line as well as on NCRA owned railline.

## **I. MATTERS FROM THE BOARD**

Director Meyers suggested Directors forgo submitting stipend requests to help the agency financial situation. He also requested a copy of the Consent Decree with Novato and asked for his email and memo to be provided to the entire Board of Directors. He also wanted to know why the Department of Fish and Game objected to the Consent Decree with Novato.

Executive Director Stogner updated the Board on the 1999 Environmental Consent Decree.

Chairman Hemphill said that NCRA is attempting to do the right thing with the trail guidelines. He said the main focus has been on safety but that there are other issues that need to be looked at. He said that NCRA has a responsibility to the Operator, the mandate, and stewardship of the railline.

John Woolley said that the deadline has been extended until December 15 and suggested that the Board comment on the process on how the comments will be digested and organized for the ultimate goal of preparation of a final set of guidelines.

*Chairman Hemphill adjourned the meeting to closed session at 1:35 p.m.*

**J. CLOSED SESSION**

1. Conference with Legal Counsel-Existing Litigation  
Government Code 54956.9 (a) (c)  
Hight v. NCRA, Mendocino Superior Court Case Number 80240;
2. NWPY v NCRA  
Government Code Section 54956.9(a)  
Arbitration before Resolution Remedies
3. CONFERENCE WITH REAL ESTATE NEGOTIATORS  
Agency Negotiators: Mitch Stogner; C.J. Neary; Gov Code 54956.8  
Parties to Negotiation: NCRA; NWP Co.  
Under Negotiation: All Terms of Lease and Operating Agreement.

**K. ANNOUNCEMENT OUT OF CLOSED SESSION**

The Board met with legal counsel by conference call, received information and gave direction. No reportable action was taken.

**L. ANNOUNCEMENT OF NEXT MEETING**

December 10, 2008 – 10:30 a.m.  
Sonoma County  
Petaluma Community Center  
320 N. McDowell Blvd, Petaluma

**M. ADJOURNMENT**

*Chairman Hemphill adjourned the meeting at 2:42 p.m.*