

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

Monday, October 27, 2008- 11:00 a.m.
Conference Call – Various Locations

Approved Minutes

Public Call-In Location:

NCRA Office~ 419 Talmage Road, Suite M, Ukiah, Ca

Alternate Public Participation Locations – The following Directors will have Conference Call availability:

Chairman Hemphill: 2248 Professional Drive, Santa Rosa
Director Ziedrich: 359 Hudson Street, Healdsburg
Director Simonson: 260 Haehl Creek Court, Willits
Director Ollivier: 1970 Ollivier Way, McKinleyville
Director MacDonald: 29 Olympia Way, Novato
Director Meyers: 29 Olympia Way, Novato
Director Woolley: 825 5th Street, Room 111, Eureka
Director Colfax: 419 Talmage Road, Ste M, Ukiah

A. CALL TO ORDER

Vice Chair Woolley called the meeting to order at 11:07 p.m.

B. ROLL CALL

Directors Present: Simonson, Ollivier, Meyers, MacDonald, Ziedrich (leaves meeting at 12:21), Woolley, Chair Hemphill (arrives at 11:08 a.m.)

Directors Absent: Colfax, Kelley

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

C. AGENDA APPROVAL

Agenda stood as presented by unanimous roll call vote.

Director Meyers asked if he could send his e-mail of 10/26 regarding the proposed settlement to all Directors and was told he could without violating the Brown Act by Counsel Neary. Counsel said that Dir. Meyers' e-mail had not been sent to the other Directors.

D. MATTERS FROM THE BOARD

No matters

E. PUBLIC COMMENT

Public Participants: Leishara Ward – CalTrans District 1, Cheryl Willis – CalTrans District 1, American Rail Consultants, NWP Co., Doug Bosco joins call at 11:38.

No Public Comment

F. CONDUCT OF BUSINESS

1. Consideration of Settlement of City of Novato Lawsuit.

Legal Counsel Neary updated the Board on the continued settlement negotiations with the City of Novato. He summarized recent discussions with the city of Novato attorney related to the Settlement and said that the preliminary agreement has been reached which calls for NCRA completing the following “work” within the City of Novato:

- Quiet zones at 13 crossings
- Landscaping
- Fencing
- Purchase of environmentally friendly locomotives
- Establishment of a fund to address noise attenuation
- Novato attorney fees amounting to \$325,000 with a \$100,000 payment made up front and the balance to be held in-trust
- Continuously welded track

Legal Counsel Neary said that the City of Novato had requested a letter of credit that would ensure funding for the completion of the “work”. He said that rather than providing a letter of credit, NCRA would agree that it would not operate more than 3 round trips per week, during daylight only, until the “Work” is complete.

Legal Counsel Neary said that the City of Novato requested the following changes to the agreement:

- NCRA remove the bifurcation of the Eel River Division and the Russian River Division
- NCRA agreed to delay the Notice to Proceed for the trackwork for 105 days;
- NCRA complete “Work” by December 31, 2011 or all operations will stop

Legal Counsel said that there were 4 minor changes that will be reflected in the agreement:

- that NCRA has had preliminary discussions with FHWA and Caltrans regarding the ISTEAs allocation;
- “time of the essence” provision;
- “Force majeure” provision
- Insertion of a reference to NEPA regarding ISTEAs funds.

Legal Counsel Neary said that the City of Novato will be considering the Settlement Agreement

at its October 27, 2008 meeting. He also said that the trial has been continued until October 30, 2008.

There was a brief discussion about NCRA applying for the ISTEAs funds that could in part help fund the settlement “work” and the possibility of the CTC extending the deadline beyond the October 31, 2008 for the trackwork funds until the settlement is finalized. Cheryl Willis, Caltrans Dist 1, said that NCRA can award a contract but may be required to present the CTC with an update and a request for an extension of the October 31 deadline at its December 11 meeting.

The Board convened into closed session at 11:47 a.m.

G. CLOSED SESSION

- 1. Conference with Legal Counsel—Pending Litigation
One Case; Government Code Section 54956.9 (a)
City of Novato vs. NCRA; Superior Court of California, County of Marin;
case # CV074645**

Director Ziedrich disconnected at 12:21 p.m.

The Board reconvened into Open Session at 12:59 p.m.

H. ANNOUNCEMENT OUT OF CLOSED SESSION

Legal Counsel Neary reported that the Board approved Resolution 2008-21 Approving a Consent Decree and Stipulated Judgment and Authorizing Chairman Hemphill to Execute the Same, including minor changes if they are acceptable to the Chair and Executive Director, by the following roll call: **AYES**, MacDonald, Simonson, Hemphill, Ollivier, Woolley. **NOES**: Meyers. **ABSENT**: Ziedrich, Colfax, Kelley. **ABSTAIN**: None

Director Simonson disconnected at 1:00 p.m.

I. ANNOUNCEMENT OF NEXT MEETING

November 12, 2008-10:30
Humboldt County Board of Supervisors Chambers
Eureka, Ca

J. ADJOURNMENT

Chairman Hemphill adjourned the meeting at 1:03 p.m.