



North Coast Railroad Authority
419 Talmage Road, Suite M
Ukiah, Ca 95482

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

Wednesday, April 8, 2009~ **10:30**
Hamilton Community Center
West Wing Auditorium
503 "B" South Palm Drive
Novato
Marin County

Approved Minutes

A. CALL TO ORDER

Vice Chair Kelley called the meeting to order at 10:36 a.m.

B. ROLL CALL

Directors Present: Ziedrich, MacDonald, Simonson, Clendenen (arrives at 10:39), Meyers, Vice Chair Kelley

Directors Absent: Colfax, Ollivier, Chairman Hemphill

Also Present: Executive Director Mitch Stogner, Legal Counsel Christopher Neary, Project Manager Dave Anderson, Transportation Planner Angel Lucero, Recording Secretary Heather Lindsteadt

C. AGENDA APPROVAL

Agenda stood as presented.

D. PUBLIC COMMENT

The following members of the public addressed the Board:

Mike Pechner

Allen Tacy

David Hoffman– Assemblymember Huffman letter read into the record hereby made part of the minutes.

Karen Nygren

Christine Culver

Nadananda

Rod Whitney

Su Corbaley

Public Comment (cont.)

Richard Cohen
Leishara Ward

Director Meyers requested additional information on the San Clemente Rail Trail from Su Corbaley.

E. CONDUCT OF BUSINESS

1. Report by Executive Director on Railroad Reconstruction: Lombard to Windsor (Phase 1) Repair Project, Emergency Repairs Project, and Fish & Game Levee Repairs and Habitat Restoration Project

Executive Director Stogner presented the Board with an update outlining the TCRP and Fish & Game Projects that NCRA has begun or completed including contract amounts, award date and contractor. He also outlined the fund source and amount spent on each phase of the project.

Mr. Stogner said that the Lombard to Windsor section of the rail line rehabilitation is well underway and almost complete which will lead to freight operations on the first 62 miles of the line by October 2009. He said that until the quiet zones, fencing, landscaping, and other requirements as outlined in the Novato Consent decree are complete, NCRA will be limited to 3 round trips per week during daylight hours.

Dave Anderson, NCRA's Project Manager, presented the Board with a PowerPoint outlining the signal repair/replacement project, in-kind timber bridge repairs, Novato Creek bridge repair, movable bridge repair and trackway repair from Lombard to Ignacio.

Mr. Anderson said that the mapping and geotechnical study in the Canyon cost \$840,000. He said that he could email a summary of the study to the Directors. He said that the firm of Towill and Associates did the Canyon mapping and geotechnical study.

Public Comment on Item E.1

Karen Nygren
Nadananda
David Hoffman

2. Report by Executive Director on Draft Environmental Impact Report (DEIR) Schedule

Executive Director Stogner said that the DEIR is on the NCRA website and that comments should be sent to 419 Talmage Road, Suite M, Ukiah, Ca, 95482 or emailed to mitch.stogner@sbcglobal.net. He said that the comment period has been extended and will end on May 1, 2009 at 5:00. He said that there will be two public hearings regarding the DEIR. He said that one will be April 15 in Petaluma, and the other will be held in Willits on April 16.

Mr. Stogner said that after the comment period ends, responses to the comments that were received will be incorporated into the EIR and the Board will then be presented with the Final Environmental Impact Report (FEIR) for certification.

Director Ziedrich requested staff to explain how the mention of the NCRA trail guidelines in the DEIR will impact the DEIR schedule and asked how NCRA staff planned to rectify the fact that the trail guidelines were made part of the DEIR when NCRA has yet to adopt trail guidelines.

Executive Director Stogner said that staff will recommend to the Board removal of the reference to the trail guidelines in the DEIR because there are no NCRA approved guidelines yet. He also said that the portion of line from Healdsburg to Larkspur will be subject to guidelines that will be established by SMART.

There was a brief discussion about the Foss Creek Trail and a question as to whether the city of Healdsburg had submitted the Foss Creek Trail plans to the FRA and PUC for safety review. Director Simonson said that a pathway along that section of rail is extremely dangerous in his estimation, as a former locomotive engineer on this portion of the NWP line. He said that he has first-hand knowledge of injuries to individuals along the rail line, and there will no pathway that is completely safe.

Public Comment on Item E.2

**Mike Pechner
Su Corbaley
Steve Birdlebough
Richard Cohen
Roger Graeber
Karen Nygren
Nadananda**

The Board discussed the logistics of distributing the Final EIR to the public, how much notice would be provided, and whether the Board would have an opportunity to review the comments before they are incorporated into the Final Environmental Impact Report.

Director Meyers requested that the public be given as much notice as possible when the Final Environmental Impact Report is made public, and also that it be posted to the website. He said that if the trail guidelines are removed from the DIER, the trail issue would still need to be handled and asked how the removal of reference to the draft trail guidelines would take care of the issue.

Director MacDonald said that property along the NWP line is a public right-of-way, and that NCRA is beholden to the public for use of the right-of-way. He said that The NCRA Board requested that the public be given the opportunity to comment on the Draft Trail Guidelines. He said that there were many responses to the request for comments. He

said that those responses should not be ignored. He requested that the revised Trail Guidelines be brought back to the Board for possible action.

Director Simonson said that NCRA is subject to FRA and PUC regulations and the public should be made aware of that.

Vice Chair Kelley requested that staff agendaize the trail guideline issue for the May meeting.

3. Report by Executive Director on Status of ISTEA and Stimulus Funding

Executive Director Stogner updated the Board on staff's efforts to secure additional funding for repairs to the rail line from Windsor to Willits, and the ECD.

He said that one potential funding source is the \$11 mil. ISTEA funding that was allocated to the NCRA in 1996. He said that NCRA staff has been in communication with CalTrans District 1 and FHWA and is determined to take the necessary steps to secure this funding. He said that if NCRA was able to secure the \$11 mil. In ISTEA funding, a like amount would be removed from the Stimulus Funding request.

Mr. Stogner said that NCRA is also requesting \$36 mil. in Stimulus Funding to complete the repairs from Windsor to Willits. He said that the \$36 mil was based on the 2005 Updated Capital Assessment Report.

Director Meyers said that the MEMO provided for the item included a belt line around Humboldt Bay and said that the Board had not approved a belt line around Humboldt Bay, and asked if that should be authorized by the Board. He also asked if NCRA receives the ISTEA funding, if SMART will need to upgrade the rail line after NCRA invests those funds into the line to Cloverdale, and also asked if SMART would be improving on the work that NCRA has completed, or if the funds would be wasted because SMART would need to redo the entire line to suite their needs.

Executive Director Stogner said that NCRA staff is meeting with SMART and the issue of NCRA repairs is one of the topics of discussion. He said that SMART has suggested that they could help NCRA advocate for the stimulus funding because they will benefit from the repairs that NCRA will make.

Dave Anderson said that the stimulus finding would be used for track repairs, bridge, and signal repairs. He said that an updated assessment would need to be completed before the environmental documents were prepared for any project.

Mr. Stogner said that the application guidelines will not be released until the end of May. He said that the applications will be due in August and that projects that can be completed within 3 years will have priority, as well as projects that have environmental clearance and a state funding component.

Director Clendenen asked if NWP Co.'s economic study of the belt line would be included as part of the application.

Director MacDonald asked if a joint SMART/NCRA application would be beneficial.

Public Comment on Item E. 3

**Leishara Ward
Karen Nygren**

F. CONSENT CALENDAR

1. Approval of Minutes - Regular Board Meeting – March 11, 2009
2. Acceptance of Financial Statements – March 2009
3. Approval of Warrants Issued - Agency 787010 – March 2009
4. Approval of Warrants Issued - TCRP 787101 – March 2009
5. Approval of Warrants Issued – Fish & Game – 787408 - March 2009
6. Approval of CalCard Statement – March 2009

Upon Motion by Director Ziedrich, seconded by Director Meyers, Items F.1-F.6 were approved with Director Meyers voting no on Item F.2. Motion carried **AYES: 5, NOES, 1, ABSTAIN: 0, ABSENT: 3.**

Director Meyers requested that the Executive Director add a statement into the Financial Memo each month that will reflect the fact that the Executive Director believes the financial statements are true and factual.

G. STAFF REPORTS

1. Executive Director – Mitch Stogner

A. SMART/NCRA Operating Agreement Meeting

Executive Director Stogner reported that the NCRA staff have met twice with SMART's Chairman and staff and that another meeting scheduled for May 26. He said that Chairman Hemphill will be updating the Board on the meetings at each Board meeting. He said that issues that are being discussed are operating scenarios, construction interface issues, and theoretical schedules for discussion purposes between the two agencies.

With respect to ECD compliance, Executive Director Stogner said that NCRA has been on a path for 5 years to try to use \$4.1 mil that was set aside for the ECD through the TCRP. He said that NCRA used \$100,000 for an environmental assessment report that set forth a plan to effectuate the clean-up. He said that NCRA received the approval of the three consent decree agencies to undertake a surface clean-up of 9 abandoned rail yards that was completed in 2005. He said NCRA is trying to meet with the ECD agencies to discuss the sub surface site characterization that needs to be completed before the subsurface clean up begins. He also said that NCRA has received \$289,000 for the site characterization and that the NCRWQCB requested that NCRA target certain sites and add a site. NCRA needs to return to the CTC and request \$2.9 mil to fund the characterization and remediation of the sites, but he said that a plan needs to be agreed upon with the ECD agencies.

Public Comment on Item G.1.A

**Karen Nygren
Roger Graeber**

There was a short discussion about the SMART train selection and positive train control.

B. Economic Stimulus Funding

No report as this issue was discussed previously.

2. Project Manager – Dave Anderson

No report

3. Legal Counsel - Chris Neary

No report

H. OPERATOR REPORT

1. NWP Co. – John Williams

No report

I. MATTERS FROM THE BOARD

Director Meyers requested copy of the April 7 letter to the City of Healdsburg.

Director Meyers asked staff to make available the agreement or a portion of an agreement if an agreement is reached with SMART.

Director Ziedrich requested that a strategic plan/orientation/workshop be scheduled so that a five year plan can be developed.

Director MacDonald requested from Legal Counsel a report on the issue of rail banking.

The Board adjourned to Closed Session at 12:53.

J. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation

Government Code 54956.9 (a)(three cases)

- a. NWPY v. NCRA – Arbitration Pending Before Resolution Remedies
- b. McGarry, Lukes v. NCRA, Mendocino County Superior Court case # 52454
- c. Conference with Legal Counsel-Existing Litigation Government Code 54956.9 (a) (c)
Hight v. NCRA, Mendocino Superior Court Case # 80240;

2. CONFERENCE WITH LEGAL COUNSEL - Anticipated Litigation

Approved by BOD
05/13/09

Initiation of Litigation pursuant to Government Code 54956 (c) (one case)
(Identity of the party at this time will jeopardize the ability of NCRA
to conclude existing settlement discussions)

The Board reconvened Open Session at 1:55.

K. ANNOUNCEMENT OUT OF CLOSED SESSION

Legal Counsel reported that the Board met with Counsel received information and gave direction and no reportable action was taken.

L. ANNOUNCEMENT OF NEXT MEETING

May 13, 2009 – 10:30 a.m.
Ukiah Valley Conference Center
200 South School Street
Ukiah
Mendocino County

M. ADJOURNMENT

Vice Chair Kelley adjourned the meeting at 2:00 p.m.