

Approval by NCRA BOD
on August 12, 2009



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

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

Wednesday, June 10, 2009~ **10:30**
Healdsburg City Council Chambers
401 Grove Street, Healdsburg
Sonoma County

Approved Minutes

The following Board Directors will be attending the meeting from the following locations:

Director MacDonald: Inn at Warner Hall, 4750 Warner Hall Road, Gloucester, VA
Director Meyers: 15 Malbert Road, Boston, MA

A. CALL TO ORDER

Chairman Hemphill called the meeting to order at 10:30 a.m.

B. ROLL CALL

Directors Present: Simonson, Ollivier, Clendenen, Kelley, Ziedrich, Colfax, Chairman Hemphill

Directors Present by Teleconference: Director Meyers, Director MacDonald

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

C. AGENDA APPROVAL

Upon motion by Director Ziedrich seconded by Director Kelley carried unanimously the following items were added to the agenda or changed:

Government Code: 54956.9 (a)
California Redwood Coast vs. NCRA
Mendocino Superior Court Case # 0852111

Conduct of Business Item F. 4
Consideration of Budget Amendment continued until after Closed Session

D. PUBLIC COMMENT

Christine Culver – Executive Director Sonoma County Bicycle Coalition – written
Comments are hereby made part of these minutes by reference.

Roger Graeber
Richard Berg
Paul Downing

E. OLD BUSINESS

1. Update – NCRA Russian River Division Draft Environmental Impact Report (DEIR) Schedule

Executive Director Stogner updated the Board on the DEIR which will be recirculated. He said that some of the issues that have been identified for inclusion in the re-circulated DEIR include:

- The BMP's will be added to the document as an Appendix;
- An Environmental Compliance Program Plan (ECPP) will also be attached as an Appendix. This Plan will present an overview of the environmental regulatory requirements affecting the operations of NWP Co. freight operations from Willits to Lombard. The primary purpose of the ECPP is to provide NWP Co. management with a tool that will facilitate environmental compliance by providing an organized summary of current requirements and a guide to where regulatory support information and documents are located. The ECPP will address environmental compliance by media (e.g. hazardous material, waste, air quality, water quality) and in certain situations by regulations (e.g., Prop 65, SARA/EPCRA, CalARP) or the Environmental Consent Decree (Consent Decree and Stipulated Judgment, "ECD"). Environmental regulatory citation and agency contact will be provided in order to assure additional regulatory details and requirements;
- The cumulative impacts portion will be revised to eliminate references to extraneous lease agreement and rights between NCRA and SMART, an issue raised in SMART's comments to the DEIR;
- The safety section will be revised to reference the final Trail Guidelines adopted as of May 13, 2009. The June 10 Board agenda includes the adoption of the format for the Trail Guidelines adopted on May 13. Accordingly, the Executive Summary, Introduction, Summary of Potential Impacts and Mitigation Summary Tables will be revised. The Safety Section will then be in compliance with the Trail Guidelines adopted by the Board.
- Other details that are impacted by these revisions will be addressed, such as description of the public review process and a summary of the reasons for the recirculation and the changes;

There was a brief discussion about the process by which previous commenters would be notified of the updated DEIR and the process by which they would be able to re-comment.

Questions were raised about the current status of the Best Management Practices (BMP's) with respect to the completion date and whether they would be available for review and posted on the NCRA website. Legal Counsel Neary said that the BMP's would be issued as an appendix to the DEIR and the DEIR would be posted to the website.

F. CONDUCT OF BUSINESS

1. Discussion and Possible Approval of Fiscal Year 2007-08 Final Financial and Compliance Audit Report performed by Aycock & Edgmon CPA's

Executive Director Stogner updated the Board on the final Financial & Compliance Audit Report that was performed by Aycock & Edgmon. He said that Aycock & Edgmon incorporated the following changes into the final version as follows:

- Disclosure of the costs associated with the Novato Consent Decree;
- Disclosure of the costs associated with the Environmental Consent Decree;
- Reclassification of the Advance Lease Payments from Operator to Deferred Revenue.

He also said that the Corrective Action Plan and MD&A has been included in the final audit.

A brief discussion ensued about the length of time Aycock & Edgmon has been auditing NCRA and the suggestion was made to try to receive proposals from other audit firms if possible.

Upon Motion by Director Kelley, seconded by Director Ziedrich the Board unanimously approved the Fiscal Year 2007-08 Final Financial and Compliance Audit Report performed by Aycock & Edgmon CPA's by the following vote: **AYES:9, NOES: 0, ABSENT: 0, ABSTAIN: 0.**

2. Discussion and Possible Approval of Issuance of Request for Proposals (RFP's) for Certified Public Accountant (CPA)

Executive Director Stogner said that part of the Corrective Action Plan prepared for the Final Financial and Compliance Audit calls for issuance of an RFP for a Certified Public Accountant. The CPA will assist NCRA with its agency accounting such as preparing accrual basis financial statements, assisting with the Caltrans Audit and working with the Sonoma County Auditor's office.

Upon Motion by Director Kelley, seconded by Director Ziedrich the Request for Proposals (RFP) for Certified Public Accountant (CPA) was approved and staff was directed to issue the RFP. Motion approved unanimously by the following vote: **AYES: 9, NOES: ABSENT: 0, ABSTAIN: 0**

3. Discussion and Possible Approval Noble Lease Agreement

Legal Counsel Neary summarized the 3 options that the Board had relative to the lease agreement with Jack Noble:

1. Approve the changes suggested by Mr. Bragg along with the addendum;
2. Reject the suggested changes proposed by Mr. Bragg along with the addendum;
3. Refer the Noble Lease to the Property Committee for final consideration and approval.

Issues discussed:

1. Consideration of using the license agreement form instead of the lease agreement form;
2. Review of possible environmental issues regarding the creek that is near the project;
3. Clarification on the “cubic yardage” that would be hauled, since it is incorporated into the payment projections;
4. Clarification as to whether NCRA would be reimbursed for the empty return of trucks as well as the full loads moved over the roadway;
5. Recognition that any administrative costs incurred by NCRA would be reimbursed by Mr. Noble;
6. Clarification regarding total compensating due NCRA under the proposed lease agreement

Public Comment on Item F.3:

Nadananda

Upon Motion by Director Clendenen, seconded by Director Ollivier the Board requested that the Property Committee finalize the agreement with Jack Noble within the parameters of the discussion points and update the Board at a future meeting. The Committee was directed to bring the issue back to the full Board if there were issues that could not be resolved. Motion carried by the following vote: AYES: 8, NOES 1, ABSENT: 0, ABSTAIN:0

4. Discussion and Possible Amendment to Draft Agency Budget for Fiscal Year 09-10

Item F. 4 moved until after Closed Session

G. CONSENT CALENDAR

1. Approval of Minutes - Regular Board Meeting – May 13, 2009
2. Acceptance of Financial Statements – May 2009
3. Approval of Warrants Issued - Agency 787010 – May 2009
4. Approval of Warrants Issued - TCRP 787101 – May 2009
5. Approval of Warrants Issued – Fish & Game – 787408 – May 2009
6. Approval of CalCard Statement – May 2009

7. Codification of Trail Policy (Policies & Procedures Manual Section 0907)

Upon motion by Director Kelley, seconded by Director Ollivier the Consent Calendar Items G.1 through G. 7 were approved. Staff was directed to return to the Board with item G.7, Codification of Trail Policy, after modifications have been made related to the letter submitted during Public Comment. Motion carried by the following vote: **AYES:** 9 (Ziedrich abstaining from Item G.1), **NOES:** 0, **ABSENT:** 0, **ABSTAIN:** 0

H. STAFF REPORTS

1. Executive Director – Mitch Stogner

- a. SMART/NCRA Operating Agreement Meeting
- b. Economic Stimulus Funding
- c. Map 21
- d. NCRA Board Meeting Schedule

Executive Director Stogner said that NCRA has been trying to meet monthly with SMART and said that the next meeting is scheduled for late July.

Mr. Stogner updated the Board on the Funding options available to NCRA including Stimulus Finding and Map 21(SAFETELU) funding.

Mr. Stogner said that the July Board meeting has been cancelled and that the next meeting will be in Eureka on August 12. He also said that the Board will conduct a Board Workshop on September 9 in Ukiah.

2. Project Manager – Dave Anderson

Dave Anderson – NCRA Project Manager – Mr. Anderson updated the Board on the attempted move of 11 ballast cars from Petaluma to Schellville. He said that the cars were inspected and that the FRA found defects that prevented the move to Schellville. Mr. Anderson said that the cars are being repaired and will be ready to be moved for lease to Balfour Beatty for use on the NCRA project.

Mr. Anderson updated the Board on the construction:

Bridge Contract – Ghilotti Bros. Cooper Crane JV– complete end of week.

Roadbed Repair Work - Balfour Beatty – inserted 40,000 ties from Lombard to Ignacio. They will proceed from Ignacio north inserting 10,000 ties between Ignacio and Windsor.

Signal Work – Mass Electric. The contractor has 3 signals to complete in Petaluma and they should remobilize in late June or July.

He also reported that the FRA has made a couple of field visits. He said that the FRA has responded in writing and they are very pleased with the rehabilitation work so far. He briefly discussed the security measures that will be used to protect the rehabilitated line before operations resume.

Public Comment

**Nadananda
Roger Graeber**

3. Legal Counsel – C.J. Neary

No Report

Director MacDonald leaves the meeting at 12:00 p.m.

J. MATTERS FROM THE BOARD

Director Meyers said he supported approval of Consent Calendar Item G.7 and asked if the letter from NWP accepting NCRA's trail policies has been received. He said that he hopes to see the letter from NWP Co. as part of the August meeting materials.

Director Clendenen updated the Board and staff on the Timber Heritage Association track clearing project. He said that THA has been doing track clearing and they are hoping to do speeder runs on a section of track. He asked how liability issues will be addressed.

*The Board adjourned to Closed Session at 12:04 p.m.
Director Meyers leaves the meeting at 12:04 p.m.*

K. CLOSED SESSION

**1. CONFERENCE WITH REAL PROPERTY NEGOTIATIONS-
Government Code Section 54956.8**

Property: MP 265-266

Negotiating Parties: NCRA (Mitch Stogner), Jack Noble

Under Negotiation: Crossing Agreement

**2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION AND CONTRACT RENEWAL
Government Code Section 54947**

Position: Executive Director

The Board reconvened into Open Session at 12:35 p.m.

L. ANNOUNCEMENT OUT OF CLOSED SESSION

Legal Counsel Neary reported that the Board received information and gave direction on one item of Existing Litigation.

Legal Counsel Neary also reported that the Board met with Counsel received information and unanimously approved a contract with Executive Director Mitch Stogner for 3 additional years.

F.4. Discussion and Possible Amendment to Draft Agency Budget for Fiscal Year 09-10

Upon motion by Director Ziedrich, seconded by Director Ollivier the Board approved a fiscal year 09-10 Budget amendment as follows:

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on August 12, 2009

Addition to Revenue: \$500,000

- 1) Option consideration sale of Ukiah Freight Property to County of Mendocino/City of Ukiah conditional upon CalTrans prior approval
- 2) Extraordinary Crossing Revenue
 - a) Quaker Hill Crossing
 - b) Noble Crossing

Addition to Expenses: (\$365,263.19)

- 1) Omnitrax Payoff (\$10,422.12)
- 2) Harbor District Loan (\$166,686.42)
- 3) California Redwood Coast Co. (\$188,154.65)

Motion carried by the following vote: **AYES:7, NOES: 0 ABSTAIN: 0, ABSENT: 2**
(MacDonald, Meyers)

Public Comment

Paul Downing

M. ANNOUNCEMENT OF NEXT MEETING

August 12, 2009 – 10:30
Humboldt County Board of Supervisors Chambers
Eureka, Ca
Humboldt County

N. ADJOURNMENT

Chairman Hemphill adjourned the meeting at 12:43 p.m.