



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

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

Wednesday, September 9, 2009~ **10:00 a.m.**  
Hampton Inn – Ukiah, Ca  
1160 Airport Park Blvd, Ukiah  
Mendocino County

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**Minutes**

**Approved with Amendments**

**A. CALL TO ORDER**

Chairman Hemphill called the meeting to order at 10:08 a.m.

**B. ROLL CALL**

**Directors Present:** Meyers, MacDonald, Kelley (leaves at 3:39), Atkins, Wagenet, Colfax, Clendenen, and Hemphill

**Directors Absent:** Ziedrich

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

**C. AGENDA APPROVAL**

Upon Motion by Director Kelley, seconded by Director Atkins and approved unanimously, the following agenda item was continued:

Agenda Item F.5 - Approval of License Agreement at Railroad Milepost 266.0 (Jack Noble).

It was decided that any members of the audience that were present to comment on item F.5 could do so during the public comment section of the meeting.

Upon Motion by Director Kelley, seconded by Director Meyers the Agenda was approved unanimously.

**D. RECOGNITION OF OUTGOING DIRECTORS**

**1. Robert “Bob” Simonson – Director 1999-2009**

Chairman Hemphill recognized Bob Simonson with a “Golden Spike” for his 10 years of dedication to the NCRA Board of Directors. He said that Bob was the only member of the NCRA Board that had any real railroad experience and that his wisdom and expertise would be greatly missed. Chairman Hemphill was joined by other members of the Board in commending Director Simonson for his invaluable contribution to the restoration of North Coast train service.

**E. PUBLIC COMMENT**

**Roger Graeber** – Spoke about recent vandalism to railroad signals and trespassing on railroad property.

**Jessica Puccinelli** – Spoke about her concerns and opposition to the approval of the Jack Noble Lease.

**Carlos Quilez** - Spoke about his concerns and opposition to the approval of the Jack Noble Lease.

**F. CONDUCT OF BUSINESS**

**1. Discussion and Possible Award of Contract between NCRA and Aycock & Edgmon CPA’s for Accounting Services**

Executive Director Stogner updated the Board on the recent RFP that NCRA distributed to solicit proposals from CPA firms. He said that NCRA received two responsive proposals and that Staff was recommending Aycock & Edgmon for a one-year \$26,500 contract.

Issues discussed were the scope-of-work and possible reduction of Sonoma County’s role in NCRA’s finances to help fund the CPA as well as nailing down the accrual issue.

Upon Motion by Director Kelley, seconded by Director Colfax, Staff was directed to enter into contract with Aycock & Edgmon for agency CPA services for the term of one year for total compensation of \$26,500.

**2. Discussion and Adoption of Resolution No 2009-06 Adopting NCRA Final Agency Budget for Fiscal Year 2009-2010**

Executive Director Stogner presented the Board with the FY 09-10 Final Agency Budget. He explained the revenues and expenses and said that staff will be pursuing property revenue and asking the state to allow NCRA to sell/lease surplus property to balance the budget deficit.

**Public Comment**

**Carlos Quilez** – asked about status of the loan with the Port of Humboldt Bay.

Upon motion by Director Kelley, seconded by Director Wagenet Resolution No. 2009-06 was approved. **AYES: 7, NOES 1- Meyers, ABSENT: 1, ABSTAIN: 0**

**3. Discussion and Adoption of Resolution No 2009-07 Adopting NCRA TCRP Final Budget for Fiscal Year 2009-2010**

Executive Director Stogner presented the Board with the FY 09-10 Final TCRP Budget. As to the TCRP budget, Director MacDonald asked about the approximately \$2.8 million owned NWP. Co. Executive Director Stogner said that there were only very minor disallowances by June 30, 2010. The budget figures include the cost of the EIR.

Upon motion by Director Meyers, seconded by Director Kelley, Resolution No. 2009-07 was approved. **AYES: 8, NOES: 0, ABSENT: 1, ABSTAIN: 0**

**4. Discussion and Adoption of Resolution No 2009-08 Adopting NCRA Wingo Camp II (Fish & Game) Final Budget for Fiscal Year 2009-2010**

Executive Director Stogner presented the Board with the FY 09-10 Final Wingo/Camp II Budget.

Upon Motion by Director Kelley, seconded by Director Meyers, Resolution No. 2009-08 was approved. **AYES: 8, NOES: 0, ABSENT: 1, ABSTAIN: 0**

**5. Approval of License Agreement at Railroad Milepost 266.0 (Jack Noble).**

Item Continued.

**6. Approval of Grant of Right of Way for Permanent Public Crossing at Railroad Milepost 70.85 (Quaker Hill).**

Director Kelley updated the Board on the Property Committee action related to the grant of right-of-way for permanent public crossing at milepost 70.85 (Quaker Hill). He said that the committee gave direction to staff and said that the main issues were: 1.) Split of compensation, 2.) PUC approval and the possibility of interest payments to NCRA if PUC took an extraordinarily long time, 3.) Liability issues, 4.) Crossing maintenance costs, 5.) Operator review of agreement and, 6.) SMART review.

Director Meyers asked if SMART had reviewed the crossing and if NCRA has a letter from SMART stating that the crossing is acceptable. He also requested that Craig Harrington provide to NCRA, within the next week, his legal filings with the Secretary of State that indicates who the managing partners are for Quaker Hill. Director Meyers asked what would happen if NCRA or SMART wanted an overcrossing or undercrossing in that location in the future. Mr. Harrington said that an overcrossing or undercrossing is not feasible in that location.

A lengthy discussion ensued in which the following issues relative to the Quaker Hill Agreement were discussed:

1. Director Meyers asked why the bond is 50% rather than 100% and requested the following language be added: “the bonding

company has to be acceptable to NCRA and if the bonding company falls below an acceptable level, Quaker Hill has to, within 30 days, furnish a bond from a company acceptable to NCRA for the same amount.”

2. Page 2 Section d. – Director Myers asked why 10 years was the date used.
3. Page 2 Section 3.b.(i) – Director Myers asked if language could be added that would state that NCRA could keep the \$50,000 irrespective of PUC approval.
4. Page 2 Section 3.b.(ii) - Director Meyers asked if the annual payment of \$3,600 should have an inflation clause. Mr. Harrington said that the \$3,600 annual fee is for maintenance.
5. Director Myers requested that Quaker Hill provide NCRA with an A&MBEST qualified insurance certificate that names NCRA as additionally insured. Legal Counsel for Quaker Hill said that the agreement states that NCRA can purchase insurance and charge Quaker Hill for the cost of such insurance.

Director Meyers suggested several other changes to the contract language that were deemed acceptable by Mr. Harrington and his legal counsel.

There was a brief discussion about NCRA’s policy regarding requests for new at-grade crossing. Legal Counsel said that NCRA’s policy is to disapprove any request for new at-grade crossings and that he would bring a detailed formal proposal establishing this policy in the near future to the Property Committee for further consideration.

Doug Bosco, said that the underlying issue is the insurance of the crossing. Mr. Bosco requested that NWP Co. be added as an additional insured.

### **PUBLIC COMMENT**

**Roger Graeber** – He commented on the traffic measures that should be in place at the crossing.

**Carlos Quilez** – He thanked Director Meyers for his review of the agreement. He also said that the operator should assume the liability because it is a cost of doing business.

Upon motion by Director Kelley, seconded by Director Meyers the Grant of Right of Way for Permanent Public Crossing to at Railroad Milepost 70.85 to Quaker

Hill was approved with the above mentioned changes. Motion approved unanimously. **AYES: 8, NOES: 0 ABSENT: 1, ABSTAIN: 0**

#### **G. CONSENT CALENDAR**

1. Approval of Minutes - Regular Board Meeting – August 12, 2009
2. Approval of Minutes – Property Committee Meeting – August 12, 2009
3. Acceptance of Financial Statements – August 2009
4. Approval of Warrants Issued - Agency 787010 – August 2009
5. Approval of Warrants Issued - TCRP 787101 – August 2009
6. Approval of Cal Card Statement – August 2009

Upon motion by Director Kelley, seconded by Director Meyers the Consent Calendar was approved with the following changes:

Director Meyers said that he would like to have a brief summary of what the public commenter's say. He also said that he would like a copy of any agreement that NCRA is negotiating with SMART.

Director MacDonald said that Jessica Puccinelli's name was spelled incorrectly twice.

Item G. 1 (Regular Board Meeting Minutes August 12, 2009) - Page 4, Item H. 3., last full paragraph, last sentence (by Director Meyers): Change it to: *He said that he thinks that "NCRA should get acknowledgment from the Operator that states that the Operator understands and agrees that NWP Co. is bound by the Trail Guidelines, anything to the contrary in the Operator's Lease notwithstanding."*

Item G. 2 – (Property Committee Meeting Minutes August 12, 2009) - end the last sentence: *"and staff would redraft the agreement and bring it back to the Committee and then to the full Board at a later date."*

Motion carried **AYES: 8, NOES: 0, ABSENT: 0, ABSTAIN: 0**

#### **I. LUNCH BREAK - 15 MIN**

Chairman Hemphill adjourned the meeting to break at 1:00 p.m.

#### **J. WORKSHOP**

1. **Timed Discussion Items**
  - a. **AB1234 – Ethics Training for Local Officials**

Staff updated the Board on the AB 1234 training which must be completed by Directors every two years. Staff requested that the Board members complete the training at their earliest convenience.

- b. **Directors & Officers Insurance** (Errors & Omissions)

There was a discussion about the type of liability insurance that may be available for individual Directors. Legal Counsel Neary said that the Board members have absolute protection when making decisions in their capacity as NCRA Directors. He said that public agencies do not typically have any type of Director & Officer's insurance.

Staff and the newly formed Ad Hoc Committee were directed to draft a policy as part of the Bylaws that will strengthen and reinforce the issue of Director liability.

**c. NCRA Bylaws**

An Ad-Hoc Committee was formed that is comprised of Director Wagenet, Director Atkins and Chairman Hemphill. The Committee will meet and discuss the issues related to updating the NCRA Bylaws and Mission Statement with the goal of eventually presenting a recommendation to the Board at a future meeting. It was pointed out that Government Code 93000 should be reviewed to ensure that the Bylaws and Mission Statement adhere to the legislation creating NCRA.

Chairman Hemphill stated that 3 criteria had to be met for the line to extend north of Willits:

1. Economic reality;
2. Addressing environmental issues
3. Determining revenue sources

Director Meyers stated that as he read Government Code Section 93000, he understood that there need to be addressed:

1. The environment
2. The economics of restoring the line and running trains; and
3. Whether NCRA's actions were fiscally prudent

Director Meyers stated that in his view the September 2006 lease with NWP Co. was extremely lop-sided.

There ensued a lengthy discussion as to the Lease, its background, and the Board's mandate.

Mr. Bosco gave a brief review of the history of the line from the time he was a Congressman. He suggested that Board members encourage potential shippers to use the restored line.

Mr. Williams briefly spoke about the risks involved and the funds he has put into this.

There was a brief break.

**d. 5 Year Financial Projection** – Presented by Director MacDonald

Chairman Hemphill thanked Director MacDonald for taking the time to review NCRA's financial situation.

Director MacDonald presented the Board with his work papers outlining the agency's financial picture. He pointed out that the agency has outstanding loans that are going to be due and some outstanding debt that should be paid off. He also presented the Board with a payment plan for the Long-Term Debt.

There was a lengthy discussion about the amount that NCRA owes to NCWP Co. for advance lease payments, accrued interest and bridge loan funds. A discussion ensued about exactly what NCRA will owe NWP Co. in the future and how NCRA will reconcile the agreements.

It was the consensus of the Board that NCRA needs to engage its CPA to prepare accrual financial statements for presentation to the Board so that the Board can better understand the financial statements.

Director MacDonald said that NCRA should restructure its debt obligations and maximize the property lease revenue.

Chairman Hemphill agreed that the staff and the entire Board needs to work together to emphasize the need for agency funding, and to appeal to our elected officials, with a unified voice. He also said that the state needs to allow NCRA to sell or lease surplus railroad property and as a means of addressing NCRA's agency budget shortfall.

Director MacDonald said that he would like to discuss the NWP Co. agreements at some point in the future.

Director Wagenet requested staff review the NWP Co. agreements and provide the Board with an analysis of the financial ramifications of those agreements.

Director Atkins said that the 5 year plan is a good tool to seek funding and that the financial situation is not a surprise to anyone. She said that NCRA should continue to work on increasing revenue and reducing debt.

Director Colfax said that the reality is that NCRA needs to get trains running and should go to Sacramento and local agencies to try to seek funding toward that goal. He also suggested that Executive Director Stogner go before MCOG to request funding, and said NCRA needs to continue efforts to sell the Ukiah Depot property.

Director Clendenen suggested NCRA contact some of the trail groups and work cooperatively in an effort to raise funds.

Director Meyers wanted to know when the Board will deal with the smaller issues such as uploading information to the website and providing information packages to the new Board members.

Staff was directed to use the documents provided by Director MacDonald and update the numbers as needed. Also, staff was directed to return with a report in October on how the funding

challenges can best be overcome. Staff was also directed to begin to formulate a plan to keep the cities, counties, Cog's and other agencies up to speed on NCRA's progress and plans.

e. **NCRA Statutory Mandate -Section 93000 of the Government Code – Board Responsibilities.**

Legal Counsel Neary updated the Board on the events that lead to the state law in 1989 that created the NCRA (Govt. Code 93000)

He pointed out that the purpose of the statute was to:

1. Ensure continuation of freight and passenger service in Northern California;
2. Explore opportunities for improvement of rail service from Humboldt through Mendocino County ;
3. Enhance tourists access to the North Coast and to encourage tourist related industries;
4. And to enhance economic development.

A wide ranging discussion between Board Directors regarding the mission of North Coast rail restoration, and the financial challenges that confront the agency ensued.

All agreed that the workshop provided a forum for a productive discussion and exchange of information.

**Public Comment**

**David Pilpel** – He said he understands the struggles that NCRA has to overcome and suggested that the Board make its case in Sacramento regarding NCRA as an unfunded mandate. He said more people should know about NCRA and the Board should be more visible.

**Loretta Ellard - MCOG** – She said that the 2010 update of the Regional Transportation Plan (RTP) is currently being updated. She said that NCRA should be involved in updating and creating the rail aspect of the RTP. She said that some of the funding sources that NCRA may be qualified for need to be listed in the RTP. She reminded the Board that MCOG has a standing item on its agenda for NCRA updates and said that the NCRA's Executive Director has a seat on the Technical Advisory Committee (TAC).

f. **Looking Forward**

• **Lombard to Windsor- Repair Completion Date**

Dave Anderson, NCRA Project Manager updated the Board on the repair project. He reported on the three contractors currently performing repairs:

Balfour Beatty – finishing ballasting and regulating and culvert cleaning. They will be complete by the end of September.

Mass Electric – they have remobilized to complete signal work in Windsor, Petaluma and near Hwy 37 and Hwy 121. He said that there was significant vandalism at Cherry Tree. He said that the vandalism will be a setback. He said that the signal at Cherry Tree will be secured with additional measures. He said that the police department is involved and the vandals will be prosecuted.

Cooper Crane & Rigging – there are two bridges left and the permit for Schell Creek Bridge has been granted. He said that Cooper Crane will be remobilizing the week of September 14. He said that NCRA is waiting for a consultation with Fish and Wildlife about the Novato Creek Bridge. He said that Army Corps of Engineers will not give NCRA the permit to repair Novato Creek until the Fish and Wildlife service has provided its opinion. Mr. Anderson said that NCRA has to be out of the water by October 15 and needs the permit. He said that if the permit is not issued, the bridge will not get completed and that would mean slower speeds over Novato Creek. Dave said that with the exception of Novato Creek the repair work will be complete on October 15.

- **SMART/NCRA Operating Agreement**

Legal Counsel Neary said that the lawyers for NCRA and SMART are drafting a re-write of the Operating Agreement.

- **Emergency Order 21**

Dave Anderson reported that FRA needs to review the signal repair work. He said the FRA has been out to look at the repair work and are satisfied with the repairs that have been made. He said that the FRA should be able to come out and do a final inspection of the property. He reported that the training will still need to be conducted and should be done on the property.

- **Certification of EIR**

Angel Lucero said that the DEIR could be released the week of October 5 which would initiate a 30 day review period. She said that response to comments could be complete January 11<sup>th</sup> 2010 and that the earliest the EIR could be certified is January 25<sup>th</sup>.

- **Resume Operations - Lombard to Windsor**

Legal Counsel Neary said that trains could operate 30 days after certification of the EIR.

**K. MATTERS FROM THE BOARD**

No matters

**L. ADJOURNMENT**

Approved by NCRA BOD  
With Amendments 10/14/09

Chairman Hemphill adjourned the meeting to the next regularly scheduled Board Meeting at 5:07 p.m.

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