



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

NORTH COAST RAILROAD AUTHORITY (NCRA) Board of Directors Meeting

Healdsburg City Council Chambers
401 Grove Street, Healdsburg, CA
Sonoma County
Wednesday, October 10, 2018 - 10:30 a.m.

MINUTES

A. CALL TO ORDER

Chair Wagenet called the meeting to order at 10:30a.m.

B. ROLL CALL

Directors Present: Peters, Hart, Marks, McCowen, Fennell, Breen, Hagele, Kelley, and Wagenet

Others Present: Executive Director – Mitch Stogner, Legal Counsel – Chris Neary, NWP Co. Legal Counsel – Doug Bosco, and Guillon Inc. – Steve Honeycutt

C. AGENDA APPROVAL

Upon Motion by Director McCowen, seconded by Director Peters the Agenda was unanimously approved as presented.

D. PUBLIC COMMENT

Paul Downing – Mr. Downing said he does not think the state should dissolve the NCRA.

Paul Trouette, Lear Asset Management Inc. – Mr. Trouette said he has been under contract with NCRA to conduct routine property patrols along the railroad right-of-way in Willits for about 4-5 years and he has responded to several maintenance emergencies in the recent months. He said he would like to work with the NCRA to create an emergency maintenance response program and present a plan back to the Board.

E. PRESENTATION – Steve Honeycutt, Guillon Inc. – Update Ukiah Depot Improvements

Mr. Honeycutt updated the Board on the status of the Ukiah Depot Improvements. He said storm drain inadequacies and the costs involved to improve the storm drains have caused delays in the project and he is negotiating with the City of Ukiah to make changes to the scope of the work. He also said that the JCC

has not yet released a progress payment to pay for work already completed and asked for Board direction on how to proceed with negotiations with the City of Ukiah and the JCC.

Chair Wagenet referred this item to the Property Committee and recommended that the Committee meet with Mr. Honeycutt to discuss the Ukiah Depot Improvements and related property matters.

F. CONDUCT OF BUSINESS

1. Discussion and Possible Action Regarding SB1029 (McGuire)

Dir. McCowen- Dir. McCowen said that NCRA will cooperate fully with the state agencies conducting the assessment as required by SB1029 and will work fully with trail groups.

Dir. Kelley – Dir. Kelley said NCRA is still the property managers for 320 miles of property and it still has responsibilities that relate to that. He said that the NCRA needs to work with all agencies involved moving forward. He said that the Property Committee can have discussions with the CTC to get some clarification on what is expected of the NCRA and will cooperate fully with state agencies.

Dir. Hagele – Dir. Hagele said that the legislation is clear, and all property related items need CTC approval, and he believes NCRA needs to create a process that expedites the CTC approval process. He said NCRA has done a good job of maintaining the rails, but going forward, our purpose is now to transition to trails and we need to work with various trail groups to make the transition smooth. He also said he looks forward to working with the state on the next phase of the legislation.

Dir. Breen – Dir. Breen said he thinks that SB1029 is a new beginning and it is valuable for us to go through the legislation and create a list of our questions and immediately ask for a meeting with the Senator’s staff and the various state agencies and move forward from there.

Dir. Fennell – Dir. Fennell said that cooperation should be the order of the day, this is a new era, and she thinks that the NCRA needs to be a part of it and move forward. She said that there is ongoing work on the northern portion of the line and we need clarification on how to proceed with projects. She said that there is much work to be done to transition to trails and property related issues need to be resolved over time.

Dir. Marks – Dir. Marks said that a feasibility study in Humboldt County is moving forward with the THA for a tourist train and there has been big progress with the existing trails in the county. He also said a rail spur might be mentioned in the future for wind energy projects.

Dir. Hart – Dir. Hart said we are in a new era and it is important for the board to embrace its new role in this new economic development and to work collaboratively with the state. She recommended that a Trail Committee be created and offered to chair this committee.

Public Comment:

Jason Liles, Chief of Staff, Senator McGuire - Mr. Liles said that he thinks several Board members are overcomplicating this bill and that the title of the bill is self-explanatory. He said the bill is the NCRA closure and transition to trails act, and if the Board and staff are not spending 80-90% of their time on trails then they are not following the new state law. He advised Board members that are not ready to work on trails, promoting trails, or invest their time in trails to step down from the Board. He said the state mandate has clearly changed and that NCRA needs to focus on trails, not freight, and if that Board does not agree to the mandate or have time for trails, then those members should step down. He said all questions regarding SB 1029 should be put in writing and then submitted for review.

Dir. Fennell – Dir. Fennell said that in Jason’s email it says that all projects need to be brought forward for review by the CTC. She said she wanted some clarity on NCRA’s treatment of property encroachments.

Jason Liles – Mr. Liles said NCRA needs to make an effort to cooperate with the localities and trail organizations on the north coast.

Dir. Fennell – Ms. Fennel said that there is a question as to exactly what NCRA’s new responsibilities are with respect to trails?

Jason Liles – Mr. Liles said that The Great Redwood Trail is a long-term process and he thinks that bringing projects to the Board and making sure that people know that this is not a rail agency anymore and that this is a trail agency, would be useful.

Mr. Stogner – Mr. Stogner said that this bill is not clear, and it says for the next 2-years that NWP Co. and SMART are supposed to work something out, if possible, and during this time NCRA still oversees freight service from the Napa interchange to Windsor. Mr. Stogner said there is some ambiguity with respect to how the freight rail is treated while these negotiations are underway.

Jason Liles – Mr. Liles said that there is no ambiguity and that NCRA does not have a role in the negotiations between NWP Co. and SMART and once negotiations are done, then NCRA would not have a say in freight rail.

McCowen – Mr. McCowen said that NWP Co. does have a leasehold right to operate trains on the right-of-way and that is a property right protected by the Federal Constitution, and the state legislature has directed that assessments take place, negotiations between NWP Co and SMART take place, then be approved, and the outcome of those negotiations is not clear - whether \$4 mil. buys out equipment rights and the leasehold interest is not clear. He said NCRA still has freight responsibilities until these negotiations between SMART and NWP Co. are final.

Jason Liles – Mr. Liles said NCRA has no role in freight negotiations between SMART and NWP Co.

Chair Wagenet – Mr. Wagenet said that NCRA’s mission has changed but we still have a part in freight rail service until SMART and NWP Co. negotiations are complete. He said that NCRA needs to evaluate its financial structure and focus on transitioning to a trail group.

Dir. Hart – Dir. Hart pointed out a critical line in the legislation – What is our role? Our role is to immediately begin planning for the transfer of all of the Authority’s assets and liabilities for the dissolution of the Authority. She said she is concerned that she has not heard anything positive about trails.

Dir. Fennell – Dir. Fennell said for the record that she is extremely disappointed by the tone of the discussion here today. She said we need to develop a spirit of negotiation going forward.

Public Comment:

Mike Pechner – Mr. Pechner said that he has written several emails to Senator McGuire and has never gotten a reply from the Senator. He said that NCRA’s mandate is still in effect and he thinks the NCRA has not been given its due respect throughout this process.

Director Kelley left the meeting at 11:48 a.m.

Chair Wagenet referred this item to the Ad-Hoc Legislative Committee for the purpose of discussing draft letter to be sent to Senator McGuire, State Agencies, and Trail Councils on the North Coast.

2. Discussion and Possible Action Regarding Proposition 6 on the November 6, 2018 Ballot to Repeal Legislative Enactment of Transportation Funding (SB1)

Upon Motion by Marks, seconded by Director Fennell, the Board Approved a No on Proposition 6 position on the November 6, 2018 Ballot to Repeal Legislative Enactment of Transportation Funding (SB1).

Motion carried:

AYES: 8- Peters, Hart, Marks, McCowen, Fennell, Breen, Hagele, and Wagenet

NOES: 0

ABSENT: 1- Kelley

ABSTAIN: 0

G. CONSENT CALENDAR

- 1. Approval of Minutes – Regular Board Meeting – September 12, 2018**
- 2. Approval of NCRA Financial Statements – September 2018**
- 3. Approval of Warrants Issued – September 2018**
- 4. Approval of Cal Card Statement – September 2018**
- 5. Approval of Property Management Report – September 2018**

Upon Motion by McCowen, seconded by Director Peters the Board Unanimously Approved Agenda Items G.1 through G.4 and Item G.5 was removed.

H. OPERATOR REPORT – Doug Bosco – Legal Counsel NWP Co.

Mr. Bosco updated the Board on the recent activities of NWP Co.

I. STAFF REPORT – Mitch Stogner – Executive Director – Discussion of need for monthly Board meetings.

The Board discussed decreasing the frequency of Board meeting and decided that monthly Board meeting will continue.

J. LEGAL COUNSEL REPORT – CJ Neary

No report provided.

K. MATTERS FROM THE BOARD

No matters from the Board.

The Board convened to Closed Session at 12:42 p.m.

L. CLOSED SESSION

- 1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Government Code Section 54956.9(a) two cases

a. FRIENDS OF THE EEL RIVER V. NORTH COAST RAILROAD AUTHORITY

Marin County Superior Court Case # CIV1103605

b. CATS V. NORTH COAST RAILROAD AUTHORITY

Marin County Superior Court Case # CIV1103591

2. CONFERENCE WITH LEGAL COUNSEL – POTENTIAL INITIATION OF LITIGATION

Government Code Section 54956.9(c) one case

M. ANNOUNCEMENT OUT OF CLOSED SESSION

The Board reconvened to Open Session at 1:46 p.m.

The Board met in Closed Session on two matters of Existing Litigation. Received information and gave direction.

The Board also met in Closed Session on one item of Potential Litigation. Received information and no action taken.

N. ANNOUNCEMENT OF NEXT MEETING

Regular Board Meeting
Wednesday, November 14, 2018 - 10:30 a.m.
Mendocino County Board of Supervisors Chambers
501 Low Gap Road, Ukiah, CA
Mendocino County

O. ADJOURNMENT

Chair Wagenet adjourned the meeting at 1:48 p.m.