



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

NORTH COAST RAILROAD AUTHORITY (NCRA) Board of Directors Meeting

Novato Sanitary District
500 Davidson Street, Novato, Ca.
Marin County
Wednesday, April 10, 2019 - 10:30 a.m.

MINUTES

A. CALL TO ORDER

Chair Marks called the meeting to order at 10:32 a.m.

B. ROLL CALL

Directors Present: Hart, Fennell, Peters, Haschak, Hagele, and Chair Marks

Directors Absent: Kelley, McCowen, and Breen

Others Present: Executive Director - Mitch Stogner, Sonoma County Counsel– Elizabeth Coleman and Kara Abelson, Doug Bosco – President NWP Co., and Recording Secretary- Hiedy Torres.

C. AGENDA APPROVAL

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

D. PUBLIC COMMENT

No public comment.

Chair Marks adjourned the meeting to Closed Session at 10:34 a.m.

E. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Government Code Section 54956.9(a)

- a. KOSEWIC v. NORTH COAST RAILROAD AUTHORITY
Sonoma County Superior Court Case No. SCV - 263454**

Chair Marks reconvened the meeting to Open Session at 10:39 a.m.

ANNOUNCEMENT OUT OF CLOSED SESSION

The Board met in Closed Session regarding Agenda Item E.1.a and gave direction to Counsel.

F. CONDUCT OF BUSINESS

1. Further report out from Closed Session of March 6, 2019 regarding CATS v. NCRA, Marin County Superior Court Case No. CIV-1103591 and FOER v. NCRA, Marin County Superior Court Case No. CIV 1103605

Elizabeth Coleman, Sonoma County Legal Counsel reported that on March 6, 2019 the Board provided direction to counsel and staff with respect to 2 pending lawsuits: CATS v. NCRA and FOER v. NCRA. Pursuant to Board direction, settlement agreements for both actions were signed by NCRA on April 3, 2019. The vote to approve the proposed settlement on March 6, 2019 was as follows: Directors Marks, Hart, Hagele, Peters, Breen, McCowen, and Wagenet approved the proposed settlement and Directors Kelley and Fennell were both absent from the vote.

2. Discussion and Possible Action Regarding Decertification of EIR Certified by NCRA June 20, 2011

Public Comment:

Doug Bosco, President NWP Co.- Mr. Bosco said that he does not want to make substantive comments on the proposed settlement at this time, but he wanted to make sure that if any aspect of this agreement would bring NWP Co. back into the lawsuit, then NWP Co. would insist on the right to intervene. He also said that NWP Co. is very much in favor of settling these lawsuits.

Director Hart – Director Hart stated that the proposed settlement specifically mentions the continuance of current operations, that NWP Co. is involved in, and because the Board has previously attempted to decertify the EIR, there are no issues regarding current operations.

Director Fennell – Director Fennell asked that Legal Counsel address some of the issues that might arise for NWP Co.

Elizabeth Coleman, Legal Counsel – Ms. Coleman said that all parties were careful to draft a settlement agreement that would not bind NWP Co., although the settlement does not specifically address NWP Co.'s possible causes of action.

Upon Motion by Director Hart, seconded by Director Hagele Resolution 2019-02 was Approved by the Board and the June 20, 2011 EIR was decertified.

Motion Carried:

AYES: 5- Hart, Fennell, Haschak, Hagele, Marks

NOES: 0

ABSENT: 3- Kelley, McCowen, Breen

ABSTAIN: 1- Peters

3. Discussion and Possible Action Regarding License Agreement with City of Blue Lake for Phase 1 of Annie & Mary Trail

A Draft License Agreement was presented to the Board for discussion.

Upon Motion by Director Fennell, seconded by Director Peters the Board Unanimously Approved the Draft License Agreement.

Motion Carried:

AYES: 6- Hart, Fennell, Haschak, Hagele, Peters, Marks

NOES: 0

ABSENT: 3- Kelley, McCowen, Breen

ABSTAIN: 0

G. CONSENT CALENDAR

1. Approval of Minutes – Regular Board Meeting – February 13, 2019
2. Approval of Minutes – Special Board Meeting – March 6, 2019
3. Approval of NCRA Financial Statements – February and March 2019
4. Approval of Warrants Issued – February and March 2019
5. Approval of Cal Card Statement – February and March 2019

Upon Motion by Director Peters, seconded by Director Hagele the Board Approved Agenda Items G.1 through G.6.

Motion Carried:

AYES: 5- Hart, Fennell, Hagele, Peters, Marks

NOES: 0

ABSENT: 3- Kelley, McCowen, Breen

ABSTAIN: 1- Haschak - Items G.1 and G.2 only

H. OPERATOR REPORT – Doug Bosco – President, NWP Co.

Mr. Bosco said that NWP Co. has completed significant flood damage repair along the line and said that Caltrans gave NWP Co. permission for a shutdown of Highway 37 for 10 hours to complete necessary repairs. Mr. Bosco also said that during the above-mentioned repairs, he realized how much of an impact rail has on decreasing carbon emissions and climate change.

I. STAFF REPORT – Mitch Stogner – Executive Director

Executive Director Stogner said that Director McCowen had mentioned that he would like to discuss the Ukiah Depot Project and would like the Board to reaffirm its direction granting the Executive Director authority to execute all documents necessary to complete the worked called for under the Off Site Improvement Agreement approved by the board in March 2016, including amendments to that agreement.

Steve Honeycutt - Guillon Inc. – Mr. Honeycutt gave the Board an update on the project status of the Ukiah Depot. Mr. Honeycutt will be meeting with the Project Manager from the Judicial Council of California on April 12 in Ukiah and will be discussing possible amendments to the scope of work as required by the Off-Site Improvement Plan and the Project Management Agreement.

Dir. Hart said she would like this added to the Agenda for a project update at its next meeting.

Leishara Ward said that this project needs to be approved by the CTC and needs to be added to their Agenda for discussion.

The Board requested that Legal Counsel and Caltrans staff have this item added to the CTC Agenda for discussion and possible approval.

Executive Director Stogner said that he spoke with Humboldt County regarding dilapidated trestles along the Annie & Mary line and has been attempting to address this issue, but due to lack of funding, it is difficult to remedy the issue with these trestles.

J. MATTERS FROM THE BOARD

Director Hart – Dir. Hart said she is going to be rafting the Eel River and is looking forward to that trip. She also said she is giving a presentation at the California Trails Council and will she will give a report at the next meeting.

Director Fennell - Dir. Fennell said that the River Life Foundation has completed a trail project and that it was brought to her attention that they did not complete the appropriate documents. She said the trail is beautiful and is opening on April 20. She also said that the permission given to River Life was to clean-up the area which included placement of gravel on a portion of the area that was subject to the clean-up.

Director Haschak – Dir. Haschak introduced himself and said he looks forward to working with the NCRA.

Director Hagele – Dir. Hagele said that he is prepared to stay on the NCRA Board as the city-appointed representative and the Vice Chair even though his term is set to expire in June 2019.

Director Marks – Dir. Marks said that Humboldt Bay is down to 13 feet and emergency dredging has been requested.

L. ANNOUNCEMENT OF NEXT MEETING

Regular Board Meeting
Wednesday, May 8, 2019 - 10:30 a.m.
825 5th Street, Eureka, CA
Humboldt County

M. ADJOURNMENT

Chair Marks adjourned the meeting at 11:33 a.m.