

Agenda Item No. 4



PLEASE NOTE:

In an effort to conserve paper, copies of the agenda items and staff reports for the January 17, 2007, and the December 20, 2006, SMART District Board meetings are not included in this packet, but are available in the Office of the District Secretary.



AGENDA: SMART DISTRICT BOARD MEETING

January 17, 2007

1:30 PM

San Rafael City Council Chambers
1400 Fifth Street, San Rafael

- I. Call to Order
- II. Minutes of the December 20, 2006 SMART Meeting – **DISCUSSION/ACTION****
- III. Consent Agenda – **DISCUSSION/ACTION****
 - III-1. SMART Financial Update Project Cost Report - **INFORMATION ****
 - III-2. General Manager Compensation and Benefits Adjustment
- IV. Agenda Review
- V. Public Comment on Items Not on the Agenda (Comments Limited to 3 Minutes)
- VI. SMART General Manager Report (Lillian Hames) – **DISCUSSION**
- VII. Real Estate Committee Report (Lucrecia Milla) – **DISCUSSION**
- VIII. Authorization for EIS Field Studies - **DISCUSSION/ACTION***
 - A. Garcia and Associates Contract Authorization
- IX. Hanson Bridgett Contract Amendment - **DISCUSSION/ACTION****
 - A. Authorization for Amendment to Legal Services Agreement
- X. Amendment to Administration Code - **DISCUSSION/ACTION****
 - A. Recommendation to Establish Operations Committee
 - B. Resolution 2007-01
- XI. Resolution 2007-02 SMART Property Fees – **DISCUSSION/ACTION****
 - A. Revised Fee Structure
 - B. Resolution 2007-02
- XII. Election of Chair and Vice Chair and Appointment of Committee Members - **DISCUSSION/ACTION**
- XIII. Closed Session
 - a. Closed Session: Conference with Real Property Negotiator (Govt. Code. Section

54956.8)

Property: Northwestern Pacific Railroad (NWP) Right-of-Way from NWP Milepost 53.8 in Santa Rosa, Sonoma County.

District Negotiator: Lillian Hames, General Manager

Negotiating Parties: Railroad Square, LLC

Owner: SMART District

b. Closed Session: Conference with Real Property Negotiator (Govt. Code. Section 54956.8)

Property: Northwestern Pacific Railroad (NWP) Right-of-Way from NWP Milepost 17.5 in San Rafael, Marin County; Gap Closure Project

District Negotiator: Lillian Hames, General Manager

Negotiating Parties: TAM, Caltrans

Owner: SMART District

c. Closed Session Conference with Legal Counsel-Anticipated Litigation.

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 Anna Carissa Suarez v. SMART, et al. (Sonoma County Superior Court, case number 2399507)

d. Closed Session: Conference with Real Property Negotiator (Govt. Code. Section 54956.8)

Property: Northwestern Pacific Railroad (NWP) Right-of-Way from NWP Milepost 53.8 in Santa Rosa, Sonoma County.

District Negotiator: Lillian Hames, General Manager

Negotiating Parties: Santa Rosa Cannery, LLC

Owner: SMART District

e. Closed Session: Conference with Real Property Negotiator (Govt. Code. Section 54956.8)

Property: Northwestern Pacific Railroad (NWP) Right-of-Way from NWP Milepost 36.5 in Petaluma, Sonoma County.

District Negotiator: Lillian Hames, General Manager

Negotiating Parties: Dutra Materials

Owner: SMART District

XIV. Report on Closed Session

XV. Next Meeting Date: February 21, 2007, **1:30 pm**, Sonoma County Board of Supervisors Chambers, Santa Rosa - **DISCUSSION/ACTION**

XVI. Adjournment - **ACTION**

DISABLED ACCOMMODATION: if you have a disability that requires the agenda materials to be in an alternate format or that requires an interpreter or other person to assist you while attending this meeting, please contact SMART at least 72 hours prior to the meeting to ensure arrangements for accommodation.

* Information will be provided at the meeting, ** Information attached.



**MINUTES OF SMART BOARD MEETING
December 20, 2006
1:30 PM Sonoma County Board of Supervisors Chambers
575 Administration Drive, Room 100A
Santa Rosa**

I Call to Order

Chair Boro brought the meeting to order. The following Directors were present:

Mike Kerns
Deborah Fudge
Mike Healy
Peter Breen
Charles McGlashan
Bob Jehn
Jim Eddie
Carole Dillon-Knutson
Mike Reilly
Barbara Pahre

Director Hal Brown was absent

II Minutes of the November 15, 2006 SMART Meeting

Chair Boro asked for approval of the November 15, 2006 SMART Board meeting minutes. Co-Chair Kerns moved approval, Director Fudge seconded. The minutes were unanimously approved.

III Consent Agenda

Chair Boro brought up the Consent Agenda and asked for approval. Director Breen moved approval and Director McGlashan seconded; with no dissenting votes, the consent agenda was approved.

IV Agenda Review

Chair Boro asked if there were any changes to the Agenda from staff or the Board. There were none.

V Public Comment on Non-Agenda Items

David Grabill, Sonoma County Housing Advocacy, stated his approval of the Creative Housing proposal to add low income housing south of Third Street at Railroad Square. He noted the availability of state funding and other sources for such a proposal. Andy Peri, MCBC, stated he wanted to clarify a point from the minutes of the last SMART meeting noting that MCBC supports a 2008 ballot measure if the same percentage of funding for the pathway remains in place. Al Cornwell, representing the Dutra Group, stated he received a copy of the consultant report from LTK and supported the seven conditions of

implementation noted in that report. He urged the Board to approve the conveyor belt encroachment across the rail right of way in Petaluma.

VI SMART General Manager Report

Ms. Hames stated that staff has been preceding with work on general property management issues and the EIS scope of work. She updated the Board on the final Measure R results and the final percentage of support; 65.3%. Results by supervisorial district were also summarized. County totals of 70% for Sonoma County and 57.51%.for Marin County were discussed.

VII Real Estate Committee Report

Lucrecia Milla stated that at the last committee meeting on December 6th most of the meeting was in closed session and the committee gave directions to staff. Aside from various license agreements and right of entry permits, staff has been working on negotiations with the City of Petaluma on the MOU regarding the trestle. Staff has also been working on negotiations for the revised agreement with the Sonoma County Probation Camp for on-going maintenance of the NWP right of way.

VIII Extension of Consultant Contracts

Ms. Hames referred the Board to the staff report included in the packet. She noted that the HDR, Results Group and CDA contracts were scheduled to expire the end of the month. This action would extend and amend those contracts. Due to the work of the Ad Hoc Committee staff was recommending that only the HDR contract be extended by two years. Both the Results Group and CDA contracts were recommended for six month extensions to be reviewed following the Ad Hoc Committee recommendations on next steps.

Director Breen asked what impact freight service would have on SMART and would the allocation of funds for HDR be enough to conduct this analysis. Ms. Hames stated that the average monthly allocation of \$10,000 did include on call needs. Director McGlashan asked if sufficient funding existed for additional analysis the Ad Hoc Committee might need. Ms. Hames noted that given current discussions the budget should be adequate. Director Dillon-Knutson asked who would be responsible for repairing the track so freight could use it. Ms. Hames stated that NCRA has funds and plans to upgrade the tracks for freight operation in advance of passenger rail service. The existing operating agreement that SMART inherited from NWPRA provides an on-going freight operating easement to cover this service. Ms. Hames noted that the FRA halted freight service in 2001 due to required upgrades to the track/trestles. NCRA was moving ahead with funding to now provide those upgrades.

Ms. Hames stated the Results Group contract would cover on-going monthly outreach efforts, the maintenance of the website, hotline and meeting attendance and moderation of the selected meetings.

The Community Design & Architecture contract would provide station planning and TOD analysis for Railroad Square.

Chair Boro asked for motion of all three contracts. Co-Chair Kerns moved approval and was seconded by McGlashan. It passed unanimously.

IX SMART 2007 Meeting Calendar

Ms. Hames stated the calendar set forth the times and dates of the SMART Board and Real Estate Committees. She noted that on July 11th staff was having a little difficulty finding a location, given the regular Real Estate Committee would fall on July 4th and the meeting was being delayed one week. She also stated that a Board Meeting in August was scheduled, although it was generally cancelled due to quorum issues. Chair Boro said the date should be held at this time.

Chair Boro asked if item XII, Resolution 2006-09 in Appreciation of Mike Healy's Service be moved up earlier in the agenda. Co-Chair Kerns moved and Director Fudge seconded. It passed unanimously.

Chair Boro stated Director Healy had been on the Board for 3 years and noted his appreciation of his efforts and wished him luck in future undertakings. Director Healy thanked everyone and underscored the excellent work of the Board, stating his enjoyment in having an opportunity to work with all the members and staff. He noted that he would continue to work to implement passenger rail service. Co-Chair Kerns stated he would miss Director Healy on this Board and the Petaluma City Council and wished him well. Director Dillon-Knutson stated being neighboring cities she enjoyed his leadership and working with him. Director McGlashan stated his appreciation of all of Director Healy's work and leadership. Ms. Hames provided Director Healy with gift and copy of the approved resolution of appreciation.

X Closed Session

Chair Boro stated the Board would now go into closed session.

XI Closed Session Report Out

Mr. Dion stated on Item (a) the Board approved the performance evaluation of the General Manager, recommending a 5% salary increase and adjustment to Ms. Hames severance package. The Board directed Mr. Dion to bring an amended contract for Ms Hames to the January meeting. On item (b) an update was given to the Board on negotiations related to Railroad Square and there was nothing further to report. On item (c) an update was given to the Board, with nothing further to report. On item (d) regarding the Suarez legal matter, a lawsuit was filed in Marin County and an update was given to the Board and directions were given to Staff. On item (e) an update was given to the Board and there was nothing else to report. On item (f) regarding negotiations with City of Petaluma on trestle and spur removal issues, direction was given to staff. On item (g) regarding Dutra Materials, directions were given to Staff and there was nothing else to report.

XII Resolution 2006-09 in Appreciation of Mike Healy's Service

This matter was discussed during Item IX above.

XIII Next Meeting Date January 17, 2007 1:30p.m, San Rafael City Council Chambers

Chair Boro stated the next meeting would be on January 17, 2007 at the San Rafael City Council Chambers in San Rafael.

XIV Adjournment: The meeting adjourned at 3:35p.m.



AGENDA: SMART DISTRICT BOARD MEETING

December 20, 2006

1:30 PM

Sonoma County Board of Supervisors Chambers
575 Administration Drive, Suite 102-A, Santa Rosa

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- II. Minutes of the November 15, 2006 SMART Meeting – **DISCUSSION/ACTION****
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- V. Public Comment on Items Not on the Agenda (Comments Limited to 3 Minutes)
- VI. SMART General Manager Report (Lillian Hames) – **DISCUSSION**
- VI. Real Estate Committee Report (Lucrecia Milla) – **DISCUSSION**
- VIII. Extension of Consultant Contracts – (Lillian Hames) **DISCUSSION/ACTION****
 - A. HDR
 - B. Community Design + Architecture
 - C. The Results Group
- IX. SMART 2006 Meeting Calendar - **DISCUSSION/ACTION****
 - A. Proposed Schedule
 - B. January 3, 2007 Real Estate Committee Meeting Cancelled
- X. **Closed Session**
 - a. Closed Session: Performance Evaluation (Gov't Code Section 54957(b))
Title: General Manager
 - b. Closed Session: Conference with Real Property Negotiator (Govt. Code. Section 54956.8)
Property: Northwestern Pacific Railroad (NWP) Right-of-Way from NWP Milepost 53.8 in Santa Rosa, Sonoma County.
District Negotiator: Lillian Hames, General Manager
Negotiating Parties: Railroad Square, LLC
Owner: SMART District
 - c. Closed Session: Conference with Real Property Negotiator (Govt. Code. Section 54956.8)

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d. Closed Session Conference with Legal Counsel-Anticipated Litigation.
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f. Closed Session: Conference with Real Property Negotiator (Govt. Code. Section 54956.8)

Property: Northwestern Pacific Railroad (NWP) Right-of-Way from NWP Milepost 38.88 in Petaluma, Sonoma County.
District Negotiator: Lillian Hames, General Manager
Negotiating Parties: City of Petaluma
Owner: SMART District

g. Closed Session: Conference with Real Property Negotiator (Govt. Code. Section 54956.8)

Property: Northwestern Pacific Railroad (NWP) Right-of-Way from NWP Milepost 36.5 in Petaluma, Sonoma County.
District Negotiator: Lillian Hames, General Manager
Negotiating Parties: Dutra Materials
Owner: SMART District

XI. Report on Closed Session

XII. Resolution 2006-09 In Appreciation of Mike Healy's Service - **DISCUSSION/ACTION***

XIII. Next Meeting Date: January 17, 2007, **1:30 pm**, San Rafael City Council Chambers, San Rafael – **DISCUSSION/ACTION**

XIV. Adjournment - **ACTION**

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**MINUTES OF SMART BOARD MEETING
November 15, 2006
1:30 PM San Rafael City Council Chambers
1400 Fifth Street
San Rafael**

I Call to Order

Chair Boro brought the meeting to order. The following Directors were present:

Mike Kerns
Deborah Fudge
Mike Healy
Peter Breen
Charles McGlashan
Hal Brown
Bob Jehn
Jim Eddie
Carole Dillon-Knutson

Directors Mike Reilly and Barbara Pahre were absent

II Minutes of the October 18, 2006 SMART Meeting

Chair Boro asked for approval of the October 18, 2006 SMART Board meeting minutes. Director Breen moved to approve the minutes, Co-Chair Kerns seconded. The minutes were unanimously approved.

III Consent Agenda

Chair Boro brought up the Consent Agenda and asked for approval. Director Jehn moved to approve and Director Healy seconded; with no dissenting votes, the consent agenda was approved.

IV Agenda Review

Chair Boro asked if there were any changes to the Agenda from staff or the Board. There were none.

V Public Comment on Non-Agenda Items

Steve Birdlebough, Friends of SMART, stated he wanted to thank the Board, the Sierra Club, Bicycle Coalition, League of Women Voters and all of the people that made last week's election a near win and he hoped to see it succeed next time around. He noted that many rail initiatives take several attempts for passage and he thinks 2008 should see the measure presented again. Andy Peri, Marin County Bicycle Coalition, stated his organization was very pleased to support Measure R. Mr. Peri asked that as SMART

moves forward to bring back the rail and trail initiative in 2008, it should state its intention in a resolution that all rail supporters could endorse. Ellen Langford, Sleepy Hollow resident, suggested that there be a train that would stop at Point Sonoma (no further south) with hovercraft service to San Francisco. Michael Lopez, Marin County resident and business owner, stated he was a huge advocate of SMART. He suggested that there be a very clear outline of what biodiesel means, there was confusion of diesel vs. biodiesel with low sulfur fuel. He also thought there should be more public discussion of quiet zones. Kyle Kyland, former San Rafael mayoral candidate, suggested the Board not take Measure R back to the voters.

VI SMART General Manager Report

Ms. Hames stated that major staff activities included working on negotiations with LLC Railroad Square development, refining the EIS scope of work, working with the Advisory Committee for the Non Motorized Pilot Program and reviewing the recently received NCRA/NWPRC draft agreement.

VII Real Estate Committee Report

Lucrecia Milla stated that at the last committee meeting the majority of the meeting was closed session, with directions given to staff on several items. She noted that staff was also working on plans for the Gap Closure encroachments and the CalPark Tunnel Project.

VIII District Next Steps

Ms. Hames gave an overview of the 2006 November 7th Election Results. Without full counts of all absentee ballots, Measure R received 69% support in Sonoma County and 57% support in Marin County. There are approximately 50,000 absentee ballots to be counted. Staff would have a final tally at the next Board meeting. Chair Boro stated he would now open the discussion for public comment.

Karen Nygren stated that she would like to support a SMART sales tax, but that the proposal has to define the benefits for Marin County. She said the train should also serve Marin County employees who work in Sonoma County. She asked that any agreement with NCRA be discussed at future Board meetings. Chair Boro noted that any NCRA agreements would be brought back to the full Board for discussion.

Richard Silver, Executive Director of Rail Passenger Association of California, stated that receiving over 65% should be considered a victory and that SMART has an obligation to continue to work on passenger rail service and encouraged the Board to come back to the voters again. He suggested improvements in the measure by addressing concerns about the Larkspur ferry connection.

Julia Pine, Coordinator of the Accountable Development Coalition of Sonoma County, wanted to thank the Board and staff for their hard work and strongly suggests SMART move ahead to a 2008 vote.

Marcus Vivian, Transportation Alternatives for Marin, wanted to thank the Board and all the agencies for their efforts. He encouraged the Board to consider moving several Phase II segments for the pathway into Phase I.

John Diamonte, Threshold Environmental Center, wanted to thank the Board on behalf of the Sonoma/Marin Sierra Club.

Mr. Kyland stated that biodiesel was an old technology which stopped people from voting for the train.

Bill Kortum, Sonoma Conservation Action, stated he went door to door and there were a lot of enthusiastic people about the train and that the Board should push a little harder in 2008 and also have more public meetings to raise awareness.

Pat Pollack, San Rafael resident, stated SMART needed to read the letter from Eric Moore of PUC wrote in the Marin Independent Journal stating he was against the SMART proposal and there were good reasons in the letter not to vote for the train.

Chair Boro offered comments to the Board, stating he had concluded after reviewing the results and listening to some of the people today that he would like to review the issues and create a committee to work together and come back with recommendations to the full Board in approximately 90 days. Chair Boro suggested that Co-Chair Kerns, Director Reilly, Director Jehn, Director McGlashan and he serve on a special ad hoc committee. Co-Chair Kerns supported Chair Boro's suggestion, stating that 65% voter support is a large majority indicating voter support of the project.

Director McGlashan stated that his support for Measure R started and ended with his concern over preventing climate change. He believes that a measure similar to R has to be carried forward to get cars off the freeway and to reduce greenhouse gases. He stated that additional work with Novato and Larkspur is required. He felt that the campaign was heartbreaking in the amount of misunderstanding and misinformation that was intentionally told to the public by the opposition. He noted that SMART's biodiesel strategy is the cleanest fuel strategy available today. Regarding the housing claims, he wanted to confirm there is no stealth campaign to add housing into any Marin jurisdictions. He went on to state that he wanted to work with the public to get the correct information to them and to discuss improvements to the SMART project.

Director Breen stated he supported Chair Boro's proposal and wanted to work on a campaign that had additional time to properly get the correct information about the SMART project to the public. Director Dillon-Knutson said that the forum conducted by the City of Novato had 150 people in attendance and provided information to the public. She would like to see more of that in the future. She went on to say that Novato was in jeopardy of becoming an economic island in the middle of severe commuter congestion and something must be done. She also noted that ABAG housing assumptions would be discussed over the next several months to determine the validity of recent statements. Last, she supported Director Boro's suggestion to establish the Ad Hoc committee.

Director Healy stated he would encourage the committee to recommend improvements to the existing project, but to take no actions that significantly alters what over 65% of the public supports. Director Fudge stated she was disheartened by the comments of those opposed to Measure R in light of the recent vote. She is looking forward to the committee recommendations and underscored her support for the project.

Chair Boro concluded the discussion by stating that there seemed to be a consensus and that the committee would be formed and begin meeting as soon as possible.

IX Closed Session

Chair Boro stated the Board would now go into closed session.

X Closed Session Report

Mr. Dion stated on Item a, information was given to the Board and there was nothing further to report. Items b and c and e were pulled from today's closed session. Item d, information was provided to the Board that a complaint was filed and there was nothing further to report. Item f, an update was given to the Board and there was nothing further to discuss.

XI Next Meeting Date December 20, 2006 1:30 pm, Sonoma County Board of Supervisors Chambers, Santa Rosa

Chair Boro stated the next meeting would be on December 20, 2006 at the Sonoma County Board of Supervisors Chambers in Santa Rosa.

XII Adjournment

The meeting adjourned at 3:30 p.m.