

Agenda Item No. 3



PLEASE NOTE:

In an effort to conserve paper, copies of the agenda items and staff reports for the March 21, 2007, and April 18, 2007, 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

March 21, 2007

2:30 PM

San Rafael City Council Chambers
1400 Fifth Street, San Rafael

PLEASE NOTE TIME CHANGE FOR THIS MEETING

- I. Call to Order
- II. Minutes of the February 21, 2007 SMART Meeting – **DISCUSSION/ACTION****
- III. Consent Agenda – **DISCUSSION/ACTION****
 - III-1. SMART Financial Update Project Cost Report - **INFORMATION ****
 - III-2. Administrative Assistant Salary Increase
 - III-3. Hanson Bridgett Contract Amendment
- 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. EIS Consultant Recommendations (Lillian Hames) - **DISCUSSION/ACTION***
- IX. Calpark Cost Sharing Agreement (Lillian Hames/Greg Dion) - **DISCUSSION/ACTION***
- X. Penngrove Sidewalk Easement (Lucrecia Milla)- **DISCUSSION/ACTION***
- XI. Extension of ENA with New Railroad Square, LLC (John Nemeth) – **DISCUSSION/ACTION****
- XII. 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

14.6 in San Rafael, Marin County, CalPark Cost Sharing Agreement.
District Negotiator: Lillian Hames, General Manager
Negotiating Parties: Marin County
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 43.7 in Penngrove, Sonoma County; Penngrove Sidewalk Easement
District Negotiator: Lillian Hames, General Manager
Negotiating Parties: Sonoma County
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

XIII. Report on Closed Session

XIV. Next Meeting Date: April 18, 2007, **1:30 pm**, Sonoma County Board of Supervisors Chambers, Santa Rosa - **DISCUSSION/ACTION**

XV. 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
February 21, 2007
1:30 PM Sonoma County Board of Supervisor Chambers
575 Administrative Drive
Santa Rosa, California

I Call to Order

Chair Kerns brought the meeting to order. Chair Kerns noted that Director Jake Mackenzie had been sworn in by Mr. Greg Dion as a new Director and welcomed him back. Director Mackenzie thanked everyone and stated it was pleasure to be back with SMART. The following were present:

Vice Chair Charles McGlashan
Al Boro
Bob Jehn
Jim Eddie
Carole Dillon-Knutson
Jake Mackenzie

Directors Hal Brown, Deb Fudge, Barbara Pahre, and Mike Reilly were absent

II Minutes of the January 17, 2007 SMART Meeting

Chair Kerns asked for approval of the January 17, 2007 SMART Board meeting minutes. Director Boro moved to approve the minutes. Director McGlashan seconded. Director Mackenzie abstained.

III Consent Agenda

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

IV Agenda Review

Chair Kerns stated there was one correction on the Staff Report for Agenda item XI: it should be corrected as IX. Chair Kerns asked if there were any other changes to the Agenda from staff or the Board. There were none.

V Public Comment on Non-Agenda Items

Chair Kerns asked if there were any comments from the public. Ms. Christine Culver, Executive Director of Sonoma County Bicycle Coalition (SCBC), stated she would like to work with SMART to refine a design for the pathway barriers. She was concerned that several alternative designs should be available for different settings and that these designs should not be expensive. Ms. Culver went on to inform the Board of the SRJC \$1 million settlement to assist with a bike/pedestrian over crossing over Hwy. 101 connecting to the

Jennings Avenue Rail Station. She wanted to begin work with SMART on the location of a west side footprint for the crossing.

VI SMART General Manager Report

Ms. Hames stated we held our first Operations Committee Meeting last week. There were presentations by SMART and by the North Coast Railroad Authority (NCRA) staff on proposals for the NWP corridor. The committee recommended that SMART and NCRA staff begin renegotiating a new operating agreement to replace the 1996 agreement negotiated with the Northwest Pacific Railway Authority (NWPRA).

VII Real Estate Committee Report

Lucrecia Milla stated that the February 7, 2007 Real Estate Committee discussed reviewing easement policy that was agendized for today's meeting.

VIII Annual Audit Report

Ms. Hames pointed out that the Annual Audit Report was part of the Packet and covered financial activity through June 30, 2005. She noted that SMART's Accountant, Scott Catania, was present if anyone had any questions on the report. Ms Hames stated there were no significant issues that came out of this audit. Chair Kerns asked if there were any questions from the Board. Director Jehn stated he noticed there was a slight decrease in assets and asked if Mr. Catania could address it. Mr. Catania stated there were notes towards the back of the report on the depreciation of the right of way. Director Jehn thanked Mr. Catania for the explanation. The motion to accept the audit report was moved by Director Dillon-Knutson, seconded by Vice-Chair McGlashan and passed unanimously.

IX RFQ Environmental Impact Study

Ms. Hames stated SMART has been working with our Project Manager, Vicki Hill and also with Dowling and Associates on preparing a detail scope for initiating the Environmental Impact Study (EIS). She noted that after discussions with Caltrans staff it was recommended that a competitive procurement be initiated. Staff recommended that a Request for Qualifications (RFQ) be released immediately to determine what firm or firms would have the best qualifications to complete an EIS for SMART. Ms. Hames presented a draft RFQ to the Board and asked if the Board could move forward with the RFQ process. She noted that staff would like to release the RFQ by the end of the week or the beginning of next week. There was a schedule within the RFQ document of the process leading to Board approval by the April meeting. Vice Chair McGlashan asked if SMART had extra copies of the Final EIR for firms that might want to look at it as they prepare for the RFQ. Ms. Hames stated it would be available online and there are some copies at the SMART District Office. Director Jehn asked how many recipients of the RFQ there would be. Ms Hames stated the list is approximately 40 firms. Vice-Chair McGlashan moved the recommendation and Director Dillon-Knutson seconded. It passed unanimously.

X CalPark Tunnel Cost Sharing Agreement

Ms. Hames stated that SMART had been involved in the CalPark Tunnel Rehabilitation Project for a number of years. She explained that initially the project originated with the Marin Bicycle Coalition and Marin County in 2001. In 2005, SMART made a request to the Metropolitan Transportation Commission that the rail readiness of the tunnel be funded out of Regional Measure 2 (RM2) funds. This improvement would assure that both the pathway and the rail corridor could operate side by side. Design work has been proceeding over the last two years. SMART's costs were originally allocated at 43%, making the County responsible for 57% of the costs. Now, at the 90% level of design,

costs have increased due to scope changes as well material cost increases. Many of the new railroad tunnel improvements would have long term advantages to the SMART District.

Due to the long term advantages to rail, staff is recommending that cost sharing for the project should be changed to a 50/50 allocation as opposed to the former 43/57 split. Staff is recommending that the Board approve SMART's revised cost sharing amount at 50/50, give direction to staff to revise the existing Cost Sharing Agreement, approve the request for additional design monies through the RM2 program as outlined in the attached IPR update, and adopt Resolution 2007-03.

Chair Kerns asked if the Board had any comments. There were none. Chair Kerns then asked if the public had any comments. Andy Peri of the Marin County Bicycle Coalition (MCBC) expressed his appreciation for the staff's recommendation. Ms. Culver, SCBC, also supported staff's recommendation and felt it was a critical transportation enhancement. Mike Arnold stated he did not support the recommendation. Steve Birdleough, Friends of SMART, stated it would be reasonable step to take at this time and recommended approval of the resolution. Dennis Rosatti, Co Director of Sonoma County Conservation Action (SCCA) stated his support for the recommendation noting that a ferry connection was very important.

Vice-Chair McGlashan stated he was grateful to the SMART staff for their recommendation for a 50/50 partnership. Director Mackenzie stated he particularly appreciated an opportunity to be back on the Board to support this recommendation. Director Mackenzie felt Marin County should welcome the opportunity to walk, bike or take the train to make the connection to the ferry. Director Dillon-Knutson also stated her support for the recommendation. Director Boro noted his concurrence that the Board made a policy decision in 2005 to upgrade the tunnel at one time and that this recommendation supported that effort to do it once and do it right for the future. Vice-Chair McGlashan moved to pass the recommendation, Director Eddie seconded and it passed unanimously.

XI Gap Closure Project Update

Ms. Hames stated that staff had also been working with Marin County, the Transportation Authority of Marin (TAM) and Caltrans on the Gap Closure Project to review and comment on the plans to relocate the SMART railroad corridor to make way for a new high occupancy vehicle lane (HOV) in Central San Rafael. SMART involvement began in 2002, with plan reviews by SMART's rail engineer, Mike Strider, who received the final bid package for the Gap Closure Project today and began reviewing them.

Ms. Hames wanted the Board to understand that the general practice for rail relocations is to rebuild the track as the first phase of construction. TAM has indicated that they would not rebuild the railroad tracks first; they would rather allow the contractor to determine the most appropriate sequence of construction elements. This sequencing would be determined in the bid documents that will be submitted on the project.

TAM assured the adjacent neighborhood, the San Rafael Lincoln Hill area that all efforts would be made to rebuild the soundwall as early as possible. To address SMART's relocation, TAM proposed a resolution to go before the TAM Board tomorrow that assures the replacement of the SMART railroad tracks.

In addition to the resolution, our legal counsel had been looking at how this issue would be influenced by the Memorandum of Understanding (MOU) between Caltrans and the Golden Gate Bridge District. This MOU governs the transfer of rail right of way to Caltrans and the replacement of it with new right of way. The MOU was inherited by SMART when ownership of the NWP transferred. Greg Dion stated that the MOU provides safe guards

that the tracks must be replaced and that Caltrans can not receive title until the railroad facilities have been constructed. Ms. Hames stated that if the tracks are not replaced in the summer/fall of 2008, no demonstration train could be run prior to a possible 2008 ballot measure.

Diane Steinhauser, TAM, stated they were very excited to be able to move forward on the pike bath/sound walls. She thanked SMART for their responsiveness to TAM's schedule.

Ms. Hames stated that following review of the Gap Closure bid package documents SMART's rail engineer would sign off on the final plan. Director Jehn noted that although he appreciated the work staff had done on this project, he was curious if there were any precedent or case law for this process. He stated his concern related to operating or non-operating railroads and alterations to the standard precedent. Director Boro stated that he understood that counsel had addressed that question. Mr. Dion stated that the MOU language protected SMART such that the trackway would have to be replaced before title could transfer to Caltrans. Director Dillon-Knutson asked when the homes would be demolished. Ms. Steinhauser stated all structures that needed to be removed have already been accomplished. Director Jehn moved the staff recommendation; it was seconded by Director Mackenzie and passed unanimously.

Mr. Birdbough stated that the Friends of SMART wanted to see a demonstration on that segment and would be watching very closely to see if there would be any way to limit the time the line would be out of service. Mr. Peri stated he also wanted to see a demonstration train, as well and felt would be critical for the SMART project. Ms. Hames asked if language could be placed in the TAM resolution stating that all efforts to replace the track before summer/fall of 2008 would be made. Ms. Steinhauser stated it can not be a requirement on the contract at this time, however, she felt it would be a very good chance that the work could be accomplished by that time. Ms. Hames restated language to be added to the TAM resolution.

XII Review of SMART Easement Policy

Ms. Milla stated that SMART had recently received several requests for permanent easements for large public sector projects that encroached on the NWP. Although SMART had adopted a policy of no permanent easements, staff felt that these cases should be considered on a case by case basis. Staff recommended that the conveyance of easement rights in regard to long-term capital improvement projects be considered on a case by case basis following an evaluation of the impacts on rail operations and maintenance. Any agreement regarding the conveyance of an easement would still require further SMART Board approval. The Real Estate Committee considered this matter and concurs with staff's recommendation.

Chair Kerns asked if anyone from the public had comments. There were none.

Director Jehn moved the motion and it was seconded by Director Boro. It passed unanimously.

XIII Resolution 2007-02 SMART Property Fees

Chair Kerns opened the Public Hearing on this item.

Ms. Milla stated that in 2003 the Board passed a resolution and adopted a fee schedule for encroachment permits. SMART had not changed or increased fee since 2003. To remain consistent with other government entities, staff recommended changes to the fees that were listed in the staff report. Director Jehn asked about the implications of this action given the recent Prop 218 regarding water fees. Mr. Dion stated that this was not a Prop

218 issue. Chair Kerns asked if the public had any comments. There were none. Chair Kerns closed the public hearing.

Director Boro moved the resolution; it was seconded by Vice-Chair McGlashan and passed unanimously.

XIV Appointment to Real Estate Committee

Chair Kerns stated Director Fudge had been attending the Real Estate Committee as an alternate and was now formally appointing Director Fudge to the Real Estate Committee.

XV Closed Session

Chair Kerns stated the Board would now go into Closed Session.

XVI Closed Session Report Out

Mr. Dion reported on the Closed Session stated that on Item (a) update was given to the Board and directions were given to staff. Item (b) update was given to the Board and directions were given to staff. Item (c) was not discussed. Item (d) was not discussed. Item (e) an update of negotiations regarding Santa Rosa Cannery, LLC was given to the Board and directions were given to staff.

XVII Next Meeting Date March 21 2007 1:30p.m., San Rafael City Council Chambers

Chair Kerns stated the next meeting would be on March 21, 2007 at the San Rafael City Council Chambers in San Rafael.

XVIII Adjournment

The meeting adjourned at 3:10 p.m.



AGENDA: SMART DISTRICT BOARD MEETING

April 18, 2007

1:30 PM

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

- I. Call to Order
- II. Minutes of the March 21, 2007 SMART Meeting – **DISCUSSION/ACTION****
- III. Consent Agenda – **DISCUSSION/ACTION****
 - III-1 SMART Financial Update Project Cost Report - **INFORMATION ****
 - III-2 Lucrecia Milla Salary Increase
- 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. PERS Retirement Program Implementation – (Lillian Hames/John Nemeth) – **DISCUSSION/ACTION****
 - A. Program Implementation Requirements
 - B. Resolution 2007-03
- IX. CalPark Tunnel Easement Relocations– (Lucrecia Milla) **DISCUSSION/ACTION****
 - A. Authorize Chair to Execute Acceptance of Quit Claim Deed
 - B. Authorize Chair to Execute Property Conveyance
- X. Ad Hoc Committee Presentation – (Lillian Hames) **DISCUSSION/ACTION****
 - A. Committee Report
 - B. Board Discussion of Committee Recommendations
 - C. Next Steps and Direction to Staff
- XI. **Closed Session**
 - a. Closed Session Conference with Legal Counsel-Pending Litigation.
Significant exposure to litigation pursuant to subdivision (a) of Section 54956.9
Anna Carissa Suarez v. SMART, et al. (Sonoma County Superior Court, case number 2399507)

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: Santa Rosa Cannery, LLC

Owner: SMART District

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

Property: Northwestern Pacific Railroad (NWP) Right-of-Way from NWP Milepost 46.8 in Rohnert Park, Sonoma County.

District Negotiator: Lillian Hames, General Manager

Negotiating Parties: City of Rohnert Park

Owner: SMART District

XII. Report on Closed Session

XIII. Next Meeting Date: May 16, 2007, **1:30 pm**, San Rafael City Council Chambers, San Rafael – **DISCUSSION/ACTION**

XIV. 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
March 21, 2007
2:30 PM San Rafael City Council Chambers
1400 Fifth Street
San Rafael, California**

I Call to Order

Chair Kerns brought the meeting to order. The following Board members were present:

Vice Chair Charles McGlashan
Al Boro
Bob Jehn
Jim Eddie
Carole Dillon-Knutson
Peter Breen
Deb Fudge
Barbara Pahre
Mike Reilly

Directors Hal Brown and Jake Mackenzie, were absent

II Minutes of the February 21, 2007 SMART Meeting

Chair Kerns asked for approval of the February 21, 2007 SMART Board meeting minutes. Director Breen noted that he was not listed as being absent on the minutes and requested the minutes be amended to show that absence. Director Jehn moved to approve the minutes as corrected, Director Boro seconded.

III Consent Agenda

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

IV Agenda Review

Chair Kerns asked there were any changes to the Agenda. Mr. Greg Dion asked that item X be moved to after Closed. Chair Kerns asked if there were any other changes to the Agenda from staff or the Board. There were none.

V Public Comment on Non-Agenda Items

Chair Kerns asked if there were any comments from the public. Jerome Pegdiani stated he lives in Novato and suggested that rail be built in the center of Highway 101. Doug Wilson, Marin County Sierra Club submitted a list of suggestions to the Board for consideration. Lionel Gambill, Novato, announced the next tour of Bay Area Rail and Ferry services. He went on to comment that the worst place to put a rail line would be in the middle of the highway. He also stated that SMART would be running the most environmentally superior commuter rail vehicle available and that the public needed to be

made aware of that fact. Andy Peri, MCBC, stated that a bike path connection north and south of the Downtown San Rafael Station would allow people to access the station via different modes of travel. George Elman, Glen Ellen, stated the election was only 1 1/2 years away and suggested construction of selected segments of the rail and pathway be implemented.

VI SMART General Manager Report

Ms. Hames stated her report was included in the agenda items and in the interest of time suggested moving to the next agenda item.

VII Real Estate Committee Report

Lucrecia Milla stated that among the topics covered at the March 7, 2007 Real Estate Committee staff discussed granting access easements with the Golden Gate Bridge District in San Rafael just north of the Cal Park Tunnel. That agenda item will be scheduled for the Board when language is developed.

VIII EIS Consultant Recommendations

Ms. Hames stated SMART had sent copies of the Request for Qualifications (RFQ) to 40 environmental firms and that on March 14th six proposals were received. Following review of the six proposals, staff was recommending that contract negotiations begin with each of the six proposers such that a single team was developed which maximizes the areas of expertise presented by the six sets of qualifications.

Ms. Hames summarized the qualifications and expertise of each consultant. She provided a matrix that ranked the consultants via their qualifications. Ms. Hames recommended that negotiations commence with each firm to provide specific areas of expertise required for the DEIS/FEIS (Draft Environmental Impact Statement/Final Environmental Impact Statement). Chair Kerns noted that this involves negotiating contracts with three firms and the other 3 firms would be subconsultants to those three contracts. Ms. Hames confirmed that that was an accurate statement..

Vice Chair McGlashan asked who would provide services related to the bicycle/pedestrian pathway. Ms. Hames stated Dowling would lead that effort with Alta Planning providing subconsultant assistance. Director Reilly asked if Dowling would be handling the travel forecasting and development of transportation alternatives. Ms. Hames Ms. Hill would oversee the development of alternatives but that Dowling would be responsible for the transportation analysis.

Director Boro suggested an organization chart would be helpful. Ms. Hames stated she would provide an org chart to the Board. Director Pahre asked what would be the timing to complete the EIS. Ms. Hames noted that the process relied heavily on FTA approval and authorizations to proceed such that it was difficult to determine a precise schedule.

Ms. Hames stated staff was seeking Board authorization to proceed with negotiations after which contract recommendations would be brought back to the Board. Director Reilly moved the staff recommendation and Director Boro seconded.

The motion passed unanimously.

IX CalPark Tunnel Cost Sharing Agreement

Ms. Hames stated that as a follow up to the Board's February, 2007 action to approve a 50/50 cost sharing between SMART and the County of Marin for the CalPark Tunnel, staff was now asking for approval to sign that agreement. The document presented to the Board today shows the revised cost sharing agreement SMART and the County. The cost sharing would apply to all costs after 2005. Chair Kerns asked if there were any questions. Andy Peri, MCBC, stated they strongly support the amendment. Chair Kerns asked for a motion. Vice-Chair McGlashan moved the recommendation and Director Eddie seconded. It passed unanimously.

X. Penngrove Sidewalk Easement

Agenda item was moved to after the Closed Session.

XI. Extension of ENA with New Railroad Square, LLC

Mr. John Nemeth stated that the Board authorized an exclusive negotiation agreement with New Railroad Square, LLC in 2006 to develop Railroad Square. The Board was now being asked to extend that agreement by an additional three months; with a \$50,000 fee. Vice Chair McGlashan moved the recommendation. Director Boro seconded and it passed unanimously.

XII. Closed Session

Chair Kerns stated the Board would now go into Closed Session.

XII.I Report Out On Closed Session

Mr. Dion stated item (a) was not discussed and was already approved on Item IX. With regard to item (b), update was given to the Board and would be available to discuss in public session, with regard to item (c) updated was given to the Board and direction was given to Staff and with regard to item (d) an update was given to the Board.

Chair Kerns stated the Board would now proceed to Item X and the staff recommendation was approval of the easement agreement with the County of Sonoma. Director Breen moved and it was seconded by Director Boro. It passed unanimously.

XIV Next Meeting Date April 18, 2007, 1:30p.m Sonoma County Board of Supervisor Chambers.

Chair Kerns stated the next meeting would be on April 18, 2007 at the Sonoma County Board of Supervisor Chambers at 1:30 pm.

XV Adjournment

The meeting adjourned at 3:28 p.m.