

Agenda Item No. 3



PLEASE NOTE:

In an effort to conserve paper, copies of the agenda items and staff reports for the July 18, 2007, SMART District Board meeting is not included in this packet, but is available in the Office of the District Secretary.



AGENDA: SMART Executive Committee Meeting

July 18, 2007

12:15 to 1:15 PM

San Rafael City Hall Community Room, 2nd Floor City Hall
1400 Fifth Street, San Rafael

- I.** Call to Order
- II.** Approval of February 21, 2007 Minutes*
- III.** Agenda Review
- IV.** SMART Retirement Program Recommendation
- V.** Filing Payments
- VI.** Next Meeting: To be Determined
- VII.** Adjournment

DISABILITY 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 EXECUTIVE BOARD MEETING
February 21, 2007
3:00 PM
Sonoma County Board of Supervisors Chambers
575 Administration Drive, Room 100A
Santa Rosa, CA

I Call to Order

Chairman Kerns brought the meeting to order. The following Directors were present:

Al Boro
Charles McGlashan

Absent: Barbara Pahre

II Approval of January 20, 2007 Minutes

Chair Kerns asked if there were any changes to the Minutes. There were none.

III Agenda Review

Chair Kerns asked if there were any changes, there were none.

IV SMART Employees Retirement Program

Staff provided the Committee with an overview of SMART's existing employee retirement program and summarized the work to date on implementing the PERS program. Staff introduced Gail Papworth, SMART's retirement consultant. Ms. Papworth explained the choices available to the agency in establishing the PERS program and also outlined the retirement programs of other North Bay agencies. She noted that the PERS system could be used for both retirement and health benefits.

The Committee directed staff to pursue a formal PERS application with a level of participation set at 2% at 55 for all SMART employees. Further staff was directed to seek the County of Sonoma's payroll management assistance to implement the PERS retirement system.

The Committee's recommendation would be agendized for future Board meetings and the application process initiated.

V Adjournment

The meeting was adjourned at 4:40 p.m.



AGENDA: SMART DISTRICT BOARD MEETING

July 18, 2007

1:30 PM

San Rafael City Council Chambers
1400 Fifth Avenue
San Rafael, CA

- I. Call to Order
- II. Agenda Review
- III. Minutes of the June 20, 2007 SMART Meeting – **DISCUSSION/ACTION****
- IV. Consent Agenda – **DISCUSSION/ACTION****
 - III-1 SMART Financial Update Project Cost Report - **INFORMATION ****
 - III-2 Dowling and Associates, Inc. Contract Amendment –**DISCUSSION/ACTON****
- 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. Railroad Square Presentation-(John Nemeth/New Railroad Square, LLC) - **DISCUSSION/ACTION****
- IX. NCRA Update– (Lillian Hames) - **DISCUSSION/ACTION***
- X. Calpark Tunnel Hours of Operation – (Lillian Hames) - **DISCUSSION/ACTION****
- XI. **Closed Session**
 - a. Closed Session: Conference with Real Property Negotiator (Govt. Code. Section 54956.8)
Property: Northwestern Pacific Railroad (NWP) Railroad Square NWP Milepost 53.8 in Santa Rosa, Sonoma County.
District Negotiator: Lillian Hames, General Manager
Negotiating Parties: New Railroad Square, LLC (Creative Housing)
Owner: SMART District
 - b. Closed Session Conference with Legal Counsel-Existing Litigation.
Pursuant to subdivision (a) of Section 54956.9

Anna Carissa Suarez v. SMART, et al. (Marin County Superior Court, case number CV 065011)

XII. Report on Closed Session

XIII. Next Meeting Date: September 19, 2007, **1:30 pm**, Sonoma County Board of Supervisors Chambers, Santa Rosa – **DISCUSSION/ACTION**

XIV. Adjournment - **ACTION**

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**MINUTES OF SMART SPECIAL BOARD MEETING
June 20, 2007
Sonoma County Board of Supervisors Chambers
575 Administration Drive, Room 100A
Santa Rosa, California**

I Call to Order

Vice-Chair McGlashan brought the meeting to order. He indicated that the Special Meeting was being called because the Agenda for the regularly scheduled meeting for June 2007 contained an incorrect date. The Agenda below and attachments were identical to the agenda previously posted and mailed showing a date of April 18, 2007. The following Board members were present:

Al Boro
Mike Reilly
Carole Dillon-Knutson
Bob Jehn
Peter Breen
Jim Eddie
Deb Fudge
Jake Mackenzie

Directors Brown, Pahre and Chair Kerns were absent.

II Minutes of the May 16, 2007 SMART Meeting

Vice-Chair McGlashan asked for approval of the May 16, 2007 SMART Board meeting minutes. Director Jehn moved to approve the minutes, Director Breen seconded. Director Mackenzie abstained.

III Consent Agenda

Vice-Chair McGlashan brought up the Consent Agenda and asked for approval. David Schonbrunn, Transdef commented on item III-2. Regarding the new agreement on page 5 it stated once SMART initiates commuter rail service, SMART would defend and indemnify City, its officers, agents, employees and volunteers for any liability relating to the proposed spur. It was Mr. Schonbrunn's understating that at the time of the original agreement the City of Petaluma would take liability. He was also concerned about the COLA mentioned in the agreement on page 6. He indicated the COLA was a consumer price COLA and not a construction price COLA. Vice-Chair McGlashan asked if item III-2 could be considered separately and asked for approval of item III-1, III-3 and III-4. Director Jehn moved the amended Consent Agenda and Resolution 2007-04 and Director Dillon-Knutson seconded. Resolution 2007-04 passed unanimously.

Vice-Chair McGlashan asked if Ms. Hames would comment on item III-2. Ms. Hames stated if you turned to page 6 of the agreement, the estimate was \$240,000 for signal upgrades. Depending on the upgrade, there would be a COLA for the year it was implemented. Ms. Hames asked Counsel if it could be amended to a construction COLA.

Mr. Dion stated the Board could agree to that change however it would need to go back to the City of Petaluma for approval. Vice Chair McGlashan said the Board would give staff direction to make that change. Mr. Dion also indicated he would review the liability clause in the earlier MOU agreement. His recommendation was that the Board approve the item with the condition that Counsel and staff review it to see if it was inconsistent with the prior MOU. If it was inconsistent, the MOU would be brought back to the next Board meeting. Vice-Chair McGlashan asked for a motion. It was moved by Director Breen and was seconded by Director Dillon-Knutson.

IV Agenda Review

Vice-Chair McGlashan asked if the Agenda Review could be moved up before the Consent Agenda. He indicated that Item X.a was already approved by the Board last month. Today there would be only an update from Staff and request for direction. Vice-Chair McGlashan asked if there were any other changes to the Agenda. There were none.

V Public Comment on Non-Agenda Items

Vice-Chair McGlashan asked if there were any comments from the public. Mr. Schonbrunn discussed the potentials of positive train control. He asked that the Board give direction to Staff to look into this. Ann Hudgins, Accountable Development Coalition read a letter that was sent to Mr. Michael Dieden regarding their concerns in the reduction of housing. David Grabill, Accountable Development Coalition seconded Ms. Hudgins concerns and also mentioned that Mr. Dieden had been responsive to their concerns.

VI SMART General Manager Report

Ms. Hames informed the Board that on June 7, 2007, the California Transportation Commission approved SMART's application for additional TCRP funding in the amount of \$27,800,000. It was approved based on the strength of the vote in 2006 as well as the schedule and deliverables of products SMART staff provided over the last 6 years. Ms. Hames stated the Novato City Council held a meeting that discussed the Novato South station options. The Novato City Council did not make a decision. Director Dillon-Knutson reiterated that the Novato Council decided not to come to a decision regarding the south station but did agree to go with the north site and the whistlestop downtown station.

Director Dillon-Knutson asked to read a letter from the Novato City Council regarding NCRA. Vice-Chair McGlashan asked if the letter could be discussed during item IX with regard to NCRA. Director Dillon-Knutson wanted legal counsel to concur. Mr. Dion concurred. Ms. Hames said staff was working on the white papers and would be meeting soon to discuss release of the white papers.

VII Real Estate Committee Report

Lucrecia Milla stated at the June 6, 2007 Real Estate Committee Meeting the only item that was on the agenda was Railroad Square which was agendaized today.

VIII TCRP Grant Approval

Ms. Hames informed the Board that staff was working on the next engineering phase of the SMART project. She stated staff's recommendation was to think about how to reduce future cost and to proceed. She recommended Joe Walsh, who was part of the Blue Ribbon Panel, to assist with the RFP process. Director Breen asked that the Board get updates regularly on the process. Ms. Hames agreed and would also take this item to the Operations Committee. Director Boro asked if the positive train control would also be

looked at. Ms. Hames said this would be discussed during the RFP development process and would also be an issue for the Operations Committee. Director Fudge moved the motion to acquire the services of Mr. Walsh and it was seconded by Director Mackenzie.

IX NCRA Presentation

Ms. Hames gave an introduction and invited Mitch Stogner, NCRA Executive Director, to present to the Board a status on the NCRA's current plans. Mr. Stogner distributed a letter to the Board and public outlining the freight agency's current plans. Mr. Stogner's update included an explanation of new service assumptions for the Windsor to Lombard segment. He noted that the CTC had approved the use of a little over \$26,000,000 in TCRP funds to repair the line. NCRA expected to award a contract for signal repairs for this segment in the near future. They also expected to get approval from CTC to advertise for the track work and structures contracts.

He continued by noting that a Notice of Preparation (NOP) was expected to be released in July, 2007 and that NCRA hoped to complete their EIR by the end of 2007. A scoping session on the project was planned for the end of July. He went on to state that the freight agency hoped to have this section of track ready by this time next year in order to run freight trains. He noted SMART's concern that these new freight train forecasts were not consistent with the information NCRA gave SMART last year as input to SMART's EIR. He explained that NCRA's start-up projections in the Initial Study, and ultimately the EIR, would be virtually identical to the estimate included in SMART's June 2006 EIR. The only difference would be that they estimate 6 15-car trains per week rather than their original estimate of 6 12-car trains per week and that a 60 and 25 car train sets were also anticipated in the future.

Vice-Chair McGlashan asked how long would the start phase last. Mr. Stogner said they would not know this until commencement of freight service. Director Jehn asked if the EIR would be completed by the end of this year, including public comments. Mr. Stogner stated they hoped to have it completed then. Director Dillon-Knutson read a letter from the Novato City Council. The Novato City Council requested SMART prepare a supplemental EIR prior to a 2008 ballot measure that analyzes NCRA's new freight plans.

Director Dillon-Knutson wanted clarification of which had priority, freight or passenger rail. Ms. Hames said according to AB224, passenger rail would have priority once operational. Director Dillon-Knutson asked about the operator's exclusive use of excursion trains. Ms. Hames explained it would be similar to the Napa Valley Wine Train and different than SMART train service. Director Dillon-Knutson felt that SMART should retain the ability to provide special event rail service. Ms. Hames noted this issue would be addressed in a future operating agreement.

Director Boro asked if the original agreement was expired and how all these issues impacted current negotiations. Ms. Hames said SMART inherited the operating agreement between NCRA and NWPRA. This agreement still exists and had not expired. However, prior to freight service start up, SMART must approve the Operating Lease between NCRA and their operator, Northwestern Pacific Railroad Company. No actions to approve that lease have been taken by SMART. She noted that a future meeting of the Operating Committee would address this issue. Vice-Chair McGlashan informed the Board that once the Operating Committee made any recommendations, they would be brought back to the SMART Board for final consideration.

Vice-Chair McGlashan asked if the public had comments.

Ms. Nadananda of Friends of Eel River gave a hand out and talked about concerns they have with NCRA and potential impacts to the Eel River Canyon.

Mike Arnold, MCL stated that whatever happens with NCRA, SMART would be legally required to issue a supplemental EIR.

Joy Dalgren asked when the public would be able to view the Operating Agreement with the NCRA.

Steve Birdlebough, Friends of SMART, stated it was important to remember that for every one freight car operating on the NWP, three 18 wheelers were removed from Highway 101.

Vice-Chair McGlashan said SMART would look at the cumulative impacts these new freight plans very carefully and would act to protect the operation of passenger rail service.

X. SMART Office Space

Ms. Hames updated the Board on SMART's office lease situation, noting increased rents and higher service costs. Staff had initiated a search for new office space several months ago, when Director Boro suggested a joint office lease with the Marin Transportation Authority and the Marin County Transit District, who also were looking for new office space. Staff had looked into the possibility of sharing space with the two agencies and was recommending that SMART terminate the lease with HQ as it would save SMART about \$7,000 a month. New furniture, common area rental items, such as copiers, phones, mail services and internet installations, movers and set up fees are estimated at approximately \$30,000. Staff was seeking Board concurrence on this approach to new office space prior to beginning work on a lease negotiation.

Director Breen concurred it was a good idea. Director Jehn asked where the new offices were located. Ms. Hames indicated they would be in San Rafael Corporation Center at 750 Lindero Street. Director Breen moved the motion, which was seconded by Director Mackenzie.

XI. Community Outreach Recommendation

Ms. Hames said effective July 1, 2007, Rick Brown would be leaving The Results Group. As a result of this change, staff was recommending reducing The Results Group Contract amount and hiring an in-house Community Outreach Manager to take on the responsibilities Mr. Brown was previously providing. SMART would look for someone that had experience in community outreach and rail. SMART would reduce the cost of the contract with The Results Group by \$120,000 which would offset the cost for the new position.

Ms. Hames requested that the Board send any suggestions, changes and any candidates anyone have, please send to her via email.

Vice-Chair McGlashan asked if there was public comment.

Keith Woods, North Coast Builders Exchange asked for a comparison of the salary for the Community Outreach Manager and Rick Brown's salary. Steve Birdlebough stated that it would be good if the person be responsible for attending meetings and gathering community input from a variety of sources.

Director Reilly moved the motion and it was seconded by Director Fudge.

XII. The Results Group Contract Approval

Vice-Chair McGlashan stated this item was talked about quite a bit. It was moved by Director Boro and seconded by Director Eddie. Matt Stevens, The Results Group, noted the last few years had demonstrated the kind of coordination and collaboration that aided community outreach. Vice-Chair McGlashan said he was extremely happy with the services The Results Group had provided to SMART.

XIII Federal Environmental Impact Statement Contract Approvals

Ms. Hames stated in February 2007 the SMART Board authorized releasing a request for qualifications (RFQ) for the development of a draft and final environmental impact statement that would satisfy federal environmental clearance requirements. In May 2007 staff presented draft work scopes for both Aspen Environmental Group and Dowling Associates and staff received comments. Negotiations have been concluded and staff now has two proposed contracts attached for the Board's approval. Staff recommended Board approval of the Aspen Environmental and Dowling Associates Inc. contracts. Vice-Chair McGlashan asked if the contracts included extra funding necessary to take care of cumulative impact analysis to satisfy CEQA. Ms. Hames stated the funding was included.

Mr. Schonbrunn suggested Dowling should emphasize the issue of sensitivity of transportation demand model to congestion. Allen Tacy, Petaluma, stated part of the Aspen Environmental EIS section should include review of station sites.

The consultant contract approvals were moved by Director Reilly and seconded by Director Jehn.

XIV PERS Retirement Program Implementation.

Ms. Hames indicated that the May 2007 Board meeting included direction to staff to prepare PERS application and contract documents. Those documents and Resolution 2007-06 were presented to the Board. The issue of social security payments, as raised by Director Breen last month, is not included in this contract. That issue will be addressed by the Executive Committee at a future meeting. Director Jehn moved Resolution 2007-06, it was seconded by Director Eddie and was passed unanimously.

XV FY 2007-2008 SMART Preliminary Budget

Ms. Hames presented SMART's FY 2007-08 Preliminary Budget. She noted the budget included PERs, the Community Outreach Manager position, Measure M Funding for signals and crossings, and the new TCRP funding for final engineering. She introduced SMART's accountant Scott Catania to answer any additional questions.

Resolution 2007-05 adopting the Preliminary Budget was moved by Director Breen, seconded by Director Dillon-Knutson and was passed unanimously.

XVI. Closed Session.

Vice-Chair McGlashan stated the Board would now go into closed session.

XVII Report on Closed Session

Mr. Dion reported out on closed session. On Item (a) an update was given to Board and direction was given to staff. On Item (b) an update was given to the Board and direction

was given to staff. Item (c) was not discussed. Item (d) an update was given to Board and direction was given to staff.

XVIII Railroad Square Exclusive Negotiating Agreement.

Mr. John Nemeth presented a second amendment to the Exclusive Negotiating Agreement (ENA) to allow SMART to continue current negotiations for development of the Railroad Square property in Santa Rosa. The agreement would provide for another 90 day extension of the exclusive negotiating period. Mr. Nemeth suggested a modification to the text that would require the developer to contribute a \$15,000 exclusivity fee. Director Boro proposed that it be raised to \$20,000 and the Board concurred. Motion to approve the ENA was moved by Director Jehn and seconded by Director Boro.

XIX Next Meeting Date July 18, 2007 1:30 p.m. San Rafael City Council Chambers

Vice-Chair McGlashan stated the next Board meeting would be in on July 18, 2007 at the San Rafael City Council Chambers starting at 1:30p.m.

XX Adjournment.

The meeting adjourned at 4:35 p.m.