

Agenda Item No. 5



PLEASE NOTE:

In an effort to conserve paper, copies of the agenda items and staff reports for the September 19, 2007, SMART District Board meeting is not included in this packet, but is available in the Office of the District Secretary.



AGENDA: SMART DISTRICT BOARD MEETING

September 19, 2007

1:30 PM

San Rafael City Council Chambers

1400 Fifth Avenue

San Rafael, CA

- I. Call to Order
- II. Minutes of the July 18, 2007 SMART Meeting – **DISCUSSION/ACTION****
- III. Consent Agenda – **DISCUSSION/ACTION****
 - III-1. SMART Financial Update Project Cost Report - **INFORMATION ****
 - III-2. City of Cotati Easement Agreement
- 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. Community Outreach and Public Information Manager (Lillian Hames) - **DISCUSSION/ACTION****
 - A. Personnel Recommendation: Chris Coursey
 - B. Resolution 2007-06
- IX. Draft Bay Area 2007 Regional Rail Plan (John Nemeth/Doug Kimsey - MTC) – **DISCUSSION/ACTION****
- X. Petaluma Sculpture Request (Lucrecia Milla) - **DISCUSSION/ACTION****
- XI. Railroad Square Exclusive Negotiating Agreement (John Nemeth) - **DISCUSSION/ACTION***
- XII. Adoption of Final FY 2007-2008 Budget (Lillian Hames/Scott Catania) - **DISCUSSION/ACTION****
 - A. Resolution 2007-07
- XIII. Supplemental Environmental Analysis Update (Lillian Hames/Sally McGough) - **DISCUSSION/ACTION****

XIV. Closed Session

No Closed Session items

XV. Report on Closed Session

XVI. Next Meeting Date: October 17, 2007, 1:30 pm, Sonoma County Board of Supervisors Chambers, Santa Rosa – DISCUSSION/ACTION

XVII. Adjournment

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
July 18, 2007
San Rafael City Council Chambers
1400 Fifth Avenue
San Rafael, California**

I Call to Order

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

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

Director Mackenzie was absent

II Agenda Review

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

III Minutes of the June 20, 2007 SMART Meeting

Chair Kerns asked for approval of the June 20, 2007 SMART Board meeting minutes. Vice-Chair McGlashan stated that under item IX – NCRA Presentation, on the third paragraph it should be worded “how long would the start up phase last?”. He asked staff to please make the correction. Vice-Chair McGlashan moved to approve the minutes with the change. Director Boro seconded. Chair Kerns abstained.

IV Consent Agenda

Chair Kerns brought up the Consent Agenda. It was passed unanimously.

V Public Comment on Non-Agenda Items

Chair Kerns asked if there were any comments from the public. There were none.

VI SMART General Manager Report

Ms. Hames informed the Board that staff was working on the Request for Proposals (RFP) for advanced engineering and would be bringing it back to the Board hopefully in the fall, for their authorization to release it. Regarding SMART’s office move, it had been thought that SMART would re-locate around September 1st. However, due to issues related to

ADA requirements, the anticipated move would more likely be around October 1st. Ms Hames noted that she would be bringing a lease back to the Board for final approval. Ms Hames informed that Board that the environmental team had been reviewing the NCRA's most recent forecast for freight, something that would be discussed later in the agenda. Lastly, she mentioned that staff had also received several resumes for the Outreach Community Manager position and hoped to schedule interviews within the next two weeks.

VII Real Estate Committee Report

Chair Kerns stated there was not a meeting in June, so there would be no report out.

VIII Railroad Square Presentation

John Nemeth stated that back in May, 2007, the New Railroad Square, LLC presented their latest development proposal. At the time, there were some concerns from the public regarding the location of the proposed parking structure and the reduction in the number of proposed housing units. As a follow-up, on June 1st, the Real Estate Ad Hoc Committee met with New Railroad Square, LLC for an all day discussion. That meeting produced a modification of the development program. The presentation today would reflect those discussions and changes. Mr. Nemeth then introduced Michael Dieden.

Mr. Dieden of New Railroad Square, LLC commented that the last two months had been very interesting and challenging for his team. Mr. Deiden then introduced Dan Soloman, Project Architect to present the project program.

Mr. Soloman stated that the intention of the project design all along had been to honor historical urbanism by maintaining the grid of 4th and 5th streets and adding a new street: West Street. The architecture would be an interpretation of historic architecture and not a replication. Mr. Solomon noted that the public marketplace idea would be similar to the Ferry Building, Above it, on the mid-block, would now be 40 units of affordable housing. The commercial parking and parking for the affordable housing would be relocated to the "Plant 5" site, adjacent to SMART's property. There would be a need to negotiate with the Cultural Resources Board with the respect to the historic wall, which would have to be modified.

John Clawson of Equity Community Builders stated that investors and lenders like to see structure and discipline, which he hoped to bring to the project. Mr. Clawson walked through some of the sources of funds identified in the pro forma and how they relate directly to the proposal for the land acquisition of SMART. The commercial development on the center block would be financed using new markets tax credits. The market rate residential could be done independently, so the two pieces would not be linked financially. Mr. Clawson stated that he had identified a number of sources of subsidy, the biggest of which would be the new market tax credit for both the commercial and Plant 5 parking, which would provide \$11 million dollars. The other public funding sources and subsidies would include local community facilities district financing and tax increment financing in the amount of \$7 million. Mr. Clawson concluded by summarizing the financial offer to SMART.

Chair Kerns asked if the Board had questions. Director Brown asked whether there would be a problem getting investors for this project. Mr. Deiden stated it would be a challenge and would only be possible after securing any commitments SMART and the City of Santa Rosa. Director Boro stated that he was hearing from the Railroad Square LLC they were asking for action today, but the agenda item noted that it was only for "discussion". Ms. Hames replied that the staff had not requested that the Board take action on this item today and that it would be discussed in closed session.

Chair Kerns then asked for public comments. David Schonbrunn mentioned that he met with a very strong developer who does TOD. Mr. Schonbrunn stated that the developer concluded that a ground lease would not work in SMART's situation and that the developer would need to own the property. He also suggested that owners maintain property better than renters. Mr. Schonbrunn further suggested that an alternative to selling the property for cash would be to do a land swap with the developer.

Ann Hudgins of the Accountable Development Coalition stated that her organization sent a letter to Mr. Dieden. They were pleased with the direction of the current plan, but remained concerned about the number of housing units. Ms. Karen Nygren stated that it sounded as if the project was going in the right direction but asked about the percentage of affordable housing units. Chair Kerns stated it was about 25%. Mr. Ben Boyce, coordinator of Living Wage Coalition, reinforced some of the Ms. Hudgins' points and said he would be prepared to endorse the new plan that Railroad Square LLC presented today. Mr. Allen Thomas of West End stated he and his wife owned 4 rental properties on West 6th Street. Mr. Thomas expressed frustration with the Account Development Coalition and the image that this area needed to have more affordable housing. He felt that they had more than their fair share already. He suggested that SMART was becoming overly concerned about affordable housing, the provision of which is not a core part of their mission. Mr. Peter Theron of Novato asked if the rail would cross city streets, and whether there would be quiet zones in place. John Sawyer of the Santa Rosa City Council stated the he firmly believed that Mr. Dieden and his team were talented as he sat on the body that chose the team. The Santa Rosa City Council wished the best for SMART and anxiously awaited SMART's decision. Dan Wright of Santa Rosa seconded Mr. Thomas comments and reiterated that the neighborhood had low income housing already. Carol Dean, President of West End Neighborhood Association, stated that the West End Neighborhood had been supportive through SMART's RFQ- RFP process. She noted that there was already 20% affordable housing in the West End Neighborhood. Steve Birdlebough stated he liked the 25% affordable housing units as proposed. Leah Barron Thomas stated she wanted to cover one point from Dan Solomon, stating that the Plant 5 walls had an important history and should not be dismissed. She also suggested that the 40 units of affordable housing could be senior / disabled housing or aimed at a mix of income ranges, rather than being all low and very low. Harold Dean of the West End neighborhood said he could live with 25% affordable housing but did not want to see 40% of low income housing.

Chair Kerns brought the discussion back to the Board. Director Fudge stated she was optimistic about the project's potential and hoped that many obstacles and concerns could be overcome.

IX NCRA Presentation

Items X was discussed before IX. Ms. Hames stated that NCRA had released their Notice of Preparation (NOP) and that it was being reviewed by SMART environmental consultants who would determine if an addendum or supplemental would be needed.

Ms. Hames stated there were two relevant agreements with NCRA, the operating agreement and the lease agreement. Vice-Chair McGlashan asked if the lease agreement was approved by NCRA in September of 2006. Mr. Greg Dion stated in reviewing the NCRA Board agenda for September, the Lease Agreement was not called out. The agenda just indicated that an agreement with NWPRC would be considered and that the staff recommendation would be to approve the agreement, which would need SMART's approval. Mr. Dion stated that a letter was sent to the NCRA on January 31, 2007 regarding SMART's analysis of the proposed NCRA and NWPRC Lease agreement.

Director Dillon-Knutson asked if NCRA could operate without the Operating Agreement with SMART and also if NCRA repairs and signaling would be up to SMART's standard. Ms. Hames said no to both. Director Dillon-Knutson asked if SMART would need to close down freight to upgrade tracks to complete its construction. Ms. Hames stated that it depended on the time freight would operate. Vice-Chair McGlashan stated that SMART was taking pot shots for not knowing in advance what NCRA indicated now in their NOP. He said that NCRA needed to get honest about any Russian River plans. He asked whether reaching the Eel River would even be possible. Ms. Hames stated no trackage currently runs though the Eel River area and that is all she knew.

Director Dillon-Knutson asked whether SMART was required under CEQA to examine plans in the NOP that were purely speculative. Mr. Dion stated he would talk with Sally McGough about that issue. Chair Kerns asked if public had comments.

Karen Nygren stated that she put together a list of questions for SMART.

X. Calpark Tunnel Hours of Operation

Ms. Hames stated that engineering work has proceeded on the Calpark Tunnel and that construction would take place next year. Prior to construction there would be a Memorandum of Understanding (MOU) between SMART and Marin County. One of the key components of the MOU would be the issue of the maintenance of tunnel prior to the time SMART becomes operational. Once SMART becomes operational, SMART would take over maintenance.

Another key component of the MOU would be the operation and maintenance procedures and protocols for the use of the bicycle and pedestrian side of the tunnel. There had been several meetings regarding security, maintenance and hours of operation for the tunnel. There would be no action required from the Board today but staff would be seeking Board input on alternatives prior to the development of the MOU.

Ms. Hames noted that four alternatives were presented in the staff report. Vice-Chair McGlashan asked about the SMART's role in current decision-making about tunnel hours. Ms. Hames stated that once the tunnel was operational, SMART would inherit the security protocol and operational hours. While they could be changed later, the public would become accustomed to those protocols. Vice-Chair McGlashan asked if the doors on the train side could be separated from the path doors. Ms. Hames replied that, yes, it would be possible.

Director Reilly stated that keeping the tunnel open for a very broad number of hours would give SMART a body of information for it to use in deciding on the operating hours when SMART took over. Director Boro stated that it would be ultimately between SMART and the County to make a final decision, but there were also two cities, Larkspur and San Rafael, with great concerns about this issue. Director Dillon-Knutson asked who would physically close the tunnel, and how would they deal with individuals who refused to leave. Ms. Hames replied that the County or their contractors would do a walk through of the tunnel prior to closing. Chair Kerns then asked the public for comments.

Ken Nordhoff, City Manager of San Rafael stated that since the inception of reopening the tunnel there had been concerns regarding emergency responders and public safety and maintenance. Chief Odetto of the San Rafael Police Department stated that public safety was a very important consideration. He noted that visibility in the tunnel would not be very good. Chief Montenero of the San Rafael Fire Department reiterated the visibility concern.

Keith Shonthal asked whether there would be emergency buttons in the tunnel, given its length. Jean Bonander, City Manager of Larkspur echoed Police Chief Odetto's comments noting that Larkspur supports dawn to dusk operations, or operations in line with the Larkspur Ferry schedule.

Deb Hubsmith thanked SMART for agreeing to a 50/50 financial split with Marin County, to help make the CalPark project a reality. Ms. Hubsmith stated that there are 78 tunnels in the U.S. and all are opened 24 hours. Ms. Nancy Windenger seconded Ms. Hubsmith's comments and said that to force a closure at certain times would not be good. Rocky Birdsey concurred with both Ms. Hubsmith and Windenger's comments and wanted to see 24 hour access. Mr. Schonbrunn suggested acquiring tunnel video monitors. Ms. Nygren stated there should be well lit tunnels with video cameras.

David McPhearson of the Marin County Bicycle Coalition stated that if the pathway and tunnel would be owned by SMART and the maintenance controlled by the County of Marin, then neither Larkspur or San Rafael would be responsible for the tunnel. He suggested 24/7 operating hours for the tunnel. Director Boro replied rhetorically by asking who was responsible for emergency service provision.

Vice-Chair McGlashan asked who would be the first responders for Mill Valley paths that were open all hours. Ron Poalini of Marin County Parks and Open Space stated that incidents on the Mill Valley bike path would typically involve the assistance of the County Sherriff. Vice-Chair McGlashan asked if there was a formal MOU in place. Mr. Paolini stated no. Vice-Chair McGlashan asked about the night time safety record for Mill Valley Tunnel. Mr. Paolino stated it was very good, but there had been some tagging.

Vice-Chair McGlashan asked about emergency vehicle access on the Larkspur side. Bill Whitney stated it would take input from cities and SMART to ensure access to the tunnels and to create a wider path for turning around. Director Breen asked who would cover the cost of lighting, security, etc. Ms. Hames stated part of total cost would be included in pathway project costs. Director Boro asked who would pay for the security. Ms. Hames stated SMART would. Director Boro suggested all sit down and come up with an agreement.

XI. Closed Session

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

XII. Report on Closed Session

Mr. Dion reported out on closed session. For Item (a), an update was given to the Board and Board direction was given to staff. On Item (b), a settlement was agreed upon and a resolution was moved by Director Boro and Seconded by Director Breen. It passed with 7 ayes and 0 noes.

XIII Next Meeting Date: September 19, 2007, 1:30 p.m., San Rafael City Council Chambers

Chair Kerns stated the next Board meeting would be on September 19, 2007 at the San Rafael City Council Chambers at 1:30 p.m.

XIV Adjournment.

The meeting adjourned at 4:50 p.m.