

Agenda Item No. 3



**PLEASE NOTE:**

**In an effort to conserve paper, copies of the agenda items and staff reports for the October 17, 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**

**October 17, 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 September 19, 2007 SMART Meeting – **DISCUSSION/ACTION\*\***
- III. Consent Agenda – **DISCUSSION/ACTION\*\***
  - III-1 SMART Financial Update Project Cost Report - **INFORMATION \*\***
  - III-2 Vicki Hill Contract for Environmental Project Management – **ACTION\*\***
- 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. Operations Committee Report – (Lillian Hames) – **DISCUSSION**
  - A. City of Novato v. NCRA et al, Superior Court of California, County of Marin, Case # CV074645
  - B. NWPCo Lease
  - C. NCRA Operating Agreement
  - D. NWPCo STB Filing
- IX. Siemens Light DMU Presentation – (Lillian Hames/Eckhard Fetzer) – **DISCUSSION\*\***
- X. Annual Audit Report – (Lillian Hames/Randy Sieple) – **INFORMATION\*\***
- XI. Sonoma County Loan – (Lillian Hames) **DISCUSSION/ACTION\*\***
  - A. Resolution 2007-08
- XII. Enhanced Engineering RFP Update – (Lillian Hames) - **DISCUSSION/ACTION\***
  - A. RFP Assumptions
  - B. Schedule
- XIII. Railroad Square Update on Negotiations – (John Nemeth/Greg Dion)  
**DISCUSSION/ACTION\*\***
- XIV. Resolution 2007-09 Melius Tarde, Quam Nunquam in Appreciation to Al Boro -  
**DISCUSSION/ACTION\*\***

## **XV. 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 Real Property Negotiator (Govt. Code. Section 54956.8)

Property: Northwestern Pacific Railroad (NWP) Right-of-Way from NWP Milepost (MP) 29.6 in City of Novato to NWP MP 68.22 in City of Healdsburg, from NWP MP 25.57 at Ignacio in City of Novato to NWP MP 40.6 at Schellville, and from Southern Pacific (SP) MP 63.4 at Lombard in Napa County to SP MP 72.6 at Schellville.

District Negotiator: Lillian Hames, General Manager

Negotiating Parties: NCRA  
Owner: SMART District

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

Property: CalPark Tunnel (MP) 14.7 – 15.9 in San Rafael and Larkspur

District Negotiator: Lillian Hames, General Manager

Negotiating Parties: County of Marin  
Owner: SMART District

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

Property: San Rafael Corporate Center, 750 Lindero Avenue, San Rafael, CA District

Negotiator: Lillian Hames, General Manager

Negotiating Parties: TAM, County of Marin  
Owner: Seagate Properties

## **XVI. Report on Closed Session**

## **XVII. Next Meeting Date: November 14<sup>th</sup> or November 28, 2007, due to the Thanksgiving Day Holiday 1:30 pm, San Rafael City Council Chambers, San Rafael –**

## **DISCUSSION/ACTION**

### **XVIII. 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  
September 19, 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  
Carole Dillon-Knutson  
Peter Breen  
Deb Fudge  
Barbara Pahre  
Hal Brown  
Jake Mackenzie

Directors Jehn, Reilly and Eddie were absent

**II Minutes of the July 18, 2007 SMART Meeting**

Chair Kerns asked for approval of the July 18, 2007 SMART Board meeting minutes. As no clarifications were raised the board approved the minutes unanimously.

**III Consent Agenda**

Chair Kerns brought up the Consent Agenda. Director Boro moved to approve the minutes and Director Breen seconded. The motion was passed unanimously.

**IV Agenda Review**

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

**V Public Comment on Non-Agenda Items**

Chair Kerns asked if there were any comments from the public. Susan Moore addressed the Board noting that the Friends of the Confederated Indians in Rohnert Park were supportive of future transit services along the 101 corridor. Andy Peri, MCBC, stated support for 24 hour access to the CalPark Tunnel, while noting a recent move to compromise with tunnel closures between midnight and 5 a.m. David Schonbrunn, TRANSDEF, stated the results of his recent Public

Records Act request to the City of Novato. He stated that the emails he read show that actions directed toward NCRA are really attempts to stop passenger rail service and he felt the SMART Board should understand these issues. He noted his concern that violations of the Brown Act had occurred. Director Dillon-Knutson stated that the Novato City Council's intent was not to hurt SMART, but to seek quiet zones, clean diesel and welded tracks from NCRA's operator. Director Mackenzie stated the City Council of Rohnert Park is on record supporting all rail efforts, both passenger and freight, as a way of getting cars and trucks off the 101 freeway.

#### **VI SMART General Manager Report**

Ms. Hames informed the Board that staff was scheduling an Operations Committee Meeting on October 3, 2007. Ms. Hames stated the SMART office move would be delayed until December 1, 2007. She also noted that staff had been working on the enhanced engineering RFP with Joe Walsh. She hoped to bring a scope work and RFP to the Board later this fall. As part of that, staff would be working on future definition of the pathway safety structure. Ms. Hames inquired as to the Board's preference in receiving letters from the public and other groups. She noted that letters or statements for the Board are often handed out at the actual meeting but some are received at the SMART office after an agenda item has been decided. The general consensus from the Board was that letters or correspondence that copied the SMART Board of Directors should be distributed with other on-going mailings unless there was a time sensitive matter. Director Breen asked if Ms. Hames received a response to the email that was sent City of Larkspur requesting a meeting. Ms. Hames stated no, not as of this morning. Chair Kerns stated just for information he attended a forum in Petaluma regarding the Narrows Project along with Senator Migden, as well as Assembly member Huffman. He noted the meeting attendees were very supportive of SMART.

#### **VII Real Estate Committee Report**

Lucrecia Milla stated the September 12<sup>th</sup> Real Estate Committee meeting was a brief open session with update on the Railroad Square negotiations. She also informed the Board that the final Union Pacific parcel at Railroad Square had been transferred to SMART on September 25, 2007.

#### **VIII Community Outreach and Public Information Manager**

Ms. Hames stated that in June 2007 the Board authorized hiring a Community Outreach and Public Information Manager. The position would replace the management formerly provided by Rick Brown of The Results Group. Following publication of the position in three papers, 11 applications were received. From this total three applicants were interviewed by Chair Kerns, Vice-Chair McGlashan and Ms. Hames resulting in a recommendation to offer the position to Mr. Chris Coursey. Ms. Hames was recommending Mr. Coursey be hired at a salary of \$98,000, with an annual accrued vacation of 4 weeks per year. Staff recommended approval of resolution 2007-06. Vice-Chair McGlashan moved and it was seconded by Director Fudge. Chair Kerns and other Board members welcomed Mr. Coursey. Mr. Coursey thanked the Board and stated he was

excited to work on the SMART project and looked forward to making the project happen. The resolution passed unanimously.

### **IX Draft Bay Area 2007 Regional Rail Plan**

John Nemeth introduced Doug Kimsey, Metropolitan Transportation Commission's Planning Director. Mr. Kimsey presented the Draft Bay Area 2007 Regional Rail Plan. The Plan identifies planned rail improvements throughout the Bay Area including passenger rail systems, BART, light rail and high speed rail services for the near, intermediate and long term. The aim would be to create a vision for a robust, interconnected Bay Area passenger rail system to help guide investment decisions. At the individual corridor level, the plan evaluated potential improvements based on engineering feasibility, cost, ridership potential, operational issues, environmental impacts and other factors.

Mr. Kimsey noted that maglev was looked at early in the multiple year plan development but was eliminated by MTC from future consideration. He went on state that maglev was eliminated from consideration on any Bay Area rail corridor due to cost; \$200,000,000 per mile vs. conventional rail at \$6 to \$50 million dollar range, depending upon whether it is passenger rail or light rail.

He went on to state that transit oriented development near rail stations was also a consideration in providing additional Resolution 3434 funding for rail projects. In the North Bay's Highway 101 corridor, MTC recommended the implementation of the SMART passenger rail project from Cloverdale to Larkspur in the near term. Director Mackenzie asked if this topic would be included in the October 26, 2007 Session with ABAG and MTC. Mr. Kimsey stated that yes the meeting would include the Plan's coordination with pricing strategies, investment strategies and working through RTP processes as the best way to implement projects. Director Mackenzie suggested all Board members try to attend this session. Director Dillon-Knutson asked if high speed rail from San Francisco to Oakland was included. Mr. Kimsey stated, the High Speed Rail Authority had a DEIS available for review at this time and outlined the two alignments under consideration: Altamont Pass and Pacheco Pass.

Karen Nygren asked about regional dispatching services for passenger rail and freight services and if the San Rafael Bridge could be retrofitted for rail. Mr. Kimsey said he assumed SMART would control their own dispatching and that the bridge was considered in original rail planning. George Ellman stressed interconnectivity between buses and rail. Lionel Gambill congratulated MTC on preparing the rail plan, recommending future connections along Highway 37. Andy Peri, MCBC, commended MTC on their efforts, stressing bike/rail connectivity as well.

Director Mackenzie asked if high speed ferries were included and Mr. Kimsey stated no, this plan focused on regional rail issues. Vice-Chair McGlashan stated his support for innovative funding mechanisms such as carbon offsets.

### **X. Petaluma Sculpture Request**

Ms. Milla stated the City of Petaluma Arts Committee has requested a sculpture be placed at the SMART Petaluma Rail Depot. This item was brought to the last Real Estate Committee and it was approved tentatively pending more information on the

details of the proposal. Chair Kerns suggested that SMART make sure the City Council of Petaluma concurs with the Arts Committee request before SMART approves the request. Director Mackenzie moved that the request be approved contingent upon concurrence by the Petaluma City Council. Director Breen seconded the motion and it passed unanimously.

### **XI. Railroad Square Exclusive Negotiating Agreement**

John Nemeth gave a status report on the negotiations with New Railroad Square, LLC. He noted that progress was being made and that the Real Estate Committee had recently reviewed a revised offer from the developer.

Regarding the process, Mr. Nemeth stated that an agreement on the business terms for the development project would be a first step. Following that, New Railroad Square, LLC would be responsible for working with the City of Santa Rosa to identify funds needed for the project to be feasible. He suggested that could take 4 to 6 months. Should that process prove fruitful, the developer would work with SMART to put together a disposition and development agreement.

Director Boro asked if the developer had agreed to pay for an appraisal of SMART's property. Mr. Nemeth replied that appraisals had already been done, but that another could be done if necessary. The developer had agreed to pay for another appraisal in the near future, since they might need one anyway to acquire federal tax credits, but wanted to conclude negotiations with the City of Santa Rosa first. Ms. Hames stated there may be a need for another full appraisal at a later time. The question would be if we would do that now that later. Director Fudge stated when she heard that the appraisal would take 6 weeks or more she was concerned about the timing of insisting on one now. Vice-Chair McGlashan asked if we could interpret the ENA to require a reimbursement for an appraisal done now. Mr. Nemeth stated he thought the answer was no, since the developer did not understand the reimbursement clause to apply to an appraisal.

Staff recommended an extension of the negotiating agreement for another 4 months that included reimbursement to SMART for negotiation related expenses. Chair Kerns asked when the current agreement expired. Mr. Nemeth stated tomorrow. Director Mackenzie moved and Director McGlashan seconded on the motion to extend the negotiating agreement.

### **XII. Adoption of Final FY 2007-08 Budget**

Ms. Hames presented the changes from the Preliminary to Final FY 2007-08 Budgets. She reviewed the key assumptions of the Preliminary Budget presented to the Board in June. She noted that the new changes reflected the SMART contributions to employee social security payments as defined in AB2224, the reduction of the final maintenance budget by \$100,000 that reflected an accounting correction for depreciation and a reduction of planned consultant funding related to enhanced engineering based on schedule revisions. Director Mackenzie moved the Final Budget Resolution 2007-07; it was seconded by Director Boro and passed unanimously.

### **XIII Supplemental Environmental Analysis Update**

Ms. Hames presented the staff report on the recommendation to pursue supplemental environmental analysis in advance of a November 2008 ballot measure. She provided the Board with an overview of the process along with the five areas where changes had occurred with potential impacts requiring analysis. These issues included: the addition of weekend passenger rail service, potential use of the light DMU vehicle, evaluation of several Phase II bicycle/pedestrian pathway segments, alternative station sites in South Novato, and NCRA's new 2007 freight service forecasts.

Director Dillon-Knutson asked if the downtown Novato site was only be analyzed as a rail station. Ms. Hames confirmed it was. Director Boro asked about the SEIR schedule. Ms. Hames stated that following Board review of these analysis areas, staff would prepare a Notice of Preparation and schedule a Public Scoping Meeting. Ms. McGough noted that the meeting would be scheduled within a 30 days of the NOP release. Director Boro stated Novato station alternatives should be operationally practical and in the best interest of rail riders.

Lionel Gambill stated Caltrain was proposing double deck trains. David Schonbrunn stated the Larkspur Station should be relocated to the ferry terminal and that a Hamilton site be evaluated in Novato. Karen Nygren stated SMART should wait till NCRA had completed their EIR and that any rail station be multimodal with good bus connectivity. Andy Peri thanked staff for reviewing several Phase II segments. Steve Birdlebough commended staff on the recommendation to do an SEIR and for evaluating the light DMU.

Chair Kerns stated that SMART's job in the supplemental EIR would be to analyze the new cumulative impacts of the 2007 NCRA freight forecasts. Ms. McGough stated the SEIR would not reexamine environmental impacts already examined in the 2006 FEIR, but would look at any changes since 2006.

Director Mackenzie moved the staff recommendation and it was seconded by Director Boro. Vice-Chair McGlashan stated that the SMART white papers would also be addressing issues not appropriate for the SEIR such as the reverse commute and shuttles. Vice-Chair McGlashan agreed with Chair Kerns that SMART's responsibility was to only evaluate the cumulative impacts of recent changes. The staff recommendation to proceed on the five areas for the NOP was passed unanimously.

Director Boro asked when SMART last contacted the City of Larkspur to set a meeting time. Ms. Hames stated an email was sent to the Larkspur City Manger, the Larkspur City Council and the SMART Board requesting time before the Larkspur Council.

### **XIV Closed Session**

No closed session.

**XV Report on Closed Session.**

There was no closed session.

**XVI Next Meeting Date: October 17, 2007, 1:30 p.m, Sonoma County Board of Supervisors Chambers**

Chair Kerns stated the next Board meeting would be on October 17, 2007 at the Sonoma County Board of Supervisors Chambers at 1:30 p.m.

**XVII Adjournment.**

Meeting adjourned at 4:15p.m.