

Agenda Item No. 3



PLEASE NOTE:

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



AGENDA: SMART DISTRICT BOARD MEETING

May 17, 2006

1:30 PM

San Rafael City Council Chambers
1400 Fifth Street, San Rafael

- I. Call to Order
- II. Approval of April 19, 2006 Board Meeting Minutes – **DISCUSSION/ACTION****
- III. Consent Agenda – **DISCUSSION/ACTION****
 - III-1. SMART Financial Update Project Cost Report - **INFORMATION ****
 - III-2. Merit Increase for Property Manager – **DISCUSSION/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. Real Estate Committee Appointment – **DISCUSSION/ACTION**
- IX. Amendments to Vicki Hill Contract - **DISCUSSION/ACTION****
- X. SMART Project Cost Update (Lillian Hames/Consultants) – **DISCUSSION***
 - A. Capital Cost Update
 - B. Operating Cost Update
- XI. Blue Ribbon Panel Recommendations (David Kutrosky)– **DISCUSSION***
- XII. FY 2006-07 SMART Preliminary Budget (Lillian Hames/Scott Catania)** – **DISCUSSION/ACTION****
- XIII. Measure M Funding Request (Lillian Hames) - **DISCUSSION/ACTION***
- XIV. SMART Annual Auditor-Controller's Report – (Scott Catania)
DISCUSSION/ACTION**

XV. 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: Santa Rosa Cannery 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 5H 25.92 in Novato, Marin County.

District Negotiator: Lillian Hames, General Manager
Negotiating Parties: Novato Sanitary District
Owner: SMART District
- c. Closed Session: Pending Litigation (Govt. Code, section 54956.9, subd. (a))
Jerico Products, Inc. v. SMART, United States District Court, Case # CV-00210 (JSW).

Closed Session: Conference with Legal Counsel-Anticipated Litigation.
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9
Marin Audubon Society v. SMART, File# 2708-1
- d. 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.

XVI. Report on Closed Session

XVII. Next Meeting Date: June 21, 2006, 1:30 pm, Sonoma County Board of Supervisors Chambers, Santa Rosa - DISCUSSION/ACTION

XVIII. Adjournment - ACTION

DISABLD 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
April 19, 2006
1:30 PM
Sonoma County Board of Supervisor Chambers
575 Administration Drive, Room 100A
Santa Rosa

I Call to Order

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

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

Absent: Carole Dillon-Knutson and Hal Brown

II Minutes of the March 15, 2006 SMART Meeting

Chair Boro asked for approval of the March 15, 2006 SMART Board meeting minutes. Co-Chair Kern moved to approve the minutes, Director Jehn seconded. The minutes were unanimously approved.

Mike Arnold asked the Board to consider a revision to the minutes. He noted two comments of his should be reworded in the March minutes. The first was regarding Working Paper 5. He stated the correction to his comments in the Public Comment on Non-Agenda Items should read that based on figures in Working Paper 5, the \$340 million capital cost figure prepared by SMART understated capital costs by \$100 million and that he felt this appeared to be because contingencies were included in the Expenditure Plan but not included in the capital cost figure. Mr. Arnold's second correction to the minutes noted that he had said SMART's recent press release on the proposed ballot measure incorrectly stated that the ballot measure was filed, when, in fact, it had not been filed. Chariman Boro directed staff to make those corrections.

III Consent Agenda

Chair Boro brought up the Consent Agenda and asked for approval. Director Jehn moved the item and Director Breen seconded. With no dissenting votes, the Consent Agenda passed unanimously.

IV Agenda Review

Chair Boro 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 Boro asked for public comment on items not appearing on the agenda. Mike Arnold asked what the procedure was to circulate information to the Board. Chair Boro stated any information you have for the Board, should be given to the General Manager, and she in turn would distribute it. Don Wilhelm raised concerns about the frequency of freight trains assumed in NCRA's freight operator RFP. He also wanted to add a representative from Novato to the NCRA Board of Directors. Lionel Gambill talked about the advantage of freight in reducing trucks on the highways and in reducing air quality emissions. Jim Schmidt raised issues of NCRA's Strategic Plan assumptions for freight service. Karen Nygren asked whether freight could be accommodated on a single track with the proposed sidings and what the impacts would be.

VI SMART General Manager Report

Ms. Hames stated that staff is currently working with consultants on response to comments to the DEIR. In addition, staff is also working on the TCRP funding progress reports, doing presentations as requested by several groups and preparing the capital and operating cost updates for the project. Staff will be meeting with the Blue Ribbon Panel Committee over the next several weeks and plans to provide panels comments at the next Board Meeting. She noted Kam Shadan was not able to attend the panel's meetings due to scheduling conflicts but that 4 other panel members would be meeting.

VII Real Estate Committee Report

Lucrecia Milla gave a brief overview of the April Real Estate Committee meeting. She noted that on March 27, 2006 the remaining portion of the NWP ROW was transferred to SMART.

VIII Railroad Square Proposals Update

John Nemeth gave an overview presentation of the three developer proposals for Railroad Square. He noted there were three meetings planned for the Ad Hoc Selection Committee prior to recommending a master developer; with the final meeting falling on May 24, 2006. Co-Chair Kerns asked how the Creative Housing proposal concluded that affordable housing requirements had a \$7.4 million impact to SMART. Mr. Nemeth responded that he did not have details on their formula for that conclusion but noted the question would be addressed in the financial analysis review.

Mr. Nemeth was then asked whether there were questions from the Santa Rosa City Council regarding the amount of City funding required by the three projects. Mr. Nemeth responded that, following his presentation to the City Council, Councilmember Martini raised this issue.

Mr. Gambill stated he would like to see more greenery and improved architectural treatments. Ms. Nygren asked what the developers are doing to enhance the rail service

signage and how the connectivity to the rail station would be addressed. Michael Allen stated he had the same concerns as Co-Chair Kerns as to how the developers derived their numbers and that all the various project elements should be individually costed out.

IX Santa Rosa Cannery LLC Easement

Chairman Boro pulled this item from the agenda.

X. SMART Ballot Measure

Sally McGough addressed the Board by providing an overview of the status of the SMART sales tax measure. She noted the Board has taken all necessary steps to put the sales tax measure on the ballot in October, 2004 and that direction was given to staff to file the measure with both counties for the November, 2006 ballot. She stated that the ordinance adopted by the Board in 2004 contained all the language required to put the measure on the ballot; including a consolidation of the sales tax resolution with the ordinance. She noted that was how SCTA brought Measure M forward.

However, at the time the ordinance was adopted in 2004 it was the Board's intention to update the Expenditure Plan before placing it before the voters. She noted staff had delayed filing so that the Expenditure Plan could be updated. Staff plans to bring a revised Expenditure Plan back to the Board later this summer. She advised the Board that she would recommend readopting the ordinance with the updated Expenditure Plan exhibit prior to filing the ballot measure no later than August, 2006.

Chairman Boro thanked Ms. McGough for her input indicating that course of action seemed most appropriate at this time.

XI Gap Closure Pathway Proposal

Mr. Mike Strider gave an overview of the Gap Closure pathway plan. Mr. Strider stated he is still waiting on drawings and responses to SMART's requests for additional information on the engineering plans of the pathway. He noted that staff could not accept the drawings until those questions were addressed. Following a discussion of the conditions of approval noted in the staff report, Chair Boro moved for approval of the staff recommendation, conditioned on the TAM addressing SMART's conditions of approval. Director McGlashan moved and Director Breen seconded the motion which passed unanimously.

XII Closed Session

Chairman Boro asked to clear the room so that Board could move into Closed Session.

XIII Report on Closed Session

Mr. Greg Dion reported that he Board had given direction to the staff on each of the Closed Session Items.

XIV Next Meeting Date

Chairman Boro stated the next Board meeting will be on May 17, 2006, 1:30 p.m. at the San Rafael City Council Chambers, San Rafael.

XV Adjournment

The meeting was adjourned at 4:15 p.m.