

**MINUTES OF THE OHIO RAIL DEVELOPMENT COMMISSION
REGULAR BI-MONTHLY MEETING
July 21, 2011**

CALL TO ORDER

The meeting of the Ohio Rail Development Commission was called to order by Chairman James Bradley at 11:07 a.m. on Thursday, July 21, 2011. Chairman Bradley thanked everyone for coming to Cincinnati for the meeting. He said we are looking forward to the presentation from OKI. Chairman Bradley thanked OKI for their hospitality and for allowing us to use their facility. Megan said the first site we will be visiting after the meeting will be the Fulton Railroad site. We will see a transload facility where they transload materials from river to rail. The commission provided a transload grant to the operators of that facility to buy some equipment. The second site is McCullough Yard, which is an I&O Yard. We will see some locomotives in which they have installed APUs (Auxiliary Power Units) that was done with the assistance of a Diesel Emission Reduction Grant (DERG) that the commission administered.

MEMBERS PRESENT

Members present included: Chairman James Bradley, Commissioners Tom McOwen, Bill Lozier, Solomon Jackson, Herk Wolfe and Ron Rasmus. Executive Director Matt Dietrich and Commissioners Bennett, Green, Murphy, Greenlese, and Sowers were unable to attend. There were six voting members present, therefore a quorum was obtained.

APPROVAL OF THE MINUTES OF THE MAY MEETING

Chairman Bradley asked for a motion to approve the minutes of the May 12, 2011 meeting. Commissioner Wolfe moved to approve the minutes and Commissioner Lozier seconded the motion. Roll call was taken. The minutes were approved as presented with six votes in the affirmative.

EXECUTIVE DIRECTOR'S REPORT

Secretary-Treasurer McClory presented the Executive Director's Report, which can be found on page 9 of the commission packet. Secretary-Treasurer McClory reviewed the commission activities since the May meeting. Ms. McClory said that in late May, the FHWA's national review team did a comprehensive review of the administration of the ARRA Stimulus projects. They have not received any formal feedback. Ms. McClory said on a whole, they did seem pleased with the work that was being done and the administration of the funds. They were very comfortable with the relationship between ORDC and ODOT. They identified some areas where we may want to do things a differently if we have federal funds that are again eligible for rail projects.

Ms. McClory said that staff and Wilbur Smith have been working with the railroads regarding the benefits calculator and the revised application form. Three shortline railroads volunteered to test the application. They gave us a substantial amount of feedback. On the whole, they were happy with what they are seeing. They felt like they have a better understanding of what we are looking for when we ask them to fill out an application. They were also very interested in seeing us migrate the application to a web based process. Ms. McClory said that in the next week or so, we will receive a revised final draft of the benefits calculator and the revised application form.

Ms. McClory said that staff has provided input to the OKI Regional Freight Plan. The feedback is included in the packet and the plan is online.

Ms. McClory said that staff issued the annual solicitation for rail line rehabilitation projects. Lou and Tom are busy reviewing the applications and are conducting field reviews of potential projects. Staff anticipates projects for consideration by the Commission at the September meeting.

Ms. McClory said that Chairman Bradley and Director Dietrich met with the ODOT Director's Task Force to discuss Commission activities, Commission structures, and how the Commission functions. Good feedback was received from the meeting.

Ms. McClory said that in addition to the activities the staff participated in since the May meeting, in the Sarah E. Hughes vs. ORDC case, a settlement agreement has been entered with the plaintiffs. There is an item being considered by the local planning commission early next week that wraps up all the pieces of the settlement agreement. Once all that is finalized, we should be able to move forward with repairing the bridge. Ms. McClory also said that Stu Nicholson attended an Operation Lifesaver event on the Wheeling and Lake Erie. His report is included in the packet.

FINANCE REPORT

Megan McClory, ORDC's Secretary-Treasurer, presented the Finance Report to the Commissioners, which can be found on page 15 of the commission packet. The final year-end reports are attached. We closed the fiscal year with a balance of exactly \$0 in our project budget. We were very efficient in use of our funds. Ms. McClory said we managed to get a number of projects in under the wire.

Ms. McClory said OBM released approximately \$151,000 that had been withheld from ORDC's budget since the start of the fiscal year. The Newark Yard Expansion was funded with the majority of those funds.

Ms. McClory said that the 2012-2013 Budget has been passed. ORDC's spending authority includes: Grade Crossing Safety appropriations of \$15 million per year, General Revenue Fund appropriations of \$2 million which is a little over 10% reduction from last biennium, and approximately \$2.9 million in loan funds and Panhandle debt reserve appropriations.

Ms. McClory said the ARRA projects are moving along. The Heartland Corridor project, which was initiated by NS and OKI, is well under way. She said three out of five of the projects are almost finished. The CSX National Gateway projects we are administering are also moving forward. Ms. McClory said the City of Youngstown/Brier Hill Industrial Park project has completed its third round of bidding. The city should be issuing the Notice to Proceed next week.

RESOLUTION 11-09 – VILLAGE OF LEIPSIC RAILROAD

Commission Jackson recused himself. Alan Klodell said that a vote would not be able to be taken on the resolution because we need six affirmative votes to pass. Chairman Bradley said that we would go ahead and hear the issues and table the vote until September.

Megan McClory presented the briefing found on page 21 of the commission packet. The project is an award that ODOT TRAC (Transportation Review Advisory Council) made to the Village of Leipsic. The Village at the time they applied to TRAC, was intending to construct a substantial

railroad infrastructure project. They estimated around \$11 million to augment the capacity of existing rail users at their Iron Highway Industrial Park and to provide on-site rail infrastructure for the Village's Job Ready Site. The park has significant utilities available and is served by three railroads. They expect that having three railroad's capacity will be attractive to developers and manufacturers. Ms. McClory said that the commission participated in some of the rail development. In 2007, we issued a grant of \$100,000 and a loan of \$825,000 to help build new track.

As project development moved forward in regards to the \$800,000 TRAC award, that \$800,000 was initially intended to be used all for design work and working together the Village, ODOT District, and ORDC determined that a better use of funds would be to construct as much rail infrastructure as possible with the money available. The group also felt that ORDC's processes would be a much better fit to the funding available and to the timeline of the project.

Ms. McClory said that staff is asking for the commission to approve, at the September meeting, that the ORDC administer the funds and administer the project on behalf of ODOT. We would enter into an agreement with the Village. The Village will then hire a firm to do design, hire a construction company to build the infrastructure, and we will administer the project very similar to the way we administer our regular grant funds.

Chairman Bradley said he was curious as to how they can obtain benefits for \$800,000 when they originally estimated the project for \$11 million. Lou Jannazo said the \$11 million figure would be for building all of the infrastructure anyone could possibly imagine for large companies. This \$800,000 would be for the wye track that leads into industrial sites that everything else will flow from. ODOT will be using state funds. The value added we have is our experience in running contracts with grant agreements. The plan is to do a design build for the wye track at the entrance of the park.

Chairman Bradley asked if the money it costs us to administer this project came out of the \$2 million in the next budget. Ms. McClory said it would come out of ORDC's operating budget, but she does not anticipate we would have any costs above what we are already paying our employees. Commissioner Lozier said we have discussed this before. It is a policy discussion. Is staff time chargeable for projects? Mr. Jannazo said no. We do not charge staff time to projects. What we do is value added. Chairman Bradley agrees with Mr. Jannazo. Even though we are not getting funding for it that is what we are all about. Commissioner Lozier said the way he understands the Job Ready Site Program is that once the site is built, the companies will come. He asked if we knew if the company that was coming in the future would have any rail dependency and if the \$800,000 should be spent or should it be put into escrow. He asked how we decide to spend the \$800,000. Mr. Jannazo said that ODOT made the decision to spend the money. Mr. Jannazo said the park is 15-20 miles away from a four lane road. Mr. Jannazo said the funding is not gas tax. It must be flexible money or blue sign money. Chairman Bradley said that it was a good discussion and we will table the vote until September.

RESOLUTION 11-10 – COLUMBIANA COUNTY PORT AUTHORITY LOAN MODIFICATION

Megan McClory presented the briefing found on page 25 of the commission packet. Ms. McClory said this is the sixth request to modify the terms of the loan since it was first approved in September 2003. The loan was initially made to rehabilitate the former Youngstown and

Southern line. The commission approved the most recent modification in 2009. The operator has not made any payments since March 2010. Ms. McClory said that due to financial and permitting issues, operations at the landfill facility are minimal. In addition to the ORDC loan, the CCPA is the official borrower on an outstanding loan from PNC Bank.

Ms. McClory said an investment group has been assembled to purchase the landfill and rail line. The investment group estimates that the rail line needs \$2 million in investment immediately to restart operations and between \$5 and \$7.5 million within the next three years. Ms. McClory said the investment group's proposal is to execute a purchase agreement immediately and apply immediately to the FRA for financing. The CCPA will be the applicant, the investment group will be the co-applicant, and the loan will be used to acquire the rail line and refinance the repair of the railroad. Presuming FRA approval of the loan, the investment group will rehabilitate the line and provide repayments to ORDC and CCPA of \$45 per car until the loans are repaid. They anticipate 5,000 car loads per year. Director Dietrich and Ms. McClory feel this proposal is the best likelihood of recovery of the principal of the loan. Given that there is very little rail traffic on the line now and ORDC has not received any payments since March 2010, the probability of repayment under the current circumstances appears low. Ms. McClory said that staff recommends that the terms of the loan be modified to allow the Executive Director to determine final terms of the loan work-out with the conditions that any such work-out provide for full recovery of principal of the ORDC loan.

Commissioner Jackson said we have continued to defer on this project. He asked if it was realistic for them to say they were going to invest \$16 million here, another \$7.5 million there, and another \$2 million there. What happens if FRA doesn't approve the loan? He wonders if there is a smarter approach to have a more realistic outcome. They are estimating five thousand car loads. Five thousand car loads of what? He wants to make sure we protect the public interest as best as we can. He said working out payments is one thing. This is a departure from us deferring the loan. What do we know about the players that have assembled an investment group? Mr. Jannazo said if it crashes and they can't get C&D traffic, we are back to square one. We have to get in line with other creditors to get our money back.

Commissioner Rasmus said he shares Commission Jackson's views. Are we collecting interest only? Can we negotiate the interest amount? Commissioner Rasmus has no problem in giving the Executive Director authority to negotiate. He would just like to have more information.

Ms. McClory said that ETC Capital is the name of the investment group. They successfully secured an FRA RRIF loan for \$17 million for the Great Lakes Central Railroad last year. That loan was one of only two that have been closed by the FRA in the last year and a half. They are in the final stages of a \$25 million loan for a rail to truck terminal on Long Island. They have had good results in the past in securing FRA funding.

The current loan's outstanding balance is \$1.2 million, notwithstanding late fees, and including \$53,000 interest. We would need to ask both parties about paying interest only. Ms. McClory said the outstanding loan is from PNC Bank. The Port Authority is the borrower of the loan. The first proceeds would go to the bank. Commissioner Jackson said if he remembers correctly, at our retreat a gentleman from Wheeling and Lake Erie told us about the pretty involved process in obtaining a RRIF loan. What if the RRIF loan would not be approved? Commissioner McOwen said we have two choices. We either go along with this plan or we force abandonment

of the line. Chairman Bradley said we can authorize Matt to work out the details of this deal. We can modify the resolution if we have to. Mr. Jannazo said the deal has to be worked out before the RRIF loan approval. He said the one consistent player is Guy Fragle at the landfill. Chairman Bradley said that we are at a disadvantage without Matt here since he has been spearheading these discussions. Chairman Bradley said the commissioners are a little uncomfortable with the amount of detail. They want to know more. Commissioner Lozier asked why we would waive the late fees. Chairman Bradley said if it is profitable, we should be able to recoup. Chairman Bradley said we will table a vote until September.

OKI REGIONAL FREIGHT PLAN PRESENTATION

Mark Policinski, Executive Director of OKI gave a power point presentation on OKI's Draft Regional Freight Plan. (The slides are on file at ORDC.)

APPROVED PROJECT BRIEFING: COLUMBUS & OHIO RIVER RAILROAD EXPANSION OF NEWARK YARD

Mr. Jannazo presented the briefing found on page 31 of the commission packet. Mr. Jannazo said this project is to enhance the capacity of Ohio Central's Newark Yard to make it more effective. Ohio Central bought a line from N & W from Zanesville to Brewster, they bought a former Conrail line from Zanesville to New Lexington, they picked up the Panhandle, and they picked up lines from CSX from Newark to Mt. Vernon and Newark to Cambridge. There are not a lot of yards in east central Ohio. They struggle to handle all the traffic. The Newark Yard was not configured for traffic from all other lines. Mr. Jannazo said they secured \$1.5 million from ODOD. The total cost of the project is \$2.4 million. The railroad is going to put in at least \$650,000. The last piece of the puzzle will be the \$150,000 from ORDC. The list of work needed to be done is found on page 32. Mr. Jannazo said we are really just finishing off the yard. The money is coming from 2011 fiscal year money. The service to 84 customers will be enhanced. Jerry Sattora with the Ohio Central is here to answer any questions.

OLD BUSINESS

There was no old business to come before the Commission.

NEW BUSINESS

Chairman Bradley said that he had been talking to Matt about the employee evaluations that Matt and his management staff have been performing over the last few weeks. Chairman Bradley asked Matt if he had ever had a review and Matt said he hasn't. Chairman Bradley feels we need to perform an Executive Director Evaluation. There are two reasons for this. One is that it is good governance to evaluate the Executive Director and the second reason is that it is fair to Matt to get feedback from the commission. Chairman Bradley suggested forming a group including himself, Vice Chairman McOwen, and the Chair of Human Resources, Commissioner Jackson. He has asked Matt to perform a self-evaluation. Matt would be more familiar with the criteria he feels are most important of his duties. The group will then use Matt's self-evaluation to determine the most important attributes of the Executive Director and to provide feedback. Chairman Bradley said at the next commission meeting we will have an Executive Session for the overall view of Matt's evaluation. Commissioners can provide any comments to Chairman Bradley, Vice Chairman McOwen, or Commissioner Jackson to let them know of the attributes of the job that they feel should be considered and how Matt is performing in his job.

Suzy Pettet informed the commission that her last day will be July 29th. She said she has enjoyed working at the commission and she will miss everyone.

PUBLIC COMMENT

Art Arnold said he thinks it is great that the commission is moving around the state. He thanked Suzy for all she did and he wished her luck.

ADJOURNMENT

Chairman Bradley adjourned the meeting at 12:40 p.m.