

**MINUTES OF THE OHIO RAIL DEVELOPMENT COMMISSION  
REGULAR BI-MONTHLY MEETING  
NOVEMBER 13, 2008**

**CALL TO ORDER**

The meeting of the Ohio Rail Development Commission was called to order by Chairwoman Jolene M. Molitoris at 10:05 a.m. on Thursday, November 13, 2008.

**MEMBERS PRESENT**

Chairwoman Molitoris asked Megan McClory to call the roll. Members present included: Chairwoman Jolene Molitoris, Commissioners Tom McOwen, Herk Wolfe, Larry Sowers, Maryann Freed for Director Beasley, William Murdock, Barbara Bennett, Rob Greenlese, Representative Robert Hagan; and William Lozier. Members absent were Solomon Jackson, Senators Capri Cafaro and Larry Mumper and Representative Larry Flowers. There were nine voting members present once Commissioner Murdock arrived at approximately 10:20 a.m.

**ACKNOWLEDGEMENT OF VETERANS DAY**

Chairwoman Molitoris stated we are privileged to have our meeting today during the week of Veterans Day; we celebrate the brave and overwhelming sacrifice from the beginning of the history of our country to the men and woman serving our country today.

**INTRODUCTION OF ROB GREENLESE, NEW ORDC COMMISSIONER**

Chairwoman Molitoris introduced Rob Greenlese and welcomed him to the commission. She stated Commissioner Greenlese joined us at our Fall Retreat. Previously Rob served as the Director of Surface Transportation and Logistics for the Toledo-Lucas County Port Authority. He also served as a Distribution Manager at the Andersons, and is currently a member of the Toledo Area Regional Transit Authority Board of Trustees.

**WELCOME TO MARIANNE FREED OF THE DEPT. OF TRANSPORTATION**

Chairwoman Molitoris welcomed Marianne Freed as Director Beasley's designee. Marianne has been a leader at the Department of Transportation for a long time and has been an advocate for transit in this state.

**CONGRATULATIONS TO SENATOR CAPRI CAFARO**

Chairwoman Molitoris noted that Senator Cafaro was recently elected as the leader of the Ohio Senate's Democratic caucus. Chairwoman Molitoris expressed pride for Senator Cafaro and expressed hope for a wonderful advocate for transportation and rail issues of our State.

**FAREWELL TO REPRESENTATIVE LARRY FLOWERS AND SENATOR LARRY MUMPER**

Chairwoman Molitoris informed the Commissioners and audience that two of the commission's legislative members who have been supportive of our work and endeavors will be leaving us.

Representative Larry Flowers has been an ORDC Commissioner since 2007; he is completing his service to the 19<sup>th</sup> District of the Ohio House. We want to thank him for his support during the 127 General Assembly and hope he will be able to continue his work to support rail transportation. Stu Nicholson, ORDC's Public Information Officer, presented Resolution 08-20 to honor Representative Flowers' service.

Chairwoman Molitoris asked for a motion to approve Resolution 08-20. ODOT Designee Maryann Freed moved to approve the motion and Commissioner Sowers seconded the motion. Roll call was taken with eight votes in the affirmative.

Senator Larry Mumper, who is not here today because he is recovering from heart surgery, is completing his service to the 26<sup>th</sup> District of the Ohio House. He has been a Commissioner since 1998. We want to thank him for his support during his remarkable decade of service. Commission Resolution 08-21 honoring Senator Mumper was read by Stu Nicholson, Public Information Officer.

Chairwoman Molitoris asked for a motion to approve Resolution 08-21. Commissioner McOwen moved to approve the motion and Commissioner Bennett seconded the motion. Roll call was taken with eight votes in the affirmative.

Commissioner Murdock arrived at approximately 10:20 a.m.

### **APPROVAL OF THE MINUTES OF THE SEPTEMBER MEETING**

Chairwoman Molitoris asked for a motion to approve the minutes of the September 11, 2008 meeting. Commissioner Wolfe moved to approve the minutes and Commissioner Bennett seconded the motion. Roll call was taken. The minutes were approved as presented with nine votes in the affirmative.

### **EXECUTIVE DIRECTOR'S REPORT**

Executive Director Matthew Dietrich expressed gratitude toward Senator Mumper and Representative Flowers for their service and directed the Commission to the Executive Director's report on page 12 of the commission packet.

Director Dietrich reported that staff has been focusing on a number of initiatives and has "a lot of balls in the air." Projects include 3-C Passenger Start-up Service, the Logistics Portion of Ohio's Job Stimulus Package, and the Panhandle Long Term Lease discussions. ORDC is also actively working with Cincinnati's regional planning agency, OKI, on the extension of the Norfolk Southern "Heartland Corridor" to Cincinnati. The next step will be to obtain Federal approval.

Chairwoman Molitoris stated Director Dietrich has taken a leadership role in working with ODOD in a partnership with the stimulus package. She wanted to thank him for doing such a great job in pulling the partnerships together.

Director Dietrich stated ORDC has finished the first round of meetings with the cities along the Amtrak 3-C Service line. ORDC and Amtrak have finalized a scope of work and hope to have an executed agreement after legal review.

Director Dietrich reported staff and Commissioner McOwen made a trip to CSX Headquarters in Jacksonville; a summary of that visit is attached to the report. On a project level they had a great deal of success; they reached an agreement on several strategic initiatives in terms of safety and corridors.

Director Dietrich stated there was a FHWA Quality Improvement Review of the ORDC Safety Programs; in summary the report found that Ohio's Railroad-Highway Grade Crossing

Improvement Program is administered in substantial compliance with federal requirements. The review did identify some items related to project oversight, some of which staff was already addressing. The report provides guidance to strengthen Ohio's administration of the program. Copies of the report can be made for anyone who desires it.

Director Dietrich echoed Chairwoman Molitoris's statement about partnerships; he and Marianne Freed attended a meeting in Lorain County regarding planning for an alternatives analysis of the West Shore corridor.

Chairwoman Molitoris stated it is encouraging to see these partnerships grow and feels ORDC has been doing this well for a while.

### **FINANCE REPORT**

Megan McClory, ORDC's Secretary-Treasurer, presented the Finance Report to the Commissioners. The report can be found on page 26 of the commission packet. Ms. McClory reported a budget cut of \$174,000. "We've been able to make some savings from our operating budget", Ms. McClory stated. "We are still waiting for final approval as to how that will be allocated."

Ms. McClory reported we are working on a second college intern position. Currently, we are reviewing applications and will be interviewing shortly.

Ms. McClory reported that Greater Ohio Ethanol, an ORDC loan recipient, filed for bankruptcy in mid-November. Their original loan amount was \$1 million and they've repaid just over \$100,000 of that balance. We are a secured lender and have a first position. Alan Klodell has been following the legal filings for ORDC and we are scheduled to go to a meeting of creditors in Toledo next week.

Ms. McClory stated that a bridge from Marne Road in Licking County, crossing the Panhandle Line, is the sole source of highway access to two properties. One of the residents has contacted the ORDC and the railroad; he is unable to get emergency vehicles to his home due to the condition of the bridge. The railroad worked with the adjoining property owner and has a verbal agreement with the second property owner to allow access from his driveway. The driveway arrangement is temporary and appears to be a minimal cost. ORDC will make funds available to remove the bridge and put in an at-grade private crossing.

Ms. McClory stated we have closed two loans; one to the Village of Leipsic; they built rails to connect to the three rail lines that service an industry park in the community, and a second loan was closed with West Central Ohio Port Authority to replace a bridge on their line.

Ms. McClory reported that the 2009 Commission Meeting Schedule dates are in the packet. Chairwoman Molitoris asked that Ms. McClory confirm those dates with the Commissioners.

### **PROJECTS**

#### **Resolution 08-22 – Indiana & Ohio Blue Ash Rehabilitation**

Lou Jannazo, ORDC's Chief of Project Development, stated the briefing is on page 31 in the packet and described the history of the rail line. He stated the funding is a 50/50 match with the

I&O providing \$251,499. This project will enhance service for eight shippers on the line, employing 141 people. He stated by improving the track it will cut down on derailments, of which there have been twelve in the past two years. The rail service is slow at this time due to the track condition.

Ryan Ratledge, General Manager of the I&O, was present and stated he is appreciative of consideration for this project. Derailments negatively impact the company's service and the railroad welcomes the opportunity to improve consistently to shippers.

Commissioner Greenlese asked if the I&O anticipated any additional carloads as a result of this project. Mr. Ratledge stated with improvement to the line, Smurfit may increase their carloadings, though there is no specific estimate. Representative Hagan asked how many locomotives are used along the line. Mr. Ratledge said they need tow because of the grade.

Chairwoman Molitoris asked for a motion to approve Resolution 08-22. Commissioner Sowers moved to approve the motion and Commissioner Greenlese seconded the motion. Roll call was taken with nine votes in the affirmative

### **Resolution 08-23 – Wheeling & Lake Erie Akron Subdivision Crossing Safety Improvements**

Mr. Jannazo stated the briefing is on page 41 and gave a powerpoint presentation. This project consists of multiple crossing improvements along the line, and Susan Kirkland and Mike Forte of ORDC's Safety Section were heavily involved in selecting the enhancements. The request is \$175,000 in grant money to be matched by the W&LE at \$175,000. W&LE intends to increase the speed from 25 mph to 40 mph on the track and has made major improvements using their federal RRIF loan. Mr. Jannazo stated the ORDC will be helping fund surface and warning device improvements to enhance safety to the public. The \$175,000 will be used to first improve two surfaces, Lance Road and White Pond Road, and then upgrade signals at up to ten crossings as the funding allows. In addition, ORDC is considering another project with safety section funds to install warning lights and roadway gates. The signal upgrades include circuitry upgrades to accommodate the faster speeds, as well as upgraded roundels with larger LCD lights, "gatekeepers", and other enhancements. With the ORDC funding, the crossings will be brought into compliance with current MUTCD standards.

Representative Hagan stated the increasing speed through the curves coming into a blind area concerned him. Mr. Jannazo indicated that is why ORDC's safety section is involved in this project. Representative Hagan stated that he can't impress enough the fear of train crews who know that motorists are accustomed to slower train speeds. Mr. Jannazo stated the railroad will work with law enforcement to make sure the public is aware of the changes.

Bill Callison, President of the W&LE, was present and stated this is a complicated project and the railroad appreciates the ORDC staff working hard to make these crossings safer. He stated that additional public education will be provided through Operation Lifesaver and the PUCO.

Commission Wolfe had concerns about the liability of the Commission. He asked whether all the crossings should be equipped with new circuitry because when federal safety funds are used for a project, the entire circuitry/warning device installation is replaced. He asked whether using

state funds to do less than ORDC normally does with federal funds would open the state to liability. Commissioner Wolfe also asked if the railroad increases the speed on the line how do the shippers benefit? Do they get their rates reduced?

Mr. Jannazo stated that the crossings will be brought up to compliance with current MUTCD standards, if they are not. He stated that with this project the improved crossings will not only meet the federal standards but be better than the minimum requirements. Without ORDC participation, the railroad would not do the additional enhancements of roundels and gate keepers. The public is getting a better crossing than they would otherwise at a much lower cost than the typical \$200,000 per crossing to do an entirely new warning device installation.

Commissioner McOwen stated that Commissioner Wolfe raises excellent points regarding shippers and perhaps it is better to discuss that issue in a retreat-type setting when background research can be done and the commission can consider how best to address it. He spoke in favor of the crossing improvements and stated that anytime crossings can be improved it is a good thing.

Chairwoman Molitoris asked if ORDC has done a project of this nature in the past. Mr. Jannazo was not aware of any. Alan Klodell, legal counsel to the ORDC, stated that the ORDC would be indemnified by the W&LE in our grant agreement, however ORDC could still be a party to legal action.

Mr. Callison stated that an extensive safety analysis was done of this project and pointed out the indemnification, insurance coverage of the railroad, and overall improvement to shippers and the public.

Commissioner Bennett stated that this project seems like a win-win for the public and the railroad and asked about requirements on federal funds that necessitate new installations and not upgrades.

Chairwoman Molitoris stated she would like to table this issue until the January 2009 Commission meeting to fully vet the issues involved.

Commissioner Lozier stated Michelle May, of ODOT Safety, is open to helping crossing money go further. Chairwoman Molitoris asked whether this project had been discussed with ODOT as part of the ongoing partnership between the two agencies. Commissioner Lozier stated that ODOT would take applications for railroad projects.

Commissioner McOwen asked inquired the ramifications of not approving this project now. Mr. Callison stated that they would keep the line at 25 mph until the Commission has an opportunity to reconsider the project.

Mr. Dietrich summarized that the outstanding issues are the potential liability of using state funds for crossing upgrades and the difference between MUTCD compliance and federal standards for FHWA funds. Chairwoman Molitoris added a policy decision regarding re-doing crossings with state funds. She also asked that staff pursue the ODOT partnership more aggressively so that if ODOT safety funds can be used, they are considered.

**Resolution 08-24 – US Rail/City of Jackson Rehabilitation Project Amendment to Resolution 08-08**

Mr. Jannazo stated this briefing is on page 49 and is an amendment to a previously approved project. Staff is asking to postpone much of the work on the US Rail/City of Jackson project that was approved in Resolution 08-08 in order to address more urgent needs on the same line. The original project consisted of a \$324,000 grant and a \$300,000 loan for track work on the City of Jackson-owned US Rail operated line. Since that time, US Rail submitted an application for assistance with repairs to the Richland tunnel. It has become clear that the tunnel work cannot be delayed. The City is requesting delaying other track work that is planned and instead doing the work immediately on the tunnel and on a nearby bridge. If either of those structures were to fail it would shut down rail service to the entire city-owned line. The amount of the grant to be used for the tunnel will be based on an inspection of it. The Resolution that staff is recommending will amend Resolution 08-08 to allow the City to proceed with tunnel/bridge repairs. In addition, the \$300,000 loan could be used for track repairs and engineering work on the tunnel/bridge.

Mayor Randy Heath of the City of Jackson and Shane Goodman of US Rail were in attendance. Mayor Heath stated they are working with George Wehner to inspect the bridge and Grant Cook to provide the engineering. He wanted to thank Lou Jannazo for making numerous trips to Jackson to help them work on the problem.

Commissioner Lozier asked whether an engineering firm is doing the tunnel inspection. Mayor Heath stated that Grant Cooke did the preliminary inspection and with Commission approval they will have a full inspection done. The estimates they are using for tunnel repair are from Fenton Rigging.

Chairwoman Molitoris asked for a motion to approve Resolution 08-24. Commissioner Sowers moved to approve the motion and Commissioner McOwen seconded the motion. Roll call was taken with nine votes in the affirmative.

**Resolution 08-25 Dennison Depot “Polar Express”/Panhandle Line Agreement**

Megan McClory gave a briefing on the Polar Express. At the July meeting the Commission approved a resolution allowing the Dennison Depot to operate the Polar Express service along the Panhandle line. Since the change in ownership of the Ohio Central Railroad System the new owners are open to operating excursion service and have reached an agreement with the Dennison Depot to operate those trains. The railroad asked the Depot during their conversations to make a request to ORDC for a single change to the conditions that the Commission approved back in July. The change is to the provision that requires local law enforcement to provide additional protection at grade crossings while the train was in operation. Since the Ohio Central has agreed to operate the train during the Polar Express, staff is recommending eliminating the requirement of law enforcement presence at grade crossings.

Chairwoman Molitoris asked for a motion to approve Resolution 08-25. Commissioner Bennett moved to approve the motion and Commissioner Wolfe seconded the motion. Roll call was taken with nine votes in the affirmative.

## **APPROVED PROJECT BRIEFINGS**

### **Maumee & Western Railroad Hot Starts**

Mr. Jannazo stated the briefing is on page 74 of the packet. Staff recommends a loan to the M&W to buy hot start units for the locomotives in order to save fuel. It is environmentally friendly that locomotives don't have to be idled when not in use.

### **Lawrence County Port Authority for Chatham Steel**

Beverly Lee reported the State of Ohio offered an incentive package to Chatham Steel to entice them to the State of Ohio. Ohio was in competition with two other states. ORDC offered a grant of \$80,000 to the Lawrence County Port Authority to assist with off-site rail infrastructure needs. Chatham Steel will invest up to \$8 million to open a distribution center in Lawrence County, creating 50 new jobs [not the 60 listed in the briefing] and generating up to 78 carloads per year.

Dr. Bill Dingus was present from the Lawrence County Port Authority and expressed his appreciation of the opportunity to work with the State of Ohio.

Chairwoman Molitoris stated the Ohio Department of Development is a partner in the project and has invested significantly in this project.

## **PASSENGER RAIL UPDATE**

Director Dietrich provided a follow-up to the Commission retreat regarding the project timeline for the 3C Passenger Service start-up. Chairwoman Molitoris stated at the retreat she would like to see a 2010 start. In order to identify the work needed, staff created two project timelines, one going forward and one going backward. The 2012 timeline incorporates the information ORDC has received from various entities regarding the work needed to establish service. The 2010 timeline reflects the modifications necessary to target 2010 for establishment of service. The two timelines are on pages 81 and 82 of the packet, and a briefing on pages 83-85 reflects the challenges to the project. The challenges include:

- Delivery of the Amtrak Report: 6/30/09 draft report, 8/31/09 final report; agreement is still being finalized;
- RTC capacity modeling: the extent of the modeling will impact the Amtrak report. ODOT has committed \$500,000 in planning funds but the final cost will be determined once routes are determined and railroads are consulted;
- Equipment procurement: Ohio may be the first state-sponsored service for which Amtrak cars are not available. New equipment is expensive and at least 2-3 years from order to delivery; the market for refurbished equipment is already tight and getting tighter.
- State budget timing cycle: staff is working with ODOT and OBM using numbers developed in the late 1990s (inflated forward using the best available estimates), but state funding is uncertain.
- Construction: the 2010 timeline has only one construction season available, and weather uncertainties and Class I railroad force account priorities are challenges;
- Staffing resources: ORDC is seeing a new level of attention and expectation for passenger rail. In terms of skill sets, staff is comfortable with planning & negotiating, though is seeking a small contract with an experienced implementer. Project management and construction of improvements is outside the current ORDC skill set, and staff is seeking expertise within other state agencies. Once the system is operating, ORDC will likely need assistance with contract and operating oversight.

- Positive train control: this will be required on “mainlines” – those carrying passenger trains and toxic inhalation hazards – by 2015. It appears that railroads’ positions will be that if PTC is required because of passenger service, funding the installation will be the responsibility of the passenger service sponsor. FRA guidance is forthcoming.

### **PANHANDLE LONG-TERM LEASE COMMITTEE REPORT**

Commissioner Tom McOwen, Chairman of the Panhandle Long-Term Lease Committee, reported that the Committee is moving forward with discussions with the Columbus & Ohio River Railroad (Ohio Central), and that the new owners want to proceed. The Panhandle appraisal update was just completed and will be considered by the Committee.

### **REPORTS OF THE STANDING COMMITTEES**

#### **Economic Development/Long-Term Strategy Committee**

Commissioner Barbara Bennett, Committee Chair, stated they had a meeting in September. They spent 3½ hours conducting a SWOT (strengths, weaknesses, opportunities, and threats) analysis. They had a discussion on a State Rail plan for freight and passenger rail planning for the next 20 years. She would like to have the second meeting directly after the January Commission meeting. The Committee will use the information from the retreat and feedback from the 21<sup>st</sup> Century Task Force for discussions.

#### **Legislative Committee**

Chairwoman Molitoris stated Matt Dietrich is staying involved in the 21<sup>st</sup> Century Task Force and the report will be completed in the next month. The federal Authorization Bill will begin in-depth after the first of the year, which will be the six year bill outlining the federal role in transportation endeavors.

#### **PUBLIC COMMENT**

No comments were made.

#### **NEW BUSINESS**

Commissioner Wolfe stated things are changing in the world with a new President-elect coming on-board, and trouble in the automotive industry. He proposed that the state embargo all of the rail lines abandoned in Ohio (since 1940) to conduct an inventory. He would like ORDC to ask legislators to temporarily embargo the abandoned lines to give public agencies an opportunity to develop long term plans and identify rail line segments for restoration. Such a project would take traffic off highways and create projects for a WPA-type agency.

Chairwoman Molitoris stated she appreciates the idea of thinking differently about Ohio’s rail assets and agreed we need to look forward. She asked Director Dietrich to discuss the idea further with Commissioner Wolfe and ODOT Planning.

Director Dietrich stated a critical element of the state’s rail plan is to develop an inventory of existing rail assets. Staff expects the passenger rail intern to work on this project.

#### **COMMISSION RETREAT DEBRIEFING**

Director Dietrich reported Megan McClory prepared a summary for the Commissioners. Staff was asked for their comments on the retreat, and the general view was that the group tried to do 3

days worth of planning work in a 7-hour retreat. He believes that the retreat gives lenses in which to view various activities. One of the themes from the retreat was education, and he suggested that the change in leadership at the Ohio House and the upcoming budget give staff a clear place to focus education efforts. Director Dietrich stated he also believes staff has enough direction to move forward, but would like feedback from Commissioners.

Chairwoman Molitoris stated last January we set priorities and principles the ORDC would pursue for the year. It would be good to bring these back out to evaluate them. We would then take the substance of the discussion from the Retreat and incorporate those into a proposal for the Commission about the way we will direct our work in the New Year.

Commission Lozier expressed interest in being involved in the education process so that ORDC staff and commissioners are conveying a consistent message.

### **ADJOURNMENT**

Chairwoman Molitoris called the meeting adjourned at 12:25 p.m.