



RAILROAD TRANSPORTATION SAFETY DISTRICT

Board Meeting
September 1, 2009

Meeting Began At: 8:30 a.m.

Meeting Ended At: 9:28 a.m.

Members Present: Deb Schorr, Ray Stevens, Doug Emery, Eugene Carroll, Bob Workman, Adam Hornung

Others Present: Roger Figard, Tina Queen, Bill Kuester, Kurt Micek, Fran Mejer, Susie Filipi, Harlan Layton, Gary Irvin, Amy Cornelius-Jones, Jim Plouzek, Randy Hoskins, Dick Nuernberger, Wynn Hjermstad.

Order No. 09-24 Call Meeting to Order. Approval of Previous Minutes.

Schorr called the meeting to order.

Workman motioned to approve the previous minutes. Carroll seconded the motion. Motion approved 6-0.

Order No. 09-25 Report of Revenue and Expenditures.

Mejer presented the revenue and expenditures report for July 1, 2009 thru July 31, 2009

Cash Held by County

- Beginning Cash Balance = \$388,289.62
- Total Revenues = \$1,667,255.04
- Total Expenditures = \$32,902.73
- Ending Cash Balance = \$2,022,641.93

Cash Held in RTSD Checking Account

- Beginning Cash Balance = \$4,017,669.57
- Interest Income = \$0
- Total Cash = \$3,865,819.95

Investments

- Total Investments = \$5,668,125.04

RTSD Cash & Investment Balance = \$11,556,586.92

Emery motioned to approve the report of revenue and expenditures. Carroll seconded the motion. Motion approved 6-0.

Order No. 09-26 Current Budget Status, Project Updates, Committee Updates.

Figard highlighted:

- Northeast Lincoln Cornhusker Quiet Zone - The horns will cease for normal operation on September 18, 2009.
- Quiet Zone for Waverly - RTSD has signed a study contract with The Schemmer Associates for approximately \$25,000. Diagnostic meeting will be the first step.
- 18th & Holdrege - The City has a contract signed with Olsson Associates to work on the removal of the existing vehicular bridge and the construction of the pedestrian bridge. Timing has yet to be worked out. There are large concrete barriers across both ends of the bridge. No decisions will be made on the schedule until there is Board direction.
- Southwest 40th - The project is on hold. US Fish and Wildlife have yet to respond. Until the environmental document and legislation is back, NDOR sends that onto FHWA, and concurrence is met for the environmental document, right-of-way appraisals cannot be done. The agreement with the railroad will continue to be worked on.

Stevens asked about the Adams and NW 12th project.

Figard replied that it is the repair of the bridge that goes over the BN and UP tracks to the airport. The bridge had some significant abutments and approach slab problems.

Stevens asked when the Antelope Valley Big X last leg will be open and if there is an at-grade crossing in the area that causes the trains to blow the horns.

Figard replied that the Big X will be open late this fall. The contractor is still using the old 17th Street crossing. Until they are done, the horns will continue to blow. Once the contractor vacates that area, getting that area quiet can be worked on.

Order No. 09-27 Approve 2009-2010 Budget.

Figard stated that the County Board did set the levy at 0.026. The budget will be forwarded onto the State Auditor for their records. Nothing has changed in the budget that was approved at the June meeting. For the next year, the valuation will be used from the County Assessor. The inflation rate was reduced to be consistent with the same numbers the County is using for growth over the next 4 - 5 years.

Workman motioned to approve the 2009 - 2010 budget. Stevens seconded the motion. Motion approved 6-0.

Kurt Micek did an overview of the financial statement in the audit report.

- interest rates have went down, interest income will be down
- projections of how the property tax revenue that will be coming in within the next few years and the plan of expenditure for projects for the next few years will meet the net assets and stay positive for the next three year period
- operating expenses have reduced from prior year
- project costs have increased - accounts for 97% of total expenditures
- no significant findings as far as internal control

Order No. 09-28 Engineering Agreement for FHU on South Lincoln Quiet Zone.

Figard stated that originally Kirkham Michael had an agreement with the RTSD to do these plans. There was a change in staff at that firm. At the June 2008 meeting, the Board was asked if the desire was to continue to negotiate with Kirkham Michael. The Board agreed to do that. A scope and fee needed to be negotiated. The scope and contract delivered were not consistent with most engineering contracts and the hours were too high. Kirkham Michael resubmitted a proposal with minimal changes.

A letter was sent to the Board dated July 11, 2008 stating that a contract could not be negotiated. At that point, City process was followed in which a request was made for an RFP from FHU. The proposal was more appropriate and a contract was signed on August 21, 2008. There was no Board action authorizing the Executive Director and Board Chair to sign that contract for \$49,500. Figard asked the Board to make a formal motion to ratify the contract with the FHU.

Schorr added that throughout the negotiation process with the previous provider, Roger kept her and the former Vice Chairperson in the loop as that process went on.

Workman motioned to ratify the already existing contract for \$49,500 with FHU for the South Lincoln Quiet Zone. Stevens seconded the motion. Motion approved 6-0.

Figard stated that South Lincoln has moved along and the design is almost done. There is an amendment in the package for an additional \$9,600 for FHU to finish the contract. There is a driveway on Pioneers Boulevard between the railroad tracks and the new bridge the County built a couple years ago. There are floodplain, drainage and access issues. Rick Haden went above and beyond to facilitate finding a good solution. After the contract was signed, the stimulus projects moved ahead - one of which abuts up to this quiet zone. Additional coordination and design needed to be done.

Stevens motioned to approve the South Lincoln Quiet Zone amendment with FHU in the amount of \$9,600. Carroll seconded the motion. Motion approved 6-0.

Stevens asked about the schedule attached to the amendment stating that the Quiet Zone would be done by the end of this year.

Figard replied that there is a new schedule. Both South Lincoln and South Salt Creek will be bid this fall or late winter with a construction start in the Spring.

Order No. 09-29 Engineering Amendment for FHU on South Salt Creek Quiet Zone.

Figard stated that there were parking issues and numerous meetings for the 3rd and D area. There is a property owner at 3rd and J that is trying to sell the property. This creates some access issues and affects how to close the crossing at 3rd and J. This amendment is for \$10,500 that would be added to the existing contract of \$59,500.

Workman motioned to approve the South Salt Creek Quiet Zone amendment with FHU in the amount of \$10,500. Carroll seconded the motion. Motion approved 6-0.

Carroll asked if Figard expected any more expenses in the future.

Figard replied that it is a possibility and will depend on the next month in working with the railroad.

Order No. 09-30 Board Order for Travel Rules.

Figard supplied a copy of an executive order signed by the Mayor in which the goal was to support local travel out of the Lincoln airport. The scheduled trip in January for the NCUTCD conference was booked out of Omaha, because there was an early flight and a late flight which would save two nights of hotel stay.

The Board's consensus was to use the common sense approach and use the most cost effective way.

Order No. 09-31 Request - Waiver for Repayment of Fund for North 27th Street Viaduct.

Figard stated that the Board had received a letter asking for a waiver of payment on a previous project. The property is along North 27th Street. The property was acquired by the RTSD as part of the North 27th Street viaduct that was completed in 1996.

Hjermstad added that moving Matt Talbot to this location is part of a bigger picture that started with Antelope Valley and the Assurity Life Insurance Co. building their new corporate headquarters. Part of what they needed to do was relocate Matt Talbot Kitchen and Outreach. This location used to be the home of Neighbor Works Lincoln. Neighbor Works was moving and building a new corporate headquarters in Antelope Valley. This area was identified as a possible location for Matt Talbot Kitchen. The City owned this property. The one building still there is an old library that was moved to that location several years ago. Urban Development started to investigate this and found that part of that site was acquired by using 95% federal funds and 5% RTSD funds. Federal Highway requires that if the City sells the property, the money needs to be reimbursed. There is a provision in the federal statute that says, depending upon the purpose of the use, a waiver may be requested to not repay those funds. Urban Development wrote a letter to Federal Highway and the RTSD requesting that waiver. The property was appraised at approximately \$140,000 (\$133,000 federal reimbursement and \$7,000 RTSD reimbursement). This waiver was done so that Matt Talbot wouldn't have to pay the reimbursement and keep the funds to invest in their new project. The federal portion of the waiver was approved, but wanted a deed restriction with the transfer of that property. The transfer was already completed. It was approved with the condition that should Matt Talbot ever sell the property, they would have to repay them.

Stevens asked if this money would need to be reimbursed if this happened 50 years from now.

Figard replied yes.

Hjermstad stated that the total appraisal amounts to \$276,000 which includes the building. The small piece of land within that area being dealt with now is worth \$140,000. The sale price was \$276,000. The City gave them a loan for ten years to repay that money.

Figard added that the RTSD typically has served as a funding agent. When projects are done, the project becomes the property of the County or City to maintain and operate. He is not sure whether it's a huge factor in either of those two bodies paying the RTSD back. They are all part of the taxpayer base of the County as well.

Hjermstad stated that the language in the federal regulations states that an exception can be made when it is in the overall public interest for social, environmental or economic purposes. Matt Talbot does provide a very valuable service to the community. The nature of the work is why the waiver was requested.

Stevens stated that the City has signed an agreement to be paid within the next ten years for \$276,000 which may be reduced by \$140,000 if the waiver is approved. The money would be given to a human service agency in the community who is doing good works. He asked what is being done for the other human service agencies within the City of Lincoln who are just as worthy.

Hjermstad replied that this situation was unique because it was a “have to move” situation. If one of those other agencies were in a similar situation and it happened to be City owned land, the same would be done for them as well.

Workman motioned to approve that the RTSD agree with a “repayment of funds” agreement that is consistent with the agreement made with the federal government. Carroll seconded the motion. Motion approved 6-0.

This issue will be discussed further at the December board meeting.

Order No. 09-32 Petitions/Letters/Requests.

Figard highlighted a few items:

- 2010 Board Meeting Schedule enclosed in packet - If you are unable to attend, let Tina know in advance.
- 91st and Yankee Hill crossing map was shown - A small piece is not done and will part of development work. RTSD would be asked to pay for the gates and lights that would be constructed. The crossing on the southwest corner going into Cheney will be closed. The crossing would be constructed so that it has the gates, lights and medians so it meets the criteria for a quiet zone if one is deemed in the future. The triangle portion of Jensen Park has been acquired.
- Board Orders/Resolutions - The RTSD doesn't have a set of rules or normal operating process on how to process an engineering amendment, change order, selection process, etc. The City process is the one the RTSD generally follows. The Board has never approved those processes. Bill Kuester and Figard could work on some of those standard processes if the Board desires. Bill Kuester added that the problem is the statutes that established the RTSD. They are very minimal in terms of what the Board and Executive Director can and cannot do. It would be a good idea to have a resolution to clarify these things so Board approval isn't necessary every time an answer is needed or minimal funds need to be spent. The resolution would set forth the guidelines as to what the Executive Director and the Chairperson of the Board can do. Another item added to that resolution would be grade crossings and how much is spent. The Board decided that this item warrants further discussion and asked that it be put on the December board meeting agenda. Bill Kuester and Roger Figard will put together some examples of items that would included within this resolution and a draft of the Board Order/Resolution.

Order No. 09-33 Non-Agenda Items.

No public comment.

Next meeting will be held on Monday, December 7, 2009 @ 8:15 a.m. Note time change.

Prepared by: _____
Tina Queen, Engineering Services