

Board of Directors Meeting: September 2, 2020 – Public Comments

Date	Name	5. Public Comment on Non-Agenda Items
		None
Date	Name	6. Consent 6a. Approval of Monthly Financial Reports 6b. Accept Monthly Ridership Report- July 2020 6c. Approval of American Rail Engineer Corporation Contract Amendment No. 2
9/01/2020	Mike Arnold	See attached table
Date	Name	7. Authorize the General Manager to Award a Sole Source Purchase Orders to ZF North America, Inc. and Knorr Brake for the Purchase of Specialized Diesel Multiple Unit (DMU) Maintenance Agreement in an amount of \$665,727.63
9/01/2020	David Schonbrunn, President, TRAC	Given the financial crisis caused by the failure of Measure I, the loss of ridership due to COVID-19 and the necessity to use funds from the Reserve, TRAC believes it to be unwise to purchase the entire specified quantity of these spare parts at the current time. A more prudent approach would be to purchase the number of spares needed to get through the next year, with a margin of safety. The operative principle should be to avoid all cash expenditures except those that are absolutely necessary. Conserving cash should be recognized by the Board as a top priority during this crisis. During the Budget process, we had recommended deferring the wheel truing machine and other "nice" things to have, for the exact same reason. We are aware of no reason why the brake disks and transmissions cannot be purchased on a year-to-year basis.
Date	Name	8. Provide Input of the Reorganization of the SMART Citizen Oversight Committee
9/01/2020	Richard Brand	Honorable Directors: The concept of a Citizens Advisory Committee, which now exists, can be a key element for the success and development of the SMART transportation program but I don't see that under the current structure. I joined the CAC April Zoom-in meeting along with many other residents. I was underwhelmed with what I heard and saw. I can detail that at a later date, but my question is, <what is the Board's plan to gain outside guidance on running this railroad?> Caltrain had similar operational problems in the '90's and they brought in knowledgeable experts from Amtrak. The result was much improved and efficient operational methodology. They also turned a corner with fare box too. See you Wednesday. Richard Brand, West Sonoma County

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9/01/2020	Steve Birdlebough	As a member of the Oversight Committee, it has been my privilege to review many of the fiscal issues affecting the organization with other members of the Committee and with staff. The COC is able to explore these issues in much more depth than would be feasible during meetings of the SMART Board. While these meetings require staff time and effort, I hope they have enabled staff to anticipate queries and suggestions that might come from members of the Board and public as various issues move forward. I believe SMART could benefit from an expansion of the COC's role to engage in ongoing discussions with members of the public, including train riders, MUP users, critics, and supporters of expanded SMART operations. In order to have a useful understanding of public concerns and perspectives, such efforts should aim to speak with a fairly large number of people (80 to 240) from all areas in the District (from Forestville to Corte Madera, Tiburon to Sonoma, and areas in between). Careful notes would need to be kept of each discussion, and it would be useful for each interview panel to include member COC, SMART Board, and SMART staff members. There should be no limit on the issues in the discussion, except they should relate in some way to the SMART train and MUP. Most individuals should be allowed 10-20 minutes to explore the issues they consider important.
Date	Name	9. Status Report on Freight and Related Activities
9/01/2020	Mike Arnold	See Memo attached
Date	Name	10. SMART's Fiscal Year 2019-20 Revenue Update
9/01/2020	Mike Arnold	See Memo attached

Memo

To: SMART Board of Directors
 From: Mike Arnold
 Date: September 1, 2020
 Subject: Agenda Item 6B: Ridership Data in a More Communicative Format

I have offered the Excel spreadsheet that converts staff's ridership by train and day to a readable table. Thus far, staff has not responded to the offer. Here are the ridership tables beginning April 6, 2020, when SMART reduced weekday rail operations to 16 trains per day.

Date	Southbound								Total
	5:02AM	6:06AM	7:10AM	12:45PM	1:17PM	2:21PM	3:25PM	5:01PM	
4-6-2020	16	15	16	9	3	14	3	14	90
4-7-2020	19	21	13	7	1	8	1	7	77
4-8-2020	23	13	20	12	5	2	2	10	87
4-9-2020	20	15	24	5	1	7	4	14	90
4-10-2020	21	14	16	18	2	7	11	15	104
4-13-2020	19	15	18	10	2	3	4	17	88
4-14-2020	24	14	15	12	4	6	14	19	108
4-15-2020	21	15	14	12	6	8	1	19	96
4-16-2020	16	21	22	8	4	4	11	17	103
4-17-2020	20	14	17	14	3	7	6	21	102
4-20-2020	20	19	19	12	5	3	2	11	91
4-21-2020	19	18	23	6	6	3	6	18	99
4-22-2020	25	17	22	11	6	3	8	16	108
4-23-2020	20	17	20	14	3	1	7	19	101
4-24-2020	16	14	24	14	5	3	8	14	98
4-27-2020	20	22	19	14	3	3	3	20	104
4-28-2020	25	19	19	16	2	3	7	15	106
4-29-2020	26	16	23	16	5	2	2	15	105
4-30-2020	21	20	32	18	0	4	6	19	120
5-1-2020	18	13	23	18	5	7	9	10	103
5-4-2020	23	19	23	13	4	2	12	30	126
5-5-2020	24	21	23	17	6	8	13	23	135
5-6-2020	29	22	27	8	1	9	6	12	114
5-7-2020	27	20	25	6	3	2	6	23	112
5-8-2020	25	25	24	15	9	7	7	17	129
5-11-2020	25	20	16	16	2	6	3	17	105
5-12-2020	27	20	28	12	3	4	5	17	116
5-13-2020	38	23	28	7	3	5	6	18	128
5-14-2020	31	23	24	6	5	7	12	24	132
5-15-2020	28	22	26	17	12	3	7	18	133

Date	Southbound								Total
	5:02AM	6:06AM	7:10AM	12:45PM	1:17PM	2:21PM	3:25PM	5:01PM	
5-18-2020	27	25	21	12	5	5	6	18	119
5-19-2020	28	21	30	23	7	5	7	25	146
5-20-2020	32	18	29	10	1	6	4	23	123
5-21-2020	33	20	35	11	8	5	13	19	144
5-22-2020	27	18	45	13	5	14	11	36	169
5-26-2020	27	29	33	16	7	8	8	16	144
5-27-2020	27	32	33	16	1	6	5	23	143
5-28-2020	31	32	34	19	6	9	12	31	174
5-29-2020	27	21	40	11	6	6	10	31	152
6-1-2020	37	22	31	11	5	6	13	20	145
6-2-2020	39	28	37	15	7	4	8	19	157
6-3-2020	31	31	42	25	15	9	6	31	190
6-4-2020	35	24	37	12	9	5	14	35	171
6-5-2020	30	23	33	17	6	13	28	15	165
6-8-2020	33	30	36	19	5	7	10	31	171
6-9-2020	37	33	53	22	8	8	9	27	197
6-10-2020	36	24	53	24	7	9	8	36	197
6-11-2020	25	49	42	17	4	9	18	21	185
6-12-2020	31	22	44	24	7	11	20	38	197
6-15-2020	35	35	45	17	12	18	15	18	195
6-16-2020	34	34	42	25	9	9	13	23	189
6-17-2020	45	35	44	20	5	15	9	29	202
6-18-2020	37	33	48	17	27	10	12	22	206
6-19-2020	32	29	41	12	11	9	17	32	183
6-22-2020	31	35	46	18	5	15	15	39	204
6-23-2020	38	32	60	19	10	14	9	30	212
6-24-2020	30	33	55	20	17	8	15	31	209
6-25-2020	34	34	53	14	10	4	18	26	193
6-26-2020	28	20	54	26	6	11	16	22	183
6-29-2020	31	35	46	33	7	22	18	30	222
6-30-2020	30	33	63	17	3	12	20	36	214
7-1-2020	27	33	59	26	5	9	25	34	218
7-2-2020	31	32	53	13	13	9	11	18	180
7-3-2020	11	7	28	42	8	21	14	21	152
7-6-2020	30	35	49	29	14	19	10	40	226
7-7-2020	31	36	56	27	5	10	24	35	224
7-8-2020	31	37	52	19	7	9	16	30	201
7-9-2020	26	36	63	15	7	7	25	28	207
7-10-2020	35	30	53	12	11	10	6	24	181
7-13-2020	38	37	47	18	7	11	11	25	194
7-14-2020	36	42	50	13	1	14	17	26	199
7-15-2020	34	35	39	29	10	7	19	24	197
7-16-2020	45	42	54	24	8	11	14	26	224
7-17-2020	29	26	53	29	9	12	7	31	196
7-20-2020	38	32	39	18	5	9	16	28	185
7-21-2020	38	40	53	13	4	9	9	30	196
7-22-2020	37	28	47	22	9	8	15	35	201
7-23-2020	35	47	61	25	9	15	20	39	251
7-24-2020	37	31	54	14	4	16	19	40	215
7-27-2020	32	34	47	13	8	12	13	28	187
7-28-2020	34	38	55	13	7	16	13	31	207
7-29-2020	36	38	47	18	7	12	6	27	191
7-30-2020	36	37	60	18	10	20	13	37	231
7-31-2020	33	32	40	37	4	17	12	37	212

Date	Northbound								Total
	6:38AM	7:42AM	8:46AM	2:21PM	2:53PM	3:57PM	5:01PM	6:37PM	
4-6-2020	12	2	5	15	5	17	20	5	81
4-7-2020	13	4	5	19	5	27	23	9	105
4-8-2020	14	4	2	19	6	23	22	8	98
4-9-2020	14	3	3	12	9	19	30	9	99
4-10-2020	11	1	5	18	4	21	13	3	76
4-13-2020	13	2	4	20	6	19	20	8	92
4-14-2020	16	2	8	20	4	18	19	10	97
4-15-2020	16	4	2	22	3	20	25	8	100
4-16-2020	20	5	8	15	10	23	23	7	111
4-17-2020	16	2	6	12	3	24	18	8	89
4-20-2020	10	4	9	21	7	24	25	10	110
4-21-2020	13	8	2	13	5	28	22	10	101
4-22-2020	12	3	6	17	4	29	20	12	103
4-23-2020	16	4	2	20	8	26	24	18	118
4-24-2020	10	3	9	21	9	21	12	11	96
4-27-2020	14	3	5	20	3	25	18	11	99
4-28-2020	17	2	8	17	8	16	28	13	109
4-29-2020	13	3	3	28	6	27	20	17	117
4-30-2020	20	4	6	16	6	26	30	20	128
5-1-2020	16	6	12	14	4	17	14	16	99
5-4-2020	15	5	10	18	11	26	25	12	122
5-5-2020	16	3	9	19	8	30	26	19	130
5-6-2020	11	9	6	23	4	32	34	12	131
5-7-2020	15	2	5	24	4	26	31	18	125
5-8-2020	15	3	9	18	5	37	23	9	119
5-11-2020	13	5	8	19	6	23	22	13	109
5-12-2020	11	5	10	21	5	28	25	18	123
5-13-2020	9	6	6	20	6	33	31	16	127
5-14-2020	14	4	6	29	7	27	31	17	135
5-15-2020	14	5	6	20	12	29	24	23	133
5-18-2020	13	2	6	17	6	33	25	12	114
5-19-2020	12	5	7	30	8	39	29	17	147
5-20-2020	14	8	6	22	6	35	37	14	142
5-21-2020	16	4	11	14	8	29	33	22	137
5-22-2020	13	2	18	21	14	34	37	22	161
5-26-2020	16	4	6	18	8	44	33	14	143
5-27-2020	15	13	8	26	12	36	28	21	159
5-28-2020	14	7	14	20	12	39	34	21	161
5-29-2020	16	5	9	23	13	26	39	13	144
6-1-2020	15	8	13	19	32	33	30	14	164
6-2-2020	16	9	6	28	10	49	35	12	165
6-3-2020	14	13	12	20	12	51	39	18	179
6-4-2020	19	9	9	23	9	37	36	23	165
6-5-2020	15	10	12	32	16	37	20	39	181
6-8-2020	15	7	16	29	16	38	36	18	175
6-9-2020	21	8	14	25	16	46	39	23	192
6-10-2020	18	11	13	34	13	46	40	18	193

Date	Northbound								Total
	6:38AM	7:42AM	8:46AM	2:21PM	2:53PM	3:57PM	5:01PM	6:37PM	
6-11-2020	0	17	12	27	13	46	34	16	165
6-12-2020	16	16	12	29	17	33	36	30	189
6-15-2020	18	12	22	22	15	41	43	15	188
6-16-2020	14	5	12	42	21	38	35	21	188
6-17-2020	25	11	21	32	18	48	51	16	222
6-18-2020	15	8	22	32	12	46	43	25	203
6-19-2020	26	7	10	34	18	49	35	37	216
6-22-2020	21	13	18	23	11	46	42	22	196
6-23-2020	15	13	12	26	20	43	44	24	197
6-24-2020	17	15	18	41	17	46	44	26	224
6-25-2020	22	12	15	21	13	46	54	22	205
6-26-2020	24	12	11	32	19	24	40	16	178
6-29-2020	19	15	10	37	18	44	34	20	197
6-30-2020	21	12	10	29	14	45	56	30	217
7-1-2020	19	15	10	31	9	56	48	23	211
7-2-2020	13	6	15	30	19	49	56	22	210
7-3-2020	5	5	18	34	15	23	32	13	145
7-6-2020	20	11	22	23	20	52	24	23	195
7-7-2020	25	11	19	37	27	52	38	29	238
7-8-2020	20	16	15	28	23	42	46	29	219
7-9-2020	23	14	12	36	14	42	44	28	213
7-10-2020	21	14	17	25	37	35	37	25	211
7-13-2020	17	14	21	38	16	50	40	22	218
7-14-2020	23	11	10	40	16	43	49	23	215
7-15-2020	24	14	10	27	17	56	47	27	222
7-16-2020	18	12	13	32	14	45	41	22	197
7-17-2020	20	12	17	32	24	44	31	21	201
7-20-2020	13	14	16	26	16	42	41	16	184
7-21-2020	15	14	11	29	15	42	53	19	198
7-22-2020	17	10	14	38	22	46	52	18	217
7-23-2020	26	6	15	35	22	60	49	24	237
7-24-2020	18	15	19	33	25	35	44	21	210
7-27-2020	19	10	19	24	9	46	41	24	192
7-28-2020	20	13	6	27	18	52	39	22	197
7-29-2020	26	13	11	25	15	38	53	18	199
7-30-2020	22	11	18	26	20	41	50	33	221
7-31-2020	18	9	12	36	24	35	37	31	202

Memo

To: SMART Board of Directors
From: Mike Arnold
Date: September 1, 2020
Subject: Agenda Item #9: Many Questions Left Unanswered in the Purchase of NWP Co. Assets

SMART's GM provides a summary of the current state of the purchase of NWP Co. assets. The report is incomplete. The GM needs to explain to the Board and the public several important pieces of information that has come to light since the May 20th Board meeting.

1. The Dept. of Finance **opposed passage of SB 356** in June 2019. The bill still hasn't passed. (See attached legislative analysis by the State Dept. of Finance.) What are the implications for the purchase of NWP Co assets and future subsidies expected from the state? As noted in the attached report

“A preliminary independent financial review indicated that it has incurred at least \$9.3 million in debt with insufficient revenues to repay the debts and with no foreseeable end to the debt's growth because expenditures for personnel and legal fees are projected to continue being greater than revenue from the freight contractor. “

2. At about 44 minutes into the May 20th meeting (based on the video on line), the General Manager made the following statement:

“[The] state, as part of Bill 1029, they created that taskforce that included large number of state departments. And this is what has taken them over two years to analyze NCRA's financings, NWP Co's financing, and only recently **notified us that they are satisfied**, and they're ready to recommend to the Governor to apply NWP Co. for the \$4 million.”
(*emphasis added*)

In the GM's memo before you we are now being told the state still hasn't completed its financial analysis of the purchase and won't until mid-September. What was meant by the GM's statement at the May 20th Board meeting?

3. What is the timing for SMART to apply for “common carrier” status with the Surface Transportation Board?
4. At what point will SMART staff include expected revenues and expenses associated with the purchase in its budget forecast?

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 06/18/2019
POSITION: Oppose

BILL NUMBER: SB 356
AUTHOR: McGuire, Mike

BILL SUMMARY: North Coast Railroad Authority: rail right-of-way: Sonoma-Marín Area Rail Transit District.

This bill requires the North Coast Railroad Authority (NCRA) to transfer the southern portion of its right-of-way and any other interests to the Sonoma-Marín Area Rail Transit District (SMART) within 90 days of the removal of all of its debt, liabilities, and contractual obligations. The bill also explicitly authorizes SMART to operate freight and makes other minor changes to SMART's governing statutes.

FISCAL SUMMARY

Neither the Department of Transportation nor the California State Transportation Agency anticipate a fiscal impact.

This bill may result in some reimbursable state-mandated costs, however, some required activities and costs could result from SMART's discretion to adopt a new program or policy and could be offset by SMART's fee authority. These costs would be considered downstream, and therefore not reimbursable by the state.

COMMENTS

Finance opposes this bill because it is premature given the ongoing assessment being completed pursuant to Chapter 934, Statutes of 2018 (SB 1029, McGuire) that will detail NCRA's debts, liabilities, and easements. This bill may restrict the ability of the Administration to proceed with the dissolution of the NCRA in the most efficient way, depending on the outcome of the assessment.

Chapter 934 directed the California State Transportation Agency to conduct an assessment of the NCRA to provide information necessary to determine the most appropriate way to dissolve it and dispense with its assets and liabilities. The assessment will review NCRA's assets, liabilities, and litigation risks, and must be presented to the Legislature on July 1, 2020. The assessment will also include a list of options for transferring the southern portion of the rail corridor to SMART and recommendations on specific assets and liabilities that could be transferred. This bill prematurely directs NCRA to transfer the southern portion of its right-of-way to SMART without first understanding the best options for the transfer. Since the NCRA assessment has not been completed, it is unclear whether the bill's provisions represent the best way to proceed.

Since the debts, liabilities, and contractual obligations will not be removed until after the completion of the assessment, there is not an immediate need for this bill. It may be more appropriate to wait for its completion before making statutory changes to effectuate the NCRA's dissolution.

In addition, the provision of the bill authorizing SMART to operate freight may be unnecessary because nothing in existing law prohibits them from doing so. The San Mateo County Transit District, a comparable transit district, is currently pursuing the attainment and operation of a short-line freight operator along its

right-of-way without the explicit statutory authorization to do so. While statute explicitly authorized both SMART and San Mateo County to carry rail passengers, nothing prohibits them from operating freight.

The NCRA was established to make improvements on the rail line between Marin and Humboldt Counties to eventually institute passenger rail service between those points. To date, NCRA has only managed to contract for freight rail service on a 62 mile section between Napa and Windsor. NCRA has only a minor revenue stream from the lease of its rolling stock and land assets to the freight line contractor to fund what appears to have been an unfeasible task of making an estimated \$1 billion in rail repairs along the corridor. A preliminary independent financial review indicated that it has incurred at least \$9.3 million in debt with insufficient revenues to repay the debts and with no foreseeable end to the debt's growth because expenditures for personnel and legal fees are projected to continue being greater than revenue from the freight contractor.

Memo

To: SMART Board of Directors
From: Mike Arnold
Date: September 1, 2020
Subject: Agenda Item # 10: Request for Review of Statements Made by SMART's CFO

SMART's CFO makes the following statement in a memo in the Board packet, (p.40 of 41 in the Board packet)

SALES TAX COLLECTION:

In June, we explained that, due to the nature of sales tax receipts, our actual collections for Fiscal Year 2019-20 would not be known until September. While we still do not have the breakdown of the tax receipts by industry or payer, we do now know that we were allocated the remaining quarter of funds on August 25 for the Fiscal Year that ended on June 30. The final amount we received, prior to fees, was \$39,784,110. **This is 6,147,423 higher than we anticipated as part of the year-end budget in June.** (*emphasis added*)

This statement fails to recognize the documentation (provided by me) in memos to the Board available on its website for the June 17th Board meeting, that the CFO was understating the sales tax revenues by several million dollars because she refused to consider what was publicly available on-line at the California Dept. of Tax and Fee Administration (CDFTA).

In that memo I documented that CDFTA published data on sales tax revenue allocations to SMART provided a reasonably accurate accounting of revenues that SMART would ultimately receive and that the CFO was seriously understating the sales tax revenues by millions of dollars that would be received by SMART for FY 19/20. My memo (available on line in the comments to the June 17th Board meeting) also stated:

the proposed budget contains a forecast/estimate of sales tax revenue for this fiscal year (FY 2019/20) that is illogical and understates sales tax revenues for this year by several million dollars.

The CFO chose to ignore this readily available information despite being told about it. By July 2nd, when June allocations were available, the CDFTA reported SMART allocations for FY 2019/20 were \$39.3 million, confirming what I had stated in my June memo.

One of the many reasons that the public voted against Measure I in March was because staff has had a history of manipulating the agency's financial and operating performance, hiding readily available performance information that other transit agencies disclose on their websites. Even when members of the public have raised this issue, the Board has failed to hold staff accountable for this misbehavior.