



## RAILROAD TRANSPORTATION SAFETY DISTRICT

### Board Meeting

Monday, June 5, 2017

**-Revised-**

Meeting Began At 11:00 a.m.

Meeting Ended At: 12:30 p.m.

Members Present: Deb Schorr, Jennifer Brinkman , Roy Christensen, Cyndi Lamm, Jane Raybould, Todd Wiltgen (arrived at 11:10)

Members Absent: None.

Others Present: Roger Figard, Amy Cornelius-Jones, Dennis Meyer, Susie Filipi, Kris Humphrey, Randy Hoskins, Pam Dingman, Bill Kutilek, Tony Jerina, Rick Haden, Miki Esposito, Lonnie Burklund, Ben Trofholz, Jeff Kirkpatrick, Sara Hartzell, Mark Eggers, Ryan Kosola, Silas Clarke, Michelle Winkelmann, Jennifer Durow, Andrew Braun

### **Order No. 17-09 Call Meeting to Order. Approval of Previous Minutes**

Deb Schorr called the meeting to order and introduced the members of the RTSD Board stating that Todd Wiltgen will be joining the meeting shortly. Schorr stated the RTSD is subject to and adheres to the Nebraska Open Meetings Act, and she indicated that a copy of the Act is posted and available for inspection at the entrance of the meeting room.

Schorr stated that on June 1, 2017, the Notice of the meeting and the Agenda were posted on the City and County's bulletin boards at City Hall, first floor, 555 South 10<sup>th</sup> Street. Schorr also indicated that the Notice of the meeting, the Agenda, as well as copies of materials that are being considered at the meeting, were posted on RTSD website, which may be linked from both the City of Lincoln and Lancaster County official government websites. The Notice, Agenda, and materials being considered at the meeting were also made available for inspection at the RTSD Offices, at 949 West Bond Street, Suite 200.

Schorr introduced Amy Cornelius-Jones as the new administrative assistant. The Board would like to thank Janelle Carnahan for her previous service to the Board. The Board recognized Michelle Zuhlke, who worked very hard on the RTSD website and helping to go electronic for the meetings.

First item on the Agenda is the approval of the Minutes from the March 7, 2017 meeting. The Minutes are available for review on the RTSD website <http://lincoln.ne.gov/city/pworks/rtsd/>.

Christensen moved to approve the Minutes from the March 7, 2017 meeting.  
Brinkman seconded the motion. Motion approved 4-0; 1 abstained; 1 absent

**Order No. 17-10      Statement of Financial Activity**

Dennis Meyer, Lancaster County Budget & Fiscal Director presented the Statement of Financial Activity. The report is through May 22, 2017.

- Revenues collected through May 22 is \$4,160,809. When compared to overall budget of \$4.175 million, this is very close to 100%.
- Property taxes collected are very close to that 100% and there is still two months yet to post to the collection rate.
- The interest percentage collected is almost at 150% and is based off of what is projected to be spent which will affect the balance. Currently, this is at a plus \$ 30,000.
- The RTSD has spent \$279,457 which is at 3% of expenditures. Expenditures being dealt with are commissions, operating costs and construction project costs.
- The next section of the report is regarding balances. The ending cash balance is \$28,066 with a majority sitting in investments which is just over \$20 million. The total fund balance is \$20,530,208.
- The final part of the statement is a breakdown of where the money is being held. A little over \$11-12 million is in money markets and the remaining amount is in CD's.

Raybould moved to approve the Statement of Financial Activity.

Christensen seconded the motion. Motion approved 5-0; 1 absent

**Order No. 17-11      Election of Officers**

Figard stated that a Chair, Vice-Chair and Secretary need to be appointed for the upcoming fiscal year.

Christensen moved to nominate Deb Schorr as President. Raybould seconded the motion.

Motion approved 5-0; 1 absent

Brinkman moved to nominated Roy Christensen as Vice-Chair. Raybould seconded the motion.

Motion approved 5-0; 1 absent

Christensen moved to nominate Jane Raybould as Secretary. Lamm seconded the motion.

Motion approved 6-0

**Order No. 17-12      Report regarding status of Interlocal Agreement with the City for Administrative Services and Executive Director Responsibilities**

Posted on the RTSD website and included in the handouts is the original interlocal agreement between the City of Lincoln and the RTSD. In late 1990, the City – Public Works & Utilities Department agreed to assist the RTSD by providing an Executive Director, administrative staff, budget assistance and engineering support. This interlocal agreement is still in place and continues to serve the Board very well. In the spirit of continuing the service that Figard has had the privilege of doing since the fall of 1991, there is also a copy of an agreement between RAF Consulting LLC (Figard) and the City of Lincoln. Figard is pleased to be given the opportunity to continue to serve in the same capacity as he has been prior to retiring from City employment. The contract lays out the scope of services from RAF Consulting LLC.

Director Esposito stated that with Figard's retirement, providing continuity and reliability was a priority in this period of transition in permanently filling his position. The contract is for a year and the City is very grateful for his service. Figard indicated that this is simply a report of status and no action by the Board is necessary.

**Order No. 17-13      Consideration of Interlocal Agreement between RTSD and City regarding South Beltway Project**

Over the last several years, the RTSD has voiced an interest and willingness to support the railroad related improvements that are associated with the South Beltway. In an effort to provide certainty for the project and its funding, the City and the RTSD negotiated an agreement that seeks to cap the costs to the RTSD while providing the City with predictable funding for the railroad-related improvements. This interlocal agreement is between the RTSD and the City. It is in the spirit and context of the RTSD supporting and assisting the City in paying a portion of the local share of the South Beltway. The funding by the RTSD is specifically for railroad costs related to bridges over the tracks, one at the each of the east and west ends and perhaps some additional county road relocations that would be required as well due to the South Beltway.

Minor revisions and clean-ups to the proposed version of the interlocal agreement were discussed. Bill Kutilek from Crosby Guenzel law firm representing the RTSD discussed these revisions requested by the City.

Figard explained that originally, the RTSD's expected expenses were in the range of \$13 million. RTSD had been providing an earmark each year for those expenses over a six year period. The updates for the associated eligible railroad costs are now in the range of \$23-26 million. Under the proposed interlocal agreement, the RTSD is pledging \$10 million in fiscal year 2017 and \$10 million in fiscal year 2018. This will cap the RTSD's liability at \$20 million.

Cyndi Lamm asked if it is known when the State will enter into an agreement with the City with respect to the South Beltway. Esposito answered that the City is actively negotiating the agreement. The City met with the State last Friday and they have verbally agreed to a draft supplemental agreement with the City in four weeks. The next step will be going to City Council with a CIP amendment.

Christensen clarified that this current agreement between the RTSD and the City caps the dollars for RTSD and then within a month the City will enter into an agreement with the State capping the dollars for the City for this project. Esposito stated that this was correct.

Raybould asked if it does or does not impact the other projects that the RTSD is involved with, specifically the 33<sup>rd</sup> & Cornhusker project. Esposito indicated that there are no impacts to other projects on the City side. Figard stated that he does not anticipate any impacts to 33<sup>rd</sup> & Cornhusker or other projects. Lamm thanked Public Works for moving forward and putting a cap on the project and for all the work that has been done to this point. Schorr thanked Kutilek for his efforts concerning the last minute revisions.

Wiltgen moved to approve the Interlocal Agreement for the South Beltway.

Christensen seconded the motion. Motion approved 6-0

### **Order No. 17-14      Current Budget Status**

Figard updated the Board on the current status of the budget. The receipts on the one-year budget sheet for both O & M and Capital Improvements were expenditures posted through May 22, 2017. The operating budget still has superintendent/executive director dollars of approximately \$23,000. Those have been billed and the RTSD is in the process of making those payments. Figard estimates that the budget will be close to 95-98% of the operation budget by the end of June 2017. Projects expenditures have been minimal. The Beltway has significant dollars appropriated. There are no other issues. No action needed on this item.

### **Order No. 17-15      Project and Crossing Updates**

**W. Wittstruck RR Crossing.** Pam Dingman, County Engineer presented updates on the West Wittstruck crossing and reminded the Board that this county road crossing is unique in its design and Olsson Associates were hired to conduct feasibility analysis. Olsson identified several options, but additional analysis is necessary. Dingman stated that this area has three crossings and one additional crossing located outside of Lancaster County that are being reviewed from a holistic standpoint so that an appropriate solution is identified. The State has indicated that it would like to see a couple of the crossings closed. A project that seemed simple in the beginning has now become more complex. Raybould asked for a list of possible solutions for the Wittstruck Road crossing. Figard stated that one solution is to straighten the road out and run it directly through. A second option is to cross the tracks at a 15 degree angle. A third option is to come in at 90 degrees, which has a bigger effect on the abutting property. This is no longer being considered as viable. The last option would be to close Wittstruck and redirect traffic to West Parker. This is what started this additional discussion and if there is more than one closure, perhaps the State comes in as an additional partner to help pay for gates, lights and safety improvements.

**Hobson Yard Relocation.** Figard stated the Hastings Sub Relocation project is evaluating the possibility of running a new track through the BNSF Hobson Yard in lieu of doing a Quiet Zone on the Amtrak line that heads southwest through south Lincoln. An extensive Quiet Zone evaluation has been done and there was a determination that there might be a better long-term alternative that did not create a Quiet Zone but eliminated those crossings instead. Meetings with the railroad are continuing. Olsson Associates is the consulting firm working on the project. The railroad has an operating agreement with Amtrak and needs to ensure that conditions are met if they move to another route. Updates to the residents in the area are being planned.

**Hickman.** Silas Clarke from the City of Hickman presented the RTSD Board and staff with a plaque thanking them for making railroad safety a priority with the Quiet Zone in Hickman, Lancaster County. Schorr thanked Clarke for the recognition.

**Jamaica Trail North Connection.** Sara Hartzell from Lincoln Parks and Recreation gave an update to the Jamaica Trail North Connection project. Hartzell addressed the RTSD Board a year ago to discuss a trespass issue that has been long standing at the Burlington Northern Sante Fe Railroad near Densmore Park. An exhibit was presented showing the baseball fields at Densmore Park located near Walt Public Library and the YMCA just off of South 14<sup>th</sup> Street. The existing Rock Island Trail cuts across Old Cheney near 16<sup>th</sup> Street and continues over to 14<sup>th</sup> Street. As it approaches the park it veers off to the southeast and heads back towards 14<sup>th</sup> Street out at South Pointe Mall. If you did not veer off with the concrete you would notice a well-worn dirt path that continues along the alignment. If you took the path

to the end you would notice that there is a steep drop off, crosses the railroad, up another small hill into Wilderness Park. This is not a legal trail but is well used. It is the opinion of Park's staff that this is a dangerous condition. The railroad is a double track at the point of the crossing and handles many trains throughout the day. Over the years, the railroad has tried to abate this condition. Trespass tickets are issued as they catch citizens going across the dirt crossing. This is a continuing problem.

The Jamaica North Trail is located on the other side of the railroad tracks and is the most direct route for the southwest part of Lincoln into downtown, the University, and the Haymarket. It is anticipated that this route will become a commuter route in the future as it gets used more. This project has been in the comprehensive plan for some time. It is also a project the GPTN – Great Plains Trails Network is highly interested in. The GPTN approached Parks about a year and a half ago talking about moving forward with a pedestrian bridge over the crossing. There have been attempts to obtain grants, but it is a high cost application. The last application made was about \$927,000 and was made to the Scheels Foundation. It was not granted. Great Plains Trail Network made a commitment last year to do some major fundraising for this project. To date, they already have \$200,000 committed from two major donors. They are awaiting another possible commitment from an additional donor for \$100,000. In addition, the GPTN has committed to pursue additional fundraising efforts from smaller donors through a campaign. Parks and Recreation is also looking at its budget and the possibility of diverting some of its maintenance funding toward this project. Figard will be presenting a request for approximately one-half of the cost of the structure and the other half to be funded from private donations and Parks funds. The estimate is about \$200,000 per year for the next three years starting in the 2017-18 fiscal year. The design at this time is to come down the dirt alignment and have a bridge that goes at 90 degrees across the railroad and then another ramp that heads down to the Jamaica Trail North. The other option is to cross the railroad along the alignment to the trail. At this point, it is a conceptual design. Olssons is also preparing information for GPTN to use in their campaign that was paid for by GPTN.

Raybould asked if impact fees for the southwest area could be used to help fund the project. Hartzell indicated that it would be impact fee eligible and could be something to look at. Other options would be to pursue additional grants. Perhaps re-approaching Scheels and Costco.

Wiltgen asked if the railroad would contribute even though there is not an existing crossing at this location. Hartzell stated that it is a possibility, but doubtful. Figard added that a construction and maintenance agreement with the railroad would be required for this project.

**Order No. 17-16      Consideration of Theoretical Structure Contract regarding 33<sup>rd</sup> and Cornhusker Project**

Figard stated that this is a proposed engineering contract between the RTSD and Olsson Associates. One of the requirements, under federal rail rules, is that the railroad is required to participate and provide 5% of the theoretical costs of a bridge or structure over the railroad tracks. Several years ago, estimates were determined of what it would cost to build a theoretical structure with respect to this project. Figard stated that it is crucial to have updated costs, because those numbers become key when negotiating with BNSF. This becomes the justification when the RTSD asks the Railroad for more than a million dollars for the project. This information will be used in the next step of preliminary engineering and developing a construction and maintenance agreement with BNSF. The amount of cost for this contract is \$18,081.07, which includes updating the cost estimate that was done for 33<sup>rd</sup> Street, Adams Street, and including an estimate for 44<sup>th</sup> Street.

Raybould asked about the compensation side and the supplemental services. She wanted to know if it is customary to have actual costs plus 15%. Figard responded that it was fairly typical for an engineering agreement to include that compensation structure.

Brinkman asked for clarification for the 44<sup>th</sup> Street part of the agreement. Figard indicated that a bridge is not likely, however it is possible to have discussion for closing the at-grade crossing at 44<sup>th</sup> Street. The access and circulation being replaced by the bridge or bridges at 33<sup>rd</sup> or 35<sup>th</sup> Streets. Brinkman asked if engaging the neighbors and businesses in the area would be done after the theoretical study is completed. Figard explained that theoretical only gives us the data that allows us to proceed to the next step of the NEPA process.

Lamm inquired about how often cost studies are done to assist in negotiations. Figard responded that they are only done when negotiating an agreement or asking for funding from the railroad. Figard stated that he started the process 6-7 years ago, but the numbers need to be updated. There is not a defined lifespan in how long these studies contain reliable data.

Christensen moved to authorize the Chair and Executive Director to sign the contract for Olsson Associates to do the Theoretical Structure for 33<sup>rd</sup> and Cornhusker. Brinkman seconded the motion. Motion approved 6-0

**Order No. 17-17      Consideration of Memorandum of Understanding (MOU) between RTSD, BNSF, and NDOR regarding 33<sup>rd</sup> and Cornhusker Project**

Figard introduced this agenda item by stating that at its June 2016 meeting, the Board accepted the findings of the preliminary environmental linkage study. At that time, it was recommended that before spending several 100 thousands of dollars, if not millions in a NEPA preliminary engineering process that it was appropriate for the RTSD to confirm that there were other stakeholders that supported the proposed project. The RTSD identified the Nebraska Department of Roads and the BNSF Railroad as the significant stakeholders.

Kris Humphrey presented the Memorandum of Understanding (MOU) for the 33<sup>rd</sup> and Cornhusker project. Humphrey stated that the RTSD started this project back in June 2015 with the PEL study (a high-level environmental study). During this time, the RTSD also looked at the roadway alignment. This study was completed in about one year and was fully reviewed and approved by NDOR and FHWA last fall. During this time, the RTSD also worked with NDOR and BNSF to write, review, and finally execute the MOU. This document outlines terms in moving forward by agreeing to work with NDOR and BNSF towards a common goal of identifying mutually beneficial solutions, and financial responsibilities. This document details BNSF responsibilities with their regulated 5% funding requirement, which includes preliminary engineering right of way costs at the crossings with active warning devices. NDOR's contribution is up to 50% of the construction contract. RTSD will be funding the next phase, which is the planning, environmental and preliminary engineering portion of the project. Humphrey is looking to move forward with the project which is planning, detailed environmental work and the preliminary engineering.

Raybould asked for clarification on the 50% of the NDOR's contribution. Humphrey answered that it was up to 50% of the construction costs and capped at \$25 million. Construction costs could be \$30

million in 2016 dollars. The MOU also commits the parties to pursue federal grants which may be available as well. If grant money is received, then each entity's funding obligation would be reduced proportionately. Humphrey stated that the next phase is estimated to take 3-4 years. After this phase, then another agreement for final design will be necessary.

Wiltgen asked for clarification on Item C, Appendix A regarding alignments are subject to modification. Humphrey explained that the PEL study was reviewed by NDOR and FHWA. The next phase is the NEPA process, which is more detailed. Specific alignments still need to be determined. The last public meeting occurred in spring 2016 and from that meeting there were concerns about the alignments. Wiltgen inquired at what phase is the railroad involved in this process. Humphrey responded that there are many entities that will be involved and the railroad is one of them. Others include NDOR and the Corps of Engineers. The RTSD will continue to be working with the railroad throughout the process.

Schorr requested an estimate as to when the RFP would be issued for the services mentioned, as well as when ground breaking might occur. Humphrey answered that the MOU will be executed, the RFP would be issued, and the consultant would be selected, and finally come to the Board at the December 2017 meeting with a contract. This next phase is expected to take 3-4 years, final design 1 – 2 years, and right of way acquisitions or relocations could take another couple of years. So ground breaking for construction may not occur until 2026.

Schorr reminded listeners that the most recent updates with respect to this project can be found on the RTSD website.

Figard requested authority allowing the Executive Director, Project Manager and legal representative to work with the Chair to make necessary revisions to the MOU. If substantive revisions are required, then the MOU would be brought back to the Board at its September meeting. The approval of the MOU authorizes moving ahead with the RFP, and going through a selection process for a consultant.

Wiltgen moved to authorize the Executive Director and the Chair to sign the agreement with the NDOR and BNSF with the ability to make editorial changes to the MOU after consulting with attorneys and engineers. Lamm seconded the motion. Motion approved 6-0

#### **Order No. 17-18      Consideration of FY 27/28 Contract for Legal Services**

Figard invited Kutilek to discuss the legal services contract, and stated that the services that the RTSD received from Crobby Guenzel have been outstanding. There has not been an increase in their discounted rate for a number of years. Kutilek stated that he and his Firm appreciate the long-standing relationship with the RTSD. The contract provisions are essentially the same as those that have been in place for several years. The only exception is a slight rate increase. The last rate increase occurred in 2010.

Wiltgen inquired about how many hours approximately is spent on RTSD. Kutilek stated that while he likely devotes more time than is actually invoiced, approximately 40 hours were invoiced to the RTSD during the current fiscal year.

Raybould moved to approve the contract for 2017-2018 Legal Services.  
Christensen seconded the motion. Motion approved 6-0

**Order No. 17-19      Consideration of FY 17/18 Contract for Accounting/Budget/Auditing Services**

Figard invited Tony Jerina from HBE, LLC to discuss the accounting and auditing services contract. Figard mentioned that they also provided outstanding service to the RTSD. Jerina thanked the Board for letting the firm be the auditor and assisting with budget preparations. He presented the engagement letter for the current year that is similar to previous years. Services provided are, listing of responsibilities for the firm and the district, reports, audit for year end June 30, 2017 and assist the RTSD for the budget ending June 30, 2018. Current fees will be \$11,500, which is a slight increase from the \$11,000 last year. Audit field work will begin on July 19, 2017. Budget preparation will begin as soon as information is available. This only represents one year worth of services.

Wiltgen moved to authorize the Chair to sign the engagement letter with HBE, LLC for Accounting Services. Lamm seconded the motion. Motion approved 6-0

**Order No. 17-20      Consideration of FY 17/18 Budget**

Figard presented the 2017-2018 budget for the RTSD.

Figard reminded the Board that approving the budget does not authorize the spending of funds for project activity beyond the 2017-2018 fiscal year.

Figard also presented the **12 Year CIP (Capital Improvement Program)** showing anticipated costs on projects for upcoming years, as well as the **Cash Flow**, which shows projected revenues and levy rates.

Figard pointed out 3 changes from the draft budget presented to the Board at the March RTSD meeting.

1. South Beltway RR Crossings, Increased to \$10.0 million from \$8.668 million, plus \$1.332 million. This is consistent with recent discussions to Cap the City and RTSD costs on the South Beltway Project.
2. OPPD & 84<sup>th</sup> street, Decreased to \$0 from \$ 0.5 million, minus \$0.5 million. This crossing was moved out in the CIP 2 years to 19/20. Do not anticipate need in the next 2 years.
3. Jamaica No. Trail Connection, Added to the CIP, with \$0.2 million each of the next 3 years. Plus \$0.2 million. This project has been presented to the Board several times over the past year or so. Lincoln Parks Department staff will be present to share the request and the private donations that have been secured.

The proposed budget consists of \$85,500 for operating costs, recommended CIP/Crossing costs of \$12,420,000, for a total budget of \$12,598,800.

Wiltgen pointed out that with the cash flow projections and recent property valuations, he met with the county assessor last week and suggested that the valuation schedule might be moved up to a 2-year cycle instead of a 3-year cycle. Figard stated he would visit with the County Finance staff regarding this issue. Schorr said that by the September meeting, we should have final valuation numbers.

Figard said that this Budget, CIP and Cash flow is based on the estimated levy of \$.023 per one hundred dollars of actual property valuation. Figard suggested that the Board consider a motion to approve the budget as presented and request a supporting levy from the County in the amount of \$.023 per one hundred dollars of actual property valuation.

Wiltgen indicated that it is the intent of the County Board to increase the levy to \$.023 per one hundred dollars of actual property valuation.

Christensen moved to approve the Budget, CIP and Cash Flow, as presented, and request a supporting levy from the County in the amount of \$.023 per one hundred dollars of actual property valuation. Raybould seconded the motion. Motion approved 6-0

**Order No. 17-21      Non-Agenda Items/Public Comment**

There was no one to speak to non-agenda items. Schorr reminded everyone that the next meeting is presently scheduled for Tuesday, September 12, 2017 at 11:00 a.m.

Wiltgen moved to adjourn. Raybould seconded the motion. Motion approved 6-0

**Meeting adjourned at 12:30 p.m.**

**Prepared by: Amy Cornelius-Jones, Engineering Services**

**Minutes 06-05-17**