

MINUTES OF THE REGULAR MEETING OF THE  
BOARD OF DIRECTORS

OF THE

ROCKY MOUNTAIN RAIL AUTHORITY Held: Friday,  
December 11, 2009, at 1:00 p.m. at the Jefferson County  
Administration Building, Lookout Mountain Room, 100  
Jefferson County Parkway, Golden, CO 80401.

Attendance:

A meeting of the Board of Directors of the Rocky Mountain  
Rail Authority was scheduled in compliance with the laws of  
the State of Colorado, with the following Board members in  
attendance;

Harry Dale, Chair, Clear Creek County (Commissioner)  
Doug Lehnen, Vice Chair, Town of Castle Rock (Council)  
Catherine Green, Town of Monument (Staff) (Alternate)  
John Tangen, RFTA Controller, Fiscal Agent RMRA (via  
teleconference)  
Larry Brooks, Town of Avon (Staff)  
John Hoffman, Town of Carbondale (Council) (via  
teleconference)  
Terry Carwile, City of Craig (Council) (via teleconference)  
Janice Finch, City and County of Denver (Staff) (via  
teleconference)  
Steven Koster, Douglas County (Staff) (via teleconference)  
Greg Schroeder, Eagle County (Staff)  
Forrest Whitman, Gilpin County (Commissioner) (via  
teleconference)  
Bob Bowland, Idaho Springs (Council)  
Kate Newman, Jefferson County (Staff)  
Harold Anderson, City of Lone Tree (Council)  
Bill Moore, Pueblo County (Alternate)  
Bill Moore, City of Pueblo (Staff)  
Diane Mitsch-Bush, Routt County (Commissioner)  
Diane Mitsch-Bush, Steamboat Springs (Alternate)  
Diane Mitsch-Bush, Oak Creek (Alternate)  
Diane Mitsch-Bush, Town of Yampa (Alternate)  
Tom Rogalski, Hayden (Council) (via teleconference)  
Gene Putman, City of Thornton (Staff)  
Lee Behrens, Georgetown (Council) (via teleconference)  
Michael Penny, Town of Frisco (Staff) (via teleconference)  
Tresi Houpt, Garfield County (Commissioner) (via  
teleconference)  
Bob Briggs, Westminster (Council)  
Doug Rademacher, Weld County (Council) (via  
teleconference)  
Greg Hall, Vail (Staff) (Alternate)  
Dave Sturgis, Glenwood Springs (Council) (via  
teleconference)

**Also present were:**

Jennifer Ivey, Icenogle, Norton, Smith, Blieszner, Gilida & Pogue, P.C. (RMRA Attorney)

George Scheuernstuhl, DRCOG (Staff)

Kaye Ferry

Scott McDaniel, CDOT Region 1

Jim Wilmesher, BLET

Identification of any Non-Board members on the Conference Call Line

Chairman Dale asked for all non-board members on the conference call to identify themselves. No one identified themselves.

Call to Order

Chairman Dale, upon the presence of quorum, called to order the meeting of the Board of Directors of the Rocky Mountain Rail Authority at 1:12 pm.

Public Comment Period

Chairman Dale asked for any person wishing to come forward to address the RMRA Board with public comments. There were none.

Consideration of Approval of September 25, 2009 RMRA Board Meeting Minutes and October 23, 2009 unofficial meeting notes

Chairman Dale referenced the Board minutes from the September 25, 2009 Board meeting and the unofficial October 23 Board meeting. He asked if there were any corrections to either.

There were no corrections.

Director Mitsch-Bush moved, Director Lehnen seconded, approval of the Board minutes from the September 25, 2009 Board meeting and the unofficial October 23 Board meeting. Passed.

November 2009 Financial Report and approval of bills

At the request of Chairman Dale, Treasurer Tangen reviewed the Projected Available Cash portion of the financial report on the lower section of page 1. He and Chairman Dale reported that the Peer Review Panelist invoices may not be up to date. Mark Boggs had provided an update to Treasurer Tangen just prior to the Board meeting and there wasn't enough time prior to the meeting for a full reconciliation. The total number of RMRA outstanding invoices is \$205,399 with the potential for that number to go up with an accurate assessment of the Peer Review Panelist charges from September.

Treasurer Tangen reported that RMRA cash on hand (top of page 2) is \$117,070. This includes a CDOT grant reimbursement of \$115,463 received on Monday, December 7. Treasurer Tangen requested direction from the RMRA Board for payment of outstanding invoices as a subset of the total \$205,399 outstanding, since very clearly not all \$205,399 could be paid. The RMRA Board had previously approved a

number of older invoices upon receipt of appropriate CDOT grant reimbursement funds; however it was not expected that only \$115,463 would be received.

Director Hall moved, Director Moore seconded, approval of the payment of the TEMS June invoice of \$54,415, the TEMS July invoice of \$60,280 and the Railroad meeting travel expenses for Vice Chairman Lehnen of \$567 out of the RMRA cash on hand. This results in a total payment of \$115,262 against the current RMRA balance of \$117,070. Passed.

Treasurer Tangen reported that once these payments were made, he would be able to submit the TEMS paid invoices of \$114,695 to CDOT for 80 percent reimbursement from the SB-1 grant. He expects that he will receive \$91,756 from CDOT in about three weeks. Since he would receive these funds hopefully prior to the next RMRA Board meeting on January 8, 2010, he requested direction from the RMRA Board for outstanding invoice payments from the \$91,756 grant reimbursement.

Based on the current balance of outstanding invoices following the previously approved invoice payments to TEMS and Vice Chairman Lehnen, an unpaid invoice balance of \$90,137 would remain. In theory, Treasurer Tangen would be able to pay the entire outstanding amount when he received the \$91,756 grant reimbursement from CDOT in late December or early January.

Chairman Dale asked the Board if they were comfortable with providing instruction to Treasurer Tangen to pay all outstanding invoices prior to the January 8, 2010 Board meeting without understanding how TEMS would respond to the comment matrix on the Final Report. Payment of all current invoices would not provide any leverage to the RMRA Board to resolve any potential conflicts with TEMS on the Final Report. Director Putman noted that it is typical in transportation studies to withhold 5 percent of the entire study cost to the end of the study when all outstanding items are resolved. For the TEMS portion of the RMRA Study effort, after all the additions, the total cost will be about \$1.4 million. The 5 percent amount would be \$70,000.

The remaining TEMS contract budget after payment of the June and July invoices is \$62,348 or very close to the \$70,000 amount. Treasurer Tangen has already received the TEMS August invoice for \$39,360 and their September/October invoice for \$7,035. If these invoices are paid with the \$91,756 grant reimbursement from CDOT (expected in late December or early January) then the remaining contract

balance to TEMS would be \$15,953. Clearly this does not add up to 5 percent of the total contract amount of approximately \$1.4 million.

The Board agreed with the desire to withhold some funds from TEMS as leverage to be used to resolve any potential conflicts with the Final Report, but thought it unfair to withhold the August payment, since it is already over three months overdue.

Director Hall moved, Director Moore seconded, approval of the payment of the balance of all the listed invoices in the November Financial Report on page 1 with the exception of the TEMS September and October invoice in the amount of \$7,035; when Treasurer Tangen receives the \$91,756 grant reimbursement from CDOT in late December or early January. Passed.

The Board then discussed the approval process for the balance of invoices remaining after all current invoices are paid. In the event that there might not be a quorum for the January 8, 2010 meeting, the Board wanted the Executive Committee to have the authority of approving any remaining invoices.

Treasurer Tangen moved, Director Mitsch-Bush seconded, delegation of the approval for payment of the balance of invoices remaining after all current November invoices are paid, if there is not a quorum at future RMRA Board meetings. Passed.

Review of the remaining study activities and schedule.

Chairman Dale reviewed the remaining study activities and schedule.

1. Distribute the complete comment matrix with the TEMS responses to the Steering Committee.
2. Distribute the text to be included in the final report for the Freight Railroad Risk Assessment to the Steering Committee.
3. On January 8, 2010, the Steering Committee will meet to review the TEMS responses to the comment matrix and the text to be included in the final report for the Freight Railroad Risk Assessment. The Steering Committee will suggest changes and then make a recommendation to the RMRA Board relative to the next step for the final report.
4. Assuming the RMRA Steering Committee and Board elect to move forward with the revised final report with the appropriate changes, the revised final report

and executive summary will be sent out to all Steering Committee and Board members at least two weeks prior to the February 5, 2010 Steering Committee and Board meetings.

5. The Steering Committee and Board will consider adoption of these documents at the February 5, 2010 Steering Committee and Board meetings, assuming these documents will be ready two weeks in advance of the February 5, 2010 meetings. If these documents cannot be made available two weeks prior to the February 5, 2010 meetings, then the Steering Committee and Board may elect to adopt them at their March 26 Steering Committee and Board meetings.

Consideration of the RMRA 2010 budget

Council Jennifer Ivey reported that public notice was provided on December 4, 2009 in the Denver Post for the public hearing for the RMRA 2010 budget.

Chairman Dale opened the public hearing for the RMRA 2010 budget. He asked if there was any public comment on the RMRA 2010 budget. There was no public comment. Chairman Dale then closed the public hearing.

Treasurer Tangen reviewed the 2010 RMRA budget which included total expenses of up to \$55,000.

Director Moore moved, Director Putman seconded, approval of the RMRA 2010 budget and appropriation of the funds. Passed.

Vail Pass 4 percent grade unconstrained alignment discussion

Chairman Dale identified the Vail Pass problem as the single largest problem in the Final Report.

The implementation plan alternative to be included in the final report, promotes a 4 percent grade unconstrained alignment in the I-70 corridor because it is better suited for conventional rail technologies and apparently better meets FRA technical requirements according to TEMS. The 4 percent grade unconstrained I-70 corridor alignment includes US 6 through Clear Creek Canyon, a North Fork tunnel under Loveland Pass and a route south of Vail Pass (SH 91 south across the Climax Mine Reclamation area to Pando/Camp Hale and then the UP Tennessee Pass alignment to Minturn).

The 4 percent grade unconstrained alignment does not include an on-line station in the Town of Vail which is arguably the single biggest resort attraction in the I-70 mountain corridor. Travel times in the "Improved 220 mph EMU Alternative" must be considered with a focus on the Copper Mountain to Vail segment of the corridor. In their analysis,

TEMS disguises the travel time disadvantages of the 4 percent grade unconstrained alignment around Vail Pass due to the advantages of the 4 percent grade unconstrained alignment in Clear Creek Canyon, even though environmental impacts would likely preclude a US 6 Clear Creek Canyon alignment from ever being allowed. Specifically, Jefferson County open space lands would receive special federal protection as section 4 (f) properties, if federal dollars were to be used in constructing the project.

Assuming it would take about 10 minutes via shuttle bus, to get passengers from mp 171 (Minturn) to the Vail Main Entrance (mp 176), the actual travel time from Copper Mountain to Vail for the 220 mph EMU technology via the 4 percent grade unconstrained alignment would be 42 minutes. Assuming a travel time of 22 minutes from Copper Mountain to Minturn in the I-70 highway corridor for the 220 mph EMU technology and then dropping 5 miles from that trip to get from Copper Mountain to Vail (mp 176); the estimated in-corridor travel time would be 17 minutes for the 220 mph EMU technology.

So, for the 220 mph EMU technology, the 7 percent grade I-70 highway alignment would produce a travel time between Copper Mountain and the Town of Vail of 17 minutes and the 4 percent grade unconstrained alignment would produce a travel time between Copper Mountain and the Town of Vail of 42 minutes. This is a difference of 25 minutes.

Chairman Dale argued that an alternative that takes away a mainline station in the Town of Vail and increases travel times between Copper Mountain and Vail by 25 minutes should not be called an “improved” alternative. In fact, it should be called a “substantially degraded” alternative. However, according to TEMS, the corridor communities’ view of a substantially degraded alternative is just what the FRA likes.

The Board discussed the FRA technical approach that TEMS was required to use and felt there was value in including the 4 percent grade unconstrained alignment in the Final Report implementation plan as long as it was properly explained in the beginning of the Final Report. The Board agreed that the implementation plan alternative should not be called an “improved” or “optimized” alternative, but simply a “FRA technical” alternative, since according to TEMS, it was developed to better meet FRA technical criteria.

While acknowledging the need to meet TEMS FRA criteria that few RMRA members even understand, the I-70 corridor communities remain strongly opposed to the 4 percent unconstrained alignment used in the implementation plan.

These RMRA members want to make clear in the Final Report that the analysis of the 4 percent grade unconstrained alignment is included in the RMRA Final Report strictly for its supposed merits based on TEMS FRA criteria, however I-70 corridor members of RMRA remain strongly opposed to any such alignment.

#### Discuss Study Disclaimer

Chairman Dale noted the desire for a disclaimer in the Final Report that would make clear that the RMRA feasibility study was not making any final decisions and that future National Environmental Policy Act regulated studies would be required to further evaluate all potential high speed rail alternatives if federal dollars would be used in a Colorado high speed rail project. The following disclaimer suggestions were made at a previous RMRA Board meeting.

“Nothing in this feasibility study shall preclude a review of alternative high speed transit technologies that meet or exceed identified criteria.”

“This RMRA High Speed Rail Study is a general system level analysis that evaluates the broadest concepts of economic and financial feasibility primarily focused on conventional steel-wheel-on-steel-rail system technology. It is NOT a multi-modal transportation analysis and does NOT include an evaluation of other transportation technology alternatives which may also be feasible in the study corridors. The RMRA study was NOT conducted as, and should NOT be construed in any way as, part of any ongoing or future studies required by the National Environmental and Policy Act (NEPA).”

The Board agreed to allow Director Moore to put together language for a Preface to the Final Report and present it to the Board at the January 8, 2010 Board meeting. This Preface would not only disclaim the FRA technical alternative in the report, but also provide some insight as to what the next steps might be including the pursuit of the 11<sup>th</sup> high speed rail corridor designation by the FRA.

Director Sturgis recommended that the next step studies look at interoperability between the I-25 and I-70 corridors not only in terms of the selection of a single conventional rail technology to be used in both corridors, but also to look at the interoperability of two distinctly different technologies. In this case, one technology would be used for each corridor that would be better suited to the unique characteristics of the specific corridor with a central transfer point.

#### RMRA Board Member Pictures

Director Putman suggested that we include a one page collage of pictures of RMRA Board members in the final report, so

that our successors could see the RMRA members who worked together to complete the study. Chairman Dale agreed to send out instructions to RMRA members for sending their pictures to Director Putman. Director Putman agreed to put together the one page document for inclusion in the Final Report.

#### Profile Series Request

Chairman Dale discussed a proposal from Joel Walters who is the Producer of the Profile series. This would be a fairly elaborate public relations campaign for the Rocky Mountain Rail Authority high speed rail feasibility study including educational content to be aired on Bravo, Google Video, Voice of America and other television networks. One minute and 30 second television spots would be created. The total cost would be around \$25,000.

The Board does not have the \$25,000 for this effort and declined the invitation to participate in the Profile series.

#### Western High Speed Rail Alliance

Several Board members discussed the Western High Speed Rail Alliance (WHSRA) based on a publication they had received from DRCOG. DRCOG is the single Colorado participant in WHSRA at this point in time. While this effort seems appropriate for the Western States, there was some concern as to why the Colorado Front Range was not yet included in the WHSRA study. Based on the RMRA study findings, the highest expected intercity ridership in a Colorado based high speed rail system would be in the Front Range from south of Denver into Denver. It would seem that this area would need to be included for the success of a Western States high speed rail system. George Scheuernstuhl told the RMRA Board that the WHSRA was considering including the Front Range in an effort to tie the Western States together, but that they are still very early in their discussions. The Board made a request that they be included in any updates from the WHSRA on the study and allowed an opportunity to provide input. Chairman Dale will be sending out the WHSRA documents to the RMRA distribution list.

#### Next RMRA Board Meeting

Chairman Dale stated that the next RMRA Board meeting will be on Friday, January 8, 2010 at 1 pm in the Jefferson County Courts and Administration Building, Lookout Mountain Room.

#### Adjournment

In that there were no further items of business to discuss, the meeting stood adjourned at 3:05 p.m.

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Secretary of the Meeting