

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

CALL TO ORDER

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

MEMBERS PRESENT

Chairwoman Molitoris asked Stu Nicholson to call the roll. Members present included: Chairwoman Jolene Molitoris, Commissioners Tom McOwen, Kimberly Gibson, Barbara Bennett, Solomon Jackson, Herk Wolfe, Larry Sowers, Paul Staley for Director James Beasley, Representatives Larry Flowers and Robert Hagan; and Senator Larry Mumper. Members absent included Jim Hartung, Dan Roberts and Senator Capri Cafaro.

APPROVAL OF THE MINUTES OF THE JANUARY MEETING

Chairwoman Molitoris asked for a motion to approve the minutes of the January 16, 2008, meeting. Commissioner Bennett moved to approve the minutes and Commissioner Sowers seconded the motion. Roll call was taken. The minutes were approved as presented.

WELCOME

Chairwoman Molitoris opened the meeting by responding to Executive Director Matt Dietrich's report on the broad media coverage of Governor Strickland's letter to Amtrak President and Chief Executive Officer Alexander Kummant requesting a study of what is needed to restore passenger rail service in the 3-C Corridor. Chairwoman Molitoris called the media response "heart-warming" and stated she felt the Governor has really stepped up on the issue and that this will help greatly in discussions with Amtrak. She said it also demonstrates the level of commitment and understanding Governor Strickland has about the role of trains in the state's transportation plans.

Chairwoman Molitoris spoke about the recent news of her appointment as Assistant Director of ODOT. She called it "no small task" and said the support and involvement of everyone will be welcomed and needed. She told Commissioners her new post will involve three primary areas of responsibility:

- ODOT's federal agenda: transportation funding authorization. She commented that "Ohio needs to be a player."
- Implementation of ODOT's 2008-2009 Business Plan; and
- Chairing the 21st Century Transportation Task Force.

Chairwoman Molitoris introduced Terra Goodnight, Executive Assistant for Transportation Issues, Governor Strickland's office, and reported Ms. Goodnight was present to speak about the Governor's *Building Ohio Jobs* initiative later in the meeting.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Matthew Dietrich presented his Executive Director's report to the commissioners. Director Dietrich highlighted some of the points identified in his report. He first spoke about the Diesel Emission Reduction Grant (DERG) program and reported ODOT had received 11 applications from six railroads totaling \$29,271,124 in requests for assistance. He

announced ORDC will be the public sponsor for these applicants who have total project costs of \$36,700,000. Director Dietrich reported these project applications were for new GEN-SET locomotives and Auxiliary Power Units as well as other items.

Director Dietrich reported on the Ohio Hub plan and where ORDC is in process of advancing that plan. He indicated staff has submitted appropriation requests for four of the Ohio Hub corridors to the corresponding member of Congress.

Director Dietrich reported on his recent trip to Washington D.C. to meet with the Ohio delegation as well as staff of Governor Strickland's Washington office. He reported this trip was to discuss the PEIS requests and other issues concerning rail. Director Dietrich stated the trip was a success and the meetings were well received.

The third issue Director Dietrich highlighted from his report was the Capital Bill request to the Office of Budget and Management (OBM). He reported ORDC has submitted its first ever capital bill request and it has three elements: a proposal to utilize the capital bill for railroad grants; a request to pay off the Certificates of Participation on the Panhandle; and a request for funds to rehabilitate a bridge along the Panhandle line. Director Dietrich announced he and Secretary-Treasurer Megan McClory will continue meeting with OBM on this matter.

The last highlight from the Executive Director's report is Outreach and Communication. Director Dietrich spoke about the marketing efforts ORDC is undertaking with the Ohio Department of Development (ODOD). He reported Stu Nicholson, ORDC's Public Information Officer, is working closely with the staff of ODOD's Communications and Marketing Office to develop materials for ORDC and the rail industry in general.

Commissioner Jackson referenced an item identified in Director Dietrich's report on weight limits for tracks hauling three or more steel coils. There is a movement to increase Gross Vehicle Weight from 92,000 lbs to 120,000 lbs. Commissioner Jackson inquired if ORDC has/should take a position on this issue. Discussion took place with Representative Hagan stating that this issue has routinely come up over the past 20 years and reported this proposal represents increased wear and tear on an already strained highway system but also represents a major safety issue. He suggested the Commission should take a position on this.

Art Arnold, Executive Director of Ohio Railroad Association, reported on the proposed amendment to this bill stating it is HB 30 and that Representative Ross McGregor is the sponsor of the bill. He indicated his organization was against this weight increase and they were following the bill's progress. Mr. Arnold reported the proposed amendment is scheduled for a vote on April 1st by the Senate Transportation and Highways Committee and that there would likely be very little opportunity for testimony. Mr. Arnold stated if this amendment passes no other state, other than Ohio, will have this type of load limit.

Commissioner Wolfe stated that he believes this amendment would open the doors to the weight limitations for other types of shipments being increase and that this is the wrong time for this action because of the current highway funding situation.

Paul Staley, Policy Director for ODOT and Director Beasley's designee for this meeting, stated for the record that ODOT was still in the process of reviewing this proposal and that ODOT has not yet taken a position on this issue.

Commissioner Kimberly Gibson also indicated that ODOT has yet to take a position on this issue as well as the Department is still looking at the pros and cons of the amendment.

Chairwoman Molitoris stated she was not comfortable requesting the commission to make a motion to take a position on this bill until she has had an opportunity to speak with Director Beasley on this issue. She indicated if a vote were to take place she would have to abstain from the vote. Commissioner Gibson echoed Chairwoman Molitoris' concerns and position as did Mr. Staley. She suggested this issue be taken up at the next commission meeting (scheduled for May 8) when all commissioners have had a chance to look more intently into this matter.

BUILDING OHIO JOBS PRESENTATION

Terra Goodnight, Governor Strickland's Executive Assistant for Transportation Issues, gave a presentation on the Governor's *Building Ohio Jobs* plan, a \$1.7 billion bond package that will create jobs and lay the foundation for long-term economic prosperity in the State.

Ms. Goodnight explained the plan will be put on the November statewide ballot, either by approval of the General Assembly or by public petition. The plan includes a \$150 million funding package directed toward transportation and logistics infrastructure needs, including freight rail.

Ms. Goodnight stated that the Governor's plan is in keeping with his administration's overall philosophy of "living within our means and investing in what matters" and also stated that Ohio is currently in an almost "no growth economy" and can no longer achieve prosperity by continuing to cut funding and budgets.

Chairwoman Molitoris reported the recent opening of the Norfolk Southern Railroad Rickenbacker Intermodal Yard is a significant indicator of what the future holds for Ohio if it invests in its rail infrastructure and overall transportation systems. Referring to the recently released *National Surface Transportation Policy & Revenue Study Commission Report: Transportation for Tomorrow*, Chairwoman Molitoris stated that Ohio must change the way we develop and fund transportation if we are to be competitors in the future.

Resolution 08-05 – Motion to Approve Governor Strickland's *Building Ohio Jobs Initiative*

Chairwoman Molitoris asked for a motion to approve Resolution 08-05 in support of Governor Strickland's Building Ohio Jobs initiative. Commissioner Wolfe moved to approve the resolution and Commissioner Sowers seconded the motion. Roll call was taken and the motion passed unanimously with eight votes in the affirmative.

Resolution 08-06 – Motion to Oppose Increase in Gross Vehicle Weight

Commissioner Wolfe again raised the point that he felt the commission should go on record in opposition of this effort. He offered his assistance in doing whatever he could to stop the weight increase from happening. Commissioner McOwen stated he was ready to make a motion opposing the increase in gross vehicle weight.

Commissioner McOwen made the motion to “oppose increases to the allowable gross vehicle weight for trucks operating in Ohio.” Commissioner Wolfe seconded the motion. Roll call was taken with five votes in the affirmative, three abstentions and two absent. The motion passed with a majority vote.

NOTE: Chairwoman Molitoris, Paul Staley and Kimberly Gibson all abstained from the vote.

FINANCE REPORT

Megan McClory, ORDC Secretary-Treasurer, presented the Finance Report to the commissioners (beginning on page 3 of the commission packet). Ms. McClory spoke about the first of three events that are being sponsored by MORPC. The *Ohio Transportation Leadership Forum*, is being held on Wednesday, March 19 at the Hyatt on Capital Square. She inquired if any of the commissioners are interested in attending and asked that they please let her know so she can get them registered. She reported Commissioners Gibson and Wolfe are already registered and that she and Director Dietrich would be in attendance as well.

Ms. McClory explained that the Office of Budget and Management had asked agencies to prepare plans in January to reduce the current biennium’s budgets by 10% and 16% in each fiscal year. If ORDC was required to absorb the full cut amount, it would have reduced the grant program over two years by \$500,000 to almost \$1 million. After discussing the impacts of the cuts with Director Beasley, he recommended to OBM to make GRF reductions in ODOT programs that are eligible to be back-filled with federal funds and to hold harmless those that couldn’t, i.e. Rail and Aviation. OBM accepted this recommendation, and while ORDC is still making some budget reductions and implementing spending controls, the grant program will continue at its current level.

Chairwoman Molitoris pointed out that while holding ORDC’s grant program harmless may be small in the big scheme, Director Beasley held firm because he wants intermodal transportation to thrive.

Ms. McClory noted that travel reimbursement rules have changed and asked that Commissioners with questions about the changes contact Gloria Howard of the ORDC staff.

Ms. McClory then noted that 56% of the ORDC’s Heartland Corridor grant has now been distributed. She also stated that staff is working to get statutory language related to accessing the enterprise bond fund for rail projects into legislation this spring.

PROJECT

Resolution 08-03; Wheeling & Lake Erie Railway/Carrollton Branch Rehabilitation

Ms. Beverly Lee, ORDC Planner, presented Resolution 08-03 to the commissioners. Ms. Lee reported Wheeling & Lake Erie Railway is requesting a grant of \$250,000 to assist with their rehabilitation efforts along 26 miles of track between Canton and Carrollton. She stated this project will retain rail service for six shippers, retain 360 jobs and create 50 or more jobs.

Mr. Pat McCune, Wheeling & Lake Erie Railway representative, was present to answer any questions and apologized for Mr. Bill Callison and Mr. Larry Parson’s absence as both were traveling and unavailable to attend the meeting. He stated the project is a “critical component of our system and its potential for moving more coal.”

Commissioner Jackson inquired where the majority of the job creation will come from. Ms. Lee responded by stating that Rosebud Mining will create the majority of the jobs and Noramco will create new positions as well. She indicated that other shippers along the line have committed to creating additional jobs if track conditions are improved.

Commissioner Jackson stated that it seems unusual that the Wheeling & Lake Railway would be responsible for other entities' job creation. Lou Jannazo, ORDC's Chief of Project Development, said this method avoids the need for three-party agreements but that staff could look at other arrangements if the Commission desired.

Commissioner Jackson inquired about the result of this project if an economic downturn were to happen. Mr. Jannazo responded by reporting that ORDC works with the company's who do not meet their commitments and always takes business conditions into account but does include "claw-back" provisions in all of its contracts. He stated ORDC does not want to hurt businesses by being too harsh and that staff can better serve the state's interest by making sure all parties act in good faith.

Commissioner Gibson made a motion to approve Resolution 08-03. Commissioner Wolfe seconded the motion. Roll call was taken and the motion passed with eight votes in the affirmative.

2008 REHABILITATION PROGRAM

Resolution 08-01; Akron Metro Regional Transit Authority/Canton Line Bridges

Lou Jannazo presented the Akron RTA project to the commissioners (found on page 15 of the commission packet). Mr. Jannazo reported this request is for a grant in the amount of \$200,000 to assist with necessary repairs to two bridges located between Akron and Canton at mileposts 21.3 and 21.6. He introduced Kirt Conrad of Akron Metro RTA who was present to answer any questions. Mr. Conrad spoke about the spoke in support of this project and the need to *repair* one bridge and *replace* a second along the rail line, saying it not only is an economic development issue but a flood control issue as well. He stated that heavy rainfall and resulting flooding in the North Canton area a few years ago was worsened by the existing bridges and their support abutments.

Commissioner Jackson inquired about the bridge design costs; noting the costs for the WESTCO bridge project on the agenda are significantly less than the design costs for this project. Mr. Jannazo responded by saying the design work for the WESTCO was done on a similar bridge last year and that utilizing the same plans accounted for the cost savings. Mr. Conrad also stated that the Army Corps of Engineers is involved and that is reflected in the design costs. Commissioner Bennett stated that design costs are usually about 15-20% of construction costs for ODOT bridges but because this project involves flooding in a highly developed area, the hydraulics work and additional cost make sense.

Chairwoman Molitoris asked for a motion to approve Resolution 08-01. Commissioner Gibson moved to approve the resolution and Commissioner Bennett seconded the motion. Roll call was taken with eight votes in the affirmative.

Resolution 08-04; West Central Ohio Port Authority (WESTCO) Sugar Creek Bridge

Lou Jannazo presented Resolution 08-04 to the Commissioners (pg 55 of the Commission packet). Mr. Jannazo reported WESTCO is requesting a grant of \$250,000 and a loan of up to \$400,000 to assist with costs associated with the replacement of the Sugar Creek bridge in Fayette County.

Mr. Jannazo introduced Larry Himes, Executive Director of WESTCO, who was present to answer questions. Commissioner Gibson stated that the rail line involved in the bridge replacement project serves not only several important existing businesses but also a job-ready Mega-Site that she called “a critical piece of our rail-ready infrastructure.” This fact was also acknowledged by Mr. Himes who said the site was also once considered for a Honda plant that ultimately went to Indiana. The bridge replacement, he said, would help the existing shippers on the line and enhance the marketability of the Mega-Site.

Chairwoman Molitoris asked for a motion to approve Resolution 08-04. Commissioner Sowers moved to approve the resolution and Commissioner Wolfe seconded the motion. Roll call was taken with eight votes in the affirmative.

APPROVED PROJECT BRIEFINGS

NOTE: Due to time constraints, Chairwoman Molitoris opted to forego the individual reviews of each of the seven Approved Project Briefings choosing, rather, to move ahead to the Panhandle Long Term Lease Committee Report by Committee Chairman, Tom McOwen. Chairwoman Molitoris noted, however, she was confident each of the Commissioners had reviewed their packets in its entirety and offered them the chance to ask questions or request clarification on any of the briefings. No one had any questions so Chairwoman Molitoris moved ahead with the Committee report. The seven Approved Project Briefings are identified below:

- Camp Chase Railroad Company/Phase II Track Rehabilitation
- Cleveland Commercial Railroad/Continuing Track Improvements
- RJ Corman/Cleveland Line Rehabilitation
- Indiana Northeastern Railroad/Crossing Upgrades
- Maumee & Western/Defiance Yard & Track Rehabilitation
- Ohi-Rail/Grade Crossing Vegetation Control
- Youngstown & Southeastern Railroad/Rebuilding Four Crossings

PANHANDLE LONG TERM LEASE COMMITTEE REPORT

Committee Chairman Tom McOwen gave a brief history of the Panhandle Line and the reasons why the State stepped in to save it from abandonment and scrapping. He stated it was “absolutely the right move” by the State of Ohio.

Chairman McOwen then delivered a description of the 25-year lease proposed by the Columbus & Ohio River Railroad (C&OR). He described the negotiation process thus far as “very complicated” and “more than anyone anticipated,” but stated his belief is that the committee is close to being able to make a final recommendation to the full commission on whether to grant the long-term lease and how it should be structured.

Chairman McOwen reported the Panhandle Lease Committee has met four times since January, with another meeting scheduled for March 24th. The most recent meetings, he said, focused on the issues of the rent/lease price for the rail line and liability insurance issues associated with existing and proposed excursion operations on the line involving the Depot Museum in Dennison, Ohio, Tuscarawas County.

Regarding the issue of a lease rate for the rail line, Chairman McOwen reported the state needs to have a reasonable return on its investment in the line but not negatively impacting shippers or the railroad by making certain that no unnecessary burdens be placed upon the railroad that would put it at a competitive disadvantage. He also stated that it was the committee's intent to ensure that the rail line continue to be maintained and improved.

Chairman McOwen stated that the Committee has asked that a 2004 appraisal of the Panhandle Line be updated in order to help determine a reasonable lease price for the line. Once that is completed, he said, a draft lease agreement can be completed and put out for public comment. The committee was not comfortable utilizing an outdated appraisal when trying to determine the lease price.

On the issue of special rail excursions on the Panhandle line, Chairman McOwen told Commissioners that though there is "great interest from the Dennison area" in running a number of special excursions during any given year, the railroad was in a position where it can no longer assume the full risk, even though the Ohio Central (C&OR) has historically been excursion-friendly over the years. Saying that liability insurance has become costly to both the excursion operators and the railroad, Chairman McOwen reported there doesn't appear to be an easy solution in the form of limiting liability. Chairman McOwen referred to a presentation by railroad insurance expert Robert McCarthy who told the Committee that even a legislative "fix" at the state level is not "bullet-proof" as it could be challenged in the federal courts. McOwen said it was the Committee's desire, however, to continue working with stakeholders and the Ohio General Assembly to identify a potential legislative solution.

Chairwoman Molitoris and Commissioner Jackson complimented the Commissioners and Chairman McOwen specifically, for their efforts on this issue.

NEW BUSINESS

Chairwoman Molitoris reviewed the committees (Legislative, Human Resources, Economic Development/Long-Term Strategy and Budget/Fiscal) and suggested that with travel and other time commitments the Commissioners may have that the Committee Chairs consider scheduling meetings on the same day as the regular Commission meetings. A short discussion followed with Commissioner Bennett indicating she plans to meet with her committee members soon and apologized for not getting together earlier.

Chairwoman Molitoris mentioned her recent trip to Washington DC to meet with Congresswoman Marcy Kaptur and characterized it as very productive.

PUBLIC COMMENT

Andrew Bremer, Executive Director of All Aboard Ohio, reported his organization is pleased with the direction the commission is taking and indicated his organization will keep forging ahead to spread a positive message on transportation and rail-related matters.

Mr. Bremer reported All Aboard Ohio's Legislative Summit is scheduled for April 30th and invited all who would like to participate.

ADJOURNMENT

Chairwoman Molitoris called the meeting adjourned at 12:15 p.m.

NOTE: Due to technical difficulties with the recording device this commission meeting was not recorded on audio tape. The issue was not discovered until after the meeting had adjourned.