

VERMONT RAIL COUNCIL

**VERMONT RAIL COUNCIL
MINUTES OF MEETING
5TH FLOOR BOARD ROOM
NATIONAL LIFE BUILDING
MONTPELIER, VERMONT
December 10, 2003**

MINUTES SUBJECT TO CORRECTION BY THE VERMONT RAIL COUNCIL. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE COUNCIL.

- As there was no quorum at the February 25, 2004 Council meeting, no vote to accept the December minutes was taken. No objections were raised, therefore the Chairman Dill accepted the minutes as written.

MEMBERS PRESENT: David Dill for Patricia McDonald, Chairperson

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| Peter Gregory | Rep. Sonny Audette |
| John Pennington | John Vincent |
| Charlie Moore | Chris Andreasson |
| Richard Moulton | Greg Maguire |

MEMBERS ABSENT: Sen. Richard Mazza Chris Cole
John Cook Ken Enzor
Philene Taormina Curt McCormack

OTHERS PRESENT: Anthony Otis Charlie Miller
Jim Fitzgerald Anne Condon
Peter Snyder Brad Worthen
Scott Bascom Dave Wulfson
Nancy Rice Bob Paquin
Michael Desrochers Steve Halloran
Neil Schickner Bill Rose
Michelle Bloomhauer

1. Call to Order and Approval of Minutes

David Dill called the meeting to order at 1:04 p.m. Introductions were made.

Approval of October 22, 2003 Minutes

MOTION by John Pennington, SECOND by Peter Gregory, to approve the 10/22/03 minutes as written. VOTING: unanimous; motion carried.

2. Report from Subcommittee on Infrastructure Improvements – Dave Wulfson

David Wulfson reported the subcommittee met and agreed to look at a statewide rail system versus individual entities with individual needs. Priorities were identified. Bridges and 286,000 pound rail capacity top the list. New construction should be at 315,000 pounds while rebuilding should be at 286,000 pounds at a minimum (railroads are losing business due to below standard weight limits on tracks; 500 car loads annually by Vermont Railway). Cost estimates for each priority will be developed (the NECR study of bridges for 286,000 pounds needs updating and the Vermont Railway bridges evaluation being done by VTrans needs to be completed). The railroads in the state will prioritize where the work should begin relative to the state overall rather than a specific railroad. The information that is collected will be useful for planning or for the Legislature (some for the FY05 budget, but mainly for the FY06 budget). Freight and passenger service will be considered together whenever possible. The subcommittee will meet again in mid-January, 2004.

In response to a question relating to the final decision on priorities, David Dill clarified the Rail Council provides advice; policy and procedure will be followed (i.e. budget estimates developed on each priority item, and then the information submitted to the Legislature). Mr. Dill assured the current Administration is very interested in investing in rail and public transit, not just highway, in order to have a balanced transportation network in the state. It is a matter of funding available through the Transportation Fund. Several public hearings across the state were held to discuss the transportation network, connectivity, and improvements needed. The need for more public transit was voiced as the top priority followed by more park-n-ride facilities and strengthening rail infrastructure, stated Mr. Dill.

Charlie Miller commented the D&H line (CP operates on this line) is a critical element in the future configuration of rail lines in the state. This is a main freight line southbound connecting to CSX. A change in operators could have a major impact and affect VTrans prioritization of improvements.

3. Update on Trespass Legislation – Anthony Otis

Anthony Otis reported the last iteration of the trespass legislation limited liability to rail yard structures. The Agency of Natural Resources took issue with the definition of “yard” and “structure”. David Dill said he will review the definitions and provide any necessary clarification.

Rep. Audette, member of the Fish and Wildlife Committee, stated the objection to the legislation was because fishermen do not want restricted access to fishing waters. Charlie Miller noted certain structures where the railroad allows access can be posted, rather than holding up the legislation for an exception. There was further discussion of the legislation. Representatives/advocates of the railroad urged passage of the legislation in order to protect all parties (railroads and trespassers alike). Rick Moulton pointed out the resistance is a matter of access so the legislation should address the exemption. Ski areas have skiers assume the risk of using the mountain and equipment. People on railroad property should also assume the risk. Anthony Otis noted there is a recreational user liability limitation law (allowing landowners who open their land to snowmobile riders to be immune from lawsuits), but this applies to trails, not getting injured on railroad tracks. Mr. Otis will continue to pursue the matter.

MOTION by John Pennington, SECOND by Sonny Audette, that the Rail Council reaffirm support for the previous adoption of the resolution of support for the railroad trespass legislation, and that a letter from the Rail Council be sent to affected legislative committees, including Judiciary, Fish & Wildlife, Natural Resource, Transportation. VOTING: unanimous; motion carried.

VTrans staff will prepare the letter for Rail Council signature at the next meeting. Anthony Otis suggested a brief biography on each Rail Council member be included with the information to be sent to the legislative committees.

4. Report on Lamoille Valley Railroad – Jim Fitzgerald

Jim Fitzgerald provided a summary of action on the Lamoille Valley rail line from November 24, 2003 to February 3, 2004. There are at least six interested parties responding to the RFP to dismantle the rail line. The rail ties and OTM will be salvaged to pay for the dismantling activity. STB deliberation on the matter needs to be included in the time line, but the Administration has a mandate to proceed. In response to a question regarding the section of rail line in Swanton being used by New England Central Railroad, Mr. Fitzgerald clarified the section to be dismantled does not include the section in Swanton. There is great interest by the Town of Swanton for the area by Route 7 and Route 78 for a truck route to alleviate the truck traffic problem in town.

Brad Worthen, Vermont Rail Link, commended the Rail Council on becoming more progressive and aggressive on railroad infrastructure problems, but questioned why 96 miles of rail infrastructure on the Lamoille Valley Railroad is being removed. The explanation is that more can be done for the towns by allowing use of the corridor for recreation purposes rather than rail service. The rail line is being rail banked to retain the property and right-of-way. Mr. Worthen countered the State never studied the economic feasibility of rail or trail. An economic development study and direct public input has not been compiled. Rail banking means the end of the corridor for rail service, cautioned Mr. Worthen, adding the State is poised to spend much

money to make the corridor into a trail when the return on this investment is not known. Mr. Worthen urged the Rail Council to ask the Secretary of Transportation to review the matter further before proceeding. Mr. Worthen stated his research indicates 800 carloads of material (petroleum, lumber, bulk feed, and other material) would use 45 miles of the rail line the first year of operation. There would be other income sources as well. The cost to convert rail to trail is nearly \$8 million. This will be a federal earmark, but state taxpayer dollars will also be needed. The cost to upgrade to Class 2 track from Morrisville to Swanton is \$5 million. Mr. Worthen again urged reviewing the conversion and/or allowing the trail conversion to start on the eastern end of the corridor while the western end is further studied for continued use as a rail line.

John Pennington pointed out the conversion has been an issue for a long time, and since discussions began, two major industries using the rail line no longer operate in the area. It can not be justified to use scarce railroad funds to support a railroad that is not viable.

Peter Snyder, Vermont Rail Link, stated the rail line is a spoke in the wheel of the shrinking rail infrastructure in the State of Vermont. Congressman Sanders' Office assured there would be a state match to federal earmarks for trails, said Mr. Snyder, questioning why the rail should be dismantled before knowing how the replacement trail will be funded. Mr. Snyder urged doing a critical analysis first.

Michelle Boomhauer, Lamoille County Planning Commission, stated the matter has been discussed for four years through two legislative sessions. Public comments have been gathered. Support to convert to trail from the former and current Administration is there. It is inappropriate to spend more money on a study at this point. The corridor will enhance tourist opportunities. The trail is pinpointed as a vital part of the future of tourism in the area. The industry that was in the area using the rail line is not returning.

Neil Schickner offered to email a copy of the study of the rail corridor upon request.

Rep. Sonny Audette voiced his understanding there was a fair solution by having a split of rail and trail use in the corridor. There is concern where VAST (Vermont Association of Snow Travelers) will get the money for further study.

MOTION by John Pennington, SECOND by Rick Moulton, that the Vermont Rail Council support the action to rail bank the Lamoille Valley Railroad with the caveat that the 45 miles between Morrisville and Swanton be the last to be done until a definitive answer on the feasibility of a viable railroad operating on that section be secured.

DISCUSSION: Michelle Boomhauer stated the cost to build trail is significantly higher over removed track area (eight times the cost). VAST is looking for \$7.5 million. The trail will be done in sections. To leave off the section from Morrisville to Swanton could hamper the efforts of communities to realize return on investment. Charlie Miller

explained the RFP is for removal of track material only. If there is a cost associated (i.e. if the cost can not be offset by the sale of track material), then the matter goes back to the Legislature before action. Brad Worthen stated there is 105,000 pound rail on the part to be dismantled. The salvage value of the western portion is less than the eastern portion, so it is logical to divide the length in half and work on the eastern half first. Pete Snyder urged studying the potential revenue to be generated by trail versus rail. Turning rail to trail is a departure from the direction usually followed by the Rail Council; the Council is urged not to support the motion, stated Mr. Snyder. Jim Fitzgerald commented financial assistance will be needed in order to maintain a rail corridor. There were no further comments.

VOTING: 3 ayes, 5 nays (Greg Maguire, Peter Gregory, John Vincent, Charlie Moore, Chris Andreasson); motion did not carry.

5. VTA Report – John Vincent

John Vincent, VTA Chairman, reported the VTA Board of Directors has been discussing the ability of the VTA to oversee operation of Amtrak stations in Vermont. A presentation to VTrans will be done in January. The presentation can also be done for the Rail Council. Copies of the report on the White River Junction Rail Summit and the VTA Passenger Rail Study were provided to the Rail Council.

Charlie Moore asked how the impact on Amtrak ridership in Vermont will be handled since connecting bus service from St. Albans to Montreal is no longer available. John Vincent replied integration of bus service and other matters will be addressed. David Dill stressed the Administration is committed to inner-city rail service.

Peter Gregory commented relying on existing local organizations and entities for marketing of services at station stops is a good idea. Chris Andreasson mentioned bus service is available from Boston to Burlington or Montreal.

6. Other Business

Omnibus Package

David Dill announced Congress has pushed the omnibus package until January, 2004. Amtrak and other national passenger systems are on hold. State governors will be meeting to discuss taking a position on the transportation bill or a national passenger network.

MPO Letter on Funding Public Transportation

Rick Moulton mentioned the comments from Bruce Bender in a letter from the MPO regarding funding of public transportation with some mechanism other than the property tax. The original earmark and mandate for commuter rail was based on reconstruction of Shelburne Road, but the

commuter rail service demonstration period occurred pre-construction, resulting in low ridership. There is now express bus service. Commuter rail is the next step.

State Rail Plan Update

Scott Bascom reported the last update of the Rail Plan was done in 1986. There must be a Rail Plan in place in order to secure federal funding. Scope of Work and an RFP are being drafted for the update work. The update will address abandonment of a rail line by an operator, granting the state first refusal, the 286,000 pound rail issue, and clearance issues. The Rail Council will receive periodic updates on the work and can provide input. The Economic Impact Analysis is separate from the Rail Plan, noted Mr. Bascom.

Quiet Zone Crossing Policy

Charlie Miller reported Philene Taormina is no longer a member of the Rail Council. Mr. Miller will provide the Rail Council with the Quiet Zone Crossing policy at the next meeting.

7. Next Meeting/Agenda Items

Next Meeting: February, 2004. Date, time, location to be announced.

Agenda Items: Letter on Trespass Legislation (review and sign)

Report on Warning Devices at Crossings (Quiet Zone Crossing Policy)

8. Adjournment

The meeting was adjourned at 2:57 p.m.

Minutes respectfully submitted by M.Riordan, Recording Secretary.

“To Do” List from 12/10/03 Meeting:

1. VTrans staff will prepare a letter for Rail Council signature at the next meeting reaffirming the Council’s support of a previously adopted resolution of support for the railroad trespass legislation.
2. The Agency of Natural Resources took issue with the definition of “yard” and “structure”. David Dill said he will review the definitions and provide any necessary clarification.