

Friends of the Cumbres & Toltec Scenic Railroad, Inc.
Minutes of Board Meeting held June 16, 2002
Whistle Stop Cafe, Chama, New Mexico

Board members present: Curt Bianchi, Howard Bunté, Bob Craine, Parker Fowler, Jim Herron, Bill Lock, Phil McDonald, Art Nichols, Art Randall, Bob Ross, Jerry Sahnd, Terri Shaw, Dennis Sterosky, Bob Tully, Frank Yockey. Guests: Dick Cowles, Jan Hosea.

1. Call to Order

President Shaw called the meeting to order at 8:30 a.m.

2. Appointment of Temporary Meeting Chairman and Secretary

Director Lock was appointed temporary chairman, and Director Bianchi was appointed temporary secretary.

3. Waiver of Notice of Meeting.

M/S Lock/Fowler to waive notice of meeting. **Passed unanimously.**

4. Consideration of Draft of Third Restated Bylaws

Director Lock asked the board for their comments regarding the draft of the third restated by-laws, which was distributed to the directors prior to the meeting.

Director McDonald asked if it was necessary to include a street address in the by-laws, as doing so would required changing the by-laws if the Friends' address changes in the future. Director Lock said that the street address was not necessary, and agreed to remove the street address from Section 1.3.

Director Craine recommended several minor modifications to the draft by-laws:

- a) With respect to the purpose clause, Director Craine asked whether it should explicitly talk about financially supporting and/or operating the railroad. It was suggested that the Section 2.1.A be modified to read, "To preserve, improve, and support the operation of the Cumbres & Toltec Scenic Railroad."
- b) In Section 5.6, he asked if electronic notice was legal in the state of New Mexico. Director Lock agreed to check into this.
- c) In Section 7.4.B., he suggested that a clause be added in which the President's duties include the already enumerated items, "or as designated by the board of directors."
- d) In Section 7.4.E.(7), he suggested adding the President to the Chairman and Directors as those that could request from the Treasurer an account of any or all of his/her transactions as Treasurer and of the financial condition of the Corporation.
- e) In Section 7.6, he suggested changing the language to "at will unless there is a written employment agreement if adopted."
- f) In Section 11.4, he suggested changing "written motion" to "motion"; changing "shall be introduced" to "may be introduced"; and changing "the President shall appoint" to "the Chairman shall appoint."

Director Nichols asked if the date of January 15 in section 6.4 was significant, and suggested that if there were no changes in election procedures in a particular year, then the procedures could appear in the Fall Dispatch, which would go to press before the Fall board meeting.

Director Tully wondered why the longstanding committees are not included in section 9.4, such as the Projects Committee, the Development Committee, and the Dispatch Committee. President Shaw pointed out that the committees are established annually at the June Board of Directors meeting. However, it was agreed to insert a new Section 9.4, Standing Committees, to include the Projects, Development, Publications, and Membership committees. Directors Lock and Herron will draft the text of this section. The existing Section 9.4 will become section 9.5, and so on.

Chairman Herron related that Steve Schroeder had suggested raising the threshold for a quorum in Section 4.4. Director Lock felt that this clause could be removed because members cannot vote on any matters other than the director elections, which is covered in Article 6. Director Craine said that we should move toward empowering our membership, as opposed to reducing membership rights and responsibilities, and therefore suggested leaving the language in Section 4.4 to empower them to hold a special meeting if they choose, even though they cannot actually take any action per our by-laws. It was agreed to leave article 4.4 as-is, and to draft a new Section 6.5 describing the requirements for a quorum for the election of directors, with 4% of the membership required to achieve a quorum, based on response to ballots.

M/S Fowler/Sterosky to adopt the proposed by-laws with the minor textual changes as described by the board. Director Yockey will chair a committee with Chairman Herron and Director Lock to amend and review the final draft. Following approval by this committee, the revised by-laws may be submitted to the state of New Mexico without further review by the board. **Passed unanimously.**

5. Approval of Minutes of the Board meeting of March 15-16, 2002

Director Lock asked for corrections. There were none.

M/S Fowler/Sahnd to approve the minutes without correction. **Passed unanimously.**

6. Election and Appointments

6.a. Report from the Nominating/Elections Committee

The Nominating Committee reported the results of the 2002 Board of Directors election. A total of 970 members voted, of which 944 voted for the entire slate. The final results were:

Curt Bianchi	955 votes
Bob Craine	954
Parker Fowler	959
Phil McDonald	959
Art Nichols	963
Bob Ross	955
Warren Smalley	961
Bob Tully	963
Frank Yockey	964

All candidates were elected to two-year terms.

6.b. Election of Officers of the Corporation

Per the meeting agenda, the following slate of officers was proposed to the board: Jim Herron, Chairman; Jerry Sahnd, Vice Chairman; Curt Bianchi, Secretary; Dennis Sterosky, Treasurer.

M/S Bunté /Yockey to adopt the slate of officers as proposed. **Passed unanimously.**

Director Lock resigned as chairman of the meeting, and Director Herron assumed the chair of the meeting.

M/S Sterosky/Craine to appoint Steve Schroeder and Director Lock assistant treasurers. **Passed unanimously.**

M/S Lock/Yockey to appoint Director Bunté assistant secretary. **Passed unanimously.**

M/S Tully/Lock to elect Terri Shaw President. **Passed unanimously.**

M/S Sterosky/Tully to allow officers of the Friends, and President Shaw to sign checks. **Passed unanimously.** It was noted that every check over \$500, as well as paychecks, requires two signatures.

6.c Appointment of Executive Committee Members

Per the meeting agenda, the Executive Committee was proposed to include:

Jim Herron	Chairman
Jerry Sahn	Vice Chairman
Geof Gordon	Colorado Representative
Bill Lock	New Mexico Representative/Founder
Curt Bianchi	At Large
Dennis Sterosky	At Large
Bob Craine	At Large
Terri Shaw	President, Ex Officio

M/S Fowler/Tully to appoint the Executive Committee members as proposed. **Passed unanimously.**

6.d. Appointment of Consulting Directors

President Shaw recommended as consulting directors Frank and Anne Burton, Earl Knoob, C&TS RR Commission Executive Director Bob Johnson, and RGRPC Acting General Manager Kim Flowers. President Shaw asked for additional recommendations from the board. No additions were made.

M/S Tully/ Bunté to appoint the aforementioned individuals as consulting directors. **Passed unanimously.**

6.e. Recommendations for Minutes Distribution List

Prior to the meeting President Shaw distributed her recommendation for the Minutes Distribution List. She asked for additions or deletions. The board added Keith Shostrom, Ed Lowrance and Ken Spencer. Frank Yockey and Bob Tully removed from the list since they are now a directors.

6.f Appointment of Committees and Chairman

Per her memo distributed to the board prior to the meeting, President Shaw proposed the following committees:

Projects: Art Randall, co-chair; Jerry Sahn, co-chair; Roger Briggs; Bob Ground; Jim Herron; Bill Kepner; Phil McDonald; .Bob Tully.

Finance: Dennis Sterosky, chair; Bob Craine; Geof Gordon; Bill Lock; Terri Shaw; Chris Krahling; Steve Schroeder.

Development: Bob Craine, chair; Curt Bianchi; Parker Fowler; Rich Casford; Brian Shoup; Terri Shaw; Howard Bunté; John West; Dick Cowles; Steve Schroeder.

Publications: Art Nichols, chair; Terri Shaw; Steve Schroeder; Ed Lowrance; Bill Lock; George Swain.

In addition to the committees described in her Memo, President Shaw added a Planning Committee, to be chaired by Director Yockey, with members to be determined later.

Director Lock was added to Development Committee.

Director Nichols asked about the scope of the Publications committee. Chairman Herron asked that Director Nichols convene the committee for the purpose of creating or clarifying their vision, and to report to the board at its fall meeting.

President Shaw said that at yesterday's meeting of the Development Committee, a new Government Liaison Committee was formed, to include Dick Cowles (chair), Wade Hall, John Swartz, Tim Bristow, Carl Turner, Bob Witter, Hugh Fowler, Parker Fowler, and Carol Salisbury.

M/S Craine/Lock to approve the committee appointments with the above amendments. **Passed unanimously.**

a) Ratification of Executive Committee Actions

Chairman Herron asked the board to consider for ratification the actions of the Executive Committee telephone conference meetings of March 26, 2002 and May 2, 2002. On March 26, the Executive Committee approved a motion to loan RGRPC \$35,000, to be secured by ticket sales, at an interest rate of 6.5%, repayable in August 2002.

On May 2, the Executive Committee approved the following motions:

- to nominate Bob Witter to the RGRPC board of directors for a term to expire in March 2003.
- to establish separate accounts for the capital campaign and endowment fund.
- to transfer an anonymous \$50,000 donation to RGRPC, per the donor's request.
- to endorse a policy in which donated stock is sold immediately.
- to elect Bob Witter to the RGRPC board, for a term to expire in March 2003.

M/S Fowler/Tully to ratify the Executive Committee actions of March 26 and May 2. **Passed unanimously.**

8. Financial Matters

8.a. Treasurer's Report

Treasurer Sterosky reviewed the financial statements as of May 31, noting that expenses are well within budget, which is typical for this time of year.

M/S Bunté /Fowler to receive the Treasurer's report with a great deal of respect for our treasurer. **Passed unanimously.**

8.b. 2001 audit

Treasurer Sterosky distributed and reviewed the Friends' 2001 audited financial statement, which was completed in the week prior to the board meeting, by the firm Reynolds, Hix and Company. There was only one adjustment, having to do with the recording of the Antonito land contribution. We are showing the land at the appraised value of \$90,000, though we actually paid \$18,500. The auditors made an entry to record the difference, credited in Contributions. Chairman Herron asked if we are required to pay property tax on this property. Treasurer Sterosky indicated that if the land is dormant, we would have to pay property tax. If it is being used it for our charitable purpose, then we don't. We will try to get it exempted from property tax.

Director Tully said he would like to see donated services show up on the financial statements. Treasurer Sterosky said that we could show this on our own reports, but that we should not pay to

include this information as part of the audit. President Shaw said this should be a function of an annual report, and Director Craine expressed the Development Committee's desire to produce an annual report at the end of this year.

Director Craine wondered if the financial statements could present a separate line item for the endowment fund portion, and Treasurer Sterosky said they could. Jan Hosea said that legally, endowment funds must be designated by donor, which is different from the board restricting the funds. In the latter case, the restricted funds may *act* as an endowment, but the board may choose to unrestrict the funds at a later date. Director Craine said that we consider the funds being collected as "endowment" funds to be permanently restricted, and President Shaw said that for now we're calling it the Permanent Fund.

M/S Fowler/Lock to accept the audited financial statements. **Approved Unanimously.**

9. RGRPC Report

President Shaw reviewed the RGRPC situation to date, particularly with respect to the FRA closure and the subsequent Forest Service closure, which had taken effect some ten days earlier. Regarding the FRA closure, RGRPC management responded quickly to address the situation. One of the great benefits of having Bill Albert on the RGRPC board is that he knows the local construction industry, and he was able to mobilize resources immediately. Commissioner John Swartz agreed to take immediate steps to get emergency funding from the second EDA grant, which is still working its way through the bureaucracy. The east side of Osier was completed in about 2-1/2 weeks, and the FRA has inspected and approved it. The work at Martinez Point, west of Osier, will take longer--mostly likely two more weeks.

President Shaw reviewed RGRPC's financial position. Nearly all of the hourly employees have been laid off. Only salaried employees have been retained, as well as some hourly clerical help to handle office work. There are some reimbursable expenses from the commission that have been billed but not received, in the form of FRA Part 230 and EDA track work. President Shaw noted that the RGRPC board hopes to get some relief in place, or obtain an exemption from the forest closure. Otherwise, RGRPC will run out of cash sometime in the next 30 days and be forced to close down completely.

Director McDonald asked how much the railroad is losing each day. President Shaw indicated that RGRPC Acting General Manager Kim Flowers has estimated the loss at approximately \$15,000 per day.

Bill Albert, president of RGRPC, then joined the meeting. He reviewed RGRPC's present situation, and expressed great concern that RGRPC would run out of money by the end of the month, and possibly have no choice but to close up business.

The board discussed ways in which to approach government agencies and elected representatives for relief. Dick Cowles, representing the Government Liaison Committee, suggested two questions to be taken to elected officials. First, the Attorneys General opinion is very clear that the Forest Service has exceeded its authority. Who is pursuing this? At the least, it has to be the commission. Second, why is there no negotiation with the Forest Service to come up with a mitigation plan? There needs to be a concerted effort to get the Forest Service to lift the order. He understands that the Attorneys General are ready to do that, but there is no action plan.

Director McDonald questioned RGRPC's liability should a fire be started by a train, and whether RGRPC's general liability policy would cover a fire. No one knew the answer with certainty. [It was later determined that RGRPC's liability policy does cover this.]

Director Bunté strongly urged that the railroad hire a night watchman to look over the assets while the railroad is not operating, especially if the railroad does not operate for the rest of the year.

Director Craine thanked Mr. Albert for his hard work over the past five weeks. Mr. Albert was excused from the meeting. The board continued discussing the current RGRPC situation.

Several directors expressed the need for immediate action. There was concern as to whether anything was being done to get the Forest Service order lifted, and/or to obtain emergency funding to mitigate the financial damage being done by the closure. None of the directors felt that they knew what the commission was prepared to do about the Forest Service closure.

There was discussion about various board members (and others) contacting their elected representatives. Director McDonald urged that before doing so, there needs to be a consistent message and set of facts. Mr. Cowles reported that Carl Turner has already requested \$1.5 million in emergency funding from Congressman Udall's staff, and that he will be contacting Senator Dominici's staff on Monday, June 17. Mr. Turner also plans to go to Washington to meet with congressional delegations. Mr. Cowles stressed that the same effort is needed on the Colorado side.

Chairman Herron proposed a meeting with members of the Triad for later this week to plan an attack. Participants should include Carol Salisbury, President Shaw, Chairman Herron, Mr. Cowles, Bob Witter, and Bob Johnson. The purpose of the meeting should be to develop a consistent message and a game plan. Mr. Witter and Mr. Cowles need to understand what RGRPC's legal counsel has done so far. Mr. Cowles agreed to contact Jim Sneed, RGRPC counsel, to learn the current legal status.

Jan Hosea, a fundraising consultant, thought that FEMA was probably the quickest source of funds, but the governors of each state have to declare the area to be a disaster area in order to get FEMA funds.

Director Bunté wondered if we could draft a resolution signed by the board, appealing to the governor for relief.

M Bunté that the board of directors of the Friends of the C&TS hereby call upon New Mexico Governor Johnson to start the process for declaring Rio Arriba County a disaster area because of the impact of the fires and the actions of the forest service in shutting down the Cumbres & Toltec Scenic Railroad.

It was pointed out that the *Albuquerque Journal* will run an article about the Forest Service closure in the next morning's edition, and that it may have new information that could help shape our immediate plans. President Shaw suggested that those board members still in Chama meet on Monday morning to review the newspaper article, and to determine our immediate steps and who's going to do them.

Director Fowler suggested that our immediate goals should be first, to get the operation running again; and second, to ameliorate RGRPC's financial circumstances. Director Craine added that a third goal should be to make clear that the Forest Service exceeded its authority in order to prevent it from closing the railroad in the future.

Director Bunté withdrew his previous motion, in favor of a new one:

M/S Bunté /Lock to call upon the governors of New Mexico and Colorado to move on the FEMA declaration for both counties because of the impact of the fires and the arbitrary action of the forest services. **Passed unanimously.**

M/S Lock/Sterosky that we pursue encouraging a proper resolution through the Attorneys General, the Commission and RGRPC legal counsel, for the arbitrary and capricious actions by the Forest Service. **Passed unanimously.**

10. Master Calendar

10.a. Date for Fall Board Meeting

The date for the fall board meeting, previously proposed for October 25-26, was changed to November 1 and 2, in order to avoid conflicting with the ARM convention.

10.b. Dates for 2003 Work Sessions

There was some discussion about whether it would be better to have July work sessions instead of May work sessions. The May work sessions, while useful in that they occur prior to the opening of the railroad, are placing additional stress on work session planning now that they are full-fledged work sessions. One possibility would be to go back to having the May sessions be "mini sessions."

The 2003 work session dates were proposed as:

Work Session A May 5-9.
Work Session B May 12-16.
Work Session C June 16-20.
Work Session D June 23-27.
Work Session E August 4-8.
Work Session F August 11-15.

The Friends' annual meeting was scheduled for June 20, the charter freight train on June 21, and the June board meeting on June 22.

10.c. Dates for 2003 Charter Train Events

Railfan Committee Chairman Lock recommended a freight charter on June 21, and a moonlight train on July 12.

10.d. Reminder of Convention Dates

The ARM convention will take place October 23-27 in Dallas, Texas. The TRAIN convention will take place November 5-9 in Durango, Colorado.

10.e Spring Board Meeting

The spring board meeting was tentatively scheduled for March 21-22, 2003.

11. Development Committee Report

Director Craine presented the Development Committee report. Regarding the Another Century of Narrow Gauge Steam campaign, as of the previous week, 243 people had contributed or pledged. Of this total, 90 people had made a multi-year pledge, while 153 had made a one-time contribution. Total cash received thus far was approximately \$131,000. Future pledges amounted to approximately \$35,000 for each of the next four years. Director Craine noted that the campaign has thus far been a success, and although the circumstances of the railroad have changed since the campaign's inception, the original campaign goals had been met. He felt that this was particularly encouraging given that the only publicity about the campaign had been a single mailing to the membership, a mailing to past large donors, and web site postings.

Total campaign expenses thus far are in the range of \$3500 to \$4000, the bulk of which was to pay for printing and mailing the campaign brochures. At present, these expenses have been paid from the Friends' general fund, but Director Craine pointed out that the expenses could be taken out of the campaign if we decide to do so.

Director Craine reported the results of the Development Committee meeting, held the day before the board meeting.

a) The committee discussed the investment of funds generated by the campaign, and it was decided to invest the funds such that there is liquidity and no chance of loss of principle. Director Craine and the Finance Committee will ensure that the funds are invested in this manner.

- b) The committee talked about other sources of funding such as SBA loans and government funding, but the focus of the committee will continue to be on private funding from individuals and foundations.
- c) The committee decided that a needs analysis should be developed. A task force was appointed, consisting of committee members John West and Dick Cowles, to work with RGRPC Treasurer Rich Casford and RGRPC board member Bob Witter to develop a comprehensive needs analysis and an economic impact analysis related to the closure of the railroad.
- d) There was some discussion of how to approach potential large donors, and how to acknowledge large contributions. Director Craine noted that we do not have a policy for recognizing large contributions.
- e) Regarding the use campaign funds, an anonymous \$50,000 donation was dispersed to RGRPC, at the request of the donor. No other disbursements of campaign funds have been made, and it was the Development Committee's recommendation, in consultation with RGRPC Treasurer Casford, make no further disbursements at this time.
- f) The committee felt that there was too much work for the volunteer committee members, and that some work should be handled by paid help. In particular, we need to conduct a telephone campaign with potential large donors and directors, contact affinity groups, and so forth. The committee asked Jan Hosea if she could help with these activities. Ms. Hosea proposed utilizing her staff for five to six hours per week, at a rate of \$1,500 a month, to organize and prioritize the committee's work, to pursue affinity groups, and to do the leg work that volunteers don't always have time to do. Based on this, Director Craine proposed that the board authorizing spending \$1,500 per month for the next few months. Combined with the existing expenses, the total expenses would still be below five percent of the total ACNGS contributions and pledges received so far.

Director Tully wondered if contributions of items could be included. Director Craine felt that if the value of the items was sufficient, then we would be willing to take whatever could be sold.

Director Sahnd recommended that the Development Committee notify the other directors when mailings are going out, so as to avoid following up with the same person twice.

M/S Craine/Herron to authorize spending an amount not exceeding \$5000 between now and the fall board meeting, for consulting and administrative purposes related to the Another Century of Narrow Gauge Steam campaign. **Pass unanimously.**

Secretary Bianchi thanked Director Craine for his leadership and work on the campaign.

12. Restoration Program

12.a. 2002 Work Sessions

Director Sahnd reviewed the progress of the 2002 work sessions. Of note, the Osier projects were canceled due to the closure of the railroad by the Forest Service. There was some consideration of carrying out the Osier projects in August. Other than the cancelled Osier projects, Director Sahnd reported that things are on target with respect to the work sessions. He also related that Forest Service permits have been obtained in order to perform the tree and brush trimming functions, and that the kitchen crew is happy with their new car.

12.b. Sundown & Southern Auction

Director Sahnd reviewed the recommendations of the ad hoc Acquisitions Committee for the Sundown & Southern auction. The committee made two trips to the S&S in order to evaluate the equipment that will be up for auction on July 20. The committee developed a prioritized list of items for possible acquisition, as well as spending limits per item, and estimated moving costs.

M/S Lock/Sterosky to appropriate up to \$20,000 for the purchase and transportation of equipment at the Sundown & Southern auction, subject to modification by the Executive Committee.

Before voting on the motion, the board continued to discuss the auction. Director McDonald raised the issue of whether we can afford to purchase items at the auction at this time, given the financial difficulties of RGRPC. There was a general sense that we should not pass up the auction, but that we should consider our financial situation just prior to the auction. With respect to the auction priorities, Director Lock felt that the five-ton Rogers locomotive and the Gramps tank car should rate high on our list. Director Fowler agreed that in terms of need, the Rogers switcher would be very useful. Director Lock then amended his motion as follows: to appropriate up to \$20,000 for the purchase and transportation of equipment at the Sundown & Southern auction, subject to review of our financial situation just prior to the auction, and subject to modification by the Executive Committee. **Passed unanimously.**

13. Membership Update

Director Bunté reported there are 1,725 members at present. The trip map has been a tremendous aid in soliciting riders as members, and he believes we will top 2,000 members by the end of the year. He also reported that Director Wilson has crafted a nice handbook of historic place names for the car hosts, and he is also creating a history of the Friends. Regarding the docents on the train this past week, Director Bunté said that many riders told him that they enjoyed having the docents aboard.

14. Old Business

14.a. Cookbooks

President Shaw reported that the cookbooks have been printed.

14.b. President/CEO Position Description

After a brief discussion of the status of the President/CEO position description, Chairman Herron proposed that we defer this to a task force headed by Director Yockey, with the intention of producing a finalized position description at the fall board meeting. It was proposed that the members of the task force include Directors Yockey, Fowler, Ross and Bunté.

M/S Fowler/Lock to create this task force. **Passed unanimously.**

14.c. 2002 Charters

Director Lock pointed out that our charter freight train would not run this year due to the Forest Service closure. Those who have purchased tickets will be offered refunds, or encouraged to donate their ticket costs to the Friends.

15. New Business

Mr. Cowles asked to address the board. He recently visited with a gentleman named David Barton. Mr. Barton's family owns several hundred acres above Rock Tunnel, and they have decided to take a corporate retreat facility and convert it to eco-tourism. They view it as a step toward making Osier a destination resort. Mr. Barton told Mr. Cowles that the Forest Service considers the Osier road to be a public access that cannot be closed even in times of high fire danger. Mr. Barton intends to open his facility in July. His location is 2.2 miles off the road to Osier. Mr. Cowles made the point that the Forest Service appears to be treating Mr. Barton's business differently from the railroad with respect to the forest closure and fire danger.

16. Adjournment

M/S Lock/Bianchi to adjourn. Meeting adjourned at 3:02 p.m.

Respectfully submitted,

Curt Bianchi, Secretary