



# County of Santa Cruz

## COUNTY ADMINISTRATIVE OFFICE

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SUSAN A. MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

November 10, 1999

**AGENDA:** November 16, 1999

BOARD OF SUPERVISORS  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, California 95060

### LEAD AGENCY FOR RAIL RIGHT-OF-WAY ACQUISITION

Dear Supervisors:

On October 19, 1999, your Board referred the matter of what agency should serve as the lead agency for acquisition of the railroad right-of-way, which runs the length of the County between Watsonville and Davenport, to this office and County Counsel. Your Board requested a recommendation as to the direction that those Board members who sit on the Transportation Commission should take with regard to lead agency issues at the Transportation Commission's December 1999 meeting.

In October 1999 the Transportation Commission received the attached material which identifies four possible options for the lead agency, including:

- the County of Santa Cruz;
- the Santa Cruz Metropolitan Transit District;
- the Santa Cruz County Region Transportation Commission; and
- a Joint Powers Authority.

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We have reviewed the preceding alternatives with County Counsel and we believe the issues identified in the attached material with regard to:

- staff to work on funding for the acquisition;
- environmental review;
- liability insurance;
- a development of bicycle and pedestrian paths along the line; and
- cost sharing;

are all secondary to the issue of an appropriate governance and decision making structure for the lead agency. With respect to the matter of governance, we have concluded that:

1. the decision making power concerning rail right-of-way should be vested in an organization which represents the various communities located along the right-of-way; and
2. this can best be accomplished through a new Joint Powers Authority with representation from the four general purpose governments located along the rail corridor, i.e., the cities of Watsonville, Santa Cruz and Capitola and the County of Santa Cruz.

In the short term, the new Joint Powers Authority could contract with the Transportation Commission, which has the necessary expertise and administrative structure, for the services it would need to proceed with the acquisition of the right-of-way. Over the long term, the new Joint Powers Authority would need to make a determination on the desirability of continuing to contract for services or hiring its own staff.

If, at its December 1999 meeting, the Transportation Commission decides that a new Joint Powers Authority consisting of the general purpose governments adjacent to the rail corridor is the appropriate governance model, then the matters of appropriate representation and cost sharing need to be addressed by the potential parties to the Joint Powers Agreement.

**Recommendation**

At this time it is our RECOMMENDATION that the Board of Supervisors advise its representatives to the Transportation Commission that the County of Santa Cruz's preferred alternative for the lead agency for rail right-of-way acquisition is a new Joint Powers Authority consisting of representatives of the cities of Watsonville, Capitola and Santa Cruz and the County of Santa Cruz.

Very truly yours,



Susan A. Mauriello  
County Administrative Officer

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LEAD AGENCY FOR RAIL RIGHT-OF-WAY ACQUISITION**

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Attachment

cc: County Counsel  
Each City Manager  
Transportation Commission

2. **Acquire the Santa Cruz Branch Rail Line**

**Purpose:** To bring an existing transportation corridor under public control for current and future transportation uses.

**Lead Agency:** To be determined.

- 2.A. Determine Lead Agency. A lead agency needs to be determined for the rail line acquisition and subsequent ownership and development. This agency will be **responsible** for securing funds, conducting environmental review, completing negotiations for a purchase agreement with Union Pacific Railroad, and for all subsequent activities associated with rail line ownership. This agency would also be responsible for development of the bicycle and pedestrian path along the line.

At least two of these initial activities - securing capital funds and conducting environmental review - have time constraints associated with the programmed or proposed funding sources (Proposition I 16 funds and STIP funds - discussed more below). Therefore, the determination of a lead agency for the acquisition is a short-term decision if these funds are to be retained for the project.

As discussed briefly in past meetings of the MTIS Oversight Committee, there are a number of options for a lead agency: the County of Santa Cruz, Santa Cruz Metro, the SCCRTC, or a new Joint Powers Authority. There are pros and cons associated with any of these options. These are outlined briefly in the chart below:

Lead Agency	Considerations For	Considerations Against
County of Santa Cruz	Countywide authority in many areas. Right-of-way expertise. Experience with design & construction of bikeways. Broad range of staff and other resources. Variety of funding sources available.	Land use authority not countywide. Cities along ROW would need to be included somehow.
Santa Cruz Metro	Countywide authority including Cities. Range of staff resources. Variety of funding sources available. Experience in securing and using state and federal funds.	Project not specifically transit-related. No bikeway expertise. Limited staff resources.

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Lead Agency	Considerations For	Considerations Against
SCCRTC	Countywide authority including Cities & Metro. Experience working with UP & CTC. Experience in securing and using state and federal funds.	Limited staff resources. No bikeway construction or operation experience.
Joint Powers Authority	Can be established for an explicit purpose with appropriate representation. Can be staffed by an existing agency(ies).	Need to establish new agency with budget & staff. Would require contributions or resources from member agencies. May require legislation.

With any option, it will be important for the lead agency, both in the short and longer term, to be able to assume responsibility for the activities, oversight, planning processes, and liabilities associated with acquisition and subsequent ownership of the rail line, development and operation of an adjacent bicycle/pedestrian path, and accommodation of current and future rail line users.

**Staff recommends that Commissioners consider the choices, discuss the options within your own jurisdictions, provide input to staff in the near term, and place this item on the Commission's December agenda.** A lead agency will need to be identified prior to reinitiating formal negotiations with Union Pacific for the rail line acquisition as well as prior to initiating development of a bikeway/pedestrian path. If a new JPA is the preferred option, the Commission could request that an existing agency be designated as interim lead agency in order to move forward; this agency could later transfer ownership to a new JPA once it is established.

*Timeline:* Two to four months.

- 2.B. Secure Proposition 116 Funds for Rail Line Acquisition. Commission staff have been working with the California Transportation Commission to ascertain if Santa Cruz County's \$11 million in Proposition 116 funds can be allocated for acquisition of the Santa Cruz Branch rail line (see Attachments 2C and 2D). Bob Remen, Executive Director of the California Transportation Commission, has invited representatives from our Commission to make a presentation to the CTC's Public Transit Committee on the status of our Proposition 116 application. He has indicated that over the past nine years, the CTC has interpreted the statutes to require a passenger rail operating plan for any Proposition 116 rail expenditure. He also noted that the CTC has approved Proposition 116 funds only for rail projects which have a funded and/or planned passenger rail or rail transit

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*Next Steps: Acquire Santa Cruz Branch Rail Line*

operating plan. **Staff recommends that the Commission discuss the possibility of a presentation to the CTC Public Transit Committee regarding the use of Proposition 116 funds to acquire the Santa Cruz Branch Rail Line.**

The California Transportation Commission is the **allocating** agency for Proposition 116 funds and must be satisfied that the funding request meets statutory requirements. If we are unsuccessful in this endeavor due to not having an adopted passenger rail operating plan, it may be possible, in future state legislation associated with Proposition 116, to include language which allows rail right-of-way acquisition only in this instance. The assistance of SCCRTC Commissioners, State Senator McPherson, and Assemblyman Keeley will be needed for **these** efforts. **Staff recommends that Commission staff and Commissioners, as needed, continue with follow-up activities on this task up until a lead agency for rail line acquisition is designated.**

*Timeline:* Within the next six to nine months.

- 2.C. Proceed with Environmental Review and Acquisition. After selection of a lead agency, **staff recommends that the following steps be taken to move forward with environmental review and required environmental studies associated with the acquisition and negotiation of agreements with Union Pacific:**

- 1) *Select and hire consultant(s) to assist with negotiations and initiate negotiations with Union Pacific.* It will be necessary to have expert advice and assistance in the acquisition negotiations. The cost for consultant assistance would range from \$50 - \$150K and would be borne by the lead agency. Negotiations would include land acquisition of the rail right-of-way, easements, trackage rights, operating plans, conditions for future uses, dispatching, maintenance, liability, and a host of other related items.
- 2) *Select and hire consultant(s) to conduct a Phase 2 environmental (hazardous materials) assessment.* The Phase 1 environmental study was conducted by Geomatrix at the time the branch line right-of-way was appraised. The California Transportation Commission requires full disclosure and clean-up of potentially hazardous materials prior to public investment in rail rights-of-way. The scope of work for a Phase 2 environmental assessment was discussed in the Phase 1 report.
- 3) *Select and hire consultant(s) to conduct environmental review **using** programmed STIP (if still available) or other funds.* \$450,000 in State Transportation Improvement Program funds are programmed in FY 99-00 for environmental review of the Santa Cruz Fixed Guideway Project. These funds must be encumbered in this fiscal year or they will revert to our STIP reserve for reprogramming in a future cycle. The designated lead agency would conduct the environmental review process. It is

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expected that the programmed funds are adequate for this purpose.

- 4) *Investigate and obtain insurance.* The process of developing a purchase agreement will include discussion **and** resolution of liability responsibilities between the lead agency and Union Pacific. Funds for liability insurance would be included in the lead agency's budget for **rail** line ownership.
- 5) *Maintain and Monitor Property.* Once the right-of-way is secured, the lead agency will need to maintain the property and monitor its use.
- 6) *Conduct continuous public information program.* The lead agency will need to continue **the** full public information program started by the SCCRTC for adjacent property owners, businesses, and other **parties** interested in activities associated with the Santa **Cruz** branch rail line.

*Timeline:* One to two years from start to completion of acquisition.

- 2.D. Secure additional capital funds for acquisition, as necessary. The Commission has designated \$15M in expected future funds for acquisition of the rail line based on the appraised net liquidated value of \$14.6M (1996). The actual negotiated purchase price may be more or less ~~than~~<sup>this</sup> amount. Additionally, the future expected funding assumptions included the \$1.1 million in Proposition 116 funds; if these funds are disallowed for right-of-way acquisition only, replacement funds will need to be identified. If the purchase price is more than \$11M, additional capital funds will need to be sought and programmed.

Potential additional funding sources include a federal appropriation via Congressman **Farr** and the Santa Cruz Fixed Guideway project authorized in TEA-21 ; 2002 or future STIP funds; STP funds; or other discretionary transportation funds which may become available. **Staff recommends that the Commission discuss the potential for a future federal appropriation for rail line acquisition with Congressman Sam Farr when he makes his annual report from Congress at the Commission's November meeting.** The availability and timing of STIP funds is discussed above under the Highway 1 Widening project.

If STIP funds are sought for acquisition, a Project Study Report would need to be prepared. However, since the project would not involve construction per se, the PSR would be structured more as a summary of intent rather than as a preliminary engineering document. The PSR would be developed by the lead agency.

*Timeline:* One to two years, prior to completing acquisition.

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