

# NORTH CAROLINA RAIL-TRAILS

## Little Toot

Vol 5 No 3

Fall 1993

### Lincolnton Votes Corridor Buy Will Become State's Fourth Urban Railroad Greenway

The Lincolnton Railroad Greenway jumped closer to reality when the City Council voted 4-1 in October to purchase 1.8 miles of corridor from Norfolk Southern.

*The long-stalled proposal moved quickly to a vote after Ann Gaither, Lincolnton businesswoman and state Board of Transportation member, stepped in to negotiate purchase price with the railroad. She was assisted by Paul Worley of the DOT rails section.*

Mrs. Gaither presented the council with a negotiated price of \$200,000, which was 20 percent of the railroad's original \$1 million asking.

She strongly recommended that the city take advantage of the opportunity to preserve and control the property, which extends from the city recreation center, at the south edge of the city, to a partially-developed city park at the north end of the corridor. It passes through the downtown business district and near the city's middle and high schools. The corridor also abuts a former junior high school that is being converted to a senior activity center and satellite community college facility.

*The council majority agreed that immediate action was necessary due to scheduled removal of the bridge on East Main Street. The DOT had planned to earth-fill the gap, but now will replace the structure with a new bridge, according to Mrs. Gaither. This will keep the corridor intact for future uses.*

In addition to a community-spanning greenway, the corridor holds potential for downtown revitalization and utility routing. A new look is being taken at the

greenway development proposal which was drawn up three years ago by the UNC Charlotte College of Architecture.

*The corridor project has been kept alive for five years through the determined efforts of Corridor Coalition Co-Chairs Chafin Rhyne and Gary Cornwell.*

Cornwell also serves on the NCRT Board of Directors. "It has the potential to make a world of difference in downtown Lincolnton," said Cornwell. "It can be a recreational and economic asset."

The other three urban railroad greenways are the Winston-Salem Strollway, Carboro/Chapel Hill Libba Cotton Trail and the Wrightsville Beach Trolleyway. The Durham portion of the American Tobacco Trail will be number five when it's acquired.

### Legal Team Comes To NCRT Assistance

The Raleigh law firm of Bailey & Dixon has responded to NCRT's quest for comprehensive legal counsel and representation with a team of legal specialists.

Attorneys David Coats, Dottie Kibler, Marc Liles and Alan Miles are providing NCRT with expertise in litigation, property law and legislation.

The firm was recruited to assist NCRT by David Ferren and Lark Hayes of the Southern Environmental Law Center in Chapel Hill.

"We greatly appreciate the attorneys and their firm volunteering valuable time, talents and resources to preserving the state's rail corridors," said Al Capehart, NCRT president. "This is another sign that North Carolina is becoming more aware of the corridor potential."



What could be better than rompin' down the trail with a good friend and good company on a warm fall day? An occasional squirrel or rabbit to bark at, according to these four-footed hikers. They were headed for the view from White Top Mountain on the Virginia Creeper.

**"To Preserve Rail Corridors and Promote Rail - Trails"**

## NCRT Gearing Up Bicycle Task Force

Would you like to see bicycling made more practical and enjoyable in North Carolina?

*Then volunteer for service with the North Carolina Bicycle Task Force!*

The NCBTF is being formed under the sponsorship of NCRT and is recruiting advocates who will press for better bicycling environments, both at the local level and statewide.

Since the North Carolina Bicycle Federation merged with NCRT last year, thought has been given to strategies that will improve both on-road and off-road cycling conditions. The focus naturally falls on ISTEA (Intermodal Surface Transportation Efficiency Act), under which all federal transportation funding is distributed.

Under ISTEA, the state DOT and the 17 MPOs (Metropolitan Planning Organiza-

**NCBTF made the following policy proposals to the Board of Transportation during hearings for the State Transportation Improvement Program:**

**A. Construct three-foot or wider paved shoulders, suitable for safe pedestrian and bicyclist use, on all roadways designated by the state Bicycle Program as North Carolina Bicycle Highways before the year 2000. (Applies to approximately 2,000 miles.)**

**B. Construct three-foot or wider paved shoulders or sidewalks along all roadways that have been mapped and/or signed as Pedestrian and Bicycle Routes by funding from the North Carolina Pedestrian and Bicycle Programs before the year 2005.**

**C. Construct three-foot or wider pedestrian and bicycle lanes during new and replacement bridge construction on all state Bicycle Highways and designated Pedestrian and Bicycle Routes.**

tions) are required by law to develop long-range pedestrian and bicycling plans. The state and local MPOs also are required to have public participation



programs in place. NCBTF volunteers are being recruited to advocate better bicycling conditions to their MPOs and to support state initiatives.

Because little or nothing has been said in the media about ISTEA, NCRT has set out to familiarize NCBTF volunteers with how this flexible federal act can be used by the public to foster transportation diversity. An ISTEA Public Participation Starter Kit has been compiled and is available from NCRT.

For more information, write to NCBTF, Box 6193, Hickory NC 28603 or call 704-495-4472.

### Thanks!

We wish expresses our appreciation to Mr. and Mrs. Edward Swab for their donation of a computer. NCRT also is in need of a laser printer, fax machines and a small copier. Donations are tax deductible. If you can help, drop a note to NCRT or call 704-495-4472.

## Many Want Local Inputs To Decisions

How can North Carolina's transportation planning be made more responsive to actual needs?

The overwhelming opinion is to put more project decisions at the local level and to include more public input in the planning process.

That is the consensus of the officials, planners and citizens who attended NCRT's "Transition to ISTEA Transportation" forum, held Oct. 31 at the N.C. Biotechnology Center in Research Triangle Park. The forum was part of the statewide "Quality Growth" conference.

*When asked what improvements they would like to see in the transportation planning process, the composite response was to introduce broader options that are inclusive of local land use plans, inter-governmental considerations, environmental concerns and broader public input.*

Opinions were compiled through a questionnaire that included both open-ended responses and multiple choices.

To the question of who should specify transportation project funding sources, 100 percent thought the state DOT should remain responsible, but with greater Metropolitan Planning Organization awareness of funding sources for local projects.

To a related question, how can MPOs be empowered to carry out transportation priorities, the consensus was that it would require state legislation to include per capita funding and strict adherence to MPO set priorities.

Again, 100 percent thought there was need for a statewide alliance of transportation planners and users to affect change. Sixty percent said they would contribute time and information to the effort.

*Asked for the key elements in encouraging public participation, the attendees listed dissemination of transportation planning information, opportunity for public input (not just review) and a means of verifying that public input is being used in the process.*

Most thought the public now lacks understanding of the planning process and the opportunity to participate.



## Whistle Stops: Taking The Losses

First the New Hanover County Commission abruptly turned it down. Then the Wilmington City Council did the same. So there it sits, ripe for being picked apart, piece by piece. And the public loses its opportunity to have a 2.5-mile abandonment turned into a greenway, a connector trail from downtown to a proposed park.

How did it happen?

The usual way. Adjoining landowners, eager to obtain a bit more property, raise the false specter of increased crime and loss of personal privacy. Government tucks tail and caves in to illogical speculation. Without further investigation or discussion, the project is quickly killed by summary veto.

Private gain again wins over public interest. In this case the public loses twice. For lack of political grit, Wilmington is faced with expending \$200,000 for alternate drainage which now is handled by the corridor. Yet, for only \$1,000, the city could have had a greenway, trail and drainage.

That, taxpayers, is how to be two-time, double losers.

## And Taking The Lead

In stark contrast to the cave-in at Wilmington, we are treated to bold action by Ann Gaither to seize the greenway opportunity sitting on Lincolnton's front doorstep. That's public leadership. She has our applause and appreciation.

The importance of her initiative extends beyond Lincolnton and into the future. Lincolnton now has the opportunity to demonstrate that small cities don't have to take the backseat, behind metro areas, in creating imaginative public improvements.

It doesn't take tall buildings to make Winston-Salem's Strollway stand out. The imaginative use of that abandoned rail corridor speaks for itself. The Strollway gives that city's character an extra dimension.

Go for it, Lincolnton, go for it.

Final dates for newsletter materials are: Winter - Feb. 10,  
Spring - May 10, Summer - Aug. 10, Fall - Nov. 10.



## Checking Our List . . .

We are reminded during the holiday season that it is better to give than to receive. In that spirit, we fill out our shopping list with items that the recipients can share with others:

Council of State awakes to the potential of rail corridors serving diverse transportation, communication, utility, conservation, recreation and economic purposes. Council moved to adopt orphaned corridors.

*The House Transportation Committee sends Sen. J.K. Sherron's railbanking bill, S-578, to the floor and frosts it with a recommendation that all state agencies, local governments and nonprofit land trusts be allowed to file corridor preservation affidavits.*

The New Hanover County Commission and Wilmington City Council come to their senses and accept the gift being handed to them. If not, they get lumps of coal in their stockings.

*The Department of Transportation finds a shining, new, true transportation vision in the median of a 16-lane outer, outer, outer beltway. The department looks into it and sees the light.*

The state gets two new turnaround wyes at Raleigh and Charlotte so that it can invite Amtrak in to play with its shiny, new train, the Piedmont.

*Sen. Herbert "Scrooge" Hyde gets a change of heart and saves House Bill 36 from death in the Senate Judiciary Committee so that private landowners can securely share use with the public.*

*Board of Transportation gets insight that people walk if they have sidewalks. Board gives DOT a new pedestrian mandate to play with.*

Norfolk Southern and CSX put their heads together and give Parks and Recreation title to 500 miles of surplus corridor between the Tennessee line and the Outer Banks. The Legislature helps them wrap it in recycled Mountains-to-Sea Trail authorization paper.

*DOT Planning and Programs personnel all get their dirty, old cars replaced with clean, new bicycles. They form a DOT bike club.*

Happy holidays, y'all.

## **ENLIST TODAY IN THE NORTH CAROLINA RAIL-TRAILS MOVEMENT!**

Name \_\_\_\_\_ Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Telephone: Home \_\_\_\_\_ Work \_\_\_\_\_ Best Time \_\_\_\_\_

Reason for interest in rail-trails \_\_\_\_\_

Member of other conservation/recreation/historical organization? \_\_\_\_\_

NCRT annual memberships: Individual - \$15, Family - \$20, Corporate - \$100

Mail to North Carolina Rail Trails, Suite 124, 703 9th St., Durham, NC 27705

THANK YOU FOR JOINING NCRT

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## Trailbuilder Notebook

*Editor's Note: This is the first in a series of articles on railroad abandonment procedures and the ramifications. We will do our best to cut this complex subject into digestible chunks. Please feel free to ask questions or seek clarification.*

Section 8(d) of the National Trails System Act is becoming the primary means of preserving rail corridors. When successfully invoked it preempts legal abandonment of a right-of-way under state law by railbanking the corridor for future rail service under federal law.

Under Section 8(d), the Interstate Commerce Commission (ICC) retains jurisdiction of the corridor while allowing the railroad to discontinue operation of the line. The ICC can issue a certificate of interim public trail use to a government agency or responsible private organization which must assume responsibility for management and liability.

The key to using Section 8(d) is quick reaction. The request for interim trail use must be filed with the ICC during a specified period, which varies according to the type of abandonment procedure the railroad pursues. There are five types of abandonments:

**Regulated abandonment** -- This accounts for about 25% of railroad filings and allows 30 days from the date of filing to petition the ICC for interim trail use. If no petition or protest is filed, abandonment is effective 75 days after the railroad's filing date.

**Two-year out-of-service exemption** -- This accounts for about 70% of railroad abandonment filings. The ICC has 20 days to publish the exemption in the Federal Register and trail use petitions must be filed at the ICC within 10 days after publication. Abandonment becomes effective 30 days after publication.

**Petition for exemption** -- This accounts for only a small number of abandonment filings. There is no established time for trail use petitions, though it would be wise to do so as soon as the exemption is published in the Federal Register. Each petition is handled on case-by-case basis.

**Conrail abandonment** -- This applies only to Conrail lines in the Northeast. The ICC can certify abandonment 90 days after filing.

**Bankruptcy abandonment** -- Action is regulated by bankruptcy court, which has primary interest in maximizing liquidation. The ICC only submits a report of the impact of abandonment on public interest. You negotiate with court trustee.

Each of these abandonment procedures has a different requirement for pre and/or post filing notification, which will be covered in a future issue.

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