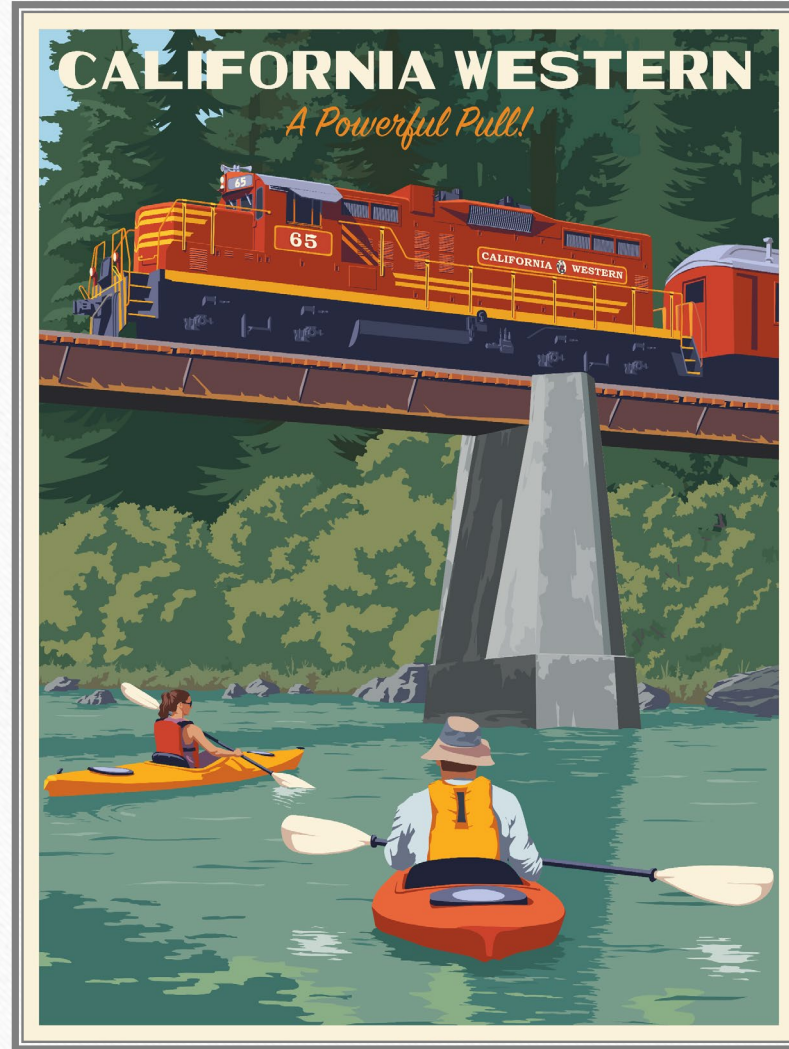


City Council Dispute With Mendocino Railway

Impacts On The Future
Of The Skunk Train And
Our Community





Presentation Overview

- Sierra Railroad Company & Its Subsidiaries
- Working With The City
- Fort Bragg's City Council
- The Conflict
- The City's Lawsuit
- The Future
- Q&A



The railroad between Fort Bragg and Willits has been known by several names:

- **California Western Railroad**
- **Skunk Train**
- **Mendocino Railway**

In this presentation, we will refer to the railroad as Mendocino Railway (MRY).

Sierra Railroad Company (SRC) was formed in 1897, making it one of California's oldest railroads.

By 1994, SRC was on the verge of closing, being down to just 1 customer and 2 employees. Mike Hart led a group who felt SRC should be saved. They bought the line and brought SRC back into operation.

By 2003, SRC was successful enough to merge with Midland Railroad Enterprises Corporation, owner of Yolo Shortline Railroad Company. The merger led to a new subsidiary: Sierra Northern Railway (SNR).



In early 2004, SRC was chosen by the bankruptcy court to buy the CWR's assets. SRC created Mendocino Railway (MRY) to oversee the revival of the CWR. Over the next 2 decades, SRC invested more than \$30 million into restoring the CWR.

SRC also owns Sierra Energy Corporation, which is developing a gasifier to cleanly convert virtually any waste into energy, including hydrogen (for use in hydrogen locomotives being developed by SNR).

SRC's railroad and energy subsidiaries are working together to create the greenest and most emission free railroads in the country, if not the world.

A historical black and white photograph of a large industrial lumber mill. In the foreground, a steam locomotive is pulling a train of flatcars along a set of tracks. To the left, a sawmill is visible with several tall smokestacks emitting plumes of white steam. The background is filled with massive stacks of cut lumber and various industrial buildings. The scene is set in a wooded area with trees visible in the distance.

Working With The City

2002 - 2020

The Northern Millsite (MSN)

Over the past 20 years—while communities such as Bend, Oregon, converted their blighted millsites into vibrant centers for business, entertainment, and tourism—Fort Bragg did nothing to convert, or even to encourage converting, Georgia-Pacific’s (GP) millsite into anything to benefit our community. All our City Council did was organize discussion workshops.

Seeking to see the millsite put to a beneficial use, MRY on June 14, 2019, purchased the Northern Millsite (MSN) from GP. The City voiced no objections.

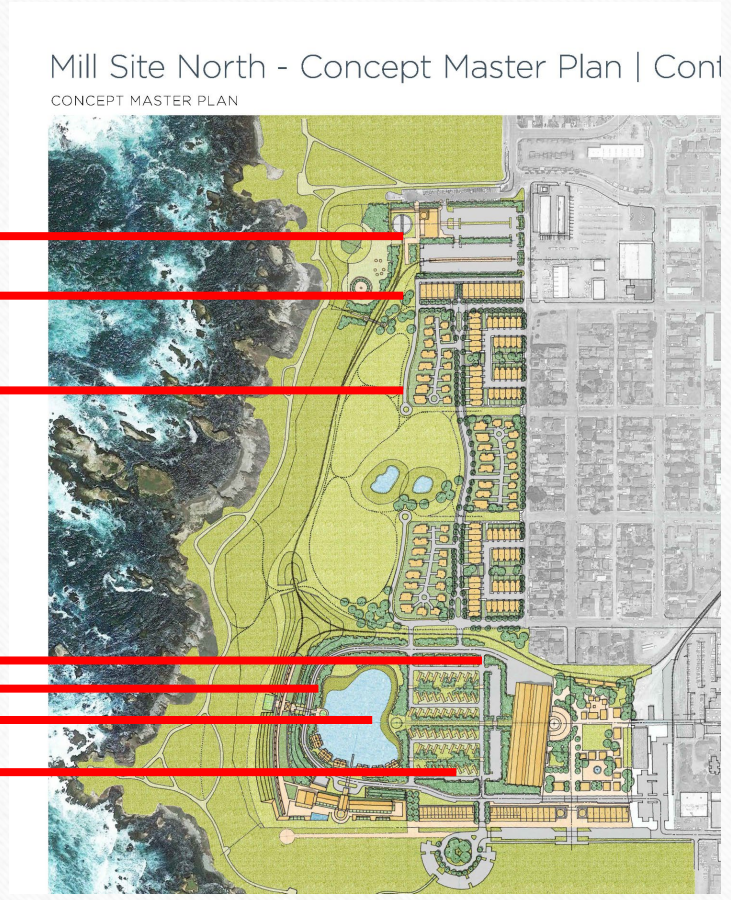
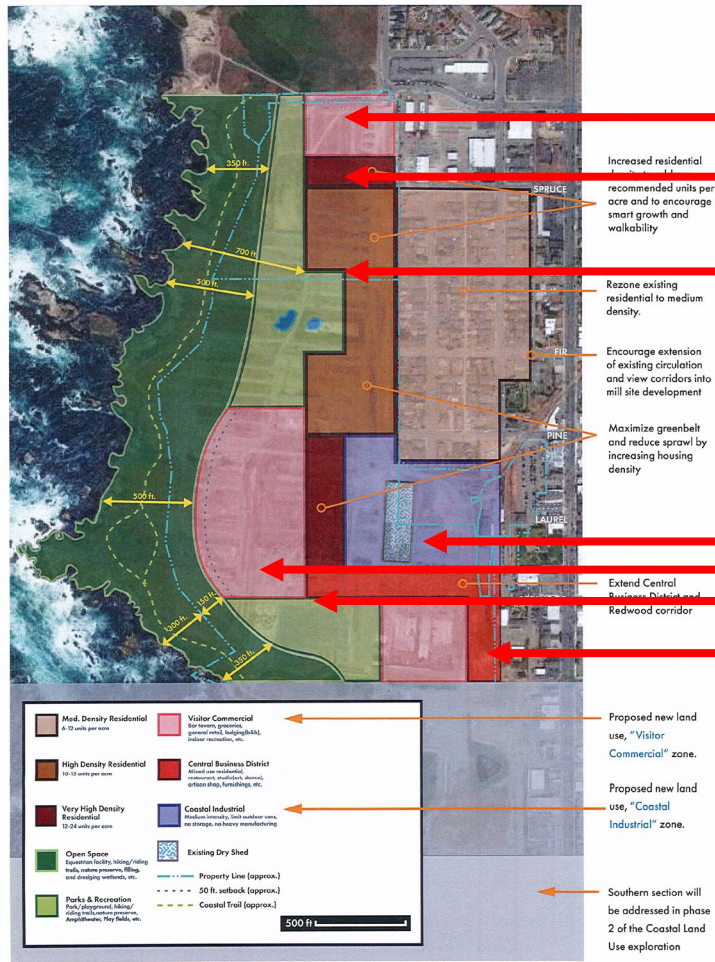
Though MRY also wanted to see the Southern Millsite (MSS) put to a productive use, MRY set its interest aside when the City in 2019 expressed its own interest in MSS.

MRY’s attendance at the City’s workshops enabled MRY—within just 3 months of purchasing MSN—to present a development plan that included most of our community’s wishes, which Councilman Lindy Peters said, “looked pretty darn good to every city council member who saw it.” MRY then spent 2 years working through the City’s planning process, until the City on January 11, 2021, with no explanation, cancelled its process and told MRY to start over in a new process!

The City's January 19, 2021, zoning map for MSN is on the left.

MRY's matching April 6, 2021, plan is on the right.

Mill Site Land Use Map (Plan Area A)
 City Council/Planning Commission • Ad hoc 2-26-20



The Cypress Property

In early December 2020, Harvest Market put the Cypress property—formerly part of MSS—up for sale. MRY became interested in building a train station on the property and connecting it to MRY’s existing property, raising visibility to visitors using Highway 1 and enabling freight shipments to businesses located in the City’s proposed southern industrial area.

On December 16, 2020, MRY presented its idea to City Manager Tabitha Miller. Ms. Miller told MRY that the City had no objection to MRY’s plan and MRY began discussions to buy the Cypress property.

On December 22, 2020, before closing on the Cypress property, MRY again met with Ms. Miller to confirm that the City really had no objection to MRY’s plan. Ms. Miller assured MRY that the City had no objection and MRY closed its purchase in early 2021.



A Natural Extension Of Downtown

MRY wanted to ensure that development of MSN would not cannibalize our vibrant downtown, instead providing *additional* benefits to existing businesses and residents, and leading to *increased* tourism and business. MRY thus designed its plan to achieve:

- Improved pedestrian and bicycle flow between MSN and Fort Bragg's existing downtown and harbor areas;
- Increased tourism and business opportunities through new meeting space, additional performance venues and special events areas, new attractions and amenities designed to not only attract more visitors to town (especially during the winter and shoulder months) but to give visitors a reason to stay in town longer, and new freight and business opportunities to not only support existing businesses but to attract new businesses to town.
- Improved residential opportunities through additional (and affordable) housing, new outdoor space, and new trails connecting to our community's existing trail system.

MRY recognizes that a vibrant town, with multiple hotels, restaurants, bars, shops, attractions, and businesses is most likely to attract visitors, and to support local businesses and jobs, benefitting everyone.

Plans For A Southern Station



Existing Conditions 12.14.2021

Mill Site | Fort Bragg, California

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Benefits Of Rail Between Cypress And Downtown

A rail connection between Cypress and downtown offers numerous benefits:

- Trains from Cypress would provide ocean views, attracting more visitors to town;
- Freight service to Cypress would help achieve the City's goal of attracting industrial businesses to MSS, providing lower-cost shipping, reducing the trucks on Highway 20, and leading to safer roads and cleaner air.
- Tracks between Cypress and MRY's other property would support the development of a rail trolley, allowing residents and visitors to more easily travel between the harbor, downtown, beaches, hotels, and our town's various businesses and restaurants. A rail trolley could also support a new educational campus, relocated hospital or medical campus, and remote visitor parking.

The Southern Millsite (MSS)

On January 6, 2021, MRY again met with Ms. Miller to discuss development of the Cypress property and to discuss the construction of tracks to MRY's existing property. At that meeting, Ms. Miller surprised MRY by announcing that the City had abandoned the idea of buying MSS and that MRY was welcome to try to buy it from GP. MRY immediately contacted GP.

On February 12, 2021, MRY reached a verbal agreement with GP to buy MSS.

On February 22, 2021, MRY told Ms. Miller the terms of MRY's agreement with GP. MRY spent the next two months meeting with Ms. Miller to discuss any portions of MSS that the City might want for its projects. MRY believed it was working with the City on a win-win for MRY, the City, and our entire community, just as MRY had been trying to do as to MSN.

Ms. Miller's April 27, 2021, Email To The City Council

Contrary to the City's later claims of being surprised by MRY's purchase of MSS, Ms. Miller's email to the City Council proves that they knew for at least half a year that:

- GP had decided to sell MSS to MRY;
- MRY would be responsible for cleaning up MSS;
- MRY would provide the City with portions of MSS; and
- MRY would provide Pomo with portions of MSS too.

From: [Miller, Tabatha](#)
To: [Miller, Tabatha](#)
Bcc: [ZZZ Elected Officials](#)
Subject: FW: Checking In
Date: Tuesday, April 27, 2021 7:45:00 AM
Attachments: [image001.jpg](#)

Councilmembers (BCC):

Please see the email below from Dave Massengill. Additionally, in the recent conversations (including yesterday) with Mike Hart, he has made it clear that they are purchasing the South portion of the Mill Site and assuming the environmental liability from GP. The Skunk Train would be responsible for completing the Mill Pond final RAP. Mr. Hart has also indicated a desire and willingness to work with the City, including some sort of transaction that would provide portions of the property to the City. He indicated that the tribe was receiving the property where tribal members live and it sounded like there may be an additional smaller portion of the south end going to the tribe.

The City Council's Special May 4, 2021 Closed-Session Meeting Changed Everything

In early May 2021, MRY noticed that the City Council had suddenly scheduled a Special—Closed-Session—City Council meeting for May 4, 2021, to discuss just one issue: MSS. This meeting ended up being just the first of more than 25 closed City Council meetings concerning MSS.

On May 3, 2021, MRY asked Ms. Miller whether the Special Meeting indicated any City concerns about MRY's planned purchase of MSS. But Ms. Miller refused to answer any of MRY's questions.

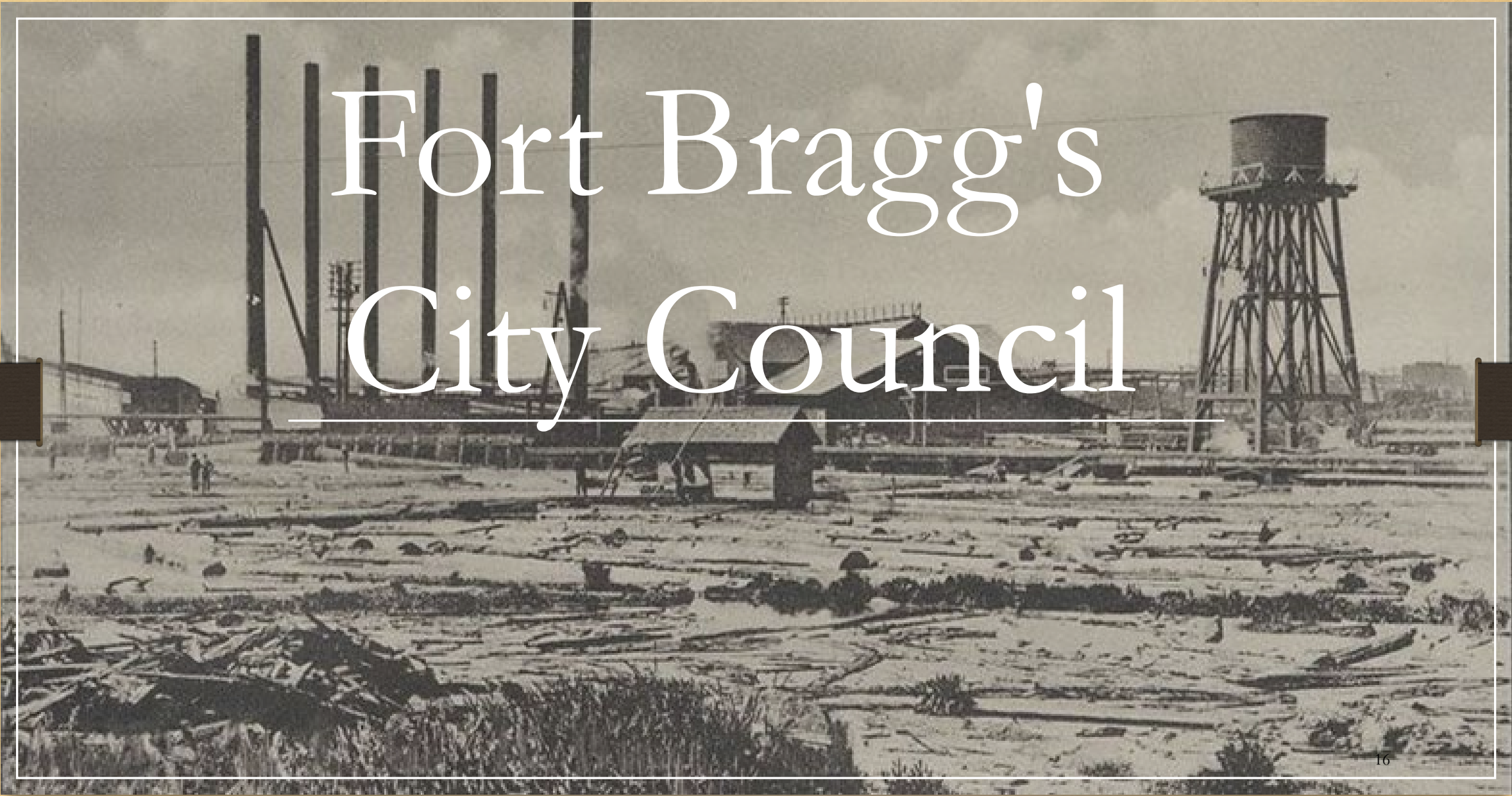
The City Council has never disclosed what they discussed at their May 4, 2021, closed-session meeting, but this meeting changed the City's entire relationship not only with MRY but also with MRY's development of MSS, MSN, and even the Cypress property.

May 14, 2021 Meeting Between MRY And The City

On May 14, 2021, MRY met again with Ms. Miller, this time also with the new Mayor, Bernie Norvell. Mayor Norvell shocked MRY by announcing that the City was buying MSS. This greatly surprised MRY as Ms. Miller had never during her many meetings with MRY said anything about the City changing its mind about not buying MSS.

MRY complained about the City's lack of ethics—in using information MRY had provided in the belief that MRY and the City were working together—to steal MRY's deal with GP. Not only did Mayor Norvell show no remorse for his actions, but he refused to say whether the City would, if it bought MSS, allow MRY to connect to its Cypress property.

Though Mayor Norvell was not present in any of MRY's prior meetings with Ms. Miller, he rejected the idea that Ms. Miller had approved MRY's purchase of—or plans for—the Cypress property and MRY's purchase of MSS. Mayor Norvell then ended all further City communications with MRY. Shortly thereafter, Ms. Miller resigned as City Manager.

A historical black and white photograph of a coastal industrial site, likely Fort Bragg. The scene is dominated by a large, multi-story wooden water tower on the right side. In the center and left, there are several industrial buildings and structures, including what appears to be a large crane or derrick. The foreground is a flat, sandy or dirt-covered area with some sparse vegetation and debris. The sky is overcast. The text "Fort Bragg's City Council" is overlaid in a large, white, serif font across the center of the image.

Fort Bragg's City Council

Why Did The City Attack MRY?

MRY presented the City with a development plan for MSN that fulfilled most of the City's and our community's goals for the property.

MRY also repeatedly met with Ms. Miller to ensure that the City did not object to MRV buying the Cypress property and connecting it to MRV's existing property, and that the City did not object to MRV's purchase of MSS. MRV did not buy any of these properties until Ms. Miller had assured MRV that the City had no interest in the properties and no objections to MRV's plans.

After reaching a verbal agreement with GP to buy MSS, MRV spent months collaborating with Ms. Miller to discuss how MRV could also help the City fulfill its, and our community's, goals on MSS.

So why did the City attack MRV when MRV was only doing what the City had approved and when MRV was working cooperatively with the City? And why did the City not first try to talk with MRV and to work out any City concerns? We believe the reason is changes on the City Council.

Changes In City Leadership Changed Everything

Mayor Lee and Councilman Norvell ran unopposed in late 2020. While Lee was scheduled to be reelected on December 15, 2020, he instead resigned, leaving Councilman Norvell to be appointed as Mayor.

On January 11, 2021—less than 1 month after Mayor Norvell took office—the City without explanation cancelled its 2-year long planning process for the development of MSN, telling MRY to start over with an entirely different process, wasting the \$100,000s of dollars MRY had spent as part of the City's process thus far, not to mention wasting all the taxpayer money the City had itself spent on its process.

The following week, the City's Millsite Ad Hoc Committee, Chaired by Vice Mayor Morsell-Hayes, rejected without discussion all of MRY comments as to the City's land use map for MSN, declaring the City's map final.

And, within 4 months of being appointed, Mayor Norvell was claiming that Ms. Miller had never said anything that MRY claimed she did. This is despite Mayor Norvell not having attended those 17 meetings.

City Staffing Issues Made Things Worse

The City Council's inability to attract and retain senior staff, and its constant changes of direction, led to major inconsistencies, made it difficult to work with the City, and made it impossible to trust or rely on representations by the City's representatives:

- In 2015, the City ousted its longtime City Manager, Linda Ruffing. After a series of short-term Interim City Managers, the City finally in 2018 hired Ms. Miller as its new City Manager.
- In 2019, the City fired its Community Development Director, thereafter leaving the position vacant.
- On Nov 16, 2021, Ms. Miller resigned as City Manager.
- On January 10, 2022, the City named Dave Spaur as Interim City Manager.
- On May 25, 2022, the City announced John Ford as the new City Manager, but he quit before even fully transitioning into his new position.
- On July 26, 2022, the City named Peggy Ducey as its new Interim City Manager, but she announced her resignation on September 25, 2023, after less than two years in office.
- Over the past 4 years, the City has had at least 3 City Attorneys, leading the City to take contradictory legal positions.
- The City also during this period appointed several additional Interim City Managers and lost other key staff in positions that the City chose to leave vacant, all of which have rendered the City far less than fully functional.

The City Never Explained Its Interest In MSS

Though the City in 2019 expressed interest in purchasing MSS, the City never publicly disclosed why—after 20 years of doing nothing—the City was suddenly interested in MSS, why the City felt it was best positioned to develop MSS, or where the City hoped to get the money it needed to buy, and develop, MSS, not to mention where the City hoped to get the money needed to conduct the court-ordered remediation of MSS.

The City also never sought community input as to whether the City should use taxpayer money to buy, develop, and remediate MSS. The City instead held its discussions in closed-session, hidden from public scrutiny and input.

The City Mortgaged Its City Hall And Police Station To Buy MSS

As it turns out, the City didn't have the money to buy, develop, and remediate MSS:

On October 12, 2021, the City mortgaged its City Hall and Police Station to raise \$3.5M in bonds. Even then after two years of effort, the City Council still never clearly said what it planned to use this money for:

- Vice Mayor Morsell-Hayes's bond resolution fuzzily stated that the money was intended to "refinance some or all of the unfunded accrued actuarial liability (UAL) owed by the City to the California Public Employees' Retirement System and to raise funds for other authorized purposes of the City, anticipated to consist of expenditures with respect to the South Mill Site." [Emphasis added]
- Councilman Peters likewise vaguely said that the funds "could be used" to buy MSS.
- Mayor Norvell gave lip service to public concerns about any City purchase of MSS, objecting to specifically designating the money to buy MSS, stating, "I don't think we have enough information to address some of [the] concerns in our community. We haven't made a deal with Georgia Pacific. We haven't obligated the people of Fort Bragg to purchase the property."

Despite the City's unfunded liabilities, public concerns about any City purchase of MSS, and the City's lack of any agreement with GP, the City Council shortly thereafter—when MRY had purchased MSS—suddenly took the position that it had overwhelming community support for its purchase of MSS and that it even had a "done deal" with GP, all of which is difficult to believe.

Councilmember Conflicts Of Interest

Mayor Norvell owns properties close enough to the millsite to create a conflict of interest that ethically prohibited him from becoming involved in millsite issues.

Vice Mayor Morsell-Hayes faced the same conflict. Despite being advised by the City Attorney to avoid involvement in millsite issues, the Vice Mayor not only continued to chair the Millsite Ad Hoc Committee but became the face of the City's attacks on MRY following MRY's purchase of MSS.

From: "Keith F. Collins" <kfc@jones-mayer.com>
Date: March 12, 2020 at 8:32:59 AM PDT
To: "Morsell-Haye, Jessica" <Jmorsellhayefortbragg.com>
Cc: "Miller, Tabatha" <TMiller@fortbragg.com>
Subject: Mill Site Committee

Hi Jessica. It was great seeing you Monday night. I just wanted to follow up with you briefly about our conversation.

You'll recall there was discussion towards the end of the meeting about whether to expand the scope of the Mill Site committee's authority to investigate and provide recommendations on specific development points for the Mill Site. In my opinion, now seems like a good time for you to step back from your involvement in the Mill Site planning process given your potential conflict of interest. I shared with you Monday that I believe you should not participate in any decisions affecting the development of the Mill Site due to your business interest in the Goldenwest Saloon and separately Redwood Ave. You mentioned that you don't see how you could be benefitted any greater than the rest of the public. You are correct to consider that as a potential exception to the conflict of interest rules, but I don't think the "public generally" exception would apply in this situation, and I can explain why in greater detail if you'd like.

So Again, Why Did The City Attack MRY?

Only the City Council knows why they went back on the City's approval of MRY's efforts to buy MSS, why they tried to steal MRY's deal with GP, and why they attacked MRY despite MRY's good faith efforts to work with the City to accomplish the City's, and our community's, goals for both MSN and MSS. And only the City Council knows why it was so intent on retaliating against MRY for buying MSS that it cared nothing about the adverse impact on tourism and on the many other businesses and workers who rely on tourism, or about never achieving the benefits from improved freight shipping, reduced truck traffic and improved road safety on Highway 20, and the affordable housing and expanded greenspace MRY had planned for MSN.


It could be due to inexperience resulting from the City Council firing senior staff and then not being able to replace the positions.

It could be because various Council Members stood to benefit personally from dictating millsite development.

It could be because new Council Members felt entitled to simply ignore the City's prior representations by their City Managers or City Attorneys

It could be that the City Council never actually planned to buy MSS, only deciding that they wanted to do so when the public began criticizing them for the City's failure to buy MSS itself.

Whatever the reason, the City sued MRY in 2021 without making any effort at all to discuss the City's claimed concerns, concerns that make no sense in any event as MRY had consistently showed the City all of its cards and had been working cooperatively with the City on MRY's development of MSN and MRY's purchase and planned development of MSS.

An aerial, black and white illustration of a 19th-century town situated on a riverbank. The town features numerous buildings, a church with a steeple, and a grid-like street pattern. A long wooden pier extends into the river, where two large sailing ships are docked. The surrounding landscape is densely wooded. The title 'The Conflict' is overlaid in a large, white, serif font across the center of the image.

The Conflict

May 2021 to Present

The City Decides To Steal MRY's Deal

After the City announced its plan to steal MRY's deal with GP, the City cut off all communications with MRY, refusing even to tell MRY whether the City would continue to support MRY's connection to its new Cypress property.

Shortly after the City's announcement, GP called MRY to say that the City had ordered GP to open discussions for MSS with the City and to stop communicating with MRY. GP told MRY that it felt obligated by its prior discussions with the City to try to work out a deal with the City first, if there was a deal to be had.

GP's Sale of MSS to MRY

Since the City and GP were not speaking with MRY, or willing to confirm that MRY would be able to connect to its Cypress property, MRY felt compelled to file its eminent domain action to ensure it could maintain and expand its common carrier rail operations to meet current and future demand.

The City could have filed its own eminent domain action to buy MSS. Or shown that it had a higher public use in mind for MSS than MRY did. But the City, as usual, instead just dithered, leaving GP and MRY to resolve action themselves, without City input.

On October 5, 2021, GP called MRY to say that it had determined that it would never reach a deal with the City and wished to sell MSS to MRY, asking, “How do we get our deal with you across the finish line?” GP agreed to sell MSS to MRY as per the parties’ originally agreed terms from 8 months earlier, simply closing the sale through the eminent domain action instead of a new purchase and sale agreement.

Superior Court Judge Jeanine B. Nadel, and the Mendocino County Assessor, approved MRY’s use of eminent domain to purchase MSS from GP and the deal closed without any objections by the City.

The City Conspired To Prevent MRY From Reopening Tunnel No. 1

Before serving its complaint on MRV, the City sent copies to various groups—including the California Coastal Commission, Sonoma County/SMART, the NCRA/GRTA, and half a dozen other groups, asking them to help the City block \$20 million in federal loan funding MRV was seeking to reopen Tunnel No. 1 and improve its track to Willits.

The City's conspiracy was obvious, not just because these groups made the same arguments, or because they referenced each other's letters, but also because they referenced the City's specific allegations in its complaint against MRV, allegations, and a complaint, that the City had not yet even served on MRV!

At the same time the City Council was trying to block MRV's efforts to obtain its loan to reopen Tunnel No. 1, the City Council not only publicly stated its continued support for reopening Tunnel No. 1 (and the more than \$60M in benefits the reopening was expected to bring to our community) but also publicly criticizing MRV for not having reopened its tunnel!

The City's Conspiracy Comes With Costs

MRY has spent more than 4 years seeking a Department of Transportation (DOT) loan to reopen its tunnel, having had to pay more than \$800,000 in application fees and costs in the process.

Had the City not conspired to block MRY's loan, MRY might already have received its loan, reopened its tunnel, and be providing restored freight and passenger service to visitors and locals alike. Even if MRY at some point receives this loan, the interest rate has skyrocketed such that MRY will have to pay millions of dollars in interest to the federal government that it could instead have invested locally in developing the millsite, expanding its rail services, and making other local investments.

What city government wastes \$100,000s of taxpayer money trying to prevent one of the engines of its regional economy from:

- Making necessary repairs,
- Improving and expanding its services,
- Creating additional jobs, both for itself and other local businesses,
- Providing services that make it easier for more businesses to move to town, bringing even more local jobs and tax revenue,
- Improving shipping options and costs for local businesses and residents,
- Attracting more visitors, leading to increased spending at local hotels, restaurants, shops, bars, and other tourist based businesses, or
- Reducing truck traffic and improving highway safety and air quality?

“We’re
F—ked”

When MRY’s purchase of MSS became public knowledge in late November 2021, the City Council apparently feared being criticized for the City’s approval of MRY’s efforts to purchase MSS and for the City Council’s later failure to buy the property itself. The City Council apparently decided its best option was to lie:

- Faking surprise and outrage at MRY’s purchase of MSS,
- Hiding the City Manager’s approval of MRY’s effort to buy MSS,
- Hiding the entire City Council’s knowledge—for more than half a year—that GP was selling MRY to MSS,
- Hiding MRY’s efforts to ensure that the City could achieve our community’s goals on MSS, as well as the Pomo’s goals,
- Hiding the City Council’s efforts to steal MRY’s deal with GP,
- Hiding the fact that the City was so difficult to deal with, that the City drove GP back to ask MRY to buy MSS on the parties’ originally-agreed terms,
- Hiding the City’s failure to file its own eminent domain action to buy MSS, and
- Hiding the fact that the City Council’s dysfunction, silence, and deceit was what forced MRY to file its eminent domain action.

One of the City Council’s most infamous outbursts was Vice Mayor Morsell-Hayes’ quote in *SF Gate* that, “We’re f—ked!”, while—of course—continuing to hide the fact that it was the City that had “f—ked” itself (and would continue to do so).

The City Council's False Accusations

The City Council then began to spread false rumors against MRYP, including those by Mayor and Vice Mayor in the *SF Gate* article:

- “They commandeered land that needs to have remediation done, but they've made the argument they're not subject to the state agency that oversees remediation . . . Now anything they build on that land related to the railroad is exempt from oversight.” (Vice Mayor Morsell-Hayes)

Not true: *MRYP never made any such argument and MRYP's railroad construction is fully subject to federal oversight.*

- “They're trying to build a theme park on our headlands, with access to property completely controlled by them.” (Vice Mayor Morsell-Hayes)

Not true: *MRYP tried to build what the City and our community wanted, with extensive City input, on property subject to either federal or state and local oversight. See the City's own 2021 land use map.*

- “The definition of integrity is doing the right thing when no one looking . . . Mendocino Railway says all right things, but when no one is looking, they're not doing the right thing.” (Mayor Norvell)

Not true: *Ironically, MRYP is following the law and it's the City trying to ignore the law.*

- Morsell notes that if the city prevails in its case, it would still constitute a win as it would force Mendocino Railway to abide by state and local regulations on non-railway development, as she does not take the company at its word that it will not argue that houses, hotels and shops are part of the railway.

Not true: *MRYP's railroad activities are subject to federal regulation because of MRYP's status as a common carrier, not because of MRYP's status as a public utility. MRYP's non-railroad activities have always been subject to state and local regulation, so the City's lawsuit does not change anything.*

The Results Of The City's False Accusations

The City Council's false attacks on MRY caused misguided protests, acts of vandalism, terrorist threats, and a firestorm of social media attacks by people who simply believed the City Council's fabrications, without checking for themselves. As a result of the City's false attacks, and the misguided anger they provoked, MRY's sales plummeted in 2022.



KZYX photo



The City's Lawsuit

The City Filed Its Lawsuit In Retaliation For MRY's Purchase Of MSS

Contrary to the City Council's expensive and self-serving PR campaign, the City admits in its lawsuit that MRY is a public utility with the right of eminent domain. See attached excerpt.

The City argues MRY should lose its status because of the collapse of its tunnel, the resulting loss of most of MRY's freight services, and the City's ire that MRY has not sought City permits for its railroad operations (see City's Complaint, ¶¶ 6-12).

The problem with the City's argument, and its retaliatory nature, is evident from the City's request—just 1 year earlier—that MRY use its public utility power of eminent domain to help the City solve a drug house problem on Alger Street, and from the City Attorney's letter—just 1 year before that—to the Coastal Commission in which he stated that MRY's railroad operations are subject to federal regulation, not to local regulation. Which is all MRY has ever asserted.

3. Defendant Mendocino Railway is currently listed as a class III railroad by the California Public Utilities Commission ("CPUC"), and as such is subject to CPUC jurisdiction and has all legal rights of a public utility. At all relevant times herein, it has and does own and operate the "Skunk Train," as described herein, within the City of Fort Bragg, as well as owning and thus having maintenance and other responsibilities for real property relating thereto and also situated within the City of Fort Bragg.

Desperate To Retaliate, The City Sold Our Community Out To The Coastal Commission

After years of telling the Coastal Commission to stay out of millsite development, the City astonishingly abandoned that position, invited the Coastal Commission to join the City's lawsuit against MRY, and supported the Coastal Commission's involvement in how our community develops the millsite.

The City's short-sighted about-face seems likely to haunt our community for generations to come, all because the City Council was so desperate for help to attack MRY that it didn't give any thought to the long-term consequences of its strategy.

Not only will the City's invitation to the Coastal Commission adversely impact our community and its development of the millsite, but the City's invitation has effectively given the Coastal Commission a veto over any resolution of the City's lawsuit against MRY, allowing the Coastal Commission to block any better path that might exist.



The Future

Tunnel No. 1's Future Is Uncertain

After the collapse of MRY's Tunnel No. 1 in 2013, MRY quickly got it back into service. To prevent more collapses, MRY hired a contractor to improve the tunnel. But the contractor negligently collapsed the tunnel, causing millions in damages. As the contractor was judgment proof, and the court held that his insurance policy was void because he had lied on his application, MRY received no money to repair the damage.

MRY spent the years following this second collapse, and more than \$1 million, to stabilize the hillside to protect Pudding Creek and to lay the groundwork for the repair of the tunnel. MRY also spent 3 years seeking a BUILD grant for the needed repairs. While MRY's application was deemed "highly recommended," there were more than 1,000 applicants and MRY's application was not one of the 50 grants issued nationwide.

MRY also applied for a repair loan from the Department of Transportation's (DOT) railroad infrastructure loan program (RRIF). Though the loan program was designed to be quick and low cost, MRY's application has been pending for almost 4 years and has cost MRY more than \$800,000 in fees and costs, presumably because the City not only lobbied the DOT to deny MRY's application, but convinced the Coastal Commission, Sonoma County/SMART, the NCRA/GRTA, and half a dozen other groups to do the same. The City even went so far as to falsely assert that MRY wanted to operate a "Toxic Coal Train" and ship coal to China out of Noyo Harbor!

While MRY's RRIF application was pending, MRY also applied for a CRISI grant to reopen its tunnel. But that application was also denied, reportedly because of the City's campaign against MRY's RRIF application.

The Skunk Train's Future Is Uncertain

SRC and MRY have invested more than \$30 million, and almost 20 years of work, to overcome the negative impacts of the CWR's bankruptcy on both the railroad and our community.

MRY had big plans for the Skunk Train, plans not only to restore, but to expand, the full freight and passenger service the line once provided, including efforts to obtain a RRIF loan to make more than \$20 million in additional investments in the line.

Unfortunately, the City's inexplicable war has made MRY reluctant to make any more investments in the line, leaving the Skunk Train's future in our community uncertain.

The Millsite's Future Is Uncertain

After watching the City do nothing for almost 20 years to convert the millsite from a vacant eyesore into anything benefitting our community, MRY stepped up to try to finally move forward with what both the City and our community said they wanted to see on the millsite.

Without any objections from the City, MRY purchased MSN and quickly submitted a development plan reflecting the City's and our community's desires . Then, when no one else—including the City—wanted the Cypress property or MSS, MRY stepped up to purchase those too, again working closely with the City to ensure that any development fulfilled the City's and our community's goals.

During the City's war, MRY has worked with the applicable environmental agencies—including the City, the Regional Water Board, and the Department of Toxic Substances Control—to complete millsite remediation, such that 97% of the millsite has now been remediated. MRY continues to work on remediating the final 3% of the millsite.

Yet the City's war on MRY—including the City's unilateral cancellation of the MSN development process—renders the millsite's future community unclear, especially now that the City has invited the Coastal Commission to meddle in its development. The millsite now seems likely to remain a vacant eyesore for many years to come.


The City's Goals Are Uncertain

The City has held its discussions about MRY and the millsite in closed session, preventing our community from hearing why our City Council is waging war against MRY and what it thinks it seeks to gain.

Nor has the City explained its refusal to stay its lawsuit to let the parties try to find a better path forward.

The City seems intent on continuing its war, preventing MRY from repairing its tunnel and investing in our community, and preventing local businesses and residents from seeing the benefits of improved freight, passenger, and commuter rail service.

In fact, the City seems intent on bankrupting the Skunk Train, forcing it to once again close its doors, which would not only prevent our community from seeing the benefits of commuter rail and imported water and other goods by rail, but which would destroy what even the City Council has described as one of our community's main economic engines.



Q & A