

WISCONSIN RIVER RAIL TRANSIT COMMISSION

FULL COMMISSION MEETING - FRIDAY, FEBRUARY 8, 2013 @ 10AM
 DANE COUNTY HWY GARAGE, 2302 FISH HATCHERY RD, MADISON, WI

1. 10:00 AM **Call to Order** – *Karl Nilson, Chair*

2. Roll Call. **Establishment of Quorum** – *Mary Penn*

Crawford	Tom Cornford, 3 rd Vice Chair (XCom)	excused	Rock	Ben Coopman, Alternate	
	Rocky Rocksford			Wayne Gustina	x
	Vacant			Alan Sweeney, 1 st Vice Chair (XCom)	x
				Terry Thomas (was excused, arrived 10:53AM)	x
Dane	Gene Gray, Treasurer (XCom)	x	Sauk	Marty Krueger, Alternate	
	Jim Haefs-Fleming	x		Carol Held	x
	Chris James	x		John Miller	x
				Dennis Polivka, Asst. Secretary (XCom)	x
Grant	Gary Ranum	x	Walworth	Jerry Grant	x
	Vern Lewison			Richard Kuhnke, 4 th Vice Chair (XCom)	
	Robert Scallon, 2 nd Vice Chair (XCom)	excused		Allan Polyock	
Iowa	Charles Anderson, Secretary (XCom)	excused	Waukesha	Karl Nilson, Chair (XCom)	x
	William G Ladewig	x		Richard Manke	x
	Jack Demby	x		Fritz Ruf	x

Others present for all or some of the meeting:

<ul style="list-style-type: none"> Mary Penn, WRRTC Administrator Ken Lucht, WSOR Eileen Brownlee, WRRTC Attorney Chuck Bomgard, MSA Vicki Breunig, Village of Sauk City Administrator 	<ul style="list-style-type: none"> Frank Huntington, Roger Larson, Marty Morin, Ron Adams, Lia Bonneville, WisDOT Forrest Van Schwartz William Wenzel Alan Anderson, Pink Lady RTC
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3. Action Item. **Certification of Meeting’s Public Notice** – *Noticed by Penn*

- Motion to approve public notice of meeting – *Sweeney/Ruf, Passed Unanimously*

4. Action Item. **Approval of Agenda** – *Prepared by Penn*

- Motion to approve agenda – *Polivka/Manke, Passed Unanimously*

5. Action Item. **Approval of draft January Meeting Minutes** – *Prepared by Penn*

- Motion to approve draft January Meeting Minutes – *Gustina/Ruf, Passed Unanimously*

Karl Nilson made a correction to the draft January minutes, noting that the word “Berrian” on the top of page 2 should be “Barron”.

6. Updates. **Public Comment** – *No Comments Reported*

7. Updates. **Correspondence & Communications** – *Discussion may be limited by the Chair*

Penn told the Commission that she had received an email from Nancy Griego, who worked for the WRRTC in the past, regarding unclaimed property attributed to the WRRTC. Ms. Griego’s email contained the parcel number and instructions on how to investigate the possibility. She suspected that the parcel in question was in Fennimore, probably Mr. Nick Kramer’s law office. Penn said she would look into it and let the Commission know if she found anything. Penn next related the content of a phone conversation she had had with Mr. Dan Deneen on his frustrations associated with his crossing permit. Next Penn said she had received an email from Kim Tollers, WDOT regarding a potential crossing application which may or may not come up on a future agenda. Penn also distributed a handout from Forrest Van Schwartz who explained that it was an article discussing new freight car orders in relation to the American economy.

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8. Updates. **Announcements by Commissioners – No Discussion Permitted**

Nilson explained this new agenda item, saying it was an opportunity for commissioners to give any announcements they believed would be topical to the WRRTC and/or their counties and that no questions (other than location or time, for instance) could be asked during this agenda item. He added that he had received confirmation from Eileen Brownlee, WRRTC Attorney as to the legality of this item. As an example, Nilson announced that the Model Train Show in Madison will be next weekend.

REPORTS & COMMISSION BUSINESS

9. **WRRTC Financial Report – Jim Matzinger, Dane County CPA / WRRTC Accountant**

Jim Matzinger distributed the treasurer's report, highlighting some items for closing out 2012 and presenting the bills.

- Motion to approve Treasurer's Report and Bills – Gray/Ruf, Passed Unanimously

10. **Wisconsin & Southern Railroad's Report on Operations**

Ken Lucht reported a number of current bridge projects in the Commission's area, saying there is some work east of Avoca on its bridge. Winter is typically the time for rail and engine maintenance and switch cleaning.

On Capital Projects, Lucht said that WSOR had submitted 5 projects, including the rehabilitation of track between Madison and Oregon (for the Lycon Redi-mix facility) coming to Class 2 standards, tie replacement on about 33 miles the Watertown line between Madison and Watertown, the installation of about 32 miles of welded rail between Waukesha and Milton (a continuation of a previously funded project and is a 3-4 year project). Lucht said this line is critical due to turn around time restrictions for WSOR getting to and from Chicago. He said the Prairie du Chien sub has had an influx of business and there are no passing lanes on that sub. Therefore, WSOR has submitted an application for an 880' passing track. Lucht said there are currently some stretches that would be suitable for this. Finally, they have submitted an application for bridge work as there are 65 bridges rated Priority 2 needing work (Priority 1 is out of service; 6 is good condition). These applications were submitted February 1st and were for over \$50M over a number of years. Lucht added that WSOR had some previous applications in that they were still waiting on to hear if they were awarded (including welded rail on the Fox sub).

Lucht then informed the Commission that WSOR is now on its 6th sand train heading to a UP train going to Texas. This is the 6th train since November. Since WSOR's 2013 revenue will be lower due to lack of grain shipment (representing about 30% of their business), Lucht said WSOR was hopeful that sand and northern district traffic (military trucks) would help make up the loss.

Gary Ranum asked where the projected passing track areas might be but Lucht said they have not been identified yet. Ranum also wanted to know the number of cars hauling out of Prairie du Chien. Lucht said there were about 100 to 110 cars, traveling at 10 to 25 mph on the sub. Jack Demby asked if Lucht if he knew about increased mining in Crawford County. Lucht said WSOR was aware of it but were on the outside of the discussion to date. Demby said it would be nice to bring some numbers to the Riverway Board and Dennis Polivka said that he understood that sand coming out of Grant County was being trucked to Iowa for cleaning. Gene Gray asked about car size and for an update on an issue with a grain elevator in Mazomanie. Chris James also asked about this.

11. **WRRTC Administrator's Report – Mary Penn, WRRTC Admin.**

Penn passed around a handout highlighting those Commissioner's whose terms ended in 2013 and asked that they check with their respective counties as to their appointments, pointing out that knowing in advance a potential Commissioners contact information was very helpful. She also told the Commission she had emailed and mailed copies of the 2011 WRRTC approved audit report.

12. **WDOT Report– Frank Huntington, WDOT**

Frank Huntington commented on the Mazomanie grain business asked about in Item 10 saying the business was not awarded a loan. He then said there are a lot projects going on in the state, including the acquisition of the Reedsburg line. He reported that WDOT had received the appraisal, the review of which is almost complete. WDOT hopes to start discussing a price with the seller in about another month.

He next reported that a project between Plymouth and Kohler has had its preliminary work completed and hopefully bids will be sent out in late summer, adding that most of the work should be done by late 2014. He noted that about 60 bridges are in need of work. In regard to the budget, WDOT has submitted its budget to the Governor asking for \$60M for the next 2 years which would return funding to previous year's funding levels. However, WDOT will not know until the budget is adopted.

In regard to applications for grant funding, Huntington said the City of Baraboo has submitted an application, in addition to those submitted by WSOR as highlighted by Ken Lucht. He noted this was one of a few projects not submitted by WSOR.

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Bill Ladewig asked if money had been set aside for the Reedsburg purchase and Huntington said the WDOT had not but hoped that the new budget will provide necessary funding. Huntington said their goal is to get a price negotiated so the budget can reflect that. Gray asked about the funding for acquisition and Huntington said it would be paid via bonding, not through any budget surplus.

13. UW- Madison Freight Rail Study Presentation– Forrest Van Schwartz

Forrest Van Schwartz presented the UW-Madison freight rail economic impact study to the Commission via a PowerPoint, explaining the background of the project, the needs driving it, and the people involved in its creation. He explained the need for the study and how and when study objectives were met including the survey of participants. He told the Commissioners that they would get a hard copy and said it was important to “get the word out” on the study, adding that the study would be available on the WRRTC website. He asked the Commission to help “talk up rail” and bring the study to their counties and commissioners, emphasizing how important rail is to the state’s economy.

John Miller asked about the types of companies in the study and Van Schwartz said all the surveyed companies and their information were in the study’s appendix. Ladewig asked if there were any negatives associated with the study and Van Schwartz said some companies commented on rising rail rates, saying this was due to railroads being over capacity. Demby asked whether the loss of gas tax (from trucks) had been taken to account to the figures. Nilson pointed out there were hard copies for each commissioner and one for each county; Van Schwartz said the study was also available on CD.

Nilson called a break at 11:14. The meeting reconvened at 11:24.

- Motion to accept freight rail study as presented – *Grant/Ladewig, Passed Unanimously*

After reconvening, Ladewig reminded the Chair that the item #13 on the agenda was an action item and they needed to take action on it. The Commission returned to item #13 to do the motion.

14. Village of Sauk City Track Request to Remove Track between ROW at Intersection of Monroe and Van Buren Streets With Understanding That Track to be Reinstalled If Line Is Reactivated – Kathy Jennings, MSA

Sauk City asked for permission to remove a segment of rail (a crossing) in the Village. Chuck Bomgard of MSA, presenting on behalf of the Village of Sauk City, distributed a handout showing the location of crossings in the Village. Bomgard said that once the Wisconsin River Bridge was removed, the Village requested the removal of a rail crossing on Jefferson Street that was granted (with stipulation that if rail be returned the crossing would be replaced). The Village has gotten permission to remove rail on a other crossings, including the removal of #2 and #3 as shown on the distributed diagram. For those removals, the Commission asked the Village to put up a bond. The Village did not want to put up the money, considering that their word was their bond and instead wanted to use agreements, backed by resolution. Bomgard, referring to his handout showing photos of the requested crossing, said that the Village’s would return the crossing to rail if rail returned in the future. He said that this was simply a request to work on their streets under similar conditions that had been made in the past, adding that Prairie du Sac had made a similar request in 2011 that had been granted.

Nilson asked if Lucht had any comments on the issue. Lucht told the Commission that the cost to put the crossing back in was \$1300 per foot. Lucht said that four crossings had been removed so far and this is the fifth request, adding that this is a substantial amount of money. He said due to the potential acquisition of the Reedsburg line from UP and the hope that the state budget would give WSOR the funding for this, WSOR would have to wait for a “couple of pieces”. He acknowledged that with the possibility of some of this corridor becoming trail, this request may be moot. Ultimately, WSOR wants to see continued public access into the county. Polivka asked about the timeline and Bomgard said the project would be out to bid this month and thus it was important for the Village to get this resolved in a timely manner. Bomgard said he thought the \$1300/foot was high based on his own experience with other clients. He said the Village had the money to replace the crossings if necessary. Polivka asked if the Commission was close to knowing whether the line will be acquired should the acquisition be approved. Ranum asked if the reestablishing this line included the bridge and stated that would cost a great deal more in comparison to the costs associated with a crossing. Lucht said getting the bridge back in is a county issue. Huntington said there were scenarios that could present a need for rail on the north side of town but those were unknowns. Carol Held said that her community had a similar experience with a crossing that was replaced. Brownlee said her main concern was the ability of the Village to re-pay and she assumed that this would show up as a village liability and asked what would be that value. Vicki Breunig said that the Village had the money available and it was budgeted. Breunig had also checked with the Village of Prairie du Sac, saying that the exact same agreement was agreed to by the Commission last year and that was one much more lenient in terms of the costs and liability. She said the crossing is important in terms of safety for car and truck transportation but understood the potential issues, but based on the Village of Prairie de Sac’s agreement was asking for permission. Brownlee said the concern is the number and noted that she had spoken with the Village’s attorney. She said all of the crossings could come in at the same time. Breunig said that this would also be true in Prairie du Sac. Nilson said the potential (of rail returning) is getting better. Lucht asked if there was a crossing approved in 2011. Breunig said there was and had the agreement with her. She said the Village is

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simply asking for the same agreement. With an early bid process, the Village gets a better bid which is why they wanted permission now. Demby asked if they do not show this on their municipal books it might not be binding. Brownlee said she just wondered what the Village was carrying (liability) since it is by Village resolution and is not a note or a mortgage obligation and therefore not necessarily binding: the Village is asking to be accepted on good faith. Brownlee asked if the Commission was satisfied that if the permit was approved under contingency that the cost of reinstalling the crossing becomes the Villages's responsibility, does the Village have the money to meet the obligation. Jerry Grant asked what the cost was to put the crossing into road traffic. Ranum said that since they got permission to remove the bridge, would that not show no need for track in the foreseeable future as a viable line. Richard Manke asked if this went to rails-to-trails wouldn't that make it even less likely to go back to rail. Van Schwartz said that is not true: the railroad could come back on request. Nilson said if the Village signs an agreement proving that they will replace the crossing that would be sufficient.

- Motion to approve the removal of the crossing in Village of Sauk City – *Ruf/Gray, Passed Unanimously*

15. Renewal of Lamar Lease (Panel #11531, 11541) on Route 12, McHenry County, Illinois – Mary Penn, Admin, Eileen Brownlee, Corp. Counsel

Brownlee explained that she had received this lease from Penn and had been asked to review it. She explained the location and conditions of the existing lease. She said Lamar had sent a new lease proposal that she had problems with throughout almost the entire document, saying there were many points that in the proposed lease that made it extremely favorable to the renter and her response to all of it was “No”, adding that it was not worth it at \$500/year. Alan Sweeney asked that Brownlee author a Commission lease and send it to Lamar. Ladewig suggested sending the old lease. Ruf said “Just say no” and Terry Thomas concurred. Roger Larson commented that this might come under the “Lady Bird” Act and the company may be looking for a less stringent situation. Brownlee said her biggest concern was that the lease is dictating to the Commission rather than on the company's part. Huntington said he believed the property was bought back in the 80's and in the mid-90s Lamar came and asked for significantly less rent and the Commission agreed, adding that the rent is probably about \$800 – \$1000/year now.

- Motion to refuse renewal of the lease of Panel #11531, 11541 on Route 12, McHenry County, Illinois – *Ruf/Gray, Passed Unanimously*

Grant said if there was enough money involved, Lamar can come back to make another offer.

16. Discussion and Possible Action Regarding Removal of Track Infrastructure in the Badger Army Ammunition Plant – Frank Huntington, WDOT

Huntington said there had been an agreement in the past turning the track over for trail purposes due to WDOT having an easement stipulating either rail or trail. There was a requirement that if neither came up then the track could be removed. He said he had met with the Sauk County Board. The Board took action supporting the turning of track into trail once the Reedsburg line is acquired. Huntington said he suspected that the Reedsburg line acquisition may be a fact. He said he had spoken to WDNR and WSOR and hopefully this will be resolved within the next couple of months.

17. Appointment of Forrest Van Schwartz as Pro Bono Consultant to WRRTC After Completion of the UW Economic Study – Karl Nilson, WRRTC Chair

Nilson said he had asked Van Schwartz to act as a consultant to the WRRTC because since the railroad is doing well and the Commission is bigger and busier than ever, the Commission needed all the expertise it could get. He added that he had asked Van Schwartz to be a resource to the Commission with Brownlee's legal review. Nilson asked if this would need to be renewed every year. Brownlee said this would depend on the motion and would be a sort of ad hoc thing. Nilson said this way he (Van Schwartz) can sit at the table and that it would be nice to get the input from a railroad expert: that was the logic behind the agenda item. Polivka asked Van Schwartz for his credentials and Van Schwartz said he had handed out a copy of his resume to the Commissioners and had 45 years of experience in railroading, including 10 years on the WRRTC. Van Schwartz said he had certainly learned about the political side of railroading. He then gave some more background as to his work on Wisconsin railroads since 1969. He said his company is very committed to giving back to others (he mentioned museums and transportation research boards) and said that he was here to tell the truth and sometimes that would not be what some want to hear. Polivka said he appreciated knowing the facts. Held commented very favorably as to his qualifications.

- Motion to appoint Forrest Van Schwartz as a pro bono consultant – *Ladewig/Held, Passed Unanimously*

18. Discuss members' upcoming local spring elections and WRRTC membership terms

Penn said she had already handed out the piece showing the appointment dates during her Administrator's Report. There was some discussion about upcoming county elections (it was noted there are none this year) and the need for appointments to the Commission. Richard Manke said he was not going to be reappointed. Nilson thanked Manke for his service.

19. Action Item. Adjournment

Motion to adjourn at 12:11 – *Gustina/Ruf, Passed Unanimously*