

WISCONSIN RIVER RAIL TRANSIT COMMISSION

EXECUTIVE COMMITTEE MEETING - FRIDAY, SEPTEMBER 6, 2013 @ 10AM
 DANE COUNTY HWY GARAGE, 2302 FISH HATCHERY RD, MADISON, WI

1. 10: 01 AM **Call to Order** – *Karl Nilson, Chair*

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

Crawford	Tom Cornford, 3 rd Vice Chair (XCom)	x	Rock	Ben Coopman, Alternate	
	Rocky Rocksford	x		Wayne Gustina	x
	Vacant			Alan Sweeney, 1 st Vice Chair (XCom)	x
				Terry Thomas	
Dane	Gene Gray, Treasurer (XCom)	x	Sauk	Marty Krueger, Alternate	
	Jim Haefs-Fleming	x		Carol Held	
	Chris James	x		John Miller (10:03)	x
				Dennis Polivka, Asst. Secretary (XCom)	x
Grant	Gary Ranum	x	Walworth	Jerry Grant	
	Vern Lewison			Richard Kuhnke, 4 th Vice Chair (XCom)	x
	Robert Scallon, 2 nd Vice Chair (XCom)	x		Allan Polyock	
Iowa	Charles Anderson, Secretary (XCom)	x	Waukesha	Karl Nilson, Chair (XCom)	x
	William G Ladewig			Dick Mace	
	Jack Demby			Fritz Ruf	

Executive Committee met quorum.

Others present for all or some of the meeting:

<ul style="list-style-type: none"> • Mary Penn, WRRTC Administrator • Troy Maggied, SWWRPC • Forrest Van Schwartz, pro bono Consultant • Ken Lucht, WSOR • Kim Tollers, Frank Huntington, LeAnna B Wall, WDOT 	<ul style="list-style-type: none"> • Tom Stetzer, Strand Associates • Jeff Maloney, Vandewalle & Associates • Jeff Kramer, Kramer Development • Aimee Bauer, Key Commercial Real Estate LLC • Mike Davis, Mark Opitz, City of Middleton
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3. Action Item. **Certification of Meeting’s Public Notice** – *Noticed by Penn*

- *Motion to approve public notice of meeting – Gustina/Cornford, Passed Unanimously*

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

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

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

- *Motion to approve draft August Meeting Minutes with corrections – Kuhnke/Gray, Passed Unanimously*
 - *“minutes” in header*
 - *Item 11, ¶ 7, 5th sentence, “TIGER VI” to “TIGER V”*
 - *Item 12, ¶ 3, 1st sentence, “either” to “eight”*
 - *Item 15, ¶ 2, 16th sentence, “he here – “there”*
 - *Item 15, ¶2, 17th sentence, “fencib” – “fencing”*
 - *Item 15, ¶2, 2nd to last sentence, “Van Schwab” – “Van Schwartz”*

6. Updates. **Public Comment** – *Time for public comment may be limited by the Chair*

No public comments.

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

Penn distributed handouts from Forrest Van Schwartz. They included one from the Wisconsin State Journal (“Judge sends rail crossing closings back to agency”) and another from Railway Age (“Despite crude strength, U.S. freight traffic slips”). He talked about the Freight Rail Day event, distributing a draft agenda of the event and recommended the Commissioners attend. Van Schwartz said that he had not heard anything from the attorneys’ or landowners on the Spring Grove property issue, adding that “no news is good news”.

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

No announcements

REPORTS & COMMISSION BUSINESS

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

Gene Gray gave the treasurer’s report, saying there was only one bill to pay Dane County Highway for \$201.81. He said Jim Matzinger would be back next month.

- *Treasurer’s Report for August and Payment of Bills – Anderson/Sweeney, Passed Unanimously*

10. **Wisconsin & Southern Railroad’s Report**

Ken Lucht gave his report, saying that the rail detector car had been out on and there had not been any major defects found to date but WSOR would be replacing rail on some of the lines, particularly those with non-welded rail. There was also some bridge work being done, including one on the Prairie sub. For some of the bridge work, WSOR is hopeful that some grant dollars will be available so they can begin asking for bids.

In grain, Lucht said most seems to have been shipped to market, finishing off last years crop and new grain is now being harvested and shipped. Lucht said WSOR expected grain shipments to pick up dramatically in September and October. He said that steel (scrap) is also moving. He said that WSOR was still training its new summer hires and said in 4th quarter 2013 WSOR will be hiring 12 more people.

Lucht said the TIGER V application was not granted, with no money was awarded to Wisconsin at all. He said if there is a TIGER VI offer WSOR might pursue it, reexamining their approach to find improvements to the application and he thanked the Commission for their support on the application.

In regard to the Wisconsin State Journal handout passed out during Item 7, Lucht said that the order to close some crossings had gone back to the Commissioner of Railroads for reassessment. He said that it had been alluded that WSOR had tried to persuade the COR, an allegation that WSOR was taking very seriously.

Sweeney asked about the proposed quiet zone in Milton and Lucht said that while he had spoken to the Mayor, he was not aware that an application had been made. He added that the municipality would have to submit a petition to begin the quiet zone process. Lucht said most of the process is between the municipality and the Federal Railroad Authority (FRA) and that WSOR was supportive of quiet zones and worked with municipalities to create them. Frank Huntington said Tammy Wagner at FRA is the contact.

Gene Gray asked Lucht if, through the rail detector car, the number of defects had gone down. Lucht said they had gone down as maintenance had gone up and Continuous Welded Rail (CWR) is being installed. Gray also asked if there had been an additional new WSOR hires, not counting the 12 for 4th quarter previously mentioned. Karl Nilson asked how people could apply for jobs and Lucht said the WSOR website is where a person could apply. John Miller asked if a person was hired as conductor would they work in “regular” area or all over Wisconsin. Lucht said that it was in a regular area but employees could bid on jobs, with those with more seniority getting preferential choice to those employees who were newer hires. Lucht said a person could train anywhere in their system but were assigned to certain areas. Nilson said the conductor is the “train boss” and the engineer drove the train under orders of the conductor.

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

Frank Huntington said there have been ongoing negotiations with UP on the Reedsburg purchase with progress being made. He did not want to go into the price but said that they were “getting close” to an agreement. As a result of this purchase, he said WDOT had been holding back on their grants although they would move forward with some, such as projects in Baraboo and between Fitchburg to Oregon.

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He said WDOT also was moving ahead with several loan projects including one in Cambria (in Gideon), one in Blair for a grain facility, one in Oconto Falls, and one in Zenda for a grain elevator.

Huntington said there was one property issue that WDOT had moved ahead, giving approval on the Spring Green Royal Bank project. This property was very close to the ROW. He said WDOT gave approval because the project would improve the situation. He noted the property is outside the 33' ROW centerline and while typically WDOT would have brought the issue to the Commission's attention, due to timing WDOT agreed to the work although Huntington noted WDOT has not given final approval yet. He also mentioned another current project, a depot that was having some work done but it was all within their easement area.

Lastly, Huntington mentioned the railway WDOT meeting in November and reiterated an invite to the Freight Rail Conference mentioned in Item 7.

12. WRRTC Administrator's Report – Mary Penn, WRRTC Admin.

Penn reported she had fixed problem with the WRRTC website and past meeting minutes, agendas, and treasurer reports were once again available.

13. Possible Creation and Distribution of WRRTC Information Brochure – Mary Penn, WRRTC Admin.

Penn explained to the Commission that she had been given a newsletter/information brochure from Ken Lucht which she had brought initially to the August meeting as part of her report. She told the Commission that if they wanted such a marketing piece, they would have to tell her who the audience would be, the number of times per year it would be produced, and they would have to supply content. There was discussion about the need for such a piece. Van Schwartz suggested that instead of a paper copy, Penn should post news and information relating to the Commission and railroading in general to the WRRTC website.

- *Motion to have Penn add a news tab to the WRRTC website; Sweeney/Polivka, Passed Unanimously*

14. Spring Green Royal Bank ROW Encroachment During Remodel – Frank Huntington, WDOT

Penn distributed handout relating to the issue. Frank Huntington said that WDOT once sure there was no excessive drainage on the site, gave a permit with the provision that there would be no issues with the 0' setback on the ROW. He also said the permit stipulated that the work would not impact or impede WSOR or WDOT needs. Nilson asked if WSOR was ok with the project and Lucht said there was no issue.

15. Presentation and Discussion: City of Middleton Hwy 12 Road Connection Project Involving ROW Encroachment – Tom Stetzer, Strand Associates, Inc.

Tom Stetzer of Strand Associates, Inc. introduced the others presenting on the issue and explained the problem the City of Middleton was trying to address. The City was proposing to construct a roadway on the railroad ROW under the USH 12/14 bridge. He said that the distance of the road is 35' from the centerline of the railroad track. He also described what the City wanted to pursue as a way to address their traffic needs. Jim Maloney, Vandewalle Associates, said they had met with WDOT on issues relating to the access control on USH 14. He explained that access has changed on University Ave. and said the City wanted to connect downtown to Greenview and was trying to bridge the gap over/under the beltline. He said there is potential for much development. Nilson asked for clarification on the layout and Gray asked if there were any plans in the concept state west of Demming Way. Maloney said it would only go as far as Demming Way because the parcel becomes small and there was no proposal for a bike trail in this project. Van Schwartz asked if they were going to fence the railroad ROW and Maloney said they could discuss that although it was not on the drawing board yet. There was further discussion on the clearance of the bridge. Stetzer said he understood the ROW width was 99' and the road would encroach 15' onto the rail ROW for a short distance under the USH12/14 bridge, adding that by the time it reached the Mill property they would be out of the ROW. He said the piers were 30' from the centerline on the north side of the track and the proposed roadway would be outside of the piers; on the S side it was approximately 35' to 40' centerline to pier. Nilson asked if the piers were the first solid thing that was met. He was told that they were. It was also discussed that a proposed sidewalk was inside the piers and would be 24' from the centerline of the track.

Huntington asked what other access points were being looked at and Maloney said for this proposal it would all be current access. Huntington then asked about current and future access along the Lycon site. Stetzer and Maloney answered questions regarding access. Mike Davis, City of Middleton Administrator, said having sidewalks along this proposal was very important to encourage traffic between University and downtown and also noted that it would relieve traffic congestion. Kim Tollers asked about the Estimated Daily Traffic (EDT) and Stetzer said it was just under 30,000; on Terrace Ave it was 1500; on Highpoint it was 5,000. Tollers then asked if they were aware that the proximity of the new intersection to the tracks created a crossing site problem that was potentially hazardous. Stetzer acknowledged there was a site issue at the intersection. Chris James asked about locating the sidewalk on a terrace on the north side of the roadway and suggested splitting the retaining the wall, asking if it were stepped would that work for the sidewalk. Stetzer said they did not yet know if they would have the room but Maloney said it was a good idea. Van Schwartz

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said there was a good example of what they were proposing in an area east of John Nolan. It was stated that the road and sidewalk would stay out of the ROW except for the segment under the USH 12/14 bridge. Mark Ovitz said that long term the City would like to see this area opened up to try to connect the project area to the downtown area.

Gary Ranum asked if the Commission had been saying it did not want anything to come inside the piers and Van Schwartz said it would depend on the width of the ROW. Nilson said the issue is that the piers were already within 30' of the track centerline and that the sidewalks would come further in. Lucht said that WSOR does not want to consider anything between the line and the piers and encouraged the group to look at different options. Asked by Lucht as to a potential start date, Jeff Kramer, Kramer Development, said the ideal start date would be next summer. Lucht then asked what the next steps would be as they already had access to the site. Kramer responded that they were concerned that west bound traffic would be locked from the site. He said it was critical to get people in and out of the downtown. He added that if the Commission were to give approval, the City would continue to work with the developers to rezone properties. In response to a question about the future of Lycon, it was stated that there was no timeline set as to when or whether Lycon would leave.

James asked if they could meet ADA requirements and the suggestion of a pedestrian underpass (under the railroad and track west of the US 12/14 bridge) was discussed. Nilson said "anything outside the piers is ok". Huntington cautioned the Commission, saying WDOT needed to get word on approvals addressing how the project would affect the piers and the US 12/14 bridge. Nilson said they were not going to be taking any action today. John Miller asked about where the pedestrian crossing might be and suggested another location. Charles Anderson asked with such a narrow street why not make it a one way and what would the City do with winter snow removal. Stetzer said it was a short span and snow would have to be moved and it would be a maintenance item the City would have to address. He agreed that it was a narrow street and with the suggestions given they could take another look at options. Gray talked about pedestrians and safeguarding the railroad from pedestrians. Ranum concurred and said there was general consensus that people will not walk a long distance to stay on a sidewalk. Van Schwartz said to "seal off the railroad corridor" for safety.

Lucht asked for an update on the Good Neighbor Trail. Mike Davis, City of Middleton, said the connection would be on a property the City wanted to annex. He said the section of the Welton property to the Capitol Brewery could be accommodated outside the rail corridor. Lucht then asked about benefits of the project to the Commission or WSOR or would it be for public benefit. Davis said it would reduce trespass and minimize traffic load on HWY 14.

Nilson called a 10 minute break at 11:12 AM
Meeting reconvened at 11:24 AM

(Tom Stetzer and others presenting on Item 15 left during the break.)

16. Encroachment and Corridor Sharing policy development – Karl Nilson, WRRTC

Nilson handed out an example of a RR Encroachment application form given him by Van Schwartz. Van Schwartz reminded the Commission that there are many encroachments coming up and said he had been looking for a standardized process to address encroachment requests. He emphasized that any process should require advance notification and that he had looked for examples of a state DOT with a written ROW encroachment policy. The example distributed was the North Carolina DOT application for the state agencies to consider encroachment. He said North Carolina was the only state mentioning encroachment in their railroad plan, adding that North Carolina's plan called for blanket protection for active rail. Nilson asked if this form was for inactive rail and if the railroad had the final say. Van Schwartz said the state owned the major railroad. He gave some background on it, adding that it was now a major corporation, noting that it was not under NCDOT control. Van Schwartz said he hoped the example would become a common standard for any encroachment. He added that in the case of the Spring Grove property issue, his attendance, mileage, printing, etc. cost the Commission \$400 and the Commission should have this information brought to it, not the Commission to encroachment requestors. He said with all the encroachments coming up, part of the process should include an application and a fee. Nilson said that if there were a formal process it might make people think that if they went "through the hoops" they could expect approval. Sweeney said he thought the application could include a process of approval or denial which would help the applicant understand the process. Huntington reminded the Commission that the Commission only had authority inside the 33' and outside that WDOT could permit. Nilson then said should all encroachments be referred to WDOT. Huntington said most encroachments did come through WDOT and WSOR before they came to WRRTC. Van Schwartz said the 33' from centerline should be public information and that that information should be part of a package for an applicant. He said WDOT could put in writing what would be helpful so applicants would not waste anyone's time on what the "ground rules" were. Huntington said up to now there had not been an abundance of formal requests so there was not anything in writing. He said something more formal could be done but that might engender more administrative rules.

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There was more discussion on whether or not it would be helpful to have a more formal process. Charles Anderson asked Lucht if WATCO had a standard form for encroachment. Lucht said they did not but WATCO owned most of their lines and there was only one encroachment for recreational purposes on an inactive line. He said there was an informal process, not a formal one. Lucht added that he had been told to cooperate, noting that WATCO did not get these requests on the rest of their lines. Ranum said if there were a fee it would separate the pretenders from the active applicants. Tollers said an application would require administrative fees outside the 33'. Van Schwartz said that the cost was to the WRRTC. Tollers agreed that applicants could bring their own copies. Nilson said that he envisaged a 3 item form consisting of 1) no encroachment within 33', 2) don't like it? Go to #1, #3) over 33' got to WDOT, but he said that if Penn needed to make copies or there were additional administrative duties there should be a fee. Huntington said that there would only be a cost if it were in Illinois. He said WDOT did issue permits within the 33' if it was in a pinch point, adding that the 33' was in the Commission's agreement and within the 33' there needed Commission approval; outside 33' was up to the WDOT. Van Schwartz asked if anything within 33' went to WDOT and Huntington said yes. He also said that WSOR needed to be on board as they carried the insurance. Troy Maggied, SWWRPC, said that for a permit, the fee was for administrative purposes but there was no financial value for the administrative services. Nilson said that a permit implied you could buy something. Van Schwartz said it could be an application fee.

Lucht said the reason he was concerned about the growing encroachment requests was the definition of "pinch point". He said he was not sure what the WDOT thought was a pinch point and gave the example of the Goodman Trail as an example of a widening definition of "pinch point". He said he would like to examine the word "pinch point" because that could lead to an examination of all possible solutions to encroachment issues. He added he would like to see guidelines for recreational safety impacts and rail impacts due to encroachment. He said there needed to be more benefits from an encroachment and said applicants could build benefits into their applications so the railroad got some benefit out of it. Lucht said he thought they needed to be firm on the 33' of the centerline, and that WSOR appreciated the help from WDOT. Polivka said the 33' was a necessity and being able to define it would be helpful for applicants to know. Ranum noted that there were situations when an exception was required but in cases of convenience (i.e. Goodman Trail) the impact on safety was critical. Gray said in the case of denial they could educate applicants. There was more discussion on the issue of safety and the question of safety perception. Nilson said for now their policy would be to continue what they were doing and the Commission would not be creating an application. He said the Commission would continue to talk about the issue and said he did not want to pursue a permitting process with a fee as it implied an applicant getting permission.

Lucht asked Huntington and LeAnna B. Wall about pinch points and if WDOT thought the current applications were pinch points. Huntington said in the Goodman Trail all the trail was outside 33' except for one point under the bridge. He said the City was making the argument that if they could not build the trail along the corridor the funding would "go away" and said that the City had gone to extreme measures to stay out of the corridor. He said WDOT had not indicated what a pinch point was and they would look to WSOR for guidance because they carried the liability; WDOT was not giving ultimatums. He said the Secretary did not tell WDOT to change how they addressed encroachments. Huntington said his expectation was that WDOT would use WSOR's recommendation on any particular encroachment.

17. Consideration and Possible Approval of 2014 WRRTC Budget – Mary Penn, WRRTC Admin.

Sweeney said he had been asked for a number for Rock County's county contribution and Gray said that Jim Matzinger had made the budget but was not at the meeting due to summer hours. Gray recommended Matzinger be at the meeting adopting the budget. He said that there were some items he would like to see on the budget.

- *Motion to Table the Budget Approval and Inform Commissioners the County Contribution will not exceed \$28,000 in the 2014 budget - Gray/Sweeney, Passed Unanimously*

18. Action Item. Adjournment

- *Motion to adjourn at 12:02, Cornford/Gustina, Passed Unanimously*