

WISCONSIN RIVER RAIL TRANSIT COMMISSION
 COMMISSION MEETING - FRIDAY, AUGUST 7TH, 2015 @ 10AM
 DANE COUNTY HWY GARAGE, 2302 FISH HATCHERY RD, MADISON, WI

1. 10: 00 AM **Call to Order** – *Alan Sweeney, Chair*
2. Roll Call. **Establishment of Quorum** – *Mary Penn*

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|-----------|--|---------|----------|--|---------|
| Crawford | Tom Cornford, 2nd Vice Chair | excused | Rock | Ben Coopman, Alternate | |
| | Rocky Rocksford | excused | | Wayne Gustina | x |
| | | | | Alan Sweeney, Chair | x |
| Dane | Gene Gray, Treasurer | x | Sauk | Terry Thomas | x |
| | Jim Haefs-Fleming | excused | | Marty Krueger, Alternate 10:06 | |
| | Chris James, Vice Secretary | excused | | John Deitrich | |
| Grant | Gary Ranum | x | Walworth | John Miller, Vice Treasurer | x |
| | Vern Lewison | excused | | Dave Riek | x |
| | Robert Scallon, 1 st Vice Chair | excused | | Kevin Brunner | x |
| Iowa | Charles Anderson, Secretary | x | Waukesha | Richard Kuhnke, 2 nd Vice Treasurer | x |
| | William G Ladewig | x | | Allan Polyock | excused |
| | Jack Demby | x | | Karl Nilson, 4 th Vice Chair | excused |
| Jefferson | John David | excused | | Dick Mace | x |
| | Laura Payne | x | | Carl Pettis | x |
| | Augie Tietz, 3 rd Vice Chair | excused | | | |

Commission met quorum.

Others present for all or some of the meeting:

- Mary Penn, WRRTC Administrator
- Ken Lucht, WSOR
- Kim Tollers, WISDOT
- Dave Simon, WISDOT
- Alan Anderson, Pink Lady 10:07 AM

3. Action Item. **Certification of Meeting’s Public Notice** – *Noticed by Penn*
 - *Motion to approve posting of meeting – Gustina/Ladewig, Passed Unanimously*
4. Action Item. **Approval of Agenda** – *Prepared by Penn*
 - *Motion to approve amended #2 agenda – Riek/Kuhnke, Passed Unanimously*

There was discussion on the clarification on the correct agenda due to the two amended agendas.

5. Action Item. **Approval of draft July Meeting Minutes**– *Prepared by Penn*
 - *Motion to approve July meeting minutes with corrections– Mace/Thomas, PA*
6. Updates. **Public Comment** – *Time for public comment may be limited by the Chair*
 There were no public comments.

7. Updates. **Correspondence & Communications** – *Discussion may be limited by the Chair*
 Penn distributed the article submitted by Forrest Van Schwartz and reported on the correspondence she had addressed since the last meeting.

8. Updates. **Announcements by Commissioners** – *No Discussion Permitted*
 There were no announcements by Commissioners.

REPORTS & COMMISSION BUSINESS

9. **WRRTC Financial Report** – *Gene Gray, WRRTC Treasurer*
 - Motion to approve the June Treasurer Report – Ranum/Anderson, Passed Unanimously
 - Motion to approve the July Treasurer Report – Gustina/Grey, Passed Unanimously

- Motion pay bills – Anderson/Ladewig, Passed Unanimously

Gene Gray said he had met with Jim Matzinger Thursday to discuss the bills and treasurer’s report from June. He said the check writing in the summer issue came up and he said these could be time sensitive. He said they could write up a check to the amount budgeted. Next he talked about the insurance and tax payments. He clarified that Matzinger said that as soon as there was a bill to be paid, he paid it. Grey said they talked about the proposed 2016 budget and the fact that nothing was being raised for counties: it will be very close to last year’s budget. Another issue was the fact that Gray was the “carrier” of information for Matzinger in the summer and it was sometimes hard to interpret the accounting procedures. Grey suggested to Matzinger that he come to the October meeting and give the Commission a workshop on the Commission’s accounting procedures. This would educate them on how the accounting was done.

Alan Sweeney asked Grey if he was asking the Commission to approve both the June and July treasurer reports. Grey said yes and that this would happen again in September.

Sweeney asked for questions on the June treasurer’s report. Gary Ranum said he would have to wait until October for his questions but said that he appreciated Grey’s explanation and said that a workshop in October would be helpful. Grey said it was very important that if you had questions to bring them in.

Ranum asked about the 2015 county payments and if those were reflected in June or July. Grey said they were in the July Treasurer Report. Ranum asked about the money paid in 2015 and whether it was on the 2014 or 2015 projects. Grey said the money came in before they paid the projects. Ranum asked if that were reflected on the Treasurer Report. Grey said it was shown on the July Treasurer Report. Sweeney confirmed this was for 2015 projects. Ranum said that showed income for this year. However, on the income statement “we’re not reflecting that there”. Grey could not confirm. Ranum said this was one of his questions for October. He said if the Commission had all this money from counties, it should be shown on the Treasurer Report. Carl Pettis said there was \$250,000.00 on the 2014 projects. Sweeney asked if this were revenue or expenses. Ranum said it was not listed under revenue or expenses. The only thing reflected was \$7,000.00 in revenue. Grey said \$252,000.00 had been collected. Ranum said he knew that but the budget was not reflecting that. Sweeney said that was two years plus the \$7,000.00. Grey said once the payment to the railroad was made, that amount would be much less. He said ideally if a question came up you should ask that. Sweeney asked if Ranum was comfortable approving the June and July treasurer reports without understanding the issue. Ranum said yes but the reporting was confusing. Grey said he was in the same spot.

Charles Anderson asked about the \$566 employee dishonesty blanket bond dollars to Richgels. Penn said Matzinger and she had this insurance outside of WRRTC. Anderson asked if they already had that through the counties. John Miller wondered if his presentation to Sauk County was not until the end of July or August and wondered if money was entered as it came in or did “they just expect it to come in”. Sweeney said the money was not recorded until it was received. Sweeney said they had never taken a vote on the dollar amount per county: it was assumed all contributions were the same. Mace said if the budget was approved, the Commission was telling the counties what is being asked. It was confirmed that invoices were sent to counties earlier in the year so they could do county budgets.

Grey said there were two bills, one for employee dishonesty blanket bond insurance for \$556, the other was Dane County for Jim Matzinger’s work for \$206.00.

10. Update and Possible Action to pay up to \$16,500 for insurance – Gene Gray, WRRTC Treasurer

- Motion to pay up to 16,500 as an insurance encumbrance - Kuhnke/Mace
- Motion to postpone the item 10 until October meeting – Ranum/Kunhke, Passed Unanimously

Grey reiterated the situation on checks and timeliness and authorizing insurance payments without it. Sweeney said he had explained to Penn that Rock County does encumbrances which gives them authority to pay bills up to a certain amount. He suggested that that language be changed in the future. Ranum asked if this would be annual or continually updated based on the budget. Grey said he would even say he would include the one on McHenry County: taxes. Sweeney suggested that taxes be called an encumbrance for the motion. Mace asked if that needed to be done via action under the motion. Anderson asked if encumbrances needed to be specific to each: taxes and insurance. Sweeney said they needed to be explicit and to the dollar, not a blanket amount.

There was more discussion on encumbrances using Rock County as an example. Terry Thomas said this should be done every year to reflect the costs: when the bills came in “we should do it”. Grey said he concurred with this on the budget as it was a line item but there was not one for taxes. Mace said that needed to be identified on the budget and that they did not necessarily know what the exact amount would be. Sweeney said they could set an amount and if it were more than budgeted, they could take care of that then. Marty Krueger said that was how they did it in Sauk. Sweeney asked Grey to explain this to Matzinger so they could 1) add taxes to the budget and 2) start and enact within the budget an encumbrance tool. Ranum asked if this was for next year and asked for confirmation that budget approval would be in October. Sweeney said yes. Ranum said in the future they should do it in the budget so why not do it this year. Sweeney said they could do that. Ranum asked if they could table this to budget time or would it need to be postponed.

11. Wisconsin & Southern Railroad’s Report on Operations – Ken Lucht, WSOR

Ken Lucht said routine maintenance continued on capital projects. Sidings had been installed for the last of the Continuous Welded Rail (CWR) on the Fox Lake sub and was going very well. He said the Waukesha crossing work was going well with hopefully five crossings completed for next

year and prepping for CWR within the next 5 years. He said the Watertown grant agreement was in place and hopefully that project would be under construction in the next 6 months.

Lucht said WSOR was creating their capital priorities for bridges and tracks and giving those to WisDOT so they could determine which to award and fund for next year. In order for WSOR to get next year's projects active, Lucht said you needed a good 4 to 5 months "to get things set up". He said WSOR did not have a lot of time at this point so the capital bridge priorities had already been given to WisDOT and track would be given in the next few weeks. He said WSOR wanted to get some awarded projects going but still needed grant agreements.

Lucht announced that last week WSOR had showed the Sheboygan sub to a US Congressman and noted that that track should be in service as of October 2015. He said this will also happen in Madison to show the Prairie sub.

Next, Lucht reminded the Commission that the TIGER app had been submitted and WSOR hoped to hear back next month. He also reminded the Commission that this was their fifth try.

At a future meeting Lucht said he wanted to discuss private crossing. With lots of private crossings on the Prairie sub, WSOR wanted to make sure that everyone had access so WSOR would be revisiting that issue to see how to manage those crossings moving forward. He said there were a lot of illegal crossings on that sub but hopefully in the next month or so the Commission could talk about at a meeting.

Sweeney asked Lucht if accurate maps could be brought to the meeting and asked if Lucht wanted to cover this in September since October would be budget month. Lucht said he would do it in September and continue on from there as needed.

Carl Pettis asked if illegal crossings were put in by people who did not know they needed permits or if this was a long term issue. Lucht said it was a "real combination" and the majority were people throwing down gravel and then crossing the track and not meeting standards. Pettis asked if the process of getting a crossing were simple and would applicants get a crossing. Lucht said this happened every year with one just a month ago. Kim Tollers said she could provide some mapping based on FRA crossings reports and she could print those out. She noted that WisDOT also inherited information from Milwaukee Road and said it was almost a case by case basis.

Mace asked Lucht about an excursion tour. Lucht said WSOR was taking ideas and suggested the Prairie sub but noted it was long and remote and WSOR thought a 2-4 time slot might be more desirable. He suggested they contact him and come up with some dates. Anderson asked if they could tour the new Reedsburg sub. Grey asked Lucht about new WATCO acquisitions and their number of miles. Lucht did not know the number of miles and said they were in Arizona, acquired from Union Pacific. He spoke about the WATCO's specialty in short lines and opportunities for growth and said this was another example of that.

Krueger seconded Anderson's suggestion that the excursion be the Reedsburg sub and the Merrimac Bridge as it might benefit everyone. Sweeney and Mace said they liked this suggestion too. Anderson asked more about Watco and what they moved in the southwest US. Lucht did not know but said he would follow up.

12. WISDOT Report—Dave Simon, Kim Tollers, WisDOT

Dave Simon spoke on the budget passing July 12th, 2015. He said \$29.8M was authorized in the budget from the Freight Rail Preservation Program (FRPP), \$14.9 per year for the biennium, and that this was less than they had hoped. He said WisDOT had created a continuing appropriation for FRPP which was a big deal since it was so politicized and said FRRAP was ordinarily funded by bonded money. In order to "prime the pump" WisDOT had moved money from Freight Railroad Infrastructure Improvement Program (FRIIP), hoping that in the future money would be from transportation funds, rather than appropriating. This would make for a less complicated funding scenario.

Simon noted they would collaborate with WSOR on bridge funding and spoke of other applicants who need funding. He said there were some applications for fiscal year 2015 but there were also a bunch of applications from 2014 and 2013 and these projects needed to be addressed. He said he had been informed by WSOR that the Spring Green Bridge was becoming a number one priority.

Simon said WisDOT had made some awards and was trying to get grant agreements in place. He acknowledged there was a slow down due to a staff change although WisDOT had been doing interviews and were trying to replace this staffer by Monday. He said there was a new consultant on board, Frank Huntington, who would be helping them on the FRRAP program. Simon said Huntington brought a lot of experience to the team.

Next, Simon said two FRIIP projects would soon be announced and some FRPP projects as soon as bonding and paper work was complete.

Ranum asked about the Spring Green Bridge and whether it would be completely replaced or just the approaches. Lucht said in February 2014 this project had been submitted for complete bridge replacement (bridge and approaches). He explained what had been done to date on the bridge to stabilize it. He said it was a \$13 M bridge and that WSOR had been working with WisDOT to try to determine scenarios on how to replace it. He said it was the lifeline for the harbor and Prairie and that it was a very busy sub now. There was nothing more to be done on the maintenance and it needed a grant agreement to completely replace it. Ranum asked if it was a TIGER candidate but Lucht said this was a FRPP project. Simon said at this point it was for the approaches and said there may be higher priorities in the system but the approaches had very long spans and were very long and needed immediate attention and those would be the number one priority as WisDOT completed grant agreements. There was discussion on the

difficulties of fixing this bridge. Alan Anderson asked how much of the \$13M would be for approaches. Lucht said half. Simon reiterated WisDOT would be working with WSOR to get the highest priorities funded.

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

Penn reported on her administrative duties of the past month. Sweeney asked commissioners that if they knew they would be missing the September meeting to let her or himself know ahead of time.

14. WRRTC concurrence for an extra width parcel sale to the City of Madison near the N. Shore Drive crossing – Mark Morrison, Railroads and Harbors Engineering Unit Supervisor, Kim Tollers, WISDOT

- Motion to approve with the concurrence be contingent upon the City of Madison's installation of a 110' fence and its financial responsibility for the upkeep for an extra width parcel sale from WISDOT to the City of Madison near the N. Shore Drive crossing– Krueger/Brunner, 7 opposed, 9 approved

Mark Morrison introduced himself and Tollers distributed a handout on the issue. He said this issue came to a head in the past month. The area in question was adjacent to North Shore Drive with a park in this vicinity. He said there had been a lot of new housing in the area and a new sidewalk had been put in. They were going to extend the sidewalk to hook up to the other side. Morrison talked about the trespass issues occurring. He said the issue went to the Office of Commissioner of Railroads (OCR) and that created an issue for Madison as the City was ordered to put up a fence on non-city property. He said that the City, in exchange for this slice of land, would put in and pay for the maintenance of the fence. He explained what used to be there and what the situation on the ground was: at this point it made sense to turn it over to the City as a part of the park. The exchange would be the City got the fence with maintenance with a lump sum. Morrison explained what the fence would look like in response to Miller's question. Morrison said would be 6' tall. Miller asked if fencing would needed on the other side as well. There was discussion on future fencing needs to prevent more trespassing. Morrison said the City has said the entire corridor would need fencing throughout the City to prevent trespass. Morrison said OCR had ordered this so WisDOT was "getting what they can give".

Lucht asked about the maintenance. Morrison said the initial installation cost would be \$5000.00. There would be funds saved for future maintenance. Mace asked if it were WRRTC property or WisDOT's. He then asked about the fence was shown and its length (110' long) and did that include a continuation of an existing fence. Morrison said they "would connect to that".

Grey asked about pedestrian impacts. Morrison said right now there was a lot of trespassing, walking "willy nilly" and this fence would force them to go down to the sidewalk. Mace asked what they were being asked to transfer ownership of. Morrison said WisDOT would be transferring ownership to the City.

Ladewig asked if there was a transfer of property from WisDOT to the City of Madison. Jack Demby asked if the fence needed replacement, would the Commission repair or replace in that event. Morrison said there was only so much money available and said the money could go to WSOR or WRRTC and be held for the day the fence needed to be maintained or replaced.

Ranum said he was concerned about unintended consequences for taking responsibility (not financial). If the fence broke down, where did the liability land in the case of an accident. He asked if the railroad was assuming some sort of liability. Sweeney said he thought the liability would be lowered because of the fence. Laurie Payne asked if there was a need for the new walkway and the crossing. Morrison said that was an issue for the OCR. As to the other issue, it became the responsibility of the railroad. The public paid to put it in and then WSOR would become responsible for the maintenance.

Lucht asked if WisDOT needed a new permit for the crossing. Tollers said they had and they had not. Lucht pointed out that the sidewalk already had been built and he had understood they needed a permit to building within the ROW and that would include the responsibility of the fence. Tollers said in the past new crossings had occasionally put in without permits. She said on a highway it was an easement but easements were used on state owned ROW and there had been cases where there was no paper trail. Morrison said the City had the right to put it in due to OCR's order.

Tollers said a permit rather than an MOU details could be established in the permit. Mace said he was not opposed to the fence but was bothered that money was being put in some place and that in 20 years the railroad or WRRTC had the liability to fix it up to that dollar amount and asked why the City did not take full responsibility rather than just financial responsibility. Marty Krueger suggested financial responsibility would imply both but with a set amount of dollars it bothered him and he could not support it as drafted. Tollers said the maintenance of the fence was on WISDOT property so the City did not have access and said the turnover of the lump sum was in order to not come onto WisDOT property. Mace said WisDOT had access. He saw nothing wrong that the maintenance of the fence be the responsibility of the City for all time and included physical and financial responsibility with permission to go on the property to fix it if need be.

Miller said from what he could see, the City was becoming a contractor for WSOR to put up the fence and that was why they were not going on to maintain the fence because they did not own the land. He said if there were no resolution, the Commission should ask Eileen Brownlee for an opinion. Lucht said the City would not be a contractor and instead was acting like an applicant to partner with WSOR. He said WSOR had had a representative out on site who had agreed with the concept as presented but WSOR was having problems with the financial upkeep versus physical upkeep. He spoke of other crossings in the system where fences were involved. In those cases it was both financial and physical and WSOR gave them right of access within 25' of the ROW. He said they would let WSOR know when they were doing maintenance. He said Madison was party to agreements where the City was responsible for installation and upkeep. He said any action taken today would be contingent to all parties agreeing on

the details. He also said he was confused as to the financial upkeep and access. In response to Anderson's question, he said the railroad did not provide railroad protection outside the 25' of the ROW.

Ladewig said he was still confused, saying that his understanding was that the City, WISDOT, and the railroad could do what they wanted. If the WRRTC could not stop them, why were they being asked to concur. Tollers said the grant agreement did allow WisDOT the right of decision outside 35' of the ROW and that this was how things had been done in the past.

Simon said it sounded like the details were not completely settled and Morrison said they also had concerns but pointed out that if the OCR ordered it, the railroad could have to pay for and install everything.

15. Update on Peters Road Bridge Closure / Replacement – Kevin Brunner, Walworth County

Kevin Brunner said he had wanted to brief the Commission on this issue and noted that it had been brought up before. He gave the history on the bridge's need and because it was state owned, the County had stepped in and created a memo of understanding with the Town and would be the fiscal agent for the bridge replacement. He said they had shared this with Lucht and filed for local bridge assistance the end of July.

Mace asked if that were the same funds they had talked about. Brunner said it was a road bridge so was under a different program. Simon said a local bridge program was an 80/20 split. Brunner said the County was not obligated at this point but there apparently was some discussion that the railroad and Town would be working on details.

16. Discussion and Possible Action 2016 SWWRPC contract – Mary Penn, SWWRPC

- Motion to approve the 2016 SWWRPC contract – *Ranum/ Mace, Passed Unanimously*

Penn gave the agreement to Sweeney who read it to the Commission. She said this was identical to the past year's contract with only the years changed. She explained that while \$22,600 was the contract amount, no indirect costs as read had ever been billed in her experience. Ladewig asked whether it could be an encumbrance. Sweeney said that was an excellent idea and could add it to the list (i.e. taxes, insurance). Pettis said having a staffer was marvelous. Penn repeated that no indirect costs had ever been charged although they were in the contract. Grey said in the proposed budget for 2016 there were a \$900 amount that could be used for such, if need be.

17. Action Item. Adjournment

- Motion to adjourn at 11:33 AM – *Gustina/Ladewig, Passed Unanimously*