

# WISCONSIN RIVER RAIL TRANSIT COMMISSION

FULL COMMISSION MEETING - FRIDAY, JULY 12, 2013 @ 10AM  
 DANE COUNTY HWY GARAGE, 2302 FISH HATCHERY RD, MADISON, WI

1. 10: 03 AM **Call to Order** – *Karl Nilson, Chair*

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

Crawford	Tom Cornford, 3 <sup>rd</sup> Vice Chair (XCom)	x	Rock	Ben Coopman, Alternate	
	Rocky Rocksford	x		Wayne Gustina	x
	Vacant			Alan Sweeney, 1 <sup>st</sup> Vice Chair (XCom)	x
		Terry Thomas		excused	
Dane	Gene Gray, Treasurer (XCom)	x	Sauk	Marty Krueger, Alternate	
	Jim Haefs-Fleming	x		Carol Held	
	Chris James	x		John Miller (10:05	x
		Dennis Polivka, Asst. Secretary (XCom) (10:07)		x	
Grant	Gary Ranum	x	Walworth	Jerry Grant	
	Vern Lewison	x		Richard Kuhnke, 4 <sup>th</sup> Vice Chair (XCom)	x
	Robert Scallon, 2 <sup>nd</sup> 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	

Commission met quorum.

**Others present for all or some of the meeting:**

<ul style="list-style-type: none"> <li>Mary Penn, WRRTC Administrator</li> <li>Kim Erdmann and Celie Koth, WEDO</li> <li>Alan Anderson, Pink Lady RTC</li> <li>Bill Wentzel, Sauk County Supervisor</li> <li>Forrest Van Schwartz</li> </ul>	<ul style="list-style-type: none"> <li>Kim Tollers, Frank Huntington, Ron Adams, LeAnna B. Wall, WDOT</li> <li>Ken Lucht, WSOR</li> <li>Tony Fernandez, City of Madison;</li> </ul>
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3. Action Item. **Certification of Meeting’s Public Notice** – *Noticed by Penn*

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

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

- Motion to approve agenda – Kuhnke/Gustina, Passed Unanimously*

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

Penn said Dick Mace had not been appointed to the Commission as of May yet was marked absent for the May meeting. Penn said the roll needed to be amended to show the third Waukesha commissioner seat as “vacant”. Mr. Mace was appointed after the May meeting.

- Motion to approve draft May Meeting Minutes with amendments – Anderson/Cornford, Passed Unanimously*

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

Karl Nilson introduced Kim Erdmann and Celie Koth, both of WEDO, which represents Watertown and Jefferson and Walworth counties. Mr. Erdmann said he was interested in getting Jefferson County involved and supporting of rail in Watertown.

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

Forrest Van Schwartz’s handouts were distributed and he gave an update on the catastrophic railway accident in Canada. Other handouts related to railroad policy and pedestrians, trespassers, and safety issues were also distributed. He gave background on the

accident in Canada and the complications and damages that resulted. Nilsson asked some questions regarding the article addressing the extension of national standards as per installation of existing technology.

Van Schwartz spoke to the issue regarding a zoning variance in Spring Grove where property owners abutting WRRTC property want to put in more buildings and a fueling station, referring to handouts distributed by Penn. There are a lot of unknowns particularly in regards to safety. Van Schwartz suggested requesting a postponement of the hearing. Nilsson asked about the layout of the property and said he did not think the Village would postpone and asked if Van Schwartz would go to the public hearing. Frank Huntington asked if this issue was a problem for WSOR and if this property owner a potential customer. Ken Lucht said he had not examined the issue to date. Nilsson told Penn to add this issue to the next meeting's agenda.

Next, Penn shared the responses of the FRPP support letter sent by WRRTC to the pertinent elected officials with the Commission.

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

Dennis Polivka said that at his most recent town planning commission meeting there were a number of people there who opposed frac sand. Lucht said that WSOR was not pursuing any frac sand opportunities between Madison and Reedsburg, nor was WSOR currently hauling frac sand.

**REPORTS & COMMISSION BUSINESS**

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

- Treasurer's Report for June and Payment of Bills

Jim Matzinger did not attend the meeting. Treasurer Gene Gray gave the report. Gray said that there was a question regarding the last time the county assessment was raised, noting that the county contribution increased last year about 5% (this was due to insurance). He noted that project dollars have gone up a little but last year was the first year anything was designated specifically for insurance.

Bills to pay included

1. Dane County Highway April/May
2. SWWRPC Q1 2013
3. SWWRPC Q2 2013
4. UW Board of Regents / 2<sup>nd</sup> half of study
5. Richgels Schaefer, WRRTC Insurance
6. McHenry County, IL Property Taxes 1<sup>st</sup>

- *Motion to approve the Treasurer's Report and payment of bills – Sweeney/Anderson, Passed Unanimously*

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

- Update on Monthly Maintenance Activities
- Update on Capital Projects
- Update on Business Development
- Other continuing issues/topics

Lucht distributed a handout which was a resolution regarding rail congestion that was passed by the Mayors Convention. He said this was instigated on the part of Madison's mayor by two recent, separate road traffic blockages by WSOR trains in Madison. He emphasized that this handout was for informational purposes only. He said that WSOR is watching the issue closely as language in the resolution suggests that there may be efforts to limit train size (length) nationally in the future. Lucht said WSOR will be talking to Madison based customers to see how this might affect their business.

Lucht next distributed copies of a WSOR press release which stated that they are hiring due to business demand. He said there have been some service issues and as a result, more people were needed to meet demand. He said 17 new people were hired in Madison for both current service and future growth and 16 were hired for the Janesville yard. Lucht said they were looking at getting more engines also. John Miller asked what sorts of jobs were hired and Lucht said they were engineers and conductors. He said that half were coming from local communities and some were coming from WATCO so there would not have to be so much training costs overall.

In maintenance, Lucht spoke of the flooding on the Prairie sub including washouts between Avoca and Prairie. In that area, the track had to be embargoed. He said there were about 60 washouts. He said about a dozen culverts had been put in already but service was out for about 2 weeks. He added that fixing the damage had already cost about \$300,000. Huntington confirmed that this flooding event had not yet been confirmed as eligible for federal relief funds. Lucht said WSOR had brought in ballast and track to reestablish

the line which would take at least until the end of this year for all the damage to be fixed. For now, the track is in service west of Avoca.

In Capital Projects, WSOR is waiting for awards on 2013 and 2014 projects, particularly to install continued welded rail (CWR) on the Fox Lake Sub (Janesville to Avalon). He said two other projects are waiting for more CWR and a siding in Janesville. He said it was possible that these awards will be made by the next meeting.

In Business Development, Lucht said that WSOR is talking to a customer in the northern district who wants to ship blocks of granite. WSOR is talking to the City of OshKosh as well as other OshKosh based businesses about future opportunities. He said there are a lot of cars coming in hauling lumber in Iron Ridge and they have just started a rail siding activity.

Lucht repeated that there was no frac sand hauling between Reedsburg and Madison. He said that WSOR shipped a few times last year out of Reedsburg but not a unit train.

In the southern district WSOR, Lucht said grain was moving as well as fertilizer. He said that other shipments are moving (e.g. lumber, sand, gravel) as there are major building projects going on in Madison.

Lucht said that they met with WDOT personnel in June and presented their 5 year capital plan. This plan will be presented at the August meeting as it impacts WRRTC lines. The plan also includes maintenance projects as well as CWR. Lucht noted that ties on the Watertown Sub are a potential project and that WSOR would be trying to get that to class 1 track. He said that a big part of the plan is the public/private partnership and he said that any questions could be answered during the (August) presentation. Gray asked about the Lycon facility and Lucht said they have started building the facility as well as track. WSOR was still waiting for an award on the project and would see where that takes them as they would not do bids unless awarded. Lucht said WSOR is committed to the project. Alan Sweeney recommended WEDO attend the August meeting for that 5 year Capital Plan presentation. Sweeney asked Lucht if the Milton siding would help congestion in Madison. Lucht said he would have to talk to Operations to try to get a definitive answer. Lucht added that Janesville and Madison worked in tandem and blockages in Janesville could back up traffic in Madison. Sweeney asked if the siding in Avalon was completed. Huntington did not know if it were complete yet.

Bob Scallon asked Lucht how WSOR was doing on passenger lines. Lucht said that WSOR did a lot of planning for high speed rail a couple of years ago, adding that WSOR was a key partner with the state to make sure the engineering and planning were done properly. WSOR was told by the state that there was process which involved an invoice. WSOR went through the WI Claims Board as required and their invoice was denied. Lucht said that WSOR did not have anything to show for the work they did on passenger rail other than some plans and since this work was done under a different administration, WSOR was moving on.

Polivka said that with the recent heavy rains, the Town of Spring Green got 10" of rain and a 2 mile drainage ditch made through the work with WDOT and WSOR ably handled the runoff. He thanked WSOR and WDOT for their assistance in helping Spring Green put in the ditch.

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

Penn reported that she had worked with Carol Hampton of Richgels Schaefer Agency to renew the WRRTC insurance, the approval of which was on this meeting's agenda. Penn had proceeded to approve of the invoice with Nilson's consent because if she had not, insurance coverage would have had to restart as of July 2013, leaving the WRRTC vulnerable to uncovered claims between the new start date and the old (July of '02). Terrorism coverage was not approved and Penn sent back the form acknowledging same. She said she emailed Jim Matzinger for the insurance invoice on 6/27/13.

Penn said she had mailed WSOR's invoice for 2<sup>nd</sup> payment on the Freight Rail Impact Study to Jim June 13<sup>th</sup>. She said she had received emails about possible class action lawsuit issues regarding fiber optics on ROWs and that Huntington and Eileen were all in the loop. Lastly, Penn said she had spoken with Kim Erdmann of WEDO briefly regarding general information on WRRTC and the next meeting.

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

Huntington announced that said this was Ron Adams last day and introduced LeAnna B Walls who was replacing Adams. Huntington said today was her first day. She invited the Commission to Adams retirement reception which would be in Milwaukee, Tuesday July 16<sup>th</sup> from 4:30 to 7 at the Amtrak Terminal on West St Paul Avenue.

Huntington said that WDOT was holding off for some project awards (other than bridge awards). He said the DOT is looking at 65 bridge applications – there is a lot of bridge work in the future – and that they were held up mainly due to the UP line purchase in

Reedsburg. He said WDOT had not started talking price yet but hopefully would do so by the end of August. He said that there are three projects held up for 2013 and three 2014 projects which are still being reviewed. He said there are about \$110 M in projects and there is only \$52 M for the same period. Huntington said there have been a number of calls on a number of projects particularly near Oregon and some for a project in Baraboo. He said there had been progress and hopefully those projects would get underway. He added that the line has been reopened between Plymouth and Kohler in order to restore service to the Kohler area. He said engineering work was being done and hopefully the rehab would be done this fall or by next year, noting that it is a \$19 M project.

In regard to the potential line acquisition up north of about 300 miles of track from CN, Huntington said CN was not quite sure what they wanted to do, adding that WATCO had submitted to the state for acquisition but discussions were still going on and it was a wait-and-see at this point.

Huntington said there are currently about 30-40 projects, noting that the UP acquisition is the big project “down here”. Polivka asked about a hearing in the Village of Arena regarding a rail crossing closing. Huntington referred to Lucht and Lucht said the Village contacted WSOR about closing two crossings. He said that WSOR had met with the Village and WSOR offered to help pay for the cost of these closings. He said the state has a program that can help with this process as well and that it was a non-contentious issue.

Huntington said there had been some readings on the Sauk City Bridge piers, checking their stability and suggested that this be done again to see if there has been any change due to the recent flooding.

Nilson called a break at 11:02 AM to reconvene at 11:15 AM. Meeting reconvened at 11:15 AM

**13. Rail Corridor Use Issues – Frank Huntington**

- City of Madison Goodman Trail – *Tony Fernandez, City of Madison*
- Village of Mazomanie Trail Crossing
- Other - General Discussion

Huntington said that Tony Fernandez of the City of Madison would talk about the Goodman Trail and update the Commission on progress to date. Fernandez said that the City had met with WDOT and WSOR to try to meet common ground on the issue. He said that this bike issue is important to the City as they are involved in a lot multi-modal projects. He said this project is on the east side of Madison and followed the railroad and runs along a major part of the corridor which is an important commuter distance and connector between other trails and paths. He said if the City can build the section in question it would be a great success. He said the City had three issues: 1) use as little of the corridor as possible or use public property or buy other property; 2) provide a safe environment for all users; and 3) preserve the overall safety of the corridor. Fernandez highlighted three points in his talk: 1) this a “backbone” project for the City; 2) the City has looked extensively at all the alternatives; and 3) the City has tried to use a flexible approach and use as little of the railroad corridor as possible. He said there is some possibility of going off street and outlined the project on a map, showing the Commission the proposed path. He said “we’re trying to reach out to a larger group of bikers” and respond to demand of users. He emphasized that the City is not asking the railroad to give up safety or benefits and said he believed there are a lot of plusses for the railroad.

Fernandez said this was a backbone route and pointed out there are three separate segments of the trail, noting that the City’s concept was a separate path. He noted that about half of the funding had been offered by a community group. He said that there was low car traffic volume on the proposed street of one of the sections of the path and said the entire path was at least 35 feet from centerline of the track for the entire project. He said that 33’ could probably be workable but wanted to emphasize the positives. He said they wanted to share rail corridor in three locations (this would be 33 to 35’ to centerline). He pointed out the places where structures touched the ROW and showed where the path would be within the corridor. This was about 800 to 900 feet in length for the second section; the other sections would be shorter. Fernandez said the benefits would be improvements of grade at crossings; at Milwaukee Street, the crossing would be a non-mountable median to slow traffic approaching the crossing and would make it a lot safer. Another part included some community gardens which are within corridor within 20’ of the track and he said by doing this crossing work, gardeners would be encouraged to not exit to the track itself but rather to a re-done, safe crossing. The path would, in the Thurber Park, define the public space for users. Having a path would identify where the park ended and the RR began and create a clear separation of uses and properties.

In the 3<sup>rd</sup> crossing another median would be put in to increase safety and slow traffic. Fernandez shared an example of a business encroaching on the corridor and by getting the path put in they could “push back” the encroachment, again by creating a definite boundary. He said improvement of drainage would be paid for by the City and the City believed that this project would decrease trespassers on the track. He said if people had a path to walk and ride on, they would not have an incentive to walk on the track. He

pointed out two railroad loading docks with access through the WDOT ROW and that the City was acquiring some property near this loading dock and had offered to work with WSOR to restore the access.

Van Schwartz asked Fernandez why “somebody” couldn’t put up fence (in the Park) and Fernandez said the Town Blooming Grove was resistant to the project and if it were to be fenced, the Town could not be forced to build a fence. Van Schwartz also said that the City of Madison’s recent history with WSOR did not indicate a proactive cooperative association. He pointed out “quiet zones” as an example and asked what the City was willing to do with WRRTC and WSOR to indicate the reality of a proposed partnership. Fernandez said the City was not able to force anything and if WSOR was against the project, it would not happen. Fernandez said the City would be funding the project and was working closely with the railroad (WSOR). He said that in another example the City is allowing WSOR to use city property.

Gray referred to the relief of congestion resolution from the mayors handed out earlier in the meeting and Lucht said that WSOR was willing to work with the City but noted that it was an ambitious plan and the big question was timing. Lucht said they did want to get a better reputation with the City and work with them to meet their orders. He noted several examples of issues in Madison where WSOR was working with the City. He repeated that the timing is key and said that WSOR needed to think about the future of the railroad in terms of access. He then distributed a list of proposed shared uses saying that a number of them would come before the Commission. Lucht said that the high number of proposals was probably due to increased federal funding for ped/bike efforts. He said in this vicinity there have been fatalities and injuries in the past and that with increased path use there would be an increase in liability for the railroad. He reiterated that WSOR wanted to work with the City and look at precedents and safety, and that there were not really any benefits to the railroad as the crossings were not a problem currently for them. He mentioned that there was a local roadway network available and the railroad corridor was for moving trains and heavily regulated on the federal level. He suggested that there needed to be some thought as to a share use policy and Huntington concurred. Huntington said that WDOT works hard to work with both WSOR and WRRTC. Chris James said that there had to be a partnership, mentioning work between WSOR and Dane County and he said that Dane County had put money into addressing shared issues. Gary Ranum asked about a dollar amount for liability increases but Lucht said that was impossible to determine and said that in the past the railroad had had to make settlements for trespassers. Lucht said that some communities could purchase policies to protect themselves and that if the cities, counties, etc, paid separately for liability that would be a start. Polivka said he was concerned about precedent being set, saying that ATV riders have asked for access and been denied and what would be WRRTC’s response if those groups came back. Van Schwartz said that WSOR carried a very large SIR and in many cases was a million dollars and there were real financial ramifications. Gray said that a good rail system kept trucks off the street and good bike path systems kept cars off the streets. Huntington said in any agreements the City said they would hold the Commission and WSOR harmless. Fernandez said that the City wanted to take its fair share of liability. He said under a permit it was more complicated and if there was a way to make this better for the railroad in terms of safety. He said that longitudinal use did not encourage trespass and that the City was willing to put in the money (\$1 M) including fence and infrastructure.

Huntington said in Mazomanie there was a crossing approved and WSOR was cooperating with that order. He said in railroad corridor discussion if there were questions about them he would be happy to answer them. He said there are a number of projects which involve encroachments in pinch points.

Sweeney said that he believed it was time to develop policy for these issues. Nilson said that it should be on the agenda in future.

Huntington then spoke about an additional modification to the Blackhawk bike path in the Village of Shorewood. Fernandez showed an aerial and said that they would like to continue the encroachment for safety improvement. Huntington said at this time they did not have all the information they needed but will have for a future agenda item.

Nilson asked the Commission if anyone would want to go with Van Schwartz to the hearing in Spring Grove.

**14. Consideration and possible action on WRRTC 2014 liability insurance with Richgels-Schaefer Insurance – Mary Penn**  
Penn explained again to the Commission why the 2014 insurance had already been paid (see agenda item 11) and told the Commission that it had never approved Terrorism coverage and that it had been formally refused.

- *Motion to accept 2014 liability insurance from Richgels-Schaefer Insurance - Miller/Gustina, Passed Unanimously*

**15. Action Item. Adjournment**

- *Motion to adjourn made at 12:07 - Cornford/Scallon, Passed Unanimously*