

# PECATONICA RAIL TRANSIT COMMISSION

20 S Court Street • PO Box 262 • Platteville, Wisconsin 53818  
 MEMBER COUNTIES: GREEN • IOWA • LAFAYETTE • ROCK

1:00 PM • Friday, January 24, 2014 • Green Co. Courthouse, 2<sup>nd</sup> Floor Courtroom, 1016 16<sup>th</sup> Ave • Monroe, WI

1. 1:01 PM            **Call to Order** – *Harvey Kubly, Chair*
2. Roll Call.        **Establishment of Quorum** – *Mary Penn, PRTC Administrator*

**Commissioners present for all or part of the meeting:**

	<i>Commissioner</i>	<i>Position</i>	<i>Present</i>		<i>Commissioner</i>	<i>Position</i>	<i>Present</i>
<i>Green</i>	<i>Harvey W. Kubly</i>	<i>Chair</i>	<i>x</i>	<i>Iowa</i>	<i>Charles Anderson</i>	<i>Secretary</i>	<i>Excused</i>
	<i>Oscar Olson</i>		<i>x</i>		<i>William G. Ladewig</i>		<i>x</i>
	<i>Ron Wolter</i>	<i>Treasurer</i>	<i>x</i>		<i>Philip Mrozinski</i>		<i>x</i>
<i>Lafayette</i>	<i>Leon Wolfe</i>		<i>x</i>	<i>Rock</i>	<i>Ben Coopman</i>	<i>Alternate</i>	
	<i>Patrick Shea</i>				<i>Wayne Gustina</i>		<i>x</i>
	<i>Gerald Heimann</i>	<i>Alternate</i>			<i>Alan Sweeney</i>	<i>1st Vice Chair</i>	<i>x</i>
	<i>Ted Wiegel</i>		<i>x</i>		<i>Terry Thomas</i>	<i>2<sup>nd</sup> Vice Chair</i>	<i>x</i>

Commission achieved quorum.

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

<ul style="list-style-type: none"> <li>• Mary Penn, SWWRPC</li> <li>• Ken Lucht, WSOR</li> <li>• David Pantzloff, Ayres Associates</li> <li>• Mike Doyle, Green County Clerk</li> <li>• Jim Rutledge, Town of Clarno Clerk</li> <li>• David Miller, Town of Clarno Supervisor</li> <li>• Nathan Hartwig, Town of Clarno Chair</li> </ul>	<ul style="list-style-type: none"> <li>• Eileen Brownlee, Kramer &amp; Brownlee</li> <li>• Kim Tollers, Roger Larson, WDOT</li> <li>• Kim Johnson, K. Johnson Engineers</li> <li>• Robert Voegeli, Green Cty ATV Club</li> <li>• William J. Rise, Member of Public</li> <li>• Ron Brandt, Town of Clarno Supervisor</li> <li>• Wayne Wilson, Lafayette County Finance Chair</li> </ul>
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3. Action Item.        **Certification of Meeting’s Public Notice** – *Noticed by Penn*
  - Motion to approve posting of meeting – Mrozinski /Gustina, Passed Unanimously
4. Action Item.        **Approval of Agenda** – *Prepared by Penn*
  - Motion to approve agenda – Sweeney/Mrozinski, Passed Unanimously
5. Action Item.        **Approval of draft Minutes from October, 2013 meeting** – *Prepared by Penn*
  - Motion to approve October 2013 minutes – Olson/Thomas, Passed Unanimously

6. Updates.            **Public Comment**  
 There were no public comments.

7. Updates.            **Correspondence & Communications**  
 Penn reported that she had gotten an email saying a bridge inspector had noticed what he believed was pin coming out of a bridge which could lead to the possibility of failure. She said she had communicated with both Leon Wolfe and Tom Jean and Jean said he would look into the matter. Wolfe said that Jean had checked and had found it was an pin with a bushing which accounted for the long pin.

**REPORTS & COMMISSION BUSINESS**

8.        **PRTC Financial Report** – *Ron Wolter, SCWRTC Treasurer*
  - Treasurer’s Report and Payment of Bills

Ron Wolter gave his report, noting that there had been some errors on the October Treasurer's Report. He distributed both the updated October report and the January one. He explained what the error had been and Kubly asked for a motion to approve the amended October Treasurer Report.

- Motion to approve the amended October 2013 Treasurer Report – Wolfe/Olson, Passed Unanimously

Wolter went through the January Treasurer Report; (get the check listing from the TR) and presented the checks paid in the past quarter. Mrozinski asked about for a clarification on the percentage for the interest rate.

- *Motion to approve the January 2014 Treasurer Report – Gustina/Wiegel, Passed Unanimously*

Wolter asked if the WSOR rent needed to be requested or if it was sent routinely. Ken Lucht said he would make sure 2013 Q3/Q4 rent would be paid.

Checks included:

- Check # 320, SWWRPC Q3, 2013 - \$1038.64
- Check #321, Johnson Block - \$1,100.00
- Check #322, WSOR - \$123,000.00
- Check #323, Safe Deposit Box Rent - \$7.50
- *Motion to approve payment of bills – Ladewig/Sweeny, Passed Unanimously*

#### **9. WSOR Operation's Report – Ken Lucht, WSOR**

Ken Lucht reported that there had been maintenance work between Janesville and Monroe. He said there was not much going on due to the weather, adding that the brush cutting and weed spraying contract had been granted for this spring on the line. He also said a bolt machine would be passing over the rail to tighten all the bolts. He noted there would be a culvert project under Hwy K. On bridges, Lucht said three of the seven bridges were completed with the Crosby Street Bridge in west Janesville just finished. He said the other four bridge contracts would be going out soon. On Crossings, Lucht said that the Hwy K (east Monroe) and Hwy 69 in Monroe crossings were slated for 2014.

Lucht said that WSOR was working with WDOT on their Financial Report and invited some commissioners to come to that meeting. He said the WATCO president would be at the meeting and would pass the meeting dates to Penn for distribution.

Lucht next reported that the TIGER Grant Program would be offered again. He said the parameters of the grant had not been released yet, and that WSOR intended to ask WRRTC and Iowa County to support another try for the grant. The work proposed would be in Iowa County and was a strong project which had ranked very high in past grant cycles but due to lack of funding it had not been granted. Lucht said they were "fairly confident" they would have a good chance to get it this year. He said he would ask that the next PRTC meeting agenda have a request for the Commission's support in the form of a letter as an action item.

In terms of safety, he said WATCO is very safety conscious and emphasized that there had been significant improvements over the past 2 years. Lucht gave examples of injuries and incidents and cited data showing their improvement. He said that there were still improvements to be made and that it took a lot of communication to get the safety information across. Lastly, he said that in OTD (on-time delivery), WATCO's goal was 95% to the customer and in the last 2 weeks they had been at 98%. He said that last summer WSOR hired over 30 new employees to keep up with the service demand.

Oscar Olson asked why WSOR was having such difficulty in Madison with crossings. Lucht related an incident of a stop gate causing a delay. He explained what had happened and how WSOR had addressed it. He noted that while there were about 100 crossings in Madison, last year there had only been 13 calls for malfunctions which Lucht maintained was a good percent. There was more discussion on the gate that had failed and the means to address a failure. William Ladewig asked if any of the WSOR engines were switching from diesel to natural gas. Lucht said that was mainly for Class 1 railroad at this time.

Lastly Lucht reported on a derailment of a grain train in Janesville on Wednesday on a UP track. He said when WSOR had been handing off the train, a switch was broken. He explained what WSOR had done to fix it and how despite their efforts two of 130 cars came off but did not tip over. He said after a couple of hours all the tracks were clear. He said this was a segment of track WSOR had been trying to acquire.

#### **10. WisDOT Report – Staff may include Frank Huntingdon, Kim Tollers, Roger Larson**

Kim Tollers said that there has been progress on the Reedsburg purchase and it should be completed shortly which would cascade into the FRPP and FRaPP programs seeing as now a price was set which would let WDOT know how much money in the budget was left over for other projects.

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

Penn reported she had had the usual preparation for the meeting.

**12. Tri-County Trail Commission Report** – *Leon Wolfe*

Leon Wolfe said the TCTC had met last night and that the snowmobile traffic was active with the trails in pretty good shape. He said Tom Jean said the FEMA dollars would be coming through for the washouts of last summer.

**13. Discussion and Possible Action regarding Five Corners bridge** – *Jeff Wunschel, Green Co. Highway Dept., Kim Johnson – K. Johnson Engineers*

Kim Johnson updated the Commission on this item and said they anticipated presenting the Commission more details in the future but the review of the bridge alternatives was still underway. She said Green County had been unsuccessful in securing federal funding for the project which would put back the bridge construction. She said even with this delay Jeff Wunschel hoped that the Commission would continue to look for funding options into the future.

**14. Discussion and Possible Action regarding ROW Agreement for the Paterson Road project** – *Jeff Wunschel, Green Co. Highway Dept., Kim Johnson – K. Johnson Engineers*

Penn distributed the handouts. Kim Johnson said Green County had been successful in securing funding for this project which would start in 2014 and complete in 2015. Dave Pantzlaff brought the Commission up to speed on the project, giving the recent history of the project which included a public meeting in December 2013. He said that construction would begin in Oct/Nov 2014 and explained some of the outcomes of that meeting including a detour that was unofficially agreed on for ATV traffic. In terms of the Agreement, it all related to the ROW plat.

Pantzlaff walked the Commission through the project and detailed what would be done. He said there would be a new highway easement and temporary easements during the life of the project. The town's highway easement would be permanent and would allow brushing and other such maintenance needs.

He said the original agreement was drafted back in 2006 and noted that the plat gave the Town permission to occupy the property for future construction. The 66' ROW would have its centerline shifted, resulting in a permanent encroachment south of the centerline. Pantzlaff discussed the current and future ROW lines and noted there would be a separate WDOT document that would explain the Town's responsibilities. Johnson said the Commission had a right to compensation. Brownlee said in this case no one had a right to eminent domain. Pantzlaff said the crux of this agreement was that the Town of Clarno would only be responsible for adjusting the cross slope should a railroad crossing ever be built there, for removing fill in the event of active rail coming back in, and for maintenance, including the removal of trees and brush. They would not be responsible for ballast, sub ballast, ties, etc. Pantzlaff said they would like this agreement in place should the railroad come back in, particularly in light of the potential of the Office of Commissioner of Railroads (OCR) became involved. Johnson said this agreement was prepared to be cognizant of the Rails-to-Trails law. Pantzlaff recognized that the OCR might have to weigh in if rail ever came in. Ladewig asked Brownlee if the Commission signed the agreement on item 15, would it have any effect on item 14. Brownlee said it would only have an effect in the event of active rail coming back in.

Wolfe asked about signage for alternative routes for the ATVs and stop signs during construction. Pantzlaff said within the project there would be signs but did not recall what had been decided at the December public meeting. Johnson and Pantzlaff said they believed the ATV club would do the detour.

Pantzlaff said that there would be a plan review by March 15<sup>th</sup> so signatures were needed by that time. He said the only other thing necessary to the draft Agreement was language regarding the OCR. Brownlee said she would be ok with Paragraph 4 be altered to reflect inclusion of the OCR. Lucht asked how the PRTC would be protected in view of payment in case of active rail. Brownlee said that all the costs would be passed on to the operator and said to date she had never seen a Commission party to an issue reviewed by OCR.

In regard to closures, Pantzlaff said the trail would be entirely closed for the construction time so it would not affect the summer holidays as discussed at the October 2013 meeting.

Kubly said he trusted Brownlee's judgment on Paragraph 4. Brownlee said typically they have done permits and she did not want to establish a precedent. Johnson said that a ROW plat and a description that would detail it. She said at the May meeting the Town of Clarno and Green County would be responsible in approval of the ROW acquisition. Pantzlaff gave the schedule of acquisition. Brownlee said the letter of agreement grants nothing. Mike Doyle asked if the County Board would have to do anything to authorize him to sign this document such as a resolution. Johnson said that she thought that had happened in 2006 but the County might want to do that again. Doyle said the County Board might not meet until March and asked Johnson to let him know what he would need to do.

- *Motion to sign the letter of agreement with changes made in meeting subject to legal counsel approval – Mrozinski/Wiegel, Passed Unanimously*

**15. Discussion and Possible Action regarding revised language to the PRTC/WSOR/WisDOT Grant and Operating Agreements – Frank Huntington, WDOT**

Kim Tollers said that Huntington had asked Brownlee and Lucht to explain the situation to the Commission. Brownlee said that the Commission was looking at two changes in the operating agreement and explained the need behind this revised language. She said it was due to having a much larger corporation and thereby greater liability and reporting needs. This was also an effort to line up the operating agreement language throughout the state with WSOR/WATCO. In a nutshell, she said it increased the insurance requirements significantly. The other thing it allowed for was WSOR to increase its self-insured retention. She said that a group of people (herself, WDOT, WSOR, WATCO, etc) had started working on this language in the fall of 2012, to create language so that in the event of a reported claim/accident, if there were an issue or concern over financial liability there would be mechanisms in the language to obtain a letter of credit if necessary. She said this language had been presented to other rail transit commissions in the State to put into their Operating Agreements.

The other language change had to do with auditing and reporting. Brownlee said the current agreement said that a financial report must be made annually to its commissions which required a delicate balance between public commissions, the State, and a private company's need to keep financial information private. Brownlee said what was crafted was language that would have the State host the railroad to review their financial information, while inviting a few representatives of the transit commissions to attend the meeting. This would give the transit commission a chance to verify the operator's financial viability but also allowed the railroad to have some financial privacy. She said the contractual language reflected what had been going on all along and she was comfortable with the provisions and the language. Lucht said he agreed with Brownlee's description and said that WSOR was much better insured as a result. For the much higher self-insured retention, he said WSOR was giving the commission reassurance that they had a \$10M line of credit along with a certificate of a covenant of compliance with WSOR's bank. In the event of lack of funds, the Commission would be notified by the bank. He said that both the EWCRC and the WRRTC had signed this.

Brownlee said in the Operating Agreement appendix, there was language that noted the rental agreement was deemed null and void in the event of the operator (WSOR) ever changed ownership. She said that this situation had now occurred and asked if the Commission would want to follow through with that in mind. She distributed a handout of the section, noting that this was not on the agenda per se but there was general language in the agenda item that could allow the Commission to address this today rather than at a later meeting. Sweeney asked if all they would need to do would be to change the name from WSOR to WSOR/WATCO and Brownlee said that was possible.

- *Motion to approve the amendment of "WSOR" to "WSOR/WATCO" in the Operating Agreement appendix – Ladewig/Sweeney, Passed Unanimously*

Kubly asked Brownele and/or Lucht if the PRTC's rent was in the "ball park" with the other Commissions. Brownlee said that since the WRRTC was a fully operating line she believed the rent was comparable to PRTC. Lucht said per mileage basis, the PRTC's was \$342/mile and the WRRTC was \$173/mi which made their rent effectively double.

Brownlee said they would look for a motion to approve changes to #1, 6, and 9 in the Operating Agreement and to allow for non-substantive language changes as needed.

- *Motion to approve the changes to Articles 1, 6, and 9 of the Operating Agreement, subject to the right to make non-substantive language changes by Commission staff as needed - Sweeney/Thomas, Passed Unanimously*

**16. Discussion and Possible Action on Approval of a Treasurer Bond for the PRTC Treasurer – Mary Penn, PRTC Admin.**

Penn said this item came out of the last meeting when it was realized there was no bond for the PRTC Treasurer. Brownlee said that she did not know why it had never happened. Penn said the SCWRTC had just approved theirs and it was a very small sum (\$40/year).

- *Motion to approve a Treasurer Bond for the PRTC Treasurer – Olson/Ladewig, Passed Unanimously*

**17. Discussion and Possible Action on 2013 PRTC Audit Engagement Letter with Johnson Block – Mary Penn, PRTC Admin.**

Kubly said the only major change with this year's letter was that Johnson Block had increased the fee by \$50.00.

- *Motion to approve the 2013 PRTC Audit with Johnson Block – Mrozinski/Wolfe, Passed Unanimously*

**18. Recommendation from PRTC/WRRTC Working Committee to the full Pecatonica Rail Transit Commission requesting Lafayette County contribute the amount equal to the county contribution the other PRTC member counties (\$26,500.00) – Harvey Kubly, PRTC Chair**

Kubly said this was a recommendation that came from the Working Committee. He gave background on this issue and said the Charter stated that counties should contribute equal amounts. He said that the Committee could see that as time went on, the Commission did not have the money it used to have due to maintenance (both rail and non-rail) and that would continue. He said it was long overdue that the Commission address this item. Kubly this was the Committee's recommendation from the October 2013 meeting, passed unanimously. Brownlee commented that every county signed a contract, the charter, and it was part of becoming part of the Commission and included the commitment to share the cost of operation equally. This gave every county an equal voice on the Commission and it seemed logical that if everyone contributed the same, they would have equal voice. Wayne Wilson asked if Lafayette County had ever been billed by the Commission. Kubly said it just did not get done and no one ever said anything. Wilson asked if the contribution was an annual fee and said there was no railroad in the County but if the County was expected to pay, they needed to know about it. Ted Wiegel said the budget was already set so a contribution could not be paid in 2014. Brownlee asked if all the counties were invoiced. Penn said her understanding had been that the Commissioners told their counties. Sweeney said this was why he wanted the Committee to take a look at an agreement: to address problems so that commissions would take the balance of one commission while another one was running on poor rails. Kubly said that in his experience, the PRTC had gone through a number of staff people and through that the knowledge how to address this was lost. Sweeney said also in regard to no active rail in the county, being an ag producer himself, having functioning freight rail in the SW WI area had raised the price of commodities to local farmers. He said the effect of that was wider than just the rail corridor and impacted the whole region and "lifted all boats".

Wiegel asked how to get out of the Commission because he could not see this request passing the Board and if so, would the land go back to the farmers along the corridor. Sweeney said that this was just a request for equitable funding and if negotiations were necessary, so be it. He said the trail was an important part of this system as an economic engine and no one was being asked to leave the Commission. Wolfe said that in his experience the ATV and snowmobile trails brought in money for maintenance but they had sources for their funding. Lucht said that the challenge was that the County had the benefit of the rail as grain was moved out of it. He said the rail was a regional benefit and noted a study of ag product distribution and said that Lafayette shared the economic benefits and that was a story the Lafayette County Board needed to hear. He said he would be happy to speak to the County Board. Ladewig said he thought it needed to be a step-by-step process: let the County do what they needed to do and then come back to the Committee. He said he was not hearing the Commission asking for restitution of past contributions and he believed the Committee could continue to work on this with Lafayette County. Kubly said this should have been addressed years ago. Wilson said to send a request to the Finance Director and get something on paper. Kubly asked for an action but Eileen said no action was necessary and just send an invoice. Kubly said Penn would invoice the county. Sweeney said that the invoice needed to be followed: to send a bill without an explanation would not be helpful. Wilson said they would need to have someone from the Committee to explain it to Lafayette County Board. Ladewig said Lucht had volunteered to go and explain to the Board and agreed that Lucht could do that. When asked, Brownlee said she could discuss this with Lafayette County's corporation counsel but not go to the Board. Sweeney said he thought Kubly should go as well. Kubly said if his schedule permitted he would go.

**19. Action Item - Adjournment**

- *Motion to adjourn at 2:38 PM – Gustina/Ladewig, Passed Unanimously*