

PECATONICA RAIL TRANSIT COMMISSION

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

1:00 PM • Friday, July 24, 2015 • Green Co. Courthouse, 2nd Floor Courtroom, 1016 16th Ave • Monroe, WI

1. 1:00 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:

Commissioner		Position	Present	Commissioner		Position	Present
Green	Harvey W. Kubly	Chair	x	Iowa	Charles Anderson	Secretary	excused
	Oscar Olson		x		William G. Ladewig		x
	Ron Wolter	Treasurer	x		Philip Mrozinski		x
Lafayette	Leon Wolfe		x	Rock	Ben Coopman	Alternate	
	Larry Ludlum		absent		Wayne Gustina		x
	Gerald Heimann	Alternate			Alan Sweeney	1st Vice Chair	x
	Ted Wiegel		x		Terry Thomas	2 nd Vice Chair	x

Commission achieved quorum.

Other present for all or some of the meeting:

<ul style="list-style-type: none"> • Mary Penn, SWWRPC • Ken Lucht, WSOR • Kim Tollers, WDOT • Eileen Brownlee, Corp. Counsel • Jeff Wunschel, Green Co. Hwy Supervisor 	<ul style="list-style-type: none"> • Fred Kelley, Monroe Police • Bill Reise • Nathan Klassy • Bob Voegeli • Paul McCarville, T-Riders
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3. Action Item. **Certification of Meeting's Public Notice** – *Noticed by Penn*
 - *Motion to approve certification of public meeting – Thomas/Wiegel, Passed Unanimously*
4. Action Item. **Approval of Agenda** – *Prepared by Penn*
 - *Motion to approve agenda – Wolfe/Olson, Passed Unanimously*
5. Action Item. **Approval of draft Minutes from May 2015 meeting** – *Prepared by Penn*
 - *Motion to approve minutes of May 2015 meeting with corrections – Mrozinski/Ladewig, Passed Unanimously*
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*
 Mary Penn listed the Commission correspondence she had dealt with since the last meeting.

Alan Sweeney said he had recommended Rock County send copy of the WRRTC's contribution to Penn for the record.

8. PRTC Financial Report – Ron Wolter, SCWRTC Treasurer

- Motion to approve Treasurer’s Report – Ladewig/Sweeney, Passed Unanimously

Ron Wolter gave the Treasurer’s Report to the Commission. He listed the invoices received. There were no bills.

9. WSOR Operation’s Report – Ken Lucht, WSOR

Ken Lucht reported that July 1st was WSOR’s 35th anniversary and said they had painted engine #3928 the WSOR signature colors of red and grey in commemoration.

On the budget, he said the Governor recommended \$43M in Bonding for FRAPP funding. The legislature cut it to \$29.8M in new bonding authority. \$5.2M in cash from the loan program was then supplemented for the grant program for a total of \$35 M for railroad structural improvements. Lucht said the WDOT Secretary Gottlieb had requested \$60M initially. Lucht said bonding would continue to be discussed and he anticipated additional cuts in the future. However, the good thing was that WDOT had about \$10M or \$11M from their past budget which could be used if necessary.

He said that WSOR had not heard about the outcome of their TIGER grant application but he expected they would find out by the end of August.

Lucht said there were a lot of growth projects underway. He highlighted the new transload facility in Prairie du Chien saying that this made WSOR and the customer’s business more competitive, noting this was a completely privately funded project. He said there was progress on 11 miles of the Sheboygan sub (with 7miles of rail laid. He expected this work to be complete by October. He discussed the challenges on this project including state highways and parts of downtown Sheboygan Falls and said the general contractor was doing a “fantastic job”.

Lucht said the Oregon sub was due to have final signal installations complete at the end of month with the expectation that by August the line would be Class 2 (25mph) and added that the customer was very happy with rail service.

Leon Wolfe asked about the \$35M in the budget. Lucht said the previous budget was \$60M. Bill Ladewig asked if the TIGER grant required state or county contributions. Lucht said in order to be more competitive it helped. Ladewig asked if there were matches promised and how to make good on those. Lucht said the State had promised a \$10M match. If the feds matched it would give them priority for funding. There was no indication that the State’s match was in jeopardy at this point.

10. WisDOT Report – Staff may include Kim Tollers, Marty Morin, Roger Larson

Kim Tollers said things were quiet at WDOT other than the budget. She said there was an opening in FRAPP for a staffer and once filled, they would be working with WSOR to get the ’16 and ’17 budget cycles going. She also said that Frank Huntington was back and that Dave Simon would be coming to a future meeting to introduce himself.

11. PRTC Administrator’s Report –Mary Penn, PRTC Admin.

Penn reported on her administrative duties since the May meeting. She spoke of the situation in the Village of Browntown and also her efforts to attain general liability from the TCTC as stipulated in their operating agreement with the PRTC.

12. Tri-County Trail Commission Report – Leon Wolfe

Wolfe said the trail was being very heavily used with lots of ATV and UTV users. He said horses had also been on it. He also reported that funding had been approved for next year and that funding for bridge widening was being sought.

Oscar Olson said he had tried to get information on what they had to do for UTV access from their farm to the trail. He said in Green County they could not go from the farm to the trail but in Lafayette you could. Wolfe described how Lafayette County worked on achieving that and explained the process.

13. Discussion and Possible Action on WSOR’s 2015 Capital Plan – Ken Lucht, WSOR

Lucht said he did not yet have anything for the Commission to take action on but he would by the next meeting.

14. **Discussion and Possible Action on entering into a Temporary Access Permit with Village of Browntown on a triangular-shaped parcel of property located in the SE ¼ of the SW ¼ of Section 4, T1N, R6E, Green County, WI – Mary Penn, PRTC Administrator, Oscar Olson, PRTC, Eileen Brownlee, Corp. Counsel**
- *Move to approve the Temporary Access Permit with recommend form changes to the Village of Browntown with 30 days to sign otherwise a no-trespassing sign will erected - Sweeney/Mrozinski, Passed Unanimously*

Penn distributed the draft Temporary Access Permit (TAP) handout she had put together and gave the background on the issue. Olson said when the cement block restricting access were pulled out originally, the Village said they would lease the parcel for 5 years but when the lease came up for renewal, they were not interested. He acknowledged that the Village officials were all new now.

Alan Sweeney said he saw this as a temporary authorization and if the Village wanted to use this, something was needed to put the liability on Browntown and give them a use. Eileen Brownlee said this was a permanent use until cancelled with a 30 day notice. There was discussion about what exactly was meant by “temporary”. Tollers said this was not a permanent. Ladewig said if the Village did not sign it, they should put some pressure on the Village somehow. Kubly agreed, due to the liability. Brownlee said she was happy with the TAP as it read and if they would not sign, put up a No Trespassing sign. She said enforceability was an issue but if unsigned, why bother applying for a permit. Phil Mrozinski asked if putting up a no trespass sign did release liability. Brownlee said if someone trespassed they had less of a claim if something happened. She said it would be hard to claim damages if you were somewhere you were not supposed to be, adding that the more you do, the less the chance of trespass.

15. **Discussion and Possible Action regarding proposed trail sign on PRTC ROW, Mineral Point, WI – Paul McCarville**
- *Motion to defer sign approval to the TCTC – Sweeney/Ladewig, Passed Unanimously*

Penn distributed handouts showing the area in question. Paul McCarville, representing a snowmobilers club in Mineral Point, presented to the Commission saying he was looking for approval to reassemble a sign on the PRTC right of way (ROW). He gave background on the issue and noted this was not new construction, saying it was only two posts back in the ground and not as substantial as he had read in some email correspondence. He said on the property lines there should be one showing the PRTC property started 72’ south of the line. He said they would keep 8 to 10’ from that property line and that the new version would incorporate some rock work on the post and wooden shingles as it would be near the depot and they wanted it to be complimentary to that. He said from ground level to roof peak no more than 8’ high, with only two posts in the ground. He noted it could be removed by a skid-loader.

Wolfe asked for clarification on the property line on the map. Mrozinski observed that as the zoning administrator for Mineral Point, this proposal had gone before both him and the Historic Commission and the sign that had been developed was not what was in the handout but actually much nicer. He said the Mayor had approved it (as had he himself, believing it to be on City property). He added that what he would like to see was action today. Kubly asked if the new sign matched the old dimensions. Mrozinski said it did. McCarville said the only difference was the rockwork and the wooden shingles.

Ladewig asked for input from the TCTC. Wolfe said they had approved it as it aided signage. Ladewig said in the event of maintenance, the TCTC would have to “go after it”. Ted Wiegel said the ATV clubs took care of it and it allowed space for trail notices and local advertisers. Ladewig said in the terms of general liability, the Commission needed to look to the TCTC. Wolfe said they could put that on the next TCTC agenda. McCarville said these signs had been up for 20 years. Wolfe said it could be clarified at the August TCTC meeting.

Kubly asked for clarification on the posts. McCarville said it would be rocks around the pillar with one panel in the middle that would not be underground. He said this way it would “fit into the area” and noted there was no expense to the Commission. Sweeney asked if this would require a TAP. Brownlee said the interim agreement between TCTC and the PRTC authorized the TCTC to put up signs. In this case the agreement was silent on delegating this to another entity: the PRTC had to assign permission for a structure. In this case, as a pole sign, it was not a structure. She then asked if the PRTC needed to approve this at all. If the TCTC wanted the sign put up it was on them, not the PRTC. The PRTC did not have the definition of sign or structure in their agreements. If this were a big sign on a concrete platform, it would be a sign on top of a structure. Wiegel said everything was through the clubs. Wolfe said the clubs reported every month and let the TCTC know what was needed. Brownlee said this would be a sign put up by the trail commission, regardless of who put it up.

After the motion Mrozinski said he would like staff to work on cleaning up the language in agreements in regard to signs. As a Commission they needed to work this out. Kubly asked if size mattered or was it more of a sign versus structure discussion. He said there did not seem to be anything very clear. Brownlee said signs were usually defined ordinance by ordinance but you would never find a firm line to define. Mrozinski said if there was something that everyone agreed on, it could have gone to the TCTC.

McCarville said they were pretty particular in what they would allow on the property, noting they would not allow homemade signs and would not allow sight lines be obstructed.

16. Discussion and Possible Action on STH 69, City of Monroe Railroad Crossing – Jeff Wunschel, Green County Highway Commissioner, Nate Klassy, Fred Kelley, Monroe Police Dept.

Jeff Wunschel presented the issue as Penn distributed a handout. He said he had written a letter to Jeff Plale, Commissioner of Railroads but had not heard back from him. He said Nate Klassy had called the Office of Commission of Railroads (OCR) as well with no luck. This issue was in regard to the changing the crossing on Hwy 69. Wunschel introduced Klassy. Klassy said in about 2001, during the building of an ethanol plant in Monroe, he had contacted the OCR Commissioner Rodney Kroonin who came down and looked at speeds and the crossings and suggested a barrier gate be put in. This was a gate that came down and locked in place, set on the median. If a vehicle hit the gate, theoretically it would not let a car through to hit a train. He said there were approximately 10 ethanol cars filled a week and there were homes about 50' away from the railroad tracks. He noted the majority railroad traffic went through at night. Klassy said the maintenance of this crossing was minimal. He also said the City did not know the OCR was ordering the removal of this gate. Klassy said as far as he knew there were no maintenance issues with the gate and had heard about this closure from the Madison paper. After this decision came through he talked to the fire chief and the issue went to the City Council and letters were written to Plale. He said he had started making phone calls and had never gotten a return phone call and he wanted Plale to come look at the crossing in the context of an ethanol spill. Fred Kelley said during routine maintenance they had found evidence of vehicles hitting the gate but they did not hit the train. He said he did not remember the gates being down or with problems, adding that there had been no more maintenance problems with this gate than any other.

Sweeney asked Kubly for some history on the gate. Klassy said Mr. Kroonin had said these were a new type of gate (at the time) with some installed in California. Mr. Kroonin had noted they were much more expensive than other gates. Klassy said no ethanol was hauled in Madison at 25 mph and in Monroe it was at 35 mph and crossed a 4 lane highway. Kelley said these were heavy duty gates that would stop a pick-up truck going 45 mph. Wunschel said there was an order authorizing to remove the gate. Olson asked if it were too heavy for a single person to lift it. Ladewig asked if there were an appeals process. Kelley said since the Commissioner had not called back they did not know. Wunschel said they could investigate that. Tollers said she believed the order was issued without a hearing. If there were a hearing that would be an opportunity to do this but in this case, the Commissioner did it himself. Klassy said in they were here asking for the Commission's help. Wiegel said he did not know where the PRTC came in. Kubly said at most a letter of recommendation. Brownlee said the exclusive permission was with the OCR and the PRTC did not have any say on gates on any crossing. She said the City could file a petition with the OCR too: there would be a way of responding to that. She said she found it odd (unless it were an emergency rule) that this had happened. Ladewig asked about the appeals process. Brownlee said there was a period of time for appeals in the courts in certain cases. She said she thought under emergency rule, it would temporary. If they had not been able to access the records with an open records request. Tollers said all the orders were published online. Wunschel said he thought he had seen that a while back and he thought this one was scheduled for next year.

Asked for his input, Lucht said he had asked Penn for a copy of the order but she had had enough time to do so. He gave some background on the type of gate and said the removal was based on the request of WSOR. Lucht said four of these gates were in Wisconsin and over the past 10-15 years they had been nothing but trouble, giving examples from Madison. He said there had been problems on the Hwy 69 crossing too. It was pointed out that if the gate was down with no train in sight, it was too heavy to lift and was not a break-away gate. He said it was the same theory with closing a bridge with breakaway wooden fences.

Lucht encouraged everyone to read the order as it was very compelling. He read some of the order to the Commission. He said these were antiquated and obsolete gates and noted the FRA did not even recognize these as gates. He said the order also stated that the gates would be replaced with standard gates that would be maintained by the railroad. He said WSOR wanted to be proactive and noted that WSOR did haul dangerous chemicals through Madison and WSOR did not believe the Hwy 69 crossing was any different. He added that WSOR had already contracted to remove the gates from Madison and the Hwy 69 one would be replaced next year.

Kubly said he thought if the presenters wished to do anything, they should try to pursue the OCR. Kelley, Wunschel, and Klassy thanked the Commission for their time.

17. Discussion and Possible Action on 2016 draft PRTC budget – Mary Penn, PRTC Admin.

- *Motion to remove the fencing contribution from the budget – Wiegel/Wolfe, Passed Unanimously*
- *Motion to approve the budget as corrected – Gustina/Olson, Passed Unanimously*

Penn distributed the budget and explained that the county contribution was now added in as revenue for projects, minus \$1,100.00 to make up the rest of the operating budget. Wiegel said there was no need for a fencing contribution in the budget as it had not been used for years. Mrozinski asked for clarification on the \$50 increase from Johnson Block. Kubly confirmed it was correct. Sweeney

asked about the revenue line in the current budget and asked that it be corrected as it was \$100 less than shown even though it was adopted. Penn said she could correct that.

- 18. Discussion and Possible Action on 2016 Staff Service Agreement with SWWRPC – Mary Penn, PRTC Admin.**
- *Motion to approve the 2016 Staff Service Agreement with SWWRPC – Wiegel/Ladewig, Passed Unanimously*

Penn gave Kubly a copy of the 2016 Staff Service Agreement saying it was identical to last years and only the years had been changed.

- 19. Action Item - Adjournment**
- *Motion to adjourn at 2:18 PM – Gustina/Wolfe, Passed Unanimously*

DRAFT

PECATONICA RAIL TRANSIT COMMISSION

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

PRTC/WRRTC FORMAL FUNDING AGREEMENT WORKING COMMITTEE

July 24, 2015

Green Co. Courthouse 2nd Floor Courtroom, 1016 16th Ave • Monroe, WI

- 1. Call to Order – Harvey W. Kubly, Chair**
The meeting was called to order by Chair Kubly at 2:31 PM

- 2. Establishment of Committee Members Present – Mary Penn, PRTC Administrator**

<i>Commissioner</i>	<i>County</i>	<i>Present</i>
<i>Harvey W. Kubly</i>	<i>Green</i>	<i>x</i>
<i>Ron Wolter</i>	<i>Green</i>	<i>x</i>
<i>Philip Mrozinski</i>	<i>Iowa</i>	<i>x</i>
<i>Charles Anderson</i>	<i>Iowa</i>	<i>excused</i>
<i>Alan Sweeney</i>	<i>Rock</i>	<i>x</i>
<i>Wayne Gustina</i>	<i>Rock</i>	<i>x</i>

Also attending: Kim Tollers, WDOT, Mary Penn, PRTC Administrator; Eileen Brownlee, Corp Counsel

- 3. Action Item. Certification of Meeting's Public Notice – Noticed by Penn**
 - Motion to approve certification of notice – Sweeney/Gustina, Passed Unanimously*
- 4. Action Item. Approval of Agenda – Prepared by Penn**
 - Motion to approve the agenda – Phil/Gustina, Passed Unanimously*
- 5. Action Item. Approval of draft Minutes from May, 2015 meeting – Prepared by Penn**
 - Motion to approve May 2015 minutes with correction – Sweeney/Gustina, Passed Unanimously*

COMMITTEE BUSINESS

- 6. Continued discussion of possibility of Green County joining WRRTC**
Harvey Kubly noted at the last meeting that he was to contact Green County corp counsel to work up a Memorandum of Understanding (MOU) and he had planned to meet with them at the Board meeting but the Board did not meet in June. However, after the receipt of an email from Mary Penn, he said they did not want to do that but rather pursue a Resolution and asked for Eileen Brownlee's input. Brownlee explained how counties join the WRRTC which involved a Resolution to join and then the WRRTC adopting a resolution accepting that county into the commission. This way there was no MOU, just resolutions adopted by each governing body. She said Jefferson County could be used as a template as she had prepped all those documents last year. She said she knew what to look for from the RTC standpoint so it went "swimmingly". She thought the same procedure could be used here, adding that in the WRRTC charter explained how to add additional counties. Kubly said the reason they thought they needed an MOU was because the PRTC wanted something in writing indicating that Green County would contribute to the PRTC. Brownlee asked Sweeney and Gustina if Rock County contributed to both. Sweeney said that was why he had brought up the point from the last meeting to forward copy of the draft check to the PRTC showing the \$28,000.00 contribution for the WRRTC was received. He said he was certain that Iowa County did the same. Brownlee said she did not think that that would be a problem and noted that WRRTC and SCWRTC both had counties in each. Kubly asked if that were in writing in some place and remarked about the 66 Agreement. Penn asked if the charter would explain this. Brownlee said the counties could establish how they would contribute. She said she had

never seen a three-party agreement between the RTC's (WRRTC, SCWRTC, PRTC), nor had she seen language that explained how counties contributed.

Sweeney said he had thought an MOU would be useful related to the funding of projects and the consistent positive balance of the PRTC and the consistent zero balance of the WRRTC. He gave an example of a WRRTC bridge in Illinois and since PRTC had a vested interest in those, in those cases Green County could contribute to their funding in that case. Brownlee said she did not think there was any legal impediment to that. She said both SCWRTC and WRRTC own property in IL, while PRTC does not but she did not think there would be a problem with that. However, she noted it would probably have to be done on a case-by-case basis. She said if the MOU said that the two commissions agreed on a case-by case basis to share funding on projects with both, that could avoid arbitration, a review of the proposal would be necessary. If Green County joined WRRTC they would get "two kicks" at any sort of proposal. In a boiler plate resolution for Green County asking for membership in the WRRTC and the WRRTC allowing that membership would that be something Brownlee would address or wait until the issue came up. She said she would probably be reluctant to have language like that and mentioned Iowa County as an original member and suggested looking at Rock County's agreement. She did not think that joining but never paying would be odd. If there was language that allowed discussion in the event that happened, that might be good. Kubly asked Eileen to review Rock County's joining the WRRTC. She said she would do so.

Sweeney asked Kubly if he thought Green County was leaning towards joining. Kubly said the Board Chair thought it was ok and he, Kubly, did not think it would be a problem. Sweeney asked if Green County were prepared to pay \$28,000.00. Kubly said he did not think it was a problem and asked Penn if Green had paid promptly and she said they had. Kubly said they would wait until receiving guidance from Brownlee in regards to the Rock County joinder.

7. Discussion and possible action on Lafayette County Contribution

Kubly asked if Penn had heard from the County on the county contribution. Penn confirmed that Wayne Wilson had been sent a letter and invoice. Brownlee said that it was pretty clear that Lafayette was not buying in. Kubly said they had been remiss in not including them in a billing in the past. Penn described how she had billed all the member counties. Kubly said that this would probably be the status quo until Lafayette County wanted something.

8. Action Item - Adjournment

Motion to adjourn at 2:50 PM- Gustina/Wolter, Passed Unanimously