

**WRTC EXECUTIVE COMMITTEE ADOPTED MARCH 2015 MEETING MINUTES**

WISCONSIN RIVER RAIL TRANSIT COMMISSION  
 EXECUTIVE COMMITTEE MEETING - FRIDAY, MARCH 6<sup>TH</sup>, 2015 @ 10AM  
 DANE COUNTY HWY GARAGE, 2302 FISH HATCHERY RD, MADISON, WI

1. 10: 03 AM **Call to Order** – *Alan Sweeney, Chair*

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

Crawford	Tom Cornford, (2nd Vice Chair XComm)	X-Present	Rock	Ben Coopman, Alternate	Not attending
	Rocky Rocksford	X-Attending		Wayne Gustina	X-Attending
				Alan Sweeney, Chair	X-Present
				Terry Thomas	X-Attending
Dane	Gene Gray, (Treasurer X-Comm)	X-Present	Sauk	Marty Krueger, Alternate	Not attending
	Jim Haefs-Fleming	Not attending		George Johnson	Not attending
	Chris James, Vice Secretary (XComm)	excused		John Miller, Vice Treasurer (XComm)	X-Present
				Dave Riek	X-Attending
Grant	Gary Ranum	X-attending	Walworth	Richard Kuhnke, 2 <sup>nd</sup> Vice Treasurer (XComm)	excused
	Vern Lewison	Not attending		Kevin Brunner	
	Robert Scallon, 1 <sup>st</sup> Vice Chair (XComm)	X-Present		Allan Polyock	Not attending
Iowa	Charles Anderson, Secretary (XComm)	excused	Waukesha	Karl Nilson, 4 <sup>th</sup> Vice Chair (XComm)	X-Present
	William G Ladewig	Not attending		Dick Mace	Attending
	Jack Demby	Not attending		Carl Pettis	
Jefferson	John David	Not attending			
	Laura Payne	Not attending			
	Augie Tietz (3 <sup>rd</sup> Vice Chair XComm)	X-Present			

Commission met quorum.

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

<ul style="list-style-type: none"> <li>• Mary Penn, WRTC Administrator</li> <li>• Ken Lucht, WSOR</li> <li>• Kim Tollers, WDOT</li> </ul>	<ul style="list-style-type: none"> <li>• Alan Anderson, Pink Lady RTC</li> <li>• Jim Matzinger</li> </ul>
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3. Action Item. **Certification of Meeting’s Public Notice** – *Noticed by Penn*  
*Motion to approve posting of meeting – Nilson/Cornford, Passed Unanimously*

4. Action Item. **Approval of Agenda** – *Prepared by Penn*  
*Motion to approve agenda – Gray/Gustina, Passed Unanimously*

5. Action Item. **Approval of February Minutes**– *Prepared by Penn*  
*Motion to approve February minutes with corrections – Nilson/Tietz, Passed Unanimously*

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**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 listed the correspondence and communications she had addressed in the past month.

**8. Updates. Announcements by Commissioners – No Discussion Permitted**  
John Miller said that a “pro passenger rail” group was meeting the next day at the Sequoia Library Branch “pro rail”. He said they were looking for rail access in Madison and seemed to be interested in the CN branch.

### REPORTS & COMMISSION BUSINESS

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

Motion to approve the Treasurer’s Report – Gustina/Mace, Passed Unanimously

Motion to approve check 1281 – Scallon/Thomas, Passed Unanimously

Jim Matzinger gave his report to the Commission, noting that the Evansville surplus had been added into the general fund. He said the income statement for December showed the dollars spent on the new line with \$11,900.00 remaining which would now show up as income going into the future. He said those dollars could be designated by the Commission as needed. He also said that the December statement some time to organize as an end-of-the-year activity. He noted some out-of budget item revenue which included county contributions of \$7,000.00. This was money paid by Crawford County to catch up on their bad debt. Matzinger noted that the Commission had expended more money than budgeted on legal expenses but was corrected by being over budget on permits. He added that 2014 projects would be carried forward and they had not been closed out yet. He reported they were \$15,000.00 better than budgeted.

Karl Nilson said they should budget more money for corp counsel for the upcoming years. Matzinger asked if the Commission wanted to amend the 2015 budget at the May meeting or if the dollars could be kept in reserve for legal expenses.

Gene Gray asked if the numbers for 2014 were a “blip or a trend” in terms of legal expenses. Nilson recounted the amount of work that Eileen Brownlee had needed to do. Ken Lucht said she worked a lot of hours on documentation preparation, particularly acquisition. Alan Sweeney said even doubling the legal budget would not be out of line. Nilson said she was a good bargain. Sweeney said he would be agreeable to adding amending the budget to the May agenda, to reflect the projected legal costs.

Robert Scallon asked if the Evansville money could be used for other lines. Matzinger said it was not segregated and could be used for anything. Gray suggested identifying it so it would not get lost: if the Commission wanted to reserve it, they could do that. Gary Ranum asked about Brownlee’s legal fees and whether they were out of the Evansville line or the legal fund. Nilson said the legal fees came out of the WRRTC’s budget and there needed to be something in there. he said it did not hurt “to have a little slush” for emergencies.

Matzinger then listed the single check for Dane County Hwy for approval.

Tom Cornford asked about the bad debt. Matzinger said the amount went down when the county paid extra so the \$7,000.00 he had reported would bring it down some. He said the advantage of setting it up this way was when the County sent its money, it was revenue.

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

Ken Lucht introduced a clarification to the December 5, 2014 meeting minutes, saying that under Item 10, Operations Report, the last sentence to the Commission should have read “the city had not invited them to”.

Ken Lucht then reported on maintenance, including projects in Rock County and between Milton and Janesville. He updated the Commission on the Nippersink River bridge work on Fox Lake Sub, saying that WSOR would move ahead at a maintenance level and replace a couple of piers. They would be working along the waterline and remanufacturing the piers. A second phase would be decking and railing. Lucht said it was a very substantial structure which connected WSOR to the Chicago market. He said the first bid will be in the millions of dollars and WSOR did not expect any other hang-ups: they would develop a phase II next year. He added that the work fully funded by WSOR. Nilson asked about the nature of the piers and what WSOR would be doing. Ranum asked if this was the bridge that had had clearance issues. Lucht said all he could say was that WSOR was moving ahead by doing maintenance.

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Lucht next announced the financial presentation to WDOT (given annually in March). He said WSOR was trying to see if the meeting would be the week of March 23<sup>rd</sup> and said he would let the Chair know who to invite to the meeting.

Lucht said Creek Road in the Town of Bradford, Rock County, WSOR was “pretty close” to completing a bridge replacement agreement between WSOR, WDOT, Rock County and the Town. He asked if the Commission wanted to review that agreement in April or May and Sweeney said it would be a good idea as long as it did not delay the project. Sweeney then asked if there was federal bridge aid in that project and Lucht said there would be. Nilson asked if the Town would own it after it was replaced and Lucht confirmed that the Town would take over ownership and maintenance after completion. Ranum asked about the bridge construction and Lucht said it would be concrete. Sweeney commented that it would need to meet federal bridge standards.

Dave Riek asked about last year’s acquisition agreements being complete and Lucht said everything was completed.

Lucht then distributed a report on tie installation. He explained that the report showed how many ties were or would be installed by sub system wide from 2011 thru 2018. He said there was a lot of spot tie maintenance, noting that numbers in red were capital projects funded by the state and the RTC’s and it testified that WSOR was putting a lot of money back into the system. He said fluctuations were due to big tie replacements done one year and not another and highlighted 2015 as a banner year. On the Prairie Sub he noted that every year maintenance ties had been put in and was hopeful that a state application would come thru for a capital replacement.

On rail inventory by sub, the report showed what type ties were on the system. Lucht noted that there was 200 miles left of 90 lb. rail and the Prairie sub had 60 miles of it and even 80 lb. rail. Lucht showed examples of 100+ year old rail segments compared to the new CWR, saying these examples illustrated why WSOR was continuously working on rail replacement.

Lucht said numerous rail defects had been reported on the system and said the frequency of testing had gone up, noting that the Prairie sub was 100 miles and a lot of defects noted. He said many defects could be repaired via maintenance but that was only a “band-aid approach” for the most part.

Augie Tietz asked about the location of the Prairie sub and on tie installation, he said he did not see tie installation in Watertown. Lucht said in Watertown, phase 1 was crossing and bridge work and 2016 was tie replacements via capital funding. Dick Mace asked if most of the defects were in the old rail or were they even in the continuous welded rail (CWR). Lucht said welded rail installed in 2005 did not show one defect. He said the Madison sub done a year ago did not show a single defect. There was discussion about the amount of defects and their numbers over 100 years and the nature of welded rail. Lucht said most of the defects were on 90 and 85 lb. rail.

Dave Riek asked if the Sauk sub was running from Mazomanie up through Badger. Lucht said it went up to Getty Road on the Reedsburg sub, about a mile. Riek asked if Getty Road would be an underpass as suggested at the last meeting.

Alan Anderson asked when the ties were replaced and also about the Reedsburg line and its 54 miles of 100 lb. rail. He noted the wear on the old rails and asked about its aging. Lucht said WSOR did apply for a capital tie project on the Reedsburg sub to address the rail but at this time it was not a priority because it was 100 lb., not 90 lb. rail. Nilson said the 90 lb. rail would probably, if sectioned, would really be 80 lb. rail.

Lucht distributed a diagram showing the different types of rail in cross section. Four different test sites on the Prairie sub were included and found that some of the rail was 76 lb. or 77 lb. rail: it was 74.5 lb. rail in Lone Rock, showing that all the Prairie sub rail was worn and exceeded its useful life. Lucht noted he had shared this information before, saying it justified and directed WSOR’s projects and hoped the Commission would support their efforts to work on these old rails. He also asked the Commission if there was information they would like to have that the Commission did not currently get and listed a number of maps WSOR had that showed various conditions and locations of various categories related to the track. He also showed a map that showed the location of bridge projects. He said currently WSOR had 100 applications for bridge work dating back to 2013. He explained what WSOR did to work with the State and invited the Commission to give him their WSOR information requests, adding that he was looking to hear what the Commission wanted as well as on what sort of basis (annual or quarterly). Sweeney said having copies of the maps would be helpful and even perhaps stored at the meeting location.

Ranum asked Lucht for the completion date on the CWR work on the Prairie sub. Lucht said it was in WSOR’s 5 yr. plan which would start in 2016 for the first 14 miles. If funding remained where it had been for the past 5 years, the project could be completed: WSOR would do the work 14 miles at a time. Mace asked about funding and what would happen if funding were cut. Lucht said it would backlog projects.

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Sweeney asked about the tie installation on the newly acquired Reedsburg line. Lucht said when Union Pacific (UP) owned the line, they would give WSOR an allowance for new ties to accommodate UP's ballast train. Lucht said that about each year WSOR would install about 10,000 ties in 2011, 2012, 2013 as basic maintenance. In 2014 the tie work was for the Oregon spur.

Sweeney asked about "surface entire". Lucht said the Madison sub work was surface entire (ties, ballast, rail, etc.). In 2017 the entire sub would be replaced with CWR and there would be just normal maintenance. John Miller asked if Penn could send the maps as attachments to the Commission. The Commission requested the usage charts and bridge work charts.

Nilson noted that funding for biofuels in Madison was being cut and asked Lucht if there would be any impact. Lucht said the biofuels work "was dead". In terms of land acquisition there was supposed to be a switch and crossing removed but the University (of Wisconsin) would not agree to that. He said the potential for moving biofuels into the plant was a non-issue. Anderson commented on the rail defect detector and commented it detected less than 1 per mile on the Reedsburg line. He said it was more meaningful to show defects per mile and suggested WSOR include them.

### **11. WDOT Report**—*Kim Tollers, WDOT*

Kim Tollers reported that \$20M of FRRPP program dollars for 2014 projects had been approved. Pending projects were now free to move ahead and she believed the agreements were ready. Sweeney asked Lucht for a list of those projects be brought to the Commission.

Tollers said that \$43M has been itemized for freight rail in the state budget and that bonding authority had been moved from passenger rail to FRRPP authority. She noted that the budget was in flux.

On property management, she said that Lucht, herself, and Brownlee were working on a temporary access permit in Waukesha and Tollers was just about ready to send out the permit. Lucht said he had spoken to Jeff Francis yesterday and there might be a delay and Tollers should delay sending out a draft permit.

She said she had received another proposed permit for the WRRTC's concurrence for a sidewalk permit in the City of Madison. She said WDOT would be working through the permit process. Tollers explained about the situation in relation to an easement and said WDOT preferred permits to easements as WDOT was not able to write easements on property that the State only had a ROW easement on. In very rare cases WDOT would write a permit that included all the long-term issues. Tollers said WDOT would ask the WRRTC for concurrence. Lucht said the OCR had not made a ruling on this yet and WSOR was waiting for the rule as WSOR concerns related to trespassing in the area.

Tollers reported that The Great Sauk Trail Planning Team met 2 weeks ago and would meet today to continue discussions on the trail. They were working on how to move the project ahead. Also, Tollers said that historic status had been declared for the Devils Lake State park and they would have to determine what that would mean in regard to trespass in the Park. She said WDOT would be looking into that more deeply since trespass was a big issue for the Park.

Robert Scallon asked Tollers how much money was requested in the Budget. Tollers said WDOT asked for \$60 M for 2 years and the State said \$43 M. She said the last budget cycle included money for the Reedsburg which was why it was so much higher in the last biennium.

Riek went back to the trespass issue at Devil's Lake saying that anyone who had been there could see the potential dangers. Tollers said the State would convene a committee to bring all the parties together and at a bare minimum, acknowledge the situation. To date there had not been a discussion since it was not owned by the State.

### **12. WRRTC Administrator's Report** — *Mary Penn, WRRTC Admin.*

Mary Penn reported on her administrative duties. She had forwarded a question regarding the appropriateness of the Executive Committee approving Full Commission minutes to Eileen Brownlee from whom she had not received a response to date. Penn told the Committee they had approved the 2013 audit at the January meeting, confirming that e-copies of the audit had been forwarded to member county clerks. She shared a copy of an original crossing agreement (dated 1900) for bridge A-446, Milepost 57.5 on the Fox Lake Sub as a result of a request for same from a Mr. Pete Schierloh who was a project engineer on a replacement span. Lastly, Penn told the Committee she would be on vacation March 16th thru March 20th.

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### **13. Discussion and Possible Action on Support for FRPP Funding for 2015/2017 State Biennial Budget – Ken Lucht, WSOR** *Motion to authorize a letter of support for FRRPP Funding for the 2015/2017 State Biennial Budget – Nilson/Tietz, Passed Unanimously*

Lucht distributed a handout and discussed the funding of the FRRPP program. He noted there were three items requested that the Governor chose not to carry forward. Lucht said it was obvious that the transportation budget was very controversial at this time and said long-term bonding was not very popular these days. He said WSOR's position was that long-term bonding should continue and noted there was a 20% match of private funds for FRRPP projects. These were investments with a 100 year window and vastly outlasted bonding for highways. He noted this program leveraged maintenance on the part of the operator, drawing a comparison between highways and freeways. Under the new budget with a decrease from \$60 M to \$43 M, it was not very popular for Watco to support going back to the higher level. Lucht emphasized that this was not new bonding. He said \$43 M in passenger bonding authority had been moved over to freight which would carry for another couple years.

He said that last month WSOR had submitted about \$60 M for projects and other projects submitted for a total for \$70 M applied this February 1<sup>st</sup> so there was about \$150 M in backlogged rail projects. Lucht said WSOR supported the \$43 M as it related to the funding of the FRRPP and also asked staff and chair to send out a letter of support to various legislators and the Governor.

There was discussion about the nature of the motion. Anderson said Pink Lady was dealing with this too and said WDOT was wrestling with it and agreed with Lucht's argument: he said the big difference with railroad and highways was you could not detour rail easily and there were jobs that would go away if the rail went away. Dick Mace asked if the \$43 M included the funding talked about at other meetings for highway bridge replacement. Tollers said no. Nilson said this was simply for capital improvement. Mace asked for more clarification and was told there were bridge local and federal programs available for bridge work.

Ranum said the term bonding needed to be kept out if it was funded with something other than bonds. Gray said WRRTC was supporting the rail part of the budget.

Alan Anderson asked about a tax revenue portion of the budget to pay for rail. Lucht said there was about \$32 M collected a year and talked about the difficulties of taxing railroads, adding that those dollars were put into the general fund, not reserved for railroads.

Lucht proceeded to go through the WI Items of Interest in his handout, giving background and justification on the items for their inclusion in the proposed budget. He also highlighted WDOT requests not included in the budget and gave background on those items, noting that the transportation budget needed to be sustainable over the long term. He said if state statute locked railroads in at \$10/car, there would be repercussions down the road. He said the possibility of generating revenue per car was not over and he hoped that it would not become a target. He said the big concern were the operating agreements which all had a \$10/car language. He noted the disparities of hauling fees and said those fees could be taxed away from railroads and diverted to highways. As discussion continued on the issue, Lucht noted there needed to be open dialogue, rather than via mandate.

Another item addressed competitive bidding but this item was not included in the budget. Lucht said any state funded project over \$25K could be bid out without having to rebid the whole project and just bid out just certain parts.

Lucht again encouraged the Committee have this on their agenda if they wanted to talk about the issue more. He said joint-finance would have the budget until May so he suggested WRRTC discuss in it April. Nilson commented if he were the highway department, he would be concerned with requiring stopping for all crossings.

### **14. Discussion and Possible Action to Approve the Proposed Intercity Passenger Rail Agreement between WRRTC and WSOR, with any expenses or financial obligation or liability remaining with the operator – Ken Lucht, WSOR** *Motion to approve the Proposed Intercity Passenger Rail Agreement between WRRTC and WSOR, with any expenses or financial obligation or liability remaining with the operator contingent on WDOT and Corp Counsel Review – Nilson/Gray, Passed Unanimously*

Lucht said that this had been discussed last month and confirmed everyone had gotten a copy. Penn said she had sent it with their packets. Lucht gave background of the issue, noting that there were some "pockets" of the system where passenger rail might return so WSOR wanted to maintain the document. He said the agreement had been updated and included all segments in the Commission's territory and included the new liability and indemnification language that came out of the Reedsburg/Oregon acquisitions. He said Positive Train Control (PTC) language had been included as discussed at the last meeting and he read the amended language that had been included. Lucht said he had looked at rent in terms of revenue and said those provisions had been carried forward, adding that it had been reviewed by Corp Counsel. Lucht said the only change recommended to date was to change the WDOT signatory to David Simon.

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There was discussion of the WDOT's final review and signing. Lucht said he did not know if any major changes would come from WDOT's review. Mace said he had had some questions about "interim city rail". Lucht didn't know where that language was in the document and Sweeney asked if the Commission wanted to wait until Dave Simon came back with his final review. Lucht said WSOR would like an agreement in place.

John Miller asked if they needed Full Commission approval. Nilson said the Committee could approve the concept of the agreement and move forward with the final details.

Ranum said according to the past minutes of the different classes of rail, passenger needed class 3 or 4. Tollers said high speed rail needed class 3 or 4.

### **15. Discussion and Possible Action on Approval of Co-Sponsoring a TIGER VII Application to be Prepared by WisDOT and WSOR – Ken Lucht, WSOR**

Motion to approve Co-Sponsoring a TIGER VII Application to be prepared by WisDOT and WSOR – Gustina/Miller, Passed Unanimously

Lucht said Watco had decided to move forward on applying for the TIGER VII program and that Watco had expressed their support for WSOR moving forward. He said he was asking the Commission to support their efforts and the efforts of Iowa County and submit the same project (Madison to Spring Green, new ties, new rails, new crossings) as last year. Wisconsin and Southern would update the application to show new savings and benefits and that WDOT would be helping. He did not know if the total dollars available was known at this time but once it was, WSOR would "hit the ground running" to get the application in.

Nilson asked if having done the application in the past would help WSOR to get this approved. Sweeney asked if communicating with federal and state representatives would be of help to get their support. Lucht also recommended reaching out to WDOT and local legislators. Sweeney asked Lucht to draft a letter that could be sent out to representatives. Lucht said there was usually an executive summary that could be sent out.

### **16. Discussion and Possible Action on Acceptance of Transfer of Deed of Property to WRRTC from the City of Waukesha – Dick Mace, Waukesha County Commissioner**

Motion to accept Transfer of Deed of Property to WRRTC from the City of Waukesha – Nilson/Thomas  
Motion to postpone item until April Ex. Committee meeting – Thomas/Sweeney, Passed Unanimously

Mace said at the last meeting Penn had reported on two parcels of City Waukesha land that the City believed should be owned by the WRRTC. He referred to his large map and oriented the Commission to the parcels. He pointed out the various railroads, operators, and ROW's and how the line connected to the CN line. He showed the switch location and gave the history on the parcels in question, saying the parcels that were acquired by the City. Mace said the issue was where the deed was that the City gave to the Commission in 1988. No one knew where the original was although the City believed it was sent to the WRRTC. He noted the City had voted on this and would do so again a second time, to transfer the parcels to the Commission (who owned the ROW). The State owned the land past the WRRTC's ownership. Mace said, and Tollers agreed, that it was appropriate the Commission owned these parcels. Mace asked Lucht if the Commission needed to do a title search because it was intended to be a quit claim deed which was what the deed was when acquired from Chicago Northwest Railroad. Mace said Tollers had told him it was not necessary to do a title search: it was the Commission's choice to accept the deed without a title search.

Lucht said their records showed CN owned the rail through the crossing and up to the switch. Tollers agreed but said if the parcels were as defined in the original deed, the City believed they had title. The land was granted from Chicago Northwestern to the City. Mace said the parcels were conveyed directly to the Commission. He said the City bought the land probably at the request of the Wisconsin Calumet RR. Now the City was asking to transfer the land to the Commission. He said the transfer occurred from Grand Avenue West. Mace said the City was not involved in other documents other than when the connection was made to form CN. Tollers said WDOT records did not show exactly what was going on. She said it was very difficult to piece together intent from the records they had.

Mace and Tollers discussed who sent what documents and to whom those letter/documents were sent. The conclusion of the discussion was that CN had transferred it (from Grant Avenue West) to the City, the City transferred it to the Commission and WDOT did not know how it was conveyed. East of Grand Avenue Tollers did not think WDOT owned it.

Sweeney asked if Tollers recommended the Commission accept the transfer if the City wanted to grant it to the Commission and the Commission should own it as WSOR was running on the property. It was confirmed this was a transfer of real estate. Mace pointed out on the map the areas owned by the State, owned by the Commission, and owned by the City. Tollers said she did not know why this was not added to the State owned Waukesha line. Ranum asked within the Commission's jurisdiction, why did the State not own

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the real estate throughout the WRRTC's jurisdiction. Sweeney said the Commission owned other pieces (such as Fitchburg). Tollers said the State decided it had not been integral to the State. Scallon asked if it were used and therefore should the Commission own it. Lucht said the difference here was the West parcel was definitely a logical extension to the Commission's holdings. On the East side, the track was owned by CN. If the WRRTC took over ownership, the east parcel would not be covered by WSOR's operating agreement as WSOR only had trackage rights on the east parcel. Mace said the tracks went across the east piece to the CN track. Lucht said WRRTC's property ended at the end of the West parcel. Tollers said in that case, the Commission would not want to acquire the eastern piece. Lucht suggested the east parcel be conveyed to CN and said WSOR did not have records showing anything east of Grand Avenue.

Nilson said he would withdraw his motion. Terry Thomas said he thought the issue should be tabled. There was clarification on tabling and then Thomas made a motion to postpone.

Mace asked if he should mention this to the City and the question of whether the City would have any objection in transferring the east parcel to CN. Sweeney said yes.

### **17. Action Item. Adjournment**

*Motion to adjourn at 12:05 PM – Gustina/Cornford, Passed Unanimously*