

# WISCONSIN RIVER RAIL TRANSIT COMMISSION

FULL COMMISSION MEETING - FRIDAY, MAY 9<sup>TH</sup>, 2014 @ 10AM  
 DANE COUNTY HWY GARAGE, 2302 FISH HATCHERY RD, MADISON, WI

1. 10: 03 AM **Call to Order** – *Alan Sweeney, 1<sup>st</sup> Vice 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		x	
Dane	Gene Gray, Treasurer (XCom)	x	Sauk	Marty Krueger, Alternate	
	Jim Haefs-Fleming	x		George Johnson	
	Chris James	x		John Miller	x
		Dave Riek		x	
Grant	Gary Ranum	x	Walworth	Jerry Grant	x
	Vern Lewison	x		Richard Kuhnke, 4 <sup>th</sup> Vice Chair (XCom)	
	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	x		Dick Mace	x
	Jack Demby	x		Fritz Ruf	x
Jefferson	Mo Hansen	x			
	Laura Payne	x			
	Augie Tietz	x			

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>Eileen Brownlee, WRRTC Attorney</li> <li>Jim Matzinger, Dane County</li> <li>Forrest Van Schwartz, pro bono consultant</li> <li>Pat Raney, Village of Oregon</li> </ul>	<ul style="list-style-type: none"> <li>Ken Lucht, WSOR</li> <li>Frank Huntington, Roger Larson WDOT</li> <li>Alan Anderson, Pink Lady RTC</li> <li>Tony Roach, City of Fitchburg</li> <li>Shirley Grant</li> </ul>
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3. Action Item. **Certification of Meeting’s Public Notice** – *Noticed by Penn*

- Motion to certify posting of meeting – *Ruf/Gustina, Passed Unanimously*

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

Alan Sweeney suggested that the agenda be amended by moving the elections to the top of the meeting.

- Motion to approve agenda with amendment of item 14, 2014 election of WRRTC officers, moved to become item 5 – *Anderson/Rocksford, Passed Unanimously.*

5. **WRRTC 2014 Election of Officers**

Position	Nominee	Nomination (First / Seconded)	Motion to close the nominations and the secretary be instructed to cast a unanimous ballot
Chair	Alan Sweeney - Rock County	Gray/Mace	Cornford/Lewison, Passed Unanimously
1st Vice Chair	Bob Scallon – Grant County	Nilson/Scallon	Mace/Anderson, Passed Unanimously
2 <sup>nd</sup> Vice Chair	Tom Cornford – Crawford County	Scallon/Gustina	Lewison/Ruf, Passed Unanimously

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3 <sup>rd</sup> Vice Chair	Mo Hansen – Jefferson County	Tietz/Ruf	Ruf/Mace, Passed Unanimously
4 <sup>th</sup> Vice Chair	Karl Nilson – Waukesha County	Sweeney/Mace	Mace/Gustina, Passed Unanimously
Secretary	Charles Anderson – Iowa County	Ladewig/Scallon	Mace/Cornford, Passed Unanimously
Vice Secretary	Chris James - Dane County	Gustina/Ruf	Mace/Nilson, Passed Unanimously
Treasurer	Gene Gray - Dane County	Sweeney/Gustina	Nilson/Tietz, Passed Unanimously
Vice Treasurer	John Miller - Sauk County	Riek/Gustina	Ruf/Gustina, Passed Unanimously
2 <sup>nd</sup> Vice Treasurer	Richard Kunhke – Walworth County	Gustina/Thomas	Nilson/Ruf, Passed Unanimously

**6. Action Item. Approval of draft April Meeting Minutes – Prepared by Penn**

- *Motion to approve April minutes – Ruf/Cornford, Passed Unanimously*

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

Members of the public attending the meeting introduced themselves to the Commission.

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

Gene Gray suggested a roster of commissioner contact information so all the Commissioners could communicate with each other. Alan Sweeney agreed that this would be a good idea. Sweeney then asked the new Commissioners (Dave Riek of Sauk County, and Laura Payne, Mo Hansen, and Augie Tietz of Jefferson County) to introduce themselves. Sweeney welcomed them to the Commission. He then asked all the other commissioners to introduce themselves around the table. While introductions were being done, articles submitted by Forrest Van Schwartz were distributed.

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

- Treasurer’s Report for March and April and Payment of Bills

Jim Matzinger gave his report, saying they were in good shape. He said the counties have been billed for their 2014 contribution and noted that the budget will need to be approved for 2015. He proposed that unless there were changes the budget could be approved in June but Karl Nilson said August would be the month to do that. There were no bills to be paid.

- *Motion to approve the Treasurer’s Report – Thomas/Ruf, Passed Unanimously*

Sweeney said he had volunteered Gene Gray to be the go-between for the Commission and Matzinger due to Matzinger’s summer schedule in which he does not work Friday’s. Matzinger said he would work with Gray to get treasurer reports to the meetings.

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

Ken Lucht reported that WSOR engineers were preparing projects to go out for bid, including the Fox Lake continuous welded rail (CWR) project, adding that they were hoping to complete 18 miles of CWR this year. Internally, they were preparing bids for the 8000’ siding in Janesville, as well as gaining permits, etc. for this project and the hope was for it to be completed by winter 2014.

He reported on other work outside the WRRTC region, in particular projects by Sheboygan Falls. He said that bridge work was ongoing including rehabilitation and replacements, specifically in Avoca. He said bridges would be a big part of their work this year. On the Oregon/Fitchburg line, WSOR had decided to do the preliminary work in-house and that other construction activities on this line had gone out for bid and it looked like some of those bids would be awarded. He reminded the Commission there was a customer waiting for the rail access in Oregon.

He next thanked Iowa County and WDOT for sponsoring the TIGER VI application and said there was 56% local match which was very strong. Lucht said the work area proposed was about 37 miles between Madison and Spring Green, and that currently WSOR was reviewing ideas for a public outreach plan to emphasize the public/private partnership aspect of this project.

He next reported that WSOR was waiting for WDOT input on the tie project in Watertown and that they were updating information on the Waukesha line (between Milton and Waukesha).

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In business development, Lucht said the Prairie sub is “going gang-busters” and they were monitoring river levels, as the water was up to the ballast line on the west edge on the island in Prairie. He said it looked like they would “be fine” and anticipated the river receding soon. Dick Mace asked if this was a 100-yr flood and Tom Cornford said it looked like it was getting close as it was at 18’. Lucht said they were underwater at 19’. Cornford asked about tie replacement on the Prairie sub and said that it was only a matter of time before folks reported on ties left on the line. Lucht said they would be shipping those old ties to the power plant in Cassville. He explained that the island was a big rail hub but they needed to work with the City to accommodate the summer tourism season. Jack Demby asked if the TIGER VI was approved, would they get a new bridge but Lucht said no but confirmed that the Avoca Bridge would be replaced.

Jerry Grant asked about a truss culvert on the Fox Lake Line that was plugged and the drainage stopped up. He asked if a crew could open it up but Lucht said it did not look like a rail area and said that it seemed more likely an adjoining landowner had put in drain tile.

Gary Ranum said that he had been contacted about some bike groups of setting up trails in Grant County including a cantilevered bike trail on the Wauzkeka Bridge. Lucht said WSOR had not been contacted by these folks. Gray asked Lucht if WOSR’s customers wrote support letters for the TIGER grant and also asked about how many ties would be going in for projects, not maintenance work. Lucht said he would be getting the numbers for the Commission and listed a variety of projects and the associated number of ties, saying that overall there would be over 50K ties. He said he would get tie numbers for Gray. Scallon spoke of the County’s Master Plan for the Riverway and said the Boscobel Mayor told him the track would be used for a bike trail. Scallon said he was for progress but this proposal needed input from WSOR and WDOT. He noted that no one had ever said where the money for this project was coming from and described some problems associated with the boat landing but Lucht said WSOR had never been contacted. Chris James asked if there was any change in position on the Sauk Trestle for bikes and snowmobiles. Lucht said WSOR had not talked with WDOT about this and were focusing more on the acquisition. He said they did not have a new bridge in Merrimac. Scallon asked if a person from Blue River had contacted Lucht regarding to a rough crossing. Vern Lewison asked about rebuilding the bridges, and would the track be shut down during construction. Lucht said no, shipping would continue just as highways do when being constructed, with work progressing in certain time slots.

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

Frank Huntington reported that WDOT continued to work on the Reedsburg line acquisition and the agreement was anticipated to be complete in the next couple of weeks. Once the agreement was done it would have to be submitted to the Surface Transportation Board (STB) and that may take a while. He said WDOT was looking for a determination from the STB so that WDOT did not become a railroad. Once the agreement was signed there would be discussions with local municipalities in regard to trail issues in Sauk County. He said the TIGER grant had been submitted and this was the first year WDOT had participated as an applicant. He said another Wisconsin Tiger grant application had been submitted by the Northwoods RTC.

Budget wise, Huntington said there was \$52M in the biennium with about \$10M for the 2<sup>nd</sup> fiscal year as WDOT was not counting the \$10M for the Tiger grant. He said if that project was not funded there would be \$10M additional dollars available. He said there were plenty of applications to eat up that money. However, he said this would be decided after July 1<sup>st</sup>, after which WDOT would begin developing the new budget to be submitted next spring. Huntington said WDOT was assuming the new budget would be similar to the old one at \$52M – \$60M, noting that the need “is certainly there”.

He reported that the Baraboo project was moving along but since the bids came in over budget WDOT was waiting for the City to contact them to try and adjust to accommodate the bids. He reported on other projects in the state, noting that bridges were a major issue everywhere.

Dave Riek asked Huntington about the Sauk City/Prairie du Sac trail project, saying he was under the impression that the trail project was a go and a commission dedicated to that had been set up but that Ken Lucht had said that WSOR wanted the bridge as an alternative route. Huntington said the Sauk County Board had approved this a few years ago once the line was acquired. He said they would be sitting down with the County and the trail groups and once the acquisition was in place, the WDNR could start looking for funding but no final decision had been made for how the work would be done. Huntington also said the Merrimac bridge had been recently inspected and there was necessary work to be done, saying the bridge was estimated to be good for another 15 – 20 years and adding it would cost from \$34M to \$70M to replace it. He said inspectors said in April they had found nothing significant. Huntington said they anticipated WDOT working on the bridge but said if it went into Rails to Trails and rail was needed, the corridor would revert to rail and the STB still considered it as rail corridor. When it came time to spend money on the bridge, alternatives would be looked at and noted there were advantages and disadvantages to putting money into the bridge. He said that this analysis would not be done for a few years and in the near term the bridge would be used for rail; in the long term, he could not say.

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Augie Tietz asked if anything had been done on the acquisition on the line in Watertown to the ethanol plant. Huntington said that it had come up a few times but the state had not pursued it.

Van Schwartz mentioned that TIGER VII grant funds could be cut below \$100M. Bill Ladewig asked about the purchase price on the Reedsburg line but Huntington would not release it pending acquisition. Chris Jamesa asked about the track by Devils Lake Huntington made the same response.

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

Penn gave her report, saying that she had met with the insurer, Tom Schaefer who had said he was 95% certain that the premium would be the same amount as last year. She told the Commission it would be meeting in June to approve the insurance because if they waited until the July meeting, their coverage would lapse. She reported she had participated in a conference call regarding the UW Madison power plant Charter Street issue and asked Huntington to update the Commission on it. He gave the history on the Charter Street issue while Penn distributed the Resolution that had been passed by the Commission in 2010. Huntington explained the situation to date and the problem at hand, saying that due to political changes, the power plant had been switched to gas and no longer needed additional rail. He said there were issues relating to liability on the switches and the need for their removal and said WDOT had been working with the University to honor their commitment to doing so. He said that the Commission would not experience any loss and WSOR would be recompensed via a rail grant if the University did not pay for the switch removal.

Penn next said that if all budget inputs could be settled before the June meeting, the budget could be approved in June but if budget approval must come from Full Commission, budget would be approved in August. Sweeney noted that Gray and Matzinger needed to be involved in budget talks and Ladewig asked if the insurance needs would go down with the new agreements being signed but Eileen Brownlee said no.

### **13. Discussion and Possible Action on the WRRTC's Executive Committee's recommended confirmation of the Commission's interest in and authorization of exercising its right-of-first-refusal to purchase Oregon to Fitchburg rail line and taking such other related action as may be necessary. – Frank Huntington, WDOT, Eileen Brownlee, Corp.**

Eileen Brownlee gave some history on the Oregon/Fitchburg line and explained how the Commission had come to the point of acquisition. She said because there was a potential of rail service, back in the 90's the communities and the Commission had both paid in \$20K each to maintain their interest in the line. Once a new customer came along the situation changed. She explained that if the WRRTC bought out the communities' interest (the share of the purchase price of the line) and through a series of meetings, some agreements had been put together resulting in the Commission becoming the owner in the line. Brownlee explained the Common Carrier responsibility which required the owner to provide service. She stated the Commission did not want the responsibility of being a railroad; that WSOR was an operator, so this was an acquisition of the real estate of the line, but not the Common Carrier Rights (CCR) which was what WSOR wanted to acquire. She said the communities had approved the rights in the trackage and the land to the Commission and the CCR to WSOR and what the Commission needed to approve today was the exercise of the first refusal so the Commission could acquire the cities and villages rights and real estate as was recommended by the Executive Committee. She said the Commission would be asked to approve the transaction of which this was the first step. Brownlee said the Commission could not take everything but CCR status: the STB had to approve that. In order to do what they wanted, Brownlee would have to file with the STB for their approval for the Commission to get the property but not the CCR. By their approval, the Commission would be authorizing her to file. She said that WSOR and the WDOT were integrally involved in this transaction as were the City and Village. Huntington said that one of the things that needed to go in was the operating agreement which was tentatively approved in December and would be the same as the one submitted for the Reedsburg purchase. He explained that by using those as models, they hoped the STB would put this thru smoothly. Tony Roach said he was here to show support for the purchase and that Fitchburg wanted to get "out of the railroad business". He noted a few contingencies including working with the OCR regarding some crossings and Pat Raney from Oregon, said that the Village was very much interested in having the Commission acquire the line and having WSOR supplying the service. He requested the Commission act to keep the process moving.

- *Motion to accept the Executive Commission's recommendation to exercise the WRRTC's right of first refusal to purchase the Oregon to Fitchburg rail line and to authorize the filing of the petition to the STB and authorization to proceed with all documentation to complete – Ruff/Riek*

Ladewig asked about the CCR rights and Brownlee said they did not have the final versions of all the agreements yet but this was part of those agreements as they were approved. She said the operating agreements and other agreements had already been approved. Since there were no substantive changes in those agreements, she thought that this would be the last approval by the Commission necessary, adding that all the agreements would be attachments to the STB petition. She said that WSOR would also be submitting to the STB and said either WSOR got CCR and Commission got the property or nothing would happen.

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Dick Mace asked about the sale agreement and if there was sharing of those funds. Brownlee said that the communities wanted the amounts returned they had paid back in the day. She said that the State paid 80% and the city/village each paid 10% (roughly \$60K) and WRRTC paid roughly \$60K. Huntington added that the 10%-10%-80% were for track improvements. Mace said the net cost to the Commission was \$37,000 as outlined in the balance sheet. Brownlee said no, the Commission would pay \$59K which were funds that came from the counties involved. Van Schwartz pointed out the amount in the treasurer's report was \$37K. Mace asked if this was in the budget and Sweeney said this amount had been in for some time and asked Huntington for confirmation on the price who said this had been on the books for such a long time it might be buried. Sweeney asked Gray to get Matzinger for confirmation.

Huntington led the Commission through the Sale of Contract and showed that the purchase would be. He said he was not sure of \$37K as was noted but confirmed there had been \$59K paid. Sweeney agreed, saying that he had seen balance sheet showing Dane, Rock, and Green Counties contribution. There was a discussion on the CCR and the operating agreement and Huntington said the freight easement would be between WSOR and the communities and that was how the communities would convey the rights to operate service on the line. Mo Hansen asked if there were a monetary transaction on the line but Raney said no.

Mace said he was not 100% sure of where the money was on the books. Huntington explained how the line was acquired and said that the communities had wanted to acquire it to maintain it for railroad. He said WDOT provided the funds for the acquisition. In this case they got the money to buy the land and the track because there was no carrier. There was more discussion on the repercussions on the CCR and the funds involved. Gray returned and explained how the money was budgeted and said it was through the Reedsburg line funds. Nilson confirmed that the number was \$59K.

Mace asked about the use of the railroad for a summer festival and snowmobile use and if those issues had been resolved. Ken Lucht said that Brooklyn had used speeder cars as part of their long term Depot Days and said WSOR had been approached to have this event continue but at this point WSOR could not do anything yet because they did not have CCR yet. He said this had been lingering and he did not know what would happen for Depot Days this year. In future years, he said WSOR would have to look at this in terms of safety. He said he did not know of any railroad in the state or the country that let active tracks be used like this: the liability burden would be very large. Hansen asked if it would be appropriate for the Commission to act contingent on the Depot Days issue and in effect have the Commission become part of the local discussion on Depot Days. Brownlee said the quick answer was no and the reason due to the operating agreement between the Commission and the shipper which meant the care and running of the track was up to the operator. Gray said he thought that the snowmobiles had been using the track in the past. Mace asked about the time frame and Brownlee said it might be 60 to 90 days. Huntington said 6 months has been their experience but they were hoping for speedier action because they used a successful agreement as a model.

- *Motion to amend the original motion to add "all necessary documents to be signed in support the petition to the STB" – Ladewig/Mace, Passed Unanimously*

Returned to the original motion:

- *Motion to accept the Executive Committee's recommendation to exercise the WRRTC's right of first refusal to purchase the Oregon to Fitchburg rail line and to authorize the filing of the petition to the STB and authorization to proceed with all documentation to complete and to allow all necessary documents to be signed in support the petition to the STB – Ruf/Riek, Passed Unanimously*

### **14. Action Item. Adjournment**

- *Motion to adjourn at 11:47 AM – Cornford/Nilson, Passed Unanimously*