WISCONSIN RIVER RAIL TRANSIT COMMISSION
COMMISSION MEETING - FRIDAY, OCTOBER 7TH, 2016 @ 10AM
DANE COUNTY HWY GARAGE, 2302 FISH HATCHERY RD, MADISON, WI

1. 10: 08AM **Call to Order** – *Alan Sweeney, Chair*

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

Crawford	Tom Cornford, *2nd Vice Chair*	x	Rock	Ben Coopman, Alternate	-
	Rocky Rocksford	x		Wayne Gustina	x
	Derek Flansburgh	excused		Alan Sweeney, *Chair*	x
Dane	Gene Gray, *Treasurer*	x		Terry Thomas	absent
	Jim Flemming	excused	Sauk	Marty Krueger, Alternate	x
	Chris James, *Vice Secretary*	x		Chuck Spencer	x
Grant	Gary Ranum	x		Craig Braunschweig	x
	Mike Lieurance	x		Dave Riek, *3rd Vice Treasurer*	x
	Robert Scallon, *1st Vice Chair*	x	Walworth	Eric Nitschke	x
Iowa	Charles Anderson, *Secretary*	x		Richard Kuhnke, *2nd Vice Treasurer*	excused
	William G Ladewig	x		Allan Polyock	x
	Jack Demby	x	Waukesha	Karl Nilson, *4th Vice Chair*	excused
Jefferson	John David	excused		Dick Mace	x
	Gary Kutz	x		Richard Morris	x
	Augie Tietz, *3rd Vice Chair*	x			

Commission met quorum.

Others present for all or some of the meeting:

- Mary Penn, WRRTC Administrator
- Ken Lucht, Roger Schaalma, WSOR
- Tim Lins, Asso. of Sauk Co Snowmobile Clubs
- Sam Landes, AWCS
- Tryg Knutson, State Sen. Jon Erpenbach's Office
- Eileen Brownlee, Julia Potter, Boardman & Clark
- Todd Liebman, Sauk County Corp Counsel
- Bill Hambrecht, Sauk County Supervisor
- Kim Tollers, Rich Kedzior, Dave Simon, Ben Conard, Frank Huntingdon, WisDOT
- Dana White-Quam, Brigit Brown, WDNR
- Alan Wildmars, Village of Prairie du Sac
- Bill Wentzel, Sauk County Board
- Brain Simmert, Sauk County
- Grace Colas, Rep. Dave Considine's Office
- Danielle Zimmerman, Rep. Laundenbeck's Office

3. Action Item. **Certification of Meeting's Public Notice** – *Noticed by Penn*
- *Motion to approve posting of meeting – Ladewig/Cornford, Passed Unanimously*

4. Action Item. **Approval of October Agenda** – *Prepared by Penn*
- *Motion to approve October agenda – Anderson/Ranum, Passed Unanimously*

Gary Ranum clarified the correct land use agreement amendment designation.

5. Action Item. **Approval of draft September 2016 Meeting Minutes**– *Prepared by Penn*
- *Motion to approve draft September 2016 meeting minutes with corrections – Ladewig/Gray, Passed Unanimously*

Dick Mace and Ranum had some corrections. Mace commented on the chronological order of the motion on item 4. He understood that Eric Nitschke made an amendment to the motion and then made a clarification of which engineering firm would do the work. Ladewig thought the motion should be at the end of the discussion and show the amendment there. Alan Sweeney explained he continued to work with Mary Penn on the minutes.

6. Updates. **Public Comment** – *Time for public comment may be limited by the Chair*
There were no public comments.

7. Updates. **Announcements by Commissioners** – *No Discussion Permitted*
Penn explained the state of the room which had led to the somewhat unorganized meeting space that morning and added that Jim Matzinger was out sick. Jack Demby asked about Karl Nilson's condition. Penn said she had heard from Nilson and he said he would be back in November.

REPORTS & COMMISSION BUSINESS

8. WRRTC Financial Report – *Jim Matzinger, Accountant*

- Treasurer's Report for September and Payment of Bills

Gene Gray presented the Treasurer's Report to the Commission, commenting that Matzinger was out sick. There was one bill to be paid.

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

9. Discussion and Possible Action on entering into contract for buoy placement for Sauk City Railroad Bridge – *Alan Sweeney, WRRTC Chair*
Alan Sweeney said he and Penn had been working on this issue for a month and he hoped there would be some financial help on this issue from the other stakeholders. He said the Commission had gotten a buoy quote which was for the buoys alone. He said a company who did buoy placement, DL Anderson, had been contacted for a quote. Penn explained her efforts to communicate with DL Anderson and requesting a quote from them. Ranum asked about the number of buoys. Sweeney said the quote included three can type buoys with lights. There was discussion about buoy placement and their removal, once the Wisconsin River iced up.

Charles Anderson asked if the Commission would be taking action to have the bridge repaired. Sweeney said they would be addressing that when there was a resolution. Ladewig asked about the placement of hazard signage about the bridge piers on the rail right-of-way (ROW). Sweeney asked Ken Lucht about signage on the ROW. Lucht said he did not have an answer for that. Sweeney clarified that the question was in regard to signs <u>on</u> the bridge. Lucht commented that there was a signed fence at both bridge entrances. Mace asked who installed buoys on the river, saying that up north, the town would place buoys for free.

- *Motion to give Chair authority to enter into contract with DL Anderson to place hazard buoys – Polyock/Spencer, Passed Unanimously*

Mace asked about timing on the installation and how long it would take. He asked why the Commission was putting in buoys, considering how late in the season it was. Sweeney said there was a tremendous liability and this was a way to limit that liability. Ranum said this came up on an emergency basis so the Commission needed to put in some warning and it had been two months and no action and the Commission needed to take action to give the Chair latitude to act. Dave Simon asked if it would be possible to put signage on pier 3 as they would not need to be taken down at ice-up. Sweeney said a sign on pier 3 would not prevent boaters from approaching.

Chris James said Dane County did buoy placement and he knew there were buoys directing traffic on the Yahara trestle. He wondered if there should be red/green buoys to direct navigation. Sweeney asked if that would keep boaters out. James said this would direct boaters to the safe crossing. Ladewig said he did not think boaters should be directed any place and if they choose to approach, so be it. Sweeney asked WDNR staff attending what they used. Brigit Brown said it was common and used a lot but since no one knew the depths, it would be hard: WDNR had no official guidance. James said he could think of several places where red and green buoys were being used and suggested talking to the parties who had placed them. Brownlee expressed doubt on the advisability of placing navigation buoys as it could give the wrong impression. There was continued discussion on the placing of signage to the piers.

- *Motion to amend to include signage on the piers and ROW – Mace/Morris, Passed Unanimously*

10. Discussion and Possible Action on adopting a resolution authorizing performance of Sauk City Railroad Bridge emergency demolition – *Alan Sweeney, WRRTC Chair*
During the distribution of a draft resolution authorizing the performance of a Sauk City Railroad Bridge emergency demolition, Brownlee said the Commission was not looking at demolition yet and may not become necessary. She said declaring an emergency would give staff some ability to pursue demolition. Sweeney asked if she were recommending the Commission wait. Brownlee said she did not think the Commission should take action on this now.

Ladewig asked Brownlee if WisDOT had any emergency funds to do this. Brownlee said the Commission could apply and find out. She said there had been some discussion in regard to the funding. Ladewig asked if the Commission should formally tell WisDOT. Brownlee said they knew. Sweeney asked if the discussion on 2016 flood damage had come up "that far on the Wisconsin River". Simon said he believed Sauk County was included but that was all he could say. Sweeney asked Simon to look into opportunities. Ranum asked if that meant FEMA funds could be available. Sweeney said the Commission had to look at all possibilities.

Augie Tietz asked about tabling the item. Brownlee said discussion had happened and tabling was unnecessary. She said the Commission would be informed if action would be necessary in the future.

11. Discussion and Possible Action on adopting a resolution authorizing a budget transfer in regard to the Sauk City Railroad Bridge *– Alan Sweeney, WRRTC Chair*

Sweeney said this item related to the bridge inspection and the possible buoy placement. He said there was not a dollar amount yet. Brownlee asked what accounts did the Commission have money in and where could it be transferred. She asked Gene Gray if he knew. He and Brownlee discussed the transfer of funds. Mace asked if there was a maintenance account. Brownlee said there used to be rehab funds. Allan Polyock asked if there was any idea of the total amount. Sweeney said in some discussion with Westbrook there was an idea but at this point only the buoy quote was firm. There was discussion about the location of various funds that might be of use for this issue. Grey said he thought there would potentially be between $40,000 and $45,000 available.

- *Motion to grant authority to the Chair with legal review of to execute contracts to inspect bridge piers – Mace/*

Brownlee said this was not to approve contracts but how to pay for them and to do so the Commission would have to adopt a resolution amending the 2016 budget. If that meant allocating certain funds to the purposes of the Sauk City bridge work, whatever that might be, that would be fine. Sweeney said the authorization for the bridge inspection was taken care of at the September meeting. Mace said the motion should say the Commission authorized the transfer of funds. Brownlee said the Commission could fill in the accounts. Mace said at this point he was not ready to authorize the removal of the piers. Sweeney said available cash such as the Evansville surplus account could be used. Gray said this had to be in Jim Matzinger's mind and suggested going forward because the Commission had to do something right now: the far horizon question would be how to pay for future work. Brownlee said now the Commission needed to take care of the situation and have funds to pay for it.

Sweeney said the bills would not come until November, at least for the buoys. He thought the money could be transferred to pay for that. Brownlee said "as an account recommended by the accountant" and would have to be done by resolution. Ladewig asked if it could be done by emergency resolution. Brownlee said she did not think that would add anything. Sweeney said the actual resolution could wait but Brownlee said she had the resolution and read it to the Commission.

- *Motion to amend by resolution the 2016 budget to transfer funds to cover the costs associated with the Sauk City Bridge, not to exceed $45,000 - Spenser/Tietz, Passed Unanimously*

Demby asked if this would be for buoys or inspection. Sweeney said it would be for both. Gray said the buoys were the most immediate and would be a lot more than $1,700 due to installation costs but the Evansville account had up to $11,000.00. Brownlee said it was entirely up to the Commission. Ranum asked if they had an idea of the installation cost as it would make a difference. Anderson asked if they were COD. Sweeney confirmed they were. Ranum asked if the installation was very expensive, would the Commission have to pay over two fiscal years, especially after looking at the bridge inspection. Ladewig said the buoys were an emergency: the study probably needed to be set before taking this action. Polyock said to use the Evansville funds along with the cash.

12. Wisconsin & Southern Railroad's Report on Operations – *WSOR*

Ken Lucht distributed handouts, including a map of the subs. He also distributed a hand-out on WSOR's economic picture. He said for every contribution the Commission made, there were positive economic returns. He said WSOR did a survey of their customers, network-wide and found there were about 1000 jobs already created or would be created as a result of this investment. Lucht related the dollars invested in this railroad system, saying everyone needed to celebrate their successes and reassure customers that the railroad would be around for the next century.

Lucht gave the maintenance report, listing the work WSOR had done in the past month. Demby asked about a hole in Cross Plains on the Prairie sub. Roger Schaalma reported a culvert had been installed to replace the bridge at the location in question. It had been completed the day before.

13. WisDOT Report – *Kim Tollers, Rich Kedzior, WisDOT*

Kim Tollers updated the Commission on the WisDOT freight rail conference and reminded them to register and that there were hotel rooms still available at the state rate. She added that anyone could register today.

Rich Kedzior told the Commission that State Transportation Secretary Gottleib had submitted the proposed 2018-2019 transportation budget to the Governor's office which included $12 million for the FRPP program.

Tietz asked about the release of the 10 year transportation plan and if WisDOT had any comment. Sweeney said it was a freight plan. Simon said the freight plan was available online and there would be a number of public meetings on it as well. He said comments could also be submitted via email.

14. WRRTC Correspondence/Communications and Administrator's Report – *Mary Penn, Admin.*
Mary Penn reported on her administrative activities in the past month, saying there had been quite a lot of work relating to the Sauk City Railroad Bridge. She said she had also received a request to rent a billboard at the corner of Wilmot Road/IL Rte 12 in Spring Grove, IL on the Fox Lake sub. She said due to other concerns the conversation about non-railroad uses on the ROW had not happened yet. Sweeney said that discussion could happen in November. Penn also asked Ken Lucht to send pictures of the sign to her. Next, she reported on an issue with a private crossing for which she had requested a copy of the private permit crossing the purported applicant said he had. She was waiting to hear back from him.

She told the Commission she was working on ordering the hazard buoys from the vendor and was trying to get in touch with the buoy installation contractor. She had submitted an application to DATCP to request a tax exempt certificate for the WRRTC so as to not pay sales tax on the buoy purchase.

She informed the Commission she had worked with the WDNR to obtain a Waterway Marker Application and Permit and had received it already. The permit was good until June of 2017 at which time it could be renewed if necessary.

Penn said she had received word that John David had resigned from the Commission and that his successor would be appointed shortly. She distributed articles submitted by Forrest Van Schwartz. Lastly, she said she had heard from Karl Nilson who continued to recover and anticipated attending the November meeting.

Demby suggested Penn contact the Wisconsin Riverway Board in regard to the bridge issue and Brownlee said she and Penn would work on that. Mace asked about the private crossing and Schaalma confirmed it was in Milton.

15. Presentation, Discussion, and Possible Action on WSOR's 2015 & 2016 Maintenance Program and 5-Year Capital Plan –*WSOR*
Ken Lucht introduced Roger Schaalma as the presenter. Lucht explained why this plan was required and what its impact was to the Commission. He distributed a handout and said they would also be talking about capital projects in the service area.

Schaalma presented the plan to the Commission highlighting projects, listing all the work done in the past year including ties, surfacing work, bridge work, etc. He pointed out each project and its outcomes sub by sub. He also pointed out the amount of money spent on each specific project, including bridges. He highlighted maintenance work on the system, noting that a lot of WSOR capital had been expended in Illinois on bridges.

Schaalma then talked about 2017 projects, some new work, some projects to complete work begun in 2016 or earlier, explaining the type of work and infrastructure placed in each case.

Then he presented projects currently under construction, including subs and the project cost and projects for which agreements have been made and bids are due; Roger said with low steel prices the projected budgets would be good; he next presented the recently awarded projects;

He spoke of the need to apply for funding, specifically for the Merrimac Bridge, which had been awarded and said WSOR needed to work with WisDOT to get that funding in place. He then listed priority 2 and 3 bridges awards which had been applied for, saying the Wauzeka bridge (B-316) was the last "big" bridge to be applied for and hopefully in the next 4-5 years the system would be in much better shape, particularly the big bridges.

Ladewig asked if there were a life expectancy for the work done and if there was a standard. Schaalma said a good railroad standard was 100 years. If it were a busier railroad, it would wear out quicker. As for ties, weather wear and train cycles wore them out more quickly, estimating the average life for those was 40 years.

Schaalma said he would send the handout to Penn for distribution.

Ranum asked for clarification on a tie project on the Prairie sub and a rail project on the same sub. Demby asked what the speed on the new bridges would be. Schaalma said 25 mph would be the speed for the bridges in the short term, dependent on the age of the rail. Sweeney asked Schaalma about bridges in Janesville. Schaalma said WSOR was trying to work through some issues with Union Pacific.

16. Discussion and Possible Action on Letter to Governor regarding FRPP funding for 2017/2019 Biennial Budget *–WSOR*
Lucht asked the Commission to consider sending a letter to Governor Walker in regard to the 2017-219 state budget request of $12M, asking him to increase that funding to $20 M. Lucht explained what FRPP funding did and said the proposed budget amount was about the lowest in the past 7-8 years and as WSOR looked at their capital needs, there were a number of proposed capital projects equaling about $60 M for outstanding FRPP funding. He said they hoped to get about $25–$30 M dollars of projects including continuous welded rail (CWR) projects. He said WSOR had found over 300 internal defects between Waukesha and Milton alone and reminded the Commission that changing over from jointed rail to CWR was so important to many subs. Lucht said it was a long way to go yet and this letter was a request to allocate $20M instead of $12M. Right now the budget had $35M and they valued WisDOT's support in the past budgets. Lucht said they would continue to communicate the importance of freight rail with the Governor's office but he asked the Commission to also send the letter.

- *Motion to send letter to the Governor in support of increasing funding for rail in the 2017-2019 biennial budget– Scallon/Tietz, Passed Unanimously*

17. Discussion and Possible Action on amendment to Grant Agreement 0490-40-48(b)(1) *–Eileen Brownlee, Corp Counsel*
18. Discussion and Possible Action on amendment to Land Use Agreement 0490-40-48(a)(1) *–Eileen Brownlee, Corp Counsel*
19. Discussion and Possible Action on amendment to Operating Agreement 0490-40-48(d) *–Eileen Brownlee, Corp Counsel*
Sweeney clarified that agenda items 17, 18 and 19 would all be addressed at the same time due to their nature. Brownlee reminded the Commission she had sent draft amendments to the Commissioners. She said everyone concerned had been talking for some time to move forward with the Sauk County trail over the Wisconsin River. Brownlee said the biggest piece would be taking the trail section out of the agreements. She said there had been a number of meetings and currently there was still uncertainty as to the exact length of corridor being discussed, based mainly on the situation with the Sauk City Railroad Bridge and whether any portion of corridor in Dane County would be in the agreement. She said the amendments would remove the territory in question from each of the agreements: grant, land use, and operating.

She did not think there was anything alarming in the terms of the three amendments. From the standpoint of the Commission, the September meeting had explained there was no reason for the Commission to retain authority of the section in question through the trail agreement. However, if ever there were going to be rail again on this section, the Commission could go back in. There was also language in regard to the salvage monies. She said this had been discussed last month and asked if there were any questions.

Sweeney said the salvage issue would be addressed in item 20. Sweeney asked if Todd Liebman had any comments who responded he did not.

Sweeney asked for Licht's opinion of the amendments. Lucht said WSOR had no concerns. He mentioned to Brownlee that the mileposts (MP's) did need to be consistent throughout. Mace said he thought in the "whereas" clauses there was no definition of the "Sauk Line" and thought it would be better to define it. Brownlee said it was defined in the underlying agreement and the amendment language was taken directly from the agreement. Mace then asked if the trail would also include ATV and snowmobiles use. He had been told that there would no ATV use but that certain segments would be used for snowmobiles and he thought that that needed to be defined. Brownlee said once the Commission was out of it, it did not matter what uses were decided on. Mace then had a question on the operating agreement's rail banking and he had added some line segment information on that in the operating agreement amendment. Brownlee said the MP's were a moving target in the whole conversation, adding that "where they end up is where they end up". Eventually, she said, they all needed to line up but right now it was very hard to say what those numbers would be. Mace then recommended adding language to reference "rail bank" on the land use agreement. Lastly, on the right of first refusal issue, he asked that language referring to "return to rail service" be included for more clarity.

Ladewig said based on Brownlee's memo, there are a number of issues to resolve but he thought this was a fine working document. Brownlee said she did not have a problem with the Commission agreeing to these now, particularly as WSOR and WisDOT also still needed to agree. She said the MPs numbers would need to be resolved and would play out in a way she could not completely foresee right now. The Commission wanted to put a "not to exceed MP" language, the amendments could accommodate.

- *Motion to approve the changes as presented by corp council with the understanding there will be further clarifications to be made to the grant, land use, and operating agreements, including references to the exact numbers of the amendments, to extend from Roxbury Creek in Dane County to Badger Ammunition Plant in Sauk County – Ladewig/ Morris, Passed Unanimously*

20. **Discussion and Possible Action on salvaging track on proposed Great Sauk Trail** – *Eileen Brownlee, Corp Counsel, Kim Tollers, Dave Simon, WisDOT, Ken Lucht, WSOR*

21. **Discussion and Possible Action on draft funding contract with Sauk County for track removal and determination of division of salvage proceeds** – *Eileen Brownlee, Corp Counsel*

22. **Discussion and Possible Action on removing brush and survey marking of the rail/trail right-of-way** – *Marty Krueger, Sauk County Commissioner*

Brownlee said staff had been talking to the County and WSOR, and she wanted to address items 20, 21, and 22 together. She said the first thing necessary was to get the brush removed from the corridor in question and get surveying and mounumenting done, a County requirement. If that work got done before moving from rail to trail, there would be some agreements in place. The State would issue a Temporary Access Permit (TAP) to do that work. From the Commission's perspective, there would be a cost to this which could be paid for from the salvage. She said Liebman had put together a contract that said the County would do brushing and surveying, keeping track of the costs for those and those costs would be deducted from the salvage costs. The State and WSOR and the Commission were concerned that any liability passed to Sauk County during the work. Before talking about salvage, this would just be to enter into a contract to brush, survey, and monument the corridor and when the track was salvaged, the work would be paid out of the salvage. If no salvage were done, the brushing work would be a favor to the Commission on the part of the County.

Sweeny asked Lucht to comment on liability and WSOR's request for salvaging. Lucht said salvaging would be done after the Surface Transportation Board's (STB) approval and then the track would not be in the operating agreement. He said WSOR proposed to remove several sticks of 90 lb. rail (est. 70 tons) to be used on other parts of the system. The WSOR could use that very good rail: it would be a shame to scrap it, particularly considering the low steel price currently. He said that was what had been proposed and WSOR had a good idea that between Water Street in Sauk City and Water Street in Prairie du Sac there would about 70 tons removed and inventoried at Johnson Street. He said some very short rail in the yard would be scrapped in equivalent of 70 tons. As to liability, the brushing and other work was proposed to be done prior to STB agreement and this would be in the operating agreement. Lucht said whenever there was entity on railroad property, WSOR needed to prove and permit someone who was trained and authorized to work on projects like this. He said this would be the first time in his experience for a County to do this type of work so indemnification would be very important for WSOR. He said WSOR had standard language to hold harmless WSOR, the Commission and WisDOT. He said safety was WSOR's biggest concern. Sweeney asked if the terms of the contract met those concerns. Lucht said the TAP would include that language. He said WSOR's attorney had not looked at that yet. Liebman said this was the first he had heard about training requirements. Lucht said WSOR wanted to be sure people be safe and be clear on what was being proposed.

Ladewig asked if there were any proceeds the Commission would get, could it be segregated to pay for bridge work. Brownlee said this was not going to turn into money until 2017 and she was not sure the Commission would want to earmark it now. She said she wanted to keep these two things apart.

Kedzior said if the salvage was not done in agreement with WisDOT, WisDOT would be entitled to 40% of the salvage proceeds so they needed to make sure the agreements covered that. Frank Huntington said if money came back to WisDOT, it would go to the general fund. An agreement needed to be in place in regard to money so it would not be lost to rail needs. Liebman said Sauk County was expecting to cover their costs for their work. Ranum asked in regard to brushing, if by doing so the Commission was making a contribution to the Trail.

Brownlee said she was not sure to take action on items 20 and 21 as she was not sure if they were ready to go forward.

- *Motion to allow Sauk County to remove brush and monument on ROW in Sauk County – Cornford/Spencer, Passed Unanimously*

Brownlee said she believed the Commission should hold off on items 20 and 21 because salvaging track would not be starting very soon. Marty Kruger said it would please the trail commission to keep this moving along and asked that there be a priority on drafting these agreements and have both items 20 and 21 on the November agenda.

23. Action Item. **Adjournment**

- *Motion to adjourn at 11:58 – Gustina/Scallon, Passed Unanimously*