

WRRTC APRIL 2019 MEETING MINUTES – APPROVED

**Wisconsin River Rail Transit Commission
Commission Meeting - Friday, April 5th, 2019 at 10:00 am
Dane County Highway Garage, Madison, WI**

1. 10:00 AM **Call to Order – Alan Sweeney, Chair**
2. Roll Call. **Establishment of Quorum – Matthew Honer**

Crawford	Carl Orr	X	Jefferson	Mary Roberts	X
	Rocky Rocksvold, <i>2nd Vice Chair</i>	X		John Kannard	X
	Derek Flansburgh	<i>Excused</i>		Augie Tietz, <i>3rd Vice Chair</i>	X
	Tom Cornford, <i>Alternate</i>	X		Terry Thomas	X
Dane	Gene Gray, <i>Treasurer</i>	X	Rock	Wayne Gustina	X
	Jim Flemming	<i>Excused</i>		Alan Sweeney, <i>Chair</i>	X
	Chris James, <i>1st Vice Secretary</i>	X		Chuck Spencer	X
Grant	Gary Ranum	X	Sauk	Dave Riek, <i>2nd Vice Treasurer</i>	X
	Mike Lieurance	X		Marty Krueger	X
	Robert Scallon, <i>1st Vice Chair</i>	<i>Excused</i>		Tim McCumber, <i>Alternate</i>	<i>Excused</i>
	Harvey Kubly, <i>1st Vice Treasurer</i>	<i>Excused</i>		David Bretl	X
Green	Oscar Olson	X	Walworth	Richard Kuhnke, <i>2nd Vice Secretary</i>	X
	Paul Beach	X		Allan Polyock	X
	Charles Anderson, <i>Secretary</i>	X		Dick Mace	X
Iowa	Kate Reimann	X	Waukesha	Richard Morris	X
	Mark Storti	X		Karl Nilson, <i>3rd Vice Treasurer</i>	X

Commission met quorum.

Others present for all or some of the meeting:

<ul style="list-style-type: none"> • Matt Honer - <i>WRRTC Administrator</i> • Ken Lucht, Roger Schaalma – <i>WSOR</i> • Alan Anderson - <i>Pink Lady RTC</i> 	<ul style="list-style-type: none"> • Kim Tollers, Rich Kedzior, Ed Singer, Lisa Stern - <i>WisDOT</i> • Eileen Brownlee, Julia Potter - <i>Boardman Clark</i>
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3. Action Item. **Certification of Meeting’s Public Notice – Noticed by Honer.**
 - *Motion to approve meeting’s public notice – Cornford/Gustina. Passed Unanimously.*
4. Action Item. **Approval of Agenda – Prepared by Honer.**
 - *Motion to approve the amended agenda – Anderson/Morris. Passed Unanimously.*
5. Action Item. **Approval of draft March 2019 Meeting Minutes – Prepared by Honer.**
 - *Motion to approve March 2019 minutes with Minor Changes – Mace/Bretl. Passed Unanimously.*
6. Updates. **Public Comment – Time for public comment may be limited by the Chair.**
7. Updates. **Announcements by Commissioners**

Mace thanked WSOR for the photos. Bretl asked for assistance with gathering attachments and amendments to the operating agreement.

REPORTS & COMMISSION BUSINESS

8. **WRRTC Financial Report – Gene Gray – Treasurer.**
 - Treasurer’s Report

Gray reported that check 1407 was written on the 29th of January for the Dane County Accounting Services. The check was scheduled to be approved at the February meeting, but because that meeting was cancelled due to weather events, the check was being held. Gray reported that permits received to-date exceed what was budgeted for.

- *Motion to approve the Treasurer’s Report, income statement, payment of check 1407 – Nilson/Anderson. Passed Unanimously.*

9. Wisconsin & Southern Railroad's Report on Operations – Ken Lucht, Schaalma – WSOR

Lucht reported that WSOR has sent a letter to Don Gritmacker to vacate the crossing or to enter into a crossing agreement with WRRTC. WSOR learned from the recent derailment that there are some commonalities among all of the derailments and WSOR plans to share those findings with the Commission in May. Lucht reported that derailments are an issues that push WSOR to continue replacement of rail to continuously welded rail (CWR) on the system.

Schaalma reported on the flooding in Prairie du Chien, Schaalma reported that the river has crested and expects water levels to fall. Schaalma reported that WSOR has gotten pretty good at predicting when the tracks are free of water based on the McGregor meter. Schaalma stated that when waters are below 19.5' at the McGregor meter, WSOR should be able to inspect the tracks for any damage. Orr thanked Schaalma for the help that WSOR provided to Pattison Sand ahead of the high waters on the Mississippi. Nilson asked how high the water currently is. Schaalma reported that water levels are at 21.3 ft.

Schaalma reported that ties replacements have started to happen depending on frost conditions. Testing and spraying is being scheduled this month. A major tie project on the Cambria sub received 10k ties. Various replacement ties have been ordered for maintenance. Eleven grade crossings are scheduled this year (maintenance) including Blair Street/ US Highway 151 Crossing in Madison. Four crossings on the Prairie Sub. are scheduled. CWR is ordered and expected to be delivered in June for the Oshkosh and Waukesha Subs. Milton-Whitewater, on the Waukesha Sub, is expected to be done by the end of July. The Waukesha bypass project received bids recently.

Schaalma reported that the Wauzeka bridge is done, the rail will be installed in the next month or so. Bridge 254, in Madison, has been awarded to Kraemer NA and is expected to take place in August – September. Radio controlled power switches will be installed on the Belden Sub. The surfacing crews are getting out and doing tamping as the frost leaves. The Watertown project is expected to finish this summer and final touch ups in response to last year's flooding will take place on the Prairie Sub..

Anderson asked what caused the malfunction of the gates on John Nolan Dr. Schaalma did not know. Kate asked which crossings were going to be worked on in Arena. Schaalma responded that Oak St and Willow St crossings in Arena, Crocker St in Mazomanie, and a crossing in Muscoda are the crossings that will be replaced on the Prairie Sub. this year. Schaalma expects work to take place in the summer. Reimann stated that she can be the point of contact for the Village of Arena.

Nilson asked about County Highway TT in Waukesha. It was reported that it will be a grade crossing and not a bridge. Gray asked about job openings. Schaalma reported that there were 3 FT openings. Polyock reported that Zenda is very happy with the Belden siding.

10. WisDOT Report – Rich Kedzior, Lisa Stern - WisDOT.

Lisa reported that Steven Sams, WisDOT Rail Engineer, is now the grade crossing safety engineer for WisDOT and they are looking to fill his prior position.

11. WRRTC Correspondence/Communications and Administrator's Report – Honer, Admin.

Honer stated that he has been receiving communications from the counties regarding reappointment of Commissioners. At a future meeting, Honer will be collecting oaths of office from Commissioners, a practice that used to be done but stopped happening at some point. Honer stated that legal counsel suggested that we bring it back.

Honer stated that he was in contact with Sauk County's Highway Commissioner to coordinate when work will continue on the Sauk Spur within BAAP. Honer stated that the county has not started working on the remaining items but will do so soon.

Sweeney stated that officer elections will take place this spring, likely at the next meeting.

12. Discussion and Possible Action on Commission concurrence with rail banking of Sauk Spur corridor to allow feasibility study of multi-use trail bridge. – Krueger - Sauk County, James – Dane County.

Krueger reported that in August 2016 an initial meeting took place regarding the Great Sauk Trail. The initial plan for the trail was changed when the pier of the Bridge is Sauk City shifted. Segment 1 of the GST opened in 2017. Segment 2 was supposed to be across the river, instead segment 2 took place within the former Badger Army Ammunition Plant

Krueger stated that Dane County included money in their past budget to do a bridge study. Krueger stated that Sauk and Dane are working together to move forward on the project. James presented on the Walking Iron Trail in Dane County that would connect to the Great Sauk Trail. The Walking Iron Trail would go from the Wisconsin River Bridge to Mazomanie. The rail right of way between Mazomanie and Sauk City is both in the State Trail Plan and the County Plan. James stated that Dane County recognizes that the Sauk Spur is being used for car storage and Dane County does not want that to change and is working with WSOR to make sure that storage capacity does not change. James stated that Dane County is proposing Rail-to-Trail conversion from the Wisconsin River to Racek Road, and a shared use right-of-way from Racek Road to Mazomanie.

James stated that Dane and Sauk Counties are looking for concurrence from the RTC that they are on board with a rails-to-trails conversion. James stated that if the Commission agrees in concept to the current plan for a rail-to-trail conversion, Sauk and Dane County will move forward with a bridge feasibility study. James reported that the counties anticipate reporting the feasibility study in Winter 2019. Krueger stated that it would not make sense for Sauk and Dane county to move forward with a bridge feasibility study without WRRTC agreement that a bridge could be built in the ROW. Krueger stated that a funding formula does not exist currently for a multi-use bridge.

Krueger stated it is Sauk County's only trail project, but Dane county has a lot of trail projects ongoing in the County.

Potter shared the Commission's responsibilities according to the Grant, Land Use, and Operating Agreements. Potter stated that currently the corridor is not rail banked, so a lot of filing will need to happen with the Surface Transportation Board (STB) before interim trail use is confirmed. Andeson asked if a lack of a bridge or maintenance of the right-of-way is an issue. Potter stated that she does not think that the STB would see this as an issue due to the fact that access to the interstate rail system is being maintained by the Merrimac Bridge on the Reedsburg Sub.. Potter stated that if and when a multi-use trail bridge is constructed, attention needs to be given to the existing span due to the agreement for removal with WisDOT and discussion of issues regarding the ownership and maintenance of the bridge need to happen, especially if and when the bridge returns to rail service.

Anderson asked about the Badger State Trail as an access to the Interstate Rail System. Tollers stated that it is in a state rail bank. Tollers stated that the rail in Sauk that is currently in trail is still in the operating agreement. Anderson confirmed that operation and maintenance of the trail would be turned over to the county, that they would be acting as the Trail sponsor. Polyock asked WSOR about potential return to rail in this area, Lucht responded that he cannot speak to the future, but there is no current customer.

Tollers stated that there are higher implications to abandoning a right of way. Tollers stated that if the corridor is not preserved under rails-to-trails it will likely be lost. Tollers stated that WisDOT and WRRTC must act and speak as though the right-of-way will return to rail-usage in the future. Rail banking is a method to preserve a right-of-way, although service is suspended and operations may not currently exist, the land is being held or "banked" for the potential future return of railroad usage.

Bretl asked about requiring an agreement for the trail sponsor to have financial responsibility for improving the bridge to rail standards if rail were to return. Bretl asked if there was a requirement for the sponsor to improve the bridge would it be deemed abandonment. Potter stated that the potential issues for the STB are if situations that eliminated the potential for the return to rail took place.

Mace asked about the potential dual usage of a bridge and the precedent of this. Stern stated that the STB offers guidance on these items. Kedzior stated that rail-to-trails are still considered an active rail corridor without a railroad. Tietz asked about the width of the shared corridor usage. Stern stated that there are engineering best practices that look at this. Nilson stated that the best way to preserve the right of way is for the multi-use trail to be shared on the same corridor. Potter stated that counsel suggests that the Commission support rail banking on the Sauk Spur.

Bretl asked about what sort of legal fees are associated, and what financial responsibility the Commission has for the feasibility study. Krueger stated that the WRRTC will not have costs associated with the feasibility study.

- *Motion for the Commission to support the rail banking of the Sauk Spur corridor to allow feasibility study of a multi-use bridge. – Nilson/Morris.*
- *Amendment of the motion to account for the location of the rail banking on the Sauk Spur. Storti/Corford. Approved Unanimously.*
- *Amended Motion for the Commission to support the rail banking of the Sauk Spur corridor, north of Racek Road to the Wisconsin River, to allow feasibility study of a multi-use bridge between Sauk and Dane Counties. Passed. Polyock opposed.*

13. Discussion and Possible Action on Gritmacker Private Crossing Permit – Potter- Boardman Clark.

Potter reported that the previous meeting discussed an existing crossing in Illinois. Potter stated that the existing landowner claims he has a prescriptive easement due to how long the crossing has existed in this location and an easement of necessity, because he has to cross the railroad to access his property.

Potter stated that the Illinois Commerce Commission does not have jurisdiction over private crossings. Three options would be to pull out the existing crossing and sue him in a Illinois state court if he continues to trespass, another option is to pull out the crossing and not sue and he could potentially sue the Commission, the last option is to leave things as they are until the property changes hands and a title company requires a crossing permit. Potter stated that if the crossing is pulled out, the potential cost could be tens of thousands of dollars in legal expenses.

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Lucht stated that the letter that was sent to Gritmacker included information regarding the initial application, the ensuing discussion, and that WSOR believes he is trespassing. WSOR believes that option three involves a lot of liability at this location due to the amount of the traffic at the location. Ranum asked about the liability issues if option 3 was taken. Potter states she does not have a good sense of that according to Illinois state law. Beach asked about the validity of Gritmacker's arguments, and if a title search could be done. Brownlee stated that Gritmacker's attorney has not provided any facts to back up the argument. Polyock believes there are significant liabilities in the area. Mace asked what the law is in Illinois. Potter stated they are aware of the law, but they are not sure of the facts and that is where there is a dispute between the Commission and Gritmacker's attorney.

Sweeney asked if there is an option to come to agreement regarding mitigating liability. Sweeney suggested that the Commission should explore what the response to WSOR's letter will be and explore the options again. Ranum asked if the Commission could bestow a permit, granting Mr. Gritmacker a permit and informing him of his liability. Potter stated that it could possibly be a path forward.

- Motion to postpone to May – Nilson/Tietz. Passed Unanimously.

14. Adjournment

- *Motion to Adjourn at 11:23 am – Gustina/Rocksvold. Passed Unanimously.*