

WRRTC MARCH 2021 MEETING MINUTES – APPROVED

**Wisconsin River Rail Transit Commission
Commission Meeting – Friday, March 5th, 2021 at 10:00 am
Meeting via Zoom**

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

Crawford	Carl Orr, <i>2nd Vice Chair</i>	<i>Absent</i>	Jefferson	Mary Roberts	X
	Derek Flansburgh	<i>Absent</i>		John Kannard	X
	Tom Cornford	X			
Dane			Rock	Russ Podzilni	X
	Jeff Huttenburg, <i>Treasurer</i>	X		Wayne Gustina	X
	Chris James, <i>1st Vice Secretary</i>	X		Alan Sweeney, <i>Chair</i>	X
Grant	Gary Ranum	X	Sauk	Brian Peper	X
	Mike Lieurance	X		Dave Riek, <i>2nd Vice Treasurer</i>	X
	Robert Scallon, <i>1st Vice Chair</i>	X		Marty Krueger	X
				Tim McCumber, <i>Alternate</i>	X
Green	Harvey Kubly, <i>1st Vice Treasurer</i>	<i>Excused</i>	Walworth	Al Stanek	X
	Oscar Olson	X		Richard Kuhnke, <i>2nd Vice Secretary</i>	<i>Absent</i>
	John Buol	<i>Excused</i>		Allan Polyock	<i>Absent</i>
Iowa	Charles Anderson, <i>Secretary</i>	X	Waukesha	Dick Mace	X
	Kate Reimann	X		Richard Morris	X
	Susan 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> • Abby Attoun – <i>Dir. Of Planning and Community Development for the City of Middleton.</i> 	<ul style="list-style-type: none"> • Lisa Stern, Teri Beckman - <i>WisDOT</i> • Alan Anderson – <i>Pink Lady RTC</i> • Kevin Potter – <i>Dane County Resident</i> • Dave Considine -
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3. Action Item. **Certification of Meeting’s Public Notice – Noticed by Honer.**
 - *Motion to approve meeting’s public notice – Cornford/Reiman. Passed Unanimously.*
4. Action Item. **Approval of Agenda – Prepared by Honer.**
 - *Motion to approve the amended agenda. Gustina/Podzilni. – Passed Unanimously.*
5. Action Item. **Approval of draft February 2021 Meeting Minutes – Prepared by Honer.**
 - *Motion to approve the draft February 2021 meeting minutes with minor clarifications. Mace/Storti. Passed Unanimously.*
6. Updates. **Public Comment – Time for public comment may be limited by the Chair.**
Abby Attoun, Director of Planning at the City of Middleton expressed the city’s continuing support of a crossing in the City of Middleton.
7. Updates. **Announcements by Commissioners**
Sweeney stated he would like the Commission to resume in person meetings when Dane County opens back up.

REPORTS & COMMISSION BUSINESS

8. **WRRTC Financial Report – Huttenburg, Treasurer.**
 - Treasurer’s Report and Payment of Bills

Huttenburg stated there was one bill of \$30 and no income for the month of February. The \$30 bill is for treasurer bonding. Huttenburg stated he set up a new version of the balance sheet matching the 2021 budget and accounting for funds in-hand from previous budgets.

 - *Motion to approve the Treasurer’s Report and payment of two bills. Anderson/Storti. Passed Unanimously.*
9. **Wisconsin & Southern Railroad’s Report on Operations – Ken Lucht, Roger Schaalma – WSOR**
Lucht reported WSOR is currently working with the City of Lodi on a bridge rehabilitation involving a pedestrian underpass. The proposed update will involve improved stormwater management. WSOR is working with the City of Fitchburg to close a public crossing by June. Lucht stated he spoke with the prospective purchaser of the Nutrien Site in Belden, Illinois to discuss the use of the building for rail purposes. It is unconventional

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for WSOR to work with a 3rd party property owner, as opposed to the actual rail shipper in this type of negotiation. Lucht reported a bill is being in the state legislature to repeal the railroad trespass law, allowing the public to cross the railroad in any location. This proposal has been made in the past but has never been passed. Lucht reported there is opposition from the railroad industry to this proposal.

Mace asked the name of the railroad trespass Bill. Lucht stated it is LRB 1879. Reimann asked why it continues to come up. Lucht stated it is a bill primarily pursued by sportsman groups who would like to cross the railroad to access fishing and hunting areas. Nilson asked about the trespass issues at Devil's Lake. Lucht stated the trespass at Devil's Lake is a little different from the sportsman's agenda but is still a significant trespass issue. Stern from WisDOT clarified the Devil's Lake trespass issues involves people walking down the trackage, which would not be allowed by the proposed bill. Reiman asked if any pedestrians have been injured on the railroad tracks at Devil's Lake. Lucht is not aware of anyone being hurt. Alan Anderson stated that there was a report of a fatality over a hundred years ago, yet it is still a huge issue and he is especially concerned about people with headphones on. Reiman asked if there has been a discussion of fencing. There has been discussion with WIDNR about the trespass issue and there has been work done to inform park users, but little done in terms of enforcement. Anderson stated it is important to start talking about this issue. McCumber stated the new park manager is very approachable and good to work with. Stern stated WisDOT and WSOR are having conversations about this issue. WisDOT has worked to identify potential pedestrian crossings for recreation. Stern also asked about the closing of West Clayton Road in Fitchburg and if there was discussion of incentive payment. Stern stated the OCR should be involved in the crossing in Lodi that Lucht discussed. Lucht clarified the crossing was formally for cattle but the City has been using it for public use.

Schaalma reported Merrimac Phase 2 was behind schedule a little due to the cold weather but expects the project to be complete at the end of March. Engineering is ongoing for nine bridges on the west end of the Prairie Sub. and the goal is to complete bridges ahead of the CWR project. Bids were opened recently for a bridge on the Fox Lake Sub. and are higher than expected; the project will be awarded soon. Bids will soon be opened for tie plates on the Waukesha Sub. Planning for the Reedsburg Sub. tie project and grade crossings is taking place. Alan Anderson asked how much CWR work will be done on the Prairie Sub. in the coming year. Schaalma is expecting 3 miles of CWR work this year and 11 by the end of next year.

10. WisDOT Report – Lisa Stern - WisDOT.

Stern reported WisDOT is interviewing a new real estate person in the coming weeks. Stern completed the environmental documentation for the Merrimac Bridge Phase 3, work is being finalized so that Phase 3 can begin soon.

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

Honer stated SWWRPC is working with Huttenburg on the accounting transition. County and other invoices have been sent out. All payments are due at the end of June. So far, several counties have provided their annual contribution and Honer may reach out to Commissioners in the coming months if invoices are not received as he is concerned about the change in address. Several Counties did follow up and verify that the invoicing address has changed.

12. Consideration and Action for a Letter of support and capital funding of Janesville Bridge project in support of WisDOT INFRA Grant Application. – Stern, WisDOT/ Lucht - WSOR.

Stern reported WisDOT received internal support for the grant application and have begun the grant application. Stern stated local support and funding makes the grant much stronger. Initial discussions with FRA staff indicated the proposed project is a strong contender. Sweeney asked if there is a requirement the WRRTC allocate funds. Stern stated it is not a requirement but when there is local financial support it makes the application much stronger.

Nilson asked if additional supports can be added. Stern stated that any additional support is very helpful. Lucht added the project is in demand from rail customers and WSOR will be requesting funding from the ECWRTC and the PRTC. Stern and Lucht stated the project is very positive in terms of connections, rural service, and efficiencies. Nilson asked for the letter to be identified as draft. Huttenburg asked when the invoice for the project, if awarded would take place. Lucht stated the funds will be invoiced, if awarded, when the project begins. Mace suggested adding a date and a few minor edits to the letter. Honer clarified funding will come from 2021 and 2022 County contributions. Huttenburg stated he does not believe the letter needs to clarify the funding years. Stern stated the Commission would be tied into a dollar amount when the grant agreement is completed, if awarded.

- *Motion to approve letter of support and capital funding of Janesville Bridge project in support of WisDOT INFRA Grant Application with date modifications – Nilson/Huttenburg. Passed Unanimously.*

13. Discussion of Private Crossings. Honer, Admin.

WRRTC counsel informed Honer that WI and IL law have two types of crossings, "farm crossings" and "public crossings." Farm crossings are meant for a property owner to cross the right-of-way from one parcel they own to another and are meant for minimal traffic. In Wisconsin, "Farm Crossings" are interpreted beyond agricultural purposes but still only allow for minimal traffic. In Illinois, "farm crossings" are more narrowly defined. Eileen Brownlee, WRRTC Counsel, believes "farm crossings" were never meant to provide access to residential or commercial development. That is where "private crossings" come into play. Private Crossings are somewhere between a "farm crossing" and a "private crossing."

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Brownlee has stated the Commission should focus on new, rehabilitated, and unpermitted crossings. Existing Crossings without permits should require a permit agreement when the property changes ownership. New crossings should be considered by the Commission and criteria should be developed in order for the Commission to consider a new crossing. The issue of private crossings may continue to be an issue but recommendations were made to improve data and process.

Honer stated the agenda item did not include an action today because he believes more work is required to explore the difference between un-improved crossings, defined as aggregate placed on the approaches and between the rails, and improved crossings with timbers and panels. Honer believes if the Commission can begin to define and identify improved and un-improved private crossings it can manage the crossings in a better manner. This would need to be done with the assistance of WSOR and WisDOT, especially when rehabilitating trackage. Honer stated this is not much different from how crossings are currently managed by the Commission, but more work needs to be done to define the crossing.

Huttenburg stated he and Schaalma have been working to gather a full accounting of private crossings. Huttenburg stated there are approximately 353 crossings and approximately 53 crossing agreements. There are issues with prescriptive easements that would cause the Commission to not be able to enter into agreements. Huttenburg agreed use of the crossings is an important aspect and there are issues with the requirements of the existing agreements that make agreements prohibitive for the private party to enter into.

Lucht reported on several state statutes for farm crossings and the issues. Farm crossings are generally replaced unless there are requirements. Lucht reported as part of the operating agreement, WSOR has the authority to close any private crossing

Nilson pointed out WSOR indemnifies the Commission and the State. The Commission should continue to discuss the insurance issue. Mace asked if our attorney's mentioned insurance requirements. Honer stated that the discussion has not progressed that far. Huttenburg stated there is no definition of a private crossing in state law but our operating agreements include language about insurance for private crossings. Mace asked if we know the requirements of other railroads. Lucht stated the crossing agreements and insurance requirements the Commission has are similar across the industry. Lucht clarified private crossings are for the sole benefit of an individual or family and there must be insurance. Honer will return with proposed process and definitions.

14. Adjournment.

- *Motion to Adjourn at 11:12 pm – Scallon/Podzilni. Passed Unanimously.*