

WISCONSIN RIVER RAIL TRANSIT COMMISSION

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MEMBER COUNTIES: CRAWFORD • DANE • GRANT • IOWA • JEFFERSON • ROCK • SAUK • WALWORTH • WAUKESHA

SUBJECT: Friday, September 9, 2016 Meeting Agenda
TO: Wisconsin River Rail Transit Commissioners & Other Interested Persons
FROM: Mary Penn, WRRTC Administrator

Wisconsin River Rail Transit Commission

Meeting Friday, September 9th, 2016 @ 10 AM

Dane County Hwy Garage, 2302 Fish Hatchery Rd, Madison, WI

WRRTC's Schedule of Meetings:

2016

January 8

February 5

March 4

April 8

May 6

June 10

July 8

August 5

September 9

October 7

November 4

December 9

NOTE: The WRRTC's meetings are usually held at 10:00 AM on the **first Friday after the first Tuesday** of the month at the **Dane County Highway Building** in Madison, WI.

NOTICE is sent to: County Clerks in WRRTC's Region for Posting and to Local News Media as an FYI.

Thank you for your interest and assistance.

To learn more about WRRTC, please visit our website at www.wrrtc.org

Wisconsin River Rail Transit Commission

Meeting – Friday, September 9th, 2016 @ 10 AM

Dane County Hwy Garage, 2302 Fish Hatchery Rd, Madison, WI

- 10 minutes estimated | Action Items*
1. 10:00 AM **Call to Order** – Alan Sweeney, Chair
 2. Roll Call. **Establishment of Quorum** – Mary Penn
 3. Action Item. **Certification of Meeting’s Public Notice** – Noticed by Penn
 4. Action Item. **Approval of Agenda** – Prepared by Penn
 5. Action Item. **Approval of draft August 2016 Meeting Minutes**– Prepared by Penn
 6. Updates. **Public Comment** – Time for public comment may be limited by the Chair
 7. Updates. **Announcements by Commissioners** – No Discussion Permitted

REPORTS & COMMISSION BUSINESS

- 5 minutes estimated | Update and Action Item*
8. **WRRTC Financial Report** – Gene Gray, WRRTC Treasurer
 - Treasurer’s Report for August and Payment of Bills

10 minutes estimated | Update

 9. **Wisconsin & Southern Railroad’s Report on Operations** – WSOR
 - Update on Monthly Maintenance Activities
 - Update on Capital Projects
 - Update on Business Development
 - Update on Office of Commission of Railroads
 - Other Continuing Issues/ Topics – Introduction to Proposal to Amend WSOR/WRRTC Operating Agreement 0490-40-48(d) 2.2 Reservation

5 minutes estimated | Update

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

5 minutes estimated | Update

 11. **WRRTC Correspondence/Communications and Administrator’s Report** – Mary Penn, Admin.
 - WRRTC Ad-hoc Committee Minutes / Update

10 minutes estimated | Discussion

 12. **Review and Discussion on amendment to Grant Agreement 0490-40-48(d)** –Eileen Brownlee, Corp Counsel

10 minutes estimated | Discussion

 13. **Review and Discussion on amendment to Land Use Agreement 0490-40-48(d)(1)** –Eileen Brownlee, Corp Counsel

10 minutes estimated | Discussion

 14. **Review and Discussion on amendment to Operating Agreement 0490-40-48(d)** –Eileen Brownlee, Corp Counsel

10 minutes estimated | Discussion

 15. **Review and Discussion on salvaging track between MP 7.30 and MP 13.25** – Eileen Brownlee, Corp Counsel, Kim Tollers, Dave Simon, WisDOT, Ken Lucht, WSOR

10 minutes estimated | Discussion

 16. **Review and Discussion on draft 66.031 (intergovernmental) agreement between Sauk County and WRRTC for track removal** – Eileen Brownlee, Corp Counsel

10 minutes estimated | Discussion

- 17. Review and Discussion on draft funding contract with Sauk County for track removal and determination of division of salvage proceeds – Eileen Brownlee, Corp Counsel**
- 18. Action Item. Adjournment**

WISCONSIN RIVER RAIL TRANSIT COMMISSION
 COMMISSION MEETING - FRIDAY, JULY 8TH, 2016 @ 10AM
 DANE COUNTY HWY GARAGE, 2302 FISH HATCHERY RD, MADISON, WI

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

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

Commission met quorum.

Others present for all or some of the meeting:

<ul style="list-style-type: none"> • Mary Penn, WRRTC Administrator • Ken Lucht, WSOR • Jason Culotta, Wisconsin Manufacturers & Commerce (WMC) • Mirjam Melin, Rock Against the Rail 	<ul style="list-style-type: none"> • Kim Tollers, Rich Kedzior, Dave Simon, WisDOT • Eileen Brownlee, Corp. Counsel • Rep. Amy Loudenberg, WI State Legislature • Danielle Zimmerman • Alan Anderson, Pink Lady
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3. Action Item. **Certification of Meeting’s Public Notice** – Noticed by Penn
 - Motion to approve posting of meeting – Ladewig/Scallon, Passed Unanimously
4. Action Item. **Approval of July Agenda** – Prepared by Penn
 - Motion to approve July agenda – Cornford/Gustina, Passed Unanimously
5. Action Item. **Approval of draft June 2016 Meeting Minutes** – Prepared by Penn
 - Motion to approve draft June 2016 meeting minutes with minor corrections – Mace/Tietz, Passed Unanimously

6. Updates. **Public Comment** – Time for public comment may be limited by the Chair
 Jason Culotta from WMC introduced himself and said he was attending as some of the issues presented were of interest to his organization. Mirjam Melin introduced herself and said her organization was not against rail per se but they believed that the Great Lakes Basin Transportation (GLBT) project was not supplying information to them and if Wisconsin needed rail it should not be in response to a paper plan without substance. Rep. Amy Loudenberg introduced herself and invited the Commission to contribute comments to the Surface Transportation Board (STB).

7. Updates. **Announcements by Commissioners** – No Discussion Permitted
 Dick Mace said he and some of his family had attended the Horicon Open House and all “had a good time”. He said it was very informative and what he wanted to see. Allan Polyock said that Walworth County was hosting the 2016 Wisconsin Farm Technology Days and invited all to attend.

REPORTS & COMMISSION BUSINESS

8. **WRRTC Financial Report** – Gene Gray, Treasurer
 Gene Gray presented the Treasurer’s Report saying financially the Commission was where “we needed to be” and the good thing was that income balanced expenses. He said there was one bill for the accounting services.
 - Motion to approve Treasurer’s Report and approve the payment of bill – Anderson/Mace, Passed Unanimously

Gary Ranum asked why there were two lines of interest on the income statement. Gray said he would find out.

9. Discussion and Possible Action on Amending 2016 WRRTC Budget – Gene Gray, WRRTC Treasurer

Gray said this was more for clarification of tax process than anything else, giving the background on how taxes from Illinois now came to the Commission. He said the bottom line was that the money was the same and this did not affect dollar values. Mary Penn said this was to provide transparency. Bill Ladewig said the budget needed to reflect this as income from the railroad. Alan Sweeney said basically this is a “pass through”. Ladewig asked if it were ok with the railroad. Ken Lucht said it was much more streamlined and WSOR fully supported it. Charles Anderson asked about the railroad tax in McHenry County. Lucht said that was for the Illinois portion of the Fox Lake sub.

- *Motion to approve amended 2016 budget – Ranum/Ladewig, Passed Unanimously*

10. Discussion and Possible Action on Amending 2017 WRRTC Budget – Gene Gray, Treasurer

Gray said this change was identical to agenda item 8, to show how the taxes were paid. He noted the Dane County contract for Jim Matzinger’s services was slightly higher in 2017. He said it was good they were “holding the line” for the railroad and the counties. Sweeney asked Gray to ask Matzinger about the increase in accounting fees.

- *Motion to amend 2017 budget – Kuhnke/Morris, Passed Unanimously*

Ladewig said the Commission would not be able to put in the numbers for the 2017 tax burden. Gray said this budget did reflect a small increase over last year.

11. Wisconsin & Southern Railroad’s Report on Operations – WSOR

Ken Lucht said the weather and heat had been impacting maintenance, resulting in dropping speed. Some of the rail over the past weeks had been 115 degrees F resulting in some slow orders on some subs due to possible rail kink. Also, since summertime, WSOR had rolled out a summer safety program to promote safety in all WSOR departments, including engineers and conductors. He said WSOR had distributed new reflective T-shirts and morale was “really good”.

On projects, Lucht reported that the three bridges in Illinois were completed and he thanked the WRRTC for their support. He said this was a key project and all structures were now up to 286,000 lb. capacity.

Lucht said the Phase 2 tie project on the Prairie sub was beginning Monday (July 11) with ties being distributed today. He said the final design for the Spring Green Bridge was complete and the project would be bid in August. He said those from Iowa County would see work begin.

In Dane and Jefferson, the ties on the Watertown sub were going in. This project would bring the sub up to a Class 2 corridor. He said the next phase would be bid out next year. Lucht also noted that WSOR was waiting on language for the continuous welded rail (CWR) Waukesha sub agreement language.

In Oshkosh, Lucht said WSOR was putting in 9,000 ties with 12,000 put in last year as part of corridor maintenance. Also CWR was going in between Fairwater and Markesan: this project would be completed in August. Lastly, Lucht spoke about the Horicon tour and said WSOR wanted to do the same in Janesville and it was planned to happen within a few months.

Anderson asked if the design for the Spring Green Bridge was available. Lucht said he could make them available. Mace asked about the farmers from IL who came to the meeting in December asking about drainage and was there any update on that. Lucht said he did not have an update. He said he was not aware of any railroad permit related to the issue so the individual needed to go through the proper channels in the state of Illinois: it was not a railroad facility.

Ranum asked about a June derailment and what the rail temperature was. Lucht said the derailment had not been related to heat.

12. WisDOT Report – Kim Tollers, Rich Kedzior, WisDOT

Rich Kedzior reported that WisDOT would be sending the Freight Rail Preservation Program (FRPP) recommendations to the Secretary of Transportation’s office this month. He issued a caveat on the 2017 awards, saying the expected dollars for 2018-2019 would likely impact this year’s priorities as “we are entering a very difficult budget”. Dave Simon said there was enough money for projects for 2017-2018 but they did not know how the 2018-2019 budget would come out. He said they did not know what the transportation department’s budget would look like at this point, noting with a big back load of projects, “we support the Secretary as best we can”. He added that in the last biennium, as well as this biennium, there were some segregated funds. Later this year they could let the Commission know what the budget would look like, noting they would continue to move forward with available funding and try to address railroad needs as best as possible.

Next, Simon spoke about the Merrimac Bridge. He reminded the Commission of the December 2015 meeting and what was discussed. He said WisDOT had approved an alternative “restore bridge” proposal by Ayers & Associates. This project would have reconditioned the Merrimac Bridge to bring it up to 268,000 lbs. loading at 10 mph. In January 2016 WSOR worked with Southwest Engineering who did another analysis on the bridge structure, member by member. As a result there were more options. Simon described the minimal option and a sustainable option. Both options increased the bridge’s capacity to bring it up to 286,000 lbs. at 25 mph. Wisconsin and Southern recommended the sustainable option resulting in 286,000 lb. loading at 25mph for 40 years. Simon WisDOT did their own analysis of this option and determined it was a very good alternative and agreed with WSOR that the sustainable option was the best option moving forward. Therefore with WSOR, WisDOT was developing plans for the project. He said there was funding available and WisDOT was committed to rehabbing the Bridge. He added that as a sideline benefit, it eliminated the low span no. 18, thereby removing a safety hazard. He reiterated that there were many benefits to the sustainable option, including shippers could ship at 286,000 lbs. to lower shipping costs and allow WSOR to market the line as a full service line. Lucht said it was an alternative to complete replacement which cost millions more. For now a “middle ground” replacement option could give them 40 more years of service. He said this option did not address the piers below the surface of the water, however, WSOR had been told by divers that the piers were holding up well. In the

future if variables came up, they would have to come up with solutions but looking at the customer demand and the money available, WSOR felt this was the best option.

Asked about the loading weight on the original option, Simon reiterated that the first option only came up with a 268,000 lb. loading rate. He said what Ayers alternative addressed was only the condition. The sustainable option increased capacity. Lucht said the bridge was down rated to 263,000 lbs. in April, with runs spread out. He said if nothing was done by 2020, it would have to be downgraded to 234,000 lbs. With this alternative, WSOR was hoping to avoid that. He added that there was only a 4-5 year window to address this. Sweeney asked Simon about the timeline and whether this would be a WisDOT or WSOR project. Simon said it would be WSOR with WisDOT working closely with them. When asked if there was spending only on structures above the waterline, what would happen if issues cropped up below the waterline, Lucht explained the piers were still good. Alan Anderson said the Pink Lady RTC shippers were delighted with this proposal. He noted that \$17M was still a big number, and asked what the worst case scenario was if the budget dropped all funding for this. Simon said he believed that it could be funded with fiscal year 2017 dollars. Mace asked if the project was peer reviewed by WisDOT's engineers. Simon confirmed that it was reviewed by their engineers. Gray asked if there had been damage to the Bridge from high water. Simon said wave action and ice pressure had impacted the bridge somewhat but engineers have told them the steel in the piers is the main structural element within the mason and concrete is undamaged. He said there would be some work to do to correct the mason work. Ladewig asked where this Bridge ranked on the State's priority list. Simon said the Spring Green Bridge was first but did not go further. Lucht said WSOR's bridge priorities were the Spring Green Bridge, the Wauzeka Bridge, and the Merrimac Bridge all of which unfortunately were three huge structures coming into a tight budget era. He said WSOR had just never had the resources to address these bridges in the past. Alan Anderson asked about the TIGER grant submitted by WSOR and if awarded, how would that impact the project funding. Simon said that was a great question and if awarded they would have the matching funds. Lucht noted that WSOR was working on their funding strategy at this time and supposedly once completed (if not receiving a TIGER grant) WSOR would apply for a state grant and start looking for the 20% local contribution of \$4M. He said likely a proposal for this would soon be presented to the WRRTC. Simon said related to this was the Great Sauk Trail (GST), suggesting it might be appropriate to have it on the next meeting's agenda.

On the GST, Simon said this was related to the Merrimac Bridge since WisDOT was committed to the project it had been working on a Rails-to-Trails conversion on the line running from the Sauk City Bridge up to the Badger Army Ammunition Plant (BAAP). He said WisDOT was working with WSOR and would have to file an STB petition in regard to the issue. He said WisDOT was also working on an alternative track removal plan and how it would be done. He added that WisDOT was also looking for WRRTC's cooperation and approval on this Rails-to-Trails conversion. He said the details still needed to be fleshed out and assumed it would be an amendment to the current Land Use Agreement. Simon said WisDOT was also working on developing an interim trail agreement with Wisconsin DNR. He suggested getting this on the agenda for the next meeting to present WisDOT's working with the railroad and the folks of the Great Sauk Trail.

Marty Krueger said what was more important was the WisDOT's commitment to this project. He said there were Sauk County jobs dependent on rail so this was an important piece of that. With load downgrading, it cost Sauk County shippers \$300,000 - \$400,000 per year. He said this was a win for all concerned and that this was the sanest solution to the situation. He also said he believed it would be good if the Commissioners visited the County and suggested either holding the August meeting there or have a special meeting at the Village Hall of Merrimac so Commissioners could go out and see the Bridge for themselves. Krueger said this would also allow folks to see the current corridor in Sauk City and Prairie du Sac as well. He said those two communities had been patient and prepared to have the corridor converted under a Rails-to-Trails agreement for some time and would like to expedite the remaining steps to complete this. He said he would like the Commission's attention to this matter as it was important for the railroad and Sauk County.

Eileen Brownlee noted that the Merrimac Bridge was not listed anywhere on the day's agenda but the public was entitled to notice and she noted that the public could not have known the Commission would be discussing this issue at such length today. In respect to WisDOT, she said this was only a report and if bringing up something unusual or requiring action, she suggested an itemized list for the WRRTC's attention for future meetings. This would avoid a conversation that violated the open meeting law. She said maybe some Sauk County folks would have wanted to be here for this conversation. Krueger said there was no action being requested. Brownlee said the open meeting law included information. Sweeney thanked Brownlee for her reminder. Mace asked if they could merge a special meeting with the August meeting. Sweeney said at this point they needed to respond to corporation counsel.

Lastly, Simon reported their division was getting a new engineer. He also said Mark Morrison would be retiring and they were looking to replace him. He added that Frank Huntington had agreed to stay on for the time being and spoke of Huntington's qualifications on railroad issues.

13. WRRTC Correspondence/Communications and Administrator's Report – Mary Penn, Admin.

Penn listed the correspondence she had received or sent since the last meeting. She let the Commission know she would be out of the office the following week for vacation and then iterated the administrative actions she had taken since the last meeting, including researching the issue of leasing billboards in reference to a June meeting question about the Grunow sign (in Illinois) and leases versus offers-to-use.

Mace asked if there were a proposal about the sign, saying if there was a legitimate offer for the use of the sign, could the Commission get an agreement similar to the Grunow one. Brownlee said that perhaps the Commission needed to talk about billboards in general. Based on her research, despite a lot of these billboards being put up 40-50 years ago, to date the WRRTC had not been in the billboards business. She added that today there were zoning and state law restrictions and advised that this was a discussion worth having in the future about how to deal with these issues. Kim Tollers said the STB had advised the State that they "can only be in the railroad business" and it was a railroad corridor. Brownlee said there was also federal case law that preempted railroad uses but did not preempt non-railroad issues. Sweeney advised Penn to make it an August agenda item. Ladewig recommended a letter be sent for removal. Sweeney said the Commission could discuss the whole issue in August. Brownlee said while centered on billboards, discussion could also involve all non-railroad issues on railroad property.

14. Discussion and Possible Action on Green County Board Letter of Invitation – Mary Penn, Admin., Eileen Brownlee, Corp. Counsel
Penn gave background on the item, saying she had been instructed at the June meeting to draft a letter to Green County inviting them to join the WRRTC, copies of which she distributed to the Commission.

- *Motion to approve letter– Scallon/Nilson, Passed Unanimously*

Brownlee said she had reviewed the letter and it looked fine. Sweeney said he thought it a good idea for the future and asked if WisDOT had any comments. Kedzior commented on the 3rd sentence of the first paragraph. He said the FRPP program would pay up to 80% for improvements but it could be less, so the local share could be higher. He suggested either eliminating the sentence or amending it. Sweeney asked if Scallon wanted to approve it with Kedzior’s comment. Nilson moved to amend the letter for clarification.

- *Motion to amend motion to read “Preservation by publicly owned rail is frequently paid by up to 80% by the State” - Nilson/Nitschke, Passed Unanimously*

Sweeney said the letter would be amended and sent to Green County.

15. Discussion on Amending WRRTC Charter Article III: Management, Section 3.01 – Mary Penn, Admin., Eileen Brownlee, Corp Counsel

Penn presented the item, saying with the number of counties potentially joining the Commission, it could become unwieldy. She said she had discussed with Brownlee the possibility of dropping the number of appointed commissioners from three to two. Nilson said there was no need as the table was big enough. He said dropping to two could lead to increasing the chances of a no show. Mace agreed. He said with lowering the limit, there could often be times when there would be circumstances of a meeting with only one commissioner and he did not like the idea of only one commissioner acting on issues for the County. Ranum said he took the opposite view, saying the Commission was getting very large and reducing the number of commissioners would save the counties money. He noted that the counties did have the prerogative of appointing an alternate. Nilson asked Brownlee to explain and she said that three were appointed commissioners plus one alternate. Chuck Spencer said he found this a functional group and did not see a need to change. Eric Nitschke said with three, the commissioners were conditioning themselves to not make the attending meetings a priority; if there was so much coverage, you could lose some of those individuals who were very busy. Allan Polyock spoke about Walworth’s County’s experience downsizing and said there was a lot of diverse opinions. He suggested leaving it alone. Nilson said he would love it if there were a statistical expert who could look at the possibility of not getting quorum. Given the fact that there was always one available, if the charter is changed to two, there could be issues. Krueger said everyone was focused on Green. He was not sure about Columbia County joining. He did not have a problem with two commissioners and an alternate. Sweeney said the message was clear but that there should be an action item on it for the August meeting.

16. Discussion and Possible Action in regard to the Great Lakes Basin Transportation Rail Project – Alan Sweeney, Chair

Penn distributed the memo sent from Brownlee and the letter written by Sweeney. Sweeney congratulated WisDOT’s comments to the STB. Simon said there was a team of people working on them. He said there had been a few errors in the filing on town road names and they would be re-filing to correct those. He said the new filing would supersede the old one but repeated it was only for some minor road name corrections.

Brownlee said this was a process anticipated to take years. Right now the Scope of the Environmental Study was being looked at and there would be at least two additional comment periods. She said she was not advising them to not send the letter. She said she had spoken with Kathy Chung of WisDOT and they had discussed the issue of whether the WRRTC should weigh in. She said that Sweeney’s letter was factual and from that perspective was ok. She did not believe the RTC’s should have a pro or con position at this point but putting a letter on file was fine with her.

Sweeney said he had asked Rep. Loudeneck’s office to help him with the letter, working with Danielle Zimmerman to make sure the letter was more factual. He said it was a decision by this Commission whether to send or not, but he thought it a good idea to share it with the Commission for discussion and due diligence. Whether to submit or not was up to them. Nilson said he personally had gone on record opposed to the GLBT project but far as the Commission went, he did not think the Commission had a position: the WRRTC should be for whatever supported rail in the state. He did not know that they needed a position at this point and advised waiting to see what WisDOT and WSOR did. Brownlee said she did not fully agree but she said that at this point, the Commission was not deciding whether or not if they would operate. At this point they needed to know what they were looking at over the next three years. She said this letter accomplished the listing of facts. Nilson asked if Brownlee were ok with the letter. She said yes. Ladewig asked if sending the letter made them a party of record. Brownlee said this did not do that, saying you would just have to keep up with the STB. Krueger said he agreed with Brownlee and thought the last sentence summarized the Commission’s position clearly.

- *Motion to approve letter as presented – Krueger/Ladewig, Passed Unanimously*

Mace said he agreed with the motion and he liked the third paragraph very much. He said he did not think the issue addressed was looked at when the project first came up and it lent credibility to be looking at alternative routes. Augie Tietz said in the conference call last week, Jefferson County talked about it and would be doing a resolution at their County Board meeting Tuesday night in support of WisDOT’s position and that the resolution would be sent to the STB by July 15th. Simon said WisDOT could provide a copy of the updated report.

Melin asked Brownlee if there were a negative to sending the letter. Brownlee said anyone could join as a party of record at any time. Looking at the length of the process, her opinion could change as time passed. Sweeney said Rock County was a party of record and Melin could review that file. Melin said it did not allow those who are not party of record to comment. She said the STB would not include a letter by a non-party of records unless it was sent during a comment period. Loudeneck said the STB wrote to the law firm of the applicant requesting a lot of information by the end of August and due to that, the Commission might want to keep this issue on their agenda. She noted a lot of information was requested.

17. Action Item. Adjournment

- *Motion to adjourn at 11:34 AM – Gustina/Cornford, Passed Unanimously*