

# WISCONSIN RIVER RAIL TRANSIT COMMISSION

EXECUTIVE COMMITTEE MEETING - FRIDAY, SEPTEMBER 5<sup>TH</sup>, 2014 @ 10AM  
 DANE COUNTY HWY GARAGE, 2302 FISH HATCHERY RD, MADISON, WI

1. 10: 00 AM **Call to Order** – *Tom Cornford, 2<sup>nd</sup> Vice-Chair*

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

Crawford	Tom Cornford, (2nd Vice Chair XComm)	x	Rock	Ben Coopman, Alternate	
	Rocky Rocksford	x		Wayne Gustina	x
				Alan Sweeney, Chair	excused
				Terry Thomas	x
Dane	Gene Gray, (Treasurer X-Comm)	x	Sauk	Marty Krueger, Alternate	
	Jim Haefs-Fleming	excused		George Johnson	
	Chris James, Vice Secretary (XComm)	x		John Miller, Vice Treasurer (XComm)	x
				Dave Riek	x
Grant	Gary Ranum	x	Walworth	Jerry Grant	
	Vern Lewison	excused		Richard Kuhnke, 2 <sup>nd</sup> Vice Treasurer (XComm)	x
	Robert Scallon, 1 <sup>st</sup> Vice Chair (XComm)	excused		Allan Polyock	
Iowa	Charles Anderson, Secretary (XComm)	x	Waukesha	Karl Nilson, 4 <sup>th</sup> Vice Chair (XComm)	excused
	William G Ladewig			Dick Mace - acting as 4 <sup>th</sup> Vice (Chair X-Comm)	x
	Jack Demby			Vacant	
Jefferson	Vacant 3 <sup>rd</sup> Vice Chair (XComm)				
	Laura Payne – acting as 3 <sup>rd</sup> Vice Chair (XComm)	x			
	Augie Tietz				

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>• Richard Brandl, Walworth County Supervisor</li> <li>• Kevin Brunner, Walworth County DPW</li> <li>• Alan Anderson, Pink Lady (10:21)</li> </ul>	<ul style="list-style-type: none"> <li>• Ken Lucht, WSOR</li> <li>• Frank Huntington, Kim Tollers, WDOT</li> <li>• Forrest Van Schwartz, pro bono consultant</li> </ul>
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3. Action Item. **Certification of Meeting’s Public Notice** – *Noticed by Penn*

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

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

- *Motion to approve amended September agenda – Anderson/Rocksford, Passed Unanimously*

5. Action Item. **Approval of draft August Meeting Minutes**– *Prepared by Penn*

- *Motion to approve August minutes as amended– Mace/Kunhke, Passed Unanimously*

Dick Mace recommended adding the actual dollar value for the county contribution on Item 19, 2015 budget discussion. Mary Penn said she would correct the roll for August’s meeting showing Richard Kuhnke as the 2<sup>nd</sup> Vice Treasurer.

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

7. Updates. **Correspondence & Communications** – *Discussion may be limited by the Chair*  
Penn distributed three articles from Forrest Van Schwartz of which he spoke briefly. Penn listed correspondence received since the August meeting.

8. Updates. **Announcements by Commissioners** – *No discussion permitted*

### REPORTS & COMMISSION BUSINESS

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

- Treasurer's Report for August and Payment of Bills

Gene Gray gave the Treasurer's Report saying there was only one bill to pay, to WSOR for completion of the 2013 projects in the amount of \$208,390.00.

- *Motion to approve Treasurer's Report and approve bills – Anderson/Mace, Passed Unanimously*

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

Ken Lucht gave his report, saying routine work (inspection, maintenance, etc.) was ongoing. On the capital side, he said the Continuous Welded Rail (CWR) project between Janesville and Avalon was underway, noting that the check approved today was for this project, with about 8 miles of rail on the ground now. He said all the materials needed had been delivered and the project had gone to bid. Because the bids previously received were so high due to a late contract, WSOR had resent the bids. They hoped to award that bid in the next few months.

On the Oregon/Fitchburg line, WSOR was getting signatures on the Line of Sale Agreement and had filed with the STB to gain Common Carrier Rights (CCR) within 30 days. Lucht said crossings had been completed and teams were working on visibility issues. WSOR was thinking they could get the line into service at 10 mph within the next few weeks, with the ties in and minimal culverts completed, service could commence in the next couple weeks. He said STB had not yet granted CCR and WSOR was thinking of asking Oregon and Fitchburg for temporary operating rights as the customer, Lycon, had invested heavily in this process and had shown their commitment to the project and needed to get things moving. Lucht promised to update the Commission on the outcome of getting temporary operating authority at the October meeting.

Next year, Lucht said WSOR was anticipating WDOT making awards of projects mostly in the northern district.

On the Darrien siding, Lucht said the work had been completed which would allow WSOR to provide safer service.

On the utility permit approved for fiber optic at last month's meeting, Lucht said it had been approved by WSOR engineers.

Lucht said WSOR was hoping to hear about the outcome of the TIGER application next month.

On the I39 project, he said that WSOR had 4 locations where the highway crossed the railroad tracks. WSOR had reviewed WDOT plans to widen clearances to accommodate the tracks and rail and would be talking to WDOT about this project more in the future.

On the Fox Lake Bridge, IL, Lucht said that right before the beginning of the Metra track there is a bridge over the Nippersink River that is settling. In 2005 WSOR created a plan to create a structure but the IL DNR said no to it, although the Army Corp of Engineers approved it. Lucht said the bridge is continuing to sink so WSOR was almost to a point where they would have to take the bridge out of service. He said they were working with their attorneys to address the issue and were trying to keep the bridge in service. Lucht did not know if the bridge work would be considered a maintenance item vs a capital item but WSOR was not going to go forward with a full replacement due to the legal issues involved. He said federal pre-emption might also be at play and that he would keep the Commission updated.

On business, Lucht said WSOR had met their revenue goals over the past few months with grain starting to move. He said that hopefully the 4<sup>th</sup> quarter would make up for the year's weak beginning and added that there was continuing demand for sand.

Van Schwartz spoke to the issue of the Fox Lake Bridge and said that WRRTC did not own enough land on the south end of the bridge to accommodate raising the bridge 8'. He said IL did not offer any financial assistance for projects like this and it was all up to the railroad and the Commission to take care of the track in Illinois. Lucht said the reason to raise it 8' would be so luxury yachts could pass beneath. Mace asked about the bridge's clearance. Lucht said small fishing boats could pass beneath but not yachts. Gray

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asked about the possibility of extending Metra commuter service on this rail but Lucht and Van Schwartz both said no. Lucht said there was always talk about extending passenger service but Metra was not interested in that. Mace asked if there was an appeal process with the IL DNR. Lucht said WSOR was looking at the whole process and said they would look at all options. Alan Anderson asked if UP used this line as well but Lucht said UP used the Harvard line. John Miller asked if WSOR could connect on that line. Lucht said there had been discussion for years to connect on these Class 1 lines and WSOR had never been granted that. There was additional discussion about the status and quality of the Harvard line, its conditions and restrictions. Gray asked how WSOR's business compared to last year. Lucht said last year's grain market was not down that significantly but it was much lower this year than last year in the 1<sup>st</sup> quarters of 2014.

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

Frank Huntington said all materials related to the Reedsburg acquisition had been submitted to the STB but WDOT had not heard anything back yet which he called a good thing as he believed it meant they had submitted everything correctly. He said it could be up to 6 months before they heard but hopefully they would get word before the end of the year. He said the STB was not under any time restrictions with 60 – 100 days a pretty normal timeframe. When that happened, WDOT could close with UP 30 days after the STB's response.

Huntington said there still was no word on the TIGER grant application. To his knowledge there was no way of knowing when that announcement would be made. He said WDOT was working to award projects now. He said the TIGER grant was \$10.6M but there was about \$15M available for projects. He said that the only ones submitted and completed were WSOR projects and one in Milwaukee. He said that hopefully next month WDOT would be able to make awards. Huntington said all but one project submitted was outside the region in Milwaukee and listed the potential projects, which included over 60 bridges. He said that once WDOT knew what would happen with the TIGER grant, there were some project that would have money left over and once they were done, WDOT could award some additional projects.

He said WDOT was working on their biennial budget which would go to the legislature next spring. He did not have more details on this as yet. Terry Thomas asked if the amount would be the same. Huntington said he expected it to be much the same as the last one (\$52M) and that WDOT had always had good support for this process and would "have to wait and see". Lastly he reminded the Commission of the upcoming rail conference in November.

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

The Administrator had nothing to report.

### **13. Discussion / Possible Action on feasibility of generating and distributing Treasurer's Reports in time for meeting packet mailing** – *Gene Gray, WRRTC Treasurer, Jim Matzinger, WRRTC Accountant*

Gene Gray said this agenda item was suggested by Chair Alan Sweeney. However, Gray said he wanted Jim Matzinger at the meeting to talk about this but as Matzinger was still on summer Dane County Highway Department hours, he was not available for the meeting. Gene said the issue was the impact might generating treasurer reports in time for meeting packet mailing would have on Matzinger's schedule while also considering the Commissions need for timely information.

- *Motion to table Discussion / Possible Action on feasibility of generating and distributing Treasurer's Reports in time for meeting packet mailing – Gray/Mace, Passed Unanimously*

### **14. Presentation / Discussion on Peters Road Bridge (Town of Sharon, Walworth County) including closure and plans for future replacement** – *Kevin Brunner and Rich Brandl, Walworth County DPW*

Kevin Brunner gave a power point presentation on the Peters Road Bridge and introduced Rich Brandl as the Town of Sharon Board Chair as well as a Walworth County Commissioner. Brunner noted that railroad originally owned the bridge. He said the owner was the WRRTC, the maintainer of the bridge was WSOR, and the road was property of the Town of Sharon and the County, which was responsible for safety. He said it was a unique situation.

Brunner reported there was an inspection in August 2014 of the bridge which showed numerous failings and items of the structure that needed replacement. Brunner said the sufficiency rating was 46.27: 50 or below are deemed to require replacement if sufficient funding was available, possibly through the WDOT.

He noted that for 25 years this bridge had needed repair or replacement, saying the 1996 inspection report recommended complete rail replacement. In 1998 piles were rotting and there was continued recommendation for complete replacement. In 2008 the timber braces were deteriorated, and it was recommended that the guard rails be replaced. The most recent inspection recommended replacement as well. The key factor was in 2012, when the sufficiency rating was about 50: it is now 46. Obviously there was a history that the bridge needed replacement. Brunner said they had talked a lot with Lucht about the bridge. He said WSOR had done a

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report in April 2014 which showed the bridge was in a failed state and based on all this information the Town closed the bridge July 29<sup>th</sup> after a series of meetings. Brunner said that Commissioner of Railroads, Jeff Plale, was very concerned about the bridge.

Brunner stated that the reason he and Brandl were at the meeting was to identify the next steps. He reiterated the WRRTC was the owner with WSOR responsible for maintenance, adding that the Town would really like to get the bridge open again, even with temporary fixes, with the idea that it eventually be replaced.

Rich Brandl said that unfortunately the bridge was on one of the main Town roads, so the closure had inconvenienced a lot of people, particularly those going to the Village of Darrien. He said there had been a lot of push back on the closure as the detour was anywhere between 12 and 15 miles. He said that in 2014 the Town had sent notice to the Commission and said they had not heard anything from the Commission: he said the Town wants to see something done, adding that the guard rails did not have to be crash worthy since the bridge was grandfathered in. To open the bridge and hopefully get the bridge replaced was the hope and the Town wanted to see some action from the Commission as its owner, have them "step up" and the tenant (WSOR) get some work done.

Van Schwartz asked about the ambiguity of the issue. Brunner said the consulting engineering found a regulation that seemed to imply that for bridges like this, it was impossible to make the railings crash worthy but if the railings could be fixed the bridge could reopen. Frank Huntington said that if it got to the replacement point, the WDOT's local bridge program could come into play but the bridge had not yet been submitted as a project. He said some of the records were somewhat sketchy but what data they had was that this was a railroad bridge and so it would fall under WRRTC ownership and therefore WSOR's responsibility to fix it, noting there was little to no gain to WSOR but a benefit to the car drivers and road authority. In some other areas, he said, once a bridge had been replaced, the responsibility for maintenance had been turned over to the road authority. He said in the interim, there was no program but currently under the operating agreement it was WSOR's responsibility to address the issue. Mace asked Huntington about ownership and why did the Commission own a bridge yet did not own the ROW, noting that the state did and asked what check had there been on the bridge's ownership. Huntington said the railroad had records on bridges they own, although records were somewhat incomplete, it was likely that the road existed when the railroad went through. The most obvious reason for assuming the railroad owned it was the construction of the bridge: it was a railroad construction type. Huntington said he did not know if ownership could be definitely pinned down. Van Schwartz spoke of other bridges like this in the state and the history of them and how they were established. Gary Ranum asked if there was a cut. Van Schwartz said yes and Huntington said a lot of the problems with bridges like these was that its humpbacked construction which brought a lot of difficulties such as having to build to line standards or raise the bridge to make it to a more modern standard, which was expensive to do. Long term, Huntington said the solution was to replace it.

Brunner asked Huntington how many others like this were in the state. Huntington said about 10 or 12. Brunner said with the budget being prepared by WDOT, it seemed like the issues of bridges like these should be considered and spoke of another town in a county with a similar situation and said there were about 7 bridges in the county in disrepair and/or failing. He hoped that out of this discussion they could be allies in addressing the issue on the legislative level. Huntington said with the replacement program there was still a 15% local match. Brunner spoke of another bridge and that it was not funded and infrastructure was falling apart. Alan Anderson asked if the railings were fixed, how long could the bridge last until replacement. He also asked about ambulance and emergency access and said it was a very serious local issue. Brandl said that safety came up with their EMT and fire fighters: they had not gone on this bridge for the last 10 years, noting the bridge had a 16 ton limit. Anderson added that he had not heard about this issue in the past 5 years in the Correspondence reporting.

Ranum said the Commission had discussed about at-grade crossings and short term solutions. Van Schwartz said this bridge would require the lowering the highway to get it down to track level. There was discussion about related safety issues in situations like this. Anderson asked about the importance of the road and if the Town had any cost-sharing options. Brandl said they were told there was nothing they had found. Brunner spoke of a bridge program in Rock County involving a tax for local bridges. He said Walworth was looking into this but it might be tough to get buy-in from all the towns in the County. Gray asked about the ADT. Brunner said it was 700 ADT and the detour was causing a lot of problems. Anderson said that if there were 6 bridges in the system, it was not an argument to keep the budget high, but to get the bridge issues solved and keep the railroad operating. Huntington said the money WDOT would use would be local bridge funding but not railroad funding because there would be no increase in railroad traffic.

Mace asked if there was a cost estimate for rail replacement and the parameters of the project. Brandl said the town's estimate on materials was \$6,000.00. He guessed it would be about \$12,000.00 to \$15,000.00 including engineering. Mace asked if the Town had a crew and if there was interest on the Town's part to do a 50/50 or 75/25 option. Brandl said it cost them \$2800.00 to close it.

Anderson asked if there was any obligation to keep the bridge open. Huntington said crossings were under the jurisdiction of the OCC and the railroad must comply, adding that if necessary a hearing could be held. At this point, Huntington said there was an authority, the OCC, which could dictate what the response might be. He said that the OCC did not order a closing but strongly recommended it,

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adding that this was a temporary solution. Kim Tollers said to vacate the crossing had to be done by hearing. Lucht said the railroad had been aware of this for many years but it was a complex issue. When WSOR looked at maintenance, anything over \$10,000.00 was a capital project. In looking at the design of the bridge, Lucht noted it was built for horse and buggies and over the years there was now heavy use and the bridge was overloaded. He said it had come to a point where the bridge cannot be maintained to sustain current loads. Lucht said WSOR had sent their structural engineer in April to assess the bridge and found that a lot of the piers were hollow and as this bridge was on wood sill plate, it was completely rotted with no structural support at all. He said replacing the railings would not make it safe to use as a bridge. He said WSOR would help fund equally and suggested they apply for funding for 80% funding with 20% shared between the Commission, the Town, and Walworth County. He gave an example of a similar situation in Rock County, adding that there were lot of bridges similar to this one in the WRRTC area. Lucht said these bridges were far beyond maintenance. Brandl said there had always been a 30 ton limit on it.

Mace asked what could the Town live with, suggesting offering a lesser tonnage limit with the truck traffic and the needs of the fire department. Brandl said their fire trucks were always getting bigger and said he was not aware of what school buses were using the bridge. Anderson asked who would set the weight limit. Brandl said he did not have a problem with setting it to 5 tons until the bridge could be replaced. Brunner said there are going to be design standards if using federal money. There was continued discussion between commissioners on setting limits and the practicality of addressing a possible reopening of the bridge in the interim. Brunner said the railings could be put up for about \$15,000.00 - \$20,000.00 and open the road with limits and start the long process to get the bridge replaced. He said two bridges were just finished in the County took 10 years to complete. Mace said it sounded like an issue of replacement rather than fixing something that could not be fixed. He asked if there was an estimate of the bridge replacement cost. Brandl said the Town talked to a private engineer who said it would be \$800,000.00. Huntington concurred. Lucht said Rock County did an estimates on bridges and those were between \$800,000.00 and \$1.2M dollars. Huntington said this was where the local match came in. Mace spoke about the advantages of sharing the costs. Gray asked about a street referendum. Richard Kuhnke asked if the rating was below 50, what happened. Brunner said the County would have to prioritize based on the sufficiency rating and ADT. He was not sure if there was enough state funding to fix all the bridges needed replacement. Brandl said the Town was meeting with WDOT people Monday. Tollers confirmed with Brandl that the Town was planning to apply for bridge replacement funds. Brunner thanked the Commission and said they wanted to be partners in solutions.

Terry Thomas asked if Amy Loundenback had anything to say about this. Her representative said she was not sure but said Loundenback had been involved from the beginning. Thomas said he thought that if she was involved from the beginning, it could help with the Governor to fast track something. Brunner noted that this was just one of 6 bridges in the region and said they were looking to the Commission as an ally. Gray said the message was clear, as infrastructure declined it pointed out the need to collaborate. Ranum said with the numbers being discussed, the Town would never be able to afford to do this and the situation needed a number of organizations to get on board. Brunner concurred that it was almost virtually impossible for the Town to address this on its own. Mace asked Brandl if he was in a position to tell others to collaborate as a town board chair and if the County could be called to contribute. Brandl said the Town was looking at trying to get a program similar to that mentioned in Rock County.

### **15. Discussion / Possible Action for WRRTC Approval of Riverdale Ag, Muscoda, WI, Temporary Authorization Permit** – Kim Tollers, WDOT

Kim Tollers said the Riverdale Ag facility was constructing a pit on the ROW with a temporary side road. She said the pit was similar to one they had to the east (referring to her handout). She said that WSOR personnel Ok'd the plan and WDOT was ready to approve the permit but they needed the WRRTC's concurrence for the permit. She said with their approval they could get the project going. Ranum asked if the Village had been involved but Tollers said this had been done at the behest of the business. Ranum asked if there was a platted crossing on Iowa Street. Tollers said Iowa Street had been vacated but the owner was fully aware that he would have to go to the Village with this plan. She said if the permit was granted the owner could work forward to gain other permissions from the Village. She said they would follow railroad specs when constructing the pit. Ranum said the Village of Muscoda plat was laid out by the railroad. Mace said the Certified Survey Map indicated a vacated ROW and if so, it needed to have a reference to that status documented. It seemed to him that this would be a major issue to anyone to move forward. Tollers said that was between the business and the Village. She said the handout was for display purposes only. Mace said the centerline from the track to the building was 10'. Huntington clarified that this was a side track. Tollers said the federal standard was 9' and said there was an existing shed that had been there since the 19<sup>th</sup> century. There was more discussion on the shed in the ROW and questions regarding the vacation of the street and how the CSM represented information. Ranum said in terms of surveys and Muscoda, it was "really out of whack" and that in some places surveys had been done inconsistently. Huntington said they were just looking at the pit and looking for concurrence from the Commission as WSOR had given concurrence.

- *Motion to approve Riverdale Ag, Muscoda, WI temporary authorization permit – Kuhnke/Anderson, Passed Unanimously*

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### 16. Discussion / Possible Action on Sauk County Request for Expertise on The Great Sauk Trail Commission – Mary Penn, WRRTC Admin.

Penn explained she had received an invitation from Sauk County to be part of an advisory committee for the Great Sauk Trail Commission. She said that this was outside of her contract with the WRRTC but if the WRRTC wished for her to represent the Commission on the Trail Commission, it would require additional remuneration including mileage. Van Schwartz commented that active rail was on this proposed trail. Lucht said this was in regard to the Reedsburg acquisition and said with that coming up, the County was starting to identify their needs for trail. He said that WSOR was considering placing this track into the national rails-to-trails program. Lucht emphasized that WSOR was not talking about a trail down to Mazomanie and presumed the Commission would be talking about this. Miller said this had nothing to do with the regular line. Van Schwartz said there had been plans for years on trail development. Lucht said the planning area was all north of the river. Miller said as far as he knew the trail had nothing to do with active rail. Mace said if anyone on the Commission wished to participate, in his opinion, Chris James would be a more appropriate person to serve than Penn, both as a parks guy and a Commissioner to the WRRTC: James was well qualified to do this. James said personally he would love to participate and that he had worked with Lucht a lot and felt that he could speak for the railroad as well as the park. Mace said if James agreed to do this, he should be entitled to some remuneration such as mileage and per diem. James said he welcomed the chance to get up to the area and the cause. Miller said in all fairness, Sauk County should at least pay half of his expenses and mileage and said he had not spoken to anyone about it yet but thought it might be appropriate; there was discussion on the feasibility of this.

- *Motion to appoint Chris James to serve on the Great Sauk Trail Commission external advisory group – Mace/Gustina, Passed Unanimously*

Miller suggested they address the funding of this so Penn could send a letter asking Sauk County Board Chair Marty Krueger to approve a stipend and for mileage costs. Lucht said Krueger had also asked WSOR to serve on this commission and believed it would be himself. Lucht also said WSOR was not prepared to talk about shared use on the active line, as WSOR used all their active rail, holding true on the Reedsburg line thru Devil's Lake State Park. WSOR was only prepared to talk about inactive track. Huntington said WDOT had been instructed to not talk to local governments until final acquisition of the Reedsburg line was finalized. He said WDOT would therefore not be participating at this point with the Trail Commission.

### 17. Action Item. **Adjournment**

- *Motion to adjourn at 11:42 AM – Gustina/Thomas, Passed Unanimously*