

**WRRTC EXECUTIVE COMMITTEE DECEMBER 2014 APPROVED MEETING MINUTES**

WISCONSIN RIVER RAIL TRANSIT COMMISSION  
 EXECUTIVE COMMITTEE MEETING - FRIDAY, DECEMBER 5<sup>TH</sup>, 2014 @ 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, (2nd Vice Chair XComm)	x	Rock	Ben Coopman, Alternate	
	Rocky Rocksford	x		Wayne Gustina	x
				Alan Sweeney, Chair	x
				Terry Thomas	x
Dane	Gene Gray, (Treasurer X-Comm)	x	Sauk	Marty Krueger, Alternate	
	Jim Haefs-Fleming	excused			
	Chris James, Vice Secretary (XComm)	x		John Miller, Vice Treasurer (XComm)	x
				Dave Riek	x
Grant	Gary Ranum	x	Walworth	Jerry Grant	x
	Vern Lewison	excused		Richard Kuhnke, 2 <sup>nd</sup> Vice Treasurer (XComm)	x
	Robert Scallon, 1 <sup>st</sup> Vice Chair (XComm)	x		Allan Polyock	
Iowa	Charles Anderson, Secretary (XComm)	x	Waukesha	Karl Nilson, 4 <sup>th</sup> Vice Chair (XComm)	x
	William G Ladewig			Dick Mace	
	Jack Demby			Vacant	
Jefferson	John David				
	Laura Payne				
	Augie Tietz (3 <sup>rd</sup> Vice Chair XComm)	x			

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>• Ken Lucht, WSOR</li> <li>• Frank Huntington, Kim Tollers, Roger Larson, WDOT</li> <li>• Alan Anderson, Pink Lady RTC</li> <li>• Bill Henning, Town of Sharon</li> <li>• Rick Getka, Town of Sharon</li> </ul>	<ul style="list-style-type: none"> <li>• Forrest Van Schwartz, Consultant</li> <li>• Jim Matzinger</li> <li>• Richard Brandl, Chair, Town of Sharon</li> <li>• Ryan Solum, Manhard Consulting</li> <li>• Danielle Zimmerman for Rep. Amy Loudenbeck, WI Assembly</li> </ul>
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3. Action Item. **Certification of Meeting’s Public Notice** – *Noticed by Penn*

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

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

- *Motion to approve agenda – Scallon/Kuhnke, Passed Unanimously*

Penn said the only change was the presenter for item 14 would be Ryan Solum of Manhard, rather than Scott LaRose.

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

- *Motion to approve November minutes – Nilson/Cornford, Passed Unanimously*

6. Updates. **Public Comment** – *Time for public comment may be limited by the Chair*

There were no public comments.

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### 7. Updates. **Correspondence & Communications** – *Discussion may be limited by the Chair*

Mary Penn distributed a number of handouts including a set of photos of flooding in Devil's Lake State Park in 1993 submitted by Dick Mace and two articles from Progressive Railroading from Forrest Van Schwartz. She also listed the correspondence she had received or sent in the past month.

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

There were no announcements.

## REPORTS & COMMISSION BUSINESS

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

- Treasurer's Report for November and Payment of Bills

Jim Matzinger distributed a cash disbursement list showing checks which came in after the Treasurer's Report had been distributed in the meeting packet. He went through the Oregon/Fitchburg acquisition details related to that disbursement as those checks were listed. He asked about the funds remaining in that account, funds that were collected back in the 90's and asked if those dollars could now be moved to the general fund.

Alan Sweeney asked Frank Huntington for some history on the Evansville acquisition which he gave. He said money from the counties was used to pay for it back in the 1990s' but the communities kept ownership and liability as there was no operator. He said Dane, Rock and Green counties had contributed \$118,000 with \$59,000 was left. Huntington said as far as he was concerned it was up to the Commission to decide on what to do with the remaining monies but advised the Commission check with Eileen Brownlee before they took any action. There was discussion about the ramifications of whose money it was and what to do with it. Huntington reiterated that Brownlee should be consulted. Sweeney said this should be on the January financial report as an action item.

- *Motion to accept all the checks as presented - Grey/Ranum, Passed Unanimously*

Matzinger explained that legal fees were over budget this year due to all the work done in 2014. He said the Commission needed to decide what the budget for legal expenses needed to be for 2015, noting that if there were more legal issues they would need more money budgeted. Gary Ranum reminded the Commission that the fees had gone up this year, though the cost was very reasonable. Huntington said that the interest on the remaining dollars in the account for the Oregon-Fitchburg line could be used to pay the legal fees for Brownlee's work on that acquisition. Sweeney said they could review this with Brownlee in January to see if this would be allowable.

- *Motion to approve the Treasurer's Report – Anderson/Tietz, Passed Unanimously*

Matzinger said 2014 projects had not been paid yet. Charles Anderson asked where the project dollars were being used. Ken Lucht said it was the Fox Lake Sub and he expected the Commission would get the bill for that in January or February.

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

Lucht reported that maintenance continued as per their agreement. He said some tamping and surfacing work was going on right outside the meeting building on the line. He said there were routine track inspections and WSOR was replacing broken rails.

On Capital Projects, Lucht said the continuous welded rail (CWR) project on the Fox Lake Sub was very active. He said this was a state rehab project and WDOT was paying 80% with the Commission and WSOR the remaining 20%. He said this would bring the sub up to class 2 standards and increased rail speeds.

Lucht said the 8000' siding at Milton was ongoing and once March came there would be a great amount of work but noted that lots of grading was going on currently. On the Prairie Sub WSOR was working with the City to move this project forward. He said WSOR had come to the Common Council to get a re-zone but was denied. Lucht said that WSOR was shifting gears to try to get the project going and said it was a difficult balance between recreation and railroad interests. He said he believed the project would be completed but it would take time but repeated they had had good talks with the City.

Lucht next spoke about grant agreements and updated the Commission on a number of projects, including bridges, in the whole WSOR system.

Lucht said that last month he had reported that WSOR and WATCO were discussing a reorganization of their region's and said a new region called the Great Lakes Region was being created and that WSOR would be this new region's anchor, breaking the mold for

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WSOR. He said this would be a whole new experience. Lucht said Wisconsin would be the headquarters for the Great Lakes Region which would include Michigan and Pennsylvania. He said talks are ongoing on the organization of this region.

Lucht next let the Commission know that the 2015 calendars were forthcoming.

On the Peters Road Bridge issue, Lucht said on 11/24/14, WSOR met with the Town of Sharon and Walworth County representatives to discuss the issues. He said they went into great detail on the engineering reports, noting that the scope of the County's inspection was quite different than WSOR's inspection and explained those differences of the WSOR inspection. He said the conditions WSOR found were much worse and all agreed that the bridge needed to remain closed. He said the Town, County, and WSOR would continue to work on an application to submit in February for a complete replacement. Richard Brandl spoke to the issue and agreed with Lucht's assessment and said the Town was very disappointed with the County's inspection but happy with WSOR and said that a whole bridge replacement was needed. Brandl said they were still trying to figure out how to get the road opened and spoke of another bridge that needed closing in an adjoining town. He said that the Town wanted some answers on why maintenance had not been done but reiterated it was a good meeting with WSOR.

Sweeney asked that Lucht and the Town continue discussions. He said it would boil down to liability issues and advised all parties continue talking to explore if the bridge could even be opened with some repairs. He said the Commission could help make the liability determination and said he would continue to ask Lucht to comment on this item in his future reports.

Jerry Grant said that he had checked with an independent consultant who said that for \$165,000.00 they could replace the bridge with an at-grade crossing. He said Commissioner Allan Polyock had checked too and mentioned a \$250,000.00 state funding source. Van Schwartz said an at-grade crossing was problematic at this particular crossing and explained some of the other stated mandated requirements such as visibility. He said the cost might be saved for the contractor but it would be at least a quarter of a million for train activated crossing infrastructure. He also said that the OCR office might not have the money to pay for something like this. Grant said one thing not to lose sight of was the impact on emergency equipment to get to folks and said it would be at least 15 minutes for them to get to someone. Anderson asked if there was 350' sight line would that replace the need for lights and signals. Van Schwartz said the track was 40 mph so there needed to be three quarters of a mile for the crossing. Lucht said that WSOR had noticed a lot of engineers did not know how much money it really took to remove a bridge and gave two other examples showing an at-grade crossing would cost the same as a bridge replacement, and reminded Commissioners that at-grade crossings could include acquisition costs. Lucht also said that on the Creek Road Bridge an at-grade alternative was too expensive at one million dollars and reminded them that there were a lot of unknown costs, and as the OCR assessed costs and those dollars are unknown, it was better to work as a team so the OCR did not hand out a hefty cost to one party. Richard Kuhnke said he guessed that the contractor probably did not know about the 350' visibility requirement. He asked if that had to go before the OCR. Lucht said WSOR would probably not participate in funding an at-grade crossing outcome. Van Schwartz recommended the Commissioners read Roger Schalma's bridge report. Van Schwartz said the bridge was way beyond its usable life and design standards. Anderson asked about the 5 Corner bridge and asked how similar it was to the Sharon bridge. Lucht said it was very similar and designed the same. He said there were a lot of these types of bridges closing as the deterioration of these bridges were "coming home to roost". Anderson said that Jewel and Assocs gave \$921,000.00 for the 5 Creek replacement, adding that it was a complete replacement of a concrete structure.

Sweeney reiterated that he would continue to ask Lucht to work with Walworth County and the Town of Sharon on the issue and said that this had to be addressed sooner rather than later. Gene Grey said that the railroad is controlled by regulations and spoke of a conversation he had had with Lucht on crossings. Grey said infrastructure was decaying nationwide. Ranum said that this was a long term fix and the town had an immediate problem and that begged the question if this cut was so long, perhaps a temporary detour around the cut could be done. He said there was the issue of land acquisition but the Town had to have the bridge fixed before 5 years and it was too expensive to do an at-grade solution. Karl Nilson said the Creek Road Bridge was a 2 mile detour and recommended assessing the detours as part of a solution. Kuhnke confirmed that the Peters Road Bridge was about a 7 mile detour.

Alan Anderson said that problems with every one of these types of bridges in the state were coming to bear and asked whether WDOT could get some special funds to address this. He said it was an issue of time and safety and asked if the Commission could get some priorities to expedite some of these problems. He said it could be hard politically but added that this was unique. Huntington said he knew some legislators had inquired of WDOT, suggesting that too, but there was nothing in the budget currently before the Governor on this. Grey asked whether legislators had been part of the discussion. Anderson said the Pink Lady RTC spent a lot of time working with legislators to get funding for the Reedsburg acquisition and that happened because of that pushing. He said the good news was that there was more money for railroads in the budget. He recommended the RTCs communicate with the legislature. Representative Loudbeck's spokeswoman, Danielle Zimmerman, said Rep. Loudbeck had been involved from the beginning and continued to work on the issue.

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Lucht then gave a short explanation as to why the TIGER VI application and why, out of four attempts had never gotten an award. He noted that Wisconsin got no dollars at all other than a planning grant for Madison. He said WSOR thought that out of six cycles they would have got something. Lucht said WDOT had called the US Department of Transportation and had had a discussion with staff where they were told the latest application had been a very, very strong one for updating track all the way out to Spring Green and which factored in some multi-modal connections. Lucht said that the benefit / cost analysis scored a two which was very good. He said the environmental work was very strong and economic competitiveness was very strong. Lucht said it was highly, highly recommended for freight rail and that WSOR went to the highest level you could go. However, as this was a discretionary fund it just was not funded. He expressed his appreciation for the Commission's support and said he was not sure if there would be a TIGER VII.

Lucht then spoke of the re-zone request to the Prairie du Chien Common Council which was denied. He reminded the Commission that WSOR had presented two proposals for this project, the second of which with more environmental sensitivity. He said the Site 4 project had required the cost of two parcels. Lucht said WSOR had looked at 14 different sites but returned to Site 4. He said it was a big presentation with about an hour or an hour and a half public hearing. He said there was a lot of encouragement for the project from the public but some of the council representatives said the railroad would go to pre-emption so they did not need the council's approval. Lucht said the City did not want to rezone it as they are in fear of the possibility of other industrial proposals in case of a rezone. He said WSOR was now moving forward towards pre-emption as an option which had not been suggested to date. He added that WSOR was anticipating getting their permits from WDNR and the Army Corps and said those agencies were happy with WSOR's work. He said again that WSOR was now looking at exercising pre-emption.

Sweeney asked what findings of fact the council had used to make their decision. Lucht said that was not really talked about and said the City's corporation counsel did not talk about legal precedent and said the lack of finding of fact in deciding the issue was an interesting question.

Bob Scallon asked what was going on on the east side of Boscobel. Lucht said aggregate from Bridgeport was being loaded, a temporary situation for now. He said this was an indirect consequence of the lack of this loading facility type in Prairie du Chien, adding that the material out of Bridgeport was going to Clayton, IA to be treated and loaded again at Prairie du Chien to ship out. At this point it might have to continue for the time being as the Site 4 facility is not done.

Tom Cornford confirmed that the Site 4 project was voted down due to fears of future industry the City might not like and said WSOR did everything the City asked. John Miller asked if WSOR had to use pre-emption, would somewhere down the road the land revert to its current zoning. Lucht said the zoning will not change. He said the City would not give them any permit to operate in the R2 district. He said if WSOR wanted to do the work (and since they own the property outright) they could work via pre-emption. If the railroad built a plant which closed in 30 or 40 years in the future, the railroad would try to find a customer for railroad use. What WSOR was proposing to the City was give the City the right of first refusal on those properties. He said that was a concession WSOR would like to extend to the City but noted that WSOR would still try to work with the City. Ranum asked if Lucht thought the City had "invited" WSOR to pre-empt. Lucht said yes.

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

Frank Huntington said the Reedsburg acquisition was close to completion which will occur Monday. He said the Grant and Land agreements were ready to be signed today and said as of Monday, WSOR would be operating under those agreements. He was not sure if Evansville was at the same point but said WSOR would be operator on that line as well. He then reported on projects which were in final approval for bonding and that would be awarded in the next few weeks.

On the budget, he said the WDOT had submitted the proposed budget to the Governor and said he understood \$60 million as proposed but the Governor could change that. Huntington said that it was hoped the Governor would keep it near the \$60 mark. He then said that February was the month for project application submission for both loan and grant projects and said these would be decided in June when the budget was completed.

Huntington noted that the Kohler project had gone out to bid and he hoped awards would soon be made. He said he was hopeful that the project get a good start this spring for its 11 mile rehabilitation. He said this line had been idle for 20 years, just like the Evansville line, and said this would provide shipping for Sheyboygan Falls customers. Huntington said this was part of a new trend of opening up old lines for new business. He then said that Kim Tollers and Marty Morin would be acting as WDOT staff to the Commission, as he would be done formally in December. He spoke briefly of what he would be doing in the future. Sweeney said the Commission had the corrected resolution for Huntington approved in November that expressed the Commission's appreciation and which Huntington would receive after the meeting. The Commission rose and saluted Huntington's service.

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

Mary Penn gave her report, noting that she had attended the November 14<sup>th</sup>, 2014 WDOT Freight Rail Conference and spoke briefly about what parts she found the most enjoyable. She reported she had advised Jim Matzinger to cut the checks for Oregon and Fitchburg which the Commission had approved earlier. She reminded Charles Anderson and Alan Sweeney that they would need to wait after the meeting to sign the Grant and Land Use Agreements that Huntington had mentioned, and said she had also received the correct amount of checks for the Scot Forge utility permit, agenda item 14. Lastly, she said that the 2013 audit by Johnson Block would not be ready to approve until the January 2015 meeting.

### 13. Discussion and Possible Action on Utility Permit (Permit # 2014-2-IL) Amendment for Midwest Fiber Network Directional Bore at T46N R8E S7SW (IL STH 173, Kenosha Street), Fox Lake Sub, City of Richmond, McHenry County, Illinois – *Mary Penn, WRRTC Administrator*

Mary Penn said that this permit had been approved in August but the applicant was requesting an amendment to the time of construction completion: August 2015 rather than December 2014. She said nothing else was changed and she was keeping WSOR in the loop to give them time to coordinate work times.

- *Motion to approve amendment of permit 2014 – 2- IL, construction completion date, as presented – Nilson/Anderson, Passed Unanimously*

### 14. Discussion and Possible Action on Utility Permit for Scot Forge, Transverse Bore at Section 25, T46N R8E, 8001 Winn Road, Fox Lake Sub, Village of Spring Grove, McHenry County, Illinois – *Scott LaRose, Scot Forge*

Ryan Solum of Manhard, representing Scot Forge, distributed handouts showing the site. He said Scot Forge owned the property and wanted a water main extension and explained that it would be a public water main but Scot Forge would be the owner/operator of it. As part of this work they would cross on the west side of Winn Road, referring them to the handouts. Solum explained exactly what the work would be and then asked if any one had any questions;

- *Motion to approve utility permit 2014 – 3 – IL, contingent upon WSOR engineering approval – Thomas/Kuhnke, Passed Unanimously*

Van Schwartz asked if their plans would meet all the requirements of not only the railroad but also the State, EPA, and the Village of Spring Grove. Solum confirmed they would. Lucht asked for the time frame. Solum said they were hoping to get working quite soon with an anticipated work start in late January. Lucht said he did not see a problem with this. Roger Larson asked about the ultimate ownership of the utility. Sweeney said that was not important to the question of approving the permit. Van Schwartz said this was a very straight forward project.

### 15. Action Item. **Adjournment**

- *Motion to adjourn at 11:12 AM – Cornford/Gustina, Passed Unanimously*