

**Wisconsin River Rail Transit Commission  
Commission Meeting - Friday, December 4<sup>th</sup>, 2015 @ 10am  
Dane County Hwy Garage, 2302 Fish Hatchery Rd, Madison, WI**

1. 10: 02 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 Rocksford	x		Wayne Gustina	x
Dane	Gene Gray, <i>Treasurer</i>	x	Sauk	Alan Sweeney, <i>Chair</i>	x
	Jim Haefs-Fleming	x		Terry Thomas	x
	Chris James, <i>Vice Secretary</i>	x		Marty Krueger, Alternate; left 11:15	x
Grant	Gary Ranum	x	Walworth	John Deitrich	
	Vern Lewison	excused		Scott Alexander	x
	Robert Scallon, <i>1<sup>st</sup> Vice Chair</i>	x		Dave Riek, <i>3<sup>rd</sup> Vice Treasurer</i>	x
Iowa	Charles Anderson, <i>Secretary</i>	x	Waukesha	Kevin Brunner	
	William G Ladewig	x		Richard Kuhnke, <i>2<sup>nd</sup> Vice Treasurer</i>	excused
	Jack Demby	x		Allan Polyock	x
Jefferson	John David	x		Karl Nilson, <i>4<sup>th</sup> Vice Chair</i>	x
	Laura Payne	x		Dick Mace	x
	Augie Tietz, <i>3<sup>rd</sup> Vice Chair</i>	x		Richard Morris	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>• Kim Tollers, Rich Kedzior, Dave Simon, Frank Huntingdon, WisDOT</li> <li>• Forrest Van Schwartz</li> </ul>	<ul style="list-style-type: none"> <li>• Alan Anderson, Pink Lady RTC</li> <li>• Jim Matzinger, WRRTC Acct.</li> <li>• Dave Popenhagen, Richmond Township, McHenry Cty, IL</li> <li>• Mike VonBergen, Richmond Township, McHenry Cty, IL</li> <li>• Dave Schumacher, Mid-Continental RR Museum</li> <li>• Bryon Schumacher, Mid-Continental RR Museum</li> </ul>
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3. Action Item.           **Certification of Meeting’s Public Notice** – *Noticed by Penn*
  - *Motion to approve posting of meeting – Nilson/Ladewig, Passed Unanimously*
4. Action Item.           **Approval of Agenda** – *Prepared by Penn*
  - *Motion to approve agenda – Nilson/Mace, Passed Unanimously*
5. Action Item.           **Approval of draft November Meeting Minutes** – *Prepared by Penn*
  - *Motion to approve draft November meeting minutes with corrections – Mace/Nilson, Passed Unanimously*

Dick Mace asked about item 13 of the November minutes referring to the Grunow sign and whether the sign was removed. Penn said it would be addressed in item 14 of the December agenda.

6. Updates.           **Public Comment** – *Time for public comment may be limited by the Chair*  
Alan Sweeney asked for introductions from the non-Commission members which included representatives of the Mid Continental Railroad Museum and two persons who had come to discuss drainage issues in Walworth County.

7. Updates.           **Announcements by Commissioners** – *No Discussion Permitted*  
Karl Nilson told the Commission that December was the time that counties did their bills, reminding the Commissioners to make sure they submitted their expenses.

**REPORTS & COMMISSION BUSINESS**

8.           **WRRTC Financial Report** – *Jim Matzinger, WRRTC Account.*
  - *Motion to approve the Treasurer’s Report and payment of bills – Anderson/Cornford, Passed Unanimously*

Jim Matzinger apologized for the room change. As to financials, he spoke to the Commission on disbursements. He said there was a bill for \$900 and one for \$48 bills for auditing, budgeting, and meeting time. He said his budget was \$3,000.00 for the year and as a lot of work happened mostly in December, that explained his large bill. Matzinger said he had gotten two bills late so only Dane County highway showed on the distributed disbursement sheet. He said the bill for legal expenses (\$3744.10 with a \$3,000.000 budget) was submitted late. He noted that the budget for legal

expenses had been increased for 2016. He also noted that SWWPC had billed \$3874.24 for the third quarter, 2015 and still needed to submit its bill for the 4<sup>th</sup> quarter. He added the SWWRPC was on track for their budget.

Matzinger went through the balance sheet and noted 2014 projects had not been billed out yet. He noted cash availability, most of which was reserved for 2015 projects. Tom Cornford asked about Crawford's bad debt and whether the \$7,000.00 had been subtracted for 2015. Matzinger gave the background on the Crawford County situation as requested. Next, Matzinger noted revenue was on track for the year though sign lease revenue was down but permits were up. He repeated that the legal budget was over by \$700, adding that accounting might go over a bit as well. Sweeney asked if the budget distributed was the revised 2016 budget. Matzinger confirmed it was.

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

Ken Lucht said the construction season was ending and the ties in the Watertown project were being installed. He said the project would end soon as the ground was starting to freeze. On the tie project between Crawford and east to Wauneka the ground was also starting to freeze up but due to the recent higher temps, WSOR had another week or so to complete what they could of the work.

Lucht said the Continuous Welded Rail (CWR) project between Janesville and Avalon should be closed out by the end of this year. There was just one more phase between Walworth and the state line. He said this project would complete CWR on the WI portion of the Fox Lake Sub.

Lucht said various applications for projects had been submitted to WisDOT for work, particularly on the Prairie Sub. The eventual plan was to get CWR from Prairie to Madison. He said WSOR was still waiting for the award for the Spring Green Bridge.

On the Fox Lake Sub, Lucht said there were 11 bridges with three of those in the engineering /design phase for work. One was in Fox Lake, IL proper. The cost for these bridges totaled \$2.3 million and when replaced would be 286,000 lb. compatible. Lucht said the Illinois bridge work would be financed entirely by WSOR without any public dollars from Wisconsin or Illinois.

Lucht said he would bring WSOR 2016 calendars to the next meeting.

Bill Ladewig asked about a number of non-WSOR derailments in Wisconsin and why they were occurring. He asked if WSOR was having similar problems. Lucht said WSOR had not as their trains traveled more slowly and noted WSOR did not haul crude oil. He said the Watertown spill was a break in the rail and emphasized the maintenance done by the rail detector car. He said 99.9% of materials moved by rail reached their destination. Forrest Van Schwartz said there were no fires, leakage, or injuries on these spills. John David corrected him, noting there was some leakage in the Watertown derailment.

Bob Scallon asked about the ties he had seen in Blue River and asked how and where old ties were recycled. Lucht said WSOR tried to recycle. Charles Anderson asked about the sub west of the Lone Rock Bridge and whether there were plans to build that bridge up in the future. Lucht said he would need to locate the site exactly and said he could speak to Anderson after the meeting.

Lucht next spoke about the upcoming Polar Express and said WSOR leased the track for that train/event and clarified that WSOR was not part of that service.

Lucht said grain was moving very well, saying the 4<sup>th</sup> quarter of 2015 had been very good even though frac sand shipping was down which was hurting WSOR. He said steel and plastic continued to move and said WSOR would finish the year in good shape. Gary Ranum said it sounded like most materials carried over the system were inert and asked what was hazardous. Lucht said WSOR moved natural gas and ammonia but they made up less than 1% of their commodity shipping. Lucht said lumber, plastic, and aggregate were beginning to move more as well.

Nilson asked about Positive Train Control (PTC) and its delay in implementation at the federal level. Lucht explained what PTC was and what was needed to implement it. He said PTC had been expected to be implemented by the end of 2015. At a \$15 billion dollar cost that was unfunded by the states or the feds, implementation had not been reached and last month Congress extended the deadline 3 years. Lucht said about \$5 or \$6 billion nationally had already been invested in PTC. He said it would be a \$2 to \$3 million dollar investment just for WSOR.

Nilson said he had looked at the new rail on the Plymouth Kohler line and complimented the work.

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

Dave Simon expressed his appreciation to Frank Huntington for returning to WisDOT as an LTE and he thanked him for helping on the Freight Rail Conference and also the help Huntington had given to Rails and Harbors to date.

Rich Kedzior said there was a high level of anticipation of grant awards and said WisDOT was very close to awards but he still could not make firm announcements.

Dave Simon said Rails and Harbor staff toured the Spring Green Bridge November 9<sup>th</sup> and they got a lot of questions answered by WSOR. He said that December 3<sup>rd</sup> WisDOT had executed grant agreements for rehab on the Prairie sub with WSOR and also for work on the Reedsburg and Cottage Grove subs. He said these would be put into the 2016 construction season. He said WisDOT hoped to conclude agreements for the Plymouth, Watertown and Madison subs and the Gibson spur also. He noted there were a lot of agreements in the queue.

## WRRTC DECEMBER 2015 MEETING MINUTES

In reference to the Polar Express train, Kim Tollers said excursion trains were permitted via Trans 29. The applicant applied and WisDOT permitted the operator (in this case WSOR) to run the train. She said there was a fee for administration.

On property management, Tollers said there had been progress on data and files, incorporating them to into GIS. She said this work would be initiated by Southwestern Wisconsin Regional Planning Commission. Now WisDOT was working to migrate assets management into the (GIS) system. She said WisDOT was ready to discuss working on documenting assets with WSOR and they were moving away from paper into the electronic age.

Ladewig said he had been told WisDOT had signed off on the Great Sauk Trail (GST) and asked what the status of that was. Simon said this had been a very challenging and controversial issue. He said it was complicated with many stake holders and issues including the Merrimac Bridge, the Sauk line through Sauk City and Prairie du Sac. Eventually, Simon said, WisDOT would have to make the decision to continue train service to Reedsburg and Baraboo. He said WisDOT was informing stakeholders on this issue, including WSOR (with whom WisDOT had met the day before). Simon said Ayres and Associates had been contracted for a bridge analysis on the Merrimac Bridge. He said WisDOT asked Ayres to redo the cost estimates from a previous report and supply alternatives to prolong the Merrimac Bridge life. He said one option was to restore the bridge to original design – Coopers E 40 – at an estimated cost of \$7.6 million. This would extend the life of the bridge for 40 years. Simon said WisDOT believed that the most cost effective solution was to continue service over the Merrimac Bridge. Given the cost of maintenance, this would make way for the Great Sauk Trail and there was no need to let the track sit idle for another 40 years. He said the rails and ties would be removed and the corridor maintained via Rails to Trails if needed. He said there was a lot of work and discussion still to be done on this and more definition on what would be done on the Merrimac Bridge but WisDOT believed this was the most responsible solution.

Van Schwartz asked if there was information on this on the WisDOT website. Sweeney asked if the resolution of this was a moving target. Simon said WDOT had established their position and would continue to work with stakeholders. Simon said there were questions and issues needing resolution particularly in regard to the Bridge and what it would cost. The estimate of the bridge was reasonable in that it would gain 40 years of use. Ladewig asked if the WRRTC was owner of the Great Sauk Trail. Tollers said the rail corridor was WisDOT's and the track and improvements were granted to the Commission. Sweeney asked if the process of putting the Great Sauk Trail into Rails to Trails had begun. Tollers confirmed that the line was formally abandoned by the Surface Transportation Board (STB).

Frank Huntington said many lines acquired in late 70s and 80s were abandoned and the State got them as abandoned track. He said many of those lines were brought back into service and the STB had to issue modified certificates to allow operations to resume. For the Middleton to Lone Rock and the Lone Rock to Richland Center line Tollers said was the same certificate. She said the Great Sauk Trail would follow the same process. Ladewig asked if the Commission would become owner of the trail. Simon confirmed this was the corridor through the villages of Sauk City and Prairie du Sac from the Sauk City Bridge north to a point to be determined. Tollers said the WDNR and WisDOT and the transit Commission were already in an agreement to rail bank the Badger Armory portion of the trail.

Alan Anderson said this was of great interest to the community's in question. He spoke of recent concerns and said it sounded like a lot of work was needed. He wanted to know exactly when the bridge would be fixed, asking if they were back to a 5-year fix. Simon said when the Bridge was fixed there might still be a reduction in capacity as it probably would not be at a 286,000 lbs. standard. Industries that used that line had been told what was going to happen and noted this had been considered a negative in making WisDOT's decision. He said this was part of why the decision took so long to make. He said costs for shippers might go up 0-5% if there was a weight restriction in place. He reiterated WisDOT had determined that this was the most cost effective solution going forward, considering all the factors involved.

Marty Krueger commented that Alan Anderson and he had formed the Pink Lady and they had been heavily involved in the rail service issue as it effected Sauk County. He said he was at the meeting as a total supporter of rail but also as the chair of the Great Sauk Trail project. He said he would not have said "the deal was done" but if there were any questions on the GST, they could contact him. He said the discussions had been exhausting but inclusive, saying that back in September the WDNR, WisDOT, and Pink Lady had all met and walked the line, most of which had been unused for 30-35 years. He said it had not been a deliberate exclusion of the WRRTC but they had been waiting for WisDOT to act. He said the work of this Commission was to be fully supportive to get the bridge work done. He said that Prairie du Sac dropped out of the Pink Lady and although the community had been involved for 3 years and he believed they had been disheartened by the unused corridor in their community.

Alan Anderson said about 10% of WSOR's traffic came out of the Baraboo/Reedsburg area and rail was important to them. He said not all the shippers were loaded to the 286,000 lbs. maximum weight. He said this was big deal to the communities in the area and he just wanted to see the bridge fixed.

Lucht said that WSOR had just found out about this late yesterday and said the Ayres report was not a long term fix and there had already been conversations with WSOR's engineers that noted the weaknesses of the bridge. He said some unit prices used were for highways versus those for a railroad bridge. He said WSOR had some differences of opinion with Ayres. He said WSOR did not have data for load restrictions yet but when they did they would want to sit down with a railroad engineering firm to get another opinion. Considering the age of the Bridge, spending \$7-6 million dollars for another 40 years was not something WSOR was convinced was the best option. He said WSOR just wanted to be part of the ongoing discussion. Lucht said WSOR was committed to Wisconsin and Sauk County but they wanted to see something long term. He said WSOR would have to do a lot of work. Dick Mace asked who owns the Bridge. Huntington said WRRTC owned the bridge as granted by WisDOT. He said WisDOT did have some interest in the event the bridge were sold. Lucht said the \$7.6 million did not address the load restrictions: it just meant the Bridge remained standing at E40 not E80 (today's standards).

Ladewig asked if excess rail would impact the agenda's Item 12. Van Schwartz said it was basically scrap.

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

Penn listed the correspondence she had addressed since the last meeting. She next informed the Commission on her administrative tasks since the last meeting, saying that she had been unable to locate a copy of the Lamar sign lease either in electronic or paper form. She said she would continue looking. Also, she said the 2014 audit was not yet ready for approval but assumed that it would be ready in time for the January 2016 meeting.

**12. Discussion and Possible Action on Proposed Donation of Rail and OTM to Mid-Continent Railway Museum from MG&E site in Madison, WI – Ken Lucht, WSOR**

Ken Lucht said he did not have anything to report as Madison Gas & Electric (MG&E) had not yet come to an agreement with WSOR. Bryon Schumacher of the Mid-Continental Railroad Museum gave some background on the Railroad Museum and distributed a map. He said there had been a lot of wear on their rail so they were looking to get more rail donated. Also, he said a quarry at the end of their line had expressed interest in shipping aggregate on the Museum's line so he encouraged the Commission to work on this issue. Mace asked why the Commission needed to wait for MG&E. If WRRTC did not own the track why were they being asked to donate the rail. Lucht said WSOR had not come to an agreement with MG&E and that no action was necessary at this point. Once an agreement had been agreed upon, Lucht said he would present a proposal to WRRTC for concurrence. Right now, WSOR had an easement on MG&E property. Until WSOR terminated the easement, WRRTC could not contribute any tracks to the Museum. Mace asked if they agreed to donate the material, what did WRRTC care about that agreement. Lucht said the Commission did not have a right to the rail.

Tollers said the reason MG&E wanted to terminate the track was because they wanted to sell the land to the City of Madison. If the easement was ended, WSOR would never be able to serve customers at that site again. Once the track was abandoned, all rights were terminated forever. She said WSOR was being very careful in making that decision. Sweeney clarified that Schumacher was speaking about the spur in North Freedom and that Mid Continental wanted rail from the MG&E site in Madison if possible. Dave Schumacher said some of the curves on the railroad museum track were being worn down so much they had to be taken out of service. He added that flooding in 2008 had also impacted the museum. He said it would really help the museum if they got this rail.

Ladewig asked if they could take a vote up now rather than wait for MG&E. Sweeney asked the Commission if they were ready to act.

Motion to give concurrence to the proposed donation – Ladewig/Mace

Huntington interjected that the Commission should check with Corporation Counsel on the Commission's ability to give away public property. He confirmed that WRRTC owned the track and MG&E owned the land.

Motion to rescind the motion – Ladewig/Mace,

There was discussion on the ability to make the motion and rescind the motion between Krueger and Sweeney. Krueger said Sauk County had a process to donate public property.

Van Schwartz said the situation was with any old rail taken out of service, the tonnage was credited against new welded rail. The scrap value offset the CWR. Nilson said that was not so, the scrap had intrinsic value and therefore could not be given away. He confirmed that Mid-Continental was a 503 Corporation and he liked the idea of checking with Eileen Brownlee.

Sweeney declared that neither motions were valid. Bryon Schumacher made a clarification on the map he had distributed.

Sweeney said they would wait and see what happened next month.

**13. Discussion of Drainage Issues on Fox Lake Sub – Allan Polyock, Walworth County Commissioner**

Allan Polyock gave background on the issue and noted there were people from McHenry County, Illinois to speak to it. Mike Von Bergen said he operated on the farm where the drainage issue was and said this had been going on for over a year, with the railroad having exacerbated the problem through maintenance work. He said he had been farming the land the last 18 years with increasing drainage issues. He said Todd Maloney at WSOR had been contacted but there had been no progress on this issue. He said they needed it fixed, adding that this was on a 1000+ acre watershed that moved a lot of water through. He said there were two 8' clay pipes draining the land and probably the tile had been there for 100 years. He asked for the right person to contact to fix the problem. He wanted to know whose tile it was: if it was the WRRTC's property there needed to be some sort of agreement to remedy the situation. Sweeney confirmed the tile was on both sides of the track. Von Bergen said water was 30" over the tile and noted that another property owner also impacted had taken out the tile. He said there is a big "suck hole" on top of the railroad bed. Sweeney asked if the tile mentioned was below the culvert. Von Bergen confirmed it was. He said at another farm farther up, new culvert had been put in.

Lucht said WSOR did not install drain tile and they were required to accept drainage from land abutting the ROW. However, anything not seen (underground) was not the railroad's responsibility. He asked who owned the permit for the tile installation. Von Bergen confirmed that the tile was over 100 years old and most of the main line tiles were installed in 1911 – 1915. This would correlate with the tile at issue and probably there was no permitting process at that time. He said this was not a drainage district and any owner of the property in Illinois was responsible for fixing tile on their property. Lucht said Maloney had mentioned that WSOR was willing to work with the property owner to do the work as long as it was permitted.

Polyock said the tile probably came before the railroad. Lucht said regardless of the past, today it had to be permitted. Polyock asked who to apply to in that case. Lucht said the farmers would need to apply to Illinois. Von Bergen asked where he could do that. Sweeney said in this case it would be NRCS. He said any drainage that drained a farm or a wetland was an NRCS issue. Polyock said maybe it would be NRCS and WSOR. Von Bergen said the tile was broken. There was discussion on who was responsible for the cost of boring and tiling. Sweeney said whoever was on each end might be those who had to pay for this. Von Bergen said it was hard to get landowners to pay the bill and it could involve liens and get pretty pricey. He said there was a tax bill on that rail property with WRRTC as owner and the landowners would definitely need some financial participation. Sweeney said "you'd probably get permission, probably not get financial help". Von Bergen asked if that were true, even if the water running over the land was impacting the railroad bed. Sweeney said the railroad was going to fix what they saw. Von Bergen said by the railroad filling in the hole, they blocked up the tile and had now created a drainage issue by damming that up which had led to this issue. He reiterated they would like some financial support and help as they had been dealing with this for a long time.

Sweeney said he thought he could count on WSOR to do the permit. Von Bergen said he wanted WSOR there to watch it done as there was a liability issue. Lucht said if a contractor was boring, WSOR would have a flagger present. Sweeney said Von Bergen needed to work with Lucht and Penn. Sweeney recommended Von Bergen talk to the local NRCS agent to make sure the repair was a legitimate practice in that area.

**14. Discussion and Possible Action on Adjusting Lease and Offer to Use Fees – Mary Penn, WRRTC Admin.**

- *Motion to remove first three lines of fee schedule (WI utility permit) – Mace/Brunner, Passed Unanimously*
- *Motion to move the words "application fee\*\*" after "leases" on the fee schedule – Mace/Payne, Passed Unanimously*
- *Motion to approve fee schedule as amended Dec. 4, 2015, Mace/Brunner, Passed Unanimously*

Penn distributed a fee schedule and said she had brought this issue up due to discussion at the November meeting about lease fees pertaining to the Grunow issue. Van Schwartz said he believed there was a waiver to the public at the time this schedule was adopted. Sweeney said the other things noted in the schedule were not an issue. Van Schwartz said overall it was ok. Tollers said WisDOT charged what they did based on Trans 29. She said occasionally they did not charge municipalities or government entities but that was not written down. Sweeney asked if they should include that in the WRRTC fee schedule. Huntington said what the Commission did was outside the State. Nilson said he did not think they should lower the fees but if there had been no complaints, not to change. Tollers said WisDOT actively discouraged leases and cautioned the Commission to be careful of allowing leases of the ROW: using or building on the property. She suggested a Temporary Access Permit (TAP) was more appropriate.

Gene Gray asked if there was a stage where Eileen Brownlee was involved. Von Schwartz said item 4 on the schedule was for government. Sweeney asked if the fee structure could remain as it was and received general concurrence. He then asked if any attending wanted to change the fee schedule. J Chris James asked about private crossings versus public crossings. Tollers said public crossings were permitted by WisDOT.

Mace asked about the 2<sup>nd</sup> fee on the schedule. Von Schwartz thought the 2<sup>nd</sup> one referred to public crossings and suggested putting an amount in. Tollers said WisDOT did not even need to charge a fee. Mace asked that leases have "application fee" written under them to clarify. Nilson said that this was only for the application fee.

Laura Payne asked about the second set of asterisks on the schedule and Penn explained they pertained to the materials used.

**15. Discussion and Possible Action on Direction on Executive Committee Duties and Responsibilities versus Full Commission Issue – Mary Penn, WRRTC Admin.**

Penn said she was seeking guidance from the Commission to go forward on the issue. Sweeney said this was a very busy commission, processing a lot of information and therefore it was imperative to meet monthly as the Charter stated. He read the pertinent section of the Charter to the Commission which stated its obligation to meet monthly. He said in Section 5.06, the Executive-Committee was given authority to handle business but the types and frequency was not stated. Sweeney said in his opinion there was the possibility the Executive Committee had made some decisions the Full Commission should have made but said the Executive Committee was established by Charter and they needed to make clear what the duties were for both the Committee and the Commission. Nilson spoke about how the Executive Committee came to be. He said there was a quorum of counties at past (Executive Committee) meetings and said now it was so busy that the Full Commission should meet every month. He suggested the Commissioners write down how they felt about meeting every month. Huntington said back in the 1990's, the Commission did rehab projects, had staff, and both the Executive Committee and the Full Commission met monthly. Prior to that, the Commission met every month. Nilson confirmed quorum was presently 14 for a full Commission meeting.

Nilson asked the Commissioners to let them know about monthly meeting and to submit their ideas. Sweeney said if the idea was to amend the Charter, let the counties know. Ladewig asked if conference phone meetings could be pursued. Mace said last year there was a meeting that was not all that important and maybe the Chair and Vice-Chairs could decide not to meet. Sweeney and Nilson both confirmed that that had happened in the past. Mace pointed out quorum had never been an issue. Penn said the closest to not making quorum was that fall (the September meeting). Sweeney said they would have this issue on the January agenda as a possible action.

**16. Action Item. Adjournment**

- *Motion to adjourn at 11:53 AM – Gustina/Polyock, Passed Unanimously*