

WISCONSIN RIVER RAIL TRANSIT COMMISSION

EXECUTIVE COMMITTEE MEETING - FRIDAY, OCTOBER 4TH, 2013 @ 10AM
 DANE COUNTY HWY GARAGE, 2302 FISH HATCHERY RD, MADISON, WI

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

Crawford	Tom Cornford, 3 rd Vice Chair (XCom)	x	Rock	Ben Coopman, Alternate	
	Rocky Rocksford	x		Wayne Gustina (left 12:10 PM)	x
	Vacant			Alan Sweeney, 1 st Vice Chair (XCom)	x
		Terry Thomas			
Dane	Gene Gray, Treasurer (XCom)	x	Sauk	Marty Krueger, Alternate	
	Jim Haefs-Fleming	x		Carol Held	
	Chris James	x		John Miller	x
		Dennis Polivka, Asst. Secretary (XCom)		x	
Grant	Gary Ranum	x	Walworth	Jerry Grant	
	Vern Lewison			Richard Kuhnke, 4 th Vice Chair (XCom)	x
	Robert Scallon, 2 nd Vice Chair (XCom)	x		Allan Polyock	
Iowa	Charles Anderson, Secretary (XCom)	excused	Waukesha	Karl Nilson, Chair (XCom)	x
	William G Ladewig			Dick Mace	
	Jack Demby			Fritz Ruf	

Executive Committee met quorum.

Others present for all or some of the meeting:

<ul style="list-style-type: none"> • Mary Penn, WRRTC Administrator • Troy Maggied, SWWRPC • Jim Matzinger, Dane County • Forrest Van Schwartz, pro bono Consultant • Ken Lucht, WSOR • Kim Tollers, Roger Larson, Frank Huntington, LeAnna B. Wall, Tom Koprowski WDOT 	<ul style="list-style-type: none"> • Alan Anderson, Pink Lady RTC • Tony Fernandez, City of Madison • Tom Stetzer, Strand Associates • Jeff Maloney, Vandewalle & Associates • Jeff Kramer, Kramer Development, LLC • Tom Koprowski, WisDOT, SW Region • Aimee Bauer, Key Commercial Real Estate LLC
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3. Action Item. **Certification of Meeting’s Public Notice** – *Noticed by Penn*
 - *Motion to approve public notice of meeting – Gustina/Cornford, Passed Unanimously*
4. Action Item. **Approval of Agenda** – *Prepared by Penn*
 - *Motion to approve agenda – Kuhnke/Scallon, Passed Unanimously*
5. Action Item. **Approval of draft September Meeting Minutes**– *Prepared by Penn*
 - *Motion to approve draft September Meeting Minutes with corrections – Polivka/Rocksford, Passed Unanimously*
6. Updates. **Public Comment** – *Time for public comment may be limited by the Chair*
 No Comments.

WRRTC EXECUTIVE COMMITTEE APPROVED 2013 OCTOBER MEETING MINUTES

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

Penn distributed articles from Forrest Van Schwartz who spoke of them briefly. She told the Commission she'd received a letter from the McHenry County Conservation District announcing their hunting program for 2013. Van Schwartz then encouraged everyone to come to the November 5th Governor's Freight Conference at which Governor Walker will attend.

Gene Gray referenced an article in the Capital Times referring to the Watertown-Madison line and the future of rail in Jefferson County.

8. Updates. **Announcements by Commissioners** – *No Discussion Permitted*

No announcements.

REPORTS & COMMISSION BUSINESS

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

- Treasurer's Report for September and Payment of Bills

Checks included

- Dane County Highway - \$282.55
- SWWRPC 3rd Quarter - \$5,742.69

Jim Matzinger gave his report, pointing out that the 2012 projects have been paid. He noted that for 2013, nothing has been paid out yet and the only charge is the bad debt expense for prior years' assessment. He noted that WSOR has been billed for their lease, as well as the four different companies leasing sign space from the Commission. Under expenses he explained what the Commission is spending on running itself. Billing for the audit and legal expenses for this year have not been billed yet.

Frank Huntington asked about the possibility of inspecting the Sauk City Bridge and noted that it had not been done in a couple of years. Van Schwartz said it should be done sooner than next spring and Huntington agreed. Van Schwartz said the Commission marked the bridge in 2007 so they could measure movements on the remains of the bridge. Karl Nilson asked how much money it would cost to re-measure the bridge. Van Schwartz said it would cost much less than \$1,000. Nilson asked Huntington if this would be something to do and Huntington told the Commission it was their concern. Nilson asked Penn to add the re-measurement of the Sauk City Bridge as an action item to the November agenda. John Miller asked Van Schwartz some questions about the nature of the inspection and he explained the needs of the inspection and how it is done.

Ken Lucht asked Matzinger about a balance on 2012 projects and the amount still billable to it. Matzinger said the difference had been billed in a prior year and there was no more money available which made the balance zero.

- *Motion to approve Treasurer's Report and Payment of Bills – Sweeney/Gray, Passed Unanimously*

Jim Matzinger left the meeting to return for Item 16.

10. **Wisconsin & Southern Railroad's Report on Operations**

Ken Lucht said there has been a lot of maintenance issues with storm damage and doing routine track inspections, including replacing ties. He said RFPs were going out for bridge replacement work, including one on the Prairie Sub at Wauzezeka and added that WSOR had gotten four bids back which were under review. The bridge work was for complete reconstruction.

Lucht said that Ben Meighan was retiring and Lucht said he would suggest that the Commission might want to do a commendation or a resolution to honoring Meighan, recognizing his service to the Commission since the inception of WSOR. He suggested that this could be on the agenda item at the next meeting. Lucht said Meighan would still be working with WSOR in the first quarter of the next year. Nilson said the Commission could do this at the next meeting and suggested a joint plaque from both WRRTC and WSOR.

11. **WDOT Report** – *Frank Huntington, WDOT*

Frank Huntington said WDOT was continuing its meetings with UP on the Reedsburg line acquisition and hopefully the details would be worked out by the end of the year. The final approval would not happen until next year. Huntington said that since the State completed its last acquisition, some of the interpretations of the Surface Transportation Board have changed and therefore WDOT needed an interpretation from the STB on the issue of the property going to the State but operations to WSOR. He said the agreements in place now took a year and a half to create so WDOT will use the old agreement as a model, leave the old agreements in place, developing a new agreement for the Reedsburg line. That agreement would come back to the Commission for their review. The new

WRRTC EXECUTIVE COMMITTEE APPROVED 2013 OCTOBER MEETING MINUTES

agreement would have some changes that are necessary to get STB approval. Nilson asked Huntington if Eileen Brownlee was informed and Huntington said she would as the agreement language was developed and in need of review. Huntington said the Commission was not a signatory of the acquisition but needed to be informed of the language in the agreement.

Huntington reminded everyone of the WDOT freight rail conference November 13th at the Madison Crown Plaza at 8 AM. Nilson said this was a different conference from the freight rail conference Van Schwartz spoke of. Huntington said the WDOT conference was an opportunity for transportation people in the State to meet face to face and talk about common issues to trains.

Huntington then said that since the last WRRTC meeting, WDOT had granted awards to four grantees. One was for the Madison/Oregon Line, another was the Janesville sidetrack project. Also the Janesville to Illinois State line, noting this was only partial funding for now and finally, a spur into the industrial park in Baraboo. He said now they needed to get approval from the DOA for bond approval which would take some time but he anticipated these projects would begin next spring. He mentioned other projects that were pending, including a number of bridges. Gary Ranum asked about the cost of the grants for projects in the WRRTC area. Huntington said that the projects in total would be about \$17M in funding, of which WDOT supplied 80%. He also gave rough figures for the costs associated with the other projects and noted that all the projects were multiple year projects. He said in February WDOT would reevaluate priorities and see if WSOR projects would be allowable. Alan Sweeney asked of the four funded projects and what they were waiting for and Huntington said they were waiting for bond approval. He said the Janesville passing track was the priority and next was the Oregon line because the Lycon facility cannot operate until they have rail access. He said it was probably not realistic to anticipate any of these projects happening this fall.

Huntington said that at least 15 - 20 bridges have contracts going on currently, adding that the other remaining bridges under their purview needed work and that some of the bridges were quite large. He mentioned the Wauzeka project and said that the cost of the engineering made the cost jump by \$2M. He also related a project on the Spring Green bridge and said that it had been discovered that the piers have decayed substantially and it would require a lot more work; the project would be very large and expensive. Nilson asked if any car/highway bridges were involved and Huntington said they were all rail bridges. Nilson then asked if anyone had claimed ownership of the Creek Road Bridge and Huntington said that in terms of who maintained the bridges built by the railroad, nowadays these were low priority for local authorities but through the local bridge replacement program, the replacement of those bridges would be an 80/20 funding share. Once the bridge was done, the maintenance authority would be the local road authority; the railroad would not be responsible for them. Huntington said some of these bridges only needed maintenance and not replacement and in that case it was a problem because the question of ownership of maintenance was up in the air.

He said the project in Marinette was almost completed at this point and then said another project between Michigan and Wausauke had come in under budget and hopefully that work would be begun in the spring. In Sheboygan, the the engineering of the project was almost completed and there was the possibility of doing some bridge work this winter. Van Schwartz asked him what the triggering event would be for the Commission to receive authority of the line. Huntington said he believed it was a notice from WSOR received within a certain time frame. Huntington said that perhaps it might be a letter of notice from WSOR to the community and WRRTC to alert them that WSOR was now operating the line.

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

Penn gave her report, saying that she had received a request from Walworth County to link their website to the WRRTC's. The Commission gave permission to allow the linking. She also said she had submitted a change of address to McHenry County in order to receive tax information on property owned by the Commission in Illinois due to SWWRPC's location change. She told the Commission she had added a "News and Articles" tab to the WRRTC website and reminded Commissioners that they could send her articles and links to post. She told the Commission that Troy Maggied of SWWRPC would be taking the minutes at the November meeting as she would be in Seattle.

13. Consideration and Possible Action on Village of Shorewood Blackhawk Path permit to improve intersection at Old Middleton Road and N. Eau Claire Avenue – Tony Fernandez, City of Madison

Penn distributed copies of the blueprint and the permit for the Shorewood Blackhawk Path. Huntington said the Village had a permit in place and the permit as it was written now includes the work presented. Nilson said that Fernandez could give his presentation and then ask for Ken Lucht's input. Fernandez said he had presented this project in July and gave a recap of the situation. He said they are asking for a small correction based on safety concerns. Both Fernandez and Huntington pointed out that the crossing had been permitted and this was just a small adjustment. In order to correct the safety issue, the solution was to put the trail along the retaining wall (within the ROW) for an additional 60 or 70 feet. He said the wall would end up about four feet into the ROW. Nilson asked for Lucht's input. Lucht said WSOR did not have an issue with what the City was proposing and just asked that the City extend the fence over the curbside so there were no gaps in the fence. He said that since this was an existing permit there was no need to redo the permit. Huntington said as long as the railroad was not concerned WDOT did not have a problem with it. The permit being requested

WRRTC EXECUTIVE COMMITTEE APPROVED 2013 OCTOBER MEETING MINUTES

would only be to do the work. Fernandez asked that the definition of the space be approved. Dennis Polivka asked if the railroad needed the space back at some time in the future, would there be a court battle to get the space back and Fernandez said the permit clearly states that the railroad would get the land back.

- *Motion to accept the plan based on the WSOR and WDOT's concurrence – Miller/Cornford, Passed Unanimously*

Karl said that Eileen needed to be kept informed as the permit language was developed and distributed.

14. Consideration and Possible Action on City of Middleton Hwy 12 Road Connection Project Involving ROW Encroachment – Tom Stetzer, Strand Associates, Inc.

Packets of information were distributed to the Commission showing two different options developed by Strand. These options were developed as a result of the September meeting's comments and suggestions. Tom Stetzer presented the Commission with the 2 options, saying that at the last meeting they presented the summary of the project. He said this was a road under STH 12/14 and this road would connect downtown to new development. He said that option 1 would still keep the road between the piers and the sidewalk would be between the piers and the rail line. In between the closest rail and the sidewalk was 22 feet. A fence would divide the sidewalk from the rail. The street is now 22 feet. He said they had looked at the bridge plans from the Hwy 12 Bridge and incorporated those plans to the option, working with both Strand and WDOT structural engineers. In option 2, the entire street and sidewalk were to the north of the pier. This would require the road to be 20 feet and increased the retaining wall height 2 feet. He said the City preferred option 1 as they would like to see the sidewalk separated from the road traffic. Jeff Maloney of MSA said that based on the structural analysis, the retaining wall tied into the slope would push the sidewalk out too far. Engineering said that the situation required a single wall (based on the soil characteristics). Maloney reiterated that the City's option choice was #1 because the sidewalk was next to the road and the road was narrower in Option 2. Nilson asked if there could be a 3rd option where there would be 2 sidewalks, one on each side to open up the whole area to pedestrians and bikes. Sweeney asked about the speed limit. Maloney said that it was 25 mph and eventually this would be a local road tied into the downtown. Van Schwartz said the proposed fence was too low and it should be chain link and at least 5 feet. He also related an example of a similar situation he had worked with which incorporated local art. Chris James asked if they had looked at putting the sidewalk on top of the retaining wall. Stetzer said that could be done but that having sidewalks there would box pedestrians in because of the piers. Huntington asked if the sidewalks could be inside the piers but at a higher elevation with a fence). Stetzer said they had the ability to bring the sidewalk up which would bring the cost up but it was a good suggestion. LeAnna B. Wall said that would be good because it would get the crosswalk off the ROW.

Huntington said that one of the things by doing either option 1 or 2 with the road coming out of the rail crossing so close, pretty much eliminated the possibility of a quiet zone in the future. Another thing was in terms of access in Demming Way, to keep it away from the rail as there were concerns with the road coming so close to the railroad, drivers would not see if trains were coming. Huntington noted that Highpoint Road veers out and then veers back and suggested the road veer out and then keep going straight, rather than coming in. He said WDOT preferred option 1. Huntington pointed out that there was very tight space for any development. Wall asked to have as much off the ROW as possible. Van Schwartz said another thing to look at was all the train activation instruments on Demming Way and the fact that they would have to be done again and with the layout as proposed, the train could come up behind you. He suggested eliminating the left turn option.

Lucht said that WSOR is focusing on Option 2. He said their staff brought up the proximity of the trains to piers and asked about crash barriers and any type of regulations requiring a crash barrier as well as protection for pedestrians. Stezer said that on another project, they had asked WDOT about requirements for barriers and were told that since it was a local street it only had to be a 2 foot separation and no barrier would be required. Lucht asked about people on the sidewalk and the road and if there are any regulations. If that was the case, Stetzer said the sidewalk would need to be 6 feet, not 5 feet. Lucht also asked about access to HighPoint Road and said that people would want a right hand turn and they would do a U turn on the tracks if there was not one. He said that would be a concern and how would it be addressed. He suggested the sidewalk could be up above the roadway. If the sidewalk had to go on the north side there would have to be a fence maintained by the City. Van Schwartz said that one reason for the fencing was to prevent bicycles crossing the track. He said he preferred Option 2 also since that would better protect walkers and bikers. Stetzer said that the sidewalk will connect to down town, and a crosswalk would be proposed also. Lucht said from the WSOR's perspective it confused people unless they saw a well-developed network so they would know where to go and not go on the line. He said he wanted to get an idea of proximity to the railroad corridor. Asked about the proximity of a crosswalk at High Point, Stetzer said people could cross on the north side of the new street which would encourage safer crossing.

Mike Davis, City Administrator, next spoke about the Good Neighbor project. He said that for Middleton, the primary route was close to the north of the highway with other potential connections. He said the City recently made a trail connection to the Greenway Station area and up the hill to the golf course, with planned bike paths and ski trails.

WRRTC EXECUTIVE COMMITTEE APPROVED 2013 OCTOBER MEETING MINUTES

Nilson said that he did not think the Commission was ready to take action. Huntington asked about the timeline for the City for bids in terms of getting action from the Commission. Davis said he would appreciate action in November. Gray asked some questions regarding bike traffic and the flow of traffic on the new roads. Davis discussed the pros and cons of one way versus two-way traffic. Wall asked if a crossing had been considered in a different location in an area between 2 current crossings. Nilson said WSOR and WDOT had to be satisfied and in concurrence as to what the best option was. He suggested that there be a motion to tentatively approve the options that WSOR and WDOT had on and Sweeney said tentative approval would refer to WDOT and WSOR's agreement for their final approval.

- *Motion to tentatively approve a variation of option 2, including a fence, to be agreed upon by WSOR, WDOT, and City of Middleton – Sweeney/Gustina, Passed Unanimously*

Sweeney said this motion gave them the option to continue the discussion. Davis asked for confirmation on three items: the fence along the entirety of the open corridor which could be on the left side of the piers, a crosswalk directly across High Point, and a pork chop road device forcing a turn so drivers could not do U turn.

11:27 AM Nilson called a break.
Meeting reconvened at 11: 38AM

15. Consideration and Possible Action on Encroachment and Corridor Sharing policy – Karl Nilson, WRRTC

Nilson distributed a handout listing possible future encroachment projects and said that item 14 had been a good example of a forum of how he saw an encroachment policy could work. In this way, the Commission knew what was going on and because the Commission was not a legislative body. He suggested that they should do them on a one-by-one, pinch-point, case-by-case basis. Alan Anderson said that when the Reedsburg line is acquired, they will get the Devils Lake and said the WDNR and the railroad were trying to figure out how to handle a couple 1000 people a year. Gray said that once he saw the fence in place that helped him make up his mind. Polivka said that in today's litigious society it was important to address the questions of "what did you do" in case something happened. James said he still thought that changing the Recreation Immunity Act would be huge because right now in parks, if anyone got hurt the parks were covered. Nilson said that might be something to investigate in the future. Huntington said that might be a double edged sword as it might encourage folks to use the corridor but added he was not trying to discourage the Commission looking at the possibility. Gary Ranum said that when it came to dealing with bikes and pedestrians, the best thing was to treat them like cattle and provide a physical barrier, adding that the Commission would be at fault if they did not provide barriers in the first place.

Lucht said the handout was an updated list and that there were now 20 active proposals in front of the Commission. He spoke of the insurance liability the railroad had to carry and said if safety was an issue then concessions could be made. He made the point that the Commission's approach to item 14 was a good example for working with a community on an issue. Lucht said he thought more safety could be worked into that project but on the basis of this, if there were geographic options when considering future proposals, it needed to be taken into account. He said WSOR had been doing research on liability insurance to protect communities and said there are a few general liability policies out there but usually they deducted the railroad collectable and that was a big deduction to WSOR. He asked why should the railroad incur higher premiums because of a recreational driven event, adding that the insurance liability avenue would probably not work. Lucht said snow mobile clubs can get liability and also mentioned that fencing and mitigating safety is big issue. Lucht also said that if the RR was going to incur the risk then they needed to look at the benefits to them in a project, such as upgrading a crossing, relocating a siding, or a road closure at road grade: those were the type of benefits that would get the attention of WSOR, particularly if they were built into the project. He reminded the Commission that these were rail corridors with liability, traffic was growing and they had to preserve the ROW for capacity. Lucht said in Middleton there was an active shipper and WSOR did not want any project to limit access for them or other shippers. He said WSOR would like a pinch point defined on a geographic basis.

Robert Scallon asked about one of the proposed projects highlighted in the handout and whether it was an issue for Crawford County. Huntington said that WDOT got the information almost as a rumor and part of the issue included removing the bridge. Ranum said that it had not come to the County Board yet officially. Rocky Rocksford said the Crawford County Board had gotten it and been asked to supply a letter of support.

16. Consideration and Possible Action on 2014 WRRTC Budget

Jim Matzinger returned to the meeting and distributed the 2014 draft budget to the Commission and explained it to them, noting that the county contribution was not changing as it had been increased last year. He said the lease amounts had not changed and perhaps they might need to be looked at in the future. There was some discussion whether to leave permit fees as income and there was general consensus that they should be left as income. Matzinger continued to detail budget items. He said the net was \$3K and that was made up by reducing the payment to WSOR somewhat. Gray asked if there were a contingency line item and if it were included,

WRRTC EXECUTIVE COMMITTEE APPROVED 2013 OCTOBER MEETING MINUTES

would it change the amount they could contribute to WSOR projects. Gray also asked if Jefferson County came on, would the sheet balance.

Ranum asked about the money contributed to WSOR, asking if it affected the economic viability of WSOR. He said if they were operating successfully why did the WRRTC subsidize WSOR. He said if the counties needed to keep spending the money, adding that his question was driven by his county's need to balance their budget. Huntington explained the rationale and history behind the practice of putting dollars toward the rail line needs. He said the amount of money contributed was relatively small but was money that was needed and without the 80% contribution they could not keep the lines viable for traffic. He said a rule of thumb he used was you needed at least a 100 miles of track to make a line viable and today the lines are viable but not a huge money maker. The railroad needed to make money because that kept the rail lines alive. He said the need was still there and it was good to have local participation. He noted that while county participation was fairly minimal, in terms of the local share, the amount contributed is not very big but it was important to have them involved. He explained the necessity of creating the Commissions in the first place in the 80's was to create a liaison between the state and an operator and he encouraged the counties to remain active and contribute to the Commission. Sweeney concurred and said with the small investment made, he would refer all the Commissioner's to the Economic Study done last year and look at that impact in relation to counties.

Gray spoke about the Oregon line and the contingency of the Lycon facility having to use rail in order to protect roads. Ranum spoke of his County having issues with agencies and boards subordinate to the County Board and how some of them have become self-sustaining. With the financing from the state and feds, the idea was that some of these things that got funding from non-county funds could be viable without a county levy. He said that was not necessarily a goal. Nilson said the whole idea of the county putting money in was to get their "skin in the game", getting them access to the US class one rail system. He said it had taken a long time to get to that point.

Ranum asked if conference fees could be added to the budget and Nilson said no. Scallon asked how to get a financial statement from WATCO and Lucht said those statements were confidential but some Commissioners were invited to a yearly staff meeting to look at them but WSOR could not release them at an open meeting;

- *Motion to approve the 2014 WRRTC Budget – Cornford/Sweeney, Passed Unanimously*

17. Consideration and Possible Action on 2014 Staff Services Agreement with SWWRPC – Mary Penn, WRRTC Admin.
Nilson read the 2014 Staff Services Agreement to the Commission.

- *Motion to approve 2014 Staff Service Agreement with SWWRPC – Scallon/Cornford, Passed Unanimously*

18. Consideration and Possible Action on WRRTC draft minutes posting practices – Mary Penn, WRRTC Admin.
Penn told the Commission she had had a conversation with Nilson regarding the practice of posting draft minutes and Nilson said that he did not believe it appropriate to post minutes before they were reviewed and approved by the Commission. Penn said she would remove the draft availability on the website.

- *Motion to not post draft minutes to website prior to Commission approval -Polivka/Ranum, Passed Unanimously*

19. Action Item. Adjournment

- *Motion to adjourn at 12:12 - Polivka/Sweeney, Passed Unanimously*