

WRRTC AUGUST 2022 MEETING MINUTES – APPROVED

Wisconsin River Rail Transit Commission Commission Meeting – Friday, August 5th, 2022 at 10:00 am Iowa County Law Enforcement Center, Dodgeville, WI

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

Crawford	Carl Orr, 2 nd Vice Chair	X	Jefferson	Mary Roberts	X
	Mark Gilberts	X		John Kannard, Vice Secretary	X
	Tom Cornford	X		Kathy Bahner	X
Dane	Kevin Potter	X	Rock	Russ Podzilni	X
	Jeff Huttenburg, Treasurer	X		Tom Brien	Excused
	Jim Bolitho	X		Alan Sweeney, Chair	X
Grant	Gary Ranum	X	Sauk	Brian Peper	Excused
	Mike Lieurance	Excused		Gaile Burchill, 2 nd Vice Treasurer	X
	Robert Scallon, 1 st Vice Chair	X		Marty Krueger	X
				Tim McCumber, Alternate	X
Green	Harvey Kubly, 1 st Vice Treasurer	X	Walworth	Al Stanek	Absent
	Todd Larson	Excused		Richard Kuhnke, 2 nd Vice Secretary	Excused
	Kurt Schafer	X		Allan Polyock	X
Iowa	Charles Anderson, Secretary	X	Waukesha	Dick Mace, 3 rd Vice Treasurer	X
	Kate Reimann	X		Richard Morris	X
	Kevin Peterson	X		Karl Nilson	Excused

Commission met quorum.

Others present for all or some of the meeting:

• Lisa Stern – WisDOT • Alan Anderson – Pink Lady RTC. • Bridget Brown, WIDNR	• Ken Lucht, WSOR. • Ahna Bizjak and Kevin Drunasky, City of Fitchburg • Chris James, Dane County Parks
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3. Action Item. **Certification of Meeting's Public Notice – Noticed by Honer.**
 - o Motion to approve meeting's public notice – Anderson/Scallon. Passed Unanimously.

4. Action Item. **Approval of Agenda – Prepared by Honer.**
 - o Motion to approve the agenda. Morris/Kannard.. – Passed Unanimously.

5. Action Item. **Approval of draft July 2022 Meeting Minutes – Prepared by Honer.**
Mace requested additional clarification regarding the "Surplus Lines Tax" discussion from item #9, regarding the general liability insurance.
 - o Motion to approve the July 2022 meeting minutes with minor corrections and clarifications. Mace/Cornford. Passed Unanimously.

6. Updates. **Public Comment – Time for public comment may be limited by the Chair.**
None

7. Updates. **Announcements by Commissioners**
Mace reported that Nilson is not able to attend due to an injury. Krueger thanked Sweeney for participating on the work group for the recreational bridge between Sauk and Dane county on behalf of the WRRTC. Krueger announced an RFP will be brought before the Commission at the next meeting. Krueger provided a timeline for the RFP.

REPORTS & COMMISSION BUSINESS

8. **WRRTC Financial Report – Huttenburg, Treasurer**
Huttenburg presented the treasurer's report. There were no disbursements in June and no bills for payment.
 - o Motion to approve the Treasurer's Report. Kannard/Anderson. Passed Unanimously.

9. **Wisconsin & Southern Railroad's Report on Operations – WSOR**
Lucht provided an overview of the rail status, service, and major employers in Iowa County. Lucht reported that Borden Rd. in the Town of Boscobel is officially closed to the public and WSOR is working on additional barriers. Lucht had the pleasure of presenting to the Grant County Board. Lucht

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offered all counties a WSOR presentation. WSOR is building an industrial track in Milton for Quality Coatings. Industrial development will result in several hundred jobs, made possible by rail transport.

Bolithio asked if the hot weather has impacted the rail. When the temperature gets above 90 degrees, there are speed restrictions (10 mph) and increased track inspections on the mainlines. Ranum thanked Lucht for the Grant County presentation and believes it was very informative for many of the county board members. Ranum stated the county is looking forward to the updated economic impact study by UWEX. Lucht stated that because of the United Cooperative Improvements in Boscobel BNSF is investing \$10M in Crawford and Grant Counties. Krueger stated that Lucht was also very helpful with the workgroup on the recreational bridge RFP.

10. WisDOT Report – Stern - WisDOT.

Stern stated the Milton siding is also receiving a transportation economic assistance grant from WisDOT. WisDOT is working on an Offer-to-Use Agreement on the United Cooperative development in Boscobel. WisDOT and WSOR have signed a grant agreement for the Merrimac Bridge. WisDOT is currently seeking a project manager for the Merrimac Bridge project. WisDOT is very happy to see the project moving ahead. WisDOT is still working on details with WSOR and UP on the Janesville Bridges. Wojciuk has put in his resignation from the Rails and Harbors Section. Kim Tollers is returning to RHS for a special project as a consultant. RHS is also hiring a financial specialist.

11. WRRTC Correspondence/Communications and Administrator's Report – Honer, Admin.

The Commission's website is up and running again. Honer reported 50% of the responses he received indicated a preference to meeting at Hill Farms for the remainder of 2022. Hill Farms was identified as the preferred meeting location, followed by the Dane County Highway Garage, and then Waunakee Library. Honer will follow up with WisDOT to see if the Commission can meet at that location again. Honer reported he participated in the OCR (Office of the Commissioner of Railroads) hearing on the Middleton crossing along with WSOR and the City of Middleton. The OCR has provided a briefing schedule that will go through September 26th. The approved budget was sent to the member counties. It was clarified that Sauk County will be the meeting location in September.

12. Discussion and Possible Action on improvements within the WRRTC right-of-way in the City of Fitchburg, WI. – Ahna Bizjak, City of Fitchburg.

Ahna Bizjak, the Assistant Public Works Director from the City of Fitchburg presented the project at the intersection of Syene and Lacy Roads in Fitchburg. Bizjak requested a permanent highway easement for the purposes of operating and maintaining a highway crossing. The City is also requesting that the easement be provided without cost to the City based on the City's oversight of not retaining the easement when it owned the property.

WSOR approved the plans based on the OCR's approval. Lucht believes the signals would become the property of the Commission. Anderson asked if the Commission has the information necessary to make a decision. Bizjak stated that she expects the Commission to provide guidance to her at this meeting and then have a document to take action on at the next meeting.

Potter asked how much the Commission paid for the property when it was sold to Commission. Lucht clarified that the property was paid for by a grant from WisDOT. Lucht stated the Commission matched WisDOT's grant. Stern stated that usually the municipality is required to pay for the improvements, the operator needs to maintain them, and the highway authority retains ownership. Stern stated that WisDOT requires a highway easement on its properties and it would be for the expansion of the roadway and the bike path, she encouraged the Commission to not get hung-up on the signal ownership as it is generally outside of the control of the Commission. The OCR distributes funding for the maintenance of safety infrastructure and safety signals are regulated by the OCR and the Commission does not have to worry about that issue. Mace asked about the responsibility of maintenance. Bizjak clarified the OCR has ordered the WSOR to install and maintain the crossing infrastructure and the city will reimburse WSOR for the work. The city would be maintaining the roadway and traffic signals that are within the WRRTC-owned right-of-way.

Bolithio clarified the focus of the agenda item is to discuss an easement for the widening of the road. Huttenburg believes the Commission will have expenses for the review and administrative tasks associated with the agreement or easement and would want to see the city cover those costs.

- *Move to have the city of Fitchburg draft a highway easement and for the city of Fitchburg to cover the legal fees of the Commission's review. Burchill/Reiman. Passed Unanimously.*

13. Discussion and Possible Action on lease agreement in Beldon, IL. - Honer, Admin.

Honer explained his discussions with proposed permittee. The permittee understands WSOR has cleaned the industry track in order to park railroad cars on industry track, to prevent trespass from him. The permittee is willing to enter into an agreement but will not install a fence and would like the insurance requirement to be \$1M, rather than the \$5M that was part of the initial agreement. Lucht reported the industry track has been rehabilitated and is awaiting several cars to be parked there. Potter asked if WSOR requires a fence, Lucht stated the parked railroad cars will act as a barrier and prevent the trespass from the permittee. Kannard asked \$1M is sufficient for insurance. Lucht stated the railroad industry starts at \$3M for general liability insurance and \$1M is no longer suitable, especially in the railroad industry. Reiman believes \$1M is not sufficient. Huttenburg believes the Commission has no agreement in place at the moment and it would be better to have something instead of nothing.

Ranum asked if the permittee will be open to \$3M. Honer stated he can explain the situation. Kannard and Reiman suggested a rental increase clause be included in the agreement. Kate asked if the cars would remain until the track is used for rail purposes.

- *Motion to counter offer permittee's request with \$3M insurance policy and include a provision to increase rent annually. McCumber/Morris. Approved Unanimously.*

14. Discussion and Possible Action on WisDOT proposal for Glacial Drumlin Trail. – Stern, WisDOT.

Stern stated that at two meetings prior the WIDNR and Dane County presented the Commission with a proposal for the Glacial Drumlin Trail to utilize the railroad corridor under I-39/I-90. Since that meeting, Stern reviewed previous agreements with WisDOT's attorney. Under the Land-Use agreement, there are provisions that allow WisDOT to approve public uses – which would only require coordination with WRRTC and WSOR, rather than concurrence. Stern clarified WisDOT is looking for comments from the Commission. Stern stated that WisDOT will utilize the comments provided by Attorney Brownlee and will be working out issues of drainage with WSOR.

Sweeney asked for clarification on section 2.2 of the operating agreement which requires WSOR and WRRTC concurrence. Stern explained that the land use agreement carves out public uses not needing WRRTC and WSOR concurrence. Stern stated the policy has been inconsistent over time with different actions being taken over time. Bridget Brown (WIDNR) reported WIDNR, Dane County, and WisDOT are continuing to work with WSOR to ensure that the trail does not impact the corridor. Brown stated WIDNR is hopeful that things can move ahead.

Lucht stated WSOR has not said no to proposed trail, but wants to be sure that it is the correct thing to do, wants to review the completed plans, and make sure issues of drainage and trespassing are addressed. WSOR has planned a site visit to address the issues of trespass and drainage issues. Brown stated plans cannot move beyond 60% because they are awaiting approval for the trail underpass. Chris James stated it is expected the trail would be very similar to other trails on the Lower Yahara River Trail. Lucht stated there would be other areas where large areas of the trail would be parallel with the trackage without fencing. Lucht stated WSOR is very concerned about how the agreements are being interpreted to not require concurrence with WSOR and WRRTC. WSOR is requesting additional time to review the project and bring the project back to the Commission next month. McCumber is in favor of bringing the issue back to the Commission at the next meeting.

Stern provided a draft of the agreement and WIDNR requires an agreement before they are allowed to move ahead. Stern reported there is significant trespassing already taking place at this location and expects the agreement and fencing will address this issue. WisDOT is committed to coordination with the Commission and WSOR. Ranum asked for clarification on the distance of the trail from the trackage. Stern stated the path will be outside of 33', but the construction permit will be closer.

Stern stated the bridge is expected to be rebuilt at some time in the future and it is expected the bridge can be lengthened to remove the trail from the railroad right-of-way. Krueger asked when the improvement is expected to begin. Brown stated the City and County expect construction to begin in 2024 as long as the project can continue moving forward.

- Motion to postpone Commission action until the September meeting. Krueger/Kannard. Approved Unanimously.

15. Presentation, Railroading 101. – Lucht, WSOR.

The agenda item was postponed until the next meeting.

16. Adjournment.

- Motion to Adjourn at 11:19 am. Cornford/Kannard. Passed Unanimously.