

# WRRTC MARCH 2020 MEETING MINUTES – APPROVED

## Wisconsin River Rail Transit Commission Commission Meeting - Friday, March 6<sup>th</sup>, 2020 at 10:00 am Dane County Highway Garage, Madison, WI

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

|          |                                              |         |           |                                                |         |
|----------|----------------------------------------------|---------|-----------|------------------------------------------------|---------|
| Crawford | Carl Orr                                     | X       | Jefferson | Mary Roberts                                   | X       |
|          | Rocky Rocksvold, 2 <sup>nd</sup> Vice Chair  | X       |           | John Kannard                                   | X       |
|          | Derek Flansburgh                             | Excused |           | Augie Tietz, 3 <sup>rd</sup> Vice Chair        | X       |
|          | Tom Cornford, Alternate                      | X       |           |                                                |         |
| Dane     |                                              |         | Rock      | Terry Thomas                                   | X       |
|          | Jeff Huttenburg                              | X       |           | Wayne Gustina                                  | X       |
|          | Chris James, 1 <sup>st</sup> Vice Secretary  | X       |           | Alan Sweeney, Chair                            | X       |
|          |                                              |         |           |                                                |         |
| Grant    | Gary Ranum                                   | X       | Sauk      | Chuck Spencer                                  | X       |
|          | Mike Lieurance                               | Excused |           | Dave Riek, 2 <sup>nd</sup> Vice Treasurer      | X       |
|          | Robert Scallon, 1 <sup>st</sup> Vice Chair   | X       |           | Marty Krueger                                  | X       |
|          |                                              |         |           | Tim McCumber, Alternate                        | X       |
| Green    | Harvey Kubly, 1 <sup>st</sup> Vice Treasurer | X       | Walworth  |                                                |         |
|          | Oscar Olson                                  | X       |           | Richard Kuhnke, 2 <sup>nd</sup> Vice Secretary | Excused |
|          | Paul Beach                                   | X       |           | Allan Polyock                                  | X       |
|          |                                              |         |           |                                                |         |
| Iowa     | Charles Anderson, Secretary                  | X       | Waukesha  | Dick Mace                                      | X       |
|          | Kate Reimann                                 | X       |           | Richard Morris                                 | X       |
|          | Mark Storti                                  | X       |           | Karl Nilson, 3 <sup>rd</sup> Vice Treasurer    | X       |
|          |                                              |         |           |                                                |         |

Commission met quorum.

### Others present for all or some of the meeting:

|                                                                                                                                                                                                            |                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Matt Honer - WRRTC Administrator</li> <li>• Jim Matzinger - Accountant</li> <li>• Ken Lucht – WSOR</li> <li>• Jaime Kurten, Kyle Busch – MSA Engineers</li> </ul> | <ul style="list-style-type: none"> <li>• Lisa Stern, Ed Singer, Vince Bauer – WisDOT</li> <li>• Alan Anderson – Pink Lady RTC.</li> <li>• William Roberts – Citizen.</li> <li>• Duane Jorgenson – Rock County Highway Commissioner</li> </ul> |
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3. Action Item. **Certification of Meeting's Public Notice** – Noticed by Honer.
  - Motion to approve meeting's public notice – Storti/Nilson. Passed Unanimously.
4. Action Item. **Approval of Agenda** – Prepared by Honer.  
Item 12 was moved ahead to after item 8. Singer stated that Item 13 should be 336 W. Lakeside.
  - Motion to approve the amended agenda – Cornford/Gustina. Passed Unanimously.
5. Action Item. **Approval of draft February 2020 Meeting Minutes** – Prepared by Honer.
  - Motion to approve the February 2020 meeting minutes with minor edits. Mace/Thomas. Passed Unanimously.
6. Updates. **Public Comment** – Time for public comment may be limited by the Chair.  
None.
7. Updates. **Announcements by Commissioners**  
None.

### REPORTS & COMMISSION BUSINESS

8. **WRRTC Financial Report** – Matzinger, Accountant
  - Treasurer's Report and Payment of Bills

Matzinger presented the Feb financials. The counties have been billed for the 2020 project. Waukesha and Walworth have paid as shown on the balance sheet, and since the report came out the Commission received checks from Grant, Iowa, and Jefferson Counties. These funds show up as cash and as rail project funds under liabilities. It does not show as income until it is billed by WSOR.

Matzinger presented the income statement. Explained that interest income is higher than expected because of the project funds accruing. Matzinger explained billing that has been paid year to date. Sweeney asked if when WSOR will be billing the Commission for the 2019 project. Lucht explained that the Commission has banked that money for a match of a possible Federal grant.

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Matzinger stated bills for payment include legal fees to BoardmanClark in the amount of \$2,841 and the bill for accounting to Dane County for \$979.44.. Ranum asked if the accounting billing was quarterly because it was approximately a quarter of the budget. Matzinger stated that January was a heavy month and included the invoicing of the counties and setting up the new balance sheets but that he expects things to balance out.

- o *Motion to approve the Treasurer's Report, income statement, and payment of bills – Anderson/Spencer. Passed Unanimously.*

### **9. Presentation of Bridge Project on Emerald Grove Rd., Rock County-** Duane Jorgenson – Rock County Highway Commissioner, Kyle Busch and Jaime Kurten from MSA Engineering.

Jorgenson stated that planning is 60% complete for the project and he wanted to present the project to the Commission. The bridge was closed in December 2014 and put into the federal aid program in 2015. Final submittal of design and estimates are due to WisDOT in November 2020. The project is scheduled to be let in March of 2021 with a starting date of April or May 2021 and expected to be completed in the Fall 2021. The current total construction estimate is approximately \$1.12M and \$1.3M with design and real estate included. 80% of the construction cost is covered by the federal aid program.

Jaime Kurten from MSA gave an overview of the project. Kurten explained that early collaboration with WisDOT – Rails and Harbors Division (WisDOT – RHS) has provided early guidance to the project including improving the “portal” for the rail corridor. The vertical clearance for the railroad will be improved which means that the roadway approaches needed to be extended.

Kyle Busch explained that the substructure of the bridge will be adjusted to match the current alignment of the railroad corridor. The design replaces the 5-span bridge with a 3-span bridge. The center span is 57' and the outside spans are 39'. Busch explained that WisDOT – RHS advised a rail corridor opening that included an 18' offset on south side of the existing tract and 39' offset from the north side of the existing track. Busch stated that a geotechnical engineer discovered shallow bedrock at the site, so concrete footings will be installed for the two piers and piles will be driven for the abutments.

Jorgenson stated that the bridge is in the Town of Bradford, just west of the Creek Rd railroad bridge that was previously presented to the Commission. It is 10 – 12 miles east of Janesville and a mile or so south of Highway 14.

Riek asked why additional clearance was necessary on the other side. Busch explained that WisDOT-RHS advised this for the potential of another track being installed in this location. Busch explained that the material that is being moved from both sides of the bridge will accommodate the horizontal clearance for two tracks. Polyock asked the about the capacity of the bridge. Busch stated that is being designed to handle the standard DOT loading and will not be posted.

Lucht asked about the schedule for Creek Rd. Jorgensen stated that it is expected to be completed this year, subject to bids. Mace asked if they had an estimate for the additional cost of the additional width that was required. They did not design it both ways because of the early guidance provided by WisDOT-RHS.

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

Lucht stated that the Continuous Welded Rail (CWR) project on the Waukesha Sub (Whitewater to Eagle) is expecting rail to be delivered in June with installation in August and September. The Reedsburg & Cottage Grove Subs. tie project is expecting the grant agreement to be completed soon and construction completed later this year. Lucht explained that the tie project is on the track acquired from UP which had deferred maintenance from UP prior to them selling. WSOR plans to upgrade nine public at-grade crossings this year as part of their maintenance plan. Weed control will be taking place in May. Brush cutting is happening on the Reedsburg Sub. currently. Two bridges are being worked on the Prairie Sub. near Bridgeport (Crawford County). Lucht stated that Phase 2 of the Merrimac Bridge Project is going out for bid soon. Two bridges on the Fox Lake Sub near Bardwell need repairs and are going out for bid soon. Maintenance and Cap Expenditure totals will be presented in April.

Sweeney asked if there was a location in Eagle where commissioners could observe the CWR installation. Lucht stated that WSOR can work on setting up two or three dates for Commissioners to observe the different aspects of installation. Sweeney asked when the Commission will hear about the Federal Grant Award for Phase 3 of the Merrimac Bridge. Lisa Stern stated that she expects to hear about the awards by the end of summer. Thomas asked about the latest on the CWR track between Milton to Whitewater. Lucht explained that it has been completed.

Lucht explained that earlier in the week he had asked Honer to send out sections from the 1997 and 2014 operating agreements. Lucht explained that these clauses allow third parties to use railroad property for non-railroad uses if it does not interfere with railroad uses. Lucht explained the 1997 Operating Agreement covers the principle line segments and the 2014 Operating Agreement covers the Reedsburg, Cottage Grove, and Vita Spur. Lucht pointed out that all parties have acknowledged that there are parcels that may not be needed for railroad service now or in the future, so there are clauses in the agreements that allow the parties to grant uses of those parcels to third parties. Lucht highlighted that the 1997 agreement requires that nonrailroad uses within 33 ft of the principle line segments (1997 Agreement) requires approval from the Commission, WSOR, and WisDOT. This is different from the Reedsburg, Cottage Grove, and Vita Spurs (2014 Agreement), which requires agreements from all parties for non-railroad uses within the entire corridor.

Nilson asked if one agreement supersedes the older. Lucht explained that both agreements are in effect for different subdivisions. Polyock asked if the 33 ft is from center line of the main track or if it is 33 ft from the side track. Lucht stated that it would likely fall to the WisDOT if it is outside of the 33 ft of the main track.

**11. WisDOT Report –Lisa Stern, Ed Singer - WisDOT.**

Stern stated that WisDOT is working with the UP to cap the old Rayovac site on the east side of Madison. Stern announced that the Office of the Commissioner of Railroads ordered that Railroad St. in Eagle be closed to automobiles. It will remain open as a recreational path. Stern stated that a new grade crossing safety engineer will start with WisDOT shortly.

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

Honer stated that the Commission received a thank you from the family of Gene Gray, certificates of liability insurance from WSOR, and a notice from McHenry County Conservation in Illinois that they will be undertaking controlled landscape burns. Honer shared this notice with WSOR.

Honer stated that SWWRPC is working on creating a new system map for the WRRTC, PRTC, and SCWRTC and would take any suggestions from Commissioners on what they would like to see included in the map. Honer stated that the new map is being done in coordination with a Commissioner onboarding file that will be presented to the Commission in the coming weeks. Honer stated that he provided Commission's counsel with a draft of a records retention schedule. Honer stated that he believes there is more work to be done and expects that it will be presented to the Commission early this summer.

Sweeney asked about how materials will be stored. Honer explained that he generally keeps digital copies of everything but as a municipal organization there are requirements to keep paper copies. Stern offered the Commission, WisDOT-RHS record retention schedule to work from. Sweeney stated that there is some concern about cyber security. Honer stated that the Commission has done work to identify issues with cyber security and found that there are several layers of cyber security protections and insurance that cover the Commission.

**13. Presentation of 336 W Lakeside and 612 Sheridan Dr., Madison Offers to Use – Singer, WisDOT.**

Singer stated that WisDOT does not seek additional leases on its property and the majority of the property leases are inherited from the corridors that WisDOT has purchased. Singer stated that he is also not eager to remove leases if the properties are in compliance.

Singer presented 336 W Lakeside, Madison, WI. Singer stated that it is a bicycle shop that is on the southside of the Monona Bay. The property is now for sale and Singer has received a few inquires regarding the lease that the property has with WisDOT. The lease initially started in 1999 and a 20-year lease was entered into in 2002. WisDOT owns the property right up the edge of the building (56' from the center of the track). The lease states the premises is from approximately 20' from the center of the track to the building. Singer stated that parking is currently closer than 20' to the center of the track and vehicles are being parked there in violation of the lease. Singer stated that he does not have any information regarding who installed the concrete pad where vehicles are being parked. Singer proposes the new lease remove the parking area nearest to the track and that access to the building by driveway be cut down to outside of 33' from center line. Singer stated that all leases that WisDOT will have are for one-year terms. Huttenburg brought up the issue of identifying adverse possession of the parking lot. Mace asked if the Bike Shop has a loading dock in the back. It was not believed so. Lucht identified that the city of Madison has already identified some type of agreement on this parcel. Singer stated that he believes that the City of Madison is seeking out possessory-use taxes by identifying property that is being possessed by lease, potentially for assessment and tax purposes.

Singer presented 612 Sheridan Dr. (not 1602 Sheridan Dr.), approximately a mile north of Johnson Yard. Singer stated that the lease expired in 2019 but the property use of WisDOT property has continued. The neighbor uses the land for wood storage and "beautification." The right-of-way in this location is 100' (50' from center line). The premises identified in the lease (also inherited from the UP track purchase) is 30' from the track. Singer proposes that the premises be changed to 40' from the center of the track. Sweeney asked is there is a point in drafting a lease if the land owner had any thing at the property line 50' from the center line. Sweeney stated that this discussion comes back to what comes first as part of these types of discussion. Stern stated that these two are somewhat different because they are inherited and are not new uses so it was thought to bring them to the Commission.

**14. Presentation of Offers-to-Use on WRRTC System – Singer, WisDOT.**

Singer wanted to share with the Commission the records he has for all of the Offers to Use (OTUs) that WisDOT. He listed them by county so that commissioners can be aware of what OTUs exist in their county. Singer wanted to illustrate the fact that 65% of these agreements were inherited with the purchase from UP. Sweeney asked if Singer would like feedback from the Commissioners on the list. He said yes. Stern thanked Singer for his work on going through the property files and getting a comprehensive list available to share and work from. Singer stated that all OTUs are available on the SharePoint database and Honer can help Commissioners located them.

Lucht stated that WSOR is open to agreements, especially in consideration of hardships, but that WSOR also has to consider their liability and the potential cost to customers that each non-railroad use may pose. Lucht stated that the two properties that were presented are great learning examples of two different types of uses.

**15. Adjournment**

Cornford thanked Rocky Rocksvold who will be retiring from the county board and the Commission.

- *Motion to Adjourn at 11:25 am – Cornford/Scallon. Passed Unanimously.*