

# WRRTC OCTOBER 2020 MEETING MINUTES – APPROVED

## Wisconsin River Rail Transit Commission Commission Meeting - Friday, October 9<sup>th</sup>, 2020 at 10:00 am Meeting via Zoom

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

|          |                                              |        |           |                                                |         |
|----------|----------------------------------------------|--------|-----------|------------------------------------------------|---------|
| Crawford | Carl Orr, 2 <sup>nd</sup> Vice Chair         | absent | Jefferson | Mary Roberts                                   | X       |
|          | Derek Flansburgh                             | absent |           | John Kannard                                   | X       |
|          | Tom Cornford                                 | X      |           | Augie Tietz, 3 <sup>rd</sup> Vice Chair        | Absent  |
| Dane     |                                              |        | Rock      | Russ Podzilni                                  | X       |
|          | Jeff Huttenburg, Treasurer                   | X      |           | Wayne Gustina                                  | Excused |
|          | Chris James, 1 <sup>st</sup> Vice Secretary  | X      |           | Alan Sweeney, Chair                            | X       |
| Grant    | Gary Ranum                                   | X      | Sauk      | Brian Peper                                    | X       |
|          | Mike Lieurance                               | X      |           | Dave Riek, 2 <sup>nd</sup> Vice Treasurer      | X       |
|          | Robert Scallon, 1 <sup>st</sup> Vice Chair   | X      |           | Marty Krueger                                  | X       |
|          |                                              |        |           | Tim McCumber, Alternate                        | Absent  |
| Green    | Harvey Kubly, 1 <sup>st</sup> Vice Treasurer | absent | Walworth  | Al Stanek                                      | Absent  |
|          | Oscar Olson                                  | X      |           | Richard Kuhnke, 2 <sup>nd</sup> Vice Secretary | Absent  |
|          | Michael Lowery                               | X      |           | Allan Polyock                                  | Excused |
| Iowa     | Charles Anderson, Secretary                  | X      | Waukesha  | Dick Mace                                      | X       |
|          | Kate Reimann                                 | X      |           | Richard Morris                                 | X       |
|          | Susan 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>• Ken Lucht – WSOR</li> <li>• Robert Keeney – Grant County</li> </ul> | <ul style="list-style-type: none"> <li>• Lisa Stern, Chris Kern – WisDOT</li> <li>• Drew Hanson - WIDNR.</li> <li>• Alan Anderson – Pink Lady RTC</li> </ul> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|

3. Action Item. **Certification of Meeting's Public Notice** – Noticed by Honer.
  - Motion to approve meeting's public notice – Cornford/Anderson. Passed Unanimously.
4. Action Item. **Approval of Agenda** – Prepared by Honer.
  - Motion to approve the agenda – Nilson/Ranum. Passed Unanimously.
5. Action Item. **Approval of draft August 2020 Meeting Minutes** – Prepared by Honer.
  - Motion to approve the draft September 2020 meeting minutes with minor clarifications. Mace/Morris. 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** – Huttenburg, Treasurer.

- Treasurer's Report and Payment of Bills

Huttenburg stated that it was a quiet month and that income was from the interest on our investment pool funds. Expenses were the management and account invoices.

- Motion to approve the Treasurer's Report and payment of bills– Podzilni/Storti. Passed Unanimously.

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

Lucht reported that all of the Continuous Welded Rail(CWR) is installed on the Waukesha Sub. between Whitewater and Eagle. WSOR is in the process of surfacing that stretch of track. The scrap rail has been removed and allocated to the highest bidder. WSOR applied for the FRPP funding from WisDOT for the next phase (Eagle to Waukesha) of the CWR on the Waukesha Sub. The Reedsburg Sub. phase 1 project for crossings and ties between Madison and Baraboo received a grant agreement that is in the process of being executed. WSOR expects to begin spring 2021. A contractor (E80) is working on a bridge near Bridgeport (Prairie Sub.). Contractors are on phase 2 of Merrimac Bridge.

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The entire system has been brushed and weed sprayed. Rail testing is near completion, with the Oshkosh Sub. being the only remaining Sub. to test. The public at-grade crossings on South Valley and Olson roads near Black Earth were rehabilitated. A rail greaser and power switch in Madison (near Broom St. on the Reedsburg Sub.) was installed. A contractor is surfacing the at-grade public crossing near Lang Rd in Illinois. Winn Rd public crossing in Spring Grove will be completed in the next week with signals to follow. WSOR is accepting photos for the 2021 calendar, as a contest with cash prizes. Lucht will be giving a presentation at the end of the meeting today to provide a background on WSOR. He will also give presentations at upcoming meetings to introduce general railroad issues and the Janesville Bridge Project.

Storti asked about the status of the CWR project on the Prairie Subdivision. Lucht stated that the first phase on St. Feriole Island in Prairie du Chien is complete. The second phase from Crawford to Blue River is awaiting a determination of a FRPP award. Mace asked if any frac sand is being moved by WSOR. Lucht stated that no sand is being moved by WSOR at the moment on the southern division. No sand is moving to the east or to the south. Some sand is still moving on the BNSF and is interchanged by the WSOR. That sand is heading to North Dakota. WSOR is moving some sand on the northern division. WSOR lost 8 – 9000 carloads out of Prairie du Chien. Reiman asked if Lucht can share photos of the Merrimac bridge repairs. Lucht stated that he can. Scallon asked if Lucht is aware of the bicycle bridge over the Wisconsin River, Lucht stated that he is aware.

### **10. WisDOT Report – Lisa Stern, Chris Kern - WisDOT.**

Stern just learned the FRPP projects were awarded and she just sent the letter to WSOR, this includes the Phase 2 Prairie Sub. CWR project. The Merrimac bridge grant project is being finalized with the federal environmental review. Kern had no significant issues at the moment. Stern stated WisDOT is looking for a grade crossing safety engineer.

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

Honer stated that Kannard provided an update that Jefferson County will remain in the WRRTC in 2021, but are reviewing their participation in the first half of 2021. According to the Commission's Charter any county intending to leave the Commission needs to provide notice prior to July 1<sup>st</sup>. Honer will send out 2021 Commission Meeting dates. He spoke with Jim Matzinger about returning to the Dane County Highway Department meeting location and it is unlikely that the Commission will return to the location for meetings until Spring. Matt will follow up with Jim after the first of the year.

Since the agenda was sent, Honer received correspondence regarding an existing offer to use agreement between WRRTC and Crop Production Services in Belden, IL. The lease is for buildings that are partially within the right-of-way owned by the WRRTC and Honer is currently discussing the issue with WSOR and expects it to be on the agenda in November. Correspondence was received regarding an approved utility permit in the Village of Fox Lake that is behind schedule, the contractor is looking for an extension of the permit. Honer received an email regarding the installation of a water line within the Village of Spring Grove by Scot Forge Company. This is not considered a utility the same way that a public service utility would be permitted by the Commission, Honer will be following up with Counsel and WSOR regarding the proposed permit for Scot Forge.

Discussions are ongoing with WSOR and WisDOT regarding outstanding property issues, including an encroachment in the City of Boscobel. A site visit will be made with WSOR and WisDOT next week to evaluate the situation. Honer stated that he has been in correspondence with the City of Middleton on several occasions since the last meeting including regarding the City's proposal to move infrastructure owned by the WRRTC to facilitate a road construction project. Honer expects this may come to the Commission's attention again in the future.

### **12. Discussion and Action on Private Crossing Agreement for Nathan Wagner in Cross Plains Township, Prairie Subdivision – Honer, Admin.**

Roger Schaalma brought this crossing request to the WRRTC. The request is being made as the property is being sold, as the title company is seeking evidence that access is available to the parcel being purchased. The crossing used to be public but the Township recently abandoned this road, reverting ownership back to the landowner. The crossing agreement is currently holding up the sale of the parcel and the applicant has moved expeditiously to provide all of the necessary documents and signed the agreement.

Huttenburg asked if the Commission would want a certificate of insurance liability from the second user. Honer stated that the Commission has not done so in the past and that the agreement places the responsibility on the primary applicant. Nilson asked about clarifying which parcel belonged to the primary applicant. Honer stated that the primary applicant is the residential user and the secondary applicant is the farm user, they share the crossing. Honer stated that he will check with Commission Counsel to see how a proposed secondary applicant's insurance should be handled. Mace asked how the farm property is handled when the user leases a farm field. Anderson asked if there were any development plans and if the railroad crossing is adequate. Sweeney stated that the crossing was signed off by WisDOT and WSOR. Honer stated that there was no indication of development and that Roger Schaalma stated that it may need to be upgraded some in the next 12 months. Reiman asked if any new building should occur, would there need to be a new agreement? Lisa stated that highway 14 is access controlled and that the driveway is restricted to a different use and if the use of the driveway changes it is likely that the crossing would need an update.

- *Motion to approve private crossing agreement with Nathan Wagner. – Nilson/Mace. Passed Unanimously.*

### **13. Update and Possible Action on Private Crossing Agreement for Middleton Center PH3, LLC in City of Middleton, Prairie Subdivision – Honer, Admin.**

Honer stated that this issue has taken on a life of its own. The developer has not provided a signed agreement to license the private crossing despite the negotiations at the May WRRTC meeting. The developer had requested a delay, likely as they awaited a decision on the City of Middleton's petition to consider this crossing public. Throughout the conversations, WSOR and Honer have stated that a licensed crossing is requested even though the crossing is partially closed to the public. The City of Middleton appeared to be against the developer signing the

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agreement during the OCR petition. Honer requested that the developer sign and return the agreement by October 8<sup>th</sup>. If a signed agreement was not received by then, Honer stated that the Commission would review the application at its meeting today and that he would suggest the Commission ask the developer resubmit the application with fee in order for the crossing to again be considered for approval. The City of Middleton petitioned the OCR for this crossing to be considered public on September 29<sup>th</sup>. The OCR declined this request on October 5<sup>th</sup>, on the grounds that the approaches to the crossing are required to be under public jurisdiction. Honer stated that this position had been communicated by multiple parties to the City on several occasions. Honer stated that he believes it is appropriate for the Commission to request that the developer resubmit an application with fee for the crossing, and in the meantime that the WRRTC request that WSOR close the crossing with barriers. Honer believes that it may also be appropriate to request the City of Middleton to remove the crossing, as the City has claimed they installed the crossing at their expense. The current infrastructure does not meet any standards.

Lucht stated that at the last minute the City entered into an access easement with the developer that wasn't enough for the OCR to open up a docket. Lucht requested from the City the standards that they have for this crossing and no standards have been provided. It is not ADA accessible and is very narrow. Lucht stated that rather than asking the City to remove the crossing, WSOR could remove the crossing and place their infrastructure outside of the right-of-way. Lucht stated that either the crossing needs to be upgraded or closed. Lucht suggested that the developer be provided a deadline. Sweeney suggested a deadline of October 16<sup>th</sup>, instruct WSOR to place barriers, and be prepared to remove the infrastructure. Huttenburg stated that the City should be given time to remove their infrastructure and there is no need to extend the timeline for the signed agreement. Anderson asked for clarification on a Jersey Barrier. Lucht explained that they are large concrete blocks that are 8 – 9 ft long and cannot be moved without a bobcat. Mace asked if the barriers would be necessary if the corridor was required to be fenced. It was clarified that the fence was required as part of the private crossing agreement, which the developer did not sign. Ranum asked if liability is the central issue and requirement. Honer stated that the means to secure liability insurance from the private entity is through the private crossing agreement. Honer stated that in terms of entering into an agreement with the City of Middleton, the City intends this to be a public crossing and WRRTC cannot agree to that. Ranum clarified that OCR made the determination that this is a private crossing. Mace asked if the OCR's decision is final. Stern stated that the OCR is pretty final but it could be taken to circuit court except in extreme and rare cases. Reimann asked if this is an extreme case. Stern stated that it may seem extreme to the City of Middleton.

Lucht suggested that November 1<sup>st</sup> as an amount of time to allow them to remove the crossing.

- *Motion for WSOR to close the crossing with jersey barriers, provide the City of Middleton time (November 1<sup>st</sup> deadline) to remove the crossing infrastructure with a licensed railroad contractor or WSOR, and if the developer would like a crossing agreement they will need to reapply. – Huttenburg/Anderson. Passed Unanimously.*

### **14. Update and Possible Action on rail removal project in the former Badger Army Ammunition Plan, Sauk County. – Honer, Admin.**

Honer stated that he would like to finalize the agreement for the removal of rail between the Wye south of Devil's Lake State Park and the southern entrance to the former Badger Army Ammunition Plan. Honer stated that this project is billed to the WRRTC outside of the general administrative staff services contract. The agreement between Sauk County, WRRTC, and WisDOT states that if the proceeds from salvage were greater than the cost of removing the infrastructure, the Commission would receive a portion of the proceeds equal to their interest in the rail according to the grant agreement between WisDOT and WRRTC. Honer stated that it was generally agreed that surplus funds from salvage was highly unlikely. Honer would like to request that the Commission finalize this project by sending a letter to Sauk County acknowledging the end of the project with the agreement of WisDOT.

Stern stated that WisDOT is good with finalizing this project. Krueger added that the expectations of salvage value exceeding cost was unrealistic, the cost to Sauk County far exceeded scrap value. Krueger stated that much of the rail in the former BAAP was light weight. Honer added that the Commission did receive value from allowing WSOR the ability salvage any desirable rail.

Kannard asked about the weight of the rail referenced in the letter from Sauk County. Lucht stated that he believes the 75# rail/yard that the county references is likely accurate. Honer stated that it is likely a generous estimate and that much of the rail weighs a lot less than 75#. Nilson clarified that rail weight is measured as how much the rail weighed when new per 3 ft section.

- *Motion for Honer to send a letter to Sauk County, finalizing the project and allowing Sauk County to salvage the material on their own time– Storti/Anderson. Passed Unanimously.*

### **15. Presentation by WSOR: Background and Current Trends in Wisconsin – Lucht, WSOR.**

Lucht presented to the Commission on the current trends of WSOR.

### **16. Adjournment.**

- *Motion to Adjourn at 12:00 pm – Nilson/Storti. Passed Unanimously.*