

# WISCONSIN RIVER RAIL TRANSIT COMMISSION

FULL COMMISSION MEETING - FRIDAY, AUGUST 9TH, 2013 @ 10AM  
 DANE COUNTY HWY GARAGE, 2302 FISH HATCHERY RD, MADISON, WI

**1. 10: 02 AM Call to Order – Karl Nilson, Chair**

Nilson called the meeting to order and then introduced Dick Mace to the group as the newest WRRTC Commissioner. Mr. Mace spoke briefly about his history with Waukesha County.

**2. Roll Call. Establishment of Quorum – Mary Penn**

Crawford	Tom Cornford, 3 <sup>rd</sup> Vice Chair (XCom)	x	Rock	Ben Coopman, Alternate	
	Rocky Rocksford	x		Wayne Gustina	x
	Vacant			Alan Sweeney, 1 <sup>st</sup> Vice Chair (XCom)	excused
		Terry Thomas (10:18)		x	
Dane	Gene Gray, Treasurer (XCom)	x	Sauk	Marty Krueger, Alternate	
	Jim Haefs-Fleming	excused		Carol Held	x
	Chris James	x		John Miller (10:09)	x
		Dennis Polivka, Asst. Secretary		x	
Grant	Gary Ranum	x	Walworth	Jerry Grant	excused
	Vern Lewison	x		Richard Kuhnke, 4 <sup>th</sup> Vice Chair (XCom)	x
	Robert Scallon, 2 <sup>nd</sup> Vice Chair (XCom)	x		Allan Polyock	absent
Iowa	Charles Anderson, Secretary (XCom)	x	Waukesha	Karl Nilson, Chair (XCom)	x
	William G Ladewig	x		Dick Mace	x
	Jack Demby	x		Fritz Ruf	excused

The 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>Kim Tollers, Frank Huntington, LeAnna Walls, Roger Larson, WDOT</li> <li>Derrick and Justin Owen</li> </ul>	<ul style="list-style-type: none"> <li>Kim Erdmann, WEDO</li> <li>Ken Lucht,, Roger Schalma, WSOR</li> <li>Alan Anderson, Pink Lady RTC</li> </ul>
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**3. Action Item. Certification of Meeting’s Public Notice – Noticed by Penn**

- Motion to approve public notice of meeting – Gustina/Polivka, Passed Unanimously

**4. Action Item. Approval of Agenda – Prepared by Penn**

- Motion to approve agenda – Kuhnke/Cornford, Passed Unanimously

**5. Action Item. Approval of draft July Meeting Minutes– Prepared by Penn**

- Motion to approve draft July Meeting Minutes with amendments – Held/Ranum, Passed Unanimously

**6. Updates. Public Comment – Time for public comment may be limited by the Chair**

No comments.

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

Penn listed the past month’s correspondence and distributed an article from The New Railway Age from Forrest Van Schwartz.

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

Jack Demby said he had been told by the Iowa County Administrator that the TIGER VI Grant awards are pending, and thanked Ken Lucht for his help in answering some questions about tracks in Arena. Gene Gray passed around a photo showing flooding during the 1950's along the track.

**REPORTS & COMMISSION BUSINESS**

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

- Treasurer's Report for July and Payment of Bills

Checks included

- SWWRPC, 2013 Q1 revised
- Mileage, Global Transportation Consulting (Forrest)
- UW Board of Regents, Final Study payment
- McHenry Co., 2<sup>nd</sup> installment taxes (due 9/5/13)
- SWWRPC, 2012 Quarters 1 & 2

Gene Gray gave the Treasurer's Report and told the Commission there had been a late fee for McHenry County tax payment because the Commission did not meet in June and no one realized the due date would be before the next meeting. He also explained that the SWWRPC Q1/Q2, 2012 check was due to changes in personnel and proposed that the Commission be billed quarterly, as well as establish a policy of Jim Matzinger paying bills as they come due to prevent the penalty check issue with approval for any such bills to be done at the next scheduled meeting. Karl Nilson explained to new Commissioner Dick Mace how Matzinger worked with the Commission and agreed with the suggestion of the process for the Treasurer and Accountant to pay in case of a missed meeting.

- *Motion to approve the Treasurer's Report and payment of bills – Anderson/Scallon, Passed Unanimously*
- *Motion to approve payment of bills in the normal course of business and time sensitive manner to avoid penalties, Scallon/Mace, Passed Unanimously*

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

- Update on Monthly Maintenance Activities
- Update on Capital Projects
- Update on Business Development
- Other continuing issues/topics

Ken Lucht introduced Roger Schaalma who is replacing Ben Meighan. He said the rail detector was out and working in WRRTC territory as well as the brush cutter. On the Prairie sub he said they were very busy trying to find capacity between Avoca and Prairie du Chien, noting that a passing siding was being looked at (passing tracks as well as loading tracks). He said that as of this morning (8/9/13) WSOR was going to bid on the Wauzeka Bridge over the Kickapoo River. Schaalma spoke about this bridge's needs, including more water capacity, which would require raising the bridge. Lucht spoke of the new hires WSOR has made, referencing his comments from the July meeting. These new hires were a result of lack of service to customers and Watco decided that there needed to be more capacity. Lucht said that about half were local hires. He said that possibly there would be more hires in the 4<sup>th</sup> quarter. Schaalma spoke about the flooding damage on the Prairie sub and the corrections needed on that line. Bill Ladewig asked if WSOR would have to buy land for the possible siding, and Lucht said not for this one but perhaps in the future. Lucht then discussed the possibilities for WSOR buying land for a siding versus WRRTC buying it. Alan Anderson asked about the cost of the Wauzeka Bridge. Bob Scallon asked about the siding location on the Prairie sub but Lucht said the sight had not yet been identified, but added that it was proposed to be 8500' and there were not many places where this would be possible.

**11.        Presentation / Consideration / Possible Action – WSOR's 5-year Capital Plan – Ken Lucht, WSOR**

Lucht distributed a handout listing the projects for the WRRTC 5-year Capital Plan. He showed a power-point outlining the plan, noting specifics for each project. He said that the 5-year Capital Plan development began when WSOR was acquired by Watco. He said that WSOR would continue to rely on state dollars for public rail infrastructure. He also emphasized that they would continue with the private/public partnership that has endured for over 30 years. Using a map, he pointed out the WSOR sub system, telling the group to ask questions if need be. Sub by sub, Lucht described the different needs and projects per subdivision. Mace asked about the possibility of the purchase of the Reedsburg line and Lucht said that WDOT was in negotiations to do so and that WDOT personnel at the meeting would speak to that.

The power-point showed capital expenditures and Lucht emphasized that the information shown was for capital projects, not routine maintenance. The overall cost of the plan was \$185M with 20% contributed by WSOR and 80% from the State, with third party contributions at \$4.4 M. Lucht walked the group through the total costs for growth projects (\$61M) with carryover projects amounting to \$9.7M. He said that WSOR was assuming the growth and maintenance projects would lead to Class 2 rails for all projects. He reiterated that this plan had been written in recognition that they could only plan with today's information and could not know projects that might come up from unforeseen event. Mace asked about bridge management and bridge inspection. Schaalma explained the ongoing bridge inspection process.

Sub by sub, Lucht explained the specific projects. Projects including new ties, new crossings, bridges, surfacing, switches, etc. He said the primary cost for projects for Continuous Welded Rail (CWR) was high. Schaalma spoke about the work currently underway on the Fox Lake Sub, saying there were 5 bridges going into engineering at this time. Lucht said bridge replacements had been scheduled in Illinois, none of which were eligible for state or WRRTC contributions and would be paid entirely by WSOR. Nilson explained that all the Illinois ROW is owned by the WRRTC, not the State.

Lucht said in 2013 he had asked that the WRRTC contribution be dedicated to CWR. He said the Capital Plan listed the WRRTC as contributor to CWR projects.

Madison sub: Lucht said it had all new rail, with some bridges and surfacing work remaining. Schaalma said the bridge work was scheduled to be completed by the end of September and thus close out the project. He added that there was some more bridge work and surfacing work within the 5 year plan to maintain what had been put in. Mace asked about the train that had stopped traffic in Madison earlier in the summer and whether a radio controlled switch would address this problem and Schaalma said it would. Lucht said WSOR was trying to plan for the Commission to tour the Madison sub either this fall or next spring.

Oregon sub: Lucht talked about the reinstatement of service to serve a concrete manufacturer in Oregon that was required to use rail for shipping. He said the municipalities had turned over operating authority in order to expedite this project but it would probably be next spring before that track would be operational.

Prairie sub: Lucht said it is the longest sub WSOR has and that business in the last five years had gone up dramatically with grain, lumber, sand and gravel, and some plastics with the result that this sub had developed into a mainline with a growing customer base. He noted that a couple of major bridges are on this track that WSOR was watching for needed repair and maintenance. In view of long term capacity it could lead to possible land acquisition. New ballast, CWR, and new ties were all in the offing and would help make this sub a strong class 2 status. He said if the TIGER VI grant came thru, that would greatly help in funding. Scallon asked about the Woodman Bridge. Schaalma said there was some work ongoing on two Woodman bridges. Mace asked if it were possible to raise bridges or get the track out of the 100 yr flood plain. Schallma said that some bridges could be raised (as in Wauzeka) but there was general consensus that moving the tracks out of the floodplain would not be possible.

Reedsburg sub: Lucht said the biggest cost was the possible acquisition which they estimated as \$35M with \$2M estimated as a local match, based on some inferences of local land values and UP's infrastructure value, adding that those amounts were "guesstimates". He also said that in 2016 there was capital expected to go into the Merrimac Bridge to extend its life another 10 years. He said this was good news for Sauk and Dane counties since customers in those counties depended on that line.

Sauk sub: there was no capital plans on this sub because there were no customers but Lucht said WSOR would continue to market on that line.

Watertown sub: Lucht said that line had not received any state funding since acquisition. He said currently it was below Class 1 status and currently they were doing some tie replacement and bridge repairs. He said CWR was not scheduled since the market did not warrant it. The intention was to get it to Class 2 status so train speeds could go up.

Waukesha sub: Lucht said there was some concern about this sub due to high traffic, track speeds, and tie conditions which were creating some inefficiencies. He said there was a pending grant application on this project which would be mostly rail and some bridge work (carryover). He said this would require new switches. Forrest Van Schwartz said that WRRTC owned 2.5 miles of track through Waukesha and it was all CWR. Schaalma said a track resurfacers had been installed to protect the CWR investment.

Anderson asked about the amount of state funds received and how would that affect the projects if the TIGER VI grant did not come through. Lucht said the Capital Plan was not developed based on funding.

John Miller asked what sort of revenue had been collected via Merrimac and was told that traffic was up as was revenue. Anderson said Sauk County (Pink Lady RTC) would be doing an economic study this fall to show revenues.

Nilson called a break at 11:09 AM

Meeting was reconvened at 11:19 AM (Roger Schaalma left during the break.)

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

Frank Huntington gave his report and said that negotiations were continuing with UP on price for the Reedsburg line. He said was a sizeable amount of money available for acquisition and projects. He talked about other projects currently ongoing in the State, including track replacements, engineering for potential projects, and line rehabilitation. He said there were a number of carryover projects finishing up and a lot of bridge projects statewide (around 60) which was work for the next few years.

Mace asked questions about the Sheboygan Falls project and there was discussion about various lines near SheyboGAN and their status. Kim Tollers said that one of the tracks in Sheboygan had become a trail. Ladewig asked about project costs and how they were applied but Huntington said they were holding off on awards until the Reedsburg acquisition was closer to completion. He said after the Reedsburg line WDOT would reevaluate priorities.

Terry Thomas asked how many RTC's Huntington worked with in the state and was told there were about either and that WDOT tried to work with all of them. Vern Lewison asked about the Mineral Point to Monroe line and ownership and was told it was a Rails-to-Trails corridor.

**13. WRRTC Administrator's Report – Mary Penn, WRRTC Admin.**

Penn reiterated the reason behind the first tax installment to McHenry County being late. She then said she had gotten a WRRTC brochure/ newsletter from Ken Lucht that had been done by SWWRPC in 2004 and said she would be making it an agenda item for the next meeting to discuss the possibility of creating a new newsletter and if so, its timeline and audience. She told the Commission she would no longer be including adopted meeting minutes in meeting packets due to rising postage costs. Adopted meeting minutes would be available on the website but she noted that the website has been experiencing problems and she was trying to resolve them to get meeting information online in a timely manner. She said she had worked with Sauk County on meeting their budget request and schedule and thanked Dennis Polivka for volunteering to present the WRRTC's request to the Sauk County budget review body.

**14. Blivin Street Depot, Spring Grove, IL- Fuel Storage and Fence, Public Hearing update – Forrest Van Schwartz, Consultant**

Penn distributed Van Schwartz's Spring Grove Report he had written that described his visit to the public hearing in regard to a rezoning request on property adjoining WRRTC property. He said the planning and zoning board had developed a plat map and discovered substantial encroachment's that had been put in by the Milwaukee Road sometime in the past of which no documentation could be found and was probably done prior to the creation of the WRRTC. He said that the present fence had isolated the property from the ROW. As a result of Van Schwartz's conversation with the village, the petitioner will erect a fence on their own property to protect their investment. This would also isolate the petitioner's propane storage tanks from the ROW. Van Schwartz said that he would like to get the old fence removed sometime in the future and had talked to WSOR about the possibility of them removing it. Van Schwartz said he had re-sent a message to the petitioner, cautioning them not reenter the property and not to take down the fence. He said that in the past there had been issues between the WRRTC and the Village but he was happy to report that the Village has been very good to work with and that Fish Hatchery Road has been completed and that issue nicely resolved. All the communications had been recorded and were on the record. Nilson thanked him for his efforts and said that since Eileen was not able to advocate for the WRRTC in Illinois, it was good that Van Schwartz was willing to go and advocate on the RTC's behalf. Mace asked about the distance of propane tanks from the ROW and Forrest said that Illinois had no required setback for freight rail but the current location of the tanks was far enough back to protect the track. Ladewig asked if a motion was needed to get rid of the fence but Nilson said it was a maintenance issue.

**15. Encroachment and Corridor Sharing policy development – Karl Nilson, WRRTC**

Penn distributed a list of proposed line share projects. Nilson explained the background of the issue, particularly trespassing issues that have developed over time. He asked Frank Huntington to give some background on this issue, adding that previous issues with track encroachment had sponsored this discussion, as railroads are an attractive nuisance.

Lucht spoke about trespassers and the fact that railroad corridors are for trains. He said that in the last couple of years there have been many proposals by municipalities and he anticipated there would be a lot more new proposals coming to the Commission in the future. He gave some examples of trespassing WSOR has experienced and said as more people move along the corridor, the more trespassing incidents would occur. He said exposure to damages, liability, future capacity, and safety are the paramount considerations when

working on possible encroachment proposals. He said the fact that more federal money for pedestrian transportation projects was available might be behind the number of upcoming proposals. There was a great deal of discussion about the issue. The issue of assumed liability on the part of the railroad and the lack on the part of the City of Madison to post or fence the railroad was brought up. There also were comments about the public’s perception that railroad are public parks. Chris James made a point of the linear corridors available to the County and said that a one-size-fits all policy from the WRRTC would not work and hoped that there would be flexibility in any potential policy. He also talked about the Recreational Immunity Act (RIA) and that it was state law which covered accidents on trails or other recreational locations. He said he believed and hoped that the railroads could incorporate the RIA into a policy. Mace said that perhaps the legislation should be asked to adjust the RIA to cover railroads. Huntington said that the RIA could be changed but if it were done it would perhaps open the Commission to more suits, issues, and legal fees. He also noted that outside of 33’ of centerline the State could act without the WRRTC’s approval. When a proposal was within the 33”ROW, WDOT and WRRTC acted in concert. He here might be more exposure if a policy would be written to make exceptions. He said in the past each proposal had been addressed on a case-by-case basis, but most of the cases had been bridges and in most cases fencing has been done. He said this had not always been cheap. In the case of rail corridors becoming trails, many proposals costs had been born by trail organizations and gave some examples of successful trails working together with the railroad. From WDOTs perspective, Huntington said there were both pros and cons to share proposals. Overall what had been handled so far had been well handled and were not easy processes. Huntington credited WSOR with their willingness to cooperate in the past and said it had been a good partner with the results of good public service and good public transportation. He said WDOT was doing everything it could to protect the corridor. Alan Anderson asked if there were any other states with public corridors that were farther along with this issue and if the RTC could look at those examples. Nilson said they would come up with a set of criteria to apply in each case. Ladewig asked about indemnification and said if there were lots of exceptions, indemnification would “go out the window”. He suggested there not be any allowances within the 33’. Huntington said in some parts of the railroad the ROW was not 33’: in some cases it was less and in other cases (e.g. bridges, historical buildings, century-old- trees, safety issues) encroachment had been the only solution. Lucht asked what the definition of a pinch point was and commended WDOT for considering WSOR when proposals like this came up. He said the case by case basis was good but now the proposals were evolving to create “pinch points within a pinch point” situations. In the past, he said, most of the proposals were single points but now there were more and this was disturbing. He recommended the definitions be “ironed out”. He said if the Goodman path was approved in its entirety it would establish a disturbing precedent. Van Schwartz asked where would the proposals end. Nilson said this would be on the September agenda and said that the railroad needed to be a railroad.

**16. Action Item. Adjournment**

- Motion to adjourn at 12:08 PM – *Ladewig/Cornford, Passed Unanimously*