

WRRTC APRIL 7, 2023 MEETING MINUTES – APPROVED 5/5/2023

**Wisconsin River Rail Transit Commission
Commission Meeting – Friday, April 7, 2023, at 10:00 am
Hill Farms State Office Building – Madison, WI**

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

Crawford	Carl Orr, <i>2nd Vice-Chair</i>	X	Jefferson	Mary Roberts	<i>Absent</i>
	Mark Gilberts	X		John Kannard, <i>Vice-Secretary</i>	X
	Tom Cornford	X		Kathy Bahner	X
				Jeff Smith, <i>Alternate</i>	X
Dane	Kevin Potter	X	Rock	Russ Podzilni	X
	Jeff Huttenburg, <i>Treasurer</i>	X		Tom Brien	X
	Jim Bolitho	<i>Excused</i>		Alan Sweeney, <i>Chair</i>	X
Grant	Gary Ranum	X	Sauk	Brian Peper	<i>10:13 am</i>
	Mike Lieurance	X		Gaile Burchill, <i>2nd Vice-Treasurer</i>	X
	Robert Scallon, <i>1st Vice-Chair</i>	<i>10:25am</i>		Marty Krueger	X
				Tim McCumber, <i>Alternate</i>	X
Green	Harvey Kubly, <i>1st Vice-Treasurer</i>	<i>Excused</i>	Walworth	Al Stanek	<i>Absent</i>
	Todd Larson	X		Richard Kuhnke, <i>2nd Vice-Secretary</i>	<i>Excused</i>
	Kurt Schafer	X		Allan Polyock	X
Iowa	Charles Anderson, <i>Secretary</i>	X	Waukesha	Dick Mace, <i>3rd Vice-Treasurer</i>	X
	Kate Reimann	X		Richard Morris	X
	Kevin Peterson	<i>Absent</i>		Karl Nilson	<i>Excused</i>

Others present for all or some of the meeting:

<ul style="list-style-type: none"> • Misty Molzof, SWWRPC • Eileen Brownlee, Boardman & Clark • Ken Lucht, WSOR. 	<ul style="list-style-type: none"> • Lisa Stern, WisDOT • Don Vruwink, Commissioner of Railroads • Heather Graves, Legislative Policy Analyst of Commissioner of Railroads
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3. Action Item. **Certification of Meeting’s Public Notice** – *Noticed by Molzof.*
 - *Motion to approve meeting’s public notice – Pace/Orr. Passed Unanimously.*
4. Action Item. **Approval of Agenda** – *Prepared by Molzof.*
 - *Motion to approve the agenda. Polyock/Kanard. – Passed Unanimously.*
5. Action Item. **Approval of draft March 10 Meeting Minutes** – *Prepared by Molzof.*
 - *Motion to approve the March 10 minutes with minor editorial corrections as recommended by Mace as sent out on April 6, 2023 to Commissioners. Mace/Cornford. Passed Unanimously.*

6. Updates. **Public Comment** – *Time for public comment may be limited by the Chair.*
Sweeney introduced State of Wisconsin Commissioner of Railroads, Don Vruwink, and Legislative Policy Analyst, Heather Graves. Vruwink stated that he has long been a rail advocate, especially safety related. The current shortage of inspectors resulting in too few inspections needs to be improved. Vruwink is looking forward to working with the Commission and continuing this partnership.

7. Updates. **Announcements by Commissioners - None.**

REPORTS & COMMISSION BUSINESS

8. WRRTC Financial Report – *Huttenburg, Treasurer*

There were no disbursements or receipts in February, 2023; however, we have received all county funds this year. Interest rates are increasing; therefore, we are earning more interest income on our accounts than in the past couple of years. Bills for approval: SWWRPC, 1st Qtr 2023, in the amount of \$7,777.50. Larson questioned the negative amount on the financials, and Huttenburg explained that in this case, negative is good, it means “net profit” or we are ahead. It is important to note that the Merrimac Bridge

bills will be coming in soon, and we will start seeing our reserves decrease. Huttenburg will bring back a preliminary budget for the May, 2023 meeting, for final discussion in June, and adoption in July.

- o *Motion to approve the Treasurer's Report and payment of the bill to SWWRPC in the amount of \$7,777.50. Anderson/Burchill. Passed Unanimously.*

9. Wisconsin & Southern Railroad's Report on Operations – Lucht, WSOR

Lucht stated that as of the March 27 Merrimac Bridge update, Michels is moving forward, there are 11 spans of phase 3 project steel in production, we have access to the lake, and all seems to be coming together. Lucht stated that the 2025 schedule is incomplete at this time; however, we will know more in the next 6-8 months. There will be a Pink Lady RTC meeting at the Merrimac Bridge on August 8, and an opportunity to tour and meet with the contractor. All Commissioners and staff are invited to attend. Current projects include: notification of Sauk County customers of pending construction project, Bridge #368 on the south side of Baraboo is at 286 standards, the Prairie Sub work ended in a jointed rail project between Prairie du Chien and Wauzeka, it has been a struggle to get Union Pacific engaged in conversations regarding the Janesville Bridges and the two options on the table which include 1. Allow us to rehabilitate their bridges, or 2. Let us purchase and rehabilitate them. WSOR is in the process of hiring a contractor and firming up the spring maintenance schedule which includes weed spraying and brush control. There are a number of trespass issues that WSOR is working on and include: 3 locations in Sun Prairie, 2 of which are resolved and 1 is pending; 2 locations in McFarland, 1 is resolved and 1 is pending; North Freedom, past issue that was resolved has resurfaced again; Popenhagen property in IL, WSOR removed 3 at-grade crossings and have staged rail cars to block the trespassing. Discussion pertaining to steel prices and the difference in welded and jointed rail was held. Lucht gave a briefing on rail classifications based upon condition: "out-of-service" means no trains allowed due to the condition of the rail and the poor tie base; "accepted track" allows trains up to 5 mph and someone on the ground watching and monitoring movement"; "Class I" allows trains up to 10 mph, "Class II" can handle trains up to 25 mph and is the standard for short lines, and "Class III" is for trains up to 40 mph; "Class IV" is intercontinental going across America at 55 mph and 1,000 miles per day; and "Class V" and above is usually passenger with concrete ties. WSOR usually builds to Class II standards, maintains a crew of at least 2, keeping in mind that doesn't necessarily mean they are both in the cab. Anderson asked about Sauk Trail track removal, and Lucht replied that WSOR filed the discontinuation on March 10 from Sauk City to milepost 4.72, and carrier rights will automatically be discontinued as of May 10, after which, the track will be able to be removed. Peper asked Lucht to discuss derailments, specifically, are there more derailments now than ever before, or is there just more coverage now. Lucht stated that number of derailments have not increased and there seems to be more coverage; WSOR has had no fatalities; however, the biggest threat is infrastructure, and WSOR has plans in place where the infrastructure is being inspected and replaced regularly. Scallon asked what is being moved through Boscobel and Lucht replied that it is primarily corn and grain; with some L.P., plastics, and steel.

10. WisDOT Report – Stern - WisDOT.

Stern reported that there will be a rail road real estate position posted next week. The Walking Iron Trail (South of Sauk City) documents were submitted on March 10 and the DNR will be taking responsibility for the property, Getty Road rail project will be underway this summer, and letters are going out to the farmers on either side to notify them to not plant or do any work in the summer of 2023 because we will be accessing the rail right-of-way, and the DOT would like to own the Janesville Bridges and work towards rehabilitation of them.

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

Molzof stated that Middleton Visitors Center asked about weed maintenance, and Lucht stated that they need a permit through WSOR and Wis DOT. Sweeney stated nothing required through WRRTC.

12. Private Rail Crossing Permit Applications

- o Greg Russell, 55683 Cedar Lane, Prairie du Chien, Crawford County, WI

Lucht stated there was an informal crossing that was previously used for hunting and fishing down in the swamp area, and was removed about 7 years ago because it was an illegal, unpermitted crossing. Cornford asked about liability insurance. Brownlee stated that for farm crossings, which are defined as crossings where property owner owns land on both sides of the track, the crossing will be used for private use, limited purposes, and not open to the public, no liability insurance is required by State Statutes. Huttenburg stated that there should be an operating procedure for how and why these are issued, which should include and Memorandum of Understanding (MOU) for indemnification. Huttenburg, Potter, Molzof, and Brownlee will work on a standardized application and operating procedure for future reference. Questions on application will include: do you own land on both sides of rail? Is the use private and limited, or open to the public? And how often will the crossing be used? Lucht stated that federal and state standards need to be addressed for safety purposes, liability insurance and indemnification is critical to prevent damage to rail, there has to be a distribution of liability for negligence, and he would like to be included on discussions during the application and other form creation process. Brownlee stated that these laws have been in place for years, every state has them, and it is not legally sustainable to not allow farm crossings under law. Huttenburg stated that if the laws need to be changed, legislators need to be involved. Graves stated that while there is no jurisdiction over private crossings, railroads have the authority, silently, to require standards and insurance. Huttenburg stated that we would appreciate receiving standards from the State of WI.

- o *Motion to approve private rail crossing permit contingent upon signed MOU for Greg Russell, 55683 Cedar Lane, Prairie du Chien, Crawford County, WI. Huttenburg/Peper. Passed Unanimously.*

13. Memorandum of Understanding (MOU) for private rail and/or farm crossing permits –
No action or discussion, once permit application is approved, MOU is considered approved, and permit can be issued when MOU is received.

14. Applications / Permits to construct, operate, and maintain utility facilities

- o Spectrum Mid-America, LLC, Town of Union, Rock County. UG Directional Boring for telephone/communications.
- o *Motion to approve utility permit application for Spectrum Mid-America, LLC, Town of Union, Rock County. Mace/Orr. Passed Unanimously.*

15. Discussion on replacement of Bridge 259 over Troy Drive in the City of Madison, WI. –
Lisa Stern, WisDOT

Stern reported that the City of Madison brought before this Commission last year, information on replacing this bridge. Grants have now been awarded through the State, and the City of Madison officials are working through details with WSOR and WisDOT. There has been discussion on the best way to bring the Commission into the discussion and process. The city is paying for the bridge, WSOR is doing the design and requirements. Brownlee stated that the Commission owns the property and should be named in the grant agreement, and any other agreements or contracts and needs to take action on anything pertaining to this bridge. Stern stated that they have been discussing the best way to do this, through a lease, a contract, or something else, and will ensure that the loop is closed and all parties are involved as the paperwork process progresses. Lucht stated that since this project is out of the norm, it is imperative to ensure all parties are protected, the proposed language is not agreeable at this point, and the details are still being worked through. Brownlee stated that once the details are worked out, before any agreement is signed, she will review to ensure the WRRTC is protected.

16. Closed Session: Consideration of and action on possible motion to adjourn to closed session pursuant to Wis. Stat. Section 19.85(1)(g), which permits the Commission to convene in closed session for the purpose of conferring with legal counsel in rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, for the purpose of discussing the unauthorized use of Commission-owned property.

- o *Motion to Adjourn to closed session at 11:25 am. Mace/Orr. Passed Unanimously.*

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17. Open Session

- *Meeting reconvened in open session at 11:50 am.*

18. Possible Action on closed session matter.

- *None*

19. Adjournment.

- *Motion to Adjourn at 11:50 am. Peper/Polyock. Passed Unanimously.*
- Meeting adjourned at 11:50 am.*