

PECATONICA RAIL TRANSIT COMMISSION

20 S Court Street • PO Box 262 • Platteville, Wisconsin 53818

MEMBER COUNTIES: GREEN • IOWA • LAFAYETTE • ROCK

1:00 PM • Friday, October 28th, 2016 • Green Co. Courthouse, 2nd Floor Courtroom, 1016 16th Ave • Monroe, WI

1. 1:00 PM **Call to Order** – *Harvey Kubly, Chair*
2. Roll Call. **Establishment of Quorum** – *Mary Penn, Administrator*

Commissioners present for all or part of the meeting:

<i>Commissioner</i>		<i>Position</i>	<i>Present</i>			<i>Commissioner</i>	<i>Position</i>	<i>Present</i>
<i>Green</i>	<i>Harvey W. Kubly</i>	<i>Chair</i>	<i>x</i>	<i>Iowa</i>		<i>Charles Anderson</i>	<i>Secretary</i>	<i>x</i>
	<i>Oscar Olson</i>		<i>x</i>			<i>William G. Ladewig</i>		<i>x</i>
	<i>Ron Wolter</i>	<i>Treasurer</i>	<i>x</i>			<i>Philip Mrozinski</i>	<i>Vice-Secretary</i>	<i>excused</i>
<i>Lafayette</i>	<i>Leon Wolfe</i>		<i>x</i>	<i>Rock</i>		<i>Ben Coopman</i>	<i>Alternate</i>	
	<i>Larry Ludlum</i>		<i>absent</i>			<i>Wayne Gustina</i>		<i>x</i>
	<i>Gerald Heimann</i>	<i>Alternate</i>				<i>Alan Sweeney</i>	<i>1st Vice Chair</i>	<i>x</i>
	<i>Ted Weigel</i>		<i>x</i>			<i>Terry Thomas</i>	<i>2nd Vice Chair</i>	<i>excused</i>

Commission achieved quorum.

Other present for all or some of the meeting:

- ☐ Mary Penn, SWWRPC
 - ☐ Kim Tollers, WDOT
 - ☐ Eileen Brownlee, Corp Counsel
 - ☐ Ken Lucht, Roger Schaalma, WSOR
 - ☐ Jeff Wunschel, Green County Hwy Dept.
 - ☐ Harvey Mandel, Chair, Town of Jefferson
 - ☐ Nathan Hartwig, Chair, Town of Clarno
 - ☐ Lyle Sampson, Town of Clarno

3. Action Item. **Certification of Meeting's Public Notice** – *Noticed by Penn*
 - *Motion to approve certification of public meeting – Ladewig/Anderson, Passed Unanimously*

4. Action Item. **Approval of Agenda – Prepared by Penn**
- *Motion to approve agenda – Sweeney/Anderson, PA*

Ladewig asked about removing item 14 as it seem redundant. Mary Penn explained that she had not known whether or not item 13 would address item 14 and therefore had kept it on the agenda.

5. Action Item. **Approval of draft July 2016 Minutes – Prepared by Penn**
- *Motion to approve draft July 2016 minutes – Ladewig/Sweeney, Passed Unanimously*

Charles Anderson pointed out a spelling correction. In reference to an unclear reference on page 3 in regard to item 13 on the 5 Corner Bridge issue, Penn asked the Commission if any present could clarify the meaning. No one responded so the sentence remained as written.

6. Updates. **Public Comment – Time for public comment may be limited by the Chair** there were no public comments.

7. Updates. **Correspondence & Communications –Discussion may be limited by the Chair**
- Penn listed the correspondence she had dealt with since the last meeting, including sending the invoice for the Burbach lease to Becky Burbach, with copy to Ron Wolter.

REPORTS & COMMISSION BUSINESS

8. **PRTC Treasurer's Report and Payment of Bills – Ron Wolter, PRTC Treasurer**
- Ron Wolter gave the TR to the Commission and listed the bills to be paid

- *Motion to approve the Treasurer's Report and payment of bills – Ladewig/Anderson, Passed Unanimously*

9. **WSOR Operation's Report – WSOR**

Ken Lucht said that everything in his usual report was already broken out within the agenda so he did not have a WSOR report per se. He then introduced Roger Schaalma to the Commission, saying that Schaalma would be presenting to them.

10. **WisDOT Report – Staff may include Kim Tollers, Rich Kedzior**

Kim Tollers reminded the Commission that the WisDOT Freight Rail Conference would be Tuesday, Nov. 15th. She said attendees could register at the door on the day of the conference.

11. **PRTC Administrator's Report –Mary Penn, PRTC Admin.**

Penn reported that the Commission could anticipate an agenda item at a future meeting dealing with a bridge issue in Lafayette County and the Town of Wayne on Tuller Road. She said she had had communication with both Tom Jean, Lafayette County Highway Supervisor and the landowner on the issue. She did not want to get into details but told the Commission to be prepared to deliberate on the issue at perhaps the January meeting.

She also reported on the findings of the 2015 audit by Johnson Block. Referring to her correspondence, she said she had had a conversation with Kubly on the advisability of the Commission doing a formal motion in approving the audit. She had forwarded the question to Eileen Brownlee for her review who researched the question and suggested that the Commission acknowledge the receipt of the audit, rather than approving it. Penn said the findings of the audit were minimal. The audit found that once again the small size of the staff in dealing with financial matters and the weakness of the Commission's internal control could lead to financial statements mishaps.

Lastly, she handed out the draft 2017 meeting schedule to determine the best day for the May 2017 meeting. It was determined that the third Friday of May would be suitable for the May '17 meeting.

12. Tri-County Trail Commission Report – *Presenters may include Leon Wolfe, Ted Weigel*

Ted Weigel said the TCTC had graded the trail right before Labor Day and it was in its best shape ever. Other than that, there was not that much going on. Leon Wolfe said there was a farmer crossing the trail but it was not an established trail and only to access his fields. When asked, Wolfe said they had not addressed encroachments at this point and did not want to try to enforce at this time. He noted that there was less maintenance along the trail with crops, rather than trees and brush.

13. Update, Discussion, and Possible Action on 5 Corner Bridge – *Jeff Wunschel, Green County Highway Dept.*

Jeff Wunschel presented the draft bridge funding agreement which outlined the cost sharing between the towns, the County, and WSOR, saying they were getting close to an agreement.

Ladewig asked Brownlee about the language in the agreement stating that the PRTC owned the bridge and asked if that would be a problem. Brownlee said whether it was a problem was still unknown but the PRTC was not a signatory to this particular agreement. Alan Sweeney asked when the towns would assume ownership of the bridge. Wunschel said they would take ownership once the project was completed. Wunschel then read the town resolutions, both Jefferson's and Clarno's, to the Commission which stipulates they will jointly own the bridge once completed.

Ladewig asked if a quit claim deed was required. Brownlee said she had put together a Bill of Sale and they were still looking for a deed that could be attached to the real estate. Kim Tollers asked if the project surveyor could do a survey and if this would be recordable. Brownlee agreed that some relocation descriptions were pretty poor and she did not know if those would work in other contexts in describing a parcel. Tollers asked if they could get metes and bounds. Wunschel said he thought Jewell could get that. Tollers recommended something to describe the property. Ladewig asked if they needed to have a future agenda item to agree to the Bill of Sale in January or May at the latest. Penn said she would have it on the next agenda.

14. Discussion and Possible Action on Town of Jefferson and Town of Clarno Resolutions in regard to the 5 Corner Bridge – *Mary Penn, Admin.*

Kubly said no discussion was necessary as Item 13 had addressed item 14.

15. Discussion and Possible Action on WSOR's 2015 and 2016 Maintenance Plan – WSOR

Ken Lucht introduced Roger Schaalma to present the 2015 and 2016 Maintenance Plan, including WSOR's entire system, including the Monroe sub. Lucht said WSOR had a good relationship with WisDOT in improving track and bridges from current standards to the new standards and said lots of WSOR's maintenance and cap planning was based on the new standards (Class 2, 286,000 lbs.) for bridge and rails.

Schaalma distributed a handout which outlined the work done in 2015 and the planned work for 2016. He said the handout showed the quantities of work and materials done and used including bridge projects, crossings, and maintenance. He noted the big projects done and then the break out for Wisconsin River Rail Transit Commission (WRRTC), the East Wisconsin Counties Rail Consortium (EWCRC), and the Monroe Sub, highlighting the latest crossing projects on the Monroe sub. He also spoke about the amount of money spent both on projects, grant funds received, and WSOR's own contributions, saying WSOR did a lot of non-capital project work, maintenance in particular.

Schaalma said next year WSOR wanted to finish the Watertown sub project, the continuous welded rail (CWR) in on the island in Prairie du Chien, work on the Prairie sub, and updating the Waukesha sub with CWR. Anticipated work on the entire network, included small bridge repair and some grade crossings on the Monroe sub. Also, WSOR was working to update all its bridges to the new specifications (Class 2, 286,000 lbs.). He said there were eight bridges on the Monroe sub to get to the new standards.

Ron Wolter asked about the crossings on west 3rd street in Brodhead. Schaalma said east 3rd in Brodhead was a project for next year. Wolter reminded him that east 3rd was already done. Schaalma corrected himself.

16. Discussion and Possible Action on 2016 Capital Plan – WSOR

Ken Lucht distributed two handouts, one the capital plan, one of which showed 2015 traffic flow on the sub. He said WisDOT had awarded four projects to WSOR in September: one was the Merrimac Bridge awards, another an award to replace nine bridges on the Reedsburg sub, another for a rail replacement project on the northern division and a fourth for a \$7.5M grant to replace jointed rail with CWR on the Fox Lake sub.

Lucht spoke about the Fox Lake sub project, noting that over half of their carloads were locally produced grain and aggregate. He referred to the economic study done two years ago and highlighted its summary points. Lucht then shared a map to show WSOR's capital project locations and those that had occurred over the past couple of years. He said these projects had concentrated on improving WSOR's mainline corridors. He noted the CWR project in Walworth County, specifically the Fox Lake Sub, and also spoke about the upgrade of the Waukesha sub. Lucht pointed out the various subs affected by the cap project upgrades. He said that the Prairie sub had had 36,000 ties installed between Avoca and Wauzeka and a Phase 1 CWR project had been completed between Prairie and Wauzeka which would lead to more CWR projects. He reminded the Commission of the work completed on the Oregon sub and the sub up in Kohler, saying WSOR wanted to make sure their main arterials were in working order and safe.

Lucht also highlighted projects done by WSOR without public funding to improve capacity including shifting a mainline and creating a new 2000' siding for nearby customers in Darrien and a new rail/truck trans load facility on the Prairie sub in Prairie du Chien.

While referring to a map from 2012 showing the density of traffic on the system, Lucht listed the recent capital priorities both on the

WRRTC and the PRTC subs. In regard to bridges, he said WSOR had been involved in a number of bridge projects lately, such as the Spring Green Bridge. Lucht spoke about WSOR's collaboration with WisDOT on bridges, in particular the Merrimac Bridge which had had its rating reduced due to deterioration. He said the bridge would get a 40 year repair and the WRRTC was also dealing with bridge issues, particularly in Sauk City. He next gave some background on the Spring Green Bridge project, saying the awarded bid had been half of what was first estimated. Lucht spoke of the three bridges on the Fox Lake Sub, saying those bridges had had no funding from either Wisconsin or Illinois.

Sweeney asked about the Fox Lake sub ownership. Lucht explained that from Zenda, WI to Fox Lake, IL, the land and improvements were owned by the WRRTC: there was no ownership by the State of Wisconsin in the State of Illinois. He said that required flexibility in addressing improvements, saying the three bridges on the Fox Lake sub had been at risk of being taken out of service. He said the WRRTC had provided two years of funding to help make those bridge repairs and Lucht praised their commitment to rail service.

Aided by a map, Lucht pointed out some of the completed projects WSOR had accomplished in their service area, saying that WSOR had put together plans to show the Walworth to Zenda (Fox Lake Sub) CWR. This was a 12.9 mile long project, replacing 90 lb. rail with CWR, rebuilding two public crossings, 16 private farm crossings and three turnouts.

Lucht said he had a request for the Commission, noting WSOR had gotten a Freight Rail Preservation Project (FRPP) grant with a local match under \$1.9M and outlined how much WRRTC and PRTC would be asked to contribute. As it sat today, it would require two years of funding from PRTC of \$50,000.00 in total and one year from WRRTC of \$250,000.00: these contributions would get WSOR up to the local match percentage needed. Referring to the 2015 traffic loads handout, Lucht justified the reason WSOR was asking the PRTC for this contribution as due to the fact that so much of the loads were shipped on the Fox Lake Sub to access the Chicago Rail Hub. He said WSOR was a regional transportation system and depended on everyone's help.

Sweeney made the motion and spoke of how this was truly a regional rail system and that it was essential that outbound infrastructure be maintained and improved based on local impacts to keep the local economy going.

- *Motion to accept the capital plan for 2016 and 2017 as presented, totaling \$50,000.00 – Sweeney/Ladewig, Passed Unanimously*

Ladewig asked how ties were disposed of. Lucht said WSOR chipped the ties and that they had to pay to dispose of the ties.

Schaalma said up until about a year ago, utilities were burning them. Lucht asked how much that cost. Schaalma said typically it was \$4-6 dollars to chip, based on location. Wolfe asked if the ties could be reused. Lucht said most of the ties crumbled when removed.

Charles Anderson asked if the PRTC had spent its \$26,500.00 county contribution already. Ron Wolter said it had been spent and the

\$26,500.00 for 2017 had just been submitted. He said in January of 2016 the PRTC had paid WSOR for work on County Hwy K in

Brodhead and that is where the 2016 contribution was used. Weigel said the Commission then needed the 2017 and 2018 contributions for this. Anderson said the Commission might have to take it from the bank account and asked if these were shovel ready projects. Lucht said WSOR hoped to have a grant agreement in place by January 2017 and then could put contracts out and hopefully by next year they could get going. Schaalma said because it was CWR, it would not be completed until 2018. Ladewig asked for clarification that the billing would be for 2017 and 2018. Lucht said the project contribution was \$50,000.00 and would be billed entirely in 2017. Ladewig confirmed the Commission would get the whole bill in 2017. Lucht concurred but said it would all be billed in January of 2017.

Oscar Olson asked for clarification on the length of the project. Lucht gave the timeline and said this was the last phase of the CWR project on the Fox Lake Sub. He also said he believed the January 2016 payment referred to by Wolter was for 2015 projects. Kubly confirmed that was so. Wolfe asked for the project's life expectancy. Lucht said the ties would last about 30-40 years; the rail was a 100 year investment.

- 17. Discussion and Possible Action on Letter to Governor regarding FRPP funding for 2017/2019 Biennial Budget** – WSOR Penn gave Kubly the support letter as supplied by WSOR. Lucht said the Secretary of Transportation had made his recommendation to the Governor. He said rail had been hit pretty hard in the proposed budget: only \$12M for Freight Rail projects, \$6M per year for the next biennium and a significant decrease from the last biennium of \$35M. He said some of the big bridge projects would easily eat up \$12M in a single year, adding that there had not been this low a level for at least 7 years and WSOR was concerned about such a drastic cut. Lucht said the State was reluctant to identify other transportation funding and in order for transportation to have a sustainable budget they needed a different model. Currently there was \$60M for project needed.

Lucht said in the past WSOR had coordinated with the Governor's Office and been successful in getting as high as \$60M but a big cut like this would delay projects. He spoke of the 3 "mega bridge" projects that needed work, particularly the Wauzeka Bridge. He also spoke of rail defects on other subs and said WSOR was going to identify some additional bonding to try to bring available funds up to

\$20M. Currently they were at \$35M but Lucht did not think they could get to that and felt that \$20M would be the "sweet spot" and hoped the Commission would support this letter requesting so to the Governor. He said WSOR was going to work very hard to complete their current projects in a timely manner.

Lucht added that the WRRTC had endorsed this at their last meeting. He also said he had spoken to the Governor's Office but it all came down to the State being willing to bond for public projects. To keep another \$8M in the bonding would hopefully be approved and he said the Governor should hear from the PRTC as supportive of this.

- *Motion to approve Letter to Governor – Anderson/Wolfe, Passed Unanimously*

- 18. Discussion and Possible Action on establishing a fee-per-mile on the Cheese Country Trail – Alan Sweeney**
19. Review and Discussion of Interim Trail Use/Rail Banking Agreement By and Between PRTC and TCTC – Charles Anderson

As Alan Sweeney explained how this issue came to be, Penn distributed a handout with proposed operational costs break outs.

Sweeney spoke of the Working Committee's efforts of trying to find an equitable way of funding the Commission and its necessary capital projects. He said the trail had a regional impact of \$50M so the Committee had decided to put a fee-per mile on the Cheese Country Trail on the floor with the intention that these fees would cover the operational costs of the PRTC. Sweeney said the Green County contribution went to the PRTC, with Iowa and Rock contributions went to the WRRTC. Therefore he proposed there be a fee of \$190/mile of the Cheese Country Trail. Ted Weigel said it would take WDNR money to pay the PRTC. Sweeney said it did not matter where it came from.

- *Motion to approve a fee of \$190 per mile on the Cheese Country Trail – Sweeney/Anderson*

Weigel said if this passed it would come from the clubs and therefore the WDNR. He said the TCTC was putting about \$40,000.00 into the PRTC thru grooming, putting on gravel, and grading. He said this was just shifting money around. Leon Wolfe said this would not be coming out of Lafayette County. Weigel said the TCTC would pay \$4,000.00 if that is what it took but it would cut into the maintenance of the trail. Anderson asked about the trail fee, confirming that it was \$15 per unit per year and confirmed that it went to the WDNR. Weigel explained how it was paid with the WDNR paying \$700 per mile. He said Lafayette County was not getting any of that money. Wolfe said the money that showed up in the survey was throughout the County and three counties at that.

Anderson said there were many, many ATVers using the trail. Weigel said maybe it would be better if Lafayette County left the

PRTC, saying he did not know what good the County got out of it. Anderson spoke of the agreement between the TCTC and the PRTC and asked Brownlee speak to that. He also asked if this discussion could include the discussion of item 19 as they were intimately related. There was no objection to this.

Brownlee read a letter regarding the TCTC's lack of certification of insurance to the PRTC. She said the TCTC had been in default in its obligations for 20+ years, including the lack of insurance. She said there was a very specific requirement that insurance be provided to the PRTC in the Interim Trail Agreement between them and the TCTC. She said the PRTC had not seen that insurance in decades. She said she thought the Commission got its own insurance but the TCTC did not supply required information. Brownlee said Penn had had communication with the TCTC on this issue. Brownlee said when signing a contract "you either do or do not do what it says". To her it was a duty of the TCTC to supply that insurance and as far as she could see it had been a "20 year tap dance". Brownlee also pointed out that all the counties

in the PRTC signed a charter and all of them agreed to pay their share as far as the cost of the Commission's operation costs. Saying that the County did not have rail anymore was not a compelling argument.

Ladewig said the situation was either closing the trail down or finding a solution. Weigel said the only expenses they had were taken care of by their own County. Brownlee pointed out that she was talking about the charter. There was discussion about the ramifications if Lafayette withdrew from the PRTC. Sweeney said Lafayette County was a valuable member to the PRTC and it was not in the best interest to the Commission to have Lafayette County leave the Commission. Taking the percent of mileage of miles in Lafayette County and looking at the study done by UW-Extension, 72.8% of the trail mileage was in that County. If that percentage went to Lafayette County then all the tax payers paid a percent to the County which provided goods and services. The PRTC provided the services for legal and operational costs and it lay with Lafayette County to come up with a solution. It was unsustainable to have no contribution from Lafayette to the PRTC. Ladewig said the alternative was going to court but he did not recommend that but the alternative to close the trail down was available. He did not know any other way: he was not going after the TCTC.

Sweeney said the trail had a regional impact and closing the trail was not the answer because that would affect other counties as well.

He said they needed to work with Lafayette County to find a solution. The Commission was not asking just for operational costs.

Oscar Olson said a couple years ago when the working committee began, they had never heard how many miles of track were in Rock County and how much money they contributed to, based on miles. Sweeney said the rail infrastructure had a regional impact and you could not just measure track miles. He said it was not equitable to have no contribution and then expect services from the

Commission. Ladewig asked if a representative from the WDNR could come and talk to the Commission. Kubly said the real issue was with Lafayette County, not the WDNR. Ladewig said the Commission needed someone who had the authority to talk to the Commission. Wolfe said an option was to go back to the TCTC and see if they could come up with some funds. Putting a fence up at the county line was not a realistic option. Tollers said the WDNR was just an administrator and they had no authority over the trail use/maintenance: that was an agreement between the Commission and the TCTC. Anderson said he had heard that the TCTC could deal with this issue. Wolfe said \$4,000.00 was a much more reasonable fee than \$26,500.00 and they need to take a look at options. Anderson spoke of the high traffic the trail generated. Sweeney asked Kubly if Lafayette County could come back with a solution he would withdraw his motion. Wolfe said he would like to invite Kubly or another representative to come to the TCTC meeting to justify what the Commission did for them. Kubly said at some point in the past he had spoken to Jack Sauer inviting him to a Commission meeting and never showed up. Sauer had also gotten a letter of invitation to a meeting but never showed up. Kubly said the charter stated that every County shared in the operation of it. This was what Sweeney had attempted to do here: not a contribution for rail but a contribution to the Commission to defray the costs of running the Commission and without a Commission there would not be any trail. The Commission came first and then came the trail. Anderson said not only that, but this Commission had gone to bat for the Trail Commission when there had been the question of the trail coming out and rail going in. Wolfe agreed and said that was why they had done the survey in the first place. Ladewig said if this went to court, he would assume they would be suing for ongoing contributions but

also all past contributions and if they could come up with a solution it would be so much better. Anderson suggested the Lafayette County representatives could come to a TCTC meeting if they would not come to a Commission meeting. Wolfe said they could work on that and that he would make sure he and Weigel would work with the TCTC to get this item on their agenda and he thought they could come up with a plan.

Kubly asked if Sweeney was satisfied with this suggestion. Sweeney related his prior experience with Lafayette County on this issue and how he was chastised severely for even asking back in 2014. He said he would like to see a representative of Green County in the negotiations and suggested the Chair would be good for that. If all the parties agreed to talk about this and return in January with a solution, he would withdraw his motion. Weigel and Wolfe agreed. Sweeney withdrew his motion. Anderson withdrew his second.

Kubly thanked Sweeney for his efforts. Wolfe asked Sweeney who he had met with in 2014. Wolfe said he thought the responsibility lay with the TCTC to get the issue resolved.

20. Discussion and Possible Action of 2015 draft audit – Mary Penn, Administrator

Penn said she had spoken with Kubly about the advisability of the Commission approving the audit. She said she had also communicated with Brownlee on the issue with the result that Penn and Brownlee recommended the Commission acknowledge the receipt of the audit, rather than approve it. She then highlighted the recommendations from the auditor based on the two conditions found by them. Penn said they were the same two conditions noted each year which were based on the fact that the staff dealing with the Commission was so very small, only herself and Ron Wolter. She then gave the representation letter to Kubly for his signature

- *Motion to acknowledge receipt of 2015 audit and its review by the Commission – Ladewig/Weigel, Passed Unanimously*

21. Adjournment

- *Motion to adjourn at 2:42 PM – Gustina/Olson, PA*