

CORRECTED MEETING MINUTES
SOUTH CENTRAL WISCONSIN RAIL TRANSIT COMMISSION
12 December 2003
Dane County Transportation Building | Madison, Wisconsin

CALL TO ORDER/ROLL CALL: Chairman Hoesly called the meeting to order at 2:06 p.m.

Commissioners: Fred Bartol – absent; Bob Hoesly – present; Harvey Kubly – present; Judy Olson – present; Oscar Olson – present; Paul Ziehli – present;

Others Present: Frank Huntington and Vicki Schaefer, WisDOT Bureau of Rails & Harbors; Roger Larson, WisDOT District 1; Eileen Brownlee, SCWRPC attorney; Dana White-Quam and Greg Pittz, WDNR; Joni Herren, SWWRPC; Ken Lucht, WSOR.

PUBLIC NOTICE: Motion to accept that proper Public Notice was given for the meeting / Ziehli / J Olson / Motion passed unanimously.

AGENDA: Motion to approve the Agenda / Paul Ziehli requested that two items be added, related to 1) grant money, and 2) the records of the commission / J Olson / O Olson / Motion passed unanimously.

TREASURER’S REPORT: Harvey Kubly presented the report and explained that it reflected an erroneous deposit that had been made and was corrected. Motion to approve the Treasurer’s Report / Kubly / Ziehli / Motion passed unanimously.

Kubly presented bills which have come to the commission: 1) Johnson Block for \$580.00 (background work for the audit 1999-2002); 2) Eileen Brownlee/Kramer & Brownlee for \$419.82 (legal services performed); 3) \$60 for Treasurer’s Bond (for 2002 and 2003 / **Motion to approve and pay the bills, as presented / J Olson / Ziehli / Motion passed unanimously.**

Herren also submitted a \$4000 invoice from SWWRPC (for administrative staff services for 2003). **Motion to approve and pay the SWWRPC invoice as presented / Kubly / Oscar Olson / Motion passed unanimously.**

MINUTES: Motion to Approve the Minutes from the 11 March 2003 meeting, prepared by Ken Lucht (then with SWWRPC) / J Olson / O Olson / the Motion passed, with Ziehli voting No.

BADGER TRAILS UPDATE: Greg Pittz – DNR Property Supervisor, provided an update on the schedule for the Badger Trail including work on the bridge railing/decking in the spring; the Exeter Tunnel, which is deteriorating pretty fast; the signing has been approved; and brushing is almost complete (he noted that Fitchburg does not want brush piles left along trail and they are trying to deal with that. The DNR estimates that the project will cost \$900,000 since the engineering costs have gone up with some of the drainage issues. The ‘05-07 budget will have a one-time capital purchasing amount for equipment like mowers; to-date there is no allotment for the Badger Trail—they have the project money but no capital money for the development.

On another issue trail-related issue, they have been approached by the City of Monroe regarding the 8th St. Bridge, which needs work if there were to be rail use in the future. It is too low for current vehicular traffic needs. Monroe wants to remove it and they will contact WisDOT. Discussion ensued about the

provisions of the Rails-To-Trails program and Vicki Schaefer, WisDOT Railroad Property Specialist, explained that if the railroad were reestablished, the city would have to fund putting a bridge in. With regard to trail use, Pittz explained that the DNR is looking at what would be necessary to provide appropriate signage to ensure safety. Schaefer noted that if the city wants to pursue removal of the bridge, it would have to enter into an agreement with WisDOT that it would replace the bridge with a structure that would meet then-required standards for service. She asked attorney Eileen Brownlee if there should be a supplement to the actual three-party Rails-To-Trails agreement to reflect this, and Brownlee agreed that this would be required.

A subsequent question from Paul Ziehli related to history of the property transfer from WisDOT to DNR, related to salvage issues was, according to Frank Huntington, WisDOT, resolved but he was not sure how; Schaefer offered to follow up with regard to the status of the performance bond.

Herren said that she had received an inquiry from George Bellovics and also Steve Ehlbeck with questions related to the Illinois portion of the trail (the Jane Addams Trail). It was noted that the Illinois DNR could send someone to local groups, or to the Commission, to make a presentation or seek input if there's interest.

Kubly asked if the property been turned over to DNR, and Schaefer and Huntington affirmed that it has been.

BADGER TRAIL AGREEMENT & REQUEST FOR EXTENDED TERMS: The DNR officially requested an extension of the existing short-term 20-year contract to be able to procure funding for the actual development of the Badger Trail (see above). Dana White-Quam noted that they are three-to-four years into the 20 years specified in the agreement. They have been seeking federal funds, but have been told that the project would be more fundable if the agreement were for a longer term. Specifically, the federal funding program stipulates a minimum of 25 years or more to be eligible for the funds.

Eileen Brownlee was asked for her legal opinion and she explained that the Commission could legally elect to do a longer term than 20 years. She explained that originally the 20-year term was used in order to be consistent with the term allowed in the agreement with Illinois for their trail development. She explained that the agreement could be 25 or 30 years or perpetual, and that the issue is that if the corridor were to return to active rail, the Commission owns no other property and it could not replace the trail corridor; nor does it have a 3-party agreement with anyone else whereby it could replace the corridor with a trail. In absence of that, she asked how can the DNR represent that other property would be available in the event that this trail were closed?

White-Quam indicated that the DNR would be obligated to find suitable lands to replace the loss, if this corridor were to be returned to rail, and to ensure that other lands were dedicated to recreation. In response to questions, it was explained that the DNR could either buy new properties or put investment into existing property to meet this requirement. Brownlee and WisDOT staff noted that there is a one-year time frame for returning the trail-to-rail, were that provision to be exercised, and that this is an optimistic timeline. She explained that the Commission would want the DNR to provide written assurance that the Commission would have no financial liability or obligation if the DNR were required to return funds to the federal government in this event.

In discussion over the possible time frame for an extended timeline for the agreement, Schaefer suggested 25 years, 30 years if at all possible, but not necessarily perpetuity. DNR's White-Quam noted that in its funding criteria, LAWCON (the federal Land & water Conservation fund) references "25 years or more..." After considerable discussion about the timeframe, the responsibilities of the Commission to preserve the rail corridor, and concerns about possible conflicting priorities

Motion to Amend the existing trail Agreement between SCWRTC and the DNR, extending it an additional 12 years / Ziehli / Kubly / discussion about a longer term until the question was called / **the Motion passed with 4 Yes and 1 No; the Motion passed authorizing Brownlee to draft an Amendment for the DNR's legal review.** Judy Olson requested that if the DNR were to find that a longer-term agreement would be more likely to secure funding, the DNR should bring the issue back to the Commission.

OTHER BUSINESS: Brownlee reported on other property management issues, explaining that she had received a call from Steve Ehlbeck regarding the property in Illinois. His questions and Brownlee's responses are summarized below:

- 1) *Question:* Does commission carry any insurance? *Answer:* No, as of 2000 the Commission decided NOT to carry any and cancelled it.
- 2) *Question:* What liability that has been assumed by Illinois? *Answer:* "All of it." Although the Commission contemplated a federal Rails-To-Trails application, which was not pursued, its terms require that ALL liability be assumed, so that was the agreement, and that language was incorporated in language with the Illinois DNR "because everything meant everything" and now the question arises.
- 3) *Question:* What about Illinois taxes? *Answer:* They are responsible, if anyone is responsible, but not the Commission, because the parties in Illinois accepted these terms.

Brownlee said that she has never seen the Illinois DNR agreement with the Jane Addams trail, although they are required to provide it. "The agreements speak for themselves – everything means everything," she explained, noting "The Jane Addams needs to work with the Illinois DNR – not with us. Their agreement is with the Illinois DNR."

UNRESOLVED TAX ISSUES: Harvey Kubly explained that the tax bill for 2002 had been sent to Roberta Leidner and that he had updated this and provided the address of SWWRPC. Brownlee explained that she had written a letter to Steve Ehlbeck re the 2002 taxes (reference letter dated 13 June 2003). Huntington expressed concern about the possibility that the Illinois property could be repossessed because they have not resolved this issue in Illinois (reference letter dated 26 June 2003 from Eileen Brownlee). Herren provided recent e-mail correspondence from George Bellovics related to inquiries about possible Illinois purchase of the property.

After some discussion, Eileen Brownlee reiterated that she wants to see the IDNR and Jane Addams lease, noting that the Illinois parties have said they'd work on tax-exemption status and that they have an obligation. She affirmed that Frank's concerns are correct about not wanting this to be in tax limbo.

Motion that Brownlee proceed to try to clarify the tax issues related to the SCWRTC's property in Illinois. / Ziehli / J Olson / Hoesly requested that when she has information, Brownlee forward it to the Commissioners / prior to the vote, further discussion affirmed that it is the responsibility of the Illinois parties to resolve the tax issues / Ken Lucht, WSOR, added that there are four decrepit old buildings along the Illinois portion of the trail and that Steve Ehlbeck had stated that he was going to do a title search; they were clearly railroad buildings and Lucht wondered is the tax issues were somehow related to this property / **the Motion passed unanimously.**

WSOR UPDATE: Ken Lucht provided an update on current rail issues.

WisDOT UPDATE: Frank Huntington provided some background on the property sale in the **Village of Bosco**, in response to questions by Paul Ziehli. He explained that the property that was sold was outside

of the 50 feet of the center of the track, so the sale was within WisDOT's purview. Vicki Schaefer explained that they had reviewed it with DNR, with both agencies giving approval, and that SCWRTC retains a 100-foot corridor.

OTHER BUSINESS: Paul Ziehli asked about the location of **SCWRTC's records**. Kubly explained that when he had taken over as treasurer, there were not many records transferred to him. Dane County RPC had provided staff support and some of the records went to Mike Doyle, Green County Clerk. Lucht said that he had gotten these records from Doyle and that they were at SWWRPC.

Hoesly asked that it be noted for the record that these files are at SWWRPC and Eileen Brownlee explained that her office has some of the records too and that the originals are often there.

Kubly asked about the **election of officers** and it was determined that the next meeting of SCWRTC should include a scheduled election as well as an **audit report**. The Chair will determine the date for the next meeting.

MOTION TO ADJOURN / J Olson / Kubly / 3:45 p.m.

*Draft Minutes prepared by Joni Herren, Transportation Planner
Southwestern Wisconsin regional Planning Commission*

Joni Herren

Date

Judy Olson, SCWRTC Secretary

Date