

# South Central Wisconsin Rail Transit Commission

Quarterly Meeting at 1 p.m., Wednesday, 25 April 2007

Dane County Highway Garage, 2302 Fish Hatchery Road, Madison, WI

- 1) SCWRTC Chair Robert Hoesly called the meeting to order at 1:20 p.m.
- 2) Commissioners present for all or part of the meeting:  
 Bob Hoesly (Green)    Harvey Kubly (Green)    Oscar Olson (Green)  
 Paul Ziehli (Dane)    Judy Olson (Dane)    Jim Haefs-Flemming (Dane)
- 3) Others present for all or part of the meeting: Joni Graves (SWWRPC); Frank Huntington and Roger Larson (WisDOT).
- 4) Motion accepting Graves' certification of public notice / OOlson / Ziehli / Passed unanimously.
- 5) Motion adopting the Agenda as posted by Graves / Kubly / JOlson / Passed unanimously.
- 6) Graves reported that draft Minutes from the January meeting were not finished; no action was taken.

## REPORTS & COMMISSION BUSINESS

- 7) **Treasurer's Report** - Harvey Kubly reported on the Commission's CDs, which come due at the end of June and December. He said Green County had no objection to waiting to receive its requested reimbursement of funds held by the Commission, so no penalties were incurred by the Commission for accessing the CDs to withdraw \$15,000. Kubly said he had worked with Jan Froelich at Johnson Block to confirm the figure and ensure it was correct. The bills that had been paid, following the last meeting, were for SWWRPC staff services and the outstanding bill from the Commission's attorney, Eileen Brownlee.
  - **Motion accepting the Treasurer's Report, as presented / Kubly / JOlson / Passed unanimously.**

Graves provided an invoice and said it had been suggested at her office to try to invoice quarterly. Some discussion about staff costs followed, with Graves explaining that there are overhead charges by Executive Director Larry Ward and Office Manager Glenda Dye. Huntington said the amount of detail in the invoices may vary, but that there had always been overhead charges when he was at the SWWRPC too. Graves assured the Commission that the year-end request for reimbursement would not go over the \$6,000, plus expenses, as approved in the staff services agreement.

  - **Motion approving payment of \$1,570 for SWWRPC's staff charges and reimbursement of direct expenses for the first quarter of 2007 / Kubly / Ziehli / Passed unanimously.**
- 7) **Staff Report** – Joni Graves provided an update on the Belleville Permit, which had been granted to Rick Francois as directed at the last meeting, and distributed copies of the signed Agreement.
- 8) **WisDOT Updates** – Frank Huntington provided an update of the state's budget process and the timing implications for funding rail rehab projects. Hoesly asked for WisDOT's position re putting rail service back in southwest Wisconsin and some discussion followed. Hoesly said, "that would make you think twice too, if they came and said they wanted to put the railroad back into Belleville." Concerns were expressed about the feasibility of co-locating rails with trails as well as the cost. In other discussion, Larson referenced a location near Paoli where there is a trail crossing with a verbal approval for the crossing, but said it was not documented and would likely have to be separated in the future.
- 9) **DNR Update** – *there was no one present from the DNR.*
- 10) **Illinois Tax Issues** – Graves distributed a memo from the Commission's attorney, Eileen Brownlee, which was discussed (see below for the full text of the Memorandum).
  - **Motion directing Brownlee and Graves to 1) follow-up with the appeal process, 2) bill the state of Illinois for taxes paid by SCWRTC, when appropriate, 3) and begin paperwork to terminate the agreement with the IDNR, if necessary / Ziehli made a friendly amendment asking for approval to contact Wisconsin Representative Brett Davis about his possibly initiating contact with his counterpart in Illinois, which was accepted / Kubly / JOlson / Passed unanimously.**

Kubly noted that this is a very important matter and suggested meeting again, if necessary.

- **Motion setting May 23<sup>rd</sup> as a tentative meeting date, if required to address issues related to the Illinois taxes / Ziehli / Kubly / Passed unanimously.**

**11) Motion adjourning the meeting at 2:17 pm / JOlson / Ziehli / Passed unanimously.**

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MEMORANDUM

TO: Joni Graves  
FROM: Eileen A. Brownlee  
DATE: April 24, 2007  
RE: South Central Wisconsin Rail Transit Commission Tax Issue

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Dear Joni,

As you know, the Illinois Department of Revenue has decided not to grant a tax exemption to the Commission for property owned by the Commission in the State of Illinois. The Commission has paid years worth of taxes based on representations by the Illinois Department of Natural Resources that, upon an application being filed, an exemption would be forthcoming. The Department of Natural Resources has also repeatedly stated that it would reimburse the Commission for any taxes it pays that are not refunded as a result of the exemption being granted.

Based on this information, the Commission filed an application (that was prepared by the Illinois Department of Natural Resources) for an exemption. Unfortunately, it would appear that this form would not accomplish the intended purpose.

After receiving the initial inquiry from the Illinois Department of Revenue requesting additional information, it became clear to me that the only entities which should be using that form are state governments or federal governments. While other forms are available to certain charitable and nonprofit entities, that form is entirely inapplicable.

I understand through an e-mail that Mr. Bellovics has recommended an appeal. In my opinion, unless he can point to some specific regulation that would make that process worthwhile, I do not believe an appeal will be effective. Rather, I suspect that the other application form is the one that should have been filed, assuming that the Commission would qualify as a tax-exempt entity for purposes of filing that application.

All of that being said, it is still the Illinois Department of Natural Resources' responsibility to pay the taxes. To date, they have not done so despite having filed a statement of willingness in which they expressly stated that they would be responsible for tax payments.

The agreement with the Department does not contain express default provisions. However, general contract and real estate law would apply. In my opinion, the Commission can send a notice of default to the Illinois Department of Natural Resources giving the Department time to cure the default by paying the taxes. In light of the fact that this has been going on for years, I do not believe that the notice need be for a terribly lengthy period of time. Thirty days should be sufficient. In the event that the taxes are not paid, the Commission can take action to void the agreement or terminate it. I would also recommend that the Commission demand immediate payment of the taxes and, should the Department of Natural Resources be able to obtain a tax exemption (which the Commission can assist with), and any amount needs to be refunded, the Commission can certainly do so.

This has gone on long enough.

Sincerely,

Eileen A. Brownlee

SOUTH CENTRAL RAIL TRANSIT COMMISSION

April 25, 2007

CHECKING ACCT. BALANCE ON HAND 12/31/06 \$ 10,456.29

RECEIPTS:

CD PROCEEDS \$ 15,000.00

INTEREST HI-FI ACCT. (BOM) \$ 26.56

\$ 15,026.56

TOTAL ON HAND \$ 25,482.85

DISBURSEMENTS:

#526 GREEN COUNTY \$ 16,680.00

#527 SWWRPC \$ 4,194.49

# Eileen Brownlee \$ 1,846.04

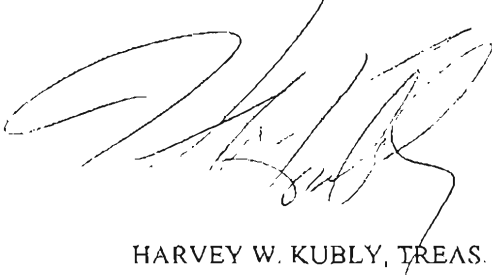
\$ 20,874.49

CHECKING ACCT. BALANCE ON HAND 03/31/07 \$ 4,608.36

LOCATION OF FUNDS:

HI-FI CHECKING BANK OF MONTICELLO \$ 4,608.36  
12/30/03 CD# 48232 BOM 3.6% \$ 100,000.00  
12/31/04 CD# 48934 BOM 4.02% \$ 75,000.00

TOTAL CHKG. & C.D.'S 03/31/07 \$ 179,608.36



HARVEY W. KUBLY, TREAS.