

SOUTH CENTRAL WISCONSIN RAIL TRANSIT COMMISSION

PO Box 262 • 20 S Court Street • Platteville, Wisconsin 53818
Harvey Kubly, Chair • Commission Office Phone 608.342.1637 • Fax 608.342.1220
MEMBER COUNTIES: DANE • GREEN

**Wednesday, October 28, 2015, 2:00 PM, Fitchburg DNR Facility,
Raptor Conference Room, 3911 Fish Hatchery Rd, Fitchburg, WI 53571-5367**

1. **2:03 PM** **Call to Order** – *Harvey Kubly, Chair*
2. Roll Call. **Establishment of Quorum** – *Mary Penn, SCWRTC Administrator*

Commission members present for all/part of meeting:		Others present for all/part of meeting:
Jay Allen, Dane Co.	absent	<ul style="list-style-type: none"> • Mary Penn, Administrator • Eileen Brownlee, Corp. Counsel • Kim Tollers, WisDOT
Jim Haefs-Flemming, Dane Co.	excused	
Paul Ziehli, Dane Co. Vice Chair	X	
Harvey Kubly, Green Co., Chair	X	
Oscar Olson, Green Co.	X	
Ron Wolters, Green Co. Treasurer	X	

Commission achieved quorum.

3. Action Item. **Certification of Meeting’s Public Notice** – *Prepared by Penn*
 - *Motion to approve certification of meeting – Ziehli/Wolters, Passed Unanimously*
4. Action Item. **Approval of Agenda** – *Prepared by Penn*
 - *Motion to approve agenda – Olson/Wolters, Passed Unanimously*
5. Action Item. **Approval of draft October 2015 meeting minutes** – *Prepared by Penn*
 - *Motion to approve October 2015 minutes – Wolters/Olson, Passed Unanimously*

6. Updates. **Public Comment**
There were no public comments.

7. Updates. **Correspondence & Communications**
Mary Penn noted the correspondence she had addressed or received in the past quarter, including correspondence on the issue on today’s agenda. Eileen Brownlee announced that she was joining a Madison law firm that did a lot of municipal work. She reassured the Commission that she would be remaining in her Fennimore office, her rates would remain the same, but added that a new face or two might come to the meetings as there are 60+ other attorneys in the firm. She wanted to make sure that there would be continuity for the Commission.

REPORTS & COMMISSION BUSINESS

8. **SCWRTC Financial Report** – *Ron Wolters, SCWRTC Treasurer*
 - *Motion to approve Treasurers Report – Ziehli/Olson, Passed Unanimously*
 - *Motion to approve bills – Olson/Ziehli, Passed Unanimously*

Ron Wolters gave the Treasurer’s Report to the Commission, listing account amounts, receipts, disbursements (Check #6012 for \$254.45 to SWWRPC, Q1 and Q2), and funds. Oscar Olson asked about Wolter’s wanting to move money in the checking account in order for the bank not to move the funds to the State. Wolters said the account had to show activity and if interest were going into the checking account from savings, that would be activity.

Wolters listed bills due including \$5.51 for postage, Kraemer and Brownlee \$64.00 for legal expenses, Johnson Block for the 2014 audit, \$1,250.00, and SWWRPC, \$1,794.78 for Quarter 3 administrative services.

9. WisDOT Report– Staff may include Kim Tollers, Roger Larson, WDOT

Kim Tollers said she only had a few things to discuss. She had met with the rail crossings engineer for the maintenance project on Hwy 11 and they agreed to look at redesigning it, going to the south as a separate crossing on the edge of the right-of-way (ROW). This would move them to the “right way of looking at that”. She said it was not a done deal but this was good progress.

She said she had been contacted by the City of Fitchburg in regard to the SubZero crossing project, and said the City would be putting together a new crossing agreement. Harvey Kubly asked Eileen Brownlee to take a look at it. Brownlee agreed.

10. WDNR Report – Dana White-Quam, DNR Regional Park Specialist
Penn reported that Dana White-Quam was on vacation and had no report.

11. SCWRTC Administrator’s Report –Penn, SCWRTC Admin.

Mary Penn reported her administrative duties of the past quarter, noting she had sent e-copies of the approved 2014 audit to the member county clerks for their records and told the Commissioners if they would also like a copy to let her know.

12. Discussion and Possible Action on Right of Way Encroachment Agreement between SCWRTC, Harold Walters, and WisDOT – Harold Walters, Freeport, IL

- *Motion to approve the Right of Way Encroachment Agreement between SCWRTC, Harold Walters, and WisDOT, for 90 days, contingent upon receipt of \$500 fee – Ziehli/Olson, Passed Unanimously*

Penn distributed a copy of the proposed agreement and a map of the area in question and explained how this issue came up. Brownlee said she had sent copy of the document to the applicant’s attorney but had not heard anything from him, noting that she had done this before Christmas. She said this was not an issue that would go away for the landowners. Looking at the map, she pointed out there was a concrete pad on the landowner’s property. Wolters asked if it were above ground. Brownlee was not sure but said there had not been any talk about it. She said she had been emailing IL DNR reps and the Jane Addams Trail people to see if there were any complaints and if they had any objections to this agreement. She said she had seen some document that indicated the pad was rail property. Tollers said it was not rail infrastructure as it would not have been built within the ROW. Brownlee mused that it might have been for a shed at some point but added there was no reason for it being there. Kubly said he thought that in active rail days, the train could have just stopped at a small random place like this. Tollers said she really did not think it was the SCRTCS. The pad was estimated to be about 25’ wide.

Wolters asked about the layout of the subdivision. Brownlee said the map said private driveway and might not be a public road, noting there was a vacated street. She said it could be a really, really old subdivision plat. Kubly said he would concur with that as he really did not think there was a Village of Buena Vista. He said in the old days stuff like this was platted for villages that never happened. The Commission discussed that there were lots of old platted places that never developed. Paul Ziehli asked Brownlee if the applicant’s attorney contacted her. She said he had not.

Brownlee said if the SCWRTC approved the agreement, WisDOT, IL DNR, and SCWRTC were satisfied with it. However, she asked if the SCWRTC was comfortable approving the document without the applicant present. Tollers said this situation (encroachment) was very common on the rail system and said this document would be a handy tool in other similar situations. Brownlee said this was just a way to permit access and restricted it to what was there without granting approval for any changes. It would have to be re-applied for with every new landowner. Brownlee added that there was a fee noted in the document. She said the broader issue was the Commission did not really have any instruments to treat this kind of situation and this new document could address this and future encroachments.

Kubly said there definitely needed to be consideration of this. Tollers said because the applicant wanted to sell the property they had to address the title issue. She noted that getting other people to comply with efforts to legitimize them was a different issue as there was no mechanism to prevent encroachments. She said realistically this needed to be addressed somewhat delicately. Brownlee related an incident where somebody had built a garage in White Fish Bay near Milwaukee, worth \$800,000 and it was torn down because it was 6” over the property line. Tollers said she did not see that happening at WisDOT. Brownlee agreed but by the same token she said if people wanted to come in and argue about a new structure, you did not get to benefit from wrongful conduct. She conceded there were practicalities to take into consideration. Tollers said with operating rail lines, rail crews could go in and remove illegal structures but that was not feasible for the SCWRTC. She said this was a good document and WisDOT “really likes it”. Olson described the area in general, south of Orangeville. Ziehli asked if it would be proper to accept the document if the applicants wanted to take action. Brownlee said they could approve with a “drop dead” date, suggesting 90 days. She said she would like to see the document approved as a template for similar situations. Brownlee said if no one was pushing it, the Commission could take their time and wait until April to approve the

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document as a template. Kubly said he believed they would have to wait until April, as approving the agreement as a generic template was not on today's agenda.

Kubly asked for a suggestion of a dollar amount on the meeting. Brownlee said this was taking the place of their January meeting and that her legal fees would be between \$300 and \$500. Tollers and Penn discussed fees. Tollers said the fees noted in Trans 29 for the utility permit was \$500. Brownlee said there was a capped \$1500 fee for utility permits in Illinois. She said the first big fee would come with the "first one" and as the document came into regular use the cost could be spread out. Ziehli clarified that the document should be good for 90 days, contingent upon a \$500 fee.

Penn confirmed that she would have the approval of this document as a template on the April agenda.

13. Action Item – Adjournment

- *Motion to adjourn at 2:41 PM – Olson/Ziehli, Passed Unanimously*