

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 24th, 2018, 2:00 PM, Fitchburg DNR Facility,
 Raptor Conference Room, 3911 Fish Hatchery Rd, Fitchburg, WI 53571-5367**

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

	Commission members present for all/part of meeting:		Others present for all/part of meeting:
Dane County	Jay Allen	X	<ul style="list-style-type: none"> Matthew Honer - Admin. SCWRTC Eileen Brownlee and Julia Potter - Boardman Clark Kim Tollers and Rich Kedzior - WisDOT George Bellovics - Illinois DNR. Dan Seeley, Dan O’Callaghan, Shane Fry - Steve Brown Apartments. Jason Madlof – Findorff Construction. City of Madison Representatives.
	Chris James	X	
	Roger Hillebrand, <i>Vice Chair</i>	X	
Green County	Harvey Kubly, <i>Chair</i>	X	
	Oscar Olson, <i>Secretary</i>	X	
	Paul Beach, <i>Treasurer</i>	X	

3. Action Item. **Certification of Meeting’s Public Notice** – *Prepared by Honer*
 - Motion to approve certification of meeting – Olson/Hillebrand.. Passed Unanimously*
4. Action Item. **Approval of Agenda** – *Prepared by Honer*
 Kubly asked for permission to move item #13 to item #8.
 - Motion to approve amended agenda – Hillebrand/Beach. Passed Unanimously*
5. Action Item. **Approval of draft July 2018 meeting minutes** – *Prepared by Honer.*
 - Motion to approve July 2018 minutes – Olson/Beach.. Passed Unanimously*
6. Updates. **Announcements by Commissioners**
7. Updates. **Public Comment**

REPORTS & COMMISSION BUSINESS

8. **Discussion and Possible Action on City of Madison proposal for work adjacent to the Southwest Commuter Path near Monroe and Regent Streets** – *Kim Tollers, Rich Kedzior, WisDOT.*

Kedzior explained that Steve Brown Apartments, of Madison, approached WisDOT with a development proposal for a new multi-use (apartments and commercial) development straddling the Southwest Pass, north and east of the intersection of Monroe and Regent Streets. The development includes two towers south and north of the southwest path with an underground tunnel to connect the two. The proposed north tower includes an encroachment into the state-owned railway.

Dan Seeley, representing Steve Brown Apartments, introduced the legal representative and architect from Steve Brown Apartments, as well as a representative from Findorff Construction, and representatives from the City of Madison. Seeley provided a handout packet of the proposed development and the relation to the Southwest Pass. Seeley stated that they are

SCWRTC OCTOBER 2018 MINUTES - APPROVED

looking for access to an underground parking garage with an tunnel crossing underneath the railbed as well as an underground parking lot that would encroach into the current state-owned railway. Seeley explained that page two shows that a pedestrian crossing would be included in the underground tunnel. Seeley explained that he spoke with Kedzior about the need to not develop anything that would permanently impact the return of rail to the corridor, page 3 shows the proposed track alignment for the potential return of rail with the proposed encroachment. The proposed alignment would adjust to the south of the encroachment within the current right-of-way. Seeley, also presented sections and zones of influence to the proposed railway. Tollers asked if the proposed realignment took into account the speed of the train. She explained that there is no curve accommodation on the approach of the realignment. Seeley stated that the engineering/design has not yet taken that into account. The goal is that no realignment would be necessary. James asked if the substructures will accommodate freight rail above surface. A member of the development team stated that the tunnel could accommodate freight rail traffic but the parking lot encroachment also has not been evaluated for the return of freight rail traffic. Allen asked how far below grade the top of the tunnel is. The team stated it is two feet below grade. Allan asked if it would be bored or excavated. The team responded that it would be excavated and the tunnel would be designed to handle freight traffic. Allen asked about permitting, Seeley responded that the proposal will go through all required permitting. Allen asked if the pedestrian walkway would be incorporated into the drive lane. Seeley stated that there would be and that there a lot of additional design and engineering that would be required on the project but the goal was to bring the proposal to the RPCs attention. James asked if there are setback requirements. Tollers stated that WisDOT typically allows zero setback in the past if the adjacent property owner agreed to established conditions. Allen asked how many total parking spaces are being proposed, the team architect responded 203 parking spots would be created underground on the north tower. Kubly stated that he believes it is an encroachment. Tollers stated Kubly is correct. To entertain the possibility of an encroachment, WisDOT had requested that the proposal show that no impact would be made to future freight rail traffic. Allen believes the team is showing that. Kedzior responded that the details and future engineering will show indications. Kedzior stated that if the Commission approves the encroachment, WisDOT engineers will review as well. James asked if the proposed development would allow dual tracks. Tollers stated without the encroachments two tracks could be included, but the zone of influence for two tracks would be too great for the encroachment. Allen asked what is required for a single set of tracks, Tollers stated that she believes it is 9 ½ feet, and that the proposed 24' proposed for the track could manage two. Kedzior stated that modern track engineering puts 15' between centers for two tracks and then another 12' on each side, which would be 39'. Kubly stated he does not believe there is such a thing as a good encroachment and asked Brownlee, if she had comments. Brownlee stated she does not have comments because she is seeing the proposal for the first time. Hillebrand asked what the timeline for the project is. Seeley stated that they would like to begin construction in the 2020. Beach asked how many parking spaces would be lost if they could not encroach. Seeley responded that it could be between 20 – 40 spaces. Beach asked if another floor above ground could accommodate parking. Seeley stated that the height of the building is a concern and that the underground structure assists is part of a specific design to control for ingress and egress of vehicles on Monroe and Regent Streets. Kubly stated that he is surprised by the proposal considering if rail were to return the development would be required to fix the encroachment. Seeley stated that the design took into account potential return of rail, so that if that were to happen both the development and rail could co-exist. Tollers stated that there was a single track in the past as well as several industry tracks. James asked if the developers were asking for a lease or an easement. The team responded that they would be looking for an easement in the future. Brownlee stated that the Commission and WisDOT do not do easements. The development team stated that they understand that they are asking for a non-traditional request. Brownlee stated that the Commission has never entered into an easement. Tollers stated that WisDOT counsel advised never to enter into an easement. The development team stated that they would need a type of agreement that is suitable to their lenders, one that wouldn't allow the Commission to quickly end the agreement. Allen asked what terms of the lease would be. Tollers stated that a typical lease is 30-day notice, which can be negotiated with a limit. Allen asked how the space between the buildings affects the ability to build new trackage. Allen stated that he would expect that the building owner would need to include language regarding the return of rail in their lease. Tollers stated that WisDOT would not allow any sort of balconies. Allen asked how utilities under rail corridors are managed and Tollers stated that those are written into statute and WisDOT manages them. Hillebrand asked what would happen if for some reason the Commission does not want to extend the lease, what recourse does the Commission have for that space. Seeley stated that these are all questions that the development team was looking for and the reason for their request to be on the agenda. Allen stated that he believes this type of development is what the County is looking for. Allen also stated that moving forward the team should communicate prior to the meeting, giving the commission time to review, rather than asking the Commission to react.

Allen asked Brownlee and Tollers if the commission could see what a lease might look like if it were to move forward. Allen asked why agenda items like this are allowed if no one has had a chance to review the documents. Honer responded that WisDOT requested the item and they are partners with the Commission. Kedzior stated that they were not asking for a decision. Brownlee stated that SCWRTC meeting once every four months and due to that, we try to accommodate requests to be on the agenda to move forward the discussion.

9. SCWRTC Financial Report – *Paul Beach, SCWRTC Treasurer.*

Beach presented the treasurer's reports, stated that there was \$4,496.81 in the checking account at the end of June. There was \$677.48 in total receipts, bringing the balance to \$5,174.29. Beach stated that the \$50K CD that was termed to expire did so and he was given the authority to find the best option. He created a new cd of \$45K, transferring \$5k to checking, at Wisconsin Bank and Trust for 22 months that earns 2.35%. The total balance of checking and CDs was \$155,174.29.

- *Motion to approve treasurer's report – Hillebrand/Olson. Passed Unanimously.*
- *Motion to approve the payment of bills from SWWRPC, for the Audit, and for bonding. Olson/Allen. Passed Unanimously.*

10. WisDOT Report – *Kim Tollers, WisDOT.*

Kim handed out a plan that was presented to WisDOT from the City of Fitchburg at the last minute. The City of Fitchburg is proposing to put the trail underneath the road and putting seven feet of fill on top of the trail. WisDOT did not approve. Kim stated that the City had proposed to put the trail underneath McKee Road and seven feet of fill on the road. Tollers stated that WisDOT stated they would not allow it. The City came back with a request for an overpass. Kim stated that because of the overpass they will need to put a retaining wall 25' from the center of the corridor. Kedzior stated that there was a prompt for this was that Collisions were common occurrences on McKee Road. Tollers stated that WIDNR was asking for an overpass for several years, but once WisDOT told them that they could not put in a tunnel, they then agreed to the overpass. Tollers stated that it will come to the Commission's attention at a later meeting.

Hillebrand asked about the gates on the tunnel Stewart Tunnel. Tollers stated that she spoke with Bridget Brown who said that there are no funds available.

11. WIDNR Report – *WIDNR.*

Honer stated that he spoke with Missy Vanlanduyt, who stated that someone would be in attendance at the meeting but no one must have been able to attend. Tollers stated that there is no indication that WIDNR will place Dana's position and her cohorts.

12. SCWRTC Administrator's Report – *Honer, SCWRTC Admin.*

Honer stated that submitted the July draft minutes and the existing IDNR, SCWRTC, and WisDOT agreement to Kim Tollers and Eileen Brownlee. He also communicated the likely timeline associated with renewing the agreement with IDNR to IDNR.

Honer stated that the agreement between the SCWRTC and the City of Madison for the Southwest Commuter Path is coming due and will be part of the discussion for next year.

Allen asked Brownlee why the agreements are for 20 years. Eileen stated that the timeframe needs to be long enough to allow the DNRs to apply for grants. Tollers stated that the agreement for the Southwest Commuter Path needs to have some sort of review for the City needs to beef up their enforcement of encroachments on the Southwest Commuter Path. She believes it is an opportunity to beef up the language regarding encroachments.

13. Discussion and Possible Acknowledgement of Draft 2017 Audit – *Kubly, Chair.*

- *Motion to acknowledge the 2017 Draft Audit – James/Allen. Passed Unanimously.*

14. Discussion regarding proposal by IDNR to receive ownership of the Jane Addams Trail – *Tollers, WisDOT.*

Tollers stated that she proposed that the Commission should have a more robust discussion regarding sale of the trail. She is not advocating for the sale. She stated that the commission should recommit to the line and its future due to significant encroachments. Tollers also stated that she did not know that if the Illinois section was sold, that it could never again be acquired Brownlee stated. Brownlee stated that commissions can no longer purchase lines outside of their own counties. Eileen said as of now the SCWRTC could not acquire property in Iowa County. The concern is that once it is gone, it is gone forever without an ability to require it. Eileen stated that even if the sale had a deed restriction, there would be no ability to

SCWRTC OCTOBER 2018 MINUTES - APPROVED

enforce it because there is no ability to acquire it. Eileen stated that the existing financial agreements would show that the Commission would not greatly benefit from selling the property due to financial obligations to the State.

Bellovics stated that he often came to the commission to advocate for the Jane Addams Trail. Bellovics states that IDNR since day one has respected the requirements of the agreement. Bellovics stated that the agreement has worked well. Bellovics states that the only benefit is that the State of Illinois is a state in continuity. Bellovics states that if something were to occur where the commission's existence comes into question the state of Illinois is willing to take on the trail. Bellovics stated that moving forward he would hope that a continuity trigger would remain in the next 20-year agreement.

Allen stated he does not see the reason why a Wisconsin entity should own the property, if IDNR is willing to take ownership of it. Brownlee and Tollers stated that the purpose of the commission is to retain the possibility of the return to rail and if the Commission sold the property, the corridor to the national rail system is severed. Tollers stated that this ROW is not protected by the National Trail System Act so the current agreements maintain the possibility of a return to rail. Removing the section in Illinois removes that possibility. Bellovics clarified that he had mentioned the same at the prior meeting and that the rail could connect to WSOR without the Illinois section. Allen asked if IDNR has an interest in maintaining the Right of Way for the potential return of rail. Bellovics stated that the continuity of the rail into Freeport and the East-West Union Pacific lines, raises the value of the line.

Brownlee stated that the previous discussion involved including "up-to" language which does not make a difference. It is a twenty-year agreement.

15. Discussion and Possible Action on the Draft Interim Trail Use Agreement between IDNR, SCWRTC, and WisDOT – *Brownlee, Boardman Clark.*

Brownlee stated that no action needs to be taken, she will work with IDNR and the commission will wait until January to take any action.

16. Action Item - Adjournment

- *Motion to adjourn at 3:29 pm – Allen/Hillebrand. Passed Unanimously.*