



RAILROAD TRANSPORTATION SAFETY DISTRICT

Board Meeting
Monday, June 9, 2014

Meeting Began At: 11:01 a.m.

Meeting Ended At: 12:04 p.m.

Members Present: Deb Schorr, Doug Emery, Leirion Gaylor Baird, Roy Christensen, Roma Amundson

Members Absent: Brent Smoyer (due to Region V mandatory meeting)

Others Present: Roger Figard, Tina Queen, Liz Thanel, Susie Filipi, Michelle Raphael, Bill Kutilek, Tony Jerina, Steve Bjorkman, Gary Irvin, Mark Lutjeharms, Rick Haden, Silas Clarke, Doug Rix, Tom Leikam, Harlan Layton.

Order No. 14-11 Call Meeting to Order. Approval of Previous Minutes.

Schorr called the meeting to order.

Christensen motioned to approve the previous minutes. Amundson seconded the motion. Motion approved 5-0.

Order No. 14-12 Statement of Receipts & Disbursements.

Thanel presented the statement of receipts and disbursements. Operating costs are billed out at the end of June. Any money remaining will be rebudgeted.

Emery reiterated that the RTSD has to accrue money before a project can be done.

Gaylor Baird motioned to approve the statement of receipts and disbursements. Amundson seconded the motion. Motion approved 5-0.

Order No. 14-13 Current Budget Status, Project Updates, Committee Updates.

Figard highlighted the following items:

- Will be additional legal fees with regards to Placement Agreements and an engineering agreement unique to the RTSD.
- Union Pacific is doing some crossings improvements on NW 12th.
- Waiting for a bill from the Railroad for West Pioneers.
- SW 40th - \$9 million was transferred. There were some at-grade issues, but they have been resolved. Completion date is still slated for Fall of 2015.
- Emergency & Safety will include the Denton feasibility study and the re-certification of the North Cornhusker Quiet Zone.

Doug Rix - "Good morning. Doug Rix with the City of Waverly. The Quiet Zone was implemented last

September and our citizens love it. It's pretty much all completed except that we are still waiting for some potential outstanding invoices from Burlington Northern Santa Fe for improvements that were done at the 141st and 148th Street crossings. Thank you."

- 33rd & BNSF crossing - Met with French Thompson. He is the Director of Government Affairs for BNSF. BNSF is excited about the potential of doing work here. There are possible grant opportunities.

Silas Clarke - "Good morning. Silas Clarke, City of Hickman. I actually come here this morning with good news. The contracts have been sent over to us. We did renegotiate one of them on Hickman Road. It was about \$80,000 too high, because they just replaced the panels there because of a train derailment. So we did negotiate that lower. Overall, with the three contracts, just so you know, we are at right over \$630,000. So budget wise, what is in the current RTSD budget, is looking fairly good. Just to start one conversation, on the 2nd Street crossing, it was proposed to put in a four-gated system there. This is the first four-gated system that is in the entire state that Mr. Haden had done some research on. The Railroad did request, because of that extra equipment and extra maintenance that will be required from the Railroad, that it is just under \$13,000 a year in expenses straight to the Railroad. This isn't an inspection that the City can do or hire somebody else. This is a direct fee to them. So I'm just bringing that up. Every year would be \$12,965. Wondering if we can open up a conversation today or in the future about this and talk to Roger about if it is something possibly the RTSD Board could assist the City of Hickman with."

Rick Haden - "It is the first experience in the State of Nebraska, but in checking, it's not the first BNSF has done across the country where they have passed those costs onto the agency that is requesting the Quiet Zone. They have a per unit cost that they apply to it."

Christensen asked about the advantages of this type of crossing.

Rick Haden - "It's four-quadrant gates is what is proposed at 2nd Street. There is not enough room to put the raised medians in because of some access points there. The other alternative that is acceptable under the Quiet Zone regulations are gates that come down on both sides of the tracks instead of just on the approach side. So if somebody tries to go around the gate arm, it is physically impossible to do so because there is only two feet between the ends of the gates. In our diagnostic review with the Railroad, that was the preferred alternative. The \$13,000 will be for inspection and maintenance of the added equipment, the added gates primarily at the crossing. There is also some detection equipment that is put between the gates so if a car is on the crossing, the second gate doesn't come down on the vehicle. There was some additional equipment, and they apply a per unit cost of \$236 per unit and inspect them annually and maintain them."

Amundson asked what Hickman is prepared to contribute to this annual cost.

Silas Clarke - "And that is where I would just like to have a conversation about it up front about cost sharing issues, something that we can sit down and talk this over."

Rick Haden - "As Silas indicated, anything that they could upgrade as part of the Quiet Zone, they did. They included within the cost estimate. For instance, the crossing panels themselves across the crossing, we were adding eight feet on each side of the crossing. So we were hoping they would come in with the cost for the added eight feet. Within their estimate, they replaced the whole crossing including the existing

one. That was in their cost estimate of over \$80,000 on Hickman Road. Fortunately or unfortunately, there had been a derailment there a couple weeks earlier. Their cost estimate came in just after that. Silas took some pictures and we sent those off to them and asked them to adjust their cost estimate. They were perfectly willing to pay off the entire cost to the City. Their equipment will be in good shape when we are done there.”

Silas Clarke - “And I remember on the Hickman Road crossing, we were looking at the wayside horns as one of the alternatives beginning this project and they started putting in a yearly fee for the wayside horns also that wasn’t even, that was again on the Railroad side, not just on the City side for inspections. That is exactly what we did and appreciate very much for allowing us to say no to that option. Now it looks like they are trying to add more fees for their yearly maintenance.”

Schorr asked how Figard would work this fee into the budget.

Figard replied that if the Board is willing to help with the cost, a line item would be added, but it would depend on how accounting and legal determines where it should be listed. The RTSD should say no to BNSF for now and determine if they have the legal right to pass that cost onto the RTSD.

Emery stated that there should be some responsibility on the community to pick up some costs associated with the maintenance, but the first response to BNSF should be no.

Amundson asked who determined that the four-gate system be installed.

Silas Clarke - “It was a combination of both. That was the only case scenario that was appropriate for that 2nd Street crossing. There’s a rail yard on one side and there is also a very large propane tank. So putting out the medians was not going to work because both of those entities have to back in to those properties.”

- Park Boulevard - haven’t received any bids. Parks & BNSF have a signed agreement.

Figard stated that he will be attending the NCUTCD meeting in Minneapolis, June 25th - June 28th. Travel expenses include the registration and flights.

Order No. 14-14 Election of Officers.

Figard asked that the RTSD continue have the County represented under the Chair position and the City represented under the Vice-Chair position as a form of checks and balances and recommends reinstating the positions.

Schorr stated that she would be pleased to serve another year as the Chair, but has talked with Amundson about possibly taking over in the future. Smoyer will be leaving the County Board at the end of the year.

Emery stated that he is willing to accept the Vice-Chair position again, but if the Board wants someone that is trained in the position, it would be best to get someone new in now. Emery recommended Christensen for the Vice-Chair position so that he can assist him over the next year.

Amundson motioned to retain Schorr as Chair, Christensen as Vice-Chair, and Emery as Secretary. Emery seconded the motion. Motion approved 5-0.

Order No. 14-15 Review/Renew Legal Service & Accounting/Auditing Contracts.

Figard stated that the legal service contract is the same as last year with a \$500 retainer.

Bill Kutilek - "Bill Kutilek. Crosby Guenzel Law Firm. I certainly appreciate the long standing relationship that our firm has had with the RTSD. I enjoy working with Roger and Board willing, we'd like that relationship to continue. The agreement that is before you is the same agreement that we've had for several years now. Same rates and same terms. It is terminable by either party on 30 days notice as well."

Amundson motioned to renew the legal service contract with Crosby Guenzel Law Firm. Christensen seconded the motion. Motioned approved 5-0.

Figard stated that Micek and Crouch are joining forces with Becker Meyer & Love LLP and recommended to continue to use their services.

Steve Bjorkman - "I'm a director with HBE. Just came along to get questions about the transition. I'm here to attempt to answer those."

Schorr asked if Kurt Micek was heading towards retirement.

Tony Jerina - "I'm making no assumptions. It's up to him. It's going to be a while when he does that's for sure."

Christensen motioned to approve the accounting/auditing contract with HBE. Amundson seconded the motion. Motion approved 5-0.

Order No. 14-16 2014 - 2015 Budget & CIP.

Figard notated the handouts including levy differences, cash flow, and 12 year CIP.

Figard highlighted the following items:

- The RTSD operates with cash in hand.
- Operating budget higher than last year to include a 3% inflation.
- \$300,000 for crossing improvements in the City and County
- \$100,000 contingency for Southwest 40th
- \$100,000 in Emergency & Safety as well as Miscellaneous Engineering
- \$150,000 for Waverly Quiet Zone
- \$500,000 for planning, hiring consultant and starting on MOUs for the 33rd & BNSF crossing
- Salt Creek Levy North of A - proposed crossing with NRD
- South Beltway - estimated \$13 million equally distributed over six years
- Levy - pays for future projects, showed the difference in levy for out years and how it affects the projects slated for the future
- **Requested a 2.6 levy from the County Board**
- Presented the 12 year CIP.
- Added a project in 11/12 for improvements near 70th & Cornhusker. Train numbers are picking up according to Hobson Yard.

Christensen asked where the Beltway money goes physically.

Figard replied that unless an interlocal agreement is approved and money is paid out or transferred, the money will go back into the cash account.

Gaylor asked what will happen to the 33rd & BNSF crossing project with a lower levy.

Figard replied that if one big project moves forward, the other big projects would have to be delayed.

Schorr asked if the funds the RTSD will be collecting for the Beltway could be expended in advance for right-of-way or other purposes.

Figard replied that it is a legal question.

Amundson stated the County Board is facing a very serious shortfall.

Schorr asked about the large sum of money budgeted for the 33rd & BNSF crossing project.

Figard replied that the transportation improvements is \$70 million with a proposal for the District to pay the engineering and planning. The RTSD would cover 50% of the right-of-way and construction. The Tiger Grant could change that.

Gaylor Baird stated if there is any way to expend most of the money towards the beginning of the project without paying inflation, it would be ideal.

Figard brought forward an amendment to the budget to list the Denton Quiet Zone Feasibility Study as a separate project. Figard would remove \$40,000 out of Emergency and Safety and create a line item called Denton Quiet Zone Feasibility Study and put the \$40,000 under that line item. Bottom line would stay the same.

Emery motioned to approve the budget amendment to include the Denton Quiet Zone Feasibility Study. Christensen seconded the motion. Motion approved 5-0.

Emery motioned to approve the 2014 -2015 budget as proposed. Christensen seconded the motion. Motion approved 5-0.

Emery motioned to request a 2.6 levy from the County Board. Christensen seconded the motion. Motion approved 3-2.

Order No. 14-17 Deposit Placement Agreements.

Michelle Raphael - "Good morning. Michelle Raphael from the County Treasurer's Office."

Bill Kutilek - "Good morning. Bill Kutilek, Crosby Guenzel Law Firm."

Michelle Raphael - We're here to talk about the addendums Bill created, and we'd like to add two additional banks for the RTSD. They would be Frontier Bank and West Gate Bank. This just opens up the opportunity

for a little more competition for RTSD funds. It does not reduce liquidity and it would just allow, at no risk to the RTSD.”

Bill Kutilek - “And again, this is kind of a follow-up. We had one request at the last meeting. The bank involved in that one was First State Bank Nebraska. In a nut shell, the goal of these agreements is to allow the County Treasurer, as our statutory treasurer, greater flexibility and access to greater insurance rates. The Board may have been provided four copies of Deposit Placement Agreements that the County has entered in to - US Bank, Cornhusker Bank, West Gate Bank and Frontier Bank. Today however, we are here with respect to two of those institutions. Those are West Gate Bank and Frontier Bank. The terms of the agreements are the same as what the Board approved at the last meeting with the respect to the ICS agreement which is an agreement that addresses the RTSD’s money market and deposit accounts. The addendum that I have prepared with respect to these agreements that have already been entered in to with County and the institution does three things. It brings the RTSD within the terms of the agreement and a party to the agreement. It insures that the RTSD funds will be protected to the same extent and same methods that County funds are also protected by the financial institution. It also identifies the authorized representatives of the County that are authorized to deal with the financial institution. Those are the same representatives that are authorized for purposes of dealing with RTSD funds. The terms have been, as I understand, agreed to by the County. And with that, I’m here for any questions, but seeking approval by this Board to enter into those agreements as well.”

Amundson motioned to approve the Deposit Placement Agreements with Frontier Bank and West Gate. Christensen seconded the motion. Motion approved 5-0.

Order No. 14-18 Petitions/Letters/Requests.

Silas Clarke - “I did not feel this was appropriate before since your legal service contract was after my last spiel. I would request consideration of using your attorney from Crosby Guenzel to help us look at the legality of the Railroad’s requirement of the maintenance agreement on our side and also help with possibly negotiating.”

The Board was in consensus with Silas’ request.

Order No. 14-19 Non-Agenda Items.

No public comment.

The next Board meeting will be held on Tuesday, September 9, 2014 @ 8:30 am.

Emery motioned to adjourn the meeting. Christensen seconded the motion. Motion approved 5-0.

Prepared by: Tina Queen, Engineering Services