



## RAILROAD TRANSPORTATION SAFETY DISTRICT

Board Meeting

Monday, June 4, 2012

Meeting Began At: 11:03 a.m.

Meeting Ended At: 12:27 p.m.

Members Present: Deb Schorr, Doug Emery, Adam Hornung, Brent Smoyer, DiAnna Schimek

Members Absent: Larry Hudkins

Others Present: Roger Figard, Tina Queen, Liz Thanel, Bill Kutilek, Rick Haden, Harlan Layton, Silas Clarke, Dave Dykmann, Doug Rix, Mark Lutjeharms, Tony Jerina

### **Order No. 12-07 Call Meeting to Order. Approval of Previous Minutes.**

Schorr called the meeting to order.

Hornung motioned to approve the previous minutes. Smoyer seconded the motion. Motion approved 5-0.

### **Order No. 12-08 Statement of Receipts & Disbursements & Investment Detail.**

Thanel presented the statement of receipts and disbursement and investment detail. The tax revenues are already 1.7% over collected from the original budget. There should be about \$200,000 more collected than what was budgeted for the year because of voucher changes to property values. Investment interest income is double because there is so much more money in investments, not because of climbing interest rates. Money cannot be invested in the stock market. Investments can only be done two years out.

Schimek motioned to approve the statement of receipts, disbursements and investment detail. Smoyer seconded the motion. Motion approved 5-0.

### **Order No. 12-09 Current Budget Status, Project Updates, Committee Updates.**

Figard highlighted some areas on the budget.

- spent 33% of operating budget for staff time, will be some continued charges, remaining money will be re-budgeted
- W Haymarket - \$300,000 is request to remove railroad tracks on 8<sup>th</sup> south of O, parts of 7<sup>th</sup> Street to 6<sup>th</sup> & J Street. Should be less than \$300,000. There may be a request from the JPA to pay for some fencing between the new location of the railroad tracks and the rest of the new part of West Haymarket and the arena. Could use the remainder of the \$300,000 budget for that request.
- SW 40<sup>th</sup> - Not going to be expended this budget year.

- The NRD, City and Railroad are still working on the underpass at Salt Creek. The Railroad and the NRD are getting closer on an agreement.
- Very close to being done with the two remaining quiet zones, South Salt Creek and 27<sup>th</sup> & Saltillo. The quiet zone for 27<sup>th</sup> & Saltillo had to re-issue the notice of intent. The 60 day waiting period is up on June 12, 2012. The work is physically done. After that, a notice of establishment will have to be issued. 30 days after that the horns can be silenced. South Salt Creek's work is done. Figard asked Railroad for comments before the notice of establishment is issued.
- NCUTCD - meeting in Orlando mid-June
- 80-85% of the budget should be left, remaining money will be re-budgeted or invested
- The current 2.6 cent levy brings in about \$5 million.
- Always want to have \$1.5-2 million in cash reserves.
- Southwest 40<sup>th</sup> - money must be in the bank to sign the contract, all the right-of-way has been acquired except for one track, have 404 permit, only remaining significant piece of work is the Railroad agreement, Railroad has asked Figard to put that agreement in final form for signatures and send to them to walk it through, it was reviewed by the City Attorney last week

Schorr stated that there is some hesitancy on moving forward with another large project until some progress is made on Southwest 40th.

#### **Order No. 12-10 Election of Officers.**

Hornung motioned to nominate Deb Schorr as Chairperson. Smoyer seconded the motion. Motion approved 5-0.

Smoyer motioned to nominate Doug Emery as Vice-Chairperson. Hornung seconded the motion. Motion approved 5-0.

Hornung motioned to nominate Brent Smoyer as Secretary. Schimek seconded the motion. Motion approved 5-0.

#### **Order No. 12-11 Review/Renew Legal Service & Accounting/Auditing Contracts.**

Crosby Guenzel has a \$500 retainer. The firm attends the Board Meetings. The partner's hourly rate is \$140/ hour. Associates are \$80/hour. Bill Kutilek added that the firm appreciates the long-standing opportunity to serve the RTSD.

Schimek motioned to approve the legal service contract with Crosby Guenzel. Smoyer seconded the motion. Motion approved 5-0.

Micek & Crouch assists in getting the budget together and submitted to the State Auditor's Office. They audit the previous year's activities as well. They also help with checks and balances between the City and County.

Hornung motioned to approve the accounting/auditing contract with Micek & Crouch. Smoyer seconded the motion. Motion approved 5-0.

**Order No. 12-12      2012 - 2013 Budget & CIP.**

Figard went over the budget:

- Per Larry Hudkin's request, the management services has been reduced to \$41,700
- Accounting/auditing increased \$1,700
- Railroad crossing improvement money will be used to update the markings at the railroad crossings
- 68<sup>th</sup> & Hickman - Virgil Dearmont stated that the County finished the project under budget and it is possible that the RTSD might get a refund in the \$50,000 - \$100,000 range.
- Southwest 40<sup>th</sup> - bid in the fall, \$9 million
- Salt Creek Railroad Underpass - NRD has updated their estimate and think that the cost share will be less, reduced to \$50,000
- \$6,900 budgeted for the quiet zone along the BNSF corridor for unpaid bills with the Railroad
- 33rd/35th & Adams - new project to close the at-grade crossings, \$1 million proposed to be budgeted, would take a separate Board action to sign an interlocal agreement if the Board wishes to give money to the City or County, discussed earlier that the RTSD could be the preliminary engineering contracting agency
- Hickman quiet zone - conservative at \$1.405 million, feasibility study showed that there is a viable project

Doug Rix - "The reason the project has been taking so long has involved a lot of land acquisition and hopefully by the end of June all that will be resolved. We also filed the notice of intent with Burlington Northern on April 23, 2012. They have 60 days to get back to us."

Mark Lutjeharm with Schemmer Associates - "A point that might be worth noting is we've been coordinating with the Nebraska Department of Roads as of late, in fact Rick Haden with FHU has been assisting the City of Waverly in their comp plan to re-stripe Highway 6 to three lanes vs. the four lanes it is currently today. We are coordinating the quiet zone with that project as well. Think it will be a benefit to both the railroad corridor and the community as well."

Silas Clark - "I'm the City Administrator in Hickman. I also have Rick Haden here and Dave Dykman, one of the Councilman members. There is a lot of interest in the project. We are excited to move forward with this project. We did talk a little bit at the last one about the crossing going into the park and I have set up a meeting with Mr. Emery about that this afternoon. We look forward to the project and ask for your continued support. There are three crossings. It will be a quiet zone all through town. Just because of the viaduct, they are now not blowing the horn there. There is one that goes into the park and a private in the middle and one more public across Hickman Road."

Schorr added that she and Smoyer will be doing a road trip on June 19, 2012.

Emery asked about the recent news with Grand Island and whether or not it will affect the City or County.

Figard replied that he conferred with Rick Haden. The Railroad cannot legally start sounding the horns as a regular matter of course. That is a FRA regulation and as long as the municipalities have met all those conditions, the Railroad cannot sound the horn. The FRA did come down on UP. If someone is trespassing or on the tracks, the Railroad can blow their horn. They cannot go back to blowing the horn as a matter of normal operation for that crossing unless it can be proven that the safety measures have changed or removed, the Railroad would have grounds.

Rick Haden - "Rick Haden with Felsburg, Holt & Ullevig. I was not involved directly in the discussions but there was a meeting held last Friday in Grand Island. According to the newspaper reports and television, the FRA and the City of Grand Island met with Union Pacific. They indicated that it was very appropriate for the locomotive engineer to sound his horn when he saw someone close to tracks. But anything beyond that, the Railroad needed to demonstrate that there was something out of the agreement originally that was set up between the City and UP. In this case, UP said there was a location that they were now concerned with where this pedestrian was, where they felt there was an opportunity for an ongoing problem. It was agreed that the UP would pay for the cost to upgrade that crossing to eliminate that obstacle since it wasn't part of the original agreement. They immediately started silencing their horns after their meeting. There is just 300 quiet zones in the United States. To my knowledge there wasn't a fine. The first reaction is always to let the City know, the community know that they have a concern like in the case of the wayside horns not functioning. That is legitimate, but they should notify the City immediately. That is the procedure in place. In this case, they notified the City that they had a concern but didn't tell them what it was. They didn't give them an opportunity to address it until last Friday when they met. To my way of thinking, the best way of making sure you don't lose a quiet zone is to close the crossing or put a grade separation in but the cost to do that is very expensive and the closure has impacts. That's the only fool proof way of doing it in the long run. Otherwise communities are spending around the country upwards of \$1 million per crossing to implement a quiet zone. Overall the ones that have been done in the Lincoln area are by far some of the cheaper ones we've dealt with, seen in our county to implement the improvements mainly because the Railroad already has the gates and flashers and for the most part the constant warning which are the most expensive features to put in. There are some ongoing costs if you're getting involved in equipment, like wayside horns or some ongoing maintenance costs. But with raised medians, generally not and that's why Roger and certainly our firm have tried to go towards raised medians as the most reasonable. In addition to the silencing and quality of life benefit, the railroad improvements that are required in the regulations like the raised medians for instance do have a safety benefit. Those actually pay for themselves. You can recoup the cost of the raised medians just by the safety component. An approach to a railroad crossing with medians is 75% safer than one without them even with the gates and flashers. That has been demonstrated across the country and that is why the FRA allows communities to silence the horns."

Figard added that the median design has been put into the street design for the future.

Emery stated that he is not an advocate of wayside horns because of Nebraska's wind and weather.

Schimek asked about the liability at these crossings when there are accidents.

Figard replied that the only way the City would be responsible is if there was negligence in not maintaining or having something in place that was the City's responsibility. The liability rests with the Railroad.

Hornung asked about the 33rd/35th & Adams project, the \$1 million budgeted and how long it would take to spend that money.

Figard stated that when the original Antelope Valley project came in, it was envisioned to close 33<sup>rd</sup>, 35<sup>th</sup> and Adams. Being mindful of budget and the benefit received, the Antelope Valley transportation concluded at 29<sup>th</sup> and Cornhusker. Since that time, the RTSD has continued to look at crossings and safety issues. Those two crossings have some of the highest exposure rates anywhere in the state. The City did an interim analysis of building an underpass at 33<sup>rd</sup>. The cost of that project was \$30 million.

The City of Lincoln did a very high level preliminary planning study to produce an accurate cost estimate of time as well as coming up with an option that would solve those issues and be consistent with the long range goals of Antelope Valley. The \$1 million would not be spent the first year. If the Board makes a commitment to this project, in four years there would be a well thought out design project ready to start right-of-way acquisition. There has been support from the property owners that live in the area. The budget laid out is reasonable.

Emery stated that this project covers two dangerous intersections that will duck tail in the comp plan with traffic farther to the north and Superior Street. A discussion needs to start about how to get traffic across Cornhusker and around those two intersections.

Hornung asked how much the RTSD will end up spending for this project.

Figard replied about \$47 million of the \$76 million. The RTSD would make a commitment to do the engineering and planning to have a viable project. At that point, the rest of the stakeholders would come into play. Figard has met with management at Nebraska Department of Roads. They are concerned with cash, but they see these two intersections as having one of the highest exposure rates of any projects they are looking at across the State. The District would provide 50% funding and the remainder would come from NDOR and the Railroad.

Hornung asked why the RTSD is taking on the engineering and if there any other options to make it more safe. The RTSD shouldn't be the lead for this project. Need to be careful on how the RTSD is spending taxpayer's money.

Figard replied that raised medians were put in at 33<sup>rd</sup>. 35<sup>th</sup> and Adams is running the same with or without wayside horns. Geometrics limit the options. The City of Lincoln's comp plan is now fiscally constrained. 50 plus trains are still running. The corridor is expected to go about 100 trains per day. It's part of the RTSD mission to close crossings, do grade separations, a revenue source without any community discord. When those crossings are closed and connected back up, by finishing that small piece on Salt Creek Roadway, there is some pressure taken off 27<sup>th</sup> Street. The RTSD's job is not to solve the City or County's traffic problem, but in doing this project, facilitates that and still fits within the mission. This option serves well but tweaking it, designing it, maybe not including it all, those are things the public process will bring forward.

An underpass or overpass is not an option for 33<sup>rd</sup> Street. This project is to avoid 1.3 million exposures every day of cars and trains.

Schorr asked when the crossing at Southwest 40<sup>th</sup> Street was closed.

Figard replied that is was 2006.

Schorr is frustrated because Southwest 40<sup>th</sup> Street hasn't progressed and doesn't feel right about putting money into another large project at this time.

Figard stated he shouldn't have allowed the Railroad to close that crossing.

Emery added that the RTSD learned a lesson with Southwest 40<sup>th</sup> and in the future, a crossing won't be closed before an agreement is in place. In the comp plan, there was a part of the Antelope Valley project to put in an underpass or overpass in. If the Board wants to wait a couple years to get it started, it won't make a huge difference.

Hornung would like to discuss this project a little more before adding it to the RTSD budget.

Schorr recommended this should be discussed in more detail at the Commons meetings.  
Hornung motioned to approve the 2012 - 2013 budget. Motioned seconded by Schimek.

Hornung motioned an amendment to remove the \$1,000,000 project listed as RTSD 33<sup>rd</sup> & BNSF Crossing. Motioned seconded by Smoyer.

**Budget approved 3-2 with the amendment.**

Hornung motioned to approve the 2.6 cent levy request to the County Board. Motion seconded by Schimek. Motion approved 5-0.

**Order No. 12-13 West Pioneers Crossing Improvements Agreement.**

Figard stated that the RTSD is providing the local share with the State of Nebraska to pay for the crossing improvements on West Pioneers. This agreement would authorize the Board Chair and Executive Director to sign the contract.

Hornung motioned to approve the agreement and to allow the Board Chair and Executive Director to sign the agreement. Smoyer seconded the motion. Motion approved 5-0.

Order No. 12-14 Petitions/Letters/Requests.

N/A

Order No. 12-15 Non-Agenda Items.

N/A

The next Board meeting will be held on Tuesday, September 11, 2012 @ 8:15 am.

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

Prepared by: \_\_\_\_\_  
**Tina Queen, Engineering Services**