



RAILROAD TRANSPORTATION SAFETY DISTRICT
Board Meeting
Monday, December 10, 2012

Meeting Began At: 12:36 p.m.

Meeting Ended At: 1:20 p.m.

Members Present: Deb Schorr, Doug Emery, Brent Smoyer, DiAnna Schimek, Larry Hudkins

Members Absent: N/A

Others Present: Roger Figard, Tina Queen, Liz Thanel, Susie Filipi, Randy Hoskins, Bill Kutilek, Harlan Layton, Silas Clarke, Dan Marvin, Mark Lutjeharms, Paula Yancy

Order No. 12-23 Call Meeting to Order. Approval of Previous Minutes.

Schorr called the meeting to order.

Smoyer motioned to approve the previous minutes. Schimek seconded the motion. Motion approved 4-0.

Hudkins not present for this motion.

Order No. 12-24 Statement of Receipts & Disbursements & Investment Detail.

Thanel presented the statement of receipts and disbursements and invest detail.

Schimek motioned to approve the statement of receipts and disbursements. Smoyer seconded the motion. Motion approved 4-0. Hudkins not present for this motion.

Order No. 12-25 Current Budget Status, Project Updates, Committee Updates.

Figard highlighted the following items:

- 91st & Yankee Hill - not started yet
 - West Pioneers - The project is complete. No bill has been received from the State.
 - West Haymarket - \$300,000 for removing old abandoned tracks, bill just under \$204,000
 - Hickman - \$10,000 for final bills
 - Southwest 40th - Construction bid on October 25, 2012 and United Contractors was awarded. The low bid just under \$9.4 million and tentative start is end of March 2013. Using NDOR bid rules, the contract allows 902 days to build the bridge. The exact completion date within the contract is September 13, 2015, but contractor is thinking about trying to start earlier.
 - Salt Creek Railroad Underpass - \$50,000 left, agreement still being worked on
 - South Salt Creek and South Lincoln Quiet Zones - remaining money left for flagging costs, etc.
 - Waverly - Mark Lutjeharms to give update.
- Mark Lutjeharms - "Thank you. Good afternoon. Roger did indicate I believe that the project is finally moving. We think cautiously optimistic in the direction we're hoping for after several

months of delays for a variety of reasons. On November 30th, we did open bids for construction. We received four bids from four local contractors and the low bid was Constructors of Lincoln. On the following Tuesday, December 4th, the Waverly City Council did issue a notice of award to Constructors. We will be conducting a pre-construction meeting likely in early January with the intent based on some early conversations with Constructors that they would like to begin some of the box culvert construction in early Spring. The definition of that is dependent on the weather but we anticipate anywhere from mid-March to mid-April would be when they would want to get started on that construction activity. The contract documents do state a substantial completion date of September 1st of next year. We think it will be quicker than that but that is the date we've identified for substantial completion. We are cautiously optimistic that we're finally moving in the right direction. If you have any questions, I'd be happy to answer them."

Schorr asked about the changes for the access to the grain elevator and if it will need to be done in advance of the construction.

Mark Lutjeharms - "Some of the activity that is taking place for the grain elevator, in what I call their downtown facilities, are being done by themselves. That is not part of the project. There is really no impact of the project on access for Waverly Coop."

Hudkins stated that there has been a financial impact on Waverly Coop. In the interest of what is best for the community, they have spent a lot of money to relocate the scale.

Mark Lutjeharms - "That is a good statement. I appreciate that comment and we're certainly appreciative of the willingness that Waverly Coop has been in working with the project. I know Mr. Smoyer was a part of some of those conversations early on in the project. I stand corrected if I mis-spoke, but what you said is certainly true."

Figard continued highlighting some items:

- Quiet Zone for Cornhusker Highway - There was some equipment difficulties and failures with the wayside horn in the last week of November and first week of December. There was also mis-communication between Public Works staff and the Railroad, but the quiet zone is back up and operating. The wayside horn is working correctly. The Railroad responded very quickly to the request.
- 33rd & BNSF Crossing - The Board had put \$200,000 in that line item. There is a meeting with BNSF in Kansas City that Figard will be attending with Thomas Shafer (project manager) and Ellis Tompkins (director of rail at NDOR) to discuss the Railroad's interest and participation for this project. Internally a scope of services has been discussed, but has not moved forward or expended any money. It is important to meet with the Railroad and NDOR first.
- Hickman Quiet Zone - Silas Clarke to give update.
Silas Clarke - "Good afternoon everyone. Happy to report that the Hickman City Council did pass a resolution just on the 27th of November approving that scope of work and also prices with FHU for the project. They say the preliminary design will take about 90 days and then they will send that over to the Railroad. Depending on their time frame hopefully we can get that back quickly from them. We know from Waverly and a few others that it will take a little while. But we will need to get back from Burlington Northern Santa Fe their costs estimates, their draft engineering, agreements, operation and maintenance agreements on that. But they are moving forward full steam and continue to work on the project getting it done as soon as we can. Guessing on the City side, we hope to go out to bid in the Spring and get those done very quickly

on the roads. Now the Railroad side of it, I don't have a guess at this time. We will be sending those documents here shortly. FHU will on our behalf and making them aware just so hopefully it will come easier in the end."

NCUTCD will be held the second or third week in January in Washington DC.

Schimek asked how much of the operating cost budgeted will not be expended.

Figard replied that the City doesn't bill the District for 25% of his time until later in the fiscal year. In 11/12 operating expenses were just under \$65,000. Administration costs have remained fairly low in relationship to the capital costs.

Order No. 12-26 Rosa Parks Way Access.

Randy Hoskins - "The Street Maintenance went in and graded an access off Rosa Parks Way down to 1st Street. There is a triangle of land in there that can get land locked when trains are on the tracks so this is a means to provide emergency access is those two routes were blocked. One of the things that we've been noticing is that we're having trouble keeping that pathway maintained. It is currently just a dirt road down through there. And then over there where it comes off of 1st Street, that section is in pretty bad shape right now coming across the sidewalk. It's all broken up. What we had done is I asked one of our designers to come up with a design for this that would allow us to go in and pave that and make it a more permanent type solution to the problem out here. That is what is shown on the drawing. As you can see, an estimated cost of around \$60,000 to go in and pave this. We just brought that forward for your consideration."

Schimek thanked everyone for working on this.

Randy Hoskins - "We did meet with the Police and Fire and talked to them about this. There was a little bit of concern initially about whether or not their vehicles would be able to make that turn onto there, but after meeting out on the site, they agreed that yes they can."

Schorr asked if there is any culvert work that needs to be done.

Randy Hoskins - "The area where it shows the concrete rip-rap, basically what that is, that would be where the curb and gutter ends. We'd just be carrying, this just kind of slopes to the north and so the water would all just run along that north curb until we get down to where the rip-rap is shown. Basically that is where the slope is gone and everything flattens out. At that point we can just let it run off the side of this access."

Emery asked if there was a way to limit it only to emergency vehicles.

Randy Hoskins - "I don't know that we currently have that sign for emergency access only, but certainly if not we should and I would say that we should have that in place. We will probably need an extra \$100."

Figard stated that if the Board is supportive of the project, it could be paid for out of the Emergency Safety & Study line item.

Schimek motioned to approve the \$60,000 funding out of the Emergency Safety & Study line item. Hudkins seconded the motion. Motion carried 5-0.

Order No. 12-27 West Haymarket - Budget Request for Fencing.

Dan Marvin - "There is a letter and a corrected letter. I brought a map and will hand these maps out, but if we can get them up on the screen here and talk about where the fences that we are looking at using. What you see before you is a map of the Joint Public Agency area and obviously this is the railroad corridor through here. The red line on this side is a standard chain link fence, would have some barb wire on the top of it. The blue is what we are considering would be consistent with the fence that runs along Salt Creek Roadway which is more of a black vinyl fencing. And what you have before you today is a request for some funds to pay for fencing and what we're asking and what's before you is just a basic chain link fence. We would pay for the upgrade so the blue side would not be a basic galvanized chain link fence. It would be a fence that would be consistent with what you see on Salt Creek Roadway. I brought down, it's kind of a tragic incident that happened not too long ago, but accidents do happen with individuals and trains and when they do, it's fatal. There was an accident with a man out in Gering not too long ago that was on the tracks and was hit by the train and didn't survive. That was just at the end of November. Here's another accident. Now I don't think we're going to have a lot of tractors along there, but you do have within a span of about ten days there were two accidents with trains around train tracks. What you will see is in this area we have a parking lot with about 1500 cars, and we have events that will occur here with 16,000 people in them. They will be flowing down through here. We have a bicycle trail that will be running along the back bone road and what we want to try to do is minimize the potential of conflicts between individuals and train tracks. That's really what the purpose of the fence is for. We have an agreement with the Railroad. The Railroad was quite insistent that we put a fence up along there. I'm not saying I disagree with that, but we do have an agreement with Burlington Northern to put a fence along this area. And so what you have before you is a request to help participate in putting a fence up along there so we minimize those kinds of conflicts."

Hudkins stated that the request is valid considering the amount of traffic that is going to be in the Haymarket area. He asked if the Railroad will be assisting in the cost of the fence.

Dan Marvin - "No I don't think they will be participating in the cost of that. There are two fences. There is an east fence and a west fence. There is 4,061 feet on the west side at a cost of \$19.49 a foot for \$79,000. On the east side there is 4,813 feet at a cost of \$93,000. The combined cost of the two is \$172,000 for the basic level fence. What we did when we, you guys were very kind and helped us out in removing tracks in the streets that were south of O Street and when we did that project we did it on bid and did it at cost. So the cost there was \$203,000 so you have encumbered about \$96,000 - \$97,000 in your budget which you just went over. Some of the dollars that flowed back to you could be applied towards this. But I think Roger is going to go through the budget mechanism for how this could actually be financed."

Hudkins asked if the fence was bid out.

Dan Marvin - "Yes."

Figard stated that there is a little over \$96,000 of the budgeted item left in West Haymarket that could be applied. The request is just under \$173,000. Without changing the total of the budget, the line item listed as City Railroad Crossing could be used for the \$77,000 remaining money needed.

Hudkins agreed with that budget strategy.

Hudkins motioned to use the remaining \$96,000 left in the West Haymarket line item and \$77,000 out of the City Railroad Crossing line item to fund the \$173,000 request for fencing. Smoyer seconded the motion. Motion carried 5-0.

Order No. 12-28 Petitions/Letters/Requests.

Figard asked Bill Kutilek to give an overview about bonding authority and the relationship between the RTSD Board approving a budget and the County Board having authority over the 15 cent levy request.

Bill Kutilek - "Bill Kutilek. Crosby Guenzel Law Firm. I appreciate the opportunity to be here. Roger asked me a few weeks ago some questions regarding bonding authority. I think going back when the act was originally adopted in 1971, the thought was there was going to be a bonding ability and that was going to be important to fund many of the projects that the RTSD would be undertaking due to the capital requirements. It's also my understanding that this RTSD has had the ability to receive federal funds over the years and hasn't found it necessary to issue bonds. I'm unaware of any instance where this particular District has issued bonds, but it does under the statutes have the ability to do that. One of Roger's questions was the funds required by the District to satisfy bonds if it were to issue bonds, would those funds be subject to the 2.6 cent per 100 value that the RTSD act imposes upon Districts. And the answer to that is yes. The funds that the District uses to retire bonds is subject to that 2.6 cent limit. Collateral question to that is how do we interplay that limitation within the other 15 cent limit that the County has or County Board may allocate to those other political subdivisions including the Ag Societies, the Rural Fire Districts and the RTSD. There was in 1996 an attorney general's opinion that did confirm that the RTSD is one of those other political subdivisions subject to that 15 cent limit. Now the question then becomes if this District issues bonds, are the funds there are its levy limited to the 15 cents. The answer is no as long as the qualifications are met. There is an exception in that statute and that is kind of the second question in my letter of December 4th. Nebraska Revised Statute 77-3443 sets forth the 15 cent limit there, but there are exceptions to that for bonded indebtedness approved according to law and secured by a levy on property. So we are not subject to the 15 cent for that bond indebtedness portion. Any questions?"

Hudkins stated that it is consistent with what the County Attorney has said. The bond interest would be outside of that.

Bill Kutilek - "Then finally, Roger asked me what approval requirements are in the statutes regarding the issuance of bonds. And certainly it's an action of the District and not required of a vote to the Electorate. Those were the three queries that Roger posed to me and I'm here if any of you have any collateral questions."

Schorr asked if the District was dispersed, would it continue to show under the 2.6 levy until the time the bonds are retired.

Bill Kutilek - "Yes. And in fact the legislative history, if I recall, addresses that. The District would continue for the sole reason of retiring bonds."

Hudkins asked how many Railroad Transportation Safety Districts there are in the State of Nebraska.

Figard stated that are Districts in Norfolk, Gering/Scottsbluff, and us. Lexington just created one about a year ago. Grand Island/Hall County is looking into creating one.

Order No. 12-29 Non-Agenda Items.

Harlan Layton - "Harlan Layton, 740 Skyway Road. It's about the 33rd Street railroad crossing and Adams. A few years back they wanted to put in a Northeast Radio and it got voted out. If it would've went in, it probably would have eliminated those two crossings. But it didn't go in so now there is a project that is trying to get in and people think it's way too big. Well you could probably put it in a cheap way and get by and down the road they want to do something on Cornhusker Highway when traffic keeps building up. So they propose something there. It's not going to match the other. So you're redoing that. Whatever is going, I mean it's going to affect different vocations. Whether it's the railroad crossings or the street, it's all going to be paid for by the taxpayers one way or another, City, County or whatever. And if a guy would look at this and run it on up to 33rd Street clear up to Superior, then you take some of that traffic off of 27th and to me, it should go ahead with what it is and eliminate those two crossings and help some of the traffic on Cornhusker and that kind of stuff. It makes more sense now than waiting down the road and maybe end up doing it and it's going to cost you five times more than it's going to cost now. None of this stuff is going to be cheap, but it would have been. Those two crossings I would say if Northeast Radio would have went in they would have been closed a long time ago."

Hudkins stated that the challenge is how to combine Adams and 33rd into one place to make one crossing over Cornhusker to keep going on to Superior. Everyone is working hard to come up with a design that will work for all.

Emery stated that the pieces all need to come together so the intersection doesn't turn out like Warlick.

Schorr stated that she and Figard had an opportunity to talk with KFOR Radio on Lincoln Live about the RTSD.

The next Board meeting will be held on Tuesday, March 19, 2013 @ 8:15 am.

Smoyer motioned to adjourn the meeting. Hudkins seconded the motion. Motion approved 5-0.

Prepared by: _____
Tina Queen, Engineering Services