



RAILROAD TRANSPORTATION SAFETY DISTRICT

Board Meeting

Tuesday, March 19, 2013

Meeting Began At: 8:14 a.m.

Meeting Ended At: 8:54 a.m.

Members Present: Deb Schorr, Doug Emery, Brent Smoyer, DiAnna Schimek, Roma Amundson

Members Absent: N/A

Others Present: Roger Figard, Tina Queen, Liz Thanel, Susie Filipi, Bill Kutilek, Harlan Layton, Mark Lutjeharms, Doug Rix, Rick Haden

Order No. 13-01 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 5-0.

Order No. 13-02 Statement of Receipts & Disbursements & Investment Detail.

Thanel presented the statement of receipts and disbursements. She indicated that the RTSD is at 67% of the year end and revenues are right on target. The expenditures are on target for commissions and refunds. Operating costs are at 18% and have not been billed yet. Construction project money is only 7% expended. Investments are earning .15% and CDs are earning .5 - 1%.

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

Order No. 13-03 Current Budget Status, Project Updates, Committee Updates.

Figard highlighted the following items:

- The City will bill for management services during the last quarter. Secretary billing will be at 70-80% by the end of June.
- OPPD @ 91st - Money in the budget to build a new crossing where 91st and Yankee Hill would cross and come up to Highway 2.
- West Pioneers - The project is done and waiting on the railroad for a final bill.
- West Haymarket - The Board approved a fence expenditure. The bill should arrive in the next month.
- Hickman - \$10,000 there only for incidentals.

- Southwest 40th - The City has the project under contract. The City will bill for the total budgeted amount. Any money not expended will be reimbursed.
- Salt Creek Underpass - The money will stay in the budget until NRD moves ahead.
- Miscellaneous Engineering - Some of the money will be used for Rosa Parks Way emergency access.
- Emergency & Safety - Used in case something comes up.
- Quiet Zones - South Salt Creek & Yankee Hill - The work is done, but still paying bills. The account will go negative about \$15,000, but money will be reimbursed by the State of Nebraska and the Railroad for closing the at-grade crossing.
- Waverly Quiet Zone

Doug Rix - "Good morning. Doug Rix with the City of Waverly. Good news. We have awarded a contract. Constructors is going to do the work for our quiet zone. The price was \$373,948.60. Work is to start next week. We're still working on a couple unresolved issues. We had a meeting which Commissioner Smoyer attended last Friday talking about whether or not additional flashing lights are required at the 141st Street crossing for southbound traffic. We're hoping to have that resolved by the end of the week. It's estimated that could add up to \$100,000 more to the project so we're hoping they are not going to be required. And then another issue we're working with, BNSF was originally going to do the improvements to the Millard Lumber private spur and it was in their contract, but they have recently indicated they no longer do that. So we are trying to get another contractor to do that work. We don't have a confirmed price on that yet. The bottom line, depending on whether or not we have to do these additional flashers, it's looking like we are going to be over budget just a little bit under \$45,500, but we should know more within a week on that."

Smoyer commented that despite the fact the contract was signed, the Railroad wants to make changes. The Railroad is making creating quiet zones very difficult. Waverly and others associated with the quiet zone have done a great job trying to make the project work.

Schorr asked if the Railroad agreed to provide financing or to the proposed plan.

Doug Rix - "In their contract they are supposed to do the work and we were supposed to pay them a little over \$12,000. Now they are saying they are unable to do it."

Emery asked how the Railroad can walk away from a signed contract.

Doug Rix - "That was brought up at our meeting Friday. Their response was that they just wouldn't bill us for it. They are supposed to amend the contract. I mean if they aren't going to do it, to protect the City and Burlington, it should be taken out of the contract. It should be amended. We tried to force the contract issue, but I guess this has been about a two or three year long process, and we feel like we know Burlington Northern Santa Fe representatives fairly well. There are times you just realize whether or not you need to force the issue or not. There were a lot at that meeting with Burlington that were very cooperative and some of things take up to six months and they are getting things done in a couple weeks. There were some people at the meeting that were very supportive. That was the first time one or two of them had to been to the meeting."

Emery stated that every time a quiet zone has been put in, there are different rules and no consistency.

Doug Rix - "There was an awful lot going on that I became aware of after our meeting. The meeting started 10 - 15 minutes late and I had three, four phone calls after the meeting that afternoon. There was a lot going on behind the scenes."

Schorr stated that every quiet zone is different, because they are set up different physically. The players are always changing.

Emery asked why the Railroad decided to put in different lighting.

Doug Rix - "Our intent all along was that 141st Street crossing for southbound traffic be two lanes on both the north and south side of 141st. Burlington Northern officials, or our contact, interpreted the plans that it would only be one lane for southbound traffic on the north side of the tracks. So that's where the discrepancy is. Our intent was to have two lanes and that's how it's striped now. We have so much traffic there. It would back up two or three blocks if it would revert to one lane. So now that he understands that we want two lanes, that's why his interpretation of the regulations is that additional flashers are required."

Smoyer added that Waverly doesn't want to see the project drag on any longer.

Schorr asked if the project goes over budget, are there options to cover the overage.

Figard replied that the actual construction won't be finished by the end of this fiscal year and more money could be budgeted in next fiscal year. There is no shortfall of cash to cover the expenditures.

- BNSF 33rd & 70th - Carrying money for late flagging bills.
- 33rd & BNSF - Has not moved ahead. Figard had hoped to have a letter from BNSF, but has a verbal that the Railroad is interested in looking at the two intersections. They are willing to contribute more than the 5% minimum. Figard is reluctant to push ahead until he receives something in writing.
- Hickman

Rick Haden - "Glad to help Roger out. The Hickman Quiet Zone, we have completed the preliminary plans and submitted those to the City. We're waiting now to have a plan-in-hand. We scheduled for that a couple weeks ago but the snow cover postponed it. We're scheduled for this Friday and shortly after that, we'll send out the notice of intent to the Railroad, the Federal Railway Administration and the Dept. of Roads to give them the set of plans that we're looking at and getting their comments. That starts the 60 day clock that gives them time to review it and comment back. We've done over a 100 railroad crossing and quiet zones over the last seven years and every one is different. Every one the Railroad changes the requirements. As they get more and more experience nationwide, they do have the lawyers, but in their defense, they have them for good reason because they are a target. If anything happens at a railroad crossing, they are usually the first ones that people go after regardless of the situation. There is some reason for them changing their regulations. From experience, you have to go

with the flow and adjust and try to come up with something that is reasonable. The Federal Railway Administration is the arbitrator that helps sometimes bring the Railroad back. Colorado, for example, they have a public utility commission and the utility commission does have a hammer over the Railroad as far as regulating their review of documents within a specific time frame and also arbitrating which we don't have. It's a little more difficult in Nebraska." Schorr asked if Hickman will be completed in this construction season.

Rick Haden - "The paving could be, but not the railroad work. I'd be surprised if they get their work all done within the fiscal year. Construction year is a possibility."

Amundson asked about what assurance the RTSD has that the Railroad won't do this in the future.

Figard replied none. It's best to get everything in writing. The RTSD's job is to put safety first.

Schorr asked about an inquiry from Denton about the condition of nearby crossings.

Figard replied that he talked with the Roadmaster and have them contact the County. If Denton wants to move ahead, the District does have money to move ahead.

Figard attended a conference in Overland Park, Kansas. The DOTs from Missouri and Kansas were there. Items talked about were new equipment and pedestrian trespassing. There were 500 fatalities over a year span. Urban areas have to be sensitive to pedestrians. The NCUTCD meeting is in Portland, ME this coming June. The Federal Highway Administration is talking about splitting the 800-900 page manual into two manuals.

Order No. 13-04 Draft 2013 - 2014 Budget & CIP.

Figard highlighted the following items:

- The only increase in the operating budget is to cover Figard's adjustment in salary.
- Suggesting to put approximately \$500,000 in the Southwest 40th account for contingencies or other things that might happen.
- The Rosa Parks driveway may have changed. FHWA has designated the street as part of the National Highway System. Any work done on that street must meet the design criteria from the AASHTO green book.
- \$25,000 into the remaining quiet zones to cover any last billings with the Railroad.
- Two new items - Salt Creek Levy Trail just north of A Street. The trail goes across the railroad tracks before the railroad tracks go across Salt Creek and A Street. Park Blvd - west from 9th/10th on South Street. There will be quiet zone there.

Order No. 13-05 LPA - Resolution.

Figard explained that the Nebraska Department of Roads acts as the agent of all federal aid that comes in. In order to be a recipient of that federal aid, the RTSD would need to be recognized as a local public agency. The Lancaster County Engineer's office is a LPA and so is the City of Lincoln. With the potential of moving ahead with a possible RTSD project at 33rd/35th and Adams, the recommendation is that it be managed by the District and not the City. The interlocal agreement

between the City and the RTSD says that the City of Lincoln Public Works and Utilities Engineering Section provide the work for the RTSD. This resolution would authorize Figard as Executive Director and Schorr as the Chair to sign off on agreements. If 33rd/35th and Adams moves ahead, the project would need significant federal funding. Figard's recommendation is that the RTSD be recognized as a LPA.

Bill Kutilek - "Bill Kutilek, Crosby Guenzel Law Firm. I have no comments. I am here for questions. I think this is just a resolution as a precursor to allow Roger the flexibility to do what needs to be done to be recognized in order to gain greater access to the federal funds. This resolution is only addressed with respect to the 33rd and Cornhusker project. That was what Roger had asked for. If there are other projects for which we need recognition as a LPA, we can address that through a future resolution. If that process becomes cumbersome, we could create a resolution that would grant a blanket authority for future use, and I do think the Board has the authority to authorize Roger and Ms. Schorr to continue the process for future projects."

Smoyer motioned to approve signature of the resolution to recognize the RTSD as a Local Public Authority for the 33rd/35th and Adams project. Schimek seconded the motion. Motion approved 5-0.

Order No. 13-06 Petitions/Letters/Requests.

N/A

Order No. 13-07 Non-Agenda Items.

N/A

The next Board meeting will be held on Monday, June 10, 2013 @ 11:00 am.
Smoyer motioned to adjourn the meeting. Schimek seconded the motion. Motion approved 4-0.
Schorr was absent during this motion.

Prepared by: _____
Tina Queen, Engineering Services