

# THE MINUTES OF THE TRUSTEES OF THE CINCINNATI SOUTHERN RAILWAY

March 6, 2014

The regular meeting of the Trustees of the Cincinnati Southern Railway was held on Thursday March 6, 2014, at 1:00 p.m. during the rail inspection trip, with the following members present: Messrs. Kilcoyne, McOwen, Sylvester, Riordan, and Mr. Sutmoller. Mr. Nestor, Interim City Solicitor, and Ms. Woerner, Assistant City Solicitor for the City of Cincinnati were also in attendance.

## MINUTES OF DECEMBER 10, 2013 MEETING

Ms. Woerner passed out the minutes of the December 10, 2013 meeting. Mr. Riordan moved to approve. Mr. Sutmoller seconded. Unanimously approved.

## INTRODUCTION OF TERRANCE NESTOR

Mr. Terrance Nestor, Interim City Solicitor, was introduced to the Board.

## FIBER FEASIBILITY

The Board was approached by the Center for Rural Development who is interested in the feasibility of running fiber optics along the right-of-way of the CSR. After discussion, the Board decided to have a representative from the Center for Rural Development contact a person employed by Norfolk Southern who specializes in fiber optics negotiations for the purpose of gaining additional information about any possible agreement.

## RAIL SAFETY PLAN CORRECTION

The Board agreed to request that the City's Railroad Improvement and Safety Plan to read on page 1 "The City owns the right-of-way, and the lease requires that NS surrender the line of railway in complete operating condition as established by the Federal Railway Administration at the end of the lease term." Ms. Woerner to contact the appropriate personnel at the City regarding the correction.

## PAYMENT

Mr. Sylvester moved to pay Vehr Communication \$3,010.26 for their services rendered; \$9,205 to the American Short Line and Regional Railroad Association for dues; and \$21.33 to Ms. Woerner for reimbursement for Ms. Carman's gift. Mr. McOwen seconded the motion. Unanimously approved.

## BOARD MEMBERS' TERMS

The Board expressed a preference to get the appointment schedule back to the appointment of one member per year, with appointments to occur in July. Ms. Woerner to research the issue and report to the Board.

## APPROVAL OF MS. WOERNER'S TRAVEL

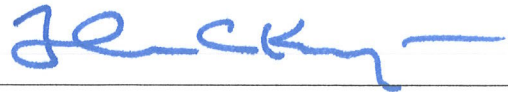
Mr. Sylvester made a motion to approve the travel of Ms. Woerner, Clerk to the Board, on the Board's inspection trip. Mr. Kilcoyne seconded the motion. Unanimously approved.

## STATEMENT OF INVESTMENT PORTFOLIO HOLDINGS

Mr. Sylvester presented the Board with a statement of the Board's investment portfolio holdings. No action taken.

## ADJOURN

Mr. Sütmmoller moved to adjourn. Mr. Sylvester seconded. All agreed. Meeting adjourned.



Mr. Kilcoyne, President

  
Ms. Woerner, Clerk

# THE MINUTES OF THE TRUSTEES OF THE CINCINNATI SOUTHERN RAILWAY

June 25, 2014

The regular meeting of the Trustees of the Cincinnati Southern Railway scheduled for June 10, 2014 was cancelled for lack of a quorum. The special meeting of the Trustees of the Cincinnati Southern Railway to address the business scheduled for the June 10, 2014 meeting was held on Wednesday June 25, 2014, at 3:00 p.m. at the offices of Cors & Bassett, 537 East Pete Rose Way, Suite 400, Cincinnati, Ohio, with the following members present: Messrs. Kilcoyne, McOwen, Sylvester, and Mr. Süttmoller. Mr. Riordan was not present. Ms. Woerner, Assistant City Solicitor for the City of Cincinnati and Kerry Roe of Clark Schaefer Hackett were also in attendance.

## MINUTES OF MARCH 6, 2014 MEETING

Ms. Woerner passed out the minutes of the March 6, 2014 meeting. Mr.

Süttmoller moved to approve. Mr. Sylvester seconded. Unanimously approved.

## INTRODUCTION OF RYAN TAYLOR

Ms. Woerner informed the Board that Ryan Taylor of the City Solicitor's Office will cover the duties of Clerk during her leave.

## AUDIT REPORT

Mr. Roe of Clark Schaefer Hackett presented the Independent Auditor's Report and Report on Applying Agreed-Upon Procedures. No abnormalities were found. Mr. Sylvester moved that the Board accept the two reports and transmit them to the City. Mr. Süttmoller seconded. Unanimously approved.

## UPDATES FROM CLERK

Ms. Woerner informed the Board that the contact from the Center for Rural Development who approached about the feasibility of installing fiber optics was put in touch with the proper person at Norfolk Southern to discuss. Ms. Woerner to follow up to see whether any communication has taken place. Ms. Woerner informed the Board that

the correction to the Railroad Improvement Safety Plan will be made by the City. Ms. Woerner also presented the Board with information regarding when appointments to the Board should take place. The Board requested a memorandum from the City Solicitor's Office on this topic. No action taken.

#### PAYMENT

Mr. Sylvester moved to pay Vehr Communication \$188.17 for their services rendered. Mr. Kilcoyne seconded the motion. Unanimously approved.

#### RENT FOR 2014

Ms. Woerner informed the Board that the rent calculation for 2014 is \$20,862,753.00.

#### HELENWOOD BRANCH SALE

The Board indicated its approval of the proposed language of the Purchase and Sale agreement for land previously approved for sale by the Board.

#### GREENDALE, KY EASEMENT

Motion by Mr. McOwen to approve the granting of an easement to the Transportation Cabinet of the Commonwealth of Kentucky in order for the Commonwealth to construct a bridge in Fayette County and to authorize Tom Kilcoyne to sign such easement on behalf of the Board. Mr. Sutmoller seconded. Unanimously approved.

#### HIGH BRIDGE ROAD KENTUCKY BRIDGE

Ms. Woerner informed the Board that CNOTP would like to know whether the Board is agreeable to a deal in which CNOTP will remove a bridge over the rail and

compensate a landowner for the release of that interest. The Board indicated that it is agreeable.

UPDATE TO BYLAWS

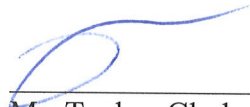
Ms. Woerner proposed an update to the Bylaws in order to bring them in compliance with the Ohio Open Meetings Act. Mr. McOwen proposed a motion approving the additional language. Mr. Sylvester seconded. Unanimously approved.

ADJOURN

Mr. Süttmoller moved to adjourn. Mr. Sylvester seconded. All agreed. Meeting adjourned.

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Mr. Kilcoyne, President

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Mr. Taylor, Clerk

# THE MINUTES OF THE TRUSTEES OF THE CINCINNATI SOUTHERN RAILWAY

September 9, 2014

The regular meeting of the Trustees of the Cincinnati Southern Railway was held on Tuesday September 9, 2014, at 3:00 p.m. at the offices of Cors & Bassett, with the following members present: Messrs. Kilcoyne, McOwen, Riordan, and Süttmoller. Mr. Taylor, Assistant City Solicitor for the City of Cincinnati was also in attendance. Mr. Sylvester was absent.

## MINUTES OF JUNE 25, 2014 MEETING

Mr. Taylor passed out the minutes of the June 25, 2014 meeting. Mr. Kilcoyne moved to approve. Mr. Riordan seconded. Unanimously approved.

## ADOPTION OF UPDATED BYLAWS RE OPEN MEETING NOTICE

Mr. Taylor presented the Board with a revised bylaws which updated the open meeting notice section. Mr. Kilcoyne moved to approve. Mr. Riordan seconded. Unanimously approved.

## APPROVAL OF FEDERAL TAX CREDIT AGREEMENT (RESOLUTION NO. 1-2014)

Mr. Taylor presented the Board with a resolution approving a federal tax credit agreement. Mr. McOwen asked if this federal tax credit agreement had the same terms as the year before. Mr. Taylor confirmed that the CSR would receive the same 50% share as the year before. Mr. Riordan moved to approve. Mr. Kilcoyne seconded. Unanimously approved.

## APPROVAL OF KENTUCKY TAX CREDIT AGREEMENT (RESOLUTION NO. 2-2014)

Mr. Taylor presented the Board with a resolution approving a Kentucky tax credit agreement. Mr. Riordan moved to approve. Mr. Kilcoyne seconded. Unanimously approved.

PENDING LITIGATION – DRAFT COMPLAINT AGAINST CSX & MIDSTATES  
RAIL, LLC

Mr. Taylor presented the Board with a complaint prepared by Norfolk Southern to be filed against CSX & Midstates Rail, LLC. Mr. McOwen provided a large map and aerial photos in order to explain the dispute behind the proposed lawsuit. Mr. Kilcoyne pointed out a math error in the complaint (paragraph 3 of the “wherefore” clauses) which should list compensatory damages at \$5 million rather than \$500,000. Mr. Taylor to inform Norfolk Southern of the issue. No further action taken.

UPDATE RE BOARD TERMS

Mr. Taylor informed the Board that Ms. Woerner would provide an update / memo at the December board meeting. Mr. Kilcoyne mentioned that Mr. Sylvester's term expires in January 2015. Mr. Kilcoyne decided to wait until the December meeting to discuss with Ms. Woerner. No action taken.

TENNESSEE SECRETARY OF STATE

Mr. Kilcoyne presented the Board with registration records from the Tennessee Secretary of State. The registration of the Trustees of the Cincinnati Southern Railway is listed as “for-profit” and that it had expired in 1996. Mr. Kilcoyne questioned why the CSR is listed as “for-profit” and requested that Mr. Taylor research the issue. Mr. Taylor is also to further research why the registration expired.

POTENTIAL SALE

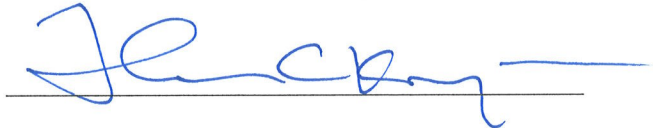
Mr. Kilcoyne asked the Board whether anyone had heard any discussion about a potential sale of the CSR. All present answered in the negative. No further discussion.

CITY MANAGER

Mr. Kilcoyne suggested inviting the new City Manager, Harry Black, to the next Board meeting in December. Mr. Kilcoyne to reach out to the City Manager's Office.

ADJOURN

Mr. Sutmoller moved to adjourn. Mr. McOwen seconded. All agreed. Meeting adjourned.

A handwritten signature in blue ink, appearing to read "J. Kilcoyne", written over a horizontal line.

Mr. Kilcoyne, President

A handwritten signature in blue ink, appearing to read "Emily Woerner", written over a horizontal line.

Ms. Woerner, Clerk



# THE MINUTES OF THE TRUSTEES OF THE CINCINNATI SOUTHERN RAILWAY

December 9, 2014

The regular meeting of the Trustees of the Cincinnati Southern Railway was held on Tuesday December 9, 2014, at 3:00 p.m. at the offices of Cors & Bassett, with the following members present: Messrs. Kilcoyne, McOwen, Sylvester, and Sutmoller. Ms. Emily Woerner, Assistant City Solicitor for the City of Cincinnati was also in attendance. Mr. Riordan was absent.

## MINUTES OF SEPTEMBER 9, 2014 MEETING

Ms. Woerner passed out the minutes of the September 9, 2014 meeting. Mr. McOwen moved to delete the "Rainy Day Fund" section because it was in error and to approve the minutes as corrected. Mr. Sylvester seconded. Unanimously approved.

## PAYMENT TO VEHR COMMUNICATION

Ms. Woerner presented an invoice from Vehr Communication in the amount of \$437.83. Mr. Sylvester moved to approve payment of the invoice. Mr. Sutmoller seconded. Unanimously approved.

## PAYMENT OF PUBLIC ENTITY LIABILITY INSURANCE PREMIUM

Mr. Sylvester presented the Board with information regarding the payment of public entity liability insurance for the Board in the amount of \$6,754.00. Mr. Sylvester moved to approve payment. Mr. Sutmoller seconded. Unanimously approved.

## TREASURER'S REPORT OF FUNDS ON HAND

Mr. Sylvester presented the Board information regarding the funds on hand. Mr. Sylvester stated that the Board has a good relationship with U.S. Bank and distributed the report detailing the funds on hand to the Board members present. No further action taken.

## 2015 BOARD MEETING DATES

Ms. Woerner suggested the following dates for the Board's 2015 meetings: March 10 (annual meeting), June 9, September 8, and December 8. The Board agreed. Ms. Woerner to take steps to confirm the date for the annual meeting and provide public notice of the meeting dates.

HELENWOOD BRANCH PURCHASE AND SALE AMENDMENT (RESOLUTION 3-2014)

Ms. Woerner presented the Board with a proposed amendment to the Helenwood Branch Purchase and Sale Agreement to reflect a substitution of a different index to calculate the price of the improvements in Exhibit B to the agreement along with a proposed resolution approving the amendment. Mr. Sylvester moved to approve the proposed resolution and amendment. Mr. Sütmmoller seconded. Unanimously approved.

GROVE/SOMERSET PROPERTY TRANSFER TO CSR (RESOLUTION 4-2014)

Ms. Woerner presented the Board with deeds to accept property in Pulaski County, Tennessee related to property acquired in order to construct new trains' crew's quarters. Mr. McOwen moved to approve the resolution authorizing Mr. Kilcoyne to sign the deeds. Mr. Sylvester seconded. Unanimously approved.

LITIGATION DISMISSAL

Ms. Woerner informed the Board of CNOTP's desire to end litigation related to an adverse possession case in Roane County, Tennessee due to the opinion of CNOTP counsel that there was little likelihood of success and an alternate manner of access had been constructed. Mr. Sylvester moved to approve the dismissal of the case. Mr. Sütmmoller seconded. Unanimously approved.

## BOARD TERMS

Ms. Woerner discussed with the Board different options to reset the dates of Board members' appointments so that they are on a rolling basis. The Board requested a written opinion from the Solicitor's Office. Ms. Woerner to provide that opinion.

## POTENTIAL FOR ADDED CAPACITY

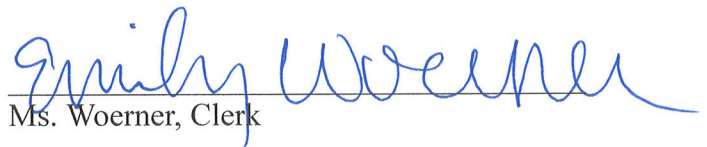
Mr. Kilcoyne raised the issue of the potential for adding capacity to the railway due to the change in the economy and the recent oil and gas boom. Discussion about having an outside presenter on the topic. Ms. Woerner to look into dates and review the terms of the lease renewal.

## ADJOURN

Mr. Sutmoller moved to adjourn. Mr. McOwen seconded. All agreed. Meeting adjourned.

A handwritten signature in blue ink, appearing to read "J. Kilcoyne", written over a horizontal line.

Mr. Kilcoyne, President

A handwritten signature in blue ink, appearing to read "G. Woerner", written over a horizontal line.

Ms. Woerner, Clerk