

# Rail Advisory Committee (RAC)

Tuesday, March 21, 2023

9:00 a.m. – 12:05 p.m.

## Meeting Minutes

### Attendees, *RAC Members*

*Bruce Carswell, Chair*

*Paul Langner (by phone)*

*Peggy Harris (UPRR Alt.)*

*Toby Van Altvorst*

*Ross Lane*

### Introductions and Committee Business

- Quorum Confirmed
- Group Photo to be rescheduled due to lack of in-person attendance
- Review of meeting conduct and today's meeting agenda.
- Introduced Carmen Merlo. She will be the new Port representative once the paperwork has been processed.
- Previous minutes (December 20, 2022) - Motion to approve minutes as presented, minutes approved.

### Legislative Update: *Karyn Criswell*

Senator Gorsek is out for 6-8 weeks. It is unclear how that will affect bills he has introduced.

- HB 2662 – directs the Oregon Department of Transportation (ODOT) to work with TriMet to study extending service from Wilsonville to Salem.
- HB 2691 - Ultra High-Speed Ground Transportation (UHSPGT) agreements must include service to Eugene and sets limit for ODOT spending for UHSPGT.
- HB 2692 – Requires ODOT to work with the Washington State Department of Transportation (WSDOT), and the British Columbia (B.C.) Ministry of Transportation to develop and document a shared regional approach to Cascades passenger rail planning, funding and communications. It is more directive regarding MOUs with WSDOT. Most of the work that would be required is already underway.
- SB 14 – Would require ODOT to study adding passenger rail services between Portland and Ontario. This work is already being done by the FRA and Amtrak. Bob Melbo is participating in this effort.
- SB16 and HB 3481 – This is work ORULE has been doing. They would create additional provisions to ORS 824.016 relating to the State Rail Rehabilitation Fund.
- SB 846 – Would require Metro to study rail corridors within its borders to determine the feasibility of using the rail corridors to carry passenger trains.
- HB 2092 and SB 155 - Extends the sunset date for various tax credits including the Shortline Tax Credit.
- HB 3477 – Amends the existing Shortline Railroad Rehabilitation Tax Credit program, eliminating all distinctions between the various shortline railroads. Making all railroads equally eligible for \$3,500/mile of mainline track or 50% of the rehab project costs, whichever is less. Currently, the three largest shortline railroads are limited to \$1,000/mile of mainline track or 50% of the rehab project costs, whichever is less. If current application trends continue, and HB 3477 becomes law, eligible projects could exceed the \$4M/biennium cap, meaning that railroads applying later in the biennium would not receive the full tax credits.

## Oregon State Rail Plan Implementation Plan (OSRP\_IP) – Bob Melbo

- Review of work done since December. Distribution of the final Oregon State Rail Plan - Implementation Plan (OSRP-IP) is the final step and will be done once the RAC gives their endorsement.
- Presentation of Final OSRP-IP and appendices for endorsement by Andy Mortensen of DEA.
  - Appendix B - Funding Options
    - The primary purpose of Appendix B is to explore rail funding options in Oregon for freight and passenger rail systems improvements. HB 2692 would require us identify funding options.
    - Current funding for rail projects comes from:
      - Connect Oregon through the Privilege and Use Tax.
      - The Grade Crossing Protection Account which uses gas tax, registration fees, other fees and revenues (State Highway Fund).
      - Transportation Operating Fund: (TOF) is used to fund the passenger rail program and match for federal grants.
      - Vanity License Plate Fund is used to pay for passenger rail service.
    - AASHTO performed a funding survey. Only a few states responded.
      - Michigan uses a percentage of sales tax, a portion of vehicle registration fees and a portion of auto-related sales tax. Those funds are dedicated towards freight system improvements in the State of Michigan.
      - New Jersey and Wisconsin use general fund money for freight improvements.
      - Washington funds freight investments through a Multimodal Transportation Account that is funded through sales tax on new and used vehicles, rental car tax and fees, and a Freight Mobility Investment Account funded through motor vehicle weight fees and general fund dollars. Passenger rail is funded partially through a Climate Commitment Account funded by greenhouse gas emission allowances sold at auction.
      - California funds freight and passenger rail using a diesel fuels tax and a General Obligation Bond. The Greenhouse Gas (GHG) Reduction Fund comes from general funds and is used for passenger rail and the local sales tax typically funds passenger rail.
    - Reviewed potential funding strategies for Oregon.
      - Complications start when we try to fund from the General Fund.
      - Connecting funding to GHG is interesting as there is a nexus between funding sources and purpose. Oregon Legislature is currently pursuing this for passenger rail by identifying a nexus between funding and the program. There can be a nexus driven on greenhouse gas reductions along the I-5 corridor.
      - Anything related to sales tax in Oregon will not work.
    - Discussion on other state funding programs.
      - California also has a smog reduction program.
      - Kansas uses a grant program for short line rail roads that is funded by tolling on public roadways. This is a nexus to goal of reducing truck miles.
      - There is a substantial amount of federal rail funding but Oregon has not participated due to the lack of match funding.
  - Appendix E – RNI Scoring Exercise by Abe Zumwalt of DEA
    - RNI does not rank projects from best to worst. Projects are ranked in terms of specific goals and criteria.
    - The scoring identifies perspective projects per the criteria. Oregon ODOT identify what projects are the best fits for certain funding opportunities.
    - No projects made the network less safe
    - Scoring still needs refinement to account for missing criteria and factors that could impact score. Project sponsors may need to add some of the data that would be needed to better score the project.

- The RNI Intake Form is being designed by ODOT and should be complete next week.
  - The form is designed so project sponsors can submit additional information for a current project in the RNI or propose a new project to be added to the RNI.
  - ODOT staff will be required to review and approve new project prior to including them in the RNI and ensure scoring is not biased.
- The scores shown in the RNI are unweighted average scores. The scoring will change once weighting and other priorities are added.
- This exercise is to identify need and allow projects to be prioritized according to available funding.
- Demonstration of the online interactive map of RNI scoring.
  - The map is currently for information versus analysis. It is missing the weighting. The PowerBI map will be for analysis.
  - Map has several layers of data including last five years of rail incidents.
  - There are layers of information driven by a popup box that will allow users to navigate through data.

**Action:** RAC voted to endorse the OSRP-IP with the refinements that have been mentioned.

**Action Item:** Develop a review process for the selection of additional projects and provide the reality check needed for scoring. Schedule a meeting to develop the evaluation process.

### Operation Lifesaver Presentation - Steven Kreins

- Steve Kreins works for ODOT and is also the Executive Director for the Oregon Branch of Operation Lifesaver (OL). He is representing OL for this presentation.
- OL was started in Idaho by the Idaho State Police and UP in 1977.
- OL is a nonprofit corporation dedicated to reducing collisions, fatalities and injuries at highway-railroad crossings and trespassing on or near railroad tracks through focusing on education, engineering and enforcement.
- Of the 26 railroads in state of OR, OL partners with 12.
- They receive the majority of funding from the Federal Railroad Administration (FRA). The Federal Highway Administration also provides funding and recently TriMet contributed some funding to address the homeless issue around tracks.
- Oregon is unique in that there is a crossing right at the police academy, and they train on how to respond to these incidents.
- The number of collisions at public highway railroad crossings has steadily decreased since OL was founded. (82% decline nationwide for 2200 incidents in 2019.) Would be interesting to see the comparison of how many vehicle miles have increased compared to the decrease in incidents.
- It is a Class A Misdemeanor to disregard or ignore crossing signs or signals.
  - Enforcement is difficult as there is no railroad assigned enforcement, we rely on OSP.
  - Challenge Coins are special coins given to law enforcement officers as additional incentive and a reminder of the importance of enforcing the laws related to railroad crossings and trespassers.
- Homeless camps around railroad right of way is a big problem. It is difficult to reach this group. OL has partnered with Do Good NW, a nonprofit in Portland that does outreach to the homeless population. OL is helping to fund DO Good NW walkabouts. OL anticipating 6,000 homeless reached for a \$3,000 investment.
- Trespass and suicides are down in Oregon. But FRA funding is tied to the number of incidents.
- FRA statistics are used to determine the number of suicides. Most railroads use locomotive cameras to determine intent of deceased.
- OL needs volunteers!

## Connect Oregon and Policy Plan Update – Erik Havig

- Connect Oregon Update:
  - Mid-Willamette Valley Intermodal Center in Millersburg is complete.
  - Treasure Valley Intermodal project has funding issues. They are out of funding and are going to the legislature to ask for shortfall coverage. They are also asking the County for funding.
  - Oregon City Siding is on hold until additional funds can be identified. Rail Operations is leading this effort.
  - Connect Oregon 2021 projects were selected last May. Those projects are making great progress. Most projects are moving into construction; a few have started construction and one project is complete.
  - Still monitoring the revenue coming into the fund via privilege tax. We have enough money to cover costs of the last round of Connect Oregon.
  - Starting to restock the fund, but it is too soon to know when the next competitive process will be. Hopefully, by the June RAC meeting will know more.
- The Oregon Freight Plan includes many elements of the Oregon Rail Plan and how we think about the intermodal movement of freight across and through the State of Oregon. That update was approved by the Oregon Transportation Commission on March 9. Federal requirements and regulations require that plan to be updated every four years. This was a lighter update; next update will be much more robust.
- The Oregon Transportation Plan is about to be released for Public Review.
- The Oregon Highway Plan will be the next plan to get updated. The update has not officially started, but prework has begun.

**Action Item: RAC please review the Oregon Transportation Plan and provide comments.**

## Membership Refresh – Kathy Holmes and Bruce Carswell

- Current proposal for review and approval is the local government evaluation criteria, at-large membership seats, the application and application process.
  - Local Government Criteria:
    - Overall interest of all cities and counties.
    - Provide statewide social equity perspective.
    - Interest/knowledge of rail program.
    - Membership on Area Commission on Transportation is preferred.
  - Proposed At-large Seats:
    - Tribes (1)
    - Organization representing persons with disabilities (1)
    - Community Based Organizations (2) (Application)
    - Environmental (1)
  - There are seven seats available for at-large positions, but it was recommended that we do not fill all seven seats.
- Application and Application Review Process:
  - The application is based on the application created by the ODOT's Office of Social Equity.
    - Additional questions have been added based on the RAC working groups recommendations.
  - Proposed application review process:
    - Staff to review applications to ensure the applications are complete. (1 week)
    - Staff will send applications to review panel for scoring based on established criteria. (1 week)
    - Review Panel will meet to discuss applications and make recommendations to bring to the next RAC meeting.
    - RAC will vote to approve recommendation at the next RAC meeting.

- Staff will prepare and distribute letter for Division Administrator review and recommendation for Director approval.
  - Staff to notify applicants not selected.
  - Staff to email selected applicant and provide necessary information to begin their term
- Approval Process:

**Action Item:** RAC requested the following changes to the last five bullets above:

- Review Panel will meet to discuss applications and make recommendations to ODOT Staff and will notify RAC of recommendation at the next meeting.
- ODOT Staff will prepare and distribute letter for Division Administrator review and recommendation for Director approval.
- ODOT Staff to notify applicants not selected after Director has signed the appointment letter.
- Staff to email selected applicant and provide necessary information to begin their term.
- Proposed review panel:
  - Committee Chair or Co-Chair (1)
  - Class I representative (1)
  - Shortline representative (1)
  - Ports/Industry representative (1)
  - Historically excluded/underrepresented representative (1) (Will fill with Union rep until we fill one of these positions.)
- Proposed evaluation criteria:
  - Does applicant:
    - Represent a historically excluded group, business, or community-based organization?
    - Have knowledge or interest in rail?
    - Have experience or a position in life that provides a perspective previously unrepresented on the committee?
    - Have a primary geographic location that contributes to geographic diversity?
    - Have ability to engage as required to meet committee needs?

**Action Item:** Kathy Holmes will send out an email with the requested revisions to the RAC for approval.

**Action Item:** Kathy Holmes will update the charter once the proposals have been approved.

**Action Item:** ODOT staff will begin the recruitment process for the at-large positions.

## Quarterly Updates

- Public Transportation Division (PTD) – Karyn Criswell
  - No updates
- Passenger Rail – Kathy Holmes

**Action Item:** Kathy Holmes will email the passenger rail update to the RAC.

- Freight Rail Industry – Bob Melbo and Roundtable
  - Due to time constraints the committee opted to discuss pending rail safety legislation and forgo the usual business level discussion.
  - Congress is considering potential new rail safety legislation that could have some serious implications.
  - Freight Rail Industry – Currently, the rail industry is trying to get out of the news cycle after several high-profile derailments.
  - Grade crossing safety is still an issue although improving. Section 133 funding process is simply inadequate to meet the demand but IIJA includes new federal money for crossing projects.

- The new Rail Safety legislation at the Federal level has pretty serious implications – bipartisan at this point. Train length is a concern. Safety, and long waits at crossings are things many are concerned about. People are very serious about regulatory perspective.
- A lot of unfunded mandates come out of reaction to safety incidents, such as the PTC mandate following the Chatsworth, California head-on collision.
- The federal safety bill had some pushback from GOP initially, but bipartisan support remains strong. WSDOT has a slew of Rail Safety legislation pending right now.
- There will be something that comes out of it involving the regulatory process. Unfortunately, a lack of information surrounding the recent derailments begets misinformation and can lead to bad legislation.
- A recent article came out characterizing the failure of emergency response and disparate parties not having coordinated approach.
- California is moving forward with tightening emissions tracking for locomotives. There is work to do in our industry to lean toward and utilize more reduced emission equipment.

### Public Comments

- No public comments

### Agenda Build

- Next RAC quarterly meeting is a remote meeting, scheduled for 06/20/2023.
- Standing Topics:
  - PTD, Passenger Rail, Freight Rail, Legislative and Connect Oregon Updates
- Oregon State Rail Plan Implementation Plan

### Closing comments and Adjourn - Bruce Carswell

- Move to adjourn carried at 12:05 pm.