

Greg Minikel

From: Greg Minikel
Sent: Thursday, September 03, 2015 11:45 AM
To: Jackie Macewicz
Cc: Greg Minikel; Dan Koski; Sonja Birr
Subject: Rough Railroad Crossings in Manitowoc
Attachments: RE: Constituent Concern - Custer St. - Rough Railroad Crossings

Importance: High

Hi Jackie,

We have several rough at-grade railroad crossings in the City of Manitowoc.

I see on the OCR website that we are supposed to reach out to the railroad first to see if we can get any resolution before proceeding with the formal OCR petition.

The rough crossings that we have noted and/or have had complaints from the public include:

1. 2 crossings on Custer St. – between S. 26th and S. 29th St. (Complaint from Citizens)
2. Menasha Ave. – just west of N. 18th St. (Complaint from Citizen)
3. Broadway/Meadow Ln. at Meadow Ct. (Schuette Park).
4. S. 21st and Franklin St.
5. S. 23rd St. – South of Grand Ave. and North of Dewey St.
6. N. 21st St. – near LaFollette Ave. (just north of Waldo Blvd.) (Complaint from Citizen)
7. Waldo Blvd. between N. 21st and N. 23rd St. (Complaint from Citizen)

I also contacted Craig Anholt on or about June 23, 2015 regarding the existing rubberized crossings at the 2 railroad crossings on Custer St. See attached e-mail.

Can you check into these crossings and see if you have plans and/or monies available to make some repairs.

Our Public Infrastructure (PI) Committee will be discussing the issue of the rough railroad crossings at their meeting on Tuesday, September 8th at 6:30 pm in the Council Chambers at City Hall. You are welcome to attend the meeting if you are available.

I am not sure whether or not the Committee will want to pursue the OCR route or not.

If you can get me any information/comments before Tuesday night's meeting, it would be appreciated. Sorry for the short notice. Thanks.

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Wisconsin Rail Safety Week is June 1-6, 2015
 Press Release, 2/5/15, Reminder to be safe at railroad crossings



Welcome to the Office of the Commissioner of Railroads! I'm glad you stopped by.

Our mission here is simple; keep the trains moving, keep people moving, and make sure they aren't moving into each other.

Rail traffic in Wisconsin is growing exponentially! Trains are running throughout the state at higher speeds, more frequently, and sometimes on lines that have either been closed or have not seen trains in years.

Safety is our number one goal! On a daily basis, we work with railroad companies, local units of government, shippers, law enforcement, and citizens to achieve this goal.

ALWAYS treat a rail crossing with the expectation that a train is coming. STOP. LOOK. LISTEN. It's a simple concept, but it is so important because rail safety is no accident!

Take some time to browse our website. You will find helpful links to upcoming hearings, a database of pending cases, a Wisconsin railroad map and some fun facts about trains in Wisconsin.

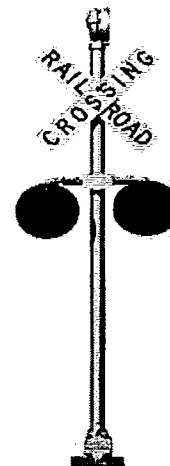
If my office or I can be of assistance, please drop us a line and we will be happy to help.

ON WISCONSIN!

Jeff Plale, Commissioner

The Office of the Commissioner of Railroads is the state agency with primary responsibility for making determinations of the adequacy of warning devices at railroad crossings, along with other railroad and water carrier related regulations. These duties include:

- Installation of new highway/rail crossings
- Alteration of existing crossings
- Closing or consolidating existing crossings
- Repair of rough crossings
- Determining adequate railroad fences
- Exemptions from railroad track clearance laws
- Assist with rail safety initiatives and participate in community outreach



Link Directly to a Case

To view documents related to a specific case, enter the docket number in the boxes below (ex. 9170-RX-100). Additionally, you can select a specific type of document for the docket. If you do not select a type of document the



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Before proceeding with the rough crossing process the OCR encourages the municipality to connect with the railroad regarding the crossing. The OCR can help facilitate communication with the railroad and help put the municipality in touch with the right railroad personnel. Often this communication can avert the need to go through the formal complaint and hearing process.

Rough crossing repairs. Section 86.12 of state law requires the railroad to maintain all at-grade crossings in good condition for travel. If the railroad fails to do so the city can enforce this law through the Office of the Commissioner of Railroads (OCR). The statute requires a two-step process.

First, the governing body of the municipality must pass a resolution demanding the repairs and serve that on the railroad, <http://ocr.wi.gov/Resources/Documents/RegAgent.pdf>. The railroad then has 30 days under the statute to repair the crossing. If they fail to do so, then the municipality may file a formal complaint with the OCR. The filing of the formal complaint must also be authorized by the local governing body.

However, the governing body may either pass two separate resolutions or include authorization to the municipal staff to file the complaint in the original resolution if the railroad fails to repair the crossing. A sample resolution for the combined complaint can be found in the FAQ section of the OCR's website.

Once the OCR receives the formal complaint we schedule a hearing to take testimony on the complaint. The hearing is typically held in the complaining municipality. At the hearing, the municipality has to demonstrate that the railroad has not kept the crossing "in good condition and repair for highway travel". This showing is often made using photos of the crossing (sometimes with a ruler/tape measure if there is a difference in elevation between the rail and the roadway surface. Testimony could also include the number of complaints the City has received about the crossing or that the crossing feels rough when driving over it.

The testimony is usually given by the municipal engineer or Director of Public Works, but can also be given by local elected officials and individual residents.

After the hearing, the OCR decides whether the crossing requires repairs and if so, orders the railroad to repair the crossing by a date certain.

Feel free to contact the OCR directly with any questions.

Note: This document is only a sample. Changes should be made for local circumstances as needed. The municipality may use its standard resolution format.

This document is sent to the railroad to demand the repair of the crossing – the first formal step in the process under 86.12 Stats. This document COMBINES the demand for the repairs with the authorization to the municipal staff to file the complaint if the railroad fails to repair the crossing within 30 days after service of the demand for repairs.

A copy should also be sent to the OCR. If this form is used then the municipal staff would need to send a letter to the OCR in order to start the formal hearing process.

**Resolution No. (_____)
YEAR**

MUNICIPAL GOVERNING BODY

RESOLUTION REQUIRING THE REPAIR OF AN AT-GRADE CROSSING

WHEREAS, ROAD, a public street in the MUNICIPALITY crosses the tracks of the RAILROAD at-grade, and

WHEREAS, section 86.12 of the Wisconsin statutes requires railroads to maintain public at-grade crossings in good condition and repair for public travel, and

WHEREAS, the ROAD crossing is not in good condition and repair for public travel [DESCRIPTION OF THE CONDITIONS IS HELPFUL] and

WHEREAS, the MUNICIPALITY hereby requires that the RAILROAD pave, plank, repair, change or otherwise improve the crossing, as the needs require and

NOW, THEREFORE, BE IT RESOLVED, that the GOVERNING BODY hereby directs the MUNICIPAL staff to serve a copy of this resolution upon the RAILROAD requiring the railroad to repair the rail-highway crossing STREET with the tracks of the RAILROAD in the MUNICIPALITY, COUNTY.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that in the event that the RAILROAD fails to repair the rail-highway crossing within 30 days after service of the resolution, the GOVERNING BODY hereby directs the MUNICIPAL staff to take all necessary steps to petition the Office of the Commissioner of Railroads for an investigation and order for the repair of the rail-highway crossing of STREET with the tracks of the RAILROAD in the MUNICIPALITY, COUNTY.

Sample Drafted by Douglas S. Wood
July 19, 2007