CITY OF STOUGHTON, 207 S FORREST ST, STOUGHTON, WISCONSIN

RESOLUTION OF THE COMMON COUNCIL

Authorizing the Mayor and City Attorney to take the actions necessary to transfer ownership of the rail spur tracks in the north industrial park from Stoughton Industrial Development Corporation (defunct) to the City of Stoughton. This resolution also authorizes the Mayor and City staff to apply for funding from WisDOT to make the repairs required to maintain rail service to the industrial park.

Committee Action:

Fiscal Impact: $893,300 offset by WisDOT funding

File Number:	R-162-2023	**Date Introduced:**	**October 10, 2023**

RECITALS

WHEREAS, during the mid-1960's, the City of Stoughton (City) owned and developed an area at Williams Dr. and N. Page St. to serve industry; and

WHEREAS, during this time, the City of Stoughton partnered with local business interests to form the Stoughton Industrial Development Corporation (SIDC) for the purpose of promoting the industrial park and attracting industry to the community; and

WHEREAS, as part of the joint industrial development program carried out by the City and SIDC, a rail spur was constructed in 1969 under contract with SIDC, which became the owner of the spur tracks and through an Industry Track Agreement, responsible for its maintenance and upkeep; and

WHEREAS, during the intervening years, the SIDC was dissolved, but its asset – the rail spur never transferred to other ownership; and

WHEREAS, City is in the process of amending Tax Increment District (TID) No. 6 and is including funding to pay a portion of the estimated cost of repair. Additionally, the Wisconsin Department of Transportation (WisDOT) has programs available to assist municipalities fund rail improvements serving industry.

NOW THEREFORE, BE IT RESOLVED, that the Common Council of the City of Stoughton authorizes the Mayor and City Attorney to take the actions necessary to transfer ownership of the rail spur tracks in the north industrial park from Stoughton Industrial Development Corporation (defunct) to the City of Stoughton; and

BE IT FURTHER RESOLVED that the Mayor, Finance Director and City staff are authorized to prepare and submit an application for funding to WisDOT for the rail spur repairs and that any repair costs not funded by WisDOT programs be paid by the City and allocated to TID #6 for eventual reimbursement; and

BE IT FURTHER RESOLVED that the Mayor and City Attorney prepare an Industry Track Agreement with WATCO and a Track Maintenance Agreement with B&G Foods, Inc and present such agreements to the City Council for consideration.

Council Action: ☐ **Adopted** ☐ **Failed** **Vote** _____

Mayoral Action: ☐ **Accept** ☐ **Veto**

_____

Mayor Tim Swadley Date

Council Action: _____ ☐ **Override** **Vote** _____

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Report to City Council on Business Park North Rail Spur

The rail spur serving the north industrial park has degraded to the point that Wisconsin Southern Railroad can no longer provide service to the industrial park without incurring approximately $900,000 in repairs. B&G Foods relies on the rail to receive the raw material to manufacture Cream of Wheat.

The rail spur is owned by the Stoughton Industrial Development Corporation (SIDC) who is responsible for maintenance and repair of the tracks under agreements entered around 1970 with the Railroad. Unfortunately, SIDC no longer exists, although those agreements indicate the SIDC was acting on behalf of the City of Stoughton, who owned and developed the industrial park.

WATCO is asking the City of Stoughton to take over ownership of the track from SIDC and make the repairs needed. WATCO claims the City could secure funding from WisDOT to pay for up to 80% of the repair costs. The City is in the process of amending TID #6 and has included TIF funding for any match that might be needed for a grant.

If the City took over ownership, it would need to enter into an Industry Track Agreement (ITA) with WATCO. The City in turn would enter into a track maintenance agreement with B&G Foods to pass along all future costs associated with the rail spur. WisDOT has provided us with a sample agreement to do this. There is no other organization available to take this on as B&G Foods has expressed no interest in owning the tracks.

WATCO provided the following information about the benefits to the City:

"In reference to the public costs, roads vs. rail – there are many public benefits that freight rail provides to communities:

- For every 1 rail car we move, we take 4 trucks off our state and local roads. Without rail service to Stoughton, it will require hundreds of trucks to bring in raw materials and finished products to the park.
- Environmentally, rail is superior to trucks. Our typical locomotives are getting almost 485 miles per gallon of diesel fuel for every 1 ton we haul. Much less emissions than our trucking competitors.
- As industrial parks grow and prosper, rail industries employ very good paying jobs providing great benefits.
- For more information on short line railroads, you can always visit https://www.aslrra.org/advocacy/short-line-overview/"

The question before the City Council is should the City of Stoughton take ownership of the rail spur in the north industrial park?

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Exhibit A

Wisconsin & Southern Railroad, L.L.C.

B Maintenance Transition
A Switch
Stoughton Industrial Development Corporation
Owned Track
Railroad Track
Mid-States Steel Inc.
Whelling Corrogated

0 150 300 450 600 Feet

N W E S

Longitude:	-89.218150
Latitude:	42.927025
Date:	11/10/2022
Drawn By:	KK

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Watco Companies - Track Inspection Report

Railroad Name: WSOR
Subdivision: MADISON
Location: ORTEGA/ZALK JOSEPH
Inspection Date: 11/10/2022
Manager: C. JACOBSON
Territory Inspected or tracks inspected: MP 124 Thru MP 124

Watco Transportation Services

Track Names or Identification #s	NOTES:
Track 319A, 319B, 319C	TRACKS ARE GOOD FOR SERVICE BUT NEED TIES AND GAGE PULLED
	1 INCH WIDE GAGE AT CROSSING IN DIRT
	2 SPOTS OF 1 INCH WIDE GAGE IN ASPHALT NEAR MAIN BUILDING
	IN ZAUK JOSEPH SWITCH 57.5" GAGE
	IN TANGENT BEHIND ZJ SWITCH 56" GAGE
	SPOTS 57.75" GAGE (SEE PICS) IN ASPHALT
	WEEDS BEYOND ORTEGA RED BOARD

Exception Item No.	Track	Location	Record of Exceptions	
			Nature of Defect	Recommended Repairs

Approved
B. Trapp
Trapp RR

Signature: [signature]
Title: INSPECTOR

Sheet 1 of 1 Sheets

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KNAPP RAILROAD BUILDERS, INC.

MILWAUKEE, WISCONSIN

WSOR/WATCO
Todd Mulrooney
November 21, 2022

RE: City of Stoughton

→ Knapp Railroad Builders is providing the following budgetary pricing for the rebuild of the industrial track in Stoughton Wisconsin. This budget price is based on the walkthrough done with WSOR and Knapp. All trackwork will be done to bring the track to an estimated class II railroad specs and the crossings and turnouts will be done to WSOR main line spec.

<u>Work to be performed</u>

-Remove track from clearance point to end of track at Zalk Josephs, approximately 1800'.

-Excavate the track to allow for new ballast under the tie.
-Excavated material to be hauled off site to land fill or your place of choosing up to 20 miles

-Rebuild the track using new 7" ties, relay 115lb rail, joint bars, and tie plates, along with new track bolts, new track spikes, new anchors, and new ballast.

-Excavate the road crossings to allow for new sub-ballast and new ballast
-Road crossings will be built with all new materials, including sub-ballast, 10' ties, concrete panels for the crossing surface, and new roadway signage. Detours and barricades are included.

-Private crossing will be built with relay materials and flange timbers and have private crossing signage installed.

-B&G foods track will have flange timbers installed on the entire length for asphalt paving and will be bolted track. This can be upgraded to all welded track if desired.

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KNAPP RAILROAD BUILDERS, INC.

MILWAUKEE, WISCONSIN

-Turnout to be installed at Zalk Josephs is a #8 turnout, this will be built with WSOR main line turnout specifications.

-Earthen Berm will be installed at the end of track.

Knapp's budgetary cost estimate for the above scope of work is $893,300.00

All prices are subject to change pending material availability, fuel price adjustments at time of work, and any upgrade material or craftmanship requirements.

No utility work, sewer work, concrete work, sidewalk work, curb and gutter work, or under track pit work included in any of the above pricing.

No asphalt paving work for the roads or for B&G foods track included.

Thank you for the opportunity to provide pricing, should you have any questions please feel free to give us a call.

Sincerely,
Rich Hawkins
Knapp Railroad Builders, Inc.

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Background

On January 11, 1966, the Stoughton City Council passed a resolution to sell a 2.815-acre parcel in the Industrial Park to Midwest Sales, Inc., an automotive parts business for $1,400 per acre. There were several conditions to the sale:

- Midwest Sales must construct a building suitable for assembling, manufacturing, storage, and wholesale sales within 2 years with a right to repurchase.
- In the event a railroad siding may become necessary as evidenced by written request of the City of Stoughton, Midwest Sales shall grant "an easement to the city or so such other party as the city directs for the purpose of such railroad siding".
- City shall have until June 1, 1966, to remove stockpile of black soil on the land.

On July 30, 1969, the Stoughton Industrial Development Corporation (SIDC) entered into an agreement with Chicago, Milwaukee, St. Paul, and Pacific Railroad Company. Highlights include:

- SIDC paid $9,208.
- The SIDC is described as "Developer" and "Industrial promoter for the owner" – City of Stoughton in the development of an industrial park.
- The intent was to make railroad service convenient to industry through the construction, operation and maintenance of track or tracks as shown on map.
- Map indicates the proposed rail spur would be "Owned by industry, maintained by industry, at industry's expense".
- SIDC secure all necessary easements from private lands;
- SIDC at its sole cost shall prepare the sub-grade and install the drainage for construction of the rail spur. Railroad shall, at SIDC sole cost furnish the engineering, labor, material to install the tracks and accessory equipment and "thereafter, at like expense and in like manner shall maintain, repair, and renew Track "A-B" (railroad owned track section at junction with main line).
- SIDC shall at its sole cost and expense, furnish the engineering, labor and material for and shall lay, ballast and surface track "B-C" as well as install the crossing and, thereafter, at like expense and in like manner shall maintain, repair and renew Track "B-C" and the crossing." Such work shall be to Railroad standards.
- SIDC shall pay to the Railroad from time to time the cost of keeping Track "A-B" free and clear and SIDC shall itself keep Track "B-C" free and clear.

A supplemental agreement entered into on October 27, 1971 between the same parties:

- Railroad willing to reimburse SIDC for the $9,208 cost for constructing Track "A-B" (Railroad owned track).
- At the end of each month following construction of Track "A-B", SIDC shall bill the Railroad Company for an amount equal in dollars to ten times the number of loaded cars

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handled over the track for the industries who have constructed service tracks. Such refunds shall be paid until they total $9,208 or five years has elapsed, unless extended another 5 years.

On August 15, 1975, the Railroad entered into an agreement with SIDC (Developer) and Zapata Kitchens, Inc (now B&G Foods) (Industry) to provide rail service:

- The Industry agrees to make all payments herein provided within twenty days after bills are rendered.
- Railroad may discontinue all service to the Industry upon said track and terminate this agreement in the event the obligations of SIDC for the maintenance of such track are not fulfilled, or if the Railroad for any reason discontinues operation upon said track, or if the Industry shall refuse to keep and perform any of its obligations or cease to use said track.
- SIDC is made a party to this agreement solely for the purpose of giving consent to having the Railroad serve the Industry upon and over said track which it owns.
- It is understood and agreed that the Industry shall arrange, without expense to the Railroad, to prepare the grade and furnish the necessary drainage for Track "A-B" and arrange to furnish the engineering, labor and material for, and shall lay, ballast and surface Track "A-B", including the installation of wheel stops.
- Industry shall maintain, at its own sole cost and expense, the car floor height platform, and a track pit with appurtenances.

On August 31, 2022, Rodney Scheel received a letter from WATCO, the descendant of the Chicago, Milwaukee, St. Paul, and Pacific Railroad Company expressing a desire to understand the descendant of the defunct Stoughton Industrial Development Corporation, the owner of the tracks in the Industrial Park, so that an Industry Track Agreement (ITA) can be updated with a new owner of record. WATCO would like the City of Stoughton to take over ownership of the track from SIDC, enter into an agreement (ITA) whereby the City would be responsible for track maintenance and repair costs.

The letter identifies two users of the rail – Zalk Josephs and B&G Foods. Subsequent visits to each indicate that only B&G Foods is interested in on-going rail service. Visits to other industrial park tenants indicated no additional interest in using rail.

On December 12, 2022, Rodney received an email from WATCO transmitting a copy of an ITA, along with an inspection report, and a bid for the repair of the tracks owned by SIDC. The bid was $893,300. WATCO indicated that if the track was publicly owned it would qualify for 80% funding from WisDOT.

We spoke with WisDOT (Rich Kozier) about the situation. WisDOT indicated this was a loan program not a grant. If there was industry expansion, it may be possible to secure a 50% grant

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through the TEA program. WisDOT provided examples of agreements with industry that passed along track maintenance and repair responsibility to the industry using the track.

Historical and Forecasted Rail Spur Traffic

Destination	STOUGHTON LEAD	
STOUGHTON Industrial Lead Track		
Historical	CARS	TONS
2018	35	3,609.99
2019	32	3,300.56
2020	33	3,403.70
2021	38	3,919.42
2022	40	4,125.70
TOTAL	**178**	**18,359.37**
Forecasted		
2023	36	3,713.13
2024	38	3,919.42
2025	40	4,125.70
2026	40	4,125.70
2027	40	4,125.70
TOTAL	**194**	**20,009.65**

Figure 1: Source - WATCO