



RAYMOND P. ROGINA *Mayor*

MARK KOENEN, P.E. *City Administrator*

248091

248101

July 2, 2019

Ms. Allison C. Davis
Acting Director
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

ENTERED
Office of Proceedings
July 3, 2019
Part of
Public Record

RE: Docket No. EP 749 (Sub-No. 1) – Limiting Extensions of Trail Use Negotiating Periods;
Docket No. EP 753 – Rails-to-Trails Conservancy—Petition for Rulemaking

Dear Ms. Davis,

These comments, filed on behalf of the City of St. Charles, are in support of the rule modification proposed by the Surface Transportation Board (STB) to establish a one-year period for any initial interim trail use negotiating period, instead of the existing 180 days; to permit up to three one-year extensions of the negotiating period; and to permit additional one-year extensions if the trail sponsor and the railroad agree and good cause is shown.

We agree with the STB that the proposal effectively balances the interests of all affected parties and stakeholders. We also applaud the STB's conclusion, presented in RTC's rulemaking petition, that the establishment of a one-year initial negotiating period would more closely reflect the actual time needed to complete railbanking negotiations, while reducing burdens on trail use proponents, railroads and the STB alike. We also support the decision to revise the prior outstanding notice of proposed rulemaking to substitute the more lenient "good cause" standard for the "extraordinary circumstances" standard initially proposed.

In July of 2010, the City of St. Charles in partnership with the County of Kane, Forest Preserve District of Kane County, and the St. Charles Park District (aka "consortium group") jointly filed a request for Public Use Condition and a request for Interim Trail Use Condition (NITU) for approximately 3.17 miles of railroad running through St. Charles.

The Surface Transportation Board granted the request to implement interim trail use negotiations with the UPRR. Several extensions have been approved since then by following the current 180 Day STB Petition Process. The consortium group is very interested in developing and improving a segmented section of the 3.17 mile length of abandoned railroad for recreational purposes and the UPRR agreed to a segmented sale of the property in 2014.

Heritage. Community. Service. Opportunity.

As noted, the City of St. Charles and the consortium group has been working on negotiations since 2010 (nearly 10 years ago). While we are encouraged by the progress we've made to date, it is our reality that these negotiations take a considerable amount of time. Therefore the proposed rule modifications would significantly affect our project.

We do not support the language that additional extensions beyond three “are not favored” as part of the good cause standard. The language suggests an unnecessary presumption against granting additional extensions even where no prejudice would result to any party. Such a standard would undermine the purposes of the railbanking law based on vague and unsubstantiated concerns about reducing “uncertainty for some property owners.”

We urge the Board to adopt the rule modification proposed in Docket No. EP 749 (Sub-No.1) et al., including the “good cause” standard for granting extensions, but request that the Board eliminate the language indicating that more than three extensions are “not favored.”

Thank you for your consideration,

A handwritten signature in black ink, reading "Raymond P. Rogina". The signature is written in a cursive, flowing style.

Raymond P. Rogina
Mayor