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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF A REQUEST FOR
AN EXEMPTION BY THE CITY OF TIFFIN

Case #14-94-RR-RCP

Date and Time: Tuesday, April 1, 2014
1:30 p.m.

Place: Tiffin City Hall
51 East Market Street
Tiffin, Ohio

Reporter: Marie B. Fresch
Registered Merit Reporter
Notary Public, State of Ohio

ATTORNEY EXAMINER: MR. SCOTT E. FARKAS

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Technician Shirley Date Processed APR 25 2014

1 PRESENT:

2 Mr. Scott E. Farkas
3 Public Utilities Commission of Ohio
4 Attorney Examiner
5 180 East Broad Street
6 Columbus, Ohio 43266-0573

7 Mr. James Supance
8 Attorney at Law
9 Sandusky County/Seneca County/
10 City of Tiffin Port Authority

11 Mr. Randy Conger
12 Tiffin City Schools

13 Mr. Michael Hoffman
14 City Public Works Department

15 Mr. Mario Livojevic
16 Tiffin City Engineer

17 Mr. Matt Watson
18 Tiffin City Engineer Department

19 Fred Stevens, Chief of Police
20 Tiffin Police Department

21 Ms. Debra Reamer
22 City Administrator

23 Jordan House

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INDEX

Page Line

WITNESSES

3	16	EXAMINATION OF RANDY CONGER
5	22	EXAMINATION OF MARIO LIVOJEVIC
8	4	EXAMINATION OF JAMES SUPANCE
12	14	EXAMINATION OF FRED STEVENS

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No exhibits identified.

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1 MR. FARKAS: The Commission
2 has called for hearing at this time in the case of the
3 matter of a Request for an Exemption by the City of
4 Tiffin, Ohio. This is case 14-94-RR-RCP. My name is
5 Scott Farkas. I'm the Attorney Examiner assigned to
6 hear this case.

7 At this time, I'll take testimony from anybody that
8 wants to give it in regards to the request for
9 exemption. So, who wants to go first?

10 MR. CONGER: I guess I can.

11 MR. FARKAS: Let me swear you
12 in.

13 RANDY CONGER
14 being first duly sworn, was examined and testified as
15 follows:

16 EXAMINATION

17 BY MR. FARKAS:

18 Q. Okay. State your name.

19 A. Randy Conger.

20 Q. Could you spell your last name, please?

21 A. C O N G E R.

22 Q. And who are you with?

23 A. Tiffin City Schools.

24 Q. Okay. Go ahead.

25 A. We brought this matter to the City of Tiffin to

1 request for the exemption of the one crossing on Second
2 Avenue, as it's not safe for a bus to make a turn off of
3 Wall Road onto Second and stop at the crossing all at
4 the same time without blocking both intersections.

5 Q. And what, is there a danger because of that issue?

6 A. Because the bus would be sitting sideways across
7 Second Avenue for traffic coming up to what would be the
8 rear of the bus; they would actually be coming up to the
9 side of the bus.

10 Q. Okay. Are you familiar with the speed of the roads
11 there, what's the --

12 A. I think it's 35 -- 25.

13 Q. 25?

14 A. Yeah.

15 Q. Okay. And do you know whether or not there are any
16 active trains running on that track that crosses Second
17 Avenue?

18 A. It's a siding.

19 Q. Do you know?

20 A. I don't know.

21 Q. Okay. Well, we'll get it from somebody, but I'm
22 just trying to create a record.

23 A. I have in my lifetime seen trains cross there, yes.

24 Q. Okay, recently?

25 A. No.

1 Q. Okay, in the past five years?

2 A. No.

3 Q. Okay, and so, you are representing the City of
4 Tiffin Schools?

5 A. The schools, that's correct.

6 Q. The position of the school district is that you
7 want the exemption --

8 A. Yes.

9 Q. -- at Second Avenue?

10 A. Correct.

11 Q. Okay. Anything else?

12 A. No.

13 MR. FARKAS: Okay. Who else
14 wants to speak?

15 MR. LIVOJEVIC: Well, it's the
16 area of Second Avenue and to --

17 MR. FARKAS: You have to let
18 me swear you in first.

19 MARIO LIVOJEVIC

20 being first duly sworn, was examined and testified as
21 follows:

22 EXAMINATION

23 BY MR. FARKAS:

24 Q. Okay, state your name.

25 A. Mario Livojevic.

1 Q. Can you spell your last name?

2 A. L I V O J E V I C.

3 Q. Okay, and who are you with?

4 A. I'm the City Engineer.

5 Q. Okay, of Tiffin?

6 A. Tiffin, correct.

7 Q. And, you can go ahead.

8 A. Are we covering taking like testimony on one
9 crossing at a time or --

10 Q. No, no, this is all --

11 A. -- because there is actually three that were --

12 Q. In the petition, there were three requested; one
13 was at Fourth Avenue, one was at the intersection of
14 Wall Street and Fourth Avenue, and one was at the
15 intersection of Second Avenue just east of Wall Road.

16 A. And I believe from their previous testimony, or
17 meeting with us, basically the concerns that apply to
18 the Second Avenue crossing were brought up and listed
19 for the other crossings as well, given the proximity of
20 the crossing to the nearby intersection. One of the
21 intersections at Wall and Fourth is an actual offset
22 road intersection with yet a rail crossing going between
23 the two road offsets.

24 Q. And, so, are you saying that the same problem
25 exists for busses and other vehicles that have to stop,

1 that if they are stopped at one of the crossings, a part
2 of their vehicle might be into the other crossing?

3 A. Into the intersection, yes.

4 Q. Into the intersection, okay.

5 A. In an awkward angle.

6 Q. Okay. And that, and that presents a danger to
7 traffic safety?

8 A. Traffic, traffic in terms of the bus and other
9 vehicles possibly entering the intersection, not
10 expecting the bus to stop.

11 Q. Okay. And, do you have any information with
12 respect to trains that might actively operate on these
13 tracks, of these three intersections, these three
14 crossings?

15 A. I do not, but we have somebody that will.

16 Q. Okay. And is there any other information -- how
17 does this affect emergency vehicles, let's say?

18 A. Oh, I will let the Tiffin Police Department answer
19 that.

20 Q. Okay. Is there anything else you want to add?

21 A. No, that's it.

22 MR. FARKAS: Okay. All
23 right. Who else would provide testimony?

24 MR. SUPANCE: Wait a minute,
25 wait a minute. Okay. I am, okay.

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JAMES SUPANCE

being first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. FARKAS:

Q. State your name.

A. My name is Jim Supance, S U P A N C E.

Q. Okay.

A. And I am the Chair Person of the Sandusky County/
Seneca County/City of Tiffin Port Authority.

Q. Okay.

A. All right. And, regarding the crossings at Second Avenue, I think it's 509-215K, apparently there are two crossings with that same number; and the easterly most crossing is what I thought was the concern of the City of Tiffin School System -- the Tiffin City School System. That used to be referred to as the American Standard Lead, L E A D.

Q. Okay.

A. The other crossing at Second Avenue is the main line of the railroad.

Q. Okay.

A. The westerly crossing is the main line of the railroad. The easterly crossing is the one that is seldom, if ever, used anymore. And at that easterly

1 crossing, neither the Port Authority nor the operator,
2 the Northern Ohio Western Railway, have any objection to
3 that, to the downgrading of that crossing.

4 Q. Does the Port Authority have, operate the railroad,
5 operate the trains that operate those tracks?

6 A. No, we own the railroad -- we own the tracks, but
7 there is a separate entity, the operator.

8 Q. Okay.

9 A. It's a separately owned company.

10 Q. Okay.

11 A. We do not -- we're the landlord and they're the
12 tenant in this sense.

13 Q. But the Port Authority has juris -- has authority,
14 has ownership of the track?

15 A. We own the track, yes.

16 Q. And what you're saying is the Port Authority does
17 not oppose the exemption request made by the City of
18 Tiffin?

19 A. For the Second Avenue easterly portion.

20 Q. Okay. What about Wall Street, Fourth Avenue
21 and Fourth Avenue just east of?

22 A. I don't think, no, the, the 214 -- the 509-214D?

23 Q. That's the Fourth Avenue.

24 A. Yeah, that's the westerly Fourth Avenue. I think
25 that there is a fence. I mean, I'm doing this from

1 memory now. I don't know, the track may go across
2 there, but there is a fence on the other side where the
3 American Standard plant used to be, right? I think that
4 that fence has always been there. I don't think there's
5 ever been a train in my, since we've owned it almost 25
6 years. I don't think we've ever had a train go across
7 that.

8 Q. But is there track in the street?

9 A. Yes, I believe that there is a track in the street.

10 Q. So, technically there is a crossing?

11 A. There is technically a crossing.

12 Q. So, does the Port Authority oppose the exemption
13 request at that location?

14 A. No, no, not at the 214D.

15 Q. And what about the Wall Street and Fourth Avenue?

16 A. That's the 509-217. I don't believe that we would
17 object there either, no, because the, the customer is
18 gone; the factory is literally gone.

19 Q. Okay.

20 A. And, it is very unlikely that there will ever be a
21 train cross there either.

22 Q. So, basically, the Port Authority does not oppose
23 any of these exemptions?

24 A. No, except to make it clear that on the Second
25 Avenue --

1 Q. The one that's west; is that what you're saying?

2 A. The westerly.

3 Q. The westerly one?

4 A. Is the active; and that was never, I don't think, a
5 part of the city, the school system's concern.

6 MR. FARKAS: All right.

7 Thank you.

8 Anybody else?

9 MR. LIVOJEVIC: I would throw in
10 one more thing; that although on a daily basis, traffic
11 at any of these intersections, roadway traffic may be
12 limited, given that it's an industrial area, there are
13 other active factories and employers around there, so
14 during shift changes, the peak traffic does jump up
15 considerably.

16 MR. FARKAS: Okay.

17 MR. LIVOJEVIC: Hence, going
18 back to having a school bus stopped at a 45-degree angle
19 in the middle of the intersection, when all of the
20 approaches to the intersection are already backed up,
21 may lead to some problems.

22 MR. FARKAS: Do you know if
23 there are any vehicles that carry hazardous materials
24 that also are required to stop at these crossings, that
25 operate in that area?

1 MR. LIVOJEVIC: I don't know
2 that for a fact, given the industrial nature of the
3 area, the possibility exists.

4 MR. FARKAS: All right.

5 Okay, who else would like to testify?

6 CHIEF STEVENS: I don't know
7 what you want me to say, but I can answer any questions.

8 MR. FARKAS: I would like you
9 to say whatever you want to say. Why don't you raise
10 your right hand.

11 FRED STEVENS
12 being first duly sworn, was examined and testified as
13 follows:

14 EXAMINATION

15 BY MR. FARKAS:

16 Q. Please state your name.

17 A. Fred Stevens, S T E V E N S.

18 Q. Okay. You are with?

19 A. City of Tiffin Police Department.

20 Q. Okay.

21 A. I have worked for the City of Tiffin for 20 years.

22 I agree with what Mr. Supance has said; my 20 years

23 here, I have not seen on those two lines that he's

24 talking about, I have not seen train activity in my 20

25 years here.

1 Q. And do you believe that if the Commission were to
2 grant the exemption request, that it would be beneficial
3 to the public safety in Tiffin?

4 A. Yes, I do.

5 Q. Okay. And, as well, traffic safety, and traffic
6 flow and --

7 A. Absolutely. I can't speak for the Fire Chief who
8 is not here, but I know that he has a lot of concerns
9 with the railroad tracks, you know, throughout the town
10 and stuff, where they have to reroute underneath the
11 viaducts and stuff like that. For us, it's a little
12 easier, but for his fire trucks and stuff like that,
13 it's not as easy to go underneath the viaducts and stuff
14 like that.

15 MR. FARKAS: And just one
16 other question for the schools.

17 MR. CONGER: Yes, sir.

18 MR. FARKAS: How many school
19 busses are there generally that operate, that would go
20 over these tracks every day?

21 MR. CONGER: Three to four.

22 MR. FARKAS: Three to four?

23 MR. CONGER: Um-hmm.

24 MR. SUPANCE: One other thing,
25 one more thing.

1 MR. FARKAS: Sure.

2 MR. SUPANCE: I know very
3 little about what, if any, restraint equipment,
4 derailers, or anything would be required, but I don't
5 believe that the operator would want to have that,
6 because occasionally they do, they would use this
7 crossing, and they understand what they would have to do
8 to go across an exempt crossing, with flags and getting
9 all that sort of thing, but occasionally, cars are
10 stored north of Second Avenue, okay, so they will, on
11 occasion, want to go across there; and so, they would
12 not want any requirement that they put some sort of a
13 barrier to prevent train traffic from actually crossing
14 the exempt crossing.

15 If I am explaining what I'm trying to get to, they
16 want to be able to use it. They'll do whatever they
17 they'd need to do, but they want to be able to get
18 access to that part of the track.

19 MR. FARKAS: Okay. I will
20 explain to you that when the Commission considers the
21 application for the exemption, if the Commission grants
22 the exemption, the directive will be to the local
23 highway authority to place exempt signs at these
24 locations; and that is all they direct under the
25 statute, that's all we can require on an exemption

1 request. So, there would be a directive to local
2 highway authority, if it's granted, to post exempt
3 signs. So, you wouldn't have anything to do with
4 anything kind of barriers to, on the track that would
5 prevent movement of trains.

6 Now, have I explained myself?

7 MR. SUPANCE: That's fine,
8 yeah.

9 MR. FARKAS: Anything else?
10 Okay.

11 CHIEF STEVENS: I'm sorry, I
12 could add that I think Mario at one point asked me to
13 look into maybe some of the accident figures or anything
14 like that for that area --

15 MR. FARKAS: Okay.

16 CHIEF STEVENS: -- that we're
17 talking about. And because I don't have a specific
18 address, you know, like a 1 Main Street or anything like
19 that, I just checked the general area around there; and,
20 again, being here 20 years, I don't have anything right
21 on any of those railroad tracks that we've ever had any
22 accidents.

23 MR. FARKAS: Okay.

24 CHIEF STEVENS: Relating to the
25 railroad tracks.

1 MR. FARKAS: But the position
2 of the police department is that there is a greater
3 likelihood of an accident, a rear-end collision, let's
4 say --

5 CHIEF STEVENS: Absolutely.

6 MR. FARKAS: -- without the
7 exempt sign than if it was there.

8 CHIEF STEVENS: Absolutely.
9 Based on what -- his description I think was pretty
10 good, the City Engineer's; the awkward angles and having
11 to stop and coming around the corner and not realizing
12 that traffic is stopped.

13 MR. FARKAS: Okay.

14 Anything else from anybody else? Okay. Then we'll
15 stand adjourned. Thank you.

16 (Off the record).
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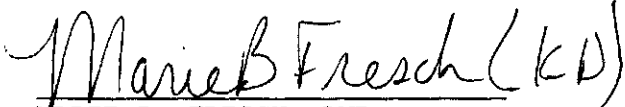
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C E R T I F I C A T E

I, Marie B. Fresch, Registered Merit Reporter, and Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the witnesses were duly sworn prior to the taking of testimony, that the testimony of said witnesses was taken by me in machine shorthand and was thereafter reduced to typewritten form by me and that the foregoing transcript is a true and accurate record of the testimony so given by the witnesses and that this hearing was taken at the time and place specified in the foregoing caption.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action, as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Norwalk, Ohio, on the 3rd day of April, 2014.


MARIE B. FRESCH, RMR
Notary Public, State of Ohio
My Commission expires: 10-9-2018