



CITY COUNCIL AGENDA REPORT

DATE: June 2, 2014

DEPARTMENT: Administration

ADMINISTRATOR: SPK

10-A

AGENDA ITEM: Approve Memorandum of Understanding with Union Pacific Railroad

ACTION TO BE CONSIDERED:

Motion to approve an *attached Memorandum of Understanding between the Union Pacific Railroad Company (UP) and the City of South St. Paul regarding Railroad Facility Improvements*

OVERVIEW:

The UP operates main line rail tracks through South St. Paul and also operates a switch yard at the north end of the community. The UP plans to commence improvements to its facilities that will include the addition of a second “run through line” capability and expansion of its yard facilities. Regulatory authority over railroad operations has been pre-empted in large measure by the Federal government as a matter of interstate commerce.

Attached is a Terminal Map of the Twin Cities that helps display the UP system in this region. Also attached is a graphic display that shows both the existing UP tracks in South St. Paul and the planned modifications.

Representatives of the UP contacted the Mayor and the Chamber Director in December 2013 about how to share their plans for system modifications with the City. They were encouraged to meet with the Staff Economic Development Work Group, an interdepartmental City staff committee that also includes the City Attorney, the HRA Executive Director and the Executive Director of the Chamber. A nine member UP delegation met with the Work Group on January 21, 2014 to identify possible issues of concern for the community. A draft list of wide ranging questions was prepared and reviewed by the City Council as part of the February 10th Worksession. The UP provided written responses to those questions by early March and that triggered additional follow-up questions. The UP provided additional written response by April 7, 2014. The City engaged the City Attorney for legal analysis of its regulatory authority and also engaged the consulting services of SRF Consultants to evaluate the submissions of the UP. On their part, the UP independently engaged Progress Plus to secure an economic analysis of the UP presence in the community through a study to be provided by the University of Minnesota’s Extension Service. The results of this last item have not yet been received.

The results of the information gathering process were presented to the City Council in a Worksession on April 14, 2014. A UP delegation attended the session to offer comments and to answer questions. The Worksession appeared to end with consensus that the next step would be the preparation of a Memorandum of Understanding (MOU) between the City and the UP. Topics for inclusion in a MOU were exchanged between the parties and after several drafts a

proposed MOU was presented to the Council for approval on May, 19th. At the request of Council member Lehmann, the matter was continued for additional discussion with the Railroad.

Attached is a modified version of the earlier MOU. This redlined edition displays the modifications. They touch on construction hours and a dispute resolution protocol.

Given the limited regulatory authority the City has over the UP, the MOU does not include many specific performance standards. They instead are addressed in federal statutes, rules and regulations. The agreement does, however, provide specific promises regarding the funding of training for local Public Safety personnel, coordination and collaboration in emergency planning, and access to hazardous materials plans and responses. The parties are also committing to a communication, complaint response and public relations program both with regard to the specifically planned improvements and as ongoing operational procedure. ***Attached is the communication plan that will accompany the improvements to be undertaken in the next two years.*** The MOU also specifies a baseline noise analysis that will be taken before the system improvements and a second one that follows completion of the projects, utilizing consultant services agreed by the parties. The MOU also sets a 'game plan' for engaging the two parties in tackling and resolving a variety of locational and operational matters that will arise in the next few years. Examples include maintaining levee service and integrity, routing utilities to Kaposia Landing, ensuring public access to Kaposia Landing, completion of the North Urban Regional Trail, exploration of possible connection to Barge Channel Road and collaboration on resolving various property issues and the harmonization of GIS data.

Wesley J. Lujan, Assistant Vice-President for Public Affairs for the Union Pacific Railroad, will attend this Council meeting and be ready to offer comments and answer questions.

SOURCE OF FUNDS:

N/A

MEMORANDUM OF UNDERSTANDING
BETWEEN UNION PACIFIC RAILROAD COMPANY
AND
CITY OF SOUTH ST. PAUL
REGARDING RAILROAD FACILITY IMPROVEMENTS

This Memorandum of Understanding (“MOU”) is made as of the _____ day of _____, 2014, by and between the City of South St. Paul, MN (the “City” or “SSP”) and Union Pacific Railroad Company, a Delaware corporation, (“*Union Pacific Railroad*”, “UP”, “UPRR” or “*Railroad*”); (together referred to as the “Parties” and each individually a “Party”).

WHEREAS, the Union Pacific Railroad connects 23 states in the western two-thirds of the country by rail, providing a critical link between the City of South St. Paul and the global supply chain. Union Pacific serves 88 customer locations within the boundaries of South St. Paul, and

WHEREAS, as of the execution of this MOU, 331 employees of Union Pacific Railroad work at the South St. Paul Yard location for Union Pacific,

WHEREAS, an additional 66 Union Pacific Railroad employees are based out of the South St. Paul location, for a total of 397 employees currently working in the City, and

WHEREAS, Union Pacific Railroad hired 66 employees on the Twin Cities Service Unit in 2013, 123 employees in 2012, and expects to hire more than one hundred additional employees in the in 2014, and

WHEREAS, UPRR’s annual payroll for employees working in the City is over \$25,000,000, and

WHEREAS, UPRR’s Twin Cities Service Unit, which operates the South St. Paul Yard, was the safest freight service unit on the entire Union Pacific System in 2012 and 2013, and

WHEREAS, in 2013, Union Pacific spent \$106 million in purchases within the State of Minnesota, and

WHEREAS, the City is a residential community with a population of 20,404; and

WHEREAS, the City is seeking to mitigate the community impacts of UPRR’s construction activities and ongoing operations; and

WHEREAS, the City has requested UPRR’s cooperation in development of recreational land adjacent to the South St. Paul Yard; and

WHEREAS, the City is seeking to resolve certain real estate issues to facilitate development in the vicinity of South St. Paul Yard, and

WHEREAS, the Parties seek to establish an ongoing communications process to resolve City and community concerns,

WHEREAS, The Parties recognize that the SSP Yard project is subject to 49 USC Sec. 10501(b) which expressly preempts state and local law with respect to rail operations and related facilities, including rail yards, spur track and main line track. Union Pacific has nevertheless agreed, with a reservation of rights, to ~~cooperate~~collaborate with the City and to establish a working relationship with City and other agencies concerning the public impacts of the project.

NOW THEREFORE:

The Parties enter into this MOU in order to set forth their mutual understandings, to establish processes to address community concerns, and to facilitate the negotiation of certain binding agreements enumerated below.

SECTION 1. Operational Safety.

UPRR's prime concern is the safety of our employees, customers and communities. As mentioned above, UPRR's Twin Cities Service Unit, which operates the South St. Paul Yard, was the safest freight service unit on the entire Union Pacific System in 2012 and 2013. UPRR's company goal is zero accidents, and the Railroad will continue to pursue this goal aggressively in 2014 and future years.

The City has raised concerns about the safety of crude oil shipments though South St. Paul Yard. The Railroad is able to report that the rail route passing through South St. Paul is not a major crude oil route, and there are no current plans for a change in that status.

In addition the railroad industry, through the American Association of Railroads (AAR), recently announced a joint effort with the U.S. Department of Transportation Secretary Anthony Foxx, Federal Railroad Administration (FRA), and Pipeline and Hazardous Materials Safety Administration (PHMSA) to institute voluntary operating practices for moving crude by rail.

The above measures will enhance the safety of all crude oil trains and other hazardous material shipments operating on the US rail system.

SECTION 2. Collaborative Emergency Management Planning, Training and Incident Control.

In order to enhance the safety and emergency preparedness of both the City and the Railroad, the parties will work together as follows:

- a. The Railroad is offering to fund participation by no less than five City Public Safety personnel in special response crude oil training at the Transportation Technology Center, Inc. (“TTCI”) in Pueblo Colorado during in 2014.
- b. The City has requested that UP provide access to the UP Hazardous Response Plan and Minnesota Spill Prevention Plan, including assurance of most current access codes and website information (consistently refreshed.) UPRR will provide copy of the documents for reference by SSP Public Safety officials.
- c. UP and the City will work together to develop a regular ongoing schedule of joint training exercises on a biennial basis.
- d. The railroad industry is developing an electronic system that will give emergency responders direct electronic access to train consist information when responding to an accident. Today, this manifest information is available directly from the crew or railroad dispatch, or by directly working with our Response Management Communication Center in the event of an incident. UP will work to make sure SSP is an early participant in this information sharing system once it is established.
- e. The Parties will work in a collaborative development to identify the location of necessary security fencing and the appropriate cost participation by both parties.

SECTION 3. Communication Plan and Public Relations.

- a. Parties will collaborate on a Public Involvement plan, including semi-annual “Open House” events held by UP for first two years following commencement of construction. Additional Open House events to be scheduled as needed.
- b. The City agrees to assist with public instrumentalities, such as use of City’s website; Town Square Television for advertising the Open House events and ongoing program of public information and familiarization with railroad operations, including horn use.
- c. The City will assist with distribution of written informational pieces to inform the residents about railroad operations.
- d. The City will designate a staff member as the primary point of contact on issues involving the Railroad. Union Pacific will similarly designate a staff member to be the primary point of contact for the City’s designee. The City will accept complaints concerning railroad noise or other perceived nuisances as part of the City’s “Report a Concern” and/or Website functions and forward the complaints to the Railroad. Other issues and concerns can be expected to periodically arise out of the ongoing relationship and the parties agree to provide the necessary representatives for timely resolution of these unanticipated matters.

- e. In the event of a safety concern or other issue of an urgent nature, local residents may also contact 888.UPRR.COP.
- f. UP will commit to attend two meetings with City staff going forward to discuss community issues and update the City on railroad activities. Railroad attendees will include a representative from UPRR Public Affairs team, the Director of Terminal Operations based in SSP, and any other UP personnel relevant to the topics on the agenda.

SECTION 4. Noise.

- a. UP has agreed to contribute up to \$7,000 to fund an initial Baseline Noise Study. The City will be responsible for funding any Follow-Up Study after initial improvement is completed and operational.
 - i. All studies must utilize only parameters set forth by Federal Railroad Administration (FRA.) State or local standards including those of the Minnesota Pollution Control Agency are not applicable to the Railroad.
 - ii. The Baseline Study will be completed in approximately June 2014 and the Follow-Up Study (funded by the City as noted above) will be completed approximately one year thereafter, following completion of the SSP Yard improvements.
 - iii. The Baseline Noise Study and Follow-Up Study will include up to 6 data collection spots at locations to be agreed by the parties.
 - iv. City will engage SRF Consulting to conduct Baseline and Follow-Up Studies and will manage the contract with SRF.
 - v. The studies will assess current and future compliance with existing Federal standards, to the extent applicable.
 - vi. The parties acknowledge that the sounding of locomotive horns and warning devices is mandated by FRA safety rules and the Railroad must comply with these rules.

SECTION 5. Transportation and Utility Access to City Property.

The Parties acknowledge that certain issues concerning transportation and utilities access need timely resolution at various locations. In addition, there are access and development issues concerning certain City controlled parcels adjacent to the SSP Yard. The Parties will work to implement to the following commitments concerning these issues:

- a. **Levee Service and Integrity** – The Parties are committed to preserving necessary service access and to preserving the integrity of the levee and its associated features.
- b. **Kaposia Landing Utilities** – The Parties will work to determine route(s) and enabling the provision of utility service(s) at mutually agreeable locations.
- c. **Kaposia Landing Public Access** – The Parties agree to address safe transportation access (cars, bikes, pedestrian.) The City shall provide the Railroad with a map of proposed access locations to facilitate further discussions.
- d. **North Urban Regional Trail** – The Parties will collaborate on determination of a route and construction implementation. The route and design shall comply with all UP standards and requirements.
- e. **Barge Channel Road** – Access to City owned Parcel. The Parties will continue discussion of the possibility of future access to Barge Channel Road/City-owned 13 acre parcel orphaned by a spur line.

SECTION 6. Vegetation Screening.

The Parties will work collaboratively on development of a vegetation screening plan.

SECTION 7. GIS Mapping and Property Issues.

The Parties recognize the benefit of mapping the SSP Yard and its vicinity using a modern GIS system. The Parties also recognize that certain property issues must be resolved. Therefore, the Parties will work collaboratively as follows:

- a. UP commits to share available GIS and AutoCAD data with the City.
- b. The Parties will address and resolve a possible UP track encroachment near Simon's Ravine.
- c. The Parties will address and resolve a possible UP service road encroachment near southern end of yard.
- d. The Parties will identify location of existing utilities and locations for proposed utilities.

SECTION 8. Lighting Issues.

- a. UP will provide the City a location of existing lights within SSP Yard and a copy of the proposed lighting plan for the project.
- b. UP agrees to discuss lighting plans and collaborate with the City, subject to the recognition that the safety and efficiency of UPRR operations is paramount.

SECTION 9. Outdoor Storage Plan.

Prior to initiating construction, UPRR will submit a Plan defining the existing areas used for Open Storage and identifying the types of material being stored. The plan will show the proposed location, height, type of material and other information deemed necessary by the City so that the City may address any nuisance issues related to the open storage. UPRR acknowledges that minimization of visibility is a key interest of the City.

SECTION 10. Miscellaneous.

- a. The Parties acknowledge that portions of the work on the project may fall outside regular construction ~~practices-hours~~ designated in ~~applicable the South St. Paul City Code local codes~~. Because of the demands of the rail network, certain work may occur outside ~~normal business hours~~ of allowed construction hours. UPRR will make reasonable effort to provide ~~advanced~~-notice at least 4 days in advance of these instances so that the City can provide notification to potentially affected residents and businesses.
- b. UPRR's primary contact will provide the City's primary contact a weekly written update on the project for distribution within the community and relevant City departments.
- c. The Parties acknowledge that the Railroad is required by federal law and applicable Operating Rules to sound locomotive horns and other warning devices.
- d. The City and UPRR shall cooperate with respect to the permitting requirements of the US Army Corps of Engineers and will mutually support efforts intended to expedite the design, review and construction of the Parties' respective project elements.
- e. This MOU represents the current understanding of the parties. The terms are not all-inclusive and are subject to modification or cancellation. Both parties acknowledge that the definitive written agreements will include additional terms and conditions and that such terms and conditions must be acceptable to each party, in each party's sole discretion. This MOU is not intended to (and will not) be a binding agreement or offer, and this MOU will not give rise to any right or obligation based on any legal or equitable theory (including any right to continue negotiations or to negotiate in good faith); and only subsequent definitive written agreements executed by the appropriate parties will bind the parties as to any matter that is the subject of this MOU.
- e.f. In the event of a dispute arising out of the MOU, the City's primary contact shall meet with UPRR's primary contact or their designated representatives, as soon as possible, but no later than within seven days of notice of such dispute to discuss and resolve the concerns. Such meeting may occur in person or by conference call.

SECTION 11. Goals for Execution of Definitive Agreements.

The Parties are committed to executing definitive agreements by September 1, 2014, although reasonable extensions are permitted with the consent of both parties:

- a. Necessary easements, deeds or releases required to resolve the real property issues noted above.
- b. A definitive agreement with the City's Public Safety officials with respect to UPRR- funded training at TTCI in Pueblo, CO.

SECTION 12. Exhibits.

Any exhibits and attachments attached hereto are hereby made a part of this MOU. [List]

IN WITNESS WHEREOF the Parties have hereunto set their respective hands and seals on the day and year first above writ.

CITY OF SOUTH ST. PAUL

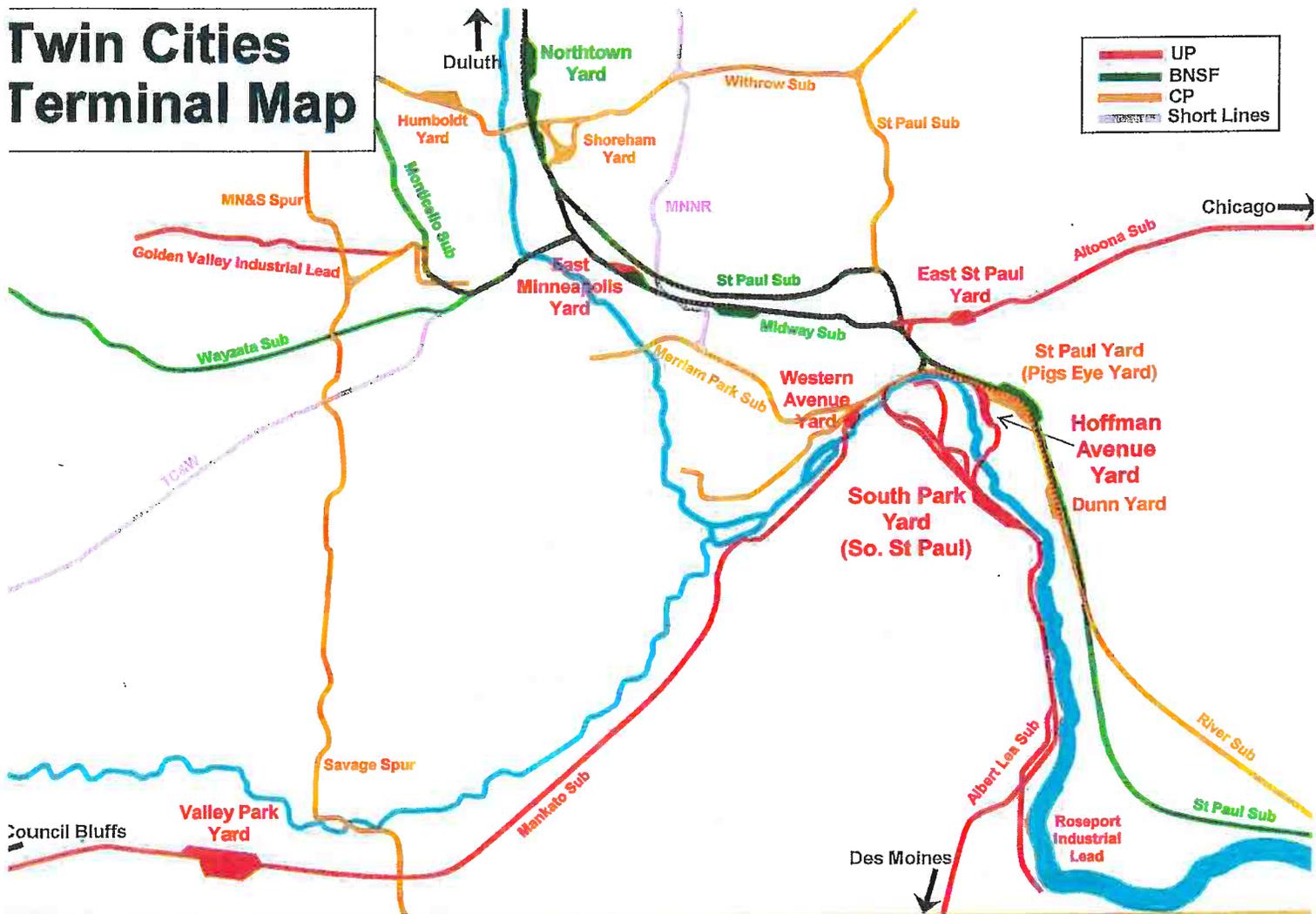
By: _____
Beth Baumann, Mayor

ATTEST:

By: _____
Christy Wilcox, City Clerk

Date: _____

Twin Cities Terminal Map



Project: South St. Paul Yard Improvements & Run-Thru Slot
Location: South Park Yard – Albert Lea Sub MP 348

Project Descriptions:

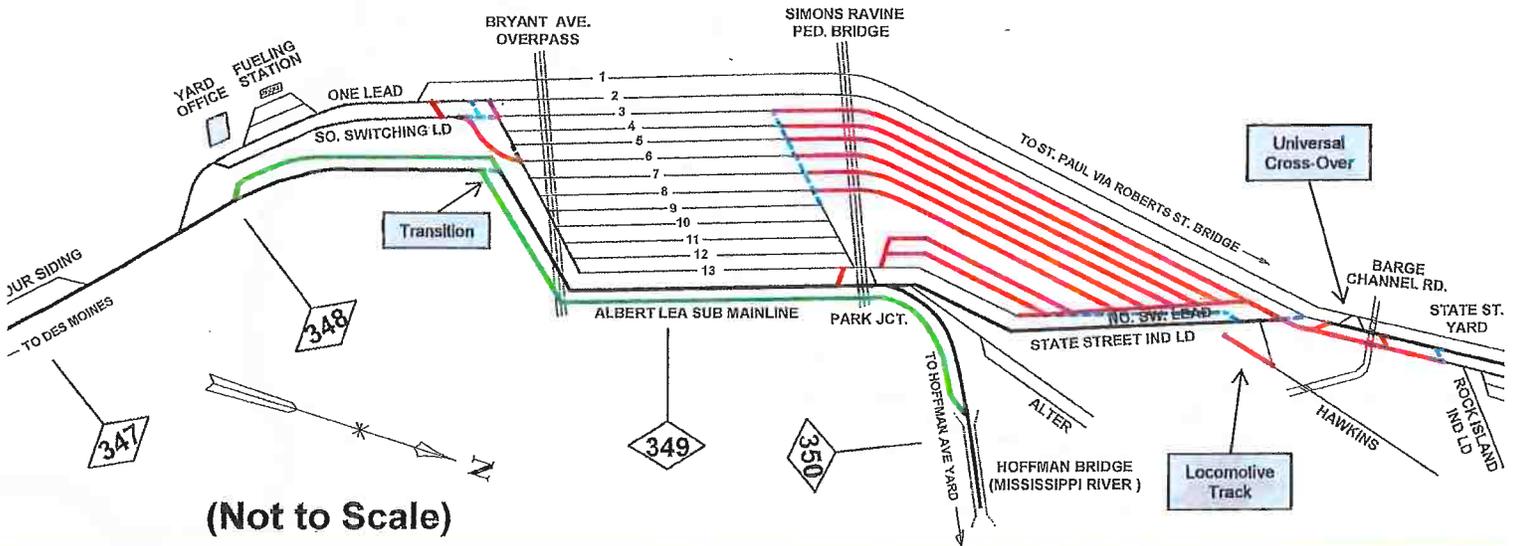
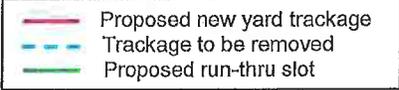
Yard Improvements:

- Extend 6 yard tracks to fill current property footprint
- Construct 2 yard tracks
- Extend north switching lead to State Street Yard
- Create triple-track universal cross-over on State Street Industrial Lead
- Realign south switching lead to create separate lead for 5 R&D tracks
- Construct locomotive track at north end

Run-Thru Slot:

- Construct train-length run-thru slot (siding)

- Yard Improvement Benefits:**
- Increases fluidity & throughput
 - Reduces switching since larger blocks can be made in a single track (lower emissions & noise)
 - Allows yard to keep switching while trains arrive & depart
 - Reduces railcar dwell & improves shipment performance
 - No property acquisition required
- Run-Thru Slot Benefits:**
- Increases fluidity & velocity
 - Enable St. Paul as a meet/pass location
 - Keeps run-thru trains clear of yard switching



(Not to Scale)





City of South St. Paul

125 Third Avenue North
South St. Paul, MN 55075
www.southstpaul.org

Office of the Community Affairs

DATE: May 12, 2014
TO: Steve King, City Administrator
FROM: ~~Dennis~~ Griffith, Community Affairs Liaison
RE: Union Pacific Public Involvement Plan

Overview:

To develop a community involvement plan between the City of South St. Paul and Union Pacific to discuss and review the Union Pacific Railroad's South St. Paul Yard Improvement project. Union Pacific will conduct a series of open houses/informational meetings in South St. Paul. The open houses will use a "trade-show" style format style to foster one-on-one dialogue, and an exchange of information tailored to address stakeholders' questions and concerns.

Objectives:

- Inform/educate residents, businesses, and public officials about the project, along with the construction operations & safety plans for the South St. Paul Yard Improvement Project.
- Provide a forum for stakeholders to have their questions answered, concerns addressed and to meet with the project representatives.
- Learn about and document stakeholder issues or concerns
- Provide maps that show the proposed facility in relation to key community sites
- Demonstrate commitment to proactive and meaningful outreach
- Maintain and build on reputation with stakeholders in and around the area of the City of South St. Paul and Dakota County

Meeting with Community Affairs Liaison

On Friday morning, May 9th, I met with Dennis Egan concerning the Union Pacific Public Community Involvement Plan. From my office, we called Wes Lujan to discuss the plan. After discussing the goals and objectives, we came up with the following Community Involvement Outreach Draft Plan. Please note, this is subject to change, but is a good start.

Community Involvement Outreach Draft Plan:

- **Timeframe:**
 - May – Mid September 2014 (Mid September, the President of UP will be coming to Minnesota and they want it wrapped up by then)
- **Meetings:**
 - 1 formal, 2 informal and neighborhood meetings
 - 1st Meeting - June 29th (Informal) during Hotdog Picnic at Kaposia Days

- 2nd Meeting -- July -TBD -- City Hall (formal & videotaped by Town Square TV)
- 3rd Meeting -- August TBD -- SSP Airport (informal)
- Neighborhood Meetings -- TBD -- 2 neighborhoods identified Park Lane and Grandview area). One idea was during Night to Unite on August 5th -- however, need to discuss with neighborhoods
- Any other neighborhoods if needed).
- Other events or activities where deemed appropriate

- **Print/Media:**
 - Will use a variety of methods, including, but not limited to:
 - SSP Newsletter
 - Facebook updates
 - Direct mail for concerned neighborhoods
 - SSP Website, Chamber Website, etc
 - Flyers to schools
 - Flyers in city offices and businesses
 - UP created informational brochures
 - Press Releases
 - Other

- **Community Meetings:**
 - Local Issues Meetings
 - Community meetings
 - Community Open Houses
 - City Council Meetings
 - Activities/Events (if deemed appropriate)

- **Other:**
 - In Mid July the Chamber Progress Plus impact study should be available
 - UP will offer tours of the UP operation here in SSP
 - UP will provide refreshments for the meetings
 - Wes/ Dennis will be included on the SSP Bulletin Board weekly updates
 - Commitment to be more involved with the community of South St. Paul
 - In Mid September when the President of UP will be in SSP, 2 dinner cars will rolling into SSP. There will be tours and representatives from SSP, Chamber, County will be invited to a meeting with the President.