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MPO**

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**Salem-Plaistow-Windham
Public Hearing and MPO Policy Meeting
Minutes**

Wednesday, July 17, 2002
Atkinson Town Hall

- Members Present:** Glenn Coppelman, Acting Chair, Kingston; Annette Stoller, Windham; Kathleen Brockett, NHDES; and Ram Maddali, NHDOT.
- Proxy Vote:** Marilyn Senter, Plaistow; Mary Allen, Newton; Dick Sunday and Richard Cooney, Salem; Paul Sullivan, Atkinson; and Susan Hastings; Hampstead.
- Others Present:** Chris Waszczuk, NHDOT; Ellen Faulconer and Lesley-Ann Hume, Kingston.
- Staff Present:** Dave Walker, Cliff Sinnott, and Roxanne Rines, RPC.

7:17 p.m. PUBLIC HEARING OPENED

1. Introductions

Attendees introduced themselves and stated what municipality they were from or the agency they represented.

Public Hearing 2001-2003 TIP Amendment #9

Walker reviewed the amendment; one project on the expedited list is the Salem to Manchester project, dealing with delays in the environmental impact study for the I-93 widening.

The full amendment requires a public hearing and MPO approval, it contains the Londonderry/Windham I-93 project to run commuter bus service through the MVRTA. There are also three new statewide projects being added. The public comment period ends on July 24th, approval will need to be pending no adverse comments. **Walker** stated an updated air quality conformity analysis report is available for review.

Stoller asked if there was any commuter information concerning the Londonderry/Windham service? **Sinnott** stated the service has started and he's heard that the ridership is a little disappointing thus far. It is being marketed towards the employees, it's meant to serve the junction TMO.

Faulconer asked if additional funding has been given that allows projects to be added ahead of other projects? **Walker** stated two projects were moved ahead and COAST dropped one project, which puts money back into the plan. **Faulconer** asked if dropped or delayed projects are required to be amendments? **Walker** stated yes they are on the TIP.

7:27 p.m. PUBLIC HEARING CLOSED

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7:27 p.m. POLICY COMMITTEE MEETING OPENED

2. Approval of Minutes from February 12, 2002

Motion: **Maddali** stated Waszczuk's name was misspelled. **Stoller** made a motion to approve the minutes as amended. **Coppelman** seconded the motion. **Motion carried with abstentions.**

3. 2001-2003 TIP Amendment #8-2

Walker stated this project is to purchase railroad corridors, it was originally statewide but they are shifting it to be in Salem only and change the year from fiscal year 2001 to 2002. **Stoller** asked what will happen if the amendment isn't approved? **Sinnott** stated if it's not approved the project location and date will not change.

Hume asked why the project was delayed and why there isn't more detail given on the Amendment report? She continued that more detail is needed before the committee can decide whether they want to approve an amendment or not. **Sinnott** stated this project is one that DOT requested a while ago.

Hume reiterated that the amendment report comments are not sufficient in its reasons for the amendments and more detail is needed for the committee to make decisions. **Maddali** stated that the comment section of the report is limited by the Access program used.

Hume stated that there should be a detailed letter about each project that is on the amendment list as to why the amendment is happening. **Waszczuk** stated under the Hunt Road/Newton Junction project there isn't a detailed comment either; it isn't possible to give the specific details for each projects delay. He will relay Hume's message back to the front office.

Walker stated if staff thinks that the committee will have a problem with a project on an amendment list, he will call Ram or the project manager and ask for more detail.

Motion: **Stoller** made a motion to approve the 2001-2003 TIP Amendment #8-2, the purchase of rail corridors in Salem, pending quorum calls. **Coppelman** seconded the motion. **Coppelman** asked if the money does not get spent, will the committee see another amendment? **Sinnott** stated he does not know that; the money needs to be obligated by September 31, 2002. **Motion carried.**

4. 2001-2003 STIP Amendment #9

Motion: **Coppelman** made a motion to approve the 2001-2003 STIP Amendment #9, pending quorum calls and receiving no significant adverse public comments. **Stoller** seconded the motion. **Motion carried.**

5. NH 125 Plaistow-Kingston Project Update

Waszczuk stated he made a comment at the public information meeting relative to the probability of this project not starting construction until 2004. He reviewed a handout with targeted meeting timeframes and gave an update.

He continued that the DOT recognizes that the Hunt/Newton Junction Road intersection is a very high priority. DOT separated the above intersection from the rest of the project, which is usually very hard to do. The work at that intersection has been well advanced in front of the rest of the corridor. Four Advisory Task Force meetings and an introductory access management meeting have been held.

Waszczuk stated that in early August there will be an access management open house workshop, the intent is to gather information from all the property owners and they will be notified. The public hearing for the entire corridor is targeted for next June, this date is very critical.

The public hearing for the Hunt/Newton Junction Road is targeted for November 2002. After the public hearing in November, design approval needs to be completed, which is usually a 3 to 4 month process. Typically, no final design or right-of-work involvement can happen until after design approval.

Faulconer asked what typically means? **Waszczuk** stated he has spoken with the Director about trying to get a much more detailed level before the public hearing, so that upon a successful public hearing, DOT will very quickly be able to develop right-of-way plans. The right-of-way plan development is the critical link to getting all the abstracting started on the property and the right-of-way negotiations.

He continued that there are 20 parcels impacted by this project, much more than originally visioned, there was less than half a million dollars programmed for right-of-way for the entire corridor. An estimated bill for just this portion of the project is over one million dollars.

Waszczuk stated the appraisal process is a very time consuming process, normally appraisals take six to nine months when ordered. Because the industry is saturated it could take upto a year, when taking an entire property there is also re-location assistance. If the property owners are not willing to work with the state, even after a condemnation proceeding is started, they are entitled to 120 days for re-location. All of the above are unknowns.

He continued that best case scenario, we're talking about a year for advertising after project approval, it is highly dependent upon right-of-way negotiations that occur with the property owners. He stated he is estimating that early 2004 is when the project will be advertised.

Waszczuk stated the commitment that was made by DOT in August 2000, that the project would be advertised for construction in 2003. In essence, by September 30, 2003, the project would be advertised, we were trying to advertise the project by then. Until various things happened, like the additional public information meeting. He stated that he mentioned from the onset that it was a very aggressive time line and that everything needs to fall into place just to meet the date at the very first meeting.

Faulconer stated that Commissioner Kenison and Carol Murray stated at a meeting that Waszczuk's statement about being aggressive was incorrect. They stated that while it was an aggressive timeline, it was one that could be accomplished and it was DOT's commitment to have the project completed in 2003. She asked who was wrong.

Waszczuk stated when the statement was made it was predicted that negotiations with VHB would take six to 9 months. **Faulconer** stated that Kenison and Murray stated that VHB would be on board soon and that regardless of that, that would not delay the project at all.

Faulconer stated that part of the right-of-way was already delayed a year, Waszczuk told her that it would delay the project past the 2003 date and probably would be more likely done in 2004-2005. The DOT Commissioner attended a public meeting where it was said, that DOT was committed to this project, and the timetable could be met, it just meant people had to really dig their heels in and it could be done.

She continued that the Policy Committee was suppose to write a letter to DOT, that they would approve the STIP amendment before them, with the understanding that there would be no further delays in the project.

Faulconer stated that it was discussed tonight that if projects are delayed, they need TIP amendments. When was it decided that there would be a delay in this project because she was unaware of any public hearings, TIP amendment or anything that stated this project would be delayed until 2004-2005.

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Waszczuk stated he is not a planner, he doesn't know the TIP process. In project development, the feasibility study is the basis for the preliminary engineering that needs to be done. There was a lot of work that went into the feasibility study.

Faulconer stated at the public hearing there were four property owners who found out their property may be taken in the newspaper and they had questions because no one from DOT had contacted them and they came to the meeting angry. One abutter just wants some trees put up; another person needs their septic system moved, and the Bayberry variety property will be an issue because it has to be taken.

She asked why the property owners are not being contacted, why do the property owners have to contact DOT? She continued that the reason another meeting was needed was because the property owners were concerned that in November the DOT would have made final decisions and they would have no further input.

Waszczuk stated he has had a conversation with Mr. Neilson. Before the public hearing he will contact Bayberry Variety and Mastriani to make sure their issues are resolved. They are being impacted dramatically, which makes them major stake holders in the project. He continued that he can not specifically initiate discussion with every single property owner.

Faulconer stated some of the issues can be easily taken care of. **Hume** stated she wants a plan at the next meeting that shows how the issues will be resolved. She asked what the community can do to move the process along? **Waszczuk** stated the negotiations with VHB was out of his control and that it did take a long time. **Hume** stated the reason the schedule isn't being met is because someone doesn't stay on task and get it done.

Waszczuk stated that utility relocation will be the major snag in the project. He stated projects have been delayed over a year (during the construction period) because of utilities. **Hume** asked Waszczuk if Ms. Murray knows of the delay? **Waszczuk** stated he spoke with her before the meeting, her thought was that the project schedule was aggressive.

Hume stated that she, Ellen Faulconer and others have had continued assurances that the project would not be delayed. That's the frustrating thing, she doesn't understand why they are not getting the resources to get it done. **Waszczuk** stated DOT is trying to do very unorthodox things to advance this project. He's trying to make this work, he stated he is on their side. Unfortunately, it's just the nature of the times, there is a lot of work out there.

Waszczuk stated appraisals are needed. **Hume** asked who does the appraisals? **Waszczuk** stated the DOT has independent appraisers that are approved by DOT, to do these very in depth appraisals, they are not your typical refinancing appraisals that are done on homes. That whole industry is very saturated with work.

Faulconer asked what the criteria is for a successful public hearing? **Waszczuk** stated that there is a lot of support for the project. He continued that he was glad for the input at the informational meeting because up until the town spoke out, there was some negative comment. The hearing commission needs to hear that the project is warranted or needed from the community.

Faulconer stated that the town of Kingston has been sending representatives to committee meetings since 1985 about this project, how much more does anybody need. The town has had a lot of frustration for a long time and it looks like it's going to continue for another seven year, and the town has been assured by everyone from the head of DOT down that this project was going to happen in 2003. We have been told since 1999 that the project would happen in 2003, regardless of the aggressive schedule, nothing new is on that corner that no one knew about. She continued that someone has been lying. **Sinnott** stated that no one has been lying, schedules just aren't able to be kept.

Hume stated the expectations and standards need to be a little bit higher on peoples performance, because this is a dangerous place, it has been for a long time. The town has used every creative way they could think of to get problems solved on the corridor. She doesn't feel assured that some fundamental, elementary things are being done to deal with the abutters.

Waszczuk stated Hume's outlook is very optimistic, when negotiations are done with property owners, it is the dollar amount that is critical. The dollar amount can not be done until an appraisal is complete and the appraisal can not be done until the right-of-way plans are done and that isn't done until after a successful public hearing. **Hume** stated that Waszczuk can meet with the property owners and find out what they want for a dollar amount without having an appraisal first. **Sinnott** stated that he has no basis for negotiation until an appraisal is complete.

Waszczuk stated again that he is on the communities side and he is trying to accelerate the project as fast as he can, unfortunately it takes time.

Coppelman stated that at the November public hearing what will be shown on the map, the same one they've seen or will it have the anticipated changes that Faulconer and Hume have referred to: such as, the driveways, septic system, and screening. **Waszczuk** stated yes, DOT is now working on shifting the alignment of Newton Junction/Hunt Road a little bit, to pull away from Mr. Nielsons property. DOT then needs to meet to explain the additional impacts on the historical property, whether they are justified.

Faulconer asked if DOT had meet with the owners of the historical property yet? **Waszczuk** stated no, he is trying to take the historic aspect out of the issue. By moving that property back, and shifting the alignment away from the east side; it causes more impacts. He continued that at the next informational meeting, DOT will show a plan that may be modified which addresses the comments that came out of the last meeting.

Walker stated until a successful public hearing has been held, DOT can not finalize the design, the right-of-way, or start appraisals. **Waszczuk** stated that before the public hearing, DOT does not look that closely at drainage. **Faulconer** stated that in November when Bayberry says they are still not happy and then five people speak up that they are in favor of the plan, that constitutes a positive public hearing. **Waszczuk** stated yes.

Sinnott stated that one of the reasons for waiting for the appraisal is because there is an appeals process that land owners can use.

Stoller asked how many parcels are affected? **Waszczuk** stated 20 parcels. **Hume** stated at the intersection being affected, centrally four parcels are being affected. **Waszczuk** stated there are 20 parcels affected with either some sort of right-of-way easement or a more involved taking. Some easements will be small, some large and others will have their access altered.

Faulconer stated that all the properties but Bayberry are simple. **Waszczuk** stated it doesn't matter if there is one parcel or half a dozen, appraisals are still needed. He continued that he spoke to several people after the previous public hearing.

Waszczuk asked if Faulconer could arrange a meeting on site with several of the property owners, he will discuss individual concerns? He continued that the meeting can not be done until after the investigations are complete. **Faulconer** stated yes. **Waszczuk** stated the last week of August would be good.

6. National Defense Rail Act

Sinnott stated this item was brought up at a Seacoast Policy meeting, it happened around the time Amtrak was talking about shutting down. The discussion has been "what does the nation need to do to have a national passenger rail station". The bill is intended to put Amtrak on a more secure financial footing for the long term.

Staff is asking that the MPO instruct staff to write a letter of support to NH's Congressional Delegation in support of the bill. The bill is supported by all of the New England Senator's except for NH's.

Motion: Stoller made a motion that the SPW Policy Committee instruct staff to draft a strong letter of support to our Delegation indicating the complete support of this bill; in addition, she urged every member of the MPO and RPC to follow suit. **Coppelman** seconded the motion. **Walker** stated that Senter would like the words "strong" or "strongly" inserted where appropriate. **Sinnott** stated members will receive a copy of the letter. **Motion carried pending quorum calls.**

7. I-93 Update – Mitigation Plans

Sinnott stated he spoke with Jeff Brillhart and his hope is fading that the draft EIS will be out at the end of July. When the EIS is out, things will move rather quickly, the staff will need to review and bring recommendations to the MPO about positions to take. There are a lot of unanswered questions so far about the project.

He continued that one of the major issues not resolved with this project has to do with how the impacts of the project should be mitigated. The chief point of contention between the DOT, EPA, and other resources agencies is how to mitigate property.

Sinnott stated that DOT has proposed a mitigation package with 645 acres on 11 sites within the 5 corridor communities, the cost of right-of-way and implementation would be \$15.3 million. The direct project impact of wetlands and floodplains by construction will be 100 acres.

Another component of the mitigation package is funding the pilot studies related to smart growth. There would be long term planning assistance, not just to the core corridor communities, but also the second tier as well.

The EPA's position is that they support the mitigation package, but they want to see more in terms of mitigation outside of the corridor, open space, conservation land protection. The mitigation properties can't be isolated, they have to be connected to larger ones, the viability of the habitat also needs to be looked at.

Sinnott continued that the Towns of Windham and Salem feel that all the mitigation efforts should take place in their back yards. Windham is focused on the fact that they are going to be losing a lot of economic development that exists in the town now. They want the above mitigated not by replacing economic development but by preventing future residential development.

Stoller stated the town is concerned about economic development, but the town has done everything humanly possible to defy it, why be concerned about a loss of something that you have fought to begin with.

Sinnott stated Salem's position is closer to being satisfied with what's proposed because their primary interest is in wetland mitigation and floodplain mitigation. They have a desire to have their old water treatment plant taken off their hands, the DOT has agreed to do that because it is sitting on a very good flood mitigation site.

He continued that DOT's response at this point is that they are primarily responsible to mitigate direct impacts, and not to be concerned with wildlife habitat and secondary growth impacts. DOT's underlying concern is the precedence this may set. DOT thinks the mitigation sites should be located close to where the primary impact is occurring and that the sites should be distributed according to the degree of impact per community.

Sinnott stated the EPA has suggested a compromise: 1- add \$5 million dollars to the \$15 million dollar mitigation package; and 2- have the mitigation areas handled by LCHIP, the Forest Society or some other organization to avoid paying the DOT premium. Commissioner Murray has said "no" to their suggested compromise. He continued that the MPO should encourage the parties to work it out.

Sinnott stated unless something else happens DOT is going forward with their original mitigation package. It will then be up to the Federal Highway Admin to make the determination that the draft EIS is sufficient to address the requirements of NEPA and 404.

Coppelman asked Sinnott if the MPO should send a letter to the parties encouraging them to continue to work on a satisfactory resolution? **Sinnott** stated he thinks it would be better if the letter had more to say, but doesn't know what the best position would be.

Brockett stated from a smart growth perspective, tools need to be provided to the towns now to get ready for the secondary impacts. There was more discussion amongst members. **Stoller** asked if the subject could be brought up at a Commission meeting for discussion.

Brockett stated aggressive alternative transportation choices really need to be pursued, in place and marketed. **Sinnott** stated he would attempt to see what avenues for compromise there is and present what he finds at the September Commission meeting.

8. Project Updates - Informational

A handout was distributed for members to review. **Walker** stated he did not get as much information as he wanted on the STIP/TIP adoption and Air Quality Conformity update as he intended.

Maddali stated the 2003-2012 Ten Year Program was adopted on May 17th, the 2003-2005 TIP and STIP are being worked on now and will be forwarded to the regional planning commissions in the near future.

Brocket asked what has happened to the Salem Park & Ride? **Sinnott** stated the bus company decided that they did not want to service a temporary site.

Brockett stated there were a couple of air quality days in July, and spoke about the Cleaner Cars for NH program. She also spoke about an initiative to work with school bus companies.

9. Other Business/Adjourn

Motion: **Stoller** made a motion to adjourn at 9:43 p.m. **Coppelman** seconded the motion. **Motion carried.**

Meeting adjourned at 9:43 p.m.

Respectfully submitted,

Roxanne M. Rines, Recording Secretary