

BFRT Coordinating Committee Meeting No. 2 – Notes/Action Items

Meeting Date: **Wednesday, January 30, 2008**

Location: MassHighway District 4 Office

Chair: Lawrence Cash

Attendance: Sign-In-Sheet attached

- The meeting began with L. Cash providing a summary of the previous meeting. He also explained the makeup of the committee members and that meeting observers are welcome. Phase 2 will have sub-phases 2A (Acton, Carlisle, Westford), 2B (Concord Rotary – Masshighway 25% Design Contract), and 2C (Concord). The Concord Rotary MassHighway 25% Design contract with Earth Tech and FS&T was given a design notice to proceed on December 5, 2007.

Each Town was given the opportunity to provide updates/status:

- **Acton/Westford/Carlisle (Phase 2A)** – The Acton Planning Director, Roland Bartl, provided updates for Phase 2A. Rebecca Williamson was also present from GPI, the town's design consultant. The important items mentioned included: cost for phase 2A is expected to be in the range of \$8-11 million. Acton is playing the lead role between Westford and Carlisle. The town must vote in the spring for the Inter-Municipal Agreement. Acton has already filed a draft lease agreement to EOT, approximately one year ago. There has still been no official review response from EOT. Mr. Cash said he would look into it, and explained there are some new hires recently regarding lease agreements within EOT. Federal Highway requires a lease (see attached recent FHWA Letter). The 25% plans are expected to be complete by the Spring and ready for submittal to MassHighway. A Public Hearing could be held after the review period, possibly by late summer. The revised cost should be updated on the database. The final design from 25% to PS&E still needs to be arranged. Sarah Bradbury provided discussion related to the TIP, MAPC, and enhancement funds.
- **Concord Rotary (Phase 2B)** - L. Cash said again, the NTP was issued on December 5, 2007. Earth Tech will need some time to develop some schematics/sketches to present. Perhaps in the future we could eventually have a design representative attend a future meeting for a brief presentation. Concord had some concerns with the limits of the rotary project meeting the limits of the Concord Phase 2C. The gaps between the limits, if any, need to be closed. L.Cash will ask for the Rotary Limits from earth Tech or MHD Environmental (See attached Rotary Project limits map). At the next meeting there should be a better understanding of the scope of this design phase.

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- **Concord (Phase 2C)** – Marcia Rasmussen from Concord, along with Bill DeSantis from VHB (Concord’s design consultant). The town expects to receive the draft 25% design from VHB within a week. The design will be on April Town Meeting. Bill DeSantis discussed briefly what was accomplished in the last 10 months with the design. Mr. Cash asked when the plans will be submitted through PRC at MassHighway. Marcia said there were still some things that needed to be resolved before a PNF and PRC submission is made to MassHighway.....One of them being the Town Vote. Concord said the PNF submission should come shortly after the town vote. Surface type is still a concern with Concord. The termini will also need to be coordinated, as the town line separation is in the middle of the woods and not near the street. “Alternative Surface” was mentioned by L. Cash, stating that the surface should have a binder course under the top layer for a stabilized impermeable surface. VHB prepared the standard format Masshighway plans along with a functional design report. The plans will soon be placed on the town website. The MBTA commuter rail location presents a challenge, and VHB has come up with some ideas for this location. MBTA will not allow a pedestrian crossing for a rail trail at the plat form. The 8 foot wide Powder Mill Road Culvert was discussed briefly. A design exception will likely be required to maintain the culvert. There are 2 existing bridges to be maintained and also 1 new structure over the Assabet River within the VHB design.
 - **Sudbury** – Pat Brown gave a brief summary for the Town of Sudbury. She mentioned the preliminary engineering study is complete and the title search was complete. The town just wants to make sure the title is cleared before proceeding with any further studies. In October a four season wildlife study was started. In December a contract for centerline survey and wetland flagging was awarded. There is a CPC article on the warrant for a Sudbury Town Meeting regarding purchase of CSX property (attachment provided). The town has a Massachusetts Drinking Water grant to cover part of the purchase price of CSX land. CSX and the Town have both performed appraisals. The primary use is to protect the drinking water, and a secondary use is for recreational activity such as a rail trail.
 - **Framingham – Phase 3:** Susan Haney gave a brief summary. Framingham has a renewed interest in the purchase of CSX land, based on Sudbury’s recent findings. Framingham doesn’t have any appraisals yet. The ROW is expected to be on the agenda for the Board of Selectmen soon.

Attachments:

Sign-In-Sheet

Rotary Limits Map for 25% Design of Rotary/Earth Tech

FHWA – 02/27/2008 Letter on Right of Way for Transportation Enhancement Projects

Town of Sudbury – Project Submission Form regarding CSXT Corridor Acquisition



PROJECT LIMITS

MHD MAPPING LIMITS

MHD MAPPING LIMITS

PROJECT LIMITS

CONCORD

LEW



U.S. Department
of Transportation
**Federal Highway
Administration**

Massachusetts Division

55 Broadway, 10th Floor
Cambridge, MA 02142

February 27, 2008

In Reply Refer To:
HRW-MA

Mr. David J. Mohler
Acting Deputy Secretary for Planning
Executive Office of Transportation and Public Works
10 Park Plaza
Boston, MA 02116-3969

Subject: Massachusetts – Revised Transportation Enhancement Policy

Dear Mr. Mohler:

This letter is in response to your letter dated April 18, 2007, correspondence from MHD Right of Way Bureau Director Thomas Gray dated May 29, 2007, correspondence with Congressman Edward Markey's office dated November 2, 2007 and recent discussions with staff from the Executive Office of Transportation and Public Works (EOTPW) and the Massachusetts Highway Department (MHD) regarding FHWA policies relating to right of way for transportation enhancement (TE) projects including the procedures that have been proposed for use on publicly-owned rail corridors.

We appreciate the cooperative efforts of EOTPW, MHD and the Massachusetts Bay Transportation Authority (MBTA) in proposing a procedure that would be consistent with federal TE policy revisions issued this past year by this office. However, after further discussions with FHWA Headquarter staff, we would like to provide further clarification of those policies.

As you are aware, many of the rail-trail improvements that are constructed require a significant federal-aid investment. The Federal TE policy states "that the general rule of thumb for significant federal-aid investments is that the public interest in and access to the activity should be in perpetuity." Thus, this office was pleased that EOTPW and MBTA plan to continue their current practice of securing a 99-year lease term for these projects. This practice promotes our shared policy that the public interest in and access to the TE activity should be in fee simple taking, permanent easement or 99 year lease.

In regard to leases with reversionary clauses, it remains our policy to allow the lessor to terminate the lease prior to its expiration date in those situations where a greater public good than the TE-intended use can be demonstrated. However, we are revising our TE policy to eliminate the payback requirement (a pay back, on a pro-rated basis, for the remaining years of a

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facility's useful life at the time of reversion). This change will be consistent with FHWA TE Guidance to assure that "The laws governing traditional federal-aid projects funded under Chapter 1 of Title 23 U.S.C....apply to transportation enhancements as well..." (all modes treated equally).

Thus, effective today, the FHWA Massachusetts Division policy for transportation enhancement projects will be as follows:

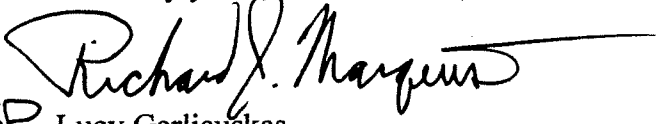
1. For significant federal-aid investments, the public interest in and access to the activity will be by fee simple interest/permanent easement or 99-year lease.
2. The acquisition of right of way for TE projects will mirror the process followed for traditional federal-aid projects. The use of eminent domain by the state and municipalities for the acquisition of property rights will be allowed.
3. For leases, the lessor will be allowed to terminate the lease prior to its expiration date in those situations where a greater public good than the TE-intended use can be demonstrated. There is no pay back requirement.
4. Leases may contain an "option to renew" clause to facilitate the extension of successful projects.

This policy will be applied consistent with applicable law, including 23 CFR Part 710 as referenced above, and FHWA Guidance on Transportation Enhancement Activities. The Guidance addresses property management measures to maintain the public investment over time, and indicates that "the general rule of thumb for significant Federal-aid investments is that the public interest in and access to the activity should be in perpetuity" though the extent of real property interest is "dependent on the nature and magnitude of the expenditure."

We would ask that the new operating practices be disseminated, as appropriate, to those involved in the planning, design and construction of transportation enhancement projects. This office is available to provide further clarification on any issues that may arise as the revised practices are implemented.

Your efforts in promoting the success of the transportation enhancement program in Massachusetts is appreciated and we look forward to partnering with you in this endeavor.

Sincerely yours,


 FOR Lucy Garliauskas
 Division Administrator

cc: T. Cahir – EOTPW
 L. Paiewonsky – MHD
 T. Gray – MHD
 R. McGilvray – MHD
 L. Walsh - MHD

Town of Sudbury

http://www.town.sudbury.ma.us
documents /dl/3899,
CSX.pdf

TOWN OF SUDBURY COMMUNITY PRESERVATION COMMITTEE

PROJECT SUBMISSION FORM

Submitter: *Maureen Valente*

Submission Date: Oct. 11, 2007

Group or Committee Affiliation (if any): *Town Manager*

Submitter's address and phone number:

Purpose (please select all that apply):

Town Manager

Open Space

278 Old Sudbury Rd.

Sudbury, MA 01776

Recreation

Submitter's email address: *valentem@sudbury.ma.us*

Project Name: **CSXT Rail Corridor Acquisition**

Project Description: Acquisition in fee of the 1.2-mile railroad corridor from the Chiswick Park Rd. off Union Ave. south to the Framingham line (9.76 acres)

Costs:

Fiscal Year	Total Project Cost	CPC Funds Requested	Other Funding Sources (amount and source)
2009	\$801,696 max	\$801,696 max	\$247,350 (MA Drinking Water Grant applied for 9/5/07; possible Water District participation)
2010			
2011			
2012			
2013			
Total			

How does this project meet the General Criteria and Category Specific Criteria for CPC projects (see attached)? *This acquisition meets ALL of the General Criteria, 9 of the 11 Open Space Criteria, and ALL 6 of the Recreation Criteria. See Attached Narrative and the CPA criteria listings. All the criteria that are met by this proposal are highlighted in yellow.*

Does this project fall within the jurisdiction or interest of other Town Boards, Committees or Departments? If so, please list the boards, committees or departments, whether applications and/or presentations have been made, and what input or recommendations have been given: *Board of Selectmen; Planning Board; Sudbury Water District; Park & Recreation Commission; Ponds & Waterways Committee; Rail Trail Conversion Advisory Committee will all be parties likely to be involved at the appropriate time. Acquisition of this corridor overlaps with goals of all of these Committees and Boards.*