



**APPROVED MINUTES  
NASHUA REGIONAL PLANNING COMMISSION  
Executive Committee  
October 17, 2012**

**Present:** Janet Langdell, Chair  
Mike Fimbel  
Andy Seale  
Karin Elmer  
Kathy Hersh  
Dan Kelly  
Rick Maddox  
David Hennessey

**Others Present:**  
Thomas Young, Town of Litchfield  
Tom Koenig, Town of Merrimack  
Tom Mahon, Town of Merrimack

**Staff Present:**  
Kerrie Diers, Executive Director  
Tim Roache, Assistant Director  
Julie Chizmas, Senior Transportation Planner  
Karen Baker, Program Assistant

**I. Call to Order:**

Langdell called the meeting to order at 6:07 PM.

**II. Minutes:**

Langdell asked to table the approval of the minutes until the next meeting and asked for a motion to do so. Kelly motioned to table the approval of the minutes of September 19<sup>th</sup> until the next Executive Committee meeting with a second from Elmer. The motion passed with Hennessey abstaining.

**III. Discussion of Right to Know Policy:**

Diers explained that the NRPC needs to have a written policy on Right to Know for a couple of reasons:

1. Staff have been getting requests and there should be a central point of contact; and
2. To recover the staff time cost of the requests.

She informed the group that she and Jeff Belanger had talked with several attorneys across the state to get some input. She also referred to the Attorney General's Memo regarding 91A and how RPC's are specifically called out in that document. She continued that we need to have an attorney that has a lot of 91A experience, and experience in records retention, public/government records, and exemptions. Diers added that most of the information that we get requests for is available on our website, but we recently received a request via email with just the name of the person and no other contact information. We sent the request which bounced back several times to later receive another email saying we did not fulfill their request. Diers informed the group that she & Belanger had the names of a few municipal attorneys that they would like to call.

Maddox said all the RPC's are having the same issues and suggested distributing the costs. Additionally, this would enable a consistent message from all RPC's. Diers said that it was a good idea, but in her experience, different municipal attorneys have different opinions. She added that it would make sense if all can agree on one attorney. There are also issues through the NHARPC. Fimbel asked what the NHARPC is getting for requests. Diers said that people do not know that it is not a staffed organization. Mike King from North Country Council coordinates the group. She was unaware of any requests at this time to the NHARPC. She added that principal policies are all they have currently. Fimbel said he would not be able to make the NHARPC meeting tomorrow. He asked if documents are made available 6 days

after meetings. In response to Fimbel's question, Diers clarified that it is 5 business days. Kelly asked what type of requests we are getting. Diers said requests for emails, meeting notes, partnership agreements. Hersh and Elmer said there are limits on what people can request (ex. working documents, drafts). Langdell said we need a written policy and the issue is cost. Hennessey felt this was not difficult and that other RPCs should do this also. He added that the devil is with emails and suggested a consulting attorney for certain cases. Diers agreed. Hennessey said there should also be a policy established with emails, how people handle them. A member said that if emails have been deleted, you are under no obligation to retrieve them. Diers said another issue is determining what is governmental and not. Seale said he is the record retention person for his office. He suggested that a draft policy be done, then give it to an attorney, and find out what needs to be retained by law. Staff buy in is also key. Maddox said in Hudson, when it comes to non-public session, you have to reference why you have gone into non-public session. He added that personal computers can be subpoenaed and said you should do work only on work computers. Hennessey said in Pelham, you are not allowed to hit Reply All when responding to emails. Langdell referred to a "oops" a few years back that former Commissioner Dilworth had pointed out in regard to emails. Hennessey agreed with Hersh's statement regarding court orders and deleted emails still being available on your computer. He added that emails can get you in trouble. Seale asked if the EC can get NRPC web email addresses. Roache said this was a possibility and there might be a fee but he would check into it. Hersh questioned the differences between staff and Commissioners. Fimbel suggested folks read section 91-A-4. Another member suggested calling Cashell in Hudson for help. Diers said it was fuzzy in regards to Commissioners as public body vs. staff. Langdell said there should be some distinction between work with towns and other work with the Commissioners.

#### **IV. Discussion of NH Association of Regional Planning Commissions Legislative Policies:**

The New Hampshire Association of Regional Planning Commissions (NHARPC) is the affiliation of the nine regional planning commissions in the state of New Hampshire. The members of the association are the Commissioners of the nine RPCs, and services are provided by RPC staff. Diers said herself and Fimbel are members representing the NRPC. She further explained that they have adopted planning principles and members monitor legislation that could affect RPC's work. She added that the NHARPC Legislative Policies are broad based policy statements that guide the NHARPC and the Legislative Policy Committee in responding to proposed legislation. She referred to the handout included in the Agenda packet and asked the group to provide feedback and comments. Kelly asked what value NHARPC provides to the RPC's. Diers said a collective voice. Langdell added that it is an information exchange amongst the RPCs. Diers referred to the 20 + bills that are tracked on a regular basis which come along with tracking statements and help support the RPCs. She referred to the bill that was out last year to eliminate RPCs. Comments were:

- Hennessey – Number 1 under priorities should be Survival.
- Hersh – Reflect Passenger Rail specifically. Seale disagreed and felt this would cause more issues and felt that the sustainability was a poison word. Diers referred to the handout, specifically the last page with Action Priorities and reminded the group that this was discussed at the July meeting, and reminded the group this was what action would be taken on.
- Hennessey felt this was a political document and supported rail if there was an increase in funding but asked if we could get the other RPC's on board with this also.
- Hersh questioned "what is funded" in Action Priority #7. Diers explained all environmental work done by the RPCs (Environmental Handbook, Open Space Planning and associated reports). She added it is a program similar to the iTRaC program through the NRPC. Langdell asked what the dollar amount was and Diers said in the past each RPC received \$25,000 a year for environmental planning. Maddox asked if Brownfields was included in that. Hersh said no, Brownfields is a Federal grant through the EPA.



**V. Review of September Financial Reports:**

Diers reviewed the September financial reports beginning with the balance sheet. She informed the group that this was not the final month end as there were a couple of invoices not billed out yet. She added that she wanted to transfer about \$50,000 into the PDIP account since there was no money transferred during the audit and none since when Williams was there. She added that there was a surplus last year that she intended on transferring to the savings, but had not been done yet. She continued to review the financials adding that Accounts Receivable was pretty good. Diers moved on to Profit & Loss informing the group that Nashua's quarterly invoice was just mailed out. In response to Seale's question, she said that Pelham does not pay until later in the spring after Town Meeting. The Broadband Rural Addressing moneys are dependent upon the other RPC's getting there information to us. Czysz was working on the GSF invoicing and some had not been booked yet. Maddox had a question on the 177% over budget showing under expenses. Diers was pretty sure this was a miscalculation between fiscal years and would check into it. After further discussion, it was moved by Seale and seconded by Elmer that the September Financial reports be accepted and placed on file for audit.

**VI. Other Business:**

Langdell referred to Fimbel had some comments regarding the September Commission meeting in Milford. Fimbel said that the public in attendance brought some good perspective and there was a mutual respect overall to the meeting but he felt it was a distracting meeting. He added that the signs that were being paraded around had nothing to do with what the Commission was talking about at the time. Langdell agreed and felt the group was also uninformed in regards to Circuit Riding. Fimbel also felt that Langdell made a good call in regards to the woman that was parading around to the front of the room during the meeting. Langdell said she specifically asked folks to stay in their chairs or at the back of the room so they would not block the audience's view. Hersh asked if provisions could be made regarding the signs. Maddox said no unless they are a safety issue or vulgar. Hennessey commented that there are handguns allowed in the Statehouse, but no signs. A member said that signs were allowed, just not on the legislative floor and that you do have a right to tell them to put down the signs. Seale commented on the lack of knowledge about RPC's, what they are tasked via state statutes with doing, that we are here to help at the local level and have no interest in dictating. He has explained our purpose to a lot of the folks he has been talking with; some do come around and understand. He added that he often suggests that these folks read the state statue. Langdell mentioned the good presentation Diers & Belanger had done recently to the Milford Rotary Club and how willing the public was to listen. Langdell added that at the next meeting Diers could do an abbreviated version of the presentation. Maddox felt it was good to have someone kick the window in and suggested videotaping Diers presentation and getting it to the towns for their local cable access channels.

Langdell asked the group their thoughts on the Pledge of Allegiance, if they wanted to do it at the Executive Committee or the Full Commission or both and if so, we would purchase a flag. Elmer said it would be good to have both a State and American flag in the building. Maddox said it says "we are the people" not just a bureaucratic agency. Hennessey felt we should say the Pledge for the full Commission meetings and for Public Hearings, but not the Executive Committee because it is a committee meeting. Kelly and Seale both agreed that there should be a State and American flag.

***Nominating Committee –New EC Member:***

There was discussion from the Nominating Committee which consisted of Fimbel, Hersh and Elmer. There was a vacancy due to the recent passing of Dilworth. Thomas Young of Litchfield, a full Commission member asked what the commitment was and volunteered to join the Executive Committee.

***December Full Commission Meeting Location Discussion:***

There was discussion about the December full Commission meeting and location. Hersh felt that Vear had committed to having the December meeting in Amherst. Elmer said there was not room in Council Chambers in Merrimack to host a Commission meeting. It was decided that if Vear had committed to Amherst, it would be held there, otherwise, it would be at the NRPC office.

## VII. Adjourn

Motion to Adjourn came from Fimbel with a second from Hennessey at 7:06pm.

## VIII. Presentation and Public Hearing to consider adoption of the Transportation Planning Documents for the Nashua Metropolitan Planning Organization

At 7:07pm Roache provided a presentation to the EC and members of the public that were present on the Draft 2013-2016 Transportation Improvement Program, the Draft 2013-2040 Air Quality Conformity Analysis and the Draft 2013-2040 Long Range Metropolitan Transportation Plan. He passed around the public comment received and reviewed them with the group. Roache reviewed the Federal, State and MPO processes with the group and explained that only a minor update was done on the MTP due to the anticipation of MAP21 and being re-designated as a Transportation Management Area (TMA). He also informed the group that there were no issues with the Air Quality document but the re-designation may affect whether you see anything pertaining to air quality going forward. TTAC reviewed the documents and had no issues with any projects except for the Bedford/Merrimack Project. There was concern with the wording of the project and the contingency regarding open road tolling and them being asked to approve the amendment without knowing where the toll would be located. Fimbel asked if the project scope would still be considered undefined even if the tolls stay where they are. Roache said it was written as "or relocation" which is the issue. Some comments/questions are listed below:

- Hennessey – Does the toll increase include the loss of revenue because of the airport escape road? Mahon – the Premium Outlets made up a significant amount of the shortfall.
- Langdell – Can the required legislative action to relocate the tolls be done without the toll increase? Roache, the open road tolling cannot happen without a toll increase.

Roache informed the group that he received public comment from Merrimack to remove the project from the Draft TIP. DOT said they could remove the word relocation from the project description but the project would remain in because open road tolling would require some construction in Merrimack.

- Elmer – Would the toll increase be just for that toll? Roache – System-wide.
- Diers – Was this a legislative directive to go to open road tolling? Alexander – It was both open road tolling and all electronic from the legislative session he was at and both have many advantages and are not mandated.
- Hersh – Do you know what construction would extend into Merrimack and is there sufficient information out there? Alexander – Yes and there is sufficient information out there.

Roache laid out the 3 options with motions recommended by TTAC, Town of Merrimack, and NHDOT:

1. **TTAC Motion:** Approve the 2013-2016 Transportation Improvement Program with the construction phase of Project #16100 Bedford-Merrimack listed as illustrative and the preliminary engineering remaining programmed in 2013.  
**Possible Impact\*:** Allows engineering to proceed without delay. Requires TIP Amendment to reinstate construction during engineering phase.
2. **Town of Merrimack Motion:** Approve the 2013-2016 Transportation Improvement Program with the Project #16100 Bedford-Merrimack removed from the TIP  
**Possible Impact\*:** Requires a TIP Amendment to reinstate all phases of the project which would result in a 90 to 120 day delay for the engineering phase.
3. **NHDOT Motion:** Approve the 2013-2016 Transportation Improvement Program with the description of Project #16100 Bedford-Merrimack changed to "Improvement to Bedford Mainline Toll Plaza to Institute Open Road Tolling."

**Possible Impact\*:** Require a TIP Amendment to reinstate the project should legislation require relocation. (90 – 120 delay in engineering).

**\*If Legislation Passes**

Comments and or questions below:

- Elmer – How can you let engineering proceed when you don't know where the toll is going? Alexander – It has been decided to leave the toll in its current location.
- Fimbel – Confusion with option 1 & Option 3. Roache explained the difference.
- Elmer – With Option 1, what happens if they don't approve it? Alexander – New Map 21 – Project selections from region – distinction on classification of road – DOT could move ahead, but not a position they want to be in, would prefer to have a project that everyone can buy into.
- Maddox - Why spend money to do this when it was just done, why not use money for red-listed bridges? Alexander – Turnpike system funds can't be used on other facilities and there are no red-listed bridges on turnpike left. Maddox – what is the dollar amount? Alexander – 18.5 million.
- Alexander – Hampton had the best public response from its opening when it converted to open road tolling.
- Toll increases are a big issue for Merrimack.
- Fimbel – Seems more of a revamp if was originally built with open road tolling in mind. Exit ramps should not be increased. Only open road tolling should have the toll increase.

Roache reminded the group that they were only facing three options as provided in his presentation for the hearing tonight.

- Hennessey – Trusts DOT when you say the toll would stay in Bedford, but moving forward, if there is a secret plan to move the toll to Merrimack, how much would it cost? Alexander – It is in the same range as Hampton and Hooksett.
- Hersh – Does it really matter if this project is in our plan or not and whether DOT moves forward or not? Roache – The legislature and the DOT have the ultimate decision on if it is removed.
- Alexander – In response to Hersh's comment, DOT cares about the concern from the region on the project and is not submitting anything to move the plaza.
- Fimbel – Concern with toll increase to Merrimack to pay for the project and should add an option 4 to not have Merrimack tolls increase. Not sure if worth putting that kind of money forward at this time. Relate open road tolling to vacation times and areas and not sure if there is exceptional traffic to warrant this.
- Hennessey - Recently experienced economic impact of tolls/traffic in regards real estate sales Merrimack when tried to sell a house. Agreed with Fimbel.
- Elmer – The issue of traffic congestion is not the tolls, but the bottleneck from Exit 10 and North.
- Kelly – What is the payback period. Response: Not known, each plaza is rated and the payback period does include an increase in the tolls. Alexander – Toll increase pays back bond for project.
- Question on whether the benefit outweighs the cost.
- Seale – Comment, 13 million for the bridge bond, 18 million bond now for tolls, how much in the last ten years.

**7:50 PM PUBLIC HEARING OPENS:**

***Tom Mahon, Chair of the Merrimack Town Council***

Mahon, said he is a 37 year resident of Merrimack and remembers the tokens, now it is EZ-Pass. He felt there is excessive legislative interference with regard to the Turnpike and there has not been this much attention since 1984 when #10, 11, & 12 Exit Ramps were put in. He continued saying the facts are sloppy, lazy or there is just no respect for Merrimack at all. He referred to the Campbell legislation to move tolls to Exit 10 from Bedford. He said that he did not support this amendment or any bills that are brought forward – they are not worth the paper they are written on because the legislature and the Executive Council are who dictates all and it is a screwed up mess. He continued by informing the group that back in 1984, when Merrimack wanted exit ramps, they were told they had to have the tolls. Since then, Nashua had Exit Ramps 2 & 8 and did not get tolls. He referred to the new Exit Ramp in Londonderry which also does not include a toll. He had objection to the Bedford-Merrimack project and any option laid out saying there is no finality because the legislature will do what they want. Mahon added that now they getting the attention because of the tolls and toll relocation. He was happy to say that Peter Bragdon was the State Senator for the Merrimack district.

Mahon further went on to say that the delays or traffic backup is coming from the northbound and southbound (both directions), with backup sometimes as far as Macy's in Bedford. The issue is due to lane constriction and this is a bigger issue than the toll plaza. Langdell thought there was money in the Plan to address this. Elmer said not until 2036. Mahon added that a lot of the money has been shaved and used for the Spaulding Turnpike construction. Also a factor is the decline in gas tax revenues. In addition, when asked previously about using the tolls to widen the turnpike, the argument was that it would be in violation because the tolls are to pay the bonds. Mahon also pointed out that his would be the 3<sup>rd</sup> reconstruction of the toll plaza due to the recent Wiczorek Drive (Airport Access Road) also an Exit Ramp and is also not tolled. He said the reason for the letter from the Town of Merrimack was to have it removed all together. Kelly asked if there was an analysis of cost to citizens of Merrimack done. The answer was no. Mahon said it is amorphous that keeps changing and even if DOT guaranteed the tolls would not be in Merrimack, the legislature would do whatever they want, adding that there has been no trust since 1984. He added that they were told it would cost 20 million to get rid of the Merrimack tolls, and yes Merrimack would pay that as long as Nashua paid for their Exit 8 Ramp.

***Tom Koenig, Merrimack Town Councilman, NRPC Commissioner***

Koenig moved to Merrimack in 1991 and supports removing the tolls altogether. He has seen the traffic congestions and thinks it is more due to the bottleneck and does not feel that 18.5 million for open road tolling will solve the problem. He added that tolling is only done in Hooksett, Bedford and Merrimack and he understood the point of the mainline, and you can take back roads to save tolls, but not gas and air quality. Removing the tolls altogether would resolve all issues. A long range approach to find an equitable way to get funding needs to be done. Congestion in Merrimack will have you stuck either way and a strong message needs to be sent that this is not adequately or well thought out enough.

**PUBLIC HEARING CLOSED AT 8:10PM**

Hersh asked DOT if the goal is to improve capacity. Alexander said yes. Hersh asked if there was any analysis vs. tolling done or on a consistent 3 lane highway. Alexander said the widening is in the long range plan, but not compared for impacts to the tolling. There was discussion on the cost and for 2026-2028, the cost was 101,045 million at a 3.2% inflation rate. Chizmas said this was inflated up to time feasible and using DOT's formula. Fimbel asked how much per mile for 3 lanes. Chizmas said from Exit 8 to Manchester, at the Airport Access Road would be 100 million total. Hennessey spoke saying that Merrimack feels Open Road Tolling would not increase flow. He added that if you remove the tolls it would increase flow more. Alexander said widening is contingent upon tolls and there would need to be a significant change in gas tax to pay for widening. There was a comment that if you eliminate the Turnpike

Authority, the money would be moved to gas tax. Mahon said the biggest opposition to this is the North Country, and we don't travel their roads. Maddox suggested putting the 18.5 million towards the widening instead. Alexander said you are running more traffic into a big wall and the toll as to be done first. Kelly reiterated that the issue is the flow of traffic and asked why not widen first which would solve flow and then do the toll booth. He also suggested eliminating the Merrimack Ramp tolls and just capturing the north/southbound traffic. He asked what the loss of revenue would be and why is Merrimack being penalized. Alexander said you would need legislative action to remove a tollbooth. Langdell asked if there was any estimate of how much revenue loss from no tolls in Merrimack. Hersh suggested widening come first then the open road tolling and maybe Merrimack would be more open if widening was done. Alexander said the tolls need to be done and the legislature won't approve a change. Hersh commented that they make their desires known even though they have no control over the decision. Roache said it is our TIP and we can put what we want. Hersh added that she really supports Open Road Tolling and asked the group, do we want to be progressive or left behind. Elmer asked if there was an Open Road Tolling study. Chizmas said there were two different studies, one for tolling and one for widening. Roache said that Open Road Tolling is not going to solve the congestion problem. Hersh referred to the DOT logic of making sure the rest of the system is in place when the fix the bottleneck, but not in 2026. Roache added that we set the dates in the LR MTP and there is wiggle room. Chizmas pointed out that the widening was documented as an unfunded need in 2010 and unauthorized. Roache asked if the group if they wanted to make a statement or other option.

After further discussion, Maddox motioned to remove the Bedford/Merrimack project #16100 from the TIP and add the Nashua Merrimack project #13761 – F.E. Everett Turnpike widening to 3 Lanes to 2013 with a second from Hennessy.

Alexander said the proposal to change the a project that has not been discussed with the TTAC would have an FHWA requirement that another 30 day public comment be held and no federal dollars would come to the region by doing this.

**All were opposed to Maddox's motion with Maddox in favor. The motion failed.**

Hersh asked if we have to start over and making a motion as written. Roache said no, convey what you want to say. Hersh said we need to say why. Langdell said it needs to be documented by TTAC. There was a suggestion to use Option 2 and direct staff to send a letter.

After further discussion, it was moved by Hersh and seconded by Fimbel that the Executive Committee approve the **2013-2016 TRANSPORTATION IMPROVEMENT PROGRAM** with the **Project #16100 Bedford-Merrimack removed from the TIP and for NRPC staff to document in detail a letter and send to the appropriate people.** Maddox opposed, the rest were in favor. The motion passed.

Motion to approve and adopt the **2013 – 2040 LONG RANGE METROPOLITAN TRANSPORTATION PLAN** including any changes to the TIP came from Fimbel with a second from Seale. All were in favor and the motion passed.

Motion to approve and adopt the **2013-2040 AIR QUALITY CONFORMITY ANALYSIS** came from Hennessey with a second from Hersh. All were in favor and the motion passed.

Motion to adjourn the meeting came from Elmer with a second from Seale at 8:45pm.