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# PACTS

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## Portland Area Comprehensive Transportation System

### Executive Committee Meeting Notice

July 14, 2011

**1:00 to 2:30 – To be followed by TIP Process Committee Meeting**

GPCOG, 68 Marginal Way, Portland

#### Agenda

1. Call to order
2. Minutes of June 7<sup>th</sup> meeting
3. Adopt draft-for-public-comment PACTS TIP for 2012 to 2015 (1:05)
4. Next steps in response to MaineDOT letter regarding STP and ARRA funds related to the CBITD vessel project (1:20)
5. Watch 7-minute Destination Tomorrow video (1:35)
6. Updates (1:50)
  - A. 2011 Credit Program
  - B. Annual meeting
  - C. Status of carryover studies
  - D. Status of 2011 Credit Program
  - E. Title VI Plan
  - F. Draft agendas for future meetings
  - G. Other updates from staff and committee members
7. Public comment on topics not on today's agenda (2:25)
8. Adjourn at 2:30

*Next meeting: August 2<sup>nd</sup> at 8:30 a.m.*

***The Metropolitan Planning Organization for the Portland Urbanized Area***

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## **Minutes of June 7<sup>th</sup> Meeting**

**In attendance:** Kathi Earley, Dan Bacon, Debbie Farrell, Jim Gailey, Judy Harris, Nathan Poore, Al Presgraves, Joyce Taylor, Maddy Adams, John Duncan, Carl Eppich, Paul Niehoff

**1. Call to order.** Kathi Earley called the meeting to order at 8:39 (quorum not yet present).

**2. Minutes of May 10<sup>th</sup> meeting.** The minutes were approved by consensus.

### **5. Updates.**

**5A. June 6<sup>th</sup> meeting on PACTS local project administration.** Nathan, Jim Gailey, Kathi, Bill Shane, Paul and John D. met yesterday to talk about local project administration. Staff got a cool reception to the proposal that staff be added to PACTS to do local project administration but there was consensus that the communities be encouraged to look for opportunities to do more local project administration themselves for the benefit of having more control of the project and getting the project done faster. Nathan asked what MaineDOT's response would be if we had an onslaught of projects, and 25 of the 37 projects were LAP. He asked if MaineDOT was counting on their staff doing these projects. Joyce responded that they have plenty of work. It is the choice of the municipality to decide which route they want to go but they need to have realistic expectations about timelines. There is a chance to lose federal funding if the guidelines aren't followed (testing, right of way and civil rights). Nathan also advised that municipalities not consider the LAP process to be easy; municipalities may still want to hire an engineering firm to help. Kathi asked at what point there would no longer be a choice for a municipality. Joyce responded that it would be up to construction; she didn't think there was anything to prevent the municipality from taking a project on.

**3. Changes to the early kick-off projects process.** (Quorum now present). The Executive Committee had made a recommendation to the Policy Committee that these early kick-off projects be done. The local match goes from 20% to 10% if they can sign a three-party agreement by July 19. In order to get them signed by July 19<sup>th</sup>, the municipalities would need to go through the steps needed to sign three-party agreements.

Peggy, Joyce, Jim G., Bill Shane and John D. had a phone conversation and determined that it would be hard to do this on the timeframe that we've set up. It's a great concept and MaineDOT is working hard to develop the three-party agreements for signatures. There are 37 projects (21 of them are relevant to us; the other 16 are within the PACTS area but are not MPO projects). Most of the projects are collector pavement preservation projects. John has suggested that we think about moving the deadline to August 31.

Kathi noted that in addition to a conversation about changing the deadline, there was also conversation about the percentage amount. We also recognized that to meet the spirit of the policy crafted that having a three-party agreement leaves out the opportunity to do the project locally.

Joyce said she was felt that a date had been set without MaineDOT's knowledge. They hope to get the agreements out by the middle of the month but there is a lot involved. Instead of three-party and two-party agreements with collector roads, they would like to stick with three-party agreements. But then those became complicated. It was asked if a month would be enough time for the municipalities to go through their individual processes to move the

process along. Do we really want to set a date? Regarding percentages, it's not something they can easily undo. Design and right-of-way projects would stay at the same percentage but the construction percentages would change. It is about 4 or 5 hours of time for each agreement; it's making the agreements a little more complex. The big issue for MaineDOT is that they have questions about the three-party vs. two-party agreements. Right now, MaineDOT does a three-party agreement and then at the construction phase it's a municipal/state agreement between MaineDOT and the municipality. The three-party agreement would cover the PE and pre-construction work and that is where the incentive was going to be applied.

Dan stated that they have a three-party agreement for the Dunstan Corner project. In that agreement it addresses pre-construction and also construction. Municipal/state agreements get more into the technical aspects. Joyce explained that for simple paving projects, it might work better if the two-party agreement was eliminated. For resurfacing, it would be best if we did one type of agreement. Al thought that the construction cost estimate got updated prior to signing a two-party agreement, so he questioned what would happen if there were no two-party agreement. Janet explained that the department has agreed to do things differently to keep the cost estimates accurate. They feel they should be close with their estimates -- within a 10% range. Joyce explained that if we are timelier in moving projects forward, then things should come together better. The problems arose in the past because projects sat around for many years and that's why the cost estimates increased. Nathan asked what would happen if a project went over the estimate. John responded that all projects have a cap (125%). Al asked if MaineDOT has the resources to do PE on all of the 19 projects and get them out the door. Joyce responded that they do and that they are fairly simple projects and MaineDOT should be able to knock them out and have them ready to go. Only the early kick-off projects have the July 19<sup>th</sup> deadline. Joyce asked if there would be enough time for the municipalities to do what they need to do if MaineDOT has the agreements done by the middle of this month. Paul asked if the schedule would be formalized in the three-party agreement. Joyce responded affirmatively and said that it can be spelled out. Paul also asked if the digital/electronic signature process could be clarified. Joyce said that they accept electronic signatures; they do not have to be originals. Joyce signs all the agreements and lots of them have electronic signatures.

Nathan suggested changing the deadline to August 31<sup>st</sup>. Joyce said that they will shoot for July 15<sup>th</sup> but some may be later. Whatever PACTS decides will be okay with MaineDOT. Jim asked if we wanted to set a time frame for receiving the agreement and getting a signed agreement back. Debbie explained that the current document will have to be rewritten. John said that if MaineDOT is good with the three-party agreement, then we should go with it. Kathi pointed out that the two-party agreement gives the municipality the opportunity to have a checkpoint to see that the project is on track.

If MaineDOT gets agreements out by July 1<sup>st</sup>, then they would expect signed agreements by September 1<sup>st</sup>. Nathan said the 10% incentive wasn't going to work with the pre-construction for the early kick-offs, and suggested moving the deadline from July 19<sup>th</sup> to September 1<sup>st</sup>. ***Nathan made a motion that the Executive Committee support the following administrative and procedural changes to the early kick off projects:***

- ***That the 10%, 20% and 30% incentives, in this first year, would only apply to the construction portion of the project for these early kick-off projects.***
- ***That the deadline be moved from July 19 to September 1.***

- *Those agreements can be the traditional three-party agreement or two-party agreement.*

*Dan seconded the motion.* Then Dan made a friendly amendment -- *MaineDOT will be providing the three-party agreements by July 1<sup>st</sup> in order to provide 60 days for the municipalities to get a signed agreement back. All were in favor of the motion.*

4. **Next steps in response to MaineDOT letter regarding STP and ARRA funds related to the CBITD vessel project.** John provided an update. The Transit Committee requested an answer regarding how this could happen procedurally. The letter PACTS received does not explain that. MaineDOT has explained why they did what they did, and John recommends taking no further action. He reviewed the three options.

The credit program submission deadline is June 15<sup>th</sup>. Dan asked Paul if he knew about potential submissions and whether or not we would be reaching that number. If not, would money be available from the credit program? Paul has only heard from Falmouth regarding the credit program money.

Al suggested taking no action. We are still going to have to deal with funding reductions on other projects (due to the new lower local share policy). Nathan suggested we see what the Transit Committee has to say, since it's not time sensitive. Dan agreed. Nathan said he'd be interested to know what would happen to the projects that were supposed to be funded (pilings, maintenance, etc.) without this money. How important are the projects? The item was tabled until the July meeting to give the PACTS Transit Committee an opportunity to provide a recommendation. *A motion was made by Dan to postpone action on this item until the July meeting. Nathan seconded the motion. All were in favor.*

**5B. 2011 Credit program.** June 15<sup>th</sup> deadline. We've only heard from Falmouth so far.

**5C. Annual Meeting.** We now have over 75 people signed up including our legislative delegation, FHWA, etc. Two mayoral candidates will be attending.

**5D. Study Carryover funding action by MaineDOT.** John reviewed.

**5E. Other updates from staff and committee members.**

Neal Allen and John sent a letter to the Congressional Delegation regarding a bill in Congress that would eliminate all MPOs serving areas under 200,000 people.

PACTS had a Title 6 civil rights review last week. MaineDOT was here and we got a letter yesterday saying we need to do six different things to meet Title 6 requirements better. Items include updating our Title 6 plan; updating our public outreach plan; outreach to minorities, groups and media; being more proactive in having minorities on Transit Advisory Committee; and a public outreach plan for transit providers including "I speak" cards. Nathan asked John to provide some bullets about how PACTS will address these issues. Thirty days is the time in which we will have a meeting; and then in 90 days things will change.

5. **Annual review of the Executive Committee.** There was not enough time to address this item so it will be on the July agenda.
6. **Public comments.** None
7. **Adjourn.** The meeting adjourned at 10:03.

### **Agenda Item 3: Adopt draft-for-public-comment TIP for 2012 to 2015**

Staff Resource: John Duncan

Recommendation: Adopt for public comment a draft PACTS Transportation Improvement Program for FY 2012 to FY 2015

#### **Background**

In May, the Policy Committee authorized the Executive Committee to adopt in July a draft PACTS Transportation Improvement Program for FY 2012 to FY 2015 for public comment.

MaineDOT sent us a draft list of projects on July 12<sup>th</sup>, and staff forwarded it to the Executive Committee. The Policy Committee will adopt a final document in August.

Every two years the MaineDOT and Maine's four MPO's submit the Statewide Transportation Improvement Program (STIP) and the four MPO Transportation Improvement Programs (TIP's) to the Federal Highway and Transit Administrations.

Other steps in the process involve:

1. This week staff will distribute the draft list of projects to our members, and to the public via our website and via an email to our Interested Parties list.
2. *New: We will conduct a public forum (also the required hearing) in early August. We will show the video recently developed for our Destination Tomorrow Update, give an overview of the PACTS process, and listen to comments from the public. We would appreciate attendance by an Executive Committee member(s).*
3. We will also print legal notices printed in the Journal Tribune and the Portland Press Herald.
4. Carl Eppich and our PACTS model consultant worked with MaineDOT on the required air quality conformity analysis.
5. John Duncan will sign the required Self Certification document.
6. PACTS staff prepare and send the 40-page document to MaineDOT and the Federal Highway and Transit Administrations.

In many respects the adoption of the PACTS TIP is an administrative function because we have endorsed many of the projects in the past. *However, the adoption action constitutes a formal statement of support by the Policy Committee for the projects in the document that were initiated by MaineDOT. The FHWA and FTA may not release the federal funds for any of these projects without this support by the Policy Committee.*

## **Agenda Item 4: Next steps in response to MaineDOT letter regarding STP and ARRA funds related to the CBITD vessel project**

Staff Resource: John Duncan

Recommendation: Consider the information below, and then make a recommendation to the Policy Committee. Staff suggests three options:

1. Take no action. This would mean that none of the \$705,000 re-programmed in February goes to transit purposes.
2. Take some of the \$705,000 from a project(s) and allocate it to transit purposes.
3. Consider a recommendation that might be offered at a meeting of transit providers on June 2<sup>nd</sup>.

### **Background**

Last month the Executive Committee asked for a Transit Committee recommendation on how Holding PIN funds might be used if any are programmed for transit. On June 9<sup>th</sup> the Transit Committee recommended the following:

### **Transit Committee Recommendations For use of Holding PIN Funds - June 9, 2011**

<u>Provider(s)</u>	<u>Scope and Location</u>	<u>Cost Est.</u>	<u>Federal Share</u>
SPBS	Bus Surveillance	\$ 15,360	\$ 12,288
CBITD	Transfer Bridge Apron	\$ 50,000	\$ 40,000
CBITD	AVL	\$ 75,000	\$ 60,000
CBITD	Piling Replacement	\$ 159,640	\$ 127,712
	Total	\$ 300,000	\$ 240,000

In February the Policy Committee re-programmed \$945,000 in federal-and-state funds from our Holding PIN as follows:

- \$240,000 to transit capital projects (one in South Portland and three at the CBITD)
- \$95,000 to design four bike/ped projects (NOTE)
- \$260,000 to our 2011 Credit Program (NOTE)
- \$125,000 for consideration by the TIP Projects Efficiencies Team as a means to implement one of their recommendations due in July (NOTE)
- \$180,000 for a collector project

NOTE: Staff will explain at our meeting that we currently are in a position to reallocate most or all of these funds.

The \$240,000 amount for transit was based on a suggestion by the Executive Committee based on the fact that \$240,000 of the \$945,000 available was from a transit capital project that had been funded with ARRA stimulus funds. (Note that this was a one-time suggestion. There is

no policy that funds put into our Holding PIN will go out to projects of the same kind. Our TIP Policies and Procedures document simply states that: “unspent MPO Allocation project funds are transferred into the PACTS “Holding PIN” for reprogramming by the Policy Committee.”)

In March the MaineDOT told us that the \$240,000 was not available for us to re-program and that our February \$240,000 allocation was void. At the April Policy Committee meeting, Carlos Pena, the FHWA’s Maine Division Planner, said he would look into this action by MaineDOT because he felt that MaineDOT might have acted improperly. In late March MaineDOT’s Peggy Duval confirmed to me that FHWA had supported the MaineDOT action.

In May, the Executive Committee asked me to write to MaineDOT again on this. I included my May 10<sup>th</sup> letter to Peggy and her May 26<sup>th</sup> response letter in our June meeting packet, but not in today’s.

## **Agenda Item 5: Destination Tomorrow video**

Carl Eppich led the development of this 7-minute video that presents the issues and policy recommendations in our 2010 Update of Destination Tomorrow. Nathan Poore appears twice in the video as the Policy Committee Chair.

We would like to show the video at today's meeting, and hear your reactions.

As we have done with two recent PACTS videos, we will distribute copies to 12 local access TV stations.

Carl worked closely with a team from Buxton Communications and Plymale Productions.

## **Agenda Item 6: Updates**

### A. 2011 Credit Program

Only Portland submitted a "placeholder" proposal by the June 15<sup>th</sup> deadline. As such, we will not use all of the money budgeted for the 2011 Program. Staff will provide an estimate of funds available to reallocate as soon as possible.

### B. Annual meeting

90 people signed up. 72 attended. The Press Herald and the Portland Daily Sun provided media coverage.

### C. TDM2go.info

We funded the development of this website designed to help businesses develop "travel demand management" plans for their employees. Judy Harris's recent news conference got covered by Channel 6 TV, public radio, the Press Herald, and other papers and stations.

### D. Status of Carryover Studies

#### **MaineDOT Action on PACTS Studies Carryover Requests (May 31, 2011)**

<u>Activity</u>	<u>Budget</u>	<u>Carryover Request</u>	<u>Carryover Granted</u>	<u>MaineDOT Carryover Work Deadline</u>
Portland Forest Avenue	\$100,000	\$35,000	\$0	na
Regional Signal Study II	\$25,000	\$3,500	\$0	na
Scarborough Oakhill Pedestrian Plan	\$40,000	\$3,500	\$3,500	July 31st
Southern Maine Transit Coordination	\$30,000	\$10,000	\$10,000	September 30th
Transit Bus Route Study	\$30,000	\$5,000	\$5,000	July 31st
Windham Comp. Transpo. Study	\$40,000	\$12,000	\$12,000	September 30th
Yarmouth Route One Phase 3	\$40,000	\$5,000	\$5,000	July 31st
Total		\$74,000	\$35,500	

E. Title VI Plan

At our June meeting, we discussed the letter from MaineDOT that listed some actions to be taken by PACTS to comply with the federal Title VI requirements. Carl and John met with Augusta two weeks ago at MaineDOT on this. We will draft a new Title VI Plan for review by MaineDOT prior to the September 7<sup>th</sup> deadline. We will use the successful format of the BACTS and ATRC Plans, update our demographic maps and set goals for actions to be taken between October 1, 2011 and September 30, 2012.

We are also going to update the PACTS Public Participation Plan this year. That is separate from the Title VI Plan, so is on a different schedule.

F. Report to MaineDOT Commissioner from MPO Projects Efficiency Team

See first item in today's TIP Process Committee agenda.

G. August 2<sup>nd</sup> Executive Committee Draft Agenda

1. Annual review of Executive Committee process – and report to Policy Committee.
2. Status of 3-party agreements signing at the 10% local match rate...and implications for \$15,000,000 projects list.
3. Recommend to Policy Committee that we use only 3-party agreements and drop 2-party agreements.
4. Recommend to Policy Committee how to use the remaining \$113,000 available for the UPWP. Options will include unfunded local studies from this spring and several regional studies that staff is discussing with members.
5. Status report on our Holding PIN account.
6. Review draft PACTS Title VI Plan update.
7. Finalize agenda for August Policy Committee meeting.

H. August 18<sup>th</sup> Policy Committee Draft Agenda

1. Adopt PACTS TIP for 2012 to 2015
2. Add more studies to the UPWP per the \$113,000 referenced above
3. Annual review of Executive Committee process.

I. September and October Executive Committee Agendas

To be determined

J. October 20<sup>th</sup> Policy Committee Draft Agenda

1. Receive report on final status of 3-party agreements signing at the 10% local match rate
2. Reallocate funds per Item 1 to/from our \$15,000,000 projects list.
3. Adopt PACTS Title VI Plan update.

K. Other updates from staff and committee members