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PACTS

Portland Area Comprehensive Transportation System

TIP Process Committee Meeting Notice

2:30 to 4:00

July 14, 2011

GPCOG, 68 Marginal Way, Portland

Agenda

- 1. Call to order**
- 2. Minutes of June 7th meeting**
- 3. Federal Air Quality Conformity and the PACTS Process**
Presentation by MaineDOT's Martin Rooney
- 4. Incorporate TIP Project Efficiency Team Recommendations into our Processes**
Action on staff recommendations
- 5. Local Project Administration**
Action on staff recommendation to encourage LAP's
- 6. The PACTS 2-Biennia Project Policy and the PACTS Project Cap Policy**
Action on staff recommendation to keep these two policies
- 7. The PACTS Pace in Picking Projects**
Action on staff recommendation to tweak the project picking schedule
- 8. Clarification of Roles and Responsibilities**
Report on Technical Committee's research underway regarding roles and responsibilities of MaineDOT, PACTS and Municipalities
- 9. Adjourn**
Next meeting on August 2nd at 10:00

The Metropolitan Planning Organization for the Portland Urbanized Area

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Minutes of June 7th Meeting

Present: Nathan Poore (Falmouth), Kathi Earley (Portland), Sara Devlin (MTA), Molly Just (Westbrook), Jim Gailey (South Portland), Dan Bacon (Scarborough), Judy Harris (Portland), Al Presgraves (Freeport), Jim Wendel (Scarborough), Marty Rooney (MaineDOT)

Others: Stephanie Clark (MaineDOT), Jerry Douglass (MaineDOT), Mike Laberge (MaineDOT), John Duncan (PACTS), Carl Eppich (PACTS), Paul Niehoff (PACTS), Lynne Powers (GPCOG)

1. Welcome and Introductions

Kathi Earley called the meeting to order at 10:15 A.M.

2. Review and discussion of the Committee's scope of work

The TIP process happens every two years, and now is beginning for the 2014/2015 TIP. The notebook that has been dispersed to committee members contains the list of topics to be discussed in each meeting and an overview memorandum, as well as a template of the MaineDOT timeline for projects, sample project ID forms, sample three-party agreements, and LAP project templates. The idea is to bring the committee up to speed on each of these existing procedures.

There will be five meetings to discuss a wide variety of items. Anything time-sensitive will be reported to the Policy Committee meeting in August, then the final recommendations will be presented at the committee's meeting in October. Kathi pointed out that if project application requirements and forms are being discussed on August 2, that may be tight for an August delivery, especially if the TIP process committee recommends expanding the work done on applications.

3. Report on the work of the TIP Project Efficiencies Team

This is a team which was put together due to a conversation at an Executive Committee meeting about the high costs of federally-funded projects. The MaineDOT Commissioner agreed to work on this together in February, and they put together a task force that had representatives from MaineDOT, municipalities, PACTS, FHWA, and construction/engineering companies. The group has met three times and will finish its report to the Commissioner by July 15.

The Team is focusing on how to get projects done faster. Normally, projects that were funded last fall would begin next fall; MaineDOT suggested starting projects this summer, and PACTS agreed. The Policy Committee established a new incentive policy that communities that signs three-party agreements quickly would pay less local match. There turned out to be issues with the policy, but MaineDOT has been working with PACTS to smooth out the bumps.

The second idea recommended by the task force was the possibility of being able to get a design exception from MaineDOT earlier on in the project identification/scoring/scoping process. The third item discussed was the priority setting process and public involvement process. The efficiencies team recommended that they not work on this, but rather that it be taken up by the TIP process committee. The fourth item was supporting locally administered projects at PACTS, which is uncertain because it is still a work in progress

and will be discussed in the TIP process. The fifth item was instituting more milestones and tracking of projects, which will also come up in the TIP process, and the sixth was minimizing changing the local match on projects.

The team drafted some recommendations that they felt were relevant to all MPO's, which included a project tracking report (there was a rough draft of this in the notebook) and possibly doing away with two-party agreements. There were 11 items that were project construction efficiency suggestions from the construction industry members of the team, which could be where large cost savings are achieved. Those are not PACTS-related; they're state-wide, and the State will have the final say on them. This report will still be discussed through the next few meetings. Kathi pointed out that there were tweaks to the new local match policy made today; it has been broadened to be sure that both LAP and three-party agreements qualify for the incentive (or the disincentive). Deadlines were also adjusted to be sure that municipalities and MaineDOT have time to deliver. The agreements will be expected from MaineDOT by July 1, and municipalities will have until September 1 to turn them around.

4. **Future Executive Committee role in tracking status of projects**

PACTS and municipalities have been receiving project reports from MaineDOT over the years. During discussion at an Efficiency Team meeting, Joyce Taylor said that MaineDOT has a project tracking spreadsheet that they would like to share. It will be kept very up to date and has a number of columns with vital information. John wanted to have some discussion about the process of tracking projects. His sense was that municipality A wants to know how projects in their own municipality are tracking, but don't have time or interest to look into what's happening in municipality B. He asked if that was true and if the spreadsheet is of interest to PACTS members. There was some discussion of the Executive Committee playing a role in tracking projects, which John felt should be more of a staff role.

Al Presgraves would like to see tracking information for the sake of more timely information; not to track every project in exhaustive detail, but to find out about issues when they happen instead of a year later. Dan Bacon said that the Executive Committee could potentially play a role if projects run into trouble; it could help get a project off the ground or work on a design exception. Kathi pointed out that the Executive Committee has certain powers that allows it to make changes to items like project scopes, and information can help committee members exercise that authority. In addition to wanting to identify basic project milestones and where they are in the delivery pipeline, there is an interest in financial matters. Some projects have a very long life, so being able to see when the original funding came through and what it was, and what the changes in the project are, is useful information.

At the very least, Kathi felt that the committee needs to be more aware of projects and their milestones. Nathan Poore asked why this would even need to be in a policy, saying that tracking projects – for the amount of money that PACTS is spending – just makes sense. Marty said that once PACTS figures out the information that it wants in the project spreadsheet and communicates that to MaineDOT, someone at the department can

customize email distribution on whatever basis is requested.

5. Review and discussion of proposal for PACTS to become more involved in the administration of capital projects

Over the last five years, the role of PACTS in project administration has grown. There was a time when PACTS and other MPO's simply picked the projects in concert with DOT and that was that. However, that has changed. PACTS is now more involved in project scoping, amending local matches and project costs, and project monitoring. Paul Niehoff was hired in great part due to his experience with project development at the municipal level. There is interest within PACTS membership and MaineDOT in having PACTS staff more involved with the project work, as opposed to purely planning work. MaineDOT staff has shrunk as well and is very busy, and they would be very open to seeing more LAP work done. With all of that in mind, Paul and John went to the Executive Committee in January and proposed that PACTS staff be even more involved in the administration of projects after they're selected for funding. This has been discussed among several PACTS committees for several years now. The Policy Committee endorsed a placeholder of \$30,000 in the planning budget to help pay for the work that is proposed. The lion's share of the work would be funded by capital projects that are being worked on.

In a recent discussion of the idea, there was a consensus that doing more local administration of projects is something that we might want to encourage our municipalities to do. It means more municipal control of a project (both in scope and in getting it done on the municipality's preferred schedule). There was not a strong endorsement of the proposal to add PACTS staff on that front. John offered it up today as an important proposal for PACTS, feeling that the TIP process committee was the appropriate group to discuss it. Jim offered the suggestion of PACTS putting out an RFP and hiring an engineering firm for communities that don't have the in-house ability to take on LAP's.

Nathan didn't want to see staff concerns about problems be dismissed. He was very interested in hearing more about issues, identifying problems, and looking at what can be done to fix them, and wanted to advocate for educating PACTS membership that there are other ways of doing these projects. Judy was concerned that this could become a requirement for all municipalities, and strongly believed that that should not happen; it should be a completely optional program for municipalities with the capability to take on LAPs. None of the dialogue so far has involved making this a requirement. Paul was asked about the problems that he runs into. He said that they run the gamut, but most of the issues that he has been dealing with lately have been on MaineDOT projects. PACTS staff is not involved with LAP projects.

Dan suggested encouraging LAP projects for more efficiency and control in municipal hands, taking heat off of MaineDOT and keeping projects on schedule. Then if there was a call for a manager down the road, it could be investigated. Molly Just requested that before any decision is made, the appropriate party would interview each municipality directly, not via an Executive Committee meeting vote. She said that Westbrook

technically could administer LAPs, but does not have the staff time and resources to do so. She pointed out that every town is different and wanted to be sure that each was consulted individually before making any decisions. Nathan said that the beauty of LAP is that the money is budgeted in the project; it's either MaineDOT with their staff or consultants, or with LAP, the town's consultant charging to the project. It's not necessarily a drain on staff or budget.

Mike Laberge said that LAPs can be large-scale road reconstruction down to trails and docks. Some communities locally administer everything with their own engineers, and some small towns hire an engineering consultant. You need someone from the town staff to be the project administrator, but the consultant or engineer does most of the work. Al understood the perception that there is a lack of consistency, and suggested that consistency should be an efficient, smooth project delivery. The decision whether to locally administer a project should involve the best use of resources for each project under the circumstances.

Marty Rooney said that when MaineDOT does the capital work plan for non-MPO projects, they go from a planning lead to a project development lead, and there is a facilitated process with staff. There are internal conversations about where the most efficiency will be delivered and, for complex projects, a transitional meeting. Involved staff from both the planning and the project development teams sit down to make sure that everyone is clear on the project background and vision. Marty suggested that PACTS could do something similar, with the Executive Committee discussing the pros and cons of LAP for projects.

It was asked if PACTS-administered projects would still be eligible for FHWA funds. Kathi said that that question had been asked and they do not have the answer yet. It is a gray area. Dan asked if PACTS isn't in the loop because LAPs require only two-party agreements. Mike said that overall, LAPs have a two-party agreement in that the signatories are the state and the municipality. However, MaineDOT has worked to put in language that keeps the MPO in the loop. Changes in funding or scope need to be run through the MPO, there is language that requires the municipality to consult with the MPO on appropriate measures, and if there's any money in the project after it's done, it goes back to the MPO. Dan suggested that keeping PACTS updated on LAPs even though they're not technically part of the process could be part of the discussion on three-party agreements. Kathi said that yesterday's discussion involved stepping back and looking at PACTS as a metropolitan planning organization, with emphasis on "planning"; it was suggested that PACTS stick to its strengths.

Kathi asked if the schedule for the TIP process is missing any significant topics. Marty suggested adding a brief discussion about how air quality conformity relates to the STIP and the TIP.

6. Adjourn

The meeting adjourned at 11:45 A.M.

Agenda Item 3: Federal Air Quality Conformity and the PACTS Process

Recommendation: Receive report from MaineDOT's Martin Rooney

Background

Marty offered at our first meeting to provide us with an overview of the federal requirement that our capital project and Destination Tomorrow not exacerbate our region's air quality. He will make a short presentation and distribute a handout.

Marty will also be able to describe how FHWA "air quality" money can be used for a variety of purposes, and that MaineDOT uses most of the "CMAQ" money to help operate the Downeaster. CMAQ stands for Congestion Mitigation Air Quality. FHWA is the Federal Highway Administration.

Item for Next Meeting

Marty also recently offered to provide us with a similar overview regarding a 2011 FHWA memorandum regarding requirements for Transportation Planning and Air Quality Conformity regulations and the timing of certain National Environmental Policy Act (NEPA) decisions by FHWA.

Marty would like to describe it at our next meeting. John's understanding is that the FHWA will require reimbursement by MaineDOT and/or a municipality for the expenses incurred during the federally-funded planning of major projects that ultimately do not get built.

Agenda Item 4: Incorporate TIP Project Efficiency Team Recommendations into our Processes

Staff: John Duncan

Recommendation: Incorporate the recommendations as shown in italics below.

Background

We sent you the 7-page version of the MPO Project Efficiency Team Recommendations. Here is a synopsis – *with suggestions in italics for incorporating into our TIP Policies and Procedures.*

The guiding themes were to start projects sooner after they are funded, to time the advertizing to the most favorable time of the year, and to stay on schedule during design and construction while continuing to provide a quality project for the public. These are not listed in priority – and nor does the order reflect the amount of time spent by the group on each topic.

PACTS staff will propose an implementation plan to MaineDOT in the near future. The group plans to convene six months from now to review progress on our recommendations.

1. Recommendations for the PACTS Region

1. MaineDOT and municipalities (for locally administered projects) to advertize all federally funded paving and highway reconstruction projects by March 1st each year

PACTS Action: Simply include this goal in our 2011 TIP Policies and Procedures document – nothing further.

2. We support MaineDOT's Early Kick Off initiative to start many projects this summer prior to availability of federal funds in October.

PACTS Action: Refer to this MaineDOT initiative in our 2011 TIP Policies and Procedures document – and encourage MaineDOT to replicate this initiative in the future.

3. We support the new PACTS match policy that reduces the local match for capital projects that start quickly, and increases the local match for those that start slowly. PACTS and MaineDOT fine-tune the administrative rules to implement the new PACTS match policy noted above in order to enable it to work better in the future.

PACTS Action: Incorporate this policy (adopted by the Policy Committee in May 2011) in our 2011 TIP Policies and Procedures document. Also incorporate further administrative rules for application of this policy based on staff work with MaineDOT in August and September (and based on review by the TIP Process Committee).

4. We recommend that PACTS minimize the changing of local match of MPO Allocation projects after initial project programming. PACTS will be responsive, but notes that their popular Credit Program creates potential match ratios complications.

PACTS Action: Simply include this goal in our 2011 TIP Policies and Procedures document.

The Team chose to make no recommendations concerning the current PACTS process for public and elected officials' involvement after concluding that the changes made in recent years will prevent re-occurrences of issues in our region.

2. **Recommendations Relevant to all MPO's**

1. MaineDOT send to the MPO's the enhanced monthly project costs-to-date report for distribution to municipalities by the MPO's.

PACTS Actions:

1. *Staff distributes the MaineDOT report to our members every month.*
2. *Executive Committee and staff review the report at Executive Committee meetings.*
3. *Reference the report in our 2011 TIP Policies and Procedures document.*

2. We maintain the MaineDOT-MPO-Municipality 3-party agreement process for all MPO Allocation projects, and eliminate 2-party agreements for some projects when feasible. We ask that the four MPO Policy Committees act on this recommendation by the end of this year.

PACTS Action: Recommend that we stick with the status quo – continue to require 3-party and 2-party agreements for all projects. The benefits are that MaineDOT and the municipality communicate formally a second time on the scope and financing of the project, and we avoid the risk of confusion as to which projects need two agreements versus one.

3. MPO's, MaineDOT and FHWA to discuss the implementation of an overall deadline for the advancement of projects, such as two years from the time of selection.

PACTS Action: PACTS staff to work with MaineDOT in August and September, and to present a recommendation to the TIP Process Committee in October.

4. MaineDOT invite MPO staffs to attend the MaineDOT October production meetings at which they begin to prepare the next year's Calendar Year Construction Schedule that goes public in January. The intent is that PACTS staff will participate in the meetings and also help MaineDOT to ascertain the municipalities' support and readiness for the projects in the schedule.

PACTS Action: PACTS staff will participate in the meetings and communicate, when needed, with our member municipalities after the meetings.

5. MaineDOT Engineering Council act on municipal/MPO requests for design exceptions (for projects being considered for MPO Allocation funding) during the MPO enhanced project scoping process.

PACTS Action: Simply reference this new policy in our 2011 TIP Policies and Procedures document.

6. MaineDOT right of way staff to attend local project meetings early in the planning process in order to help introduce the right of way process to town officials and landowners. Second, that MaineDOT encourage local officials to describe projects' potential right of way impacts to landowners as long as no discussion of money happens. Third, we recommend that MaineDOT staff and local officials look for flexibility in MaineDOT's right of way processes.

PACTS Action: Simply reference this new policy in our 2011 TIP Policies and Procedures document.

3. **Recommendations Relevant Statewide**

1. MaineDOT revise certain project cost estimating procedures in order to produce project cost estimates that better reflect current market conditions.

The Team members learned that many recent MaineDOT project cost estimates were significantly high due to the continued use of the extraordinary 2008 unit prices in MaineDOT's calculations. Also, there has not been a feedback mechanism to consultants scoping MPO projects in order to explain changes to estimates. MaineDOT has the most current information on bid prices and has a role in reviewing estimates. A system will be established to ensure that Project Managers work with the MaineDOT Contracts Office to review the estimates on MPO projects for current bid conditions.

The Team also recommends that the MaineDOT Contracts Office check MPO project scoping estimates developed by a town or a consultant prior to programming by an MPO. There needs to be more collaboration between municipalities and MaineDOT on this. MaineDOT is willing to provide estimating consultation to the Municipalities.

PACTS Action: Describe this new MaineDOT-PACTS-Municipality collaboration procedure in our 2011 TIP Policies and Procedures document.

We recommend no PACTS actions on the items below.

2. MaineDOT be more open to value engineering proposals.
3. MaineDOT require fewer HMA mix designs, and avoid using different mix design for shoulders.
4. MaineDOT and industry evaluate each project for appropriate completion dates, and renew their efforts to make timely decisions in the field during construction.

5. MaineDOT consider proposals to completely close work zones more often so that the job can get done quicker and with higher safety for the workers

4. **Items to Continue to Work on with Industry**

We recommend that MaineDOT continue to examine these items that impact industry's productivity.

1. Night work.
2. Weekend work.
3. Traffic control plans should reflect the location of a project, such as on "out of the way" roads in contrast to the requirements on an urban arterial.
4. MaineDOT continue to work with industry on how to classify RAP piles to evaluate whether percentages can go up for RAP use.
5. MaineDOT continue to work with Industry on the topic of recycling of aggregates in the road base. MaineDOT is currently looking at this issue and has a pilot special provision.

Agenda Item 5: Local Project Administration

Staff: Paul Niehoff

Recommendations

1. Add to our 2011 TIP Policies and Procedures document a statement of encouragement to our members to consider doing PACTS projects as locally administered projects.
2. Staff to continue to encourage our members to consider doing PACTS projects as locally administered projects.

Background

During the past six months, and periodically during the past several years, we have had discussions in several venues about proposals to increase the role of PACTS staff in the administration/development of our funded capital projects. *See minutes of last month's TIP Process Committee meeting.* The consensus result was that we will not go there – but rather that we will encourage our members to consider doing more LAP projects.

The benefits of the LAP process are:

- A municipality has more control of the project schedule.
- A municipality might be able to get the project done at a lower cost.
- Municipalities sign a 2-party LAP agreement with MaineDOT rather than a 3-party agreement with PACTS and MaineDOT.

Our members are generally aware of these benefits as well as the many federal requirements that must be met by the municipality running the LAP project.

Agenda Item 6: PACTS 2-Biennia Project Policy and Project Cap Policy

Staff: John Duncan

Recommendations

1. To maintain our 2-biennia project policy
2. To maintain our project cap policy

Background on 2-Biennia Project Policy

At the April Policy Committee meeting the members voted to establish the 2011 TIP Process Committee, and added this topic to the Committee's work list. The premise was that the 2-biennia project policy sets aside too much of our second biennium's funds. Examples include:

- In 2008 we reserved all of our \$3,000,000 Intersection Set Aside for the 2012/2013 biennium for the Dunstan Corner project.
- In 2010 we reserved most of our \$1,500,000 Road Rebuild Set Aside for the 2014/2015 biennium for the Cummings Road project.

Staff recommends that we stick with this policy because it makes sense for large complex projects. The design and right-of-way work get done in the first biennium. The construction gets done in the second biennium. We note that our project cap policy (see below) creates a financial risk for the municipality given that we cap the PACTS contribution to the construction phase several years before the engineer's estimate is prepared (per the final design). In the two project examples above the municipalities were willing to take the risk.

We also note that MaineDOT does this two-biennia process for many projects – and they have recently started doing this for many (all?) their Enhancement projects.

Background on Project Cap Policy

For several years MaineDOT staff complained that this PACTS project cap policy was forcing towns to drop projects because their costs beyond the cap amount were excessive. However, the Policy Committee reasserted the policy more than once in response to this MaineDOT concern.

Staff brings this topic to you today because of this MaineDOT concern voiced in the past. We have not heard this concern voiced by MaineDOT recently.

We also suggest that the financial burden on our municipalities caused by this cap policy has been reduced this year by the adoption of our 10% local match "incentive" policy.

Agenda Item 7: The PACTS Pace in Picking Projects

Staff: John Duncan and Paul Niehoff

Recommendation: Accept report on this work in progress.

Background

At the April Policy Committee meeting the members also added this topic to the TIP Process Committee's work list. The premise is that we collectively spend too much effort picking projects and that we do it over too long a period of time. For instance, the argument can be made that the project cost estimates developed in late 2011, for instance, are to be used for PACTS projects (if funded) that are built in 2014 or 2015 – and that the cost estimates get outdated in the interim.

We are sending this packet out incomplete on this item in hopes that you will have enough time to read it before our meeting. At our meeting staff will:

- Provide more background on this based on a conversation with Mike McGovern (Policy Committee member who offered the suggestion in April) if he is able to return John's call before we meet.
- Describe to you the anticipated project selection schedule for 2012.
- Ask for your perspectives on this subject.

Note that staff also intends to bring to you in September a recommendation to simplify the scoring of project proposals. That proposal relates to this schedule topic – a simpler scoring process might save us all some time in the project selection process in 2012.

Agenda Item 8: Clarification of Roles and Responsibilities

Staff: Paul Niehoff

Recommendation: Accept report on this work in progress.

Background

If time permits we will outline the issues and work-in-progress on this subject. For example, we are faced with the premise that MaineDOT is in charge of preservation paving all arterials in our region (and statewide) – but MaineDOT will not preservation pave arterials that are “unbuilt” and have failing drainage structures.

We are just beginning to look into this with the Technical Committee and MaineDOT. It might be too early to report to you. However, it appears that we may have a significantly large regional liability that we were not aware of for a variety of reasons. We need to research how many miles of failing drainage system we have in our region's arterials.