

Transportation Advisory Board

of the Metropolitan Council of the Twin Cities

TO: Transportation Advisory Board
FROM: Kevin Roggenbuck, Transportation Coordinator
DATE: November 10, 2010
RE: 2030 Transportation Policy Plan Update: Scott County correspondence and the public comment report.

The TAB Executive Committee met on November 9 and discussed the 2030 Transportation Policy Plan update, the comments from Scott County and the Council's response, and the TAB's involvement in its preparation.

Council staff has agreed to present the public comment report to the TAB on November 17. The public comment report is 61 pages long, so rather than mail it to you; here is a link to where you can find it on the Council's website:
<http://www.metrocouncil.org/planning/transportation/TPP/2010/2030TPPPublicCommentReport.pdf>

I will email the link to everyone so it is easier to access it.

Also of interest to the Board, the Executive Committee directed staff to provide the initial letter from Scott County regarding the involvement of local elected officials and the process, as well as the Council's reply to the County.



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November 4, 2010

Metropolitan Council
Peter Bell, Chair
390 Robert St. North
St. Paul, Minnesota 55101-1805

RE: Metropolitan Council Transportation Policy Plan 2010 Update

Dear Mr. Bell:


As you are aware, Scott County has repeatedly expressed a number of concerns about the Metropolitan Council's Draft 2030 Transportation Policy Plan (TPP). Yet regardless of our specific, policy-related issues with the draft TPP itself, we have become increasingly more concerned with the **timing** of this update and the **process** it has followed to date.

This TPP update has not followed the appropriately prescribed process. More specifically, the official public comments were due by October 7, 2010, yet the Metropolitan Council fully intends to adopt this plan in November. It appears that the Transportation Advisory Board (TAB) -- which qualifies the region to receive federal transportation funding due to its membership, which includes locally-elected officials - will have no meaningful input into the recommended revisions or changes to the Plan. Instead, the comments were taken directly to the Metropolitan Council's Transportation Committee for action, and then to the Metropolitan Council. The TAB plays a critical role in meeting the federal requirements which mandate that funding and planning decisions are inclusive of locally elected officials; frankly, it appears the TAB's elected members are being entirely bypassed, to wit:

- The May 2010 meeting of the TAB included an update from the TAB policy committee regarding the 2010 amendment (scheduled for fifteen minutes), but the meeting minutes indicate the item was to be continued to the June meeting.
- At the June meeting, another 15-minute update was scheduled, during which staff recommended the TAB Policy Committee meeting be moved from July 21 to July 8 in order to allow comments into the Draft TPP prior to July 26, 2010.
- At the TAB's Policy Committee meeting, presentations by Council staff were given on the Draft TPP, including comments from Technical Advisory Committee (TAC) and four other comments. The July agenda for the TAB included the report of the Policy Committee, scheduled for fifteen minutes, with the recommendation of a motion to approve the list of comments to be

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forwarded to the Council. The staff report included a recommendation motion "...that the TAB approves the attached *comments* [italics added] on the draft 2030 Transportation Policy Plan Update and forwards them to the Metropolitan Council for consideration in *preparing the draft plan for public hearing* [italics added]."

- The agendas for the August and September 2010 meetings do not list anything regarding the Draft TPP update, and nothing is reflected in the minutes. The original agenda for the October meeting did not schedule anything regarding the Draft Plan Update until the elected official from Scott County, a member of the TAB (and thus one of those to be consulted, considered, and cooperated under federal law), objected to the lack of information and discussion.

In violation of the statute giving it the duty and the authority to advise on planning and funding, the TAB was never presented with anything to review other than comments to the proposed 2010 Draft TPP. Furthermore, with 210 separate comment letters received, it is apparent there was no attempt to provide the TAB with those concerns and then consult with them. The Council never published an outline of the schedule for adoption of the 2010 amendments; the TAB never received a copy of the draft TPP amendments; and while it evidently was posted on an electronic FTP site, the site was very difficult to access and it took research to discover its existence. There was no presentation or discussion of the differences between the projects scheduled in the 2008 plan and those in the 2010 draft plan; in addition, Scott County Commissioner Jon Ulrich – who, again, is an elected member of the TAB -- received only rude and derogatory responses from Council staff when he protested the lack of review, consultation with, and consideration of the opinions of the elected officials within the TAB.

Even more troubling, however, is the fact that after two members of the Scott County legislative delegation were given your verbal assurances that the TAB would be fully reincorporated into its rightful place in the review process, Scott County staff was told that the documents had already been delivered to the printer (thus eliminating any possibility for further modification by the TAB).

As the Metropolitan Council's TPP is not required to be updated until 2012, it would appear that the current rush to meet some unnecessary deadline is an attempt to impose a hastily conceived and incomplete plan onto the region. Moreover, given that the provisions of a new Federal Highway bill will be determined in the next year, we are puzzled as to why this region would not employ efforts in 2011 and 2012 to meet the federal policy guidelines, obtain meaningful local input, and develop a workable and appropriate policy plan for the 2012 timeframe.

Inasmuch as the proposed plan seems to completely change the direction of how we invest in our region's highways -- and includes \$5.5 billion in rail and Bus Rapid Transit expansion -- the publicly elected members of the TAB must have due opportunity to offer full and thoughtful evaluation. We respectfully request a suspension of the Metropolitan Council's TPP update process until such time as adequate local input is included and our array of specific plan concerns are addressed. Our region deserves no less than a complete and transparent vetting of such a major policy document.

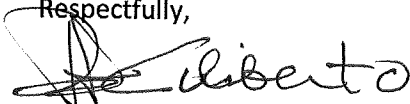
In addition, we ask that Scott County Commissioner Jon Ulrich be issued a formal apology for the manner in which he was addressed by Metropolitan Council staff at the October TAB meeting.

TAB

11.04.10

Page three

Respectfully,

A handwritten signature in black ink, appearing to read "Ciliberto". The signature is written in a cursive style with a large initial "C".

Patrick Ciliberto

Scott County Attorney

- c: Scott County Board of Commissioners
 Gary Shelton, Scott County Administrator
 Brandt Richardson, Dakota County Administrator
 Dave Hemze, Carver County Administrator
 Jim Schug, Washington County Administrator
 Terry Johnson, Anoka County Administrator
 Richard Johnson, Hennepin County Administrator
 Julie Kleinschmidt, Ramsey County Administrator
 Craig Peterson, Metropolitan Council
 Representative Michael Beard
 Senator Claire Robling
 Keith Carlson, MICA
 Ryan O'Connor, AMC

November 8, 2010

Mr. Patrick Ciliberto
Scott County Attorney
Government Center JC340
200 Fourth Avenue West
Shakopee, MN 55379-1220

Dear Mr. Ciliberto,

I am responding to your Nov. 4, 2010 letter regarding the Metropolitan Council Transportation Policy Plan (TPP) Update, in which you expressed concerns regarding the timing and process for this update.

I have to disagree with your assertion that the TPP Update has not followed the appropriately prescribed process. The process used for the 2010 update is consistent with past practice and has been certified by the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA).

It included opportunities for TAB to provide its much-respected input and advice on the planning documents, not to mention that of other important stakeholders. Quite frankly, I am very pleased with the many, many opportunities we provided for public comment and the very valuable feedback we received.

Our process is consistent with federal regulations (23 CFR 450.314), which direct Metropolitan Planning Organizations (MPOs), the states and public transportation operators to cooperatively determine their mutual responsibilities for carrying out the metropolitan transportation planning process and clearly identifying those responsibilities in a written agreement. Such an agreement, the "*Memorandum of Understanding on Metropolitan Transportation Responsibilities for the Twin Cities (Minnesota) Metropolitan Area*," was most recently prepared for this region in 2008.

The TAB reviewed and approved the agreement on Oct. 15, 2008 (Action transmittal 2008-11). It was signed by Mn/DOT and the Council on Dec. 5, 2008. The agreement clearly states that the Metropolitan Council is the MPO for the Twin Cities Metropolitan Area.

In addition, each time the TAB and Council adopt a Transportation Improvement Plan (TIP) for the region, they must certify that the Twin City Metropolitan Area Transportation Planning process is being carried out in conformance with all applicable federal requirements. The TAB made such a certification as recently as Aug. 18, 2010 when adopting the 2011-2014 TIP, followed by the Council on Sept. 8, 2010. The Council considers it significant that all federal transportation funding in the region has been distributed on the basis of that process, including

the Transportation Policy Plan, and is federally compliant. In other words, all projects are approved and implemented based on an existing legal process.

TAB received notice twice in June that the draft TPP was available—in advance of the discussion of the draft plan at TAB Policy Committee and TAB meetings. Your summary of TAB and TAB Policy Committee meetings reflect the amount of time that TAB chose to dedicate to its review and discussion of the draft TPP. However, your summary did not include the extensive time spent on the plan by TAB's Technical Advisory Committee (TAC) and its subcommittees – TAC Planning, TAC Funding and Programming and TAC Aviation and TAB Policy Committee.

On July 21, 2010, TAB endorsed the 50 comments and recommendations forwarded by TAC and its subcommittees, in addition to four comments recommended by the TAB Policy Committee. TAB also had the benefit of the responses proposed by Council staff to all of these comments at the July 21 meeting, prior to voting to send the comments to the Council for its consideration in adopting the draft plan for public comment.

The amount of time TAB and its technical committees dedicate to reviewing and commenting on policy documents lies solely with TAB. The TAB and technical committees could have met as often as they wished during the development of the draft TPP and could have even discussed it during the public comment process. Council staff would have made themselves available to the TAB to discuss the draft plan at additional meetings upon request.

You further state in your letter that TAB must have due opportunity to offer full and thoughtful evaluation of the proposed plan. I concur and expect that TAB did undertake a full and thoughtful evaluation in June and July before forwarding TAB's official comments to the Council. It is important to note that at no time did any TAB member express concerns about inadequate review of the draft plan or request additional time before voting to provide comments to the Council. If Scott County Board members have a concern with TAB's planning review process, I suggest they raise this concern with TAB.

You state that the proposed plan seems to completely change the direction of how we invest in our region's highways. Actually the current plan, adopted in January 2009, signaled that change.

The 2009 plan clearly states that it is not realistic to assume that congestion will be eliminated or that a congestion-free system will exist sometime in the future. The 2009 plan also clearly states that strategies will pursue lower cost/high benefit highway improvements and reassess the scope and cost of proposed major highway expansion projects. The plan also committed the Council and Mn/DOT to developing a Metro Highway System Investment Strategy (MHSIS) and a Congestion Management Safety Plan (CMSP). It further committed the Council to incorporating the study conclusions into the TPP in 2010 (pages 70 and 78).

In short, this change in direction has been consistently conveyed and pursued for some time now. The Council and Mn/DOT completed work on the MHSIS in 2009 and early 2010. The effort included significant outreach in early 2010, which is summarized in the attachment.

A comprehensive outreach strategy was kicked off with an MHSIS Stakeholder Workshop on Jan. 28, 2010, at which we rolled out the MHSIS work and explained the direction we were heading with respect to highways in the TPP Update. Legislators, county commissioners, TAB members and other transportation stakeholders were invited to this workshop. Scott County Commissioner Jon Ulrich attended along with other county representatives.

A key message at the January workshop was that the new approach to addressing the region's congestion, as established in the January 2009 TPP, would be one of system-wide management with technology-based solutions, managed lanes and strategic capacity expansions. It would be multi-modal in nature. Council staff at the Stakeholder Workshop offered to give the same presentation before each county board. Only Dakota and Hennepin counties took us up on the offer.

The Council and Mn/DOT then hosted 10 formal outreach meetings across the metro area to explain the MHSIS work. The presentation at each of these meetings concluded with the planned schedule, which called for Council adoption of an updated TPP in November 2010. At the July 21, 2010 TAB meeting, staff gave a presentation on the TPP Update. The schedule provided significant detail regarding draft TPP reviews by TAC and its subcommittees, as well as TAB Policy and TAB. The schedule again reiterated that the Council would take final action to adopt the TPP Update in November.

The schedule presented to TAB on July 21 also clearly indicated that the draft plan would not come back to TAB after the public comment period closed. Not a single TAB member raised concerns about this schedule at the July 21 meeting. The fact is, the Council has consistently communicated and followed the schedule outlined for this process for almost a year, consistent with its January 2009 commitment to update the TPP in 2010.

One major change pertaining to highways in the proposed plan, compared with the existing January 2009 plan, is that investments are allocated to Active Traffic Management, Lower-Cost/High Benefit and Managed Lane/Strategic Capacity Enhancement project categories, and to two significant expansion projects -- the extension of Highway 610 to I-94 and the I-35E managed lane. If the TPP Update is not adopted, those projects cannot move forward.

Your letter mentions a meeting I had with two members of the Scott County legislative delegation. I did meet with Rep. Mike Beard and Sen. Claire Robling on Oct. 20, 2010. At that meeting Rep. Beard suggested that the draft TPP go back to TAB prior to Council adoption and I did offer that I would give it consideration. However, at a TAB meeting that same day, TAB voted down a motion by Commissioner Ulrich that the draft TPP be returned to the TAB for advisement prior to going to the Council for final approval. This formal action of the TAB indicated they were sufficiently informed on the TPP and no further review was necessary.

Your letter also notes that the draft plan includes \$5.5 billion in rail and Bus Rapid Transit capital expansion and implies this is a change. The draft plan does include a range of \$4.7 billion to \$5.5 billion; however, the transit expansion plan and estimated revenues have not materially changed from the current TPP adopted in January 2009.

Those of us involved in funding and developing transitways are aware that, unlike roads, there are existing competitive federal programs, such as New Starts, that provide funding for transitways. These projects and the assumed revenues will only be realized if this region has meritorious projects that meet the applicable federal criteria and can compete in securing those funds.

It is also important to note that these federal funds are specific to transit and cannot be allocated to road projects. While federal funding for highways is formula-based and does not have a corresponding competitive federal program, the \$900 million available for highway congestion mitigation between 2015 and 2030 does assume \$100 million in potential competitive programs, such as the Urban Partnership Agreement. This is the first time the Council has included such potential revenue in its highway estimates.

You assert that the provisions of a new Federal Highway bill will be determined in the next year. While I appreciate your optimism and similarly hope that a new federal authorization will be passed in 2011 to replace SAFETEA-LU, which expired Sept. 30, 2009, there is no guarantee.

In fact, some experts who are close to this situation suggest that it could easily be two years before a new federal bill is passed, and that was prior to the election. To me, the message is clear that we should not hold up our regional plans while waiting on Washington. As you know, the TPP can be amended if and when federal funding materializes.

With respect to aviation, it may not be a priority of Scott County's, but I can assure you it is important to the region. As with highways, significant work was accomplished in airport planning during the last two years. It is important to aviation stakeholders that the TPP be updated to reflect these recent planning initiatives.

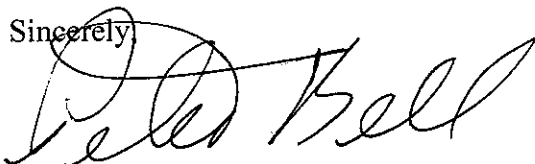
As a result, the Council intends to move forward with the TPP Update for action by the Council this week.

While I am confident that the Council has used an appropriate process for this TPP Update, the Council is receptive to discussing the process with TAB. I would suggest the time to do that is sooner, rather than later, however, in an ongoing planning process that has followed past practice, as well as state and federal laws. Nonetheless, Council staff have discussed the issue with TAB Chair Bill Hargis and agreed that the TPP review process should be on a future TAB agenda. Any adjustments to the review process that TAB and the Council agree to would apply to future TPP processes.

I want to be very clear, however. the Council firmly believes that the time for TAB's full and thoughtful comment on a draft plan is prior to public comment, as the process currently provides, so that TAB's input and advice can be considered by the Council before adopting a draft plan for public comment. I trust Scott County will continue to respect the process.

Finally, your letter made me aware that Commissioner Ulrich was offended by a comment from a member of the Council staff, who remarked on whether the commissioner was familiar with the draft document from previous meetings. A formal apology is forthcoming. I appreciate your interest in the draft TPP content and process and I hope this missive fully resolves your concerns.

Sincerely,

A handwritten signature in black ink that reads "Peter Bell". The signature is written in a cursive style with a large, looped initial "P".

Peter Bell, Chair
Metropolitan Council

CC: Bill Hargis, TAB Chair
Scott County Board of Commissioners
Gary Shelton, Scott County Administrator
Brandt Richardson, Dakota County Administrator
Dave Hemze, Carver County Administrator
Jim Schug, Washington County Administrator
Terry Johnson, Anoka County Administrator
Richard Johnson, Hennepin County Administrator
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Craig Peterson, Metropolitan Council
Bob McFarlin, Metropolitan Council
Rep. Michael Beard
Sen. Claire Robling
Keith Carlson, MICA
Ryan O'Connor, AMC
Derrell Turner, FHWA Division Director
Tom Sorel, Commissioner, Minnesota Department of Transportation

Summary of Outreach Activity – 2009-10
Metropolitan Highway System Investment Study (MHSIS)
2030 Transportation Policy Plan (TPP)

MHSIS Outreach Meetings

- **MHSIS county and state staff workshop** – Mn/DOT, Nov. 20, 2009
- **MHSIS Stakeholder workshop** – Univ. of MN, Jan. 28
- **Transportation Alliance** – St. Paul, April 7
- **Anoka County** – Anoka, April 19
- **Carver County** – Chaska, April 15
- **Dakota County** – Apple Valley, April 22
- **Hennepin County** – Brooklyn Park, April 13
- **Ramsey County** – Maplewood, May 3
- **Scott County** – Shakopee, May 5
- **Washington County** – Stillwater, May 6
- **General Meeting – North** – Blaine, May 4
- **General Meeting – South** – Bloomington, April 23

Presentations to stakeholder groups (MHSIS/TPP)

- TAB Policy Committee – December 2009
- Dakota County Board (Physical Development Committee) – April
- Highway 169 Corridor group
- I-35W Solutions Alliance/I-494 Corridor TMO – June/August
- Metro Cities Transportation Committee – August
- Apple Valley City Council – August
- Metro Engineers – September
- SCAMPI (Standing committee to advance modal planning integration): a multi-agency group – September
- Several other less formal meetings (smaller groups, generally no presentation)

TPP Public Outreach Meetings

- Blaine – Aug. 30
- Edina – Sept. 1
- Apple Valley – Sept. 14
- St. Paul – Sept. 21
- Public Hearing – Minneapolis – Sept. 27