

**CAPITAL BUDGET OVERVIEW COMMITTEE**

Legislative Office Building, Room 201

Concord, NH

Wednesday, October 17, 2012

**MEMBERS PRESENT:**

Rep. Gene Chandler (Chairman)

Rep. John Graham

Rep. Walter Kolodziej

Rep. Ken Weyler

Rep. Will Smith

Sen. James Rausch

Sen. Sylvia Larsen

Sen. David Boutin

Sen. Bob Odell

(Convened at 10:07 a.m.)

**1. Acceptance of Minutes of the September 18, 2012 meeting**

CHAIRMAN CHANDLER: We'll call to order the meeting of the Capital Budget Overview Committee. And we need to review and accept the minutes of the September 18<sup>th</sup> meeting.

\*\* SEN. BOUTIN: So moved, Mr. Chairman.

CHAIRMAN CHANDLER: Senator Boutin moves acceptance of the minutes of September 18<sup>th</sup>.

REP. WEYLER: Second.

CHAIRMAN CHANDLER: Seconded by Representative Weyler. Is there any discussion? If not, all those in favor say aye? Opposed? Motion carries.

\*\*\* {MOTION ADOPTED}

**2. Old Business:**

### 3. New Business:

CHAIRMAN CHANDLER: Let's see. Item 12-029, Pease Development Authority, Division of Ports and Harbors. Mr. Marconi.

MR. MARCONI: Thank you, Mr. Chairman. For the record, my name is Geno Marconi. I'm the Division Director of the Division of Ports and Harbors of the Pease Development Authority.

In this request I have before you today for some additional funds for our Stormwater Improvement Enhancement Project at the Port Terminal. When we came to this Committee a year ago requesting the funds to do this project, to improve the stormwater system and treatment of the system, the stormwater that goes into the Piscataqua River, as we got into the project and did final design it included test borings and soil samples. And what we found there were contaminated soils. Under New Hampshire DES regulations, we're required to report them, these levels to New Hampshire DES. We did so.

In working with their Contaminated Soils Division, we have been doing a complete site profile of the property. But to satisfy this construction project, to satisfy the EPA requirements for stormwater improvements, we proceeded along and we got into some areas of contaminated soils that required on-site monitoring by our environmental engineering consultant, stockpiling of soils for lab analyticals, the possibility of disposal of certain contaminated soils if they hit certain levels that they were not environmentally suitable to be backfilled into the hole.

The project is under way. We have got about 200 tons of contaminated soils that are sitting off to the side that

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

we're waiting for lab results to come back. We're hoping that they don't reach the level that we have, you know, serious disposal problems with them. But our concern right now is -- is with the money that was allocated for this project, and the potential for disposal of contaminated soils in this additional environmental monitoring that we have been required to do. We don't want to get into this and have to put the project on hold because we don't have some funds to do it.

This has been a difficult -- a difficult project once we put the shovel in the ground, even though we had gone ahead and done test borings ahead of time, we actually -- we've actually carved out an area in the project site that we've put in as a "no dig" zone because of the level of contamination that the test borings showed. This is a preexisting condition. It goes back to the days when the railroad owned the property prior to the State purchasing the property in 1962.

We've -- one of the requirements of the DES regulations in doing the site profile is we have to go back and write a history -- a historical uses of the property. We have hired a consultant to do that for us. Mr. Sherm Pridham, who's the retired Portsmouth librarian, was the logical choice because he had access to all the records at the library and in the city. So we are looking into what the historical uses are.

What we found out was that the railroad was anti-rot treating railroad ties in a building at the property and it's on the site where we found the highest levels of mercury in the ground. And so we sectioned that off, took it out of the construction site, but we will probably be required to do environmental remediation down the road with this once we complete the project. But this request today is for additional funds for environmental monitoring,

**CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

testing, and potentially disposal of certain contaminated soils associated with the stormwater project.

CHAIRMAN CHANDLER: Any questions? Representative Smith.

REP. SMITH: Thank you, Mr. Chairman. Is there any -- what is the situation with respect to liability of previous owners?

MR. MARCONI: We have been having discussions with our legal counsel over that, and they have been looking into it. You know, I don't -- I can't give you any specifics of it, but the question has come up internally with legal counsel and they're investigating that.

REP. SMITH: Follow-up.

CHAIRMAN CHANDLER: Further question.

REP. SMITH: What's your view as to the probability of there being relief from that side?

MR. MARCONI: I -- I don't have any information to answer that question at this time, Representative.

REP. SMITH: Thank you.

CHAIRMAN CHANDLER: Any other questions? What's your pleasure?

\*\* REP. WEYLER: Move approval.

REP. GRAHAM: Second.

CHAIRMAN CHANDLER: Representative Weyler moves we approve the item, seconded by Representative Graham. Any

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

questions or discussions? If not, all those in favor say aye? Opposed no? The motion carries. Thank you very much.

MR. MARCONI: Thank you, Mr. Chairman. Members of the Committee, thank you.

REP. WEYLER: Good presentation, very thorough.

\*\*\* {MOTION ADOPTED}

CHAIRMAN CHANDLER: Highway Transportation, use of toll credits.

WILLIAM J. CASS, Director of Project Development, Department of Transportation: Good morning. My name for the Committee is William Cass. I'm the Director of Project Development for the New Hampshire DOT. You want me just --

CHAIRMAN CHANDLER: Just go dive right in. I should mention the statute -- the law that passed, this is the first time this has come to our Committee. The -- technically, any actual construction projects that are being used do not have to appear before the Committee. The Department has decided, and I think it's a good thing, that they will just first, I guess, not all the information with approval will bring them all or they did this time. I don't know, depends whether we approve or not whether they do it again. At least for this time in the interest of being forthcoming they are providing all the information.

MR. CASS: Right.

CHAIRMAN CHANDLER: If it makes a difference, there are some of these that were already in the pipeline at the time the law took effect. So I just want you to know you can go ahead. Yes, Representative Weyler.

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

REP. WEYLER: Yes. Since they all are using the toll as a match, I'm curious as to what the total is for toll credits and how much we're using in these projects and whether this is problematic if we put this many projects. But as you say, it's a new law and allows it. So what's the total credits?

REP. GRAHAM: We've been --

MR. CASS: In answer to your question I have -- and depending how you want to proceed, I can do a more general explanation of toll credits. But currently, right now on the books, we have a balance of a little over \$169 million in Turnpike toll credits available as our use for the non-Federal match requirement for these Federal funds. The request that we have before you today total about \$2.7 million of Turnpike toll credit use, so.

REP. WEYLER: I think it's wonderful we are able to use it. Thank you.

MR. CASS: Sure.

CHAIRMAN CHANDLER: Why don't you just -- I guess, briefly, just go down through the list.

MR. CASS: Sure. I had -- I thought I might start with the general explanation of Turnpike toll credits.

CHAIRMAN CHANDLER: Okay.

MR. CASS: If that's of value to the Committee Members.

CHAIRMAN CHANDLER: Whatever you'd like to do is fine.

MR. CASS: So everyone is aware of it. And I think you

**CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

know this is. This is, like I said, it's a new law, House Bill 1204 required that any use of Turnpike toll credits other than its match for Federal Highway Funds on highway and road projects shall require prior approval of the Capital Budget Oversight Committee. So that's what we are trying to comply. And as we read that and tried to interpret what the intent and what you all wanted to see, we struggled a little bit defining that. You know, what was meant exactly by highway and road projects, because our whole Federal Program in one way, shape, or form goes to support highway or road construction. But we erred on the ones we brought forward to bring forward, you know, very literal interpretation of that. It wasn't specifically highway construction or roadway construction. You know, we've included on the specific project requests that we are bringing forward to you today. That's some of the background. And I'd like to put that out there for, you know, some of the guidance we may be looking forward to if that's the intent, if that's the level of detail that you're all looking for.

But very briefly, Turnpike toll credits, stepping back a little, our Federal Transportation Funds usually come with some sort of matching requirement. Typically, it's 80/20. Typically, you know, project costs are split with 80% Federal funds and they require a 20% State match. Various programs within there vary a little bit; but primarily, it's an 80/20 match. The Federal Highway also recognizes the investment of State dollars through the Turnpike System in roads and in infrastructure that support interstate commerce. In other words, these are -- these are roads, the Turnpike System, the Everett Turnpike, I-293, those are all roads that could qualify that we could use Federal dollars on, but we use Turnpike Funds on it, total revenue to support that. Federal Highway recognizes that investment and they allow us -- they permit the use of, you know, certain Turnpike expenditures to serve as the

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

non-Federal match on projects -- on shared programs that are allowed. And, basically, it's the whole highway program and the whole transit program are allowed by Federal law to use Turnpike toll credits as the match.

And I just want to -- that means that we're able to take credit for that and do projects without State match, but it doesn't mean that there's additional Federal funds. It just means that instead of using the Federal funds at 80% with a 20% State match, we're allowed to use the Federal funds at 100% with no match. But it's still the same amount of Federal funds. So I think that's an important distinction to make to make sure that it's clear. It's just a credit. So for an example, on a million dollar project, typically it would be \$800,000 of Federal funds and a \$200,000 State match. With the use of Turnpike toll credits, we are able to use a million dollars, a hundred percent Federal funds, to build or prosecute that project. It doesn't mean there's additional Federal funds. It means that those same level of Federal funds just are spent at a little bit faster rate, so.

Traditionally, we've always, you know, before the past two bienniums, we've always had budgeted State match to match the Federal Program. In the last two budgets, we have -- in the last two bienniums, due to budget constraints, we've not had the Highway funds to put forward as the State match for the Federal Programs. We've relied entirely on Turnpike toll credit and our entire Federal Program utilizes Turnpike toll credits as the State match to leverage those Federal dollars. So, in that sense, those Federal dollars don't go as far. They don't -- we don't leverage as much construction with those same Federal dollars using them at 100% as opposed to the traditional with the State match.

And I point out that we have a very -- we currently

**CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

have a very robust Turnpike Program -- Turnpike Capital Program that we've been able to utilize to build those Turnpike toll credits. We have been doing investment in Rochester, Spaulding Turnpike, building the Newington-Dover Project, the Little Bay Bridge, as well as some red list bridges in Manchester and Concord. So because of that continuing investment in the Turnpike Program, the Turnpike Capital Program, we have been able to build and claim that credit. If that Turnpike Program slows down, if we aren't doing that capital investment in the Turnpike Program, we won't -- we wouldn't be able to claim that credit.

So I guess I'd just stop there before getting into the specifics, if there's any questions about, you know, what Turnpike toll credits are or how they're used.

CHAIRMAN CHANDLER: Representative Graham.

REP. GRAHAM: Thank you, Mr. Chairman. A couple, if I may? First off, you said that we were getting additional because of what we're doing on the Turnpike System. How much in the last year or two years have we accumulated additional toll credits because of that work that we're doing? Do you have that figure?

MR. CASS: Yep. Last 2010, we were able to claim about a \$60 million credit. And 2011, we were able to claim about a \$70 million credit. So our current Turnpike toll -- our current Turnpike toll credit balance is around \$160 million. The match to the Federal Program is typically between 30 to \$35 million. The typical match of the entire program.

CHAIRMAN CHANDLER: Further question.

REP. GRAHAM: So when you say you have about 160, but if we are spending 30 a year --

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

MR. CASS: Hm-hum.

REP. GRAHAM: -- it's not many years before this all goes away, assuming that we don't keep putting 60 or 70 million a year in because the Turnpike is going to keep spending that much money every year with -- under the current situation of finances.

MR. CASS: That's exactly correct; right.

REP. GRAHAM: So this is a short-term fix.

MR. CASS: Yes.

CHAIRMAN CHANDLER: Representative Smith.

REP. SMITH: Thank you, Mr. Chairman. Is there a statute of limitations on the credits or are they available indefinitely?

MR. CASS: As far as we know they're available indefinitely, yes. 'Cause we still had credits -- when we started employing Turnpike toll credits, we still had a balance on the books back from when we did capital improvements in the mid to late nineties through Nashua when we did a lot of work down on the Turnpike there.

REP. SMITH: Further question?

CHAIRMAN CHANDLER: Further question.

REP. SMITH: Is there a requirement that the -- it seems to be by reading the documents that there's a requirement that there be -- there be a valid Turnpike interest in whatever the credit is applied to. I assume that that's the -- that's the requirement for the

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

utilization of the Turnpike credits? For example, the first one had demolition in a right-of-way for a future highway bypass project. I assume that was Turnpike related?

MR. CASS: No. No, that's not at all. That's not --

REP. SMITH: You can use it for any --

MR. CASS: You couldn't ask for any Federal aid eligible expense.

REP. SMITH: Would that be only highways or would it be any Federal, education or other uses?

MR. CASS: No, not education or anything like that. It's the actual references are anything that's any programs authorized by 23 CFR which is essentially the Highway and Bridge Program or anything authorized by chapter something of 49 CFR which is essentially the Transit Program and deals with the FTA, Federal Transit Authority funding that we receive.

REP. SMITH: Thank you.

MR. CASS: So those two programs, the Federal Highway Program and the Federal Transit Administration Program, are eligible for Turnpike toll credit as match.

REP. SMITH: Thank you.

CHAIRMAN CHANDLER: Can't you take some of this \$160 million and cash it in the government?

MR. CASS: That's what I tried to explain.

CHAIRMAN CHANDLER: So many cents on the dollar and

**CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

could get some back.

MR. CASS: It's not -- yeah, it's not -- it's not -- it's just a credit. Yeah.

CHAIRMAN CHANDLER: Thank you.

MR. CASS: I wish we would.

CHAIRMAN CHANDLER: Why don't you just briefly -- just briefly go through the list. If someone has a question, fine. If not, just get down through it.

MR. CASS: Yep. And we put together, you know, specific project requests as I had mentioned. The projects -- maybe I'll speak off of the -- it may be easier to follow the summary table, rather --

CHAIRMAN CHANDLER: It's easy to follow the agenda.

MR. CASS: Oh, okay. Excuse me.

CHAIRMAN CHANDLER: I think 'cause everyone has one.

MR. CASS: Sure. So these are specific projects that are imminent or coming forward that we -- that we wanted to bring before the Committee here for specific approval of Turnpike toll credits. And, like I said, in compiling these requests, we had many questions on the intent. But we took conservative approach and anything that wasn't strictly highway or road construction was -- is what we put forward. So we have projects totaling about \$15.6 million and the toll credit use of 2.7 in all of these. The first two on the list are building demos, one in Troy and one in Keene-Swanzey. Those were properties acquired as part of those other roadway projects, bypass projects, that have stalled for various reasons. And the properties are in

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

disrepair and are becoming a hazard. So we are putting forward demolition contracts to at least remove the structures on the State properties. Again, they're associated with the roadway projects. They are building demolitions. They are not strictly highway or bridge construction so that's why we had put them on this list to request authorization.

The next project is, again, part of a preservation program that is in the highway program where we use Federal dollars to do maintenance and preservation activities on the rest areas along the highway. This specific request is to replace the septic system at the Sanbornton Rest Area using Federal dollars for that and the associated match.

The third project, CAP 12-033, is for a Durham-Newmarket Project that is essentially a reconstruction of Route 108 between Durham and Newmarket. It's on the list because the original intent of the project, the original description of the project was to add shoulders to Route 108 for shared bike use. As that project had grown and looked into it, it has turned into much more of an overall roadway rehabilitation project and widening to add shared-use bike shoulders. So that's what that project is about.

The fourth project on the list is for a -- is for a project that will remove a railroad overpass. It carries a rail trail over Main Street in Enfield and we'll construct as part of the relocation and improvements to Main Street, we'll construct the rail trail to an at grade crossing with Main Street. Right now the existing overpass is about -- it's about a ten-foot wide by 10 or 11-foot high underpass. Its school buses and fire trucks can't get under. So, again, it's associated more with the reconstruction of Main Street. But, again, it is -- the bulk of the project is removing that railroad overpass.

## **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

The next few projects are associated with our Highway Safety Improvement Program. That is a Federal -- that is a Federal Program geared towards safety improvements. And systematically we have several elements within there to systematically update -- update guardrail and other safety features and protect median -- protect narrower medians from crossover accidents, that sort of thing. So the first project in that category is a Bow-Hopkinton Project where we are looking at upgrading guardrail and installing median guardrail at several locations between Bow and Hopkinton. Again, this is one of the ones that we had struggled with whether it should be on this list or not. You know, my Assistant Commissioner was like, well, that's a highway project. We are putting guardrail. We are building median guardrail along the highway. It's essentially a road project; but, again, it's not -- again, in our literal interpretation of the law, it's not strictly highway construction. So we included it on the list.

The next -- the next project is similar where it's a programmatic approach to replace and upgrade outdated guardrail that doesn't meet current safety requirements.

The next project which is labeled CAP 12-037 deals with upgrading signing on the State highways and the next project as well, CAP 12-038. Again, programmatic projects that we have to use Federal funds to routinely take care of preservation and maintenance and upgrade signs for safety primarily and to keep them current.

The last two projects deal with transit projects. One of them is for upgrading -- engine upgrades on State-owned motor coaches that we use for the bus service and the I-93 corridor, the Boston Express. And the final -- and the final project there to use toll credits as the match for -- for the Portsmouth-Manchester East/West bus service. It's a start-up transit service that we're doing. It uses Federal

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

funds and because of its relatively statewide importance, we are -- we are using -- we are providing the match via Turnpike Toll Credit.

REP. GRAHAM: One point.

MR. CASS: Those are the ones that we have for you. Maybe that's too much detail or not enough but a brief overview of them.

CHAIRMAN CHANDLER: Kind of a comment and it's just my personal opinion --

MR. CASS: Sure.

CHAIRMAN CHANDLER: -- sort of on this. I'm just concerned. I get more complaints when we do a guardrail project and people are bouncing down the highway going through potholes, and yet we are fixing guardrails. I guess I wish we could get away from the fixation of repairing guardrails --

MR. CASS: Yeah.

CHAIRMAN CHANDLER: -- everywhere. I understand it's a safety issue probably, but I don't think it's as big a safety issue as having a good surface to ride on. I just find it discouraging we are continuing to do that. I mean, there's a quite bit of money in here. I realize probably some of those things right now that's the only thing some of the money can be used for. That can be a problem. I'm not sure that all of it is in that category, but that's just a statement.

MR. CASS: Right, right.

CHAIRMAN CHANDLER: Does anyone have any questions? I

**CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

like to separate these -- these out from the first ones and keep the last two separately. So does anyone have any questions or comments on the first items? John.

REP. GRAHAM: Yes, Mr. Chairman. It's just generic comment on them. I agree with the Assistant Commissioner that guardrails and the rest are part of the construction and probably if they're doing that they don't need to come to this Committee, but that's up to the Chairman. I did not envision that when I put the bill in. Let me rephrase -- let me phrase it that way. I did envision the last two coming here though.

MR. CASS: Okay.

CHAIRMAN CHANDLER: Yes, Senator.

SEN. BOUTIN: Mr. Chairman, would you entertain a motion to take up CAP 12-031 through CAP 12-038?

CHAIRMAN CHANDLER: Whatever the Committee wants to do. That's fine.

SEN. BOUTIN: I'm asking out of courtesy, Mr. Chairman. I thought you wanted to deal with 39 and --

CHAIRMAN CHANDLER: Just for discussion. I don't necessarily know how you want to vote on that way. Just discussion.

\*\* SEN. BOUTIN: I'd like to make a motion to do that, Mr. Chairman, to approve CAP 12-031 through CAP 12-038.

SEN. RAUSCH: I'll second that.

CHAIRMAN CHANDLER: The motion is and seconded to approve Items 031 through 038. Are there any questions?

### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

Representative Weyler.

REP. WEYLER: I guess the guardrails are included in those projects. And I question as you do why we are having so many supposedly outdated guardrails. It seemed like for 20 years guardrails were fine and now all of a sudden every few years we have a new guardrail design. What -- how many miles of guardrail are slated to have to be replaced because they supposedly don't meet current safety criteria?

MR. CASS: Right. I don't have a figure. I can get that figure. The two projects in front of us are in particular the project that deals with F terminal units. The F terminal units were installed routinely around the state through all the projects. And in the mid to late eighties, those are the ones that -- I don't know if you've ever driven along and seen the beam guardrail and --

REP. WEYLER: Go in the earth.

MR. CASS: -- they dive into the ground, right.

REP. WEYLER: Now we've got a big reflector.

MR. CASS: Now they have a collapsible end that absorbs the energy and stuff now. That's more the standard.

REP. WEYLER: Some of them have a bunch of barrels.

MR. CASS: Huh?

REP. WEYLER: Some have the --

MR. CASS: Some have a bunch of barrels. That's an earlier version. Those are all ones to improve upon that. But those F terminal units have a very poor safety record for vaulting. If anybody hits the end of them, they blow

**CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

over. Again, they were the state-of-the-art at the time in the eighties. And, you know, most of them have been in place and in the ground for 25 plus years. So that they are, again, at the end of their design life.

Maintenance-wise, you know, we don't really have a way maintenance-wise of routinely replacing and updating them. Hence, some of these systematic projects using Federal safety dollars to systematically go through and update and replace those. The other project on there deals with --

REP. WEYLER: You have a rating system like if -- further question -- whether there's been accidents, does that move them up? Like intersections, if there's been more accidents at this -- on this guardrail than on some others?

MR. CASS: Yes. Yeah, yeah. And that's part of the standard. The second project is the one to replace outdated cable guardrail. That's not replacing all the cable guardrail and certain things. That is statistically based on the crash rates on those roads and on the traffic volume. So we are trying, again, to systematically target the higher volume roads with the higher run-off the road crash rates to address those.

REP. WEYLER: Thank you.

MR. CASS: Sure.

CHAIRMAN CHANDLER: Representative Smith.

REP. SMITH: Mr. Chairman. Do you have options of using some of these toll credits for supplemental -- a supplemental for some of the major, say, bridge replacement or repairs for red listed bridges? Can you apply these same kind of credits in that area or is there some cash?

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

MR. CASS: Oh, yes, and they are.

REP. SMITH: They are already?

MR. CASS: All of our Federal Program is matched with Turnpike Toll Credits so we have no State match.

REP. SMITH: Thank you.

MR. CASS: But, again, I want to reiterate, it's not -- it's not -- it's not money in the bank. It's just a credit. The level of Federal funding is still the same, yeah.

REP. SMITH: Thank you.

CHAIRMAN CHANDLER: Any other questions on the items? Okay. No further discussion. All those in favor of the items signify by saying aye? Any opposed nay? The items carry.

**\*\*\* {MOTION ADOPTED}**

CHAIRMAN CHANDLER: Questions or discussions on 039 and 040? Questions.

MR. CASS: I think, if you don't mind, Patrick Herlihy is our Director of Aeronautics, Rail, and Transit. He may have -- I don't know if you want to pull up a chair.

CHAIRMAN CHANDLER: No, just pull up a chair.

MR. CASS: Just pull up another chair. He knows more of the specifics of these projects, if you will.

CHAIRMAN CHANDLER: Representative Graham.

## **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

PATRICK HERLIHY, Director, Bureau of Aeronautics, Rail and Transit, Department of Transportation: Good morning.

CHAIRMAN CHANDLER: Good morning. Sorry, just introduce --

MR. HERLIHY: Thank you, Mr. Chairman, and Members of the Committee: For the record, my name is Patrick Herlihy and I'm the fairly new Director of Aeronautics, Rail, and Transit at DOT.

CHAIRMAN CHANDLER: Okay.

REP. GRAHAM: Well, Mr. Chairman, if I could start on 12-039.

CHAIRMAN CHANDLER: Okay.

REP. GRAHAM: First of all, these motor coaches that you're looking at renovating, doing the engines, are these used on 93 as part of the agreement that we reach on air quality and the rest?

MR. HERLIHY: That's correct.

REP. GRAHAM: And they're only going to be used there?

MR. HERLIHY: That's correct.

REP. GRAHAM: And follow-up.

CHAIRMAN CHANDLER: Further question.

REP. GRAHAM: They will be diesel engines or alternative fuel or what?

MR. HERLIHY: They'll be diesel engines.

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

REP. GRAHAM: And one further question.

CHAIRMAN CHANDLER: Further question.

REP. GRAHAM: At least on this one, Mr. Chairman. What Federal funds category are being used? It doesn't say.

MR. HERLIHY: It's Federal Transit Administration Funds, Section 5307.

REP. GRAHAM: Not CMAQ?

MR. HERLIHY: It's not CMAQ for this particular project. It's FTA funding.

REP. GRAHAM: And if it's not -- if the FTA funding is not used for this, what would it be used on?

MR. HERLIHY: Right now, it's not being used currently on any project. It's what we call a lapsed funding because there wasn't match at the local level to access this Federal money.

CHAIRMAN CHANDLER: Any other questions? Yes, Representative Kolodziej.

REP. KOLODZIEJ: Thank you, Mr. Chairman. How many miles did these vehicles have on them?

MR. HERLIHY: I'm not sure what the mileage is on them. I could get that information for you. At least these engines have been in place since '06, since 2006. So it's been six years.

REP. KOLODZIEJ: Follow-up. Just doesn't seem as though you're getting the mileage out of these engines that you

**CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

should be getting.

MR. HERLIHY: That's correct. I mean, there's been a whole issue with these Caterpillar engines.

REP. KOLODZIEJ: There's no way you can go back to the parent company?

MR. HERLIHY: We have been trying to go back. We need to weigh benefit of -- they have pretty much washed their hands of these engines. They're out of business now. It's back to diesel, Detroit diesel and Cummings engines doing these. So it's weighing how far do we pursue this on a legal basis and what the costs of that are, as opposed to replacing the engines or doing both; replacing the engines and going back after Caterpillar to try to get something from them. But they pretty much have walked away from the business from this particular -- for this particular engine.

CHAIRMAN CHANDLER: Representative Graham.

REP. GRAHAM: Thank you, Mr. Chairman. If we don't have these four out of the 22 running, what does that do to our contract with Boston Express or with our agreement with the Federal Government?

MR. HERLIHY: It could delay -- it could reduce the certain number of service runs that need to be done on that line, because of the way that the service is being done down I-93 and Nashua. We need to have those 22 coaches ready and in place in order to keep the service going.

CHAIRMAN CHANDLER: Senator Rausch.

SEN. RAUSCH: Thank you, Mr. Chairman. Seeing as that kind is some of my district, I can tell you that this bus

**CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

service is immensely important to the community and has the multiple runs that are serving those constituents. This is ending up to be a very, very beneficial service to get people in and out of Boston, to alleviate the congestion, and I know I myself ride this to the airport. So I certainly have no problems.

REP. GRAHAM: You don't use Manchester?

SEN. RAUSCH: I do not use Manchester.

MR. HERLIHY: That's the next project.

SEN. RAUSCH: When they get the bus service going to Manchester, I'll start using Manchester.

REP. FOOSE: Even with the new access road?

SEN. RAUSCH: No, that's not in my district. That's in Representative Graham's district. But I have no problem with using toll credits to repair those vehicles.

SEN. BOUTIN: You want to make that motion?

\*\* SEN. RAUSCH: I'll make that a motion.

SEN. BOUTIN: Second that, Mr. Chairman.

CHAIRMAN CHANDLER: Pardon?

SEN. BOUTIN: I'll second that.

CHAIRMAN CHANDLER: You're making a motion to approve 039?

SEN. RAUSCH: Yes.

## **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

CHAIRMAN CHANDLER: Seconded by Senator Boutin. Anymore questions or discussions on that item? If not, all those in favor say aye? Any opposed? Motion carries.

\*\*\* {MOTION ADOPTED}

CHAIRMAN CHANDLER: 040. Representative Graham.

REP. GRAHAM: Thank you, Mr. Chairman. Looking at this request and where it's going to run. Can you give me the rationale for not going to Concord? I just thought I'd say it for Senator Larsen.

SEN. LARSEN: I wondered that myself.

MR. HERLIHY: I'm not sure the rationale for why it didn't go through Concord. The original intent of the program and the study was to look at trying to bring Seacoast residents to Manchester Airport and that's basically all I can tell you on that. I'm not sure why it -- why they didn't think -- maybe they didn't think the ridership was going to be high enough in Concord. I'm not sure. But the original intent of the study when funding was provided for the study was to look at trying to get residents from Portsmouth and along the way stop at Epping and since we are going to Manchester Airport, stop in Manchester so that residents in the Seacoast will utilize Manchester Airport.

CHAIRMAN CHANDLER: Further question.

REP. GRAHAM: Yes. Once -- if this is on approved both here and Governor and Council and you buy these vehicles, is it going to be the same type of situation that we have with Boston Express? We own the vehicles, they operate them or --

## **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

MR. HERLIHY: Actually, we are not buying the vehicles for this project. Flight Line would be buying the vehicles and we would be paying --

REP. GRAHAM: Then why we funding it?

MR. HERLIHY: We are paying the operating subsidy to get -- to get the start-up funds for the three years that the CMAQ Project -- matching the CMAQ Project which is paying for the operating subsidy and -- operating subsidy and marketing for the service.

CHAIRMAN CHANDLER: Senator Larsen.

SEN. LARSEN: What is the capacity of a Flight Line? I've seen the maybe eight passenger, but are they going to be bigger?

MR. HERLIHY: I think it's going to be 12 to 16. It's a Dodge Sprinter type vehicle. So that would be -- it wouldn't be a bus like Boston Express. It would be a smaller vehicle.

SEN. LARSEN: Further question?

CHAIRMAN CHANDLER: Further.

SEN. LARSEN: Would there be or could you do a study of the efficacy of bringing the line up to Concord either at the end or do an additional leg up here?

MR. HERLIHY: We could certainly explore that.

SEN. LARSEN: Currently, there is no way for Concord residents to take the public transit to Manchester Airport?

MR. HERLIHY: We'll certainly explore that and explore

**CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

what funding sources we can use.

SEN. LARSEN: That would connect Concord residents with the Seacoast and vice-versa.

SEN. BOUTIN: There's no bus Manchester to Concord?

SEN. LARSEN: No.

MR. HERHILY: Not to Manchester.

SEN. LARSEN: To Manchester, but then you have to take a taxi to the Airport.

SEN. BOUTIN: I didn't realize that.

CHAIRMAN CHANDLER: Senator Rausch.

SEN. RAUSCH: Thank you, Mr. Chairman. I don't know about this particular route, but I can say that I get -- I think the Manchester Airport is critical. You know, the question why do I go to Boston is because Southwest does not have the number of flights, and it's really not getting to Manchester. It's what's the point in going there if they don't have the flights to take you where you need to go? And I think it's a little bit of a Catch-22 is that Southwest is decreasing flights because they don't have the traffic and, you know, it's like if we get the traffic there, they have to increase the flights. So I certainly would love to see additional -- I'm far more of a proponent of bus service than rail. I don't believe we have the demographics for rail. So I like the idea using buses. It's kind of what comes first, the chicken or the egg. If we have the bus service, but they don't have the flights --

MR. HERHILY: Hm-hum.

## **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

SEN. RAUSCH: -- you're still not going to have the benefit. So have we talked to Southwest or the other airlines on -- is there anything they are doing to help justify moving people over to Manchester?

MR. HERLIHY: Mark Brewer from Manchester Airport has been working on that continuously talking to Southwest and trying to get more flights in and also talking with Jet Blue to see if they'll -- if they will provide service through Manchester.

SEN. RAUSCH: If you got Jet Blue, you would have a lot more people for sure.

MR. HERLIHY: Right. So that's going -- that's ongoing with the Airport.

CHAIRMAN CHANDLER: What's your estimated number of people riding this thing for a year?

MR. HERLIHY: The first year about 13,000 one way -- one-way boardings; the second year around 24,000, and year three around 31,000. And that's a conservative figure. The actual report, the report that was done by the Rockingham Planning Commission -- yes, and Southern New Hampshire Planning Commission actually had slightly higher figures for that based on surveys and ridership demographics.

CHAIRMAN CHANDLER: What do you think at the end of three years, what's going to happen?

MR. HERLIHY: End of three years we are going have to re-evaluate and see what -- where -- if they have been able to do a Boston Express type service and reduce the amount of subsidy that's needed by the State and see if they can -- if, you know, they can maintain it on their own at that point. Re-evaluate if we need to provide additional CMAQ

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

funding to keep the service operating. The CMAQ Program runs for a three-year period.

CHAIRMAN CHANDLER: Right.

MR. HERLIHY: So we need to see where we are at the end of that three-year period.

CHAIRMAN CHANDLER: What's your best guess on whether you'll be back in three years looking for more funding for this?

MR. HERLIHY: I'm not sure. I'm not sure.

CHAIRMAN CHANDLER: That's fair. Do you think the amount of money justifies this smaller ridership?

MR. HERLIHY: I think it does. And I think we need -- the Department with its mission needs to be able to try to find ways to get additional service into Manchester Airport, additional ridership into Manchester.

CHAIRMAN CHANDLER: Why is that? That's a charge of the Department is to increase the ride flying of the Manchester Airport?

MR. HERLIHY: Part of the Department is we have a mission of intermodal transportation and for our citizens to be able to access and use intermodal transportation within the state.

CHAIRMAN CHANDLER: Within the state.

MR. HERLIHY: Right. And Manchester -- the Airport is in the state.

CHAIRMAN CHANDLER: Not my area.

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

SEN. BOUTIN: Mr. Chairman, Manchester is in my District. We are in the State of New Hampshire.

CHAIRMAN CHANDLER: The flights flying out of there aren't. They're all flying out of state. I just don't think that's a charge of DOT.

MR. HERLIHY: They also fly in.

CHAIRMAN CHANDLER: That's my opinion.

SEN. BOUTIN: Well, Mr. Chairman --

CHAIRMAN CHANDLER: Representative Graham.

REP. GRAHAM: Thank you, Mr. Chairman. I notice that it's 2.5 million in CMAQ funds.

MR. HERLIHY: Yes.

REP. GRAHAM: You may not have the answer; but, hopefully, Mr. Cass will. What projects fall out of CMAQ if we use this 2.5 million?

MR. CASS: Well, this -- I was going to chime in. Like some of the other things, I mean, CMAQ funds have a limited usability. They're not very flexible. They are very specific in what they can and can't be used for. And this East/West bus service, you know, we deem to be a good use of those -- of those CMAQ dollars. They're funds that really can't be used for, you know, much else. They can't be used for adding capacity. They can't be used for paving, things like that.

REP. GRAHAM: But they can -- if I may, Mr. Chairman? But they can be used to do overhead tolling at the Bedford

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

tolls.

MR. CASS: They can. They could. And just -- and direct answer to your question, this was an approved project through the CMAQ Committee. So nothing really gets moved out. It went through the vetting process through the Committee and through the Commissioner and through the ten-year plan. So it has been approved and under the CMAQ Program, so it's not like it's displacing anything else. It was approved for use of those funds.

MR. HERHILY: And it was ranked at the highest proposal that year.

REP. GRAHAM: Well, I looked at who was on there.

CHAIRMAN CHANDLER: Right.

MR. HERHILY: Just stating the facts.

CHAIRMAN CHANDLER: Representative Smith.

REP. SMITH: Thank you, Mr. Chairman. I make a comment from the Seacoast perspective. I exclusively use C&J to go to Logan Airport. I never drive my car because of the free parking that's right there. And it's the most economical way when you count parking for other than 12 hours, which is a rare flight. I used to drive to Manchester. I have essentially ceased that because it is a more troublesome to me way of getting to Manchester than it is for me to go down to Logan because of C&J. So my instincts would be from my personal -- and incidentally, that bus, a big bus headed down to Logan is same kind of schedule on a full bus. It's a very desirable service.

So I would -- my instincts would be without any data to back it up other than my own view on it and my

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

observation about other people on the C&J Logan is that if the objective is to move travelers to Manchester compared to Logan Airport, this would be the kind of thing that would be a requirement to be able to make that happen from the Seacoast. I mean, everyone else has their own location.

CHAIRMAN CHANDLER: But Senator Rausch makes a good point why people aren't going to Manchester Airport.

REP. SMITH: I told you why I wasn't going.

CHAIRMAN CHANDLER: Senator Boutin.

SEN. BOUTIN: Yes, thank you, Mr. Chairman. Representative, next time you need a ride to Manchester, give me a call.

CHAIRMAN CHANDLER: He's going to drive from there to go someplace.

SEN. BOUTIN: Either Senator Rausch or myself will come pick you up. Mr. Chairman, I want to --

REP. GRAHAM: Make sure that's in the record.

SEN. BOUTIN: I want to echo Senator Rausch's comments. We do have a problem with the decrease in the number of flights going out of the Airport, Manchester Airport right now. It's probably a large part of that has to do with the economy. But this, to me, represents a very practical way to provide commuter traffic from the Seacoast to Manchester to the Airport which, by the way, I also agree with Senator Rausch, is a much more common sense goal than building a multi, multi-million dollar commuter rail line. So I suspect that once this gets under way, that it's -- and people find out about it, it's going to be a convenient way to go down to the Seacoast and people will

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

use it. Hopefully, Representative will use it to come and fly out of Manchester. We have a nice airport, good restaurants.

REP. SMITH: Yep.

SEN. BOUTIN: And we have a liquor store.

REP. SMITH: Once you get to the important, order of magnitude.

CHAIRMAN CHANDLER: Any other questions?

REP. GRAHAM: Finally got the liquor store in.

CHAIRMAN CHANDLER: Senator Larsen.

SEN. LARSEN: I just have to speak up and say that I think the Airport and our supporting its users by having access for Seacoast people to get to the Manchester Airport, I think the Airport has been one of the most important economic development tools that this state has seen as it has grown for those of us and most of us probably here at the table who's lived here during -- during the years and decades for which it's grown in size and usership and access of further airlines coming and going from our state. You see -- we've seen in Manchester area particularly the development of additional software companies. Any number of companies if you ask them what is one reason why Manchester's a convenient place to locate a business it's because there's access to substantial ability to get to places through air travel. And so I think it's a really smart investment and the only way it's going to keep growing is if we get riders there.

CHAIRMAN CHANDLER: Any other questions?

## **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

SEN. LARSEN: Doing any other kind of public transit and then later riding the airplane.

CHAIRMAN CHANDLER: Senator Rausch.

SEN. RAUSCH: I'll just make an additional comment. I was at a Manchester Chamber function yesterday morning, and the input all was infrastructure, I-93, the Airport, buses. And, again, because I'm a bus proponent and a road proponent, not a rail proponent, I -- I would vote for this. It might be a --

CHAIRMAN CHANDLER: Do you have any questions?

SEN. RAUSCH: Would you believe?

REP. GRAHAM: No.

SEN. RAUSCH: So I hope that -- would you believe I hope that Manchester does increase ridership so that we get additional airlines coming in. Maybe one that has a big blue emblem would be really great.

SEN. BOUTIN: Senator, did you make my motion?

SEN. RAUSCH: I'll let the man from Manchester make it.

SEN. BOUTIN: I'll second that motion, Mr. Chairman.

CHAIRMAN CHANDLER: Any other questions? We'll take a brief recess. House Members go in the other room.

(Recess for a House Caucus at 10:55 a.m.)

(Reconvened 11:01 a.m.)

## **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

CHAIRMAN CHANDLER: We all set? Does anyone wish to offer a motion on 12-040?

\*\* SEN. BOUTIN: I do, Mr. Chairman.

CHAIRMAN CHANDLER: Senator Boutin.

SEN. BOUTIN: I move to adopt 12-040.

CHAIRMAN CHANDLER: Is there a second?

SEN. RAUSCH: Second.

CHAIRMAN CHANDLER: Seconded by Senator Rausch. Okay, how does the Senate -- how does the Senate vote?

SEN. BOUTIN: In favor.

CHAIRMAN CHANDLER: Five.

SEN. RAUSCH: If I might?

CHAIRMAN CHANDLER: You get one vote.

SEN. RAUSCH: That's what I thought. We have one vote.

CHAIRMAN CHANDLER: The House casts its vote in favor by a 4 to 2 vote, so.

SEN. BOUTIN: Mr. Chairman.

CHAIRMAN CHANDLER: So the motion is approved.

\*\*\* {MOTION ADOPTED}

SEN. BOUTIN: Before you approve the motion, will you accept a friendly amendment to the motion? I'm sorry. I

### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

forgot to do it earlier. Before we vote on final vote can I offer --

CHAIRMAN CHANDLER: We did vote. We can go ahead. What is it?

SEN. BOUTIN: Well, it's do it as a separate motion.

REP. CAMPBELL: No, that's fine.

SEN. BOUTIN: No, no, let's leave this thing lie to here. What I would like to do is to make a motion to ask the Department of Transportation, the Bureau of Rail to -- and I don't know what the timetable would be -- but to do an analysis of what it would take, the feasibility of having a bus service from Concord to Manchester Airport.

MR. HERLIHY: Yes. We will be planning on doing that. When I go back I'll be working with Federal Transit Administration while this project is going on concurrently with that to scope out that what that service would look like and where we could get access funding for that.

CHAIRMAN CHANDLER: You comfortable with that?

SEN. BOUTIN: Senator Larsen, you comfortable with that?

SEN. LARSEN: Yes. That's a motion that I'd like to make jointly. I'd like to be on that request, that it's important. And I think the cost has to be fairly minimal. It's not that long a drive but it's important.

REP. SMITH: Thank you, Mr. Chairman. One of the things I already pointed out in analogy with C&J the -- one of the attributes of the C&J to Logan, it goes on to Dover afterwards which there is a significant amount of

#### **CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

additional traffic so there's complimentary. If the line were extended, I mean, without having done any study, but off the top of the head again, there may be a value to picking up the -- to having the extended traffic at fairly low extended cost. Just a comment.

4. Miscellaneous:

5. Informational:

CHAIRMAN CHANDLER: Thank you. There are two other items, informational items on there. Other than that, that's it. Does anyone have anything else? If not, I am sure this will be our last meeting. I appreciate everyone, unless something comes up, but probably to make sure we don't one way or the other. Very good. We'll recess till the call of the Chair.

(Recessed at 11:05 a.m.)

**CAPITAL BUDGET OVERVIEW COMMITTEE**

**October 17, 2012**

## CERTIFICATION

I, Cecelia A. Trask, a Licensed Court Reporter-Shorthand, do hereby certify that the foregoing transcript is a true and accurate transcript from my shorthand notes taken on said date to the best of my ability, skill, knowledge and judgment.

*Cecelia A. Trask*

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