

FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD
MEETING MINUTES

September 21, 2018
Walla Walla, WA

Board members present: Mr. Dan Gatchet, Chair; Mr. Leonard Barnes; Mr. John Creighton; Mr. Erik Hansen; Mr. Johan Hellman; Mr. Pat Hulcey; Mr. Art Swannack; Mr. Tom Trulove; Mr. Bob Watters and ex-officio Aaron Hunt.

Board members not present: Secretary Roger Millar

WELCOME

Chair Dan Gatchet opened the meeting with welcoming comments and asked Board members to introduce themselves.

GUEST PRESENTATIONS

Port of Walla Walla Executive Director Patrick Reay gave a presentation to the Board on the port background, history, properties, legislative priorities, and current projects.

City of Kent Public Works Director Tim LaPorte gave a presentation to the Board on prior FMSIB projects and an update on the following two current FMSIB projects:

S. 228th Street Grade Separation- FMSIB has \$3.25 million in federal funds dedicated to this project. These federal funds must be spent by June 30, 2019, or the city will not be reimbursed. Mr. LaPorte confirmed that the city is able to spend \$3.25 million (and request reimbursement) by the June 30, 2019 deadline.

S. 212th Street BNSF Grade Separation- FMSIB awarded this project in 2004 and deferred it in 2014. This is a vital project even though the city currently does not have money to dedicate towards completion and FMSIB is still the only committed money. Mr. LaPorte pointed out that S. 212 is ranked 11th on the recent Road-Rail Conflicts Study Phase 2 project list and the city is requesting the project remain on FMSIB's project list.

MINUTES

Chair Dan Gatchet entertained a motion to adopt the June 1, 2018, minutes as presented. Mr. Trulove so moved to adopt the minutes and Mr. Swannack seconded the motion.

MOTION CARRIED

Chair Dan Gatchet entertained a motion to adopt the July 24, 2018, special meeting minutes as presented. Mr. Trulove so moved to adopt the minutes and Mr. Watters seconded the motion.

MOTION CARRIED

FMSIB BUDGETS (2017-19)

The *Operating Budget* is operating at about 90 percent forecast. The largest underrun through the end of August is the “Other Goods and Services.” This is mostly due to the Board’s decision not to travel to Washington, DC. Director Ziegler also pointed out that the total cost of the Road-Rail Conflicts Study Phase 2 will run about \$5,000 under the allotted \$60,000. Any remaining balance will go back into the fund from which it was appropriated.

The *Capital Budget* is about 10 percent expended and there are no significant changes since the last report to the Board in June 2018. Director Ziegler explained that although there appears to be a lag in expenditures, it does not mean projects are not progressing or spending money: it is also because they have not yet submitted their reimbursement requests. There will be a large number of reimbursement requests by the end of the 2017-19 Biennium.

The *2018 Call for Projects* awarded a total of \$23,450,000, which leaves about \$3.5 million forecasted to be available in the next biennium. The Board has the option to do another Call for Projects next spring or to wait for a Call for Projects in 2020. The Board might also award money to cost increase requests from existing projects or to potential projects that are requesting to be reconsidered for award money. Mr. Swannack recalled the Board discussion in June to indicate a lack of interest in conducting a “mini” Call for Projects. Mr. Hellman asked if there is a risk of the funds being swept if the balance is carried to the next Biennium. Mr. Hansen stated that it could happen but would not be likely. Director Ziegler pointed out that based on the Board’s recent grant awards, FMSIB has reduced the approximately \$60 million in uncommitted money over this biennium and next to approximately \$3.5 million.

FMSIB STAFF TRANSITION PLAN

Director Ziegler reviewed his briefing paper on FMSIB’s need for an overlap in service in the event of a planned or unplanned departure of FMSIB staff. Some options are to do nothing, request salary and benefit funds in an Operating Budget Decision Package for approximately three months of overlapping employment for the Director and replacement, submit supplemental budget requests, use FMSIB’s historical underruns in budget to cover overlapping employment costs, or utilize OFM’s Small Agency Contingency Funds for vacation and sick leave cash-outs (must be repaid). Since the 2019-21 Budget Proposal was due on September 12, Director Ziegler did budget for three months of overlapping employment for the Director and replacement (about \$39,000) and the vacation and sick leave cash-out (about \$20,000). Chair Gatchet emphasized this is not a request for an additional FTE.

No action requested by staff.

FMSIB BUDGET PROPOSAL (2019-21)

Director Ziegler gave a brief summary of *FMSIB’s 2019-21 Budget Proposal* that was submitted to the Governor on September 12, 2018. Hard copies are available upon request.

DIRECTOR’S REPORT

Road-Rail Conflicts Study – Phase 2 Update

This report was transmitted to the Legislature and OFM on August 30. Regarding next steps on this study, the WPPA, AWC, and WSAC have invited WSDOT and the UTC to attend a discussion on this topic on September 25.

FMSIB Member Appointments

The Governor's Office continues to pursue appointments for one vacant position (Counties) and two replacement positions (Ports, Cities). Tom Trulove and John Creighton have graciously agreed to attend and fulfill those duties until new appointments are in place. FMSIB staff continue to have weekly conference calls with the Governor's Office to receive updates on progress.

FMSIB Annual Report

FMSIB's annual report is prepared with the assistance of consultants. The five-year contract for these services expired June 2018 and a new contract solicitation was advertised. FMSIB has selected Kjris Lund for a one-year contract with five, one-year extensions (at FMSIB's discretion). Ms. Lund and Director Ziegler have been conducting Board member interviews and these should conclude by the end of September. A draft report should be available for review at the November Board meeting in Spokane.

Mr. Swannack requested FMSIB staff to confirm if the Board had delegated any authority to the Director to execute contracts on behalf of the Board. The Director agreed to research the question and provide a response to the Board (Note: This was provided to the Board in a Sept. 24 email from the Director).

JTC Air Cargo Study

A proviso in the transportation budget directed the Joint Transportation Committee (JTC) staff to conduct a study as follows:

Purpose:

Evaluate the current and future capacity of the statewide air cargo system

Objectives:

1. Educate policy makers about air cargo movement at Washington airports;
2. Explore possibilities for accommodating the growing air cargo market at more airports around the state; and,
3. Identify the state's interest and role in addressing issues arising from air cargo.

FMSIB was not identified as stakeholder and FMSIB staff have not been attending briefings on the study. Recently, JTC staff requested FMSIB, WSDOT, and the Dept. of Commerce to provide a joint memo to the JTC regarding preliminary study recommendations. Commerce and WSDOT provided such a memo and FMSIB staff concurred with their assessment of the recommendations.

Performance Assessment

FMSIB has not assessed the performance of the agency nor the Director. At the request of the Board Chair, the Director developed a brief assessment tool to be applied to both the agency and the Director. The Director performed a self-assessment and provided the results to the Chair. The Chair provided that assessment to the Administration Committee on June 29. The recommendations of the Administration Committee were presented to the full Board in Executive Session later in the meeting.

Codification Legislation

FMSIB, TIB, and CRAB collaborated on supporting legislation that would have made permanent the 2015 Connecting Washington revenue increases for each of our agencies. The bill did not pass in the 2018 session. The House bill, HB2896, was heard in Committee on 2/5/18 and passed out of committee 2/6/18. The Senate bill, SB 6830, was heard on 2/5/18 but never passed out of Committee. The agencies have collaborated on a strategy in the interim. Further work on this topic is awaiting consultation with key Senate leadership on their level of support. More to come by the November FMSIB meeting.

BOARD MEMBER REPORTS

Mr. Swannack attended a meeting with WSDOT and several stakeholders to discuss problems that agricultural equipment transporters have been having navigating roundabouts.

EXISTING PROJECTS UPDATES (CITY OF FIFE)

In April of 2018, the City of Fife requested the Board to consider funding a \$500,000 cost increase request for the Port of Tacoma Road Interchange Phase. This request was based on higher than expected bids. On July 23, 2018, the city then requested FMSIB to consider shifting Phase 1 funds in to Phase 2 since PSRC had requested the city to accelerate Phase 1 funding. On July 31, Fife withdrew their request for a cost overrun. The Director provided a detailed briefing report to the Board on the timelines for these events.

FMSIB POLICY ON COST OVERRUNS

At the June 1 Board meeting, the Board requested the Director to create a draft cost overrun policy and to review this proposed policy with FMSIB's Assistant Attorney General (AAG). The Director reviewed a possible cost overrun policy with the AAG and she said that granting the Board a maximum amount of discretion is fine as long as the rationale for decision-making is clear and not arbitrary, with no malice or favoritism. She also noted that any policy is not enforceable anyway, it is just guidance (The Administrative Procedures Act, RCW 34.05, governs creation of policies). She also suggested the Board review the current grant agreement language to see if it needs to be revised to allow cost increases.

FMSIB staff recommended to not write a FMSIB cost increase policy but to allow lead agencies to request cost increases and consider each one on their merits. When considering the merits of a cost increase request, FMSIB staff recommended that the Board be mindful of the following factors:

1. **Does the Board want to grant more than one increase to a project?** The most appropriate time for applicants to request funding increase would be at construction contract award when project costs are more defined.
2. **Does the Board want to increase the FMSIB share of funding for the project?** Increased funding awards could reset the FMSIB participation percentage to a share higher than the original award. One option is that maybe FMSIB's share of funding an increase ought to be the same as FMSIB's share of funding the original total project (said share is outlined in the initial funding award letter). Lead agencies would still be required to provide a refund of FMSIB funds if the Final Project Costs are lower than forecasted.

3. To what extent have other funding partners contributed to the cost increase?

Other funding partners may choose not to participate in the cost increase or may participate at levels variant from their original participation proportion.

4. Has the project applicant demonstrated that all other non-funding options for mitigating the cost overrun have been pursued and exhausted? This might include removing project elements or value engineering a different construction sequence.

5. What unallocated funding is available to the Board to fund the request?

Mr. Swannack moved to accept FMSIB staff's above recommendations for cost overruns. Mr. Barnes seconded the motion. Mr. Hulcey recused.

MOTION CARRIED

ROAD-RAIL CONFLICTS STUDY ADOPTION-RECONSIDERATION

At a special meeting on July 24, the Board adopted the final report of the Road-Rail Conflicts Study Phase 2. Subsequent to that adoption, staff discovered an error in the classification for the Pines Road project, which was listed in the report as a Tier 1 with an annotation that this project is to be moved to Tier 2 in the next update. The error was corrected by removing the annotation in the printed final report and was transmitted to the Legislature and OFM on August 30. The minutes from the July 24 read as follows:

Mr. Barnes made a motion to adopt the Advisory Committee Recommendations as presented. Mr. Art Swannack seconded. Mr. Johan Hellman requested clarification that the motion is to accept this study with the findings and recommendations. Chair Gatchet confirmed that is correct. Mr. Swannack asked if it also means the study will be forwarded to the Legislature. Director Ziegler confirmed that FMSIB is required by the proviso to forward the report to the Legislature. Mr. Ziegler also requested a roll call vote.

Board Member Roll Call Vote~YEAS:

Mr. Dan Gatchet, chair; Mr. Leonard Barnes; Mr. Erik Hansen; Mr. Johan Hellman; Mr. Pat Hulcey; Mr. Art Swannack and Mr. Tom Trulove.

The vote was unanimous

Mr. Swannack noted that he believes it was the Board's intention to move the project to Tier 2 based on Mr. Ewer's comments that the project should be a Tier 2. The Director reminded the Board that in all other cases, the MPO/RTPO determined whether a project was a Tier 1 or Tier 2, that this determination was generally accepted as factual, and that to change Pines Road would be a deviation from the process followed for all other projects.

FMSIB staff suggested the Board consider the following course of action:

1. Move to reconsider the Road-Rail adoption motion from the FMSIB meeting of July 24 (Any Board member on the prevailing side of this vote can move to reconsider the adoption motion). Requires a second.
2. Vote on the motion to reconsider. Requires simple majority to pass.
3. If the motion to reconsider prevails, then the Board may discuss and move to amend the July 24 adoption motion to specifically state that the Pines Rd. project remains in Tier 1. Any Board member may offer the motion. Suggested wording of the motion: *"I move to adopt the Road-Rail Conflicts – Phase 2 Report*

Advisory Committee recommendations presented to the FMSIB Board on July 24 with the Pines Rd. project included in the Tier 1 lists.”

Mr. Swannack moved to reconsider the July 24 approval of the Road-Rail Conflicts Study Phase 2. Mr. Barnes seconded.

MOTION CARRIED

Mr. Swannack moved to readopt the Road-Rail Conflicts Study Phase 2 in its entirety with the Pines Road project moved from Tier 2 back to Tier 1 as recommended by the MPO/RTPO. Mr. Watters seconded the motion.

MOTION CARRIED

POTENTIAL NEW PROJECTS

On September 14, the FMSIB 2018 Call for Projects Selection Committees reviewed two requests for reconsideration on projects that were not selected in the recent Call.

City of Edmonds-The Director received a request from the City of Edmonds to reconsider the Board’s June 1 decision to not fund the Edmonds Street Waterfront project. The city provided additional analysis on the freight benefits of this project.

Committee Recommendation to the Board: Do not fund this project

Chair Gatchet entertained a motion to accept the Committee recommendation. Mr. Trulove moved to accept the Committee recommendation and Mr. Swannack seconded. Mr. Hellman opposed the motion because the city took an innovative approach to this and, above all, it is a safety consideration.

MOTION CARRIED

City of Connell-The Connell Interchange Coalition met on July 13 to review BNSF’s 60-percent design and cost estimates. Now that the Coalition is willing to fund two federal grant submittals, the city has requested FMSIB reconsider awarding \$2 million in lieu of the original \$4 million request.

Committee Recommendation to the Board: Direct staff to contact the Coalition of ports supporting this project and determine the level of shipper commitments to use the line. In particular, identify new shippers coming online with the Port of Moses Lake project.

Mr. Swannack moved to accept the above Committee recommendation for staff to gather additional information before making a decision on this project. Mr. Watters seconded.

MOTION CARRIED

FMSIB 20th ANNIVERSARY BRIEFING

The Board discussed several options for celebrating FMSIB’s 20th year. Some of those options discussed included making the anniversary more prominent in the 2018 Annual Report, introducing a legislative resolution honoring FMSIB, or sponsoring a TVW program. *The Board requested the Director to take the next steps in speaking with private-sector stakeholders to see if there is an interest in sponsoring a TVW program for FMSIB’s 20th Anniversary. The Director will report back to the Board at the November meeting and a decision will be made at that time.*

EXECUTIVE SESSION

The Board conducted Executive Session to review the Administration Committee’s recommendations on the first-time performance assessment of FMSIB and the Director. The Director developed this assessment tool to identify performance goals of the agency and the Director and to document an annual assessment process. *The Chair will meet with the Director to discuss the results of the assessment.*

NEXT MEETING

Chair Dan Gatchet entertained a motion to hold the next FMSIB Board meeting on November 16, 2018, in Spokane Valley, WA. Mr. Trulove so moved and Mr. Barnes seconded the motion.

MOTION CARRIED

Chair Dan Gatchet adjourned the meeting at 1:15 p.m.

MEETING ADJOURNED



Dan Gatchet
Chair



Attest: Brian Ziegler
Director