

FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

MEETING MINUTES

January 15, 2021 • 9 a.m. – 11:15 a.m. • GoToMeeting
TVW Recording [FMSIB 01-15-21](#)

In Attendance

BOARD MEMBERS

Dan Gatchet, Chair	Anne McEnery-Ogle	Not Present:
Leonard Barnes	Roger Millar	
Matt Ewers	Art Swannack	
Erik Hansen	Bob Watters	
Johan Hellman	Ben Wick	
Temple Lentz	Ex officio Aaron Hunt	
John McCarthy		

FMSIB STAFF

Brian Ziegler, Director
Gena Workman, Executive Assistant

GUEST PRESENTERS

Lorelei Williams, City of Seattle
Michael Kosa, City of Sumner
Jim Morgan, City of Pacific

Meeting Convenes

Chair Dan Gatchet convened the GoToMeeting at 9 a.m. and introduced FMSIB's new Board member, Mayor Anne McEnery-Ogle. Virtual meeting protocols were reviewed. Ms. Workman conducted roll call.

Approval of Meeting Minutes

Board Action Item: Adoption of November 20, 2020, Board Meeting Minutes.

MOTION:

Chair Gatchet entertained a motion to adopt the November 20, 2020, meeting minutes as presented.

Mr. Bob Watters so moved to adopt the minutes as presented. Mr. Leonard Barnes seconded. Ms. Anne McEnery-Ogle abstained from voting.

MOTION CARRIED

FMSIB Budgets

FMSIB's Operating and Capital Budgets - Current Status

Operating Budget: FMSIB is currently running a little ahead for this biennium and will end the biennium at about 95 percent of expenditure, which is typical expenditure pattern. The reduced Board travel and staff furloughs have helped to absorb the unanticipated website migration costs.

Capital Budget: Director Ziegler presented the Expenditure and the Status Reports. Mr. Swannack pointed out that the Port of Kalama project is fully funded, but the Legislature moved it to a later biennium. Mayor McEnerny-Ogle asked about the older projects, such as the Kent project that was awarded in 2004. Director Ziegler explained FMSIB's strategic nature and willingness to be "first money in" and patient with complicated projects; however, FMSIB does review and take action to retain, defer, or cancel projects if necessary. The Kent 228th Street project is expected to be completed in April 2021, which is the last phase of a large multiphase project. Over the last few years, FMSIB's project portfolio has been reduced from an average eight years down to four years from time of award to construction.

Governor's Proposed Budget – FMSIB Fully Funded

Background: Several months ago, the Governor requested agencies submit budget proposals with 10 percent cuts in capital and operating expenditures. For FMSIB, that would have meant a capital reduction of \$3.6 million and an operating reduction of \$81,000. The operating reduction would have negatively affected Board and staff functions. Fortunately, the Governor's FMSIB budget proposal does not propose either reduction.

Operating Budget: Despite a 5 percent reduction proposed in the Governor's Budget, FMSIB operations would still be fully funded for the next biennium due to reduced travel costs and 24 unpaid furlough days proposed for both staff members.

Capital Budget: FMSIB would be fully funded for the 2021-23 Biennium at \$36.1 million which covers current FMSIB award commitments and includes some for future awards. If the Legislature does not reinstate the prohibition for a call for projects, then FMSIB could potentially conduct a \$15 million call beginning this July. FMSIB will discuss a possible call at the March meeting.

Future Agenda Item: FMSIB to discuss possible 2021 Call for Projects at the March 26 Board meeting.

Director's Report

Please see the Board meeting packet for the complete report on Director Ziegler's activities since the November 20, 2020, Board meeting.

Day on the Hill

Due to the pandemic, legislators will not be conducting in-person meetings this session. In response, Chair Gatchet and FMSIB Legislative Committee Chair Barnes have concurred in a different approach for FMSIB "Day on the Hill" this year only.

On January 18 and 19th, FMSIB staff will present a slide presentation and video to the House and Senate Transportation Committees, providing an overview of the agency and priorities for 2021.

Given this briefing to the Transportation Committees, committee members are not expected to accept a second offer from FMSIB to meet. Instead, FMSIB will email transportation committee members (after the January 18 and 19 presentations) an Annual Report and invite them to contact FMSIB if they have further questions.

2020 Annual Report

Staff have been working with the consultant to finalize the text and graphic layout for both the Annual Report and the accompanying slides. Added to the report this year will be a new 60-second video introducing FMSIB and the supply chain: <https://youtu.be/EP2awgv7Fms>

Legislative Guests

As is customary for the January Board meeting, FMSIB invited Senators Hobbs and King and Representatives Fey and Barkis to our meeting. Senator King joined the meeting and provided an overview of this session's legislative priorities and thoughts on the future of FMSIB. Senator King shared that this session is focused on being balanced through end of 2019-21 Biennium. The 2021-23 Biennium will also be challenging to balance, but they will hopefully come up with ways to do so with minimal angst. It may involve moving some projects out a bit. Senator Hobbs has put forth a 16-year proposal package. Representative Fey has his package ready to roll out. Senator King is working on his proposal but plans to wait until Senator Hobbs and Representative Fey present theirs. The Legislature is challenged to meet all the needs from the pandemic and transportation needs with no money in transportation budget. The focus must be on maintenance and preservation. Failing structures, roads, culvert issue and costs just keeps rising. Culverts need to be addressed and need to get done. Next year is an election year and raising taxes during that time is not easy. As far as FMSIB is concerned, there are people concerned about what FMSIB does and how they do it. Senator King thinks FMSIB has value, and we need to share that value and be more effective than what some people perceive it to be. Senator King offered to work with FMSIB in that regard. He also stated that he would love to hear the Board's thoughts, concerns, support, etc., as the packages come out.

FMSIB LEAP List Process - Update

The 2019 Legislature required FMSIB to comply with a new requirement, contained in LEAP List document 2019-3. Chair Gatchet asked if the new LEAP list requirement will continue. Director Ziegler said it will most likely continue and provided the briefing report from the Board's November meeting. During session, the LEAP list revision process is straight forward, it's part of legislative negotiations. However, once the LEAP list is adopted, a process for revision is needed to accommodate projects that delay or accelerate. A draft FMSIB LEAP List Revision process has been developed, and all parties (i.e., the Governor's Office, House and Senate Transportation Committee staff, LEAP Committee staff, and WSDOT) have agreed to the draft bill language. The Governor's Budget proposal did not include the draft language; however, the Governor supports the language. FMSIB staff is working with legislative staff to encourage the below language be included in legislative proposals:

Bill Language for FMSIB LEAP List Revisions

() For the 2021-23 project appropriations, unless otherwise provided in this act, the director of the office of financial management may authorize a transfer of appropriation authority between projects

managed by the freight mobility strategic investment board in order for the board to manage project spending and support the efficient and timely delivery of all projects in the program. The office of financial management may authorize a transfer of appropriation authority between projects under the following conditions and limitations:

(a) Transfers from a project may not be made as a result of the reduction of the scope of a project or be made to support increases in the scope of a project;

(b) Each transfer between projects may only occur if the director of the office of financial management finds that any resulting change will not hinder the completion of the projects on the FMSIB LEAP list; and

(c) Transfers between projects may be made by the board without the formal written approval provided under this subsection (), provided that the transfer amount does not exceed two hundred fifty thousand dollars or ten percent of the total project, whichever is less. These transfers must be reported to the director of the office of financial management and the chairs of the house of representatives and senate transportation committees.

(d) At the time the board submits a request to transfer funds under this section, a copy of the request must be submitted to the chairs and ranking members of the transportation committees of the legislature.

(e) Before approval, the office of financial management shall work with legislative staff of the house of representatives and senate transportation committees to review the requested transfers in a timely manner and consider any concerns raised by the chairs and ranking members of the transportation committees.

(f) No fewer than ten days after the receipt of a project transfer request, the director of the office of financial management must provide written notification to the board of any decision regarding project transfers, with copies submitted to the transportation committees of the legislature.

Board Member Reports

No Board Member reports noted.

City of Seattle – East Marginal Way Heavy Haul Corridor Improvement, Phase 1 - Update

Board Action Item: The City of Seattle is requesting approval for applying \$3.34 million of the total \$6.1 million grant to Phase 1 of this multiphase project.

Ms. Lorelei Williams, P.E., City of Seattle Deputy Director for Capital Project Delivery and Ms. Megan Hoyt, P.E., provided an update on FMSIB Project #100 East Marginal Way Heavy Haul Corridor Improvement, Phase 1 (S Atlantic St to S Spokane St). In 2018 the Board awarded \$6.1 million to this project to be spread over the 2021-23 and 2023-25 Biennia. In July 2020, the Board approved the city's request to apply \$1 million of the \$6.1 million FMSIB grant to Phase 1 if the city was not successful with their 2020 BUILD grant application and the project had to be phased. The Board asked the city to provide an update in 2021.

Since the city did not receive the 2020 INFRA or BUILD grant, they are proceeding with a modified Phase 1 and plan for construction to start in 2021. The city will continue to seek funding for Phase 2 (S Massachusetts St to S Hanford St).

East Marginal Way serves several terminals, is a regular arterial for the city, and it is even more critical route now with closing of the West Seattle Bridge. In addition to freight mobility improvement, this project also addresses a safety issue by separating walking/biking lanes.

Project Updates-Cost Increases Since July 2020

Ms. Hoyt shared that since the city's report in July, they have learned a lot about more about how complicated the track relocation portion will be. It was confirmed that UP owns this joint-use track, and the city needs to continue the process started with BN and is still working on those submittals. The franchise agreements need clarity and are slowing the process. The city is hoping this will be resolved in the fall, which means a revised ad date to January 2022.

Phase 1 is short \$2.34 million due to additional railroad submittals, increased design period, and higher construction contingency. FMSIB grant funds are currently planned to apply to Phase 1 & 2 and the city is asking for an additional \$2.34 million be moved into Phase to cover the railroad track relocation. If the city applies for and is successful for 2021 INFRA or BUILD grants, it will eliminate the Phase 1 shortfall and FMSIB funds would be applied to combined project (Phase 1 & 2).

Discussion

Mr. Swannack asked how likely it is to complete the right-of-way issues within timeframe presented and when does the city need a decision from FMSIB. Ms. Hoyt noted that it appears revised agreements with the railroad and an approved franchise agreement are not needed to go to ad. The money is not needed now, but it helps them to plan as they move forward.

Mr. McCarthy asked if the railroads have any money invested in this project and if the city has gone to any other sponsors for an increase in contributions. Ms. Hoyt responded that the railroads have not invested. The city has not gone to TIB or others because it would be a cost increase in those cases, whereas with FMSIB, it is a request to move already committed funds. Mr. McCarthy supports this project but would like to see equitable increase from other partners.

Mayor McEnery-Ogle stated she is reluctant to approve the request because how long it takes for BN and UP with agreements to be completed. Mayor Wick asked how this would impact Phase 2. Ms. Hoyt said the movement of money would help get Phase 1 built but would not impact Phase 2.

Mr. Barnes, Mr. McCarthy, and Mr. Swannack agreed to wait on making this decision until the next meeting.

Director Ziegler pointed out that this is not a request for cost increase to the FMSIB award, but a request to shift already awarded funds. There is also a project delivery benefit worth considering (\$6.1 million split between the next two biennium).

Mr. Millar thinks whether we approve today or not, the city has the same problems, and he doesn't think we should take action today. Mr. Millar pointed out that this project is not a mainline track and shouldn't be a big deal. He also noted that this is a good project that benefits everyone and asked for UP and BN input.

Mr. Hellman stated has not been involved in these conversations but is willing to talk with his UP colleagues. Mr. Hunt shared that despite it not being a mainline track, it is a very busy one. A lot of questions have developed regarding ownership, which is very complex. He will also discuss this project with his colleagues to see where UP is at and to hopefully have a conclusion as quickly as possible.

Director Ziegler summarized that Board will not decide today and invited Ms. Hoyt to provide an update at the March 26 Board meeting.

Ms. Lorelei Williams announced she has accepted another job opportunity, and Ms. Megan Hoyt will continue to manage this project

MOTION: No Board motion taken.

Future Agenda Item:

1. The Board requested The City of Seattle provide an update on the East Marginal Way project at the March 26 Board meeting.
2. Mr. Hellman and Mr. Hunt will report any progress in railroad negotiations at the at the March 26 Board meeting

City of Sumner – Stewart Road Bridge Replacement- Update

Board Action Item: The City of Sumner requests additional \$700,000 FMSIB funding.

Mr. Michael Kosa, P.E., City of Sumner and Mr. James Morgan, P.E., City of Pacific provided an update to FMSIB Project #101 Stewart Road Bridge Replacement. FMSIB awarded \$3 million to this project in 2018. This bridge connects the City of Sumner to the City of Pacific, and as a result, the Sumner project has impacted the City of Pacific with additional UP railroad crossing costs.

The City of Sumner is entering final design and will be shovel-ready summer 2022. The City of Pacific has been conducting a project with overlapping footprint and was originally told by UP that advance preemption would not be required; however, that changed in the later part of 2020. The City of Pacific is ready to advertise, but now has a shortfall due to cost increase from UP. Mr. Kosa would like to act as a grantee and reimburse the \$700,000 impacts to Pacific. The two cities have overlapping goals for this freight project and the money can be spent now.

Discussion

Director Ziegler pointed out that the fund increase would be granted to Sumner and then Sumner would act as financial provider to Pacific since Sumner's project is causing these impacts of additional expenses to Pacific.

Mayor McEnery-Ogle was very pleased to see this type of partnership among the cities and would support a motion.

Mr. McCarthy pointed out that the Port of Tacoma is very supportive of this project and appreciates the diligence Sumner has shown in moving forward. He would support this request.

Mr. Swannack asked if awarded, then does FMSIB have to go to the Legislature for approval. Director Ziegler indicated that would be the case.

Mayor Wick asked which biennium the \$700,000 increase would be added to. After further discussion, it was determined the \$700,000 increase authority should come from Future Awards money and would be dedicated in the 2023-25 Biennium.

MOTION: Director Ziegler proposed the Board authorize a Stewart Road Bridge Replacement project grant increase from \$3 million to \$3.7 million contingent on the following:

1. City of Sumner enters an interlocal agreement with City of Pacific, ensuring the additional funds are dedicated to FMSIB-eligible elements of the City of Pacific's adjacent project, and
2. Legislative approval of the project cost increase.

Mayor McEnery-Ogle so moved, and Mr. McCarthy seconded.

Mayor Wick asked if motion should include the agreed upon biennium for the funds. Director Ziegler stated he can amend the motion to include the funds be dedicated to the 2023-25 Biennium with Mayor McEnery-Ogle and Mr. McCarthy approval.

AMENDED MOTION:

Mayor McEnery-Ogle and Mr. McCarthy approved amending no. 2 of the above motion to:

2. Legislative approval of the project cost increase *in the 2023-25 Biennium*.

MOTION CARRIED

Staff Action Item: Follow-up with City of Sumner for a copy of the interlocal agreement.

2021 Legislative "Visits"

Director Ziegler will forward a copy of the slides, 2020 Annual Report, and introduction video to Board. This is the same information that Director Ziegler will present to the House and Senate Transportation Committees and to the Washington State Transportation Committee.

Staff Action Item: Email the slide presentation, 2020 Annual Report, and video to the Board.

Next Meeting

March 26, 2021 - Virtual

Meeting Adjourned

Chair Gatchet lost his internet connection to the meeting. Director Ziegler adjourned the meeting at 11:40 a.m.

Summary of Board Motions & Recommendations:

- 1) Adoption of November 20, 2020, Board Meeting Minutes. *Motion Carried* (page 1)
- 2) Approval to award \$700,000 grant increase to the City of Sumner Stewart Road Bridge, contingent upon (a) City of Sumner enters an interlocal agreement with City of Pacific, ensuring the additional funds are dedicated to FMSIB-eligible elements of the City of Pacific's adjacent project, and (b) Legislative approval of the project cost increase in the 2023-25 Biennium. *Motion Carried* (page 7)

Summary of Staff Action/Direction Items:

- 1) Follow-up with City of Sumner for a copy of the interlocal agreement. (page 7)
- 2) Email the slide presentation, 2020 Annual Report, and video to the Board. (page 7)

Summary of Future Agenda Items:

- 1) FMSIB to discuss possible 2021 Call for Projects at the March 26 Board meeting. (page 2)
- 2) City of Seattle East Marginal Way Project: The city to provide an update at the March 26 meeting. (page 6)
- 3) City of Seattle East Marginal Way Project: Mr. Hellman and Mr. Hunt will report any progress in railroad negotiations at the March 26 meeting. (page 6)



Dan Gatchet
Chair



Attest: Brian Ziegler
Director