

TOWN COUNCIL MINUTES
Environmental Committee Meeting
Town Hall Council Chambers
February 1, 2012 - Wednesday

Present: Brian McDonald, Chairman
Robert Conlon, Vice Chairman
Thomas J. Lacey, Councilor

Not Present: Ken DiFazio, Councilor
Victor Pap, III, Councilor

Also Present: Patrick O'Connor, Councilor

Recording Secretary: Mary Barker

Chairman McDonald called the Environmental Committee Meeting to order at 7:05 PM. He reported that Councilor DiFazio may be late, but the committee has a quorum.

Fore River Bridge Replacement Project

The purpose of the meeting is a discussion of the Fore River Bridge design in advance of the public hearing next week. Gary Peters of the Fore River Bridge Neighborhood Association (FRBNA) was invited to make a presentation.

Mr. Peters noted that although the Town Councilors and Mayor are all on board with a low impact bascule style bridge, the consultants from the MassDOT will be coming in next week with a recommendation for a 250' vertical lift bridge. He updated the committee on the environmental permitting, which is happening quickly. The concern he has is that the elected officials and the public have been excluded from the process. MassDot has not been forthcoming to requests for documents under the Freedom of Information Act. The group has just received the document with the vertical and bascule design comparison and they are just beginning to review it while the design is already at 25% design phase. They have still not received all of the documents that were requested. Mr. Peters noted that this department has been very poor to respond; the EPA and other agencies usually respond fairly quickly. It's been 2 ½ years, and there are still items that MassDOT has not provided.

He provided the committee with three documents and reviewed them. The Federal Highway department has issued the Environmental Assessment; a Finding of No Significant Impact (FONSI). He reviewed the NEPA process. FRBNA has been requesting since the beginning that an Environmental Impact Statement for the following reasons listed under the Environmental threshold. There are six criteria listed and two that apply:

1. Major federal action-requires Coast Guard permit, NEPA process
2. Significantly affecting the human environment-construction once begun will be 7 days/24 hours within 100' of dwellings

It will have a significant impact, and the FONSI finding in his opinion was wrong. The town may want to challenge this at some point for those reasons.

Chairman McDonald asked what steps would be necessary to challenge that. Mr. Peters responded that it is his understanding there is no in-house challenge; it would likely require a challenge at the federal level in federal court; essentially filing an injunction for relief while the court reviewed why an Environmental Impact Statement would be the appropriate vehicle to mitigate the impacts for Weymouth. Chairman McDonald asked the approximate financial impact to the community. Mr. Peters responded that less than \$10,000 would be his guess. Merely filing an injunction would render quick action. He noted that the FRBNA has established a good record in case this was ever litigated and his personal opinion is that the town would prevail.

He then reviewed the bridge permit. The Coast Guard claims not to have established the width of the channel; however a review of the documents indicates they established the threshold of 225-250', but haven't officially rendered a decision because a formal decision cannot be rendered until it has been filed and acted on. Before it can be acted upon, they require three more permits; Clean Water permits from Army Corps of Engineers and the DEP and Coastal Zone Management Certification. These essentially confirm that the Coast Guard has reviewed everything and it is in keeping with how they manage the waterways along the coast. Mr. Peters noted that he and one other person have status in these hearings. He noted that the handling of it was repulsive. When the Environmental Impact hearing was filed in January, MassDOT immediately went to the Army Corps of Engineers and DEP and buried it in the legal section of the newspaper. They didn't invite anyone with credentials to comment. If it weren't for a phone call there wouldn't have been any public input on three fairly significantly important environmental permits. Because of the phone call, they do have standing. The 401 is written and waiting for a signature at DEP; unless something changes, Mr. Peters will personally challenge it. They intend to work through town river and fish runs. Weymouth and Braintree have spent significant funds opening it up; it's the largest rainbow smelt route in the state. Much has been done to reconstitute that river and they wish to put it in jeopardy.

During this discussion, at 7:15PM, Councilor Mathews arrived.

There are many technical areas to be reviewed and the group is lucky to have knowledgeable engineers and maritime experts; it isn't a knee-jerk reaction and it based on research, science and the record to date. They reviewed the 404 – there is no public input. The EPA does not have the ability to challenge that. Mr. Peters noted there are only two opportunities to challenge; with the 401 Clean Water Certificate through the DEP (in the next few days), and the EPA. When Mr. Peters came before the full Council, and because of the change in the Open Meeting Laws, he asked to recommend to the full Council the most appropriate way to put forward the ideas and the approach. He noted that there are also things that maybe shouldn't be put forward, and dealt with in executive session. He reviewed the MWRA issue several years ago. Sensitive discussion needs to be considered.

Mr. Peters summarized that the bascule bridge is more appropriate to the site; a quick

operating bridge that fits the channel. This will be overbuilt. Major warships were constructed and were able to be brought through the channel with the prior bridge. The Panama Canal bridge is smaller. The prior design and size is sufficient and this is the wrong fit for the town.

Chairman McDonald noted the jogs limit the design. Mr. Peters noted the design will be fit to the original footprint. The frequency of openings won't change. Mr. Peters noted that maritime law governs it. Sailboats can't traverse during rush hour. The commuting public will be most affected. Saying it will be bigger, wider and operating more quickly has not been demonstrated. Essentially, the town will be spending more money on something that won't serve the town well.

Chairman McDonald noted the Council has gone on record supporting a bascule design that takes less width in the channel. The state has not demonstrated a compelling case as to why the bigger vertical lift bridge is needed.

Councilor Conlon noted the cost difference between the bridges should be of paramount concern. The wider bridge is not necessary. The state's infrastructure is crumbling, and the money could be better used elsewhere.

There was a brief discussion of sailboat traffic and the effect with a bascule bridge design. Mr. Peters noted the bascule design can be partially opened to allow clear passage. The temporary bridge is the largest temporary movable bridge in North America.

Councilor Lacey asked if Mr. Peters has had direct discussion with the Mayor's office. To appeal will require advocacy from that office. He asked why the state is digging in and not appeasing the cities and towns and suggesting a larger, more expensive bridge than what is necessary. Mr. Peters responded that the state is acquiescing to the Coast Guard parameters to avoid having the permit process being dragged out. The Coast Guard's official position is to wait for the permits and then make a ruling. In the process, they have taken the rights from the commuting public, favored maritime interest. He discussed the interests bordering the river including Citgo, Quirk, the T ferry and USS Salem museum. Mr. Peters noted he believes the only one benefitting from this, and at the expense of the rest, is Citgo. Councilor Lacey noted he brought up the same question a year ago on the heavy approach on the plan, the process and the ultimate decision and he is concerned because it is a big money company and it is looking to long and short term needs that benefit them the most. Mr. Peters has provided information on the negative impacts, and asked about the process outlined with the six criteria. He asked if each or all of the criteria must be met in order to deny. Mr. Peters responded that if it failed any of the six, it would be appropriate to issue a FONSI. It's a lengthy document, and in many areas it's come up short, with large policy implications. Everything was predicated on the very first document. He requested two documents in 2009 which started the whole thing and years later, millions of dollars spent and questions still unanswered. Mr. Peters notes his frustration with the process goes back to the original construction of the temporary bridge. He will be reasonable, but there are many areas that need to be

worked out before the project gets going. Unfortunately, their attitude is that they are going to do what they want and how they want to do it. The term “sovereign immunity” applies to Mass Highway; none of the town’s ordinances will work. Councilor Lacey asked about state law; Mr. Peters responded that is where it will get interesting. Councilor Lacey asked where Quincy stands on this; Mr. Peters responded that the city is not as on board as he would like, although the environmental network is. There is good support at the city council level, but he is unsure of the Mayor and administration.

Councilor Mathews suggested that going forward, the Council needs to see what transpires at the public hearing and the Council should resubmit comments at it. The most recent public project (Washington and Middle Streets) had issues and MassDOT was amendable to accommodate the town with respect to some of the land-takings. Following the public hearing, the Environmental Committee should then schedule another meeting, with Solicitor Lane present, to provide legal guidance as to what the Council’s jurisdiction includes and particularly in light of his comments at the last Council meeting. Mr. Peters agreed with this approach and thanked the committee and recommended that the Council present its comments.

A MOTION was made by Councilor Lacey that the Town Council resubmit its PAST LETTERS in support of a bascule design bridge and was seconded by Councilor Conlon. Councilor Mathews recommended that the public be informed about the upcoming public hearing at the Council meeting as well as it has not been well promoted. Councilor Lacey asked if there is a strategy to filling the auditorium on the night of the public hearing. Mr. Peters will call his contacts after the weekend, including the civic associations. The public needs to be educated, informed and advocate. Councilor Conlon asked if Mr. Dowd is still the representative project manager. He asked if it is possible to question the specific engineers. Mr. Peters responded that some of the credentials of the officials are questionable. UNANIMOUSLY VOTED.

ADJOURNMENT

At 7:50 PM; there being no further business, a MOTION was made by Councilor Lacey to ADJOURN the Environmental Committee meeting and was seconded by Councilor Conlon. UNANIMOUSLY VOTED.

Respectfully submitted by Mary Barker as Recording Secretary

Approved by Chairman McDonald