

**POTOMAC AND RAPPAHANNOCK  
TRANSPORTATION COMMISSION**

**RESOLUTION**

**MOTION:** \_\_\_\_\_

**RESOLUTION NO. 07-04-\_\_\_**

**OFFICIAL COMMISSION MEETING**

**SECOND:** \_\_\_\_\_

**APRIL 5, 2007**

**RE: I-395/I-95 HOT LANES PROJECT DESCRIPTION PROPOSED FOR  
INCLUSION IN THE TRANSPORTATION PLANNING BOARD'S (TPB)  
CONSTRAINED LONG RANGE PLAN (CLRP) AND ASSOCIATED  
CONFORMITY ANALYSIS**

**WHEREAS**, the northerly segment of the "I-395/I-95 high occupancy toll lanes" (HOT) project has been submitted to the MWCOG Transportation Planning Board (TPB) as one of a number of projects proposed for inclusion in the TPB's upcoming air quality conformity analysis; and

**WHEREAS**, the TPB has invited public comment on the projects proposed for this analysis, so it can account for comments received before it decides on April 18, 2007 which projects should become part of the analysis; and

**WHEREAS**, the Potomac and Rappahannock Transportation Commission ("the Commission") and its member governments have a keen interest in this project; and

**WHEREAS**, PRTC management has reviewed the project description and finds aspects of it wanting; and

**WHEREAS**, the Commission has been briefed by PRTC management on the project description and concerns thereto; and

**WHEREAS**, PRTC management has drafted a letter to the TPB describing these concerns and urging that the description be modified to address these concerns; and

**WHEREAS**, the Commission concurs with PRTC management's findings and the draft comments it has prepared to communicate concerns with the project description.

**ITEM 12-C.1**

**(33 PAGES)**

**NOW, THEREFORE, BE IT RESOLVED** that the Potomac and Rappahannock Transportation Commission does hereby authorize its Chairman to transmit the letter drafted by PRTC management to communicate these findings and concerns to the TPB.

April 5, 2007

TO: Chairman Gibbons and Commissioners

FROM: Alfred H. Harf  
Executive Director

RE: I-395/I-95 HOT Lanes Project Description Proposed for Inclusion in the  
Transportation Planning Board's (TPB) Constrained Long Range Plan  
(CLRP) and Associated Conformity Analysis

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Recommendation:

Approve the comments prepared by PRTC management for transmittal to the Transportation Planning Board (TPB) reacting to the proposed project description, so these comments can be considered by the TPB as part of the public review process now underway leading up to the TPB's scheduled action on April 18<sup>th</sup>.

Background:

The northerly segment of the proposed I-395/I-95 HOT Lanes Project<sup>1</sup> has been submitted to the TPB for prospective inclusion in the TPB's constrained long range plan (CLRP). The submission is happening at this time to allow the project to become part of the normal, annual cycle for air quality conformity analysis, rather than as an off-cycle submission, because it is easier to demonstrate conformity in a "normal cycle" analysis

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<sup>1</sup> The "northerly segment" as it is called extends from Eads Street in Arlington on the northern end to Garrisonville Road (Route 610) on the southern end. This is a change from previous depictions of the northerly segment in that a Garrisonville Road terminus is some nine miles further than the southerly terminus of the northerly segment as described before. The change has been made in response to pleas by the Fredericksburg Metropolitan Area Planning Organization (FAMPO) and its member governments to extend the reach of the northerly segment of project further south to ease the traffic problems that already exist where the HOV lanes currently end, as traffic in the HOV lanes and general purpose lanes merge.

The northerly segment of the project is also only a part of the overall project – the southerly segment as now proposed extends southward from Garrisonville Road to the vicinity of Route 17 in Spotsylvania County (Massaponax). Only the northerly segment of the project is before the TPB for consideration, however, because project implementation is still expected to occur in phases with the northerly and southerly segments constituting separate phases. The northerly segment is expected to be completed sooner than the southerly segment.

than it is in an off-cycle submission. Moreover, by submitting now, the conformity finding can be achieved sooner, which VDOT and its private sector partner Fluor/Transurban (FTU) are eager to do in order to “fast-track” the project and minimize inflation-related cost escalation. This project is one of several that have been submitted to the TPB for this purpose, and the TPB formally commenced a public review process on March 15<sup>th</sup> to invite comments on the prospective projects. Comments received during the month-long public review process will be considered by the TPB before it takes action, which is scheduled to occur on April 18<sup>th</sup>. The TPB action will define which projects are included in the conformity analysis and their scopes, so this is an important milestone for VDOT, FTU, and the region’s stakeholders including PRTC’s member governments.

As significant as this looming TPB action is, it is important to understand what the action is and what it is not. It is a sanctioning action of sorts because it allows the project to become part of the TPB’s next regular cycle, air quality conformity analysis, but it is not a project approval. Several significant things must happen before a decision whether to approve the project can be made, including, but not limited to: a finding of conformity based on the analysis; and a finding by the lead federal agency (FHWA) that the project has fulfilled the requirements of the National Environmental Policy Act (NEPA). Consequently, the looming TPB action is not the last opportunity that PRTC and its member governments will have to react to the project plans and seek changes as they see fit. I’m drawing the Commission’s attention to what the upcoming TPB action signifies because I’m very much aware of the fact that: (1) a host of questions about the project remain unanswered; and (2) answers to these questions will have an important bearing on longer-term decisions about whether the project should be implemented as planned. A letter sent recently by NVTA Chairman Chris Zimmerman to Virginia Transportation Secretary Homer (attachment one) provides a good summary of what these questions are.

While the looming TPB action is not a project approval, it is in the Commission’s interest nonetheless to carefully examine the scope of the project as proposed and take advantage of the comment opportunity. To this end, PRTC management has been actively engaged in discussions about the project scope leading up to its submission to the TPB. While these discussions have had the beneficial effect of prompting some changes to the project description before its formal submission to the TPB, not all of the changes PRTC management suggested were accepted, and some that were omitted are matters of concern. Consequently, PRTC management has prepared proposed comments on the project description for transmittal to the TPB, and the discussion that follows elaborates on the comments and the reasons for them.

The first draft of the project description was presented during the week of March 12<sup>th</sup> to the members of the Transit Advisory Committee (TAC) established by Transportation Secretary Homer to develop a transit service plan as a complement to the HOT lanes. TAC members made a number of constructively critical observations about the draft project description, some but not all of which VDOT and FTU saw fit to accept. While the project description submitted to the TPB is an improvement over the original draft<sup>2</sup>, it is still wanting in several important areas, prompting PRTC management to conclude that comments by PRTC are necessary as part of the formal, TPB public review. The comments as drafted affirm PRTC's support for facets of the project description in addition to offering constructively critical comments, so the constructively critical comments can be seen in proper context. I should add that the letter drafted to transmit the proposed comments also makes it clear that the PRTC neither endorses nor opposes the project at the present time, since an opinion about the merits of the project is best left until after the results of ongoing analyses by VDOT and FTU have been reviewed and the questions referenced earlier have been answered.

The proposed comments (attachment four) encompass the following issues:

1. The standard proposed for defining "free flow". As the Commission has been previously informed, federal law (SAFETEA-LU) allows for the conversion of HOV lanes to HOT lanes so long as tolling and enforcement is such that traffic flow in the lanes is maintained at a SAFETEA-LU defined standard. That standard calls for traffic to average no less than 45 mph at least 90% of the time in the peak periods on a sustained basis, which is significantly slower than prevailing speeds in the HOV lanes. Stated differently, if the SAFETEA-LU standard were the standard employed by VDOT and FTU for setting toll rates, it would be permissible for traffic speeds in the lanes to be materially slower than at present. TAC members urged that the project description clearly indicate an expectation that the standard applicable to the project will be more exacting than the SAFETEA-LU standard, while demurring on what the standard should be to allow necessary further fact-finding before deciding this. VDOT and FTU accepted this feedback in part, altering the project description to say that the standard would be the SAFETEA-LU measure at a minimum (emphasis added). The project description does not go on to say that there is an expectation that the standard ultimately chosen will be more exacting, so the proposed PRTC comment on this issue credits the sponsor(s) for referencing the SAFETEA-LU standard as a minimum while calling for additional language that indicates an expectation that the standard ultimately chosen if the project is implemented will be more exacting.

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<sup>2</sup> This can be seen by comparing the first draft with its marked-up comments by PRTC(attachment two) and the second draft submitted to the TPB for public comment (attachment three).

2. Portrayal of the transit service plan and park-ride accommodations made part of the project description. Because work on the transit service plan (which will include a fresh examination of what park-ride accommodations are necessary to properly support the HOT lanes) that the TAC has been directed to produce is only now beginning, and because the VDOT/FTU team wanted to incorporate a transit service plan of some sort in the project description for CLRP/“conformity analysis” consideration as tangible evidence that improved transit service is one of the project aims (as well as to enhance the project’s emissions benefit), VDOT/FTU had to formulate a plan of their own making for this purpose, which they have done. That plan is essentially an accelerated version of transit service improvements present in the NVTA’s 2030 plan, which VDOT/FTU reasoned was: the most sensible facsimile for a real plan since service improvements appearing in the NVTA 2030 plans have standing; and affordable based on preliminary financial analysis work. While TAC members understood this rationale and found no fault with it, they urged that the project description be amended to state more clearly that the submitted plan is “place-holder” (preliminary) that would ultimately be replaced by the future TAC work product. TAC members also urged that the description say that the expenditure associated with the transit services appearing in this plan be characterized as a minimum amount for transit service.

VDOT/FTU did see fit to amend the project description to more explicitly reference the TAC work effort, but the language still does not characterize the future TAC product as an anticipated substitute, opting instead to call for “coordination” and “refinement” of the plan as submitted based on that future work product. Moreover, the description continues to characterize the expenditure as shown as “what can reasonably be expected to be funded by the project”.

Because the changes to the project description do not go far enough, the comments proposed for transmittal to the TPB praises VDOT’s/FTU’s recognition of the importance of a companion transit service plan, but faults the description for: not unequivocally stating that the TAC product is expected to become the substitute; and characterizing the expenditure as though it is a cap on what the project can support financially despite the fact that the toll and revenue study is not yet completed.

A separate, related concern about the “transit service plan” element of the project description is its stated assumption that half of the currently estimated \$64 million needed for the capital cost of the transit service plan will be borne by “USDOT transit capital funding program grants (including sections 5308 and 5309)”. The pursuit of federal discretionary funds as a source of \$32 million raises two issues: (1) what do the sponsors plan to do if their discretionary funding pursuit is for naught or ends up with less than the amount sought; and (2) how will this pursuit impact on the discretionary funding prospects of the individual transit providers in the corridor for projects independent of the HOT lanes initiative? The first of these questions is clearly one that the sponsors should be compelled to answer, since it goes directly to the question of whether the project as proposed is financially feasible.

3. “Free use of the HOT lanes” privileges. The project description states categorically that HOV3+ and transit services will have free use privileges in accordance with state law. Some of the TAC members (including me) urged that this reference be changed to characterize the “free use” privilege in terms of continuing state statutory compliance, so the door is left open to the possibility of a change in the state law about the occupancy standard for “free use” privileges. VDOT/FTU chose not to do so, and PRTC management view this as a mistake since overall traffic in the I-395/I-95 corridor continues to grow and there may well be a time in the future where a change from HOV3+ to HOV4+ is necessary for the overall public good. Any such change would require General Assembly approval so there are adequate protections in-place to insure that a change like this is for publicly defensible reasons, so a categorical statement that HOV3+ will have “free use” privileges for as long as the project exists seems short-sighted. Thus the comments as drafted suggest that the description be changed as described earlier.

Fiscal Impact:

Not applicable.

Attachments: As stated

**DRAFT**

Ms. Catherine Hudgins  
Fairfax Board of County Supervisors  
Transportation Planning Board Chair  
12000 Government Center Parkway  
Fairfax, VA 22035-0065

Dear Ms. Hudgins:

On behalf of the Potomac and Rappahannock Transportation Commission (PRTC), I am writing to submit comments for the Transportation Planning Board's (TPB) consideration related to one of the projects the TPB is contemplating for incorporation in the upcoming conformity analysis and the constrained long-range plan (CLRP) thereafter. That project – the so-called northerly segment of the I-395/I-95 HOT lanes proposal – is indeed regionally significant, with implications for all of PRTC's member governments.

At the outset, the PRTC Board has directed me to make it clear that its comments are not meant to be either an endorsement or rejection of the proposed project. The PRTC Board understands that the looming TPB action is simply a decision whether the project should be included in the upcoming conformity analysis, and thus the comments that follow are in that context. The PRTC Board recognizes that the scope of this proposed project may change based not only on the findings of the conformity analysis (assuming the TPB decides to include it in that analysis), but also as a result of parallel analyses that are either in progress or soon beginning, including: environmental studies in compliance with National Environmental Policy Act (NEPA); a toll and revenue study to confirm the financial viability of the proposed project; and a transit service planning study to produce a more comprehensive description of the transit service improvements warranted as a complement to the project.

For many of the PRTC Board members, the findings of these ongoing or soon-to-begin studies will shape their views on the merits of the project, since many important questions (as described in a recent letter sent by Northern Virginia Transportation Authority Chairman Chris Zimmerman to Virginia Transportation Secretary Homer; copy enclosed for your ease of reference) remain unanswered. Nonetheless, the description of the I-395/I-95 HOT lanes proposal is a matter of importance to the PRTC Board, and thus the PRTC Board would like the TPB Board to consider the following changes to the description as written as conditions to its inclusion in the conformity analysis.

Our comments follow:

1. The standard used for defining free flow. A fundamental tenet of this proposed project is that toll-paying vehicles would be permitted in the HOT lanes only if the lanes are free-flowing. The project description acknowledges that federal enabling legislation (SAFETEA-LU) defines a minimum standard for traffic flow (i.e., movement in the lanes must be no less than 45 mph

during the peak periods on a sustained basis), and it goes on to say that this standard will be respected at a minimum, but it does not signal whether the sponsors expect the standard to be more exacting (better) than this minimum. Since by VDOT's telling, traffic in the existing HOV lanes is currently flowing at speeds that are materially higher than this SAFETEA-LU prescribed minimum standard, a project description that can be read to mean that the SAFETEA-LU standard may end up becoming the chosen standard is objectionable to PRTC, because the PRTC Board is unwilling to accept a materially lower level of service in the HOV lanes than they currently experience.

The PRTC Board also recognizes that setting a standard like this is a complex undertaking, requiring as it does a full understanding of the implications of varying standards on traffic demand, traffic flow, and financial viability, all of which require completion of the studies underway or soon beginning. Consequently, the PRTC Board does not propose to specify a substitute standard in the project description – it simply would like to see a statement added to the project description signifying the sponsors': (1) recognition that the average traffic speed in the existing HOV lanes is significantly higher than the minimum SAFETEA-LU standard; and (2) expectation that the standard ultimately adopted for measuring "free flow" and establishing toll rates will be higher than the SAFETEA-LU minimum in order to insure that average traffic speed in the lanes is not significantly reduced by the allowance of toll paying vehicles.

2. The portrayal of the transit service plan and park-ride accommodations appearing as part of the project description. The project sponsors acknowledge in the description that the "transit service plan" element of the project is preliminary, and also acknowledge that a transit planning effort will soon be launched at the instigation of the Virginia Secretary of Transportation to define a more comprehensive service plan (and associated park-ride needs). Left unsaid in the description as written is whether the product of the transit planning effort now beginning will assuredly become the substitute for the preliminary plan and the 3,000 park-ride spaces called for by the project description, as the PRTC Board believes it should. The description as written also implies that the expenditure required to implement the preliminary plan constitutes all that the project can financially support, which the PRTC Board believes is a premature assertion since the toll and revenue study that the private sector partner is doing has not been completed as yet. While the PRTC Board has no quarrel with the assertion that the expenditure required by the preliminary plan is financially supportable, a more apt description of this expenditure level at this point in time is that it is a minimum rather than a maximum.

Accordingly, the PRTC Board believes the project description should be amended to clearly say that the product of the transit service planning effort

now beginning will become a substitute for the preliminary plan, and that the expenditure for improved transit services and park-ride facilities will amount to at least the expenditure presently appearing in the description.

3. Reliance on federal discretionary funds for half the estimated capital cost of the transit service plan. The “transit service plan” element of the project description calls for half of the currently estimated \$64 million capital cost of the transit service plan to be funded by “USDOT transit capital funding program grants (including sections 5308 and 5309)”. The pursuit of federal discretionary funds as a source of \$32 million raises two issues: (1) what do the sponsors plan to do if their discretionary funding pursuit is for naught or ends up with less than the amount sought; and (2) how will this pursuit impact on the discretionary funding prospects of the individual transit providers in the corridor for projects independent of the HOT lanes initiative? The first of these questions is clearly one that the sponsors should be compelled to answer, since it goes directly to the question of whether the project as proposed is financially feasible.
4. “Free use of the HOT lanes” privilege. The project description states categorically that HOV3+ and transit services will have free use privileges in accordance with state law. The PRTC Board believes this reference should be changed to characterize the “free use” privilege in terms of state statutory compliance, leaving the door open if necessary to a change in the state law about the occupancy standard for “free use” privileges. Since overall traffic in the I-395/I-95 corridor continues to grow and there may well be a time in the future where a change from HOV3+ to HOV4+ is necessary for the overall public good, this kind of flexibility would seem well-advised. Any such change would require General Assembly approval so there are adequate protections in-place to insure that a change like this occurs only for publicly defensible reasons.

Thank you for the opportunity to comment.

Sincerely,

Robert Gibbons  
Chairman

Enclosure: As stated

cc: (w/enclosure)  
Ron Kirby, TPB Transportation Planning Director

