

**Florida High Speed Rail Authority
Meeting Minutes
December 11, 2002**

**Orange County Commission Chambers
201 South Rosalind
Orlando, Florida**

Call to Order: Chairman Frederick Dudley called the meeting of the Florida High Speed Rail Authority (FSHRA) to Order at 9:00 a.m. Members in attendance were: John P. Browning, Jr., Vice Chairman; Norm Mansour, Secretary; Lee Chira, Treasurer; Heidi Eddins; William Dunn, P.E.; C.C. “Doc” Dockery; Frederick Dudley; Skip Fowler, Esq.; and Leila Nodarse, P.E.

1. Welcome and Introductions:

Chairman Dudley welcomed everyone to the meeting.

2. Meeting Minutes from November 7, 2002:

The minutes from the previous meeting, held on November 7, 2002 were reviewed. On a motion made by Mr. Bill Dunn and seconded by Mr. John Browning, the meeting minutes were approved unanimously and without correction.

Chairman Dudley then recognized Mr. Haddad.

3. Request For Proposals - Mr. Nazih Haddad

A. Requests for Clarification from Proposers

Mr. Haddad reviewed with the Authority additional Requests for Clarification (RFC) that had been received and responded to since the last Authority meeting. He explained that there was an RFC Response Tally along with the responses to the proposers located under tab 3A in the handout. A copy of the responses was sent to all proposers as well as being posted on the web page Mr. Haddad explained.

He then requested that he be allowed to review the responses for the Authority’s input, knowledge, and final approval. Mr. Haddad reviewed the items as follows:

- Response Number 007 was from Fluor/Bombardier. Their question had to do with intrusion walls located on earthen fill structures, Mechanically Stabilized Earth (MSE), and if roadway crash barriers would be required along the length of MSE walls where the MSE height exceeds 4 feet and the MSE wall is in the clear zone of the highway.

The staff's response referred them to Appendix L Section 3.3 which stated "Where the guideway is on an earthen fill structure with vertical walls exceeding 4 ft. in height above the shoulder, barrier shall not be required." Mr. Haddad noted that Fluor/Bombardier had not responded further regarding this.

- Response Number 008 was also from Fluor/Bombardier and had to do with time line information. They also requested to meet with the ridership consultants to discuss issues related to the study and asked that the period for requests for clarifications be extended beyond the November 27th deadline, Mr. Haddad said.

The time line for the release of the study was provided to them and dates when meetings were available were provided to all prospective applicants. It was noted that only one meeting was scheduled and was held on December 3rd with Fluor/Bombardier. Mr. Haddad noted that the response stated that the final date for questions and clarification would remain on November 27th as stated in the RFP, with the exception for documents that would be issued after November 15th. In that case, Mr. Haddad explained there would be a 15 day request period after the document was issued.

- Response Number 009 came from FHWA, FRA and Authority PD&E Consultants. FHWA requested that Appendix H be clarified to ensure that there was proper emphasis on minimizing adverse impacts on existing highway traffic during construction and other phases of the project.

Mr. Haddad stated that in response to the request for clarification, appropriate language was added to Appendix H, Page 3-3 section 3.6 under Maintenance of Traffic to clarify this point.

The FRA requested that Appendix H be clarified to indicate that emergency crossovers between traveling lanes of I-4 would be grade separated when the HSGTS was in the median.

The staff responded by clarifying Appendix H indicating that emergency crossovers would be provided for emergency vehicles only at areas where the tracks are elevated or where there are grade separated highway structures over the tracks.

The next request for clarification in response number 009 was from the Authority's PD&E consultants and requested that Appendix L be clarified to indicate that the intent of the Authority is to acquire only that ROW that is necessary for the project and that it is the intent of the Authority to purchase only that property that is required for construction of the station required by design and not the entire site as shown on the plan sheets.

- Response Number 010 came again from Fluor/Bombardier. The request questioned that if CGL coverage did not apply to “construction, operations, and maintenance,” then did it only apply to the contractor’s “design, engineering and procurement services?”

The response from the staff was that section K inadvertently included the word “construction” in two places and therefore would be removed and should be used only as a guideline for O&M coverage. The actual scope of coverage and limits for the O&M period would be finalized as the construction period would draw to a close.

- Response Number 011 came from Georgia Monorail. Their request for clarification was regarding fare structure, frequency of service, sensitivity analysis, and station to station ridership information.

The staff responded that on December 15th there will be an addendum to the Ridership Study which will be made available and will include additional information on this topic.

At this point, Mr. Dunn inquired as to whom Georgia Monorail was and if they had acquired the \$1,300.00 Plan Package, to which Ms. Kate Brady of HNTB responded that they had not. Mr. Haddad explained that according to the RFP, the only requirement to be considered a proposer for this project was to be present at the Pre-Proposal Meeting.

- The next RFC number 012 also came from Georgia Monorail. In this RFC Georgia Monorail questions the regulatory authority of the FRA over the Georgia Monorail technology.

The staff’s response referenced Code 49 USC 20103 where FRA clearly has jurisdiction over this type of technology.

- Mr. Haddad continued to RFC’s numbers 013 and 014 which both came from Fluor/Bombardier and referred to Appendix H from the RFP and relate to the reliability analysis and safety programs.

The staff’s response indicated that Appendix H referenced obsolete standards and the standards that they referenced in their RFC’s were in fact the correct standards to use.

- RFC number 015 came from Global Rail Consortium and inquired if the Authority would recognize the International Union of Railways UIC Code. This Code is used in many European systems.

The staff’s response was that the Authority would recognize the UIC Code, but that it would not be used as a substitute for FRA requirements.

- RFC number 016 came from Fluor/Bombardier and had to do with utilizing minority groups and the need to meet specific goals under various plans such as One Florida, Equity in Contracting Plan, or DBE programs.

The staff's response was that the Authority is encouraging proposers to use such minority groups, but the percentages that may have been established are not mandated. The staff also responded that because we may pursue Federal Funding on this project, the Federal requirements for the DBE Program would take precedence, however again goals have not been established. Respondents are however encouraged to utilize minority owned firms to the maximum extent possible.

- The last RFC number 017 came from the Authority's General Consultant and requested that Appendix H: FHSR Design Criteria be clarified to indicate that the intent of the Authority is to allow proposers to determine optimum vehicle layout, features and amenities of passenger vehicles.

The staff's response was that the RFP inadvertently included prescriptive language that has now been removed and modified. A paragraph was added to the section to allow the Proposer to determine the above items.

Mr. Haddad expressed to the Authority that there were no other pending RFC's at this time.

After no further discussion, comments or questions from anyone present, a motion was offered by Mr. Dunn and seconded by Mr. Fowler, and the FHSRA unanimously approved the responses to all RFCs.

B. Proposed Cost Summary Form – Mr. Haddad

Mr. Haddad explained to the Authority that this form was designed for the prospective Proposers to fill out in such a way that comparison would be easy to make once the Authority receives the proposals. He explained that the upper portion would be filled out by the Proposer and the lower portion would be filled out by the Authority after the proposals were received. The lower portion, Mr. Haddad continued relates to the Right of Way which the RFP states the Authority would provide, as well as the Environmental Mitigation Contingency numbers. This would be done with the assistance of a consultant firm. At this time Mr. Haddad requested that the Board recognize Mr. Adrian Share from HNTB to explain the process by which the General Consultant plans to use to select that entity.

Chairman Dudley recognized Mr. Share.

Mr. Share explained that HNTB was in the process of reviewing four different proposals from various Right-of-Way Consultants. After reviewing the proposals it was decided, Mr. Share stated, that HNTB would contract with Florida Acquisition and Appraisal to do

this work. He noted that their first task would be to develop the Authority's best estimate of the Right of Way cost that would need to be acquired publicly for the project. In addition to that, he added the PD&E Consultant is also taking on an independent study. As a result, the Authority will have two numbers that can be reviewed for reconciliation. Of course, Mr. Share noted, the actual cost will not be known until the purchase is actually attempted to be made, however the goal is to have a reconciled number on February 10, 2003.

Mr. Bottcher explained that if this form is approved by the Authority, it will become an addendum to the RFP.

In answer to Ms. Nodarse, Mr. Share noted that the Proposers received a draft copy of this form at the Mandatory Pre Proposal Meeting

On a motion made by Mr. Dunn and seconded by Mr. Mansour the FHSRA unanimously voted to approve The Proposed Cost Summary Form to be officially part of the bid documents.

Chairman Dudley recognized Mr. Fowler to discuss his memorandum on surety bonds.

C. Surety Bonds for High Speed Rail Project – Mr. “Skip” Fowler, Esq.

Mr. Fowler began by explaining that this memorandum is an effort to address the Statutory requirement for 100% Performance and Payment Bonds and the very real possibility that that might not be available in the industry. It also attempts, he added to address a Performance Bond upon completion of the system.

He then turned everyone's attention to page three (3) of the memorandum where there are two proposed changes to be made to the RFP. One, he said, strikes the phased basis of the Performance Bond of which is cited on page two (2) in the memorandum along with the Attorney General's Opinion (95-31) where the Attorney General states..."the statute would, therefore, appear to require the contractor to post such a payment and performance bond. Nothing in section 255.05, Florida Statutes, authorizes a contract to be broken down into segments so as to avoid the bond requirements therein."

The recommendation, Mr. Fowler continued, is to change the RFP to require the 100%, however if 100% bonds are commercially unavailable at the time the bonds are required, the Authority would work with the Contractor to resolve the issue. It also requires a Performance Bond prior to completion of construction of the system. Mr. Fowler then turned everyone's attention to the page containing the Proposed Bill, which would give the Authority the right to accept less than 100% Performance bond.

Mr. Bottcher (whom Mr. Fowler gave credit to writing the Proposed Bill) explained to the Authority that the Bill asks the Legislature to give the Authority some flexibility should the situation arise if 100% commercial bonding were unavailable, and is a precondition to going to less than 100%.

Chairman Dudley then recognized Mr. Joe Ferraro with Marsh to discuss the possibility of 100% bonding.

Mr. Ferraro confirmed everything Mr. Bottcher and Mr. Fowler had just explained to the Authority, and agreed that the bond amounts were not commercially available presently.

On a motion offered by Mr. Fowler and seconded by Mr. Dunn the FHSRA unanimously voted to approve an adoption to seek proposed legislation to provide flexibility to obtain the best commercially available surety coverage. Additionally Chairman Dudley noted to Mr. Bottcher that an amendment should be added to 255.05 itself that says, 'except as provided by' 341.8201 to 348.842 as well as 337.18 with a cross reference, in order that anyone reading 255.05 (which applies to all public projects) would be put on notice. Mr. Bottcher so noted.

On another motion offered by Mr. Fowler and seconded by Mr. Dunn the FHSRA unanimously adopted to clarify and amend the RFP Chapter 1, Subsections 3.K. 5(b) and Chapter 1 Subsections 3.K. 5(d) and (e) with the recommendations on the bottom of page 3 and the top of page 4 of Mr. Fowler's memorandum of Tab C.

Chairman Dudley announced that Representative David Russell had been reappointed as Chair of the House Transportation Committee and Mr. Russell's Staff Director, Mr. Phil Miller had likewise been retained. Chairman Dudley also noted that Mr. Bruce Kyle had been named Appropriations Chairman in the House.

Chairman Dudley at this time recognized Mr. Lee Chira.

4. Authority's 2002 Financial Audit Report – Mr. Lee Chira, Treasurer

Mr. Chira reported a Financial Audit for 2002 was conducted by Ernst & Young LLP. At this time Mr. Chira introduced Mr. John Vodnicker with Ernst & Young to speak to the Board.

Chairman Dudley recognized Mr. Vodnicker.

Mr. Vodnicker reviewed the report (of which a copy was provided for all) with the Authority stating they were in compliance with the Government Accounting Standards Board Statement (GASB) Number 34 and all the statutory requirements. He turned the Board's attention to Ernst & Young's Report of the Audit on page 6 and referred everyone to paragraph three (3) of the report, indicating a clean opinion of the financials. Mr. Vodnicker's review indicated the FHSRA was well within their budget. He did make note that since the Federal dollars that were appropriated were not spent by the Authority, the Federal Program was not audited.

Chairman Dudley reminded Mr. Chira that as the Treasurer of the FHSRA, he was authorized to continue to work with the auditors and come back with future proposals of additional work on the part of Ernst & Young for the consideration of the Authority.

After additional points were noted about the audit the FHSRA unanimously approved the motion made by Mr. Chira and seconded by Mr. Fowler to approve the Financial Audit for 2002 conducted by Ernst & Young.

5. Draft 2003 Report to Governor and Legislature – Nazih Haddad

Mr. Haddad first reviewed with the Board, changes in the report that were made at a staff level that had not been discussed with the Authority.

Chairman Dudley then acknowledged Ms. Heidi Eddins.

- Ms. Eddins referred everyone to Page 2 under Summary of Authority Actions Item Number 5. Miss Eddins feels the Authority needs to clarify what is meant by 'the execution of this contract'. The language can be found on Page 4 Number 3 at the top, where it states.....'a contract executed by November 1, 2003'. Chairman Dudley so noted this recommendation.
- After a brief discussion it was agreed unanimously that under Item #1 under Summary of Authority Findings on page 3 the words.....'that based on the significant number of individuals and companies who officially registered with the Authority as prospective proposers to the RFP'.....be stricken.
- The Authority unanimously agreed that Item #2 on page 4 under Summary of Authority Recommendations should be limited to Phase 1, Part 1.
- It was agreed that under Item #5 on page 5 under Summary of Authority Recommendations with regard to the Surety Bond issue, an Amendment should be added to 255.05 itself that says, 'except as provided by' and then add 341.8201 to 348.842 as well as 337.18 with a cross reference, in order that anyone reading 255.05 which applies to all public projects, would be put on notice. Mr. Bottcher so noted.
- Under Summary of Authority Recommendations it was unanimously agreed that, as the obvious workload is going to increase, there eventually will be a need for the Authority to have their own professional staff. It was recommended that Mr. Bottcher draft the appropriate language for two positions and appropriate budget language for the positions and put that in the Board's recommendation, with the understanding that it would still have to come back to the Board to fill those positions, and back to the Board as to who would be hired. These positions would come from state level employees.

- After a discussion among the Board regarding the language in Item #2 and Item #3 on page 4 under Summary of Authority Recommendations, concerning sources of funding for the project from various programs, it was agreed that these items be redrafted by Mr. Haddad and his staff, with a clean recommendation and specific language.
- It was unanimously agreed by all that Item #4 page 4 under Summary of Authority Recommendations be stricken from the report in its entirety for the time being. Mr. Bottcher, in the meantime was urged to continue to work on the draft and bring it to the Board in January for review of alternative language.

In summary, Chairman Dudley stated that the Board showed without objections, the Draft of the Authority's Annual Report to Legislature to be approved, with the exception of Recommendation #6 on page 4 on findings regarding Ridership Study and with the other items to be drafted by the deadlines. Recommendation #6 was put on hold to be discussed later in the meeting.

Chairman Dudley made note that a tele-conference was set up for December 27th, and that December 16th would be the date for the revised report to be presented allowing a respond date by December 23rd from the members. Based on the responses on the 23rd, it will be discernable whether a tele-conference would be set up by the 27th.

After a discussion regarding language that should represent the statement made in Item #6 page 4 of the report it was unanimously decided that Mr. Biggs and Mr. Haddad would rewrite that statement, adding additional information to clarify the findings of the report by December 16th, and allow the Board to review the wording at that time.

Chairman Dudley recommended that since Mr. Dave Powers of WSA had not yet arrived the Chair would recognize Mr. Howard Newman to give a summary of the Progress Report on PD&E Activities.

6. Progress Report on PD&E Activities - Howard Newman

Mr. Newman began by explaining that the PD&E study is a requirement of the NEPA process which in turn is required in order to meet Federal Legislation, and would allow the project to utilize Federal and State Funding.

Mr. Newman stated that the social, natural and physical impacts are being studied, and from those areas there are 25 categories that are being analyzed as part of that study.

He then proceeded to review the progress report, highlighting key issues which included the Archeological, Historic and Cultural efforts under Section 4(f) Section 6(f) by which new legislation requires that there be local community review and comments. These efforts are currently underway. He highlighted the activities on the Wetland, OFW, WSR

and Wildlife Habitat studies, as well as the Noise and Vibration studies. Mr. Newman noted that the Contamination Report Phase I for the East portion of the project would be provided by the end of this year with the West portion (the more involved portion) following shortly after.

Meetings with local MPO's throughout the corridor as well as with non governmental agencies are on schedule, Mr. Newman added. He also noted that a news letter is going to be mailed out to over 6,500 interested parties. In addition, there are Public Information Workshops scheduled, and the dates and locations were listed for the Authority.

At 12:20 p.m. Chairman Dudley thanked Mr. Newman for his efforts and then turned the Chair over to Mr. Fowler, as Chairman Dudley was required to leave in order to make his scheduled plane departure. When Vice Chairman Browning re-entered the room and joined the Board, Acting Chairman Fowler then turned the Chair position over to Vice Chairman Browning.

Vice Chairman Browning then acknowledged Mr. Tom Biggs to discuss in the Investment-grade Ridership study.

6. A. Investment Grade Ridership Report - Tom Biggs

Mr. Biggs offered to the Board a summary of the Ridership Study. He stated that to begin this process two Ridership consultant teams and a Peer Panel Team were taken on board. He then reviewed, with the aid of slides, the tasks that were completed to assess the market and determine the existing market size. This assessment also included a very important Airport Access Study, which hadn't been performed previously in other studies. Mr. Biggs continued, explaining a study was conducted to determine the potential Market Growth. Finally, Mr. Biggs explained, an analysis was done to determine access service characteristics, which would help determine the future growth in the market. Mr. Biggs also explained that the ridership numbers were broken into a choice market and a captive market.

Vice Chairman Browning then acknowledge Mr. Dave Powers from WSA and Mr. Ray Ellis from AECOM, the two firms that conducted the study, to address questions from the Board regarding the study.

Mr. Powers addressed Ms Eddins' questions explaining how the teams worked together and independently through the project and also stated some of the assumptions used in the study.

Mr. Biggs stated that he would work with both consulting teams to compile a clear and concise summary which would show all of the assumptions that were used in the study in response to Ms. Eddins request. He noted that a copy of this report would be sent to all Board members.

Mr. Ellis also commented on how AECOM and WSA worked together. He requested the Board recognize how close the numbers were in the surveys between the two firms and where there were some differences between the two consulting firms, an average should reasonably be taken to get a fair picture of expectations. Mr. Ellis stated that there was no double counting in the Choice or Captive Markets in response to Board members questions.

Mr. Powers stated that the growth multiplier used to get the 2010 assumptions was dependent on the growth projected in population, employment, and hotel rooms in different areas of the corridor represented 2% to 3%, in answer to Mr. Chira's question. Mr. Powers added that estimates for population growth, employment growth, etc. were taken from two different sources. He noted that three different MPO's had been doing studies in the area. He also noted that results of the expansion of the Convention Center were considered as a factor.

Mr. Biggs stated that Mr. Frank Koppleman from Northwestern University as well as Mr. Keith Denton an Independent Investment Agent currently with Goldman Sachs, both of whom have Investment Banking experience, are members of the study's peer review panel, in answer to Ms. Eddins question.

Vice Chairman Browning recognized Mr. Steve Polzin with CUTR to give an update on the Peer Panel's review.

Mr. Polzin began by listing all the names of the members on the Peer Panel as well as the roll the Peer Panel is playing in this process. In addition he went over the schedule of activities that have taken place over the past few months. He then reviewed with the Board the format of a Letter Report that will be completed and presented to the Board by the end of the month. Based on the expert opinions of the Panelists, Mr. Polzin expressed his assurance that the Board should have a sense of confidence and reliability that can be placed in the forecast once the Peer Panel completes their task and submits the Letter Report.

Ms. Eddins questioned what role Amtrak had in review of the study. Mr. Polzin noted that early on Amtrak was part of the steering committee however due to funding impacts Amtrak was no longer allowed to participate in such publicly funded activities.

Ms. Nodarse requested a recap of the deliverables the Board should have. Mr. Biggs stated they should have a Summary Report, a report titled Supplemental Materials, and the Operating Plan. The Board will also receive an addendum to the study on an extension to St. Petersburg, and finally the letter report from the Peer Panel.

Vice Chairman Browning stated that he would like to see an Executive Summary, with short concise information that is simple and easy to understand.

Mr. Dockery expressed his appreciation for all the hard work put into these studies.

Vice Chairman Browning acknowledged Mr. Haddad.

8. Staff Director's Report - Mr. Haddad

A. Conflict Mitigation Process

On a motion made by Mr. Fowler and seconded by Mr. Dockery the FHSRA unanimously approved The Conflict Prevention, Mitigation, and Resolution draft, offered by Mr. Bottcher. This process follows closely established processes for conflict prevention throughout Florida. This paper will be submitted to the Legislature in January 2003.

B. Revised Authority's three-year Budget

Mr. Haddad reviewed the FHSRA's budget for Fiscal Year 2001/02 through Fiscal Year 2003/04. He noted that the Authority had already approved the revised budget and that this report serves for information purposes only, to show the \$7.5 million the Authority agreed to request from the Legislature.

C. Status Report on Authority's Expenditures

Mr. Haddad reviewed the FHSRA's Expenditure Report through November 30, 2002, which reflected \$8,484,807.00 in expenses.

D. Future Board Meeting Schedule

The Board agreed that the meeting schedule will have to be reviewed and revised due to conflicts in schedules, but that the next 3 meetings at least will be held in Tallahassee and should coincide with Committee meetings.

Upon the request of further comments on the part of Vice Chairman Browning, the Vice Chairman recognized Mr. Fowler.

In review, Mr. Fowler requested some form of written commitment regarding the Captive Market Study from the entities involved indicating their proposed commitment to supplying these riders. He expressed also the desire to see a short sound video showing how quiet the HSR can be. Mr. Fowler also expressed that he has not heard very much regarding systems implications of selecting a route to include up and into Volusia County, and would like to get the benefit of coordination.

Mr. Dunn added that up coming MPO meetings in addition to the Ridership Report just might address some of those comments on Mr. Fowler's part.

The Board approved to hear the preliminary Orlando/St. Petersburg Ridership Review on a motion made by Mr. Dunn and seconded by Ms. Eddins.

Vice Chairman Browning recognized Mr. Tom Biggs to give the report.

Preliminary Ridership Review on Orlando/St. Petersburg - Tom Biggs

Mr. Biggs stated that the study's estimates include Intercity Choice Market and an Urban Travel Market. He noted that there are two station scenarios. One includes a station at the Westshore area and a station at the CBD area. The second scenario would end at the Westshore station, the numbers for this scenario are not concluded yet. He briefly reviewed the Ridership and Revenue estimates for the Beeline and the Greenway and what they could be.

In answer to a question posed by Mr. Dunn, Mr. Biggs responded that the O&M Costs for the St. Petersburg portion of the route was approximately \$6 Million in the 2002 Report to the Legislature. Mr. Biggs continued to answer additional questions from Mr. Dunn regarding the Greenway versus the Beeline and why the numbers appeared to be significantly different.

9. Public Comments

No additional public comments were offered.

10. Other Business

None

11. Adjourn

Vice Chairman Browning solicited additional comments and hearing no further business, adjourned the meeting at 1:45 p.m.