

**Florida High Speed Rail Authority Telephonic Board Meeting  
Friday, June 17, 2005, 9:00 AM**

**Room 479 (4th Floor) Florida Department of Transportation  
605 Suwannee Street, Tallahassee, Florida**

**DRAFT Meeting Minutes**

**1. Welcome and Chairman's Remarks / Legislative update.**

Chairman Dudley called the meeting to order at 9:07 AM. Present in person were Chairman Dudley, Mr. C. C. Doc Dockery and Mr. Donald Crisp. Present via teleconference were Mr. Lee Chira, Vice Chairman John Browning and Ms. Leila Nodarse.

Chairman Dudley introduced and welcomed Mr. Crisp as the new member of the Authority appointed by Speaker Bense for a four year term and invited him to address the authority. Mr. Crisp gave some personal background and indicated his excitement about serving on the Authority for the next four years.

Chairman Dudley gave a brief legislative update noting that a House Bill was filed during the session to repeal the sections of the law that created the High Speed Rail Authority but the bill did not pass. No bills were filed on the Senate side but the Chairman noted that he and Mr. Haddad made a presentation to the Senate Transportation Committee to bring them up to date. The Chairman noted that he had numerous discussions with Senator Sebesta, Chairman of the committee however ultimately the committee took no action relative to the Authority. The Chairman noted that the Legislature provided new new appropriations for the Authority.

**2. Review and corrections/approval of December 9, 2004 meeting minutes.**

The chairman asked if anyone had any corrections or additions to the minutes from the previous meeting of December 9, 2004. A motion to approve the minutes was made by Mr. Dockery and seconded by Vice Chairman Browning. The minutes were unanimously approved with no discussion.

**3. Report on Orlando-Tampa Final Environmental Impact Statement (FEIS)**

Chairman Dudley recognized Mr. Egnot of HNTB to give an update regarding the EIS process. Mr. Egnot reported that the documents were updated in January as directed by the Authority at the December meeting. The documents were submitted to the Federal Railroad Administration (FRA), Federal Highway Administration (FHWA) and the Army Corp of Engineers (ACOE) for review. Comments were received from FRA starting in early April and the actual FEIS document was signed by the Chairman on May 17, 2005. Mr. Egnot noted that the document is presently awaiting signature by the FRA administrator, and as the Administrator is a recent appointment, it is not known when the FEIS will be signed.

Mr. Egnot went on to outline the next steps that the Authority had previously directed be undertaken. After the document is signed by FRA, the EPA will publish the document which will result in another opportunity for public comment. The Authority will also publish the documents locally. Mr. Egnot went on to say that the next steps in the process will be to develop the Memorandum's of Agreement (MOA) with the Florida Department of Transportation (FDOT) and the Greater Orlando Aviation Authority (GOAA) that are required for the Record of Decision (ROD) and that a draft ROD would be developed for FRA signature.

The Chairman asked Mr. Egnot if it was his judgment that the ROD would not be issued until the completion of the MOA's with FDOT and GOAA. Mr. Egnot confirmed that to be the case, whereupon the Chairman asked as to the status of the MOA's. Mr. Egnot noted that there had been some early drafts prepared in conjunction with Mr. Botcher (the Authority's Special Council) but generally the focus has been getting the FEIS to where it is now and preparation of the MOA's and discussions with the two entities is the next step to be taken up.

Mr. Chira was recognized by the Chair and noted his recollection that GOAA had undertaken a study relative to implementation of high speed rail in cooperation with FHSRA and inquired as to the status of the study. Mr. Egnot indicated that that there had not been any recent activity relative to the study but would look into the status and report back. Mr. Chira also noted that the Orlando Orange County Expressway Authority had also undertaken a study and should be likewise investigated. Mr. Egnot noted that although the OOCEA had undertaken a study, it may no longer be relevant based upon the actions taken by the Florida High Speed Rail Authority, in particular the route change from the Greenway to the Beeline.

The Chairman noted that the move to the Beeline negates the need for an MOA with OOCEA and Mr. Haddad explained that the portion of the Beeline that would contain the High Speed Rail System is owned by the Florida Turnpike. (An FDOT entity)

The Chairman inquired if Mr. Egnot and Mr. Haddad were aware of any impediments to the Authority's ability to move forward with an MOA with GOAA. Mr. Haddad noted that approximately one year ago GOAA has expressed some concerns in discussions with staff however, for the past six or seven months there has not been much activity with GOAA relative to the MOA. The chairman asked if GOAA had expressed any concerns regarding the Greenway route and Mr. Haddad replied that their concerns had been more related to how the system would impact the Airport. Mr. Haddad went on to note that GOAA did not have any objections to the High Speed Rail System; rather they were supportive of it. At the same time however, they did have some concerns about costs and other related issues that they would need to discuss with the FHSRA. Mr. Haddad reiterated that those discussions have not been progressed since September or October of 2004. Mr. Chira noted that he was aware that GOAA had concerns surround potential revenue loss due to impacts to taxi's and car rental but he noted that both GOAA and the Florida High Speed Rail Authority were public bodies and could work through any issues when and if the system is built.

Chairman Dudley asked Mr. Egnot if HNTB's contract includes work on the Memorandum's of Understanding. Mr. Egnot replied in the affirmative and noted that the work was in conjunction with Mr. Bottcher, (the FHSRA's Special Counsel) The Chairman went on to note that the consultant's contract runs out at the end of the month, and although there are funds appropriated, the contract is subject to the Authority's extension or renewal.

Chairman Dudley inquired as to the status of the other memorandum of understanding with FDOT. Mr. Haddad reported that in conjunction with Mr. Bottcher and the consultants, work had begun eight or nine months ago with the FDOT district offices where there was impact to the I4 corridor and consisted of discussions of the use of the corridor. Mr. Haddad went on to say that since the work has been focused on the FEIS and now the ROD, other than the previously mentioned first draft of the MOA's, no other work has been done.

Chairman Dudley went on to ask Mr. Haddad and Mr. Egnot if they were aware of any particular impediments to the Authority entering a Memorandum of Understanding with Florida Department of Transportation. He indicated his understanding of where we stand politically, but went on to clarify his question by asking that if the terms were agreeable, were there any impediments to getting to that step. Mr. Haddad said that no one has indicated anything that would constitute such an impediment and Mr. Egnot concurred from his perspective. The Chairman noted and Mr. Egnot concurred that this MOA was part of the scope of work of the HNTB contract.

Mr. Howard Newman of PBS&J explained that the MOA's are attached to the ROD which PBS&J is developing. Mr. Newman also noted that the PBS&J contract expires at the end of the month as well and would likewise need to be extended. The Chairman noted and Mr. Newman agreed that the funds for the work were available and this would only be an extension of the contract.

The Chairman offered the opportunity for the Members to ask any questions of the consultants. Ms. Nodarse asked for clarification regarding the number of MOA's to be developed. The Chairman noted that there are two, one with GOAA relative to having a station on their property and the other one with FDOT, relative to the use of the I4 corridor which they own. Ms. Nodarse indicated her recollection of a letter similar to an MOU that had been presented approximately a year earlier and inquired of its status. Mr. Egnot noted that there had been a draft agreement prepared with one of the districts previously but indicated that due to the route change, it seemed to be more expeditious to pursue a single agreement with FDOT headquarters, assuming FDOT is amenable to such an approach. Chairman Dudley asked if there was any indication that FDOT was agreeable to the approach. Mr. Haddad indicated that there had not yet been any discussions and there have been no indications to suggest that the department would not be amenable. The chairman noted that the consulting contracts were to be addressed later in the agenda and asked the members to be thinking about what action they may wish to take relative to those contracts that expire at the end of the month.

#### **4. Finance and Budget Report**

Mr. Haddad noted that since the inception of the Authority in 2001 there have been both state and federal appropriations for the Authority, in particular \$9.0 million in state funds and \$9.1 million in federal earmarks for a total of \$18.1 million. Of that amount a total of \$4.0 million earmarked in 03/04 can not be spent at this time pending an agreement with the Federal Railroad Administration regarding the use of those funds. Therefore, the monies that have been available to the Authority total \$14.1 million which for the most part is under contract to the Authority's two consultants, HNTB, and Parsons Transportation. Of the \$14.1 million only \$13.4 million is under specific task orders leaving about \$667,000 that has not been tasked yet. Of the amount under task orders, about \$300,000 has not been spent yet. Mr. Haddad noted that this was the amount that was referred to earlier that was authorized in December to allow the consultants to proceed with the FEIS and the ROD. Mr. Haddad summarized by saying that \$300,000 has not been spent yet although it is under task order and associated work by the consultants is ongoing. Mr. Haddad indicated that as previously noted these contracts and the task orders expire at the end of June.

## **5. Contract Issues**

Mr. Chira requested that Chairman Dudley frame a motion that would appropriately extend the consultant contracts based upon the finance and budget report. The Chairman indicated that he would do so but first would invite questions from the members.

Vice Chairman Browning asked for clarification regarding the \$667 thousand number that was reported. Mr. Haddad replied that it was monies available to the Authority to task the two consultants for any further work that the Authority may want them to do. Mr. Haddad continued, indicating that until and unless the Authority further tasks the consultants, those funds would remain available. Vice Chairman Browning asked if the money has to be used for task orders. Mr. Haddad replied that it does and presently the funds are committed to the consultants and can not be used for other purposes as it stands today. He also noted that it would be possible to de-encumber the dollars to be used elsewhere but added that there would require at least a two years to accomplish the process. Vice Chairman Browning requested clarification on the \$300,000 asking for confirmation that it was for current task orders. Mr. Haddad confirmed that it was for ongoing task orders and the Chairman added a point of clarification indicating that it was a maximum authorization in effect an "up to" amount since the consultants work on a time value (hourly basis). Mr. Haddad indicated agreement stating that the consultants only get paid for actual work done and invoiced.

Chairman Dudley and Mr. Haddad summarized the situation as follows: The \$300 thousand is presently under contract, authorized and committed to existing task orders. The \$667 thousand is under contract but not committed or authorized to any tasks.

Chairman Dudley laid out the available options relative to the contracts as follows: 1) Extend the contracts with existing funds 2) Extend the contracts and add funds (noting however that no such suggestion has been made) or 3) Vote to not extend the contracts (or take no action) and the contracts would end. The Chairman noted that in the latter case, the Authority would not incur any further cost past today as he would issue a stop work order in that event. Chairman Dudley asked Mr. Bottcher if the options were correct as stated and Mr. Bottcher concurred.

Ms. Nodarse indicated her willingness to second Mr. Chira's motion to extend the contracts and Chairman Dudley accepted the motion and the second and continued discussion on the motion. Mr. Chira asked if the motion should be extended to a date certain. Mr. Haddad noted that there is a statutory requirement to provide an annual report to the governor and legislature and therefore the extension, if provided should be for at least six months and some period beyond that to allow for the report to be generated. Mr. Chira suggested that the contracts be extended for one year to get through the next legislative session. Chairman Dudley also noted that the extension should be to a time far enough in the future where it is relatively certain that the Authority will have another meeting and can take additional action as necessary.

The motion was amended to extend the contracts to June 30, 2006 and the date was confirmed to be acceptable to Mr. Chira, the maker of the motion and Ms. Nodarse, who seconded the motion. It was requested that the Chairman repeat the motion. Chairman Dudley stated that the Motion is: That those current contracts with HNTB and Post Buckley [PTG] be extended for one year from the current expiration date of June 30, 2005 to June 30, 2006. The Chairman recognized Mr. Crisp for questions.

While acknowledging the need for consultants in the process, Mr. Crisp expressed concern if the work necessary to fulfill the Authority's obligations could be completed for the remaining funds. Chairman Dudley recognized Mr. Egnot of HNTB to address the point. Mr. Egnot stated that speaking for HNTB, he believed that with the additional funds that are appropriated in the contract but not yet tasked, the work could be completed if the process unfolds as planned. The Chairman asked Mr. Newman if he agreed with that assessment. Mr. Newman stated that with the monies assigned to the contract, they would be able to complete the FEIS and the ROD but anything beyond that would need to be identified. He also indicated that he was not sure where any additional work for Parsons and PBS&J would come in.

In a point of clarification, Mr. Crisp asked if the consultants had been tasked to provide a final product that would fulfill the Authority's obligation. Mr. Haddad replied that with the PD&E consultant (PTG/PBS&J), it is specific to the record of decision for the project. He further noted that the general consultant (HNTB), works as staff to the Authority and at the time the effort was continued back in December, the Authority considered the work that would be required to prepare the recent annual report as well as the work that HNTB would be required to do for two or three months after that. Mr. Haddad noted that as described by Mr. Egnot, HNTB has very limited funds left under the existing task order to continue for a one year period. Mr. Haddad recommended that the Authority wait until the next meeting before deciding on tasking further work. Mr. Crisp indicated that that he wanted to be sure that work could be completed for the \$300 thousand.

The Chairman recognized Mr. Dockery who stated that this effort gets the Authority to a record of decision which is what is need to move forward if the money is ever appropriated for the Authority to build the system and that record of decision has a shelf life of three years. Mr. Dockery continued to explain that this \$300 thousand will get us through the process of obtaining authority from the Federal government to build the system.

Mr. Crisp indicated that he wanted assurances that the consultants could finish the task orders for the \$300,000 that has been assigned to them and won't need more money as he wanted to see something finished at the end of the \$300,000 expenditure.

Chairman Dudley remarked that these are excellent questions and recounted that in December the Authority had authorized the \$300,000 maximum, and it was entirely appropriate since the Authority had spent about \$14 million to get to this point. He further noted that the Authority had determined that on balance the additional expenditure was appropriate to preserve the \$14 million investment by way of obtaining the ROD which would be good for three years. He added, after that the investment may be for naught anyway.

Mr. Crisp asked for confirmation that the consultants are saying that we (the Authority) will have that at the end of this extended period of time within the \$300 thousand. Mr. Egnot speaking for HNTB indicated that the answer was a qualified yes to Mr. Crisp's statement. He indicated that the money would be spent very judiciously but in the process of obtaining the ROD staff and the consultants will be dealing with two other entities (GOAA & FDOT) and it is not known exactly how much effort will be involved in preparing these documents. Mr. Egnot further noted that if everything goes smooth and all wording is agreed to on the first round, it could be completed quickly; but if there are two or three rounds of drafts, those are all time driven things. Mr. Egnot also noted and Mr. Haddad confirmed that there is only \$40 thousand of additional funds that can presently be tasked under the HNTB general consulting contract.

Mr. Crisp expressed concern regarding his previous statement about finishing the ROD. Mr. Egnot added that it is impossible to guarantee what actions FDOT and GOAA may take and how quickly they may take them. He went on to say that relative to the things that are not under the consultant's control, that is the honest and best answer that can be given.

The Chairman indicated that this was the reason he had asked the questions if anyone knew of any roadblocks or impediments. He further noted by way of example that although there was speculation about why the Authority changed the route, from the Greenway to Beeline, speaking for himself, it was his belief that it would be impossible to get a Memorandum of Understanding with the OOCEA given the neighborhood concerns that had been expressed, and given the fact that there appears, it to have been a reverter clause in the gift of land to the OOCEA that limited its purpose to vehicular traffic, although it is unclear if anyone ever found it. This meant that it may not have been legally possible to get an MOA even if unanimously approved by OOCEA.

Mr. Crisp stated that he wanted to get to a definite point if it is possible and noted that the consultant has assured the Authority that he will use all of his abilities to stay within that money.

Vice Chairman Browning noted that while he did not have a problem with the year extension he too had concerns about the risk of expending funds but not finishing. Mr. Chira indicated that any expenditure of the \$677 thousand would require Authority

approval and the chairman noted that the Authority's Special Counsel had confirmed that point. Vice Chairman Browning suggested that a specific time period be set for the completion of the work. The Chairman suggested that the issues possibly be divided and that the Authority first consider the issues of the extension and then the issue of a time period. Mr. Crisp noted that he did not feel it was necessary to amend the motion, but he simply wanted assurances from the consultants that they will do their very best and that the motion can be voted as stated.

The Chairman asked Mr., Egnot and Mr. Newman to address Mr. Crisp's concern. Mr. Egnot said: "You have my word that we will do this in the most efficient and cost effective manner possible." He went on to add that twelve months is appropriate extension as there is the requirement for the next annual report which has associated activities in December (2005) and in January (2006). Mr. Crisp asked Mr. Egnot if he thought we could come to a finished product. Mr. Egnot indicated that we could come to a finished product notwithstanding what the other entities may have in requirements. Chairman Dudley asked that if the other entities do not sign Memorandums of Understanding, is it correct that there is no way we will get the ROD. Mr. Egnot confirmed that this is correct.

Mr. Newman stated that on behalf of PTG and PBS&J he supports Mr. Egnot's remarks and he is hopeful that the ROD will be done within 60 to 90 days. He pointed out that we are dealing with agencies that we have qualifiers for and by way of example noted that FRA has had the FEIS document for a month and it is not certain when they will sign it.

Chairman Dudley asked Mr. Bottcher if the motion passes, could the Authority terminate the contracts in that period of time with out liability should it desire to do so. Mr. Bottcher indicated that it would depend upon the circumstances but generally yes it could be terminated for items that could be considered a breach of contract. The chairman went on to explain that all of the consultants work is triggered by a task order noting that up to this point, the Chairman had usually been given authority to sign task orders between meetings, noting that the chair could simply withhold signing new task orders as another means to control spending. Mr. Bottcher confirmed this statement and indicated that an open task order could likewise be terminated by the Authority if they chose to do so.

Both Chairman Dudley and Vice Chairman Browning indicated that they were satisfied with the discussion and were comfortable with a one year extension. Mr. Haddad asked for a point of clarification to confirm that the extension was to include the open task orders. The point was so confirmed and the question called. The motion passed unanimously.

## **6. Discussion on future Board meetings.**

This subject was deferred to later in the meeting under new business.

## **7. Election of Board officers.**

Chairman Dudley opened the floor for nominations for Chairman noting that nominations do not required seconds. Vice Chairman Browning was recognized and nominated Mr. Chira for chairman. As there were no other nominations Mr. Crisp moved that

nominations cease and that Mr. Chira be unanimously elected as Chairman. There was no discussion and the motion passed unanimously. Past Chairman Dudley congratulated Chairman Chira and passed the chair to him.

There was a brief discussion regarding the Vice Chairman position. Past Chairman Dudley explained that unless someone wished to challenge the incumbent Vice Chairman, no election was necessary but suggested that the Authority take up a nomination for Treasurer, the position formerly held by Chairman Chira.

Chairman Chira asked Past Chairman Dudley to preside over the remainder of the meeting due to difficulties with the telephone connection and Past Chairman Dudley assumed the chair and announced that there are no motions recognized and opened the floor for further nominations for positions other than Chairman.

Ms. Nodarse moved that Vice Chairman Browning remain as Vice Chairman and the motion was seconded and carried unanimously.

Mr. Chira nominated Ms Nodarse for Treasurer. As there were no other nominations Mr. Crisp moved that nominations cease and that Ms. Nodarse be unanimously elected as Treasurer. There was no discussion and the motion passed unanimously.

## **8. New Business**

The Past Chairman Dudley asked Mr. Haddad if there was any new business and he reported that he was unaware of any further matters requiring the Authority's attention. The Chair asked if any of the members had any new business. Mr. Crisp inquired as to the status of private funding for the project remarking that the legislature may be more open if the project could be accomplished on a different basis. Mr. Haddad answered that the Authority has two pending proposals before them from private sector entities that have presented plans regarding how the system could be constructed between Orlando and Tampa and that representatives from both firms were present who could address the Authority if it were their desire.

Mr. Crisp noted that although the legislature has not provided funding, the Authority could still move forward if there were private funding. Mr. Haddad confirmed that under such a scenario, the Authority could move forward in partnership or in conjunction with either of the entities that have proposals before the Authority.

Vice Chairman Browning asked for clarification regarding the \$4.0 million of unused funding. Past Chairman Dudley indicated that the money was available subject to entering into an agreement with the Federal Railroad Administration and that the funding was not subject to any matching funds. Vice Chairman Browning suggested that staff determine how the funding could be accessed to enable further work by the Authority. Vice Chairman Browning went on to suggest that the Authority revisit the possibilities of private funding and that the issue of private funding be a subject of the next meeting of the Authority.

Mr. Dockery noted that both proposals before the Authority anticipate millions of dollars of private participation. Mr. Dockery asked representatives of the Proposers present how much private money was in each proposal. Mr. Ray Metz of Bombardier did not recall the exact amount. Ms. Kathie Beck of Global Rail Consortium indicated that its proposal contained \$400 million of private equity.

Mr. Dockery suggested that because there is a new member and likely to be additional new members of the Authority, a short summary of the proposals be prepared highlighting the private participation. He went on to note that there is a public perception that there is no private money in the proposals when in fact there is a considerable amount of private participation in both up front money and in guarantees. By way of example Mr. Dockery noted the ridership guarantee, which removes operating risk, the fixed fee contract that removes construction risk, and in the case of Fluor Bombardier the separate financing of the train sets through a separate guaranteed bonding process. In summary Mr. Dockery noted that the perception that there is no private participation in the two proposals before the Authority is a misconception and a simple one page summary of the private participation would be very helpful.

Mr. Dockery went on to acknowledge that the Authority should seek additional private participation, noting the opportunity the Authority had to secure more private participation through Virgin Rail, and he further noted that perhaps the Koreans would be willing to provide more private participation (through the GRC team).

Mr. Dockery remarked that the Authority had in essence put the project on hold until after the legislature met to determine if there was an appetite in the legislature for repeal of the legislation. He commented that there was not an appetite for repealing it and noted that the Senate President said on the record that there is a need for high speed rail and that high speed rail must be done at some point in time and that this Authority is a good vehicle through which that can be accomplished. Mr. Dockery noted that the Governor is quoted as saying that high speed rail will come some time and that the I4 corridor continues to be reserved for high speed rail. The governor has approved funding for an Intermodal center in Orlando that is being planned today and the Orlando Sentinel has reported specifically that the Intermodal center is for high speed rail. In summary Mr. Dockery noted that there is a lot of activity and the perception that there is no private participation and that the need for high speed rail may have gone away is erroneous.

Mr. Dudley asked for clarification as to whether Mr. Dockery was asking for staff to create the summary and present it or for the two bidders to create it. Mr. Dudley indicated his recollection that there may have been changes to the private participation in either or both proposals, and therefore the original proposals would not accurately reflect the present situation. Mr. Dudley noted that staff could prepare a summary of the original bids but it may be useful to have the Proposers to prepare a summary. Mr. Dockery said that what the Authority needs to see in this summary is what is actually on the table now, and that this should not be a re-proposal effort. Mr. Dudley indicated that he would not want staff to have to guess as to current status so it should be up to the vendors to provide the summary.

Vice Chairman Browning, indicated agreement with Mr. Dockery's comments, but clarified his remarks by saying that we should not stop anything underway, but the Authority should be a forum for new ideas to add additional private participation, and Authority funds available from the \$4.0 million should be spent toward that end.

Mr. Crisp indicated that there needs to be a vehicle to work with the private sector with the Authority handling the roles that the private sector can't such as right of way procurement. He indicated his belief that the Authority can be that Vehicle and a partner with the private sector so that the project can move forward without the need to go to the Legislature for massive amounts of funding.

Mr. Dudley on behalf of the Chairman directed staff to prepare a letter to Fluor Bombardier and Global Rail Consortium asking them within the next 30 to 45 days to submit a brief summary of where they currently stand as far as the contribution or involvement of private dollars including for what purposes and at what points in time such private dollars will be utilized for the project.

Mr. Dudley indicated that the new Chairman would set the next meeting of the Authority.

Chairman Chira thanked Mr. Dudley for his leadership over the years and for his guidance of the process to this point. He went on to say that speaking for the Authority, Chairman Dudley has done an excellent job, where upon there was supportive agreement from the others Members. Mr. Dudley expressed his appreciation for the remarks and noted that he looked forward to the day when the ribbon is cut on the first high speed rail system in Florida.

Vice Chairman Browning asked that Mr. Haddad to arrange for an appropriate plaque to commemorate Past Chairman Dudley's service to the Authority.

Having no other items of new business, the Chairman asked for public comments.

#### **9. Public comments**

There were no public comments.

#### **10. Adjourn**

The meeting was adjourned at approximate 10:15 AM