



Policy Committee Meeting Minutes
Sept. 11, 2009 McCloskey Conference Room 135, City Hall

Policy Committee minutes are transcribed in a summarized outline manner. Audio recordings are on file with the City of Bloomington Planning Department.

Attendance

Policy Committee: Jack Baker (Citizens Advisory Committee), Lynn Coyne (Indiana University), Susie Johnson (Bloomington Public Works Department), Richard Martin (Monroe County Plan Commission), Kent McDaniel (Bloomington Public Transportation Corp.), Mark Kruzan (City of Bloomington Mayor), Andy Ruff (Bloomington City Council), Jim Stark (Indiana Department of Transportation), Bill Stuebe (Bloomington Plan Commission), Julie Thomas (Monroe County Council), Bill Williams (Monroe County Highway Department), Mike Farmer (proxy for Ellettsville Town Council), and Mark Stoops (Monroe County Commissioner).

Others: Connie Bastin (Town of Ellettsville), Turk Roman (Terre Haute City Council), Robert Baldwin (Citizen against I-69), L. Helen May (Monroe Co. Against), Steve Hendricks (Monroe Co. resident), Jonathan Rupp (Monroe Co. resident), Lucille Bertuccio (Bloomington resident), Tom Glastras (CARR), Thomas Tokarski (CARR), Scot Davidson (citizen), Mark Crain (Bloomington Hospital), Linda Greene, Terrie Usrey (CARR), David Butts (INDOT), Kim Pitcher (Burgess & Niple), Mary Brennan Miller (Bloomington resident), Sarah Ryterband (CAC), Andy Williams (Rogers Group), Andrew Effinger (Rogers Group), Bill Stephan (IU), Charles Savage (citizen), Brian Garvey (citizen), Brooke Usrey (citizen), and Nikki Johnson (CFC, Inc.).

MPO Staff: Josh Desmond, Raymond Hess, Scott Robinson and Jane Weiser.

- I. Call to Order**—Kent McDaniel called the meeting to order. The members introduced themselves.
- II. Approval of Minutes:**
 - A. June 26, 2009**—Bill Stuebe moved approval of the minutes. Richard Martin seconded the minutes. The minutes were approved by a unanimous voice vote.
- III. Communications from the Chair**—No report.
- IV. Reports from Officers and/or Committees**
 - A. Citizens Advisory Committee**—Jack Baker reported that they have been working on project prioritization into the TIP and the Long Range Transportation plan. They have two representatives who will work with the TE Committee. Mr. McDaniel noted that at the last meeting he and Raymond had discussed postponing staff reports. Mr. Hess said staff can report on those at the next meeting. This packet includes the 4th Quarter Progress report which shows the progression of how projects have moved along. Staff can give a 3rd quarter report and especially crash report if you'd like us to. McDaniel said he'd like the Accident report next time.
 - B. Technical Advisory Committee**—Nothing to report.

V. Reports from the MPO Staff

A. FY2009 4th Quarter Progress Report—Mr. Hess presented the report. There were no questions.

B. North Campus Area Study—Mr. Hess presented the staff report. There were 2 public workshops yesterday that went very well. They received a lot of public input. The consultants will take the input into consideration as they move forward with the study. They hope that the study will be finalized by the end of the year. A full report will be presented at that time. Mr. Hess showed the Committee the website created for this project. Ms. Thomas asked when the new information gathered will be incorporated in to a progress report. Mr. Hess explained the 3 scenarios that seem to dominate the discussions. Staff hopes to hear from the consultants by mid-October and then report to the committees and Indiana University.

C. American Recovery & Reinvestment Act Project Update—Mr. Desmond reported that all local ARRA projects made the Sept. 1 submittal deadline (imposed by INDOT) except for the Ellettsville Heritage Trail project. That project was subjected to a much more extensive environmental review than had been anticipated so it has been dropped from consideration. The ARRA money was transferred to the City of Bloomington's signalization project on 4th St. He offered to turn the meeting over to City or County representatives if they have any specifics to add on those specific projects.

Mr. Kruzan asked Ms. Johnson about today's notification from INDOT about some problem with the 4th St. project. The timing and the problem seemed unusual. He asked Ms. Johnson to outline the issue. Ms. Johnson said that the money was moved from the Heritage Trail to a project that they had initially requested ARRA funding for. The project was to improve the signalization at the intersections of 4th & College and 4th & Walnut. They worked with an engineer to meet the INDOT specifications. They worked with an INDOT-approved historian in order to fulfill the historical review process, also. They became aware today that INDOT has found greater problems with the historical review than they had thought that they would have. It is their understanding that because of the poles that they wish to install are decorative in nature as opposed to the traditional spun aluminum that is on-site now, that this will, in fact, create a full-blown 106 review of the project which would mean that they would not meet the deadline for filing our paperwork in order to receive ARRA funding. They were quite concerned that they received this information at this very last minute even though they used an approved historian. Mr. Kruzan asked if this would drive the project cost up to have to do a separate review. Ms. Johnson said not only would it drive the project costs up, it may in fact kill the project if they are not able to submit the paperwork on time. Mr. McDaniel asked if there is a solution. Ms. Johnson said in trying to find a solution the City Engineer has submitted a question to INDOT asking if they do not use the decorative poles, could they use the spun aluminum poles. They have not gotten a response from INDOT yet. Mr. Kruzan said that his assumption given the way we have been going is that the intended solution is, "Pass our hardship case and you'll get your projects." He said he would be asking about other projects that are having similar problems. Mark Stoops said that the County echoed Kruzan's comments. They are having the same situation.

Richard Martin noted that they indicated that they were looking for some alternative backup projects. There were other backup projects mentioned when we were coming up with the list of projects so that they would already be in the TIP and ready to go for funds. Mr. Desmond agreed that there had been some County paving projects that fell into that category. The estimates that came back turned out to be higher than was allocated for that project so those two were cut out and relocated to back up status in case we needed them. They are good to go if we need them.

Mr. Martin said if the traffic signal project was a project that the City was originally funding out of other funds and we picked up as the alternative for the project in Ellettsville which ran into the similar sort of historic or environmental review process at that point. Is that correct? Mr. Desmond said yes.

VI. Old Business

A. I-69 Hardship Right-of-Way Acquisition (*Action Requested**)

Mr. McDaniel noted that this item is an action item. Public comment will be taken. The procedure has been for the committee to discuss the item for as long as they wish and the floor would be open for public comment. Then, a vote would be taken. Public comment is limited to a maximum 5 minutes.

Mr. Kruzan asked staff or INDOT to answer one core question. Is the hardship case property in the State Transportation Improvement Plan? Jay Mitchell of INDOT said that it was not currently in the INSTIP or the local MPO's TIP. They are asking that it be included in the TIP. Then, by virtue of it being included, it will also be included in the INSTIP later on. Mr. Kruzan said he has been reading in certain documents that the argument has been that the problem here is that the INSTIP and our TIP are out of sync—therefore that is why these funds for different projects are essentially frozen. Are our funds frozen, by the way? Mr. Mitchell said that at present both the INSTIP and the current TIP are in sync so no funds should be frozen at this time. Mr. Kruzan asked why we were hearing from INDOT staff that projects won't move forward until we are in sync with the State's plan. Mr. Mitchell said he could not answer that since he was not part of that discussion. Mr. Kruzan said that he thought that the County had been told that. Mr. Stoops echoed Kruzan and asked who could answer that. Mr. Mitchell said he wasn't sure. It would probably be a more executive level question. Frankly, he didn't think that there was a problem now. Mr. Kruzan read from the Chamber of Commerce letter that said, "We understand that failure to amend the TIP would result in non-compliance and that INDOT could take the following actions: 1.) the TIP could be frozen until brought back into compliance; 1.) INDOT could withhold the MPO's sub-allocation of Surface Transportation Program (STIP) funding; 3.) INDOT could terminate the agreement that established the MPO; 4.) INDOT could do nothing in response. Is this all inaccurate—that we are not out of compliance?"

Mr. Mitchell said that what he read was from the Chamber of Commerce and what you read is actually correct from what he understands; however, those are actions that could be taken (possibly could be taken) post the action of this committee today. Mr. Kruzan asked why those actions would be taken when we are not in non-compliance. Mr. Mitchell said it was his understanding that those actions have not been taken. Mr. Kruzan said that Mitchell had talked

a really good circle there but he's saying that this letter says the failure to amend the TIP would result in non-compliance. Mr. Mitchell said he thought that was reasonably accurate. Mr. Kruzan asked why that would be with the STIP not having this language in it. We would be non-compliant with what?

Mr. Mitchell said what they have heard frequently from this committee is what are the ramifications should the committee not approve this particular TIP amendment. That is what we should be talking about. He said he was not a policy level individual so he couldn't tell the PC if you do X, Y will happen or if you do X, this will happen. What he can do is answer the question as to what is the possible range of ramifications that might occur. Basically what you have read are pretty much those. Mr. Kruzan asked what we are non-compliant with. Mr. Mitchell said that they keep talking about the term, "non-compliant." It is more a term of the "3C Process." The "C" that you would be focusing on would be "Cooperation." Mr. Kruzan said that cooperation is all that the MPO is asking for from INDOT. Mr. Mitchell said they might interpret a "no" vote as an act of not cooperating. Mr. Kruzan said that what it comes down to is that we are not doing what they want us to do. Where in Federal code and state statute will he find that the Federal or State government are empowered to hijack the funding of a local community because they don't like what the community is doing to stand up for themselves? He looks at the bypass—it has clearly been delayed for that reason. Some people are happy about the delay and some people are pretty upset. Jackson Creek Trail program has clearly been delayed by this. The 4th and College program less clearly but has been delayed. The letters that are circulating again for people who say they have been communicating with INDOT is, again, \$38,000,000 worth of programming is in jeopardy. You are telling me that these are the possible ramifications. He has looked at the messages that have come through and especially one from an otherwise responsible organization. There are some pretty naïve email messages circulating that endorse the State and Federal government's story without any independent research. He had hoped that rather than turning on your own community, that people would stand up to Federal and State holding Bloomington hostage. The only stated reason that INDOT has given for needing this hardship case is to assist the unfortunate property owner to deal with his/her property because they have to deal with the hardship of not being able to sell it. If that is the main purpose of this is to assist that homeowner who has applied for a hardship case and INDOT feels that this person is qualified as a true hardship case. Mr. Mitchell said, "Yes." INDOT does indeed have a policy that allows them to advance and purchase property in advance of a project. This individual did go through the proper steps, approached INDOT, INDOT reviewed the documentation supplied by the individual and has determined that this individual does, indeed, qualify for a hardship acquisition under their rules.

Mr. Kruzan apologized for talking over Mr. Mitchell. He said that he was obviously upset but apologized. To address the problem which INDOT feels is a genuine one, the City of Bloomington today intends to make an offer to purchase this property. We are going to do an affordable housing pilot project there. It is about a \$99,000 offer. We have talked to the realtor and are contacting the attorney so we are going to buy the property (with the City Council's approval). This is at best a moot point or open-ended question. *****Mr. Chairman, I would move that we indefinitely postpone this hardship case. Susie Johnson seconded the motion.**

Mr. McDaniel asked for discussion. Mr. Stoops asked to add to the motion. *****"Because the City is purchasing that property, this request does not meet the MPO requirements regarding the fact that a project have specific funding mechanisms to be included in our TIP and I-69 does not."** Mr. McDaniel asked if the addition to the motion was okay with Mr. Kruzan. Mr. Kruzan agreed and added that it was accurate. Ms. Johnson said it was acceptable.

Mr. Ruff asked Mr. Kruzan about the delayed projects he mentioned before. Do you mean delayed funding that has already been approved but has not come to the community? Mr. Kruzan said yes. We submitted all the necessary paperwork for the Jackson Creek Trail in March (he was not sure of the month) and under normal circumstances that would have been eligible every month and with no explanation has been withheld. We never had any contact from INDOT to say that the bypass was going to be delayed. We read about it on their website and in the newspaper. He said he took a little bit of legitimate criticism for not getting a letter in writing to INDOT for a month since their request because we were trying to work through back channels. Today it has been one month since INDOT has had that letter and we have still heard no response. There could be other explanations. Perhaps they are genuinely concerned about bike/ped accessibility. Perhaps it's a message to the community. Mr. Stoops said that the County has some delayed projects even outside of the MPO region. INDOT told us last week when we asked why these projects were delayed and how long they might be delayed. Their answer was it depended on our vote on Friday. Mr. Ruff asked if, as an executive of the County and the City's chief executive, they would hope that this action would result in a resuming of funding for already-approved, promised funds and projects. Mr. Kruzan said he has been attempting to put this issue to rest in different ways and this seems to be the solution. There may be a legitimate concern that this property owner has. He has heard varying stories and degrees of suffering that this person has had. INDOT says that this person has applied properly, has done all that they should be doing and ultimately they don't care how the property is purchased. They have been unable to sell it. They now have a willing buyer. We hope that to eliminate this as an issue (a roadblock, if you will), and that the money can flow freely to the community.

Mr. Stoops said to Mr. Ruff that he thinks they all know that this proposal has nothing to do with a hardship buyout. INDOT even stated in May that they can purchase this property without going through this process. If they were really concerned about the problems this woman was having, you could have bought this property out of petty cash. Mr. Mitchell said he felt compelled to respond to the statement. There was some misinformation that actually transpired 2 Policy Committee meetings ago where the assumption was made that if we did not use federal funds, INDOT could then proceed to purchase this property with state funding and forgo the process of amending this item into the TIP. We have since been corrected and that is not the case. Whether or not we use state funds, federal funds or petty cash funds, this particular acquisition, while not in itself significant, is considered to be tied to a regionally significant project—I-69. By virtue of that, the action would have to be included into the TIP before INDOT could proceed with the purchase of the hardship situation. Mr. Stoops said that he thinks it is great that the City has helped you solve this problem. Mr. Mitchell said that he hated to belabor the point but there is one other thing. He told the Mayor that he checked on the SR 45 bypass yesterday. He doesn't think it is being delayed for any other reason than

some information was passed on to INDOT from the University and also apparently from the City having to do with the bicycle and pedestrian facilities along that particular roadway. Those are being evaluated and you will apparently be hearing back from INDOT on those. Mr. Kruzan thanked Mr. Mitchell. Mr. Mitchell said he didn't know about the other projects.

Mr. Martin said that there is an unfortunate lack of communication that is occurring between INDOT and the County and the City. He understands that at an engineering level, there is pretty good cooperation and interaction among the people involved. At a policy level, from his understanding, there is essentially no interaction at all. It is very hard for the MPO to participate in a process that is continuing and cooperative and comprehensive without participation on the part of INDOT in the establishment of our policy. The County has made 2 requests now of INDOT for information we consider crucial to our comprehensive plan and we are not getting the information that we need. He has gotten a letter that says that it is going to be treated as public information. It's not public information. There is a statute in the State code that is specific to the needs of a comprehensive plan and information related to it that is to be provided to a County Planning Department. We expect that dialogue to occur. He does not know why it is not occurring. The City has had the similar kinds of problems when they went to the SR 45 issue. It took this meeting a couple of months ago (when this issue of the bypass came up) before anybody at INDOT seemed to know that there was problem with pedestrians and bicycles. That is a lack of policy level communication. We need to address that if we are to participate in this process as the federal government expects us to do. They gave us the responsibility and the authority to do it. We are going to do it. He encourages INDOT to fully participate with us in this process.

Mr. Kruzan agreed that on the engineering and staff level and even at the administrative level...we literally wouldn't have one of the greatest economic development projects (in his eyes), the B-Line Trail, had it not been for INDOT's cooperation. He appreciated the fact that there are a lot of projects. The frustration here is the lack of communication and the absolute lack of any substantive facts that back up some of the claims. We do end up in a circular argument. What we have been asking for many times has been for INDOT to provide in writing the statute citation, how is it that we are out of sync when we are identical, and what exactly the penalties are not what can they be. It is frustrating not getting answers. Sometimes, he has to give answers that people don't want to hear and he expects to get answers that he doesn't want to hear. He just wants to know what the answer is.

Mr. McDaniel followed up on the issue of communication. Another example of the lack of communication—admittedly this is a short time frame—only about a week ago on behalf of the MPO Policy Committee, he sent a letter to INDOT asking if they could be specific about what repercussions might occur if we did not pass this issue today. And specifically, he mentioned the ARRA funded projects awaiting letting. The second question was if there are to be negative consequences as a result of the vote, will there be an opportunity to take further action in response to that. We did not get a response. We asked them to respond before the meeting or have someone here who could answer those questions. From what he has heard so far, it doesn't seem that Mr. Mitchell can do that. Mr. Mitchell said he saw the letter but he understood that those answers could be provided at the meeting today. Mr. McDaniel said that if INDOT was serious about passing this, somebody should have responded or made it possible

to respond today. He didn't think that they were asking for that much even though we only gave them a week to respond. These are the very same questions that we asked 6 months ago at the last meeting when we discussed this. They were never answered at that time either.

Mr. Stark said that since he is the INDOT representative on the board—the ability to answer the questions or what the questions are is what if these things do happen based on not passing the amendment—he can answer those questions. They are not a whole lot different from what you have been reading as far as that's concerned. Mr. McDaniel asked him to answer the questions. Mr. Ruff asked if the current funds that are not flowing into the community for already approved projects are being withheld for this reason. Mr. Stark said no, they are not. Mr. McDaniel asked what if they vote to deny this request. Mr. Stark said that one of those consequences could be that they would not advance any projects in the Bloomington MPO area, if this amendment is not passed. Mr. McDaniel said that the "could" doesn't help us. Mr. Stoops asked if they would withhold money or not withhold money. Mr. Stark said it wouldn't be his decision but, yes, they would. Mr. Kruzan asked, "On what basis?" Mr. Stark said on the fact that the amendment hasn't been passed. It was voted down last March. INDOT is asking again for it to be passed so that we can purchase the piece of property on this hardship case. Mr. Kruzan said that he has understood after talking to people at INDOT and others that the reason funding would be frozen is because our TIP would not reflect the State TIP. Mr. Stark said that the State wouldn't have requested this amendment if it is not something that was in its plan to do. Mr. Kruzan said that the plans are in sync. We are being punished for something that has not yet happened. Mr. Stark said that the State's plan has to be approved by the Governor on an annual basis. At this point he has not approved it yet (to his knowledge). INDOT would not have asked for the amendment to happen without it being in their transportation plan. Mr. Kruzan said that the need for the amendment is that they need to acquire the property so that this property-owner who is qualified to receive hardship assistance does. That is what the City of Bloomington is planning to do. He moved the question. Mr. Coyne said he just wanted to understand what is going on to be clear what we are doing here. The City has a contract with this owner to buy this property. Mr. Kruzan said that the City has been in touch with the realtor today and the offer may have been done by now. Ms. Johnson said she has the offer with her and she needs City Legal to review it. Mr. Kruzan said they intend to make the offer today. Mr. Coyne asked if they have reason to believe that it will be acceptable. Ms. Johnson said she thought so. Mr. Kruzan said we would have to get Council approval to appropriate the money. Mr. Coyne asked INDOT if the City does purchase the property, does that make this request moot because it would no longer be a hardship and therefore this would not be necessary. Mr. Stark said he could not answer that question. Mary Jo Hamman with Michael Baker (the Section 5 Tier 2 Environmental Consultant) said that the property owner has been directly in contact with her. If the City is able to purchase the property and come to an agreement, it would be the City's responsibility to come to INDOT with the hardship acquisition request if that were to be the case. She said she thought the bottom line is that the property owner would be very happy regardless of who owns the property as long as it is no longer her. Mr. Coyne said he wanted to make sure that this is a solution that solves the problem. Ms. Hamman said Mayor Kruzan had brought up the question of not being in sync. When INDOT went through the review process after the hardship acquisition was formally made and the determination was made the homeowner qualified, they were bound to purchase that property. The only way that INDOT could do that is to have the

acquisition of that parcel in the INSTIP. Because it is within an MPO area, the only way that can happen is to be in the local TIP. The issue of being out of sync, while technically today we are not out of sync, we have made a commitment that this individual does meet the hardship requirements. We were bound to purchase the property and the only mechanism to do that was to have the State TIP amended to have that property in place. Because it is within an MPO area, we had to have it in the local TIP in order for it to be referenced into the STIP. Mr. Coyne asked when the City Council might act. Mr. Ruff said that as presiding officer over the Council he controls the agenda. He would be happy to put this on the agenda at the earliest possible time. He would furthermore like to add that this is an excellent solution as affordable housing opportunities are very important to this community. With a project scheduled date of activity on Section 5 of I-69 being 2016 to 2020 at the earliest and the way this has been going 2020 would be pretty optimistic. Under any scenario we would get several years of affordable housing benefits from the purchase of this property. In his opinion, it is likely that we could get a longer amount of time than that. Mr. Coyne asked if the person would withdraw their hardship request to the state as a result of this purchase. Ms. Hamman said she would no longer be the owner.

Mr. Stuebe noted that the State was going to buy the property as a hardship acquisition. Was the State also buying it because it would be needed for future road plans? Ms. Hamman said the property would be needed under both alternatives currently under consideration. Mr. Stuebe said that the State will need this property at some point. Ms. Hamman agreed. Mr. Stuebe said that this was a convoluted process. If this was truly needed by the City for affordable housing, he could understand it. The person deserves to have the property purchased. We are continuing to do nothing but butt heads with INDOT although he didn't want to detract from the call for good policy communications between INDOT and the County, City and IU. He just didn't see this one single act as being the issue of that they are making it. He would prefer to let the highway department do as they wish to.

Mr. Martin said that by Robert's Rules, the motion to postpone would take precedence over public comment. The question has been called.

Mr. Kruzan and Mr. Stoops restated the motion.

*****Mr. Kruzan moved to postpone indefinitely (Mr. Stoops added: because of the change in the situation, but also because this project which does not have a funding stream identified, makes it ineligible to be included in our Transportation Improvement Plan.) The role was called.**

Mr. Coyne said that he agreed with Mr. Stuebe that the fundamental issue here is someone in need and their need is not being addressed. If this plan from the City addresses that need...Andy Ruff made a point of order that final comments had already been taken and the members should just vote.

The motion passed by a vote of 8:5.

Mr. Stoops directed his comment to the chair. He requested that INDOT contact our Highway Department or the Monroe County Commissioners on Monday and apologize for suggesting that our funds have been delayed and that they were controlled based on our vote today. He

would like to know when the funds will be forthcoming for projects that were not even included in the MPO.

VII. New Business (taken out of order)

A. Transportation Enhancement Review Committee (*Nomination Requested**)

Scott Robinson said that the PC needed to elect up to two members of a TE Project Selection Committee. These representatives, along with representatives from the CAC and TAC will review projects to decide funding allotments from the MPO's TE funding. To date the MPO has received 3 applications for funding. There is some concern about conflict of interest. It is expected that should a conflict arise the committee member would take themselves out of the discussion and recommendation process. The committee will not make partial recommendations on funding. They will determine which projects should be funded then the entire MPO will decide on funding allotments. Mr. Robinson gave a synopsis of the 3 applications received. He asked the chair to entertain some nominations in order to select up to 2 representatives. The Policy Committee will meet at a special meeting on Oct. 9 to endorse the project recommendation in order to send off to the State by Oct. 15, 2009.

*****Bill Stuebe nominated Bill Williams. Jack Baker nominated Susie Johnson.** Bill Stuebe discounted the idea of conflicts of interest presenting problems. These people are most knowledgeable of priority and what needs to be accomplished. Robinson agreed and added that staff can nominate additional technical staff if we feel the composure of the group could benefit from that. The committee chair said that if there was no objection, the two would be the representatives.

VIII. Communications from Committee Members (*non-agenda items*)

A. Topic Suggestions for future agendas

IX. Upcoming Meetings

A. Technical Advisory Committee – September 23, 2009 at 10:00 a.m. (McCloskey Room)

B. Citizens Advisory Committee – September 23, 2009 at 6:30 p.m. (McCloskey Room)

C. Policy Committee – October 9, 2009 at 1:30 p.m. (McCloskey Room)

Adjournment

*These minutes were approved by the Policy Committee at their meeting held on October 9, 2009
(JFW 10/09/2009)*