

RVACT *Rogue Valley Area Commission on Transportation*

155 N. 1st Street • P.O. Box 3275 • Central Point, Oregon 97502 • 541-664-6674
FAX 541- 664-7927

To: Members, Rogue Valley Area Commission on Transportation

From: Pat Foley, RVCOG

Re: Summary of January 13, 2009, RVACT Meeting
ODOT Conference Rooms B & C, White City, OR

Members and Alternates in Attendance: John Stromberg and Mike Faught, Ashland; Tim Cummings, Grants Pass; Linda Meyers, Jacksonville; John Vial, Jackson County; Rob Brandes, Josephine County; Al Densmore, Medford; Arthur Anderson, ODOT; Bob Lewis, Phoenix; John Bond, Rogue River; Ernest Garb and Page Townsend, RVTD; Ruth Keith, Ron Holthusen and Margaret Bradburn, Shady Cove; William Cecil and Jay Henry, Talent; Mike Montero, Reeve Hennion, James Lowe, Jeff Hunter, Stacey Kellenbeck and Earl Wood private sector representatives from Jackson and Josephine Counties

Members Absent: Butte Falls, Cave Junction, Central Point, Eagle Point, Gold Hill, MPO Policy, and private sector representatives Alan DeBoer, Craig Stone and Richard Smith

Staff: Paul Mather, Mike Baker, John Baker, and Gary Leaming, ODOT; Pat Foley, RVCOG

Other: OTC Commissioner Dave Lohman; Jeff Griffin, ERT; Dick Leever, Jayne Randleman, ODOT; Alex Georgevich, Medford; Mark Townes, Grants Pass; Joe Strahl, Public Works Management

1. Roll Call
Mike Montero

Because of the many new members present Mike started with a brief overview of the RVACT. The RVACT is an advisory body that the Oregon Transportation Commission chartered with the goal of creating a forum where a collective voice for regions in the state (RVACT, Region 8) could come together. While we all have our own particular jurisdictions that we represent, our assignment is to give the best advice that we can collectively for the Oregon Transportation Commission for policy input and for project selection as it relates to the State's infrastructure.

Roll was taken. A quorum was present.

Mike asked participants to introduce themselves.

2. Approval of Minutes

Mike Montero

The September 9, 2008 RVACT minutes were approved as submitted.

3. Public Input

Mike Montero

There were no public comments.

4. Recognition of former RVACT members

Mike Montero and Jeff Hunter

Certificates of Appreciation were prepared for outgoing RVACT members.

- Ruth Keith, outgoing Mayor of Shady Cove. Ruth said that serving on the RVACT has a rewarding and educational experience.

Several members were not able to attend the meeting. These certificates were given to jurisdiction representatives for distribution.

- Jim Lewis, outgoing Mayor of Jacksonville. Jim was one of the original members of the RVACT.
- Lynn Perkins, former City Councilor for Talent
- Jim Raffenberg, outgoing Commissioner for Josephine County
- John Morrison, outgoing Mayor of Ashland
- Tony Paulson, outgoing Mayor of Cave Junction

5. Program Updates

Art Anderson

Transportation Enhancement Grants

Projects considered for Transportation Enhancement Funding included 31 finalists. Four projects in the RVACT area were under consideration:

1. Central Point – Hwy 99 Gateway pedestrian crossings and streetscape
2. Grants Pass - OR99 Fruitdale Dr/Carnahan Dr sidewalk & bike lanes
3. Jacksonville - First St & Main St sidewalk & streetscape
4. Rogue Valley COG & OPRD - Rogue River Trail Sardine Creek/Rock Creek Bridge

The Transportation Enhancement Committee selected 13 projects and 4 alternatives.

Two projects from the RVACT area are on the list:

1. Jacksonville – First St & Main St sidewalk & streetscape
2. Rogue Valley COG & OPRD – Rogue River Trail Sardine Creek/Rock Creek Bridge

OTC approval of these projects has been delayed. The selected projects are therefore “Recommended for Funding” but cannot be added to the STIP or started. Transportation Enhancement funds will go to some or all of those on the list depending on STIP funding and any stimulus funds. Art went on to explain that Transportation Enhancement funding is a program that comes from Federal funds and is distributed to the states.

Pedestrian and Bicycle Program Grants

Seventeen 'Pedestrian and Bicycle' projects were funded statewide under this program. Two projects were within the RVACT area:

1. Central Point – Pedestrian crossing and streetscape
2. City of Talent – Streetscape (sidewalks, bike lanes, street lights, narrowed lanes)

6. Federal Earmark Presentation

John Baker

An earmark is a congressionally identified amount for a congressionally identified project. Earmarks generally occur in two types of transportation legislation;

1. An annual bill, such as an annual transportation appropriations bill, which covers a one-year period
2. A reauthorization bill which establishes transportation programs and policies for a period of years

Currently the nation is operating under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). This bill covers transportation legislation programs from 2005 and expires September 30, 2009.

I. Review of Oregon Transportation Commission (OTC) Policy on Federal Earmarks

In May of this year the Transportation Commission adopted a policy regarding earmarks that would be requested within reauthorization legislation. That particular policy was intended to clarify how earmarks would be considered and identified. The result unfortunately created more confusion than actual clarification. The confusion arose from two particular components of the existing policy. 1. The treatment of a project on the state system that was sponsored by other than the state. 2. The actual roles and responsibilities of a sponsor of an earmark. The Commission will adopt a new policy next week which will clarify that the projects that are identified as earmarks. When the current bill was adopted the OTC tried to reduce and focus on a small number of projects. The OTC identified nine projects which the state of Oregon would commit to insure that those projects would be completed if funding was received. Seven projects were selected for funding. Seventy-three other projects were identified as in the bill to receive funding. The Commission to clarify will be asked to eliminate two sections, the treatment of earmarks on the state system proposed by others in the state and clarify the roles and responsibilities of earmark sponsors. To clarify the list, the Commission was going to be, there would be a list of about twenty one projects that would have been presented to the Commission next and asked to be approved. Now it is my understanding is that they will be presented with a list of sixty-one projects, all of the projects that went through and were considered by ACTs and identified for possible funding. These projects will be identified or forwarded to members of our delegation for consideration. Really the perception in the department is we are not really changing any policy. The position has been and always is that each project is considered on a case by case basis by the department. So how we interact with project sponsors is really on a case by case situation. That is always the case. The other issue is basically there is always the expectation that a sponsor of a project will be responsible for financial requirements associated with the projects and any programming and planning requirements to insure that the project is undertaken.

The OTC policy states:

- A. Department will only recommend federal funding for projects that:

- Are strategic investments that address problems on Oregon's transportation system
 - Meet STIP project eligibility criteria and are consistent with approved plans.
 - Have support of ACTS, local officials, businesses and the public.
 - Can be completed with the time-period covered by the enacted transportation bill.
 - Have sufficient funding to cover match.
- B. Existing sections on Earmark Sponsor Roles and Responsibilities and Use of Earmarks for Local Contribution to State Highway Projects are to be eliminated to reduce confusion that has arisen.
- C. Department position regarding projects are not recommended by the OTC will continue to be determined on a project by project basis.

II. Financial Realities of Federal Earmarks

- Earmarks seldom cover the entire cost of a project.
- a. Typical earmark accounts for 10-25 percent of the actual cost of a proposed project. ODOT requested funding in the last bill for nine projects. The awards received covered 17 percent of the total project costs. One of the reasons that an earmark doesn't cover the entire costs of a project is that the earmark will require the commitment of some type of local funding.

ODOT requested in the last bill for nine projects. The awards that we received covered 17 percent of the project. One of the reasons that an earmark does not cover the entire project is that in almost every instance an earmark will require the commitment of some type of local funding. Basically this is a non-federal share requirement and is referred to as the match. In previous reauthorization bills, for every dollars worth of funding received for a project they were required to put up 25 cents. Under the current bill Oregon and five other states were granted, because they have large areas of federally owned properties they were granted a reduced match requirement. Initially Oregon and five other states were required to put up 11.45 cents for every dollar they received. Other states thought this was not fair. In a recent bill which was considered a technical correction, all states have a reduced match depending upon the amount of land publically owned in their state.

- Earmarks requests are rarely fully funded.
- a. Typical earmark award is 25-50 percent of the amount requested. ODOT earmark awards received in the last bill amounted to 41 percent of the requested amount.
- b. The average earmark received for an Oregon project was \$4 million. Thirty out of 80 Oregon earmark projects received \$1 million or less; one-half received \$2 million or less. Three out of every four received \$ 5 million or less. Ten projects received more than \$10 million.
- Earmarks require the commitment of matching non federal funds.
- a. Sponsors of Oregon projects receiving earmarks under the High Priority Projects and Transportation Improvement programs were required to supply a minimum of 10.27 percent of the total project costs from nonfederal sources.
- Earmarks are received incrementally and subject to obligation limitations enacted by Congress.
- a. Earmarks for high priority projects came in even increments over a five year period; earmarks for transportation improvement projects came in varying increments, with the majority of funding coming in the out years of the bill.

- b. Annual obligation limitations enacted have ranged between 85 percent and 92 percent. In reality Oregon received 84.67 cents for every dollar that was expected.

II. Earmark Funding under the Federal-aid Highway program

- A prerequisite to receiving earmark funding is the development and adoption of a federal project agreement.
- Funding is provided on a reimbursement basis.
- Funding is received incrementally over the life of the transportation bill.
- Funding increments are subject to obligation limitations established by Congress.
- The minimum match required for an earmark project is roughly 11.45 percent of the earmark award.
- Funding for local projects flow through ODOT.
- Funding can only be used for project activities identified in the project description contained in the adopted bill.
- Projects receiving earmark funding must follow all federal-aid requirements.
- Any funding received for a project that is not completed must be returned to federal government.

III. Recommendations

- Ensure the proposed project is doable within the time-frame of the new bill.
- Ensure cost estimates have been developed using, current, reliable and solid cost estimation data.
- Describe the project and location in the most general language possible.
- Avoid requesting amounts under \$1 million unless the project is already receiving federal funds or there is little likelihood that federal requirements will affect project cost of scheduling.
- Ensure there is a strong commitment to completing the project if federal funding is received.
- Contact staff of the department's Local Government Section for questions about earmark requirements and assistance in developing project proposals for possible federal funding.

Discussion/Questions/Comments

What is the status of the earmark package? Last year the State came out with a new process that asked the ACTs to prioritize projects. This ACT did a good job of prioritizing projects and sent that list to the State. Recently a different list came out with different earmark recommendations. It seems that every project originally submitted is going to be considered. Is this a prioritized project list? Response: The entire list will be presented next week. Some members of our delegation have indicated that they would like to see the list to be considered as a list of recommended projects that are not prioritized. OTC Commissioner Dave Lohman added this is confusing. He reinforced the importance of the work done by this ACT. Looking at the earmarks is an example of where the Commission turned to the ACTs to go beyond their normal scope of authority and take a look at potential earmark projects. This was done because the OTC tried to push the decision making down to the local level as much as possible. Many of us don't know all of the issues involved in a Region's potential projects and asked you who know the projects to give us good advice on them. With respect to earmarks we have had cases in the past where a particular congressman has responded to requests from his/her district to earmark a particular project and it turns out the project was not on anybody else list. The project then received a fair amount of money, but not the entire amount, and then they come to the State asking us to provide the other 30 or 40 percent from funds that has already been allocated to other projects. This has created a problem. We tried to address that problem by asking the

ACTs to prioritize the projects for us. You went through the difficult process of picking projects that seemed to rise to the top based on certain criteria and then that list was presented to the Commission. When we looked at the list, and particularly what this ACT had done, we said that looks good to us. When we took it around to the delegation we thought we were doing a favor for the delegation by saying you are bombarded by a bunch of requests and we are going to help you by giving you a vetted list. A lot of the delegation really welcomed this. But one particular member of our delegation, Congressman DeFazio, felt like it was intended as a limitation on him. He said look I am the Congressman and I don't want to be told what I can do. This is the reason we had to backtrack and negotiate with Congressman DeFazio. We said we will give you the whole list that is not prioritized but we will tell you what we think are the projects that we can get behind. That isn't to say that if there is some non-prioritized project that we will never get behind it but we relied on our ACTs to tell us what their priorities are and that is important to us. All of the work that you have done to narrow down the list and give it priorities will end up being welcomed and pretty much utilized by the delegation. There may be one or two non-prioritized projects that some Congressmen are going to decide to put on their lists. Your work is not in vain.

Some local governments were a little concerned when that earmark policy came out but the procedure felt comfortable and everybody here felt good about the process. The present list might not be as consistent with the ACTs recommended list as we would have desired. If there was a disconnect, the disconnect occurred from when the ACTs finished their job to when that final list was put together. Not sure that there was a real clean process. This may be something that the OTC may want to look at if the ACTs are used for this process in the future.

7. Break

8. Strategic Investment Analysis Background

Mike Baker

Current parameters and possibilities for strategic investment analysis and criteria for ODOT and OTC selection of future projects include:

- Criteria
 - a. Programs typically use criteria to determine which projects to fund in order to meet agency and program goals.
 - b. The RVACT has developed a set of criteria that they use when evaluating projects.
- Goals
 - a. Identified goals are defined in order to achieve the direction for the strategy to implement.

Constraints: State law currently limits the flexibility of some of the revenue ODOT receives and prescribes some parameters for the modernization program. There are presently technical limits to certain types of effective multimodal analysis. Federal legislation and regulation may limit how federal dollars received by ODOT can be spent.

- The Oregon constitution requires that any tax related to vehicle fuel and any tax on ownership, operation, or use of motor vehicles "be used exclusively for the construction, reconstruction, improvement, repair, maintenance, operation, and use of public highways, roads, streets, and roadside rest areas.
- The modernization program is defined and funded in the state statute.
 - A portion of the funds ODOT receives, currently estimated at approximately \$56M a year must be used for modernization activities and may be used to retire

bonds. The modernization program intent is to increase highway safety, to accelerate improvements from the backlog of needs on the state highways and to fund modernization of highways and local roads to support economic development in Oregon. The OTC may use up to one-half of moneys available for modernization projects selected by the commission from a list of projects of statewide significance and except for projects that are of statewide significance, projects must be equitably distributed throughout Oregon.

- The Oregon Transportation Investment Act III legislation requires ODOT to give priority to freight mobility projects in the STIP.

Technical Constraints: A further constraint is the present limited ability of project selection criteria and analysis tools to compare investments across different modes.

- ODOT is looking at other state's criteria.

9. Local Construction Projects

Gary Leaming

Gary Leaming gave an update on the following projects:

- South Medford Interchange
 - Southbound off-ramp to open Wednesday
 - New southbound on-ramp scheduled to open January 21st
 - All roadways are scheduled to be open in December
- Highway 199
 - Phase I from Midway to RCC is complete.
 - Phase II (RCC to Dowell Road) is scheduled to go to bid in late 2010.
- Highway 99/Highway 238
 - This project will go out to bid this summer.
- Rogue River Highway – from South Y to Fruitdale Road
- Fern Valley Interchange
 - The EA is nearly complete. Should be released late February or early March.
- Highway 62
 - The EIS should be released this spring.

10. Oregon Transportation Commission/Legislative Updates

Paul Mather

Paul Mather gave an overview of Economic Stimulus Legislation and Transportation Funding. Many questions need to be addressed and answered. The handout given the RVACT includes these questions.

President-elect Obama and congressional leaders have increased speculation that Congress could pass legislation that might include an infusion of funding for transportation projects. Specific details are yet to be determined. If Congress passes an economic stimulus bill that includes highway funding it will likely send money through the federal highway program distribution formula. Under this formula Oregon receives about 1.2 percent of total funding. In addition to the normal requirements it is likely that funding under an economic stimulus package would come with the requirement to get projects under contract and under construction in 2009. This requirement would most likely include preservation of the existing road and highway system, such as paving, bridge repairs, and safety measures. ODOT is working to identify state highway projects that could receive funding so the agency can move quickly if an infusion of resources becomes available.

- ODOT will set aside a portion of the funds for local government projects.
- If Congress maintains the normal process of passing all federal-aid highway program funds through state DOTs, ODOT will administer the funds.
- A stimulus bill could include funding for public transportation.

2009 Jobs and Transportation Act (JTA) Overview

This Act was developed around five core principles

- Creating and sustain jobs and the economy
 - JTA provides a \$499M annual investment in Oregon’s highway system.
 - JTA continues the *ConnectOregon* program.
- Maintaining statewide distribution of investments
 - Support for County Road and City Street Program
 - Trust Fund for Timber Dependent and Small Counties
 - Support for Elderly and Disabled Transit Services
 - *ConnectOregon*
 - Relief for Key Bottlenecks Statewide
- Incorporating sustainability
 - Funding for Non-Highway Projects
 - Greenhouse Gas Reduction Goals
 - Actions
 - Incentives for Electric Vehicles
 - Environmental Stewardship for Transportation Projects
 - Incentives for Fuel Efficient Vehicles
 - “Pay-As-You Drive” Auto Insurance
 - Local Emissions-Reduction Plans
 - Congestion Pricing Pilot Project
 - Least Cost Transportation Planning
 - Transition From the Gas Tax
- Ensuring local decision making
 - Area Commissions on Transportation and Metropolitan Planning Organizations continue to select and recommend transportation projects to the OTC.
 - Half of all new state highway revenues go to local governments; 30 percent to counties and 20 percent to cities.
- Improving transparency and oversight – Initiative includes:
 - Creating a Transportation Utility Commission
 - Encourages Facility co-location
 - Improving project selection
 - Enhancing public involvement

Comments:

- Concern that stimulus package will not be available to rural communities for infrastructure.
- Would like to see a transportation funding flow chart at next meeting.

OTC Commissioner Lohman finished the meeting by saying that the OTC appreciates the work the ACTs provide. He suggested that when our highway system deteriorates our economy deteriorates. He feels that we should look at some alternative to the gas tax. This is what the Governor’s legislation is pushing.

11. Agenda Build/Next Meeting
Mike Montero/Art Anderson

The next meeting will be on March 10th, Grants Pass City Council Chambers.