



# Dover/Kent County Metropolitan Planning Organization

P.O. Box 383, Dover, Delaware 19903

(302) 760-2713 FAX: (302) 739-6340

<http://doverkentmpo.org>

## DOVER/KENT MPO COUNCIL

### MINUTES OF MARCH 5, 2008

#### Dover/Kent MPO Council Members and /or Representatives thereof:

**Brad Eaby, for Brooks Banta, President, Kent County Levy Court, Chairman**

**Robert Mooney, Town of Camden, for Kent County Municipalities, Vice-Chairman**

**Anthony DePrima, for Carleton Carey, Mayor, City of Dover,**

**Ken Potts for Stephen Kingsberry, Director, Delaware Transit Corporation,**

**Ralph Reeb for Carolann Wicks, Secretary, DelDOT**

**Tony Cho for Letitia A. Thompson, Regional Administrator, Region III, Federal Transit Admin. (FTA)**

**Tashia Clemons for Hassan Raza, Division Administrator, Federal Highway Admin. (FHWA)**

#### Members not attending:

**Elizabeth Olsen, DE Dept. of Safety & Homeland Security, for Governor Minner, State of Delaware**

#### Non-members attending:

**Mayor Carleton Carey Sr., City of Dover**

**Richard Ornauer, PAC**

**Joshua Waltz, MPO Staff**

**Mayor Donald Tinari, Town of Cheswold**

**Juanita Wieczoreck, MPO Staff**

**Catherine Samardza, MPO Staff**

The meeting was called to order at 3:08 PM without a quorum and began with Item 9, Municipalities Reports, a non-action item.

#### **1(9). Municipalities Report – A. DePrima, Mayor Mooney, Mayor Tinari**

Mr. DePrima reported that the signal light project is wrapping up. There have been complaints about poor workmanship at the crosswalks and sidewalks, and that is being remedied. The Governor's Avenue reconstruction project will begin this spring after the lighting project is finished and will be a 2 ½ year project. The Puncheon Run bridge will be closed for 6 months. The street will be open, but with shifts and detours. He also noted that several years ago a Transportation Community Grant was awarded for the Clarence Street Extension project. This project is being amended due to financial concerns. It will only entail the extension and not the industrial park originally envisioned. An amended scope will be submitted to the Federal Highway Administration. Mr. DePrima also noted that several studies are going on in the area and that the realignment of Wyoming Mill Road is now in design and could be done within the next two years.

Mayor Mooney reported that he met with the developer Mike Zimmerman on a project on Old North Road that will exit onto Route 13. The property, currently a trailer court, now belongs to Mr. Zimmerman and the residents have been given due notice to relocate. He also noted that Mr. Reeb and DelDOT have been very cooperative on this initiative.

Mayor Tinari reported that Cheswold will hold council elections on March 25<sup>th</sup>. There are new rules and regulations in place from the State and Cheswold wants to ensure that everything is in compliance. Cheswold will be taking over building inspection and code enforcement within the town on April 7<sup>th</sup>. He also reported that a 179 unit development, Stonington, is being planned. It is a Capano development with moderate-priced homes in the \$179,000 range.

#### **2(1). Introduction of Members and Guests**

#### **3(2)). Public Comments**

#### **4(3). ACTION ITEM: Approval of Agenda**

MOTION By Mr. DePrima to approve the agenda with the change noted at the beginning of the meeting. Seconded by Mr. Potts. Motion carried.

#### **5(4). ACTION ITEM: Approval of Minutes/January 2, 2008**

MOTION By Mayor Mooney to approve the minutes. Seconded by Mr. Eaby. Motion carried.



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### 6(5). **ACTION ITEM: Draft DE 8 Concept Plan and Operations Study – J. Wieczorek**

Ms. Wieczorek noted that Council reviewed the Plan at a prior meeting. She then reported that the State Historical Preservation Office's concerns had been addressed to their satisfaction by the consultant. She asked Council to approve the Plan. Mr. Eaby asked what, if approved, would happen next. Ms. Wieczorek explained that the projects recommended in the Plan would become TIP submittals and go through the MPO priority process before being forwarded to DeIDOT. It would also be incorporated into the next transportation plan update. Mr. Reeb noted that DeIDOT would use the plan as a guide for future development. Mr. DePrima asked if the Plan had been presented to the City of Dover Council and Levy Court. Ms. Wieczorek reported that the Plan has been presented to the City Council Transportation Committee and an abbreviated version to Levy Court. She asked if Mr. DePrima wanted a presentation given to City Council. Mr. DePrima said yes, that he felt it would be good publicity since most of the area is within City limits with some agricultural preservation areas.

MOTION By Mr. DePrima to adopt the final DE 8 Concept Plan and Operations Study. Seconded by Mr. Reeb. Motion carried.

### 7(6). **ACTION ITEM: Proposed Amendment to the FY 2006-2009 Transportation Improvement Program – New Freedom Program– J. Wieczorek**

Ms. Wieczorek reviewed the amendment submitted by DeIDOT for the New Freedom Program and explained that this was required due to the new funding available through SAFETEA-LU. It provides for transit services for the disabled beyond what is required by the Americans with Disabilities Act (ADA). The projects for this are coming out of the Coordinated Human Service Transportation Plan. She asked Mr. Potts if the financial information was for the statewide program and he said that it looked close to the statewide total for the program. There were some concerns about the financial total, which was thought to be a combination of funds from the Job Access Reverse Commute (JARC) and New Freedom programs rather than just the New Freedom program. No one present was sure of the exact totals or if the amendment included JARC. There was some discussion as to how to approve the amendment without knowing this information and not hold up the TIP process for the New Freedom program. Ms. Wieczorek suggested that the amendment be approved for the New Freedom program specifically; if another amendment is needed for JARC, that can be done later.

MOTION By Mr. DePrima to approve the funding as requested to amend the FY06-09 TIP to include the New Freedom program as submitted. Seconded by Mr. Reeb. Motion carried.

### 8(7). **ACTION ITEM: Draft FY 2009 Unified Planning Work Program – J. Wieczorek**

Ms. Wieczorek noted that this draft was slightly different from the one submitted to the TAC and PAC due to an error in available funding being corrected. She briefly reviewed the projects in the UPWP, explaining that this was a very simplified work program in expectation of planning studies being identified after the MPO Regional Transportation and Kent County Comprehensive Plans are completed. Ms. Wieczorek also reported that the MPO is waiting for information from DeIDOT Finance concerning funding from previous years to carry forward to the new budget. The MPO has also applied for cash match from the local governments. The TAC requested that the enclosed table in the UPWP reflect that, if local money is made available for insurance, the federal funds will only go toward Transportation Studies, 09-07.

MOTION By Mr. DePrima to approve the draft FY09 UPWP for a 30 day public comment period. Seconded by Mr. Reeb. Motion carried.

### 9(8). **ACTION ITEM: Congestion Mitigation/Air Quality Letter: Manner of Approval – J. Wieczorek**

Ms. Wieczorek noted that although this has been an action item in the past, in fact the MPO has no programming authority over

these federal programs. The MPO works with DeIDOT to develop the list of approved projects that becomes the Capital Transportation Program, and DeIDOT determines which funding sources are the best fit for those projects. The concurrence letter is written for her signature and does not change the list of projects that has been approved. She asked if Council wanted to give her the authority to sign the letter when it comes in, and bring it before Council after the fact as an information item, or continue as an action item for approval before signature. There were questions concerning the process, and Mr. DePrima and Mr. Reeb explained the MPO's usual procedure. Mr. Eaby felt that since he was new to the process, he wanted to see the list before it was signed. Ms. Wieczorek noted that the list had been sent very early this year; normally it was sent to the MPO after the Bond Bill is passed. The list of projects was not included in this agenda. She explained that she would present the list



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to the Council at the same time the TIP was adopted. No formal action was taken at this time.

### 10. TAC Report – J. Wieczoreck

Ms. Wieczoreck noted that the Transportation Management Association of Delaware (TMA) reported that the director, Roger Roy, was retiring. His replacement has not been announced. DNREC reported that the State still does not have an ozone budget for the 8-Hour Standard. This means that the MPO's Transportation Plan Update must use the One-Hour Standard, which is unfortunate because we are operating under the 8-Hour Standard.

### 11. PAC Report – J. Wieczoreck

The PAC had a very good discussion with 3 representatives from Norfolk Southern. This was brought about by questions from the last PAC meeting regarding the rail cars next to residential developments. Norfolk Southern reviewed their safety procedures and precautions and how the cars are moved out under their 48-hour rule. NS also explained that they are governed by USDOT the Federal Rail Administration, the Transportation Security Administration and Homeland Security. The federal regulations and laws determine how they handle hazardous materials and are being made tighter to ensure the cars safety from terrorist attacks. They also pointed out that the leak at Dow Reichold had occurred on Reichold property and was not a Norfolk Southern issue. Ms. Wieczoreck also reported that NS explained that cars that are left in their yards over a certain period of time incur charges, and the companies involved do not want to pay for storage.

Mayor Mooney interrupted to say that he didn't believe this, because he felt NS does not report the contents of the cars in a timely manner and they play a "shell game" to keep the cars in the yard. He felt that the cars are not protected and contents such as ammonia are, to a certain extent, ignored. He felt that opportunities to establish rail sidings in a remote location should have been recognized long ago and that the New Burton Road siding should have been relocated and NS did not do this. He believed that we needed to encourage the relocation of these sidings. The State is not prepared for a catastrophic situation associated with a major chemical leak particularly if winds carried to a high residential area. Mr. Reeb said that he believed that process was begun with the Kent County Comprehensive Plan to identify such areas, but there are not many rural areas left to do this in. He thought two locations were identified that could handle not only current traffic but future traffic. He also noted that a fence and buffer area were included in the plans.

Mr. Eaby asked if NS had discussed the types of chemicals involved. Ms. Wieczoreck noted that NS had declined to answer that question citing security concerns. They did discuss the two levels of hazardous materials, toxic by inhalation and poisonous by inhalation. They also reported that poisonous by inhalation chemicals were rarely, if ever, carried through Delmarva. Mr. Eaby asked who enforced their 48-hour rule; Ms. Wieczoreck reported that NS does, because it is good business practice to move the cars out as soon as possible. Mr. Reeb noted that no system could be impregnable; only safer and better. Mayor Mooney said that he did not believe that NS had any interest in moving the New Burton Road sidings or in preventing anyone from tampering with the cars. Mr. Eaby asked who had the authority to move the sidings; Mr. Reeb said that it was the railroad, and it was in everyone's best interests to work as partners. Ms. Wieczoreck noted that NS had narrated some of the history of the railroad, particularly in Harrington, which had grown up around their switchyard and she agreed that they probably do not feel any compulsion to move. NS had also said that they were willing to participate in a public meeting with the communities and first responders concerning safety issues.

Mr. Reeb felt that the MPO role in a meeting between NS and political entities should be discussed. He thought that a meeting with the PAC was somewhat different than a meeting with elected officials and representatives.

Mayor Mooney again cited concerns with volatile chemicals and felt that hiring a watchman for the sidings should be done to protect them. Mr. Reeb agreed that this was an important issue.

Mr. Ormauer noted that he had worked with Councilman Eugene Ruane on this issue and believed the 48-hour rule was fictitious; he ascertained this by checking the cars himself. He felt that a meeting with the mayors, Kent County Levy Court and DelDOT was an excellent idea.

There was some further discussion about the meeting and how it should be handled. Mr. Potts noted that he was not trying to defend the railroad, but he felt it had to be said that the business of Delaware was petrochemical – that's where we make our money. It's not only zoning but economic development that's involved. The railroad is the shipper, that meant clients are here somewhere.



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Mr. Reeb suggested that the MPO take the point on arranging a meeting between NS, the communities involved and Kent County Levy Court.

Ms. Wieczorek noted other issues from the last PAC meeting. A survey was done concerning attendance. She noted that two members have not been seen at meetings since last June. No consensus was reached on the day of the meeting, but the PAC voted to shorten the meeting time from 7-9 PM to 7-8:30 PM. Mr. Ornauer noted that the PAC never ended on time and always went over, but the shorter time looked good. Ms. Wieczorek also noted there is a vacancy from DelDOT and that the Secretary was made aware of this. She asked Mr. Reeb if someone was working on finding a replacement; he said yes. Mr. Eaby asked if Ms. Wieczorek would make the appointing agencies aware of the non-attending members.

Ms. Wieczorek reported that the last meeting was held at St. Joseph's at Providence Creek and representatives from the Town of Clayton had attended, including the Mayor. She noted that they raised issues concerning the intersection of School Lane and Route 300; they had talked to someone at DelDOT Traffic but were still concerned about the intersection. There was also a question of having the Route 301 bus come into Clayton; Ms. Wieczorek had explained that could be problematic and that a proposed shuttle between Smyrna, Clayton and Cheswold might be the solution if the funding can be found. Clayton is also updating their Comprehensive Plan and will hold a workshop on March 20<sup>th</sup>. Ms. Wieczorek noted that she had forwarded this information to Catherine Smith at DTC and asked if she could attend. The Town also felt that the flashing signal light in town should be a regular traffic signal.

Mr. Horace Cook was elected as Chair of the PAC and Mr. James Brown, a new member, was elected as Vice-Chair.

**12. Project Update:**  
**12.1 North Dover Study**

Ms. Wieczorek reported that a meeting had been held on February 28<sup>th</sup> with the business community to review the three scenarios being suggested by the consultant. Comments are being collected and a public meeting will be held.

**13. Executive Director's Report**  
**13.1 UPWP and Financial Reports**  
**13.2 Correspondence**

**Next Meeting /May 7, 2008 – Dover/Kent County MPO Conference Room**

MOTION By Mr. Reeb to adjourn the meeting. Seconded by Mayor Mooney. Motion carried