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Date: December 12, 2006

From: Rob Zako, Transportation Advocate

To: Metropolitan Policy Committee

Cc: Transportation Planning Committee
Citizen Advisory Committee

Jon Young, Federal Highway Administration

Bob Cortright, Oregon Department of Land Conservation and Development

Re: The revised draft Public Participation Plan and the relation between federal and State transportation planning requirements

Dear Metropolitan Policy Committee members:

In general, we support the revised draft Public Participation Plan, as we believe it will improve public participation in regional transportation decisions.

But we continue to be disappointed that the Central Lane MPO follows *federal* requirements for regional transportation planning slavishly while at the same time either expressing “confusion” over *State* requirements or else asserting it is not subject to these requirements.

In particular, the revised draft Public Participation Plan states:

“The relationship between the federally mandated process for which the MPO is responsible and the requirements of the statewide land use planning system is not made clear in either set of requirements. While the MPO transportation system planning process is not subject to the requirements of the statewide land use planning system, it is consistent with those requirements.”¹

This statement is at best misleading and at worst flat wrong.

We are writing 1) to make clear the relationship between federal and State requirements for regional transportation planning and 2) to suggest a revision to the section of the Public Participation Plan quoted above.

1. Central Lane has just one regional transportation system and should have just one plan for this system.

It is obvious that Central Lane has just one on-the-ground transportation *system*. For example, there is just one Belt Line Highway, not a “federal” Belt Line Highway and a “State” Beltline Highway.

It should also be obvious that, even in the absence of federal or State requirements, Central Lane should have a *plan* for that regional transportation system because it represents a significant

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investment of public monies and because it isn't easily changed or retrofitted if it hasn't been planned in advance.

Here we use the word "plan" not in some technical sense but in the everyday sense, e.g., "What do you plan to do?"

Indeed, the average citizen knows little to nothing about federal or State transportation planning requirements—and should not have to. What they know is what regional officials say they plan to do. Do they plan to expand Belt Line Highway between River Road and Coburg Road? Or do they plan to build a full interchange at Interstate-5 and Franklin Boulevard?

Regional officials, including members of the Metropolitan Policy Committee, should make plain to the public what they plan to do. And there should be just one plan, not multiple conflicting plans that end up confusing the public about what is really intended.

2. The importance of planning is primary; the requirements are secondary.

Of course, we understand there are requirements for planning documents—"plans" in the technical sense of the word. And it may be that these requirements are such that more than one document or more than one section in the same document may be needed to satisfy all the various requirements.

But please do not put the cart before the horse! Central Lane does not and should not plan merely because of federal and State requirements. The need to plan is larger and more important than either of these sets of requirements. Rather, because the federal and State governments provide financial resources to Central Lane, they are justified in demanding accountability by placing requirements on how that planning is done and documented and how that money is spent. We hope these requirements for accountability are reasonable and do not place undue burdens on the sort of regional transportation planning that would be done in any case.

3. Federal regulations require that the RTP shall "reflect consideration" of Statewide Planning Goals and other regional and local goals and objectives.

In particular, the federal government provides millions of dollars a year to the Central Lane MPO for transportation planning and investment.

But surely the federal government does not expect MPOs to ignore State requirements. And surely the federal government does not expect MPOs to have one transportation planning process to satisfy federal requirements and a completely separate process to satisfy State requirements, as that would be an inefficient use of limited public dollars.

Indeed, federal regulations require that the regional transportation plan (RTP) shall:

"Reflect, to the extent that they exist, consideration of: the area's comprehensive long-range land use plan and metropolitan development objectives; national, State, and local housing goals and strategies, community development and employment plans and strategies, and environmental resource plans; local, *State*, and national goals and objectives such as linking low income households with employment opportunities; and the area's overall social, economic, environmental, and energy conservation goals and objectives."²

² 23 CFR 450.322(b)(9)

In the case of Oregon, the federal regulations surely require that the regional transportation planning process reflect consideration of the 19 Statewide Planning Goals, include goals related to citizen involvement (Goal 1), air quality (Goal 6), economic development (Goal 9), housing (Goal 10), and energy conservation (Goal 13). Above all, surely the federal regulations require that the regional transportation planning process reflect consideration of Goal 12 concerning transportation and the Transportation Planning Rule that implements Goal 12.

4. The State does impose explicit transportation planning requirements on the Central Lane MPO.

The revised draft Public Participation Plan is incorrect where it states that “the MPO transportation system planning process is not subject to the requirements of the statewide land use planning system.”³

The basic requirement is:

“MPOs ... shall prepare and amend regional TSPs in compliance with this division. MPOs shall prepare regional TSPs for facilities of regional significance within their jurisdiction. ...”⁴

The Transportation Planning Rule includes additional requirements on MPOs, typical prefaced with the words “MPOs shall...”, as a word search quickly reveals.

Moreover, the Land Conservation and Development Commission recently added a section to the TPR intended to clarify the relationship between regional transportation plans (RTPs) and regional transportation system plans (regional TSPs), i.e., between the documents required by the federal government and by the State government. The basic idea is:

“In metropolitan areas, local governments shall prepare, adopt, amend and update transportation system plans required by this division in coordination with regional transportation plans (RTPs) prepared by MPOs required by federal law. Insofar as possible, regional transportation system plans for metropolitan areas shall be accomplished through a single coordinated process that complies with the applicable requirements of federal law and this division. Nothing in this rule is intended to make adoption or amendment of a regional transportation plan by a metropolitan planning organization a land use decision under Oregon law.”⁵

Note that the requirements in the TPR make a subtle distinction. MPOs are required to *prepare* regional TSPs but cities and counties within an MPO are required to *adopt* such regional TSPs. The idea is that the MPO is already responsible (under federal requirements) to coordinate regional transportation planning, but it must be cities and counties that make the land use decisions to adopt transportation plans that are functional plans of their comprehensive plans.

Indeed, the Lane Council of Governments, which is the Central Lane MPO, coordinates not only transportation planning but also helps to conduct and coordinate population projections, buildable land inventories, etc.

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⁴ OAR 660-012-0015(2)

⁵ OAR 660-012-0016(1)

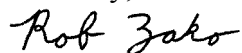
5. The Public Participation Plan should be revised to make clear that federal and State requirements complement each other and that the regional transportation planning process is subject to both sets of requirements.

In response to the considerations discussed above, we recommend revising the first paragraph on State requirements in the revised draft Public Participation Plan as follows:

~~The relationship between the federally mandated process for which the MPO is responsible and the requirements of the statewide land use planning system is not made clear in either set of requirements. While the MPO transportation system planning process is not subject to the requirements of the statewide land use planning system, it is consistent with those requirements. Federal regulations require that the regional transportation planning process “reflect consideration” of State, regional and local goals and plans related to land use, housing, economic development, energy conservation, the environment and other social aims. In particular, the regional transportation planning process coordinated by the MPO is subject to requirements in the Transportation Planning Rule, which implements Statewide Planning Goal 12 (Transportation), requires regional transportation system planning to include a process for citizen involvement if the project development involves land use decision making. The Transportation Planning Rule requires the MPO to prepare and amend a regional transportation system plan (TSP) for adoption by Lane County and the cities within the MPO. Statewide Planning Goal 1 (Citizen Involvement) requires the development of a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process. (Refer to Appendix 1 for the text of the Transportation Planning Rule, and Statewide Planning Goals 1 and 12.) These requirements are very similar to the federal requirements for public involvement – “The public involvement processes must be proactive and provide complete information, timely public notices, full public access to key decisions, and the opportunity for early and continuing involvement.” For this reason, the Public Participation Plan is consistent with state requirements.~~

Thank you for this opportunity to share our recommendations with you. Please feel free to contact me with any questions or concerns.

Sincerely,



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