

PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIP BOARD
SUMMARY MINUTES
HARRISBURG, PENNSYLVANIA
DECEMBER 13, 2022

CALL TO ORDER:

The twentieth meeting of the Public-Private Transportation Partnership Board (Board) was convened by Secretary of Transportation Yassmin Gramian, at 9:00 a.m. on Tuesday, December 13, 2022, at the PennDOT Riverfront Office Center, Harrisburg, PA.

ROLL CALL:

P3 Office Deputy Director Joseph Gurinko called roll and noted that all seven Board members were present, and as such a quorum was established.

Members Present:

Honorable Yassmin Gramian
Honorable Representative Michael Carroll (via phone)
Mr. Geoffrey Clarke (via phone)
Mr. Gregory Davis (via phone)
Mr. Ronald Drnevich
Mr. Ben Lukens (via phone)
Honorable Tim Murphy (via phone)

ADOPTION OF MEETING MINUTES:

The December 9, 2021, meeting minutes were unanimously approved on a motion by Mr. Ronald Drnevich and seconded by Honorable Michael Carroll.

CHAIR'S REMARKS:

Secretary of Transportation Yassmin Gramian welcomed everyone to the virtual Board meeting and began by introducing new Board member Ben Lukens, the new Pennsylvania Secretary of the Budget.

Secretary Gramian noted that the meeting agenda would include updates on the new requirements of Act 84, the amended P3-enabling legislation that also required the P3 Implementation Manual to be updated to be consistent with new requirements. The agenda would also include an action item regarding the P3 Board review and approval of the P3 Board Report for 2022, which would then be shared with legislative colleagues and posted to the P3 website upon approval. The remainder of the agenda would be comprised of updates on approved projects as well as Unsolicited Proposals.

Secretary Gramian provided an update on the Major Bridge Public-Private Partnership (MBP3), on which PennDOT and the P3 Office have been working diligently. While the project was unable to move forward with the tolling component, the bridges in the program are critical and must proceed. As a result, the only viable options were to either

build the bridges via design-bid-build, which would greatly impact the interstate highway program for years to come, or to proceed with delivery as a P3. Secretary Gramian explained that continuing with P3 delivery was the only logical choice. Under the P3 PennDOT will receive the immediate benefit of replacing six (6) major interstate bridges – three of which are fracture critical – that require near-term attention before incurring major maintenance costs, disruptive weight restriction or bridge closures.

Secretary Gramian also highlighted the preservation of PennDOT's agreement with Bridging Pennsylvania Partners, which is overwhelmingly comprised of Pennsylvania firms with a long history and strong track record of working with PennDOT.

This meeting marked the final P3 Board meeting under the Wolf Administration, and Secretary Gramian noted that Governor Wolf wished to express his appreciation for the Board's work over the past eight (8) years and wanted to ensure that they were acknowledged for their importance to ensuring a safe and reliable transportation system.

NEW BUSINESS:

Secretary Gramian then turned the floor over to PennDOT P3 Office Deputy Director Joseph Gurinko, who noted that the Board meeting book and PowerPoint presentation will be made available to the public on the P3 website after the meeting. Mr. Gurinko added that the agenda will begin with an overview of the new requirements of Act 84 of 2022.

ACT 84 OF 2022 OVERVIEW: PRESENTED BY MR. JOSEPH GURINKO

Mr. Gurinko explained that during summer 2022, the legislature passed Act 84 of 2022, which updated Act 88 of 2012's P3-enabling legislation. The P3 Office has made all necessary updates to work activities, processes and systems that emanated from this updated legislation.

Continuing, Mr. Gurinko provided an overview of several notable Act 84 updates to the P3-enabling legislation, beginning with the review and approval process. Under the updated legislation, the review and approval process for a prospective project to be considered for P3 delivery begins with PennDOT developing a detailed analysis of the proposed transportation project – meeting a specified list of required details/information – prior to requesting P3 Board approval.

After development – and prior to any Board action – the Department shall publish the analysis on their website; submit it to P3 Board, Senate Transportation Committee, and House Transportation Committee; and transmit notice of the analysis to the Legislative Reference Bureau. Simultaneously, the Department must collect public comment for a period of no less than 30 days and then produce and publish a summary of the public outreach process.

Mr. Gurinko explained that once these steps have been satisfied, the Board may then consider and approve the proposed transportation project in the form of a resolution. However, if the proposed project may impose an optional user fee, unanimous Board approval is required. If the proposed project is approved within the requirements of the

updated legislation, the Board Chairperson shall sign and publish a Board Resolution within 48 hours after approval, as well as provide it to the General Assembly. Upon receipt of the resolution from the Board, the General Assembly may, within 20 calendar days or 9 legislative days – whichever is longer – pass a concurrent resolution rescinding the approval of transportation project if the transportation facility which is the subject of the transportation project is owned by the Commonwealth.

Mr. Gurinko also provided insight on the change in definition of “transportation-related services” in the updated legislation, noting that this new definition includes language specific to optional user fees, with user fees deemed mandatory being prohibited. The Major Bridge P3 project resolution was ultimately rescinded when it was retroactively deemed a mandatory fee rather than optional. However, PennDOT may continue work and proceed with the project that was ratified on November 12, 2020, including any contract, but may not impose or collect optional user fees unless the project is resubmitted for approval.

APPROVAL OF P3 IMPLEMENTATION MANUAL UPDATES: PRESENTED BY MR. JOSEPH GURINKO

Mr. Gurinko continued to the next agenda item, noting that these changes in legislation resulted in needed updates to the PennDOT P3 Office Implementation Manual. The P3 Office worked in coordination with PennDOT’s Office of Chief Counsel to ensure all Act 84 of 2022 measures were incorporated. The updated Manual was provided to the P3 Board members in advance for their review and comment and was presented for Board approval.

Secretary Gramian opened the floor to the Board for any questions or comments. Mr. Geoffrey Clarke inquired if the definition of “optional user fee” should be included in the defined terms section of the Manual. Meghan McNaughton, PennDOT Office of Chief Counsel, responded that it could be included and noted that “optional user fees” is not a defined term in Act 84 of 2022, which is why it was not included in the Manual update but rather explained. Secretary Gramian noted that this comment would be adopted.

With no further questions or comments, Secretary Gramian brought forth the P3 Implementation Manual & Guidelines updates for Board approval.

The P3 Implementation Manual & Guidelines were unanimously approved on a motion by Honorable Tim Murphy and seconded by Honorable Michael Carroll.

ADOPTION OF THE P3 BOARD REPORT FOR 2021 – 2022: PRESENTED BY MR. JOSEPH GURINKO

Mr. Gurinko reviewed the P3 Board Report for 2021 – 2022 with the P3 Board, an annual duty of the Board detailing its activities in a report shared annually with the Legislature and public. A copy of the Report was provided to the Board members in advance for their review and comment. Mr. Gurinko then opened the floor to questions and comments.

Mr. Ronald Drnevich commented that the report was well done and motioned to approve.

The P3 Board Report for 2021 – 2022 was unanimously approved on a motion by Mr. Ronald Drnevich and seconded by Honorable Michael Carroll.

PROJECT UPDATES:

UNSOLICITED PROPOSALS UPDATE: PRESENTED BY MR. JOSEPH GURINKO

Mr. Gurinko explained that the P3 Office accepts Unsolicited Proposals twice each year in pursuit of new, innovative opportunities. He displayed three data tables which placed the current Unsolicited Proposals into three categories: Under Consideration, On Hold and Dismissed.

The Under Consideration table encompasses items on which the Department is conducting feasibility analyses to determine merit in pursuing as a public-private partnership; seven (7) proposals currently fall under this categorization.

The PennDOT Solar Initiative is a design, build, finance, operate and maintain (DBFOM) proposal to design and install solar solutions within PennDOT right-of-way, with locations determined jointly to maximize benefits. The proposing firm, Solar Renewable Energy, LLC, identified significant financial value specific to electricity costs, tax credits and a renewable energy certificate. In the time since the proposal was received, the P3 Office has met with appropriate PennDOT staff and the proposer multiple times in addition to holding discussions with the GreenGov Council to determine a path forward and examine P3 feasibility. Additionally, a High-Level Screening Report (HLSR) was completed and accepted by the P3 Office in March 2022. Next steps include identifying any potential ownership issues under Act 84 of 2022, as well as identifying major technical component needs.

The EV Infrastructure Installation Plan, submitted in April 2022 by Charge Zero PA, LLC, is a DBFOM proposal to install electric vehicle (EV) charging stations with supporting solar arrays within PennDOT right-of-way. By the time of the meeting, the project had been recommended for progression to initiation of a High-Level Screening report to address questions regarding the actual financial burden of the project to PennDOT, length of the DBFOM project, and any long-term risk to PennDOT. Additionally, the project is being examined for potential opportunities for combining with the statewide plan for EV charging stations.

The District 4 Northern Tier Counties Bridge Replacements project, proposed by CDR Maguire, is a design, build, finance (DBF) proposal to replace/reconstruct 32 poor condition, PennDOT-owned bridges located in Northern Tier counties in Engineering District 4-0. Recent project updates and action items included the completion of a Detailed Level Screening Report (DLSR), HLSR, and a financial study to identify funding and evaluate project size and bridge selection criteria.

The I-76 Managed Lanes proposal, submitted by CINTRA, aims to improve an estimated 17 miles of Interstate 76 (I-76) between the I-202 and I-676 split. This would include constructing four new, tolled, managed lanes (two in each direction). Mr. Gurinko noted that this proposal was currently being examined in accordance with the new requirements under Act 84 of 2022.

Mr. Gurinko continued, noting that the next three (3) proposals under consideration had been submitted during the recent October 2022 submission window. As a result, the P3 Office would soon be performing candidacy reviews and Candidacy Forms for each of these new proposals under consideration. Mr. Gurinko provided an overview of each of the projects.

The Bus Portal for PA Schools project, submitted by Busie, proposes to create an online portal enabling Pennsylvania schools to arrange student/student athlete transportation directly with school bus and motor coach providers throughout Pennsylvania.

The Commuter Vanpool Program, submitted by Enterprise Holdings via Commute, aims to provide vehicles, insurance, maintenance, ride-matching services and other support services for a public, statewide vanpool program.

The Snow Removal Scraper System, submitted by Rite-Hite, would install plow systems to remove snow from the surfaces of PennDOT fleet vehicles. The system is a wheel-mounted Model 440T FleetPlow that can be installed quickly and have snow/ice removed within timeframes mandated by Act 90.

Mr. Gurinko then explained that the one (1) proposal categorized as On Hold had passed a high-level screening stage but requires further coordination with the proposer and/or stakeholders. This additional coordination will then lead to either further consideration or dismissal.

PennDOT Truck Parking Expansion Program, proposed by Truck Specialized Parking Services, Inc., aims to support important initiatives in truck safety. PennDOT is currently coordinating with a freight working group and external stakeholders to examine this and similar issues.

Mr. Gurinko concluded the update by explaining that the seven (7) proposals listed as Dismissed had been recommended for dismissal in the time between the previous Board meeting and the present meeting, specifics of which are provided in the Board Meeting Book. Dismissal is typically determined due to a project not having merit or P3 procurement is not the best approach following Department review.

Mr. Gurinko noted that, in the case of the dismissed Shared Mobility Incentives proposal, a ride sharing application that offers those of economic impact a ride to and from work with incentives to driver and rider, the dismissal letter included a recommendation to the proposer to contact state Metropolitan and Rural Planning Organizations to make them aware of the service.

With no comments from the Board, Mr. Gurinko proceeded to the next item on the agenda, Northampton County Bridge Renewal Program project updates.

NORTHAMPTON COUNTY BRIDGE RENEWAL PROGRAM: PRESENTED BY MR. JOSEPH GURINKO

Mr. Gurinko noted that there were no new project updates since the previous Board meeting, and that Charles Dertinger had no significant changes or updates to highlight when they coordinated in preparation for the meeting.

Mr. Gurinko provided a brief project history overview, explaining that the project concept was presented to and approved by the P3 Board in 2015. The P3 Office offered to assist Northampton County with development of procurement documents but have had little involvement since beyond providing status updates.

Mr. Drnevich commented that the project has and continues to struggle.

RAPID BRIDGE REPLACEMENT (RBR) PROJECT: PRESENTED BY MR. JOSEPH GURINKO

Mr. Gurinko then provided an update to the Board and attendees regarding the RBR project, approved by the P3 Board in 2013 as a project to replace 558 poor condition bridges located across the Commonwealth. As of August 2020, all 558 bridges have been replaced and opened to traffic, and 95% were completed within the first three years.

Mr. Gurinko explained that the agreement is currently in the Maintenance Phase, meaning that the Development Entity, Plenary Walsh Keystone Partners, is responsible for maintaining these bridges until the end of 2042, which marks the end of the 25-year maintenance period. At that point, the bridges will then be turned back over to PennDOT in the agreed suitable condition as established by handback requirements. In closing, Mr. Gurinko noted that the RBR project, delivering 558 bridges in a single DBFOM project, remains a success story for P3 projects in Pennsylvania and nationwide.

PENNDOT SPONSORSHIP AND ADVERTISING PROGRAM: PRESENTED BY MR. JOSEPH GURINKO

Mr. Gurinko continued, providing a status update on the PennDOT Sponsorship and Advertising Program. Two (2) firms, The Superlative Group and 2i Group, have been identified to serve as the program's vendors and are currently conducting an evaluation of sponsorship opportunities to present to the P3 Office and PennDOT for consideration.

With no questions from the Board, Mr. Gurinko turned the floor over to Mr. Andy Batson to provide an update on Compressed Natural Gas (CNG) Fueling Stations.

COMPRESSED NATURAL GAS (CNG) FUELING STATIONS: PRESENTED BY MR. ANDY BATSON

Mr. Batson provided a project status update and displayed a project map, noting that 19 of the 24 fueling stations are complete, with the 20th station scheduled to be operational within two (2) months of the meeting. Two more stations, Hazleton and Wilkes-Barre, are slated for completion in 2023, and the Scranton station is scheduled for 2024. The 24th and final station, Harrisburg, will be completed after 2025. Mr. Batson added that, as of December 2022, transit agencies have saved approximately \$10 million through the utilization of this program over traditional fueling methods.

The P3 agreement began in 2017 and extends through 2037, at which point the assets will be turned back over to PennDOT and respective transit agencies. PennDOT is currently working with the development entity (DE), Trillium CNG, to transition to the operations and maintenance (O&M) phase and be properly set up for success for the remainder of the contract.

With no questions from the Board, Mr. Batson turned the floor over to Mr. Joseph Gurinko to provide an update on the Partnership 81 Project.

PARTNERSHIP 81 PROJECT: PRESENTED BY MR. JOSEPH GURINKO

Mr. Gurinko noted that the Partnership 81 Project was approved by the P3 Board in December 2019 as a bundle of 15 interstate bridge replacements along Interstates 80 and 81. PennDOT then conducted further analysis which recognized additional substantial needs for the I-81 corridor near Wilkes Barre that went beyond bridges; the Partnership 81 project focuses on that corridor.

Mr. Gurinko displayed a map of the project limits and detailed the needed safety and mobility improvements, including widening to three lanes in both directions, elimination of a left-hand exit, improvements to adjacent intersections, and bridge replacements over a 7.5-mile section of I-81.

Mr. Gurinko then detailed the progress of ongoing project activities conducted in the time since the previous Board meeting, most notably that of the USDOT decision to elevate the Environmental Clearance Classification from a Categorical Exclusion (CE2) to an Environmental Assessment (EA), which requires more involvement. As a result, the projected timeframe for Environmental Clearance has been moved from early 2023 to spring 2024.

Regarding next steps, Mr. Gurinko noted that the P3 Office aims to hold an Industry Forum for the project to introduce the project and provide further details, including an anticipated schedule which is currently being refined.

Mr. Gurinko then opened the floor to the Board for any questions. With no questions from the Board, Mr. Gurinko moved to the next agenda item, an update on the Major Bridge P3.

MAJOR BRIDGE P3: PRESENTED BY MR. JOSEPH GURINKO

Mr. Gurinko provided an overview of the Major Bridge P3 (MBP3), which was presented to and approved by the P3 Board – which includes representatives from all four legislative caucuses – in November 2020 and pursues the replacement or rehabilitation of nine (9) major bridges through a DBFM method of progressive P3 project delivery. At that time, the plan was to pay for the work on these bridges through tolling, with the goal of preventing disruptions to the Transportation Program so that other important transportation projects on the state system could continue to proceed through the project development process.

Mr. Gurinko also provided a brief overview of PennDOT Pathways: a statewide program that works to identify, assess, and implement reliable, equitable alternative funding solutions for the state's aging highways and bridges. The program is anchored by its Planning and Environmental Linkages (PEL) Study through which the Alternative Funding Office investigated and analyzed several potential funding solutions. One of the

immediate-term solutions was bridge tolling, which is no longer an option under the updated P3 legislation.

Continuing, Mr. Gurinko displayed a map of the nine (9) MBP3 candidate bridge locations, calling attention to the labels noting that six (6) bridges were moving forward under the MBP3, whereas three (3) were still under review.

Mr. Gurinko explained that by delivering through a P3 model, PennDOT will receive the immediate benefit of repairing no less than three fracture critical bridges and a total of six major interstate bridges that require near-term attention before incurring major maintenance costs, disruptive weight restrictions or bridge closures.

Without a P3 model, addressing these bridges in the ordinary course of business would consume the entire budget planned to be spent on interstate bridges and highways for the next several years. Bridge construction costs increase annually, and the financing of repairs in today's dollars with deferred, financed repayment is a funding solution to meet obligations for which there are no other viable alternatives available to PennDOT.

Mr. Gurinko provided an update on project procurement, noting that PennDOT has entered into a Pre-Development Agreement (PDA) with Bridging Pennsylvania Partners (BPP) to advance preliminary design work. The PDA will lead to separate contracts to finalize design, build, finance, and maintain packages of bridges in the MBP3. BPP will be required to maintain the Project's bridges for 35 years, and shifting maintenance obligations to a vendor under P3 encourages design and construction methods exceeding that which PennDOT would undertake in a traditional procurement. Additionally, tying payment to substantial completion incentives promotes timely project delivery and allows PennDOT to lock in today's price.

Mr. Gurinko then provided a status update on MBP3 activities that took place since the last P3 Board meeting in December 2021. Through the robust evaluation of the proposals submitted by each of the shortlisted proposers that were due on January 19, 2022, PennDOT determined that the BPP approach aligned more closely with the project goals for delivery of the MBP3. On March 9, 2022, it was announced that BPP was selected as the Apparent Best Value Proposer. On May 6, 2022, the PDA was executed between PennDOT and BPP.

As these activities were underway and proceeding as described, two (2) lawsuits were filed against PennDOT challenging the P3 project. The Commonwealth Court issued an order on May 18, 2022, stopping work related to the MBP3. Accordingly, PennDOT canceled public hearings and procurement activities associated with the project. On June 30, 2022, the Commonwealth Court held that the MBP3 was void.

In July 2022, the state's P3 law was amended to remove tolling as a means of funding the MBP3. The updated law (Act 84 of 2022) provided the ability for PennDOT to continue the program as a P3 and preserved the existing March 2022 PDA with BPP, which leads into separate contracts to Design, Build, Finance, and Maintain (DBFM) the bridges in the MBP3.

Regarding Package 1, which includes six (6) bridges, Mr. Gurinko announced that they had reached Commercial Close on November 29, 2022, and anticipated Financial Close

taking place before the end of 2022. PennDOT will repay the amounts financed by BPP through recurring availability payments over 35 years, beginning when construction is complete. The availability payments will be paid using a blend of federal and state funds.

Mr. Gurinko added that PennDOT will also reallocate some funds and pursue additional funding opportunities from the Bipartisan Infrastructure Law (BIL). Funding for the availability payments is anticipated to come from the Interstate Management Program Line Item balances beginning in FFY 2028.

Mr. Gurinko then presented a map displaying the six (6) bridges in Package 1:

- I-80 Canoe Creek Bridges
- I-80 North Fork Bridges
- I-78 Lenhartsville Bridge
- I-80 Nescopeck Creek Bridges
- I-80 over Lehigh River Bridge Project
- I-81 Susquehanna Project

Mr. Gurinko continued, providing an overview of the Bridging Pennsylvania Developers 1 (BPD) team, before moving on to details on PDA work. Mr. Gurinko noted that the independent cost estimate for design & construction was developed to ensure that the cost was reasonable and was then shared with FHWA.

Before closing out his update on the MBP3, Mr. Gurinko walked through the current anticipated construction schedule for the Package 1 bridges, with the first project (I-81 Susquehanna) to start construction in July 2023 and all projects completed by June 2028.

OTHER BUSINESS:

Secretary Gramian thanked Mr. Gurinko and all presenters, expressing gratitude for their efforts in advancing P3s in Pennsylvania, and then opened the floor to any Board members for comments on other business.

Mr. Drnevich inquired if the P3 Office had received any submissions that have not been mentioned or detailed to date, to which Secretary Gramian replied that this was not the case; everything is and has been brought before the Board.

Mr. Drnevich commented that transportation innovation lately is centered on advancement of electric vehicle (EV) infrastructure and inquired if PennDOT has a policy related to charging stations and/or other EV considerations. Secretary Gramian noted that PennDOT has reached out to federal partners regarding EV charging stations and the current limitations and constraints currently being put on states in terms of what can and cannot be monetized. As it currently stands, right-of-way in PennDOT's roadway system cannot be monetized. However, PennDOT continues to extensively look into different approaches for EV infrastructure and adjacent considerations, while also identifying ways to work more efficiently and cost effectively and getting the private sector involved.

Melissa Batula, PennDOT Deputy Secretary of Highway Administration, added the notion of emphasizing identifying other ways to fund transportation. This goes beyond testing with a P3 model and bringing to the P3 Board, extending to working with legislative partners and Transportation Advisory Committee considerations and recommendations.

Larry Shifflet, PennDOT Deputy Secretary for Planning, noted that new federal laws play a significant role in terms of funding streams and categories, examining avenues such as carbon reduction, reconnecting communities, and other discretionary grants and programs.

With no further Board comments, Secretary Gramian opened the floor for public comment.

Nolan Ritchie, Senate of Pennsylvania, called attention to a recent article about PennDOT's emergency procurement for the MBP3 contract with BPP, inquired as to if there was a rush to reach financial close and if this had been brought to the attention of the Governor's transition team.

Melissa Batula responded that it was not a rush, but rather a mindfulness of PennDOT's current financial situation amidst a generally volatile time in financial markets. The further the process was prolonged; the more adverse effects could be in terms of interest rate increases. This matter is also being brought to the transition team.

With no additional comments from the public, Secretary Gramian thanked all attendees for their time and support of the P3 program and thanked all presenters and brought forth a request for a motion to adjourn.

ADJOURNMENT:

On a motion by Mr. Ronald Drnevich, seconded by Honorable Tim Murphy and unanimously approved, the meeting was adjourned at 10:14 a.m.