

Mobilizing the Region

A Weekly Bulletin from the Tri-State Transportation Campaign

Number 420

June 16, 2003

NEWS

Appeals Court: New Jersey DOT Flunks Planning

— Dept. Broke the Law, Based Spending Decisions on “Unstated Criteria,” Says Ruling —

In a June 11 decision, a panel of judges from the Appellate Division of the New Jersey Superior Court ruled that the New Jersey Department of Transportation had broken the state Transportation Trust Fund renewal law of 2000 by failing to develop strategic transportation plans and information required by the law.

The ruling decides a case brought by the Tri-State Transportation Campaign and other groups against the NJ Dept. of Transportation and state government over compliance with the 2000 transportation planning and funding law. The court’s opinion said: “The NJDOT has failed to comply literally or in spirit with the reporting mandates” of the Trust Fund Renewal Act.

The Trust Fund Act, approved by the state legislature and acting governor Donald DiFrancesco in June, 2000, instituted strong Dept. of Transportation **planning and information components** in the transportation funding legislation **for the first time**. Goals laid out in the law were intended to refocus transportation priorities onto repair and maintenance and away from construction of new state highways.

DOT documents submitted to the legislature in March, 2001 declared the law’s goal of reducing bridge and pavement deficiency by half unattainable. The agency provided no further discussion of the goal or steps needed to move toward it.

“We find that **the NJDOT**, citing the impossibility of planning, funding and completing the projects within a span of four years, **has failed to plan at all**. Instead, it has produced only a description of a single year’s projects, selected through unstated criteria, without the benefit of articulated strategic goals. The NJDOT’s ‘[capital investment strategy]’ thus clearly violates the Legislature’s command that it engage in strategic planning, and that it articulate a plan that focuses to a significant degree upon the goal of repair of the State’s aging infrastructure,” the judges wrote.

The decision **orders DOT to submit a bridge and pavement repair plan** to the legislature that “identifies known deficiencies, establishes priorities, project costs and provides realistic implementa-

tion goals.” It also demands “a strategy for meeting the statute’s goals for construction of additional bicycle paths.”

The 2000 law directed NJDOT to submit a 5-year master plan to set the direction for the NJDOT overall capital investment strategy and annual capital programs. It is to be updated each year, and is supposed to include steps toward reduction of deficient bridge and pavement conditions by half and the development of 1,000 new miles of bikeways by 2004.

The court reviewed DOT’s 2001 planning submissions: “If one were to examine the [strategy], **one could not discern a scheme for allocating available resources** to various transportation needs, or an articulated plan for addressing those needs. No identification exists therein of structurally deficient bridge or pavement deficiencies, proposed repair projects designed to address those deficiencies, their costs, status, or future phases.”

The court cannot instruct DOT to devote its budget to particular projects or spending areas spending. However, we expect the court’s order to DOT will increase the transparency of agency spending and lead to budgeting that complies with legislative and popular support for a fix it first program. It is especially important that NJDOT complies with the court order and provides decision makers and the public with an honest and transparent evaluation of New Jersey’s transportation needs, priorities and prospects as the state faces renewal of the Transportation Trust Fund in 2004.

The plaintiffs were represented in the case by Arnold Lakind of the firm Szaferman, Lakind, Blumstein, Blader, Lehmann and Goldshore. ❖

MTA Re-org Draft Calls for Funding Change

The draft agency reorganization legislation circulated by the MTA to state legislators apparently calls for significant change in the apportionment of funds between mass transit operating agencies.

This division of resources is now governed by legislatively enacted formulas.

The MTA’s draft bill contains two sections that repeal “statutory allocation of [dedicated tax] reve-

nues between transit and commuter accounts.”

City leaders and transit advocates regularly charge that **NYC Transit gets the short end** of most transit funding decisions made in Albany. Likewise, suburban leaders are on the look-out to defend commuter rail funding. It’s hard to imagine that either would be willing to see the statutory formulas dissolved in a general way without understanding whether their piece of the MTA would see more or less funding. Even more fundamentally, it’s hard to imagine the legislature giving this **power of allocation to the MTA**, as the draft bill seems to suggest.

The presence of a potentially politically-charged funding allocation provision in the legislation is one more sign that MTA reorganization is on the **slow boat to Albany**. The MTA’s draft had no legislative sponsor as of last week, and the MTA’s public stock

Hudson Traffic Trends

Overall, traffic at NJ-NYC crossings has seen a slight reduction since Sept. 11, 2001. However, restrictions at the Manhattan tunnels appear to have chased some traffic onto the George Washington and Staten Island bridges.

According to Port Authority data compiled by the Rutgers Voorhees Transportation Policy Institute:

- ◆ There was a 3-5% increase in traffic on Tappan Zee and George Washington after Sept. 11. As of last August, traffic there was still higher than pre-9/11 levels. But lifting the carpool rule at the Lincoln Tunnel has evened volumes somewhat.
- ◆ The Staten Island crossings (Goethals, Outerbridge and Bayonne) experienced a 9% increase in traffic between the starts of 2001 and 2002. Traffic flows at end of 2002 were still at record highs, but the growth rate was slowing.
- ◆ In late 2001 and early 2002, traffic in the Holland and Lincoln Tunnels fell sharply thanks to emergency restrictions. Traffic is still lower than normal, although it is nearing pre-September 11th levels. Port Authority and NYC officials are considering easing the Holland Tunnel truck rules (*MTR #418*).
- ◆ Tractor trailers constituted an average of 74% of the total reduction in NJ-NYC truck traffic. Big rig volumes continued to fall increase throughout 2002 and the beginning of 2003. Voorhees attributes this to the lagging economy.
- ◆ Data from the first eight months of 2002, compared to the same period a year earlier, shows the following truck traffic shifts: down 2% on the George Washington Bridge, a 30% increase at the Lincoln Tunnel (due to the Holland Tunnel truck ban), 18% increase on the Goethals Bridge, 36% hike on the Bayonne Bridge, and an 18% decline at the Outerbridge Crossing (due to construction).

is at a low ebb. State Assembly leaders have said the bill doesn’t contain thorough enough accountability reforms. Long Island legislators, including deputy Senate majority leader Dean Skelos had complained to the MTA last winter that they had received no information about on the implications of the mergers of Long Island Railroad and Long Island Bus into larger operating agencies (*MTR #402*).

MTA reorganization may re-emerge — possibly in the fall legislative session — after issues regarding the agency’s **fare and toll hikes** are settled. An appeals court is now considering the MTA’s recent losses in lower courts. This week at a pre-hearing rally, Brian O’Dwyer, an attorney representing transit riders, said “The lesson of Arthur Anderson and Enron will be taught to the MTA: You cannot fool the public, you cannot mislead the public, you cannot have two sets of books and expect to get away with it.” ❖

Mayor Says Funding #7 Extension Will Compete With Other Projects

In a June 6 radio interview, Mayor Bloomberg said the #7 train extension to the Far West Side was his administration’s top transportation priority. “**If you had one project to do** it’s clearly opening up the whole west side of Manhattan and getting the convention center to be included in a mass transit area, mass transit served area, because that would really do something for jobs throughout all five boroughs,” the mayor said.

The remarks were in response to questioning about competing projects. The WABC interviewer asked about recent press on the **cross-harbor freight tunnel** plan, and the **Second Avenue subway**. “Some people push [the freight tunnel], some people push the Second Avenue subway...All of these are worthy projects, we just don’t have the money to do them all,” the mayor answered.

Further on his top pick, Bloomberg said: “The extension of the number 7 line – if you take a look at a map, the whole west side of Manhattan is poorly served...by mass transit, and if you don’t have mass transit you’re not going to have economic development there. We need economic development to create jobs, particularly a dramatically expanded convention center.”

The mayor’s remark that “we don’t have money to do them all” is significant because the Bloomberg administration’s position on the #7 plan until now is that it will develop an **innovative financing plan** to keep the project’s costs from impacting other parts of the MTA capital program. However, the city’s pronouncements on project financing have gotten murkier rather than clearer as time has gone on. The mayor’s comments appear to indicate that he **does-**

n't believe his own administration's spin on how the project will be paid for. The #7 project is likely now to compete for federal mass transit aid, city capital funding and a spot in the **MTA capital program**. The latter will be reauthorized by the state and city in 2005. The mayor holds a seat on the MTA capital program review board.

In his election campaign, the mayor promised to construct a "surface subway" of rapid bus routes along First and Second Avenues in Manhattan to take pressure off the horribly crowded Lexington Avenue subway. The effort's status was given as: "The MTA is preparing a proposal to create dual [East Side] bus lanes which will be submitted in early 2003. The City will then review the proposal to see whether it should be implemented," in the mayor's accounting of campaign promises last winter. But there is no indication that any start to this work has been made. ❖

Tale of the Tape: NYC's Big Plans

Proposed Project	Need
Second Avenue subway	<ul style="list-style-type: none"> ◆ Relieve unbearable, chronic crowding on the Lexington Avenue line. ◆ Bring mass transit system up to date with East Side residential and business growth. ◆ Provide new high-volume transit link to Lower Manhattan. ◆ Provide additional East Side transit capacity needed when Long Island Railroad is linked to Grand Central Terminal.
Cross-harbor freight tunnel	<ul style="list-style-type: none"> ◆ Reduce or forestall relentless growth of tractor trailer traffic into and through the city and its neighborhoods. ◆ Provide economical long-distance freight movement option to NYC, Long Island and SW Connecticut.
#7 train extension	<ul style="list-style-type: none"> ◆ Open new Manhattan frontier for large-scale real estate, convention center and sports arena development.

The Tri-State Transportation Campaign web site:

www.tstc.org

Bloomberg Backs Car Alarms

The Bloomberg Administration opposes draft legislation in the City Council that would restrict installation of car alarms.

At a Council hearing yesterday, representatives from the NYC Dept. of Environmental Protection and the NYPD provided lackluster testimony containing virtually no information. But they said their departments felt **car alarms add a "layer of protection"** against car theft, and thus do not support legislation to make installation or operation of the alarms illegal in New York City.

Neither agency spokesperson could provide any data whatsoever to suggest that car alarms help prevent car theft, and neither could state with any confidence or credibility that the alarms' supposed value makes up for the horrible, ubiquitous source of noise pollution that they represent.

Council members attending the hearing of the Council's Environmental Protection Committee were generally not buying the city's line. Committee Chair James Gennaro cited **Transportation Alternatives' recent survey** (www.transalt.org) that found that while 90% of respondents had been irritated or disrupted by the alarms, almost no one had responded to them to help prevent a car theft.

The hearing considered two separate bills aiming at curbing the alarms and their noise pollution. Intro 194, introduced by Council transportation chair John Liu, would make sale or installation of after-market car alarms illegal in New York City. Intro 448, authored by Council member Eva Moskowitz, would prohibit alarms' operation altogether.

Liu said car alarms have "no measurable impact" in reducing auto theft and that they are largely ignored by the police. He said newer, noiseless anti-theft systems are far more effective. Moskowitz said noise complaints made up the biggest category of calls to the city's new 311 quality of life complaint number. She pressed the police representative hard to offer any evidence at all that car alarms work, but could not elicit a substantial response. Gennaro said the citizens of New York were **paying too high a price** for very little protection against auto theft, and wanted some proof of the cops' contention that audible alarms had value. Members said they received car alarm complaints on a constant basis, but had never heard any pro-alarm sentiment from constituents. Among Council members at the hearing, only Allan Jennings was hostile to alarm-ban legislation.

Citizens and advocates attending the hearing favored an alarm ban.

Many of the Council members said they were still waiting for the Mayor's "Operation Silent Night" to have some impact on the communities they represent. The police department said, to laughter in the

Council chamber, that it issued 196 summonses for car alarm noise pollution in all of 2002.

Council members told reporters they would work on **combining the bills** and would move ahead in spite of the administration's stance. NY 1 reports that nearly half of the Council has endorsed at least one of the two bills.

Stopping car alarms is a populist issue waiting for a hero to take it up. Mayor Bloomberg and Commissioners Kelly and Ward clearly do not get it. It's up to the City Council to pass a strong alarm-ban rather than let the problem sink into a morass of bureaucratic inaction at the NYPD and DEP. ❖

I-95 Debate Goes On

The *Connecticut Post* reported last week that the Transportation Strategy Board has recommended **congestion pricing** to pay for any **additional travel lanes** on I-95. It also said the board has decided to stop all discussions of widening the Merritt and wants to close some of the exits along the I-95 to reduce congestion caused by vehicle weaving. Both I-95 proposals would apparently affect the highway between New Haven and the NY border, which spans 44 miles.

CT House Speaker Moira Lyons, who was instrumental in creating the Strategy Board, told the *Post* that she wanted to create a new funding system to pay for projects that help reduce traffic congestion. Although adding travel lanes on I-95 will only increase car use and Connecticut's traffic problems, discussion of a new dedicated fund for congestion-busting projects and of congestion pricing on I-95 could be important steps forward.

A *Post* editorial congratulated the board on **throwing out plans to widen the Merritt**, and said their recent recommendations, especially closing some exits on I-95, could mean that the TSB is "finally be on its way to producing a viable roadmap for reducing congestion on state highways."

Tolling I-95 while leaving the Merritt free could make the legendary traffic on the parkway worse than ever. An idea plan worthy of consideration would be to make the Merritt the tolled, congestion-free alternative to I-95. The highways generally parallel each other.

It was unclear at press time how the recommendation to implement congestion pricing on I-95 relate to Governor Rowland's widely opposed proposal to open the highway's shoulder lanes to rush hour traffic in Fairfield County (*MTR # 412*). ❖

Calendar

June 16, 5pm, Public scoping meeting for the Environmental Impact Statement for Huntington/Port Jefferson Branch yard facilities site, East Northport Middle School, 1075 Fifth Avenue, east of Larkfield Road, East Northport, 718-558-3816, dpaleva@lirr.org

June 17, 6pm, Truck Route Management & Community Impact Reduction Study meeting, City College of New York, Steinman Hall, Convent Ave @ 140th Street, Manhattan, For info, contact NYC DOT-- 212-944-2000 ext. 6156, tkizner@ekmail.com.

June 19, 7pm. Middlesex Greenway Coalition meeting. Metuchen Library, 480 Middlesex Avenue. www.edisongreenways.org, 732-985-7071 info@edisongreenways.org.

June 24, 6pm, Auto- Free New York meeting, "Brooklyn Transit Agenda," Carolyn Konheim, Community Consulting Services, Inc., 104 Washington Street, just north of Rector St, 212-475-3394, www.auto-free.org.

June 26-29, International Trails and Greenways Conference, Trail Link: Designing for the Future, Providence, Rhode Island, 202-974-5152, www.railtrails.org.

June 26, noon, NYC Transit Riders Council meeting, Introduction of Barry Feinstein, MTA Board Member, Chairman of NYC Transit Committee, 347 Madison Ave, 5th Floor Board Room, www.pcac.org, 212-878-7087.

July 29, 6pm, Auto-Free New York meeting, "Achieving Consensus for Regional Transportation Investments," Tom Schulze, NYMTC, 104 Washington Street, just north of Rector St, 212-475-3394, www.auto-free.org.

[more calendar entries at www.tstc.org](http://www.tstc.org)

TRI-STATE TRANSPORTATION CAMPAIGN



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