



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

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GOVERNOR

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**North Carolina Board of Transportation  
Environmental Planning and Policy Committee  
Meeting Minutes for June 4, 2008**

A meeting of the Environmental Planning and Policy Committee (EPPC) was held June 4, 2008 at 8:30 AM in the Board Room (Room 150) of the Transportation Building. Board Member Nina Szlosberg chaired the meeting. Other Board of Transportation members that attended were:

Conrad Burrell	Mac Campbell	Alan Thornburg
Bob Collier	Doug Galyon	Gus Tulloss
Marion Cowell	G. R. Kindley	Cam McRae
Tony Dennis	Andrew Perkins	

Other attendees included:

Secretary Lyndo Tippet	Jerry Jennings	Berry Jenkins
Allen Pope	Ricky Greene	Phil Harris
David Brook	Lisa Glover	Whit Webb
Bill Gilmore	Andy McDaniel	Matt Lauffer
Jennifer Garifo	Tom Norman	Don Lee
Marshall Dobson	Beth Neely	Ehren Meister
Dave Henderson	Don Voelker	Amy Simes
Jeffrey Crow	Jon Nance	Mike Mills
Tim Johnson	Rob Hanson	Julie Hunkins
Robin Maycock	Anita Brown-Graham	Sandy Nance
Abtin Mehdizadegan	Neil Lassiter	

Ms. Szlosberg called the EPPC meeting to order at 8:36 a.m. Ms. Szlosberg accepted a motion to approve the meeting minutes from the April 30, 2008 committee meeting. The minutes were approved as presented.

Ms. Szlosberg introduced the issue of climate change and energy—noting the correlation between energy and transportation. The “think and do” tank by Governor Hunt laid the foundation for a think tank for change. The Institute for Emerging Issues looked at energy not as a problem, but as an opportunity, discussing the changes energy and transportation may undergo.

Ms. Szlosberg introduced Norris Tolson, former Secretary of Transportation. Mr. Tolson began his presentation by thanking the Board for the effort they put forth working on policy and issues to give back to the local community.

He began his presentation saying, "Time's a'wasting." He said in speaking to Gov. Hunt, North Carolina is growing, and growth can be impeded or encouraged. The three pinnacles of this are education, food and nutrition, and transportation and energy. Mr. Tolson believes in the three issues and holds that this was so ten years ago, as they are today.

Mr. Tolson said the challenges of energy are phenomenal. There are many opportunities related to energy that can provide growth for the State of North Carolina. The growth opportunities and challenges for North Carolina pivot around energy. The option to solve the problem of energy is imminent. Change in demographics demand that North Carolina steps up and answers the demand. Mr. Tolson also said that North Carolina is the place to be.

By 2040, North Carolina is projected to be the seventh largest state in the nation. This means that in the next fifteen years, 4.5 million people will enter the State. Mr. Tolson believes 4.5-5 million people will come, and that it will be before 2030. With regard to transportation, North Carolina imports 50 billion gallons of liquid fuel a year. Speaking of the \$3.95 / gallon for gas, North Carolina needs to tackle the issue so that it doesn't destroy the citizens of North Carolina and does not flood policy makers.

North Carolina is the visionary state of the fifty states. When other states heard North Carolina was getting into the energy business, people wanted to know what North Carolina said about it. Mr. Tolson believes that an energy policy for North Carolina can be established that creates alternatives for citizens. With the right leadership and policy development, North Carolina can find alternatives for citizens to use that will make this a more viable place to be.

Mr. Tolson and Nina Szlosberg, in partnership with the Institute for Emerging Issues, headed up a working group of individuals from various sectors across the state to try to forecast the next twenty-five years and see what challenges lie ahead with regard to energy in transportation for the State of North Carolina. They created various options, ideas, and through that process they came up with five issues that will plague NC in twenty-five years or so.

The five policy recommendations are:

1. Cleaner and more energy efficient vehicles;
2. Compact, mixed use and walkable development to reduce vehicle miles traveled (VMT);
3. The development and use of alternative fuel sources;
4. Diversity of transportation choices such as buses, trains, cars, bicycles as well as pedestrian options; and
5. Local development and recruitment/retention of advanced energy and transportation technologies and companies.

The workgroup was asked to hold their list to only five, and they had a difficult time doing it.

Mr. Tolson recommended a strategy that would start attacking these problems now. Collaboration can help fix this, but it is also politically viable. The recommendations will differentiate the members of the Board if North Carolina has the courage to act.

Mr. Tolson introduced Anita Brown-Graham, Director of the Institute for Emerging Issues. Mr. Tolson and Nina Szlosberg sat on three committees together she explained. They were on a third working group on short-term policy strategies. The task of this group was meant to reposition the state as a leader in the energy economy. The group had twenty action items divided into the following groups:

1. Increase the efficiency of new construction through state and local building codes;
2. Increase the efficiency of the existing building stock;
3. Develop a utility industry structure that achieves a clean, diverse, reliable, secure and affordable future;
4. Support growth and development of businesses that capitalize on this new energy market;
5. Require and support construction and operational efficiency standards and renewable projects in public or publicly financed buildings;
6. Address educational needs associated with the new energy economy including three venues - through community awareness, environmental literacy in the public school system and workforce development; and
7. Achieve industrial efficiency, research and development and green venture capital to capitalize on this market.

In September, the third workgroup will issue a report card that will take an at a glance look at what progress North Carolina has made on these action items. These are all action items the Board of Transportation discussed and agreed upon as critical infrastructure.

Ms. Brown-Graham further stated that North Carolina is outgrowing its own infrastructure. Therefore, North Carolina must find new ways to keep growing. North Carolina has the opportunity to re-think and partner with the Board focusing on the bigger picture with more intricacies.

Andrew Perkins asked, "The key issue for me is that our carbon foot print is made up of 80% of our energy consumption. Who is looking at the emerging technology? How do we eliminate the carbon footprint?" Ms. Brown-Graham answered, "We have two opportunities: We can utilize technology that has reached maturity and we would bring the technology to scale and streamline it to fit our needs.

Mr. Norris Tolson added, "This is an issue of urgency of the matter. In the past North Carolina has slipped on the issue of energy alternatives, and the times must change to address bio-fuels and other safe alternatives."

Gus Tulloss asked, "Who will lead the charge? The IEI?" Ms. Brown-Graham replied, "There isn't a single voice driving the cause. We need to look to internal leadership, policy makers, and others involved in the process. It is fact that the technology fifteen years ago was so advanced that now fifty-one percent of fuel in Brazil comes from starch-based fuels. We need to take policy ideas and combine them with creativity, excitement and visibility to make these viable alternatives. The time is now to press forward with alternative fuels." Mr. Tolson added, "We have talked about the energy policy for a long time! The time is right to deal with it and fix it." Gus Tulloss commented with,

“The energy crisis is affecting everyone’s pocketbook and taxpayers can’t afford it.” Ms. Szlosberg added, “We also want to meet higher efficiency standards in our alternative fuel standards. North Carolina is looking at clean car legislation like Corporate Average Fuel Economy standards in California. Now is the time to give our legislators political cover that they need to make standards of efficiency higher. They need us to support them, write letters, and build a trust fund for clean car legislation. There is stuff we can do right now, and we can do it.”

Ms. Szlosberg next introduced Daniel Keel, NC DOT Operations Program Manager, who discussed the State Minimum Criteria (SMC).

The SMC reports impacts to the environment for three project types: (1) highway modernization, resurfacing, widening (criteria #8), (2) maintenance (criteria #12), and (3) construction of two-lane highways (criteria #15). In the first and second quarters, the impacts were mostly lumped into the maintenance category (criteria #12). They discovered a new glitch founding their reporting, which has been since fixed.

There were about 300 projects in the first quarter, two-thirds of which fell into #12 criteria. The majority was in criteria #8, and two projects fell under criteria #15. The combined project length of 1100 miles resulted in impacts to streams of less than half a mile.

SMC reports can be accessed from the Roadside Environmental web site at: [www.ncdot.org/doh/operations/dp%5Fchief%5Feng/roadside/envoperations/specific\\_operations/criteria.html](http://www.ncdot.org/doh/operations/dp%5Fchief%5Feng/roadside/envoperations/specific_operations/criteria.html) or through the Environmental Planning and Policy Committee’s website from their home page at [www.ncdot.org/about/board/committees/eppc/](http://www.ncdot.org/about/board/committees/eppc/) . The SMC webpage displays the passed four years of reporting for SMC. All the criteria are listed at the bottom of the screen.

Ms. Szlosberg thanked Mr. Keel for the update and for posting the SMC information on DOT’s website to make it transparent and available to the public.

Ms. Szlosberg moved to business regarding critical updates on the Jordan Lake Nutrient rules and the impact of the rules on the NC Department of Transportation (DOT).

DOT staff has been engaged for months with the NC Department of Environment and Natural Resources to find common ground on this issue, and the discussions have been good. As she understands it, the rules went to the Environmental Management Commission (EMC) for review and were reported out without consideration for recommendations that the Board of Transportation and DOT staff had made. She introduced Greg Thorpe, Manager for DOT’s Project Development and Environmental Analysis Branch.

Greg Thorpe updated the Board on the status of the Jordan Lake Watershed rules, where they are in the process, and what the next steps are going to be. The NC Division of Water Quality (DWQ) presented the revised set of rules and Report of Proceedings to the Environmental Management Commission (EMC) on May 8, 2008. The new rules were approved by the EMC. Following adoption by the EMC, the rules must be approved by the Rules Review Commission (RRC), a legislatively appointed body that meets monthly throughout the year. Rules become effective following RRC approval or, if a sufficient number of objections are filed to a rule, it is reviewed by the next session of the NC General Assembly.

EMC rules have been reported to the RRC in advance of the June 19, 2008 meeting, and the rules will be considered on June 19. If the rules are approved by the RRC and if the BOT does not support the rules as approved, the BOT has the option to file an objection to the RRC within 24 hours of approval of the rules. As Ms. Szlosberg mentioned, we have worked a long time with the DENR staff and they made modifications to the rules in response to some of our concerns, but there are lingering concerns that were not addressed. The EMC chose to remove the Grandfather clause and buffer rules for projects causing project delays and cost overages. The BOT is concerned that given the phosphorous report, which is calculated to be very low, the Department has been assessed \$6 million clean up cost.

Dr. Thorpe stated the cost was not justifiable, reasonable, or proportionate, and violates the Clean Water Responsibility Act.

Current language in the rule may be ambiguous if local governments or the DWQ review and approve DOT projects. This could add additional delays and resource deficiencies.

Dr. Thorpe stated that if the Board wanted to file an objection, the objection would need to be filed within 24 hours of acceptance of the rules by the RRC, which would be sometime on June 20, 2008. Dr. Thorpe requested that the EPPC and BOT approve the staff drafting the objection letter with further consultation with DENR. The draft objection letter would be circulated through the Board for review and comment prior to June 19, 2008.

Ms. Szlosberg asked for questions. She said they are looking for a motion for staff to draft a letter of objection to the rules which would be signed by the Secretary and the Chairman of the Board formally objecting to the rules.

Gus Tulloss asked, "Do we have to object to part of the rule or the rules as a whole?"

Ms. Szlosberg stated it would be a general objection, saying the cost on any point for any agency must be proportionate and justifiable. They would object to the rules on this basis.

The motion to formally object to the rules, if passed as approved by the EMC, were passed by the RRC. The draft language would object the rules on the basis that all point sources must jointly share the responsibility.

Andrew Perkins stated, "It seems like the Grandfather clause is more significant than we thought." Dr. Thorpe replied, "It is more significant. I had a conversation with the Assistant Secretary of DENR and they indicated that DENR is going to resubmit that clause."

Ms. Szlosberg also asked Susan Coward, Deputy Secretary for Budget and Intergovernmental Affairs, to speak to the legislative procedure.

Ms. Coward advised that if there are no objections, then the rules would be in effect by July. If objections are filed, then it would have to be submitted by the next legislative session. Ms. Szlosberg noted there were at least ten objections that would be filed.

Gus Tulloss said, "It seems that we have two points that we are interested in. One is the cost of \$6 million and the other is the Grandfather clause. It seems to me that we need to specify our objections on both of those. What I'm hearing is that we won't and I don't understand it." Ms. Szlosberg said she worked with the policy office, and as of today the office feels comfortable with a general objection.

Gus Tulloss asked if there are ten objections filed, and that's exactly what happens and the whole thing gets held over to the next session, does the whole rule-making process start over from scratch? Or does it focus only on the objections filed? Ms. Szlosberg advised, it is her understanding that the legislature will negate the rules and start the process over again. Gus Tulloss commented, "The process seems incredibly inefficient." Ms. Szlosberg agreed.

Gus Tulloss said, "We need to make sure our two objections are preserved, whatever the process is."

Ms. Szlosberg advised, "We will circulate a draft letter, so make your comments and we will assess them."

Ms. Szlosberg asked if there were further questions or comments. The meeting adjourned at 9:45 a.m.

The next meeting will be on Wednesday, July 9, 2008 at 8:30 a.m. in the Board Room of the Transportation Building.

JH/ab