

TOWN OF ATKINSON

REPORT OF THE COMMUTER RAIL INVESTIGATORY COMMITTEE

Submitted May 2, 2011

SUMMARY

For at least 20 years, Plaistow town officials have sought to revive passenger rail transportation, connecting the town to the MBTA's Haverhill Line. For at least 25 years, the people in Bradford, Mass., who live near the MBTA's overnight layover facility have complained of diesel fumes, vibrations, and noise as late as 1:00 a.m. and as early as 3:45 a.m., continuing until about 9:00 a.m. Plaistow and the MBTA have hit upon a mutual solution: The MBTA will extend service from Haverhill to Plaistow if the town will accept the relocated layover station which nobody wants.

Plaistow readily agreed to the move and to the location chosen by the MBTA, at the former Westville Homes manufacturing site on Blossom Road in Plaistow. About 45 Plaistow homes and about 120 Atkinson homes lie within a half mile. The site is beside the Bryant Brook Wetland, designated a "prime" wetland by the voters of Atkinson. Other sites for the layover are available, including the Chart Industries land beside the proposed passenger station and an industrial park site off Hilldale Avenue in Haverhill, but they have all been rejected.

The project's supporters include the N. H. Department of Transportation and the Rockingham Planning Commission. They, with the Town of Plaistow, claim that, in its first year, a train station in town will reduce traffic on Rt. 125 by 1-2.5%. They offer that minute reduction as a sufficient public benefit to justify moving a public nuisance to a place where it will affect 150-200 homes, reducing their value. The noise of idling trains in the middle of the night, every night, will affect the sleep and health of perhaps 300-400 people, mostly in Atkinson, many of them elderly.

Plaistow has a federal grant to begin preliminary studies for the project, although expenditures require the permission of the Executive Council. The town has not acquired full funding for the project. Ultimately, the legislatures of New Hampshire and Massachusetts will be asked to approve an operating agreement.

At the end of this report, the Committee recommends that the Board of Selectmen and other town officials take certain concrete and immediate steps to influence the process to protect the health and welfare of the people of Atkinson.

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I

Introduction

The Atkinson selectmen appointed this committee in November, 2010 to study the positive and negative features of Plaistow's commuter rail proposal from an Atkinson perspective. Here is the sequence of events that led to the committee's formation:

On August 24, 2010, the Lawrence Eagle-Tribune announced that a \$19 million grant application had been filed with the U.S. Department of Transportation (USDOT) to fund both commuter rail service between Plaistow and Haverhill and the removal to Plaistow of the overnight layover facility now located in the Bradford section of Haverhill, Mass. The applicant was the N.H. Department of Transportation (NHDOT). Signing as "cooperating agencies" were the Massachusetts Bay Transportation Authority (MBTA), the Town of Plaistow and the Rockingham Planning Commission (RPC). The federal grant program was known as TIGER II (Transportation Investment Generating Economic Recovery, second round of discretionary grants).

The application called for the passenger station to be located on Westville Road beside the current Park and Ride lot. The layover facility was proposed for the former Westville Homes manufacturing site at 21 Blossom Road, Plaistow.

The layover site is very close to the Atkinson line and beside the Bryant Brook wetland, which Atkinson has designated as a "prime" wetland. The site is approximately 300 feet from the nearest homes in Plaistow and about 1600 feet from the nearest Atkinson homes. The latter are in the Bryant Woods condominium development, on Robie Lane, and on Indian Ridge Road. In total, approximately 28 homes in Plaistow are within a quarter mile and at least 120 homes in Atkinson are within a half mile of the proposed layover site. The grant application stated that only "limited" residential development was in the area.

The news story was the first time that Atkinson residents and most Atkinson public officials had heard about the preferred location of the layover facility. Plaistow officials have said that the project was presented to the RPC, of which Atkinson is a member, but no Atkinson representative was present. Neither Plaistow officials, the RPC or NHDOT directly notified Atkinson officials or affected local residents about the proposal. Earlier press coverage had suggested that the layover would be moved where it would not affect residences.

Soon after the newspaper story, local residents began objecting to the proposal, speaking at a Plaistow Selectmen's meeting and writing letters to the editor. On September 15, 2010, after its regular meeting, the Plaistow Planning Board held a

well-advertised Public Information Meeting on this project. Approximately 100 people were in the audience, including two Atkinson selectmen, the chair of the Atkinson Planning Board, and one of Atkinson's representatives to the legislature.

Plaistow Town Manager Sean Fitzgerald made a lengthy slide presentation explaining the proposal and the town's support. Several hours of public comment followed, running heavily against both the merits of the proposal and the failure to inform Atkinson officials and residents sooner. The practicality and utility of the commuter service was questioned, but most of the negative comments from Atkinson residents concerned the siting of the layover facility, long a nuisance to Bradford residents, virtually atop the town line.

Since they felt that they had not been kept informed by Plaistow or other public officials before the August 24 press release, the Atkinson Board of Selectmen appointed this committee to investigate the factual background of the rail proposal and to present to the Board the positive and negative features of the proposal from an Atkinson perspective.

The Board advertised for nominations to the Committee and eventually appointed all who applied. They are:

William Bennett, Selectman
Catherine Blash, Secretary
Albert Bradley
Anna Clark
Robert Clark
Robert Cote
Joseph DeMonaco
David Harrigan, Chair
James Stundze

The Committee held meetings every other Tuesday evening, weather permitting, and sometimes on other evenings to accommodate guest speakers. Members were assigned government agencies or other likely sources of information to research and they reported their findings to the Committee. One member visited MBTA layover facilities in Massachusetts, including Bradford, as early as 3 a.m. Another walked and photographed the area around the proposed layover site. A member counted cars with New Hampshire license plates in and near the train stations in Haverhill and Bradford on a typical workday. The Committee met with Senator Chuck Morse, Representatives Jim Garrity and Deb DeSimone, Kit Morgan of the Rail Bureau of NHDOT, Cliff Sinnott, Executive Director of the RPC, and Plaistow Town Manager Sean Fitzgerald. The matter

was discussed by telephone with Executive Councilor Chris Sununu. Early telephone contacts were made with representatives of the MBTA. However, when the Committee sought a meeting either in Atkinson or at the offices of the MBTA, two telephone messages were not returned and an emailed letter met with the same fate. The owner or agent for the Hilldale Avenue alternative site spoke to a committee member by phone. Attempts to reach the Chart Industries representatives were unsuccessful.

The Committee's findings are described below.

II History

A. Commuter Transportation Efforts: Passenger rail service was last available in Plaistow in 1968, provided by the Boston & Maine Railroad. For the past few decades, various private, public and intergovernmental groups have studied ways to improve public transportation in this area.

In 1994, express bus service from Plaistow to Copley Square, Boston, was begun with three buses in the morning and three returning in the afternoon. After a slight initial growth period in ridership, riders lost interest. The number of buses was reduced from three to two and eventually to one. Since 1997, that bus has left from the Park and Ride lot on Westville Road, the same site proposed for the passenger rail station. The lot, with 275 spaces, usually has just a handful of cars in it each workday. Ridership is so low that the bus no longer takes passengers directly to Boston. It goes to Newburyport, Mass. where passengers transfer to a Boston-bound bus.

Groups that have studied new transportation options for the area include the RPC; the Plaistow Area Transit Advisory Committee (PATAC); the towns of Epping, Kingston and Plaistow; Guilford Transportation, Inc (track owners, later Pan Am Railways); the COACH Company (bus company); NHDOT; Greater Haverhill Chamber of Commerce; Rockingham Economic Development Corporation (REDC); the MBTA, and perhaps others.

In 1987, the MBTA moved its Haverhill Line layover facility from a Haverhill location north of the Haverhill station to Bradford. Since then, nearby residents have frequently complained about diesel fumes and late night and early morning noise. In September, 2008, Haverhill City Councilor William Macek told the Lawrence Eagle-Tribune, "We have had 20 years of neighborhood complaints. You get to a point where enough is enough." Not surprisingly, their State

Senator, Steven Baddour, has been actively encouraging the relocation of the layover site to New Hampshire.

On October 24, 2008, a meeting was held in Plaistow with town officials, the MBTA, RPC, NHDOT, REDC, the New Hampshire Department of Resources and Economic Development (DRED), and the Chamber of Commerce. The MBTA reported that they had been in contact with various landowners regarding the layover facility. The group agreed that the former Westville Homes site on Blossom Road would be "ideal." When asked during our committee interviews, the representatives of the RPC, NHDOT and Plaistow confirmed that the MBTA was the initiator of the preference for the Blossom Road site. Those agencies acquiesced in the selection.

B. EPA v. MBTA: The MBTA, through its agent for rail operations, the Massachusetts Bay Commuter Railroad Company, LLC (MBCRC), maintains 14 layover stations. One of them is in Rhode Island. Excessive idling of diesel engines occurred at several of those stations.

On August 4, 2010, the United States Environmental Protection Agency (EPA) sued the MBTA and the MBCRC in the U.S. District Court in Massachusetts for violations of federally enforceable state regulations prohibiting unnecessary diesel engine idling in excess of 30 minutes. These regulations are found at 310 Code of Massachusetts Regulations 7.11(2).

In lieu of a trial, the defendants agreed to the terms of a Consent Decree issued by the Court, requiring them to pay a civil penalty of \$225,000 and to install an electric "plug-in" station for each engine at all of their layover facilities. That electrical power will be used to heat and light the cars while they are serviced overnight, reducing the time the engines must idle.

The defendants were also ordered to replace at least 14 on-board power generators to reduce emissions and to begin using "ultra-low sulfur" diesel fuel. Until June 30, 2012, they must file with the EPA quarterly reports on their compliance with the state idling regulations, their installation of the new plug-in stations and generators, and their use of the new fuel. Like the existing layover stations, a Plaistow layover site would have to follow this Court decree.

C. Federal Grants: The RPC received a \$976,000 grant in 2001 from the Congestion Mitigation / Air Quality (CMAQ) program, under which federal money is disbursed by the state. The expressed purpose was to build a commuter platform on Westville Road and pay three years of operating

subsidies (payments to the MBTA for losses incurred in providing rail services). Plaistow reports that those funds were unspent and remain available.

In the fall of 2010, Plaistow's TIGER II grant application was denied. However, in early 2011, the project received an advisory committee's recommendation that it be granted \$8.4 million under the (CMAQ) program. It appears that the expenditure of those funds requires the approval of the Executive Council and, for capital purchases, the legislature. Any interstate agreement will require specific legislative approval from both states.

The MBTA has reported that \$10 million remains available, with Massachusetts legislative approval, to fund the transfer of the layover facility from Bradford to Plaistow.

III Project Details

The proposal has two parts; one is a prerequisite for the other.

A. Layover Facility Operations: The MBTA has made it clear that the layover facility must be moved to Plaistow as a condition for initiating passenger service between Haverhill and Plaistow. The MBTA has also selected the site, Blossom Road, and there has been little serious public discussion about any other possible locations. Thus, the enthusiastic supporters of passenger rail have, by necessity, become enthusiastic supporters of transferring Bradford residents' nuisance to the residents of Plaistow and Atkinson. Therein lies the greatest controversy surrounding the project.

The layover site will have six tracks. Five "trainsets" (engine and cars) will initially use the site; a sixth might be added. Each train will arrive at the end of its day's run. The last one will arrive about 1:00 a.m. When trains enter and leave the site, they are required by safety regulations to issue a warning whistle and bell, although that was observed being done inconsistently in Bradford.

Work crews will service the trains at the site, removing trash and otherwise cleaning and lubricating the equipment. No refueling will occur there. Ordinarily, the trains will be kept warm by the power supplied by the EPA-mandated plug-in stations. However, when the surrounding air temperature is 10 degrees F. or lower, the trains must idle all night to supplement that power with their on-board generators.

In all temperatures, all trains must idle for about one hour before leaving for their day's run. They also must build up the pressure in their air brakes, which can create more noise than idling, as observed in Bradford by a Committee member. The first train of the day will begin idling at or shortly before 4 a.m.

In other words, from late evening until mid-morning, diesel train engines will be idling or moving into or out of the site continuously, except between 1 a.m. and 4 a.m. When the temperature is 10 degrees or lower, the idling will continue without interruption throughout the night.

The crew now working in Bradford will presumably report to Plaistow instead, so it seems unlikely that any new jobs would be created at the layover facility. Plaistow's predictions about the number of post-construction jobs that will be created by the project seem to be associated mostly with the desired commercial development at the Chart Industries site.

B. Alternative Sites: The Chart Industries property, on Main Street in Plaistow, is the closest alternative layover site to the new passenger station. It consists of 60 acres and is zoned industrial. Because the Committee has been unable to interview MBTA staff, it isn't known why that site is not their preference. According to the TIGER II grant application and the comments of Sean Fitzgerald, town officials hope to see that parcel developed someday as a mixed residential and commercial site. No other explanation has been offered for not including the layover facility on a portion of the parcel. No reason has been given why the layover site is an acceptable neighbor for established residents of Plaistow and Atkinson, but not for hypothetical future residents of Plaistow.

A proposal to build a WalMart Supercenter near Main Street and Rt. 125 resulted in a public outcry to prevent the increase in shopper traffic on Main Street that would result.

Land near the junction of the boundaries of Haverhill, Plaistow and Atkinson, in the area of the end of Hilldale Avenue, was considered and rejected by the MBTA. The owner or agent was briefly contacted by the MBTA about two years ago, but only learned of their decision much later from the newspaper. In the absence of any information from the MBTA, its reasons remain unknown. A layover station at either this site or the Chart Industries site would disturb far fewer people than one at the Westville Homes site.

C. Environmental Concerns: Because federal funds will be spent on this project, the National Environmental Policy Act (NEPA) requires that an environmental assessment (EA) of its likely impacts be conducted. If no significant impact is found, the project can proceed. If the impact is likely to be

significant, then a more detailed environmental impact statement (EIS) must be researched and prepared. The public is allowed to comment on drafts of the EA and any EIS. When the review is complete, the law does not require that the least harmful alternative site be chosen. The choice remains with the project owners, although they, the public, and the regulatory agencies will be better informed.

The potential environmental problems associated with this project are many. The Westville Homes site, the recommended location of the layover station, abuts a prime wetland. Wells beside the same wetland supply drinking water to the Hampstead Area Water Company, Inc., which serves people in ten communities. Other issues include pollution from diesel emissions, the noise and vibrations that will occur at night, the overnight storage of diesel fuel in a 2500-gallon tank and of lubrication oil in a 243-gallon tank on each engine, the potential for runoff containing fuel and lubricants, and possible additional environmental hazards that could surface later.

Disturbing the soil at "brownfield" sites raises another serious environmental question. The sites for both the passenger station and layover facility are "brownfield" sites, meaning that they are polluted to some extent, probably due to their prior industrial uses. There are federal grants available to aid in returning polluted land to useful purposes. None of the documents reviewed by the Committee describes the nature and extent of the pollution. Excavation might reveal pollution so extensive that the land might become a Superfund site.

D. Passenger station: The second part of the project is the extension of commuter rail service from Haverhill to Plaistow, a distance of 4.3 miles.

A passenger station is planned for the Westville Road site, including facilities for the sale of coffee and newspapers. The Park and Ride lot will provide parking. We have seen no mention of the fate of the current bus service to Newburyport after the train is operational.

Agreeing to accommodate the layover station does not guarantee that the MBTA will run commuter trains to Plaistow on a set schedule, or run them at all. The Plaistow schedule will be based on ridership and most likely will not include all runs on the Haverhill Line. It is conceivable that the public will be no more enthusiastic about the new connection to Haverhill, where they can already board the train, than they were about the express bus which failed. If in the future the MBTA severely curtails or even discontinues rail service, it will be very difficult and maybe impossible to remove the layover facility.

To assist the MBTA with the capital costs associated with the new service to Haverhill, the State of New Hampshire or the Town of Plaistow will purchase three new bi-level passenger cars with federal funds and donate the cars to the MBTA for use somewhere within its system.

Supporters say that the MBTA's operating costs will not have to be supplemented with operating subsidies assessed against surrounding towns, as they are in Massachusetts, for a long time due to credits for other expenditures to be made by New Hampshire entities in realizing the project.

IV

Pros and Cons of the Project

A. Layover Facility

1. **Pro: Efficiency of train movements** – If passenger service to Plaistow is initiated without moving the layover facility from Bradford, every train will travel about five miles without passengers every morning and again every evening. That will waste personnel time, cause unnecessary equipment wear, burn expensive fuel, and needlessly complicate the passage of other trains on the same tracks.

Con: That is true, as far as it goes. However, the site preferred by the MBTA, to which the other sponsors acquiesce, is not the most efficient available. The Chart Industries property is located beside the proposed passenger station. Barely one-tenth of a mile would separate the trains from their first, and last, stop. Like the preferred site, it is zoned industrial, but it is a much larger parcel and would affect fewer existing residences. The reasons for the rejection of all of the alternative sites have never been publicly disclosed. The reason for secrecy, possibly apart from price negotiations, is not apparent.

2. **Pro: Relief for the people of Bradford** – The Massachusetts residents who have endured for about 25 years the nearly night-long noise, vibration and fumes from the layover facility will welcome its acceptance in New Hampshire. They presently have influential legislative representatives who can greatly assist in obtaining funding to finance the move and in securing any other necessary legislative approvals. The time is right to relieve those residents of this annoyance.

Plaistow Planning Board Chair Tim Moore discussed the plight of Bradford residents at a meeting of the Plaistow Board of Selectmen on March 8, 2010. According to the minutes, he said that “in cold weather the diesels have to run

continually overnight which makes for a lot of smoke and noise which no one wants to live next to.” He went on to mention that the “neighbors [are] anxious to have location moved out of Bradford; political clout; ...” He added, “Westville Homes may be an acceptable site and no neighbor complaints ...”.

Con: Apparently, the preferred way to relieve these Massachusetts residents of the burden imposed by a Massachusetts rail line is to toss the problem over the state line into New Hampshire. Unfortunately, some public officials in New Hampshire are willing to take on Bradford’s problems because their judgment is clouded by unrealistic expectations. With very little hard data, they choose to believe that great things will happen simply by instituting a mere 4.3-mile train ride to a destination that’s already easily accessible.

Plaistow has actually accepted less than half of the burden of its decision. The Blossom Road site ensures that more families in Atkinson than in Plaistow will suffer the loss in home value that even Plaistow Town Manager Sean Fitzgerald acknowledges is inevitable when the layover station begins operating. More residents of Atkinson than of Plaistow will be subjected to health risks and lose their private property right to the quiet enjoyment of their homes. Exporting this proven nuisance is not an improvement from a New Hampshire or an Atkinson point of view.

3. Pro: Mitigation of negative effects on residences – Because of the consent decree, conditions in Plaistow should be more tolerable than they have been in Bradford. Lower sulfur fuel will be used on all trains, reducing fumes. Electric plug-in stations will allow each engine to be shut down during cleaning and maintenance, although they will idle for an hour before each leaves the facility for its first stop of the day. Mats can be used to dampen vibrations. The CMAQ grant budget includes about \$318,000 for a soundwall to protect area residents from much of the noise.

Con: Although there are steps that can be taken to reduce the effects of the layover facility, they might never be taken. If taken, they might not result in a significant reduction. And if the negative effects can be effectively mitigated, why weren’t they mitigated in Bradford?

The MBTA will use lower sulfur fuel, not sulfur-free fuel, and it will do so only because federal law requires it. They have been ordered by the federal court to begin using it before the law otherwise requires it, because they allegedly violated the rules against excessive engine idling. The same decree required the plug-in stations. The MBTA has repeatedly proven itself truly reluctant to reduce the annoyances to its neighbors. Even more distressing is the fact that New Hampshire has no regulations to limit diesel train engine idling.

The prospects for the voluntary expenditure of funds to even somewhat blunt the effects of the facility on residents are not encouraging. For all these reasons, Atkinson would be naive to assume that state and federal agencies will independently take all possible steps to blunt the impact of a layover facility on local residents, or that these efforts will work even if they are made.

The CMAQ grant budget line item for the construction of the soundwall includes the words, "if needed." According to news accounts, some residents of Windham, New Hampshire, have been unsuccessful in persuading NHDOT to build a soundwall to protect homes from noise generated by I-93. In any event, the Committee is unaware of any soundwalls near any of the MBTA's 14 layover facilities, including Bradford.

4. Pro: Mitigation of negative effects on the prime wetland – Trains will not be refueled at the site, eliminating both the need for storage tanks and the risk of spills. The noise might affect wildlife, but only at night and there is alternative habitat elsewhere in the area. The fumes will be emitted at least ten feet off the ground and will be dispersed by the wind. Efforts will be made to contain any runoff of fuel or lubricants. The actual operations will occur far from the wetland itself, certainly beyond the minimum buffer required by local zoning ordinances.

Con: It is difficult to imagine that any of the wildlife capable of migration will remain in this prime wetland after the nightly noise, vibration, and air pollution begin. Leakage from the large fuel and oil tanks on each engine must be anticipated. Runoff carrying fuel and lubricants is inevitable since the trains will not be protected from the weather.

The risk goes beyond plants and animals. The Hampstead Area Water Company, Inc. operates wells located a few feet from the wetland, perhaps three-quarters of a mile from the site. The company supplies drinking water to people in ten southern New Hampshire communities. Other residents have their own wells.

5. Pro: Polluted sites will be restored to usefulness – The layover and the station sites constitute "brownfields." This means that they suffer from some degree of pollution. This project will reclaim those parcels and return them to economic productivity.

Con: The same could probably be said of the Chart Industries property beside the proposed passenger station but it has been rejected as the layover site. Further exploration of polluted soil may reveal a greater degree of pollution than

is currently known. Disturbance of polluted soil might endanger the wetland and groundwater even before train operations begin.

6. Pro: Any negative effects of the layover facility are outweighed by the benefits of passenger service – When taken as a whole, the reduction in highway congestion, the improvement of air quality, the increase in property values, the greater convenience to commuters, and the additional employment far outweigh the negative aspects of the layover site.

Con: Much of this response will be found in the next section concerning the passenger station. In reality, if this project is completed, train service to Boston that is already easily accessible will become slightly more easily accessible, albeit at a cost of \$29.5 million of public funds. Its most ardent supporters exaggerate the modest benefits of a four-mile extension to justify foisting a major nuisance on New Hampshire residents, primarily those of Atkinson.

B. Passenger Service

1. Pro: Reduced road congestion – Rt. 125 between Plaistow and the I-495 ramps is heavily congested during commuting hours. The TIGER II grant application stated that 25,000 to 30,000 cars travel the southern portion of Rt. 125 in Plaistow daily. That application also stated that 670 vehicle trips per day will be eliminated from Rt. 125 in 2013, the first year of rail operation. That will reduce air emissions and road and vehicle wear.

Con: Even taken at face value, the reduction in traffic will be 1% to 2.5%. Such an insignificant change cannot justify the public expense and negative impacts on residents.

Examining the ridership predictions more closely, the CMAQ grant application contradicts the TIGER II application and says that only 510 vehicle trips will be eliminated.

For its ridership predictions, the TIGER II grant application relied on assumptions in an economic consultant's cost-benefit analysis, which relied on assumptions supplied by the Rockingham Planning Commission, which relied on assumptions supplied by the MBTA, which apparently were not based on New Hampshire data.

A Committee member counted cars bearing New Hampshire plates in the parking lots of the Haverhill and Bradford stations on September 29, 2010, a Wednesday at noon, when presumably all commuter vehicles would be in place. Including all cars in all lots at both Haverhill and Bradford, plus cars parked on

the nearest roads, a total of 62 had New Hampshire plates. This clearly is a far cry from the 255 or 335 vehicles being estimated. It cannot even be assumed that all 62 drivers now taking the train from Haverhill or Bradford would switch to the Plaistow station. Anyone living in the southern sections of Salem or Windham is probably closer to the Haverhill station, which soon will have far more parking available with the garage now under construction. Many of the current train commuters might not use Rt. 125 at all, considering the alternate routes available via Rt. 110 and Hilledale Avenue.

The consultant assumed that 76 percent of the people using the new commuter service from Plaistow would be new train riders, drawn away from their cars by the opening of the new station. The consultant offers no basis for that assumption, either. Anyone living near the proposed Plaistow station who wants to take the train now has only to drive 4.3 miles to Haverhill to avoid the 40-mile drive to Boston. The economist must have assumed that a large number of people now drive 40 miles into Boston to avoid a 4.3-mile drive to Haverhill.

If people in this area are not taking the train now, there is nothing about a 4.3-mile train ride from Plaistow to Haverhill that will lure them from behind the wheel. They either need or want their car available to them all day.

There is also no basis for assuming that 335 local people work in downtown Boston. Commuters to Massachusetts jobs are most likely going no further than Haverhill or perhaps to employment in towns not served by the train. If their employers are located along I-495 or Rt. 128, the train won't get them there.

So far, no one has produced any destination surveys of Rt. 125 drivers to show how many are going to places served by the train. Nor have there been any surveys of New Hampshire residents who already board the train in Haverhill or Bradford, to learn whether they would prefer to use a Plaistow station. In other words, the most basic planning tools haven't been used to substantiate the assumptions underlying this \$29.5 million project. Perhaps the proponents anticipate inconvenient results.

2. Pro: Reduction in air pollution – The reduction of pollution from cars on the road will more than offset the pollution added by 20-24 daily runs by diesel trains.

Con: That statement does not take into account the air pollution added by having at least one stationary diesel train engine idling continuously for five or six hours per day, trains running as they slowly enter and leave the layover station, and trains traveling unnecessarily between the Blossom Road layover and the passenger station about ten times daily (the Chart Industries site would

eliminate that deadheading). It also seriously overestimates the number of drivers who will use the train instead of their cars.

3. **Pro: Increase in property values** – Easier access to the railroad will make homes in Plaistow and the surrounding area more attractive to buyers, raising their value. This will be particularly true of the new “Transit Oriented Development” that some Plaistow officials would like to see beside the new passenger station.

Con: To the contrary, the Plaistow town manager conceded at the information session on September 15, 2010, that the value of properties within earshot of the layover facility will be reduced.

Therefore, Plaistow is seeking to increase its property values near the passenger station by putting the layover where it diminishes the value of Atkinson property and the property of nearby Plaistow residents. In other words, Plaistow is sacrificing the health and well-being of current residents of both towns to protect hypothetical new residents from the same nuisance.

4. **Pro: Increased Employment** - The construction of tracks and crew shed at the layover site, and construction of the passenger station and platform, will create jobs. The transit oriented development beside the passenger station will employ still more construction workers. Eventually, the commercial portion of that development will also offer employment to retail workers.

Con - Construction jobs are merely temporary. In any event, one Plaistow resident who spoke at the Public Information Session said that he had worked with the MBTA on other projects and that it would be using Massachusetts contractors with whom it had experience. Building railroad tracks and platforms is a specialty so the MBTA would probably choose a company in which it already had confidence.

If Plaistow officials are planning a large commercial development on the Chart property, which fronts on Main Street, they have already forgotten that the residents of Plaistow at the March, 2009 Town Meeting overwhelmingly defeated a rezoning proposal that would have allowed Walmart to build a Supercenter at Main Street and Rt. 125. The people did not want to increase the traffic on Main Street. The vote was 1285 to 331. The proposed “Transit Oriented Development” threatens Main Street for all the same reasons.

Not much confidence can be placed in low-paying retail jobs in a development that does not exist, for which there are no developer’s plans, on land that is not

zoned for that use, in a town that overwhelmingly values its Main Street over more commercial development.

V

Legal Issues

It is important for town officials to monitor numerous legal issues associated with this proposal in order to protect Atkinson's interests.

A. Zoning: Section 220-5, A. of the Plaistow Zoning Ordinance forbids "in every district within the Town" uses that "may be obnoxious or injurious by reason of ... odors, dust, smoke, refuse matter, fumes, noise, vibration or other similar conditions or that are dangerous to the comfort, peace, enjoyment, health, or safety of the community or that contribute to its disturbance or annoyance ...".

That seems to describe the layover facility. However, the State of New Hampshire and its political subdivisions are not required to comply with local ordinances, even their own. Since the MBTA is not a political subdivision of New Hampshire, the project's promoters might be planning to have the layover site "owned" by the State and "leased" to the MBTA, although the MBTA may have provided the purchase price and will be the sole operator of the site. A court might not agree that the State truly owns the site and might find that the arrangement was devised solely to deny the public the protection of the zoning ordinance.

B. Operating Agreement: The relationships among the MBTA, Plaistow and the State will be determined by a written contract which has not yet been prepared. Properly drawn, it will include standards for the conduct of operations, including mitigation measures, and penalties for non-compliance. It should specify the circumstances under which the layover facility would be removed from New Hampshire.

C. Environmental Impact Statement: Considering the intensive nightly use of the layover site and the proximity to residences and a prime wetland, an EA might be insufficient to address all the issues. It might require court intervention to assure that an EIS is prepared.

D. Diesel Train Engine Idling Regulations: New Hampshire has none. They clearly will be needed and might take the form of legislation or administrative regulations. They should include strong penalties that provide a true incentive for compliance.

VI Conclusion

Supporting the idea of commuter rail should not mean supporting a layover station that even the project's main advocates acknowledge will be detrimental to the surrounding area. The proposed layover facility on Blossom Road in Plaistow will have serious negative impacts on the people who live nearby in Atkinson and Plaistow and on the prime wetland beside it. Those impacts far outweigh the benefit to the general public from the construction of a passenger station just four miles from the existing station in Haverhill.

The benefits of this short extension of passenger rail service, as described by the project's supporters, are exaggerated or cannot be substantiated, yet these claims about ridership continue to be repeated in each grant application and report. Meanwhile, the detrimental effects are clearly substantiated by years of experience in Bradford. Several alternative sites in Plaistow and Haverhill could accommodate the layover station more conveniently and with less impact on residents and the environment. Atkinson should encourage Plaistow and the MBTA to pursue these sites and abandon the proposal to build on Blossom Road.

VII Recommendations

This project still has several complicated obstacles to negotiate before completion. Many opportunities remain for Atkinson to influence the siting of the layover facility, the design of mitigation measures, and even whether to extend the rail line. The project involves so many officials and agencies at so many levels of government in two states that it would be easy to lose track of what's happening - as was already the case when plans had proceeded for years without Atkinson's knowledge. If Atkinson does not want to wake up one morning and find that all of the decisions have already been made, town officials must become involved in the process now.

The Committee acknowledges that its members do not have the time or expertise to represent Atkinson's interests throughout the process. But as individuals, many members and other residents will volunteer if the Town provides leadership. Unfortunately, some expertise must be purchased. Therefore, the Committee recommends that the Selectmen do the following:

1. Meet with their counterparts in Plaistow and with the MBTA to discuss the matter directly in order to express Atkinson's objections to the Blossom Road site. Planning Board chairs should be included.

2. Meet with Executive Councilor Chris Sununu, who represents both towns. All federal grants and expenditures, and all state contracts in excess of \$10,000, must be approved by the five-member Executive Council.
3. Contact the N.H. House and Senate leadership, and the chairs of the Transportation and Finance committees, to express the Town's concerns that it will become just another Bradford. The legislature's approval is required for any interstate contracts and some capital expenditures.
4. Ask NHDOT to permit the Town to participate in the preparations for the environmental assessment and the engineering studies. That will be the earliest opportunity to address the suitability of the site as well as mitigation measures.
5. Conduct the two surveys mentioned above to determine how many Rt. 125 drivers are going to Boston and how many current MBTA riders from New Hampshire would use a Plaistow station. Use volunteers.
5. Hold periodic public information sessions to report on recent developments and the Town's actions to influence them.
6. Secure the services of a lawyer to monitor those steps that might adversely affect the people of Atkinson and might have to be resolved by litigation. The Town cannot assert and protect its rights if it doesn't know what they are, and this is unfamiliar legal territory for Atkinson.
7. Engage a Concord lobbyist to monitor legislation and to influence the legislative and executive bodies that still must approve the project. While we are ably represented in Concord by our elected officials, several also represent Plaistow. From 45 miles away, it is difficult to follow all of the legislation and all of the amendments that might be added at any time. Success often depends more on daily contact with legislators than on testimony at one formal hearing.

Respectfully submitted,

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Robert Cote

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