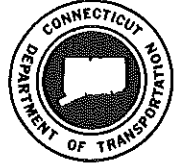




STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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NEWINGTON, CONNECTICUT 06131-7546

Phone: (860) 594-2863

DOCKET NO. 1206-96-RR

RE: IN THE MATTER OF THE PETITION TO CLOSE THE EXISTING
HIGHWAY/RAILROAD AT GRADE CROSSING AT FLOWER STREET IN HARTFORD.

FINAL DECISION

October 19, 2012

I. INTRODUCTION

A. Petitioner's Proposal

By petition dated June 21, 2012, pursuant to Connecticut General Statutes Section 13b-270 and assigned Docket No. 1206-96-RR, the petitioner, the Bureau of Engineering and Construction, proposes to remove the existing highway/railroad crossing at Flower Street in Hartford.

B. Hearing Held

Pursuant to Connecticut General Statutes Section 13b-270, a public hearing on this petition was held at the administrative offices of the Department of Transportation, in Newington, Connecticut on August 23, 2012.

Notice of the petition and hearing to be held thereon was given to the petitioner and to such other parties as deemed necessary by the department. Legal notice to the public was given by publication on the department's website.

The hearing on this matter was conducted by a hearing officer, designated by the Commissioner of Transportation, pursuant to Connecticut General Statutes Section 13b-17.

C. Appearances

Anthony Margiotta, Project Manager, testified on the proposal as the consultant from Michael Baker Engineering, Inc. Mr. Margiotta's mailing address is 500 Enterprise Drive, Suite 2B, Rocky Hill, Connecticut 06067.

Brian Cunningham, Department of Transportation's Project Manager with Consultant Design, testified as a department witness.

Gilbert Smart, Department of Transportation's Supervising Rail Officer-Rail Regulatory, testified as a department witness.

L. John Van Norden, Deputy Corporation Counsel and Lori Mizerak, Assistant Corporation Counsel appeared on behalf of the City of Hartford. The City of Hartford petitioner for party status but was granted intervenor status in this matter. Their mailing address is 550 Main Street, Room 210, Hartford, Connecticut 06103.

The following individuals are concerned residents from the community who live or work around the Flower Street project. These petitioners requested party or intervenor status which was denied but they were given the opportunity to present written evidence and witnesses on their behalf to be considered in the final decision:

1. Christopher Brown, Director of Bike Walk Connecticut. Mr. Brown's address is P.O. Box 270149, West Hartford, Connecticut 06127.

2. David Corrigan, Chairman of the Frog Hollow Neighborhood Revitalization Zone. Mr. Corrigan's address is 16 Columbia Street, Hartford, Connecticut 06106.

3. Virginia Iacobucci from La Paloma Sabenara, represented several Hartford restaurants including Duncan Donuts, The Kitchen at Billings Forge, Red Rock Café, Firebox Restaurant and La Paloma Sabenera. Ms. Iacobucci's address is 450 Capital Avenue, Hartford, CT 06106.

4. Jennifer Cassidy represented the Asylum Hill Neighborhood Association. Ms. Cassidy's address is 814 Asylum Avenue, Hartford, Connecticut 06105.

Robert Cotto, Jr., who resides at 12 Park Terrace, Apt. 2, Hartford, Connecticut testified as concerned citizen of the Frog Hollow neighborhood.

D. Authority of the Department of Transportation

Raised in the City of Hartford's Petition for Party Status and again at the public hearing was the contention that the Department of Transportation has no statutory authority to close the Flower Street Crossing because the department itself acted as the petitioner in this matter and not the railroad or City of Hartford as specified in Connecticut General Statute Section 13b-270.

While it is certainly true that the statutory section contained in the hearing notice, 13b-270, does not specifically mention the Department of Transportation as a potential petitioner, the intent of the statute is that the Commissioner of the Department of Transportation (hereinafter "Commissioner") has the ability to remove rail crossings. Clearly, the Commissioner would be unable to manage the roads in this state over which he has complete authority, without the ability to close rail crossings as necessary. In addition, Connecticut General Statutes Section's 13b-274 through 13b-276 specifically speaks to the Commissioner's powers with respect to rail crossings and dangerous conditions. The Commissioner can take crossings out of service if such dangerous condition exists. If the City of Hartford were correct, in its assertion, the Commissioner would hardly be able to perform its basic functions regarding state roads.

II. FINDINGS OF FACT

1. The petitioner in this matter is the Bureau of Engineering and Construction of the Department of Transportation (hereinafter "petitioner").

2. The subject crossing is on the Amtrak Springfield line located at milepost 36.20 at Flower Street in Hartford. Flower Street is a two-way street located between Capitol Avenue and Farmington Avenue.

3. As a result of CTfastrak, State Project Number 171-305, there is a proposal to remove the highway/rail crossing located on Flower Street in Hartford.

4. Sixteen (16) trains per day use the Flower Street crossing, twelve (12) passenger and four (4) freight trains, with a maximum speed of 30 mph for the passenger trains and 15 mph for the freight trains. The crossing currently has gate arms and cantilever warning lights for pedestrians and vehicles.

5. The daily vehicular traffic over the Flower Street crossing is 6000 vehicles per day.

6. Amtrak is in support of closing the highway at grade crossing on Flower Street. It is proposed that Amtrak will remove the existing railroad appurtenances, flashing lights and gates.

7. The Regulatory and Compliance Unit, after receiving the plans and after conducting a review, is in favor closing the Flower Street public crossing (#500710T).

8. The department intends to have the Flower Street crossing closed to vehicular traffic in the fall of 2012.

9. Public safety is the primary reason the crossing is being slated for closure. The operation of CTfastrak would result in many design issues which may not be easily remedied if the crossing were to remain open. The most serious problem is the potential for vehicles to be queued up over the busway creating a safety hazard. Due to the site space constraints, there does not appear to be adequate space to allow for proper safety warning devices and signalization to continue to allow vehicular traffic to use the crossing. There are also sight line problems at the crossing.

10. Other than the crossing closure plans presented by the department, no other engineering plans were presented which will allow the crossing to remain open to vehicles while allowing public safety at the crossing.

13. Closing the crossing will result in diverting the current 6,000 motor vehicles that pass over this crossing to adjoining streets, Broad and Sigourney, which have significant traffic issues already.

14. The department proposed several mitigation plans which it hopes will help relieve the traffic congestion as a result of the railroad crossing closure. The other participants feel that these mitigation plans are not adequate to handle the traffic volume that will be diverted due to the closure of the crossing.

15. While it does appear that each side has made efforts to communicate with the other, there appears to be a disconnect between the department, the City of Hartford and the community around Flower Street. Lack of communication between these entities has resulted in a feeling that people are not being heard. Better dialogue needs to occur between all of the individuals involved to have a successful outcome on these issues.

16. Closing the Flower Street crossing to pedestrians and bicyclists would have the potential to devastate the community in that it would isolate one community from another in addition to having a huge negative economic impact on the local businesses in the community. In particular, businesses in this area rely heavily on foot traffic from office buildings and area residents.

17. Closing the Flower Street crossing to pedestrian and bicycle traffic would result in individuals having to take a detour which is potentially more hazardous due to their interaction with the entrance ramps on I-84, at Broad and Sigourney Streets and an off ramp on Sigourney Street.

18. The only study that was presented was a 2008 study concerning pedestrian traffic over the crossing over a 4 ½ hour period (7-9 a.m. and 3:30 to 6 p.m.), which disclosed a total of 167 people using the rail crossing during this time, 90 north bound and 77 south bound pedestrians were observed. There is

some concern that a more recent study should have been performed with a larger span of time to get a more accurate view of the true numbers of pedestrians at the crossing.

19. The department's Office of Rail supports the closure of the Flower Street crossing.
20. The anticipated opening for CTfastrak is currently 2014.
21. The majority of the individuals attending the hearing support CTfastrak and its transportation goals.

III. DISCUSSION

While most people support the idea of CTfastrak, there are many divergent opinions on what should be done with the Flower Street rail crossing. The City of Hartford and Hartford residents are concerned about what will happen if the crossing is closed because of the increased vehicular traffic on city roads and the lack of a pedestrian/bicycle crossing. The department is concerned about the public safety at the crossing when CTfastrak is operational. Above all else, public safety should be paramount and this decision is an attempt to provide that necessary safety at the crossing while balancing the concerns of the city and its residents about the ramifications that closing this rail crossing may have on the Frog Hollow and Asylum Hill communities.

It is clear from the evidence presented, that there are valid safety concerns with allowing the Flower Street crossing to remain open to vehicles once CTfastrak becomes operational. Motor vehicles in particular may back up over the crossing thereby creating the potential for serious accidents. The engineers who have been designing this project have been unable to find a viable solution that would allow the vehicular traffic to continue over the crossing safely. No other plan that would allow the crossing to stay open for vehicles, while giving the measure of safety that is required for the traveling public, was presented at the hearing.

The closure of the crossing and rerouting 6000 vehicles per day, that use the crossing, is not particularly palatable given that the streets which will be absorbing these vehicles are already overflowing with traffic. Everyone agrees that moving cars into already congested streets is not a great solution, but at this point when safety cannot be assured any other way, it is a necessary one. It is clear that the nature of the busway design in this area has size limitations that constrain the ability to leave this crossing open for cars to pass over the crossing. Based on these facts, the Flower Street crossing must be closed to motor vehicles.

The department must continue to dialog with the City of Hartford and the area residents to develop plans to mitigate these traffic concerns. In addition to the four plans mentioned at the hearing, more work needs to be done to explore whether there are any other viable options. Moving 6000 vehicles a day to other streets, which everyone readily admits are failing, will not be successful without comprehensive mitigation plan in place.

The department is taking a long term planning approach with regard to this crossing. Some of the department's design proposals stem from the fact that there are other potential changes which may create increased rail traffic over this area in the future. While it is certainly a laudable goal to try to plan ahead, it

cannot be done at the expense of a community if those potential variables are not yet a known quantity.

It is not clear from the evidence presented that having pedestrians and bicyclists use this area during and after construction of the busway is unattainable. The community in the Frog Hollow and Asylum Hill neighborhoods would be devastated by the closure of the Flower Street crossing. Local businesses would lose their customers many of whom arrive on foot from nearby offices. In addition, the neighborhoods would be cut off from one another resulting in a disconnect, which would have a serious negative effect on the area that has recently seen some positive growth.

Another safety concern is the fact that closing the crossing would result in pedestrians and bicyclists using the alternative of Broad Street and Sigourney Street where they would encounter the dangerous I-84 on and off ramps. For these reasons, pedestrian and bicyclists should be allowed to continue over the Flower Street crossing during the construction process, which will take place over the next few years and further upon implementation of CTfastrak.

During the construction phase, the department must strive to develop a safe path for pedestrians and bicyclists to traverse over the crossing. In doing so, there must be a continuing dialog with city officials and the community. If the department is unable to find a safe solution for permanent pedestrian and bicycle access during the construction phase, it may renew its petition to close the crossing to pedestrians and bicyclists prior to the implementation of CTfastrak after exploring the feasibility of every option available. It is sincerely hoped that a solution to maintaining this vital public access will be possible.

IV. ORDER

Based on the evidence of record and pursuant to Connecticut General Statutes Section 13b-270, the following safety measures and orders shall be undertaken:

1. The railroad/highway at grade crossing on Flower Street located at Milepost 36.20 shall be modified in that it shall be closed to vehicular traffic only. Pedestrian and bicycle traffic should be maintained over the Flower Street crossing during construction and upon the implementation of CTfastrak.
2. The petitioner, Connecticut Department of Transportation, shall be responsible for implementation of all improvements including those required to be installed to maintain pedestrian and bicycle access over the crossing.
3. The removal of all active and passive vehicular warning devices at the crossing as required. This work is to be performed by Amtrak by way of a railroad force account agreement with the petitioner.
4. The petitioner shall be responsible for reimbursement for any flagging protection services deemed necessary by Amtrak during the modification of the Flower Street crossing.
5. The proposed work will be governed by the provisions of the Department of Transportation's "Standard Specifications for Roads, Bridges and Incidental Construction," Form 816 and in accordance with the Standards and Specifications of the Association of American Railroads and the American Railway Engineering Association.

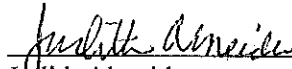
6. The petitioner, upon completion of the removal of the vehicular crossing devices, will be responsible for contacting the Department's Rail Regulatory Unit in order for an inspection of the crossing to be performed for approval.

7. The pedestrian/bicycle crossing must meet M.U.T.C.D. standards and shall not be put into service for public usage until the Department's Rail Regulatory Unit has performed a final inspection of the pedestrian/bicycle crossing.

8. The department shall continue to have a dialog with the City of Hartford, neighborhood associations and other concerned residents regarding the status of the Flower Street crossing and what the future plans are for the project. Other mitigation plans to handle the traffic situation should be looked into and considered.

Dated at Newington, Connecticut, on this 19th day of October 2012.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Judith Almeida
Staff Attorney III
Administrative Law Unit
Bureau of Finance and Administration