# STATE OF CONNECTICUT
## DEPARTMENT OF TRANSPORTATION

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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.

RECONSIDERATION

May 20, 2013

## 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, proposed to remove the existing highway/railroad crossing at Flower Street in Hartford.

A final decision was issued in this matter on October 19, 2012, which closed the Flower Street railroad at-grade crossing to vehicular traffic but left the crossing open to pedestrian and bicycle traffic. On November 2, 2012, the Department of Transportation filed a Petition for Reconsideration of the final decision. On November 9, 2012, the Petition for Reconsideration was granted and several dates of hearing were scheduled.

### B. Hearing Held

Pursuant to Connecticut General Statutes Section 4-181a, a public hearing on this reconsideration was held at the administrative offices of the Department of Transportation, in Newington, Connecticut on January 24, May 8, and May 9, 2013.

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

Anna Barry, Deputy Commissioner of the Department of Transportation, testified as a Department witness.

Denise Rodosevich, Director of Legal Services for the Department of Transportation, presented the Department's case.

Stephen Curley, Transportation Engineer 3 with the Division of Traffic Engineering, testified as a Department witness.

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 appeared on behalf of the City of Hartford. The City of Hartford petitioned for party status but was granted intervenor status in this matter. The City of Hartford mailing address is 550 Main Street, Room 210, Hartford, Connecticut 06103.

While the City of Hartford initially opposed the reconsideration of the final decision, it ultimately withdrew its opposition to closing Flower Street to pedestrian and bicycle traffic by a letter dated May 8, 2013 from Mayor Pedro Segarra to Commissioner James Redeker.

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

## II. FINDINGS OF FACT

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

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. There are twelve (12) passenger and four (4) freight trains, with a maximum speed of 30 mph for the passenger trains and a maximum of 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. 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 crossing (#500710T) to vehicular and pedestrian traffic.

8. By final decision dated October 19, 2012, the Department closed Flower Street to vehicular traffic only.

9. Public safety is the primary reason the crossing is being slated for vehicle 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 petitioner, no other engineering plans were presented which will allow the crossing to remain open to vehicles while allowing public safety at the crossing.

11. 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.

12. The petitioner proposed several mitigation plans which it hopes will help relieve the traffic congestion as a result of the railroad crossing closure. The other hearing 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.

13. While it does appear that each side has made efforts to communicate with the other, there still 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.

14. Closing the Flower Street crossing to pedestrians and bicyclists would devastate the community by isolating one community from another in addition to having a substantial 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.

15. Closing the Flower Street crossing to pedestrian and bicycle traffic would result in individuals having to take a detour which is 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.

16. The only study that was presented to date 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 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. There has not been a more recent traffic study since the one in 2008.

17. The department's Office of Rail supports the closure of the Flower Street crossing to vehicles, pedestrians and bicycles.

18. The anticipated opening for CTfastrak was scheduled for 2014 but has been pushed back to 2015. CTfastrak was originally scheduled open in 2005.

19. All of the individuals attending the hearing support CTfastrak and its transportation goals.

20. The way CTfastrak has been designed there is no safe way to engineer an at-grade pedestrian and bicycle crossing at Flower Street due to the fact that there is not a sufficient amount of clearance to place the required protective devices or provide a refuge island. The rail crossing spans a ninety (90) foot right of way.

21. Many hours have been spent by the Department of Transportation engineers and its consultants to find an alternative to closing the at-grade crossing at Flower Street. Thirteen (13) different alternative plans were considered by the petitioner. A grade separated crossing plan was explored and determined to be the best solution given the engineering constraints of the location.

22. In January 2013, The Department of Transportation committed to funding and building what has been termed "the up and over" bridge (hereinafter "pedestrian/bicycle bridge") design which will safely convey pedestrians and bicyclists over a grade separated crossing. The cost of building such a bridge is roughly three (3) to four (4) million dollars.

23. The Department of Transportation attended various community meetings before and after the January 2013 hearing and conveyed its commitment to build a pedestrian/bicycle bridge over Flower Street.

24. As explained in a letter dated May 8, 2013 from Mayor Pedro Segarra, the City of Hartford wants to utilize the funds that the Department has agreed to commit to the pedestrian/bicyclist bridge for "alternate projects" to provide improvements to pedestrian/bicycle connections in the area. At the time of hearing, none these alternative projects had been identified.

25. Bicyclists would use the pedestrian/bicycle bridge to traverse Flower Street.

26. Having bicyclists utilize sidewalks that pedestrians also use puts both pedestrians and bicyclists in more danger.

27. There are times when due to construction of either CTfastrak or the pedestrian/bicycle bridge, Flower Street will be unsafe to cross at-grade by pedestrians and bicyclists.

28. The CTfastrak project has experienced many years of delays in implementation while the Flower Street community has experienced growth during this time. Several new businesses have developed in the area.

29. The Department estimates that the pedestrian/bicycle bridge can be completed in 2016.

III. DISCUSSION

Everyone who attended the reconsideration hearing supports CTfastrak. The Department supports it, the City of Hartford supports it and the neighborhood associations support it. That is without question. What is a continuing conflict, however, is how to deal with the pedestrian and bicycle traffic over the Flower Street crossing. The Final Decision of October 19, 2012, closed Flower Street to vehicular traffic only, so the last issue remaining is the pedestrian/bicycle traffic.

It was stated at the hearing that the few should be sacrificed for the many. That concept might not be offensive in some situations but in this particular case, it is also unwarranted. Long after this decision is issued, the people who live and work in the Flower Street area will be dealing with the consequences of what has been decided. A clear solution does exist which does not sacrifice the people who live and work near Flower Street or the commuters using CTfastrak.

The engineering testimony presented at the reconsideration hearing better highlighted the fact that there is really no safe at-grade crossing over Flower Street for pedestrians and bicyclists. Stephen Curley, a Transportation Engineer 3 with the department, testified at length as to the engineering problems associated with moving people across Flower Street at-grade level. There are design constraints and rules which must be adhered to. There is no room for railroad devices or a refuge area to protect people from bus and train traffic. The area itself will have increased traffic from trains in the future, so it will only get busier than it is today. As stated in the final decision, public safety is paramount.

Much testimony has come from neighborhood associations that closing the Flower Street crossing would create irreparable harm to their communities. The communities of Frog Hollow and Asylum Hill 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 seen some positive growth over recent years.

It is often stated by politicians today that Connecticut needs to create more jobs. Closing the Flower Street crossing will not only hinder this goal, it may result in a loss of jobs that currently exist and the possible closure of viable businesses in the area.

The CTfastrak project has been delayed from 2005 until 2015 and the community around Flower Street has gone on to create a renaissance of sorts. Some of the burden for the dilemma must lie on the Department of Transportation. This project lingered and people went on with their lives investing in and building up the area. It is not just to come through and ruin what has grown.

Another safety concern still not addressed by the reconsideration hearing 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. One of the remedies the Department proposes is having bicyclists share an enlarged sidewalk with pedestrians. This would also create a dangerous situation for both pedestrians and bicyclists. There are valid safety reasons why bicyclists are not allowed on sidewalks in some communities. Just because Hartford allows bicycles on sidewalks does not mean it is a good idea or that it should be implemented.

As testified to in the January 24, 2013 hearing, the solution to this ongoing dilemma is to build the so called "up and over bridge" (hereinafter referred to as the ("pedestrian/bicycle bridge"). This bridge is grade separated and will provide the ultimate safe crossing over Flower Street. After this bridge is constructed, people and bicycles will move freely over the crossing while not hindering CTfastrack or the train movements below.

In the January 2013 hearing, Department staff testified that the Department of Transportation was fully committed to designing and constructing this pedestrian/bicycle bridge. It did not yet have a funding source in place but it was committed to finding one. The Department also committed to the community that it was going to proceed with building the pedestrian/bicycle bridge when it attended several community meetings.

After the start of the reconsideration hearing in January 2013, several continuances were requested by either the Department or the City of Hartford or both. When the reconsideration hearing resumed on May 8, 2013, the pedestrian/bicycle bridge proposal was suddenly removed from the table. The sudden change of events was explained by letter dated May 8, 2013, from Mayor Pedro Segarra. The reason given for this was that the City of Hartford decided it wanted to use the funds committed to the pedestrian/bicycle bridge for other pedestrian/ bicycle projects in the area. To date, none of these projects has been identified.

Although the City of Hartford is doing what it feels is best for the community by diverting the funds to other projects, at the end of the day we still need to consider those who live and work on Flower Street. Closing this crossing without providing another similarly located access is not in anyone's best interest. A commitment was made to the community and it should be upheld. If the Department is unwilling to change the configuration of CTfastrak plan to conform to allowing pedestrian/bicycle traffic over the crossing at-grade, then it must provide another way for this traffic to cross over Flower Street. Providing a pathway which is longer in route or more dangerous is not an acceptable answer.

Department engineers and consultants have worked tirelessly over many weeks and months to vet all possible alternatives to move people over the crossing. After looking at thirteen possible alternatives, they came up with a well thought out proposal which solves all of the safety problems and still allows free movement over the crossing. They should be commended for their efforts. This has been a long difficult process but the Department staff and consultants have risen to the occasion. The Department is now asked to renew its commitment to the community and this project by designing and constructing a bridge for pedestrians and bicycles over the Flower Street crossing.

During construction of CTfastrak and the pedestrian/bicycle bridge, the Department shall make every reasonable effort to keep the Flower Street crossing open to pedestrian and bicycle traffic. There will be times, however, when this will not be possible due to safety concerns. During those times when safety dictates it necessary, the Flower Street at grade crossing may be closed to pedestrians and bicyclists.

There will be many who will be disappointed with the result of this decision. The neighborhood associations will not get the at-grade crossing they are seeking, the Department will not be relieved from having to continue to design and construct the pedestrian/bicycle bridge and The City of Hartford will not get to use the money committed for the bridge for another purpose. Doing what is right is not always easy but it is necessary.

It is the sincere hope of the hearing officer that the Department of Transportation, the City of Hartford and the neighborhood associations will continue to work together to design and construct a pedestrian/bicycle bridge that will do what needs to be done, safely convey all those who traverse it across Flower Street.

## IV. ORDER

Based on the evidence of record and pursuant to Connecticut General Statues 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.

2. The Department of Transportation may not close the Flower Street at-grade rail crossing to pedestrian and bicycle traffic unless it constructs a grade separated pedestrian/bicycle bridge over the crossing

3. Pedestrian and bicycle traffic should be maintained over the Flower Street crossing to the extent possible during construction of CTfastrak and the pedestrian/bicycle bridge. Pedestrian and bicycle traffic over the Flower Street crossing shall be maintained by a grade separated bridge upon the implementation of CTfastrak.

4. The petitioner, Connecticut Department of Transportation, shall be responsible for implementation of all improvements at the crossing including the installation of the pedestrian/bicycle bridge over the crossing. The pedestrian/bicycle bridge shall be constructed by all applicable engineering specifications which govern said structures and shall be maintained by the petitioner.

5. The removal of all active and passive vehicular and pedestrian 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.

6. The petitioner shall be responsible for reimbursement for any flagging protection services deemed necessary by Amtrak during the modification of the Flower Street crossing.

7. 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.

8. The petitioner, upon completion of the removal of the 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.

9. The petitioner shall continue to 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.

10. The City of Hartford and the neighborhood associations should be kept involved in the design and construction process of the pedestrian/bicycle bridge.

Dated at Newington, Connecticut, on this 20th day of May 2013.

CONNECTICUT DEPARTMENT OF TRANSPORTATION

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