

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on March 25, 2010 in Austin, Texas. The meeting was called to order by Commissioner Houghton as chair. The meeting opened at 9:06 a.m. with the following commissioners present:

Texas Transportation Commission:

Ted Houghton	Commissioner
Ned Holmes	Commissioner
Fred Underwood	Commissioner
Bill Meadows	Commissioner

Administrative Staff:

Amadeo Saenz, Executive Director
 Steve Simmons, Deputy Executive Director
 Bob Jackson, General Counsel
 Roger Polson, Executive Assistant to the Deputy Executive Director
 Dee Hernandez, Chief Minute Clerk

Registration sheets listing others in attendance are on file with the Texas Department of Transportation Chief Minute Clerk.

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 2:46 p.m. on March 17, 2010, as required by Chapter 551, of the Government Code, referred to as “The Open Meetings Act.”

ITEM 1. Approval of Minutes of the February 24 special meeting, February 24 workshop and February 25, 2010 regular meeting of the Texas Transportation Commission

Commissioner Holmes made a motion, which was seconded, and the commission approved the minutes of the February 24 special meeting, February 24 workshop and February 25, 2010 regular meeting of the Texas Transportation Commission by a 4-0 vote (Delisi absent).

ITEM 2. AVIATION

a. Calhoun County – Award federal grant funding for an airport improvement project in Calhoun County (MO)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0 (Delisi absent). The item was presented by Aviation Division Director Dave Fulton:

112189
AVN

The Texas Department of Transportation (department) is authorized under the state Aviation Facilities Development and Financial Assistance Act to award state funding for capital improvement projects and to assist in the development and establishment of airports in the state of Texas.

The airport listed in Exhibit A is currently in need of improvements to preserve the airport. The department recommends the award of state grant funds for the improvements.

On Thursday, February 18, 2010, a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the project described in Exhibit A at an estimated cost of \$1,495,700.

Note: Exhibit A on file with minute order clerk.

b. Approval of the Texas Airport System Plan (MO)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0 (Delisi absent). The item was presented by Aviation Division Director Dave Fulton:

112190
AVN

Pursuant to Texas Transportation Code, §21.107, the Texas Department of Transportation (department) is required to prepare an aviation facilities development program, namely, the Texas Airport System Plan (TASP), identifying the aviation facilities requirements, locations, timing, eligibility for funding, and the investment necessary for a statewide airport system.

The goals and objectives of the TASP are to:

- Develop a statewide system of airports to provide adequate access by air for the State of Texas;
- Provide for the timely development of the system;
- Maximize the economic benefits and return on investment;
- Integrate the system effectively with other transportation systems;
- Maximize the opportunity for growth in international trade and travel; and
- Minimize adverse impacts on environment.

The TASP has been revised in conjunction with the continuous update of the plan.

The updated TASP was presented to, and approved by, the Texas Aviation Advisory Committee on February 22, 2010 and is hereby recommended for approval.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the TASP (Exhibit A) is adopted.

Note: Exhibit A on file with minute order clerk.

ITEM 3. PROMULGATION OF ADMINISTRATIVE RULES Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

a. Final Adoption

(1) Chapter 24 – Trans-Texas Corridor (MO)

Repeal of §24.13, Corridor Planning and Development (Development of Facilities)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0 (Delisi absent). This item was presented by Texas Turnpike Division Director Mark Tomlinson:

112191
TTA

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §24.13 relating to corridor planning and development, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted repeal, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the repeal of §24.13 is adopted and is authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Note: Exhibits A and B on file with minute order clerk.

(2) Chapter 26 – Regional Mobility Authorities (MO)

New §26.56, Required Internal Ethics and Compliance Program (Miscellaneous Operation Provisions)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0 (Delisi absent). This item was presented by Deputy Executive Director Steve Simmons.

112192
DED

The Texas Transportation Commission (commission) finds it necessary to adopt new §26.56 relating to Internal Ethics and Compliance Program to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted new section, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that new §26.56 is adopted and is authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Note: Exhibits A and B on file with minute order clerk.

(3) Chapter 31 – Public Transportation (MO)

New §31.39, Required Internal Ethics and Compliance Program (Program Administration)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0 (Delisi absent). This item was presented by Deputy Executive Director Steve Simmons:

112193
DED

The Texas Transportation Commission (commission) finds it necessary to adopt new §31.39, Required Internal Ethics and Compliance Program, relating to public transportation program administration to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted new section, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that new §31.39 is adopted and is authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Note: Exhibits A and B on file with minute order clerk.

b. Proposed Adoption

(to be published in the Texas Register for public comment)

Chapter 28 – Oversize and Overweight Vehicles and Loads (MO)

Amendments to §28.100, Purpose, §28.101, Responsibilities, and §28.102, Permit Issuance Requirements and Procedures (Chambers County Permits); Amendments to §28.111, Applicability (Compliance); and Amendments to §28.201, Investigations and Inspections of Records, and §28.202, Records (Records and Inspections)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0 (Delisi absent). This item was presented by Traffic Operations Division Director Carol Rawson:

112194
TRF

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §28.100, Purpose, §28.101, Responsibilities, §28.102, Permit Issuance Requirements and Procedures, §28.111, Applicability, §28.201, Investigations and Inspections of Records, and §28.202, Records, all relating to oversize and overweight vehicles and loads, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments, attached to this minute order as Exhibits A - D, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §28.100, §28.101, §28.102, §28.111, §28.201, and §28.202 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Note: Exhibits A through D on file with minute order clerk.

ITEM 4. CONTESTED CASE

Wilbarger County – Texas Outdoor Advertising v. Texas Department of Transportation – Consider action on administrative law judge proposal for decision concerning cancellation of an outdoor advertising permit, final order (MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0 (Delisi absent). This item was presented by Attorney with the office of General Counsel Rich O'Connell.

112195
OGC

On March 25, 2010, the Texas Department of Transportation considered the petition challenging the cancellation of Outdoor Advertising Permit Number 33925, held by Texas Outdoor Advertising (Outdoor). Outdoor requested an administrative hearing and the matter was referred to the State Office of Administrative Hearings. The proposal for decision concluded that the petition should be denied and the non-complying sign, located in Wilbarger County on Highway 287 near Vernon, Texas (Highway 287), should be removed at no cost to the state of Texas. Under the Administrative Procedure Act and the Texas Transportation Commission's rules, the matter is now appropriate for entry of a final order by the commission.

IT IS THEREFORE ORDERED that the commission issues the attached order in the case of Texas Outdoor Advertising v. Texas Department of Transportation, Docket No. 601-09-1742, and directs the executive director to deny the petition and order Outdoor to remove the non-complying sign on Highway 287 at no cost to the state of Texas within 90 days after the order is final.

Note: Attached order on file with minute order clerk.

ITEM 5. AUDIT SUBCOMMITTEE

Approval of the charter of the Texas Transportation Commission Audit Subcommittee (MO)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0 (Delisi absent). This item was presented by Deputy Executive Director Steve Simmons.

112196
DED

On January 28, 2009, Chair Delisi created an Audit Subcommittee (subcommittee) of the Texas Transportation Commission (commission), and appointed Commissioners Underwood and Houghton as members, with Commissioner Underwood serving as subcommittee chair.

The subcommittee was created to oversee and ensure compliance with the intent of Sarbanes-Oxley as to reliability and transparency in financial reporting, as well as to ensure the independence of the department's internal audit program by providing oversight of the internal auditor and evaluating implementation of audit recommendations.

The proposed charter for the subcommittee, which is attached as Exhibit A, sets forth the purpose and composition of the subcommittee, as well as meeting requirements and principal duties and responsibilities of the subcommittee in carrying out its oversight role.

IT IS THEREFORE ORDERED by the commission that the Audit Subcommittee Charter, as set forth in Exhibit A, is approved.

Note: Exhibit A on file with minute order clerk.

ITEM 7. PROPOSED FEDERAL ECONOMIC STIMULUS LEGISLATION

Approve transportation projects to be funded from Texas' portion of the second federal economic stimulus (MO)

This item was deferred.

ITEM 9. TOLL ROAD PROJECT

Travis and Williamson Counties – Accept the Report of Actual Traffic and Revenue for the Central Texas Turnpike System (MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0 (Delisi absent). This item was presented by Texas Turnpike Authority Division Director Mark Tomlinson:

112197
TTA

Transportation Code, Chapter 228 and other applicable law authorizes the Texas Transportation Commission (commission) to issue toll revenue bonds, bond anticipation notes, and other obligations to finance turnpike projects on the state highway system, and to enter into trust agreements and indentures of trust governing matters relating to the issuance of such obligations.

The commission has previously issued \$2,199,993,781.80 in obligations to finance a portion of the costs of the Central Texas Turnpike System (System), a turnpike project composed initially of the SH 130, SH 45, and Loop 1 project elements (2002 Project), pursuant to an Indenture of Trust and four supplemental indentures. The Indenture of Trust dated July 15, 2002 (Indenture), prescribes the terms, provisions and covenants related to the issuance of turnpike revenue bonds and obligations to finance a portion of the costs of the 2002 Project.

Section 501(c) of the Indenture covenants that for the first five full years of operation of the 2002 Project, the commission will provide to the Trustee a report showing the traffic and revenue of the system for the previous quarter.

Pursuant to Minute Order 111081, dated September 27, 2007, the 2002 Project was declared Substantially Complete as defined within the Indenture.

A report of actual traffic and revenue for the required period, attached as Exhibit A, has been prepared in accordance with Section 501(c) of the Indenture of Trust.

IT IS THEREFORE ORDERED by the commission that the report of actual traffic and revenue attached as Exhibit A is accepted.

Note: Exhibit A on file with minute order clerk.

ITEM 6. REGULATION OF OUTDOOR ADVERTISING

Create a Rulemaking Advisory Committee to advise the department on specific issues concerning the current rules regarding the outdoor advertising program for both the primary and rural road systems and authorize the executive director to appoint the members of the committee (MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0 (Delisi absent). This item was presented by Deputy Executive Director for Engineering Operations John Barton.

112198
AEO

Under Transportation Code, §391.032, §391.065, §391.068, §394.004, §394.024, and §394.025, the Texas Transportation Commission (commission) may adopt rules for the regulation of outdoor advertising on primary and rural roads.

Under Government Code, §2001.031, and 43 Texas Administrative Code §1.85, the commission may appoint a rulemaking advisory committee to advise the Texas Department of Transportation (department) and the commission on development of administrative rules.

To address recommendations from the Sunset Advisory Commission, accommodate centralization, update, and streamline the Outdoor Advertising Program the current rules need to be amended.

IT IS THEREFORE ORDERED by the commission that the Outdoor Advertising Rulemaking Advisory Committee is created and that it shall be composed of no more than 11 members, report its advice and recommendations to the department, and continue until final adoption of the outdoor advertising rules by the commission.

IT IS FURTHER ORDERED that the executive director or his designee is directed to designate an office or division of the department to be responsible for development of the rules and provide any necessary administrative support essential to the functions of the committee.

IT IS FURTHER ORDERED that the executive director will appoint members to the Outdoor Advertising Rulemaking Advisory Committee. The members shall represent the regulated outdoor advertising industry, scenic organizations, local authorities, land owners, and the general public.

Note: The commission received comments from Locke Lord Bissell & Liddell, LLP Attorney Carroll Shaddock.

ITEM 8. PROPOSITION 14 BONDS

Various Counties – Approval of additional projects to be funded with the proceeds of State Highway Fund revenue bonds issued under Transportation Code, Section 222.003 (Proposition 14 Bonds) (MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0 (Delisi absent). This item was presented by Deputy Executive Director for Engineering Operations John Barton.

112199
AEP

Section 49-n, Article III, of the Texas Constitution (constitutional provision) provides that the Texas Legislature may authorize the Texas Transportation Commission (commission) to issue bonds and other public securities and enter into bond enhancement agreements that are payable from revenue deposited to the credit of the state highway fund to fund state highway improvement projects.

Pursuant to the constitutional provision, the Texas Legislature enacted Section 222.003, Texas Transportation Code (Enabling Act), which authorizes the commission to issue bonds and other public securities secured by a pledge of and payable from revenue deposited to the credit of the highway fund. Bonds and other public securities issued under the constitutional provision and Enabling Act are commonly known as “Proposition 14” bonds.

The Enabling Act, as amended, provides that (i) the aggregate principal amount of such bonds and other public securities may not exceed \$6 billion, (ii) the commission may issue bonds or other public securities in an aggregate principal amount of not more than \$1.5 billion each year, (iii) \$1.2 billion of the aggregate principal amount of such bonds or other public securities must be issued to fund safety projects that reduce accidents or correct or improve hazardous locations on the state highway system, and (iv) bonds and other public securities and credit agreements may not have a principal amount or terms that are expected to cause annual expenditures with respect thereto to exceed 10 percent of the amount deposited to the credit of the highway fund in the preceding year. The commission has issued approximately \$3.1 billion of Proposition 14 bonds pursuant to the terms of the Enabling Act.

Pursuant to the Enabling Act, the commission has adopted rules, codified as 43 TAC §§15.170-15.174, that prescribe criteria for selecting projects (including safety projects) eligible for funding under the Enabling Act.

On October 30, 2008, January 29, 2009, February 26, 2009, March 26, 2009, July 30, 2009, September 24, 2009, November 19, 2009, December 17, 2009, and February 25, 2010, the commission adopted Minute Orders 111550, 111680, 111709, 111751, 111890, 111976, 112037, 112075, and 112115, respectively, which approved the use of proceeds of Proposition 14 bonds for state highway improvement projects and work associated with state highway improvement activities, as contained in exhibits to the Orders.

Due to continuing national economic conditions and the accompanying effects on construction and material supplies, the projects that have gone to letting continue to experience underruns of the originally obligated bond funds. These underruns allow additional projects to be brought forward for funding under the bond program.

This minute order revises funding allocations for previously approved projects and activities and approves additional projects to be funded with the proceeds of Proposition 14 bonds, as set forth in Exhibit A.

IT IS THEREFORE ORDERED by the commission that the state highway improvement projects and work to be performed in connection with state highway improvement activities, as contained in Exhibit A, is approved for funding with the proceeds of Proposition 14 bonds.

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from Cameron County Commissioner David Garza.

ITEM 10. UNIFIED TRANSPORTATION PROGRAM

Approve the 2010 Unified Transportation Program (MO)

This item was deferred.

ITEM 11. OBLIGATION LIMIT REPORT

Status report on the FY 2010 Obligation Limit and report on the actual obligations utilized through March 2010 and proposed remaining highway maintenance and construction contract letting for the fiscal year.

This item was presented by Chief Financial Officer James Bass.

ITEM 12. ENVIRONMENTAL RESTRICTION

Oldham County – Authorize the executive director to execute a deed notice restricting the use of a portion of the property at the department’s Vega Maintenance Office, 606 West Vega Boulevard (US 66 East), Vega, Texas to commercial/industrial purposes only (MO)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0 (Delisi absent). This item was presented by Environmental Division Director Dianna Noble:

112200
ENV

The Texas Transportation Commission (commission) finds it necessary to authorize the executive director to execute a deed notice restricting the use of a portion of the property at the Texas Department of Transportation (TxDOT) Vega Maintenance Office, 606 West Vega Boulevard (U.S. 66 East), Vega, Texas to commercial/industrial purposes only.

The proposed deed notice language, a list of the property owners notified, and Texas Commission on Environmental Quality concurrence, attached to this minute order as Exhibits A-C, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel.

IT IS THEREFORE ORDERED by the commission that the executive director is authorized to execute a deed notice restricting the use of a portion of the property at TxDOT Vega Maintenance Office to commercial/industrial purposes only.

Note: Exhibits A through C on file with minute order clerk.

ITEM 13. CONTRACTS**a. Award or Reject Highway Improvement Contracts****(1) Highway Maintenance and Department Building Construction (see attached itemized list) (MO)**

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute by a vote of 4 – 0 (Delisi absent). This item was recommended by staff and presented by Construction Division Director Russel Lenz:

112201
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on March 9 and 10, 2010.

Pursuant to cited code provisions highway maintenance contract bids on a project may be accepted or rejected, but if accepted must be awarded to the lowest bidder.

An award is conditional in the event it is subject to Federal Highway Administration concurrence, third party funding or concurrence, and other conditions listed in the contract or an exhibit to this order.

The department recommends that the Texas Transportation Commission (commission) respectively award to the lowest bidder or reject, as indicated, those highway maintenance and department building construction contracts, with an engineer's estimated cost of \$300,000 or more, identified on attached Exhibit A to this order.

IT IS THEREFORE ORDERED by the commission that the contracts described in Exhibit A be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein.

If a contractual requirement of award is not satisfied within the prescribed time limit, including any extension of time allowed by the executive director or the director's designee, by reason of the action or inaction of the successful low bidder on any contract, including, but not limited to, disadvantaged business/historically underutilized business participation, the contract is automatically in default and the executive director is authorized and directed to retain and deposit the related contract proposal guaranty to the credit of the State Highway Fund and to readvertise that project for competitive bids at the earliest practical subsequent date.

If a condition of award is not satisfied, including, but not limited to, reason of nonconcurrence of the Federal Highway Administration, the failure of a third party to fund or concur, or failure to meet other conditions in the contract or an exhibit to this order, the respective award is voided and the department will return the bid guaranty.

Note: Exhibit A on file with minute order clerk.

(2) Highway and Transportation Enhancement Building Construction (see attached itemized list) (MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0 (Delisi absent) rejecting Project No. STP 2008(265)MM in Harris County, as recommended by staff and presented by Construction Division Director Russel Lenz:

112202
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for improvement of the State Highway System, which were publicly opened and read on March 9 and 10, 2010.

Pursuant to cited code provisions highway improvement contract bids on a project may be accepted or rejected, but if accepted must be awarded to the lowest bidder.

An award is conditional in the event it is subject to Federal Highway Administration concurrence, third party funding or concurrence, and other conditions listed in the contract or an exhibit to this order.

The department recommends that the Texas Transportation Commission (commission) respectively award to the lowest bidder or reject, as indicated, those highway and transportation enhancement building construction contracts identified on attached Exhibit A to this order.

IT IS THEREFORE ORDERED by the commission that the contracts described in Exhibit A be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein.

If a contractual requirement of award is not satisfied within the prescribed time limit, including any extension of time allowed by the executive director or the director's designee, by reason of the action or inaction of the successful low bidder on any contract, including, but not limited to, disadvantaged business/historically underutilized business participation, the contract is automatically in default and the executive director is authorized and directed to retain and deposit the related contract proposal guaranty to the credit of the State Highway Fund and to readvertise that project for competitive bids at the earliest practical subsequent date.

If a condition of award is not satisfied, including, but not limited to, reason of nonconcurrence of the Federal Highway Administration, the failure of a third party to fund or concur, or failure to meet other conditions in the contract or an exhibit to this order, the respective award is voided and the department will return the bid guaranty.

Note: Exhibit A on file with minute order clerk.

ITEM 14. ROUTINE MINUTE ORDERS

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute orders by a vote of 4 – 0 (Delisi absent). This item was presented by Executive Director Amadeo Saenz:

a. Donations to the Department

(1) Bryan District – Consider a donation from Love’s Travel Stops & Country Store, Inc. for the construction of traffic signals and turn lanes at the intersection of US 79/SH 6 and FM 485 in Hearne (MO)

112203
GSD

This minute order considers a donation to the Texas Department of Transportation (department) from Love’s Travel Stops & Country Store, Inc. of approximately \$312,500 in construction funds for the cost of the construction of a traffic signal, removal of the long right turn ramps, installation of larger radii at intersection, a westbound turn bay on FM 485 to their driveway and a southbound turn bay from US 79/SH 6 for FM 485 in Hearne.

The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and will provide a significant public benefit.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department’s acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

The commission finds that the donation furthers the department’s responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days.

The commission also finds that the donor is not subject to department regulation or oversight, and that this donation will not influence or reasonably appear to influence the department in the performance of its duties.

The commission also finds that the donor is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department.

IT IS THEREFORE ORDERED by the commission that the donation of approximately \$312,500 from Love's Travel Stops & Country Store, Inc. is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(2) Bryan District – Consider a donation from Luminant Power-Oak Grove Plant for the construction of two sign mounted, solar-powered flashing beacons on truck crossing signs, and for an overhead flashing beacon at the power plant entrance intersection with FM 979 in Robertson County (MO)

112204
GSD

This minute order considers a donation to the Texas Department of Transportation (department) from Luminant Power-Oak Grove Plant of approximately \$87,000 in construction funds for the cost of the construction of two sign-mounted, solar-powered flashing beacons on truck crossing signs, and for an overhead flashing beacon at the power plant entrance intersection with FM 979 in Robertson County.

The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and will provide a significant public benefit.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

The commission finds that the donation furthers the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days.

The commission also finds that the donor is not subject to department regulation or oversight, and that this donation will not influence or reasonably appear to influence the department in the performance of its duties.

The commission also finds that the donor is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department.

IT IS THEREFORE ORDERED by the commission that the donation of approximately \$87,000 from Luminant Power-Oak Grove Plant is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(3) Traffic Operations Division –Consider a donation from the Lifesavers Conference, Inc. for one staff member's travel expenses to attend the Lifesavers Conference in Philadelphia, PA on April 11 – 13, 2010 (MO)

112205
GSD

This minute order considers a donation of approximately \$500 from the Lifesavers Conference, Inc. for one staff member's travel expenses to participate in the Lifesavers Conference being held in Philadelphia, PA on April 11 – 13, 2010.

The Texas Department of Transportation (department) has determined that acceptance of the donation is in the best interest and welfare of the traveling public and will provide a significant public benefit.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

The commission finds that the donation furthers the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days.

The commission also finds that the donor is not subject to department regulation or oversight, and that this donation will not influence or reasonably appear to influence the department in the performance of its duties.

The commission also finds that the donor is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department.

IT IS THEREFORE ORDERED by the commission that the donation of approximately \$500 from Lifesavers Conference, Inc, is acknowledged. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

b. Eminent Domain Proceedings

Various Counties – noncontrolled and controlled access highways (see attached itemized list) (MO)

112206
ROW

The Texas Transportation Commission (commission) of the State of Texas (state) has found in order to promote the public safety, to facilitate the safety and movement of traffic and to preserve the financial investment of the public in its highways, public necessity requires the laying out, opening, constructing, reconstructing, maintaining, and operating of the following highways in the state as a part of the State Highway System (highway system).

The commission has found and determined that each of the following listed parcels of land, same being more particularly described in the exhibits attached hereto, and such additional lesser estates or property interests described thereon, are necessary or convenient for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by Texas Transportation Code, Subchapter D, Chapter 203, Sections 203.051, 203.052, and 203.054, as a part of the highway system to be constructed, reconstructed, maintained and operated thereon.

The commission has found in order to promote the public safety, to facilitate the safety and movement of traffic, to preserve the financial investment of the public in its highways and reconstructing, maintaining, and operating of Controlled Access Highways in the state as a part of the highway system at such locations as are necessary throughout the state and has determined that each of the following listed parcels of land, described in those Exhibits designated, identified and listed by an alphabetical exhibit reference under "CONTROLLED ACCESS" and same being more particularly described in the exhibits attached hereto and such additional lesser estates or property interests described thereon, are necessary and suitable for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by law, as a part of the highway system to be so constructed, reconstructed, maintained, and operated thereon and in the exercise of the

police power of the state for the preservation of human life and safety, and under existing laws, the highway to be constructed on each such parcel of land is designated as a Controlled Access Highway, and on such parcels of land listed herein where there is remaining abutting private property, roads are to be built as a part of said highway whereby the right of ingress and egress to or from the remaining private property abutting on said highway is to be permitted and/or denied, as designated and set forth on each of the exhibits attached hereto.

The commission, through its duly authorized representatives, has attempted to negotiate with the owner(s) of the parcels of land described in the attached exhibits and has been unable to agree with such owner(s) as to the fair cash market value thereof and damages, if any, or after diligent search of available records, numerous inquiries, and actual visits to the location of said parcels of land has been unable to locate the owner(s) of same so as to enter into negotiations for the purchase of said parcels of land.

IT IS THEREFORE ORDERED that the executive director is hereby authorized and directed to transmit this request of the commission to the attorney general to file or cause to be filed against all owners, lienholders and any owners of any other interests in said parcels of land, proceedings in eminent domain to acquire in the name of and on behalf of the state, for said purposes, fee simple title to each such parcel of land as are more particularly described in each of the exhibits attached hereto and made a part hereof, and such additional lesser estates or property interests as are more fully described in each of said exhibits, save and excepting, oil, gas and sulphur, as provided by law, to wit:

NON-CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Bell	SH 317	4	0398-04-064	27
Bell	SH 317	3	0398-04-064	12
Collin	SH 5	2	0047-05-049	1
Dallas	SL 12	5	0581-02-115	83
Denton	FM 423	1	1567-02-030	86
Moore	US 87	6	0425-02-030	13

CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Caldwell	SH 130	G	3583-01-002	1626B
Denton	SH 114	A	0353-02-066	8 & 8E
McLennan	IH 35	F	0014-09-096	21
McLennan	IH 35	E	0014-09-096	19
McLennan	IH 35	D	0015-01-219	48TE
Rockwall	IH 30	C	0009-12-076	20A
Rockwall	IH 30	B	0009-12-076	20B

Note: Exhibits 1 through 6 and A through G on file with minute order clerk.

c. Highway Designations

(1) Brazoria County – Extend the designation of FM 528 along a new location to SH 6 (MO)

112207
TPP

In BRAZORIA COUNTY, the city of Alvin has requested that the designation of FARM TO MARKET ROAD 528 be extended along a new location. The new location would extend from the present terminus at Business SH 35-C to SH 6, a distance of approximately 0.9 mile (extension).

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that the extension be designated as FM 528 and incorporated into the state highway system.

The Texas Transportation Commission (commission) finds that the extension of FM 528 will facilitate the flow of traffic, promote public safety, and maintain continuity of the state highway system and is necessary for the proper development and operation of the system.

IT IS THEREFORE ORDERED by the commission that the designation of FM 528 is extended along a new location from its present terminus at Business SH 35-C to SH 6, a distance of approximately 0.9 mile, and the extension is added to the state highway system. In the event construction does not begin within 36 months of the date of this order, the order shall be null and void.

IT IS FURTHER ORDERED that if the extension is developed by an entity other than the Texas Department of Transportation (department), the maintenance, control, and jurisdiction of the extension will remain with the developing entity until the highway is opened to traffic as approved by the department.

Note: The commission received comments from Brazoria County Commissioner Stacy Adams.

(2) Chambers County – Extend the designation of FM 1409 along a new location from FM 565 in Old River-Winfree, southward to FM 565 west of Cove (MO)

112208
TPP

In CHAMBERS COUNTY, local officials have requested that the designation of FARM TO MARKET ROAD 1409 be extended along a new location from FM 565 in Old River-Winfree, southward to FM 565 west of Cove, a distance of approximately 4.6 miles (extension).

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that the extension be designated as FM 1409 and incorporated into the state highway system.

The Texas Transportation Commission (commission) finds that the extension of FM 1409 will facilitate the flow of traffic, promote public safety, maintain continuity of the state highway system, and is necessary for the proper development and operation of the system.

IT IS THEREFORE ORDERED by the commission that the designation of FM 1409 is extended along a new location from its present terminus at FM 565 in Old River-Winfree, southward to FM 565 west of Cove, a distance of approximately 4.6 miles and the extension is added to the state highway system. In the event construction does not begin within 36 months of the date of this order, the order shall be null and void.

IT IS FURTHER ORDERED that if the extension is developed by an entity other than the Texas Department of Transportation (department), the maintenance, control, and jurisdiction of the extension will remain with the developing entity until the highway is opened to traffic as approved by the department.

(3) Gaines County – Designate Telephone Road and a segment of CR 402 as FM 1788, from US 385 south of Seminole southward to FM 1788 (MO)

112209
TPP

In GAINES COUNTY, local officials have requested the designation of Telephone Road and a segment of County Road 402 as FARM TO MARKET ROAD 1788, from US 385 south of Seminole southward to FM 1788 at the Andrews County Line, a distance of approximately 14.5 miles, as shown in Exhibit A.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that Telephone Road and a segment of CR 402 be designated as FM 1788 and incorporated into the state highway system.

The Texas Transportation Commission (commission) finds that the designation will facilitate the flow of traffic, promote public safety, maintain continuity of the state highway system, and is necessary for the proper development and operation of the system.

IT IS THEREFORE ORDERED by the commission that Telephone Road and a segment of CR 402, from US 385 south of Seminole southward to FM 1788 at the Andrews County line be designated as FM 1788 on the state highway system, a distance of approximately 14.5 miles.

Note: Exhibit A on file with minute order clerk.

(4) Wood County – Redesignate FM 564 as SL 564 around the city of Mineola (MO)

112210
TPP

In WOOD COUNTY, local officials have requested that FARM TO MARKET ROAD 564 around the city of Mineola be redesignated as STATE LOOP 564, a distance of approximately 9.8 miles.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that FM 564 around the city of Mineola be redesignated as SL 564.

The Texas Transportation Commission (commission) finds that the redesignation will facilitate the flow of traffic, promote public safety, maintain continuity of the state highway system, and is necessary for the proper development and operation of the system.

IT IS THEREFORE ORDERED by the commission that FM 564 be redesignated as SL 564, a distance of approximately 9.8 miles.

IT IS FURTHER ORDERED that provisions in Minute Order 67115, dated February 1, 1973, related to the acquisition of right of way for the proposed portion of the loop remain in effect and are not altered by this order. This includes the condition that all required right of way will be furnished by the city of Mineola and Wood County clear of obstructions and free of cost to the State and in accordance with applicable Federal and State laws governing the acquisition of real property.

d. Load Zones & Postings

Camp, Milam and Maverick Counties – Revise load restrictions on various bridges on the state highway system (MO)

112211
BRG

The Texas Transportation Commission (commission) under provision of V.T.C.A., Transportation Code, §621.102, may set the maximum gross weight of a vehicle and its load, maximum gross weight of a combination of vehicles and loads, maximum axle load, or maximum wheel load that may be moved over a state highway or a farm or ranch road if the commission finds that heavier maximum weight would rapidly deteriorate or destroy the road or a bridge along the road.

Pursuant to §621.102, a maximum weight or load may not exceed the maximum set by statute for that weight or load. This section does not apply to a vehicle delivering groceries, farm products, or liquefied petroleum gas.

An engineering and traffic investigation has been made to determine and fix the maximum loads that may be moved over the state highway system.

It has been determined from this investigation that the loads on certain bridges of the state highway system should be restricted or previous restrictions should be revised or removed.

IT IS THEREFORE ORDERED by the commission that the maximum load limits which may be moved over the bridges described in Exhibit A be placed, revised, or removed as set forth therein, superseding any portion of previous action in conflict. The executive director shall proceed with the erection of signs as appropriate, making the placement of these load limitations effective and operative.

Note: Exhibit A on file with minute order clerk.

e. Right of Way Dispositions and Donations

(1) Aransas County – Business SH 35L, east side, south of Rockport – Consider the exchange of drainage easements (MO)

112212
ROW

In ARANSAS COUNTY, on Business STATE HIGHWAY 35L, the State of Texas acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Volume 3, Page 593, Deed Records of Aransas County, Texas.

The easement (surplus easement), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the exchange of a surplus easement as partial or full consideration for other land needed by the state for highway purposes.

628 Investments, LLC, and Susan Ann Waddell Roberts and Stephen C. Roberts, as Trustees of the Susie Roberts Trust and Steve Roberts Trust under that Roberts Irrevocable Trust Indenture dated April 19, 2005 (owners), are the property owners and have conveyed to the state the easement needed for highway drainage purposes (new easement), described in Exhibit B. Owners are the owners of the fee underlying the surplus easement and have requested that the surplus easement be released to them. Owners will pay to the state the \$51 difference in value between the value of the surplus easement and that of the new easement.

It is the opinion of the commission that it is proper and correct that the state release its interest in the surplus easement in exchange and as full consideration for the new easement and the cash payment of \$51 to the state.

NOW, THEREFORE, the commission finds that the surplus easement is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument releasing the state's rights and interest in the surplus easement to 628 Investments, LLC, and Susan Ann Waddell Roberts and Stephen C. Roberts, as Trustees of the Susie Roberts Trust and Steve Roberts Trust under that Roberts Irrevocable Trust Indenture dated April 19, 2005, in exchange and as consideration for the new easement and the cash payment of \$51 to the state.

Note: Exhibit A on file with minute order clerk.

(2) Bexar County – FM 1535 at Manton Lane in Castle Hills – Consider the quitclaim of surplus right of way to the county (MO)

112213
ROW

In the city of Castle Hills, BEXAR COUNTY, on FARM TO MARKET ROAD 1535, the State of Texas used certain land acquired in the county's name for highway purposes.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the quitclaim to a county or municipality any interest in property acquired and held by the county or municipality in its own name for use by the state.

Bexar County (county) has requested that the surplus land be quitclaimed to the county.

It is the opinion of the commission that it is proper and correct that the state quitclaim its rights and interest in the surplus land to the county.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument quitclaiming all of the state's rights and interest in the surplus land to Bexar County, Texas.

Note: Exhibit A on file with minute order clerk.

(3) Denton County – FM 423 from Stewart Creek Road to SH 121 – Consider the acceptance of a donation of land for a highway improvement project (MO)

112214
ROW

In DENTON COUNTY, on FARM TO MARKET ROAD 423 from Stewart Creek Road to State Highway 121, the Texas Department of Transportation (department) is acquiring the right of way for a highway improvement project.

V.T.C.A., Transportation Code, §201.206, authorizes the department to accept donations of real property for the purpose of carrying out its functions and duties.

V.T.C.A., Government Code, Chapter 575, requires the Texas Transportation Commission (commission) to accept a gift or donation valued at \$500 or more by majority vote at an open meeting.

The Leisy Brewing Company (owner) is the owner of the property described in Exhibit A. The owner wants to donate this property, estimated at \$26,041, to the department for construction of a highway improvement project.

The owner may be subject to department regulations or oversight, but is not currently party to a contested case before the department. The owner may also be interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department.

A donation agreement has been executed by the owner and tendered to the department for acceptance under Title 43, Texas Administrative Code, §1.504.

IT IS THEREFORE ORDERED by the commission that (1) the commission has determined that acceptance of this donation would provide a significant public benefit, and would not influence or reasonably appear to influence the department in the performance of its duties, and (2) the executive director is hereby authorized to accept the donation of real property, as described in Exhibit A, and the executive director or the director's designee is authorized and directed to sign and execute a donation agreement with the owner, in accordance with Title 43, TAC, §1.504.

Note: Exhibit A on file with minute order clerk.

(4) Lamar County – FM 3298 at County Road 4320 – Consider the sale of surplus right of way to the abutting landowner (MO)

112215
ROW

In LAMAR COUNTY, on FARM TO MARKET ROAD 3298, the State of Texas acquired certain land needed for state highway purposes by instrument recorded in Volume 600, Page 25, Deed Records of Lamar County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus land.

Bounds Baptist Church is the abutting landowner and has requested that the surplus land be sold to the company for \$748.

The commission finds \$748 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than \$10,000 and authorizes the executive director to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Bounds Baptist Church for \$748; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(5) Medina County – US 90 at Lower LaCoste Road in Castroville – Consider the quitclaim of surplus right of way to honor a reversionary clause (MO)

112216
ROW

In the city of Castroville, MEDINA COUNTY, on US 90, the State of Texas acquired an interest in land for highway purposes by instruments recorded in Volume 296, Page 1005, and Volume 424, Page 534, of the Deed Records of Medina County, Texas.

The instruments conveying the land to the state provided that if the land is no longer needed for carpool parking, it reverts to the City of Castroville.

The land (surplus land) is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the quitclaim of the state's interest to comply with a reversionary clause contained in the instrument that originally conveyed the interest to the state.

The commission finds that it is proper and correct that the state quitclaim all of its rights, title and interest in the surplus land to comply with the reversionary clause contained in the instruments of conveyance to the state.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to the City of Castroville, Texas.

(6) Panola County – FM 1794 west of FM 959 – Consider the sale of surplus right of way to an abutting landowner (MO)

112217
ROW

In PANOLA COUNTY, on FARM TO MARKET ROAD 1794, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 731, Page 812; Volume 488, Page 217; Volume 487, Page 609; and Volume 487, Page 732, Deed Records of Panola County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus land to the abutting landowner.

Mt. Zion Baptist Church of Beckville, Texas, is an abutting landowner and has requested that the surplus land be sold to the church for \$7,182.

The commission finds \$7,182 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than \$10,000 and authorizes the executive director to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Mt. Zion Baptist Church of Beckville, Texas; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(7) Rains County – SH 19 at Rhodes Drive in Emory – Consider the amendment of MO 108825, passed February 28, 2002, to provide for the correction of the description of a surplus maintenance site (MO)

112218
ROW

In the city of Emory, RAINS COUNTY, on STATE HIGHWAY 19, the State of Texas acquired certain land needed for state highway purposes by instrument recorded in Volume 102, Page 366, Deed Records of Rains County, Texas.

The Texas Transportation Commission (commission) approved Minute Order 108825 on February 28, 2002, authorizing the sale of surplus land. The legal description attached to the minute order was based on an incorrect survey. The legal description is being revised by this minute order to correct the inaccuracy, as described in Exhibit A.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission may recommend the sale of surplus land to a governmental entity with the power of eminent domain.

NOW, THEREFORE, IT IS ORDERED that Minute Order 108825 be amended only with respect to the incorrect legal description attached to that minute order, and all other provisions of Minute Order 108825 are to remain unchanged.

FURTHER, the commission recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Emory Economic Development Corporation; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(8) Upton County – South Orient Railroad, Benedum Plant Spur, near FM 1555 and east of FM 2594 – Consider the sale of surplus railroad land (MO)

112219
ROW

In UPTON COUNTY, near FARM TO MARKET ROAD 1555, the State of Texas acquired certain land for railroad purposes by instrument recorded in Volume 585, Page 314, Deed Records of Upton County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed by the Texas Department of Transportation for railroad or any other department purposes, and in accordance with V.T.C.A., Transportation Code, Section 91.095, the surplus land may be sold.

The department advertised the surplus land for sale by sealed bid to the general public and the ConocoPhillips Company submitted a bid of \$10,100. It was the only bid received.

The Texas Transportation Commission (commission) finds \$10,100 to be a fair and reasonable value of the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a department purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to ConocoPhillips Company for a cash consideration of \$10,100; SAVE AND EXCEPT, however, there is excepted and

reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

f. Release of Access Rights

Navarro County – I-45 northbound frontage road at Regal Drive – Consider the designation of a location on the I-45 northbound frontage road in Corsicana at which access for the City of Corsicana is permitted for the purpose of realigning Regal Drive, a city street, to a new location along the northbound frontage road (MO)

112220
TRF

In NAVARRO COUNTY, on INTERSTATE 45 (I-45), a designated controlled-access highway, the State of Texas controls the access to or from such facility. The City of Corsicana (city) proposes extending Regal Drive, an existing public street, to intersect the I-45 frontage road to eliminate the part of Regal Drive which currently connects to SH 31 at an unsafe location. The proposed access point is planned at approximately 620 feet north of the intersection of the I-45 frontage road with SH 31 and 100 feet north of the existing I-45 northbound entrance ramp (new access point). The existing connection of Regal Drive to SH 31 will then be removed.

Transportation Code, §201.103 empowers the Texas Transportation Commission (commission) to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

Transportation Code, §203.002 authorizes the commission to layout, construct, maintain, and operate a modern state highway system, with an emphasis on the construction of controlled access highways. Transportation Code, §203.031 authorizes the commission to designate locations on a controlled access highway at which access to or from the highway is permitted and determine the type and extent of access permitted at each location.

It is the opinion of the commission that the designation of this new access point as a location where access is permitted for a local public street will enhance mobility, safety and operation of the state highway facility along this segment of I-45, as well as improve traffic circulation on the local street network.

IT IS THEREFORE ORDERED by the commission that the proposed location of the new access point for the city street is necessary for the mobility, safety and operation of the I-45 state highway facility and that it is designated as a public roadway access point where ingress and egress is permitted to and from the I-45 frontage road.

IT IS FURTHER ORDERED that when the new access point is opened to traffic, access to and from SH 31 for the existing connection of Regal Drive is denied.

g. Speed Zones

Various Counties – Establish or alter regulatory and construction speed zones on various sections of highways in the state (MO)

112221
TRF

Transportation Code, §545.352 establishes prima facie reasonable and prudent speed limits for various categories of public roads, streets and highways.

Transportation Code, §545.353 empowers the Texas Transportation Commission (commission) to alter those prima facie limits on any part of the state highway system as determined from the results of an engineering and traffic investigation conducted according to the procedures adopted by the commission.

The Texas Department of Transportation (department) has conducted the prescribed engineering and traffic investigations to determine reasonable and safe prima facie maximum speed limits for those segments of the state highway system shown in Exhibits A and B.

Exhibit A lists construction speed zones in effect when signs are displayed within construction projects. The completion and/or acceptance of each project shall cancel the provision of this minute order applying to said project and any remaining construction speed zone signs shall be removed.

Exhibit B lists speed zones for sections of highways where engineering and traffic investigations justify the need to alter the speeds.

It has also been determined that the speed limit on one segment of the state highway system, previously established by the commission by minute order and listed in Exhibit C, is no longer necessary or has been incorporated by the city which has the authority to set the speed limit on this section of the highway.

IT IS THEREFORE ORDERED by the commission that the reasonable and safe prima facie maximum speed limits determined in accordance with the department's "Procedures for Establishing Speed Zones" and shown on the attached Exhibits A and B are declared as tabulated in those exhibits. The executive director is directed to implement this order for control and enforcement purposes by the erection of appropriate signs showing the prima facie maximum speed limits.

IT IS FURTHER ORDERED that a provision of any prior order by the commission which is in conflict with a provision of this order is superseded to the extent of that conflict, and that the portion of the minute order establishing the speed zones shown on the attached Exhibit C are canceled.

Note: Exhibits A through C on file with minute order clerk.

h. Traffic Operations

Chambers County – Authorize temporary one-way operation on FM 565 (MO)

112222
TRF

In Chambers County, the Texas Department of Transportation (department) and numerous other entities have worked cooperatively and participated in developing a comprehensive traffic control plan for vehicular access to and egress from the 2010 O'Reilly National Hot Rod Association (NHRA) event and the Pinks All Out racing event at which more than 100,000 attendees are anticipated.

A portion of this traffic-control plan requires the temporary one-way operation of FM 565, between SH 99 and the western edge of Gate #5 of the Houston Raceway Park, westbound toward the events, for up to six hours prior to the beginning and during the events; and eastbound away from the events for up to six hours during and after the events.

The department and the Texas Transportation Commission (commission) find it necessary to participate in the implementation of this traffic-control plan to facilitate the orderly flow of traffic and ensure the safety of the attendees and traveling public. Transportation Code, Section §545.059, authorizes the commission to designate a highway or separate roadway under the jurisdiction of the commission for one-way traffic and mandates the erection of appropriate signs giving notice to the designation.

IT IS THEREFORE ORDERED by the commission that FM 565, between SH 99 and the western edge of Gate #5 of the Houston Raceway Park, is designated for one-way traffic before and after the 2010 O'Reilly NHRA event and the Pinks All Out racing event as outlined in the comprehensive traffic-control plan.

IT IS FURTHER ORDERED that the executive director is directed to enter into any necessary agreements required to fulfill the conditions of this order, and that implementation be consistent with provisions of the Texas Manual on Uniform Traffic Control Devices.

OPEN COMMENT PERIOD – At the conclusion of all other agenda items, the commission will allow an open comment period, not to exceed one hour, to receive public comment on any other matter that is under the jurisdiction of the commission. No action will be taken. Each speaker will be allowed a maximum of three minutes. Speakers must be signed up prior to the beginning of the open comment period.

The commission received comments from Hidalgo County Judge Renee Ramirez; Locke Lord Bissell & Liddell Attorney Carroll Shaddock; Lisa Hardaway; and Noah Hester.

15. Executive Session Pursuant to Government Code, Chapter 551, Section 551

a. Section 551.071 – Consultation with and advice from legal counsel regarding any item on this agenda

b. Section 551.074 – Deliberation of the employment and duties of a person who would be responsible for implementing changes that result from the independent management and organizational review of the department.

Note: The commission recessed at 10:57 to meet in executive session. The commission reconvened at 11:56.

The regular meeting of the Texas Transportation Commission adjourned at 11:57 a.m.

APPROVED:

Ted Houghton, Commissioner
Texas Transportation Commission

xxx

I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on March 25, 2010, in Austin, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation