

TEXAS DEPARTMENT OF TRANSPORTATION

COMMISSION MEETING

Ric Williamson Hearing Room
Dewitt Greer Building
125 East 11th Street
Austin, Texas

Thursday, January 31, 2013

COMMISSION MEMBERS:

Ted Houghton, Chair
Jeff Austin III
William Meadows
Jeff Moseley
Fred Underwood

STAFF:

Phil Wilson, Executive Director
John A. Barton, Deputy Executive Director
Jeff Graham, General Counsel
Rose Walker, Chief Clerk
Kristen Webb, Chief Minute Order Clerk

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
CONVENE MEETING	
1. Safety Briefing	12
2. Approval of Minutes of the December 13, 2012, meeting of the Texas Transportation Commission	23
3. Appointments	
a. Freight Advisory Committee Create the Freight Advisory Committee and appoint members of the committee (MO)	23
b. I-69 Corridor Advisory Committee Appoint members to the I-69 Corridor Advisory Committee (MO)	25
c. Lone Star Rail District Appoint a public member to the board of directors of the Lone Star Rail District (MO)	27
d. Port Authority Advisory Committee Appoint one member to the Port Authority Advisory Committee (MO)	28
4. Aviation	29
Various Counties - Award federal and state grant funding for airport improvement projects at various locations (MO)	
5. Public Transportation	30
Various Counties - Award federal \$5310 funds, Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, and award transportation development credits for FY 2013 (MO)	
6. Comprehensive Development Agreement	32
Tarrant and Dallas Counties - Authorize the executive director of the department to issue a request for qualifications for the development, design, construction, financing, maintenance and operation of all or part of the SH 183 Managed Lanes Project, comprised of improvements to SH 183 from SH 121 to I-35E, and additional facilities necessary for connectivity and financing purposes, subject to the enactment of legislation authorizing the department to enter into a comprehensive development agreement for those additional connecting facilities, and	

6. **Comprehensive Development Agreement
Tarrant and Dallas Counties - (continued)**
subject to the North Texas Tollway Authority's (NTTA) election to waive or decline to exercise its option to develop, finance, construct, and operate those additional connecting facilities (MO)
7. **Pass Through Toll Program** 34
Montgomery County - Approve an amendment to the original pass-through toll agreement with Montgomery County that reduces the county's obligation to reinvest a minimum of \$76 million in pass-through toll reimbursements into future transportation projects (MO)
8. **Toll Roads**
- a. **Various Counties** - Consider the approval 35
of the department's determination to exercise its option to develop, construct, finance and operate the portion of SH 99 (Grand Parkway) in Liberty County, authorize Segments H, I-1, and I-2 of Grand Parkway, in Harris, Montgomery, Liberty, and Chambers Counties, with DEVELOP authority; and authorize the Grand Parkway Transportation Corporation (GPTC) to finance any pre-development costs up to \$300 million and enter into or assume any agreements related to the pre-development costs being financed on any future segments (MO)
- b. **Travis County** - Authorize the department 38
to enter into an agreement with the Central Texas Regional Mobility Authority for the development, construction, operation, and maintenance of the MoPac Improvement Project, an 11.2 mile project to add one express, variable tolled lane in each direction between FM 734 (Parmer Lane) and Cesar Chavez Street in Travis County, and approve the connection of the MoPac Improvement Project with a segment of the state highway system (MO)
- c. **Travis and Williamson Counties** - Establish 40
temporary toll rate tables on SH 130, Segments 1-4 and SH 45 Southeast to charge the two-axle rate for all vehicles, regardless of classification (MO)

9. **Promulgation of Administrative Rules**
Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:
- a. **Final Adoption**
- (1) **Chapter 9 - Contract and Grant Management (MO)** 41
Repeal of §§9.30-9.43, and New §§9.30-9.39 (Contracting for Architectural, Engineering, and Surveying Services)
- (2) **Chapter 12 - Public Donation and Participation Program (MO)** 49
New Subchapter K, Acknowledgment Program, New §§12.351-12.355
- b. **Proposed Adoption**
- (1) **Chapter 1 - Management (MO)** 50
Amendments to §1.85, Department Advisory Committees (Advisory Committees)
- (2) **Chapter 2 - Environmental Review of Transportation Projects (MO)** 51
Amendments to §2.12, Project Coordination (General Provisions) and §2.103, Public Participation for an Environmental Impact Statement or Supplemental Environmental Impact Statement (Public Participation)
- (3) **Chapter 2 - Environmental Review of Transportation Project (MO)** 52
Repeal of §2.21, Purpose, and §2.22, Memorandum of Understanding with the Texas Parks and Wildlife Department; and New Subchapter G, Memorandum of Understanding with the Texas Parks and Wildlife Department, New §§2.201-2.214
- (4) **Chapter 2 - Environmental Review of Transportation Project (MO)** 56
Repeal of §2.24, Memorandum of Understanding with the Texas Historical Commission; and New Subchapter H, Memorandum of Understanding with the Texas Historical Commission, New §§2.251-2.278
- (5) **Chapter 2 - Environmental Review of Transportation Project (MO)** 58
Repeal of §2.23, Memorandum of Understanding with the Texas Natural Resource Conservation Commission; and New Subchapter I, Memorandum of Understanding with the Texas Commission on Environmental Quality, New §§2.301-2.308

9. **Promulgation of Administrative Rules**
- b. **Proposed Adoption (Continued)**
- (6) **Chapter 7 - Railroad Facilities (MO)** 60
 Amendments to §7.31, Safety Requirements (Rail Safety)
- c. **Rule Review** 61
 In accordance with Government Code, §2001.039, Readoption of Title 43, Texas Administrative Code Chapter 2, Environmental Review of Transportation Projects, and Chapter 7, Rail Facilities (MO)
10. **Office of Compliance and Ethics Report** 61
11. **Finance**
- a. **Central Texas Turnpike System Revenue Bonds** 64
 Approve the Seventh Supplemental Indenture authorizing the issuance of one or more series of Central Texas Turnpike System (CTTS) Revenue Refunding Bonds to refund all or any portion of outstanding bonds to achieve a net present value debt service savings of at least 3 percent of the CTTS Revenue Bonds being refunded; approve the official statement, bond purchase contract, escrow agreement and other documents relating to any issuance of refunding bonds and authorize the chief financial officer and other designated department representatives to take all actions necessary to effectuate any refunding and to deliver one or more series of CTTS Revenue Refunding Bonds; and approve application to the Texas Bond Review Board for exemption from approval or approval to issue such refunding bonds (MO)
- b. **State Highway Fund Revenue Bonds** 67
 Approve an amended and restated Sixth Supplemental Resolution authorizing the issuance of new money and refunding obligations of the State Highway Fund in one or more series; approve documents relating to the issuance of such obligations and the refunding of certain outstanding State Highway Fund revenue bonds, including official statements, bond purchase contracts, and escrow agreements; designating certain department officials to take all action necessary to deliver the obligations; and approve application to the Texas Bond Review Board for authority to issue such obligations (MO)

11. **Finance (Continued)**
- c. **Texas Mobility Fund Obligations** 68
 Approve an amended and restated Ninth Supplemental Resolution authorizing the issuance of new money and refunding obligations of the Texas Mobility Fund in one or more series; approve documents relating to the issuance of such obligations and the refunding of certain outstanding Texas Mobility Fund revenue bonds, including official statements, purchase contracts, and escrow agreements; designating certain department officials to take all action necessary to deliver the bonds; and approve application to the Texas Bond Review Board, if necessary, for authority to issue such bonds (MO)
12. **Unified Transportation Program (UTP)** 69
 Approve updates to the 2013 UTP (MO)
13. **Contracts**
- Award or reject contracts for maintenance, highway and building construction
- a. **Highway Maintenance and Department Building Construction** 70
 (see attached itemized list) (MO)
- b. **Highway and Transportation Enhancement Building Construction** 72
 (see attached itemized list) (MO)
14. **Eminent Domain Proceedings** 73
 Various Counties - Authorize the filing of condemnation proceedings to acquire real property by eminent domain for non-controlled and controlled access highways (see attached list) (MO)
15. **Routine Minute Orders** 75
- a. **Donations to the Department**
- (1) **Traffic Operations Division -**
 Consider a donation from the American Traffic Safety Services Association (ATSSA) for department employee's travel expenses to attend the 42nd Annual Convention and Traffic Expo in San Diego, California on February 23 - 26, 2013 (MO)

15. **Routine Minute Orders**a. **Donations to the Department (Continued)**

- (2) **Abilene District** - Consider a donation from Walmart, for the design and construction of road modifications to create a thru-lane through intersection at SH 350 and Cogdell Boulevard and curb for a right-turn construction as part of the proposed Walmart in Snyder, Texas (MO)
- (3) **Austin District** - Consider a donation from Walmart Stores, Inc., for the design and installation of a traffic signal on RM 1431 at Market Street for the proposed new Walmart Store in Cedar Park (MO)
- (4) **Beaumont District** - Consider a donation from First Baptist Church of Beaumont, for the ROW, design and construction of a proposed access driveway located on the west right of way abutting FM 364 approximately 447 feet South of Folsom Drive and drainage improvements within the department's roadside ditch on the north side of FM 364 near Folsom Drive in Beaumont at the future development of the donor (MO)
- (5) **Beaumont District** - Consider a donation from Eastland Ventures, LLC, for the design and construction of a crossover, an acceleration merge lane and a deceleration turn lane centered at the access point of the donor's facility between the ROW of SH 124 and SH 73 in Jefferson County (MO)
- (6) **Bryan District** - Consider a donation from Brazos Texas Land Development, LLC for the design and construction of right turn deceleration lanes and raised islands from the SH 6 southbound frontage road and from eastbound SH 40 to the proposed entrances to the Caprock Crossing development (MO)
- (7) **Houston District** - Consider a donation from HEB Grocery Company, LP, for the design and construction of a widening of SL 336 to four lanes, including a continuous left turn lane along SL 336 to the donor's facility at the White Oak Market Commercial site development in Harris County (MO) **(Deferred)**

15. **Routine Minute Orders****a. Donations to the Department (continued)**

- (8) **San Antonio District** - Consider a donation from Casey Development, LTD, for the design, construction and installation of a north to south median turnaround and traffic signal on US 281 in San Antonio, Texas (MO)
- (9) **San Antonio District** - Consider a donation from Estates at Stone Crossing, Ltd., a Texas Limited Partnership, for the design and construction of a left turn lane, right turn lane, and traffic signals on LP 337 in Comal County for a new mixed use development (MO)
- (10) **San Antonio District** - Consider a donation from Davis Equity, Inc., for the design and construction of left turn lanes, right turn lanes, and traffic signals on SH 46 in Kendall County for a new mixed use development (MO)
- (11) **San Antonio District** - Consider a donation from HK LaVernia Associates, Ltd., for the design and construction of right turn lanes at various locations on US 87 and FM 1346 in Wilson County for a new commercial development (MO)
- (12) **San Antonio District** - Consider a donation from Hughes Family Farms, Ltd., for the design and construction of right turn lane on US 181 in Wilson County for a new commercial development (MO)
- (13) **San Antonio District** - Consider a donation from Newcombe Development, LLC, for the design and construction of left turn and right turn lanes on FM 1863 in Comal County for a new residential subdivision development (MO)
- (14) **San Antonio District** - Consider a donation from Saint Joseph's Catholic Church, for the design and construction
- of a left turn lane on SH 46 in Comal County for a new Church development (MO)

15. **Routine Minute Orders**

a. **Donations to the Department (continued)**

(15) **Yoakum District** - Consider a donation from Walmart Real Estate Business Trust, for the design, construction and a set of construction plans to improve the safety associated with two (2) proposed signal installation on BUS 71 at the intersection of FM 609 and the proposed Walmart driveway in LaGrange, Texas within the department's right-of-way (MO)

b. **Right of Way Dispositions and Donations**

(1) **Bexar County** - I-37 at Market Street in San Antonio - Consider the transfer of surplus right of way to the city (MO)

(2) **Burnet County** - RM 2342 at FM 1431 east of Kingsland - Consider the sale of a surplus drainage easement (MO)

(3) **Calhoun County** - SH 35 east of Point Comfort - Consider the sale of a surplus easement (MO)

(4) **Dallas County** - I-20 at Honeysuckle Lane in Dallas - Consider the sale of surplus right of way to the abutting landowner (MO)

(5) **Lubbock County** - I-27 at 19th Street in Lubbock - Consider the sale of surplus right of way to the abutting landowner (MO)

c. **Release of Access Rights**

(1) **Harris County** - I-10, immediately east of Fox Lake Drive in Houston - Consider the designation of two locations on the highway at which access will be permitted to the abutting property (MO)

(2) **Harris County** - I-10, immediately east of Houston Chronicle Boulevard in Houston - Consider the designation of two locations on the highway at which access will be permitted to the abutting property (MO)

d. **Finance**

(1) **Accept the Quarterly Investment Report** (MO)

(2) **Travis and Williamson Counties** - Accept the audited financial statements of the Central Texas Turnpike System (CTTS), as required by the CTTS Indenture of Trust (MO)

15. **Routine Minute Orders****d. Finance (continued)**

- (3) Accept the audited financial statements of the Texas Mobility Fund (TMF) as required by the governing master resolution (MO)
- (4) Obligation Limit Report
Quarterly status report on the FY 2013 Obligation Limit, the actual obligations utilized through the current month, proposed remaining highway maintenance and construction contract letting for the fiscal year and an update on motor fuel tax receipts
- (5) Quarterly report on FY 2012 State Highway Fund 6 cash status

e. Transportation Planning

- (1) **Various Counties** - Concurrence with the Regional Transportation Council of the North Central Texas Council of Governments' funding of construction and other project development costs of projects to be advanced through the use of payments received from the North Texas Tollway Authority for the right to develop, finance, design, construct, operate, and maintain the SH 161 toll project from I-20 to SH 183 in Dallas County (MO)
- (2) **Various Counties** - Concurrence with the Regional Transportation Council of the North Central Texas Council of Governments' funding of construction and other project development costs of projects to be advanced through the use of payments received from the North Texas Tollway Authority for the right to develop, finance, design, construct, operate, and maintain the SH 121 toll project from Business SH 121 in Denton County to US 75 in Collin County (MO)

f. Speed Zones

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

	11
16. Executive Session Pursuant to Government Code, Chapter 551	75
a. Section 551.071 - Consultation with and advice from legal counsel regarding any item on this agenda	
b. Section 551.074 B Discussion regarding the evaluation of the performance of the executive director	
OPEN COMMENT PERIOD (no commenters)	76
ADJOURN	76

P R O C E E D I N G S

1
2 MR. HOUGHTON: It's 9:00 a.m., and I call to
3 order the regular January 31, 2013 meeting of the Texas
4 Transportation Commission. Note for the record that
5 public notice of this meeting, containing all items on the
6 agenda, was filed with the Secretary of State at 3:29 p.m.
7 on the 23rd of January 2013.

8 I ask that before we begin the meeting, as
9 customary, please silence your communication device, or
10 turn them off, if you so choose.

11 And if you wish to address the commission
12 during today's meeting, there's a speaker card: one is
13 blue and one is yellow, yellow for a specific item and
14 blue for general comments at the end of the session.
15 Regardless, you've got to fill one out, according to my
16 boss next door.

17 Before I turn over the mike to the rest of the
18 commission, I'd like to turn it over to Phil for his
19 comments and safety.

20 MR. WILSON: Thank you, Chair. I'd like to ask
21 Occupational Safety Division Director Jerral Wyer to come
22 forward and provide a quick safety briefing. Jerral.

23 MR. WYER: Thank you, Phil. Thank you,
24 commission for your continued leadership on safety,
25 administration the same.

1 As a reminder, this Sunday is Super Bowl
2 weekend, and if we take a look at statistics, in 2010 over
3 1,300 people died in this state on a football weekend as a
4 result of drinking and driving. So as we think about the
5 parties that may be planned this weekend, I would ask that
6 each of us try to impact our friends and family not to
7 drink and drive on this celebration weekend as we go into
8 Super Bowl. Please remind everybody that you know, Don't
9 drink and drive. Thank you.

10 As a brief safety reminder today, as far as the
11 Greer Building, if you have a medical emergency, please go
12 to the guard station. We have first aid supplies ready;
13 if we need to call 911, we will do so. We also have an
14 AED out front in case that is needed.

15 We're not expecting any poor weather; it's a
16 beautiful sunny day in Austin today, but just in case
17 there's a tornado alert that occurs, we're going to ask
18 that we move toward the basement area of the Greer
19 Building and/or the hallway and staircase area.

20 Also, I would like to remind everyone if
21 there's a fire alarm, please exit the building and make
22 your way across the roadway. I'm going to recommend the
23 Capitol area, the Capitol grounds as a gathering point.
24 Please be careful as you cross the roadway; make sure that
25 you do that in a safe manner.

1 Last but not least, if you're walking around
2 the Greer Building, please be careful and keep your eye on
3 traffic as you're walking on the sidewalks and/or crossing
4 roadways.

5 I thank you for your time this morning. Hope
6 everybody has a safe day. Thank you.

7 MR. WILSON: With the safety briefing
8 completed, I'll hand the gavel back to you, Mr. Chair, to
9 complete opening remarks.

10 MR. HOUGHTON: As customary, we will now hear
11 from our commissioners in their opening remarks.

12 Commissioner Moseley.

13 MR. MOSELEY: Thank you, Chairman Houghton.
14 Good morning, everyone.

15 It was indeed a pleasure to hear Governor
16 Perry's state of the State remarks this week and to hear
17 his commitment and focus to infrastructure. His statement
18 about urging the legislature to consider \$3.7 billion from
19 the Rainy Day Fund for water and transportation
20 infrastructure is a welcome comment, and really appreciate
21 the governor's commitment to finding funds to keep up with
22 the demand for capacity on our state's roadways.

23 Additionally, Governor Perry called for the end
24 of diversions from the State Highway Fund, which could
25 give us an additional \$1.3 billion, and so we're pleased

1 that legislative leadership and lawmakers are having very
2 thoughtful discussions about how to best move forward in
3 funding mobility.

4 And lastly, Chairman, the fact that you
5 personally were recognized I think is a wonderful tribute
6 to your leadership and to this agency, and it recognizes
7 the work that you and so many of my colleagues here on the
8 commission have done to tend to the housekeeping and to
9 listen carefully to the two Sunset requirements of this
10 agency.

11 So thank you for your leadership, and
12 appreciate so much being a part of this commission. Thank
13 you, Chairman.

14 MR. AUSTIN: Good morning to everyone. I will
15 say happy new year.

16 There's been a lot happening since we had our
17 last meeting. First and foremost, we have new members
18 coming into the House and Senate, at the state level and
19 federal level. Now that everything is reconvened, I echo
20 your comments with the governor, but it's also refreshing
21 to hear so many of our elected officials talk about
22 transportation funding. There's a lot of pain, there's
23 still a lot of discussions to go through, but the fact
24 that it's recognized, I know we want to be a resource and
25 do what we can to be part of that discussion. I think we

1 have plenty of projects, Mr. Chairman, ready to go or
2 begin to work on.

3 I think I saw one number, just to address the
4 top 50 most congested roadways in Texas right now is going
5 to be \$16 billion by itself, and that's just scratching
6 the surface. In those top 50, I think there's only two
7 that are not in the big metropolitan areas; one is in El
8 Paso and the other one is in Hidalgo County. So you can
9 see the need with the rapidly growing population.

10 But one other important thing, as we talk about
11 it, is freight. I know we heard a lot of this from our
12 reports at our last meeting, but I had the opportunity to
13 go with Bill Glavin to the Southwest Freight Rail
14 Conference last week. I heard a lot of interesting things
15 from short lines, the importance of freight coming in and
16 out of Texas, and I think we need to also pay attention to
17 what's happening to the states round as it involves moving
18 freight, but also coming out of our ports.

19 One of the recommendations that was made is
20 that we begin looking at forming a Freight Advisory
21 Committee. We're going to have some things on the agenda
22 today to talk about that, but one individual that I've had
23 the opportunity to visit with, Carolyn Mays, is going to
24 be our new freight coordinator to help work with that.

25 Carolyn, would you please stand up? I'd like

1 to introduce you. Welcome.

2 I know she came from Atlanta, grew up in
3 Canada, but really happy to have Carolyn here to pay
4 attention. So for those of you involved who have an
5 interest in freight, please get to know Caroline.

6 And it is the backbone to our economy. You
7 know, we have more than twelve divisions and offices that
8 cover a lot of freight, so it will continue to see a lot
9 of importance and receive a lot of attention from us.

10 One other individual, I know sitting back here
11 with Ben Asher, that I'd like to introduce, Julie Rabeux.

12 She is going to be our director working with innovative
13 financing and projects, and what's important about what
14 she's doing is her focus is going to be not on just the
15 State Infrastructure Bank, but also the TRZs,
16 transportation reinvestment zones.

17 We've talked a lot up here over the months and
18 even before I joined the commission about the importance
19 of reinvestment zones, because it's so important, so many
20 communities are beginning to look at it, and the
21 successful communities that are receiving funding have
22 looked at these and put them in place. And please get to
23 know Julie, and we look forward to working with her and
24 helping utilize those tools with the SIB to increase and
25 leverage our funding.

1 I know the chairman is going to talk about the
2 forum, but I just want to also say, please, we hope you
3 can attend. But I did just come back from Colorado, and
4 as I mentioned coming back we're in the legislative
5 session, I know the chairman loves getting up in front of
6 the committees and the panels and says that his hands get
7 a little cold, so I brought him some hand warmers just in
8 case he gets a little nervous or needs to warm his hands a
9 little bit.

10 My final comment would say, Commissioner
11 Underwood, you were sleeping a little bit, you were
12 supposed to hit the button, but I did not sync my comments
13 today.

14 MR. MEADOWS: Thank you, Mr. Chairman.

15 You know, as we think about the number of
16 projects that we've all had the opportunity to have been
17 involved in advancing for the citizens of the state over
18 the last couple of years, you think about it sometimes,
19 and we're all here engaged, working with our staff on
20 advancing projects, working with the legislature --
21 Commissioner Moseley, I think your remarks about the
22 governor are spot-on -- as we look to the future, but what
23 I know is that every one of these projects, every one, any
24 one that we consider, you think how many people were
25 involved in making it happen, and so many of them are

1 volunteer citizens.

2 In all of our communities where we live and all
3 across this state, it's those people that have come
4 together to truly make these sort of things happen, and
5 most of them are just volunteer citizens that care about
6 the community and care about the state.

7 And I just wanted to recognize a good friend of
8 all of ours who announced last week that he's retiring
9 from the board of directors of the North Texas Tollway
10 Authority, and that's Victor Vandergriff.

11 Victor is one of those people, sort of unsung
12 heroes, that really have committed themselves on a
13 volunteer basis to advancing initiatives in the state that
14 benefit all the citizens. You know, Victor served as the
15 chair of the NTTA; we've all had the opportunity to work
16 with Victor in advancing projects. 161, Chairman Houghton
17 was intimately involved working with Victor and others to
18 craft the agreement that enabled that Chisholm Trail
19 Parkway project, 161, to advance, one after another. 360,
20 over the last month or so a lot of discussions, Victor
21 right in the middle of that discussion.

22 Victor Vandergriff helped launch, was really
23 one of the fathers of the Department of Motor Vehicles,
24 worked closely with TxDOT in that transition, initiative
25 after initiative, and he's just one of many citizens

1 across the state that we just need to stop and recognize
2 and appreciate the efforts that they've put forward on
3 behalf of all of us.

4 So Victor has been a great partner to TxDOT
5 over the last decade; I know he will continue to be in the
6 future, and I'd just like to thank him for his service,
7 his partnership and friendship. Thank you.

8 (Applause.)

9 MR. UNDERWOOD: I associate myself with my
10 colleagues' remarks. They're a lot more eloquent than I
11 am.

12 Just a thought to our legislature, I just want
13 to remind them when they're working these long hours for
14 our fellow Texans during this session, you know you're
15 overworked when your driver's license photo looks better
16 than you do. So I just pass that on to them; we
17 appreciate the work they're doing.

18 Chairman Houghton brought this to my attention,
19 since 2005 TxDOT used its legislative authority, using
20 part of the revenue bonds, to go out and make our roads
21 safer. Since then we've widened roads, especially in
22 rural areas, installed wire cable barriers, added left
23 turn lanes and built overpasses at dangerous
24 intersections.

25 TxDOT has analyzed the crashes at these

1 locations through TTI where nearly \$784 million of Safety
2 Bond projects have been completed, based on this analysis.

3 These projects have the potential to save up to 83 lives
4 per year, reducing the incapacitating injuries of 682 per
5 year. If these reduction trends continue over the life of
6 the projects, their implementation will result in a
7 benefit of over \$15 billion in fatality and injury cost
8 savings, and this is not factoring in inflation.

9 Now, these studies were done by analyzing three
10 years prior to these projects and up to three years
11 afterwards, the lives that were saved. If my calculations
12 are correct, that's basically a dollar invested and a
13 return of \$20 in savings towards people's lives. Anyway,
14 just wanted to give you that information. I appreciate
15 everyone being here today.

16 Just a thought to Ted, being a rural
17 commissioner, I'll give you just a little advice: Never
18 promise a farmer that you'll water his plants and animals
19 when he takes a vacation. Mr. Chairman.

20 (General laughter.)

21 MR. HOUGHTON: I'm going to address a couple of
22 remarks from Commissioner Moseley and others. The shout-
23 out that the governor gave me personally, it has
24 everything to do with this department and my fellow
25 commissioners to my right, and the administration led by

1 Phil Wilson to my left, and the people in this room and
2 all across the Great State of Texas. We have done
3 marvelous things in a very short period of time, and the
4 accolades belong to the people up here and around the
5 state, and my congratulations to all of them.

6 Now, as far as watering and feeding, I'm still
7 going to work on that one. I need to cogitate with some
8 advisors to understand what that really means.

9 But thank you all for coming. I know that
10 Commissioner Austin talked about the forum, and Coby, they
11 took down your billboard. There was a big billboard up
12 here. Where's the marketing, where's the billboard? Did
13 the Right of Way Division pull that down? It wasn't
14 compliant? Was it a compliant billboard? We need to run
15 that through that department.

16 But we've got, my understanding is, some
17 special treats at the forum, which begins on February 17
18 through 19, here in Austin. How many people do we have
19 signed up, Coby?

20 MR. CHASE: (Speaking from audience.) Just
21 short of 1,200.

22 MR. HOUGHTON: Short of 1,200 folks. So it
23 will be a lot of fun and very informative. I think the
24 billboard may be coming up, Coby. It's amazing how things
25 happen like that.

1 But again, we look forward to seeing you all at
2 the forum. And you can still register online until when:
3 February 6? Okay, registration is cut off? It is? It
4 says registration online through February 6, that's what
5 my notes say here, Coby. Please, if you haven't signed
6 up, please do so.

7 Our first order of business is the approval of
8 the minutes of the December 13, 2012 commission meeting.
9 Members, a draft of the minutes was provided in the
10 briefing material. Is there a motion?

11 MR. AUSTIN: So moved.

12 MR. UNDERWOOD: Second.

13 MR. HOUGHTON: All in favor?

14 (A chorus of ayes.)

15 MR. HOUGHTON: With that, Phil, I turn the
16 gavel over to you.

17 MR. WILSON: Thank you, Mr. Chairman.

18 Our first item on the agenda is 3a, the
19 creation of the Freight Advisory Committee and the
20 appointment of committee members. This item will be
21 presented by Director of Planning Marc Williams. Marc.

22 MR. WILLIAMS: Good morning, Mr. Chairman,
23 commissioners, Phil. Again for the record, my name is
24 Marc Williams. I serve the department as director of
25 Planning.

1 The commission is aware that in calendar year
2 2012 the Panama Canal Advisory Committee was formed, and
3 one of the recommendations of that committee was the
4 formation of a Freight Advisory Committee to address many
5 of the broader freight-related issues that are part of our
6 Texas transportation system, and many of the members of
7 that committee expressed their desire to continue to serve
8 the State of Texas as part of that Freight Advisory
9 Committee, and so this minute order creates the Freight
10 Advisory Committee and appoints membership to it.

11 As background, in addition to the
12 recommendations from the Panama Canal Advisory Committee,
13 Section 111.17 of MAP-21 directs the secretary of
14 Transportation to encourage states to establish these
15 committees to effectively plan and address freight
16 transportation. And the ability of the state to compete
17 and thrive in the global economy depends on the strength
18 of our freight transportation system and recognizes that
19 Texas is a global gateway to the United States for surface
20 transportation trade, along with Mexico and its ports.

21 This committee will serve as a forum for
22 discussion regarding transportation decisions affecting
23 freight mobility and promoting and sharing information
24 between public and private sector partners on freight-
25 related issues.

1 Recommend approval of this minute order to
2 establish the committee and appoint the members named on
3 the minute order.

4 MR. MOSELEY: So moved, Chairman.

5 MR. UNDERWOOD: Second.

6 MR. HOUGHTON: All in favor?

7 (A chorus of ayes.)

8 MR. WILSON: Next up is item 3b, the
9 appointment of members to the I-69 Corridor Advisory
10 Committee. This item will also be presented by Director
11 of Planning Marc Williams. Marc.

12 MR. WILLIAMS: Again for the record, Marc
13 Williams, director of Planning for the Department of
14 Transportation.

15 The commission created the I-69 Corridor
16 Advisory Committee in March of 2008 to assist the
17 department in the transportation planning process for the
18 congressionally designated I-69 route.

19 At the end of last year the committee presented
20 to the commission its recommendations for priorities and
21 next steps. Part of those recommendations was to continue
22 to recommission the committee to continue its work and to
23 work with the department on developing an implementation
24 plan for I-69 as we continue the planning and development
25 of this strategic corridor.

1 The current committee has 18 members, including
2 two new members. One is a Laredo representative and an
3 additional member that is appointed to replace a member
4 that is stepping down from that committee. The new
5 members include Judge Wes Suiter from Angelina County;
6 John Bradley, who is going to be replacing Nolan Alders
7 from the Texas Farm Bureau; and then Jorge Verduzco, who
8 is the executive vice president with the International
9 Bank of Commerce and is representing the Laredo area on
10 this committee.

11 I'll be happy to answer any questions. Staff
12 recommends approval of the appointments to the I-69
13 Corridor Advisory Committee.

14 MR. AUSTIN: I would like to make a motion that
15 we approve this, followed by a couple of comments.

16 Marc, thank you to your and your staff, but
17 more importantly, to the grassroots efforts across the
18 state of the five segments, the community members,
19 citizens that have offered comments to really put together
20 a blueprint to solve a transportation problem.

21 This is our port-to-port connector, and I look
22 forward to the new members coming on, but you stressed the
23 key ingredient: implementation. And it's not our plan
24 that's going to be implemented, it's going to be how the
25 locals come up and work with us and what's best for their

1 communities to help put this in place.

2 And I know we have several sections that are
3 pending right now for approval to add to the entire
4 system, but it is visible, it is valid, and I think to
5 show the great work that this advisory committee has done,
6 especially under the direction of Judy Hawley, and also
7 working with I-69 Alliance, to really, really bring this
8 forth.

9 MR. MOSELEY: Second.

10 MR. HOUGHTON: All in favor?

11 (A chorus of ayes.)

12 MR. WILSON: Now item 3c is the appointment of
13 a public member to the Lone Star Rail District. This item
14 will be presented by Rail Division Director Bill Glavin.

15 MR. GLAVIN: Good morning and thank you.

16 This minute order reappoints Mariano Camarillo
17 as public member to the Lone Star Rail District.
18 Transportation Code 173.051 allows the creation of an
19 intermunicipal commuter rail district and grants powers
20 necessary to provide commuter rail service between Austin
21 and San Antonio areas. Transportation Code 173.102
22 provides for the Texas Transportation Commission to
23 appoint two public members to the district's board of
24 directors. One of these appointments expires at the end
25 of today. The other board members are appointed by member

1 cities, counties, transit organizations and metropolitan
2 planning organizations. Currently the board has 20
3 members.

4 Due to his exemplary service, staff recommends
5 that Mr. Camarillo be reappointed for a sixth term which
6 will expire at the end of January 2015 with approval of
7 this minute order.

8 MR. HOUGHTON: Questions? Motion?

9 MR. MOSELEY: So moved, Mr. Chairman.

10 MR. MOSELEY: Second.

11 MR. HOUGHTON: All in favor?

12 (A chorus of ayes.)

13 MR. GLAVIN: Thank you.

14 MR. WILSON: Item 3d appoints one member to the
15 Port Authority Advisory Committee. This item will be
16 presented by Maritime Division Director Herman Deutsch.
17 Herman.

18 MR. DEUTSCH: Good morning, Mr. Chairman,
19 commissioners, Phil. For the record, my name is Herman
20 Deutsch and I serve as the Maritime director for TxDOT.

21 Agenda item 3d requests the commission to
22 appoint Mr. Glenn Carlson, who is the port director for
23 the Port of Freeport, to the Port Authority Advisory
24 Committee. State law requires the Texas Transportation
25 Commission to appoint a seven-member Port Authority

1 Advisory Committee to advise the commission and the
2 department on port issues and to provide a forum for the
3 exchange of information between the commission, the
4 department and the committee members representing the
5 Texas ports system.

6 The former representative from the Port of
7 Freeport has resigned. We have a received a nomination
8 from Mr. Eduardo Campirano, the president of the Texas
9 Ports Association and port director of the Port of
10 Brownsville, for Mr. Glenn Carlson to fill the vacancy.
11 Staff recommends that Mr. Carlson be appointed to the Port
12 Authority Advisory Committee. His three-year term is set
13 to expire on January 31, 2016. We recommend approval of
14 this minute order.

15 MR. MOSELEY: So move, Chairman.

16 MR. UNDERWOOD: Second.

17 MR. HOUGHTON: All in favor?

18 (A chorus of ayes.)

19 MR. WILSON: Moving on to item 4, the approval
20 of federal and state grant funding for airport improvement
21 projects at various locations. This item will be
22 presented by Aviation Division Director Dave Fulton.

23 MR. FISHER: Good morning, sir. Jay Joseph
24 representing Dave this morning. Shrunk a couple of
25 inches. Chairman Houghton, commissioners, Director Wilson

1 and staff, good morning from the Aviation Division.

2 This morning we have one item to present; it is
3 item 4. This minute order contains a request for grant
4 funding approval of five airport improvement projects.
5 Total estimate of cost for this request, as shown in
6 Exhibit A, is approximately \$6.6 million, of which \$5.7
7 million are federal, \$200,000 state, and approximately
8 \$700,000 in local funds.

9 A public hearing was held on December 6, 2012.
10 No comments were received, and we recommend approval of
11 this minute order.

12 MR. HOUGHTON: Questions? Motion?

13 MR. UNDERWOOD: So moved.

14 MR. AUSTIN: Second.

15 MR. HOUGHTON: All in favor?

16 (A chorus of ayes.)

17 MR. WILSON: Item 5 is the award of \$5310 funds
18 formula grants for the Enhanced Mobility of Seniors and
19 Individuals with Disabilities Program, and award
20 transportation development credits for FY 2013. This item
21 will be presented by Public Transportation Division
22 Director Eric Gleason. Eric.

23 MR. GLEASON: Good morning. For the record,
24 I'm Eric Gleason, TxDOT's Public Transportation director.

25 Agenda item 5 awards approximately \$3.2 million

1 of Federal Transit Administration formula funding for the
2 Enhanced Mobility of Seniors and Individuals with
3 Disabilities Program, and approximately 432,000
4 transportation development credits for various public
5 transportation capital projects supporting elements of the
6 overall award. The federal funds included in this award
7 represent about half of the expected annual apportionment,
8 consistent with the current continued resolution in place
9 for the fiscal year 2013 federal budget.

10 The §5310 program provides formula funding to
11 TxDOT for rural and small urban areas of the state. These
12 funds help agencies address the transportation needs of
13 the elderly and persons with disabilities when the regular
14 public transportation service provided is unavailable,
15 insufficient or inappropriate to meeting those needs.
16 Each year TxDOT conducts a local stakeholder process in
17 each district to reach and agreement on a recommended
18 program of projects. Exhibit A lists those elements of
19 the fiscal year 2013 program of projects included in this
20 minute order.

21 Transportation development credits are used for
22 a variety of capital program purposes, including fleet
23 procurement, preventative maintenance, purchase of service
24 and procurement of IT equipment. Using development
25 credits in this fashion allows agencies to use what local

1 match they have to draw down federal funds for operating
2 purposes.

3 Staff recommends your approval of this minute
4 order.

5 MR. HOUGHTON: Questions of Eric?

6 MR. AUSTIN: I just have one question. Eric,
7 so this money that's being invested, these are true
8 capital expenditures; these don't go for overhead.

9 MR. GLEASON: That's correct.

10 MR. AUSTIN: So moved.

11 MR. HOUGHTON: Second?

12 MR. MOSELEY: Second.

13 MR. HOUGHTON: All in favor?

14 (A chorus of ayes.)

15 MR. HOUGHTON: Thank you, Eric.

16 MR. WILSON: Next up is item 6, authorizing the
17 executive director of the department to issue an RFQ for
18 the development, design, construction, financing,
19 maintenance and operation of all or part of the SH 183
20 Managed Lanes Project. This item will be presented by
21 Strategic Projects Division Director Ed Pensock. Ed.

22 MR. PENSOCK: Good morning, Chairman,
23 commissioners, Director Wilson. Again for the record, Ed
24 Pensock with Strategic Projects Division.

25 Item 6 authorizes the department to issue a

1 request for qualifications to develop, design, construct,
2 finance, operate and maintain all or part of the SH 183
3 Managed Lanes Project. The project is comprised of
4 improvements in Dallas and Tarrant counties to SH 183
5 between SH 121 and I-35E, and additional facilities that
6 are necessary for connectivity and financing.

7 The goals of the project are to replace
8 functionally obsolete, deteriorating infrastructure, as
9 well as add capacity in these congested corridors. The
10 inclusion of any facilities connecting to the SH 183
11 project would also improve mobility in the area and
12 benefit overall operations and financing of the project.
13 Inclusions of these facilities is subject to future
14 legislative authorization and local primacy.

15 By previous resolution adopted March 1, 2012,
16 the North Texas Tollway Authority confirmed their previous
17 waivers and declined to exercise their option to develop,
18 design, finance, construct, operate and maintain a port of
19 SH 183 Managed Lanes Project in Dallas County.

20 Improvements to this corridor and inclusion of
21 any connecting facilities are critical to the region's
22 continued mobility and economic vitality. I'd also like
23 to note that part of this project is on the top 100 most
24 congested roadways in the state.

25 Staff recommends acceptance of this minute

1 order.

2 MR. MOSELEY: I'll second Commissioner Meadows'
3 motion to approve.

4 MR. MEADOWS: Move approval.

5 MR. HOUGHTON: All in favor?

6 (A chorus of ayes.)

7 MR. WILSON: Item 7 will approve an amendment
8 to the original pass-through toll agreement with
9 Montgomery County. This item will be presented by Chief
10 Financial Officer James Bass.

11 MR. BASS: Good morning. For the record, I'm
12 James Bass, chief financial officer at TxDOT.

13 As Mr. Wilson stated, previously in 2005 the
14 commission approved a pass-through agreement with
15 Montgomery County under which some of the funds paid to
16 the county over time would be set aside in an escrow
17 account to fund future projects jointly selected by the
18 department and the county. Due to recent increased costs
19 in construction costs of delivering the initial projects,
20 the county needs to lower the amount to go into the escrow
21 account for future projects and redirect those funds for
22 the current projects that are being delivered.

23 Staff recommends your approval, and I would be
24 happy to answer any questions you might have.

25 MR. HOUGHTON: Any questions? James, let me

1 ask you a question. Are we constructing these facilities?

2 These are on the state highway system, obviously.

3 MR. BASS: Yes. There were a series of five
4 projects.

5 MR. HOUGHTON: I remember way back, this was
6 back in 2005.

7 MR. BASS: Correct. And they're wrapping up
8 the fifth one now, I believe.

9 MR. HOUGHTON: Any questions? Motion?

10 MR. MOSELEY: So moved, Chairman.

11 MR. AUSTIN: Second.

12 MR. HOUGHTON: All in favor?

13 (A chorus of ayes.)

14 MR. HOUGHTON: Thanks, James.

15 MR. BASS: Thank you.

16 MR. WILSON: Next is item 8a, considering
17 approval of the department's option to develop, construct,
18 finance and operate a part of SH 99 and authorizing the
19 Grand Parkway Transportation Corporation to finance
20 pre-development costs. This item will be presented by
21 Strategic Projects Division Director Ed Pensock. Ed.

22 MR. PENSOCK: Good morning again. For the
23 record, Ed Pensock, Strategic Projects.

24 Item 8a does three things. It authorizes the
25 department's determination to exercise its option to

1 develop, finance and construct and operate a portion of
2 SH 99, the Grand Parkway in Liberty County. Item 8a also
3 authorizes the project, consisting of a portion of
4 Segments H, I-1 and I-2 of Grand Parkway in Harris,
5 Montgomery, Liberty and Chambers counties with DEVELOP
6 authority. And finally, this item authorizes the Grand
7 Parkway Transportation Corporation to finance up to \$300
8 million of pre-development costs on future segments, with
9 priority attention given to Segments H, I-1 and I-2, from
10 proceeds of Grand Parkway Transportation Corporation's
11 toll revenue bonds.

12 On December 8, 2012, Liberty County
13 Commissioners Court elected to rescind the county's
14 previous exercise of its option to develop the project.
15 Harris, Montgomery and Chambers counties had earlier
16 rescinded their primacy, and the commission has approved
17 the department's determination to exercise its option of
18 primacy on these segments.

19 The department has determined that the future
20 environmental and engineering studies cost and revenue
21 analysis and payment of some pre-development costs are
22 needed to determine the most feasible delivery method for
23 this project. Grand Parkway Transportation Corporation
24 has determined that it has the capacity to finance up to
25 \$300 million of pre-development costs associated with the

1 development of future segments of the Grand Parkway. And
2 staff recommends acceptance of this minute order.

3 MR. MOSELEY: So moved.

4 MR. HOUGHTON: Let me ask one question. Does
5 this get the Grand Parkway down to Interstate Highway 10
6 on the east side?

7 MR. PENSOCK: Yes, sir, Chairman. It gets it
8 to Interstate 10 and potentially south of 10 all the way
9 in to the SH 146 and the Port of Houston.

10 MR. HOUGHTON: Into the port. Right?

11 MR. PENSOCK: Yes, sir.

12 MR. HOUGHTON: That's a monumental event,
13 Commissioner Moseley, a big day.

14 MR. AUSTIN: I have one question I'd like to
15 ask Commissioner Moseley. I know the last meeting or
16 meeting before last we were talking about the Grand
17 Parkway that was set up to help obtain possible donations
18 of right of way. Any progress with that? How does that
19 tie into future progress?

20 MR. MOSELEY: Well, thank you, Commissioner
21 Austin. If it please the chair and members, I'd like to
22 bring forward a couple of names at our next month's
23 meeting to serve on the Grand Parkway Association as board
24 members, and it's my understanding that they're going to
25 be very committed to really working hard towards securing

1 more donations of right of way, and there may be some
2 other updates that you'd have, but it is an important time
3 in the development of Grand Parkway to reach out and
4 invite landholders to participate.

5 Chairman, I just want to also thank the
6 leadership of Liberty County, the commissioners court.
7 This is a wonderful development to see the Grand Parkway
8 through and it will be a wonderful component part to the
9 development of the Houston Ship Channel related to the
10 Panama Canal. This is a strategic segment of the Grand
11 Parkway that will serve the entire interests of the state.

12 MR. AUSTIN: I'll second, Mr. Chairman.

13 MR. HOUGHTON: And I also want to thank
14 Representative John Otto for his involvement. He was key
15 to getting some of this taken care of, so thanks to him.

16 MR. PENSOCK: It's about a 40-mile extension of
17 the next phase of Grand Parkway, it's a very, very
18 important critical piece of the project.

19 MR. HOUGHTON: Great partnership. And there's
20 a motion and a second. All in favor?

21 (A chorus of ayes.)

22 MR. HOUGHTON: Thank you very much, Ed.

23 MR. WILSON: Item 8b authorizes the department
24 to enter into an agreement with the CTRMA for the
25 development, construction, operation and maintenance of

1 the MoPac Improvement Project. This item will be
2 presented by Director of Planning Marc Williams. Marc.

3 MR. WILLIAMS: Good morning. Again for the
4 record, Marc Williams, director of Planning.

5 As Phil recognized, this minute order
6 authorizes the executive director to develop and enter
7 into an agreement with the CTRMA that will provide for the
8 connection of that facility to the state highway system,
9 along with the development and construction and operation
10 of the project. It's an 11.2-mile section of the MoPac
11 Managed Lane Project between FM 734, which is Parmer Lane
12 to the north, and then Cesar Chavez Street here in Travis
13 County.

14 The commission, in Minute Order 11-3252, August
15 30 of 2012, authorized the department and the CTRMA to
16 enter into an agreement under which financial assistance
17 in the amount of \$197.6 million was made available to the
18 CTRMA to pay for the cost of the construction for the
19 MoPac improvement project.

20 Under Transportation Code 370.187 and Texas
21 Administrative Code 4326.31, a regional mobility authority
22 must request commission approval of a transportation
23 project that will connect to the state highway system or
24 to a department rail facility. And a public-private
25 entity may not connect a regionally significant highway to

1 a segment without the approval of the commission.

2 This minute order provides for this approval
3 and gives authority to the executive director to approve
4 that agreement. Staff recommends approval of this minute
5 order.

6 MR. HOUGHTON: Michael, do you want to talk?
7 You signed a card. You don't want to talk? You just
8 think this is a slam dunk.

9 (General laughter.)

10 MR. HOUGHTON: Any questions from the
11 commission?

12 MR. AUSTIN: I always have questions for Mike,
13 but since he's not coming up, I move approval.

14 MR. HOUGHTON: Second?

15 MR. UNDERWOOD: Second.

16 MR. HOUGHTON: All in favor?

17 (A chorus of ayes.)

18 MR. HOUGHTON: Thanks, Marc.

19 MR. WILSON: Next up is item 8c, establishing
20 temporary toll rate tables on segments of SH 130. This
21 item will be presented by Toll Operation Division Director
22 Doug Woodall. Doug.

23 MR. WOODALL: Gentlemen, for the record, Doug
24 Woodall, Toll Operations Division.

25 Item 8c authorizes changes to toll rates on

1 State Highway 130, Segments 1 through 4, and State Highway
2 45 Southeast for the period of February 4 through March 3,
3 2013. The intent of the temporary change is to encourage
4 greater truck usage on the toll roads during the winter
5 season. The rates would revert back to current rates on
6 March 4, 2013. This would establish temporary toll rates
7 to charge the two-axle rate for all vehicles, regardless
8 of classification.

9 The department's traffic consultant has
10 provided a certification indicating that the adoption of
11 the temporary changes in toll rates will not adversely
12 affect the ability of the commission to comply with the
13 rate covenants. Staff recommends your approval.

14 MR. HOUGHTON: Questions?

15 MR. AUSTIN: Move approval.

16 MR. UNDERWOOD: Second.

17 MR. HOUGHTON: All in favor?

18 (A chorus of ayes.)

19 MR. HOUGHTON: Thank you, sir.

20 MR. WOODALL: Thank you very much.

21 MR. WILSON: Moving on to the promulgation of
22 administrative rules, item 9a(1) is the final adoption of
23 amendments to Chapter 9. This item will be presented by
24 Design Division Director Mark Marek.

25 MR. MAREK: For the record, my name is Mark

1 Marek. I'm the director of the Design Division for the
2 Texas Department of Transportation.

3 This proposed final adoption minute order
4 includes the repeal of rules in Sections 9.30 through 9.43
5 and the option of new Sections 9.30 through 9.39. These
6 rules pertain to the item of Contracting for Architectural
7 Engineering and Surveying Services.

8 These professional services are procured by the
9 department in accordance with the Professional Services
10 Procurement Act, Government Code Chapter 2254, Subchapter
11 A, and 23 Code of Federal Regulations, Section 172.5.
12 These amendments were proposed before the commission at
13 the October 25, 2012 meeting and posted in the *Texas*
14 *Register* on November 12, 2012.

15 The proposed amendments were done primarily to
16 bring the department into compliance with current federal
17 requirements for contracting of professional services.
18 These proposed amendments also provide a new
19 organizational structure to the rules that follows a
20 logical sequence of pre-certification, provider selection,
21 contract negotiation, and contract management.

22 New Section 9.34 establishes a procedure for
23 firms to become administratively qualified through self-
24 certification. This option to self-certify is important,
25 as it provides a means by which to become administratively

1 qualified without having to conduct an external audit.

2 These audits are sometimes cost-prohibitive,
3 particularly to small businesses. This self-certification
4 process is endorsed by the Federal Highway Administration.

5 As stated in the new rule, self-certification shall be
6 conducted in accordance with Generally Accepted Government
7 Auditing Standards and AASHTO's Uniform Audit Accounting
8 Guide.

9 New Sections 9.34 and 9.35 separate the current
10 provider selection process into two parts: a standard
11 process and a federal process. The federal process must
12 be used for any engineering or design-related services
13 contract related to a construction project and reimbursed
14 with Federal Aid Highway Program funds. Also, providers
15 competing for contracts under the federal process must be
16 administratively qualified.

17 The standard process may be used for any
18 contract not subject to the federal process; that is,
19 contracts that use state resources and don't use federal
20 funds. Also, providers competing for contracts under the
21 standard process need not be administratively qualified.
22 Firms that do not have an audited overhead rate may opt to
23 use a rate established by the TxDOT Audit Office.

24 New Section 9.36 establishes a new provider
25 selection process known as a small contract process. For

1 this process, the total contract value may not exceed
2 \$750,000, the contract must not be subject to federal
3 processes, and the contract must be a specific deliverable
4 contract.

5 This procurement method differs from the
6 current two-step selection process in which the department
7 first evaluates letters of interest and then evaluates an
8 interview and/or proposal. Under the small contract
9 process, a provider will be evaluated and selected
10 strictly on the information it provides in its statement
11 of qualifications. Thus by establishing a basic selection
12 process specific to small contracts that require a lower
13 investment on the part of the providers, the department
14 hopes to provide more opportunities for small businesses
15 to compete for department contracts as prime providers.

16 Prior to proposing these amendments, staff met
17 with the Federal Highway Administration and consultant
18 industry representatives and considered their input in
19 drafting these rule revisions.

20 The department received three comments on the
21 proposed rules. The first comment concerned Section
22 9.34(g)(1), which allows the department to disqualify a
23 consultant's letter of interest if the firm or an employee
24 of the firm has a record of unprofessional conduct. The
25 comment stated that this provision was overly vague and

1 provided no due process. The department agreed and
2 revised the provision to clarify its original intent. As
3 revised, the rules require any finding of professional
4 misconduct to be determined by a final ruling of a state
5 licensing agency or a court of law.

6 The second comment is related to Section
7 9.34(I)(2)(E), which lists as an evaluation criteria prime
8 providers' past performance scores in the database for
9 department contracts reflecting less than satisfactory
10 performance. The comment questioned the validity of the
11 database and stated a lack of consistency and
12 universality. The comment suggested that the database not
13 be used.

14 The department, however, will maintain the rule
15 as proposed. Evaluation of past performance is required
16 under federal law, namely, the Brooks Act, and 23 Code of
17 Federal Regulations, Part 172. However, the department
18 agrees that the database should be applied consistently
19 and universally. Currently, the department is finalizing
20 a software application that will remove a measure of
21 subjectivity insofar as how the evaluations are used.

22 Using a purely mathematical approach, project
23 managers and firms will receive scores based on their
24 evaluations in the database. Each project manager and
25 firm pairing will generate a composite score which will be

1 used in the short-list phase of the selection process.
2 The department intends to brief the consultant community
3 on the operation of the application and disclose the
4 software's methodology.

5 The third and final comment related to Section
6 9.34(c), which addresses the makeup of the consultant
7 selection teams. Note that this aspect of the rules did
8 not change under these proposed amendments. The comments
9 suggested that the rules be amended to ensure that for a
10 given selection the consultant selection team members are
11 from the district in which a project is located. The
12 department has decided to maintain the rule.

13 On consultant selection teams for district
14 contracts, district employees consistently ratio two to
15 one versus non-district team members. Also, the
16 department's project manager, a district employee for
17 district contracts, is required to be on the consultant
18 selection team. While the district representation is
19 certainly important, specialization is sometimes required.

20 Certain contracts require expertise from outside the
21 district. For example, a contract requiring specialized
22 bridge design, the consultant selection team would
23 certainly need representation from the department's Bridge
24 Division.

25 Finally, not all contracts that use the

1 selection process outlined in these rules will be district
2 contracts. Some will be overseen by divisions, offices,
3 or special task groups, and necessitate a variety of team
4 members.

5 This was a complex rule development process.
6 As stated earlier, prior to the rules being proposed,
7 several groups were identified and offered input. The
8 Design Division wishes to specifically recognize the
9 assistance provided by the American Consulting Engineering
10 Companies, Texas Chapter, the Federal Highway
11 Administration, Texas Division, and certainly Leonard
12 Reese of the TxDOT Office of General Counsel for their
13 time and input.

14 Staff recommends approval of this minute order.

15 MR. HOUGHTON: And there will be a quiz at the
16 end of the commission meeting regarding this rule, so I
17 hope everyone listened intently.

18 Mark, that is quite detailed, a lot of input,
19 good input.

20 MR. MAREK: We received excellent input from
21 the private sector, sir.

22 MR. HOUGHTON: Yes, that was good.

23 Is there a motion?

24 MR. UNDERWOOD: I've got a quick question. By
25 making these changes, how will this affect the smaller

1 businesses that try to do business with us?

2 MR. MAREK: In two ways. We've agreed with the
3 Federal Highway Administration on a process that allows
4 small firms to self-certify.

5 MR. UNDERWOOD: Right. I caught that part,
6 saving them money of not having to have a fancy audit.

7 MR. MAREK: Correct. And the other way, under
8 our small contract process is those firms will be selected
9 for those small contracts strictly on the basis of a
10 statement of qualifications. There will be no interview
11 proposal, so that will reduce their cost in proposing on
12 those projects.

13 MR. UNDERWOOD: Also, you mentioned that you're
14 going to go out and explain this new software. To me,
15 it's critical that this is done to the smaller business
16 that complain a lot of times that they don't have a chance
17 to do business with TxDOT. So you will address that -- is
18 that correct? -- to these smaller businesses?

19 MR. MAREK: Yes, we will.

20 MR. UNDERWOOD: The DBEs, wherever it be.

21 MR. HOUGHTON: Those are very important facts.

22 MR. UNDERWOOD: Thank you.

23 MR. HOUGHTON: Thanks. Now is there a motion?

24 MR. AUSTIN: So moved.

25 MR. UNDERWOOD: Second.

1 MR. HOUGHTON: All in favor?

2 (A chorus of ayes.)

3 MR. WILSON: Item 9a(2) is the final adoption
4 of amendments to Chapter 12, Public Donation and
5 Participation Program. This item will be presented by
6 Maintenance Division Director Howard Holland.

7 MR. HOLLAND: Good morning. For the record, my
8 name is Howard Holland, director of the Maintenance
9 Division for the Texas Department of Transportation.

10 We're proposing the final adoption of new
11 sections to Chapter 12. These new rules will allow the
12 department to place signs to acknowledge the acceptance of
13 donations of funds for transportation services, such as
14 mowing, litter pickup, maintenance of picnic areas, safety
15 rest areas, and travel information centers. These new
16 rules allow the department to solicit proposals for one or
17 more professional service vendors to market, administer,
18 recruit and secure sponsors for the program at no cost to
19 the department.

20 This was adopted by the commission in October
21 and published for comment. No comments were received.
22 Staff recommends approval.

23 MR. HOUGHTON: Motion?

24 MR. AUSTIN: So moved.

25 MR. UNDERWOOD: Second.

1 MR. HOUGHTON: All in favor?

2 (A chorus of ayes.)

3 MR. HOUGHTON: Thank you.

4 MR. HOLLAND: Thank you.

5 MR. WILSON: Item 6b(1), proposed adoption of
6 amendments to Chapter 1. This item will be presented by
7 Director of Planning Marc Williams. Marc.

8 MR. WILLIAMS: Again for the record, Marc
9 Williams, director of Planning for TxDOT.

10 This proposed amendment to Chapter 1 of our
11 Administrative Code will formalize the rules governing the
12 Freight Advisory Committee. Under a previous order and
13 under existing administrative rules, the commission was
14 able to create the Freight Advisory Committee earlier in
15 this session.

16 This minute order will propose specific
17 amendments to our Administrative Code to specifically
18 address the ongoing guidelines, purpose and duties of the
19 Freight Advisory Committee and to formalize it in our
20 administrative rules on par with many of our other
21 standing advisory committees that exist, such as the I-69
22 and I-35 committees.

23 Comments on the proposed amendments will be
24 accepted until 5:00 p.m. on March 18 of 2013. Staff
25 recommends approval of this minute order for proposed

1 adoption.

2 MR. AUSTIN: I just have one question. As we
3 look at the Freight Advisory, this will be an ongoing
4 committee.

5 MR. WILLIAMS: Yes, sir.

6 MR. AUSTIN: For example, the I-69, that has a
7 beginning and an end, with some of the other advisory
8 committees. So this will be a permanent committee.

9 MR. WILLIAMS: This is envisioned, yes, sir, to
10 be a permanent committee, and really, again, addressing
11 some of the requirements and recommendations from MAP-21
12 at the federal level.

13 MR. AUSTIN: I think it's well needed. Thank
14 you for your effort on this. I make a motion we approve.

15 MR. HOUGHTON: Second?

16 MR. UNDERWOOD: Second.

17 MR. HOUGHTON: All in favor?

18 (A chorus of ayes.)

19 MR. WILSON: Item 6b(2) is the proposed
20 amendments to Chapter 2 relating to Project Coordination
21 and Public Participation. This item will be presented by
22 General Counsel Jeff Graham.

23 MR. GRAHAM: Good morning, Chairman,
24 commissioners, Director Phil.

25 This is the adoption of a new memorandum of

1 understanding with the Parks and Wildlife Department, the
2 Historical Commission, and TCEQ. The specifics of each of
3 those will be discussed momentarily by Mr. Swonke. The
4 purpose of this minute order is simply to document that
5 these amendments merely change references in Chapter 2 and
6 accurately cite to the new provisions.

7 Staff recommends that you adopt this minute
8 order.

9 MR. HOUGHTON: Questions?

10 MR. AUSTIN: And this MOU is good till
11 canceled, or does this have a time?

12 MR. GRAHAM: Each of those individual MOUs will
13 be discussed by Carlos Swonke as soon as I step down, so
14 he can answer any questions you have about any of them.

15 MR. AUSTIN: I so move.

16 MR. HOUGHTON: Is there a second?

17 MR. UNDERWOOD: Second.

18 MR. HOUGHTON: All in favor?

19 (A chorus of ayes.)

20 MR. GRAHAM: Thank you.

21 MR. HOUGHTON: Thanks, Jeff.

22 MR. WILSON: Next up is item 9b(3), proposed
23 amendments to Chapter 2 and relating to the memorandum of
24 understanding with the Texas Parks and Wildlife
25 Department. This item will be presented by Environmental

1 Affairs Division Director Carlos Swonke.

2 MR. SWONKE: Good morning. For the record, my
3 name is Carlos Swonke, director of the Environmental
4 Affairs Division for TxDOT.

5 This agenda item is regarding the revision of
6 the existing memorandum of understanding between TxDOT and
7 the Texas Parks and Wildlife Department. The revision
8 requires the proposed repeal of Sections 2.21 and 2.22 and
9 a simultaneous proposal to adopt new Subchapter G under 43
10 TAC, Chapter 2.

11 Transportation Code 201.607 requires this MOU
12 for the environmental review of transportation projects.
13 The MOU describes the responsibility of each agency in
14 performing the environmental reviews. The existing MOU
15 with the Texas Parks and Wildlife Department has been in
16 effect since 1999. We send about 300 to 400 environmental
17 documents to that agency for review a year. By rule, they
18 have 45 days to review and comment.

19 The major changes to the proposed MOU include
20 identifying both agencies' intent to use early
21 coordination as the primary coordination mechanism instead
22 of waiting for and coordinating the completed
23 environmental document. We also plan to outline
24 programmatic agreements to facilitate flexible and
25 efficient approaches to perform the coordination. We are

1 working on those agreements right now.

2 We are committed to establish a TxDOT funded
3 position at the Parks and Wildlife Department. Two goals
4 of this funded position is to reduce by 50 percent the
5 number of documents we send to that agency, and secondly,
6 we are going to expect shorter review times with that
7 funded position.

8 We also have created or plan to create an
9 interagency implementation team. That team will be
10 assigned to track and report the effectiveness of the
11 coordination.

12 I'd like to note that for this MOU and the
13 other two on the agenda, we entered into the negotiations
14 with the respective agency staff with the intent to find
15 efficiencies and to seek value-added outcomes. I think we
16 took a step in that direction. And even though there were
17 disagreements in the negotiations, as expected, I think we
18 ended up with stronger partnerships with each of those
19 agencies.

20 If the proposed repeal and proposed adoption is
21 approved, a public hearing would be scheduled for March 7
22 of this year. We recommend approval.

23 MR. HOUGHTON: This is excellent work, Carlos,
24 streamlining the process with these three agencies that we
25 do a lot of business with, and it's all about time is

1 money and this is part of it.

2 Any other questions?

3 MR. AUSTIN: Just kind of going back to my
4 prior question - I'm sorry I asked that out of order --
5 the timing of these, are these MOUs in place until
6 canceled or until modified?

7 MR. SWONKE: They are in statute to be revised
8 or revisited every five years, so they're kind of rolling,
9 as you will. They all three were put in place in 1995.

10 MR. AUSTIN: I want to follow up on Chairman
11 Houghton's comment. Yes, this is saving time and money.
12 I want to say, Carlos, thank you because under your
13 leadership with your efforts we constantly receive a lot
14 of comments we really like the new things that were put in
15 place last year. How do these tie into that? Because
16 this is the question each of us receive: What is the
17 department doing to be saving money, saving funds? And
18 this is one of those efforts to combine processes and
19 streamline things. And I don't want to put you on the
20 spot, but if this will save X amount of time, dollars,
21 would you mind elaborating on that?

22 MR. SWONKE: Yes. You could kind of crunch the
23 numbers as far as how long it takes to coordinate each
24 document. They have 45 days to review and comment; fairly
25 often we get comments after that 45 days, but we can

1 calculate an average review time. The processing time for
2 the whole environmental process, we get their input
3 towards the end of the process, and that's where the
4 savings can come in, is that we don't perform the early
5 coordination like we should and we want to do that under
6 this MOU, and also that 45 days is usually tacked on at
7 the end when we're trying to get the environmental
8 approval out the door.

9 So I think with the Parks and Wildlife
10 commitment to reduce, first off, the number of documents
11 they receive -- you heard that they receive about almost
12 400 a year, based on historical accounts -- if we cut that
13 to 200, that's 200 projects that don't need that 45 days
14 anymore at the end of the process. So that's part of the
15 savings right there: time equals money.

16 MR. AUSTIN: Save myself asking another
17 question, that applies to the next two items as well, to
18 the other agencies as well.

19 MR. SWONKE: Yes, it does.

20 MR. AUSTIN: Well, thank you. And having
21 everybody at the table early on, talking, saves time and
22 money, I want to say thank you again, because this is
23 cutting down the process and we can deliver a process much
24 faster and quicker and still keep the checks and balances
25 in place.

1 MR. SWONKE: Very much.

2 MR. HOUGHTON: Any other questions or comments?

3 MR. AUSTIN: So moved.

4 MR. MOSELEY: Second.

5 MR. HOUGHTON: All in favor?

6 (A chorus of ayes.)

7 MR. HOUGHTON: Thank you.

8 MR. WILSON: Now item 9b(4), proposed
9 amendments to Chapter 2 relating to the memorandum of
10 understanding with the Texas Historical Commission. This
11 item will also be presented by Carlos Swonke. Carlos.

12 MR. SWONKE: Again for the record, I'm Carlos
13 Swonke, director of the Environmental Affairs Division for
14 TxDOT.

15 This agenda item is regarding the revision of
16 the existing MOU between TxDOT and the Texas Historical
17 Commission. The revision requires the proposed repeal of
18 Section 2.24 and simultaneous proposal to adopt new
19 Subchapter H under 43 TAC, Chapter 2.

20 Transportation Code 201.607 requires this MOU
21 for the environmental review of transportation projects.
22 The MOU describes the responsibility of each agency in
23 performing the environmental reviews. The existing MOU
24 with the THC has been in effect since 2004. We send about
25 200 to 300 project documents a year to the THC. The

1 current MOU allows for 30 days for the THC to review and
2 provide comment.

3 Major changes that we're proposing in the new
4 MOU: we are proposing to reduce the review time for the
5 THC from 30 days down to 20 days; we are expanding the
6 list of project types that are excluded from review by the
7 THC; and we've simplified language to make the process
8 more accessible to local project sponsors, including
9 procedures for direct coordination by local project
10 sponsors. Staff is confident that we have improved the
11 efficiency and effectiveness of the department's
12 coordination with the THC through this proposed MOU.

13 If this proposal is adopted, we will hold a
14 public hearing March 7. Staff recommends approval.

15 MR. HOUGHTON: Questions?

16 MR. MOSELEY: So moved, Chairman.

17 MR. HOUGHTON: Second?

18 MR. AUSTIN: Second.

19 MR. HOUGHTON: All in favor?

20 (A chorus of ayes.)

21 MR. HOUGHTON: Thanks, Carlos.

22 MR. WILSON: Item 9b(5) is the proposed
23 adoption of amendments to Chapter 2 relating to the
24 memorandum of understanding with the Texas Commission on
25 Environmental Quality. Carlos will continue.

1 MR. SWONKE: One more time for the record, I'm
2 Carlos Swonke, director of the Environmental Affairs
3 Division for TxDOT.

4 This agenda item is regarding the revision to
5 the existing MOU between TxDOT and Texas Commission on
6 Environmental Quality. The revision requires the proposed
7 repeal of Section 2.23 and simultaneous proposal to adopt
8 new Subchapter I under 43 TAC, Chapter 2.

9 Transportation Code 201.607 requires this MOU
10 for the environmental review of transportation projects.
11 The MOU describes the responsibility of each agency in
12 performing the environmental reviews. The existing MOU
13 with TCEQ has been in effect since 2002. We send less than
14 25 project documents a year to the TCEQ for review. The
15 current MOU allows 45 days for the TCEQ to review and
16 provide comments.

17 The changes that we are proposing under the new
18 MOU: we are excluding categorical exclusion documents
19 from the coordination process; we are allowing early
20 coordination of environmental reports instead of waiting
21 for and coordinating the completed environmental document;
22 and to bring ourselves into this century, we are now
23 allowing for coordination to be coordinated electronically
24 through email versus hard copy reports. Staff is
25 confident that we have improved the efficiency and

1 effectiveness of the department's coordination with TCEQ
2 with these changes.

3 If this proposed repeal and proposed adoption
4 is approved, a public hearing on the MOU would be
5 scheduled for March 7. Staff recommends approval.

6 MR. MOSELEY: So moved, Chairman.

7 MR. AUSTIN: Second.

8 MR. HOUGHTON: All in favor?

9 (A chorus of ayes.)

10 MR. HOUGHTON: That's it. Thanks, Carlos.

11 MR. WILSON: Next up is item 9b(6), proposed
12 amendments to Chapter 7, Railroad Facilities. This item
13 will be presented by General Counsel Jeff Graham.

14 MR. GRAHAM: Good morning again. I'm Jeff
15 Graham, general counsel here at TxDOT.

16 This is part of the department's review of its
17 rules. As part of that we found some outdated references
18 to various laws. This is cleaning that up, making sure
19 that all the references to federal and state laws are now
20 current. So basically this change merely updates and
21 consolidates the references to reflect current law.

22 Staff recommends that we adopt this minute
23 order.

24 MR. HOUGHTON: Questions? Motion?

25 MR. AUSTIN: So moved.

1 MR. UNDERWOOD: Second.

2 MR. HOUGHTON: All in favor?

3 (A chorus of ayes.)

4 MR. WILSON: Now item 9c, Rule Review, Jeff
5 Graham will also continue.

6 MR. GRAHAM: This is in accordance with
7 Government Code, Section 2001.039, readoption of Title 43,
8 TAC, Texas Administrative Code, Chapter 2, Environmental
9 Review of Transportation Projects, and Chapter 7, Rail
10 Facilities, some of which you just heard from me, some of
11 which you just heard from Carlos Swonke.

12 State law requires a state agency to review
13 each of its rules every four years. After the review we
14 have to readopt them, readopt them with changes, or repeal
15 the rule. In this case we are recommending that we
16 readopt these rules with the changes you have just heard,
17 and staff recommends that you adopt the attached minute
18 order.

19 MR. AUSTIN: So moved.

20 MR. HOUGHTON: Second?

21 MR. UNDERWOOD: Second.

22 MR. HOUGHTON: All in favor?

23 (A chorus of ayes.)

24 MR. HOUGHTON: That's it, Jeff? That's the
25 longest you've been up since you've been here.

1 MR. GRAHAM: That's true.

2 MR. WILSON: Item 10 will be presented by
3 Suzanne Latimer, director of the Office of Compliance and
4 Ethics. She'll make her monthly report on the compliance
5 and ethics report. Suzanne.

6 MS. LATIMER: For the record, I am Suzanne
7 Latimer, director of the Office of Compliance and Ethics
8 for TxDOT.

9 The purpose of this report is to provide a
10 summary of information related to complaints and
11 investigations for the month of December 2012.
12 Transportation Code 201.452 provides that the Compliance
13 Office has primary jurisdiction for oversight and
14 coordination of all investigations occurring on department
15 property or involving department employees.

16 Transportation Code 201.454 requires the director of the
17 Compliance Office to provide a monthly report to the
18 commission regarding investigations and a summary of
19 information relating to trends and recommendations.

20 The Human Resources Division, the Office of
21 Civil Rights, and the Audit Office are all assigned
22 complaints to be investigated and notify the Office of
23 Compliance and Ethics when investigations are initiated
24 and completed. The Office of Compliance and Ethics
25 monitors these investigations. All data is compiled by

1 the Office of Compliance and Ethics for reporting
2 purposes.

3 There were 15 complaints received during the
4 month of December, 13 complaints were closed during
5 December, and allegations were substantiated in five of
6 the investigations. No further action is needed.

7 MR. HOUGHTON: Thank you.

8 MR. WILSON: Moving on to item 11a.

9 MR. MOSELEY: Chairman, I was going to ask, I
10 appreciate these reports, but I just wonder if it would be
11 useful to the commission from time to time to perhaps
12 convene in an executive session to receive more detail.

13 MR. HOUGHTON: I think we've had this
14 discussion. Jeff, do you want to address that issue?

15 MR. GRAHAM: Absolutely. Commissioner Moseley,
16 executive session is limited to certain enumerated items.

17 If you have questions specifically related to these kind
18 of issues or complaints, if you have a specific question
19 about the complaint of a specific individual, that's
20 certainly a topic which is appropriate for executive
21 session. If you want to talk generically about the
22 complaint process or complaints received, that is not
23 something which is appropriate.

24 MR. MOSELEY: No, I wouldn't want to talk
25 generically about it; I was just asking rhetorically if

1 there's value in us convening in executive from time to
2 time to get specifics so we can get a sense of how this
3 agency can be more responsive to some of the challenges we
4 face in this area.

5 MR. GRAHAM: Absolutely.

6 MR. MOSELEY: That would be appropriate. Is
7 that correct?

8 MR. GRAHAM: Yes, sir, so long as it's a
9 discussion about a complaint about a specific employee.

10 MR. MOSELEY: Yes.

11 MR. GRAHAM: The odd distinction is discussing
12 a complaint by a specific employee is not appropriate for
13 executive session. Say if someone complained about
14 myself, you can certainly meet in executive session to
15 discuss that.

16 MR. MOSELEY: Okay.

17 MR. UNDERWOOD: I want to follow up on that,
18 Jeff.

19 MR. GRAHAM: Yes, sir.

20 MR. HOUGHTON: Jeff, Jeff, Jeff.

21 MR. MOSELEY: Be more specific.

22 (General laughter.)

23 MR. UNDERWOOD: Thank you. You're right. To
24 the Jeff in front of me, and not the two to to my side.
25 I'm following up on his question because -- and Suzanne,

1 we talked about this -- if there are trends that we're
2 seeing and problems in compliance, is there a problem with
3 us having an executive session to discuss those, or do we
4 have to do that in open session?

5 MR. GRAHAM: That would be open session, sir.

6 MR. UNDERWOOD: So if then we see a trend, then
7 we're going to have to individually talk to Suzanne. But
8 we've already had this discussion that you'll notify me if
9 you see any trends that are going on and problems with
10 compliance.

11 MS. LATIMER: Yes, sir, I will definitely
12 notify you of trends. I can also notify anyone
13 individually of that too and meet with you individually.

14 I do meet with you individually for training
15 but then I'm also available anytime you're in town to meet
16 with you individually also.

17 MR. UNDERWOOD: Right. What she's saying is
18 that we have a standing meeting once a month where we
19 discuss compliance problems.

20 MS. LATIMER: Fred and I talk every month, but
21 I'm willing to do that with anyone that wants to see me.

22 MR. UNDERWOOD: And I would recommend my fellow
23 commissioners occasionally to sit down and get a handle on
24 what's going on, please.

25 MR. MOSELEY: Thank you.

1 MR. UNDERWOOD: Thank you for your comments,
2 Jeff.

3 MR. AUSTIN: And I'd like to follow up on that
4 also. From time to time there are things, if it involves
5 a loss, a theft, a major compliance violation that it does
6 come before the Audit Subcommittee.

7 MS. LATIMER: Yes, it does.

8 MR. AUSTIN: That Commissioner Underwood
9 chairs. So there are some things that we do see, and
10 sometimes it may be warranted to refer it to the Audit
11 Division.

12 MS. LATIMER: Yes. We give a quarterly report
13 to the Audit Subcommittee, and we attend all of those
14 meetings too, so the members of that are seeing the trends
15 and everything. But again, I'm available anytime anybody
16 wants to talk to me.

17 MR. UNDERWOOD: But that in itself is public
18 for what we do there; that's open to anyone.

19 MS. LATIMER: Yes, it is.

20 MR. MOSELEY: Thank you, Chairman.

21 MR. HOUGHTON: Any other questions?

22 (No response.)

23 MR. WILSON: Moving on to item 11a, Central
24 Texas Turnpike System revenue bonds, this item will be
25 presented by Innovative Finance Management Office Director

1 Ben Asher.

2 MR. ASHER: Good morning, Mr. Chairman,
3 commissioners, Executive Director Wilson. For the record,
4 I'm Benjamin Asher, the Innovative Financing Debt
5 Management officer.

6 This item seeks authorization for the issuance
7 of Central Texas Turnpike System revenue refunding bonds
8 to obtain debt service savings as a result of the
9 favorable interest rate environment. The bonds would be
10 required to achieve a debt service savings of at least 3
11 percent.

12 Staff recommends approval, and I'd be happy to
13 answer any questions you would have.

14 MR. HOUGHTON: Questions? Motion?

15 MR. AUSTIN: So moved.

16 MR. UNDERWOOD: Second.

17 MR. HOUGHTON: All in favor?

18 (A chorus of ayes.)

19 MR. WILSON: Item 11b relates to State Highway
20 Fund revenue bonds. This item will also be presented by
21 Innovative Financing and Debt Office Management Office
22 Director Ben Asher.

23 MR. ASHER: Again for the record, I'm Benjamin
24 Asher, the Innovative Financing Debt Management officer.

25 This item seeks authorization for the issuance

1 of additional State Highway revenue bonds and refunding
2 bonds if the 3 percent target that I mentioned earlier can
3 be achieved.

4 Staff recommends approval, and I'd be happy to
5 answer any questions.

6 MR. HOUGHTON: Motion or questions?

7 MR. AUSTIN: I'll move, but I have one
8 question. Ben, I know we've had some refundings, we've
9 done some things in the past, and as you look at this 3
10 percent, because of the rate environment, because of your
11 attention, we've been able to achieve far greater than the
12 3 percent.

13 MR. ASHER: Yes, that's correct, Commissioner.
14 That's an industry standard and a guideline we have, but
15 you are absolutely correct. In fact, we've been able to
16 achieve well in excess of that 3 percent and would be
17 optimistic that we could again be above that.

18 MR. AUSTIN: Thank you.

19 MR. HOUGHTON: Is there a motion?

20 MR. AUSTIN: I so move.

21 MR. UNDERWOOD: Second.

22 MR. HOUGHTON: All in favor?

23 (A chorus of ayes.)

24 MR. WILSON: Next is item 11c, relating to
25 Texas Mobility Fund obligations, Ben will continue. Ben.

1 MR. ASHER: Again, Benjamin Asher, Innovative
2 Finance Debt Management officer.

3 This item is similar to the ones just
4 discussed, but it's for the Texas Mobility Fund Bond
5 Program, authorizing additional Texas Mobility bonds and
6 refunding bonds if that targeted debt service savings of
7 3 percent can be achieved.

8 Staff recommends approval, and I'd be happy to
9 answer any further questions.

10 MR. AUSTIN: So moved.

11 MR. HOUGHTON: Second?

12 MR. MOSELEY: Second.

13 MR. HOUGHTON: All in favor?

14 (A chorus of ayes.)

15 MR. HOUGHTON: Thanks, Ben.

16 MR. WILSON: Next is item 12, the approval of
17 updates to the 2013 Unified Transportation Program. This
18 item will be presented by Director of Planning Marc
19 Williams.

20 MR. WILLIAMS: Thank you, Phil. Again for the
21 record, Marc Williams, Director of Planning.

22 This minute order is to approve updates to the
23 2013 Unified Transportation Program, or the UTP. The
24 commission approved the 2013 UTP on April 26 of 2012, and
25 revisions to the UTP on June 28, August 30, October 25 and

1 December 15 of 2012.

2 A public meeting was held on Wednesday,
3 December 12, 2012 to discuss the 2013 UTP revisions, and
4 a formal public hearing was conducted on Tuesday, January
5 8, 2013 at 10:00 a.m. Comments were accepted until
6 January 14, 2013 at 4:00 p.m. No comments were received.

7 Changes to the UTP include funding level
8 adjustments due to fund transfer requests, allocating a
9 portion of our remaining FY 2013 MAP-21 federal funds to
10 priority projects, updating project lists to authorize or
11 de-authorize funding, providing programming authority for
12 additional Strategy 111 engineering funds, providing
13 information on available transportation development
14 credits, and other minor revisions or technical
15 corrections.

16 I'll be happy to answer any questions. Staff
17 recommends approval.

18 MR. HOUGHTON: Any questions of Marc?

19 MR. AUSTIN: So moved.

20 MR. UNDERWOOD: Second.

21 MR. HOUGHTON: All in favor?

22 (A chorus of ayes.)

23 MR. HOUGHTON: Thanks.

24 MR. WILSON: The next items are the award of
25 contracts for maintenance and department building

1 construction and highway construction contracts. John
2 Obr, Construction Division director, will present these
3 minute orders. Item 13a.

4 MR. OBR: Good morning. For the record, I am
5 John Obr, director of the Construction Division.

6 Item 13a is for consideration of the award or
7 rejection of Highway Maintenance and Department Building
8 Construction contracts let on January 8 and 9 of 2013. We
9 present 36 projects today. The average number of bids per
10 project was 4.56; the low bid value was \$37,937,089.14;
11 and we had an overall underrun of 7.4 percent. Staff
12 recommends award of all maintenance projects.

13 We received a claim for an alleged bid error
14 this month for Parmer County project BPM-625275001. Four
15 bids were received for this project. The low bid on this
16 project was 5.15 percent, or \$29,543.36 over the
17 engineer's estimate. Within the time allotted in the
18 Texas Administrative Code, Title 43, Part 1, Chapter 9,
19 Subchapter B, Rule 9.16, the contractor, K-Bar Services,
20 Inc., notified the department of an alleged error in their
21 bid. The contractor alleges that in preparation of their
22 bid, an error occurred when they inadvertently submitted a
23 price of \$60 for item 351-2011, flexible pavement
24 structure repair 18-inch, when they intended to submit
25 \$160 for this item.

1 Our analysis of the bid in question reveals
2 that the bid does not appear to meet the criteria of a bid
3 error, as outlined in Rule 9.16 of the TAC. Further, our
4 analysis revealed that in preparation of their bid, the
5 contractor failed to exercise ordinary care, failing to
6 ensure that all bid items were correct prior to submitting
7 their bid. Therefore, we are recommending award of this
8 contract to the apparent low bidder.

9 MR. HOUGHTON: Are there questions? Motion?

10 MR. AUSTIN: So moved.

11 MR. HOUGHTON: Second?

12 MR. MOSELEY: Second.

13 MR. HOUGHTON: All in favor?

14 (A chorus of ayes.)

15 MR. HOUGHTON: Thank you.

16 MR. WILSON: John, please proceed with item
17 13b, construction contracts.

18 MR. OBR: Item 13b is for consideration of the
19 award or rejection of Highway and Transportation
20 Enhancement Building Construction contracts let on January
21 8 and 9 of 2013. We present 51 projects today. The
22 average number of bids per project was 4.53; the low bid
23 value was \$140,257,664.17; the awards are split as one
24 project in Mobility totaling \$2,324,375.93, and 50
25 projects in Preservation totaling \$137,933,288.24; we had

1 an overall underrun of 1.19 percent. These totals are
2 inclusive of December deferred project number HP 2008(345)
3 in Tarrant County.

4 Staff recommends award of all construction
5 projects with the exception of the following project:
6 Tarrant County project number HP 2008(345). The project
7 received eight submitted bids. The low bid on this
8 project was 14.8 percent, or \$2,911,103.94 over the
9 engineer's estimate. This project is for miscellaneous
10 work, grading, paving, drainage, pavement markings, signs,
11 et cetera. The required railroad agreements for this
12 project are not in place. We are, therefore, recommending
13 that the project be rejected and let at a later date.

14 MR. HOUGHTON: Are there questions of John?

15 MR. AUSTIN: Moved as presented.

16 MR. HOUGHTON: Second?

17 MR. UNDERWOOD: Second.

18 MR. HOUGHTON: All in favor?

19 (A chorus of ayes.)

20 MR. HOUGHTON: Thanks, John.

21 MR. WILSON: That brings us to item 14, Eminent
22 Domain Proceedings. Right of Way Division Director John
23 Campbell will present this minute order.

24 MR. CAMPBELL: Good morning. For the record,
25 my name is John Campbell. I'm the director of the Right

1 of Way Division.

2 I'd like to present for your consideration this
3 morning item 14, which authorizes filing of condemnation
4 proceedings necessary to progress the acquisition by
5 exercise of condemnation for 13 non-controlled and 15
6 controlled access parcels, for a total of 28 for your
7 consideration.

8 Staff recommends your approval of the minute
9 order before you with the following note of clarification:

10 We withdrew four parcels from consideration at the last
11 moment, so some of the earlier materials that you received
12 may make reference to those four items. The action that
13 you have in front of you is accurate and reflects just
14 those 28 that are up for consideration. Staff recommends
15 your approval.

16 MR. HOUGHTON: Commissioner Moseley.

17 MR. MOSELEY: Chairman, I move the Texas
18 Transportation Commission authorize the Texas Department
19 of Transportation to use the power of eminent domain to
20 acquire the properties described in the minute order set
21 forth in the agenda for the current month for
22 construction, reconstruction, maintenance, widening,
23 straightening or extending the highway facilities listed
24 in the minute order as a part of the state highway system,
25 and that the first record vote applies to all units of

1 property to be condemned.

2 MR. AUSTIN: Second.

3 MR. HOUGHTON: All in favor?

4 (A chorus of ayes.)

5 MR. HOUGHTON: Thank you, John.

6 MR. WILSON: Item 15 contains the Routine
7 Minute Orders, including donations to the department,
8 right of way dispositions and donations, release of access
9 rights, finance, transportation planning, and speed zones.
10 Department staff recommends the adoption of all of these
11 items and the deferment of item 15a(7). Staff will be
12 happy to explain any of these individual items as needed.

13 MR. HOUGHTON: Motion?

14 MR. AUSTIN: I move we approve and defer item
15 15a(7).

16 MR. HOUGHTON: Second?

17 MR. UNDERWOOD: Second.

18 MR. HOUGHTON: All in favor?

19 (A chorus of ayes.)

20 MR. HOUGHTON: Thank you.

21 Did anybody sign a blue card, Rose? No blue
22 cards.

23 At this time we will recess into executive
24 session under Government Code Section 551.071 and Section
25 551.074.

1 (Whereupon, at 10:15 a.m., the meeting was
2 recessed, to reconvene this same day, Thursday, January
3 31, 2013, following conclusion of the executive session.)

4 MR. HOUGHTON: We are reconvening. The time is
5 11:09. The commission has concluded its executive
6 session.

7 Are there any other items to come before the
8 commission, Rose? None.

9 If not, this completes all action items. Is
10 there anyone signed up? Nobody to talk. I'll entertain a
11 motion to adjourn.

12 MR. MOSELEY: So moved, Chairman.

13 MR. AUSTIN: Second.

14 MR. HOUGHTON: We are so adjourned.

15 (Whereupon, at 11:10 a.m., the meeting was
16 concluded.)

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

MEETING OF: Texas Transportation Commission

LOCATION: Austin, Texas

DATE: January 31, 2013

I do hereby certify that the foregoing pages, numbers 1 through 78, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Transportation.

(Transcriber) 02/07/2013
(Date)

On the Record Reporting
3636 Executive Ctr Dr., G-22
Austin, Texas 78731