These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on February 23, 2006, in Austin, Texas. The meeting opened at 9:01 a.m. with the following commissioners present:

**Texas Transportation Commission:**
Ric Williamson    Chair
John Johnson     Commissioner
Hope Andrade     Commissioner
Ted Houghton, Jr.   Commissioner

**Administrative Staff:**
Michael W. Behrens, Executive Director
Steve Simmons, Deputy Executive Director
Richard Monroe, General Counsel
Roger Polson, Executive Assistant to the Deputy Executive Director
Dee Hernandez, Chief Minute Clerk

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 4:03 p.m. on February 15, 2006, as required by Chapter 551, of the Government Code, referred to as “The Open Meetings Act.”

**ITEM 1. Approval of Minutes** of the January 26, 2006, regular meeting of the Texas Transportation Commission

Commissioner Johnson made a motion, seconded by Commissioner Houghton, and the commission approved the minutes of the January 26, 2006, regular meeting of the Texas Transportation Commission.

**ITEM 2. DISCUSSION ITEMS**

a. Commission recommendations to the Texas Legislature regarding potential statutory changes that would improve the operations of the department

This item was presented by Government and Business Enterprises Division Director Coby Chase.

**ITEM 3. DELEGATION**
(Delegation requests will be considered and action taken as may be appropriate)

a. **San Antonio Mobility Coalition** – Discuss regional planning and implementation of new financing tools for projects
February 23, 2006

The commission received comments from San Antonio Chamber of Commerce President Joseph Krier; State Senator Jeff Wentworth; State Representative Ruth Jones McClendon; Bexar County Judge Nelson Wolff; and San Antonio Alamo Regional Mobility Authority Chairman Bill Thornton; and Chairman of VIA Metropolitan Transit Tim Tuggey.


The commission received comments from San Antonio Toll Party Regional Director Terri Hall.

Executive Director Michael Behrens presented an award to former Federal Highway Administration Director Dan Reagan who in turn presented an award to Executive Director Michael Behrens upon 35 years of service with the department.

ITEM 4. REPORT
Progress report on planning for the Ports-to-Plains highway

This report was presented by City of Lubbock Mayor Pro-Tem Tom Martin; and Ports to Plains Corridor Coalition President Michael Reeves.

ITEM 8. Promulgation of Administrative Rules
b. Final Adoption
(4) Chapter 29 – Maintenance
Repeal of §29.48 and New §29.48, concerning Boarding Priorities (for Galveston/Port Bolivar and Port Aransas Ferries)

The commission received comments from Ben Frishman; Port Aransas Mayor Georgia Neblett; and City Manager City of Port Aransas Michael Kovacs.

Commissioner Johnson made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by Assistant Executive Director Steve Simmons.

110423
ADM

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §29.48 and new §29.48, relating to boarding priorities for state owned ferries, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted repeal and new section, attached to this minute order as Exhibits A - C, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the repeal of §29.48 and new §29.48 are adopted and are authorized for filing with the Office of the Secretary of State.
The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

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

**ITEM 7. AVIATION**

**Various Counties** – Approve funding for airport improvement projects at various locations

The commission received comments from City of McKinney City Manager Larry Robinson; and Collin County Regional Airport Director Ken Wiegand.

Commissioner Johnson made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Aviation Division Director David Fulton:

110424

The Texas Department of Transportation (department) is authorized under AVN
Transportation Code, Chapter 21 and Chapter 22, to assist in the development and
establishment of airports in the State of Texas.

The airports listed in Exhibit A are currently in need of improvements to preserve
the airports or to meet standards. Due to the interest on the part of the airport sponsors,
the department recommends that the improvements be funded.

On Monday, January 23, 2006, a public hearing was held. Favorable comments
were received regarding the grant requested by the City of McKinney.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that
the executive director, or the director’s designee, is authorized to enter into any necessary
agreements to fund, through the Aviation Facilities Grant Program, the projects described
in Exhibit A at an estimated cost of $4,508,680.

Note: Exhibit A on file with minute order clerk.

**ITEM 8. Promulgation of Administrative Rules**

a. **Proposed Adoption** Under Title 43, Texas Administrative Code, and the
   Administrative Procedure Act, Government Code, Chapter 2001:
   (to be published in the Texas Register for public comment)

(2) **Chapter 31 – Public Transportation**

Repeal of §31.3, Definitions (General), §31.61, Rail Transit Agency Responsibilities,
§31.62, State Responsibilities, §31.64, Contractors for Rail Transit Agencies, and §31.65,
Deadlines (Rail Safety Oversight Program), and New §31.3, Definitions (General),
§31.61, Rail Transit Agency Responsibilities, §31.62, Deadlines (Rail Fixed Guideway
System State Safety Oversight Program)

The commission inadvertently received comments from The Apartment Movers,
Inc. President Rod Johnson who meant his testimony for Item 8.b.(2).
Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by Public Transportation Division Director Eric Gleason:

The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §31.3, §31.61, §31.62, §31.64 and §31.65, and new §31.3, §31.61 and §31.62, relating to fixed guideway rail systems, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the repeals and new sections are attached to this minute order as Exhibits A - E, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the repeal of §31.3, §31.61, §31.62, §31.64 and §31.65, and new §31.3, §31.61 and §31.62 are proposed for adoption and are authorized for publication in the Texas Register for the purpose of receiving public comments.

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

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

ITEM 8. Promulgation of Administrative Rules
b. Final Adoption
(2) Chapter 18 – Motor Carriers

This item was deferred.

ITEM 13. PASS-THROUGH TOLLS
Authority to Execute Agreement
b. Hays County – City of San Marcos – Authorize the executive director to execute a pass-through toll agreement with the City of San Marcos for improvements to extend and expand FM 3407 (Wonder World Drive) from FM 2439 (Hunter Road) west to RM 12

The commission received comments from City of San Marcos Mayor Susan Narvaiz.
Commissioner Andrade made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Assistant Executive Director for Engineering Operations Amadeo Saenz:

On March 11, 2005, the City of San Marcos (city) submitted a proposal for a pass-through toll agreement. The city's proposal, among other things, provided for the city to construct, maintain, and operate, the extension and expansion of FM 3407 (Wonder World Drive) from FM 2439 (Hunter Road) westward to intersect with RM 12.

In accordance with Section 222.104(b), Transportation Code, the Texas Transportation Commission (commission) granted preliminary approval on May 26, 2005 in Minute Order 110089 authorizing the Texas Department of Transportation (department) to enter into an agreement with a public or private entity that provides for the payment of pass-through tolls to the public or private entity as reimbursement for the construction, maintenance, or operation of a toll or non-toll facility on the state highway system by the public or private entity. A pass-through toll is a per vehicle fee or a per vehicle-mile fee that is determined by the number of vehicles using a facility.

The Texas Transportation Commission (commission) previously adopted rules, codified as 43 TAC §§5.51-5.59, that prescribe the policies and procedures governing the department's implementation of Section 222.104(b), Transportation Code.

Section 5.54 of the commission's rules provide that the commission may authorize the department's executive director or his designee to negotiate a pass-through toll agreement with a public entity after considering the following factors: (1) financial benefits to the state; (2) local public support for the projects; (3) whether the projects are in the department's Unified Transportation Program (UTP); (4) the extent to which the projects will relieve congestion on the state highway system; (5) the potential benefits to regional air quality that may be derived from the projects; (6) compatibility of the proposed projects with existing and planned facilities; and (7) the entity's experience in developing highway projects.

The department and the City of San Marcos have agreed to a reimbursement through pass-through tolls of $60,600,000 for the construction of the projects in their proposal. The per vehicle mile reimbursement rate will be $0.15 per mile. The minimum amount to be reimbursed in any year with all projects open to traffic is $3,030,000 and the maximum amount will be $6,060,000. The agreement will expire once the total amount of the agreement has been reimbursed. The project will be authorized in Category 12, Strategic Priority, and will be reimbursed from Strategic Priority funds.

Before the projects in this proposal are planned, developed, or constructed using funds administered by the department, the projects: (1) must be included in the CAMPO Metropolitan Transportation Plan; (2) must be included in the department’s UTP, thereby identifying committed funding for each project; (3) prior to construction, must be included in the CAMPO Transportation Improvement Program and the department’s Statewide Transportation Improvement Program; and (4) will be subject to any and all applicable planning and environmental processes and approvals as mandated by state and federal regulations regarding such matters.
IT IS THEREFORE ORDERED that the executive director or his designee is
authorized to execute a pass-through toll agreement with the City of San Marcos in
accordance with the negotiated terms and such other terms the department determines are
necessary.

ITEM 16. ROUTINE MINUTE ORDERS
   c. Highway Designations
      (2) Hidalgo County – Designate a new controlled access facility on the state highway
          system as an extension of FM 396 to the proposed Anzalduas International Bridge

          The commission received comments from City of Mission Mayor Norberto
          Salinas; and Mission Redevelopment Authority Chairman Dennis Burleson.

          Commissioner Andrade made a motion, seconded by Commissioner Houghton
          and the commission approved the following minute order presented by Executive
          Director Michael Behrens.

          In HIDALGO COUNTY, in the City of Mission, officials have requested the
designation of a controlled access facility to connect the proposed Anzalduas
International Bridge to US 83. The new facility will be designated as an extension of
FARM TO MARKET ROAD 396 (Urban Road) on the state highway system.

          Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive
director has recommended that the new location be designated on the state highway
system as FM 396.

          IT IS THEREFORE ORDERED by the Texas Transportation Commission that a
new controlled access facility be designated on the state highway system as FM 396
(Urban Road) from the intersection of US 83 to approximately 0.5 mile south of the
intersection of FM 1016, a distance of approximately 3.58 miles.

          IT IS FURTHER ORDERED that the extension of FM 396 (Urban Road) will not
be designated on the state highway system prior to the award of the construction contract.

ITEM 2. DISCUSSION ITEMS (continued)
   a. Commission recommendations to the Texas Legislature regarding potential statutory
      changes that would improve the operations of the department

      This item was presented by Government and Business Enterprises Division
      Director Coby Chase.

   b. Development of the Legislative Appropriations Request

      This item was presented by Chief Financial Officer James Bass.
ITEM 5. FEDERAL LEGISLATIVE AFFAIRS
Adoption of a report to the United States Congress making recommendations to accelerate the delivery of transportation infrastructure

Commissioner Andrade made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Government and Business Enterprises Division Director Coby Chase:

The Texas Transportation Commission (commission) has authority over transportation policy development involving the state transportation system.

Prior to the expiration of the Transportation Equity Act for the 21st Century (TEA 21), the Texas Department of Transportation offered a number of proposals for the United States Congress to consider as it reauthorized the act. The Congress chose to act on many of those recommendations when it passed the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” (SAFETEA-LU) on July 29, 2005. Those recommendations included federal flexibility to match the state flexibility found in legislation signed into law by Governor Rick Perry, minimizing design-build regulations, awarding transportation development credits on a pro rata basis, greater discretion in tolling the federal-aid highway system, streamlining the environmental process, and receiving a greater rate of return on the fuel taxes sent to Washington, D.C.

The 109th United States Congress, Second Session, has now convened.

Various members of the Texas Congressional Delegation, as well as officials of the United States Department of Transportation (US DOT), have expressed an interest in receiving the commission’s recommendations on federal legislation and executive branch actions. These recommendations are in the attached report, titled “Building on Success”.

IT IS THEREFORE ORDERED that the commission adopts this report, attached as Exhibit A, in its entirety and that the chairman of the commission provide the report to the governor, the lieutenant governor, the speaker of the house of representatives, members of the Texas delegation to the United States Congress, the presiding officers of its relevant committees of jurisdiction, the secretary of the United States Department of Transportation, and the administrator of the Federal Highway Administration.

Note: Exhibit A on file with minute order clerk.

ITEM 6. DISCUSSION ITEMS
a. Contracting for an independent audit of department management and business operations

This item was presented by Audit Office Director Owen Whitworth.

b. Update on the development of new project evaluation indexes

This item was presented by Assistant Executive Director for Engineering Operations Amadeo Saenz.
ITEM 8. Promulgation of Administrative Rules  
  a. Proposed Adoption  
     Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:  
     (to be published in the Texas Register for public comment)  
     (1) **Chapter 5 – Finance**  
          New §§5.70-5.74, New Subchapter F – Transportation Development Credit Program

  Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by Chief Financial Officer James Bass:

  The Texas Transportation Commission (commission) finds it necessary to propose new §§5.70 – 5.74, relating to award of transportation development credits, to be codified under Title 43, Texas Administrative Code, Part 1.

  The preamble and the proposed new sections, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.

  IT IS THEREFORE ORDERED by the commission that new §§5.70 – 5.74 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

  b. Final Adoption
     (1) **Chapter 5 – Finance and Chapter 27 – Toll Projects**
          Amendments to §5.44, Exceptions (Payment Fees for Department Goods and Services) and Amendments to §27.80, Definitions, New §27.82, Toll Operations and New §27.83, Contracts to Operate Department Toll Projects (Operation of Department Turnpike Projects)

  Commissioner Johnson made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Texas Turnpike Authority Division Director Phillip Russell:

  The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §5.44, relating to the payment of fees for department goods and services, and amendments to §27.80 and new §27.82 and §27.83, relating to the operation of department turnpike projects, to be codified under Title 43, Texas Administrative Code, Part 1.
February 23, 2006

The preambles and the adopted amendments and new sections, attached to this minute order as Exhibits A - D, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §5.44 and §27.80 and new §27.82 and §27.83 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

(3) Chapter 25 – Traffic Operations

a. Amendments to §25.1, Uniform Traffic Control Devices (General)

Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by Traffic Operations Division Director Carlos Lopez.

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §25.1, relating to uniform traffic control devices, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §25.1 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

b. Amendments to §25.21, Introduction, §25.23, Speed Zone Studies, and §25.25, Application of Advisory Speeds (Procedures for Establishing Speed Zones)

Commissioner Andrade made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Traffic Operations Division Director Carlos Lopez.

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §25.21, §25.23, and §25.25, relating to procedures for establishing speed zones, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.
February 23, 2006

IT IS THEREFORE ORDERED by the commission that the amendments to §25.21, §25.23, and §25.25 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

c. Amendments to §25.41, Definitions (Congestion Mitigation Facilities)

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Traffic Operations Division Director Carlos Lopez.

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §25.41, Definitions, relating to congestion mitigation facilities.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §25.41 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

ITEM 9. TRANSPORTATION PLANNING

a. Cameron County – Approve revisions to the Brownsville Metropolitan Planning Organization metropolitan area boundary

Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by Transportation Planning and Programming Division Director Jim Randall:

Pursuant to Title 43, Texas Administrative Code (TAC), §15.3, revisions to metropolitan planning area boundaries must be approved by the governor or the governor’s designee. The governor and the Texas Department of Transportation (department) must be provided documentation and the rationale supporting any recommended boundary change.

In accordance with Title 23, CFR §450.308, a metropolitan planning area boundary shall, as a minimum, cover the urbanized area and the contiguous geographic area(s) likely to become urbanized within the 20-year forecast period covered by the metropolitan transportation plan.
The United States Census Bureau recently provided information which impacts the Brownsville urbanized area. The Adjusted 2000 Urbanized Area Boundary for the Brownsville Metropolitan Planning Organization (MPO) increased the size of the current metropolitan planning area boundary.

On June 8, 2005, the Brownsville MPO Policy Committee approved the adjusted metropolitan area boundary to match the location of the 2000 Urbanized Area Boundary.

On October 4, 2005, Governor Perry delegated authority to the Texas Transportation Commission (commission) to approve metropolitan planning area boundary changes.

The commission has reviewed and accepted the documentation and rationale supporting the metropolitan planning area boundary changes provided by the Brownsville MPO.

IT IS THEREFORE ORDERED by the commission that the proposed Brownsville MPO metropolitan area boundary changes are hereby approved in accordance with the U.S. Census Bureau Adjusted 2000 Urbanized Area Boundary as shown in Exhibit A.

Note: Exhibit A on file with minute order clerk.

b. Various Counties – Appoint new members to the Port Authority Advisory Committee

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Transportation Planning and Programming Division Director Jim Randall:

Transportation Code, Section 55.006, requires the Texas Transportation Commission (commission) to appoint a seven-member Port Authority Advisory Committee (committee) to advise the commission and the Texas Department of Transportation (department) on port issues and to provide a forum for exchange of information between the commission, the department, and committee members representing the Texas port system.

The department’s administrative rules governing advisory committees, Title 43, Texas Administrative Code, Section 1.84, provide that the committee members serve staggered three-year terms, unless removed sooner at the discretion of the commission.

The commission has determined that the individuals listed below fulfill the statutory requirements to serve as members of the committee and shall serve the terms specified:

Terms expiring in February 26, 2009

Bernard List  Port of Brownsville, Lower Texas Coast
A.J. “Pete” Reixach Port of Freeport, Upper Texas Coast
Tony Rigdon  Port of Palacios, Upper Texas Coast

IT IS THEREFORE ORDERED by the commission that the individuals identified above are appointed for the terms specified as members of the Port Authority Advisory Committee.
ITEM 10. COMPREHENSIVE DEVELOPMENT AGREEMENTS

a. Authorize the Texas Department of Transportation to issue a request for qualifications for the development of the proposed I-69/Trans-Texas Corridor, a planned multimodal transportation facility, extending from Northeast Texas to the border with Mexico at Laredo and/or the Rio Grande Valley with a possible connection to the Texas Gulf Coast.

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Texas Turnpike Authority Division Director Phillip Russell:

Transportation infrastructure in Texas is a key factor in the state’s economic vitality, quality of life and natural environment. Planning, funding, constructing, operating and maintaining an efficient and effective transportation system has become more challenging as population and trade increase throughout the state.

On January 28, 2002, Governor Perry unveiled the Trans-Texas Corridor (TTC), a proposed 4,000-mile, multi-use transportation system to move people and goods across the state, and directed the Texas Transportation Commission (commission) to develop an implementation plan.

On June 27, 2002, in Minute Order 108927, the commission accepted “Crossroads of the Americas: Trans-Texas Corridor Plan,” which identifies action items, public involvement opportunities, environmental protection strategies and financing options to develop the TTC. I-69/Trans-Texas Corridor (I-69/TTC) was identified in the plan as one of four priority segments and is essentially the joining of I-69 (a nationally designated interstate highway corridor) and the TTC, a high-capacity, high-speed multimodal transportation system in Texas. I-69/TTC is a planned multimodal transportation facility extending from Northeast Texas to the border with Mexico at Laredo and/or the Rio Grande Valley with a possible connection to the Texas Gulf Coast.

Chapter 227, Transportation Code, authorizes the commission and the Texas Department of Transportation (department) to establish, designate, construct, and operate a system of multimodal facilities to be designated as the TTC.

Section 227.023(c), Transportation Code provides that to the extent and in the manner in which the department may enter into comprehensive development agreements under Chapter 223, Transportation Code, the department may enter into comprehensive development agreements with regard to facilities on the TTC.

Section 223.203, Transportation Code, and 43 TAC §§27.1-27.5 prescribe the process by which the department may enter into a comprehensive development agreement with a private entity that provides for the development, design, construction, financing, maintenance, or operation of an eligible project, and require the department, should a decision be made to solicit proposals for an eligible project, to publish a request for qualifications in the Texas Register that includes the criteria that will be used to evaluate any qualification submittals, the relative weight given to the criteria, and a deadline by which qualification submittals must be received.
Development of this priority segment is a crucial element in the successful
development of the TTC. There exists the potential for expediting the completion of this
corridor through the development of a partnership of federal, state, and local
governments, businesses, and citizens, and the employment of innovative methods.

IT IS THEREFORE ORDERED by the commission that the department is
authorized and directed to publish in the Texas Register and in one or more newspapers
of general circulation a request for qualifications for the development of the I-69/TTC
from Northeast Texas to Mexico and other facilities to the extent necessary for
connectivity, mobility, safety, and financing.

b. Approve a policy for providing commitments to fund transportation projects and air-
quality projects in regions across the state from payments anticipated to be made to the
Texas Department of Transportation under comprehensive development agreements

This item was deferred.

ITEM 11. STATE INFRASTRUCTURE BANK
Webb County – Consider final approval of an application from Webb County to borrow
$249,142 from the State Infrastructure Bank to pay for preliminary engineering design
study of Cuatros Vientos Road (Bob Bullock Loop) from the intersection of Loop 20/
SH 359 to Mangana-Hein Road

Commissioner Andrade made a motion, seconded by Commissioner Johnson and
the commission approved the following minute order presented by Texas Turnpike
Authority Division Director Phillip Russell:

Section 350 of the National Highway System Designation Act of 1995 (Public Law
No. 104-59) authorizes states to establish a State Infrastructure Bank (SIB) to make loans
and provide other financial assistance to public and private entities. Transportation Code,
Chapter 222, Subchapter D, created a SIB within the Texas Department of Transportation
(department). The Texas Transportation Commission (commission) has adopted
administrative rules implementing that subchapter and establishing eligibility criteria for
an entity applying for financial assistance from the SIB. These rules are codified as Title
43, Texas Administrative Code, Chapter 6.

In accordance with 43 TAC §6.23, Webb County (county) has submitted an
application to borrow $249,142 from the SIB to fund a preliminary engineering design
study for the Cuatro Vientos Road (Bob Bullock Loop) from the intersection of Loop 20/
SH 359 to Mangana-Hein Road in Laredo, TX. The project is authorized with
Category 4, Statewide Connectivity Corridor Project funds.

The completion of the project will provide improved safety for the traveling
public and improve the efficiency of the state transportation system. These facts indicate
that there is a transportation need for and anticipated public benefit from the proposed
project. The project is consistent with the Texas Transportation Plan, and is included in
the Statewide Transportation Improvement Program.
Under 43 TAC §6.32(b), applications for financial assistance in the amount of $250,000 or less may be approved by the commission using one final approval process if the application complies with all requirements prescribed in subsections (c)-(h) of that section except the negotiation process.

The county has represented that the loan will be secured by certificates of obligations. The project and the applicant are likely to have sufficient revenue to assure repayment of the requested financial assistance. The present and projected financial condition of the SIB is sufficient to cover this request.

On September 8, 2003, the Webb County Commissioners’ Court passed a resolution authorizing submission of this application to the department. This resolution indicates the official written approval of the project by the governing body of the county and demonstrates local public support.

In accordance with 43 TAC §6.32(d), all necessary studies of the social, economic, and environmental impact of the project have been conducted, resulting in a finding of no significant impact and no further coordination is required. Accordingly, the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate for adverse environmental impacts.

The proposed project and loan are in conformity with the purposes of the SIB and will expand the availability of funding for transportation projects and reduce direct state costs.

In accordance with 43 TAC §6.31, the department has reviewed and analyzed the application, finds the application to be in compliance with the requirements of 43 TAC, Chapter 6, and recommends that the commission grant final approval of the application pursuant to 43 TAC §6.32.

NOW, THEREFORE, IT IS DETERMINED that the application for SIB financial assistance submitted by Webb County meets the requirements of 43 TAC §6.32(b) and (e), and in accordance with that section, the commission grants final approval of the application to borrow $249,142 from the State Infrastructure Bank, to be repaid over a period of 15 years at 4.0 percent interest per annum, and authorizes and directs the executive director to enter into a financial assistance agreement with Webb County.

ITEM 12. FINANCE

a. Harris County – Accept the annual report of financial information and operating data relating to the Lease with an Option to Purchase for the Houston District Headquarters Complex Project

Commissioner Johnson made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Chief Financial Officer James Bass:

Transportation Code, Section 201.1055, authorized the Texas Department of Transportation (department) to enter into an agreement that includes design and construction of a district office headquarters facility in a county with a population of 3.3
million or more; lease department-owned real property in such a district to a private entity; authorize a private entity to construct and retain ownership of a building on the leased property and enter into a lease with an option to purchase such a building.

The commission by Minute Order No. 110121, authorized the department to execute various transaction documents including a lease with an option to purchase (LWOP) in connection with renovating and constructing buildings for the Houston District Headquarters.

Article XVI of the LWOP requires the department to provide within six months after the end of the fiscal year certain updated financial information and operating data.

IT IS THEREFORE ORDERED by the commission that the annual report of financial information and operating data, attached as Exhibit A, is accepted.

Note: Exhibit A on file with minute order clerk.

b. Travis and Williamson Counties – Accept the annual report of financial information and operating data relating to the Central Texas Turnpike System, as required by the indenture of trust governing the obligations issued for the 2002 Project of the Central Texas Turnpike System

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Chief Financial Officer James Bass:

110439 Transportation Code, Chapter 228 and other applicable law authorizes the Texas FIN Transportation Commission (commission) to issue turnpike revenue bonds, bond anticipation notes, and other obligations to finance turnpike projects on the state highway system, and to enter into trust agreements and indentures of trust governing matters relating to the issuance of such obligations.

The commission issued turnpike revenue bonds and other obligations to finance a portion of the costs of the Central Texas Turnpike System (System), a turnpike project composed initially of the SH 130 (Segments 1 through 4), SH 45 North, and Loop 1 project elements (2002 Project). The commission also authorized the execution of an indenture of trust and four supplemental indentures to secure revenue bonds and other obligations issued for the 2002 Project. The Indenture of Trust dated July 15, 2002 (indenture) prescribes the terms, provisions and covenants related to the issuance of turnpike revenue bonds and obligations to finance a portion of the costs of the 2002 Project.

Section 716 of the indenture requires the commission to provide annually, within 6 months after the end of each fiscal year, updated financial information and operating data with respect to the commission and the System of the general type included in specified sections of the final official statement relating to the Series 2002 First Tier Obligations and Series 2002 Second Tier Bond Anticipation Notes issued for the 2002 Project (annual report). The annual report is required to include a copy of the General Engineering Consultant’s construction progress report for the last quarter of the fiscal
year and investment earnings on funds in the Construction Fund, as defined in the indenture, for such fiscal year. The August 31, 2005 General Engineering Consultant's construction progress report has been previously filed with the central post office for filing with each Nationally Recognized Municipal Securities Information Repository and State Information Depository in accordance with the indenture, and, therefore, the annual report contains a more current version (November 30, 2005) of the General Engineering Consultant's construction progress report. The annual report is attached as Exhibit 1.

IT IS THEREFORE ORDERED by the commission that the annual report of financial information and operating data with respect to the commission and the System, attached as Exhibit 1, is accepted.

Note: Exhibit 1 on file with minute order clerk.

c. Accept the annual report of financial information and operating data relating to the Texas Mobility Fund, as required by the first supplemental resolution to the master resolution governing the obligations issued for the Texas Transportation Commission Mobility Fund Revenue Financing Program

Commissioner Johnson made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Chief Financial Officer James Bass:

Article III, Section 49-k of the Texas Constitution created the Texas Mobility Fund (Mobility Fund) within the treasury of the State of Texas (state) to be administered by the Texas Transportation Commission (commission) as a revolving fund to (i) provide a method of financing the construction, reconstruction, acquisition, and expansion of state highways, including costs of any necessary design and costs of acquisition of rights of way, as determined by the commission in accordance with standards and procedures established by law and (ii) provide participation by the state in the payment of a portion of the costs of constructing and providing publicly-owned toll roads and other public transportation projects in accordance with the procedures, standards, and limitations established by law.

Pursuant to a Master Resolution, a First Supplemental Resolution, and a Second Supplemental Resolution each adopted on May 4, 2005, the commission issued two series of obligations under Transportation Code, Chapter 201 and other applicable law, which obligations are secured by and payable from a pledge of and lien on all or part of the moneys in the Mobility Fund, and a full faith and credit pledge of the state, and which obligations were issued in the name and on behalf of the state to (i) pay all or part of the costs of constructing, reconstructing, acquiring, and expanding State highways, including any necessary design and acquisition of rights of way, in the manner and locations determined by the commission that, according to conclusive findings of the commission, have an expected useful life, without material repair, of not less than 10 years; (ii) provide participation by the state in the payment of part of the costs of constructing and providing publicly owned toll roads and other public transportation projects that are
determined by the commission to be in the best interests of the state in its major goal of improving the mobility of the residents of the state; and (iii) pay the costs of issuance.

Under Section 7.09 of the First Supplemental Resolution, the commission has covenanted to provide annually, within six months after the end of each fiscal year, financial information and operating data with respect to the Mobility Fund of the general type in the attached Exhibit A.

IT IS THEREFORE ORDERED by the commission that the annual report of financial information and operating data, attached as Exhibit B, is accepted.

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

d. Authorize the establishment of the State Highway Fund Revenue Financing Program, approve the financial plan, and authorize the filing of an application with the Bond Review Board for approval of the issuance of obligations secured by revenue in the State Highway Fund for the purpose of financing costs of authorized projects

Commissioner Johnson made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Chief Financial Officer James Bass:

110441 Section 49-n, Article III, of the Texas Constitution (Constitutional Provision) FIN provides that the Texas Legislature may authorize the Texas Transportation Commission (Commission) to issue bonds and other public securities and enter into bond enhancement agreements that are payable from revenue deposited to the credit of the state highway fund to fund state highway improvement projects (Highway Improvement Projects).

The Constitutional Provision provides for the appropriation of amounts from state highway fund revenues that are sufficient to pay the principal of and interest on such bonds or other public securities and any cost related to the bonds and other public securities, including payments under bond enhancement agreements.

The Constitutional Provision further provides that any dedication or appropriation of revenue to the credit of the state highway fund may not be modified so as to impair any outstanding bonds or other public securities secured by a pledge of state highway fund revenue.

Pursuant to the Constitutional Provision, the Texas Legislature enacted Section 222.003, Texas Transportation Code (Enabling Act), which authorizes the Commission to issue bonds and other public securities secured by a pledge of interest and payable from revenue deposited to the credit of the state highway fund.

The Enabling Act provides that (i) the aggregate principal amount of such bonds and other public securities may not exceed $3 billion, (ii) the Commission may only issue bonds or other public securities in an aggregate principal amount of not more than $1 billion each year, (iii) $600 million of the aggregate principal amount of such bonds or other public securities must be issued to fund projects (Safety Projects) that reduce accidents or correct or improve hazardous locations on the state highway system, and (iv) bonds and other public securities and credit agreements may not have a principal amount
or terms that are expected to cause annual expenditures with respect thereto to exceed 10 percent (10%) of the amount deposited to the credit of the state highway fund in the immediately preceding year.

The Enabling Act directs the Comptroller of Public Accounts to withdraw from the state highway fund amounts determined by the Commission to permit timely payment of the principal of and interest on the bonds and other public securities and any cost related to the bonds and other public securities, including payments under credit agreements.

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

The Commission has determined to approve the establishment of a financing program (Financing Program) to provide a financing structure to facilitate the Commission’s exercise of the powers and authority conferred by the Enabling Act through the issuance of bonds and other public securities and the execution of credit agreements to fund Highway Improvement Projects, which bonds, public securities and credit agreements will be secured by and payable from the state highway fund revenues.

Attached hereto as Exhibit A is a summary of the proposed plan of finance for the Financing Program (Plan of Finance).

Government Code, §1231.041 provides that a state agency may not issue a state security, including a bond, unless the Texas Bond Review Board (Board) approves the issuance. Government Code, §1231.042 provides that, in order to obtain the approval of the Board to issue a state security, a state agency must apply to the Board in the manner prescribed by the Board.

Pursuant to this authority, the Board has adopted bond review rules, codified at 34 TAC §§181.1-181.12. Section 181.3 provides that a state agency that proposes to issue state securities shall apply for Board approval by filing an application with the Board, and prescribes documentation required to be included with an application.

IT IS THEREFORE ORDERED by the Commission that the preparation of documentation required to establish the Financing Program and to take such other actions as are deemed necessary or appropriate in connection with the establishment of the Financing Program and the issuance of one or more series of bonds pursuant to the Financing Program, as summarized by the Plan of Finance is hereby approved. At a future meeting, one or more minute orders to approve the final agreements and documentation to establish the Financing Program and authorize the issuance of bonds and other obligations will be presented for approval.

IT IS FURTHER ORDERED by the Commission that the filing of an application with the Texas Bond Review Board for approval of the issuance of state highway fund revenue bonds and other obligations, in an amount not to exceed $600 million, and any necessary ancillary documents, for the purpose of financing the costs of Highway Improvement Projects is hereby approved.

IT IS FURTHER ORDERED by the Commission that the terms of the Plan of Finance attached as Exhibit A are approved.

Note: Exhibit A on file with minute order clerk.
e. Authorize the filing of applications to the US Department of Transportation for allocations from the federal private activity bond program for highway or surface freight transfer facilities, and declare official intent regarding the inducement and/or reimbursement of authorized transportation projects from tax-exempt obligations

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Chief Financial Officer James Bass:

110442  In accordance with Transportation Code, §222.035, the Office of the Attorney General on September 23, 2005 published notice at 30 Texas Register 6111 of its determination that the United States Congress has enacted legislation amending Internal Revenue Code §142, to include qualified highway or surface freight transfer facilities among the types of facilities for which Private Activity Bonds (PABs) may be used.

That legislation, Section 11143 of Title XI of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), limits to $15 billion the amount of PABs that can be issued. The law also provides that the Secretary of Transportation shall allocate the $15 billion nationally among qualified highway or surface freight facilities in such manner as the Secretary deems appropriate.

On January 5, 2006, the United States Department of Transportation (USDOT) issued a notice at 71 Federal Register 642 soliciting both applications for allocations from the $15 billion authorized amount and comments on how USDOT should exercise and administer its allocation authority.

The Texas Transportation Commission (commission) or related entities intends to issue PABs for the purpose of financing authorized transportation projects, including projects under comprehensive development agreements with private entities pursuant to Transportation Code, Chapter 223, Subchapter E.

IT IS THEREFORE ORDERED by the commission that the Texas Department of Transportation (department) is authorized and directed to file with the Secretary of Transportation, United States Department of Transportation, one or more applications for allocations from the $15 billion of authorized PABs for qualified highway or surface freight transfer facilities.

IT IS FURTHER ORDERED by the commission that the department is authorized and directed to file with the Secretary of Transportation, United States Department of Transportation, comments on how USDOT should exercise and administer its $15 billion PABs allocation authority.

IT IS FURTHER ORDERED by the commission that the department’s Chief Financial Officer is hereby delegated the authority to declare official intent on behalf of the commission, or related entities, regarding the inducement and/or reimbursement of costs of authorized transportation projects from tax-exempt obligations in accordance with the Internal Revenue Code of 1986, as amended.
f. Report on the provisions related to training requirements of the Public Funds Investment Act

This report was presented by Chief Financial Officer James Bass:

ITEM 13. PASS-THROUGH TOLLS
Authority to Execute Agreement

a. Kaufman County – City of Forney – Authorize the executive director to execute a pass-through toll agreement with the City of Forney for improvements to various highway projects in the county

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Assistant Executive Director for Engineering Operations Amadeo Saenz:

On May 10, 2005, the City of Forney (city) submitted a proposal for a pass-through toll agreement. The city's proposal provided for the city to construct and maintain improvements to FM 740 from Ranch Road to US 80, FM 741 from Bois D’Arc to east of Forney High School, and a proposed interchange at the US 80/FM 548 intersection.

In accordance with Section 222.104(b), Transportation Code, the Texas Transportation Commission (commission) granted preliminary approval on August 25, 2005 by Minute Order 110194 authorizing the Texas Department of Transportation (department) to enter into an agreement with the city that provides for the payment of pass-through tolls to the city as reimbursement for the construction, maintenance, or operation of a toll or non-toll facility on the state highway system, specifically for construction and improvement to FM 740 from Ranch Road to US 80, FM 741 from Bois D’Arc to east of Forney High School, and a proposed interchange at the US 80/FM 548 intersection. A pass-through toll is a per vehicle fee or a per vehicle-mile fee that is determined by the number of vehicles using a facility.

The Texas Transportation Commission (commission) previously adopted rules, codified as 43 TAC §§5.51-5.59, that prescribe the policies and procedures governing the department's implementation of Section 222.104(b), Transportation Code.

Section 5.54 of the commission's rules provide that the commission may authorize the department's executive director or his designee to negotiate a pass-through toll agreement with a public entity after considering the following factors: (1) financial benefits to the state; (2) local public support for the projects; (3) whether the projects are in the department's Unified Transportation Program (UTP); (4) the extent to which the projects will relieve congestion on the state highway system; (5) the potential benefits to regional air quality that may be derived from the projects; (6) compatibility of the proposed projects with existing and planned facilities; and (7) the entity's experience in developing highway projects.
The department and the city have agreed to a reimbursement through pass-through tolls of $40,191,406 for the construction of the projects in their proposal. The per vehicle mile reimbursement rate will be $0.10 per mile. The minimum amount to be reimbursed in any year with all projects open to traffic is $2,009,570.30 and the maximum amount will be $4,019,140.60. The agreement will expire once the total amount of the agreement has been reimbursed. The project will be authorized in Category 12, Strategic Priority, and will be reimbursed from Strategic Priority funds.

Before the projects in this proposal are planned, developed, or constructed using funds administered by the department, the projects: (1) must be included in the North Central Texas Council of Governments (NCTCOG) Metropolitan Transportation Plan; (2) must be included in the department’s UTP, thereby identifying committed funding for each project; (3) prior to construction, must be included in the NCTCOG Transportation Improvement Program and the department’s Statewide Transportation Improvement Program; and (4) will be subject to any and all applicable planning and environmental processes and approvals as mandated by state and federal regulations regarding such matters.

IT IS THEREFORE ORDERED that the executive director or his designee is authorized to execute a pass-through toll agreement with the City of Forney in accordance with the negotiated terms and such other terms the department determines are necessary.

ITEM 14. TOLL ROAD PROJECTS
Travis and Williamson Counties – Adoption and approval of updated traffic and revenue report, toll rate schedule and revised remarketing memorandum documents for the 2002 Project of the Central Texas Turnpike System

This item was deferred.

ITEM 15. CONTRACTS
a. Award or Reject Highway Improvement Contracts
(1) Maintenance

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Construction Division Director Thomas Bohuslav:

110444 Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on February 7 and 8, 2006.

Pursuant to cited code provisions highway maintenance contract bids on a project may be accepted or rejected, but if accepted must be awarded to the lowest bidder.
An award is conditional in the event it is subject to Federal Highway Administration concurrence, third party funding or concurrence, and other conditions listed in the contract.

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

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

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

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

Note: Exhibit A on file with minute order clerk.

(2) Highway and Building Construction

Commissioner Houghton made a motion, seconded by Commissioner Andrade, and the commission approved the following minute order, presented by Construction Division Director Thomas Bohuslav:

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for improvement of the State Highway System, which were publicly opened and read on February 7 and 8, 2006.

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

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

The department recommends that the Texas Transportation Commission (commission) respectively award to the lowest bidder or reject, as indicated, those highway improvement contracts identified on attached Exhibit A to this order.
IT IS THEREFORE ORDERED by the commission that the highway improvement contracts described in Exhibit A be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein.

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

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

Note: Exhibit A on file with minute order clerk.

b. Contract Claim

Potter County – Project CPM 904-00-89 – Approve a claim settlement with First National Insurance Company of America for additional compensation

Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by Assistant Executive Director for Engineering Operations Amadeo Saenz.

In POTTER COUNTY, ETC., on VARIOUS HIGHWAYS, First National MNT Insurance Company of America (surety) assumed construction project CPM 904-00-89 after the original contractor voluntarily defaulted on the project.

The surety filed a claim against the Texas Department of Transportation (department) for additional compensation in the amount of $62,800 for the return of 157 days of liquidated damages.

Pursuant to Title 43, Texas Administrative Code, §9.2, the Contract Claim Committee met informally with the surety, and the claim was successfully resolved.

The agreed resolution requires that the surety be paid the sum of $26,000 in full and final satisfaction of the claim. This consideration shall be payable only after the department is in receipt of a duly authorized and completed Settlement Agreement and Release containing a specific promise by the surety to release and hold harmless the State of Texas, its officers, and employees with regard to all claims and disputes arising from the contract.

IT IS THEREFORE ORDERED by the Texas Transportation Commission (commission) that the sum of $26,000 is authorized to be expended from funds under the control and jurisdiction of the commission, and the executive director is directed to take the necessary steps to secure a warrant in this amount payable to the surety.
ITEM 16. ROUTINE MINUTE ORDERS

Commissioner Johnson made a motion, seconded by Commissioner Houghton, and the commission approved the following minute orders presented by Executive Director Michael W. Behrens.

a. Donations to the Department

(1) Construction Division – Acknowledge a donation from the National Asphalt Pavement Association (NAPA) for a department employee’s travel expenses for giving a presentation at NAPA’s Annual Convention that was held in Hollywood, Florida from January 23-25, 2006.

This minute order acknowledges a donation of $864.31 in travel expenses from the National Asphalt Pavement Association (NAPA) for a Texas Department of Transportation (department) employee to attend NAPA’s Annual Convention. The convention was held in Hollywood, Florida from January 23 – 25, 2006.

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

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

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

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

The commission also finds that the donor is not subject to department regulation or oversight and is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department. Members of the donor’s organization may be interested in a contract, but, nonetheless, the commission finds that this donation will not influence or reasonably appear to influence the department in the performance of its duties.
February 23, 2006

IT IS THEREFORE ORDERED by the commission that the donation of $864.31 by NAPA is acknowledged. The executive director or the executive director’s designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgment of the donation.

(2) Construction Division – Acknowledge a donation from the Association of Modified Asphalt Producers (AMAP) to pay for travel expenses for a department employee who gave a presentation at AMAP’s annual conference held in Lake Buena Vista, Florida from February 13 – 15, 2006

This minute order acknowledges a donation of $1,126.10 in travel expenses from the Association of Modified Asphalt Producers (AMAP) for a Texas Department of Transportation (department) employee that gave a presentation at AMAP’s annual conference that was held on February 13 – 15, 2006 in Lake Buena Vista, Florida.

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

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

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

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

The commission also finds that the donor is not subject to department regulation or oversight and is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department. Members of the donor’s organization may be interested in a contract, but, nonetheless, the commission finds that this donation will not influence or reasonably appear to influence the department in the performance of its duties.
IT IS THEREFORE ORDERED by the commission that the donation of $1,126.10 by AMAP is acknowledged. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(3) Finance Division – Acknowledge a donation from the Municipal Bond Insurance Association (MBIA) for a department employee’s travel expenses related to participating in the MBIA Public Finance Client Conference that was held on February 3, 2006 in Naples, Florida

This minute order acknowledges a donation of $1,152.70 from the Municipal Bond Insurance Association (MBIA) for a Texas Department of Transportation (department) employee’s travel expenses. The employee participated in the MBIA Public Finance Client Conference that was held in Naples, Florida on February 3, 2006.

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

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

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

The commission finds that the donation will further the department’s responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days. The commission also finds that the donor is not subject to department regulation or oversight.

The department is the beneficiary of the 2002 Repurchase & Custody Agreement between MBIA and the trustee regarding the new Houston District headquarters building. Nonetheless, this donation will not influence or reasonably appear to influence the department in the performance of its duties.
THESE DRAFT MINUTES ARE POSTED FOR INFORMATION PURPOSES. THE MINUTES WILL BE VOTED ON BY THE COMMISSION AT THE NEXT SCHEDULED MEETING.

February 23, 2006

IT IS THEREFORE ORDERED by the commission that the donation of $1,152.70 by MBIA is acknowledged. The executive director or the executive director’s designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(4) Leon County – Amend Minute Order 110207 to revise the mineral reservation

110450
OGC

The Texas Transportation Commission (commission) approved Minute Order OGC 110207 on August 25, 2005, authorizing the acceptance of a donation from Texas Westmoreland Coal Company (TWCC) on FARM TO MARKET ROAD 39 in Leon County. The Texas Department of Transportation will not reserve the coal and lignite rights in the surplus land, and this minute order authorizes the conveyance of the surplus land described in the minute order without such a reservation if and when TWCC satisfactorily complies with all the conditions of Minute Order 110207.

NOW, THEREFORE, IT IS ORDERED that Minute Order 110207 be amended so that the SAVE AND EXCEPT clause in paragraph 10 is revised to read “all mineral rights, title and interest, except coal and lignite, in exchange and as consideration for the conveyance of the new right of way to the state,” and the SAVE AND EXCEPT clause in paragraph 14 is revised to delete the phrase “including all coal and lignite rights, title and interest.” All other provisions of Minute Order 110207 are to remain unchanged.

(5) Limestone County – Consider a donation from TXU Mining Company, L.P., for providing all costs associated with construction of a temporary overpass structure along SH 7

110451
OGC

This minute order considers a cash donation of an estimated amount of $3.5 million to the Texas Department of Transportation (department) from TXU Mining Company, L.P. (TXU) to donate sufficient funding, property, and services to provide for utility relocation; environmental assessments; schematics; plans, specifications, and estimates; construction; and construction engineering necessary for construction of a temporary overpass structure along SH 7 in Limestone County, Texas described in Exhibit A. TXU has further agreed that upon completion of construction, if it is necessary, it will convey to the state an easement interest in land.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at $500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.
The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department’s acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

This donation has been examined, and the department recommends issuance of this minute order on the ground that acceptance of the donation is in the best interest and welfare of the traveling public. The commission finds that the donation will further the department’s responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days. The commission also finds that the donor is not subject to department regulation or oversight and that acceptance of this donation will not influence or reasonably appear to influence the department in the performance of its duties. The donor previously donated funds for similar projects, and agreements have been signed without any issues.

IT IS THEREFORE ORDERED by the commission that the donation by TXU is accepted. The executive director or the executive director’s designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

(6) Travel Division – Consider a donation from the Abilene Convention & Visitors Bureau to provide food, beverage, admission, and transportation to area attractions, solicited from various sponsors, to the department as part of its hosting the 51st Annual Texas Travel Counselors Conference in Abilene, Texas on April 17-20, 2006

The Abilene Convention and Visitors Bureau (AC&VB) proposes to donate food, beverage, and admission and transportation to area attractions to the Texas Department of Transportation (department) as part of its hosting the 51st Annual Texas Travel Counselors Conference in Abilene, Texas on April 17-20, 2006. The donation is worth approximately $24,550 and has been solicited from various sponsors.

This donation has been examined by department personnel. The department recommends issuance of this minute order on the ground that acceptance of the donation is in the best interest and welfare of the traveling public.

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

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

The commission finds that the donation will further the department’s
responsibilities and that the donor is not a party to a contested case before the department
and has not been a party to a contested case before the department during the last 30 days.
The commission also finds that some of the sponsors may be interested in or likely to
become interested in a contract, purchase, payment, or claim with or against the
department. Nonetheless, the commission has determined that acceptance of the donation
would provide a significant public benefit and would not influence or reasonably appear
to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the estimated donation
of $24,550 by AC&VB is accepted. The executive director or the executive director’s
designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect
the acceptance of the donation.

(7) Various Counties – Consider a donation from the Military Order of the Purple Heart
for the installation of signs designating I-35 in Texas as a portion of the national Purple
Heart Trail

This minute order considers a donation to the Texas Department of Transportation
(department) from the Military Order of the Purple Heart (MOPH) for an estimated
$22,184 for costs associated with the design, construction, and installation of 12 highway
signs. The signs will be used to designate portions of Interstate 35 inside various counties
as the Texas portion of the national Purple Heart Trail.

This donation has been examined, and the department recommends issuance of
this minute order on the ground that it is in the best interest and welfare of the traveling
public.

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

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

The commission finds that the donation will further the department’s responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days. The commission also finds that the donor is not subject to department regulation or oversight and is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department. Therefore, the donation will provide a significant benefit to the public.

IT IS THEREFORE ORDERED by the commission that the estimated donation of $22,184 by the MOPH is accepted. The executive director or the executive director’s designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

b. Eminent Domain Proceedings

Various Counties - noncontrolled and controlled access highways

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

The commission has found and determined that each of the following listed parcels of land, same being more particularly described in the exhibits attached hereto, and such additional lesser estates or property interests described thereon, are necessary or convenient for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by Texas Transportation Code, Subchapter D, Chapter 203, Sections 203.051, 203.052, and 203.054, as a part of the highway system to be constructed, reconstructed, maintained and operated thereon.
The commission has found in order to promote the public safety, to facilitate the safety and movement of traffic, to preserve the financial investment of the public in its highways and reconstructing, maintaining, and operating of Controlled Access Highways in the state as a part of the highway system at such locations as are necessary throughout the state and has determined that each of the following listed parcels of land, described in those Exhibits designated, identified and listed by an alphabetical exhibit reference under "CONTROLLED ACCESS" and same being more particularly described in the exhibits attached hereto and such additional lesser estates or property interests described thereon, are necessary and suitable for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by law, as a part of the highway system to be so constructed, reconstructed, maintained, and operated thereon and in the exercise of the police power of the state for the preservation of human life and safety, and under existing laws, the highway to be constructed on each such parcel of land is designated as a Controlled Access Highway, and on such parcels of land listed herein where there is remaining abutting private property, roads are to be built as a part of said highway whereby the right of ingress and egress to or from the remaining private property abutting on said highway is to be permitted and/or denied, as designated and set forth on each of the exhibits attached hereto.

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

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

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Note: Exhibits 1 through 10 and A through Q on file with minute order clerk.

c. Highway Designations

(1) Cherokee County – Remove State Highway Spur 209 from the state highway system and return control, jurisdiction, and maintenance to the city of Reklaw

In CHEROKEE COUNTY, in the city of Reklaw (city), officials have requested the removal of STATE HIGHWAY SPUR 209 from the state highway system. The city would like to incorporate the roadway into its street system and has requested control, jurisdiction and maintenance of SH Spur 209.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that SH Spur 209 be removed from the state highway system and returned to the city.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that STATE HIGHWAY SPUR 209 is removed from the state highway system and returned to the city for control, jurisdiction and maintenance from the intersection of STATE HIGHWAY 204 westward to approximately .38 mile west of the intersection of STATE HIGHWAY SPUR 209.
(3) **Kerr County** – Remove Park Road 19 from the state highway system and return control, jurisdiction, and maintenance to the City of Kerrville

In KERR COUNTY, in the city of Kerrville (city), Texas Parks and Wildlife has transferred ownership of the former Kerrville-Schreiner State Park to the city, and city officials have requested the removal of PARK ROAD 19 from the state highway system.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that PR 19 be removed from the state highway system and returned to the city.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that PARK ROAD 19 is removed from the state highway system and returned to the city for control, jurisdiction, and maintenance, a distance of approximately 2.03 miles.

d. **Load Zones & Postings**

VARIOUS COUNTIES - Revise load restrictions on various bridges on the state highway system

(1) **Roadways**

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

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

An engineering and traffic investigation has been made on the state highway system to determine and fix the maximum loads to be transported or moved on, over or upon the roads of the highway system.

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

IT IS THEREFORE ORDERED by the commission that the maximum load limits which may be transported or moved on, over or upon the roads described in Exhibit A be fixed, revised, or removed as set forth therein, superseding any portion of a previous action in conflict. The executive director shall proceed with the erection, revision or removal of signs as appropriate, making the removal of this load limitation effective and operative.

Note: Exhibit A on file with minute order clerk.
(2) **Bridges**

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

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

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

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

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

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

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

(1) **Comal County – I-35 at FM 1101 in New Braunfels – Consider the sale of a surplus drainage easement**

In the city of New Braunfels, COMAL COUNTY, on INTERSTATE 35, the State of Texas (state) acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Volume 108, Page 612, Deed Records of Comal County, Texas.

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

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

SCC NB Partners, Ltd., a Texas limited partnership, owner of the fee underlying the surplus easement, has requested that the surplus easement be sold to the partnership for $56,058.

The commission finds $56,058 to be a fair and reasonable value of the state's rights and interest in the surplus easement.
February 23, 2006

NOW, THEREFORE, the commission finds that the surplus easement is no longer needed for a state highway purpose and recommends, subject to approval of the attorney general, that the Governor of Texas execute a proper instrument conveying the state’s rights and interest in the surplus easement to SCC NB Partners, Ltd., a Texas limited partnership, for $56,058.

Note: Exhibit A on file with minute order clerk.

(2) **Harrison County** – US 59 at Industrial Blvd. in Marshall – Consider the sale of a surplus maintenance site

In the city of Marshall, HARRISON COUNTY, on US 59, the State of Texas (state) acquired certain land for a state highway purpose by instruments recorded in Volume 221, Page 416; Volume 379, Page 131; and Volume 516, Page 31, Deed Records of Harrison County, Texas.

The land, described in Exhibit A, and the improvements (surplus property) are no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Department of Transportation advertised the surplus property for sale.

Clay Allen submitted a bid of $145,000, which was the highest valid bid received.

The Texas Transportation Commission (commission) finds $145,000 to be a fair and reasonable value of the state’s rights, title and interest in the surplus property.

NOW, THEREFORE, the commission finds that the surplus property is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state’s rights, title and interest in the surplus property to Clay Allen for a cash consideration of $145,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state’s rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus property.

Note: Exhibit A on file with minute order clerk.

(3) **Johnson County** – SH 174 south of Baldwin Drive in Joshua – Consider the sale of surplus right of way

In the city of Joshua, JOHNSON COUNTY, on STATE HIGHWAY 174, the State of Texas (state) acquired certain land needed for highway purposes by instrument recorded in Volume 369, Page 601, Deed Records of Johnson County, Texas.

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

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus land to the abutting landowners.
Robert E. Rapp and Lou Ann Kelly are abutting landowners and have requested that the surplus land be sold to them for $1,450.

The commission finds $1,450 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than $10,000 and authorizes the executive director to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Robert E. Rapp and Lou Ann Kelly for $1,450; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state’s rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

In the city of Joshua, JOHNSON COUNTY, on STATE HIGHWAY 174, the State of Texas (state) acquired certain land needed for highway purposes by instrument recorded in Volume 369, Page 601, Deed Records of Johnson County, Texas.

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

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

Willard T. Rider and wife, Donna L. Rider, are the abutting landowners and have requested that the surplus land be sold to them for $3,260.

The commission finds $3,260 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than $10,000 and authorizes the executive director to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Willard T. Rider and wife, Donna L. Rider, for $3,260; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state’s rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(4) Johnson County – FM 731 at Alsbury Road in Burleson – Consider the exchange of drainage easements

In the city of Burleson, JOHNSON COUNTY, on FARM TO MARKET ROAD 731, the State of Texas (state) acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Volume 459, Page 20, Deed Records of Johnson County, Texas.
A portion of the easement (surplus easement), described in Exhibit A, is no longer needed for a state highway purpose.

Members Credit Union (owner) has conveyed to the state an easement interest in land needed for the realignment and reconstruction of a new drainage facility (new easement), described in Exhibit B, and desires to make a partial donation to the state of the value of the new easement.

V.T.C.A., Transportation Code, Chapter 201, Subchapter D, authorizes the Texas Department of Transportation (department) to accept donations of real property for the purpose of carrying out its functions and duties.

V.T.C.A., Government Code, Chapter 575, requires the Texas Transportation Commission (commission) to accept by majority vote at an open meeting any gift or donation valued at over $500, and the commission hereby finds that acceptance of the donation will provide a significant public benefit and will not influence or reasonably appear to influence the department in the performance of its duties.

An Agreement Concerning the Donation of Property to the Texas Department of Transportation (donation agreement) has been executed by the owner and tendered to the department for acceptance under the provisions of Title 43, Texas Administrative Code, Chapter 1, Subchapter G, since the value of the new easement provided by the owner, which is $8,700, exceeds the value of the surplus easement, which is $4,450.

The owner has executed and delivered a conveyance document under the terms of the donation agreement to convey the new easement to the state and has requested that the state's rights and interest in the surplus easement be released.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission may recommend the release of surplus easements and the exchange of surplus easements as partial or full consideration for other land needed by the state for highway purposes.

It is the opinion of the commission that it is proper and correct that the state release its rights and interest in the surplus easement in exchange and as consideration for the partial donation and the conveyance of the new easement to the state.

IT IS THEREFORE ORDERED by the commission that the executive director is hereby authorized to accept the donation of the new easement and that the executive director or the director's designee is authorized and directed to sign and execute a donation agreement with the owner, in accordance with Title 43, Texas Administrative Code, Chapter 1, Subchapter G.

FURTHER, in consideration of the foregoing premises and in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus easement is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument releasing all of the state's rights and interest in the surplus easement in exchange and as consideration for the conveyance to the state of the new easement.

Note: Exhibit A on file with minute order clerk.
February 23, 2006

(5) **Lubbock County** – US 62/82 at SH Loop 289 in Lubbock – Consider the sale of surplus right of way

In the city of Lubbock, LUBBOCK COUNTY, on US 62/82, the State of Texas (state) acquired certain land needed for highway purposes by instruments recorded in Volume 706, Page 16, and Volume 723, Page 610, Deed Records of Lubbock County, Texas.

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

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

Nunn Electric Supply Corporation is the abutting landowner and has requested that the surplus land be sold to the corporation for $47,400.

The commission finds $47,400 to be a fair and reasonable value for the state’s rights, title and interest in the surplus land.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state’s rights, title and interest in the surplus land to Nunn Electric Supply Corporation for $47,400; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state’s rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(6) **Potter County** – 421 S. Bowie Street at 5th Avenue in Amarillo – Consider the sale of a surplus maintenance site

In the city of Amarillo, POTTER COUNTY, at 421 S. BOWIE STREET, the State of Texas (state) acquired certain land for a maintenance site by instruments recorded in Volume 513, Page 403; Volume 513, Page 405; Volume 513, Page 407; Volume 524, Page 155; and Volume 551, Page 583; Volume 798, Page,71, Deed Records of Potter County, Texas; and the state acquired certain land vacated by city Ordinance No. 1806, to which there is no record title in the state’s name.

The land and the improvements (surplus land), described in Exhibit A, are no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of real property which is no longer needed for a state highway purpose.

Potter County has requested that the state sell the surplus land to the county for $150,000.
February 23, 2006

The commission finds $150,000 to be a fair and reasonable value for the state’s rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state’s rights, title and interest in the surplus land to Potter County, Texas, for $150,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state’s rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(7) Wichita County – I-44 at Reilly Road in Wichita Falls – Consider the sale of surplus right of way

In the city of Wichita Falls, WICHITA COUNTY, on INTERSTATE 44, the State of Texas (state) acquired certain land needed for highway purposes by instrument recorded in Volume 820, Page 27, Deed Records of Wichita County, Texas.

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

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

Cantu Services, Inc. is the abutting landowner and has requested that the surplus land be sold to the company for $25,800.

The commission finds $25,800 to be a fair and reasonable value for the state’s rights, title and interest in the surplus land.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state’s rights, title and interest in the surplus land to Cantu Services, Inc. for $25,800; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state’s rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

f. Speed Zones

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

Transportation Code, §545.352 establishes prima facie reasonable and prudent speed limits for various categories of public roads, streets and highways.
Transportation Code, §545.353 empowers the Texas Transportation Commission (commission) to alter those prima facie limits on any part of the state highway system as determined from the results of an engineering and traffic investigation conducted according to the procedures adopted by the commission.

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

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

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

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

IT IS FURTHER ORDERED that a provision of any prior order by the commission which is in conflict with a provision of this order is superseded to the extent of that conflict.

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

ITEM 17. Executive Session Pursuant to Government Code, Chapter 551
a. Section 551.071 - Consultation with and advice from legal counsel
b. Section 551.072 - Discussion of real property purchase, exchange, lease, donations
c. Section 551.074 - Discuss the evaluation, designation, reassignment, and duties of department personnel, including district engineers, division directors, and office directors.

The commission did not meet in executive session.

OPEN COMMENT PERIOD - The commission did not receive any comments.

Commissioner Johnson made a motion, seconded by Commissioner Houghton and the commissioners approved adjourning the meeting.
The regular meeting of the Texas Transportation Commission adjourned at 3:34 p.m.

APPROVED:

Ric Williamson, Chair
Texas Transportation Commission

I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on February 23, 2006, in Austin, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation