

These are the minutes of the regular meeting of the Texas Transportation Commission held on September 18, 2014, in Austin, Texas. The meeting was called to order at 9:00 a.m. by Chairman Houghton with the following commissioners present:

Texas Transportation Commission:

Ted Houghton	Chairman
Fred Underwood	Commissioner
Jeff Austin, III	Commissioner
Jeff Moseley	Commissioner
Victor Vandergriff	Commissioner

Administrative Staff:

LtGen. Joe Weber, Executive Director
 Jeff Graham, General Counsel
 Rose Guajardo Walker, Chief Clerk
 Robin Carter, Assistant Chief Clerk

Registration sheets listing others in attendance are on file with the Texas Department of Transportation, Assistant Chief 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 4:47 p.m. on September 10, 2014, as required by Government Code, Chapter 551, referred to as "The Open Meetings Act."

ITEM 1. Safety Briefing

This item was presented by Occupational Safety Specialist Randy Clawson.

Chairman Houghton recognized J. Griffis Smith, retiring photography editor of Texas Highways Magazine. Chairman Houghton showcased a copy of On the Road with Texas Highways, written by Smith and available at the end of September.

ITEM 2. Approval of Minutes of the August 27, 2014 workshop meeting and the August 28, 2014 regular meeting of the Texas Transportation Commission

Commissioner Austin made a motion, which was seconded, and the commission approved the minutes of the August 27, 2014 workshop meeting and the August 28, 2014 regular meeting by a vote of 5 - 0.

ITEM 3. Discussion

a. Implementation of 3D Design and ProjectWise (Presentation)

This item was presented by Director of Urban and Rural District Operations Randy Hopmann.

b. Proposition 1 Stakeholder Committee Report (Presentation)

This item was introduced by Director of Planning Marc Williams. Chairman of the Proposition 1 Stakeholder Committee John W. Johnson spoke and presented the report to the commission.

c. Assessment and discussion of historic and future project delivery and priorities of the Unified Transportation Program (Presentation)

This item was presented by Director of Planning Marc Williams and Deputy Executive Director John Barton.

ITEM 4. Speed Restrictions**Montgomery County - Issue an order to extend speed restrictions to Grand Harbor Boulevard (MO)**

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Director of Traffic Operations Carol Rawson.

114060
TRF

The Texas Department of Transportation (department) received a petition signed by a majority of the property owners abutting Grand Harbor Boulevard, whose residences are within the Grand Harbor Subdivision in Montgomery County, requesting that the Texas Transportation Commission (commission) issue an order extending speed restrictions to Grand Harbor Boulevard, which is a private road, from Walden Road to Peel Road.

The Transportation Code, Section §542.006, authorizes the commission to issue an order extending speed restrictions to a private road if petitioned by the owners of a majority of the parcels of real property abutting the private road, the road is not in a municipality, the total number of residents in the subdivision and subdivisions adjacent to the subdivision is at least 400, a plat for the subdivision and each adjacent subdivision included to determine the number of residents has been filed in the deed records of the county, and the commission finds that extending speed restrictions is in the interest of the area residents and the general public.

The department has verified property ownership of the signers of the petition and determined that the owners of a majority of the parcels of real property abutting Grand Harbor Boulevard have requested the extension of speed restrictions by signing the petition. Furthermore, the department has determined the portion of Grand Harbor Boulevard for which this request is based is not within a municipality, that the Grand Harbor Subdivision has at least 400 residences, and that a plat for the subdivision has been filed with Montgomery County. The commission finds that extending the speed restrictions to Grand Harbor Boulevard, between Walden Road and Peel Road is in the interests of the area residents and the public generally.

Transportation Code, Section §542.006, authorizes the commission to extend speed restrictions to a private road. Once an order is passed, the private road is a public highway for purposes of setting and enforcing speed restrictions and the commission

shall post speed limit signs on property abutting the private road with the consent of the owner of the property on which a sign is placed.

IT IS THEREFORE ORDERED by the commission that speed restrictions be extended to Grand Harbor Boulevard from Walden Road to Peel Road.

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

ITEM 5. Aviation

Various Counties - Award federal and state grant funding for airport improvement projects at various locations (MO)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 - 0. Commissioner Vandergriff was not on the dais at the time of this vote. This item was presented by Director of Aviation Dave Fulton.

114061
AVN

The Texas Department of Transportation (department) is authorized under the federal Airport and Airway Improvement Act and the state Aviation Facilities Development and Financial Assistance Act to award federal and state funding for capital improvement projects and 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. The department recommends the award of federal and state grant funds for the improvements.

On Friday, August 22, 2014 a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$15,782,080.

Note: Exhibit A is on file with the assistant chief clerk.

ITEM 6. Advisory Committee Appointment

Appoint members to the Bicycle Advisory Committee (MO)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 - 0. Commissioner Vandergriff was not on the dais at the time of this vote. This item was presented by Director of Public Transportation Eric Gleason.

114062
PTN

The Bicycle Advisory Committee (committee) makes recommendations to the Texas Transportation Commission (commission) on the development of bicycle tourism trails in this state; provides recommendations on the selection of projects relating to the Safe Routes to School Program, and reviews and makes recommendations on items of

mutual concern between the Texas Department of Transportation (department) and the bicycling community. The committee functions under Title 43, Texas Administrative Code, §1.85 concerning advisory committees.

The commission desires to make the following three committee appointments:

<u>Name</u>	<u>Location</u>	<u>Term Expiration</u>
Mr. David Steiner	Lufkin	August 31, 2017
Mr. Jason Fialkoff	Austin	August 31, 2017
Ms. Karla Weaver	Dallas / Fort Worth	August 31, 2017

IT IS THEREFORE ORDERED by the commission that the three individuals identified above are appointed as members of the Bicycle Advisory Committee for the terms specified.

ITEM 7. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code,

Chapter 2001:

a. Final Adoption

(1) Chapter 11 - Design (MO)

New §§11.300-11.317 (Transportation Alternatives Program)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Director of Planning Marc Williams. BikeTexas Executive Director Robin Stallings spoke to the commission.

114063
TPP

The Texas Transportation Commission (commission) finds it necessary to adopt new §§11.300 – 11.317, relating to Transportation Alternatives Program to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the new §§11.300 – 11.317 are adopted and are authorized for filing with the Office of 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 are on file with the assistant chief clerk.

(2) Chapter 16 - Planning and Development of Transportation Projects (MO)

Amendments to §16.153, Funding Categories, and §16.154, Transportation Allocation Funding Formulas (Transportation Funding)

Commissioner Moseley made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Director of Planning Marc Williams. BikeTexas Executive Director Robin Stallings spoke to the commission.

114064
TPP

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §16.153 and §16.154, relating to Transportation Funding, and 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 verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the commission that the amendments to §16.153 and §16.154 are adopted and are authorized for filing with the Office of 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 are on file with the assistant chief clerk.

(3) Chapter 21 - Right of Way (MO)

Amendments to §§21.31-21.40 (Utility Accommodation), and new §§21.961-21.968 (Leasing of Right of Way to Saltwater Pipeline Operators)

Commissioner Moseley made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Director of Right of Way John Campbell.

114065
ROW

The Texas Transportation Commission (commission) finds it necessary to adopt amendments §§21.31-21.40, relating to Utility Accommodation, and new §§21.961-21.972, relating to Leasing of Right of Way to Saltwater Pipeline Operators, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §§21.31-21.40, and new §§21.961-21.972 are adopted and are authorized for filing with the Office of 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 - C are on file with the assistant chief clerk.

(4) Chapter 21 - Right of Way (MO)

Amendments to §21.146, Exempt Signs, §21.187, Spacing of Signs, and §21.189, Sign Height Restrictions, (Regulation of Signs Along Interstate and Primary Highways); and §21.405, Exemptions (Control of Signs Along Rural Roads)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Director of Right of Way John Campbell. Scenic Texas Vice President Margaret Lloyd spoke to the commission.

114066
ROW

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §21.146, §21.187, §21.189, and §21.405, all relating to the regulation of signs along highways and roads, and 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 - C, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the commission that the amendments to §21.146, §21.187, §21.189, and §21.405 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 - C are on file with the assistant chief clerk.

(5) Chapter 25 - Traffic Operations (MO)

Amendments to §25.1, Uniform Traffic Control Devices

Commissioner Moseley made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 - 0. Commissioner Underwood was not on the dais at the time of this vote. This item was presented by Director of Traffic Operations Carol Rawson.

114067
TRF

The Texas Transportation Commission (commission) finds it necessary to adopt an amendment 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 amendment, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

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

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

Note: Exhibits A and B are on file with the assistant chief clerk.

(6) Chapter 27 - Toll Projects (MO)

Amendments to §27.80, Definitions, and §27.82, Toll Operations (Operation of Department Toll Projects)

Commissioner Moseley made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 - 0. Commissioner Underwood was not on the dais at the time of this vote. This item was presented by Director of Toll Operations Doug Woodall.

114068
TOD

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §27.80 and §27.82 relating to Operation of Department Toll Projects to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §27.80 and §27.82 are adopted and are authorized for filing with the Office of 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 are on file with the assistant chief clerk.

b. Proposed Adoption

(1) Chapter 23 - Travel Information (MO)

Repeal of §§23.1 - 23.2, General Provisions, §23.10 and §§23.12 - 23.14, Travel Information, §§23.28 - 23.29, Texas Highways Magazine, §§23.51 - 23.59, Promotional Product Program, and §§23.101 - 23.105, Merchandising Program; and simultaneously proposing new §§23.1 - 23.2, General Provisions, §§23.11 - 23.20, Travel Information, §§23.41 - 23.50, Travel Information Centers, §§23.61 - 23.73, Promotional Product Program, and §§23.81 - 23.85, Subscriber and Purchaser Information.

Commissioner Moseley made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Director of Travel Information Margo Richards.

114069
TRV

The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §§23.1 - 23.2, §23.10, §§23.12 - 23.14, §§23.28 - 23.29,

§§23.51 - 23.59, and §§23.101 - 23.105; and new §§23.1 - 23.2, §§23.11 – 23.20, §§23.41 – 23.50, §§23.61 – 23.73, and §§23.81 – 23.85, all relating to travel information, and codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the repeal of §§23.1 - 23.2, 23.10, §§23.12-23.14, §§23.28 - 23.29, §§23.51 - 23.59, and §§23.101 - 23.105 and new §§23.1 - 23.2, §§23.11 – 23.20, §§23.41 – 23.50, §§23.61 – 23.73, and §§23.81 – 23.85, 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 - G are on file with the assistant chief clerk.

(2) Chapter 25 - Traffic Operations (MO)

Amendments to §25.401, Definitions, §25.404, Specifications for Information Logo Signs, §25.405, Commercial Establishment Eligibility, §25.407, Logo Sign Program Operation, and §25.408, TOD Sign Program Operation (Information Logo Sign and Tourist-Oriented Directional Sign Program)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Director of Traffic Operations Carol Rawson.

114070
TRF

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §25.401, §25.404, §25.405, §25.407 and §25.408 relating to Information Logo Sign and Tourist-Oriented Directional Sign Program to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §25.401, §25.404, §25.405, §25.407 and §25.408 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 are on file with the assistant chief clerk.

(3) Chapter 28 - Oversize and Overweight Vehicles and Loads (MO)
Amendments to §28.100, Purpose, and §28.102, Authority's Powers and Duties
(Hidalgo County Regional Mobility Authority Permits)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Deputy Director of Maintenance Carolyn Dill.

114071
MNT

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §28.100 and §28.102, relating to Hidalgo County Regional Mobility Authority Permits to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §28.100 and §28.102 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 are on file with the assistant chief clerk.

ITEM 8. Audit Plan

Approve the Audit Plan for Fiscal Year 2015 and determine whether adequate resources have been dedicated to the internal audit program (MO)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Chief Audit and Compliance Officer Benny Ybarra.

114072
AUD

The Texas Internal Auditing Act, Government Code, Chapter 2102, requires the internal auditor to create an annual Audit Plan that is prepared using risk assessment techniques and that identifies the individual audits to be conducted during the year. The Audit Plan must be approved by the state agency's governing board. In addition, the governing board must periodically review the resources dedicated to the internal audit program and determine if adequate resources exist to ensure that risks identified in the annual risk assessment are adequately covered within a reasonable time frame.

The Chief Audit and Compliance Officer has developed an Audit Plan for Fiscal Year (FY) 2015, which is set forth in Exhibit A. This Audit Plan was prepared by completing a risk assessment of the department's functions; obtaining input from the Office of Compliance, Ethics, and Investigations, the Federal Highway Administration, members of the department's administration and management team, and the Texas

Transportation Commission (commission). This Audit Plan identifies the audits to be conducted and the resources available to the Office of Internal Audit and External Audit & Advisory Services Section for FY 2015. The Chief Audit and Compliance Officer considers the resources for FY 2015 to be adequate to address the risks that warrant audit coverage.

The Audit Plan for FY 2015 is being presented to the commission for approval and a determination that adequate resources exist to ensure that the risks identified are adequately covered.

IT IS THEREFORE ORDERED by the commission that the Audit Plan for FY 2015, as shown in Exhibit A, is hereby approved.

FURTHER, the commission finds that adequate resources have been dedicated to the internal audit program in order to ensure that the risks identified in the annual risk assessment are covered within a reasonable time.

Note: Exhibit A is on file with the assistant chief clerk.

ITEM 9. Office of Compliance, Ethics, and Investigations

Office of Compliance, Ethics, and Investigations Report

This item was presented by Chief Audit and Compliance Officer Benny Ybarra.

ITEM 10. Toll Roads

a. Various Counties - Revise fees to be charged for administering electronic toll collection customer accounts (MO)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Director of Toll Operations Doug Woodall.

114073
TOD

Transportation Code §228.057(d) provides that the Texas Department of Transportation (department) may charge reasonable fees for administering electronic toll collection customer accounts.

Title 43, Texas Administrative Code, §27.82(c) provides that the Texas Transportation Commission (commission) by minute order will establish customer account fees. In establishing customer account fees, the commission will consider the cost of operations, including the estimated cost to the department for labor, materials, storage, and bank fees, as well as the requirements of project bond covenants. In Minute Order 112971, dated January 26, 2012, the commission authorized the existing fee structure.

The department recently conducted an analysis of annual operational costs and recommends increasing the fee for checks returned for insufficient funds from \$25.00 per check to \$30.00 per check. In addition, the department has determined that an account reactivation fee is not needed under the current operational structure and recommends suspending assessment of the fee.

IT IS THEREFORE ORDERED by the commission that the department is authorized to charge a fee of \$30.00 per check for checks returned for insufficient funds.

IT IS FURTHER ORDERED that assessment of the account reactivation fee is hereby suspended.

IT IS FURTHER ORDERED that all other customer account fees authorized by Minute Order 112971 remain unchanged.

b. Various Counties - Consider the repeal of requirement for guidelines for evaluating state highway system mobility projects for development as toll roads (MO)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Chief of Staff Rich McMonagle.

114074
SPD

The Texas Transportation Commission (commission) adopted Minute Order 109519 dated December 18, 2003, which ordered the executive director to establish and implement guidelines for evaluating mobility projects on the state highway system for development as toll roads. The objective of the minute order was to maximize the use of innovative financing tools to leverage available funds for constructing mobility projects.

The guidelines were established and have been implemented for many years. Minute Order 109519 has been executed.

The department currently evaluates a mobility project for toll feasibility during the project evaluation process. The determination to make a project a toll road is based in part on the affected communities' willingness to accept tolling as an option. The requirement that added capacity projects must be evaluated for the feasibility of being a toll road is now obsolete and unnecessary.

IT IS THEREFORE ORDERED that Minute Order 109519 is repealed.

ITEM 11. Transportation Infrastructure Finance and Innovation Act Dallas and Denton Counties - Approve the negotiation with the United States Department of Transportation (USDOT) of a loan to the commission in an aggregate principal amount not to exceed \$300 million pursuant to the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA loan) to pay a portion of the eligible project costs of the I-35E Managed Lanes Project (project) comprising the redevelopment of approximately 28 miles of I-35E between I-635 and US 380; authorize the execution of a TIFIA loan agreement, a TIFIA loan note, a master trust agreement and first supplemental agreement for the project and ancillary documents; and authorize the designated commission representative to take all action necessary to permit the execution and delivery of the TIFIA loan agreement, the TIFIA loan note, trust agreement documents and ancillary documents on such terms as the commission representative designated under this minute order shall approve (MO)

Commissioner Moseley made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Chief Financial Officer James Bass.

114075
DMO

Transportation Code, Chapter 228 and other applicable law, including Government Code, Chapter 1371, authorizes the Texas Transportation Commission (commission) to issue toll revenue bonds, notes, or other obligations to finance toll projects or systems on the state highway system, and to enter into trust agreements governing matters relating to the issuance of such obligations.

In Dallas and Denton counties, pursuant to Minute Order 113398, dated December 13, 2012, the commission authorized a managed lanes toll project on I-35E from I-635 to US 380 (I-35E Managed Lanes Project).

On May 17, 2013, the department executed a Design-Build Agreement with AGL Constructors in connection with the construction of the I-35E Managed Lanes Project and construction on such project has commenced.

Pursuant to Minute Order 113744 dated October 31, 2013, the commission authorized submission of an application to the U.S. Department of Transportation (USDOT) to apply for a loan in an aggregate principal amount not to exceed \$300,000,000 pursuant to the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA Loan) to pay a portion of the eligible project costs of the I-35E Managed Lanes Project.

The department is in the process of negotiating the terms of the TIFIA loan and various transaction documents.

Subject to the approval of the TIFIA Loan by the USDOT, the trust agreement, together with the First Supplemental Agreement (first supplemental agreement) prescribes the terms, provisions, and covenants related to the TIFIA Loan and the issuance of a note in the aggregate principal amount not to exceed \$300,000,000 (TIFIA Note), which shall be delivered to the USDOT in connection with the TIFIA Loan.

The TIFIA Loan Agreement and the TIFIA Note do not constitute debts of the state or a pledge of the faith and credit of the state and are special, limited obligations of the commission secured by and payable solely from the trust estate as defined in the trust agreement and the first supplemental agreement.

IT IS THEREFORE ORDERED by the commission that a commission representative, as defined in the trust agreement, is authorized to select the trustee from among the entities submitting responses to the invitation for bids, based upon a determination of which entity best meets the requirements of the specifications of the solicitation, using the evaluation criteria set out in the specifications, and which entity is expected to provide the best value to the department.

IT IS FURTHER ORDERED by the commission that a commission representative is authorized and directed to execute and deliver the trust agreement and the first supplemental agreement, subject to the approval of the TIFIA Loan by USDOT, and such documents are approved with such changes as a commission representative executing the same may approve, such approval to be conclusively evidenced by execution of the agreements.

IT IS FURTHER ORDERED by the commission that a commission representative is designated the authorized borrower representative for purposes of the TIFIA Loan Agreement and, subject to the approval of the TIFIA Loan by USDOT, is authorized and directed to execute and deliver the TIFIA Loan Agreement, and the TIFIA Loan Agreement is approved with such changes as the authorized borrower

representative executing the same may approve, such approval to be conclusively evidenced by execution of the TIFIA Loan Agreement.

IT IS FURTHER ORDERED by the commission that any necessary ancillary documents in connection with the execution of the TIFIA Loan Agreement and the issuance of the TIFIA Note are hereby approved.

IT IS FURTHER ORDERED by the commission that a commission representative is hereby authorized, appointed, and designated to act on behalf of the commission in establishing the terms and delivering the TIFIA Note in accordance with the parameters and provisions prescribed in the trust agreement, as supplemented by the first supplemental agreement.

IT IS FURTHER ORDERED by the commission that the chairman of the commission, each member of the commission, the executive director of the department, general counsel, and each commission representative is authorized and directed to perform all such acts and execute such documents, including the Texas Attorney General, the Texas Bond Review Board and other parties, as may be necessary to carry out the intent of this order and other orders of the commission relating to the financing of the I-35E Managed Lanes Project.

ITEM 12. Eminent Domain Proceedings

Various Counties - Authorize the filing of condemnation proceedings to acquire real property by eminent domain for non-controlled and controlled access highways (see attached list) (MO)

Commissioner Vandergriff made a motion that the Texas Transportation Commission authorize the Texas Department of Transportation to use the power of eminent domain to acquire the properties described in the minute order set forth in the agenda for the current month for construction, reconstruction, maintenance, widening, straightening, or extending the highway facilities listed in the minute order as a part of the state highway system, and that the first record vote applies to all units of property to be condemned. The motion was seconded and the following minute order was approved by Chairman Houghton, Commissioner Underwood, Commissioner Moseley, Commissioner Austin, and Commissioner Vandergriff (a vote of 5 - 0). This item was presented by Director of Right of Way John Campbell.

114076
ROW

To facilitate the safety and movement of traffic and to preserve the financial investment of the public in its highways, the Texas Transportation Commission finds that public necessity requires the laying out, opening, constructing, reconstructing, maintaining, widening, straightening, extending, and operating of the highway facilities listed below as a part of the State Highway System (highway system).

As provided for by Transportation Code, Chapter 203, Subchapter D, including Sections 203.051, 203.052, and 203.054, the commission finds and determines that each of the parcels of land listed below, and more particularly described in the attached Exhibits (parcels), are necessary or convenient as a part of the highway system to be constructed, reconstructed, maintained, widened, straightened, or extended (constructed or improved) and it is necessary to acquire fee simple title in the parcels or such lesser property interests as set forth in the attached Exhibits.

The commission finds and determines that the highway facilities to be constructed or improved on the parcels identified and listed below under "CONTROLLED ACCESS" are designated as a Controlled-Access Highway in accordance with Transportation Code, Section 203.031; and where there is adjoining real property remaining after acquisition of a parcel, the roads are to be constructed or improved as a part of the highway facility with the right of ingress and egress to or from the remaining real property adjoining the highway facility to be permitted or denied, as designated and set forth on each of the attached Exhibits A - D. Where there is adjoining real property remaining after acquisition of a parcel with respect to the highway facilities to be constructed or improved on the parcels identified as listed below under "NON-CONTROLLED ACCESS," roads are to be constructed or improved as a part of the highway facility with the right of ingress and egress to or from the remaining real property adjoining the highway facility to be permitted or denied, as designated and set forth on each of the attached Exhibits 1 - 15, in accordance with Transportation Code, Sections 203.002 and 203.003.

The commission finds and determines that condemnation of the parcels is required.

IT IS THEREFORE ORDERED that the initiation of condemnation proceedings for the parcels is adopted and authorized by a single order for the parcels, and this first vote by the commission applies to all of the parcels.

IT IS FURTHER ORDERED that the executive director is hereby authorized to proceed to condemnation on the parcels and directed to transmit or cause to be transmitted this request of the commission to the Office of the Attorney General to file or cause to be filed against all owners, lienholders, and any owners of any other interests in the parcels, proceedings in condemnation to acquire in the name of and on behalf of the state, fee simple title to each parcel or such lesser estates or property interests as are more fully described in each of the attached Exhibits, save and excepting oil, gas, and sulfur, as provided by law, as follows:

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Dallas	US 75	12	0047-07-222	6
Dallas	US 75	11	0047-07-222	11
Dallas	US 75	9	0047-07-222	7
Denton	FM 156	1	0718-01-065	11
Denton	FM 156	4	0718-01-065	42
Denton	FM 156	5	0718-01-065	36
Denton	FM 156	6	0718-01-065	17
Denton	FM 156	7	0718-01-065	40
Denton	FM 156	3	0718-01-065	41
Denton	FM 156	2	0718-01-065	10
Denton	FM 156	8	0718-01-065	43
El Paso	SS 1966	15	3628-01-002	3X
Grimes	SH 30	13	0212-04-034	6
Harris	US 290	14	0050-08-090	817
Montgomery	SH 99	10	3510-07-007	760

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Denton	IH 35E	C	0196-01-100	31
Denton	IH 35E	B	0196-02-115	149
Harris	IH 45	A	0500-03-546	301A
Harris	SH 99	D	3510-06-006	356

Note: Exhibits A - D and 1 - 15 are on file with the assistant chief clerk.

ITEM 13. Routine Minute Orders

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute orders by a vote of 5 - 0. This item was presented by Executive Director General Joe Weber.

a. Donations to the Department

Various Districts - Consider the acceptance of donations made to the department to include: (a) donations in any form, including realty, personalty, money, materials, or services, which are made to the department for the purpose of carrying out its functions and duties; and (b) donations from landowners, with land adjacent to a highway that is part of the state highway system, to construct an improvement on the highway right-of-way that is directly related to improving access to or from the owner's land (See attached itemized list) (MO)

114077
CSO

Transportation Code, §201.206, authorizes the Texas Department of Transportation (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 90th 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.

Transportation Code, §223.049 authorizes the department to contract with an owner of land adjacent to a highway that is part of the state highway system to construct an improvement on the highway right of way that is directly related to improving access to or from the owner's land.

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 authorizes the executive director to approve acceptance of donations to the department and requires that donations valued at \$500 or more must be acknowledged by order of the commission not later than the 90th day after the date the donation is accepted by the department. It further 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 executive director may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if the executive director 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 executive director found that the donations identified on the attached Exhibit A were in compliance with the provisions of 43 TAC §§1.500-1.506, Government Code, Chapter 575, Transportation Code, §201.206, and Transportation Code, §223.049.

IT IS THEREFORE ORDERED by the commission that it acknowledges the acceptance of the donations identified on the attached Exhibit A.

Note: Exhibit A is on file with the assistant chief clerk.

b. Right of Way Dispositions and Donations

(1) Bastrop County - SH 71 at FM 20 west of Bastrop - Consider the sale of right of way to the abutting landowners (MO)

114078
ROW

In BASTROP COUNTY, on STATE HIGHWAY 71, the state of Texas acquired certain land for highway purposes by instruments recorded in Volume 125, Page 117, and Volume 96, Page 518, Deed Records of Bastrop County, Texas. A portion of the land (Tract 1), described in Exhibit A, is no longer needed for highway purposes.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of land no longer needed for a state highway purpose to abutting landowners. Paul Pape and wife, Barbara L. Pape, are the abutting landowners and have requested to purchase Tract 1 for \$470,000.

The commission finds \$470,000 to be a fair and reasonable value of the state's right, title, and interest in Tract 1.

IT IS THEREFORE ORDERED by the commission that the land is no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's right, title, and interest in Tract 1 to Paul Pape and wife, Barbara L. Pape, for \$470,000; 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 land.

Note: Exhibit A is on file with the assistant chief clerk.

(2) Bexar County - US 281 south of Bulverde Road - Consider an exchange of drainage easements (MO)

114079
ROW

In BEXAR COUNTY, on US 281, the state of Texas acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Volume 5057, Page 156, Deed Records of Bexar County, Texas.

A portion of the easement (Tract 1), described in Exhibit A, is no longer needed for highway purposes.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the exchange of an interest in real property acquired but not needed for a highway purpose as whole or partial consideration for another interest in land needed for a state highway purpose.

Huey Commercial Properties, Ltd., (owner) has granted to the state an easement interest in land needed for highway drainage purposes (Parcel 69E), described in Exhibit B. The owner is also the owner of the fee underlying Tract 1. The owner has requested that the state's interest in Tract 1 be released in exchange and as consideration for Parcel 69E and payment to the state of the \$4,366 difference in value.

IT IS THEREFORE ORDERED by the commission that Tract 1 is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument releasing the state's right and interest in Tract 1 to Huey Commercial Properties, Ltd., in exchange and as consideration for Parcel 69E and payment to the state of \$4,366.

Note: Exhibits A and B are on file with the assistant chief clerk.

(3) El Paso County - SL 375 adjacent to Union Pacific Railroad (UPRR) tracks near S. Park Street - Consider the sale of right of way to the abutting landowner (MO)

Deferred The commission deferred this item.

(4) Harris County - I-10 at Barker-Clodine Road - Consider the sale of right of way to an abutting landowner (MO)

114080
ROW

In HARRIS COUNTY, on INTERSTATE 10, the state of Texas acquired certain land for highway purposes by instruments recorded in Volume 5158, Page 580, Volume 5463, Page 253, and Volume 5148, Page 241, Deed Records of Harris County, Texas.

A portion of the land (Tract 29A), 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 land no longer needed for a state highway purpose to abutting landowners.

I-10 Slot Prop, L.P., is the abutting landowner and has requested to purchase the land for \$22,278.

The commission finds \$22,278 to be a fair and reasonable value of the state's right, title, and interest in the land.

IT IS THEREFORE ORDERED by the commission that the land is no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's right, title, and interest in Tract 29A to I-10 Slot Prop, L.P., for \$22,278; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's right, title, and interest, 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 land.

Note: Exhibit A is on file with the assistant chief clerk.

(5) Harris County - US 290 at SH 99 - Consider an exchange of right of way (MO)

114081
ROW

In the city of Houston, HARRIS COUNTY, on US 290, the state of Texas acquired certain land for highway purposes by instruments recorded in Volume 5775, Page 442, and Volume 5370, Page 30, Deed Records of Harris County, Texas. Portions of the land (tracts), described in Exhibit A, are no longer needed for highway purposes.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the exchange of an interest in real property acquired but not needed for a highway purpose as whole or partial consideration for another interest in land needed for a state highway purpose.

Giro Realty Investments, Ltd., (owner) has conveyed to the state land on STATE HIGHWAY 99 needed for a highway purpose and granted a temporary easement (parcels), described in Exhibit B. The owner has requested that the tracts be conveyed to owner in exchange and as consideration for the parcels and payment to the state of the \$196,819 difference in value.

IT IS THEREFORE ORDERED by the commission that the tracts are no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying the state's right, title, and interest in the tracts to Giro Realty Investments, Ltd., in exchange and as consideration for Parcels 102 and 102TE and payment to the state of \$196,819.

Note: Exhibits A and B are on file with the assistant chief clerk.

c. Transportation Planning

Various Counties - Certify eligible counties for the 2015 Economically Disadvantaged Counties Program and establish local match adjustments for each county and certain cities (MO)

114082
TPP

Transportation Code, §222.053(a), defines an “economically disadvantaged county” as a county that has, in comparison to other counties in the state: (1) below average per capita taxable property value; (2) below average per capita income; and (3) above average unemployment.

Transportation Code, §222.053(c), directs the Texas Transportation Commission (commission), when evaluating a proposal for a highway project in a political subdivision that consists of all or a portion of an economically disadvantaged county, to adjust the minimum local matching funds requirement after evaluating the political subdivision's effort and ability to meet the requirement.

Transportation Code, §222.053(f), requires the commission to certify a county as economically disadvantaged on an annual basis as soon as possible after the

Comptroller of Public Accounts (comptroller) provides reports on the economic indicators listed above.

Title 43 TAC §15.55(b)(2) provides that, in determining the adjustment to the local matching funds requirement, and the local government's efforts and ability to meet the requirement, the commission will consider a local government's: (A) population level; (B) bonded indebtedness; (C) tax base; (D) tax rate; (E) extent of in-kind resources available; and (F) economic development sales tax.

The comptroller has provided the data needed to determine the counties eligible for the Economically Disadvantaged Counties Program for 2015. The counties' efforts and ability to provide a local match have been considered using the criteria set forth in 43 TAC §15.55. Exhibit A lists the eligible counties and the respective recommended local match adjustments. Exhibit B establishes additional local match adjustments for cities within these counties participating in the program.

IT IS THEREFORE ORDERED by the commission that the list of counties eligible for the 2015 Economically Disadvantaged Counties Program is certified and the local match adjustment for each county is established, as shown in Exhibit A, as well as additional adjustments for cities participating in the program, as shown in Exhibit B.

Note: Exhibits A and B are on file with the assistant chief clerk.

d. Professional Services Contracts

Approval to amend certain limitations of Minute Order 110543 to allow for work performed under indefinite deliverable contracts authorized under that minute order to be utilized on any statewide alternative delivery projects, including projects developed under comprehensive development agreements (CDA), design-build agreements, or other innovatively funded or developed methods (MO)

114083
SPD

Title 43, Texas Administrative Code, §9.32 prescribes conditions under which the Texas Department of Transportation (department) may solicit and select providers of architectural, engineering or surveying services, and prescribes conditions on entering into contracts, including indefinite deliverable contracts, for those services.

In Minute Order 110543, the Texas Transportation Commission (commission) authorized the department to solicit indefinite deliverable contracts for the services of independent engineers for comprehensive development agreement (CDA) concession projects.

The 82nd Legislature, 2011, and the 83rd Legislature, 2013, provided the department with additional authority to deliver projects through public-private partnership (PPP) agreements. With this additional authority, the department has been working to deliver various PPP projects utilizing design-build agreements and CDAs, including, but not limited to, concession projects.

Due to the additional authority provided by the Legislature, the department finds there is a need to expand the use of the current independent engineering indefinite deliverable contracts for projects other than concession projects, and to utilize their original scope of work towards monitoring and auditing all PPP projects being delivered under design-build agreements, CDAs, including, but not limited to concession agreements, as well as other innovatively funded or developed projects.

IT IS THEREFORE ORDERED by the commission that the department is authorized to amend the independent engineering indefinite deliverable contracts authorized by Minute Order 110543 to permit their use on all CDAs, design-build agreements, and other innovatively funded or developed projects, and to execute all contractual documents as prescribed by the department's delegation of authority. All other provisions of the original minute order remain in effect.

e. Speed Zones

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

114084
TRF

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

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

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

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

Exhibit B lists speed zones for sections of highways where engineering and traffic investigations justify the need to alter the speeds. It has also been determined that the speed limits on various segments of the state highway system, previously established by the commission by minute order and listed in Exhibit C, are no longer necessary or have been incorporated by the city which has the authority to set the speed limits on these sections of the highway.

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

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

Note: Exhibits A - C are on file with the assistant chief clerk.

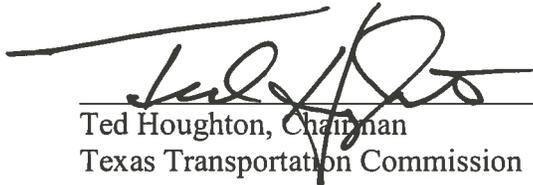
ITEM 14. Executive Session Pursuant to Government Code, Chapter 551

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

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

The regular meeting of the Texas Transportation Commission was adjourned at 11:49 a.m.

APPROVED:



Ted Houghton, Chairman
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 September 18, 2014, in Austin, Texas.



Robin Carter, Assistant Chief Clerk
Texas Department of Transportation