

These are the minutes of the regular meeting of the Texas Transportation Commission held on September 24, 2015, in Austin, Texas. The meeting was called to order at 9:04 a.m. by Chairman Lewis with the following commissioners present:

**Texas Transportation Commission:**

Tryon D. Lewis	Chairman
Jeff Austin, III	Commissioner
Jeff Moseley	Vice Chairman
Victor Vandergriff	Commissioner
J. Bruce Bugg	Commissioner

**Administrative Staff:**

LtGen. Joe Weber, Executive Director  
 Jeff Graham, General Counsel  
 Robin Carter, Commission 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 4:01 p.m. on September 16, 2015, 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 Sidney Maloy.

During commission opening comments, Chairman Lewis reiterated the charge from Governor Abbott concerning congestion relief and asked Commissioner Bugg to assume the leadership role for the commission regarding the Governor's challenge to the commission to reduce congestion across the state.

**ITEM 2. Approval of Minutes of the August 27, 2015 regular meeting of the Texas Transportation Commission**

Commissioner Bugg made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the minutes of the August 27, 2015 regular meeting by a vote of 5 - 0.

**ITEM 3. Discussion Items**

**a. House Bill 20 (presentation)**

This item was presented by Interim Deputy Executive Director Marc Williams.

b. Texas Freight Mobility Plan (presentation)

This item was presented by Freight and International Trade Section Interim Director Caroline Mays. Chairman of the Freight Advisory Committee and Harris County Judge Ed Emmett also joined the presentation and made remarks. Federal Highway Administration Division Administrator Al Alonzi, Port of Corpus Christi Executive Director John LaRue, Port of Houston Authority Freight Mobility Manager Bruce Mann, and Texas Farm Bureau member and Freight Advisory Committee member Glen Jones also made remarks to the commission.

**ITEM 4. Aviation****Various Counties - Award federal grant funding for airport improvement projects at various locations (MO)**

Commissioner Vandergriff made a motion, which was seconded by Vice Chairman Moseley, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Director of Aviation Dave Fulton.

114363  
AVN

The Texas Department of Transportation (department) is authorized under the federal Airport and Airway Improvement Act to award federal 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 grant funds for the improvements.

On Friday, August 28, 2015 a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the 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 \$4,838,967.

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

**ITEM 5. Advisory Committee Appointments****Appoint four new members to the Bicycle Advisory Committee (MO)**

Commissioner Austin made a motion, which was seconded by Commissioner Bugg, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Director of Public Transportation Eric Gleason.

114364  
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 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 four committee appointments:

<u>Name</u>	<u>Location</u>	<u>Term Expiration</u>
Allison Kaplan	Austin, TX	August 31, 2017
Anne-Marie Williamson	Wichita Falls, TX	August 31, 2018
Joseph Pitchford	Dallas, TX	August 31, 2018
Shawn Twing	Amarillo, TX	August 31, 2018

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

**ITEM 6. Transportation Alternatives Program**

**Various Counties - Approve federal funding for projects submitted in the department's 2015 Transportation Alternatives Program (TAP) Call for Projects (MO)**

Vice Chairman Moseley made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Director of Public Transportation Eric Gleason.

114365  
PTN

The Texas Transportation Commission (commission) desires to award \$25,660,859 in federal funds under the Transportation Alternatives Program (TAP), authorized under Section 1122 of Moving Ahead for Progress in the 21st Century Act (MAP-21) and codified at 23 U.S.C. §213(b) and §101(a)(29). The commission recognizes that MAP-21 requires the state to have a competitive process to allow eligible entities to submit projects for funding.

The commission adopted administrative rules that establish the guidelines under which the TAP is administered by the Texas Department of Transportation (department), located in Title 43, Texas Administrative Code (TAC), Chapter 11, Subchapter F, §§11.300 - 11.317. Pursuant to the program rules, a Notice of a TAP Call for Projects was published in the Texas Register on January 16, 2015, for the distribution of TAP funds apportioned to the department for fiscal years 2013 - 2015, as well as funds anticipated for fiscal year 2016. TAP project nominations were received by the department on or before May 4, 2015. Projects were evaluated for eligibility, technical standards, and specific selection criteria set forth in the TAP Program Guide.

This award distributes funds available for projects in small urban areas with a population of 5,001 to 200,000.

In accordance with the TAC rules, the commission will select TAP projects for funding based on recommendations from the director of the division responsible for administering the TAP, the potential benefit of the project to the state, and whether the project enhances the surface transportation system. Exhibit A is a list of the candidate projects recommended for funding.

IT IS THEREFORE ORDERED by the commission that the projects listed in Exhibit A are hereby selected and designated for funding under the TAP and that the executive director or the director's designee is authorized to proceed with the award and execution of local agreements as required by the program rules.

IT IS FURTHER ORDERED that for each project listed in Exhibit A, and subsequently verified as eligible for development, the total amount in federal funds must be locally matched by a minimum of 20 percent. The required local match may be 100 percent in cash or a combination of cash with state funds, available through the department's Economically Disadvantaged Counties Program, or with federally eligible in-kind contributions. The federal funding awarded to a TAP project will be limited to the amount shown in Exhibit A.

IT IS FURTHER ORDERED that should additional funding become available, the commission may select additional eligible projects for funding from among those project nominations submitted in the department's 2015 TAP Call for Projects.

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

**ITEM 7. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:**

**Proposed Adoption**

**a. Chapter 4 - Employment Practices**

**Amendments to §4.51, Definitions, §4.54, Contributions, §4.55, Contribution Returns, and §4.56, Withdrawals (Sick Leave Pool Program) (MO)**

Commissioner Bugg made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 4 - 0. Commissioner Moseley was not on the dais at the time of this vote. This item was presented by Human Resources Director David McMillan.

114366  
HRD

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§4.51, 4.54, 4.55, and, 4.56, relating to the Sick Leave Pool 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 §§4.51, 4.54, 4.55, and 4.56 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 commission chief clerk.

**b. Chapter 28 - Oversize and Overweight Vehicles and Loads**

Amendments to §28.100, Purpose, §28.102, Authority's Powers and Duties, §28.104, Permit Issuance Requirements and Procedures, and §28.106, Movement Requirements and Restrictions (Hidalgo County Regional Mobility Authority Permits) (MO)

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

114367  
MNT

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§28.100, 28.102, 28.104, and 28.106, 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, 28.102, 28.104, and 28.106 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 commission chief clerk.

**ITEM 8. Compliance Office**

Compliance Office Report

This item was presented by Director of Compliance Kristin Alexander. The commission took no action on this item.

**ITEM 9. Financial Assistance for Projects**

a. Tarrant County - Consider (1) rescinding part of Minute Order 112391 to cancel the authority to enter into a \$14,400,000 pass-through agreement with the City of Colleyville for the construction of SH 26; and (2) removing \$14,400,000 from the allocation of funds in the pass-through program call approved in Minute Order 112305 (MO)

Commissioner Vandergriff made a motion, which was seconded by Commissioner Bugg, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Innovative Finance and Debt Management Officer Ben Asher.

114368  
DMO

The Texas Transportation Commission (commission), by Minute Order 112305 dated June 24, 2010, selected pass-through proposals under a pass-through program call, including the reconstruction of SH 26 from just south of Cheek-Sparger Road to just north of Hall Johnson Road to reconstruct it from an existing five-lane asphalt section to a six-lane divided urban arterial facility with concrete pavement, and including intersection improvements (project) by the City of Colleyville (City), and authorized the executive director of the Texas Department of Transportation (department) to negotiate the financial terms of pass-through agreements with the selected proposers.

The commission, by Minute Order 112391 dated August 26, 2010, authorized the executive director to execute a pass-through agreement with the City up to the total amount of \$14,400,000 for the project and including terms negotiated by the executive director.

The City and the department have not entered into a pass-through agreement and the City has requested that the department construct improvements to SH 26 with participation by the City.

The department recommends that the commission rescind that part of MO 112391 that authorizes the pass-through agreement with the City and remove \$14,400,000 from the allocation of funds in the pass-through program call approved in Minute Order 112305 so that it may be used for other projects.

IT IS THEREFORE DETERMINED that the commission's authority to enter into a \$14,400,000 pass-through agreement with the City in Minute Order 112391 and the \$14,400,000 allocated to the City in the pass-through program call approved in Minute Order 112305 are no longer needed and may be canceled.

IT IS FURTHER DETERMINED AND ORDERED that: (1) the commission hereby rescinds part of Minute Order 112391 to cancel the authority to enter into a \$14,400,000 pass-through agreement with the City for the construction of the project; and (2) \$14,400,000 is hereby removed from the allocation of funds in the pass-through program call approved in Minute Order 112305.

b. **Bexar County** - Consider approving a request from the Alamo Regional Mobility Authority (ARMA) for: (1) cancellation of \$1,143,752 of the \$19,800,000 grant for development of the US 281 North Improvement Project that was authorized by Minute Order 111359 dated May 29, 2008; and (2) preliminary approval of a grant in the amount of \$1,143,752 to be used for the development costs of the Loop 1604 Managed Lanes Project (MO)

This item was not considered by the commission.

**ITEM 10. Removal of Toll Designation**

**Bexar County** - Approve the removal of the toll project designation from the tolled mainlanes of the US 281 North Project from Loop 1604 to the Bexar/Comal County line, including the direct connections to and from Loop 1604, and rescind Minute Order 111257, which will rescind the transfer of the US 281 North Project, comprising

the roadway and associated right of way from Loop 1604 to the Bexar/Comal County line, to the Alamo Regional Mobility Authority, and the removal of that roadway from the state highway system (MO)

Commissioner Bugg made a motion, which was seconded by Vice Chairman Moseley, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Strategic Projects Division Director Katie Nees. Interim Deputy Executive Director Marc Williams also spoke to the commission. Bexar County Precinct 3 Commissioner Kevin Wolfe, Texas TURF/Texans for Toll-free Highways Director Terri Hall, and Engineer Don Dixon also spoke to the commission.

114369  
SPD

In Minute Order 109523, dated December 18, 2003, the Texas Transportation Commission (commission) authorized the creation of the Alamo Regional Mobility Authority (Alamo RMA), and as part of that minute order, identified an initial project for the Alamo RMA that included, among other things, new capacity on US 281 from Loop 1604 (north) to the Bexar/Comal County line.

In Minute Order 110111, dated June 30, 2005, the commission designated the tolled main lanes on US 281 from Loop 1604 to Marshall Road, including the direct connections to and from Loop 1604, as a toll project on the state highway system. In Minute Order 110301, dated November 17, 2005, the commission designated the tolled main lanes on US 281 from Evans Road to the Bexar/Comal County line as a toll project on the state highway system.

In Minute Order 111257, dated February 28, 2008, the commission considered the request of the Alamo RMA that the US 281 toll project, comprising the roadway and associated right of way from Loop 1604 to the Bexar/Comal County line, be removed from the state highway system and transferred to the Alamo RMA for the purpose of designing, financing, constructing, operating, and maintaining a turnpike project. In that minute order, the commission approved the transfer of the roadway and right of way to the Alamo RMA, subject to the approval of the governor and the execution of a project development agreement by the Texas Department of Transportation (department) and the Alamo RMA. Subject to the same conditions, the commission approved the removal of the roadway and right of way from the state highway system. The governor approved the transfer, but the project development agreement has not been executed.

On September 14, 2015, the Transportation Policy Board of the Alamo Area Metropolitan Planning Organization adopted a resolution identifying other funding to complete and maintain the US 281 North Project (Project) from Loop 1604 to the Bexar/Comal County line, and supporting the implementation of the Project as a nontolled project, subject to the passage of Proposition 7.

After consultations between the department and the Alamo RMA, and in accordance with the desires of the region evidenced in the resolution of the Alamo Area Metropolitan Planning Organization, the commission has determined that the interests of the state are better served by not constructing the Project as a toll project, as had been originally planned, but as a nontolled project.

IT IS THEREFORE ORDERED that the toll project designation is removed from the tolled mainlanes of the US 281 North Project from Loop 1604 to the Bexar/Comal County line, including the direct connections to and from Loop 1604.

IT IS FURTHER DETERMINED that, as the US 281 North Project will not be tolled and a project development agreement for the Project has not been executed, the conditions to the transfer of the roadway and associated right of way for the Project to the Alamo RMA, and the removal of the roadway and right of way from the state highway system have not been met.

IT IS FURTHER ORDERED that, as the commission has determined that the conditions to the transfer of the US 281 North Project, comprising the roadway and associated right of way from Loop 1604 to the Bexar/Comal County line, have not all been met, Minute Order 111257 is rescinded.

**ITEM 11. Regional Mobility Authority**

**Travis County - Central Texas Regional Mobility Authority - Approve the connection of the US 183 South - Bergstrom Expressway toll project to the State Highway System (MO)**

Vice Chairman Moseley made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 4 - 0. Commissioner Bugg was not on the dais at the time of the vote. This item was presented by Transportation Planning and Programming Division Director James Koch.

114370  
TPP

The Texas Department of Transportation (department) and the Central Texas Regional Mobility Authority (CTRMA) have been proceeding with the development of the US 183 South – Bergstrom Expressway Project in Travis County, a project under the jurisdictional limits of the CTRMA, which will include both tolled and non-tolled lanes.

The project is approximately 8 miles in length and will include three new toll lanes and three improved non-tolled general purpose lanes in each direction between US 290 and SH 71, with direct connectors at US 183 and SH 71, and improvements on SH 71 adjacent to US 183. The project also includes a proposed sidewalk and shared-use path within the right of way adjacent to the roadway and an outside bike lane. On May 12, 2014, the Capital Area Metropolitan Planning Organization (CAMPO) adopted the FYs 2015-2018 Transportation Improvement Program in which was included the US 183 South - Bergstrom Expressway Project. CAMPO further included the US 183 South - Bergstrom Expressway Project in the CAMPO 2040 Plan adopted May 11, 2015.

The project is located within the boundaries of the CTRMA, and is subject to the primacy requirements of Transportation Code, Chapter 373. Pursuant to Transportation Code §373.052, the CTRMA has exercised its option to develop, finance, construct, and operate the project. The existing US 183 will be reconstructed and expanded to provide, on the highway and adjacent facilities, an equivalent or greater number of non-tolled lanes than currently exist. The non-tolled portion of the

US 183 South - Bergstrom Expressway Project would remain on the state highway system as US 183.

Transportation Code, §370.187 provides that a regional mobility authority may not begin construction of a transportation project that will connect to the state highway system or to a department rail facility without the approval of the Texas Transportation Commission (commission). Title 43, Texas Administrative Code, §26.31 et seq. prescribe the conditions for that approval. Title 43, Texas Administrative Code, §11.58 provides that the commission must approve a public or private entity's connection of a regionally significant highway to the state highway system.

In Minute Order 114316, dated July 30, 2015, the commission approved grant funds for the construction of the US 183 South - Bergstrom Expressway Project, and authorized the executive director of the department to enter into a financial assistance agreement with the CTRMA for those funds.

Pursuant to 43 TAC §26.31 and 43 TAC §11.58, the CTRMA has submitted a request to the executive director to connect the US 183 South - Bergstrom Expressway Project to the state highway system in connection with the CTRMA's development and construction of the US 183 South - Bergstrom Expressway Project, from US 290 to SH 71.

Pursuant to 43 TAC §11.58(c), the CTRMA agrees to design and construct the portion of the US 183 South - Bergstrom Expressway Project that comprises the connection to the state highway system in compliance with the standards prescribed in 43 TAC §11.58(d). The US 183 South - Bergstrom Expressway Project is in a conforming transportation improvement program, and a Finding of No Significant Impact (FONSI) was issued for the US 183 South - Bergstrom Expressway Project on March 6, 2015.

Pursuant to 43 TAC §26.32, the commission has determined that the US 183 South - Bergstrom Expressway Project may be effectively integrated into the state's transportation system. The CTRMA is fully capable of awarding and managing the construction contract for the US 183 South - Bergstrom Expressway Project in a cost effective and timely manner, consistent with the applicable federal and state laws and regulations. The construction of the US 183 South - Bergstrom Expressway Project will provide for the expeditious completion of a critically needed project within the US 183 corridor that will relieve traffic congestion on the existing state highway system and improve mobility in Travis County.

**IT IS THEREFORE ORDERED** that the connection of the US 183 South - Bergstrom Expressway Project with a segment of the state highway system is approved.

**IT IS FURTHER ORDERED** that the executive director of the department is authorized to enter into an agreement with the CTRMA for the development, construction, operation, and maintenance of the US 183 South - Bergstrom Expressway Project.

**ITEM 12. Audit Plan**

Approve the Audit Plan for Fiscal Year 2016 and determine whether adequate resources have been dedicated to the internal audit program (MO)

Commissioner Austin made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the following minute order by a vote of 4 - 0. Commissioner Bugg was not on the dais at the time of the vote. This item was presented by Office of Internal Audit Director Craig Otto.

114371  
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) 2016, which is set forth in Exhibit A. This Audit Plan was prepared by completing a risk assessment of the Texas Department of Transportation's (department's) functions and obtaining input from the Office of Compliance, 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 for FY 2016. The Chief Audit and Compliance Officer considers the resources for FY 2016 to be adequate to address the risks that warrant audit coverage.

The Audit Plan for FY 2016 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 2016, 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 commission chief clerk.

**ITEM 13. Audit Subcommittee Charter**

Approve changes to the Audit Subcommittee Charter (MO)

Commissioner Bugg made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Office of Internal Audit Director Craig Otto.

114372  
AUD

The Audit Subcommittee (subcommittee) of the Texas Transportation Commission (commission) was created on January 28, 2009. The subcommittee was

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

The subcommittee charter was approved by the commission on March 25, 2010, in Minute Order 112196, and amended on April 28, 2011, in Minute Order 112661. The charter sets forth the purpose and composition of the subcommittee, as well as meeting requirements and principal duties and responsibilities of the subcommittee in carrying out its oversight role.

The subcommittee is required to review and assess the adequacy of the charter annually and request commission approval for proposed changes. On September 23, 2015, the subcommittee voted to amend the charter to reflect revisions to the Sarbanes-Oxley requirements and the change of the title of the Chief Audit Executive to Chief Audit and Compliance Officer. The amended charter is attached as Exhibit A.

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

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

The commission took a short break from 11:36 a.m. to 11:53 a.m.

#### **ITEM 14. Contracts**

**Award or reject contracts for maintenance, highway and building construction**

##### **(a) Highway Maintenance and Department Building Construction (MO)**

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

114373  
MNT

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 September 2 and 3, 2015, as shown on Exhibit A.

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

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

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

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

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

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

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

**(b) Highway and Transportation Enhancement Building Construction (MO)**

Commissioner Bugg made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Director of Engineering Operations Mark Marek.

114374  
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for improvement of the State Highway System, which were publicly opened and read on September 2 and 3, 2015, as shown on Exhibit A.

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

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

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

IT IS THEREFORE ORDERED by the commission that the contracts described in Exhibit A, with the exception of Project Number NH 2016(098) (Tarrant County), be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein. The award or rejection of Project Number NH 2016(098) is hereby deferred to a later date.

If a contractual requirement of award is not satisfied within the prescribed time limit, including any extension of time allowed by the executive director or the director's

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

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

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

**ITEM 15. 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 Bugg 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 by Commissioner Moseley and the following minute order was approved by Chairman Lewis, Commissioner Austin, Commissioner Moseley, Commissioner Vandergriff, and Commissioner Bugg (a vote of 5 - 0). This item was presented by Right of Way Division Director John Campbell.

114375  
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 (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 - K. 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 - 20, 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>
Burleson	FM 60	1	0648-03-063	53
Collin	US 75	15	0047-14-075	48
Collin	FM 2514	17	2679-02-009	32
Ellis	FM 55	13	1451-01-026	1
Ellis	FM 55	20	1451-01-026	6
Ellis	FM 55	18	1451-01-028	4
Ellis	FM 55	19	1451-01-028	2
Fort Bend	FM 2234	2	2105-01-036	15
Harris	US 290	16	0050-06-077	1004B
Hidalgo	US 83	3	0039-02-059	11
Hidalgo	FM 493	4	0863-01-057	4A
Hidalgo	FM 493	5	0863-01-057	66B
Hidalgo	FM 493	6	0863-01-057	105B
Hidalgo	FM 493	7	0863-01-057	105D
Hidalgo	FM 493	8	0863-01-057	105E
Hidalgo	FM 493	9	0863-01-057	105F
Hidalgo	FM 493	10	0863-01-057	105G

**NON-CONTROLLED ACCESS (continued)**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Hidalgo	FM 493	11	0863-01-057	105H
Hidalgo	FM 493	12	0863-01-057	105I
Tarrant	SH 360	14	2266-02-129	31

**CONTROLLED ACCESS**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Harris	IH 45	J	0500-03-566	4
Harris	IH 45	K	0500-03-566	3
Hill	SH 31	H	0162-02-036	36
McLennan	IH 35	A	0015-01-234	111
McLennan	IH 35	E	0015-01-234	224AC
McLennan	IH 35	F	0015-01-234	193,193AC
McLennan	IH 35	G	0015-01-234	104,104AC
Tarrant	IH 30	B	1068-02-123	15
Tarrant	IH 30	C	1068-02-123	2,2E
Tarrant	IH 30	D	1068-02-123	11
Tarrant	IH 30	I	1068-02-123	5

Note: Exhibits A - K and 1 - 20 are on file with the commission chief clerk.

**ITEM 16. Routine Minute Orders**

Vice Chairman Moseley made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute orders by a vote of 5 - 0. This item was presented by Executive Director General Joe Weber. Prior to approval of the minute orders, Chad Nobles, Amy Nobles, Robert Nobles, and Sandra Nobles all addressed the commission concerning Item 16d(1).

**a. Donations to the Department**

**Various Districts** - Consider the acknowledgment 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)

114376  
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 commission chief clerk.

**b. Real Estate Dispositions**

**(1) Johnson County - SH 174 north of W. Hidden Creek Parkway in Burleson - Consider the transfer and sale of right of way to the city of Burleson (MO)**

114377  
ROW

In the city of Burleson (city), JOHNSON COUNTY, on STATE HIGHWAY 174, the state of Texas acquired certain land by instrument recorded in Volume 383, Page 328, Deed Records of Johnson County, Texas.

Portions of the land, Tract 14-12 (Part 1 and Part 2), described in Exhibits A and B, 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: 1) waive payment for real property transferred to a governmental entity if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property; and 2) recommend the sale of any interest in real property acquired and no longer needed for a state highway purpose to a governmental entity with the authority to condemn the property.

The city has requested that Part 1, described in Exhibit A, be transferred to the city. The state's costs for maintenance of Part 1 over the next 20 years are estimated to be \$375,000, and the fair value has been determined to be \$301,608.

The city has requested to purchase Part 2, described in Exhibit B, for \$202,775.

The commission finds \$301,608 to be a fair and reasonable value for Part 1, and finds \$202,775 to be a fair and reasonable value for Part 2.

IT IS THEREFORE ORDERED by the commission that Tract 14-12, Part 1 and Part 2, 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 proper instruments: 1) transferring all of the state's right, title, and interest in Part 1 to the city of Burleson, Texas, in consideration of the savings to the state of future maintenance costs; and 2) conveying all of the state's right, title, and interest in Part 2 to the city of Burleson, Texas, for \$202,775; 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: Exhibits A and B are on file with the commission chief clerk.

**(2) Lubbock County - SL 289 at SH 114 in Lubbock - Consider the sale of two tracts of right of way to the abutting landowners (2 MOs)**

114378  
ROW

In the city of Lubbock, LUBBOCK COUNTY, on STATE LOOP 289, the state of Texas acquired certain land for highway purposes by instruments recorded in Volume 819, Page 17, and Volume 934, Page 622, Deed Records of Lubbock County, Texas.

A portion of the land (Tract 2), described in Exhibit A, is no longer needed for state 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 highway right of way acquired and no longer needed for a state highway purpose to abutting landowners.

YATESIIBY, LLC, is the abutting landowner and has requested to purchase Tract 2 for \$675,000.

The commission finds \$675,000 to be a fair and reasonable value of the state's right, title, and interest in Tract 2.

IT IS THEREFORE ORDERED by the commission that Tract 2 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 2 to YATESIIBY, LLC, for \$675,000; 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 commission chief clerk.

114379  
ROW

In the city of Lubbock, LUBBOCK COUNTY, on STATE LOOP 289, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 789, Page 675, Deed Records of Lubbock County, Texas.

A portion of the land (Tract 4), described in Exhibit A, is no longer needed for state 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 highway right of way acquired and no longer needed for a state highway purpose to abutting landowners.

GM Partnership, Ltd., is the abutting landowner and has requested to purchase Tract 4 for \$1.2 million.

The commission finds \$1.2 million to be a fair and reasonable value of the state's right, title, and interest in Tract 4.

IT IS THEREFORE ORDERED by the commission that Tract 4 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 4 to GM Partnership, Ltd., for \$1.2 million; 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 commission chief clerk.

**(3) Travis County - FM 973, northeast corner of SH 71 in Del Valle - Consider the sale of access rights to abutting landowners (MO)**

114380  
ROW

In the city of Del Valle, TRAVIS COUNTY, on FARM TO MARKET ROAD 973, the state of Texas acquired and controls certain access rights to the highway facility to and from the abutting land by instrument recorded as Instrument No. 2015059076, Official Public Records of Travis County, Texas, said rights having been acquired in conjunction with a parcel of right of way described as Parcel 61, description of the same attached hereto as Exhibit A.

The access rights which abut Parcel 61 (the access rights), as shown on Exhibit A, are no longer needed for a state highway purpose.

Frank Flores and Petra Colunga a/k/a Petra Flores, owners of a 0.317-acre tract of land conveyed by deed recorded in Volume 5686, Page 496, Deed Records of Travis County, Texas (Flores Tract), are the landowners abutting the property line along which access is proposed to be released and have requested to purchase a release of the access rights for \$83,822.

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

The Texas Department of Transportation has determined that the sale of the access rights is not expected to compromise the safety or add traffic volume in an amount to exceed the capacity of the existing highway.

It is the opinion of the commission that it is proper and correct that the state sell the access rights to the abutting landowners for a cash consideration of \$83,822. IT IS THEREFORE ORDERED by the commission that the access rights 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 granting the access rights to Frank Flores and Petra Colunga a/k/a Petra Flores for a cash consideration of \$83,822.

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

**c. Transportation Planning**

**Various Counties - Certify eligible counties for the 2016 Economically Disadvantaged Counties Program and establish local match adjustments for each county and certain cities (MO)**

114381  
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 2016. 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 2016 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 commission chief clerk.

**d. Highway Designation**

**(1) Grimes and Montgomery Counties - Extend the designation of SH 249 from FM 1774 at FM 149 northwestward to SH 105 (MO)**

114382  
TPP

In Grimes and Montgomery Counties, the Bryan and Houston Districts have requested that the designation of SH 249 be extended from FM 1774 at FM 149 near the community of Pinehurst northwestward to SH 105 near the community of Stoneham, a distance of approximately 24.4 miles.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director of the Texas Department of Transportation has recommended this action.

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

IT IS THEREFORE ORDERED by the commission that the designation of SH 249 is extended from FM 1774 at FM 149 near the community of Pinehurst northwestward to SH 105 near the community of Stoneham, a distance of approximately 24.4 miles, as shown in Exhibit A.

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

**(2) Hidalgo County - In and near the cities of La Joya and Penitas, designate US 83 along a new location, redesignate a portion of existing US 83 as Business US Highway 83-S and redesignate the remaining portion of existing US 83 as US Highway Spur 83 (MO)**

114383  
TPP

In Hidalgo County, the Pharr District has requested the following actions:

1) designation of US 83 on the state highway system along a new location from 1.7 miles east of FM 886 (El Faro Road) to 0.8 miles west of Showers Road, a distance of approximately 7.9 miles; 2) redesignation of a portion of existing US 83 as Business US Highway 83-S from 1.7 miles east of FM 886 (El Faro Road) to the intersection of existing Business US Highway 83-S, a distance of approximately 6.3 miles; and 3) redesignation of the remaining portion of existing US 83 as US Highway Spur 83 from the intersection of existing Business US Highway 83-S eastward to the new location of US 83, a distance of approximately 0.4 miles.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director of the Texas Department of Transportation has recommended these actions.

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

IT IS THEREFORE ORDERED by the commission that: 1) US 83 is designated on the state highway system along a new location from 1.7 miles east of FM 886 (El Faro Road) to 0.8 miles west of Showers Road, a distance of approximately 7.9 miles; 2) a portion of existing US 83 is redesignated as Business US Highway 83-S from 1.7 miles east of FM 886 (El Faro Road) to the intersection of existing Business US Highway 83-S, a distance of approximately 6.3 miles; and 3) the remaining portion of existing US 83 is redesignated as US Highway Spur 83 from the intersection of existing Business US Highway 83-S eastward to the new location of US 83, a distance of approximately 0.4 miles, as shown in Exhibit A.

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

**e. Designation of Access Control**

**Dallas County - I-20, west of JJ Lemmon Road - Consider the designation of one location on the frontage road at which access will be permitted to the abutting property (MO)**

114384  
DES

In DALLAS COUNTY, on Interstate 20, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 902, Page 79, Deed Records of Dallas County, Texas, with denial of access to the abutting remainder property as described in the instrument.

LIT-RPC JJ LEMMON INDUSTRIAL, LLC, the current owners of the abutting property, have requested that access to and from the westbound frontage road of I-20 be permitted along the southern property line at one new access point, described in Exhibit A.

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

Transportation Code, §203.002 authorizes the commission to layout, construct, maintain, and operate a modern state highway system, with an emphasis on the construction of controlled-access highways.

Transportation Code, §203.031 authorizes the commission to designate locations on a controlled-access highway at which access to or from the highway is permitted and determine the type and extent of access permitted at each location.

NOW, THEREFORE, the commission finds that the new access point will not compromise the mobility, safety or operation of the existing state highway facility, and designates this new access point as a location where ingress and egress are permitted to and from the westbound frontage road of I-20.

IT IS FURTHER ORDERED by the commission that the executive director or his designee is hereby authorized to execute any necessary documents containing terms consistent with the provisions of this order.

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

**f. Consultation and Review - Department of Motor Vehicles, Chapter 219**  
Consultation on Department of Motor Vehicles rules regarding overweight/oversize  
vehicles (MO)

114385  
ADM

Pursuant to Transportation Code, §623.145 and §623.195, the Department of Motor Vehicles Board (board) must consult with the Texas Transportation Commission (commission) prior to the adoption of rules regarding oversize and overweight permits for the operation of oil well servicing and drilling machinery and unladen lift equipment motor vehicles.

The board proposed changes to 43 TAC Chapter 219, Oversize and Overweight Vehicles and Loads, on August 14, 2014. The proposed rule amendments were published in the Texas Register on September 18, 2015.

To comply with the statutory requirements, the board consulted with the commission on the amendments to 43 TAC §§219.11(d)(2), 219.11(k), and 219.11(l)(1), (3), and (4), 219.41, 219.42, 219.43, 219.45, 219.61, 219.62, and 219.63. Texas Department of Transportation (department) staff reviewed the amendments to those provisions and had no comments on those proposed changes.

Upon a complete review of all of the proposed rule amendments to 43 TAC Chapter 219, department staff found two areas of concern regarding the department's involvement in the permitting process in amendments to two other provisions of §219.11, specifically subsections (d)(1) and (h) of that section. Department staff has worked with staff of the Department of Motor Vehicles and these issues are being addressed.

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to continue to work with the board and staff of the Department of Motor Vehicles and take the necessary steps to ensure compliance with Transportation Code, §623.145 and §623.195 and to provide a copy of this minute order to the board as documentation of the board's consultation with the commission, in accordance with those sections.

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

114386  
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 the 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 portions of minute orders establishing speed zones shown on the attached Exhibit C are canceled.

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

**ITEM 17. 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, pending or contemplated litigation, or other legal matters.**

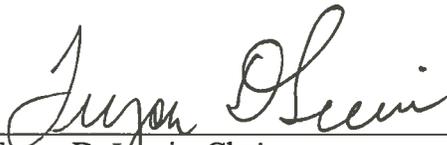
The commission recessed to executive session at 12:16 p.m. and returned from executive session at 1:27 p.m.

**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 commission received no further comments.

Commissioner Vandergriff motioned adjournment and Commissioner Bugg seconded the motion. The commission voted 5 - 0 to adjourn. The regular meeting of the Texas Transportation Commission was adjourned at 1:27 p.m.

APPROVED:

  
\_\_\_\_\_  
Tryon D. Lewis, Chairman  
Texas Transportation Commission

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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 24, 2015, in Austin, Texas.

  
\_\_\_\_\_  
Robin Carter, Commission Chief Clerk  
Texas Department of Transportation