

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on May 27, 2004, in Austin, Texas. The meeting opened at 9:14 a.m. with the following commissioners present:

Texas Transportation Commission:

Ric Williamson	Chair
Robert L. Nichols	Commissioner
John W. Johnson	Commissioner
Hope Andrade	Commissioner
Ted Houghton, Jr.	Commissioner

Administrative Staff:

Michael W. Behrens, Executive Director
 Steven E. Simmons, Deputy Executive Director
 Richard Monroe, General Counsel
 Roger Polson, Executive Assistant to the Deputy Executive Director
 Dee Hernandez, Chief Minute Clerk

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 1:15 p.m. on May 19, 2004, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

ITEM 1. Approval of Minutes of the April 29, 2004, regular meeting of the Texas Transportation Commission

Commissioner Johnson made a motion, seconded by Commissioner Houghton, and the commission approved the minutes of the April 29, 2004, regular meeting of the Texas Transportation Commission.

ITEM 2. AWARDS/RECOGNITIONS/RESOLUTIONS

a. Presentation of an award and update on activities statewide for the Automobile Theft Prevention Authority

This presentation was given by Mac Tristan, ATPA Board President, assistant police chief for the City of Carrollton.

b. Presentation of a resolution recognizing a retiring department employee

This resolution recognized Al Rubio of the Travel Division.

ITEM 3. DISCUSSION ITEM

Discuss the commission's direction and priorities to be included in the 2005-2009 Strategic Plan

This item was presented by Legislative Affairs Office Director Coby Chase. The commission received comments from Travis County Commissioner, Gerald Daugherty; Roger Baker; and Rep. Joe Pickett.

ITEM 6. DELEGATIONS:**a. ECONOMIC DEVELOPMENT ALLIANCE FOR BRAZORIA COUNTY**

Report to the commission on mobility issues and to discuss specific projects, SH 288, SH 35 Corridor Feasibility Studies, and SH 36 in Brazoria County

The commission received comments from Sen. Mike Jackson; Sen. Kyle Janek; Brazoria County Judge John Willy; Brazoria County Commissioner Jack Harris; Metropolitan Planning Organization Director, Alan Clark; and Fort Bend County Commissioner Tom Stavinoha.

b. DALLAS/FORT WORTH AREA PARTNERS IN MOBILITY

Request for increased resources to implement projects and programs to the area

The commission received comments from Mayor of Dallas Laura Miller; North Texas Tollway Authority Chairman Dan Dillard; Greater Dallas Chamber of Commerce Board Member Bob Estrada; Hillwood Properties President Mike Berry; Mayor of Fort Worth Mike Moncrief; and Tarrant County Commissioner Glen Whitley.

c. EL PASO METROPOLITAN PLANNING ORGANIZATION

Request funding for two projects (1) The Inner Loop and (2) Loop 375/I-10 Interchange East Phase II

The commission received comments from Sen. Eliot Shapleigh; El Paso Mayor Joe Wardy; and Rep. Joe Pickett.

ITEM 4. TRANSPORTATION PLANNING**f. Webb County - Consider the City of Laredo International Bridge Application**

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

109665
TPP

Transportation Code, §201.612 provides that a political subdivision or private entity authorized to construct or finance the construction of a bridge over the Rio Grande must obtain approval from the Texas Transportation Commission (commission) and from the United States for the construction of the bridge, and requires the political subdivision or private entity to submit to the commission a report that details the feasibility, location, economic effect, and environmental impact of the bridge and any other information the commission by rule may require.

Pursuant to this statute, the commission has adopted rules prescribing information required to be contained in an application for approval of a proposed project to construct a bridge over the Rio Grande, actions that must be taken by the Texas Department of Transportation (department) in processing an application, and criteria and information that may be considered by the commission in determining whether to approve an application, codified as Title 43, Texas Administrative Code, §§15.70-15.76 (international bridge rules).

The department received an application from the City of Laredo (city) on September 22, 2003, to construct the City of Laredo Fifth International Bridge. The department reviewed the application, considered it to meet the requirements of 43 TAC §15.74, and accordingly held a public hearing on October 29, 2003, to receive public comment on the project. The department further submitted the application to the entities required under the international bridge rules, requesting review and comments. The commission considered all oral and written comments on the application.

In Minute Order 109521, dated December 18, 2003, the commission disapproved the application based on: (1) the lack of a written commitment from the appropriate jurisdictions of the United Mexican States to provide adequate roadway connections to the proposed bridge; (2) the fact that sufficient information did not exist to indicate that the bridge is consistent with the regional transportation plan developed by the metropolitan planning organization with jurisdiction over the project; and (3) the lack of public support for the construction of the bridge.

By letter dated April 23, 2004, the city submitted its response to the commission's rationale for disapproving the application. By letter dated April 30, 2004, the city subsequently forwarded a copy of the diplomatic note relating to the project, addressed from the Embassy of Mexico to the U.S. Department of State. The city requested that the diplomatic note be made a part of the city's bridge application.

Section 15.76(a) of the international bridge rules provides that the commission, in analyzing an application, may consider the advice of the staff of the department and consultants that the commission may choose regarding the sufficiency of the information, the probable accuracy of projections, the anticipated financial condition of the application and the project, the impact of the project on the economy and free trade, and any other information the commission determines appropriate.

Section 15.76(e) of the international bridge rules provides that approval or disapproval of a project shall be by written order of the commission, and shall include the rationale, findings, and conclusions on which approval or disapproval is based. The

commission has considered the criteria contained in 43 TAC §15.76 and has also considered the city's April 23, 2004 and April 30, 2004 letters and the supporting documentation enclosed with those responses. The commission finds that approval of the bridge application is in the interest of the public and the state transportation system for the reasons contained in this order.

IT IS THEREFORE ORDERED by the commission that the City of Laredo Fifth International Bridge application is approved. The following is the rationale, and the findings and conclusions on which this approval is based.

- The city provided a copy of Diplomatic Note EUA-01157, addressed from the Embassy of Mexico to the U.S. Department of State, expressing, with regard to the proposed construction of the City of Laredo Fifth International Bridge, the Mexican government's interest in the development of the necessary studies on both sides of the border to determine the feasibility of the project, understanding that these analyses will be considered by the Binational Bridges and Border Crossings Group. The diplomatic note is based on the proposal made by the city and the City of Nuevo Laredo for the construction of a new international bridge that will provide a connection between the two cities from U.S. 83 to Mexico 85. On March 19, 2004, the two cities entered into a memorandum of understanding regarding their commitment to partner in the construction of the proposed bridge. This information provides the necessary written commitment from the appropriate jurisdictions of the United Mexican States to provide adequate roadway connections to the proposed bridge.
- A fifth international bridge is contained in the metropolitan transportation plan, indicating there is a need for a fifth bridge. The metropolitan transportation plan cannot indicate which entity would construct and own the bridge, and the bridge's location, until such time as the competing bridge applications are resolved, and the federal environmental review and approval process is completed. Accordingly, sufficient information exists to indicate that the bridge is consistent with the regional transportation plan developed by the metropolitan planning organization having jurisdiction over the project.
- The city provided documentation of support for the construction of the City of Laredo Fifth International Bridge from the municipal president of the City of Nuevo Laredo. At the October 29, 2003, public hearing regarding the bridge application, various persons expressed support for the project. The city also provided documentation of a proposal to Webb County to share in the revenues of an "unrestricted infrastructure fund" comprised of revenues from City of Laredo Fifth International Bridge, in lieu of the competing bridge applications. The foregoing establishes evidence of public support for the construction of the bridge, and evidence that construction of the project, and the resulting positive effect on the economy and the free flow of trade, is not speculative.

ITEM 4. TRANSPORTATION PLANNING

a. Hays County - IH 35 - Authorize a two-phase project to reconstruct frontage roads and overpasses from Loop 4 North to south of FM 2001, in Category 12, Strategic Priority, of the 2004 Statewide Mobility Program

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

109666
TPP

In HAYS COUNTY, on INTERSTATE HIGHWAY 35 near the city of Buda (city), a two-phase project is needed to reconstruct frontage roads and replace overpasses from Loop 4 North to south of Farm to Market Road 2001, a distance of approximately 1.4 miles.

Several national retail outlets have developed plans for multi-million dollar investment properties along the IH 35 corridor near the city. The Texas Department of Transportation and the local community and business leaders have determined that these improvements are needed in order to safely accommodate the anticipated increase in traffic that will occur as a result of the new business developments.

The total construction cost for both phases combined is \$20.5 million. Of this total, \$10 million will be authorized using Category 12, Strategic Priority funds. The remaining \$10.5 million will come from Interstate Maintenance funds (\$10 million) and from Hays County (\$500,000).

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director is hereby authorized to enter into any necessary agreements and to proceed in the most feasible and economical manner with the reconstruction of frontage roads and the replacement of overpasses, at an estimated construction cost of \$10 million, to be funded in CONSTRUCT authority, Category 12, Strategic Priority, of the 2004 Statewide Mobility Program.

b. Various Counties - Authorize the 2005 Statewide Preservation Program for the 2005 Unified Transportation Program

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

109667
TPP

The UNIFIED TRANSPORTATION PROGRAM (UTP) of the Texas Department of Transportation (department) is a 10-year plan that authorizes project planning and development, and is submitted to the Texas Transportation Commission (commission) for approval on an annual basis.

Transportation Code, §201.103 requires the 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 requires the commission to lay out, construct, maintain, and operate a modern state highway system, with emphasis on the construction of controlled access highways, and to plan for future highways.

Pursuant to Transportation Code, §201.602, the department conducted a public hearing on November 24, 2003, to receive testimony concerning the highway project selection process and the relative importance of the various criteria which the commission uses for project selection decisions. Minute Order 109550, dated January 29, 2004, approved the project selection process, which includes comments and responses resulting from the public hearing.

In order to align the UTP with the simplified budget strategies outlined in the 2003-2007 Strategic Plan, the department has divided the UTP into two volumes: The Statewide Mobility Program and the Statewide Preservation Program (SPP). The SPP is part of the Maintain It budget strategy. The SPP indicates the commission's priority to preserve the existing highway network and protect the state's previous investments through authorization of annual program amounts for Category 1, Preventive Maintenance and Rehabilitation as shown in Exhibit B. Exhibits C and D describe Category 6 projects that address structures replacement and rehabilitation and railroad grade separations. Exhibit E indicates anticipated preservation efforts through maintenance budget expenditures. Exhibit F describes preservation projects on the waterway and railroad networks for which the department is responsible. Exhibit G and H list Category 6 projects which are awaiting letting in Fiscal Year 2004 and must retain CONSTRUCT authority in the event an unexpected delay occurs.

IT IS THEREFORE ORDERED by the commission that the 2005 SPP as shown in the following exhibits is hereby approved. It is understood that all previously approved projects with CONSTRUCT authority will retain this authority in the 2005 SPP.

Exhibit A - Category 1- Highway Construction Programs Policy and Restrictions

Exhibit B - Category 1- Preventive Maintenance and Rehabilitation Allocation
Program Amounts

Exhibit C - Category 6 - Structures Replacement and Rehabilitation

Exhibit D - Category 6 - Railroad Grade Separations

Exhibit E - Highway Maintenance Budget Distributions

Exhibit F - Waterway and Railroad Preservation

Exhibit G - Category 6 - Structures Replacement and Rehabilitation (Delayed
from previous fiscal years)

Exhibit H - Category 6 - Railroad Grade Separations (Delayed from previous
fiscal years)

IT IS FURTHER ORDERED that:

1. The executive director is hereby authorized to develop the projects in each list in the exhibits to the level of authority indicated for each project to include any necessary agreements, right of way acquisitions, utility adjustments, and relocation assistance, subject to the policies of the department and all applicable federal and state laws governing the acquisition of real property.

2. Pursuant to Transportation Code, §222.052, the commission may accept financial contributions from political subdivisions of the state for development of projects in the 2005 SPP.

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

c. Various Counties - Authorize the use of \$5.5 million in federal transportation funds for a rehabilitation project on the South Orient Railroad

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

109668
TPP

Within the 2004 Federal Omnibus Transportation bill, the U.S. Congress appropriated a total of \$5.5 million to be used on the rehabilitation of the state-owned South Orient railroad. The rehabilitation of this line is expected to reopen rail freight operations between the United States and Mexico at the rail crossing between Presidio, Texas and Ojinaga, Mexico. The restoration of rail service along this line is expected to provide substantial economic benefits to the West Texas communities located along the line, as well as provide relief to the rail crossings at El Paso, Eagle Pass and Laredo.

Current operations on the line are leased to Texas Pacifico Transportation, Ltd. To date, this company has spent in excess of \$5 million towards the initial rehabilitation of the line in order to restore service along its entire limits.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director is authorized to proceed in the most feasible and economic manner with project development along the South Orient railroad utilizing the \$5,500,000 of federal discretionary funds.

IT IS THEREFORE UNDERSTOOD that these funds will be used for the continuing rehabilitation of the South Orient railroad. The use of these federal funds will not require a state or local funding match.

d. Various Counties - Approve adjustments to participation ratios for projects located in economically disadvantaged counties

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

109669
TPP

Transportation Code, §222.053, requires the Texas Transportation Commission (commission), when evaluating a proposal for a highway improvement 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.

Title 43, Texas Administrative Code (TAC), §15.55, states that the commission will consider a local government's effort and ability to meet the local matching funds requirement, and will consider the following criteria when evaluating a request for an adjustment to the requirement:

- (1) population level;
- (2) bonded indebtedness;
- (3) tax base;
- (4) tax rate;
- (5) extent of in-kind resources available; and
- (6) economic development sales tax.

Transportation Code, §222.053, 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.

In accordance with these criteria, 56 counties are classified as economically disadvantaged for Fiscal Year 2004.

The Texas Department of Transportation (department) received applications from political subdivisions in counties that have been classified as economically disadvantaged for Fiscal Year 2004 adjustments of the local matching funds requirement.

The department reviewed the applications and found them to be in compliance with the requirements of Transportation Code, §222.053 and 43 TAC, §15.55.

The commission has considered the criteria contained in 43 TAC, §15.55, has reviewed the applications for adjustment, and has determined that the local matching funds requirement should be adjusted in the amount indicated in Exhibit A.

IT IS THEREFORE ORDERED by the commission that the adjustments to the local matching funds requirement described in Exhibit A be and is hereby respectively adjusted to the percentage indicated.

IT IS FURTHER ORDERED that any existing advance funding agreement between the department and the respective local governments be modified to reflect the adjusted cost participation requirements, provided that funds already received by the department under the terms of existing agreements will not be adjusted or reimbursed.

Note: Exhibit A on file with minute order clerk.

e. **Webb County** - Authorize the purchase of the Camino Colombia Toll Road in Category 12, Strategic Priority, of the 2004 Statewide Mobility Program and designate the toll road as a turnpike project on the state highway system and as SH 255

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

109670
TPP

The Texas Department of Transportation (department) has plans to purchase an existing toll facility in WEBB COUNTY locally known as the Camino Colombia Toll Road (CCTR) and designate it as a turnpike project on the state highway system and as a state highway.

The CCTR was originally constructed by Camino Colombia, Inc, a private corporation chartered under the laws of the state of Texas. This private toll road is from the intersection of FM 1472 and FM 255 adjacent to the Colombia Solidarity Bridge to Interstate 35 in the vicinity of the city of Laredo.

Camino Colombia, Inc. has since defaulted under the financing agreements for the toll road, and a non-judicial foreclosure sale of the toll road occurred in January, 2004, resulting in the toll road being acquired by the project lenders. Title to the CCTR is now held by the Camino Texas Partnership, LP, which is in turn owned by the project lenders. Camino Texas Partnership, LP has offered to convey the CCTR to the department for the price of \$20 million.

Minute Order 109664, dated April 29, 2004, authorized the executive director or designee to negotiate and enter into any necessary agreements to acquire the CCTR at a cost not to exceed \$20 million, to be funded in Category 12, Strategic Priority.

The Texas Transportation Commission (commission) has determined that the purchase of the CCTR will facilitate the efficient operation of the state highway system, including providing system continuity with Mexico, and will benefit the state and the traveling public. The commission has determined that the acquisition of the right of way and improvements thereon comprising the Camino Colombia Toll Road is necessary or convenient for use for such purpose.

Pursuant to Transportation Code, §361.101, the executive director has recommended that the CCTR be designated as a turnpike project, and pursuant to Transportation Code, §201.103 and §221.001, has recommended that the CCTR be designated on the state highway system as a state highway.

IT IS THEREFORE ORDERED by the commission that the executive director is authorized to enter into any necessary agreements to purchase the CCTR, which will be funded at a cost not to exceed \$20 million, in Category 12, Strategic Priority, of the 2004 Statewide Mobility Program.

IT IS FURTHER ORDERED by the commission that upon execution of necessary agreements CAMINO COLOMBIA TOLL ROAD will be designated as a turnpike project on the state highway system and as STATE HIGHWAY 255 from the intersection of FM 1472 and FM 255 eastward to IH 35, a distance of approximately 21.47 miles.

Commissioner Houghton abstained from discussion and voting on this agenda item.

ITEM 5. DISCUSSION ITEM

Report on the recent public hearings concerning the proposed Trans-Texas Corridor

This report was presented by Public Information Office Director Randall Dillard.

ITEM 7. AVIATION

Various Counties - Various Sponsors - Approve funding for airport improvement projects at various locations

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

109671
AVN

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

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

A public hearing was held on Tuesday, April 20, 2004, during which two individuals provided comments regarding the grant requested by the City of McKinney.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$10,582,494.

Note: Exhibit A on file with minute order clerk.

The commission received comments from Collin County Regional Airport director Ken Wiegand; McKinney City Council Member Pete Huff; City Manager, City of McKinney Larry Robinson; Cynthia Kaminsky; and Don Keathly.

ITEM 8. PROMULGATION OF ADMINISTRATIVE RULES Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

a. Proposed Adoption

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

Chapter 23 - Travel Information

Amendments to §23.1 and §23.2, General Provisions, Amendments to §§23.10, 23.12, and 23.14, Travel Information; Amendments to §§23.26, 23.28, and 23.29, Texas Highways Magazine; and the Repeal of §23.11, InfoBords

Commissioner Houghton made a motion, seconded by Commissioner Andrade, and the commission approved the following minute order presented by Travel and Information Division Director Doris Howdeshell:

109672
TRV

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §23.1 and §23.2, relating to general provisions; §§23.10, 23.12, and 23.14, relating to travel information; §§23.26, 23.28, and 23.29, relating to Texas Highways magazine; and the repeal of §23.11, relating to InfoBords, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments and repeal are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

b. Final Adoption

(1) Chapter 9 - Contract Management

Amendments to §§9.11, 9.12, 9.15-9.17, Highway Improvement Contracts

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

109673
AEO

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §§9.11, 9.12, and 9.15-9.17, relating to highway improvement contracts, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §§9.11, 9.12, and 9.15-9.17 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

(2) Chapter 23 - Travel Information**Repeal of §23.40, Memorandum of Understanding with the Texas Department of Economic Development, the Texas Parks and Wildlife Department, the Texas Commission on the Arts, and the Texas Historical Commission**

Commissioner Andrade made a motion, seconded by Commissioner Johnson, and the commission approved the following minute order presented by Travel Division Director Doris Howdeshell:

109674
TRV

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §23.40, relating to Memorandum of Understanding with the Texas Department of Economic Development, the Texas Parks and Wildlife Department, the Texas Commission on the Arts, and the Texas Historical Commission, codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the repeal §23.40 is adopted and is authorized for filing with the Office of the Secretary of State.

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

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

ITEM 9. RIGHT OF WAY ACQUISITION**Williamson County - Authorize the use of options to purchase right of way on FM 1460**

Commissioner Johnson made a motion, seconded by Commissioner Houghton, and the commission approved the following minute order presented by Right of Way Division Director John Campbell:

109675
ROW

Transportation Code, §201.103 and §361.032 authorize the commission to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads as well as turnpike projects in the state.

Transportation Code, §§203.051, 203.052, 361.131 and 361.132 authorize the commission to acquire an interest in real property that the commission determines is necessary or convenient to a state highway or turnpike project, including property necessary or convenient to protect a state highway or turnpike project or to accomplish any other purpose related to the location, construction, improvement, maintenance, beautification, preservation, or operation of a state highway or turnpike project.

Transportation Code, §202.112 authorizes the commission to purchase an option to acquire property for possible use in or in connection with a transportation facility before a final decision has been made as to whether the transportation facility will be located on that property.

In Williamson County, the department is proceeding with the planning and development of a highway construction project for the widening of FM 1460 between Quail Valley Drive and Old Settlers Blvd. for a distance of approximately 5.718 miles.

The commission finds that use of options to acquire property for possible use in or in connection with the FM 1460 project may reduce the time required for the acquisition of right of way and can be economically beneficial to the department by either establishing the purchase price at current market value as of the date of the option contract or establishing a methodology for determining a purchase price at the time the option is exercised without the necessity for condemnation, and/or agreeing to restrictions on the owner's future development and improvement of the property. Successful negotiation of options for this project will help preserve the transportation corridor and benefit both the public and land owners along the proposed route.

IT IS THEREFORE ORDERED by the commission that the Austin district engineer is authorized to negotiate with property owners along the proposed route of FM 1460 and execute option contracts for the purchase of property of a size and in a location as is reasonably related to the possible future design and alignment of such transportation facility, and to expend funds for option fee payments, surveys, title examinations, appraisals and other expenses reasonably necessary to purchase the options.

ITEM 10. DONATION AND EXCHANGE OF REAL PROPERTY

Rusk County - Consider a donation from the TXU Mining Company, LP for sufficient funding, property, and services to provide for land acquisition and exchange of right of way, utility relocation, environmental assessments, schematics, plans, specifications and estimates, and construction and construction engineering necessary for relocation of an approximately 1.6 mile length of highway to a 2.373 mile length parcel of property designated as FM 850

Commissioner Johnson made a motion, seconded by Commissioner Houghton, and the commission approved the following minute order presented by General Counsel Richard Monroe:

109676
OGC

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 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

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

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

TXU Mining Company, LP (TXU) would like to donate sufficient funding, property and services to provide for land acquisition and exchange of right of way, utility relocation, environmental assessments, schematics, plans specifications and estimates and construction and construction engineering necessary for relocation of an approximately 1.6 mile length of highway designated as FM 850, in Rusk County, Texas described in Exhibit A (existing right of way). The estimated donation is between \$2.5 million and \$4 million.

TXU has further agreed that upon completion of construction for the realignment and reconstruction of a new replacement highway facility for such portion of FM 850, it will convey to the state an approximately 2.373 mile parcel of property described in Exhibit B (new right of way).

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

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

The commission finds that the donor is interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department. The commission has determined that acceptance of the donation would nonetheless provide significant public benefits and would not influence or reasonably appear to influence the department in the performance of its duties.

It is the opinion of the commission that upon completion and acceptance of the new right of way, the existing right of way described in Exhibit A (surplus land) will no longer be needed for highway purposes, will be surplus, and should be removed from the state highway system. It would then be proper and correct that the state convey and release its rights, title and interest in the surplus land including all coal and lignite rights, title and interest to TXU in exchange and as consideration for the conveyance of the new right of way to the state.

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

IT IS FURTHER ORDERED by the commission that the executive director is authorized to tender the following proposal to TXU:

Provided that TXU at its sole expense completes construction of the new right of way to the satisfaction of the department, conveys the new right of way described in Exhibit B to the state, and pays the cash difference between the value of the existing right of way and the value of the new right of way, if any, then the commission will recommend the conveyance of the existing right of way in accordance with Transportation Code, Chapter 202, Subchapter B.

FURTHER, in consideration of the foregoing premises and in accordance with Transportation Code, Chapter 202, Subchapter B, the commission hereby finds that if and when TXU satisfactorily complies with all the conditions of this minute order, the designation of the surplus land as part of the state highway system is then cancelled and the surplus land is no longer needed for highway or public transportation purposes and recommends, subject to approval by the attorney general, that the Governor of Texas execute proper instruments conveying and releasing all of the state's rights, title and interest in the surplus land described in Exhibit A including all coal and lignite rights, title and interest to TXU in exchange and as consideration for the conveyance to the state of the new right of way.

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

ITEM 11. TRAFFIC OPERATIONS

Various Counties - Proposed Lane Use Restrictions for Trucks on I-35 in Hays, Travis and Williamson counties

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

109677
TRF

Transportation Code, §545.0651, authorizes the Texas Department of Transportation (department) to restrict through traffic, by class of vehicle, to two or more designated lanes of traffic on certain portions of the designated state highway system, and requires the Texas Transportation Commission (commission) to adopt rules. The commission adopted these rules, 43 TAC §§25.601-25.604 that became effective on January 8, 2004.

The department, working in conjunction with local jurisdictions in Hays, Travis and Williamson counties, developed a proposed lane restriction for the Interstate 35 (I-35) corridor. In accordance with §25.604(e)(3), the department conducted a traffic study to evaluate the impact of the lane restriction. In accordance with §25.604(d), the department published a notice in the Texas Register for a 30 day comment period on

February 13, 2004 and held a public hearing on the proposed restriction on March 4, 2004. The comments and the department's response to these comments are attached as Exhibit A.

In accordance with Transportation Code §545.601 and 43 TAC §§25.601-25.604, the department is proposing a lane restriction that would establish consistent lane use restrictions applicable to trucks, as defined in Transportation Code, §541.201, with three or more axles, and to truck tractors, also as defined in Transportation Code, §541.201, regardless of whether the truck tractor is drawing another vehicle or trailer. The proposed lane restriction prohibits those vehicles from using any traffic lane, other than the second, third, and fourth controlled access lanes on each side of I-35 as counted from the center (inside left lane) of the highway between 1.297 miles south of the Bell/Williamson County line, southward through Hays, Travis and Williamson counties, and ending at the southern city limits of San Marcos, which is 0.455 mile north of the Hays/Comal County line.

The proposed lane restriction would be in effect 24 hours a day, 7 days a week, and would allow the operation of those vehicles in a prohibited traffic lane for the purposes of passing another vehicle or entering or exiting the highway.

In accordance with 43 TAC §25.604(h)(2), the executive director may temporarily suspend the lane restriction in an emergency.

The commission, having evaluated the truck lane restriction proposal based on the safety of the traveling public and the factors listed in 43 TAC §25.604(f), finds that the proposed lane restriction should be approved.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the proposed lane restriction in Hays, Travis and Williamson counties is approved and shall become effective upon placement of all necessary traffic control devices.

Note: Exhibit A on file with minute order clerk.

ITEM 12. STATE INFRASTRUCTURE BANK

a. Cass County - City of Atlanta - Grant final approval of an application from the City of Atlanta to borrow \$1,000,000 from the State Infrastructure Bank to pay for utility relocation along FM 249 from US 59 to FM 785 in Atlanta

Commissioner Nichols made a motion, seconded by Commissioner Johnson, and the commission approved the following minute order presented by Deputy Executive Director Steve Simmons:

Section 350 of the National Highway System Designation Act of 1995 (Public Law No. 104-59) authorizes states to establish a State Infrastructure Bank (SIB) for the purpose of making loans and providing other financial assistance to public and private entities, so as to encourage public and private investment in transportation facilities, expand the availability of funding for transportation projects, and reduce state costs.

Pursuant to this legislation, Transportation Code, Chapter 222, Subchapter D, created a SIB within the Texas Department of Transportation (department).

109678
FIN

The provision of capital to the SIB will result in the reduction of burdens and demands on the limited funds available to the Texas Transportation Commission (commission) and an increase in the effectiveness and efficiency of the department by allowing the SIB to provide financial assistance to eligible transportation projects.

Pursuant to Transportation Code, Chapter 222, Subchapter D, the commission has adopted administrative rules implementing that subchapter and establishing eligibility criteria for an entity applying for financial assistance from the SIB, codified as Title 43, Texas Administrative Code (TAC), Chapter 6.

Title 43, TAC §6.23 authorizes eligible entities to submit applications for financial assistance from the SIB and prescribes requirements for an application.

In accordance with 43 TAC §6.23, the City of Atlanta (city) has submitted an application to borrow \$1 million from the SIB, to pay for the relocation of utilities made necessary by the reconstruction of FM 249 from US 59 to FM 785.

The FM 249 project is functionally classified as a principal arterial road or street, thus making the reconstruction project eligible for federal funds and SIB funding, and therefore indicating there is a transportation need for and anticipated public benefit in the proposed project, and a resulting improvement in the efficiency of the state's transportation system.

The city has pledged economic development sales tax revenue as security for the loan and to guarantee repayment of the financial assistance to the SIB, indicating the projects and applicant are likely to have sufficient revenue to assure repayment of the requested financial assistance.

On January 20, 2004, in Resolution No. 2004-03 the Atlanta City Council authorized city staff to submit an application to the SIB for a loan to finance the utility relocation, indicating the official written approval of the projects by the governing body of the city.

The project will have a positive impact in the city and the surrounding region as the project will upgrade and improve the safety and traffic operations of FM 249.

In accordance with 43 TAC §6.32(d), a study of the social, economical, and environmental impact of the projects, consistent with the (NEPA) National Environmental Policy Act (42 U.S.C. §4321 et seq.), and in compliance with the requirements of the department's environmental rules, was conducted as part of the department's environmental assessment of the projects, resulting in findings of no significant impact.

The present and projected financial condition of the SIB is sufficient to cover this request.

The project is listed in the 2004-2006 Statewide Transportation Improvement Program, indicating the project is consistent with the Statewide Transportation Plan.

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

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

NOW, THEREFORE, IT IS DETERMINED that the application for SIB financial assistance submitted by the City of Atlanta meets the requirements of 43 TAC §6.32(e) and, in accordance with that section, the commission grants final approval of the application to borrow \$1 million from the SIB to be repaid over a period of 15 years at 4.7 percent interest per annum, and directs the executive director to implement the actions authorized and required by that section.

b. Cass County - **City of Linden** - Grant final approval of an application from the City of Linden to borrow \$400,000 from the State Infrastructure Bank to pay for utility relocation along US 59 from SH 11 to SH 155 in Linden

Commissioner Johnson made a motion, seconded by Commissioner Houghton, and the commission approved the following minute order presented by Deputy Executive Director Steve Simmons:

109679
FIN

Section 350 of the National Highway System Designation Act of 1995 (Public Law No. 104-59) authorizes states to establish a State Infrastructure Bank (SIB) for the purpose of making loans and providing other financial assistance to public and private entities, so as to encourage public and private investment in transportation facilities, expand the availability of funding for transportation projects, and reduce state costs.

Pursuant to this legislation, Transportation Code, Chapter 222, Subchapter D, created a SIB within the Texas Department of Transportation (department).

The provision of capital to the SIB will result in the reduction of burdens and demands on the limited funds available to the Texas Transportation Commission (commission) and an increase in the effectiveness and efficiency of the department by allowing the SIB to provide financial assistance to eligible transportation projects.

Pursuant to Transportation Code, Chapter 222, Subchapter D, the commission has adopted administrative rules implementing that subchapter and establishing eligibility criteria for an entity applying for financial assistance from the SIB, codified as Title 43, Texas Administrative Code, Chapter 6.

Title 43, TAC §6.23 authorizes eligible entities to submit applications for financial assistance from the SIB and prescribes requirements for an application.

In accordance with 43 TAC §6.23, the City of Linden (city) has submitted an application to borrow \$400,000 from the SIB, to pay for the relocation of utilities made necessary by the reconstruction of US 59 in two projects with the following limits: (1) 0.2 mile north of SH 11 to 0.1 mile north of SH 155 in the city; and (2) 0.1 mile south of SH 155 to 0.3 mile north of Jim's Bayou.

The US 59 projects are functionally classified as principal arterial road or streets, thus making them eligible for the receipt of federal funds, and indicating there is a transportation need for and anticipated public benefit in the proposed project, and a resulting improvement in the efficiency of the state's transportation system.

The city has pledged economic development sales tax revenue as security for the loan and to guarantee repayment of the financial assistance to the SIB, indicating the projects and applicant are likely to have sufficient revenue to assure repayment of the requested financial assistance.

On November 10, 2003, in Resolution No. 11-0, the Linden City Council authorized city staff to submit an application to the SIB for a loan to finance the utility relocation, indicating the official written approval of the projects by the governing body of the city.

The project will have a positive impact in the city and the surrounding region as the project will upgrade and improve the safety and traffic operations of the US 59 corridor.

In accordance with 43 TAC §6.32(d), a study of the social, economical, and environmental impact of the projects, consistent with the (NEPA) National Environmental Policy Act (42 U.S.C. §4321 et seq.), and in compliance with the requirements of the department's environmental rules, was conducted as part of the department's environmental assessment of the projects, resulting in findings of no significant impact.

The present and projected financial condition of the SIB is sufficient to cover this request.

The projects are listed in the 2004-2006 Statewide Transportation Improvement Program (STIP), indicating the projects are consistent with the Statewide Transportation Plan.

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

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

NOW, THEREFORE, IT IS DETERMINED that the application for SIB financial assistance submitted by the City of Linden meets the requirements of 43 TAC §6.32(e) and, in accordance with that section, the commission grants final approval of the application to borrow \$400,000 from the SIB to be repaid over a period of 7 years at 4.1 percent interest per annum, and directs the executive director to implement the actions authorized and required by that section.

ITEM 13. CONTRACTS**a. Award or Reject Highway Improvement Contracts****(1) Maintenance**

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

109680
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on May 11 and 12, 2004.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

(2) Highway and Building Construction

Commissioner Houghton made a motion, seconded by Commissioner Johnson, and the commission approved the following minute order, rejecting Project No. BR 2003(232) in Scurry County, as recommended by staff and presented by Assistant Executive Director for Engineering Operations Amadeo Saenz:

109681
CST

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 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

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

AIGA Investments, LP, (AIGA), would like to donate \$26,100 to modify an existing traffic signal at State Loop 431 and Bibbs Street in the City of Eagle Pass to accommodate the donor's residential subdivision. The existing traffic signal was warranted under the Texas Manual on Uniform Traffic Control Devices.

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation of \$26,100 by AIGA is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

b. Various Counties - Approve award of \$250,000.00 procurement of engineering services to Halff Engineering

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

109682
OGC

Government Code, §669.003, provides that a state agency may not enter into a contract with an entity that employs a person who was the executive head of the agency within the previous four years unless the governing board of the agency approves the contract in an open meeting.

Halff Associates, Inc. (Halff) employs Charles W. Heald, the former executive director of the Texas Department of Transportation (department). Mr. Heald served as the department's executive director within the previous four years. The department advertised for procurement of engineering services, and Halff was chosen to be a provider in accordance with the competitive selection procedures set forth in the Professional Services Procurement Act, Government Code, Chapter 2254, and 43 Texas Administrative Code §§9.30 et seq. The \$250,000 contract is for engineering services to be performed in the counties of Erath, Hood, Jack, Johnson, Palo Pinto, Parker, Somervell, Tarrant and Wise. Under Government Code, §669.003, the department may not enter into a contract unless it is approved by the Texas Transportation Commission (Commission).

IT IS THEREFORE ORDERED that the commission approves the above contract and authorizes the executive director or the executive director's designee to take all necessary steps to execute the contract.

ITEM 14. ROUTINE MINUTE ORDERS

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

a. Donations to the Department

(1) Maverick County - Consider a donation from AIGA Investments, L.P. for construction cost for the modification of an existing traffic control signal to accommodate the donor's development located on State Loop 431 at Bibbs Street in the city of Eagle Pass, Texas

109683
OGC

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 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

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

AIGA Investments, LP, (AIGA), would like to donate \$26,100 to modify an existing traffic signal at State Loop 431 and Bibbs Street in the City of Eagle Pass to accommodate the donor's residential subdivision. The existing traffic signal was warranted under the Texas Manual on Uniform Traffic Control Devices.

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation of \$26,100 by AIGA is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

(2) Travis County - Acknowledge a donation from the National Asphalt Pavement Association to pay all travel expenses for a department employee to give a presentation at the Rubber Modified Asphalt Conference on May 19-20, 2004 in Grand Rapids, Michigan

109684
OGC

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 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

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

The National Asphalt Pavement Association (NAPA) has donated \$846.66 for travel expenses for a department employee to make a presentation on Texas' practices and success at the Rubber Modified Asphalt Conference on May 19-20, 2004 in Grand Rapids, Michigan. This donation was accepted by the department in accordance with 43 TAC § 1.503(d).

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

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

The commission finds that the donor may have members who are interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department. The commission has determined that acceptance of the donation would nonetheless provide significant public benefits and would not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of \$846.66 for travel expenses is acknowledged.

(3) Travis County - Acknowledge a donation from the United States Department of Energy to pay all travel expenses for a department employee to give a presentation at the 10th National Clean Cities Conference and Exposition on May 2-5, 2004 in Ft. Lauderdale, Florida

109685
OGC

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 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

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

The United States Department of Energy (DOE) has donated \$1,224.55 for travel expenses for a department employee to make a presentation at the 10th National Clean Cities Conference and Exposition held in Ft. Lauderdale, Florida, on May 2-5, 2004. This donation was accepted by the department in accordance with 43 TAC §1.503(d).

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation of \$1,224.55 for travel by the DOE is acknowledged.

(4) Travis County - Accepting a donation from Mothers Against Drunk Driving (MADD) to pay for travel expenses to Washington, D.C. for a department employee to attend the MADD Media National Awards Luncheon on June 24, 2004

109686
OGC

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 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

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

Mothers Against Drunk Driving (MADD) has donated an estimated \$800 for travel expenses for a department employee to travel to Washington D.C. to attend the MADD Media National Awards Luncheon on June 24, 2004.

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

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

IT IS THEREFORE ORDERED by the commission that the estimated donation of \$800 by MADD is accepted. The executive director's designee is authorized to execute all necessary documents under 43 TAC § 1.504 to effect the acceptance of the donation.

b. Eminent Domain Proceedings**(1) Travis and Williamson Counties - controlled access turnpike projects**

109687
ROW

The Texas Transportation Commission (commission) has determined that in order to promote the public safety, to facilitate the safety and movement of traffic, and to preserve the financial investment of the public in its highways, public necessity requires the construction, expansion, enlargement, extension, or operation of the following turnpike projects in this state as a part of the state highway system (highway system), as described in this order.

The commission has determined that each of the following listed parcels of land, each being more particularly described in the exhibits attached to this order and being designated, identified, and listed by an alphabetical exhibit reference in this order under "CONTROLLED ACCESS", and such additional lesser estates or property interests described in the exhibits, are necessary or convenient for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by Transportation Code, §361.131, §361.132, §361.135, and §203.054, as a part of the highway system to be constructed, expanded, enlarged, extended, or operated thereon.

The commission has determined that in order to facilitate the flow of traffic and promote the public safety and welfare and in the exercise of the police power of the state for the preservation of human life and safety, and under existing laws, the turnpike projects to be constructed on said parcels of land are designated as controlled access highways, and on such parcels of land where there is remaining abutting private property, roads are to be built as a part of said turnpike projects whereby the right of ingress and egress to or from the remaining private property abutting on said turnpike project is to be permitted and/or denied, as designated and set forth on each of the exhibits attached to this order.

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

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

CONTROLLED ACCESS

<u>EXHIBIT</u>	<u>COUNTY</u>	<u>HIGHWAY</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
A	Williamson	SH 130	0440-05-007	3
B	Williamson	SH 130	0440-05-007	7
C	Williamson	SH 130	0440-05-007	14
D	Williamson	SH 130	0440-05-007	16, parts 1&2
E	Williamson	SH 130	0440-05-007	19, parts 1&2
F	Williamson	SH 130	0440-05-007	30
G	Williamson	SH 130	0440-05-007	31
H	Williamson	SH 130	0440-05-007	41
I	Williamson	SH 130	0440-05-007	88
J	Williamson	SH 130	0440-05-007	1105
K	Williamson	SH 130	0440-05-007	1120
L	Williamson	SH 130	0440-05-007	1138
M	Travis	SH 130	0440-06-008	132
N	Travis	SH 130	0440-06-008	156
O	Travis	SH 130	0440-06-008	158
P	Travis	SH 130	0440-06-008	189
Q	Travis	SH 130	0440-06-008	232
R	Travis	SH 130	0440-06-008	236
S	Travis	SH 130	0440-06-008	238

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

(2) Various Counties - noncontrolled and controlled access highways

109688
ROW

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

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

The commission has found in order to promote the public safety, to facilitate the safety and movement of traffic, to preserve the financial investment of the public in its highways and reconstructing, maintaining, and operating of Controlled Access Highways in the state as a part of the highway system at such locations as are necessary throughout

the state and has determined that each of the following listed parcels of land, described in those Exhibits designated, identified and listed by an alphabetical exhibit reference under "CONTROLLED ACCESS" and same being more particularly described in the exhibits attached hereto and such additional lesser estates or property interests described thereon, are necessary and suitable for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by law, as a part of the highway system to be so constructed, reconstructed, maintained, and operated thereon and in the exercise of the police power of the state for the preservation of human life and safety, and under existing laws, the highway to be constructed on each such parcel of land is designated as a Controlled Access Highway, and on such parcels of land listed herein where there is remaining abutting private property, roads are to be built as a part of said highway whereby the right of ingress and egress to or from the remaining private property abutting on said highway is to be permitted and/or denied, as designated and set forth on each of the exhibits attached hereto.

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

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

<u>EXHIBIT</u>	<u>COUNTY</u>	<u>HIGHWAY</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
1	Robertson	SH 6	0049-06-068	9
2	Robertson	SH 6	0049-06-068	22
3	Robertson	SH 6	0049-06-068	33
4	Brazos	SH 6	0050-02-087	55
5	Jasper	US 96	0065-01-049	3Pts.1&2
6	Dallas	SH 356	0092-07-050	1
7	Dallas	SH 356	0092-07-050	4
8	Burleson	SH 21	0116-02-038	52
9	Bexar	US 281	0253-04-125	15
10	Bexar	SP 421	0291-10-084	73
11	Limestone	FM 937	1191-04-019	21

CONTROLLED ACCESS

<u>EXHIBIT</u>	<u>COUNTY</u>	<u>HIGHWAY</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
A	Tarrant	IH 820	0008-14-093	128
B	Hill	IH 35	0014-24-057	3
C	Hidalgo	US 83	0039-17-145	10
D	Hidalgo	US 83	0039-17-145	29
E	Travis	US 183	0151-09-039	83
F	Archer	US 277	0156-05-044	50
G	Harris	IH 10	0271-07-262	524
H	Harris	IH 10	0271-07-262	529
I	Harris	IH 10	0271-07-262	532
J	Harris	IH 10	0271-07-262	540
K	Harris	IH 10	0271-07-262	541
L	Harris	IH 10	0271-07-263	583
M	Harris	IH 10	0271-07-263	611
N	Harris	IH 10	0271-07-263	612
O	Harris	IH 10	0271-07-263	624
P	Collin	SH 121	0364-04-034	10E

Note: Exhibits 1 through 11 and A through P on file with minute order clerk.

c. Highway Designations

(1) Hays County - Loop 4 and RM 967 - Remove a segment of State Highway Loop 4 from the state highway system and redesignate the remaining segment of Loop 4 as RM 967

109689
TPP

In HAYS COUNTY (county), in the city of Buda (city), city officials have requested the removal of a segment of STATE HIGHWAY LOOP 4 from the state highway system. The city would like to incorporate the roadway into its street system and has requested control, jurisdiction, and maintenance of Loop 4 from IH 35 to RM 967.

In order to facilitate the flow of traffic, promote public safety, and maintain continuity on the state highway system, the city and county requests the redesignation of the remaining segment of Loop 4 from the intersection of Loop 4 and RM 967 southward to IH 35 as RM 967.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that a segment of Loop 4 be removed from the state highway system and returned to the city and the redesignation of the remaining segment of Loop 4 as RM 967.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that:

1. A segment of STATE HIGHWAY LOOP 4 in the city of Buda, is removed from the state highway system from IH 35 westward to RM 967 and returned to the city for control, jurisdiction, and maintenance, a distance of approximately 1.6 miles.

2. The remaining segment of STATE HIGHWAY LOOP 4 is redesignated on the state highway system as RANCH TO MARKET ROAD 967 from the intersection of Loop 4 and RM 967 southward to IH 35, a distance of approximately 2.9 miles.

The new description of RM 967 is from IH 35 northward and westward to RM 1826 near Camp Ben McCulloch, a distance of approximately 15.2 miles.

(2) Henderson County - US 175, SH 19, SH 31, and FM 317 - Redesignate existing segments of US 175, SH 19, SH 31, and FM 317 as business routes through the city of Athens and concurrently designate new segments of US 175, SH 19, and SH 31 along existing segments of FM 317

109690
TPP

In HENDERSON COUNTY (county), in the city of Athens (city), a new location of FARM TO MARKET ROAD 317 was recently completed and opened to traffic. The city and county would like to utilize the new location for routing traffic from higher capacity facilities and have requested that segments of US 175, SH 19, and SH 31 be concurrently designated along the new location of FM 317.

In order to facilitate the flow of traffic, promote public safety, and maintain continuity of the state highway system, the city and county also request that the former locations of US 175, SH 19, and SH 31 be redesignated as business routes through the city's central business district.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that segments of US 175, SH 19, and SH 31 be concurrently designated along the new location of FM 317 and that the former location of the existing routes be redesignated as business routes.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that:

1. A segment of US HIGHWAY 175 is concurrently designated along a segment of FM 317 from the intersection of US 175 northeast of Athens, eastward and then southward, to the intersection of US 175 southeast of Athens, a distance of approximately 6.88 miles.
2. A segment of STATE HIGHWAY 19 is concurrently designated along a segment of FM 317 from the intersection of SH 19 north of Athens, eastward, southward and then westward to the intersection of SH 19 south of Athens, a distance of approximately 7.48 miles.
3. A segment of STATE HIGHWAY 31 is concurrently designated along a segment of FM 317 from the intersection of SH 31 west of Athens, northward and eastward, to the intersection of SH 31 northeast of Athens, a distance of approximately 6.68 miles.
4. The former location of US HIGHWAY 175 from the intersection of FM 317 northeast of Athens, through the central business district to the intersection of FM 317 southeast of Athens, is redesignated as BUSINESS US HIGHWAY 175-G, a distance of approximately 5.84 miles.

5. The former location of STATE HIGHWAY 19 from the intersection of FM 317 north of Athens, through the central business district to the intersection of FM 317 south of Athens, is redesignated as BUSINESS STATE HIGHWAY 19-J, a distance of approximately 3.87 miles.
6. The former location of STATE HIGHWAY 31 from the intersection of FM 317 west of Athens, through the central business district to the intersection of FM 317 northeast of Athens, is redesignated as BUSINESS STATE HIGHWAY 31-H, a distance of approximately 5.73 miles.

d. Load Zones & Postings

Cameron County - Revise load restrictions on various bridges on the state highway system

109691
BRG

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

e. Right of Way Dispositions and Donations

(1) Archer County - US 281, 0.2 mile south of Scotland - Consider the sale of surplus right of way

109692
ROW

In ARCHER COUNTY, on US HIGHWAY 281, the state of Texas (state) acquired an easement interest in certain land for roadside park purposes by instrument recorded in Volume 178, Page 405, Deed Records of Archer County, Texas.

The interest in the land (surplus easement), described in Exhibit A, is no longer needed for roadside park purposes.

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

The owner of the fee underlying the surplus easement has requested that the surplus easement be sold for \$75.

The commission finds \$75 to be a fair and reasonable value of the state's rights and interest in the surplus easement.

NOW, THEREFORE, the commission finds that the surplus easement is no longer needed for roadside park purposes and that the value of the surplus easement is less than \$10,000 and authorizes the executive director to execute a proper instrument releasing the state's rights and interest in the surplus easement.

Note: Exhibit A on file with minute order clerk.

(2) Brazoria County - SH 35 - Consider the donation of a 5.385 acre easement for the construction of a flood mitigation pond

109693
ROW

In BRAZORIA COUNTY, on SH 35, from SH 288 to the Brazoria/Matagorda County Line. The Texas Department of Transportation (department) is acquiring the right of way for a highway improvement project.

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

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

ConocoPhillips Company (owner), a Delaware corporation is the owner of the property described in Exhibit A. The owner wants to donate this property, estimated at \$22,248, to the department for a highway improvement project to widen SH 35.

Although the owner may be subject to department regulation or oversight, or interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department, acceptance of the donation will provide a significant public benefit and will not influence or reasonably appear to influence the department in the performance of its duties.

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

IT IS THEREFORE ORDERED by the commission that the executive director is hereby authorized to accept the donation of real property, as described in Exhibit A, and the executive director or the director's designee is authorized and directed to sign and execute a donation agreement with the owner, in accordance with Title 43, Texas Administrative Code, §1.504.

Note: Exhibit A on file with minute order clerk.

(3) Dallas County - SH 114 at Shorthorn Drive in Irving - Consider the sale of surplus access rights

109694
ROW

In the city of Irving, DALLAS COUNTY, on STATE HIGHWAY 114, a designated controlled access highway, the state of Texas (state) owns and controls certain access rights to the highway facility to and from the abutting lands.

A portion of the access rights (surplus access rights), shown on Exhibit A, is no longer needed for highway purposes.

The State Teachers Retirement System of Ohio (TRO), owner of an 8.50 acre tract of land conveyed by deed recorded in Volume 99223, Page 04239, Real Property Records of Dallas County, Texas (TRO Tract), is the landowner abutting the property line along which access is proposed to be released and has requested that the state sell the surplus access rights to TRO in exchange for a credited contribution for constructing a new frontage road.

WHRL Real Estate Limited Partnership (WHRL), a Delaware limited partnership, has contributed \$2,041,921 toward the cost of constructing a new frontage road as consideration for the state's transfer of the surplus access rights to TRO. WHRL has assigned to TRO the credit for the cost of construction and its rights to the state's grant of access rights.

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

The Texas Department of Transportation has determined that the sale of 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 surplus access rights to TRO in exchange and as full consideration for WHRL's contribution to the cost of constructing a new frontage road.

NOW, THEREFORE, the commission finds that the surplus access rights are no longer needed for highway purposes and recommends, subject to approval of the attorney general, that the Governor of Texas execute a proper instrument conveying the state's interest in the surplus access rights to TRO in exchange for WHRL's contribution to the cost of constructing a new frontage road.

IT IS FURTHER ORDERED that the surplus access rights will be exclusive to the TRO Tract and nothing in this order shall be construed to directly or indirectly approve conveyance of access rights to the properties abutting the TRO Tract.

Note: Exhibit A on file with minute order clerk.

(4) Nueces County - 1245 South Port Avenue in Corpus Christi - Consider the sale of a surplus maintenance site

109695
ROW

In the city of Corpus Christi, NUECES COUNTY, at 1245 SOUTH PORT AVENUE, the State of Texas (state) acquired certain land for a maintenance site by instruments recorded in Volume 193, Page 365, and Volume 324, Page 547, Deed Records of Nueces County, Texas.

A portion of the land and the improvements (surplus land), described in Exhibit A, are no longer needed for highway or public transportation purposes.

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

Imagine Properties, LLC, submitted a bid of \$378,000, which was the highest valid bid received.

The Texas Transportation Commission (commission) finds \$378,000 to be a fair and reasonable value of the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for highway or public transportation purposes and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Imagine Properties, LLC, for a cash consideration of \$378,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

f. Speed Zones

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

109696
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 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 cities which have the authority to set speed limits on these sections of highways.

The department, in consultation with the Texas Commission on Environmental Quality, has also determined that the environmental speed limit on the segment of FM 2218, established by Minute Order 109064, dated October 31, 2002, and listed in Exhibit D, is no longer necessary.

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 and D are canceled.

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

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

a. Section 551.071 - Consultation with and advice from legal counsel

b. Section 551.072 - Discussion of real property purchase, exchange, lease, donations. Discussion of the possible purchase of that certain facility known as the Camino Colombia in Webb County, Texas

c. Section 551.074 - Discuss the evaluation, designation, reassignment, and duties of department personnel, including district engineers, division directors, and office directors.

The commission did not meet in executive session.

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

Commissioner Houghton made a motion, seconded by Commissioner Andrade, and the commissioners approved adjourning the meeting.

The regular meeting of the Texas Transportation Commission adjourned at 5:34 p.m.

APPROVED:

Ric Williamson, Chair
Texas Transportation Commission

xxx

I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on May 27, 2004, in Austin, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation