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AGENDA

TEXAS TRANSPORTATION COMMISSION

**200 East Riverside Drive, Room 1A.1
Austin, Texas 78704**

**THURSDAY
November 17, 2011**

9:00 A.M. CONVENE MEETING

1. **Approval of Minutes** of the October 27th meeting of the Texas Transportation Commission
2. **Resolution**
Recognize Assistant Executive Director for Field and District Operations David B. Casteel, P.E., upon his retirement from the department with 28 years of service
3. **Discussion Item**
Discussion of FY 2011 agency-level performance trends ([REPORT](#))
The purpose of this item is to present a few FY 2011 performance measures and trends to the commission. This will provide an opportunity not only to discuss these specific measures but to generate discussion and receive feedback and direction from the commission on performance measures in general.
4. **Grand Parkway Reports**
 - a. Annual report on the status of projects and activities undertaken during the preceding 12 months ([REPORT](#))
The department's administrative rules require transportation corporations to appear annually before the commission to report on the status of projects. The Grand Parkway Association is making its annual presentation to satisfy this requirement.
 - b. Report on the status of the procurement for the development, design, and construction, and, potentially, financing, operation, and maintenance of segments of State Highway 99 (Grand Parkway) in the greater Houston area ([REPORT](#))
This report will update the recent activity regarding the Grand Parkway project and the issuance of a request for qualifications on certain segments of the project. In March 2011, the commission authorized the department to issue an RFQ for certain segments on the Grand Parkway. This discussion will focus on the anticipated next steps and seek any comments or direction from the commission moving forward.

5. **Aviation**
112899 Various Counties – Award federal and state grant funding for airport improvement projects at various locations (MO)
Federal law authorizes the award of federal funding to preserve and improve the state's general aviation system. State law authorizes the award of state funding for capital improvement projects. The airports listed in Exhibit A are eligible for award of these grant funds and the department seeks approval of the awards.
6. **Promulgation of Administrative Rules** Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:
a. **Final Adoption**
112900 (1) Chapter 1 - Management (MO)
Amendments to §1.82 and §§1.84-1.87 (Advisory Committees)
The amendments change the rules governing advisory committees to extend committee sunset dates for committees under Chapter 1. In addition, House Bill 699 from the 82nd Legislature clarified the authority and responsibilities of the Port Authority Advisory Committee and the rule must be revised to reflect those changes.
112901 (2) Chapter 2 - Environmental Policy and New Chapter 12 - Public Participation in Landscaping and Litter Removal (MO)
Repeal of §§2.61 – 2.71 (Public Participation Programs) and New Chapter 12, Public Participation in Landscaping and Litter Removal, Subchapter A, Public Participation Programs, §§12.1 – 12.11
The repeals and new sections move the rules for the department's public participation programs from Chapter 2, Subchapter D, Public Participation Programs, to new Chapter 12, Subchapter A, Public Participation Programs, without substantive revisions. The action will improve the general organization of the department's rules and will provide flexibility in the structure of Chapter 2 for future revision of the environmental rules.
112902 (3) Chapter 11 - Design (MO)
Repeal of §§11.200-11.205 (Statewide Transportation Enhancement Program) and New §§11.200-11.221 (Transportation Enhancement Program)
The amendments modify the policies and procedures related to project eligibility, nomination, selection and administration under the Transportation Enhancement (TE) Program. The revisions also recognize recent changes to the department's rules regarding the planning and development of transportation projects, which provide for the allocation of one-half of the TE program funds to metropolitan planning organizations operating in transportation management areas.
112903 (4) Chapter 25 - Traffic Operations (MO)
Amendments to §25.1, Uniform Traffic Control Devices (General)
The rules amend the Texas Manual on Uniform Traffic Control Devices (MUTCD) to be in compliance with the National MUTCD and allow use of a single manual for local, state and federal-aid highway projects.
112904 (5) Chapter 25 - Traffic Operations (MO)
Amendments to §§25.950-25.957 (Memorial Sign Program for Victims of Impaired Driving)
House Bill 2469, 82nd Legislature, creates a new memorial sign program for persons killed while operating or riding on a motorcycle. The legislation requires the commission to adopt rules to administer the program. The amendments to the current rules regarding the memorial sign program for victims of impaired driving provide the requirements to obtain this new memorial sign.

6. **Promulgation of Administrative Rules (continued)**

a. **Final Adoption (continued)**

112905

(6) **Chapter 26 - Regional Mobility Authorities (MO)**

New §26.17, Board Membership after Commission Approval (Creation of a Regional Mobility Authority)

This new section clarifies that neither the commission nor the department has any role in approving RMA board appointments or the board appointment processes adopted by a commissioner's court after the initial formation of an authority.

b. **Proposed Adoption**

112906

(1) **Chapter 2 - Environmental Policy (MO)**

Repeal of §§2.1-2.20 (Environmental Review and Public Involvement for Transportation Projects), and §2.44 and §2.48 (Additional Requirements For Certain Types of Transportation Projects); New Subchapter A, General Provisions, New §§2.1-2.14, New Subchapter C, Environmental Review Process for Highway Projects, New §§2.41-2.52, New Subchapter D, Requirements for Classes of Projects, New §§2.81-2.86, New Subchapter E, Public Participation, New §§2.101-2.110, New Subchapter F, Requirements for Specific Types of Projects and Programs, New §§2.131-2.134

The repeals and new sections reorganize the department's rules on the environmental review and public participation, concerning a proposed transportation project. The action will improve the general organization of the department's rules. The rules also implement Senate Bill 1420, Senate Bill 548, and House Bill 630, 82nd Legislature, Regular Session, concerning deadlines by which the department must complete the technical review of a draft environmental review document.

112907

(2) **Chapter 9 - Contract and Grant Management (MO)**

New §9.150, Purpose, §9.151, Definitions, §9.152, General Rules for Design-Build Contracts, §9.153, Solicitation of Proposals, §9.154, Protest Procedures, and §9.155, Conflict of Interest and Ethics Policies (New Subchapter I, Design-Build Contracts)

TxDOT's sunset bill (Senate Bill 1420), enacted during the 82nd Regular Session, added Subchapter F to Chapter 223, Transportation Code, authorizing the department to enter into contracts for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project. The rules implement new Subchapter F and define the process for the procurement of a design-build contract.

c. **Rule Review**

112908

In accordance with Government Code, §2001.039, Readoption of 43 Texas Administrative Code Chapter 3, Public Information; Chapter 4, Employment Practices; Chapter 6, State Infrastructure Bank; Chapter 9, Contract and Grant Management; Chapter 13, Materials Quality; Chapter 22, Use of State Property; Chapter 23, Travel Information; Chapter 25, Traffic Operations; and Chapter 29, Maintenance (MO)

State law requires a state agency to review each of its rules every four years. After the review, the agency must readopt the rule, readopt the rule with amendments, or repeal the rule. TxDOT reviews its rules on a rotating basis.

7. **Internal Compliance Program (ICP) Report (REPORT)**

State law requires the commission to establish a compliance program, which must include a compliance office to oversee the program. The compliance office is responsible for acting to prevent and detect serious breaches of department policy, fraud, waste, and abuse of office, including any acts of criminal conduct within the department. The compliance office is required to provide a monthly report to the commission regarding investigations and a summary of information relating to trends and recommendations to avoid future complaints.

8. **Managed Lanes Project**

112909

Dallas and Denton Counties – Concur in the election of a chair and vice-chair of the committee formed pursuant to Transportation Code, §228.013 to make certain determinations concerning the distribution of financial risk, the method of financing, and the tolling structure and methodology for the I-35E Managed Lanes Project (MO)

Transportation Code, §228.013 requires a committee to be established for certain department toll projects for the purpose of making determinations concerning the distribution of the project's financial risk, the method of financing for the project, and the tolling structure and methodology (SB 1420 Committee). The department and local stakeholders are currently analyzing options for the financing and delivery of the I-35E Managed Lanes Project that require the formation of a SB 1420 Committee for the project. Under 43 TAC §27.92(c), a SB 1420 Committee's election of a chair and vice-chair is subject to the concurrence of the commission.

9. **Purchase of Building**

112910

Travis County – Consider for approval the department's option to assume all rights and obligations under the separated ground leases upon payment in full of the lease with option to purchase contract for the building at 118 East Riverside, Austin, Travis County. Authorize the department to accept a deed of the building from the Texas Facilities Commission (TFC) and authorize the executive director to enter into an assignment agreement from TFC to assume all rights and obligation for the ground leases (MO)

The department will exercise its option to purchase the building under the lease with option to purchase contract by the required date of December 1, 2011. In connection with this option, the department assumes all rights and obligations of the ground leases that continue through December 31, 2026. The TFC acting on behalf of the State of Texas, has agreed to deed all rights, title and interest in the building to TxDOT, and assign the ground leases associated with the interest in real property to the department at closing.

10. **Transportation Planning**

112911

Travis County – Rescind a portion of Minute Order 84428, dated April 29, 1986, to release Travis County from certain obligations related to improvements on FM 1826 (MO)

This minute order rescinds a portion of a previously-approved minute order whereby Travis County agreed to provide for all necessary right of way, utility adjustments, and the costs of engineering and construction on FM 1826 using bond proceeds. Travis County has requested that the applicable portion of the original minute order be rescinded in order to allow the county to use the bond proceeds on other county facilities.

11. **Contracts**

Award or reject contracts for maintenance, highway and building construction

These proposed minute orders contain information concerning the receipt of bids for highway improvement contracts. The department may reschedule receipt of bids for those projects where the commission rejects all bids. Those bids accepted by the commission will result in conditional contract awards to the low bidders. Contract award conditions may involve securing funding from other sources, the contractor's ability to satisfy federal DBE subcontracting requirements, or other requirements as outlined in the project bid proposal

112912

- a. **Highway Maintenance and Department Building Construction**
(see attached itemized list) (MO)

112914

- b. **Highway and Transportation Enhancement Building Construction**
(see attached itemized list) (MO)

112913

- c. **Award Contract to Second-Lowest Bidder**
Upshur County – Project RMC 6232-61-001 - Award of tree and stump removal contract to second lowest bidder (MO)
Apparent low bidder failed to enter into contract with the department. The minute order authorizes the department to award contract to second low bidder at the first low bidder's price.

12. **Eminent Domain Proceedings**

112915

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

Commission findings, determinations, and authorizations for the state, by motion made in accordance with Senate Bill 18 (82nd Legislature), to acquire by eminent domain, upon the payment of adequate and just compensation, various ownership interests in specific parcels of real property that are needed to develop or improve both non-controlled and controlled access state highways, to include requesting the state attorney general to bring and pursue condemnation suits relating to those specific parcels of real property described in the attached itemized list.

13. **Toll Road Project**

112898

Fort Bend County – Approve revised terms for the disbursement of financial assistance to Fort Bend County to pay for the construction of 4.2 miles of toll mainlanes extension, frontage roads, and a direct connector on the Westpark Toll Road Phase II, between Grand Parkway and FM 1463 (MO)

The commission granted final approval of financial assistance to pay for this construction project in Minute Order 112793, dated August 25, 2011. That minute order provided that funding from the financial assistance will not be made available to Fort Bend County until one year following completion of the project and opening of the roadway to traffic. This minute order revises the time when funding can be disbursed to Fort Bend County.

14. **Routine Minute Orders**

112916

- a. **Donations to the Department**

- (1) **Project Management Office** – Consider a donation from the Wisconsin Department of Transportation for a department employee's travel expenses to attend the Peer Exchange meeting in Madison, Wisconsin from November 29 – December 1, 2011 (MO)

Attendance at this meeting allows the department to obtain information on best practices learned from other DOT's participating in this meeting.

14. **Routine Minute Orders (continued)**

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

112917

- (2) **Houston District** – Consider a donation from Newland Communities for the cost to design and construct three right-turn lanes on US 59 in the vicinity of University Boulevard in Fort Bend County (MO)
The donation allows better access for traveling public to donor's facility.

b. **Release of Access Rights**

112918

- (1) **Baylor County** – US 277, south of FM 422 - Consider the designation of two locations on the frontage road at which access will be permitted to the abutting property (MO)
The designation of two 45-foot breaks in the control-of-access line will allow the abutting landowner to open proposed driveway locations for access to and from the southbound frontage road. The district has determined that access may be permitted at the designated locations.

112919

- (2) **Nueces County** – SH 286, north of SH 357 in Corpus Christi - Consider the designation of a location on the highway at which access will be permitted to the abutting property (MO)
The designation of a 60 foot break in the control-of-access line will allow the abutting landowner to open a proposed boulevard-type shared driveway location for access to and from the northbound frontage road. The district has determined that access may be permitted at the designated location.

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

The commission must approve the sales, transfers and exchanges of state rights of way and other real properties that are no longer needed for a state highway purpose. It must also approve, accept and acknowledge donations to the state of real property that is valued at \$500 or more.

112920

- (1) **Bexar County** – I-37 between Dawson Street and Nolan Street in San Antonio - Consider the lease of property acquired for highway right of way purposes (MO)
The district has advised that the property is not needed for highway purposes for the term of the proposed lease and that the proposed lessee has requested a five-year cancellation provision. The commission must approve a lease of a highway interest if the lease contains a cancellation clause of more than two years.

112921

- (2) **Orange County** – I-10 at FM 1442 - Consider the sale of surplus right of way to the abutting landowner (MO)
The district has determined that the surplus land is no longer needed for highway purposes. The abutting landowner has requested to purchase the surplus land, and it may be sold to the abutting landowner.

112922

- (3) **Potter County** – Loop 335 from Hester Drive to North Coulter Street - Consider the acceptance of a donation of land for a highway improvement project (MO)
The property being donated to the department is necessary for the construction of frontage roads along Loop 335. The property being donated is in lieu of payment for the acquisition and is valued at more than \$500.

112923

- (4) **Williamson County** – FM 1325 and SH 45 in Round Rock - Consider the sale of surplus right of way to the abutting landowner (MO)
The district has determined that the surplus land is no longer needed for highway purposes. The abutting landowner has requested to purchase the surplus land, and it may be sold to the abutting landowner.

14. **Routine Minute Orders (continued)**

d. **Finance**

Annual report on the status of derivative transactions outstanding ([REPORT](#))

The commission's derivatives management policy requires an annual report to the commission on derivative transactions outstanding. The report includes counterparty credit ratings, a summary of cash flows, and the fair market value of transactions as of the end of fiscal year 2011.

e. **Speed Zones**

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

This minute order establishes or alters regulatory and construction speed zones on various sections of highways in the state.

112924

15 **Executive Session** Pursuant to Government Code, Chapter 551

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

b. **Section 551.074** – Discussion regarding the creation of a performance plan for the executive director

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

ADJOURN

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NOTE:

Enumerated agenda items are assigned numbers for ease of reference only, and will not necessarily be considered by the commission in that particular order. Items identified with (MO) for minute order are those upon which the commission is considering an action.

Persons with special needs or disabilities who plan to attend this meeting and require auxiliary aids or services are requested to contact JoLynne Williams at (512) 305-9536 at least three working days prior to the meeting so that appropriate arrangements can be made.

TEXAS TRANSPORTATION COMMISSION MEETING
ATTACHED LISTS
November 17, 2011

**HIGHWAY MAINTENANCE AND BUILDING CONSTRUCTION CONTRACTS-
STATE LET AGENDA ITEM 11.a.**

<u>DIST</u>	<u>COUNTY NAME</u>	<u>HIGHWAY NUMBER</u>	<u>CONTROLLING PROJECT NO.</u>
ABL	SCURRY	BU 84G	RMC - 623448001
ABL	TAYLOR	IH 20	RMC - 623386001
AMA	POTTER	IH 40	RMC - 623380001
AUS	GILLESPIE	SH 16	RMC - 623271001
BMT	CHAMBERS	IH 10	RMC - 622013001
BRY	BURLESON	FM 1362	RMC - 622611001
BRY	MILAM	FM 1915	RMC - 623239001
CRP	KARNES	FM 1144	RMC - 622615001
CRP	KARNES	US 181	RMC - 623193001
CRP	NUECES	FM 43	RMC - 623188001
CRP	NUECES	SH 358	RMC - 623178001
DAL	ELLIS	FM 985	RMC - 622622001
DAL	NAVARRO	SH 31	RMC - 623047001
DAL	NAVARRO	SH 31	RMC - 623373001
FTW	TARRANT	IH 20	RMC - 622892001
HOU	BRAZORIA	SH 288	RMC - 623025001
HOU	BRAZORIA	SH 288	RMC - 623420001
HOU	FORT BEND	US 59	RMC - 623176001
HOU	MONTGOMERY	US 59	RMC - 622400001
LBB	LYNN	FM 3332	RMC - 623165001
ODA	WARD	BI 20D	RMC - 623356001
PHR	KENEDY	US 77	RMC - 622729001
PHR	HIDALGO	US 83	RMC - 623447001
PHR	HIDALGO	US 281	RMC - 623363001
SJT	EDWARDS	SH 55	RMC - 623037001
SJT	MENARD	RM 864	RMC - 622380001

**(CONTINUED) HIGHWAY MAINTENANCE AND BUILDING CONSTRUCTION
CONTRACTS-STATE LET AGENDA ITEM 11.a.**

<u>DIST</u>	<u>COUNTY NAME</u>	<u>HIGHWAY NUMBER</u>	<u>CONTROLLING PROJECT NO.</u>
SAT	BEXAR	IH 10	RMC - 623238001
SAT	GUADALUPE	IH 10	RMC - 623049001
TYL	HENDERSON	FM 804	RMC – 623071001
YKM	WHARTON	LP 523	RMC - 622888001

**HIGHWAY AND TRANSPORTATION ENHANCEMENT BUILDING
CONSTRUCTION CONTRACTS - STATE LET AGENDA ITEM 11.b.**

<u>DIST</u>	<u>COUNTY NAME</u>	<u>HIGHWAY NUMBER</u>	<u>CONTROLLING PROJECT NO.</u>
ABL	BORDEN	US 180	STP 2012(090)
AMA	DEAF SMITH	US 60	NH 2012(091)
AMA	POTTER	VA	STP 2012(092)
ATL	HARRISON	IH 20	IM 0207(068)
AUS	BASTROP	SH 71	SFT 265-4-57
AUS	TRAVIS	US 183	NH 2012(136)
BMT	ORANGE	IH 10	BR 1102(477)
BRY	BRAZOS	FM 2038	STP 2012(102)HRR
BRY	BURLESON	SH 21	NH 2012(099)
BRY	FREESTONE	IH 45	IM 0452(136)
BRY	FREESTONE	IH 45	BR 2012(101)
BRY	MILAM	US 79	NH 2012(160)
BRY	WALKER	US 190	STP 2012(100)
CHS	COLLINGSWORTH	US 83	BR 2001(856)
CRP	SAN PATRICIO	US 77	NH 2012(103)
ELP	EL PASO	IH 10	IM 0101(260)
ELP	EL PASO	SS 601	NH 2012(135)
FTW	JOHNSON	SH 171	STP 2012(089)
HOU	HARRIS	US 59	NH 2012(105)
HOU	HARRIS	VA	STP 2012(106)

**(CONTINUED) HIGHWAY AND TRANSPORTATION ENHANCEMENT BUILDING
CONSTRUCTION CONTRACTS - STATE LET AGENDA ITEM 11.b.**

<u>DIST</u>	<u>COUNTY NAME</u>	<u>HIGHWAY NUMBER</u>	<u>CONTROLLING PROJECT NO.</u>
LBB	LUBBOCK	US 62	NH 2011(995)
LBB	PARMER	US 70	NH 2012(109)
LFK	NACOGDOCHES	FM 225	HP 62(2)
LFK	NACOGDOCHES	SH 204	STP 2012(193)HES
LFK	SAN AUGUSTINE	SH 7	STP 2012(111)
LFK	SHELBY	US 59	NH 2012(133)
ODA	ECTOR	US 385	NH 2012(113)
ODA	PECOS	IH 10	IM 0102(115)
PAR	GRAYSON	FM 120	STP 2012(115)
SJT	SUTTON	IH 10	IM 0103(113)
SAT	ATASCOSA	CR	BR 2011(854)
SAT	ATASCOSA	IH 35	IM 0352(336)
SAT	GUADALUPE	US 90	STP 2012(121)
SAT	WILSON	SH 123	STP 2012(122)
WFS	MONTAGUE	SH 101	STP 2012(126)
WFS	WICHITA	SP 447	STP 2012(129)
WFS	WILBARGER	BU 287F	STP 2012(128)
YKM	CALHOUN	PW	C 913-19-22

EMINENT DOMAIN - [AGENDA ITEM 12]

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Denton	FM 2181	3	2054-02-017	15
Shelby	US 84	1	0175-02-081	3
Upshur	SH 155	2	0520-02-048	19

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Angelina	US 59	B	0176-02-108	3
Angelina	US 59	C	0176-02-108	4
Bell	IH 35	I	0015-04-083	125
Denton	IH 35E	H	0196-02-115	168AC
Harris	IH 610	G	0271-14-221	235
Harris	IH 610	A	0271-14-225	335
Harris	IH 610	D	0271-14-225	323

(CONTINUED) EMINENT DOMAIN - [AGENDA ITEM 12]

CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Harris	IH 610	E	0271-14-225	326
Harris	IH 610	F	0271-14-225	314
Hill	IH 35	J	0014-07-096	3
Hill	IH 35	K	0014-07-096	42
Hill	IH 35	L	0014-07-096	43
Hill	IH 35	M	0014-07-096	44
Hill	IH 35	N	0014-07-096	45
Hill	IH 35	O	0014-07-096	46
Hill	IH 35	P	0014-07-096	47
Hill	IH 35	Q	0014-07-096	48
Hill	IH 35	R	0014-07-096	49
Hill	IH 35	S	0014-07-096	50
Hill	IH 35	T	0014-07-096	51, 51AC
Hill	IH 35	U	0014-07-096	52AC
Hill	IH 35	V	0014-07-096	53, 53AC
Hill	IH 35	W	0014-07-096	39
Hill	IH 35	X	0014-07-096	40
Hill	IH 35	Y	0014-07-096	41