

TEXAS DEPARTMENT OF TRANSPORTATION

COMMISSION MEETING

State Capitol
Capitol Extension Auditorium, E1.004
Austin, Texas 78701-2483

Thursday,
June 30, 2011

COMMISSION MEMBERS:

Deirdre Delisi, Chair
Ned S. Holmes
Ted Houghton
William Meadows
Fred Underwood

STAFF:

Amadeo Saenz, Executive Director
Bob Jackson, General Counsel
Roger Polson, Executive Assistant to the
Deputy Executive Director
JoLynne Williams, Chief Minute Order Clerk

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P R O C E E D I N G S

1
2 MS. DELISI: Good morning. It is 9:07 a.m.,
3 and I call the regular June 2011 meeting of the Texas
4 Transportation Commission to order. Note for the record
5 that public notice of this meeting, containing all items
6 on the agenda, was filed with the Secretary of State at
7 2:26 p.m. on June 22, 2011.

8 Before we begin today's meeting, I'd ask you to
9 please place all your cell phones and other electronic
10 devices on the off or silent mode, please.

11 We welcome you to the Texas Capitol for today's
12 meeting. Our usual meeting space in the Greer Building is
13 undergoing renovation and we expect to be back there for
14 next month's meeting.

15 And as is our custom, we'll start with comments
16 from the other commissioners, and we'll begin with today
17 with Commissioner Meadows.

18 MR. MEADOWS: Thank you, Madam Chair, and thank
19 you all for being here with us this morning

20 It's a real pleasure to have the opportunity to
21 have this meeting at the Capitol and I'll note that Roger
22 or somebody will probably note what a historic occasion
23 this is for this commission. But in any event, we
24 certainly are appreciative of the opportunity to be here
25 while our regular meeting room is under construction.

1 Let me just mention briefly, last Friday I know
2 several of the people in the audience were in attendance
3 as well, but I had the opportunity to, the real pleasure
4 of participating in the dedication of our two new ferry
5 boats at the Port Aransas ferry system. And to me what
6 was remarkable and really wonderful was that because of
7 the tradition of naming of these ferry boats after our
8 executive directors, it really reminds you of what a
9 wonderful tradition and traditions the agency does have
10 and does celebrate on a regular basis, and really the
11 hallmark and the strength of the agency really, as we all
12 know, the people of the agency. So it was a wonderful
13 reminder of that and a wonderful celebration.

14 You know, those were the first new ferry boats
15 we've had since, as former Commissioner Johnny Johnson was
16 present and pointed out, the first ferry boats that we
17 have had since the 1990s, I believe. And he said in his
18 entire tenure on the commission he didn't have the
19 opportunity to take part in such an event.

20 But we had some great people involved in
21 coordinating that celebration. John Casey, our district
22 engineer in Corpus; Howard Gillespie, who is the admiral
23 of the fleet, I believe, at least he looks like that; Tom
24 Tagliabue who is our public information officer there and
25 Amy Loos who is the public information officer in the

1 Yoakum District who had been involved. Also, the mayor of
2 Port Aransas, and representatives from Senators Hegar,
3 Hinojosa, and Todd Hunter had staff present as well.

4 But congratulations to Mike Behrens and Wes
5 Heald as those boats are named for them.

6 And one last thing, I know this is lengthy, but
7 I just want to congratulate the legislature for concluding
8 a very successful session, and I want to acknowledge and
9 express appreciation, as I know we all would, to our staff
10 that were involved in legislative activities as they
11 worked and interacted with members of the legislature to
12 advance issues that are important to the citizens that we
13 represent in the transportation arena.

14 In any event, thank you very much and welcome.

15 MR. UNDERWOOD: I associate myself with my
16 colleague's remarks. I've got to get the recipe for that.

17 (General laughter.)

18 MR. UNDERWOOD: I just want everybody in the
19 audience to know that I was very impressed with our
20 legislature for the job they did during very tough
21 economic times and the constraints that they were under.
22 And I really want to thank our staff for working with the
23 legislature to help the taxpayers of Texas get the most
24 bang for their buck. So to our staff, the hard work they
25 did, to the legislature, very impressive session.

1 So thank you very much.

2 MR. HOLMES: Good morning and welcome. It is
3 kind of fun to be sitting up on this really high perch,
4 you kind of begin to feel how important you are.

5 (General laughter.)

6 MR. HOLMES: I'd like to acknowledge the
7 legislature, our staff, but also all of those folks that
8 work for members of the House and Senate. We interacted
9 with them a lot and I think they did a great job.

10 And Bill, one of these months we're going to
11 have a boat named for Johnny Johnson too.

12 Thank you, and welcome.

13 MR. HOUGHTON: I associate with my fellow
14 commissioners' remarks regarding the legislative session.
15 It was very successful, and as Commissioner Underwood
16 said, in the times of constraint it was a tough session as
17 far as being able to do what the legislators had to do to
18 keep the spending in check, and my congratulations not
19 only to them but our staff for bringing it across the goal
20 line and providing the funds necessary that we'll need --
21 not necessary but we'll use to build somewhat of a
22 transportation system over the next couple of years.

23 And Commissioner Meadows, I hope you accord us
24 the same opportunity in El Paso when we have our ferry
25 system across the Rio Grande River.

1 (General talking and laughter.)

2 MR. HOUGHTON: The legal ferry system in El
3 Paso.

4 But welcome, everyone.

5 MS. DELISI: I just want to remind everybody if
6 you wish to address the commission during today's meeting,
7 please complete a speaker's card at the registration table
8 outside of this conference room. To comment on an agenda
9 item please complete a yellow card and identify the agenda
10 item. If it's not an agenda item, we'll take your
11 comments at the open comment period at the end of the
12 meeting, and for those comments please fill out a blue
13 card. Regardless of the color of card, we do ask that you
14 try and limit your comments to three minutes.

15 Our first order of business is approval of the
16 minutes from the May 26 meeting. Members, the draft
17 minutes have been provided in your briefing materials. Is
18 there a motion to approve?

19 MR. UNDERWOOD: So moved.

20 MR. HOLMES: Second.

21 MS. DELISI: All in favor?

22 (A chorus of ayes.)

23 MS. DELISI: The motion passes.

24 With that, Amadeo, I'll turn the agenda over to
25 you.

1 MR. SAENZ: Thank you, Madam Chair. And
2 commissioners, before we start, I want to thank you on
3 behalf of the staff for hosting us last night at the
4 little reception. I think our people that worked the
5 legislative session did a great job and they really
6 appreciated the little reception last night, so thank you
7 all very much.

8 We're going to get started with agenda item
9 number 2, and of course, our first agenda item is John
10 Barton will lead a discussion. This discussion will be
11 done on a monthly basis that will kind of discuss where
12 we're at in our modernization of the department. So with
13 that, I'll turn it over to John.

14 MR. UNDERWOOD: Amadeo, before you do, I forgot
15 to mention this, and I apologize, in my remarks. During
16 this legislative session I want to thank my colleagues for
17 the work that they did with the legislature, whether it be
18 in D.C. or in Austin. So to Deirdre, for your work, Ned,
19 Ted and Bill, thank you very much. It was very
20 appreciated. I was more of a cheerleader and these
21 gentlemen and this lady really carried the water for the
22 commission, and I want to thank them personally.

23 And I also want to thank Ned for last night
24 because we used your credit card.

25 (General laughter.)

1 MR. SAENZ: All yours, John.

2 MR. BARTON: Thank you, Director Saenz. And
3 good morning, commissioners, Madam Chair. For the record,
4 my name is John Barton, and I have the pleasure of serving
5 as your assistant executive director for Engineering
6 Operations, and also leading this modernization effort and
7 the modernization leadership team as we move through this
8 important initiative for the department.

9 I think you have some materials in your packet
10 and we have slides that are up here on the screen. This
11 morning myself and Scott Kaepfel from Kaepfel Consulting
12 would like to share with you just a brief update on the
13 progress that we have been making on our modernization
14 effort to date, and specifically we'll cover a brief
15 review of the modernization statement that has been put
16 together to help provide clarity about the modernization
17 initiative.

18 We'll also provide an executive summary
19 overview of the plan that has been developed in response
20 to Sunset's request for such a plan, and also because it's
21 important in helping us move forward with our activities.
22 We'll talk a little bit about the details of that plan and
23 then, as always, we'll be happy to receive any feedback
24 from you or answer any questions that you may have.

25 As we started on this modernization initiative,

1 a lot of people were asking: What does it mean to
2 modernize TxDOT and what is this all about? And it's an
3 important thing that we needed to work on and help define
4 and provide clarity about the modernization initiative and
5 the outcomes that we expect to receive from this process.

6 So in working with the leadership team that we
7 put together, taking the feedback and information that we
8 received from all of you as commissioners, getting
9 feedback and advice from the administration, and then
10 taking the input that we received from some of our
11 district engineers, division directors, region directors
12 and office directors during a training process that we had
13 with them earlier this spring, we developed this statement
14 that is shown on the screen that helps describe and define
15 what modernization is and what the intent and outcome of
16 this effort will be.

17 And it's simply to provide us with a common
18 understanding of the modernization initiative, not only
19 ourselves but our employees and anyone that is working
20 with us and interested in the modernization activities at
21 the agency.

22 I'll just briefly cover it. Modernization is a
23 disciplined approach to implementing changes at the
24 department, and in doing so, will help us to deliver an
25 improved leadership model at the agency across all walks

1 of our activities and at all levels of the agency. It
2 will give us an opportunity to incentivize and encourage
3 creativity and innovation in all that we do, and will help
4 us focus on increasing the collaborative efforts that we
5 have, not only with our own employees but with people
6 outside the agency to come up with solutions that we can
7 all embrace and accept as we move forward with improving
8 the operations of our agency now and into the future.

9 And as a result of all of that, the agency will
10 be recognized as what we want to be which is a
11 performance-driven organization, a place that is a good
12 place to work, and not only work but also to work with,
13 and that we are committed to quality customer service.

14 So this is the modernization that we put
15 together, and this theme and the themes that are in this
16 statement will be carried out into all the projects and
17 initiatives that we move forward with over the next 12 to
18 18 months.

19 For the past three weeks, and I will share with
20 you that they have been moving quickly, the modernization
21 leadership team, our current administration and a lot of
22 our employees have been working with our Kaepfel team
23 members on developing the plan for modernization which, by
24 the way, we will be submitting to the legislature later
25 today as was asked for and required under our Sunset

1 legislation, and this plan will serve as a roadmap for our
2 activities to help guide the implementation of this
3 initiative over the next several months.

4 Working with 78 recommendations that came to us
5 from the Restructure Council's report, and those that they
6 highlighted as the highest priorities for us to be working
7 on, touched on a wide variety of functions within the
8 department, and so having a plan to help us move forward
9 with this initiative is important because it will help us
10 be well organized and carry out these activities in a well
11 thought out and meaningful way.

12 The first step in this process is for us to
13 define the scope of what it is we all will be working on
14 and the modernization plan that we've developed calls for
15 us to evaluate these 78 recommendations, or most of them.
16 There are actually a couple that we will not be looking
17 at, we've already concluded, and they are, for example,
18 the recommendation that we seek an increase in the salary
19 for the executive director position. That's not something
20 we should work on; in fact, it's something that you as a
21 commission have already taken care of. So some of the
22 recommendations will not be part of these 37 projects that
23 we now have identified.

24 To date we have 37 specific projects that we've
25 identified and Scott will be briefly explaining the

1 process that we went through to take those 70-some-odd
2 recommendations and collapse them into 37 specific
3 projects during his remarks.

4 In addition to that, as always, our employees
5 and our leaders in this agency are looking for ways to
6 improve our operations, and so we have a lot of other
7 important improvement activities that are currently
8 underway and perhaps will come up throughout the process
9 of this modernization initiative. And in order to make
10 sure that we are working in a seamless and well
11 coordinated way, we feel like it's important that all
12 those activities follow the same methodology and process
13 and approach that we are embarking on under our
14 modernization initiative.

15 And so as an example, Louis Carr, being new to
16 our agency and taking his role seriously, has looked at
17 our information technology systems and has worked with his
18 staff over at our Technology Systems Division, and he is
19 identifying a lot of activities that need to be looked at,
20 a lot of improvement processes that he wants to focus on,
21 and so, as an example, those projects will be following
22 the methodology that we are developing for change
23 management for the agency through the modernization
24 initiative.

25 As we work to evaluate the 78 recommendations,

1 as I've said, we've currently packaged them into 37
2 specific projects, and it's important for me to note that
3 we may not be moving forward with all of those projects,
4 and certainly not all of the 78 recommendations.
5 Determining the validity and viability of each of the
6 projects and whether or not we should move forward with
7 them is one of the first steps that we'll be taking in a
8 five-step process that we have created for the change
9 initiatives. And in just a moment Scott will be going
10 over the details of that process, but I wanted to point
11 out just a few important points about that process that I
12 feel like you need to know.

13 One is there were seven projects that, as you
14 know, we brought to you and recommended we move forward
15 with previously to hiring Kaepfel Consulting to help us
16 with this process, and we feel like we need to make sure
17 that those seven projects move through this change
18 initiative process that we've developed for modernization.
19 And it's important because the first couple of steps that
20 are in this five-step process include those critical
21 decisions that have to be made. Do we proceed with the
22 project as the recommendation from the Restructure Council
23 recommended we do? Do we need to modify the project to
24 meet the needs that we all collectively feel are important
25 for our agency? Or do we not need to implement the

1 project at all because it's simply not a viable activity
2 for us to be involved with?

3 And those decisions will be made by the
4 sponsors for these projects which are representatives from
5 the department's future and current executive
6 administration, our district engineers, division
7 directors, office directors and region directors, and the
8 employees that will be the project leads on these
9 initiatives. And based on the analysis and the
10 recommendations that the teams bring forward, these
11 decisions will have to be made.

12 So as we move forward on these projects, we
13 also have realized that we need to stagger the work on
14 these projects over a period of time, about 12 to 18
15 months, and it's important that we do that because if we
16 don't stagger these projects we'll be asking a large
17 number of our employees to be engaged in these projects
18 and we want to make sure that we don't negatively impact
19 our ability to move forward with our day-to-day operations
20 of the department that we're responsible for. So as we
21 look at these projects we will stagger the work on them
22 out over this 18-month period in order to be able to
23 ensure that they move forward effectively without
24 negatively impacting our normal operations.

25 Modernization is also a very important chapter

1 in the history of this agency and we have to ensure that
2 it's carried out successfully and I can assure you that we
3 will. Some of the keys to our success are reflected to
4 this particular slide, and that is that we need to make
5 sure that we listen to and include our customers, both the
6 employees inside this agency as well as our external
7 stakeholders, the commission, and our current and future
8 administration, in order to understand what the issues are
9 and that we all are collaboratively working on these. In
10 other words, we need to make sure that we are providing a
11 meaningful and effective collaboration activity throughout
12 this process.

13 And secondly, as the commission has noted on
14 several occasions and repeated to us often, this effort
15 has to be a TxDOT-led effort, and so all of the key
16 players on the projects will come from within the agency,
17 the executive sponsors, the project sponsors, the project
18 leaders, and the teams will be made up of TxDOT employees.

19 To assist us in ensuring that we have success,
20 we have Kaeppel Consulting onboard as our change
21 management consultant, and they bring to the table a lot
22 of expertise and experience that has been proven
23 successful time and time again as they've worked with
24 other companies and entities, and they'll be coaching us
25 on the best practices that we should use in evaluating

1 these projects and moving forward with managing changes
2 and leading the improvements that we will envision and
3 implement through a disciplined and time-proven approach
4 to success.

5 And finally, the successful modernization
6 effort has to continue to move forward beyond this initial
7 phase. This effort that is underway today is just the
8 beginning of a longer term transformation at this agency
9 that you've asked us to put in place and to create, and as
10 we move through this process we have to build on the
11 approaches and the philosophies and the techniques that
12 we'll be creating, the changes to the structure and the
13 organization of the agency that we'll be implementing, to
14 ensure that we can always be moving to that next level, to
15 the cutting edge and the leading edge of the
16 transportation industry so that we can be the leaders in
17 transportation for Texas that you've asked us to be and
18 that the people in Texas deserve and expect of us.

19 So at this time I would like to ask Scott
20 Kaepfel to come up and share with you some details of the
21 process that we've been under for the last three weeks,
22 and, of course, again, we'll be more than happy to answer
23 any questions you may have or take your comments. Scott.

24 MR. KAEPPEL: Hello, and thank you for the
25 opportunity to come before you. I really want to start

1 off by taking a step back from the briefing and thank you
2 and recognize that over the last three weeks what we've
3 discovered is that the core of this agency is very solid,
4 the talent, you have a lot of individuals with a lot of
5 talent. Driving back and forth from San Antonio to here,
6 the car pool of us from San Antonio pretty much we
7 recognized as we were driving up more and more of the
8 quality of the transportation system that we have here in
9 the State of Texas, so I wanted to start with that.

10 I also wanted to applaud the agency and their
11 staff for also recognizing that as they're solid at the
12 core that there is an opportunity for us to go even
13 further in improving and take this opportunity to look at
14 modernization and execute on that. So we do have some
15 work in this modernization plan, but I just wanted to
16 recognize the talent of the team, and we love to coach
17 people who are passionate and energized to do the change,
18 so it makes it a lot easier that way. So thank you for
19 that.

20 As John pointed out, this plan is tactically
21 going to take 12 to 18 months for modernization, but there
22 is a cultural element of this. There is a long-term
23 sustainment of cultural changes that's the strategic part
24 of this plan, and we're going to break the plan up into
25 two prongs: we're going to do tactical and strategic in

1 parallel at the same time. The changes will then be able
2 to benefit each other by us leveraging some of the
3 strategic messages in our tactical deployment.

4 The approach to tactical is pretty
5 straightforward. We looked at the recommendations, the 78
6 recommendations, and we went through and we start out with
7 something called the concept definition of a change. It
8 is what is the change, for who, and why, and we asked
9 those three questions so we clarified the recommendations
10 as we were going through: what is the change, for whom,
11 and why. And then we would group like work and package
12 them together, because if you're going to have a team
13 working on changing something and you're under the hood of
14 a car, you might as well, while you have the engine apart,
15 look at different components. So we grouped like work.

16 Then we took a shot at prioritizing the work,
17 and I say a shot, we're looking to get a lot of all this
18 work in 12 to 18 months, whether it's priority number 5 or
19 priority number 6 is not going to make too much of a
20 difference, we're going to get the work done, but it helps
21 us with messaging, with getting a rough order priority.

22 Then the key to this is a process of
23 governance. The roles that John mentioned, we'll cover
24 more of those roles, but we look at this as playing a
25 game, playing basketball, playing football, everybody has

1 got to know what their role is on the team and they have
2 to know the rules by which to play the game. So this
3 governance structure and process for how we take these
4 concepts, projectize the work and execute them through
5 governance is a critical component to this. Part of this
6 is empowering the teams to come up with solutions to the
7 concepts and then having sponsorship and exec sponsorship.

8 And in the plan that you have in front of you,
9 you'll see actually that the commission is sometimes
10 listed as the executive sponsor and sometimes the
11 subcommittee is listed as a sponsor. So some of these are
12 very strategic and important efforts and then others are
13 more tactical.

14 That governance is important, but as we're
15 doing this we're establishing a change management method
16 for the agency, so our goal is to do knowledge transfer
17 and establish this capability within the agency to sustain
18 long term. So we'll be doing training in our methods;
19 that training is already starting and people are being
20 taught the discipline. But execution will be the key and
21 execution starts today.

22 A little bit more on the five steps that John
23 mentioned. Again, the concept definition, we always start
24 with the concept phase, it is a short-term phase, it is
25 defining a lot of the project, the final output is the

1 charter, and we charter that team and we know exactly what
2 the scope is, who the customers are, and the priority of
3 the customers. From there we go into concept validation,
4 and this is the phase typically where a small percentage
5 of the portfolio of projects typically fall off as non-
6 viable. As they get into the requirements and
7 understanding the voice of the customer further, we can
8 take some of those and say, does it make sense or not?

9 In this discipline we like to say we don't want
10 to invest more than 10 percent of our time in these first
11 two phases because if it is a non-viable option, we want
12 to move on quickly and get the resources on something
13 else.

14 The design is a collaborative design. The
15 methodology we use anchors in the voice of the customer,
16 that collaboration research that is done. We build using
17 a communication and training plan and use pilots where
18 necessary to gain more adoption and buy-in as we look at
19 this. Some of the builds, actually there's two
20 approaches: I call it the big bang versus the evolution
21 theory on builds. In change management sometimes it's
22 better to let things naturally evolve and you don't have
23 to come out and just publish big on day one and make a big
24 bang in the market and the customer base, but it's rather
25 to let it evolve over time naturally and you get a lot

1 more buy-in.

2 So when we do the build phase, we plan those
3 implementations out and then the implementation is the
4 rollout with the audience in mind, so we get better
5 satisfaction on the change, greater buy-in. Again, change
6 management is all about reducing the amount of impact to
7 the audience so that you have greater buy-in.

8 We establish through governance a weekly pulse
9 on the change projects, and we'll use a status report that
10 looks like this. We call it our waterfall chart. It's a
11 list of all the projects, all 37 projects are sequenced
12 out over time, put against a timeline in a Gantt Chart
13 form. The phases are listed individually and we status
14 the phase as whether we're started or not started, what
15 are the risks, if it's risks that need to be talked about
16 with leadership and it's identified as yellow. If there's
17 an issue that needs immediate attention it's identified as
18 red, green is it's good, no problems, and blue is
19 complete. So on a weekly basis we'll be able to go
20 through this with the administration and list out all the
21 projects and talk about them from progress and status
22 against the plan. And all the waterfall of projects are
23 found in Appendix C of your report.

24 Planning this plan we originally took on a
25 target of 12 months and said can we meet all this change

1 done in 12 months, and we looked at it -- and we have a
2 little matrix there and it's in your handout, it's kind of
3 hard to read on the presentation screen -- I don't want to
4 cover all the bullets, it's just to say our approach,
5 we're trying to get a lot of change done in 12 months.
6 That's when we pushed the schedule out to 18, and even 18
7 is a pretty aggressive schedule.

8 When we piled up the projects and looked at
9 resources and team members to work on the projects,
10 initially we were over 350 people working at the same time
11 on change, and then the audience impact is high as well.
12 So when we laid the audience impact, the risk of
13 execution, the risk of how many people are on it, on
14 efforts and away from keeping the lights on and doing the
15 day-to-day job, we planned it out and sequenced it out for
16 18 months. But it's still a pretty high risk deployment
17 of all those changes, just to point that out.

18 The risks in the plan, the key risks right now
19 as we look at the plan is, one, we have a change in
20 leadership going on. The change in leadership, there are
21 some of these strategic projects that that's just the risk
22 of any change. When you have a change in leadership
23 coming on, do we have the same buy-in and vision with the
24 new leadership. So that's the first risk.

25 Other change efforts outside the program.

1 Because again, we have a lot of resources committed to
2 these projects, we'll strain the resources if we have
3 other efforts going on in parallel that are not under the
4 same program or plan or change, and then you run the risk
5 of an audience receiving a change outside of the messaging
6 from the program which would cause confusion with your
7 stakeholders and typically drive questions and get to your
8 desk. So we'll try and mitigate that by planning all
9 change together.

10 The rapid pace of execution of the plan with
11 employees with new methods is a risk but the training and
12 coaching will mitigate that. Training and
13 institutionalizing the method while actually executing the
14 projects. Most firms you can bring in and they can do
15 execution in a single track but we're going to be training
16 and building this core competency into your agency at the
17 same time. That's a risk. And then resource
18 availability.

19 Part of the governance, we've put some checks
20 and balances in place. The modernization leadership team
21 that was established is there to govern the method of
22 execution. They're going to be looking at all the
23 execution approach and looking at the deliverables and
24 saying are we following the process. But what is the
25 change and designing the change and the solution of the

1 change is set up through the structure of the commission
2 with the exec sponsors which is administration, project
3 sponsors and project teams.

4 Again, part of our approach in this plan is
5 those activities that we're transferring knowledge as we
6 go along, so you're weaning off of the coaches and the
7 consultants and you're able to do the methodology on your
8 own.

9 The plan as a whole has two parts. The first
10 three parts of this plan on the page are strategic in
11 nature, the last part is the execution. That last line,
12 Phase 4, is execution of the projects against phases, and
13 those phases are taken to governance meetings and those
14 are the little diamonds, that's your governance meetings
15 where they're looking are we following the method.

16 The top part of this plan strategically is
17 planning for change and the strategy around change
18 management. Phase 1, alignment with modernization and
19 your current strategic plan and performance measures and
20 how you do performance management at the agency. That
21 alignment is critical as well because all the changes will
22 impact the way people do work. So you have to align the
23 plan to the performance measures and you have to align it
24 to the way you manage workforce.

25 The last phase is the architectural part. This

1 is key for ongoing modernization or continuous change in
2 management. It's establishing the blueprints for the
3 operating model of the agency and having those blueprints
4 in a drawer so you can pull them out when change wants to
5 occur in the future, you have the record of where we're
6 at. That's called the architecture part of it, and
7 there's some different domains that we manage and we build
8 the architecture around, organization being one, process
9 being another, and technology architecture being a third.

10 As John pointed out, we have 37 projects.
11 Seventeen of them will be in flight this quarter: seven
12 are in flight already, five starting in July, five
13 starting in August and September. Another key part of our
14 methods is that tangible benefit we have in the voice of
15 the customer. For example, if I say I want a car that
16 gets great gas mileage. Well, the voice of the customer
17 is I want great gas mileage. That car, the measure of
18 success is miles per gallon. Well, I can buy a car at 30
19 miles per gallon but that might not meet the target, the
20 expectation of the customer, they might have said 40 miles
21 per gallon is the target.

22 In our methods we try and figure out what are those
23 targets and key measures and then build the measurement
24 system so when we implement the change we can go back and
25 measure did we accomplish what we set out. So there will

1 be validation phase in the last phase of the project to
2 validate did we hit the voice of the customer.

3 And all the charters are in an appendix in the
4 report. Those go through the first governance approval on
5 July 5 so that they can ratify the charters of the
6 projects.

7 I hope I didn't go too fast.

8 MR. BARTON: That concludes our prepared
9 comments. We would be happy to answer any questions you
10 may have or take any feedback you'd like to give to us. I
11 know that all of you have visited with Scott Kaepfel and
12 myself. I appreciate that. Commissioner Meadows came and
13 talked to our leadership team and spent some time with us.
14 That was very much appreciated. And I know all of you are
15 taking this serious and are helping us and supporting us
16 as we move forward with this process, and I sincerely
17 appreciate your support and assistance.

18 And to let you know, changes are already
19 occurring. I'm taking this personally, I personally am
20 changing. I know many of you know I normally carry my
21 blue pen on the right and my red pen on the left, I've
22 switched those around. But in all seriousness, my
23 approach to business and interaction with others and the
24 thoughts that I go through in making improvements to the
25 agency are starting to evolve and change.

1 So with that, commissioners, I'd be happy to
2 answer any questions you have or take any comments that
3 you'd like to share with us.

4 MR. MEADOWS: John, I'd just like to make an
5 observation. I did have the opportunity, and I appreciate
6 the opportunity to have participated in one of the early
7 sessions of the agency's leadership team, and I'll tell
8 you just a couple of observations that are really
9 heartfelt.

10 First of all, that is a really good group that
11 is a diverse group that represents the strengths of the
12 agency and what you saw in that meeting or what I observed
13 were people that were truly committed to working through
14 this process in a dedicated and serious fashion. And I
15 think that what I noticed was on everybody's face, the
16 words you heard, everybody in that room believed, truly
17 believed that their work was going to make a difference,
18 and they weren't going through motions. These were
19 committed people.

20 And I know, and I think it's important for you
21 all to know, for everybody in the agency to know and for
22 the citizens of the state to know that this commission is
23 100 percent behind this effort. We are committed to this
24 effort because we have a commitment to make this agency
25 the best agency it can be. And I know that you and Scott

1 working together, working with that group and working with
2 all of our employees are going to accomplish that, and we
3 appreciate it and look forward to a great result.

4 MR. BARTON: Thank you, Commissioner.

5 MR. MEADOWS: Thank you.

6 MR. BARTON: And we really did appreciate your
7 participation. And all of you. I know that you're very
8 busy and you're taking time out of your lives, not only as
9 commissioners but as Texans, and that means a lot to us.
10 So thank you for those comments.

11 Any other comments or questions?

12 MR. HOLMES: John, you talked a little bit
13 about kind of triaging some of the recommendations and
14 some that you would accept as is and work on, some you
15 would modify, some you might reject. As you go through
16 the process and determine that there's some that should
17 not be implemented, I assume you'll come back to the
18 commission, kind of review that, have our input, so that
19 we can understand your rationale.

20 MR. BARTON: Absolutely. Yes, sir. And as we
21 tried to briefly explain, the first two steps in this
22 process are to define what the project is and the real
23 meat of the recommendations, and then to start looking at
24 the validation of what we believe that project would mean.

25 And at any time, as we move through those first

1 two steps and then decide if we're not going to move
2 forward, why, so we can explain that to anyone that asks,
3 and if we are going to move forward, why. That will be
4 brought back to you in the waterfall report that Scott
5 mentioned. If you'd like to have that on a weekly basis,
6 we are preparing that on a weekly basis.

7 But our intent would be that at each of these
8 monthly commission meetings we would make a presentation
9 that says these are the projects that we have determined
10 are viable and we're moving forward with and the
11 recommendations associated with those, and these are the
12 ones that we don't feel like are viable and we should not
13 move forward with and the recommendations associated with
14 those to get your support and acceptance of those
15 activities before we move forward with the full-blown
16 activities on the project.

17 MR. HOLMES: Thanks. I think that would be
18 useful and important.

19 I'm also interested in the metrics that you're
20 going to deploy to determine how successful each one of
21 these was because that will be really important in
22 determining the success of this operation.

23 MR. BARTON: That's a critical component of the
24 process, and Scott mentioned that. We're fortunate in
25 that we have some really intelligent and committed

1 employees, as Commissioner Meadows pointed out, we've got
2 a great consulting team and professional experts that they
3 bring to the table to help us with that. And internally
4 we have a champion that I believe is going to make sure we
5 do that, and that is David Casteel. As you know and as I
6 know, everything that we do as we talk about making
7 changes and improvements, David is always asking: what's
8 the benefit, what's the tangible metric, and how are we
9 measuring it to see if it's really producing what we said
10 it would produce? And so I know that if we start to relax
11 on that, David is going to be there to make sure we don't.

12 MR. HOLMES: Are you nodding, David?

13 (General laughter.)

14 MR. BARTON: If you don't have any other
15 questions or comments, again thank you for your support.
16 We look forward to continuing to keep you updated, and if
17 you have any questions throughout the process, please
18 don't hesitate to let us know, I'm sure you will. And
19 this will be successful, we do have a great team and great
20 group of individuals working on this, and we have a great
21 staff across the state that are eager to start working on
22 these projects and to make them successful. So we're
23 looking forward to it and we appreciate your leadership.

24 Thank you, Director Saenz.

25 MR. SAENZ: Thank you, John.

1 Commission, agenda item 2b is an update of our
2 recent legislative session, and Coby Chase will make that
3 presentation. Of course, one of the keys was that we did
4 get our Sunset bill passed this time so I told Coby that
5 if we didn't get it passed this time for a second time, we
6 were going to fire him, but I guess, Coby, you get to keep
7 your job.

8 MR. CHASE: Yes, I guess all news wasn't great
9 this session, right, I'm still here.

10 Good morning. For the record, I'm Coby Chase,
11 director of TxDOT's Government and Public Affairs
12 Division. I'd like to take a few moments to provide a
13 limited update on legislation from both the regular and
14 the special sessions.

15 Now that both sessions have wrapped, have
16 ended, the department will spend the next several months
17 implementing legislation to the rules process and later on
18 today's agenda, work begins in earnest as we all address
19 those issues that require immediate attention, immediate
20 action, at any rate.

21 As a point of reference, my colleagues in the
22 Government and Public Affairs Division tracked about 1,600
23 pieces of legislation that had some bearing on our
24 operations. Some of those actually did pass and my
25 presentation will focus on those bills. It goes without

1 saying that the two bills with the greatest impact on the
2 department are the TxDOT Sunset bill and appropriations.
3 The majority of my presentation will focus on those two
4 bills.

5 Let's start with Sunset. The major issues in
6 Sunset, first of all, the commission structure. The
7 commission structure will remain largely unchanged which
8 means five members appointed by the governor, however,
9 clarity as to the definition of a rural commissioner was
10 added.

11 Planning and Programming. The language in the
12 bill provides for more transparent and understandable
13 project planning, reporting and programming system, and in
14 a way, it was a recognition of a lot of the work the
15 agency had done up to that point and will continue to do.
16 The bill reflects and complements many of the changes the
17 commission and the department implemented over the interim
18 through the review and adoption of new project planning
19 and programming rules.

20 Internal Compliance Program. The bill codifies
21 our current Internal Compliance Program by requiring an
22 office to prevent and detect serious breaches of
23 departmental policy, fraud, waste and abuse. One
24 important addition to the current duties of our Compliance
25 Office is that it has primary jurisdiction for oversight

1 and coordination of all investigations occurring on
2 department property or involving department employees.
3 The office will coordinate and provide oversight of an
4 investigation but it is not required to conduct the
5 investigation. The ICP will deliver a report to the
6 commission at each regularly scheduled commission meeting
7 on the status of the program.

8 Employee evaluations. The commission will
9 receive a report from staff on employees who received an
10 unsatisfactory rating on their employee performance
11 evaluations but who were not terminated. If someone at
12 the administration, district engineer or director level
13 receives an unsatisfactory rating, the commission shall
14 determine whether or not the employee should be
15 terminated.

16 The North Tarrant Express, NTE facility
17 agreements. For the NTE project, the department may
18 negotiate and enter into facility agreements with the
19 Segments 2 through 4 CDA developer or an affiliate of that
20 developer for future phases or segments of the project
21 without going through another competitive procurement.
22 The term of any such agreements cannot extend beyond the
23 end of the term of the Segments 2 through 4 CDA which
24 would be June 22, 2061, so a bit away from now.

25 CDA projects in general. CDA authority was

1 provided for eleven projects, mainly in the metropolitan
2 areas of the state: four in the Houston area, three in
3 North Texas, two in Central Texas, and two in South Texas.
4 Except for the Grand Parkway, environmental clearance of a
5 project must be achieved before August 31, 2013, and
6 except for the Grand Parkway again, the CDA authority
7 overall expires August 31, 2015.

8 Some other details in the bill quickly. The
9 bill extends the department until 2015 when they'll do
10 Sunset review again. Design-build authority is granted in
11 the bill although the number of projects cannot exceed
12 three per year and this limit expires in 2015. The
13 department also has the authority to designate wildfire
14 evacuation routes on federal, state and county roads and
15 to ensure the designations take larger businesses into
16 consideration like hotels and restaurants where people
17 collect. And it transfers remaining Motor Carrier
18 Division staff to the Texas DMV by January 2012.

19 One word about the Motor Carrier transfer.
20 TxDOT will retain the authority to set weights and will
21 retain authority over establishing the routing for super-
22 heavy permits. The department will also retain authority
23 over the heavy corridor districts, for example, the Port
24 of Corpus Christi Authority special freight district
25 permit. The Texas DMV will issue the permits. Additional

1 details surrounding the transfer will be worked out in an
2 MOU between both agencies. Most importantly, TxDOT will
3 continue to work with its engineers in the divisions and
4 districts to ensure the protection of state roads.

5 I'll shift to appropriations. House Bill 1,
6 total funding. The total appropriated for the 2012-2013
7 biennium is \$19.8 billion. For the 2010-2011 biennium,
8 the one we're in now, \$16.9 billion was appropriated. The
9 increase is approximately \$4 billion when you move to next
10 biennium the \$1 billion never appropriated for the SIB in
11 2011. In discussing the appropriations bill, it's
12 important to point out that this budget provides TxDOT
13 virtually everything requested in our baseline plus the
14 remaining \$4 billion of Prop 12 Bond proceeds.

15 The bulk of the increase, like I said, in
16 funding comes from \$4 billion in Prop 12 Bond proceeds.
17 \$1 billion will continue our work on previous commitments
18 that the commission made to ongoing projects, and \$3
19 billion will distributed as follows:

20 \$300 million for development of future mobility
21 projects in the four most congested regions. These funds
22 will be allocated by the commission to the four largest
23 MPOs to develop projects that reduce congestion. TTI must
24 prepare a report that identifies these projects.

25 \$500 million for bridges specified by the

1 legislature in the bill. While the legislature specified
2 the bridges to receive Prop 12 funding, these funds may
3 only be used for necessary bridge elements to be
4 determined by the commission.

5 \$600 million for urban and metro mobility split
6 among the MPOs. These projects will be selected by the
7 MPOs using the Category 2 formula.

8 \$200 million, connectivity projects to be
9 allocated and selected by the commission.

10 And \$1.4 billion for rehab and safety. These
11 funds will be allocated by the commission to projects
12 selected by the department using the Category 1 formula.
13 John Barton will be back up here a little later going
14 through this in more detail, the project selection process
15 for rolling out Prop 12 proceeds.

16 Some other things from the bill. The
17 department must submit a plan for the use of Prop 12 and
18 Fund 6 appropriations. The report must include impacts to
19 the state's economy, traffic safety, congestion reduction
20 and pavement scores. As opposed to the current biennium,
21 the LBB does not have to approve the plan; that is a
22 change.

23 There was a change in executive compensation.
24 The commission is instructed to conduct a nationwide
25 search for an executive director which is underway right

1 now. The executive director and no more than five senior
2 leadership positions are placed in Group 8 which extends
3 the current salary quite a bit. If a consultant study
4 indicates the median salary for comparable position
5 exceeds a maximum Group 8 salary, the commission may
6 submit a request to the LBB and governor to pay the median
7 salary pending their approval.

8 Diversions, and I don't use capital "D" with
9 diversions, I maybe use a little "d" here, different
10 definitions of diversions, but diversions went from about
11 \$1.15 billion in the current billion to about \$1.28
12 billion in the next. Given the budget situation, first of
13 all, that's not bad, but when you factor in how much
14 general revenue that is being given to TxDOT for debt
15 service, it much more than offsets it, it's a much larger
16 bang for the buck. I think it's kind of important that
17 all of those sentences travel together when discussing
18 diversions at this point.

19 Now I'd like to take a couple of minutes to
20 update you on other noteworthy legislation that directly
21 affects TxDOT operations. House Bill 1750 allows the
22 executive director of TxDOT to lease rolling stock and to
23 contract with a rail operator to operate that rolling
24 stock if the executive director determines that either a
25 natural or manmade emergency exists that threatens the

1 health, life or property where the rail facility is
2 located. This legislation is the direct result of the
3 bumper crop season Texas farmers experienced in 2010. At
4 that time, the lessee of the TxDOT-owned rail line was
5 unable to provide adequate service and TxDOT did not have
6 explicit authority to procure an alternative operator on
7 an emergency basis. This legislation prepares us should
8 something like that happen again. At any rate, much of
9 the crop was transported by truck.

10 House Bill 563 provides local governments the
11 ability to establish transportation reinvestment zones for
12 projects without the need for it to be tied to the pass-
13 through financing Program. Provisions in the bill state
14 that the department shall delegate project
15 responsibilities upon request from a local government but
16 the department maintains project oversight which is very
17 important. Some language is added in the Sunset bill
18 ensuring counties could use this process as well.

19 House Bill 1201 repeals the Trans Texas
20 Corridor statutes but retains the ability for the
21 commission to establish exclusive lanes for use by
22 oversize/overweight vehicles and higher speed limits on
23 facilities designed to such standards.

24 House bill 1353 is worth mentioning at this
25 point as it also addresses speed limits on a larger scale.

1 It allows the Transportation Commission to establish 75
2 mile per hour speed limits on the state highway system if
3 found reasonable and safe through a traffic engineering
4 study.

5 This is Mrs. Chase's most important piece of
6 legislation from this session, as she reminded me this
7 morning. Has that gone into effect yet? No, Honey.
8 Sorry to bring my personal life into this.

9 (General laughter.)

10 MR. CHASE: In addition, House Bill 1353
11 eliminates the statewide nighttime and truck speed limit
12 differential. The revisions to the administrative rules
13 as a result of both bills will be presented later by Carol
14 Rawson at today's commission meeting for preliminary
15 adoption. So clearly we're stepping on the accelerator on
16 the rules adoption.

17 Senate Bill 19 establishes a primacy process
18 for toll projects within the boundaries of a local toll
19 project entity. Local toll project entities have the
20 first option to develop, finance, construct and operate a
21 toll project within its boundaries. There are several
22 deadlines and timelines associated with the process of
23 determining whether the local toll project entity or the
24 department will be responsible for developing, financing,
25 constructing and operating a toll project.

1 Senate Bill 731 is important. It allows the
2 Office of Attorney General to charge the department or
3 another toll project entity a non-refundable fee for the
4 legal sufficiency review of CDAs which can be reimbursed
5 by the private developer. The fee can't be based on a
6 percentage of the contract value and cannot exceed
7 reasonable attorney's fees charged for similar legal
8 services in the private sector. But what's particularly
9 important to this is not so much the charging of the fees
10 but the AG now has a deadline of 60 business days to
11 complete the review which can be extended for a period of
12 no more than an additional 30 business days.

13 Senate Bill 959 streamlines the department's
14 video billing process through using alternate methods for
15 locating an owner's billing address and providing express
16 authority to refund unexpended balances on closure of an
17 account. It allows for an assessment of fines and fees to
18 span multiple transactions or billing cycles as opposed to
19 being assessed per transaction.

20 Senate Bill 18 was very large. It was, as you
21 know, the eminent domain legislation that was an emergency
22 item for the governor and for the legislature. Both the
23 legislature and the Governor's Office used legislation
24 from prior sessions as a template where a lot of previous
25 good work had occurred in the previous session, and as a

1 result, Senate Bill 18 passed both chambers very early on.
2 And we had a seat at the table and were deeply involved in
3 that.

4 The two crucial elements of Senate Bill 18 that
5 I wanted to mention for the purposes of my discussion are
6 that the legislation provides new damages standards and
7 establishes a process for the right to repurchase land.
8 Suzanne Mann from the Office of General Counsel will
9 provide an in-depth discussion later on in the agenda that
10 will focus on the major points in TxDOT's role moving
11 forward in implementing the provisions of this bill.

12 The first called special session ended
13 yesterday. While the governor's call covered a variety of
14 unfinished business from the regular session, SB 1 was the
15 only bill that had a direct impact on TxDOT. Passage of
16 SB 1 was required in order to certify the budget. As a
17 point of reference, most of the bill focused on education
18 and healthcare issues, however, it included a two-month
19 delay in the distribution of motor fuel taxes at the end
20 of 2013. This means the Treasury holds onto it, so to
21 speak, a little longer before it deposits it for our use
22 into Fund 6. This translates to approximately \$200
23 million per month. To compensate for this short-term
24 loss -- we do get it back -- TxDOT will either defer check
25 lettings at the time or issue short-term debt.

1 In closing, I want to emphasize how important
2 this session was overall for the department. We were able
3 to receive additional Prop 12 funding that will keep us
4 moving forward in the department's primary function to
5 continue to build the state's transportation system.

6 Over the past month we've been compiling
7 comprehensive bill summaries for the bills I discussed
8 today as well as many other pieces of enacted legislation.
9 Our first version will be available internally tomorrow
10 for viewing. And as I mentioned earlier in my
11 presentation, the department will spend the next several
12 months implementing legislation with the assistance of
13 various divisions and districts.

14 And on a personal note, I'd like to thank the
15 commission and Mr. Saenz for their deep and constant
16 engagement this session. It's kind of interesting to give
17 your report of everything you lived through. But thank
18 you so much, thank you very, very much. It made all the
19 difference in the world.

20 Thank you for your time, and I'm happy to
21 answer any questions.

22 MR. SAENZ: Thank you, Coby.

23 Agenda item 2c, John Barton will come back and
24 present one of the things that we received was additional
25 Prop 12 authority, and John is starting out the process of

1 how we're going to potentially use this Proposition 12
2 money. So John.

3 MR. BARTON: Thank you, Director Saenz. And
4 again for the record, my name is John Barton.

5 Coby has mentioned it a little bit, there's
6 some slides I would like to use to talk through some of
7 this. At last month's commission meeting we talked about
8 the potential availability of these funds from the
9 appropriations process, and as Coby mentioned, we now have
10 that in place and are able to start planning to move
11 forward, and so you asked us to come back to describe the
12 approach and process that we would use to take in
13 evaluating these available funds.

14 Let me just start by thanking the legislature
15 and the commission for your efforts on this. This is
16 huge, this is a big deal for Texas and you are all to be
17 congratulated for your leadership in making this
18 opportunity available to the transportation industry and
19 to the citizens of Texas.

20 As this slide noted, we are being allocated, in
21 addition to the additional funding needed to carry forward
22 with the projects that we were authorized in the last
23 legislative session, through this legislative session we
24 now have that plus an additional \$3 billion that has been
25 made available to us, and in doing so the legislature

1 specified that it be used in five specific areas that Coby
2 has already mentioned.

3 I wanted to also point out, though, that there
4 is a separate intent rider that was included in the
5 appropriations bills that asked and focused the
6 department's attention on increasing our lettings over the
7 next two years of this upcoming biennium to a total of
8 approximately \$8.4 billion, and in order to do that, it's
9 going to be important that we move forward with the vast
10 majority if not all of these Proposition 12 funds on
11 projects in that two-year time period. That's what was
12 intended, I believe, by this intent rider. It's also
13 important to note that our industry and the people of
14 Texas are excited about this and are eager for us to get
15 moving forward quickly, so time is precious and we need to
16 move forward on projects quickly.

17 The specific areas that Coby mentioned, I won't
18 spend much time on: \$300 million to the four metro
19 regions, those are Houston, Fort Worth-Dallas, Austin and
20 San Antonio; \$600 million to the metropolitan regions of
21 the state, the 25 metropolitan organization areas; \$500
22 million for some specific bridges that were listed in the
23 appropriations bill; \$200 million for statewide
24 connectivity activities; and then \$1.4 billion to be
25 distributed to the 25 TxDOT districts across the state.

1 And Coby has mentioned the authority, if you will, or
2 oversight and project selection responsibilities for
3 those.

4 In addition to that, I wanted to point out that
5 we also, as we think about a process on how we're going to
6 use these funds and go through the engagement of the
7 public to select projects and prioritize them, we also
8 have two additional sources of funds that are out there
9 that need to be a part of the discussion, in my opinion.

10 One is that because of underruns on the
11 projects that we advanced with the first \$2 billion of
12 Proposition 12, the fact that we were able to thoughtfully
13 move some of those Proposition 12 funded projects into the
14 normal federal program earlier this summer in order to
15 make sure we maximize the federal dollars coming to Texas,
16 and the fact that in our Unified Transportation Program
17 that you adopted I guess it was last month officially,
18 that plan, if you will, included \$310 million of Fund 6
19 funds that had not been distributed to programs or
20 projects in 2012, and so we have an opportunity to
21 identify projects and programs for the use of that money
22 as well. So when you put all that together, it's
23 important that we have a well thought out and meaningful
24 process for moving forward.

25 On June 13 we met with all the metropolitan

1 planning organizations as well as our district engineers
2 and several of their key staff members here in Austin to
3 talk about this and to think about how we work together to
4 develop a process to move forward with. The key points
5 that came out of those discussions were that, as you have
6 always encouraged us to do, we want to make sure we
7 maintain the maximum flexibility in the use of these funds
8 so we don't limit ourselves more than is necessary in
9 order to move forward.

10 And for example, the \$1.4 billion that is being
11 made available for safety and rehabilitation type projects
12 could be used to do some very meaningful projects all
13 across the state and we want to make sure that we're not
14 limiting them only to looking at safety projects and what
15 we call rehabilitation and reconstruction projects but
16 note that almost any transportation improvement project
17 provides safety benefits. So it could be adding capacity,
18 it could be actually putting in some new lanes or new
19 alignments in some cases, and we just want to make sure
20 that we allow ourselves the maximum amount of flexibility
21 that we can under the state laws governing the use of
22 these funds.

23 We also want to encourage and allow for
24 strategic partnerships. By that we mean that we don't
25 want to just say the Proposition 12 funding can only be

1 used by itself on projects. If there are local
2 communities that want to bring money forward, if there's
3 federal funds that are available that some might want to
4 cobble together and leverage with these Proposition 12
5 funds for their highest priority projects, then we need to
6 allow those strategic priorities. And if some of the MPOs
7 want to give the authority and use of their funds to some
8 of the districts to do work outside of the MPO areas, then
9 we want to make sure that we allow for those strategic
10 partnerships to really focus on the highest priority needs
11 for the state in those areas that they're responsible for
12 working in.

13 MR. HOUGHTON: You mentioned work outside the
14 MPO areas. What do you mean?

15 MR. BARTON: Well, for instance, if a community
16 where an MPO exists identifies a need that is outside
17 their boundary but they feel like that's the most
18 important need, let's say it's Interstate 45 coming into
19 the Greater Houston area just outside of the Houston
20 Metropolitan Planning Organization boundaries, the funds
21 through the appropriations bill were allocated based on
22 that formula but the use of them was not restricted to
23 inside that MPO boundary. So if that MPO wanted to say
24 take some of our money and add those ramps out there north
25 of our boundary area, we should be open to that strategic

1 partnership to allow that type of thing.

2 And vice versa, it could be that a district may
3 look at the needs within a metropolitan boundary within
4 their district and want to identify high priority projects
5 that they could be a part of as well.

6 MR. HOUGHTON: John, also let us understand how
7 we expend these dollars. Are these dedicated dollars to
8 what kind of projects?

9 MR. BARTON: The projects were, again, in five
10 different areas. They were dedicated specific bridges, a
11 piece of them were --

12 MR. HOUGHTON: I mean generally. Can we use
13 these on transit projects?

14 MR. BARTON: No, sir. I'm sorry. The
15 authorizing language for Proposition 12 requires that they
16 be spent on highway projects, so they can't be spent on
17 rail projects, they can't be spent on waterways or
18 aviation, and transit only if the work being done is a
19 highway project to improve the mobility of a transit
20 system. So you can't use them to buy buses or things like
21 that.

22 MR. HOUGHTON: Now, I understand that we also
23 picked up some dollars, authorized dollars from the
24 federal program, states that did not expend their
25 authority.

1 MR. BARTON: We did that last year. What
2 happened earlier this year is Congress was more generous
3 in the distribution of transportation funds than our
4 forecast had anticipated, and so we were given authority
5 to expend more federal funds than we had planned in our
6 original plan.

7 MR. HOUGHTON: Now, their fiscal year ends
8 pretty quick.

9 MR. BARTON: In October, yes, sir.

10 MR. HOUGHTON: So we will know sooner or later?

11 MR. BARTON: Typically, the redistribution that
12 we might get additional funds from other states comes to
13 us in late August, I believe, so it could be very soon
14 that we hear from the federal government that if Texas has
15 projects that they can advance with federal funds, there
16 will be additional federal funds made available to us.
17 But we would have to be able to do those quickly and
18 that's part of the reason we moved some of the previous
19 projects that were funded from Prop 12 that will be taking
20 bids soon to the federal dollars to be able to take
21 advantage of that opportunity if it unfolds.

22 MR. HOUGHTON: So we don't know but we
23 anticipate.

24 MR. BARTON: Yes, sir. Last year I believe we
25 got in the neighborhood of \$80 million from other states

1 because we were able to advance work.

2 MR. HOUGHTON: When you say advance, how quick
3 do you have to have those?

4 MR. BARTON: We have to have them obligated by
5 the end of their federal fiscal year, so those projects
6 have to be designed, environmentally cleared and ready to
7 be committed by the end of October, and to do that, I
8 think you actually have to back up pretty early in the
9 month of October to be able to make those obligation
10 periods.

11 MR. HOUGHTON: Thanks.

12 MR. BARTON: With all of this information out
13 there, we do think it's important that we do due diligence
14 in thinking through this and talking to our partners at
15 the metropolitan planning organizations and with industry,
16 and so we feel like we need to have some additional
17 meetings to talk to them, but would like to come back to
18 you in July at your commission meeting with a more defined
19 plan of the public meeting process, how we're going to
20 engage the public at all levels, to help you make
21 decisions on the statewide connectivity projects and to
22 demonstrate to you the process that the districts and the
23 MPOs will go through to make their project selections that
24 ultimately they'll bring forward for your consideration.

25 One of the things that the group also discussed

1 on June 13 was that we need to focus on the things that
2 you've always encouraged us to focus on: enhancing the
3 safety of our transportation system, doing all that we can
4 to reduce congestion in our metropolitan areas, improving
5 the air quality in the State of Texas -- and there's been
6 a lot of discussions about air quality standards lately;
7 we won't get into that now but it's an important issue --
8 and that do what we can to continue to preserve our system
9 to make sure it lasts as long as it possibly can, and all
10 of that combined should be focused on providing economic
11 opportunities for the State of Texas and for our business
12 men and women who are the heartbeat of the state.

13 So the proposed process would be that, of
14 course, the MPOs need to go through their normal processes
15 in identifying and selecting projects, and we'll put this
16 together in a more well defined and thoughtful plan for
17 you next month. Our TxDOT districts also need to start
18 reaching out, and they already have done that, David and
19 others have been working with some of our districts to do
20 some very thoughtful plans, all of our district engineers
21 have already started engaging their metropolitan planning
22 organizations when they have them, talking to rural
23 planning organizations where those exist, reaching out to
24 local elected officials like county judges and mayors, to
25 start the dialogue, and that is all underway and needs to

1 continue.

2 At the end of it all it may be best that we
3 have collaborative processes where districts that do have
4 metropolitan planning organizations even have joint
5 meetings and discussions about these things, so we're all
6 doing this together and not individually and haphazardly.
7 And in doing this, it's important that our department
8 districts have a public involvement process associated
9 with it, so we'll be hosting public meetings, and again,
10 it could be meetings that are held simultaneously with
11 some of our other transportation partners.

12 So moving forward we will try to engage all of
13 these individuals, metropolitan planning organizations,
14 local elected officials, rural groups, in the next few
15 weeks to further develop a thoughtful process to bring
16 forward to you. Our anticipation would be in July we
17 would bring forward to you a definition of the final plan
18 that we will be moving forward with. And again, because
19 of the need to move forward quickly, we would hope that we
20 can bring back to you in the September-October time frame
21 a list of projects to recommend your approval of for
22 Proposition 12 funding because it is important we move
23 forward. It won't be the entire list and it won't be the
24 only time we have to bring that forward to you, but we
25 need to get some of these projects started quickly so we

1 can advance them to construction in the summer of 2012.

2 MR. HOUGHTON: You said Prop 12 but you're also
3 looking at \$310 million of Fund 6, or are you talking
4 about rolling all of that up?

5 MR. BARTON: That's the recommendation is that
6 the Proposition 12 funding is very important and there's
7 certain intentional guidance that the legislature gave us,
8 but as we're talking about all of this, there's additional
9 funding that we feel like should be brought into the mix
10 of the discussion to prioritize and make decisions.

11 MR. HOUGHTON: So everything is what you're
12 talking about.

13 MR. BARTON: Yes, sir.

14 MR. HOUGHTON: Okay.

15 MR. BARTON: And with that, I'd be happy to
16 take any comments or guidance that you'd like to share or
17 try to answer any questions you may have.

18 MR. UNDERWOOD: A couple of quick questions,
19 John. Presently we've moved some of our Prop 12 projects
20 over to the federal funding. Isn't that correct?

21 MR. BARTON: Yes, sir.

22 MR. UNDERWOOD: This gives us the flexibility
23 to address other needs and I'm saying that in terms of the
24 rural areas, whether it be maintenance or whether it be
25 new roads.

1 MR. BARTON: It is possible. Because we were
2 able to fund these projects on I-35 that were originally
3 part of the Proposition 12 Program, that's freed up, as I
4 mentioned, about \$250 million of the previous Proposition
5 12 funding that now can be used for other programs and
6 projects, so it's possible that you could focus on
7 additional rural connectivity needs or other focus areas
8 in the agency.

9 MR. UNDERWOOD: Because from what I understood
10 from your conversation, the legislature's intent was for
11 this money to be used as much as possible in the next two
12 years. Isn't that correct?

13 MR. BARTON: That is correct.

14 MR. UNDERWOOD: It means projects that are
15 ready, that are environmentally sound and ready to go.

16 MR. BARTON: Or could be done quickly, yes,
17 sir.

18 MR. UNDERWOOD: Okay. Could you give me a
19 little bit of history on Category 4?

20 MR. BARTON: Category 4 is the category that we
21 have for rural connectivity and in the past we had a lot
22 of planned activities there. In 2009 we realized that our
23 funding streams were not going to match those that were
24 originally projected, and so as you'll recall, in the 2010
25 Unified Transportation Program and now in the 2012 we've

1 all but zeroed out funding for rural mobility and
2 connectivity in order to make sure that we met the
3 commitments that we all agreed we had made to those
4 metropolitan communities around the state and as well as
5 to maintain at least some level of acceptable maintenance
6 funding. So we don't have a lot of Category 4 funding
7 committed over the next ten years in this 2012 UTP.

8 MR. UNDERWOOD: My point of that is that as we
9 have access to these funds, as we have overruns, as we
10 have unobligated funds, as we go forward with it, I would
11 like for the staff to be looking into the fact that we did
12 basically, I think it was like 2008, wasn't it, we just
13 basically cut it off.

14 MR. BARTON: It was in the 2008-2009 time
15 period, yes, sir.

16 MR. UNDERWOOD: We just basically cut it off,
17 and when you're doing this I would like you to look into
18 the fact to find out what rural corridors are important to
19 the state. I liked your part about MPOs being able to
20 work outside their own boundaries and working with other
21 communities down the road which would be good for the
22 whole state, not just for their MPO. Isn't that basically
23 what you were saying earlier?

24 MR. BARTON: Yes, sir. And there's even been
25 discussion that our districts have that same flexibility

1 that it could be that if the Bryan and Houston districts
2 were looking at a corridor between their two main
3 communities, Houston and Bryan-College Station, if they
4 felt like there was some improvement that need to be made
5 along State Highway 6 to make that a better route, that
6 they could work cooperatively with the allocations they
7 receive to try to address some of those commitments and
8 not worry so much about how much was specifically
9 allocated to the Houston District and how much was
10 specifically allocated to the Bryan District. We already
11 have districts talking to one another and to their local
12 elected officials about those kinds of projects.

13 MR. UNDERWOOD: And I would challenge the local
14 officials to work together on this because this is an
15 opportunity where we can get a lot done for the state
16 because all the citizens of the State of Texas voted for
17 the Prop 12 money.

18 MR. BARTON: At least a majority of them did.

19 MR. UNDERWOOD: I'm sorry, I apologize for
20 that. I said majority of the voters but my point was a
21 majority of voters throughout the state, not in one
22 particular location for the Prop 12 money.

23 MR. BARTON: Yes, sir.

24 MR. UNDERWOOD: And also, as you do this I
25 would request that you see if we can leverage the best we

1 can this Prop 12 money. Is there ways that we can
2 leverage it?

3 MR. BARTON: We can look at that, and that's
4 one of the things that we talked about at that June 13
5 meeting is there are local funds, there are other funds
6 that we've committed to regions through our normal
7 program, and they are eager to take advantage of this and
8 couple this money with those funds to make bigger projects
9 and more meaningful projects.

10 MR. UNDERWOOD: And by leveraging, I include
11 the fact that communities would work with us to actually
12 come up with some funding on their own so we get the most
13 bang for the buck.

14 MR. BARTON: Yes, sir. And there are several
15 communities that at least those MPOs represented would be
16 ready and eager to do that.

17 MR. UNDERWOOD: Okay. I appreciate that.
18 Thank you, sir.

19 MR. BARTON: Thank you.

20 MR. HOLMES: John, when Category 4 was reduced
21 three or four years ago, was some of that reduction on
22 Ports to Plains projects?

23 MR. BARTON: Some of it was, but it was
24 statewide.

25 MR. HOLMES: I'm trying to help Commissioner

1 Underwood here.

2 (General laughter.)

3 MR. BARTON: Yes, sir. Some of it was on Ports
4 to Plains routes and projects that we had identified along
5 those routes, and primarily it impacted the Texas Trunk
6 System projects that we had identified over the past
7 years.

8 MR. HOLMES: Aren't there a few of those Ports
9 to Plains projects which are relatively advanced from an
10 environmental standpoint that might be accelerated?

11 MR. BARTON: There are several key ones,
12 several being on one hand, you know, five or six key
13 projects that would be doing things like bypasses of
14 communities to avoid having to stop at several traffic
15 lights through some of our communities along those routes,
16 improving areas where we've noted safety issues, and we've
17 done the advanced planning and we've got the environmental
18 clearances, but we haven't had funding to move forward
19 with them over the past three to four years.

20 MR. HOLMES: Well, they probably should be part
21 of the mix for the review, see which ones might merit
22 attention.

23 MR. BARTON: Yes, sir. And I know that those
24 TxDOT districts that are along the Ports to Plains route
25 are keenly aware of that and are working together and with

1 the local elected leaders to think through those processes
2 and opportunities.

3 MR. UNDERWOOD: Now you're talking about Ports
4 to Plains?

5 MR. BARTON: Yes, sir.

6 MR. UNDERWOOD: Don't stop your vision there,
7 John, as you do it, whether it be 77 in South Texas and
8 other rural areas, if you would.

9 MR. BARTON: We do have several rural
10 connectivity routes that are of importance to us where
11 we've done those advanced planning activities.

12 MR. UNDERWOOD: Where we can get the most bang
13 for the buck, we can get a lot done, and a short amount of
14 time and please the intent of the legislature of getting
15 this money out and working and helping move the citizens
16 of Texas. That's critical.

17 MR. BARTON: We'll be sure to work together
18 with our TxDOT and local staff to come up with a
19 thoughtful plan about those.

20 MR. UNDERWOOD: I appreciate it, and I
21 appreciate my colleague's comments too. Thank you.

22 MR. BARTON: If there's nothing else, I
23 appreciate the opportunity to share this information with
24 you, and we'll come back in July.

25 MR. MEADOWS: Thanks for the thoughtful

1 presentation this morning.

2 MR. SAENZ: Thank you, John.

3 Commission, as John said, the Prop 12 program
4 is going to be a cornerstone for the next few years. And
5 I guess before we go, the whole legislative session was a
6 great session for us and we had some key players that were
7 members of the legislative committees, like Ryan Larue and
8 Aaron Korstee, and, of course, Brady Franks, Leigh Ann
9 Lauderdale, and of course, Zeke Reyna of the Speaker's
10 office, and, of course, Colin Parrish that were
11 instrumental in working with us as we identified the key
12 issues in transportation. I want to thank them for their
13 help, guys, appreciate it.

14 We're going to move on to agenda item 2d.
15 We're not going very fast. James, hint, hint. John told
16 me he was going to be fast but he wasn't fast enough.
17 James, being the fear-monger, is going to kind of give us
18 a little bit of bad news on the federal side, but I think
19 he'll make it short. So James will present agenda item 2d
20 that talks about the federal rescission that is coming up.

21 MR. BASS: Good morning. For the record, I'm
22 James Bass, chief financial officer at TxDOT. And as Mr.
23 Saenz said, I'm here to provide you an update on the
24 latest in an ongoing series of rescissions in our Federal
25 Highway program to our unobligated apportionments.

1 Back in April the president signed a bill that
2 included a national reduction and rescission of around
3 \$2.5 billion of Federal Highway apportionment. Texas'
4 share of that is expected to be around just over \$200
5 million. That would bring a running total since 2006 of
6 our all-in rescissions to our apportionment of \$2.3
7 billion.

8 I will point out that one of those earlier
9 rescissions was then later reversed by Congress, if you
10 will, and they brought that back, that was the one that as
11 at the end of SAFETEA-LU, and so once you net that back in
12 our ongoing rescission since 2006 would be about \$1.6
13 billion.

14 So after this passed, we still have not
15 received the formal notice from Federal Highways with a
16 deadline of when to respond, but we went ahead and in the
17 month of May convened the standing committee no
18 rescissions through a conference call and discussed this
19 pending rescission with them and went over with them
20 really the impacts and the differences between the
21 different categories of federal apportionment that we
22 receive. Some of those categories are very focused and
23 very limited on the eligible uses of them; other
24 categories have a broader use and broader scope of
25 projects that can be covered.

1 So the ending result of the discussions with
2 the standing committee on rescissions is that their
3 recommendation is that all of the \$201 million rescission
4 be taken from one of those most restrictive categories
5 which is interstate maintenance. One of the concerns
6 might be well, maintaining the interstate system obviously
7 is critical to the department and to the state. However,
8 I'll remind you, and you already heard some of it today,
9 many of the Prop 12 Bond proceeds are going to expand and
10 rehabilitate the interstate system right now, so the
11 department, the commission, locals are all very aware of
12 the importance of the interstate system and we feel like
13 there's been adequate commitment to that.

14 So when we receive the instructions from
15 Federal Highways with a deadline to respond, our plan,
16 based upon the recommendation from the standing committee
17 on rescissions, would be to rescind \$201 million from the
18 interstate maintenance category. And I would be happy to
19 answer any questions that you may have.

20 How's that for brevity?

21 MR. SAENZ: Thank you, James.

22 MR. BASS: Thank you.

23 MR. SAENZ: Commission, moving on to agenda
24 item number 3, Jay Joseph will present two minute orders
25 dealing with our aviation program. So Jay, if you could

1 present one, then do the vote and then present the second
2 one and do the vote.

3 MR. JOSEPH: Yes, sir. And Madam Chair,
4 commissioners, a very pleasant good morning from the
5 Aviation Division, and for the record, I'm Jay Joseph, the
6 section director of the Flight Services Section.

7 Item 3a is a minute order which contains a
8 request for grant funding and approval for 15 airport
9 improvement projects. The total estimated cost as in
10 Exhibit A is approximately \$18.7 million of which
11 approximately \$16.6 million are federal funds and
12 approximately \$2.1 million local funding.

13 A public hearing was held on May 19 of this
14 year with no comments received, and we recommend approval
15 of this minute order.

16 MS. DELISI: Any questions for Jay? If not,
17 I'd like to call up Ken Wiegand.

18 MR. WIEGAND: Thank you, and good morning,
19 Madam Chairman, commissioners. For the record, I'm Ken
20 Wiegand and I'm executive director of the McKinney Airport
21 Development Corporation, and I also manage Collin County
22 Regional Airport in McKinney.

23 I just want to let you know that the numbers on
24 the list of funding that you've got there, out of that
25 there's about \$11.3 million coming to McKinney. This is

1 the second meeting in a row that we've been down and
2 you've been so generous to allocate, approve or authorize
3 the funding for our improvement project up there. But I
4 wanted to explain that this funding is going to go to the
5 last phase of a three-phase construction and a seven-year
6 multi-year federal granting exercise to build a
7 replacement runway that's going to enhance safety and
8 improve efficiency and our utility at the airport.

9 Now, this is a \$71 million program that we've
10 had since 2004. This runway was originally slated to cost
11 us about \$57 million and because of the economy and some
12 cost savings that we've realized over the past seven
13 years, we've whittled that down now to about \$44.3
14 million, so this \$11 million will complete our
15 construction portion.

16 I think you should also know that we are a
17 general aviation reliever airport for DFW International
18 and Love Field, and we serve corporate aviation. That's
19 our primary client. Despite what our president thinks,
20 general aviation brings business to our small communities,
21 to all communities throughout the country, and we will
22 continue to serve them. They're resilient to attack by
23 our enemies and even derogatory comments from our
24 president and Congress.

25 I just wanted to also thank the Division of

1 Aviation for their support. This project means a lot to
2 Collin County, means a tremendous amount to the citizens
3 and taxpayers of McKinney, and we appreciate your support
4 tremendously.

5 And in closing, I'd also like to thank
6 Commissioner Underwood for his support. He was out on
7 April 19 to help us dedicate our air traffic control tower
8 to Pete and Nancy Huff who are pillars in our community,
9 and, incidentally, Pete serves on the Aviation Advisory
10 Committee working with Dave Fulton.

11 So I wanted to thank you very much for that and
12 tell you you've got a great agency there in the division.
13 They support us. We don't always agree but they're fair
14 and they've given us a lot of support over the years.
15 Thank you very much.

16 MR. UNDERWOOD: Ken, one quick thought before
17 you go. I hope my fellow commissioners will go along with
18 me, but I think this is an important project for what
19 you're doing. And also if you'd tell Congressman Johnson
20 this is probably as close as we're going to be able to get
21 to getting Southwest in there. Okay?

22 MR. WIEGAND: Yes, sir, I will.

23 MR. UNDERWOOD: That's a private joke. I
24 apologize to everybody in the audience. But he was making
25 a speech and he said, 'We can do this for the airport and

1 we'll have Southwest Airlines here next year.' Remember
2 that?

3 MR. WIEGAND: Yes, sir, I do. Maybe not
4 Southwest but perhaps a niche airline, and that's what
5 we're going to look at.

6 MR. UNDERWOOD: But I appreciate all the hard
7 work you do and the professionalism that you show. And I
8 also want to thank our staff for all the hard work they
9 do, Jay. Be sure to pass that on to everybody, please.
10 Thank you, sir.

11 MR. WIEGAND: Thank you, Commissioner.

12 MR. HOLMES: One quick question. What are the
13 dimensions of that runway?

14 MR. WIEGAND: Our new runway, the replacement
15 runway is going to be 150 feet wide, it will be 7,002 feet
16 long, we do that for a reason, and the weight-bearing
17 capacity has been tripled, it's going to go from about
18 176,000 pounds that we enjoy now to 450,000 pounds double
19 dual tandem. It equates to a wide body aircraft.

20 MR. UNDERWOOD: What's your overrun beyond that
21 7,002 feet?

22 MR. WIEGAND: It's 1,000 feet on each end, sir.
23 That's a requirement of the federal government. You
24 should also note the community, business community
25 insisted on expending \$4.3 million for the extra width

1 which it's 50 feet above standard and the extra weight-
2 bearing capacity, and that's looking at the future.

3 MR. UNDERWOOD: Right. That was smart.

4 MR. JOSEPH: Not to soft-soap this any for Ken,
5 but he's obviously well versed, not just from the fiscal
6 side but from the operational side. As a note, he was
7 awarded the airport manager of the year of reliever
8 airports in 2008 so you can see that he's very well
9 founded in his observations.

10 MR. SAENZ: Hold on, Jay, we need to take a
11 vote.

12 MR. HOUGHTON: So moved.

13 MR. HOLMES: Second.

14 MS. DELISI: All in favor?

15 (A chorus of ayes.)

16 MS. DELISI: The motion passes.

17 MR. JOSEPH: Thank you.

18 Item 3b, this minute order is to appoint Mr.
19 John White to a three-year term as a new member of the
20 Texas Aviation Advisory Committee. Mr. White meets the
21 statutory requirements for service on the committee, and
22 we recommend approval of this minute order.

23 MR. HOUGHTON: So moved.

24 MS. DELISI: Is there a second?

25 MR. MEADOWS: Second.

1 MS. DELISI: All in favor?

2 (A chorus of ayes.)

3 MS. DELISI: The motion passes.

4 MR. JOSEPH: Thank you.

5 MR. SAENZ: Thank you, Jay.

6 Agenda item number 4, Eric Gleason, our
7 director of our Public Transportation Division, will
8 present several minute orders, and to in essence show the
9 overall program, he's going to present all the minute
10 orders and then we'll do a vote after all the minute
11 orders are presented.

12 MR. GLEASON: Thank you. For the record, my
13 name is Eric Gleason, I'm director of TxDOT's Public
14 Transportation Division. And I'll present items 4a
15 through 4f and then we'll handle 4g separately.

16 Agenda items 4a, b, c, d, e and f award
17 approximately \$63 million in federal and state grant
18 program funds for public transportation purposes across
19 the state. The awards are for various projects including
20 new transit vehicles, new and expanded facilities,
21 preventative maintenance, information technology,
22 operating and administrative expenses, service
23 continuation, service expansion and planning. In
24 addition, approximately 2.9 million transportation
25 development credits are awarded for various capital

1 projects in lieu of local match, allowing scarce local and
2 state revenues to be used as match for federal operating
3 funds.

4 These minute orders award funds from the
5 following federal and state programs, consistent with
6 Texas Administrative Code requirements: State Fiscal Year
7 2012 Public Transportation Grant funds and Federal Transit
8 Administration Fiscal Year 2011 funds from Sections 5303,
9 5304, 5310, 5311, 5311(f), 5316, 5317 and the Rural
10 Transit Assistance Program.

11 Transportation development credits assist in
12 funding capital projects consistent with the requirements
13 of Texas Administrative Code Section 5.73, helping the
14 department achieve the goals of its strategic plan.

15 In 2010 programs supported in part by these
16 funds carried over 27 million riders on a network of
17 services operating over 3,000 vehicles in approximately 58
18 million revenue miles of service. Collectively these
19 programs help finance an infrastructure of service and
20 capital investments in the rural and smaller urban areas
21 of the state that provide a local and inner city network
22 of critical basic mobility services for largely transit-
23 dependent individuals as well as convenient competitive
24 options for commuters, particularly in the rapidly growing
25 metropolitan regions of the state. These investments

1 contribute directly toward the achievement of
2 connectivity, congestion relief and maintenance goals of
3 the department's strategic plan for 2011 through 2015.

4 Staff recommends your approval of these minute
5 orders.

6 MR. SAENZ: That would be agenda items 4a
7 through 4f?

8 MR. GLEASON: That's correct.

9 MS. DELISI: Are there any questions of Eric?
10 We have a speaker. Do you have any questions?

11 MR. HOUGHTON: No.

12 MS. DELISI: Then I'd like to call up Vastene
13 Olier.

14 MS. OLIER: Good morning. I'm Vastene Olier
15 with Colorado Valley Transit, and I'm here on behalf of
16 the Texas Transportation Association to thank you for what
17 you're going to do in a few minutes, hopefully, which is
18 approve the funds that our executive director, Eric
19 Gleason, has presented to you today.

20 It is very important that we come to you today
21 just to say thank you for the continued dedication and
22 commitment that you've had for public transportation.
23 These individuals that receive this service on the other
24 end are in many ways our elderly as well as those
25 individuals that are trying to go to work, there are

1 thousands of them throughout the State of Texas, it's
2 those who are disabled, and it's actually getting people
3 to the businesses that we have in our areas. So it's
4 important that we continue to have this particular type of
5 partnership with you all to provide the service that's
6 much needed in the State of Texas.

7 It's also a thank you to Eric and his staff for
8 the hard work. Many of the programs that he just
9 mentioned a few minutes ago require a lot of work, but
10 we're dedicated to making sure that the citizens of Texas
11 receive this service, that they get the best possible
12 services that we can provide. But this would not be
13 possible without your commitment that you have given to
14 funding public transportation.

15 So on behalf of the Texas Transportation
16 Association, we thank you.

17 MS. DELISI: Thank you.

18 Is there a motion?

19 MR. HOLMES: So moved.

20 MR. HOUGHTON: Second.

21 MS. DELISI: All in favor?

22 (A chorus of ayes.)

23 MS. DELISI: The motion passes.

24 MR. SAENZ: Commission, Eric will now present
25 agenda item 4.g which is recommending some changes to the

1 projects funded through the American Recovery and
2 Reinvestment Act for public transportation projects.

3 MR. GLEASON: Thank you. And I would like to
4 recognize that Ms. Olier, who just spoke to you, was a
5 member of the Public Transportation Advisory Committee
6 from 2003 through 2007. It was a particularly challenging
7 time for the committee, and I do appreciate her leadership
8 in that area.

9 Agenda item 4g revises previous Federal Transit
10 Administration non-urban or rural area program American
11 Reinvestment and Recovery Act award amounts and purpose
12 for selected sub-recipients. There's no net change in the
13 total funding award amount.

14 The department continues to make adjustments
15 within the rural Recovery Act program as some projects are
16 completed with remaining balances and as other projects
17 become clearer with respect to anticipated costs and
18 purposes. In this instance, completed project residual
19 balances from five agencies are being reallocated to four
20 other agencies to support increased facility project
21 needs. Additionally, four other agencies are adjusting
22 previous award amounts among different expenditure
23 categories.

24 Texas continues to expend its rural transit
25 Recovery Act funds at a greater rate than the transit

1 industry as a whole. As of yesterday, we have spent
2 approximately 82 percent of our Recovery Act program
3 funds, whereas, nationally the overall expenditure rate
4 for Recovery Act program transit funds is approximately 60
5 percent.

6 Staff recommends your approval of this minute
7 order.

8 MS. DELISI: Are there any questions? Is there
9 a motion?

10 MR. HOUGHTON: So moved.

11 MR. UNDERWOOD: Second.

12 MS. DELISI: All in favor?

13 (A chorus of ayes.)

14 MS. DELISI: The motion passes.

15 MR. GLEASON: Thank you.

16 MR. SAENZ: Thank you, Eric. Good job, and
17 good job on being ahead of the game on spending of the
18 ARRA money. That's what the intention was.

19 Agenda item number 5, Commission, Bill Glavin
20 will present a minute order where we accept a grant from
21 the federal High-Speed Intercity Passenger Rail Program.

22 MR. GLAVIN: Thank you very much. Appreciate
23 the opportunity to be here. For the record, my name is
24 Bill Glavin. I'm the director of the Rail Division for
25 TxDOT.

1 On March 11, the Federal Railroad
2 Administration announced the availability of reallocated
3 fund for the high-speed intercity passenger rail projects.
4 On April, 4 TxDOT submitted project grant applications for
5 the implementation of positive train control on the
6 Trinity Rail Express commuter rail line that connects the
7 Metroplex, and for project-level preliminary engineering
8 and NEPA for the development of a new high-speed rail
9 passenger service between Dallas-Fort Worth and Houston,
10 two of the largest metropolitan areas in the nation.

11 On May 9, US DOT Secretary LaHood announced
12 that Texas was awarded \$15 million for preliminary
13 engineering and NEPA for the Houston to Dallas-Fort Worth
14 high-speed passenger rail initiative. The Metroplex,
15 through the North Central Texas Council of Governments,
16 the City of Fort Worth, the City of Dallas, Tarrant and
17 Dallas counties, as well as the Houston area through the
18 City of Houston, Harris County and the Houston-Galveston
19 Area Council, are supportive of this project. No state
20 match is required for this federal grant funded from the
21 American Recovery and Reinvestment Act.

22 This project will position the state for future
23 rounds of federal funding for the development of passenger
24 rail service as an alternative transportation option.

25 This minute order number 5 authorizes the

1 department to enter into the necessary agreements to
2 accept this grant and to expend the funds as outlined
3 above. Without this work, Texas will continue to miss out
4 on a significant portion of the federal funding that has
5 become or may become available through the High-Speed
6 Intercity Passenger Rail Program.

7 Staff recommends approval of this minute order.

8 MS. DELISI: Questions of Bill? If none, I'd
9 like to call up Jack Drake.

10 MR. DRAKE: Good morning. I'm Jack Drake and I
11 speak I support of acceptance of funds for this study. I
12 represent the Greenspoint District in Houston and the
13 newly formed Transportation Advocacy Group Houston Region.

14 The Greenspoint Business District, 4,000
15 businesses, 75,000 employees, 100,000 residents, \$2
16 billion in property value. We're six miles from
17 Intercontinental Airport at I-45 North and the Sam Houston
18 Parkway, Beltway 8.

19 The Transportation Advocacy Group Houston
20 Region (TAG), 100 business leaders and growing, with a
21 mission to build a foundation of sound and unified
22 transportation infrastructure that promotes economic
23 prosperity, growth and quality of life. Joining me today
24 are TAG partners, co-founder Gary Trietsch, Geeti
25 Zarankelk, Kenneth Williams, Roshan Moyad, and Peter

1 Smith.

2 TAG's premise is that Houston cannot address
3 improved mobility without additional funding, and that for
4 our area's economic health the legislature must recognize
5 the challenges of urban transportation. We exist, our
6 group exists to build grassroots support in our community
7 and translate that to legislators who we want to act to
8 address mobility at the state level or give us the local
9 authority to do it ourselves.

10 Greenspoint and TAG have stakes in this rail
11 business before you today. Strategically positioned at
12 Interstate 45 and the Sam and globally connected by
13 Intercontinental Airport, it's in our backyard,
14 Greenspoint makes geographic and economic sense as the
15 Houston terminal for high-speed rail connecting Houston
16 and Dallas-Fort Worth. And our Transportation Advocacy
17 Group understands the value of all passenger and freight
18 rail to our region and our state's mobility. We therefore
19 urge the commission to accept the funds.

20 Our group looks forward to being good partners
21 and to seeing you throughout the year so that you know
22 that we care about your work and the Houston region's
23 mobility challenges.

24 Finally, I and those I represent appreciate
25 your service to our state. Thank you.

1 MS. DELISI: Is there a motion?

2 MR. HOUGHTON: So moved.

3 MR. HOLMES: Second.

4 MS. DELISI: All in favor?

5 (A chorus of ayes.)

6 MS. DELISI: The motion passes.

7 MR. SAENZ: Thank you, Bill.

8 Agenda item number 6, Commission, deals with the
9 promulgation of administrative rules. 6a deals with final
10 adoption, we have two rules for final adoption today.
11 6a(1) deals with Chapter 9, and John Barton will present
12 the rules for final adoption to you.

13 MR. BARTON: Thank you, Director Saenz. Again
14 for the record, my name is John Barton.

15 The minute order that is before you would
16 recommend final adoption of the amendments to Chapter 9.42
17 of the rules that we have governing our contracting
18 practices for architectural, engineering and surveying
19 services. These services are procured by the department
20 in accordance with state and federal laws, and these
21 amendments are to address the timing of submission of
22 information required for administrative qualifications
23 when we solicit for contracts for engineering,
24 architectural and surveying services.

25 We've heard from our partners in the private

1 sector that a change that we made last year which was
2 intended to help reduce the time it took to go from
3 solicitation to final negotiated contract has caused some
4 unanticipated timing burdens for some of the firms that
5 are associated with the preparation and submission of
6 these administrative qualifications, and the intent was
7 not to place an additional burden on anyone or to prevent
8 any companies wishing to contract with the department an
9 undue burden. So to help address this issue, while trying
10 to still avoid increasing the time it takes us to go from
11 when we start the process to when we finish it, three
12 changes are being recommended through these rules
13 revisions.

14 One is to move the deadline for submitting this
15 required information for administrative qualifications
16 from a date prior to when we close the solicitation to a
17 date after the firm has actually been selected. The
18 second is to extend the time that their audited overhead
19 rate reports are valid from 24 months to 30 months to give
20 them an additional six months to renew their audits if
21 they need to do that. And then the third would be to
22 allow for an indirect rate that's been established or
23 developed by the department's Audit Office to serve in the
24 place for firms that are small and do not have an audited
25 overhead rate that we can accept at the time we enter into

1 a contract with them.

2 Staff has met with the consultant industry,
3 we've talked through this with them and considered their
4 input. During the public comment period for these rule
5 revisions we received no comments. And I will be happy to
6 answer any questions you have and would recommend your
7 consideration of approval of this minute order.

8 MS. DELISI: Is there a motion?

9 MR. HOUGHTON: So moved.

10 MR. HOLMES: Second.

11 MS. DELISI: All in favor?

12 (A chorus of ayes.)

13 MS. DELISI: The motion passes.

14 MR. SAENZ: Thank you, John.

15 Agenda item 6a(2), Suzanne Mann will present a
16 final adoption of rules concerning internal compliance
17 programs by businesses that do work with the department.

18 MS. MANN: For the record, my name is Suzanne
19 Mann. I'm an attorney with TxDOT's Office of General
20 Counsel, and I'm here to speak to you about agenda item
21 6a(2) on behalf of Steve Simmons who is not here today.

22 Commissioner Houghton, I believe I ended up
23 with your credit card last night. I was told I didn't
24 have to bring it back till next month's meeting. Is that
25 right? Okay, that's good. I wanted to make sure I

1 understood that.

2 (General laughter.)

3 MS. MANN: The federal United States Sentencing
4 Commission established guidelines for the appropriate
5 structure of internal compliance programs within
6 organizations and that structure is being followed by
7 TxDOT in our Internal Compliance Program.

8 The United States Sentencing guidelines
9 application notes state that as appropriate, a large
10 organization should encourage small organizations,
11 especially those that have or seek to have a business
12 relationship with a large organization, to implement
13 effective compliance and ethics programs. TxDOT has made
14 various rule changes to require certain organizations that
15 receive funds from the department to certify that it has
16 an ethics and compliance program that meets the minimum
17 requirements set forth in the U.S. Sentencing guidelines.

18 The proposed amendments to our rules on the
19 agenda for adoption today were proposed at the March 31,
20 2011 commission meeting. This minute order amends 43 TAC
21 10.51 in order to clarify that with regard to an entity
22 that is required to have an internal compliance program,
23 all employees, including board members if the entity has a
24 board, will be required to receive periodic training in
25 ethics and in the requirements of the compliance program.

1 The amendment basically combines Section 10.51(b)(3) which
2 requires training of employees and (b)(4) which requires
3 training for the board members or individuals to make this
4 clarification.

5 We received no comments and staff recommends
6 approval of this minute order.

7 MS. DELISI: Is there a motion?

8 MR. HOUGHTON: So moved.

9 MR. HOLMES: Second.

10 MS. DELISI: All in favor?

11 (A chorus of ayes.)

12 MS. DELISI: The motion passes.

13 MR. SAENZ: Thank you, Suzanne.

14 Agenda item 6b deals with proposed adoption of
15 administrative rules, and 6b(1), Bob Jackson, our general
16 counsel, will present proposed rules under Chapter 1,
17 Management.

18 MR. JACKSON: Bob Jackson, TxDOT general
19 counsel.

20 State law requires the commission to adopt
21 policies separating its policy-making duties from the
22 administrative duties of staff. The commission has done
23 so through rulemaking. After every legislative session we
24 tweak those rules to recognize legislative changes. We
25 have several after this session, including recognizing

1 that our compliance program is now required by statute and
2 we are now required to have a chief financial officer
3 which we do have.

4 I recommend approval of this minute order.

5 MR. HOUGHTON: So moved.

6 MR. HOLMES: Second.

7 MS. DELISI: All in favor?

8 (A chorus of ayes.)

9 MS. DELISI: The motion passes.

10 MR. SAENZ: Thank you, Bob.

11 Agenda item 6b(2), Mark Tomlinson will present
12 proposed rules for Chapter 2, Environmental Policy,
13 Chapter 9, Contract and Grant Management, Chapter 24,
14 Trans-Texas Corridor, and Chapter 27, Toll Projects.

15 MR. TOMLINSON: Good morning, Mr. Saenz,
16 commissioners. My name is Mark Tomlinson, director of the
17 Turnpike Authority Division for TxDOT.

18 I'm pleased to present item 6b(2) which
19 proposes the adoption of amendments concerning the Trans-
20 Texas Corridor. House Bill 1201 of the past legislative
21 session repealed the authority for the establishment and
22 operation of the Trans-Texas Corridor and removed all
23 references in state statutes to the TTC. As you know,
24 since around 2008-2009 we ceased efforts to develop the
25 Trans-Texas Corridor in our state. The purpose of these

1 amendments is to remove all provisions in the rules of the
2 department relating to TTC which, of course, is consistent
3 with the demonstrated actions of the department for the
4 past couple of years.

5 Comments on the proposed amendments will be
6 accepted until five o'clock on August 15, 2011. Staff
7 would recommend your acceptance of the minute order.

8 MS. DELISI: Is there a motion?

9 MR. HOLMES: So moved.

10 MR. HOUGHTON: Second.

11 MS. DELISI: All in favor?

12 (A chorus of ayes.)

13 MS. DELISI: The motion passes.

14 MR. SAENZ: Thank you, Mark.

15 Agenda item 6b(3) Suzanne Mann will come back
16 and present proposed rules for Chapter 21, Right of Way,
17 that also implement Senate Bill 18 provisions from this
18 past legislative session.

19 MS. MANN: Thank you. For the record again, my
20 name is Suzanne Mann. I'm an attorney with TxDOT's OGC.

21 Before I get to the rules, I'm going to briefly
22 give you some information about Senate Bill 18 that Coby
23 was mentioning before. Senate Bill 18 makes changes,
24 additions, deletions to various in Texas statutory law and
25 common law to reform the power, limitations, process and

1 various other aspects of eminent domain law in Texas.
2 Many of the sections do not apply to TxDOT as they amend a
3 local government code, however, changes to the Government
4 Code, the Property Code, and the Transportation Code do
5 apply to the department. The bill does not grant
6 additional eminent domain authority. The application of
7 the new law is for those entities with eminent domain
8 authority.

9 Many of the changes to the eminent domain law
10 have minimal impact to our operations since TxDOT was, in
11 fact, already performing many of the actions now required
12 of condemning authorities. For example, TxDOT currently
13 bases the offer to the landowner on an appraisal and gives
14 the owner a written offer. TxDOT also currently offers
15 relocation benefits in accordance with the Federal Uniform
16 Relocation Assistance and Rural Property Acquisitions
17 Policies Act. Now that is required of additional
18 condemning authorities.

19 Many of the proposed changes that would have
20 had a significant impact on TxDOT are not included in the
21 final signed bill. I want to briefly mention those
22 because I know that many of you heard about these things
23 and I want to make sure that you know those did not end up
24 in the signed version of the bill.

25 Some of those include the payment of the

1 owner's attorney's fees, appraisal and expert fees, the
2 requirements of proving that each parcel is necessary
3 which would have diminished the governmental power to make
4 decisions in accordance with statutory authority, and a
5 new damage item for financial damages associated with the
6 cost of moving including loss of business, visibility,
7 traffic count and other non-compensable items.

8 Basically, the applicable amendments affect
9 four main areas of eminent domain law and procedures with
10 respect to TxDOT. The bill becomes effective September 1,
11 2011, however, we are implementing some of those changes
12 this summer, and in fact, this commission meeting. This
13 meeting's agenda includes some rules which I'm going to
14 talk about in a moment and a new eminent domain minute
15 order.

16 With respect to access damages, there were
17 significant changes. Without a doubt, Section 15 of the
18 bill is the most significant change in law and will have
19 the greatest impact on governmental entities. The
20 amendment creates a new legal standard for compensation
21 for damages to the remainder property with respect to
22 access. The special commissioners, when determining
23 compensation for damages to the remainder property in
24 eminent domain proceedings, will consider a material
25 impairment of direct access on and off the remaining

1 property that affects the market value of the remaining
2 property, while excluding from consideration circuitry of
3 travel and diversion of traffic. The bill defines direct
4 access as ingress and egress on or off a public road,
5 street or highway at a location or locations where the
6 remaining property adjoins the road, street or highway.

7 Under the previous law the threshold for
8 compensation for damages for access to remainder property
9 has required proof of a material and substantial
10 impairment of access to the land. The amendment provides
11 a mechanism for increased compensation for property owners
12 who retain a remainder property. This is a major change
13 in Texas eminent domain law and will apply to all
14 governmental entities.

15 Section 20 of Senate Bill 18 amends
16 Transportation Code Section 202.021. This amendment
17 requires that the standard for determination of the fair
18 value of the state's interest in access rights to a
19 highway right of way is the same legal standard that is
20 applied by the commission in the acquisition of access
21 rights and the payment of damages for impairment of
22 highway access to or from real property where the real
23 property joins the highways. Therefore, the valuation
24 methodology for the purchase and sale of access rights by
25 TxDOT will be the same. By commission minute order

1 112523, dated December 16, 2010, this commission has
2 already approved and adopted that very same methodology.

3 Eminent domain authority and procedure. The
4 Government Code now includes the Truth in Condemnation
5 Procedures Act. One of the changes required by this
6 section is in front of you today regarding the motion and
7 minute order for eminent domain. I will speak in more
8 detail regarding the minute order and motion that you're
9 going to be seeing later.

10 There is a requirement that all governmental
11 entities report in writing to the comptroller listing the
12 statutory authority of its eminent domain authority by
13 December 31, 2012 or the entity will lose its authority,
14 lose all eminent domain authority.

15 Our offer letter to the owner must now be sent
16 by certified mail and include all appraisals prepared in
17 the last ten years with the date of the offer. There are
18 some time changes on which documents must be sent to the
19 owner, the owner's response time, and when a hearing can
20 be set, as well as changes to the petition form. There is
21 a requirement that the owner receive a bona fide offer
22 which is defined in the bill, and as stated, for the most
23 part TxDOT as already providing that kind of an offer.

24 The final thing that applies to TxDOT is the
25 repurchase rights of owners. The changes to the Property

1 Code entitle a person from whom a real property interest
2 is acquired by eminent domain, or the person's heirs,
3 successors or assigns, to repurchase the property under
4 certain conditions which are basically if the condemning
5 authority did not utilize the property for the purpose for
6 which it was acquired within ten years of the date of
7 purchase. The amendment deletes the former exception
8 relating to right of way under the jurisdiction of a
9 county, municipality or TxDOT, so now that repurchase
10 right will apply to right of way properties.

11 The amendment requires the entity to send to
12 the property owner or the owner's heirs, successors and
13 assigns notice that identifies the property acquired a
14 statement that one of the events triggering the right to
15 repurchase has occurred and the property owner or heirs,
16 successors or assigns can make a request on or after the
17 tenth year anniversary after the property was acquired by
18 eminent domain for a determination that one of those
19 events has occurred.

20 With respect to the eminent domain minute order
21 that you're going to see later, Section 2 of Senate Bill
22 18 requires a governmental entity to authorize the
23 initiation of the condemnation at a public meeting by a
24 record vote, and requires that the notice for the public
25 meeting for the governmental entity include the

1 consideration of the use of eminent domain to condemn
2 property as an agenda item. We currently comply with
3 those requirements with no changes necessary to our
4 procedures.

5 Section 2 of Senate Bill 18 does require a
6 change to our eminent domain minute order and specifically
7 suggests a form motion to be used by a governmental entity
8 when authorizing the initiation, the authorization of
9 condemnation proceedings under the Texas Property Code.
10 The bill requires that the motion to authorize the use of
11 power of eminent domain describe the property similar to
12 the description that is in a petition and that the motion
13 describe the public use.

14 If a single minute order is to be adopted
15 authorizing the initiation of condemnation for all units
16 of property to be condemned, then the motion and the
17 minutes must include that the first record vote applies to
18 all units of property to be condemned. Note that if more
19 than one member of the governing board objects to adopting
20 a single minute order by a record vote for all units of
21 property, a separate record vote must be taken for each
22 unit of property.

23 The Office of General Counsel, with cooperation
24 of the Office of Attorney General, has drafted the changes
25 recommended by Senate Bill 18 to the minute order and to

1 the motion and to the minutes. We also made other changes
2 to the form of the eminent domain minute order not
3 specifically required by Senate Bill 18, including
4 deleting repetitive or unnecessary language and otherwise
5 clarifying language.

6 Finally, the eminent domain minute order has
7 been moved from routine minute orders to be a separate
8 agenda item to ensure compliance with Senate Bill 18 and
9 to emphasize the importance of the decision that the
10 department is pursuing when acquiring property through
11 eminent domain.

12 You all have a copy of the motion in your books
13 so whichever one of you wishes to make the motion --

14 MR. SAENZ: This is for the rules right now.

15 MS. MANN: I know. I'm just telling you that
16 for later.

17 MR. SAENZ: We'll take care of it when we get
18 to that point.

19 MS. MANN: Okay. And for the rules, now we're
20 back to the Chapter 21 rules.

21 Today's proposed minute order includes
22 amendments to: 21.10, Negotiations, 21.13, Highway Right
23 of Way Values, 21.14, Qualification of Real Estate
24 Appraisers and Other Technical Experts or Estimators,
25 21.111, Definitions, and 21.118, Relocation Review

1 Committees.

2 All of the proposed rule changes, except for
3 the changes proposed to Section 21.111 and 21.118, are
4 recommended pursuant to the changes in law set forth in
5 Senate Bill 18 which passed last session and was signed by
6 the governor.

7 Senate Bill 18 made numerous changes to eminent
8 domain law in Texas. Section 7 of Senate Bill 18 amended
9 Section 21.011 of the Property Code regarding disclosure
10 of information required to be made to the owner in the
11 initial offer. Section 8 of Senate Bill 18 added Section
12 21.0113 to the Property Code to require that an entity
13 with eminent domain authority that wants to acquire a
14 property for public purpose make a bona fide offer to
15 acquire the property from the owner voluntarily. The new
16 Section 21.0113 sets forth guidance on what a bona fide
17 offer would include.

18 Although prior to the passage of Senate Bill 18
19 the department was making offers to purchase property
20 generally in compliance with the new requirements, the
21 proposed amendments are necessary to comply with the
22 provisions of Senate Bill 18 and to clarify existing
23 language. The proposed amendments will comply with the
24 provisions included in Senate Bill 18 requiring that the
25 initial offer include copies of all related appraisal

1 reports prepared in the previous ten years that were
2 produced or acquired by the department and that the
3 initial and final offers be sent to the owner by certified
4 mail. Approved values used for the final offer will be
5 determined based on a written appraisal by a certified
6 appraiser.

7 The proposed amendments include that the final
8 offer include a copy of the appraisal the final offer is
9 based on, the conveyance documents to be signed by the
10 property owner, and a copy of the statutorily required
11 landowners bill of rights statement. The final offer will
12 not be sent before the 30th day after the date of delivery
13 of the initial offer and provide the owner 14 days to
14 respond to the offer before a petition of condemnation is
15 filed.

16 The proposed change to Section 21.111 clarifies
17 the definition of Relocation Review Committee by removing
18 the provisions regarding the appointment and composition
19 of that committee and moving these provisions to 21.118.
20 Amendments to 21.118 add new subsection (a) to set forth
21 the process for the appointment of members of the
22 Relocation Review Committee. The amendments require the
23 executive director to appoint at least three persons as
24 members of the Relocation Review Committee. The
25 amendments also establish that in order to be eligible for

1 appointment to or service on the committee a person may
2 not be below the level of department division director,
3 office director or district engineer, and may not be
4 directly involved with a relocation assistance program.

5 Staff recommends approval of this minute order
6 and I'll answer any questions you have.

7 MS. DELISI: Is there a motion?

8 MR. HOUGHTON: So moved.

9 MR. HOLMES: Second.

10 MS. DELISI: All in favor?

11 (A chorus of ayes.)

12 MS. DELISI: The motion passes.

13 MR. SAENZ: Thank you, Suzanne.

14 Agenda item 6b(4) deals with the adoption of
15 the Texas Manual on Uniform Traffic Control Devices, and
16 Carol Rawson will present that minute order.

17 MS. DELISI: And before Carol presents I need
18 to recuse myself from this agenda item so I'm passing the
19 gavel to Commissioner Houghton.

20 MS. RAWSON: Good morning. For the record, I'm
21 Carol Rawson, director of the Traffic Operations Division.

22 The minute order before you proposes
23 preliminary amendment of our existing rules to adopt the
24 2011 version of the Texas Manual on Uniform Traffic
25 Control Devices by reference.

1 Texas law requires the department to adopt a
2 traffic control device manual. Federal law and regulation
3 requires that the manual be in substantial conformance
4 with the federal version. The purpose of this manual is
5 to ensure that signs, signals and pavement markings are
6 applied uniformly across the state. Once adopted, all
7 jurisdictions, including TxDOT, will be required to follow
8 the provisions of the manual.

9 The public will be provided a 60-day public
10 comment period and the department will hold a public
11 hearing in Austin on August 29.

12 We recommend approval of this minute order.

13 MR. HOUGHTON: Any questions, motion?

14 MR. HOLMES: Motion.

15 MR. MEADOWS: Second.

16 MS. DELISI: All in favor?

17 (A chorus of ayes.)

18 MS. DELISI: Thank you.

19 MR. SAENZ: Agenda item 6b(5) deals with also
20 Chapter 25, Traffic Operations, and Carol will also
21 present a minute order proposing some changes to speed
22 limits.

23 MS. RAWSON: Once again, I'm Carol Rawson,
24 director of the Traffic Operations Division.

25 This minute order proposes preliminary adoption

1 of amendments to the existing rules for establishing speed
2 limits to implement three bills enacted by the 82nd
3 Legislature. The proposed amendments are the first step
4 in implementing House Bill 109 which allows a municipal
5 government to temporarily lower an existing speed limit on
6 a state highway system during a vehicle crash
7 reconstruction. It also implements House Bill 1201 which
8 allows for a maximum 85 mile per hour speed limit on a
9 portion of the state highway system designed for that
10 speed, and House Bill 1353 which allows the commission to
11 create a 75 mile per hour speed limit on any state highway
12 when justified by an engineering and traffic
13 investigation. The bill also eliminates all 65 mile per
14 hour nighttime and all reduced truck speed limits.

15 Developing the new 75 mile per hour speed
16 limits will take a considerable amount of time and effort,
17 as well as the removal of all existing night and truck
18 speed limit signs. We are working closely with the
19 Administration, with the Maintenance Division, the
20 districts and the regions to implement these changes as
21 quickly as possible. Amending our existing speed limit
22 rules represents the first step in this process.

23 Staff recommends approval of this minute order.

24 MR. HOUGHTON: Carol, has anybody put a cost to
25 this yet?

1 MS. RAWSON: What we're doing for the removal
2 of the nighttime and the truck speed limits and for the
3 installation of the new signs, we're going to put together
4 some routine maintenance contracts, four contracts that
5 work out of our regions, and we've been going out and
6 having the districts count, if you can only imagine how
7 many signs this would be. What we've estimated for
8 nighttime and truck speed limits, there's approximately
9 16,000 signs that will need to be taken down. So with
10 that and with a good ballpark estimate and my speed zone
11 engineer back there, we've estimated about \$1.5 million to
12 get the signs down.

13 The 75 mile per hour one has a little bit of an
14 interesting twist to it because you just can't go to the
15 75s, we have to do an engineering study, we have to go out
16 and do the 85th percentile to prove that it's safe and
17 prudent and good engineering judgment, so there will have
18 to be studies done to actually raise that speed to do
19 that, so we'll have the engineering studies. We're going
20 to look at all the 70s because the 70s were those that
21 were basically raised at the repeal of the 55, we're
22 thinking, and we're good guessers, we're thinking about 50
23 percent of the 70s out there will be raised to 75 miles
24 per hour.

25 And with that, with the 70 mile per hour and

1 with the nighttime going away, the signs will have to be
2 dropped, so not only will the sign have to be replaced
3 they'll be dropped and then the poles will have to be cut
4 off to get them to the right height, a little bit more
5 work involved, but we're estimating about \$2 million. If
6 I hit my ballpark pretty close, about \$4 million totally
7 to get both the 75s and to get the actual nighttime and
8 truck speeds taken care of. There's a lot of signs in
9 Texas. And I think the commissioner out of Lubbock over
10 there, he wins. From my count, he's got one heck of a lot
11 of signs out that direction.

12 So we'll be working on that. The contracts,
13 we're going to try to get those to letting in August, get
14 the contractors onboard. The signs can't come down until
15 September 1, but we're hoping to get moving and be ready
16 to go.

17 MR. HOLMES: I would urge you to hurry because
18 the commissioner from Lubbock oftentimes drives more than
19 70.

20 MS. RAWSON: Well, then he needs to be out
21 there driving when we're doing our studies, hit it.

22 (General laughter.)

23 MR. MEADOWS: We'll get him some tools.

24 MS. RAWSON: He can come help us take those
25 signs down, that's good. Just don't start till September

1 1, Commissioner.

2 MS. DELISI: Is there a motion?

3 MR. UNDERWOOD: So moved.

4 MR. HOUGHTON: Second.

5 MS. DELISI: All in favor?

6 (A chorus of ayes.)

7 MS. DELISI: The motion passes.

8 MS. RAWSON: Thank you.

9 MR. SAENZ: Thank you, Carol.

10 Agenda 6b(6) deals with proposed rules dealing
11 with Chapter 27, Toll Roads, and Mark Tomlinson will
12 present this minute order.

13 MR. TOMLINSON: Good morning again. Mark
14 Tomlinson with the Turnpike Division.

15 Item 6b(6) proposes the adoption of Chapter 27
16 concerning the determination of terms for certain toll
17 projects to prescribe the process for the issuance of a
18 determination by a committee established under
19 Transportation Code 228.013.

20 Senate Bill 1420 of the past legislative
21 session added Transportation Code Section 228.013
22 requiring for certain toll road projects that the
23 distribution of the projects financial risk, the method of
24 financing for the project, and the tolling structure and
25 methodology be determined by a committee comprised of

1 representatives from the TxDOT, any local toll project
2 entity for the area, the applicable MPO that is in the
3 region, and any municipality or county that has provided
4 revenue or right of way for the project.

5 The rules implement Section 228.013 and define
6 the process for a committee's issuance of its
7 determination. The new sections also define the
8 circumstances in which a committee must be established and
9 the processes for the issuance of a report containing the
10 committee's determination. The new sections only apply to
11 projects developed under our comprehensive development
12 agreement statutes will be concession and availability
13 payment type projects. The terms defined by committee
14 will affect the project procurement and terms of the CDA
15 for the toll project.

16 Staff recommends your acceptance of this minute
17 order and I'll be happy to answer any questions I can.

18 MS. DELISI: Is there a motion?

19 MR. UNDERWOOD: So moved.

20 MR. HOUGHTON: Second.

21 MS. DELISI: All in favor?

22 (A chorus of ayes.)

23 MS. DELISI: The motion passes.

24 MR. SAENZ: Thank you. Mark will also present
25 agenda item number 7. 7a deals with the acceptance of the

1 Actual Traffic and Revenue Report for the Central Texas
2 Turnpike System.

3 MR. TOMLINSON: Thank you. This is our routine
4 year-to-date report, it's as of the third quarter of
5 fiscal year 2011 for the Central Texas Turnpike System,
6 and it's required by our CTTS indenture of trust.

7 The report compares current traffic and revenue
8 data with data from the prior fiscal year 2010, as well as
9 traffic and revenue from the 2002 traffic and revenue
10 study.

11 During FY 2011 fiscal year the CTTS has
12 generated almost 62 million transactions and \$51 million
13 in revenue. Average weekday transactions for the quarter
14 surpassed the same period last year by 5 percent, and the
15 revenue collected exceeded the same period of the past
16 year by 6 percent.

17 Staff recommends approval of the minute order.

18 MR. MEADOWS: Mark, just one quick question. I
19 think it was March 1 of this year we amended the toll rate
20 for truck traffic. I know it's early but are we seeing
21 any trends one way or another with regard to truck
22 traffic?

23 MR. TOMLINSON: We're measuring those and I
24 think it is too soon to tell, but we are definitely
25 monitoring that and want to report back to you.

1 MR. MEADOWS: Okay, please. Thanks.

2 MR. HOUGHTON: So moved.

3 MR. HOLMES: Second.

4 MS. DELISI: All in favor?

5 (A chorus of ayes.)

6 MS. DELISI: The motion passes.

7 MR. SAENZ: Thank you, Mark.

8 Agenda item 7b, John Barton will present a
9 minute order concerning Montgomery County and the Grand
10 Parkway.

11 MR. BARTON: Thank you, Director Saenz. Again
12 for the record, my name is John Barton and this is a
13 minute order that addresses a situation involving the
14 Grand Parkway and the segments located in Montgomery
15 County.

16 As you'll recall, on September 14 in 2009
17 Montgomery County did elect to exercise their options to
18 develop, construct and operate the portions of the Grand
19 Parkway that lie within Montgomery County, as did the
20 other seven counties surrounding the Greater Houston Area.
21 On June 21, 2011, Montgomery County's commissioners court
22 elected to rescind this previous action and exercising of
23 its options for the portions of the Grand Parkway located
24 within their county, and to ensure certainty for the
25 procurement and contracting processes for the projects on

1 the Grand Parkway, they further elected, pursuant to
2 Transportation Code 373.055 which are provisions created
3 by Senate Bill 19, I believe, out of this last legislative
4 session, to waive and decline to exercise the county's
5 portions to develop, construct, finance and operate the
6 portions of the Grand Parkway within their county.

7 So this minute order that is before you would
8 approve the department's determination to exercise our
9 rights to the options to develop, finance, construct and
10 operate the portions of State Highway 99, known as the
11 Grand Parkway, in Montgomery County and authorize the
12 department to move forward with DEVELOP authority for the
13 project.

14 I'll be happy to answer any questions you may
15 have and would recommend your approval of this minute
16 order.

17 MR. HOUGHTON: John, what does that now give
18 the department as our responsibility to develop the Grand
19 Parkway?

20 MR. BARTON: It's the portions in Harris
21 County, Chambers County, and if you approve this minute
22 order, Montgomery County which geographically would be for
23 the portions that are lying just south of Interstate 10 on
24 the west side of Houston, traveling to the north and east
25 all the way to just past US 59.

1 MR. HOUGHTON: So percentage-wise of the
2 project?

3 MR. BARTON: Percentage-wise approximately half
4 of the Grand Parkway in its total length, if I were
5 guessing.

6 MR. HOUGHTON: The rest is yet to be determined
7 by the counties?

8 MR. BARTON: Yes, sir. Currently Fort Bend
9 County is moving forward with the development of Segment
10 in their county, they have not moved forward with Segment
11 C that lies within their county. And then Brazoria and
12 Galveston counties are still retaining primacy for their
13 pieces, and then Liberty County between Chambers and
14 Montgomery County on the east side of Houston has
15 continued to retain its primacy.

16 MR. HOUGHTON: So in other words, Commissioner
17 Holmes has to get with it.

18 MR. BARTON: Commissioner Holmes has been
19 intimately involved in this and has helped Montgomery
20 County evaluate their options and obviously they've
21 reached a decision.

22 MR. HOUGHTON: Obviously he has.
23 Congratulations.

24 MR. HOLMES: How many miles does that
25 represent, John, between Interstate 10 and the end of

1 Segment G?

2 MR. BARTON: I don't know the number.
3 Ballpark, I believe, Commissioner, would be in the 40 to
4 50 mile range, I think. Is that correct, from Interstate
5 10 to US 59?

6 MR. SAENZ: Fifty-two.

7 MR. BARTON: Fifty-two miles. Karnac, the all-
8 seeing wizard knows.

9 MR. HOLMES: So it may not be really half.

10 MR. BARTON: Well, we also have the parts in
11 Chambers County as well.

12 MR. HOUGHTON: Chambers that we have authority
13 over.

14 MR. BARTON: We have the portion of H in
15 Montgomery County, if you take action on this minute order
16 favorably, and then we have I-1 and I-2 in Chambers County
17 as well as part of I-2 that's in Harris County.

18 MR. HOUGHTON: So there's no truth to the rumor
19 that I heard from Carol that changing signs to the Holmes
20 Highway, that's not a fact?

21 MR. BARTON: Knowing the other four members of
22 the commission, I wouldn't be surprised if we aren't going
23 to be changing some signs to Holmes Highway, but there's
24 nothing that staff has moved forward with.

25 (General laughter.)

1 MR. HOUGHTON: Is there a motion?

2 MR. HOLMES: So moved.

3 MR. HOUGHTON: Second.

4 MS. DELISI: All in favor?

5 (A chorus of ayes.)

6 MS. DELISI: The motion passes.

7 MR. HOLMES: John, I think we need to talk to
8 Liberty County.

9 MR. BARTON: Yes, sir. We will certainly
10 engage them quickly.

11 MR. SAENZ: Thank you, John.

12 Agenda item number 8, commissioners, Mark
13 Tomlinson will come back and present a minute order
14 concerning giving authority to the Camino Real Regional
15 Mobility Authority to do some work on state highway system
16 projects in El Paso.

17 MR. TOMLINSON: Again, Mark Tomlinson with the
18 Turnpike Division.

19 Item 8 authorizes the Camino Real Regional
20 Mobility Authority to develop and construct improvements
21 to the state highway system in connection with the design
22 and construction of the Interstate 10 aesthetics project
23 and authorizes our executive director to enter into a
24 project development agreement with the RMA.

25 The department and the RMA, in coordination

1 with the City of El Paso and El Paso Metropolitan Planning
2 Organization, developed the 2008 comprehensive mobility
3 plan that provides for the funding and development of
4 certain transportation system improvements within the
5 jurisdiction of the RMA, including this project which goes
6 from Loop 375 on the west, Transmountain Road, through
7 Loop 375 on the east, Americas Avenue.

8 On May 4, 2011, the RMA submitted a request to
9 allow them to develop and construct this project. The
10 project is estimated to be about \$10 million in funding
11 and will be available under Category 2, Metropolitan and
12 Urban Corridor Area Projects. While the limits go from
13 Loop 375 on the west to Loop 375 on the east, I understand
14 that the scope which is currently being developed by the
15 city focuses on the area between Executive Drive and
16 Hawkins on the east, and that scope that they develop will
17 be submitted for approval by TxDOT and the RMA. Currently
18 they're considering hardscape, concrete treatments,
19 possibly some groundcover and irrigation.

20 Staff would recommend your acceptance of the
21 minute order.

22 MR. HOUGHTON: So moved.

23 MR. HOLMES: Second.

24 MS. DELISI: All in favor?

25 (A chorus of ayes.)

1 MS. DELISI: The motion passes.

2 MR. SAENZ: Thank you, Mark.

3 Agenda item 9a, commissioners, Jim Randall will
4 present a minute order requesting approval of a member to
5 the Port Authority Advisory Committee.

6 MR. RANDALL: Good morning, commissioners. Jim
7 Randall with the Transportation Planning and Programming
8 Division.

9 Item 9a, this minute order appoints Michael D.
10 Perez to the commission's Port Authority Advisory
11 Committee. This seven-member committee provides a forum
12 for the exchange of information between the Texas
13 Transportation Commission, the department and committee
14 members representing the Texas port industry and others
15 who have interest in Texas water ports.

16 The commission previously appointed Tony
17 Rigdon, representing the Port of Victoria, to a three-year
18 term on the committee. Mr. Rigdon has resigned his
19 position on the committee. Mr. Perez fulfills the
20 statutory requirements to serve as a committee member for
21 the remainder of the term. Upon your approval of this
22 minute order, Mr. Perez will be appointed to the Port
23 Authority Advisory Committee to serve a term expiring
24 February 28, 2014 representing the Port of Harlingen Lower
25 Coast.

1 Staff recommends you approval of this minute
2 order.

3 MR. HOUGHTON: So moved.

4 MS. DELISI: Is there a second?

5 MR. HOLMES: Second.

6 MS. DELISI: All in favor?

7 (A chorus of ayes.)

8 MS. DELISI: The motion passes.

9 MR. SAENZ: Thank you. Jim will now present a
10 minute order for item 9b dealing with Grayson County and
11 the approval of the redesignated Sherman-Denison
12 Metropolitan Planning Organization boundaries.

13 MR. RANDALL: This minute order approves the
14 redesignation of the Sherman-Denison Metropolitan Planning
15 Organization. Federal law and regulations require that an
16 existing MPO may be redesignated only by agreement between
17 the governor and units of general purpose local government
18 that together represent at least 75 percent of the
19 existing metropolitan planning area population.

20 On October 4, 2005, Governor Perry delegated
21 authority to the commission to approve MPO redesignation.
22 On April 6, 2011, the Sherman-Denison MPO policy board
23 approved a resolution to redesignate the MPO as a separate
24 entity from the Texoma Council of Governments. With this
25 redesignation, Grayson County will now serve as the fiscal

1 agent for the MPO. Also, the cities of Sherman and
2 Denison represent at least 75 percent of the population of
3 the existing metropolitan planning area.

4 Staff recommends your approval of the proposed
5 Sherman-Denison MPO redesignation as described in Exhibit
6 A. Upon your approval of the minute order, the executive
7 director is authorized to enter into any necessary
8 agreements associated with the redesignation process.

9 Staff recommends minute order approval.

10 MS. DELISI: I'd like to call up Robert Wood.

11 MR. WOOD: Thank you, Madam Chairman and
12 commissioners. I'm Robert Wood, the director of the
13 Sherman-Denison MPO.

14 The MPO board wishes to express its
15 appreciation to the commission and also the TxDOT staff in
16 the timely assistance and consideration of our request.
17 The request is made in order for the Sherman-Denison MPO
18 to be more effective and efficient in the use of public
19 funds, and we thank you for your time and consideration.

20 MS. DELISI: Thank you.

21 Is there a motion?

22 MR. HOUGHTON: So moved.

23 MR. HOLMES: Second.

24 MS. DELISI: All in favor?

25 (A chorus of ayes.)

1 MS. DELISI: The motion passes.

2 MR. SAENZ: Thank you, Jim.

3 Agenda item 9c, commissioners, deals with a
4 minute order that John Barton will present concerning the
5 transfer of money in Harris County.

6 MR. BARTON: Again for the record, my name is
7 John Barton.

8 The minute order before you is related to a
9 project in the Harris County area, specifically the
10 Houston area. The Harris County Toll Road Authority is
11 intending to construct and maintain an extension, toll-
12 free extension, by the way, of the Hardy Toll Road from
13 Interstate 610 at Spur 548 into the central business
14 district of Houston, and a previous commission in February
15 of 2001 provided \$17 million of commission discretionary
16 funds to support that project.

17 Harris County Toll Road Authority has informed
18 us that they have sufficient funds now within their
19 funding stream to provide for the scope of the project
20 that they were responsible for and they're requesting that
21 this money be transferred to the Elysian Street bridge
22 replacement over Interstate 10 along this corridor. Just
23 for the record, that's one of the projects that is
24 designated in Rider 42 of our Appropriations Act for
25 Proposition 12 funding as well, this overpass at

1 Interstate 10 by Elysian Street. The funding itself and
2 the \$17 million would allow us to acquire the necessary
3 rights of way and utility adjustments to support this
4 Proposition 12 funded project now.

5 So I'll be happy to answer any questions.
6 We're recommending that you approve this minute order
7 which, again, would take the money designated to be used
8 by Harris County for their extension of the Harris County
9 Toll Road Authority along this route and be used
10 specifically for the right of way and utility adjustments
11 of the Elysian Street bridge replacement project which is
12 now being funded through Proposition 12 as required by
13 Rider 42 of our appropriations bill.

14 MS. DELISI: Is there a motion?

15 MR. HOLMES: So moved.

16 MR. UNDERWOOD: Second.

17 MS. DELISI: All in favor?

18 (A chorus of ayes.)

19 MS. DELISI: The motion passes.

20 MR. BARTON: Thank you.

21 MR. SAENZ: Thank you, John.

22 Agenda item 9d, Brian Ragland will present a
23 minute order requesting DEVELOP authority for a project in
24 Nueces County.

25 MR. RAGLAND: Thank you, Amadeo. For the

1 record, Brian Ragland, director of the Finance Division.

2 Item 9d is a minute order that increases the
3 DEVELOP authority for Corpus Christi to be able to do some
4 preliminary work on the Harbor Bridge project. It does
5 not represent an allocation of funding for the project's
6 construction.

7 Staff recommends your approval.

8 MR. HOUGHTON: So moved.

9 MR. HOLMES: Second.

10 MS. DELISI: All in favor?

11 (A chorus of ayes.)

12 MS. DELISI: The motion passes.

13 MR. SAENZ: Agenda item number 11, Brian
14 Ragland will present a minute order dealing with the State
15 Infrastructure Bank -- I'm sorry -- 10 dealing with the
16 creation of a rulemaking advisory committee for
17 transportation development credits.

18 MR. RAGLAND: Item number 10 is a minute order
19 that authorizes the creation of a rules advisory committee
20 on transportation development credits, or TDCs. The use
21 of TDCs has been discussed numerous times by this
22 commission and the legislature by rider in the
23 Appropriations Act instructed the department to utilize
24 TDCs in the most efficient manner.

25 This committee would be made up of seven

1 members from entities listed on the exhibit. Three would
2 be from the MPOs with the largest balances of TDCs, one
3 would be from PTAC, one from a non-TMA MPO, one from a
4 metro area transit, and one from a city.

5 Staff recommends your approval.

6 MS. DELISI: Is there a motion?

7 MR. HOUGHTON: So moved.

8 MR. HOLMES: Second.

9 MS. DELISI: All in favor?

10 (A chorus of ayes.)

11 MS. DELISI: The motion passes.

12 MR. SAENZ: Now we'll present agenda item
13 number 11 dealing with the State Infrastructure Bank.
14 Brian Ragland will present that minute order.

15 MR. RAGLAND: Thank you.

16 Item number 11 is a minute order that gives
17 final approval to a SIB loan in the amount of \$607,000 to
18 the City of Donna to pay for utility relocation and right
19 of way expenses on a project on FM 493.

20 Staff recommends your approval.

21 MR. HOUGHTON: So moved.

22 MR. HOLMES: Second.

23 MS. DELISI: All in favor?

24 (A chorus of ayes.)

25 MS. DELISI: The motion passes.

1 MR. SAENZ: Moving on to agenda item number 12,
2 Brian Ragland will present our Obligation Limit and cash
3 reports.

4 MR. RAGLAND: Thank you, Amadeo.

5 12.a is the monthly report on the FY 2011
6 Obligation Limit or letting cap, and also an update on
7 motor fuel tax receipts. Year to date we've utilized
8 about \$1.2 billion of the \$2.1 billion letting cap.
9 There's approximately \$767 million planned to let in the
10 remaining two months of the fiscal year, and the bulk of
11 that amount is the result of your recent allocation of the
12 additional \$425 million. That's all I have on the letting
13 cap unless you have questions.

14 Turning to motor fuel taxes, through June we
15 were up 2.82 percent when compared to the same ten-month
16 period of last year, and that's about 1.8 percent over our
17 forecast which approximates \$40 million if that trend does
18 hold out for the rest of this year.

19 And the following page shows the split between
20 diesel and gasoline. Diesel is up about 7 percent for
21 that ten-month period and gasoline is up about 1.7
22 percent.

23 And that's all I have on this report unless you
24 have questions of me.

25 MR. SAENZ: Thank you, Brian.

1 Commissioners, moving on to agenda item number
2 13 deals with our contracts, and Russel Lenz will --

3 MR. RAGLAND: 12.b.

4 MR. SAENZ: Go ahead. Trying to finish.

5 MR. RAGLAND: I'm trying. I've done four items
6 in about three minutes.

7 MR. SAENZ: Can you kind of show James?

8 (General laughter.)

9 MR. RAGLAND: 12.b is the report that I bring
10 to you quarterly which presents the cash activity of Fund
11 6 year to date, and any variances from our predictions at
12 the beginning of the year.

13 This report is through the third quarter which
14 ended May 30, and as a reminder, we update our assumptions
15 in the forecast monthly so here we're looking back to a
16 point in time where the assumptions were different,
17 obviously, than they are now.

18 The first page of the report is a summary of
19 cash activities. Under the Actual column at the top you
20 will see we started out with \$425 million, we brought in
21 \$4.176 billion, we've expended \$4.083 billion, resulting
22 in an ending balance of \$519 million. And amazingly, and
23 I'll admit with some luck, we've ended that quarter with
24 only a \$1.5 million variance from what we predicted our
25 balance to be at that point.

1 As to variances in revenues and expenditures,
2 however, we are under by \$539 million on the revenue side
3 and \$537 million on the expenditure side, or about 11
4 percent on each.

5 The second page of the report details the
6 variances by line item, and I'll touch on a few of those.
7 I'll start on the expenditure side which is on the right.
8 On project development, a good portion of this variance is
9 related to in-house design and the efficiencies that have
10 been implemented as a result of things like the OneDOT
11 staffing plan and shifting resources to the appropriate
12 areas out in the field.

13 As a reminder, this forecast item is based on
14 our appropriation amount which was estimated and requested
15 about three years ago, so this variance is a good thing,
16 that's money that's been saved that we'll be able to free
17 up in the future for other purposes.

18 Also in that project development line item are
19 some right of way variances which are primarily related to
20 utilities and the billings on those coming in slower. The
21 dollars are committed but the actual cash outlay has not
22 occurred, and the same is true for contracted consultants.

23 On contractor payments, the variance is
24 primarily due to lower payments on pass-throughs and CDAs.
25 It is not related to the workdays charged issue that we

1 talked about extensively last year. The CDAs have paid
2 out less than their maximum payment curve that was
3 forecast, as have some pass-throughs, and so that has
4 significantly caused the amount to be under from our
5 forecast, however, it will eventually be paid, it's not a
6 savings.

7 On the revenue side, FHWA reimbursements are
8 under significantly because they are directly tied to the
9 previous two items I talked about which are project
10 development costs and contractor payments, so that would
11 explain that and would be expected.

12 And then finally, local revenues are down from
13 forecast by a significant amount. Here there was an
14 anomaly that occurred during the three quarters. Because
15 of our healthy balances in Fund 6, we decided that it was
16 a good time to transfer approximately \$100 million over to
17 the trust that holds dollars from local participation.
18 Many years ago for cash management purposes some of those
19 local contributions were deposited into Fund 6 instead of
20 that outside trust account, so this was sort of a re-
21 upping of that trust to make it square.

22 And other than that, the delta is related to
23 lower contractor and project payouts as discussed, and
24 obviously local contributions come into play there.

25 That's all I have on this report unless you

1 have questions, and no commission action is required.

2 MR. HOLMES: Brian, on the FHWA reimbursement
3 being down \$457 million, is there any risk that we will
4 not have access to that money if we don't use it by the
5 end of the fiscal year?

6 MR. RAGLAND: No.

7 MR. HOLMES: And so it's going to carry
8 forward.

9 MR. RAGLAND: That money is obligated, it's
10 just the cash has not been requested. The payments
11 haven't been made which, in turn, result in our
12 simultaneous request of the reimbursement.

13 MR. HOUGHTON: Hence the question earlier on
14 from other states. It's unobligated money that gets put
15 back into the pool if we have projects available and up
16 and ready to go. So it's obligation versus unobligated?

17 MR. RAGLAND: Right. These amounts are
18 obligated, this is a receivable, in effect.

19 Any other questions?

20 (No response.)

21 MR. RAGLAND: Thank you.

22 MR. SAENZ: Thank you, Brian.

23 Commission, my recommendation is that we do
24 have an executive session scheduled today and due to some
25 scheduling I would recommend that we go to executive

1 session and then we'll return.

2 MS. DELISI: We'll come back and do the rest of
3 the agenda items and open comment period upon the end of
4 the executive session.

5 At this point we will recess to meet in
6 executive session under Government Code Section 551.074 to
7 deliberate on the duties for the new position of director
8 of the department's Compliance Office and the search for
9 the person to fill that position, as well as the ongoing
10 search for a new executive director and for a new internal
11 auditor for the department.

12 (Whereupon, at 11:30 a.m., the meeting was
13 recessed, to reconvene this same day, Thursday, June 30,
14 2011, following conclusion of the executive session.)

15 MS. DELISI: The meeting of the Texas
16 Transportation Commission is reconvened. For the record,
17 the time is 11:59 a.m. The commission has concluded its
18 executive session.

19 Amadeo, I'll turn the agenda over to you.

20 MR. SAENZ: Okay, Commission, going back to the
21 agenda, we're on agenda item number 13 that deals with
22 contracts, and Russel Lenz, our director of our
23 Construction Division, will present a minute order dealing
24 with our Highway Maintenance and Department Building
25 Construction contracts.

1 MR. LENZ: Good morning, commissioners and
2 Madam Chair. My name is Russel Lenz, for the record, and
3 I am the director of the Construction Division.

4 Item 13a is for consideration of the award or
5 rejection of Highway Maintenance and Department Building
6 Construction contracts let on June 7 and 8 of this year.
7 We present 30 projects today. The average number of
8 bidders per project was 4.9, the low bid value was
9 \$42,271,291.75, and we had an overall overrun of 3.06
10 percent.

11 Staff recommends the award of all maintenance
12 projects with the exception of the following project in
13 Jefferson County, project number RMC-622107001. The
14 project received four bids and the low bidder was 13.21
15 percent, or \$131,370 over the engineer's estimate. An
16 error occurred in the processing of the bidding documents.
17 An addendum was issued but the wrong file was included and
18 the addendum actually made no changes. In order to
19 provide for the contract that was intended, we believe it
20 would be in the best interest of the department to
21 redesign and relet the project at a later date, therefore,
22 we are recommending rejection of the award for that
23 project.

24 Any questions?

25 MS. DELISI: Is there a motion?

1 MR. HOUGHTON: So moved.

2 MR. MEADOWS: Second.

3 MS. DELISI: All in favor?

4 (A chorus of ayes.)

5 MS. DELISI: The motion passes.

6 MR. SAENZ: We will now present agenda item 13b
7 that deals with our Highway and Transportation Enhancement
8 Building Construction contracts.

9 MR. LENZ: Today we are presenting 97 projects
10 that were also let on June 7 and June 8. The average
11 number of bidders per project was 4.71, the low bid value
12 was \$335,402,258.10. The awards are split as
13 \$76,986,303.69 on five projects in the mobility area, and
14 \$258,415,954.41 for 92 projects that are chiefly
15 attributable to the preservation type of work. We had an
16 overall underrun of 5.26 percent.

17 Staff recommends the award of all construction
18 projects with the exception of the following project in
19 Brazoria County, project number STP 1102(202). The
20 project received only one bid which was 102.66 percent
21 over, or a value of \$261,844 above the engineer's
22 estimate. The project is for the removal and replacement
23 of an existing drainage structure on State Highway 332
24 north of the Intracoastal Bridge. The district has
25 reviewed the project and we concur with their

1 recommendation that it would be in the best interest of
2 the department to redesign and relet the project,
3 therefore, we're recommending rejection of the award of
4 that one project.

5 MS. DELISI: Any questions?

6 MR. HOUGHTON: So moved.

7 MR. MEADOWS: Second.

8 MS. DELISI: All in favor?

9 (A chorus of ayes.)

10 MS. DELISI: The motion passes.

11 MR. SAENZ: Thank you, Russel.

12 Commission, agenda item number 14 deals with
13 our eminent domain proceedings, and John Campbell will
14 present the minute order that puts in place the new
15 process and requirements of Senate Bill 18 that were
16 passed by this legislative session.

17 MR. CAMPBELL: Good afternoon. For the record,
18 my name is John Campbell, director of the Right of Way
19 Division, and I'd like to present for your consideration
20 item 14 which authorizes filing of condemnation
21 proceedings to acquire real property by eminent domain for
22 non-controlled and controlled access highways.

23 This item proposes acquisition by eminent
24 domain of 29 non-controlled parcels and 38 controlled
25 access parcels for a total of 58 this month. As

1 previously reported, one of the effects of Senate Bill 18
2 is to require minor modifications to the eminent domain
3 minute order procedures in order to comply with the new
4 requirements for the form of the motion to be used when
5 authorizing initiation of condemnation proceedings.

6 Staff recommends your approval of the minute
7 order, and I would respectfully again remind you of the
8 special form of the motion that needs to be made in this
9 regard.

10 MS. DELISI: Are there any questions of John?

11 (No response.)

12 MS. DELISI: Then I'd like to call up Luke
13 Ellis.

14 MR. ELLIS: Good afternoon, and thank you very
15 much for the opportunity to address the panel briefly. My
16 name is Luke Ellis. I'm an attorney with the firm of
17 Dawson, Sodd, Ellis and Hodge. We're a pretty small firm.
18 We've got a small office here in Austin and a small office
19 in Corsicana, and one of the things that our firm does is
20 we represent landowners that are being impacted by eminent
21 domain proceedings across the state, and on behalf of some
22 of our clients, I am here today to express just some
23 concerns regarding the next two months.

24 Mr. Campbell and I think some previous speakers
25 referred to and talked about Senate Bill 18 which was

1 passed unanimously by the legislature, and of course, I'm
2 an outsider around here but I don't know how many times
3 all the Republicans and all the Democrats and the governor
4 go along with a bill but it certainly happened in this
5 case. There was a very clear intent expressed by the
6 legislature regarding Senate Bill 18, and one of our
7 concerns relates to an interim gap period which we have
8 which is this summer. Under typical rules when a bill is
9 passed in the Texas Legislature, the law would take effect
10 on September 1.

11 And what we've got is an old scheme that in
12 many respects, as identified by the Texas Legislature, the
13 scales were just simply out of balance, the scales were
14 weighted too heavily in favor of the folks who took
15 property and not equalized enough for private property
16 owners, so the Texas Legislature, by passing Senate Bill
17 18, has made an attempt to take some steps towards
18 equalizing the scales between the entities that take
19 property and private property owner rights.

20 Now, the challenge we've got is that the bill
21 takes effect on September 1 and the issue is what our
22 clients are certainly concerned about is what appears to
23 be a rush to the courthouse in an effort to file as many
24 petitions as possible between now and September 1 in an
25 effort to operate under the old scheme as opposed to the

1 new scheme.

2 And if I may, let me give one 30-second example
3 of how I think this is a real world issue for many
4 landowners that are going to be impacted by I-35. The
5 Senate Bill 18 specifically addresses denial of access.
6 Now, under the old scheme denial of access was very
7 difficult to recover for by a landowner, even though all
8 market participants knew that it impacted value of a
9 property. By way of one simple example, if you owned a
10 five-acre piece of property along I-35 and it had 1,000
11 feet of frontage, if the state came in and expanded the
12 roadway and blocked 950 feet of those 1,000 feet, the
13 landowner couldn't recover.

14 Now under the new scheme there's a better
15 opportunity for the landowner to at least have a fighting
16 chance to recover, and given the unanimous passage of
17 Senate Bill 18, we would expressly request that this panel
18 allow any condemnations that were to move forward this
19 summer, either in July or August, to operate under the new
20 scheme of Senate Bill 18.

21 And there are a variety of ways that I think
22 you all could accomplish that. Number one, I think you
23 could simply postpone any condemnation proceedings until
24 September 1 and then the new law would apply. Number two,
25 I think you could approve these condemnation proceedings

1 that are being presented to the panel here today and
2 possibly in July but with the express indication that
3 Senate Bill 18 is to apply to all of these condemnations
4 that were to happen in the next two-month interim period.

5 Or number three, and this is an option that is
6 widely used, we could simply have an agreement because I
7 understand that one concern from your perspective may be
8 you just need to move forward with the projects, we are in
9 no way or our clients certainly are not trying to slow
10 down the projects one bit, and our clients would be very
11 open, I think most clients that are being impacted by the
12 condemnation proceeding would be very open to trading
13 possession of the property so that TxDOT could begin
14 construction in exchange for an agreement with TxDOT that
15 the legal proceedings in the condemnation case will
16 operate under the new rules set forth in Senate Bill 18
17 even if a petition were to be filed in this interim two
18 months.

19 We believe that that is the clear intent of the
20 Texas Legislature to protect private property owners in
21 this situation and we think any condemnation petition
22 filed in the next two months really would circumvent that
23 clear intent. So we would expressly request that this
24 panel give consideration to either of those three options
25 that I proposed, or any other alternative option that you

1 may all be able to come up with that would clearly protect
2 private property owners' rights as expressly set forth in
3 Senate Bill 18.

4 MS. DELISI: Any questions?

5 MR. HOLMES: Maybe of Bob.

6 MS. DELISI: Thank you very much.

7 Bob, come on up.

8 MR. MEADOWS: That's exactly who I was looking
9 for. Go ahead.

10 MR. HOLMES: Can you respond to those options,
11 Bob?

12 MR. JACKSON: First a couple of things before I
13 turn it over to Suzanne. It was the intent of the
14 legislature that the law take effect September 1, not
15 immediately. They had the option, they didn't take it.

16 Secondly, we cannot pay more than the law
17 allows today, so one of those options has some legal
18 problems.

19 Otherwise, Suzanne.

20 MS. MANN: The third option I believe was to
21 enter into an agreement right now to do what the law
22 requires as with respect to valuation and other items now.
23 We cannot do that because we cannot pay more than what the
24 current law requires us to pay under the current
25 methodology, so we would not be able to enter into that

1 agreement.

2 MR. HOUGHTON: The other one was delay.

3 MS. MANN: Delay we can't do because everything
4 here that we do is time-sensitive, so we can't possibly
5 delay.

6 MR. SAENZ: One of the other options that was
7 talked about is the possibility, so as not to delay the
8 work from being done, would be to try to get a right of
9 entry and possession agreement which does not change the
10 value of the property, and then not go through the process
11 till afterwards, but we could take possession of this
12 property between now and September. So if property owners
13 were to grant a right of entry and possession agreement,
14 then we could proceed with the project as we're doing
15 today, and then we could delay the filing of the
16 condemnation claim. So that could be possible.

17 MS. MANN: That is true, we could do that.

18 We also are in the process of implementing
19 Senate Bill 18 with our Attorney General's Office and
20 coming up with how we're going to address these new issues
21 of access rights and everything else on our appraisals.
22 Just because something is coming before you for permission
23 to file a petition doesn't mean that petition will
24 necessarily be filed before September 1. If it is filed
25 before September 1 there will be possibly updates for

1 appraisal.

2 So we have to follow the law as it is now with
3 respect to parcels now and we have to follow the law
4 later, but you're right, there are other ways to handle
5 it, but we can't do the suggestions that were made here.

6 MR. HOLMES: If we went the route of right of
7 entry and possession, presumably that could be done
8 expeditiously and so it wouldn't slow down a project.

9 MS. MANN: Yes. If everybody is in agreement,
10 yes.

11 MR. HOLMES: Well, if they're not in agreement
12 then you go ahead and go through with the condemnation
13 process.

14 MR. MEADOWS: I'd like to see us, just as a
15 suggestion -- this is not going to apply to the action
16 that's before us today, I think that we're going to take
17 the action before us today with regard to these matters,
18 I'm going to guess -- but with regard to the July and
19 August issue, I think it would be worthwhile pursuing
20 Amadeo's suggestion of just looking at some alternatives,
21 and if OGC could just brief us on what the ramifications
22 are.

23 I think this may end up being a more complex
24 matter than we understand right now, so I'm hesitant and
25 reluctant to do anything other than just to instruct and

1 ask you all to look into this for us and report back.

2 MR. HOUGHTON: And every time henceforth that
3 we have to now read all of this into the record.

4 MR. MEADOWS: It seems to me like that would
5 just be a reasonable request to make to OGC, and we have
6 between now and the July meeting, and obviously not the
7 day before the July meeting, to discuss what our options
8 might be, because we certainly want to be sensitive to
9 what the legislature's intent was, understanding the
10 limitations and restrictions that we have on us. Thank
11 you.

12 MR. HOLMES: If I understand it correctly, we
13 are currently operating under the existing law, the new
14 law does not take effect until September 1.

15 MS. MANN: Yes, sir.

16 MR. UNDERWOOD: But nevertheless, we have in
17 today's agenda a motion that we're supposed to read that
18 is a September 1.

19 MS. MANN: Yes, sir.

20 MR. HOLMES: So why are we doing that today?

21 MS. MANN: We are doing that today because the
22 motion that we currently do, just our normal motions,
23 that's not a substantive law with regard to eminent
24 domain, so we were trying to roll out the changes as we
25 can. The changes that we cannot make that the gentleman

1 referred to are compensation matters. We can't compensate
2 for something not allowed to be compensated for under
3 current law but we can make some procedural changes.

4 MR. HOUGHTON: Procedural changes, nothing but
5 procedural.

6 MS. MANN: Yes, sir.

7 MR. HOUGHTON: The weight is September 1.

8 MS. MANN: Yes, sir. September 1 is when that
9 has to be done, but we can procedurally make those changes
10 now.

11 MR. HOUGHTON: This is what I call optics.

12 MS. DELISI: That's getting you used to saying
13 it.

14 (General talking and laughter.)

15 MR. HOLMES: I'd like to explore a little bit
16 further why we couldn't proceed today on the right of
17 entry and possession.

18 MS. DELISI: I don't think there's anything
19 that would prevent us from doing that, and I think Bob was
20 going to that.

21 MR. HOUGHTON: But the landowner, it takes two.

22 MS. DELISI: The landowner has to agree to it.
23 But that seems to be a pretty fair compromise.

24 MR. ELLIS: (From audience) May I make a very
25 brief comment in response?

1 MS. DELISI: Sure. Come on up.

2 MR. ELLIS: Thank you, and I'll be brief.

3 You hit on exactly, I believe, the correct
4 point. If a landowner were to decide you know what, I
5 don't want to give you possession of the property and the
6 state moves forward and files a petition, well, certainly
7 it would have to operate under the existing scheme until
8 it changes.

9 If a landowner says, hey, wait a minute, I want
10 to work with you, I'm not trying to hold up your project,
11 I'm going to give you possession, I'm just asking that I
12 be treated fairly as set forth by unanimous Senate Bill 18
13 and signed by the governor, we think that is a very
14 reasonable request.

15 And I think one of the commissioners made
16 reference to a letter I believe some of you received from
17 an interested landowner. This is a very big issue for
18 folks, they're very interested in it, and what they really
19 want to see is just to be treated fairly and be given an
20 opportunity to operate under the new rules and not be
21 penalized for this rush to the courthouse that we fear may
22 happen over the next few months.

23 MS. DELISI: I'm a little sensitive to you
24 calling it a rush to the courthouse. We're operating
25 under our normal procedures as we always have operated.

1 So I don't like the description as a rush to the
2 courthouse. We're operating as we normally would operate.

3 MR. ELLIS: And my apologies to the extent that
4 that term is bothersome to you, that's not my intent. My
5 intent is simply to express the perspective of some of the
6 folks that we represent.

7 MS. DELISI: Okay.

8 MR. HOUGHTON: Your name again?

9 MR. ELLIS: Sir, my first name is Luke, last
10 name Ellis.

11 MR. HOUGHTON: If you noticed, we approved a
12 ton of projects prior to, and that happens every month.

13 MR. ELLIS: Yes, sir.

14 MR. HOUGHTON: So it's not stop and wait, it's
15 a continuous process. So the rush to the courthouse, a
16 scheme, the scheme word doesn't play out here, we're doing
17 business as usual. If a landowner wants to say okay,
18 right of entry, but that's a take a chance, that's just an
19 option, but we're not delaying, we're not to delay
20 anything, we're trying to build transportation assets.

21 MR. ELLIS: No, sir. And I'm agreeing with
22 you, and I think the right of entry is a perfect solution.

23 MR. HOUGHTON: That right of entry and the
24 negotiations may only take a week, maybe two weeks, I
25 don't know.

1 MR. ELLIS: Maybe a day. We often do those
2 very quickly, yes, sir.

3 MR. HOUGHTON: But that's just part of the
4 options that are available to the landowner in the current
5 law and I think we have to consider all those sort of
6 things, as Amadeo said.

7 MR. ELLIS: Yes, sir, I absolutely agree with
8 you, and I just wanted to, on behalf of our clients,
9 respectfully request that this panel give consideration to
10 authorizing the state and their attorneys to work with
11 landowners to enter into rights of entry agreements that
12 would allow for the state to obtain immediate possession
13 and for the landowners to be able to operate under the
14 rights set forth under Senate Bill 18.

15 MR. HOUGHTON: That law is current, the right
16 of entry.

17 MS. DELISI: Did Bob leave, or Suzanne or
18 either, both of you?

19 MR. HOUGHTON: Bob, did you leave? No, you
20 didn't leave. Did Suzanne take off with my credit card?

21 MS. MANN: Not yet.

22 MS. DELISI: Before you give it back to him,
23 just text me the number.

24 MS. MANN: We'll go to the Domain.

25 MR. HOUGHTON: For dinner?

1 MS. MANN: For shopping.

2 (General laughter.)

3 MS. DELISI: Okay, Bob, sorry. Back on the
4 subject. After hearing all the discussion, would we do
5 the normal motion with instruction to the executive
6 director?

7 MR. JACKSON: Yes. Commissioner Meadows, I
8 appreciate his thoughts. We have some critical parcels we
9 need to acquire right of way, it can cost us a lot if we
10 don't. If we can go ahead and have a motion to approve
11 the minute order and then have instructions to Amadeo to
12 research all the alternatives and the impacts, to come
13 back before the next commission meeting with some answers.

14 MR. HOLMES: I'm not sure I understood that.
15 Are you saying go forward with the condemnations or are
16 you saying approve it subject to negotiating a right of
17 entry?

18 MR. JACKSON: No, I'm not saying that. These
19 are critical parcels, I don't want to complicate the
20 minute order. My recommendation is that we really need to
21 go forward with the minute order as is, but give
22 instructions to the executive director to look at those
23 three alternatives and come back before the next
24 commission meeting with a report back to the commission on
25 what would be the advantages and disadvantages of those

1 different ideas.

2 MR. HOLMES: I'm not so worried, Bob, about
3 complicating the minute order. What I'm concerned about
4 is kind of a sense of fairness and what I'd like to
5 understand is what is the critical nature of these
6 particular condemnations relative to condemnation or right
7 of entry.

8 MR. JACKSON: For example, there are some
9 parcels, I believe, that we need for a comprehensive
10 development agreement where if they're not acquired timely
11 there could be some significant cost to the department.

12 MR. HOLMES: I guess I have a problem with
13 that. I mean, the converse of that is that there's a cost
14 borne one way or the other. Right?

15 MR. JACKSON: No, not one way or the other.

16 MR. HOLMES: It's either by the landowner or by
17 the operator of the CDA. Is that right?

18 MS. MANN: Let me see if I can make everybody
19 feel a little bit better about this. I've been working on
20 Senate Bill 18 implementation for the department and
21 having extensive conversations with Christina Silcox on
22 how we're going to do this, and while that is not
23 finalized that, I cannot report to you exactly how we're
24 going to do that yet because we are literally having a
25 meeting next week.

1 What our intention is is to go forward with the
2 petitions being filed when they are allowed to be filed
3 pursuant to your minute order. However, just because the
4 petition is filed doesn't mean it's going to have a
5 hearing any time soon. We're going to try to, on the ones
6 that are in this interim, try to have -- when you go to
7 the trial you'll have an updated appraisal, we are going
8 to try to address that in an updated appraisal, so the
9 damages that they would be entitled to under the new law
10 would be appraised at that time. That's what we're
11 discussing on the legalities of if we can do that.

12 Since this law just got signed a few weeks ago,
13 we are working on this interim. We cannot stop the
14 movement of our projects, though, and if the legislature
15 had intended for that to happen, if they had intended to
16 give this new damage item to the owners immediately, they
17 would have done so. And they knew when we testified, some
18 of the testimony was how are the entities going to
19 implement all of this, they have to have time to implement
20 it.

21 That's why we're trying to do the rollout with
22 the minute order. We're doing a rollout in a couple of
23 weeks with new offer letters to comply with the procedural
24 forms. Again, they're procedural. All the procedural
25 things we're trying to do and we're working with the

1 Office of Attorney General now to make sure that we are
2 doing it fair, these discussions are being held.

3 We do not want to try to rush through with
4 something and get it cheaper just because we can. That is
5 not what we're trying to do. In fact, we're trying to see
6 if there's a way to appraise it under the new methodology

7 It's the timing of that that we're trying to look at.

8 MR. HOUGHTON: John or David, can either one of
9 you tell us, me, is there anything in the right of ways
10 that we're looking at now that would slow down a project,
11 projects? Or John Campbell? Maybe I asked the wrong
12 person.

13 MR. CAMPBELL: Was it John Campbell you wanted
14 to ask?

15 MR. HOUGHTON: John Campbell, John Barton,
16 David Casteel, Amadeo Saenz.

17 MR. CAMPBELL: Anybody that's willing to step
18 up and field the question.

19 MR. SAENZ: Commissioners, I think that as we
20 move forward, based on what I've been listening to you
21 from each of you, is by you approving the right to go
22 forward with eminent domain but directing me to look at
23 what is the fairest way to move it forward, I think that
24 is enough direction that would allow me to make sure that
25 no one is taken advantage of.

1 MR. HOUGHTON: So that's a trust me deal.

2 MR. SAENZ: Yes, sir.

3 MR. HOLMES: I don't think anybody up here
4 wants to slow down a project. It's just an issue of how
5 you go about determining damages.

6 MR. HOUGHTON: Will any inaction or Amadeo's
7 remedy slow down any projects?

8 MR. SAENZ: I think the question that you
9 asked, Commissioner Holmes, there are some projects where
10 we have commitments to acquire that right of way by a
11 certain timetable, and if that right of way is not
12 acquired and it triggers either a default or a
13 compensation event that could cost the department.

14 MR. HOUGHTON: Can we identify those?

15 MR. SAENZ: We would have to go back and look
16 at the projects.

17 MR. HOUGHTON: So we'll leave it to your best
18 judgment.

19 MR. SAENZ: Yes, sir. And the minute order can
20 say we approve with proceeding.

21 MR. BARTON: For the record, my name is John
22 Barton.

23 We could look at the list for you now if you'd
24 like to take a break.

25 MR. HOUGHTON: No.

1 MR. BARTON: I think Amadeo's point is the
2 right one, Commissioner Houghton. My understanding of our
3 current right of way activities, we have projects on 121
4 for projects, we have some on the comprehensive
5 development agreement on the North Tarrant Express
6 project, we have some on the I-35 project for contracts
7 that have already been bid and we had specific dates that
8 right of way would be provided for the contractor to have
9 access to.

10 On all of those, if we slow down the process we
11 are at risk of a compensation event, not the property
12 value. Understanding the fairness issue is clear, but if
13 we slow down the process we may owe a construction company
14 money because they were delayed their access to certain
15 parcels of property.

16 MR. HOLMES: And that relates to the passage of
17 title or the possession?

18 MR. BARTON: In the comprehensive development
19 agreements, the passage of title.

20 MR. SAENZ: But if we can get possession, then
21 we've complied with the agreement.

22 MR. BARTON: Well, I think we'd have to look at
23 the contract, Amadeo. It was pretty clear that the
24 ownership of these properties would be transferred over at
25 specific times and we have an agreement with them that we

1 would process the acquisition of these parcels in certain
2 time frames.

3 MR. HOUGHTON: Well, I would, Madam Chair, just
4 leave it to the best judgment of the staff to ascertain
5 which projects are more critical.

6 MR. SAENZ: We can do that.

7 MR. CAMPBELL: May I return to encourage a
8 motion?

9 MR. HOLMES: John, one more question. The
10 attorney, Mr. Ellis, made a suggestion that we were
11 rushing to the courthouse for condemnation. That's been
12 rebutted here but you're the guy that's in charge of it.
13 Are you doing that?

14 MR. CAMPBELL: No, sir, we're not. And I would
15 just like to suggest that the process of condemnation is
16 in place in order to afford the property owner his fair
17 opportunity in court to challenge the value that we've put
18 onto a parcel. So a rush to the courthouse really doesn't
19 make logical sense to me.

20 Getting to the courthouse only occurs after we
21 have failed to negotiate successfully with the landowner,
22 most often initiated by the landowner because they don't
23 agree with the value that we've put in place. So getting
24 to the courthouse is our best opportunity to give that
25 property owner his fair opportunity to argue for a value

1 different than what we've suggested.

2 MR. HOLMES: But the rush to the courthouse
3 related to the current law versus the law in effect
4 beginning September 1, and so the question did you
5 accelerate a whole series of acquisitions or condemnations
6 in order to have those occur before September 1 and have
7 the current law be effective?

8 MR. CAMPBELL: No, sir.

9 MR. HOLMES: Or is this normal course of
10 business?

11 MR. CAMPBELL: This is normal course of
12 business.

13 MR. HOLMES: Okay.

14 MS. DELISI: All right. Any other questions of
15 John? So you're going to make the motion?

16 MR. MEADOWS: Well, actually Ted could read it
17 better.

18 MR. HOUGHTON: I move that Bill Meadows read
19 it.

20 MS. DELISI: Okay. One of you three gentlemen
21 need to read the motion.

22 MR. MEADOWS: I would like to make a motion,
23 Madam Chair, and I'll make the motion and then make some
24 comments with regard to what I would like to see our staff
25 develop on a prospective basis between the date today and

1 September 1.

2 I move that the Texas Transportation Commission
3 authorize the Texas Department of Transportation to use
4 the power of eminent domain to acquire the properties
5 described in the minute order set forth in the agenda for
6 the current month for construction, reconstruction,
7 maintenance, widening, straightening or extending the
8 highway facilities listed in the minute order as a part of
9 the state highway system, and that the first record vote
10 applies to all units of property to be condemned.

11 MR. HOUGHTON: Second.

12 MS. DELISI: All in favor?

13 (A chorus of ayes.)

14 MS. DELISI: The motion passes.

15 MR. MEADOWS: And then the comment would be an
16 instruction to staff, based upon Amadeo's more creative
17 look at this, could we then explore, in conjunction with
18 or cooperation with OGC, some solutions that would
19 recognize our sensitivity and awareness of the issues
20 brought forth by Mr. Ellis.

21 MR. SAENZ: Yes, sir.

22 MR. MEADOWS: Thank you.

23 MR. CAMPBELL: Thank you.

24 MR. SAENZ: Moving on to agenda item number 15,
25 the routine minute orders that we present in one package.

1 Commissioners, we'd be happy to answer any questions on
2 any individual minute order, but if there's no questions,
3 staff would recommend approval of all of the minute
4 orders.

5 MS. DELISI: Is there a motion?

6 MR. HOUGHTON: So moved.

7 MS. DELISI: Is there a second?

8 MR. MEADOWS: Second.

9 MS. DELISI: All in favor?

10 (A chorus of ayes.)

11 MS. DELISI: The motion passes.

12 MR. SAENZ: Those are all the agenda items.

13 MS. DELISI: We've concluded the agenda. We
14 have one person signed up in the comment period, and it's
15 Dennis Burleson. Come on down.

16 MR. BURLESON: Thank you, Madam Chair and
17 commissioners.

18 I was so thrilled about all of the things the
19 legislature did for us in the way of Prop 12 and Sunset
20 allowing Hidalgo County's 140,000 reinvestment zone get
21 off and going and using it as a financial tool to see if
22 we could finance our projects. And then I sat for the
23 right of way thing and realize that now we've probably got
24 a lot more money we're going to have to pay to people as
25 we build our roads. But I guess we take the good with the

1 bad; that's what road-building is all about.

2 I want to come real quickly and thank you for
3 my time, I'll be brief.

4 Mike O'Connor, vice chairman of our RMA, and I
5 are here to thank you for all your good efforts before the
6 legislature, thank you for the pass-through projects last
7 year. We're in middle of some procurements for a bigger
8 team, program manager GEC. We're negotiating the design
9 of the pass-through projects you gave us last year. We
10 look forward to getting on those very quickly and
11 anticipate we'll be able to let as per the schedule. Lots
12 of good things. We're happy this year on the 755 pass-
13 through agreement that we're negotiating.

14 The commission has been sensitive to the fact
15 that the Valley is a major metropolitan area that does not
16 have an interstate connection and you are working on that.
17 We realize that 77 may be the first avenue that's easier
18 for us all to connect because it's a little closer to the
19 existing system, but we're proud to have the interstate
20 coming to the Valley, and we need to work to find a way to
21 get 83 to get qualified to be part of that system and the
22 parts of 281 that are worthy of the designation to be that
23 also.

24 We think with the impediment knocked down at
25 755 which is really a safety project more than a mobility

1 or congestion project, and as I understand, real good
2 public involvement meetings at Premont that happened
3 recently, that 281 can get the major slowdowns cured. And
4 Hidalgo County RMA looks forward to being partners with
5 TxDOT and getting that done, and again, I want to thank
6 you.

7 MS. DELISI: Thank you, Dennis.

8 MR. HOUGHTON: I think Commissioner Meadows
9 failed to recognize one of the -- how would you say it,
10 the honorees at your event last week? Michael Behrens is
11 here?

12 MR. MEADOWS: Yes. He'll be acknowledged.

13 MR. HOUGHTON: Congratulations, Michael. Nice
14 seeing you.

15 MS. DELISI: Is there any other business to
16 come before the commission? There being none, I will
17 entertain a motion to adjourn.

18 MR. HOUGHTON: So moved.

19 MS. DELISI: Give me a second.

20 MR. HOLMES: Second.

21 MS. DELISI: All in favor?

22 (A chorus of ayes.)

23 MS. DELISI: The motion passes.

24 Please note for the record that it is 12:32 and
25 this meeting stands adjourned.

1 (Whereupon, at 12:32 p.m., the meeting was
2 concluded.)

C E R T I F I C A T E

MEETING OF: Texas Transportation Commission

LOCATION: Austin, Texas

DATE: June 30, 2011

I do hereby certify that the foregoing pages,
numbers 1 through 153, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Nancy H. King before the
Texas Transportation Commission.

7/10/2011

(Transcriber) (Date)

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