

TEXAS DEPARTMENT OF TRANSPORTATION
COMMISSION MEETING

Ric Williamson Hearing Room
Dewitt Greer Building
125 East 11th Street
Austin, Texas

Thursday, December 16, 2010

COMMISSION MEMBERS:

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

STAFF:

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

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
CONVENE MEETING	6
1. Approval of Minutes of the November 18th meeting of the Texas Transportation Commission	9
2. Aviation Various Counties - Award federal and state grant funding for airport improvement projects at various locations (MO)	10
3. Public Transportation	
a. Various Counties - Award transportation development credits (TDC) to Gulf Coast Center and Concho Valley Transit District (MO)	12
b. Various Counties - Approve changes to public transit projects previously approved for funding from Texas' portion of the American Recovery and Reinvestment Act (ARRA) (MO)	14
4. Rail Projects	
a. Authorize use of a \$5.6 million grant from the Federal Railroad Administration for purposes of studying a proposed passenger rail facility running from Oklahoma City to Dallas/Fort Worth, with possible extension to south Texas (MO)	15
b. Galveston County - Award transportation development credits (TDC) to the City of Galveston for studies related to the proposed Galveston to Houston commuter rail line (MO)	18
c. Tarrant County - Authorize funds from the TIGER II Discretionary Grant Program for the final design and construction of the Tower 55 Multimodal Improvement Project (MO)	19
5. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:	
a. Final Adoption	
(1) Chapter 1 - Management (MO) Repeal of §1.8, Internal Ethics and Compliance Program, and §1.9, Effect of Contractor's Internal Ethics and Compliance Program (Other Entities' Internal Ethics and Compliance Procedures)	26
(2) Chapter 9 - Contract and Grant Management (MO) Repeal of §§9.100-9.117 (Subchapter G, Highway Improvement Contract Sanctions) and New §9.101, Purpose and Application of Subchapter, §9.102, Definitions, §9.103, Notification of Rules, §9.104, Delivery of Written Notice or Requests to the Department, §9.105, Act of Individual or Entity Imputed to Contractor, §9.106, Compliance Program, §9.107, Grounds for Sanction, §9.108,	22

- Procedure, §9.109, Notice of Sanction, §9.110, Available Sanctions, §9.111, Application of Sanction, §9.112, Appeal of Sanction, §9.113, Indirect Sanction on an Affiliated Entity, §9.114, Lessening or Removal of Sanction, §9.115, List of Debarred or Suspended Contractors (Subchapter G, Highway Improvement Contract Sanctions)
- (3) **Chapter 10 - Ethical Conduct by Entities Doing Business with the Department (MO)** 24
 New Chapter 10, New Subchapter A, General Provisions, §§10.1 - 10.7; New Subchapter B, Other Entities' Internal Ethics and Compliance Procedures, §10.51; New Subchapter C, Required Conduct by Entities Doing Business with the Department, §§10.101 - 10.102; New Subchapter D, Score Reduction for Ethical Violations by Architectural, Engineering, and Surveying Service Providers, §§10.151 - 10.160; New Subchapter E, Removal of Precertification of Architectural, Engineering, and Surveying Service Providers for Ethical Violations, §§10.201 - 10.206; and New Subchapter F, Sanctions for Ethical Violations by Other Entities, §§10.251 - 10.257
- (4) **Chapter 15 - Financing and Construction of Transportation Projects, Chapter 26 - Regional Mobility Authorities, Chapter 27 B Toll Projects, and Chapter 31 - Public Transportation (MO)** 27
 Amendments to §15.92, Miscellaneous Powers and Duties of Corporations (Transportation Corporations), §26.56, Required Internal Ethics and Compliance Program (Miscellaneous Operation Provisions), §27.53, Request (Financial Assistance for Toll Facilities), and §31.39, Required Internal Ethics and Compliance Program (Program Administration)
- (5) **Chapter 21 - Right of Way (MO)** 28
 New §21.301, Purpose, §21.302, Definitions, §21.303, Request for Proposals, §21.304, Proposals, §21.305, Selection of Entity, §21.306, Negotiation with Selected Entity, §21.307, Agreement, §21.308, Termination of Agreement, §21.309, Payment, §21.310, Sublease, and §21.311, General Requirements (New Subchapter J, Leasing of Highway Assets for Transportation Facility)
- (6) **Chapter 23 - Travel Information (MO)** 31
 Amendments to §23.1, Purpose and §23.2, Definitions (General Provisions) and §23.10, Travel Literature, §23.12, Texas Official Travel Map, and §23.14, Display of Travel Literature in the Texas Travel Information Centers (Travel Information)
- b. **Proposed Adoption Chapter 15 - Financing and Construction of Transportation Projects (MO)** 33
 Amendments to §15.52, Agreements (Federal, State, and Local Participation)

6. **Sale of Access Rights** 35
 Establish a policy for determining the fair value of access rights to a state highway when the department sells access rights to an adjoining property owner (MO)
7. **Property Exchange** 37
 Palo Pinto, Somervell and Tarrant Counties - Award a Development and Exchange Agreement with the top-ranked design-build firm for the design, construction and renovation of buildings at various locations in the Fort Worth District (MO)
8. **Port Capital Program** 39
 Accept the annual 2011-2012 Port Capital Program submitted by the Port Authority Advisory Committee (MO)
9. **Pass-Through Toll Program** 43
 Authorize the designation of a period of time in 2011 for public and private entities to submit proposals under the pass-through toll program to develop highway projects on the state highway system and prescribe the conditions that will be applicable to the proposals under Title 43, Texas Administrative Code, Section 5.54 (MO)
10. **I-69 Corridor Advisory Committee** 46
Various Counties - Consider the appointment of new members to the I-69 Corridor Advisory Committee (MO)
11. **Toll Roads**
 a. **Chambers County** - Consider the approval of the department's determination to exercise its option to develop, construct, and operate the portion of State Highway 99 (Grand Parkway) in Chambers County, pursuant to Transportation Code, §228.0111(i) (MO) 47
 b. **Travis and Williamson Counties** - Accept the quarterly Report of Actual Traffic and Revenue for the Central Texas Turnpike System (CTTS) (MO) 48
 c. **Travis and Williamson Counties** - Accept the audited financial statements of the CTTS, as required by the CTTS Indenture of Trust (MO) 50
12. **Unified Transportation Program (UTP)**
 a. Approve adjustments to the FY 2011, FY 2012, FY 2013 and FY 2014 obligation limit funding levels in the UTP (MO) 51
 b. Approve preliminary funding levels for the UTP for the years 2012 through 2021 (MO) (DEFERRED) 54
13. **Texas Mobility Fund** 55
 Accept the audited financial statements of the Texas Mobility Fund (TMF) as required by the governing master resolution (MO)
14. **Obligation Limit Report** 56
 Status report on the FY 2011 Obligation Limit, the actual obligations utilized through the current month, proposed remaining highway maintenance and construction contract letting for the fiscal year and an update on

motor fuel tax receipts

15. **Contracts**
- a. **Award or Reject Highway Improvement Contracts**
- (1) **Highway Maintenance and Department Building Construction** 58
(see attached itemized list) (MO)
- (2) **Highway and Transportation Enhancement Building Construction** 59
(see attached itemized list) (MO)
16. **Routine Minute Orders** 60
- a. **Donations to the Department**
- (1) **Traffic Division** - Consider a donation from the American Traffic Safety Services Association for department employees= registration and travel expenses to attend the 41st Annual Convention & Traffic Expo in Phoenix, Arizona on February 14-17, 2011 (MO)
- (2) **Travel Information Division** - Consider a donation of a photo scanner from the Taylor Public Library (MO)
- b. **Eminent Domain Proceedings Various Counties - noncontrolled and controlled access highways** (see attached itemized list) (MO)
- c. **Load Zones & Postings Ochiltree County** - Revise a load restriction on a bridge on the state highway system (MO)
- d. **Right of Way Dispositions and Donations**
- (1) **Eastland County** - FM 571 at FM 2214 northeast of Gorman - Consider the exchange of right of way (MO)
- (2) **Fort Bend County** - US 59 at University Boulevard in Sugar Land - Consider the sale of surplus drainage easements (MO)
- (3) **Montgomery County** - I-45 at FM 1097 north of Conroe - Consider the sale of access rights to the abutting landowner (MO) (DEFERRED)
- (4) **Tarrant County** - Business US 287-P in Fort Worth - Consider the designation of Business US 287-P on a new alignment, remove a portion of the existing alignment from the system and transfer control, jurisdiction and maintenance of a portion of the existing alignment to the city. In addition, the MO will authorize the transfer and quitclaim of surplus right of way to the city (MO)
- e. **Speed Zones Various Counties** - Establish or alter regulatory and construction speed zones on various sections of highways in the state (MO)
17. **Executive Session** (none required) 61
- OPEN COMMENT PERIOD** (no commenters) 61
- ADJOURN** 61

P R O C E E D I N G S

1
2 MR. HOUGHTON: All right. We'll tee it up and
3 ready to go. Good morning.

4 AUDIENCE: Good morning.

5 MR. HOUGHTON: Good morning. Merry Christmas,
6 Happy New Year, Happy Hanukkah for those that celebrated
7 Hanukkah, and welcome.

8 It is 9:05 a.m., and I call the regular
9 December 2010 meeting of the Texas Transportation
10 Commission to order. Note for the public record that
11 notice of this meeting, containing all items on the
12 agenda, was filed with the Secretary of State at 4:18 p.m.
13 on December 8, 2010.

14 Before we begin the meeting today, please place
15 all cell phones and other communication devices in the
16 silent mode.

17 As is our custom, we will open with comments
18 from the commissioners, and we will start with
19 Commissioner Meadows.

20 MR. MEADOWS: Thank you, Mr. Houghton. I
21 appreciate that. Having something to do with risk
22 management and insurance, I know about high risk
23 propositions, and having you in charge I think would fall
24 in that category.

25 (General laughter.)

1 MR. MEADOWS: Just a couple of quick things
2 this morning. You know, everybody knows our colleague,
3 Commissioner Underwood, is a gentleman and a scholar and
4 somewhat of a futurist, really. You know, he's long
5 embraced the concept of a mulitmodal approach to
6 transportation, and I think he illustrated that extremely
7 well this past weekend when his cutting horse, Desire's
8 Blue Trinity, made the finals in the National Cutting
9 Horse Futurity, and needs to be congratulated for that.

10 (Applause.)

11 MR. MEADOWS: And I join Commissioner Houghton
12 in wishing everybody a very happy holiday season. Thank
13 you.

14 MR. UNDERWOOD: I just love following Bill.
15 Bill, I appreciate that. Thank you. The credit goes to
16 my partner, not to me.

17 MR. UNDERWOOD: What about the horse?

18 MR. UNDERWOOD: He didn't do as well as we'd
19 like. We're going to sell him. That's the truth.

20 (General laughter.)

21 MR. UNDERWOOD: But to everybody out there
22 happy holidays, happy safe holidays. Drive safe, watch
23 out for our men and women that are working on the
24 construction sites. They're critical, they're part of our
25 family, and we don't want to lose them, we don't want to

1 lose you.

2 So happy holidays to everybody and have a safe
3 one. Thank you.

4 MR. HOLMES: Commissioner Meadows, I think you
5 did broaden the definition of multimodal to include
6 cutting horses.

7 (General laughter.)

8 MR. HOLMES: Thank you for attending today.
9 Happy holidays. And congratulations, Fred, on getting the
10 horse in the finals.

11 MR. UNDERWOOD: Thank you.

12 MR. HOUGHTON: If the opening remarks are any
13 indication of how this meeting will go from here forward,
14 it should be enlightening and enjoyable and educational,
15 and entertaining, at the least.

16 If you wish to address the commission during
17 today's meeting, please complete a speaker's card at the
18 registration table in the lobby. To comment on an agenda
19 item, please complete a yellow card and identify the
20 agenda item. If it is not on the agenda, we will take
21 your comment in the open comment period at the end of the
22 meeting, and or those comments please complete a blue
23 card. Regardless of the color of card, we will limit the
24 speakers to three minutes.

25 Also, before we move on today, I want to remind

1 those of you in the audience and those watching us on the
2 web of the 6th Annual Transportation Forum is coming up
3 January 3-5 of next year. We encourage you to come and be
4 part of the discussion. This is one of the registration
5 cards and one of the promo cards that have been mailed out
6 all over the country and all over the state.

7 Apparently we have interesting speakers. The
8 headliner speaker at Tuesday's Roadhand luncheon is
9 Governor Rendell from Pennsylvania, who is very, very
10 transportation-minded and very entertaining. And Chairman
11 Tommy Williams and Joe Pickett of the House, and Chairman
12 Williams of the Senate, will be breakfast speakers on
13 Wednesday.

14 Our first item of business today is to approve
15 the minutes of the November 18 commission meeting.
16 Members, the draft of the minutes has been provided in
17 your briefing materials. Is there a motion to approve the
18 minutes?

19 MR. HOLMES: So moved.

20 MR. UNDERWOOD: Second.

21 MR. HOUGHTON: All in favor?

22 (A chorus of ayes.)

23 MR. HOUGHTON: Passes.

24 All right. Thank you. And that completes all
25 the items, thank you all, of my speech. And the first

1 item is Dave Fulton, and we'll pass it on to you, Amadeo.

2 MR. SAENZ: Dave Fulton, commissioners, will
3 present a minute order dealing with some federal and state
4 grants for airport projects.

5 MR. FULTON: Thank you, Amadeo, commissioners.
6 For the record, my name is Dave Fulton, director of the
7 TxDOT Aviation Division.

8 This minute order contains a request for grant
9 funding approval for 15 airport improvement projects. The
10 total estimated cost of all requests, as shown in Exhibit
11 A, is approximately \$27.6 million: approximately \$24.1
12 million in federal funding, \$300,000 in state funding, and
13 \$3.2 million in local funding.

14 A public hearing was held on November 10 of
15 this year. No comments were received. We would recommend
16 approval of this minute order.

17 MR. HOLMES: Dave.

18 MR. FULTON: Yes, sir.

19 MR. HOLMES: Is the Addison project pavement
20 and electrical, is that extension?

21 MR. FULTON: Pardon me, sir?

22 MR. HOLMES: What is the pavement component of
23 that?

24 MR. FULTON: We're going to re-pave the runway.
25 It's going to be a major undertaking, particularly for the

1 operational people at Addison. It's about an \$11 million
2 project. Some of it is our state formula money but we got
3 a good bit of FAA discretionary money as well, so it's a
4 major redo of the main runway plus some other work.

5 MR. HOLMES: It's not an extension of the
6 runway, it's a rework.

7 MR. FULTON: No, sir. I think we had it on the
8 agenda last month for what's called an EMAT system.
9 That's about the only way we can provide safety there.
10 There's no way to extend the runway.

11 MR. HOLMES: Yes.

12 MR. HOUGHTON: Any other questions of Dave? Is
13 there a motion?

14 MR. HOLMES: So moved.

15 MR. UNDERWOOD: Second.

16 MR. HOUGHTON: All in favor?

17 (A chorus of ayes.)

18 MR. HOUGHTON: Passes. Thank you, Dave.

19 MR. SAENZ: Thank you, Dave.

20 Agenda item number 3, commissioners, deal with
21 public transportation. Eric Gleason, director of the
22 Public Transportation Division, will present two minute
23 orders. The first one deals with the award of
24 transportation development credits and the other one is to
25 approve some changes on previously approved projects.

1 MR. GLEASON: Good morning. For the record, my
2 name is Eric Gleason, TxDOT director of Public
3 Transportation.

4 Agenda item 3.a. awards 200,000 transportation
5 development credits for two public transportation
6 projects.

7 Gulf Coast Center is requesting 150,000
8 transportation development credits to match some federal
9 discretionary funds they have to construct a 525-space
10 park-and-ride lot in the Texas Medical Branch Victory
11 Lakes area, and service from this park-and-ride will
12 service both Galveston and Houston when it's up and
13 running. And park-and-ride facilities such as these, as
14 you know, help contribute to reducing traffic congestion
15 and improving air quality in the area.

16 The second project, the award is to Concho
17 Valley Transit District. They are requesting 50,000
18 transportation development credits to help match some
19 federal discretionary funding they have to help complete
20 construction of their multimodal facility in San Angelo.
21 And when that is done, the facility will increase public
22 transportation options and connections to those options,
23 including those serving various employment and healthcare
24 destinations in San Angelo, as well as to intercity
25 services to surrounding destinations in Texas and

1 throughout the nation.

2 So we'd recommend your approval of this minute
3 order.

4 MR. HOUGHTON: Dave, how many credits do we
5 have at our discretion at the department?

6 MR. GLEASON: Well, as you know, the
7 administrative rules, 75 percent of the development
8 credits that the state has stay within the region from
9 which they come, and 25 percent are available at the
10 statewide basis. And I checked yesterday and we have just
11 over 200 million available on the statewide level. So the
12 total amount is somewhere around 1.1 billion.

13 MR. HOUGHTON: 1.1 billion.

14 MR. GLEASON: Yes.

15 MR. HOUGHTON: And how big are these two
16 projects?

17 MR. GLEASON: From an expense standpoint?

18 MR. HOUGHTON: From an expense standpoint.

19 MR. GLEASON: The \$750,000 of federal money
20 which the 150,000 developments will be used in the Gulf
21 Coast Center, is enough to construct the 525-space park-
22 and-ride facility there.

23 The San Angelo facility, total construction is
24 estimated to be \$4.6 million. The department has awarded
25 funds in the past, both from the intercity bus program and

1 from the Recovery Act funding, to help with the
2 construction. The 50,000 here is to match about \$250,000
3 of federal discretionary funding that they have to help
4 complete construction of that.

5 MR. HOUGHTON: Any other questions?

6 MR. HOLMES: So moved.

7 MR. UNDERWOOD: Second.

8 MR. HOUGHTON: All in favor?

9 (A chorus of ayes.)

10 MR. HOUGHTON: Passes. Thanks.

11 MR. GLEASON: Agenda item 3.b revises previous
12 Federal Transit Administration Non-Urban or Rural Area
13 program ARRA award amounts and purpose for selected sub-
14 recipients, and there's no net change in total funding as
15 a result of this.

16 The department continues to make adjustments
17 within the Rural ARRA program as some projects are
18 completed with remaining balances and as other projects
19 become clearer with respect to anticipated costs. In this
20 instance, completed project residual balances from two
21 agencies are being reallocated to four agencies with
22 increased facility project expenses. And then three
23 agencies are making adjustments to previous award amounts
24 among different expenditure categories.

25 Texas continues to expend its rural transit

1 ARRA funds at a greater rate than the transit industry as
2 a whole, and as of yesterday we have spent almost 73
3 percent of our rural program ARRA funds, whereas
4 nationally the overall expenditure rate for ARRA program
5 transit funds is just over 54 percent.

6 So we recommend your approval of this minute
7 order.

8 MR. HOLMES: So moved.

9 MR. UNDERWOOD: Second.

10 MR. HOUGHTON: All in favor?

11 (A chorus of ayes.)

12 MR. HOUGHTON: Passes. Thank you, Eric.

13 MR. SAENZ: Thank you, Eric.

14 Agenda item number 4, commissioners, deals with
15 rail projects, and Bill Glavin, Rail Division director,
16 will present three minute orders concerning rail projects.

17 MR. GLAVIN: Good morning, commissioners,
18 Amadeo. For the record, my name is Bill Glavin. I'm the
19 director of the Rail Division of the Texas Department of
20 Transportation. Historically, that is one step removed
21 from the Equine Division.

22 (General laughter.)

23 MR. HOUGHTON: Just one?

24 MR. GLAVIN: Just one.

25 Item 4.a is in regard to a High-Speed Intercity

1 Passenger Rail funding grant. In May of this year, TxDOT
2 submitted a planning grant application for the improvement
3 of intercity passenger rail service or the development of
4 intercity or high-speed passenger rail service in three
5 corridors in Texas. These corridors were selected on the
6 basis of work performed by TTI to prioritize city pairs
7 with the highest potential for ridership.

8 In October of this year, USDOT Secretary LaHood
9 announced that Texas was awarded \$5.6 million to study the
10 rail corridor from Oklahoma City to Dallas-Fort Worth,
11 with possible extension to Austin and San Antonio. On
12 December 8 the Rail Division staff met with the Federal
13 Railroad Administration in Washington, D.C. and received
14 approval to use this funding to study the entire corridor
15 from Oklahoma City through South Texas.

16 The Oklahoma DOT is supportive of the project
17 and has agreed to assist in the public involvement portion
18 of the study and may assist in other data and information
19 as determined necessary. The study extends to Oklahoma
20 City as it is the logical terminus for the corridor as
21 part of a nationally significant passenger rail network,
22 however, Oklahoma DOT has also received funds to develop a
23 route between Oklahoma City and Tulsa, and an extension of
24 the corridor from Oklahoma City to Kansas City is being
25 studied by the Kansas DOT.

1 No State of Texas monies will be spent outside
2 the State of Texas. The Lone Star Rail District has
3 committed \$2.8 million as the federal match specifically
4 for the study of the corridor segment between Georgetown
5 and San Antonio.

6 The completion of this study will provide the
7 department with a service development plan and service-
8 level NEPA for the corridor and will position the state
9 for future rounds of federal funding for the development
10 of passenger rail service as an alternative transportation
11 option within the State of Texas. Without the service
12 development plan and without the service-level NEPA, Texas
13 will continue to miss out on a significant portion of the
14 federal funding available through the High-Speed Intercity
15 Passenger Rail Program.

16 Staff recommends the approval of this minute
17 order.

18 MR. HOLMES: Bill, the total cost of the study
19 is \$14 million?

20 MR. GLAVIN: That is correct, sir.

21 MR. HOLMES: And we're utilizing the \$5.6
22 million grant from the FRA, and another \$2.8 million from
23 TxDOT.

24 MR. GLAVIN: Right. Another \$3 million will be
25 coming from SPR funds, Statewide Research and Planning

1 funds, through FHWA. That brings the total to \$11.4
2 million. That still leaves us about \$2.6 million short,
3 but Oklahoma DOT has indicated that they are willing to
4 put some funds into the process. NTCOG has expressed an
5 interest in helping us fund the complete study, and also
6 the City of Dallas.

7 MR. HOLMES: Thank you. I was trying to figure
8 out how we added these up and got to 14.

9 MR. GLAVIN: Yes, sir.

10 MR. HOUGHTON: Any other questions? Is there a
11 motion?

12 MR. HOLMES: So moved.

13 MR. UNDERWOOD: Second.

14 MR. HOUGHTON: All in favor?

15 (A chorus of ayes.)

16 MR. HOUGHTON: Passes.

17 MR. SAENZ: Go ahead.

18 MR. GLAVIN: Item 4.b is for transportation
19 development credits to the City of Galveston. This minute
20 order seeks to obtain the approval for the City of
21 Galveston to use 400,000 in transportation development
22 credits toward the required local match for a \$2 million
23 FTA grant that they received for alternatives analysis and
24 environmental and preliminary engineering work on a
25 proposed Galveston to Houston commuter rail line.

1 The City of Galveston received this grant as
2 part of the FTA's fiscal year 2010 New Starts Program.
3 The development of commuter rail service between Galveston
4 and Houston will help the department meet the goals of
5 studying alternative modes of transportation that could
6 provide reduced emissions, congestion relief, enhanced
7 safety and system connectivity with local transit and high
8 potential high-speed and intercity passenger rail.

9 We have determined these studies to be eligible
10 to receive transportation development credits as a match
11 in conformance with Texas Administrative Code rules
12 5.72(e) and 5.73.

13 Staff recommends approval of this minute order.

14 MR. HOUGHTON: Questions? Motion?

15 MR. HOLMES: So moved.

16 MR. UNDERWOOD: Second.

17 MR. HOUGHTON: All in favor?

18 (A chorus of ayes.)

19 MR. HOUGHTON: Passes.

20 MR. GLAVIN: The final 4.c is TIGER II funding
21 for Tower 55, a project very near and dear to the hearts
22 of the Rail Division.

23 In August of this year, the department
24 submitted a TIGER II funding grant application for at-
25 grade improvements to the Tower 55 interlocker, and in

1 October of this year, TxDOT was notified that the Tower 55
2 project was selected to receive grant funding.

3 Tower 55 is one of the busiest at-grade
4 railroad intersections in the country with over 100 trains
5 a day passing through the interlocker which is at very
6 near capacity. The improvements that will be made with
7 this funding will reduce congestion in the national rail
8 network and within the Fort Worth region, providing
9 pedestrian travel and overall safety, improved vehicle and
10 freight mobility, reduced emissions from idling trains
11 waiting to move through the interlocker, and from vehicles
12 sitting at grade crossings waiting for the trains to move
13 through the interlocked.

14 Currently certain neighborhoods near Tower 55
15 are unable to be accessed by emergency vehicles when
16 freight trains are waiting to move through Tower 55.
17 These improvements will add a third north-south track
18 through the interlocker, lengthen sidings, add new
19 bridges, and replace and improve existing bridges near
20 Tower 55.

21 The total cost of the project is \$91.2 million:
22 \$34 million will come from TIGER II grant funding; \$1
23 million is being committed by TxDOT; \$1 million has been
24 committed by the City of Fort Worth; the remaining \$55.2
25 million will be coming from jointly the Union Pacific and

1 the BNSF Railway.

2 The completion of this project will improve
3 livability within the DFW region and improve the economic
4 competitiveness of the region, Texas and the nation at
5 large.

6 Staff recommends approval of this minute order.

7 MR. HOUGHTON: Questions? Motion?

8 MR. MEADOWS: Move approval.

9 MR. HOLMES: Second.

10 MR. HOUGHTON: All in favor?

11 (A chorus of ayes.)

12 MR. HOUGHTON: Passes.

13 MR. SAENZ: Thank you, Bill. Guess you're
14 going to ride your Iron Horse into the sunset.

15 MR. GLAVIN: Yes, the Iron Horse.

16 (General laughter.)

17 MR. SAENZ: Agenda item number 5,
18 commissioners, deals with the promulgation of
19 administrative rules. 5.a deals with final adoption, and
20 Steve Simmons will present four minute orders before you
21 concerning Management, Contract and Grant Management,
22 Ethical Conduct by Entities Doing Business with the
23 Department, and Financing and Construction of
24 Transportation Projects, requirements for RMAs. He'll
25 present all of them and we'll act on each one.

1 MR. SIMMONS: Good morning, commissioners, Mr.
2 Saenz. For the record, I'm Steve Simmons, deputy
3 executive director for the Texas Department of
4 Transportation, and I am presenting on agenda items
5 5.a(1), (2), (3) and (4), with considerable help from our
6 general counsel.

7 These ethics sanction rules were proposed for
8 adoption at the August 2010 commission meeting. The
9 purpose of these proposed rules is to establish conduct
10 requirements for entities that do business with the
11 department and to describe what measures the department
12 may take in response to violations in order to emphasize
13 transparency, accountability and ethical standards.

14 The new rules set forth ethical and other
15 requirements that if violated can lead to disciplinary
16 action and sanctions. They create enforcement provisions
17 that correspond with different types of violations to
18 provide clear notice of what an action's consequences will
19 be and also describes how to appeal an enforcement action.

20 The department received public comments on
21 various aspects of the rules from the Texas Council of
22 Engineering Companies and from the Texas Association of
23 General Contractors.

24 I need to take these in a specific order so I
25 will start with item 5.a(2). Chapter 9, Subchapter G

1 provides the sanction process for highway improvement
2 contractors, Subchapter G is being revised to be
3 consistent with New Chapter 10, Ethical Conduct by
4 Entities with the Department. The most substantive
5 changes to this chapter include the addition of ethics
6 violations in Chapter 10 as grounds for sanction, a
7 revised sanction process in order to be consistent with
8 enforcement processes in Chapter 10, and a revised appeals
9 process.

10 Available sanctions under this subchapter are,
11 in order of increasing severity: a reprimand, prohibition
12 from participating in a specified agreement, a limit on
13 the number of contract amount or amount of funds that may
14 be awarded or paid to the contractor, or debarment of the
15 contractor for a period of not more than 36 months.

16 This chapter also includes a chart that applies
17 specific violations to specific sanctions that considers
18 factors including: the seriousness and willfulness of the
19 act, whether and when the contractor has committed similar
20 acts, whether the department has been fully compensated
21 for any damages, and any other mitigating factors.

22 The AGC submitted comments to this chapter. In
23 response to the AGC's concerns about the criteria for
24 suspension, the proposed rules have been changed to allow
25 the department to suspend the contractor only when it is

1 necessary to take immediate action to protect the public
2 interest. The AGC also pointed out in its comments that
3 the Federal Highway Administration has an upper limit of
4 three years on debarment, so the five-year maximum term in
5 the proposed rules has been changed to three years. They
6 also commented that ten business days is not sufficient
7 time for a contractor to investigate the facts to decide
8 whether to appeal a sanction. The rules have been changed
9 to reflect 15 working days rather than ten.

10 Staff recommends approval of this minute order,
11 and I'd be happy to answer any questions on this agenda
12 item.

13 MR. HOUGHTON: Questions? Motion?

14 MR. UNDERWOOD: So moved.

15 MR. HOLMES: Second.

16 MR. HOUGHTON: All in favor?

17 (A chorus of ayes.)

18 MR. HOUGHTON: Passes.

19 MR. SIMMONS: Agenda item 5.a(3), proposed
20 Chapter 10, Ethical Conduct by Entities Doing Business
21 with the Department, sets our required conduct and
22 enforcement provisions for entities doing business with
23 the department. Enforcement provisions applicable to
24 highway improvement contractors are provided in Chapter 9,
25 Subchapter G, and not in this chapter.

1 Existing Section 1.8, Internal Ethics and
2 Compliance Program, which describes minimum requirements
3 for internal ethics programs is being moved to Chapter 10.

4 This chapter generally requires entities to conduct
5 themselves in an ethical manner and to notify the
6 department of and adequately address any conflicts of
7 interest, as well as business-related crimes or offenses,
8 debarment or other behavior that seriously and directly
9 affects the entity's responsibility to the department.

10 This chapter includes charts that apply
11 specific enforcement actions to specific grounds for
12 violations and considers factors including: the
13 seriousness and willfulness of the act, whether and when
14 the entity had committed similar acts, whether the
15 department has been fully compensated for any damages, and
16 any other mitigating factors.

17 Comments on proposed Chapter 10 were received
18 from the Consulting Engineers Council and from the AGC.
19 In response to a comment from the CEC, the proposed rules
20 have been changed to allow a professional service provider
21 found to have violated ethical standards to request that
22 the executive director issue a reprimand instead of
23 reducing its scores at the proposed scoring phase of a
24 procurement.

25 The CEC also expressed concerns about the

1 criteria for suspensions in the proposed rules. Because
2 suspensions are not appealable, the proposed rules have
3 been changed to allow the department to suspend an entity
4 only when it is necessary to take immediate action to
5 protect the public interest.

6 The AGC expressed concern that making a
7 violation of an entity's own internal compliance program
8 grounds for sanctions could discourage entities from
9 adopting internal compliance programs. The rules have
10 been changed to remove this provision. The AGC submitted
11 a comment requesting clarification of the applicability of
12 this chapter to highway improvement contractors, and those
13 clarifications have been made. The department believes
14 these changes adequately address AGC's and CEC's concerns
15 and are an overall improvement to the proposed rules.

16 Once again, staff recommends approval of this
17 minute order.

18 MR. HOUGHTON: Questions? Motion?

19 MR. UNDERWOOD: So moved.

20 MR. HOLMES: Second.

21 MR. HOUGHTON: All in favor?

22 (A chorus of ayes.)

23 MR. HOUGHTON: Passes.

24 MR. SIMMONS: Item 5.a(1), for reason of
25 organization, Section 1.8, Internal Ethics and Compliance

1 Program is being repealed and moved into New Chapter 10.
2 Section 1.9 is being repealed as it and Chapter 9,
3 Subchapter G are redundant.

4 Staff recommends approval of this minute order
5 and I'd be happy to answer any questions.

6 MR. HOUGHTON: Questions? Motion?

7 MR. UNDERWOOD: So moved.

8 MR. HOLMES: Second.

9 MR. HOUGHTON: All in favor?

10 (A chorus of ayes.)

11 MR. HOUGHTON: Passes.

12 MR. SIMMONS: Finally, agenda item 5.a(4),
13 amendments to Sections 15.92, 26.56, 27.53 and 31.39
14 change references to Section 1.8 relating to the
15 requirements for an internal ethics and compliance program
16 to instead refer to Section 10.51. As I previously
17 explained, Section 1.8 is being moved into New Chapter 10.

18 Staff recommends approval.

19 MR. UNDERWOOD: So moved.

20 MR. HOLMES: Second.

21 MR. HOUGHTON: All in favor?

22 (A chorus of ayes.)

23 MR. HOUGHTON: Passes.

24 MR. SIMMONS: Thank you, commissioners.

25 MR. SAENZ: Thank you, Steve.

1 Agenda item number 5.a(5), Mark Tomlinson will
2 present a minute order for final adoption dealing with
3 leasing of right of way for low-carbon, low-emissions
4 freight transportation facilities.

5 MR. TOMLINSON: Good morning, Mr. Saenz,
6 commissioners. My name is Mark Tomlinson, director of the
7 Texas Turnpike Authority Division.

8 This minute order is for final adoption of new
9 sections concerning leasing of highway assets for a
10 transportation facility. As you know, freight traffic is
11 growing. The Panama Canal widening is nearing completion,
12 it will bring more freight traffic and transportation to
13 Texas ports. There's continued and increasing
14 international freight growth from the NAFTA agreement.
15 Congestion is worsening in cities in Texas and major
16 routes like Interstate 35 are becoming more and more
17 congested. We have air quality problems in many of our
18 cities and the air quality standards continue to rise. We
19 have more people moving to Texas every day. And
20 transportation problems will make these problems even more
21 acute.

22 Previously our department issued a request for
23 information regarding low-emitting transportation
24 facilities. The response we received led us to believe
25 that there are some technologies out there that show

1 promise, so we began the process to create rules that
2 would be designed to allow these types of facilities to
3 exist in TxDOT right of way.

4 So this new subchapter would allow the
5 department to lease unused right of way to entities to
6 construct and operate alternative freight transportation
7 facilities that emit less air pollutants than equivalent
8 truck transportation, also reducing congestion on highways
9 and improving air quality.

10 The new sections create a process for the
11 department to receive proposals to lease various sections
12 of right of way necessary to construct these facilities.
13 The department, in that process, may select one or more
14 proposals that offer best value.

15 We did receive two comments on the rules I'd
16 like to mention to you briefly. The first comment was
17 from Lamar Advertising Company. They commented that the
18 ban on outdoor advertising that we had in a section of the
19 rules is not necessary. They noted that outdoor
20 advertising is permitted on privately owned railroad right
21 of way and said that advertising on train platforms would
22 be seen only by commuters. They also suggested that
23 allowing outdoor advertising on train platforms might help
24 subsidize the cost of high-speed rail.

25 Our response was that the rules concern

1 development of freight transportation facilities, not
2 passenger facilities, so there would be no train platforms
3 for commuters. The rules also do not concern the
4 development of high-speed rail. The facilities that we're
5 contemplating would be in highway right of way where the
6 appropriate signs should be for traffic control, not
7 advertising, and in fact, the department's policy is to
8 prohibit outdoor advertising within the right of way of a
9 public roadway, and that's actually in Texas
10 Administrative Code.

11 The second comment came from the Texas
12 Transportation Institute, Union Pacific Railroad Company,
13 and BNSF, and their joint comment suggested that the
14 wording should be added to the rules "disallowing the
15 lease of department right of way for purposes of heavy
16 freight railroad transportation." Commenters requested
17 that the prohibition saying the rules otherwise would
18 adversely impact the interests of private railroads.

19 We also reached out to the KCS Railroad and
20 their opinion was similar to that of the other railroad
21 companies and TTI. So based on that input and the
22 likelihood that they wouldn't propose on any competitive
23 lease situation, we did accommodate their comments within
24 the rules.

25 So with that, I'll be happy to answer any

1 questions that I can, and otherwise, staff would recommend
2 your approval of the minute order.

3 MR. HOUGHTON: Questions? Motion?

4 MR. UNDERWOOD: So moved.

5 MR. HOLMES: Second.

6 MR. HOUGHTON: All in favor?

7 (A chorus of ayes.)

8 MR. HOUGHTON: Passes.

9 MR. TOMLINSON: Thank you.

10 MR. SAENZ: Thank you, Mark.

11 Agenda item 5.a(6) deals with final adoption of
12 some Travel Information rules, and Doris Howdeshell will
13 present that minute order.

14 MS. HOWDESHELL; Good morning, commissioners
15 and Amadeo. For the record, my name is Doris Howdeshell.

16 I'm the director of the Travel Information Division here
17 at TxDOT.

18 Transportation Code Chapter 204 actually
19 authorizes the department to publish the state's travel
20 literature, including the travel map, and to operate
21 travel information centers at principal gateways to our
22 state. The rules that are before you today concern these
23 items.

24 Amendments to 23.10, Travel Literature clarify
25 subject matter that may be included in the department's

1 travel literature. Among other things, the amendments
2 clarify subject matter that cannot be included in the
3 department's literature by excluding municipal amenities
4 such as a municipal swimming pool or park.

5 Amendments to 23.12, the Texas Official Travel
6 Map, clarify the items that are depicted on the map and
7 add the travel information centers to the map. The
8 amendment change the criteria for a city or town to be
9 included on the map by deleting the requirement that a
10 city or a town have a United States Post Office and by
11 deleting the requirement that a city or a town have an
12 auto repair service in the area.

13 The amendments to 23.14, the Display of Travel
14 Literature in Information Centers, clarifies the type of
15 literature and other promotional items that may be
16 distributed in an travel information center by including
17 information on performing arts theaters and specialty
18 shopping attractions. And an example of that would be the
19 two relatively new Cabela's businesses in Fort Worth and
20 Buda.

21 The proposed rules were approved by the
22 commission September. They were published in the Texas
23 Register in October. Comments were due by 5:00 p.m. on
24 November 15, and no comments were received. And staff is
25 recommending approval of this minute order, and I'll be

1 glad to answer any questions.

2 MR. HOUGHTON: Questions?

3 MR. HOLMES: So moved.

4 MR. UNDERWOOD: Second.

5 MR. HOUGHTON: All in favor?

6 (A chorus of ayes.)

7 MR. HOUGHTON: Passes. Thanks, Doris.

8 MS. HOWDESHELL: Thank you, and Merry
9 Christmas.

10 MR. HOUGHTON: Merry Christmas to you, Doris.

11 MR. SAENZ: Merry Christmas, Doris.

12 Agenda item number 5.b deals with proposed
13 adoption of administrative rules, and David Casteel will
14 present a proposed rule dealing with the financing and
15 construction of transportation projects. David.

16 MR. CASTEEL: Good morning. For the record, my
17 name is David Casteel, assistant executive director for
18 District and Field Operations.

19 This request makes two changes to Code 15.52.
20 The first change is to better align our rules with our
21 policy on the use of cost participation agreements
22 whenever a local entity or local government voluntarily
23 provides financial assistance for a highway improvement
24 project. Our district engineers routinely sign cost
25 participation agreements with cities and counties when

1 those entities wish to do work on non-freeways. Work
2 often consists of such things as the construction of turn
3 lanes for safety at intersection construction for
4 intersecting new streets. There is ambiguity between the
5 policy and the rules as they are written, and this would
6 clear that up with this change.

7 The second change is more substantive and
8 allows the department to enter cost participation
9 agreements to allow local entities to perform certain work
10 on freeway mainlanes of our facilities. Existing language
11 prohibits the department from entering into routine cost
12 participation agreements with local governments to perform
13 basically any work on freeway mainlanes.

14 This change creates a limited exception to that
15 and allows the department to enter cost participation
16 agreements with local governments, with the approval of
17 the executive director or his designee, when the tasks the
18 local government wishes to perform do not alter the
19 physical characteristics of the freeway mainlanes. An
20 example of this could include roadway sweeping and debris
21 pickup that the locals would like to do on our facilities.

22 The department has been contacted by local
23 governments that have expressed an interest in providing
24 these services to TxDOT. The agency's chief financial
25 officer has determined that there will be no fiscal impact

1 to the state or local governments as a result of
2 administering this rule.

3 Staff recommends approval, and I'm pleased to
4 answer any questions that the commission may have.

5 MR. HOUGHTON: Questions? Motion?

6 MR. UNDERWOOD: So moved.

7 MR. MEADOWS: Second.

8 MR. HOUGHTON: All in favor?

9 (A chorus of ayes.)

10 MR. HOUGHTON: Passes. Thank you, David.

11 MR. CASTEEL: Thank you.

12 MR. SAENZ: Thank you, David.

13 Agenda item number 6, commission, deals with
14 the sale of access rights. John Barton will present a
15 minute order on that.

16 MR. BARTON: Good morning, commissioners,
17 Director Saenz. For the record, my name is John Barton
18 and I have the pleasure of serving the State of Texas as
19 the assistant executive director for Engineering
20 Operations here at the Texas Department of Transportation.

21 The item before the commission at this time
22 relates to the department's policy for the determining of
23 the fair value of access rights when we are selling those
24 to adjacent property owners who desire to acquire rights
25 to access existing state highways where the state has

1 previously purchased or acquired the right and owns the
2 right to deny that access to the highway.

3 This minute order would establish a policy
4 designed to apply the same standards in that situation for
5 determining the value for the sale of those rights as the
6 department uses and is currently required to follow when
7 we purchase or impair the access of an adjacent property
8 owner to a state highway facility that they currently
9 have.

10 State law, which is found in Transportation
11 Code 202.021, requires that the commission determine the
12 fair value of the state's interest in any of the state's
13 access rights and charge that amount to the property owner
14 whenever we sell that right to adjacent property owners.
15 The method for determining the value of that sale is not
16 established in law but is, rather, established by
17 department policy, and so staff is recommending that the
18 commission adopt this policy that would apply that same
19 standard for determining the value for the sale of access
20 rights as the law currently requires the department to
21 apply when we acquire the right to impair or deny access
22 to an adjacent property owner.

23 So staff would recommend your adoption of this
24 minute order, and I would certainly be happy to answer any
25 of the questions you may have at this time.

1 MR. HOUGHTON: Questions? Motion?

2 MR. UNDERWOOD: So moved.

3 MR. MEADOWS: Second.

4 MR. HOUGHTON: All in favor?

5 (A chorus of ayes.)

6 MR. HOUGHTON: Passes. Thank you.

7 MR. BARTON: Thank you.

8 MR. SAENZ: Commission, agenda item number 7,
9 Uly Flores, from our Maintenance Division, will present a
10 minute order concerning the award of a development and
11 exchange agreement for some project sites in the Fort
12 Worth District.

13 MR. FLORES: Thank you, Amadeo. Good morning.
14 For the record, my name is Uly Flores. I'm director of
15 Facilities Management.

16 In September the department issued a request
17 for proposals which was authorized by a minute order in
18 August to select a private qualified firm to design and
19 construct replacement buildings and other support
20 structures on department-owned property in exchange for
21 surplus property located at I-30 and Collins Road in
22 Arlington, Texas, valued at \$12 million.

23 This minute order authorizes the department to
24 complete negotiations and finalize the terms of a
25 development and exchange agreement with PRA Arlington I-

1 30, a design-build firm that submitted the apparent best
2 value proposal. This minute order also authorizes the
3 executive director to execute the development and exchange
4 agreement and transfer subject deed upon completion and
5 acceptance of the following facilities: one new area
6 maintenance facility and renovation of a lab at the Fort
7 Worth District complex; one maintenance facility at Glen
8 Rose; and one maintenance facility at Mineral Wells.

9 Staff recommends approval.

10 MR. HOUGHTON: Questions? Motion?

11 MR. UNDERWOOD: So moved.

12 MR. MEADOWS: Second.

13 MR. HOUGHTON: All in favor?

14 (A chorus of ayes.)

15 MR. HOUGHTON: Passes. Thank you, Uly.

16 MR. FLORES: Thank you.

17 MR. SAENZ: Thank you, Uly.

18 Commissioners, this is one of the tools that
19 the legislature gave us a few years ago where we could do
20 property exchange for surplus property and are able to go
21 out there and get some capital improvement projects and
22 improvements to our facilities.

23 So good job, Uly.

24 Agenda item number 8 deals with the Port
25 Capital Program, and Jim Randall will present the annual

1 report.

2 MR. RANDALL: Good morning, commissioners. Jim
3 Randall with the Planning and Programming Division.

4 Item 8. This minute order accepts the 2011-
5 2012 Port Capital Program submitted by the Port Authority
6 Advisory Committee. The purpose of the committee is to
7 provide a forum for the exchange of information between
8 the commission, the department and committee members
9 representing the port industry in Texas and others who
10 have an interest in maritime ports.

11 State law requires the committee to prepare and
12 update annually a two-year Port Capital Program. In
13 addition, the program is to be submitted no later than
14 February 1 of each year to the Governor, the Lieutenant
15 Governor, the Speaker of the House of Representatives, and
16 the Texas Transportation Commission. The committee met on
17 November 3, 2010 and formally adopted the program and
18 submitted it to the department.

19 Staff presents the 2011-2012 Port Capital
20 Program for your acceptance, as shown in Exhibit A

21 MR. HOUGHTON: Questions? Motion?

22 MR. HOLMES: So moved.

23 MR. UNDERWOOD: Second.

24 MR. HOUGHTON: All in favor?

25 (A chorus of ayes.)

1 MR. HOUGHTON: Oh, I'm sorry. I apologize. We
2 have somebody who would like to testify, we have John
3 Larue.

4 Pardon me, John, for overlooking you. Port of
5 Corpus Christi executive director. We were on a roll,
6 John.

7 MR. LARUE: We have a canine unit, we don't
8 have any horse patrols, so maybe that's our problem.
9 We'll work on that for the next session.

10 MR. HOUGHTON: It would be good marketing.

11 MR. LARUE: We'll look into that. There's
12 probably funding somewhere.

13 MR. HOUGHTON: We've got Bill Glavin with the
14 Iron Horse.

15 (General laughter.)

16 MR. LARUE: Besides being with the Port of
17 Corpus Christi, I'm also chairman of the Port Authority
18 Advisory Committee.

19 And just a couple of comments. I'd like to
20 thank Jim and Scott Sullivan. They've really led us
21 through this process in the last year. I've been involved
22 in the advisory committee since its founding and I think
23 this was the best year we had. We had a lot of good input
24 from TxDOT. I'd like to thank them.

25 I'd just add that what you see there is not

1 inclusive of all that ports are doing, it's a sample in
2 most cases, but port authorities are doing everything they
3 can to move freight in and out of this state as
4 effectively, efficiently and environmentally safe as we
5 can, and we'll continue to do that.

6 There never has been any funding for this
7 capital program through the state. We'd love to see that,
8 but we understand the difficult conditions that the state
9 is in at this time, so we don't expect that to happen.
10 But we will continue to work with TxDOT.

11 We're also pleased that at our last meeting we
12 discussed the Grant Thornton study and there were some
13 changes that we wanted to see in where the port group was
14 going to be located, and I understand those were taken
15 into consideration, so I'd like to thank staff and TxDOT
16 for that.

17 And if you have any questions, I'd be glad to
18 answer them.

19 MR. HOUGHTON: My question, how is business as
20 far as tonnage and freight?

21 MR. LARUE: I know it's up for us and I think
22 it's up for most ports, 6-8 percent over last year which,
23 of course, it better be because last year was terrible.
24 But it is up and we're continuing to see improvement in
25 all areas. I think I can speak for all ports when I say

1 that.

2 MR. HOLMES: John, what is the percentage of
3 total tonnage into Corpus Christi related to hydrocarbons?

4 MR. LARUE: Our total tonnage right now is
5 about 85 million tons and I would say about 85 percent of
6 that is petrochemical. And we're actually starting to
7 see, with the Eagle Ford Shale, not just cargo coming in,
8 frac sand for the shale development, and we're going to
9 see exports. There's pipelines that have been run to
10 Corpus and they're moving some to Houston from the product
11 that's being pulled out of there. So it's not going to be
12 85 million tons, but it's going to be a nice addition, I
13 think, for both Corpus and Houston in the next five years.

14 MR. HOLMES: Pipelines to bring crude in,
15 refine it and then export it?

16 MR. LARUE: The crude from Eagle Ford Shale to
17 the ports, either for use by their refineries or for
18 exports to other refineries, mainly in Texas. Apparently
19 a lot of the product they're finding is very light, and at
20 least in Corpus our refineries are more set up for the
21 heavy sour crude so it doesn't work as well, so they'll
22 actually export which is the first time in a long time
23 anybody has exported any sort of petrochemical.

24 MR. HOLMES: Sure. Thanks.

25 MR. HOUGHTON: John, thank you very much.

1 MR. LARUE: You're welcome. Thank you.

2 MR. HOUGHTON: Okay. I'm going to redo this.

3 Is there a motion?

4 MR. HOLMES: So moved.

5 MR. UNDERWOOD: Second.

6 MR. HOUGHTON: All in favor?

7 (A chorus of ayes.)

8 MR. HOUGHTON: Passes. Thank you, Jim.

9 MR. RANDALL: Thanks.

10 MR. SAENZ: Thank you, Jim.

11 Agenda item number 9, commissioners, John
12 Barton will present a minute order before you requesting
13 approval call under the Pass-Through Toll Program.

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

16 And as Director Saenz just shared with you,
17 this item would authorize a call for proposals under the
18 Pass-Through Toll Program. It would also establish the
19 conditions for the projects to be developed under the
20 Pass-Through Toll Program and establish the limitations on
21 reimbursements that would be considered by the state for
22 any of the projects that ultimately were selected.

23 As you recall, the Pass-Through Toll Program
24 was implemented in 2004. In December of 2007 our cash
25 forecast indicated that future funding available for the

1 Pass-Through Toll Program would be limited, and the rules
2 of the program do allow the commission, in those
3 situations when limited funds are available, to determine
4 when and if to issue additional calls for projects and to
5 limit the amount of funding available in those calls for
6 projects.

7 As you also know, a rider to our current
8 appropriations bill requires that we enter into pass-
9 through toll agreements in both fiscal years 2010, our
10 past fiscal year, and in our current fiscal year 2011
11 equal to the amount of pass-through toll project
12 agreements that we entered into in the previous biennium,
13 fiscal years 2008-2009.

14 The initial Pass-Through Toll Program call for
15 projects that was established by the commission was issued
16 in February of 2009, a second was issued in February of
17 2010, and now funds have been determined to be available
18 in response to the rider of our current appropriations
19 bill to issue a third call for projects under the Pass-
20 Through Toll Program.

21 In order to extend the use of these limited
22 funds to the maximum number of projects or to the greatest
23 number of projects that would be possible and to allow all
24 parties the opportunity to participate in this program if
25 they choose to do so, staff would recommend that we issue

1 a 60-day call for projects that would commence on the date
2 of publication in the Texas Register and that they be
3 limited to, by rule and law, on-system highway projects,
4 that we also reimburse for construction costs only
5 associated with those projects, and we estimate that the
6 total amount available in order to comply with the rider
7 and fit within our cash forecast would be approximately
8 \$250 million of reimbursements in total.

9 So staff would recommend your approval of this
10 minute order and I will be more than happy to answer any
11 questions you may have.

12 MR. HOUGHTON: Questions? Motion?

13 MR. UNDERWOOD: So moved.

14 MR. HOLMES: Second.

15 MR. HOUGHTON: All in favor?

16 (A chorus of ayes.)

17 MR. HOUGHTON: Passes. Thanks, John.

18 MR. BARTON: Thank you. Merry Christmas to all
19 of you.

20 MR. HOUGHTON: Merry Christmas to you, John.

21 MR. SAENZ: Thank you, John.

22 Agenda item number 10, commissioners, Mark
23 Tomlinson will present a minute order requesting your
24 approval to consider additional appointments to the I-69
25 Corridor Advisory Committee.

1 MR. TOMLINSON: Good morning again. My name is
2 Mark Tomlinson, director of the Texas Turnpike Authority
3 Division.

4 This minute order appoints two new members to
5 the I-69 Corridor Advisory Committee. This committee
6 provides advice and recommendations to the department on
7 planning and development of the I-69 Corridor. Previously
8 one member asked to be removed from the committee and one
9 member is now deceased. The individuals that are proposed
10 for your approval will replace those two members that I
11 mentioned. The two members that are proposed to you today
12 are Ramiro Garza, city manager of Edinburg, Texas, and Joe
13 Phillips from Mission, Texas.

14 As I mentioned, the committee is really
15 important to TxDOT, they provide advice, recommendations
16 and enhance our understanding of public business and
17 private concerns about the I-69 Corridor.

18 So I'd be happy to answer any questions I can;
19 otherwise, staff would recommend your approval of the
20 minute order.

21 MR. HOUGHTON: You said Mission?

22 MR. TOMLINSON: From Mission, yes.

23 MR. HOUGHTON: It says in the minute order
24 McAllen.

25 MR. TOMLINSON: He has a mailing address in

1 McAllen and a residence in Mission is what I had
2 understood.

3 MR. HOUGHTON: Just wanted to make sure.

4 Any other questions?

5 MR. HOLMES: So moved.

6 MR. HOUGHTON: Second?

7 MR. UNDERWOOD: Second.

8 MR. HOUGHTON: All in favor?

9 (A chorus of ayes.)

10 MR. HOUGHTON: Passes. Thank you, Mark.

11 MR. SAENZ: Thank you, Mark. Mark will
12 continue on agenda item number 11 and present two minute
13 orders. The first minute order deals with the Grand
14 Parkway in Chambers County.

15 MR. TOMLINSON: This minute order would approve
16 the department's determination to exercise its option to
17 operate a portion of State Highway 99, the Grand Parkway,
18 in Chambers County. It is Segment I-2 and it's a 6.6-mile
19 section, four-lane, divided roadway from Interstate 10 to
20 Fisher Road.

21 The terms and conditions for this toll road
22 were approved previously in August of 2008. The
23 department and Chambers County entered into a market
24 valuation waiver agreement in March of 2009. In September
25 of 2009 Chambers County elected to exercise its option to

1 develop this roadway, operate this roadway, but in July of
2 2010 they determined they were not able to do that and
3 withdrew their previous election to exercise that option.

4 The commission has approved toll rates for this
5 roadway back in 2009 at 15 cents per mile, and the
6 department and the county, by letter agreement in November
7 2010, confirmed that the agreement on the terms and
8 conditions still applied, the agreement to waive the
9 market valuation and the county's election not to exercise
10 its option to develop and operate this section of roadway.

11 So staff has considered the project and would
12 like to recommend your acceptance of the minute order.

13 MR. HOUGHTON: Questions? Motion?

14 MR. HOLMES: So moved.

15 MR. MEADOWS: Second.

16 MR. HOUGHTON: All in favor?

17 (A chorus of ayes.)

18 MR. HOUGHTON: Passes.

19 MR. SAENZ: Mark will now present agenda item
20 number 11.b dealing with the minute order before you to
21 accept the quarterly report of the actual traffic and
22 revenue for the Central Texas Turnpike System.

23 MR. TOMLINSON: Yes, sir. This report which we
24 bring to you quarterly compares current traffic and
25 revenue data with the data from prior fiscal year 2009 as

1 well as traffic and revenue projections from the 2002 TNR
2 study for the system.

3 During the first quarter of 2010 the CTTS
4 generated 20.4 million transactions and \$17 million in
5 revenue. The revenue collected exceeded the same months
6 of the prior year by 6 percent. An average of 73 percent
7 of our transactions are TxTag accounts, 19 percent are
8 pay-by-mail, and 8 percent are paid with cash.

9 I would note that in this quarter our revenues
10 are slightly below projections for the year, it's about a
11 5.65 percent margin that we're below our projection. It
12 should be noted that that projection is one number for the
13 entire year. Revenues tend to trend up throughout the
14 year, so staff is confident that by the end of the year we
15 should be above those projections for the year and for
16 probably most of the second half of the year. But at this
17 point we are slightly below projections.

18 I'd be happy to answer any questions I can;
19 otherwise, staff would recommend your approval of the
20 minute order.

21 MR. HOLMES: Mark, the dollar revenues that are
22 stated, are those actual receipt of dollars?

23 MR. TOMLINSON: They are in this quarter, yes,
24 sir.

25 MR. HOLMES: I mean, it's not an accounting,

1 we're not accounting for a pay-by-mail that we haven't
2 received?

3 MR. TOMLINSON: That's correct, we are not
4 accounting. It's only that pay-by-mail and other revenue
5 that is actually received.

6 MR. HOUGHTON: Any other questions of Mark?

7 MR. HOLMES: So moved.

8 MR. UNDERWOOD: Second.

9 MR. HOUGHTON: All in favor?

10 (A chorus of ayes.)

11 MR. HOUGHTON: Passes. Thank you, Mark.

12 MR. TOMLINSON: Thank you.

13 MR. SAENZ: Thank you, Mark

14 Agenda item 11.c deals with a minute order
15 accepting the audited financial statements of the Central
16 Texas Turnpike Project, and Brian Ragland will present
17 that minute order.

18 MR. RAGLAND: Thank you. Good morning. For
19 the record, I'm Brian Ragland, director of the Finance
20 Division.

21 This first minute order is your acceptance of
22 the financial statements for the Central Texas Turnpike
23 System for the year ended August 31. I'm happy to report
24 that the State Auditor has once again issued an
25 unqualified opinion that the financials are presented

1 fairly in all material respects, and their opinion was
2 dated two days ago on the 14th.

3 Your acceptance of the report is required by
4 the bond indenture by the end of December, and unless
5 there are any questions, staff recommends your approval of
6 this minute order.

7 MR. HOUGHTON: Questions? Motion?

8 MR. HOLMES: So moved.

9 MR. UNDERWOOD: Second.

10 MR. HOUGHTON: All in favor?

11 (A chorus of ayes.)

12 MR. HOUGHTON: Passes.

13 MR. SAENZ: Brian now will present agenda item
14 number 12.a that deals with some adjustments to the
15 current Unified Transportation Program.

16 MR. RAGLAND: Thank you.

17 This minute order adjusts the obligation limit
18 allocations in the UTP for 2011, '12, '13 and '14. This
19 is necessary to optimize our project lettings and as a
20 result of funding transfer requests submitted by districts
21 and divisions and approved by the CFO. It's also
22 necessary in order to increase overall caps.

23 Of significant note, we are adding \$425 million
24 to 2011 letting caps, and \$145 million to 2012 letting
25 caps. And obviously those amounts will be subject to

1 further allocation upon your discretion and will be
2 subject to the public input process. We've put the
3 amounts in a row at the bottom labeled Commission
4 Discretionary in Category 12.

5 The amounts are a result of us carefully
6 analyzing the forecasted data, especially related to the
7 way projects are paying out. We've learned that projects
8 are paying out much slower than they were forecast to be
9 in prior years, and so as a result, changing the workdays
10 charged to the projects within the forecast results in us
11 being able to take advantage on the front-end of
12 additional cash balances and putting more projects to
13 letting. We'll watch the workdays very closely going
14 forward. If we were to see that an adjustment is needed,
15 we'll gradually adjust one way or the other so that we're
16 not caught in a negative situation.

17 And unless you have any questions on that,
18 staff recommends your approval of this minute order.

19 MR. UNDERWOOD: At this point in time we're
20 slow paying out because we're being billed slowly, so to
21 speak. Isn't that correct?

22 MR. RAGLAND: Yes, sir.

23 MR. UNDERWOOD: What we want to be careful of
24 is that if all of a sudden they start finishing up all
25 these projects, we instantly get a bunch of bills.

1 MR. RAGLAND: Right. And we'll monitor that.

2 MR. UNDERWOOD: And you're saying that you're
3 going to make sure and track that for us.

4 MR. RAGLAND: Yes, sir. We will monitor that
5 on a monthly basis. This trend started about three years
6 ago where the projects started slowing down. Our previous
7 forecasts had an older workday assumption in it. We need
8 to look at it more than every three years, more than every
9 year probably.

10 MR. UNDERWOOD: That was going to be my next
11 statement. Thank you.

12 MR. RAGLAND: Yes, sir.

13 MR. HOLMES: Brian, do I recall that we have a
14 \$500 million kind of overnight borrowing line of credit?

15 MR. RAGLAND: Yes, sir.

16 MR. HOLMES: And how much is borrowed on that?

17 MR. RAGLAND: Zero.

18 MR. HOLMES: Zero. Which gives us some
19 flexibility in the event that there's a sudden
20 acceleration of the pace of projects?

21 MR. RAGLAND: Most definitely. Yes, sir.

22 MR. HOUGHTON: Any more questions of Brian?

23 MR. HOLMES: One other thing, Brian. The gas
24 tax receipts are running ahead of budget as well, but this
25 has not been taken into account in that.

1 MR. RAGLAND: Not yet. We're not to a point
2 yet where we're comfortable with trending up our
3 assumptions on gas tax. We've got a pretty good trend
4 going and I'm going to cover that in one of my other
5 items.

6 MR. HOLMES: I won't jump ahead then.

7 MR. RAGLAND: We're not to that comfort level
8 yet.

9 MR. HOUGHTON: Motion?

10 MR. HOLMES: So moved.

11 MR. UNDERWOOD: Second.

12 MR. HOUGHTON: All in favor?

13 (A chorus of ayes.)

14 MR. HOUGHTON: Passes. Thank you, Brian.

15 Next.

16 MR. SAENZ: Brian, thank you on that, and I
17 thank you and your staff for really looking into this to
18 see how we can best maximize and optimize that. Good job,
19 and pass that on.

20 MR. RAGLAND: Yes, sir.

21 MR. SAENZ: Agenda item 12.b, commissioners,
22 we're going to defer. We're still working on the next UTP
23 update. Staff will bring that at a later meeting. So
24 we'll move on to agenda item number 13, basically Brian
25 also presenting a minute order for you that will accept

1 the audited financial statements of the Texas Mobility
2 Fund.

3 MR. RAGLAND: Thank you, Amadeo.

4 This minute order is your acceptance of the
5 financial statements for the Texas Mobility Fund for the
6 year ended August 31.

7 As with the CTTS, I'm happy to report that the
8 State Auditor has also issued an unqualified opinion that
9 the financials are presented fairly in all material
10 respects. This was also dated two days ago on the 14th.
11 Your acceptance of the report is in accordance with the
12 bond resolutions which require that the financials be
13 accepted before the end of December of each year.

14 And unless there are any questions on the
15 Mobility Fund, staff recommends your approval of the
16 minute order.

17 MR. HOLMES: So moved.

18 MR. UNDERWOOD: Second.

19 MR. HOUGHTON: All in favor?

20 (A chorus of ayes.)

21 MR. HOUGHTON: Passes.

22 MR. SAENZ: Brian now will present the
23 Obligation Limit Report which is the item he said he would
24 be discussing a little bit later. So Brian, this does not
25 have a minute order, this is just a report.

1 MR. RAGLAND: Correct. This is the monthly
2 report on the status of the 2011 letting figures for the
3 traditional program and also an update on motor fuel
4 taxes.

5 Year to date we have utilized \$452 million of
6 the original \$1.68 billion of letting cap. Going forward,
7 an additional \$1.15 billion is scheduled or planned to let
8 in the next eight months. We're working very closely with
9 the districts and the applicable divisions to ensure that
10 the full amount for the year is obligated and let.

11 At the bottom of the report you'll see the
12 additional \$425 million that you just approved. Obviously
13 that's not scheduled and has not been allocated out to
14 appropriate districts or categories.

15 If there aren't any questions on the status of
16 the letting caps, I can move on to the status of motor
17 fuel taxes.

18 We've got more good news here. We're up year
19 to date about 4.38 percent as compared to the same four
20 months from last year. This is the eighth month in a row
21 that we've seen a healthy increase year over year, month
22 over month. Annualized, that equates to about \$72 million
23 increase over last year, and that's about \$50 million more
24 than we had forecast.

25 Diesel is running at about 9-1/2 percent over

1 last year and gasoline is up about 3, 3.1 over last year,
2 and the split there of the \$72 million increase that we
3 would realize if the trend continues over the full fiscal
4 year is that diesel would be up about \$20 million and
5 gasoline would be up about \$52 million.

6 MR. HOLMES: Up over last year.

7 MR. RAGLAND: Up over the last year.

8 MR. HOLMES: But the total would be up about
9 \$50 million over budget.

10 MR. RAGLAND: Over forecast. Yes, sir.

11 MR. HOLMES: Forecast.

12 MR. RAGLAND: And that's all I have on that
13 unless you have further questions. There's no action
14 required on this item.

15 MR. HOUGHTON: Brian, thank you very much.

16 MR. RAGLAND: Thank you.

17 MR. SAENZ: Thank you, Brian.

18 On the previous items where staff has been
19 working diligently on really looking at our forecasting,
20 we've also had a lot of help from the rest of the
21 divisions and the districts and the regions. So everyone,
22 good job.

23 MR. RAGLAND: I also want to mention on our
24 financial reports we put a lot of effort in this year to
25 minimizing any State Auditor issues. We had a couple last

1 year. There's a couple of staff here and so they're to be
2 congratulated for working hard to help get that
3 unqualified opinion with no issues. So thank you.

4 MR. SAENZ: Good job.

5 Agenda item number 15, commissioners, deals
6 with our contracts. Russel Lenz, director of the
7 Construction Division, will present two minute orders
8 before you dealing with our construction and maintenance
9 lettings of this month.

10 MR. LENZ: Good morning. For the record, I'm
11 Russel Lenz, director of the Construction Division.

12 Item 15.a(1) is for the consideration of the
13 award or rejection of Highway Maintenance and Department
14 Building Construction contracts let on December 7 and 8,
15 earlier this month. Today we present 32 projects. The
16 average number of bidders per project was 4.91; the low
17 bid value of these projects was \$35,327,396.07; we had an
18 overall underrun of 9.4 percent.

19 And staff, after review, recommends award of
20 all maintenance contracts.

21 MR. HOUGHTON: Any questions? Motion?

22 MR. HOLMES: So moved.

23 MR. UNDERWOOD: Second.

24 MR. HOUGHTON: All in favor?

25 (A chorus of ayes.)

1 MR. HOUGHTON: Passes.

2 Onward, Russel.

3 MR. LENZ: Item 15.a(2) is for consideration of
4 the award or rejection of Highway and Transportation
5 Enhancement Building Construction contracts, also let on
6 December 7 and 8. We present 75 projects this morning.
7 The number of bidders was 5.88 per project with a low bid
8 value of \$181,091,238.89; we had an overall underrun of
9 7.2 percent.

10 And staff recommends the award of all
11 construction projects.

12 MR. HOUGHTON: Questions?

13 MR. HOLMES: So moved.

14 MR. UNDERWOOD: Second.

15 MR. HOUGHTON: All in favor?

16 (A chorus of ayes.)

17 MR. HOUGHTON: Passes. Russel, thank you very
18 much.

19 MR. SAENZ: Thank you, Russel. I also want to
20 thank your folks. The Construction people in that process
21 of our contract letting look forward to the November and
22 December because it's their opportunity to shine. They
23 usually have about a one-week turnaround to process, in
24 this case, 107 contracts, and they did a great job as
25 usual. So thank you. They'll be able to slow down next

1 month a little bit, I think.

2 MR. LENZ: They're looking forward to it.

3 Thank you very much.

4 MR. HOLMES: We didn't reject any.

5 MR. LENZ: None this month either. That's a
6 couple of months running, that's a good thing.

7 MR. MEADOWS: Good job.

8 MR. LENZ: Thank you very much.

9 MR. SAENZ: Thank you.

10 Agenda item 16, commissioners, deals with the
11 routine minute orders dealing with donations to the
12 department, eminent domain proceedings, load zones and
13 postings, speed zones, right of way disposition and
14 donations. We are going to do all the minute orders with
15 the exception of one that we want to defer which is agenda
16 item number 16.d(3) in Montgomery County dealing with a
17 sale of access rights. That will be brought back later.

18 All other minute orders we'd like to get them
19 approved in one motion. We'd be happy to answer any
20 questions that you may have on any individual item.

21 MR. HOLMES: So moved.

22 MR. MEADOWS: Second.

23 MR. HOUGHTON: All in favor?

24 (A chorus of ayes.)

25 MR. HOUGHTON: Well done.

1 Any other items?

2 MR. SAENZ: No executive session. Those are
3 all of the items.

4 MR. HOUGHTON: No blue cards?

5 MR. SAENZ: No blue cards.

6 MR. HOUGHTON: No executive session, Counselor?
7 Wonderful.

8 Well, this completes all the action items on
9 the agenda and no one has signed up. If there is any
10 other business. If there's none, I will entertain a
11 motion to adjourn.

12 MR. UNDERWOOD: So moved.

13 MR. HOLMES: Second.

14 MR. HOUGHTON: All in favor?

15 (A chorus of ayes.)

16 MR. HOUGHTON: Thank you.

17 (Whereupon, at 10:10 a.m., the meeting was
18 concluded.)

C E R T I F I C A T E

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MEETING OF: Texas Transportation Commission

LOCATION: Austin, Texas

DATE: December 16, 2010

I do hereby certify that the foregoing pages,
numbers 1 through 6262, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Nancy H. King before the
Texas Department of Transportation.

(Transcriber) 12/23/2010
(Date)

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