

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on November 17, 2011, in Austin, Texas. The meeting was called to order by Chairman Houghton. The meeting opened at 9:01 a.m. with the following commissioners present:

Texas Transportation Commission:

Ted Houghton	Chairman
Ned Holmes	Commissioner
Fred Underwood	Commissioner
Bill Meadows	Commissioner
Jeff Austin III	Commissioner

Administrative Staff:

Phil Wilson, Executive Director
Bob Jackson, Office of General Counsel
Roger Polson, Executive Assistant to the Deputy Executive Director
JoLynne Williams, Chief Minute Order Clerk

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 3:11 p.m. on November 9, 2011, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

ITEM 1. Approval of Minutes of the October 27 meeting of the Texas Transportation Commission

Commissioner Underwood made a motion, which was seconded, and the commission approved the minutes of the October 27, 2011, regular meeting, by a 5-0 vote.

Commissioner Meadows recognized the new NTTA Chairman, Kenneth Barr, and the commission received his comments.

ITEM 2 Resolution

Resolution to recognize Assistant Deputy Director of Field and District Operations David B. Casteel, P.E., upon his retirement from the department after 28 years of service.

This item was presented by Executive Director Phil Wilson. The commission received comments from Mr. Casteel and along with Tyler District Engineer Randy Hopmann, Fort Worth District Engineer Maribel Chavez, and Pharr District Engineer Mario Jorge.

ITEM 13. Toll Road Project

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

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Chief Financial Officer James Bass. Comments were received from Fort Bend County Commissioner Andy Meyers.

112898
CFO

The Texas Department of Transportation (department) and Fort Bend County (county) have been proceeding with the extension of the Westpark Tollway facility in the county, including frontage roads, from the Grand Parkway (SH 99) to FM 1463 (Westpark Toll Road Phase II or project), for a total length of approximately 4.2 miles.

The project is consistent with the Statewide Transportation Plan (Plan) and the Metropolitan Transportation Plan of the Houston-Galveston Area Metropolitan Planning Organization (HGAC). The tolled mainlines will consist of four lanes extending for a total length of 3.0 miles and will include grade separations over Katy-Gaston Road and FM 723/Spring Green Drive. The mainlanes will transition to the frontage roads which will continue west to FM 1463. A direct connector from the eastbound Westpark Tollway mainlanes to the northbound mainlanes of SH 99 will also be constructed.

Transportation Code, §284.008 authorizes the Texas Transportation Commission (commission) to provide for and contribute toward the acquisition, construction, improvement, operation, maintenance, or pooling of a project under that chapter and under terms agreed to by the commission and the county. Transportation Code, §222.103 authorizes the department to participate by spending money from any available source in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission.

Pursuant to Transportation Code, §222.103, the commission adopted Title 43, Texas Administrative Code, §§27.50-27.58 (toll equity rules) to prescribe conditions for the commission's financing of a toll facility of a public or private entity.

In accordance with the toll equity rules, the commission, in Minute Order 112793, dated August 25, 2011, granted final approval of the request for financial assistance in the amount of \$4 million a year for 10 years to pay for the development and construction of the Westpark Toll Road Phase II. The commission further ordered that final approval of the financial assistance is conditioned on the project receiving the necessary environmental approvals and that funding from the financial assistance will not be made available to the county until one year following completion of the project and opening of the roadway to traffic.

The county has indicated that its earlier financial projections anticipated that the department would begin disbursing funds to the county on a date earlier than that

authorized in Minute Order 112793. The county has run new financial projections, and has requested that the department agree to begin disbursing funds to the county after substantial completion of the project and opening of the roadway to traffic.

The completion of the project will benefit the state and the traveling public and improve the efficiency of the state's transportation system by improving safety, mobility, traffic operations, and travel time, and by reducing traffic delays along the congested and developing FM 1093 corridor. Without the financial assistance, the timeline to complete the project and realize the benefits described above could be delayed indefinitely.

The financial assistance will improve the efficiency of the state transportation system by adding capacity to the FM 1093 corridor. With the requested financial assistance, the project has the potential to expand the availability of funding for transportation projects or to reduce direct state costs. Based on the above information, the commission has determined that providing financial assistance will provide for the protection of public funds, and that, given the level of project development to date, the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate adverse environmental impacts.

IT IS THEREFORE ORDERED by the commission that the provisions of Minute Order 112793 are amended to authorize the department to make funding from the financial assistance approved in that order available to Fort Bend County following substantial completion of the project and opening of the roadway to traffic.

IT IS FURTHER ORDERED that all other provisions of Minute Order 112793 remain in effect.

3. Discussion Item

Discussion of FY 2011 agency-level performance trends

This item was presented by Strategic Policy and Performance Management Office Interim Director Rick Collins. Comments were also received from Chief Financial Officer James Bass and Construction Division Interim Director Ken Barnett.

4. Grand Parkway Reports

a. Annual report on the status of projects and activities undertaken during the preceding 12 months

This item was presented by Grand Parkway Association Chairman David Gornet. Comments were also received from Chief Financial Officer James Bass and Construction Division Interim Director Ken Barnett.

b. Report on the status of the issuance of a request for qualifications for the comprehensive development agreement on segments of State Highway 99 (Grand Parkway) in the greater Houston area.

This item was presented by Texas Turnpike Authority Division Interim Director Ed Pensock.

5. Aviation

Various Counties – Award federal and state grant funding for airport improvement projects at various locations (MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Aviation Division Director Dave Fulton.

112899
AVN

The Texas Department of Transportation (department) is authorized under the federal Aviation Development Act and the state Aviation Facilities Development and Financial Assistance Act to award federal and state funding for capital improvement projects and to assist in the development and establishment of airports in the state of Texas.

The airports listed in Exhibit A are currently in need of improvements to preserve the airports or to meet standards. The department recommends the award of federal and state grant funds for the improvements.

On Thursday, October 20, 2011, a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director’s designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$5,201,795.

Note: Exhibit A on file with minute order clerk.

6. 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)

Amendments to §1.82 and §§1.84-1.87 (Advisory Committees)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by General Counsel Bob Jackson.

112900
OGC

Texas Transportation Commission (commission) finds it necessary to adopt amendments to §1.82, Statutory Advisory Committee Operations and Procedures, §1.84, Statutory Advisory Committees, §1.85, Department Advisory Committees, §1.86, Corridor Advisory Committees, and §1.87, Corridor Segment Advisory Committees, all relating to advisory committees to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions,

approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §1.82 and §§1.84-1.87 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

(2) Chapter 2 - Environmental Policy and New Chapter 12 - Public Participation in Landscaping and Litter Removal (MO)

Repeal of §§2.61 – 2.71 (Public Participation Programs) and New Chapter 12, Public Participation in Landscaping and Litter Removal, Subchapter A, Public Participation Programs, §§12.1 – 12.11

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by General Counsel Bob Jackson.

112901
OGC

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §§2.61 - 2.71 and adopt new Chapter 12, Public Participation in Landscaping and Litter Removal, new Subchapter A, Public Participation Programs, new §§12.1-12.11 to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A - D, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the repeal of §§2.61 - 2.71 and new §§12.1 - 12.11 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

(3) Chapter 11 - Design (MO)

Repeal of §§11.200-11.205 (Statewide Transportation Enhancement Program) and New §§11.200-11.221 (Transportation Enhancement Program)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Design Division Director Mark Marek.

112902
DES

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §§11.200-11.205 and new §§11.200-11.221 relating to the statewide transportation enhancement program to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted repeals and new sections, attached to this minute order as Exhibits A -C, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the repeal of §§11.200-11.205 and new §§11.200-11.221 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

(4) Chapter 25 - Traffic Operations (MO)
Amendments to §25.1, Uniform Traffic Control Devices (General)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Traffic Operations Division Director Carol Rawson.

112903
TRF

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §25.1, relating to Uniform Traffic Control Devices, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §25.1 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

(5) Chapter 25 - Traffic Operations (MO)
Amendments to §§25.950-25.957 (Memorial Sign Program for Victims of Impaired Diving)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Traffic Operations Division Director Carol Rawson.

112904
TRF

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §§25.950-25.957 relating to a Memorial Sign Program for Victims of Impaired Driving and Motorcycle Crashes to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §§25.950-25.957 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

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

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

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by General Counsel Bob Jackson.

112905
OGC

The Texas Transportation Commission (commission) finds it necessary to adopt new §26.17, Board Membership after Commission Approval, concerning the membership of the boards of Regional Mobility Authorities, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted new section, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that new §26.17 is adopted and is authorized for filing with the Office of the Secretary of State.

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

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

b. Proposed Adoption**(1) Chapter 2 - Environmental Policy (MO)**

Repeal of §§2.1-2.20 (Environmental Review and Public Involvement for Transportation Projects), §§2.21-2.24 (Memoranda of Understanding with Natural Resource Agencies) and §2.44 and §2.48 (Additional Requirements For Certain Types of Transportation Projects); New §§2.1-2.14 (General Provisions), New §§2.21-2.32 (Environmental Review Process for Highway Projects), New §§2.51-2.56 (Requirements for Classes of Projects), New §§2.81-2.90 (Public Participation), New §§2.101-2.104 (Requirements for Specific Types of Projects and Programs), New §§2.121-2.124 (Memoranda of Understanding with Natural Resource Agencies)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Environmental Division Interim Director Mark Marek. The commission also received comments from CTRMA Executive Director Mike Heiligenstein.

112906
ENV

The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §§2.1-2.20, §2.44 and §2.48, and the simultaneous replacement of the repealed sections with new Subchapter A, General Provisions, §§2.1-2.14; new Subchapter C, Environmental Review Process for Highway Projects, §§2.41-2.52; new Subchapter D, Requirements for Classes of Projects, §§2.81-2.86; new Subchapter E, Public Participation, §§2.101-2.110; and new Subchapter F, Requirements for Specific Types of Projects and Programs, §§2.131-2.134 all relating to the environmental review of transportation projects to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed repeals and new sections, attached to this minute order as Exhibits A - H, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the repeal of §§2.1-2.20, §2.44 and §2.48 and new §§2.1-2.14, §§2.41-2.52, §§2.81-2.86, §§2.101-2.110, and §§2.131-2.134 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

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

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

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Texas Turnpike Authority Division Interim Director Ed Pensock.

112907
TTA

The Texas Transportation Commission (commission) finds it necessary to propose new §9.150, Purpose, §9.151, Definitions, §9.152, General Rules for Design-Build Contracts, §9.153, Solicitation of Proposals, §9.154, Protest Procedures, and §9.155, Conflict of Interest and Ethics Policies, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed new sections, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that new §§9.150 - 9.155 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

c. Rule Review

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

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by General Counsel Bob Jackson.

112908
OGC

Government Code, §2001.039 requires state agencies to readopt their rules every four years and, prior to readopting, to consider whether the reason for adopting each rule continues to exist.

During October 2011, the Texas Department of Transportation reviewed Title 43 Texas Administrative Code, Part 1, Chapter 3, Public Information; Chapter 4, Employment Practices; Chapter 6, State Infrastructure Bank; Chapter 9, Contract Management; Chapter 13, Materials Quality; Chapter 22, Use of State Property; Chapter 23, Travel Information; Chapter 25, Traffic Operations; and Chapter 29, Maintenance. The Notice of Intent to review was published in the *Texas Register* on September 30, 2011 (36 TexReg 6516).

No comments were received regarding this rule review.

The Texas Transportation Commission (commission) finds that the reasons for adopting these rules continue to exist.

Independent of the rule review, the commission contemporaneously adopted amendments to §25.1, Uniform Traffic Control Devices, and §§25.950-25.957, Memorial Sign Program for Victims of Impaired Driving and Motorcycle Crashes.

IT IS THEREFORE ORDERED by the commission that the executive director provide for filing with the Office of the Secretary of State, Texas Register Division, a notice readopting these rules.

7. Internal Compliance Program (ICP) Report

This item was presented by Interim Compliance Office Director Angie Parker.

8. Managed Lanes Project

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

Commissioner Underwood made a motion to approve the following minute order with a change to approve the appointment of a committee chair only. The motion was seconded and the commission approved the minute order by a vote of 5 – 0. This item was presented by Texas Turnpike Authority Division Interim Director Ed Pensock.

112909
TTA

The Texas Department of Transportation (department) and local stakeholders are currently analyzing options for the financing and delivery of a project to redevelop a 28-mile section of I-35E from I-635 to US 380 in Dallas and Denton Counties (I-35E Managed Lanes Project) that includes the reconstruction and widening of existing I-35E to incorporate additional general purpose mainlanes, managed lanes and frontage roads within the project limits.

For certain toll projects of the department in which a private entity has a financial interest in the project's performance, Senate Bill 1420, 82nd Legislature, Regular Session, 2011, added Transportation Code, §228.013 requiring that the distribution of the project's financial risk; the method of financing for the project; and the tolling structure and methodology must be determined by an SB 1420 Committee comprised of representatives from the department; any local toll project entity for the area in which the project is located; the applicable metropolitan planning organization; and each municipality or county that has provided revenue or right of way.

The Texas Transportation Commission (commission) has adopted 43 TAC §§27.90-27.92 to implement Section 228.013 and define the process for the issuance of these determinations by an SB 1420 Committee (committee rules).

Under Section 27.92(a) of the committee rules, the requirement to form an SB 1420 Committee for the purpose of issuing a report containing the committee's determinations applies to department toll projects that will be developed under a concession agreement or availability payment contract. As the department and local stakeholders are analyzing options for the financing and delivery of the I-35E Managed

Lanes Project that include the use of a concession agreement, an I-35E Managed Lanes Project SB 1420 Committee (committee) was formed.

On November 10, 2011, the committee met and elected Michael Morris as chair of the committee. Under Section 27.92(c) of the committee rules, an SB 1420 Committee's election of a chair and vice-chair is subject to the concurrence of the commission.

IT IS THEREFORE ORDERED that the Texas Transportation Commission hereby concurs with the election of Michael Morris as chair of the I-35E Managed Lanes Project SB 1420 Committee.

9. Purchase of Building

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

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Maintenance Division's Facilities Management Director Uly Flores.

112910
MNT

Transportation Code, Chapter 203, authorizes the Texas Department of Transportation (department) to acquire rights and interest in real property and interest for any improvement the department considers necessary, useful or beneficial for highway operations.

The Texas Facilities Commission (TFC), successor agency to the General Services Commission, is authorized under Government Code, Chapter 2167, to lease real property for a state agency by a contract which contains an option purchase such property. On December 1, 1993, the State of Texas, acting by and through the General Services Commission, entered into a lease-with-option-to-purchase contract on behalf of the department, to provide facilities needed to house headquarters operations.

In accordance with the requirements of the lease-with-option-to-purchase contract, TFC, on behalf of the department, has elected to exercise its option to purchase the building at 118 East Riverside Drive, Austin, Travis County. The exercise option to purchase includes the assumption of all rights and obligations of the ground leases that continue through December 31, 2026.

The two ground leaseholds relating to the conveyed building at 118 East Riverside, together with all improvements of any kind or nature located in, on or under the land, are collectively referred to and more particularly described by metes and bounds in Exhibits A and B.

The department will pay in full the obligation for the building under the contract term on or before December 1, 2011. TFC has agreed to deed all rights, title and

interest in the building to TxDOT, and to execute any and all documents necessary to assign the ground leases associated with the interest in real property to the department.

ITS IS THEREFORE ORDERED by the commission that the executive director or the director's designee is authorized to accept a deed to the building from TFC, and to execute any and all documents necessary to assign all rights and obligations of the ground leases associated with the interest in real property to the department.

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

10. Transportation Planning

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

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Finance Division Director Brian Ragland.

112911
FIN

Minute Order 84428, dated April 29, 1986, tendered a proposal to Travis County (county) to provide for construction of 1) the intersection of FM 1826/ Slaughter Lane/Davis Lane, and 2) improvements on FM 1826 from Davis Lane north to US 290. MO 84428 stated that the county would provide all necessary right of way, utilities adjustments, and the cost of all engineering and improvements.

In 2001, county voters approved funding for the project right of way. In 2008, the Texas Department of Transportation determined the proposed improvements to FM 1826 were not included in the Unified Transportation Program or the Statewide Transportation Improvement Program. The county has requested the applicable portion of the original minute order be rescinded and the bond proceeds released for use on county facilities.

The Austin District recommends rescinding the portion of MO 84428 relating to construction of improvements to FM 1826. This will allow the county to use bond funds on county facilities.

IT IS THEREFORE ORDERED by the commission that the portion of Minute Order 84428 relating to the construction of improvements on FM 1826 from Davis Lane north to US 290, along with the corresponding obligation of Travis County to furnish all necessary right of way and provide for the adjustment of utilities and the cost of all engineering and improvements, is hereby rescinded.

11. Contracts

Award or reject contracts for maintenance, highway and building construction

a. Highway Maintenance and Department Building Construction

(see attached itemized list) (MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Construction Division Interim Director Ken Barnett.

112912
MNT

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on November 1 and 2, 2011.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

c. Award Contract to Second-Lowest Bidder

Upshur County – Project RMC 6232-61-001 - Award of tree and stump removal contract to second lowest bidder (MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Construction Division Interim Director Ken Barnett.

112913
MNT

Project RMC 6232-61-001 (Tree and Stump Removal) was let on October 12, 2011, in the Atlanta District. K & R Contractors was the low bidder but has failed to execute

the contract. The second-lowest bidder, HX Farms, Inc., has indicated in writing that they are willing to perform the work at the unit bid prices set forth in the lowest bid.

Section 221.0041 of the Transportation Code allows the Texas Transportation Commission (commission), under certain conditions, to award a maintenance contract of less than \$300,000 to the second-lowest bidder when the lowest bidder does not execute a contract.

Title 43, Texas Administrative Code §9.17(d) allows the commission to accept the withdrawal of the lowest bid and award the contract to the second-lowest bidder on the recommendation of the executive director when the executive director determines that the second-lowest bidder is willing to perform the work at the unit bid prices of the lowest bidder, the unit bid prices of the lowest bidder are reasonable, and delaying award of the contract may result in significantly higher unit bid prices.

The memorandum attached as Exhibit A to this minute order and incorporated in this order by reference contains the executive director's recommendation and written determination, required by 43 TAC §9.17(d), that the contract is eligible for award to the second-lowest bidder in accordance with the law and the rules.

The commission concurs with the executive director's determinations as set forth in attached Exhibit A.

IT IS THEREFORE ORDERED by the commission that K & R Contractors be allowed to withdraw its bid for the contract for Project RMC 6232-61-001.

IT IS FURTHER ORDERED that the contract for Project RMC 6232-61-001 be awarded to HX Farms, Inc., in the low bid amount of \$292,800.

Note: Exhibit A on file with minute order clerk.

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

Commissioner Holmes made a motion to approve the minute order with the exception of bridge project 1102477 so that it can be redesigned and rebid at the commission's request to ensure that the department moves forward with the most efficient and appropriate design. The motion was seconded and the commission approved the following minute order with the exception as noted by a vote of 5 – 0. This item was presented by Construction Division Interim Director Ken Barnett.

112914
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for improvement of the State Highway System, which were publicly opened and read on November 1 and 2, 2011.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

12. Eminent Domain Proceedings

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

Commissioner Austin made a motion that the Texas Transportation Commission authorize the Texas Department of Transportation to use the power of eminent domain to acquire the properties described in the minute order set forth in the agenda for the current month for construction, reconstruction, maintenance, widening, straightening, or extending the highway facilities listed in the minute order as a part of the state highway system, and that the first record vote applies to all units of property to be condemned. The motion was seconded and the following minute order was approved by Chairman Houghton, Commissioner Holmes, Commissioner Underwood, Commissioner Meadows and Commissioner Austin (a vote of 5 – 0). This item was presented by Right of Way Division Director John Campbell.

112915
ROW

To facilitate the safety and movement of traffic and to preserve the financial investment of the public in its highways, the Texas Transportation Commission (commission) finds that public necessity requires the laying out, opening, constructing, reconstructing, maintaining, widening, straightening, extending, and operating of the highway facilities listed below as a part of the State Highway System (highway system).

As provided for by Transportation Code, Chapter 203, Subchapter D, including Sections 203.051, 203.052, and 203.054, the commission finds and determines that each of the parcels of land listed below, and more particularly described in the attached

Exhibits (parcels), are necessary or convenient as a part of the highway system to be constructed, reconstructed, maintained, widened, straightened, or extended (constructed or improved) and it is necessary to acquire fee simple title in the parcels or such lesser property interests as set forth in the attached Exhibits.

The commission finds and determines that the highway facilities to be constructed or improved on the parcels identified and listed below under "CONTROLLED ACCESS" are designated as a Controlled-Access Highway in accordance with Transportation Code, Section 203.031; and where there is adjoining real property remaining after acquisition of a parcel, the roads are to be constructed or improved as a part of the highway facility with the right of ingress and egress to or from the remaining real property adjoining the highway facility to be permitted or denied, as designated and set forth on each of the attached Exhibits A - Y. Where there is adjoining real property remaining after acquisition of a parcel with respect to the highway facilities to be constructed or improved on the parcels identified as listed below under "NON-CONTROLLED ACCESS," roads are to be constructed or improved as a part of the highway facility with the right of ingress and egress to or from the remaining real property adjoining the highway facility to be permitted or denied, as designated and set forth on each of the attached Exhibits 1-3, in accordance with Transportation Code, Sections 203.002 and 203.003.

The commission finds and determines that condemnation of the parcels is required.

IT IS THEREFORE ORDERED that the initiation of condemnation proceedings for the parcels is adopted and authorized by a single order for the parcels, and this first vote by the commission applies to all of the parcels.

IT IS FURTHER ORDERED that the executive director is hereby authorized to proceed to condemnation on the parcels and directed to transmit or cause to be transmitted this request of the commission to the Office of the Attorney General to file or cause to be filed against all owners, lienholders, and any owners of any other interests in the parcels, proceedings in condemnation to acquire in the name of and on behalf of the state, fee simple title to each parcel or such lesser estates or property interests as are more fully described in each of the attached Exhibits, save and excepting oil, gas, and sulfur, as provided by law, as follows:

NON-CONTROLLED ACCESS

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

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ACCOUNT</u>	<u>PARCEL</u>
Angelina	US 59	B	0176-02-108	3
Angelina	US 59	C	0176-02-108	4
Bell	IH 35	I	0015-04-083	125

(CONTINUED) CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ACCOUNT</u>	<u>PARCEL</u>
Denton	IH 35E	H	0196-02-115	168AC
Harris	IH 610	G	0271-14-221	235
Harris	IH 610	A	0271-14-225	335
Harris	IH 610	D	0271-14-225	323
Harris	IH 610	E	0271-14-225	326
Harris	IH 610	F	0271-14-225	314
Hill	IH 35	K	0014-07-096	42
Hill	IH 35	L	0014-07-096	43
Hill	IH 35	M	0014-07-096	44
Hill	IH 35	N	0014-07-096	45
Hill	IH 35	O	0014-07-096	46
Hill	IH 35	P	0014-07-096	47
Hill	IH 35	Q	0014-07-096	48
Hill	IH 35	R	0014-07-096	49
Hill	IH 35	S	0014-07-096	50
Hill	IH 35	T	0014-07-096	51, 51AC
Hill	IH 35	U	0014-07-096	52AC
Hill	IH 35	V	0014-07-096	53, 53AC
Hill	IH 35	W	0014-07-096	39
Hill	IH 35	X	0014-07-096	40
Hill	IH 35	Y	0014-07-096	41

Note: Exhibits 1 through 3 and A through Y are on file with minute order clerk.

13. Routine Minute Orders

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute orders by a vote of 5 – 0. This item was presented by Executive Director Phil Wilson.

a. Donations to the Department

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

112916
GSD

This minute order considers a donation of an estimated \$1,368.55 from Wisconsin Department of Transportation (WisDOT), for a Texas Department of Transportation (department) employee's travel expenses to attend the WisDOT Peer Exchange Meeting in Madison, Wisconsin, from November 29 – December 1, 2011.

The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and will provide a significant public benefit.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

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

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

The commission also finds that the donor is not subject to department regulation or oversight, and that this donation will not influence or reasonably appear to influence the department in the performance of its duties.

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

IT IS THEREFORE ORDERED by the commission that the donation of an estimated \$1,368.55 from WisDOT is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(2) Houston District – Consider a donation from Newland Communities for the cost to design and construct three right-turn lanes on US 59 in the vicinity of University Boulevard in Fort Bend County (MO)

112917
GSD

This minute order considers a donation of an estimated \$10,000 from Newland Communities for the cost to design and construct three right-turn lanes on US 59 in the vicinity of University Boulevard in Fort Bend County.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from

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

Transportation Code, §223.049 authorizes the department to contract with an owner of land adjacent to a highway that is part of the state highway system to construct an improvement on the highway right-of-way that is directly related to improving access to or from the owner's land.

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

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

The commission finds that acceptance of the donation would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of an estimated \$10,000 by Newland Communities is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

b. Release of Access Rights

(1) Baylor County – US 277, south of FM 422 - Consider the designation of two locations on the frontage road at which access will be permitted to the abutting property (MO)

112918
DES

In the city of Seymour, BAYLOR COUNTY, on US 277, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 323 , Page 515, Official Records of Baylor County, Texas, with denial of access to the abutting remainder property as described in the instrument.

The Seymour Independent School District, the current owner of the abutting property, has requested that access to and from the southbound frontage road of US 277 be permitted along their property line at two new access points, described in Exhibit A.

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

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

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

NOW, THEREFORE, the commission finds that the new access points will not compromise the mobility, safety or operation of the existing state highway facility, and designates the new access points as locations where ingress and egress are permitted to and from the southbound frontage road of US 277.

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

Note: Exhibit A on file with minute order clerk.

(2) Nueces County – SH 286, north of SH 357 in Corpus Christi - Consider the designation of a location on the highway at which access will be permitted to the abutting property (MO)

112919
DES

In NUECES COUNTY, on STATE HIGHWAY 286, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 2354, Page 971, Deed Records of Nueces County, Texas, with denial of access to the abutting remainder property as described in the instrument.

Charles L. Kosarek, Jr., et al, the current owner of the abutting property, has requested that access to and from the northbound frontage road of SH 286 be permitted along their west property line at a new access point, described in Exhibit A.

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

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

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

NOW, THEREFORE, the commission finds that the new access point will not compromise the mobility, safety or operation of the existing state highway facility, and designates the new access point as a location where ingress and egress are permitted to and from the northbound frontage road of SH 286.

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

Note: Exhibit A on file with minute order clerk.

c. Right of Way Dispositions and Donations

(1) Bexar County – I-37 between Dawson St. and Nolan St. in San Antonio - Consider the lease of property acquired for highway right of way purposes (MO)

112920
ROW

In the city of San Antonio, BEXAR COUNTY, on INTERSTATE 37, the State of Texas acquired certain land needed for highway purposes.

La Villita del Rio Development, Ltd., is the abutting landowner (lessee) and has requested to lease a portion of the land (lease area), described in Exhibit A, for the purpose of additional parking in conjunction with the use of the abutting property.

The lease area will not be needed for a highway purpose during the 15-year term of the lease.

The Texas Department of Transportation (department) will receive the fair market rental value of \$8,137 per year. The lease will be economically beneficial to the department and will contain a cancellation provision of five years.

In accordance with V.C.T.A., Transportation Code, Chapter 202, Subchapter C, the department may lease highway right of way.

In accordance with 43 TAC, Chapter 21, Subchapter L, the Texas Transportation Commission (commission) may authorize the lease a highway asset if the lease contains a cancellation clause of more than two years.

NOW, THEREFORE, IT IS ORDERED by the commission that the Right of Way Division Director is authorized and directed to enter into an acceptable lease agreement between the department and the lessee.

Note: Exhibit A on file with minute order clerk.

(2) Orange County – I-10 at FM 1442 - Consider the sale of surplus right of way to the abutting landowner (MO)

112921
ROW

In ORANGE COUNTY, on I-10, the State of Texas acquired certain land for highway purposes by instrument recorded Volume 220, Page 323, Deed Records of Orange County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

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

Pevco, Ltd., a Texas limited partnership, is the abutting landowner and has requested that the surplus land be sold to the partnership for \$73,311.

The commission finds \$73,311 to be a fair and reasonable value of the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Pevco, Ltd., a Texas limited partnership, for \$73,311; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the

oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(3) Potter County – Loop 335 from Hester Drive to North Coulter Street - Consider the acceptance of a donation of land for a highway improvement project (MO)

112922
ROW

In POTTER COUNTY, on STATE LOOP 335 from Hester Road to North Coulter Street, the Texas Department of Transportation (department) is acquiring the right of way for a highway improvement project.

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

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

G,R, Chapman Limited Partnership (owner) is the owner of the properties described in Exhibits A, B, and C. The owner wants to donate these properties, estimated at \$139,080, to the department for construction of a highway improvement project.

The owner may be subject to department regulations or oversight, but is not currently party to a contested case before the department. The owner may also be interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department.

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

IT IS THEREFORE ORDERED by the commission that (1) the commission has determined that acceptance of this donation would provide a significant public benefit, and would not influence or reasonably appear to influence the department in the performance of its duties, and (2) the executive director is hereby authorized to accept the donation of real property, as described in Exhibit A, and the executive director or the director's designee is authorized and directed to sign and execute a donation agreement with the owner, in accordance with Title 43, TAC, §1.504.

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

(4) Williamson County – FM 1325 and SH 45 in Round Rock - Consider the sale of surplus right of way to the abutting landowner (MO)

112923
ROW

In the city of Round Rock, WILLIAMSON COUNTY, on FARM TO MARKET ROAD 1325 and STATE HIGHWAY 45, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 370, Page 264, Deed Records of Williamson County, Texas, and recorded as Document Numbers 2009064500 and 2009067361, Official Public Records of Williamson County, Texas.

Portions of the land (surplus land), described in Exhibit A, are no longer needed for a state highway purpose.

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

Foothills Limestone, LLC, is the abutting landowner and has requested that the surplus land be sold to the company for \$25,468.

The commission finds \$25,468 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Foothills Limestone, LLC, for \$25,468; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A is on file with minute order clerk.

d. Finance

Annual report on the status of derivative transactions outstanding

e. Speed Zones

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

112924
TRF

Transportation Code, §545.352 establishes prima facie reasonable and prudent speed limits for various categories of public roads, streets and highways.

Transportation Code, §545.353 empowers the Texas Transportation Commission (commission) to alter those prima facie limits on any part of the state highway system as determined from the results of an engineering and traffic investigation conducted according to the procedures adopted by the commission.

The Texas Department of Transportation (department) has conducted the prescribed engineering and traffic investigations to determine reasonable and safe prima facie maximum speed limits for those segments of the state highway system shown in Exhibits A and B.

Exhibit A lists construction speed zones in effect when signs are displayed within construction projects. The completion and/or acceptance of each project shall cancel the provision of this minute order applying to said project and any remaining construction speed zone signs shall be removed.

Exhibit B lists speed zones for sections of highways where engineering and traffic investigations justify the need to alter the speeds.

It has also been determined that the speed limits on various segments of the state highway system, previously established by the commission by minute order and listed in Exhibit C, are no longer necessary or have been incorporated by the city which has the authority to set the speed limits on these sections of the highway.

IT IS THEREFORE ORDERED by the commission that the reasonable and safe prima facie maximum speed limits determined in accordance with the department's "Procedures for Establishing Speed Zones" and shown on the attached Exhibits A and B are declared as tabulated in those exhibits. The executive director is directed to implement this order for control and enforcement purposes by the erection of appropriate signs showing the prima facie maximum speed limits.

IT IS FURTHER ORDERED that a provision of any prior order by the commission which is in conflict with a provision of this order is superseded to the extent of that conflict, and that the portion of the minute order establishing the speed zones shown on the attached Exhibit C are canceled.

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

15. Executive Session Pursuant to Government Code, Chapter 551

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

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

The commission recessed at 10:45 a.m. and entered executive session.

The commission reconvened the open meeting at 11:11 a.m.

There were no comments in the Open Comment Period.

The regular meeting of the Texas Transportation Commission was adjourned at 11:12 a.m.

APPROVED:



Ted Houghton, Chairman
Texas Transportation Commission

xxx

I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on November 17, 2011, in Austin, Texas.



JoLynne Williams, Chief Minute Order Clerk
Texas Department of Transportation