



**IH 35E Managed Lanes SB 1420 Committee**

**MEETING MINUTES**

**November 10, 2011 at 4 pm  
North Central Texas Council of Governments  
Transportation Council Room  
616 Six Flags Drive  
Arlington TX, 76005-5888**

***IH 35E Managed Lane Project SB 1420 Committee members in attendance:***

***John Polster – Denton County – Committee Vice Chair  
Elizabeth Mow – NTTA  
Bill Hale – TxDOT  
Alberta Blair – Dallas County  
Michael Morris – NCTCOG – Committee Chair  
Matthew Marchant – City of Carrollton***

***Support Staff in attendance:***

***John Hudspeth  
Jack Ingram  
John Munoz  
Matt MacGregor  
Dieter Billek  
Sonja Whitehead  
Tony Hartzel***

***A Public Notice of this meeting containing items on the proposed agenda was filed in the Office of the Secretary of State on November 2, 2011 as required by Title 43, Texas Administrative Code, §27.92(f).***

**Minutes**

***Item 1.***

***Bill Hale called the meeting to order at 4:01 pm and briefly explained the need to elect a chair and vice chair for the committee and presenting the persons elected to the Texas Transportation Commission for concurrence.***

***Item 2.***

***Bill Hale then went around the room for introductions. After introductions, he turned the meeting over to the Staff for the Presentation.***

***Item 3.***

***Staff suggested that the committee not necessarily abide by specific rules of procedure, but instead utilize a more informal structure. The committee informally recognized and agreed to allow Bill Hale***



*to facilitate the discussion until a chair and vice chair were elected. The issue of alternates was brought up and it was agreed that the language in the bill understood there may be times when a member may not be present so it was agreed there would be with no alternates by acclamation. Staff then presented a copy of a shell document that the committee would use for their final determination as defined in SB 1420 . The report will be used to fill in the answers to the three questions prior to voting and sending to the Executive Director of TxDOT.*

**Item 4.**

*Staff then made a presentation regarding the status of the project, defined public private partnerships and updated the committee on what additional due diligence has been performed in the last 6 months. Staff presented 4 original scenarios that were not financially feasible with current funds available. Staff also presented some options moving forward, specifically options 6-8. The committee had some questions for staff that were not addressed in the presentation. Staff agreed to go back and look at Scenario's 1-4 and 5-8 and add more details regarding the financial standing of each of those elements. Specifically what is the cost and what is the gap for each of the scenario's rather than a range. Staff continued the presentation regarding the updates to Scenario 6 which included more details of the components of Scenario's 6A, 6B and 6C. The committee also asked staff to consider ways to select the developer on a base bid but include parameters for added elements and structure those in a manner that is fair to the proposers. John Polster also highlighted that so far only Denton County has a significant amount of dollars in the project and that the committee needs to secure additional partners. Michael Morris agreed with that point. Further discussion surrounded the inclusion of members of the committee and who is eligible to vote. It was noted that if someone sends TxDOT a letter and resolution validating a commitment to either provide Right of Way or funding for the project, they are eligible to vote. A discussion ensued on who was eligible and why. Ultimately, the members listed above are either required by SB 1420 to have a member or have commitments in writing through a resolution to commit ROW and or funding to the project. Michael Morris invited Commissioner Hugh Coleman to address the committee. Commissioner Coleman advised the committee that with regards to the Denton County Commissioners Court support for the project, that it included the need for having an additional general purpose lane added for each managed lane. Michael Morris asked Commissioner Coleman to quantify the impact of that new piece of information by the end of the SB 1420 committee. Commissioner Coleman also noted that the timeline that the SB 1420 committee set for making their determination is too short. Commissioner Coleman still noted his concern with regards to the timeline. Commissioner Andy Eads noted that he shared Commissioner Coleman's concern with regards to the ultimate configuration and how he was able to sell the project to his constituents. He had the same comment with regards to the added general purpose lanes and added managed lanes.*

**Item 5.**

*Alberta Blair made a motion to nominate Michael Morris as Chair and John Polster as Vice Chair of the committee. The motion was seconded by Elizabeth Mow. The motion for both carried unanimously.*

**Item 6.**

*Michael Morris requested that staff add an agenda item to the next meeting requesting additional public input. Also, Michael Morris wanted everyone to know that the TIGER/TIFIA loan request that*



*was submitted earlier was indicative of a concession project but did not want anyone to presuppose that a decision on delivery had been made for the committee, simply that the constraints of time required a decision be made for delivery. Also, Michael Morris requested staff add an item regarding discussion of an MOU and to send to stakeholders early to review and comment at the next meeting. Michael Morris indicated that he and his staff would handle the Draft MOU. John Polster requested for the next meeting to see what could be delivered under availability and concession, with \$1.0B to \$1.2B in public funds available (Scenario 6+). Michael Morris also mentioned that he is working on providing financial analysts an additional revenue stream/loan for use on the project. Rider Scott also requested the Master Schedule of projects be presented at the next meeting. Michael Morris also requested that TxDOT provide information to stakeholders regarding lessons learned regarding the RFI process. Michael Morris also requested that NTTA present what their reasoning was regarding waiving primacy. Elizabeth Mow said she could handle that presentation. John Polster requested that we also include Scenario 5 and 9 in the interest of full disclosure. Matthew Marchant noted that there was some green space available in the pictures provided and that perhaps general purpose lanes could be added, however, Michael Morris and John Polster noted the difference between what is shown as existing and proposed and that with the limited dollars available, it was necessary for the group to minimize throwaway work. Matthew Marchant noted that cynics could say that it is unlikely the ultimate would be built so let's at least get another general purpose lane. John Polster indicated that whatever happens, the first phase has to include added lanes across the lane to eliminate the pinch point.*

**Item 7.**

*Bill Hale made a motion that the next meeting of the Committee will be held at 1:30 pm at the Denton County Transportation Authority's boardroom in Lewisville on Tuesday, November 22, 2011, and the third meeting will be held at 10:00 am at DCTA boardroom on Wednesday, November 30, 2011. John Polster seconded the motion. The motion carried unanimously.*

**Item 8.**

*Elizabeth Mow made a motion to adjourn the meeting. Alberta Blair seconded the motion. The motion carried unanimously.*



**IH 35E Managed Lanes SB 1420 Committee**

**MEETING MINUTES**

**November 22, 2011 at 1:30 pm  
Denton County Transportation Authority  
Board Room, 1660 S. Stemmons, Suite 250,  
Lewisville, TX, 75067**

***IH 35E Managed Lane Project SB 1420 Committee members in attendance:***

***John Polster – Denton County  
Elizabeth Mow – NTTA  
Bill Hale – TxDOT  
Alberta Blair – Dallas County  
Michael Morris – NCTCOG – Committee Chair  
Matthew Marchant – City of Carrollton  
Rudy Durham – City of Lewisville***

***Support Staff in attendance:***

***John Hudspeth  
Jack Ingram  
John Munoz  
Matt MacGregor  
Dieter Billek***

***A Public Notice of this meeting containing items on the proposed agenda was filed with the Office of the Secretary of State on November 14, 2011 as required by Title 43, Texas Administrative Code, §27.92(f).***

**Minutes**

***Item 1 Introductions***

***Michael Morris called the meeting to order and, after introductions, briefly reviewed the agenda. He indicated he wanted to start with a “Finance 101” presentation, and followed up with a review of the types of delivery models: concession, availability payment and NTTA. He indicated that TxDOT was going to update the various scenarios discussed with the Working Group and Stakeholders. He also advised that NTTA would deliver a presentation on their primacy waiver. He then indicated that he wanted input from the public so he could have a good record of the comments. He then indicated that the MOU was on the agenda and that lastly on the agenda was additional items for discussion.***

***Item 2 Staff Presentations***



*Mr. Morris then began his presentation on "Finance 101". John Hudspeth followed up with a presentation on the update describing Scenarios 1-8, including 6A, 6B, 6C and 6A+ and focused on the updates since the last meeting by describing the included financial analysis. John Munoz discussed the feasibility of the financial analysis for Scenarios 6A, 6B and 6C. Right of way costs were discussed and staff was asked to confirm numbers. Also there were many questions regarding the issues surrounding the various scenarios. Commissioner Andy Eads asked about capacity improvements within the corridor and noted the commissioner's court is concerned about that particular issue. John Hudspeth then presented a description of several additional project scenarios that can be added. This was referred to as Scenario 6A+. John Munoz then added how TxDOT intends to remain aggressive when it comes to the schedule.*

### **Item 3 NTTA Presentation**

*Elizabeth Mow introduced Janice Davis with NTTA, who gave the presentation regarding NTTA's evaluation of the project and rationale for their decision to waive primacy on the IH 35E Managed Lanes Project*

### **Item 4 Public Input**

*Michael Morris then opened the discussion up to the public for input. Mr. Morris asked Judge Horn about her letter to Transportation Commissioner Meadows regarding funding. County Commissioner Coleman asked about the rules regarding the SB 1420 committee and asked if they had a deadline to submit the report and also if it was the responsibility of the SB 1420 committee to define the scope. Michael Morris indicated there was not a deadline and John Munoz described the need to have a scope defined in order to make a decision on the method of delivery. The SB 1420 committee needs data by which to make their decision. This decision cannot be made in a vacuum. Michael Morris indicated that it was not our intent to minimize the project but rather set a baseline and grow the project using competitive tension. Bill Hale echoed that sentiment. It is important to note the SB 1420 Committee rules allow TxDOT to move forward with the procurement if a report is not submitted by the date TxDOT is scheduled to issue a request for proposals for the project. In that case, the rules allow TxDOT to use any business terms applicable to the project that have been adopted by the metropolitan planning organization and that relate to the determinations to be included in the report. Commissioner Coleman pressed the committee on the issue of not getting free capacity and indicated that he may lobby for removal of the authority of TxDOT to enter into Public Private Partnerships. Michael Morris asked how the removal of the authority to leverage money into the project would help deliver more project? Commissioner Coleman admitted that was a good question. Michael Morris said we would look into the added capacity issue. Mayor Burroughs of Denton observed that if we don't get it right, it could affect generations and pressed for getting additional capacity up to LP 288. He also said it would be a mistake not to take the improvements to US 380 and indicated the growth is heading to the northwest of the city and wanted to understand the revenue impacts of extending the project north. Representative Crownover noted that this is an important roadway corridor and said the state needed to step up and that we need to get it right. Tom Washington from the State Republican Executive Committee asked if the SB 1420 committee could change general purpose lanes into managed lanes without adding capacity. Michael Morris indicated that the region has a policy to*



*not convert a general purpose lane into a managed lane. Director Knowles asked about revenue sharing and Michael Morris acknowledged that there is an ability to share revenue. Mayor Ruggiere indicated that due to the change in scope, he wanted the committee to make assurances that the money generated in the corridor would stay in the corridor and regarding phasing, wanted to make sure that the timing of any work is communicated back to the stakeholders. Judge Horn then spoke about her support for the whole project and wants to get as much built as possible, but understood that the project was going to have to be delivered in stages. She also discussed her letter to Commissioner Meadows and the desire to obtain additional funds. Chandler Cochran spoke for Senator Jane Nelson regarding her letter concerning objections to not adding free capacity to the corridor. Commissioner Andy Eads asked for a breakdown on the costs and asked about the ROW costs and noted a presentation from 18 months ago where the costs were half that of the current estimate. Michael asked staff to update the committee at the next meeting.*

***Item 5 Memorandum of Understanding***

*Michael talked about the MOU and asked for input. John Munoz noted that it is good to have the entire Stakeholder group be involved in the process of the MOU and may not be necessary to limit this document to the SB 1420 committee. Michael asked if anyone had any other comments to get them to John Hudspeth.*

***Item 6 Discussion of issues to be addressed by the committee and staff***

*Michael Morris discussed the intent of getting a TIFIA loan and wanted the audience to know he is trying to get more money and that a TIFIA loan can add \$100 M to the project based on the terms of the loan. Michael Morris then discussed the next meeting agenda and location.*

***Item 7 Adjourn***

*Elizabeth Mow made a motion to adjourn the meeting. Rudy Durham seconded the motion. The motion carried unanimously.*

**MEMORANDUM OF UNDERSTANDING  
FOR THE SB 1420 COMMITTEE  
FOR THE DEVELOPMENT OF THE IH 35E MANAGED LANE PROJECT**

**WHEREAS**, Interstate Highway 35E is of Statewide, National, and International importance for the movement of people and commerce now and for the long term future;

**WHEREAS**, IH 35E serves as “Main Street, DFW;”

**WHEREAS**, the IH 35E managed lane project has been designated as a high priority project by the Regional Transportation Council (RTC);

**WHEREAS**, local partners, including Denton County, Dallas County, cities along the corridor, the RTC, the Texas Department of Transportation (TxDOT), the North Texas Tollway Authority (NTTA), and Denton County Transportation Authority (DCTA), Congressional representatives and state legislators have been working for years to advance this critical project;

**WHEREAS**, local partners have developed innovative funding methods to advance the project such as the partnership between Denton and Dallas counties where Denton County Regional Toll Revenue (RTR) funds were loaned to complete the IH 635 project and will be repaid by Dallas County RTR funds;

**WHEREAS**, the region prioritized funding for the DCTA A-train to be up and running before the IH 35E managed lane project is constructed to mitigate traffic;

**WHEREAS**, the NTTA has waived primacy for the IH 35E managed lane project;

**WHEREAS**, the Texas Legislature has authorized the development of the IH 35E project as one of the few public-private partnerships that can proceed; and,

**WHEREAS**, Senate Bill 1420 (82<sup>nd</sup> Texas Legislature, Regular Session) requires for certain TxDOT toll projects, including the IH 35E managed lane project, that a committee comprised of representatives from local and regional stakeholders and TxDOT be formed to make determinations concerning the distribution of the project’s financial risk, the method of financing for the project, and the project’s tolling structure and methodology that will determine the project’s delivery method.

**NOW, THEREFORE, BE IT HEREBY AGREED THAT:**

**Section 1.** The SB 1420 Committee for the IH 35E managed lane project (SB 1420 Committee) will not issue a report containing determinations that are inconsistent with the findings of Mobility 2035 and the National Environmental Policy Act (NEPA) documents related to IH 35E.

**Section 2.** The SB 1420 Committee will work with Denton County to advance the IH 35E project, recognizing the county’s commitment of local funds for the project in exchange for CMAQ funds.

**Section 3.** The SB 1420 Committee will assist local stakeholders in initiating conversations with the Texas Transportation Commission to allocate state funds to the project.

**Section 4.** The SB 1420 Committee commits to meeting TxDOT's schedule to make the required determinations before the end of 2011, which is when the Request for Qualifications (RFQ) for the IH 35E managed lane project is scheduled to be issued by TxDOT.

**Section 5.** The SB 1420 Committee will request that TxDOT complete the procurement process for the IH 35E managed lane project prior to the next regular session of the Texas Legislature.

**SIGNED,**

\_\_\_\_\_  
Bill Hale, TxDOT

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Michael Morris, NCTCOG  
Committee Chair

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John Polster, Denton County

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Alberta Blair, Dallas County

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Elizabeth Mow, NTTA

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Matthew Marchant, City of Carrollton

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Rudy Durham, City of Lewisville



## IH 35E Managed Lanes Project

### SB 1420 Committee Report

In accordance with Texas Transportation Code Section 228.013, added by SB 1420, and Texas Administrative Code Sections 27.90 – 27.92 (the Rules), this committee (the Committee), consisting of the members identified below, was formed for the purpose of making certain statutorily required determinations with respect to the IH 35E Managed Lanes Project (the Project). The Committee held its duly noticed initial meeting on November 10, 2011. At the initial meeting of the Committee, \_\_\_\_\_ was elected to serve as Chair and \_\_\_\_\_ was elected to serve as Vice Chair of the Committee.

At its duly noticed meeting(s) on November \_\_\_\_, 2011, *[add other meeting dates if the required determinations were made at multiple meetings]* the Committee made the following determinations concerning the Project, as required by SB 1420 and the Rules:

1. Distribution of the Project's financial risk.

Distribution of Project financial risk is defined in the Rules as the allocation of revenue risk for a toll project between the Texas Department of Transportation (TxDOT) and the private entity with which TxDOT enters into an agreement for the project. Revenue risk will be allocated as follows between TxDOT and private entity:

*[describe revenue risk allocation]*

2. Method of financing for the project.

The method of financing is defined in the Rules as the determination of whether the Project should be funded with private or public funding or a combination of private and public funding. The method of financing for the Project will be *[describe method of financing]*

3. Tolling structure and methodology.

The SB 1420 Committee for the IH 35E Managed Lanes Project has determined to utilize the existing tolling structure and methodology as set by the Regional Transportation Council of the North Central Texas Council of Governments, as adopted on May 11, 2006, and modified on September 14, 2006 and September 13, 2007. The Project's tolling structure and methodology are set forth in Appendix 1 to this Report.

Submitted and approved by:

IH 35E Managed Lanes Project  
SB 1420 Committee Members

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[signature and printed name]

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