

MINUTES
MICHIGAN STATE TRANSPORTATION COMMISSION MEETING
January 28, 2011
Lansing, Michigan

Meeting noticed in accordance with Open Meetings Act, Public Act 267 of 1976.

Present: Jerrold M. Jung, Chair
Ted B. Wahby Vice Chair
Linda Miller Atkinson, Commissioner
Charles Moser, Commissioner
James S. Scalici, Commissioner
Todd A. Wyatt, Commissioner

Also Present: Kirk Steudle, Director
Frank E. Raha III, Commission Advisor
Amy Dickenson, Commission Executive Assistant
Doug Witte, Acting Commission Auditor, Office of Commission Audits
David Brickey, Attorney General's Office, Transportation Division
Brenda O'Brien, Engineer of Construction and Technology
Mark VanPortFleet, Bureau Director, Highway Development
Myron Frierson, Bureau Director, Finance and Administration
Bill Shreck, Director, Office of Communications
Ed Timpf, Administrator, Finance and Administration
Leon Hank, Chief Administrative Officer
Sharon Edgar, Administrator, Bureau of Passenger Transportation
Rick Hammond, Acting Bureau Director, Aeronautics and Freight Services
Denise Jackson, Administrator, Statewide Planning
Bobbi Welke, Southwest Region Engineer
Kelley Bartlett, Director, Office of Governmental Affairs
Tim Hoeffner, Administrator, Office of High Speed Rail

A list of those people who attended the meeting is attached to the official minutes.

Commissioner Wahby called the meeting to order at 9:00 a.m. in the Bureau of Aeronautics and Freight Services Auditorium in Lansing, Michigan.

I. WELCOME

Commissioner Wahby made announcements relative to changes made to the State Transportation Commission. Governor Snyder appointed Jerry Jung as the new Chair of the State Transportation Commission.

Commissioner Wahby recognized former Commissioners Steve Girard and Maureen Brosnan for their service on the State Transportation Commission.

Commissioner Wahby then handed the gavel over to the new Chairman.

Chairman Jung announced that Commissioner Wahby has accepted the Vice Chair seat on the Commission. He said a few words about Vice Chair Wahby relative to his ability to get things done. Ted was mayor of St. Clair Shores, where he made great changes. Ted is also the Treasurer of Macomb County, which is a powerhouse of the state.

Chairman Jung announced two new Commissioners. Todd Wyett of Charlevoix, Michigan; and Charles Moser of Drummond Island, Michigan.

Commissioner Moser introduced himself and gave a brief overview of his background. He has experience on the transit side of Transportation, serving as the President of the Eastern Upper Peninsula Transit Authority. He also has experience with over the road trucking. Commissioner Moser stated that he is honored to be asked to serve on the Commission during these trying times.

Commissioner Wyett introduced himself. He is a real estate developer that has worked with the department in that capacity. He stated that he looks forward to serving the State of Michigan.

II. **COMMISSION BUSINESS**

Commission Minutes

Chairman Jung entertained a motion for approval of the minutes from the State Transportation Commission meeting of November 18, 2010.

Moved by Commissioner Wahby, with support from Commissioner Atkinson, to approve the minutes from the State Transportation Commission meeting of November 18, 2010. Motion carried.

III. **DIRECTOR'S REPORT**

Chairman Jung showed the audience two plaques that were awarded to the director. The director was awarded one for Outstanding Service to Highway Engineering that was presented to him by AASHTO, the American Association of State Highway and Transportation Officials. The director also received the *P. D. McLean Memorial Award*, a very distinct honorary award, for his achievements in highway transportation.

Director Steudle's report focused on:

Federal Reauthorization

SAFETEA-LU has been extended until March 4, 2011. SAFETEA-LU authorizes the Federal surface transportation bill that provides funding for highways and transit. It expired October 2010 and is on its fourth extension. Also, the Federal Aviation Bill has been extended 17 times and has been extended until the end of March 2011.

There was a recent rule change in Congress that took away one of the firewalls from the highway trust fund. On the surface it didn't sound like a big change, but it may lead to a

big change when reauthorization comes around and they figure out what the balance is in the highway trust fund. We could see a surface transportation program that is \$7 billion dollars smaller than it is currently. That means \$190 million less to the department.

Congressman Mica is the new House Transportation Chairman, which is positive news. Congressman Mica wants transportation investments to reflect national priorities, looking at where we are from a national prospective and what we should be investing in. He has indicated that non-core programs may not get funded. A bill should be out this summer. He announced that he wants field hearings across the county; ten have been scheduled in certain cities.

The White House and Secretary of Transportation have said they are about to release their reauthorization plans that will come after the budget. The President's budget is expected to come out mid February. The Senate indicated something would be coming this spring.

The director indicated that programs most likely will not be funded at the levels we would like to see them. Authorization times could be different. The House may do a longer term bill with less money and the Senate may do a shorter term bill, potentially three years, with more money in it.

The director opened the floor for questions.

Chairman Jung asked Director Steudle to address his trip to Washington with Governor Snyder and some of the progress made there.

Director Steudle state that he and the Governor met with Secretary LaHood. The Governor asked Secretary LaHood to think about the Federal Aid Program differently, how other agencies look at the federal program. Not at an individual project-by-project basis, but rather from a more global scale that looks at it from a program level. They got the yes, and got it rather quickly due to a lot of work behind the scenes. Governor Snyder proposed a very good deal. The department has received notification from FHWA that they may utilize Canadian investment on the U.S. side of the border to match federal aid.

Retirement Recovery Plan

The director acknowledged Leon Hank's new position and that it was his last day with MDOT. He recognized the work he has done for the department and the State of Michigan. He stated "The Municipal Employees Retirement System has stolen a gem."

On October 1, 2010, the department had 2,852 permanent employees. According to the budget we have 3,000 allotted FTEs. The department had a significant number of vacancies prior to the early retirement incentive. On January 18, 2011, the department had 2,518 employees, leaving over 570 vacancies or over 20 percent. That is over 12,000 years of experience. There are many employees working-out-of class in a lot of areas. Some areas were hit harder than others. The finance area was hit the hardest with one entire unit being wiped out. A lot of people have been moved into acting positions to keep things going. The larger question is what do we do to move forward and what does it look like?

It is an opportunity to do things differently. Currently, the department has seven Regions, 26 Transportation Service Centers, 6 Bureaus that have 15 Divisions, and seven other offices.

When we think about the future, we think about the mission statement. What the department does is for economic benefit or improved quality of life. It is important because as Governor Snyder arranged his cabinet, he put transportation in with the economic development group. The department is tied very closely to economic development and a close connection to quality of life. There was a discussion on where to place transportation. The director discussed an upcoming meeting with the Department of Agricultural and Rural Develop to discuss what the Department of Transportation is doing or can do more on a rural side and what we can do to help on the agricultural side.

As we reorganize, we have to have more accountability, show the public where we are at. We need to look for more oversight to make sure we are doing things correctly. Another item is efficiency, to derive more efficiency out of the department by focusing on core functions. If it doesn't focus on the core functions, we won't be doing them. We are going to continue improving on customer service. The department will leverage technology, continuing to push more to find ways to leverage technology to make it work better for the department.

In the end, the department will end up with consolidated services, consolidated facilities, and consolidated functions across the department. There will be a new department emerging from this. We will be better, faster, cheaper, smarter, and safer.

Director Steudle asked for questions, none were forthcoming.

Draft Update to the Utility Accommodation Policy – Matt DeLong

Director Steudle introduced Matt DeLong to present the Draft Update to the Utility Accommodation Policy.

The Utility Accommodation Policy is how MDOT allows and coexists with utility partners within its right-of-way. Everything from water and sewer to electrical, all aspects of utilities. It defines how the department allows them and how they don't allow them, what we charge and what we don't charge. All of these items are referenced in the policy.

In 1986 the overall policy was adopted by the State Transportation Commission. Updates were made in 1995 to add additional restrictions and regulations to allow for the use of limited access freeways and added telecommunications. New things have come in that needed to be incorporated into the policy. Over the past few years, the department has been working on combining and updated these policies. The department has organized them into the new format, deleting redundant language, and updating all the references to reflect the new guidelines and statutes.

There are three new areas in the new policy. The first is renewable energy facilities or green facilities. FHWA and the Department of Transportation have issued new guidelines

on what is allowed within limited access right-of-way. We can look at certain things such as windmills or distribution centers that are now allowed in certain circumstances. The policy now cites the federal regulations. Second, there was a lack of clarity on what needs to be done when a facility is discontinued or abandoned, which is now clarified. The department is also updating and recognizing tribal government as another partner in this process.

The Real Estate Division, Region Liaisons, Federal Highways, Office of Commission Audits, and Attorney General's Office has reviewed and approved the policy.

In accordance with Commission Policy, the draft is being introduced to the Commission for review and will be coming back for final approval at the February 24, 2011, STC meeting.

Chairman Jung asked a question pertaining to license fees. He asked if right-of-ways are provided free of charge.

Mr. DeLong responded yes, except for limited access right-of-way where statute provides for a specific charge for engineering and oversight for highways. There is no charge for access. Railways fall under a different set of criteria.

Chairman Jung asked if it was based on nationwide standard policy.

Mr. DeLong stated that it varies. The majority of places people are charged are within the limited access. He deferred to Nick Lefke, the department expert, relative to Michigan's charges.

Mr. Lefke stated that Michigan's charge is a \$5,000 minimum or \$1,000 per mile one-time fee, whichever is less.

Mr. DeLong added that MDOT charges a one-time fee to cover the costs through permit fees, there is no real estate fee charged.

Commissioner Wyett asked Mr. DeLong how the department is reaching out to the tribes.

Mr. DeLong explained that the department has a tribal coordinator. The tribes have their own government that has the same rights as other governmental units the department works with. The department holds an annual tribal conference, where a few years ago the tribes expressed a concern of how they were being addressed within this policy. The updates to the policy address this concern.

After the director's report, Vice Chair Wahby presented an award to Frank Kelley, the prior Commission Advisor, for his service serving the State Transportation Commission. He thanked him for providing dedicated service to the Commission and State of Michigan.

Chairman Jung introduced the new Commission Advisor Frank E. Raha III. Mr. Raha has worked in the State House for the past 14 years, the past six years in the Floor Leaders office running the floor for the caucus. Frank was formerly City Commissioner in Kentwood, Grand Rapids, Michigan.

IV. **OVERSIGHT**

Commission Agreements (Exhibit A) – Myron Frierson

Mr. Frierson presented information on 19 agreements. Pending any questions, Mr. Frierson asked for approval of Exhibit A; none were forthcoming.

Vice Chair Wahby entertained a motion supported by Commissioner Atkinson to approve Exhibit A. Motion carried on a unanimous voice vote.

Commission Agreements (Supplemental Exhibit A) – Myron Frierson

Mr. Frierson presented information on one agreement. Pending any questions, Mr. Frierson asked for approval of Supplemental Exhibit A; none were forthcoming.

Motion was made by Vice Chair Wahby, and supported by Commissioner Atkinson to approve Supplemental Exhibit A. Motion carried on a unanimous voice vote.

Bid Letting Pre-Approvals (Exhibit A-1) – Myron Frierson

Mr. Frierson gave a brief re-cap of the December 2010 and January 2011 lettings: In January there were 25 State projects with a total engineers' estimate of \$29.4 million, the actual bids were \$27.4 million. The State low bids for fiscal year-to-date 2011 total \$162 million for 84 projects compared to \$210 million for 87 projects for the same period in fiscal year 2010. The average number of bids received for the total number of projects let is five, and the average number of bids received for the 25 State projects was three. Overall, 338 State projects with a total of \$815 million in construction cost estimates were projected to be let during the 2011 fiscal year. Leading up to and including the January 2011 lettings, \$173 million that represented approximately 21% of the projected construction cost estimate anticipated for this period was let. For this same period through January 2010, \$236 million that represented approximately 27% of the projected construction cost estimate was let. In the upcoming letting, there is a significant ARRA project being let. The ARRA project is the road construction and replacement bridge on I-94 over the Black River, leading to the Blue Water Bridge in the Port Huron area. Since the adoption of ARRA in March 2009, there have been 544 ARRA projects with an engineer's estimate of \$1.1 billion with low bids of \$947 million for the projects.

The upcoming letting for the first week of February is approximately \$126 million.

Pending any questions, Mr. Frierson asked for approval.

Commissioner Atkinson asked Mr. Frierson to explain how the percentage of DBE participation is determined.

Mr. Frierson explained that the department looks at the work items within a project and the number of DBEs qualified to do the work within the geographic region. The prime contractor has to do 40 percent of the work, which is also considered. There is a team within the department that reviews the DBE participation by project and makes recommendations.

Director Stuedle added that if a project that was very heavily intensive with materials or machinery, where a big portion of the construction costs is in the materials, the team would look at that and consider the purchase of the significant materials. The team looks at the details of the project and makes adjustments accordingly.

Motion was made by Commissioner Atkinson and supported by Commissioner Moser to approve Exhibit A-1. Motion carried on a unanimous voice vote.

Bid Letting Not Pre-Approved (Exhibit A-4) - Myron Frierson

Mr. Frierson explained that the project was let in January and the department did not get Commission approval, but the department is now asking for approval. Mr. Frierson explained that the project was added to the letting list after the December 2010 waiver request was signed.

Chairman Jung entertained a motion. Motion was made by Commissioner Moser and supported by Commissioner Atkinson to approve Exhibit A-4. Motion carried on a unanimous voice vote.

Letting Exceptions Agenda (Exhibit A-2) – Mark VanPortFleet

Mr. VanPortFleet provided information on two State projects that were over the engineers' estimates by 10 percent. Pending any questions, Mr. VanPortFleet asked for approval of Exhibit A-2; none were forthcoming.

Chairman Jung entertained a motion. Motion was made by Commissioner Wyatt and supported by Commissioner Scalici to approve Exhibit A-2. Motion carried on a unanimous voice vote.

Contract Adjustments (Exhibit B) – Brenda O'Brien

Ms. O'Brien briefly explained contract adjustments. Item No. 11 is being withdrawn from the MDOT projects being requested. There are 4 extra items of work for MDOT projects and one overrun item of work totaling \$898,934.62. Two items have been added to the Local projects on Exhibit B, items 26 and 32. There are a total of 6 Local projects totaling \$1,163,288.63.

Pending any questions, Ms. O'Brien asked for approval of Exhibit B.

Chairman Jung asked if MDOT is providing financing for the contractor by pre-paying.

Ms. O'Brien explained the work has already been completed, but the department is now asking to make payment. It is the normal course of business.

Chairman Jung entertained a motion. Motion was made by Commissioner Wahby and supported by Commissioner Wyett to approve Exhibit B. Motion carried on a unanimous voice vote.

V. **APPOINTMENTS**

Asset Management Council Appointments – Frank E. Raha III

Mr. Raha asked the Commission to approve the interim appointment of Mr. William Tansil (to fill the vacancy of Susan Mortel). Mr. Tansil's bio was provided for their review.

Chairman Jung entertained a motion for approval. Motion was made by Commissioner Wahby and supported by Commissioner Atkinson to approve the appointment of William Tansil.

VI. **COMMISSION COMMENTS**

Commissioner Moser wished Leon Hank well in his new position with the MERS.

Commissioner Atkinson thanked Commissioners Girard and Brosnan for their work on the Commission. She also welcomed Commissioners Moser and Wyett.

Commissioner Atkinson also recognized David Brickey as the new Assistant Attorney General, Transportation Division and Doug Witte as Acting Commission Auditor in the Office of Commission Audits.

Mr. Brickey and Mr. Witte provided a brief bio related to their work in these areas.

Chairman Jung addressed the audience. He discussed the role of the State Transportation Commission, legislatively mandated to set policy for the department. Chairman Jung discussed the role the Commission plays relative to oversight of change orders, real estate transactions, bond issues, etc. He discussed recognizing the department and director for achievements and other good work, and to act as an interface. The Commission receives calls from the driving public, trucking firms, contractors, and trade associations and tries to bring the issues to the attention of the proper individuals. Governor Snyder talked about reinventing Michigan. Transportation is an important part of the economy and quality of life. Even when it isn't mandated the department should play a leadership and coordination role in these initiatives. He stated he would meet with the Commissioners to challenge the department. The Commission will come up with some direction and policy related to these efforts and will recognize the department's achievements.

Chairman Jung stated he would work with the director to develop comprehensive financial reports due to the difficulty at times making comparisons. He would like objective measurements to find out where the money is going.

VII. **PUBLIC COMMENTS**

Commissioner Brosnan extended her thanks to the Commission and the department. She complimented the department and the director for always answering complex questions and the richness of talent throughout the department.

Director Steudle added that, from a transportation professional's perspective, things couldn't be better now that transportation projects are being recognized as investments instead of costs.

Chairman Jung state that infrastructure throughout the state is under built. Unless we want to see the construction industry fade away, we need to direct resources to invest in infrastructure.

The director addressed the department's efforts a few years ago relative to developing performance measures. He stated the Governor's initiatives are in line with what the department is doing.

VIII. **ADJOURNMENT**

There being no further business to come before the Commission, Chairman Jung declared the meeting adjourned at 10:10 a.m.

The next full meeting of the Michigan State Transportation Commission will be held on Thursday, February 24, 2011, in the 1st floor Bureau of Aeronautics and Freight Services Auditorium in Lansing, Michigan, commencing at the hour of 9:00 a.m.

Frank E. Raha, III
Commission Advisor