

MINUTES
MICHIGAN STATE TRANSPORTATION COMMISSION MEETING
November 19, 2009
Lansing, Michigan

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

Present: Ted B. Wahby, Chair
Linda Miller Atkinson, Vice Chair
Maureen Miller Brosnan, Commissioner
Steven K. Girard, Commissioner
Jerrold M. Jung, Commissioner
James S. Scalici, Commissioner

Also Present: Frank E. Kelley, Commission Advisor
Marneta Griffin, Commission Executive Assistant
Jackie Shinn, Chief Deputy Director
Jerry Jones, Commission Auditor, Office of Commission Audit
Patrick Isom, Attorney General's Office, Transportation Division
Greg Johnson, Chief Operations Officer
John Friend, Bureau Director, Highway Delivery
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
Rob Abent, Bureau Director, Aeronautics and Freight Services
Polly Kent, Acting Administrator, Intermodal Policy
Mike Kapp, Administrator, Office of Economic Development
Melvin Williams, Administrator, Freight Services and Safety Division
Denise Jackson, Administrator, Statewide Planning
Susan Mortel, Bureau Director, Transportation Planning
Bobbi Welke, Southwest Region Engineer

Excused: Kirk Steudle, Director

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

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

I. COMMISSION BUSINESS

Commission Minutes

Chair Wahby entertained a motion for approval of the minutes from the State Transportation Commission meeting of October 29, 2009.

Moved by Commissioner Jung, with support from Commissioner Brosnan, to approve the minutes from the State Transportation Commission meeting of October 29, 2009. Motion carried.

II. **RESOLUTIONS**

Resolution of the State Transportation Commission of the State of Michigan Indicating the Intention of the State Transportation Commission to Amend the Jobs Today Project List Approved by a Previously Adopted Commission Resolution – Myron Frierson

This bond resolution indicates the intention to amend a project list (attached Exhibit X). As required by statute, upon approval by the Commission, this bond resolution will be transmitted to the Legislature for the 30-day notification period. We will provide the Commission with the final resolution amending the project list at the January 28, 2010, Commission meeting. A roll call vote approving this authorizing bond resolution is requested. Pending any questions, Mr. Frierson asked for approval; none were forthcoming.

Chair Wahby entertained a motion to approve the Resolution to Amend the Jobs Today Project List Approved by a Previously Adopted Commission Resolution. Motion was made by Commissioner Brosnan and supported by Commissioner Atkinson to approve the resolution. Mr. Kelley called the roll; motion carried on a unanimous vote.

Resolution of the State Transportation Commission of the State of Michigan Indicating the Intention of the State Transportation Commission to Amend the Economic Stimulus Project List Approved by a Previously Adopted Commission Resolution – Myron Frierson

This bond resolution indicates the intention to amend a project list (attached Exhibit Y). As required by statute, upon approval by the Commission, this bond resolution will be transmitted to the Legislature for the 30-day notification period. We will provide the Commission with the final resolution amending the project list at the January 28, 2010, Commission meeting. A roll call vote approving this authorizing bond resolution is requested. Pending any questions, Mr. Frierson asked for approval; none were forthcoming.

Chair Wahby entertained a motion to approve the Resolution to Amend the Economic Stimulus Project List Approved by a Previously Adopted Commission Resolution. Motion was made by Commissioner Atkinson and supported by Commissioner Girard to approve the resolution. Mr. Kelley called the roll; motion carried on a unanimous vote.

Resolution of the State Transportation Commission of the State of Michigan to Adopt a Project List for the Comprehensive Transportation Refunding Bonds, Series 2009 – Myron Frierson

This bond resolution adopts a project list (attached Exhibit Z). A roll call vote approving this authorizing bond resolution is requested. Pending any questions, Mr. Frierson asked for approval; none were forthcoming.

Chair Wahby entertained a motion to approve the Resolution to Adopt a Project List. Motion was made by Commissioner Jung and supported by Commissioner Brosnan to approve the resolution. Mr. Kelley called the roll; motion carried on a unanimous vote.

III. **PRESENTATION**

Draft Five Year Transportation Program – Denise Jackson, Statewide Planning

Overview

This program includes five years of investments for the Highway, Passenger Transportation, Rail Freight, Ports, and Aeronautics programs. In the past several Five-Year Programs we have stressed impending revenue reductions facing us so we have developed a section within this document that identifies the transportation funding crisis that is being faced by all modes. A theme you will hear throughout this presentation is that state revenues are declining and no additional state funding is in sight and additional program cuts are imminent. We continue to look for efficiencies and savings in order to deliver an effective transportation system within funding available. Consequences of reduced investment are identified in the Five-Year Program. Consistent with the Commissions' direction, we continue to focus on system preservation and safety.

Our anticipated investment level over the five years totals \$6.2 billion. These investments include a reduced highway program totaling \$4.22 billion, \$623 million invested in aviation, and nearly \$1.4 billion invested in Bus, Marine, and Rail. Every program is smaller than the previous Five-Year Program.

Highway Program

There is no Federal Reauthorization Bill at this point. We are operating under a continuing Resolution through December 18th. Revenue will be held flat in 2010 and 2011 (assuming same as 2009), then increased 3.2% annually beyond 2011. Assuming ability to match all available federal aid, it is estimated that \$3.95 billion will be available for the Highway Program over this five year timeframe.

The 2009 State revenue projection is based on Department of Treasury's Michigan Transportation Fund (MTF) estimate. State revenues continue to decline in 2010. Future year revenue estimates at 1% annual growth based on BTP Long Range Revenue Model beginning in 2011. Total state revenue for this five year timeframe, including bond revenue, is estimated at \$1.5 billion for capital outlay, routine maintenance, and debt service. MDOT has done a few things to help manage the issues facing us. We've restructured our GARVEE debt service in order to free up state funds to be used to match our capital program, and we've reevaluated our Routine Maintenance assumption (we feel we can no longer afford increasing Routine Maintenance at 3% per year as identified in the Five Year Program, therefore holding it flat beginning in 2010).

A state revenue shortfall of approximately \$370 million is projected between 2011 and 2014. This shortfall will result in the loss of approximately \$2.1 billion in federal aid over the 2011-2014 timeframe due to inability to provide state matching funds. Barring any significant change, we will be implementing the reduced strategy come October 2010. In total, the anticipated shortfall of state revenue and unmatchable federal-aid combined total is over \$2.4 billion over the 2011-2014 timeframe. This results in an estimated annual shortfall of \$600 million beginning in 2011.

Our goal is to keep projects in production to the extent possible. Therefore, two highway investment strategies are outlined in the Program: matching all available federal aid, and reduced. The reduced strategy decreases the program by approximately \$600 million

each year beginning in fiscal year 2011. Under this strategy, pre-construction activities (environmental clearance, design and design) would continue, but lettings would be impacted. The Program identifies those road, bridge, and capacity improvement projects that would be impacted.

The Reduced Program Guidelines approved by the STC asks us to focus on preservation as well as safety and operations, provide some level of funding for all highway capital program categories, support technology advances, maintain production schedule so program delivery can resume if additional funds become available, maintain priority projects on corridors of highest significance, and fund those projects first which are eligible for federal aid.

Over the five years, the annual average investment for the fully funded strategy (matches all federal aid) compared to the reduced strategy is \$1.318 billion (fully funded) and \$592 million (reduced). Routine Maintenance (\$304 million fully funded) includes a 3% increase and (\$289 million reduced) includes a .5% increase.

If additional funding is not made available, the impact on the Road Rehabilitation and Reconstruction Program will result in over 100 projects either being delayed within the four-year time period (2011-2014) or removed from this Five-Year Program. In this reduced program, over 375 miles of rehabilitation or reconstruction repairs will be delayed or removed. The impact on the Capital Preventive Maintenance Program will result in nearly 800 miles of the 1,400 miles of preventive maintenance repairs annually removed or delayed from the 2011-2014 timeframe. Due to the reductions for the 2011-2014 timeframe, road conditions are expected to decline from 91% good in 2008 to 63% good in 2014. Even if we are able to match all available federal aid, pavement condition continues to deteriorate. Just matching federal aid does not fix the problem. Approximately 290 bridges will not be receiving needed repairs from the Bridge-Replacement and Rehabilitation Program. In addition, the Bridge-Preventive Maintenance Program would be reduced, resulting in approximately 285 bridges not being maintained, making them more susceptible to becoming structural deficient. This results in a total reduction of 575 bridge projects, which is almost a 65% decrease in bridge projects in the Five-Year Transportation Program.

Safety

Looking at safety, beginning in FY 2011, the replacement cycle for signs will increase from 15 to 25 years. We would only be able to do limited placement of non-freeway rumble strips and edge lines pavement markings. We do plan to continue to emphasize pavement markings where they are federally mandated, however, our traffic signal replacement cycle will grow from 25 to over 50 years and retiming from 10 to 15 years. We will have to focus very closely on safety projects with the greatest benefit.

Congestion Mitigation and Air Quality (CMAQ) Programs have provided significant benefits over the years, especially in our urbanized areas as we're looking at mitigating congestion and improving air quality. This program is funded at about \$7 million a year. Sustaining the state's operation and maintenance activities of the Michigan Intelligent Transportation Systems (MITS) Center requires a minimum of \$9 million leaving at least a \$2 million shortfall. Funding for the MICHIVAN Program will not be available to

vanpoolers and transit riders. It is important to note that in our urbanized areas we've been able to sustain a "maintenance status" which means that there are certain prescriptive things that you have to do if you go into a non-attainment status. We may slip into non-attainment status which means that we would have to implement costly prescriptive measures in order to maintain our air quality standards. The ITS Program is funded at about \$3 million a year. The reduced investment would eliminate the entire capital program at MDOT for ITS deployment activities and there would only be a minimum amount for data collection and maintenance activities.

Expanding the System

Portions of the Holland to Grand Haven Bypass will be delayed including work along M-231, I-96, and US-31 in Ottawa County. Two minor construction projects that will be funded in the entire Five Year Program: the M-231 Bridge over the Grand River in Ottawa County in 2011, and the new US-131 Bridge over the St. Joseph River in St. Joseph County in 2013.

Economic Opportunities

Infrastructure projects have shown to be important to supporting and growing the state and national economies. This has been illustrated most recently with the federal stimulus ARRA program. FY 2010 supports the number of jobs it does (17,000) because of the ARRA program and our own ability to match federal aid. MDOT's Highway Program will support approximately 15,000 jobs per year if we were able to match the federal aid anticipated to be available. If MDOT has to implement the reduced program, the Highway program will only support approximately 7,800 jobs per year from 2011-2014.

Passenger Transportation – Jean Ruestman

Passenger Transportation Program includes local transit, intercity bus, passenger rail and marine passenger. It covers activities such as capital and operating assistance, technical support and compliance monitoring of Michigan's local transit, intercity bus, rail passenger, and public marine passenger sectors of the transportation system. It also includes safety oversight of intercity bus, charter bus, and limousine operators as well as fixed guideway systems, which at this time is limited to the Detroit People Mover.

Passenger Transportation is just one component of the multi-modal program. The total passenger transportation program for FY 2010-2014 is approximately \$1.3 billion, with an average annual investment of \$262 million. This program is comprised of a combination of annual appropriations from state's Comprehensive Transportation Fund (CTF), federal funds from the transit portions of SAFETEA-LU, and other revenues. The investment of CTF revenues is determined by the detailed requirements set forth in Act 51 of 1951 as well as the annual appropriations process. Act 51 requires the majority of CTF revenues to be used for local transit. In addition, most of the federal revenues MDOT receives are for local transit.

Passenger Transportation, broken out by mode: 94% local transit, 3% each for intercity bus and passenger rail, and a small amount (less than 1%) for marine passenger. It is important to note that most of the state's passenger transportation infrastructure is owned and operated by the local and private entities. Project decisions are largely made outside

of MDOT and are made annually based on available funding. Therefore, the passenger transportation Five Year Program does not include project level information.

Federal revenues for local transit and rural intercity bus come from annual formula apportionments from FTA, congressional earmarks to MDOT and rural transit agencies (congressional earmarks add to the total size of the program but can vary significantly from year to year), and assumed continuation of FY 2009 levels since we don't have 2010 earmarks or formula amounts yet (most federal transit funds are awarded directly to local transit providers and are not included in Five Year Program; therefore the impact of the state's inability to match federal funds is not fully reflected in this Five Year Program, but it must be clearly understood that the impact of lost federal funds is extremely significant for the full public transit system).

Federal revenues for passenger rail and marine passenger are very intermittent (based on congressional earmarks and special projects) so for this program no federal funding was assumed for the marine passenger program (some federal revenue included for the passenger rail program due to the new discretionary program under ARRA that MDOT can compete for).

On the State revenue side, the CTF is funded from several sources with the majority from the MTF, which is fuel tax and license/registration fees (about 8% of the MTF). The remainder is from auto related sales tax revenue. CTF revenues contribute about 73% of the total cost of the program. The remainder is from federal and local funds. We assumed continuation of the 2010 CTF appropriation levels (because the auto related sales tax is not constitutionally protected it is subject to diversion (so far there has been no diversion of FY 2010 funds) so we have cautiously assumed that will hold true for the 5 year program, and gas tax revenues have declined and we project, at best, that they will remain steady).

The revenue issues for Passenger Transportation: the 2010-2014 Program already represents a reduced program (based on diversion of sales tax revenues from the CTF to the general fund, the decline of gas tax revenues from the MTF to the CTF); MDOT has to adjust the program each year to fit the revenues available (capital investments postponed to prop up operating programs to keep services in place), no state funding for expansion, and costs are increasing. As we all know, the cost of doing business is up. The cost of fuel has been fluctuating drastically from year to year, health insurance costs are skyrocketing, cost of supplies are up, and our operating assistance to the transit systems has remained static, thus causing our percent of state assistance to decline steadily over the years. In 1998, state revenues covered close to the Act 51 maximum of 50 and 60%. This fiscal year the percentages are down to 33 and 28 based on budgeted expenses, and the projection for 2014 is even worse. This is based on an already reduced program. The agency budgets don't reflect the actual cost of providing "good service" as defined by the TF2. The budgets reflect the level of service agencies believe they can provide with the available resources. This may not even be a continuation of current levels depending on the revenue projections and anticipated increase in costs. The same is true for the other modes—the Five Year Program doesn't include any services beyond the current system (no commuter rail, light rail, bus rapid transit or high speed rail and year-to-year uncertainty about the continuation of bus and rail services).

Passenger trains and intercity buses also run on diesel fuel and their fuel costs are increasing along with other operational costs. In FY 2010, the projected cost to the state of maintaining passenger rail contracts exceed the funds available to MDOT. Ridership fluctuates with the price of gasoline. Prices were very high in 2008 and ridership saw big growth; prices were lower in 2009 and ridership declined. If prices increase again ridership will increase again. Additionally, the poor economy is preventing some people from being able to afford to travel for pleasure, which also impacts the ridership. Since farebox revenue impacts the cost of state participation in these services it is important to understand why ridership is changing. However, the network connectivity provided by both rail and bus is vital especially as we work through the poor economy (both saw declines in ridership—Amtrak had huge growth in 2008; 2009 numbers are close to what they were in 2007).

Objectives

For local transit the first objective is preserving the existing services. The reality is that State revenues for local transit will equal about 45% of the projected annual need and Federal revenues will not compensate for the decline in State revenues and in fact will also decline if those revenues are not available to match federal grants. As a result, between 2010 and 2014, MDOT expects to see declines in the condition of the passenger transportation systems, both in terms of maintenance of the infrastructure and transportation services available to the public. The geographic location and magnitude of local transit services that will be lost will depend on the decisions made by individual operators in response to declining state assistance.

Another objective is to match all available federal funds but the reality is that we aren't able to do that. Toll credits and bond funds will not see us through this Five Year Program and the use of toll credits equals a loss of transit investment. Since 2005, toll credits have been used to "fill the gap" created by the shortfall in CTF funds. Toll revenue credits stand in the place of state match and allow access to federal aid, but they reduce the purchasing power of the federal funds creating a loss of transit investment. Since 2005, our loss of transit investment as a result of toll credit match for federal grants equals almost \$63 million.

Our objectives for Intercity Passenger Transportation are to maintain contracts with intercity carriers, match any available federal funds and to maintain the infrastructure. However, the reality is that there aren't enough state revenues to meet all of those objectives. Intercity bus revenues will equal about 43% of the annual need and passenger rail revenues will equal about 49% of the annual need. The location and magnitude of intercity passenger services that will be lost depends on the level of service MDOT is able to procure from year to year within its available resources. Decisions on where and when to cut services will be made annually as costs are compared to available revenues.

Commissioner Jung stated that he'd heard there was \$500 million available in toll credits that haven't been utilized but it seems that we'd be utilizing them if we could.

Ms. Ruestman replied that a decision hasn't been made on how we would use those because we may need to use them in other areas of the department.

Mr. Frierson interjected that in order to generate toll credit we use a complicated formula mandated by FHWA. This includes how much investment you're making in your system and how you maintain your system once you have a certain level investment. It has been reported that there's \$500 million but that's not necessarily true. We have not calculated that because we need several pieces of information to accurately arrive at what potentially could be available. Currently the department has about \$20 million in toll credits that have been approved by FHWA that we can utilize for the 2010 and 2011 Transportation Program.

Rail Freight and Port – Nikkie Johnson

The Five-Year Rail Freight and Port Program is based on a continuation (no growth) of FY 2010 revenues. For this Five Year Program, we expect to have \$2.35 million to pass through for the Detroit Wayne County Port Authority and approximately \$42.3 million actually available to invest through our rail freight programs, accounting for the expenditure authority above expected revenue, but not including a small amount of additional bond money available this year. There have been on-going revenue shortfalls for several fiscal years. Annual program adjustments are made to fit the funds available. There has been some bond money that has temporarily offset the additional FY 2010 reductions the rail freight program faced. Unfortunately, no ARRA funding has been received or is anticipated.

Funding restrictions over time have limited our ability to expand the system and now, with the suspension of the MiRLAP program, limiting our preservation efforts. With our remaining program services, our primary focus will be to preserve the existing state-owned railroad system and enhance grade crossing safety. We plan to have approximately \$5.9 million in federal aid and MTF dollars to invest in local grade crossings annually. In FY 2010, we'll have approximately \$4.2 million to invest in state-owned rail lines and through the Freight Economic Development Program. This includes CTF dollars, as well as an expected additional \$300,000 from property sales, lease payments and loan repayments, and an additional \$1.6 million in available bond money for capital improvements to the state-owned lines. In the remaining four years of the program, we plan to invest approximately \$2.6 million annually in state-owned rail lines and through the Freight Economic Development Program.

With stagnant MTF and federal aid revenue and rising project costs, our safety efforts have been scaled back. We expect static to declining numbers of grade crossing projects through this five year period. CTF reductions have created a backlog of capital projects on state-owned lines and limited MDOT's ability to address new business opportunities or emergency situations. We plan to continue to provide vegetation control and, as necessary, bridge, culvert and crossing repairs on the state-owned rail lines. And to a lesser degree, continue to undertake track upgrades on state-owned lines to protect the state's investment and support the shippers as much as possible. We are looking at some different ways to partner with the operating railroads to stretch our available dollars. We also plan to continue to provide available funding through our freight economic development program. The biggest change in this Five Year Program is that in an effort to address a portion of the general fund shortfall, MDOT does not plan to continue to administer its Michigan Rail Loan Assistance Program (MiRLAP).

MiRLAP is a self-sustaining revolving loan fund that we believed held promise, but was under-utilized, especially during this economic downturn. Approximately \$12.9 million was appropriated for it over the past 12 years and a little over \$5 million was available through the fund to loan last year. Its suspension will particularly affect smaller, short-line railroads, for which capital assistance can be critical to address emergency situations necessary to maintain service. Under this Five Year Program, we will look to continue efforts to enhance grade crossing safety, support economic development and preserve rail as an option for users of the state's freight network.

Aeronautics – David Baker

Anticipated funding is estimated to be \$105 million annually. This is anticipated to remain for the next four years in the Five Year Program. Until new legislation is enacted, federal funding is assumed to be similar to previous years under FAA "Vision 100" authorization (a continuing resolution is in place extending Vision 100 into FY09). Approximately \$10 million in state funding is anticipated. The majority will come from aviation fuel excise tax revenue (projected at approximately \$6 million).

Even without adjusting for inflation, aviation fuel tax revenue is at its lowest level in over a decade. Declining revenue comes as no surprise. In fact, it's amazing that the decline hasn't been more extreme considering the tax rate has never been adjusted since its 1929 inception. With continuing consolidation in the airline industry, volatile fuel prices, and increasingly fuel efficient aircraft; the problem will only get worse. Unfortunately, the future also remains uncertain for a number of essential state/local programs. These programs have already been curtailed or eliminated as a result of our transportation funding crisis. As an example, the Air Service Program has traditionally received up to \$1.5 million annually. However, funding for this essential program will be unavailable. We are in a time of great consolidation and turmoil in the airline industry and this program is needed now more than ever.

The average annual breakdown for aeronautics: Commercial Service Airport Projects \$93 million, General Aviation Airport Projects \$30 million and Statewide Capital Projects \$.5 million for an Airport Improvement Program (AIP) total of \$123.5 million.

Critical state system goals and objectives have been developed and documented in the Michigan Airport System Plan (MASP). The MASP was updated in 2008 and provides detailed guidance for development of Michigan's airport system. Preservation of existing airport infrastructure is of utmost importance. Early investment in preservation and preventative maintenance saves money over the long term. This approach prevents deterioration of runways, taxiways, and other critical infrastructure. Reducing airport and system deficiencies can only be accomplished with adequate investment. Therefore, we must maximize our leverage of federal dollars by ensuring a stable and adequate state funding mechanism. Approximately 2/3 of the capital program will focus on preservation of Michigan's airport system (this includes runway reconstruction or maintenance, replacement of airfield lighting, and terminal rehabilitation), and the remaining 1/3 of the program will address capacity improvements (runway extensions, terminal expansions, and new instrument approach equipment).

In the next five years, we hope to implement several significant airport improvement projects: Southwest Michigan Regional Airport (Benton Harbor)—primary runway extension to accommodate international and long range domestic flights; Kalamazoo/Battle Creek International Airport (Kalamazoo)—terminal building improvements and modernization; W.K. Kellogg Airport (Battle Creek)—parallel runway for capacity enhancement; Jackson County - Reynold's Field (Jackson)—new primary runway to meet safety area requirements; Hillsdale Municipal Airport (Hillsdale)—runway extension to accommodate long-range aircraft; and, MBS International Airport (Saginaw)—new terminal building. These projects are located along high-priority international and domestic transportation corridors such as I-94, US-127, I-75, and I-96. The projects are specifically focused on increasing multi-modal economic development and improving safety.

Next Steps

Ms. Jackson introduced Pamela Boyd, Planner, Statewide Planning, who, in conjunction with Mapping and Graphics, is instrumental in writing this document so it makes some sense for not only internal reading, but the public as well.

Our next steps are to review and incorporate any Commission comments into the draft, post the draft document on the website for public review and comment, summarize comments from the public and return to the Commission in January 2010 for final approval of the Five Year Transportation Program.

Approval to Conduct Public Listening Sessions

Ms. Jackson asked permission to move forward with posting the document to the web and to seek public input and comment. Section 307 of the budgetary reporting requirements requires the Five Year Transportation Program to be provided to the Legislature, the state budget office, and the House and Senate fiscal agencies before March 1st.

Chair Wahby entertained a motion. Motion was made by Commissioner Girard and supported by Commissioner Brosnan granting permission for the department to post the document to the web and to seek public input and comment. Motion carried on a unanimous voice vote.

Chief Deputy Director Shinn commented that it is not the departments' intent to sit back and let things be as they are. We continue to present this picture at every opportunity we can to industry and stakeholders across the state. This document posting will help us again and we will continue with that effort to talk to the citizens of Michigan about where we stand in this investment decline. The TF2 recommendations continue to be out there; many of the reform bills are continuing to be worked on in the legislature. The dilemma we're finding ourselves in right now is that there's some indication that the legislature is moving forward with the reform bills but none of the revenue bills. The problem with that is that in order for us to institute some of the reforms, there's a cost associated with it.

Chair Wahby asked for the timeframe on the Commission input.

Ms. Boyd replied that public comment will be from November 30 to December 11th. If the Commission has any comments, please forward them to us by no later than the first week of January as we will be compiling everyone's comments and incorporating them into the document at that time.

Chair Wahby asked the Commissioners to get any comments to the department by the first week in January.

Commissioner Brosnan commented that new this year is the impact of declining state revenues and the presentation today presented even more detail about what, specifically, those declining revenues would mean. She asked where the department decided to draw the line about describing what the declining revenues would mean to the Transportation budget. Much of what was said today is real tangible.

Ms. Jackson responded that it is in the document—it may not be in a concise place and that may be one of the comments to be brought back—it's probably scattered throughout the various programs. We tried in the presentation to bring it together more comprehensively but we may need to place it right up front where it's more evident.

Commissioner Brosnan stated that of all the information contained in the document, this is the most pressing information to present.

Chief Deputy Director Shinn added that there is a level of detail below this of such things like the Enhancement Program—that's a federally funded program. Our inability to match federal aid could probably suspend that program. The Office of Business Development is a federally funded program and our continued work in that arena could also be suspended.

Chair Wahby left for a previous commitment. Vice Chair Linda Miller Atkinson presided over the remainder of the meeting.

IV. OVERSIGHT

Commission Agreements (Exhibit A) – Myron Frierson

Mr. Frierson presented information on 18 agreements. Pending any questions, Mr. Frierson asked for approval of Exhibit A; none were forthcoming.

Vice Chair Atkinson entertained a motion. Motion was made by Commissioner Girard, and supported by Commissioner Brosnan to approve 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 November 6th letting: 17 State projects with a total engineers' estimate of \$17.6 million and low bid dollars totaling \$15.9 million, were let. The State low bids for fiscal year-to-date 2010 total \$59.3 million compared to \$130.0 million for the same period in fiscal year 2009. The average number of bids received for the total number of projects let is 5.6, and the average number of bids received for the State projects was 5.0. On September 14, 2009, 317 State projects with a total of \$852.4 million in construction cost estimates were projected to be let during the

2010 fiscal year. Twenty-five projects with engineers' estimates totaling \$40.4 million and the low bid total of \$36.1 million were approved for use of the ARRA funds. To date, 34 projects were approved for use of the ARRA funds with engineers' estimates totaling \$80.1 million and low bids totaling \$75.1 million. A total of 57 projects are scheduled to let December 4th with a total engineers' estimate of \$100.6 million; 22 are approved for use of the ARRA funds.

Corrections: Item #11 (proposal 0912035) should have a sentence added that says "*This project includes a 3-year performance warranty*"; Item #18 (proposal 0912056) of the original document is withdrawn. Pending any questions, Mr. Frierson asked for approval of Exhibit A-1.

Commissioner Jung asked why #18 was being withdrawn.

Mr. Frierson explained that there was a water main break and they will work to re-design the project to incorporate the water main repair.

Vice Chair Atkinson entertained a motion. Motion was made by Commissioner Jung and supported by Commissioner Girard to approve Exhibit A-1 with Item #18 withdrawn. Motion carried on a unanimous voice vote.

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

Mr. Frierson provided information for 2 State projects for the upcoming December 4th letting. Corrections: Item #1 (proposal 0912059) should have a sentence added that says "*This project includes a 3-year performance warranty*". Pending any questions, Mr. Frierson asked for approval of Supplemental Exhibit A-1; none were forthcoming.

Vice Chair Atkinson entertained a motion. Motion was made by Commissioner Girard and supported by Commissioner Brosnan to approve Supplemental Exhibit A-1. Motion carried on a unanimous voice vote.

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

Mr. VanPortFleet provided information on 1 State project that was under the engineers' estimates. Pending any questions, Mr. VanPortFleet asked for approval of Exhibit A-2; none were forthcoming.

Vice Chair Atkinson entertained a motion. Motion was made by Commissioner Brosnan and supported by Commissioner Girard to approve Exhibit A-2. Motion carried on a unanimous voice vote.

Contract Adjustments (Exhibit B) – John Friend

Mr. Friend provided information for 4 MDOT projects and 4 Local projects. Correction: Item #2009-159, Contract Modification Number should be 7 r.2, instead of 7 r.1. Special mention was made regarding Extra Item #2009-156 (10.14 miles of concrete pavement...Genesee and Lapeer Counties). During the construction phase as they were taking up a significant section of the old roadway, they found a muck-hole underneath the pavement. With the recommendation and approval of the region engineer, project staff thought that the best avenue was to repair that section of the roadway for long-term.

Pending any questions, Mr. Friend asked for approval of Exhibit B.

Vice Chair Atkinson asked if the column “Previously Before the Commission” on the matrix has been moved somewhere else within the document.

Mr. Friend deferred to Dale Spencley, Construction Contracts Engineer, for a response.

Mr. Spencley replied that he couldn't say off-hand but would look into it.

Vice Chair Atkinson added that inferences could be made if they read the rest of the matrix, however she does not know if those inferences would be reliable.

Mr. Friend replied that he suspects it is information that should be there. It is helpful information and will have it provided to the Commission.

Vice Chair Atkinson further added that the information on both the department projects and local projects charts.

Vice Chair Atkinson entertained a motion. Motion was made by Commissioner Brosnan and supported by Commissioner Scalici to approve Exhibit B. Motion carried on a unanimous voice vote.

V. **PRESENTATIONS (continued)**

Annual Context Sensitive Solutions Update – Brad Peterson, Staff Specialist, Design Division, Highway Development

The Guidelines for Stakeholder Engagement document was a result of collaboration and input from MDOT staff and the CSS Steering Committee comprised of over 19 state and federal organizations. It discusses the importance of Stakeholder Engagement, provides a timeline for obtaining meaningful stakeholder input (Opportunity Curve), establishes levels of stakeholder engagement on a 1 to 5 scale (maintenance activities to Mega projects), as well as provides guidance on how to engage and follow-up with stakeholders.

The document went live in February 2009 and has been very well received to date. This past August we received a 2009 FHWA Exemplary Human Environment Initiatives (EHEI) award in the category of Education and Training. The executive summary and link to the document is available on ContextSensitiveSolutions.org and the MDOT website. The EHEI's, now in their 3rd year, recognize and publicize transportation initiatives that make our transportation system work better for the people who use it.

The Guidelines was selected for presentation at the CSS National Dialog sponsored by FHWA and the Center for Transportation and the Environment (CTE) at North Carolina State University. The goals of the Dialog are to: deliver CSS principles and practices to a wide array of partner organizations, strengthen and broaden the constituency for CSS, discover new opportunities for partnerships, bring new perspectives to the practice of planning, designing, building, operating and maintaining transportation facilities, and foster a community of CSS practice. The Dialog will be spearheaded by a series of five, one-day workshops to be held in various locations across the country—the next one being

in Minneapolis in April 2010. Each workshop will focus on a particular aspect of CSS, and use an exemplary transportation project, plan or program to highlight CSS best practices and provide a springboard for discussion and interaction.

In addition to the Guidelines, there have been some major project accomplishments: Record of Decision (ROD) for the Detroit River International Crossing (DRIC) and Blue Water Bridge Plaza Study; CSS stakeholder engagement was crucial to maintaining schedule progress and building partnerships as these projects evolved through the study phase. One tool that we utilize is the Aesthetic Design Guide (ADG). MDOT works with local business groups, governments, and residents to create the “look and fit” of the projects to their cultural and physical environments. The ADG is a critical piece in maintaining a link between the study and design phases. The Blue Water Bridge ADG was completed in April 2009, the DRIC ADG will begin in early 2010, and the I-94 Rehabilitation Project ADG in Detroit is currently in progress and is expected to be completed in March 2010.

We have continued our outreach in partnering with outside agencies. Most recently a conference entitled *Transforming Transportation: Creating Systems that Integrate Design, Physical Activity, and Community Engagement* was held November 4th, 2009 at the Radisson Hotel in Lansing. The conference was co-sponsored by Michigan Association of Planning (MAP) and MDOT. Over 30 MDOT staff from across the state participated in the training and conference sessions which covered MDOT CSS training, Michigan’s Safe Routes to School program, and a keynote address from Ian Lockwood, P.E. of Glatting Jackson a national expert on Complete Streets and non-motorized design. He also facilitated a hands-on session of site plan review allowing participants to consider planning and transportation aspects from different perspectives and professions. Response was very strong from outside agencies. Our message is getting out into the public and the public wants to know more about CSS and how we integrate it into our business practices.

Currently in Progress

Training Resources

We are utilizing existing training videos, documents, and civil service courses to strengthen staff stakeholder engagement techniques and expertise. The advantage to this is that there is little to no cost as the resources are already available.

Performance Measures

This is a challenge for DOT’s across the country. Rather than create a separate set of goals to be measured independently, CSS is integrated into our business processes and we look at existing measurements and integrate CSS goals into these measurement systems.

Outreach Efforts

Context Sensitive Solutions: Your Community, Your Project, Your MDOT-A Citizen’s Guide To Effective Local Input is a companion document to the “Guidelines For Stakeholder Engagement”, and is intended for local communities to better understand how and why MDOT conducts CSS on all its projects and how they can more effectively participate and partner with the department. It is currently in early draft form with a anticipated release for early 2010. Additionally, we are expanding the use of social

media (website, Facebook, Twitter). We are able to get road condition information out to the public in a very quick manner, traffic alerts, project/construction information, as well as meeting information and contacts for the department.

Vice Chair Atkinson asked, regarding the ADG's, if there were a niche within the process for a given ADG for public input.

Mr. Peterson replied yes. When you create an ADG sometimes having too large of a group of people can be a challenge because you end up with more of a design by committee, which is not a good way to get through the process. Things often have to be done in order to maintain the project schedule so we work with representatives from a neighborhood group, local governments, and business community. On the Blue Water Bridge it was about 10-15 people for a series of about 5 meetings. From that came the document but we did have a Public Open House—so there was an opportunity for the public to come in, see the presentation boards, be able to look through the document and ask questions of MDOT staff as well as other committee members, and offer their input into all the design elements that were there. One of the positive things that comes out of an ADG is it kind of gets the pie-in-the-sky aspect down to earth.

Billboard Law Update – Matt DeLong, MDOT Real Estate, and Jim Steele, FHWA

MDOT Outdoor Advertising Regulation - Matt DeLong

MDOT regulates commercial signs adjacent to MDOT ROW. MDOT does not regulate on-premises signs (sign located at business its advertising)—these are regulated solely through local ordinances and local governments except when they cross the line and advertise for activities that are off-premise. For example: a credit union advertising that they sell tickets for the local hockey team versus advertising that the local hockey team is playing on Saturday night.

Michigan regulates under various statutes. The two primary statutes are the Federal Statute (23 USC 131-Lady Bird Johnson Law) and the Highway Advertising Act of 1972, as amended (Act 106 of 1972). We have two types of signs that we regulate: legal conforming signs, which meet all the standards of the current law (spacing—500 ft along primary highways, 1,000 ft along freeway/interstate, and zoning—commercial or industrial); and, legal nonconforming signs, which do not meet the current law but did at time of construction. We have 11,152 conforming signs and 2,833 nonconforming signs in Michigan. There are two major waves of nonconforming signs in the state. One was when the first billboard law came into place in 1972 then in 1999 when the State of Michigan changed the spacing requirements from 300 and 500 ft respectively to 500 and 1,000 ft. We also have 770 interim permits.

In 2007 we passed a major piece of modification to the Billboard Act placing a moratorium on billboards—no new permits, but there is a cap and replace provision (this is where we get the 770 interim permits) where a removed sign can be rebuilt at a legal location. As part of the trade off for the cap and replace we significantly liberalized the ability for vegetation management, the annual fees were increased (doubled), and we put in place operational standards for digital billboards. In 2009 we had a number of technical amendments—we corrected an unintentional consequence of penalty fees.

For an interim permit there is a \$100 application fee, \$50 annually for a size up to 300 sq ft, and \$80 annually for a size over 300 sq ft. In 2008 we generated over \$1.1 million in revenue and we spent about \$1.1 million in regulating the program.

New requirements and penalties were added in 2007 for vegetation control. We issued about 400 permits in 2008 and the revenue generated from that is \$677,441—that revenue is declining. There was a significant backlog of permits that were in locations they wanted to cut, and as they get through that list there will be maintenance cuts and that revenue will continue to decrease. In the latest application period we just completed in November we saw less than 50 applications for permit locations where we had been in the 100-200 range for other periods.

The law does not distinguish between static and digital signs. Safety and aesthetic concerns have been raised about digital signs, and have resulted in a federal study on the impact on driver distraction (i.e., glare) which is due in 2010. In Michigan, billboards have to display static messages only (no dancing messages) which change instantaneously every 6 seconds. They also must adhere to a certain intensity standard.

The billboard area has a number of challenges that face us: potential safety issues (driver distraction whether digital or regular), policing illegal signs, nonconforming sign issues, legislation (1972) versus technology, and aesthetics. A group will travel to Australia and Europe to look at the way they are dealing with billboards through their legislation. Some places are using billboards to raise revenue, some are eliminating them completely. This group will look for the best ideas and practices and see if some can be used here to deal with billboard issues.

Changeable Electronic Variable Message Signs - Jim Steele

Digital technology is being rapidly deployed for off-premises signs (commercial advertising, not on business property, gives direction to motorist) and on-premises signs (unregulated, on the business property advertising the name, telephone and product/service). An excerpt from the Federal Aid Highway Law, Section 131 reads *“Congress hereby finds and declares the erection and maintenance of outdoor advertising signs, displays and devices in areas adjacent to the interstate system and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve the natural beauty”*. There was great concern for the beautiful vistas along the highways and the belief that the highway traveler should be able to take advantage of them. Therefore, the idea was that we shouldn't be covering up that vista with lots of advertising and sign. Realizing that the highway industry was not going to buy up everybody's property, a new thing came into being called Scenic Easements where the site of these vistas were preserved with restrictions on what could go there.

FHWA Actions

Another great concern was driver distraction and the impact of these signs. In 1996 FHWA came out with a memorandum that basically permitted off-premise signs if the Federal-State Agreement allowed it (each state had very different local and billboard laws therefore asked to develop an agreement with FHWA that would put the regulatory intent into one agreement).

In 2001 there was an Electronic Billboards Report that identified potential safety factors associated with those billboards—driver attention and distraction, sign display (location, motion, complexity and illumination), sign legibility, driver age, and driver familiarity with route.

In 2007 FHWA sent out another memorandum which attempted to try and correct some things, one being that there were changes being made to the state program and the way the state was running their program. Part of this was due to legislation at the local and state level, part of it was due to FHWA coming out with newer guidance. The problem is that a lot of these changes were not getting put into the Federal-State Agreement making the agreements woefully inaccurate as to what was actually going on. The intent of this memorandum was to encourage the states and our local offices to sit down, look at the agreement and make sure it was current and up-to-date. The other that was done was that the division offices were getting the authority to make decisions on off-premise signs whereas in the past it would be going to the office headquarters.

On the research side we have been looking at driver attention distraction for quite a while. In 2008, Phase I of a study was done that identified key factors (billboard, roadway, vehicle, driver, environment), determined measures to look at (whether it really impacted the drivers' ability to drive safely and what could be done to assure that), and determined the research methods to use. In 2009, Phase II of the study identified two confidential field sites for conducting the field studies. Site 1 was studied between August and October and Site 2 will be studied between October and December. The data should be compiled by the end of January 2010 and present the final report during summer 2010.

Michigan Challenges

There are several challenges that face Michigan. The FHWA-MDOT Agreement was done in 1972 (written for static signs, technological advances have not been addressed), we are not sure that the current state statutes adequately address new technology, and there are varying local government ordinances (many have different control criteria affecting on-premise signs).

Potential MDOT Action

We need to develop a management plan to update/revise/amend agreements, policies, etc. (federal statutes, state statutes/local ordinances, FHWA/MDOT Agreement), and to address the FHWA Study Results when they are available. We also need to coordinate with local agencies.

Commissioner Scalici asked, when the federal study comes out and if there are existing signs in Michigan that don't meet the federal, will we have them changed or grandfathered in.

Mr. Steele replied that the sign itself would be grandfathered in. If there are certain criteria that the sign is not meeting (intensity of the lighting, frequency, etc.), we would tell them they had to meet those standards if they wanted to keep the sign where it was.

Mr. DeLong added that the State is required under Federal law to have adequate control over outdoor advertising. If we were ever found to not have adequate control, we are subject to a 10% penalty of our Federal aid.

Commissioner Jung commented that more and more digital billboards are going up. There is a bill that's been introduced in the Michigan House to put a moratorium on digital billboards and he encourages everyone to ask their legislators to support that because once they're up they tend to stay up. These things are weapons of mass distraction. There's no doubt that many states have eliminated texting and these things (billboards) are every bit as dangerous. Every year, 40,000 to 50,000 people die on the roads in this country. Another 40,000 or 50,000 are crippled so they can't live normal lives and we're selling this for \$80 a year—on a sign that generates from \$10,000 to \$50,000—this is absolutely appalling how cheap we are selling lives with these things.

Vice Chair Atkinson commented that she didn't see in either presentation, anything about the factor of density and intensity as it relates to these signs. Obviously the 1972 Agreement wouldn't have concerned itself with the density of the message or the intensity of the digital signal, but that seems to have a major impact on safety on the highway. For example, there is a statute that requires motorists to change lanes and slow down to avoid emergency vehicles and enforcement vehicles stopped along the roadway with flashing lights. We have digital signs that flash lights so that you have motorists who break and attempt to change lanes without knowing if they are dealing with an emergency or just somebody trying to sell them credit at a better rate. We have doubled the toll on the Mackinac Bridge for revenue but we haven't changed this charge for using our very special preferential locations along our highways for people to carry their messages. We are missing a revenue source here.

Mr. DeLong responded that the Highway Advertising Act does have standards for digital billboard operation for regulated signs; hence the 6 seconds. There is an illuminosity standard and intensity standard within that. This does not impact off-premise signs. A regular billboard can't have moving flashing lights but it's pretty much wild, wild west on on-premise signs. We work with the industry when we get a complaint on regulated signs. If there's found to be a standard violation, adjustments are made right away. We have not had to issue a letter or take any legal action against a company based on non-conformance with the digital standards that exist. He can't speak to whether they are adequate to meet the concerns she expressed.

Commissioner Jung asked if the Real Estate Division had any responsibility for the blue MDOT directional signs.

Mr. DeLong replied that it falls under the Traffic and Safety area.

Commissioner Jung added that that serves a purpose that the off-premise billboards were originally designed for.

Commissioner Brosnan offered that municipalities in particular are grappling with this much the same way the state is. The state could take on a leadership role in that regard. There was a sign in her community of Livonia that had a 10 second changeable message

allotment. A petitioner came before the City Council to have it reduced considerably to 3 or 4 seconds and she was able to say that the state has a standard of 6 seconds. She encouraged us to keep track of this issue and once the study is completed to come back to the Commission and be aggressive in trying to put together a good Michigan standard.

VI. **PUBLIC COMMENTS**

Vice Chair Atkinson asked if any member of the audience wanted to address the Commission; none were forthcoming.

Vice Chair Atkinson asked if any Commissioner wanted to address the Commission; none were forthcoming.

VII. **ADJOURNMENT**

There being no further business to come before the Commission, Vice Chair Atkinson declared the meeting adjourned at 11:05 a.m.

The next full meeting of the Michigan State Transportation Commission will be held on Thursday, January 28, 2010, 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. Kelley
Commission Advisor