MINUTES
MICHIGAN STATE TRANSPORTATION COMMISSION MEETING
February 23, 2012
Lansing, Michigan

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

Present: Jerrold M. Jung, Chair
Todd A. Wyett, Vice-Chair
Michael D. Hayes, Commissioner
Charles F. Moser, Commissioner
Sharon J. Rothwell, Commissioner

Also Present: Kirk Steudle, Director
Frank E. Raha III, Commission Advisor
Amy Dickenson, Commission Executive Assistant
Jack Cotter, 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
David Wresinski, Director, Bureau of Transportation Planning
Mike Kilpela, External Audit Division Administrator, Commission Audits
Dean Harr, Internal Audit Division Administrator, Commission Audits
Jeff Cranson, Director, Office of Communications
Tim Hoeffner, Administrator, Office of High Speed Rail

Absent: Linda Miller Atkinson, Commissioner

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

Chair Jung called the meeting to order at 9:02 a.m. in the Office of Aeronautics Auditorium in Lansing, Michigan.

I. **WELCOME**

Chair Jung introduced Commissioner Sharon Rothwell. Commissioner Rothwell provided an overview of her professional background. Commissioner Rothwell served as Chief of Staff to Michigan Governor John Engler for over eight years. She currently is Vice President of Corporate Affairs at Masco Corporation located in Taylor, Michigan.

II. **COMMISSION BUSINESS**

Commission Minutes

Chairman Jung entertained a motion for approval of the minutes from the State Transportation Commission meeting of January 26, 2012.

Moved by Chair Jung, with support from Commissioner Hayes and support from

Commissioner Moser, to approve the minutes from the State Transportation Commission meeting of January 26, 2012. Motion carried.

III. **DIRECTOR'S REPORT**

Director Steudle gave an update on the Federal Reauthorization Activity. The current extension of SAFETY-LUE expires at the end of March 2012. If the federal motor fuel tax is not collected there will be a signification to the highway trust fund.

Director Steudle provided an update on the transportation bills. The Senate is a two-year bill that maintains current levels plus inflation at $42.3 billion. Normally by March or April
80 to 90 percent of the projects have already been put out for bid. We only have authorization for half of the required funding so projects are being pushed out and will go into late Fall of 2012 pushing seasonal limits. The Senate bill is a two-year bill and Senator Boxer has found revenue to fill the holes in funding. The bill takes the bills from 90 to 30 different categories that will enable states to be more flexible, yet relies heavily on performance measures. The states have stepped forward and said they will implement performance management. There are no earmarks in the Senate version.

The House Proposal is a five-year bill, taking a different approach to funding. Funding at $39.1 billion in 2012 and $40.1 in 2013. There are no earmarks. There are heavy provisions for performance measures. The house took the Transit portion out and asked the Commerce Committee to find general funding for Transit for 5 years, the length of the House bill.

MDOT has sent a letter to Chairman Boxer and Micka to encourage them to keep moving this forward to pass a bill and to move the bill to committee.

On the federal side, at least 1.4 billion is needed to maintain Michigan's roads. The reauthorization will not get enough funding to reverse the condition of Michigan's roads.

FAA Reauthorization: There have been 23 extensions since 2007. The big concern is that they want to change the federal match for aviation programs, which doubles the current match requirements. Currently the match is 95/5 and the bill changes that to 90/10. The 95 percent federal share is only for airports that are receiving subsidized air service and are located in economically depressed communities. As the state begins to turn around, this could have a greater impact. The important thing is that there is now certainty for airports and airport managers.

Chairman Jung asked if there was any news or comments at the state level.

Director Steudle stated that one of the bills has made it through the process and 17 other bills are starting to move. The bill allows for local decision-making and partnering, which is completely optional. There are meetings planned to discuss the remaining bills. There is a lot of discussion of reforms and revenue packages. The Governor wants dialogue with

the people. There will be continued activity for a number of months to get the bills through. The revenue bills will most likely follow the reform bills.

Commissioner Hayes asked what happens in terms of timing before the FAA decision is made. In and around the state there are a number of aviation projects are midway and waiting. How will this impact the timing of the aviation projects around the state?

Director Steudle stated that they now have the funding and the FAA can now start approving the projects to move forward to the next stage. These projects will start moving.

Commissioner Moser asked how much of a departure from the norm for federal transit funds to be funded through general fund dollars?

Director Steudle stated that in the past years transit has been funded out of the highway trust fund. General fund money has been going into the highway trust fund also paying for a portion of transit. Congress has put general funds into the transportation funding. The transit allocation is about 8 to 10 million per year and the highway is about 40 million. The general fund money being put in has been less than that. This forces the debate on how to fund and support transit.

Commissioner Moser asked why it would go through Commerce Committee.

Director Steudle stated that he didn't know specifically.

IV. **OVERSIGHT**

Commission Agreements (Exhibit A) – Myron Frierson

Mr. Frierson presented information on 15 agreements. Pending any questions, Mr. Frierson asked for approval of Exhibit A; none were forthcoming.

Chair Jung entertained a motion. Motion was made by Commissioner Moser supported by Commissioner Wyett 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 February 3 and 8 bid lettings. 63 State projects with total engineers' estimates of $99.1 million and a total low bid dollar amount of $101.46 million were let. In comparison to February of 2011, 28 State projects were let with a total engineers' estimate of $139.7 million and total low bid dollars of $135.3 million.

The number of State trunkline projects anticipated to be let during FY 2012 is 327 with a total construction cost estimate of $735.1 million. The February 2012, bid lettings represented 19.3% of the total number of State projects anticipated to be let, and 13.5% of the total cost estimate projected to be let in FY 2012. In comparison to February of 2011, 8.3% of the total number of State projects anticipated was let, and 17.1% of the total cost estimate for fiscal year 2011 project projections.

The February 24, 2012, is advertising 1 State project with a total engineers' estimate of $1.4 million. This project does not include any warranties. The March 2, 2012, bid letting, is currently advertising 61 State projects with total engineers' estimates of $96.2 million. Of the 61 State projects, 38 include warranties with $75.0 million in total engineers' estimates. In addition to the State projects advertised, 31 Local projects with total engineers' estimates of $31.2 million and 7 Aeronautics projects with engineers' estimates of $5.0 million are scheduled to be let.

Item 11 on Exhibit A-1 should read .16 hot mix asphalt reconstruction, not .16 coal milling and resurfacing.

Pending any questions, Mr. Frierson asked for approval.

Chair Jung entertained a motion. Motion was made by Commissioner Hayes and supported by Commissioner Rothwell to approve Exhibit A-1. Motion carried on a unanimous voice vote.

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

Mr. VanPortFleet provided information on nine justifications and two projects with single bids that need Commission approval. Mr. VanPortFleet stated that, statistically, looking at the current 2012 stats, and looking back to 1997 years of data, MDOT has exceeded efficiency every single year in every category except for one number. The department is doing exceptionally well in its accuracy.

Chairman Jung commended the department for its overall success.

Commissioner Moser asked if the department does its own engineer's estimates.

Mr. VanPortFleet stated that the estimating is done by MDOT staff.

Commissioner Hayes stated that some of the justifications are pretty significant; he asked if the department is tracking the ones that have significant variances. He asked whether the department goes back and looks at patterns and consistency in variances.

Mr. VanPortFleet stated an evaluation is done every month. The department does a fairly detailed review of the prices and special contract provisions and makes adjustments monthly.

Commissioner Rothwell stated that, as working for a manufacturing company, one of the hardest things to predict is the cost of materials. She asked how much the cost of materials affects the estimates and if there is any consideration to the global market.

Mr. VanPortFleet stated that the department does look at the global market and does its best to research those influences when estimating. During the economic downturn, the cost of materials was particularly unstable. Therefore, the department did its best to account for those variances.

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 Moser and supported by Commissioner Rothwell to approve Exhibit A-2. Motion carried on a unanimous voice vote.

Contract Adjustments (Exhibit B and Supplemental Exhibit B) – Brenda O'Brien
Ms. O'Brien provided information three extra items and one overrun items of work for MDOT projects totaling $150,658.67 and five extra and three overrun work items for Local projects work totaling $165,802.74.

Ms. O'Brien also provided information on one overrun items of work for a Local project totaling $44,829.05

Pending any questions, Ms. O'Brien asked for approval of Exhibit B; none were forthcoming.

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

Ms. O'Brien commented on the resolution being presented on contract adjustments. She provided information on the construction contract modification process and the changes adopted by the State Administrative Board that allows for faster payments to contractors for approved work. She stated that the department increased internal oversight over extras and overruns, decreasing the amount of time on contract modifications. The most exciting thing is the electronic signature. The department worked with the Attorney General to approve the E-Signature.

Commissioner Jung stated his support for these changes.

Commissioner Hayes had a comment on the letting statistics document. He stated half of the projects are warranted and half are not and asked Ms. O'Brien to provide an explanation of warranties.

Ms. O'Brien stated that local agency projects do not use warranties, MDOT projects do. The warranties are primarily for crack sealing, overlays, and bridge painting. There is a small population of projects that the department has developed warranties for.

Commissioner Hayes would like to have additional information provided at a later date to explain warranties.

Chair Jung stated a workshop on warranties may be beneficial sometime in the future.

V. **PRESENTATION**

Resolution 2012-3, A Resolution on Contract Extra and Overruns – Frank Raha

Advisor Raha present Resolution 2012-3 to the Commission. He stated that this resolution is in-line with the Governor's initiative to reinvent government. The process will take off a minimum of 21 days of the time it takes to pay contractors.

Commissioner Rothwell commented on the electronic signature and speeding up the payment process. She asked whether the department is trying to build in better pricing or more favorable terms for them receiving prompt payment. By expediting payments by three weeks, it provides a big value to the contractors. That is real dollar value.

Chairman Jung stated that because the projects are competitively bid, he believes a savings will be seen over time.

Commissioner Rothwell stated that it is important to make the statement to the taxpayers that this is being to done to reduce the cost to the contracts and we are assuming that will come back to the state and not just pay more to our vendors.

Historically the STC has wanted oversight over the extras and overruns to ensure the money is being spent wisely and that the department is following policies and procedures. There will still be oversight and Brenda or Mr. Cotter will still present the data so the Commission can ensure the department is meeting established metrics.

Chairman Jung stated the resolution takes away the formality of the approval process. The Commission does not have the resources to delve into this process. The Office of Commission Audits, headed by Jack cotter, does have the resources to provide the proper oversight needed. The STC is putting function before form, which is inline with reinventing Michigan. The Commissioners are not being asked to vote on this resolution at this time, the resolution is being provided for them to review and it will be voted on at the March 2012 meeting.

National Perspectives on Cable Median Barrier – Fran Julian and David Engstrom (FHWA)

Russ Jorgenson briefly discussed new technologies to increase safety and reduce project time. He introduced Frank Julian from the FHWA Resource Center in Atlanta and David Engstrom that also works for FHWA. Together they presented on the National and State Perspective of Cable Median Barriers.

Mr. Julian stated he has one goal and that is to reduce fatalities by increasing safety. He discussed a map depicting the miles of cable median barrier throughout the states. Texas is currently approaching 1,000 miles of cable median barrier. Michigan currently has approximately 300 miles of cable median barrier. It is not unique to most states. It is successful because the states are embracing it and it is supported by AASHTO. Missouri is one of the leading states for cable median barriers. Since 1992 I-70 in Missouri went from having approximately 24 to 2 Cross Median serious injuries or fatalities per year.

Median barriers are done to prevent cross-median crashes that often cause multiple fatalities and injuries. The Median Barrier Cable is used because it is much cheaper than cast-in-place concrete and it covers more miles of roadway. There are about 16 percent of crashes that result in serious or fatal injury from cable barrier compared to 40 percent for concrete barriers or w-beam guardrails.

Mr. Julian discussed a slide representing cable barriers on slopes. He stated that cable is used on slopes to provide greater functionality. The cable is tested on both sides and if the bumper of the vehicle gets under the cable test have shown the cable is not effective. The suspension of the vehicle factors into the effectiveness of the cable, so the design of the cable has to account for those variables. After conducting the proper analysis the test where recreated correcting the cable design on the slope shown in the slide. Test showed that the greater the range of the cable height the more flexibility it provides, which saves lives.

A copy of the full presentation is included in the February 23, 2012, STC meeting file.

Commissioner Rothwell asked about the rebounds, especially in the snow and cold weather. She asked if even with the cold impact on cable barriers, if cable barriers are still safer than concrete barriers.

Mr. Julian stated that it will not be worse. They noticed when they went from low to high tension that it does slightly increase the rebound; however, taking some of the tension out of the cable, going into the middle, it may offset the rebound.

Commissioner Hayes asked what the impact is on motor cycles, and on cars compared to trucks.

Mr. Julian stated that motorcycle injuries are caused more by hitting the post rather than the cable. The spacing on cable affects motorcycle, the farther the posts are apart the better. Speed is big problem for motorcycles and not hitting anything is the best result. He noted that the issue is not whether a barrier is needed. If a barrier is needed, a barrier will be built. When built, the cable barrier has significantly increased spacing between posts when compared to W rails. He also noted that they do not crash test large trucks, but they have been proven successful. He provided an example of a tanker truck filled with gasoline being stopped by the cable preventing a major crash into oncoming traffic. A taller barrier is needed for tractor-trailers.

Chairman Jung stated that the public should be aware that this is not only cost saving but it is much safer.

Chairman Jung asked about the electronic billboard study that was suppose be done a few years ago.

Mr. Jorgenson stated he would look into that and get back to the Commission with that information.

Commissioner Moser asked if there is a reporting process in place that someone can report damage to a cable barrier due to an accident

Director Steudle stated that there actually is a report that is filled out, typically by law enforcement, and it is filed into a database. The repairs are typically taken care of within a matter of hours after being reported.

2011 Tribal Affairs Update – Stuart Lindsay

Mr. Lindsay provided an annual update on MDOT's activities with tribal governments.

During 2011, MDOT completed a series of four "Planning and Coordination with Tribal Governments" seminars at Kalamazoo, Flint, Curtis, and Acme. The four seminars were attended by a total of 127 participants statewide. These seminars were designed to enhance the level of communication and planning activities among Tribal governments and metropolitan, regional planning, and local government agencies.

MDOT's Tribal Affairs Coordinator attended the United States Department of Interior/BIA Annual Regional Meeting, held April 26-27, 2011 in Milwaukee, Wisconsin. Tribal and state transportation representatives from Wisconsin, Minnesota, and Michigan attended this event. Meeting agenda items included overviews of Tribal processes in transportation planning, environmental and archeological coordination, project management, and contracting. Data was presented on federal funding to Tribal governments for the Indian Reservation Roads Program. A tour of area locations focusing on intergovernmental efforts to preserve fisheries and wildlife in the Milwaukee River watershed was provided. Tribal governments located in Michigan met in a roundtable discussion with MDOT and participating Michigan local transportation agencies.

During 2011, MDOT staff performed consultation activities relative to MDOT's Amended Programmatic Agreement between FHWA, the Michigan State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation, and MDOT for the administration of federal-aid trunkline highway projects in the State of Michigan was approved. MDOT also provided Tribal consulting regarding the M-231 project in Ottawa County and on future projects.

Mr. Lindsay acknowledged the work of Dr. James Robertson, MDOT Archaeologist and stated that he and Mr. Robertson attend the Michigan Anishinabek Cultural & Repatriation Alliance meeting in October 2011.

MDOT's day-to-day business contacts with Tribal governments are conducted primarily at region and TSC offices. Region and TSC staff make regular contact with Tribal governments to identify multimodal transportation needs that may mutually benefit both governments, including highways, roads, streets, ferries, non-motorized trail systems, and other transportation related facilities. Mr. Lindsay's handout included a summary of significant government-to-government region activities in 2011.

In 2012, MDOT will continue to work with Tribal governments to sign and fully implement the Michigan Intergovernmental Transportation Accord. MDOT will continue to work with Tribal governments on development of an MOA for designation of state highway segments onto federal Indian Reservation Roads Inventories, as a basis for planning collaborative funding of specific projects. It will also complete work on the Web based map of MDOT's Five-Year Program as a convenient resource document for Tribal governments and other customers and assist in continued development of effective transportation planning consultation and coordination between Tribal governments, local governments, and metropolitan and rural planning agencies.

VI. COMMISSION COMMENTS

VII. PUBLIC COMMENTS

Glen Bukowski from the Michigan Infrastructure & Transportation Association (MITA) stated that the association represents Michigan construction companies. Mr. Bukowski stated his support for Resolution and provided information on the need for prompt payment for extra and overruns. He commented on the inability of contractors to get loans due to the economic affects in the banking industry. The industry looks forward to the approval of the resolution to make prompt payment on contract modifications.

Chairman Jung thanked Mr. Bukowski for his comments.

VIII. ADJOURNMENT

There being no further business to come before the Commission, Chairman Jung declared the meeting adjourned at 10:45 a.m.

The next full March 22, 2012, in the 2nd floor conference room, Office of Aeronautics in Lansing, Michigan, commencing at the hour of 10:00 a.m.

"Original on File"

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Frank E. Raha, III
Commission Advisor