

MINUTES
MICHIGAN STATE TRANSPORTATION COMMISSION MEETING
June 30, 2005
Lansing, Michigan

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

Present: Ted Wahby, Chairman
Robert Bender, Commissioner
Maureen Miller Brosnan, Commissioner
Vincent J. Brennan, Commissioner
James R. Rosendall, Commissioner

Also Present: Gloria J. Jeff, Director
Leon Hank, Chief Administrative Officer
Frank E. Kelley, Commission Advisor
Marneta Griffin, Executive Assistant
Jerry Jones, Commission Auditor
Patrick Isom, Attorney General, Transportation Division
John Friend, Bureau Director, Highway Delivery
John Polasek, Bureau Director, Highway Development
Larry Tibbits, Chief Operations Officer
Wayne Roe, Finance and Administration
Susan Mortel, Bureau Director, Transportation Planning
Tim Hoeffner, Administrator, Intermodal Policy
Rob Abent, Bureau Director, Multi-Modal Transportation

Excused: Linda Miller Atkinson, Vice Chairwoman

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

Chairman Wahby called the meeting to order at 9:07 a.m. in the Bureau of Aeronautics Auditorium in Lansing, Michigan.

I. **COMMISSION BUSINESS**

Commission Minutes

Chairman entertained a motion for approval of the minutes of the State Transportation Commission meeting of May 26, 2005.

Moved by Commissioner Brennan, with support from Commissioner Brosnan, to approve the minutes of the Commission meeting of May 26, 2005. MOTION CARRIED.

Chairman entertained a motion for approval of the minutes of the State Transportation Commission Workshop of May 26, 2005.

Moved by Commissioner Brennan, with support from Commissioner Brosnan, to approve the minutes of the Commission Workshop of May 26, 2005. MOTION CARRIED.

II. **DIRECTOR'S REPORT – DIRECTOR GLORIA J. JEFF**

Director Jeff's presentation focused on:

Line Drive Home

Team MDOT has prepared the "Line Drive Home" brochure which provides alternate routes for avoiding construction delays this summer on I-75 and US-23 and provides direction to All-Star events.

The Project: US-23 and southbound I-75 construction in southern Genesee County and northern Oakland County (south of I-69). This investment of \$25 million will resurface 24 miles of I-75, to keep it in play for another 10 years. The \$28 million investment to reconstruct 7 miles of US-23 will last 20 to 25 years.

Team MDOT has also hit a home run with early completion of many projects that help foster economic development and prepare Michigan for the July Fourth holiday and summer travel.

Midseason construction progress report

Metro Region:

Completed ahead of schedule--Washington St. bridge/Cobo Hall (3 weeks early); Gratiot Avenue (one of the Gateways); I-96 at Novi Road (10 days early); I-94 (Metro Airport to Detroit)—project on schedule; \$2 million incentive to have all lanes open for All-Star break; Tied Arch Bridge progressing well.

Superior Region:

M-35 bridge deck replacement (scheduled for 30 days, delivered in 20); M-28 shoreline protection (scheduled for 30 days, delivered in 15); US-2 bituminous resurfacing—Hiawatha Trail to Worth Road (delivered 43 days ahead of schedule).

North Region:

Sign upgrade on M-116/US-10 and US-31 Business Route—Ludington area of Mason County (delivered nearly three weeks ahead of schedule); sign upgrade on M-116 Mason County (delivered nearly three weeks ahead of schedule); US-31 resurfacing project (delivered 21 days ahead of schedule); M-32/BL I-75 in Gaylord (delivered 24 days ahead of schedule); Grandview Parkway (US-31) in Traverse City (delivered two weeks ahead of schedule).

Bay Region:

US-127 structures (scheduled for early completion in July); Grand Blanc Road over US-23 (delivered two weeks ahead of schedule).

Grand Region:

M-50 in Kent County (delivered 10 days ahead of schedule); M-46 in Edmore, Montcalm County (delivered 9 days ahead of schedule); US-131 reconstruction in Grand Rapids (delivered 22 days ahead of schedule).

Southwest Region:

M-89 between Plainwell and Otsego, Allegan County (delivered 8 days ahead of schedule).

University Region:

M-106 over the Portage drain in Jackson County (delivered two weeks ahead of schedule); US-127 Business Route from Taft to Townsend (delivered 2 weeks ahead of schedule); Lansing TSC wide shoulder corrugation project (delivered 2 weeks ahead of schedule); M-36 in Hamburg Township, Livingston County (delivered 2 months ahead of schedule); Capitol Loop project (delivered 3 months ahead of schedule; project is a joint effort of the City of Lansing and MDOT; MDOT's project cost is \$15.4 million.

Chairman Wahby asked if anyone had questions for Director Jeff; none were forthcoming.

III. **RESOLUTIONS**

Resolution Authorizing the Notice of Revision of a Project List, Series 2002B – Leon Hank

This resolution allows for amendment to the project list for CTF. The reprogramming of the project list is in order to provide additional funds to match government monies for bus and transit type capital expenditures.

Mr. Hank asked for questions and approval of this resolution.

Chairman Wahby entertained a motion to approve the Resolution to Authorize the Notice of Revision of a Project List, Series 2002B. Motion was made by Commissioner Brosnan and supported by Commissioner Bender to approve the resolution.

Resolution Authorizing the Notice of Revision of a Project List, Series 2003 – Leon Hank

This resolution allows for amendment to the project list for CTF. The reprogramming of the project list is in order to provide additional funds to match government monies for bus and transit type capital expenditures.

Mr. Hank asked for questions and approval of this resolution.

No questions were forthcoming.

Chairman Wahby entertained a motion to approve the Resolution to Authorize the Notice of Revision of a Project List, Series 2003. Motion was made by Commissioner Brosnan and supported by Commissioner Bender to approve the resolution.

Resolution of the State Transportation Commission Authorizing the Issuance and Sale of State of Michigan State Trunk Line Fund Bonds – Leon Hank

At the October 2003 Commission meeting, \$460 million in new STF bonding was approved to support the Five Year Transportation Program. Of that \$460 million, \$185

million in bonds were issued in September 2004; the department plans to issue approximately \$260 million in FY 2006. Recent conditions in the capital markets have presented opportunities for the department to reduce its debt service cost for this proposed bond issue. This resolution allows the department to act if market conditions are appropriate to lock the interest rate for the STF bond issued planned for FY 2006. (This transaction does not need any legislative approval.)

Mr. Hank asked for questions and approval of this resolution.

Commissioner Brennan asked a question relating to Appendix C of this resolution which states that "the aggregate amount of the bonds shall not exceed \$294 million". In subtracting the \$185 million from \$460 million, one would only come up with \$275 million.

Mr. Hank answered that he did not know the technical reason why the numbers were not in sync, but would have that information provided to the Commissioners.

Director Jeff interjected that when the Commission authorized the Department to issue the \$185 million, the purchasing power of that is the equivalent of \$200 million in bonds over the life of the bonds. It is suspected that it is the same case now; if we purchase \$260 million, it actually translates into a buying power of \$294 million.

Mr. Hank further stated that this would happen because of the premium or discounts we would pay or receive on the actual bonds.

Commissioner Brennan asked for clarification from Attorney Jerry Rupley (Miller Canfield Paddock and Stone Law Firm)

Attorney Rupley stated that he believes the original approval was for \$480 million; \$460 million of project costs and \$20 million to cover bond costs. Mathematically we are in the confines of the resolution.

No other questions were forthcoming.

Chairman Wahby entertained a motion to approve the Resolution to Authorize the Issuance and Sale of State of Michigan State Trunk Line Fund Bonds. Motion was made by Commissioner Brennan and supported by Commissioner Brosnan to approve the resolution.

Resolution of the State Transportation Commission Authorizing the Issuance and Sale of State of Michigan State Trunk Line Fund Refunding Bonds, Series 2005B – Leon Hank

In FY 2001 and 2002 the department issued \$600 million Grant Anticipation Revenue Vehicles (GARVEE) short-term notes using anticipated federal funds as the underlying credit. Significant principal payments are scheduled to occur in FY 2007-2009, which would limit funding for the department's capital program. Current market conditions present an opportunity to replace these short-term notes with long-term bonds which would reduce the impact of those large principal payments on the delivery of the department's capital program. This resolution allows the department to restructure \$400

million of the GARVEE debt by issuing STF bonds. (This transaction will need legislative approval.)

Mr. Hank asked for questions and approval of this resolution.

Commissioner Rosendall asked how much more we would pay in interest if we left things the way they were.

Mr. Hank answered that he didn't have the information readily available but would be more than happy to supply it at a later date. Right now we are paying about 2.25% interest on the short-term debt; we will probably pay between 4 - 5% on the long-term debt under today's conditions. We will end up paying additional interest, but it is allocated over a long period of time.

Commissioner Brennan asked, again, that documentation be submitted to the Commission to explain why the Appendix asks us to beyond the amount stated in the memo attached to the resolution.

Mr. Hank stated that the Department will keep the Commission apprised of the transaction during its process. He will also provide the documentation requested.

Director Jeff stated that this form of documentation will be attached to any future resolutions as well.

Chairman Wahby entertained a motion to approve the Resolution to Authorize the Issuance and Sale of State of Michigan State Trunk Line Fund Refunding Bonds, Series 2005B. Motion was made by Commissioner Bender and supported by Commissioner Rosendall to approve the resolution.

IV. **POLICY**

Mr. Hank, with approval of Chairman Wahby, walked on a Self Insurance Program for Mackinac Bridge draft Commission Policy. This policy would state: A self-insurance program for risk exposures at the Mackinac Bridge may be maintained where such a program will result in long-term cost savings for the State of Michigan. The Department may enter into agreements with the Department of Management & Budget or other parties to structure such programs. To satisfy claims arising out of the maintenance and operation of the bridge, the Department may expend available revenue from the State Transportation Fund that may be used for that purpose augmenting, as may be necessary, a reserve account, the funding of which is worked out with the Mackinac Bridge Authority. In the event that the Department begins such a self-insurance program and then decides to return to purchasing traditional insurance, it is the intent of the Commission that the Department shall provide notice of the change to the Mackinac Bridge Authority allowing a period of six months, if possible, to take any measures necessary to make the change.

The Department has had only two significant claims (\$500,000 and \$1 million) in the forty-nine years of the bridges' existence. Risk managers advise that we self-insure. We

are trying to fund a major re-decking project in 2017 at a cost of approximately \$170 million. Everything is being done to find cost savings where we can contribute towards funding this project.

Implementation schedule involves the Commission approving this policy during the July 28th meeting. MDOT will be meeting with the Mackinac Bridge Authority board on August 8, 2005 for them to look at this policy as well. The current policy expires September 1, 2005. Background information will be provided.

Commissioner Rosendall asked if there were any other areas within the department that we could do this same thing.

Mr. Hank answered that we are looking at one other area—the International Bridge at Sault Ste. Marie. That is a more complicated environment because the Canadian government co-owns that bridge with us; they would have to agree to this.

Commissioner Rosendall asked if it were possible to receive, ahead of time, copies of the PowerPoint presentations (especially if they contain graphs).

Mr. Hank stated that they will be provided in the future.

Chairman Wahby asked the members to submit any questions to Mr. Kelley.

V. **OVERSIGHT**

Commission/State Administrative Board Contracts/Agreements (Exhibit A) – Wayne Roe

Mr. Roe stated that the projects and agreements were been given for review. Pending any questions, Mr. Roe asked for approval of Exhibit A.

No questions were forthcoming.

Chairman Wahby entertained a motion. Motion was made by Commissioner Bender and supported by Commissioner Rosendall to approve Exhibit A. Motion carried on a unanimous voice vote.

Supplemental Commission/State Administrative Board Contracts/Agreements (Exhibit A) – Wayne Roe

Mr. Roe reported that this supplemental contains one item that was given for review. Pending any questions, Mr. Roe asked for approval of Supplemental Exhibit A.

Commissioner Brennan asked for further clarification of this item.

Director Jeff stated that this item is not part of our vehicle infrastructure initiative program. This is a request utilizing federally earmarked funds acquired by a member of the Michigan Congressional delegation to look at the various types of technologies and data sources that are available on a top secret, high priority basis that we could utilize to evaluate traffic volumes, congestion locations, etc. Part of it is satellite; part is vehicle-to-vehicle.

No other questions were forthcoming.

Chairman Wahby entertained a motion. Motion was made by Commissioner Bender and supported by Commissioner Brennan to approve Supplemental Exhibit A. Motion carried on a unanimous voice vote.

Bid Letting Pre-Approvals (Exhibit A-1) – Wayne Roe

Mr. Roe gave a brief re-cap of the July 8th bid letting activities. Pending any questions, Mr. Roe asked for approval of the bid items for the July letting in Exhibit A-1.

No questions were forthcoming.

Chairman Wahby entertained a motion. Motion was made by Commissioner Brosnan and supported by Commissioner Bender to approve the July bid letting. Motion carried on a unanimous voice vote.

Letting Exceptions Agenda (Exhibit A-2) – John Polasek

Mr. Polasek reported on five items that were 10% over the estimates; one state project, and four local projects that are accompanied by justification memos. Pending any questions, Mr. Polasek asked for approval of Exhibit A-2; no questions were forthcoming.

Chairman Wahby entertained a motion. Motion was made by Commissioner Brennan and supported by Commissioner Rosendall to approve Exhibit A-2. Motion carried on a unanimous voice vote.

Information Items (Exhibit A-3) – Wayne Roe

Mr. Roe reported that these exhibit items are for information only.

This item had a single bidder with the actual bid being below the engineers' estimate. There is no action required.

Chairman Wahby asked for questions; none were forthcoming.

Contract Adjustments (Exhibit B) – John Friend

Mr. Friend gave a brief safety update. A seatbelt survey has been completed by Wayne State University. This survey shows that seatbelt usage in Michigan has increased to about 93%. Michigan is ranked fourth in the nation.

We had a pretty solid month in terms of extras and overruns. We finalled out close to \$60 million worth of MDOT projects in the month of May--these projects were just under 2% of the original contract amount. Four MDOT and five local projects were submitted for review. Pending any questions, Mr. Friend asked for approval of Exhibit B.

Commissioner Brennan asked how the 2% ranks us nationally.

Director Jeff stated that the numbers have run as high as 15% or 20% in some states in terms of their overall program. When you look at a \$1.3 billion program between ours and the locals and we're running at less than 2%, that is substantial; particularly in an environment in which we have seen the price of steel and cement skyrocket because of foreign demands on those resources.

No other questions were forthcoming.

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

Contract Services Division Auditor's Report (Exhibit C) – Jerry Jones

Mr. Jones reported that, based on their audit, they have determined that the Contract Services Division operated in substantial compliance with applicable policies, procedures and regulations. It is believed that the recommendations contained in the report will strengthen the divisions' internal control structures and administrative practices. The Department has concurred with the recommendations in the report, and their response is included as a part of the report. It is recommended that the Commission accept the report and response. Mr. Jones then called on Commissioner Brosnan for her response.

Commissioner Brosnan stated that she has reviewed the report along with the Department's response. All questions regarding the report and response were answered by the Office of Commission Audit to her satisfaction. Commissioner Brosnan extended sincere compliments to Mr. Jones, the OCA staff, as well as those who responded to the audit for a job well done. Commissioner Brosnan agrees that the audit will ultimately lead to increased efficiencies and effectiveness within the MDOT operations; further asked for acceptance of the report and response.

Chairman Wahby entertained a motion. Motion was made by Commissioner Brosnan and supported by Commissioner Rosendall to approve Exhibit C. Motion carried on a unanimous voice vote.

VI. **PUBLIC COMMENTS**

Chairman Wahby asked if anyone wanted to address the Commission.

Attorney H. Kirby Albright, representing Mr. Chester Lockwood, addressed the members regarding real estate located at the southeast corner of US-27/M-57.

Mr. Albright began by making several corrections to the exact location of the property mentioned. He stated that Mr. Lockwood has been diligent in attempting to re-purchase the unused land. Mr. Albright ultimately asked that the Commission apply the current policy and direct MDOT to follow the policy, recognizing that there are special circumstances and factors in this case. In addition, ask the Department to follow the process of having the property appraised, afterwards offer the land to Mr. Lockwood at the fair market value. Further, Mr. Albright asked the Commission to consider amending

its policies in the future as it applies to condemnation matters, and affording the right to acquire excess land by affected property owners.

Chairman Wahby asked Director Jeff to designate someone for a response; Director Jeff called on Mr. Tibbits, Chief Operations Officer.

Mr. Tibbits stated that the memo provided to the Commission (copy also to Mr. Albright) outlines the history and the departments' stance on this matter.

Mr. Albright stated that the Commission members were not provided copies of the letters written by Mr. Lockwood showing his repeated efforts to re-purchase this land.

Chairman Wahby then called on Mr. Isom, Attorney-in-Charge, MDOT Attorney General's Office.

Mr. Isom responded that he could only reiterate the facts already laid out in the documentation, and that he was not personally familiar with the history.

Commissioner Brennan thanked Mr. Albright for his comments before the Commission, and stated that policies are here to be questioned and reviewed.

No other public comment was forthcoming.

Chairman Wahby asked if any member of the Commission had comments.

Commissioner Rosendall asked if it were possible to make all construction zones "no-passing zones".

Director Jeff answered that we currently have on the books in the state of Michigan statutes that allow local law enforcement to issue citations having to do with not adhering to the right-of-way. We are currently spending about \$500,000 statewide on additional law enforcement over-time in the work zones in an effort to provide this enforcement.

Commissioner Rosendall stated that a year ago in the Muskegon area, there were signs posted which stated "No Passing, Violators Will Be Ticketed". The Commissioner wanted to know how this is enforced in other areas without there being a sign.

Director Jeff deferred to Mr. Tibbits on providing information back to the Commission regarding this.

Mr. Tibbits stated that Minnesota is also looking at this problem. They are fully utilizing capacity in both lanes until a driver gets to where the work actually begins. From this point there are signs telling the motorists to take turns merging. MDOT staff is looking into this.

Commissioner Rosendall disagreed with this idea because it gets motorists lined up to go through the zone too late.

Mr. Tibbits stated that Minnesota's method lessens the length of the delay.

Director Jeff stated that the Department would take a look at whether there is an opportunity within successful practices to find a mechanism for penalizing Michigan drivers. Further, there are existing laws on the books about driving on shoulders which present challenges.

Chairman Wahby interjected that there is no one located in the zones to enforce the laws. He suggested that the Department put some information together and bring it before the Commission.

No other comments were forthcoming.

ADJOURNMENT

There being no further business to come before the Commission, the Chairman declared the meeting adjourned at 10:20 a.m.

The next full meeting of the Michigan State Transportation Commission will be held on July 28, 2005, in **Muskegon, Michigan; City Hall Building, 1st Floor Commission Chambers, 933 Terrace Street, commencing at the hour of 9:00 a.m.**

Frank E. Kelley
Commission Advisor