

**MINUTES**  
**MICHIGAN STATE TRANSPORTATION COMMISSION MEETING**  
**July 30, 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: Kirk Steudle, Director  
Frank E. Kelley, Commission Advisor  
Marneta Griffin, Commission Executive Assistant  
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  
Mike Kapp, Administrator, Office of Economic Development  
Jackie Shinn, Chief Deputy Director  
Rob Abent, Bureau Director, Aeronautics and Freight Services  
Ed Timpf, Administrator, Financial Operations  
Tim Hoeffner, Administrator, Office of High Speed Rail  
Polly Kent, Acting Administrator, Intermodal Policy  
Denise Jackson, Administrator, Statewide Planning

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 June 26, 2009.

Moved by Commissioner Jung, with support from Commissioner Scalici, to approve the minutes from the State Transportation Commission meeting of June 26, 2009. Motion carried.

Chair Wahby commended the MDOT staff on the great job they did involving the I-75/9 Mile Bridge traffic crash.

II. **DIRECTOR'S REPORT – KIRK STEUDLE, DIRECTOR**

Director Steudle's report is shared with Bay Region Engineer, Bob Ranck, and focused on:

**I-75/9 Mile Road Tanker Truck Crash**

On Wednesday, July 15<sup>th</sup>, at approximately 8:20 p.m. a severe traffic crash occurred on northbound I-75 at 9 Mile Road in Hazel Park. It is believed that 3 vehicles were involved, including a gasoline tanker carrying approximately 13,000 gallons of gasoline/diesel fuel, a semi-truck/trailer carrying perishable foods, and a compact sedan. Fortunately, despite the severity of the incident, there were only 3 relatively minor injuries and no fatalities as a result of the crash. The crash between the sedan and tanker caused the tanker to flip over under the 9 Mile Road Bridge and burst into flames, closing both directions of I-75. We're not sure if the semi-truck was involved in the actual accident but it stopped partially under the 9 Mile Road Bridge. The sedan ended up approximately 200 feet south of the bridge. At approximately 9:00 p.m., as a result of the fire and immense heat, the northbound span collapsed onto the northbound pavement, crushing the tanker trailer.

MDOT first-responder personnel were notified shortly after the accident and responded to scene immediately, but the fire and heat was so intense that MDOT personnel could not get close to the actual accident site until about 9:30 p.m. MDOT made initial contact with 5 local bridge contractors and put them on notice to be prepared to meet on site for a pre-bid meeting to initiate and emergency contract to clean up the damage and restore the freeway for traffic. After cleared to inspect the bridge, MDOT personnel evaluated the condition of the structure and determined that the remaining portions of the structure were damaged beyond repair and no part of the structure was able to be salvaged.

MDOT set a pre-bid meeting for 7:30 a.m. on Thursday morning; 4 of the 5 contractors arrived on time. Bids were submitted at 10:00 a.m. that day, and the contract was awarded to the low bidder, Posen Construction, at a price of \$84,000 (the other bids were \$104,000, \$119,000 and \$129,000). Posen immediately mobilized and began clean-up efforts by 2:00 p.m. Thursday. Clean-up efforts proceeded around the clock, demolishing the remaining portions of the bridge and removing all debris. Once the debris was removed, an assessment of the pavement was made by MDOT personnel, who determined that portions of the pavement needed to be milled off (about 2.5" deep) and resurfaced to make it suitable for traffic. A price was negotiated with Posen to complete this work. By Sunday afternoon, the pavement restoration and final clean-up was complete. The total cost to MDOT for demolition and clean-up was about \$300,000 (\$84,000 for demolition, \$130,000 for re-paving, \$60,000 for environmental clean-up and direct costs for traffic control and detours).

Southbound I-75 was re-opened to traffic around 2:00 p.m. on Sunday afternoon, prior to the morning commute. During the clean-up, MDOT personnel observed a substance seeping on the northbound roadway. To ensure that all seepage had been cleaned-up and

would not reappear on the pavement, northbound remained closed on Monday morning for further observation and cleaning. By noon, MDOT personnel determined that the seepage was no longer present and sufficiently cleaned, and about 1:00 p.m. Monday afternoon northbound I-75 was re-opened, prior to the evening rush hour. This particular area handles about 160,000 cars a day.

This bridge happens to be within the limits of this larger I-75 project in Oakland County that goes from 8 Mile up to M-59. We have the approval to build and are currently in the engineering report phase where we're documenting all of the agreements that were made and coming up with some of the preliminary engineering. We are basically waiting for funding for about \$800 million to reconstruct this portion of the freeway. We are going to pursue damages from the driver however there is a limitation that we can only collect up to \$1 million. Once we replace the bridge it will probably be in excess of \$3 million in total; the new bridge going in will actually be more than that. We will also be pursuing emergency relief repair funds from the FHWA; we have already been in contact with them. The bridge was originally built in the 1950's but will be re-built for the 21<sup>st</sup> century. This section of I-75 has a long term plan and environmental clearance for widening and reconstruction to add a new High Occupancy Vehicle lane, although funding to fully construct that plan is not available in the current 5 Year Program. Therefore, to minimize throw-away costs by replacing the bridge "in-kind", the new bridge will be built as close to the future configuration as possible.

MDOT will be using a Design/Build contract to expedite the completion of this work. This will shorten the overall timeframe to replace the structure. We are basing our approach on the recently completed bridge replacement on I-75 at M-21 in Flint that used the Design/Build approach (took about 6 weeks of actual construction). Our goal is to have a contract in place and construction starting by mid-October. It is too early at this point to estimate when the work might be complete, but we intend to put provisions in the contract to expedite it as quickly as possible. Unfortunately, the contract will just be getting started in the fall, so winter weather may affect the progress of work.

We have issued a preliminary Request for Qualifications of Design/Build Teams – while not the official request, this allows the contractor and consultant community to begin putting teams and proposals in place to be able to bid on the project. The final RFQ will be issued very soon. The teams will be short listed and a final team selected using a best-value selection (combination of low bid and the quality of their technical proposal – i.e., how well do they meet the objectives of the project).

On urban hip/hop radio (WJLB 98 FM, July 21, 2009) MDOT was hailed as the model department in state government for "setting a new world standard for excellence and responsiveness" for opening I-75 in record time. Director Steudle commended the MDOT staff on their remarkable above and beyond responsiveness to the situation.

Congratulations are due to the Communications staff for their use of Twitter which has enabled the department to interact with and quickly respond to the public, i.e. report of a detour on M-5 where the sign was in the wrong spot; we were able to get this fixed within an hour. Through Twitter we were able to get the word out all across the community about the road closure due to the crash, and again when we were re-opening the road.

Commissioner Scalici stated that the fire burned for quite a while and asked if there were any reason why foam was not used on the fire.

Director Steudle replied that it was all handled by the State Police and fire crews and he did not know their methods for fighting it. We could tell early on that this was a different kind of fuel—probably diesel or gasoline—because it was burning so long as opposed to the accident a year ago at the high level Rouge Bridge where the tanker flipped over and ignited a house on fire. That was liquid propane which burned fast, really hot, and for a short period of time.

Commissioner Scalici stated that a report in the paper indicated that this would cost the state approximately \$1 million to get the bridge opened. While he understands limits of liability, he asked if there was a way to sue the insurance company for additional damages under the circumstances.

Director Steudle replied that we've had a number of bridge incidences in recent history (about 3 or 4 within the last 5 years) where we've had tanker fires. The Attorney General has gotten creative as to how we attach the millions to the different components that are in there. He then deferred to Patrick Isom for further response.

Mr. Isom responded that there happens to be a statute (Federal and State) concerning transport of hazardous materials (including gasoline and such fuels) and it requires that about \$5 million of insurance be carried. The Federal law doesn't specifically provide how an injured party can collect on that \$5 million insurance, nor does the Michigan law. We took it to the Michigan Supreme Court and argued that we should be able to recover against that \$5 million policy that was in affect; the trucking company had it and we had suffered \$3.5 million in a particular instance in damages. The No-Fault Act says if you've got \$1 million in property coverage, tort liability is abolished. The solution to that issue would be to amend the legislation. That kind of solution doesn't handle this problem but there will be more in the future.

Commissioner Scalici asked if they are working now to get this amended.

Mr. Isom replied that the AG's office has made the suggestion—they do not pursue legislation. However, this is something the Commission could get behind if they wanted to. This is a good time with a good illustration for why it's needed.

Commissioner Scalici asked Chair Wahby if he could make the recommendation that the Commission get behind amending this piece of legislation.

Chair Wahby agreed and asked Mr. Isom how we would go about it.

Mr. Isom replied that they could adopt a resolution saying that the Commission recommends that legislation be explored to allow the department to recover against this hazardous materials insurance to the full extent of their insurance liability. The details would get worked out in time.

Commissioner Scalici thanked Director Steudle and his staff for the incredible job they did.

Chair Wahby stated that a resolution would be prepared and brought back to the next meeting.

Director Steudle turned the next topic over to Bob Ranck.

### **I-75/M-21 Design/Build/Finance (DBF) Project Update**

The M-21 DBF project is for a bridge replacement and building demolition project at the M-21/I-75 interchange. Proposals were received from 3 contractors on the M-21 DBF project on August 28, 2008. The M-21 Bridge is now open to traffic and traffic is now open to business.

In 2008 the Commission was presented information on 2 DBF projects. In these presentations MDOT outlined the goals for the DBF pilot projects and how we would measure the success of the projects. MDOT's goals were straight forward. Through the DBF pilots MDOT gained valuable experience in DB delivery methods which we currently are using to expedite ARRA projects and a project at I-75 and 9 Mile Road. Other significant goals included looking at new ways (non-traditional financing methods) to provide transportation projects in Michigan (MDOT accepted the challenge and came up with this DBF concept), gaining experience in Public Private Partnerships and how that concept works, and using transportation facilities and doing them, building projects in 2009 when they have funding for 2012.

The project was originally scheduled for fall 2011 (2012 funding), construction cost is approximately \$7.3 million. We started working in March 2008 from the concept and then advertised in June 2008. Bid and Technical Proposals were due August 28, 2008. State police post demolition began in 2008 then we closed the bridge to traffic in late April 2009, opening back up to traffic on July 16, 2009.

The financial plan is comprised of the initial project cost of \$7.3 million. The contractor will be given the first payment of \$125,000, then every three months thereafter payments of \$62,500. The last payment is set for November 3, 2011 in the amount of about \$6.6 million to finish the project.

Project successes include opening the project to traffic earlier than expected, gaining valuable experience in an alternate selection method, developing contract language for future DB and DBF Projects, gaining staff experience in DB contracting, and utilizing PPP's in the initial steps of the project.

Public messages we wanted to get out: Design/Build allowed the project to go from concept to bid in just 4 months (traditional bridge design packages can take over a year); the detour allowed MDOT to start major bridge work in April 2009 and be open to traffic in July 2009 when traditionally part width construction would have been well into November 2009; Design/Build/Finance allows MDOT to construct in 2009 when it was programmed for 2012 funding; the demonstration of how PPP's can be successful, and

ultimately that M-21 is open for business.

Mr. Ranck acknowledged Chris Youngs, Senior Project Manager, for the excellent job he did in managing this project and helping us get through all the barriers.

Commissioner Brosnan asked what the partners' take-away was from all of this.

Mr. Ranck replied that we had to jump through some hoops in the beginning because this was too small of a project to get financing for compared to one of those large hundred million dollar projects. They really didn't want to put their equipment up—they wanted to be able to go by their credit. Ultimately, they were able to work with the designer and find out the intent—good collaboration. We also had our HNTB, which helped do the construction engineering, and had experience in DB and DBF projects.

Commissioner Brosnan asked if it were his general understanding that they do this again.

Mr. Ranck replied he thinks they would do it again. There are certain selected type projects; we are not going to do these on all projects. This bridge, even though it looks complicated, is kind of a standard structure for us; this is what we do. We looked at trying to make it simple and make it a success. In the future we will look at doing more and more complicated type structures. This one was a good pilot for us.

Chair Wahby asked if there was a balloon payment on this in 2011.

Director Steudle interjected that it wasn't a balloon payment but a scheduled payment so it's like 25% per year over the life of that four years.

Chair Wahby commented that it was stated there was a big payment in 2011.

Director Steudle replied yes.

Chair Wahby commented that 2011 was the critical year in terms of matching funds. You don't want to pile up a lot of big balloon payments in 2011 and cause some other problems that we're not looking to have happen.

Director Steudle replied that in essence this is a short-term loan. It allows you to build it sooner at probably a lower rate.

Commissioner Jung asked how many people bid on this project.

Mr. Ranck replied that it was narrowed down to three.

Mr. Youngs interjected that we short-listed five and three turned in bids.

Commissioner Jung asked how many bids they would expect if this went through the more traditional method.

Mr. Ranck answered on average we have been getting somewhere between five and

seven. Dan's Excavating is a bridge division; they were a bigger company to be able to finance this.

Commissioner Jung commented that that would be one of the drawbacks—there would be a little less competition because fewer contractors would have the financial capability.

Commissioner Jung said it was mentioned that URS partnered with Vance on this, and then asked if URS is also inspecting some of Dan's highway projects as far as construction techniques or materials.

Mr. Ranck replied that he is not sure if they are working directly for Dan's but he knows that was part of the selection criteria that we had when we selected them. There were provisions in their contract that said we cannot have any conflict of interest type of bidding. They would have to forego any type of work that they do for other places where Dan's Excavating is—they will not put in for that or they will look at ending contracts.

Director Steudle asked if it were contracts where they're working for Dan's Excavating or where they're working for us.

Mr. Ranck replied where they're working for Dan's Excavating or for us—they cannot have that conflict of interest. They have to submit that in their proposals in the future and also for this project—they had to give us the history. We also have a database of the history of all federally funded projects although he's not sure about any type of private type of work.

No other questions were forthcoming regarding the Director's Report.

Commissioner Atkinson asked Director Steudle if he could update the Commission on the progress on the agreement between MDOT and the Mackinac Bridge Authority (MBA) that was discussed during the June 26<sup>th</sup> meeting.

Director Steudle deferred to Mr. Isom for the update.

Mr. Isom replied that it was his understanding that the Commission had approved entering into an agreement with the MBA for the Self Insurance.

Commissioner Atkinson read an excerpt from the June minutes—"after it's gone through the Attorney General and audit staff...for final approval...MBA will take it to the MBA Board...and we are hoping that by the end of July to have it signed and sealed". She asked if it has been through the Attorney General's office yet and now with the MBA or where is it.

Mr. Isom replied that yes it has. He thinks it is being signed; going to the State Administrative Board around August 4<sup>th</sup> so it's progressing.

Commissioner Atkinson commented that we approved it almost three years ago.

Director Steudle stated that on the upcoming Monday afternoon he and the Mackinac

Bridge Chairman would be meeting to sign the agreement which starts in October. There was discussion at the last MBA meeting regarding whether a whole \$200,000 had to be put up for that month. We are working through a pro-rated share of the month of September so that they're covered and we are covered at the same time.

Commissioner Atkinson stated her next question, from last month's meeting, had to do with warranties but decided that maybe she and the Director could talk about it later.

Director Steudle stated that that was the question Ms. O'Brien got and that maybe Mr. Frierson would talk about it during his presentation.

### III. **OVERSIGHT**

#### Commission Agreements (Exhibit A) – Myron Frierson

Mr. Frierson, regarding the question about warranties, stated that information had been provided to the Commission Advisor, but in a nutshell there are no warranties on local projects. If there is a warranty on a project, it is noted in the write-up.

Commissioner Atkinson, for clarification, asked if it doesn't appear in what we have then there isn't any; you can't read into it; even if there are ARRA funds, if it doesn't say warranty there isn't any.

Mr. Frierson responded correct. As we said before, there are a number of reasons why similarly type projects have warranties and some may not because of different payment conditions.

Mr. Frierson then presented information on 49 agreements. Pending any questions, he asked for approval of Exhibit A; none were forthcoming.

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

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

Mr. Frierson provided letting statistics for June 25, 2009, and gave a brief re-cap of the letting that occurred on July 10, 2009: The State low bids for fiscal year 2009 through July 10<sup>th</sup> total \$759.2 million compared to \$660.9 million for the same period in fiscal year 2008. The total number of bids received for the 110 projects let July 10<sup>th</sup> was 602. The average number of bids received for the 110 projects let is 5.5. As of September 15, 2008, it was estimated that 275 State projects with construction cost estimates totaling \$592.6 million would be let during the 2009 fiscal year. Through July 10, 2009, 307 State projects with engineers' estimates of \$839.4 million were let, largely attributed to the addition of the ARRA projects in the year.

Since March 2009, and including the July 10th bid letting, the ARRA program funds supported 129 projects with a total engineers' estimate of \$344.8 million and low bid amounts totaling \$306.2.

We had a letting on July 22<sup>nd</sup>, four coming up in August and three in September. As mentioned before we may be requesting the Chairman to issue a waiver to allow us to proceed on some lettings as the projects become ready for advertisement.

Exhibit A-1 contains 35 projects. Pending any questions, Mr. Frierson asked for approval of Exhibit A-1.

Commissioner Brosnan stated that in both summary documents there is some good news stories about projects that are going out that wouldn't have been done this year. The news that we all wait to hear is how many jobs are created by these projects. We have 129 projects so far from March until now, and a letter was provided to us saying that 833 jobs were created. She asked if this number was correct.

Mr. Frierson replied that that is the number we've reported on our latest monthly report to the federal government. We are required for ARRA related projects to report employment data on a monthly basis and this information can be provided to the Commission if they want it.

Commissioner Brosnan stated that they would like to get it and had asked for it two meetings ago. She then commented that in future reports we should spend some time talking about some of the creative arrangements and partnerships that have gone into getting and securing some of this ARRA money.

Commissioner Jung commented that the federal government has committed in the neighborhood of \$1.6 trillion under the heading of bank rescues and stimulus. About 3% of it is trickled down to infrastructure; in China that number would be more like 80%. You certainly don't want to look a gift horse in the mouth but he is extremely disappointed that more of these so-called stimulus funds are not rebuilding America. It would be nice if we'd also be getting better infrastructure—be it water, roads, light rail, etc. Ninety-seven percent of this money is being spent to balance budgets and bail out banks. It's too bad only 3% is going toward what really will benefit the citizens that will be paying for this.

Chair Wahby commented that it was a good point.

Commissioner Brosnan agreed and stated that this is why, when we look at communities like Ann Arbor (the Ann Arbor Transportation Authority) for example, who found that they were no longer going to be able to build this transit center they wanted to build. They turned around and partnered with a private developer to help finance the project and then we've been able to step in with ARRA money to complete the transit center. This is a community dealing with the fact that not all the money is trickling down, but they are making the best out of a tough situation.

Director Steudle stated that there has been some recent news media coverage about the fact that transportation departments aren't spending the money fast enough—not putting it in the contractors' hands fast enough. The rules that were established in the congressional legislation said that we had to obligate the funds within 120 days. We met those rules, and for people to come back later and say we didn't do well enough, they

should have changed their expectation in the legislation in the first place. We beat the expectation in the legislation as it is written and we are putting people to work. There are some great things going on and the fact that we've pushed \$400 million through the program with all the same checks and balances that we have with the normal program, he feels very confident that the projects that are out there have had the scrutiny that we need. You are going to be seeing more of the signs that indicate a recovery project.

Further, while the number of 833 is low, it is because the projects are just now cranking up and will grow rather quickly now that they are out in the street. There is an unprecedented amount of reporting that is required within this Recovery Act to the FHWA, White House and to Congress. All of them want a different report on a different day. It's been a logistical nightmare for us to figure out. We will start getting those reports to the Advisor as well.

Chair Wahby commented that in adding up the bid letting pre-approval amount you're talking about \$120 million worth of projects. Most of that is from ARRA so that is a lot of work that's going out.

Commissioner Jung commended the department on getting this turned around. If there is a lesson here, it makes sense to him that we may be seeing more of these stimulus funds in future years so we should have a lot of major projects on the table and ready to go.

Director Steudle commented that one of the pieces that have been very helpful is that design/build/finance stuff that we did last year. It enabled us to have a process in place that we could utilize to get those big major projects out the door.

Chair Wahby pointed out one that is \$45 million.

No other questions were forthcoming.

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

**Chair Wahby directed Mr. Frierson to finish all of his agenda items then we would continue with Mr. VanPortFleet and Exhibit A-2.**

Information Items (Exhibit A-3) – Myron Frierson

Mr. Frierson provided information on 1 State project, for which the bid was under \$500,000 and has less than two bidders or is a low bid rejection, or has other bid issues, is being submitted for informational purposes only. No action is required.

Chair Wahby asked for questions; none were forthcoming.

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

Mr. VanPortFleet provided information on 4 State projects and 2 Local projects that were over the engineers' estimates and are accompanied by justification memos. There is a correction to the third justification (bid item #0907041) which indicates only 3 bids were

received when it was actually 4 bids. Pending any questions, Mr. VanPortFleet asked for approval of Exhibit A-2; none were forthcoming.

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

Contract Adjustments (Exhibit B) – John Friend

Mr. Friend introduced Highway Delivery's new graduate engineer, Melissa Howe. Ms. Howe graduated from MSU and started in June. He then provided information for 3 MDOT projects and 2 Local projects.

Special attention was brought to MDOT item #2009-104 (4.08 miles of freeway reconstruction, concrete pavement repair...in the cities of Novi and Farmington Hills, Oakland County) which is a good example of where value engineering can really help the department. Although there is a requested amount that looks significant, realize that there is going to be a net savings to that project through the value engineering process that the contractor has proposed.

Also MDOT item #2009-107 (0.54 miles of hot mix asphalt and waterproofing...in the city of Port Huron, St. Clair County) which is a learning experience for the department. We had a concrete bridge deck that we wanted to try and do some things to try and extend the pavement life, but at the same time knew we had some tough operational issues that we had addressed. There was very steep grade on that bridge and very high commercial traffic that moves very slowly. We had some proprietary hot mix asphalt products that we thought would do the trick in terms of putting an overlay on and we had to take about three shots at it to make it happen. As we approached this we had done some good research, had had some good experience with this product at the Mackinac Bridge, nationally it looked like it was something that would do the trick, but we ran into some very tough operational conditions that we had to operate in. This accounts for the additional cost requested today.

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

Commissioner Atkinson asked, regarding item #2009-107, if we had any recourse for the failure of this project.

Mr. Friend replied that if he were to do it again, he'd structure the contract a little differently in terms of putting more responsibility on the manufacturer. We controlled the engineering on this project and that is why there was some recouping of expense from the supplier of the proprietary product.

Commissioner Atkinson clarified that her question was directed more toward recourse from the supplier.

Mr. Johnson added that we have had some lengthy conversations with the Attorney General to see where our rights were and we have exhausted the cost of the proprietary nature and the cost they participated in the engineering. We signed off on the

engineering and basically bought into that this is our material that we have approved so the contractor and supplier were not on the hook because we approved it in a pre-bid situation.

Commissioner Atkinson asked if basically we had an expensive lesson.

Mr. Johnson replied yes.

Chair Wahby 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.

#### IV. **PRESENTATIONS**

Director Steudle prefaced the presentation by stating that there was recently a lot of press about the fact that we have this inability to match in 2011. The latest has been a congressional solution. There have been bills introduced—one that would eliminate all state match (make it all 100% federal), another that would reduce the amount of the match, instead of an 80/20, to a 90/10 or 95/5. There is another one that deals with the Maintenance of Effort provisions that allow that to be calculated a bit different. There was a recent meeting last Friday between three of our congressional members that are on the Transportation and Infrastructure Committee in Washington with Secretary LaHood and the new Federal Highway Administrator, Victor Mendez that talked about these proposals in general. It was offered at that meeting that there were already other states using this new innovative approach that was called the Tapered Match. It was suggested that the department should look at that. Yesterday, Ms. Jackson and Ed Timpf joined me in a conference call with Mr. Mendez to talk about the Tapered Match and what it is specifically. While we weren't in that meeting, it was also to find out exactly what they portrayed that we could take advantage of.

As we dug through the materials, the program that they were proposing is one that we have used in the past and it's called the Tapered Match, but it is done on a project by project basis; not on a program basis. It's not set up to where you can delay your state match for some future year; it's set up on a project by project basis. Each project has to have its own financial accounting system with it or a financial plan. It really is set up for large multiple year contracts, i.e., if you have a contract that's going to last 3 years, you can spend all of the federal money first and when that's done, the remainder of the contract is 100% state money. So from a cash flow perspective it allows you to come up with that money later. We have used it in the past where we knew we had revenue coming in the future. It's not going to be able to solve our problem now. The majority of the projects coming through are really one construction season; they are smaller projects done in six months so the most we will be able to do is buy a couple months.

#### Five Year Highway Program Revenue Update – Denise Jackson

A number of things have changed since February: State revenues have declined by about \$10 million annually consistent with Department of Treasury estimates; the opportunity to capture Federal aid has increased due to estimate in Obligation Authority (87% to 92%); we've estimated our shortfall now as being about \$600 million annually beginning in 2011. MDOT has done a few things to help manage the issues facing us. We have

restructured GARVEE debt service in order to free up state funds to be used to match our capital program, re-evaluated routine maintenance assumption (we feel we can no longer afford increasing routine maintenance at 3% per year as identified in the Five Year Program), and we've revised the 2011-2014 investment strategy.

When looking at our federal revenue assumptions, we are assuming that 2010 and 2011 revenue will be the same as 2009 (then increased 3.2% annually beyond 2011). Based on that our share of federal aid for the trunkline program is estimated to be \$3.95 billion. There is a lot of uncertainty due to Highway Trust Fund deficit and Reauthorization. Looking at our state revenue assumptions, we are assuming that revenues continue to decline through 2010, and then assume a 1% growth per year beginning in 2011. Total state revenue is estimated at \$1.5 billion for capital outlay, routine maintenance, and debt service.

The year 2010 has about \$70 million worth of ARRA projects; the program is expected to be about \$1.34 billion. However, we have some tough issues facing us when you look at 2011-2014. A state revenue shortfall of approximately \$365 million (\$91 million per year) is projected between 2011 and 2014. This state revenue shortfall will result in the loss of approximately \$2.1 billion (\$525 million annual per year) in federal aid over the 2011-2014 timeframe due to inability to provide state matching funds. Program size would be less than \$600 million each year, including routine maintenance. When you sum it all up the anticipated shortfall of state revenue and unmatchable federal-aid combined total is nearly \$2.45 billion over the 2011-2014 timeframe.

We would like to continue developing the Five Year Program the way we have and we've done this by presenting two investment strategies—Current and Reduced. The Commission has asked the department to make sure we have enough in production in case money does come along so in this upcoming cycle we would like to model what we did last time. This Program would again contain two investment strategies: Current (fully funded) strategy assumes ability to match all federal funds available, and Reduced (revised hybrid) strategy decreases the program by approximately \$600 million each year beginning in fiscal year 2011 (allows us to “pull back”—continuing on with pre-construction activities to have the projects ready but pull back on the construction part—become shelf jobs).

The Reduced Strategy continues the Commission guidelines of continuing to focus on preservation as well as safety and operations, providing funding for all highway capital programs, supporting technology advances, maintaining production schedule so program delivery can continue, and maintaining high priority projects on corridors of highest significance. Even though we plan to pull back the program, we would be implementing it according to these guidelines.

In order to implement these guidelines, we would recommend: repair and rebuild roads-\$160 million (down from \$440 million), repair and rebuild bridges-\$65 million (down from \$200 million), capacity improvements/new roads-\$7 million (down from \$50 million), safety-\$35 million (down from \$66 million) congestion mitigation and air quality-\$7 million (down from \$44 million), ITS-\$3 million (down from \$13 million), Other (enhancements, roadsides, carpool parking lots, freeway lighting, etc.)-\$23 million

(down from \$90 million), and routine maintenance-\$289 million (stays the same), for a total of \$589 million (down from \$1.192 billion).

We have achieved the 2007 pavement condition goal of 90% good; however, we will not be able to sustain that condition given the current level of investment. For example, statewide pavement condition will fall to approximately 70% good by 2014 with current investment and is projected to decline further to just over 45% good by 2020. Under the Reduced funding strategy, the decline in pavement condition is even more dramatic as pavement condition declines to 64% good by 2014 and 24% good in 2020.

We continue to make progress in improving the condition of our bridges. Although, we will be unable to achieve the 2008 overall bridge condition goal of 92%, we were able to achieve the goal of having 85% of all non-freeway bridges in good condition and will be able to sustain that condition level into the future. Under the reduced investment level, bridge condition declines to about 88% good/fair by 2014 (was 88% last 5YP by 2013) and further declines to 84% by 2018 (was 85% in prior 5YP by 2017). If the reduced funding strategy becomes reality, nearly 600 bridges will be affected by the reduction (290 bridges will not be replaced or rehabilitated and an additional 285 bridges will not receive life extending preventative maintenance work). This is a 65% decrease from the current program.

Under the Highway Safety Program, if the reduced program needs to be implemented, the signing replacement cycle increases from 15 to 35 years, pavement marking would be very limited as far as the non-freeway rumble strips and no special pavement marking replacement, 4 scheduled guardrail projects will not be let, and the traffic signal replacement cycle increases from 25 to 50 years and retiming cycle increases from 10 to 20 years.

Under the Air Quality, Operations and Natural Resources Program, roadsides would have no rest area reconstruction/rehabilitation and limited design work, CMAQ would have 30 fewer projects delivered, ITS would have to have individual infrastructure deployment instead of statewide deployment, we would have to suspend our wetland banking program, and we would have 35 fewer enhancement projects, 45 fewer miles of non-motorized facilities and 10 fewer miles of streetscapes.

We don't have much of a program in the area of expansion but that would take quite a hit also. Our goal is still to utilize all federal earmark (HPP) funding available, I-96 at Latson Road in Livingston County will be fully funded, however US-131 at Constantine in St Joseph County and US-31 (M-231) in Ottawa County will be partially funded.

In summary, the Reduced Program will impact economic opportunities and jobs, and will impact system condition gains made over the years.

With the Commissions' concurrence on the investment strategy approach outlined, we would like to communicate the investment strategy to regions and program managers, identify potential projects to be impacted by the reductions, provide the Commission with a preliminary list of projects based on full and reduced funding scenarios, and move quickly into updating the Five Year Program to present a draft in November.

Director Steudle reiterated that the department is moving forward with all the projects that are listed in the Five Year Program so that we have shelf jobs. They are in the design phase and moving forward. When we get to the point where we are going to let them, if we don't have the funds, these are the projects that aren't going to get let.

Chair Wahby wondered aloud how much of the stuff we saw today is going to be done through ARRA that will help this current situation.

Commissioner Brosnan commented that she wonders if it were time to re-visit the priorities previously set forth given the current situation. Those priorities were exceptional for that time, but today we are in even a different time. What would drive her decisions about priorities today would entail going back to the core services that we need to provide as a department. Our core responsibilities are to move people and products safely and efficiently—in that order. There are some priorities she would flip around and even zero some out in the next funding cycle. She then asked if the timeline allowed for the opportunity to once again engage as a Commission in that discussion.

Ms. Jackson replied that it would need to be done within the next month in order to move forward and be able to deliver the Five Year Program by November because there is a lot of work that goes into actually identifying those specific projects that would need to be changed due to any revised strategy.

Commissioner Brosnan, for clarity, commented that streetscaping and landscaping are marvelous and extremely imperative to local communities, but if they do not make it safer and more efficient to move products and people, we can't afford it.

Ms. Shinn commented that there was a significant reduction in enhancement activities, down to \$1 million. That \$1 million was based upon coordination with a promised activity within a road project. The stand alone projects are the ones that would totally go.

Commissioner Brosnan stated that we are down to brass tacks. You are looking at a program where we may be cut significantly if we don't see any drastic changes made. This is a different scenario that we're presented with today than we even were last year when we made these choices.

Commissioner Jung agreed that it would be a good idea to communicate the investment strategy to the regions because it would make local communities aware of the things they stand to lose. If anything, we can garner a little local support for increased road funding.

Director Steudle reflected back on last year and how we started with a questionnaire to each Commissioner asking for them to prioritize things. It would probably be a good idea to do that again to expedite discussion and get everyone's thoughts out so Ms. Jackson can move forward. This can be sent via email, get them back to the department and analyzed, then bring the feedback to the next meeting.

Chair Wahby, with agreement from the Commissioners, agreed that this would be a good way to go.

Commissioner Brosnan stated that it will move things along in two regards: it moves things along expeditiously, but most importantly it will give us some time to think. This is our first time seeing this again and we have not had a lot of time to process it.

Commissioner Atkinson stated that there has to be somewhere within the Five Year Program that the Next Steps indicate that more than 100 citizens spent more than 1,000 person hours working on recommendations which now lay on the floor at the legislature. A next step has to be to communicate emphatically to the legislature the fiscal irresponsible decline and investment that occurs unless they urgently address the funding crisis. These citizens spend all this time trying to do the work that the legislators really should have done. If you need an STC resolution for that, she offered to work on it.

Chair Wahby stated he had no problem with it and gave the consent to put a resolution together.

No other questions or comments were forthcoming.

V. **PUBLIC COMMENTS**

Chair Wahby asked if any member of the audience wanted to address the Commission; no comments were forthcoming.

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

Chair Wahby announced a request from the Commission to go into a closed session for the purpose of discussing pending litigation. A roll call vote is required.

Chair Wahby entertained a motion. Motion was made by Commissioner Atkinson and supported by Commissioner Brosnan to go into a closed session. Mr. Kelley called the roll; all answers were affirmative. Motion carried on a unanimous roll call vote.

VI. **ADJOURNMENT**

There being no further business to come before the Commission, Chair Wahby declared the meeting adjourned at 10:30 a.m.

The next full meeting of the Michigan State Transportation Commission will be held on Thursday, August 27, 2009, in the 1<sup>st</sup> floor Bureau of Aeronautics and Freight Services Auditorium in Lansing, Michigan, commencing at the hour of 9:00 a.m.