

MINUTES OF THE TWO HUNDRED SIXTY-SEVENTH MEETING
March 6, 1973

Pursuant to bylaws the Ohio Turnpike Commission met in regular session in the conference room of the Ohio Department of Transportation building at 139 East Gay Street in Columbus, Ohio at 11:00 a. m. on March 6, 1973 with the key members of the staff; a representative, Harvey A. Harnden, of the Consulting Engineers; representatives Robert H. Bartholomew and P. Joseph Sesler, of the Trustee, the Ohio National Bank; members of the press, and others in attendance.

The meeting was called to order by the Chairman. The roll was called and the attendance was reported to be as follows:

Present: Teagarden, Chastang, Anderson, Richley, Shocknessy.

Absent: None.

The Chairman announced that a quorum was present.

The Chairman said he wanted to congratulate those members of the staff who worked out the sign and slip calling attention to the 170th anniversary of the natal day of the State of Ohio and who had the signs posted and slips distributed on March 1, the day of the anniversary and thereafter.

A motion was made by Mr. Richley, seconded by Mr. Anderson that the minutes for the meeting of February 6, 1973 which had been examined by the Members and on which the corrections suggested by the Members had been made be approved without reading.

A vote by ayes and nays was taken and all Members responded to roll call. The vote was as follows:

Ayes: Richley, Anderson, Teagarden, Chastang, Shocknessy.

Nays: None.

The Chairman declared the minutes stood adopted with all Members voting in the affirmative.

The Chairman reported that the Director of Transportation, J. Phillip Richley, had been honored by the Mahoning Valley Industrial Management Association and the Mahoning County Industrial Safety Campaign. He said Mr. Richley had been given a medallion for distinguished service to the

Mahoning Valley and that the medallion had been accepted by Mr. Richley's brother, Dr. Victor A. Richley, a professor at Youngstown State University, because Mr. Richley was in hospital in Columbus at the time of the banquet at which the presentation was made. The Chairman said the congratulations of the Commission upon his quick recovery and the honor were added to the congratulations of others and the Commission felt it shared in any honor that any Member of the Commission received.

The Chairman reported also that he had received a clipping of Governor John J. Gilligan examining a stone from Ohio's first capitol in Chillicothe and he directed the clipping be included in the archives of the Commission. He said the slip of paper the Commission was passing out resulted from a letter the Commission had received from the Governor asking the Commission to join him and all the agencies of Ohio in noting the 170th anniversary of the State's admission to the Union. He said that accordingly, the slip was being passed out and he had been told that people indicated interest in the facts contained. The Chairman read the slip as follows:

"OHIO FACTS

- "Area: 41,227 square miles
- "1970 census: 10,542,030
- "Population rank: Sixth
- "Motto: With God All Things Are Possible
- "Flower: Scarlet carnation
- "Bird: Cardinal
- "Tree: Ohio Buckeye
- "Gemstone: Flint
- "Song: 'Beautiful Ohio'

"OHIO TURNPIKE FACTS

"The Ohio Turnpike opened in its entirety on October 1, 1955. It stretches 241.2 miles from the Pennsylvania line to the Indiana border. There is no tax money in the Ohio Turnpike. It was financed by \$326,000,000 worth of revenue bonds of which a balance of only \$154,817,000, or 47.5% remains to be paid.

"The Ohio Turnpike will become toll free when it is debt free. The original schedule called for retirement of the last bonds in 1992. It now appears the Ohio Turnpike debt will be totally paid in 1980."

"MARCH 1, 1973 - BEAUTIFUL OHIO'S 170th BIRTHDAY AS THE
17th STATE OF THE UNION

"On this historic date the Members of the Ohio Turnpike Commission and the employees of the Ohio Turnpike are happy and proud to contribute to the

history and greatness of the State of Ohio just as those men did who built, maintained and operated the Ohio canal system and the National Road across Ohio. Constructed between 1825 and 1840 the National Road opened central Ohio to full settlement, and together with the canals built in the same period provided arteries of trade and travel for the nation.

"Today's Ohio Turnpike has stimulated growth and industry in the State far beyond the expectations of those who wrote the Ohio Turnpike Act.

"Therefore, we are proud to say, with Governor John J. Gilligan, 'LET'S HEAR IT FOR OHIO!' "

The Chairman said the slips were being distributed at the 16 service plazas and the signs were on display at all 92 toll booths and the commemoration of the 170th anniversary would continue throughout the month of March.

The Chairman reported also that he and Mr. Johnson had gone to call on Mr. Richley while Mr. Richley was in the hospital but had arrived 15 minutes after Mr. Richley was discharged and that the Commission therefore congratulated Mr. Richley on having gotten out of the hospital.

The Chairman reported also that the revenue from the Ohio Turnpike for February was estimated at \$2,660,000 which was a new high for the month, approximately \$313,000 more than the revenue for February of 1972, the previous record-breaking month. The Chairman reported that James D. Hartshorne, Executive Assistant to the Chairman, had heard a professor on television saying that in two years there would be gas rationing and gasoline would cost \$1.00 a gallon. The Chairman said he did not think on the basis of the growth that the Commission had had that even rationing and \$1.00 a gallon for gasoline would make much difference to the revenues of the Ohio Turnpike because the economy of the country would have to roll even if gasoline were expensive and even if it were rationed. He said he lived in the hope that the shortages which were predicted would not be as great as foretold nor would interfere with the Commission schedule for a toll free road. He said that the Pennsylvania Turnpike experienced a noticeable contraction in its business in the gasoline rationing of World War II, but that even at that time gasoline prices had not gone up to the degree that the professor had suggested.

The Chairman reported there had been one fatal accident in February but during the same month of 1972 there had been four. He said there had been more traffic in 1973 and more miles driven but fortunately only one death. He said that so far in 1973 there had been only two fatal accidents.

The Chairman reported also that work had already begun on the three resurfacing contracts which were awarded at the February meeting. He said that later the Commission would act upon a fourth which would be presented

by the Executive Director, Allan V. Johnson.

The Chairman reported also that the Executive Director would report on the conference he had attended at Williamsburg, Virginia, and on the new toll audit equipment and on the study being conducted by the Consulting Engineers, the J. E. Greiner Company. The Chairman reported also that the General Counsel, Lockwood Thompson, had handed down a very scholarly opinion on the matter of granting permits to private persons who sought permission to cross the Turnpike or otherwise to take advantage of its facilities. He said as far as he was concerned the opinion was the law on the subject.

The Chairman asked Mr. Richley whether the Department of Transportation had a policy on permits and Mr. Richley informed the Commission that every case was decided upon its merits.

The Chairman reported also that the Executive Director had written a letter to Computer Systems Engineering Inc. in Boston. The Chairman said CSE had taken exception to the award of the toll audit contract. The Chairman said all Members had received copies of the Executive Director's letter and he considered it to be a fine illumination of the problem and he considered it the final disposition of the matter.

The Chairman said Mr. Anderson had not been present the day the toll audit award had been made but had advised the Chairman that had he been present he would have voted for the award.

Mr. Anderson thereupon confirmed that he would have voted for the award had he been present.

Mr. Chastang asked that the record should show that Mr. Anderson had joined in the vote of the toll audit system in anything but a perfunctory manner, that Mr. Anderson had examined the whole matter and had come to his conclusion without any reference to the rest of the Commission. The Chairman directed that Mr. Chastang's explanation of Mr. Anderson's method of reaching his conclusion be made a matter of record.

The Chairman said the report of the Chairman was accepted as offered. He said the report of the Secretary-Treasurer would be received.

The Assistant Secretary-Treasurer, Mr. Johnson, reported for the Secretary-Treasurer, Mr. Chastang, that since the last meeting the following had been sent to all Members:

1. Traffic & Revenue report for January 1973.
2. Financial Statements as of January 31, 1973.
3. Draft of the minutes of the February 6, 1973 meeting.
4. Detail of investment transactions which took place in February 1973.

Mr. Chastang said that was the extent of his report.

The Chairman said the report of the Secretary-Treasurer was accepted as offered. He ascertained there would be no report from the Committee on Budget and Finance. He said the report of the Committee on Service Plazas would be received.

The chairman of the Committee on Service Plazas, Mr. Teagarden, reported that the Committee had had a request from Gladieux Food Services, Inc. for adjustments in food prices and that the Committee hoped to meet with Gladieux later in the month. He said there had been no similar request for an increase in prices from Howard Johnson Company.

The Chairman said the report of the Committee on Service Plazas was accepted as offered.

The Chairman said the report of the Committee on Employee Relations would be received.

The chairman of the Committee on Employee Relations, Mr. Teagarden, reported that meetings were being scheduled in May to meet with the employee representatives on the Employee Manual for the year 1974.

The Chairman said the report of the Committee on Employee Relations was accepted as offered. He said the report of the Director of Transportation would be received.

The Director of Transportation, Mr. Richley, reported that the Department of Transportation had installed two signs on the interstate system showing distance in kilometers in order to begin a program of information in anticipation of passage of a national act which would result in the replacement of the customary measures with the metric system. He said that as well construction drawings in two of the Divisions of the Department of Transportation would be developed in both the metric and customary systems. He said that as well the construction industry would be made aware of the possible conversion to the metric system by letting contracts after the plans were complete. He said there would be public information about the system by installation of signs in prominent locations around the State in order to arouse the imagination of motorists. Mr. Richley said the Bureau of Standards of the Federal Government had been happy with what the Department of Transportation had done. He said the Department planned to do more such things and eventually to testify on the bill to replace the customary system with the metric system. He said it was proposed to let contracts in the metric system by the end of 1973 and to develop information to be passed out at the State Fair in order to bring the information to the public gradually. He said the Department of Transportation did not assume all responsibility for the information program but that, because the Department probably per-

formed more engineering than any other department of the state except that of public works, the Department of Transportation ought to take the lead in the matter.

The Chairman said the report of the Director of Transportation was accepted as offered. He said the report of the Committee on Safety would be received.

The chairman of the Committee on Safety, Mr. Johnson, reported that the winter centerline painting program started on February 7 and in six working days 186 miles of centerline markings had been painted. He reported also that the program to convert all exposed sign posts to the breakaway type was proceeding and that all the cable guard rail within the limits of the 1973 resurfacing contracts would be replaced with steel guard rail that conformed to current interstate standards. He said the replacement in conjunction with resurfacing was really a supplement to the Commission's extensive program bringing guard rail to current standards using its own forces.

The Chairman said the report of the Committee on Safety was accepted as offered. He said the report of the Executive Director then would be received.

The Executive Director reported that Electron-Ohio Inc. and Magneguide Corporation, joint venturers, were actively engaged in all available stages of the toll audit contract that they held with the Ohio Turnpike Commission. He said the work appeared to be on schedule for the completion of Stage 1, which was the final determination of all design elements and operational features scheduled to be completed by May 1.

The Executive Director reported also that he had participated in a panel before a joint meeting of two committees of the International Bridge, Tunnel & Turnpike Association, Inc. on February 21 in Williamsburg, Virginia to explain the new toll audit system being installed on the Ohio Turnpike. He said the Comptroller, William G. Gerber, had also attended. The Executive Director said his presentation had been well received by the committee members and the subject was a very crucial one to most of the other toll roads. He said he had received an acknowledgment letter from the chairman of one of the committees and copies of the letter were in the Members folders, as follows:

"Richmond Metropolitan Authority

"February 28, 1973

"Mr. Allan V. Johnson, Executive Director
Ohio Turnpike Commission
682 Prospect Street
Berea, Ohio 44017

"Dear Allan:

"Thank you very much for taking part in our Joint Administrative and Finance Committee Meetings of I. B. T. T. A. in Williamsburg last week.

"Your presentation and those of the other two members of your panel were most interesting and informative. Many of those attending are facing, in the not too distant future, the same problems and I received many reports of how interested they were in hearing from you.

"My feeling and that of a number of people to whom I have talked is that now that you keyed up our interest in this thing, we would like to know how you come out. I think it would be interesting to have you come back to another meeting and report on how such a major undertaking has worked out. I have, in other industries, gone through this business of striking out in new directions with systems and it is not without its trauma and its rewards. We certainly wish you the best of luck in this major step. Thanks again for making our program so interesting and I am serious about getting a report from you at a future meeting.

"Sincerely,

"Allen G. McCabe, Jr.
Comptroller"

The Executive Director reported also that he had written a response to the letter from Computer Systems Engineering in Boston. He said he had not received a formal reply to the letter but that a person from CSE attended the committee meeting in Williamsburg and at that time he had indicated to the Comptroller that the matter was now closed as far as CSE was concerned.

The Chairman said the Executive Director had done a good job on the letter, that he had discussed it both with Mr. Richley and with Mr. Chastang. Mr. Richley asked if there had been any response. Mr. Johnson said there had been no written response.

The Executive Director reported also that the data gathering phase of the study of facilities that may be needed when the Turnpike becomes toll free was actively under way by the Consulting Engineers, the J. E. Greiner Company. He said that during February J. E. Greiner Company representatives had been in Berea at the Turnpike offices and in Columbus at the offices of the Department of Transportation. He said that on February 15 Thomas E. Donnelly, vice president of J. E. Greiner Company, Norman Lawler, project manager of J. E. Greiner Company, Mr. Harnden, G. Alan Plain, Administrative Assistant to the Executive Director of the Ohio Turnpike, and the Executive Director had met in Columbus with Bobby F. Everhart, Deputy

Director of Planning of the Ohio Department of Transportation, and with Charles H. Groves, Administrator, Bureau of Transportation Technical Services, Ohio Department of Transportation. The Executive Director said the purpose of the meeting was to develop the information needed from the Department of Transportation for the study. He said further that he had designated Mr. Plain as the Commission's liaison man for the study.

Mr. Richley asked if any information was being sought from the various transportation study groups along the Turnpike. The Executive Director said that it was but that the inquiries were being channelled through Mr. Everhart.

The Executive Director reported also that the three contracts for resurfacing awarded at the February meeting were already under way. He said that at the February meeting a fourth contract before the Commission for resurfacing between Milepost 230.6 and Milepost 241.2 in Mahoning County had been rejected because it exceeded the Commission's cost estimate. He said the contract had been re-evaluated and readvertised with provisions for an alternate bid with a reduced amount of underdrain to be placed as directed by the engineer. He reported that a single bid had again been submitted on the contract by The City Asphalt & Paving Co. and by the Northern Ohio Paving Co., joint venturers. He said the bid on the alternate basis amounted to \$1,143,797.00. He said the bid that had been rejected in February had been submitted by the same joint venturers. He said that the bid on the alternate basis was within the Commission's revised cost estimate and also within the project budget estimate, which had not been the case the first time the contract was bid. He said the Consulting Engineers and the Chief Engineer had recommended an award of the bid on the present basis and that the General Counsel had advised the Commission that the bid could be legally awarded. He said a resolution had been prepared for that purpose and he recommended that it be adopted.

The Chairman asked that Mr. Richley give his opinion on the bid.

(At this point the Governor of Ohio, John J. Gilligan, entered. He was welcomed by the Chairman and introduced to each person in the room. The meeting was then resumed with the Governor seated at the right hand of the Chairman.)

The Chairman told the Governor that he did not know whether he was entitled to welcome him to the building because it was a Department of Transportation Building but because the Ohio Turnpike Commission once owned the building the Commission Members still considered it partly theirs, and so he would welcome him to both the meeting and the building.

The Chairman told the Governor that the Members of the Commission were glad that the Governor had come to visit the meeting. He said it was the first time that Governor Gilligan had met with the Commission but he was sure the Governor understood that it was the Commission's position that the Governor had waited until the last to meet the best. He said the Commission had had a very cordial relationship with the Governors of Ohio ever since the Commission came into being in 1949. The Chairman said he had said many times that the Governors of Ohio had supported the Commission's works in the way that the hypothesis of revenue bond financing intended. He said the Commission had operated in the same fashion that private business might have operated without any dictation from any Governor or political party and he added that he said that not in any contentious way, but the Governors of Ohio had all respected that fact that the Commission was the creation of the Legislature to fulfill a need through private financing and the Chairman believed the Commission had done so. He said it was especially appropriate that Governor Gilligan was present at the meeting because displayed at the meeting was a placard that the Commission had displayed at every toll booth -- 92 in number on the Turnpike -- having to do with the Governor's "Let's hear it for Ohio!" program. The Chairman said he and the Executive Director had taken one of the signs and a number of the slips about Ohio Facts to the Governor's office. He told the Governor the slip concluded with: "We are proud to say with Governor John J. Gilligan ' Let's hear it for Ohio! ' ".

The Chairman told the Governor that the Commission had done most of the business of the day before his arrival and that the Commission was at the point of the Executive Director's report. He said the Commission was especially pleased by two things. The Chairman said the Commission had seen a picture of Governor Gilligan and that he had said at that time that the Governor's public relations was better than the Turnpike's because the Governor had had his picture taken at the Chillicothe ceremony and the Commission had not had any picture taken on the Turnpike. The Chairman said the Governor was one up on the Turnpike Commission. The Chairman told the Governor that the picture was to be placed in the archives of the Ohio Turnpike.

The Chairman said the other thing that had been taken note of that day was that the Director of Transportation had received another recognition. He said that almost every time the meeting began he had to start the meeting off by saying "Now we want to congratulate the Director of Transportation for another award".

The Governor said the Director of Transportation's public relations were not too bad either. The Governor said that he noticed that Philip Geary, Director of Air Education from Trans World Airlines, was in the picture with Mr. Richley's brother and that he had just left the Fairgrounds where Mr. Geary

had been addressing a meeting of fire fighters. He said he believed that Mr. Geary could speak on any subject -- rather like the Chairman of the Ohio Turnpike Commission.

The Governor said the Chairman had delivered placards and information slips to his office and that he was grateful for the cooperation in the State's anniversary because it was a very nice addition to the program by which he was trying to acquaint Ohioans and others with the history and accomplishments and attributes of Ohio. He said he was sure the Members of the Commission were far more aware than he was that there were literally hundreds of thousands of Americans whose first impression of Ohio was gained by driving on the Turnpike, moving either east or west. He said that he thought the Turnpike, because of the manner in which it had been designed, built, maintained and improved, was a good introduction to foreigners to the State. He said he endorsed what the Chairman had said about the very high traditions of service that the Commission had rendered to the State, quite in keeping with the Legislative mandate of many years ago.

The Chairman said the Commission had been created by the 98th General Assembly in 1949 and organized on September 8 of that year in the Governor's suite of offices. He said the first Commission had included Mr. Teagarden and himself and also included Gordon McKay of Cleveland and Murray Seasongood of Cincinnati, who was still active at about 94 or 95 years of age, as well as the then Director of Highways.

The Chairman said T. J. Kauer had been the Director of Highways at the time the Turnpike Commission organized and he later became Chief Engineer for the Turnpike Commission. The Chairman said the Commission had had marvelous rapport not merely with the Governors of Ohio but with the Department of Highways and now with the Department of Transportation. He said the Commission had worked closely with the Department of Highways and the Department of Transportation and that never had there been any competition between them. He said all parties concerned had recognized that they were not to compete with one another and that both agencies had been partners and every Director of Highways or Transportation and Governor had worked in that way. He said every Director who had served on the Commission contributed greatly to the Commission. He said he had told Mr. Richley that no matter how many engineers the Turnpike employed he had always considered that the Director of Highways and now the Director of Transportation as the Commission's final engineer. He said he had just asked Mr. Richley in behalf of the rest of the Commission to give his opinion on a contract for resurfacing which the Commission had before it and he had told Mr. Richley the day before when they talked that the Commission would always rely on the Director of Transportation for the final approval. He said the Director was on the Turnpike Commission to provide the bridge from administration to administration and at the same time to give the benefit of a rich experience

which the directors had invariably had in engineering and highways.

The Governor said he could say the same, that he was interested in preserving and prolonging the close cooperation between the Executive Department and the Commission. He said that he had noted in the Chairman's comments, which he assumed he had written, on the slip in reference to the National Road and the canal system.

The Chairman said that that was the point that he wanted to get in. He said that he had not written all the copy but did consult with those who did write it and he congratulated Talbot Harding, the Director of Information and Research, and Mr. Hartshorne on the work. The Chairman said that in the early days of the Commission's Annual Report, when it was necessary to use the report as a promotional item as well as a financial statement, the history of transportation in Ohio had been stressed. He said the Commission was now in the position where it did not have to do any more than present the figures of the operation, but that in the first 15 to 20 years it had been necessary to merchandise the highway and the Commission's transportation role. He said that in those early annual reports, with which Mr. Hartshorne had more to do than anybody else, the Commission had portrayed the history of transportation in Ohio from its very beginning. He said that of course on the slip distributed in the "Let's Hear it for Ohio" campaign the contribution made by transportation to the opening of the middle west and especially of Ohio was mentioned as a matter of course.

The Governor said the process was a continuing one. He said that was one of the reasons he was delighted when the General Assembly approved the conversion of the former Department of Highways into a Department of Transportation. He said that, in days of highly mobile society and with the type of economy and industry now extant, the development of a completely coordinated transportation system was no longer a luxury or a mere nice thing to have, but very nearly the means of survival in a highly competitive age. He said Ohio had a basically sound transportation system although it had a lot of problems. He said he had listened to some of the other Governors at the Governors' Conference when a report had been submitted from one of the standing committees. He said there had been a suggestion made in the United States Congress of the possibility of invading the Highway Trust Fund for the purpose of mass transit. The Governor said Governor Milton J. Shapp of Pennsylvania had suggested that with the railroads in their present situation, they should receive governmental support and then one of the Governors from a western state where air lines gave great service between major urban centers but were curtailing service to the smaller market areas, urged support for feeder lines which were being merged out or going bankrupt. He said the western Governor told the committee that a lot of communities were almost isolated from commercial transportation and urged that funds be used to subsidize feeder air line operation. Governor Gilligan said Governor

John A. Burns of Hawaii had said the merchant marine was in a parlous condition. The Governor said that by that time the people who were talking about safeguarding the Highway Trust Fund were beside themselves because suggestions were coming from every level, but the point was made that all the modes of transportation mentioned were important to survival. The Governor said the kind of operation the Ohio Turnpike Commission had was a really pioneering operation. He said the revenues alone would suggest that the road was handling successfully and safely a higher level of traffic than was ever contemplated when it was designed. He said the safety record was great. He said that he had noticed the Commission's release the other day in which it was said there were 32,000 more vehicles on the Turnpike on the Washington-Lincoln Day weekend than there had been a year earlier and there had been no fatalities.

The Chairman said that in the whole month of February there had been only one death although there was more traffic and more revenue than in the preceding February when there had been five deaths. He said he agonized every time there was a death but the safety record was good. The Chairman said the establishment of the Department of Transportation was a recognition of evolution in transportation. He said the things the Governor had mentioned about the Governors' Conference recognized that transportation was in no aspect static. He said transportation was evolving in every area and it was a very good thing to have a Department of Transportation with a mission not merely to deal with highways but to deal with all forms of transportation. He said he was not one of the people who considered that any fund necessarily was perpetually sacrosanct although he was not sure he should make such a statement. He said he was not at all sure taxes collected for highways might not be made available to other forms of necessary transportation in succeeding generations.

The Governor said the picture changed very rapidly. He said that when he first was on the City Council of the City of Cincinnati as a charter party member, the City of Cincinnati had been proud of the fact that right after World War II the first intensive master plan study of the City had been commissioned. He said it was one of the first such studies that any major city had ever undertaken. He said the City spent the then unbelievable sum of \$350,000 to produce a 15 volume work which was published in 1946 and 1947. He said the Cincinnati Planning Commission now spent \$400,000 a year just for operation.

The Chairman said it was probably not tactful for him to ask, but what had the people of Cincinnati done about the subway stations?

The Governor said that the subway stations were still standing there waiting for the first cars. He said the subway was built in 1929 and that finally one of the tunnels had had a 24-inch water main laid in it. He said

that was the only use the City ever made of the subway. He said the point was that a great master plan for transportation had been prepared and a mass transit study had been done as an integral part of it. He said curves had been projected in 1946 and 1947 and the curves showed that by the year 1975 there might be as many as 200,000 motor vehicles in Hamilton County. He said that figure had been surpassed in 1950, that the ink was not dry on the report when the report was already outmoded. He said a curve for mass transit had been projected, using war time figures with gas rationing influencing the result, and of course the ink was no sooner dry on that report than mass transit began to lose riders. He said the picture constantly changed and the great thing about the Turnpike was that not only the Commission's ability to operate an important facility and operate it well but the Commission's own pattern of experience in the area had been of enormous value, he was sure, to Mr. Richley and to his fellow highway directors throughout the nation. He said he did not wish to interrupt the meeting forever but had wanted to come by and say hello on the occasion of Ohio's 170th anniversary and he said that as long as the distinguished Members of the Commission represented the State of Ohio, he wanted them to wear the Ohio flag. (The Governor distributed lapel-size Ohio flags in enamel to the Members of the Commission and the Executive Director.)

The Chairman thanked the Governor on behalf of the Commission. He thanked the Governor for coming and said he must come back. He said the Commission always liked to follow the pattern a Governor established for the government of Ohio. (The Governor left at this point).

The Chairman said the Governor's visit had been a most interesting and pleasant interlude. Mr. Richley said that the Governor was very knowledgeable. Mr. Teagarden said it was very nice of the Governor to come. The Chairman and all agreed. He said it was very good that all Commission Members were present.

The Chairman said that when the Governor had come in he had just asked Mr. Richley to read a resolution. Mr. Richley said he had read the resolution and he was satisfied.

A resolution awarding Contract RMP 59-73-4 was moved for adoption by Mr. Richley, seconded by Mr. Chastang, as follows:

RESOLUTION NO. 6-1973

"WHEREAS the Commission has duly advertised, according to law, for bids upon a contract for the repairs and resurfacing of original Construction Sections C-1 and C-2 between Milepost 230.6 and Milepost 241.2 in Mahoning County, Ohio, which contract is designated Contract RMP 59-73-4, and proof of said advertising is before the Commission;

"WHEREAS at the bid opening for the performance of said contract there was but one bidder, whose bid and alternate bid were duly opened and read as provided in the public notice for bids, and said bid and alternate bid are before this meeting;

"WHEREAS said bid and alternate bid have been analyzed by the Commission's consulting engineer and by its chief engineer, and they have reported thereon with respect to said analyses, and they, and also the Commission's executive director, have made their recommendations predicated thereon;

"WHEREAS bids for said contract were solicited on the basis of the same terms and conditions, and the same specifications with respect to all bidders and potential bidders, and the alternate bid of City Asphalt and Paving Co. and Northern Ohio Paving Co. (a Joint Venture), Youngstown, Ohio, for the performance of all items of said Contract RMP 59-73-4, excluding SP 605 - Aggregate Drains, Type I and Type II, but including SP 605A - Aggregate Drains, Type I and Type II, in the amount of \$1,143,797.00, is, and is by the Commission determined to be, the lowest and best of the bids received for the performance of said contract, and that it is in the best interest of the Commission to accept the said alternate bid;

"WHEREAS the Commission has been advised by its general counsel that said bid conforms to the requirements of Section 5537.04 of the Revised Code of Ohio, and to the terms, conditions, and specifications in the legal notice applicable thereto, and, accordingly, the Commission is authorized to accept said bid as the lowest and best of all bids and alternate bids for the performance of the work required under said contract and of the incidental obligations thereof; and

"WHEREAS the Commission is satisfied with the capacity of said bidder to perform its obligations pursuant to its proposal;

"NOW, THEREFORE, BE IT

"RESOLVED that the alternate bid of City Asphalt and Paving Co. and Northern Ohio Paving Co. (a Joint Venture), Youngstown, Ohio, in the amount of \$1,143,797.00 for the performance of all items of said Contract RMP 59-73-4, excluding SP 605 - Aggregate Drains, Type I and Type II, but including SP 605A - Aggregate Drains, Type I and Type II, be, and hereby it is, determined to be the lowest and best bid received, and is accepted, and that the chairman and executive director, or either of them, be, and each of them hereby is, authorized, (1) to execute a contract with said successful bidder in the form heretofore prescribed by the Commission, pursuant to the aforesaid bid, and upon the condition that said successful bidder shall furnish a performance bond as heretofore approved by the Commission, (2) to direct the return to said successful bidder of its bid security when the aforesaid contract has been duly executed and said

performance bond furnished, and (3) to take any and all action necessary or proper to carry out the terms of said bid and of said contract. "

Mr. Richley said for the record that that would be between kilometer post 371.11 and kilometer post 388.17, a total of 17.06 kilometers.

A vote by ayes and nays was taken and all Members responded to roll call. The vote was as follows:

Ayes: Richley, Chastang, Teagarden, Anderson, Shocknessy.

Nays: None.

The Chairman declared the resolution stood adopted with all Members voting in the affirmative. The resolution was identified as No. 6-1973.

Mr. Richley asked what the difference in the contract was between items SP 605 and SP 605A, Type I and Type II. The Executive Director said the two SP items both referred to drains, that SP 605 was the original specification for complete drainage and SP 605A was the alternate specification for a reduced amount of drains.

The Executive Director reported also that he had advised the Commission earlier that plans were being developed for an addition to the Administration Building to relieve overcrowding. He said the project had been noted as desirable by the Consulting Engineers in the Annual Reports of the Consulting Engineers since 1969.

The Chairman said that before devaluation of the dollar it had been anticipated that the project would cost between \$200,000 and \$225,000. The Executive Director agreed that was so, and that at the October, 1972 meeting of the Commission he had advised the Commission that plans were nearing completion and he hoped to advertise for bids. He said that on the basis of preliminary cost estimates, it had not been expected that the contract would be so large that it would require action by the Commission. He said the contract had been advertised and bids were opened March 1. He said six bids had been received and the low bid was submitted by the Seuffert Construction Company, Incorporated, of North Olmsted, Ohio, in the amount of \$290,431.00. He said the bid was only slightly higher than the final estimate which had been obtained on the basis of the final plans from the architect a week before opening of the bids and the bid was only two per cent higher than the estimate. He said that the five lowest bids ranged from \$290,431 to \$310,339. He said the sixth bid had been substantially higher. He said the bids ranged from two per cent above the estimate to 8.7 per cent above the estimate for the five lowest bids. He said he did not believe that anything would be gained by re-advertising and he therefore recommended that the award be made to the low bidder. He said

the contracting architect, Helne, Crider & Williamson, of Berea, Ohio, who prepared the plans and provided the final estimate; the Consulting Engineers, the J. E. Greiner Company; and the Chief Engineer had all reviewed the bid and he had reviewed the bid and all concerned recommended that the award be made. He said that a resolution to approve the plans and to make the award had been prepared and he recommended that it be adopted.

The Chairman said he had told the Executive Director when he learned what had happened, and Mr. Richley when he talked with him, that he did not see anything to be gained by readvertising. The Chairman said if the bid had been less than \$250,000 the Executive Director could have gone ahead with it without reference to the Commission but since it was not under \$250,000 there was no point in wasting six weeks to go through some motions which would need not be gone through. He said that was why he had told the Executive Director to get the resolution ready and to submit it to the Members.

A resolution approving plans to addition to the Commission's Administration Building in Berea, Cuyahoga County, Ohio and awarding Contract RMP 48-73-1 was moved for adoption by Mr. Richley, seconded by Mr. Anderson, as follows:

RESOLUTION NO. 7-1973

"WHEREAS the Commission's consulting engineer in Annual Inspection Reports has noted since September 1969 that the capacity of the Commission's Administrative Building in Cuyahoga County, Ohio is becoming taxed and has recommended a building addition;

"WHEREAS the Commission's executive director has had plans prepared for such a building addition at the Commission's Berea Administration Building, Cuyahoga County, Ohio, which plans have been approved by the consulting engineer, and general counsel has approved the form of contract documents, a part thereof;

"WHEREAS the Commission has duly advertised, according to law, for bids upon a contract for an addition to existing facilities at the Commission's Berea Administration Building located at 682 Prospect Street in Cuyahoga County, Ohio, which contract is designated Contract RMP 48-73-1, and proof of said advertising is before the Commission;

"WHEREAS at the bid opening for the performance of said contract there were six bidders whose bids were duly opened and read as provided in the published notice for bids, and said bids are before this meeting;

"WHEREAS said bids have been analyzed by the Commission's consulting engineer and by its chief engineer, and they have reported thereon with respect

to said analyses and they, and also the Commission's executive director, have made their recommendations predicated thereon;

"WHEREAS bids for said contract were solicited on the basis of the same terms and conditions, and the same specifications with respect to all bidders and potential bidders, and the bid of Seuffert Construction Co., Inc., North Olmsted, Ohio, for the performance of said Contract RMP 48-73-1 in the amount of \$290,431.00, is, and is by Commission determined to be the lowest and best of all said bids, and the Commission has been advised by its general counsel that said bid conforms to the requirements of Section 5537.04 of the Revised Code of Ohio and to the terms, conditions, and specifications in the legal notice applicable thereto, and, accordingly, the Commission is authorized to accept said bid as the lowest and best of all bids for the performance of the work required under said contract and of the incidental obligations thereof; and

"WHEREAS the Commission is satisfied with the capacity of said bidder to perform its obligations pursuant to its proposal;

"NOW, THEREFORE, BE IT

"RESOLVED that the Commission after consideration hereby approves, adopts and ratifies the plans and form of contract documents before it at this meeting, being for and in connection with a contract for the building of an addition to the Commission's Berea Administration Building located in Cuyahoga County, Ohio;

"FURTHER RESOLVED that the bid of Seuffert Construction Co., Inc., North Olmsted, Ohio, in the amount of \$290,431.00 be, and hereby it is, determined to be the lowest and best bid received, and is accepted, and that the chairman and executive director, or either of them, be, and each of them hereby is, authorized (1) to execute a contract with said successful bidder in the form heretofore prescribed by the Commission, pursuant to the aforesaid bid, and upon the condition that said successful bidder shall furnish a performance bond as heretofore approved by the Commission, (2) to direct the return to all bidders for the aforesaid contract, other than said successful bidder, of the bid security furnished by each of them, respectively, (3) to direct the return to said successful bidder of its bid security when the aforesaid contract has been duly executed and said performance bond furnished, and (4) to take any and all action necessary or proper to carry out the terms of said bid and of said contract."

Mr. Anderson asked whether the building would be usable after the bonds were paid off and if it would be used by the Highway Division of the Department of Transportation. Mr. Richley said that the Department of Transportation had not given it any thought but that he would presume it would be and, if it

would not, it could be disposed of by the Commission to some private enterprise. He said it would be a good office building and in a very good area and he was sure there would be no problem in finding a use for the building, without the access to the Turnpike. The Chairman said the building was in a choice location and there was perfect access to it. The Executive Director said the building was in the highest growth area of Cuyahoga County and he thought it was a very desirable piece of property.

A vote by ayes and nays was taken and all Members responded to roll call. The vote was as follows:

Ayes: Richley, Anderson, Teagarden, Chastang, Shocknessy.

Nays: None.

The Chairman declared the resolution stood adopted with all Members voting in the affirmative. The resolution was identified as No. 7-1973.

The Executive Director said the Commission was somewhat involved in the next matter because it had earlier worked on the effort to complete I-71 through the state and particularly in the City of Cleveland. He said that on one of the projects on which he worked while he was still with the former Department of Highways there was a question of Federal participation in extra costs due to unforeseen delays in the Cleveland area. He said that since he had come to the Turnpike Commission he had continued to work with the former Highway Department and with the Department of Transportation in an effort to obtain the necessary Federal participation. He said he had met continually with representatives of the Department, particularly with H. L. Krauser, Design and Construction Engineer for the former Department of Highways and now for the Department of Transportation. He said the question now was one of legality of expending extra funds to pay for the unforeseen delays for unchanged work items. He said that he had met on February 23 in Columbus with representatives of the Attorney General's office and that they were preparing a brief of the legal aspects of the problem for presentation to the Federal Highway Administration. He said it would first be submitted to the Division Office of the FHWA in Columbus, then to the Regional Office in Chicago and eventually to the Washington office. He said it was hoped there would be a successful conclusion to the matter and that approximately \$3,000,000 in Federal participation would be obtained.

The Chairman said that would be a great advantage to the Department of Transportation. Mr. Richley agreed and said that otherwise the \$3,000,000 would have to be paid by the State. The Chairman said he never had any doubt about the validity of the claim of the State on the Federal funds and that he thought the matter was getting dispassionate and objective treatment.

The Executive Director reported also that he would be on vacation for one week between March 11 and March 18 and that the Deputy Executive Director, James D. Hartshorne, would be in charge while he was absent.

The Chairman said the report of the Executive Director was accepted as offered. He said the report of the General Counsel would be received.

The General Counsel reported that two suits had been filed against the Commission since the February meeting. He said the first one concerned a disagreement between the Atlantic Richfield Company (ARCO) and the manager of the gasoline stations at one of the service plazas on the Ohio Turnpike. He said the manager of the station, James W. McCormick, had sued ARCO to restrain ARCO from severing his contract before the end of the year. The General Counsel said Mr. McCormick had added a third cause of action claiming the Commission and ARCO were in an arrangement to fix prices. The General Counsel said the Commission had a provision in the contract with ARCO that no service station or restaurant should charge prices that were more than the prices in the area concerned so Mr. McCormick's contention was without foundation. He said he had written to the other parties in the suit pointing out that under the provisions of the Commission's contract with ARCO, he was advising them that the Commission would look to them for indemnification for expenses caused the Commission by the lawsuit brought by Mr. McCormick. The General Counsel said ARCO had four stations on the Turnpike and that the suit involved only the station at Towpath.

The Chairman said that Mr. McCormick's contention about price fixing was a new contention. He said the Turnpike Commission was usually criticized for high prices. He said Mr. McCormick was complaining that the Commission entered into a conspiracy to restrain prices. He said the matter was not worth talking about.

The General Counsel said the other case was one that barely deserved mention except for the fact that the Commission was being sued for approximately \$30,000. He said the plaintiff was a woman in the Fremont area who owned land and that she had filed suit in the Sandusky County Court of Common Pleas asking for damages claiming that the Turnpike had ruined her drainage. He said there were many possible answers to the suit. He said that in the first place 15 years had expired if she was suing under written contract. He said that if she was suing for damages in the construction of the Ohio Turnpike she had been paid at the time of construction \$16,000 for damages. He said the Commission's Chief Engineer, Frank A. Dutton, and James C. McGrath, Staff Counsel, had been to visit the farm and to talk to the plaintiff's lawyers. He said her drainage had not been affected in any way.

The General Counsel reported also that the Chairman has asked him to refer to his opinion on the question of permits and that the Chairman had asked

him to read the opinion so that it might be included in the minutes. The opinion was read as follows:

"On a number of occasions, commencing with the request of the Warren Motor Lodge, Trumbull County, Ohio, for right to construct drainage facilities keyed to Ohio Turnpike ditches, I have examined into the question of the right of private real estate developers, private individuals or businesses, to use some part of the Ohio Turnpike Project for drainage or other purposes. As I look back over the many times I have considered the question, I can at least state that I have been consistent. I have on the various occasions that the question has been presented to me declared that I saw no legal justification for granting permits to private developers of projects readily able to be realized by Commission acquiescence in the use of Turnpike facilities but difficult of achievement except where encroachment on the Turnpike Project should be approved. I recognize that the Commission should not wish to hinder progress or imaginative projects but this does not mean that the Commission either can or should whittle away or erode the value of the Turnpike Project by affirmatively authorizing or closing its eyes to uses of the Ohio Turnpike Project not authorized by law.

"The legal basis for the granting of permits by the Ohio Turnpike Commission is found in the Ohio Turnpike Act, Revised Code of Ohio Section 5537.05, final paragraph, which provides in part as follows:

'The commission also may make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of public utility facilities in, on, along, over, or under any turnpike project. Whenever the commission determines that it is necessary that any such public utility facilities located on or after September 1, 1949, in, on, along, over, or under any turnpike project should be relocated in or removed from such turnpike project, the public utility owning or operating such facilities shall relocate or remove them in accordance with the order of the commission. ***'

"This statutory authority permitting reasonable regulations for the installation and removal of public utility facilities should be read in connection with Revised Code of Ohio Section 5537.07 which states that the Commission may acquire by purchase such property, rights, rights of way, franchises and easements as it deems necessary for the construction and operation of any Turnpike Project and that title thereto shall be taken in the name of the State of Ohio. It will be noted that this section applicable to negotiated purchases is similar to the section of the Turnpike Act authorizing appropriation when necessary and in which cases title is to be taken in the name of the State of Ohio. (R.C. Section 5537.06, setting forth the procedures for appropriation

of property has been amended to provide that appropriation of property shall conform to the general appropriation statute governing public agencies and set forth in R. C. Sections 163.01 to 163.22, inclusive, but this amendment does not affect the manner in which title is required to be taken by the Commission.)

"In Resolution No. 17-1953 the Commission adopted certain rules and regulations implementing Section 5537.05 with respect to utility facilities. It is unnecessary to set forth that resolution or the rules and regulations in full but the title of the resolution describes it as 'adopting rules and regulations with respect to utility facilities'. This resolution, enacted pursuant to R. C. Section 5537.05, implements the statutory authority, authorizing regulations for the installation, construction and maintenance of public utility facilities. Nothing in the statute and no language in Resolution No. 17-1953 in my opinion authorizes permits to private individuals or private partnerships or private corporations, being limited to public utilities although the Commission has recognized that a public utility may be either publicly owned, as is true of the Cleveland Municipal Light Plant, or privately owned, as is The Cleveland Electric Illuminating Company. It was, however, public utilities that the General Assembly had in mind when it provided that the Commission would recognize their rights and need to have their facilities available to the citizenry.

"At a subsequent time, by Resolution No. 24-1955, the Commission outlined in some detail the considerations and the manner of authorization of permits to public utilities. Subsequently, in the Code of Bylaws, Article V, Sec. 2.10 (11), the Commission outlined the basis upon which the Executive Director might grant permits. That provision of the Bylaws is as follows:

'Upon written application therefor by any person, partnership, association, corporation, or public body, to issue permission, in writing, to any such applicant to install, construct, repair, renew, or maintain and operate, at said applicant's sole cost and expense, any utility facility or facilities, such as water, sewer, gas, electric light and power, telephone, and telegraph lines across, over, or under any turnpike project; provided, however, that only such installation, construction, repair, renewal, or maintenance and operation shall be permitted as, in his judgment, will not interfere with or jeopardize the construction, maintenance, or operation of any turnpike project, and, provided, further, that he shall require that all such construction, repair, renewal, or maintenance and operation shall comply with the commission's 'Rules and Regulations for the Installation, Construction, Repair, Renewal, Relocation and Removal of Facilities of

Public Utilities, Both Publicly and Privately Owned, and of Carriers by Pipe Line, Both Common and Private,' and with such additional requirements and restrictions as he may, in his discretion, impose; provided further, that he shall issue or cause to be issued such permission only after the plans for the proposed installation, repair, construction, renewal, maintenance and operation of such utility facilities shall have been approved by the chief engineer and by the consulting engineer of the project with respect to which such application shall have been made.'

The foregoing language, it may be noted, is the same as that set forth in Resolution No. 24-1955.

"It has been argued that this authority of the Executive Director includes authority to grant permits to private individuals or businesses because it states that upon written application by any person, partnership, association, corporation, or public body, the Executive Director may issue permission, in writing, i. e., permits, but this fails to take into consideration the language immediately following which limits such permission to utility facilities such as water, sewer, gas, electric light and power.

"I should be inclined to declare, if it be seriously argued that the Commission by Sec. 2.10 (11) intended to grant authority to the Executive Director to issue permits to private individuals or to corporations partaking of the nature of public utilities, for the purpose of using Turnpike facilities, that the Commission has only such authority as is granted by law and that neither the Ohio Turnpike Act nor any other statutes enacted by the General Assembly authorize the grant to private interests of any portion of the land appropriated. It is, however, not necessary to speak thus categorically; it is sufficient to say that the Commission, by use of the language quoted, probably had no intention to grant to its Executive Director any such sweeping authority. In this connection I may allude to the difficulty faced by the Commission when it sought to convey land no longer needed for the Turnpike Project where the Turnpike crosses Pearl Road and where the interchange was moved from that location to coincide with the intersection with I-71. At that time some of the unnecessary property of the former interchange was sold outright and it was deemed essential not only to have a Commission resolution in view of Section 713 of the Trust Agreement, but also a deed from the Governor of Ohio in view of Revised Code of Ohio Section 5301.13. That section declares that all conveyances of real estate, or any interest therein, sold on behalf of the state, shall be drafted by the Auditor of State, executed in the name of the state, signed by the Governor, countersigned by the Secretary of State, and sealed with the great seal of the state. Since all of the real estate constituting the Ohio Turnpike Project was conveyed to the State of Ohio, regardless of whether the taking was that of a fee or an easement, I do not see that the Com-

mission or any of its employees can convey away an interest in land held by the State of Ohio."

The Chairman said the report of the General Counsel was accepted as offered. He ascertained there would be no reports from the Consulting Engineers or from the Director of Information and Research.

A resolution ratifying the actions of administrative officers was moved for adoption by Mr. Teagarden, seconded by Mr. Anderson, as follows:

RESOLUTION NO. 8-1973

"WHEREAS the executive director, deputy executive director, chief engineer, general counsel, assistant general counsel, secretary-treasurer, assistant secretary-treasurer, comptroller, and the director of information and research of the Commission have by various written and oral communications fully advised the members of the Commission with respect to their official actions taken on behalf of the Commission since the Commission's last meeting on February 6, 1973, and the Commission has duly reviewed and considered the same;

"NOW, THEREFORE, BE IT

"RESOLVED that all official actions taken by the aforesaid administrative officers of the Commission on its behalf since the Commission's meeting on February 6, 1973 hereby are ratified, approved and confirmed."

A vote by ayes and nays was taken and all Members responded to roll call. The vote was as follows:

Ayes: Teagarden, Anderson, Richley, Chastang, Shocknessy.

Nays: None.

The Chairman declared the resolution stood adopted with all Members voting in the affirmative. The resolution was identified as No. 8-1973.

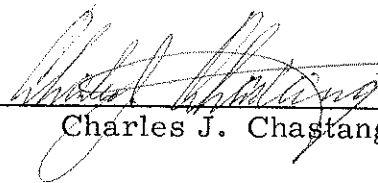
There being no further business to come before the Commission, a motion was made by Mr. Teagarden, seconded by Mr. Chastang, that the meeting adjourn until April 3, subject to call of the Chairman. A vote by ayes and nays was taken and all Members responded to roll call. The vote was as follows:

Ayes: Teagarden, Chastang, Anderson, Richley, Shocknessy.

Nays: None.

The Chairman declared the meeting adjourned. The time of adjournment was 12:40 p. m.

Approved as a correct transcript of the proceedings
of the Ohio Turnpike Commission



Charles J. Chastang, Secretary-Treasurer