

MINUTES OF THE THREE HUNDRED AND FOURTH MEETING
April 5, 1977

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 April 5, 1977 with key members of the staff; a representative, Harvey A. Harnden, of the Consulting Engineers; a representative, P. Joseph Sesler, of the Trustee, the Ohio National Bank; William C. Hartman, Commission's labor counsel of the law firm of Squire, Sanders & Dempsey, a member 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: Ralph H. Anderson, Daniel E. Bricker, Clarence D. Rogers, Jr., O. L. Teagarden

Absent: David L. Weir

The Chairman announced that a quorum was present, He said that Mr. Weir could not be present and although he had designated Dennis R. Garwood, the Assistant Director of Transportation, to represent him Mr. Garwood also had been unable to attend.

A motion was made by Mr. Rogers, seconded by Mr. Bricker, that the minutes for the meeting of February 1, 1977, 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 present responded to roll call. The vote was as follows:

Ayes: Mr. Rogers, Mr. Bricker, Mr. Anderson, Mr. Teagarden

Nays: None

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

The Chairman said that he wished to welcome Mr. Anderson back. He said that Mr. Anderson looked very well and that all Members of the Commission wanted him to make a speedy recovery from his illness and he hoped the recovery would continue. Mr. Anderson thanked the Chairman.

The Chairman reported that he and the Executive Director, Allan V.

Johnson, had met with Governor James A. Rhodes and the Director of Transportation the day before the meeting to present a letter the Chairman had written to the Governor which he would read later for the record of the Commission. He said Governor Rhodes had been very receptive. He said the Governor had said that he had perfect confidence in the Members of the Commission and was proud of them and the manner in which they were operating the Turnpike. He said the Governor had said the Commission had never given him any trouble and he did not expect the present Members to give him any trouble. He said if they did give him trouble the Commission Members would be hearing from him. The Commission said he had told the Governor that he hoped the Commission would never have to hear from the Governor.

The Chairman reported also that all Members of the Commission had received a copy of the March 14, 1977 Ohio News Service Report which was published by Roger F. Dreyer. He said several members of the press had telephoned him wanting to know if he wished to make a statement in connection with the report. He said he had told the press that he would not make any statements except at a meeting of the Commission. He said that he would not discuss Commission affairs with the media but that he would respond to matters that might be called personal.

The Chairman reported further that both he and the Executive Director had examined the report thoroughly and he had asked that the Executive Director speak for him in answering some of the things in the report that he felt should be answered so that the public would be advised on the facts of the operation of the Commission. He asked Mr. Johnson to speak to the question.

The Executive Director said the Members had received the report directly from Mr. Dreyer and he thought it was interesting to note that they had received the report from Mr. Dreyer in his capacity as the chairman of the Transportation Research Center. He said the report had arrived in Transportation Research Center envelopes together with Mr. Dreyer's card as chairman of the Center. He said the Ohio News Service held itself out as political and governmental news for Ohio business, industry and professions and it had somehow gotten mixed up with the business of the Transportation Research Center and it was obvious that Mr. Dreyer had included the Ohio News Service in his business as chairman of the Transportation Research Center.

The Executive Director reported further that at the previous meeting held on February 1, an earlier news letter was discussed. He said that news letter had a great number of errors in the statistics pertaining to the Ohio Turnpike. He said it was obvious that someone, in writing the March 14 Ohio News Service letter, had done more research into some of the statistics. He said that many of the statistics had been extracted from the Commission's Annual Report for which the Transportation Center had asked and which the

Commission had sent to the office of the Chairman of the Ohio Transportation Center. He said there were some items in the March 14 report which he considered to be misleading or inaccurate and certainly not complete. He said one of the things that should be specifically called to attention was a statement that was made and that he would read it. He then quoted from the report: "In 1964, at the request of the Ohio Turnpike Commission, the Attorney General of Ohio issued an opinion that the Ohio Legislature did not intend for the Turnpike to be enlarged or extended before it was turned over to the State." The Executive Director said that was one of the issues that was being discussed at the present time, as the time came closer when the Turnpike would become toll free. He said the Turnpike Commission, of course, had not requested the opinion. He said the Director of Highways at that time had requested that opinion and the folders which were before the Members contained copies of the response to the Director of Highways from the Attorney General in which the position was set forth, that the language of the Turnpike Act which required that when the bonds of the Commission were retired and the road be turned over to what is now the Department of Transportation as a toll free part of the state highway system, provided the road was in "condition and repair satisfactory to the Director of Transportation," did not mean enlarging the existing facility. He said that was the crux of the issue that was developing.

The Executive Director said there were other things that were misleading. For example, the Ohio News Service newsletter said, "At the outset five roads were studied as toll roads in Ohio." He said that, of course, was not true. He said the only ones that were studied were the Turnpike that was eventually constructed and a road between Pennsylvania in the northern part of the state and Kentucky in the Cincinnati area. He said that route, now I-71 and I-90, was studied as a second possible toll road, but of course it was never built as a toll road because the Interstate System came into being and the route was built as an Interstate road.

The Executive Director said the so-called solutions that Mr. Dreyer proposed were, of course, speculative. He said the comments that the Chairman had made to the Governor in the letter that the Chairman had mentioned would clarify the matter and that he would not go into that as the Chairman had said he would read the letter for the record. The Chairman thanked the Executive Director. He said he had been a member of the Commission since its origin nearly 28 years ago and that he knew Dreyer's reference to a study made of five other routes was incorrect. He said the first and only road that was considered was the one between Pennsylvania and Indiana but that later on the route which was now I-71 and I-90 was considered and he thought that Mr. Harnden would probably remember that the engineers had reported that the building of the road from Cincinnati to Conneaut could not be financed as a toll road and the only way that it could be built would be with Federal and State money because the report indicated that it would not be a paying proposition and that that route had been turned down by

the Commission. (James D. Hartshorne, retired Director of Information and Research, entered at this point and the Chairman recognized his presence.)

The Chairman asked if anyone had any questions to ask the Executive Director. Mr. Bricker said he would like to comment on one part of the Ohio News Service publication in the part under the "The Roadrunners' Record". Mr. Bricker said Mr. Dreyer's publication said that the Turnpike was located on about 8,000 good Ohio acres. Mr. Bricker said he wished to commend the Chairman. He said the Chairman had got good land. He said he was glad that the Commission had not bought a swamp or something like that. The Chairman said the Turnpike was on good land but that the Commission had paid for it. He said when the right of way was purchased every parcel was valued at a certain amount of money and in addition to that, damages were paid to the owners. He said in the case of a great many of the parcels along the Turnpike when one reckoned both the amount the owners had been paid for the land and the damages as well, the total would more than pay for the farms at that time. The Chairman asked General Counsel, Francis K. Cole, whether he was going to make some mention of the Stacey case which had been in existence almost since the beginning of the Turnpike. The General Counsel said that he would.

The Chairman reported also that the Commission would act on a severance plan for its employees, a plan to be called the Employee Severance Anticipation Compensation Plan, which is expected to benefit the Commission and its bondholders by assuring that the work forces would continue until that day when tolls ceased to be collected and the road is turned over to the state according to law. He said it was also designed to benefit employees who stayed with the Commission, in keeping with the Commission's long standing policy and record of dealing fairly with its employees. He said the Chairman of the Committee on Employee Relations, Mr. Bricker, would present the plan when it came time for his report.

The Chairman reported also that the revenues of the Ohio Turnpike had set new records for March and for the first quarter of the year. He said preliminary figures showed the total income for the month was \$3,638,000, an increase of \$201,000 or 5.8% over that for March 1976, the previous record March. He said total income for the first quarter was estimated at \$9,521,000, an increase of \$412,000 or 4.5% over that for the first quarter of the previous year, which had been the previous record first quarter.

The Chairman reported also that second resurfacing of more than 37 miles of mainline roadway under five separate contracts awarded in February was progressing well and the schedules called for all work to be completed by June 17. He said that all contractors' equipment would be off the road and all lanes open from sunset, Thursday, April 7, until sunrise, Tuesday, April 12 to assure unimpeded travel during the busy Easter holiday period. He said the Executive Director would comment further.

The Chairman reported also that the Commission would consider and act upon bids for three contracts for the installation of more than 20 miles of guard rail to current interstate standards. He said most of the new guard rails would replace old style cable guard rail in place since the Turnpike was opened.

The Chairman reported also that a letter had been received from the Governor about the Annual Report. The Chairman read the letter as follows:

"March 15, 1977

"Mr. O. L. Teagarden, Chairman
The Ohio Turnpike Commission
682 Prospect Street
Berea, Ohio 44017

"Dear Chairman Teagarden:

"I was pleased to receive the Annual Report for 1976 of the Ohio Turnpike Commission, submitted to me pursuant to law.

"The Annual Report reflects the dedicated efforts of the Ohio Turnpike Commission to provide the people of Ohio with important services during the past year.

"Sincerely,

"James A. Rhodes
Governor"

The Chairman directed that the letter be made part of the record. The Chairman said he did not know why Mr. Dreyer seemed to want to take so many potshots at the Ohio Turnpike, instead of finding something else to write about. He said Mr. Dreyer was certainly not expressing the opinion of the press or the public from the letters he had been receiving. He said he would read a few of the letters that he thought were very informative in regard to the real opinion of the public.

The Chairman said the first letter was written by a man who said:

"I am writing this letter to tell you how much I appreciate the excellent travelling condition of the Ohio Turnpike. I have travelled frequently between New York City and Chicago and have noticed the superior quality of travel on the Ohio Turnpike. In my opinion, it is far superior to the turnpikes in the other states. The people at the tolls are very friendly. Cost is half that of the neighboring state, yet Ohio has more Turnpike miles and

the road surface is very smooth. The excellent condition of the Ohio Turnpike is a very favorable reflection on the State of Ohio and a very enjoyable experience for interstate travellers. Thank you."

The Chairman said another letter was from a concern which operated several trucks on the Turnpike. He read the letter as follows: "O. L. Teagarden, Chairman, Dear Sir: I have been keeping abreast of the recent controversy regarding the continuation of tolls on the Ohio toll road after the debt is paid. A promise was made to the citizens of Ohio before the Turnpike was built that when the debt was paid, the tolls would be taken off. I strongly urge you to keep this promise. I applaud you for following Mr. Shocknessy's footsteps and urge you to continue fighting any political movement to retain tolls to be used for a different purpose."

He said those were just a few of the letters that he had selected from many, all of which had reference to the Turnpike. He also said he had a copy of the letter that was sent to Governor Rhodes and was signed by quite a number of people insisting that the road become toll free when the bonds were paid and the Commission continue to follow the promises to make it a toll free road. He said the Governor had answered that letter through the Director of Transportation and while it was quite a long letter and he was not going to have it read, he would ask the Executive Director to describe the letter.

The Executive Director said he would read that part of the letter which he thought contained the essence of the matter. He read: "We are very much aware of the provisions of the Ohio Revised Code pertaining to the funding, construction, operation, maintenance, and debt liquidation of the Ohio Turnpike. There is no question about the intent of this legislation to provide for the Ohio Turnpike to become a free road when the bonds are retired. The original legislation authorizing the construction of the Turnpike was passed by the 98th General Assembly in June of 1949, bond sales were completed in July of 1952, and the Ohio 241 mile Turnpike was opened to traffic in October 1955, at a cost of \$326,000,000. At this time there is approximately \$75,000,000 of bonded indebtedness still outstanding."

The Executive Director then said he would read another paragraph of the letter. He read: "We are very much in agreement with your comments regarding the excellent stewardship of the turnpike under the leadership of the late James W. Shocknessy and his successor as Chairman, Mr. O. L. Teagarden, and we are working closely with the Commission and the staff of the turnpike to plan an orderly transition of its status of turnpike to that of a part of the national system of interstate and Defense Highways. The details of this transition are now being worked on and will become clearer as we get closer to the date when the bonds are fully retired."

"You may be assured that we in the Department of Transportation

are totally committed to the principle of the Ohio Turnpike eventually becoming a free road as required by law, and we certainly appreciate your comments on this subject. "

The Executive Director said the letter was signed by David L. Weir, P.E., Director of Transportation. The Chairman said that letter was in answer to a petition the Governor had received from a group of people in Independence, Ohio. He said he had quite a folder of letters and that the Commission was also getting letters from members of the Legislature and he did have one that was along the lines of what the members of the Legislature had been writing to him. He read:

"February 28, 1977

"O. L. Teagarden, Chairman
OHIO TURNPIKE COMMISSION
682 Prospect Street
Berea, Ohio

"Dear Mr. Teagarden:

"I appreciated your providing me news clips as a supplement to the Annual Report of the Commission. I received a great deal of good advice over the years from Jim Shocknessy and I found Mr. Wilkowski's remarks crude and boorish. That aside, however, his desire to renege on the promises of those who created the Turnpike can only be regarded as a continuation of the calloused disregard for public commitments, which have too often of late been the rule rather than the exception of the Assembly.

"I hope that when push comes to shove on this issue, you will keep me informed as Mr. Shocknessy did in the past and that I may be of assistance to you in seeing to it that the taxpayers receive due consideration. "

The Chairman said he did not have permission to mention the Legislator's name, that he did not wish to mention it without his approval, even though he was sure the Legislator would not object to the mention of his name.

The Chairman reported further that the Executive Director, the Director of Transportation and he had had a very good meeting with the Governor and that the Governor expressed complete confidence in the Commission. He said he had presented a letter to the Governor. He said the Governor had read the letter in their presence and that there had been considerable discussion about its contents. He read the letter as follows:

"April 4, 1977

"The Honorable James A. Rhodes
The Governor
State House
Columbus, Ohio 43215

"Dear Governor Rhodes:

"There has been considerable publicity and discussion recently about the future of The James W. Shocknessy Ohio Turnpike, which no doubt have been generated by the continuing, steady liquidation by the Ohio Turnpike Commission of the remaining outstanding debt of the Commission (which now stands at only \$75.8 million of the original \$326 million) and the prospect that the road will be debt free around 1981 and that it will be turned over to the State as a toll free part of the State highway system.

"We are acutely aware of those who advocate continuing tolls, purportedly to finance 'upgrading' the road to current federal interstate highway standards and others who would continue tolls and divert the revenues for unrelated purposes. Continuing tolls, however, would be contrary to existing Ohio law and, while I fully realize that the law could be changed, I believe that doing so would break the promises made to the people of Ohio over the past 28 years and place an unfair and unequal financial burden on the users of the Turnpike. Furthermore, I do not think it is necessary to continue tolls to finance 'upgrading' of the road or to finance its future maintenance, and I believe it is inappropriate to continue tolls to finance improvements needed for the road to operate as a toll free facility. In fact, the Attorney General of Ohio wrote in 1964 to the Director of Highways that Section 5537.21 of the Ohio Revised Code (Turnpike Act) which stipulates in part, '...turnpike shall become part of the state highway system and free of tolls...if the turnpike is in good condition and repair to the satisfaction of the director of highways.,' does not contemplate the enlargement or extension of facilities but merely the delivery of the road in usable condition.

"I pointed out on February 8 of this year, that the users of the Ohio Turnpike have always paid the State and Federal fuel taxes for fuel used on the Turnpike. We estimate that those taxes in 1976 amounted to more than \$15 million (\$9.5 million State tax at 7¢ per gallon and \$5.5 million Federal tax at 4¢ per gallon) and the total paid over the years through 1976 is more than \$200 million, not one penny of which has ever been returned to the Commission for the benefit of the Ohio Turnpike or its users. In addition, patrons who used the restaurant and service station facilities in 1976 paid an estimated \$400,000 in Ohio sales tax in 1976.

"The commercial users of the Turnpike currently are exempted from paying the Ohio axle-mile tax. From the accurate statistics on the Turnpike

vehicle mileage and types available to us, we estimate that the amount of axle-mile taxes that would have been paid by commercial users of the Ohio Turnpike in 1976 had they not been exempt would have been at least \$9.4 million. Also, the Commission received some \$5.7 million in rental income from the operation of the 16 Turnpike service plazas in 1976.

"Let us suppose that the Turnpike had already been toll free in 1976. It would have produced for the State the sources of income I have just outlined above which are summarized as follows:

"1. State Fuel Tax	=	\$ 9,500,000
"2. Axle-Mile Tax	=	9,400,000
"3. State Sales Tax	=	400,000
"4. Income from Service Plazas	=	<u>5,700,000</u>
TOTAL		\$25,000,000

"In 1976 the Commission's total expenditures for all operations (including resurfacing some 31 miles of the roadway), other than bond interest and bond retirement costs, amounted to \$23.7 million which included \$4.7 million in toll collection expense. Thus, expenses not related to tolls or the bonded indebtedness amounted to \$19.0 million. Without tolls, the income of \$25 million, clearly would have been enough to continue the outstanding maintenance such as the Commission has always provided on the facility and would have provided enough surplus to finance the State's share of a substantial 'upgrading' of the road utilizing 90% Federal Aid Interstate funds. This same analysis should be valid for future years.

"As I already stated, the Turnpike users have paid hundreds of millions of dollars in taxes which have been used for other purposes. Despite this, in a few more years they will have completely financed primarily from tolls an interstate highway facility that would cost close to a billion dollars to duplicate. Certainly, the Federal government, which unilaterally placed the road on the Interstate Highway System, which for more than twenty years has collected and continues to collect a 4¢ tax on every gallon of fuel to finance other interstate projects and which sets (and changes) the design standards for the system, has a financial responsibility toward the Ohio Turnpike just as it has on the other portions of the system (including some 1,280 miles in Ohio, consisting of I-70, I-80, I-90, I-71, I-75, I-76 and related alternate routes) which were built with 90% Federal assistance and are being 'upgraded' to its current standards on the same 90% formula.

"I shall propose, therefore, to you (and thus to the Ohio Department of Transportation with your approval) and the other members of the Commis-

sion that steps be taken now to seek approval of Federal Aid Interstate participation in such improvements as are determined to be necessary on the Turnpike when it is toll free. To this end, the Commission several years ago prepared an engineering study to identify such improvements. While this study needs to be updated, it is available to serve as a basis to start the necessary discussions among the Commission, the Ohio Department of Transportation and the United States Department of Transportation through the Federal Highway Administration.

"Further, I shall propose that efforts be initiated to change the existing Federal law and Federal Interstate System standards which prohibit service plaza facilities on the Interstate System. This prohibition was enacted after the Ohio Turnpike with its sixteen service plazas was already built and I consider that it would be an enormous, unnecessary waste to remove these valuable facilities to comply with the existing Federal law assuming compliance will be a prerequisite to Federal Aid participation on the road. Retaining these plazas for the benefit of the highway users can also provide a significant source of income for the state to supplement the tax income generated by the road.

"The Commission has always enjoyed an excellent cooperative relationship with you and your administrations. We look forward to continuing this relationship as we enter this critical phase in the life of the Ohio Turnpike Commission.

"Very truly yours,

"O. L. Teagarden
Chairman"

The Chairman directed that the letter be included in the minutes of the meeting. He said the Governor, in response to the letter, said that he gave his wholehearted approval and that he had told the Director of Transportation to proceed to work with the Commission to do whatever was necessary to pursue the proposals. He said he told the Governor that he had waited upon him that day and not four years from that day because the Commission hoped that the Turnpike would be toll free in 1981 and the Commission had an obligation to plan an orderly transition and especially to plan for matching funds from the Federal government to help improve the road when it became a free road. He said the Governor had placed considerable emphasis on the importance of the service plazas and their continuation and he was quite surprised to hear the Governor mention the income derived from the plazas. He said the Governor had said that the income from the plazas would go a long way toward meeting the State's matching share of funds for Federal aid improvement. He said unless there were objections on the part of the other Members of the Commission to his proposals, the Commission would proceed along the lines which had been mentioned to the Governor.

Mr. Bricker said he agreed completely with the contents of the letter and he wanted the record to show that he thought it was very well written and very fine. He asked if the figures in regard to axle-mile tax on the second page of the letter referred to one year. The Chairman said they did. The Chairman said that was the income that had been derived in 1976 and that of course users of the Ohio Turnpike did not pay an axle-mile tax for the miles they spent on the Turnpike. He said when the Turnpike became free of tolls he stimated that the state would receive \$9.4 million a year based on the 1976 travel levels, but he felt that everyone was agreed that once the Turnpike became a free road traffic would be much greater and there would not only be income from the service plazas but from the axle-mile tax. He said in addition there would be no toll collection cost, and that cost to the Turnpike was \$4.7 million in 1976 which money, of course, would not be spent once the road became free of tolls.

The Chairman asked Mr. Rogers what he thought of the letter. Mr. Rogers said he was going to comment that he was in favor of the proposals outlined in the letter and wished the record to reflect his position. The Chairman thanked Mr. Rogers. He said on behalf of the Commission that he felt, as its Chairman, that it was his responsibility to come up with proposals similar to those in the letter and to advise the Commission and to have the Commission advise him as to whether he was in accord with what he was attempting to do. He said the Commission had the endorsement of the plan from the Governor which meant a great deal to him. He said the Governor had given the Commission much more time than he thought he would and that the Governor had wanted to talk more about the Commission than he had thought.

The Executive Director said the Governor had been very receptive even though he had not known in advance why the group from the Commission had called upon him. The Chairman said it was correct that the Governor did not know what the subject would be. Mr. Anderson said he felt, as did Mr. Rogers, that it was a fine letter and it laid the facts out for everyone to see and know. He said that in the future that 90% of the amount spent to repair the road would be paid by the Federal government and with \$25 million a year for the State to be used as matching money, the money should go a long way toward repairing the road.

The Chairman said, as of the moment, the operation of service plazas on free Interstate and Defense Highways was prohibited and he felt that was the largest problem and that the Governor had so expressed himself. He said that was the problem the Commission should investigate immediately and make an effort to have the law changed because the money that would be received from the operation of the plazas would go a long way toward giving the State of Ohio matching funds. He said when the Commission turned the road over to the State as a free road the State was going to receive something for which taxes had not paid a dime. He said all the costs of the road would

have been met from tolls and concessions. He said he believed the State of Ohio was going to get a billion dollar road. He said Mr. Dreyer, in his report, which he felt was ridiculous, had said that perhaps the present road should be reserved for truckers and another road should be built alongside it for passenger cars. He said it was out of the question to finance a road of that kind. The Executive Director said it was not likely that such a road could be built. He said the day of building cross-state facilities was behind us. He said with the requirements, environmental impact statements and environmental considerations, it would be impossible to build such a road again. The Chairman said that was why he could not understand Mr. Dreyer, who had gone into considerable detail in his report. He said Mr. Dreyer had made an investigation but as the Executive Director had pointed out, a great deal of Mr. Dreyer's facts came from the Commission's Annual Report and that Mr. Dreyer's office had written the Commission asking for two copies and he had been sent two copies. The Executive Director said Mr. Dreyer should spend more time running the Transportation Research Center.

Mr. Anderson asked whether the Ohio Congressmen and Senators had been sent copies of the letter to the Governor. The Executive Director said they had not but that the Commission intended to follow up and approach them. Mr. Bricker asked if he had seen some correspondence on that. The Executive Director said he had written United States Senator Jennings Randolph of West Virginia, whom he had met at a luncheon. He said he had introduced himself to Senator Randolph and told him that the Turnpike was rapidly approaching the day when it would become free and that it was already part of the Interstate System. He said Senator Randolph was chairman of the Senate Public Works Committee and had been the sponsor of every highway bill that had been enacted in the Senate for many, many years and that if anything were going to be done in Congress, Senator Randolph would be involved in it. He said Senator Randolph was an important person in the Congress for the Commission to keep in touch with and that was why he had talked to him that day at the luncheon.

The Chairman said to further answer Mr. Anderson's question, the reason the Commission had not gone ahead with the Senators and Representatives was that the Commission first wanted to discuss the matter with the Governor and discover his opinion. He said the Governor had instructed the Director of Transportation to work with the Commission and give the Commission all the support that it wanted in carrying out the proposals, especially those relating to service plazas.

The Executive Director said it was an appropriate time to mention that Mr. Weir, at the last previous Commission meeting, had told Members of the Commission that he was going to name a special assistant from his staff to work with the Ohio Turnpike staff in relation to the transition. He said the Director had done so since the last meeting and had named John W. Clark as his special assistant to work with the Ohio Turnpike Commission.

The Executive Director said that Mr. Clark had been Deputy Director of District 6 of the Department of Transportation and since Mr. Clark had been named he, Mr. Weir and Mr. Clark had met and such meetings were to continue. He said he was sure that at some Commission meeting soon the Director of Transportation would bring Mr. Clark with him to introduce him to the rest of the Commission Members and that Mr. Weir and Mr. Clark had plans to come and visit the Berea Headquarters of the Ohio Turnpike on April 14 to meet him and other staff members.

The Chairman said the report of the Chairman was accepted as offered. He apologized for taking up so much time but he felt several of the matters were of special importance and should be a part of the record.

Mr. Anderson said he thought the Chairman had done a wonderful job in presenting the matter so that everyone would have the facts so that the Commission and the Governor could look to the future and determine what was to be necessary and do those things that needed to be done.

The Chairman said it was very nice of the Members of the Commission to support him in his endeavor. He said he felt it was a good program and he felt very good about having the support of the Governor to proceed to get the things done so that the people would no longer have to pay tolls to maintain the road.

The Chairman said the report of the Secretary-Treasurer would be received.

The Secretary-Treasurer, Mr. Anderson, reported that since the last meeting the following reports had been sent to all Members:

1. Detail of investment transactions which took place in January, February and March, 1977.
2. Weekly traffic statistics.
3. Traffic and Revenue Report for January and February, 1977.
4. Financial Report for January 31, 1977 and February 28, 1977.
5. Traffic Accident Analysis, January and February, 1977.
6. Month-end release, February and March, 1977.
7. Draft of the minutes of the February 1, 1977 meeting.

The Chairman said the report of the Secretary-Treasurer was accepted as offered. He said the report of the Committee on Budget and

Finance would be received.

The chairman of the Committee on Budget and Finance, Mr. Anderson, said he had nothing to report but that the vice chairman of the Committee had something to say. The vice chairman of the Committee on Budget and Finance, Mr. Johnson, said he felt he should say for the record that despite the horrible winter that was just past, the Turnpike so far was still within its budget for the year. He said he did not yet have the March figures but he hoped when he got them later in the week that the Commission would still be within its budget.

The Chairman said the report of the Committee on Budget and Finance was accepted as offered. He said the report of the Committee on Service Plazas would be received.

The chairman of the Committee on Service Plazas, Mr. Johnson, reported that the Committee had implemented the price adjustments as the restaurants on which the Committee had previously informed the Commission Members and that he had informed the news media as well that they were in effect.

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

The chairman of the Committee on Employee Relations, Mr. Bricker, reported that the Committee had been aware of the growing concern among employees about future employment with the Commission. He said this feeling was the result of the liquidation of the Commission's outstanding debt. He said in December, at the conclusion of the 1976 discussions with employees, the Committee had told them that the Commission was working on a severance program which would be announced in the spring of 1977. He said the program was now ready for adoption by the Commission. He said the program had been developed in close consultation among the staff, the Commission's fiscal and labor counsel, Squire, Sanders & Dempsey, and the Trustee, the Ohio National Bank. He said the staff, along with the fiscal and labor counsel and the Trustee, both in writing, had all approved the program. He said funding was expected to start as soon as the necessary arrangements could be made with the Trustee and assuming that the plan would go into effect about four years hence, it was estimated that it would cost a total of \$6 million, which would require a monthly deposit to a special fund of \$125,000. He said before he read the resolution he was going to ask the labor counsel, William C. Hartman, who had played an important role in formulating the program, if he would go over it for the Commission and tell the Commission precisely what was in it, and then he would read the resolution.

The Chairman said that William Hartman, who had been the legal counsel on labor questions for the Commission ever since he first became

a member of the Employee Relations Committee, was present. He said he did not know of anyone who had had the experience and background and knowledge of what should be done for employees that was greater than Bill Hartman's. He said he appreciated very much that Mr. Bricker had asked Mr. Hartman to elaborate on the report for which Mr. Bricker, Mr. Hartman and the Executive Director were responsible. He asked Mr. Hartman to explain the report.

Mr. Hartman said the plan would be triggered into operation at whatever time the Turnpike was turned over to the State toll free, after the bonds had been paid. He said at that time, any employee who had remained with the Commission, or who came to the Commission before that date and did remain in the employ of the Commission until termination by the Commission as a result of the road going free, would receive one week's pay for every 12-month period or fraction thereof, that he had been employed by the Commission. He said in addition to that, he would receive all earned and unused sick leave which was earned and accrued during the 24 months prior to termination date. He said in addition to that, the employees would receive one half of such sick leave that was earned and accrued in the 24 months preceding the two years preceding the termination date. He said in addition to that they would also receive one fourth of the sick leave earned and accrued during the months prior to the other two periods. He said employees thus would receive as termination pay in addition to one week's pay per year of service, the accrued sick leave in varying amounts depending on how long they had been with the Commission and how much sick leave they had to their credit. He said if any employee went to work for another department of the state and chose to preserve his accrued sick leave, he could keep that and not take the money for it but turn his credits over to his new employer. He said in addition to those sums, qualifying employees, and employees would qualify if they remained in employment until the termination date, would receive all accrued and unused vacation leave. He said the length of service payment would be based upon the hourly or weekly rate in effect on February 1, 1977. He said the reason for relating the pay to a specific year was so it would be possible to estimate the cost of the plan and make provisions for paying the sums without having to guess as to what it might cost if it were based on pay at some future time at some unknown rate. He said there was also a provision in the plan to take care of a situation in which someone was hired after February 1, 1977. He said there was a provision as to how the formula should work for that.

Mr. Hartman said that the Commission was given discretion on how to make the payments, whether to pay it biweekly until it was paid off starting immediately after termination, or in a lump sum immediately after termination of employment, or in the first week of the calendar year following the year in which the employment was terminated. He said the plan stated that the third provision, postponement until the succeeding calendar year, would be used only if termination occurred within the last four months of the year.

He said as anyone could see, that provision was there partly because it would be to the advantage of the employees from a standpoint of income taxes to receive the money after the new year.

Mr. Hartman said further that the plan made it clear that in no way would any rights the employees had under the Unemployment Compensation Act of the State of Ohio, as it might exist at the time of termination, nor would it in any way impair any of their rights under the Public Employee Retirement System. He said the plan also provided for funding in such amounts from time to time as the Commission decided was reasonable and necessary in order to carry out the intent of the plan. He said the plan had a provision which reserves to the Commission the right to amend or terminate the provisions of the plan at any time. He said because of that provision, there was no necessity of submitting the plan to the Internal Revenue Service for approval. He said there was no possibility that any employee would be charged with income taxes on something he had not yet received and in addition to this, as the Members of the Commission knew, bills had been introduced in the Legislature from time to time to place the employees under Civil Service. He said, therefore, that the provision was there also for the protection of the Commission. He said should something of that nature occur which would make it impossible to carry out the plan because of subsequent legislation, the Commission would no longer be bound nor would it face a challenge because it had not reserved the right to cancel the plan if subsequent legislation made cancellation necessary but the Commission would still face a challenge in trying to figure out what it could do under such newly enacted legislation. He said all the Members had copies of the plan. He said Squire, Sanders & Dempsey had reviewed the plan and furnished the opinion that the Commission had authority to make such a plan and so did the Trustee, who had reviewed the plan and the Commission and the Trustee had the authority to make the financial commitments that were necessary. He said the Trustee agreed.

The Chairman said that he felt Mr. Hartman had done an excellent job in presenting the facts to the Commission. Mr. Hartman said he would like to add one more thing. He said the first time he had sat down with Mr. Teagarden twelve years ago, this question had been raised. He said at that time Mr. Teagarden had made a personal commitment to go forward and have something of the nature of the plan ready for presentation at the appropriate time. He said it had been an extreme pleasure for him to participate with Mr. Teagarden and help in carrying out the commitment that Mr. Teagarden had made. He said he was convinced that it meant very much to the employees of the Commission because the Commission had not had people leaving its employment because they were fearful as to what was going to happen later and they had relied upon the Chairman's assurances that this plan would show that they had had good judgment in relying upon those assurances. The Chairman thanked Mr. Hartman. He said one of the first things he said to Mr. Bricker after he appointed him chairman of the Committee on Employee Relations was "Dan, we made a promise to the employees that before the

Turnpike became a free road that a plan would be worked out." He said he appreciated the fact that it had been completed during his administration as Chairman.

Mr. Bricker thanked the Chairman. He said he remembered very well the Chairman's instructions about the program and that when he had joined the Commission four years before and was appointed to the Committee on Employee Relations that had been the Chairman's prime interest. He said the employees could now feel as the Commission approached the final payment of the bonds that they had something coming. He said he felt the program was very fair and he felt he was a good judge as he came from a labor background and particularly as he came from the building trades where one really did not get anything when he was discharged or let go. He said he was very pleased to have been a small part of formulating the program. He said Mr. Hartman and Squire, Sanders & Dempsey had done an outstanding job and that the vice chairman of the Committee on Employee Relations, G. Alan Plain, the Deputy Executive Director, had done a great job in helping him and the staff. He said the Executive Director had also worked with them and there had been numerous meetings with Mr. Hartman trying to formulate a program that was fair.

A resolution adopting Employee Severance Anticipation Compensation Plan was moved for adoption by Mr. Bricker, seconded by Mr. Anderson and by Mr. Rogers, as follows:

RESOLUTION NO. 7-1977

"WHEREAS the Ohio Turnpike Commission is charged by law with the responsibility of operating and maintaining The James W. Shocknessy Ohio Turnpike (hereinafter the 'Turnpike'), and is authorized to do all acts necessary or proper to carry out such responsibility and to provide, in accordance with the trust agreement between the Ohio Turnpike Commission and The Ohio National Bank of Columbus, as trustee, and The National City Bank of New York (now Citibank, N.A.), as co-trustee, (hereinafter the "trust agreement"), for the payment of the bonds of the State of Ohio (hereinafter the "bonds") issued by the Commission for the purposes of the Turnpike;

"WHEREAS pursuant to Section 5537.21 of the Ohio Revised Code, originally enacted in 1949, when the bonds and the interest thereon have been paid, or provisions for such payment in accordance with the trust agreement have been made, the Turnpike, if then in good condition and repair to the satisfaction of the Director of Transportation, shall become part of the state highway system, shall thereafter be maintained by the Ohio Department of Transportation, and shall be free of tolls;

"WHEREAS the Commission presently contemplates that such pay-

ments will be completed in about the year 1981;

"WHEREAS in addition and related to its basic contractual obligations to provide for the payment of the principal of and interest on the bonds from the sources pledged thereto, the Commission has covenanted in the trust agreement, for the benefit and security of the holders of the bonds and interest coupons, that it will, among other things, maintain and operate the Turnpike in an efficient and economical manner and maintain the Turnpike in good repair and sound operating condition, that compensation, salaries and wages paid by it in connection with the maintenance, repair and operation of the Turnpike will be reasonable, that no more (and, impliedly, no fewer) persons will be employed by it than necessary, that no action will be taken by which the rights of the bondholders will be impaired or diminished, and that it will from time to time take such action as may be required to carry out the purposes of the trust agreement;

"WHEREAS this Commission hereby finds and determines that it is necessary and proper, in the exercise of and consistent with its responsibilities under the law and the trust agreement, to adopt, implement and commence the funding of the compensation program identified below, all to better ensure the efficient, economical and continuing maintenance and operation of the Turnpike for the benefit of the State of Ohio, the users of the Turnpike, and the bondholders, until such time as the cited provisions of Section 5537.21 of the Ohio Revised Code shall become operable; and

"WHEREAS the draft of the plan of said program and this resolution have been examined and approved by fiscal and labor counsel to the Commission, Squire, Sanders & Dempsey, and by the trustee;

"NOW, THEREFORE, BE IT

"RESOLVED that the Commission approves and adopts the 'Employee Severance Anticipation Compensation Plan,' (hereinafter the 'plan'), as attached hereto, that the chairman of the Commission and the executive director, or either of them be, and they and each of them hereby are, authorized and directed to enter into, with the trustee under the trust agreement, agreements appropriate to initiate and implement the provisions of the plan as the same may from time to time be modified, including, without intended limitation, provisions for the deposits called for therein as current expenses and the investment and reinvestment (and the application of income therefrom) of moneys so deposited."

"OHIO TURNPIKE COMMISSION

"Employee Severance Anticipation Compensation Plan

"The Ohio Turnpike Commission will pay, solely from revenues

available therefrom, to each eligible employee whose employment by the Commission is terminated as a direct result of the outstanding bonds being paid and the Turnpike Project No. 1 being turned over to the State toll free ('Project Termination') pursuant to Section 5537.21 of the Ohio Revised Code an amount subject to and in accordance with provisions set forth hereinafter in this plan.

"1. ELIGIBILITY

Each regular, full-time hourly or salaried employee will be eligible for payment under this plan provided the employee is in good standing and remains in the employment of the Commission until terminated and released by the Commission as a consequence of the project transfer.

"2. COMPUTATION OF SEVERANCE ANTICIPATION COMPENSATION PAYMENTS

- a) Each eligible employee will be paid an amount equal to one week's pay for each 12-month period of the employee's total service with the Commission as of the date of the employee's termination. For any fraction of such a 12-month period, payment shall be calculated on a pro rata basis by dividing the number of full days of service in such a fractional period by 260 and multiplying the quotient so obtained by the employee's weekly rate of pay.
- b) In addition to the amount provided for in paragraph a) hereinbefore, accrued earned but unused sick leave which was earned as an employee of the Commission will be paid as follows:
 - i) All of such sick leave earned and accrued in the 24 months immediately preceding termination.
 - ii) One-half of such sick leave earned and accrued in the 24 months preceding the period in paragraph i) above.
 - iii) One-fourth of such sick leave earned and accrued during the months prior to the periods provided for in paragraphs i) and ii) above.

In the event an eligible employee is employed by another public agency which will accept transfer of all or a portion of the employee's accrued but unused sick leave, the employee may elect to transfer such sick leave in lieu of

any payment therefor to the employee hereunder by the Commission.

- c) Each eligible employee of the Commission will be paid for earned but unused vacation leave. Subject to any applicable rules of the Public Employees Retirement System (PERS) at that time, an eligible employee may utilize accumulated vacation leave to increase the length of his public service. The Commission will withhold the appropriate employee's share and will submit it and the Commission's employer share to PERS to accomplish such an increase in service credit.

"3. RATE OF PAYMENT UNDER PARAGRAPH 2a) HEREINBEFORE

One week's pay for an hourly employee shall be calculated by multiplying the employee's regular straight-time hourly wage in effect on February 1, 1977, times the number of hours in the employee's normal work week to a maximum of forty hours.

One week's pay for a salaried employee shall be one-half the employee's normal bi-weekly salary at the rate in effect on February 1, 1977. In the event the qualifying employee was not employed by the Ohio Turnpike Commission on February 1, 1977, the calculation shall be based upon the rate of the position which the employee would have occupied had he been employed in February of 1977.

Payment under paragraph 2b) and c) shall be based upon the employee's then straight-time hourly wage or the employee's salary rate in effect during the month prior to termination.

"4. PAYMENT PROCEDURE

The Commission will elect from one of the following methods for the payment to each eligible employee:

- a) A continuation of the bi-weekly payroll schedule, with payments of two weeks' pay, or a fraction thereof, until payment is made in full.
- b) In a lump sum, payable the second week after the week in which employment is terminated.
- c) In a lump sum, payable in the first week of the calendar year following the year in which employment is terminated. (It is anticipated that this election would be made only if

termination occurred within the last four months of a year).

"5. FINAL PAYMENT

The payment of severance anticipation compensation by the Commission to an eligible employee hereunder will be considered final compensation for the accrued continuous service of the employee with the Commission from and after the adoption of the plan and will be in lieu of any other payments to the employee by the Commission therefor or in anticipation of such for loss of service or termination of employment with the exception of the rights that the employee may have under the Public Employees Retirement System of Ohio or under State Unemployment Compensation Laws.

"6. FUNDING

In order to assure the availability of funds with which to carry out this plan, the Commission will establish an accruing severance anticipation compensation account and will pay, monthly, into such account such amount as it from time to time determines is reasonably required in order to carry out such plan. The monthly amounts may be increased or decreased at the Commission's discretion, and all income of the account shall be retained in the account to be used for the purpose of this plan.

"7. AMENDMENT OR TERMINATION

The Commission reserves the right to amend or terminate the provisions of this plan at any time. "

Mr. Anderson said that he wished to second the resolution because he had been on the Employee Relations Committee when Mr. Teagarden was chairman of that Committee and that he was very happy with the result. Mr. Rogers offered to withdraw his second in light of the comment made by Mr. Anderson. Mr. Teagarden said it was not necessary for him to do so. He said the motion would be shown in the record as made by Mr. Bricker and seconded by both Mr. Anderson and Mr. Rogers. Mr. Rogers said he had the pleasure of having lunch with Mr. Hartman the week before at which time they had gone over the entire program and he concurred that it was a very thorough, very fair program and he was happy to have the second second.

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

Ayes: Mr. Bricker, Mr. Anderson, Mr. Rogers, Mr. Teagarden

Nays: None

The Chairman declared the resolution approved with all Members present voting in the affirmative. The resolution was identified as No. 7-1977. The Chairman said that the Director of Transportation had informed the Executive Director the day before the meeting that if he could be present, he should vote for the resolution. He directed that the record show that Mr. Weir was in favor of the resolution.

The Chairman thanked Mr. Bricker, Mr. Hartman, the Executive Director, the Deputy Executive Director and the General Counsel and said all of them had something to do with it. He said it had not taken days or hours to formulate the plan but years.

The Chairman said the Committee on Employee Relations 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, said he regretted to report that there had been two fatalities on the Turnpike since the previous Commission meeting. He said the record was still very good and those were the only two fatalities so far in 1977. He said one involved a truck which had a front tire blow out. He said the truck crossed the median and struck another truck travelling in the opposite direction and the driver of the first truck had been thrown out and killed. He said the second accident involved a passenger car which for some unexplained reason, probably because the driver fell asleep, ran off the right side of the roadway and struck the rear end of a truck that was disabled and parked on the berm. He said both accidents were not preventable by anything that the Turnpike staff, as human beings, could do.

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

The Executive Director reported that he had already mentioned that Mr. Clark had been named the Department of Transportation's liason to the Commission. He said he wished to note that a bill had been passed by the House of the General Assembly, H.B. No. 341, and he read the bill as follows:

"Section 1. That section 5533.31 of the Revised Code be enacted to read as follows:

"Sec. 5533.31. The road known as Interstate Route Eighty, extending across Ohio from the Pennsylvania Border in Trumbull County to the Indiana Border in Williams County, shall be known as the 'Christopher Columbus

Highway.'

"The Director of Transportation shall erect suitable markers upon such highway indicating its name."

The Executive Director said I-80 through most of Ohio was also the Ohio Turnpike and the Ohio Turnpike had already been named The James W. Shocknessy Ohio Turnpike. The Chairman said the bill passed the House by a vote of 88 to 0. The Executive Director said he did not know whether the Members were aware when they passed the bill that the road was the Ohio Turnpike. He said he would try to let it be known to the Senate before the bill goes all the way through the Senate that the road was already named and that he did not believe the General Assembly really intended that the Director of Transportation should come up and start erecting signs on the Turnpike. The Executive Director said it was something that an Italian group wished to do on a nationwide basis and because I-80 crossed the whole country, doubtless they chose I-80 for that reason. He said the intent was doubtless good but he was sure that the group promoting the scheme had not realized they had picked a road that had several turnpikes involved in it, including the Indiana Toll Road.

The Chairman said he had talked to Frederick H. Deering, his representative, and asked him if he had voted for the bill and he said yes, and said the bill meant nothing. The Chairman said he then said, "What do you mean it doesn't mean anything?" He said he told Mr. Deering they were attempting to name I-80 the Christopher Columbus Highway when I-80 was the Turnpike and he did not realize that. He said he had voted for it because it did not mean anything and because everyone else did the same thing. The Executive Director said that was what he thought, that many of them probably did not realize that I-80 was also the Turnpike. The Chairman said that Mr. Deering now wanted to help get the Senate to kill the bill.

The Executive Director reported also that a bill had been introduced which would require the Ohio Turnpike Commission and several other agencies to file biennial budgets with the State legislative budget committee and commission. He said the bill had been sponsored by Senator Harry Meshel of Youngstown and was Senate Bill 189. He said a similar suggestion had been made two years earlier. He said he had seen Senator Oliver Ocasek on January 31, the day he was delivering the Annual Report, and he had seen something about the suggestion and asked him about it. He said Senator Ocasek suggested that the Executive Director see Senator Meshel and he had tried to do so, but that Senator Meshel had been unavailable to him and he was unavailable for several days. He said he had met with Senator Ocasek again later in the month and mentioned that he had been unable to see Senator Meshel about the matter and Senator Ocasek had assured him at that time that he would take the matter up with Senator Meshel. The Executive Director said at any rate the bill had been introduced and he had written to Senator Meshel

relating his attempts to see him about the question. He said the Ohio Turnpike Commission did not have biennial budgets but annual budgets which were adopted according to the Trust Agreement and as he told Senator Meshel, he knew of no occasion when the Ohio Turnpike Commission had ever refused to give people information about the Turnpike. He said he was not going to try to create something that was not available and try to mislead someone. He said he had offered on behalf of the Commission to meet with the Finance Committee of the Senate if the Senate was serious about making a bill that would require the Ohio Turnpike Commission to submit a biennial budget. The Chairman said he could not understand why the General Assembly would want such a report because the Ohio Turnpike had nothing to do with the finances of the Legislature. He said that the Ohio Turnpike Commission was a separate body and it had never refused to give anyone information and the Commission's meetings were open to the public. He said the records that the public wanted to investigate were always open. The Executive Director said he had enclosed a copy of the current budget in his letter to Senator Meshel.

The Executive Director reported also that he, the Deputy Executive Director, the General Counsel and the Chief Engineer, Frank A. Dutton, planned to attend a meeting of the International Bridge, Tunnel & Turnpike Association later in the month in Norfolk, Virginia. He said the meeting would be a workshop and would be held on April 17, 18, and 19, and he hoped at that time to learn more about what was going on within that organization in some of the areas in which the Ohio Turnpike Commission was interested.

The Chairman said as he understood it, all the members were very much interested in their roads and what was going to happen to their roads when they became toll free. The Executive Director said those on the interstate system were so interested. The Chairman said he thought it was good that the Commission belonged to the Association and the Commission might be able to get their help in what it wanted to do.

The Executive Director reported also that the five resurfacing contracts were well under way. He said he anticipated no problems in completing the contracts within the specified time and that of course the contractors would be off the road during the busy holiday periods. He said the next holiday period was Easter and the one after that would be Memorial Day. He said also that the contractors were not allowed to work at any time over the weekends because traffic was now starting to build up.

The Executive Director reported also that an emergency contract had been entered into to install an alternate source of fuel at the Administration Building because that building was heated by gas and was in the Columbia Gas district. He said the Commission now had the ability to heat the building with propane if natural gas were not available and that both

forms of heating could also be supplemented with electric heat.

The Executive Director reported also that a contract to replace the slate tile in the vestibules of the service plaza buildings had been let and the work would be under way in the spring.

The Executive Director reported also that three guard rail contracts had been advertised and the bids that resulted had been opened. He said the Commission Members had received the bid tabulations and that the purpose of the contracts was to replace the remaining cable guard rail that still existed on the Turnpike. He said the contracts amounted to some 120,000 linear feet of guard rail which was more than 20 miles. He said the new rails would comply with current interstate standards. He said he did not want anybody to get the impression that the Commission was just starting to replace guard rail. He said the Commission had been doing it for a long time but principally with its own work forces. He said there were about 1,200,000 feet of guard rail on the Ohio Turnpike, so the amount represented by the bids before the Commission was about one tenth of that amount. He said that using its own work forces, the Commission had converted almost half a million feet of the guard rail to current interstate standards which called for closer post spacing, beam-type guard rail and spacer blocks. He said he wished to assure the Commission that the staff was well along in the program of converting to the new type of rail. He said the guard rail was one of the items people had in mind when they said the Turnpike needed to be upgraded to current safety standards. He said the Commission had been moving along steadily on that.

The Executive Director reported further that there had been at least five bids on every one of the three projects and that the bids were well within the estimates. He said unfortunately on one of the contracts, the first three low bidders had not submitted satisfactory or sufficient bid bonds and there was no way that the contract could be awarded legally to any one of those low bidders. He said the contract could be awarded to the fourth low bidder but that bidder was \$37,000 higher than the low bidder and he did not recommend, nor did the other staff members recommend, that the award be given to a fourth bidder under those circumstances. He said there was still time to re-advertise and solicit bids again so that on one of the contracts the staff recommended rejecting all bids and re-advertising. He said on the other two contracts the staff recommended that an award be made to the low bidder. He said the low bidder happened to be the same company in both cases which was the Quaker-Empire Construction Company of Pennsylvania. He said the Ohio Turnpike Commission had never had any work performed by Quaker before. He said the fact was that most of the guard rail work had been done by Commission forces so there had not been any large guard rail contracts let prior to those now before the Commission. He said in order to satisfy themselves that the company could do the work the staff members had the officers of the company visit the Administration Building. He said the president of the company

had been in his office on the previous Friday and he was convinced after reviewing the company's financial statements and discussing the project with them, that the company could do the work, that they had done the same type of work in other areas and they would be able to perform satisfactorily on the Turnpike. He said it was, therefore, his recommendation as Executive Director, of other members of the staff, including the Chief Engineer and General Counsel, who had also reviewed the bids, and the Comptroller, who had reviewed the financial information and the Consulting Engineers, all joined in recommending rejection of one bid and award of the other bids. He said he wanted to say that he had discussed the matter with the Director of Transportation and, had the Director of Transportation been at the meeting, he was sure that he would have offered the contracts because the work that was involved was fully in line with what the Director of Transportation was doing in other sections of the interstate system.

The Chairman said if the two bids were accepted and the work was done, the Commission would be spending about \$700,000 on the two contracts recommended for award, but if all three had been awarded, the amount would have been over a million dollars. He said it was planned to readvertise later in the month and the staff hoped that it would be possible to make the other award at the May meeting.

The Chairman said the Commission had a letter from the Legal Department recommending rejection of the first contract and approval of the other two. He asked Mr. Anderson, the senior member in the absence of the Director of Transportation, if he would propose the resolutions. Mr. Anderson said he would do so.

A resolution rejecting bids for Contract RMP 24-77-2 was moved for adoption by Mr. Anderson, seconded by Mr. Bricker, as follows:

RESOLUTION NO. 8-1977

"WHEREAS the Commission has duly advertised according to law for bids for Contract RMP 24-77-2, which is a contract for the removal and replacement of Type 'A' and Type 'B' Guardrail, between Milepost 165.0 and Milepost 183.0 in Cuyahoga and Summit Counties, Ohio, and proof of said advertisement, together with the bids received, is before the Commission;

"WHEREAS five bids were received for the performance of said contract 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, and they and also the Commission's executive director have made recommendations with respect thereto;

"WHEREAS the Commission has ascertained that the documents submitted by the three lowest bidders do not conform to the requirements of the advertisement for the bids in that the amount of the bid security furnished is grossly deficient and that it would not be in the best interest of the Commission to award a contract on the basis of one of the higher bids submitted; and

"WHEREAS the Commission has been advised by its general counsel that it may lawfully reject all bids for the aforesaid contract;

"NOW, THEREFORE, BE IT

"RESOLVED that the bids heretofore received pursuant to the advertisement for bids for the performance of the work for Contract RMP 24-77-2, for removal and replacement of Type 'A' and Type 'B' Guardrail, between Milepost 165.0 and Milepost 183.0 in Cuyahoga and Summit Counties, Ohio, be and the same hereby are rejected, and the executive director is authorized to notify the bidders in writing of said action, and to return to the bidders the bid security furnished by them; and

"FURTHER RESOLVED that the executive director be, and hereby he is, authorized to cause a contract or contracts for the performance of the work provided for in said Contract RMP 24-77-2 again to be advertised if and as he sees fit and with such alterations or modifications in the work, if any, as he may deem desirable."

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

Ayes: Mr. Anderson, Mr. Bricker, Mr. Rogers, Mr. Teagarden

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was identified as No. 8-1977.

Mr. Anderson said he knew some people might question why an Ohio contractor did not get the job, but in highway bidding as well as turnpike bidding, state lines were often crossed. He said the Commission would naturally prefer to have an Ohio contractor perform the work but that was not possible in open bid when an out of state company could qualify with bond and experience and the Commission had no other choice but to make the award.

A resolution awarding Contract RMP 24-77-3 was moved for adoption by Mr. Anderson, seconded by Mr. Bricker, as follows:

RESOLUTION NO. 9-1977

"WHEREAS the Commission has duly advertised according to law for bids upon a contract for removal and replacement of Type 'A' and Type 'B' Guardrail, from Milepost 202.0 to Milepost 212.0 in Portage and Trumbull Counties, Ohio, which contract is designated Contract RMP 24-77-3, and proof of said advertising, together with the bids received, is before this meeting.

"WHEREAS six bids for the performance of said contract were received and were duly opened and read as provided in the published notice for said bids;

"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 upon such analyses;

"WHEREAS all 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 Quaker-Empire Construction Co. Inc. of Mountaintop, Pennsylvania, in the amount of \$365,917.00 for the performance of Contract RMP 24-77-3 has been determined by the Commission to be the lowest and best of all bids received, 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 and to the legal notice applicable thereto, and accordingly, the Commission may legally 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 bid of Quaker-Empire Construction Co. Inc. of Mountaintop, Pennsylvania, in the amount of \$365,917.00 for the performance of Contract RMP 24-77-3, is, and is by the Commission, determined to be the lowest and best of all bids received for the performance of said contract, and is accepted, and that the chairman and executive director, or either 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 the other bidders of their bid security, (3) to direct the return to the successful bidder of its bid security when the aforesaid contract has been duly executed,

and the 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."

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

Ayes: Mr. Anderson, Mr. Bricker, Mr. Rogers, Mr. Teagarden

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was identified as No. 9-1977.

A resolution awarding Contract RMP 24-77-4 was moved for adoption by Mr. Anderson, seconded by Mr. Bricker, as follows:

RESOLUTION NO. 10-1977

"WHEREAS the Commission has duly advertised according to law for bids upon a contract for removal and replacement of Type 'A' and Type 'B' Guardrail, from Milepost 213.0 to Milepost 231.0 in Trumbull and Mahoning Counties, Ohio, which contract is designated Contract RMP 24-77-4, and proof of said advertising, together with the bids received, is before this meeting;

"WHEREAS five bids for the performance of said contract were received and were duly opened and read as provided in the published notice for said bids;

"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 upon such analyses;

"WHEREAS all 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 Quaker-Empire Construction Co. Inc. of Mountaintop, Pennsylvania, in the amount of \$322,465.00 for the performance of Contract RMP 24-77-4 has been determined by the Commission to be the lowest and best of all bids received, 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, specifications and the legal notice applicable thereto, and accordingly, the Commission may legally 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 bid of Quaker-Empire Construction Co. Inc. of Mountaintop, Pennsylvania, in the amount of \$322,465.00 for the performance of Contract RMP 24-77-4 is, and is by the Commission, determined to be the lowest and best of all bids received for the performance of said contract, and is accepted, and that the chairman and executive director, or either 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 the other bidders of their bid security, (3) to direct the return to the successful bidder of its bid security when the aforesaid contract has been duly executed, and the 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."

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

Ayes: Mr. Anderson, Mr. Bricker, Mr. Rogers, Mr. Teagarden

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was identified as No. 10-1977.

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 since the last meeting he had sent to the Commission a quarterly litigation report which indicated one case, the Porter case, had been settled. He said that was the case in which the Commission had been totally covered by the indemnification clause in the contract awarded to the contractor, who was the primary defendant and the Commission had to pay nothing while the contractor did.

The General Counsel reported further that a decision had been rendered in the Stacey case and the Legal Department was considering taking an appeal to the Ohio State Supreme Court. He said he would be happy to have guidance from Members of the Commission on whether to appeal or not. Mr. Rogers said he might read the court's opinion.

The Chairman said the report of the General Counsel was accepted

as offered. He said the report of the Consulting Engineers would be received.

Mr. Harnden reported that the annual inspection for the year 1977 would start later in the month. The Chairman said he was always interested in the annual report, especially that portion which dealt with service plazas. Mr. Harnden said the inspectors would be going through them with a fine tooth comb. The Chairman said the Consulting Engineers had always done a good job on their inspections and he was certain they would do so again. The Executive Director said he would like to emphasize that the Consulting Engineers had seen the employee severance compensation program and he was certain that they heartily approved of it. Mr. Harnden said he thought the severance plan was essential in order for the Commission to continue its obligation to maintain and operate the Turnpike until its authority to do so was terminated. The Chairman asked whether in his experience with other turnpikes he had heard of a similar plan. The Consulting Engineer said other turnpikes he knew best had never paid off. He said several of them were close to paying off, one in Maryland was faced with the same problem, and doubtless the Executive Director would hear from them at Norfolk. The Chairman said he did not know of another severance plan, even in industry, that could compete with the Ohio Turnpike plan. He said the plan was not only going to be beneficial to the bondholders but to the Commission and the employees.

The Chairman said the report of the Consulting Engineers was accepted as offered. He said the report of the Trustee would be received.

Mr. Sesler said the Trustee had no report. In response to a question from the Chairman, he said the price of the bonds was increasing slightly in anticipation of the July or August solicitations. The Chairman asked whether the Trustee notified the holders of registered bonds in any manner when a tender offer was made. Mr. Sesler said they did. The Chairman said a man had told him that his bonds were registered and that he never had an opportunity to tender and that was the reason he mentioned it. Mr. Sesler said that man certainly would hear from the Trustee.

The Chairman said the report of the Trustee was accepted as offered. He ascertained there would be no report from the Director of Information and Research.

The Chairman said he understood that the room at 139 East Gay Street would still be available on a meeting-to-meeting basis.

There being no further business to come before the Commission, a motion was made by Mr. Bricker, seconded by Mr. Rogers, that the meeting adjourn until May 3, 1977, subject to call of the Chairman. A vote by ayes and nays was taken and all Members present responded to roll call. The vote was as follows:

Ayes: Mr. Bricker, Mr. Rogers, Mr. Anderson, Mr. Teagarden

Nays: None

The Chairman declared the meeting adjourned. The time of adjournment was 12:28 p. m.

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

Ralph H. Anderson

Ralph H. Anderson, Secretary-Treasurer