

MINUTES OF THE 332nd MEETING OF THE OHIO TURNPIKE COMMISSION

March 11, 1982

Pursuant to bylaws the Ohio Turnpike Commission met in regular session at the BancOhio National Bank Building at 155 East Broad Street, Columbus, Ohio at 11:00 a.m. on March 11, 1982, with key members of the staff; a representative, William R. Fleischman, of the consulting engineers, J. E. Greiner Company-Ohio; a representative, P. Joseph Sesler, of the trustee, the BancOhio National Bank; John W. Clark, Special Assistant to the Director of Transportation; Captain David L. Furiate, Commander District 10, Ohio State Highway Patrol; a member of the press, Lee Stratton, The Columbus Dispatch; 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: Charles R. Pinzone, Sandra D. Cooke, David L. Weir, Clarence D. Rogers, Jr.

Absent: Ralph H. Anderson

A motion was made by Mrs. Cooke, seconded by Mr. Pinzone, that the minutes of the meeting of December 17, 1981, 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: Mrs. Cooke, Mr. Pinzone, Mr. Weir, Mr. Rogers

Nays: None

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

The Chairman reported that the meeting was the 332nd of the Ohio Turnpike Commission. He said that Mr. Anderson was ill and could not attend the meeting.

The Chairman said he wanted to take a moment to welcome David Hill to the meeting. He said Mr. Hill was the Commission's legal advisor for Minority Business Enterprise participation in Commission contracts for construction, supplies and services. He said the Executive Director would explain the Commission's MBE program and introduce a resolution authorizing its establishment in his report later in the meeting. He said also, he wanted to introduce and welcome Captain David Furiate, who was the new commander of the Turnpike District of the Ohio State Highway Patrol. He said Captain Furiate succeeded Captain Ralph Rizzo, who retired in January after serving 5 years as commander. He said the Commission wished Captain Rizzo well in his retirement and also Captain Furiate in his new assignment.

The Chairman reported further that on February 2, Mrs. Cooke, the Executive Director and he delivered in person copies of the Commission's 1981 annual report to Governor Rhodes and also to the offices of the legislative leaders. He said the Governor complimented the Commission on another successful year and pledged his continued support to the efforts and activities of the Commission. He said the report was mailed to members of the General Assembly through whose districts the Turnpike passed, to elected state officials, and to newspapers, television and radio stations throughout the state and to other interested persons.

The Chairman reported further that, as the Members were aware, Turnpike toll rates were increased effective February 1. He said implementation of the increases went smoothly and he would briefly review the traffic and revenue statistics for the month of February, which reflected the financial effects of the toll increases.

The Chairman reported further that compared with February 1981, passenger car toll revenues in February 1982 increased 35.3%, commercial toll revenues were up 36.3%, and total revenues advanced 34.0%. He said that, at the same time, the number of passenger cars on the Turnpike increased 1.3%, while commercial vehicles were down 4.6%. He said the decline in commercial vehicles was probably caused by the depressed state of the economy, rather than by a negative reaction to the toll rate increase.

The Chairman reported further that Turnpike bonds in the face amounts of \$1,078,000 and \$119,000 were purchased by the trustee, BancOhio National Bank, in January and February, respectively. He said the latest bond purchases reduced the outstanding debt to \$13,236,000 of the original \$326,000,000 issue. He said approximately \$3 million was available in the redemption account and the trustee was accepting bond tenders the day of the meeting. He said that from the meager response to the January and February tenders, however, it appeared a bond call on June 1 was almost certain to be required. He said the trustee would elaborate.

The Chairman reported further that in addition to a resolution concerning the establishment of a minority business enterprise program, there were three other resolutions awarding contracts to be considered by the Commission at the meeting. He said drafts of the resolutions had been placed in the Members' folders. He said tabulations of the bids had already been forwarded to the Members. He said the resolutions would be explained and presented during the Executive Director's report.

The Chairman said that, before he completed his report, he wanted to note for the record that the Commission's General Counsel, Francis Cole, would be retiring March 27 after serving more than twenty-nine years with the Commission. He said Mr. Cole's length of service was a record for any Member or employee of the Commission, exceeding the twenty-nine years served by O. L. Teagarden, the Commission's former Chairman and Vice Chairman. He said that, being a lawyer himself, he felt qualified in saying

that Mr. Cole was a lawyer's lawyer. He said that he, personally, had had a good relationship with Mr. Cole and appreciated his counsel and guidance for his (the Chairman's) brief period on the Commission. He said Mr. Cole had served with dedication and distinction in important and essential posts. He said he could not say enough about how much the Members appreciated Mr. Cole's many contributions to the successful operations of the Commission. He said he wished Mr. Cole and his wife well and hoped that Mr. Cole would be willing to help and assist the Commission from time to time in the future.

The Chairman said that in the absence of any questions the report of the Chairman was accepted as offered. He said the report of the Secretary-Treasurer, presented by the Assistant Secretary-Treasurer, Allan V. Johnson, for Mr. Anderson, would be accepted.

Mr. Johnson said that before presenting the Secretary-Treasurer's report on behalf of Mr. Anderson, he wanted to say that he had spoken to Mr. Anderson on the telephone the day before the meeting. He said Mr. Anderson was, of course, quite ill. He said he expressed the Commission's concern for Mr. Anderson's health.

Mr. Johnson said that since the last Commission meeting the following had been sent to all Members:

1. Weekly Traffic Statistics
2. Investment Transactions which occurred during December 1981; January 1982 and February 1982
3. Financial Statements for December 31, 1981; January 31, 1982, and February 28, 1982
4. Traffic and Revenue Report for December 1981 and Summary 1981, January and February 1982
5. Traffic Accident Summary Report - Annual Report for 1981; January 1982 and February 1982
6. Expense and Budget Report - Fourth Quarter of 1981
7. Draft of Minutes of the December 17, 1981 Commission Meeting
8. Litigation Report for Quarter ending December 31, 1981
9. Report of Concessionaires - 1981
10. Summary of Bond Purchases - 1981
11. Accountants' Report and Financial Statements - December 31, 1981

12. Ohio Turnpike Commission News Release No. 5-
Toll Rate Increase

13. Ohio Turnpike Commission's Annual Report 1981

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 vice chairman of the Committee on Budget and Finance, Mr. Johnson, said that the Commission finished 1981 about \$1,253,000 or 4.3% under the operating budget of \$29,176,000. He said he considered that experience to be excellent.

Mr. Johnson said further that after the 1982 budget had been adopted by the Commission at the December 17, 1981 meeting, copies of that budget, along with the toll rate increases resolution and the news release which explained the increases, were all sent to every member of the Ohio General Assembly. He said the mailings had been discussed at the December meeting as a means of informing the legislators of the Commission's actions. He said there had been very little official response by the members of the General Assembly to the information sent to them by the Commission. He said that, as he had already reported, the toll rate increases were successfully implemented. He said the news media reacted favorably to the increases, and the Turnpike users also had been generally receptive to the rate changes. He said that, certainly, there were a few disgruntled comments about raising the toll rates during the current economic situation, but he had seen actual interviews on television with truck drivers on the Turnpike in which they were asked their opinions on the increases. He said the majority of those interviewed said they understood the need for the increases and were willing to pay them.

Mrs. Cooke said she was uncertain about the \$550,647 expense for Administration and Insurance for February 1982. She asked the Executive Director what portion of the expense, which was an increase of \$36,919 over February 1981, pertained to insurance costs.

The Executive Director said the Commission's health insurance premium certainly exceeded \$100,000 a month. He said that the health insurance costs combined with the premiums for life, dental and vision insurance probably added up to at least \$200,000 a month, but he said that he could not give Mrs. Cooke the exact insurance costs at that time. He said he would supply the information to her at a later date.

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, Mrs. Cooke, said that at the December 1981 meeting of the Commission, the committee reported that the renovation and modernization of the

service stations at the sixteen service plazas were nearly completed and the facilities were in full operation. She said the facilities were now entirely completed and the volume of fuel sales in January and February had been at record high levels, which certainly reflected favorably on the modernization program.

Mrs. Cooke said further that, also, as reported at the December meeting, efforts were now being turned toward projects in the service station and restaurant buildings. She said a contract was already underway to improve the sales room, service bays and manager's office at four of the plazas and plans were being prepared to upgrade the truckers' showers at ten other plazas, and the public rest rooms at the only three plazas which had not yet been fully renovated.

Mrs. Cooke said further that it should be noted that a merger had been announced between Oasis Petroleum, the service station operator, and USA Petroleum. She said the merged company would probably be the largest independent oil company in the United States, which should strengthen the entire operation, although there had never been any problem with the Oasis contract on the Ohio Turnpike. She said the top Oasis officials had worked closely with the Commission's staff throughout the contract and she expected that cooperative relationship to continue.

Mrs. Cooke said further that the Committee was reviewing a request by one of the restaurant operators for price adjustments on controlled menu items, which had not changed for more than a year. She said that comparative surveys were being made before any action would be taken on that request.

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 vice chairman of the Committee on Employee Relations, G. Alan Plain, said the recommendations that were made to the Executive Director by the committee concerning employee wage, salary and benefit improvements had been put into effect.

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. Weir, said that, of late, the department had been in more litigation than engineering. He said he didn't have any statistical information to relate at the meeting.

The Chairman said the report of the Director of Transportation was accepted as offered. He ascertained there would be no report from the Committee on Safety. He said the report of the Executive Director would be received.

The Executive Director, Mr. Johnson, said he wanted to supplement the Chairman's report about the delivery of the Commission's 1981 annual report. He said that after the Chairman, Vice Chairman and he had delivered the report to Governor Rhodes, he was able, after a long delay, to deliver it personally to the Speaker of the House, Vernal Riffe. He said that at that time he was accompanied by State Representative Frederick Deering, who had had a special interest, over the years, in the future of the Turnpike.

The Executive Director said further that Speaker Riffe also indicated a concern about the future of the Turnpike. He said he told Mr. Riffe that the remaining bonds of the Commission, by the action taken by the Commission in December, would not be retired until December 1, 1984. He said, therefore, that consideration need not be given during the current General Assembly to any legislative action that might be determined to be desirable concerning the future of the Turnpike. He said a discussion had taken place about whether it might be timely to do something on a Congressional level to gain some flexibility or relief from the terms of the 1964 tripartite agreement among the Commission, the state and the Federal Highway Administration concerning the Turnpike and the pledge in that agreement that the tolls must be removed after the remaining bonds were paid off.

The Executive Director said further that Mr. Riffe did express an interest in the Turnpike and agreed to hear from time to time the Commission's views on what legislative action might be desirable concerning the future of the road.

The Executive Director said further that in relation to Mr. Cole's retirement, he did want to mention for the record, which he already had discussed with the Commission Members, that James McGrath, who had been on the legal staff of the Commission for almost 25 years, would be appointed by him, under his authority as specified in the bylaws, to become General Counsel after Mr. Cole retired. He said he had confidence in Mr. McGrath's background and ability to serve as the Commission's General Counsel. He said Mr. Cole had indicated he might be willing to assist the Commission in the future in certain legal areas in which he had great expertise, and as permitted under the retirement rules and regulations.

The Executive Director said further that he wanted to mention for the record that Jean Floasin had been appointed Administrative Assistant to him. He said it just so happened that both Mr. McGrath and Ms. Floasin were on vacation the day of the meeting. He said he would be on vacation the week after the meeting.

The Executive Director said Mr. Cole had just mentioned to him that, even though the appointment of the General Counsel was made by him, the bylaws did provide that it should be done with the assent of the Commission. He said he had discussed Mr. McGrath's appointment with the individual Members, with the exception of Mr. Weir, who had been on vacation. He said he would like the

Commission Members to give their assent to the appointment of Mr. McGrath as General Counsel.

A motion was made by Mr. Pinzone, seconded by Mrs. Cooke, that the appointment of Mr. McGrath as General Counsel be approved by the Commission Members.

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

Ayes: Mr. Pinzone, Mrs. Cooke, Mr. Weir, Mr. Rogers

Nays: None

The Chairman declared that the appointment of Mr. McGrath as Commission's General Counsel had received the unanimous approval of the Commission Members

The Executive Director said that for more than a year the staff and the Commission's outside counsel, Squire, Sanders & Dempsey, and, more recently, David Hill, had reviewed the provisions of state law concerning minority business enterprise participation in public contracts. He said that even though there had been some question about whether or not those provisions specifically applied to the Commission, there was a likelihood that they did. He said, therefore, it had been decided that the Commission could best comply with the state law by developing its own MBE program. He said that, as the Commission Members knew, MBE requirements had been established for contracts on which bids were advertised. He said the requirements pertaining to the Commission had been developed and patterned after the requirements in the state law. He said the Commission's requirements had been put in booklet form, submitted to the Members for review, and they also were included in the resurfacing contract documents recently advertised for bids. He said bids on those contracts had been received and awarding of those contracts would be recommended to the Members at the meeting.

The Executive Director said further that, however, before awarding the contracts, he thought that it was appropriate that the MBE program and its requirements be formally established and approved by the Commission in resolution form.

A resolution establishing and providing for the implementation of a policy regarding Minority Business Enterprise (MBE) participation in the Commission's contracts and procurements was moved for adoption by Mrs. Cooke, seconded by Mr. Weir as follows:

RESOLUTION NO. 1-1982

"WHEREAS, the 113th General Assembly enacted legislation providing for minority business enterprise (MBE) participation in public contracts for construction and procurement, and

"WHEREAS, the said legislation provides for the creation of a mechanism designed to achieve specified percentage goals in the letting of construction contracts and in bidding for certain other contracts and purchases, which percentage goals are to be sought with respect to each ensuing fiscal year for contracts and procurements directly made and, in addition, provision was made for requiring construction contractors to seek and, if possible, achieve certain levels of minority participation among their subcontractors and suppliers;

"WHEREAS, the Commission's fiscal year is the calendar year and the Commission is now in a position to, and desires to, establish and declare a policy setting such goals for the fiscal year 1982 and thereafter providing appropriate and comparable means designed to attain same, subject only to limitations and waivers such as those provided in the aforesaid legislation which is embodied in Amended Substitute House Bill 584 of the said 113th General Assembly and subsequent amendments to the legislation thereby enacted;

"WHEREAS, the Commission has retained David Gordon Hill and Associates, Inc. of Cleveland, Ohio as a consultant to advise the Commission with respect to the establishment and implementation of such a program, and the Commission's staff, assisted by and in consultation with David G. Hill, Esq. have developed appropriate language and requirements as Special Provisions for construction contracts; and

"WHEREAS, the contract documents for resurfacing of the turnpike which is to be performed during 1982 which have been prepared and included with the proposals for said contracts, embody guidelines and requirements, including forms, to require and enable bidders for said contracts to identify and authenticate sources of proposed minority business enterprise participation; and

"WHEREAS, the contract documents for the aforesaid contracts for resurfacing are before the Commission for approval and award; and

"WHEREAS, the Commission desires to establish and implement a policy as aforesaid for the equitable participation of minority business enterprises in its contracting and procurement;

"NOW, THEREFORE, BE IT

"RESOLVED that the minority business enterprise (MBE) requirements for construction contracts developed by the staff and furnished to the Members of the Commission by the executive director on February 3, 1982, be and hereby they are, approved, ratified and confirmed; and

"FURTHER RESOLVED that the contractual provisions with respect to the Commission's resurfacing contracts for the year 1982, including the provisions pertaining to minority business enterprises be, and hereby they are, approved, ratified and confirmed; and

"FURTHER RESOLVED that the executive director and general counsel, with the consultation and advice of the aforementioned David G. Hill, Esq. be, and hereby they are directed to continue with the establishment and implementation by the Commission of a program for the equitable participation of minority business enterprises in the Commission's contracting and procurement, which program shall be generally comparable to that established by Amended Substitute House Bill 584 of the 113th General Assembly and amendments thereto including, if deemed applicable by them, amendments hereinafter enacted thereto, if there shall be any."

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

Ayes: Mrs. Cooke, Mr. Weir, Mr. Pinzone, Mr. Rogers

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was No. 1-1982.

The Executive Director said also that the Commission's staff had prepared plans and specification documents for three resurfacing projects to be done in 1982. He said the first project was designated Contract No. RMP 59-82-01 for resurfacing and repairing the Turnpike mainline from the Indiana state line to milepost 5.7 in Williams County. He said two bids on that project had been received. He said the resurfacing contracts contained provisions whereby bids were taken on the use of crushed slag or stone or gravel in the surface course. He said another option in the contracts concerned establishing or not establishing temporary accesses to be used to gain entry to the Turnpike.

The Executive Director said further that all bids received for the resurfacing contracts were thoroughly reviewed by him, the Commission's consulting engineers, its engineering staff, particularly by the Deputy Executive Director-Chief Engineer, its General Counsel, and its MBE advisor. He said it was recommended that Contract No. RMP 59-82-01 be awarded to the low bidder using crushed slag in the surface course, and also the temporary accesses to the Turnpike. He said the low bidder was the S. E. Johnson Company of Maumee. He said the total amount of the bid, \$2,988,167.85, was well under the estimated cost of the project.

The Chairman asked the Executive Director whether crushed slag or stone or gravel was the preferred material to be used in the surface course.

The Executive Director said the crushed slag was preferred over stone or gravel in the surface course because the slag had a better skid resistance quality to it. He said that, depending upon where the resurfacing projects were located on the Turnpike and what time of the year the work was done, slag could turn out to almost be a proprietary item--only one single source of supply, and resulting high cost. He said that for that reason the contracts offered the option of using stone or gravel.

The Executive Director said further that he wanted to emphasize that using stone or gravel was most common in highway resurfacing. He said that, for example, all the resurfacing contracts awarded by the Commission in 1980 were awarded on the basis of using stone or gravel, although alternative bids were taken for slag. He said that in the case of Contract No. RMP 59-82-01 the cost of slag over stone or gravel was slight, \$16,000. He said he thought the added cost was so small that the use of slag in the surface course was warranted.

A resolution awarding Contract RMP 59-82-01 was moved for adoption by Mr. Weir, seconded by Mr. Pinzone as follows:

RESOLUTION NO. 2-1982

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for repairs, resurfacing and guard-rail improvement of original construction, Sections C-61 and C-62 between Milepost 0.0 and Milepost 5.7 in Williams County, Ohio, which contract is designated Contract RMP 59-82-01, and proof of said advertising is before the Commission;

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

"WHEREAS, said bids have been analyzed by the Commission's consulting engineer and by its deputy executive director-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 S. E. Johnson Company of Maumee, Ohio, in the amount of \$2,988,167.85 for the performance of Contract RMP 59-82-01 using crushed slag in the surface course, with permission to make use of temporary access to the turnpike and to use a recycled mix for the asphalt concrete base course, has been determined by the Commission to be the lowest and best of all bids received, and it has been determined to be in the best interest of the Commission to accept the bid of said company on the aforesaid basis;

"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

specifications and 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, said bid was accompanied by a bid and performance bond with surety, as provided by law, and 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 S. E. Johnson Company of Maumee, Ohio in the amount of \$2,988,167.85 for the performance of Contract RMP 59-82-01 using crushed slag in the surface course, with permission to make use of temporary access to the turnpike and to use a recycled mix for the asphalt concrete base course, 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; (2) to direct the return to the other bidders of their bid security, and (3) to take any and all action necessary or proper to carry out the terms of said bid and of said contract."

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

Ayes: Mr. Weir, Mr. Pinzone, Mrs. Cooke, Mr. Rogers

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was No. 2-1982.

The Executive Director said further that the second resurfacing project was designated Contract RMP 59-82-02, mainline repairs between mileposts 80.8 and 92.3 in Ottawa and Sandusky Counties. He said that on that project alternative bids were again taken for crushed slag or stone or gravel in the surface course, and for temporary accesses to the Turnpike.

The Executive Director said further that it was recommended that the award be made to the low bidder using crushed slag and establishing temporary accesses to the Turnpike. He said the low bidder was the S. E. Johnson Company of Maumee and the amount of their bid was \$3,209,057.13. He said the bid was well below the estimated cost of the project.

A resolution awarding Contract RMP 59-82-02 was moved for adoption by Mr. Weir, seconded by Mrs. Cooke as follows:

RESOLUTION NO. 3-1982

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for repairs, resurfacing and guard-rail improvement of original construction, Sections C-39, C-40 and C-41 between Milepost 80.8 and Milepost 92.3 in Ottawa and Sandusky Counties, Ohio which contract is designated Contract RMP 59-82-02, 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 deputy executive director-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 S. E. Johnson Company of Maumee, Ohio in the amount of \$3,209,057.13 for the performance of Contract RMP 59-82-02 using crushed slag in the surface course, with permission to make use of temporary access to the turnpike and to use a recycled mix for the asphalt concrete base course, has been determined by the Commission to be the lowest and best of all bids received, and it has been determined to be in the best interest of the Commission to accept the bid of said company on the aforesaid basis;

"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, specifications and 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, said bid was accompanied by a bid and performance bond with surety, as provided by law, and 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 S. E. Johnson Company of Maumee, Ohio in the amount of \$3,209,057.13 for the performance of Contract RMP 59-82-02 using crushed slag in the surface course, with permission to make use of temporary access to the turnpike and to use a recycled mix for the asphalt concrete base course, 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; (2) to direct the return to the other bidders of their bid security, and (3) to take any and all action necessary or proper to carry out the terms of said bid and of said contract."

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

Ayes: Mr. Weir, Mrs. Cooke, Mr. Pinzone, Mr. Rogers

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was No. 3-1982.

The Executive Director said further that the third resurfacing contract was designated Contract No. RMP 59-82-03, mainline repair work between mileposts 101.4 and 111.7 in Sandusky and Erie Counties. He said that on that project it was recommended the contract be awarded to the low bidder using stone or gravel in the surface course, and also using temporary accesses to the Turnpike. He said that for that project the difference between the bids specifying slag in the surface course compared with stone or gravel was significant, almost \$180,000 higher for the slag. He said the difference in cost for slag over stone or gravel was excessive. He said the contractor with the low bid using stone or gravel was the Kokosing Construction Company of Frederickstown. He said the total amount of their bid was \$2,625,132.38, again, a great deal below the estimated project cost.

Mr. Pinzone asked the Executive Director if prevailing wage rate specifications were included in the resurfacing contracts on which bids were taken.

The Executive Director said that the Commission's staff worked with the Industrial Commission of Ohio in acquiring the prevailing wage rates for the areas in which the projects were to be done, and contractors were required to pay those wage rates.

Mr. Pinzone asked the Executive Director whether or not the Commission had a compliance officer to assure that the prevailing wage rates were paid.

The Executive Director said the Commission didn't have an individual designated as a compliance officer.

Mr. Pinzone said that according to law the Commission should have a compliance officer. He said that, otherwise, it would have to use the Industrial Commission of Ohio, which had a limited staff. He said he suggested the Commission designate a staff member

to be the compliance officer.

The Executive Director said he would follow up on Mr. Pinzone's suggestion.

Mr. Pinzone said it seemed odd that the bids for the three resurfacing contracts discussed at the meeting were so much lower than anticipated. He said that having a compliance officer would be an added check on the bids to see whether or not they were low because the prevailing wage rates were not being paid.

The Executive Director said he was convinced the wide range of bids were indicative of the current economic conditions. He said contractors were looking for work and bidding low. He said he thought Mr. Weir had experienced the same bidding situations.

Mr. Weir said that that had been the case in Dayton for bids on construction of Interstate Route 675. He said the project had been estimated at \$38 million, while accepted bids totalled \$30 million.

A resolution awarding Contract RMP 59-82-03 was moved for adoption by Mr. Weir, seconded by Mr. Pinzone as follows:

RESOLUTION NO. 4-1982

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for repairs, resurfacing and guard-rail improvement of original construction, Sections C-33, C-34 and C-35 between Milepost 101.4 and Milepost 111.7 in Sandusky and Erie Counties, Ohio, which contract is designated Contract RMP 59-82-03, and proof of said advertising, together with the bids received, is before this meeting;

"WHEREAS, four 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 deputy executive director-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 Kokosing Construction Company, Inc. of Fredericktown, Ohio in the amount of \$2,625,132.38 for the performance of Contract RMP 59-82-03 using crushed stone or gravel in the surface course, with permission to make use of temporary access to the turnpike and to use a recycled mix for the asphalt concrete base course, has been determined by the Commission to be the lowest

and best of all bids received, and it has been determined to be in the best interest of the Commission to accept the bid of said company on the aforesaid basis;

"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, specifications and 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, said bid was accompanied by a bid and performance bond with surety, as provided by law, and 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 Kokosing Construction Company, Inc. of Fredericktown, Ohio in the amount of \$2,625,132.38 for the performance of Contract RMP 59-82-03, using crushed stone or gravel in the surface course, with permission to make use of temporary access to the turnpike and to use a recycled mix for the asphalt concrete base course, 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; (2) to direct the return to the other bidders of their bid security, and (3) to take any and all action necessary or proper to carry out the terms of said bid and of said contract."

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

Ayes: Mr. Weir, Mr. Pinzone, Mrs. Cooke, Mr. Rogers

Nays: None

The Chairman declared the resolution stood adopted with all Members voting in the affirmative. The resolution was No. 4-1982.

The Executive Director said that, as far as minority business enterprise participation in the three resurfacing contracts awarded at the meeting, the subcontractors and construction supplier to be involved in the projects met the MBE requirements of the Commission.

The Chairman said he had expressed his concern in conversations with the Executive Director and Mr. Hill that the spirit in which the Commission had undertaken the MBE program be continued. He said he was happy that Mr. Hill was going to be monitoring the accuracy of minority business enterprise participation in Commission contracts.

Mr. Hill said that he had told the Executive Director and General Counsel that he was basically satisfied with the involvement of the three minority subcontractors and the one minority construction supplier in the three resurfacing projects. He said he did have some questions about two of the firms. He said that, with the permission of the Executive Director and General Counsel, he intended to pursue his investigation. He said one of the two firms was questionable with regard to the one-year period of certification, if strict compliance to that time factor was required.

Mr. Hill said further that the affidavits signed by each of the minority subcontractors and the construction supplier relating to eligibility determination permitted the Commission to go in and examine financial records. He said that on-site monitoring of the minority businesses also would be done.

Mr. Weir asked the Executive Director if the review board of the Ohio Department of Administrative Services would rule on any variations in the procedures encountered in the Commission's MBE program.

The Executive Director said the Commission had already set up its own review board to handle deviations from the established procedures of its MBE program.

Mr. Weir asked Mr. Hill if women were considered minorities in the Commission's MBE program.

Mr. Hill said the definition of minorities in the Commission's program followed the definition in state law. He said that a minority person was an individual, male or female, who was black, Hispanic, Asian American, American Indian or Alaskan native.

Mr. Pinzone asked Mr. Hill if handicapped individuals were considered minorities in the Commission's program.

Mr. Hill said they were not.

John Clark said that when he received the manual outlining the Commission's procedures for its MBE program he had shown it to O.D.O.T.'s MBE officer, Croft Merritt. He said Mr. Merritt reviewed the manual and informed Mr. Clark that it was excellent.

Mr. Pinzone asked the Executive Director if the Commission's staff had been using the list of minority business enterprises provided by the Ohio Department of Administrative Services.

The Executive Director said that the list had been utilized. He said the Commission's staff would be developing its own list of minority business enterprises in the future.

Mr. Weir said that O.D.O.T. had a problem where a contractor was cleared for approval regarding minority business enterprise participation, but notice of the approval had not been received

by O.D.O.T. prior to contract bid openings. He said, therefore, that that specific bid had not been opened. He said that after the contractor's eligibility became known, his bid was opened and it turned out to be below the bid previously determined to be the lowest for the project. He said O.D.O.T. was subsequently sued by the contractor, who submitted the first low bid, because he had not been awarded the contract.

The Executive Director said that Mr. Hill had been invaluable in guiding the Commission in its MBE program and doing it in a timely way. He said Mr. Hill should receive a great deal of the credit for preparing the Commission's MBE manual. He said he expected Mr. Hill to be a help to the Commission in MBE matters in the years ahead.

The Chairman said Mr. Hill was reputed to be one of the best counselors in the area of minority business enterprise programs in Cleveland.

Mr. Pinzone said he agreed with the Chairman's statement. He said he had worked with Mr. Hill for 10 years.

The Chairman said the report of the Executive Director was accepted as offered. He ascertained there would be no report from the consulting engineers. He said the report of the trustee would be received.

Mr. Sesler said that, as of 9:30 a.m. the day of the meeting, the trustee had received tenders on \$1,080,000 face amount of Turnpike bonds, which was substantially higher than the tenders the trustee had received in February. He said one of the reasons for the increase in tenders was that letters had been mailed to 400 coupon bondholders. He said that over 50 percent of those who received the letters responded with bond tenders.

Mr. Sesler said further that bonds in the face amount of \$86,000 from the 1978 bond call, \$280,000 from the 1979 bond call, and \$655,000 from the 1981 bond call were still outstanding. He said the publication of the 1981 bond call did help bring in some of the 1978 and 1979 bonds called.

The Executive Director said he had requested of Mr. Sesler a written report on the bond retirement efforts to date in 1982, including the bond tenders received the day of the meeting. He said that in excess of \$3 million was in the bond redemption account prior to the receipt of bond tenders on the meeting day. He said it appeared that over \$2 million remained available for bond redemption.

The Executive Director said further that, if the \$2 million could not be used for bond redemption by approximately April 15th, a bond call on June 1st would become mandatory. He said he asked Mr. Sesler for the written report on bond retirements to evaluate the situation and determine when to deposit bond redemption monies later in 1982. He said that it was generally agreed that it would not be wise to deposit any additional funds in the bond redemption

account and then have to use it in a call on June 1st. He said to do so would use up all available monies by June 1st and not have any bond retirement funds for the rest of the year.

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 the next Commission meeting would be held after consultation with the Members.

There being no further business to come before the Commission, a motion was made by Mrs. Cooke, seconded by Mr. Pinzone that the meeting adjourn, subject to call of the Chairman.

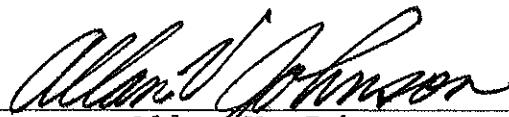
A vote by ayes and nays was taken and all Members responded to roll call.

Ayes: Mrs. Cooke, Mr. Pinzone, Mr. Weir, Mr. Rogers

Nays: None

The Chairman declared the meeting adjourned. Time of adjournment was 11:56 a.m..

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



Allan V. Johnson
Assistant Secretary-Treasurer