

MINUTES OF THE 339th MEETING OF THE OHIO TURNPIKE COMMISSION

August 17, 1983

Pursuant to bylaws the Ohio Turnpike Commission met in regular session in the Administration Building at 682 Prospect Street in Berea, Ohio at 4:15 p.m. on August 17, 1983, 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; 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: Warren J. Smith, William H. Schneider,
Saundra Dombey Cooke, Charles R. Pinzone,
Clarence D. Rogers, Jr.

Absent: None

A motion was made by Mr. Schneider, seconded by Mrs. Cooke, that the minutes of the meeting of May 17, 1983, 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 of ayes and nays was taken and all Members responded to roll call. The vote was as follows:

Ayes: Mr. Schneider, Mrs. Cooke, Mr. Smith, Mr. Pinzone,
Mr. Rogers

Nays: None

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

The Chairman reported that the meeting was the 339th of the Ohio Turnpike Commission and the Commission was meeting at its headquarters in Berea as provided for in the Commission's Code of Bylaws.

The Chairman reported further that he wanted to note that on July 22, 1983, he had been reappointed by the Governor to a new, eight-year term as a Member. He said he had taken the required oath and arranged for the necessary bond and, therefore, he was a qualified Member and could vote.

The Chairman reported further that he wanted to acknowledge the presence at the meeting of Mr. Robert Brown, ODOT Deputy Director for Public Transportation, Mr. Joseph Sesler, BancOhio National Bank, the Commission's trustee, Mr. Bernard Hurst, Assistant Director of ODOT, and several staff members, who normally did not attend, but were able to do so because the Commission was meeting in Berea. He said that even though there

were no members of the media present, they had been properly notified of the meeting and the Commission was not violating any sunshine laws.

The Chairman reported further that since the election of officers would be conducted at the meeting and the Commission would have to act on quite a few resolutions, he would dispense with his customary report on the financial experience.

The Chairman reported further that in accordance with the Turnpike Act and the Commission's Code of Bylaws, an election of officers would be conducted by nominations and voting, and confirmed by a resolution so that action would appear in the Journal. He said he would begin by accepting nominations for the office of Chairman.

A nomination of Clarence D. Rogers, Jr. for Chairman of the Commission was made by Mr. Smith and seconded by Mrs. Cooke.

The Chairman said that inasmuch as he had been nominated, he would appoint Mrs. Cooke as Chairman pro tem to conduct the election of Chairman.

Mrs. Cooke asked if there were any other nominations, and, there being none, she declared the nominations closed. She asked the Assistant Secretary-Treasurer to call the roll.

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

Ayes: Mr. Smith, Mrs. Cooke, Mr. Schneider, Mr.
Pinzone, Mr. Rogers

Nays: None

Mrs. Cooke declared that Mr. Rogers was elected Chairman of the Commission. A Chairman having been elected, Mrs. Cooke turned the meeting over to the Chairman to conduct the rest of the meeting.

A nomination of Sandra Dombey Cooke for Vice Chairman of the Commission was made by Mr. Smith, seconded by Mr. Pinzone. The Chairman asked if there were any other nominations, and, there being none, he declared the nominations closed.

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

Ayes: Mr. Smith, Mr. Pinzone, Mr. Schneider,
Mr. Rogers, Mrs. Cooke

Nays: None

The Chairman declared Mrs. Cooke was elected Vice Chairman of the Commission.

A nomination of Charles R. Pinzone for Secretary-Treasurer of the Commission was made by Mr. Smith, seconded by Mr. Schneider. The Chairman asked if there were any other nominations, and, there being none, he declared the nominations closed.

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

Ayes: Mr. Smith, Mr. Schneider, Mrs. Cooke,
Mr. Rogers, Mr. Pinzone

Nays: None

The Chairman declared Mr. Pinzone was elected Secretary-Treasurer of the Commission.

The Chairman said it was the duty of the Secretary-Treasurer to appoint an Assistant Secretary-Treasurer and ask for assent of the other Members to the appointment in accordance with the Bylaws.

Mr. Pinzone said he reappointed Allan V. Johnson as Assistant Secretary-Treasurer.

The Chairman said Mr. Johnson's reappointment as Assistant Secretary-Treasurer had the assent of the other Members.

The Chairman said it was appropriate to redesignate the five active committees of the Commission, pursuant to Article I, Section 3.00 of the Code of Bylaws as follows:

Committee on Budget and Finance

Charles R. Pinzone, Chairman
Allan V. Johnson, Vice Chairman
G. Alan Plain
J. Budd Morrison
Craig Rudolphy, Secretary
W. R. Fleischman, Adviser

Committee on Service Plazas

Saundra D. Cooke, Chairman
Allan V. Johnson, Vice Chairman
J. Budd Morrison, Secretary
Craig Rudolphy
James C. McGrath
G. Alan Plain
Robert L. Asman
Jean M. Floasin

Committee on Employee Relations

Clarence D. Rogers, Jr., Chairman
G. Alan Plain, Vice Chairman
Louis J. Disantis, Secretary
James C. McGrath
Robert P. Barnett
Craig Rudolphy
J. Budd Morrison
David H. Ransbury
Jean M. Floasin
William C. Hartman, Adviser

Committee on Safety

William H. Schneider, Chairman
Allan V. Johnson, Vice Chairman
J. Budd Morrison, Secretary
G. Alan Plain
W. R. Fleischman, Adviser
Capt. Russell F. Miller, Observer

The Chairman said there was another committee that had been formed several years ago. He said that committee had been rather inactive, although the activity might increase in the future. He said that committee was called the Committee on Turnpike Transition. He said the name of that committee might be changed, but he thought the intent would be the same.

The Chairman said further that the members of the Committee on Turnpike Transition would be:

Committee on Turnpike Transition

Clarence D. Rogers, Jr., Chairman
William H. Schneider, Co-Chairman
Warren J. Smith
Allan V. Johnson

The Chairman said further that he was very cognizant of the possibility of there being a problem with that committee. He said an opinion had been requested from General Counsel, James C. McGrath, and he felt confident that having three Commission Members on that committee would not be in violation of any laws because Mr. Smith would be on the committee more as Director of Transportation than as a Member of the Commission.

The Chairman reported also that, as he had mentioned earlier, the Commission had a large number of resolutions to be acted upon. He said they would be explained and offered during the appropriate committee and staff reports. He 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 would be received.

The Secretary-Treasurer, Mr. Pinzone, 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 May, June and July 1983
3. News Release No. 2 dated 6/8/83 - Statement of Commission's Position re Toll Free Road
4. Traffic and Revenue Report for May, June and July, 1983
5. Traffic Accident Summary Report for May, June and July, 1983
6. Litigation Report for Quarter Ending June 30, 1983
7. Financial Statements - May 31, June 30 and July 31, 1983
8. Expense & Budget Report - Second Quarter 1983

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, Mr. Johnson, said that up until a few minutes ago, he had been acting as chairman of the Committee on Budget and Finance, until Mr. Pinzone was elected chairman of the committee, so he would present the report since he didn't get a chance to go over it with Mr. Pinzone. He said he didn't want Mr. Pinzone to have to take responsibility for it without having had an opportunity to review it.

Mr. Johnson said that, first of all, he wanted to report that the Commission was some \$2,268,000 or 10.6% under the \$21,293,000 operating budget for the first seven months of 1983. He said he considered the favorable experience to be largely due to mild winter weather and resulting lower snow and ice control expenses throughout all the categories, particularly in salt usage and labor to apply the salt.

Mr. Johnson said further that another factor in the favorable budget experience was the substantially lower workers' compensation expense which had occurred since the Commission became self-insured more than a year ago. He said the workers' compensation record had been excellent so far in

1983, although he did want to note that a tragic accident had happened on the Turnpike a few months ago in which a Commission employee was killed and two others seriously injured. He said that accident would substantially affect the Commission's long-range workers' compensation cost.

Mr. Johnson said further that next he wanted to report that the various department heads and appropriate staff members were then working on the preliminary budget for 1984. He said that work would be completed in time for presentation to, and hopefully for adoption by the Commission prior to October 20th, which was a requirement in the Commission's Trust Agreement.

Mr. Johnson said further that, finally, he wanted to explain and present a resolution directing the trustee to transfer funds from the Reserve Maintenance Fund to the Redemption Account. He said that, as the Members probably recalled, that procedure was developed to meet the bond redemption schedule that the Commission adopted in December 1981 when toll rate increases were authorized. He said that at that time the Commission also accepted a recommendation by the consulting engineers for a payoff schedule of the remaining bonds. He said the amount specified was \$4,811,000 in each of the three years beginning in 1982, until the bonds are paid off on December 1, 1984.

Mr. Johnson said further that the consulting engineers had provided the necessary certificate, also a requirement of the Trust Agreement, stipulating that \$1 million can be so transferred. He said that with this transfer it was contemplated that bond tenders will be accepted by the trustee on August 25, and a notice had gone out to potential bondholders of that tender. He said it also was contemplated that the purchase of the remaining bonds to complete the 1983 requirement, to bring it up to \$4,811,000 for the year, would necessitate that some of those bonds be called on December 1, 1983. He said that in other words, the trustee may not be able to use the \$1 million for bond retirements in 1983, and, if not, the total amount would not be transferred.

A resolution authorizing the transfer of moneys from the Reserve Maintenance Fund to the Redemption Account was moved for adoption by Mrs. Cooke, seconded by Mr. Schneider as follows:

RESOLUTION NO. 11-1982

"WHEREAS, section 509 of the trust agreement of June 1, 1952 by and between the Ohio Turnpike Commission and the Ohio National Bank of Columbus, (now BancOhio National Bank), as trustee, and The National City Bank of New York (now Citibank, N.A.), as co-trustee, provides that the trustee shall from time to time transfer any moneys from the Reserve Maintenance Fund to the credit of the Redemption Account upon receipt of a certified copy of a resolution duly adopted by the Commission directing such transfer, and a certificate of the consulting engineers certifying that the amount so to be transferred is not required for the purposes for which the Reserve Maintenance Fund has been created;

"WHEREAS, a certificate has been received by the Commission from the consulting engineers certifying that the amount of \$1,000,000 is not required for the purposes for which the Reserve Maintenance Fund has been created; and

"WHEREAS, on August 2, 1983, the trustee notified bondholders that on August 25, 1983, it would accept tenders for the purchase and retirement of turnpike bonds with the knowledge and approval of the Commission.

"NOW, THEREFORE, BE IT

"RESOLVED that the trustee, The Ohio National Bank of Columbus (now BancOhio National Bank), upon receipt of the certificate of the consulting engineers, and upon receipt of a certified copy of this resolution, be, and said trustee hereby is directed to transfer forthwith sufficient funds; not exceeding \$1,000,000 from the Reserve Maintenance Fund to the credit of the Redemption Account to cover the cost of purchasing and retiring the bonds tendered on August 25, 1983, all in accordance with section 509 of the trust agreement."

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

Ayes: Mrs. Cooke, Mr. Schneider, Mr. Smith,
Mr. Pinzone, Mr. Rogers

Nays: None

The Chairman declared the resolution stood adopted with all Members voting in the affirmative. The resolution was identified as No. 11-1983.

The Chairman said the report of the Committee on Budget and Finance was accepted as offered.

The Executive Director said that before proceeding further it would be appropriate to consider a resolution confirming the election of officers so the elections will appear in the Journal of the Commission.

A resolution confirming election of officers was moved for adoption by Mr. Schneider, seconded by Mrs. Cooke as follows:

RESOLUTION NO. 12-1983

"RESOLVED that the election of Clarence D. Rogers, Jr., as chairman of the Ohio Turnpike Commission; Sandra Dombey Cooke, as vice-chairman of the Ohio Turnpike Commission and Charles R. Pinzone, as secretary-treasurer of the Ohio Turnpike Commission, all, pursuant to Ohio Revised Code Section 5537.02 and Article I

of the Commission's Code of Bylaws, to serve until the first meeting after June 30, 1985, and until their respective successors are elected and qualified or until the aforesaid term is terminated by law, or until such officers individually shall cease to be members of the Ohio Turnpike Commission, is hereby confirmed as having taken place at this meeting in accordance with law and the Commission's Code of Bylaws, and the assistant secretary-treasurer is directed to enter this resolution in the journal of the Commission as a record thereof."

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

Ayes: Mr. Schneider, Mrs. Cooke, Mr. Smith,
Mr. Pinzone, Mr. Rogers

Nays: None

The Chairman declared the resolution stood adopted with all Members voting in the affirmative. The resolution was identified as No. 12-1983.

The Chairman said the report of the Committee on Service Plazas would be received.

The chairman of the Committee on Service Plazas, Mrs. Cooke, said that there was considerable activity involving the service plazas. She said that since the last Commission meeting, three contracts totaling \$1.2 million had been awarded to add truckers' showers and perform interior building modifications at the 10 service plazas where that work had not yet been performed. She said that upon completion of that work, there would be completely modern truckers' showers at all 16 plazas.

Mrs. Cooke said further that work had been completed on resurfacing and expanding parking areas at four of the plazas, namely Middle Ridge, Vermilion Valley, Erie Islands and Commodore Perry and plans were under way for the same type of work at four more plazas, namely Brady's Leap, Portage, Great Lakes and Towpath for later this year. She said a resolution to authorize the award of those contracts would be offered later in the meeting by the Executive Director.

Mrs. Cooke said further that, finally, she was pleased to report that the committee was working with the Gladioux Corporation on plans to convert the Erie Islands and Commodore Perry restaurant facilities to Rax restaurant operations. She said the Gladioux Corporation had a franchise arrangement with Rax, which was a rapidly growing fast-food chain headquartered in Columbus. She said that because the current contracts ran only until September 30, 1985, those conversions would be done within the framework of the existing contracts and all concession operators had been informed that, if the Commission retains jurisdiction beyond September 30, 1985, no further extensions of existing contracts will be granted

and the contracts would be rebid.

Mrs. Cooke said further that the committee had offered to convert two of the Howard Johnson restaurants to Burger King operations, since the Howard Johnson Company had a franchise relationship with Burger King, but at that time the Howard Johnson Company had declined because of conditions and restrictions imposed by the existing contract. She said she hoped that decision could be changed.

The Chairman said the report of the Committee on Service Plazas was accepted as offered. He ascertained there would be no reports from the Committee on Employee Relations, The Director of Transportation, or the Committee on Safety. He said the report of the Executive Director would be received.

The Executive Director said that as the Chairman had said, there were a number of resolutions to be acted on at the meeting. He said the first resolution was a resolution ratifying award for Contract RMP 38-83-04, Groups I and II. He said the contract was for furnishing and installing 19 microwave towers and three shelter buildings at 19 specified locations on the Turnpike.

The Executive Director said further that, as background, the Commission's staff, for a number of years, had been looking into what had to be done to expand the Turnpike's microwave capability. He said there already were two radio networks, separate frequencies, for the staff and the Ohio State Highway Patrol, both based in the administration building. He said that there existed microwave capability into the Turnpike's eight maintenance buildings, but not into the toll plazas.

The Executive Director said further that the installation of the towers was the first stage in getting total microwave capability across the entire Turnpike, specifically into each one of the toll plazas. He said that at the same time the new system was going to be incorporated into a statewide microwave system for the State of Ohio recently approved by the State Controlling Board. He said the Commission's staff had been negotiating for a long time with the Ohio Department of Administrative Services to incorporate the Commission's microwave system into the statewide system and the two agencies have signed an agreement to do so.

The Executive Director said further that there were significant advantages to the Commission and the State. He said that, for one thing, all the data from the toll plazas was currently transmitted over dedicated phone lines on the on-line computer system to those plazas. He said that putting it onto the microwave system would, first of all, improve the reliability of that data transmission. He said that, secondly, use of the microwave would get the data off the phone systems, which were really dedicated long distance phone lines, and the cost of long distance phone calling was expected to increase significantly in the

very near future, as a result of the antitrust settlement involving the Bell systems.

The Executive Director said further that the installation of the microwave towers was the first step in the process and he considered it to be a critical one. He said the project was advertised and bids were accepted several weeks before the Commission meeting, and he had already awarded the contract based on emergency authority that the Commission had granted to the Executive Director a long time ago, which he had used only very rarely.

The Executive Director said further he, therefore, was asking for ratification of the contract. He said there were four bidders and the award had gone to the second low bidder. He said the apparent low bidder took exception to the terms that were in the specifications and they provided insufficient or deficient bid security, which General Counsel had advised was not something that could be waived. He said that even if they had provided sufficient bid security, they were non-responsive to the bid and the staff's position was that they were disqualified for that reason.

The Executive Director said further that the apparent low bidder, after having been advised that they were not awarded the contract, questioned the decision and received an explanation in detail why they were essentially disqualified. He said he did not think there would be anything further from them, and he was confident of the Commission's legal position in making the award. He said, however, he wanted the Members to be aware of the disqualification of the apparent low bidder.

The Executive Director said further he wanted to explain the alternates in the contract. He said alternate bids were taken on three shelter buildings for providing either fiberglass shelters or concrete shelters. He said that it had been determined that, after opening the bids, the award would be made on the basis of concrete shelters for security and protective reasons. He said that was one of the items of contention in the disqualification of the apparent low bidder.

Mr. Smith asked the Executive Director if either the apparent low bidder or the second low bidder, which received the contract, were Ohio-based companies.

The Executive Director said the apparent low bidder was UNR-Rohn, Inc., located in Peoria, Illinois, while the second low bidder was Stainless, Inc. of North Wales, Pennsylvania.

The Executive Director said there had been only one Ohio bidder and they were totally unresponsive in that they didn't bid on any of the alternates, which they were required to do, and their price was extremely high. He said there was no way the award could have gone to the Ohio bidder.

A resolution ratifying award of Contract RMP 38-83-04, Groups I and II was moved for adoption by Mrs. Cooke, seconded by Mr. Pinzone as follows:

RESOLUTION NO. 13-1983

"WHEREAS, the Commission duly advertised, according to law, for bids upon a contract for the furnishing and installation of nineteen (19) microwave towers and three (3) shelter buildings at nineteen (19) specified locations on the Ohio Turnpike, which contract is designated RMP 38-83-04, Groups I and II;

"WHEREAS, bids were received for said contract on July 22, 1983, at which time proposals were received from four bidders;

"WHEREAS, the bids were analyzed by the Commission's deputy executive director-chief engineer and the Commission's radio and microwave consultant, Syntonic Technology, and each recommended to the Commission's executive director that the award be made to the lowest responsive bidder, namely, Stainless, Inc. of North Wales, Pennsylvania, in the amount of \$585,102.00, including Alternate Item 9A, Alternate Item 22 and Alternate Item 23;

"WHEREAS, the Commission's consulting engineer, J. E. Greiner Company - Ohio, recommended that Contract RMP 38-83-04, Groups I and II, be awarded as soon as possible in order to assure the Commission that the facilities be constructed in a timely manner so as not to delay subsequent contracts; and

"WHEREAS, Contract RMP 38-83-04, Groups I and II, is the first of a series of contracts for the renovation and upgrading of the Commission's microwave system and it was imperative to award said contract at the earliest possible time, the executive director, pursuant to his emergency powers as set forth in Resolution No. 57-1955, awarded Contract RMP 38-83-04, Groups I and II, on July 26, 1983, to the lowest responsive bidder, Stainless, Inc. of North Wales, Pennsylvania;

"NOW, THEREFORE, BE IT

"RESOLVED that the action of the executive director in awarding Contract RMP 38-83-04, Groups I and II, to Stainless, Inc. in the amount of \$585,102.00, including Alternate Item 9A, Alternate Item 22 and Alternate Item 23, is hereby confirmed and ratified by the Commission, and the chairman and the executive director, or either of them is hereby authorized (1) to execute a contract with the 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 said contract."

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

Ayes: Mrs. Cooke, Mr. Pinzone, Mr. Smith, Mr. Schneider,
Mr. Rogers

Nays: None

The Chairman declared the resolution stood adopted with all Members voting in the affirmative. The resolution was identified as No. 13-1983.

The Executive Director said also the next item in his report involved the same overall project. He said that when he had sent the draft of resolutions to the Members, he also sent a tabulation of the bids that had been received on Contract RMP 38-83-04, Group III, a contract for furnishing and installing the antennae systems for the same microwave system. He said that at that time he indicated that the two bids on the contract were still being analyzed and a recommendation for an award on that contract would probably not be made at today's meeting.

The Executive Director said further, however, that in evaluating the two bids that were received, it had been determined that neither one of them could be awarded legally. He said that although he would prefer to have been able to recommend that the contract be awarded, he was confident that there would be a legal problem if the contract were to be awarded to either one of the two bidders. He said the Commission clearly reserved the right to reject all bids and he was confident that the problems that occurred in the first bid would be cleared up when the new bids were solicited.

The Executive Director said further that one of the bids came from a company called Cablewave Systems, which bid \$543,317, and the second bid was in the amount of \$632,670.50 by Andrew Corporation. He said that when the bids were opened, the Andrew Corporation bid was read at around \$475,000. He said that, however, the bid did provide for unit prices, and in this contract the unit prices controlled, and when the units were extended by the number of units on the Andrew Corporation bid, the figure came out to \$632,670.50. He said the company had been told that they had made an error in their computations. He said representatives of the company said they knew the extension came out to \$632,670.50, but they were proposing that if they got the whole contract, they would do it for around \$475,000. He said the company was then told that they were making a lump sum contract out of the unit price bid and it could not be accepted. He said he certainly didn't want to award the contract to the second bidder because the other company didn't quite understand the procedure and the Commission would have had to spend another \$70,000. He said that, again, his recommendation was that all bids be rejected.

Mr. Schneider said that he noticed that both of the bids were considerably over the engineering staff's estimate.

The Executive Director said the estimate did not include all the required equipment. He said the project, as he had said, was to be incorporated into the state system and some of the antennae systems were going to be for the state's portion of the project. He said the state would be reimbursing the Commission for certain antennae systems under the agreement. He said one of the reasons unit prices were required in the contract, rather than a lump sum, was due to the agreement with the state for reimbursement. He said the revised estimate would be higher in that the previously deleted equipment costs for the state's portion would be included.

A resolution rejecting proposals for Contract RMP 38-83-04, Group III was moved for adoption by Mr. Schneider, seconded by Mrs. Cooke as follows:

RESOLUTION NO. 14-1983

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for the furnishing and installation of antenna systems on twenty-seven (27) microwave towers at twenty-seven (27) separate locations along the Ohio Turnpike right-of-way in thirteen counties, which contract is designated Contract RMP 38-83-04, Group III;

"WHEREAS, two proposals were received in response to the subject invitation and said proposals are before this meeting;

"WHEREAS, the proposals have been analyzed by the Commission's deputy executive director-chief engineer and by the Commission's general counsel 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 proposals submitted by the two bidders do not conform to the requirements of the advertisement for the proposals and the appropriate sections of the Revised Code of Ohio pertaining to competitive bidding on contracts awarded by the Commission; and

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

NOW, THEREFORE, BE IT

"RESOLVED that the above-mentioned proposals heretofore received pursuant to the advertisement for bids for the furnishing and installation of antenna systems, which contract is designated RMP 38-83-04, Group III, 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.

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

Ayes: Mr. Schneider, Mrs. Cooke, Mr. Smith, Mr. Pinzone,
Mr. Rogers

Nays: None

The Chairman declared the resolution stood adopted with all Members voting in the affirmative. The resolution was identified as No. 14-1983.

The Executive Director said also the next resolution authorized the Executive Director to take immediate action concerning the award of the same contract. He said the Commission's staff already had begun making certain modifications to the plans and specifications. He said preparations had begun to readvertise the contract for two successive weeks. He said that, trusting that acceptable bids were received, he would proceed with the award. He said he was asking for the authority to award the contract pursuant to the bidding process prior to the next Commission meeting.

A resolution authorizing the Executive Director to take immediate action concerning award of Contract RMP 38-83-04, Group III, was moved for adoption by Mr. Pinzone, seconded by Mrs. Cooke as follows:

RESOLUTION NO. 15-1983

"WHEREAS, the Commission is preparing to re-advertise, according to law, for bids upon a contract for the furnishing and installation of antenna systems on twenty-seven (27) microwave towers at twenty-seven (27) separate locations along the Ohio Turnpike right-of-way in thirteen counties, which contract is designated Contract RMP 38-83-04, Group III;

"WHEREAS, it is imperative that the work to be performed under these contracts be commenced as soon as possible;

"WHEREAS, it is estimated that the cost of the aforesaid contract may exceed the \$250,000 limit of authorization heretofore granted by the Commission to the executive director with respect to the awarding of such contracts; and

"WHEREAS, the Commission desires to delegate to the executive director authority to make award of this contract for the furnishing and installation of the above-mentioned antenna systems so that such award may be made as soon as appropriate;

"NOW, THEREFORE, BE IT

RESOLVED with respect to the award of Contract RMP 38-83-04, Group III, if in the opinions of the executive director,

deputy executive director-chief engineer, and the Commission's consultant for microwave equipment, Syntonic Technology, it is in the best interest of the Commission for an award to be made by the executive director, in advance of the next meeting of the Commission, the executive director is hereby authorized to award and enter into any contract or to take whatever other action, on behalf of the Commission, the executive director, with the approval of the deputy executive director-chief engineer and the Commission's consultant for microwave equipment, shall determine to be in the best interests of the Commission; and

"FURTHER RESOLVED that the executive director shall inform the Commission of the actions taken hereunder."

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

Ayes: Mr. Pinzone, Mrs. Cooke, Mr. Smith,
Mr. Schneider, Mr. Rogers

Nays: None

The Chairman declared the resolution stood adopted with all Members voting in the affirmative. The resolution was identified as No. 15-1983.

The Executive Director said further the microwave project was a large and complicated one which the Commission's staff had been working on for a long time. He said there would be another contract for which the staff had been in the process of completing plans, specifications and advertising to purchase the operating equipment for the whole system. He said the Commission's microwave operation would hook into the statewide system and allow statewide calls as though on local phone lines. He said the Ohio State Highway Patrol's LEADS system would also be included in it and he really thought the microwave arrangement would provide excellent advantages to both the Commission and state. He said he knew the state was looking forward to getting the system in operation because it would save a great deal of money in long distance phone charges. He said it had been a complicated project involving Federal Communications Commission licensing for new channels.

Mrs. Cooke asked the Executive Director how much higher he expected the revised estimate would be for Contract RMP 38-83-04, Group III.

The Executive Director said the estimate, which would include the cost of the equipment for which the Commission would be reimbursed by the state, would be approximately \$50,000 higher than previously presented.

The Executive Director said also the next item in his report was a resolution authorizing the Executive Director to take

immediate action concerning award of certain construction contracts. He said he expected the advertising of the contracts, which were four in number, to be done shortly because the work was to begin in the fall.

A resolution authorizing the Executive Director to take immediate action concerning award of certain construction contracts was moved for adoption by Mrs. Cooke, seconded by Mr. Schneider as follows:

RESOLUTION NO. 16-1983

"WHEREAS, the Commission has advertised or is preparing to advertise for bids for certain contracts, to wit:

RMP 53-83-05, Group A Modifications and Resurfacing of
the Great Lakes - Towpath
Service Plazas, Milepost 170.1
Cuyahoga County, Ohio

RMP 53-83-05, Group B Modifications and Resurfacing of
Brady's Leap - Portage Service
Plazas, Milepost 197.0, Portage
County, Ohio

RMP 43-83-02 Bridge Deck Renovation; Key
Street Bridge, Milepost 60.8,
Lucas County, Ohio

RMP 43-83-11 Bridge Deck Renovation; Ramp
Bridge over I-71 and Ramp Bridge
over Ohio Turnpike; Strongsville
- Cleveland Interchange No. 10,
Milepost 161.5, Cuyahoga County,
Ohio

"WHEREAS, it is imperative that the work to be performed under these contracts be commenced as soon as possible so as to take full advantage of the construction season;

"WHEREAS, it is estimated that the cost of each of the aforesaid contracts may exceed the \$250,000 limit of authorization heretofore granted by the Commission to the executive director with respect to the awarding of such contracts; and

"WHEREAS, the Commission desires to delegate to the executive director authority to make award of these contracts for the performance of work of each of these projects so that such awards may be made immediately as soon as appropriate;

"NOW, THEREFORE, BE IT

"RESOLVED that with respect to the award of Contracts RMP 53-83-05, Group A; RMP 53-83-05, Group B; RMP 43-83-02; and RMP 43-83-11, if in the opinions of the executive director, the deputy executive director-chief engineer and the consulting engineers it is in the best interest of the Commission for an award to be made by the executive director in advance of any meeting of the Commission, the executive director hereby is authorized to award and enter into any contract or contracts and to take whatever other action, on behalf of the Commission, the executive director, with the approval of the deputy executive director-chief engineer and the consulting engineers, shall determine to be in the best interest of the Commission, notwithstanding any limitation imposed upon the authority of the executive director under any resolution heretofore adopted, provided that any award made and contract entered into pursuant to authority granted herein shall be approved by general counsel; and

"FURTHER RESOLVED that the executive director shall inform the Commission of the actions taken hereunder."

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

Ayes: Mrs. Cooke, Mr. Schneider, Mr. Smith,
Mr. Pinzone, Mr. Rogers

Nays: None

The Chairman declared the resolution stood adopted with all Members voting in the affirmative. The resolution was identified as No. 16-1983.

The Executive Director said also that there was one other resolution concerning the existing tripartite agreement. He said that there were a couple of slight, although not slight in their intent, terms concerning Federal funds that were added to the draft resolution that was in the Member's folders, which did not appear in the resolution he had earlier distributed.

The Executive Director said further that the resolution coincided with the program discussed at the time of the last Commission meeting. He said that, as the Members were aware, the Commission was a party to what was called the tripartite agreement entered into in 1964 among the Commission, the State of Ohio, through the then Department of Highways, and the United States, through the Federal Highway Administration. He said that agreement required the Turnpike to become free of tolls after the existing bonds are liquidated and after the road is placed in good condition and repair to the satisfaction of the Director of the Ohio Department of Transportation. He said he thought he and the Members were pretty well in agreement that it would not be wise for the Turnpike tolls to end after the existing bonds are paid

and that the existing tripartite agreement is an impediment at this time.

The Executive Director said he would read the resolution as follows:

"WHEREAS, by Resolution No. 5-1964, the Commission authorized the executive director to execute on behalf of the Commission an agreement among the United States, the State of Ohio and the Commission, commonly referred to as the Tripartite Agreement;

"WHEREAS, the Agreement was entered into effective July 14, 1964;

"WHEREAS, the Agreement requires the Ohio Turnpike to become free of tolls after liquidation of the bonds of the Commission (outstanding at the time of execution of the agreement) and after the road is placed in good condition and repair to the satisfaction of the director of the Ohio Department of Transportation;

"WHEREAS, the last outstanding bonds of the Commission will be liquidated on December 1, 1984;

"WHEREAS, on May 17, 1983, the executive director recommended a program and course of action, including recommendations to continue tolls after the bonds of the Commission are all retired, which would be in conflict with the terms of the Tripartite Agreement, and also to seek federal funds for use on the Ohio Turnpike.

"WHEREAS, the Commission deems it would be in the best interest of the traveling public using the Ohio Turnpike and of the people of Ohio to continue tolls at least for several years after the bonds are retired, and the Commission desires to pursue the program recommended by the executive director, and;

"WHEREAS, the Ohio Department of Transportation has proposed a different program for future funding on the turnpike but which also includes continuing tolls at least until 1990;

"NOW, THEREFORE, BE IT

"RESOLVED that the report of the executive director submitted to the Commission on May 17, 1983 is hereby accepted and incorporated herein;

"RESOLVED FURTHER, that the executive director hereby is authorized and directed to seek on behalf of the Commission, through negotiations with the other parties, or legislative action, or both, if necessary, to annul, amend or alter the terms and provisions of the aforesaid Tripartite Agreement so as to permit the retention of tolls on the Ohio Turnpike after the payment of the

bonded indebtedness in existence at the time the Tripartite Agreement was executed, and also to permit the use of federal funds on the Ohio Turnpike;

"RESOLVED FURTHER, that the executive director is directed hereby to enter into discussions with the director of the Ohio Department of Transportation for the purpose of determining what actions would be required by the Commission after the outstanding bonds are retired on December 1, 1984, to place the Ohio Turnpike in good condition and repair to the satisfaction of the director of the Ohio Department of Transportation."

The Executive Director said further that he had not had the opportunity to discuss the resolution in depth with any of the Members or with Director Smith, although he did talk briefly to Mr. Smith about it the day of the meeting. He said the Department of Transportation had recommended a program which certainly he could support, whereby the Turnpike would become eligible for Interstate construction funding, although the current Federal law and regulations did not permit such aid. He said he didn't believe that acting on this resolution would be any serious conflict with the apparent, slightly different approaches that ODOT and the Commission proposed, since the goals of both were to try to get the maximum Federal funds that can be obtained and attained for use on the Ohio Turnpike. He said he did think it would help in dealing, either through negotiations, as the Commission was suggesting, or legislative action, if necessary, to have this resolution adopted by the Commission.

The Executive Director said further that, as the Members were aware, a bill had been introduced by Congressman Delbert L. Latta, which would essentially nullify the existing tripartite agreement and permit Federal funds to be used on the Turnpike after the existing bonds were paid. He said the Federal funds the bill would permit were the so-called 4-R funds (resurfacing, restoration, rehabilitation, and reconstruction). He said the difference in the proposals of ODOT and the Commission was that ODOT was recommending that Interstate Construction funds be earmarked for the Turnpike, which also would take Congressional action.

The Executive Director said further that the Commission was seeking to work with ODOT in making proposals to members of Congress and, perhaps, eventually to the Ohio General Assembly on the issue of what happens after the existing bonds are paid in December 1984. He said that he thought it important, as stated in the last Resolved of the resolution, that an understanding be reached between ODOT and the Commission about the clause that appears in both the tripartite agreement and in the Turnpike Act stipulating that the Turnpike be in good condition and repair to the satisfaction of the Director of ODOT. He said an understanding of that clause was important so that the Commission would know what was expected of it.

The Chairman asked if there were any questions.

Mr. Smith said he had some and one was that he did not agree with the last Whereas of the resolution where it said ODOT had proposed a different program. He said ODOT really had not proposed a different program, but had looked at a lot of alternatives and tried to present them all to the Governor so that the Administration could make a policy decision. He said that one of the things that came up was the alternative of getting special legislation permitting ODOT to use Interstate funds for construction, which would require Congress to make a big exception for Ohio and it probably was not practical that Congress would do that. He said ODOT could not get an answer on the Interstate funds by going to the Federal Highway Administration. He said the proposal was circulated to the Ohio Congressional delegation, the various subcommittees and their staffs for opinions on it, but it was not the Administration's proposal. He said the Governor had not yet taken a policy position and would not until ODOT reported back to him on the opinions of Congress and they would not recommend a program to the Governor that was laughed out of the halls of Congress. He said he would hate to see the "different program" in the resolution.

The Executive Director said that the word "different" could be struck from the resolution and have it read "proposed a program" and take out the word "but".

Mr. Smith said that the Congressman had been told by ODOT that the proposal on Interstate funds was not the department's official proposal, but the department was only testing the waters. He said it had taken a long time to explain the distinction to them.

The Executive Director said further that the entire Whereas could be stricken from the resolution. He said that he thought it was important that the Commission and ODOT present a unified and common approach to the issue, rather than to have it look like there were differences of opinion.

Mr. Smith said he questioned in the second Resolved, "and also to permit the use of Federal funds on the Ohio Turnpike."

The Executive Director said further his purpose in having that in the resolution, which had been added after he had sent the draft resolution to the Members, was to show that the Commission sought to get whatever Federal funds were available. He said he thought that seeking available Federal funds, whether through negotiation or legislation, was a common goal of both the Commission and ODOT.

Mr. Smith said he agreed with the Executive Director that that was one of the common goals. He said that in looking at the resolution the effort in the first part was to nullify the tripartite agreement and to permit the retention of tolls, and also

permit the use of Federal funds on the Turnpike. He said that he could not see how the Federal Government would permit the use of Federal funds on the basis of permanent retention of tolls.

The Executive Director said further he didn't think the Federal Government would provide the funds unless an agreement similar to the one New York had obtained could be negotiated by the Commission, ODOT and the Federal Highway Administration.

Mr. Smith said he agreed with the Executive Director.

The Executive Director said further that permanent tolls would most likely rule out Federal funds. He said the Latta bill, as written, however, would nullify the existing tripartite agreement and allow current 4-R funds to be used on the Turnpike as soon as the existing bonds are to be paid. He said the bill doesn't say anything about taking tolls off nor does it prohibit selling additional bonds. He said he did not know what chance the bill had of passage. He said that the bill would probably not make it in Congress on its own. He said it would have to be tacked onto another legislative measure, and whether or not it survived was what the Commission was trying to ascertain. He said it was the same thing that ODOT was saying in that they had thrown out a trial balloon to see if there was any hope of getting specific Interstate funds for the Turnpike. He said he thought the only way to find out was to try.

The Chairman said he thought that was the intent of the last phrase in the second Resolved of the resolution, "and also to permit the use of Federal funds on the Ohio Turnpike." He said he didn't think its presence altered the ultimate goal. He said he thought that it was wishful thinking that that would happen, but its presence in the resolution, he thought, didn't affect the overall meaning of it.

The Chairman asked the Executive Director if he had agreed to withdraw the last Whereas in the resolution.

The Executive Director said yes.

A resolution authorizing the Executive Director to take action concerning the tripartite agreement was moved for adoption by Mrs. Cooke, seconded by Mr. Pinzone as follows:

RESOLUTION NO. 17-1983

"WHEREAS, by Resolution No. 5-1964, the Commission authorized the executive director to execute on behalf of the Commission an agreement among the United States, the State of Ohio and the Commission, commonly referred to as the Tripartite Agreement;

"WHEREAS, the Agreement was entered into effective July 14, 1964;

"WHEREAS, the Agreement requires the Ohio Turnpike to

become free of tolls after liquidation of the bonds of the Commission (outstanding at the time of execution of the agreement) and after the road is placed in good condition and repair to the satisfaction of the director of the Ohio Department of Transportation.

"WHEREAS, the last outstanding bonds of the Commission will be liquidated on December 1, 1984;

"WHEREAS, on May 17, 1983, the executive director recommended a program and course of action, including recommendations to continue tolls after the bonds of the Commission are all retired, which would be in conflict with the terms of the Tripartite Agreement, and also to seek federal funds for use on the Ohio Turnpike;

"WHEREAS, the Commission deems it would be in the best interest of the traveling public using the Ohio Turnpike and of the people of Ohio to continue tolls at least for several years after the bonds are retired, and the Commission desires to pursue the program recommended by the executive director, and;

"NOW, THEREFORE, BE IT

"RESOLVED that the report of the executive director submitted to the Commission on May 17, 1983 is hereby accepted and incorporated herein;

"RESOLVED FURTHER, that the executive director hereby is authorized and directed to seek on behalf of the Commission, through negotiations with the other parties, or legislative action, or both, if necessary, to annul, amend or alter the terms and provisions of the aforesaid Tripartite Agreement so as to permit the retention of tolls on the Ohio Turnpike after the payment of the bonded indebtedness in existence at the time the Tripartite Agreement was executed, and also to permit the use of federal funds on the Ohio Turnpike;

"RESOLVED FURTHER, that the executive director is directed hereby to enter into discussions with the director of the Ohio Department of Transportation for the purpose of determining what actions would be required by the Commission after the outstanding bonds are retired on December 1, 1984, to place the Ohio Turnpike in good condition and repair to the satisfaction of the director of the Ohio Department of Transportation."

REPORT TO
OHIO TURNPIKE COMMISSION

MAY 17, 1983

BY
ALLAN V. JOHNSON
EXECUTIVE DIRECTOR

EARLIER THIS YEAR, WE AGREED TO UPDATE A 1980 REPORT ON THE FISCAL IMPACT TO ODOT OF OPERATION OF THE OHIO TURNPIKE AS A TOLL FREE HIGHWAY. THE REPORT WAS ORIGINALLY PREPARED FOR ODOT TO BE PRESENTED TO THE OHIO GENERAL ASSEMBLY AS REQUIRED BY LAW. WE FELT THE UPDATE WAS NECESSARY TO REFLECT CHANGES THAT HAVE OCCURRED SINCE 1980, SUCH AS THE TOLL RATE INCREASE, BOND PAYOFF DATE, NEW FEDERAL LAWS AND THE ESSENTIAL COMPLETION OF THE COMMISSION'S ENVIRONMENTAL AND ENGINEERING STUDIES. THE REPORT WILL CONCLUDE THAT IF TOLLS ARE REMOVED IN 1985, EXPENSES TO ODOT WILL EXCEED OTHER FORMS OF REVENUES BY 1988 (1990 IN FINAL REPORT) AND THE GAP WOULD ACCELERATE THEREAFTER EVEN THOUGH ODOT'S LEVEL OF MAINTENANCE WOULD BE SUBSTANTIALLY LOWER THAN OURS. THUS, I THINK IT IS ACCURATE TO SAY THAT THE FISCAL IMPACT ON ODOT WOULD BECOME NEGATIVE AND IT WOULD BE SEVERE.

FOR MANY YEARS, I ARGUED THAT THE OHIO TURNPIKE COULD STAND ON ITS OWN AS A TOLL-FREE FACILITY IF IT WERE ELIGIBLE FOR REGULAR FEDERAL INTERSTATE FUNDING AND IT GOT BACK ALL THE REVENUES ITS USERS GENERATED. IN ORDER TO ESTABLISH ELIGIBILITY FOR SUCH I-FUNDS, BASED ON PROVISIONS OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978 REQUIRING THAT FINAL ENVIRONMENTAL IMPACT STATEMENTS BE FILED BY SEPTEMBER 30, 1983, THE COMMISSION STARTED THE NECESSARY ENVIRONMENTAL AND ENGINEERING STUDIES IN 1979, RECOGNIZING THAT TIME WAS RUNNING OUT AND THE STATE WAS NOT THEN IN A POSITION TO DO THE STUDIES ON A TIMELY

BASIS. THE STUDIES ARE NEARLY COMPLETE AND HAVE IDENTIFIED SOME \$430 MILLION IN DESIRABLE IMPROVEMENTS FOR TOLL FREE OPERATION (BASED ON 1982 CONSTRUCTION COSTS) AND WE DO EXPECT TO FILE THE ENVIRONMENTAL IMPACT STATEMENT ON TIME.

UNFORTUNATELY, THE FEDERAL LAW CHANGED (IN 1981) TO LIMIT ELIGIBILITY TO THE SO-CALLED 4-R FUNDS. THIS WAS NOT INTERPRETED UNTIL LATE IN 1982 AS EVIDENCED BY MY LETTER OF AUGUST 3, 1982, TO DAVID L. WEIR, THEN DIRECTOR OF ODOT AND HIS REPLY OF OCTOBER 27, 1982 (COPIES ATTACHED). EVEN THOUGH FEDERAL 4-R FUNDS WILL RISE SUBSTANTIALLY AS A RESULT OF THE 1982 FEDERAL ACT AND THE FIVE CENT INCREASE IN THE FEDERAL FUEL TAX, I AM NOW RELUCTANTLY CONVINCED THAT RELYING ALONE ON 4-R FUNDING AND OTHER NON-TOLL REVENUES TO FINANCE THE TURNPIKE PROGRAMS WILL NOT BE ADEQUATE. A PROGRAM AS LARGE AS THE ONE IDENTIFIED BY THE ENVIRONMENTAL AND ENGINEERING STUDIES FOR THE TURNPIKE COULD USE ALL THE STATE'S 4-R FUNDS FOR YEARS TO COME AT A TIME WHEN THE NEED FOR THESE FUNDS ON THE REST OF THE STATE'S I-SYSTEM IS ACCELERATING. I CANNOT CONCEIVE, THEREFORE, THAT THE STATE COULD GIVE PRIORITY TO THE TURNPIKE, WHICH PROBABLY IS IN BETTER CONDITION THAN MANY SECTIONS OF THE FREEWAY SYSTEM DESPITE BEING OLDER. THIS IS PRECISELY THE KIND OF REDUCTION IN FEDERAL COMMITMENT I HAVE SAID REPEATEDLY WOULD CAUSE ME TO REASSESS MY POSITION ON THE QUESTION OF ENDING TOLLS. UNDER THE CIRCUMSTANCES, I FEEL IT WOULD BE A MISTAKE TO DROP TOLLS AFTER THE CURRENT BONDS ARE PAID.

THE VAST MAJORITY OF THE PUBLIC I HAVE ENCOUNTERED ALSO IS SKEPTICAL OF THE WISDOM OF MAKING THE TURNPIKE TOLL FREE AND

NOTE: Letters not attached

LOCKING IT INTO A SITUATION WHERE IT WILL COMPETE FOR CHRONICALLY INSUFFICIENT STATE AND FEDERAL FUNDS. THEY ARE SAYING CLEARLY IN A STRONG VOICE THEY PREFER CONTINUING TOLLS AND KEEPING THE TURNPIKE AND COMMISSION SEPARATE ENTITIES WHICH THEY PERCEIVE AS A SUPERIOR OPERATION FOR WHICH THEY ARE WILLING TO PAY. UNDER THE CIRCUMSTANCES, I AGREE BUT I THINK WE CAN DEVELOP AND OFFER A COMPROMISE WHICH SHOULD BE ACCEPTABLE TO MOST INTERESTS.

FIRST OF ALL, I SUGGEST THAT THE COMMISSION AND ODOT TAKE WHATEVER STEPS ARE NEEDED TO CANCEL THE EXISTING TRIPARTITE AMONG THE COMMISSION, THE STATE OF OHIO AND THE FEDERAL HIGHWAY ADMINISTRATION EVEN IF IT REQUIRES REPAYING THE FEDERAL FUNDS (\$7 million [±]) ODOT RECEIVED AS A RESULT OF THE AGREEMENT. FEDERAL OFFICIALS HAVE INSISTED TO ME THAT CONGRESS MUST GRANT SUCH A RELEASE SO, IF IT CANNOT BE ACCOMPLISHED THROUGH NEGOTIATION, THEN WE SHOULD SEEK CONGRESSIONAL APPROVAL. THIS 1964 AGREEMENT IS BASED ON PROVISIONS OF THE 1956 INTERSTATE HIGHWAY ACT. ALTHOUGH OHIO WAS NOT DELIBERATELY VICTIMIZED, REQUIRING TOLLS TO CEASE UNDER THIS AGREEMENT SEEMS TO BE UNJUST, UNFAIR AND PUNITIVE COMPARED TO THE AGREEMENT NEW YORK HAS EXECUTED BASED ON CURRENT FEDERAL LAW AND REGULATIONS WHICH I SHALL EXPLAIN FURTHER.

NEXT, I PROPOSE THAT THE COMMISSION ISSUE NEW BONDS TO HELP FINANCE CERTAIN IMPROVEMENTS, PARTICULARLY IMMEDIATE CONSTRUCTION OF NEW INTERCHANGES AT SEVERAL SITES SELECTED FROM AMONG THOSE IDENTIFIED BY THE ENVIRONMENTAL AND ENGINEERING STUDIES AS BEING

DESIRABLE. FOR YEARS, WE HAVE RESISTED BUILDING ANY NEW INTER-CHANGES (EXCEPT THOSE PROVIDED UNDER THE 1964 TRIPARTITE AGREEMENT) BECAUSE IT APPEARED IMMINENT THAT TOLLS WOULD END. I RECOMMEND THAT A BOND ISSUE BE SHORT TERM, WITH FINAL MATURITY SOMETIME BETWEEN 1992 AND 1996, AND THAT IT BE LIMITED TO AN AMOUNT THAT CAN READILY BE SERVICED AND RETIRED FROM REVENUES OF THE COMMISSION AFTER OTHER OPERATING AND MAINTENANCE EXPENSES ARE MET. FURTHER STUDY OF THE AMOUNTS AND TERMS WILL BE REQUIRED.

THEN, I PROPOSE THAT WE SEEK A NEW TRIPARTITE AGREEMENT WITH FHWA, BASED ON PRESENT LAW AND SIMILAR TO NEW YORK'S, PLEDGING THAT TOLLS BE REMOVED AFTER THE NEW BONDS ARE RETIRED IN RETURN FOR OBTAINING FEDERAL 4-R FUNDS FOR USE ON THE TURNPIKE WHILE THE BONDS ARE BEING PAID.

THE NEW YORK AGREEMENT AMONG THE NEW YORK STATE THRUWAY AUTHORITY, THE STATE OF NEW YORK AND THE FEDERAL HIGHWAY ADMINISTRATION (COPY ATTACHED) PROVIDES FOR FEDERAL 4-R INTERSTATE FUNDS TO BE USED ON THE THRUWAY WHILE TOLLS ARE STILL BEING COLLECTED BETWEEN NOW AND 1996. OUR TRIPARTITE AGREEMENT, APPARENTLY ALREADY PERMITS SOME 4-R FUNDING ON OUR ROAD BUT SIGNIFICANT DIFFERENCES EXIST IN THAT OUR AGREEMENT DOES NOT PERMIT THE TURNPIKE MILEAGE TO BE COUNTED IN THE STATE'S 4-R APPORTIONATE FORMULA AND WE HAVE LESS THAN TWO YEARS LEFT BEFORE BOND PAY-OFF (AND THEORETICALLY TOLL COLLECTION) WHILE NEW YORK EXPECTS TO CONTINUE TOLLS UNTIL 1996. FURTHERMORE, THE THRUWAY MILEAGE WILL BE COUNTED IN CALCULATING NEW YORK'S 4-R APPORTIONMENTS SO NEW YORK EXPECTS TO GET MORE THAN \$500 MILLION

NOTE: Copy of Agreement attached

EXTRA IN FEDERAL FUNDS IN ADDITION TO COLLECTING TOLLS (SEE ENCLOSED EXCERPT FROM NEW YORK THRUWAY ANNUAL REPORT FOR 1982). IN COMPARISON, IT IS NOT LIKELY THAT OHIO COULD GET MORE THAN A FEW MILLION DOLLARS IN ADDITIONAL FEDERAL 4-R FUNDS FOR THE TURNPIKE IN THE NEXT TWO YEARS BEFORE BOND PAYOFF. TO ME, THAT IS THE INEQUITY. IT PENALIZES AND SHORTCHANGES US FOR HAVING EXECUTED AN AGREEMENT YEARS AGO UNDER DIFFERENT FEDERAL LAW AND REGULATIONS AND FOR HAVING OPERATED OUR TURNPIKE IN A FISCALLY SOUND AND SUCCESSFUL MANNER. QUITE SIMPLY, IT HAS BECOME A RAW DEAL THAT NEEDS TO BE RECTIFIED.

PAYBACK AND A NEW AGREEMENT WOULD BE A FAR MORE EQUITABLE ARRANGEMENT. OHIO COULD GET SOME MEANINGFUL FEDERAL PARTICIPATION IN RETURN FOR THE ENORMOUS INVESTMENT TURNPIKE USERS ALREADY HAVE POURED INTO THE ROAD, RATHER THAN THE SCANT \$7 MILLION ANTED UP TO THE STATE DURING THE TIME SINCE 1956 WHEN TURNPIKE USERS HAVE SENT MORE THAN \$130 MILLION IN FEDERAL FUEL TAXES TO WASHINGTON. AT THE SAME TIME, THE PLEDGE WOULD BE RENEWED TO MAKE THE ROAD TOLL FREE NOT FAR FROM THE DATE ORIGINALLY SUGGESTED TO THE PEOPLE OF OHIO WHEN THE TURNPIKE ACT WAS PASSED IN 1949.

SUCH A PROGRAM HAS SEVERAL BENEFITS. FIRST, IT WOULD ALLOW AN ORDERLY REBUILDING AND UPDATING OF THE TURNPIKE, PARTICULARLY OF THE BRIDGE DECKS WHICH WE KNOW ARE REACHING THE END OF THEIR USEFUL LIFE. ALTHOUGH THE COMMISSION HAS ALREADY STARTED THIS PROGRAM, IT WILL STILL BE IN ITS INFANCY WHEN THE CURRENT BONDS ARE PAID IN DECEMBER 1984 AND SINCE ALL THE BRIDGES ARE THE SAME NOTE; Copy of excerpt not attached

AGE, WE CONTEMPLATE THIS PROGRAM WILL TAKE APPROXIMATELY TEN YEARS BEFORE ALL THE BRIDGES ARE REPAIRED. (THE TURNPIKE HAS 644 BRIDGES, SOME 550 OF WHICH CARRY VEHICULAR TRAFFIC, AND THE PROGRAM LAUNCHED BY THE COMMISSION WHEN TOLL RATES WERE INCREASED IN 1982 CONTEMPLATES MAJOR WORK ON APPROXIMATELY 50 BRIDGES PER YEAR.)

NEXT, THE PROPOSAL WOULD TAKE ADVANTAGE OF THE EXCELLENT CREDIT RATING AND FINANCIAL REPUTATION THE COMMISSION HAS ESTABLISHED OVER THE PAST THIRTY-THREE YEARS AND ALSO OF THE STRONG ORGANIZATION THE COMMISSION HAS BUILT.

IT WOULD TAKE ADVANTAGE OF THE MAXIMUM FEDERAL FUNDS AVAILABLE UNDER CURRENT LAW. THESE FUNDS WOULD BE CALCULATED BASED SOLELY ON ELIGIBLE TURNPIKE MILEAGE AND, IN COMBINATION WITH THE OTHER FUNDS AND REVENUES, WOULD PERMIT TURNPIKE IMPROVEMENTS, OPERATION AND MAINTENANCE ON A TIMELY BASIS WITHOUT COMPETING FOR FUNDING WITH THE STATE'S OTHER FACILITIES. IN FACT, THROUGH MY OBSERVATIONS AS A MEMBER AND DIRECTOR OF THE INTERNATIONAL BRIDGE, TUNNEL AND TURNPIKE ASSOCIATION AND OTHERWISE, I KNOW THERE IS A GROWING RESURGENCE OF THE TOLL CONCEPT AND THE HISTORICAL FEDERAL OPPOSITION TO TOLLS IS SLOWLY DISAPPEARING. IT IS QUITE POSSIBLE THAT EVEN MORE SUBSTANTIAL COMBINED TOLL-FEDERAL FUNDING WILL BE PERMITTED WHICH IS ANOTHER REASON NOT TO DROP TOLLS TOO SOON.

IT WOULD ALLOW THE COMMISSION TO SEEK LONGER TERM CONTRACTS FOR OPERATION OF THE SERVICE PLAZAS. WE ARE PRESENTLY SEVERELY RESTRICTED IN MODERNIZING THE CONCEPT OF THESE FACILITIES, AGAIN

BECAUSE OF THE APPARENT SHORT REMAINING LIFE EXPECTANCY OF OUR JURISDICTION AND THE UNCERTAIN FUTURE OF THE ROAD. IN OTHER WORDS, THERE IS NOT ENOUGH TIME FOR US AND OPERATORS TO JUSTIFY AND AMORTIZE MAJOR CHANGES AND EXPENDITURES. NEVERTHELESS, THE COMMISSION IS CONTINUING A PROGRAM OF RENOVATING THOSE PORTIONS OF THE SERVICE PLAZA FACILITIES WE KNOW WILL STAY UNDER ANY CIRCUMSTANCES.

THE PROGRAM COULD BE DONE UNDER THE EXISTING PROVISIONS OF THE TURNPIKE ACT AND THE POWERS AND AUTHORITY GRANTED THEREIN TO THE COMMISSION. WE ARE, HOWEVER, REVIEWING THE ENTIRE ACT, MUCH OF WHICH IS UNCHANGED FROM THE ORIGINAL 1949 LANGUAGE, TO DETERMINE WHETHER AMENDMENTS ARE WARRANTED. FURTHERMORE, I THINK IT IS EQUITABLE AND APPROPRIATE THAT SECTION 5735.23(c) OF THE OHIO REVISED CODE, WHICH PROVIDES THAT A PORTION OF THE STATE TAX COLLECTED ON FUEL SOLD AT THE COMMISSION'S SERVICE PLAZAS SHALL BE PAID TO THE COMMISSION, BE AMENDED TO PROVIDE THAT ALL SUCH TAX BE PAID TO THE COMMISSION. ONLY A FRACTION OF THE FUEL BURNED ON THE TURNPIKE IS BOUGHT ON THE TURNPIKE SO THE USERS WOULD STILL BE GENERATING SUBSTANTIAL TAX REVENUES FOR THE STATE THAT WOULD NOT COME TO THE COMMISSION.

THERE ARE LIKELY TO BE SUGGESTIONS THAT WE ATTEMPT TO HAVE CONGRESS RESTORE THE OHIO TURNPIKE TO REGULAR INTERSTATE STATUS FOR FUNDING PURPOSES. I DOUBT THAT SUCH AN EFFORT WOULD SUCCEED. PERHAPS A MORE OBTAINABLE GOAL WOULD BE TO SEEK TO HAVE THE ENTIRE ROAD, INCLUDING THE 35 MILES BETWEEN EXITS 9 and 13 WHICH ARE NOT NOW ELIGIBLE, ADDED TO THE STATE'S INTERSTATE SYSTEM FOR

4-R FUNDING. I RECOMMEND WE EXPLORE THIS FURTHER.

I BELIEVE THIS ALL REPRESENTS A SENSIBLE AND REALISTIC APPROACH TO THE TURNPIKE ISSUE THAT WILL BE GENERALLY ACCEPTABLE TO THE PUBLIC, LEGISLATORS, OTHER ELECTED OFFICIALS AND THE MEDIA. I REALIZE IT REPRESENTS A MAJOR CHANGE IN POLICY FOR BOTH THE COMMISSION AND THE STATE BUT I FEEL OBLIGATED TO PRESENT AND RECOMMEND IT IN RECOGNITION OF CURRENT CIRCUMSTANCES.

ENCLOSURE

The Chairman said that before a vote was taken he would open the meeting for discussion on the resolution.

Mr. Smith said that speaking for the Administration a policy position had not been taken and everything was being looked at as possible alternatives. He said that on one extreme was securing Federal Interstate funds and do the building that had to be done, that's one of the best ways to go. He said one of the other ways to go was simply to honor all agreements, tripartite and the statutory mandate, which may not be feasible. He said that both ways were on the extreme. He said that for him to vote on the resolution would be to eliminate one of the extremes, and he didn't want to do that.

The Chairman said he understood Mr. Smith's position on the resolution.

Mr. Smith said he didn't know why it was immediately necessary to take action on the matter. He said he wondered why the Commission couldn't wait to give the Administration time to develop a policy decision on the Turnpike.

Mrs. Cooke asked Mr. Smith how much time would be necessary to develop a policy.

Mr. Smith said a memorandum had been sent to the Governor in May. He said the Governor had sent it back with some questions and a directive to get it back to him in September. He said part of the reply to the Governor would be a review of the exploration ODOT recently had been doing with Congress. He said he didn't know when the Governor would make his decision.

Mrs. Cooke asked Mr. Smith if he would be ready to reply to the Governor in September.

Mr. Smith said he believed he would be ready to reply in September.

The Executive Director said also the Commission had been doing the necessary environmental and engineering studies for the last four years to identify the improvements that would be desirable on the Turnpike in the event that it became toll-free. He said the studies were done based on the 1978 Federal Surface Transportation Assistance Act, which stipulated that in order to qualify for Federal Interstate construction funds any project had to have those studies completed and filed by September 30, 1983. He said the studies were close to completion and he expected to file them on time.

The Executive Director said further that, in the meantime, the 1981 Federal-Aid Highway Act changed the definition of facilities that are eligible for Interstate funds. He said that decision caused the Commission to re-examine the entire Turnpike situation. He said that, again, the Commission had worked with ODOT and the Federal Highway Administration on the environmental and engineering studies and they were essentially completed.

He said he thought some finishing touches were being put on the Environmental Impact Statement and it would be filed, he assumed, through ODOT, with the Federal Highway Administration and the Environmental Protection Agency.

The Executive Director said further that adopting the resolution concerning the tripartite agreement wasn't going to solve the problem. He said that perhaps the Commission could wait before adopting the resolution, but he felt that its intent was to have something showing that the Commission was trying to find out what should be done and he didn't have all the answers at the present time. He said the resolution was certainly just saying that the Commission wanted to negotiate on the tripartite agreement. He said he thought that the Commission and ODOT agreed that the existing tripartite agreement was not acceptable in 1983.

The Executive Director said further that the tripartite agreement did not get any money for the Turnpike. He said it did authorize a tiny amount of money for Interstate Route approaches to the Turnpike. He said that every time he met with a Federal official he asked about what must be done to get rid of the tripartite agreement. He said they said that they couldn't do that themselves.

The Executive Director said further that the tripartite agreement sort of stuck in his throat. He said he was not the Executive Director who was authorized and who executed the agreement on behalf of the Commission. He said that not any of the Members of the Commission, who adopted that resolution in 1964, were still with the Commission. He said he thought the present Commission was trying to express its dissatisfaction with the agreement.

Mr. Smith said he was concerned about the second Resolve pertaining to use of Federal funds on the Turnpike, and the last Resolve to begin discussion with the Director of ODOT to determine what had to be done to place the Turnpike in good condition and repair to the satisfaction of the ODOT Director.

The Executive Director said a resolution was not necessary before discussions were held with Mr. Smith, but he said that determining what had to be done to the Turnpike to put it in condition and repair to the ODOT Director's satisfaction, after the outstanding bonds are retired on December 1, 1984, was crucial. He said he was not saying that the Commission hadn't taken good care of the Turnpike. He said the Commission had just gotten started on a major bridge rehabilitation and deck replacement program. He said that some of the actions taken by the Commission at the meeting had to do with contracts for bridge deck replacements or renovations. He said the Commission already had the two biggest bridges on the Turnpike, those crossing the Maumee and Cuyahoga rivers, under contract. He said that bridges over the Turnpike

which were on either side of the administration building had their decks off and were being replaced as part of the program. He said the bridge program was just beginning. He said he thought the Commission had to try to define with Mr. Smith and his staff what was meant by "in good condition and repair." He said that it very well could be that the definition would mean that the Commission would have to keep tolls on the Turnpike for an extended time period beyond the bond payoff date.

Mr. Smith said he suspected that would be the way it would turn out. He said he thought the conversations should start in order to determine what had to be done.

The Chairman said that he thought the resolution, in effect, formally adopted the position the Commission took informally in May. He said that, secondly, the resolution authorized the Executive Director to negotiate with other parties, be they legislative or whatever, to see what the Commission can do for the benefit of the Turnpike and the State of Ohio. He said he agreed with the Executive Director and Mr. Smith that the last Resolved didn't have to be part of any resolution. He said that the Executive Director and the Director of ODOT should get together and see what should be done to put the road in the type of condition it should be in come the payoff of the bonds.

The Chairman said further, however, that the resolution was more fortifying than mandating. He said it appeared to him that the biggest part of the resolution simply restates the Commission's position taken in May and authorized the Executive Director to do what he's been doing anyway, and that is to see what's best for the Commission through negotiations. He said that, frankly, he didn't see how adopting the resolution would put the Commission in any kind of bind prohibiting the Commission from later amending the resolution, either a month from the meeting or a year later.

The Chairman said that unless there were any strong objections, he would suggest that the Commission adopt the resolution and continue the intent of the Commission's May decision.

Mr. Smith said he thought there was a potential for conflict, although remote, and he would still vote no.

The Chairman said he understood Mr. Smith's position on the resolution.

Mrs. Cooke said she wondered if a problem could develop should ODOT's report on the Turnpike to the Governor not be submitted by the October Commission meeting. She said that the next Commission meeting would not be held until December, less than a year until the bond payoff date was scheduled.

The Executive Director said that time was a factor. He said the next meeting had to be held on or before October 20 for adoption of the preliminary budget. He said the Commission could meet before that time if there was something to meet about.

The Executive Director said Mr. Smith was in a unique position in that he was an ex officio Member of the Commission and Director of the Ohio Department of Transportation. He said he could fully understand what Mr. Smith had been saying at the meeting. He said that, regarding the Committee on Turnpike Transition, Mr. Smith would have to act more as the Director of Transportation than as a Member of the Commission. He said he didn't believe he and Mr. Smith were at odds on the future of the Turnpike, it was that Mr. Smith had his own unique, statutory position on the matter.

Mr. Schneider said that what the Commission was seeking to do was enter into negotiations to annul, amend or alter the terms of the tripartite agreement. He said that there was only one conceivable way the agreement would not have to be annulled, amended, or altered, and that's on the basis that the Commission follow through on the payoff of the bonds in December 1984 and turn the Turnpike over to ODOT.

The Executive Director said the Commission already had decided that that would be a totally unwise course of action.

Mr. Schneider said that the Executive Director was right and, therefore, he thought the Commission should adopt the resolution. He said he didn't think that the Director of Transportation would, in any way, be affected by what the Commission had done in trying to get negotiations under way because ODOT was part of the negotiations. He said that if ODOT said no to the negotiations then that's as effective as anything that could be done.

The Executive Director said he had talked to officials of the Federal Highway Administration and they were not of any mind to negotiate on the tripartite agreement. He said they were totally conservative on the issue. He said they were saying they would not let the Commission out of the agreement without an act of Congress. He said that was why the resolution included the language about negotiating or legislating out of the agreement, or both. He said it seemed to him that parties who enter into an agreement ought to be able to negotiate amendments or changes to it afterward. He said, however, that the F.H.W.A. had said no to the proposal, and that they couldn't do it on their own.

There being no further discussion, a vote by ayes and nays was taken and all Members responded to roll call. The vote was as follows:

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

Nays: Mr. Smith

The Chairman declared the resolution stood adopted, noting the deletion of the last Whereas, with all Members, except Mr. Smith, voting in the affirmative. The resolution was identified as No. 17-1983.

The Executive Director said that he and Mr. Smith already had begun discussions on the "good condition and repair" subject and would continue to do so in compliance with the resolution.

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

General Counsel said he had no report other than to say he would answer any questions the Members might have concerning the litigation report which was distributed on July 1.

There being no questions, the Chairman said the report of General Counsel was accepted as offered. He said the report of the consulting engineers would be received.

Mr. Fleischman said the consulting engineers had completed their annual inspection of the Turnpike roadways, bridges and buildings. He said a detailed inspection report had been prepared for the Deputy Executive Director-Chief Engineer, and the formal annual report was being prepared for presentation on or before October 1.

The Executive Director said he should note that he had received a telegram from the Governor's office shortly after the bridge accident in Connecticut, where a section of bridge on Interstate Route 95 (on the Connecticut Turnpike) collapsed and some people were killed, asking for information about the Ohio Turnpike Commission's bridge inspection program and bridge plans. He said he responded at that time telling the Governor that the annual inspection had been concluded just before the Connecticut accident and he was confident that there were no serious defects that could lead to any kind of similar tragedy, and that further information would be forwarded as available. He said that, as Mr. Fleischman said, the consulting engineers had furnished the annual inspection reports to the Commission's staff and those reports had been transmitted to the state. He said it took a while for all that information to be coded into computer systems that do sufficiency ratings, and he didn't know exactly when that would be completed.

The Executive Director said further that the information obtained in the annual inspection gave an accurate description of the condition and repair of the Turnpike facilities. He said he wanted to assure everyone that, and saying it as Executive Director, reinforced by the consulting engineers and the Commission's staff, there were some problems with bridge decks, but no structural problems that could lead to the same kind of tragedy that occurred in Connecticut. He said that was not to say that Turnpike bridges

weren't vulnerable to some kind of a freak situation, but they weren't rotting away or falling down.

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 that, as a follow-up to the resolution for transferring of moneys to the Redemption Account, the trustee had already received 29 tenders for the August 25 tender date, totalling \$255,000.

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 Commission would hold its next meeting, tentatively, on October 11.

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

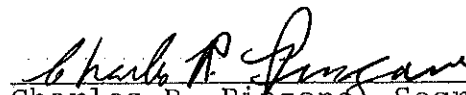
A vote by ayes and nays was taken and all Members present responded to roll call.

Ayes: Mr. Pinzone, Mr. Schneider, Mr. Smith,
Mrs. Cooke, Mr. Rogers

Nays: None

The Chairman declared the meeting adjourned. Time of adjournment was 5:34 p.m.

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



Charles R. Pinzone, Secretary-Treasurer