

MINUTES OF THE 372nd MEETING OF THE OHIO TURNPIKE COMMISSION

December 18, 1991

Pursuant to the bylaws, the Ohio Turnpike Commission met in regular session in the Administration Building at 682 Prospect Street, Berea, Ohio at 11:19 a.m., on December 18, 1991, with key members of the staff; representatives, W. Robson Fleischman and Ed Trojan, of the consulting engineers, Greiner Engineering, Inc.-Ohio; a representative, Fred Newman, of the trustee, Ameritrust Company National Association; Dean Berry, Bruce Gabriel and David Millstone of the fiscal and labor counsel, Squire, Sanders & Dempsey; two members of the media, Pauline Thoma, The (Cleveland) Plain Dealer, and Hank Harvey, The (Toledo) Blade; 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: Jerry Wray, Umberto P. Fedeli, Edwin M. Bergsmark, James H. Brennan

Absent: Charles R. Pinzone

A motion was made by Mr. Bergsmark, seconded by Mr. Wray that the minutes of the meeting of November 7, 1991, which had been examined by the Members, be approved without reading.

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

Ayes: Mr. Bergsmark, Mr. Wray, Mr. Fedeli, Mr. Brennan

Nays: None

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

The Chairman said the meeting was the 372nd of the Ohio Turnpike Commission and was being held at the Commission's headquarters as provided for in the Commission's Code of Bylaws.

The Chairman reported further that following the meeting, which he trusted could be conducted and concluded in a prompt manner, there was scheduled an overdue formal dedication of the administration building in memory of the late O. L. Teagarden. He said Mr. Teagarden was a Commission Member for 29 years and served as its Vice Chairman for almost 27 years and then as Chairman. He said that, also following the dedication, the annual Christmas luncheon for Commission employees and friends would be held.

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

The Secretary-Treasurer, Mr. Bergsmark, said that the following listed items had been sent to the Members since the last regular meeting of the Commission, November 7, 1991:

- (1) Weekly traffic statistics
- (2) Investment transactions which occurred during November 1991
- (3) Draft of the Commission Meeting minutes of November 7, 1991
- (4) Traffic Accident Analysis through November 1991
- (5) Traffic and Revenue Reports for October and November 1991
- (6) Financial Statements for October and November 1991
- (7) Release #3 - Opening of 3A Interchange
Release #4 - Opening of 4A Interchange

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 that committee, Executive Director Allan V. Johnson, said that in the absence of that committee's chairman, Mr. Pinzone, he would give that report, which consisted of the explanation and offering of the resolution to adopt the final budget for fiscal year 1992.

Mr. Johnson said further that, as the Members knew, a preliminary budget for 1992 was adopted at the last Commission meeting, which was a requirement of the Commission's trust agreement. He said the trust agreement further provided that the preliminary budget must be submitted then to the trustee and to the bondholders for possible request of a hearing to discuss the elements of that budget. He said the preliminary budget was so submitted and there had been no request for a hearing.

Mr. Johnson said further that the trust agreement also required that the final budget for 1992 be adopted before the end of the year, which was up for consideration at the meeting. He said the trust agreement further provided that none of the expense categories in the final budget could be higher than the preliminary budget. He said that subsequent to adoption of the preliminary budget the Chairman, Mr. Bergsmark and he had discussed the budget in detail. He said it had been decided that because of the current economic climate and the fact that the preliminary budget provided that the revenues projected through 1992 were a decrease from the projected revenues for 1991 by approximately 4.6 percent, that the expenditure portion of the 1992 budget should be reduced by a similar amount.

Mr. Johnson said further that at the time the preliminary budget was adopted the current expense amounts in the budget were

up slightly from what had been projected for 1991 figures by about .7 of a percent. He said the staff had looked at the current expense categories of the budget and the resolution before the Members, namely the administration and insurance and for operations, which totaled some \$57 million. He said the final budget and the resolution to adopt it showed a decrease amounting to approximately 4.6 percent from the preliminary budget that was adopted. He said that action was taken to recognize the fact that revenues were expected to be soft in 1992. He said there was no indication that the decline in commercial traffic on the Turnpike had turned around and the recession continued to affect the operations of the Commission.

Mr. Bergsmark said that the final budget included the increased costs involved in operating two new interchanges, so the final budget reduction was even more than 4.6 percent.

The Chairman said he hoped the action the Commission was about to take would prove not to be necessary. He said he hoped the nation's economy would have a roaring recovery, starting about the first day of January. He said it would be less than prudent for the Commission not to recognize the current economic facts.

(At this time, Mr. Pinzone entered the room and took his place at the conference table.)

Mr. Johnson said he would read the resolved of the resolution as follows:

"RESOLVED that the Commission, having duly and fully considered the same, hereby adopts the following budget:

1992

Annual Budget of Revenues, Current Expenses
(Expenditures) and Capital Improvement Fund Requirements

Revenues		\$92,540,000
Current Expenses (Expenditures)		
Administration & Insurance	16,441,534	
Operations	40,682,337	
Bond Interest	170,354	
Principal	<u>1,603,334</u>	
Total Expenses (Expenditures)		58,897,559
Estimated Capital Improvement Fund Deposits		\$33,642,441

"FURTHER RESOLVED that the Commission hereby determines that the total appropriations in any division of the budget aforesaid

do not exceed that total appropriations in the corresponding division of the preliminary budget heretofore adopted by Resolution No. 9-1991; and

"FURTHER RESOLVED that the assistant secretary-treasurer is hereby instructed to file a copy of said "Annual Budget" with the trustee and to mail copies thereof to the consulting engineers and to the original purchaser forthwith."

Mr. Johnson said he recommended that the resolution be adopted.

The Chairman said it was his understanding that basically the requirement that the Commission could not exceed any budget figures was due to the Commission's bonding situation which would be changed when the final bonds sold to construct the Turnpike were paid off on June 1, 1992.

Mr. Johnson said the Chairman was correct. He said all the requirements concerning the budget being furnished to the trustee would change on June 1. He said that when the bonds were paid off the trust agreement would, in effect, be terminated.

Mr. Bergsmark said he assumed that the Commission would still adhere to the 1992 budget after June 1.

Mr. Johnson said the budget would be adhered to after June 1.

A resolution adopting the annual budget for the fiscal year 1992 was moved for adoption by Mr. Bergsmark, seconded by Mr. Fedeli as follows:

RESOLUTION NO. 12-1991

"WHEREAS, the Commission, by Resolution No. 9-1991, adopted a preliminary budget for the fiscal year 1992, and caused copies thereof to be filed with the trustee and mailed to the consulting engineers;

"WHEREAS, no request for a hearing thereon has been made to the Commission;

"WHEREAS, the preliminary budget has been reviewed by the Commission and its administrative staff and certain reductions have been made in the current expenses (expenditures) items with corresponding increases in the estimated capital improvement fund deposits;

"WHEREAS, pursuant to Article V, Section 5.01 of the trust agreement dated September 1, 1984, between the Commission and AmeriTrust Company National Association, Cleveland, Ohio, as trustee, the Commission desires to adopt a budget of

revenues, current expenses (expenditures) and capital improvement fund requirements for the fiscal year 1992, to be designated the "Annual Budget"; and

"WHEREAS, pursuant to Article V, Section 5.01 (iii), the total appropriations in any division of the annual budget do not exceed the total appropriations in the corresponding division in the preliminary budget;

"NOW, THEREFORE, BE IT

"RESOLVED that the Commission, having duly and fully considered the same, hereby adopts the following budget:

1992

Annual Budget of Revenues, Current Expenses
(Expenditures) and Capital Improvement Fund Requirements

Revenues		\$92,540,000
Current Expenses (Expenditures)		
Administration & Insurance	16,441,534	
Operations	40,682,337	
Bond Interest	170,354	
Principal	<u>1,603,334</u>	
Total Expenses (Expenditures)		58,897,559
Estimated Capital Improvement Fund Deposits		\$33,642,441

"FURTHER RESOLVED that the Commission hereby determines that the total appropriations in any division of the budget aforesaid do not exceed the total appropriations in the corresponding division of the preliminary budget heretofore adopted by Resolution No. 9-1991; and

"FURTHER RESOLVED that the assistant secretary-treasurer is hereby instructed to file a copy of said "Annual Budget" with the trustee and to mail copies thereof to the consulting engineers and to the original purchaser forthwith."

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

Ayes: Mr. Bergsmark, Mr. Fedeli, Mr. Pinzone,
Mr. Wray, Mr. Brennan

Nays: None

The Chairman declared the resolution stood approved with all Members voting in the affirmative. The resolution was identified as No. 12-1991.

The Chairman said he wanted to take a moment to recognize the guests at the meeting. He said he would ask Mr. Johnson to introduce those guests and the Commission employees in attendance.

Mr. Johnson said that going around the room there were Sharon Isaac, Staff Counsel in Legal Department; Laura Fitzgerald, Personnel Department; Heidi Jedel, Information and Research Department; Clarence Rogers, former Commission Member and Chairman; Les Gaines, Minority Business Enterprise Coordinator; Hank Harvey, The (Toledo) Blade; Pauline Thoma, The (Cleveland) Plain Dealer; Ed Trojan, Greiner Engineering, Inc.-Ohio, the Commission's consulting engineers; Fred Newman, Ameritrust, the Commission's trustee; Bruce Gabriel, Squire, Sanders and Dempsey, the Commission's fiscal and labor counsel; Craig Rudolph, the Commission's Comptroller; Jim Cooper, Donaldson, Lufkin and Jenrette; Paul Ash, Staff Lieutenant, Ohio State Highway Patrol; Don Sharp, the Commission's Director of Operations; Dean Berry and David Millstone, Squire, Sanders and Dempsey; Pat Grubbe, Ohio Department of Transportation; Barbara Lesko, his secretary; Leah Fox, ODOT, who helps prepare the minutes of the Commission meetings; and Diane Pring, secretary of the Commission's General Counsel.

The Chairman asked Mr. Johnson also to introduce the staff members sitting at the conference table.

Mr. Johnson said he would begin with G. Alan Plain, Deputy Executive Director-Chief Engineer; Jim McGrath, General Counsel; Rob Fleischman, resident engineer for Greiner Engineering, Inc.-Ohio, the Commission's general consultant; Bob Barnett, Director of Information and Research; State Representative Joe Vukovich and State Senator Ben Gaeth.

The Chairman ascertained there would be no report from the Committee on Service Plazas. He said the report of the Committee on Employee Relations would be received.

The co-chairman of the Committee on Employee Relations, Louis J. Disantis, said that, as reported at the last meeting, a representation election was to be conducted by the State Employment Relations Board on December 10, 11 and 12 to determine the exclusive bargaining representative for the regular, full-time, non-supervisory field employees in both the toll and maintenance departments. He said the election was held and the results were that a new union, the United Turnpike Workers, received 379 votes, and the Laborers International Union of North America Local 860 received 68 votes. He said the vote for no union representation was 64. He said there were three void ballots and

77 employees who did not vote. He said there was a total of 591 eligible employees.

Mr. Disantis said further that there were ten days following the election within which the parties may file objections to the results. He said that if no objections were filed SERB would act at its first meeting in January to certify the new union. He said that meeting would probably be in the middle of January.

Mr. Disantis said further that the subcommittee of the Committee on Employee Relations completed its meetings with the non-union employee representatives and has submitted its recommendation letter to the Executive Director. He said a copy of that letter was in the Members' folders.

Mr. Disantis said there were several items that were of an administrative nature which had no economic effect on the Commission and they would be handled by the appropriate department heads. He said that mainly because of the Commission's discussions about the budget the subcommittee recommended that there be no general increase in wages for the coming year effective January 1, 1992. He said the subcommittee informed the employees that it had requested some information and proposals for alternate health benefit plans at reduced premiums from those then being paid. He said that information, which had been promised for the week after the meeting, would be reviewed and discussed with the Commission.

Mr. Disantis said further that the administration building was going to be a smoke-free workplace with the exception of one room that would be reserved for the employees' smoking.

Mr. Disantis said that presently any employee who worked in an office alone could smoke or an employee who worked with others in an office could smoke if the co-worker did not object. He said none of the common areas were smoking areas for employees. He said that policy had not worked out too well.

The Chairman asked Mr. Disantis how many employees in the building were smokers.

Mr. Disantis said probably a third of the employees smoked. He said the request for the limited smoking area had been made during the employee discussions with the subcommittee.

Mr. Wray asked Mr. Disantis if the United Turnpike Workers was just an independent local.

Mr. Disantis said the United Turnpike Workers was an independent union formed by Commission employees and had no affiliation with any other union at the time.

The Chairman asked Mr. Disantis if the committee was surprised by the vote size.

Mr. Disantis said he didn't think the vote was too surprising. He said the new union was actively recruiting employees, while the Laborers Union Local 860 did not do all they could with regard to campaigning.

The Chairman asked Mr. Disantis how long the old union had represented Commission employees.

Mr. Disantis said that originally the Teamsters Union and then Joint Council of Operating Engineers and Laborers had represented the employees. He said that eventually the Teamsters fell below the percentage that was required for dues check-off and was succeeded by the Operating Engineers and the Laborers. It was then agreed that the Laborers would become the sole representative of the employees. He said that to the best of his recollection that event occurred in 1982 or 1983. He said it wasn't always Local 860, but it had been the Laborers Union.

The Chairman said the report of the Committee on Employee Relations was accepted as offered. He ascertained there would be no report from the Committee on Safety.

The Chairman said that at that very time the President of the United States was in Dallas, Texas, to sign a new transportation bill which affected the Commission. He said he asked the Executive Director to explain to the Members what they had to do as a Commission to implement a resolution concerning the Tripartite Agreement.

The Executive Director said that at 11:20 a.m., the President was to sign the new transportation bill that passed the Congress on November 27, the day before Thanksgiving. He said the bill was the subject of a long legislative process and everyone was waiting to see a copy of the final version. He said he had been told that the 90 members was the largest number of conferees on a conference committee and that it worked around the clock just before Thanksgiving to get the bill finished and passed. He said that because of all the items that had to be resolved he didn't think anyone knew exactly how it turned out.

The Executive Director said further that there were a lot of problems with the bill. He said that he knew from his position with the International Bridge, Tunnel and Turnpike Association that there were already serious discussions going on for a technical corrections bill, which, he understood, was to be introduced in the very first part of January to try to clear up some of the confusion and difficulties associated with the bill.

The Executive Director said further that he was handing the Members copies of a summary prepared by the I.B.T.T.A. of the provisions of the bill which affected tolls and toll facilities. He said the first item was under the heading of existing tripartite agreements, a primary concern of the Commission. He said

the Commission was a party to a tripartite agreement that was entered into in 1964, along with the State of Ohio and the Federal Highway Administration. He said that agreement stipulated that when the Turnpike bonds were paid off on June 1, 1992, the tolls on the Turnpike were to be removed and the facility was to become a free highway. He said the state law, of course, had already been changed, largely due to Senator Gaeth's work and urging in his Senate Bill 7, which was then almost a year old. He said that, in fact, Senate Bill 7 was passed the day before the Commission's December 1990 meeting and it was a year later before the federal legislation was passed.

The Executive Director said further that the federal bill stipulates that upon request of an authority that was party to one of the tripartite agreements the U.S. Secretary of Transportation shall modify the agreement to allow for the continuance of tolls without the payback of any federal funds.

The Executive Director said further that the Members had before them a resolution authorizing the Executive Director to take further action concerning the tripartite agreement. He said that, for history, the Commission did adopt a resolution on August 17, 1983, which was attached to the new resolution, authorizing the Executive Director on behalf of the Commission to take such action to annul, amend or alter the terms of that agreement. He said that, as he said before, the Commission had been working for more than eight years to accomplish that event and it seemed that it had been done with the signing of the transportation bill on that day.

The Executive Director said further that the resolution before the Members affirmed the 1983 resolution by authorizing him to take the necessary action to follow up on the provision of the transportation bill pertaining to existing tripartite agreements. He said he would read the resolves of the resolution as follows:

"NOW, THEREFORE, BE IT

"RESOLVED that the Commission hereby affirms its Resolution No. 17-83 in which it directed the executive director to take any and all action necessary on behalf of the Commission to annul, amend or alter the terms and provisions of the Tripartite Agreement and hereby specifically authorizes and directs the executive director to request, on behalf of the Commission, that the existing Tripartite Agreement be modified as provided under Section 129 of Title 23, United States Code, Section 1012, of the Intermodal Surface Transportation Efficiency Act of 1991 (HR-2950) to permit the continued operation of the Ohio Turnpike as a toll facility after the liquidation of the bonds outstanding on the effective date of the Tripartite Agreement; and

"FURTHER RESOLVED that the executive director, with the advice of the general counsel, is authorized and directed to

develop a modified agreement with the United States Secretary of Transportation or the appropriate Federal agency and official; and

"FURTHER RESOLVED that the executive director shall advise the Commission members of the actions which he has taken on behalf of the Commission to implement the provisions of this resolution."

The Executive Director said further that he was not absolutely sure just what the procedure would be with regard to petitioning the Secretary of Transportation to end the tripartite agreement. He said that, for one thing, there currently was not a Secretary of Transportation because the last holder of that position, Samuel Skinner, had been appointed Chief of Staff by President George Bush. He said the position was probably being filled by an acting director.

The Executive Director said further that he wanted to see the language as it finally came out of the bill. He said he was quite sure that it was so short and relatively uncontroversial that it shouldn't be difficult to alter or amend the agreement. He said that once the resolution was adopted by the Commission the proper steps would be taken and he would keep the Commission informed of that action.

The Chairman said he suggested that after the Executive Director had a chance to review the transportation bill in its final form he and General Counsel prepare a memorandum telling the Commission what had to be done and maybe the Members might be able to assist somewhere along the line.

The Executive Director said that such a memorandum would be furnished to the Members.

The Executive Director said further that the new transportation bill contained other provisions that affected tolls and toll facilities. He said the legislation reverses and erases a 75-year-old, anti-toll federal practice and policy. He said it will allow 50 percent federal funding on new toll projects throughout the country. He said that in some cases there might even be 80 percent federal funding. He said that was one of the things that needed to be clarified in a technical corrections bill because apparently there was some confusion as to which projects could receive 50 percent federal funding and which could receive 80 percent.

The Executive Director said further that one final thing that could directly affect the Ohio Turnpike was the second to the last item on the list he gave the Members. He said it had to do with reimbursement of funds for highway segments. He said he would read it as follows:

"In fiscal years 1996 and 1997 a total of \$4 billion would be disbursed among the states for highway segments built at the states' expense (including tolls) that were later incorporated into the Interstate system." He said that included the Ohio Turnpike and, as he understood it, the dollar figure for Ohio was \$186.8 million.

The Executive Director said further that the transportation bill created what was called a National Highway System. He said he wanted to point out that there was a 35-mile stretch of the Ohio Turnpike between the North Ridgeville-Cleveland (#9A) and the Streetsboro (#13) Interchanges that was technically not in the same status on the Interstate system as the other 206 miles of the Turnpike. He said that came about because of the way that the Turnpike was originally designated as part of the Interstate system. He said that in 1960 Interstate Route 80 left the Turnpike on what became Interstate Route 480 and came back onto the Turnpike again at the Streetsboro Interchange, so that 35-mile stretch was not originally incorporated into the Interstate system.

The Executive Director said further that the 35-mile section of the Turnpike was incorporated into the system at a later date, but it did not qualify for Interstate funding if the road had been free. He said it was given secondary or deficient status and he thought that when the National Highway System was defined that section of the Turnpike should be classified in the same category as all the rest of the Interstate system in Ohio.

Mr. Bergsmark asked the Executive Director if federal funds could be used by the Commission in the event the Turnpike were expanded.

The Executive Director said that was correct. He said the funding would come through the state and ODOT would have to approve any such projects.

Mr. Bergsmark asked the Executive Director if federal funding would be available for toll bridges.

The Executive Director said some toll bridges might qualify for 80 percent federal funding depending on which category they qualified. He said it behooved the Commission to act very closely with ODOT on future projects.

Mr. Wray said ODOT had up to two years to define the National Highway System in Ohio, so it was not something that had to be done immediately.

The Executive Director said he understood the time situation and that was why he thought a clarification of the status of the previously mentioned 35-mile section of the Turnpike with regard to its place in the National Highway System had to be made.

Mr. Wray said ODOT was just beginning to develop a long range, multi-model transportation plan for Ohio for the next 20 to 30 years. He said the first phase of that plan was to identify the primary corridors in the state, and obviously the Turnpike was one of the primary corridors. He said that once that phase was completed those primary corridors would be Ohio's National Highway System, plus some others, if they could be included. He said ODOT would be working closely with the Commission on establishing the system.

Mr. Wray asked the Executive Director if, after adoption of the resolution pertaining to the tripartite agreement, his next step would be to find out if the Commission simply had to request to be relieved of the agreement. He asked further if the resolution authorized the Executive Director to go ahead with the appropriate action or report back to the Commission first.

The Executive Director said that before an actual agreement was executed he would come back to the Commission for proper authorization.

The Chairman said that was why he asked that a memorandum be prepared and submitted to the Members to inform them of what was required to nullify the tripartite agreement.

Mr. Bergsmark asked if timeliness was important since the main thing was to have the tripartite agreement suspended so there was not a problem with paying off the Turnpike bonds.

General Counsel said he presumed that the documents the staff had received on the transportation bill were accurate. He said he thought it was important to get the request to nullify the tripartite agreement in the hands of the Secretary of Transportation or his deputy at the earliest possible date.

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

RESOLUTION NO. 13-1991

"WHEREAS, in July 1964, an agreement was entered into among the Secretary of Commerce of the United States, acting by and through the Federal Highway Administrator, the State of Ohio, acting through the Director of Highways, now the Director of Transportation, and the Ohio Turnpike Commission, said agreement commonly referred to as the Tripartite Agreement;

"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, by Resolution No. 17-1983, the Commission authorized the executive director to take action to annul, amend or alter the terms and provisions of the 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;

"WHEREAS, the Congress of the United States has passed the Intermodal Surface Transportation Efficiency Act of 1991 (HR-2950), which act provides in Section 1012 for the amendment of Section 129(a) of Title 23 of the United States Code and specifically in paragraph 6 thereof that a public authority having jurisdiction over a toll highway, subject to a Tripartite Agreement, may request modification of such agreement and the Secretary of Transportation shall modify such agreement to allow the continuation of tolls in accordance with paragraph (3) of Section 129 of Title 23, as amended, without repayment of federal funds;

"WHEREAS, the Ohio General Assembly previously has amended the Turnpike Act (Chapter 5537, Ohio Revised Code) to provide for tolls to continue on the Ohio Turnpike after current outstanding bonds are retired;

"NOW, THEREFORE, BE IT

"RESOLVED that the Commission hereby affirms its Resolution No. 17-83 in which it directed the executive director to take any and all action necessary on behalf of the Commission to annul, amend or alter the terms and provisions of the Tripartite Agreement and hereby specifically authorizes and directs the executive director to request, on behalf of the Commission, that the existing Tripartite Agreement be modified as provided under Section 129 of Title 23, United States Code, Section 1012, of the Intermodal Surface Transportation Efficiency Act of 1991 (HR-2950) to permit the continued operation of the Ohio Turnpike as a toll facility after the liquidation of the bonds outstanding on the effective date of the Tripartite Agreement; and

"FURTHER RESOLVED that the executive director, with the advice of the general counsel, is authorized and directed to develop a modified agreement with the United States Secretary of Transportation or the appropriate Federal agency and official; and

"FURTHER RESOLVED that the executive director shall advise the Commission members of the actions which he has taken on behalf of the Commission to implement the provisions of this resolution."

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

Ayes: Mr. Wray, Mr. Fedeli, Mr. Bergsmark,
Mr. Pinzone, Mr. Brennan

Nays: None

The Chairman declared the resolution stood adopted with all Members voting in the affirmative. The resolution was identified as No. 13-1991.

The Executive Director said he had one last item and that was to offer and explain a resolution awarding a contract for purchasing gasoline and diesel fuel for a one-year period for the Commission's requirements. He said the staff had solicited bids, according to the Commission's bidding process, for the 12-month period, which actually started at the beginning of December, so there had been 18 days without a contract. He said the contract would exceed, assuming it went for the whole length of the year, \$500,000. He said, actually, the amount would be about \$600,000.

The Executive Director said further that the bids for the contract had been solicited on the basis of a markup on top of the wholesale prices that were posted through a specific survey on the date of the delivery request. He said it was something that had to be done since nobody would give a fixed price. He said there were three bidders: BP Oil Company, Cleveland; Louis Dreyfus Energy Corporation, Bel Air, Maryland; and Englefield Oil, Newark, Ohio.

The Chairman said that, incidentally, Senator Gaeth had mentioned he had read an article in a trucking magazine which said the word was out -- don't buy diesel fuel in Ohio. He said the article said just buy enough diesel fuel to get through Ohio. He asked if anyone knew if the price of diesel fuel was excessive in Ohio.

The Executive Director said that the price of diesel fuel on the Turnpike was equal to the prevailing rates charged at service stations in nearby communities.

Representative Vukovich said the situation might be a form of protest against the stringent law enforcement in the state. He said some truck drivers believed they were singled out for speed violations.

Senator Gaeth said the article specifically referred to the high cost of diesel fuel as being the reason for not buying it in Ohio.

The Chairman asked Senator Gaeth if he could find the article he mentioned and provide copies of it to the Members.

The Executive Director said he recommended the award of the gasoline and diesel fuel contract to the BP Oil Company, which was the lowest responsive and responsible bidder.

A resolution awarding a contract for the purchase of gasoline and diesel fuel for a one-year period was moved for adoption by Mr. Pinzone, seconded by Mr. Wray as follows:

RESOLUTION NO. 14-1991

"WHEREAS, the Commission has advertised for bids for Invitation No. 3172 for the furnishing to the Commission of gasoline and diesel fuel for a one-year period, and three bids were received in response to that invitation, such bids having been reviewed by the Commission's staff;

"WHEREAS, it is anticipated that the expenditures of the Commission for gasoline and diesel fuel under Invitation No. 3172 shall exceed \$500,000 and in accordance with Article V, Section 2.10 (16) of the Commission's Code of Bylaws, Commission action is necessary for the award of such contract;

"WHEREAS, the bids were reviewed by the deputy executive director-chief engineer who has stated that the lowest responsive and responsible bid was submitted by BP Oil Company of Cleveland, Ohio, and that BP Oil Company proposes to furnish materials and services in accordance with the Commission's specifications;

"WHEREAS, the Commission's general counsel has reviewed the bids received and has advised the Commission that the procedure followed by the Commission in advertising for Invitation No. 3172 is in accordance with Section 5537.07 of the Revised Code of Ohio, and that the bid of BP Oil Company is the lowest responsive and responsible bid received and that the Commission may legally enter into a contract with BP Oil Company to furnish gasoline and diesel fuel in accordance with Invitation No. 3172;

"WHEREAS, the executive director has reviewed the bids received and has recommended to the Commission that the contract be awarded to the lowest responsive and responsible bidder, BP Oil Company;

"NOW, THEREFORE, BE IT

"RESOLVED that the bid of BP Oil Company of Cleveland, Ohio, for Invitation No. 3172 is, and is by the Commission deemed to be the lowest responsive and responsible bid received and is accepted and the chairman and 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

aforsaid invitation; (2) to direct the return to the other bidders of their bid security at such time as BP Oil Company has entered into a contract and furnished a performance bond required thereby; and (3) to take any and all action necessary to properly carry out the terms of said contract."

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

Ayes: Mr. Pinzone, Mr. Wray, Mr. Fedeli,
Mr. Bergsmark, Mr. Brennan

Nays: None

The Chairman declared the resolution stood approved with all Members voting in the affirmative. The resolution was identified as No. 14-1991.

The Chairman ascertained there would be no reports from General Counsel, the consulting engineers or the trustee. He said he didn't think the Members wanted to set a date for the next Commission meeting at that time. He said he understood that under the Commission's Bylaws, the first Tuesday of every month had been set aside for a meeting date. He said there were some problems with those days for the Legislative Members because they had to be in Columbus on Tuesdays.

The Chairman said further that perhaps a Monday or Friday would be more convenient for the Legislative Members and also for the balance of the Oversight Committee. He said a meeting date in January was too close to the December meeting, so a meeting date in February could be discussed. He said February 10 appeared open for all the Members and future meeting dates could be decided at that time. He said he also thought some of the meetings could be held at other locations along the Turnpike than Berea. He said Toledo would be convenient to three Members and the Youngstown area, the home of Representative Vukovich, was another possible meeting site.

The Chairman said further that the Turnpike consisted of 241 miles and he thought the Commission should visit all of it in the next year or two. He said meeting sites and dates could be established in advance and residents of the immediate area could be informed so they might attend those meetings.

Senator Gaeth asked the Chairman about the progress of the new Turnpike interchange with State Route 49.

Representative Vukovich said he had some concern about the proposed new Turnpike interchange at Lordstown.

The Chairman said he had read an editorial in The (Toledo) Blade which mentioned that in order to equal Interstate Route 75

the Turnpike would have to have 51 more interchanges and to equal Interstate Route 71 the Turnpike would need 21 more interchanges. He said he knew that there would never be that many more interchanges on the Turnpike, but the subject of additional interchanges was something the Commission had to consider.

The Executive Director said the Commission and the Ohio Department of Transportation and the Director of ODOT had a specific statutory role in access points along the Turnpike. He said the Director of ODOT had to concur when the Commission established additional access points. He said that had been done for two more interchanges, in addition to the two which were just opened, and that there was one at State Route 49 in Williams County near the Indiana Border and the other at the General Motors Complex in Lordstown. He said the former ODOT Director had approved both projects and the plans for both of them were nearly finished. He said construction would not proceed until the situation with the tripartite agreement was resolved. He said the question of financing new interchanges also had to be addressed.

The Chairman asked Mr. Vukovich if he had assurances from General Motors that they intended to stay in Lordstown.

Mr. Vukovich said General Motors had been putting additional money in the Lordstown facility and the only vehicle that was really selling for GM was the Cavalier, which was built at Lordstown.

Mr. Bergsmark said that it was important to have the tripartite agreement nullified as quickly as possible in order to determine future funding sources for new Turnpike interchanges.

Mr. Fedeli said it was his understanding that new interchanges were currently being funded by short-term dollars.

The Chairman said that was the case of the Toledo Airport-Swanton (3A) and Perrysburg-Toledo (4A) Interchanges.

Mr. Fedeli said that, obviously, doing long-term projects with short-term dollars could get people in trouble.

The Chairman said Mr. Fedeli was correct.

Mr. Fedeli said that once the tripartite agreement was nullified the Commission would have bonding capability.

The Chairman said that with the tripartite agreement ended the Commission could take a fresh look at future interchanges and other projects in the next 35 years, instead of talking about the last 35 years.

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

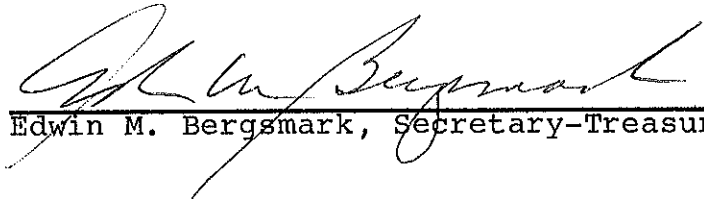
A vote by ayes and nays was taken and all Members responded to roll call. The vote was as follows:

Ayes: Mr. Bergsmark, Mr. Pinzone, Mr. Wray,
Mr. Fedeli, Mr. Brennan

Nays: None

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

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


Edwin M. Bergsmark, Secretary-Treasurer



