

MINUTES OF THE 374th MEETING OF THE OHIO TURNPIKE COMMISSION

March 9, 1992

Pursuant to the bylaws, the Ohio Turnpike Commission met in regular session in the Administration Building at 682 Prospect Street, Berea, Ohio at 11:14 a.m., on March 9, 1992, with key members of the staff; a representative, W. Robson Fleischman, of the consulting engineers, Greiner Engineering, Inc.-Ohio; a representative, Richard Fetzner, of the trustee, Ameritrust Company National Association; 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: Joseph J. Vukovich, M. Ben Gaeth, Ronald L. Zook, Charles R. Pinzone, Umberto P. Fedeli, Edwin M. Bergsmark, James H. Brennan

Absent: Jerry Wray

A motion was made by Mr. Bergsmark, seconded by Mr. Pinzone that the minutes of the meeting of February 10, 1992, 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. Pinzone, Mr. Zook, 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 374th of the Ohio Turnpike Commission and it was being held at the Commission's headquarters as provided for in the Commission's Code of Bylaws. He said Ronald L. Zook was representing Jerry Wray, Director of the Ohio Department of Transportation. He said Mr. Zook had submitted the appropriate notice of his designation as required by statute and, therefore, was entitled to participate and vote.

The Chairman asked the Executive Director, Allan V. Johnson, if he would introduce those in attendance at the meeting.

The Executive Director said that starting on his left there were: Heidi Jedel, Information and Research Department Head

Secretary; Pauline Thoma from The (Cleveland) Plain Dealer; Hank Harvey from The (Toledo) Blade; Lou Disantis, Director of Administrative Services; Les Gaines, MBE Coordinator; Pat Patton, Government Liaison Officer; Henry Williams, Commander of District 10 of the Ohio State Highway Patrol; Jim Cooper of Donaldson, Lufkin and Jenrette; Craig Rudolphy, Comptroller; Dick Fetzer, a representative of Ameritrust Company National Corporation, the Commission's trustee; Nancy Siler, Chief Auditor; and Don Sharp, Director of Operations. He said that sitting around the conference table were Alan Plain, Deputy Executive Director-Chief Engineer; Jim McGrath, General Counsel; Rob Fleischman, the resident engineer, Greiner Engineering, Inc.-Ohio, the Commission's consulting engineers; Bob Barnett, Director of Information and Research; Joe Vukovich, State Representative and Member of the Commission; and Ben Gaeth, State Senator and Member of the Commission. He said, also, there were his secretary Barbara Lesko; Leah Fox, with ODOT who helped record the meetings; and Diane Pring, Mr. McGrath's secretary.

The Executive Director said further that he wanted to note for the record that Pauline Thoma had told him that she was being reassigned at The Plain Dealer and that it was probably the last time she would be covering the Commission. He said she had been reporting on the Commission for some 15 years, and, in his opinion, she had done an outstanding job in her reporting. He said that she had been fair and factual in her reports and he thought all the Members and staff would miss her.

The Chairman said that in his brief experience with Ms. Thoma it had been a pleasure to have her report on the Commission. He said he admired her fairness, objectivity and friendliness.

Mr. Fedeli said he would like to host a luncheon on the terrace of his business offices in the spring for Ms. Thoma.

The Chairman said the luncheon was appropriate and sounded like fun.

The Chairman reported also that he wanted to note for the record that the Turnpike Oversight Committee, established in the amended Turnpike Act last year, met for the first time on February 25 at the State House in Columbus. He said he, Mr. Pinzone, Mr. Johnson and several other staff members attended on behalf of the Commission. He said he gave a brief statement on the matters that were set forth in the agenda submitted by the committee chairman, Senator Scott Oelslager. He said various questions asked by the committee members were answered and, subsequent to the meeting, the Executive Director sent the information to the committee, which had been requested. He said the Commission Members were also furnished with copies of that information.

The Chairman said he thought a copy of the statement to the Turnpike Oversight Committee should be in the minutes as follows:

"OHIO TURNPIKE COMMISSION
February 25, 1992
STATEMENT TO THE TURNPIKE OVERSIGHT COMMITTEE

"Mr. Chairman and Members of the committee, my name is James Brennan and I am Chairman of the Ohio Turnpike Commission. With me today are Charles Pinzone, a Member of the Commission and Allan Johnson, Executive Director; G. Alan Plain, Deputy Executive Director-Chief Engineer; James McGrath, General Counsel; Craig Rudolph, Comptroller; and Patrick Patton, Government Liaison Officer.

"I would like to make a brief statement on the matters which you asked to be discussed in your letter to the Commission dated February 10, 1992. Before doing so, I wish to note for the record that since this Oversight Committee was appointed last year, the Commission has been furnishing the committee members with information about the activities of the Commission. Specifically, the following items have been sent on a regular basis to the Oversight Committee Members:

- (1) Weekly traffic statistics
- (2) Monthly reports of investment transactions
- (3) Monthly traffic and revenue reports
- (4) Monthly statements of operations
- (5) Yearly report of concessionaires
- (6) Quarterly expense and budget reports
- (7) Copies of news releases
- (8) Annual report for 1990
- (9) Monthly traffic accident analysis reports
- (10) Monthly financial statements

"Next, on the matters listed in your February 10 letter:

"1) As for the current status of the Commission's budget and finances, the Commission has adopted an operating budget for 1992 which is approximately 5 percent lower than the budget for 1991, in recognition of the past effect of the recession on the Commission's revenue and the projection that revenues for 1992 will be lower than actual revenues in 1991. Last year, the Commission spent almost \$105 million, including more than \$52 million on capital projects, and revenues were just over \$93 million. The net effect essentially was to deplete the Commission's capital improvement account by the end of the year so capital funds will be replenished slowly in 1992.

"2) All construction projects underway in 1991 have been completed. That includes completion and opening of new interchanges at State Route 2 in Lucas County and I-75 in Wood County, the resurfacing of just over 30 miles of mainline pavements and major rehabilitation of 47 bridges. In 1992, the Commission is planning to resurface another 30 miles of mainline pavement and

plans are being completed for two other interchanges, at State Route 49 in Williams County and at the GM Lordstown Complex in Trumbull County. Plans are completed for 16 bridge deck replacements and latex concrete overlays on 41 other bridges. These projects, when constructed, will complete the Commission bridge rehabilitation program. The replacement and widening of all 290 mainline bridge decks was completed in 1991, when the last 6 bridges were done.

"3) The Federal Intermodal Surface Transportation Efficiency Act of 1991, which became law on December 18, 1991, contains a provision to allow modification of the 1964 Tripartite Agreement that affects the Ohio Turnpike. A request has been made to the United States Department of Transportation to modify this agreement and this matter is expected to be concluded soon.

"4) Triple trucks (longer combination vehicles, LCV's) have been permitted on the Ohio Turnpike for more than 5 years. This program is an out-growth of one for long doubles which has been in operation on the Ohio Turnpike for more than 30 years. These programs are operated under a certification and permit process with strict requirements and provisions. The safety record of the program has been outstanding. In 1991, for example, with more than 77,000 total trips, there was only one chargeable accident. In reality, the total number of LCV's is quite small, being just over 1 percent of the total truck trips.

"5) The Commission has not installed sound barriers anywhere along the entire length of the Turnpike. When the Turnpike was built and opened more than 36 years ago, the adjoining properties were primarily rural and much of it remains rural. In some cases, where development has occurred near the right-of-way, developers have attempted to provide some form of barrier, but not in most cases. Unfortunately, the Turnpike was not designed with barriers in mind so land and space for barriers is not available. It is regrettable that so many developers and persons have built residences too close without recognizing and making plans to accommodate the existence of the Turnpike.

"That completes our brief statement, and we will be happy to try to answer any questions of the committee members."

The Chairman said further that Representative Vukovich attended the meeting, but Senator Gaeth was unable to attend because he had a conflicting meeting at the same time. He asked Mr. Vukovich if he had any comments to add about the meeting.

Mr. Vukovich said he thought the Commission Members and staff did an admirable job in answering any and all questions that were put to them and, hopefully, the committee wouldn't need to have such meetings too often.

The Chairman reported also that one of the reasons for the Commission meeting was to act on five resolutions, draft copies of which had been sent to the Members. He said that first there were a number of Committee reports which would be presented. He 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 on February 10, 1992:

- (1) Weekly traffic statistics
- (2) Investment transactions which occurred during February 1992
- (3) Draft of the Commission Meeting minutes of February 10, 1992
- (4) Traffic Accident Analysis for January 1992
- (5) Traffic and Revenue Report for January 1992
- (6) Financial Statement for January 1992

The Chairman said it would appear as though the Commission's income for 1992 was responding nicely over 1991 and was approaching 1990 levels, which was good. He said he thought that indicated an economic upturn, which was something everyone was interested in.

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

The chairman of the Committee on Audit and Legal, Mr. Vukovich, said that, as the Members were aware, the Commission's independent auditors, Deloitte and Touche, were conducting its annual audit for the year 1991 and the final audit report had to be submitted in the Commission's annual report to the Governor and General Assembly by April 1, 1992.

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

The Executive Director said that on behalf of the chairman of the Committee on Service Plazas, Senator Gaeth, he wanted to say that, as he reported at the last Commission meeting, the Marriott Corporation had just converted the Roy Rogers restaurant at the Turnpike's Middle Ridge Service Plaza to a Burger King unit. He said that, as he also indicated at the last Commission meeting, Marriott would probably want to convert the Roy Rogers restaurant across the Turnpike at the Vermilion Valley Service Plaza to a Burger King unit. He said Marriott had now indicated that they desired to do just that and, although it was not absolutely required, they had requested the Commission's approval so that they might submit the necessary plans to the Commission. He said early indications were that the Burger King unit at the

Middle Ridge Service Plaza was doing very well compared to the Roy Rogers restaurant. He said it was not any reflection on the quality of the Roy Rogers unit, but a question of name recognition.

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

The Director of Administrative Services, Mr. Disantis, said that, on behalf of the chairman of the Committee on Employee Relations, Mr. Fedeli, he wanted to say the representatives of the Commission continued to negotiate with the representatives of the union and some progress was being made. He said representatives of the committee had separate meetings to try to resolve some grievances that were left over from the last contract with the former union and additional meetings were scheduled the morning after the Commission meeting.

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 Executive Director said that although there was no report from the Committee on Safety there were copies of a report in the Members' folders from District 10 of the Ohio State Highway Patrol on their activities during the year of 1991. He said it was a statistical report on what the Patrol did on the Turnpike during the year and it was in the Members' folders for informational purposes.

The Chairman asked Captain Williams if there were any items of that report he would like to highlight for the Commission.

Captain Williams said the most significant item the report might reflect was the reduction in the number of traffic accidents on the Turnpike. He said in 1990 there had been about a five percent reduction in accidents and another six percent reduction in 1991. He said there were fewer accidents per million miles traveled.

The Chairman asked Captain Williams to what did he attribute the reduction in accidents on the Turnpike.

Captain Williams said he hoped he could attribute some of the reduction to the visibility of the Patrol's troopers along the Turnpike and strict enforcement of traffic safety laws.

The Executive Director said he thought the safety record on the Turnpike was outstanding when compared to the other Interstate Routes in Ohio.

The Chairman said the report of the Executive Director would be received.

The Executive Director said the first item of his report was the status of the Tripartite Agreement. He said that, as he reported at the last Commission meeting, a request had been made to the Federal Highway Administration in late December 1991 to modify the Tripartite Agreement. He said that after the last Commission meeting on February 10, he did receive an acknowledgment from the FWHA of the Commission's request. He said the acknowledgment indicated that they agreed with the Commission's interpretation that the intent of the Federal Intermodal Transportation Efficiency Act of 1991 was to allow tolls to continue on the Turnpike without repayment of federal funds.

The Executive Director said further that the staff had prepared a draft to modify the agreement which was than being reviewed by ODOT, which was the other party to the existing agreement, before the Commission actually submitted it to the FWHA. He said he hoped the submission of the draft agreement was imminent. He said the FWHA had indicated that they would expedite the matter by telephone if it could be done that way, or in person, as need be. He said he thought the Commission was on the verge of getting the Tripartite Agreement modified.

The Chairman said he had a conversation with Mr. Wray late in the week prior to the meeting and he did confirm that ODOT was reviewing the draft agreement. He asked Mr. Zook if he had anything to add.

Mr. Zook said he did not.

The Executive Director said that, as the Members were aware, there were three resolutions before the Commission to award contracts for resurfacing on the mainline of the Turnpike. He said the first one was Contract CIP 59-92-01, which was a contract to resurface the Turnpike between mileposts 62.5 and 71.1 in Lucas and Wood Counties. He said there were three bids received in response to that invitation. He said the bids had been reviewed by the Deputy Executive Director-Chief Engineer and by the Commission's consulting engineers. He said they had submitted reports concerning their analyses of those bids to the General Counsel and to him. He said he would read the resolved as follows:

"NOW, THEREFORE, BE IT

"RESOLVED that the bid of S.E. Johnson Companies, Inc. of Maumee, Ohio in the amount of \$3,034,501.15, using crushed slag in the surface course, for the performance of Contract CIP 59-92-01, is, and is by the Commission, determined to be the lowest responsive and responsible bid received for the performance of said contract, and is accepted, and that the

chairman and executive director, or either of them, hereby is authorized (1) to execute a contract with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bid; (2) to direct the return to the other bidders of their bid security, when appropriate, and (3) to take any and all action necessary or proper to carry out the terms of said bid and of said contract."

The Executive Director said further that he wanted to point out that the contract contained an alternate to utilize crushed slag in the surface course as a safety feature. He said these projects called for at least two to three inches of the existing asphalt to be milled down and removed. He said that next a base course of about two inches was put down, and then a second surface course about one inch thick was applied. He said it was the second surface course in which granulated slag was specified, which was usually a more expensive product. He said alternate bids were taken so that the Commission was not what he called whipsawed. He said that had happened in the past when an alternate had not been in a bid and there turned out to be only one source of granulated slag, which was a by-product of steel making, and bids had been quite high.

The Executive Director said further that, although it was more expensive, granulated slag provided superior skid resistance in the surface of the Turnpike and he thought it was one of the reasons why the Turnpike was such a safe facility. He said he recommended the contract be awarded to the low bidder.

The Chairman asked why the S. E. Johnson Company in the resolution was identified as being based in Elyria.

The Executive Director said he understood the S. E. Johnson Company had several different offices, although their headquarters was in Maumee. He said the Maumee office in fact would be handling the project.

A resolution awarding contract CIP 59-92-01 was moved for adoption by Mr. Pinzone, seconded by Mr. Bergsmark as follows:

RESOLUTION NO. 4-1992

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for mainline repairs and resurfacing of original contract sections 44, 45, 46 (A & B) and 47, between Milepost 62.5 and Milepost 71.1 in Lucas and Wood Counties. This contract also includes the relocation of Latcha Road and rehabilitation of a 54-inch pipe and outlet channel;

"WHEREAS, three bids for the performance of said contract were received;

"WHEREAS, said bids have been reviewed and analyzed by the Commission's deputy executive director-chief engineer and the Commission's consulting engineer, and they have submitted reports concerning such analyses and those reports are before the Commission and the Commission's executive director has made his recommendation to the Commission predicated upon such analyses;

"WHEREAS, the Commission's minority business enterprise coordinator has reviewed the documents submitted by the bidders and has determined that there is satisfactory evidence of compliance with the Commission's Minority Business Enterprise Program;

"WHEREAS, all bids for said contract were solicited on the basis of the same terms and conditions and the same specifications, and the bid of S. E. Johnson Companies, Inc. of Maumee, Ohio, in the amount of \$3,034,502.15, using crushed slag in the surface course, for the performance of Contract CIP 59-92-01 has been determined by the Commission to be the lowest responsive and responsible bid received;

"WHEREAS, the Commission has been advised by its general counsel that said bid conforms to the requirements of Section 5537.07 (B), Section 9.312 and Section 153.54, all of the Revised Code of Ohio, and that a performance bond with good and sufficient surety has been submitted by S. E. Johnson Companies, Inc. of Maumee, Ohio;

"NOW, THEREFORE, BE IT

"RESOLVED that the bid of S. E. Johnson Companies, Inc. of Maumee, Ohio in the amount of \$3,034,502.15, using crushed slag in the surface course, for the performance of Contract CIP 59-92-01, is, and is by the Commission, determined to be the lowest responsive and responsible bid received for the performance of said contract, and is accepted, and that the chairman and executive director, or either of them, hereby is authorized (1) to execute a contract with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bid; (2) to direct the return to the other bidders of their bid security, when appropriate, and (3) to take any and all action necessary or proper to carry out the terms of said bid and of said contract."

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

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

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was identified as No. 4-1992.

The Executive Director said further that the next resolution concerned Contract CIP 59-92-02, which was a project to resurface the Turnpike mainline between milepost 101.4 through 111.7 in Sandusky and Erie Counties. He said there were four bids for that contract. He said, incidentally, the bid tabs, both the summary and the item-by-item tabs, were in the Members' folders. He said the three stacks of papers on the conference table were bid documents, one stack per contract. He said those were the proposals and the specifications, but not the plans.

The Chairman asked about how long it took to go through and review all the bids and make recommendations.

The Executive Director said a great deal of effort had gone into reviewing the bids and having the recommendations ready for the Commission meeting because the bids were opened on February 28, March 3 and March 6.

The Chairman asked if the process could be done properly in that amount of time.

The Executive Director said that it could be done properly in that time period. He said he would read the resolved of the resolution as follows:

"NOW, THEREFORE, BE IT

"RESOLVED that the bid of Gerken Paving, Inc. of Napoleon, Ohio, in the amount of \$3,193,569.79, using crushed slag in the surface course and utilizing temporary access, for the performance of Contract CIP 59-95-02, is, and is by the Commission, determined to be the lowest responsive and responsible bid received for the performance of said contract, and is accepted, and that the chairman and executive director, or either of them, hereby is authorized (1) to execute a contract with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bid; (2) to direct the return to the other bidders of their bid security, when appropriate, and (3) to take any and all action necessary or proper to carry out the terms of said bid and of said contract."

The Executive Director said further that this project called for utilizing a temporary access since it involved a 27-mile stretch between the Fremont (No. 6) and Sandusky-Norwalk (No. 7) Interchanges. He said the staff often took alternate bids for the contractors to let them pick the access point. He said they sometimes had to build a temporary ramp in order to get onto the Turnpike from an adjoining road system where there was not an interchange. He said this was done to allow the contractors to

avoid long travel distances for transporting materials. He said, such a situation could arise in the transporting of ground millings from the mainline surface, which are recycled into the base course. He said that procedure resulted in a tremendous amount of trucking activity to get the materials off to a plant and returned to the Turnpike. He said, therefore, the staff allowed temporary accesses at certain times. He said that, the access points contained in Contract CIP 59-92-02 had been used in the past in a successful and safe manner. He said he recommended the resolution be adopted.

The Chairman said that in this particular instance four contractors bid on the contract and two apparently bid on a temporary access route. He asked why the other two bidders failed to do so.

Mr. Plain said they may not have wanted to bring in a drum-mix plant to park at the access point. He said it was not an unusual situation.

A motion to adopt resolution CIP 59-92-02 was moved for adoption by Mr. Bergsmark, seconded by Mr. Pinzone as follows:

RESOLUTION NO. 5-1992

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for mainline repairs and resurfacing of original contract sections 33, 34 and 35, between Milepost 101.4 and Milepost 111.7 in Sandusky and Erie Counties;

"WHEREAS, four bids for the performance of said contract were received;

"WHEREAS, said bids have been reviewed and analyzed by the Commission's deputy executive director-chief engineer and the Commission's consulting engineer, and they have submitted reports concerning such analyses and those reports are before the Commission and the Commission's executive director has made his recommendation to the Commission predicated upon such analyses;

"WHEREAS, the Commission's minority business enterprise coordinator has reviewed the documents submitted by the bidders and has determined that there is satisfactory evidence of compliance with the Commission's Minority Business Enterprise Program;

"WHEREAS, all bids for said contract were solicited on the basis of the same terms and conditions and the same specifications, and the bid of Gerken Paving, Inc. of Napoleon, Ohio in the amount of \$3,193,569.79, using crushed slag in the surface course and utilizing temporary access, for

the performance of Contract CIP 59-92-02 has been determined by the Commission to be the lowest responsive and responsible bid received;

"WHEREAS, the Commission has been advised by its general counsel that said bid conforms to the requirements of Section 5537.07 (B), Section 9.312 and Section 153.54, all of the Revised Code of Ohio, and that a performance bond with good and sufficient surety has been submitted by Gerken Paving, Inc.;

"NOW, THEREFORE, BE IT

"RESOLVED that the bid of Gerken Paving, Inc. of Napoleon, Ohio, in the amount of \$3,193,569.79, using crushed slag in the surface course and utilizing temporary access, for the performance of Contract CIP 59-92-02, is, and is by the Commission, determined to be the lowest responsive and responsible bid received for the performance of said contract, and is accepted, and that the chairman and executive director, or either of them, hereby is authorized (1) to execute a contract with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bid; (2) to direct the return to the other bidders of their bid security, when appropriate, and (3) to take any and all action necessary or proper to carry out the terms of said bid and of said contract."

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

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

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was identified as No. 5-1992.

The Executive Director said also that the next resolution was for Contract 59-92-03 to resurface the mainline between mileposts 132 and 144 in Erie and Lorain Counties. He said he would read the resolved as follows:

"NOW, THEREFORE, BE IT

"RESOLVED that the bid of Northern Ohio Paving Company of Twinsburg, Ohio, in the amount of \$4,404,715.23, using crushed slag in the surface course, for the performance of Contract CIP 59-92-03, is, and is by the Commission, determined to be the lowest responsive and responsible bid received for the performance of said contract, and is accepted, and that the chairman

and executive director, or either of them, hereby is authorized (1) to execute a contract with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bid; (2) to direct the return to the other bidders of their bid security, when appropriate, and (3) to take any and all action necessary or proper to carry out the terms of said bid and of said contract."

The Executive Director said further that the successful bidder did propose using a temporary access point, not one specified in the contract. He said it so happened that the access point conflicted with the acceleration ramp from the Turnpike's Vermilion Valley Service Plaza. He said the bid to use that point was just \$10,000 lower, but its use would cause major problems in the service plaza which had some of the heaviest traffic on the Turnpike. He said as a safety decision it was not worth the \$10,000 to let the contractor, who was still the low bidder, with or without the \$10,000 in question, use the access point.

A resolution to award Contract 59-92-03 was moved for adoption by, Mr. Zook, seconded by Mr. Fedeli as follows:

RESOLUTION NO. 6-1992

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for mainline repairs and resurfacing of original contract sections 24, 25, 26 and 27, between Milepost 132.0 and Milepost 144.0 in Erie and Lorain Counties;

"WHEREAS, four bids for the performance of said contract were received;

"WHEREAS, said bids have been reviewed and analyzed by the Commission's deputy executive director-chief engineer and the Commission's consulting engineer, and they have submitted reports concerning such analyses and those reports are before the Commission and the Commission's executive director has made his recommendation to the Commission predicated upon such analyses;

"WHEREAS, the Commission's minority business enterprise coordinator has reviewed the documents submitted by the bidders and has determined that there is satisfactory evidence of compliance with the Commission's Minority Business Enterprise Program;

"WHEREAS, all bids for said contract were solicited on the basis of the same terms and conditions and the same specifications, and the bid of Northern Ohio Paving Company of Twinsburg, Ohio, in the amount of \$4,404,715.23 using crushed slag in the surface course, for the performance of Contract

CIP 59-92-03 has been determined by the Commission to be the lowest responsive and responsible bid received;

"WHEREAS, the Commission has been advised by its general counsel that said bid conforms to the requirements of Section 5537.07 (B), Section 9.312 and Section 153.54, all of the Revised Code of Ohio, and that a performance bond with good and sufficient surety has been submitted by Northern Ohio Paving Company;

"NOW, THEREFORE, BE IT

"RESOLVED that the bid of Northern Ohio Paving Company of Twinsburg, Ohio, in the amount of \$4,404,715.23, using crushed slag in the surface course, for the performance of Contract CIP 59-92-03, is, and is by the Commission, determined to be the lowest responsive and responsible bid received for the performance of said contract, and is accepted, and that the chairman and executive director, or either of them, hereby is authorized (1) to execute a contract with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bid; (2) to direct the return to the other bidders of their bid security, when appropriate, and (3) to take any and all action necessary or proper to carry out the terms of said bid and of said contract."

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

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

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was identified as No. 6-1992.

Mr. Bergsmark asked when the resurfacing projects would start and end.

The Executive Director said that all three projects would begin in March and two would be completed by June 30. He said contract CIP 59-92-03 would take longer to complete so work would be suspended at the end of June and resumed after the Labor Day holiday period.

The Executive Director said also that the Members had before them a resolution terminating the Employee Severance Anticipation Compensation Plan. He said that, as the Members knew, he had submitted a report earlier in March to the Commission about that particular subject. He said the Commission had established and began funding the plan in 1977 with the purpose of providing an

incentive for Commission employees to remain with the Commission until the very day it ceased to be their employer as a result of the Turnpike being turned over to the state after the bonds of the Commission were redeemed. He said, the fund was built up through monthly deposits and those deposits were suspended in September 1981, but the fund continued to grow by virtue of investment income through the years.

The Executive Director said further that, as everyone knew, the Turnpike Act had been amended to provide continuing the Turnpike as a toll road under the operation of the Commission, and that modification of the federal Tripartite Agreement to do the same was imminent, so it appeared appropriate to terminate the plan at that time. He said that when it adopted the plan the Commission reserved the right to amend or terminate it at any time. He said that as stated in the second to last "Whereas": as a result of the changes in both State and Federal law, the purpose for which the Severance Plan was adopted and established no longer exists." He said he recommended that it be terminated at that time. He said the resolved read:

"BE IT RESOLVED that the Commission hereby terminates the Employee Severance Anticipation Plan;

"FURTHER RESOLVED that the Executive Director is authorized and directed to take any other actions necessary to carry out the terms of this resolution."

A resolution terminating the employee severance anticipation compensation plan was moved for adoption by Mr. Pinzone, seconded by Mr. Fedeli as follows:

RESOLUTION NO. 7-1992

"WHEREAS, by Resolution No. 7-1977 of April 5, 1977, the Commission adopted the Employee Severance Anticipation Compensation Plan ("Severance Plan") in anticipation that the Commission might cease to be the operator of the Ohio Turnpike, and employer of those working on the Turnpike, by virtue of implementing Section 5537.21 of the Ohio Revised Code which stipulated that when the bonds and the interest thereon have been paid, or provisions for such payment in accordance with the trust agreement have been made, the Turnpike, if then in good condition and repair to the satisfaction of the Director of Transportation, shall become part of the state highway system, shall thereafter be maintained by the Ohio Department of Transportation, and shall be free of tolls;

"WHEREAS, Section 5537.21 of the Ohio Revised Code was amended by the Ohio General Assembly to provide that the Ohio Turnpike will continue to be operated by the Commission as a Toll Road, even after all outstanding bonds are paid;

"WHEREAS, Section 129(d) of Title 23, United States Code, under which a Tripartite Agreement was entered into as of July 14, 1964, and incorporated the toll free requirement of Section 5537.21 of the Ohio Revised Code, has been amended to require the toll free clause to be modified and removed upon request;

"WHEREAS, the Commission has requested that the Tripartite Agreement be modified to allow tolls to continue and the Federal Highway Administration has acknowledged that the request is proper and consistent with Federal law and intent;

"WHEREAS, as a result of the changes in both State and Federal law, the purpose for which the Severance Plan was adopted and established no longer exists;

"WHEREAS, the Severance Plan provided that the Commission reserves the right to terminate the plan at any time;

"NOW, THEREFORE, BE IT

"RESOLVED that the Commission hereby terminates the Employee Severance Anticipation Plan; and

"FURTHER RESOLVED that the Executive Director is authorized and directed to take any other actions necessary to carry out the terms of this resolution."

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

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

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was identified as No. 7-1992.

Senator Gaeth asked the Chairman the cash value of the plan.

The Chairman said the total was approximately \$20 million at that time.

The Chairman said the next item was the status of the Lordstown interchange plans. He said he was going to ask the Executive Director to report on those plans, but before the Executive Director did so he wanted to make some comments. He said he had a meeting with Governor George V. Voinovich on February 20 and his comments regarding the Lordstown interchange were very simple -- get it done. He said he and the Executive

Director had both talked to the plant manager at Lordstown, Mr. Michael Cubbin, and conveyed the Governor's wishes and Mr. Cubbin was very pleased. He said that it was the wish of the Governor to get the interchange built as quickly as possible.

The Executive Director said he was pleased to report that the plans for the interchange had been completed and delivered to the staff. He said that in addition to having the detailed construction plans, the staff had to prepare the contract documents and proposals and they were in the works. He said he hoped to advertise for bids and make the contract award either at the next Commission meeting in April or the one in May. He said the staff did have to get rights-of-entry on the right-of-way needed for the project.

The Chairman asked if General Motors could be helpful in acquiring the needed right-of-way.

General Counsel said General Motors had been approached relative to donation of the necessary right-of-way that they owned. He said the staff had not heard back from General Motors and, hopefully, the staff would hear from them relatively soon.

The Chairman asked if there remained other right-of-way parcels, besides those owned by General Motors to be acquired for the project.

General Counsel said there were seven other parcels needed. He said the staff was somewhat behind on the appraisals, but as far as delaying the overall project, he would not anticipate that it would be a problem.

The Executive Director said all of the right-of-way was vacant property, which was a help in that there were no buildings to be dealt with. He said that even if settlements were not achieved on those properties it was likely right of entry could be obtained. He said that, if that could not be achieved, appropriations would be filed to acquire the right to possess those parcels.

The Chairman said it would make a whole lot of people happy, including the Governor, if the Commission could start moving some dirt very quickly. He said that if the Commission could have something on the table by April 13, it would make a whole lot of folks happy.

Mr. Fedeli said that it was so important that the Governor met with the Chairman of General Motors to discuss it.

Representative Vukovich said the interchange was vitally important to the General Motors plant and it made sense from an economic standpoint to the Commission.

The Executive Director said the Commission authorized the interchange in March of 1990 and the staff had moved as quickly as possible in proceeding with the plans. He said the plans that were finished were the plans for the ramps and bridges for the new interchange. He said the Commission's consulting engineers were doing the plans for the toll plaza portions of the interchange, which had been submitted for review. He said the contracts for the toll plazas would be bid and awarded later because the grading (done under the first contract) had to be completed before the plazas could be built.

The Executive Director said another interesting aspect of the project was that the staff had been working with officials from the Hughes Aircraft Division of General Motors to develop an automatic electronic toll system involving the operations of the plant, both for employees and for shipments in and out of it. He said the system would be the first type of application involving a closed ticket system in the world. He said that although there had been some applications of automatic electronic toll collection it had been done on facilities with barrier toll plazas or bridges.

The Executive Director said further that the Turnpike's closed ticket system allowed a different toll to be paid at every exit point and was much more complicated than the automatic electronic toll applications already in place. He said the staff had a meeting with Hughes representatives the Friday before the Commission meeting and he hoped something could be put together for use at the Lordstown interchange. He said there would be heavy surges of traffic at the plant at shift change times. He said there also would be numerous shipments coming in and out of the plant with the just in time delivery program.

The Chairman said he thought some very positive action should be taken so that there was no question in anybody's mind that the Commission was building an interchange at the Lordstown plant.

Mr. Bergsmark said he thought the Commission should also move on the new Turnpike interchange with State Route 49, which was of special interest to Senator Gaeth.

The Chairman said that interchange should be done as soon as possible, although he had to admit that it didn't have quite the firepower behind it that Lordstown did.

Senator Gaeth said the State Route 49 interchange would be much cheaper to construct than the Lordstown interchange.

The Executive Director said Senator Gaeth was correct in that the State Route 49 interchange would be a simple diamond design which would be cheaper than the Lordstown interchange design. He said, however, the project did call for relocating

the Turnpike's Westgate toll plaza. He said the relocating of Westgate would have to be completed and opened before an interchange with State Route 49 could be finished. He said the plans were completed on moving Westgate and, if the go ahead were given by the Commission, the staff would move forward with the project.

The Chairman said he didn't think there was any question that the Commission wanted Westgate relocated and the interchange with State Route 49 constructed. He said he did feel that the Lordstown interchange took precedence, if in fact there had to be a selection made. He said one would hope that the Commission wouldn't have to make a selection and both could be built.

The Executive Director said the staff would concentrate on getting the plans prepared for bidding on the Lordstown interchange. He said the staff also would be working as fast as possible on the State Route 49 project.

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

General Counsel, Mr. McGrath, said the Members had in their folders a resolution dealing with the Hake property in connection with the State Route 49 interchange. He said the staff had been negotiating with Mr. and Mrs. Hake concerning that property for an extended period of time and, in his opinion, were unable to reach a resolution short of appropriation. He said he would read the final resolved of the resolution as follows:

"FURTHER RESOLVED that the General Counsel be, and he hereby is instructed to do or cause to be done all things that may be necessary in the premises in order that proceedings for the appropriation of the property described above may be commenced." He said it did not mean that the matter would go to trial. He said it just meant the property would be appropriated. He said he hoped to resolve all the cases short of trial, particularly in the appropriation area. He said he recommended that the Commission adopt the resolution.

The Chairman said the resolution to appropriate property was the fourth such resolution for the State Route 49 interchange, three having been approved at the last Commission meeting. He asked Mr. McGrath if he anticipated any additional resolutions appropriating property for the State Route 49 interchange.

Mr. McGrath said he did not.

A resolution declaring the necessity of appropriating property and directing that proceedings to effect such appropriation be begun and prosecuted was moved for adoption by Mr. Bergsmark, seconded by Mr. Fedeli as follows:

RESOLUTION NO. 8-1992

"RESOLVED that the Commission has negotiated for a reasonable time for the purchase of the real estate described herein with the owner, but has been unable to enter into an agreement and has complied with the provisions of section 163.04 of the Revised Code; and said property is necessary for the construction of a toll interchange with S.R. 49 and the Ohio Turnpike in the vicinity of Milepost 2.1 in Williams County, Ohio;

"BE IT FURTHER RESOLVED that proceedings be begun and prosecuted to effect the appropriation of the fee title and necessary easements on the following described property from the owners and persons having an interest therein, to-wit:

<u>Owners</u>	<u>Place of Residence</u>
Terry L. Hake and Trina R. Hake	RR 2 Edon, Ohio 43518
Evelyn Miller, County Auditor of Williams County	Court House, 2nd floor Bryan, Ohio 43506
Elaine Willibey, County Treasurer of Williams County	Court House, 2nd floor Bryan, Ohio 43506

"The aforementioned property to be appropriated is described as follows:

Parcel No. 2 WL -- Fee Simple
Parcel No. 2 EL -- Fee Simple

Legal descriptions are attached as Exhibit "A";

"FURTHER RESOLVED that the general counsel be, and he hereby is instructed to do or cause to be done all things that may be necessary in the premises in order that proceedings for the appropriation of the property described above may be commenced."

Parcel No. 2 WL

Being a parcel of land situated in part of the NE 1/4 of Section 4, Town 10 South, Range 4 West, Northwest Township, Williams County, State of Ohio, and being more particularly described as follows:

Commencing at the northeast corner of said Section 4; then S-00 52 01-W, along the east line of said Section 4, being also the centerline of State Route 49, 1323.41 feet to the northeast corner of a parcel of land conveyed to Terry L. and Trina R. Hake as described in Volume 253 at page 1014 of the Williams County Deed Record marking the PRINCIPAL POINT OF BEGINNING for this description; then continuing S-00 52 01-W, along said east line and centerline 509.21 feet to a point in the northerly limited access right-of-way line of the Ohio Turnpike (Sta. 116+87.42, 125.00' Lt.); then N-84 51 04-W, along said northerly line, said line being parallel with and 125.00 feet north measured at right angles from the centerline of Ohio Turnpike Project No. 1 as described in Plat Volume 5 at pages 45 and 46 of the Williams County Plat Records, 1875.16 feet to a point in the west line of said parcel of land conveyed to Terry L. & Trina R. Hake (Sta. 98+12.25, 125.00' Lt.); then N-00 44 29-E, along said west line and northerly line, 20.06 feet to a point marking the intersection of said northerly limited access right-of-way line with the east line of a parcel of land conveyed to Alton J. McClung, et al by deed as recorded in Volume 153, at page 537 of the Williams County Deed Records (Sta. 98+10.71, 145.00' Lt.); then S-85 24 09-E, 1039.34 feet to a point (Sta. 108+50.00, 155.00' Lt.); then N-73 52 55-E, 813.31 feet to a point in the west right-of-way line of State Route 49 (Sta. 116+07.93, 450.00' Lt.); then N-00 52 01-E, along said west line, 37.09 feet to a point (Sta. 116+05.16, 486.99' Lt.); then continuing N-07 44 09-E, along said west line, 143.06 feet to a point in the north line of said land conveyed to Terry L. and Trina R. Hake (Sta. 116+11.62, 629.90' Lt.); then S-89 13 02-E, along said north line, 37.89 feet to the point of beginning.

Containing in all 4.388 acres of land, more or less, of which 0.612 acre, more or less, is existing right-of-way and 3.776 acres, more or less, is new right-of-way, subject however to all legal highways and easements.

The bearings referred to herein are based upon the centerline survey plat for the Ohio Turnpike Project No. 1 as recorded in Volume 5, at page 45 of the Williams County Plat Records, and are used for the purpose of angular measurement.

This legal description was prepared from a resurvey performed on the ground by Robert A. Sanford, Ohio Surveyor No. 5424 - Poggemeyer Design Group, Inc., 1168 North Main Street, Bowling Green, Ohio, 43402.

Parcel No. 2 EL

Being a parcel of land situated in part of the NE 1/4 of Section 4, Town 10 South, Range 4 West, Northwest Township, Williams County, State of Ohio, and being more particularly described as follows:

Commencing at the northeast corner of said Section 4; then S-00 52 01-W, along the east line of said Section 4, being also the centerline of State Route 49, 1323.41 feet to the northeast corner of a parcel of land conveyed to Terry L. and Trina R. Hake as described in Volume 253 at page 1014 of the Williams County Deed Record; then N-89 13 02-W, along the north line of said parcel of land conveyed to Terry L. and Trina R. Hake, 37.89 feet to a point in the west right-of-way line of State Route 49 marking the PRINCIPAL POINT OF BEGINNING for this description; then S-07 44 09-W, along said west line, 143.06 feet to a point (Sta. 116+05.16, 486.99' Lt.); then continuing S-00 52 01-W, along said west line, 37.09 feet to a point (Sta. 116+07.93, 450.00' Lt.); then S-73 52 55W, 813.31 feet to a point (Sta. 108+50.00, 155.00' Lt.); then N-85 24 09-W, 1039.34 feet to a point in the west line of said parcel conveyed to Terry L. & Trina R. Hake, being also the point of intersection of the northerly limited access right-of-way line of the Ohio Turnpike as recorded in Volume 5, at page 45 of the Williams County Plat Records, with the east line of a parcel of land conveyed to Alton J. McClung, et al. by deed as recorded in Volume 153, at page 537 of the Williams County Deed Records (Sta. 98+10.71, 145.00' Lt.); then N-00 44 29-E, along said west line, 346.40 feet to the northwest corner of said parcel conveyed to Terry L. & Trina R. Hake; then S-89 13 02-E, along the north line of said parcel conveyed to Terry L. & Trina R. Hake, 1832.84 feet to the point of beginning.

Containing in all 14.412 acres of land, more or less, subject however to all legal highways and easements.

The bearings referred to herein are based upon the centerline survey plat for the Ohio Turnpike Project No. 1 as recorded in Volume 5, at page 45 of the Williams County Plat Records, and are used for the purpose of angular measurement.

This legal description was prepared from a resurvey performed on the ground by Robert A. Sanford, Ohio Surveyor No. 5424 - Poggemeyer Design Group, Inc., 1168 North Main Street, Bowling Green, Ohio, 43402.

Exhibit "B"

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. Fedeli, Mr. Zook,
Mr. Pinzone, Mr. Brennan

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was identified as No. 8-1992.

The Chairman said the report of General Counsel was accepted as offered.

He said that at that time he wanted to exercise his prerogative as Chairman and make a report as follows:

"In 1949 the Ohio Turnpike Commission was organized for the purpose of building a high-speed thruway across the northern part of Ohio to speed motor vehicle access from Pennsylvania to Indiana and vice versa and from and to points in northern Ohio.

"The Turnpike was built and has been operating for almost 40 years. The roadway is regarded as one of the best maintained highways in the USA and probably in the world. It is also one of the lowest cost toll roads in the country.

"In the intervening 40 years our mission has been changing. Now we are expected to be an economic tool especially in Northwest Ohio where the Turnpike and I-75 are the only Interstate highways to serve this large and very significant area.

"The use of Interchange 3A at Toledo Express airport which also serves Western Lucas County and Eastern Fulton County and Interchange 4A which connects the Turnpike and I-75 in Northern Wood County has well demonstrated the strategic importance of this area.

"As the economy improves I believe these two (2) new interchanges will prove to be more useful to the motoring public and especially to business and motor truck traffic.

"Also, when the Interchange with Ohio State Route 795 and I-75 is completed we will experience significant additional economic activity.

"These are examples of what the Ohio Turnpike Commission has done recently.

"Let us consider some of our resources. We have a senior management team that knows how to run and properly maintain a high-speed, first-class highway. We have the people at all levels on our staff who back them up.

"We know how to build interchanges.

"Even though we have not constructed any new highway miles in a long time, I am sure we have the expertise to get the job done.

"Our Governor, leaders and members of the State Legislature and the director of O.D.O.T. are all dedicated to economic development and those plans which will advance that agenda.

"We have encouragement from the Federal Government via the Transportation Act of 1991 to expand toll roads.

"We have the ability to issue at least \$450 million dollars in bonds on the basis of our current financial resources.

"Now it is time to look to the future. What are we going to do to help advance Ohio economically?

"I want the Commission to request our staff to immediately start to study the possibility of what is sometimes referred to as I-73 - I-74 running from Northwest Ohio to the Columbus area and continue thru Southeast Ohio to West Virginia. As part of this study review the possibility of using existing Ohio Route 15 and U.S. 23 to Columbus area and upgrading it to turnpike or interstate standards.

"Review the possibility of a spur highway running north to the Fostoria area from the new U.S. 23 and continuing north using the existing U.S. 23 and into the Toledo area connecting with the Turnpike or possibly I-280.

"Working with ODOT and other interested agencies to determine how the Ohio Turnpike Commission can help to expedite a new Maumee River crossing in Toledo. Perhaps we may become the agency that builds and operates this crossing on a toll basis. Hopefully, we could accomplish this task in less than the nine (9) years now contemplated.

"Also, let's look at new interchanges at State Route 66 in Fulton County, State Route 4, State Route 60 and State Route 61 in Erie County (statement should have been for State Route 51 in Ottawa County, not State Route 61) and others that local leaders and traffic surveys might indicate are feasible.

"I realize these proposals all affect Northwest Ohio. Certainly, other areas are also interested in Ohio Turnpike Commission involvement in projects. We want to be appraised of these projects and assure all that they will receive the same diligent study and interest that those here enumerated will receive.

"Hopefully these suggestions will be viewed as forward looking. That is my intent. Perhaps what we do as the Ohio Turnpike Commission in the next 5 to 10 years will be a tribute to those forward-looking people who organized this Commission in 1949."

The Chairman requested, in the form of a motion, that the staff proceed to study the items enumerated in his statement. The motion was seconded by Mr. Fedeli.

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

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

Nays: None

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

Mr. Fedeli said he had been in Columbus with the Chairman several weeks before the Commission meeting. He said that if he lived in northwest Ohio he would want the Chairman representing him because he definitely said that northwest Ohio had been ignored for a long time and now there were a lot of major projects that needed to be done. He said the Chairman obviously didn't want any time wasted.

The Chairman said that the amount of time that was required for most of these types of projects was considerable. He said that while he wasn't being critical of the time element, he thought starting today was a whole lot better than waiting for the full moon or whatever phase that might have to be awaited.

The Chairman said that the regular business of the meeting was concluded.

He said the Executive Director and General Counsel had requested that the Commission meet in executive session so the Members could be informed and review the current status of collective bargaining negotiations with representatives of the Commission's regular, full-time employees in the toll and maintenance departments and to discuss related matters involving other employees.

The Chairman said further that in order to hold such an executive session in compliance with the Revised Code of Ohio, he was requesting a motion and vote by the Members to hold the executive session.

A motion to hold an executive session was moved for adoption by Mr. Pinzone and seconded by Mr. Bergsmark.

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

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

Nays: None

The Chairman declared the motion was adopted with all Members present voting in the affirmative.

The Chairman said that before entering executive session he wanted to mention that the next Commission meeting would be held on Monday, April 13, at the Maumee Bay Resort and Conference Center at the Maumee Bay State Park.

(The executive session began 12:07 p.m. and ended at 1:13 p.m.)

There being no further business to come before the Commission, a motion was made by Mr. Pinzone, seconded by Mr. Bergsmark that the meeting adjourn, until the next meeting on April 13.


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

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

Nays: None

The Chairman declared the meeting adjourned. Time of adjournment was 1:14 p.m.

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


Edwin M. Bergsmark, Secretary-Treasurer