

MINUTES OF THE 378th MEETING OF THE OHIO TURNPIKE COMMISSION

July 21, 1992

Pursuant to the bylaws, the Ohio Turnpike Commission met in regular session in the administration building at 682 Prospect Street, Berea, Ohio, at 10:10 a.m., on July 21, 1992, with key members of the staff; Dean Berry and Bruce Gabriel of the fiscal and labor counsel, Squire, Sanders & Dempsey; W. Robson Fleischman, of the consulting engineers, Greiner Engineering, Inc.-Ohio; one member of the media, Pauline Thoma, The (Cleveland) Plain Dealer; 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,  
Umberto P. Fedeli, Edwin M. Bergsmark,  
James H. Brennan

Absent: Charles R. Pinzone, Jerry Wray

A motion was made by Mr. Bergsmark, seconded by Mr. Fedeli that the minutes of the meeting of June 15, 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. 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 378th meeting 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 Mr. Pinzone was on grand jury and unable to attend today's meeting, as was Jerry Wray.

The Chairman said there were a number of guests at the meeting and he said he would ask the Executive Director, Allan V. Johnson, to introduce them.

Mr. Johnson said that going around the room were: Sharon Isaac, staff counsel, Legal Department; Joe D'Angelo, summer law clerk, Legal Department; John Barrett, Star Bank; Pauline Thoma, The (Cleveland) Plain Dealer; Les Gaines, Minority Business Enterprise Coordinator; Heidi Jedel, Department Head Secretary, Information and Research Department; Lisa Anderson, Merrill

Lynch; Lou Disantis, Director of Administrative Services; Pat Patton, Government Liaison Officer; Captain Henry Williams, Commander of District 10 of the Ohio State Highway Patrol; Chris Riemenschneider, Kemper Securities; Jim Cooper, Donaldson, Lufkin, Jenrette; Dick Fetzer and Ed Presley, Society Bank; Dean Berry and Bruce Gabriel, Squire, Sanders & Dempsey; Don Sharp, Director of Operations; Barbara Lesko, Mr. Johnson's Secretary; Leah Fox, ODOT; and Diane Pring, General Counsel's secretary. He said that at the conference table were: G. Alan Plain, Deputy Executive Director-Chief Engineer; James C. McGrath, General Counsel; and Rob Fleischman, Greiner Engineering Inc.-Ohio.

The Chairman said that four other guests had entered the meeting room and asked them to identify themselves.

Dennis Golem and Paul Kolosi said they were with McDonald & Company. Dan Rohr said he was with Bank One Capital Corporation and John Lee from Kemper Securities.

The Chairman said the primary reason for the meeting was to act on a number of resolutions, draft copies of which have previously been sent to the Members and also were in the Members' folders. He said the resolutions would be explained during the various committee and staff reports.

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

The Secretary-Treasurer said the following listed items had been sent to the Members since the last regular meeting of the Commission, June 15, 1992:

- (1) Weekly traffic statistics
- (2) Investment transactions which occurred during June 1992
- (3) Draft of the Commission Meeting minutes of June 15, 1992
- (4) Traffic Accident Analysis for June 1992
- (5) Traffic and Revenue Report for June 1992
- (6) Financial Statement for June 1992
- (7) Litigation Report for the Second Quarter of 1992

The Secretary-Treasurer said also that he wanted to note that from January through May of 1992 the total revenues from Turnpike operations had exceeded those recorded in 1991, although there had been a slight decline in the month of June. He said that the January through June totals were still ahead of the previous year.

The Chairman said he hoped the June decline was a temporary aberration. He said he had noticed while traveling to the administration building earlier in the morning that all the highway dividers had been removed, which should improve the situation for those taking vacations.

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

The chairman of the Committee on Budget and Finance, Mr. Bergsmark, said that as the Members knew, the remaining bonds of the Commission were paid on June 1, 1992, which resulted in the defeasance of the Trust Agreement which secured those bonds. He said that as a result, the funds of the Commission no longer were controlled by a Trust Agreement and, at least for the time being, the funds were governed by the provisions of Sections 135.01-135.21 of the Ohio Revised Code concerning the selection by the Commission of depositories for the funds.

Mr. Bergsmark said further that it was appropriate, therefore, that the Commission acknowledge the situation and take action to comply with the applicable provisions of the Ohio Revised Code. He said that, accordingly, a resolution for that purpose had been prepared and he would read the resolved as follows:

"RESOLVED that the executive director and general counsel are hereby directed to take any and all action necessary to comply with the provisions of Chapter 135 of the Revised Code of Ohio insofar as applicable to seek applications for depositories of applicable moneys of the Commission."

Mr. Bergsmark said he moved that the resolution be adopted.

A resolution concerning the deposit of Turnpike funds was moved for adoption by Mr. Bergsmark, seconded by Mr. Fedeli as follows:

RESOLUTION NO. 27-1992

"WHEREAS, in light of the recent defeasance of the Ohio Turnpike Commission's Trust Agreement securing the Commission's Turnpike Refunding Revenue Bonds of 1984, and the provisions of Section 5537.14 of the Revised Code of Ohio to the effect that moneys received from the operation of the Ohio Turnpike shall be kept in depositories as selected by the Commission in the manner provided in Sections 135.01-135.21 of the Revised Code of Ohio insofar as such sections are applicable and further that such deposits shall be secured as provided in Sections 135.01-135.21 of the Revised Code of Ohio;

"WHEREAS, the Commission shall seek applications for and designate depositories in accordance with the provisions of Chapter 135 of the Revised Code insofar as they are applicable and for such time until and unless different provisions for designating or establishing depositories for such funds may apply;

"NOW, THEREFORE, BE IT

"RESOLVED that the executive director and general counsel are hereby directed to take any and all action necessary to comply with the provisions of Chapter 135 of the Revised Code of Ohio insofar as applicable to seek applications for depositories of applicable moneys of the Commission."

Mr. Bergsmark said he might add that the resolution was probably one of the first steps in examining all the different financial transactions of the Commission. He said the first step was to make sure the Commission was in compliance with Section 135 of the Ohio Revised Code regarding depository relationships. He said that further on the Commission would be looking at the banking relationships, as well investment management, future consideration of bond anticipation notes and other financing instruments.

The Chairman said the adoption of the resolution was basically a housekeeping measure to bring the Commission in compliance with the Ohio Revised Code.

Mr. Bergsmark said the Chairman was correct. He said that, based on the opinion of the Commission's outside counsel, once the trust agreement was terminated, the Commission became governed under Section 135 of the Ohio Revised Code pertaining to depository relationships. He said the Commission was seeking applications from interested banks or financial institutions to serve as depositories of Turnpike funds.

The Chairman asked General Counsel if he had any comments to add.

General Counsel said he agreed with the thrust of the resolution and the staff was taking immediate action to go forward with the procedure outlined in the resolution.

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. Brennan

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was identified as No. 27-1992.

The Chairman ascertained there would be no report from the Committee on Audit/Legal. He said the report of the Committee on Service Plazas would be received.

The chairman of the Committee on Service Plazas, Mr. Gaeth, said he would like to tell the Members and others in attendance about an experience he had on a return trip home on the Turnpike from the Pittsburgh area. He said he and his wife stopped at a Turnpike service plaza. He said his wife ordered an ice cream cone, while he had a soft drink. He said he paid for both with a \$20 bill, and later discovered he had been shortchanged by \$10.00. He said that when he reported the shortage to the woman clerk on duty, she took a minute to wait on a customer, returned to the cash register, told him he was correct and gave him his \$10.00.

Mr. Gaeth said the action of the clerk was very commendable. He said he brought it to the Members attention because, if it was an indication of the kind of people working at the Turnpike service plazas, he thought the Commission could be proud of them.

The Executive Director, Allan V. Johnson, asked Mr. Gaeth if he remembered what service plaza he had stopped at in his travels.

Mr. Gaeth said he should have jotted down the plaza name, but had not done so.

The Chairman asked if Mr. Gaeth would comment on their experience the morning of the meeting.

Mr. Gaeth said he, Mr. Brennan and Mr. Bergsmark had stopped at a service plaza on the Turnpike where they found the rest room facilities to be in a severely worn condition. He said a couple of the bowls were not working and neither was the flush on several other facilities. He said they had spoken to Mr. Johnson on the matter and it appeared to him that plumbing does wear out and it was probably in that condition at all plazas. He said the floors in the service areas were being mopped continuously and shone, but he thought the rest room equipment was worn out. He said he presumed the Commission would be getting into an expenditure for new equipment for some of the service plazas. He asked the Executive Director how long it had been since that equipment had been replaced.

The Executive Director said there had been a major renovation of all the rest room facilities about ten years ago. He said all 16 service plazas had heavy traffic in the rest rooms. He said he agreed with Mr. Gaeth that it was time to look into rejuvenating the rest rooms at all the Turnpike service plazas, and he said he assured the Members that it would be done in the very near future.

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

The Chairman of the Committee on Employee Relations, Mr. Fedeli, said that as reported at the last meeting of the Commission, a sub-committee of the Committee on Employee Relations had been working on proposed changes of benefits and wages and salaries for those employees outside of the Collective Bargaining Unit. He said as the Members knew, however, the Commission acted at the last meeting to award a new contract for employee insurance which covered all regular full-time employees of the Commission and which would go into effect on August 1. He said, furthermore, based on approval of the Chairman and Executive Director, the sub-committee already had informed the non-collective bargaining unit employees that changes in longevity increments, sick leave and vacation benefits, would apply to all of them.

Mr. Fedeli said further that possible changes in wages and salaries were still under consideration.

Mr. Fedeli said further that it was appropriate, however, for the Commission to acknowledge and ratify the actions that had been taken to implement the changes in employee benefits which had been described. He said a resolution for that purpose had been prepared and he would read the resolved as follows:

"RESOLVED that the Commission having reviewed the aforesaid recommendations hereby approves same and ratifies the actions taken by the executive director and other staff members to implement such recommendations."

Mr. Fedeli said he moved that the resolution be adopted.

A resolution ratifying the establishment and implementation of certain terms and conditions of employment with Commission employees other than those in the collective bargaining unit was moved for adoption by Mr. Fedeli, seconded by Mr. Bergsmark as follows:

RESOLUTION NO. 28-1992

"WHEREAS, the Commission, acting through its Committee on Employee Relations and its executive director, as provided in its Code of Bylaws, have conducted discussions with representatives of various employee groups, not part of the collective bargaining unit, for the purpose of reviewing changes in such employees' insurance, sick leave, vacation and longevity benefits and working conditions (other than general wages and salary increases);

"WHEREAS, the Commission has awarded a new contract for the various employee insurance coverages which includes all regular, full-time employees of the Commission;

"WHEREAS, the Commission's Committee on Employee Relations has made recommendations to the chairman and executive director concerning the terms and conditions of employment of its employees not within the bargaining unit, and the chairman and executive director have approved such recommendations;

"WHEREAS, the recommendations are consistent with the terms and conditions that apply to the employees in the collective bargaining unit which already have been approved by the Commission;

"WHEREAS, the employees have been advised of such changes, a number of which already have been implemented;

"NOW, THEREFORE, BE IT

"RESOLVED that the Commission having reviewed the afore-said recommendations hereby approves same and ratifies the actions taken by the executive director and other staff members to implement such recommendations."

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

Ayes: Mr. Fedeli, 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. 28-1992.

Mr. Fedeli said he thought the committee was quite happy with the substantial savings in the employee benefit area for Turnpike employees.

The Director of Administrative Services, Louis J. Disantis, said that all the work to implement the new insurance program had been going on and was just about complete. He said Blue Cross/Blue Shield had been very cooperative and held several meetings out in the field with Commission employees and those in the administration building. He said the identification cards should be ready prior to August 1 and distributed around July 29. He said everything was going very smoothly.

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

The Executive Director said most of his report would consist of introducing resolutions to award contracts on which bids have been taken by the Commission. He said those bids were supplemented with information that was in the Members' folders.

The Executive Director said further that the contracts to be awarded were for renovation of bridges over the Turnpike, which was a continuation of a program that had been going on for many years. He said some of the bids had to be delayed from earlier in the year while things were straightened out about the Turnpike's future. He said the Commission was now back into the bridge renovation business for contracts which would start as soon as possible and proceed until the end of 1992.

The Executive Director said further that the first one of those projects was CIP, the abbreviation for Capital Improvement Project, 43-90-16. He said the contract was for renovating ramp bridges in the Streetsboro (No. 13) Interchange area. He said there were five bidders on the project and the low bidder was the S. E. Johnson Company. He said he would dispense with reading the Whereases, but read the Resolved as follows:

"RESOLVED that the bid of the S. E. Johnson Companies, Inc. of Maumee, Ohio, in the amount of \$781,058.40, for the performance of Contract CIP 43-90-16 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, as he had indicated, the backup information from the General Counsel, Deputy Executive Director-Chief Engineer, outside consultants, the Commission's general consultant and the MBE Coordinator was in the Members' folders. He said he recommended that the resolution to award the contract be adopted.

A resolution awarding contract CIP 43-90-16 was moved for adoption by Mr. Bergsmark, seconded by Mr. Fedeli as follows:

RESOLUTION NO. 29-1992

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for bridge renovation at the Exit 13 ramp over the Ohio Turnpike at Milepost 187.2 and the Exit 13 ramp over State Route 14 at Milepost 187.2 located in Portage County, which contract has been designated CIP 43-90-16;



"WHEREAS, five 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, the Commission's contracting 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 the S. E. Johnson Companies, Inc. of Maumee, Ohio, in the amount of \$781,058.40 for the performance of Contract CIP 43-90-16 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 the S. E. Johnson Companies Inc.;

"NOW, THEREFORE, BE IT

"RESOLVED that the bid of the S. E. Johnson Companies, Inc. of Maumee, Ohio, in the amount of \$781,058.40, for the performance of Contract CIP 43-90-16 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 Chairman said it should be noted that the winning bid was about \$65,000 under the estimate. He said it was a continuation of a pattern whereby the Commission had been receiving many bids under the estimated amounts for Turnpike contracts. He said

there had been three bids under the estimated cost of that particular project.

The Executive Director said that, generally, the Commission had been receiving excellent bids on its projects. He said it was a good climate to be bidding contracts.

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. Brennan

Nays: None

The Chairman declared the resolution stood adopted with all Members present responding in the affirmative. The resolution was identified as No. 29-1992.

The Executive Director said also that the next resolution was designated CIP 43-90-11/FTP 43-90-12. He said the FTP stood for Fuel Tax Project. He said the Commission received a small amount of fuel taxes from the fuel sold at the Turnpike service plazas which were designated by a section of the Ohio Revised Code for specific purposes. He said the Commission had used those funds only for bridges carrying state routes over the Turnpike and that was what was included in that particular project.

The Executive Director said further that there were seven bidders on that contract. The low bidder again was the S. E. Johnson Company. He said he would read the Resolved as follows:

"RESOLVED that the bid of S. E. Johnson Companies, Inc. of Maumee, Ohio, in the amount of \$966,503.85, using aluminum fencing, for the performance of Contract CIP 43-90-11/FTP 43-90-12, 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, once again, the backup memos from General Counsel, the Deputy Executive Director-Chief Engineer, the consultants and the Minority Business Enterprise Coordinator were included in the Members' folders and he recommended that the resolution be adopted.

A resolution awarding contract CIP 43-90-11/FTP 43-90-12 was moved for adoption by Mr. Bergsmark, seconded by Mr. Fedeli as follows:

RESOLUTION NO. 30-1992

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for bridge renovation at the Joppa Road Bridge over the Ohio Turnpike at Milepost 128.5; Harrison Road Bridge over the Ohio Turnpike at Milepost 130.8, S.R. 60 Bridge over the Ohio Turnpike at Milepost 131.6 in Erie County, Ohio, which contract has been designated CIP 43-90-11/FTP 43-90-12;

"WHEREAS, seven 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, the Commission's contracting 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 \$966,503.95, using aluminum fencing, for the performance of Contract CIP 43-90-11/FTP 43-90-12 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.;

"NOW, THEREFORE, BE IT

"RESOLVED that the bid of S. E. Johnson Companies, Inc. of Maumee, Ohio, in the amount of \$966,503.85, using aluminum fencing, for the performance of Contract CIP 43-90-11/FTP 43-90-12, 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 Chairman asked why aluminum fencing was called for in the contract as opposed to steel fencing.

The Executive Director said aluminum fencing was longer lasting and required less maintenance than steel fencing. He said that in most instances the aluminum fencing was more expensive than steel, but the added cost was offset by the longevity factor.

The Deputy Executive Director-Chief Engineer, G. Alan Plain, said that in one of the bids that was opened the aluminum fence was cheaper than steel.

The Executive Director said that was why the staff took alternative bids on the projects.

The Chairman said he was impressed with the difference between the estimate and the winning bid, which was between 20 to 22 percent. He said he also took note of the significant spread between the high and low bids. He said they were from \$966,000 up to \$1,270,000, which was a lot of money.

Mr. Plain said there wasn't very much work being placed for bid at that time, so there were a lot of hungry contractors. He said the Commission was the beneficiary of that situation.

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. Brennan

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was identified as No. 30-1992.

The Executive Director said also that the next resolution was designated CIP 43-92-09/FTP 43-92-10. He said it was a contract for five bridges including ramp bridges in the Warren (No. 14) Interchange area and bridges over the Turnpike in Trumbull County. He said there were only two bidders on the project. He said the low bid was submitted by the A. P. O'Horo Company and he would read the Resolved as follows:

"RESOLVED that the bid of the A. P. O'Horo Company of Youngstown, Ohio, in the amount of \$1,575,438.23, using aluminum fencing, for the performance of Contract CIP 43-92-09/FTP 43-92-10, 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 bidder of its 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, again, the backup information was in the Members' folders and he recommended that the resolution be adopted.

A resolution awarding contract CIP 43-92-09/FTP 43-92-10 was moved for a motion by Mr. Fedeli, seconded by Mr. Bergsmark as follows:

RESOLUTION NO. 31-1992

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for bridge renovation at the Nichols Road Bridge over the Ohio Turnpike at Milepost 199.2; Jewel-North Road Bridge over the Ohio Turnpike at Milepost 206.3, Exit 14 ramp over the Ohio Turnpike at Milepost 209.2; Exit 14 ramp over State Route 5 at Milepost 209.6 located in Portage and Trumbull Counties; and State Route 534 over the Ohio Turnpike at Milepost 207.6 located in Trumbull County, which contract has been designated CIP 43-92-09/FTP 43-92-10;

"WHEREAS, two 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, the Commission's contracting 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 the A. P. O'Horo Company of Youngstown, Ohio, in the amount of \$1,575,438.23, using aluminum fencing, for the performance of Contract CIP 43-92-09/FTP 43-92-10 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 the A. P. O'Horo Company;

"NOW, THEREFORE, BE IT

"RESOLVED that the bid of the A. P. O'Horo Company of Youngstown, Ohio, in the amount of \$1,575,438.23, using aluminum fencing, for the performance of Contract CIP 43-92-09/FTP 43-92-10, 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 bidder of its 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. Fedeli, Mr. Bergsmark, Mr. Brennan

Nays: None

The Chairman declared the resolution stood adopted with all Members responding in the affirmative. The resolution was identified as No. 31-1992.

The Chairman asked why there had been only two bidders on that contract when there had been seven bidders on the previous contract.

The Executive Director said that it seemed that when the Commission was soliciting bids in the Youngstown area there were a fewer number of bidders, but he had no explanation for that situation.

The Executive Director said also that the next resolution was called CIP 43-92-07/FTP 43-90-08. He said it was a contract

for renovation of six bridges over the Turnpike in Summit and Portage Counties. He said there were seven bidders and the low bid was submitted by the Peerless Construction Company. He said he would read the Resolved as follows:

"RESOLVED that the bid of Peerless Construction Company of Fremont, Ohio, in the amount of \$1,615,067.55, using aluminum fencing, for the performance of Contract CIP 43-92-07/FTP 43-92-08, 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 the backup information was in the Members' folders and he recommended that the resolution be adopted.

A resolution awarding contract CIP 43-92-07/FTP 43-92-08 was moved for adoption by Mr. Fedeli, seconded by Mr. Bergsmark as follows:

RESOLUTION NO. 32-1992

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for bridge renovation at the Prospect Road Bridge over the Ohio Turnpike at Milepost 182.1; Coit Road Bridge over the Ohio Turnpike at Milepost 192.4, Peck Road Bridge over the Ohio Turnpike at Milepost 195.2; Limeridge Road Bridge over the Ohio Turnpike at Milepost 196.7; and Asbury Road Bridge over the Ohio Turnpike at Milepost 197.8; and S.R. 700 Bridge over the Ohio Turnpike at Milepost 198.5 in Summit and Portage Counties, Ohio, which contract has been designated CIP 43-92-07/FTP 43-92-08;

"WHEREAS, seven 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, the Commission's contracting 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 Peerless Construction Company of Fremont, Ohio, in the amount of \$1,615,067.55, using aluminum fencing, for the performance of Contract CIP 43-92-07/FTP 43-92-08 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 Peerless Construction Company;

"NOW, THEREFORE, BE IT

"RESOLVED that the bid of Peerless Construction Company of Fremont, Ohio, in the amount of \$1,615,067.55, using aluminum fencing, for the performance of Contract CIP 43-92-07/FTP 43-92-08, 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 Chairman said, again, he was surprised that there were seven bidders. He said it was amazing that the high bidder was \$800,000 over the low bidder, which was a 50 percent difference. He said he thought the high bidder didn't understand the contract specifications. He said he wondered why the company offered such a bid.

Mr. Plain said that perhaps the company was attempting to keep its estimators sharp and see how they stacked up against the competition.

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

Ayes: Mr. Fedeli, 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. 32-1992.

The Executive Director said also that the next project was designated as CIP 55-92-02 which was a project to construct the interchange at State Route 49 in Williams County. He said the Members already were aware that contracts had been let for the relocation of the Westgate Toll Plaza, which was all part of that project. He said contract CIP 55-92-02 was to construct the interchange ramps. The Executive Director said further that there were five bidders and the low bidder was Miller Brothers Construction, Incorporated. He said he would read the Resolved as follows:

"RESOLVED that the bid of Miller Brothers Construction of Archbold, Ohio, in the amount of \$1,965,419.04, for the performance of Contract CIP 55-92-02, 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."

The Executive Director said that the backup information was in the Members' folders and he recommended that the resolution be adopted.

A resolution awarding contract CIP 55-92-02 was moved for adoption by Mr. Bergsmark seconded by Mr. Fedeli as follows:

RESOLUTION NO. 33-1992

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for construction of new diamond interchange ramps between the Ohio Turnpike and State Route 49, at Milepost 2.2 in Williams County, Ohio, which contract has been designated CIP 55-92-02 and is commonly referred to as the new Westgate Interchange;

"WHEREAS, five 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 Miller Brothers Construction of Archbold, Ohio, in the amount of \$1,965,419.04, for the performance of Contract CIP 55-92-02 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 Miller Brothers Construction of Archbold, Ohio;

"NOW, THEREFORE, BE IT

"RESOLVED that the bid of Miller Brothers Construction of Archbold, Ohio, in the amount of \$1,965,419.04, for the performance of Contract CIP 55-92-02, 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."

Mr. Bergsmark asked if the estimated cost of the project at \$2,644,000 was correct.

The Executive Director said that estimate was prepared by the consultant on the project and it had been modified by our engineering staff down to a lower figure.

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. Brennan

Nays: None

The Chairman declared the resolution stood adopted with all Members present voting in the affirmative. The resolution was identified as No. 33-1992.

The Executive Director said also that the last item he had involved a contract to replace the mainframe computer system of the Commission, which was located in the administration building. He said it served all of the Commission's toll audit functions. He said it was on-line with all the Turnpike's toll plazas. He said it also performed the administrative computer functions of the Commission.

The Executive Director said further the bids had been solicited on the system. He said, however, at that time, he was not prepared to make a recommendation for award. He said it was probable that it would be necessary for the Commission to act on those bids prior to another meeting of the Commission. He said that he recommended that the Commission adopt a resolution to authorize the Chairman to act on that award in the event it had to be done before another Commission meeting.

The Chairman said he thought it likely action would have to be taken before the next Commission meeting on August 31. He said a decision would most likely be made by the end of July to award or reject bids on a contract.

The Executive Director suggested a modified resolution, whereby the Chairman would consult with the Members, the Executive Director and the Comptroller, Craig Rudolphy, and be authorized to act on the contract for a new computer system.

A motion on a resolution authorizing the Chairman to take action to award a contract or reject all bids for a new mainframe computer system was moved for adoption by Mr. Fedeli, seconded by Mr. Bergsmark as follows:

RESOLUTION NO. 34-1992

"WHEREAS, the Commission has advertised for bids for a contract for furnishing a Computer System to replace the major components of its existing VAXcluster Computer System, which invitation has been designated Invitation No. 3219-C;

"WHEREAS, two bids were received pursuant to the invitation and such bids are in the process of being reviewed and analyzed by the Commission's Accounting and legal departments, but such review and analyses have not been completed as of this date;

"WHEREAS, it is anticipated that the review and analyses of the bids will be completed within the near future and that it may be necessary to award this contract prior to the next meeting of the Commission;

"WHEREAS, the Commission desires to delegate to the chairman authority to take action on behalf of the Commission concerning the award of contract pursuant to Invitation 3219-C, if such action is deemed necessary prior to the next Commission meeting;

"NOW, THEREFORE BE IT

"RESOLVED that the chairman of the Ohio Turnpike Commission is hereby authorized to take any action necessary concerning Invitation No. 3219-C prior to the next meeting of the Ohio Turnpike Commission including the award of contract for such invitation or the rejection of all bids received in response to such invitation; and

"FURTHER RESOLVED that the chairman shall, to the extent reasonably possible, consult with other members of the Commission as well as the executive director and comptroller of the Commission prior to taking action in accordance with 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. Fedeli, Mr. Bergsmark, Mr. Brennan

Nays: None

The Chairman declared the motion stood adopted with all Members voting in the affirmative. The resolution was identified as No. 34-1992.

The Executive Director said he wanted to report that on June 24 he had participated in a round-table session in Washington, D.C., co-sponsored by the Federal Highway Administration, the International Bridge, Tunnel and Turnpike Association and the American Association of State Highway and Transportation Officials. He said the subject of the session was the toll provisions in the Intermodal Surface Transportation Efficiency Act of 1991. He said the Federal Highway Administration was in the process of issuing guidelines and regulations to implement the legislation. He said there were some very interesting possibilities in the interpretations being made. He said it was possible projects that the Commission had done in the past might be used by the State of Ohio to count as the State's credit toward Federal projects that were off the Turnpike. He said it would be a very important leveraging tool for the State of Ohio.

The Executive Director said further that there were possible credits due to the Turnpike because it had been constructed without Federal funding and it eventually was incorporated into the Interstate System. He said he was spokesperson for the

International Bridge, Tunnel and Turnpike Association in the whole process and he hoped he could continue to keep his finger on the proceedings of the interpretation process. He said that somewhere along the line both the State of Ohio and the Ohio Turnpike Commission were going to be able to take important advantage of the federal legislation.

The Chairman said he thought it was very important that the Commission stayed tuned in on the legislation and he was glad that the Executive Director was involved in the process.

The Executive Director said also that he and several staff members were in Toledo the week before the Commission meeting. He said that afterward he and Mr. Plain drove from Toledo to Portsmouth along the so-called corridor of the I-73 project. He said it was really the I-73/I-74 project, but the I-74 part of it was a link that would run from Portsmouth toward Cincinnati, so they did not get a chance to travel that area.

The Executive Director said further that, of course, the Commission had been asked to be involved in the project. He said that while he and Mr. Plain were in Portsmouth, they met with the Mayor, Franklin Gerlach, who was chairman of the Mid-Atlantic Corridor Committee. He said that committee held meetings every two weeks in Columbus. He said he had tried to go to some of the meetings, while others were attended by Pat Patton. He said the staff would continue to monitor the progress of that program.

The Chairman said it was important to mention that existing United State Route 23 could be incorporated into the I-73/I-74 project.

The Executive Director said he and Mr. Plain drove south, on U.S. 23, from near where U.S. 20 and U.S. 23 were joint routes just south of the Turnpike's Stony Ridge-Toledo (No. 5) Interchange. He said that U.S. 23 was a non-limited access route in that area. He said that from Fostoria to Columbus major parts of U.S. 23 were divided, partial limited access routes with at-grade crossings. He said there would have to be grade separation projects to bring them up to full, limited access standards.

The Chairman said the state already owned the land.

The Executive Director said the state owned the right-of-way. He said the I-73/I-74 project could involve U.S. 23, S.R. 15 and then sections of I-75. He said that, in his opinion, there were some interesting possibilities.

Mr. Bergsmark said he would like to request that the Commission give consideration to placing a directional sign at the Maumee-Toledo (No. 4) Interchange for the Toledo Mud Hen Stadium. He said 50% of the people who attend the minor league

baseball team's games came from outside Toledo via the Turnpike and expressway. He said he didn't want the Commission to be influenced by the fact that he was the president of the Mud Hens.

A motion to place a directional sign for the Mud Hen Stadium or add to an existing sign at the Maumee-Toledo (No. 4) Interchange was moved for adoption by Mr. Bergsmark, seconded by Mr. Brennan.

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

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

Nays: None

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

Mr. Bergsmark said the Mud Hen stadium was less than one mile from the Maumee-Toledo (No. 4) Interchange.

Mr. Gaeth said he had received a suggestion from one of his constituents that the Commission place an attractive water fountain at the relocated Westgate Interchange. He said that he would like to have it seriously considered because apparently there was something positive to having something that would attract the attention of the motorists and the touring public. He said he hoped his constituent, Mr. Winzeler, had a response.

The Chairman said Mr. Winzeler wrote him a letter and he followed up with a letter to the Executive Director. He said he didn't think Mr. Winzeler had received a formal reply to his suggestion, but he had talked to Mr. Winzeler by phone on a few occasions about it.

The Chairman said further that the proposal was being considered. He said, obviously, with the changes being made at Westgate there would be some delay in implementing it and water could not be flowing out of it in the winter time.

The Executive Director said he wanted the Commission Members to know that the staff had resumed a major program to upgrade the Turnpike's signs but it had been suspended. He said the program was now back on track and new approach signs would be erected at all the remaining interchanges. He said there were new approach signs planned at Westgate. He said he wanted to be sure that any proposed attraction not become a distraction to traffic.

The Executive Director said the (Toledo) Blade had published a recent editorial finding fault with the Commission for the directional signs on the Turnpike for the University of Toledo. He said he had been working with the University of Toledo for

years on signing. He said it was not something that had been forgotten or that the (Toledo) Blade had to call to the Commission's attention to get changes.

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 said the Members had in their folders a booklet which was the new Ohio Turnpike Act. He said the first half of the booklet was what was found in the Ohio Revised Code, while the second half was a copy of Substitute Senate Bill 7, Senator Gaeth's bill. He said Substitute Senate Bill 7 amended the original Turnpike Act and was included so that everyone could see what changes were made.

General Counsel said also that the Sixth Circuit Federal Court of Appeals had sustained the District Court in Northern Ohio in the Marshall Martin case which found there was no liability, in their opinion, against the Commission relative to "on call" time. He said it was a major decision which was included in a Wall Street Journal story. He said Squire, Sanders & Dempsey was the prime counsel and Ron James was the trial counsel. He said they all did an excellent job.

The Chairman said the report of General Counsel was accepted as offered. He ascertained there was no report from the consulting engineers.

The Chairman said Mr. Fedeli said that perhaps it might be appropriate to mention that the Commission was still working with ODOT, the Governor and the Governor's office regarding future plans that would involve the Turnpike. He said it was not something that was going to be parked on the back burner and never heard from again.

The Chairman said also that he would like to make a request to the Executive Director that the Commission seriously consider having its next meeting of August 31 at the western end of the Turnpike in order to look at both the relocated Westgate plaza and the new interchange with State Route 49.

The Executive Director asked Mr. Gaeth if he had any suggestions for a meeting location on August 31.

Mr. Gaeth said the staff ought to check with the Williams County Chamber of Commerce and have them suggest a meeting place.

Mr. Vukovich asked the Chairman for an explanation of an earlier motion authorizing him to award or reject bids for a new mainframe computer system.

The Chairman said the motion called for further review of the bids and allowed him to take action, if necessary, prior to the next Commission meeting. He said that action would be taken only after consulting the other Members. He said there were two bids received on the contract. He said one bid was from the manufacturer and the other from one of the manufacturer's dealers. He said that, in other words, the equipment was the same.

The Chairman said further that the Commission would like to see if there were other makes of equipment available that would be compatible with the current system, as opposed to having two bids representing the same manufacturer. He said it would be like getting a bid directly from the Buick division of General Motors Corporation, and also from a Buick dealer.

The Chairman said further that there might not be other equipment available which would be compatible with the other components of the existing system and the Commission certainly didn't want to change the entire system. He said he did think it would be a good idea to take a look at other manufacturers' equipment and see if maybe it would interface with the Commission's current software.

Mr. Vukovich told General Counsel that, if he was one of the bidders under the adopted procedure, he would think that he might have grounds for some type of contest of an award. He said it appeared to him that there was no opportunity for a rebid.

General Counsel said the Commission had taken bids based on the determination that the use of DEC (Digital Equipment Corporation) equipment was what had to be done. He said the Commission was saying that it wanted to take another look to determine if the administrative recommendation to award was correct. He said the Commission was giving the Chairman the authority to take action, if necessary, prior to the next Commission meeting to award or to reject and go out and rebid. He said that it would be done only with the approval of other Commission Members.

General Counsel said further that if an award was to be made it would have to be made to one of the two existing bidders. He said the alternative would be to reject the bids and call for new bids on the contract.

There being no further business before the Commission, a motion was made by Mr. Bergsmark, seconded by Mr. Fedeli, that the meeting adjourn until the next meeting on August 31.


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. Brennan |
| Nays: | None                                   |



The Chairman declared the meeting adjourned. Time of adjournment was 11:12 a.m.

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



Edwin M. Bergmark, Secretary-Treasurer