

MINUTES OF THE 495TH MEETING OF THE OHIO TURNPIKE COMMISSION

September 15, 2003

Pursuant to the bylaws, the Ohio Turnpike Commission met for a regular meeting at the Commission's Administration Building at 10:00 a.m. on September 15, 2003, with members of the staff: Dan Castrigano, Chief Engineer; James Steiner, CFO/Comptroller; Noelle Tsevdos, General Counsel; Anne Fornshell, Director of Human Resources; W.R. Fleischman, Assistant Chief Engineer; Sharon Isaac, Director of Toll Operations; Kathleen Weiss, Director of Contracts Administration; Tim Ujvari, Maintenance Engineer; Dave Miller, Chief Auditor; William Keaton, Telecommunications Manager; Richard Lash, Director of Safety Services; Bob Gahr, Assistant Director of Safety Services; Kerry Ferrier, Safety Engineer; Lauren Hakos-Dehrmann, Manager, Public Affairs; Crickett Jones, Tracy Cowley and Diane Pring.

The Chairman called the meeting to order and asked the Assistant Secretary-Treasurer to call the roll.

Present: Mr. Wilkins, Mr. Dixon, Mr. Balog, Mr. Darwish

Absent: Mr. Noe, Representative Buehrer and Senator Schuring

The Chairman said that The Ohio Department of Transportation's Director, Gordon Proctor, is not here today, but his representative, Deputy Director Mo Darwish, is authorized to vote for him.

The Chairman said we have a number of guests here today, so I'd like everyone to introduce themselves as we customarily do: Eric Erickson, Fifth Third Securities; Bobby Everhart, Mike Burgess, URS; Tony Coyne, Mansour Gavin; Dan Sokol, Dick Corporation; Chuck Cvitkovich, HNTB; Capt. Robert Ferguson, OSHP; Howard O'Malley, B & T Express; Brett Neff, R. E. Warner; John Petty, Nat City Investments; Tom Travis, HMS Host; Steve Delong, Steve Mayor, Operating Engineers and Frank Lamb, Huntington Bank.

The Chairman said this is the 495th meeting of the Ohio Turnpike Commission, and we are meeting here in the Commission's headquarters as provided for in the Commission's Code of Bylaws for its regular meeting. Various reports will be received and we will act on several resolutions, draft copies of which have been previously sent to Members and updated drafts are also in the Members' folders. The resolutions will be explained during the appropriate reports. Can I have a motion to adopt the Minutes of our August 18, 2003 meeting, which were previously sent to the Members?

Commissioner Dixon moves and Commissioner Balog seconds. All Members voted in the affirmative and the Minutes were adopted.

The Chairman said we'll proceed with the report of the Secretary-Treasurer, Mr. Dixon.

The following items have been sent to the members since the last regularly scheduled meeting of the Commission on August 18, 2003:

1. Minutes of the August 18, 2003 Commission Meeting
2. Traffic & Revenue Report, August, 2003
3. Total Revenue by Month & Year, August, 2003
4. Investment Report, August, 2003
5. Financial Statements - August 31, 2003 *
6. Traffic Crash Summary Report, May, 2003
7. Various News Releases

* in Members' folders

The Chairman asked, is there a report from the Executive Director?

The Executive Director said I have one item for the Members' consideration. It is a resolution for the Commission to adopt a Mission Statement and Vision Statement. I understand you may want to hold this resolution until our next meeting, but I would like to read the Mission Statement and Vision Statement and make a comment or two about it. I recommend that we adopt a Mission Statement which says:

"To operate and maintain a user-fee supported highway with sound financial management that provides motorists and travelers with safe, modern and helpful services."

We have a Customer Advisory Board comprised of eleven members that includes users of the Turnpike, trucking companies, trucking association, some of the businesses whose customers use the Turnpike such as Chrysler, Lordstown and Six Flags. We have citizens and a representative from AAA. We have held a couple meetings; we have corresponded and have looked at Mission Statements from other Turnpikes and other businesses in the transportation industry. After much discussion our customers felt that this adequately described our Mission and our Vision.

The Chairman said my thought was I think it is a good set of statements, but for something this significant, I think because the Commission has seen it for the first time, they might want to think about it between now and then. If not, I'm satisfied with it, but I'd like to leave it up to the Commission. I think if it's going to guide the way we operate it is certainly important and something that ought to be given some thought. I do think the process that the Executive Director used was good involving customers and users of the Turnpike, but the Commission also ought to give it some thought. I'll leave it up to the Commission.

Commissioner Balog said I have only seen this for the first time last week, but I think the Executive Director's process of reviewing it and incorporating the comments of the people who are users and inasmuch as this was one of the suggestions of the Auditor that we should adopt, I think it is an appropriate statement. I think we can move on it at this time unless some of the other members want to wait.

Deputy Director Darwish said I have no problems with it.

The Chairman asked Commissioner Dixon how he felt.

Commissioner Dixon said I'm fine. If I was going to be picky I would like to say "continue" to be the road of choice because I would like to feel we are the road of choice in northern Ohio and so our mission is to continue to be the road of choice. Other than that, I'm ready to pass on it at this time.

The Chairman said if we are going to adopt it today, I think it would be worthwhile for the Executive Director to go through it and really tell us what these words mean.

The Executive Director said I'd be happy to do that. Obviously, the Commission exists to serve our customers and what the mission really talks about is our role or what is our reason for being. Our reason for being is to operate and maintain a user-fee. The Commission charges a toll to operate a user-fee supported highway. The phrase "with sound financial management" means we think we should use sound financial principles. We chose those words specifically as opposed to "cost-effective or least cost" because of the things we do. We may not have all the interchanges if it was specifically cost-effective. We have some interchanges where the traffic volume is not as great as others. We are strictly not looking at cost, but we are trying to be a road that has application across Ohio. We want to provide "motorists and travelers"; by motorists I was referring to those

individuals who are actually driving the vehicle and "travelers" are the passengers who are riding along as well. So we are providing services not only to those who are driving but also those who are riding along in the vehicle. The word "safe" means obviously we are concerned about safety and we have one of the safest records of any road in the country. "Modern" refers to the fact that we are continually changing; we are upgrading our interchanges and service plazas so new and helpful services are available to our customers. If you look at our service plazas besides food and beverages, you can buy other supplies, which you might have forgotten when you are traveling. We think we offer a variety of services as well as emergency services, too. We think that covers what is our reason for being.

The Vision Statement, **"To be the road of choice for those traveling across Northern Ohio"** means, "where do you want to be?" I think we want to be the road of choice for those traveling across northern Ohio. We are in the process of doing a study because we know that some truck traffic is going to other state highways, but we want to be the road of choice. What is it that we can do to attract more traffic to our road? If people have a choice between a free highway and a user-supported highway, what would cause them to want to drive on the Turnpike instead of other roads? We want to be the road of choice and what kind of things can we do to get there. Those are the thoughts that went into those two statements.

Commissioner Dixon moves and Commissioner Balog seconds.

The Chairman asked, would the Assistant Secretary-Treasurer please call the roll?

The Resolution Adopting Ohio Turnpike Commission's "Mission Statement" and "Vision Statement" was moved for adoption as follows:

RESOLUTION NO. 39-2003

"WHEREAS, the Commission was created in 1953 by enactment of the Ohio General Assembly to construct, operate and maintain the Ohio Turnpike System to facilitate vehicular traffic throughout the State of Ohio in order to remove anticipated handicaps and potential hazards on the congested highways in this state and to promote the agricultural, commercial, recreational, tourism and industrial development of the State;

"WHEREAS, the Commission has, since its creation, constructed, operated and maintained the Ohio Turnpike in a safe and efficient manner in order to continue to serve the travelling public;

"WHEREAS, the Commission through its executive director, established a Customer Advisory Board which included representatives of the traveling public and travel industry to evaluate, assess and improve the operations and services provided on the Ohio Turnpike;

"WHEREAS, with the advice and input of the Customer Advisory Board, the executive director recommends that the Commission adopt the following Mission Statement:

"To operate and maintain a user-fee supported highway with sound financial management that provides motorists and travelers with safe, modern and helpful services."

"WHEREAS, the executive director further recommends that the Commission adopt the following Vision Statement:

"To be the road of choice for those traveling across northern Ohio."

"NOW, THEREFORE, BE

"RESOLVED that the Commission hereby adopts the above-stated "Mission Statement" and "Vision Statement" to reflect the purpose, intent and core principles of the Ohio Turnpike Commission and instructs the executive director to have these Statements included on the Commission's website."

The resolution was adopted with all Members voting in the affirmative. The resolution was identified as No. 39-2003.

The Executive Director said that concludes my report.

The Chairman asked if there is a report on financial and budgetary matters. Mr. Steiner?

Mr. Steiner said once again our passenger car traffic is continuing at record levels. Our passenger car traffic for August totaled 4.3 million vehicles, which is 2% higher than the previous record we set last year. Our passenger car traffic for the first eight months of this year totaled 26.3 million cars, which is 1.1% higher than the previous record last year. Unfortunately, our commercial traffic continues to fall short of the volumes that we reached last year. The commercial traffic for August totaled 845,000 vehicles, which is 4.3% below last year, and commercial traffic for the first eight months of the year totaled 6 million vehicles, which is 1.5% below last year.

We believe we could help increase our commercial traffic by adjusting the weight limits for Classes 8 and 9 for our Vehicle Weight Classification System. As the Commission well knows, we assess tolls based on distance traveled and gross vehicle weight. We have eleven weight classes. **Class 8** runs from **65,001 pounds to 78,000 pounds** and **Class 9** is from **78,001 pounds to 90,000 pounds**. The toll rate for a Class 8 vehicle is approximately 18 cents per mile. The toll rate for a Class 9 vehicle is approximately 30 cents per mile. That's a substantially higher rate but that reflects the significant wear and tear on the roadway caused by those heavier vehicles.

A concern expressed by members of the trucking industry is that under state law vehicles weighing up to a maximum of 80,000 pounds are permitted to travel on all the roads throughout the state. The trucking industry believes that we should increase the maximum weight limit for our Class 8 from 78,000 pounds to 80,000 pounds to coincide with the state's limit. We do believe there are some drivers whose vehicles weigh between 78,000 and 80,000 pounds who are currently avoiding the Turnpike because they do not want to pay that higher Class 9 rate. We believe by increasing the maximum weight for Class 8 and also the minimum weight for Class 9 by 2,000 pounds each that we can increase our commercial traffic and help increase our toll revenues.

I want to emphasize that we are not proposing any change in the actual toll rates; the only thing we are suggesting is an adjustment to the weight limits for Classes 8 and 9. Before the Commission could vote to change our weight classification system, there is a requirement under state law that we have a series of three public hearings commencing at least 90 days prior to the Commission voting to take action to change the Weight Classification System. Those hearings must be in geographically diverse locations in the vicinity of the Turnpike. With the Commission's authorization we plan to hold a hearing in the Toledo area, one in the Cleveland area and one in the Youngstown area this fall. Then, we would plan to come back to the Commission in either January or possibly February with a final recommendation. There is a resolution in your materials this morning and obviously this resolution does not authorize any change in the Vehicle Classification System – this resolution merely authorizes the Executive Director to conduct the public hearings on this matter.

Mr. Chairman, with your approval, I would like to ask the General Counsel to read the resolution, and I'd be happy to respond to any questions.

The General Counsel read the Resolved as follows:

"RESOLVED that the Commission hereby authorizes the executive director or his designee to issue a public notice of its intention to make the attached changes to Classes 8 and 9 categories of the attached weight classifications and to hold a series of public meetings on the proposal, which notice and hearings shall comply with the requirements of Ohio Revised Code Section 5537.26(B) in all respects; and

"RESOLVED that the executive director shall present a report to the Commission after issuing the notice and conducting the public hearings regarding the proposal to change Classes 8 and 9 categories of the attached weight classifications as set forth in the current toll rate structure; and

"FURTHER RESOLVED that the Commission authorizes the executive director or his authorized designee to issue notice and hold public hearings regarding the attached proposal to change Classes 8 and 9 categories of the weight classifications for vehicles traveling on the Ohio Turnpike, and thereafter present a report to the Commission upon the completion of the public hearings."

The Chairman asked, is there a motion?

Commissioner Balog moves and Mr. Dixon seconds.

The Chairman asked, are there any questions? The Chairman asked Mr. Steiner, what do you estimate the revenue impact on this change will be?

Mr. Steiner said our hope is that this will at least be revenue-neutral, and we are hoping to attract enough increased traffic that we will actually increase our revenue slightly.

The Chairman asked, where do you plan to hold the public hearings?

Mr. Steiner said the hearings will be held in the Toledo, Cleveland and Youngstown areas. We are still trying to finalize the exact locations.

The Executive Director said I think we will try to hold them in some governmental buildings in those areas to minimize costs and make them most accessible to the public who might want to attend.

The Chairman said good and are there any other questions.

Commissioner Dixon said I was surprised to hear you say that you hope it will be at least revenue-neutral. I can't see where this might have an adverse affect. Maybe I'm overlooking something, but if there is, explain it to me.

Mr. Steiner said you are correct, we are not changing the toll rates. The only thing we are doing is permitting vehicles between 78,000 pounds and 80,000 pounds to qualify for the lower Class 8 rate as opposed to the higher Class 9 rate. However, we are hoping this will attract some of the traffic possibly on those parallel routes that have been avoiding the Turnpike because of that higher Class 9 rate, and we'll generate enough traffic to actually increase revenue.

Commissioner Dixon said I'm in agreement with you. I just think it's going to be our responsibility to make sure that we get the word out and advertise. I think it can't but help us. I think it's a good, smart thing.

The Chairman asked, would the Assistant Secretary-Treasurer please call the roll?

The "Resolution Authorizing the Executive Director to Issue Public Notice and Hold Public Hearings Regarding Proposal to Revise Schedule of Weight Classifications" was moved for adoption as follows:

RESOLUTION NO. 40-2003

"WHEREAS, the Commission by Resolution 38-1955 established a schedule of tolls and classifications of weight which was effective October 1, 1955, which is attached hereto and incorporated herein by reference;

"WHEREAS, the Commission by Resolutions 40-1956, 16-1981, 16-1995, 18-1995, 56-1995 and 59-1995, has adopted several different revisions in the schedules of toll rates which imposed changes in the schedules of toll rates then in effect, but did not impose any change in the weight of any vehicles encompassed in any classification of vehicles;

"WHEREAS, the 1994 Master Trust Agreement allows the Commission to make any reasonable change to the classifications of weight that it deems to be necessary and proper;

"WHEREAS, the Commission desires to implement a change to Class 8 category of the weight classifications to encompass vehicles with a total gross weight from 65,001 lbs. through 80,000 lbs. and a corresponding change in the Class 9 category of the weight classifications to encompass vehicles with a total gross weight from 80,001 lbs. through 90,000 lbs., which changes are reflected in the attached proposal which is incorporated herein by reference;

"WHEREAS, the Commission believes that the proposed changes to Classes 8 and 9 categories are necessary and proper, and will be more consistent with the provisions of Ohio Revised Code Section 5577.04(E) which governs the maximum gross weight of any vehicles travelling on any public highway, street, bridge or culvert;

"WHEREAS, the Ohio General Assembly enacted an amendment to the provisions of Ohio Revised Code Section 5537.26, through the passage of H.B. 335 effective October 17, 1996, which statute requires that the Commission issue notice and conduct a series of public hearings prior to taking any action to change the current toll rate structure;

"WHEREAS, the Commission has been advised by its general counsel that the implementation of any changes to Class 8 or 9 categories of the current weight classifications constitutes a change to the current toll rate structure;

"NOW, THEREFORE, BE IT

"RESOLVED that the Commission hereby authorizes the executive director or his designee to issue a public notice of its intention to make the attached changes to Classes 8 and 9 categories of the attached weight classifications and to hold a series of public meetings on the proposal, which notice and hearings shall comply with the requirements of Ohio Revised Code Section 5537.26(B) in all respects; and

"RESOLVED that the executive director shall present a report to the Commission after issuing the notice and conducting the public hearings regarding the proposal to change Classes 8 and 9 categories of the attached weight classifications as set forth in the current toll rate structure; and

"FURTHER RESOLVED that the Commission authorizes the executive director or his authorized designee to issue notice and hold public hearings regarding the attached proposal to change Classes 8 and 9 categories of the weight classifications for vehicles travelling on the Ohio Turnpike, and thereafter present a report to the Commission upon the completion of the public hearings."

OHIO TURNPIKE COMMISSION
PROPOSED TOLL CLASSIFICATIONS

CLASS	<u>CURRENT CLASSIFICATIONS</u>		<u>PROPOSED CHANGES</u>		<u>PROPOSED CLASSIFICATIONS</u>	
	GROSS VEHICLE WEIGHT IN POUNDS		GROSS VEHICLE WEIGHT IN POUNDS		GROSS VEHICLE WEIGHT IN POUNDS	
	<u>MINIMUM</u>	<u>MAXIMUM</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>
1	-	7,000	-	-	-	7,000
2	7,001	16,000	-	-	7,001	16,000
3	16,001	23,000	-	-	16,001	23,000
4	23,001	33,000	-	-	23,001	33,000
5	33,001	42,000	-	-	33,001	42,000
6	42,001	53,000	-	-	42,001	53,000
7	53,001	65,000	-	-	53,001	65,000
8	65,001	78,000	-	2,000	65,001	80,000
9	78,001	90,000	2,000	-	80,001	90,000
10	90,001	115,000	-	-	90,001	115,000
11	115,001	127,400	-	-	115,001	127,400

The resolution was adopted with all Members voting in the affirmative. The resolution was identified as No. 40-2003.

The Chairman asked, is there a report from the Chief Engineer?

Mr. Castrigano said I have one resolution for your consideration this morning. It is entitled "Resolution Awarding Contract No. 59-03-04" which includes the reconstruction and resurfacing of interchange ramps at Interchange 161 in Cuyahoga County and Interchange 173 in Summit County. The Commission Members may recall that this is a re-advertisement of a contract that we advertised for bids approximately one year ago. The reason that we waited for this time period to re-advertise the contract is we try and get into the interchanges during our slack traffic periods. This project is scheduled for now with a completion date before Thanksgiving so we don't disrupt too much traffic in the interchanges.

We received one bid in response to the subject contract. It was submitted by the Shelly Company of Twinsburg, Ohio in the amount of \$1,000,727.96. This bidder has performed work of this nature in the past. The bid is approximately 5% above the engineer's estimate. I would still recommend we go forward due to the condition of the ramps at this time. I would also recommend that DLZ Ohio, Inc. of Cleveland, Ohio be assigned to perform construction inspection on this project and Geo-Sci, Inc. be assigned to perform material testing. Would the General Counsel please read the Resolved?

General Counsel read the Resolveds as follows:

"RESOLVED that the bid of **The Shelly Company** of Twinsburg, Ohio, in the amount of **\$1,000,727.96**, for the performance of Contract No. 59-03-04 is determined by the Commission to be the lowest responsive and responsible bid received for the performance of said contract, and is accepted, and that the chairperson 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 and (2) to take any and all action necessary or proper to carry out the terms of said bid and of said contract; and

"FURTHER RESOLVED that the Commission hereby authorizes the executive director and the chief engineer to assign DLZ Ohio, Inc. of Cleveland, Ohio, to Contract 59-03-04 for the purpose of performing construction inspection. Such assignment shall be in accordance with the 2003-2004 Engineering Services Agreement between the Ohio Turnpike Commission and DLZ Ohio, Inc.; and

"FURTHER RESOLVED that the Commission hereby authorizes the executive director and the chief engineer to assign GeoSci, Inc. of Berea, Ohio, to Contract 59-03-04 for the purpose of performing materials testing. Such assignment shall be in accordance with the 2003-2004 Engineering Services Agreement between the Ohio Turnpike Commission and GeoSci, Inc.; and

"FURTHER RESOLVED that Project No. 59-03-04 is designated a System Project under the Commission's 1994 Master Trust Agreement."

Commissioner Darwish moves and Mr. Dixon seconds.

The Chairman asked, are there any questions?

Commissioner Dixon asked if there is any DBE/minority participation on this project.

Mr. Castrigano said DLZ Ohio is an MBE firm.

Commissioner Dixon asked, why do you think we only had one response?

Mr. Castrigano said I checked with our Purchasing Department, and we did have ten firms request plans for this project. We are working on a compressed time frame here – from now until the Thanksgiving holiday. We try and resurface these ramps to cause minimal disruption to the traffic. I would say that's one of the reasons and we are working with somewhat of a specialty item here. It's a thin-bonded overlay asphalt material.

Mr. Dixon said, we have done business with Shelly before and we were happy with them?

Mr. Castrigano said that's correct.

The Chairman asked if there were any other questions. How do we determine how much we'll pay DLZ and Geo-Sci?

Mr. Castrigano said the services for both DLZ and Geo-Sci are at the direction of the Commission (myself and my staff engineer). We hold them to a budget on the project.

The Chairman asked the Assistant Secretary-Treasurer to call the roll.

The "Resolution Awarding Contract No. 59-03-04" was moved for adoption as follows:

RESOLUTION NO. 41-2003

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for reconstruction and resurfacing of the Interchange 161 ramps located at Milepost 161.8 in Cuyahoga County, Ohio and the Interchange 173 ramps located at Milepost 173.2 in Summit County, Ohio; herein designated **Contract No. 59-03-04**; and

"WHEREAS, the Commission received a bid from only one bidder for the performance of said contract; and

"WHEREAS, said bid has been reviewed and analyzed by the Commission's chief engineer, and he has submitted a report concerning such analysis and his report is before the Commission, and the Commission's executive director has made his recommendation to the Commission predicated upon such analysis; and

"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 Shelly Company of Twinsburg, Ohio, in the amount of \$1,000,727.96, for the performance of Contract No. 59-03-04 has been determined by the Commission to be the lowest responsive and responsible bid received; and

"WHEREAS, the Commission has been advised by its director of contracts administration that said bid was submitted in conformance with the requirements of Section 5537.07, 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 Shelly Company.

"NOW, THEREFORE, BE IT

"RESOLVED that the bid of **The Shelly Company** of Twinsburg, Ohio, in the amount of **\$1,000,727.96**, for the performance of Contract No. 59-03-04 is determined by the Commission to be the lowest responsive and responsible bid received for the performance of said contract, and is accepted, and that the chairperson 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 and (2) to take any and all action necessary or proper to carry out the terms of said bid and of said contract; and

"FURTHER RESOLVED that the Commission hereby authorizes the executive director and the chief engineer to assign DLZ Ohio, Inc. of Cleveland, Ohio, to Contract 59-03-04 for the purpose of performing construction inspection. Such assignment shall be in accordance with the 2003-2004 Engineering Services Agreement between the Ohio Turnpike Commission and DLZ Ohio, Inc.; and

"FURTHER RESOLVED that the Commission hereby authorizes the executive director and the chief engineer to assign GeoSci, Inc. of Berea, Ohio, to Contract 59-03-04 for the purpose of performing materials testing. Such assignment shall be in accordance with the 2003-2004 Engineering Services Agreement between the Ohio Turnpike Commission and GeoSci, Inc.; and

"FURTHER RESOLVED that Project No. 59-03-04 is designated a System Project under the Commission's 1994 Master Trust Agreement."

The resolution was adopted with all Members voting in the affirmative. The resolution was identified as No. 41-2003.

Mr. Castrigano said the only other item I have on the agenda this morning is the construction update. I will not read through the entire document, as a copy is included in your folders. We have passed a major milestone in our construction program. On September 8th the new westbound Cuyahoga River Bridge structure was opened to traffic ahead of schedule. The contractor is now preparing for demolition of the old westbound structure. During the next two months, he will be removing the existing concrete deck, and we are expecting during the first half of November, the existing structure will be demolished. I will update you at our next Commission Meeting. He said you might want to come out and witness that event if you have the time. That completes my report, Mr. Chairman.

The Chairman asked if there was a report from our financial advisor, Mr. Erickson.

Mr. Erickson said no report.

The Chairman asked if there was a report from our general consultant, HNTB.

Mr. Cvitkovich said no report.

The Chairman asked if there was a report from our trustee, Mr. Lamb.

Mr. Lamb said no report.

The Chairman asked if Captain Ferguson from the OSHP had a report.

Captain Ferguson said the OSHP is currently investigating an incident, which occurred yesterday morning (September 14th) about 3:00 a.m. in Lucas County near Milepost 54. A 44-year old woman from Whitehouse was fatally injured when she was struck on the Turnpike at that location. What we have so far was she was walking in the middle of the roadway walking westbound in the eastbound lanes when she was struck by a semi-tractor trailer being driven by a young man from California. She subsequently was struck by several other trailing vehicles and was fatally injured in that incident. We are still gathering facts in this, but everything we have collected indicates that this was an intentional act. We fully expect that the Lucas County Coroner's Office will rule this a suicide and as such this will not count as a traffic fatality on the Ohio Turnpike since it was an intentional act. Some of the information we had was she rode a bicycle to the location, left it along the right-of-way fence. Medication was found there along with her identification. A suicide

note was located at her home afterwards. We are still collecting information and evidence in this, but it probably will not count as a traffic fatality. That completes my report.

The Chairman asked, are there any questions?

The Chairman said our next report is from Kathy Weiss, Director of Contracts Administration.

Ms. Weiss said the Commission is about to engage in several major upcoming projects such as the reconstruction of the Blue Heron and Wyandot Service Plazas, the building of a toll plaza at S.R. 58, and also the renovation of this building. Those contracts all involve letting of contracts to the four trades and the usage of a construction manager. Therefore, we feel it prudent that we need to have a dispute resolution process built into those contracts, and we wanted the Commission to approve a resolution involving that process. We have a resolution before you that is prudent for construction contracts, approved by the Commission, to contain within their terms a dispute resolution process to serve as a means for the parties to resolve claims that may arise during the construction of the project. This process involves the Chief Engineer as the first part and the second part is if the contractor does not accept that decision, he may appeal that decision to the Executive Director. The Executive Director would then receive a recommendation from my office. If there are no questions, I would ask that the General Counsel read the Resolved.

The General Counsel read the Resolved as follows:

"RESOLVED that the Ohio Turnpike Commission hereby authorizes the executive director to utilize the aforementioned Dispute Resolution Process with respect to construction contracts that have received Commission approval."

Commissioner Dixon moves and Commissioner Balog seconds.

Commissioner Darwish said the thought is to use this process on all construction contracts, right?

Ms. Weiss said we do plan to employ this process for all our construction contracts, but I think the need became very relevant when we started looking at using a construction manager for the four trades, but we will more than likely employ this in all the construction contracts that the Commission will be approving.

Chairman Wilkins asked Mr. Darwish if ODOT has something like that.

Mr. Darwish said yes we do. It's a good process. We try to resolve it at a lower level and then escalate. Both the construction industry and ODOT think it's beneficial.

The Chairman asked the Assistant Secretary-Treasurer to call the roll.

The "Resolution Authorizing the Executive Director to utilize Dispute Resolution Methods for Claims that Arise under Construction Contracts" was moved for adoption as follows:

RESOLUTION NO. 42-2003

"WHEREAS, the Commission has, in Article V of its Bylaws, authorized the executive director to enter into contracts subject to the limitations set forth in the Bylaws; and

"WHEREAS, the Commission has given the executive director the authority to enter into supplemental agreements with a contractor to address matters such as increased quantities, change orders, extra work orders or other adjustments in the terms of a previously

awarded contract under circumstances that would create a life, safety or health-threatening situation or which would unduly delay the completion of the project and increase its costs; and

"WHEREAS, it is prudent for construction contracts that are approved by the Commission to contain within their terms a Dispute Resolution Process to serve as a means for the parties to resolve claims that may arise during the construction of the project; and

"WHEREAS, the Dispute Resolution Process that the executive director proposes to utilize establishes that claims will initially be decided by the chief engineer; and

"WHEREAS, the Dispute Resolution Process further provides that the contractor may appeal the chief engineer's decision to the Commission's executive director via the Commission's director of contracts administration, who upon receipt of the contractor's appeal shall conduct a meeting with the contractor; and

"WHEREAS, the director of contracts administration may employ independent resources to assist in the meeting and review of the appeal, and shall then make a recommendation to the executive director who shall, in turn, provide a written decision to the contractor within fourteen (14) days after the meeting; and

"WHEREAS, the decision of the executive director shall be the final and conclusive decision of the Commission, unless it results in the filing of litigation or a decision by the parties to mediate the claim if it cannot be resolved; and

"WHEREAS, the Commission will be informed of any disputed claims that are approved by the executive director as they would result in change orders which shall be reported to the Commission at the conclusion of the construction project as required by Article V of the Bylaws;

"NOW, THEREFORE, BE IT

"RESOLVED that the Ohio Turnpike Commission hereby authorizes the executive director to utilize the aforementioned Dispute Resolution Process with respect to construction contracts that have received Commission approval."

The resolution was adopted with all Members voting in the affirmative. The resolution was identified as No. 42-2003.

The Chairman said I will accept a motion to enter into execution session at this time.

Mr. Balog moved that we go into executive session to consult with legal counsel regarding a pending and eminent legal matter pursuant to the provisions of Ohio Revised Code Section 121.22(G)(3).

Commissioner Darwish seconded the motion and all Members voted in the affirmative.

The Chairman said I think there are two matters to present to the Commission upon our return, and our executive session should last about fifteen minutes.

Convened at 10:30 a.m.

Reconvened at 10:48 a.m.

The Chairman asked the General Counsel if she had a report.

General Counsel said that I would like to present a resolution pertaining to the ongoing discussions with Richfield Township regarding the structure at our Boston Maintenance Division. We are in the process of trying to work through some concerns raised by the local zoning board regarding the salt dome that we constructed on that property. At this point, I have drafted a resolution and with your permission I'll read the Resolved.

General Counsel read the Resolved as follows:

"RESOLVED that the general counsel is authorized to take those steps necessary in order to defend against or initiate legal proceedings before or against Richfield Township in order to resolve the dispute."

Commissioner Balog moves and Commissioner Darwish seconds.

The Resolution "Declaring the Necessity of Defending Against or Initiating Legal Proceedings Before or Against Richfield Township to Resolve Legal Dispute" was moved for adoption as follows:

RESOLUTION NO. 43-2003

"WHEREAS, the Commission is authorized pursuant to Ohio Revised Code Sections 5537.02 through 5537.04 to construct, operate and maintain the Ohio Turnpike System in order to facilitate vehicular traffic throughout the State of Ohio in order to promote the agricultural, commercial, recreational and industrial development of the State;

"WHEREAS, the Commission acquired certain property on April 15, 1955 located within the boundaries of Richfield Township and has operated the Boston Maintenance Division from said property;

"WHEREAS, the Commission has constructed certain structures and facilities on said property beginning in 1955 and continuing through the present date, said structures are essential to the safe and efficient operation and maintenance of the Ohio Turnpike;

"WHEREAS, Richfield Township adopted certain zoning regulations beginning in 1977 after the Commission had constructed and began operating the Boston Maintenance Division;

"WHEREAS, the application or enforcement of Richfield Township's zoning regulations may interfere or impede the Commission's ability to operate the Boston Maintenance Division in the manner essential and necessary to maintain certain portions of the Ohio Turnpike in a safe and efficient manner; and

"WHEREAS, the Commission, through its general counsel, has attempted and will continue to attempt to resolve a legal dispute with Richfield Township relating to the enforcement of said zoning regulations;

"NOW, THEREFORE, BE IT

"RESOLVED that the general counsel is authorized to take those steps necessary in order to defend against or initiate legal proceedings before or against Richfield Township in order to resolve the dispute."

The resolution was adopted with all Members voting in the affirmative. The resolution was identified as No. 43-2003.

The Chairman asked General Counsel if she had any additional items.

The General Counsel said she had one additional resolution. Ms. Tsevdos said that the Commission had issued an Invitation for Bids for the renovations to the Administration Building in Berea under Contract No. 48-03-04(B). Twelve bids were received and both the Director of Contracts Administration and myself have reviewed the information contained in the bid packages and also the disclosures that were contained in the bid packages. Based upon the information and the procedures that were utilized in this particular bid invitation, we are dissatisfied with the bidding procedures that were utilized in this bid and are recommending that the Commission reject all the bids and after doing so that the bidding procedures for this contract bid invitation be reviewed and be re-evaluated prior to the re-advertisement of this bid invitation.

General Counsel read the Resolved as follows:

"RESOLVED that the above-mentioned bids hereto received pursuant to the advertisement for bids upon a contract for renovations to the Ohio Turnpike (*Berea*) Administration Building, 682 Prospect Street, Berea, Ohio located at Milepost 159.4 in Cuyahoga County, Ohio, herein designated as **Contract No. 48-03-04 (B)** be and the same hereby are rejected, and the executive director is authorized to notify the bidders in writing of said action, and to return to the bidders the bid security furnished by it; and

"FURTHER RESOLVED that the executive director and director of contracts administration hereby are authorized to take any and all action necessary to re-advertise for bids for **Contract No. 48-03-04 (B)** for renovations to the Ohio Turnpike (*Berea*) Administration Building, 682 Prospect Street, Berea, Ohio located at Milepost 159.4 in Cuyahoga County, Ohio forthwith."

The Chairman asked, is there a motion?

Commissioner Balog moves and Commissioner Darwish seconds.

The Chairman asked if there are any questions. Please call the roll.

The "Resolution Rejecting the Bids Concerning Award of Contract No. 48-03-04(B)" was moved for adoption as follows:

RESOLUTION NO. 44-2003

"WHEREAS, the Commission has duly advertised according to law for bids upon a contract for renovations to the Ohio Turnpike (*Berea*) Administration Building, 682 Prospect Street, Berea, Ohio located at Milepost 159.4 in Cuyahoga County, Ohio, herein designated as **Contract No. 48-03-04 (B)**; and

"WHEREAS, the subject contract was divided into the four trades (general construction, HVAC, electrical and plumbing,) and bidders were given the option to submit a single bid for one trade or a combination bid for all four trades; and

"WHEREAS, the Commission received bids from twelve bidders for the performance of said contract; and

"WHEREAS, said bids have been reviewed and analyzed by the Commission's director of contracts administration and general counsel, and they have submitted a report

concerning such analysis which report is before the Commission; and the Commission's executive director has made his recommendation to the Commission predicated upon such analysis; and

"WHEREAS, the Commission has been advised by its director of contracts administration and general counsel that it may lawfully reject all bids for the aforesaid invitation;

"NOW, THEREFORE, BE IT

"RESOLVED that the above-mentioned bids hereto received pursuant to the advertisement for bids upon a contract for renovations to the Ohio Turnpike (*Berea*) Administration Building, 682 Prospect Street, Berea, Ohio located at Milepost 159.4 in Cuyahoga County, Ohio, herein designated as **Contract No. 48-03-04 (B)** be and the same hereby are rejected, and the executive director is authorized to notify the bidders in writing of said action, and to return to the bidders the bid security furnished by it; and

"FURTHER RESOLVED that the executive director and director of contracts administration hereby are authorized to take any and all action necessary to re-advertise for bids for **Contract No. 48-03-04 (B)** for renovations to the Ohio Turnpike (*Berea*) Administration Building, 682 Prospect Street, Berea, Ohio located at Milepost 159.4 in Cuyahoga County, Ohio forthwith."

The resolution was adopted with all Members voting in the affirmative. The resolution was identified as No. 44-2003.

The Chairman asked, is there a motion to adjourn?

Commissioner Balog moves to adjourn and Commissioner Darwish seconds.

The Chairman said please call the roll.

All members voted in the affirmative to adjourn. Time of adjournment was 10:52 a.m.

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



George F. Dixon, Secretary-Treasurer