

MINUTES OF THE 517th MEETING OF THE OHIO TURNPIKE COMMISSION

September 12, 2005

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 12, 2005, with members of the staff: Jerry Pursley, Deputy Executive Director; Dan Castrigano, Chief Engineer; Noelle Tsevdos, General Counsel; Kathleen Weiss, Director of Contracts Administration; James T. Steiner, CFO/Comptroller; W. R. Fleischman, Assistant Chief Engineer; Kerry Ferrier, Traffic Engineer; Tim Ujvari, Maintenance Engineer; Sharon D. Isaac, Director of Toll Operations; Dave Miller, Director of Audit & Internal Controls; Dick Morgan, Director of Information Systems; Richard Lash, Director of Safety Services; Bob Gahr, Assistant Director of Safety Services; Robin Carlin, Director of Human Resources; William Keaton, Telecommunications Manager; Lauren Dehrmann, Manager, Public Affairs; Heidi Jedel, Assistant Manager, Public Affairs; Crickett Jones, Tracy Cowley and Diane Pring.

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

Present: Mr. Balog, Mr. Regula, Mr. Kidston and Deputy Director Mo Darwish; George Dixon; Representative Buehrer (10:03 a.m.); and Senator Armbruster (time: 10:10 a.m.)

Absent: None.

Chairman Balog said Gordon Proctor was unable to attend today's meeting, however, Deputy Director Mo Darwish is here and is authorized to vote in his place.

The Chairman called the meeting to order.

The Chairman said we have a number of guests here today, so I'd like everyone to introduce themselves as we customarily do: Bobby Everhart, URS, Eric Erickson, Fifth Third Bank; Mike Burgess, Scott Buchanan, URS; Tony Yacobucci, HNTB; Jim Morgan, Kelly Edwards, Eric Shiplett, DCI; John Farwell, Nortel; Michael Iacovone, Larry Crowl, Nu-Vision; Howard O'Malley, B & T Express; Todd Cooper, Dick Corporation; Harry Mylander, Unilliance, Inc.; Bill Jackson, DPS; John Lee, J. P. Morgan; Bob Martell, Hardee's Food Systems; John Petty, Tim Reidy, National City Investments; Frank Lamb, Huntington National Bank; Bob Hagstron, Scott Matthews, AVI Food Systems; Steve Mayer, Floyd Jeffries, Steve DeLoretto, Operating Engineers; Jimmy Hreha, Qwest; Jeff Shorter, Meritech; Bill Kline, Baldwin & Sours; Bill Busch, Geoshacks; Kenny Yuko, State Representative; Doug Musick, Roetzel & Andress; Diane Viola, Wife of Tony Viola; and Captain Roger Hannay, OSHP.

The Chairman said this is the 517th 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 a special 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.

The Chairman said could I have a motion to adopt the minutes of the August 15, 2005 Commission Meeting?

Commissioner Dixon moved and Commissioner Kidston seconded. All other Members voted in the affirmative, and the minutes were adopted.

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

Commissioner Dixon said the following items have been sent to the Members since the last regularly scheduled meeting of the Commission on August 15, 2005:

1. Minutes of the August 15, 2005 Commission Meeting;
2. Traffic & Revenue Report, August, 2005 *;
3. Total Revenue by Month and Year, August, 2005 *;
4. Investment Report, August, 2005 *;
5. Financial Statements, August 31, 2005 *; and
6. Various News Releases.

* in Commission Members' folders

The Chairman said if there are no questions for our Secretary-Treasurer, we'll proceed with the report from our Executive Director, Mr. Suhadolnik.

The Executive Director said I have only two things to report. The first matter is that I'd like to report that we kicked off the State of Ohio, annual Combined Charitable Campaign on September 7, 2005. We are asking our employees to contribute and one of the causes is for the victims of Hurricane Katrina. I don't have any numbers, but in the past our employees have been very generous.

I have also passed out a piece of correspondence to Commission Members. As you may recall, the temporary toll reduction was initiated in trying to bring trucks to the Ohio Turnpike. As a result, when this passed the legislature there was some concern as to what would happen when the 18-month program came to an end. Governor Taft asked that a working group be established with the Ohio Trucking Association, the Ohio Petroleum Marketers, the Ohio

Contractors Association, ODOT and the Turnpike Commission. As you know, Mr. Chairman, you and Director Proctor will be in Columbus on September 23rd to meet with those groups to talk about where we are in terms of tolls, revenue and traffic and some possible suggestions as to the outcome when this trial program is over. I just wanted the Commission Members who are not involved in that to know that we are meeting with these groups to determine what the future of the toll reduction program might be.

The Chairman said thank you. Please let the Minutes reflect that Representative Buehrer arrived at 10:03 a.m.

The Chairman said let's go to the resolutions and Chief Engineer, Dan Castrigano.

Mr. Castrigano said I have three resolutions for your consideration this morning. The first pertains to the bid rejection of Contract No. 43-05-04. This contract was for bridge parapet rehabilitation for three structures over the Ohio Turnpike, all located in Fulton County. We received one (1) bid in response to the Contract, and it was submitted by Miller Brothers of Archbold, Ohio. The bid was approximately 48% above the engineer's estimate. Because we received only this single bid, we are recommending rejecting the Contract. We'll take a look at this Contract again in the spring with some possible modifications to the specifications. Would General Counsel please read the Resolved?

General Counsel read the Resolved as follows:

"RESOLVED that the above-mentioned bid heretofore received pursuant to the advertisement for bids upon a contract for bridge parapet rehabilitation of the above-mentioned bridges over the Ohio Turnpike, herein designated **Contract No. 43-05-04**, be and the same hereby is rejected, and the executive director is authorized to notify the bidder in writing of said action, and to return the bidder its bid security; 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. 43-05-04** for bridge parapet rehabilitation of the above-mentioned bridges over the Ohio Turnpike following review and possible modifications to the specifications."

The Chairman said is there a motion?

Commissioner Dixon moved and Commissioner Kidston seconded.

The Chairman said are there any questions?

Chairman Balog said do the bidders know the engineer's cost estimate when they turn their bid in?

Mr. Castrigano said no. The engineer's estimates are not published. They are read at the bid opening.

The Chairman said I know if they are more than 10% over, generally we do not award a contract. I was just wondering why they would go through the trouble of putting a bid in if they see there is such a difference between their bid and our estimate. Do you anticipate better pricing in the springtime?

Mr. Castrigano we did contact another bidder that typically bids work for us to find out if there was a problem. Their response was it's the end of the season, they are trying to get everything wrapped up before the winter and they have too much work going on right now. I suspect in the early spring in the beginning of construction season, we can get more interest in it.

Deputy Director Darwish said I think we notice we get better bids when we bid in December or January. Dan is correct. In July and August contractors are busy trying to finish things before the winter season. If you want to see a good reduction, bid in January or December. We notice that bids come in 10-15% less than when you are bidding in the summer season.

The Chairman said thank you.

Commissioner Dixon said we see the same thing at RTA. I think this is the norm.

The Chairman said it sounds like re-bidding this for the spring based on Mo's comments is in the middle of winter so that the Contractors can have it for spring weather. You might want to consider that.

The Chairman said are there any other questions or comments? If not, please call the roll.

The "Resolution Rejecting the Bid Received for Contract No. 43-05-04" was moved for adoption.

RESOLUTION NO. 40-2005

WHEREAS, the Commission has duly advertised according to law for bids upon a contract for bridge parapet rehabilitation of the following bridges over the

Ohio Turnpike, which contract is designated **Contract No. 43-05-04**:

<u>Bridge</u>	<u>Milepost</u>	<u>County</u>
Brigham-Fraker Rd. (CR 6-2)	42.9	Fulton
Reighard-Whiteville Rd. (CR5-2)	43.9	Fulton
Utah Rd. (TWP RD.4)	45.4	Fulton

WHEREAS, the Commission received only one (1) bid for the performance of said contract from Miller Bros. Construction, Inc. of Archbold, Ohio; and

WHEREAS, said bid has been reviewed and analyzed by the Commission's chief engineer, whose report concerning such analysis is before the Commission;

WHEREAS, the Commission's chief engineer has reported that the sole bid for Contract No. 43-05-04 was 48% above the engineer's estimate, and he recommends that this bid should be rejected and the Contract be re-advertised in the spring of 2006 following review and possible modifications to the specifications; and

WHEREAS, the Commission's director of contracts administration has submitted a report advising the Commission that, pursuant to the bidding documents for Project 43-05-04 and Ohio Revised Code Section 5537.07(A), the Commission has expressly reserved the right to reject any and all bids, and that pursuant to Ohio Revised Code Section 153.12, the Commission legally must reject all bids if they are greater than ten percent above the engineer's estimate; and

WHEREAS, the Commission's executive director has made his recommendation to the Commission predicated upon the analysis and the reports of both the chief engineer and the director of contracts administration.

NOW, THEREFORE, BE IT

RESOLVED that the above-mentioned bid heretofore received pursuant to the advertisement for bids upon a contract for bridge parapet rehabilitation of the above-mentioned bridges over the Ohio Turnpike, herein designated **Contract No. 43-05-04**, be and the same hereby is rejected, and the executive director is authorized to notify the bidder in writing of said action, and to return the bidder its bid security; 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. 43-05-04** for bridge parapet rehabilitation of the above-mentioned bridges over the Ohio Turnpike following review and possible modifications to the specifications.

The resolution was adopted with all Members voting in the affirmative. The resolution was identified as No. 40-2005.

Mr. Castrigano said the second resolution concerns the award of Contract under Invitation No. 4030 for disposal of slag leachate water from three (3) locations on the Ohio Turnpike. The Commission is aware that in accordance with an OEPA directive, the Commission is required to contain and dispose of slag leachate resulting from the construction of the I-77 interchange in Summit County. We received three (3) bids in response to this Contract. The apparent low bid was submitted by CleanHarbors Environmental Services of Cleveland, Ohio in the amount of \$197,500.00. This amount of \$197,500 is based upon an estimated quantity of slag leachate material. Similar to the salt contract that we awarded last month, we are recommending establishing a blanket order in the amount of \$250,000 to handle any over-run in quantities. If we would run over the \$250,000, we would then come back to the Commission and ask for an amended resolution. Would General Counsel please read the Resolved?

General Counsel read the Resolved as follows:

“RESOLVED that the bid of **CleanHarbors Environmental Services** in the amount of \$197,500.00 under Invitation No. 4030 is, and is by the Commission deemed to be the lowest responsive and responsible bid received and is accepted, and the chairperson and executive director, or either of them, is hereby authorized: (1) to execute a blanket order Contract in the amount of **\$250,000.00** with the successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid Invitation; (2) to direct the return to the other bidders of their bid security at such time as CleanHarbors Environmental Services has entered into a Contract and furnished the performance bond required thereby; and (3) to take any and all action necessary to properly carry out the terms of said Contract.”

The Chairman said is there a motion?

Commissioner Dixon moved and Commissioner Kidston seconded.

The Chairman said are there any questions on this particular issue?

Chairman Balog said do we still have dollars left from the settlement?

Mr. Castrigano said yes. We spent approximately \$400,000 to date on this remediation. We are still working off the settlement of \$800,000.

The Chairman said hydrogen peroxide was the process that they thought might clean it up. How has that been working?

Mr. Castrigano said that's correct. We are flushing the affected areas with hydrogen peroxide. The treatment has not been as efficient as we had thought it would be. The readings look good one month and they don't the next month. Our consultant on this project, URS Corporation, is currently meeting with the OEPA to hopefully address alternate treatment technology.

The Chairman said if there are no other questions, please call the roll. The "Resolution Concerning Award of Contract Pursuant to Invitation No. 4030" was moved for adoption as follows:

RESOLUTION NO. 41-2005

WHEREAS, the Commission has advertised for bids under Invitation No. 4030 for furnishing to the Commission all services for removal, transportation, disposal and testing of slag leachate wastewater from three (3) locations along the Ohio Turnpike, under Invitation No. 4030; and

WHEREAS, in accordance with an Ohio EPA directive, the Commission has continued with remediation activities to resolve problems associated with leachate run-off via a hydrogen peroxide treatment method, and, in the meantime, the Commission must continue disposing of slag leachate wastewater; and

WHEREAS, it is anticipated that the expenditures of the Commission for disposal of slag leachate wastewater under Invitation No. 4030 shall exceed \$150,000 and, in accordance with Article V, Section 1.00 of the Commission's Code of Bylaws, Commission action is necessary for the award of such contract; and

WHEREAS, three (3) bids were received in response to Invitation No. 4030, and such bids have been reviewed and analyzed by the Commission's maintenance engineer, whose report concerning such analysis is before the Commission; and

WHEREAS, the maintenance engineer reports that the lowest responsive and responsible bid was submitted by **CleanHarbors Environmental Services** of Cleveland, Ohio in the amount of \$197,500.00, and that this bidder proposes to furnish services in accordance with the Commission's specifications; and

WHEREAS, the maintenance engineer also reports that, due to the potential for large fluctuations of precipitation during the term of the Contract, it is possible that the estimated quantity may be exceeded, and he recommends that a blanket order dollar amount be established at \$250,000.00 under Invitation No. 4030; and

WHEREAS, the maintenance engineer recommends that the Commission authorize the executive director to award a blanket order Contract in the amount of \$250,000.00 to CleanHarbors Environmental Services; and

WHEREAS, the Commission's director of contracts administration has reviewed the bids received and has advised the Commission that the procedure followed by the Commission in advertising for Invitation No. 4030 is in accordance with Sections 5537.07 and 9.312 of the Ohio Revised Code, and that the bid of CleanHarbors Environmental Services of Cleveland, Ohio is the lowest responsive and responsible bid received, and that the Commission may legally enter into a Contract with CleanHarbors Environmental Services to furnish all service for removal, transportation, disposal and testing of slag leachate wastewater from three (3) locations along the Ohio Turnpike, in accordance with Invitation No. 4030; and

WHEREAS, the executive director has reviewed the reports of both the maintenance engineer and the director of contracts administration and has recommended to the Commission that a blanket order Contract in the amount of \$250,000.00 be awarded to the lowest responsive and responsible bidder, CleanHarbors Environmental Services.

NOW, THEREFORE, BE IT

RESOLVED that the bid of **CleanHarbors Environmental Services** in the amount of \$197,500.00 under Invitation No. 4030 is, and is by the Commission deemed to be the lowest responsive and responsible bid received and is accepted, and the chairperson and executive director, or either of them, is hereby authorized: (1) to execute a blanket order Contract in the amount of **\$250,000.00** with the successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid Invitation; (2) to direct the return to the other bidders of their bid security at such time as CleanHarbors Environmental Services has entered into a Contract and furnished the performance bond required thereby; and (3) to take any and all action necessary to properly carry out the terms of said Contract.

The resolution was adopted with all Members voting in the affirmative. The resolution was identified as No. 41-2005.

Mr. Castrigano said my final resolution I have this morning is a resolution awarding a contract for the PBX telephone system furnished pursuant to Invitation No. 4023.

During last month's Commission Meeting we adopted Resolution No. 35-2005 rejecting the apparent two low bids for the subject contract and authorizing the Executive Director to award a contract to Nu-Vision Technologies, Inc. in the

event that the rejected bidders did not submit letters of objection. On August 22, 2005, we did receive a letter of objection from Percipia.

The Director of Contracts Administration met with this bidder on August 31st and, as a result of that meeting, she is recommending affirming the resolution awarding the contract to Nu-Vision Technologies in the amount of \$869,061.60 which includes the 1% term discount.

Would General Counsel please read the resolved?

General Counsel read the Resolved as follows:

“RESOLVED that based on the findings and recommendations of the director of contracts administration and the executive director, the Commission hereby affirms the rejection of the second apparent low bidder, Percipia; and

“FURTHER RESOLVED that the Commission hereby deems the bid of Nu-Vision as the lowest responsive, responsible bid received and hereby finalizes the award of Contract No. 4023 to Nu-Vision Technologies, Inc. for furnishing, installing and testing of a Private Branch Exchange (PBX) telephone system at all Ohio Turnpike Commission facilities; and

“FURTHER RESOLVED that the bid of **Nu-Vision Technologies, Inc.** of Centerville, Ohio in the total amount of **\$877,840.00, less a 1% term discount (net: \$869,061.60)**, under Invitation No. 4023 is accepted, and the chairperson and executive director, or either of them, is hereby authorized to: (1) at the earliest time permitted under the bidding documents, execute a Contract with the successful bidder, in the form heretofore prescribed by the Commission pursuant to the aforesaid Invitation; (2) to direct the return to the bidders of their bid security at such time as Nu-Vision Technologies, Inc. has entered into a Contract and furnished the requisite performance bond therefore; and (3) to take any and all action necessary to properly carry out the terms of said Contract.”

Mr. Castrigano said I'd like to mention that there is a document attached to the resolution from the Director of Contracts Administration re-capping the meeting and she is here to answer any questions the Commission Members might have. I would also like to recommend that the Commission adopt this resolution.

The Chairman said is there a motion?

Commissioner Regula moved and Commissioner Dixon seconded.

The Chairman said are there any questions for Kathy or Dan?

The Chairman said the only question I have is Percipia was one of the two

bidders that was declared not being in compliance with the bid specifications. How much cheaper was their bid than the one we are awarding to?

Mr. Castrigano said I believe that there was a total of about \$35,000 between the apparent low bid and the third low bid we are recommending award on.

Mr. Balog said it appears when you read the letter that we are saying they are non-responsive because they just don't have the experience and we don't want to, in effect, gamble with them at this point and time. Is that correct, Kathy?

Kathy Weiss, Director of Contracts Administration, said Mr. Chairman there were actually seven (7) major reasons for collectively stating that we should go ahead and re-affirm the rejection. It was a major concern that they had only been authorized to sell the Ericsson product line in June, and none of their technicians could demonstrate certification such that we were in anyway confident that they could handle this 241-mile installation. There were numerous other things that they were not responsive to. Those are outlined in my letter. I could go over those with you if you'd like.

The Chairman said I also see that you attached the letter from Percipia indicating that if we do award this contract to Nu-Vision, they will not protest so we are not, in effect, buying ourselves any litigation or issues to deal with.

Ms. Weiss said Mr. Chairman that is correct.

The Chairman said if there are no further questions, roll please.

The "Resolution Awarding a Contract for a Private Branch Exchange (PBX) Telephone System under Invitation No. 4023" was moved for adoption.

RESOLUTION NO. 42-2005

WHEREAS, the Commission advertised for bids for Invitation No. 4023 for the furnishing, installing and testing of a Private Branch Exchange (PBX) telephone system at all Ohio Turnpike Commission facilities; and

WHEREAS, the expenditures by the Commission for the furnishing, installing and testing of a PBX telephone system at all the Ohio Turnpike Commission facilities under Invitation No. 4023 will exceed \$150,000.00, and, therefore, in accordance with Article V, Section 1.00 of the Commission's Code of Bylaws, Commission action is necessary for the award of such Contract; and

WHEREAS, the Commission received six (6) bids in response to Invitation No. 4023, and said bids have been reviewed and analyzed by an evaluation committee consisting of the Commission's telecommunications manager and two

representatives of the Commission's telecommunications maintenance contractor, TransCore, which committee's report concerning such analysis is before the Commission; and

WHEREAS, the evaluation committee has advised that the apparent low bid submitted by Digital Connections, Inc. ("DCI") of Hendersonville, Tennessee does not comply with the technical specifications as well as certain required terms and conditions of Invitation No. 4023 and, therefore, the DCI bid cannot be considered for award; and

WHEREAS, the evaluation committee further states that the apparent second low bid submitted by Percipia, Inc. of Gahanna, Ohio does not comply with the technical specifications as well as certain required terms and conditions of Invitation No. 4023 and, therefore, the Percipia bid cannot be considered for award; and

WHEREAS, the evaluation committee has stated that the lowest responsive and responsible bid in the total amount of **\$877,840.00, less a 1% term discount (net \$869,061.60)**, was submitted by **Nu-Vision Technologies, Inc. ("Nu-Vision")** of Centerville, Ohio, and this bidder proposes to furnish materials and services in accordance with the Commission's specifications; and

WHEREAS, the Commission's director of contracts administration has reviewed the bids received, as indicated in her memorandum to the Commission regarding the subject Invitation, and has advised the Commission that the procedure followed by the Commission in advertising for Invitation No. 4023 was in accordance with Section 5537.07 and Section 9.312 of the Ohio Revised Code, and that the bid of Nu-Vision Technologies, Inc. of Centerville, Ohio is the lowest responsive and responsible bid received; and

WHEREAS, the director of contracts administration further advises that, pursuant to the bidding documents for Invitation No. 4023 and Ohio Revised Code Section 5537.07 (A), the Commission expressly reserves the right to reject any and all bids, and that the Commission may reject the bids of DCI, Inc. and Percipia, Inc. as non-responsive, however, because of the magnitude of the Contract, final award of the Contract to the lowest responsive, responsible bidder should be authorized only after the opportunity for the rejected bidders to object has occurred, as provided for in the bidding documents; and

WHEREAS, the director of contracts administration further advises that, once such opportunity for objections by the rejected bidders has passed or the Commission affirms either or both of the rejections after the conduct of a meeting that may be requested by the rejected bidders, the Commission may then legally enter into a Contract with Nu-Vision Technologies, Inc. for the furnishing, installing and testing of a PBX telephone system at all the Ohio Turnpike Commission facilities in accordance with Invitation No. 4023; and

WHEREAS, the executive director has also reviewed the reports submitted by the Commission's evaluation committee and director of contracts administration and recommends to the Commission that the bids submitted by DCI, Inc. and Percipia, Inc. be rejected, and that, when appropriate, a contract be awarded to the lowest responsive and responsible bidder, Nu-Vision Technologies, Inc.

NOW, THEREFORE, BE IT

RESOLVED that the bids of DCI, Inc. and Percipia, Inc. are deemed non-responsive and are rejected; and

FURTHER RESOLVED that the bid of **Nu-Vision Technologies, Inc.** of Centerville, Ohio in the total amount of **\$877,840.00, less a 1% term discount (net: \$869,061.60)**, under Invitation No. 4023 is, and is by the Commission deemed to be the lowest responsive and responsible bid received and the chairperson and executive director, or either of them, is hereby authorized to: (1) at the earliest time permitted under the bidding documents, or in the event objections are filed with the director of contracts administration by the rejected bidders then only after the Commission's affirmation of the rejections, execute a Contract with the successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid Invitation; (2) to direct the return to the bidders of their bid security at such time as Nu-Vision Technologies, Inc. has entered into a Contract and furnished the requisite performance bond therefore; and (3) to take any and all action necessary to properly carry out the terms of said Contract.

The resolution was adopted with all Members voting in the affirmative. The resolution was identified as No. 42-2005.

Mr. Castrigano said I have one more item this morning. In your packets you will find a 10-page document entitled, "Ohio Turnpike Commission's Construction Contract Summary" with today's date. As required by the Bylaws, this report details nine (9) contracts that were awarded and completed with a total award amount of just under \$8.5 million. The nine contracts were completed with a final amount of \$8.35 million resulting in savings of little over \$100,000. That completes my report, Mr. Chairman.

The Chairman said thank you Dan. Mo, I believe you have a motion to make at this time?

Deputy Director Mo Darwish said I move that we recess this meeting to hold an Executive Session to confer with General Counsel and outside counsel regarding pending litigation involving the Grobe Fruit Farm matter, under the

provisions of Ohio Revised Code Section 121.22(G)(3). At the end of such Executive Session, the Commission meeting shall reconvene.

The Chairman said is there a second?

Commissioner Regula said I'll second.

The Chairman said Mr. Dixon, did you have a question or comment?

Mr. Dixon said just a point of order. I think we probably should have read the resolution and then requested the executive session.

The Chairman said we don't know exactly what we are doing until we have the report. Your point is well taken, George. Please call the roll.

All Members responded affirmatively to the motion for executive session. Time of adjournment was 10:19 a.m.

Chairman Balog said I anticipate we will be meeting for about a half-hour.

* * *

The Chairman said let the record reflect we are returning from executive session at 12:01 p.m. Roll, please.

Commissioner Dixon moved and Commissioner Regula seconded. All Members responded to the roll call in the affirmative.

The Chairman said we were in Executive Session to confer with legal counsel regarding pending litigation involving Grobe Fruit Farm, Inc. At this point in time, we are not going to take any action on that particular matter. It is still under advisement.

The Chairman said we'll continue the meeting with our staff reports. Mr. Jim Steiner, CFO, do you have a report?

Mr. Steiner said thank you Mr. Chairman. I have a brief update on our traffic and revenue through the month of August. This slide shows the passenger car miles traveled on the Turnpike over the past two (2) years. We have seen a slight decline in the passenger car miles traveled this year compared to last year. That trends worsened in the month of August. Our passenger car miles traveled for the months were down 4.8% compared to last year. I'm sure the record high fuel prices were likely a contributing factor. Due to the improved economy, the increase in the speed limit, the temporary reduction in toll rates and the increased weight enforcement on the parallel state routes, the miles traveled by

commercial vehicles during the last twelve (12) months continues to exceed those from the prior year.

Commercial vehicle miles were up 20% for the month of August. This bar chart shows our year to date miles traveled. Passenger car miles traveled during the first eight (8) months of 2005 were down 1.9% from last year while the miles traveled by commercial vehicles were up 17.5%.

Just like miles traveled, our toll revenue from passenger cars have been lagging behind the revenues from last year. The revenues were down 4.5% in August compared to last year. Despite the growth in our commercial traffic, our 2005 toll revenues from commercial vehicles have fallen well below those from last year due to the temporary reduction in toll rates which became effective January 1, 2005. Our August revenues from commercial vehicles were down 3.1% from last year. This chart shows our year-to-date toll revenues through the month of August for each of the last six (6) years. Our revenue for passenger cars during the first eight (8) months of this year were down 1.7% from last year while the commercial revenues were down 6%. Total toll revenues during the first eight (8) months of this year were down 4.2% in comparison to last year. They were actually down 0.3% from calendar year 2000.

This final chart shows our total revenues from all sources through the month of August for the last six (6) years. Including the subsidy from ODOT of \$10.4 million, our total revenues are 4.8% higher than those from last year. If you exclude the subsidy, our total revenues would be 2.6% lower than those from last year and 4.8% lower than the revenues from the first eight (8) months of calendar year 2000. That concludes my report, Mr. Chairman, but I'd be happy to respond to any questions.

The Chairman said thank you, Jim. Does anyone have any questions?

Senator Armbruster?

Senator Armbruster said the ODOT subsidy is that through this year?

Mr. Steiner said, the ODOT subsidy is \$1.3 million per month and it runs through June, 2006. It was for an 18-month period from January 2005 through June 2006. It was a total of \$23.4 million or \$1.3 million per month.

Senator Armbruster stated, and we have a budget that runs from January through December?

Mr. Steiner said that's correct.

Senator Armbruster said when do we have to submit our next budget?

How are you going to come up with a budget that makes sense based on your revenues?

Mr. Steiner said, under our Master Trust Agreement, we are obligated to provide our trustee, Mr. Frank Lamb, a preliminary budget by November 15th of this year and the Commission must actually adopt a formal resolution approving the budget for next year by January 1, 2006. Typically at the December meeting, I would present a budget for the Commission to adopt for the succeeding calendar year. We will have to make a decision for budgeting purposes as to what the toll rates will be come next July.

Senator Armbruster said I think we should have a preliminary budget available to us sometime in the next 30 days?

Mr. Suhadolnik said as Jim indicated, we would normally have something available for our trustee sometime in November. We would present it to the Commission prior to the December meeting.

Senator Armbruster said are we on track?

Mr. Steiner said we are working right now with all our department heads to develop our proposed expenditure budget and our traffic consultant, Bobby Everhart, is getting to work on revenue projections based on different scenarios. We will then consult with the Commission Members prior to the submission of the preliminary budget to our trustee on November 15th and certainly prior to the Commission Meeting in December.

Senator Armbruster said I believe there is request for an efficiency study to be done of the Turnpike. Is that something? I've heard that from my Senate office and from ODOT. Mr. Darwish, can you help me with what's going on?

Chairman Balog said I think it would be more appropriate for the Executive Director to respond to your question.

The Director said, obviously a budget involves not only expenditures, but also involves revenue. Revenue obviously is related to whatever the particular toll rates would be. We have been thinking about that and the question is what will happen with the truck rates that are in a temporary reduced mode because of this attempt to bring trucks back to the Turnpike? We have had some discussions with a number of people including some people in the Governor's Office. A number of people have suggested that we should have an efficiency study done of the Turnpike. We are preparing for that right now. We have issued an RFP. We have received some responses. We will award a contract for consultants to take a look at our operations. Some people believe our maintenance expenditures are too high or our Capital Improvement Program is inappropriate. So, we are going to take a look at that and, depending upon the

indications of that report, it will have some bearing upon what our budget will be next year.

Senator Armbruster said, so based upon what the Director said, between now and the first of the year we are going to have an efficiency study done?

The Chairman said yes. I have seen drafts of the scope that Director Proctor of ODOT was involved with preparing. Then they went out and secured five or six potential bidders and short-listed it to three. Where is that process now, Gary?

The Director said we are waiting for the responses from the RFP. We should receive them at 2:00 p.m. this afternoon (Sept. 12th). Based on those responses, we should award a contract to one of those three respondents. They will have 60 days to do a study. We'll need some time to review their proposals and maybe answer some questions, have them come to our site and talk to them before we award a contract. So we are talking about really late September? So 60 days from late September is late November? Again, just prior to the time we put the final touches onto the budget for the next twelve months.

Senator Armbruster said I'm not saying that we shouldn't have the study, and not being a voting member of this Commission, but I think that 60 days with as complex as the Turnpike is, it doesn't make much sense. I'm not suggesting that you don't have to follow the rules, but it doesn't make a whole lot of sense. I don't know who I should appeal to.

Deputy Director Darwish said we can't appeal to him, but from our standpoint we are looking at toll revenues down to between 2% or 3%. If we take ODOT's portion of that, how can we save that money? Then we can balance that \$1.3 million a month. I'm not involved in the RFP on a daily basis. This is a central office issue. From our prospective, we are looking at that 3% difference in toll revenues if you take away ODOT's portion.

Senator Armbruster said I guess the question I have Mr. Chairman, is it ODOT's opinion that they can study the Turnpike's efficiencies in 60 days and come back with a recommendation?

Deputy Director Darwish said I'm not aware of the commitment dates.

The Director said, with all due respect to Deputy Director Darwish, really Director Proctor is the more appropriate person to have some of these conversations with. As a Commissioner, he has had some stronger opinions on some of these issues.

Senator Armbruster said Mr. Chairman, unless directed otherwise, by the Commission or the Executive Director, I will be down in Columbus on Tuesday,

September 20th and Wednesday, September 21st and I will attempt to have a meeting with Director Proctor because I don't see how you can even begin to put forth an RFP and complete a study within a 60 day period given the complexity and history of the Turnpike and all the different issues that you have to study to come up with the efficiencies of how you are going to reduce the costs.

Deputy Director Darwish said it depends upon the RFP and the consultant. What are you asking for? Capital budget, operating budget, overall operations and I don't know what other details. It is doable, but it depends upon what you are asking for.

Senator Armbruster said Mr. Darwish, you don't know what they are asking for?

The Executive Director said I'd be happy to share a copy with you. It's a public document.

Senator Armbruster said as Chairman of the Transportation Committee, would it be appropriate if I have this conversation with Director Proctor? I don't see how they can do this in 60 days.

The Chairman said I have had an opportunity to look at the RFP and the study is really focusing more on the daily operation of the Maintenance aspect of it versus the total Turnpike operation and the expenditures for maintenance on the facility.

Mr. Castrigano said it also looks at our entire capital program.

Senator Armbruster said is that all inclusive of buildings, facilities, communications, OSHP cars?

The Director said I think that it includes some of those, but not all.

Senator Armbruster said but we really don't have it totally defined as to what it is. When I think of an efficiency study, I think of an efficiency study of the overall operation of the Turnpike. I may be wrong.

The Director said I think it is short-term and long-term. Our Chief Engineer, Dan Castrigano, said we were talking about our capital spending and our maintenance, but also the long-term needs. We know the Turnpike is aging and there may be additional needs in terms of maintenance or capital projects. In future years, what would our anticipated revenue be over that period of time?

Senator Armbruster said based on the RFP, Mr. Chairman, in a 60-day term, if Director Proctor or the powers to be suggest that we should study that

longer, what does that do to the responses being accepted at 2:00 p.m. this afternoon?

The Director said we're receiving them at 2:00 p.m. this afternoon, but we will need to have a 60-day study done to have that information as some basis for building next year's budget.

Senator Armbruster said Mr. Chairman, we have the information available today to do a budget for next year as we have always done on the Turnpike Commission. Is that correct?

The Director said yes, but before June 30, 2006, and really before the end of the year, we need to make a determination as to whether we are going to keep truck toll rates as they are, or will we return them to the old toll rates or something in-between? Or, on the other side of equation, are we going to make some changes in our operations maybe with some combination of our maintenance costs as well as our tolls? This study will provide some information to be some basis for next year's budget.

Senator Armbruster said I'll meet with Director Proctor either this week or next week in regards to this RFP and I will keep the Director informed.

Chairman Balog said if there are not any further questions for Mr. Steiner, is there a report from our financial advisor?

Mr. Erickson said no report, Mr. Chairman.

Chairman Balog said our general consultant's representative, Mr. Yacobucci has gone, does Mr. Lamb, our trustee have a report?

Mr. Lamb said no report, Mr. Chairman.

Chairman Balog said as most of you may be aware, Captain Ferguson recently retired and we now have Captain Roger Hannay. Welcome.

Captain Hannay said I was Staff Lieutenant in the OSHP Warren district for the last 8-1/2 years. This is my first assignment to the Ohio Turnpike. I'm looking forward to it.

I have just a brief report to update you and the Commission Members on the fatality picture that we are now facing. We are up to 9 crashes with 11 persons killed on the Ohio Turnpike. Since your last meeting on August 15th, there have been three (3) fatalities and all three have involved commercial vehicles. In one accident, the commercial vehicle was at fault. That crash occurred on August 15th.

On August 22 a passenger car lost control, went through the median, struck a commercial vehicle head-on. The commercial vehicle was not at fault.

The last fatality occurred last week on September 8th and we believe a passenger mini-van pulled from the berm and was struck by a commercial vehicle in the rear-end. A sixteen-month child expired as a result of that crash. That concludes my report this morning.

The Chairman said are there any questions?

Commissioner Regula said I get a lot of questions in regard to the increase in speed limit and the additional commercial vehicles. I have been getting reports of the crash accidents. Are the toxicology reports for the individuals public information? I'd like to have a little more information from my standpoint as to whether alcohol or drugs were involved or other things. I think the general public looks at the speed limit issue and, from reading the last couple reports, I don't think they were speed issues. Correct me if I'm wrong.

Captain Hannay said with every fatal crash, the deceased are all tested. That's part of our investigation. At any time we suspect the driver is involved in the fatalities, we test those drivers. Under the federal guidelines for a commercial driver's license, DOT regulations require any commercial driver involved in a crash to submit to a test. That is not our criminal investigation, or our crash investigation. As a condition of his/her commercial license, that driver has 72 hours to go to whatever hospital, medical facility of his/her choice and submit to a test. They are then required to submit through DOT reporting to the federal government what their toxicology might be within 72 hours of that crash.

We do have toxicology reports. We will conduct testing on the driver only if we suspect impairment. That is the only time we will test if and when we suspect impairment. If we do not suspect impairment, it is duly noted in the crash report.

Commissioner Regula asked if it was a public record.

Capt. Hannay said yes it is a public record. Anytime we document any information in this crash report, once we file the Crash Report with our Records Section, this report is a public record and within 7-10 days this report is available. Once we have the specimen tested (blood or urine) or whatever body fluid we test, our crime lab in Columbus submits the results of that test back to the Records Section to add it to this report. Also, that report is sent back to the Patrol Post that investigated that crash. I will see to it that the Commission and its Commissioners have those results when they are supplemented to those crash reports.

Commissioner Regula asked about the two individuals that were in the Saab?

Capt. Hannay said both have been tested. We did draw blood. We had the coroner's office supply those specimens to us. Those results have not been returned yet.

The Chairman said if there is no further business, I'll accept a motion to adjourn our meeting. Please note that our November meeting which is scheduled traditionally for the third Monday which would be November 21st, has been moved to **November 14th**. Thanksgiving is on November 24th so we are holding our meeting one week prior. We have scheduled our October meeting for the third Monday, **October 17th**.

Commissioner Dixon moved to adjourn and Deputy Director Darwish seconded.

The Chairman said please call roll. All Members voted in the affirmative to adjourn.

Time of adjournment was 12:24 p.m.

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

George F. Dixon, Secretary-Treasurer