

**Resolution #TC-2034**

**BE IT HEREBY RESOLVED, the Transportation Commission's Special and Regular Meeting Minutes for October 19 & 20, 2011 are hereby approved as published in the official agenda of the November 16 & 17, 2011 Meeting.**

**Transportation Commission of Colorado  
Regular Meeting Minutes  
October 20, 2011**

**Chairman Steve Parker convened the meeting at 8:34 a.m. in the auditorium of the headquarters building in Denver Colorado.**

PRESENT WERE: Steve Parker, Chairman, District 8  
Gary Reiff, Vice Chairman, District 3  
Trey Rogers, District 1  
Heather Barry, District 4  
Kathy Gilliland, District 5  
Kathy Connell, District 6  
Doug Aden, District 7  
Les Gruen, District 9  
Gilbert Ortiz, Sr., District 10  
Herman Stockinger, Secretary

EXCUSED: Kimbra L. Killin, District 11

ALSO PRESENT: Don Hunt, Executive Director  
Ben Stein, CFO  
Tim Harris, Chief Engineer  
Mike Cheroutes, HPTE Director  
Stacey Stegman, for Public Relations Director  
Tony DeVito, Region 1 Transportation Director  
Dave Eller, Region 3 Transportation Director  
Harry Morrow, Chief Transportation Counsel  
John Cater, FHWA  
Toni Kelly, Executive Assistant to the Commission

An Electronic audio recording of the meeting was made and filed along with supporting documents in the Transportation Commission office.

**Audience Participation**

Chairman Parker noted that no member of the audience had signed up to address the meeting.

## **Individual Commissioner Comments**

Commissioner Barry said that it was a pleasure to be in Breckenridge and have the opportunity to meet with local officials. She confirmed that it was a great opportunity to get out of the Headquarters and see other parts of the state.

Commissioner Aden reported that he had finished attending the County meetings and that he had attended the Delta and Montrose Counties with Dave Eller and the Region 3 staff. He reported that the meeting in Breckenridge had been held the night before and that it was great to get out and visit the counties and regional staff.

Commissioner Rogers stated that he too appreciated the opportunity to get out and see other parts of the state and that it had been a pleasure to attend the dinner meeting with local officials on the evening before, October 19, 2011.

Commissioner Ortiz confirmed that he appreciated the bus ride as it was a great to see as he had been in the construction industry for a lot of years and really enjoyed the views of the potential projects the bus tour allowed.

Commissioner Gruen declared that he had been asked to pass along the sentiments of appreciation from the Pikes Peak Area Council of Governments for the Commission and CDOT Staff and their efforts in regards to the allocation of funds to the Pikes Peak Area.

Commissioner Connell reported that it was great to be on the road and that she hopes for more of such trips to get out and meet with the local officials. She said that things were heating up in her district of Northwest Colorado with County officials from Routt and Moffat counties urging her to convey their thanks for the work that CDOT is doing on surface treatment currently and for the Commission to keep in mind the results from the recent Bike Race through Colorado as the future Surface Treatment allocations are being considered.

Commissioner Gilliland said she would add her thanks for the organization of the Commission Road trip and that it had allowed the ability to get out on the road and see firsthand the projects in person rather than reading text about them. She confirmed that it had opened her eyes to what it takes to make huge projects happen. She stated that she had been getting out in her district meeting with County Commissioners and that she attended a Safety and Training effort in Region 4 and was able to speak with staff who worked out on the road on a daily basis and had brought some of their concerns to the Safety Committee. She mentioned that she had attended the State Freight and Rail stakeholders meeting.

Commissioner Parker reminded the group that he had been in the banking business for his career and that in their small town they had build the bank by getting out and visiting their customers and expanding the relationships over the years. He related that experience to the meeting that was held the evening before, October 19<sup>th</sup>, stating that the Commission had visited the local elected officials and that the response was very

positive. He stated that over the next 12 months he would be working toward planning more of the same types of trips to other parts of the State.

### **Executive Director's Report**

Director Don Hunt confirmed that he had attended the AASHTO Annual Meeting with Chief Engineer Tim Harris and others. He reported that he had attended many meetings with the Directors of the 50 States. He said there was a lot of optimism among the Administration and the Federal DOT for the possibility of getting a jobs bill or some longer term Re-Authorization with a jobs component in terms of transportation. He declared that the directors of State DOTs are very pessimistic about a Jobs bill or a short term Re-Authorization but, that at least for the current fiscal year there is funding. He stated that an interesting aspect he found in the meetings he attended was that there is little progress being made on mileage based user fees in any state including Oregon where the legislature passed enabling legislation but was unable to pass any kind of legislation to put it in place. He mentioned that John Shorn, Director of Tennessee was a motivated supporter of mileage based user fees but, could not get support for the idea in his state. Director Hunt said that the eastern states use tolls extensively and that they had discussed tolls at length. He said that the new AASHTO President from Michigan had on his agenda to fight for a Re-Authorization bill and that the issue had been unsuccessful during the last 2 terms of past Presidents of AASHTO. Director Hunt said that he was setting up visits to the CDOT Regions and wants to visit the Maintenance employees on the visits. He confirmed that while he was in each Region, he would try to visit with local elected officials and with a key business official in each of the areas. Don thanked the staff for covering for him in his absence in September and thanked the Commissioners who were very supportive during that time.

### **Chief Engineer Report**

Chief Engineer, Tim Harris declared that he wanted to add his thanks as Commissioner Gruen had in regards to releasing the unanticipated revenues. He confirmed that the approach being taken could be delivered in a logical manner. He reported that in regards to Fuel Card issues, new 6 digit pin numbers were being mailed out for Fleet Vehicles and would take effect November 1<sup>st</sup>. He reported that the numbers were being mailed because e-mail was not secure enough. Chief Harris said that in November, the new fuel cards for the rest of the vehicles would be mailed out and take effect.

### **High Performance Transportation Enterprise (HPTE) Director's Report**

Mike Cheroutes reported that the Enterprise was continuing to be busy and that he would be happy to meet with any Commissioners for a detailed account on their projects.

### **FHWA Division Administrator Report**

John Cater spoke on the following topics:

#### **In Active Projects**

- Recognized Region 4 in reducing the number of inactive projects
- Johnny Olson and his staff had a lot of difficulties with small governments and had done a great job working things out
- Statewide number is now below 1%

### **Completion of project**

- I-70 and Central Park Boulevard Interchange
- FHWA Executive Director, Victor Mendez would be attending the ribbon cutting ceremony
- Nice to have a way to display the successes of our investments as this project completion does

John expressed his thanks for the organization of the trip and his inclusion in the trip. He declared that he felt it was important for the whole group to see things at the same time and appreciate what is being tackled.

### **Committee Reports**

#### **EFFICIENCY AND ACCOUNTABILITY**

Commissioner Gilliland delivered the following report detailing the Meeting on September 22, 2011:

CDOT's new Director of Process Improvement, Gary Vansuch, met with the Committee to discuss how he will interact with the Committee on some of his initiatives for CDOT.

The Committee approved a recommendation that CDOT adopt a new budget format that is easier to read and understand. The Commission has already started using the new budget format and we hope that people working with CDOT will find the new format more informative.

The Committee approved a recommendation that CDOT staff develop a schedule:

- To expand the Access Control Plan program,
- to include additional resources for the program,
- to change the term to Access Management Plan to soften the connotation of CDOT's role in helping local jurisdictions manage access.

The Committee continues to look at several different areas for possible inefficiencies or efficiency improvements. One area of interest relates to the statutory limitations on CDOT maintenance forces working on highway projects. Currently, if CDOT forces want to work on a job that will exceed 150,000 dollars, CDOT must submit a formal bid like a private contractor. The Committee is looking at the impact of that threshold.

### **Act on Consent Agenda**

Chairman Parker stated that a motion would be entertained on the Consent Agenda and Commissioner Gruen moved for approval of the item. Commissioner Connell seconded the motion. The Chair asked if there was any further discussion on the item, hearing none he asked that all those in favor signify by stating I and opposed nay. On a vote of the Commission, the Consent Agenda was unanimously approved.

**Approve the Special & Regular Meeting Minutes of September 21 & 22, 2011**

**Resolution #TC-2030**

BE IT HEREBY RESOLVED, that the Transportation Commission's Special and Regular Meeting Minutes of September 22, 2011 are hereby approved as published in the official agenda of the October 19 & 20, 2011 meeting Agenda.

**Resolution to approve the Policy Amendment Number 4 for the FY12 -FY17  
STIP**

**Resolution #TC-2031**

**Resolution to Approve STIP Policy Amendment Package for Amendment #4**

**Approved by the Transportation Commission on: October 20, 2011**

WHEREAS, the Colorado Transportation Commission has statutory authority pursuant to 43-1-106, C.R.S. to approve, accept, and amend various planning documents resulting from Section 135 Title 23 of the USC, and 43-1-1101 through 1105 C.R.S.; and

WHEREAS, the Commission adopted the 2012 - 2017 Statewide Transportation Improvement Program (STIP) in May, 2011; and

WHEREAS, the STIP is occasionally amended due to significant changes in project scope or projects need to be programmed in or out of the first four years of the STIP, thereby requiring a policy amendment to the STIP; and

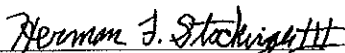
WHEREAS, the Section 450 Title 23 of the CFR requires a public process be implemented for review and comment on proposed policy amendments, as well as Transportation Commission approval of said amendments; and

WHEREAS, the public process for the policy amendments set before the Commission for Amendment #4 was provided from September 20, 2011 through October 19, 2011, and no comments were received; and

WHEREAS, it is requested that the Transportation Commission approve these policy amendments to the STIP, which are detailed in the attached table, and direct staff to forward this approval to the Federal Highway Administration and the Federal Transit Administration for concurrence.

NOW, THEREFORE, BE IT RESOLVED, the attached STIP Policy Amendment package for Amendment #4 be adopted and forwarded to the Federal Highway Administration for concurrence.

BE IT FURTHER RESOLVED, after said concurrence is received from the Federal Highway Administration, staff from the CDOT Office of Financial Management and Budget will finalize the policy amendments in the STIP Database.



Herman Stockinger, Secretary  
Transportation Commission of Colorado

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## **Discuss and Act on the 5th Budget Supplement**

Ben Stein asked if anyone had questions on the Budget Supplement that was included in the Agenda Packet and mentioned that sheets were being handed out and that they detailed the discussion of Alternative 4 discussion from the Budget Workshop on October 19, 2011.

The recommendations included in the Walk on items were:

\$5M for Road Equipment  
\$2M Rockfall  
\$215,000 allocated by detail in the hand out

Ben asked if there were any questions and there being none he asked that the Supplement be approved.

Commissioner Gruen moved for approval of the 5th Budget Supplement and Commissioner Reiff seconded the motion. The Chair asked if there was any further discussion or questions on the item, hearing none he asked that all those in favor signify by stating I and if there were any opposed. Hearing none the 5<sup>th</sup> Budget Supplement was unanimously approved.

### **Resolution #TC-2032**

#### **Approval of the 5th Budget Supplement**

BE IT RESOLVED THAT, the 5<sup>th</sup> Supplement to the Fiscal Year 2011-2012 Budget be approved.

### **Discuss and Act on the Resolution to Approve Repealing 2 CCR 601-5 – The Rules Governing Special Events or Civic Functions on State Highways**

Herman Stockinger declared that he would present on behalf of Mickey Perez and delivered the following report on the Hearing:

- By Resolution TC-2017, dated August 17, 2011, you designated authority to a CDOT Administrative Hearing Officer to preside over the rule making hearing on 2 CCR 601-5.
- Administrative Hearing Officer Micki Perez presided over the hearing, which was held on September 30, 2011. No individuals were present to testify. One letter from the Colo. Municipal League was included in the exhibits, supporting the repeal of these rules.
- Hearing Officer Perez made findings that the Department fully complied with the requirements of the Administrative Procedure Act, a finding which the Office of the Attorney General agreed with. Ms. Perez further found that the repeal of these rules was warranted.

- The Department recommends repeal of this set of rules on two grounds. First, the authority relied upon for the Transportation Commission to promulgate rules regarding special permitting no longer exists. Second, the process set forth in the rules no longer reflects current law. The repeal of these rules will in no way hinder the department, the Colorado State Patrol, or local government entities with the ability to continue carrying out their respective responsibilities regarding the special permit process.
- The Transportation Commission's authority to repeal these rules is found in § 43-1-106(8)(k), C.R.S.

Commissioner Connell stated that the item was straight forward and moved for approval of the item. Commissioner Reiff seconded the motion. The Chair asked if there was any further discussion or questions on the item, hearing none he asked that all those in favor signify by stating I and if there were any opposed. Hearing none, the Repealing of 2 CCR 601-5 was unanimously approved.



**Resolution # TC-2033**

**Repeal of the Rules and Regulations for Special Events or Civic Functions on State Highways, 2 CCR 601-5.**

**Approved by the Transportation Commission on: October 20, 2011**

WHEREAS, section § 43-1-106 (8)(k) C.R.S. (2010) directs the Transportation Commission of Colorado ("Commission") to make all necessary and reasonable orders, rules, and regulations in order to carry out the provisions of § 43-1-101 *et seq.* C.R.S. (2010); and

WHEREAS, the permanent Rules and Regulations for Special Events or Civic Functions on State Highways (the "Rules") were adopted on September 14, 1979; and

WHEREAS, by TC Resolution #2017 dated August 17, 2011, the Commission delegated the authority to conduct a rule making hearing to an Administrative Hearing Officer for the purposes of conducting the rule making hearing, making a complete procedural record of the hearing, and submitting that record and any recommendations to the Commission for its review and action concerning repeal of the Rules; and

WHEREAS, a hearing was held on September 30, 2011, at the conclusion of which Hearing Officer Perez found that the Department had met the requirements of the Administrative Procedure Act and recommended repeal of the Rules; and

WHEREAS, repeal of the Rules, 2 CCR 601-5, conforms with the Colorado Administrative Procedure Act section § 24-4-102(8)(a) C.R.S. (2010) which states that no rules shall be issued except within the power delegated to the agency and authorized by law; and

WHEREAS, the authority which existed in 1973 providing authority to the Commission to promulgate rules regarding special events or civic functions on state highways has been repealed; therefore authority no longer exists for the Rules; and

WHEREAS, repeal of the Rules will not impede or hinder the ability of the Department to continue to issue permits and will have no adverse effect on municipal, local, or state entities or citizens of Colorado;

NOW THEREFORE BE IT RESOLVED, the Transportation Commission herein REPEALS the Rules and Regulations for Special Events or Civic Functions on State Highways. 2 CCR 601-5.

Herman F. Stockinger III  
Herman Stockinger, Secretary  
Transportation Commission of Colorado

**Acknowledgements**

Executive Director Hunt declared that in regards to the 5<sup>th</sup> Budget Supplement he wanted to recognize staff for endeavoring to dig into accounts and find \$100M to deploy into the economy. He confirmed that we are fortunate that Congress extended the funding and that an additional \$222M will be put into the State's economy in the next 12 months which is a huge victory. He said that on behalf of Governor Hickenlooper, he wanted to acknowledge the Commission mentioning that it is challenging with current funding levels and their variables to do the right thing and that decisions are difficult. He stated that, on behalf of the Governor, by selecting 2 important projects, the Twin Tunnels and the widening of I-25 in El Paso County, the Commission had done a terrific job.

### **Other Matters**

A handout was distributed from Mark Imhoff, Director, Division of Transit and Rail in regards to recent grants that had been received.

### **Adjournment**

Chairman Parker announced that the meeting was adjourned at 9:22 a.m.



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Herman Stockinger, Secretary  
Transportation Commission of Colorado