

**Resolution #TC-3000**

BE IT HEREBY RESOLVED, the Transportation Commission's Special and Regular Meeting Minutes for June 20 & 21, 2012 are hereby approved as published in the official agenda of the July 18 & 19, 2012 Meeting.

**Transportation Commission of Colorado  
Regular Meeting Minutes  
June 21, 2012**

**Chairman Steve Parker convened the meeting at 9:30 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  
Ed Peterson, District 2  
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  
Steve Hofmeister, District 11

ALSO PRESENT: Don Hunt, Executive Director  
Ben Stein, CFO  
Tim Harris, Chief Engineer  
Heidi Bimmerle, Director of Admin & Human Resources  
Debra Perkins-Smith, Director Division of Transportation Development  
Mark Imhoff, Division of Transit and Rail Director  
Mike Cheroutes, HPTE Director  
Barbara Gold, Audit Director  
Stacey Stegman, Public Relations Director  
Darrell Link, Director, Office of Transportation Safety  
Richard Zamora, On Behalf of Staff Services Director  
Tony DeVito, Region 1 Transportation Director  
Tom Wrona, Region 2 Transportation Director  
Dave Eller, Region 3 Transportation Director  
Johnny Olson, Region 4 Transportation Director  
Kerrie Neet, Region 5 Transportation Director  
Lizzie Kemp, on behalf of Region 6 Transportation Director  
Harry Morrow, Chief Transportation Counsel  
John Cater, FHWA  
Vince Rogalski, Statewide Transportation Advisory Committee (STAC)

AND: Other staff members, organization representatives,  
the public and the news media

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

### **Audience Participation**

Chairman Parker indicated that there had been a request for a staff member to read a letter aloud on behalf of the group named ROAR (rags over the Arkansas River) and introduced Stacey Stegman who read the letter expressing the group's concerns.

### **Swearing in of Commissioner Steven Hofmeister**

Herman Stockinger administered the oath of office to Commissioner Hofmeister and he was welcomed to the Commission by all.

### **Individual Commissioner Comments**

Commissioner Connell stated that she had begun holding "Coffee with Kathy" klatches in her area and that Idaho Springs was the location for the first one. She confirmed she would make rounds to many other towns in her district.

Commissioner Barry reported that she was excited about an announcement that was going to be made by Executive Director Hunt later in the meeting.

Commissioner Reiff welcomed Commissioner Hofmeister.

Commissioner Hofmeister thanked everyone for the warm welcome.

Commissioner Rogers welcomed the new Commissioner as well.

Commissioner Peterson welcomed Commissioner Hofmeister and thanked him for his commitment to the Commission and to the State of Colorado.

Commissioner Gilliland gave a report on the fires that were burning in her district and the effects they were having on the communities.

Commissioner Parker stated that he had begun participating in a new round of county meetings and had recently been to Delores County, Costilla County, and Conejos County, and that all three of the counties are agricultural based. He confirmed that it had been a treat to visit them.

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

Director Hunt introduced Barb Gold the new Director of Audit and welcomed Commissioner Hofmeister. He then announced that by indications of the Congressional delegation that the North I-25 Managed Lanes extension project would be awarded a \$15M TIGER IV award and stated that staff had been working very hard on the project and he thanked all of the staff members for their work and congratulated them on the award. Mr. Hunt stated that many local partners had contributed funds and ultimately the total was \$44M with 6 or 7 different funding sources. He mentioned that it was an example of the future of transportation funding and thanked all participants.

He listed the following meetings he had attended:

- AASHTO Spring Meeting in Michigan
  - Highway Operations
  - Active Traffic Management
- Colorado Counties Meeting
  - Funding
- I-70 in Denver Update
  - Good Feedback from Community
  - Below grade option through the environmental process

### **Chief Engineer Report**

Chief Engineer Tim Harris began by stating that he wanted to congratulate Region 6 for the TIGER IV success.

He declared that he wanted to present an award that had been received and mentioned that a year ago the I-70 West Mountain Corridor programmatic EIS had been signed in a ceremony at CDOT HQ. He stated that the award had been presented to CDOT by the National Association of Environmental Professionals 2012 National Environmental Excellence Award for NEPA excellence and presented the award to several members of the team who were present at the meeting:

Tony DeVito  
Scott McDaniel  
Wendy Wallach  
Jane Hahn  
Sandi Kohrs  
Vanessa Henderson  
Tracy McDonald  
Kerrie Neet  
Monica Pavlick, FHWA  
Jenna MacAffee, Jacobs Engineering  
Mandy Warton, CH2mHill

Tony DeVito spoke about the challenge of the project and how the team was assembled and stated that the time frame the project was completed was very impressive. He thanked everyone involved.

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

Ben Stein delivered a report on behalf of Mike Cheroutes and stated that in the HPTE Board Meeting on Wednesday, June 20, 2012 the board had put in place Resolution that for a period of time, they would not to accept unsolicited proposals in the following corridors: I-70 East, I-270, or the I-25 North stating that the HPTE is already considering funding of its own on the corridors. The HPTE Board also requested that the Commission adopt a similar resolution to ban unsolicited proposals for these corridors for a period of time at their July meeting.

### **FHWA Division Administrator Report**

John Cater stated that he hoped to report on news of re-authorization but there was no news.

He spoke of his recent experience spending the day with the Rock Fall team from CDOT in Glenwood Canyon. He gave a detailed account of a helicopter ride, spending time on the side of a cliff, and mentioned that there were no easy answers and stated that he tips his hat to the team and the work they do.

### **STAC Report**

Vince Rogalski declared that the STAC had met on Friday, June 15, 2012 and delivered the following report:

#### Transportation Commission (TC) Report- *Vince Rogalski*

- Approved HPTE budget for next year.
- I-70 Viaduct - lowering below grade with coverage on certain sections to connect communities.
- Poor bridge list keeps growing.
- Contingency Workshop- Voted in budget supplement to set aside \$40 million should projects go over budget.

#### Federal and State Legislative Update- *Kurt Morrison and Herman Stockinger*

- Transportation authorization conference making little progress. There are another two weeks until the current extension expires. There will probably be another extension, likely through end of the fiscal year.
- We thought we would have heard about our TIGER applications by now, but DOT is waiting to make sure funding is available before announcing. We'll probably hear about TIGER after the extension.

#### Discussion of Contingency Funds- *Laurie Freedle*

- \$136 million from increased FY 13 revenue projections and additional FY 12.
- Commission decided in May to set aside \$40 million as a reserve for projects (I-70 Co Development, Twin Tunnels and US 36 Phase II), plus \$5 million for road equipment.
- Commission intends to make a decision on \$57 million at the July or August workshop, and is leaning towards funding some Surface Treatment and RPP.

- Of the \$57 million, \$17 would be set aside for statewide significant projects (and TIGER IV projects), \$40 million to RPP, and of the \$40 million in reserve, the first \$5 million of any funds not used would go to capital equipment and the remainder to RPP.
- Motion passes with one 'No' vote

#### I-70 Co-Development- *Herman Stockinger*

- CDOT received an unsolicited proposal to do some work on I-70 as a public-private partnership.
- HPTE reviewed and then put out an RFP for proposals on a public private partnership on I-70.

#### Tiering- *Debra Perkins-Smith*

Debra provided STAC with a preview of the tiering workshop that will be presented to Commission next week.

#### Transportation Planning Rules Update- *Michelle Scheuerman*

#### Advanced Guideway System (AGS) Feasibility Study and Interregional Connectivity Study- *David Krutsinger*

- David provided an overview and update on the two studies currently underway. These studies are a continuation of work that's been ongoing for over a decade: the I-70 Mountain Corridor EIS, and the North I-25 EIS. AGS Feasibility Study is the I-70 project, with a focus on Eagle County Airport to Jefferson County. Jefferson County to DIA is being addressed by the ICS. David noted the need to understand what technology can be obtained from industry, and what funding might be obtained from our federal partners.

#### Transit and Rail Advisory Committee (TRAC)/Division of Transit and Rail (DTR) Update- *Mark Imhoff*

- DTR has taken the better part of a year taking a hard look at the transit grant processes. DTR is testing the processes we set out last year, with the current round of FASTER grants, and working on the FY 13, and FY 14 and FY 15 application process.

### **Committee Reports**

#### **EFFICIENCY AND ACCOUNTABILITY COMMITTEE**

Commissioner Gilliland gave the following report on the May 17, 2012 meeting of the Committee:

- Many members had recently resigned
- Committee drafted procedures to fill the vacancies on the Committee
- Engineering Region Boundaries and Maintenance Section Boundaries information were discussed

## **TRANSIT AND INTERMODAL COMMITTEE**

Commissioner Reiff delivered the following report on the Wednesday, June 20, 2012 meeting of the Transit and Intermodal Committee:

- In the likely event that the FREX bus service is discontinued in late August, CDOT will take delivery of the remaining ten buses that we own. We were presented with three options for disposal, and favored one in which the buses are offered to local entities in Colorado for a 20% local match on the residual value.
- Since the last update to the T&I Committee, an Advanced Guideway System (AGS) Technical Committee has taken up the task of refining and specifying 28 performance and operational criteria from the PEIS. These criteria will be given to the transit industry to assist in their responses as we determine which technologies are viable in the I-70 mountain corridor. An example criteria is the required speed which must be competitive with auto travel time. The criteria will be shared in draft form with Industry representatives at a webinar on Wednesday, June 27, 9:00 – 10:30 am.
- The Interregional Connectivity Study has begun and the Project Leadership Team (PLT) had its kickoff meeting for this study on June 6<sup>th</sup>. The PLT for this study is comprised of approximately 60 representatives from Cities, Counties, MPOs, Special Districts, and Transit Agencies along the Front Range. The PLT met to establish goals for the project to develop a high speed transit vision for Colorado.
- CDOT's Bicycle and Pedestrian Plan has been under development over the past year. Phase 1 is almost complete and included the development of goals. The primary goals are increasing safety and usage. A public process will conclude Phase 1.
- Next month (July) the Transit & Rail Advisory Committee (TRAC) will join the T&I Committee for a joint meeting. TRAC members will present their key accomplishments over the past year and a half, and will present their recommendations on transit guiding principles for use in the development of the Statewide Transit Plan.

## **DBE Committee**

**Commissioner Barry had to step out of the meeting and Commissioner Gruen delivered the following report for the June 20, 2012 DBE Committee Meeting:**

- Current DBE participation in construction is 13.7 percent which exceeds our current goal of 13.29 percent.
- This August, CDOT must submit an overall DBE goal for Federal Fiscal Years 2013-2015. The proposed goal is 10.25%. The Center for Equal Opportunity is

currently accepting comments on the goal and the goal-setting process. More information is available on the DBE webpage.

- CDOT is moving forward with the Connect2DOT partnership with the Small Business Development Centers. The Center for Equal Opportunity hopes to have the program state wide, and therefore have small business resources in all regions, by the end of the state fiscal year.
- Debra Gallegos from the Center for Equal Opportunity is retiring at the end of this month. Debra served in the Center for EO for 17 years. A replacement has not yet been hired.

### **Audit Committee**

Commissioner Gruen delivered the following report regarding the June 20<sup>th</sup> meeting of the Audit Committee:

- The ARC welcomed new Audit Director Barb Gold who joined CDOT in early June.
- The Region 4 Historical Clearance Audit was presented and discussed. Region 4 RTD, Johnny Olson, provided a “Lessons Learned” briefing, in which he discussed how he will share the recommendations from the audit with the other regions so that all regions can benefit from the results of the audit.
- William Johnson and Heidi Bimmerle presented an update on the Document Retention Audit report. William discussed how the Knowledge, Management Governance Project will help to address the major findings of the audit.
- Gary VanSuch provided an update on the Lean Process, and explained some ideas on how the Lean Process and the Audit Division can work together to avoid duplication of efforts.
- The Audit division will be pursuing electronic workpaper packages to continue to streamline the audit process and leverage technology to gain efficiencies.
- Four advisory memos were issued to management on the following topics:
  - IT Network Inventory
  - Davis Bacon Wages
  - Prompt Payment on Consulting Contracts, and Revisions to the Construction Manual for Finals Process
  - Internal Audit followed up on fifty-nine open audit recommendations this quarter and reported that eleven of them (19%) had been closed.

### **Act on Consent Agenda**

Chairman Parker stated that a motion would be entertained on the Consent Agenda and Commissioner Aden moved for approval of the Consent Agenda. Commissioner Connell seconded the motion and on a vote of the Commission, the Consent Agenda was unanimously approved.

**Approve the Special & Regular Meeting Minutes of May 16 & 17, 2012**

**Resolution #TC-2091**

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

**Resolution #TC-2092**

**Approval of Resolution to Repeal Policy Directive No. 504.0 "Design Build Contracting"**



**Resolution # TC-2092**  
**Repeal Policy Directive No. 504.0 "Design-Build Contracting"**

**Approved by the Transportation Commission on: June 21, 2012**

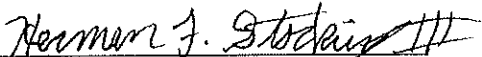
**WHEREAS**, § 43-1-106 (8)(a) C.R.S. (2011) gives authority to the Transportation Commission of Colorado ("Commission") to formulate the general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the state; and

**WHEREAS**, Policy Directive 504.0 was adopted by the Transportation Commission on May 1, 2006; and

**WHEREAS**, Since that time, the Project Development unit of the Department has fully implemented a Design-Build Manual which conforms to CDOT's rules and state and federal law; and

**WHEREAS**, the Department's compliance with the procedures set forth in the manual, and compliance with state and federal law is adequate to govern this area; and

**NOW THEREFORE BE IT RESOLVED**, the Commission herein REPEALS Policy Directive 504.0, "Design-Build Contracting" dated May 1, 2006.

  
Herman Stockinger, Secretary  
Transportation Commission of Colorado

**Approval of the Resolution to Repeal Policy Directive No. 507.0 "ADA  
Accessibility Policy for CDOT Construction Projects"**

**Resolution # TC-2093**

**Repeal Policy Directive No. 507.0 "ADA Accessibility Policy for CDOT Construction Projects"**

**Approved by the Transportation Commission on: June 21, 2012**

**WHEREAS**, § 43-1-106 (8)(a) C.R.S. (2011) gives authority to the Transportation Commission of Colorado ("Commission") to formulate the general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the state; and

**WHEREAS**, Policy Directive 507.0 was adopted by the Transportation Commission on December 17, 2009, Resolution No. TC-1799; and

**WHEREAS**, Policy No. 605.0 "Comprehensive Accessibility for Persons with Disabilities" submitted to the Commission this month for adoption, encompasses this Policy; and

**WHEREAS**, Policy 605.0, while including construction projects, also pertains to CDOT's compliance with all other aspects of compliance with Americans with Disabilities Act requirements, including Building Facilities, Transportation Facilities and other services; and

**WHEREAS**, eliminating this Policy is part of CDOT's project to reduce the number of Policies and Procedural Directives and eliminate any that are duplicative.

**NOW THEREFORE BE IT RESOLVED**, the Commission herein REPEALS Policy Directive 507.0, "ADA Accessibility Policy for CDOT Construction Projects" dated December 17, 2009.



Herman Stockinger, Secretary  
Transportation Commission of Colorado

**Approval of the Resolution to Adopt Policy Directive 605.0 "Comprehensive Accessibility for Persons with Disabilities:**

**Resolution # TC-2094**

**Adopt Policy Directive 605.0, "Comprehensive Accessibility for Persons with Disabilities"**

**Approved by the Transportation Commission on: June 21, 2012**

**WHEREAS**, § 43-1-106 (8)(a) C.R.S. (2011) gives authority to the Transportation Commission of Colorado ("Commission") to formulate the general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the state; and

**WHEREAS**, by Resolution Number TC-1284, on July 15, 2004, the Commission adopted prior Policy Directive 605.0; and

**WHEREAS**, prior Policy Directive 605.0 contained the review date of March 2009; and

**WHEREAS**, the Department continues to work with the Federal Highway Administration on compliance with federal Americans with Disabilities Act regulations; and

**WHEREAS**, as part of that effort, Policy Directive 605.0 has been updated to reflect current practices and conformance with federal law; and

**WHEREAS**, the Policy specifically refers to an implementation plan which includes milestones the Department will meet to comply with ADA requirements; and

**WHEREAS**, the Executive Director has recently signed Procedural Directive 605.1 ADA Requirements in CDOT Transportation Projects; and

**WHEREAS**, the proposed Policy Directive 605.0 attests to the Department's continued efforts to comply with federal Americans with Disabilities Act regulations; and

**NOW THEREFORE BE IT RESOLVED**, the Commission herein adopts Policy Directive 605.0 "Comprehensive Accessibility for Persons with Disabilities."

  
Herman Stockinger, Secretary  
Transportation Commission of Colorado

**Approval of the Resolution to Adopt Policy Directive 1500.0 "Guide Signing Policy"**

**Resolution Number TC-2095**  
**Adopt Policy Directive 1500.0, "Guide Signing Policy"**

**Approved by the Transportation Commission on: June 21, 2012**

WHEREAS, § 43-1-106 (8)(a) C.R.S. (2011) gives authority to the Transportation Commission of Colorado ("Commission") to formulate the general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the state; and

WHEREAS, current Policy Directive 1500.0 was adopted by the Transportation Commission on April 16, 2003; and

WHEREAS, the review date for Policy Directive 1500.0 was April 2008; and

WHEREAS, pursuant to § 42-4-104 C.R.S., CDOT is charged with adopting a manual and specifications for a uniform system of traffic control devices for use upon highways within Colorado; and

WHEREAS, pursuant to § 42-4-104 C.R.S., CDOT's Guide Signing manual must conform to the system set forth in the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways" ("MUTCD") and other related standards issued or endorsed by the federal highway administrator; and

WHEREAS, the Traffic and Safety Engineering Branch of the Department has completed a revision of the Guide Signing Policies Manual ("Manual") and ensured that it conforms to the MUTCD, which contains the standards and guidelines for the design and installation of highway signing; and

WHEREAS, the Commission supports CDOT's goal of guide signing by striking the appropriate balance between the needs of local governments, individual businesses, motorists and passengers, minimizing sign "pollution" and complying with federal and state law governing outdoor advertising and the design and application of highway guide signing; and  
NOW THEREFORE BE IT RESOLVED, the Commission herein ADOPTS Policy Directive 1500.0 "Guide Signing Policy."

  
Herman Stockinger, Secretary  
Transportation Commission of Colorado

**Approval of the Resolution to pursue the option to eliminate the Bennett, Hugo/ Boyero, Hadley and West Glenwood Rest Area facilities, convert West**

**Glenwood to an emergency truck parking area and obliterate the remaining three**

**Resolution # TC-2096**

**Approval to pursue the option to eliminate the Bennett, Hugo / Boyero, Hadley and West Glenwood Rest Area facilities, convert West Glenwood to an emergency truck parking area and obliterate the remaining three.**

**Approved by the Transportation Commission on: June 21, 2012**

WHEREAS, by statute, the Transportation Commission responsibilities include formulating general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the state; and

WHEREAS, safety, potential legal liability and functional concerns at the these Rest Areas prompted a maintenance review; and

WHEREAS, the facilities require more than \$300 thousand annually in maintenance costs; and

WHEREAS, the facilities require more than \$1.24 million in upgrade costs; and

WHEREAS, the demand for emergency truck parking areas is increasing; and

WHEREAS, the Transportation Commission considered options that were analyzed for comparison purposes, specifically, no action; eliminating the facilities and converting to emergency truck parking areas; upgrading and repairing the existing facilities; and

WHEREAS, 24-92-109, Colorado Revised Statutes, as amended, requires CDOT to prepare a cost estimate for construction, alteration, repair, demolition or improvement projects to be undertaken by CDOT maintenance crews that exceed \$50 thousand but are less than or equal to \$150 thousand for submission to the Transportation Commission for review and approval; and

WHEREAS, the demolition of existing rest area buildings and asbestos abatement, sign removal and placement, installation of fence and gates, seeding and mulching, and erosion control cost estimate is \$385 thousand; and

WHEREAS, work for conversion to an emergency truck parking area and obliterations will be performed incrementally with portions of the work to be performed using a competitive bid process and portions of the work to be performed by various CDOT work units, all in compliance with law.

NOW THEREFORE BE IT RESOLVED, in consideration of the safety and welfare of the traveling public and based on public comment, the Transportation Commission hereby approves pursuing the option to eliminate the Bennett, Hugo / Boyero, Hadley and West Glenwood Rest Area facilities and convert West Glenwood to an emergency truck parking area.

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

**Discuss and Act on the 1st Budget Supplement**

Laurie Freedle mentioned that she wanted to highlight one action regarding the Transportation Commission Contingency and that it was where the ITS director was able to obtain a deal where they paid \$100,000 to be included in a project and that the money was placed in the contingency and then he was seeking approval to spend the money from the fund not affecting the level of the funds in the contingency.

Commissioner Gruen made a motion for approval of the Budget Supplement. Commissioner Peterson seconded the motion. On a vote of the Commission, the Budget Supplement was unanimously approved.

**Resolution #TC-2097**

**Approval of the 1st Budget Supplement**

BE IT RESOLVED THAT, the 1<sup>st</sup> Supplement to the Fiscal Year 2012-2013 Budget be approved.

**Discuss and Act on the Resolution to Open Rule Making and Authorize an Administrative Hearing Officer to Conduct a Hearing Concerning 2 CCR 604-2, Rules Governing the Statewide Transportation Planning Process and Transportation Planning Regions**

Debra Perkins-Smith gave information on the opening of the Statewide Planning rules and requested permission to open the Statewide Planning Rules to the Rulemaking Process and appoint an Administrative Hearing Officer to conduct a Rulemaking hearing.

Commissioner Connell made a motion for approval of the Resolution and Commissioner Reiff seconded the motion. On a vote of the Commission, the following Resolution was unanimously approved.



**Resolution # TC-2098**

**Open Rule Making and Authorize an Administrative Hearing Officer to Conduct a Hearing Concerning 2 CCR 604-2, Rules Governing the Statewide Transportation Planning Process and Transportation Planning Regions ("Statewide Planning Rules").**

**Approved by the Transportation Commission on: June 21, 2012**

WHEREAS, § 43-1-106 (8)(k) C.R.S. (2011) 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. (2011); and

WHEREAS, § 43-1-1103 (5) C.R.S. (2011) requires the Department to integrate and consolidate the regional transportation plans for the transportation planning regions into a comprehensive statewide transportation plan which is accomplished through a statewide planning process set by the Statewide Planning Rules; and

WHEREAS, the Statewide Planning Rules were originally adopted in October 1992 and were last amended in October 2006 and require minor revisions; and

WHEREAS, the purpose of the Statewide Planning Rules and the proposed amendments is to prescribe the statewide transportation planning process through which a long-range multimodal, comprehensive statewide transportation plan will be developed; and

WHEREAS, the Commission has the authority to delegate its authority to an Administrative Hearing Officer for the purposes of conducting a 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 the Rules.

NOW THEREFORE BE IT RESOLVED, the Commission authorizes staff to prepare a draft of the proposed Rules, and to take all necessary actions in accordance with the Colorado Administrative Procedures Act to initiate rule making for the purpose of amending the Statewide Planning Rules, 2 CCR 604-2.

BE IT FURTHER RESOLVED, the Commission delegates its authority to conduct the rule making hearing to a CDOT Administrative Hearing Officer to prepare a complete record of the hearing and forward said record and Rules to the Commission for consideration and adoption of the Rules.

*Herman J. Stockinger III*

Herman Stockinger, Secretary  
Transportation Commission of Colorado

Commissioner Aden had a question and requested to go back to the Budget Supplement and asked for confirmation that the \$57M does not include the other \$57M set aside or the \$40M or the Contingency and Laurie confirmed that fact.

**Discuss and Act on the Resolution to Approve the Retention of Outside Counsel**

Chairman Parker stated that Commissioner Rogers would make comments regarding the Resolution in question. Commissioner Rogers stated that in May 2012 that the Bridge Enterprise, CDOT and Transportation Commission Members, in their official capacity had been named in a suit filed by the TABOR Foundation. He confirmed that the Tabor Foundation was claiming that the registration fees that fund the Bridge Enterprise are taxes not fees and was a violation of the TABOR provision of the State Constitution. He declared that following discussions with the Transportation Commission, State Attorney General's Office, and the Governor's Office that it was decided it would be appropriate to engage outside counsel to assist the Attorney General's office in representation of the members of the suit.

Commissioner Rogers gave information on the firms that submitted proposals for the representation and stated that he was confident in the selection of the outside counsel detailed in the proposed Resolution and moved for approval of the Resolution. Commissioner Aden seconded the motion. On a vote of the Commission, the following Resolution was unanimously approved.

**Resolution #TC-2099**  
**Approving Retention of Outside Counsel**

**Approved by the Transportation Commission on: June 21, 2012**


WHEREAS, on or about May 22, 2012, the Colorado Bridge Enterprise, the Transportation Commission and the ten individuals comprising the Transportation Commission, in their official capacities, were named defendants in a lawsuit styled, *TABOR Foundation v. Colorado Bridge Enterprise, et al.*, Civil Action No. 2012CV3113, Denver District Court (the "Litigation"); and

WHEREAS, the Bridge Enterprise is being defended in the Litigation by the Colorado Attorney General's Office; and

WHEREAS, the Transportation Commission desires to engage outside counsel to represent and defend it and the individuals comprising the Transportation Commission in the Litigation; and

WHEREAS, the Colorado Attorney General has approved the use of his elected official exemption to the procurement rules to retain outside counsel, a solicitation of qualified outside attorneys/firms has been conducted, interviews have been held and a recommendation has been made to retain the firm of Heizer, Paul, Grueskin LLP to represent the Transportation Commission and the individuals comprising the Transportation Commission in the Litigation.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission hereby approves retention of the firm Heizer, Paul, Grueskin LLP as outside counsel to represent the Transportation Commission and the individual Transportation Commissioners, named in their official capacities, in the Litigation.

  
Herman Stockinger, Secretary  
Transportation Commission of Colorado

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**Acknowledgements**

Chairman Parker introduced Ron Youngman from The Colorado/Wyoming Chapter of the ACPA (American Concrete Pavement Association)

He presented Awards to 3 projects:

I-70 Glenwood Canyon Phase II - Region 3

I-225, Mississippi to 2nd Ave. - Region 6

I-70 Central Park Blvd. Interchange - Region 6, Denver Residency

- The I-70 Glenwood Canyon project was awarded the best Concrete Rural Divided Highway built in 2011
- The I-225 project got two awards
  - one for being the best Concrete Urban Divided Highway built in 2011
  - The best Sustainable Concrete Highway Project built in 2011
- The I-70 Central Park Blvd Interchange was a City and County of Denver Project. The Region 6 Denver Residency received an award for their contribution to this project.

### **Other Matters**

Chairman Parker confirmed with the gathering that there were no other matters to come before the Commission.

### **Adjournment**

Chairman Parker announced that the meeting was adjourned at 10:38 a.m.

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

8-3-12  
Date