

**Resolution – HPTE # 138**

**Approving HPTE August 20, 2014 regular meeting minutes**

**BE IT RESOLVED**, that the August 20, 2014 regular meeting minutes attached hereto, are hereby approved by the High Performance Transportation Enterprise Board of Directors.

Signed as of September 17, 2014

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Chairman, HPTE Board of Directors

**RECORD OF PROCEEDINGS**

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MINUTES OF THE REGULAR BOARD OF DIRECTORS OF THE  
**HIGH PERFORMANCE TRANSPORTATION ENTERPRISE (HPTE) (Room 225 and HQ Auditorium)**

Held: Wednesday, August 20, 2014; 12:00

4201 E. Arkansas Ave, Denver, CO 80222

A meeting of the Board of Directors of the HPTE was convened in accordance with applicable statutes of the State of Colorado, with the following Directors present:

Attendance:	Tim Gagen, Chair	Don Marostica	Brenda Smith (excused)
	Kathy Gilliland, Vice Chair	Gary Reiff	
	Doug Aden	Trey Rogers	

Chair Gagen calls the regular meeting to order @12:00pm in Room 225

Roll call was taken to establish a quorum, and it was noted that Director Smith was excused.

General Discussion

The HPTE Board engaged in discussion of matters relating to subsequent agenda items, upcoming projects, and administrative and budget matters.

Director Cheroutes reported on the following:

An Executive Session of the Board will take place in the Auditorium, after an abbreviated lunch discussion, with the subsequent agenda items to occur after the executive session. There is on-going consideration of how transit fits into HPTE-related projects, and how to assess how transit might function effectively on projects. It was suggested by Chair Gagen that perhaps Division of Rail and Transit within CDOT could do the initial query for projects. Executive Director Hunt noted this would be an appropriate assignment for the Division of Rail and Transit.

Director Cheroutes reported on the development of a 10-year pro-forma, which will look at potential revenue over time, keeping in mind project completion dates. HPTE is working with CDOT CFO Scott Richrath on this effort.

Relations with Plenary Roads Denver are smooth, with continuing discussions about distribution of the new switchable transponders. There are also concerns about enforcement of HOV violations on the I-25 Express Lanes, and it is probable that HPTE will recommend increasing the civil penalties to the Board next month. It was also noted that Plenary will also request an across-the-board flat rate surcharge increase for License Plate Tolling.

Director Cheroutes then gave a status briefing on current HPTE-related projects. Of particular note is the probability that HPTE will seek a \$30M commercial loan for the I-70 eastbound peak period shoulder lane, and also that HPTE will propose an installment purchase agreement with the Transportation Commission for tolling equipment on projects that will be rolling out soon. Status of the I-70 East project was discussed, with a note that the Record of Decision was expected to be completed in the spring of 2016.

The HPTE-sponsored open house for C-470 on August 19 was discussed and described as having gone well. There continues to be significant community outreach on I-70 East. Executive Director Hunt asked if Director Cheroutes believed the outreach efforts have resulted in a better understanding by the public of the projects. Director Cheroutes believed so.

Other Comments:

Vice Chair Gilliland requested a briefing on the status of the I-25 North Corridor, and Director Cheroutes agreed he would address this in the Auditorium so the Board could stay on schedule. Director Marostica agreed that this is a good idea.

Director Cheroutes introduced and welcomed Sharon A. Williams as the new HPTE Program Assistant, who will become the Secretary to the Board next month.

Meeting Break  
(12:35-12:40)

Regular Board meeting moved from Room 225 to the Auditorium.

Chair Gagen reconvened the regular meeting @12:40pm in the Auditorium.

Board reconvened and roll was called to re-establish a quorum after a short break. All directors present with the exception of Director Smith.

Executive Session:

Chairman Gagen asked for a motion to move into Executive Session (script attached to these minutes). Upon a motion by Director Reiff and a second by Director Marostica, the Board voted affirmatively by all present to go into Executive Session for the purpose of discussing with an attorney, Pat Sayas from the Attorney General's Office, a pending court action and to receive legal advice pursuant to Colorado Revised Statutes Section 24-6-402(3)(a)(II). The members of the public were excused.

The topic of the Executive Session was to discuss legal matters related to the Drive Sunshine Institute lawsuit against HPTE (Drive Sunshine Institute v. HPTE, et al., 14-cv-00844, United States District Court of Colorado).

Upon a motion by Director Rogers and second by Director Aden, the Board voted affirmatively by all present to move out of Executive Session.

Executive Session Ends @1:04pm:

Members of the public were invited back into the meeting.

Approval of minutes Resolution #137:

Director Rogers moved approval of the July 16, 2014 meeting minutes, and attaching to them an email from Karen Hammer to Mike Cheroutes, without accepting or acknowledging the contents of that email. Upon a second by Vice Chair Gilliland, the minutes were approved by all present.

Public Comment @ 1:10pm:

Attorney Karen Hammer of Hammer Law said the Transparency Policy adopted last month does not meet the requirements of the Administrative Procedures Act, and future HPTE deals must comply with the Administrative Procedures Act. She requested Colorado Open Records Act access to the redacted information contained in Plenary's 4<sup>th</sup> Quarter performance report. Attorney General's representative Kathy Young advised that Ms. Hammer must make that request in writing.

Director's Report:

Director Cheroutes reported on the status of current projects. He noted that the Tuesday night open house for C-470 was well attended. He noted several key meeting dates and events upcoming for the I-70 East project, including potential release of an RFQ in December. He said staff continues to evaluate several interim projects under RAMP. Vice Chair Gilliland noted that there may be opportunities to move the projects along by leveraging flood relief funding, and said I-25 North Corridor has the strong support of the business community. Director Cheroutes then introduced the new HPTE Program Assistant, Sharon A. Williams who will become the Secretary to the Board of Directors.

OMPD Report:

Acting Director Peter Kozinski spoke about the on-going efforts to advance the I-25 North projects. It was noted the RAMP time extension is in place until December, 2014. He also noted significant progress on the I-70 East Project, the C-470 Project and the I-70 Mountain Corridor eastbound peak period shoulder lanes. He said CDOT would likely seek innovative proposals (finance and design) for the westbound lanes soon.

I-25 Express Lanes 4<sup>th</sup> Quarter Performance Report

Terry Ostrom, of Plenary Roads Denver, delivered the concession's first quarterly performance report to the Board. He reported that traffic and revenues were down a bit in the 4<sup>th</sup> quarter, following expected seasonal fluctuations. The total revenues for this quarter were \$747,000. He acknowledged E-470's role

in delivering customer service satisfaction levels that exceeded the performance goal. Chairman Gagen asked if bus travel times were not included in this report. Ostrom spoke about the installation of new travel time indicators, and said Plenary is making an application to the FCC for additional bandwidth to support the indicators. He also noted most buses in peak hours are managing a travel time at or better than required travel times. Director Cheroutes said Plenary is a good partner and thanked Ostrom. He then mentioned the need to increase HOV violation civil penalties and the License Plate Toll surcharge.

Adjournment:

There being no further business to come before the Board, the meeting was adjourned.

DRAFT



**JOHN W. SUTHERS**  
Attorney General

**CYNTHIA H. COFFMAN**  
Chief Deputy Attorney General

**DANIEL D. DOMENICO**  
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**CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION**

**EXECUTIVE SESSION SCRIPT**

- 1. Turn recorder on.**
- 2. Roll Call**
- 3. Motion to enter executive session.**

*This is Tim Gagen, Chair of the High Performance Transportation Enterprise Board of Directors. It is August 20, 2014 and the time is 12:40pm. The HPTE Board of Directors is convened for its regular August 2014 Board meeting. I move that the Board now enter into executive session for the purpose of discussing with an attorney a pending court action and to receive legal advice pursuant to Colorado Revised Statutes section 24-6-402(3)(a)(II). The topic of the Executive Session will be to discuss legal matters related to the Drive Sunshine Institute lawsuit against HPTE.*

*Do I have a motion to convene in executive session for this matter?*

Moved by: Director Reiff

Seconded by: Director Marostica

Call for discussion

Vote - All in favor say AYE

Opposed?

NOTE: Need 2/3 vote of entire membership of board.

*The motion passes by a 2/3 vote of the Board.*

*The Board will convene in executive session, the public is excused.*

NOTE: Give public time to exit and close the door.

*We are now in executive session.*

**4. Restate basis of executive session –**

*This is Tim Gagen, Chair of the HPTE Board of Directors. It is August 20, 2014. The HPTE Board is currently in an executive session for the purpose of discussing with an attorney a pending court action and to receive legal advice pursuant to Colorado Revised Statutes section 24-6-402(3)(a)(II).*

**5. Conduct Executive Session**

- Confine discussion to the topic announced.
- Do not make final decisions or vote during executive session.

**6. Exit executive session.**

*This is Tim Gagen and it is 1:04pm. We have concluded the executive session and will be inviting the public to return and will turn the recorder off.*

**7. Invite the public to return and turn the recorder off.**

**8. Engage in further discussion where appropriate. Entertain motions where appropriate.**