

**RECORD OF PROCEEDINGS**

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**MINUTES OF A SPECIAL PLANNING MEETING OF THE BOARD OF DIRECTORS OF THE  
HIGH PERFORMANCE TRANSPORTATION ENTERPRISE (HPTE)**

Held: Tuesday, March 3, 2015; 10:00am

CDOT Headquarters Auditorium, 4200 E. Arkansas Avenue Denver, Colorado

A Special Planning 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
	Kathy Gilliland, Vice Chair	Gary Reiff	
	Doug Aden (Excused)	Trey Rogers	

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

Chair Gagen outlined the reasons to come together for this special planning meeting: take action on a proposed toll rate and penalty schedule for the I-25 and US 36 Express Lanes, as well as take public comment. Chair Gagen went on to add the tolling proposal being discussed is ONLY related to the managed lanes of US 36 and the existing managed lanes that exist on I-25.

Director Remarks: Director Cheroutes thanked the HPTE Board and went on to speak in length about Plenary Roads Denver (PRD), the concessionaire managing the I-25 and US 36 Express Lanes, is proposing the new rates to provide a reliable travel time for Express Lane drivers and RTD, and to help recover costs from processing License Plate Tolls (LPT) and toll evasion. Also, the proposed rates encourage drivers to use an Express Toll pass, which will reduce costs. Plenary has proposed two rate increase new toll rates for the existing I-25 Express Lanes, 16 Toll Rates for US 36 Express Lanes Phase 1 Pecos Street to 88th Street in Louisville/Superior), which will open mid-summer 2015 New Civil Penalty to serve as a stronger deterrent against toll evasion. Director Cheroutes went on to add, HPTE selected PRD as the concessionaire for the US 36 Express Lanes project. This summer, Phase 1 of the project (Pecos Street to 88th Street in Louisville/Superior) will open. Currently, PRD is operating and maintaining the I-25 Express Lanes. He went on to add, the use of toll pricing during peak travel times reduces delays, manages congestion and maintains reliable travel times. Express Lanes currently span seven miles on I-25, between downtown Denver and US 36, and are being built on I-25 in both directions to 120<sup>th</sup> Avenue and on US 36 to Boulder. Both Express Lanes corridors are scheduled to open later this year. Additionally, CDOT is planning Express Lanes in major mobility corridors across Colorado including I-70 through east Denver and in the mountains, and C-470 – as a way to effectively manage traffic congestion. To use any Colorado Express Lanes, you will need an Express Toll account and pass. The Switchable HOV Transponder is the only pass that allows you to choose the carpool option and use the lanes for free.

Director Reiff thanked the HPTE Board and Director Cheroutes. Director Reiff noted, there are a variety of grounds for the HPTE Board to reject a request from Plenary, the first one is non-compliance of the proposal with requirements of the agreement itself; could you discuss the compliance of the proposal with agreement.

Director Cheroutes went on to state, compliance with the agreement would mean, for example, the toll being proposed were in furtherance of the goals of the project which were to keep the lane congestion free during peak periods and there is no basis in my judgement for invoking that particular exception.

Director Reiff went on to say, in that regard, Plenary has submitted all the information required or the staff has required to give us advice on this. Director Reiff went on to add that a letter was received from Counsel from some Plaintiff's that claim that we did not get the required information from Plenary, could that be addressed.

Director Cheroutes went on to add that Plenary's proposal needs to meet very specific requirements, which are set in the contract, we carefully examined the contract to include those specifics in the proposal.

Executive Director Shailen Bhatt expressed the need, that as a clarification, does the agreement have traffic and speed data that justify the increase.

Director Chertoues went on to state, that is difficult to get traffic and speed data for the managed lanes not open, at which currently we don't have. He went to add the Plenary will address this in the proposal. For I-25 we do have the traffic and speed data. What is being proposed today is the need to keep consistent traffic free flowing. He went to add, we have an agreement with RTD to give them priority in the managed lanes to keep the buses flowing and this is another factor that will dictate the pricing for the managed lanes.

Presentation by  
Plenary Roads  
Denver:

Terry Ostrom, from Plenary Roads of Denver, whom is responsible for design and construction of the US 36 corridor. He went on to state, I'm before the HPTE Board today to request an increase in the tolls for the I-25 managed lanes, an increase in the LPT surcharge and to propose base toll rates for US 36 portion of Phase I US 36 and the proposed base LPT surcharge rates for US 36. When determining what the toll rate should be we had some considerations, first being the goals of the project, there are numerous goals stipulated in the contract, but three specifically that address toll rates. Reliable travel times for busses, maintained predetermined bus travel times and third goal to provide transportation choices to HOV and Non-HOV users. He went on the add that the toll revenue is used to repay financing costs necessary to develop, design, construct as well as the operating and maintenance of the managed lane portions of I-25 and US 36. This includes two free general purpose lanes and one tolled express lane in each direction of US 36 as well as a bike path along the corridor. Ostrom, went to add the tolls are the only contractual mechanism we have to regulate traffic volume in the express lanes. Consideration when establishing toll rates was Plenary utilizes a traffic and revenue analysis to help determine optimal toll rate that will achieve Project goals as well as repay Project financing costs. Recovery of toll transaction costs and uncollectable tolls and bad debt as well as incentivize conversion from LPT to AVI, manage traffic volume to ensure bus travel times and for the toll not exceed \$13.91, Boulder – Denver (indexed).

HPTE Director Cheroutes probed Terry Ostrom to inform the HPTE Board about how does your organization decide what is an appropriate rate to be able to maintain free flow in the managed lane.

Terry Olstom, stated PRD has traffic volumes and speeds we collect on I-25, there are devices on the roadways that determine the traffic, so we measure traffic. We provide the information to HPTE and the Board routinely, but we also look at the traffic on feeder route. He went on to add that, our consultant collects that information, the projected growth rates, where the employment opportunities are along the corridor, from that we estimate how people are going to utilize US 36, once the Project is completed. Then PRD determines what the optimum toll rate where we can guarantee bus travel times but still collect enough revenue to service the debt.

Director Gilliland inquired about the frequency of when PRD adjust toll rates.

Terry Ostrom, stated we can ask the HPTE Board to consider an adjustment randomly, we are thinking along with the other Colorado toll roads is on an annual basis.

Amy Ford, CDOT's Communication Director, went on to express, anyone can use Express Lanes, and there are simply different ways to travel them. A traveler can choose to travel For free as a carpooler with either one or two passenger. By transit on either priority buses or Bus Rapid Transit who can travel the corridor, or by paying a toll as a single occupant vehicle and travelers are never forced to pay a toll and can always choose to travel in the adjacent free general purpose lanes. Express Lanes on I-70 West in the mountains will not include a "free" policy for HOV vehicles given that a majority of vehicles traveling in the corridor typically have more than one passenger. She went on to use any

Colorado Express Lanes, you will need an Express Toll account and pass. The Switchable HOV Transponder is the only pass that allows you to choose the carpool option and use the lanes for free. If you choose not to use a pass, you will be billed through a License Plate Toll. A bill will be sent to the registered owner of the vehicle and you will pay a higher toll rate based on how far you travel in the Express Lane.

Director Marostica reminded the audience participation is welcome during public comment, and that each presentation is limited to 3 minutes per speaker.

**Public Comment:**

Daniel Schroder, went on to state that he uses the toll lanes on a regular basis at the cross of I-25 and US 36. The problem I see is the rates increase and the road diminishes. He went on to add if this is part of the contract those fees are to cover the maintenance of the road, it's not happening and for me to pay a five dollars and bounce down the road, but now to hear of another toll increase is completely frustrating. One of the benefits of raising the toll rates was maintenance of the road which is not happening. Mr. Schroder, went on to add, that he didn't realize that an option was the switchable transponder, I see more people avoid toll then use it, so if we can't enforce the law with the state patrol, how can we do it with the switchable transponder. Also, revenue lost on the LPT, why are we doing that, as you know CDOT has a budget shortfall, why not delete LPT, if we are missing out over 30% of the revenue and the additional cost.

Director Cheroutes went on to express it's not specifically about LPT's, most states that run Express Lane projects do not permit LPT, it's a great deal of people whose opinion feel that they can ride in those lanes without a sticker and are willing to be charged for their indiscretion. The end result is less revenue for Plenary and HPTE, I will conclude in the next few year we will re-visit that policy. The discrepancy about maintenance causes reservation, I would like for PRD to respond to the maintenance issues. Plenary is required by its contract to maintain those lanes at a high performance level, the maintenance of the road is essential and will need to be addressed.

Terry Ostrom, from PRD, stated within the contract we have criteria of the quality of the lanes on I-25 and US 36, the maintenance of I-25 is scheduled for the new asphalt (milling fill) to be done over the summer time. The expansion joints on the bridges starts next week and continue throughout the summer and the 20<sup>th</sup> street bridge, will receive a polyester overlay which will commence next summer as well and we are obligated to maintain the lanes until the duration of our contract. Collecting tolls via an Express Toll Pass is digital and efficient and guarantees that a person doesn't evade paying a toll. Tracking and collecting tolls through license plate readers is more costly and cumbersome. The new rates reflect the cost difference of administering these two toll payment methods. New civil penalty to serve as a stronger deterrent against toll evasion, the penalty will increase from \$46 to \$250. Plenary is contractually obligated to maintain the roads they manage. They'll be putting in roughly \$8 million to fix up I-25 in the next year or so. CDOT says Plenary can manage the roads better than it can.

They also include calculations based on toll evasion, as there are individuals who choose to cheat the system by not paying their license plate bill. The new rates and fees also provide drivers with an incentive to secure an Express Toll Pass, while still providing drivers a choice if they don't want to create a an Express Toll account.

Chair Gagen, stated to Terry Ostrom, when PRD took over the maintenance responsibility for I-25.

Terry Ostrom went to state, as part of the U.S. 36 arrangement, Plenary Roads Denver assumed operations and maintenance responsibilities for the I-25 Express Lanes since March 7, 2014.

Alex Ariniello, Director of Public Works for the town of Sterling, Colorado, expressed his concern for US 36 Phase I and II, will another tolling point and request become apparent for Phase II. He went to further seek clarification, adding the memo presented wasn't clear, from specific times and day tolls vary, will that be rectified or is this the dynamic based on volumes in the managed lanes.

Director Cheroutes went on to add, the changes that will be seen on the I-25 Express Lanes during peak hours show clearly why setting up an Express Toll account will give commutes significant savings.

Terry Ostrom, went on to add, traffic analysis, my opinion believe if the dynamic tolling is not reasonable for about 7 years. So what we've proposed is time of day assuming the growth along the corridor stays in line with our projection. Dynamic Tolling means algorithm, the toll is calculated from congestion. He went on to add that a system is being designed for dynamic tolling.

Former CU-Boulder political science professor, Thad Tecza, says one of the reasons he stopped working there is because the commute became such a pain As they continued to build along the way it became more and more congested until it was in fact an intolerable drive. The fee is just too high in his opinion. He says it is not something the working class is going to be able to afford and will create classes among drivers. Clearly what the Department of Transportation has decided is that since the people have chosen not to increase taxes, they are going to do what they want to do in spite of the people by building toll lanes.

Chair Gagen thanked the public for their comments and participation and closed public comment. The HPTTE Board did receive a letter from attorney Karen Hammer and the letter is attached to these minutes.

Adoption of Revised Toll Schedule for I-25 Managed Lanes and Proposed toll Schedule for US 36 Managed Lanes and Approval of Increased Civil Penalty for I-25 and US 36 Managed Lanes  
Resolution #159:

Vice Chair Kathy Gilliland moved approval for Resolution 159, upon second by Director Rogers, Resolution 159, Adoption of Revised Toll Schedule for I-25 Managed Lanes and Proposed toll Schedule for US 36 Managed Lanes and Approval of Increased Civil Penalty for I-25 and US 36 Managed Lanes was approved.

Director Marostica moved to propose an amendment to Resolution 159. My amendment will substitute the first resolved clause of the proposed Resolution 159. The amendment, "Now therefor be it resolved: The High Performance Transportation Enterprise Board of Directors hereby adopts the user-fee rates for the I-25 Managed Lanes Phase I set for the in the Revised Toll Schedule effective March 16, 2015, deferring action on the user-fee rated for the US 36 Express Lanes Phase 1 set forth in the Revised Toll Schedule until additional public outreach has been conducted."

Motion by Director Marostica, upon second by Director Rogers, approval of Amendment Resolution 159.

Director Rogers, went to note a reference was made to adopt the user fee rates for I-25 and US 36 Lanes Phase I. Perhaps the attention was not to adopt the rates for US 36 Lanes Phase I, it a typo.

Director Marostica, went on to add, due to typo he will revise and re-read the Amendment proposed to Resolution 159. He went on to say "Now therefor be it resolved: The High Performance Transportation Enterprise Board of Directors hereby adopts the user-fee rates for the I-25 Managed Lanes Phase I set for the in the Revised Toll Schedule effective March 16, 2015, deferring action on the user-fee rated for the US 36 Express Lanes Phase 1 set forth in the Revised Toll Schedule until additional public outreach has been conducted." He thanked Director Rogers on the clarification.

Chair Gagen, went on to note there are two resolved sections within the proposed resolution, we are only amending one of them, assuming the amendment is approved, the HPTTE Board will act on the original Resolution with the Amendment, which in term will affect the Civil Penalties for I-25 and US 36 Managed Lanes.

Director Cheroutes went on to comment about the public outreach of opening of Phase I in 30 - 90 days. We will be conducting Townhall meetings along with Telephone Townhalls. We want to communicate and saturate the public with this information.

Director Rogers went on to say, concern has been raised about taking action on Resolution 159, is that we are doing this on a work day, during work hours. Question one is can we address that concern in

the structuring of the additional public outreach. The 2<sup>nd</sup> concern is that we are dealing with a road that moves between Boulder and North end of town and were conducting a meeting here in the South part of town, can we address that concern as well.

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