



July 9, 2014

To: HPTE Board of Directors
From: Mike Cheroutes
Re: Transparency Policy Public Comment

Included here are:

- A summary of public comment on the draft Transparency Policy;
- Individual correspondence of public comment on the draft Policy;
- The draft Transparency Policy, revised per public comment; and,
- Resolution #135 adoption of the revised Transparency Policy.

HPTE Transparency Policy Public Comment Summary

<u>§</u>	<u>Comment</u>	<u>Commenter's Suggested Change</u>	<u>Commenter</u>	<u>Staff Recommendation</u>
V.1(A)	Staff cleanup change	A. The HPTE, in coordination with interested local governments, shall hold a minimum of three (3) public town hall meetings on any Public-Private Partnership being considered by it.	Staff	
V.1(A)(ii)	Staff requests that the board review the use of telephone town halls (and other forums) as a means of fulfilling the town hall requirement. This is not addressed in the executive order. If the board approves this provision, staff requests that the board consider this cleanup change.	(ii) be held either at a physical location in proximity to the primary communities expected to be affected by the Public-Private Partnership or by using a mass telephone conference or other media forum <u>forum</u> accessible by the general public	Staff	
V.1(A)(v)	Staff change to eliminate redundancy with Section 1(C).	(v) provide for full and timely notice prior to the occurrence of such meetings as provided in Section 1(C).	Staff	

V.1(E)	Staff change to more clearly tie any withholding of information to the Colorado Open Records Act.	E. Once the HPTE enters into a Public-Private Partnership, the HPTE shall post on its website, or provide on its website an internet link to, a summary of the essential terms of the agreement and when any such agreement becomes fully effective, the HPTE shall post on its website, or provide on its website an internet link to, the full agreement, <u>subject to reasonable safeguards to protect information which would not be subject to compulsory disclosure under the Colorado Open Records Act to reasonable safeguards to protect proprietary information.</u> Any proprietary information withheld must be withheld in accordance with the Colorado Open Records Act.	Staff	
V.2	Public comment stating that one week advance notice on a website, without notice to the affected communities does not seem sufficient.	2. <u>Status of High-Occupancy Vehicle Lanes.</u> If a Surface Transportation Infrastructure Project subject to a Public-Private Partnership contains one or more HOV Lanes and the status of the HOV Lanes may be impacted by the terms of the Public-Private Partnership, the HPTE shall provide by posting on the HPTE website <u>and written notice to adjacent local governments, at least thirty (30) days</u> one (1) week in advance, notice to the public of any change in the status of the HOV Lane as an HOV Lane or the qualifications required to access such a lane for free use as an HOV Lane.	George Gerstle, Transportation Director, Boulder County	Neutral

V.4(A)	Public comment suggesting that HPTE clarify the intent of the evaluation of multi-modal considerations in private-public partnerships. Suggests it would be beneficial to clarify the evaluation process and criteria for consideration of the multi-modal alternatives in HPTE projects, as well as the consideration of shared revenue for multi-modal purposes.	A. In coordination with the Transportation Commission, the HPTE shall consider <u>opportunities, and to the extent possible, include</u> multimodal alternatives (including transit) when analyzing any proposed Surface Transportation Infrastructure Project that is expected to include any HOV Lanes, high-occupancy toll lanes or managed lanes. <u>As part of this evaluation, the HPTE shall evaluate the suitability of managed lanes for express bus services or bus rapid transit services, and shall consider the use of user fee revenues to support the capital and operating costs of such services.</u>	Audrey DeBarros, 36 Commuting Solutions Will Toor, Transportation Programs George Gerstle, Transportation Director, Boulder County Matthew Appelbaum, Mayor, City of Boulder	Neutral
V.4(B)	Staff requests board re-review this provision in light of Director Reiff's comments from June's meeting	4. B. If any excess User Fee revenues are shared with the HPTE pursuant to the terms of any Public-Private Partnership, the HPTE shall give careful consideration to applying a portion of any such shared revenues to support multi-modal transportation (including transit) in the corridor that contains the Surface Transportation Infrastructure Project subject to the Public-Private Partnership. In exercising this consideration, the HPTE shall consult with the officials of the local communities located in any such corridor.	Staff	Neutral

N/A	Public comment suggests that HPTE is engaging in rule-making by adopting the Transparency Policy and should follow the Administrative Procedures Act	N/A	Karen Hammer, Counsel to Drive Sunshine Institute and Cliff Smedley	HPTE is not legally authorized to adopt rules on this topic.
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COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE TRANSPARENCY POLICY RELATING TO PUBLIC-PRIVATE PARTNERSHIPS

This policy (“Policy”) is adopted by the Board of Directors of the Colorado High Performance Enterprise, a division of the Department of Transportation of the State of Colorado.

SECTION I. PURPOSE

The purpose of this Policy is to provide additional transparency and accountability for, and public participation in, any Public-Private Partnership entered into by the High Performance Transportation Enterprise.

SECTION II. AUTHORITY

High Performance Transportation Enterprise, § 43-4-806(6), C.R.S.

SECTION III. APPLICABILITY

This Policy applies in the case of any Surface Transportation Infrastructure Project that involves or is reasonably expected to involve a Public-Private Partnership.

SECTION IV. DEFINITIONS

“General Assembly” means the body created by art. V, § 1 of the Colorado Constitution.

“High Performance Transportation Enterprise” and “HPTE” mean the High Performance Transportation Enterprise created pursuant to § 43-4-806(2)(a)(I), C.R.S.

“HOV Lane” means a high-occupancy vehicle lane requiring a designated number of persons in a vehicle to receive free access and which is part of a Surface Transportation Infrastructure Project subject to a Public-Private Partnership.

“HPTE Board” means the High Performance Transportation Enterprise Board created pursuant to § 43-4-806(2)(a)(I), C.R.S.

“Public-Private Partnership” means an agreement between the HPTE and one or more private entities by which the HPTE transfers responsibility to a private entity to design, build, finance, operate and maintain a Surface Transportation Infrastructure Project or by which the HPTE transfers responsibility to a private entity to design, build and finance a Surface Transportation Infrastructure Project, in return (in either case) for the right to receive all or a portion of the User Fees generated by the Surface Transportation Infrastructure Project and/or other public monies.

“Surface Transportation Infrastructure Project” has the meaning set forth in § 43-4-803(23), C.R.S.

“Transportation Commission” means the Transportation Commission created pursuant to § 43-1-106, C.R.S.

“User Fee” has the meaning set forth at § 43-4-803(27), C.R.S.

SECTION V. POLICY

As a general statement of policy, the HPTE will continue to prioritize transparency and accountability in the development and implementation of Public-Private Partnerships for Surface Transportation Projects. To that end:

1. Town Hall Meetings. With the objective of providing a meaningful opportunity to the public to have input on a proposed Public-Private Partnership:
 - A. The HPTE, in coordination with interested local governments, ~~the~~ shall hold a minimum of three (3) public town hall meetings on any Public-Private Partnership being considered by it. The meetings shall: **[NTD: staff cleanup change]**
 - (i) be held at the following times:
 - (a) during the visioning stage of a Public-Private Partnership;
 - (b) before the HPTE issues a draft request for proposal for a Public-Private Partnership; and
 - (c) after preparation of, but prior to issuance of, a final request for proposal for a Public-Private Partnership.
 - (ii) be held either at a physical location in proximity to the primary communities expected to be affected by the Public-Private Partnership or by using a mass telephone conference or other ~~media form~~ **forum** accessible by the general public; **[NTD: staff requests that the board review the use of telephone town halls (and other forums) as a means of fulfilling the town hall requirement. This is not addressed in the executive order. If the board approves this provision, staff requests that the board consider this cleanup change]**
 - (iii) allow for comment, input, and questions from the public and responses from HPTE Board members and/or HPTE staff; **and**
 - (iv) at the meeting required by Section 1(A)(i)(a) and at the subsequent meetings when necessary to update the public on additional developments, provide information regarding the transportation needs the Transportation Commission seeks to address by the proposed Public-Private Partnership, the perceived advantages and disadvantages of the

proposed Public-Private Partnership, potential alternative funding options (including options that rely exclusively on public funding), and the essential terms being considered, ~~and~~

~~(v) provide for full and timely notice prior to the occurrence of such meetings as provided in Section 1(C).~~ **[NTD: staff change to eliminate redundancy with Section 1C]**

- B. The HPTE shall consider the suggestions and ideas expressed by the public at the town hall meetings required by Section 1(A).
- C. Any town hall meetings pursuant to Section 1(A) shall be preceded by full and timely notice, including:
- (i) providing notice to each member of the General Assembly whose district includes any geographical area located within the expected boundaries of the proposed Surface Transportation Infrastructure Project;
 - (ii) providing notice to the governing body of each county and municipality whose geographical limits are located within the expected boundaries of the proposed Surface Transportation Infrastructure Project;
 - (iii) posting on the HPTE website, at least one (1) week in advance, the location, date, and time of any town hall meeting as well as other relevant information relating to the meeting that will assist the public in making meaningful public comment regarding the proposed Public-Private Partnership, including in the case of the meeting required by Section 1(A)(i)(c), posting on its website a copy of, or an internet link to, the final request for proposal for a Public-Private Partnership; and
 - (iv) providing informational releases to appropriate media sources.
- D. If at any point prior to the final town hall meeting the HPTE determines that the proposed Surface Transportation Infrastructure Project will not require a Public-Private Partnership, the HPTE is not required to hold any additional meetings pursuant to Section 1(A).
- E. Once the HPTE enters into a Public-Private Partnership, the HPTE shall post on its website, or provide on its website an internet link to, a summary of the essential terms of the agreement and when any such agreement becomes fully effective, the HPTE shall post on its website, or provide on its website an internet link to, the full agreement, subject **to reasonable safeguards to protect**

information which would not be subject to compulsory disclosure under the Colorado Open Records Act. to reasonable safeguards to protect proprietary information. Any proprietary information withheld must be withheld in accordance with the Colorado Open Records Act. [NTD: staff change to more clearly tie any withholding of information to the Colorado Open Records Act]

2. Status of High-Occupancy Vehicle Lanes. If a Surface Transportation Infrastructure Project subject to a Public-Private Partnership contains one or more HOV Lanes and the status of the HOV Lanes may be impacted by the terms of the Public-Private Partnership, the HPTE shall provide by posting on the HPTE website and written notice to adjacent local governments, at least thirty (30) days one (1) week in advance, notice to the public of any change in the status of the HOV Lane as an HOV Lane or the qualifications required to access such a lane for free use as an HOV Lane. [NTD: public comment suggested change]
3. General Assembly. In addition to the requirements set forth at § 4-4-806(10), C.R.S., upon request by any member of the General Assembly, the HPTE shall provide additional reports and/or presentations to the General Assembly regarding any Surface Transportation Infrastructure Project that involves or is reasonably expected to involve a Public-Private Partnership. Any such reports or presentations shall be in accordance with the Colorado Open Records Act and shall be prepared with reasonable safeguards in place protecting proprietary information and the negotiating process.
4. Multi-Modal Consideration.
 - A. In coordination with the Transportation Commission, the HPTE shall consider opportunities, and to the extent possible, include multi-modal alternatives (including transit) when analyzing any proposed Surface Transportation Infrastructure Project that is expected to include any HOV Lanes, high-occupancy toll lanes or managed lanes. As part of this evaluation, the HPTE shall evaluate the suitability of managed lanes for express bus service or bus rapid transit service, and shall consider the use of User Fee revenues to support the capital and operating costs of such service. [NTD: public comment suggested change]
 - B. If any excess User Fee revenues are shared with the HPTE pursuant to the terms of any Public-Private Partnership, the HPTE shall give careful consideration to applying a portion of any such shared revenues to support multi-modal transportation (including transit) in the corridor that contains the Surface Transportation Infrastructure Project subject to the Public-Private Partnership. In exercising this consideration, the HPTE shall consult with the officials of the local communities located in any such corridor. [NTD: staff requests board re-review this provision in light of Director Reiff's comments from June's meeting]

SECTION VI. EFFECTIVE DATE

This Policy shall be effective upon signature.

Approved by

HPTE Board Chairperson

Date of Approval

DRAFT

6/30/2014

State.co.us Executive Branch Mail - FW: Input on transparency policy for HPTE

Date: Tue, Jun 17, 2014 at 5:47 PM

Subject: Input on transparency policy for HPTE

To: "Commissioner.Gilliland@state.co.us" <Commissioner.Gilliland@state.co.us>

Dear Commissioner Gilliland:

I am writing with input on the proposed transparency policy, which you are considering as follow up to the executive order that the Governor issued after vetoing SB 197. Am commenting specifically on the section V.4 on multimodal considerations.

First, I want to offer my support for this effort to expand upon and give more specificity to the direction in the executive order.

In section V.4A, I believe it would be useful to be somewhat more specific about the nature of the transit that will be considered. The unique aspect of managed lanes projects is that managed lanes, by giving a travel time savings, can provide a platform for express bus or Bus Rapid Transit service. I would suggest adding a line:

As part of this evaluation, the HPTE shall evaluate the suitability of these managed lanes for express bus service or bus rapid transit service, and shall consider the use of user fee revenues to support the capital and operating costs of such service.

I am attaching a policy paper that colleagues and I prepared that discusses why including transit service in managed lane projects is important both to maximizing the transportation value of such projects, and to assure that travelers of all income ranges are able to benefit from these investments.

Thanks for your consideration,

Will Toor
Director, Transportation Programs
Southwest Energy Efficiency Project
303-447-0078 ext 6
wtoor@swenergy.org

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Tromila Maile

Commission Liaison

Transportation Commission Office



COLORADO
Transportation Commission

4201 E. Arkansas Ave, Rm. 270, Denver 80222
P 303.757.9025

HAMMER --- LAW

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**WRITTEN COMMENTS TO HPTE BOARD
ON BEHALF OF DRIVE SUNSHINE INSTITUTE
AND CLIFF SMEDLEY
AT JUNE 18, 2014 REGULAR BOARD MEETING**

Chair Gagen, HPTE Board Members, and Counsel

While we have met previously, for the sake of the record, I am Karen Hammer of Hammer-Law. I am appearing as counsel for my clients Drive SunShine Institute and Cliff Smedley.

Today, HPTE will be considering numerous resolutions, including review and a unspecified motion on the draft P3 Transparency Policy relating to Public-Private Partnerships. HPTE will also be considering serious financial issues, including its budget and the need for yet another loan from the Transportation Commission. The proposed budget includes a significant increase in expenditures for public relations and communications consultants.

Remarkably, HPTE, the legislators, the Governor, the contractors, and many others have all reached the same simple conclusion – HPTE did not adequately fulfill its obligations to the public in connection with the US 36 expansion project.

While my clients appreciate that HPTE is suddenly expressing an interest in adequate public outreach, we believe such efforts miss the mark.

The Colorado laws already provide the required framework for how to involve the public in HPTE's policy and rulemaking. These laws are simple and straightforward. These laws were developed so that every state agency would

not do what HPTE is now attempting to do – waste time determining the minimum necessary to adequately inform and hear from the public.

These laws arise from the public's First Amendment rights under the U.S. Constitution to petition the government and to exercise other free speech rights. Colorado's Constitution provides even broader protections of these rights.

The legislature and the Colorado courts have clearly stated that at least three simple and straightforward Colorado statutes are intimately connected to these Constitutional rights – the Colorado Open Records Act (CORA), the Sunshine or Open Meetings Laws, and the Administrative Procedures Act (the APA).

FASTER legislation creating HPTE only exempted HPTE from one specific set of laws – the Procurement Code. FASTER did not exempt HPTE from the APA, and the APA itself is clear that all agencies which are not specifically named as exempt within the APA itself must meet the APA's minimum requirements.

The solution to HPTE's public outreach problems is to ensure that, at a minimum, these laws are followed. Additional town-hall meetings may well be helpful, but these are essentially public relations events that do not meet the legal requirements that already exist.

Today's meetings provide a simple case study of the flaws in HPTE's public outreach.

First, HPTE appears to have generated from within HPTE a proposed public policy for transparency. However, the APA requires a different process for generating new policy. The APA requires that as soon as new rule-making is "contemplated" – that's the language from the APA itself – "contemplated" – that HPTE first form a representative group that consists of those who have indicated an interest in the topic and also stakeholders.

My client DSI has demonstrated significant interest in the procedures by which HPTE engages in its legislative function – the creation of rules and procedures that affect the public. If such a representative group had been formed, the APA would have required that DSI be included in such a group.

It is the representative group which creates the proposed policies. Only after the proposed policy has been generated by the representative group can HPTE take the next step in developing new procedures. The next step required by the APA is that these proposed policies and other required information be

published in the Colorado Register with an announcement of proposed rulemaking. The APA has precise timelines for when public hearings, public comment, and HPTE decision-making can happen.

HPTE is aware of the APA procedures because it published notice to the public of proposed rule-making in the Colorado Register when it developed toll enforcement procedures.

Yet, for this meeting, the public has been given a mere three business days within which to review an important new proposal for transparency and to prepare public comment. This is not the APA-required procedure and, therefore, HPTE cannot take effective action today until it backs up and follows the full APA process.

Many other aspects of this meeting also fail to fulfill the requirements of the law. As I stated clearly to the HPTE Board on February 19, 2014 and have repeated, the HPTE is wasting its time holding non-compliant meetings because the actions taken at such meetings are void – not capable of being later voided, but void as if such acts had never been taken.

The Sunshine Laws require that “full and timely notice” *and* an agenda which is as “specific as possible” be provided to the public in advance of HPTE’s meetings.

HPTE publishes only a vague description of its Lunch Meeting, despite the fact that the so-called work session is carefully planned. The public is entitled under the Sunshine Laws to an agenda which is as specific as possible for these Lunch Meetings.

Unlike the Transportation Commission and other agencies, HPTE does not provide the public with access to the full agenda packet prior to the meeting. Therefore, the public has no way to examine the information which will form the basis for HPTE’s decision-making process. Because the public is deprived of this information, the people cannot adequately prepare public comment.

In addition, HPTE schedules its public comment period before both the HPTE Board and the public have the advantage of the information briefings which are built into the Regular Board Meeting agenda. HPTE makes its decisions *after* hearing this important information, but HPTE deprives the public of the opportunity to comment upon this same information.

The budgets and loan that are being contemplated today are not self-explanatory, and the public cannot meaningfully comment without additional information available to the Board itself.

In times of economic difficulty and at any time when an organization such as HPTE says it wants to improve, the key is to work smarter. By stubbornly refusing to follow the existing Colorado laws – CORA, the Sunshine Laws, and the Administrative Procedure Act – HPTE is wasting valuable time and resources.

The law requires that statutory and Constitutional processes are followed and that HPTE make reasonable decisions after following such processes. The law does not require that you agree with my clients, it merely requires that you provide adequate and legally compliant opportunities for the public to exercise their legal rights.

Nothing at this meeting today will be legally effective for the reasons I have stated. However, I encourage HPTE to begin a robust and healthy discussion of how it is using its resources. The time and unbudgeted \$120,000 spent working with communications consultants perhaps should in part be redirected to compliance with your existing legal duties. We encourage HPTE to exceed these minimum standards set forth in the law by holding town-hall meetings. But listen clearly - these public relations events do not fulfill your fundamental duties to the public.

Before HPTE invents a new system to supplement its existing legal duties, we strongly urge HPTE to start by implementing the existing systems set forth in CORA, the Sunshine Laws, and the Administrative Procedure Act.

DSI is looking forward to being included in the representative group that HPTE is required to form as the initial step in its development of new transparency policies to supplement existing laws.

Thank you.

Regards,

/s/

Karen A. Hammer
Principal



STATE OF
COLORADO

Fwd: Comment on HPTE Agenda Item re: Implementing Governor Hickenlooper's Transparency Policy Executive Order

Cheroutes - CDOT, Michael <michael.cheroutes@state.co.us>
To: Kari Grant <kari.grant@state.co.us>

Wed, Jun 18, 2014 at 4:08 PM

Can you keep track of these comments?

----- Forwarded message -----

From: **Gerstle, George** <ggerstle@bouldercounty.org>

Date: Wed, Jun 18, 2014 at 8:49 AM

Subject: Comment on HPTE Agenda Item re: Implementing Governor Hickenlooper's Transparency Policy Executive Order

To: "Michael.Cheroutes@dot.state.co.us" <Michael.Cheroutes@dot.state.co.us>

Cc: "Jones, Elise" <ejones@bouldercounty.org>, "Domenico, Cindy" <cdomenico@bouldercounty.org>, "Gardner, Deb" <dgardner@bouldercounty.org>, "Ruzzin, Mark" <mruzzin@bouldercounty.org>, "Irwin, Leslie" <lrwin@bouldercounty.org>

Mr. Cheroutes and HPTE Board Members:

Boulder County would appreciate consideration of the following comments on the proposed policy implementing Governor Hickenlooper's Executive Order re: Transparency.

The policy as drafted is consistent with the transparency elements of Boulder County's position as expressed during the legislative process. We do, however, have several suggestions that would we believe would clarify the intent and time frames for public notice as well as the evaluation of the multimodal considerations in private-public partnerships.

1. Providing one week advance notice on a website, without notice to the affected communities does not seem sufficient, especially since most local governments do not have the resources to continuously monitor the HPTE website for potential postings. This issue is of sufficient public concern and magnitude that there should be sufficient time for potentially affected public to review and respond to such proposals. To that end, we proposed the following change (underlined and bolded).

SECTION V. POLICY

Paragraph 2. Status of High-Occupancy Vehicle Lanes.

If a Surface Transportation Infrastructure Project subject to a Public-Private Partnership contains one or more HOV Lanes and the status of the HOV Lanes may be impacted by the terms of the Public-Private Partnership, the HPTE shall provide by posting on the HPTE website **and written notice to adjacent local governments**, at least one ~~(1)~~ **30 days** week in advance, notice to the public of any change in the status of the HOV Lane as an HOV Lane or the qualifications required to access such a lane for free use as an HOV Lane.

2. Based on our experience with the US36 Managed Lanes, it would be beneficial to all to clarify the evaluation process and criteria for consideration of the multimodal alternatives in HPTE projects, as well as the consideration of shared revenue for multimodal purposes.

Paragraph 4. Multi-Modal Consideration.

A. In coordination with the Transportation Commission, the HPTE shall consider **opportunities, and to the extent possible, include** multimodal alternatives (including transit) when analyzing any proposed Surface Transportation Infrastructure Project that is expected to include any HOV Lanes, high-occupancy toll lanes or managed lanes. **As part of this evaluation, the HPTE shall evaluate the suitability of managed lanes for express bus service or bus rapid transit service, and shall consider the use of user fee revenues to support the capital and operating costs of such service.**

B. If any excess User Fee revenues are shared with the HPTE pursuant to the terms of any Public-Private Partnership, the HPTE shall give careful consideration to applying a portion of any such shared revenues to support multi-modal transportation (including transit) in the corridor that contains the Surface Transportation Infrastructure Project subject to the Public-Private Partnership. In exercising this consideration, the HPTE shall consult with the officials of the local communities located in any such corridor.

Thank you for your consideration.

George Gerstle

Transportation Director

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My new email address is michael.cheroutes@state.co.us



STATE OF
COLORADO

Fwd: Input to HPTE Consideration of Multi-Modal in P3s

Cheroutes - CDOT, Michael <michael.cheroutes@state.co.us>
To: Kari Grant <kari.grant@state.co.us>

Wed, Jun 18, 2014 at 4:10 PM

----- Forwarded message -----

From: **Audrey DeBarros** <audrey@36commutingsolutions.org>
Date: Wed, Jun 18, 2014 at 10:52 AM
Subject: Input to HPTE Consideration of Multi-Modal in P3s
To: "Cheroutes - CDOT, Michael" <michael.cheroutes@state.co.us>
Cc: Ken Hotard <khotard@barastaff.com>, "Gerstle, George" <ggerstle@bouldercounty.org>

Mr. Cheroutes and HPTE Board Members:

36 Commuting Solutions would appreciate consideration of the following comments on the proposed policy implementing Governor Hickenlooper's Executive Order re: Transparency.

We have a couple suggestions that, we believe, would clarify the intent of the evaluation of multi-modal considerations in private-public partnerships. Based on our experience with the US 36 Managed Lanes, it would be beneficial to clarify the evaluation process and criteria for consideration of the multi-modal alternatives in HPTE projects, as well as the consideration of shared revenue for multi-modal purposes.

Paragraph 4. Multi-Modal Consideration.

A. In coordination with the Transportation Commission, the HPTE shall consider **opportunities, and to the extent possible, include** multimodal alternatives (including transit) when analyzing any proposed Surface Transportation Infrastructure Project that is expected to include any HOV Lanes, high-occupancy toll lanes or managed lanes. **As part of this evaluation, the HPTE shall evaluate the suitability of managed lanes for express bus service or bus rapid transit service, and shall consider the use of user fee revenues to support the capital and operating costs of such service.**

B. If any excess User Fee revenues are shared with the HPTE pursuant to the terms of any

Public-Private Partnership, the HPTE shall give careful consideration to applying a portion of any such shared revenues to support multi-modal transportation (including transit) in the corridor that contains the Surface Transportation Infrastructure Project subject to the Public-Private Partnership. In exercising this consideration, the HPTE shall consult with the officials of the local communities located in any such corridor.

Thank you for your consideration.

Audrey

Audrey DeBarros

Executive Director

36 Commuting Solutions

287 Century Circle, Suite 103

Louisville, CO 80027

p: 303-604-4383 :: f: 303-223-2887

audrey@36commutingsolutions.org

//36commutingsolutions.org



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My new email address is michael.cheroutes@state.co.us



STATE OF
COLORADO

Fwd: Input on transparency policy for HPTE

Cheroutes - CDOT, Michael <michael.cheroutes@state.co.us>
To: Kari Grant <kari.grant@state.co.us>

Wed, Jun 18, 2014 at 4:11 PM

----- Forwarded message -----

From: **Will Toor** <wtoor@swenergy.org>
Date: Tue, Jun 17, 2014 at 5:50 PM
Subject: Input on transparency policy for HPTE
To: Michael Cheroutes - CDOT <michael.cheroutes@state.co.us>

Hi, Mike. I have been sharing this message with your board members.-Will

I am writing with input on the proposed transparency policy, which you are considering as follow up to the executive order that the Governor issued after vetoing SB 197. I am commenting specifically on the section V.4 on multimodal considerations.

First, I want to offer my support for this effort to expand upon and give more specificity to the direction in the executive order.

In section V.4A, I believe it would be useful to be somewhat more specific about the nature of the transit that will be considered. The unique aspect of managed lanes projects is that managed lanes, by giving a travel time savings, can provide a platform for express bus or Bus Rapid Transit service. I would suggest adding a line:

As part of this evaluation, the HPTE shall evaluate the suitability of these managed lanes for express bus service or bus rapid transit service, and shall consider the use of user fee revenues to support the capital and operating costs of such service.

I am attaching a policy paper that colleagues and I prepared that discusses why including transit service in managed lane projects is important both to maximizing the transportation value of such projects, and to assure that travelers of all income ranges are able to benefit from these investments.

Thanks for your consideration,

Will Toor
Director, Transportation Programs
Southwest Energy Efficiency Project
303-447-0078 ext 6
wtoor@swenergy.org

From: Maile - CDOT, Tromila [mailto:tromila.maile@state.co.us]
Sent: Wednesday, June 18, 2014 7:49 AM
To: Gary Reiff
Subject: Fwd: Input on transparency policy for HPTE

Good morning, Commissioner,

If you would like staff to assist with a response to this, I can help with that.

----- Forwarded message -----

From: Will Toor <wtoor@swenergy.org>
Date: Tue, Jun 17, 2014 at 5:44 PM
Subject: Input on transparency policy for HPTE
To: Commissioner.Reiff@state.co.us

Dear Commissioner Reiff:

I am writing with input on the proposed transparency policy, which you are considering as follow up to the executive order that the Governor issued after vetoing SB 197. Am commenting specifically on the section V.4 on multimodal considerations.

First, I want to offer my support for this effort to expand upon and give more specificity to the direction in the executive order.

In section V.4A, I believe it would be useful to be somewhat more specific about the nature of the transit that will be considered. The unique aspect of managed lanes projects is that managed lanes, by giving a travel time savings, can provide a platform for express bus or Bus Rapid Transit service. I would suggest adding a line:

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Thanks for your consideration,

Will Toor
Director, Transportation Programs
Southwest Energy Efficiency Project
303-447-0078 ext 6
wtoor@swenergy.org



**CITY OF BOULDER
OFFICE OF THE CITY COUNCIL**

**Mayor Matthew Appelbaum
Mayor ProTem George Karakehian**

Council Members: Macon Cowles, Suzanne Jones, Lisa Morzel, Tim Plass, Andrew Shoemaker, Sam Weaver, Mary Young

July 1, 2014

Board Members of the Colorado High Performance Transportation Enterprise
Sent Via Email To: dot_hpte@state.co.us

Re: Input on HPTE's Draft Transparency Policy

Dear Board Members:

On behalf of the City of Boulder, thank you for considering adoption of a policy to fulfill Governor Hickenlooper's Executive Order to increase transparency and accountability in the process for entering into public private partnership agreements to build managed lanes. Given the city's experience with approval of managed lanes for the U.S. 36 corridor, and the resulting public outcry of a few months back, we are supportive of the transparency elements that were outlined in SB14-197 and are pleased to see that HPTE's proposed policy adopts a similar framework.

The city was also supportive of the elements of SB14-197 that would have strongly encouraged consideration of multimodal uses for the managed lanes. Toll lanes alone primarily serve upper income commuters. It is a fundamental matter of equity and essential to the success and public acceptance of these projects that they also serve lower and moderate income travelers. Accordingly, we are appreciative that there is language in the proposed HPTE policy that would further this goal. However, we urge the HPTE board to adopt language that is more detailed in its commitment to encouraging the specific use of express bus or bus rapid transit service, both which are the types of transit services that would be uniquely facilitated by the creation of managed lanes. We also urge the board to include language in the policy that specifically allows for user fee revenues to support the capital and operating costs of such transit services.

Thank you for your considering our input.

Matthew Appelbaum
Mayor
City of Boulder

cc: City Council
Jane Brautigam, City Manager
Tracy Winfree, Transportation Director
Carl Castillo, Policy Advisor

Resolution – HPTE # 135

Adopting the Colorado High Performance Transportation Enterprise Transparency Policy Relating to Public-Private Partnerships.

WHEREAS pursuant to § 43-4-806, C.R.S., the Colorado General Assembly created the Colorado High Performance Transportation Enterprise (“HPTE”) as a government-owned business within the Colorado Department of Transportation (“CDOT”) to pursue innovative means of more efficiently financing important surface transportation projects that will improve the safety, capacity, and accessibility of the surface transportation system; and

WHEREAS such innovative means of financing projects include, but are not limited to, public-private partnerships, operating concession agreements, user fee-based project financing, and availability payment and design-build contracting; and

WHEREAS the HPTE Board of Directors has the power (i) to supervise and advise the HPTE Director, § 43-4-806(6)(a), C.R.S., and (ii) to have and exercise all rights and powers necessary or incidental to or implied from its specific powers and duties, § 43-4-806(6)(q), C.R.S.; and

WHEREAS the HPTE Board of Directors believes the adoption of additional transparency and accountability measures is important to HPTE’s success in the development of future public-private partnerships and directed HPTE staff at its Regular Meeting on May 14, 2014, to prepare a draft transparency policy; and

WHEREAS Governor John W. Hickenlooper executed Executive Order D 2014-010 on June 4, 2014, directing HPTE to adopt transparency measures in HPTE’s development of future public-private partnerships; and

WHEREAS HPTE staff prepared a draft transparency policy consistent with Executive Order D 2014-010 and, at the direction of the HPTE Board of Directors at its Regular Meeting on June 18, 2014, posted the draft on its website for the public’s review and comment; and

WHEREAS the HPTE Board of Directors has considered all written comments received from the public on the draft transparency policy as well as any additional comments made by the public at its Regular Meetings.

NOW THEREFORE BE IT RESOLVED, That the HPTE Board of Directors hereby adopts, as general statements of policy, the “Transparency Policy Relating to Public-Private Partnerships” in the form presented to, and as revised by the Board, at its July 16, 2014 Regular Meeting.

Signed as of July 16, 2014

Tim Gagen
Chair, HPTE Board of Directors