

**Resolution – HPTE #188**

**Approving HPTE October 14, 2015 regular meeting minutes**

**BE IT RESOLVED**, that the October 14, 2015, regular meeting minutes attached hereto, are hereby approved by the High Performance Transportation Enterprise Board of Directors.

Signed as of November 18, 2015

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Kari Grant  
Interim Secretary, HPTE Board

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE  
HIGH PERFORMANCE TRANSPORTATION ENTERPRISE (HPTE)**

Held: Wednesday, October 14, 2015; 12:00pm  
4201 E. Arkansas Ave, Denver, CO 80222

The regular 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 Trey Rogers	Kathy Gilliland, Vice Chair Gary Reiff	Shannon Gifford Don Marostica
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Chair Gagen called the meeting to order @12:00pm in Room 225: Roll call was taken to establish a quorum, and all were present.

Introduction of New HPTE Director CDOT Executive Director Shailen Bhatt presented outgoing HPTE Director Mike Cheroutes with a proclamation from the Governor thanking Director Cheroutes for his service. New HPTE Director David Spector introduced himself to the Board and audience, and thanked the Board for his selection as Director.

Budget Update: HPTE Budget Analyst Piper Frode presented the FY 2015-16 unaudited revenue reconciliation for the Board's information, and said that the Office of Financial Management and Budget (OFMB) is conducting a programmatic review of Funds 536 and 537 and will report back on that next month. She noted that the HPTE budget cycle needs to synchronize with that of the Transportation Commission. She also presented the draft FY 2016-17 budget for both funds, and said that staff is working to make sure categories for Fund 537 in particular are clear and align with the Scope of Work included in the Fee for Service Intra-Agency Agreement with CDOT. She will return in February with a final proposed budget for Board comment, with action scheduled for March. Staff noted the Board could expect an amendment to the Fee for Service Agreement in the near future.

LPT Guidance: Joe Mahoney of the Office of Major Project Development (OMPD) presented a report on License Plate Tolling (LPT) Guidance, which offers general guidance to staff and the Board in setting LPT rates. He said that proposed ExpressToll (transponder) rates have been presented to stakeholders for the I-70 Mountain Express Lanes, and have been generally accepted. The ExpressToll rates will be used as the base for LPT rates. A surcharge capped at \$10 will be applied as a break-even offset for backoffice costs and revenue leakage associated with LPT. The opening LPT rates will be evaluated against hard data in the first several weeks of operation.

Director's Report: HPTE Director Spector invited staff to brief the Board on the items under consideration. Communications Manager Megan Castle updated the Board on the September 21<sup>st</sup> telephone town hall and the September 29<sup>th</sup> in-person open house meeting in Idaho Springs for the I-70 Mountain Express Lane Project. The focus of discussion was on the Express Lane operations, hours of operation, how to use the lane, and the rationale behind the proposed toll rate range. A particular issue of concern at the open house meeting was the construction impacts in Idaho Springs. She also described the October 1<sup>st</sup> telephone town hall for the US 36 Phase 2 project, which included over 5,000 callers. The primary topics of discussion at that meeting were the proposed special event toll rates and how those are determined, how tolls in general are set, and HOV policy. She said that education campaigns for both the I-70 Mountain Corridor and US 36 will be on-going, and that over 45,000 switchable transponders have been sold to date.

OMPD Director Brett Johnson introduced the agenda item to make a recommendation on HOV policy for the C-470 Express Lanes Project. He said immediately following this Board meeting a Transportation Commission workshop will be held on a statewide HOV policy. The staff recommendation is not to include HOV3+ for the C-470 Corridor. A final determination on HOV is critical to the Fitch indicative rating and TIFIA evaluation of the overall financing for the project. The financial impact of allowing HOVs toll-free use of the C-470 Express Lanes is estimated in the \$20 million to \$40 million range. Both Arapahoe and Douglas Counties have expressed a preference not to allow toll-free HOV use if it impacts the project financing. Mr. Johnson noted that the risk of allowing HOV (with the attendant operations and maintenance risks) has not yet been quantified, and that sensitivity tests are now being run by the Traffic & Revenue (T&R) consultant. Director Spector suggested that the consultant provide a report on the forecast numbers to the Board in November. It was agreed that the Board is making a recommendation to the Transportation Commission, and that receiving additional information from the T&R consultant in November would be helpful.

Meeting Break  
(12:50):

The Regular Board meeting moved from Room 225 to the Auditorium.

Chair Gagen  
reconvened the  
meeting at 1:00 in  
the Auditorium:

The Board reconvened and roll was called to re-establish a quorum. All Board Directors were present.

Consent Agenda:  
A. Resolution #182  
Approving  
September 16, 2015  
Minutes  
B. Resolution #183  
Approving  
September 24, 2015  
Minutes

Upon a motion by Board Director Marostica and second by Board Director Rogers, the Consent Agenda was approved by all present.

Public Comment:

Will Toor, of the Southwest Energy Efficiency Project (SWEET) spoke to the Board and presented a briefing (attached to these minutes) in opposition to Resolution #185 recommending an HOV policy for C-470. He said he is concerned about setting a precedent on that corridor and stated that it is in the best interests of the state to maximize transportation benefits and equity throughout all major corridors. He cited a survey by Corona Research that shows tolled express lanes may not equitably serve lower income groups, and argued in favor of allowing HOV on C-470. He also questioned the projected financial impact of an HOV exemption, stating he thought the numbers were too high. He noted that the Environmental Analysis (EA) shows HOV use at 1.7%, and urged the Board to postpone action until better analysis is available. Chair Gagen thanked Mr. Toor for his input, and said that the T&R consultants will present an additional sensitivity analysis to the Board in November.

Director's Report:

HPTE Director Spector noted that he has been on the job for 24 hours now and is absorbing a great deal of information. He thanked former Director Cheroutes for his service.

OPMD Report:

OMPD Director Brett Johnson gave a short update. He said that the Request for Proposals (RFP) for the Central 70 project is complete and was issued on September 29. The Board will consider the HOV recommendation for C-470 today and that the T&R with sensitivity analysis will be presented in November. The Board will also consider the proposed toll rate range for the I-70 Mountain Express Lane, and the projected opening date for that project is December 12, 2015.

Communications  
Report:

HPTE Communications Manager Megan Castle reported on the October 1 telephone town for US 36 Phase 2. More than 5,000 participants were on the line, and major topics of discussion were how toll rates are set, how the special event rates will be determined, the HOV3+ policy, and how to get a

switchable transponder. She noted that over 45,000 switchable transponders have been purchased to date. For the I-70 Mountain Express Lane, she reported on the September 21 telephone town hall and September 29 open house meeting. The telephone town hall reached over 10,000 participants which included Front Range and Denver Metro stakeholders. The topics for that meeting included operations and usage information, rationale for the proposed toll rate range, and how to use the lane. The discussion at the in-person meeting focused on construction impacts to the local community and information to support decision-making for the project. She also briefly noted the recent legislative tour of the Central 70 project area, and said that there has been good, balanced media coverage of the latest outreach events.

Resolution #184  
Approving the Toll  
Rate Range for I-70  
Mountain Express  
Lane:

Joe Mahoney of OMPD spoke about the unique geographic and use characteristics of the I-70 Mountain Corridor, noting that there are no comparable projects in the United States. He said the purpose of the proposed toll rates is to control congestion along the roadway during times of peak use. Toll adjustments will be made in real time by viewing upstream traffic volumes as they build. Noting the LPT Guidance discussed earlier in the meeting, he said that LPT rates will be based on transponder rates, and if not adjusted for the cost of processing and a 40% leakage rate, would not generate revenue. He said the proposed opening rate for ExpressToll will be \$3 to \$30, and the opening rate for LPT will be \$6.75 to \$40.

Board Director Reiff said Resolution #184 should tie better to metrics and asked staff to report back on specific if/then scenarios and triggers prior to implementation. Vice Chair Gilliland observed that opening data is based on projections, and that moving forward staff will need to reassess based on actual data. Mr. Mahoney said he will make an interim report to the Board in January with a more formal assessment in February. Chair Gagen had questions about segment-based toll pricing, and the legality of crossing the single white line that separates the Express Lane from the general purpose lanes.

Board Director Reiff moved to approve Resolution #184, amended to direct staff to report on guiding metrics, triggers and toll rate adjustment process prior to implementation. Upon a second by Board Director Marostica Resolution #184, as amended, was approved by all present.

Resolution #185  
Recommending HOV  
Policy on C-470

OMPD Director Brett Johnson presented a recommendation for not including toll-free HOV3+ travel on the C-470 Express Lanes. He noted that the Transportation Commission will have a workshop on more global applications for HOV following the Board meeting, which will consider HOV whenever possible as a general policy. The exceptions to the general policy are safety issues, corridor performance and financial feasibility. The C-470 Express Lanes Project falls into the financial feasibility exception. He said a more detailed T&R with sensitivity analysis will be presented to the Board next month.

Chair Gagen noted for the record the testimony provided earlier by Will Toor of SWEEP. Board Director Reiff made a motion to approve Resolution #185, emphasizing the need to move deliberately and continue with further evaluation of the viability of HOV, but noting the financial issues for this corridor are critical. Vice Chair Gilliland concurred, saying continuing evaluation is essential. Board Director Gifford also agreed, and said that CDOT must strive for HOV incorporation in all major corridors whenever possible. Upon a second by Board Director Rogers, Resolution #185 was approved by all present.

Resolution #186  
Approving US 36  
Phase 2 Toll Rates  
and Adopting a  
Special Events Toll  
Rate Schedule:

Simon Stachnik of Plenary Roads Denver presented the proposed Phase 2 and Special Event Toll Rate Schedules, which were also presented at the recent telephone town hall meeting. Focusing on the special event rates, he said the concept is to find the "sweet spot" during peak events to manage congestion. He said the special event rates will be incremental up to a maximum, and will be of very short duration. This will require active management with real time changes in the rate, adding that Variable Message Signs will notify drivers of the current rate prior to their entering the Express Lanes. Board Director Reiff asked Mr. Stachnik if the LPT rates will make a profit for Plenary. Mr. Stachnik replied they do, with the lowest rates providing less than a 2% margin.

Upon a motion my Board Director Rogers and second by Vice Chair Gilliland, Resolution #186 was approved by all present.

Resolution #187  
Approving Second  
Amendment to the  
US36 Concession  
Project IAA with  
CDOT

HPTE Operations Manager Nick Farber said this second amendment brings HPTE into compliance with the legislative audit recommendations, and spells out responsibilities for oversight of work by consultants monitoring performance by the Concessionaire. He noted OMPD is a participant in the Intra-Agency Agreement (IAA) and will adhere to the proposed amendments. He also noted for the record the amendment will streamline routine snow and ice control payments.

Upon a motion by Vice Chair Gilliland and second by Board Member Rogers Resolution #187 was approved by all present.

Other Business:

Vice Chair Gilliland said HPTE Director Spector has done well in his first 24 hours, and again thanked former Director Cheroutes for his contribution.

Board Director Reiff thanked Chair Gagen for his years of service on the Board, providing strong leadership for diverse issues.

Adjournment:

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

DRAFT



## SOUTHWEST ENERGY EFFICIENCY PROJECT

*Saving Money and Protecting the Environment Through More Efficient Energy Use*

### October 13, 2015 Comments on proposed HPTE resolution # 185

October 13, 2015

We are submitting the following comments opposing the proposed resolution to approve the managed lanes on C-470 as express toll without an HOV 3+ component.

Overall, the C-470 Express lanes project includes no transit, and no commitment to allowing toll-free access by HOV vehicles in the express lanes. This project as proposed does not advance multimodal transportation, serving solely to increase the volume and speed of single occupant vehicles. This is inappropriate for a 21<sup>st</sup> century transportation project.

A related major concern is the lack of equity in the proposed action. The preferred alternative has benefits that primarily accrue to high-income commuters, and not to low-income travelers. While we are proponents of managed lanes, the data is very clear that toll lanes are used far more by high-income travelers, and are barely used by low-income travelers. Allowing carpoolers to use the lanes is necessary in order to make the new infrastructure available to travelers with a much wider range of incomes.

We would also like to raise questions about what assumptions went into the conclusion in the LBG study that HOV3+ traffic would account for 32% of trips in the managed lanes, and would thus have a significant negative impact on the revenues for the project. This far exceeds actual HOV 3+ volumes on other roads. For example, Interstate 85 in Atlanta converted to HOV 3+ in 2011, and has less than 14% HOV3+ share. Along I-95 in Miami, toll exempt trips made up 2.5% of total trips in the Express Lanes in the last fiscal year. 15% of these 2.5% (or 0.4%) of trips were for HOV3+. The 2011 investment grade traffic and revenue study on US 36 conducted by Wilbur Smith and Associates concluded that HOV3+ makes up approximately 20% of total HOV volumes on US 36; given that approximately 60% of traffic on US 36 is HOV under and HOV 2+ configuration, this implies that HOV 3+ trips account for about 12% of trips in the US 36 managed lanes. The C-470 EA released in July only projected a \$15 million revenue impact over 30 years; the LBG study is stating a \$100 million impact, 7 times higher than the earlier estimates. What accounts for this change?

#### Detailed comments on equity

In the Environmental Justice technical report of the C-470 EA, there is essentially no analysis of the equity impacts of express toll lanes. The report quotes from the US 36 EIS a paragraph claiming that based on studies in other areas that 'low income drivers use the express lanes and approve of these lanes just as much as higher-income drivers'. This is simply incorrect. When examining the actual use of tolled express lanes in Colorado and other areas, it becomes clear that lower-income drivers make far less use of express lanes.

This is an important omission from an environmental justice perspective. SWEEP has conducted analysis of the demographics of users of toll lanes, users of HOV lanes, and bus riders in the Denver area, and reported on these in the 2014 paper *Managed Highway Lanes in Colorado: Everyone Benefits from Including Carpools and Public Transit*<sup>1</sup> The following charts illustrate the enormous difference in demographic characteristics of toll-payers, carpoolers and bus riders.

Demographics of I-25 Express Lane Users Compared to General Population by Household Income<sup>2</sup>

<sup>1</sup> Toor and Salisbury, *Managed Highway Lanes in Colorado: Everyone benefits from Including Carpools and Public Transit*, SWEEP, 2014, available at:

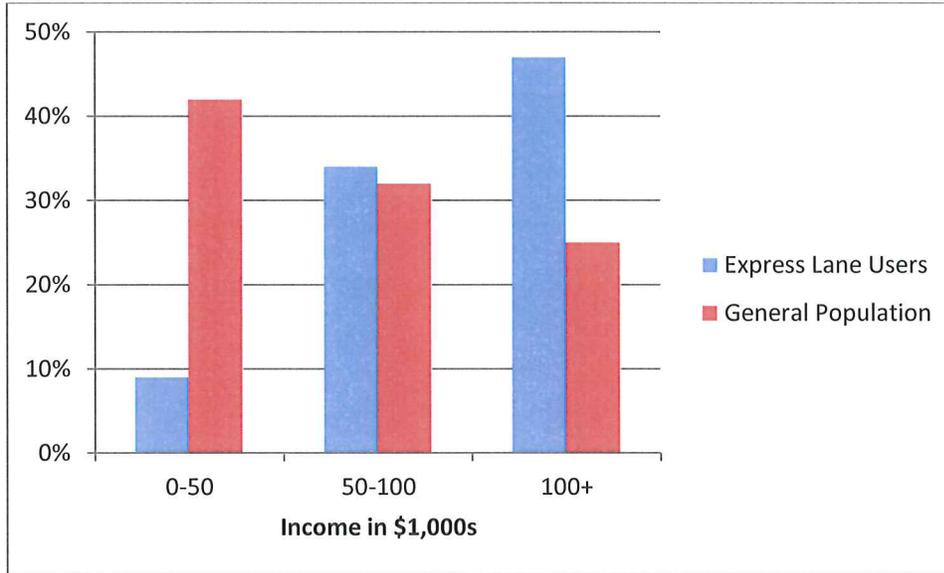
[http://www.swenergy.org/publications/documents/Managed\\_Lanes\\_in\\_CO\\_April\\_2014.pdf](http://www.swenergy.org/publications/documents/Managed_Lanes_in_CO_April_2014.pdf)

<sup>2</sup> Corona Research. 2008. HOV/Express Lane User Study. Exhibit 6-8, Household Income.

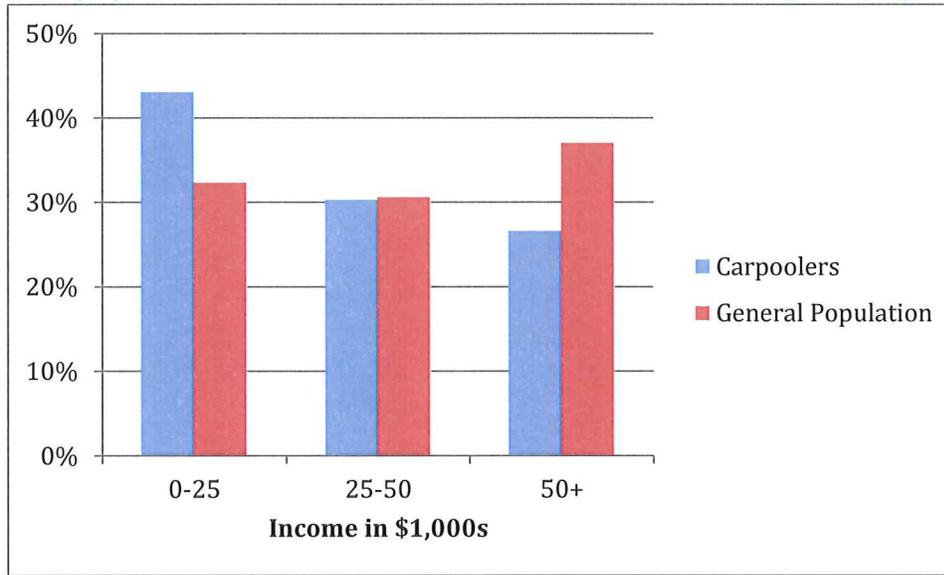


## SOUTHWEST ENERGY EFFICIENCY PROJECT

*Saving Money and Protecting the Environment Through More Efficient Energy Use*



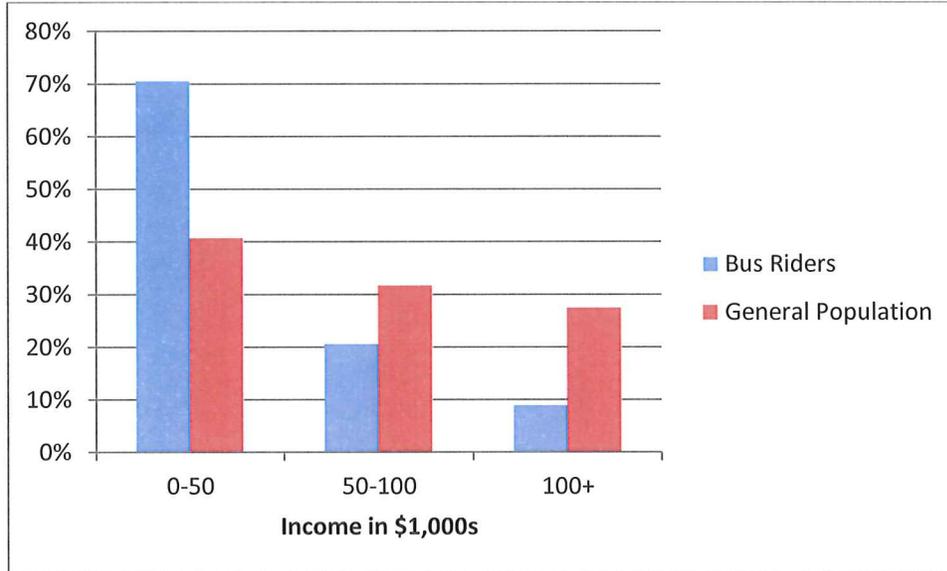
Demographics of Denver Metro Carpoolers Compared to General Population by Individual Income <sup>3</sup>



Demographics of RTD Bus Ridership Compared to General Population by Household Income<sup>4</sup>

<sup>3</sup> Source: US Census. Table B08119: Means of Transportation to Work by Workers' Earnings in the Past 12 Months, 2007-2011 American Community Survey 5-Year Estimates for the Denver-Aurora-Boulder Combined Statistical Area. Note that this data was reported as individual rather than household income, so will appear slightly different than the other figures showing demographic data.

<sup>4</sup> Source: RTD 2011 Customer Satisfaction Survey, Demographic Comparisons, Annual Household Income; US Census. Table B19011: Household Income in the Past 12 Months, 2007-2011 American Community Survey 5-Year Estimates for the Denver-Aurora-Boulder Combined Statistical Area.



Studies of multiple express toll projects all show similar demographic profiles of drivers who use the lanes, with very little use among drivers with household incomes under \$50,000 and much higher use among drivers whose household income exceeds \$100,000. This is a robust result, observed across multiple projects. In a review of managed lane projects across the nation, the Federal Highway Administration concluded that people with higher incomes use tolled roads more often than lower income travelers.<sup>5</sup>

In order to make this project equitable, we have two recommendations. First, the express lanes should be HOV 3+, accessible to carpoolers. Second, a portion of the toll revenues should be invested in transit service along the corridor. This is both explicitly allowed by SB 09-109 in section 43-4-812, and under the HPTE transparency policy<sup>6</sup> adopted in 2014, the HPTE is required to consider, and to the extent reasonable, include transit in any project including managed lanes.

<sup>5</sup> US DOT, FHWA Primer, Income-Based Equity Impacts Of Congestion Pricing: A Primer, retrieved from: [http://ops.fhwa.dot.gov/publications/fhwahop08040/cp\\_prim5\\_00.htm](http://ops.fhwa.dot.gov/publications/fhwahop08040/cp_prim5_00.htm).

<sup>6</sup> <https://www.codot.gov/programs/high-performance-transportation-enterprise-hpte/about-us/rules-policy/hpte-transparency-policy.pdf>