



**MISSOURI HIGHWAYS AND TRANSPORTATION
COMMISSION**

Official Minutes

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**MINUTES OF THE REGULARLY SCHEDULED HIGHWAYS AND
TRANSPORTATION COMMISSION MEETING HELD IN JEFFERSON CITY,
MISSOURI, WEDNESDAY, MAY 1, 2013**

A regularly scheduled meeting of the Missouri Highways and Transportation Commission was held on Wednesday, May 1, 2013, at the Missouri Department of Transportation Building, 105 West Capitol Avenue, Jefferson City, Missouri. Lloyd J. Carmichael, Chairman, called the meeting to order at 1:30 p.m. The following Commissioners were present: Stephen R. Miller, Grace M. Nichols, Rudolph E. Farber, and Kenneth H. Suelthaus. On February 2, 2012, Governor Nixon withdrew the appointment of Commissioner Joseph J. Hunt; at the time of the May 1, 2013, meeting, a replacement had not been appointed.

The meeting was called pursuant to Section 226.120 of the Revised Statutes of Missouri, as amended. The Secretary verified that notice of the meeting was posted in keeping with Section 610.020 of the Revised Statutes of Missouri, as amended.

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Dave Nichols, Director of the Missouri Department of Transportation; Rich Tiemeyer, Chief Counsel for the Commission; and Pamela J. Harlan, Secretary to the Commission, were present on Wednesday, May 1, 2013.

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*“Department” or “MoDOT” herein refers to Missouri Department of Transportation.
“Commission” or “MHTC” herein refers to Missouri Highways and Transportation Commission.*

-- CLOSED MEETING --

VOTE TO CLOSE MEETING

The agenda of the closed meeting was posted in keeping with Sections 610.020 and 610.022, RSMo, including the following statutory citations allowing the meeting to be closed:

1. Section 610.021(1) – Legal actions and attorney-client privileged communications.
2. Section 610.021(3), (13) – Personnel administration regarding particular employees.
3. Section 610.021(11), (12) – Competitive bidding specs, sealed bids, or negotiated contracts.
4. Section 610.021(14), 610.010(6) – Matters protected from disclosure by law – deliberative decision-making process.

Upon motion duly made and seconded to convene in closed session, the Chairman called for a voice vote of the members. The vote was as follows:

Commissioner Carmichael, Aye
Commissioner Miller, Aye
Commissioner Farber, Aye
Commissioner Nichols, Aye
Commissioner Suelthaus, Aye

The Commission met in closed session from 9:00 a.m. until 12:00 p.m.

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-- OPEN MEETING --

APPROVAL OF MINUTES

Upon motion by Commissioner Nichols, seconded by Commissioner Farber, the Commission unanimously approved the minutes of the regular meeting held April 2, 2013; the special meetings held April 1, 2013 and April 15, 2013; and the amended minutes for March 1, 2012, April 3, 2012, April 17, 2012, May 2, 2012, June 5, 2012, June 6, 2012, July 10, 2012, July 11, 2012, August 8, 2012, September 12, 2012, October 3, 2012, November 8, 2012, December 5, 2012, January 17, 2013, February 1, 2013, and February 6, 2013. The Chairman and Secretary to the Commission were authorized and directed to sign and certify said minutes and to file same in the office of the Secretary.

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CONSENT AGENDA

Consent Agenda Process

In order to make the most efficient use of Commission meeting time and to ensure Commission members are well informed on issues requiring their action, staff prepares and submits to the Commission members, in advance of their meeting, internal memoranda consisting of advice, opinions, and recommendations related to the items of the Commission meeting agenda. Those items considered by staff to be of a routine or non-controversial nature are placed on a consent agenda. During the meeting, items can be removed from the consent agenda at the request of any one Commission member. The items that are not removed from the consent agenda are approved with a single motion and unanimous vote by a quorum of the members.

Minutes reflecting approval of items on the consent agenda are singly reported herein and intermingled with minutes reflecting action on related subjects that were openly discussed. Reference to “consent agenda” is made in each minute approved via the process described in the paragraph above.

Minutes reflecting action on items removed from the consent agenda and openly discussed reflect the open discussion and vote thereon.

Consideration of May 1, 2013, Consent Agenda

No items were removed from the consent agenda. Upon motion by Commissioner Farber, seconded by Commissioner Miller, the consent agenda items were unanimously approved by a quorum of Commission members present.

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MODOT DIRECTOR - DAVE NICHOLS APPOINTED

On April 2, 2013, the Commission unanimously appointed Dave Nichols, Interim Director/Chief Engineer, as the MoDOT Director. Mr. Nichols' employment was effective April 2, 2013.

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COMMISSION COMMITTEES AND COMMISSION RELATED BOARDS

The Commission has two standing committees: Audit and Legislative. In addition, it elects Commission representatives to two boards: Missouri Transportation Finance Corporation Board of Directors and MoDOT and Patrol Employees' Retirement System Board of Trustees. The following committee and board reports were made during the May 1, 2013, meeting.

Audit Committee – Commissioner Suelthaus stated there was no report.

Legislative Committee – Commissioner Miller noted with three weeks remaining in the 2013 legislative session the Commission remains optimistic that the temporary one cent sales tax for transportation purposes will pass the General Assembly. Senate Joint Resolution 16 (SJR 16) is a culmination of four years hard work by industry and stakeholders that has produced nearly unanimous support across rural, urban, and various transportation sectors. SJR 16 would provide funding that would be used to solve Missouri's long term infrastructure crisis ensuring future economic activity, job growth, and safe transportation throughout the entire state. SJR 16 provides the accountability and the dedicated constitutional constraints the public wants, including a ten year sunset on the sales tax as well as prohibition against tolls or fuel tax increases. These funds will allow MoDOT to provide Missourians

with the maximum safety and economic gains by tackling the growing backlog of important projects around the state. While some opponents argue this is a vote for a tax increase, proponents simply believe it's a vote to let the citizens decide if they want a greater dedicated more robust investment in transportation. Only time will tell, the session will end on May 17, 2013, at 6 p.m. and the Commission is hopeful the legislature will step up and allow the citizens in the state of Missouri to vote on investing in their future. Chairman Carmichael said this is probably one of the most critical things that will happen during the tenure of this Commission, and he referenced this meeting agenda as evidence. He explained there are no projects to approve, and there was no bid letting. This is a good reason for more transportation funding so the Commission can do the things we need to do to keep our transportation system up and running.

Missouri Transportation Finance Corporation – Commissioner Nichols reported the MTFC elected officers, approved the budget for fiscal year 2014, and also approved one loan totaling \$1,020,420 to the City of Waynesville for a cost-share project that will widen Route 17 to three lanes and include paved shoulders. Commissioner Nichols stated the next meeting is August 6, 2013.

MoDOT and Patrol Employees' Retirement System – Commissioner Farber stated there was no report.

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DIRECTOR'S REPORT

During the May 1, 2013, Commission meeting, Director Dave Nichols provided the following report:

Innovations Showcase – Director Nichols thanked Chairman Carmichael and Commissioner Nichols for attending the Innovations Showcase on April 10, 2013, in Springfield. Director Nichols showed a short video that demonstrated the creativity of MoDOT employees and said the next step is to get the top innovations from the showcase implemented statewide. MoDOT has also begun sharing innovations with city and county partners. This year's Innovations Showcase marked the first time two separate employee challenges have shared the same exhibit hall. Exhibitors for the sixth year of the Tool and Equipment Challenge were joined by exhibitors from the first year of the PrOMo Challenge. There were a total of 56 innovations highlighting new or modified tools and pieces of equipment along with innovative products, processes, and projects. The innovations looked different, but they all shared the same goal, getting work done better, faster, cheaper, and safer.

Flooding Update – Director Nichols reported flooding occurred across a good part of the state after heavy rain on April 17 and 18, 2013. At one point on April 18, 2013, there were almost 300 flood-related closures on state routes in Missouri. Moderate flooding continued the following week along the Mississippi River, and there were two incidents, on April 21 and April 25, 2013, where barges broke free and hit bridges. The Jefferson Barracks Bridge in St. Louis (I-255) and the I-155 Bridge at Caruthersville sustained no damage. As of May 1, 2013, forty-four state routes were still closed due to flooding, primarily along the Mississippi River from St. Louis southward. Director Nichols stated with the forecast for the next few days, flooding could again become an issue for our forces.

Work Zone Awareness – Director Nichols said Work Zone Awareness week was kicked off with an event in Kansas City on April 12, 2013, and a public service announcement was debuted featuring Clifton Scott, the motorist assist operator who was killed in the line of duty in September 2012. Director Nichols thanked Mr. Scott’s family for allowing the department to use a 2006 media interview Mr. Scott had provided urging motorists to slow down and be alert in work zones and was used to produce this video. Director Nichols said this year the department is emphasizing the care needed when approaching moving operations, like striping or sweeping, that motorists may not view as being a typical work zone, and to educate drivers on the inclusion of MoDOT vehicles in the “Move Over” law.

Pothole Patrol Results – Director Nichols said the effort to focus on quick pothole repair in March and April was a success. Maintenance crews used 5,370 tons of material to fill more than 130,000 potholes across the state and the Northwest District filled the most, with an amazing 40,000 potholes filled. The customer service centers fielded more than 600 calls reporting pothole locations during the six-week period.

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PRESENTATION BY THE JEFFERSON CITY AREA CHAMBER OF COMMERCE

Bob Gilbert, Jefferson City Area Chamber of Commerce Chair of the Transportation Committee, expressed appreciation for the Commission’s continued support of area transportation projects and gave a presentation highlighting future transportation needs in the Jefferson City region. Mr. Gilbert thanked the Commission for the Route 179 and Mission Drive interchange that will provide access to the new St. Mary’s medical complex and the Highway 54 J-turns that will improve safety. Mr. Gilbert reported on the progress of the US 50/63 and Lafayette Street interchange that will provide essential access to the

new federal courthouse and the old Missouri State Penitentiary site and encourage the site's redevelopment, the second Osage River Bridge currently under construction that will extend dual tracks for Union Pacific and Amtrak service east of Jefferson City, and the work that is underway to expand US 50 to a four lane facility east of Jefferson City to Linn. Mr. Gilbert noted the only gaps remaining to be four-laned are from Linn to Union to the east and from California to Sedalia to the west. Mr. Gilbert explained when US 50 is four-laned from state border to border, it will serve as a reliever route to I-70 especially when I-70 is reconstructed in the future. Mr. Gilbert also highlighted a few smaller projects in the area that are currently underway due to successful partnerships with the city, the county, and MoDOT in seeking funding to construct sidewalks along Missouri Boulevard, Amtrak station enhancements, Katy Trail parking enhancement located at the Missouri River Bridge and Capitol Avenue to improve access to the new pedestrian bridge across the Missouri River, and funding through the Safe Routes to School program to improve sidewalks and an interchange at Pioneer Trail Elementary School. Mr. Gilbert highlighted one of the future needs in the area, which is the addition of a third lane to Highway 54 between the US 54/63 interchange and the Missouri River; this project will address congestion and safety concerns. He closed his presentation by reporting that the Chamber Board has unanimously endorsed Senate Joint Resolution 16 and congratulating MoDOT on its 100th anniversary. Chairman Carmichael thanked Mr. Gilbert for his presentation; it was a great reminder of the progress made together and that there is progress yet to be made.

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INFORMATION TECHNOLOGY DISASTER RECOVERY AND SECURITY

Beth Ring, Information Systems Director, described the department's efforts to develop and maintain an effective information technology disaster recovery and security program. The purpose of these programs is to ensure continuous availability of MoDOT's technology systems and to provide a secure environment for the department's immense data needs. Ms. Ring provided historical information

to demonstrate the progress the department has made in its disaster recovery and security improvements. The department began using computers in 1958. All computer equipment remained in the basement of 105 West Capitol Avenue until a Computer-Aided Design and Drafting (CADD) system was procured in 1988, which is when mainframes were installed in every district. The only provision for disaster recovery at that time was data was backed up to tapes, which were safeguarded by local employees somewhere offsite, and only re-procurement of equipment and its installation would have brought the systems back to operational in the event of a disaster. In June 2004, the newly upgraded data center at 601 West Main went online. Essentially the same disaster recovery provisions were in place, except that a backup generator, for power outages, was put in place. Over the years the back-up generator provision has saved MoDOT hundreds of hours of downtime. Additionally, security was greatly enhanced at the new location and a number of water, smoke, and fire detection prevention measures were installed.

The project to establish disaster recovery capability, which included dual data centers, began in 2008 through the encouragement and support of the Commission and executive management. After considering many options, it was decided to construct a location in the Kansas City district to serve as both a resident engineer office and a second data center to serve as a disaster recovery site. Prior to the final construction of the building, the department began to install data center equipment. The building was completed in February 2010 and the intricate process of establishing disaster recovery capability started in earnest. Ms. Ring stated all MoDOT data is backed up on redundant hard drives in Jefferson City and Kansas City, and the department has network, server, and storage capabilities that allow the department the ability to recover applications within a very short period of time with a modest amount of human intervention.

Another example of progress in information technology is the Voice Over Internet Protocol (VoIP) phone system, which uses the department's network to save money on phone calls, and is totally redundant with full failover in Kansas City. Ms. Ring stated email is a similar situation, with the

exception of external to MoDOT email. The network connection from Jefferson City to Kansas City is 10 gigabit and it has been designed to survive a total outage of the Jefferson City data center.

Ms. Ring discussed future capabilities and technology currently being developed. The current plan is to configure the firewall in place in Kansas City to allow external to MoDOT email to be stored and retrieved. Ms. Ring expressed excitement over the project that will establish the capability to bring up any system operated in Jefferson City in minutes with no human interaction. This will be the foundation for establishing the failover capability of mission critical systems, such as Motor Carrier Express and the Transportation Management System.

Ms. Ring further discussed information technology security and reported in the first quarter of 2013 that there were 70 attempts every second to access MoDOT's system, but security efforts have been effective in thwarting them. Ms. Ring reported the department collaborates with state partners and participates in a security committee to discuss security problems and vulnerabilities and learn about new technology to address those issues. Additionally, the department will be participating in a statewide cyber terrorism exercise in June 2012. More importantly, MoDOT purchases internet access through the Office of Administration, who purchases statewide internet access through an organization called Morenet. The significance of this is what MoDOT is doing from a security perspective, is also being done by the Office of Administration and Morenet, essentially having in place three layers of security protection.

Ms. Ring explained that security is addressed on computers as well as the network. On the individual employee's computer the most effective way to ensure security is to have an updated operating system; Information Systems staff pushes important upgrades monthly through an automated process. Additionally, anti-virus software is constantly scanning the environment to identify malicious code and alert staff that can isolate any problems. A spam filter is used to block bad emails and let the good emails go through. Staff are exploring the use of hard drive encryption which prevents anyone

who does not have the password from getting any information off of that computer's hard drive. For mobile device management, the department uses a cloud based program called Airwatch that can remotely wipe the mobile device clean in the event that device is lost.

From a network security perspective, the department has an internet web filter that has been in place for the last ten years. If someone accidentally tries to get to the wrong internet site they will get an access denied sign, this prevents employees from accessing inappropriate websites which is important, but also because the inappropriate websites often contain malicious code. A firewall security appliance is used to monitor and block incoming and outgoing traffic on the network. Additionally, with more employees working from a remote location, a Virtual Private Network is available that provides a secure connection for data to travel between the remote device and the network. Additionally, staff has begun to use a new tool, security event management, which enables them to monitor several network appliances at the same time improving efficiency and effectiveness.

Ms. Ring closed with saying the department and its transportation partners rely on a safe, secure, and highly available technology environment. Information Systems is committed to staying abreast of and adopting new technology that can help improve the security of data and prevent and respond swiftly to disasters impacting information technology. New technology solutions are rapidly being developed to respond to new risks from a disaster recovery and security perspective and the department continues to keep pace with new developments and has taken a practical and effective approach to information technology disaster recovery and security.

Chairman Carmichael thanked Ms. Ring for her presentation and for keeping the computers and network safe and secure and available in the event of a disaster.

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**MISSOURI DEPARTMENT OF TRANSPORTATION PROPOSED FISCAL YEAR 2014
BUDGET**

On behalf of the Director, Roberta Broeker, Chief Financial Officer, presented the Fiscal Year 2014 budget in the amount of \$2.05 billion, which is MoDOT's smallest budget since fiscal year 2005. The budget is not a good news story because there are significantly less resources available for transportation in Missouri.

Ms. Broeker estimated receipts for fiscal year 2014 at \$2.23 billion. Revenues are declining at state and federal levels. She reported MoDOT's largest source of state revenue, motor fuel taxes, is a declining revenue source. Fiscal year 2012 fuel taxes were \$24.1 million less than fiscal year 2008 and through the first nine months of fiscal year 2013, are less than fiscal year 2012. Higher fuel prices that discourage fuel consumption and increasingly fuel efficient vehicles mean this revenue source cannot provide the funds necessary to meet transportation needs. Ms. Broeker reported Missouri will be receiving \$71 million less in federal highway and bridge funds per federal fiscal year. On June 29, 2012, Congress passed a new two-year, \$105 billion, federal transportation reauthorization act titled Moving Ahead for Progress in the 21st Century Act (MAP-21). MAP-21 replaces the 2005 reauthorization bill Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and reduces the amount of funding for all state department of transportations in an attempt to delay the insolvency of the federal highway trust fund. Federal fuel taxes are insufficient to support historical program levels. Total receipts for fiscal year 2014 are projected to decline \$31.0 million compared to the fiscal year 2013 budget.

The disbursement request for Fiscal Year 2013 is \$2.32 billion with the largest portion of this disbursement attributed to the program delivery category at \$1.34 billion for building roads and bridges. The next largest category is \$452 million for system management, which pays for the maintenance and repair of roads and bridges. The multimodal category will receive \$123 million for aviation, ports, transit, and rail. The fleet, facilities, and information systems category will receive \$77 million. The smallest category, administration, is allocated \$49 million. Although legislatively appropriated, other

state agencies will receive \$267 million; these funds come from State Road Fund revenue sources and reduce revenues available to the department. Ms. Broeker reported that total disbursements, including other state agencies, are anticipated to exceed receipts in fiscal year 2014. The \$84.8 million difference will be funded from existing cash reserves.

Ms. Broeker highlighted for the Commission that program funds will focus on taking care of the existing transportation system, as revenues are insufficient to do more. The proposed Program Delivery budget is \$217.4 million, or 14 percent, less than the fiscal year 2013 budget. She explained that there are few resources available for expansion projects, and the department can commit to very few expansion projects per year, despite the growing demand for continued transportation improvements. Many of the larger projects awarded by the Commission are big construction projects that accomplish maintenance work, for example, the replacement of the Blanchette Bridge on I-70 in St. Louis is a large project that is really a maintenance project. Further highlighting the program is trending toward simply taking care of the existing transportation system.

Ms. Broeker concluded her presentation stating she will return in June to request approval of the final budget for Fiscal Year 2014. The Commission thanked Ms. Broeker for her presentation. The Commission will review the information presented by Ms. Broeker and take action thereon at the June 5, 2013, Commission meeting.

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REPORT AND RECOMMENDATION REGARDING ORDERS OF RULEMAKING – STATE TRANSIT ASSISTANCE PROGRAM

On behalf of the Director, Michelle Teel, Multimodal Operations Director, reminded the Commission at the January 17, 2013, meeting, the Commission authorized the filing and publication of the notice of proposed administrative rulemaking for 7 CSR 10-7.020 and 10-7.030, State Transit Assistance Program, which outlines the procedures for the distribution of funds appropriated to the

Missouri State Transit Assistance Program under newly enacted section 226.195, RSMo. The rules were published in the *Missouri Register* on March 1, 2013, and no comments were received during the thirty (30) days following the publication. Ms. Teel recommended approval of the final orders of rulemaking for filing with the Joint Committee on Administrative Rules and the Office of the Secretary of State. Ms. Teel further recommended the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer be authorized to execute any document appropriate and necessary to complete the final rulemaking process.

After consideration, the Commission, via approval of the consent agenda, unanimously authorized the Secretary to the Commission to file the proposed orders of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State for publication in the *Missouri Register*, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to initiate the rulemaking process.

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REPORT AND RECOMMENDATION REGARDING NOTICE OF PROPOSED RULEMAKING – HOUSEHOLD GOODS MOVER

On behalf of the Director, Jan Skouby, Motor Carrier Services Director, explained that as a result of enactment of Truly Agreed to and Finally Passed Senate Bill 470 and House Bill 1402, proposed amended rulemaking, proposed rescission rulemaking, and proposed rulemaking is required to address certain household goods mover issues. The passage of the legislation eased the entry and application requirements for motor carriers transporting household goods and passengers in intrastate commerce; eliminated the filing with the commission of rates and charges for transportation of household goods in intrastate commerce; and added requirements to provide the public more status updates to their filed complaints. With the elimination of the filing of the rates and charges and the vacating of the maximum-and-minimum rate structure previously ordered for the transportation of household goods, existing

requirements and provisions applicable to those rates and charges within those orders of the Highways and Transportation Commission or its predecessors remain in place and need to be brought forward into state code in order to be readily accessible and open to the industry. A summary of the proposed administrative rule modifications follows:

- **Rescinded Rules:** With the elimination of the maximum-minimum rates ordered by the Commission and the filing of rates and charges for the transportation of household goods in intrastate commerce, there no longer exists a need to require motor carriers who transport property and passengers in our state to keep their records in accordance with a uniform system of accounts (4 CSR 265-12.020 and 4 CSR 265-12.030). The rule pertaining to inspection of books, records, property, equipment and roadside stops by division personnel does not contain anything other than what statute allows and is not needed (7 CSR 265-10.060). Classifications of common carriers were included in the Motor Carrier Services Procedures Manual and are no longer needed (7 CSR 265-10.070). Rules governing the transportation of household goods and household goods tariffs were moved to the new Household Goods Tariff Circular 1-2013, eliminating the need for these rules (7 CSR 265-10.080 and 7 CSR 265-10.120).
- **Amended Rules:** Rules pertaining to requirements of a contract (7 CSR 265-10.010), application for self-insurer status (4 CSR 265-2.068), passenger service requirements (7 CSR 265-10.045), passenger tariffs (4 CSR 265-6.010), the merger of duplicated or overlapping motor carrier operating authority (4 CSR 265-2.190), and the advertising rule (7 CSR 265-10.100) were amended to simplify requirements, clarify verbiage and/or move the rule under the Department of Transportation from the Department of Economic Development. One rule (7 CSR 265-10.050) was amended to move sections to the Motor Carrier Services Procedures Manual or Household Goods Tariff Circular 1-2013. Another rule was amended to simplify the canceling of authority to a simple process instead of an application process (4 CSR 265-2.180).
- **Rescinded and Proposed New Rules:** Six existing rules are being rescinded and new rules proposed due to the legislative impact and extensive volume of changes needed to enhance clarity and understanding. (7 CSR 265-10.015, 7 CSR 265-10.020, 7 CSR 265-10.025, 7 CSR 265-10.030, 7 CSR 265-10.040, and 7 CSR 265-10.110).
- **Proposed Rule:** The passage of Senate Bill 470 and House Bill 1402 requires status updates be given to complainants of household goods movers. This new rule (7 CSR 265-10.130) does not

reflect any new requirements on small businesses and incorporates the consumer complaint requirements outlined in recent state legislation.

After consideration, the Commission, via approval of the consent agenda, unanimously authorized the Secretary to the Commission to file the following notices of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State for publication in the *Missouri Register*: rescind administrative rules 4 CSR 265-12.020, 4 CSR 265-12.030, 7 CSR 265-10.060, 7 CSR 265-10.070, 7 CSR 265-10.080, and 7 CSR 265-10.120; amend administrative rules 4 CSR 265-2.068, 4 CSR 265-2.180, 4 CSR 265-2.190, 4 CSR 265-6.010, 7 CSR 265-10.010, 7 CSR 265-10.045, 7 CSR 265-10.050 and 7 CSR 265-10.100; rescind and propose new administrative rules 7 CSR 265-10.015, 7 CSR 265-10.020, 7 CSR 265-10.025, 7 CSR 265-10.030, 7 CSR 265-10.040, and 7 CSR 265-10.110; and propose new administrative rule 7 CSR 265-10.130. The Commission, via approval of the consent agenda, also unanimously authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to initiate the rulemaking process.

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DRAFT 2014 – 2018 STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM

On behalf of the Director, Machele Watkins, Transportation Planning Director, presented the 2014-2018 Draft Statewide Transportation Improvement Program (STIP). Ms. Watkins explained there are many outstanding needs for transportation around the state, but the department is facing a transportation funding crisis and the needs far outweigh the available funds. The STIP focuses on keeping Missouri's roads and bridges in as good a condition as we can for as long as possible with the limited resources available. MoDOT has heard consistently from partners, stakeholders, and citizens that the department's priority should be to take care of the system first, and that is the focus of this STIP. However, that does not leave much available for other types of non-maintenance projects.

Ms. Watkins explained the 2014-2018 STIP provides MoDOT's direction for all modes of transportation. The department is required to prepare the STIP by law and it outlines the work the department will do and the resources that will be used to accomplish the work in that five-year period, it also outlines the work that is planned for future projects. Ms. Watkins explained the department fully programs the first three years of the STIP and purposely only programs about half of the remaining two years. That is done in an effort to make sure the department can manage any risk that might be associated with changing revenues during that five year time frame. Should resources be less than predicted, projects can be moved around a little bit and still allow the department to honor all of the commitments made within that five year time frame.

The STIP is the department's commitment for what the public is going to receive for their transportation dollars, and is developed through a collaborative effort with the public. The department uses the planning framework process for needs identification, and regional prioritization of projects. The results of that process are what are presented in the draft STIP.

The 2014-2018 STIP includes federal funding made available through Moving Ahead for Progress in the 21st Century Act of 2012 (MAP 21), state revenue, local contributions, and the remaining Amendment 3 funding. The combination of these funds results in an average annual amount of \$700 million available for programming contractor awards in the STIP's Highway and Bridge Construction Schedule. MoDOT administers an additional average annual amount of \$163 million for other transportation modes and an average annual amount of \$167 million for other sub-allocated programs for local agencies. The department allocates resources to projects in these areas in accordance with the Commission approved funding distribution methodology.

The next step in the process is for the department to conduct a public comment period for the draft STIP May 1 through May 31, 2013. The draft STIP will be shared with various audiences by personal contacts, news releases, and MoDOT's website. The department will collect the comments

received and recommend action. Any changes to the STIP will be presented to the Commission at its July 9, 2013, meeting for consideration and approval.

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REQUEST FOR APPROVAL OF LOCATION AND DESIGN OF HIGHWAYS

Route U, Lincoln County
From Route J Intersection to 0.7 Mile West of U.S. 61 Near Moscow Mills
Job No. J2S3001
Public Hearing Held March 4, 2013
On-Line Public Hearing March 4 – March 19, 2013

The proposed improvement to Route U consists of resurfacing, adding paved shoulders, and realigning the curve at the Route U and Sand Run Road intersection. The proposed shoulder width is four feet. The project will have normal access right of way. For the majority of construction Route U will remain open with traffic reduced to one lane using flagger control. The replacement of culverts will require short term closures of Route U, which will occur during nighttime hours to mitigate the impact to motorists. This project is 4.2 miles in length.

On behalf of the Director, Paula Gough, Northeast District Engineer, recommended approval of the location and design presented at the public hearing.

Route 5, Camden County
From Jet Ski Road to Singing Oaks Road in Sunrise Beach
Job No. J5P2187
Hearing Held - March 6, 2013
On-Line Public Meeting - March 6 – March 16, 2013

The proposed improvement provides pavement improvements and a new continuous center left turn lane on existing alignment through the project limits. The new pavement will have two 11-foot lanes, a 12-foot center left-turn lane, and two-foot shoulders. The project will have normal access right of way. Route 5 will be open to two way traffic during construction. Temporary lane closures will be required during working hours for some operations during construction. This project is 1.1 miles in length.

On behalf of the Director, Dave Silvester, Central District Engineer, recommended approval of the location and design as presented at the public hearing.

After full consideration of the favorable and adverse economic, social and environmental effects of the recommended designs, the Commission via approval of the consent agenda unanimously found

and determined the recommended locations and designs would best serve the interest of the public and approved the recommendation.

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CHANGE IN ACCESS - BREAK IN ACCESS, ROUTE 86 IN NEWTON COUNTY

On behalf of the Director, Rebecca Baltz, Southwest District Engineer, recommended approval of a request from Mercy Health to construct an 18-foot entrance centered at the easterly right of way line of Route 86 at Station 74+07 for a new Joplin Hospital. The break will be a non-arterial connection and will not provide traffic relief to the state system. Mercy Health is reconstructing/relocating their Joplin Hospital that was destroyed by a tornado in May 2011. This new location is located at the southeast quadrant of the I-44 and Route 86 interchange. The department has worked with Mercy Health to address concerns for an entrance directly from Route 86 for emergency vehicles, and to reduce the time and distance for emergency ambulatory vehicles to reach the emergency room entrance. As a result of Mercy Health relocating their hospital to this location, they are completing a roadway project that will increase traffic capacity in this area. The project includes signalizing intersections, adding turn lanes and construction of a roundabout intersection at the intersection of Route 86 and 50th Street.

Via approval of the consent agenda, the Commission unanimously approved the request of Mercy Health, as described above with \$1.00 compensation due the Commission for the break in access.

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-- REPORTS --

The Commission received the following written reports.

A BOLDER FIVE-YEAR DIRECTION REPORT

Dave Nichols, Director, provided to the Commission the monthly update of the Bolder Five-Year Direction. On June 8, 2011, the Commission approved the Bolder Five-Year Direction which will reduce staff by nearly 1,200 employees, close 131 facilities, and reduce MoDOT's fleet by more than 740 units.

As of March 31, 2013, there has been a reduction of 1,354 salaried positions since February 28, 2010. The target of 5,106 employees has been reached. However, MoDOT remains understaffed in certain areas of Administration, Program Delivery, and Operations. Hiring of permanent maintenance employees began November 1, 2012 to close the gap. Some other vacant positions have been filled since February 1, 2013, and others are posted. MoDOT conveyed 69 facilities, terminated five leases, entered into long-term leases on five facilities, and eliminated 571 pieces of equipment, with an additional 177 pieces of equipment taken out of service. As of March 31, 2013, the department realized a total savings of \$357 million.

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REPORT REGARDING REAL ESTATE APPRAISAL REPORTS ACTION PLAN

On behalf of the Director, Kelly Lucas, Right of Way Director, and Pete Donovan, Assistant Chief Counsel-Project Development, provided to the Commission a report about the procedure for property acquisition and appraisal. While MoDOT's property acquisition and appraisal practices are very good, additional process improvements are necessary to address problems on a relatively small number of complex acquisitions. In order to deliver projects that are approved in the Statewide Transportation Improvement Program (STIP), the Missouri Department of Transportation must often acquire various realty rights. These can include land, access rights, permanent easements and temporary

easements. The degree to which a property is impacted depends on the specific characteristics of the STIP project and the property. MoDOT staff understands that when it is necessary to acquire realty rights for a STIP project, they will not necessarily be dealing with a willing seller. Consequently acquiring property is a very personal and delicate matter. Every property owner impacted is treated with the utmost respect and compassion. MoDOT strives to make the process understandable, smooth and as easy as possible for the property owners. Even with aggressive project schedules, MoDOT does an outstanding job negotiating the acquisition of parcels without the need for condemnation and maintaining a high level of property owner satisfaction.

Action Plan for Improvement. In an effort to further improve the process, MoDOT has implemented the following action items to ensure quality appraisal products.

- (A) **Review of all Parcels Prior to Appraisal Assignments.** In the past, the district's right of way manager was solely responsible for making appraisal assignments once right of way plans were approved. In the absence of discussing these assignments with the Regional Counsel's Office (RCO), the RCO would typically obtain a new appraisal prepared by a fee appraiser once the parcel was in litigation. This resulted in a disconnect between right of way negotiations and litigation. Basically, the right of way appraiser did not have to be concerned with the possibility of testifying at trial. In addition, the two appraisers may have been given different instructions or "scope of assignment," which may have resulted in different methods and values. As a means to resolve these issues, MoDOT implemented procedures whereby the district's right of way manager and RCO will work together to determine which appraiser will be assigned to each parcel. The expectation is that the same appraiser will be used for both the right of way appraisal and the litigation appraisal if a parcel is considered

complicated, appears to be controversial, and/or is anticipated to have significant damages.

(B) **Administrative Reviews Prior to Condemnation.** All parcels that have not settled during right of way negotiations will be subjected to a review by an Administrative Review Committee prior to being submitted for condemnation. At a minimum, the committee will consist of the right of way manager, attorney assigned to the case, reviewing appraiser, appraiser, negotiator, project manager and designer. If omissions have been found or damages have not been fully considered, the parcel will not proceed to condemnation until the appraisal has been corrected and a new offer has been made to the property owner. The committee will meet regularly to review all acquisitions in order to maintain MoDOT's commitment to not interrupt the monthly letting schedule.

(C) **Regional Counsel Office Appraisal Reviews.** When right of way staff obtains an appraisal for the acquisition of a parcel related to a STIP project, the appraisal is reviewed by a certified reviewing appraiser per the Code of Federal Regulations. The purpose of the review is to check for the legitimacy of comparable sales used, that all recognizable elements of damage have been adequately addressed, compliance with Uniform Standards of Professional Appraisal Practice, compliance with the Code of Federal Regulations, and consistency throughout the project. However, when appraisals are prepared at the request of RCO for litigation purposes, they are not reviewed by a certified appraiser because a review at the litigation phase is not required by the Code of Federal Regulations. As a part of this action plan, the RCO's independent fee appraisals will also be reviewed by a certified reviewing appraiser to ensure they comply with all rules and regulations pertaining to appraisal preparation,

and to ensure they are prepared under the same assumptions and instructions as the right of way appraisals. If issues are found in an RCO appraisal report, it will be returned to the appraiser so the issues can be addressed prior to proceeding with negotiations to settle the case or moving forward to jury trial.

(D) Develop an Annual Appraisal Seminar Program. An annual seminar will be held beginning in 2013 for staff appraisers, fee appraisers, review appraisers, MoDOT attorneys and project managers. The topics discussed will be related to issues that arose during the previous year, changes in case law, and items that need to be considered in appraisals. The first annual seminar was held on March 14, 2013. One of the issues that was specifically discussed with the MoDOT project managers in attendance is that when plans are submitted late, it greatly decreases the time remaining for MoDOT's appraisers to complete their work.

MoDOT is confident these four process refinements will produce better results with regard to the significant differences in right of way appraisals and appraisals prepared for litigation. Staff will continue to monitor Property Owner Opinion Survey results and report legal settlements and trial results to the Commissioners so they can also see the progress MoDOT is making in this area.

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CONTRACTOR PERFORMANCE REPORT

David Ahlvers, State Construction and Materials Engineer, presented the annual contractor performance report for 2012. Performance summaries will be mailed to the contractors the week of May 1, 2013. Contractors receiving the top ratings for the 2012 construction season will be recognized at the MoDOT / AGC Coop meeting in the fall of 2013.

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FINANCIAL ACCOUNTABILITY REPORT – QUARTERLY REPORT

Brenda Morris, Financial Services Director, provided to the Commission the written Quarterly Financial Accountability Report for the period ending March 31, 2013.

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FINANCIAL – BUDGET – REPORTS YEAR-TO-DATE FINANCIAL REPORT, PERIOD ENDING MARCH 31, 2013

Brenda Morris, Financial Services Director, provided to the Commission the Fiscal Year 2013 monthly financial report for the period ended March 31, 2013, with budget and prior year comparisons.

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CONSULTANT SERVICES CONTRACT REPORT

Kathy Harvey, State Design Engineer, provided to the Commission the report of consultant contracts executed in the month of March 2013, for both engineering and non-engineering related projects. The department utilizes consultants to efficiently manage workload and provide specialized expertise to supplement and support department staff. Expenditures for consultant services are funded from the Commission approved Statewide Transportation Improvement Program and MoDOT Operating Budget. Eleven engineering consultant services contracts were executed in March 2013, for a total cost of \$6,805,294. A total of seven non-engineering consultant contracts were executed in April 2013, for a total cost of \$425,207.

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By unanimous consensus of all members present, the meeting of the Commission adjourned.

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The Mission of the Missouri Highways and Transportation Commission is to:

- Represent the citizens of Missouri pursuant to the Constitution by providing independent and nonpartisan governance of the Missouri Department of Transportation; and
- Establish policies, exercise oversight, and ensure accountability in developing and maintaining a world class transportation system in Missouri which fosters safety and economic development.

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