

**MINUTES OF THE 583<sup>rd</sup> MEETING OF THE OHIO TURNPIKE COMMISSION**

**May 21, 2012**

**Chairman Hruby:** (10:00 a.m.) Pledge of Allegiance is recited by all in attendance. The meeting will come to order. Will the Secretary-Treasurer please call the roll?

**Secretary-Treasurer:** Chairman Hruby.

**Chairman Hruby:** Here.

**Secretary-Treasurer:** Vice Chairman Balog.

**Vice Chairman Balog:** Here.

**Secretary-Treasurer:** Mr. Dixon.

**Mr. Dixon:** Here.

**Secretary-Treasurer:** Mr. Pakush.

**Mr. Pakush:** Here.

**Secretary-Treasurer:** Mr. Cole. (not present due to attendance at OBM meeting).

**Secretary-Treasurer:** Mr. Smith.

**Mr. Smith:** Here

**Secretary-Treasurer:** Senator Patton.

**Senator Patton:** Here.

**Secretary-Treasurer:** Representative Dovilla. (not present due to attendance to legislative duties).

**Secretary-Treasurer:** A quorum is present.

**Chairman Hruby:** This is the 583<sup>rd</sup> Meeting of the Ohio Turnpike Commission. We are meeting here at the Commission's Headquarters as provided by the Commission's Code of Bylaws. Various reports will be received, and we will act on several

Resolutions. Draft copies have been previously sent to the Members with updated copies in the folders. The Resolutions will be explained during the appropriate reports. Can I please have a motion to adopt the Minutes of the April 16, 2012 Commission Meeting?

**Mr. Pakush:** I move we approve.

**Vice Chairman Balog:** Seconded.

**Chairman Hruby:** Moved and Seconded. Are there any corrections or additions to the Minutes? Hearing none, roll call.

**Secretary-Treasurer:** Mr. Pakush.

**Mr. Pakush:** Yes.

**Secretary-Treasurer:** Vice Chairman Balog.

**Vice Chairman Balog:** Yes.

**Secretary-Treasurer:** Chairman Hruby.

**Chairman Hruby:** Yes.

**Secretary-Treasurer:** Mr. Dixon.

**Mr. Dixon:** Yes.

**Secretary-Treasurer:** Four to zero.

**Chairman Hruby:** If there are no questions, we will proceed with the report of the Secretary-Treasurer, Mr. Hodges.

**Secretary-Treasurer:** I would like to start my report with noting that the following items have been sent to the Members since the last scheduled meeting of the Commission on April 16, 2012:

1. Three Resolutions; A Resolution Ratifying Revisions to the Group Health Benefits Plan for Full-Time, Non-Bargaining Unit Employees of the Commission; a Resolution Ratifying Revisions to the Vacation and Sick Leave Benefit Plan for Full-Time, Non-Bargaining Unit Employees of the Commission; and a Resolution Authorizing the Filing of Updated Administrative Rules for the Collection of Tolls and Other Miscellaneous Rule Changes with the Joint Committee on Agency Rule Review.
2. Minutes of the April 16, 2012 Commission Meeting;

We have included in their folders for today's meeting, the following additional documents:

3. Traffic Crash Summary Report, April, 2012;
4. Traffic and Revenue, April, 2012;
5. Investment Report, April, 2012;
6. Total Revenue by Month and Year, April, 2012; and
7. Various News Articles.

Mr. Chairman and Members of the Commission, my report is lengthy this morning. During the course of my report, I will ask our Human Resources Director, Robin Carlin and our Chief Financial Officer, Martin Seekely to answer any questions you might have as well as our Chief Engineer, Doug Hedrick. They will contribute to my remarks as they relate to the Resolutions you have before you.

I would like your assent to my appointment of Robin Carlin as Deputy Executive Director. Article V Section 2 of the bylaws requires that you appoint a Deputy Executive Director to act in my absence. Robin has been Director of Human Resources for nine years. She has her Masters in Public Administration from the Voinovich Center at the Ohio University. She has been a Political Science faculty member and consultant prior to becoming our H.R. Director. She has her Senior Professional Human Resources designation from the Society of Human Resources Management. As one who was unable to get his SPHR designation, I can tell you that

that is quite an accomplishment. As you will see from the rest of my remarks, much of the work we have been and will be trying to accomplish is in organizational development. Robin has demonstrated her particular expertise in this area as well as her strong leadership skills during my tenure here. Mr. Chairman, I would ask that you entertain a motion to assent to my appointment of Robin Carlin for the position of Deputy Executive Director.

**Chairman Hruby:** I would be honored to make that motion. Is there a second?

**Vice Chairman Balog:** I'll second.

**Chairman Hruby:** Motion is made and seconded. Any discussion? Hearing none, roll call.

**Secretary-Treasurer:** Chairman Hruby.

**Chairman Hruby:** Yes.

**Secretary-Treasurer:** Vice Chairman Balog.

**Vice Chairman Balog:** Yes.

**Secretary-Treasurer:** Mr. Dixon.

**Mr. Dixon:** Yes.

**Secretary-Treasurer:** Mr. Pakush.

**Mr. Pakush:** Yes.

**Secretary-Treasurer:** Four to zero. Thank you very much, Mr. Chairman. Congratulations, Robin.

**Chairman Hruby:** I would like to make a quick comment. Robin, since you have been here, you are certainly one of the shining stars of this organization. I appreciate the fact that you are willing to accept this position and this responsibility. Thank you very much on behalf of the Commission.

**Dir. of H.R./DED:** Thank you.

**Secretary-Treasurer:** Thank you Mr. Chairman. I would next like to draw your attention to two of the resolutions before you. One of the Turnpike Commission's goals is to provide a superior travel experience for our customers at the lowest possible price. When I first came here, I believe we all shared the goals of maintaining our legacy of highway excellence, building relationships with the communities we serve and reducing costs wherever possible and appropriate.

I have led our staff in an effort to identify savings and to imagine ways in which we can better do our jobs. This process certainly did not begin with me. It has been ongoing for a number of years. Specifically, I would like to thank our senior staff for its professionalism and dedication as we have focused on expediting and completing this task during the six months since my appointment. Responsibility for the recommendations rests solely with me, but obviously I could not make these recommendations without the staff's hard work, expertise and willingness to assist in implementing sometimes difficult decisions.

Our reorganizational efforts are not merely an exercise in seeing what we can do to save money. We have an obligation to our customers to provide the best service at the lowest cost. We also need to recognize the economic turmoil that has affected almost every home, business and government agency over the last five years. Our dedicated funding source is relatively stable, but that should not make us immune to reviewing our operations and making the same kind of changes that have impacted so many people during the course of the recent recession. Finally, we have significant challenges in rebuilding large portions of the road, completing the 3<sup>rd</sup> lane project and keeping pace with the technology before us. We need to be as efficient and flexible as possible to meet those challenges with the resources that we have at our disposal.

Consequently, we are presently going through a comprehensive reorganization process. First, I would refer you to the table of organization in front of you. We have consolidated departments and redistributed responsibilities to improve work flow, encourage better planning and more efficiently use existing resources. I will be happy to respond to questions about the table of organization. The reorganization will affect almost every area of the Turnpike. I would specifically point out the consolidation of Maintenance and Engineering under Chief Engineer Doug Hedrick. Doug is implementing a comprehensive integrated highway maintenance plan that will maximize the life of our highway maintenance efforts and reduce the number of work zones in the future that impact the driving experience of customers.

I would also direct your attention to the fact that we are consolidating Telecommunications and Information Technology under Administration which will be directed by Robin Carlin. Our current telecommunications manager, Bill Keaton, will also be playing a major role as he becomes our new Technology Manager. This change will allow us to improve our information systems and take advantage of new technology in the near future.

I would invite your questions of either myself or the department heads who will be leading this process now, or in the context of the Resolutions before you.

Second, we are consolidating our pay scale so that our compensation system is more balanced. Employee compensation and titles will be consistent with the job duties and responsibilities they currently perform. Due to advances in the technology available and various new updated processes, the job titles that were used in the past may be revised to more accurately reflect current positions. Again, this process began before I arrived, but we have recently become aggressive in pursuing these efforts and are completing the process today.

Also, as Executive Director, I have decided to restructure the salaries for senior management. For example, in the past the Executive Director salary was \$150,000 per year. The Commission has decided to reduce that to \$129,000. Similarly, we are reducing the top end of our pay scale for Senior Management, which in the past the top salary was \$136,000. The Commission is capping the Senior Managers' salaries at a maximum of \$111,785.00.

Third, we must look at our benefit costs. Due to technology and management efficiencies introduced in recent years, our total employment is roughly 25% less than what it was just a few years ago. Our health care costs, however, have increased by 70% over the last 10 years. The staff and Commission should be commended for keeping costs in line as well as they have, but rising benefits costs are now an obstacle to achieving our mission which is to provide a superior travel experience for our customers at the lowest possible price. It is important to note that there has not been an increase in the employee share of benefits costs for the past eight years. During that time, the employee share of benefit costs has not remained consistent to those costs being borne by private sector employees and employees of other government agencies. Changes in health care benefits must be approved by the Commission. Robin Carlin will give you more details about the proposal before asking counsel to read the Resolved.

**Dir. of H.R./DED:** At the direction of the Executive Director, the CFO/Comptroller and I conducted a review of the Commission's Group Health Insurance Plan in which we are primarily self-insured. In conducting our review, we found areas of improvement in order to move the Commission and its' employees to a more reasonable shared relationship. We found that changes to the plan are needed for the following reasons:

1. Our annual claims continue to increase while the number of employees has decreased. In 2003, we insured 921 full-time employees with a total of 1,306 employees on board. Now, we have 768 full-time employees so we have seen a substantial decrease in the number of employees. Our claims in 2003 were \$7.7 million annual, and as of the end of 2011 our claims were at \$10.9 million. We have fewer employees, but our claims continue to increase substantially.
2. Our administrative fees per employee were fortunately capped in 2011, and will remain the same in 2013. However, they will increase for 2014 by 3% or the CPI, whichever is lower.
3. We do anticipate substantially increasing our stop-loss for 2013 due to what we have already seen in 2012, which can only be negotiated on an annual basis.

Through past negotiations, the CFO/Comptroller, Director of Contracts Administration, who is now the General Counsel, and I have been able to structure our health plan to prevent passing on additional costs to the employees. We now find ourselves needing to shift to a more responsible arrangement in order to control the future costs. And, as the Executive Director mentioned, we have not seen an increase in the employee share since 2003 for new hires and since 2004 for the existing employees.

Based on our review, we recommend the following changes to the Commission's Group Health Plan for Non-Bargaining Unit Employees. We recommend modifying the network coverage to 80% from the current 90% while keeping preventative care at 100%, which is in line with health care reform, and increasing the benefit period deductible from \$150/single and \$300/family plans to \$200/single and \$400/family plans, which is a minor increase. The co-insurance out-of-pocket maximum will also be increased from \$600/single and \$1200/family to \$1000/single and \$2000/family, and the current monthly premium will be increased from \$34/single; \$68/single plus one and \$99/family plan to a more shared relationship where employees pay 10% beginning January 1, 2013, and moving to a 15% shared relationship in

2014. We are proposing no changes to the prescription, dental or vision plans at this time. These changes will be effective January 1, 2013, and will only affect the Commission's non-bargaining employees. There is a proposed Resolution in your materials entitled, Resolution Ratifying Revisions to the Group Health Benefits Plan for Full-Time Non-Bargaining Unit Employees of the Commission. With your permission Mr. Chairman, I would ask the General Counsel to please read the Resolved.

**General Counsel:** RESOLVED that the Commission authorizes the Executive Director and the Director of Human Resources to make the recommended modifications to the Employee Group Health Benefits Plan for full-time, non-bargaining unit employees of the Commission.

**Mr. Pakush:** I move that we approve.

**Chairman Hruby:** Second. Any discussion? Mr. Balog.

**Vice Chairman Balog:** How does this compare to the non-bargaining contract that is in place, and when does that contract expire?

**Dir. of H.R./DED:** The contract expires December 31, 2013 with our bargaining unit employees. At that time, we will be going to the table to try to put forth a more fair and reasonable arrangement as well. They are currently the same as non-bargaining at this time: \$34/single, \$68/single plus one and \$99/family plan as their monthly contribution. They also have a Plan B where there is no contribution.

**Vice Chairman Balog:** If I understand correctly, our bargaining employees for the calendar year of 2013 will be paying a lesser amount than our non-bargaining employees for 2013?

**Dir. of H.R./DED:** That would be correct.

**Vice Chairman Balog:** How does the 10% number of 2013 compare to the current rates that will affect the monthly employee premium of 10%? In other words, what would that number be?

**Dir. of H.R./DED:** The 10% would be roughly \$60.00 for a single plan; \$121.00 for a single plus one and \$176.00 for a family plan is.

**Vice Chairman Balog:** The \$34.00 single plan would only go up to \$60.00. So, it's a nominal increase. My comment on it is that there is no question that our current health care benefit is not realistic in today's world. I'll be the first to admit that. But, the question becomes implementing this now on January 1, 2013, only on the back of the non-bargaining employees versus implementing it in 2014 when the bargaining employees would also have a change. That's the only question I really have.

**Secretary-Treasurer:** Mr. Chairman, if I may respond. As I am sure you would want it, we respect the letter and spirit of our collective bargaining agreement. We will engage our union partners in conversations at the appropriate time with a clear hope and expectation that they will participate in these changes in the future. As I am sure everyone is aware, it is always a timing issue. When do you do these things in light of the rules prescribing how we collectively bargain with our employees? We believe it is better to move forward in this fashion so that we can demonstrate to our union partners that it's appropriate for them as well.

**Chairman Hruby:** Any other questions or comments? I would agree with that thinking. It's setting a benchmark, and letting the bargaining unit know that we are serious about cutting costs whether it's minor at this point or not. It gradually has to be done, and this is a start. Any other comments? Hearing none, roll call.

**Secretary-Treasurer:** Mr. Pakush.

**Mr. Pakush:** Yes.

**Secretary-Treasurer:** Chairman Hruby.

**Chairman Hruby:** Yes.

**Secretary-Treasurer:** Vice Chairman Balog.

**Vice Chairman Balog:** Yes.

**Secretary-Treasurer:** Mr. Dixon.

**Mr. Dixon:** Yes.

**Secretary-Treasurer:** Four to nothing.

## **OHIO TURNPIKE COMMISSION**

### **Resolution Ratifying Revisions to the Group Health Benefits Plan for Full-Time, Non-Bargaining Unit Employees of the Commission**

WHEREAS, the Commission is authorized by the provisions of Section 5537.04(A)(11) of the Ohio Revised Code to determine the compensation, and other terms and conditions of employment for Commission employees; and

WHEREAS, the Commission has continuously provided certain health care benefits to all full-time employees of the Commission, and it wishes to continue to furnish such benefits to its employees; and

WHEREAS, the Commission has been advised by the CFO/Comptroller and the Director of Human Resources that it should authorize certain administrative changes to the Group Health Benefits Plan for the Commission's full-time, non-bargaining unit employees in order to align the Commission's benefits with the current economic climate for public entities; and

WHEREAS, it is anticipated that the continued implementation of this employee benefit plan as outlined in the attached document will assist the Commission in controlling the expenditures affiliated with administering the Group Health Benefits Plan for full-time non-bargaining unit employees; and

WHEREAS, the Executive Director has reviewed the recommendations of the CFO/Comptroller and the Director of Human Resources, and has advised the Commission that the recommendations be adopted; and

WHEREAS, the Commission has duly considered said recommendations.

NOW, THEREFORE, BE IT

RESOLVED that the Commission authorizes the Executive Director and the Director of Human Resources to make the recommended modifications to the Employee Group Health Benefits Plan for full-time, non-bargaining unit employees of the Commission.

**(Resolution No. 22-2012 adopted May 21, 2012)**

**Secretary-Treasurer:** To continue my report, we are taking a hard look at our vacation and sick leave accrual system. I believe that vacation is time reserved for people to get away, get refreshed and spend time with their families. Sick leave should be available for people when they are sick. Our accrual system has provided an incentive to use our leave policies as a retirement benefit. The result is very large, accumulated financial liabilities for the Commission and employees who, in some cases, do not enjoy the benefits of our leave policies. I will ask Marty Seekely to give you more details about the proposal before asking Counsel to read the Resolved.

**CFO/Comptroller:** Thank you. At the direction of the Executive Director, the Director of Human Resources and I conducted a review of the Commission's sick leave and vacation policies. We compared the Commission's sick and vacation leave accrual rates, accumulation limits and cash conversion policies with those of other state agencies. In doing our review, we wanted to make sure that our accrual rates and leave accumulation policies were not excessive and we wanted to make certain that our policies encouraged employees to take the

vacation that they had earned. Our review found that our sick and vacation leave accrual rates are comparable or less generous than those of other state agencies, so no recommended modification to the accrual rates. However, we would like to recommend the following change be made to the Commission's sick and vacation leave accumulation limits and cash conversion policies.

1. First, the maximum amount of unused sick leave accrued after July 1, 1992 that an employee can accumulate should be reduced from 1,200 hours to 1,000 hours.
2. The maximum amount of unused vacation leave that an employee can defer to future years should be reduced from four times the employees' current annual accrual rate to three times the employees' current annual accrual rate.
3. The amount of vacation that an employee can convert to pay each year should be reduced from the amount of hours accrued during the year to the amount of hours accrued during the year minus eighty hours.

These changes will be effective on January 1, 2013, and will only affect the Commission's non-bargaining employees at this time. Also, attached to the proposed Resolution are the Commission's revised OPERS annual conversion plans for both sick and vacation leave, which incorporate the previously mentioned change to the maximum amount of vacation that a non-bargaining employee can convert to pay, and a changes to round the bi-weekly accrual rates to two decimals instead of one. The OPERS annual conversion plan must be submitted to the Ohio Public Employees Retirement System in order to be a qualified conversion plan.

There is a proposed Resolution in your materials entitled Resolution Ratifying Revisions to the Vacation and Sick Leave Benefits Plan for Full-Time Non-Bargaining Unit Employees of

the Commission. With your permission Mr. Chairman, I would ask the General Counsel to please read the Resolved.

**General Counsel:** RESOLVED that the Commission authorizes the Executive Director and the CFO/Comptroller to make the recommended modifications to the Vacation and Sick Leave Benefits Plan for full-time, non-bargaining unit employees of the Commission; and

FURTHER RESOLVED that the General Counsel is directed to forward a copy of the Commission's revised Vacation and Sick Leave Benefits Plan to the Ohio Public Employees Retirement System.

**Mr. Pakush:** Move to approve.

**Chairman Hruby:** I'll second. Moved and seconded. Any discussion?

**Mr. Smith:** Mr. Chairman, if I may. Does the bi-weekly accrual rate remain the same?

**CFO/Comptroller:** It remains the same. It only changes for rounding purposes. We are going to two decimal places instead of one so, it's essentially the same.

**Secretary-Treasurer:** Mr. Chairman, if I may add, we looked to other public agencies for guidance. We didn't try to match them exactly because we are structured differently, and trying to constantly compare to other agencies is a moving target. However, I do believe our benefits plans are substantially similar to the State, and other public agencies in the area in after these changes.

**Chairman Hruby:** Any other questions? Yes, Senator Patton.

**Senator Patton:** Will this change in plans affect long time employees that have accrued significant amounts of vacation and/or sick time that are already banked?

**Secretary-Treasurer:** Mr. Chairman and Senator Patton, we made a commitment early on that we would not take something that was already offered to employees or had been earned by employees through previously passed Commission policies. I'm not sure we even could legally, and we certainly didn't want to do that. Those policies had been passed and

reinforced over the decades, and we didn't want to take something away from the employees. Is that a fair statement, Marty?

**CFO/Comptroller:** That's fair. There are some people who are over the accumulation limits currently, and they will be able to cash some out at the end of the year to get below the accumulation limit. For vacation pay, they can also cash some out, not all of it if they are really high, they will just have take more vacation by the end of 2013 to get below the limit.

**Chairman Hruby:** Any other comments or questions? Hearing none, roll call.

**Secretary-Treasurer:** Mr. Pakush.

**Mr. Pakush:** Yes.

**Secretary-Treasurer:** Chairman Hruby.

**Chairman Hruby:** Yes.

**Secretary-Treasurer:** Vice Chairman Balog.

**Vice Chairman Balog:** Yes.

**Secretary-Treasurer:** Mr. Dixon.

**Mr. Dixon:** Yes.

**Secretary-Treasurer:** Four to nothing. That concludes my report, Mr. Chairman.

## **OHIO TURNPIKE COMMISSION**

### **Resolution Ratifying Revisions to the Vacation and Sick Leave Benefits Plan for Full-Time, Non-Bargaining Unit Employees of the Commission**

WHEREAS, the Commission is authorized by the provisions of Section 5537.04(A)(11) of the Ohio Revised Code to determine the compensation, and other terms and conditions of employment for Commission employees; and

WHEREAS, the Commission has continuously provided certain vacation leave and sick leave benefits to all full-time employees of the Commission, and it wishes to continue to furnish such benefits to its employees; and

WHEREAS, the Commission has been advised by the CFO/Comptroller and the Director of Human Resources that it should authorize certain administrative changes to the Vacation and Sick Leave Benefits Plan for the Commission's full-time, non-bargaining unit employees in order to align the Commission's benefits with the current economic climate for public entities; and

WHEREAS, it is anticipated that the implementation of the recommended revisions to the Vacation and Sick Leave Benefits Plan, as outlined in the attached document, will not increase the Commission's payroll expenditures, nor will they consist of a reduction in any benefit accruals currently available to Commission employees; and

WHEREAS, the Executive Director has reviewed the recommendations of the CFO/Comptroller and the Director of Human Resources, and has advised the Commission that the recommendations should be adopted; and

WHEREAS, the Commission has duly considered said recommendations.

NOW, THEREFORE, BE IT

RESOLVED that the Commission authorizes the Executive Director and the CFO/Comptroller to make the recommended modifications to the Vacation and Sick Leave Benefits Plan for full-time, non-bargaining unit employees of the Commission; and

FURTHER RESOLVED that the General Counsel is directed to forward a copy of the Commission's revised Vacation and Sick Leave Benefits Plan to the Ohio Public Employees Retirement System.

**(Resolution No. 23-2012 adopted May 21, 2012)**

**Chairman Hruby:** Thank you. We will now move on to the Chief Engineer.

**Chief Engineer:** Mr. Chairman, I have no report this morning.

**Chairman Hruby:** Okay. Report of the CFO/Comptroller.

**CFO/Comptroller:** Good morning Mr. Chairman and Commission Members. I have a brief update on traffic and revenue for the month of April. This first chart shows the monthly passenger car miles traveled on the Ohio Turnpike over the past two years. Passenger car vehicle miles traveled in April increased .3% from April 2011. Commercial vehicle miles traveled; which were up in January and February, and then down in March, increased .1% from April 2011.

This chart shows the total vehicle miles traveled through the month of April during each year over the past decade. The total vehicle miles traveled for the first four months of this year were 2.8% above the amount from 2011. If you remove February 29 from this year's total, then the total vehicle miles traveled are still up 1.9% over 2011. This chart shows the monthly passenger car toll revenue generated on the Ohio Turnpike over the past two years. This year's toll rate increase combined with the slight increase in passenger car miles traveled caused passenger car toll revenue in April to increase 9.2% from April 2011.

This chart shows the monthly commercial vehicle toll revenue over the past few years. The toll rate increase combined with the slight increase in vehicle miles traveled resulted in an 8.9% increase in commercial vehicle toll revenue for the month of April 2012 over April 2011. This chart shows year-to-date toll revenue through the month of April during each year over the past decade. Year-to-date toll revenues were \$7.6 million or 11.5% above the amount from 2011. If you subtract February 29 from this year's total, toll revenues are up \$7 million or 10.4% over the same number of days as last year. That completes my report, Mr. Chairman.

**Chairman Hruby:** Any questions for Marty? No, is there a report from the Consulting Engineer?

**Mr. Buchanan:** No report, Mr. Chairman.

**Chairman Hruby:** Thank you. Is there a report from our financial advisor?

**Mr. Adams:** No report, Mr. Chairman.

**Chairman Hruby:** Do we have a report from the trustee?

**Mr. Lamb:** No report, Mr. Chairman.

**Chairman Hruby:** Thank you. Lastly, is there a report from the Ohio State Highway Patrol?

**Captain Zurcher:** Thank you Mr. Chairman. Since our last meeting, we have had three fatal traffic crashes on the Ohio Turnpike that I would like to briefly cover for you.

The first was April 20, 2012 at the 130 EB on the Turnpike. That is the crash that began with driver inattention during a pretty significant rain storm at night. The lady lost control and ended up with her vehicle disabled in the roadway. Ultimately, there were seven vehicles involved including a commercial bus, and a tractor-trailer resulting in one lady from Detroit, Michigan passing away in that crash.

The next fatal crash occurred on May 13, 2012 at the 158 WB. A gentleman from Bellevue, Ohio was riding a motorcycle in the early morning hours. He hit a deer causing him to come off his motorcycle, and while lying in the roadway was struck by another passing vehicle.

The third fatal crash occurred on May 16, 2012 at the 187 EB. That was also driver inattention. The wife states that her husband fell asleep, went off the side of the roadway, and struck a guardrail causing the vehicle to roll over and the driver to pass away.

Those are our third, fourth and fifth fatalities for the year.

**Chairman Hruby:** Thank you for that report. Unfortunately, its content was as grave as it was. Any questions or comments for the Captain? Mr. Dixon, please.

**Mr. Dixon:** Where does this put us compared to last year?

**Captain Zurcher:** Last year we had five fatalities total. It's been somewhat of a statewide trend. The entire state is up with approximately 77 fatalities for the year. When you have this nice of a Spring, unfortunately fatalities and motorcycles crashes can follow.

**Chairman Hruby:** Thank you. Is there a report of the General Counsel.

**General Counsel:** Thank you Mr. Chairman. Good morning Commission Members. I have three items for review this morning: one Resolution and two notes. The Resolution that you have before you is with respect to the Commission's administrative rules. The Commission has previously adopted administrative rules for the control and regulation of traffic, operation of vehicles, collections of tolls and for protection and preservation of property under our jurisdiction in accordance with the authority granted to us pursuant to §5537.16 O.R.C. and as set for in Administrative Code Sections 5537-1-01 through 5537-9-05. In fact, the Commission has 43 total Administrative Rules. I wanted to tell you about a review that we conducted of our toll collection rules. We found that, since the implementation of *EZ*<sup>®</sup> Pass in 2009, several of the toll collection rules require updating. Just to give you one example, there is a rule that previously said that each driver must stop at a toll booth and take a ticket. Naturally, since 2009 and the implementation of *EZ*<sup>®</sup> Pass, that is not always the case. The rules needed to be modified to conform to the changes that have occurred on the toll road. We did, at the time *EZ*<sup>®</sup> Pass was implemented, adopt specific rules for the collection of electronic tolls, but we didn't go back in and amend those subtle rules that needed to be changed.

In addition, every five years pursuant to §111.15 and §119.032 of the Ohio Revised Code, the Commission is required to conduct a review of all of our administrative rules. I have now conducted that review, and found several additional rules that require technical updates; reclassification for gender; and have some added definitions. All twelve of those rules are in the packet attached to this Resolution.

Lastly, that review also identified 31 “No Change Rules” All of these rules need to be filed in accordance with §111.15 with the Joint Committee on Agency Rule Review. They will go through a review process there. They will come back to us, and before filing in final form with JCARR, Secretary of State and LSC, I will bring back to the Commission another Resolution seeking approval of the rules in final form. Hopefully, there will be no additional changes, however, sometimes JCARR finds format issues that need to be addressed. With your permission, I will read the Resolved.

**Chairman Hruby:** Please.

**General Counsel: RESOLVED,** that the Commission hereby authorizes the Executive Director and General Counsel to initiate the process of: 1) submitting proposed amendments to Sections 5537-1-01, 5537-2-03, 5537-2-11, 5537-2-17, 5537-2-20, 5537-2-21, 5537-3-01, 5537-3-05, 5537-4-01, 5537-4-03, 5537-7-01 of the Ohio Administrative Code, 2) submitting a proposed new rule 5537-4-06, and 3) submitting its remaining “No Change Rules,” in order to comply with the statutory rule-making requirements imposed by the Joint Committee on Agency Rule Review, all in accordance with Sections 111.15 and 119.032 of the Ohio Revised Code; and

**FURTHER RESOLVED,** that the Commission shall be presented with an additional resolution once the aforementioned statutory procedures for filing the rules have been completed, which resolution shall authorize the filing in final form of all the administrative rules with the Joint Committee on Agency Rule Review, the Legislative Service Commission and the Secretary of State.

**Vice Chairman Balog:** Move to adopt.

**Mr. Pakush:** Second.

**Chairman Hruby:** Move and seconded. Any comments or questions?

Hearing none, roll call.

**Secretary-Treasurer:** Vice Chairman Balog.

**Vice Chairman Balog:** Yes.

**Secretary-Treasurer:** Mr. Pakush.

**Mr. Pakush:** Yes.

**Secretary-Treasurer:** Chairman Hruby.

**Chairman Hruby:** Yes.

**Secretary-Treasurer:** Mr. Dixon.

**Mr. Dixon:** Yes.

**Secretary-Treasurer:** Four to nothing.

## **OHIO TURNPIKE COMMISSION**

### **Resolution Authorizing the Filing of Updated Administrative Rules for the Collection of Tolls and other Miscellaneous Rule Changes with the Joint Committee on Agency Rule Review**

WHEREAS, the Commission has previously adopted administrative rules for the control and regulation of traffic, operation of vehicles, the collection of tolls and for the protection and preservation of property under its jurisdiction in accordance with the authority granted to it under Section 5537.16 of the Ohio Revised Code, as promulgated in the provisions of Sections 5537-1-01 through 5537-9-05 of the Ohio Administrative Code; and

WHEREAS, the General Counsel has advised the Commission that the administrative rules governing the collection of tolls have been reviewed and, due to the implementation of the new Toll Collection System with electronic tolling, said rules require updating as well as the promulgation of one new rule; and

WHEREAS, the General Counsel has further advised the Commission that, as a result of the periodic administrative rule review required every five years pursuant to the requirements set forth in Sections 111.15 and 119.032 of the Ohio Revised Code, several other rules have been identified as requiring minor revisions; and

WHEREAS, proposed amendments to the Commission's administrative rules, and any newly proposed rules must be submitted to the Joint Committee on Agency Rule Review in accordance with the requirements of Section 111.15 of the Ohio Revised Code prior to their implementation by the Commission; and

WHEREAS, in accordance with the applicable statutory provisions, once the Joint Committee on Agency Rule Review approves the amended administrative rules or any new rules, the Commission shall file said rules in final form with the Joint Committee on Agency Rule Review, the Legislative Service Commission and the Secretary of State; and

WHEREAS, all of the other administrative rules previously adopted by the Commission in accordance with Section 5537.16 of the Ohio Revised Code that have been identified as not requiring revision must also be filed with the Joint Committee on Agency Rule Review, the Legislative Service Commission and the Secretary of State as “No Change Rules” in accordance with Section 119.032 of the Ohio Revised Code; and

WHEREAS, the Commission concurs that the process for adopting proposed amendments to the administrative rules, for promulgating a newly proposed rule, and for adopting “No Change Rules” should be initiated.

NOW, THEREFORE, BE IT

RESOLVED, that the Commission hereby authorizes the Executive Director and General Counsel to initiate the process of: 1) submitting proposed amendments to Sections 5537-1-01, 5537-2-03, 5537-2-11, 5537-2-17, 5537-2-20, 5537-2-21, 5537-3-01, 5537-3-05, 5537-4-01, 5537-4-03, 5537-7-01 of the Ohio Administrative Code, 2) submitting a proposed new rule 5537-4-06, and 3) submitting its remaining “No Change Rules,” in order to comply with the statutory rule-making requirements imposed by the Joint Committee on Agency Rule Review, all in accordance with Sections 111.15 and 119.032 of the Ohio Revised Code; and

FURTHER RESOLVED, that the Commission shall be presented with an additional resolution once the aforementioned statutory procedures for filing the rules have been completed, which resolution shall authorize the filing in final form of all the administrative rules with the Joint Committee on Agency Rule Review, the Legislative Service Commission and the Secretary of State.

**(Resolution No. 24-2012 adopted May 21, 2012)**

**General Counsel:** Thank you, Mr. Chairman. Also, within your packet you will find that I have submitted to you a Memorandum attached to an informal opinion that was rendered by the office of the Ohio Attorney General. This is relative to oil and gas leasing within our right-of-way, and with respect to pooling agreements. You may recall that, with the Biennial Budget Bill last year, the State has adopted new statutes and rules relative to oil and gas drilling in the State. Given that there has been discussion about conducting oil and gas drilling within our right-of-way, and in the past the Commission has entered into many pooling agreements for such, we had gone to the Attorney General and asked for an opinion as to the effect that the new statute would have on our operation. Just for informational purposes, I want

the Commission to know that we have twelve pooling agreements. In 2011, those netted the Commission \$91,750.00. Year-to-date in 2012, we have taken in roughly \$30,000.00. Those are only for pooling agreements and not for agreements for drilling within the right-of-way, which we have yet to conduct. You may be interested in that formula, but it is based on 40 acre tracts and the Commission receives a royalty based on the percentage of pooling and drilling that goes on underneath our right-of-way. The opinion concluded that the Ohio Turnpike Commission's existing pooling agreements are not subject to the requirements that revenues be transferred to the state treasury either before or after the amount of system pledge revenues exceeds 200% of the annual debt service requirement. The same cannot be said for any oil and gas leasing agreements that may be entered into in the Ohio Turnpike Commission right-of-way as previously authorized by Resolution 8-2011. Royalty payments from such leases may be retained only until the amount of system pledged revenues exceeds 200% of the annual debt service requirement, but thereafter, after conducting our annual review of our financial condition, the Ohio Turnpike Commission must remit those revenues in excess of that amount to the state treasury. In addition, the Attorney General advises that rentals, signing fees and bid fees received by the Ohio Turnpike Commission under an oil or natural gas lease may not be retained by the Commission, and must be forwarded to the state treasury. I do believe that the Resolutions that were adopted by the Commission in the past namely, 1-2008 and 8-2011, one relating to pooling and one relating to drilling within the right-of-way, need to be reviewed and probably modified based on what we learned from this opinion. This was an informal opinion, and I will be reporting back to the Commissioners likely with some resolutions in the near future. If once you have had an opportunity to read it, I'll be happy to answer any questions you may

have regarding this lengthy opinion, which was carefully thought out and analyzed by the Attorney General's office by reviewing the new statutes, our statutes, and our Trust Agreement.

**Chairman Hruby:** Any questions? No. Counsel.

**General Counsel:** I just wanted to advise Commission Members that, as a supplement to our quarterly litigation report, I have provided you with the latest we have on MBE and FBE contracts. That's all I have today, Mr. Chairman.

**Chairman Hruby:** Thank you.

**Mr. Pakush:** Mr. Chairman, if I could make a motion that we hold an executive session to discuss litigation and personnel matters under the provision of Ohio Revised Code, Section 121.22(G)(1). At the end of such Executive Session, the Commission shall resume its open meeting.

**Chairman Hruby:** I'll second. Any discussion? Roll call.

**Secretary-Treasurer:** Mr. Pakush.

**Mr. Pakush:** Yes.

**Secretary-Treasurer:** Chairman Hruby.

**Chairman Hruby:** Yes.

**Secretary-Treasurer:** Vice Chairman Balog.

**Vice Chairman Balog:** Yes.

**Secretary-Treasurer:** Mr. Dixon.

**Mr. Dixon:** Yes.

**Secretary-Treasurer:** Four to nothing.

**Chairman Hruby:** We are now in Executive Session ladies and gentlemen. Our next meeting will be on Monday, June 18, 2012 at 10:00 a.m. Thank you. (Commission Members adjourn to the Caucus Room at 10:37 a.m. for an Executive Session.)

**Chairman Hruby:** We adjourned the Executive Session as 11:27 a.m. I move that we adjourn the regular meeting of the Ohio Turnpike Commission.

**Mr. Pakush:** I second.

**Chairman Hruby:** Moved and seconded. Any discussion. Hearing none, all those in favor signify by saying “aye”. We are adjourned

All Members vote “aye” with zero “nays”

Attendees For Record Keeping Purposes:

John Adams, Fifth Third; Scott Buchanan, URS; Vic Spinabelli, Hill; Mike Cramer, IUOE 18; Hamid Homaee, Transystems Corporation; Stephen Holmes, First Merit Bank; Frank Lamb, Huntington Bank; Dennis Golem, Wells Fargo; Sherri Kasso, OTU; Daniel VanEpps, CSTVCIC; Tom Breckenridge, Cleveland Plain Dealer; Captain Chris Zurcher, Ohio State Highway Patrol; Lt. Monte Morgan, Ohio State Highway Patrol; Marty Seekely, Ohio Turnpike; Dale Perram, Ohio Turnpike; Donna Fritz, Ohio Turnpike; Jennifer Diaz, Ohio Turnpike; Tony Yacobucci, Ohio Turnpike; Dennis Albrecht, Ohio Turnpike; Dave Miller, Ohio Turnpike; Adam Greenslade, Ohio Turnpike; Lauren Hakos, Ohio Turnpike; Robin Carlin, Ohio Turnpike; Sharon Isaac, Ohio Turnpike.

Time of adjournment: 11:28 a.m.

Approved as a correct transcript of the proceedings  
of the Ohio Turnpike Commission

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Richard Hodges, Secretary-Treasurer