



Dallas Regional Mobility Coalition Minutes of Meeting November 5, 2010

Call to Order

Dallas Regional Mobility Coalition (DRMC) Chairman Rob Franke called the Executive Committee meeting to order at 11:08 a.m. The meeting was held in the NTTA offices, 5900 W. Plano Parkway.

Minutes

The Minutes of the October 1, 2010 were approved as presented.

Treasurer's Report

The Treasurer's Report was approved as presented, including authorization to pay approved bills and invoices for October 2010.

Tiger 2 Grant

On October 20, 2010, Secretary of Transportation LaHood announced more than 70 Tiger 2 grants. US. DOT received in excess of 1,000 applications totaling \$19 billion from all 50 states. 42 capital construction projects and 33 planning projects totaling \$600 million were awarded. The \$600 million was appropriated to the DOT agency budget and is separate from the stimulus funding.

The project breakdown was: 29% roads, 26% transit, 20% rail, 16% ports and 4% other. Also included was a grant to support a \$546 million TIFIA loan to the Los Angeles County Metropolitan Transportation Authority which was part of the Los Angeles 30/10 initiative.

The State of Texas received just one award under the capital construction category in the amount of \$34 million for Tower 55 in Fort Worth. There were many letters of support from the North Texas delegation. A copy of the letter from Senator Wendy Davis is enclosed as an example. The projects were evaluated on multiple components, including: improving existing facilities, economic competitiveness, enhancing quality of living, energy efficiency and reducing consumption of foreign oil. The letter from Senator Davis touched on all of the evaluation criteria.

Information concerning Tower 55 was provided showing a schematic train count of approximately 100 a day. The entire project will cost approximately \$90 million.

“Living cities” and “sustainable communities” were also recognized by Secretary LaHood. A distinction between the two programs is provided “Living Cities” includes charitable and philanthropic entities such as: Annie E. Casey Foundation, Gates Foundation, Robert Wood Johnson Foundation, McArthur Foundation, Rockefeller Foundation and many more. Their object is to match charitable contributions with federal dollars to encourage options that “*expand housing options for working families and seniors.*”

“Sustainable Communities” is a separate joint program of the Environmental Protection Agency, Housing and Urban Development and DOT. The Sustainable Communities funding was awarded by planning grants to: lower household transportation costs, provide affordable housing, community revitalization and walkable neighborhoods. National commentary has expressed some dissatisfaction with Tiger 2 noting that it did not increase significantly mobility options for America.

Rail

On October 28th Transportation Secretary LaHood announced \$2.4 billion in grants for High Speed Rail projects. 54 projects were selected from 23 states. FRA received 132 applications totaling \$8.8 billion. Texas was not a recipient of High Speed Rail funding. One page summaries of several projects selected are provided: California - \$900 million for high speed rail in the Central Valley; Florida - \$800 million for Tampa to Orlando; Iowa - \$230 million for intercity between Iowa City and Chicago; and Michigan for a high speed rail between Detroit and Chicago.

FRA Administrator Joe Szabo and Secretary LaHood have repeatedly said Texas does not have a single vision but multiple, different visions. The states that received funding provided a single vision.

At the end of September 2010, the Federal Railroad Administration released the National Rail Plan moving forward a Progress Report. The progress report was an update on the national rail plan to improve passenger and freight mobility throughout the country. Other than container ships, truck freight and rail are the most economical ways to meet the expanding freight shipments anticipated over the next two decades.

High Speed Rail is effective for short intercity connections of approximately 700 miles. Rail and truck freight have economies of scale on the longer shipments. The National Rail Plan will identify three priorities for high speed rail: (i) Core Express corridors which have train speeds of 125-250; (ii) Regional Corridors between midsized urban areas with a speed 90-125; and (iii) Emerging Routes for speeds under 90. Texas must coalesce around one single vision.

DRMC could be a catalyst to determine what that vision is. Existing rail between San Antonio, Dallas, Oklahoma City and Tulsa has been selected for high speed rail planning.

In addition to the National Rail Plan, Progress Report, a copy of the Passenger Rail Investment and Improvement Act of 2008 requirement for Amtrak “Performance Improvement Plan” is provided. Amtrak is suggesting that the Texas Eagle be linked to the Dallas/San Antonio service and ultimately to the Sunset Limited through to Los Angeles. Same seat service between Chicago and Los Angeles is difficult with the Sunset Limited. Amtrak proposes changing this. The “Texas T-Bone” is yet another example of a private sector initiative that

limits consensus. It is these competing visions which hobble the opportunity for Texas to participate in High Speed Rail. DRMC should start with the basics of the State Rail Plan. Director of the Rail Division for TxDOT, Bill Glavin, will be invited to discuss this issue with the Board.

Interstate 35 East

The I-35E Stakeholder Coalition meeting was held November 2, 2010. Coalition Chairman Denton County Judge Mary Horn reported on the progress that has been made to date. While the LBJ Managed Lane project has received \$2.7 billion in funding, the Dallas/Fort Worth Connector - \$1.07 billion, and North Tarrant Express - \$2.1 billion in funding, the I-35E project remains virtually unfunded save and except for local participation.

The environmental clearance of the project is moving forward. There will be a Public Hearing for the middle segment on November 18, 2010 at Lewisville High School. Attendees at the coalition meeting were encouraged to attend and to notify their Chambers of Commerce so they might be available to provide testimony.

A Resolution of Support has been distributed to all Coalition members. Adoption of the Resolution is encouraged so that they might be submitted November 18, 2010 at the Public Hearing. Dallas County has adopted the Resolution. Denton County has scheduled it for consideration.

Dallas District Engineer Bill Hale provided an update from TxDOT. TxDOT concurs that private equity will be necessary to fully fund the project.

The Texas Transportation Commission passed Minute Order 112474 on October 28, 2010. The Minute Order allocated "under run" funds from Proposition 14 projects to projects across the state (Austin 4, Bryan 1, Houston 1). Dallas received \$30 million for the preliminary design of the interchange between FM 407 and I-35E. This is an interchange that is an integral part of the I-35E project. In the same Minute Order Fort Worth received \$135 million for the IH-820 and I-35W interchange. The state contribution to the western subregion increased the private equity commitment to that project, further expanding the project limits for I-35W.

Councilmember Koop suggests that the success of the I-35E Coalition be utilized for State Highway 183 between Dallas and Irving. SH 183 within the project limits (SH 360 to I-35 E) is highly congested and also requires authorization of public/private partnership authority for TxDOT to fully fund the project.

Texas Legislature

With the outcome of the November 2, 2010 General Election, the composition of the Texas House of Representatives has changed. The House has added 22 new Republican members altering the 73-77 GOP majority by a significant margin.

As a result, current House of Representatives Speaker Joe Strauss (San Antonio-R) has been challenged for the Speakership by Representative Warren Chisum (Pampa-R). The challenge will be from the Republican right.

Speaker Strauss built a coalition of moderates and Democrats to capture the Speaker's office in the 81st Session. He has pledge cards from approximately 125 members. The Speaker will appoint the House Committees after the Speaker's election which is the first order of business for the 82nd Session.

The current Transportation Committee Chairman is Representative Joe Pickett (El Paso-D) and the Vice Chairman is Representative Larry Phillips (Sherman-R). Representative Phillips addressed DRMC earlier this year on transportation issues. Committee membership is an important factor in consideration of the DRMC legislative agenda.

Executive Director

The Federal Highway Administration has released August 2010 traffic volume. Nationwide travel increased .4% or 7.3 billion miles in the Gulf Region which Texas is a part of. Travel increased 1.6% or 52.5 billion miles. Nationally vehicle miles traveled peaked in 2007, appears to have bottomed in 2008 and has now begun a slow increase.

Associated General Contractor of America have released state construction employment for the State of Texas. The 12 month change reflects a 2.7% loss or 15,500 jobs. The September 2010 construction employment count was 563,200.

Heavy truck traffic continues to damage Texas roads. An article in the *Texas Tribune*, October 19, 2010, documented that super heavy truck permits - over 254,300 pounds - rose from 2008 in fiscal year 2005 to 1,525 in fiscal year 2009. A permit for a super heavy load is \$970 for a one way trip.

The damage to rural roads can run into the hundreds of thousands of dollars. Damage to one road, FM 89 in Taylor County for wind turbine installation will cost TxDOT more than \$179,000 this year. The current limit for heavy trucks is 80,000 pounds. Heavy loads often avoid the weigh stations by traveling at night or using circuitous routes.

The Transportation Development Foundation, in a 2010 report, documents that Texas has 306,404 miles of roadway, 79,060 miles of which are eligible for FHWA assistance. 12.3% are not acceptable. The percentage not acceptable was 11.5% just two years ago in 2007. The decline is evident.

Texas has 51,158 bridges. 18% are "structurally deficient" and over 7,500 are "functionally obsolete." The average one way commute to work in Texas is 24.1 minutes. Single occupancy travel is used by 78.9% of the driving public. The foundation report covers other costs from 1950-1989. Production cost savings to US industry was .18¢ for every dollar invested in road infrastructure. From 1980-1989, the highway network contribution to economic productivity was over 7%.

The cumulative gap between federal revenue and system needs over the next six year reauthorization period is \$400 billion. Traffic congestion in the nation's 437 urban areas costs \$87.2 billion a year in lost time, wasted fuel and wear and tear. Over half the miles on the federal aid highway system are in less than good condition and 17% need major reconstruction.

The case of *Goldston v. State of North Carolina and Michael Easley, Governor*, No. 443A09 (Oct. 8, 2010) was decided by the North Carolina Supreme Court. The Supreme Court split 3-3 and resulted in an affirmance of the Court of Appeals opinion. This cause of action was a declaratory judgment to determine whether the Governor had properly appropriated \$80 million from the state's Highway Trust Fund to the General Fund of North Carolina to address a budget deficit.

The Highway Trust Fund in North Carolina was created in 1989. It receives monies from vehicle registration, motor fuel excise tax, alternate fuel tax, motor vehicle use tax and interest earned. As originally created it was only to fund improvements to the Interstate Highway System, urban loops and specific secondary roads.

In February 2002, the N.C. Governor issued Executive Order 19 which allowed transfer of funds to the general revenue to offset the revenue deficit. Pursuant to the Executive Order the Governor transferred \$80 million from the trust fund to the general revenue.

In November 2002, a State Senator (Sen. Goldston, who originally authored the legislation creating the trust fund) and the Director of Transportation (Harrington) brought the Declaratory Judgment action. The Governor filed a Motion to Dismiss alleging lack of standing by the Plaintiffs.

In January 2004 the Trial Court granted Summary Judgment finding no standing. The Court of Appeals affirmed that decision and then the Supreme Court reversed. The case was remanded to Trial Court which, in March 2008, reaffirmed its Summary Judgment. Before the Court of Appeals the Plaintiffs argued that the highway funds are subject to a public trust and the Governor violated that public trust and his fiduciary duty.

The Court of Appeals opinion focused on the fact that the trust fund lacked indicia of a trust where monies are deposited in trust with a trustee for the benefit of a third party beneficiary. The Court found the Trust Fund language to be ambiguous and determined what exists is a "special account" in the Treasury, not a true trust fund.

The statutory language creating the trust fund was then contrasted with the language creating the teacher's and state employee's retirement trust that stated "*such funds cannot be used for any other purpose or be applied to, diverted, loaned to or used by the State or any of its officers or agencies.*"

Constitutionally the Court notes the legislative power to appropriate and the executive power to execute the laws is not an unfettered authority for the Governor to transfer funds, absent specific statutory authority. The Governor could make temporary halts of expenditures, escrow some funds, or create furloughs and other executive branch actions.

The Court of Appeals decision controls since the Supreme Court deadlocked 3-3. The Court found that the Governor exceeded his constitutional power when he transferred \$80 million in funds from the highway trust fund to the general revenue. The case does not have precedential value however.

The election results of November 2, 2010 made changes that will occur in the 112th Session of Congress beginning in January 2011. The House Committee on Transportation and

Infrastructure will have Rep. John Mica as Chairman since Rep. James Oberstar was defeated. Mica has indicated that he will oppose raising the federal gas tax but will seek other ways to advance the base bill prepared by Oberstar. The Ranking Member will be either Congressman Nick Rahall (West Virginia) or Peter DeFazio (Oregon).

Best Performing Cities

The Milliken Institute, a California economic think tank, released their annual report identifying the nation's best performing cities. Their criteria includes measures of: job and wage growth, technological performance, high tech, GDP growth and others are measured over a five year period to develop the ranking. Five of the top ten metropolitan areas are from Texas. Eleven out of the 13 eligible cities in Texas made the top 25.

The report cited several factors that ranked Texas high: low cost of doing business, favorable business climate, trade with Mexico and South America, ongoing energy exploration and aggressive recruitment of businesses from out of state. Imbedded in all of the business factors is a transportation network that allows business to perform efficiently and cost effectively. Increased congestion, infrastructure deterioration and longer delivery times will adversely affect the ranking that Texas now enjoys.

Adjourn

There being no further business to come before the Board, the meeting was adjourned at 1:05 p.m.

The Minutes of the November 5, 2010 Dallas Regional Mobility Coalition Executive Committee Meeting were approved December 10, 2010 by the Governing Body.

Grady Smithey
DRMC Secretary

Members in Attendance:

Name	Entity
Rob Franke	Cedar Hill
Mary Horn	Denton County
Linda Koop	Dallas
Kimberly Lay	Addison, Farmers Branch, Highland Park
Steve Mitchell	Richardson
Geralyn Keever	McKinney
Stan Pickett	Mesquite
Grady Smithey	Duncanville
Karen Hunt	Coppell and University Park
Mike Cantrell	Dallas County
Ron Natinsky	City of Dallas
Carl Sherman	DeSoto, Hutchins, Lancaster, Glenn Heights
Kathy Ward	Collin County (Joe Jaynes)
John Baumgartner	Allen

<u>Ex-Officio Members Attending:</u>	
Charles Emery	DCTA
William Hale	TxDOT
Allen Clemson	NTTA
Michael Morris	NCTCOG
Gary Thomas	DART
Mike Baggett	Dallas Regional Chamber

<u>Additional Guests</u>	
Ed Wueste	S & B Infra.
John Blain	Dean Intl
Butch Jones	Freese & Nichols
Mickey Nowell	Sam Inc.
Shelly Salmon	
George Salmon	
Ernest Randall	
Andy Ritter	LBJ Express
Amanda Wilson	NCTCOG
Carrie Rogers Prysock	NTTA
Ayub Sandhu	ARS Engineers
Colby Walton	Cooksey Comm.
Dave Carter	Richardson
Mark Goode	Dunaway Assoc.
Dub Holloway	
Walter Ragsdale	Ragsdale Consulting
Jerry Dittman	Mesquite

Name	Entity
Stanford Lynch	FNI
Carol Short	NDCC
Michael Miles	DART
Bruce Nipp	LAN
Darrell Thompson	Jacobs
Tom Burke	Chamhill
Dan Chapman	
Mark Nelson	City of Denton
Lori Shelton	NTTA
Kelvin Bass	Sen. West
Mark Holliday	TNP
Nancy Mitchell	LAN
John Bryant	City of Allen
James Huffman	Dannenbaum
Mike Garrison	BGE
Greg Porter	Cedar Hill
Shauna Bowman	Bowman Engineering
Rachel Hayden	Hayden Consultants
Sonny Loper	Dannenbaum
Ravi Gundimeda	DART
Steve McCullough	DART
David Cain	DC Consulting
Addie Cosgrove	LBJ Infrastructure Group
Bob Brown	TxDOT
Jay Nelson	Raba-Kistner
John Eagen	City of Frisco
Scott Young	Raba-Kistner
Brandi Bird	Bird Advocacy
Cesar Molina	City of Carrollton
Traci Enna	Dallas County