

MINUTES FOR THE TRANSPORTATION COMMISSION MEETING APRIL 5, 2021

MINUTES OF THE VIRTUAL MEETING OF THE OKLAHOMA DEPARTMENT OF TRANSPORTATION, HELD APRIL 5, 2021 VIA BY VIDEO TELECONFERENCE ONLY PURSUANT TO THE OKLAHOMA OPEN MEETING ACT, AS AMENDED BY SENATE BILL 1031, RECORDED AND AUDIO LIVESTREAMED FROM THE OKLAHOMA DEPARTMENT OF TRANSPORTATION, 200 NE 21ST STREET, OKLAHOMA CITY, OK 73105

Notice of the schedule of regular meetings of the Oklahoma Department of Transportation for the calendar year 2021 having been given in writing to the Oklahoma Secretary of State, and public notice and agenda having been posted in a prominent public view on the website of the Oklahoma Department of Transportation, www.ok.gov/odot, and on the glass doors on the north side of the ODOT Building twenty-four (24) hours prior to this meeting, excluding Saturdays, Sundays and legal holidays, in accordance with Oklahoma Open Meeting Act, 25 O.S. Section 311.

Commissioners joined the meeting by video teleconference.

Special Note: The public access was monitored by ODOT to ensure that if the audio connection was lost or interrupted, the meeting would be stopped and not resumed until an audio connection was restored.

ITEMS PRESENTED BY COMMISSION CHAIRMAN

CALL TO ORDER: Mr. McKown called the meeting to order at 11:01 a.m.

ROLL CALL:

Present:	Gene McKown	Chairman
	TW Shannon	Secretary
	Bob Coburn	Member
	James Grimsley	Member
	Don Freymiller	Member
	David Dyson	Member
	Bobby Alexander	Member
	Steve LaForge	Member
	Bob Peterson	Vice-Chairman
Absent:	None	
Presiding:	Gene McKown	

The following items were presented and approved as written at the Transportation Commission meeting March 1, 2021. For those items amended, deferred, or rejected, those notations were also made. Action taken by the Commission is noted here on these sheets.

ITEM PRESENTED BY THE SECRETARY TO THE COMMISSION

43. **Approval of the Minutes of the Transportation Commission Meeting of March 1, 2021**

ACTION: Shannon moved and Peterson seconded that the Minutes be approved as presented.
MOTION: Carried by the following vote:
AYES: Coburn, Grimsley, Shannon, Freymiller, McKown, Dyson, Alexander, LaForge and Peterson
ABSTAIN: None
ABSENT: None

ACTION: Freymiller moved and Shannon seconded that the Item be approved as presented.
MOTION: Carried by the following vote:
AYES: Coburn, Grimsley, Freymiller, Shannon, McKown, Dyson, Alexander, LaForge and Peterson
NAYES: None
ABSENT: None

47. Engineering Contract Supplement

a) Statewide – All Districts – On-Demand Project Reconnaissance Data Collection

CI-2141A	Supplement 1	Able Consulting, LLC
CI-2141B	Supplement 1	C. H. Guernsey & Company
CI-2141C	Supplement 1	CP&Y, Inc.
CI-2141D	Supplement 2	EST, Inc.
CI-2141E	Supplement 1	Garver LLC
CI-2141F	Supplement 2	Guy Engineering Services, Inc.
CI-2141G	Supplement 1	H.W. Lochner, Inc.
CI-2141H	Supplement 1	Triad Design Group, Inc.

The total aggregate increase for these Contract supplements is \$2,000,000.00

b) Statewide – All Districts – On-Demand for Strategic Asset & Performance Management

CI-2250C	Supplement 1	High Street Consulting Group, LLC	\$250,000.00
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c) Haskell & LeFlore Counties – Districts I & II – this supplement is for additional engineering to develop final construction plans for US-271 over Fourche Maline Creek

EC-1360B	Supplement 7	Guy Engineering Services, Inc.	\$78,200.00
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d) Payne County – District IV – this supplement is for additional engineering to develop final construction plans for SH-51: from Western Road, east 2.0 miles to junction of US-177

CI-2119	Supplement 1	EST, Inc.	\$11,900.00
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e) Washita County – District V – this supplement is for additional engineering to develop final construction plans for US 183: beginning at SH-55 and extend north 7.72 miles

EC-577G	Supplement 13	Tetra Tech, Inc.	\$140,746.00
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ACTION: Dyson moved and Freymiller seconded that the Item be approved as presented.
MOTION: Carried by the following vote:
AYES: Coburn, Grimsley, Freymiller, Shannon, McKown, Dyson, Alexander, LaForge and Peterson
NAYES: None
ABSENT: None

ITEMS PRESENTED BY CONSTRUCTION DIVISION ENGINEER – Mr. Leonard

48. Change Orders with Cumulative Total of \$75,000.00 or Less – Information Only

- a) Atoka County - US-69 - NHPP-013N(170)PM / 28947(04), \$16,462.20, 0.67%
- b) Atoka County - US-69 - NHPP-013N(174)PM / 30411(04), \$0.13, -0.00% Underrun
- c) Canadian County - I-40 - NHPPI-209N-(078)PM / 30715(04), \$8,605.14, 0.06%
- d) Carter County - SH-53 - STP-210C(066)PM / 24104(07), \$5,943.05, 0.03%
- e) Carter County - US-70 - STP-210F(077)3B / 34783(04), \$1,200.00, 0.15%
- f) Cotton County - Co. Rd. - CIRB-217D(047)RB / 31119(04), \$59.40, 0.02%
- g) Creek County - SH-33 - SSR-219B(067)SR / SSR-219B(068)SR / 32710(04), \$33,865.01, 1.54%
- h) Delaware County - Co. Rd. - STP-221D(043)CI / 29896(04), \$55,683.68, 5.55%

- i) Delaware County - SH-20 - SBR-221C(045)SB / 31361(04), \$9,872.44, 1.48%
- j) Delaware County - SH-10 - SSR-221C(044)SR / 32725(04), \$18,799.80, 1.08%
- k) Garfield County - SH-132 - SSP-224C(070)PM / 29482(04), \$48,392.46, 5.62%
- l) Garfield County - US-64 - SBR-019N(134)SB / 30641(04), \$6,202.39, 0.69%
- m) Grady County - US-81 - HSIPG-011N(102)TR / 33607(04), \$11,656.86, 0.75%
- n) Jefferson County - Co. Rd. - CIRB-234C(045)RB / 29914(04), \$17,444.59, 0.29%
- o) Kay County - SH-11 - SBR-236B(069)SB / 32772(04), \$1,136.00, 0.25%
- p) Love County - I-35 - HSIPIG-3500-(014)IT / 31603(04), \$9,467.50, 1.51%
- q) McIntosh County - Co. Rd. - STP-246C(009)CI / 30256(04), \$15,407.69, 0.57%
- r) McIntosh County - US-69 - NHPP-019N(175)PM / 30572(04), \$8,250.00, 0.03%
- s) Muskogee County - Co. Rd. - STP-251D(080)CI / 31163(04), \$2,302.14, 0.76%
- t) Oklahoma County - I-40 - NHPPI-0040-5(394)129SS / NHPPI-4000-(095)PM / 23310(04), \$44,382.64, 0.06%
- u) Oklahoma County - Ct. St. - STP-155E(746)EH / 26889(04), \$12,179.85, 12.69%
- v) Oklahoma County - SH-77H - SBR-255N(517)SB / 27107(04), \$0.00, 0.00%
- w) Oklahoma County - I-240 FRONTAGE ROAD - TAP-255N(331)AG / 31438(04), \$38,594.10, 6.15%
- x) Oklahoma County - Co. Rd. - STP-255D(506)CO / 32884(04), \$1,200.00, 0.12%
- y) Oklahoma County - US-62 - NHPP-255N(522)3B / 34814(04), \$23,100.00, 5.58%
- z) Osage County - SH-99 - STP-257B(056)SS / 28860(04), \$17,078.20, 1.71%
- aa) Pontotoc County - SH-19 - STP-162B(187)SS / 21841(07), \$31,500.00, 0.19%
- bb) Pontotoc County - US-377 - SSP-262B(041)SS / 23285(08), \$1,331.20, 0.45%
- cc) Pontotoc County - Co. Rd. - CIRB-262C(048)RB / 31252(04), \$16,976.40, 0.31%
- dd) Pontotoc County - SH-1 - STP-262C(052)3P / 32768(04), \$63,242.67, 2.01%
- ee) Rogers County - SH-20 - SSP-266N(083)RW / 26242(10), \$8,750.00, 15.00%
- ff) Rogers County - US-169 - NHPP-030N(078)3P / 32718(04), \$27,486.47, 1.53%
- gg) Sequoyah County - Co. Rd. - CIRB-268D(058)RB / 28501(04), \$11,084.14, 0.53%
- hh) Sequoyah County - US-64 - SBR-268C(068)SB / 33439(04), \$4,582.20, 0.42%
- ii) Stephens County - US-81 - STP-269F(053)PM / 28781(04), \$4,309.92, 2.42%
- jj) Wagoner County - SH-72 - STP-173C(087)PM / 20916(04), \$0.40, -0.00% Underrun
- kk) Wagoner County - SH-51 - SSP-273N(057)PM / 34189(04), \$2,750.00, 0.96%
- ll) Woods County - SH-50 - STP-276C(041)AD / 33412(04), \$4,644.20, 1.33%
- mm) Woodward County - US-183/US-270 - NHPP-017N(206)PM / NHPP-017N(256)PM / 17457(54), \$2,359.50, 0.01%

49. Change Orders with Cumulative Total Greater than \$75,000.00

- a) Beckham County - SH-6 - STP-205B(076)PM / ACNHPPI-4000(061)PM / 30998(04), \$80,000.00, 0.28%
- b) Caddo County - SH-152 - SBR-208C(057)SB / 32931(04), \$21,073.93, 0.63%
- c) Canadian County - SH-4 - STP-209C(067)PM / 04757(05), #2, \$35,032.96, 0.27%
- d) Canadian County - SH-4 - STP-209C(067)PM / 04757(05), #3, \$283,721.34, 2.16%
- e) Canadian County - SH-4 - STP-209C(067)PM / 04757(05), #4, \$1,078.00, 0.01%
- f) Canadian County - Co. Rd. - CIRB-209D(063)RB / 27858(04), \$96,000.00, 2.19%
- g) Cleveland County - Ct. St. - STP-214C(080)AG / 29289(04), \$9,000.77, 0.32%
- h) Creek County - SH-51 - ACSTP-219B(047)SS / 27071(04), \$299,149.51, -4.07% Underrun
- i) Dewey County - US-270 - NHPP-017N(258)PM / 17671(41), \$79,867.68, 0.38%
- j) Ellis County - SH-15 - NHPP-223N(011) / 24223(04), \$47,850.00, 0.64%
- k) Greer County - US-283 - STP-228B(017)PM / 29509(04), \$88,000.00, 1.13%
- l) Kay County - Co. Rd. - CIRB-136C(162)RB / 25085(04), \$47,538.77, 1.59%
- m) McClain County - I-35 - NHPPI-0035(297)SS / 23283(04), \$314,952.85, 6.57%
- n) Oklahoma County - I-235 - NHPPI-2350-(009)PM / 09033(27), #15, \$280,437.86, 0.28%
- o) Oklahoma County - I-235 - NHPPI-2350-(009)PM / 09033(27), #16, \$59,901.00, 0.06%
- p) Oklahoma County - I-235 - NHPPI-2350-(009)PM / 09033(27), #17, \$0.00, 0.00%
- q) Oklahoma County - I-44 - SBR-4400(073)SB / 33417(04), #1, \$147,445.25, 7.33%
- r) Oklahoma County - I-44 - SBR-4400(073)SB / 33417(04), #2, \$112,075.94, 5.57%
- s) Ottawa County - US-60 - SSR-258B(055)SR / 32712(04), \$15,246.79, 1.45%
- t) Pottawatomie County - SH-39 - SSR-263B(067)SR / 33838(04), \$78,350.00, 4.97%
- u) Pushmataha County - US-271 - STP 264B(076)PM / 27026(04), \$5,700.00, 0.21%
- v) Rogers County - US-412 - SSP-266N(056)SS / 23170(10), \$371,219.72, 4.85%

- w) Tulsa County - SH-51 - NHPP-272N(205)PM / SSP-272N(206)PM / 11477(04), #4, \$675,000.00, 5.27%
- x) Tulsa County - SH-51 - NHPP-272N(205)PM / SSP-272N(206)PM / 11477(04), #6, \$184,917.20, 1.45%
- y) Tulsa County - Ct. St. - STP-172B(400)IG / 25212(04), \$54,426.20, 0.89%
- z) Tulsa County - Ct. St. - STP-172B(484)IG / 27291(04), \$20,003.25, 0.26%
- aa) Tulsa County - SH-11 - NHPPI-2440-(018)PM / NHPP-272N(245)PM / 29076(04), \$11,144.48, 0.13%
- bb) Tulsa County - Ct. St. - STP-272B(278)CI / 30703(04), \$277,569.84, 9.61%
- cc) Tulsa County - I-244 - SSP-272N(295)PM / 34487(04), \$8,178.21, 0.15%
- dd) Washington County - US-60 - SBR-274N(014)SB / 29825(04), \$5,000.31, 0.19%

ACTION: LaForge moved and Coburn seconded that the Item be approved as presented.
MOTION: Carried by the following vote:
AYES: Coburn, Grimsley, Freymiller, Shannon, McKown, Dyson, Alexander, LaForge and Peterson
NAYES: None
ABSENT: None

ITEMS PRESENTED BY THE COMPTROLLER DIVISION

50. Proposed Bid Openings – Mr. Hackney, Project Funding Manager

- a) Final June, 2021 Proposed Bid Opening
- b) Tentative July, 2021 Proposed Bid Opening
- c) Tentative August, 2021 Proposed Bid Opening

ACTION: Peterson moved and Coburn seconded that the Item be approved as presented.
MOTION: Carried by the following vote:
AYES: Coburn, Grimsley, Freymiller, Shannon, McKown, Dyson, Alexander, LaForge and Peterson
NAYES: None
ABSENT: None

ITEM PRESENTED BY THE OFFICE ENGINEER – Mr. Delce

51. Awards

- a) March 15, 2021 – Emergency Bid Opening (Information Only)
- b) March 18, 2021 – Regular Letting

ACTION: LaForge moved and Grimsley seconded that the Item be approved as presented.
MOTION: Carried by the following vote:
AYES: Coburn, Grimsley, Freymiller, Shannon, McKown, Dyson, Alexander, LaForge and Peterson
NAYES: None
ABSENT: None

Note: *Chairman McKown said he receives comments from people that says you Commissioners are just a rubber stamp up there; but I want everyone to know that all these items have been discussed in detail at the 9:00 & 10:00 o'clock Sub-Committee Meetings.*

Secretary Gatz said I would certainly agree the relationship that the Department of Transportation has with the Transportation Commission is very interactive. It doesn't just all happen at the 11 o'clock meeting, we are in communication constantly during the month; and we certainly have detailed reviews and discussions at the Sub-Committee Meetings. So, it's a very comprehensive process that only culminates in the 11 o'clock full Commission Meetings; and I appreciate you acknowledging that, Mr. Chairman.

ITEM PRESENTED BY THE DIRECTOR – Mr. Gatz

52. Director's Report

Secretary Gatz talked about Work Zone Safety Awareness; construction zones are a year-round occurrence; and in April, ODOT is bringing focus to this topic with education and awareness through advertising campaigns and public service announcements. This year in conjunction with our on-going safety program "Make Safety Stick – Everybody Click", we are implementing our "Work Zones in Bloom" campaign to emphasize this topic. We want to emphasize to the Public and draw attention to safety issues like seat belt use, distracted driving and basic roadway etiquette, to help reduce crashes and save lives. He then recognized Chief Engineer, Brian Taylor for a few words on this topic.

Chief Taylor added that there will be nearly 270 highway work zones statewide through the summer and that drivers must use extra caution in these areas that often have narrowed lanes, reduced speed limits, lots of workers and equipment near traffic. In the past 5 years, more than 1400 people were injured and 83 were killed in Oklahoma highway work zone crashes, including 2 ODOT workers. He outlined a series of activities through the month of April where the public can learn more about work zone safety. He then presented a Public Service Announcement audio that will air on radio and television throughout the month. He explained while worker safety is a huge concern, the Department is just as concerned about motorist safety as the number of motorists killed in construction zones is exponentially higher than the number of workers killed in the line of duty. The top 3 causes of work zone fatalities are: speeding, following too closely, inattention at the wheel; eliminating these dangerous driving habits will help keep you and others safe. We're urging motorists to plan their routes ahead of time, use their seatbelts, slow down, and put away the distractions. The best way not to get caught off guard in a work zone is to check before you go using our free Drive Oklahoma Mobile App, checking traffic advisories or a map of the current work zones at www.odot.org; or viewing current traffic conditions at www.oktraffic.org.

Secretary Gatz thanked the Commission for approving a \$31 million project on US-75 in Tulsa. This is the final leg of the Tulsa Inner Dispersal Loop (IDL) and will be the final project on this vital component of Tulsa's Interstate System. Work will include full-depth pavement reconstruction, rehabilitation of several bridges and ramps and addition of new lighting on the IDL during the nearly 2-year project. The initial work began with funding provided by the Stimulus Program back in 2009.

Pavement conditions on our highways have deteriorated due to the extremely harsh winter conditions that we experienced. One emergency pavement repair project is currently underway in Tulsa on US-169 at SH-266. April, May, June are the months that we focus on pavement preservation projects and this year will be no exception. There have been additional funds funneled toward this type of work courtesy of the Corona Relief monies made available.

He said the Moderation Initiative is progressing; in fact, in March ODOT let 2 OTA projects. We are in the process of making some recommendations such as combining ODOT's Office of Mobility & Public Transit with our Rail Division; OTA is making changes to accommodate electronic tolling; and ODOT, OTA and OAC are looking at combining their Communication Units.

There is discussion going on at the federal level about reauthorization and the President's new American Jobs Plan for infrastructure. This is a \$2.3 trillion program that could result in \$621 billion for infrastructure including roads, bridges, transit, electric vehicles, etc. He noted that Oklahoma is in a good position to take advantage of any additional funding thanks to ODOT's short-range and long-range planning efforts.

He said that we are taking a hard look at and paying attention to the COVID-19 numbers; but as of now we are still planning on a virtual meeting for May. However, I believe that our Staff will return and present from our Commission Room, and the Commissioners can choose to participate in person if you so desire.

NOTE: *Commissioner Shannon inquired why an interchange project in his district at I-35/Hwy 9 kickoff meeting scheduled for March 22nd was cancelled. This project is a 3-4-year partnership between ODOT and the Chickasaw Nation. The focus of that project is really safety because, as you know, there are cars exiting on Highway 9 and it's causing congestion and back up on I-35. I know that this board, even previous to me being on the Commission, this plan was in place and the financing of the plan includes \$17 million total for the project and I think \$10 million of that is actually being contributed*

by the tribe. I have received numerous calls from constituents, legislative offices asking me why ODOT canceled that kickoff meeting on March 22nd; which basically would have put into motion that project that's on the 8 Year Work Plan and I've been told from a legislative office that it has been cited as a potential design change. I got to tell you, this gravely concerns me, because what I'm hearing, and I want to verify with you, is that this is coming from outside of ODOT and may in fact be coming from the Governor's office. And as you know, the 8 Year Work Plan, the purpose of it and its success even during my time in the legislature, one of the reasons I was such an advocate of the 8-year plan was because it essentially eliminated the influence of political agendas from the construction of highway projects in Oklahoma. So, my question to you Mr. Secretary and you have always been open and very forthright with this Commission, what is the status of this project and is there any political pressure being applied from anywhere regarding this project.

Secretary Gatz said the Department is and has been working on a project there for many of years. It's taken on many different forms over that course of time; we affected some partial improvements down there when we reconstructed the bridge over Interstate 35. This is grinding through consideration of different alternatives at that location; and as you point out, one of which the Chickasaw Nation advanced for us to take a look at. We are working our way through that process; I think all parties agree that one of the things that can make that intersection and interchange work better are improvements on the local road system in the area. We are in discussions about what those local road improvements might look like and how the safety concerns, as you mentioned and point out, can be best served in that process. What we are going through now is the next iteration and the consideration of those different alternatives and concepts. The thing that I think is a little bit different is in the context of interactions with the tribal governments, I think that given all of the things that are new in the discussion, and that ranges from compacting to some of the things that are uncertainties in the McGirt case etc. are going to cause the Department to engage the Governor's office for advice and counsel on a regular basis as we work our way through tribal agreements. I think that's just, from our perspective, something that's going to be necessary because there are things going on in that world that the Department, with our focus as I like to say between the right of way fences, there are things that are going on in that world that we may not be aware of. So, it's going to require that we consult very closely with the Governor's office and that's absolutely happening. But again, with that particular location, we're grinding through some considerations of what alternatives might be. The Chickasaw certainly put one on the table that was worthy of consideration, but before we progress that consideration further, as a final concept, it's going to require that we go through that process because it would result in an agreement with the tribe to be able to pursue that as you point out. So, things are a little bit different, certainly not necessarily business as usual; but that's being predicated on a lot of the new things that are being dealt with, and that we were not dealing with before.

Commissioner Shannon said if what I'm hearing you say is accurate that all tribal projects now, that are potential partnerships with ODOT are now receiving a different level of scrutiny, I suspect that all tribal leaders and citizens across the state would have a very important interest in knowing that. And I'd also say, lastly, if I'm coming across more indignant about this than I usually am, part of it is because I was completely blindsided by it. No one from ODOT notified me that there was an issue, either with the McGirt case; that there was an issue with this particular project; and that the meeting was canceled! So that's created some trust issues for me, from my perspective as a Commissioner, I've tried to certainly be a good partner and be supportive where I can, but at some point, we have to make sure that we are not allowing political pressure to creep into what has been a very, very successful plan.

A VERY LENGTHY DISCUSSION ENSUED, AND DUE TO TIME CONSTRAINTS COMMISSIONER SHANNON REQUESTED THAN AN AGENDA ITEM BE PLACED ON NEXT MONTH'S AGENDA FOR SECRETARY GATZ TO PROVIDE INFORMATION ON EVALUATION OF AGREEMENTS WITH TRIBAL GOVERNMENTS ON HIGHWAY PROJECTS IN LIGHT OF THE EVOLVING IMPACTS OF THE RECENT MCGIRT VS OKLAHOMA RULING.

Information Only: No Commission action required.

Ms. Riddle reported that ODOT had been monitoring the public audio connection; and it was reported that the public audio connection has been maintained throughout the meeting.

ITEM PRESENTED BY COMMISSION CHAIRMAN

53. Adjournment Motion

ACTION: Shannon moved and Coburn seconded that the Meeting be adjourned.
MOTION: Carried by the following vote:
AYES: Coburn, Grimsley, Freymiller, Shannon, McKown, Dyson, Alexander, LaForge and Peterson
NAYES: None
ABSENT: None

Meeting adjourned at 12:02 p.m.

Approval of the Minutes of the Transportation Commission Meeting April 5, 2021.

Gene McKown – Chairman

Bob Peterson – Vice Chairman