

**MINUTES OF THE TACOMA NARROWS BRIDGE TOLL SETTING MEETING
WASHINGTON STATE TRANSPORTATION COMMISSION
June 5, 2007**

The special meeting of the Washington State Transportation Commission was called to order at 1:00 p.m. on Tuesday, June 5, 2007, at the Gig Harbor Civic Center, 3510 Grandview Street, Gig Harbor, Washington.

Commissioners present at the meeting were: Chair Ford, Ed Barnes, Bob Distler, Elmira Forner, Carol Moser, Dan O'Neal and Dale Stedman.

Chair Ford called the meeting to order, indicating that there have been editorial changes to draft rule WAC 468-270. He requested that today's testimony focus on the WAC and the proposal contained therein. He requested that public testimony be limited to three minutes per speaker. He pointed out that the Commission has received a significant number of comments via email and letters over the past several weeks. He welcomed meeting participants and opened the floor for public comment.

Tom Young, Community Transportation Association of the Northwest

Mr. Young explained that the association is an organization comprised of transportation providers that provide service primarily to special needs individuals that do not have the means to transport themselves. The services provided are funded either by state or federal grants. He explained that every two years the Department of Transportation's consolidated Grants Program provides funds for these services, although the requests for funds exceed availability of funds. He requested that the Commission consider the fact that because of the increased cost to providers there could be a cut in services provided in the future, even though current services do not meet the need today.

Chuck Sessler

Mr. Sessler proposed that the Commission consider a frequent user fee approach for tolls, considering the fact that the greatest impact is on residents and businesses of the peninsula, Gig Harbor and north. He suggested a reduced fixed fee and unlimited usage of the bridge for frequent users. This approach would cap the cost for users that use the bridge the most. This is a statewide initiative that affects the entire state and all taxpayers should share in the cost to help reduce the overburdening cost to those that depend on using the bridge frequently.

Randy Boss

Mr. Boss indicated that some of his requested changes have been incorporated into the WAC. He thanked the Commission for taking those into consideration. He noted that he would like for the record to show his comments on the following:

.010 – I requested previously that you exclude the...exemptions from that the title of that section. The section says nothing about exemptions. There has been a lot of discussion about exemptions and we have a caption that says exemptions, but nothing in the body of the section says anything about exemptions.

.020 – You did take out “and how they are collected”, because once again the body of the text does not say anything about how the tolls would be collected.

.030 – Definitions section – bona fide emergency occurs when an authorized emergency vehicle as defined herein responds to or returns from an emergency call. I have referenced RCW 46.61.035 which states that an emergency vehicle is an emergency vehicle when it's on its way to an emergency, not on its way back from an emergency. It no longer qualifies as an emergency vehicle on a return trip. I asked that this be taken out and I see that it's still included. If you are applying that to the Tacoma Narrows Bridge – a fire truck coming from Tacoma to fight a fire in Gig Harbor would have to pay the toll on its return trip, because it is not on an emergency run on the way back, but a fire truck from Gig Harbor going to Tacoma is exempt on the way to Tacoma and on the way back. This is an inappropriate application of the law and certainly a violation of the statute and needs to be removed. I asked that the Commission do that and I see that it's still in the WAC.

.030 - Electronic toll collection – will read the toll of each vehicle, so if the vehicle does not have a transponder then it cannot be in the ETC lane, because the definition of an ETC lane is the reader has to read the transponder, so if there is no transponder then obviously the car is not in the ETC lane. This is ripe for violation, because if someone has an ETC account with zero funds then it cannot automatically collect the toll from the account, therefore the definition of an electronic toll collection lane is incomprehensible. If you don't have a transponder then you can be in the ETC lane and if you have a transponder with an account that has zero dollars in it then again you are not in the ETC lane. This needs to be redefined. High Occupancy Hot Lanes – the first sentence is fine – it defines what a HOT lane is. The second sentence – HOT lane supporting facilities include, but are not limited to approaches, enforcement areas, improvements, buildings, and equipment. I asked the Commission how building and equipment can serve as part of the definition of a HOT lane. It seems that the building and equipment would need to be in the lane in order for it to be part of the lane, so I request that you remove that sentence.

There are several places within the WAC where it mentions the Commission not the Transportation Commission. There is no definition for “the Commission” within the WAC. I've asked before that either a definition of “the Commission” go within the definition section or the WAC be corrected at all points where “the Commission” is referenced to indicate that it's the Transportation Commission.

.080 – When are these toll rates in effect? The toll rates for each facility will take effect upon commencement of the tolling program on each new toll facility. What does that mean? Do the tolls start when the new bridge opens or because there is no improvement to congestion in the area do we start tolls when the old bridge is done or start tolls when we actually have some congestion relief or are the tolls only applied during the weekdays or only on holidays? I would hope that could be corrected.

.090 (2) – Authorized emergency vehicles on bona fide emergencies as defined herein may apply for credit for their emergency trips and for the return trip from an emergency call. This again is a violation of RCW 46.61.035. It is a direct conflict with the state statute and needs to be corrected. 2 (b) the department will establish and oversee the procedure for emergency vehicle toll credits. The WAC should be establishing the procedure.

Chair Ford

Instructed that Mr. Boss please take his seat and allow others to make comment. When they are finished he will be invited to resume comment.

Don Williams

Mr. Williams' citizen of Tacoma and Ocean Shores noted that he had submitted written comments earlier. He shared that he supports the way that the Commission handled exemptions in .090. I believe that the transit people have complained about not being exempt, but I believe that they will be glad that they will have an HOV lane for their buses. I believe that there should be no exceptions to the toll other than those that have been defined.

Second comment has to do with .070. I spoke to the Commission and the Department several times about this. He noted that he has presented substantial information and historical documents to the Commission showing that there is strong expectation by the public that tolls will not exceed \$3 on opening day. The proposed toll rate exceeds the promised \$3 limit because of the inclusion of higher tolls for vehicles with more than two axles. Recommendation is that no vehicle pays a toll that exceeds the promised \$3.

For the record he shared that he feels as though the CAC has not served the public well.

Judy Vasconcelus

Shared that she wonders when the tolls will end on the bridge. She also complained that the call representatives from the "Good To Go" Program were not friendly or very helpful. There was a delay in the bridges construction, but the contractor's fine was waived. Does not feel that the contractor's fine should have waived because that money could have shortened the payoff of the bonds.

Chair Ford

Responded that under the current law the toll will be removed when the bonds are paid off – I believe it will be 26 years from now. The Legislature will make future decisions regarding the law.

George Warrington

Recommended that he would like to see language added to .060 that would put a freeze on toll increases for at least two years.

Chair Ford

Clarified that the Commission is charged by the Legislature to set tolls equitably, but adequate to pay the cost that has been spelled out in statute. According to the Legislature these costs are operational, maintenance, insurance and the debt service. The expected expenses for the fiscal year ending June 2008 is about \$28 million. In the fiscal year 2009 those expenses jump to over \$44 million according to estimates. These estimates are not estimates when it comes to the bond payments. The bond payments are scheduled to vary over the years. There is a deferred sales tax of over \$50 million that the bridge users will pay under the current law and will kick in in about seven or eight years and must be paid over a ten year period. The Commission does not have the luxury of adjusting the tolls with the inflation rate or cost of living. The Commission is charged with the responsibility to set tolls that will pay the costs.

Commissioner Distler

Pointed out that while the costs are reasonable estimates, the forecast of the amount of people

that will use the bridge are simply a forecast. If the traffic level falls below the forecast the bills must still be paid, and that is why there is uncertainty going forward with the toll amounts.

Mr. Sessler

Commented that the Legislature needs to look at all of the creative ways to fund this project.

Jim Culp

Noted that he attended the majority of the CAC meetings. Public attendance at these meetings was poor. The public needs to take part in these meetings in order to have a voice.

Chair Bob Ryan, CAC

Noted that the CAC will let the record speak for itself.

Commissioner Distler

Asked Mr. Ryan if the CAC considered the possibility of exemptions.

Mr. Ryan

Explained that the CAC met a number of times over several months. Different types of discounts were entertained, but it was concluded that it would be very difficult to administer those types of discounts with the exception of the ETC discount. The only exemptions that appeared to be fair were those for emergency vehicles on a bona fide emergency and would qualify for a credit.

Chair Ford

Indicated that the Commission has received and read all public comments submitted regarding the toll setting of the TNB

Mr. Boss

Continuation of earlier comments. Stated that he wishes he could believe that the Commission reads its mail.

Commissioner O'Neal

Indicated that just because the Commission does not agree with Mr. Boss, does not mean that his comments have not been read.

Mr. Boss

Indicated that he is pleased that the Commission reads public comments. He noted that he feels that the scenarios used to calculate the tolls are deficient. He explained that he believes that there will be a five thousand car a day shortage in the toll collections, which will create a shortage at the end of the year.

Commissioner Distler

Expressed that Mr. Boss should not assume what the Commission does or does not know and should keep his remarks limited to his own views.

Mr. Boss

Commented that he feels that the WAC leaves it open ended for the WSP to classify any vehicle as an emergency vehicle and be exempt from the tolls. The tolls that have been set today are based on paying the expected deficit even though there is funding dedicated by the Legislature to reduce the tolls.

Mr. Williams

Commented that the Commission's recent Toll Study indicated that the toll will never be removed. I believe that the Commission's position is that the toll will never come off. The Commission's recommendations and the current law are in conflict.

George Riker

Commented on axle toll rates as per .070. He questioned if trailers in tow will be considered per axle as well.

Chair Ford

Explained that vehicles in tow will be charged per axle.

Chair Ford

Closed the public meeting at 1:50 p.m. and opened Commission discussion. He requested that Scott Lockwood, AG respond to any questions or concerns that the Commission might have with respect to the toll setting.

Commissioner O'Neal

Requested that Mr. Lockwood provide his perspective on today's WAC language comments.

Mr. Lockwood

Shared that he had the opportunity to read Mr. Boss's written comments, which he presented orally today, and are essentially the same as written. He explained that the definition in .030 Authorized Emergency Vehicle – is not in violation of the statute.

Commissioner Moser

Commented that she wants to make certain that the AG is comfortable with the language in .010.

Mr. Lockwood

Responded that the language sets out the definition clearly.

Commissioner Stedman

Commented regarding tolls remaining on facilities indefinitely. The WAC .080 language being discussed today is very clear with regards to the removal of the toll and the Commission's ability to make that decision. The Tolling Study recommendations look to the future.

Representative Seaquist

Referred to a letter sent to the Commission from himself, Senator Kilmer and other legislative members regarding the legislative intent behind the actions taken by the Legislature this session. He reminded the Commission that the Legislature provided funds with the intent of reducing the fare on the bridge to \$1.50. The Legislature felt that it is very important to provide constituents with the lowest possible fare.

Commissioner Forner

Expressed that she is concerned that revenue generated from tolls will not be adequate to meet the debt and that it might impact other project funding.

Representative Seaquist

Explained that the loan was to be used to buy down the toll and as a buffer in the event that revenue collected was not sufficient to meet the debt.

Commissioner Distler

Noted that even though the funds are there it is still a loan and must be repaid.

Chair Ford

Provided an overview of legislative project funding explaining that the loan must be repaid.

Reema Griffith, Commission Executive Director

Explained that it is assumed that any portion of the legislative loan used would need to be repaid within the biennium.

Commissioner Distler

Noted that it is important to recognize that it is an uncertain world and the process is based on estimates.

Commissioner Barnes

Explained that he feels that the CAC based their decisions on public input and the expectation of what they thought the traffic counts might be and thusly advised the Commission.

Commissioner O’Neal

Noted that there have been a number of arguments regarding tolling of facilities. These facilities are not free and must be paid for. He expressed that he agrees with the CAC that there should be no exemptions with the exception of an emergency vehicle on an emergency, and that the ETC toll should be \$1.75. He commended the CAC for their participation in the tolling setting discussion.

Commissioner Moser

Expressed that she voted for the \$1.75 toll based on the CAC recommendations and concern that a lower toll would not meet the debt.

Commissioner Forner

Noted that she voted against the \$1.75 toll because she feels that it’s too low, noting that her decision does not reflect on the CAC assumptions, but her previous experience with budget.

Chair Ford

Provided an overview of the tolling scenarios and closing comments. He called for the vote on WAC 468-270 – Setting Toll Amounts for Toll Facilities in Washington State version OTS 9791.1.

It was moved by Commissioner O’Neal and seconded by Commissioner Stedman to approve WAC 468-270 as amended (version OTS 9797.1).

Commissioner Distler

Proposed that the language be amended to reflect “all exemptions to the Tacoma Narrows Bridge toll” be stricken from the WAC and that there be no exemptions for any purpose.

Chair Ford

Asked if there was a second to the motion to amend, hearing none the requested amendment failed.

The motion passed with Commissioners O’Neal, Moser, Ford, Barnes and Stedman voting “Aye”. Commissioners Distler and Forner voting “No”.

The Special meeting adjourned at 3:00 p.m., on June 5, 2007.

WASHINGTON STATE TRANSPORTATION COMMISSION

DICK FORD, Chair

ELMIRA FORNER, Vice-Chair

EDWARD BARNES, Member

CAROL MOSER, Member

DAN O'NEAL, Member

ROBERT S. DISTLER, Member

DALE STEDMAN, Member

PAULA HAMMOND, Ex-Officio Member
Secretary of Transportation

JENNIFER ZIEGLER, Governor's Office

ATTEST:

REEMA GRIFFITH, Executive Director

DATE OF APPROVAL