

**VERBATIM MINUTES OF THE TACOMA NARROWS BRIDGE TOLL
SETTING MEETING
WASHINGTON STATE TRANSPORTATION COMMISSION
April 30, 2007**

The special meeting of the Washington State Transportation Commission was called to order at 10:00 a.m. on Monday, April 30, 2007, at the Department of Transportation Building, 310 Maple Park Avenue SE, Olympia Washington in the Commission Boardroom.

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

Chair Ford

Called the meeting to order indicating that today's meeting is not a public hearing. It is to receive toll setting recommendations from the Department of Transportation and the Tacoma Narrows Bridge Citizen Advisory Committee. The Commission will review the toll setting scenarios and adopt a proposed WAC rule for filing with the Code Reviser's Office. The rule will go to public review and comment for a period of thirty days. Public meetings will be held at the Gig Harbor Civic Center on Tuesday, May 22 at 4:30 p.m. and Tuesday, June 5 at 1:00 p.m.

Chair Ford

The technical point is that until there is a rule in force there are no tolls on the bridge. The process is to first publish what the Commission wants the public to review and then determine whether they like it or dislike it, and listen to the public in the thirty day publication window. If we go according to schedule we would meet on June 5th to receive further testimony and could adopt a final rule, which then again has a thirty day period after publication in which those who are dissatisfied with it can appeal if they wish in that that thirty day period. Assuming it stays on schedule it probably means the earliest date there would be an actual toll effective on the bridge would be around July 5th. We have in front of us a draft WAC and four different scenarios based on different tolls rates. Being over reactive I put two numbers on the board. We are required by law to set a toll that will recover various costs that are described in statute. Based on the information that we have been given the estimated 2008 fiscal year expense is \$27.5 million rounded out a bit. There is a carryover of about \$5.3 million of expenses from the 2007 fiscal year. Our understanding is the \$5.3 million is a loan which has to be paid off over the life of the bridge. We have a recommendation from the Department. If you wanted to start the fiscal year 2009 with no deficit you would have to collect around \$32.8 million, but statutorily I think the amount we need to collect is \$27.5 million. If there is a difference...we should talk about it. This is the Wilbur Smith estimate of the number of vehicles that will be traveling... now remember we will only be collecting tolls eastbound. They say 38,300 estimated vehicles per day on the bridge. We have some citizens that have already testified that number is too high. Those are issues...I don't know what Wilbur Smith was paid to get those numbers, but I suspect it was a fair amount of money. If there is any comment or question by the Commission on these two please let's do it now.

Commissioner Distler

Mr. Chairman a procedural question and then a clarification with regard to that number.

The procedural question is that presumably the rule becomes effective thirty days after the Commission would take action absent some legal challenge that we stay it, and that would be from June 5 to July 5. The commencement of the tolling process itself will be upon opening, I presume, of the new section of the TNB. Is that going to be a part of the language in the WAC, so that everyone can be certain that one doesn't happen without the other.

Chair Ford

We are going to talk about the WAC. That's one of the topics that I want this Commission to discuss before we actually go to the toll level. I want to make sure that we are happy with the language that's in the draft, so that after the presentations have been made and we've had a chance to dialogue with the presenters...and perhaps in the dialogue you can raise some of these questions about the WAC, but we are going to first, after we've heard and disposed of whatever conversation that we have with the presenters. The first thing that we are going to do is take the WAC and go through it and make sure that we are happy with all of the language and provisions within it. The next question will be at what level do we want to set the tolls.

Commissioner Distler

I think that it would be useful, since you brought up the forecast by Wilber Smith Associates...that number represents, what I will call a blended average. Clearly there are seasonality and day of week differences in the traffic across the bridge, so in effect I think what he is saying is that in the first full year that the bridge is open which will include a February 29, the total traffic would be 366 times that number...is that correct?

Chair Ford

It depends on when we open the bridge. Lets assume the bridge opens July 15, it would not be 366 it would be....

Commissioner Distler

I'm not talking about fiscal year...I'm talking about a total year. What I understand Wilbur Smith is doing is forecasting a first typical year.

Chair Ford

That is correct and that's one of the questions we may want...probably we will not see the bridge open on July 1.

Commissioner Distler

That's true, but what I'm hoping is that Wilbur Smith made an annual forecast and then converted it to a daily number.

Chair Ford

I'm looking at the number in table two of their letter. They show their estimate for 2007 as 38, 300. If you go to other tables they do not a 2000 figure.

Commissioner Distler

Clearly that number will vary by day and of course it will also be subject to some growth, but I think what he's stating, if I read the letter correctly, in the first steady year that will be the average daily traffic.

Chair Ford

What I think is important...clearly at least in an appropriate time frame so that we could

adjust rates beginning in July 2008. We will be holding meetings somewhat like this in the Spring 2008 to consider how we are doing and whether or not we have to make adjustments. Theoretically we might have to do it even sooner, but I'm saying if you read the WAC, and I think that it's appropriate it says that ordinarily we will look at the tolls at least once a year, which would normally become effective at the beginning of a fiscal year. That means that you have to start looking at them in March or April. With that I'm going to ask staff from the Department of Transportation to come forward. Representative Seaquist...I see you are in the front row. We would be happy to offer you a chair up here if you want to join us.

David Pope, Toll Systems Manager, WSDOT

Mr. Chairman what we have provided to you is a couple of different documents. You should have four different spreadsheets with toll revenue and costs available on the spreadsheets. The spreadsheets were all based on different toll rate scenarios...so really the only difference is for fiscal year 2008 beginning upon toll commencement and ending June 30, 2008. That's the difference in gross toll revenues for those years. The spreadsheets are essentially the \$1.50 electronic toll and the cash toll for that would be \$3 cash, and the corresponding revenue that's associated with that. The next spreadsheet is the \$1.75 ETC and a \$3 cash...this was actually done late last week after the CAC met...the corresponding revenue and expenses with that. The next spreadsheet is the \$2 ETC and \$3 cash...this was the recommendation of the Department in February...per your request again today this is the Department's recommendation. The final spreadsheet is a hybrid spreadsheet...essentially a \$1.50 for the first six months...actually through December 31, 2007 and a \$2 ETC for the second six months...which I think is one of the things the Commission asked for. Those essentially are your choices...you also should have a table that has four different tables, which essentially shows tolls as well as the per axle rates. Those all correspond to the tolls that you see on the spreadsheet.

Commissioner Distler

The first thing that I want to clarify.....I think that one of the last things that you said is those essentially are your choices....with respect Mr. Pope...this Commission's choices run the full gamut from zero to infinity. You have very carefully and very accurately to the best of your ability produced the four scenarios, so that we get some feel for the sensitivity, but in fact this question as of now...at least in my mind, is open. I do have two questions of you, one has to do with the WAC language with regard to the commencement date, but I will get back to that in a moment. Do these four scenarios assume any sensitivity in traffic based on prices, so if the price goes up the traffic drops a bit, or not?

Mr. Pope

Yes...in two ways...both if the differences in between a \$1.50 and \$2 while it's fairly small there is a small difference...if you remember the original \$3 that was going to pay the cash...that would be slightly lower traffic as well if everybody paid \$3. That's all factored in to what's in the scenarios.

Commissioner Distler

All four of these scenarios include the per axle charge up to a maximum of six.

Mr. Pope

That's correct and they also....all of them with discounts include the corresponding per axle discount...so if you look at the tables they have the per axle discount.

Commissioner Distler

Then I do want to go back to the question that I asked the Chair...and that is...is the wording....maybe I need to ask this question of our AG...is the wording in the proposed WAC with the regard to the commencement...I believe the terminology is of the toll program...is that sufficient so that the customers and users of the bridge can be certain that two things will happen on the same day...the new bridge will be open to traffic and tolling will start, because as it's written I don't see that here...referring to WAC 468.27.080...which in effect is silent on who determines the date of commencement of the tolling program on each new toll facility."

Mr. Pope

These were written as a draft....and certainly you can change them too...I think...to what you want. These are in fact your WACs. Since the exact date of the opening of the bridge is unknown it was somewhat difficult to put in a specific date. What we tried to do was tie the toll rates to when toll starts. As soon as we start collecting tolls these toll rates would be in effect.

Chair Ford

While we are on this...would all of the Commission members take your proposed WAC out and look at .080. Bob I assume that you want further clarification.....

Commissioner Distler

In subsection (1)....something to the extent for the TNB rates will commence on the date the new facility...or whatever it's officially called....I would ask that Linea for some guidance there...until changed by the Commission ect. I think that it's appropriate that the WAC language in subsection (1) which refers specifically to TNB assure the users that tolling will start not later than and earlier than the new facility is opened.

Chair Ford

Why don't we do this just as a suggestion, if we could....try some language after the first line as follows: the date of actual opening shall be the announced by the Secretary of Transportation by public notice of some sort.

Commissioner Distler

I was just going to say....for the TNB toll rates will become effective on the date of opening of the new facility or whatever it's officially called, and will remain in effect ect. That's what I would propose.

Commissioner Moser

Let's just ask the AG.

Steve Dietrich, AG

My interpretation...the way it's currently written...you have essentially did what Chair Ford just said....you have delegated it to the Secretary to announce when effectiveness is. You could do it alternative ways.

I think that Commissioner Distler's language would be an acceptable alternative.

Chair Ford

Can we do this to close this issue....could we ask the AG to put a clarifying clause in so that it's clear....give the AG some wiggle room to do the draft. Is that fair enough Scott? I think that it will be perfectly clear, because they have to divert the traffic over to the new bridge...

Commissioner Distler

You know when it's open, but you do not specify that is the date the tolls begin.

Chair Ford

They don't quite know, because they're still negotiating with the contractor...as I understand. We received a ton of emails, some of which have to be R rated, from citizens on the emergency vehicles. I suggest that we move on to the exempt vehicle section. We will start with the definitions in .030. I think that it's understood some of us have had some concern about how emergency vehicles will be treated. On the one hand we know that for every vehicle that goes across there for free, those who remain, since we have a zero sum game up here, those who remain paying tolls have to pay a slightly higher toll to allow those emergency vehicles to go through. This is a bit of a balancing act. Let me suggest as follows: Authorized emergency vehicles include, but are not limited to vehicles serving local jurisdictions adjacent to or included in the TNB facility....something like that...in other words I don't want it to be the Seattle Police Department applying for it...they don't normally respond to emergency vehicles...fire trucks from probably both Gig Harbor side and the Tacoma side may respond in their duties....certainly the police and sheriff's departments and so on....this needs to be cleaned up, but we want to start by restricting it in my view....to those emergency vehicles that are on one side or the other or where the bridge is actually within their jurisdiction. I would like to take the lights and sirens reference out...I don't think that's the issue...the issue is whether they are responding to an emergency on the bridge or on its approaches. I couldn't understand why we're not going to allow that fire truck that responds to a car fire to go home for free if you get there for free, but you had to pay to go home...it didn't make sense. I would change that....

Mr. Pope

The only comment that I would make here is that the language as it was originally written in reference to the statute RCW 46.04.040 the definition of an authorized emergency vehicle.

Chair Ford

I would take that out...we will define that for the bridge. I might take out the prosecutor, but on the other hand if you have a criminal act, the prosecutor may have to respond. Lets move on to .090. First of all we have from the Department a new provision that they would like to have inserted dealing with the vehicles of the TNB design and construction group, because there will be some continuing work by the construction people...I would propose to have that inserted as sub part (B)....and you would re-paragraph the State Patrol to become paragraph (C).

Commissioner Distler

Why not just say in (A) Washington State Department of Transportation or its contractors.....

Chair Ford

That's fine.....that would be another way to do it.

Commissioner Distler

...directly involved in bridge....

Chair Ford

Let's give our AG some ability to do some drafting. In part (2)...I would have other authorized emergency vehicles as defined in .030. In other words if they're responding...ambulances, fire trucks, police agencies...whatever. The other thing needs to be clarified...and I guess it would be...they have to have transponders, which they can apply for and set up an account...so that would be clear...you can't do this and get the exemption if you don't apply for, get the account and put the transponder in the vehicle.

Commissioner Distler

I have a question...you referred to a non-revenue account in this wording Mr. Pope....does that mean that the requirement is that the account have a balance in it at least sufficient to cover the toll at the time of use...otherwise a photograph is taken...would somehow be overridden by the fact that it is a non-revenue account so that these agencies would not have to deposit money.

Mr. Pope

Back to the way this was originally written....I think we talked about it at the last meeting...the non-revenue account was meant to be for a very small class of exempt vehicles...those would be bridge maintenance vehicles that are currently maintaining the bridge right now and the WSP vehicles that are servicing the area. Those are the only vehicles that would qualify for a non-revenue account. Any other vehicles would have an actual transponder account that is a paid account. The method for them to get back the toll that they paid on an emergency trip was a refund...that is what was written into the WACs that you currently have.

Commissioner Distler

So if the police department of Gig Harbor made sixty crossings a month they would have to have perhaps as much as a \$1000 on deposit if they only process their request every six months, because otherwise they would run a negative balance would they not?

Mr. Pope

Under the broader exemption....I would presume that you would have non-revenue accounts for all of those classes and categories.

Commissioner Stedman

The last couple of meetings we've had on this we kept reminding ourselves...I hope that we do it again...the WAC that we have prepared now is not just going to affect the TNB. You include in here SR 167...we're going to have other toll projects, by everyone's understanding, and inevitably in this state we have always gone back to prior language of previous toll operations, or whatever it is we're dealing with and try to hope that the language of the prior will apply to the present. I hope in our language creation whether it's done by the AG or by us that we don't limit ourselves on this as looking at it strictly as the TNB issue

...it is not, and this idea of services for each county or any language that specifies this as a toll bridge only for Gig Harbor and Pierce County...I think that we are making errors here that we are going to regret, so I hope that the language will be all inclusive in a manner that we can apply these WACs to the other toll projects that are going to be coming forward.

Commissioner Barnes

I would have to agree with Dale, but I would also say that there will be toll bridges...bi-state bridges between two different states that need to be under consideration when you put this language together...whether it's Oregon...Washington or whether it's portions of Idaho...whatever, so we need to make sure that all of that is put into the mix.

Commissioner Stedman

I don't mean that the language has to be perfect for all circumstances...we already have two...we already have SR 167...it's already written into the WAC...we can change the WAC later on for a bi-state circumstance...like Ed's concern. I think for now we should cover our process so that we don't have to keep changing the WAC every time a toll project comes up.

Commissioner Forner

I live east of the mountains, so I don't use the bridge very often. I look at some basic philosophy as to how we are going to approach the TNB. Commissioner Stedman is right...this is just the beginning of a new day and a new way of paying for transportation infrastructure in the state. We better get it almost right...by that I mean...I wrote down three things...keep the payments simple for the people and the public. If you look at the fiasco that we get into with the ferry system with a zillion different payments...and some people pay more, some people pay less. It's impossible to track what the heck we're doing. So, let's keep it simple and spread the actual cost over all users to avoid some people paying more and other people paying less, because whoever pays less...somebody is going to have to pay more. Meet our obligation to pay off the debt service. That's our obligation to the taxpayers of the state of Washington...we borrowed that money from the transportation account and the Commission was given the responsibility by the legislature to make sure that we pay it back. It's the unpredictable that really throws them for a loop...if you get taxes that double over one year...that's bad...avoid large and big surprise increases in the future to make up for inadequate revenues...if you give in to political pressure...and just let the debt start piling up...eventually there will be a huge increase. Users need to know their costs will increase over the years, but at rates that are as predictable as possible. It's not like it's going to be free...we can't say there aren't going to be raises because of maintenance cost increases, but let's not avoid that and then finally one year we have to go out there and use a great big hammer and say okay it's going to be a thirty percent increase. Let's assume that when we are setting these tolls...and let the public know that it's going to keep increasing just like other utilities, but it will be as predictable as possible. That's my philosophy when I'm looking at how we deal with this initial way of paying for our infrastructure in the state of Washington. It's something that should be carried on to each project from here.

Commissioner O'Neal

First of all it seems to me that we should keep in mind...at least I think this is true... we do not have a ton of emergency vehicles running back and forth across this bridge. If that were a problem we will have a better count sometime after this thing gets going then we do now. I doubt if that's a big problem. My concern is that we should keep this as simple as possible...I agree with Elmira to that extent. I think I heard you say...Mr. Chairman that you think there should be some local limitation...that bothers me because that requires somebody

to interpret what a local limitation is. It seems to me that what we shouldn't do is have a facility that is some how limiting access by emergency vehicles for whatever reasons. If they are responding to an emergency we have to give them the benefit of the doubt...I think they should get the presumption in their favor that they are actually an emergency vehicle and they are responding to some kind of problem. I don't think we should have any interference with that kind of issue. The other thing is....the refund issue. As I look at this...should we require these folks to apply for the refund...that seems like kind of a bureaucratic extra step. Somehow there should be some kind of notification in recognition that an emergency vehicle has gone through, but I'm not sure we need to set up...we should avoid extra paperwork process. The sirens and flashing lights....I do not have a problem with that language. It makes clear that the vehicle is responding to something of importance and it actually helps define what emergency vehicle is. If the police, ambulance or the fire department have their sirens and flashing lights on they definitely think it's an emergency. I would like to see the language stay the way it is with the exception of dealing with the contractor issue. I would like to see the refund language changed.

Commissioner Dislter

There are two questions about that...Dale is quite right with regards to the language...and therefore the TNB vicinity language does not belong in the definitions. It belongs in some section specifically relating to the bridge if indeed we want to include that. The two questions about the lights and sirens....there are times when emergency vehicles particularly ambulances display lights, but not sirens because of concern that the siren will further disturb the patient being carried. I think that we should have emergency signals rather than lights and sirens, but I'll leave that to...the question then is what about the return trip. An emergency call is westbound, which is free, the vehicle returns without emergency signals on the return trip in the pay direction. That is not responding to an emergency...

Commissioner O'Neal

Well I saw that...that was in the original draft and I thought...whether they are responding or not they are on a trip that involves an emergency....I don't think we should charge them.

Commissioner Distler

In that case we have to eliminate the wording entirely with regards to emergency signals, because on the return trip such a vehicle does not display emergency signals of any kind.

Chair Ford

Steve I don't want to put you on the spot, but you've heard a discussion here...I think if I can summarize...we want to allow all of the defined emergency vehicles, which is in a statute, but we would not be specifically quoting the statute because the statute was designed for HOV lanes, so we would be using it as a basis, but we couldn't refer to the statutory reference. What we are saying is if I sense the consensus here...we would like to have language that excludes any of the identified emergency vehicles from paying tolls when they are responding to a bona fide emergency on or adjacent to the bridge. It has to be adjacent to it, because sometimes they need to go through the toll stop to get to an event that has occurred off the bridge itself. We want this as broad as it can be without giving away the store, so that it could be used...I'll say it nobody else will...say on a SR 520 toll, because we will have the same issues there. Steve, have I put you in to much of box here to work on some drafting.

Mr. Dietrich

I think that I have a sense of the direction that the Commission would like to go. I'll try to put something together for you.

Commissioner O'Neal

Do we need to have a final WAC today?

Chair Ford

We do, because if you delay it...it means that the whole process is delayed. It seems to me that the sense of the Commission is being made here...

Commissioner O'Neal

You would contemplate making a proposal as to who ever moves this would move it subject to the revisions.

Chair Ford

That's right.

Commissioner Distler

Do I presume that that in a sense we are retaining the language about bona fide emergency, although we may alter it in some way...that returning from such bona fide emergency is not an exempt trip.

Chair Ford

It is an exempt trip.

Commissioner Distler

It is....then that's not responding to..

Chair Ford

I understand...it should be...we've got to have the language...

Commissioner Distler

Then we really are saying responding to or returning from an emergency call...okay.

Chair Ford

They will be eligible to apply for an exempt account....this will only apply if you have the transponders...

Mr. Pope

So, I am a police department vehicle, or whatever it happens to be...I'm responding to an emergency...I'm eligible today...tomorrow I am not responding to an emergency, but I still have to cross the bridge. I have a transponder that's exempt...how do I pay my toll?

Chair Ford

Maybe you have to set up two accounts....maybe that's the only solution for you.

Commissioner Distler

You can't have one transponder report to two accounts.

Chair Ford

No....you would have to take out the emergency transponder...if that's part of it...I don't see how else you can do this. The other way David is the honor system....if that vehicle...I'm having trouble with your concern....your concern is that police cars are going to go back and forth across the bridge for other reasons than emergencies. That's your concern.

Mr. Pope

I'm simply saying that the way you are writing it is the exemption is for an emergency vehicle either responding to or returning from an emergency...not at other times.

Chair Ford

Right...

Mr. Pope

So....how do you enforce those times when that is not happening, if their account is totally exempt?

Commissioner Forner

I think that we are making this way more complicated then it should be. We have recordings of everybody that goes by there...if there is a problem then we can look at it....I would like to see an honor system. If they want to pay for responding to and returning from an emergency...if there is a huge amount that we should be concerned about...we can go back and look at the tapes...we can verify one month and say yes there is problem, or no there is not a problem. I'm in favor of keeping it simple. The honor system is for them to ask for a credit because they responded to an emergency and I want a credit for returning from it is simple....it can be verified....why make it more complicated....one transponder and one request for a credit that be electronic or however it is worked out. We can go back and check it.

Mr. Pope

That's the way that this was written originally.

Commissioner Distler

Are you saying that a non-revenue account can included paid crossings?

Mr. Pope

No.

Commissioner Dislter

Well then I'm lost...an account is non-revenue or its revenue.

Mr. Pope

That's correct...

Commissioner Distler

And therefore transponder X reports to one kind of account..

Mr. Pope

That's correct.

Commissioner Distler

Either all of the crossings are free or none of them are free.

Mr. Pope

That's correct. When none of them are free the process is provided in the WAC to apply for a credit, because we assumed that would be a fairly small number of crossings.

Commissioner Distler

If none of them are free then there must be a positive balance in the account to cover the crossing....is that correct?

Mr. Pope

Presuming the fact...yes but...again we think the balance in the account will cover all of those times when it's not an emergency. The other thing is that...if in fact you make infrequent trips across the bridge you will always have the opportunity to go through the manual lanes, so you could always pay in the manual lanes.

Commissioner Stedman

David...your last comment...I'm now moving quickly to the more liberal viewpoint being a conservative by nature...if in fact emergency vehicles are crossing the bridge at a infrequent and limited number of times....I tend to agree with the point that was made that we are making to big a deal out of a small issue. My feeling would be that an agency that had to apply for the discount...is going to eat it, because they don't want to spend the cost of putting the paperwork that it would require to get a limited number of refunds. Unless you can tell us that we are talking about big numbers here I'm moving back to the idea that it's an emergency vehicle and if it's authorized under the current law as an emergency vehicle we should give them a transponder and let them flow back and forth as needed, and absorb or eat the cheats that might occur on the process.

Commissioner Moser

I think we are respond because Dan raised the question...should emergency vehicles have to apply for a refund. I'm sure that the CAC probably has addressed this, and so I'm anxious to get to their presentation, which we said we were going to do in the first place without interrupting them. It hasn't happened, but anyway. I would be anxious to hear what the dialogue was. I think that it's very possible to be a policeman living in Gig Harbor and work in Tacoma, so why would you to exempt them if they are just going to work. I'm sure this is already taken place in terms of a conversation, so I would be anxious to hear what you guys have recommended, so that we don't over complicate it...

Mr. Pope

Let me clear up what I said...what I tried to say was that the emergency runs should be fairly small. I didn't say the amount of emergency vehicles crossing the bridge on a non-emergency run would be fairly small. If you remember our conversation a couple of months ago we really don't have any good data on that. What we did say was the actual emergency runs across the bridge when they were on an emergency would be a fairly small amount.

Chair Ford

Carol has raised a very good point...we should hear from the advisory committee...lets leave this here. David

...one thing would be available to us if we just flat out exempted these vehicles assuming they set up the exempt account and get the transponder we would have data about how many trips they're making across the bridge. That would be available?

Mr. Pope

That's correct.

Chair Ford

We will hear from Bob Ryan and the CAC and they can weigh in on this issue as well.

Robert Ryan, CAC Chairman

Commissioners I would like to introduce Mr. Jim Ray, Vice Chairman, Ms. Caroline Belleci and Sonja Morgan all member of the Citizens Advisory Committee. We met last Thursday and reviewed the recommendations that we had previously made to this Commission. After discussion we arrived at the consensus that we were supporting the \$1.75 and the \$3 toll, which was what we had originally proposed to this Commission based on the numbers that we had and the numbers that continued to be in effect as of this time as far the projected traffic counts. There was no change from any information that we received since January on what we were recommending for the tolls that it would be a \$3 base toll and a \$1.75 Good To Go discount toll. The per axle charge would go into effect as soon as the facility was open. Additionally we did discuss, and I have subsequently heard from many people regarding the exemptions and our recommendation as we stated in January and we continue to recommend, is that the exemption would not be given for anyone other than for emergency vehicles operating on and I believe appropriately returning from emergency events. As Mr. Pope said the number of emergency vehicles making the run is a fairly large number...the number of emergency vehicles making an emergency run is a very small number. Many times those are the same vehicle...many Gig Harbor Police Department vehicles may be responding to an emergency...at the same time later that week they go to and from Tacoma taking prisoners to and from the jail several times. It is our recommendation that the exemptions be limited to those emergency vehicles responding to and returning from valid bona fide emergency calls and that would be the only exemption that we felt was a legitimate exemption.

Commissioner Distler

Do you have any comment regarding the process by which your recommendation would be implemented?

Mr. Ryan

No we do not.

Commissioner Stedman

Bob, did you decide what is an emergency vehicle?

Mr. Ryan

We understood the definition of emergency vehicles just as you understood them...where it was defined in the WACs that were addressing the HOV lane usage, and that's what we were looking at...we looked at police and fire...first responder type vehicles and that's what we were looking at...we understood that to be a broader definition than when we were discussing it then what it has turned out to be...

Commissioner Stedman

So you think it should be what's here in .030 definitions?

Mr. Ryan

Yes....we thought that's what it should be.

Commissioner Stedman

Including prosecuting attorneys and coroner....all of those?

Mr. Ryan

If they were responding to an emergency situation then yes we thought that...any of those...we did not feel it was our prevue to specifically address who was responding to an emergency and what that particular situation was.

Commissioner Dislter

You think that the requirement be that they display emergency signals, so therefore you are saying that on the return trip if it were eastbound they would not be exempt. Is that right?

Mr. Ryan

Again, I think that there was never an intent to say that those people that were involved in an emergency run...either going to it or returning to their home base from it...we felt...that was the intent of our committee and I don't think that particular situation would cause them problems....or having to pay the toll. If they were coming from the eastside and going over to respond and then had to go back over to the Westside and they weren't still on an emergency...I think that's just one trip...they're responding to an emergency.

Chair Ford

So, in effect Bob, you would suggest a limited modification to bona fide emergency to take out the reference to lights and sirens and include responding to or returning from an emergency call.

Mr. Ryan

Yes...I would.

Commissioner Barnes

You are not talking about vehicles that a person would drive from their work location to home and back every night. You excluded them as being on emergency calls where there is police or fire or whatever.

Mr. Ryan

If they were on an emergency call and they had an emergency to get home, then I suppose they would be exempt, but otherwise that would be a commuting trip and I think....there are a great number of those emergency vehicles that are located in Gig Harbor that commute to Tacoma and King County. I think that those vehicles should in fact be paying.

Commissioner Moser

So... was the question of applying for a refund discussed at your committee level...if so, what was your recommendation? Dan clearly believes that they shouldn't have to go through the bureaucratic red tape of applying for a refund.

The difficulty we are having is...if they don't apply for a refund and we can't give them two transponders how do we implement this kind of....

Mr. Ryan

I think when we discussed this...we understood that they would essentially have a transponder, that they would be charged and in fact have to apply for a refund on those particular situations. I believe we discussed having this done on a monthly, bi monthly or quarterly basis, so that there was not a tremendous amount of additional bureaucratic cost involved and the trips would be taken account of...there is a very specific record kept, and they submit to the toll facility for a credit for those trips in that prior period.

Chair Ford

I think that language is important...I think rather than refund we should talk about a credit, because what you would do is just credit their account for one trip through the toll lane. If we pursue the honor system...this can be at least logically audited, because you would be able to see the number of trips. If they just email the appropriate account executive for the department that we made this trip on August 31 and we want a credit for it...the question is if they lie about it to often...sooner or later the state auditor will catch up with them. They will look at those accounts and say wait a minute these guys are responding to a trip every morning...it's strange that it's always happening at 8 a.m. in the morning right in the middle of the commute. I would at least suggest we talk about this approach that they shall receive a credit.

Commissioner O'Neal

I want to support that...I think that they need to be checked somehow, but let's not make this overly cumbersome. Make it a credit and they can apply by email or whatever.

Chair Ford

Yes...some easy way to do it...we have to operate to some extent...I hope that law enforcement and people that respond to injuries are honorable people. I hate to characterize this whole group as people who are going to take advantage of the system.

Commissioner O'Neal

I agree with you completely. These are people that are public servants and we have to presume that are going to be honest. I think that they are.

Commissioner Distler

I'm sensing that we have an agreement of what to do. My unease continues to be with the Department's furnishing us with a nuts and bolts way that this will work in the way that it's intended. I don't know if it's appropriate, but I would want for the Department to caucus and come back with something a little more reassuring than what you gave us a few minutes ago.

Chair Ford

That's fair enough, but let me suggest this...we've got two extremes on how to deal with this. One is to narrow it down so that clearly any of the people or vehicles that are described in .030 will not be required to pay if they have a transponder and have set up their account they will be allowed to get a credit, in other words that's the conservative side, and it will be to some degree an honor system. On the other side you open and you put it into an exempt account like the maintenance vehicles

We are going to assume that the maintenance vehicles and the state patrol are non-revenue accounts, and also the constructors while they are finishing the bridge, so we assume every trip is for official purposes.

Commissioner Distler

Mr. Chairman I'm going to make a motion, if that is in order, and that is that we accept the WAC as written with the following exception....that the definition of a bona fide emergency...that wording be added that responds to or returns from an emergency call and that words lights and sirens activated be deleted.

Commissioner Forner

I second.

Chair Ford

Going to page eight under .090 (2) and perhaps change the language "as defined herein shall receive credit for their emergency trips" rather than refund.

Commissioner Distler

I'm happy with that, but I still would like to hear from the Department as to how they would propose to implement that, and whether we need anything in the WAC.

Chair Ford

Can I suggest this...Bob would you stay there...could I ask your colleagues to go back and whoever from the Department is going to respond to this please come forward.

Mr. Ray

I'm the maverick on this committee....in that I live in Lakewood...I happen to have a cabin on South Sound, so I'm familiar with going back and forth over the bridge, but let me tell you this...this is in support of what Dale said a few minutes ago. Since that article hit the newspaper yesterday morning, I have been besieged...my phone was ringing from folks that don't drive over the bridge. It was just the fact that we would even contemplate not including emergency vehicles, and secondly, they said that this is just the tip of the iceberg....when we start doing turnpiking or whatever are the same laws going to apply. So you've got a lot of folks out there thinking ahead of the game right now, as a matter of fact.

Chair Ford

You've heard sort of a motion...we are trying to see if we can narrow this down, and we are sort of going half way your way and half way the other way, but did you understand what Mr. Distler said and my further suggestion, does that get us to the point you think you can administer this in a reasonable way. In other wards they would set up an account...you would have some sort of a star on it because it would be a little different account then if I went in and signed up for an account...which says that some of the use of this account is subject to credit. Is that going to work?

Greg Selstead?

Yes...it will work...again maybe just for the record as we go through this last sentence "the Department will establish and oversee the procedure for emergency vehicle toll credits as proposed."

Commissioner Distler

That will preclude their requirement to make any kind of a deposit for a vehicle....is that fair

to say? Say...a police car that crosses the bridge fifty times...ten of which is an emergency...is that police car going to have to make a deposit to cover the other forty trips, and will that be enough to cover the ten. There's a problem here, because the way you're normal transponder accounts work...any time someone crosses and there's not enough money in the account you photograph the license plate...right?

Greg Selstead?

Correct...they will receive though, however, prior to that a notification showing where they are at with their account balances. Again, the other part of it is the automatic renewal or putting additional dollars into the account on an automatic basis.

Mr. Pope

The accounts can be established with a minimum of \$30, this was recommended by the CAC, and can be replenished in almost any amount, so to the extent that an organization that has emergency vehicles would need to establish an account...that is the basis of that...they can replenish in higher amounts. The base is the \$30.

Commissioner Distler

Can multiple transponders report to a single account?

Mr. Pope

Yes...

Commissioner Distler

So, a police department with fifty vehicles could establish one account with fifty transponders...is that true?

Mr. Pope

That's correct...

Chair Ford

It seems to me that this is a reasonable business discuss that you need to have with these agencies. If they are going to have a lot of vehicles with transponders in them, and many of the trips are going to be non-emergency trips, they better put some money in.

Commissioner Moser

This is more procedural in terms of a non-revenue account. I notice that we don't have that in the definition of the WAC. It might be helpful to have that in the definition section of the WAC, so that we all understand what a non-revenue account is.

Mr. Pope

I believe that's actually defined in the Department's process WAC, but if it's not we will put it in here.

Commissioner Moser

I think that it should be in the tolling WAC as well.

Chair Ford

That would allow you to cross reference the state patrol, maintenance and those that are non-revenue accounts. The others are revenue accounts, but they are allowed credits for the emergency responses.

Commissioner Distler
And multiple transponders.

Commissioner Forner
Mr. Chair, we have a motion and a second on the floor to deal with the clarification of the WAC, which is clarifying what an emergency vehicle is....

Commissioner Distler
Just the definition...I did not make a motion about the procedural part of the WAC....

Commissioner Forner
I would like to bifurcate this and deal with this other issue, and get through this motion, so that we know what the identification of emergency vehicle is. I call for the question on that issue.

Chair Ford
Explain exactly what are we doing....

Commissioner Distler
I'm only talking about rewording "bona fide emergency" and recommending that my motion adopts the definition of authorized emergency vehicle, and bona fide emergency as amended.

Commissioner Distler
Should I repeat it?

Chair Ford
Yes...repeat it, so we know exactly...

Commissioner Distler
"Bona fide emergency occurs when an authorized emergency vehicle as defined herein responds to or returns from an emergency call, or is in the pursuit of an actual or suspected violator of the law."

Chair Ford
Everybody understand how it's amended? All in favor of that amendment, this is the amendment to bona fide emergency vehicle. All in favor say "aye"....

The motion passed unanimously.

Chair Ford
Now can we go to section .090. Before we do that let's go back to the question of non-revenue account. Do you have a definition you can read to us David?

Mr. Pope

Actually I don't. I do not have that with me. Essentially a non-revenue account is an account with.....vehicles that cross that are not required to pay the tolls, so it's like a pass account.

Chair Ford

Then we would be voting to insert in section .030 the definition section, a definition of non-revenue account.

Mr. Pope

I'm not sure how this changed, but originally this said the "authorizing non-revenue account" it didn't say an "authorized non-revenue account".

Chair Ford

We need this to simply define what a non-revenue account is...can you do this now Amy before we finalize this I would like to have it. That would go probably after high occupancy toll lanes. We will wait for this to come back. I have suggested that we consider under section .090(2) that instead of "may" we insert "shall" and instead of "refunds" we say "credit."

Commissioner Moser

I have a question on the process...maybe Mr. Pope can answer this...is it the same thing to say "shall receive" or "may apply?" they're quite different in my mind...one says the Department is going to credit the account...the other says to me that the emergency vehicle is going to apply for a credit, so the onus is on...again coming back to Dan's comment...then the onus would be on the emergency vehicle as opposed to the onus being on the Department....I just want to clarify what the intent might have been at the Department...

Commissioner Distler

Unless we exempt all the trips by any given vehicle the Department is not in a position to know which trips are emergency trips, so by definition if we exempt only emergency trips then the owner of the transponder must notify the Department which trips are emergency trips.

Commissioner Moser

Perhaps the language should read "may apply" as opposed to "shall receive" is all that I question.

Mr. Selstead

The intent was that the onus would be on the safety agency to apply.

Commissioner Moser

Would it be clearer then to say "may apply" as opposed to "shall receive?"

Mr. Selstad

Yes but, "shall receive" there's no way for us to verify what is an emergency versus what is a non-emergency.

Commissioner Moser

Then I concur with your thought Mr. Chairman, but I would suggest perhaps "may apply."

Chair Ford

So, let's see if this language is correct "may apply to Washington State Department of Transportation to receive credit for their emergency vehicle"...they're applying to receive a credit...

Commissioner Moser

"apply for a credit" would be adequate.

Mr. Pope

You said that you want to also change the end of that...

Mr. Dietrich

I think that I've got it "herein may apply for a credit for their emergency trips."

Commissioner Stedman

We're back to my earlier comment about...this is a multiple toll group of WACs we are supposed to be creating. In this particular section then we are only applying this language and these rules to the TNB. Is that correct?

Chair Ford

That is correct. We can change that in the future to say all tolled facilities.

Commissioner Distler

"Yes" because it's procedural. The definition exempts them...this is procedural...is that correct, but wait a minute, the definition applies to all tolled facilities...oh I see...that's fine.

Chair Ford

Is there any other places that we need to make corrections to make this all tie together....there may be?

Commissioner O'Neal

(2) A....we are going to change refund to credit....right?

Chair Ford

Do we have that Steve? On top of page nine where it says "refund" to be consistent the word needs to be "credit."

Mr. Dietrich

Yes....I've got four of those...

Commissioner Distler

I move we adopt the revised .090 section to reflect the sense of the discussion just held.

Mr. Dietrich

Before we do that the Chair earlier mentioned adding a phrase relating to contractors...

Chair Ford

You all the language that the Department gave us....does that language work for you? That's part (B). They show it as part (B) this is Linea's email Friday to Reema.

And there we have a sunset clause on it. Which we might have to change a year from now, but at least it would go away either when they finish their work or not later than July 1, 2008.

Commissioner Distler

I amend my motion to include the recommended wording as a new section (B).

Chair Ford

Do the members of the Commission understand the motion that is before us?

Commissioner Distler

Is there a second?

Commissioner Forner

I second it...

Chair Ford

Is there any further discussion? All those in favor say "aye"

The motion passed unanimously.

Mr. Pope

If I may for a moment....I want to introduce Elizabeth Lagerberg who is with the Attorney General's Office as well. When we were doing the procedural WACs...and I mentioned that I thought that we had a definition on revenue in there...we are looking at this point, but I think we are not going to find it, because we were....Elizabeth made the recommendation to actually exclude it from our procedural WACs and I will let her explain a bit....just again for your consideration.

Ms. Lagerberg

So, my theory was....what kept happening with the non-revenue account was that people kept thinking that you would be able to apply for it somehow with it in the definitions...the problem with WACs is that they are for the public, and the non-revenue account is really a very internal procedural decision within WSDOT. It only applies to very few WSDOT vehicles and very few state patrol vehicles that are working on the bridge. We did not want to put it out there for the public that there is this non-revenue account and have...you know we had a lot of organizations calling wanting non-revenue accounts. It's not really an option for the public it's just something that WSDOT is doing internally for those few vehicles that will be working on the bridge or very near by the bridge for the state patrol. That was our decision to take it out of the procedural WACs. You could include it here, but I'm not sure why you would...I don't think it's going to clarify anything, I don't think it's going to help in any way. You just have those few vehicles that are in their own class, because they work on the bridge....it wouldn't make sense for them to pay.

Ms. Griffith

I would like to add a counter to that with all do respect....I think because this is being read by the public...I think that you create inherent confusion when you use terminologies that are not clear...even to me...when I read non-revenue account...I'm really not sure what that means and I think that we could write a definition that could state "this is only for those vehicles that are eligible and this is what is meant by this term", so that it's clear to the public that not everybody can apply, but it certainly needs to be defined because it's used as a term in the WAC.

Ms. Lagerberg

We did have that...we had a definition that said “a non-revenue account is for the state patrol and for WSDOT vehicles that work on the bridge” and then we had a section that said “WSDOT vehicles working on the bridge and the state patrol have non-revenue accounts”, so you can have that kind of circular definition if you want to, but again the risk is that public organizations see that non-revenue account and take it out of context.

Commissioner O’Neal

Where is “non-revenue account” used?

Chair Ford

It is used on page eight .090 section one. I think that it’s okay...I think maybe the only thing we need to say “the following vehicles providing services directly to the TNB are exempt from paying tolls, but must be equipped with a transponder and have an authorized non-revenue account.” If we simply say these are the only...at this point at least...the only agencies or users that can qualify for a non-revenue account. We might want to clarify that a little bit...it’s A, B and C.

Mr. Pope

Actually Elizabeth just made a suggestion that you could probably put a period right after exempt from paying tolls.

Chair Ford

Let’s talk about that....”the following vehicles providing service directly to the TNB are exempt from paying tolls”, but you do want them equipped with a transponder, so you want that to be said....

Mr. Pope

We will take care of that for WSDOT vehicles and I suspect state patrol won’t have a problem with that.

Chair Ford

So, if you put a period after transponders wouldn’t that take care of it for the WAC?

Commissioner Forner

You could start that paragraph “only those vehicles.”

Jennifer Ziegler

I think not to make this to challenging, but in your emergency vehicles in subsection (2) you say who is exempt and then you say what the process is for providing the exemption, but in subsection (1) A & B you just talk about the exemption, but not the process...sort of make them parallel...I think that you could just do the same thing and add similar language that you’ve got in sub A to say “must have a transponder with an authorized pre-paid account.”

Ms. Griffith

Well no....In sub (1) A they are free so they wouldn’t have to have a pre-paid account.

Ms. Ziegler

I see...so I guess the question is whether you want to specify the mechanics.

Commissioner Distler

May I offer some language?

Commissioner Stedman

Before we offer language...I want to go back to Jim Ray's comment...a little newspaper story appeared in the paper and our CAC people get a lot of calls. Whatever goes into press releases is going to determine the public's interest on this issue. We can talk all we want to about it doesn't mean this it doesn't mean that, but whatever is published is what the public is going to believe is the language, and anything we say like non-revenue account or whatever might suggest free passage is going to be an issue, so I would hope our AG is aware of how much public viewpoint comes from not what the AG's office writes, but what the media folks out in the lobby write. Are we suggesting then that no reference here is going to be made to "non-revenue account?" Are we suggesting any language that could be misinterpreted by the simple repeating of what we write as being something that the public will find....is there anything in there?

Chair Ford

I guess the fact is the three exemptions which we now have included under (1) in .090....the patrol may be on an emergency trip, but it may not, it may be just covering its route of enforcement on SR 16, so they don't really fit the emergency clause, by and large the maintenance doesn't, there may be times when it does deal with an emergency, but by and large they don't and likewise the constructors. This is a flat out exception to these three categories different than responding to an emergency, because if that's all we were doing then we wouldn't need this section, so I hope in the reporting of this, whether people like it or dislike it is another issue that this is called out as a further exception to the need to pay tolls. I think that we can get rid of the non-revenue account, because I agree that's an administrative problem for the Department not for us. To me it's clear, but I don't know...Dale do you think that the public will be confused by this.

Commissioner Stedman

I'm convinced that the public is confused about almost anything, so in this instance....anything I'm talking about political terminology that we use to report these actions that we take. All I'm urging you to do is to avoid words that have the suggestion that there are people getting free passage on this bridge and later on SR 167 that don't deserve it...

Chair Ford

Okay...

Commissioner Forner

Bob....lets hear your wordage and then I have some if I don't like yours.

Chair Ford

Bob you are suggesting that we put a period after transponder and eliminate the rest of that sentence.

Commissioner Distler

No....I am suggesting that we say "but must be equipped with transponders and have an account which will record crossing, but not charge tolls." Or put a period after the word transponder....so that's fine to.

Commissioner Forner

I would just put “only those vehicles providing service directly to TNB are exempt from paying tolls and must be equipped with a transponder”, and let the Department figure out how they do it....

Commissioner Distler

Are you keeping A, B and C in there? Then you must say “only the following vehicles.”

Chair Ford

Could I have a motion, so that we deal with this.

Commissioner Distler

So moved....

Commissioner Forner

I second....

Chair Ford

Does everybody understand what the wording would be? We put the word “only” in front of “the” and then we put a period after transponder and deleted the rest of that sentence. All those in favor say “aye”.

The motion passed unanimously.

Chair Ford

Are we satisfied with the WAC? Now we are at the moment of decision...070. I'm going to do a little further clarification on this fiscal year expense. I just want to make a couple of points that are obvious. First of all the Legislature gave this account \$1.3 million to lower the toll impact, they also provided \$5 million, which has to be repaid, but to give us some wiggle room within the accounts on the cash flow basis. It's sort of the cash flow balance that we have available in this process. In addition to that there is a carryover from the 2007 fiscal year as I understand it, and I would like the Department to correct me if I'm wrong...that is subject to be paid back by tolls...it appears that the Legislature is not giving us a directive how quickly or when it needs to be paid back, but before tolls come off that \$5.3 million has to be paid off, and as I understand it, it is not an inter-fund loan where we have pay interest, but I want your response, and maybe Amy you're the one who knows the answer to this...have I got the \$5.3 properly identified? It is an obligation of the tolls, but it can be paid off over the life if you want it to....I'm not saying that's good business...and there is no interest, or is there interest?

Mr. Pope

There is no interest as of now...this is a transfer from the Motor Vehicle Fund and the Tacoma Narrows Bridge account to pay for those cost in FY 2005/07. As of right now those costs have to be repaid.

Chair Ford

But sometime in the period...in other wards it's actually in some ways an additional cushion for us.

Mr. Pope

The Legislature hasn't specified when it...

Chair Ford

I understand, but in effect you could use to this to some degree as long as it's by whatever...what's their final year out here....good 2030.

Commissioner Distler

I have a question of our AG. I asked the question the last meeting and I'm going to ask it again. My understanding of this process today is that we are going to adopt a WAC which then will be out for public comment for thirty days and that this process will culminate in a hearing on June 5th which will allow us to set the tolls, which would then become effect July 5th or when the bridge opens whichever comes later. Is that correct?

Mr. Dietrich

My understanding of it is that the Commission is voting to authorize the Chair to sign a notice of proposed rule making in the form that we are talking about today.

Commissioner Distler

If we adopt a WAC that includes a given toll amount and we place that out for public hearing, if we choose on June 5 to finally....sorry... if we authorize the publication of the CR 102...if on June 5 we were to decide to finally adopt the WAC with any element of the tolls recommended in today's action being higher....that we would incur a delay in the process, because we would have to undergo an additional thirty days public involvement process and yet another hearing....is that correct?

Mr. Dietrich

My understanding is your regular counsel has advised that an increase in the toll above which is included in your notice of proposed rule making would constitute a substantial change in the proposed rule, and then would require another notice period....I think that's correct.

Commissioner Forner

What about a decrease?

Mr. Dietrich

A decrease would not be in his opinion a substantial change and I think that I would agree with him.

Commissioner Distler

So, taking for the moment Mr. Pope's earlier statement with which I took issue, and that is that we have these four proposal that are all focused on these two proposals, that from the Department and that from the CAC. If today we were to adopt the Department's recommendation we could without further delay revert to the CAC's recommendation on June 5, because one of its elements is lower, but if we were to adopt the CAC's recommendation we could not without a further delay in the process revert to the Department's recommendation on June 5....is that correct?

Mr. Dietrich

I think that's right.

Chair Ford

I want to refer to the document that has four versions available, but it also shows the fee that would be paid by multiple axle vehicles. For purposes of talking about this from the point of view of the two recommendations that we have in front of us...the base toll is on a per axle basis, just so people get this clear. The base toll per axle on a cash basis is \$1.50 on a "Good

To Go” it’s \$1...this is the Department’s recommendation. Then it goes through bi axles up to the six axles...what it would be, so the typical that most of us drive \$3 for cash and \$2 for “Good To Go” and so on...it ends up if you pay cash and you have six axles or more vehicle you will pay \$9 or \$6 with a transponder. If you use the recommendation that came from the CAC you go to number three and the base rate for cash remains the same \$1.50 for each axle up to the six axles, but if you go under that CAC recommendation the “Good To Go” the per axle rate is 87.5 cents or a \$1.75 for the typical vehicle and \$5.25 for a six or more axle vehicle if you have a “Good To Go.” So do we all understand these two recommendations?

Mr. Pope

If I could just point out, again that the CAC met Thursday night and so we were putting these things together on Friday, and I don’t think any of us thought in detail what that would do to a three axle or a five axle vehicle. If you see there are some note threes on your chart. If you actually multiply .875 times three you come up with I believe it’s \$2.62.5. We can charge a half cent rate...even electronically. I thought we could, but we can’t, and so you have to round it somewhere either down or up. I rounded it to the nearest nickel up. You could round it any way you want, but we can’t charge a half cent.

Commissioner Stedman

That’s nothing unusual in this part of the state. You’ve seen this in the ferry system for a very long time. You round it to the nearest nickel or the nearest dime whatever it is. Does that sound unusual to you?...to round it to the.....

Chair Ford

It does require us to put appropriate wording in that tolls will be rounded, for example, to the next highest nickel. We need some language to that effect.

Mr. Pope

That’s actually a note on the bottom of this chart.

Chair Ford

Again...I would like us rather than...footnoting it is okay. Does that bother anybody to footnote, or do you want just a statement across the board?

Commissioner Distler

I think that it’s fine in the toll schedule.

Commissioner Distler

I recommend we adopt the Department’s recommendation \$3 cash toll, \$2 ETC.

The later effective through June 30, 2008 only, and that the cash and ETC tolls for multi-axle vehicles be as defined by the Department in the appropriate table.

Commissioner Forner

I second that.

Commissioner O'Neal

Is this an appropriate time to propose an amendment to that motion....I have participated with the CAC in their deliberations. I think that they have had very extensive discussions that were very serious and intelligent. I respect their deliberations...I think that the proposal that they have brought forward, \$1.75 and \$3, accomplishes the revenue goal, and I think that we have to recognize that the Legislature obviously plays a role here too, and the Legislature has some concerns about what we are doing, not everybody agrees of course on any particular direction I suppose, but they did put in a \$5 million loan instead as sort of a back up. It seems to me what that backup would apply to is the matter of coverage. We know that these traffic counts are not going to be perfect, they could be high they could be lower. One of the concerns that I had about some of the earlier proposals was that the coverage was not high enough. Here we are talking about what the CAC proposed. Their coverage is 114 percent, but they are also cognizant of the fact that there is \$5 million available to make sure that we are covering the obligation. *With that, I propose that we substitute the amendment on the floor with another amendment that would insert the \$1.75 for the ETC.*

Commissioner Moser

I second that.

Chair Ford

We have an amendment to the original motion in effect rather than adopt the Department's level we adopt the CAC's level for the "Good To Go."

Commissioner Barnes

I would like to ask Dan, the CAC and the Department a question....In considering your recommendation was there consideration of how many people were going to by the "Good To Go" passes? How many people did you have to have to justify the \$1.75 and the \$3 or the \$2 and the \$3 that the Department is calling for?

Commissioner O'Neal

In all of the scenarios....the people that have done the calculation have assumed a 65 percent average ETC participation.

Mr. Ryan

In year one it was assumed that there would be a 65 percent ETC usage on the bridge at the \$1.75 based upon the information that we have.

Commissioner Barnes

If it's only 30 percent then where do you go?

Mr. Ryan

If in fact your ETC usage is lower, the revenues are higher, although you will have a drop off in the number of people using the bridge because the Wilbur Smith calculations say the higher the dollar amount is lower than the usage will be....if the ETC usage is dropped off the revenues in fact increase.

Commissioner Barnes

If the transponders say go to 60 or 70 percent....then less coming in then what would happen?

Mr. Ryan

We have a coverage ratio without even accessing the \$5 millions in year one of 114 percent, which if you notice is about as high as any number in the entire projected toll period, so we feel like we have the coverage if the usage goes beyond the 65 percent our revenues drop off then from what we are projecting, then we feel that we have the coverage in year one to cover that, if it goes beyond this, what it shows in the yearly remaining funds of \$3.5 million. If it uses beyond that we have the \$5 million safety net...essentially that is provided by the Legislature.

Commissioner O'Neal

You might also add, Bob that the CAC does contemplate another review of this on a regular basis, but will have a meeting to review where this is in October.

Mr. Ryan

That is correct...we are starting meeting with actual revenue and actual traffic count numbers as soon as the bridge opens, we will be starting to get that information. We are having meetings that are starting to be scheduled in October of 2007. We will meet at a minimum on a quarterly basis in order to continue to review what the actual results have been, so that we can be responsive to this Commission, so that we know what's going on with the bridge.

Commissioner Barnes

So, you are satisfied with your figures and what the committee has recommended.

Mr. Ryan

We are satisfied with the figures that we made the recommendation with.

Commissioner Stedman

Mr. Chairman, I'm going to vote for the amended amendment for a couple of reasons. Dan made the point that the CAC has been diligent and they have. The creation of the CAC is part of the law and I'm always in favor of giving some support when the law says "you shall consider" the issues of the CAC. I feel that we have a substantial obligation to do that, but mostly I think the lower the price that you can charge for those who are getting the transponder will in fact be critical to this question of how many are going to take it. I know some of you argued that 25 cents isn't going to make difference....it's going to make a difference, and finally the fact that whatever rate you apply is only going to apply until next year. We are not freezing this in granite, and a year from now everybody is going to paying the same price anyway, so I would encourage the Commission members to recognize that this is the time to help get the transponders in the greater number then they would be if it were \$2 rather than \$1.75.

Commissioner Forner

I do give the CAC an awful lot of credit and appreciate the work, but going back to my original philosophy of meeting our obligations so that in the future we don't have to have that big jump...that's one reason and looking at the volatility of the market place in construction today this is not just paying off the bond, but it is also covering maintenance and operations of that bridge, and if we look at our past construction costs we are \$2 billion a dollar short, and so I guess I'm going more on the little bit higher side, and within the next thirty days we have the public hearings and people can really convince me that the \$1.75 is not going to mean a huge increase a year from now then I would be willing to back off, but I'd rather have them start out at this level and then next year just have to go to a reasonable increase and set that pattern rather than cutting it short. The other thing is this \$5 million...it would really be nice not to have to take that and pay that back in the future, because that again is going to impact somebody...maybe not this year, but next year and the next years, so that's why I went to the higher number. If we have to come down a little bit we can still open the bridge on July 2nd, but if we are short we are in the same boat that they were in with the ferry system where we are going to be playing catch up for the next ten or fifteen years.

Commissioner Moser

The reason that I supported Dan's amendment is that I feel that the CAC has done its work. I think that there is an expectation of the public to have an adequate debt coverage ratio, which it does. It's a 115 percent or 114.8 percent. I think that's adequate starting out. I understand our reservation of...we could always come down lower, but that's a game, and I don't like playing games with the public. I don't want to say lets set it at \$2 so that we have a little bit of flexibility knowing that in a month we are going to come back to a \$1.75. I would just as soon put it out there right now. I concur with Commissioner Stedman. Let's get this ETC sales off the ground. I think that a \$1.75 is adequate and I don't want to play games with the public, and I feel confident that the CAC did its work.

Commissioner Forner

I don't think I was playing games with them. I was leaving an opportunity to deal with the reality of the volatility in the market.

Commissioner Distler

I'm not playing games either. This Commission is charged with setting the tolls on the TNB and at the moment perhaps other toll facilities. It is also charged with setting ferry fares, an issue with which I have some concern. The CAC is an advisory committee, and while I give what they have told us great weight, I also give great weight to what the Department has told us. I don't think the Department has acted capriciously or that they have acted in a way that dishonors or ignores or in anyway discards the advice of the CAC. If this Commission is going to be anything in terms of adopting tolls and setting tolls that provide the state with some reasonable assurance, that despite the uncertainties of the forecasts that we have enough money to cover our statutory responsibilities. I do not think that a savings of \$5 a week by an ETC holder who crosses five days on the way to work will be much of a disincentive for that user to get an ETC transponder. I do not believe that a discount in excess of one third, which is a dollar off of \$3 is prudent or necessary to achieve the desired results. The desired results being number one...to insure ETC participation levels high enough to make the toll operation work smoothly from day one and number two to provide the financials with enough flexibility to cover the uncertainties in all of the numbers that we have, and that's why I'm strongly opposed to the amendment.

Chair Ford

Before I ask for a vote, I have one final question for the Department. Do we have a date that

the bridge will open? That is another variable in this if we are talking about the fiscal year of 2008. Has anybody given us a date?

Ms. Laird

For the record I'm Linea Laird, formerly TNB project manager. As far as a date, we are still bouncing around an opening timeframe of some where between July 7th and probably July 15th. We are striving to meet the earlier date, but we're still in a range period, because we still have some time to go. Setting a toll rate by July 5th would be about the last target date that I would go to as you do your work.

Chair Ford

I wanted this raised simply to remind members for the fiscal year, and that's the numbers that we are dealing with up here. We may have only eleven and a half months of tolls. I'm not saying that it is going to make a big difference one way or the other. That's another variable just like how many cars are going to go over the bridge, how many are going to get ETC versus pay the cash. All of these variables, which we can't judge.

Commissioner Distler

Mr. Chairman both spreadsheets assume August 1.

Chair Ford

That would be if it opens around July 15th. We would have a little extra revenue....right!

Mr. Ray

I'm sorry...we've all admitted one thing. It comes up at every CAC meeting that we have, and that is the volumes really not waiting to cross that bridge in the morning. Because of the interim period where there is still going to be one lane closed and you won't have full access to that bridge. If that thing backs up further, that is way we have a lot of money on ourthat's one of the motivations that we had in trying to make sure that the "Good To Go" was we could hike just as quick as we could to some kind of volume to relieve that pressure. That's all, but I didn't hear any mention of that.

Chair Ford

That's another point....

Commissioner Stedman

Jim....the CAC's viewpoint would be then that the highest sale month of the year is going to be the day that the bridge opens and one month later, because everybody will have crowded into those congestion lanes and they are going to say I'm not going to do this again, and they're going to buy a transponder at a \$1.75.

Mr. Ray

It would take me sitting one time over there for about fifteen minutes to change my mind about a quarter.

Commissioner O'Neal

Mr. Chairman can I make one more comment....I just want to reiterate something...the CAC was established by the Legislature, and one of the reasons for having it was to give us a local read on how we should toll this bridge. With all due respect to others who comment on what the reaction might be...I think that we should give deference to these folks, because they all use the bridge, and they haven't come out with a real low ball number...they've come [with](#) a

number that actually looks like it's going to cover the cost of this thing, and they've done it even though they are going to have to pay these tolls too...I think that's another reason to pay attention to what they are saying....we shouldn't forget that the Legislature specifically established this \$5 million cushion contemplating that this would start out possibly with a lower toll and that there needs to be adequate coverage.

Commissioner Forner

I remind you Dan...that's not a cushion...that is a loan that has to be paid back by some future generation.

Chair Ford

Ed you can have the last word and then we are going to take a roll call on the amendment.

Commissioner Barnes

I asked Bob and both the Department to give their indication about their \$1.75 versus \$3...\$2 versus \$3. I didn't hear from David as to why the Department feels that it's necessary to have the \$2 and \$3 toll. I didn't hear their arguments. I heard pretty good ones from Bob...I heard nothing from David....why do you think that it's necessary to have the \$2 and the \$3?

Mr. Pope

The recommendation that we made to you a couple of months ago...the \$2 and the \$3...if you look at all of the spreadsheets.... that essentially does not carry a negative balance forward beyond the first year. We thought that it was really important to be able to start the second year of tolls without a negative balance. Absolutely...could numbers change...they could, but we thought that the prudent thing to do was start the very second year without a negative balance, and that's really what the \$2 recommendation is based on, and the fact that in all of the discussions that we have had a discount will certainly help with ETC, and we thought that \$2 would do that as well.

Ms. Ziegler

I just wanted to be sure before you did the roll call...I just wanted to make my clarifying reminder that I'm a non-voting member of the Commission.

Chair Ford

Dan....since you made the amended motion...I'm going to ask you to tell me whether you are voting "yes" or "no" on your motion.

Commissioner O'Neal

I'm voting "yes" on the motion.

Chair Ford

Ed...how are you voting?

Commissioner Barnes

I will vote “yes” on Dan’s motion.

Commissioner Stedman

“Yes”

Commissioner Forner

“No”

Commissioner Moser

“Yes”

Commissioner Distler

“No”

Chair Ford

The motion passes.....I assume we do not have to go back now and vote on the amended motion.

Ms. Griffith

You just voted on the amended motion.

Chair Ford

So, the original motion is gone....so we have set...as amended....we now need a formal vote on the amended motions...the amended motion is \$1.75 for the “Good To Go” pass and \$3 for cash with the per axle amounts as shown in the data that we have in front of us. I think that we can do this by a voice vote. All those in favor of the motion as amended say “aye”.

The motion passed with Commissioners Distler and Forner voting “No”.

Chair Ford

We have an approved motion, and that’s what will be published with the discussion of the WAC changes that we’ve made. Steve....I know that you are filling in....can we work with the Department to get those few changes we had to the WAC document then we can send it over to the Code Reviser. My understanding that would not actually be published until what date....because of their schedule.

Ms. Griffith

It has to be to them on Wednesday, May 2nd. It will be published on May 16th.

Chair Ford

We have to get it to them by Wednesday and it will be published on the 16th of May, and that will keep us on track. Thank you...is there any further discussion?

Chair Ford

We are adjourned.

The Commission meeting adjourned at 12:00 p.m., on April 30, 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

DOUGLAS MACDONALD, Ex-Officio Member
Secretary of Transportation

JENNIFER ZIEGLER, Governor's Office

ATTEST:

REEMA GRIFFITH, Executive Director

DATE OF APPROVAL