

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §1.4 relating to public access to commission meetings, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.

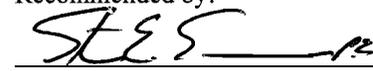
IT IS THEREFORE ORDERED by the commission that the amendments to §1.4 are adopted and are authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:

  
General Counsel

Recommended by:

  
Interim Executive Director

**111077 SEP 27 07**

Minute  
Number

Date  
Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts  
3 amendments to §1.4 concerning public access to commission  
4 meetings. The amendments to §1.4 are adopted without changes to  
5 the proposed text as published in the July 13, 2007 issue of the  
6 *Texas Register* (32 TexReg 4375) and will not be republished.

7

8 EXPLANATION OF ADOPTED AMENDMENTS

9 Historically, the Texas Transportation Commission (commission)  
10 awarded transportation funds on a project-by-project basis.  
11 Delegations composed of local government leaders or members of  
12 local organizations from around the state came before the  
13 commission to make presentations about the transportation needs  
14 of their geographical areas and to seek funding for local  
15 transportation projects. In 2002, the commission began to  
16 simplify the project planning process and has shifted a  
17 significant amount of the transportation decision making  
18 authority to local community leaders. This shift changed the  
19 way the department analyzes transportation projects and  
20 allocates funding across the state. The department reduced its  
21 34 funding categories to 12. Eight of the new categories have  
22 direct local input. The changes have resulted in local leaders  
23 having more input in the selection of projects for which  
24 transportation funds are allocated. The commission now has the  
25 sole discretion to select projects in only one of the twelve

1 categories (Category 12 - Strategic Priority) and funds in that  
2 category are used for projects that generally promote economic  
3 development and opportunity, provide system continuity with  
4 adjoining states and Mexico, increase efficiency on military  
5 deployment routes, implement the pass-through financing program,  
6 or address other strategic needs as determined by the  
7 commission.

8

9 Transportation Code, §201.802, requires the commission to  
10 develop and implement policies that provide the public with a  
11 reasonable opportunity to appear before the commission and to  
12 speak on any issue under the jurisdiction of the commission.  
13 Section 1.4 was adopted to address that requirement and  
14 subsection (d) of that section provides the framework for  
15 delegations to appear before the commission. The procedure  
16 provided by subsection 1.4(d) is necessarily complex and takes  
17 significant resources of the delegation and the department. It  
18 requires a delegation to file a written petition at least three  
19 months before the requested appearance date (in contrast to 20  
20 days for a request from an individual under subsection 1.4(c))  
21 and requires the district in which the project is located to  
22 review the petition and file a report with the executive  
23 director. The change in the planning and funding of  
24 transportation projects has all but eliminated the necessity for  
25 delegations to present their proposed transportation projects to

1 the commission.

2

3 The purpose of the amendment to §1.4 is to reflect the effects  
4 of the policy changes made by the commission and to streamline  
5 the process for the addition of commission agenda items. A  
6 person who currently is required to follow the delegation  
7 procedure will have, after the rule change, the opportunity to  
8 request the addition of an agenda item under subsection 1.4(c)  
9 or the opportunity to address the commission during the open  
10 comment period under subsection 1.4(e) (redesignated as  
11 subsection 1.4(d) by this amendment).

12

13 Amendments to §1.4(b) remove language that is made unnecessary  
14 by the deletion of subsection (d) and change a cross reference  
15 affected.

16

17 Amendments to §1.4(c) remove language that is unnecessary  
18 because of the deletion of subsection (d). Additionally, the  
19 amendment gives the commission chair (chair), rather than the  
20 department, the discretion to place an item on the commission's  
21 agenda if the chair determines that the item is within the  
22 commission's jurisdiction and concerns a matter of significant  
23 public interest. Under Transportation Code, §201.054, the chair  
24 is responsible for overseeing the preparation of the commission  
25 meeting agenda and this amendment brings the rule in line with

1 the statute.

2

3 Section 1.4(d), which provides the procedure for a delegation of  
4 representatives of a local government or group to appear before  
5 the commission concerning a transportation project, is deleted.

6

7 Subsections 1.4(e) - (i) are renumbered as the result of the  
8 deletion of former subsection 1.4(d) and subsection 1.4(e) is  
9 amended to change a cross reference.

10

#### 11 COMMENTS

12 No comments on the proposed amendments were received.

13

#### 14 STATUTORY AUTHORITY

15 The amendments are adopted under Transportation Code, §201.101,  
16 which provides the commission with the authority to establish  
17 rules for the conduct of the work of the department, and more  
18 specifically, Transportation Code, §201.802, which requires the  
19 commission to develop and implement policies that provide the  
20 public with a reasonable opportunity to appear before the  
21 commission and to speak on any issue under the jurisdiction of  
22 the commission.

23

#### 24 CROSS REFERENCE TO STATUTE

25 Transportation Code, §201.054 and §201.802.

1 SUBCHAPTER B. PUBLIC MEETINGS AND HEARINGS

2 §1.4. Public Access to Commission Meetings.

3 (a) (No change.)

4 (b) Posted agenda items. A person may speak before the  
5 commission on any matter on a posted agenda[, ~~other than a~~  
6 ~~presentation by a delegation under subsection (d) of this~~  
7 ~~section,~~] by submitting a request, in a form and manner as  
8 prescribed by the department, prior to the matter being taken up  
9 by the commission. A person speaking before the commission on  
10 an agenda item will be allowed an opportunity to speak:

11 (1) prior to a vote by the commission on the item; and

12 (2) for a maximum of three minutes, except as provided in  
13 subsection (g)(6) [~~(h)(6)~~] of this section.

14 (c) New agenda items.

15 (1) A person may request the addition of [~~other than a~~  
16 ~~delegation under subsection (d) of this section, may request the~~  
17 ~~department to add~~] an item to the commission agenda by  
18 submitting, no less than 20 days prior to the date which has  
19 been set for the next meeting, the following information:

20 (A) the name and address of the person making the  
21 request;

22 (B) a clear and concise statement of the subject of the  
23 proposed agenda item; and

1 (C) a brief summary of the action sought.

2 (2) If the chair [~~department~~] determines that the  
3 proposed item is within the jurisdiction of the commission and  
4 that the proposed item concerns a matter in which there is  
5 sufficient public interest to warrant consideration by the  
6 commission as an agenda item, the chair may place the matter [~~7~~  
7 ~~the matter will be placed~~] on the posted agenda for the next or  
8 a subsequent meeting, consistent with available time. [~~If the~~  
9 ~~proposed item concerns a matter that has appeared on the posted~~  
10 ~~agenda of a commission meeting during the previous six months,~~  
11 ~~the request may be denied or deferred for consideration at the~~  
12 ~~discretion of the department and the commission.~~]

13 [~~(d) Delegations.~~]

14 [~~(1) Petition. A delegation consisting of the~~  
15 ~~representatives of one or more local governments or of an~~  
16 ~~organization of two or more persons may petition the department~~  
17 ~~to appear before the commission to seek commission action on a~~  
18 ~~maximum of three specific transportation projects, or on the~~  
19 ~~general transportation needs for a specific geographical area.]~~

20 [~~(2) Content of petition. A petition filed under this~~  
21 ~~subsection must be in writing, directed to the department's~~  
22 ~~district office of the district in which the project is located,~~  
23 ~~and must be received by the chief executive officer in charge of~~

1 ~~the district (district engineer) no less than 90 days prior to~~  
2 ~~the date of the requested appearance. The petition must~~  
3 ~~include:]~~

4 [~~(A) the name and address of the petitioner;~~]

5 [~~(B) a statement that the petitioner desires to appear~~  
6 ~~on the petitioner's own behalf or as the representative of a~~  
7 ~~named organization or local government;~~]

8 [~~(C) a clear and concise statement of the subject of~~  
9 ~~the proposed presentation;~~]

10 [~~(D) a brief summary of the action sought;~~]

11 [~~(E) a brief description of known or potential adverse~~  
12 ~~impacts on the environment;~~]

13 [~~(F) the name and address of each opponent, if any, to~~  
14 ~~the proposed action or relief sought; and]~~

15 [~~(G) a statement of the applicable metropolitan~~  
16 ~~planning organization's position and endorsement, if any, of the~~  
17 ~~project or projects.]~~

18 [~~(3) Highway projects. A delegation requesting action on~~  
19 ~~a highway project must submit with the petition a letter~~  
20 ~~containing:]~~

21 [~~(A) project limits;~~]

22 [~~(B) an estimate of the cost of the project;~~]

23 [~~(C) a description of the existing facility (if any);]~~

1           ~~[(D) a description of the requested improvement;]~~  
2           ~~[(E) proposed local government participation (city,~~  
3 ~~county) for:]~~  
4           ~~[(i) right of way;]~~  
5           ~~[(ii) utility adjustments;]~~  
6           ~~[(iii) environmental mitigation;]~~  
7           ~~[(iv) construction; and]~~  
8           ~~[(v) other project components; and]~~  
9           ~~[(F) any proposed participation in the project by other~~  
10 ~~public or private entities.]~~  
11           ~~[(4) District review. The district will review the~~  
12 ~~petition and advise the delegation if any additional information~~  
13 ~~is necessary. The district will submit to the executive~~  
14 ~~director the petition followed by a report containing background~~  
15 ~~information, the district's analysis, and district~~  
16 ~~recommendations.]~~  
17           ~~[(5) Opposition. The department will notify any~~  
18 ~~opponents identified in a petition filed under this subsection~~  
19 ~~or who may be otherwise known to the department. An opponent~~  
20 ~~will be afforded an opportunity to appear before the commission~~  
21 ~~as provided in paragraph (6)(A) of this subsection.]~~  
22           ~~[(6) Presentation.]~~  
23           ~~[(A) Except as provided in subsection (h)(6) of this~~

1 ~~section, a delegation will be allowed to speak for a maximum of~~  
2 ~~20 minutes on a maximum of three projects prioritized by the~~  
3 ~~delegation or on the general transportation needs for a specific~~  
4 ~~geographical area, and opponents will be allowed to follow the~~  
5 ~~presentation of the delegation with a presentation not to exceed~~  
6 ~~a total of 20 minutes.]~~

7  ~~[(B) Other than elected public officials, no more than~~  
8 ~~three persons may speak for a delegation.]~~

9 (d) ~~[(e)]~~ Open comment period.

10 (1) At the conclusion of the posted agenda of each  
11 regular business meeting the commission will allow an open  
12 comment period, not to exceed one hour, to receive public  
13 comment on any other matter that is under the jurisdiction of  
14 the commission.

15 (2) A person desiring to appear under this subsection  
16 must complete a registration form, as provided by the  
17 department, prior to the beginning of the open comment period.

18 (3) Except as provided in subsection (g)(6) ~~[(h)(6)]~~ of  
19 this section, each person will be allowed to speak for a maximum  
20 of three minutes for each presentation in the order in which he  
21 or she registered.

22 (e) ~~[(f)]~~ Disability accommodation. Persons with  
23 disabilities who have special communication or accommodation

1 needs and who plan to attend a meeting may contact the office of  
2 the secretary to the commission in Austin. Requests should be  
3 made at least two days before a meeting. The department will  
4 make every reasonable effort to accommodate these needs.

5 (f) [~~(g)~~] Notice. For each commission meeting an agenda  
6 will be filed with the Texas Register in accordance with the  
7 requirements of the Open Meetings Act, Government Code, Chapter  
8 551.

9 (g) [~~(h)~~] Conduct and decorum. The commission will receive  
10 public input as authorized by this section, subject to the  
11 following guidelines.

12 (1) Questioning of those making presentations will be  
13 reserved to commissioners and the department's administrative  
14 staff.

15 (2) Organizations, associations, or groups are encouraged  
16 to present their commonly held views, and same or similar  
17 comments, through a representative member where possible.

18 (3) Presentations shall remain pertinent to the issue  
19 being discussed.

20 (4) A person who disrupts a meeting must leave the  
21 meeting room if ordered to do so by the chair.

22 (5) Time allotted to one speaker may not be reassigned to  
23 another speaker.

1           (6) The time allotted for presentations or comments under  
2 this section may be increased or further limited by the chair,  
3 or, in the chair's absence, the acting chair, as may be  
4 appropriate to assure opportunity for the maximum number of  
5 persons to appear.

6           (h) [~~(i)~~] Waiver. Subject to the approval of the chair, a  
7 requirement of this section may be waived in the public interest  
8 if necessary for the performance of the responsibilities of the  
9 commission or the department.