

**CHAIR**  
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**COMMISSIONERS**  
William D. Darby  
Patti Jones  
Mike Novak  
Jack W. Perry  
Betty Reinbeck  
Joseph Slovacek



**EXECUTIVE DIRECTOR**  
Harvey Hilderbran

## **TEXAS FACILITIES COMMISSION**

Minutes No. 97: Minutes of the December 13, 2017 Public Meeting of the Texas Facilities Commission in Austin, Travis County, Texas.

After providing notice as required by the Texas Open Meetings Act, the Texas Facilities Commission held an open meeting at the Central Services Building, 1711 San Jacinto Boulevard, in Conference Room 402, Austin, Texas, on Wednesday, December 13, 2017, commencing at 10:00 a.m. Chairman Thomas presided, and Commissioners Reinbeck, Novak, Perry, Jones and Slovacek were also present. Commissioner Darby was absent.

### **I. Call to Order.**

Chairman Thomas called the meeting to order at 10:00 a.m.

### **II. Service Awards.**

The following employees were recognized for their state service by the Commission.

Beverly Dixon	30 years, Custodial & Recycling (PREM)
Louis Hodge	30 years, Custodial & Recycling (PREM)
Rose Allen	25 years Facilities Maintenance, (PREM), Texas School for the Deaf
Will Jones	25 years, Facilities Operations and Maintenance (PREM)
Larry Smith	25 years, Custodial & Recycling
Daniel Benjamin	20 years, Fiscal, Accounting
Tommy Oates	20 years, Exe, Security & Safety
Kirk Nunn	20 years, FDC, Minor Construction
Otis Hansford	20 years, Custodial & Recycling (PREM), Texas School for the Deaf

Next, Chairman Thomas recognized Rob Ries, Director of Budget and the Budget team for all their hard work. Thereafter the Chairman informed the Commission that this would be the last meeting Commissioner Reinbeck would be attending.

**Chairman:** Colleagues, one other item that I think is critically important to do. I have only just learned, confirmed by the woman I have always called Chair Emeritus, that this will be her last meeting at the Texas Facilities Commission. So, I would like to publically thank Chair Emeritus Betty Reinbeck for her tremendous service, commitment, and belief in this agency. Her fight to always try and do what's right. Even when people disagree, she tries to bring us together. It seems to me, Betty, that over your tenure, that I've been aware of, you have managed through and dealt with tremendous adversity and tremendous opportunity. In the adversity, in particularly the adversity I saw, while you got typically pulled by many different factions, what I always appreciated is you always tried to find a way to reach back out to me and others to find out where we stand together and always let me know that was the important part. So, I would like to personally thank you for the guidance that you gave me when I was the new Chair, with very little notice to you that I was coming. I'd like to personally thank you for always sitting immediately to my left and always whispering guidance in my ear. I'd like to thank you for the things no one saw,

whether they were the text messages, or the hugs when I felt the lowest, or your ability to let me know that I was doing a great job, and that you were proud of me when sometimes other people weren't. So on a very personal note but certainly shared with everyone, thank you so very much for the amazing service you provided for the State of Texas and the employees of the Texas Facilities Commission.

**Commissioner Reinbeck:** Thank you very much. I have to thank the Chair because he gave me one title that I didn't possess already. If you know me at all, you know that I have more titles than money. And that says a lot, doesn't it. It has been an honor and a privilege to have worked with all of you, Commissioners, everyone, all of you at Texas Facilities Commission. When I was first appointed, my state rep. suggested I not take the appointment because she said, "This agency is in a mess, and you don't want to get involved in it." What a challenge. And I've been here thirteen years this month. I am going to miss all of you. Not going to miss the notebooks, or the drive, but the drive has improved with all the improvements on 71. I, I'm honored. I'm going to miss you. I deeply care about this agency and its people. Thank you.

**III. Texas Capitol Complex Master Plan, recipient of 2017 American Society of Landscape Architects ("ASLA") Professional Honor Award, Analysis and Planning Category.**

Mr. Ryan Losch, Senior Associate/Urban Designer and Ms. Catherine Gavin, Senior Associate/Communications Director presented the Commission with the 2017 American Society of Landscape Architects ("ASLA") Professional Honor Award, Analysis and Planning to the Texas Facilities Commission for the Texas Capitol Complex Master Plan.

**IV. Approval of the minutes from the January 18, 2017, and the February 15, 2017, Open Meetings.**

The Commission voted unanimously to approve the minutes from the previous meetings with a motion made by Commissioner Reinbeck and a second to approve the motion made by Commissioner Jones.

**V. Public Comment.**

There was no public comment.

**VI. Consent Agenda for Award of Lease Recommendations and Summaries.  
Leases and/or Amendments Pending Execution on or after December 13, 2017.**

**Replacements:**

1. Lease #303-8-20602-A – Health and Human Services Commission; Department of Family and Protective Services: Alamo, TX.
2. Lease #303-8-20608 – Texas Department of Criminal Justice: Gatesville, TX.
3. Lease #20596-A – Texas Department of Criminal Justice: McAllen, TX.
4. Lease #303-8-20609 – Health and Human Services Commission; Department of Family and Protective Services; Department of State Health Services: Bellville, TX.
5. Lease #303-9-20612 – Health and Human Services Commission: Tyler, TX.

**Renewals:**

6. Lease #7554 – Office of the Attorney General: Longview, TX.
7. Lease #6874 – Health and Human Services Commission; Department of Family and Protective Services; Department of State Health Services: Bryan, TX.
8. Lease #1543 – Health and Human Service Commission; Department of State Health Services; Texas Workforce Commission: Brownsville, TX.
9. Lease #8743 – Department of Family and Protective Services: Longview, TX.
10. Lease #9001 – Department of State Health Services: San Antonio, TX.
11. Lease #303-4-20339 – Office of the Attorney General: El Paso, TX.
12. Lease #7429 – Health and Human Services Commission: Dallas, TX.

The Commission voted unanimously to approve the above consent agenda for award of lease recommendations and summaries with a motion to approve made by Commissioner Novak and a second to approve the motion made by Commissioner Perry.

**VII. Contract Consent Agenda.**

- 1. Consideration and possible action to approve an architectural and engineering professional services contract amendment for TFC's 2016-17 deferred maintenance on the El Paso State Office Building, Project No. 16-032-8415 in El Paso, Texas.**
- 2. Consideration and possible action to approve an indefinite delivery indefinite quantity professional services contract assignment for the North Austin Complex, Phase 1 Development, Project No. 16-030-8060 in Austin, Texas.**

The Commission voted unanimously to approve the above contract consent agenda, with a motion to approve made by Commissioner Reinbeck and a second to approve the motion made by Commissioner Jones.

**VIII. Report on contracts delegated to the Executive Director per Commission Policy.**

- 1. Consideration and possible action to approve a construction manager-at-risk contract amendment for the Texas Department of Public Safety deferred maintenance projects at the Corpus Christi Area Office, Project No. 14-031K-6047 in Corpus Christi, Texas.**
- 2. Consideration and possible action to approve a property management services contract award for the Texas State Office Buildings in El Paso, Fort Worth, Houston, San Antonio, and Waco, under TFC RFP No. 303-7-01584.**

Ms. Kay Molina, General Counsel, informed the Commission that two contracts had been delegated to the Executive Director for review and approval in November due to the cancellation of the Commission meeting and pursuant to Commission policy. The Executive Director approved a construction manager-at-risk contract amendment for the Texas Department of Public Safety deferred maintenance projects at the Corpus Christi Area Office, Project No. 14-031K-6047 in Corpus Christi, Texas and also approved a property management services contract award for the Texas State Office Buildings in El Paso, Fort Worth, Houston, San Antonio, and Waco, under TFC RFP No. 303-7-01584.

**IX. Consideration and possible action to award an architectural and engineering professional services contract for the Capitol Complex Phase I Development, the Central Utility Plant Expansion and Utility Tunnel Package (Package 3), Project No. 17-008A-8040 in Austin, Texas.**

The Commission voted unanimously to approve an architectural and engineering professional services contract to Jacob Engineering Group, Inc., in the amount of \$2,177,914.00 for the Capitol Complex Phase I Development, the Central Utility Plant Expansion and Utility Tunnel Package (Package 3), Project No. 17-008A-8040 in Austin, Texas, with a motion made by Commissioner Jones and a second to approve the motion made by Commissioner Perry.

Commissioner Novak informed the Commission that he spoke briefly to Mr. John Raff, Director of Facilities Design and Construction regarding Agenda Item IX and that he understands the process and what happened here with this agenda item. Commissioner Novak also asked staff to keep him updated on the timeline of the project and if there are any setbacks and if Harvey and staff could please send all the Commissioners an updated Commission Contract Org Chart.

**X. Consideration and possible action to award an architectural and engineering professional services contract for the Capitol Complex Phase I Development, the 1801 Congress Building (Package 4), Project No. 17-016-8002 in Austin, Texas.**

The Commission voted unanimously to approve an architectural and engineering professional services contract to HKS, Inc., in the amount of \$10,680,000.00 for the Capitol Complex Phase I Development, the 1801 Congress Building (Package 4), Project No. 17-016-8002 in Austin, Texas, with a motion made by Commissioner Perry and a second to approve the motion made by Commissioner Novak.

- XI. Consideration and possible action to approve an architectural/engineering professional services contract amendment for TFC's 2018-19 deferred maintenance on ten buildings located on the Health and Human Services Commission campus, the Dr. Bob Glaze Laboratory and associated buildings, Project Nos. 16-011-5550, 18-012-5420, 18-013-5551 in Austin, Texas.**

The Commission voted unanimously to approve an architectural and engineering professional services contract amendment to Atkins North America, in an amount not to exceed \$1,200,000.00 for TFC's 2018-19 deferred maintenance on ten buildings located on the Health and Human Services Commission campus, the Dr. Bob Glaze Laboratory and associated buildings, Project Nos. 16-011-5550, 18-012-5420, 18-013-5551 in Austin, Texas, with a motion made by Commissioner Novak and a second to approve the motion made by Commissioner Jones.

- XII. Consideration and possible action to approve a construction manager-at-risk contract amendment for TFC's 2018-19 deferred maintenance on ten buildings located on the Health and Human Services Commission campus, the Dr. Bob Glaze Laboratory and associated buildings, Project Nos. 16-011-5550, 18-012-5420, 18-013-5551 in Austin, Texas.**

The Commission voted unanimously to approve a construction manager-at-risk contract amendment to Flynn Construction in an amount not to exceed \$8,681,100.00 for TFC's 2018-19 deferred maintenance on ten buildings located on the Health and Human Services Commission campus, the Dr. Bob Glaze Laboratory and associated buildings, Project Nos. 16-011-5550, 18-012-5420, 18-013-5551 in Austin, Texas, with a motion made by Commissioner Reinbeck and a second to approve the motion made by Commissioner Perry.

- XIII. Consideration and possible action on the adoption of the revisions to the current Texas Facilities Commission Public-Private Partnership Guidelines.**

Samuel Franco, Director, Center for Alternative Finance and Procurement. A little bit of background to this agenda item, in 2015 there were some changes made to the P3 statute, Chapter 2267 which created the Center for Alternative Finance and Procurement and also made some changes to the guideline requirements. Since the Center was created in statute it also asked for the Center's role in reviewing any sorts of projects moving forward. As you all know the Center was created during that session but effectively really didn't start till January 2016 when they hired on staff. So, with that being said, one of the tasks for the Center was to help craft new guidelines, because of time constraints put in there with the changes to Chapter 2267 in that 2015 Session that called for the guidelines to be created by December 2015. Those guidelines were written but without the input of any sort of P3 knowledge. So fast forward to now, as of January 2016. I've been working with AIAI, other industry groups, agencies with similar missions and charters throughout the country, and also throughout the globe, mainly in North America. Going over other informative documents to go for best practices and incorporating all that information into our current guidelines. With that being said, there were several drafts that were made up. After the drafts were made up, we had public comment process, those public comments were either incorporated or not incorporated depending on what the comment was. They were also reviewed by staff internally. So as of—with all that work culmination of all that work as of August, we've had these guidelines ready to go. Unfortunately, with meetings being moved and what not, we finally got it on this month's agenda item. So, that is what you're seeing now. The main revisions to the guidelines would be number one, the Center's role and analysis of any project and that also incorporates the value for money analysis, which is kind of the heart and soul of any P3 analysis. With that I'll take any questions.

**Chairman:** Colleagues?

**Commissioner Novak:** Mr. Chairman, Samuel when I went through this agenda item, I made myself a couple of notes on it and on one of them you already answered. And that is "did industry have input on this? Did they have sufficient time to give you their guidance?" I'm talking about AIAI and any other industry group.

**Samuel Franco:** Yes.

**Commissioner Novak:** This thing has been well scrubbed by industry. So, I'm not going to get a call next month going, "What did y'all do?"

**Samuel Franco:** Well, to answer the question, we use the same type of requirements for any public comment that are required by the State in general. While this was not a public comment, we did not change the rule. So we didn't have to follow the same guidance. We went ahead and did anyway so that there was no—

**Commissioner Novak:** But you did get input is what I am asking?

**Samuel Franco:** We did get input.

**Commissioner Novak:** And you listened to the input and that input is embedded in your changes here?

**Samuel Franco:** It's embedded where we could, where we thought as an agency...

**Commissioner Novak:** So there was communication with industry and y'all kind of work it, nobody left the table upset?

**Samuel Franco:** I haven't gotten any upset emails yet.

**Commissioner Novak:** Okay. The other note I had, Samuel, is just internal housekeeping. I did not have time to go back and research this because as you are well aware our focus with this Working Group right now has been Sutton, Sutton, and Sutton the last three months and we kind of put P3 stuff on the back burner here. Did the P3 Working Group scrub this three or four months ago? Did we talk about this or look at it? You don't remember either?

**Harvey Hilderbran:** We had in the summer maybe? June or July.

**Chairman Thomas:** Actually we did, and the background was there was some real disconnect and disagreement as I remember.

**Harvey Hilderbran:** Between Procurement we had that—

**Chairman:** And what the Working Group said was that we needed to send it back to you all and we asked you to all too please resolved this. We asked for leadership on that. There were some questions and some concerns about whether some industry still felt like their voices weren't being heard. The idea was you all would then, with Samuel's good idea, really push to follow industry comments, which I thought was super smart. You all got those comments, and you provided us the high level of the comments. That's when had the discussion that there was clearly some serious staff disagreements on what should and should not be in the guidelines. And the last—my notes show is we asked you all too please go back and figure out as staff what your final recommendation was going to be and bring that back to the Work Group, so we could stand behind that product to the dais. I haven't seen it. Obviously Mike is right, we got focused in on Sutton, but that document hasn't come back, is hasn't been on the agenda afterwards for us to talk about it.

**Samuel Franco:** No it hasn't. Your absolutely correct, the last direction we got—

**Commissioner Novak:** I don't want to hold things up for the sake of holding it up. Practically speaking here, let me just kind of poll our colleagues here. We got the Working Group right here and everyone from the Working Group is sitting here right now. So I think it's a matter of, Jack you're on it. Our Chairman is on it and of course Harvey and members of staff are here. What's the pleasure? Do we have a comfort level going forward or do you want to hold this off until we have a chance to visit through the Working Group? Or do you think he's answered enough of the questions that we're comfortable moving forward? I mean what are your thoughts?

**Commissioner Perry:** Do you have any reservations at all?

**Commissioner Novak:** I'm more concerned right now about the industry having input and you've answered that. I've asked very specific questions here, because what I don't want to happen is we get back in this and three months from now I get calls and the industry is going "what were y'all thinking, you're not listening to us." We have to be partners out there, that's what this whole Center is about, and we have to be partners with industry. I think we got



that part answered Jack, so we kind of now are getting in the weeds here. I don't want to hold things up for the sake of holding it up but—I mean it sounds like you're basically okay.

**Commissioner Perry:** I think so.

**Commissioner Novak:** Let me defer to the Chairman because obviously Robert you got more questions and if you want to scrub this more, I'm perfectly comfortable going that route.

**Chairman Thomas:** No, I appreciate it. This has been such a painful staff level process, all the P3 and Sutton stuff has been very difficult for well over a year now and this was an issue that is critical because it leaves our dais after we approve it and then goes to the Legislature—

**Harvey Hilderbran:** The Partnership Advisory—

**Chairman Thomas:** Sorry, the Partnership Committee to be approved. So it's not—the buck just doesn't even stop with us. I want to make sure our staff can say with complete certainty that they stand behind, are unified and are making the full recommendation to us that is supportable since none of the Working Group have the ability to go into any level of depth. In other words, since we're making the representation to the—I just want to make sure you all are comfortable.

**Commissioner Novak:** That's a great point, I like the way you articulate that Robert. So are y'all standing up here ready to make that recommendation today? I guess you wouldn't have it on the agenda otherwise. Are you steadfast behind this?

**Harvey Hilderbran:** We would not have put it on the agenda. In fact, it was going to be put on originally, I thought we did give—I thought it was on the agenda in August on one of the weekly Working Group. I thought we discussed and finally got an agreement and we're ready to move forward to putting this on the agenda. And I think it would have originally been on the October agenda we were talking about it. One of the keys to it too is the Partnership Advisory Committee has to meet, you know we can't control on when they meet. There is plans because of the Capitol Masterplan update for them to meet. There's an actual requirement within so many days that they have to meet for that. So, we do think they're going to meet in January, or as late as February. It has to be in January?

**Peter Maass:** Yes, we submitted on the twenty-seventh of November so they must meet within sixty days.

**Harvey Hilderbran:** So there's one issue we have here, if we don't do it today then we miss the window of them putting it on their agenda for their next meeting, and it may be another year before they meet.

**Commissioner Novak:** Ok, let me ask this, let's say six months from now we discover some tweaks, flaws, or whatever tweaks that are needed, I mean is there a process for amending this again later?

**Harvey Hilderbran:** Yes, that's what we're doing now.

**Commissioner Novak:** That's what I am asking, it's not our last chance to fix something?

**Kay Molina:** Oh no, anytime you all see something we can change it.

**Commissioner Novak:** Okay, look, I want to move on. I don't want to get stuck on this.

**Harvey Hilderbran:** We are under rules now we adopted on November 11, 2015 by the Partnership Advisory.

**Chairman:** The significant piece was we got hammered by industry, as Samuel said, because the initial guidelines were allegedly not sufficient guidance—or whatever, for P3 projects which was supposed to be all the stuff you guys shared with us. I just want to make sure, to Mike's point, that we can amend anything. I just want to make sure you guys are comfortable with it. If you mentioned it in an update status report it still did not come back to the P3 Work Group for final discussion, and that's what we asked for.

**Harvey Hilderbran:** I meant in the P3 Work Group.

**Chairman:** We didn't look at the document and that was the guideline to report, to come back to us. This is not a kick, I'm just saying if we're being asked to approve it, like everything else, we just want to make sure you all are comfortable.

**Harvey Hilderbran:** It's y'all's call on the motion.

**Samuel Franco:** So, to answer your question Vice Chairman, as you know the whole P3 concept within the Texas Facilities Commission is relatively—I'm not going to say new but there is a lot of new things being introduced. So with regards to industry, I don't think this is exactly what they want to see. I'm sure they would want to see something a lot more on the other side of what we have. With that being said, we are a state agency that has to answer to the public and also what is set in statute. So that's where our staff has gone through and has said "look we understand what industry would like to see, but we also have to reign it back in to what we can defend." So I think there is a happy medium there between what staff is comfortable putting forward and having to answer to, and what industry would like to see in there.

**Commissioner Novak:** So there's a balance in there. Look, Samuel, I fully understand even with industry sometimes you can't even get them to agree among different groups. I just want make sure this was purely vetted with the opportunity for everybody to be at the table that wanted to be at the table and there is some balance in this. Let me move on here Mr. Chairman, I want to make a motion for approval, because I don't want this on an eternal treadmill of bureaucracy where were going to come back at the next meeting and talk about this more, and the next meeting were going to talk about it some more. I'm going to move for approval Mr. Chairman, specifically, and I want the minutes to reflect this, based on the representations and recommendation of staff that they have vetted this thoroughly with industry.

**Chairman Thomas:** So that's the motion. Make sure it's specifically detailed in the minutes, please.

Thereafter the Commission voted unanimously to approve the adoption of the revisions to the current Texas Facilities Commission Public-Private Partnership Guidelines, with a motion made by Commissioner Novak and a second to approve the motion made by Commissioner Slovacek.

#### **XIV. Discussion of the redevelopment of the G. J. Sutton State Office Building site in San Antonio, Texas.**

Mr. Samuel Franco, Director for the Center for Alternative Finance and Procurement, made introductory remarks. The Commissioners then engaged in a discussion about the status of the Sutton property in San Antonio, and specifically about the critical path schedule related to Sutton property.

The Chairman asked that the minutes specifically reflect Vice Chairman Novak's request that:

- 1) a standing agenda item for Sutton be included on the Commission's monthly meeting agenda;
- 2) a monthly update of the Sutton Critical Path Schedule, tracking the Sutton deadlines, be included in the Commission's monthly meeting notebooks; and,
- 3) a monthly updated Sutton Fiscal Note, tracking the increasing costs of maintaining the Sutton property, be included in the Commission's monthly meeting notebooks.

General Counsel Kay Molina assured the Chairman that Vice Chairman Novak's three requests would be honored.

#### **XV. Report from the Executive Director on facilities design, construction projects, facilities leasing, facilities operations, maintenance, energy management, HUB and legislation.**

Mr. Harvey Hilderbran, Executive Director, gave a brief update on the Joint Oversight Committee meeting regarding the City of Austin and all the progress that has been made. Mr. Hilderbran also gave brief remarks on the FY17 Annual Hub Report Summary. Thereafter Yolanda Strey, HUB Coordinator also gave brief remarks regarding the FY17 Annual Hub Report Summary and also the overall state agency and university rankings. Next, Mr. Hilderbran made brief remarks on the energy management meeting regarding the draft RFQ performance contract. Lastly, Mr. Hilderbran gave brief remarks on the TFC Newsletter and encouraged all the Commissioners to read the article

regarding the Federal Surplus Property Program's role in the Hurricane Harvey response and recovery. Thereafter, Kristy Fierro gave brief remarks on the Federal Surplus Property Program and the Hurricane Harvey recovery efforts that Surplus Property assisted in.

**XVI. Monthly Status Report from the Director of Internal Audit.**

**1. Consideration and possible action to approve the Internal Audit Annual Report for Fiscal Year 2017.**

Ms. Amanda Jenami, Director of Internal Audit gave brief remarks on the Internal Audit Annual Report for Fiscal Year 2017. Thereafter, the Commission voted unanimously to approve the revised Annual Report for Fiscal Year 2017, with a motion made by Commissioner Jones and a second to approve the motion made by Commissioner Reinbeck.

**2. OIA's report on the status of management's implementation of audit recommendations, as of November 30, 2017.**

**Ms. Amanda Jenami, Director of Internal Audit:**

**Amanda Jenami:** Thank you. Again, for the record, Amanda Jenami of your staff. Item Number 16-2 is a discussion of the results of the status of management's implementation of audits so far, since Fiscal Year 2015. So it went all the way back to 2015, all the audits that have happened since I have been here in this position. It also includes the reports that the SAO has conducted so. I want to take a little bit of time, because this is the first time I have presented this report to you. We—Our procedures require that we actually do this on a semi-annual basis. So, the next report will be in 6 months. Since this is the first time, I am open to hearing any suggestions on how we can improve the report, when I am going to conclude the report, which is rather large, which is why the presentation mostly focuses on the pending items. And, I also wanted to point out that the SAO results—the results on the implementation of SAO reports will be sent to the SAO in accordance with the Government Code. They request that we do the follow up for them and that we will present them with the information for their own purposes. So we looked at a total of 7 projects and a total of 147 recommendations. So this is actually the audited results of the implementation. What you have been getting from management—I don't remember when the last time that was—is the management perspective on what's implemented and what's not—sometimes when we do the audit we may disagree on whether something is being implemented. So this is the audited version of the results. So, SAO really ordered that punitive times pertains to days with one or two day old reports, the reports includes a summary manager which is a table that shows by project how we are doing as an agency. The reason I'm very curious to get some feedback from you is this a lengthy report and we have concluded a summary in writing to allow you to discover the summary or, if you are interested per project, you can drill down and get the details. The SAO has two reports and one was issued all the way back in September 2014. And of that, only two recommendations are still pending. And then there is a more recent one which was the HUB and state use programs. And of that, three out of four are still pending. I want to use this as an overview. This shows what the internal audit as well as the external audit—the SAO audit—and after this slide my focus is going to be on the pending items but I don't want to lose sight of the implemented items. Quite a lot have been implemented, okay. So we are focusing on the pending, just because this is where the risk is, obviously. So because it is a large, lengthy report, we wanted to show you that there is a lot still outstanding. And we also wanted to show you that you might be interested in knowing just how old and overdue some of these items are. When we do audits, we ask management to come up with the target implementation date for each recommendation, at that point. We understand that it is a guesstimate, so there will be differences between the target and the actual. This is to show you—this presentation shows you just where we are missing those targets, okay. So for example, I think 20% of the pending recommendations are 30 to 38 months old, and then 32%, excuse me, 58% are 20 to 24 months old. That means this is calculated based on the date of the report—when the report was issued. Then we take it a step further. By project, depending on which you are interested in or which recommendation you want to follow up on, we show you just how overdue by recommendation each recommendation is. So, we compare the target recommendation date and today's date on the far right. And, the darker shade is the past due items. And, the lighter side is queued up to the target recommendation date. So, that is the Human Resources Management Audit, [referring to the PowerPoint slide] which had a lot of recommendations, but now only has these ones as pending. Again, this report was issued way back in April 2015, which is probably why a lot of the recommendations are shaded. We do this by project, the color differences don't mean anything, it just shows you the different reports. Plant Operations was issued in November



2015 and these are the pending recommendations. And, in 2017, they are overdue compared to the target implementation dates. Contract Management Phase One, same thing: pending. This is the target implementation date. Contract Management Phase One was issued in February 2016. Or other general terms and we do this for each project. With this one, the Building Assessment is a little weird. There were some recommendations that management responded by saying, instead of giving us specific date—target implementation date, they responded by saying “currently ongoing.” So that’s why those are incomplete. Those items are still outstanding. So that’s why they show in here. And, Contract Management Phase Two, what is not included in this report is the more recent report—which we did not follow up on, which is a review of ethics—what was the other one, um—budget process—budgeting process, and information security. So, those three are not included in here. Next time we do this, they will be included in to increase the size of the report, unfortunately. And, I think we made some useful discussion yesterday in the audit work group, and going forward, what we may do is show the green, which is the implemented ones. So, for example, next time you won’t see the grey for the outstanding, but you will see the green for the newer reports. The reason we are showing this, because we want to be able to acknowledge that they are implemented, we want to be able to give management credit. But otherwise, it will just get weird and take up space and won’t allow things to drop off if they are addressed, as long as we have audited and confirmed that they’re implemented. Any questions, any comments on the report on the format and user friendliness of the report? Anything? We are open.

**Chairman Thomas:** Colleagues

**Commissioner Patti Jones:** The only—one of the comments that I had. What was included in our packet, the spreadsheets that’s got the Audit recommendations and management. It’s got the green and the pink on it, the yellow that sort of thing. To me, this had a much more in depth reflection in this chart versus looking at it page by page. And, we discussed this at great length yesterday, as far as where we are. And, we know there are some that are pending for various reasons—lack of staff, whatever it is. But we also talked about the fact that we think it may be time for an update as far as—where has everybody gone—but anyway, about this report that has all the green. Not this one that has this red sheet but the other one. Has all the green and the pink in it, that it is probably time for an update in here. Because it’s the report that was issued in September of 14, April of 15, that to have these target dates that are on here. To have those updated, as far as being more realistic about where we are, what has been met. If that needs to be, we didn’t talk about changing the dates. We talked about leaving the original date there and adding a second target date there. An update audit on that. We’ll still have those two for comparison. Is that enough said?

**Commissioner Joe Slovacek:** Take a look at this in six months, is that your plan?

**Amanda Jenami:** Yes, that is the plan. We are going to do it twice a year. That’s the plan as far as presenting the results, okay. The idea—what we are trying to implement in our office is following up on these items on an ongoing basis. So, as long as soon as something is implemented, they can shoot me an email saying, “hey, recommendations 1 and 2” says that it’s implemented. And then we have software that helps us track so we can go in and also say “hey we can close it”, and file upload the documentation is how we verify that. The reporting to you won’t happen until the next time, in six months.

**Commissioner Jones:** Right...Correct.

**Commissioner Slovacek:** The report Patty is referring is dated Dec 4<sup>th</sup> in our packet. What I think we would like to see by next month is an update from the appropriate management person, or group, responsible for the implementation. We would like to see an update in the next 30 days on their progress. Is that something that Auditing can work with management, or management have to work with—how do we accomplish that objective?

**Amanda Jenami:** Again, we kind of talked about this yesterday. It is management’s responsibility to implement recommendations. We make the recommendations, they implement. And, I am thinking that since it’s going to be audited information, then its management’s responsibility to provide that report. So, yes, sure, I think we can provide that.

**Kay Molina:** I know that Donna had sent some questions to me and I responded. Did others not do that?

**Amanda Jenami:** We have revised language for the implementation, but they are still outstanding. All we did was that we decided because—let me back up a little bit—I think sometimes management—so the reports that you’ve been

getting from us, sometimes they will say fully implemented, substantially implemented, partially implemented. And, to avoid getting into too many arguments about “is this partial, is this significant”, we’re just going, “implemented/not implemented”—So, we get the knowledge about why something is substantially implemented, we decided not to include that otherwise the report is going to be this long, right. So, I think maybe going forward for the next one in six months, we can use the revised language that we discussed even if it’s not implemented. Because we are getting updates, for example, I can think of one right now which is under Tommy’s area where he’s saying “well we hired somebody but they have since left.” So, now we are back to the issue still being there.

**Kay Molina:** So we’re currently doing - so the next report would show that we done it, but we’re currently doing it.

**Commissioner Slovacek:** Can we get—

**Amanda Jenami:** I think what Commissioner Slovacek wants—the management to present an update—

**Kay Molina:** A couple of us can get with Amanda where we can work something out where we get you something that shows you a little box.

**Commissioner Slovacek:** I want to be clear, that this particular report that’s probably fifty pages long, many of these items have been implemented, but that are many that have not been implemented.

**Kay Molina:** So you’re curious on the non-implemented, where are we?

**Commissioner Slovacek:** Yes, if we could get an update by the next meeting on the progress.

**Kay Molina:** Sure—

**Commissioner Slovacek:** So, we’ll know we’re going to be finished in six months.

**Kay Molina:** Sure, and again I think we all have that—and it can all be pieced together—and we can work that out.

**Commissioner Slovacek:** And if you could maybe tell us who—what person is responsible for the implementation, for accountability purposes. Who is going to get this done? It’s not just management, somebody inside is responsible.

**Kay Molina:** And I think we have that in a different from.

**Amanda Jenami:** We can do that.

**Chairman Thomas:** Any other questions or comments colleagues?

**Commissioner Slovacek:** Is that a reasonable request, Chairman?

**Chairman Thomas:** It’s beyond reasonable. We had tried to have an implementation agenda item as a standing item. That’s fallen off. It’s something that - when I got here, the HR Audit was a sensitive topic. So, that was something we asked Catherine to come monthly, even if the response was no further updates. I think its part of our fiduciary duty. Kudos for the things that have been done. Kudos to the staff recognizing the difficulty of somethings that are outside of their control. If you have an employee leave—that was a critical issue—you can’t control that, right? So that’s not your fault. But, there is a significant number of items on here that are so significantly past due, that it’s incumbent—and I’ll just say Harvey you’re the Executive Director and the buck stops with you—so, I’m anticipating that you meet with your employees with whatever periodic time frame that you see as appropriate to get the requisite reports on what’s moving forward and what’s not.

**Harvey Hilderbran:** I just got this report in the last few days, so I’ve already actually started to take action on this, because it was news—

**Chairman Thomas:** My point is—that's the problem—it shouldn't be news to you, because you're the Executive Director. So, the implementation of these issues, some of these things have significant risk and exposure to the State, significant exposure.

**Harvey Hilderbran:** That's what we're evaluating right now.

**Chairman Thomas:** You know, the idea of giving everything equal weight would be foolish. You know, I guess, ultimately if you agree to a deadline that you've worked out with your team, then I think from my perspective as a Commissioner, you're making a representation to us, the Commission. It's not to the Audit team. The audit has identified issues. You've identified what your response is, and you've set a deadline that you intend for your staff to meet to be able to address the issues, and it is our responsibility to make sure it's done. So I really do, would like to emphatically ask you to go back—I'm not going to tell you when or how—but I need a routine agenda item on here in which you report back to us, once you get your hands back around this: giving implementation updates.

**Harvey Hilderbran:** Okay.

**Chairman Thomas:** I think that is a fundamental critical communication point between the Executive Director and the Commissioners on these kinds of issues. I'd very much appreciate that.

**Harvey Hilderbran:** Sure.

**Commissioner Slovacek:** Chairman, Amanda gave us an overview. Seems like next month, see a new document where the implemented programs are removed because they've been implemented. Then we would have an update on the progress on these other outstanding items with new dates, revised dates that supplement the original date. That way, we'll know what progress has been made in 30 days, with the hope that within 6 months they're all implemented. That would be my vision. That's what I see.

**Chairman Thomas:** I think that is a very reasonable request—without beating this horse any more—I think that the staff understand what our goal is, and that we'll also give you the discretion in the process. If there is something, just like the other timeline we talked about—if there is something that causes that to be a problem, then we'd like to know about the problems on the front end, often and early to understand what those road blocks are.

**Commissioner Slovacek:** Is it appropriate to have the identity of the team of the individuals who are implementing?

**Kay Molina:** I think, it should be.

**Harvey Hilderbran:** Yes. Like HR is Catherine.

**Kay Molina:** But it's there.

**Chairman Thomas:** Real quick, what he's saying is, we don't go back and look at the detailed audit reports that has the management person responsible.

**Kay Molina:** Yes we can put that.

**Chairman Thomas:** We got this. And this is what we're going to start looking at going forward. And so from an accountability—I mean you're going to give us the backup—but from accountability process—

**Kay Molina:** Put it in here too.

**Chairman Thomas:** Yes. So it should always say the Executive Director. I think is what you all put in there, and then the other person. Am I remembering the way that works?

**Kay Molina:** It kind of depends on the report, but yes.

**Chairman Thomas:** All right, so the point is go back in and make sure we have process so that we know who is responsible for the action item. So that we can start being more connected with you all on what's happening with these things.

**Kay Molina:** In full disclosure, there will be a few—I think we all recognize that won't be done in six months, won't be done until the Legislature decides they're going to give us money.

**Chairman Thomas:** Got it.

**Kay Molina:** We always kind of put a date, so maybe a realistic date might be—

**Chairman Thomas:** Kay, Kay—ok I'm sorry. We're beating—that's why I very specifically—let's not bureaucrat this to death.

**Kay Molina:** Okay.

**Chairman Thomas:** The request is, we recognize there are a lot of things that are within our control that we haven't gotten to. To the extent, if there is something outside of our control—we're reasonable. Collectively, as a senior management team, the Commissioners—nobody is going to ding you guys for something that you can't fix. Let's go ahead and figure out how to get back on track—get the train on the track on the areas we know are within our control. Try to come up with something very reasonable and let's implement. Six months is the initial request. Let us know where we're able to implement, and where we're not.

**Commissioner Slovacek:** And we'll get an update in a month.

**Chairman Thomas:** And we'll get an update on the effort on track in January's meeting.

**Commissioner Slovacek:** Thank you.

**Chairman Thomas:** Okay.

**Amanda Jenami:** I'll move on to the next agenda item.

**3. Review and discuss Office of Internal Audit's Status Report for the First Quarter of fiscal year 2018.**

Ms. Amanda Jenami, Director of Internal Audit, gave brief remarks regarding Internal Audit's Status Report for the First Quarter of fiscal year 2018.

**XVII. Program Presentations.**

There were no presentations.

**XVIII. Division/Program Dashboard Reports.**

**1. Water Usage and Energy Management.**

Farshad Shahsavary, Professional Engineer, Certified Energy Manager, gave the Commission a brief operational plan dashboard report on the Water Usage and Energy Management Program.

**2. Security and Safety.**

Tommy Oates, Director of Security and Safety, gave the Commission a brief operational plan dashboard report on the Security and Safety Program.

**3. Property Management.**

Kevin Myers, Director of Property Management, gave the Commission a brief operational plan dashboard report on the Property Management Program.

**XIX. Report from the Commission Work Groups.**

**1. Energy Work Group report.**

Commissioner Novak gave brief remarks on all the progress the Energy Work Group has made since the work group was created, and that it's metric driven, and that they will continue to make huge strides.

**XX. Report from the Chief Financial Officer on the monthly financial report update.**

Mr. Daniel Benjamin, Director of Accounts Payable, provided the monthly financial report including the agency forecast, operating expense report, year to date budget adjustments, cost recovery programs results of operations, the revenue forecast, and the financial transactions and appropriations not included in the operating budget.

**XXI. Discussion of Commission organization, policies, procedures and new initiatives.**

There was no discussion.

**XXII. Recess into CLOSED session, if necessary, pursuant to Texas Government Code Chapter 551 for the following purposes:**

- a. Pending and potential litigation, Section 551.071.
- b. The appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Executive Director and executive management staff, Section 551.074 The duties, roles, and responsibilities as Commissioners of the Texas Facilities Commission, Section 551.074.
- c. The deliberation regarding purchase, exchange, lease, or value of real property, Section 551.072.
- d. All matters identified in this agenda where the commission votes unanimously that deliberation in an open meeting of business and financial issues relating to a contract being negotiated would have a detrimental effect of the position of the State in negotiations with a third person and in which the General Counsel has issued a determination in writing, Section 551.0726.
- e. Any matters identified in this agenda where the Commissioners seek the advice of their attorney, Section 551.071.

**XXIII. Reconvene in open meeting and consider action on matters discussed in Executive Session.**

The Commission did not recess into closed session.

**XXIV. Adjournment.**

Chairman Thomas adjourned the meeting at 12:41 p.m.

**Reviewed and Submitted:**

By:   
Naomi R. Gonzalez, Acting General Counsel

Approved by the Commission on February 28, 2018.

By:   
Robert D. Thomas, Chairman