

# Montana Transportation Commission

October 26, 2016 Meeting  
Helena, Montana

## IN ATTENDANCE

Rick Griffith, Transportation Commissioner, Chairman  
Barb Skelton, Transportation Commissioner  
Carol Lambert, Transportation Commissioner  
John Cobb, Transportation Commissioner  
Dan Belcourt, Transportation Commissioner (by phone)  
Mike Tooley, Director MDT  
Pat Wise, Deputy Director  
Dwane Kailey, MDT Engineering  
Lori Ryan, Commission Secretary  
Dave Ohler, MDT  
Lynn Zanto, MDT  
Dustin Rouse, MDT  
Lynn Zanto, MDT  
Kevin McLaury, FHWA  
Darryl James, Montana Infrastructure Coalition  
Marlee Brown, Safer Bozeman  
Ralph Zimmer, PTS, Bozeman

*Please note:* the complete recorded minutes are available for review on the commission's website at [http://www.mdt.mt.gov/pubinvolve/trans\\_comm/meetings.shtml](http://www.mdt.mt.gov/pubinvolve/trans_comm/meetings.shtml). You may request a compact disc (containing the audio files, agenda, and minutes) from the transportation secretary Lori Ryan at (406) 444-7200 or [lrayn@mt.gov](mailto:lrayn@mt.gov). Alternative accessible formats of this document will be provided upon request. For additional information, please call (406) 444-7200. The TTY number is (406) 444-7696 or 1-800-335-7592.

## OPENING – Commissioner Rick Griffith

Commissioner Griffith called the meeting to order with the Pledge of Allegiance. After the Pledge of Allegiance Commissioner Griffith offered the invocation.

## Project Bid Awards

Dwane Kailey presented the Project Bid Awards to the Commission. We have 14 projects for your review and a recommendation for you as well. They are as follows:

#101 SF159, Great Falls District, Centerline Rumble Strips. We had two bidders. The apparent low bidder is High Mark Traffic Services Inc., Billings. The Engineer's Estimate was \$2,607,439.00. The low bid was \$2,347,336.59. They are 9.9% under the Engineer's Estimate. We had 11.72% DBE participation.

#102 Miles City East. The Engineer's Estimate was \$3,279,042.95. The apparent low bidder is Prince Inc., Forsythe. The bid was \$2,432,518.87. The bid was 25.82% under the Engineer's Estimate. We also had 15.17% DBE participation.

#103 Sand Springs East. The Engineer's Estimate was \$3,550,623.60. We had three bidders. The apparent low bidder was Prince, Inc., Forsythe. The bid was \$2,499,889.00. They are 29.59% under the Engineer's Estimate. We also had 6.81% DBE participation.

#104 Nashua North. The Engineer's Estimate was \$2,859,216.50. We had three bidders. The apparent low bidder was Riverside Contracting, Missoula. The bid was \$2,977,865.35. They are 4.15% over the Engineer's Estimate but within guidelines.

#105 Homestake Erosion Repair. The Engineer's Estimate was \$1,487,499.75. We had five bidders. The apparent low bidder was Precision Highway Contractors, Billings. They bid was \$1,316,434.68. They were 11.50% under the Engineer's Estimate. Precision Contracting is a DBE, therefore we have a 1% DBE participation.

#106 Exit 5 East. The Engineer's Estimate was \$2,272,208.20. We had three bidders. The apparent low bidder was Riverside Contracting, Missoula. The bid was \$2,018,821.57. They are 11.15% under the Engineer's Estimate. We have 30.65% DBE participation.

#107 Vaughn North. The Engineer's Estimate was \$788,554.89. We had five bidders. The apparent low bidder was Pavement Maintenance Solutions, Columbia Falls. The bid was \$665,262.25. They are 15.64% under the Engineer's Estimate. We have 2.90% DBE participation.

#108 D3 Fencing, Brady North. The Engineer's Estimate was \$2,473,612.00. We had one bidder, Mild Fence, Kalispell at \$2,495,647.32. They are 0.89% over the Engineer's Estimate but within guidelines. We also had 1.40% DBE participation.

#109 Hoys Canyon Road. The Engineer's Estimate was \$828,272.62. We had three bidders. The apparent low bidder was LHC, Inc., Kalispell at \$638,666.46. They are 22.89% under the Engineer's Estimate.

#110 Thompson Falls SW. The Engineer's Estimate was \$534,755.50. We had two bidders. The apparent low bidder was Riverside Contract, Inc., Missoula at \$ 419,290.60. They are 21.59% under the Engineer's Estimate. There is 7.24% DBE participation.

#111 Midtower Road North. The Engineer's Estimate was \$437,364.35. We had two bidders. The apparent low was Pavement Maintenance Solutions, Inc., Columbia Falls at \$376,697.78. They are 13.87% under the Engineer's Estimate. We have 3.77% DBE participation.

#112 SF 139 US 212 Safety Improvements. The Engineer's Estimate was \$1,789,774.10. We had three bidders. The apparent low bidder was Montana Lands Inc., Great Falls at \$1,992,945.73. They are 11.35% over the Engineer's Estimate but within guidelines. There was 0.84% DBE participation.

#113 SF 139 Forsythe Skid Treatment. The Engineer's Estimate was \$667,615.00. We had five bidders. The apparent low bidder was L&J Construction, LLC, in Venice at \$397,331.78. They are 40.48% under the Engineer's Estimate. There is 91.09% DBE participation. We contacted L&J and they confirmed that they are good with their bid and they stand behind it.

#114 Makowasha Avenue, Crow Agency. The Engineer's Estimate was \$308,019.50. We had one bidder, HL Construction, Inc., Billings at \$693,407.34. They are 125.12% over the Engineer's Estimate. They are a DBE so they would obtain 73.95% DBE participation. We did look at HL Construction's bid and there's a number of items we believe are well outside of the guidelines. Probably one of the most telling factors is the fact that on this project we had a mandatory pre-bid meeting. Anyone who wanted to bid on this job had to be at that meeting and HL was the only bidder that showed up. So they knew bidding this job that they were the only bidder. We do not recommend awarding this at this time. We are going to look for other projects that we can possibly tie this to or just delay it for a while and see if there's additional participation in the future.

With that we are recommending award of contracts #101-113. Commissioner Griffith said that is the highest number I've seen in a while. Regarding the project in Rosebud County, what is skid treatment? Duane Kailey said that is typically on bridges or concrete where we treat the surface for skidding. Commissioner Skelton asked about the Big Horn bid that was rejected. Why was there no more participation; was it because it was on the Reservation that we did a mandatory pre-bid meeting? Duane Kailey said on Reservations when we negotiate the Project Specific Agreement (PSA), we will agree to whether or not we will do a mandatory pre-bid meeting or not. Typically we do. We do that on all seven Reservations. Commissioner Skelton asked what the project was. Duane Kailey said it's a TA project for sidewalk construction.

Commissioner Belcourt said they weren't rejecting it, you're just recommending we hold off on it. Duane Kailey said we are recommending that we not award this project to this contractor. We will re-advertise it, hopefully tie it to another project and re-advertise it in the future. So HL will not get the project at this point in time.

Commissioner Belcourt said, I see you talked to TERO at the pre-bid meeting and the TERO office was adamant about using TERO labor, was that an issue. Duane Kailey said that is standard on all Reservation projects. They are allowed their core crew but then they have to bring in additional members from the Tribe.

Commissioner Belcourt asked if there was an issue with the department in using TERO. Duane Kailey said it is in our MOU's with all seven Reservations, so that is not a problem, it is standard practice. Commissioner Belcourt said in reading the letter from HL which is a little disturbing: "if we would use all TERO workers, production would go down without the use of very skilled workers." I don't know what the TERO worker situation is at Crow. Duane Kailey said my specific experience has been with CSKT and in most cases, most of the contractors were actually very happy with the labor. We do not endorse or support the comments of HL Construction; it's simply their comments.

Commissioner Lambert moved to award bids #101-113 and reject bid #114. Commissioner Skelton seconded the motion. All Commissioners voted aye. The motion passed unanimously

### **Approval of Minutes**

The minutes for the Commission Meetings of September 20, 2016, and October 4, 2016, were presented for approval.

Commissioner Skelton moved to approve the minutes for the Commission Meetings of September 20, 2016, and October 4, 2016. Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

### **Agenda Item 1: TCP Concurrence**

Director Tooley said the Commission is very familiar with the Tentative Construction Plan (TCP). I've been involved at the district level as have the Commissioners. At this point if there are no questions or concerns I ask for a motion to approve the Tentative Construction Plan for Fiscal Year 2017 through Fiscal Year 2021.

Commissioner Belcourt moved to concur with the Tentative Construction Plan for Fiscal Year 2017 through Fiscal Year 2021. Commissioner Skelton seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

## **Agenda Item No. 2: Certificates of Completion August – 2016**

Duane Kailey presented the Certificate of Completion for August, 2016, to the Commission. These are presented for your review and approval.

Commissioner Lambert said I recognize different modes of transportation but are we really building a tow boat in Polson. Duane Kailey said yes. That project has a very interesting history. It's under the CTEP Program and under CTEP there was a lot of flexibility. Preservation of historic properties was an eligible activity. There is an old boat in Polson that was used for logging activities. It is historical. Lake County applied for a CTEP project to build a shelter to preserve that boat. Commissioner Griffith asked if it was a paddle wheel. Duane said it was actually motorized. It is from the 40s or 50s. We did approve that project and it's completed

Commissioner Skelton moved to approve the Certificates of Completion for August, 2016. Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

## **Agenda Item No. 3: Project Change Orders August – 2016**

Dwane Kailey presented the Project Change Orders for August, 2016, to the Commission. They are presented for your review and approval. Commissioner Griffith noted District Two only had a .4% change order and that's a good thing.

Commissioner Lambert moved to approve the Project Change Orders for August, 2016. Commissioner Belcourt seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

## **Agenda Item No. 4: Liquidated Damages**

Dwane Kailey presented Liquidated Damages to the Commission. These are presented for your review. We have one project: HSIP 234-1(18)4, Slope Flattening South of Havre. The Contractor was Lakeside Excavation, Inc. They have 3 days of Liquidated Damages for a value of \$3,501.00. They are not disputing this. The Commissioner need do nothing unless they wish to waive the damages.

Stand

## **Agenda Item No. 5: Letting Lists for September through February 23<sup>rd</sup>**

Dwane Kailey presented the Letting Lists to the Commission for September through February 23<sup>rd</sup>. These were updated in accordance with the draft Red Book. This is current as to what you concurred on in the Red Book. Commissioner Skelton asked if Rockvale Laurel is the one we approved in September. Duane Kailey said yes.

Commissioner Lambert moved to approve the Letting Lists. Commissioner Belcourt seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

## **Directors Discussion & Follow-up**

Director Tooley said I have two very brief issues for discussion. We spent two days together, and according to tradition I don't bring a lot to consider after two days of

looking at the TCP. I enjoyed the process; it gets better every time we get together. Just as a reminder the staff did a lot of work and I appreciate that. The planning for Fiscal Year 2018-2022 starts tomorrow. Thank you for your attention, input and questions over the last couple of days. It helps us to know what you are thinking. Commissioner Griffith said on behalf of the Commission I would like to thank the staff. It was the most prepared Red Book I've ever seen; it was well organized with the least amount of turmoil between districts, between the Commission and the department. It's the best Red Book process I've been through. I'd like to make sure all the staff knows that we're proud of them; it's a great process and it continues to get better. Director Tooley said he would pass that along. Thank you for your time. It wasn't just two days, as you well know, you've been in communication with the districts all year to get to this point so a lot of that work was done months ago. That's why it worked so well.

There is one piece of follow up. There was some discussion on the worst piece of Interstate in the Western World existing in the Missoula District. We are going to fix it. I wanted to give Duane Kailey a chance to discuss the Interstate Ride that you have in front of you and talk about exactly what is going on with our Interstate System.

Duane Kailey said we collect numbers on our roadways every year. There is one segment on the entire Interstate System that does show up red west of Missoula. I looked at the exact mileposts and they coincide with the Frenchtown East & West project that's in Missoula's Red Book this year so that red will disappear fairly quickly. Aside from the red our P3 Process is working very well. Most of the districts are fairly equal. They aren't all green and they aren't all red and one isn't red while the others are all green – it's fairly consistent. The majority of the Interstate System is predominately green which is what we want to see. Commissioner Griffith said I hope they took the criticism from the intent that we need to fix it. I'm happy to see the Frenchtown project. I appreciate the update. You have to be proud there is that much green on the map.

Commissioner Lambert corrected the record and stated that she wasn't disagreeing with the statement. I was just asking for the scale by which we came to that conclusion. Commissioner Griffith said it was my scale. Literally with the exception of exiting the state, I have driven every mile of the Interstate this year except north of Great Falls. I haven't been on the Shelby to Sweet Grass Interstate. When I travel I take notice and I write it down. I care about what happens at Frenchtown and Post Creek as much as I do about what happens at Valley Center on Harrison Avenue in Butte. All the Commissioners do too. Commissioner Belcourt said we take it as friendly jousting between the districts. I would like to point out that the Great Falls District has taken a nose dive while Missoula holds steady.

Commissioner Griffith thanked the Department and the Commission for their hard work. When I first came on the Commission it wasn't routine for everybody to get out and drive the district and now it is very much routine. We all get to see our District and others as we drive across the state when our meetings are held other places besides Helena. I'm very proud of our department and proud of the Commission for their input.

### ***Elected Officials/Public Comment***

*Darryl James, Executive Director for Montana Infrastructure Coalition*

I understand one of my board members, Cary Hagreberg of the Montana Contractor's Association, has at least advised the Commission of the existence of the Coalition. I wanted to provide an update on what we're up to and let you know a little bit more about us. We're about 70 members strong. It ranges from Architects

and Engineers to Contractors and laborers that build infrastructure, economic developers who help find financing for public infrastructure all the way to local governments that actually operate and maintain infrastructure across the state. So we get a good broad cross-section of folks involved in the Coalition.

We've spent the last several months trying to define infrastructure – what is critical infrastructure and what are we going to focus our efforts on in the 2017 Legislative Session. I wanted to let the Transportation Commission know that throughout our conversations we've identified transportation as one of the top priorities. We have crushing infrastructure needs across the state ranging from the condition of our schools to landfills to water, wastewater and transportation. Water, wastewater, roads and bridges always consistently rise to the top of the agenda for our members and we think for most Montanans.

We wanted to let the Commission know that it is going to be a major point for us in the Legislature to make sure we're pressing for existing revenue streams, that we look for new revenue to make sure that MDT is able to leverage all the federal highway dollars that are available, and that we're able to push some additional funding down to the local level to take care of local and county roads and bridges. If you have any questions about how the coalition is operating or what we intend to do, I'll be glad to answer them. Again, I just wanted to make sure that you have a formal introduction and a contact so that we can start working with the department and with the Commission as we put together our Legislative agenda.

Commissioner Griffith said for myself personally I support your group. I would be a member of your group as an individual not as a Commissioner and I'd love to help you prepare that. We're totally in agreement with your thoughts. We're happy to see this and hopefully we can get something done in this Legislature. Darryl James said we understand that all the departments are basically gagged until mid-November from any real discussions but we're ready and anxious to start that in earnest. Commissioner Griffith said I can't participate as a Commissioner but I'd love to participate personally.

Commissioner Belcourt asked if there was an update to the 201 Report Card. Darryl James said the American Society of Civil Engineers puts together a report card on a national basis. The Montana section of ASCE put together this report card and it's the first one to be done in Montana. They do that on a four-year cycle. That is what they do in every state across the county and ASCE nationally does it on a four-year cycle. Commissioner Belcourt said we could be lower; we could be failing. Darryl James said very possibly. Commissioner Belcourt said we're at C-. Darryl James said that's an overall grade. If you look at the ASCE's detailed report card, some of your state and federal systems are scoring much better but once you get down to the county gravel road system, those are virtually failing across the state. So that's an aggregate score for roads and bridges. Commissioner Belcourt asked how we were compared to neighboring states like Washington, Wyoming, and the Dakotas. Darryl James said if you look at the aggregate score of the entire report card, most of our neighboring states are in that C- to D range for overall infrastructure investment and condition. So it's not unique to Montana but it's undeniable that we are behind and need to do something dramatic. That is part of what the Infrastructure Coalition wants to do. When we look at the efforts over the last two Legislative cycles to pass a \$200 million infrastructure bill, that's great and we're not going to turn our noses up at that but that's not the answer. We're not going to make a dent in the deficit we have today without fundamentally changing the way we fund infrastructure moving forward. We haven't made significant infrastructure investments in 57 years in a lot of these systems.

Commissioner Griffith said, while we need to start with our own house first and the Legislature, the picture is much bigger than that. We need to impress upon Congress to do that kind of investments. I've been friends on both sides of the isle with

people back in DC who have influence on transportation and everybody wants the same thing but it's when it gets up to the level of making a political statement that it gets lost. Politics don't matter on this issue, everybody is in the same boat as far as trying to improve transportation. You sit around the committee meetings and they are all gung-ho but it gets lost in the leadership on both sides. It's on both sides of the isle. So we need to make that point. Darryl James said when we first started to put the Coalition together, the easy part was saying we have a problem and we need to address it but it's when you get into the nuts and bolts that it breaks down, i.e., if we have a new revenue stream, what does that look like. I've had members come to the table and say I'm all for this as long as we're not talking about a fuel tax increase. Well everything has to be on the table. Then it's about how you divvy it up once you bring it in – is it going to the rural areas of the state, is it going to the areas that area experiencing growth pressures? What does that funding formula look like? So we've got a lot of details to work through. Last week we made some significant headway in narrowing down the list of revenue tools that we're going to be looking at in detail and we'll announce that after the election and start working on the specific details. I'd appreciate you input on that. Commissioner Griffith said you've got to encourage the group to agree on the things they can agree on and not be negative about things they can't agree on. There are going to be things in the end that you can't agree on but we all agree infrastructure is important. We have so much beyond 2021. Lynn Zanto said it is well above \$700 million. Commissioner Griffith said that's what is on the books but the thing about that is other projects can't come in until we can find a solution for what's on the books. I'd bet there is double that amount that can't even hit the books yet. Every district, every department has more needs than what we can satisfy. We're talking a big number here. We could easily bring twice the amount of projects to the floor if we had a solution.

Commissioner Lambert said county roads account for part of our poor grade. There really isn't much we can do about most of that. I don't think we should be in charge of the counties but nonetheless it's really hard to work to improve our system when we really don't have control of a lot of it. Darryl James said I want to make clear that the coalition is focusing on is the broader picture. We want to help make sure MDT has the ability to fully leverage the federal highway dollars and to chip away at as much of the existing program as currently exists. We also see the need to push some dollars down to the local level because they have crushing needs and the local taxpayer is not going to foot the bill. Here in Helena we're seeing bond after bond shot down for pretty critical infrastructure needs because taxpayers are pretty tapped. So we've got to find a way to bring in new revenue from non-residents. We're looking at how to tap some of those tourism dollars and make sure we're accounting for their impact on our infrastructure as well.

Commissioner Griffith said Anaconda spends their entire maintenance budget on one road – the Mull Creek Road which we've been working on for a couple of decades. They spend most of their entire maintenance budget on that one road. Commissioner Belcourt asked if they work with federal agencies. Darryl James said we've started conversations with some of the federal agencies that have grant and loan programs but if you look at the array of funding programs for the full list of infrastructure, its mind boggling; you can't wrap your arms around it. Frankly that's part of the reason we're going to focus on roads, bridges, water, sewer in the 2017 Legislative Session. We are looking at USDA for instance on some of their funding programs for rural water systems, water treatment and those kinds of things. It's part of the picture but again I'll stress this as much as I can without scaring everybody, we really are looking for new revenue. The Legislature tends to carve up the existing pie differently and we're not going to make headway doing that. The deficit is just too large and slicing up an already insufficient pie into different slices and smaller pieces is not a sustainable revenue. So we're looking for new revenue on top of existing programs. Somewhere in that discussion we have to look for efficiencies in existing programs and making sure those monies are going to the right things and the right

priority. We don't want to set that but we want to make sure that dialogue is occurring somewhere.

*Ralph Zimmer, Bozeman Area Pedestrian and Traffic Safety Committee, Bozeman*

I'm partially blind so it's hard for me to find things. I'm from Bozeman. I chair the Bozeman Area Pedestrian and Traffic Safety Committee. I'm a member of the Bozeman Area Transportation Coordinating Committee which met just this morning. I'm also the only non-governmental employee that's on the Belgrade to Bozeman Frontage Road Corridor Study Advisory Committee. I am an Engineer and a former President of the Intermountain Section of the Institute of Transportation Engineers for Montana, Idaho, Utah, and Nevada. I'm also a former President of the Montana Society of Engineers. I think I may be in the minority here as being an Engineer but I'll speak to you from the engineering perspective.

I happen to be a great advocate for separated paths because of the safety they provide and for the additional option they provide for transportation other than motorized travel. I consider that kind of the cake of separated paths, the safety benefits, the advantages for alternative transportation. I know lots of others look at things like health, recreation, economics, etc., but to me that's frosting on the cake. The cake for me is the safety and the alternative transportation. For reasons I'll get to shortly our group is interested in separated paths. A particular one is in the Bozeman area but we're interested in far more than that. We're interested in those paths throughout the entire state.

Our committee has recently taken some action back in August on separated paths because it was brought to our attention by the Montana Department of Transportation that they were undertaking a review and the establishment of a policy on separated paths included in MDT Right of Ways. That's a concern for us and we've tried to involve ourselves in that process but we've been pretty well stymied. We've been told repeatedly that it's an internal policy and not subject to public involvement. We've not seen a draft of that policy. I've been told that drafts have been distributed within the agency but we haven't seen any. This is a concern to us because we think it affects the viability of separated paths throughout the entire state. As a result of that, the Pedestrian and Traffic Safety Committee took some action at its August meeting relative to this policy that's been under development. We have some concerns about it that grow primarily out of our fondness and appreciation for the additional safety and the additional options it provides for alternative transportation.

I have received different answers from employees within MDT giving us different opinions on how far-reaching this policy will be. One employee said he had reviewed the draft policy and said it won't affect the local path we've been talking about at all. That's good news. That means lots of other local paths throughout the state will also be unaffected by this new policy that's under development. I've had other employees within MDT tell me that we need to start looking outside the MDT right of way and that we need to look at acquiring right of way elsewhere other than MDT right of way for the path we're interested in. This path is one that has been quite well endorsed and supported locally both by governments and the public. So we have some concerns about this policy. We're getting conflicting input and we're not having the opportunity to review the draft policy. I shared this handout with the Transportation Coordinating Committee. The Committee discussed it and liked it and passed the motion in its entirety, with the exception of three MDT employees who abstained saying that since the statement directly effects MDT they would have to abstain on any vote.

Again we want to be constructive. We think separated paths provide excellent service, provide excellent utility, help us toward Vision Zero, and help in a number of ways and we wish to promote them. We're grateful for what MDT has done in that



regard in the past. We're a little bit nervous about the efforts that are underway. We urge you to monitor that policy as it develops and we would hope that you would ask the agency to share with some of the stakeholders what that policy is before it is finalized and set in concrete.

Let me share with you some of the conversations of the TCC meeting. There were a number of people present in the room including some of the major representatives from the City of Bozeman who took MDT to task for not more actively involving the involved parties in this policy statement. The statements were made such as: "it's utterly ridiculous to develop a policy such as this that potentially affects us so greatly and not involve us in its development." One person said: "you know if you don't involve us in the development and give us a chance to provide some input before its adoption, what will happen is something will get adopted, it will have some weaknesses but the only way we're going to be able to change it, once it has been adopted, is to come in the room with ball bats and fight the fight to get it changed." We don't want to do that. As I say, we're grateful for what MDT has done in the past and we're looking forward to continuing that effort but we would like a greater degree of cooperation in the development of this new policy. This is a statewide policy that effects everybody not just those of us in Bozeman.

I'd like to talk about a local path. There currently is a Belgrade to Bozeman Frontage Road Corridor Study underway for the old highway between Bozeman and Belgrade all the way from Jackrabbit Lane in Belgrade to the west bound I-90 Interchange on North 7<sup>th</sup> in Bozeman. I'm a member of that Advisory Committee working on that. That project started back in April with our first Committee Meeting. It was supposedly a one-year project, so I'm assuming it will be completed about May of this coming spring. The path that I made reference to is a separated shared-use path that has been endorsed by the Belgrade City/County Planning Board, the Bozeman City Commission, the Bozeman Area Transportation Coordinating Committee, and other public agencies plus a number of citizen groups. There are at least five citizen groups supporting that path. Over 3,000 Gallatin Valley residents have signed a petition in support of that path. If you look in the MDT Road Design Manual you will find it lists nine guidelines for having separated bike paths (in this case a separated shared use path) which might justify a separated path. Arguably the path we're talking about meets at least six of those nine guidelines. So we're talking about a path that has a lot of support and would seem to be in alignment with the MDT Road Design Manual.

We do have several concerns but one of our more immediate concerns is regarding a project called "Slope Flattening Belgrade" project which is 1.6 miles along that Frontage Road. We were told this morning by MDT at the TCC meeting that the contract letting on that project is July 25, 2018. As I mentioned earlier the Corridor Study ends up approximately May of this spring. MDT has developed, planned, and is expecting to let that project that does not include a separated shared-use path along those 1.6 miles in spite of all of the things I mentioned above. At the suggestion of Jeff Ebert and Craig Wollard, the City of Bozeman Director of Public Works, the five groups that jointly advocated for that project at the January TCC meeting have reconfirmed their commitment to that project and to the separated shared-use plan and have made some other mutual decisions which hopefully will move us along the path towards getting that project.

*Marlee Brown, Citizens for Safer Bozeman*

First of all I want to thank you. You are citizens looking out for our tax dollars and our safety. That's what I am also; a citizen that never thought I would get into this line of work but here I am based on someone who came here and said we've needed this for 30 years. I started looking at this and found we had kids in the neighborhood that can't ride bikes to their school. We know it would be an economic boon to have this pathway joining our two cities and getting transportation off the highway. I made a couple of copies of a photograph that was taken right in front of MDT

facility on Frontage Road. It's pretty graphic. We get bicyclists coming through there all the time and hazards occur with trucks trying to pass, conflicts with traffic head-on, people getting run off the road. A man named Patrick was killed two years ago riding his bicycle a mile from there because a truck was trying to pass him. A mile in the other direction is the slope flattening project. For some reason when the slope flattening project was first announced it was announced internally at MDT. It never ever reached the public that the project was in a comment period, either through governmental agencies or through the normal media or citizens group. So we never got an opportunity to comment on that project and submit our idea that we needed a pathway associated with it. It is a very narrow corridor and there's right-of-way issues and very limited room. We would very much like this to be added in some way, shape or form to the slope flattening project. We'd been told by people within MDT that it would not be very costly to at least level a place for the pathway to be added later. We are busy raising money, we are busy trying to apply for grants, and we're waiting on the go-ahead of the Corridor Study to say this would be allowed. It's kind of the tail wagging the dog because the project has been approved but people never got a chance to comment, so we commented afterwards, then a Corridor Study is coming along which is probably going to approve it, and we're being told that it is too late. So we're begging you guys to help us in any way you can to get it in there in some shape or form. We're going to continue working on all the other pieces to connect everything and we're a determined group of citizens as Director Tooley can tell you. We thank all of you for your time, effort and energy and thank you for keeping communication open and going. We really do appreciate everyone's time.

Commissioner Griffith asked Director Tooley to address this. Director Tooley said there were quite a few things mentioned. First was the overarching policy issue. Mr. Zimmer's discussion actually highlighted why MDT needs a policy. If you talk to two different people in the department, you get two different answers in regard to this because there was no guidance. If you talk to five districts, you get five answers and five different approaches which is normal. You're going to have different personalities and different points of view on how to approach any project. When it comes to something like this, that's exactly what happened. In the end the problem isn't all about policy, it's about funding. Right now MDT spends about \$8.6 million per year on various bike/ped facilities including separated use paths. It's happening now and we're being asked for more which is great. The problem is that's all we have so in order to make smart investments, you've got to have some kind of guideline.

What we really need is a statewide plan and that's been a long time coming. Lynn's shop has only so many resources and right now we're dealing with federally mandated plans. Congress demands these and we better get them done otherwise we lose millions of dollars or at least the flexibility of millions of dollars for things like freight which is also important to other stakeholders. So we don't have the resources to do a statewide bike/ped plan right now which is really the long-term answer which is where you engage the stakeholders. You need to get the input of the stakeholders. Right now we're spending \$8.6 million per year on things that we don't have good guidance for. So the smart business move, from my perspective or anybody's perspective that has to manage a budget, would be to stop and only meet requirements of the federal law like ADA or state law that says we only have to spend \$200,000 per year and I don't want to do that. So we're creating a guideline, a policy direction, in the interim and later a long-term statewide bike/ped plan that addresses these issues so we can do this in a coordinated fashion where we can match up with community plans and get these facilities built. That's where we're at on the plan.

Regarding the path along what is now Primary 205, I'm aware of the petition and the way the question is asked, I'd answer yes. I'd love to see a path between Belgrade and Bozeman. That's pretty simple but the devil is in the details and it really is in this case. On the slope flattening project there's not a lot of room on some of this corridor. There's the BN Railroad which is leased by MRL on the south side of

Primary 205 and on the north side through some of this project there are residences. We can't move toward the railroad. By the way we don't even own the land that the highway is on, it's an easement that we've been granted by the railroad. The railroad has already said you can't move one inch towards the railroad so everything has to go to the north. Now that it's a primary highway, we are going to widen the shoulders and the lanes to primary standards which is eight feet on each side. We're also going to change the slope in the borrow pit to current standards. So on the blacktop you've got at least 16 more feet that you're moving to the north toward the residences. Then you add in the slopes which take even more right of way. We think we're going to have a difficult right-of-way negotiation with a number of these land owners. Now put in a separated 10-foot use path on there, which I agree would be great, you're taking another 20 feet in order to get the proper drainage, slopes, and the blacktop on there. If you go through that area and I know you're pretty familiar with that area, now you're into trees. We can condemn for a state project if we have to but we cannot condemn for a shared-use path. Not only that, if we spend federal money on a shared-use path, it has to meet the federal requirements for transportation. There are other parts within that discussion, i.e., you take into consideration the average commute length being three miles and those kinds of data points that we would be expected to have to explain to spend that money. That's assuming we could even get the land. So this is a very convoluted, difficult statewide and local issue between Belgrade and Bozeman. If I had the funding and I could get the land and there weren't the complications of graveyards and wetlands and all those other things, I'd be the one saying why not. It's all in the way you ask the question – it's not as simple as it sounds and if it were, we would be looking at doing it. That's where we're at now.

As far as the input on the safety project, if you take a look at MDT's public involvement guide, there's different levels of public involvement for projects. The slope flattening project was determined to have a certain level of involvement. Basically we're going to widen the road, put in a turn lane, and change the slopes. That was the extent of the project and it came out for the minimal public involvement level. You put a notice in the paper, ask for comment, you don't need a public meeting. You don't have a formal public meeting on every project; you have different levels of public involvement. There is some public involvement on every project – some more than others. This project had a press release on January 12, 2015, and advertised in the local publications about the safety project explaining the details and gave a link to the public comment form and none was received. I appreciate the opportunity to comment but again, it's not as simple as it seems. If you want to discuss more on a statewide basis, I'm happy to do that.

Duane Kailey said I would add two things. The safety project is only a very short segment of the entire project, less than two miles. The corridor in its entirety is about nine miles. So we're trying to add on a lot of work to a very small project. Safety is something we want out on the road as soon as possible. If you add in additional features, it delays the implementation of those safety mitigations. When we delay those safety projects, you're putting people's lives at risk. We're doing that project because people have been seriously injured or killed and any delay puts people's lives at risk. We need to get those out there as soon as we reasonably can. We are not willing to delay this project and for very good reasons.

Commissioner Griffith said the public involvement is sending a letter to the newspapers. He asked if that was not acceptable public involvement. Marlee Brown said I researched this for about four weeks. I don't know what happened internally but I can tell you it never hit the newspapers. I went to the libraries, I looked at all the things, I talked to the editor and all the staff and they had no record of it. The county government didn't get notification. All the other places that normally get notification, never received it. I am 98% sure of that. I did my research; I know. So I don't know what happened, I do know it was released, I've seen the notice but it never reached the end points for whatever reason. I don't know if it was held back

temporarily for some reason but we never got an opportunity to comment. So we took the opportunity as soon as we heard about it. I can even say that after it was supposedly released, I was in Mr. Tooley's office complaining that we were being denied the information and I was still not given the information at that point. I'd gotten wind of it through an MDT employee. I know it never reached the public. We have now commented on it and given all the problems with right of way, if it could just be looked at more carefully to see if there's any way this path which is vital and so many citizens counting on it, could be brought in closer to the shoulder at some point. What can be done? We're just being told that it looks impossible so let's not do it. We need to look at it. We're prepared to go out and get grant money to help do it but we need a little bit more cooperation and working together. At least that way when I go back to the three thousand people and say "sorry they said no" then I can explain why.

Commissioner Griffith said we can't do anything before the Corridor Study. Kevin McLaury said I hear your frustration and it concerns me because the federal process requires public involvement. We certify MDT's public involvement process. Lynn can explain it better so I'd like to ask Lynn what the public involvement process involves and the details you go through to ensure that it is out to the public. Lynn Zanto said Mike mentioned the process at the project level and explained what was done once this became a project. Before a project can even become a project and get approved by the Feds, we put together the STIPP which you approve every year. In the planning process there is also public involvement. Through the STIPP this project had to first be in that. One of the main intents of the STIPP is public notification and a public information process. As part of that we go out every year and meet with the counties to consult with the counties about the STIPP and what's coming up. So there's public involvement that happens even way before it actually gets approved as a project. Commissioner Griffith asked if she was at the TCC before the meeting. Lynn Zanto said it's been a while since I've attended a TCC meeting. She asked Jeff Ebert if they have quarterly meetings with the local government about projects we have in the works. Jeff Ebert said yes, we meet four times a year and discuss all the projects that are upcoming and coming into the program. We talk about those projects throughout the life of the nomination, the STIPP, the program, and then the actual design. When the actual press release goes out, it goes to radio stations and newspapers. We take out ads which we pay for and we get a copy back from those groups.

Marlee Brown said I went back through all of the TCC minutes from the day of that announcement. It was never announced until January of 2016. That was the first time it was announced at a TCC meeting and it was openly discussed at that point. Commissioner Griffith said I understand your concerns with this. Every member of this Commission has concerns over bike/ped issues. I think the concern here is you've had eight months to do it. I haven't heard from you and you have my cell phone number. Marlee Brown said I don't like to abuse those sorts of things. Commissioner Griffith said I'm the public face of the Commission. Marlee Brown said we were basically told at that meeting that it would not be a big deal to add it to the slope at a future date so we kept going through the process. Now we're at a point where we would simply like to say if there is a way to be added after the Corridor Study approves it, we would very much like it to be looked at. The public comment came out as soon as we heard about it. I even have letters from the County Commission saying they did not know about the project at that time. I don't know what happened but I think it's more important to move forward and figure out what can be done. We would just like to be a part of the process and figure out what can be done before everything gets set in stone, before the letting goes out, before the preparations of the bids. Let's see if we can add the project.

Commissioner Lambert said we're looking at the proof. Everybody would have looked at that and assumed you got the notice. I don't know how we could be held accountable for that. Marlee Brown said I don't know how we can be held

accountable for it not appearing. Commissioner Griffith said I'd understand if it never went to the Chronicle and didn't get published on accident but it wasn't just the Chronicle, it was KBCK, all the TV stations. They don't have to run it; it's free TV and it's not paid for but it was a release dated January 12<sup>th</sup>. The point is I don't think anyone at the department or any one on the Commission is objecting to you having input in this process. I think we were taken aback by you saying there wasn't public participation. I don't see a problem of participating in the process. It may not be that we're able to help out. If you want to do a grant that's acceptable, we could slow down the project but it's a safety project and we fought hard to get the speed limit changed over there and fought hard to get the Valley Center changed. We are trying to address the safety of all motorists on 205 and delaying that would affect everybody. It's not just one segment of the population, bicyclists use that too. I've been working on a path between Virginia City and Sheridan and I can't find money for it. I get to see the budget and I know where the money is and I can't find anything for it. MAP 21 took a little bit of our flexibility away to be able to do that, so we have less money to be able to apply. I'm not saying it is not needed because we all like to be on separated paths, but for this project, I think it's good for you to participate but it may not happen on this project because we don't want to give up the safety of this project. That's not saying a separated path still can't happen but the problem is acquiring land. Marlee Brown said it would be really nice if we could look at what could happen in conjunction with this project not what can't. Rather than doing the work twice, looking at the amount of room needed. Maybe there is no room; I don't know. I don't think the graveyard is even part of the project. Let's do what we can instead of slamming the door shut and saying you're not even going to look at it. Commissioner Griffith said no one has said that. Marlee Brown said it has been slammed in our face by some of the lower employees.

Commissioner Griffith asked the delivery date on the project. Dwane Kailey said July 18<sup>th</sup>. Commissioner Griffith asked about the design. Dwane Kailey said we're at right-of-way acquisition and just finishing up the actual design of the slope flattening project so we know what the construction limits are. It will take about two or three months to get the actual right-of-way plans together. We'd have to go back through and re-establish where the path would go. The railroad is on the south side and the roadway sits on right-of-way owned by BN on an easement by the department. Commissioner Skelton said you've added two additional shoulders. Lynn said that's correct. Jeff Ebert said two eight-foot shoulders and we're also putting in right-turn lanes and left-turn lanes. Commissioner Skelton asked if the shoulders would be gravel or asphalt. Jeff Ebert said they'd be paved. Director Tooley said we would all prefer a separated path but eight-foot shoulders are considered adequate for alternative or active transportation. I wouldn't put my six-year old on it but if you want to use it for transportation, absolutely. I'd run it. Commissioner Griffith said that's a problem from a bicyclist's standpoint, I would not want to be out bicycling on that road. That's why we need to address the safety issue. At a minimum we'll probably have two or three Commission meetings before the design is finalized and you're always welcome to participate in that discussion. I think the department is always open to better solutions. I don't think they close the door until the bids are out.

Director Tooley said we had a consultant look into this to see if it was feasible and how much it would cost. Nothing is infeasible but everything is very expensive. The minimum number was \$5 million and the consultant thought it would be closer to \$10 million. Ralph Zimmer asked, given the constraints of the railroad, what kind of solution was the consultant proposing. Director Tooley said it wouldn't be a part of this project, it would be outside the MDT right-of-way, and it would avoid the graveyard and the wetlands. That's why it's so expensive. Commissioner Belcourt said with the constraints we've all heard, what options are you thinking? Ralph Zimmer said we've heard it's not as easy as I've said. My response is that it is not as difficult as was said either. The truth is probably somewhere in the middle. Five citizen groups were advocating for this at the January Transportation Coordinating

Committee Meeting and all agreed they would like that path to be as far away from the moving traffic lane as possible but if there are right-of-way restrictions, it could be moved closer to the traffic lanes, they would also entertain the possibility of putting it on the side slope of the highway. If it's on the side slope, it's on an MDT structure, it clearly has to be within the right of way if the side slope is in the right of way. So it would appear at least in many places that it could go within the right of way that is acquired for the highway itself. So we don't see that as a huge insurmountable problem at all.

Ralph Zimmer said the statement was made that the reason you need this policy is because different people within MDT will give different answers. The people that gave us conflicting statements had seen the draft of the new policy and they still gave us conflicting input on whether the new policy, as drafted, will affect this project between Belgrade and Bozeman. That's one of the reasons we're so nervous and why we would like to see that draft. We would urge you, as a group, to pay close attention to what that policy is and review it yourselves before its final adoption and request MDT to distribute that to people who are asking for it. I can assure there are a bunch of people in Bozeman that would like to see the draft of that policy.

Ralph Zimmer said on another matter, I inquired many months ago of MDT's public information office as to what documentation they had that the January, 2015, public notice ever appeared in local newspapers. I was told they had no documentation. Commissioner Griffith said we're not going to settle that today. All I can say is the Commission hears your thoughts. I think the Director is right because in the column that says \$8 million for bike and pedestrian. So it's not all bike path related and that's statewide. Not that I am any happier than you are with this situation. I asked the Director to look at Virginia City to Sheridan and his thought was to look at a public/private partnership to help build that. They're in far less financial health down there than the Bozeman/Belgrade area to be able to participate. The long and short of it is the department probably can't fund it. We aren't against the separated path but the right of way may be an insurmountable problem. I can tell you from having a \$3 million budget for that project and a \$4 million budget statewide that we're struggling up hill to try and find money to do that. That's not saying we don't want it or that we don't agree with you but there's no money. If you truly want to sit down and participate I suggest we try to look at some kind of partnership to work out the issues. From my public days, I would send out public notifications to the radio stations and newspapers but unless it was an actual published public notice, they do it if the story is interesting enough but they don't have to do it. From the department's standpoint, we have an open mind but don't forget there are limited resources. Yesterday when doing the Red Book one of the District Administrators said the community wants it, and I said Bozeman wants more money for this and Butte needs more money for that and the community asked for it. I wish that were the easiest solution but it isn't.

Marlee Brown said the community would like to come up with funding but we can't until we have access to the right of way so it's a catch 22. Commissioner Griffith said that's true. It may not be solvable – we can't condemn for bike paths and we're not going to take railroad land, then we've got the subdivision on one side and who wants to give up their land to have people accessing it. We're all in favor of it, we just have to have the logistics to make it work. I know the department tries to do the right thing and I know they tried to do the right thing with the public comment. It's a process that's approved by the federal government. We're at a point where we'll look at and maybe by the next meeting we can have some kind of definitely result. Marlee Brown thanked the Commission for all the time you've given us; it's way more than we expected.

Commissioner Belcourt said Melinda Barns spoke at the last meeting, was this the same policy she was talking about? Duane Kailey said yes. Commissioner Belcourt asked if they could get a copy of the policy. Director Tooley said it's still out for

comment. Commissioner Skelton asked how long that would take. Director Tooley said pretty quickly. Commissioner Griffith asked if a draft policy was available. Director Tooley said they could arrange for him to see it. Commissioner Griffith said he would like the Commission to get a copy.

Commissioner Skelton thanked the department for all the hard work they did for Red Book. She said she enjoyed working with Commissioner Griffith because he was a wealth of information. Thank you for all you do for the State of Montana. Commissioner Lambert said when I first came on the board Red Book was three very intense days but now it is so streamlined that it goes fast and it's fun. So I add my thanks to you for that. Commissioner Belcourt said this is a great group and it's a pleasure to be in the board. Thank you.

### **Next Commission Meeting**

The next Commission Conference Calls were scheduled for November 11, 2016 and December 20, 2016. The next Commission Meeting was scheduled for December 15, 2016.

### **Adjourned**

Meeting Adjourned

Commissioner Griffith, Chairman  
Montana Transportation Commission

Mike Tooley, Director  
Montana Department of Transportation

Lori K. Ryan, Secretary  
Montana Transportation Commission