

# Montana Transportation Commission

October 30, 2014 Meeting  
Helena, Montana

## IN ATTENDANCE

Kevin Howlett, Transportation Commissioner, Chairman  
Rick Griffith, Transportation Commissioner  
Barb Skelton, Transportation Commissioner (by proxy)  
Carol Lambert, Transportation Commissioner  
John Cobb, Transportation Commissioner  
Mike Tooley, Director MDT  
Pat Wise, Deputy Director MDT  
Dwane Kailey, MDT Engineering  
Lori Ryan, Commission Secretary  
Tim Reardon, MDT  
Jim Skinner, MDT  
Kevin Christensen, MDT  
Lynn Zanto, MDT  
Dave Ohler, MDT  
Patti McCubbins, MDT  
Lisa Hurley, MDT  
Nicole Pallister, MDT  
Greg Pizzini, MDT  
Rob Stapley, MDT  
Paul Hurley, MDT  
Carol Grell-Morris, MDT  
Paul Harker, FHWA  
Kevin McLaury, FHWA  
Lloyd Rue, FHWA  
Kris Kelly, HDR  
Tom Keck, Bozeman  
Gary Brown, Bozeman  
Jessie Brown, Bozeman  
Marilee Brown, Bozeman  
Sue Harkin, Bozeman  
Leon Sherman, Bozeman  
Alicia Smith, Bozeman  
Eileen Guthrie, Bozeman  
Caroline Calvin, Bozeman  
Benno Garwood, 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 Kevin Howlett**

Commissioner Howlett called the meeting to order. After the pledge of allegiance, Commissioner Howlett offered the invocation.

## **Approval of Minutes**

The minutes for the Commission Meeting of September 23, 2014, were presented for approval.

Commissioner Griffith moved to approve the minutes for the Commission Meeting of September 23, 2014. Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

### **Agenda Item 1: Interstate Capacity Funding Reserve**

Lynn Zanto stated that based on the work you've done the last two days, I would recommend that this agenda item be withdrawn. Commissioner Howlett said the item is withdrawn.

### **Agenda Item No. 2: Construction Project on State Highway System Huffine Lane & Cottonwood Road – Bozeman**

Lynn Zanto presented the Construction Project on State Highway System, Huffine Lane & Cottonwood Road in Bozeman to the Commission. Town Pump is developing a gas station/convenience store in Bozeman at the intersection of Huffine Lane (N-50) and Cottonwood Road (U-1216). The developer has requested a new approach to Cottonwood Road and modifications to an existing approach on Huffine Lane. In order to address the traffic generated by the new facility, a study recommends adding a northbound left-turn lane on Cottonwood Road and minor alterations to the existing traffic signal at Huffine Lane and Cottonwood Road.

The city of Bozeman has given preliminary approval for improvements at this location. Additionally, MDT headquarters and Butte District staff have reviewed and concur with the recommended improvements.

Town Pump will provide 100 percent of project funding and will be required to complete MDT's design review and approval process (to ensure that all work complies with MDT design standards).

*Summary:* Town Pump is proposing modifications to the state highway system to accommodate additional traffic generated by a new facility at the intersection of Huffine Lane (N-50) and Cottonwood Road (U-1216) in Bozeman. Specifically, Town Pump is proposing to add a new approach and a northbound left-turn lane on Cottonwood Road in addition to minor modifications to an existing traffic signal at the intersection of Huffine Lane and Cottonwood Road.

Staff recommends that the Commission approve Town Pump's proposed modifications to the state highway system pending concurrence of MDT's Chief Engineer.

Commissioner Griffith moved to approve the Construction Project on State Highway System – Huffine Lane & Cottonwood Road, Bozeman. Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

### **Agenda Item No. 3: Functional Classification/System Designation Bench Boulevard – Main Street to Lake Elmo Drive, Billings**

Lynn Zanto presented the Functional Classification/System Designation, Bench Boulevard – Main Street to Lake Elmo Drive in Billings to the Commission. The Transportation Commission gives concurrence on functional classification recommendations for public roadways at the state level with final approval by the Federal Highway Administration (FHWA). Functional classification is a method of classifying roads by the service they provide as part of the overall highway system.

A new section of Bench Boulevard (U-1036) was recently constructed that extended the roadway from Lake Elmo Drive to Main Street (N-16) in Billings. Once construction was complete, MDT conducted a functional classification review of the new section of roadway. At this time, MDT is advancing the following functional

class recommendation for Bench Boulevard from Main Street to Lake Elmo Drive in Billings: Major Collector.

Since Bench Boulevard now has logical termini (connections to higher system roadways), and given this functional class recommendation (major collector), the city of Billings and Yellowstone County are proposing to add the remainder of Bench Boulevard to the Urban Highway System. Specifically, the Billings MPO Policy Coordinating Committee is requesting to add the 0.5 mile segment of Bench Boulevard from Main Street to Lake Elmo Drive to the system.

Although the Commission may require an equivalent reduction in Urban System mileage, in this case, there are no logical segments for removal in Billings (that would not affect system connectivity). Additionally, 32 miles of Urban System roadways were recently converted to NHS routes in the Billings area – with no new routes placed on the Urban Highway System. Lastly, additional Urban System mileage would not affect urban funding allocation amounts since these allocations are based on population (rather than system mileage).

*Summary:* MDT is requesting Transportation Commission concurrence for a functional class designation of major collector for Bench Boulevard from Main Street to Lake Elmo Drive in Billings – pending FHWA approval. Additionally, the Billings MPO Policy Coordinating Committee is requesting addition of this segment of roadway (totaling 0.5 miles) to the Urban Highway System.

Staff recommends that the Commission concur with the functional classification recommendation and approve the system action as summarized below:

1. Functional Classification Recommendation  
New segment of Bench Boulevard from Main Street (N-16) to Lake Elmo Drive functionally classified as a Major Collector.
2. System Action  
Add the segment of Bench Boulevard between Lake Elmo Drive and Main Street (N-16) to the Billings Urban Highway System.

These actions are contingent on FHWA approval of the functional classification recommendation.

Chairman Howlett asked if they needed two separate motions. Tim Reardon said the Commission can do this in one motion but you are making two independent motions. He asked if they had anything from the county in writing to put in the record. Lynn Zanto said they can get that. They have official meetings with recorded minutes so we can get that. Commissioner Cobb asked if they had to include in the motion that we don't require any permanent reduction. Tim Reardon said no. Commissioner Griffith asked if they were adding miles. Lynn Zanto said they were adding .5 miles.

Commissioner Lambert moved to approve the Functional Classification/System Designation – Bench Boulevard – Main Street to Lake Elmo Drive (Billings). Commissioner Griffith seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item No. 4: Glendive District Culvert Project  
Culverts – East of Rosebud  
Culvert – South of Opheim**

Lynn Zanto presented the Glendive District Culvert Projects, Culverts East of Rosebud and Culvert South of Opheim to the Commission. The Interstate Maintenance (IM) Program finances highway projects to rehabilitate, restore, resurface, and reconstruct routes on the Interstate Highway System. Montana's Transportation Commission allocates IM funds based on system performance. The Glendive District is advancing the following IM funded project:

Culverts – East of Rosebud - This project involves placing a concrete lining on the bottom portion of two culverts located on I-94, east of Rosebud. The first culvert is at Coal Creek in Rosebud County. At this location, the bottom portion of the culvert is perforated and in need of repair (the rest of the pipe is in good condition). The second culvert is at Cottonwood Creek in Custer County. Work at this location will include replacing plant mix surfacing material (with concrete) and possibly some work on the outlet end of the pipe.

The total estimated cost is approximately \$420,000.

The Surface Transportation Program - Primary (STPP) finances highway projects to rehabilitate, restore, resurface, and reconstruct routes on the state's Primary Highway System. MDT's Transportation Commission allocates STPP funds based on system performance. The Glendive District is advancing the following STPP funded project:

Culvert – South of Opheim - This project on MT-24 (P-31), south of Opheim, will replace an existing 84-inch pipe that is bowed in the middle.

The total estimated cost is approximately \$537,000.

*Summary:* The Glendive District is requesting to add two culvert projects to their highway construction program. The first project will repair two culverts on I-94, east of Rosebud, at Coal Creek and Cottonwood Creek. The second project will replace a defective culvert on MT-24 (P-31), south of Opheim. The total estimated cost for both projects is approximately \$957,000.

The proposed projects are consistent with the goals and objectives identified in the Performance Programming (P3) Process as well as the policy direction established in

TRANPLAN-21. Specifically, roadway system performance and traveler safety will be enhanced with the addition of these projects to the program.

Staff recommends the Commission approve the addition of these projects to the program. Commissioner Lambert asked if they needed to dig up the road in order to repair the culverts. Dwane Kailey said not for the liners. If we replace a culvert we have a couple of mechanism but for the size of these culverts we will have to tear up the roadway. However, we can do "bore and jack" which is essentially using pretty sophisticated equipment that pushes a culvert through underneath the roadway. With the size of the culverts I believe we will have to excavate the roadway.

Commissioner Lambert moved to approve the Glendive District Culvert Project, Culverts East of Rosebud, Culvert South of Opheim. Commissioner Cobb seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item No. 5: Bridge Replacement Project  
Middle Fork Porcupine Creek –  
11 Miles south of Opheim**

Lynn Zanto presented the Bridge Replacement Project, Middle Fork Porcupine Creek – 11 Miles South of Opheim to the Commission. MDT's Bridge Bureau reviews bridge conditions statewide and provides recommendations for construction projects to be added to the Bridge Program. At this time, the Bridge Bureau recommends adding the following project to the program:

Middle Fork Porcupine Creek – 11 miles south of Opheim: This is a replacement project for a structurally deficient bridge on MT-24 (P-31) that crosses the middle fork of Porcupine Creek, 11 miles south of Opheim. The replacement structure may be a bridge or a culvert – whichever is deemed most appropriate during the design process.

The total estimated project cost is approximately \$1,567,000.

*Summary:* MDT is requesting Commission approval for a bridge replacement project on MT-24 (P-31), 11 miles south of Opheim. The total estimated project cost is approximately \$1,567,000. MDT's Bridge Program will fund this project with Surface Transportation Program (STPB) funds specifically reserved for bridge work.

The proposed project is consistent with the goals and objectives identified in the Performance Programming (P3) Process as well as the policy direction established in TRANPLAN-21. Specifically, roadway system performance and traveler safety will be enhanced with the addition of this project to the program.

Staff recommends the Commission approve the addition of this project to the Bridge Program.

Commissioner Lambert moved to approve the Bridge Replacement Projects, Middle Fork Porcupine Creek – 11 Miles South of Opheim. Commissioner Griffith seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

### **Agenda Item No. 6: TCP Concurrence**

Director Tooley was asked to explain the TCP process for the audience. Director Tooley said today we are asking the Commission to concur in the Tentative Construction Plan (TCP) for the federal fiscal years 2015-2019. The Chairman mentioned that we have been here three days looking over each project that might go into this plan. In reality the Commission and their respective District Administrators have been looking over this plan for most of the year to determine which projects should go into the final year of the plan, fiscal year 2019. For the past three days we've looked at available funding and projected funding and had to make some movements in the years between 2015 and 2019. This is the program that the Department will follow for the next five years to construct highway projects in the state. There are maps in the room around you that show the current status of expected projects for fiscal years 2014 to 2018.

Commissioner Howlett said there are never enough resources to do everything that everybody wants so we really need to roll up our sleeves and look at priorities and safety issues and come to some agreement on what projects we can get done with the resources we have. There are some things we don't have any control over like the Congress but we do the very best we can. I'd like to publically commend the staff for the work they do during the year and the Commission for the work they do in their individual districts.

A question was asked if the intersection of Valley Center Spur was on the plan. Is it scheduled? Dwane Kailey said Valley Center Spur is classified as a maintenance

project so it is not included in the TCP. We do have some interim repairs and some changes we want to do out there. Our plan is to try and get it out to contract and have a contractor on the ground by this fall to make the repairs. Commissioner Howlett said we have a separate time set aside to address this issue. The TCP is a construction plan so it is not in there.

Director Tooley asked Dwane to explain how a project gets into the TCP. Dwane said first it starts out with P3 which is a program that looks at the needs state-wide and the available funding and then allocates funding by District, by System. We then allocate the dollars to each of the districts. Then the districts work through our various management systems – pavement management, congestion management, safety management – and identifies the highest needs they have. They then nominate a project. That project comes back to the Commission for approval and it gets inserted into the TCP. From the time it is nominated until the time it is done is approximately one to two years for something simple like pavement preservation but if it is fairly complex then it requires a high-level environmental document. The main factors in the length of time it takes is complexity and impacts to the environment.

Commissioner Cobb asked about the Highway Safety Improvement Program. Are those projects bid out? Will we see them again for approval? Dwane Kailey said yes and no. For the fairly small ones we work with local governments or our own maintenance staff. The larger projects you will see again because they go through a regular bid process and are awarded.

Commissioner Howlett said things can change in the course of a year and things can be re-evaluated. This is basically a planning process.

Commissioner Griffith moved to approve the TCP Concurrence. Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

### **Agenda Item No. 7: Speed Limit Recommendation Bozeman Frontage Road (P-205)**

Dwane Kailey presented the Speed Limit Recommendation, Bozeman Frontage Road (P-205) to the Commission. This speed zone was initiated by request by the Commission. You asked us to look at doing an interim speed limit. I applaud my staff who did a stellar job and rushed out and gathered the data and we have a recommendation for you that would not be interim but would be permanent. They looked at the traveling speeds, the accident history and the corridor, the nature of the roadway and the access along that route. At this point in time they are recommending no change in the speed limit. If you look at the speed data collected you will notice that the 85<sup>th</sup> percentile speeds are right at or a hair above the 60 mph speed limit as well as the pace that's between 50-60 eastbound and 56-66 westbound. Furthermore, 150 feet east of Valley Center Spur Road the 85<sup>th</sup> percentile speed is at 60 mph. The pace is 50-60 and 53-63 with 63% and 71% within that pace. That percentage is fairly high. Typically we see more around the 50% in the pace. This means there is a large multitude of cars traveling at 50-60 mph range. That lets me know that we don't have a large differential speed out there and the public is comfortable at traveling at 60 mph.

We have presented the speed study to Gallatin County. Their recommendation is concurrence with the understanding that some changes will be made. We are proposing to do an interim mitigation or a treatment. Their letter is in concurrence with our recommendation of no change at this time. Commissioner Griffith said you better read the whole letter which he then read to the Commission. It says they agree with the conclusions and recommendations with one exception: "If no other

improvements are made at the intersection of Valley Center Spur, we encourage the Department of Transportation to strongly consider a reduction to 50 mph from an eighth mile east of the intersection to an eighth mile west of the intersection similar to that of the three-way intersection at Gallatin Gateway.” Commissioner Howlett said there is a question about the improvements – does it mean what has been done to date in terms of the flashing signs. Commissioner Griffith said it means improvements beyond the things they are planning to do. I want it to be clear that they aren’t just concurring with our recommendation.

Commissioner Howlett said there are a number of people who have traveled up here to voice their concerns and I want to give them an opportunity to voice their concerns.

*Citizens for a Safer Bozeman and Gallatin County*

We have 318 members. She introduced her daughter Jessie who will be driving soon. She is 12 years old. We decided to start this group together and I will let her tell you why. Jessie said I was one of the last people to say good bye to Kari Freidman before she died a few minutes later at the intersection of East Valley Center Spur and Frontage Road. My family drives Frontage Road four times daily and I will be driving soon. I want to lower the speed limit so that I can more easily and safely enter it.

Our goal has been to save lives and allow commerce to flow moving traffic more safely through the spur and on Frontage Road and Valley Center. I would like to give to you the following petition with over 318 signatures.

“In order to save lives and property and allow commerce and traffic to flow, we are requesting the Montana Department of Transportation, along with the cooperation of all state and local authorities, to re-engineer and reconstruct the intersection of East Valley Spur and I-90 Frontage Road and keep it completely open. Making this intersection safer and allowing better lines of sight should be the first priority of MDT and the State of Montana and Gallatin County. We ask that the Highway Commission, with the cooperation of MDT and Gallatin County, to lower the speed limit immediately on I-90 Frontage Road and east of the spur on East Valley Center.”

I have presented two diagrams showing the area. One shows the intersection specifically and the other shows the current speed limits along the roadway larger map, the eight-mile stretch from Bozeman to Belgrade. For the last two months I have asked literally anyone I could find in any official capacity what the best thing is to do with this roadway and 99% of the people said lower the speed limit. This includes law enforcement, EMS workers, engineers, professors. It was made clear at the hearing on September 16<sup>th</sup> that one hundred percent of the people there said to lower the speed limit. They don’t like driving 60 mph on that roadway. The only exception is one of the men who signed the letter from the county, Joe Skinner, because he likes to drive fast; that’s is literally what he told us. I asked traffic engineers and law enforcement. There’s a quote in the chronicle after the last death that occurred there a few months ago. Sergeant Travis Munter said “this crash shows just how dangerous Frontage Road can be because of the narrow shoulder and high speed limit.” Sheriff Goodkin plans on being here at 10 am to address you. He does not feel that the speed study citation data is relevant in this study. He doesn’t feel it has any place. He also is very concerned about the hazardous conditions of Frontage Road. The Fire Department and EMS people said there have been many times they had to respond to people who lost control and went off into the deep ditches. They would approve of a lower speed limit.

In 2001 citizens asked for a speed reduction from 70 mph to 45 mph because a family was rear-ended and three members died. It was only lowered to 60 mph at that time. I can’t help but wonder if it had been lowered if six other people who have

died along Frontage Road since that time would be alive today and four other people on East Valley Center Road where the speed limit is also 60 mph. That means 10 people could be alive today perhaps. They might be injured but maybe they would be alive.

We are asking for the speed limit to be lowered and made consistent the entire length of the roadway so that it can flow more evenly and people can form new habits. If the Commission should decide to lower it only on a smaller section, we ask that you do it at least in the populated areas which would be from 7<sup>th</sup> all the way to Coulee Drive. If you lower it an eighth of a mile on either side of the intersection which is currently where the flashing signs are, it's going to cause people to speed up right where my daughter is going to be entering the roadway, right where many other people have no other choice but to enter the roadway because there is no other way to go. It is also right where MDT is planning a new transportation center.

Finally regarding the speed issue, my daughter would like to read a statement from Mark Freidman, the father of the girl that was most recently killed. "It seems rational that reducing the speed limit would provide a wider margin of reaction time should a collision occur and lessen the impact of such an accident. Perhaps that could save a life at that intersection". We're scared about what's been proposed. We're terrified. I'm shaking even thinking about it. Sheriff Goodkin has also talked to me about it as well as other emergency people. If the left-hand lane is closed instead of fixed in some way, it is going to cause people to go around the barrier or come down to Nelson Road right where the new snowplows will be coming out and try and do a U-turn. We know and it's been repeated by emergency workers that the kind of crash that is happening right now is going to be traded for a much worse type of crash – the U-turn. We really want you to consider that.

We think you can solve this. We think you can figure out a way to temporarily fix the intersection so that everyone can move easily through it and that will save lives and keep traffic flowing. Emergency workers need to travel through this area. If the Sheriff or Volunteer Fire Department can't make that left-hand turn, they will be delayed up to three minutes going around on 19<sup>th</sup>. That's the amount of time someone can die from a heart attack. I don't want to see anybody else die or a house burn down because the fire department wasn't able to get there in time. Please consider this. Thank you.

*Sue Harkin, Bozeman*

I live at 37 Berry Court in the Wiley Creek Subdivision. I was here one year ago representing the Homeowners Association. The neighbors are very pleased with keeping Valley Center Road at 45 mph; they are very appreciative. They are concerned about the Spur Road being closed if it were to be closed. They do have hope that MDT can come up with some alternatives to make that a safer intersection. Anybody who has tried to turn onto Frontage Road knows that the traffic coming at 60 mph is hard to get on going either way. There is a blind spot there when you turn so it is not a safe intersection. They know that but they also use that cut-off road a lot. I would personally like to see the speed lowered. I would like to see it re-engineered. I will support whatever is done by MDT to help make it safer.

I have a letter here from Dr. Alkazeer from Montana State University, a professor in the Civil Engineer Department. He wrote a letter on the speed limits and on the proposed pork-shop that is going to be put in, or the right-turn-only lane. He was asked by the local citizens to take a look at the most recent interim proposal from the speed study and offer some input from his perspective. It is important to him because he lost one of his students there recently. His number one request is for the speed limit to be reduced at Frontage Road:

“I have reviewed the speed study submitted on October 2, 2014, and have enough reason to believe that the study was conducted appropriately and the recommendation made was well supported by the study result. However, it is well known in the practice, that the determination of speed limit on a particular road should consider other factors that are equally important or more important than operating speeds. Specifically crash history and the risk associated with the physical design of the road should all be important inputs into that determination process. As such, engineering development is an essential part of this determination. In regards to the Frontage Road between Belgrade and Bozeman, it is evident that the roadway lacks roadside features such as the presence of wide shoulders and flattened side slopes on the north side of the road. Moreover, the crash history at this site involves two fatal crashes since 2010 and more than 50 reported crashes during the three-year period 2011-2013. I strongly believe that speed limits suggested by the 85<sup>th</sup> percentile free-flow speeds should be adjusted, reduced, to reflect the aforementioned factors that exist at this particular road. There are many sources of information with guidance on determining safe and appropriate speed limits.”

His second issue is the proposed interim solutions as stated to press on October 15, 2014.

“Modification of the intersection layout to improve site distances for turning movement is the best immediate action to improve safety and their operations at this intersection. However, the proposed elimination of the left turn at this busy intersection poses a new hazard. It is of great concern that an unsafe design is being traded for a design that could result in more hazardous situations. This is due to travelers being forced east and then trying to turn around and go west in the middle of the highway or at an intersection not designated to handle such turns with high speed traffic flowing by. I recommend that vehicles be allowed to turn left to the west from the Spur with improved site distance for left-turning traffic which would achieve with the new proposed striping of the right turn lane for east-bound traffic.”

I believe what he is saying. He’s much more of an expert than I am and I’m hoping you consider his comments. Thank you.

*Alicia Smith, Bozeman*

I live in Bozeman and that’s a road I manage to travel quite a bit particularly on my way in and out of the airport. I have not had a bad situation but I’ve come very close and I’ve also witnessed accidents. I think a reduction in the speed limit to 50 mph makes sense. Personally I think, particularly with the new airport entrance, we’re going to have even more traffic there than we’ve had so I’d recommend potentially a traffic light as well. I say that with pain in my heart because I like to drive fast but I also like to get there.

*Caroline Calvin, Bozeman*

I’m a resident of Bozeman and a Real Estate Agent and have been practicing for 10 years and have seen huge growth in Bozeman and I anticipate, as many people, almost doubling the population of Bozeman within 20 years. There are some numbers that I don’t know you are aware of. Between Griffin Drive on North 7<sup>th</sup> all the way to the airport on Frontage Road there are 21 roads and 42 driveways so that’s a total of 63 potential ingress/egress cars trying to access the 60 mph road. So that’s 63 potential crash sites at that high speed. I’m not an Engineer or a road construction expert but I drive those roads a lot. I would just urge you to look at the difference between the newly constructed East Valley Center Road at 45 mph and the

older Frontage Road, single lane each way, big culverts and ditches on the side, at 60 mph and somehow it just doesn't make sense to me. Thank you.

*Leon Sherman*

I move farm machinery through that Spur Road all the time and so does my neighbor. In the pork chop he has to turn left to get down to his fields, so how is he going to move all of his 40-foot combines and all the other stuff down that road with the pork chop in there. I realize the speed limit is 60 mph and it doesn't matter if I'm moving machinery at 45 mph, people still pass me doing 60 mph. I'm more concerned about moving my farm machinery through the pork chop and making that turn. Thank you for your time.

*Tom Keck*

I live at 411 North 3<sup>rd</sup> in Bozeman. The Valley Center Road was engineered for a higher speed and it is very nice driving on that road because the traffic has come. Everyone is going 45 mph and I was amazed at that but there is no sense of frantic energy on that road and it seems to be working. That's good stuff. This whole issue is personal to me. Some of you know that my youngest son got killed on a roadway in Washington. Colin was an amazing young man; you would have really liked him if you met him. He was very personable, he was very committed and he was very intelligent. He graduated with a Civil Engineering Degree from Gonzaga in four years and had five job offers coming right out of school. His ultimate goal was to work for Engineers without Borders. Somewhere along the line he got this idea that his purpose in life was to help others. Now I don't know and I didn't get to meet Kari Freidman, the gal who died most recently at that intersection, but from everything I've read I see Colin and her as being kindred spirits because they both had this desire to help other people. The fact that we've lost them is hugely personal.

I strongly believe the appropriate speed limit for movement and for safety on Frontage Road is 50 mph. I'm just adamant about that. Way back when I was in Driver's Ed the mantra they always told us was "speed kills". It may be an overstatement and it is a little more complex than that but that was what they were trying to pound in your head the whole time. If you're driving faster, your reaction time to react to the changing conditions is shorter and there's less time for others to get out of the way. The distance traveled when you need to stop is longer and the energy of impact if you hit something or somebody is greater. So there's no way we can say speed is not a relevant factor for safety.

I do not claim to be an expert in speed studies. I've worked as a Scientist for 30 plus years. One of the things I do and do well is analyze data, not just getting results but looking at the inherent assumptions of procedures and statistics in terms of how they affect results and whether our analysis is actually appropriate. I have started looking at the methodology used for speed studies and there is no doubt there is some unintentionally but inherent biases in that procedure that will, in most cases, reflect in higher speed levels. I have no doubt about that. It was intended as a tool to be used in conjunction with professional judgment. It is not "the answer" but a tool to help you reach the answer and then you'd have to look at other things in terms of conditions of the road and accident history.

Another thing in the last week when I've been thinking about this and talking to people, just the comments of local people living in that area, comments like "I never drive that road because it's really dangerous" or "it's really bad at night". So putting the whole thing together I come down very strongly that 50 mph is what we should be looking at. My bias is on the side of safety. I went out there and I measured the distance with my Subaru from the turn-off at the airport to the light at Spring Hill Road and you can easily calculate that if you were going an average speed how long it would take you to get from Point A to Point B at 50 mph and at 60 mph. You save

70 seconds in transit by going 60 mph as opposed to 50 mph. So the tradeoff we're working with is a delay of 70 seconds. How does that weigh against the safety impact of reducing that speed? I know where I come down. When we finish this next Interchange, there will be five Interchanges between Bozeman and Belgrade. If you want to go 50 mph, especially when we have the next Interchange, you can get on the Interstate and you can go 70 mph since the roads are parallel. We don't need a high speed limit of 60 mph on Frontage Road.

I submitted a bunch of comments on the construction of that intersection and I'll let you look at those. The two points I would make at this time is that no matter what the option, part of the solution is a 50 mph speed limit. One idea I thought about for traffic getting onto the right would be to have a merge lane so it's not a stop, you have to accelerate and you have some space. Thank you very much.

*Eileen Guthrie, Bozeman*

I live on Valley Center Road and have lived there most of 40 years when it was dirt road and the only way we could get there was from North 7<sup>th</sup>. I'm going to be reading a letter from Mr. Terry Hall who lives along Frontage Road and couldn't be here. Commissioner Howlett asked if they could just enter the letter into the record rather than reading it. She said there are some points I'll go over.

- There are seven residents right along Frontage Road right by his house.
- Trouble getting in and out of the driveway.
- Owns an art studio and has visitors and clients.
- There is a day care facility right there.
- This is a wildlife corridor and when people hit deer along the road they aren't often reported.

For myself, I have grandkids that walk from my house to Frontage Road a lot. Bozeman is growing and there's a lot of traffic and we need to think about the people and the lower speed to help keep things safe.

On Valley Center there is a change of speed limit from 60 mph to 45 mph right at the intersection and it's very difficult to tell what speed vehicles are going because you don't know who is speeding up and who is slowing down. I suggest you make the speed limit consistent through there.

As far as the interim solutions, forgive my crude drawings but I wanted to show a possible solution to allow both left-hand turns and right-hand turns by just painting lines and installing a curb. So instead of trying to prevent traffic from moving left, you have a single lane so that cars, instead of sitting side-by-side blocking each other's view turning left or right, share the same lane and one turns at the same time. I have a very crude drawing that I'll leave with you. That is one idea. Thank you very much for hearing us and considering what we have to say.

*Benno Garwood, Bozeman*

I'm the General Manager of the Comfort Suites in Bozeman. Our property is on the other side of the Interstate just off of Valley Center Drive. My interests are a little bit different in that we're interested in both safety and the flow of commerce in that area. As other speakers have mentioned, that area is growing and Bozeman is growing quite quickly. When our property broke ground, there were two hotels and one incomplete hotel in that area and now there are five fully functioning, open and running hotels. All of us use the roads in that area particularly for shuttling our guests back and forth to the Airport. Our Shuttles generally run from 5:00 am to midnight and a fair bit more in the summer which is our busy season.

In terms of the safety, there is an interesting juxtaposition between the two sides of Valley Center and the Frontage Road. Right about where our property is the speed limit moves up from 45 mph to 55 mph and then to 60 mph and then slows down again at Spur Road for that intersection. This is also mirrored on the Frontage Road on the other side. Even at 45 mph, we had contracts with an Airline who was looking to house their crews but because of the lack of safety in having to cross Valley Center by foot they didn't select us for the contract.

I was formerly with the Holiday Inn on 7<sup>th</sup> Avenue and took the Frontage Road. For the three years I was at that property one of our Vans went off the road and through a barb-wire fence into a farmer's field and another Van was in a relatively serious accident that resulted in one employee who quit because of not feeling safe on that road especially at night. In the winter it's compounded because it gets dark earlier and the roads get slick earlier. So from our view, seeing the speed limit changed would provide a benefit both for our operations as well as for our guests. Providing directions from our property to guests who are renting a car or taking other guests to the Airport, at this point is quite simple, take a left and turn right on Spur Road and turn left on the Frontage Road. The interim measures of putting a concrete barrier in there, small as it sounds, means using the 19<sup>th</sup> Avenue Interchange which creates three more lights to go through. While three lights isn't a lot, it's a big jump from no lights and we run on a 30-minute schedule to the Airport as do most of the hotels in that area. That's just enough time to unload guests and luggage and allow for issues with the roads. Adding three lights on a bad day can add 5-10 minutes to your trip which creates a significant impact on how we run those schedules. Providing directions for guests especially for foreign travelers with the language barrier becomes more complex in trying to explain the 19<sup>th</sup> Avenue Interchange.

Speaking specifically from notes the owners of the property gave me and requested that I represent, their suggestion is that once the Belgrade Interchange is open that perhaps there would be an opportunity to study how traffic patterns change as a result and see if measures such as lowering the speed limit and adding a traffic light where Spur Road comes onto the Frontage Road might be more prudent in providing both the increase in safety that's necessary as well as keeping our flow of operations at an efficient level and provide cogent directions for our guests who need to get back and forth and provide the transportation that our vehicles provide as they take guests to and from the Airport. Thank you.

Commissioner Howlett said before we act on this I want to explain our actions to audience. We don't just consider the 85<sup>th</sup> percentile of traffic getting from Point A to Point B. We have not always adopted the staff recommendations. We consider things that have been brought forward today and we have considered them in the past – wildlife, children, the environment, residences, perceptions – all of that comes into play. The engineering is a tool to help us make a decision and that's an accurate description of the speed study and it's a valid tool but other things come into play as well. In considering this, there are roads in the state that are less travelled but for safety reasons have a uniform speed limit on them. In my District the east Shore of Flathead Lake has a 55 mph speed limit for the entire length of the lake. People would prefer sometimes to go faster and have a higher speed limit but you never know when somebody is going to pull out of a driveway or a deer is going to jump in front of you or a jogger is going to fall off the mountain. So as we consider your concerns, I want to assure you I want to take some time to think about this, not days but minutes, because I have the highest regard for the study itself but I don't know the long term effects are of taking immediate action. My thought is that we don't know what the traffic is going to be after the new exchange opens but we know we can get from Point A to Point B a lot faster by going on the Interstate if you want to get there quicker. One of my Great Uncle's told me one time "if you want to get there quicker, leave earlier." That's a pretty simple solution.

Commissioner Griffith said I don't know if the Commission knows what the recommended solution was. Can we get that information? Dwane Kailey said they are proposing an interim proposal until such time as the East Belgrade Interchange opens. We don't know what traffic patterns will do. We have models and predictions but ultimately it comes down to what the public chooses to do. So we would like to put this in as an interim. It does restrict a left-turn off Valley Center Spur Road to westbound Frontage Road. There is also a little bit of a separator out there right now for eastbound traffic to take a right onto Valley Center Spur Road but we'd widen that to 10 feet. It does not include an acceleration lane but it does have a 10-foot wide shoulder for an eastbound right turn. That gives an area for vehicles to get out of the way if something happens. There are some very large challenges with this area with very limited funding. Again this is an interim solution and we will come back and review this after the East Belgrade Interchange opens.

Commissioner Griffith asked when the East Belgrade Interchange was going to open. Dwane said he does not have a date right now but it will be early spring. Commissioner Howlett said if we were talking the end of the month it would be a fair request to wait for that but past that point I'm not sure it is. We've worked back and forth on this issue and everything the department has brought forward I've been on top of but the problem is East Valley Spur was built for equipment crossing more so than traffic. It was never built for what it's being used for. There is an inherent liability to the department and the Commission with that. While it may have been a bit premature but when the Division Administrator was interviewed on it he said "maybe the best thing to do is to close it." In trying to build it safely, it seems like everything we do has other unintended consequences. While the pork chop isn't the answer, it avoids an unintended consequence of somebody making a left-hand turn there. I appreciate the 70-second comment. In the end the Commission is tasked with moving traffic safely. That's all our job is – move traffic safely. I believe that Bozeman will grow 20% in the next 20 years and we've tried to stay ahead of the curve. This Commission pulled \$10 million out of Interstate Funds to put on Jackrabbit to keep up with the growth. Then we've got a project next that completes that portion of Jackrabbit and widens it out again. When we had \$45 million of extra money this Commission chose to put it into secondary road projects in my District and that's why Valley Center got done nice and wide with 45 mph. When Huffine Lane came through last time and the Sheriff called and said 70 mph is too fast, the Commission responded by reducing that speed limit. We're not afraid to take action different than what's recommended but somehow we have to weigh the unintended consequence that we create by doing something a little bit that's wrong. So there's a blend that has to happen and quite frankly I'm not so sure we should have an interim until East Belgrade open. If it were going to be November, I could weather that storm but not through the winter.

Dwane Kailey said, as the Chief Engineer, I have to stick with the study. The only thing I'll offer up for the Commission's consideration is this is a difficult area to enforce. Commissioner Griffith said it is difficult to enforce and the number of tickets that can be written in that area are low because you can't enforce it. I understand that but I don't think that takes away from the moral obligation of the Commission. If we truly could get East Belgrade up and running, I would be satisfied with seeing what would happen but I don't think March is acceptable to do something. I know the group would rather have us reduce the speed limit on the whole section but at a minimum I'm inclined to agree with the Commissioners and put a 50 mph reduction on it an eighth mile east and west of the intersection.

Commissioner Howlett said he would rather see a universal speed throughout the whole thing so you don't have an accordion effect. Tim Reardon said one of the speakers made mention that law enforcement intends to be here at 10:00 am so you might want to wait to hear what he has to say. Commissioner Griffith said I agree that globally we ought to look at a reduction clear from 19<sup>th</sup> into Belgrade once the intersection gets done. This is an interim temporary measure that would last until the

Interchange is open and hopefully by then we could have a global recommendation. I appreciate the work you've done with this but it's not the only opinions that I've had regarding this issue. I think the community as a whole would want to participate in a global reduction rather than just this one intersection being the contributing factor.

Commissioner Howlett said the County Commission said they were in agreement with that if there were additional things in place. What will be in place? If it's a prohibition against a left turn then I have some concerns about the U-turn issue. Commissioner Griffith said I understand the worry about the U-turn issue but I'm more concerned about the right hand side and getting the people used to doing something new. I hope people go to 19<sup>th</sup> and get used to using 19<sup>th</sup> and get on to 205 and lose the incentive to make a left-hand turn off this because it is unsafe. There is no way to go from 0 to 60. I'm sensitive to farm equipment because that's why that whole approach was built. Somehow we've got to do something now that's gets us through the winter but I think there's a bigger global approach. I know the district is saying everything is still on the table and this is a good attempt to keep the public safer. We can't keep people from breaking the law by trying to make a left-hand turn out of a no left-hand turn and that's an enforcement issue. The intent is to dissuade people from making a left-hand turn. Commissioner Howlett asked how much they would use it if we said 45 mph. Commissioner Griffith said he didn't know. It is the global issue of the whole road not just Valley Center Spur.

Commissioner Griffith moved to approve the Interim 50 mph Speed Limit from East Belgrade Interchange to the Intersection of N. 7<sup>th</sup>. Speed limit will remain in place through April, 2015, and all other new improvements will be on hold until re-evaluation in April. Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

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

Commissioner Howlett welcomed the Members of the Confederate Salish Tribal Council that came to discuss a couple of issues with the Commission. Chairman Trahan addressed the Commission. We have an issue that's coming up here on the Greybull Casino and the turn-off area we have up there. We're going to build a new Casino and there's concern about the traffic safety of incoming and outgoing traffic. We were wondering how we go about getting the state to take a look at that. When we met with the state on the corridor from Post Creek to Ronan they gave me a letter and I want someone to go over that letter.

Commissioner Howlett said the proposal, as I understand it, is that the Tribes are going to proceed with building a Casino and Convention Center, Motel and Restaurant on top of the hill. An unidentified man explained he was on the Gaming Board and had been working on an expansion of Greybull. We've been working with the Tribe in Minnesota and they have helped us with the plans for the Casino and Conference Center. Right now we have a 118 machines and we are expanding that to 300-400 machines. We are planning to put in an 80-room Motel along with a Conference Center. I met with some of the Highway Safety Commission when they came up there and told them our plans but I didn't think we'd get it approved that quickly. The Council also approved the expansion. Now we're looking at doing the blueprints. There have been some accidents up there since the Casino opened. I live about a mile north of the Casino. We're concerned about the influx of the traffic that will be coming to the Casino and the safety concerns. We do have turn lane going north but we don't have one going south and that's going to be a problem. Right now we just have a small little turn off to get off the road so we need a turn lane.

There might even have to be a stop light there but there will be some safety issues. We will need a study on how to get people safely back onto the highway.

Commissioner Howlett asked Dwane about the process. Dwane Kailey said we have a section within MDT called Systems Impact. Lynn Zanto said where there's development occurring along our highways and there are needs to facilitate safe access and safe movement of the traffic through, it starts with the District Administrator, Ed Toavs, asking for a Traffic Impact Study from the Developer to take a look at existing conditions and what's going to be generated from the development and propose mitigation. The Commission Agenda Item from Town Pump and those proposed modifications started from our System Impact Process. So the first step is to connect you with Ed Toavs, our District Engineer, and Joe Skinner. I will get you the contact information and the staff can help you with that. Dwane said the Systems Impact Study takes that information and routes it to the various professionals within the Agency for their review. For example, something along this line will have to be heavily reviewed by our Traffic and Safety Engineer. They will make sure the comments get back to you. Commissioner Lambert asked where this will be located. Commissioner Howlett said the top of Evaro Hill about 10-miles north of the Y of I-90 and Hwy 93 on the southern edge of the Flathead Reservation.

Commissioner Howlett asked Dwane to discuss Mr. Toavs letter with Chairman Trahan. Dwane said when we built US 93 it was predominately designed as a two-lane highway with passing lanes. We've seen an increase in traffic along with heavy increase of tourist traffic. There are areas where it's difficult, due to congestion, to enter or leave the highway. We've had discussions with the Tribe. Ed has been made aware that the Tribe is going to consider and look at expanding the SEIS Preferred Alternative for both Post Creek Hill as well as through the Nine Pipes section. So he sent a letter to the Tribe asking them to officially endorse or concur in initiating a Corridor Study which will look at the ramifications of widening the existing or proposed Preferred Alternative within the SEIS for that segment. I don't believe we've gotten a comment back but we're fairly confident the Tribe will concur with that and we'll start looking at possibly broadening that typical section to a five-lane through that segment. Commissioner Howlett said we'd have added capacity. Dwane said we would have added capacity as well as a turn lane in there for several approaches which are not being addressed in the Preferred Alternative.

Commissioner Howlett said when we were looking at TCP and Red Book, for the last couple of years we've always looked at the issue of the Perma curves being beyond the scope simply because we know they are issues of major concern to the Tribe; specific issues to the preservation of the archeological sites that may be in the area. We need to fix that section of road. That is by far the worst section of highway in Montana. I think the Tribe would be willing to have some kind of an agreement through the Preservation Office to go out and literally look at various options for a possible route. I think they are willing to do that if we can come to an agreement in an MOU. I don't know the next step in that. Dwane Kailey said I have a fairly lengthy history of that project as well. The one thing I'd add is that it is very cultural area to the Tribe but the other issue is that it is a typical western Montana roadway sandwiched between rock cliffs on one side and a very scenic river on the other. We've had numerous comments raised by the Army Corp of Engineers. They are very reluctant for us to impact that river at all. So we've got cultural rocks on one side and a "do not touch" river on the other. It's a very difficult situation. As far as an MOU, the process would be to start with the District Administrator, Ed Toavs. I've had discussions with him and he is very concerned with that segment as well. We want to get that project moving but it is a very difficult project to try and resolve all the issues. I'd discuss it with Ed Toavs and start working towards an MOU to move that project along. The actual name of the project is Paradise-East East between Perma and Paradise.

Commissioner Howlett said the Chairman could look forward to some contacts and discussion with Mr. Toavs from the District office to address those three issues. Chairman Trahan said he appreciated the time. I always look forward to meeting with you people; we've always had a good relationship and I'd like to keep it that way. Thank you.

*Gallatin County Sheriff Brian Goodkin*

Good morning. Some folks from Gallatin County met with me last week and brought up some concerns about the Valley Center Frontage Road Interchange. It sounds like you've already talked about it this morning. I would just say thank you for putting off the "no left-hand turn" as I believe it would cause more issues than help for a lot of different reasons. The second thing is it sounds like there may have been a little bit of discussion about lowering the speed limit. I think that would be a good thing then re-evaluate it later. The one thing I would ask you to take a look at again ... it's a weird little area right there because 19<sup>th</sup> actually goes over Frontage Road. I think you talked about lowering the speed limit to 19<sup>th</sup> to North 7<sup>th</sup>. North 7<sup>th</sup> actually turns into Frontage Road and you come down this hill and fly by the Highway Patrol Office on the right hand side. I'd ask you to re-evaluate and actually lower that from where North 7<sup>th</sup> turns into Frontage Road. That makes is a lot easier instead of having a little short area where people can speed and then go in front of the Highway Patrol Office and then have to slow down. I ask that you go all the way to North 7<sup>th</sup> instead of North 19<sup>th</sup>.

Commissioner Howlett said we can make that correction. We appreciate your support of that effort. As always when we deal with speed limits, we kick the ball back to you for enforcement. Sheriff Goodkin said we can do that. That's a tricky road because it's unsafe to begin with and then for us to be pulling people over makes things even worse. We will get folks out there for enforcement. Commissioner Howlett said we have done it and we'll make the correction on location.

*Conference Call - Reagan Key, Big Sky Chamber of Commerce*

I would like to thank the Commission for letting me speak today. I've only got a couple of issues to bring before the Commission. On behalf of the Chamber of Commerce and our Board of Directors and my Executive Director, Kitty Clemens, thank you for your guidance throughout the permitting process for development of our lighting project here in Big Sky. Highway 64 and 191 really has been viewed by that and really creates a uniform system of guidance for visitors here in Big Sky.

An addendum to that, on Hwy 64 into Big Sky on Lone Mountain Trail, we're actually having a little concern with tractor trailers and vehicles parking along the side of the road right near the fish \_\_\_\_\_ (inaudible). We're not looking for an immediate solution right now but we're looking for some advice from the Commission as to how we might be able to detour those vehicles from parking there. They run into the light pole that's been installed and bend the banner mount and we end up paying money to have them repaired. I've got some photos to send you so you have a visual on that.

Thirdly, on behalf of the Lone Peak High School Sophomore Student, Josh Aboe, I want to express our support for a project she is spearheading to draft some of the light power boxes with art similar to the City of Bozeman. I've got a power point from her that I will get to you. The Chamber of Commerce supports that and several local leaders for that project. She plans to begin with the power box at the corner of Hwy 64 and US 191 near the only stop light in town and then work her way up into town. She is raising all the funds herself and is doing a pretty remarkable job with that so far.

Commissioner Howlett said he appreciated his civic participation and thanked him for the call. He asked Director Tooley to report back to the Commission on the truck issues. Commissioner Lambert wondered if that was a no parking area. We have the same problem in a couple of places and it is definitely a safety issue. I'm not sure what you can do about it. Reagan Key said they park in between my office and the Conoco station on a 100-yard stretch of road that heads up into Big Sky on Hwy 64. It's a large shoulder but they park four to six trucks on either side of the road on the shoulder and it becomes a safety issue. Commissioner Howlett asked if he was suggesting a no parking area. Reagan Key said he wasn't sure. I'm not familiar with the laws but they are big rigs that can't pull into the Conoco station and that is why they are parking there. Commissioner Howlett said they need some kind of recommended solution there. Dwane Kailey said he recommended that the District Administrator reach out to the Chamber and they drive up to the area site and look at it and provide some recommendations.

Commissioner Griffith amended his previous motion to end the speed zone where the Sheriff Goodkin suggested. North 7<sup>th</sup> seems further to me and is where it turns into the Frontage Road. Director Tooley said if you ended at 19<sup>th</sup>, you'd have another mile or so before the Frontage Road. Commissioner Griffith said he would like it to go all the way to North 7<sup>th</sup> and asked that the motion reflect that.

### ***Outdoor Advertising Update***

Dwane Kailey said my staff will provide that information. Rob Stapley, Right of Way Bureau Chief, Pat Hurley and Greg Pizzini with Outdoor Advertising, as well as Carol Grell Morris our attorney will address the Commission. Rob Stapley, Right of Way Bureau Chief, provided the Commission with handouts showing the outdoor advertising regulated routes in Montana – Interstates, Primary routes, and NHS routes in Montana. The second handout showed the routes in and around Missoula to give the Commission an idea of larger communities in Montana. I am ultimately responsible for outdoor advertising for the department. Pat Hurley oversees the program and insures that MDT complies with the state statute rules that govern outdoor advertising as well as federal laws and regulations. Pat has a staff of three people and they oversee about 3,100 signs on routes across the state. He and his staff stay very busy and are on the road a fair bit of the year checking compliance and making sure we are doing our job.

#### *History*

Ron Stapley started with a little history about outdoor advertising in Montana. The first outdoor advertising legislation was passed in 1958, "The Bonus Act" which basically said that states wanting to participate received one half of one percent of the construction cost on segments of Interstate Highways controlling outdoor advertising. Montana did not participate at that time. In 1965 Present Johnson signed the Highway Beautification Act which was about controlling outdoor advertising signs, displays, and devices adjacent to the Interstate and at that time just the Primary System. It was all about protecting and promoting safety and protecting the natural beauty along our highways. That really is the backbone of where we are today with outdoor advertising.

In 1972 the Department of Highway signed a state and federal agreement with the Secretary of Transportation agreeing we would maintain and uphold the federal laws along the Interstate and Primary Routes across Montana. In 1991 the NHS Routes were added as part of their control as well. Based on those laws, the State of Montana has passed laws and Administrative Rules that mirror the federal laws. We try to not be more aggressive than the federal laws that are out there currently.

### *Types of Signs*

For today's discussion we are going to talk about four kinds of signs: (1) On Premise Signs, which advertise businesses and are located on the property of the business. For example, Walmart across the street has a big sign in their parking lot that says "Walmart" as well as "Burger King". Those are your typical On Premise signs. (2) Off Premise Signs which advertise businesses that are located someplace else. Off Premise signs typically are not located on the property where the business is. Those are your typical billboards that you see around the state advertising Walmart or McDonalds 10 miles down the road. (3) Logo Signs are what you see along the Interstate that tell you at the next intersection there is a McDonalds, Pizza Hut, Perkins, etc. Those provide identification and directional information to motorists in four categories – gas, food, lodging, and camping. (4) TOD Signs or tourist oriented directional signs which provide motorists with information about businesses in our different communities. They include agricultural products, services and activities. These signs are not located on Interstate Highways. We also deal with other type of signs – political signs, real estate signs, cultural signs, directional signs, etc.

### *What We Do*

In a nut shell there are three parts to Outdoor Advertising. We permit new signs beginnings with an application process that folks have to go through if they want to put up a new sign. It is a fairly intensive process to tell us that they've met all the requirements, i.e., whose land they are on, do they have permission to be there, do they meet out requirements for installing the sign, do they meet the local requirements for installing a sign. We then go through the process of approving the application or denying it and trying to help those folks where we can. We go out and do a field visit and look at the site, talk with the sign owner to see what we can do to help them. Once we get to that point where we have approved the sign, we issue a permit and give them a permit plate which is attached to the sign once the sign is installed. They have 90 days to get that sign installed. After it is installed we continue to monitor it to make sure there are no changes that go beyond the scope of what we allow. Pat and his staff do annual route surveys where they look at the signs to ensure there are no illegal signs going up, that the approved signs have not been substantially changed, and make sure we don't have signs in disrepair or in poor shape that may be a safety issue. If the department finds those signs, another portion of Pat's job is to remove those illegal signs. So they work with the sign owner or the land owner to remove the signs that are installed illegally that should not be there.

We also inventory those signs and we watch that throughout the year so we know who owns what sign, where they are located, how many are out there. For the most part there is a fairly small number of sign companies that own a majority of the signs across the state and we have a good working relationship with all of them. There are a number of small mom and pop outfits that own one or two signs here and there. We also work with them to help them advertise their business. People-wise Montana is a small state and we have an opportunity to help folks stay in business; we make an exceptional effort to help those folks. That is what this program is about.

Commissioner Lambert asked if the state put up the signs like Perkins on the Interstate at the exit signs. Do they have to ask the state to put their name on the sign or do we automatically put it on there if we know there is a Perkins down there. Rob Stapley said we have contracted that out to a third party. That third party goes out and talks to the business and they sign them up. The businesses rent space on the billboard. We own the signs.

Commissioner Griffith said he had a sign that has been a pet peeve for a lone time going up Homestake Pass. I'm sure if this sign was out on the flat it would be okay but the lights they use to illuminate it shine through the walking board when you're coming up and are a distraction for the eastbound traffic. It would seem that if it

were out on the flats someplace, the sign would be fine but where it is placed you get the light right through the sign. It is on eastbound side but the sign faces west. I'm sure the sign meets the specs other than it is on such a steep grade that the lights are a distraction. Rob Stapley said they would be happy to go out and look at that and resolve that issue.

Commissioner Cobb asked if they were going to talk about the rules now or later on. Dwane Kailey said they wanted to do an overview presentation first and have Carol Grell present the rule changes after that.

Commissioner Howlett asked if they had signs on Reservations. Rob Stapley said they do not regulate signs on Reservations. Commissioner Howlett asked if it was up to the Tribe. Rob Stapley said yes. Commissioner Howlett asked what they did with non-member institutions on Reservations that aren't Tribal. Can they put up whatever they want? Rob Stapley said the Reservation is a Sovereign Nation and so we don't have the right to tell them what to do regardless of the company. Commissioner Howlett said then the Tribe is in a difficult position as well because if they have a non-member business then there is no regulation of billboards, like on the 93 Corridor and how infected it is with billboards. There ought to be some way to regulate that whether it's an MOU with the state to enforce it. I don't know what options there are to do that. Rob Stapley said there are a number of counties across the state that have implemented their own guidelines that are stricter than the state's guidelines. When we are permitting a sign, one of the steps is that the sign owner has to get approval from the county or local government stating that they meet those requirements if they are stricter than ours. I think the Tribe could implement something similar. Commissioner Howlett said you hear a lot of comments about the billboards on 93. You don't even get to look at the Mission Mountains because of the billboards. Commissioner said there has to be astronomical growth of billboards statewide. Rob Stapley said they are reaching a point right now where there is not a lot of room for more billboards based on our rules and laws currently in place. There's a number of criteria they have to meet and there's a limited number of places where you can put billboards. I agree, there are billboards everywhere you look but we've reached a point where there's not going to be a lot more growth because there's not enough qualifying locations to put them.

Commissioner Howlett said we've had a number of discussions about LED light signs and multiple message signs. Rob Stapley said LED is a hot topic across the country. There are a number of other states going that direction. There's arguments going both ways. The argument for the LED is that you can put six to eight messages on one board so you're replacing that many billboards. You don't have the flashing lights, the screen changes quietly, and they are not a distraction to the traveling public. The LED on Interstates can't have flashing lights. There is an argument for replacing some of the existing signs with LEDs for a cleaner look with fewer signs. The flip side is you can get as many of those signs out there as we have now so you're not really replacing those boards. The small mom and pop companies around Montana can't afford LED signs and are worried about being squeezed out by the larger companies. So there pros and cons for them. As far as a distraction to the driver, from everything I've heard that doesn't seem to be an issue.

### ***Agenda Item No. 8: Hamilton Limited Access Control Resolution***

Dwane Kailey presented the Hamilton Limited Access Control Resolution to the Commission. This will complete the access control for US 93 south of Missoula. We had one gap through the town of Hamilton and this will close that gap. With approval and adoption of this Resolution we will have total access control from Missoula all the way to the Idaho border on US 93. Again access control doesn't take access away, it simply makes it a little more restrictive and gives the agency a little

more authority in managing that access. It's all done in an effort to preserve the safety of the highway.

Commissioner Griffith moved to approve the Speed Limit Recommendation for Hamilton Limited Access Control. Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

### **Agenda Item No. 9: OAC Proposed Rule Notice**

Carol Grell-Morris presented the OAC Proposed Rule Notice to the Commission. I am one of the staff attorneys at MDT and am assigned to Outdoor Advertising and I'm also the rule reviewer for the department. So all the proposed rules that the department puts forth are reviewed and signed off by me as well as our Director. Today we thought it would be a great opportunity to talk to you about Outdoor Advertising rules that are proposed for change. Outdoor Advertising Program is actually under the authority of the Commission by statute. That is why you get Outdoor Advertising overviews and that's why the rules come to you because you must authorize any changes to them. That's why we're here today.

I wanted to clarify one of the questions on LED's. About six years ago in 2008 we had a discussion on LEDs on controlled routes and ultimately a rule was passed prohibiting those LED signs on controlled routes. The reason I add that caveat is because you see on premise signs everywhere. That's why it is confusing. We only have jurisdiction and authority over controlled routes. When you drive along an Interstate you will not see an LED sign because they were prohibited by our rule on controlled routes. Now naturally, at that time, there were people for and against them. Will they bring this issue up again? I guarantee it. But for right now we have a rule that prohibits them along our controlled routes and that's where it stands.

The rules that are proposed for change today. I will give you a brief description of why we're doing this. The rules are reviewed every two years by statute – the biennial rule review. This is the year we're undertaking that with all our programs. Outdoor Advertising has reviewed their rules and come up with some changes. They tracked this through the last two years as situations occurred and now we wanted to clarify the rules. Questions come up through the two year period and we realize we need to clarify things in the rules. That process is initiated. I will tell you up front that FHWA has to approve all our rules as well because this is actually a federal program and is tied to the federal funding of highways. That is the reason MDT must enforce federal and state statutes on outdoor advertising. FHWA is heavily involved in all of our outdoor advertising decisions. They look at all of our rules and they have reviewed the draft you have in front of you today. They get to comment on the proposed rule. It is very helpful to have their comments because they have a great perspective. They have outdoor advertising in 46 states and see a lot of situations.

Commissioner Lambert asked if it went to the Legislature to approve the changes. Carol said no it doesn't go to the Legislature. Let me talk about the rule making process briefly. We have federal statutes, we have state statutes and state rules. MDT is addressing the state statutes and state rules. The rulemaking process for all state agencies is handled through the Montana Administrative Procedures Act (MAPA) which controls how we change our rules. There is a process we follow under the jurisdiction of the Secretary of State. We prepare a proposal, file that proposal with the Secretary of State and it is then put out for public comment, then we finalize based on the comments. I've skipped a bunch of steps – there is a Legislative Interim Committee that reviews all our proposed rules and they will do that with this proposal as well. Again in this particular area FHWA will also look at the proposal. These are state administrative rules that we're proposing for change.

We're at the very beginning of the process, getting our draft in place, then if the Commission approves it we will file it with the Secretary of State and begin the public comment period. FHWA weighs in at the very beginning. We are still in the draft stage making sure we have all the wording correct. We have provided the draft to FHWA already and they've provided comments on it.

Commissioner Howlett said he went through the draft a couple of times and have noted some things. A lot of the "shall's" have been changed to "may's" so it looks like it is more permissive. You've raised the fees. I don't see a lot of other changes. Carol said I have some bullets to explain the changes and hit some of the highlights.

The first change that is not housekeeping and is more substantive is under definitions. 18.6.202 Definition No. 3. Background: We've had some situations that have come up. We have in statute a definition of agricultural activity. The reason that is defined is because you can't use an agricultural activity to qualify for an off-premise sign. You can't use a farm or ranch or agricultural area otherwise we'd have signs everywhere because we have a lot of farms and ranches. That is a statutory definition. It is repeated and enhanced in our rule which says "agricultural activity means an activity on improved or unimproved land related to the crops." That definition has been around since the inception of the program. The question came up – what about businesses that provide products or services to an agricultural industry. The examples are veterinary clinics and ranch supply stores. Is that an agricultural activity meaning you can't qualify a sign off of it? So this definition is supposed to clarify that. It says "if you are a commercial business and you sell products to the agricultural industry, you are not part of that prohibited activity." So if you're a veterinary clinic, your clinic can qualify the area for a sign or if you're a Big R Ranch Store or a business that does ranch supply. Again, clarification was needed because the question came up. People wanted to apply for a permit but they weren't sure if that area was in or out because the definition didn't have the right information in it. That's a pretty typical example of what we're doing – trying to address questions that came up over the years.

The next change was requested or needed to 18.6.205 Off Premise Sign Locations. This has to do with bus shelters. This is much like reading bills in the Legislature where all the underlined material is new. On page three all the underlined Subsection 6 is all brand new. The reason that is being added is the federal program prohibits commercial advertising on the right of way. The problem came up because bus shelters are placed in the right of way. So if you want to place advertising on them you're running squarely into the prohibition versus the desire of the bus shelter to put advertising on that. This is a rule that complies with what the feds have said was an exception; the feds have allowed an exception for bus shelters. So all we're doing is capturing that here stating you can put commercial advertising on a bus shelter even though the bus shelter is in the right of way but it has to be on the interior panels for the occupants of the shelter. If it were outside it would be a distraction for the traffic. That's an attempt to get us in compliance and address it because the question keeps coming up. We have cities that want to put up bus shelters and they ask about the advertising. This language will address that question.

Commissioner Howlett asked about the buses. Carol said buses are not considered part of the Outdoor Advertising Program because they are mobile. If you put an advertisement on your vehicle, that is not controlled. The outdoor advertising regulations are for static routes – a sign or something that is painted and remains in one place. Moving vehicles are not covered under our program.

The other significant change is to 18.6.231. This is a clarification. The statutes talks about how far apart signs can be from each other and from intersecting roadways for safety reasons and beautification reasons, etc. Our rule, in talking about how far a sign can be from an intersection roadway, has been fairly difficult to follow. This is an attempt to clean that up. This is in compliance with a statute on the Interstate which

states signs can't be within 500 feet of an intersection for safety reasons. Our rule clarifies how you measure that. Commissioner Cobb asked if the statute says minimum 500 feet or can it be more than 500 feet. Carol said more than that; they can be more than 1,000 feet. You can go more than but not less than 500 feet. In keeping with the 500 feet on Interchanges, the questions came up regarding auxiliary lanes. When you see an Interchange built like on Cedar, there is a dedicated lane that goes from Custer to Cedar that doesn't actually become part of the travel way but becomes a third lane that remains a third lane. So if you measure 500 feet from where the pavement widens for the Interchange, does the pavement ever widen? Does it allow signs or not allow signs? So we're clarifying that in the rules. Based on the Traffic Engineer's recommendations in subsection C: "in an area where the two Interchanges are set to close proximity that acceleration or deceleration lanes or ramps merge or overlap, the area will be treated as one continuous Interchange and no signs are allowed." So the Traffic Engineer recommended that we do not allow signs with those auxiliary lanes. That is a change we've not had in the rules. We anticipate some possible disagreement with that. We checked with other states and unfortunately they are split – some states allow it and some do not so we went with the safety recommendation to not allow signs in those areas. Commissioner Howlett said there are signs in those areas now so are they grandfathered in? Carol said in a way and I'm sorry to be vague on that but we have some signs that are called "non-conforming" and that is a grandfathering concept. So if you were in existence and the rules change and made you illegal, you can still be there as a "non-conforming" sign but you're very limited in how you can repair that sign, etc. You can't relocate it if a highway project comes through. So the auxiliary lane is another major change.

The last thing I'll point out is a new direction for this program. 18.6.251 Repairing Non-Conforming Signs. By statute you can't repair them if the repair will be more than 75% of the value or 30% depending on which year your sign was built. In other words, you can completely replace and keep upgrading these signs. If they are "non-conforming" you can maintain them but you can upgrade them. What we discovered in our two years between rule changes is that some repairs were being made to these signs that we didn't know about. For example, you are not allowed to replace wooden poles with steel and some of that was being done and the department never knew about it until it was reported to us. In order to address that, this change has been added where a sign company or sign owner would have to apply to the Outdoor Advertising Control Program and notify the program what repairs are being proposed. That way the department can go out and inspect and make sure the repairs are in keeping with the statute.

Commissioner Lambert asked if this covers the repairs if it is non-conforming and the business changes hands, can the new person use that sign? Carol said yes. That's called a transfer of a permit. If it is a permitted sign, the process allows for a transfer. So when you go to sell the business and you also own a sign you can sell that sign to the new purchaser and sign a transfer of the sign permit and the permit itself transfers to the new owner. Yes you can do that with non-conforming signs. Commissioner Lambert said some of the signs are not owned by the business and they don't transfer owner. Say, you don't own the sign but just rented the space and the business is being sold. Carol said the sign owner can always transfer the sign itself. The copy is up to the sign owner. The sign owner who owns the permit can transfer that to a new owner.

Those are some highlights. There are certainly other changes being made to deal with confusing language or incomplete language that have become issues. I'm happy to answer any questions. Commissioner Cobb asked if there is a distance between businesses and signs. Carol said on premise signs are not considered in spaces. Off premise signs have a certain distance between permitted signs. Commissioner Cobb said if I'm advertising in Billings but I live in Augusta, can I have a sign up then? Carol said it does not matter how far away you live. Commissioner Cobb said can we grandfather everybody in but can we limit the number of new signs by doing it by

distance, i.e., signs have to be 2,000 feet apart. For LED's they would have to be no more than so many feet away from the city and you would have to reduce a sign somewhere else. Start restricting the number of signs without rulemaking; that's something you can think about. I would request that you think about that if it is possible without rulemaking to limit signs. Carol said we can think about that. That's a great idea and some of that was discussed in the LED discussion, i.e., if you want an LED sign on a controlled route, you have to give up your permit to other signs. Commissioner Cobb asked if she could bring some ideas back to the Commission so we can give some guidance. We will look at all these things but we're not committing to anything. Then when you go out and negotiate with all these different groups you could get input without having to go through this formal process. The idea is to reduce some of the signs. Commissioner Howlett said I hope we don't have to wait two years. Commissioner Cobb said I'm just suggesting they bring some ideas back to us without doing any rulemaking. Commissioner Howlett said I'm in agreement that we need to reduce the number of signs all the way along the system. We have too many signs in some locations; it's cluttered the beauty of this states. Carol said I'll put something together; see what we can find from other states and see what ideas we can come up with. We'll present them as ideas and see if you want to pursue any of them any farther. Commissioner Lambert said it is a distraction. When I'm trying to find a street in a strange towns and there are 50,000 signs and you can't find the street sign and makes it very difficult. Commissioner Howlett said maybe you could use GPS.

Carol said we need a motion and a vote to propose the rules as presented to you unless you have some changes to make. Then I need your signature on the draft.

Commissioner Lambert moved to approve the OAC Proposed Rule Notice. Commissioner Griffith seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

### ***Mathematically Imbalanced***

Dwane Kailey said I sent the Commission an information memo prior to the meeting and I'll just highlight a couple of items and then show you a very quick demonstration of what staff does to identify if a bid is mathematically imbalanced. They look to see if it is materially imbalanced. In the memo we broke it into the sections.

Legality – In our research we found the courts have consistently held that mathematically imbalanced bids are not adequate for rejection for bids. They must demonstrate some sort of material imbalance as well.

The definition of mathematically imbalanced is “a bid containing lump sum or uni-bid items which do not reflect reasonable actual costs plus a reasonable proportionate share of the bidders anticipated profit, overhead costs, and other indirect costs.” With that we also struggled how you define some of these items. For example what is “reasonable actual costs,” what is “reasonable proportionate share,” and what is “bidder's anticipated profits, overhead costs, and other indirect costs.” We were very nervous in discussing how this was going to be defined with legal staff. Also, when we looked at this, if it is only mathematically imbalanced, it still is going to result in that low bidder remaining the low bid. So if we reject that bid, are we rejecting the lowest bid and not giving the public the lowest dollar for the work and potentially giving it to number two which will result in a higher cost.

We talked about the enforcement side and then last but not least, I want to demonstrate how staff does this. The first thing they do when they get a bid that they believe to be mathematically imbalanced for example (showing slide) you have

two bidders. Bidder No. 1 bid \$63,000 on mobilization, Bidder No. 2 bid \$44,000. Traffic control Bidder No 1 bid \$.01/unit, which resulted in \$650 for that total unit, Bidder No. 2 bid \$.50/unit, which resulted in \$32,500. Initially the low bidder (Bidder A) is \$363,000 while Bidder B is \$409,000. The first thing staff does is go into the mathematically unbalanced item and they essentially remove it. So again, the total bid was \$363,000 vs. \$409,000. They remove that unit and assume none of that work gets done and then look at the new bid prices. If Bidder A is still low bidder, then the initial assumption is it is mathematically imbalanced but not materially imbalanced. Now in this case we know we are going to do traffic control, so this is very conservative. But again, even in this example, Bidder A remains the low bidder. So if we did nothing in traffic control and we paid all mobilization, they still result in the lowest cost to the public.

Commissioner Griffith disagreed with that. You haven't added traffic control as mathematically imbalanced and now it is materially imbalanced when you add traffic control to this scenario. If you look at traffic control and assuming Bidder B has the right number on traffic control, that bid is both mathematically and materially imbalanced. Dwane Kailey said it isn't because no matter what, if we did zero traffic control, the assumption is the bidder has taken money out of this unit and put it into the mobilization. Mobilization is a lump sum, so no matter what, it will remain at that value. So the only thing they can do is run this to zero. If they run traffic control up, it's only up at a penny per unit versus Bidder No. 2 which we have to assume does the same thing, is now running up at \$.50 per unit. So there's no way in this example Bidder B becomes the low bidder using these two items. That is the definition of materially imbalanced – the potential for another bidder to actually be the low bidder.

Commissioner Griffith said my point of the whole equation is it shouldn't be a cost less than you're absolute lowest cost. Traffic control especially. If traffic control is the safety of the whole project and if they intend to lower traffic control to zero is to skimp on that item, that's why we put it in .... It never used to be in the bid items a long time ago. You had to bury it in other items but now we put it in there and they put it at zero, then what other item are they going to skimp on.

Kevin Christensen said this particular project was a lower dollar value safety project. If you recall during the conference call, this was a job where staff was on the fence whether or not to bid the traffic control as lump sum or a unit. It was on the edge. I did speak with the low bidder and in putting together their bid, it was easier for them to throw in a daily traffic control cost rather than have to monkey with the units and get the right bid amount to come out with what they thought they would have to pay. In fact I believe the bidder was a traffic control person. So it's a little bit unusual in that regard. Commissioner Griffith said he realized that and now I see that this one would not be materially unbalanced. The point is, usually the difference between those two items on a project this size and the competitive bid, there would be a difference. It would be a difference and we ought to eliminate the opportunity for somebody to take advantage of the system. I don't have a problem going through a vetting of this through the Contractor's Association, but if they don't want traffic control as a unit, we'll give it to them as a lump sum and then everybody is on the same playing field. I just want to make the playing field level. It doesn't matter whether it's traffic control or any other item but the playing field ought to be level and they ought not to be able to play games with both the state's money and use that as an ability to take an unfair advantage over somebody else.

Dwane Kailey agreed with that. I struggle with this. I have to remind myself that when they do this there is potential for the contractor to skimp on traffic control. I have to trust in my staff and the district staff that they are going to hold that contractor accountable. We have very specific regulations as to what traffic control should be on that road and we have to trust in our staff to do that and hold that contractor to that. It does lead into somewhat monkeying with our average bid

prices. I agree that in this case that is exactly what they did, they lump summed it at a very low dollar. I think we need to continue those discussions with MCA about doing this kind of stuff.

Commissioner Griffith said you can't have it both ways, either you're going to do it and we're going to pick the unit value lump sum. I just hate people being able to take advantage of our system. We need to keep it on a level playing field so everybody has the same advantage. It would be unusual for them to take the exact amount out that they were putting into mobilization. The intent is usually to put something different in there. So somehow, someway they can take advantage of it.

Commissioner Howlett asked if there was a way to go back and look at an average of traffic control and come up with some unit that we would say, as a Commission, we are going to adopt. Kevin Christensen said there was a time when we put a fixed amount in there and every job was \$.80/unit. I really hesitate to go there because for one thing estimating traffic control is fairly difficult and it can vary widely depending on the contractor's operations. So a very efficient contractor will use a lot less traffic control because they get in, get the work done, and they get out. We also have contractor who are not efficient and they'll mess around in there for a year or so and that hurts the taxpayer. These penny bids don't happen very often. Commissioner Griffith said they've happened more in the last year than they have in a long time. Kevin Christensen said I could let you know those numbers. We can do whatever the Commission would like but I hesitate to change what we're doing based on a handful of bids.

Commissioner Lambert asked why we changed. Commissioner Griffith said it was to apply if you were going to use five units of traffic control, you get paid for five units at whatever rate you bid. It was trying to make the contractor whole no matter what level of input they had on the whole project. The problem is they are placing money in other parts. It's not just traffic control. It was Elk Park all over. Kevin Christensen said he did a lot of research on unbalanced bidding since Elk Park. You could make an argument that almost every bid we look at is, in one way or another, mathematically unbalanced. Contractors move their money around and again it's based on their own business practice, the way their business is set up. Where do you draw that line? Where do you say this bid is not reasonable? It is not a reasonable reflection of what it's going to cost the contractor to do the work. A penny bid is another story.

Commissioner Griffith said I appreciate the work you've done with trying to quantify different bids but somehow we need to try to keep those.... I can't see paying \$700 for oil and only bidding \$360. You have to put \$700 out and not get paid for half of that. Kevin Christensen said I agree with you 100% and as far as I know that contractor is losing their shorts. Commissioner Griffith said he is on the job and doing a good job as far as I see. The point is I want to try and fix some of these problems. Maybe we could write a spec or at least vent it to the Contractor's Association to try and find a solution to that. Kevin Christensen said what Dwane was alluding to was that it would be very difficult to write a spec that would define that. When we see these kinds of things, we have our internal process to ensure that it's not materially unbalanced. In the end we are a steward of the taxpayer's dollars and we're here to make sure the taxpayer is getting the low bid. If it's mathematically unbalanced but it still represents the actual low bid to the taxpayer then, in that regard, why would we not want to award the project to the actual low bid. Commissioner Griffith said it makes the point that we've developed a system that levels everybody by paying unit prices and puts everybody on the same playing field. Then let's go back to lump sum pricing on the whole job; just give us one price. That's essentially what they are doing by unbalancing their bid; they are giving you a lump sum price which you have no input over because they've unbalanced their bid.

Dwane Kailey said we walk a very fine line. We are the owners of these contracts and we don't want to tell the contractor how to do their job or restrict how they perform their work. Commissioner Griffith, you've been an estimator and a contractor, and we both know that contractors will monkey with their bids just so another contractor doesn't know what their average bid prices are. We don't want to get into the business of trying to tell them how to bid. I think what MDT needs to do at this point in time is to convey your message back to the MCA and let them know we're very concerned with this type of bidding practice. I would caution us from going too far from setting up specs. Commissioner Griffith said I want to vent that concern and see if there isn't some common ground. They've got to have some concerns too as an industry. I don't know if there is anything we can do as a Commission without taking that step and getting their involvement. But as part of this whole process of trying to resolve this, the ultimate resolve is that we don't see penny bids. I won't be surprised if we see this issue on asphalt again.

Kevin Christensen said we could reject the penny bids but we'd be rejecting the low bid. Secondly on the asphalt we've been working hard to come up with a method for contractors to bid rap without having to unbalance their bid. Last week we had an MCA meeting and met with the contractors and proposed our method and they agreed with it. It's a little complicated but we're getting close. We have another meeting scheduled with the contractors next month to finalize that and we should be able to implement it. Commissioner Griffith said that was a positive step to try to resolve it. Kevin Christensen said he didn't want to go through another Elk Park with the Commission.

**Agenda Item No. 10: Certificates of Completion  
August, 2014**

Dwane Kailey presented the Certificates of Completion for August, 2014, to the Commission. They are presented for your review and approval. I will note that we've attached the DBE goals as bid, DBE goals as notified, and then the actual payments to DBE for the contracts shown. Staff recommends your approval. Commissioner Lambert thanked Lori for sending out the DBE goals.

Commissioner Lambert moved to approve the Certificates of Completion for August 2014. Commissioner Griffith seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item No. 11: Change Orders  
August, 2014**

Dwane Kailey presented the Project Change Orders for August, 2014, to the Commission. They are presented for your review and approval. Staff recommends your approval. Commissioner Cobb asked about the miscellaneous changes. Dwane Kailey said we knew there were going to be numerous items that couldn't be captured very well through bid items so we set up a fairly large miscellaneous work category. I do have the detail on that. A lot of it was fairly small such as moving utilities and those type of items. It did add up to a fair amount of money and if you'd like to see the detail I can get it to you.

Commissioner Griffith moved to approve the Project Change Orders for August, 2014. Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

## Agenda Item No. 12: Letting Lists

Dwane Kailey presented the Proposed Letting Lists to the Commission. This is presented for your review and approval. For the first time ever, due to a lot of hard work by yourselves and MDT staff, we have the actual true and accurate letting list after the TCP for review and approval.

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

The motion passed unanimously.

## Directors Discussion & Follow-up

### *Idaho Transportation Thank You Letter*

Director Tooley said we received a letter from the Idaho Transportation Commission thanking you for your time and consideration in meeting with them in West Yellowstone and a thank you for building relationships. They appreciated that.

### *Requests for Naming Infrastructure as Memorials*

We received two requests for naming infrastructure. One from the Vaughn Volunteer Fire Department to name a portion of US 89 around Vaughn after Chief David Anderson who passed away from a traffic crash on August 25<sup>th</sup> as a result of injuries sustained while on duty. This correspondence is asking for US 89 at mile marker 1 to be dedicated as the David Anderson Memorial Highway. The incident occurred at mile marker 3. I'm a little unclear as to how much road they want but typically we go two miles either side of the incident. We could put it in Vaughn where people will see it. Commissioner Howlett asked if he wanted to add that as an agenda item or take action now. Director Tooley said the Commission could approve the action and the department could work out the specifics with the individuals who have requested it. Commissioner Howlett asked if it was his recommendation to concur with this. Director Tooley said it is.

Commissioner Griffith moved to approve naming US 89 two miles either side of mile marker 3 as the David Anderson Memorial Highway in Vaughn. Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

The second request is to name a piece of highway infrastructure in Gallatin County after a former Highway Commissioner who was part of the whole process of getting the East Belgrade Interchange brought to reality, Pat Abney who passed away. She was part of the Commission from 1994 and reappointed in 1998. During her tenure she helped rewrite policies and helped usher part of this project through the Gallatin County Commission as well as Airport Manager Brian Springer. The City of Belgrade has asked for the department to consider naming a piece of infrastructure after her. They have no specific location but said to dedicate a bridge or some other project feature in her name. Commissioner Howlett asked how you would sign it. You don't want to confuse the traveling public with a major sign but a sign on the bridge may be appropriate. Director Tooley said that is my recommendation.

Commissioner Griffith moved to approve naming a portion of the East Belgrade Interchange in Belgrade after former Commissioner Pat Abney. Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

### *Funding*

Director Tooley said funding is still status quo. Congress has not returned to act, however, staff continues to work for a longer term solution. A lot of this will start to work itself out after the November elections. We would like to see the lame duck Congress come back and take a stab at a long-term highway funding bill but frankly I don't expect that to occur. I don't know if FHWA has an update. Right now we continue to exist on a Continuing Resolution and also a short-term funding transfer that should take us out to May depending on the expenditures.

### *Commissioner Howlett Comment*

Commissioner Howlett said it has been an interesting three days. We made a lot of headway and I congratulate the staff on streamlining this process. I thank our partners at Federal Highways for their participation and the staff for their hard work. I don't know that I will be reappointed to the Commission. My term expires in a couple of months. I have an interest in being reappointed but in the event I'm not, I've learned a lot and I hope I've brought some dimension this Commission for the last 12 years.

Commissioner Lambert said my term also expires and I may not be reappointed. I definitely have an interest in being reappointed but in the event I'm not, I cannot think of a more wonderful group to work with. You have taught me a lot. I do appreciate all of you and think you're fantastic. I hope I get to continue working with you but if not, thank you.

Director Tooley thanked Commissioner Howlett and Commissioner Lambert for their service. The things you've done during your tenure have really advanced public and traffic safety in the State of Montana. You've done good work for the citizens and we all await to see what the Governor's decision will be as far as reappointments. I just want to personally thank you for all the hard work you've put into this. This has been a very engaged Commission and I appreciate everything you have done and how you've treated me. Thank you.

Commissioner Griffith said I hope this isn't your last meeting. You have taught me a lot about friendship and culture and heritage. I've changed my whole outlook on life based on things I've learned from my friends on the Commission and I appreciate that. I thank you and I appreciate both of your friendships and the work you've done. While we have some banter some time, it is probably the least volatile but yet most engaged group of people I've ever worked with.

### **Adjourned**

Meeting Adjourned

Commissioner Howlett, Chairman  
Montana Transportation Commission

Mike Tooley, Director  
Montana Department of Transportation

Lori K. Ryan, Secretary  
Montana Transportation Commission