

Montana Transportation Commission

April 20, 2017 Meeting
Helena, Montana

IN ATTENDANCE

Barb Skelton, Transportation Commissioner, Commission Chair
Greg Jergeson, Transportation Commissioner
Carol Lambert, Transportation Commissioner
Dave Schulz, Transportation Commissioner
Dan Belcourt, Transportation Commissioner
Mike Tooley, Director MDT
Pat Wise, Deputy Director MDT
Dwane Kailey, MDT Engineering
Lori Ryan, Commission Secretary
Dave Ohler, MDT
Lynn Zanto, MDT
Kevin McLaury, FHWA
Chris Riley, FHWA
Gus Shanine, FHWA
Bruce Friede, Seeley Lake

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. You may request a compact disc (containing the audio files, agenda, and minutes) from the transportation secretary Lori Ryan at (406) 444-7200 or lryan@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 Barb Skelton

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

Approval of Minutes

The minutes for the Commission Meetings of March 7, 2017, March 17, 2017, and March 28, 2017, were presented for approval.

Commissioner Belcourt moved to approve the minutes for the Commission Meetings of March 7, 2017, March 17, 2017 and March 28, 2017. Commissioner Jergeson seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 1: **Local Construction Project on State Highway System – Ravalli County Westside Road (Secondary 531)**

Lynn Zanto presented the Local Construction Project on State Highway System – Ravalli County, Westside Road (Secondary 531) to the Commission. Under MCA 60-2-110 “Setting priorities and selecting projects,” the commission shall establish priorities and select and designate segments for construction and reconstruction on the national highway system, the primary highway system, the secondary highway system, the urban highway system, and state highways. This statute exists to ensure the safety of our system, protect transportation investments, and encourage better coordination between state and local infrastructure improvements. MDT staff reaches out to local governments to solicit local projects on state systems to ensure compliance with this statute.

Summary: Ravalli County is planning to design and build a transportation improvement project on the state highway system. The project will be funded locally and will utilize local forces for construction. The project will be designed with input and concurrence from MDT staff to the extent practicable. In general, the public supports this project.

On behalf of the local government, as required by MCA 60-2-110, staff requests that the Transportation Commission approve the local project listed below.

Location	Type of Work	Cost (estimate)	Fiscal Year	Type of Labor
Westside Road (S-531), from RP 0.86 to RP 2.36, in Ravalli County	Overlay	\$1,400,000	2017	Local

Staff recommends that the Commission approve this improvement to the state highway system, pending concurrence of MDT’s Chief Engineer.

Commissioner Jergeson moved to approve the Local Construction Project on State Highway System – Ravalli County, Westside Road (Secondary 531). Commissioner Belcourt seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item 2: Local Construction Project on State Highway System – Contract Labor
City of Missoula – Rattlesnake Drive (U-8115)**

Lynn Zanto presented the Local Construction Project on State Highway System, Contract Labor – City of Missoula, Rattlesnake Drive (U-8115) to the Commission. Under MCA 60-2-111 “letting of contracts on state and federal aid highways,” all projects for construction or reconstruction of highways and streets located on highway systems and state highways, including those portions in cities and towns, must be let by the Transportation Commission. This statute exists to ensure the safety of our system, protect transportation investments, and encourage better coordination between state and local infrastructure improvements. MDT staff reaches out to local governments to solicit local projects on state systems to ensure compliance with this statute.

Summary: The City of Missoula is planning to design and build a transportation improvement project on the state highway system. The project will be funded locally and will utilize contract labor. The project will be designed with input and concurrence from MDT staff to the extent practicable.

On behalf of the local government, as required by MCA 60-2-111, staff requests that the Transportation Commission delegate authority to the City of Missoula to let and award a contract for the project listed below.

Location	Type of Work	Cost (estimate)	Fiscal Year	Type of Labor
Rattlesnake Drive (U-8115), from RP 0.70 to 1.30, in Missoula	New Curb and Sidewalk	\$300,000	2017	Contract

Staff recommends that the Commission delegate its authority to let, award, and administer the contract for this project to the City Missoula, pending concurrence of

MDT's Chief Engineer and execution of a maintenance agreement with the City of Missoula.

Commissioner Schulz asked if this was for sidewalk on both sides. Lynn Zanto said I believe it is. Commissioner Jergeson asked if every one of these come in without the Chief Engineer having given concurrence and we act before the Chief Engineer looks at it. Duane Kailey said typically we want the locals to submit these early, then get Commission approval first before we invest a whole lot of money into design. Then they go through the design process and work with Lynn's staff who coordinates with my staff to assure they are meeting national standards in design. When they are ready to go to contract, my staff reviews the final set of plans with Lynn's staff. If we're in agreement it is good sound engineering design, we concur at that time. The intent is to have you approve it ahead of time before they invest the engineering effort and funds. Otherwise, you could end up saying no and then they've expended tens of thousands of dollars in design. Lynn said once a year my staff sends out a notice and a map of the state system routes to all the local governments to remind them of the statutory requirement asking if they have any upcoming work. We do that early in the year so we get it in advance so they can be assured the Commission is ok with it if the Chief Engineer's plans work out ok.

Commissioner Schulz said it wouldn't make much sense to object to a project such as this – it's their dollars. Duane Kailey said you are correct, however, there have been proposals that would restrict other activities. For example, we had one about a year ago in Missoula where they were proposing a bike/ped path over a roadway which would have had an impact on high-wide loads and it was on one of the main corridors they use. It was controversial at the time. Generally, 95% of the time you are right on, it's their money and their work and we just need to approve it. However, there are those controversial projects that do come forward.

Commissioner Belcourt asked if it was typical for a project to increase costs because we're just seeing estimated costs. After we approve and give the go ahead and you work in the design, what is the likelihood the budget doubles? Lynn Zanto said I don't know how their local costs turn out in the end because it is their local money. I know we have been working hard over the last several years to do better estimating up front so our own projects will stay within a reasonable budget and close to what you approve. Usually the estimates are in the ballpark. Commissioner Belcourt said this is a special contract. Duane Kailey said with all due respect to local governments, we aren't really concerned about the estimate because it's their dime and doesn't impact our funding. If it grows or shrinks, it's all on the local government. We are really approving the scope and the improvement to our infrastructure.

Commissioner Belcourt moved to approve the Local Construction Project on State Highway System, Contract Labor – City of Missoula, Rattlesnake Drive (U-8115). Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item 3: Local Construction Project on State Highway System – Contract Labor
North 7th Avenue Streetscape – Bozeman**

Lynn Zanto presented the Construction Project on State Highway System – Contract Labor North, 7th Avenue Streetscape, Bozeman to the Commission. Under MCA 60-2-111 “letting of contracts on state and federal aid highways,” all projects for

construction or reconstruction of highways and streets located on highway systems and state highways, including those portions in cities and towns, must be let by the Transportation Commission. This statute exists to ensure the safety of our system, protect transportation investments, and encourage better coordination between state and local infrastructure improvements. MDT staff reaches out to local governments to solicit local projects on state systems to ensure compliance with this statute.

Summary: The City of Bozeman is planning to design and build a transportation improvement project on North 7th Avenue (N-118) in Bozeman. Improvements would include new sidewalks, ADA upgrades, decorative lighting, and landscaping from Main Street (N-50) to the I-90 Interchange.

The project will be funded locally and will utilize contract labor. The project will be designed with input and concurrence from MDT staff to the extent practicable. When complete, the City of Bozeman will assume all maintenance responsibilities associated with streetscape elements in the MDT right-of-way.

On behalf of the local governments, as required by MCA 60-2-111, staff requests that the Transportation Commission delegate authority to the City of Bozeman to let and award a contract for the project listed below.

Location	Type of Work	Cost (estimate)	Fiscal Year	Type of Labor
North 7 th Ave (N-118), from Main St to I-90 Interchange, in Bozeman	Sidewalks, ADA, Landscaping, Lighting	\$700,000	2017	Contract

Staff recommends that the Commission delegate its authority to let, award, and administer the contract for this project to the City of Bozeman, pending concurrence of MDT’s Chief Engineer and execution of a maintenance agreement with the City of Bozeman.

Commissioner Schulz said he was quite familiar with this area. It is interesting that from Main to the Interstate, which is a significant distance, they can build it for \$700,000. Do you concur? I don’t know if it’s on both sides but if they are willing to do this, I think it’s great. That area does need this improvement because there is a lot of pedestrians. Duane concurred. Commissioner Jergeson asked if this was a project they had \$700,000 for and will they go as far as \$700,000 if it takes that? Duane Kailey said yes, they could just spend the whole \$700,000. The City of Bozeman has been very creative in finding financing and they are very committed to their projects. What they say they are going to do, they do. They’ve done an awesome job.

Commissioner Lambert moved to approve the Local Construction Project on State Highway System – Contract Labor, North 7th Avenue Streetscape, Bozeman. Commissioner Schulz seconded the motion. All Commissionees voted aye.

The motion passed unanimously.

**Agenda Item 4: Local Construction Project on State Highway System – Contract Labor
MT 78 Luminaires - Columbus**

Lynn Zanto presented the Local Construction Project on State Highway System – Contract Labor, MT 78 Luminaires, Columbus to the Commission. Under MCA 60-2-111 “letting of contracts on state and federal aid highways,” all projects for construction or reconstruction of highways and streets located on highway systems and state highways, including those portions in cities and towns, must be let by the

Transportation Commission. This statute exists to ensure the safety of our system, protect transportation investments, and encourage better coordination between state and local infrastructure improvements. MDT staff reaches out to local governments to solicit local projects on state systems to ensure compliance with this statute.

Summary: The City of Columbus is proposing a project to install luminaires along MT-78 (P-78) in Columbus. The City of Columbus has contracted with Northwestern Energy to design, install and maintain the luminaires.

The project will be funded locally and will utilize contract labor. The project will be designed with input and concurrence from MDT staff to the extent practicable. When complete, the City of Columbus will assume all maintenance responsibilities associated with the luminaires.

On behalf of the local governments, as required by MCA 60-2-111, staff requests that the Transportation Commission delegate authority to the City of Columbus to let and award a contract for the project listed below.

Location	Type of Work	Cost (estimate)	Fiscal Year	Type of Labor
MT-78 (P-78), from RP 47.3 to RP 47.6, in Columbus	Luminaires	\$500,000	2017	Contract

Staff recommends that the Commission delegate its authority to let, award, and administer the contract for this project to the City of Columbus, pending concurrence of MDT’s Chief Engineer and execution of a maintenance agreement with the City of Columbus.

Commissioner Lambert moved to approve the Local Construction Project on State Highway System – Contract Labor, MT 78 Luminaires, Columbus. Commissioner Jergeson seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item No. 5: Bridge Preservation Project
Timber Piling Preservation – JOC
Statewide**

Lynn Zanto presented the Bridge Preservation Project – Timber Piling Preservation, JOC Statewide to the Commission. Job Order Contract (JOC) is a different sort of contracting mechanism. 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 bridge preservation project to the program:

Timber Piling Preservation - JOC: The intent of this project is to promote preservation activities on timber bridges with pilings that are showing signs of degradation. Without treatment, there is substantial risk of rapid piling deterioration including total failure in some instances. This statewide project is an attempt to address an emerging bridge issue in a proactive and cost-effective manner. The total estimated project cost (all phases) is approximately \$1,405,000.

Summary: MDT is requesting Commission approval for a statewide bridge preservation project to address timber bridges with pilings that are showing signs of degradation. The total estimated project cost (all phases) is approximately \$1,405,000

– with the entirety of the funding originating from the Surface Transportation Bridge (STPB) Program.

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

This is a new contracting mechanism for us and, as I understand how it will work is s we have some locations, a few locations already identified in the Missoula area, but then as the bridges are being inspected in additional locations, this kind of risk will be identified and added and the work will be done under this contract.

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

Commissioner Lambert asked how they preserve the pilings. Duane Kailey said you may recall earlier last spring we had a bridge on Hwy 12 just before Lolo Hot Springs with pilings underneath and one of the pilings failed. They typically take a steel culvert, cut it in half and put it around the piling and bolt it together so it's a little bit bigger than the piling. It goes above the failure all the way down to the ground so it ties the two ends together that are good and solid. Wood in water typically fails right at the water line and rots. So, they are covering that gap. They fill it with concrete and once it cures it ties that piling back together and covers that failure zone. That's what they're planning to do with this. Lynn Zanto said typically these are bridges that we would just replace, but by doing this treatment, we hope to get an extra 10-20 years per bridge. It saves about one million dollars per bridge.

Commissioner Jergeson asked if this is all state money or is there a match. Does it depend upon the highway and whether the highway qualifies for federal match? Lynn Zanto said it essentially is federal money and the state match is about 13.42 percent. If it's a bridge on the Interstate then it's a higher percentage and is closer to a 92% federal and 8% state match. Commissioner Jergeson asked if there were many wood piling bridges on the Interstate System? Duane Kailey said not on the Interstate; a lot of these are on Secondary Routes and old Primaries. We got away from timber pilings a long time ago, hence, a lot of the ones still out there are old. Commissioner Lambert asked how many there were. Duane Kailey said I don't have that number with me but we track all that in our Bridge Management System and I can get that to you. Commissioner Lambert said I'd like to see that and where they are. Duane Kailey said I'll get that to you.

Commissioner Lambert said aren't all the bridges in one project or does it matter what kind of road they are on – Interstate, Secondary's, or Primaries. They are all bridges under the Bridge Program. Lynn Zanto said that is correct. We have a bridge funding category and our Chief Engineer manages that. He brings forward the priorities for projects and the type of work. We have performance goals for bridges in our Performance Programming Process. That is how he determines what projects to move forward.

Commissioner Schulz said he found this to be a very interesting endeavor statewide and it is significant. The state also does inspections on off-system bridges in counties over a certain length. Are those bridges also included in this analysis? Duane Kailey said yes. Ultimately MDT is held accountable for all bridges within the state. Local governments can inspect them on their own but we track all that in our data base. We can provide you with details on bridges on-system and off-system. Commissioner Schulz said if an off-system bridge is found to be at risk with one of the pilings, you're not going to rebuild it but initially identify the problem and then go to another step with the local government to determine a strategy to do the repair.

Duane Kailey said you are correct. Once we identify a deficiency with a structure, whether it's piping or deck, we work with the local government and either they can use their forces to repair the bridge or we can use Off-System Bridge funding to do the repair. We coordinate with the local government on how to proceed. We can do anything from minor repair all the way up to full replacement.

Commissioner Schulz moved to approve the Bridge Preservation Project – Timber Piling Preservation – JOC Statewide. Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item No. 6: Highway Safety Improvement Program

Lynn Zanto presented the Highway Safety Improvement Program to the Commission. The Highway Safety Improvement (HSIP) Program makes federal funding available to states to assist with the implementation of a data-driven and strategic approach to improving highway safety on all public roads. In Montana, the primary focus of the HSIP program involves identifying locations with crash trends (where feasible countermeasures exist) and prioritizing work according to benefit/cost ratios.

MDT is proposing to add 19 projects to the HSIP program – eight in District 1, four in District 2, three in District 3, three in District 4, and one in District 5. The projects on the attached list (Attachment A) meet the criteria set forth for HSIP-funded projects. You can see that there are some projects in each district. The projects include signing, slope flattening, tree and shrub removal, reconstructing curbs, rumble strips, skid treatments, median railings and warning signals. If approved, it would be MDT's intention to let these projects individually.

The estimated total cost for all projects is approximately \$17,827,000. Our portion that we get from the federal government in each year is around \$25 million.

Summary: MDT is requesting Commission approval to add 19 projects (listed on Attachment A) to the Highway Safety Improvement Program. 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 TranPlanMT. Specifically, traveler safety, access management and bike/ped features will be enhanced with the addition of these projects to the HSIP program.

The total estimated cost for all projects is approximately \$17,827,000.

Staff recommends that the Commission approve the addition of these projects to the program.

Commissioner Jergeson said in looking at the three projects in my district, the curb reconstruction at Fairfield says it is 10.5 miles long but the map has several curbs in it. Are all the curbs going to be reconstructed in that 10 miles? Lynn Zanto said it will be in multiple locations within the 10 miles. The map shows where the work is being proposed. If it were just one curb, we would only map the one area.

Commissioner Lambert moved to approve the Highway Safety Improvement Program. Commissioner Schulz seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item No. 7: Speed Limit Recommendation Livingston East – Primary 11

(55 mph Speed Limit Update)

Duane Kailey presented the Speed Limit Recommendation, Livingston East – Primary 11 (55 mph Speed Limit Update) to the Commission. There is no action required on this; this is a follow-up for the Commission. You may recall we were approached by Livingston looking at a speed reduction on Primary 11 east of town. The Engineering Recommendation did not recommend much of a reduction. However, the Commission chose to reduce the speed and asked MDT to follow up and look at the traveling speeds after the reduction. We have done that and we're presenting the information to you. Basically, we found the speeds have reduced slightly but not quite to the level that Livingston was requesting, however, we feel that they are within reasonableness, about five miles per hour above the posted speed limit and the speeds are a little bit closer. Prior to this there was quite a disparity and that disparity has been reduced. Based on that we are not recommending any change. Livingston concurs with our recommendation.

Informational Only.

Agenda Item No. 8: Speed Limit Recommendation School Speed Limit – Russell School Russell Street (U8105) City of Missoula

Duane Kailey presented the Speed Limit Recommendation, School Speed Limit – Russell School Russell Street U8105), City of Missoula. This was based on a request from the public to the city of Missoula. Under statute, a local government can conduct their own investigation if they so choose. In this case they were asked to reduce the speed in and around the school on Russell Street. The City Engineer, Kevin Slovarp, conducted that investigation. His recommendation is to enact the local government's authority to reduce the speed limit to 80% of the posted speed limit in and around the school. They have requested to do that and it's under their authority to do that and takes no action by the Commission. MDT has reviewed their investigation and the report and MDT is okay with this.

Commissioner Jergeson said in Chinook the speed limit by the school is 15 mph. What goes on in some communities where you're looking at a posted limit of 35 mph past the school and lowering it to 25 mph? I would just as soon that traffic slowed down for those little tykes. Duane Kailey said we look at the characteristics of the road in its entirety and we make a recommendation and then bring it to the Commission. In the area you're talking about, I can guess the approved speed limit was 25 mph but under statute the local government reduced that by 20% down to 15 mph. In this case, the recommended posted speed limit along Russell Street was 35 mph and by reducing it by 20% they can get it down to 25 mph. That is the way the statute reads. Commissioner Belcourt said he agreed with Commissioner Jergeson for a school.

Director Tooley said if you want an example of what Missoula is looking at, we have one right here in Helena at Four Georgians School. It is normally a 35-mph zone but during school hours there is a sign that activates and lowers it to 25 mph. It's very effective because there is a lot of traffic through there but you do have separations of vehicles and pedestrians. You have a multi-use path along Russell Street, so there isn't a mix of pedestrians and cars. There are a lot of cars on Russell Street and that is probably why the speed limit is where it is now and why Missoula wants to go with this kind of an option. Commissioner Skelton asked if there would be a flashing light during the school hours? Duane Kailey said we are working with the City on that. They want a bouncing ball flasher. We are good with that but we only want it in operation during school hours. The City would like that to run 24/7 but we have some very significant concerns with that. We look at people becoming desensitized and ignoring it. We would allow for the installation of speed feed-back signs in the

area. We have one up on Broadway. I think the issue is when we go to a speed feedback sign, by policy we ask for the local government to pay for that. They are expensive to put in, about \$15,000 and they are solar powered so there's not a lot of electricity involved so we ask the local government to put those in. We typically will pay for a bouncing ball flasher. So, we're still working through that with the City. Those signs record the speeds and we can download that information to see what speeds people are traveling. Duane said I want to be clear we have no cameras on them; they are radar controlled. Commissioner Schulz said we have those in Virginia City on both ends of town and they really help the public and me too. I slow down significantly when I come into town.

Commissioner Lambert asked if we decide that 25 mph is too high, do we have the authority to put it at 15 mph? Dave Ohler said there is a statute that says: "except as provided in Subsection 1(d), the Commission has exclusive jurisdiction to set special speed limits on Federal Aid Highways, Municipalities, and Urban areas." The exception is speed limits in school zones or near senior citizen centers. In that case the local government has the authority to set lower speed limits.

School Speed Zone – Local Government Authority – MDT Review.

Agenda Item No. 9: Certificates of Completion January & February 2017

Duane Kailey presented the Certificates of Completion for January & February 2017. They are presented for your review and approval. If you have any questions, please feel free to ask. One thing we include is the original bid amount and the final amount. We were asked to include additional information on projects that have grown substantially. So, we've included additional information about Change Orders and other things as well. Commissioner Skelton said some of these are accepted by the Director and dated and some aren't. Does that mean you've not accepted them? Duane Kailey said they are all accepted by the Director. That is in Highway Specialties and are pipe projects so we only list the signature on those but the Director has accepted them.

Commissioner Jergeson said you must have some rules for Contractors who go over their bid amount. Are each of these projects in accordance with those rules? I'm a long-time advocate in the value of the competitive bidding process and once a Contractor signs the amount they will do the project for, it seems like they ought to be held to that. Otherwise, what is the meaning of the competitive bidding process if they can underbid a project and ask for Change Orders. What is the basis of this? How do I reassure Legislators or my constituents that where Contractors have been given approval to get paid over their original bid and that we're keeping the value of competitive bidding toward the best purchase for taxpayer dollars? Duane Kailey said that is an excellent question. In our specifications, we have standards that if they exceed a certain amount above or below a quantity, a Change Order must be written. In that Change Order process, we negotiate with them as to what the new value will be. If it grows, we typically look for a price reduction because of quantity of scale. If it decreases, typically we will negotiate with them for a possible increase. It takes a certain change in value which is typically 125% increase or 75% decrease in quantity before a Change Order is done. Before we get there, we have staff on every one of these projects watching exactly what the Contractor is doing. They are approving what work takes place and what work doesn't take place. Many of our bid items are in-line meet quantities. That means what we draw on the plans is what they are getting paid irrespective of how much they waste, we pay meet-line quantities. There are a multitude of specifications within our contracts that holds them to those bid quantities and/or allows for an adjustment but that adjustment has to be approved by MDT prior to moving forward. Consequently, the Commission has the final authority on Change Orders which is the next agenda item. If one is initiated you

approve it in the end. If you want to get into more detail, I'd be happy sit down with you and Kevin Christensen and explain it to you.

Dave Ohler asked him to talk about unknown circumstances. Duane Kailey said we set up our contracts that way because there is a balance on how far you design a project before you bid it. We can test the heck out of everything and spend tons of PE dollars doing that, but we balance that with our specifications because we don't know everything that is underneath that roadway. It is cost prohibitive to know that. We run into change of conditions. One of the bigger ones is impacts on guardrail. We have a lot of impacts to guardrail while a project is being built. Right out here on I-15, we've already had three hits on our guardrail during construction. That does increase the contractor's quantity on that product which is outside their control and our control, but we compensate them for that work. On Airport Interchange, we had 10 different hits on either guardrail or light posts.

Commissioner Schulz asked if it was still considered construction during the project but once it is completed then it goes over to maintenance. Duane Kailey said that is correct. In that case, where we can we find out who the individual is who impacted it and we set up an Accounts Receivable and go back against their insurance to recoup those costs if we can find those individuals. Those hits are fairly substantial or severe so we typically find them.

Commissioner Skelton asked when you adjust the cost, is it a percent? Is there a formula? Duane Kailey said it is a percent and a dollar value. It's also dependent on the bid item itself. We are looking for major quantities. For the most part, it is 125% and \$50,000.

Commissioner Lambert moved to approve the Certificates of Completion for January & February 2017. Commissioner Schulz seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item No. 10: Project Change Orders
January & February 2017**

Dwane Kailey presented the Project Change Orders for January & February 2017. They are presented for your review and approval. If you have any comments or questions, please feel free to ask.

Commissioner Lambert moved to approve the Project Change Orders for January & February 2017. Commissioner Schulz seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item No. 11: Liquidated Damages

Dwane Kailey presented the Liquidated Damages to the Commission.

Project ID	Project Desc	Contractor	Disputed	LD Days	LD Amount
UPP 8199(128)	39th St - Brooks to Russell	LS Jensen Construction & Ready Mix	N	3	\$4,188
TA 6799(42)	Three Mile Drive Path-Kalispell	Knife River Corp-Msla	N	18	\$25,128

The Commission need do nothing and they will stand as is. As a reminder, if you choose to reduce them, we end up bearing the cost with state funds.

Liquidated Damages STAND**Agenda Item No. 12: Letting Lists**

Duane Kailey presented the Letting Lists to the Commission. This is for the months of April through September 2017. We originally established this through the TCP process, but as we go through the year we run into issues such as right-of-way acquisition which ends up delaying a project, so they move from month-to-month. As we approach the end of the year, some projects may move out and be replaced by other one's due to things like right-of-way acquisition. I will bring those to your attention if they are moving out from that year and we're bringing in something new that you had not approved for this year through the TCP process. At this time, I'm not advising you of anything but I know we have some coming. With that, I'd ask for your approval of the Letting List.

Commissioner Skelton asked Lynn Zanto to explain the TCP Process for the new Commissioners. Lynn said it's an annual cycle. Activity starts in January of each year, we look at the program overall and how we have scheduled Lettings for the upcoming five years. We look to see in what funding categories we're light on projects and what types of work we're light on to meet our performance goals. My staff does analysis of our Performance Program System (P3) to see, given the money we have, what is the optimal mix of projects we need. They send email requests to the District Administrators and other Program Managers on what kind of new nominations we need to fill the five-year plan and keep things in the hopper. In June, we bring you our Statewide Transportation Improvement Program which is a federal requirement for projects that we anticipate asking the Federal Highway Administration to approve for obligating funds by phase – the design, the right-of-way, the install, construction. Then through the summer months Duane's staff works hard on updating schedules and cost estimates. That feeds into a system that generates our draft Tentative Construction Program (TCP). The first thing we bring to you is a Funding Plan and in a meeting, we'll go through the P3 scenarios and analysis we did and bring forward for your concurrence the overall Funding Plan. Then the District Administrators and Program Managers start to work to position those in the year they think they'll have the projects ready. Then in late October we have our TCP meetings that you are a part of. They are basically work sessions where you and staff go through all those projects and give your concurrence on the TCP Program. Then we start the cycle all over.

Duane Kailey said in the draft process, when the districts are working on their plan, they should be reaching out to each of you individually and setting down and walking you through the projects they are looking at and their reasoning for that. You should be given an opportunity for input at that point in time. Commissioner Schulz said when I talked with Jeff and several of the staff, they encouraged me that sometime in the spring we take a day or two days to look at a lot of those projects so I'm familiar with what is on the ground. I'm curious enough to ask some inappropriate questions if I don't see what's going on and to take the time to go out and look would certainly make me a supporter rather than a critic. Duane Kailey encouraged all the Commissioners to do that. Dave and Steve Prinzing in Great Falls would be more than happy to do that with Commissioner Jergeson as well. Commissioner Jergeson said I met with them after I was appointed. I was at their meeting with the local government in Havre the other day and will be in Great Falls next. They told me they meet with the regional County Commissioner's group on June 8th. I tend to use those methods of communicating and staying on top of it. I would also like to go out and look at some of those projects because it will help me understand what causes a priority to exist.

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

The motion passed unanimously.

Elected Officials/Public Comment

Bruce Friede, Seeley Lake

My name is Bruce Friede from Seeley Lake. I was expecting more people to come but they must have decided to go to Hawaii. I'm here to present a petition that was circulated in the community against the new posted speed limits that were enacted last fall. Unfortunately, there is nothing I can do about some harsh language as part of this. People just started signing it before they should have gotten rid of the demand part of it. This represents 275 people from the community. The community feels like they were slighted with this new speed limit. One reason is that the new speed limit was put in just as a new Deputy Sheriff came in. The new Deputy started writing citations based on the new speed limit. Really what the community wanted, most of the community that lived there year-round, was to just have the previous speed limit that was there enforced. We realize the two Deputies that were there before had a lot of other priorities but part of the new Deputy's duties was to make sure the new speed limit was enforced. So, there were a lot of citations given and people are questioning why the new speed limit is being enforced and yet the old speed limit, which is what they really wanted enforced, was not enforced. I've read a lot of the notes from the Commission's hearing last year and there were eight speeding violations in three years in that community. We believe that if enforcement had been on-going, we wouldn't even be here. The town of Seeley Lake, the Community Council, did an impromptu speed study and got 234 votes for change and most of the people who signed that, if you look at their address, were from Double Arrow which is a subdivision of Seeley Lake, Placid Lake and Lake Inez. Those are quintessential summer cabins for the most part. There are 400 homes on Double Arrow and about half of them are full time residents.

With this petition, we are asking for the speed limit to go back to what it was. We've also watched the process all along and the Department's Traffic Engineers all wanted to leave the previous speed limit with some minor changes. We're wondering why the Community Council wanted that speed change. They've openly said that one of the reasons they wanted it was to slow people down so they would spend more money in the community. If I lived in Chinook wanted the speed reduced so people would pull into town, that would work in that community but our community is a through-and-through. The businesses are right on the highway and they're going to stop and do what business they can and then leave. I suspect you'll have more people from the community coming here from time to time.

Commissioner Lambert said I'm confused – you didn't ask for a speed limit reduction but you got one? Duane Kailey said about a year ago we were requested by the community to reduce the speed. We sent the meeting minutes to the two new Commissioners as well as the speed study the Department produced. You heard from the Neighborhood Council that he referred to. Our recommendation was significantly different from what the Council wanted. We did get some of the areas to be relatively close. There is one area in there that is fairly different by 15 mph but it was the Commission's decision at the time to reduce more in accordance with what the Council wanted rather than the Engineering Recommendation. Commissioner Lambert said you got what you wanted but now you don't want it? Bruce Friede said no we didn't get what we wanted. The local people who live there year-round wanted no change. The Community Council was told that but every time someone from the community expressed an opinion that they wanted no change, there was at least three people on the Community Council that were working on the speed study and said thank you but we know better. When I read the minutes from the Hearing when they came over here and spoke to you, there were a lot of inaccuracies. I think they

took liberty with the truth. Commissioner Lambert said it is hard for us to know that. Bruce Friede said yes, it is and that's why I'm here.

Commissioner Belcourt thanked Mr. Friede for his comments. I spent a lot of time on this issue. I met with the Community Council and the Missoula County Commissioners and everyone was in support of this. We met with the Director from Missoula and had them up here several times. Were you present at any of those meetings to state your opinion? Bruce Friede said I wrote several letters to the Community Council and I also wrote to this Commission. We have a group of people on the Community Council that are from other states but they came here and got on the Community Council and the way they are running things, the locals don't really like because they are doing things that we wonder why. We know they want to change more to their liking. The community is going to change; there will be a sewer system within the community. Klaus Von Stutterheim said they pushed the new speed limit to help drive the sewer system but the sewer system isn't part of the highway. So, there's a lot of reasons to doubt what they were saying. As you know the sewer system failed in a vote although they are coming back for another round. Progress will always be there and the town will change. I believe one of the Commissioners that isn't here now said, "it looks like you're asking us to be the leader in the change by changing the speed limit first." That's simply not the case. I was the section manager at MDT in Seeley Lake for 30 years and I'm pretty familiar with what's going on in that community. I'm pretty familiar with who comes in and what changes they want to make. As you can see, 275 people are saying they don't want the new speed limit. We want what we used to have because it makes sense. To hold on to the traffic, especially during the summer, I know there's a tendency that if you slow traffic down it will be safer. We don't really have an accident-prone community. The Community Council spoke of two fatalities but there are a lot of other circumstances in those that they did not use. I'd be happy to explain them to you. The point is, in that area, in my years of being there we've had five fatalities. They only spoke of two but every one of these had other circumstances that really were the cause of why those people died. If you're not using law enforcement to come in and make the corrections on the people who are violating the existing speed limit, why should you raise it and then hammer everybody. That's kind of a heavy-handed way of doing business.

Commissioner Skelton said law enforcement is monitoring it now and citations are being given. I don't remember the sewer system being connected to the speed limit. Bruce Friede said if you read the May 26, 2016, transcript, there was mention of that by both Mr. Malik and the previous County Commissioner. They both mentioned they were hosting a humongous cross-country meet on the golf course but the golf course knew nothing about it. They mentioned that they're having ski races in downtown Seeley Lake. There's nowhere to do that. We do have a Nordic Ski Trail but that's a mile off the highway. There's just a lot of inconsistencies that they used. Those activities are there but they just didn't tell you exactly where they were happening. We feel like they told you what they wanted you to hear and not really what the facts were.

Commissioner Skelton said when they came to speak to us before we changed the speed limit, were the rest of you not aware that the delegation was coming. Had it been discussed in the community? Bruce Friede said we were not told. As a matter of fact, the Pathfinder, the local newspaper, asked to come with them and if they couldn't come with them would they at least tape the meeting and they said no.

Commissioner Jergeson said, from what you indicate, there are two different factions interested – one for one reason and one for another. Is there any indication that they can deal with it in Seeley Lake rather than Helena? Bruce Friede said they realized, by reading the transcripts, that the Community Council as well as the County Commissioners could not enact a speed limit. They realized they had to come here to get the speed limit changed and they also realized they must go through the District

to get the crosswalks in and they're busy. Commissioner Jergeson said I've read much of the information and I know several of the County Commissioners and it just appears to me that there's inconsistencies in what people are saying. You certainly bring up a good point that there's two or three different opinions about what should be happening and what the result should be. That's the reason it would be difficult for me to say we need to change the speed limit because the people at home, by majority, agree with what the result might be.

Bruce Friede said just to be clear, the speed limit was dropped under the new speed limit and the 35-mph speed was extended for three quarters of a mile and then there's a short 45-mph zone that was put in. The local deputy that came in was doing an excellent job of enforcing it but he is now off on another assignment for teenage suicides. I respect that; it's very important but since he's gone no one is writing citations. That's why the community feels like we just really want what we had back and we want enforcement to enforce it. I did a poll and 80% of the businesses within the 25-mph speed limit area want the speed limit to go back to what it was because they believe that in the summer when we have all the people in town, we will have a lot of congestion because the traffic isn't able to get away from town.

Duane Kailey said we're kind of in a sticky situation with reducing the speed and now being requested to increase it. The statute is clear, we must have a request from the local government to increase that speed. I would defer to Chief Legal Counsel but I think your hands are tied until you get something from the local government because increasing it is very specific in statute. Dave Ohler said yes. Bruce Friede said we realize that the Seeley Lake Community Council will get this as well as the Missoula County Commissioners.

Commissioner Jergeson asked if Seeley Lake was an incorporated town. Bruce Friede said no. Commissioner Jergeson asked how the Community Council is derived. Bruce Friede said they are a quasi-arm of the Missoula County Commissioners. They are elected. Commissioner Jergeson asked if the signatures collected might drive electing a different Council since we're dealing with a statute that requires a request from the local government. Bruce Friede said we suspect that. Seeley Lake is unique because the people who live there year-round, it's a place that's hard to make a living, you end up driving a lot because we must go to Missoula or Kalispell to get certain things. The employer in the area is Pyramid Mountain Lumber, the Schools, and whatever local businesses that you have. Once people are done with their nine or ten-hour day, these Community Council meetings are usually at five o'clock in the afternoon on a Monday. A lot of people are tired and they don't want to get involved but they don't want the Council to do what they've done. Really, we have a faction of Wilderness advocates and non-Wilderness advocates. That's it in a nutshell. We have the loggers and then we have the people who are into saving the trees. Both have merit but I'm not going to argue that here.

Commissioner Jergeson said what in that division creates an argument over the speed limit? Bruce Friede said yes it does. The wilderness advocates that have moved in are from New York and Ohio and California. If you're familiar with the Bitterroot, that community wants to stay away from that. Commissioner Lambert asked Duane if they recommended no change and the Commission thought they needed to change it. Duane Kailey said we recommended some changes but not to the level the community was asking for. In fact, initially it was substantially different. However, in working with the community, we got those areas more in alignment. In fact, the majority is about five miles per hour difference, which you all adopted. Again, I stick to the engineer's recommendation and supported that. The bigger area in my opinion is right on the fringe of town where there's about a 15-mph difference between what we recommended versus what the Council recommended and the Commission subsequently adopted.

Commissioner Lambert asked if the Deputy was the only law officer? Does he have a boss? Bruce Friede said Bob Parcell was asked to come to the Commission and give a presentation. Bob is an X-Marine Colonel, smokejumper, and in law enforcement for 80 years. When I talked to Bob about the speed limit and asked him how he liked it, he said his professional stance was that the Sheriff told me to support it because he was asked either by the Community Council or the County Commissioners to support it. He said he would support it but he also said it was ridiculous. We used to have quite a turn-over of Highway Patrolmen. Norm Nash was probably the most notorious Highway Patrolman that ever lived. When he lived there he would sit on the highway and write citations. We had a Deputy that lived right in Seeley Lake and he would come out and sit on the highway and write citations while he was doing his logs. We've had several other younger Highway Patrolman that ended up moving because there wasn't anything there for them.

Commissioner Lambert said short of getting the letter you need, there isn't really anything we can do. I recognize there is a great hardship to live there, however, you're describing every town in my District. How far is Missoula from Seeley Lake? Bruce Friede said it is 52 miles one way and about 76 miles to Kalispell. We are a community of Missoulians, Helena, Great Falls, and Kalispell because they all have cabins there. Commissioner Lambert said why can't you tell your deputy to enforce the law. I don't think we can do anything about that. Bruce Friede said we realize the speed limit must be changed by you so that is where we wanted to start. We are going to work our way up.

Commissioner Skelton said just to be clear, for us to change the speed limit again, we need a letter from local government which is the County Commissioners. That would be the next step for you to ask your County Commissioners to reconsider the speed limit. Thank you for your comments, we appreciate it. Thank you for coming.

Commissioner Jergeson – Letter from Constituent, Mr. Lahey

I received this letter from Mr. Lahey in Havre. Apparently, the Commission and MDT is familiar with this gentleman. I thought I would enter his letter into public comment. I appreciate that the Department has written a response to him. The talking points were printed in the Blaine County Journal and does cover the issues. As I was driving here yesterday I worried about what the road between Chinook and Great Falls was doing to my tires because I drive it twice. I will let Mr. Lahey know that I've entered his letter into the record during the public comment period. Director Tooley said as part of my discussion, I was going to defer to Duane Kailey to update the Commission on what their plans are since they are starting this project up again this spring and the reason for the centerline rumble strips. So, it will be contained in the minutes and part of the public record. Duane Kailey said we drafted a letter in response to Mr. Lahey and it's up to you on what you want us to do with it. Commissioner Jergeson asked if they would send it as a memo and I'll include it in my letter to him.

Centerline Rumble Strips - Duane Kailey

MDT has strategically started on a project ultimately to install centerline rumble strips throughout the entire state. That doesn't mean every road is going to get them. A couple of years ago we commissioned a Roadway Departure Study. In that study, we found that 70% of our crashes are due to lane departure, either moving to the right-hand side of the road and off the road or across the centerline into opposing traffic. Unfortunately, those centerline crosses result in very severe or fatal crashes. As part of that study we looked at the fact that centerline rumble strips, nationwide, have proven to be a very effective mitigation for keeping people between the lines and in their lane. They only cost about \$5,000 per mile. To our pocketbook that seems like a lot but in the scheme of safety and the Department of Transportation, that isn't very much money. When you talk about side-swipe or head-on collisions, the cost of

those crashes is very high. It does not take very many for us to justify this mitigation. We looked at every rural roadway in ten-mile segments and every time we could benefit cost it, we've put it into a project. As of today, we have completed the Butte and Billings Districts. We are moving forward and the contract is out for the Great Falls District. The next district will be Glendive next year; you approved it today. Then the last and remaining project will be the Missoula District.

However, we have not done a good job in advertising to the public what we're doing. We got several calls from the Butte District when we installed them there. We received even more from Billings. In Billings, we had a unique situation where the contractor wasn't fully in spec and we're now looking at going back and fixing some of those because they got ground a little deeper than what we want. We've adjusted that and we're going to make sure Great Falls doesn't end up with that situation. We changed some of our specs and detailed drawings to counteract that issue. With that, we thought we felt we needed to go out and advise the public why we're doing this. We've hired a PR Company called Partners Creative, who does our Roadway Departure Campaign right now. They've put some very good information together and are going out with press in local newspapers, radio ads, and we're also updating our web page. I've included some of that information in your packet. If individuals call you, the first segment is talking points. Feel free to use these talking points or share this with members of the public. It goes through the frequently asked questions about centerline rumble strips. If you are uncomfortable, do not hesitate to send those calls to the District Administrator, myself, Dustin Rouse, or Roy Peterson; we'll be more than happy to take them. This will help you if you receive those calls. We've included a couple of the press releases that we're going out with. This goes more in depth as to why we're doing this and where we're doing it. I've included a map which will be on the website as well. It includes the roads in Butte and Billings that have already been done. I've also included the roads in the Great Falls District that we're doing this summer. Here's the website we're launching on the MDT web page. It discusses that there has been a major concern from the biking community that centerline rumble strips will potentially impact them because cars will be reluctant to cross over centerlines as they pass bikes. There is a research project that was inconclusive as to whether that happens. In some instances, cars didn't hesitate to go over the centerline rumble strip but in others they did but they also found that in the same situation without centerline rumble strips. It's very inconclusive. We didn't include the research but we talk about it. This is a major effort the Department is taking. We need to step up our public involvement and our public engagement. We need to do better and we are going to do better.

Commissioner Belcourt asked how wide the rumble strips are supposed to be. Duane Kailey said rumble strips have different widths. The depth of them is a half inch. The new specs set the tolerance at plus or minus one eighth inch. So, the maximum depth would be five eighths and the minimum would be three eighths depth. The width as you measure along centerline, we're trying to maintain about six inches. As it digs down, that concave area is about six inches. Now the bigger issue we get asked is how wide is it perpendicular to centerline. We have three different widths. It is based on the width of the shoulder. Our standard centerline rumble strip is twelve inches wide for any shoulders greater than two feet or more. As we get to the two foot or narrower shoulder, we drop it to eight inches wide. If it narrower than one foot, we drop it to six inches. Again, we're trying to minimize the risk of cars avoiding it and drifting more toward the shoulder of the road. If we have a good shoulder, we make them wider but if that shoulder is narrower, we narrow up the centerline rumble strip.

Commissioner Schulz asked how chip seal affects the longevity. Duane Kailey said a chip seal will smooth them out so they won't be quite as aggressive. The design we've chosen allows them to be chip sealed without affecting them much. We haven't had any chip sealed more than once yet. We believe we can go twice on them without having to regrind them. We haven't run into that yet so I don't know. This

design allows for chip sealing once and it will smooth them out. Commissioner Schulz asked if they contract the chip seal or does MDT do any of it themselves. Duane Kailey said we contract all that out both engineering and maintenance. Commissioner Schulz asked about the rumble strip installation. Duane Kailey said the rumble strip installation is all contracted out, however, we have been working with Maintenance and they will do some very small patches for rutting or spring break-up issues. Anything less than about 500 feet we don't care if they re-rumble strip it but when it exceeds 500 feet, we're working with them to get that re-installed. They don't know yet whether they will buy the equipment or contract it out.

Commissioner Jergeson said if the rumble strip has been chip sealed and the third time it is flush with the road, would you have to recut it. Is the consistency of the chip seal the same consistency of the basic roadbed and re-cutting that, would you be cutting into or across purposes? Does it make any difference? Will you end up with something that fails? Duane Kailey said we have not run into that yet but we've had some of those discussions. As far as the material is concerned, a chip seal as it ages is very similar in hardness to the asphalt itself, so we don't see an issue there. However, the bigger challenge will be matching up with the previous pattern – making sure we hit the same groove so we don't end up with a new groove and an old groove, etc. Trying to match that pattern will be challenge.

Commissioner Lambert asked if there were some that were too deep, how do you handle that? Duane Kailey said we will chip seal those and that will smooth them out and relieve some of that aggressiveness. Commissioner Schulz said when the contractor was down working Madison County a year ago and did Varney Road, the county was not notified and consequently neither were the locals and it was an unfortunate thing. At least the county couldn't defend the project because they didn't know it was going on. So, your point of public information is important. This kind of information is incredibly valuable but also communicating with the locals is important. Duane Kailey said you hit on a very good issue. We know we have an area of improvement, we are huddling with our PIO and others within the agency and try to improve on that. Senate Bill 182 originally as drafted had drastic impacts on the agency that required public hearings and we were very concerned with it. However, with Mike's assistance, we worked with the good Senator on the bill and got amendments in and to date it goes where the agency needs to go. It's a very good encouragement for the agency to go where we need to go and improve communication with our stakeholders, local governments and more importantly with the public. We are on board with it, we support it, and we're meeting internally to figure how to improve on that. Commissioner Schulz said I'm more than happy to help with that and I'm sure the other Commissioners are as well.

Duane Kailey said to clarify I'm talking about public involvement on our projects. There is a fair amount of other public involvement that goes on in this agency and I'm not referring to that. I'm solely referring to our project public involvement. Commissioner Skelton asked if it had been voted on yet. Director Tooley said it's logged. Commissioner Skelton asked if they would send a summary of that bill to the Commission. Duane Kailey said it's only one page and I'd be happy to send it to you. Basically, MDT project development goes through three phases. The first phase is the survey. Historically, that's also where we do our environmental document and we've been very good about engaging the public through that phase. Where we have received the "needs to improve" is in the next two phases – our design phase and our right-of-way phase. Historically, we go out and engage the public and get very involved through the survey phase, then we come back and start designing the project which can take anywhere from two-to-five years or more. In that phase, we do very little public involvement. This bill requires us to go out during that phase and keep the public engaged. It's up to us to define how that happens. When we go into the right-of-way phase, we've been very good at engaging the landowners but not the remainder of the public. What's happened in certain instances, is when we go in with dozers, we've had new people come in and people who weren't aware of the project

and they've got grave concerns about what is happening. We need to improve those two phases.

Commissioner Skelton asked about the design stage. Is that when you put out the public notice for public hearing. Duane Kailey said all that takes place during the survey phase. That's when we're doing the environmental document. Once the document is done, then we sign a Scope of Work, then we go into the full design phase. That's where we've not been keeping the public engaged. Commissioner Jergeson asked if the three phases happen one after the other. I would assume the right-of-way phase could be on-going through the survey phase and the engineering phase to secure the right-of-way. Duane Kailey said that's an excellent question and one we've struggled with for many years. As we get to the right-of-way phase, we run into landowners who are not in support of the project and we end up in condemnation which can take months and even years to resolve. We try to reach out to those landowners and have one-on-one meetings with them, not necessarily buying the land but at least advising them and getting their feedback and finding out if this is going to be a challenging acquisition. More importantly finding out if there are issues out there that we're not aware of. We've run into a lot of things that we didn't know about – grave sites, septic systems which are not easy to replace, etc. We've run into a lot of those issues. We try to engage those individuals earlier in the design phase so that we can avoid them, mitigate them, or at least put them on notice that this is coming. Moving the right-of-way acquisition up earlier in the process is problematic. First, we have federal rules that restrict when we can buy right of way. We cannot buy it prior to the environmental document being finished. Over and above that, as we're going through the design phase, sometimes the design changes and we don't like going out to landowners two or three times. I've done it and it is problematic. Landowners don't want to be talked to that many times. So, we're trying to balance all those issues. It's best to get the landowners involved early so they know why they are being impacted and what those impacts are and then we get the advantage of knowing about other issues we may not be aware of. We've run into a whole host of issues we couldn't anticipate.

Agenda Item 13: Director Discussion and Follow-up

Centerline Rumble Strips

Director Tooley said he had a call from the head of the Highway Patrol and they have a sense that the centerline rumble strips are working. He asked if we had any data that showed they were working. It's too early to say they are working but the Highway Patrol is seeing it on the roadway and they think they work and he was appreciative of that.

Debarment Process of Goran Inc.

We have a debarment process going on with Goran Inc., and it's the first one I've ever been through. For the Commissioners that may not remember them, they were the contractor in Red Lodge who had some significant issues, not only with the work in general but in paying their subcontractors. After analysis of the whole thing, I decided we needed to debar them based on what I saw. We have sent a notice that we intend to debar them for five years which is the maximum allowed. Of course, that's a big deal to a highway contractor because if they are debarred here then they are debarred in 49 other states from performing federal aid highway construction. They have chosen to use their due process and they are going to have a hearing. We've appointed a Hearings Examiner and as that moves forward I'll keep you informed as much as I can. The hearing will be held here. Dave Ohler said right now we have a Hearings Examiner appointed but we don't have any dates yet. The Hearings Examiner will set a scheduling conference. One my attorneys, Val Wilson, is handling it for the Department. The Hearings Examiner will get together with

counsel for Goran and Val Wilson and set a scheduling conference. I'm not sure if there will be any Discovery but it will be up to the attorneys whether there is. We would expect to have a hearing in less than six months.

SKIP

Director Tooley said the STIP is out for public review and will be coming to your next meeting. So, stand by to hear and see more about that.

Finance and Legislation

The House is looking at Senate amendments to HB 2 today. I went over to watch it for a minute but they were in recess so there must be a deal being cut. We're all kind of hoping the House will just accept the Senate amendments and life will be good but we don't know how that's going to go.

HB 2 caused us some significant issues. We lost 65 FTE in the transactions that occurred there and the negotiations. It's true the Department had 160 open FTE but what I was not successful in getting House Appropriations to understand is that 120 of those were open because of legislatively mandated vacancy savings. If you have 160 and they take 65, now you've got real live positions to cut because you can't make your vacancy savings which remains intact. The Department took a big hit there. Senior management is looking at ways to address that and remain federal aid compliant. We're going to have to make some adjustments. We may be looking at handling the issue more through attrition but then moving more to consultants for some of the work that would normally be handled by an MDT employee once we redistribute the workload. We will be able to do the job but the way we do the job is going to change in certain areas. We'll let you know as that moves forward. We haven't made any concrete plans because they are looking at HB 2 right now and it doesn't make sense to do much of anything until it's done.

Besides HB 2, there are three bills in play. HB 473, Representative Garner's Gas Tax Increase, came in at \$.08 and \$.07³/₄ for diesel. The Senate has amended it to \$.04¹/₂ for gasoline and \$.01¹/₂ on diesel. That is just one part of the overall plan. It raises some money which is split between us and local government. Local government will get a bigger share of it but it does patch the hole in MDT's ability to match the federal aid program. We will realize about \$20 million per year from that which is what the shortfall was for the Highway Construction Program.

HB 650 is a companion bill for Section D, that's the Department of Justice. You've heard me talk about this for four years. It's a real problem when we're in Section C and DOJ is in section D and we're having funds appropriated from the Highway State Special Revenue Fund that we manage. They get authority to spend but no accountability. They've asked for money in Section D, Section D approves it, and we're the ones that must make the adjustment in end. HB 650 does a couple of things: it segregates \$.04 of the fuel tax fund to go to DOJ operations. That's significant because now DOJ will have to manage that portion of the cash. It's good for us because we don't have that 12% of the overall fund that we need to manage. We can manage what we know we need to manage and we don't have that unknown that we must react to at the end of a biennium as we did in the last biennium. That's not enough to fully fund the DOJ operations because in fiscal 2017 they are at \$39.46 million. They'll see around \$27-28 million from this exchange. Another part of HB 650 is an increase in registration fees for everybody. We placed a surcharge on that. You've heard about the Maserati Motor Home Tax on vehicles which is a one percent tax on vehicles over \$150,000. They anticipate that will make \$3.1 million but I doubt that knowing projections are always way more optimistic than what really happens. Even if it doesn't, there is language in the bill that doesn't allow them to revert to the other side of ISRI – the bill says, “this is yours and this is yours.” We'll see how that works out.

SB 57 would raise registration fees by five dollars for the Highway Patrol's Recruitment and Retention Fund. It does have some positive impact on our side of ISRI because as that fund was disappearing, they'd have to convert that to gas tax. If they fix that fund and they are segregated, that pressure won't be on MDT anymore.

In the final analysis, if this all comes to play, MDT will be fine. In layman's terms, we've had a reset in our finances. This isn't a long-term fix and that's good because obviously if you go 24 years without a fix, nobody knows why this happened or how this happened but now this will be a focal point for the Legislature every year going forward and that needs to happen. I think we're in a good spot because we're not going to revert any federal aid. We're not where we wanted to be but it could have been a lot worse.

Director Jergeson asked how the Department offsets the 60-70 FTE that you don't have now. Do you have to contract out? Director Tooley said we're looking at that now. We're going to reduce staff in certain areas. Mainly it will impact the construction program because you don't have a lot of Planners and you need those to be federal aid compliant and they do the beginning of the P3 process. So, there's not a lot to cut there. Who really thinks you can cut IT any further? We're not going to use any less IT. Maintenance has already been cut and remember they're 52% of the State Fund. We're to the point now where we're going to have to reduce services which means some of the Secondary's and some Primaries don't get plowed or fixed the way they should be. If you look at the way the Department is set up, it's construction and maintenance. You've got to maintain what you have so a lot of it comes back on construction which isn't fair but that's how it is. They can leverage some federal aid funds and other funds to use consultants, so it takes it out of personal services and moves it into operations. The Legislature thinks they are going to turn more dirt roads black but it won't go as far as they think it will go because we must convert some of that to people who actually manage the programs through consultant services. So, we're going to try and do that through attrition and not lay people off.

Commissioner Jergeson said he was here when we had terrible problems balancing the State General Fund and it looked like the Highway Trust Fund was flush with lots of money. That is when the "temporary" appropriation of highway tax went to the Highway Patrol. When the economy turns around and the General Fund is in better shape, then we'll reverse that but the good times rolled back in and the Legislature never reversed that. Now we're sitting here with the consequence when both funding for highways and funding for the State General Fund are challenged and it is a real problem that was warned about. I suppose it was not a good Session to answer the issue of whether the General Fund should be picking up the Highway Patrol. That is something the General Fund taxpayers should be paying for and not just highways. I've never been a huge fan of vacancy savings particularly when vacancy savings are now combined and there are all these opened positions in a department. When I was in the PSC there were reasons why a position remained opened beyond some arbitrary length of time but it didn't mean the position didn't need to be filled. The Legislators conveniently ignore that. Now you're getting essentially vacancy savings twice without a way to manage it. It's just not good budgeting. The people who still have a job are going to get a one percent raise. Director Tooley said it hasn't been a good Session and we look forward to Tuesday when it's over. It's been difficult but the Department will manage; we do well when we have challenge.

Commissioner Lambert said isn't there supposed to be a trillion dollars in the federal budget for bridges and infrastructure. Can we sneak a few people back in because you need more help to administer that kind of money? Director Tooley said we don't think we'll see that big of bump from that trillion-dollar plan because it's all a public-private partnership approach and its private investment which will want a return on their money. You're talking mainly about toll roads. We have nothing to offer in that regard. There is some movement on the minority side. They've introduced a bill

called “A Penny for Progress” which analysis shows if they keep with the current formula, Montana would receive another \$130 million per year in federal aid but we would have to match that. We won’t have the money to match that at least not all of it so we’ll be reverting some of that if Congress goes that route. That’s all up in the air.

Lynn Zanto said when the American Reinvestment and Recovery Act came along which was under the prior Administration for infrastructure, highways and bridges only received about six percent of the overall money. When they talk infrastructure bill, they could be talking airports, water and sewer, etc. As the Director said, we’re skeptical that we’ll see much. The other thing I’ve heard is the trillion is over 10-year time frame.

Commissioner Lambert said when the Commissioners in Carter County wanted Hwy 323 turned into a state road, we tried to tell them that they wouldn’t get any more maintenance and maybe less but they did it anyway. I got a letter from an angry constituent who said he’s lived along that road for a long time and he’s never seen it in such bad shape. It is too bad that they get what they want only to find out that isn’t what they want.

Director Tooley said as we move forward, we’re going to look at all those things – secondary roads, local match, etc. We’ve reset to 2013 as far as finances go. What we would do different knowing we’re going to face this again in four years, all those things are on the table. We know it’s difficult not only for us but for local governments. They may vote on it or they may go home but this definitely isn’t over. Commissioner Belcourt said one of the things local governments don’t realize up front is there is always a requirement with things. The RF Funds is a good example – they think they can run out and build a bridge but there is always a carrot with it. You don’t always know about that until you’re in the project or concluding the project. There is always a pay back.

Retirements

There are a couple of notable retirements that have come up in the past couple of days. Dave Hand is retiring at the end of May. So, we’ll have a District Administrator to replace in that District. In the interim, we think it will be Doug Wilmont running the show up there and then we’ll replace Dave. Downstairs, Dan Moore, Colonel for the MCS Bureau, has announced his retirement at the end of June. He is a 40-year state employee so that’s a big deal.

Commissioner Skelton thanked the Director for all his hard work at the Legislature. It was not an easy Session.

Next Commission Meeting

The next Commission Conference Calls were scheduled for April 25, 2017, May 9, 2017, and May 23, 2017. The next Commission Meeting was scheduled for June 22, 2017.

Adjourned

Meeting Adjourned

Lori K. Ryan, Secretary
Montana Transportation Commission