

Montana Transportation Commission

**April 22, 2021 Meeting
Commission Room
2701 Prospect Avenue
Helena, Montana**

IN ATTENDANCE

Loran Frazier, Transportation Commission Chair (District 3)
Tammi Fisher, Transportation Commissioner (District 1)
Shane Sanders, Transportation Commissioner (District 2)
Noel Sansaver, Transportation Commissioner (District 4)
Scott Aspenlieder, Transportation Commissioner (District 5)
Malcolm "Mack" Long, Director MDT
Mike Bousliman, Acting Deputy Director MDT
Kevin Christensen, MDT
Lori Ryan, Commission Secretary
Dwane Kailey, MDT
Dustin Rouse, MDT
Jake Goettle, MDT
Val Wilson, MDT
Chris Nygren, MDT
Carol Strizich, MDT
Patti Schwinden, MDT
Paul Johnson, MDT
Jim Skinner, MDT
Darin Reynolds, MDT
John Pavsek, MDT
Shane Mintz, MDT
Jim Wingerter, MDT
Bill Fogarty, MDT
Rod Nelson, MDT
Lucia Olivera, FHWA
Dean Bjerke, Diamond Construction
Andrew Carson, Diamond Construction
Craig Rickert, Diamond Construction
David Smith, Montana Contractor Association
Thompson Smith, CSKT
Shelly Fyant, CSKT Tribal Chair
Dave Strohmaier, Missoula County
Aaron Wilson, City of Missoula
Diane Sands, Missoula

Please note: the complete recorded minutes are available for review on the commission's website at https://www.mdt.mt.gov/pubinvolv/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 Loran Frazier

Commissioner Frazier called the meeting to order with the Pledge of Allegiance.

Approval of Minutes

The minutes for the Commission Meetings of February 2, 2021, February 23, 2021, February 26, 2021, March 9, 2021, March 12, 2021 and March 23 2021 were presented for approval.

Commissioner Sanders moved to approve the minutes for the Commission Meetings of February 2, 2021, February 23, 2021, February 26, 2021, March 9, 2021, March 12, 2021 and March 23, 2021. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item No. 1: *Local Construction Projects on State Highway System – Blackwood Groves Subdivision, Bozeman*

Jim Skinner presented the Local Construction Projects on State Highway System – Blackwood Groves Subdivision, Bozeman 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 coordination on public and private infrastructure improvement projects that impact MDT routes.

Blackwood Groves Subdivision - Bozeman

The developer for Blackwood Groves is proposing modifications to South 19th Avenue (U-1216 / S-345) in Bozeman to address traffic generated by their new subdivision. Proposed improvements include roadway widening, additional northbound traffic and bicycle lanes, three new approaches, new curb and gutter, street lighting, new sidewalks and ADA work near the Blackwood Road intersection.

Blackwood Groves will provide 100 percent of project funding and will be required to complete the City of Bozeman’s design review and approval process (to ensure that all work complies with applicable local, state, and federal design standards). When complete, the City of Bozeman will assume all maintenance and operational responsibilities associated with these improvements.

Summary: Blackwood Groves is proposing modifications to the State Highway System to address traffic generated by their new subdivision. Proposed improvements include roadway widening, additional northbound traffic and bicycle lanes, three new approaches, new curb and gutter, street lighting, new sidewalks and ADA work on South 19th Avenue (U- 1216 / S-345) in Bozeman (near the Blackwood Road intersection).

Staff recommends that the Commission approve these modifications to South 19th Avenue - pending completion of the City of Bozeman's design review and approval process.

Commissioner Sanders moved to approve the Local Construction Projects on State Highway System – Blackwood Groves Subdivision, Bozeman. Commissioner Aspenlieder seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item No. 2: Construction Projects on State Highway System – Contract Labor Wicks Lane Improvements, Billings

Jim Skinner presented the Construction Projects on State Highway System – Contract Labor – Wicks Lane Improvements, Billings 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.

Wicks Lane Improvements - Billings

The City of Billings is proposing modifications to Wicks Lane (U-1012) between Bench Boulevard and Hawthorne Lane in Billings. Proposed improvements include roadway widening, new curb and gutter, storm drain upgrades, new sidewalks and ADA work.

The City of Billings will provide 100 percent of project funding and will be required to review and approve project design elements (to ensure that all work complies with applicable local, state, and federal design standards). When complete, the City of Billings will assume all maintenance and operational responsibilities associated with these improvements.

Summary: The City of Billings is proposing modifications to Wicks Lane (U-1012) between Bench Boulevard and Hawthorne Lane in Billings. Proposed improvements include roadway widening, new curb and gutter, storm drain upgrades, new sidewalks and ADA work.

Staff recommends that the Commission approve these modifications to the Urban Highway System and requests that the Commission delegate its authority to let, award, and administer the contract for this project to the City of Billings - pending completion of their design review and approval process.

Commissioner Aspenlieder said this is the first project with an additional one coming either this fall or early next year out of Wicks, going from Hawthorn down to the Bitterroot to the east.

Commissioner Aspenlieder moved to approve the Construction Projects on State Highway System – Contract Labor – Wicks Lane Improvements, Billings. Commissioner Fisher seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item No. 3: *Speed Limit Recommendation
MT 200 – Lincoln***

Dwane Kailey presented the Speed Limit Recommendation for MT 200 – Lincoln to the Commission. This is a speed study up in MT 200 in and around the community of Lincoln. It was requested by Lewis and Clark County on behalf of the community of Lincoln and emergency responders as well as the Forest Service and Lewis and Clark County Sheriff. We have conducted our study and reviewed the crash information and our recommendation is:

A 60-mph speed limit beginning at station 242+50, project NH 24-3(20) (600' west of Badger Rd.) and continuing west to station 288+00 an approximate distance of 4,650 ft.

This will incorporate and go all the way out to the Lincoln Airport. We have presented it to Lewis and Clark County and their recommendation is in concurrence with ours. We recommend approval of the speed study as presented.

Commissioner Aspenlieder said the only thing I noted as I went through this is the county was also requesting that you change the striping through this section. It looked like in your staff report that you recommended not revising any marking or any of the striping in this area. So we're clear, if we make a motion to approve as recommended we're going to change the speed zone but we're not going to change any of the traffic markings. Dwane Kailey said that is correct. We are going to

review the passing zone but it is not part of the speed study. I talked to Mr. Wingerter and it is his plan to have his traffic engineer out there this spring to take a look at it and make an appropriate recommendation as to whether to adjust it or not. It is not part of the speed study for your approval.

Commissioner Frazier said you are extending the speed zone of 60 mph all the way out to the Airport, correct? Dwane Kailey said yes. Commissioner Frazier asked if staff felt that was necessary. I drive this road quite a bit and it seems a little bit long to me. Dwane Kailey said our actual original finding was no change, however, in working with the District and Lewis and Clark County, we did re-evaluate that and based on their comments and input, staff is on board with going ahead and extending it out past the Airport.

Commissioner Sansaver said I see where the upper Blackfoot Community Council objects to the recommendation, what was that based on? Dwane Kailey said the Community Council would prefer that it be a 50 mph speed limit. Their concern is due to the amount of traffic accessing the sculpture park. However, in working with the county, the county is in concurrence of our recommendation of 60 mph.

Jim Wingerter said when you read the description of the speed limit, it said west of Badger Lane. I think the change in the request starts west of Badger Lane but continues east the 4,600 feet. Dwane said that is correct, thank you.

Commissioner Sansaver moved to approve the Speed Limit Recommendation for MT 200 – Lincoln. Commissioner Sanders seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item No. 4: Speed Limit Recommendation Secondary 343 – Galata

Dwane Kailey presented the Speed Limit Recommendation for Secondary 343 – Galata to the Commission. This is a speed study on Secondary 343 in and around the town of Galata. We were requested to take a look at it by the community of Galata. We have review it. The community of Galata is just a short distance off the highway. The existing statutory limit had a 70 mph speed limit for that short distance. The Commission had previously approved a 25 mph speed limit through the town. In reviewing that, our staff does recommend reducing the statutory speed limit coming off Hwy 2 and a short distance outside of Galata. With that our recommendation is:

Galata North - A 45-mph speed limit beginning at straight-line station 61+50 (400' north of the intersection with McGinnis St.) and continuing south to station 71+50, an approximate distance of 1,000 feet.

It will then tie into the existing 25-mph speed limit as posted. Then transition as follows:

Galata South – A 45-mph speed limit beginning at straight-line station 90+00 (100' south of Railroad Ave) and continuing south to the intersection with US 2, an approximate distance of 3,000 feet.

We do have concurrence from the Toole County Commissioners.

Commissioner Sanders moved to approve the Speed Limit Recommendation for Secondary 343 – Galata. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

***Agenda Item No. 5: Speed Limit Recommendation
Harden Road (U1028) Lockwood***

Dwane Kailey presented the Speed Limit Recommendation for Harden Road (U1028) Lockwood to the Commission. Commissioner Aspenlieder recused himself from the agenda item. We did work on the Lockwood High School and on this project in particular so for the purposes of this agenda item I will be recusing myself from discussion and voting.

Dwane Kailey said this is a speed study on Harden Road in the community of Lockwood. This is due to construction of a new high school and the community is requesting to extend the special school speed zone to encompass not only the high school but also approaches for Hillside Village Trailer Park. In accordance with MCA 61-1-101 defining school zones and MCA 61-9-310 defining a special speed zone for a school, we are in concurrence with extending the speed zone. We also would, in accordance with the request, like to extend the time of this special school speed zone is in application. Therefore it is our recommendation to apply:

A 30 and 40-mph variable speed limit, for clarity 30 mph during school time and 40 mph outside of school time, beginning at station 529+50, project FAP 187-C (50-feet west of Rock Hill Drive) and continuing east to station 494+00 (50-feet east of the approach for Hillside Village Mobile Home Park) an approximate distance of 3550-feet. 30 mph would be in activation between

the time frame of 7:30 am to 4:30 pm Monday through Friday and all other times it would be 40 mph.

Commissioner Sansaver moved to approve the Speed Limit Recommendation for Harden Road (U1028) Lockwood. Commissioner Frazier seconded the motion. Commissioners Sansaver, Frazier, Fisher and Sanders voted aye, Commissioner Aspenlieder recused.

The motion passed unanimously.

Agenda Item No. 6: Design Build Project Bozeman Rest Area Relocation

Kevin Christensen presented the Design Build Project – Bozeman Rest Area Relocation and Stipend to the Commission. We have a lot of people at the meeting today that have been heavily involved with this endeavor for a number of years. Everybody knows about the Bozeman Rest Area at the North 19th Interchange in Bozeman. It's about 25+ years old. When it was built, there was nothing there except an interchange and a rest area. We all know what is going on in Bozeman; that area has grown tremendously, right now that particular area is very congested, very developed.

Through our normal course of business with the City of Bozeman, they began to indicate to us they would really like the rest area out of there. It is not desirable to have a rest area at the entrance of your city, plus the congestion was causing them some concern. We didn't disagree with them. It is not currently an ideal place to have a rest area, however, we do have an asset management process in place for our rest areas. This rest area, although it is aging and nearing the end of its service life, it wasn't part of our priority at the time. Keep that in the back of your mind.

As time went by we were put into contact with a developer who had an interesting concept – that they would site and provide us with a new rest area designed to our current standards in exchange for our existing rest area. So we began to explore that concept with them. This happened over a period of about two years. We came to a juncture where we thought there was something we could do. So we determined that we needed to have a process that was available for anybody who wanted to participate. We developed a real innovative design-build concept in which anybody who was interested could provide a rest area at our current standards at a suitable location in exchange for the Bozeman Rest Area. So we went down that road. Again this is a high-level overview and if you have questions, we can answer them.

We developed and advertised a design build for that purpose. We went through our process. Initially we had three interested parties but in the end we had two parties who actually submitted Technical Proposals and Bid Price Proposals. That is how we

ended up where we are today. Jake Goettle is going to present this project to the Commission for award.

Jake Goettle – Bozeman Rest Area Design Build

On January 28, 2020, a Request for Information (RFI) was advertised through MDT's Question and Answer Forum to solicit interest and input from potential developers related to the proposed design-build delivery of the Bozeman Rest Area Replacement project. Before we went through the effort of issuing an RFQ and RFP, we wanted to make sure there was interest out there. MDT received positive feedback from three developers in support of the project, so it seemed to be a feasible concept and we moved forward.

A Request for Qualifications (RFQ) package was advertised on June 1, 2020. Statement of Qualification (SOQ) responses were received from two design-build teams (Firms) on August 21, 2020. As always in our Design Build process, a Technical Review Committee (TRC) independently evaluated and scored the SOQ of the two Firms based on established Evaluation Criteria and Scoring Guide. The TRC consisted of seven MDT staff members from various project-related disciplines. The TRC produced a short list of two Firms that were invited to submit Proposals. Request for Proposal (RFP) packages were issued to the two short-listed Firms on September 10, 2020, with Technical Proposal responses due on February 26, 2021. This being the unique project it was, and Kevin talked about the innovative design-build solution, due to our Montana statute for requiring a bid price proposal with design build, we had to have a cost element with this but we weren't going to expend any state dollars.

In order to satisfy the requirement for the cost proposal element of the design-build best-value selection process, the Firms were required to submit a cost proposal equal to or less than MDT's appraised value for the Bozeman Rest Area. The appraised value of the property, infrastructure and building is \$3,818,888.00. In accordance with the conditions of the RFP, if the price proposal provided by the best-value Firm is less than the appraised value of the Bozeman Rest Area, the design-build contract conditions require that the Firm credit the difference of their price proposal and the Bozeman Rest Area valuation to MDT. Under this scenario, there will be no compensation or cost reimbursement made to the Firm by MDT.

At the completion of construction of the new rest area, and after the credit is received, MDT will transfer ownership of the existing rest area to the Firm. With this process, the Firm will be required to transfer ownership of the new rest area to MDT.

In Summary: Two sealed Technical Proposals were received on February 26, 2021. Following the TRC review and scoring of the two Technical Proposals, two sealed Cost Proposal packages were received and publicly opened (via virtual bid opening) at 11:00 AM on April 1, 2021.

Cost Proposals were received from the following Firms: The Montana Rest Area Joint Venture Partners and another from Town Pump/Dick Anderson Construction.

The TRC evaluated and scored the written Technical Proposals submitted by each Firm prior to opening the Cost Proposals. This score was based on evaluation criteria and scoring guidelines provided in the RFP package. All Technical Proposals were independently scored and tabulated before the Cost Proposals were opened. The Technical Proposal Score provided 75% of the maximum score available and the Cost Proposal provided 25% of the maximum score available. The following formulas were used to calculate the best-value. The Firm with the highest total points is considered the best-value.

The Montana Rest Area Joint Venture Partners submitted a cost proposal of \$2,693,888.00. They had a Technical Proposal Score of 53,025.

Town Pump Dick Anderson Construction Design Build Team submitted a cost proposal of \$3,818,888.00. They had a Technical Proposal Score of 57,370.

Once we applied the best value calculation, the Montana Rest Area Joint Venture Partners was the apparent value with the total score of 81.31.

The Selection Committee recommends that the two Firms be considered responsive and that Town Pump/Dick Anderson Construction receive the \$200,000 stipend payment and to award the contract to the Montana Rest Area Joint Venture Partners for the cost proposal shown. So that will actually be a credit to MDT of \$1,125,000.

Commissioner Frazier said we will continue this discussion after the Public Comment period.

Public Comment

Diane Sands, Senate District 49, Missoula

I'm here in support of the City of Missoula's proposal for the renaming of the formerly known Higgins Street Bridge in honor of the Salish people. I think it's a really important thing to do. I led the charge to rename a number of eighty sites across the state to give them traditional names. I think it's an important way to acknowledge particularly significant historical events that have happened. In this case the removal of the Salish from the Bitterroot certainly is one of the most important events in the history of Missoula and western Montana. So I think it's entirely appropriate to name this bridge in recognition of that event. Thank you.

Mirtha Becerra, Missoula City Council

Good morning. I'm a Missoula City Council representative. I'm also the Chair of the Missoula City Council Public Works Committee. It is with great respect that I'm here today to ask that you grant the request to rename the Higgins Street Bridge with the chosen name of Beartracks. I believe this request represents Missoula's acknowledgement that we reside in lands that were the home of our Salish and Kootenai Tribes. I believe this action of renaming the bridge also symbolizes a connection to the past, to our history, and it also symbolizes a nexus between the two cultures and a commitment to the continued collaboration that we should foster. It seems appropriate due to the current construction and very timely. I carry with me the support of the Missoula City Council and our Mayor. I thank you for the opportunity to speak this morning and I hope you will grant this request. Thank you.

Matt Lotsenheiser, Executive Director with the Historical Museum at Fort Missoula

I would like to express my support as well for the renaming of the bridge to the Beartracks Bridge in honor of the Vanderburg family and the role they played in the 1891 removal of 300 Salish from the Bitterroot Valley. I'm the Executive Director with the Historical Museum at Fort Missoula. We are Missoula County's historical society essentially. I would like to express my support for this and encourage the Commission to consider the renaming of this bridge in honor of Beartracks.

Ian Smith, Historical Research Associates, Missoula

I was one of the signatories to a letter of support that Historical Research Associates submitted in support of the proposed renaming of Beartracks Bridge. I just wanted to reiterate my support for the proposal. I and HRA, as a company that's been in business in Missoula since 1974, have done a lot of work with the Confederated Salish and Kootenai Tribes. I just wanted to register my support and speaking for the company as well for this renaming.

Dave Strohmaier, Chair of the Missoula Board of County Commissioners

I am here to introduce at the appropriate time our strong support as Missoula County Government for the renaming of the Higgins Avenue Bridge in Missoula Montana to Beartracks Bridge. This comes out of a long and close relationship that we have with the Confederated Salish and Kootenai Tribes. The recognition that we are at a point that this major piece of infrastructure in our community is being rehabilitated and reconstructed. Also coming in recognition that there are few if any major pieces of infrastructure or our community that are named in a way that reflects the rich and deep history and heritage and abiding presence of the native peoples who have called this place home for millennia. Also reflecting the real historical significance of this place where the bridge exists in relation to the forced removal of the Bitterroot Salish

in 1891. So I stand here in full support of naming this structure Beartracks Bridge. I know we have representatives from the Confederated Salish and Kootenai and Séliš-Qlispé Culture Committee with us today who can speak in much more detail as far as how this name was selected and the significance of it. Thank you for your consideration.

Thompson Smith, Coordinator of History and Ethnogeography Projects for the Séliš-Qlispé Culture Committee, a Department of the Confederated Salish and Kootenai Tribes.

I would like to wait until Chairwoman Shelly Fyant of the Tribal Council arrives to speak to this.

Commissioner Frazier said we will continue the discussion on the bridge at 9:30 as advertised on the Agenda. Are there any other public comments on items other than the bridge renaming? Hearing none, we will continue the discussion of the Beartracks Bridge naming at 9:30. We will now continue the Bozeman Rest Area discussion.

Agenda Item No. 6 (continuation): Bozeman Rest Area

Kevin Christensen said we left off where Jake Goettle made a recommendation to the Commission for award and stipend. Before we go there I want to make sure I point out a pretty important aspect of this. This whole concept would be no expenditure of funds by MDT other than the stipend to the non-successful firm. In fact the entire project results in a net credit to MDT of a little over one million dollars.

Commissioner Sansaver said I see the team has proposed to deliver the new rest area three and a half months earlier than the date that was allotted by MDT. Will they be required to stand by that three and half months? Does that change the project at all? Are they just basically bragging that they will get it done three and half months early? Jake Goettle said we will hold them to that. That will be in the contract because that is in their proposal. That is one of the criteria that we selected them on. So yes, we will hold them to that completion date and if they go beyond it, there will be liquidated damages just like a normal contract.

Commissioner Sansaver asked why they proposed to deliver three and half months earlier. Jake Goettle said it is a strategy that the teams use. If they have a good design and a good site and if they know with their schedule that they can deliver it when their schedule says and they are confident with that, it can be an advantage in their proposal. They can score higher by delivering faster, getting this done and out to the public and open sooner than the date we gave them. Commissioner Sansaver said how do we feel, from the state perspective of our timelines, is that a reasonable time limit? We've dealt with liquidated damages in the last three or four meetings, so are we setting them up to possibly enter into liquidated damages? Is it a reasonable

timeframe for that construction period? Jake Goettle said they did submit a detailed schedule in their proposal. I certainly don't want to speak for the Design Build Team in what they can and can't deliver, but in their schedule they lay out all the design factors that have to be taken into account, all the permitting that has to be done to deliver the project, and the construction timeframe. We do review the schedule and look at the logic of their schedule to ensure they are not missing something that we require in the project. Based on their schedule and based on submitting it with their proposal, they can and hopefully will deliver on that timeframe. Commissioner Sansaver said so you're telling me that the state is comfortable with that timeframe. Jake Goettle said that is correct. Commissioner Sansaver said okay I get to hold you to that when they come back with liquidated damages.

Commissioner Frazier said I read through the four scenarios and maybe someone else needs to read it, but after I went through it three times I had to get out and write some numbers down. To summarize this in plain terms that I can understand, this whole proposal is we give them the land the current rest area is on in Bozeman and in exchange in kind of a horse trade type thing, they are building us a new rest area somewhere else with a bid number that is lower than the number you put in there with some cash to boot. So basically the bid is in exchange for the land in Bozeman, they are going to build us a new rest area in a new location and give MDT some cash to boot, some money on top of that, is that correct? Kevin Christensen said that is correct. Really the concept in this case the value of that property in Bozeman to the firms that are bidding, and obviously the winning firm penciled it out and felt that the rest area plus the check to MDT was worth the property in Bozeman. There is also a final check at the end. The rest area that is going to be built will then also be appraised to make sure that we're getting value for value. So if the new rest area appraises less than \$3.8 million, then an additional check will have to be cut to MDT for that difference. Commissioner Frazier said in this process we're not trading for a dream at this point, the whole deal really isn't done until that rest area is constructed, has been inspected by our people and accepted. Is that correct? Kevin Christensen said that is correct. There is a final check. Again this is an innovative approach.

Commissioner Sanders said I think it is important that the other Commissioners are aware of a couple of things. One, the process has been very thorough and comprehensive and fair. As soon as I got wind of it I started to attend anything that had to do with it. I sat through the Technical Committee review and I was very impressed with the amount of effort put into it. Out of that came the design build because of the innovative set up of this, it's not something we do on a regular basis to trade land, but design build became the preferred way to deliver this. That has caused and there is some concern from the people specifically in Broadwater County where it's going to go, that there was not a lot of awareness of the project. A big part of that is the stipulation that it had to be off an Interstate exit similar to the one west of Belgrade. So that really left four exists – Logan, two at Three Forks, and Milligan Canyon. So there is really no way to seek public comment because it was really up to

the contractors where they were going to build this particular rest area. They needed to come forward with their plan, their proposal. So we couldn't really go out and seek comment, there wasn't a way for public comment to be aired beforehand. So now that people have some awareness of it, Bill Fogerty the District Two Administrator, has received several comments of concern. I think the Commissioners need to know that. It is important for you to know that there is going to be some public comment that is not favorable to proceeding with this. In my mind the process is thorough and all above board, it's just because of design build, it was really tough for people to have awareness of this beforehand until we knew where it was going to be. Kevin Christensen said that moving forward there will be ample opportunity for further public input as this process is developed

Commissioner Fisher said I'm looking at MCA 6-2-137(5) that says we may award a stipend. The request is that we award a stipend in the amount of \$200,000. That stipend amount has to be determined by the Commission and I didn't see a paragraph or any data that tells me why it's \$200,000 versus \$100,000 or \$300,000. Could I just be provided with the basis for that determination that \$200,000 would be appropriate that would help me support the project? Jake Goettle said yes we can provide some background on that. This project, because of when we started this project we did not take the stipend to the Commission for approval before we presented them for award because of the length of time that it was going to take to find the site, and do the phase one investigation to make sure the site was feasible. As you are aware with our normal rest area projects we do the phase one approach and feasibility before we issue the design build contract. We cover that piece in the pre-advertisement phase, so the design build teams don't have to do that. In this solicitation, we gave them a lot more time than we normally do just for those reasons – to go find a site, to do the investigation, and get those initial approvals needed to submit a site that is feasible. That is where we came up with \$200,000. We can certainly provide more detail and more written detail to you to justify that stipend if you would like to see that. Commissioner Fisher said whatever you have is fine with me. You sent me some data for the last design build, I just don't have anything that says each task should cost this, and it was clear that the site was then far less than the actual cost every construction company puts forth in doing these things. So if you could just provide me with that kind of data that would be sufficient for my purposes. I just want to make sure you have something to base the stipend upon.

Commissioner Aspenlieder said as we get into these design build projects, could you make sure that justification is included in our packet as part of the information we get as we're considering these things. I think that is an excellent request by Commissioner Fisher. I would appreciate that being a part of our packet as these are presented to the Commission ahead of our vote. Kevin Christensen said moving forward with innovative contracting, before we advertise or issue an RFP, we will be bringing those to the Commission to have a discussion about our selection process in terms of project delivery, how we arrived at that, and at that time we will present the

stipend to the Commission, again before we advertise or issue an RFP. That's our new process. As Jake said, this project has been an on-going thing for the better part of three years now, so it didn't get folded into the new way we're going to do business with the Commission.

Dwane Kailey said for the record, the Commission is approving the stipend and the award. Commissioner Sansaver said for the record I will support that. Commissioner Frazier said that was my understanding also. Thank you for the clarification.

Commissioner Sanders moved to approve the Design Build Project – Bozeman Rest Area Relocation and Stipend. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Beartracks Bridge Naming – Higgins Avenue Bridge

Dave Strohmaier thanked the Commission. I won't repeat the comments I made earlier, but just to say this proposal is brought to you today by Missoula County and the City of Missoula to name the currently colloquially named Higgins Avenue Bridge – Beartracks Bridge. We are in full support of this. We have, as I hope you have also in your possession, numerous letters of support for this proposal and also some of the documentation and background information that Thompson Smith will distill for us in a number of slides shortly. I will turn it over to CSKT Chairwoman Shelly Fyant.

Shelly Fyant said good morning, Happy Earth Day, at CSKT we consider everyday Earth Day. We're happy to be here today to weigh in on this name change proposal. We're so thankful that the Missoula County Commissioners and the City of Missoula practice true government-to-government consultation. This is a fine example of just one of the projects that we have worked collaboratively on. Now I will turn it over to Thompson Smith for the presentation.

Thompson Smith gave a slide presentation. I am the Coordinator of History and Ethnogeography Projects for the Seliš-Qlispé Culture Committee which is a department of the Tribal government. You should really be hearing from our Director today, Tony Incashola, but he couldn't make the meeting today, so I'm a poor substitute. I'll do my best to boil down the history that we provided to you into a short presentation.

This picture in many ways conveys the objective of this whole initiative, which is a bridge that in Salish history was certainly in 1891 the Bridge of Tears, and can be transformed with this simple measure into a Bridge of Respect. I think that is how

the Elders and Tribal Council envisioned this and I think also the Missoula County Commission and City Council. One of the great things Tony has been able to do is really bring people together on so many things. I really thought that stood out in his brief set of remarks to the Missoula City Council that resulted in the unanimous support of the City Council joining the County Commission in this renaming. I wanted to offer my thanks to those who have offered their words of support here this morning. Certainly Senator Sands, Councilwoman Becerra, Matt Lotsenheiser, who is a terrific Director of the Museum at Ft. Missoula, and Ian Smith who is an amazing historian with Historical Research Associates. Thank you to all of them.

I begin by offering this map which is based on decades of research from a wide variety of sources. Every single Salish place name you see on that sign is kind of the tip of a mountain of evidence and research. This depicts the aboriginal territories of the Salish and Kalispell people spanning both sides of the divide. You see marked on there the Flathead Reservation and also the Bitterroot Reservation that was designated in Article 11 of the Hellgate Treaty and which was the issue at stake in the forced removal of the Salish from the Bitterroot Valley in 1891 that the name Beartracks connects to. That gives you a sense of how this area sits right at the center of the aboriginal territories of the Salish and Kalispell people.

This is a closer in map just showing in English what is known as the Missoula Valley with a selected number of the place names, their translation in the English names, of that specific area. Again this map also is the product of decades of research of recordings by Tribal Elders, Ethnographic and Archival research. You'll see on the sign also both historic images, the historic image of Sophie Moise, one of the great cultural leaders of the Salish people, digging Bitterroot near Ft. Missoula in 1945 and also contemporary pictures. So we hope that conveys both the historic and continuing relationship of the Tribes to that area and to all these areas of the aboriginal territories. Some of the place names on the signs reach back to the Tribal creation stories. The stories of the Coyote and the transformation of the world. In one sense, that testifies to the depth of that relationship going back millennia, that deep connection.

We'll jump forward to the first documented kind of major arrival of non-Indian people in the aboriginal territories of the Salish and Kalispell people. This of course is Charlie Russell's masterpiece mural that hangs over the Montana House of Representatives of Lewis and Clark meeting the Flatheads in a place in English called Ross's Hall which means big opening. In that camp was a sub-chief whose name was Sxʷúyti Smxe, which means Grizzly Bear Tracks. It is kind of fun to imagine that one of those figures in that painting, by the way Tribal Elders have great regard for Russell's accuracy in his paintings, one of them was the first documented person that we know of who bore that name; that now name of great stature in Salish history Beartracks – Sxʷúyti Smxe, more precisely Grizzly Bear Tracks but short Beartracks. It was at that moment in that encounter that the Head Chief of the Salish, Chief

Three Eagles, set forth what would become Salish policy in relations with non-Indians from that point forward. At first, as his duty as Tribal Chief, he had to send out scouts to ascertain whether this approaching party they had spotted constituted a threat to the people. He determined they were not, so instead of wiping them out they welcomed them into the camp, showered them with gifts, gave them horses and saddles which represented untold amounts of labor mostly by Tribal women, food and all kinds of things and also helped guide them through the territories. So from that point forward Salish policy was basically one of friendship with non-Indians, sometimes even alliance in conflicts. But at the same time, something that sometimes non-Indians did not understand, it was also a firm upholding of Tribal rights and Tribal sovereignty, the honoring of Treaties. Grizzly Beartrack, all of the Beartracks and Vanderburgs that have come down through Tribal history have been major parts of upholding that policy across the generations.

This was the second Grizzly Beartrack. This is a drawing by Alexander Solhon a year before the Hellgate Treaty negotiations. Solhan was an artist who accompanied the Isaac Stevens parties through western Montana. This was Sx^wúyti Smxe, Grizzly Bear Tracks, actually the son of the first one. Because the Missionaries were there, the Salish people were being given Christian first names, so he was also known as Alexander Beartracks. He was born about 1790 and died about 1882. He was a major part of the Hellgate Treaty negotiations. In fact if you look through the University of Wisconsin which has an amazing website, you can access the actual field copies of documents relating to all treaties in the United States. So this is one page from the minutes of the negotiations and you can see Bear Tracks. Of course this comes through translation and transcription so there are doubtless many errors, in fact, a Jesuit observer at the Hellgate Treaty negotiations said the translation was so poor that not a tenth of what was said was understood by either side. Nevertheless, it is wonderful to see this name reflected in these important historic documents. On the right you see a signatory page and right there is Bear Tracks and his "X" mark. Again, a major part of the policy and diplomacy of the Salish Nation throughout this time.

In October of 1855, there was a lesser known treaty often called the Lame Bull Treaty or the Judith River Treaty conducted where the Judith River empties into the Missouri. On October 17, 1855, again the name Beartrack appears as a signatory on that important Treaty. That is Alexander Beartrack. He married a woman and their daughter was named Mary Bear Track. She married Louis Vanderburg. That is why all of the Vanderburg family and their many relations within the Salish community since that time have been known by the Vanderburg name and also by the Beartrack name. So Beartrack and Vanderburg are almost kind of synonymous in a genealogical sense in Salish culture and history. You see him seated there next to the famed Chief Charlo, Słmxé Q^wox^wqeys, which means Claw of the Small Grizzly Bear. Behind him is the long time Indian Agent to the Flathead Reservation, Peter Ronan. All the other people here are identified. This is a picture from 1884. Louis

Vanderburg was known by the Salish name Far Away Grizzly. He was like the other Beartracks, a carrier out or a supporter of the Head Chief's policy of both friendship, refusal to ever spill the blood of non-Indians but also a firm defense and insistence on Salish rights and sovereignty.

We won't go into the whole history of the struggle over the Bitterroot Valley but cut to when the forced removal finally happened, a day that is still remembered with great pain by Tribal Elders. It's talked about at great length in recorded oral history. When that removal happened, the vast majority of the Salish people were still with Chief Charlo in the Bitterroot mostly centered around the Stevensville area but other places in the Bitterroot as well. Three hundred Salish people were removed in October of 1891. So many that Chief Charlo, to make sure that order was kept and for the safety and protection of the people, organized them in three groups. One of which he led, one which was led by one of the LaMoses, and one which he put under the charge of Louis Vanderburg. So Louis Vanderburg and his wife, Mary Beartrack and his large contingent of Salish people, approached Higgins Bridge. This is one picture. The bridge was then under reconstruction and it is said that probably the majority of the people forded the river, something the Salish are renowned at doing in the annals of the 19th century, and some of them may have crossed on the notoriously rickety structure kind of hanging in there until the new bridge was finished the following year.

This is a picture from the removal of the Salish people fording the Bitterroot River at a location we're not sure of. This is one of a number of images from the University of Pennsylvania Museum. At any rate, Louis Vanderburg, Mary Beartrack, and the Salish, passed that point on the Trail of Tears, a day remembered with great grief. That family went on to be a family of great stature and respect within Salish life and history.

This is a picture from July 1923, Louis Vanderburg is reclining there on the cot. At this point in time he is either 106 or 108 years old. He's there with multiple generations of the Beartrack/Vanderburg family. He died a month later.

Among his sons was Victor Vanderburg who again served as a Head Chief within the Salish community mostly under Chief Martin Charlo, the successor of the first Chief Charlo. Victor, again helped carry out that same consistent policy the Salish have practiced for multiple generations. Even in a cultural sense, the Vanderburg/Beartrack family were really great leaders within the Salish community.

This is Jerome and Agnes Vanderburg who ran a world renowned cultural instruction camp that welcomed in the Salish tradition everyone who was interested and sincere and wanted to learn. It was a cultural encampment up Valley Creek. She was brought back to the Smithsonian actually as part of a national recognition in 1984.

These are some of their children who have been prominent members of the Salish Kalispell Elders Advisory Council. Eneas Vanderburg who died a couple of years ago in his 90's was a paratrooper in World War II. Joe Vanderburg in the right who died just a year ago was in the Navy during the 1950s. So again that tradition of both serving the United States of America and also serving the Salish Nation and standing up for cultural continuance. Lucy Vanderburg in that picture is now a very vital member of the Elders Advisory Council and actually was the one who first suggested the name of Beartracks for this bridge. She was the long-time Director of the People's Center in Pablo and before that time was a Salish language specialists for the Cultural Committee.

This is my last slide and represents what we think of this bridge in a sense about both the past and the future. That is Malea Vanderburg, one of the young really able Salish language students learning the language from her Grandfather Joe in 2018. With that I'll stop and say thank you everyone. If there are any questions, I'm happy to answer them.

Commissioner Sansaver said this has been a very interesting slide show, I'm very appreciative of it. I'm wondering how the Vanderburg name came about, was that a Christian name given to them by the Black Robes? Where did it come from? Thompson Smith said there is some dispute over that. One of the Elders said that when the Salish were being forced to take Christian names, there was a friend of the family whose name was Vanderburg and he told one of the Vanderburgs they could use his name and that's how it came to be. But there was also a fur trader named Henry Vanderburg and there is some indication that he may have been one of the ancestors of the family. Some things remain just a little mysterious; we do our best to nail them down but we can't always.

Commissioner Frazier said when he first saw this item on the Agenda I had not read the letters that had come in and my first question was why. But after reviewing the letters that were submitted in our information packet and the presentation by Mr. Smith, I completely understand why. I very much appreciate it. You did a lot of work and a lot of research for that presentation and it shows that even though I have grey hair and am balding, I'm still not too old to learn.

Commissioner Fisher said I have a question, did the Commission name Higgins Bridge originally? What is our authority on this issue? Is there an Administrative Rule or statute that says we get to name redesigned bridges? Val Wilson said there is no statutory authority for the Commission to take action to name roads or bridges. Historically it's been the practice of the Commission to do so when requested. At the present time there is really no criteria to make those determinations, so it is completely up to the Commission's discretion. Commissioner Fisher said then we don't have anything that tells us this is one of the Commission's duties. I think this naming is entirely appropriate but is it the department's role? This is a bridge in the

City of Missoula and I assume that since it is an MDT bridge then the department gets to name it. How did Higgins Bridge get named? Who was Higgins? How did he get the bridge to begin with? Did he design Missoula or something like that? How did we get here? Commissioner Frazier said there was a street called Higgins Avenue and the bridge happened to be on it. Commissioner Fisher said I assume Higgins was somebody, right? I totally support this but I'm wondering if it is the role of the Commission, if it is great and if it isn't then that's fine too. Absent any authority that says it rests with the Transportation Commission, I'll support it irrespectively.

Commissioner Frazier said it's kind of a traditional role that the Commission has done. I know that we've named other routes and highways throughout the state over the years. Commissioner Fisher asked if MDT erects the sign; does MDT put up a sign renaming it? How does that happen; what is the process? Commissioner Frazier said that since it is on an MDT route, we would print the signs to be placed on the bridge. That is my understanding. Kevin Christensen said that is correct. A point of clarification, I don't think it was officially named the Higgins Street Bridge, it was a bridge that was on Higgins Street so people called it the Higgins Street Bridge. That is my understanding. Commissioner Frazier said correct, same as the Madison Avenue Crossing. Are there any further questions from the Transportation Commission? Hearing none, I would make a motion that we rename the bridge as requested to the Beartracks Bridge.

Commissioner Aspenlieder said I would like to know where our authority to do these things comes from. I'm all for it and I definitely support it, but I also don't like taking action if it is not allowed or defined in statute or we don't have authority given to us by the Legislature or some Administrative Rule. Val, if you could find this or determine where this comes from and under what we have the authority to do this stuff. That would be much appreciated in the future. And if we don't have it, then maybe this is something that should be a department bill for the next Legislature to authorize that authority. I just want to make sure we're operating within the bounds of our authority as a Commission. I just want to make sure we're just not doing things because that's the way we've always done it, but we actually have the authority to do that. Val Wilson said there is no statutory authority but it certainly seems within the purview of the Commission to adopt its own policy and rules. I know that coincident with this Session, our folks in Planning have been working with the Chairman of the House Transportation Committee to come up with some criteria that the Legislature will use. So we will certainly put that forward to you as a proposed policy if that's at the pleasure of the Commission.

Commissioner Frazier said the only thing I can recall as department historian since I've been around for a long time, this has been done by the Commission throughout the years on different pieces. I also know that there has been legislation come in to designate portions of the highways, such as the Special Forces Way and others, but

they've dedicated portions of the highway to be named after things which have gone through both the Commission and legislative action. I appreciate the question. I'm looking forward to seeing that answered. Perhaps it is something that we'll be developing as a policy as we go on. Commissioner Aspenlieder said if it is going to be our policy at least let's have it written down somewhere; let's at least establish it so if somebody asks the question we can point to something. That's all I'm looking for.

Commissioner Sansaver moved to approve the naming of the Beartracks Bridge. Commissioner Fisher seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item No. 7: *Certificates of Completion
January & February, 2021***

Dwane Kailey presented the Certificates of Completion for January & February, 2021 to the Commission. We are presenting them for your review and approval. If you have any questions or comments, please feel free to ask. Staff recommends approval.

Commissioner Sansaver moved to approve the Certificates of Completion for January & February 2021. Commissioner Sanders seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item No. 8: *Access Control – North of Stevensville-North
STPS203-1(26)4-6138-000-Ravalli County***

Dwane Kailey presented the Access Control – North of Stevensville-North, STPS203-1(26)4-6138-000-Ravalli County to the Commission. Access Control predominately does two things: one, it files the document with the county of record showing that that corridor is access controlled so that, as developers come in and want to improve their property and acquire additional access, it is filed with the county and they are on notice that access must only be granted through Commission action. So they can't just simply plow a driveway off the highway and call it an approach. The other thing it does is secure the access and require that any changes in access must be approved by the Commission. So it is filed with the county and it makes its through your approval for any changes to be made in the future.

Historically Access Control is done with reconstruct projects and this is the case here as well. We are in the process of reconstructing this section of roadway north of Stevensville north and therefore we are presenting the Access Control Resolution for your review and approval. If you have any questions, please feel free to ask.

Commissioner Frazier asked if the traffic numbers in this area are such that we feel this is warranted. Dwane Kailey said yes. Bitterroot Valley is becoming more and more of a bedroom community for Missoula and the eastside community has grown substantially. Also factoring in the geometry of that roadway, Access Control is very necessary.

Commissioner Aspenlieder asked if this is something the County Commission and local government requested or suggested. Once you put access control in and require those approaches to be approved through the Commission, what is the difference on a road like this between a landowner coming to you and submitting an approach permit and that access point being reviewed by your team through the traditional access permit process? Dwane Kailey said on the first question, the county does not typically request MDT to do this; this is something we do as an aspect of safety in trying to preserve that corridor and minimize conflict points. Regarding the second part of your question, right now on a non-access controlled highway, the department has full authority to approve, modify, and adjust accesses as we see appropriate. The biggest issue is there is nothing filed with the county so a lot of developers aren't aware that any new access off our highway requires a permit. So a lot of times our maintenance staff are driving down a roadway and see somebody working in our right-of-way building a new approach, that's how that landowner becomes aware that they need a permit. By filing this with the county, it gives the county and the landowner an opportunity to become aware of that ahead of time when they propose their development to the county. Secondly, our staff can no longer approve that approach without the Commission's approval, so any changes must come to the Commission for your approval. Typically we could just issue an approach permit and never involve the Commission but with access control, we cannot do that anymore. Commissioner Aspenlieder said I guess there are two parts to this, I have a hard time believing that if you brought an approach permit to the Commission with a recommendation and information that maybe there would be something controversial that would require a lot of discussion and formal action, but personally my position is I don't want to micromanage what you're hired and trained professional engineers do for a living day-to-day.

Why does something like this need to come in front of the Commission? Maybe the answer is statutory but why do you think putting this access control here and elevating those approach permit decisions to a Commission level is appropriate? Dwane Kailey said I've never had that question asked before. I would have to look into the statute. I believe there is some language in the statute but I can't confirm or deny that right now. The bigger issue was providing more formality to it and providing a more clear process so that it was less likely to be circumvented by politics. We get a lot of subdivisions that come in and we are requested to approve the approaches after the fact and we get a lot of political pressure to make it happen. So by bringing it to the Commission there is a lot more formality to it and a lot bigger challenge to being pressured politically into approving that approach.

Commissioner Frazier said I don't know the statutes but in my experience and practice, this is typically done on roadways that are experiencing high traffic and high growth. It is primarily a safety aspect. I know that Hwy 93 to the west of this between Hamilton and Lolo became an Access Control. It makes it a more formal process, it makes it several steps and the approaches get reviewed pretty thoroughly and it kind of takes the politics out of it and quite frankly makes it a little harder to get. I know there have been, and I was involved in some legal challenges on Hwy 93 South where we had some developers come and actually construct approaches that we went and closed off with barrier rail because they were in fact unsafe. So it allows the department to enforce access and safety on the roadway. It is a little more formal process and it kind of gives that tool that I had on Hwy 93 South where we were actually able to stop someone from building the next accident cluster. That is my experience with it. Commissioner Fisher said the discussion should center around §6-5-103 MCA which tells the Commission what it can and cannot do. That is the statute that applies.

Commissioner Aspenlieder said I do understand what you're saying with respect to the intent and purpose. I do however disagree that, (a) this needs to be elevated to a Commission level, and (b) I would make the argument that if an unpermitted approach is constructed on MDT roads, regardless of what they are, MDT has full authority to go and shut those down if they have not been permitted. I don't believe and I don't follow into the discussion that yes there are political pressures that come from time-to-time but I don't think the Commission needs to be cover for staff and MDT personnel making the right decision and standing behind it. I don't think that is justification for elevating these things to a Commission level. I'm also not in favor of arbitrarily or unnecessarily making it more difficult for a developer or landowner to go through a process or putting barriers in place to make more regulation and more red tape to go through this conversation. I don't think this needs to take the power of those decisions out of the hands of the district staff, yet personally I think one of our biggest problems in MDT is the centralization of these decisions. Frankly they are best made by your district staff and the people who are on the ground and know these situations and understand them. This is something I'm not going to support. I don't think it's necessary and I just don't agree with the premise in general. District staff needs to be making these decisions; they are more than capable and the Department should proceed in that manner. So I'm not going to support this for all of those reasons.

Commissioner Frazier said the one example I have of the true Access Control Facility would be the Interstate System and the others would be like Hwy 93's. We may have a little bit of a different philosophy on that and that's fine but the Interstate System is different. In my career I have dealt with requests for people to put approaches onto the Interstate System, which through Access Control, we're able to protect from that.

To me the safety implications are obvious and you should be able to say no. It just provided that legal backup. Thank you for your comments.

Commissioner Sansaver said I'm not understanding where this originated from. Is it from the state, our state engineers, or is it out of District One? I'm not really familiar with the process of Resolution. Does a Resolution apply because it is a state recommendation? I'm not following this particular process. Commissioner Frazier asked if it was for this particular project or access control in general. Commissioner Sansaver said for this particular project. Dwane Kailey said it is a part of our process. We actually have an Access Control Manager and part of his process is looking at projects in the reconstruction phase; looking at the ADT, the safety of the route, the future growth of the route and then determining whether or not we want to apply access control to that corridor or not. That is then coordinated with the District and determined whether to pursue it or not. The Resolution is done in such a way that it is a legal document filed with the county so that it is on record for that corridor so that landowners have knowledge that changes in access within that corridor must be approved through the Commission. It may help the Commission for us to table this since it is not time sensitive and we can do a presentation and bring in the statutes. My apologies, most of these have sailed through for the last few years. That is not a slam on the Commission, great questions and you deserve the answers. So if you prefer, you can table this and we can be prepared to better address the statutes and the process at the next meeting. Commissioner Aspenlieder said speaking candidly, it doesn't matter to me whether we table it or not. If you want to table it go ahead but don't expect my vote to change.

Commissioner Fisher said I'm simply looking at the statute and I have strong feelings in the same manner as Commissioner Aspenlieder with respect to local control and making sure that local government including the local district, controls access versus bringing the politics to the Commission. I think it is better if it happen locally where it's most affected. The other issue I have is in order to pass this Resolution, the Commission itself must find and determine that it is necessary that the owners abutting the land have no event of access or only a limited easement of access, that the easement to access should be acquired by the state so as to prevent that portion of the highway from becoming unsafe for or impeded by unrestricted access of traffic. I don't have any information that tells me this area is unsafe with respect to the access easements that are currently in place, whether that's by private property owners or by the state. I appreciate that the Resolution is well drafted to contain a statement of reasons for its adoption but I just don't have the data in front of me to support that. So if the other members of the Commission would like to table this, I would support a motion to table but I also have the same concerns as Commissioner Aspenlieder expressed.

Commissioner Sansaver said again I'm really not following this process and I appreciate what Commissioner Fisher just laid out as far as the statutes are

concerned. Again, if the state has stated it is an unsafe corridor, was this part of the five-year plan for District One or is it something that is being imposed on District One upon the state's recommendation? Dwane Kailey said this is part of their five-year plan, it is in conjunction with a project initiated by the Secondary Roads Committee and that project is STPS 203-1(26)4, the official name of it is North of Stevensville North. That project was adopted by the Secondary Roads Committee which does contain representation from the counties in that district as well.

Commissioner Aspenlieder said can I call for a point of clarification from our legal staff? I don't know that a motion to deny is the appropriate action here or if tabling this and not bringing it back is the appropriate action to kill this and move it forward or if making a motion to approve and then letting that motion fail is the appropriate action. Can you give me a little clarification as to the ways in which this proposal on our agenda would die? Val Wilson said if the Commission takes no action, then this will not move forward, so it would fail. If the Commission moves to table, then it would be brought forward at the next meeting at which time there would be another presentation and opportunity to either make a motion, discussion, and then it is up to the Chair to call for the motion and get the votes. Commissioner Sanders said if we table this, it will be brought back for official action. If we take no action, then the proposal dies, is that correct. Commissioner Frazier said that is the way I understand it. The reason I'm asking each Commissioner where they are at is because I'm sensing that there is not really a full understanding of access control. To me it seems we need a little more background or information so that we understand what access control is all about and where it is applied before we take action on this. So I would suggest that we take no action today and we move it to a future agenda time and in between that we can get a little more information on access control intents and the background on this particular project. Usually access control is brought up in public involvement so that people know that such restrictions are coming. I didn't see that in the packet.

Commissioner Sansaver said I'm not prepared to move against a district's wishes and they've obviously put some time into the project and its part of their five-year plan. I would like more clarification as well from District One and its District Administrator about the purpose of this particular project and the time line they have it on. So I would like to see it tabled until I can get some answers from those folks.

Commissioner Fisher moved to table the Access Control, North of Stevensville-North. Commissioner Sansaver seconded the motion. All Commissioners voted aye

Tabled.

Agenda Item No. 9: Discussion and Follow-up

Transportation and Infrastructure Bill

Director Long said I will start with what is happening on the federal level. There has been a lot of information about what might be coming out of Washington D.C. We, as the Department, are in contact with both FHWA and Lucia Olivera on a semi-weekly basis and with our congressional delegation on a semi-weekly basis. So part of this discussion is to update you that the Congress in D.C. is looking at a Transportation and Infrastructure Program that sounds like it wouldn't come out until later this year. We are looking at Reauthorization and that could come out sooner. In that Transportation Bill, like a lot of things, there's a lot of conjecture that it's going to be quite large, two plus trillion, of which the part that affects us as the Department of Transportation is only around \$600 billion over years. It would still allow us to do more work and put more projects out. That is on the federal level.

State Legislature

On the state level the Legislature is about ready to wrap up. We had quite a few department bills and they have all passed. The last one which should have been the least controversial is where we give grants to help with small rural airports so they can help get cars through our Motor Pool, but help have airport cars, ended up being one of the more controversial and is the last bill that we think is finally going to pass. So it has been an interesting time. Commissioner Sanders asked me if I was still smiling and my answer is yes. Is it still fun? Yes. The Legislature always makes it fun.

In Person Commission Meetings

To follow up with what Commissioner Frazier had asked, we are going to try to go to in-person meetings going forward. Like I said earlier, we are looking at having the June meeting in person and we're suggesting Miles City. We will leave it up to you Commissioner Sansaver and the District Administrator but we had a suggestion and we're always open to other ideas. Then in August have the Commission meeting back here in Helena. Commissioner Frazier said years ago I sure appreciated when the Commissioners would come out to the District and we met in person. My intent was, I would have liked to have had this meeting in person but we had scheduled it quite a while ago and I had other commitment and I can't be two places at the same time, so right after this meeting I have another engagement. I appreciate this and hopefully this will be one of the fewer zoom meetings for our official meeting. I much prefer meeting in person. Commissioner Sansaver said he would be more than happy in District Four to welcome the entire Commission out. It would be great to finally meet and greet all of you. I know Commissioner Fisher quite well and have worked with her for the past couple of years but I'm excited to meet the rest of the group. Commissioners Frazier and Sanders said likewise. I know Shane loves to have company out there so we look forward to it. Commissioner Sansaver said we have a lot to show you. Shane Mintz said I would offer that before Covid we actually had a meeting planned out here and I think we were going to have the Commission

come to Sidney and we had a pretty good loop we wanted to take you on and show you some of our projects, all of those are now complete but that might be an idea if you would still be interested in doing that. Kevin Christensen said I can work with Commissioner Sansaver and Shane Mintz to fetter out some details.

Commissioner Aspenlieder said Sidney would be wonderful. Will that be in time for the Paddle Fishing? Shane said it might be over by then. Commissioner Fisher said it would be awesome if we met in Sidney.

**Agenda Item No. 10: Project Change Orders
January & February, 2021**

Dwane Kailey presented the Project Change Orders for January & February, 2021 to the Commission. They are presented for your review and approval. If you have any questions, please feel free to ask.

Commissioner Aspenlieder said I noticed as I was going through the change orders that some of them amount to 10% or more of the original project contract. Is there a point in time in which the department goes back and reviews how these projects were originally contracted and why such high change orders and where those funds are coming from? Do we have reserve? Also included in these projects when we let them, is this drawing funds away from the general fund for MDT? Functionally how does that work? What is the process for looking at some of these projects with high change orders? Dwane Kailey said we actually have periodic meeting and quarterly meetings between construction and preconstruction. We also have a Team under Jakes' shop who will do after-project reviews. During project reviews we look at change orders. As we see trends or issues, we will sit down with our preconstruction staff and review those and look for modifications to help mitigate those from happening in the future. As far as the funding side, in our process there is a three-legged stool that is a combination of engineering, planning, and fiscal programming. We do reserve a certain amount of money for modifications, those are mods both on the preconstruction side and the construction side. We do plan on some of that because historically we've always had some; historically we run around three to four percent cost growth which is actually one of the better in the nation. So we do plan for it. Where does the money come from? It comes out of the district allocations, so we do track that and we do hold the districts accountable out of their allocation if it is a core-funded project. To say that a little clearer – the funding for the projects, that program is held accountable for any growth or cost mods in that projects. So if it's in the district, i.e., IM, NH, or STP, the district is held accountable. If it is safety then safety is held accountable, if its bridge then bridge is held accountable and so on. Does that answer your question?

Commissioner Frazier said I have a question on South of Boulder South which was a \$5.8 million project, we've got \$1.2 million in change orders. I hope we're taking a

little harder look at that one to see what was going on there. Bill Fogerty, District Administrator said as I recall the latest and most significant change order was for an over-run in traffic control. We grossly underestimated the amount of traffic control that was going to be required on this project. It is an interesting project. It has a northern section that is a reconstruct and repave. Then it skips over the top of the hill, Whitetail Pass, then there is a southern section that was reconstructed to gravel. With the spot locations of the work and the work being spread out over large areas, regardless of the activities that were taking place, it still required piloted traffic because it is a very narrow highway through that stretch with poor alignment. So for the safety of the public, it was required that we had pilot cars running much longer than we anticipated. So traffic control was a major contributor to the project cost over-runs on that project. Commissioner Frazier said I was looking at the fact that it was getting above that 10% line by quite a bit.

Agenda Item No. 11: Letting Lists

Dwane Kailey presented the Letting Lists to the Commission for the months of March through August 12th. They are presented for your information. If you have any questions, please feel free to ask.

Agenda Item No. 12: Liquidated Damages

Dwane Kailey presented the Liquidated Damages to the Commission. They are presented for your review and approval. We have four projects.

West Lauren Interchange-West (Phase 1). The contractor is Riverside Contracting, Inc. They had 31 days of liquidated damages for a total value of \$123,163. They are not disputing these costs.

Gildford – East. The contractor is Prince, Inc. They had 15 day of liquidated damages for a total value of \$37,515. They are not disputing these costs.

US 2 – Cottonwood to Reserve. The contractor is LHC Inc. They had 2 days of liquidated damages for a total value of \$5,002. They are not disputing these costs.

Dutton - East. The contractor is Shumaker Trucking & Excavating, Inc. They had 7 day of liquidated damages for a total value of \$20,783. They are not disputing these costs.

They are presented for your information and the Commission need take no action.

STAND.

Agenda Item No. 13: Projects & Funding

Jim Skinner said I wasn't asked to put anything together for this meeting. Director Long said some of what this item is at the fiscal year end the federal government sometimes has unspent non-committed funds and we, as a state, have done very well over the last three years in having projects sitting ready to be funded. In fact, we have increased our share of what we put out on projects by almost 10% by being ahead of the game. The department does very well at priorities – knowing where we're going and knowing what's coming out in front of us, so when those opportunities are presented, we can take advantage of them. Over the last three years, we've been able to get roughly an extra \$40 million which we've put right to work. Part of getting that money is you have to put it right to work, we have the projects and we put it right out there. We are hoping that the same thing will happen at this fiscal year end, that there will be unspent federal dollars and we will raise our hand as the department and say we are ready to put this to work. We will take whatever they will give us and put it right to work. What are those priorities? A lot of those priorities have been laid out in the TCP. We tend to push them forward, i.e., if they are 2023-2024 projects, we will push them up in priority and get them done in either fiscal year 2021 or 2022. You, as a Commission, can help us because you represent your districts, you can say what is important and tell us what we should be looking at.

From the Director's standpoint, as an employee of the Governor, his priority and focus is to make sure we keep helping Montana's economy and make sure we don't become bottlenecks to commerce. To that end, we look at what is important for the state and how we can keep traffic flowing and moving, and how to look at safety and keeping commerce moving. To that end, one of those priorities is bridges. We have a lot of bridges that need to be improved. For the second year in a row we have received letter from FHWA saying we're not quite in compliance; we're trying but we're not quite there. I know the federal infrastructure bill has an emphasis on bridges and we as MDT have an emphasis on bridges, so we're going to keep looking at that. As the Director that is one of the goals that I report to the Governor on each month. So we are working on that.

Commissioner Frazier said the reason I asked for this to be on the Agenda is I was hoping for a little refresher course on the Red Book process and how the projects are selected. Kevin Christensen said our intent was to give the Commission an abbreviated version of our PX3 presentation. If the Commission wishes, we can put something fairly comprehensive together for the next in-person meeting.

Commissioner Aspenlieder said this is something I requested of both the Director and Chairman Frazier. Let me explain my reasoning. I understand the process the Department has for setting priorities and the PX3 process, but with the significant

Commission turnover, the change in leadership at the Director's position, and frankly a complete change of leadership at the Executive level, one of the things I was looking for was a better understanding of the PX3 process and an understanding of how those priorities have gotten set in the Red Book and why they are what they are. One of my minor complaints in this process is I haven't ever seen the Red Book. I have the list of lettings, but as a new Commissioner four months in, there really wasn't any justification or explanation of how they got there, there wasn't any list of the priorities as they were presented. In my meetings with our DA in District 5, I did get a copy of the TCP and got to review that but that has not ever been provided to the Commission. Commissioner Sansaver and Commissioner Fisher definitely have a leg up having been through this process over time, but as we're letting projects and as we're going through this process, one of the short-falls we've had in the information provided to us, is the justification or even just an understanding of how and why. One of the things I don't like personally, and doing as a Commissioner, is feeling like I'm rubber stamping something that I've never been a part of. I understand that previous Commissions have done a lot of work, staff has done a lot of work, and I spent three hours at headquarters last week with a couple of the team members to get spun up on the PX3 Process and why. Those are things that as three new Commissioners have come in would have been incredibly helpful in making me personally feel a lot better and a lot more comfortable about what we're letting, why we're letting it, what the priorities are, how they got there, what previous Commissions have done in the past to set those. So my request was to get an understanding of the PX3 at a base level and the Red Book process. Also to take a look at what the priorities are for the next two or three years. As Director Long stated, the Governor does have a few priorities that may be different than what Governor Bullock's priorities were. Then taking a look at how our priorities align with the priorities of the Governor is a part of what we're here to do and part of what I personally as a Commissioner feel is my responsibility to the people of Montana and to the Executive Team. Making sure we're putting a focus on commerce and making sure we're helping our economic drivers in the State of Montana and that we are doing so in a way that makes sense for all involved. That's where I'm coming from and why I requested this to be on the Agenda.

I think a brief overview of the PX3 would be helpful. As an engineer I appreciate the algorithms and everything that goes into that, and I was impressed sitting down at headquarters and getting spun in on that, but we don't need to go to that level. We just need an understanding of how that works, how districts nominate projects, how the Red Book goes, and then taking a look at what the priorities are for the next two-to-three years with respect to project lettings and the schedule as they are coming down the pike. That would be helpful to me to feel like I've put the effort and the energy in to at least understanding how and not feeling like I'm rubber stamping something that was done by previous Commissions and a previous Administration.

Commissioner Frazier said I also asked for this to be on the Agenda, although I was heavily involved in that process for years, it's been 12 years since I've done it. Things can change in a decade and I was looking for a refresher. My primary question was the amount of funding applied to each category of funding such as Interstate, NH, Bridges, etc. Perhaps you can be prepared at the next meeting to give us a reader's digest version of how we got to where we're at.

Jim Skinner apologized; I didn't realize that was expected at this meeting but we can certainly have that prepared to whatever level of detail you need. We can also do individual training on any of these things. We have training material on all of this and we can do that if you have time between the meetings.

Next Commission Meeting

The next Commission Conference Calls were scheduled for April 24, 2021, May 11, 2021, and May 25, 2021. The next Commission Meeting was scheduled for June 24, 2021.

Adjourned

Meeting Adjourned

Commissioner Frazier, Chairman
Montana Transportation Commission

Malcolm "Mack" Long, Director
Montana Department of Transportation

Lori K. Ryan, Secretary
Montana Transportation Commission