

Montana Transportation Commission

**June 27, 2019 Meeting
Northern Hotel
19 North Broadway
Billings, MT 59101**

IN ATTENDANCE

Barb Skelton, Transportation Commission Chair
Greg Jergeson, Transportation Commissioner
Noel Sansaver, Transportation Commissioner
Tammi Fisher, Transportation Commissioner (by phone)
Mike Hope, Transportation Commissioner
Mike Tooley, Director MDT
Pat Wise, Deputy Director MDT
Lori Ryan, Commission Secretary
Dustin Rouse, MDT
Val Wilson, MDT
Lynn Zanto, MDT
Kevin Christensen, MDT
Kevin McLaury, FHWA
Brad Nelson, MDT
Doug Havermann, Bike Walk Montana

Please note: the complete recorded minutes are available for review on the commission's website at https://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 asked for introductions.

Todd Cusick – Debarment

Val Wilson, Chief Counsel for MDT. The first thing on our Agenda this morning is Appeal for Todd Cusick. At our last scheduled meeting in April, you received a packet of the Administrative Record of the Department's Order and Proceedings. I want to acknowledge that Todd Cusick's counsel is here. This is my first Appeal.

I wanted to go through the industry rules that so you are aware of what we're doing today. Under MDT's Administrative Rules 18-3-101, the department is allowed to debar individuals and companies that bid on contracts and participate in the department's contracts and violate certain rules. The rules are set forth in 18-3-103. One of the reasons for the debarment is if a contractor fails to make prompt payments to subcontractors. Under the procedures 18-3-105, if the department finds that a contractor or a person to whom participating in a contract has violated any of those particular rules, then the department, under the authority of the Director, sends out a notice to the individual or firms involved if there is a reason for debarment and then that individual has an opportunity to request a Hearing. In this case, both Gorin, LLC, and Todd Cusick were provided that notice at the determination of the Director. At that time, both Gorin, LLC, through his counsel did request a hearing and a Hearings Officer was appointed by the Director and the Hearings Officer at the Department of Justice. So, the Hearings Officer conducted a Hearing on this matter; it was a two-day Hearing where there was evidence taken in the form of testimony and also exhibits. At the end of that Hearing, there was Findings and Conclusions that were submitted by MDT and by Todd Cusick's attorney. The Hearings Officer issued his Findings which are set forth under Tab 3 of your Administrative Record.

Then the procedures once the Hearings Officer issues their Findings, Conclusions, and Recommended Actions, the entire record goes to the Director who reviews those and issues the Department's Final Order. That Final Agency Decision and Order is under Tab 2 and was signed by Director Tooley in November of 2018. Under the rules, the Agency's Decision through the Director is final unless it is appealed to the Commission. In this case Todd Cusick did appeal that Order to the Commission.

I wanted to talk to you about where we are today under the rules. It is under 18-3-105 Subsection 13 which says any appeal to the Director is final unless it is appealed to the Commission. It talks about the Commission's review under subsection (c). This is unusual because we don't really get a chance to argue. Cusick's review will not be a *de novo* hearing and it will be not (inaudible) ... and the Commission will not hear oral argument or testimony or receive any evidence that wasn't presented at the hearing. So, what the Commission's role is to do today is to make a determination on if the Administrative Record supports the Findings and Conclusions. In essence, as long as the Findings and Conclusions of the Director are supported by the record then the Director's action is upheld by the Commission. If the Findings and Conclusions are supported by the record, the Commission doesn't have authority to overturn the Director's determination.

So, in this case the Respondent, Todd Cusick, did make an appeal and is under Tab 1 of your Administrative Record. In this part of the record, the Notice of Appeal wasn't simply a Notice of Appeal, there was an argument. So there is an argument under that section that the rules of the department do not apply to Todd Cusick and counsel argues that it is because the umbrella of the LLC shields him from debarment under the Administrative Rules.

So, I'd like to draw your attention to Tab 4 which is where the Hearings Officer heard and decided and ruled against that argument. If you have any questions about how the Hearings Officer analyzed the LLC argument, that information is under Tab 4, and it is considered in depth on page 6-8. Overall what the Hearings Officer found is that the LLC statutes apply to, by the release of debts, does not apply to debarment because it is not an action against ... (inaudible)... And the Hearings Officer also found that by actively participating in department contracts, Mr. Cusick voluntarily accepted and became subject to the department's rules.

With that information, if you have any questions on a procedure, we are available to answer those questions. At this time the Commission needs to determine if the Findings and Conclusions are supported by the record. If that's the case then the Director's Decision would stand.

Commissioner Sansaver said am I to understand that the position of the Commission is to ratify the Decision of the Director. You said the Commission itself doesn't have the authority to overturn the Director's Decision. Val Wilson said if the Commission finds that the Director's Findings and Conclusions aren't supported by the record, absolutely you overturn but if you made a finding that the Findings and Conclusions are supported by the record, by the preponderance of the evidence, then the Director's Decision stands. If you look at the Finding and you look at the record and you think it's absolutely not true, then you do have authority to overturn that. What would happen is it would be remanded with instructions to the Director and we would certainly follow your orders. Commissioner Sansaver said I misunderstood because it sounded like we didn't have the authority to overturn the decision of the Director. Val Wilson said the rules say if the Findings and Conclusions are supported by the record, the Director's Decision to debar Mr. Cusick for a three-year period stands. So the decision of the Director stands only if it's supported. Only if the record does not support it, the Commission would overturn that and send it back.

Commissioner Jergeson said in the case of when notice of the department's concern about the allegations against Mr. Cusick and his request for a contested case

proceeding, the appointment of the Hearings Examiner and my tab says it was appointed in the matter is a contested case under the Montana Administrative Procedure Act, then he carries on a Hearing under the auspices of the Contested Case Proceeding provisions under the Montana Administrative Procedure Act, and then issues a Conclusions of Law that says debarment is not a contested case matter under the Montana Administrative Procedures Act when everything that has occurred up to the issuance of that in the case that this is fully contested case proceeding under the Montana Administrative Procedures Act. Then, in the Order from the Director that repeats that from the Hearings Examiner, again it is stated there that debarment is not a contested case proceeding under the Montana Procedures Act. I was on the Public Service Commission for 18 years, and this looks like a contested case proceeding very much to me and I want to know, when you talk about the fact that we can't overturn the Director as long she is supported by the record of evidence. I want to know where is your record of evidence in this whole proceeding that a debarment is not subject to contested case proceedings under the Montana Administrative Procedures Act. Before you get to your answer that the purpose of a contested case proceeding is to protect the rights of persons – the constitution protects persons against the taking of their life, liberty or property. In the case of qualification to do contracts with the Montana Department of Transportation, that qualification has a certain level of property right to it and debarment is taking it from him and it needs to be with due process. Due process is the contested case proceeding that is here. Mr. Cusick was given his due process, but with that language in the Order, it looks like if there is a case in the future of some contractor who is alleged to have violated some rules or norms, that his property will be taken in a process that does not involve a contested case proceeding and due process. I'm wondering if you have an explanation of where that obvious contradiction between what all of this is and how all of it was operated and then the Conclusion that somehow it isn't a contested case proceeding when obviously it has been and it ought to be.

Val Wilson said under the Administrative Rules for debarment, because we do not follow the MAPA rules in that, in general, a contested case hearing after Administrative Hearing, would then be appealed to the District Court. In this case the Commission sits as the Appellate. In District Court under MAPA rules, the District Court reviews the record, similar to this, it doesn't take on new evidence, it doesn't take argument; it reviews the record to make a determination that the agency action is arbitrary and capricious. In this case, under our rules, instead of the case ending up in District Court or in Appeal of the Administrative Hearings, it ends up in front of the Commission. I will find that provision, it's in our Administrative Rules. This isn't a MAPA contested case hearing because it ends up coming to the Commission and the final determination rests in the Agency instead of District Court. I will find that for you. It does diverge from the MAPA rules in that where it ends up is with the Transportation Commission on Appeal and not District Court to make that determination.

Commissioner Jergeson said if we confirm the Order on the disposition of Mr. Cusick's debarment from the Director. So, okay we affirm that but just simply remove the paragraph related to debarments and their compliance with the Administrative Procedures Act and take that up as a Commission matter of business at some other point. That would not affect us confirming if that is the choice of the Commission, the Director's Order related to debarment, would it? We don't have to say that in this Order. Val Wilson said I don't think it has to be in the Order and certainly as Administrative Rules aren't ... (inaudible) ... so if we make a determination that it shouldn't follow that path and bypass the Commission at some point as an Agency you determine that's a better results than having the Commission make the final determination, you can certainly amend these Administrative Rules. The Administrative Rules were amended in 2001, so you can certainly look at that. This is the set of rules that apply to this particular case.

Commissioner Sansaver asked if the state is satisfied that we have met all of criteria by state law in the issue of Mr. Cusick against the State of Montana. Val Wilson said yes sir.

Commissioner Skelton asked if the Commission proceeds with the vote. Val Wilson said there needs to be some discussion on whether the Findings and Conclusions are supported by the record. Commissioner Sansaver said, I have found through reading the quite lengthy portfolio that repeatedly it has been stated that Mr. Cusick ignored the state's request to make payment to subcontractors, that Mr. Cusick came up with excuses not to pay subcontractors, and once he did pay subcontractors, it was not the full amount of their contracts. He argues that they did not perform some of the work they were supposed to perform, that's ambiguous, we obviously don't have those documents to argue that point. It is very obvious to me that he has been remiss in following the state laws of Montana in contracting. I fully support the decision of our Director. Commissioner Hope concurred.

Commissioner Jergeson said I'm going to offer an amendment to strike paragraph 3. Commissioner Skelton asked if we could do that. Commissioner Jergeson said I think we need to think this whole thing through, not in the context of this particular case, but in the context of future cases when they come to us and our obligation to assure that anybody who faces allegations of misconduct of one kind or another is afforded due process of law. I think that all the other contractors in Montana need to probably sit up and pay attention to what we do. I think it ought to be a conversation, in a full context, outside of this particular proceedings. I'm fully prepared to go along with the Order to debar Mr. Cusick because I think it is supported by the evidence. But I think this particular paragraph is immaterial to that disposition and is one that the Commission ought to be making in a different context and in a fuller context as it applies to our relationship with all contractors any of whom could be, from time to time, because there jealousies amongst them, that an allegation is made about somebody's behavior and the proceeding ought to make sure that person's life, liberty and property are protected by due process.

Commissioner Skelton asked if the Commission could amend the proceedings as presented in this case as they are already presented. That's a legal question. I don't know if we have the authority to amend what's been presented by both legal counsels. Commission Sansaver said I don't know that this would be the time. I think our Chief of Staff needs to look into it and we need to have a meeting on it or be part of our next meeting. As the law stands right now, according to what I was just told that we have followed all the laws of the State of Montana, I'm not prepared to amend anything at this point in time. I don't have enough background or read enough on it. I appreciate the points of Commissioner Jergeson but I think I need to look into it a little further before that decision is made. I need to know if it part of the state law or if it's just part of a decision we make as a Commission. I would like our Chief Attorney to look into that and perhaps at our next meeting we can discuss that for the next venue.

Commissioner Fisher joined the Commission meeting by phone. Commissioner Skelton explained to her that the Commission was discussing the Cusick case.

Commissioner Jergeson said a motion has been made to adopt and confirm the Director's Findings in this case, based on the record of evidence. I have offered a motion to strike paragraph 3 that states, "After this whole proceeding having been conducted according to the contested case of the procedures, that debarment is not a contested case." So the record does not support that statement. By removing that paragraph, it does not mean that might be true or not, but we need to make that decision at some future meeting and stay silent in this particular case otherwise we set precedent of how we handle any further cases that come to us about this. I think we have an obligation as a quasi-judicial body, and this is the only quasi-judicial proceeding we've had before us, that we need to make sure that we are doing

something that we've consciously decided related to whether or not these kind of cases are subject to a contested case and not have that decision made on the basis of a paragraph that came out of a fully contested case proceeding.

Val Wilson said I've found the portion of the rule that responds to your concern. Under rule 18-3-101 it says "disputes under this process, while they are contested and part of the adversarial process of these rules and subject to the state parts of these rules, they are not contested cases under the Administrative Procedures Act according to 2-4-102." So if you remove that paragraph, it doesn't change the fact that we proceeded under these rules and while it is contested and part of an adversarial process, it is not part of the MAPA procedure and statutes. My opinion is it doesn't matter if it is in there or not because it is still falls under that rule.

Commissioner Jergeson made the motion to amend by striking paragraph 3 from the Final Agency Decision Order made by the Director. Commissioner Fisher seconded the motion. Commissioner Jergeson and Commissioner Fisher voted aye, Commissioner Sansaver, Hope, and Skelton voted no. Motion failed

Commissioner Skelton said I don't think we have enough information to start taking things out of a legal document. I agree with Commissioner Sansaver and Commission Hope. I think possibly at our next Commission meeting we can look at these rules again and see if we need to proceed with a different rule, update the Administrative rules, or whatever we need to do. I think at this time we need to stand with the legal proceedings that are presented to us as the rules stand today.

Commissioner Jergeson said I would like to ask in this whole record, where the record supports You've read from the rule but where was that rule ever cited in this Record of Evidence in the proceedings before either the Hearings Examiner or the Director of the Department. Val Wilson said the record is for facts. The provision you're objecting to is a Conclusion of Law and is not part of the record, it is a Conclusion of Law by the previous administrator and it's a Conclusion not a Directive so you're not going to find it in the transcript.

Commissioner Sansaver moved to approve the Directors Findings and Conclusions to debar Todd Cusick. Commissioner Hope seconded the motion. Commissioners Sansaver, Fisher and Hope voted aye. Commissioner Jergeson and voted nay solely on his request to remove the paragraph.

The motion passed.

Public Comment

Doug Havermann, Bike Walk Montana

Good morning, I'm Doug Havermann, I've been the Director of Bike Walk Montana since last October. I do have some things to hand out. Bike Walk Montana is a state-wide non-profit organization and we represent and advocate for best use of bicyclists across Montana. In the handout, there is a graphic that looks like a bike wheel. We are not a trails group even though people say they love what we do for trail, we are involved with that and we're not a bicycle club, but we are tied, we think, to every part of our community. The built environment, hence we work with engineers and MDT, and economics, education and law enforcement. We are a transportation advocacy organization and have over 600 members all across Montana and about 30 affiliates as well. We work with, everything from hospitals, to stores and like folks. We even have a member in Volborg, Montana. Does anybody know where that is?

I came by to listen and learn what the Commission does. I had a wonderful conversation with Commissioner Skelton about a month ago. I want to thank you for your work on behalf of all Montanans; you represent the public interest. We actually consider ourselves advocates for all types of travelers including motorized travelers. We provide education information to them as well. We do focus on the one out of five Montanans who either don't have a driver's license, that's about 200,000 Montanans that don't have a driver's license or that choose to bicycle or walk. We do our best to represent these citizens and be their voice as well and our affiliates to be actively involved with these transportation issues. They want to be part of the public process and see results of what their input is.

What the MDT bike/ped program is and what it accomplishes, I'm afraid at times it doesn't feel very current to most citizens. All of a sudden infrastructure appears and people start using it and people wonder why weren't there accommodation and why wasn't it included during construction? For these Montanans in our visitor's season, I consider it amenities as they have been called in the past, they are necessary for them to travel. In terms of public interest, the bike/ped plan is a good example, just released at the end of May. If you have a chance I encourage you to read through the comments in the document if you want to see how Montanans feel about biking and walking in Montana. That's 29 pages of comments from 33 citizens and organization including us interested in this issue. MDT also included 119 additional emails and comments from outside the comment period and I appreciate them doing that. That shows the level of interest in our bike/ped system and management. Ninety-nine pages of comments which was actually longer than the plan itself. There are a lot of great comments in there.

We want to be a part of making MDT public involvement better for everyone including the agency and we will continue to ask to improve public input to be truly effective and truly responsive. Some suggestions are: put some resources into an easier-to-use response on line, increase information on what is being done with as much detail as available in very concrete language, flag those projects that are out of phase in engineering or right-of-way where public comment can make the most difference. I think sometimes people come into the process late and engineering decisions have pretty much been narrowed down a few choices and options and when it gets to the public open houses which are fantastic and great and I think they are getting better, but most of the decision have been made by then. Let the public know where they can have the most impact; where they can work with MDT to make some changes. We want you to utilize walk-ons, that's another transportation tool as part of the process on a construction project. This is where a group of citizens walk the project location and share their ideas and observations. Utilize Montana's independent living community; these are the disabled folks, veterans, elderly and kids. These are the one-out-of-five Montanans that don't have driver's license and rely on the transportation system and other ways of driving. Doing that in the design phase really makes sense. It's not much different than your tour yesterday where you went out and looked at a project. You just do it with a larger more inclusive group of folks.

I talk to bikers every day all the time and a comment I hear is that the Bike Ped Plan seems to maintain the status quo. I want to go into that because I believe it's a good step forward and I commend the staff for doing this. There is a lot of planning to make it move forward to something that's happening and increase the way for people to bike and walk. Again, we feel strongly about that and a lot of my constituents to do. We need to hire a full-time bike ped coordinator position, as a pure position – it's been vacant for quite some time. Right now it is a shared duty for an employee and they are doing a great job, but when you look at the mailings and there is no name behind that bike ped coordinator, it kind of sends a message that it's being handled not directly. Someone who can work full time with the community of Montanans like the ones who commented, both operates part of the agency but also is given some freedom to take an advocacy role with the courage to be truly

innovative and future looking. Why shouldn't Montana be known for a walking and bicycle friendly transportation system both around town and across the state?

We support Vision Zero but have another related version called Vision 100. That's where 100% of our publically funded projects provide for travel of all sorts.

Thank you for all your efforts on behalf of Montana transportation and I hope you consider the public's interest and need for safe and complete streets. We are encouraging our membership to engage with the Commission and our district offices in a positive role to share information and work together. So please don't hesitate to contact us directly if you like if you have question or would like further discussions. We've made some great strides in Montana setting our sites forward, we've got a lot of bits and pieces so if we can connect more then we can see it better.

Commissioner Sansaver asked if all of the cross-state travel on Hwy 2 would be a part of your initiative. Doug Havermann said that it's a very important route and I imagine you see a few bikers try to make it across there. That cross-country travel is something we need to look at. If there are some way to be innovative and look at these five right-of-ways. A lot of bikes go on gravel and maybe there's a way to create something. Look at what that travel corridor to Hamilton is starting to do in terms of traffic into Hamilton and now Bitterroot, there are great economic reasons to look at that. We'd love to see that. We have venture cycling in Montana that ... (inaudible) Thousands of folks travel across Montana every summer by bike. Hwy 2 is a beautiful route and we have members up in your country and there is quite an active community in Glasgow. Yes Commissioner, I would certainly hope so.

Commissioner Sansaver said I would encourage that we have more safety that goes along with that. We've seen accidents and fatalities in northeast Montana of bikers. I don't know if that's something you put a lot of thought into, but any way we can make that safer for the bikers and not such an impedance for the traffic. I know between Wolf Point and Poplar, we don't have 10,000 people traveling but it is a dangerous highway. It is something to keep in your mind with safety. Doug Havermann said there are a couple of safety things and we sent out hundreds if not thousands of those a year to encourage people. We do bike rodeos for kids where we teach them the basic things that are the most common reasons that kids get hit – they don't stop, most kids actually get hit coming out of their driveway believe it or not. You have to learn to stop, look, and listen. It's a balancing act between cyclists and motorists and we teach that. Also motorists understand that they can legally pass a bike on double yellow and it's safe to do so. We work with the Legislature as well to try and make that language clearer and easier to enforce and save lives.

Commissioner Skelton thanked him for coming – we appreciate the update, the input and the concerns. Thank you.

Approval of Minutes

The minutes for the Commission Meetings of March 26, 2019, April 9, 2019, May 7, 2019, and May 21, 2019 were presented for approval.

Commissioner Jergeson moved to approve the minutes for the Commission Meetings of March 26, 2019, April 9, 2019, May 7, 2019, and May 21, 2019. Commissioner Fisher seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item 1: Local Construction Projects on State Highway System – Local Forces
City of Butte, Silver Bow County**

Lynn Zanto presented the Local Construction Projects on State Highway System – Local Forces, City of Butte, Silver Bow County 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: The City of Butte and Silver Bow County are 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.

The City of Butte and Silver Bow County will assume all maintenance responsibilities associated with new project elements. Thus, MDT will not incur additional liability or maintenance costs as a result of the proposed 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. The project is also illustrated on the attached map: City of Butte / Silver Bow County (Attachment A).

Location	Type of Work	Cost (estimate)	Fiscal Year	Type of Labor
Hanson Road (U-1820) from Washoe Street to Holmes Avenue, in Butte	Mill & Fill	\$130,000	2019	Local

Staff recommends the Commission approve these improvements to the state highway system, pending concurrence of MDT’s Chief Engineer.

Commissioner Sansaver moved to approve the Local Construction Projects on State Highway System – Local Forces, City of Butte and Silver Bow County. Commissioner Hope seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item 2: Local Construction Projects on State Highway System – Contract Labor
City of Butte, Silver Bow County**

Lynn Zanto presented the Local Construction Projects on State Highway System – Contract Labor – City of Butte, Silver Bow County 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 Butte and Silver Bow County are planning to design and build transportation improvement projects on the state highway system. The projects will be funded locally and will utilize contract labor. The projects will be designed with input and concurrence from MDT staff to the extent practicable.

When complete, the City of Butte and Silver Bow County will assume all maintenance responsibilities associated with new project elements. Thus, MDT will not incur additional liability or maintenance costs as a result of the proposed projects.

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 Butte and Silver Bow County to let and award contracts for the projects listed below. The projects are also illustrated on the attached map: City of Butte / Silver Bow County (Attachment A).

Location	Type of Work	Cost (estimate)	Fiscal Year	Type of Labor
Mercury Street (U-1823), from Montana Street to Arizona Avenue, in Butte	Mill & Fill	\$210,000	2019	Contract
Mercury Street (U-1823), from Arizona Avenue to Shields Avenue, in Butte	Mill & Fill	\$220,000	2019	Contract

Staff recommends that the Commission approve these modifications to the state highway system and delegate its authority to let, award, and administer the contracts for these projects to the City of Butte and Silver Bow County - pending concurrence of MDT’s Chief Engineer.

Commissioner Hope moved to approve the Local Construction Projects on State Highway System – Contract Labor – City of Butte, Silver Bow County. Commissioner Jergeson seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item 3: Construction Project on State Highway System
Nexus Point Development - Bozeman**

Lynn Zanto presented the Construction Project on State Highway System, Nexus Point Development - Bozeman 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 coordination on public and private infrastructure improvement projects that impact MDT routes.

Nexus Point Development - Bozeman

The contractor for the Nexus Point development is proposing modifications to South 19th Avenue (U-1216) in Bozeman to address traffic generated by expansion of their facility. Proposed improvements would include roadway widening (to a five-lane facility near Graf Street), a new approach road (at Arnold Street), and ADA upgrades, lighting, new sidewalk, and curb and gutter near the intersection of South 19th Avenue and Graf Street.

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

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

After construction, the City of Bozeman will assume all maintenance and operational responsibilities associated with these improvements. Thus, MDT will not incur additional liability or maintenance costs as a result of the proposed improvements.

Summary: The contractor for the Nexus Point development is proposing modifications to the Urban Highway System to address traffic generated by expansion of their facility near Bozeman. Specifically, the contractor is requesting to widen South 19th Avenue (to a five-lane facility near Graf Street), add a new approach road (at Arnold Street), and install new sidewalk, lighting, curb and gutter along South 19th Avenue (near the Graf Street intersection).

Staff recommends that the Commission approve these modifications to South 19th Avenue - pending concurrence of MDT's Chief Engineer

Commissioner Hope moved to approve the Construction Project on State Highway System, Nexus Point Development - Bozeman. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 4: Construction Project on State Highway System, Contract Labor – Lake Helena Drive – East Helena

Lynn Zanto presented the Construction Project on State Highway System, Contract Labor – Lake Helena Drive, East Helena 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.

Lake Helena Drive – East Helena

Lewis & Clark County is proposing modifications to Lake Helena Drive (U-5831) near East Helena to enhance stormwater drainage capabilities at the Lewis Street intersection. Proposed improvements would include the installation of new drainage features – along with ADA upgrades (to existing pedestrian crossings) at the intersection of Lake Helena Drive and Lewis Street.

MDT headquarters and Butte / Great Falls District staff have reviewed and concur with the recommended improvements. Lewis & Clark County will provide 100 percent of project funding and will be required to complete MDT's design review and approval process (to ensure that all work complies with MDT design standards).

Additionally, the County will assume all maintenance responsibilities associated with these improvements. Thus, MDT will not incur additional liability or maintenance costs as a result of the proposed project.

Summary: Lewis & Clark County is proposing a project to modify an Urban Highway System route to enhance stormwater drainage along Lake Helena Drive (U-5831) near East Helena. Specifically, the County is requesting to install new drainage features and upgrade the existing pedestrian crossings at the intersection of Lake Helena Drive and Lewis Street.

Staff recommends the Commission approve this modification to the state highway system and delegate its authority to let, award, and administer the contract for this project to Lewis & Clark County - pending concurrence of MDT's Chief Engineer.

Commissioner Jergeson moved to approve the Construction Project on State Highway System, Contract Labor – Lake Helena Drive, East Helena. Commissioner Hope seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 5: Construction Project on State Highway System 5th & 6th Street - Missoula

Lynn Zanto presented the Construction Project on State Highway System, 5th & 6th Street – Missoula 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 coordination on public and private infrastructure improvement projects that impact MDT routes.

5th & 6th Street - Missoula

The City of Missoula is proposing to reconfigure two Urban Highway System routes to improve operations and safety. On both 5th Street (U-8114) and 6th Street (U-8118), from Russell Street to Higgins Avenue, the City is proposing to reduce roadway traffic to a single lane with an enhanced (buffered) bike lane. Additionally, the City is proposing to modify affected intersections by adding auxiliary left and right turn lanes, and by making the necessary changes to traffic signal equipment (heads, cabinets, bases, detection units, etc.).

MDT headquarters and Missoula District staff have reviewed and concur with the recommended improvements. The City of Missoula will provide 100 percent of project funding and will be required to complete MDT's design review and approval process (to ensure that all work complies with MDT design standards). When complete, the City will assume all maintenance and operational responsibilities associated with these improvements. Thus, MDT will not incur additional liability or maintenance costs as a result of the proposed improvements.

Summary: The City of Missoula is proposing to reconfigure two Urban Highway System routes to improve operations and safety. On both 5th Street (U-8114) and 6th Street (U-8118), from Russell Street to Higgins Avenue, the City is proposing to reduce roadway traffic to a single lane with an enhanced (buffered) bike lane. Additionally, the City is proposing to modify affected intersections by adding auxiliary left and right turn lanes, and by making the necessary changes to traffic signal equipment (heads, cabinets, bases, detection units, etc.).

Staff would recommend that the Commission approve these modifications to 5th & 6th pending concurrence of our Chief Engineer.

Commissioner Fisher moved to approve the Construction Project on State Highway System, 5th & 6th Street - Missoula. Commissioner Jergeson seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 6: Interstate Maintenance Program Addition to IM Program (4 New Projects)

Lynn Zanto said the next seven agenda items are all new projects nominations. What happens each year in October is we meet and approve the TCP to schedule our active projects and make sure we get them in the years when they are deliverable. When that process finishes, we also go out and assess condition of the system. Then the Planning staff looks at the entire program to see where there needs are in the out years to fill in projects and get them moving. We send memos to the districts to ask them to provide nominations for deliverable preservation improvements and capital improvements and we give them a target dollar amount based on the overall funding plan the needs in their districts. What you will see are nominations from the districts. Our secondary program works with the districts and the counties to put those forward. We have urban pavement preservations projects and the way we group them is by the system.

Lynn Zanto presented the Interstate Maintenance Program – Addition to IM Program (4 New Projects) to the Commission. The Interstate Maintenance (IM) Program finances highway projects to rehabilitate, restore, resurface, and reconstruct routes on the Interstate System. Montana’s Transportation Commission allocates IM funds to MDT Districts based on system performance.

At this time, MDT is proposing to add 4 new projects to the IM program – three in District 1 and one in District 2. The projects on the attached list (Attachment A) meet the criteria set forth for IM-funded projects. If approved, it would be MDT’s intention to let these projects individually.

The estimated total cost for all project phases is \$17,861,000 (\$16,296,000 federal + \$1,565,000 state) – with the entirety of the federal funding originating from the Interstate Maintenance (IM) Program.

Summary: MDT is requesting Commission approval to add 4 projects (listed on Attachment A) to the Interstate 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, roadway system performance and traveler safety will be enhanced with the addition of these projects to the program.

The estimated total cost for all project phases is \$17,861,000 – with the entirety of the federal funding originating from the Interstate Maintenance (IM) Program.

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

Commissioner Jergeson said the projects, because they’ll be approved by the Commission now, won’t show up in this year’s STIP that’s on-line right now and according to Mr. Johnson will be available to us at our August meeting. Lynn said these projects are in the STIP under the preliminary engineering. These are newly proposed projects that are on the draft STIP that is out on our website right now. The drafts have not been finalized because it is with FHWA and they addressing some additional narrative they want up front in our STIP weighted to national performance. So yes, these are in the STIP and we will provide you a final STIP when we publish it after approval from Federal Highways. Commissioner Jergeson said, if we’re not putting it in preliminary engineering and I assume that means it’s out past five years for the time being, was there a point in our proceeding in the last year when we approved these projects into that preliminary engineering phase? I assumed that is what this is. Lynn Zanto said you have not approved them previously; we’re requesting that you approve them today. They are in the draft STIP and we’re asking

for your approval today. If you approve, then we are able to start advancing our request to FHWA to program the design. Currently we don't have total authorization to fund these because we need your approval to add them to our program and then we need FHWA approval on the individual project programming to start the design.

Commissioner Jergeson asked if they would see them in August. There were other projects we've approved during the year that will also be in the STIP. Lynn said when we meet for the TCP meeting, these will show them in the TCP. Assuming we get a program approvals by that time. The STIP is out there now. The whole point of that is public disclosure and then fiscal constraint determination by FHWA. So that is there. You won't see these in your meeting in August but when we meet for the TCP. We don't have you approve STIP, we have you approve new projects as they come in. You won't be taking an action on the STIP. Commissioner Jergeson said I'm asking if we're going to get the STIP at our August meeting. We ordinarily get it at this one. Lynn said as soon as we have the final STIP, we will mail it to you and I'm hoping to get it before the August meeting. Commissioner Jergeson asked if it would be the final STIP with costs. Lynn said yes.

Commissioner Sansaver moved to approve the addition of 4 new projects to the Interstate Maintenance Program. Commissioner Hope seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 7: National Highway System Program Additions to NH Program (18 New Projects)

Lynn Zanto presented the National Highway System Program, Additions to NH Program (18 New Projects) to the Commission. The National Highway System (NH) Program finances highway projects to rehabilitate, restore, resurface, and reconstruct Non-Interstate routes on the National Highway System. Montana's Transportation Commission allocates NH funds to MDT Districts based on system performance.

At this time, MDT is proposing to add 18 new projects to the NH program – six in District 1, one in District 2, three in District 3, four in District 4, and four in District 5. The projects on the attached list (Attachment A) meet the criteria set forth for NH-funded projects. If approved, it would be MDT's intention to let these projects individually.

The estimated total cost for all project phases is \$103,517,000 (\$91,632,000 federal + \$11,885,000 state match) – with the majority of the federal funding originating from the National Highway System (NH) Program and a portion (\$6,500,000) from the Highway Safety Improvement (HSIP) Program.

Summary: MDT is requesting Commission approval to add 18 projects (listed on Attachment A) to the National Highway System 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, roadway system performance and traveler safety will be enhanced with the addition of these projects to the program.

The estimated total cost for all project phases is \$103,517,000 – with the majority of the federal funding originating from the National Highway System (NH) Program and a portion (\$6,500,000) from the Highway Safety Improvement (HSIP) Program.

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

Commissioner Jergeson moved to approve the National Highway System Program (18 New Projects). Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 8: Primary System Program Additions to STPP Program (24 New Projects)

Lynn Zanto presented the Primary System Program, Additions to STPP Program (24 New Projects) to the Commission. The Surface Transportation Program – Primary (STPP) finances highway projects to rehabilitate, restore, resurface, and reconstruct routes on the state’s Primary Highway System. Montana’s Transportation Commission allocates STPP funds to MDT Districts based on system performance.

At this time, MDT is proposing to add 24 new projects to the STPP program – five in District 1, fourteen in District 2, four in District 3, one in District 4, and zero in District 5. The projects on the attached list (Attachment A) meet the criteria set forth for STPP- funded projects. If approved, it would be MDT’s intention to let these projects individually.

The estimated total cost for all project phases is \$86,344,000 (\$77,995,000 federal + \$8,349,000 state match) – with the majority of the federal funding originating from the Surface Transportation Program – Primary (STPP) and a portion (\$4,500,000) from the Highway Safety Improvement (HSIP) Program.

Summary: MDT is requesting Commission approval to add 24 projects (listed on Attachment A) to the Primary System 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, roadway system performance and traveler safety will be enhanced with the addition of these projects to the program.

The estimated total cost for all project phases is \$86,344,000 – with the majority of the federal funding originating from the Surface Transportation Program – Primary (STPP) and a portion (\$4,500,000) from the Highway Safety Improvement (HSIP) Program.

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

Commissioner Jergeson said last year on our tour from Havre to Harlem we extended out past Ft. Belknap for the first four miles. That’s an area that has bike paths and walking paths. When we turned around yesterday, I was thinking there’s not much pavement between the line and the grass. So there’s not much room for people to take a bike tour past Hayes. That would require reconstruction rather than an overlay to do that. How is there some discussion or involvement of the community and Commissioners in trying to decide whether there’s a way to plan for reconstruction versus acceptance of an overlay which will be an improvement to that surface. Lynn said a lot of those communications happen at the district levels. They are in continual communication with the local governments. In terms of nominating new priorities, there’s several things they have to consider. First of all they look at our pavement analysis that our pavement staff does which gives the recommended treatments; what we need to do. That is one of their considerations but then they also have to consider overall funding, right-of-way because if we’re widening that requires right-of-way. Rob might have insight into how his district considers it but we do have a standardized form that they all fill out that considers safety, traffic, geometrics, non-motorized, wildlife and other things they consider in order to put

their nominations forward. We give them target dollars for capital improvements versus preservation and that's to help tie into what the national level expects that we focus federal dollars on preserving and extending the life of our asset as far as we can and what we've done in the state with federal funds.

Kevin McLaury said it is a state-owned federally funded program so we look to the states to determine priorities. Federal Highway can't tell the states what to do. Congress has put some asset management into the approach, and Lynn explained that Congress is looking to keep what is good as an asset management approach. Again, it reverts to the states. The state really has control. I mentioned this before, Montana has done this - you've probably been in the game of pavement management as long as or longer than any other state in the US. I'd say you rival just about anyone in how well we use the scarce dollars we get to maintain the pavement in this state. I think the state does a really good job in that.

Commissioner Jergeson said that Doug and Steve from the Great Falls District have been just wonderful to work with; I'm really satisfied. They include me in the semi-annual meeting of the northwest and northeast counties in the district. The quarterly meetings are fantastic. The Lewis and Clark folks don't think they need a quarterly meeting with Doug and Steve because they are right here in Helena and they can call them. But I think we should have some meetings here. I don't remember this particular project being discussed at meetings, so I'll talk to Doug and Steve to see if I'm wrong. I would like to encourage the new Commissioners to find out what kind of similar local and regional meetings their department administrators and the districts have with local government people throughout the district and to make a point of going to those so that you can hear and confirm communication back and forth. My district has been excellent between the local government and our administrators.

Commissioner Jergeson moved to approve the Primary System Program Additions to STPP Program (24 New Projects). Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 9: Secondary Roads Program Additions to STPS Program (5 New Projects)

Lynn Zanto presented the Secondary Roads Program, Additions to STPS Program (5 New Projects) to the Commission. The Surface Transportation Program – Secondary (STPS) finances highway projects on the state-designated Secondary Highway System. Secondary Roads are those routes that have been selected by the Montana Transportation Commission to be placed on the Secondary Highway System.

Secondary Roads Program funding is distributed by formula and is utilized to resurface, rehabilitate and reconstruct roadways and bridges on the Secondary System. Capital construction priorities are established by the Counties and pavement preservation projects are selected by MDT (per the guidance in MCA 60-3-206).

At this time, MDT is proposing to add 6 new projects to the STPS program – one in District 1, one in District 2, one in District 3, and three in District 4. The projects on the attached list (Attachment A) meet the criteria set forth for STPS-funded projects. If approved, it would be MDT's intention to let these projects individually.

The estimated total cost for all project phases is \$18,227,000 (\$15,781,000 federal + \$2,446,000 state match) – with the entirety of the federal funding originating from the Secondary Roads (STPS) Program.

Summary: MDT is requesting Commission approval to add 6 projects (listed on Attachment A) to the Secondary Roads 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, roadway system performance and traveler safety will be enhanced with the addition of these projects to the program.

The estimated total cost for all project phases is \$18,227,000 (\$15,781,000 federal + \$2,446,000 state match) – with the entirety of the federal funding originating from the Secondary Roads (STPS) Program.

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

Commissioner Sansaver asked the definition of a slide correction. Lynn said the slide correction has to do with either the roadway slopes or abatement where we're noticing sluffing. Dustin Rouse said we have certain terms we use and it can vary. A slide correction can be where we start to see a scar on the upper slope or the road below us is starting to give way. So it's either a stabilization on that lower slope or on the upper slope is typically what we're referring with that term. It could be going in and doing some rock mitigation, doing some type of fill stabilization. Either of those techniques would fall under that.

Commissioner Sansaver moved to approve the Secondary Roads Program Additions to STPS Program (5 New Projects). Commissioner Hope seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 10: Urban Pavement Preservation Program Additions to UPP Program (6 New Projects)

Lynn Zanto presented the Urban Pavement Preservation Program, Additions to UPP Program (6 New Projects) to the Commission. The Urban Pavement Preservation (UPP) program provides funding for pavement preservation work on Urban routes throughout the state. MDT Districts work with local governments to advance nominations that align with system needs (as identified by local pavement management systems).

At this time, the Missoula District and the Great Falls District are requesting Commission approval of Urban Pavement Preservation projects in Missoula, Helena, and Great Falls. The projects on the attached list (Attachment A) meet the criteria set forth for UPP-funded projects. If approved, it would be MDT's intention to let these projects individually.

The estimated total cost for all project phases is \$6,231,000 (\$5,395,000 federal + \$836,000 state match) – with the entirety of the federal funding originating from the Urban Pavement Preservation (UPP) program.

Summary: MDT is requesting Commission approval to add 6 projects (listed on Attachment A) to the Urban Pavement Preservation 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, roadway system performance and traveler safety will be enhanced with the addition of these projects to the program.

The estimated total cost for all project phases is \$6,231,000 (\$5,395,000 federal +

\$836,000 state match) – with the entirety of the federal funding originating from the Urban Pavement Preservation (UPP) program.

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

Commissioner Hope moved to approve the Urban Pavement Preservation Program, Additions to UPP Program (6 New Projects). Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 11: Bridge Program Projects
Additions to NHPB and STPB Programs
(11 New Projects)

Lynn Zanto presented the Bridge Program Projects – Additions to NHPB and STPB Program (11 New Projects) to the Commission. MDT’s Bridge Bureau reviews bridge conditions statewide and provides recommendations for construction projects to be added to the Bridge Program. At this time, the Bridge Bureau recommends adding four (4) projects to the Surface Transportation Bridge (STPB) Program and seven (7) projects to the National Highway Performance Bridge (NHPB) Program.

Project information is shown on Attachment A. If approved, it would be MDT’s intention to let these projects individually. The estimated total cost for all project phases is \$100,100,000 (\$86.7M federal + \$13.4M state).

Summary: MDT is requesting Commission approval to add four (4) projects to the Surface Transportation Bridge (STPB) Program and seven (7) projects to the National Highway Performance Bridge (NHPB) Program.

The breakdown of project costs (by program) is listed below:

Surface Transportation Bridge (STPB) Program	\$ 7,500,000
National Highway Performance Bridge (NHPB) Program	<u>\$ 92,600,000</u>
	\$ 100,100,000

The proposed projects are 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 these projects to the Bridge Program.

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

Commissioner Skelton said we had some failure on some of our bridges where the cement failed, does any of this address that or has that been addressed. Dustin Rouse said on these projects that are listed as bridge rehabilitation, typically that is exactly what we’re looking at. With the concrete the rebar starts to rust and expand and then we’ll start to see sprawling on the bridge deck and you’ll start seeing cracks and separation. A lot of the projects that say bridge rehab, we will remove the concrete down below the rebar and repair those sections that are damaged. Sometimes that may be the entire deck. So the extent of the rehab project is dependent on ... once these are approved and we can spend more staff time evaluating structures and that’s when we go out and determine the appropriate repairs for those bridges. That’s how we develop our projects.

Commissioner Skelton said on the Musselshell we can’t shut down half the bridge because it is really small. Are we going to bring in one of bailey bridges for Vail

Creek in Jordon which is also a small bridge? Dustin said if they are smaller bridges, if it's economically feasible, we can just build a detour bridge; we do that all the time. A bailey bridge, we tend to like to save those for emergencies because that is what they are for – they are quickly deployed and used. Also we can do these bridges in half the time even if they are fairly narrow. We're doing that at Trout Creek in Missoula. All these bridges that Lynn has presented today, this is a nomination and are made to our best determination on the appropriate fix and estimate for that project but once this is approved, our staff can go out and review it, and we involve construction in our design process to determine how we're going to detour around these structures and develop the site plans for all these projects. You are seeing these for the first time but this kicks off the whole process for us and getting our staff out and getting our design team to start evaluating an appropriate, not only for the appropriate repairs, but the construction sequencing and determining how best to address these locations.

Commissioner Jergeson moved to approve the Bridge Program Projects – Additions to NHPB and STPB Programs (11 New Projects). Commissioner Hope seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 12: Highway Safety Improvement Program Project SF 189 Amsterdam Rd Intx Imprv

Lynn Zanto presented the Highway Safety Improvement Program Project, SF 189 Amsterdam Road Intx Improvement 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.

In recent years, a crash trend has developed at two intersections on Amsterdam Road (S-347) near Belgrade. To mitigate crashes at these locations, MDT is proposing the following improvements to Amsterdam Road: Install a traffic signal (and dedicated left- turn lane) at the River Rock Road intersection and reconstruct the right-turn lane (and add a dedicated left-turn lane) at the Green Belt Drive intersection.

The estimated total cost for all project phases is \$572,000 (\$560,000 federal + \$12,000 state match) – with the entirety of the federal funding originating from the Highway Safety Improvement (HSIP) Program.

Summary: MDT is requesting Commission approval for a project to improve two intersections on Amsterdam Road (S-347) near Belgrade. The proposed project is consistent with the goals and objectives identified in the Performance Programming (P3) Process – as well as the policy direction established in TranPlanMT. Specifically, traveler safety will be enhanced with the addition of this project to the HSIP program. The estimated total cost for all project phases is \$572,000.

Staff recommends that the Commission approve the addition of this HSIP project to the highway program

Commissioner Hope moved to approve the Highway Safety Improvement Program Project, SF 189 Amsterdam Road Intx Imprv. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 13: Speed Limit Recommendation Interstate 90 – Idaho to St. Regis

Dustin Rouse presented the Speed Limit Recommendation for Interstate 90 – Idaho to St. Regis to the Commission. This is a follow-up to the 75 mph interim speed limit that was established in that zone on I-90. As you can imagine, measuring the speeds on Lookout Pass is a challenge because we have to find a time when the weather is clear and the roads are dry and we don't have construction going on. With the construction in Idaho and our construction projects, it's delayed us in getting our sensors up and getting the speeds through this areas. That was finally completed. The results of those studies, both the eastbound and the westbound, the upper limit of the pace was at or below 73 mph. That clocked them at approximately 76% of the entire stretch. We looked at the travel speeds, the complex nature of the terrain, so we're recommending we reduce the speed limit from 75 mph down to 70 mph through the entire segment. The spot specific terms along this location, we'll still handle with curve warning signs and advance curve warning signs through those zones. The entire study segment we submitted to Mineral County and they have concurred with our recommendation.

Staff is recommending the following speed limit:

Interstate 90 – 70 mph / Trucks 65 mph beginning at milepost 0.0 (Montana-Idaho Stateline) to milepost 34.180 (east of St. Regis Int.), an approximate distance of 34.18-miles.

Commissioner Fisher said there is a little bit of irony in the fact that I support reducing the speed limit here. I drive it a lot and I use this area as my own motorway. I've been ticketed by the Highway Patrol no less than twice. However, knowing the roadway as I do, I would say from personal experience and not even looking at the study that was done, it appears to me that lowering to 70 mph would be appropriate in the area. For those of you who have been there, you know it is a really curvy area. I just don't think, even though it's a four-lane interstate, you can really account for the amount of impediment to smooth travel there. I would support the recommendation.

Commissioner Fisher moved to approve the Speed Limit Recommendation for Interstate 90 – Idaho to St. Regis. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 14: Speed Limit Recommendation MT 1 – Maxville

Dustin Rouse presented the Speed Limit Recommendation for MT 1 – Maxville to the Commission. This is a speed limit recommendation for a previous interim speed recommendation on MT 1 at Maxville. Based on the Commission recommendation, we instituted a 60 mph speed limit zone on MT 1 in Maxville. Since that time, two years after we established an interim speed zone, we went back and evaluated whether traffic was complying with that speed zone or not and evaluated whether we want to continue with that interim speed zone. This is the result of that evaluation.

We found that the 85% speeds and the pace of the traffic stream does drop below 70 mph within the 60 mph zone. There have not been any reported crashes but the through movement vehicles are not complying with the 60 mph speed limit. This portion of MT 1, even with that non-compliance, has continued to operate safely during that two-year period. So our recommendation is that we validate the interim 60-mph speed zone and we keep that speed zone in place.

Granite County Commissioners have submitted their letter of support validating the previously approved interim 60-mph speed zone and it is attached.

Commissioner Jergeson said if we're going to leave what staff has established as the speed limit, do we need a motion to validate that, or does it somehow go back to the old speed limit unless we validate it. Is a motion to validate necessary or does the 60 mph speed limit persist? Dustin Rouse said we need a motion. This is an item under your jurisdiction and when we establish the interim speed limit, we at that time let the Commission know that we will come back to you and let you know how that speed zone is performing and recommend either it stay at 60 mph or that it revert back. I believe it would be appropriate for the Commission to make a motion and approve our recommendation on that.

Commissioner Sansaver moved to approve the Speed Limit Recommendation for MT 1 – Maxville. Commissioner Hope seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 15: Speed Limit Recommendation Secondary 225 – Bootlegger Trail

Dustin Rouse presented the Speed Limit Recommendation for Secondary 225 – Bootlegger Trail to the Commission. This investigation started with the citizens' request in cooperation with the City of Great Falls. It begins at the intersection with US 87 and continues north. North of that has been experiencing additional residential growth. There was a previously approved 45 mph zone just north of US 87. The configuration through that stretch is there are two 12-foot lanes beginning at that intersection separated by a two-way left turn lane in the center for the first mile and transitions into a four lane highway. Motorists do not reach 70 mph operating speeds until beyond the new subdivision in the area of 46th Avenue NE. The percentage of motorists traveling within the pace is low (34% - 36%), indicating approximately ½ or 50 percent of the traffic stream is traveling below the pace or below 60 mph. At milepost 1.0 the percentage in the pace increases to over 50 percent. That means there is a differential between the speeds.

We recommend expanding the speed limit configuration to include a 60 mph speed zone beginning near the transition in the typical section to multilane. The 45 mph speed zone was previously established in 2005. Our recommendation is as follows:

A 45 mph speed limit beginning at the intersection with US 87 and continuing north to station 22+00, an approximate distance of 1,200 feet.

A 60 mph speed limit beginning at station 22+00, project STPS-STPU 225-1(3) and continuing north to station 61+00, an approximate distance of 3,900 feet.

Commissioner Jergeson moved to approve the Speed Limit Recommendation for Secondary 225 – Bootlegger Trail. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 16: Speed Limit Recommendation US 191 – Big Timber North

Dustin Rouse presented the Speed Limit Recommendation for US 191 – Big Timber North to the Commission. Sweet Grass County submitted a request for a speed limit reduction on US 191, Big Timber North (mp 1- mp3). Adjacent land use north of the Yellowstone River Bridge has changed to include small residential subdivisions in various stages of development.

Four crashes were reported within the study area and one speed limit citation was issued in the last 3-years. The operational characteristics show a reduction in the travel speeds below the statutory 70 mph speed limit up to the intersection with Hoiland Lane, where the new development is taking place. In response to the change in operation we are recommending a 60 mph speed limit and an additional ½-mile of passing restrictions.

The following recommendation was presented to Sweet Grass County. Their letter of concurrence is attached.

A 60 mph speed limit beginning at approximate station 110+00, project STPP 45-1(14) (150' north of Hoiland Lane) and continuing south to station 95+00, an approximate distance of 1,500 feet.

Commissioner Jergeson said this was a decision based on speed limit, but the county asked about placement of signs. How are those kinds of decision handled regarding putting up a school bus stop sign at a certain location? How is that process determined and approved and implemented? Dustin Rouse said those decisions are made by our Traffic Engineers in the district. If there's concern or questions regarding the installation of those signs, they can elevate it and we have the Sign Committee in Helena and I'm a member of that committee as well as our Traffic and Safety Staff. We will talk through and evaluate requests for signs. So, we have an internal process for that. Typically, "what's ahead" sign or a sign for a bus is appropriate if there is a site obstruction or for some reason as people approach that area they are not able to see the bus and the flashing caution sign, then it would be appropriate so the vehicle would have time to know that something is occurring in that area. In this location the site distance is very good and very open, so vehicles approaching can easily see it. So we denied the request to add a sign in that location. We do not feel this location needs it.

Commissioner Sansaver moved to approve the Speed Limit Recommendation for US 191 – Big Timber North. Commissioner Hope seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 17: Speed Limit Recommendation Old Highway 91 – Melrose

Dustin Rouse presented the Speed Limit Recommendation for Old Highway 91 – Melrose to the Commission. This investigation of the Melrose speed limit configuration stems from a request from Butte Silver Bow officials. We found that the present speed limit configuration within Melrose was never approved by the Transportation Commission. We completed the study in the area of the existing posted speed limits and there were no reported crashes or citations issued on record for the last three-year period from July 1, 2015 to June 30, 2018.

We recommend establishing the statutory 25 mph speed limit to encompass the "urban district". With that in place we then propose special 35 mph and 45 mph speed zones approximately 800-feet each in length on either end of the Melrose urban district. I'll explain that within the urban area there will be 25 mph posted

speed. Going into the community will transition to 35 mph, then to 45 mph, then the 70 mph speed. Those series of signs will be located entering into Melrose both directions.

The following recommendation was presented to local officials for review and comment. Attached is an email indicating Butte-Silver Bow's concurrence.

A 45 mph speed limit beginning at station 34+00 on the straight-line diagram (1,200 feet south of Trapper Creek Road) and continuing north to station 42+00, an approximate distance of 800 feet.

A 35 mph speed limit beginning at station 42+00 on the straight-line diagram (400 feet south of Trapper Creek Road) and continuing north to station 50+00, an approximate distance of 800 feet.

Statutory 25 mph speed limit beginning at station 50+00 on the straight-line diagram (400 feet north of Trapper Creek Road) and continuing north to station 65+00, an approximate distance of 1,500 feet.

A 35 mph speed limit beginning at station 65+00 on the straight-line diagram (850 feet north of East 3rd Street) and continuing north to station 73+00, an approximate distance of 800 feet.

A 45 mph speed limit beginning at station 73+00 on the straight-line diagram (1,650 feet north of East 3rd Street) and continuing north to station 81+00, an approximate distance of 800 feet.

Staff recommend approval. We have concurrence from them.

Commissioner Hope moved to approve the Speed Limit Recommendation for Old Highway 91 - Melrose. Commissioner Jergeson seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 18: Commissioner Policy Discussion

Val Wilson, Chief Legal Counsel

I have two policy issues to discuss with you today. The first one Kevin Christensen brought to my attention – Policy No. 14 which indicates that your meetings to consider award of projects will be held on Monday following a bid letting. As you know, we've been holding these meetings on Tuesdays. There are reasons it was changed to Tuesday but the practice of the Commission doesn't comply with the policy. At this time we will have something ready, at your direction, to either leave it on Monday or amend it to Tuesdays. I needed to bring this to your attention and it is up to the Committee, in the interim before the policy is changed, if you want to continue the Tuesday meetings, it would require the Commission to make exceptions to your policy or you need to direct us that you want to meet on Mondays.

Commissioner Skelton said it was a housekeeping issue. So it would be the pleasure of the Commission if we want to go back to Mondays or if we want to keep it on Tuesdays. It's always been on Tuesdays since I've been here. Is it cumbersome to the staff? Is there a recommendation? Kevin Christensen said if you're asking for preference, I would prefer to keep it on Tuesday. Val Wilson said the rule, Policy No. 14, says "that the conference call to award contracts will be held the next Monday after the award letter is sent" which would be 11 days after. It has a provision that if Monday is a holiday, it will be moved to Tuesday. Since I've been

advising the Commission, we've always had these meetings on Tuesday. I think it was changed because of a conflict that a former Commissioner had with Monday meetings. We just either need to clear up our rule so we're meeting on Tuesdays or we need to comply with the rule. In the interim, you can make an exception until we get that squared away at the August meeting.

Commissioner Skelton asked for a motion that the Commission continue their Conference Calls on Tuesdays at 9 a.m. Val Wilson said we will have that presented to you and have that ready to go for your August Meeting.

Commissioner Sansaver moved to update the policies. Commissioner Fisher seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Public Participation Policy

At the last meeting in April, we discussed the requirement from the Governor's office that the Commission adopt a public participation policy. That is in its final stages and will be presented to you at the August Meeting for your consideration. Between the last meeting and this meeting, I was forwarded some emails and I wanted to discuss them with you in light of that public participation.

MDT has a pretty robust public information process. We receive public information and send out, for this fiscal year as it closes out, somewhere between 240-250 requests for public information that we have received, responded to and closed out. A big part of that is email. So, when I took a look at these emails, I just wanted to remind you that in public business when it's conducted, the public has a right to obtain any sort of emails that are sent between Commissioners, whether it is the full board or part of the group. So, even if they are on personal devices, the public has right to that information. I'm sure you remember that there was some discussion about this at the Governor's office with his staff a few years ago. So, my recommendation and what our staff does to make sure that everything is captured in an easy neat place so that if the public asks we can grab it, is the staff tries to communicate with you each time through the Commission Secretary. So, everything goes from Lori to you, so it wouldn't be coming from Rod to you or from Dustin to you, it all goes to Lori so there is one convenient place to look for those.

My recommendation is that if you have inner-Commission email traffic, that Lori be copied on that so if the public wants that information, we have one place to look, Lori would have it, and we don't have to be contacting you individually for those emails.

The other thing I wanted to talk to you about is that those emails implicate not only public records retention requirements under the constitution, but these emails can also implicate open meetings. Commissioner Fisher I was looking at one of your cases, a 2013 case, the Allen vs. Woodside Neighborhood Plan. I guess if there was a conclusion for that it was an admonishment from the Court with a caution. It says, "therefore we caution public officers that conducting official business via email, could potentially expose them to claims of violation of open meeting laws."

So the two emails I saw, I didn't see any discussion back so the emails went out and I didn't see that there was any discussion of issues between Commissioners. So I think we're good on the open meetings. But if you're sending out an email that invites some sort of discussion on something that would involve Commission business, my recommendation is that you wait and discuss it at a Commission meeting. I've been working on making sure that our public participation and our open meeting is above reproach. I just wanted to caution you that we need to be mindful of that if you're inviting dialogue on issues in general emails. It's so easy; it happens in discovery for

court cases, it happens in public information requests – we’re looking through all these emails and wondering why was this ever put in writing. Not that I think that would happen but there is a potential that anybody can ask for our stuff at any time, and we just give it to them.

Commissioner Sansaver asked if that included Rod talking to his local Commissioner through an email. Val Wilson said that is not a meeting of a public body so it wouldn’t violate any sort of open meeting issues because there needs to be a quorum to implicate that. Would that be information the public could ask for and get a copy of? Certainly! They could ask Rod if he had any communication on this issue – and you can look around the room at all the staff and all the staff has been requested to give us an email dump.

So, the question I’ve been thinking about is certainly we would capture anything that was between the Commissioners and staff. So the question I don’t have a firm position on yet, and I need to figure it out so you know, is what if somebody emails you that is a member of the public. I’m leaning towards that should be forwarded to Lori too. Commissioner Sansaver said I have Mr. Fourfortwo up in Havre who emails me quite frequently. I have not responded to him; I did talk to him at the ribbon cutting at Nashua a couple of weeks ago. Is that something that needs to be forwarded? Val Wilson said if you receive something from a citizen and you respond, copy Lori. If you don’t respond, then there is no issue.

Commissioner Jergeson said I made it a practice when I first got on the Commission to set up a special folder labeled “Transportation Commission” and every email I get and every email I send, it doesn’t matter who it’s too, that relates in any way, whether it’s from a member of the public or from the staff, I just put that email in that folder and if somebody wants it, I can put it on a flash drive and pull off the emails. I think all of us should probably just do that as a practice. The addition of cc’ing Lori would mean that she would need to have a way of sorting those things. I know that I’ve sent emails to Mike that I didn’t copy to Lori but I will start doing that.

Commissioner Skelton said in the effort of transparency and openness, it doesn’t hurt to copy Lori and make sure there is no dialogue amongst us. I think it is a good business or ethical practice, to be sure there is nothing that could be viewed that is out of the ordinary that we shouldn’t be doing. I just think, in this world of communication, transparency is something that we really need to deal with. We are going into an election cycle, so who knows who is going to be looking at what. Thank you Val, I think those are really good comments and we need to be very cognizant. Even if I get something from a public person, I often send it to Rod but I always copy Lori. It gives Lori something to do because we know she’s not busy.

Commissioner Fisher said I send emails that I know will be public record usually to raise an issue for discussion. I don’t think we’re required, even under the Lakeside case, to wait until there is a full meeting or a noticed meeting, to have a discussion in that case. They were actually setting up email public meetings and not noticing the public. So the were having basically a chat group of all the Lakeside Council come together at a certain time to have a chat group discussion. What was wrong with that obviously, is they were making decisions about the land use of private land owners without public input. So, it was just a group of people in a chat group. I would never recommend a chat group for anyone especially public council. For the sake of the record, I don’t mind cc’ing Lori on a lot of this stuff but there will be times when I send an email to raise an issue about something that’s going on in the District either for discussion to put on the next Agenda. But because we don’t meet with frequency as the issues arise, I just want to make a record of my thoughts and concerns recognizing that is public record. I absolutely agree with the advice and information and I would agree that we should be cc’ing Lori on business. When my constituents are asking me questions, I forward them to the District Manager for a response and I

assume that becomes the MT.gov when there is a FOIA request. If not and I should be sending those to Lori as well, I can start doing that.

Val Wilson said if everything goes to Lori, it's the cleanest way to do it. When you raise issues for discussion but if the people discuss back, I think that violates open meeting because it is a discussion about an issue over which the Commission has authority. So if you're sending it out and nobody says anything, there's no problem but if the Commission all starts dialoguing about something that is not at an open meeting or noticed, then that's a problem. So absolutely we'll get stuff on the Agenda that needs to be on the Agenda, but stuff that is just out there for no comment but information falls within the rules. If there is a dialogue back and forth, there really is not a lot of distinction between a chat room and people chatting and commenting about issues on email. I think we need to be mindful of that and move forward.

Commissioner Sansaver moved to update the policies. Commissioner Fisher seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 19: Design Build Project – Conrad-Shelby ADA Upgrades – CMDP STWD (676) – CN 9650000

Kevin Christensen presented the Design Build Project – Conrad-Shelby ADA Upgrades – CMDP STWD (676) CN 9650000 to the Commission. We've been through this a bunch of times. We went through our standard solicitation and selection process. We received four proposals and they are in your handout. On this particular project the best value was Century Co./Stahly Engineering. You can see what their bid is, their Technical Proposal score, and their total score that represents the best value. The Engineer's Estimate on this project was \$3,546,275.00 so, the low bid was right in line with our estimate.

Staff recommends awarding this project to Century Co./Stahly Engineering. We also recommend that all four firms receive the stipend as they submitted responsive Technical Proposals.

Commissioner Jergeson moved to approve the Design Build Conrad-Shelby ADA Upgrades - CMDP STWD (676) CN 9650000 and award all firms the stipend. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 20: Design Build Project – SF 149 S of Stevensville Safety Improvement HSIP 269-1(50)0 CN 8914000

Kevin Christensen presented the Design Build Project – SF 149 S of Stevensville Safety Improvement, HSIP 269-1(50)0 CN 8914000 to the Commission. One thing to note on this project, is this is our first Design Build where we're including right-of-way acquisition and utility moves as part of the proposal. So those activities are included and will be undertaken by the Contractor. That is allowed under our Design Build process. It is significant because it's the first time that we've done it in our 14-year program.

We received two proposal. First Mark/Dowl and Knife River/WGM. The Engineer's Estimate on this project was \$10,504,584. The low bid is within our guidelines. The guideline for award would be \$13,130,731. Again you can see the Technical Proposal scores and the total points representing the best value.

Staff recommends that First Mark/Dowl be awarded this project and that both firms be awarded the stipend as they submitted responsive Technical Proposals.

Commissioner Skelton asked why we decided to include the right-of-way and utilities after 14 years. Kevin Christensen said it is something we've been looking at for a long time and part of the answer to your question is we need to be really comfortable with our process to begin with which we are, we've got a pretty long history with it. This particular project lent itself to that. It's a safety project, it's a widening project. There's a number of different ways to go about accomplishing the goal of the project. If you look at the bids, you can see one was quite a bit higher than the other one. That's because, we loved their design and their idea – they were just going to widen on one side and actually cut into half the roadway. It would have resulted in a much better facility but obviously the cost was higher. That had right-of-way implications as well. So there was a number of ways to approach it and we thought this was an excellent candidate to put in the hands of the Design Build firm to accomplish that right-of-way consistent with what their design was going to be.

Commissioner Hope moved to approve the Design Build SF 149 S of Stevensville Safety Improvement, HSIP 269-1(50)0 CN 8914000 and award all firms the stipend. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 21: Certificates of Completion March & April 2019

Dustin Rouse presented the Certificates of Completion for March & April 2019 to the Commission. We are presenting them for your review and approval. If you have any questions or comments, please feel free to ask.

Commissioner Sansaver moved to approve the Certificates of Completion for March & April 2019. Commissioner Jergeson seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item No. 22: Discussion and Follow-up

Director Mike Tooley

Thank You to the District

Director Tooley thanked the District and Lori for putting together a great tour. I think everybody had a good time. We learned a ton; whether you thought you knew everything or not, there was a lot more to learn. I appreciate everybody's effort on that.

Reorganization of Department

You know Kevin Christensen pretty well; he's been the Construction Engineer for years and has been before you many times, has gone through the bids and asked for your approval. As of Monday, he is the Chief Operating Officer for the Department of Transportation. Pat and I have reorganized the department recently and we split the operation into two pieces. One is basically a support services side which Pat will be in charge of – anything finance, MCS, and aeronautics will be under her purview. Then the Surface Transportation Branch will be under Kevin's jurisdiction which will encompass the Districts, Rail Transit and Planning, Maintenance, and Engineering.

We did this to shorten the chain of command at the Deputy Director level, Pat had sixteen or seventeen direct reports, to foster better communication, quicker reaction, and more focus on the some of the areas. We thought that would be a good move to make. Not that Pat doesn't have anything to do now, she's still got a ton to do but it should be quite a bit easier. So we'll shrink the chain of command there or the span of control. From there, they've both been asked to start looking for efficiencies within their various branches – look for duplications, things that we're doing that we don't need to do, and those types of thing. That also allows that type of focus. The total angle of all of this is to improve the efficiency of not only project delivery but department operations overall. That move occurred Monday. Kevin has a lot to learn, and he admits that. We're excited about this move and look forward to the changes to come.

Goodbye to Kevin McLaury, FHWA

Kevin McLaury is now Deputy Director of Federal Services West. It's actually a lateral move for Kevin – he's moving out of his Division Administrator work for the Montana Division of Federal Highways and he is now assisting the head of the Western States Operations for Federal Highways. It's a big operation, they needed some help, they called Kevin and he answered the call. In the interim we will have Brian Hasselback, and you've met him, he was at our meeting last year in Havre so we're familiar with him. A good substitute for the meantime and over the next several months to a year, you'll see other Federal Highways Administrators come in and fill that role until they pick a permanent replacement for Kevin. I appreciate the work you've done with us for years; you're not gone, you're just different. I kind of added it up, during my time here and most of our term here, Kevin has been responsible for making sure we had about \$2.4 billion of federal funding to do good things with. He's been a good partner and I appreciate working with you.

Appropriations

There's a lot of stuff going on; a lot of it on the federal side. The appropriations side, on the federal government side, the House has marked up their bill and it passed Tuesday. So the House has transmitted the Appropriation Bill and that will honor the FAST ACT funding levels for both highways and transit, both things that you have some jurisdiction over. The Senate hasn't quite gotten there yet. I know they are working on it. We keep in touch with Senator Testor's and Senator Daines's office and they are both very interested in that and the rescission issue. The Senate Committee did put forward a proposal to rescind the rescission this week. The Majority Leader and the Minority Leader have both been contacted by the Chairman of Environment and Public Works Commission to do that – not just the states but AASHTO have been very active in trying to rescind that rescission. That's important to us because if it goes through, Montana will basically lose the ability to use \$70 million in the way that we use it today. That impacts your work and impacts the District's work and everybody's work. Every time we talk to the delegation, that is brought up and I'm praying they do something with it. It's on their radar but those of us who have worked with the Congress long enough know that this isn't an issue until the 11th hour and 59th minute. So we may not see anything until the last second. Then we get to start dealing with reauthorization and the new Transportation Act. We're actively working on that with Lynn and our delegation and also our Five States Coalition and AASHTO. It's all in motion; pretty exciting and very busy times.

Build Grants

Build Grants is another federal operation. Next round applications are due on July 15th. We have put in a grant for a portion of the Billings' Bypass which you toured yesterday. We hope that comes through. The state finally won one – the Toston Bridges. So, we're going to keep that streak alive and win another one; that's our goal. We do support other projects, we've written a letter of support for the Missoula

County Application which is to improve the Mullen Grid System basically on the west side of Missoula and it needs some help. They have put in a Build Grant to improve mobility through that area. We also supported the Billings Inner Belt Loop and Marathon Loop Project. It's not only a vehicular transportation system but the Marathon Loop is a long-time aspiration of folks here that are interested in multi-use paths to complete that Marathon Loop which ironically is about 26 miles long. So we've supported that. The Mayor, last night, thanked me very much for our support but we're still waiting for a letter back from them to support our Billings Bypass. So if you happen to have a chat with anybody that would be great; time is running out.

On the past Build Grants, the agreements for Toston Bridge and the Foy's Lake Interchange in Kalispell are nearing completion and we should be able to start moving on that.

Bike Ped Path

We heard some comments on the Bike Ped Plan, that's the first Bike Ped Plan in the State. We're pretty excited about that and the thing to keep in mind, is that it is a foundation and a framework to start from; this isn't the end, it's the beginning. So, we're evolving and as we move forward on that, I think you need to remember that we're in an area of progress and certainly not perfection. We received a lot of comments on it. They are good comments and we do take those into consideration. I think if you want to consider the Bike Ped Plan and the comments from that, again that's a foundation. Really if you look around the State to see who has been successful in instituting some of these issues into construction projects, it's those that work early with the local government, who then work with the district, and it's a partnership then between local government, the district, and the State as well as the stakeholders. Billings is an incredible example of that.

We have a very good relationship here with Trailnet and they've developed a pretty extensive system of trails here using some of our right-of-way, not a lot of our funding, but when we can invest we will and we do but in the meantime if they have the ability to construct, we try and accommodate that within our policy. They are very good with working with the department on that. In the Missoula District there is a reason why the majority of miles of shared-use paths are in the Missoula District. It's a long-term partnership between local governments and the department with the input of stakeholders. So you've got the framework, you've got the foundation for the State on how we approach these projects but still you have great examples of things you can grab from partnerships in two districts that we should all start paying attention to.

Some of the comments were "consider a multi-use path on all projects" which Lynn stated that we do. The problem is that sometimes when we consider a four-foot shoulder to be accommodating of bicyclists and pedestrians, some of the local stakeholders do not and then we don't have the ability to acquire the extra right-of-way to put in a multi-use path. I'm the Dad of six and the Grandfather of nine and I guarantee you I would not want to see my child riding on a four-foot shoulder on a Montana State Highway, period. So I get that. So, what we look for when we look for those investments on multi-use paths are within three miles of those types of basically an urban environment that would connect to things that people would go to. Otherwise, we do consider cyclists and pedestrians in all of our new construction projects and we will continue to do so and even more so now that we have a framework under the Bike Ped Plan. At one point, Adventure Cycling was pushing me pretty hard for four-foot shoulders on all of the routes that they have on their map. I asked engineering what it would take and it was \$1.2 billion. So, I think we all understand the resource constraints and the gigantic state we have and the small amount of taxpayers we have. Again, this is something that is on the department's radar and will remain on it for quite some time. We're moving forward but not as fast as I or anybody else would like.

Lynn said we're fortunate in Montana with our state laws that non-motorized is allowed on all our public roads and not all states do that. As we approach any project we consider non-motorized. Director Tooley said we consider that and they are welcome on all our roadways although, as a cyclist myself, would not ride on all our roadways. There are some that I won't. I've ridden in Chicago and Boston and frankly I feel more comfortable there than I do some of our routes. So, I get it. One of the things in the future that the department and maybe the stakeholders should talk about is approaching the Legislature and getting them on board with this because if you look at the constitutional restriction on the state fuel tax money, it clearly spells out highway maintenance and construction. So it's kind of hard to take some of those dollars and put them toward some of these projects that we would like to. We also don't have the ability to condemn land for a shared-use path; it has to be for highways. So, we can't get to the necessity argument should we go to condemnation on some of these projects, so we're hampered by state law and a constitutional restriction on funding. That leaves us with non-restrictive funding which is the source we typically use to help match some of these projects. That portion of our fund is extremely stretched. During the Special Session after 2017, that fund was swept for \$8 million. That is paid for out of truck permits and fees and some reimbursements from local government for projects. That is basically a fund that we can use to do some of the other projects. That was swept and currently, unless things turn around, shows a deficit within the next biennium. So we have to manage that pretty closely. I get it but it's just not easy. If it were easy, it would be done now. But we're still excited to move forward.

STIP

We received about two dozen comments. We received comments from Bike Walk, again reminding us to keep in mind bike ped accommodations on all the projects. Folks want an on-line searchable project map which you know we are close to rolling out. We met this week and the show-stopper was ADA, the colors and fonts and those type of things, but I think we've gotten past that and pretty soon it should be on a tab on our main website. There are 900+ projects that you can search through, when that comes up and it gives you a pretty high level – it tells you where it is, what it is, and a very early cost. I'll put the asterisk in there now! It could be anywhere from \$5 to \$6 billion. It's pretty broad in how that is but it's got to be at that point of project development because if you try and drill down, literally you drill down and there will be a gigantic rock that you need a change order for. I think we all understand that now. It will be there and it should help you and it will help the public understand more of what we're doing. Frankly, they can't read the STIP and neither can I. So hopefully we'll do something that is a little more transparent.

Urban Funding

We still need to discuss that a little bit more. Probably after some kind of action on the rescission, we would like to really get into the weeds a little bit more. Maybe if we put it on the Agenda for August on exactly what that is, what borrow means, etc., so we have a better understanding of why the department and the Commission have done what they've done for so many years. I think we need to understand that. It's an under-funded portion of our program just like all the rest, so we need to be careful and I'd like to have a longer discussion.

West Reserve in Kalispell

Commissioner Fisher is very informed on this. We have a community request to designate the route as a Primary Highway System Route. The request was made right as we started to look at our statewide functional classification, which is underway right now and should be complete within the next year. Redesignating that route from what it is now to a Primary is probably going to occur; I'd be surprised if it

didn't. Again, what the misunderstanding will be is that it doesn't guarantee you get a project and it doesn't guarantee that if you do get a project that it's going to occur right away. I think if you look at West Reserve now and if you look at the needs on that corridor, if you just stuck with urban funding, it would probably take them 40 years to save up the money to complete the route the way it should be between Hwy 93 and Hwy 2. If you move it into the Primary System, then you've put it in a deeper pool with a lot more projects. Sure, it could speed it up to 10 years if you're really lucky and all the stars align but I think the expectation of some may be that if it gets redesignated to a Primary, it moves to the front of the line and gets funded and built right away. So, we as a department and probably the Commission, will have to start managing those expectations when that change occurs and I believe it will. If you've ever been on it, you know there's issues. My report can always be "we know" and leave it at that.

Huntley Project Speed Request

Yesterday at the ribbon cutting, I was handed a note from the Sheriff of Yellowstone County about a request to reduce the speed limit out by Huntley Project on 312. This constituent has had two fatality accidents basically right at the point of her driveway in the past two years and wants something done about that. So, I'll give this to the district but you'll probably see it again. I think Rod and the district can work with the Sheriff to go through the Commission to get the process underway. It is quite a shocking issue and I'll turn it over to the district. I wanted you to be aware that I did receive that communication and will react to it.

Commissioner Skelton told Kevin he would be missed and good luck on your next endeavor and all the airplane time you'll get to spend. You'll get to read lots of books. Kevin, congratulations. We know you'll do well and we look forward to working with you in this role. Doug, thank you again for coming and representing Bike Walk Montana, we appreciate your comments and concerns. We hope to continue to support you as well as we can.

Informational Item for Commission

Kevin Christensen said this informational item for the Commission are the Change Orders, Liquidated Damage and the Letting List. You can look through those and if you have any questions, let me know. They do not require Commission action.

Commissioner Jergeson asked about the Galata East and West Change Order. Is that from the severe weather last year that delayed the completion of the project and we're giving them another \$93,000. At what point do we start saying ... I've got a lot of constituents and I know the tourists on their way to Glacier Park are not happy campers. I haven't been on it lately, but to hear some of the horror stories, it is greatly improved from what it was all winter long. What's going on? When are they going to be subject to the liquidated damages for not getting their act together and getting that thing done? Kevin Christensen said we are holding them to contract time but I don't know the specifics of where they are at with that. I do know that they mobilized and they should be paving as we speak. I believe you're aware of the eagle nest issue – so there is one to two miles that we cannot pave until the eagle's offspring fledge and leave the nest and I don't have a date for that. I believe it's August. I can get that information for you. In terms of contract time, we're holding them to contract time but this eagle nest thing is going to cost the contractor money because they have other places to be and if they get everything paved except for that section, we can't expect them to hold all their resources there waiting. So there will be some additional costs for them to remobilize onto the project to finish the paving. I can actually drill down tomorrow morning and get you more specific on that job. Commissioner Jergeson that is the only thing I've been asked about lately, so it would be nice to have as much current information as I can get. Kevin Christensen said I'll

make sure that either Rich Hill or I give you a call tomorrow. Rich is the District Construction Engineer and I'm sure he's been hearing the complaints too. We went all winter without having that thing covered up. For what it's worth, you end up with a much better road if you allow that and it used to be our practice to get everything built up to gravel and let traffic run on it all winter long and it really does result in a better quality product. I know the public, these days, doesn't have a lot of patience with that. At any rate I'll have Rick or myself give you a call tomorrow.

Dustin Rouse pointed out that the Letting List was from June 13th through the October 24th Letting. The two lettings in October now include the projects that we discussed in the last TCP meeting. When we went through the TCP meeting last year, you also approved redistribution projects on a separate sheet. So we worked with the districts and selected projects out of that list that coincide approximately what we're estimating we will receive with redistribution. So you'll see a lot more projects showing in the two October lettings, but that is totally dependent on what we received in redistribution. We have to include them in there so that our staff can start preparing and be ready to let them should we receive the redistribution funds.

Commissioner Jergeson asked about Loman East and West. It says here advertising. So from the time it's advertised, when do they submit the bids? I've been telling people the bid letting award will be September 19th. Dustin Rouse said the letting is September 5th. That is actually when they will open the bids. We advertised out to the contractors on August 8th. That is when the contractors will see the advertising for the projects themselves. So they have about a month to prepare.

Next Commission Meeting

The next Commission Conference Calls were scheduled for July 23, 2019 and August 27, 2019. The next Commission Meeting was scheduled for August 29, 2019.

Adjourned

Meeting Adjourned

Commissioner Skelton, Chairman
Montana Transportation Commission

Mike Tooley, Director
Montana Department of Transportation

Lori K. Ryan, Secretary
Montana Transportation Commission