

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Governor Brian Sandoval
Lieutenant Governor Brian Krolicki
Controller Kim Wallin
Frank Martin
Tom Skancke
Len Savage
Tom Fransway
Rudy Malfabon
Bill Hoffman
Dennis Gallagher

Sandoval: Good morning, ladies and gentlemen. I will call the Department of Transportation Board of Directors meeting to order. Can you hear us loud and clear in Las Vegas?

Wallin: Yes, we can, Governor. Good morning.

Sandoval: Good morning. We'll proceed with Agenda Item No. 1, which is the presentation of retirement plaques to 25-plus year employees. Mr. Director.

Malfabon: Thank you, Governor. As has been the trend lately, a lot of retirements unfortunately, but we're grateful for the years of service for all the employees to NDOT and to the State of Nevada. I'm going to go ahead and read off the names and then invite those that are present to come up for a photo opportunity with the Board members that are present here in Carson City.

First on the list is, as many of you know, Rick Nelson, Assistant Director of Operations recently retired with 30 years of service. Tom Greco, another assistant director for Planning and Program Development retired with 27 years of service. Jeff Dodge, Maintenance Management Coordinator II, 33 years of service. Michael Sortor, Highway Maintenance Worker III, 26 years of service. Andrew Rodriguez, Highway Maintenance Supervisor II, 31 years of service. Janet Peters, Transportation Technician IV, 26 years. Loretta Capurro, Staff II Associate Engineer in our Construction Division, 28 years of service. Jim Ceragioli, Supervisor III and Associate Engineer in Safety, 27 years. Darrell Hylton, Highway Maintenance Supervisor I, 26

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

years of service. And last but not least, Trudy Quong, Supply Technician II, 25 years of service. And I would like the audience and Board just to join me in a round of applause for those (inaudible).

I saw Rick Nelson earlier today. Are there any others that I had mentioned on the retiree list? And, Governor, I wanted to mention that Tom Fransway has joined in on the telephone, so...

Sandoval: Yeah. Tom, can you hear us clearly?

Fransway: Governor, no, you're breaking up real bad. It's just off and on.

Malfabon: We'll try to talk louder.

Sandoval: Is this better, Tom?

Fransway: Can you hear me okay?

Sandoval: I can hear you perfectly. Can you hear me now?

Fransway: Yes, better now.

Sandoval: Okay. Well, I'll just ask each of the members to speak very close to the microphone for the benefit of Member Fransway.

Fransway: Thank you, Governor. Thank you, members.

Malfabon: If we could--perhaps, Governor, if I could also do the awards and that way the Board members wouldn't be inconvenienced by having to come up twice, and I'm going to have Rick come up at one time. The awards this quarter, the TRPA gave us the Best in the Basin Award for the U.S. 50--Highway 50 Spooner Summit Wall north of Glenbrook. TRPA recognizes projects that demonstrate exceptional planning, design, and overall compatibility with the Lake Tahoe environment. NDOT was presented for the award for their innovative reinforcement soil slope treatment technique that provides a more natural look, promotes infiltration, reduces pollutants, improves safety, and reduces maintenance.

The project is part of NDOT's dedication to helping to preserve the Lake Tahoe environment, not only meet the TRPA's requirements for beauty and environmental sensitivity, but NDOT's requirements for strength, stability, and durability as well. So when we present the award to those, if we could

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

have just waiting in the wings here, Matt Nussbaumer and John Angel, if they're here. John was the resident engineer. Granite Construction did the construction project for us on that one, and Mat Nussbaumer works in our hydraulics division.

And we also won these nice awards here that look like Oscars practically. They're called the Telly Award, and it's a national award. NDOT and the Nevada Department of Public Safety--I'm glad to see our director from DPS here--jointly won three bronze Telly Awards for outstanding public service TV messages--public service announcements. So the Zero Fatalities traffic safety campaign PSA won in the commercial public service category. Telly Awards are the communication industry's most prestigious awards honoring film, video, online productions, and TV commercials. This year, more than 12,000 were submitted from every state and across five continents.

And what I wanted to mention that this was also in partnership with our consultants, Penna Powers, Brian Haynes. They're doing a very good job for us, very professionally produced materials for our Zero Fatalities campaign. And the ones that they honored were the You're Dead TV spot and the Walking Wife. You recall, Governor and Board members, the Walking Wife where it just makes people think about that that is a loved one, that is a person that someone cares about that's walking or biking, and we have to watch out for them as we're driving down the road, to watch out for people that are more susceptible to injury when they're in those crashes with vehicles. So congratulations to that group. And I'd like to also call out Meg Ragonese from our Communications Office, Jaime Tadeo and Traci Pearl from the Office of Traffic Safety to be waiting in the wings for that photo opportunity.

Sandoval: And before you move on, Rudy, I thought one of those was for the marker face.

Malfabon: Yes, where's the--

Sandoval: We have three of those. And for those regulars that are at this meeting, the marker face was the subject of some discussion and wondering. And us old-timers--yeah, now you remember, Rudy.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Malfabon: Yes. Well, I was laughing because Director Wright even told me that he didn't get it, so...
- Sandoval: And one of the explanations was that it really reached out to a younger demographic. And it turns out that that's exactly what it did, and was very well done, and it's really a pleasure to see those awards. So I just wanted to say that, because I stand corrected...
- Malfabon: Yes. Thank you, Governor.
- Sandoval: ...and I'm glad it worked out really well.
- Malfabon: And Traci Pearl just mentioned that Director Wright, on behalf of DPS, won the Davey Award, which is even a higher award in that recognition. And last but not least, we're going to honor Julie Duewel. Each year, AASHTO has Faces of Transportation Award for photographs that show transportation projects, and she had a photograph of the Tahoe Shared Use Bike Path. And one of the things that AASHTO tries to do is to show not only construction projects, but how transportation affects people, whether it's workers on the job or the public. And she took a photograph during the dedication ceremony for the second segment of the State Line to State Line Bikeway Path project that was selected by AASHTO for that Faces of Transportation competition. And I think it's Julie's second time that--at least the second time that she's been honored.
- So if we could, we'll first start with photo opportunities for...
- Sandoval: Do you have the photograph, Rudy?
- Malfabon: Yes. Here's the photograph. This is--is this the actual photograph, Julie?
- Sandoval: Will you pass it around?
- Malfabon: We'll first start with the retirements and have Rick Nelson's photo opportunity and then I'll call up the names of the folks and have the awards kind of shown for the benefit of the Board members and the public, so...
- Sandoval: No, on behalf of the Board and everyone, I'm sure, in Las Vegas, we want to thank you, Rick, for your many, many years of service and (inaudible).
- Nelson: Thank you.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Malfabon: Governor, that concludes Items No. 1 and 2. If you'd like, I can continue on to the Director's Report.

Sandoval: Yes, please proceed with the Director's Report.

Malfabon: Okay. Obviously, what's been huge in the news is the efforts of NDOT in addressing a couple of instances of flooding on I-15 north of Las Vegas. Amazing amount of rainfall occurred coincidentally the last Board meeting date that we had, so that afternoon into the night huge amounts of rainfall. And that rain had to go from--it was coming from the Virgin River Gorge. I don't know if any of you saw those YouTube videos of waterfalls in that gorge. That water came all the way down past Mesquite into that Overton/Logandale area, Moapa and just inundated the freeway, overwhelmed our flood control system. And I don't know what kind of system that you would have had in place to handle this much water, but it was an amazing amount of water that came through there and devastated the freeway. Next slide, please.

So over four inches of rain in an hour, and then we had to close that. Luckily, we--Governor, you acted quickly and issued that emergency declaration, and made us eligible to receive the federal funding. I'm grateful to our federal partners from Federal Highway Administration. They're not present today, because it is a federal holiday, Columbus Day. But I wanted to thank them for their efforts in assisting us. And because we had Las Vegas Paving actively working on a construction project, they were able to do the repair work by a change order. So we had, by the end of the week--that was on a Monday night the rain was hitting very hard. By Friday afternoon, we had one lane each direction open on I-15 and then about a week later we had all lanes open. Then we had another flood event towards the end of September, north of the previous area that had washed out. So we did an emergency contract, because that was not an active construction contract. Las Vegas Paving did win the bid and, again, the federal partners, FHWA, is providing the emergency repair funds for that, so we appreciate the efforts. Next slide, please.

Definitely, Mary Martini did an awesome job, along with her staff and Maintenance and Construction. I-15 was not the only road that was affected. Several state routes were affected and had to be repaired quickly. That detour--just working with the Nevada Trucking Association, Paul

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Enos, we received some information about how long were the delays to commercial vehicles. And on average, just that five-hour delay for that many trucks going there, at an average cost delay of about \$67 per hour per researchers, that's about a \$2 million a day delay just for the cost to commercial vehicles, let alone to the other traffic that had to go that route and the delay time that they had to go through.

So I wanted to also say that the support divisions at NDOT did a great job, and the public information staff--all the staff were just inundated with phone calls, with Tweets, with Facebook posts and they did a great job at addressing those. And I wanted to extend my appreciation to all of NDOT that was affected by that flood and that really were responsive and responsible in getting that road back open to traffic. So a round of applause, please, to those folks at NDOT.

And our Communication staff did a great production of a video that we're not going to show today, but it's about a six-minute long video. But, it really gave the back story of what happened and what we did to be responsive to the needs of the public to repair that section of I-15. And you can probably just change the dates and it was the same thing again just a few weeks later unfortunately. But I just wanted to highlight that...

Sandoval: Do you that today, Rudy, that video?

Malfabon: I don't, but we can show it towards the end, Governor. It's about a...

Sandoval: Yes.

Malfabon: ...it was very well-produced.

Sandoval: We don't have to watch the whole thing, but I'd love to see a part of it, just to see the before and after.

Malfabon: Mm-hmm. Sure. Next slide, please. A dryer subject, federal funding. I couldn't help myself. Sorry. So I had reported previously that the transportation bill, MAP-21, was extended through the end of May next year, and a continuing resolution was passed so the budget appropriations was approved through December 11th. Now, when they...

Skanche: Rudy...

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Malfabon: Yes.

Skancke: ...can I interrupt just for the--I don't know if this requires a motion, Governor, but this is actually your first joke...

Malfabon: Was it?

Skancke: ...and it was well-placed.

Malfabon: Thank you, Tom. So the continuing resolution, also called a CR, it was--gives us our federal funding through December 11th. So further action is obviously going to be needed to get through the rest of the federal fiscal year, but we'll receive about \$64.5 million through the rest of--through December 11th. That's proportional of what the obligation authority is that Nevada receives for the federal fiscal year for that period of time through December 11th. And typically, in that last quarter of our calendar year, that's when we convert for the bond payments that we've been making, the debt service for the bonds. So it is timely that we do receive that funding to keep the highway trust--or state highway fund healthy. Next slide, please.

Another good story was that our folks in Financial Management do a great job of looking for opportunities to receive additional obligation authority. The only way to do that is to make sure that we've got all our projects out on schedule and that we're obligating all the federal funds that we receive. So there's two opportunities, August redistribution which happens earlier than last day funds right at the end of the federal fiscal year, September 30th. So we received about \$11.1 million in August redistribution, and we didn't receive any last day funds, but that's typically been the trend in the last three or four years. They're not as available as they were in years past. But you can see from that last point on that slide that we've received over \$135 million in the last 11 years from our Financial Management staff doing their work in obtaining other states' obligation authority that's not spent. Next slide, please.

Update on Project NEON. Our staff--we're a week ahead of schedule on issuing the request for qualifications. That was issued September 24th, and we had an industry day with interested parties. About 77 people in attendance there including the NDOT staff. But the bulk of those people in attendance were interested parties, contractors, engineering firms, different

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

subconsultants and subcontractors attended that. So the request for qualification responses are due November 20th, and I'm scheduled this month, October 22nd, to give an update to the Interim Finance Committee. We did present to Senator Smith and others from LCB, Northern Nevada legislators that were available. A few weeks ago, Robert Nellis was able to give that briefing. We've also reached out to Speaker Kirkpatrick to do the same in advance of the October 22nd IFC in Southern Nevada, depending on their availability. Next slide.

Here's the procurement timeline. You can see that the statement of qualifications are due in November, and then we'll have a shortlist announce early next year, issue the draft RFP as soon as that's done, and the final RFP sometime around March of 2015, with the proposal due date in the early part of July. And the selection would be approved by the Board around September, after we--it takes a lot of effort to--for the technical staff to go through those proposals. Those proposals are combined with the technical score with the price, I think 60% price, 40% technical score. And then the Board would approve the award of that project towards the--about a year from now, and then we'd be on our way with construction in 2016 for several years. Next slide.

Regarding the right-of-way budget. We have expended about \$12 million of that \$100 million bond proceeds for right-of-way and a lot of offers are going to be going out shortly to property owners. We've had discussions with Board members about concerns with the right-of-way budget, but we agreed that we would keep everybody informed of the status. Cole Mortensen, our project manager, will give quarterly updates with more detail and I'll cover them as needed on the Director's updates on a monthly basis. So discuss legal cases and settlements with Board members ahead of time so that even before Board of Examiners approval of settlements that the Board is more aware of what's happening, how we're doing on the budget, and that we are mitigating some of those right-of-way risks. Next slide.

What we're doing to mitigating those risks, we have Laura Fitzsimmons on hand to assist us with strategic direction, working with our right-of-way staff, our legal folks from the Attorney General's Office, and outside counsel. The outside counsel doesn't--other outside counsel doesn't attend the strategic meeting, but they receive the direction that we discuss amongst

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

ourselves in those biweekly discussions. And we're also developing new management tools to better anticipate what the right-of-way estimates should be as they become revised, as we get new appraisals in or we see sales occurring in that area of Las Vegas that we can adjust our estimates and revise our processes if necessary. As we've stated in the past, we've got our processes established in our right-of-way manual, which is approved by the Federal Highway Administration and it follows the Uniform Relocation Act, a federal law for us acquiring the right-of-way through--it's going to be federally reimbursed. And we think that we're fair in that process, but our process has not been revised in--I think that with PISTOL being enacted and eminent domain law in Nevada, and we see court cases ruling certain ways, we need to probably look at our processes so we can be more timely and effective at managing our right-of-way acquisition process.

We also are selective on settlements. We'll go to court where appropriate, and in some cases where we feel that we've received a bad judgment that we can't accept, we'll appeal to the Nevada State Supreme Court where appropriate, and stay on top of eminent domain cases where other public agencies are facing the same challenge of dealing with this era of new eminent domain law changes in Nevada since PISTOL was enacted in our state constitution. Next slide.

Update on I-11. The RTC of Southern Nevada has their Phase 2 design-build project proposals are due on October 16th. Both NDOT's Phase 1 project and RTC's Phase 2 project are covered under the environmental impact statement for the entire project. So we're doing the reevaluation of that environmental document for naturally occurring asbestos with a public meeting scheduled for October 21st in Boulder City. As I've stated in the past, we've not seen any test results that are of major concern for us that are going to cause major delays to the project, but we have to go through this process to inform the public what we're going to be doing on our project. And then, the construction project will advertise October 29th for the NDOT first phase for a seven-week period. RTC of Southern Nevada will select their design builder on December 11th during their RTC Board meeting. So it's prior to our bid opening expected on December 18th. Governor, do you have a question?

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Sandoval: I do. Will there be an element of consideration to use the same contractor on both projects or is that (inaudible)?

Malfabon: The RTC will select theirs first and they're going to do it similar to ours based on price and technical proposal, so a combination of those two factors. Ours is going to be a design-bid build, so low bid will win, but most likely, that will affect economies of scale on the bidders, so that if a week prior the successful firm design-build team, that contractor that's on that team might lower their price just because they don't have to charge NDOT for the mobilization to come in because they've already recouped--anticipated to recoup it on the RTC project. Next slide, please.

Update on others. Governor, we appreciated you coming down there for the celebration on September 19th for the I-15 Cactus Interchange project. Two months ahead of schedule, so great work by our contractor, Las Vegas Paving and our contract management folks. Sami Yousuf was the RE on that project. And up here in Northern Nevada, Mt. Rose Highway, a great job by Granite Construction on finishing that. You recall that they were looking at ways to try to finish it in one season, and they did their best to do it, and they accomplished that feat very well, good quality work. So that paving is completed. And to do it in the midst of some of these special events up here in Northern Nevada that are week in, week out, I think that they did a great job.

Kingsbury Construction Manager at Risk project, full closures ended October 7th, and we're substantially completed on that project. Again, a very successful project. I see Pedro in the audience. Good job, Pedro, managing that project along with John Angel and the construction side for NDOT. And Q&D did a great job for us on that project, as well as the I-80 Carlin Tunnels Construction Manager at Risk, Q&D substantially completed that one recently.

Sandoval: Yeah. Another question, Rudy. Thank you and I apologize for interrupting.

Malfabon: No problem.

Sandoval: But in a previous meeting, Member Martin had asked about change order requests on the Kingsbury project, and you were going to provide that to the Board.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Malfabon: Pedro, could you come up and address that? Thank you.
- Rodriguez: For the record, Pedro Rodriguez, NDOT Project Manager. We only have one change order request for the Kingsbury project is a no-cost change to add the Buy America clause into the specifications.
- Malfabon: Very good.
- Sandoval: Frank, did you have any additional follow up?
- Martin: No, sir. And thank you for the follow up. I had that on my list of stuff. But that's all I wanted to know. Thanks.
- Malfabon: Thank you, Governor.
- Savage: One moment, Governor and Mr. Director. I too would like to compliment both the contractor and the NDOT staff on a very challenging project, both at Kingsbury and Mt. Rose. And I think it was very complimentary to the contractor and NDOT staff. So I--much appreciation and congratulations.
- Malfabon: Thank you, Member Savage. On other updates, next slide, please.
- Krolicki: Excuse me, Rudy...
- Malfabon: Yes.
- Krolicki: ... again. I'm sorry.
- Malfabon: Lieutenant Governor.
- Krolicki: If this is the time to say congratulations and thank you. As someone who resides off of Kingsbury Grade, a project that could have been quite devastating for the community, was just done impeccably well. So, again, I just want to say thank you to NDOT and our folks at Q&D for executing that so well.
- Malfabon: Thank you. Next slide, please. Recently started the repaving of U.S. 50, near Mound House and the safety improvements. We'll be continuing those paving operations through 2015, to complete that project. And, I wanted to mention that we're very well aware, as I'm sure Director Wright is aware of these wild horse hits on U.S. 50, an unfortunate fatality involving a motorcyclist recently. So, NDOT is going to investigate the possibility of a

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

speed limit reduction. We've discussed before how we go about establishing speed limits, but I know that our assistant director of Engineering and chief engineer, John Terry, has been looking into other states and their policies to see how they address these types of issues, because we have a certain procedure of looking at the 85th percentile of drivers are driving so--at what they consider a safe speed limit. But in some cases, these factors should be also considered, such as if there's wild horses getting into the right-of-way, causing some safety concerns, then we should consider that as well.

So, John Terry and his staff will continue to look into the possibility of a speed limit study in that section and possibility of reduction, and also look at right-of-way fencing options. He's had his staff already looking into the cost of that. One of the concerns is that wild horses, which have been the issue out there, might still get into the right-of-way through the multitude of driveways and approaches that would be breaks in that fencing. So once a horse gets in there they might be unable to find where to get out, so they might be trapped in there. So, that's a concern with that, but we can at least investigate what the options are and how much the costs are to do that. Next slide.

We recently started the concrete paving rehabilitation contract up here in Reno. You can see some of the work has started on that section from Glendale down to Moana on the concrete paving. And the south parking lot will be repaved over three consecutive weekends here in Carson City, so they'll not affect the Department of Motor Vehicles and NDOT with our employees and customers using that parking area during the week. So that work will happen on weekends. We have street completion on I-15, which we've been doing jointly with the City of Las Vegas. The City of Las Vegas has taken the lead on coordinating about a mid-November media event. They're planning on doing it on the evening or the weekend so they don't affect the project during the day. But we're pleased to see that that project is wrapping up. The community is very pleased with the aesthetics that have been implemented on that project that's just wrapping up, and hopefully we'll get that event scheduled shortly. Next slide.

I wanted to make the Board aware of a recent bid protest on Contract No. 3577, repaving of U.S. 95 north of Las Vegas. And it had to do with an NRS change related to listing of 1% and 5% subs. In the case of this

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

project, we determined that we actually had received that information, so it was a duplicate form that was required. But, because we used electronic bidding on this, and the contractor did provide the information in the time frame that we required, but there was an additional form that was paper form that was trying to comply with this NRS. But we discussed it with legal; they determined that it was a technicality, because we did receive the information. The legislative intent here is that the contractor list those subs so that there's no bid shopping after the fact, and it's within two hours of receipt of those bids.

Since we received that information, it didn't make sense to reject the bids on a technicality, so we determined that the bid was acceptable. But the bid protest is saying that, no, you shouldn't have accepted that because that form came in a little bit later than it--the paper form came in a little bit later. But, we did receive the information in a timely manner, in our opinion. It'll be up to the contractor now that we formally rejected the bid protest, to determine if they want to take that to court. So they have recourse if they so choose. Next slide.

An update on the operational audit. We made revisions based on comments received. And I wanted to thank Controller Wallin for offering one of her staff to participate on the selection panel. And we'll release that RFP this month. And in consideration of the holidays coming up, we probably won't have the selection finished until December, and then we'll start work on that operational audit in the first quarter of 2015. And the Board will approve the contract of the selected firm or the team that's going to do this operational audit for NDOT. Next slide.

Upcoming meetings. We have the I-11 Boulder City Bypass environmental reevaluation for naturally occurring asbestos, which I mentioned, October 21st in Boulder City. USA Parkway, the environmental study, so the draft was approved by the Federal Highway Administration, but this is--following the process, we have to have the public meeting on November 5th to approve the--is a step in approving the final environmental document, the environmental assessment for that project. And you'll have a presentation on digital outdoor advertising billboards coming up, but we'll schedule those public meetings for Southern and Northern Nevada on that issue. Next slide.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Recent settlements. The Board of Examiners did approve the Railroad Pass Casino settlement, which is contained in your Board packet. Coming up tomorrow at Board of Examiners is the Peek Construction claim, which Travelers was the surety on that, so we were dealing with Travelers on this settlement, and so we settled for about \$1.6 million. But we also agree that there was uncontested amounts of money that--such as we were withholding the retention that the contractor was due. So net total to NDOT is nearly \$1.5 million on--and this involved three different construction contracts. So Board of Examiners will consider this one tomorrow. Jenkins is a parcel related to Project NEON, \$1.6 million. And City of L.A. was a property owner on Boulder City Bypass Phase 1 and NDOT's project right next to the railroad track there in Henderson, and that's a proposed settlement of \$343,500. And that's going to the Board of Examiners tomorrow as well. With that, available to answer any questions from the Board members.

Sandoval: Thank you, Director. One question for me is the status of the EPA situation up at Tahoe and the hiring of the engineer positions and such.

Malfabon: Yes. We have interviews set up for the--we've hired positions for storm water management in the districts. They're going to work directly for Headquarters Environmental Division, but they're located in the district so they can manage our maintenance and construction operations. And those interviews are scheduled--we actually hired one in each area, so Reno, Elko, and Las Vegas. We have one position--we added additional positions in each one of those areas, so those interviews are for the additional positions. We also staffed up here in headquarters. And the U.S. EPA attorney had reached out to your chief counsel to schedule that meeting with NDOT and Nevada Division of Environmental Protection, NDEP. So we'll have that by the end of the month. But, good news was that they're indicating that they're not looking at a fine to the Department of Transportation or State of Nevada. They're looking at discussions. And we can show them, when we meet later this month, that we are accelerating those efforts by our consultant. We're hiring the staff. We're really working with my deputy director, Bill Hoffman, and leading the charge here to change our culture in storm water management.

Sandoval: Thank you. And I'm going to take questions from Board members. I'll start in Southern Nevada. I understand Member Martin has some questions.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Martin: Yes, sir. Rudy, on the settlement with--on the Peek deal, I just did a rough calculation on the last--one of the last exhibits in today's Agenda. It's Page 244 or 245. Right now, to date, the way it looks, we've spent \$1,495,000 on legal to settle that, and we coincidentally got \$1,497,000 back from Peek. So really, we're not talking--we're talking about a net zero and we're not done, because they see there's another \$138,000 in legal fees being asked for today, for Snell and Wilmer on this very same case.
- Malfabon: Member Martin, I'm going to have--unfortunately, we--I've got the information here. We could share it with you what's going to Board of Examiners. But this was one that we did use Snell and Wilmer, very capable outside counsel to negotiate with Travelers on this. We felt that it was a fair settlement for the state considering that there were upwards of \$4 million, I think, in costs that they were alleging that we owed them. So all in all, you have to consider what they were saying we owed them, what we felt they owed us on these three construction contracts, and definitely was a complicated issue, but we felt that it was a fair and equitable settlement. I don't know if Dennis Gallagher, our chief counsel, has any additional...
- Martin: Rudy, please don't misunderstand me. I wasn't pointing fingers or anything. I just wanted the Board to know what the overall cost of this legal stuff is, and why we get a settlement and that's great, because it's \$1.5 million we didn't have before. We still spend \$1.5 to get it. And so, we really ended up at net zero. And you're right, we did possibly eliminate some liability on the end through good negotiations and good legal work. These things--my overall point, and we've talked about this in the CWG, is we need to take measures in the beginning--and I tried to do that six years ago--five years ago. We need to take measures to keep ourselves out of court, because there is never a winner when we go to court.
- Malfabon: Well-said, Member Martin. I know that legal--outside counsel legal costs are very expensive and we definitely want to manage that well. I think that Snell and Wilmer did some great work for us, but we have to be cognizant of how much that effort costs, when we're paying outside counsel.
- Sandoval: Do we ever--I know we've had this conversation, but do we go through the bills and make sure that--and, again, I'm not trying to suggest anything, but these are huge legal bills. And my recollection of the conversation is that we had left money there in the event that this had gone to trial. And since

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

it's settled, we didn't think we were going to have spend it, but we ended up spending it anyway.

Gallagher: Governor, for the record Dennis Gallagher, Counsel to the Board. Every invoice from every outside law firm consultant under contract, is reviewed by a deputy who has to sign off on it before it's routed for payment. And I'll point out that I believe the figure that's reflected in today's package was the amount that the Board approved last month. So now, it's reflected as--since it was approved, it's now on the spreadsheet. So it's not additional monies. It's what was approved last month, and I do believe that we've received the last invoice on this and it should drop off the report either next month or the month after that.

Sandoval: It is--and I--it's been a while since I've been in private practice, but do we get any kind of volume discount?

Gallagher: We negotiate the rates with each individual law firm. Do we get a volume discount? Not in these construction cases because, pardon me, but knock on wood, we don't have that many construction-related cases. We do get volume discounts in some of our other cases such as the condemnation cases.

Sandoval: Okay. Thank you. Member Martin, do you have additional questions?

Martin: No, Governor. Thank you.

Sandoval: Other questions from Southern Nevada?

Malfabon: Governor, we do have the video loaded, so if you would like we could show it right now for the I-15 event (inaudible).

Sandoval: Why don't we--what I'll do is go through the questions before your...

Malfabon: Okay.

Sandoval: ...presentation, and then we'll go to the video.

Malfabon: Great.

Sandoval: Member Savage.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Savage: Thank you, Governor. And to follow up on the Governor's concern and Member Martin's concern, not so recently--I mean, I'm sorry, recently Tracy Larkin and a couple district engineers met with myself and it's a very high level concern on these legal costs. So we're going to talk about job costing appropriately, in order to defend the Department and the state to mitigate the legal expenses if we start seeing a project of sort going in the wrong direction. So we'll play a little more defense, I think, from the construction-job-costing perspective, and understanding that the goal here is to put the pavement on the roads, rather than spend it towards legal costs. So I think we'll work towards that, Governor, and thank you.

Sandoval: Thank you. Other questions from Board members, on the Director's Report? Member Skancke.

Skancke: Thank you. Thank you, Governor. I just have a couple of comments. One, first of all, Rudy, you and your team on I-15 and, Governor, for declaring the emergency, superb job. And I'd also like to congratulate and thank Las Vegas Paving for quick response. As everyone knows, that's the lifeline to Southern Nevada's economy, and the fast response of getting that done, I think, is a true definition of what a public-private partnership really is. That's where the private sector and the public sector come together to make that happen. So congratulations, and thank you for that hard work.

On the redistribution again, congratulations. I know exactly what that process looks like. And I don't think that should go unrecognized by the Board and the public of what that means to our state and that we do that well on a regular basis. And that accumulation over the past 11 years is just hard work by your team getting projects out so that we can get more money when that redistribution happens. And that's just being prepared and getting work done. Again, Project NEON being a month ahead of schedule, bravo. I mean this is the type of thing that the public needs to hear where one month actually saves money. We're criticized if we're two months late, but we don't get the kudos if we're one month early or a week early.

So--same thing on the Cactus Interchange, I mean finishing projects early saves the taxpayers' dollars. I-11 progress, same thing. I think what it says about the Department and the leadership of the Governor and this Board is that things are getting done in this state. Unfortunately, we don't get the message out, which I think is something that we should probably work on as

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

an organization to work better with the private sector on helping us get these messages out. So maybe it's AGC, maybe it's other organizations like mine that can help with that, and I think it also goes to legal costs. The public, I think, has to have a better understanding of what these things cost and where we can save where we can save. But, these are taxpayers' dollars that are putting Nevadans to work and getting projects done, and I think we have to work better as a state and as a community on getting the message out to the public of the things that we're doing, but more importantly the cost of some of these things. So, I'm happy to help and volunteer where we can there. But Member Savage's point of the cost of legal bills, it--I think the public has to understand that there's a lot of cost involved here as it relates to acquiring these pieces of property and moving projects forward. So, Governor, thank you and well-done, Rudy. Thank you.

Malfabon: Thank you.

Martin: Governor, I have one more comment.

Sandoval: All right. Please proceed.

Martin: I drove I-15 this weekend, Saturday, going both ways, north and south. And the first thing I--when I walked in the room this morning, I asked Tracy, "where you spent \$1.5 million up there?" But she gave me a good answer in that you don't see it when the job is well-done. And as I drove it, it was apparent the work had been done, it was a lot of work that got put in place, and both lanes were wide open both ways. It was awesome to see such a fast response and such a fast completion of the work.

Sandoval: Thank you, Member Martin. And, Rudy, I think there were one other group of grants that were over \$1 million that the Department received for safety...

Malfabon: Yes. We recently received--and I think that between what Sondra Rosenberg has received for the I-15--the Mobility Alliance, which is a coalition of those states; California, Nevada and Arizona and Utah. That was over a \$1 million grant for that one. The state also received a \$100,000 grant from the SHRP2, Strategic Highway Research Program 2, on using some data that was collected from drivers in the cab of their vehicles with their--they had volunteered for that effort and instrumentation in their

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

vehicles to try to--we're going to use it to improve pedestrian safety in the urban areas, so do some research along those lines. That was another grant recently, that we received. And then we've also--the Department of Public Safety in partnership with us received the grant for--to reduce fatalities on our roads from the USDOT. So there's also other grants such as that that when you add them up it's a substantial amount of money that both the state agencies, DPS and NDOT, receive to help mobility, movement of vehicles and highway traffic safety. So thank you for acknowledging that, Governor.

Sandoval: And before we leave this portion of the Agenda, Tom, did you have any questions?

Fransway: Yes, Governor, I do. Mr. Madewell isn't in the meeting room per chance, is he?

Malfabon: I don't see him, Tom.

Fransway: Okay. I'll ask these questions to the Director, maybe he can help me out. It relates to relinquishments. My question is, are we still on schedule? I know that the comments were supposed to be in by the end of August, and then we were going to submit the regulation to LCB to start the final scoping process. And then, it's my understanding that the Board was going to possibly make a decision on approving the regulation next year, April or May. And I'm wondering if that April and May we'll be in the middle of the legislative session. Will we be--will we need to somehow address the final decision with a BDR of some kind, and will April and May be too late to do that? So basically, are we still on schedule, Mr. Director, for relinquishments?

Malfabon: I will have to confirm that, Tom, but I believe that we are still on schedule. But what I'll do is check with Mr. Madewell, have Sondra check with Bob, and we'll get an e-mail out to the Board members letting you know where we're at on the schedule. And I think that you're correct. There's a different process when the legislature is in session to change those after the Board adopts those procedures and policies versus when it's out of session. So we'll look into that and be responsive to that in an e-mail to the Board members.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Fransway: Okay. And a suggestion, perhaps to the Governor as chair, maybe we could have a formal report at the next meeting. Would that be possible, Governor?

Sandoval: Of course. And Rudy is nodding his head, so we'll have it...

Malfabon: Yes.

Sandoval: ...on the next Agenda.

Fransway: Okay. I appreciate that. Thank you, Governor, and thank you, Mr. Director.

Malfabon: Thanks, Tom. If we could...

Sandoval: Let's go to the video.

Malfabon: ...let's show the video and then we'll conclude the Director's Report.

(Video plays).

Malfabon: As you can see, Governor and Board members, a very well-produced video. And I wanted to express my appreciation to the Communication staff for that production and they're doing a great job in videography.

Sandoval: Yeah, incredibly well done. And just an amazing documentary on where we were, and what the cause was, and how we got there, and Las Vegas Paving, as you'll hear as well. I think Member Skancke was referring to it as too often, this type of story doesn't get told and folks kind of take it for granted. And, the amount of resources that we're marshaled and the extraordinary effort and people that were involved in getting this done just has a substantial ripple effect. And, had it gone longer than that it would have been a very different story. And just, as I said, when it comes to commerce, people being able to get home. Another thing that went a little bit unsaid was the impact on some of those smaller communities. I understand that Caliente, their sewer capacity--they couldn't handle all the things that were there. So moving this quickly really helped a lot of different people in the state. And as I said, this, you know, really documents it for the years to come and sets a pretty high bar, which is a good thing as well. Not only on behalf of the production of this, but in terms of what the Department has done.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

And I tell you, when you saw those little snippets of comments from people, that really gave me goose bumps, because that's where the compliments come, is the folks that are out there on the roads every day and how appreciative they are of what's been done. Thank you.

Malfabon: Thank you, Governor. That concludes the Director's Report.

Sandoval: All right then. We will move to Agenda Item No. 4, Public Comment. Is there any member of the public in Las Vegas that would like to provide comment to the Board?

Wallin: None down here, Governor.

Sandoval: Okay. Thank you, Madam Controller. We have a few folks that are signed in for public comment here in Carson City. We'll begin with Lori and Mark Wray, with regard to Agenda Item No. 11.

L. Wray: Good morning, Governor. Good morning, members. My name is Lori Ray, and I'm with Scenic Nevada. I'm the secretary treasurer. Of course, the duties among this Board is ensuring that NDOT protects public safety and preserves the aesthetics along Nevada highways. Scenic Nevada has similar goals. Our mission is to preserve, protect, and enhance scenic beauty and community character principally through sign control. We're a nonprofit, all-volunteer group that for the past 14 years has worked to limit signs and protect the views from our roadways. Perhaps we're best known for authoring the initiative to ban new billboards in the city of Reno, and that was approved by 57% of the voters back in 2000.

So today you'll be receiving and update from NDOT staff about digital billboard regulations. And as the state goes through this process, we'd like to make you aware of the detrimental impacts of digital billboards. We've also assembled a package of information detailing our concerns, and I believe you all have a copy of that. So, we think digital billboards are more intrusive and obnoxious than traditional billboards, because of their ability to flip every few seconds with bright, flashy ads. Digital billboards will distract drivers, and therefore, we think they're unsafe. They can cause nearby property values to plummet. They use far too much energy and they interfere with dark skies. They may be a big cost to taxpayers, could cost

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

millions if they are in the path of a public improvement, and they ever have to be removed.

For these reasons, we think digital billboards should be banned. And in four states and many communities across the country, billboards are banned. I think even the city of--or Boulder City bans billboards and recently in Washoe County, they said they did not want digital billboards in any incorporated area. We understand that the billboard lobby was successful a couple years ago, to change the state law and require these new digital regulations. But, we'd also like to make you aware that both Scenic Nevada and Scenic America--or an affiliate of Scenic America, are litigating us with the City of Reno and Scenic America with the Federal Highway Administration to halt the advance of digital billboards.

We also understand that NDOT and this Board must move forward, but because of the detrimental effects, we ask that the Board protect the driving public, preserve Nevada's scenic beauty by limiting digital billboards in this way. Only permit digitals within the boundaries of incorporated cities and towns, require dual permitting, applying the most restrictive rules when there's a conflict between a city's rules and the state's. For instance, if a city bans them, NDOT will not permit them either along our federally controlled highways. Only legally conforming billboards should be allowed to convert. And add a rule somehow to limit taxpayers' liability in the event that one has to be removed for a project; limit their numbers by spacing them at least 1500 radial feet apart and reject the billboard industry's brightness standard. And one that we recommend is 5,000--it's called a nit, 5,000 nits during the day and 100 to 150 nits at night, which is much lower than the billboard industry standard, and limit the size to 672 square feet.

Once these rules are developed, we ask that you initiate a moratorium on permitting new billboards until the lawsuits brought by Scenic America and Scenic Nevada are concluded, and that would be to avoid additional risk in the future. In fact, the City of Reno has a moratorium in place right now because of our lawsuit, which is at the Supreme Court. And so, that's why we would ask for that moratorium now. Thank you very much.

Sandoval: Thank you, Ms. Ray.

L. Wray: Thank you.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

M. Wray: Governor, 180 seconds, right?

Sandoval: You're okay.

M. Wray: Thank you. My name is Mark Wray W-R-A-Y. I'm an attorney at 608 Landers Street in Reno, and I happen to be one of the attorneys for Scenic Nevada along with Peter Chase Neumann and Chris Wicker. When Assemblyman Horn adopted--carried this legislation for the billboard industry, he adopted--the enabling law says that this Board has to adopt regulations for digital billboards in the state. I'm here to urge, as did my wife, that those regulations be as strict as possible, because as Mr. Gallagher will tell you, Chapters 405 and 410 of the Nevada Revised Statutes both say that billboards erected in noncompliance with state and local law, are defined statutorily as public nuisances. These are public nuisances. I refer to them as litter on a stick. But, the billboard industry does not have any counterbalancing benefit to the State of Nevada for putting up digital billboards. These are companies that are located out of state. The things that they do to put up billboards don't result in revenue to the State of Nevada, so there's no Tesla here. There's no counterbalance for having digital billboards introduced onto our highways, throughout our beautiful state.

Therefore, what I would like this Board to do, when the staff that we've met with in Las Vegas and met with in Reno, come forward with workshops and come forward with draft regulations for digital billboards, please. In the interest of the people that live here, that have to look at these signs who don't want to look at these signs, who can't turn them off like our cell phones that everyone is using here today, or our television sets, we can't turn them off. When we're on the road, they're there. And the billboard industry, when I was in a recent trial, one of the witnesses said to me, he said, "Mr. Wray, what we tell our advertisers is they can't turn off our signs. They're stuck watching them. They can turn off their cell phones, but they can't turn off our signs." That's the billboard industry. There's no positive benefit to having digital billboards in Nevada. This is strictly something that Assemblyman Horn carried for the industry to benefit the industry at the expense of the people. So, please--also, in the interest, Mr. Director, of the Federal Highway funds--as you know under the Highway Beautification Act and the Nevada version of that, which is Chapter 410, it is extremely

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

important for all of these reasons to make the regulations on digital billboards limited to within incorporated city limits, where cities will allow them to be, such as the City of Las Vegas. What happens in Las Vegas should stay in Las Vegas, and the rest of the state and its beauty should be preserved for all of us to enjoy. Thank you very much.

Sandoval: Thank you, Mr. Wray. The only other person I have marked to provide testimony for public comment is Mr. Vetter.

Vetter: Good morning, Governor and Board. My name is Don Vetter, and for the record I'm representing the Sierra Nevada Concrete Association and the California Nevada Cement Association regarding Item 9, the USA Parkway. How can Nevada improve the state's transportation sector and jobs economy while delivering a better value? It's to use new tools and build roads in a sufficient and sustainable manner to give taxpayers the best bang for their bucks.

In 2013, the Senate and Assembly Transportation Committees heard presentations on emerging mechanisms for success and choosing how we bid and build highway infrastructure. We feel the USA Parkway project would be an ideal project to apply leading-edge techniques encouraged by the Federal Highway Administration in serving a leading-edge business expansion, specifically the Tesla project and its supply chain. Alternative design-alternative bid is a procurement approach, which allows contractors to submit bids on equivalent asphalt or concrete pavement designs. And both the Asphalt Pavement Alliance and the Portland Cement Association, are in support of this as long as technically sound.

This approach can increase the number of bids for a given project, and this increased competition will lower bid prices for materials and initial project costs. Indiana employed this technique on 37 projects in 2011, seeing a comparative savings of \$51 million. Louisiana saw nearly \$88 million in savings in 37 projects, while West Virginia saved \$51 million on five highway projects in 2010, using the alternative design-alternative bid model. This bid and design approach, can be combined with another tool used by the state DOTs, which is life cycle cost analysis. And, I know that Rudy is a huge proponent of that approach. The LCCA calculates the lifetime economic cost for a project including initial construction and future cost. This combined with the alternative design-alternative bidding and lifecycle

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

cost allows for improved cost estimates, reduced risk of budget overruns, and better decisions as well as lower bid prices. NDOT project managers and designers have already met with research leaders from MIT to further study the most effective way to deliver longer lasting roads.

We feel that this USA Parkway project kind of--it's like a one little slice, can help the state leap into the future of more efficient roads by employing these proven and sensible policies. So, when you determine how you're going to deliver this project, we just hope that you consider using alternative design-alternative bid. I do have some FHWA background material that I can leave with the Director on this. Any questions?

Sandoval: Thank you, Mr. Vetter.

Vetter: Thank you.

Sandoval: Is there any other public comment from Carson City? We'll move to Agenda Item No. 5, August 18, 2014 NDOT Board of Directors Meeting Minutes. Have the members had an opportunity to review the minutes and are there any changes?

Wallin: Yes. Oh, Governor?

Sandoval: Yes, Madam Controller.

Wallin: For the minutes--for the September minutes, on Page 12, right down there it's D "V," as in "Victor," E. It should DBE. It's in two places there. It's right near the top. It's in the second line down on the top and then about five lines down. So it should be D "B," as in "boy," (inaudible)--

Sandoval: And what I'll do is I'll also open up Agenda Item No. 6, which is September...

Wallin: Okay. Sorry.

Sandoval: ...2014 minutes.

Wallin: Sorry, Governor.

Sandoval: That's all right. Did you catch that?

Malfabon: We'll make those changes, Governor.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Sandoval: Member Savage.
- Savage: Yes. Thank you, Governor. A couple of minor changes on the August 18th meeting minutes. Page 25 at the bottom, and also, Page 26, all those monetary amounts that myself and Mr. Terry speak about need three extra zeroes at the end of those numbers. \$499,000, \$449,000 and on down the road, with all those monetary figures should be hundreds of thousands. Second correction would be on Page 53. Again, a monetary change at the top. Instead of \$10 million right-of-way bonds, it should be \$100 million in right-of-way bonds. That's all I have, Governor. Thank you.
- Sandoval: Mr. Lieutenant Governor.
- Krolicki: Thank you, Governor. I have two comments, please, on the first set of minutes, August 18th. If you would just please mark me as absent/excused if that's appropriate. I was on business and could not be there. And on the second set of minutes of September 8th, on Page 87 where Krolicki speaks, that third line, "B" should be "NV." That's the Nevada 150. So just put "NV" instead of "B." That's it, Governor. Thank you.
- Sandoval: The only change I have is on Page 1 of the September 8, 2014 minutes. I don't know if I turned my microphone on, but the very first sentence says, "Call this Board of Directors meeting." Typically, I'll say "Good morning. I'll call this Board of Directors meeting for the Board..."
- Krolicki: I don't remember hearing "Good morning."
- Malfabon: Yes. You're very consistent.
- Sandoval: And I also said what a wonderful audience we have, and it's great to be here. But if you would just have those minutes match...
- Malfabon: Yes.
- Sandoval: ...what was said in August, I'd appreciate that. Are there any other changes to the proposed minutes for August 18, 2014 and September 8, 2014? If there are none, the Chair will accept a motion for approval with the suggested changes.
- Skanccke: So moved.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Wallin: Second.
- Sandoval: Member Skancke has moved for approval. Madam Controller has seconded the motion. Any questions or discussion? All in favor say aye.
- Group: Aye.
- Sandoval: Opposed no? The motion passes unanimously. We'll move on to Agenda Item No. 7, Approval of Agreements Over \$300,000.
- Malfabon: Thank you, Governor. Assistant Director for Administration, Robert Nellis, will handle this item.
- Sandoval: Please proceed. Good morning.
- Nellis: Good morning. Thank you, Director, Governor, members of the Board. There are three agreements under Attachment A that can be found on Page 3 of 26 for the Board's consideration. The first agreement is in the amount of \$318,787, for field condition assessments, data collection, and level of service analysis of maintenance worked performed on state-maintained roads. The second agreement is in the amount of \$350,000 to provide legal services to represent the Department in the eminent domain condemnation matter of NDOT v. Walker Furniture for Project NEON. And finally, the third agreement is in the amount of \$665,000 for the implementation of the state's highway safety improvement program. Does the Board have any questions for the Department on any of these agreements?
- Sandoval: Questions from Board members?
- Martin: I have one.
- Sandoval: Yeah. Member Martin.
- Martin: On Item No. 3, last month we approved Kimberly Horn for \$665,000, and this month we're approving Wood Rogers--or you're asking us to approve it for \$665,000. If I remember correctly, Kimberly Horn was attached to Project NEON; is that correct?
- Malfabon: This is the Director, Member Martin. There will actually be three firms that will perform these safety management plans, so this is the second of three anticipated that were shortlisted to perform this work. And the idea was to

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

spread the work around, but the safety management plans will be implemented across the state, and these are two-year agreements.

Martin: So Kimberly Horn's is across the state as well and not just Project NEON?

Malfabon: Is there someone from Safety here today? John? Assistant Director for Engineering, John Terry, will respond.

Terry: John Terry, Assistant Director for Engineering. I believe you're confusing in last month we had a Kimberly Horn agreement and that had to do with the freeway management system that is installed on I-15. They also do have a safety management plan, so those are different items. That was a--that item last month had to do with the freeway management system that is somewhat tied to NEON and extends farther up and down I-15 and U.S. 95. They also have one of these safety management plans and they are different items.

Martin: Okay. Thank you, John.

Malfabon: And I'd also like to add that we are collecting that information that the Board had requested on the number of consultants used, so that should clarify it and present that to the Construction Working Group the next time that they convene.

Sandoval: Any further questions?

Martin: Thank you, sir.

Sandoval: If there are no questions, the Chair will accept a motion for approval of the agreements over \$300,000 as described in Agenda Item No. 7.

Martin: So moved.

Krolicki: Second.

Sandoval: Member Martin has moved for approval. The Lieutenant Governor has seconded the motion. Any questions or discussion? All in favor say aye.

Group: Aye.

Sandoval: Opposed no? The motion unanimously. We'll move to Agenda Item No. 8, Contracts, Agreements, and Settlements.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Nellis: Thank you, Governor. There is one contract under Attachment A, that can be found on Page 4 of 21 for the Board's information. This is for the Wellington maintenance yard in Lyon County to improve drainage and regrade three-inch asphalt. There were five bids and the Director awarded the contract A&K Earth Movers, in the amount of \$316,000. Does the Board have any questions for the Department regarding this contract?

Sandoval: No questions.

Nellis: Thank you, Governor. Moving on to Attachment B in your packet. There are 57 executed agreements that can be found on Page 7 through 12 of 21 for the Board's information. Items 1 through 11 are acquisitions and appraisals, 12 through 22 are cooperative facility agreements, 23 through 34 are grants and (inaudible), Item 35 is a lease, Item 36 is a license, and finally, Items 37 through 57 are service provider agreements. Does the Board have any questions for the Department regarding any of these items?

Martin: I have one.

Sandoval: Yeah, and let me ask a question first, if I may, Member Martin. And this isn't a big deal, but on Contract No. 12 it's with the Arizona Game and Fish Department. Is there not a Nevada equivalent that can handle that work?

Malfabon: We saw that too. John Terry will respond.

Terry: Assistant Director for Engineering, John Terry. And I saw that question coming, and I believe there's even a gentleman from NDOW down in Las Vegas, but I'll read a couple of the bullets they gave me in there. That NDOW has insufficient resources and experience with projects of this kind, and that Arizona has just recently done this type of work. An MOU has been written between NDOT, NDOW and the Arizona Group to maximize the wildlife goals and objectives in this area. And, in order to meet the schedule for the Boulder City Bypass project and the RTC's project, we needed their assistance. And, I would say they just recently did similar bighorn sheep crossings on the other side of the dam, in the Arizona side, so they have experience in this.

Sandoval: All right. I'm just trying to take care of our own. But I would imagine that in the future, perhaps NDOW can observe or I don't know what it takes to get that type of expertise so in the future we can handle that, rather than

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Arizona. And then we go through No. 31 just because it's such large amount.

Wallin: Governor?

Sandoval: Yes.

Wallin: We have someone from NDOW here who would like to comment.

Sandoval: Sure.

Wallin: Is that okay?

Sandoval: Yes.

Hardenbrook: This is Brad Hardenbrook. I'm supervisor habitat biologist for NDOW's southern region. And I can appreciate there being interest in wondering why Nevada's own wildlife department is not up to doing the job. And as was indicated is that we do have insufficient staff and experience in this realm. Arizona Game and Fish Department actually started off with desert bighorn crossings studies and have received numerous accolades and awards by their work with Arizona DOT on this, so we felt that given the schedule--the quick-pay schedule of a design-build that RTC is under, that their assistance in this matter would be of great value.

Sandoval: Okay. And I'm not questioning any of that. I'm just hopeful that in the future we can develop that expertise so that we can keep it in house. All right then, Mr. Nellis, if you'd jump to 31, please.

Nellis: Oh yes, I believe Rudy referenced this, 31 in your Director's Report.

Malfabon: Yes. We have an agreement with the RTC of Southern Nevada. Part of that is just to receive--whenever there's a pass-through of federal funds, we enter in to these inter-local agreements with the entity receiving the funds. In this case, the RTC of Southern Nevada is what's called advanced constructing so they're building the project with local funds, but they're putting kind of a hold on future federal funds that they receive as the MPO in Clark County. So over many years' time, they'll reimburse themselves out of their federal funds. So it's a good use of the federal funds and it obligates--or at least commits those federal funds in future years so that it's not a bunch of individual agreements for different projects in Southern Nevada. It's one big

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

project using that money for several years. Included in this is the two amendments had for air monitoring related to naturally occurring asbestos, and then surface sampling related to naturally occurring asbestos. So the RTC is reimbursing NDOT for those expenses for the use of our consultant, Tetra Tech.

Sandoval: And speaking of Tetra Tech, Contract 57.

Malfabon: John.

Sandoval: There's another increase.

Terry: Yeah. Once again, John Terry, Assistant Director for Engineering. And I believe at the last meeting, when I was asked would there be another amendment to Tetra Tech's, I said I think there's already one in the works, and this is the one. And what this is, is we found the need to maintain the air quality monitors that had been up in both Phase 1 and Phase 2 until the contractor starts, at which time it's turned over to the contractor team. So these are the baseline air quality for the naturally occurring asbestos throughout the corridor, to have their people go out and collect the samples and continue the baseline data until construction actually starts.

Sandoval: Do we share this cost with RTC?

Terry: Yes, we have shared costs all along. We're behind on the various back and forth. The one before covered some of the costs they have in Phase 1. So definitely, there's been shared cost all along.

Sandoval: All right. Thank you. Member Martin, I understand you have questions.

Martin: You hit the one that I was going to go to on NDOW. It's too bad there couldn't have been a shared effort there like a joint venture between the two departments, so our department would start building up some expertise in that area. But I had a question on Item No. 56, which was the Peek contract for another \$167,000. Is this the end of this that we're going to see?

Gallagher: For the record, Dennis Gallagher, Counsel for the Board. I sure hope so, Board Member Martin. I've asked that all the invoices be submitted, paid as quickly as possible. And so that any reference to this particular contract will disappear from the monthly reports.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Martin: Okay. Thank you.

Sandoval: Other questions from Board members? Member Savage.

Savage: Thank you, Governor. Mr. Terry, you might have spoken about this in the past meetings, but Item 57, why isn't there any federal reimbursement on that Tetra Tech contract?

Terry: The reason there's not federal reimbursement for that is, it goes way back to when we hired Tetra Tech. We accelerated the process of hiring them and did not follow all the federal procedures, somewhat did it on purpose knowing that it wouldn't be eligible for federal so we could accelerate the hiring of Tetra Tech, for naturally occurring asbestos. We shortened the process.

Savage: So the FHA doesn't have a tool in place, because this all hit us by surprise through the UNLV research department.

Terry: Yes.

Savage: And is there any way to retroactively collect these emergency funds that nobody knew about?

Malfabon: I know that there is a tool that the FHWA allows. Rather than a competitive procurement where everybody is allowed to compete, we use an accelerated process, as Mr. Terry indicated, to meet the schedule for the project. Now, the tool that the FHWA does have is called Indefinite Quantity/Indefinite Delivery. You hire a company, but this is so unique in terms of naturally occurring asbestos and the expertise that we needed, that we really couldn't apply that tool. You would have to have some idea of the scope of work in advance, and in this case, this kind of hit us all of a sudden.

Savage: I know and that was my point. It hit us all blindsided. And I know that Tetra Tech had worked before in California and other states, and I just thought if there's a will there's a way. Maybe we do pursue, in some fashion, to try to recover any of those funds that have been an expense by the state.

Malfabon: With respect to recovery of federal funds. As you saw with the--in the Director's Report, the \$11 million that we received from other states...

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Savage: Mm-hmm.

Malfabon: ...and not expanding their obligation authority. We have a large amount of money, kind of, still to be billed to the feds. Part of it is from the bonded projects that we've delivered over the past several years. Part of it is--such as on Boulder City, where we're using that \$11 million--we're supplementing the project cost with state funds and then that state fund, basically, is seen as an advance on federal funds for future years of federal funds. So, we have so much that we can still receive and recoup from the feds that this will not hurt us. We'll still receive it just from the obligations that we currently have on the books for federal reimbursement.

Savage: Well, that makes me feel a little better. I appreciate the answer, Mr. Malfabon. And thank you, Mr. Terry. Thank you, Governor.

Sandoval: Other questions with regard to agreements? Okay. We'll move on to settlements.

Nellis: Thank you, Governor. There's one settlement under Attachment C, that can be found on Page 14 of 21 for the Board's information. This settlement is in the amount of \$2,750,000. It is for 56.44 acres of real property located on both sides of U.S. 93 and 95 at the border, of the city of Henderson and Boulder City. Does the Board have any questions for Mr. Gallagher on this item?

Sandoval: Questions from Board members?

Fransway: Question, Governor.

Sandoval: Yes, Member Fransway.

Fransway: Thank you, Governor. And I guess I'll direct this to legal counsel. Mr. Gallagher, are we not dealing with a total compensation here of \$4,791,000? That should include the previous deposit; am I not correct?

Gallagher: For the record, Dennis Gallagher, Counsel to the Board. This is in addition to the initial deposit, and so you're correct that the total just compensation paid to this landowner, was \$4,791,000.

Fransway: Okay. So my question is did we see where the \$2,041,000 was deposited somehow? Did the Board see that in some report earlier?

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Gallagher: The deposit would have been when the just--excuse me, when the condemnation proceeding was filed and the Department needed access. So that was the appraised value for the taking. And to answer your question, those monies--or those deposits have not been presented to the Board.

Fransway: Okay. So basically, what we're approving today is not the \$2,750,000, it's the \$4,700,000 plus, correct?

Gallagher: The Board is not approving this settlement. This settlement has already been presented to the Board of Examiners, which approved it. Under the constitution, the Board of Examiners approves all settlements, claims made against the state. So any settlement above the initial appraised value would require Board of Examiner approval, not Transportation Board approval.

Malfabon: And I--this is the Director, Tom. I would like to add that typically, when we bring a condemnation action before the Board, we do put that we're offering this much and the other party is at this position or this amount, so that we can at least give the Board information of why we're taking the condemnation action before the Board for your approval. So we will follow up, Tom, to see if that information on what was previously deposited, which was based on our initial appraisal, if that information came before the Board during the condemnation action.

Fransway: Okay. Rudy, I would very much appreciate that because to me there's \$2 million--over \$2 million here that was deposited that really the Board wasn't made aware of, and its negative funds of \$2 million. So actually, the settlement was over--almost \$4,800,000.

Malfabon: We'll follow up on that, Governor.

Sandoval: Thank you, Member Fransway. And this is an informational item, but it bears noting that the demand in this case from the MGM, which is the property owner, was \$8,618,000, which I don't know if it was their demand, but it certainly was their expert's opinion with regard to the value. And albeit, the amount that we're talking about today is a little bit over the midpoint. It is still substantially less than what the other party in this matter was seeking. Other questions or comments, with regard to the settlement in Agenda Item No. 8? Does that conclude your presentation?

Nellis: Yes, it does, Governor. Thank you.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Sandoval: Thank you. Before I leave Agenda Item No. 8, any other questions? We'll move to Agenda Item No. 9, Briefing on the Proposed USA Parkway, State Route 439 Delivery Method.

Malfabon: And Assistant Director for Engineering, John Terry, will present this item to the Board. It's the previous--it's not that one, it's the other presentation.

Terry: Once again, John Terry, Assistant Director for Engineering, talking today about USA Parkway. So at the last Board meeting, recently been announced that the Tesla plant was going to be added in the Tahoe Regional [sic] Industrial Center, and that will be constructed on an accelerated schedule. So we saw the challenge to the Department is could we come up with a plan to build USA Parkway and essentially have it open to traffic from U.S. 50 to I-80 by December of 2017. The Tahoe-Reno Industrial Center exists out there today, out in this area near I-80. 30,000 acres of developable land. And there currently are businesses out there. It's not just the new plants that are proposed. There's currently 11 million square feet of industrial space being used by 160 companies.

So what's the current status? I believe three months ago you were given a briefing on USA Parkway. I'll kind of cover some of those of where we stand today. So an interchange exists with I-80 in Storey County, and there are about six miles, as shown in blue here, of constructed four-lane roadway. And NDOT has performed a draft environmental assessment for the--oh, and there's four miles that's been graded as well. And then the entire route, NDOT has prepared an environmental assessment. We've gotten approval from the feds to move forward and we're having a public hearing, which I believe in the Director's Report he mentioned, would be November 5th. And the design is somewhere around 30% the design we would do for an environmental assessment.

Sandoval: Mr. Terry, just for background information, when was that environmental assessment commenced?

Terry: Three years ago.

Sandoval: Yeah, so that would have been long before Tesla was even contemplated (inaudible)?

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Terry:

Absolutely. I mean, we were working on this all along, yes, sir. This kind of shows the preferred alternative. Some of the other lines down towards Highway 50 show some of the other alternatives that were looked at. As it shows in here, 5.4 miles are currently paved. 4.4 miles essentially to the Storey-Lyon county line are graded. And the rest is kind of through somewhat mountainous terrain, with alternatives to where it ties in to U.S. 50. And the current tie-in to U.S. 50 is about three-quarters of a mile from the Ramsey Weeks Cutoff, and about two and a half miles from the intersection with 95A, as you can see on the drawing over there.

Proposed is a four-lane roadway with a median. This is not a controlled access facility. This will have some accesses in driveways, no interchanges. And a median, and also in the hillier terrain, the median will probably be replaced with a barrier to skinny up the roadway and protect from crossover-type accidents. As was mentioned before, the benefit cost ratio was a big issue on USA Parkway, and kind of why is it so hard, so high. If I could just from this one here, if you look at a map of the area you can see how USA Parkway really shortened this... As you can see, you know, USA Parkway really shortens the distance, I mean if you're at Silver Springs area it cuts off. It's shorter from Carson City to get to the Industrial area. It provides quite a shortcut through here. If you were going up 95A, you would have to fight your way, kind of, through Fernley to get on I-80, and you would shorten the distance here. Thus, a lot of the benefit cost ratio really comes from travel time savings, especially travel time savings for trucks. It also has, we believe, significant accident cost savings. U.S. 50, as we've talked about earlier today, has a lot of accidents out there, and I believe as well as some on 95A. We believe a four-lane divided roadway would significantly cut down on accidents. And, of course, whenever you get shorter travel time, shorter distances you save on vehicle emissions.

So where are we at on USA Parkway? We have funded the final design and we were going to proceed with the final design, but we hadn't identified the funding in the shorter range of the four-year portion of the statewide transportation plan, but rather it was out further than that. What are the estimated costs for USA Parkway? Well, there's the right-of-way and improvements that's really the next item after this, where they'll talk about was the \$43 million. And that's the already constructed area as well as the light-blue area all the way to Storey County. The right-of-way as well, the

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

improvements, that have already been constructed. The right-of-way and utilities in Lyon County are really limited to down by the interchange--or the intersection with U.S. 50 as this is BLM land and this is a dedicated easement. So it's really just down in the bottom.

The construction of the four-lane highway is estimated to be about \$65 million, and that includes some improvements to the roadway that's already been constructed. And you say why do those improvements. Well, this was built to access an industrial area. Some aspects don't meet the requirements of a state highway and we'd like to upgrade some of that. Now, I'd like to talk a little bit about U.S. 50. Again, U.S. 50 has been improved in a series of projects from Dayton, all the way to a point that's about eight miles away from where State Route 439 gets improved. It was a two-lane roadway, and it has been widened to a four-lane roadway. And like I say, it is about currently eight miles from the intersection where USA Parkway would tie in. And all the planning for USA Parkway was sort of based upon, because we already had an environmental document to improve U.S. 50 all the way to 95A, was based upon a four-lane roadway being there. Well, it's not there at that point.

We looked at it from a traffic perspective, and we propose adding the stretch that is from the intersection of USA Parkway to U.S. 50, as a part of any project that we would do for USA Parkway. And that is because we feel, from a traffic perspective, that that's the best way to tie it in and that's where more of the traffic was going. I have indicated in here, and I should mention USA Parkway as well as on there, has been given the designation SR-439 in Nevada.

The delivery method. So we have a process, which I think we've brought to this Board before where we've talked about how do we decide what method to deliver a project. This delivery method was based upon, if we had to deliver a project by the end of 2017, given the current status of the design, the understanding of the risks of the job and the other aspects of the job. And our team came together and recommended the design-build--single design-build project to deliver this project. Estimated to be about \$70 million, if you add in the \$5 million, for the stretch of U.S. 50. And that's really just this board up there so you can see what the project is we're

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

talking about. So everything in color up there, we're proposing as a single design-build project.

And there's the timeline that shows it getting constructed by the end of 2017. Takes advantage of the federal and our own processes that we can overlap the environmental with the RFP procurement. One of the issues is were we to go design-build, it should be staggered by a few months after, like NEON, even though NEON is in Las Vegas for staff and whatever. So, it would be an RFP that would probably be about three months behind on schedule from where NEON currently is at.

Okay. So funding. So we went with the consideration that we need to fund and deliver this project by December 2017, without impacting any projects in Southern Nevada. So completely just redo what we're already doing in the north and leave all the projects. And we had mentioned we have quite a bit going on, not just NEON in Southern Nevada. We're going to do improvements to the 95/215 Interchange in Southern Nevada. SR-160, I-15 North. We have other projects that are going on in this same time frame, and we're going to continue to deliver those projects. But we need \$43 million for the right-of-way and improvements right now, in this fiscal year we're in right now. We're already in fiscal year '15, and we need \$70 million for the design-build contract that would be spread roughly between our state fiscal year '16 and fiscal year '17.

So what we're proposing is, we have a relatively high highway fund balance. I looked this morning. It was \$203 million. We propose just using some of that highway funds for the original \$43 million and not adjusting our program in fiscal year '15. And then, we're evaluating our existing program in '16 and '17. And really, the place that really has to be moved off is the Northern Nevada 3R program. We have a pretty significant 3R program, over \$100 million a year scheduled in those two critical years. We looked at the ranked list of projects, and we really just took the projects that were at the bottom of the list and either moved them--and move them off a year so that...

Malfabon: John, could you explain what the 3R projects are?

Terry: Mostly your pavement overlays, and it's our pavement preservation. In other words, most of them are what we call mill and fill, where we rode a

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

mill and put new asphalt in. Some are full reconstruction, as you can see from the next list. Some of them are on some of our major routes. And we have a program we do every year, where every three years we redo the 3R list and we have a list of projects that we prioritize throughout the state. So again, these projects came off the bottom. If they were in 2017 at the bottom, we bumped them to '18, or '16 we moved them to '17, '17 we move them to '18. And these are the projects that we would have to move off to free up \$71 million. I will point out we followed the similar process to what we did when we talked about the fiscal cliff. We used the statewide internal five-year plan programming documents, and moved up and moved the projects off in a similar method that we did when we talked about if we had less funding for the fiscal cliff.

So what are we talking about moving ahead? Per the NRS and Pioneer Program guidelines, we've been before you before. Depending on what action the Board takes today, we're proposing we would come to you for the formal Transportation Board action for the approval of the design-build delivery method, which is part of our process. And, that we would adjust the TIP/STIP to move off some of the--our 3R projects and move in SR-439, USA Parkway. And you would see those modifications in the future as we make the revisions to the STIP/TIP through our process. We're also talking about continuing the current designer who did a good job helping us get this EA approved, and continuing them in helping us with the design-build procurement process. And with that, questions, comments and direction?

Sandoval: I'm sure there are many. Pardon me? All right, Mr. Terry. First, there was some--I don't want to call it confusion, but there's some impression out there that this road is a new concept. Is this a project that, essentially, has been contemplated for some time?

Terry: Yes, it's been contemplated for a long time. That's why we were working on the EA. We weren't funding it in the short-range program, but always out farther. Yes, it's been given a state route designation and it was planned to be built.

Sandoval: Okay. And what would, in your opinion, be the consequences of not building this given the development out there?

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Terry: Well, we--in the environmental assessment it certainly says in the 20 years out--I don't have a copy here with me--that traffic would fail on the four-lane stretch that currently exists. It didn't talk about failure on I-80 or anything, but certainly by the end interchange, and by the four-lane stretch in that they have, because everybody would have to go that way, if it was built out to the level of development that is shown in the ultimate 20-year plan out there, that we would have some failures on the road that exists. I can't remember the exact level of service, but also...

Sandoval: Well, that's what I'm--because of the volume of development out there, it has even modified the state demographer's projections moving forward with regard to population. So I guess what I'm asking you is, if you could talk a little bit about what that means in Washoe County and Lyon County with regard to the volume of traffic, if this road wasn't built.

Terry: Again, this is a hard ha--I don't have it here in front of me, but I will say this was an environmental assessment, an environmental document. All environmental documents have the no-build alternative and have the build alternative. And really, to make it through the process of getting a project approved, you kind of have to show the need for the project. And I don't have all the numbers in front of me, but it shows a need.

Malfabon: If I may, Governor. Definitely, when Mr. Terry covered the benefit cost the--as part of the process in assessing what a benefit cost is, you look at travel time savings. Obviously, if USA Parkway is built, those employees that are living in Lyon County, Carson City--if it's not built, they'll have to go through Reno. If you're in Silver Springs, you're going to go through Fernley. It's a lot longer distance. If you go to the Reno alternative, although the RTC of Southern Nevada--I mean, of Washoe County, is building the southeast connectors, an alternative to 580--it's still going to be some congestion in going through the urban area to get to TRIC, the Industrial Center. So you have more operating cost on your vehicles. You're at risk of being in a crash, so you don't realize the safety benefits. Less crashes, less serious injuries. If USA Parkway is built then it's a shorter distance, it's going to be less.

So definitely on the personal level, people's exposure to a crash is reduced by having that USA Parkway built and less possibility of serious injuries. So safety improvements, air quality improvements. The longer you drive,

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

the more air pollution you're putting in from your vehicle. Although, there's other issues associated with the benefit cost that are not kind of--they're not calculated in that, which are kind of indirect benefits. So people's ability to get to work faster, I think that just--everyone can attest that when they have a shorter commute, they're probably in a better mood by the time that they get home. But, there's also the appreciation of real property that's anticipated and development that will occur along this alignment in that area of Silver Springs and Lyon County, that's not included in that. But, those are economic benefits that will not be realized if this contract is delayed.

Sandoval: And perhaps, and I know we had this presentation, but you would talk about this cost benefit of 9.1 to 1. I mean I don't know if we've ever seen a project with that favorable of a cost benefit ratio.

Terry: And, again, so much of that is, as the reason we made this other map over here, is you can see from certain directions a significant shortening of the distance. I mean, you don't see that that often that it's the distance that's shortened. If you had to go up 95A, even though traffic isn't huge on 95A, there's traffic out there and there's significant people out in Silver Springs. If you take all of them up and through Fernley and instead, take them USA Parkway, you save many, many miles. And if you take trucks and save many miles, you see a big benefit cost. I mean, there are the other factors in there. There are other routes, like people coming from Carson City that want to get there or whatever, but you save that significant a distance, the benefit cost goes up pretty quick.

Sandoval: Yeah. And we're talking kind of in NDOT language here, but I think it's really important, also, to have a conversation with regard to economic development and workforce. So we're--we have a kind of commissioner from Lyon County who's here today that has had the highest amount of unemployment in the state, and if not the nation, for some time. And what will the construction of this project do in terms of unlocking the ability of a workforce in these outlying areas like Yerington, like all these--Silver Springs and Stagecoach and...

Terry: Yeah, it'll certainly make access to all of them...

Sandoval: ...Dayton.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Terry: ...and building a \$90 million construction project would be one of our bigger jobs in Northern Nevada and--I'm sorry, a \$70 million construction project would be a good-sized project creating a lot of jobs just for the construction itself, not to mention the added access to the industrial area and the jobs there.
- Sandoval: And there may be some angst with regard to the latter part of your presentation, that we're going to push the repaving projects by a year. Now, those, historically in my recollection is, is that we do those repaving within a recommended amount of time. It's not like if we don't build those that the roads are going to start to crumble.
- Terry: No. It is possible that if you delay them much that, the treatment increases. In other words, you may have to do a mill and overlay, you may have to do a more significant reconstruction if you make it go for another year with the heavy traffic volumes. Moving them one year probably isn't going to change what we have to do to keep the road in good order. If you go many more years, or if you were to go a year or two on an interstate, whereas heavy truck volumes, it can make a difference. But essentially, yeah, we're struggling to keep up with our pavement preservation but, again, we're just slipping them back. We're not canceling them.
- Sandoval: But would we not by not building this project, expedite the wear and tear on the current roads?
- Terry: And one of the roads was, and it's kind of confusing, it's both 50A and 95A, is that stretch. That is one of the roads we're deferring and that is overlaying the current route from Silver Springs to Fernley.
- Sandoval: Okay. Other Board member questions?
- Fransway: Question, Governor.
- Sandoval: Yeah, Member Fransway.
- Fransway: Thank you, Governor. And my question relates to what you were talking about, basically the delay of some projects from 2016-2017 to 2017-2018. Will we be stepping on any other projects that were scheduled for 2017-2018 to reschedule these earlier projects to that time frame?

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Terry: Yes, sir. There is a multiplier effect, obviously, if we move two projects out into one year and then move it to the next year, there's a little bit of slip of projects that would have been in that year. But, again, we've done this from the bottom up. We take the lowest rated projects, and bumped them out. So you are correct, that if we assume that way out in '18-'19, we have the same level of--exact same amount of 3R program, something would have to slip out there as we continue balancing, yes.
- Fransway: So it's a domino effect, isn't it?
- Terry: To an extent, yes, but I'll put in perspective. We're at over \$100 million a year in our 3R program and we're talking about balancing out \$30 million a year for two years. So, yes, it has an effect.
- Fransway: Okay. And I'm not saying that it's not the thing to do. I think that there's an urgency here that requires that we do that, but I just want everybody to understand, specifically your NDOT people, that they will have a challenge because of the effect on down the line, as years go by.
- Malfabon: This is Director Malfabon. I just wanted to add for Member Fransway, that next month the Department will be bringing our four-year work program for the Board for your approval. And as we go through our preservation program in the years ahead, we always--it's very dynamic. We ask the districts what's in good shape, what needs attention right now, whether it's an interstate, or a state route, or a U.S. route. It's very dynamic and we bring those changes back to the Board for your approval of those projects. But, we definitely feel that we can manage our preservation program, as well as the rest of our capital improvements in capacity around the state with--even with the additional of this project, and not lose too much ground.
- Sandoval: Mr. Terry...
- Fransway: Okay. I appreciate that response. And another question for you, Mr. Director. Is there any prospect of this \$70 million being reimbursed by the feds?
- Malfabon: We're looking into that, Member Fransway. We feel that it's actually more flexible for us to use state funds for this project, because when you're using federal funds, you have to obligate that whole amount in one fiscal year. So we'd have to take the \$70 million obligation authority and use that up in one

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

year, which would have--it would just be more acceptable for us to use state funds and then we don't have that hanging over our heads of obligating all in one year. Although it is a commitment for that two-year period for construction, but it gives us--and from the sense of cash flow, it's more manageable to not have to deal with the federal process of obligating all that funding in one year. And also, Member Fransway, I wanted to...

Fransway: Okay. I understand. Thanks, Rudy.

Malfabon: ...add that as we talked about that \$11.1 million, in additional federal obligation authority that Nevada Department of Transportation received, that's going to continue forward with our actions of delivering our work program and using other state's obligation authority to that's left on the table, those types of things help mitigate the hit that's taken to the preservation program so that we are reimbursed regularly by the Federal Highway Administration. And, those extra millions of dollars that we get from other states not spending their authority, helps us to offset some of these costs as well.

Fransway: Okay. Thank you. And, Governor, one question to you as chairman. Will we need to take any action today to support the preferred route alternative or will that be just automatic as part of the recommended action that we take?

Sandoval: Well, it's not agendized today, so--and I see Mr. Terry shaking his head that we won't be deciding that today. And I think now he's nodding his head.

Fransway: Okay. Thank you.

Terry: That's correct. The environmental process is concluding with the review of the draft document, as well as the public meeting that I mentioned that's on November 5th.

Sandoval: Does that satisfy you, Mr. Fransway?

Fransway: Yes. Thank you, Mr. Chair.

Sandoval: All right. Thank you. We'll move to the Lieutenant Governor, please.

Krolicki: Governor, thank you. First, I'd like to start with, out of an abundance of caution, a conversation I had earlier with Dennis Gallagher as our Attorney General. And if I misrepresenting anything, please jump in. But, I do not

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

believe there exists a conflict of interest, and in my conversation with Mr. Gallagher he concurred. But, I just wanted to state that for the record, that because I do believe I'll retain judgment and independence in this matter, so I will participate. But, I just wanted to say on the record that I had a conversation about a potential conflict.

Sandoval: All right.

Krolicki: That being said, several things. I think it's important that we make clear, as we learned in the legislative session and in conversations here, I know we've said it, but just to make it crystal clear, NDOT is not proposing to change the STIP for Clark County in any way, so the commitment made in the legislative moment about this retriaging and restructuring of financial heft to this project will not be coming from Southern Nevada. And, we've made that clear by where the monies are coming from and the maintenance requirements. I also think it's just terribly important, Governor, you hit it spot on. This is an existing plan. This is something we've had, but to use the word again, we are retriaging where we go. And the Tesla transaction was extraordinary and it certainly merits revisitation of the STIP and how we do things and rearranging how these finances happen. So, I think we're just moving it up in priority as it should be and it's terribly appropriate and that's why we have it today.

This also, as you discussed, talks about the economic development of the region. And we've always talked about making the triangle of Lyon/Storey/Douglas County/Carson/Washoe/Reno/Sparks area have a much better triangular coordination for transportation for economic improvement throughout the area, and the I-11 conversation will only make that more important. So I think just helping bring closure to that loop by moving forward on this, is terribly important. And, Mr. Terry, you've said it very clearly and in these materials, there is not a more valuable proposition for an investment by NDOT, in terms of the benefit cost relation. And we've said it, but Project NEON, if you look at it in a holistic basis, is still a fraction of this 9.1 to 1 return for benefit versus cost.

So, again, I'm appreciative of the expedited but very sound judgment that's gone into this discussion today. And it is a very exciting time for all of Nevada, but certainly a catalyst by our important news. And, Governor, you and the (inaudible) team for the Tesla transaction. But this is not just for

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Tesla. This is for the future of Nevada and things that we were going to do anyway.

Sandoval: Thank you, Mr. Lieutenant Governor. We'll move to Member Savage.

Savage: Thank you, Governor. And along the same lines as both the Governor and Lieutenant Governor, I believe and I've seen in the past that NDOT was prepared for this project. It was on the books. You were prepared. We're not reacting. We're more than prepared and I think the NDOT staff, Mr. Terry and Mr. Director, and your people, came out well-prepared in order to adjust this project. It's always been on the books. It's not taking anything away from Southern Nevada. The benefit cost ratio is above and beyond, and I believe that you've adjusted well as a department in full preparation to make this adjustment and move this project a year ahead.

And the delivery method that you speak about in this packet, as far as a design-build delivery, it looks as though you have internally discussed and debated the different delivery options. And I commend you, Mr. Terry, for doing the in-house work and it looks very evident that the design-build method is above and beyond both the design-build bid and the CMAR. So I really commend the Department for doing the internal workings on that method, and I think it's going to be a very successful project. And I compliment the Department and the leadership in the state for being prepared on this project. And, I look forward to working with the Board and the Department on seeing this through. Thank you, Mr. Governor.

Sandoval: Thank you, Member Savage. Questions or comments from Southern Nevada?

Martin: None here, sir.

Wallin: Nope, we're good, Governor.

Sandoval: All right. Member Skancke.

Skancke: Oh, I've been waiting for this minute. First of all, great presentation. Three months ago when we heard this item, you prepped us for what was going to be coming and what the opportunities were for the region. And I've got to tell you that, you know, we're a state, and for us to even be having a conversation about whether this takes money from Southern Nevada or rural

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Nevada, this is the biggest thing to happen to our state since the railroad was put in here. We don't have to defend any action we're taking here today. I am proud of the fact that this project is being expedited, and moved forward, because other states in this country were going to move heaven and earth to make this happen, and we should do the same. We're ready. These are state dollars. The return on this investment that this state is going to get is exponential and probably undeterminable.

So, as far as what we're doing here today, is moving Nevada forward. The state has worked very, very hard. In fact, I've seen that on a billboard somewhere. Pay attention, people. These are notes you should all be taking. As far as road preservation, what we're going to receive from this in economic development benefit for the entire state, is going to surpass anything we can possibly imagine. So we should step up as a state and lead it and get this project done. This is an economic development project. It is a job creator. It's not going to take money from Southern Nevada. We had the same conversation on Project NEON. Is this going to affect Northern Nevada? We are a state with a state economy.

So, you know, my only concern at the end of the day is, is we look at the right type of pavement so that we're not replacing this road every three years, with the number of trucks and commerce that are going to be generated here. I'm all for asphalt, but if this costs us a few more dollars to put in concrete in the long run to last a little bit longer, I'm sure that comment is going to be very controversial, but let's look at the long-term impacts here. Let's look at all the positive things that will come from this. Let's see the quickest way to do this. As far as federal government reimbursement, I'll say it again, you cannot count on the federal government for any support. When we did I-15 expansion from Tropicana to State Line, FHWA was going to require us to go with an environmental document all the way to Barstow for absolutely no reason, because that's the terminus point on I-15.

So we decided to use state dollars only on I-15 to--from Tropicana to State Line. We did the 215 Beltway with state dollars only. We've got to rely upon our staff, Governor, here that does a superb job for us to determine what is the best way to do these projects and what is the best way to fund it. If we can pick up a nickel and a dime from the federal government, great,

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

but this is a state project. And I think that at the end of the day, what you have done to bring this company here--I can tell you what's happened to our organization in Southern Nevada. Our client interest at the Las Vegas Global Economic has increased exponentially. We had 18 new companies call our organization in Las Vegas after this announcement. And it keeps coming because it's not just a Northern Nevada company, it is a statewide project. And that's how we should look at this project.

So I support this a thousand percent. I've said this before and I'll say it again, Governor, bringing this company to our state, is something that's going to not only be a game changer, it sets the future for where we have to go. So if you're looking for a motion for approval, I would be happy to make that motion and let's get this project going forward.

Sandoval:

All right. Thank you, Member Skancke, and I do want to make a couple of final comments before I take your motion. I think from the record and what's been presented today, that we've established that there is a critical need for the delivery of the USA Parkway and that it will have a direct and tangible impact on the economic growth of the entire State of Nevada. The Parkway will provide a means of expanding the potential pool of employees, which is a key factor when companies are looking. And it makes it, as somebody talked about it, I think it was Lieutenant Governor, this triangle in Lyon County, Douglas County, Washoe County, Storey County, all the adjacent counties.

I think the Parkway will offer access to a more diverse housing market and range of homes and opportunities for the potential employees that are going to be working at TRIC. It will reduce commute times. And I don't want to underestimate that in any way for the individuals that are going to be working out at TRIC. It means something to be home for dinner. It means something to be there to watch your family in different activities. It means something not to be sitting in your vehicle for hours upon hours. It means something to the environment. It means something to reduce congestion for everybody else and the impact on the roadways. And when you think about somebody who wants to work over there who resides in Yerington or Dayton or Stagecoach or Silver Springs or all these different communities, Carson City, and having to go around either on the 580 to the 80 and over on the 95A, it's really going to be a benefit in that regard.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

And I'm going to say it again. This 9.1 to 1, I hope we have more road projects that have that cost benefit ratio. It's probably not likely, but this certainly has set a very high standard in terms of the return that this state is going to get on this project. I want to echo what Member Savage has talked about, with regard to the design-build approach to getting this done. I think it will expedite the delivery of the project and enable it to be completed by December of 2017, which is what we're aiming for. I think at least the costs that you've talked about and certainly what Member Skancke has mentioned in terms of making sure that we do it right. We have a unique opportunity here right now. And I probably won't be sitting here, maybe you guys will. But we don't want to look back after this has been constructed and say, "gosh, I wish we would have done it this way." So let's make sure that we exhaust all those opportunities.

And as Lieutenant Governor mentioned and Member Skancke talked about is we can do this. We can afford this. I mean, there's been some question out there whether we can. And, you know, Mr. Terry and the Director have said unequivocally that we can afford this. And, in fact, I think we can't afford not to do it given the consequences and what's at stake here. So I'm really pleased that we've had this presentation today, which compliments what we did three years ago. It's important for everybody in this audience and people throughout the State of Nevada to be able to have a full opportunity to have this project vetted and considered and weighed and balanced, and we've done all that today. So with that, are there any other comments from Board members before I take a motion? Hearing none, the Chair will accept a motion to--that NDOT will follow the requirements of NRS to justify use of the design-build method for delivering State Route 439 and a portion of U.S. 50 from State Route 439 to U.S. 95A. And also, NDOT will make adjustments to the STIP as described in Attachment 2 and bring the STIP amendments to the Board. The FY 15-18 approval is anticipated to be presented at the November 2014 meeting.

- Skанcke: So moved...
- Sandoval: Okay.
- Skанcke: ...by a Las Vegas representative.
- Martin: And seconded by one, too.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Sandoval: So we have a motion for approval by Member Skancke. We have a second by Member Martin. Questions or discussion on the motion? Hearing none, all in favor please say aye.
- Group: Aye.
- Sandoval: Opposed no? The motion passes unanimously. Well done. Thank you, Mr. Terry.
- Terry: (Inaudible) could have one more comment. I believe this month we are finalizing the state map that goes out every year. We had already talked about and will add I-11 and the portion by Boulder City as proposed, you know, like years ago when we were building the interstate we show proposed alignment. I would propose that we--since the environmentals have about closed, this Board given us direction to move ahead with it that we put in SR-439 on the update to the state map.
- Sandoval: Future?
- Terry: And it will say future.
- Malfabon: No, it'll say future...
- Terry: Yeah, a dash line.
- Malfabon: ...State Route 439, a dash line on the state map. So people will see the state map to see that it's coming.
- Sandoval: All right. Thank you. Do we need to take any action on that?
- Gallagher: Governor, since that wasn't on the Agenda, I think that that was just staff advising the Board what it plans to do.
- Sandoval: All right. Thank you very much.
- Malfabon: Thank you, John.
- Sandoval: Okay. We'll move to Agenda Item No. 10, Acquisition of right-of-way including compensation for existing improvement and acquisition of certain contractual rights for right-of-way easements for the USA Parkway State Route 439 project.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Malfabon:

Thank you, Governor. As we had been talking about the benefits for the USA Parkway, I'll try to be brief so I'm not repetitive. But I think that it's important to mention--next slide, please--the regional economic development is huge, but it's significant for just the entire state. This economic impact is going to be very positive for the entire State of Nevada. And the--we've been talking about the alternative commuter routes, but let's not forget the improvements for movement of freight from I-80 to Southern Nevada and vice versa along this future USA Parkway that will be constructed.

A little bit about benefit cost, because it is a number and what does that mean. So what we do when we're calculating benefit cost, you look at the savings. And to monetize that, we look at what's the average labor or hourly wage for a commercial truck driver, for your normal commuter on that route that's going to work. So there's an average value for a person's hourly wage times that--how many hours of time savings associated with that. So that is captured as a cost. Safety, we don't want to seem callous, but there is kind of a value put to a person's life or serious injuries cost so much. And there's--that's monetized into a direct benefit as well, so the reduction in fatalities and the reduction in serious injuries is monetized. Reduced air pollution. There are six air pollutants that are looked at and there's a value related to how many tons of air pollution that you reduce by this reduced travel time on the project. Less air pollution commensurate to that.

And then operating cost. Everybody knows that the longer you're driving your car, the more it costs to replace tires, to get maintenance done on your vehicle. And all those costs, fuel costs, all that's captured in that benefit cost calculation. So this one, as the Governor had mentioned, and we presented three months ago, it's rare--I don't even recall where I've seen one this high working for the Department, but 9.1 to 1 captures all of those costs that are there in those bullet points. But just for comparison, Project NEON, Phase 1 is a 5.8 to 1. All of Project NEON, all five phases is 2.3 to 1. That includes the Phase 5 that's still to be--remain to be done after we're done with the design-build project. It's a half-a-billion-dollar project. Boulder City Bypass, 0.9 to 1. That's at a higher interest rate, but it's a--the reason that Boulder City is not as competitive compared to USA Parkway is it's a long distance compared to--the objective in that environmental document was get people as an alternate route around Boulder City, rather than right

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

through town where it's congested, especially during holiday periods there in Boulder City.

Carson Freeway. The current Phase 2B that goes from Fairview down to U.S. 50/U.S. 395, 2.0 to 1. So this gives you a perspective that this 9 to 1 roughly, is a huge benefit cost for this project. And indirect benefits, we've been talking about the jobs not only for construction, but also the companies that are in that industrial center. The development that will occur along this route, as well as appreciation of real property. Next slide.

John had covered the preferred alternative. And I wanted to mention that there is a portion in that section close to I-80, about 3.4 miles that's Storey County's. That will remain Storey County's. So we're talking about the rest of the route including that 3.4 miles. Now, obviously NDOT could still have discussions with Storey County about that portion, but for now the plan is that's remaining Storey County's. We do want to do some improvements in that section to bring it up to our standards and improve safety on that section that's Storey County's. But we're here to talk about what we would--we're proposing for the Board's decision today is to compensate the developers of the Industrial Center for the improvements that they've made to date and for the right-of-way that they own. So you have the--roughly about a couple miles of that 5.4, and then you have the 4.4 miles of graded section. So that's just rough graded. It's a dirt road. It's not paved, not improved totally. And then you have the rest of the route, which described there as Highlands in that triangle. We're acquiring the contractual rights that the developer of the Industrial Center had with the owners in Lyon County. So we would acquire that right.

So when NDOT builds the road in that triangular section in Lyon County, we will have an easement. But this is typical as what we do. We don't have to own the property the road goes on. In the green section, that's BLM land, for the majority of all those. There's some private owners as you get closer to the junction of U.S. 50. So we've had a history of building roads on easements before. It's not a problem. We just want to acquire those contractual rights for the owner presently in Lyon County dealing with the Industrial Center owner, because they're the ones that own those contractual rights in Lyon County from that developer. Next slide.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

So what we're proposing today is to pay for the right-of-way owned by the Tahoe Reno Industrial Center on USA Parkway, which is future State Route 439. Pay for a portion of their development costs to date, and pay for TRIC's contractual rights for the privately owned portion in Lyon County. Now, as far as the development costs, we don't have invoices. What we did was use a cost estimating tool that we use as a standard at NDOT to do our construction estimates. So these costs were incurred years ago by the developer of the Industrial Center. And--next slide. You can see the breakdown of these costs for right-of-way and the improvements that have been made to date. We're going to be proposing to the Board approval of an expense of \$43.124 million to the developer of the Industrial Center, TRIC. But this breaks it down. So the Storey County portion about 3.4 miles, we're not acquiring that. As I said, we can still discuss that with Storey County, but they're remaining the owner of that portion, and they have maintenance responsibility currently for that portion. So that's negotiable, but that's between us and Storey County to have future discussion. And it really ties to that issue of road relinquishments and road transfers that the Board will be taking action on as we come and discuss that item in months to come.

So there's 16.4--estimated \$16.4 million in improvements in that section that remains Storey County's. Since it's going to be a state highway, we're including that in the mix. The paved portion, which is going to be NDOT's ownership, the actual right-of-way ownership will be NDOT's. There's \$3.3 million in right-of-way costs associated with that portion. So if you look at the rest of the blue line on John Terry's map there on the board, that's the rest of that portion. And \$9.6 million estimated using our cost estimating tool in improvements. There's a section, the light-blue line on John Terry's map is not paved, but it's graded and it will become NDOT's. There's \$7 million in right-of-way costs for that, and \$10 to \$14 million in improvements based on our estimating tool. And then in Lyon County, we're only requiring the contractual rights, so we will not own that right-of-way in Lyon County, but we have the right to build a public road on an easement in that portion. And then we'll proceed with BLM after the environmental document is approved. Get the BLM to give us an easement interest for transportation purposes on the BLM property as well.

Sandoval:

So, Rudy, before you go forward.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Malfabon: Yes.
- Sandoval: Are there any outstanding parcels that have to be considered as part of this, so will what you've just described take care of the entire route?
- Malfabon: It will not address the private ownership of the parcels that are closer to the junction with U.S. 50. So we will have to acquire a handful of properties there. We'll follow the process of appraising it, getting a review appraisal done then making offers to the landowners. So at the appropriate time, once the environmental is done, we're going to do on dual tracks, do the right-of-way acquisition in that area so that we can acquire the property in a timely manner. We anticipate that we can--we're allowed to still enter into the design-build contract while we're acquiring that private property, so we will acquire it so that it doesn't cause a delay to the design-build contract. I don't know, John, if there's anything to add to that affect, but we will have dual tracks and acquire that property, as well as the BLM easement for the rest of the Parkway up to U.S. 50.
- Terry: Once again, John Terry, Assistant Director for Engineering. Again, we're talking about the parcels right down here around U.S. 50. Fortunately for us, the most difficult construction is up in here in an area that we'll have, so there's a very good chance we will start the design-build job while we're still acquiring those and tell them they can't work down there. The hardest work is in the areas we'll already have, so we think that'll work out. Thanks, Director.
- Sandoval: Member Skancke.
- Skancke: Thank you, Governor. John, will the right-of-way acquisition--will the proposed roundabout or high-T, which one is going to require more land and have you guys decided which one is the most efficient?
- Terry: Okay. The high-T is at the intersection of USA Parkway and U.S. 50. The roundabout is at U.S. 95 Alternate and U.S. 50. This is out of the environmental assessment that was done a number of years ago for U.S. 50. We'll obviously look at that a little bit more as well as let the design builder, but these are the current layouts that are in the environmental documents.
- Skancke: Okay. Thank you, Governor.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Sandoval: Thank you.
- Krolicki: And, John--and Governor, if I may. Isn't that intersection currently one of the more dangerous ones in the state? I seem to recall hearing that.
- Terry: Excuse me, are you talking about the intersection of 95A and 50?
- Krolicki: Correct.
- Terry: We can get follow-up with that. I just don't know. It is a...
- Krolicki: I understand that it is one of the more...
- Terry: ...blinking light, four-way stop currently.
- Krolicki: ...traumatic pinch points in the state. And so, I guess a...
- Malfabon: That whole...
- Krolicki: ...sidebar in this is we're making that whole...
- Malfabon: That corridor safer.
- Krolicki: ...(inaudible) safer. There's a lot...
- Malfabon: It's definitely a safety challenge. That's why we're doing the safety project currently that's active right now. It's further to the west. But we definitely have our plan to widen U.S. 50 all the way out to that. So although, in Mr. Terry's presentation, he talked about the two miles or so to the junction with U.S. 95A, we definitely still have plans to address U.S. 50 from USA Parkway, to the west, to where it's currently four lanes.
- Terry: I do believe one of the issues that we have had on U.S. 95A is, there's the steep hill you're coming down as you're coming from Fernley towards that intersection. And I believe there have been some issues with vehicles not stopping or not being able to stop for that four-way blinking light.
- Malfabon: Okay. Next slide, please. So this summarizes for the total cost, right-of-way, \$10.3 million, to compensate the developer for current improvements. The total amount that we estimated for the improvements made to date was \$46.3 to \$50.3 million, and we're compensating them for a portion of that for a total \$43.124 million, to the developer of the Industrial

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

Center. And that includes the contractual rights for the--for us to build that highway--USA Parkway, on an easement and the private property in Lyon County. With that, that concludes the presentation on the right-of-way and the payment for some of the existing improvements to USA Parkway. And available to answer any questions.

And this is--I just wanted to point out that this is use of state funds. We've been very conservative from obtaining the--from the Interim Finance Committee the ability to receive and expend the \$100 million in highway revenue bonds for the right-of-way on NEON. That's kind of helped us to offset some costs and build up the highway fund balance. We've been very aggressive with trying to federalize as much as possible. I appreciate Member Savage's comments earlier on associated projects in Southern Nevada, you know, try to make every dollar eligible for federal reimbursement. So we've been doing that aggressively, and that's why we have a highway fund balance that's around about \$200 million, in addition to the highway revenue bonds for right-of-way for Project NEON. So we've been managing our cash flow very well and we can expend \$43.124 million in state funds for this purchase of right-of-way and payment for current improvements on USA Parkway.

Sandoval: Thank you, Director. Questions from Board members? Member Savage.

Fransway: Governor?

Sandoval: I'm going to go to Member Savage and then I'll go to you, Tom.

Fransway: Okay.

Savage: Thank you, Governor. Mr. Director, just a couple of questions and a comment. And I--you had said it's still in negotiation. I was taken back a little bit on the current 5.4 miles that are already paved that the developer owns. We have to go back and make some different modifications. But Storey County is going to retain the rights for maintenance and operation of that road? I'm a little confused. In need some clarification on that.

Malfabon: Yes. The developer asked that that remain Storey County's right-of-way. They're currently maintaining that portion. They currently own it. So what I was saying was negotiable, was that NDOT could still discuss that issue separate from this issue with the developer of the Industrial Center. We

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

could still have ongoing discussions with the--with Storey County on that piece, but we--since it's going to be a state route all the way from I-80 down to U.S. 50, we want to bring it up to our standards. And to me, it's our--we would feel that we want to just bring it up the whole thing to state standards, regardless of ownership of that portion by Storey County.

Savage:

And I guess that's where I'm a little confused, because we--I would think Storey County would want to relinquish that part of the roadway. We're trying to relinquish other state roads throughout the state, and I just don't have an understanding of why that would be in their best interest to keep that small section. When we have to plow something, we're on I-80, we have to pick up the plow, we go 5.4 miles and we have to put the plow down again. And as far as maintenance, I guess I just don't understand why they would want to retain that.

Malfabon:

Well, we--in response, we have not had a lot of discussion with Storey County about that. So we think that your observation makes perfect sense for this to be all owned by NDOT and maintained by NDOT. Now, NDOT also has an example of a locally owned road, Clark County Beltway, the airport connector, is owned by Clark County Department of Aviation. We maintain that piece of the Beltway--of the 215 Beltway in Las Vegas. So there are examples where we've either put forth state funds towards a local project. Another example was Needles Highway, which is a county road there by Laughlin that goes to the California-Nevada state line, where the Transportation Board approved the use of state funds to improve that road. And part of it is in the interest of safety, but also, it's a great connection to California. It brings the tourists and freight in from California through that area around Laughlin. So there are examples where we've done maintenance on locally owned roads, but it's very unique. We could still have those discussions. It just wasn't in time for this Board meeting that we had approached Storey County and had that discussion with them about that piece, but we definitely could bring that back to the Board in the future about what we propose and that would still be owned by Storey County and whether we could transfer that.

Savage:

I appreciate the clarification, just to question my own mind there. And lastly, on the Highlands area planning. It's my understanding that we will

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

not have to acquire any right-of-way for any of that blue section through the Highlands Park parcels; is that correct?

- Malfabon: The developer of the Tahoe Reno Industrial Center had in their sale to the Highlands owner, which I think was sold again--so they had language in their contract that said that they will provide an easement to build a public road on that property. So that language is in there in the contract between the developers and it was something that we want to obtain that right to that, so that we are not paying that owner for that right-of-way. We have--because of the contract between the two developers, there's an easement for a public road to be built in that, and that would be the road that NDOT builds as USA Parkway.
- Savage: And I think that's great, and I think that leads to the my point that the legal has to be dotting their I's and crossing the T's so that nobody comes back later and says that we cannot have that easement.
- Malfabon: Right.
- Savage: If that's the case, then the developer would have to defend the Department for their contractual obligation. That's all I have to say. I appreciate it, Mr. Director. Thank you, Governor.
- Sandoval: Thank you, Member Savage. And just to follow up on Member Savage's question. So we're going to spend the money to bring that road, that portion of USA Parkway that's already built up to standard. Who, in Storey County, is going to maintain ownership of that road? Who's...
- Malfabon: Of that...
- Sandoval: Of that section.
- Malfabon: Yes, that lower section.
- Sandoval: So who's going to be responsible for maintenance and snow plows and those types of things?
- Malfabon: Governor, I think that it makes sense that NDOT should be responsible. It doesn't make sense, as Member Savage noted, for our plows to drive through there. There was an example of a California highway where we had discussions with Cal Trans where a road starts in Nevada, goes through

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

California, comes back into Nevada. It didn't make sense for our plow operators to pick up their plow blades in that section when it was Nevada residents going through California, coming back in to Nevada to get to point south in the winter. So to me, it's the same kind of situation. Common sense approach would dictate that we plow that since we're going to have plow operators in the future, operating on that section to clear snow.

Sandoval: Okay. Member Fransway.

Fransway: Thank you, Governor. And I think this may hit on some of the questions, maybe concerns from Member Savage. My question regards the contractual easements. Is it written in these easements that they will be perpetual and that they cannot be changed, for instance, in the event of a change in property of ownership?

Malfabon: I'm going to defer that to our Chief Deputy Attorney General, Dennis Gallagher.

Gallagher: Board Member Fransway, currently TRIC retains the contractual right of an easement through the property. The exact location has yet to be defined. I believe it's the Department's intent, should the Board approve this, to immediately start negotiations with those property owners, along with the engineers to define that right-of-way and get a permanent easement recorded for the site. But right now, we don't have a full legal description. So again, the intent is to meet with those owners right after the funding gets approved and the transaction closes, working with the engineers to define that right-of-way, and then get it recorded in Lyon County. And it's the intent of the Department that those would be permanent easements.

Fransway: (Inaudible).

Sandoval: Tom, did you hear the response?

Fransway: I did hear the response. And my question was--or is, is there a draft that is going to be presented to the property owners at this time? It sounds like the Department will indeed ask for a permanent, nonrevocable easement, but to me, that's absolutely imperative that we negotiate that into the agreement.

Gallagher: Board Member Fransway, this is Dennis Gallagher. Again, I'm not aware of any discussions between the Department and those property owners yet, but

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

I, again, believe it's the Department's intention to do it as quickly as possible, should the Board approve the right-of-way acquisition.

Malfabon: The...

Fransway: Okay. Thank you, Governor.

Malfabon: There is a draft between us and developer of the Industrial Center, but not with the other owners. We haven't dealt with the other owners.

Sandoval: And so if I heard you right, the developer already has some type of an easement agreement with those property owners; is that right?

Gallagher: That is correct, Governor.

Sandoval: And it makes sense. It would be premature to have defined the property description for those easements until you definitely knew where the road was going to be. So this seems to be more of a procedural issue versus anything else; is that correct?

Gallagher: That is correct, Governor.

Sandoval: Okay.

Malfabon: And, Governor, if I may. The width of the right-of-way that's needed in that mountainous area is to be defined specifically as we do the design-build project. And we established with our consultant engineer, Jacobs, that we needed between 250 to 400 feet of right-of-way in that mountainous area. Obviously, where it's more mountainous, we need the 400 feet width. Where it's less mountainous, 250 feet width.

Sandoval: Okay. Mr. Lieutenant Governor.

Krolicki: Thank you, Governor. Two items. First, since this is a separate action item, I just want to reaffirm my conversation with Mr. Gallagher that my situation does not pose a conflict of interest in my independence of judgment as preserved, as it would be with any reasonable person, and I will participate. This question goes more to just the cash management. You have a \$200 million fund balance and I understand that, but just making sure that the \$43 million for this purpose is not in violation of any covenant or restriction on the bonds that were sold.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Malfabon: No, it doesn't. And it does not affect any--since this is a fiscal year '14 expenditure, it doesn't affect any projects that need to be deferred in this current fiscal year as well. So no impacts. We can take it.
- Krolicki: Thank you.
- Sandoval: Madam Controller, do you have any questions?
- Wallin: No, Governor, I don't. And Member Martin had to leave. He had a meeting at noon, so...
- Sandoval: All right. Thank you. Any other questions or comments from Board members? Just to save everybody time and having to listen to me, I'm going to incorporate my comments that I made in the previously Agenda--previous Agenda item and would hope that for the purposes of the record, that they would be adopted for this Agenda item as well.
- Malfabon: We'll do that, Governor.
- Sandoval: So if there are no further questions or comments, the Chair will accept a motion.
- Skanche: So moved, Governor. I'll move to approve item--now I've dropped my glasses, so I'll have to look at what the item number is. Sorry.
- Sandoval: So I'll help you with that.
- Skanche: Thank you.
- Sandoval: The motion would be to...
- Skanche: This is terrible.
- Sandoval: ...approve the sum of \$43.124 million for the purchase of the right-of-way associated with the USA Parkway road project.
- Skanche: So moved.
- Savage: Seconded.
- Sandoval: Member Skanche has moved for approval. Member Savage has seconded the motion. Any questions?

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Malfabon: Governor, if I may...
- Sandoval: Yes.
- Malfabon: ...just to amend the motion. It would be for the portion of improvements, right-of-way, and easement contractual rights so that we have all three of those...
- Sandoval: Okay.
- Malfabon: ...included in that.
- Sandoval: All right. No, I apologize. So the motion would be approval of \$43.124 million of state highway funds for the acquisition of right-of-way for future USA Parkway, and to compensate the developer for a portion of improvements, right-of-way, and easement contractual rights made to the current alignment as described in Agenda Item No. 10.
- Skanche: That would be my motion.
- Sandoval: All right. Member Skanche has amended his motion to reflect what I just stated. Member Savage has seconded the motion. Any questions or discussion? All in favor say aye.
- Group: Aye.
- Sandoval: Opposed no? Member Fransway, did you vote. Tom, are you there?
- Fransway: Yes, Governor. This motion will take--the \$43 million will come out of our current fund balance, correct?
- Sandoval: Yes.
- Fransway: I vote aye, Governor.
- Sandoval: All right. Thank you.
- Malfabon: Thank you, Governor. We could move on to Item No. 11, a Briefing on the Proposed Digital Billboard Policy. And Paul Saucedo, our chief right-of-way agent, will give this presentation.
- Saucedo: Good morning, Governor, members of the Board. I think it's still morning. Ten more minutes, so I'll try to be brief. Today, I'm going to talk to you a

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

little bit about our efforts to amend NAC 410, to provide further clarification on the issuance of billboard permits as they relate to digital billboard signs. And this regulation change came about as a result of the passage of Assembly Bill 305 during the 2013 legislative session. AB 305 amended NRS 410.350 to require the Transportation Board of Directors to establish regulations specific to commercial electronic variable message signs, which I'll refer to as CEVMS for the rest of this presentation. And the bill also established a definition for these types of signs.

To give you a little bit of history, state legislator created NRS Chapter 410, Beautification of Highways, which established a statutory basis for the regulation and control of off-premise outdoor advertising in junkyards. And this would be consistent with the Federal Highway Beautification Act. Now, these statute provide a basis for NAC Chapter 410. State law and federal regulation require a permit for any off-premise advertising sign or billboard that is located within 660 feet of an interstate or primary highway system. Essentially what that means, is the control routes for these are all the interstate routes, all U.S. routes, and then some of our state routes. The federal and state regulation specific to the Beautification Act, identified two different types of advertising signs, and there are those that advertise for items or events that take place off-site. And these signs usually provide a rental income to the property owner, and they also will advertise either national brands or events that are incidental to the activity that is taking place on the property.

And for example, say you have an advertising sign that advertises a national brand of soda. Even though the soda may be sold on site, the sign would be considered an off-premise advertising sign. The other type of signs are on-premise signs. And obviously those advertised products or services that are provided on site. And these are not regulated under the Beautification Act. In addition, NRS 410 and NAC 410 specifically exclude these types of signs from our regulation.

So since the establishment of the Highway Beautification Act, off-premise advertising signs or billboards have been tightly regulated. When located adjacent to controlled highways, they're only allowed in commercial or industrial areas. They have size, height, and spacing requirements, and we're not allowed to use intermittent flashing or moving lights. In

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

compliance with the federal regulations and the NACs, CEVMS were and are permissible signs adjacent to controlled highway facilities. CEVMS are defined as a self-luminous or externally illuminated advertising sign which contains only static messages or copy, and which may be changed electronically. Originally, CEVMS were limited to tri-vision signs, which are a three-sided sign that consists of triangular prisms inside a frame. And the prisms rotate 120 degrees, each showing a new image or message. The technology limit of the signs, again, to only three images or messages. And these types of signs had to conform to all the same basic rules that would apply to aesthetic display, plus they had a minimum display time requirement of six seconds per side and a maximum change interval of three seconds.

Tri-vision sign also had a requirement that had to have a mechanism that would stop the sign in one position if a malfunction occurred. When the technology for digital billboards was introduced, the digital signboard was classified as a CEVMS. However, since the technology used by digital billboards was so different, there was concern that they may violate the federal and state regulations regarding intermittent flashing or moving lights. Several other states shared similar concerns, so the Federal Highway Administration provided a guidance memo. And this guidance memo advised that CEVMS, which included digital signs, did not violate a prohibition on intermittent flashing or moving lights. And issuing permits for these types of signs would be in compliance with the Beautification Act.

After this, NDOT had discussion with our local Federal Highway office and the Department started issuing permits for digital signs under the same rules as tri-vision and aesthetic display signs. Now, the federal guidance memo was challenged in the State of Arizona, which Mr. Wray had mentioned. The Appeals Court found that there was inconsistencies with Arizona state law and similar technology used in CEVMS. This resulted in the State of Arizona proposing and passing legislation to formally recognize CEVMS in their state law. Likewise in Nevada, a lawsuit was filed in Washoe County, which Mr. Wray had mentioned. This was specific to digital billboards and, again, identified the technology used in CEVMS violated federal and state law. And the judge in that case upheld the city ordinance for digital billboard signs. And I guess that's being appealed as we speak here.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

The before mentioned rulings in Arizona and the lawsuit in Washoe County caused the billboard industry to seek a legislative solution in Nevada. And the creation and passing of Assembly Bill 305 formally recognized CEVMS and thereby ensuring consistency with federal regulations. And so where are we at today? We've had workshops in Southern and Northern Nevada to discuss the proposed changes to NAC 410.350. The changes were specific to digital billboard signs and they included the following. A definition of commercial electronic variable message signs or CEVMS to specifically recognize digital billboards. They also set a minimum display of six seconds and a maximum change interval of two seconds. There was also a malfunction setting--or requirement that should a malfunction occur the sign would be programmed to turn off, go completely black or freeze on the displayed image.

And then lastly, there was a brightness requirement. And every digital sign must contain a light sensing device that will adjust the brightness of the sign to comply with the industry standard. And the industry standard that was identified and used by several other western states is the Outdoor Advertising Association of American Best Practice Guidelines. During the workshops, we had numerous comments and suggestions. As a result, we have been reviewing the comments and reworking the proposed changes. And we're proposing to have a second round of workshops to further discuss these changes. And some of the highlights of the new items include further clarification of the definition of CEVMS. There was also a security concern regarding hacking of the digital systems, and so we added some language addressing that issue. And also identified some requirements to convert an existing aesthetic display to a digital display.

Once we've had these changes reviewed by legal counsel, we can then have a second round of workshops like I just mentioned. At that point, we can consider any further changes and prepare for the formal public hearings. We then can conduct those formal hearings and then bring the proposed changes back to the Transportation Board for your consideration and a possible vote. And then we'll move forward--if approved, move forward to the LCB for final processing. And that concludes my presentation, so I'd be happy to answer any questions you might have.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Sandoval: Thank you. When we consider these, what will be the breadth of our jurisdiction?
- Saucedo: Essentially, it's the controlled routes are all interstates, all U.S. routes and then some state routes. And it's 660 feet from the right-of-way out, and the sign has to be able to be read from the main travel lane. And that's essentially what it is right now.
- Sandoval: So we wouldn't be considering something, for example, that would be on the Las Vegas strip, would we?
- Saucedo: As long as you cannot read it from the main travel lane, you're correct, and it's beyond that 660.
- Sandoval: Okay. And then will any of our, what we consider include content-based issues?
- Saucedo: No, Governor, it does not.
- Sandoval: And who has the jurisdiction over that?
- Saucedo: I don't--the local--yeah. The locals have jurisdiction even within our 660, so if there is a more restrictive requirement, the billboard companies have to get a permit from the Department to comply with the Beautification Act, and they also have to get a permit from the local jurisdiction. So if there's a requirement in that local jurisdiction, that would also apply.
- Sandoval: Okay. And then will we be considering whether a sign company that is seeking to, for lack of a better term, upgrade their single content-based and they want to move it to a digital format?
- Saucedo: There is--our second round of workshops that's one of the things we're going to talk about. We did identify what requirement that might be. We wanted to make sure the signs were not grandfathered in before the Beautification Act was put in, or that they're still compliant. In other words, we allow signs in commercial or industrial areas. And then if a sign--if an area has changed to maybe residential or something and the sign really isn't conforming anymore, then that's something we would recommend that we wouldn't approve a digital sign for something like that.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Sandoval: And then this perhaps is a question for Mr. Gallagher, but if we're looking at eminent domain-type issues, and I know that's been the subject of litigation previously, is when there's an alleged taking and that includes a billboard, we've paid a lot of money out for a single-subject board. And if we encountered any kind of litigation, with regard to a digital format that would likely seek additional compensation, given that they can increase the volume of their content, because of the digital format.
- Gallagher: For the record, Dennis Gallagher, Counsel for the Board. Governor, I'm not aware of any litigation that involves billboards in that regard for changes. I will point out that in Project NEON, it is going to impact a number of billboards and we're in negotiations with a couple of the companies. In that situation, where we can, we'll relocate and we're working with the city, also, to assist. I don't recall if any of those billboards--some are electronic, but I don't think any are multifaced, although I could--there are?
- Saucedo: There are, yeah.
- Sandoval: And then would we also--I would likely anticipate a claim that--from a sign company, that we would have converted that, if you hadn't taken it.
- Gallagher: We've had that discussion already, Governor, in connection with some of the billboards related to Project NEON.
- Malfabon: Yes.
- Sandoval: All right. Questions from other Board members? Member Skancke.
- Skancke: Thank you, Governor. Just following on that line of questioning, which I think is really good. Is there--and if we don't know, we may want to get an answer to this, but is there any case law in other states, or federal district court, or any courts of appeal, where there has been precedents set on any Departments of Transportation in the taking of a sign that has multiple advertisement opportunities?
- Gallagher: I don't know, Board Member Skancke, off the top of my head. I would imagine that there is case law on it, because as you know, the laws vary from state to state on eminent domain. So I do expect that there are in other jurisdictions, depending on that state's law. I don't know how much

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

precedential value it would have given Nevada's eminent domain law is so different than most other states.

Skanske: I guess--so my question would be is if there's--again, I'm not a lawyer. They won't let me practice law because I didn't go to law school or pass the bar. But I--my concern here is that we have so many large projects now and in the future that, to the Governor's point, I think we should find out if there's any case law in district court or courts of appeal where we may either get ourselves into trouble or not, before we have a conversation around what this looks like. I'm very concerned that with multiple businesses being on these electronic signs, that that's going to have a negative impact on all the good things that we're doing. We have a lot of road improvements and a lot of expansions coming and lots of projects over the next 25 years, and that would be my concern. And I did have a question on the 660. Is that 660 from the control of access line, or is that the 660 from the edge of the freeway?

Saucedo: It's from the edge of the freeway. 660 feet from--I think it's from the right-of-way.

Unidentified Male: The right-of-way.

Saucedo: Yeah.

Skanske: So it's from the right--okay.

Saucedo: Yeah.

Skanske: All right.

Sandoval: Excuse me. As part of the presentation, will there be a discussion as--or will there be discretion on behalf of the Board whether we want digital at all, or is it assumed that there's going to be digital and then we'll be talking about limitations?

Gallagher: I'll defer to Paul--Mr. Saucedo.

Saucedo: I'm not an attorney, but the legislature approved the language for CEVMS or commercial electronic variable message signs. And so I don't know if what our--what your discretion is to not follow that, so...

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Sandoval: Okay.
- Gallagher: For the record, Dennis Gallagher, Counsel for the Board. As I recall, Governor, the legislation authorizes this type of billboard. It doesn't mandate that this body or any other body that might regulate billboards, permit that technology.
- Sandoval: Okay. And just as an aside, will this include digital signs that are state highways that are now roads through town?
- Gallagher: If they're billboards, as opposed to on-premise signs. On these state highways as it goes through these towns, you may have digital signs advertising the business upon which these boards sit.
- Sandoval: So there's a distinction between that and a billboard?
- Gallagher: Yes. On-premise advertising versus--well, some businesses in the state actually have billboards on their property advertising their business.
- Sandoval: For example, and I'm not pointing anything out, but just as part of this discussion that we've had, with regard to state roads that are within city limits, our promulgation and adoption of regulations will give this Board authority with regard to billboards that are on those roads (inaudible)?
- Saucedo: Yes, but it would--it sets a minimum kind of a guidance. And so a local jurisdiction would then have the ability to set any rules they would have as long as they're not less restrictive than the Beautification Act rules.
- Sandoval: No, that's the clarification I'm looking at though. I mean, this is the other side of the coin here, in terms of what authority this Board will have within city limits of communities throughout the state, because of the state road. And I think what I heard you say is that this Board would have the ability to set more restrictive regulations than those that are adopted by local governments.
- Saucedo: Yes, as long as they're not less restrictive than the federal requirements.
- Sandoval: Mm-hmm. Okay. Further questions from Board members? Member Skancke.
- Skancke: Thank you, Governor. So this is an information item only today...

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Saucedo: Yes, sir.
- Skanche: ...right? So what's the next step for this Board?
- Saucedo: We had planned to take--to have the next set of workshops take--we have some proposed changes from what I provided the Board. We'll have those reviewed by our legal counsel. If they're okayed then we can take (inaudible) to the next workshop that we have. At that point, I believe we can have--either bring them back to you if you'd like that or we can actually go to the public hearings at that point, and then after the public hearings bring the changes back to you for vote. So there's a choice here, I think. You either go to the--we either come back after the second round of workshops, let you see what we've done. If you're okay with it, move forward with the public hearings, then to the LCB. Or we can have the next workshop and the public hearing and then bring the regulations back to you.
- Sandoval: Well, when you say public hearing, what's the format for that?
- Saucedo: Dennis, can you comment on that?
- Malfabon: It's a publicly agendized meeting so we have those notices--public notices out of those hearings.
- Sandoval: But that would be separate from this Board meeting.
- Malfabon: Yes.
- Sandoval: So would you be coming--so let's do a hypothetical here. But you have those hearings, those publicly noticed hearings. You give the public and the affected local governments the opportunity to be heard, then you would present a recommended--or proposed regulation to this Board for another public hearing?
- Saucedo: Yes.
- Malfabon: That's technically a public hearing, yes.
- Sandoval: Because we won't be bound by what is recommended, correct?
- Gallagher: That is correct, Governor. And it would come back to this Board before it would be sent over to the LCB for its consideration.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Sandoval: Because it would have to be adopted here, then go to the LCB?
- Gallagher: Yes, Governor.
- Sandoval: Yeah.
- Skandcke: So, Governor, if I could. I'd like to request two things. One, the more input we have and oversight before it goes over to the LCB or any legislative action, I think that would be appropriate. And the second thing is, is whether it's an agenda item or not, I would like to have, and I think it would be prudent for the Board to have as well, any case law on multiple electronic billboard advertising. Having been around this many, many years ago in my previous life, a two-sided billboard is worth more than a one-sided billboard. And if these electronic signs can handle multiple companies, which they can anywhere from, I think, 5 to 12 or 15, I think it's really important for us to have that case law to see if--and there may not be any, then that's a different conversation we have to have. But I think the more information on this particular item we can get, the better for the future of our state as it relates to obligating funds out. Thank you, Governor.
- Sandoval: Thank you. Any other questions from Board members?
- Krolicki: Governor, if I may, please.
- Sandoval: Lieutenant Governor.
- Krolicki: I don't think we can answer today, but there is going to potentially be a rub between the local jurisdictions and the state Board. So obviously, discussions prior to going to LCB would be, I think, encouraged just to make sure we understand what these issues are and just clarify. The Wrays had mentioned something in their public comment and I've certainly read about it, but what is the status of some of the litigation involving the digital boards, and would that impact anything that we're discussing today?
- Saucedo: Yeah, I'm sorry. I couldn't address that.
- Sandoval: I mean it would have to. I mean, just by definition, if the Nevada Supreme Court is considering an issue. So, Mr. Gallagher, the question would be--if I may, Mr. Lieutenant Governor.
- Krolicki: You're the federal judge.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Sandoval: No. But would it...
- Krolicki: His boss makes \$500 an hour.
- Sandoval: ...would it be premature for this Board to be adopting regulations without the guidance of the Nevada Supreme Court on the issues that are before it?
- Gallagher: Governor, I'm not--I apologize, I am not aware of the issues that are being considered in the case now pending before the Nevada Supreme Court. I will look into it and next month report to the Board.
- Sandoval: Yeah. And then that would be helpful in terms of scheduling and for my consideration of what's going on, because it could be determinative in terms of what we're deciding. And a great point brought up by Lieutenant Governor. Madam Controller, do you have any questions?
- Wallin: No, I don't, Governor. Thanks.
- Sandoval: Member Fransway, do you have any questions?
- Fransway: Yes, Governor. I'm just wondering, is there going to be a deadline for approval by the Board, before it goes to LCB?
- Sandoval: Yes, I will take a stab at answering that. LCB can't take any action until this Board adopts regulations. So what happens is we would have our public hearing, we would adopt regulations. Those regulations are submitted to LCB for approval and it has the discretion not to approve those and send them back. So I think LCB essentially has to wait until we've taken final action; is that correct?
- Gallagher: That is correct, Governor.
- Fransway: Okay.
- Sandoval: Any further questions, Member Fransway?
- Fransway: Yes, Governor. I'm thinking the bottom line, wouldn't this culminate in a BDR of sorts?
- Sandoval: I don't think so. I mean it could. I mean, I don't know if it would come out of this Board, but certainly someone else could propose legislation.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

- Fransway: Okay. That's my question, Governor. Thank you.
- Sandoval: Any further questions before I leave Agenda Item No. 11? All right. Thank you very much.
- Malfabon: Thank you, Paul.
- Sandoval: We'll move to Agenda Item No. 12, Old Business.
- Malfabon: Thank you, Governor. We'll be brief. Items A and B of Item 12 are report of Outside Counsel Cost on Open Matters and Monthly Litigation Report. And Chief Deputy Attorney General, Dennis Gallagher, is available to answer any questions. Seeing none, the Fatality Report is also provided. And as we have mentioned in previous months, we've seen an uptick in fatalities and we're doing the best we can and ask just each and every driver out there just drive safely, buckle up, be attentive, and watch for those that are at risk: motorcyclists, pedestrians, bicyclists. To be cautious every day that you're behind the wheel. Thank you, Governor.
- Sandoval: Thank you. Any questions for the Director with regard to Agenda Item No. 12? Agenda Item 13, Public Comment. Is there any member of the public in Las Vegas that would like to provide public comment to the Board?
- Martini: Hello, my name is Mary Martini. I'm speaking as a member of the public, and on behalf of the residents of the Rainbow Unit in Mt. Charleston. The flood diversion channel for Mt. Charleston began construction last Thursday. And it is a very impressive project, probably rivals other repairs to the freeway. It's about a half a mile long and it's 10 to 20 foot high and the size of a prism. And the impacts to the community and to the recreational area up there is tremendous. And I just want to express gratitude to you, Governor, for making this happen.
- Sandoval: Thank you very much. Any other public comment from Las Vegas?
- Wallin: No, Governor, no one else.
- Sandoval: Public comment from Carson City?
- L. Wray: Thank you, Governor. Lori Wray with Scenic Nevada. I just wanted to point out that in your packets that we gave you today, there is information about a suit--or a payout to Clear Channel Outdoor for \$4.32 million for one

Minutes of Nevada Department of Transportation
Board of Director's Meeting
October 13, 2014

digital billboard that had to be removed for a bridge improvement project right outside of St. Paul. And that happened, and the payout came, and the actual court document is in there; it's in the back. And there's also another lawsuit that you might be interested in Los Angeles, where there was a settlement in a lawsuit and the City of L.A. granted the billboard company a thousand digital billboard permits. They were sued, and meanwhile, the billboards went up and were in operation.

And there was an appeal to that, because there was a ban on billboards in Los Angeles at the time. And the final result was that an appellate court had those billboards turned off in Clear Channel Outdoor. It was in a, excuse me, the newspaper article claimed that they were out \$93 million. And I don't know if they're pursuing that or not. Was there any other--and then, of course, Scenic American is suing the Federal Highway Administration for that actual memo from 2007. And so that's still in play, as well as ours.

Sandoval: Thank you, Ms. Wray. Is there any other public comment from Carson City? The Chair will accept a motion for adjournment.

Skanske: So moved.

Sandoval: Member Skanske has moved to adjourn. Is there a second?

Krolicki: Second.

Sandoval: Second by the Lieutenant Governor. All in favor say aye.

Group: Aye.

Sandoval: The motion passes. Thank you ladies and gentlemen. This meeting is adjourned.



Secretary to the Board



Preparer of Minutes