

# Montana Transportation Commission

November 1, 2012 Meeting  
Helena, Montana

## IN ATTENDANCE

Kevin Howlett, Transportation Commissioner, Chairman  
Barb Skelton, Transportation Commissioner (Telecom)  
D. Winterburn, Transportation Commissioner (by proxy)  
Rick Griffith, Transportation Commissioner  
Carol Lambert, Transportation Commissioner  
Tim Reardon, Director MDT  
Lynn Zanto, Planning Administrator  
Dwane Kailey, MDT Engineering  
Kevin Christensen, MDT  
Ed Beaudette, MDT  
Dustin Rouse, MDT, Butte District  
Larry Flynn, MDT  
John Huth, MDT  
Nicole Pallister, MDT  
Jim Walther, MDT  
Alyce Fisher, MDT  
Lori Ryan, MDT  
Kevin McLaury, FHWA  
Paul Harker - FHWA  
Public Comment – Bike Montana Representatives  
    Nancy Wilson – Missoula  
    Melinda Barnes – Helena  
    Darlene Tussing- Billings

*Please note:* the complete recorded minutes are available for review on the commission's website at [http://www.mdt.mt.gov/pubinvolve/trans\\_comm/meetings.shtml](http://www.mdt.mt.gov/pubinvolve/trans_comm/meetings.shtml). You may request a compact disc (containing the audio files, agenda, and minutes) from the transportation secretary Lori Ryan at (406) 444-7200 or [lrayn@mt.gov](mailto:lrayn@mt.gov). Alternative accessible formats of this document will be provided upon request. For additional information, please call (406) 444-7200. The TTY number is (406) 444-7696 or 1-800-335-7592.

## **OPENING – Commissioner Kevin Howlett**

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

## **Approval of Minutes**

The minutes for the Commission Conference Call of October 2, 2012, were presented for approval.

Commissioner Griffith moved to approve the minutes for the Commission Conference Call of October 2, 2012. Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

### ***TCP Approval***

Director Reardon said this is the opportunity for the Commission to adopt the Department's proposed Tentative Construction Plan for the next five years. We have a funding issue pending nationally for the highway construction program. We have approximately 24 months of funding from the federal government, after which there is a certain element of the unknown. Nonetheless in order for the Department to keep programming projects and in order for the Commission to plan ahead so we can expend resources appropriately for design, engineering, right-of-way and so forth, we have to have a plan. Under state law the Commission is responsible for adopting the construction contracts for the Department and for laying out the money. Over the last several days each of you have been going through the Proposed Construction Plan for the next five years. State law separates some of that money out for Primary, Secondary, and Urban Systems and of course the Interstate. There is a little incompatibility with the way federal law addresses NHS Interstate Systems. However, that's a relatively simple process for us to get through and to make the two systems work together. The efforts of the Department staff have been exemplary under some very challenging circumstances. We've been dealing with extensions of federal funding for a long time up until June of this year. Currently we have a 24-month window for future funding after which all bets are off. We're all hoping for the best, nonetheless we have a plan and now it is up to you to adopt that plan. It is tentative as we all know; it has a certain amount of fluidity built into it for issues that come up not the least of which can be funding.

Before we move forward I want to acknowledge the efforts of the people who really have done the leg work in getting this ready for you. The five District Administrators, Mr. Toavs, Mr. Ebert, Mr. Johnson, Mr. Mintz, Mr. Streeter and their staffs; the staff from the Planning Division, Lynn Zanto's crew; Dwane Kailey in Engineering Division; special acknowledgement for the folks in Administration Division, and in particular John Huth and Nicole Pallister; and from Engineering, Jim Walther. Those folks are charged with some magic in putting this together for you. They have been successful for a long time in getting this program to you in cooperation with the other folks within the Department. In this instance I do want to thank John Huth who is retiring at the end of this calendar year. He's been involved in this process for a long time and we've relied on him a great deal and we shall miss his leadership and his efforts. I think he's got Nicole just about to go or scared to death. With Jim Walther and the other folks that worked on this program, it will continue pretty well unscathed. It should be a relatively seamless transition as

we move forward. I want to let the Commission know that in addition to John's retirement, District Administrator Mick Johnson is leaving at the end of this calendar year as well. His contributions from his District have also been noteworthy; he's had a pretty successful run in District 3.

Dwane Kailey said I'll turn it over to Mr. Huth and Mr. Walther to present the information you want to see prior to your approval of the TCP. Commissioner Lambert said she'd been here several days and I've seen it all. Commissioner Griffith made the motion to get it on the floor and then have some discussion before the vote. Commissioner Griffith said as most of you know one of my passions in my District is safety. I take safety very seriously. When I came onto the Commission the Butte District was the highest traffic accident corridor in the State, and I took that seriously; I took that as a mission. Absent direction from anyone I asked this Commission to adopt a speed limit in that area because I wanted to take a proactive role in doing something to reduce the accidents specifically in that corridor and state-wide essentially. From the report that Lynn and Jim Skinner did for me, absent all other factors in the process, the accidents have been reduced by half in the small corridor between Butte and Nissler Junction. There are three phases of this project to reduce the accidents on that corridor. At Nissler Junction in the wintertime we have a truck turn over on that road every day. At Rocker Hill we have the largest truck stop in the state with trucks pulling out and climbing up a hill. You've got such traffic differential that it's not unheard of to find two vehicles climbing 25 mph in what used to be a 75 mph speed limit on that road. Further on as you get closer into town there are two old style narrow bridges, 28 feet wide, and on a corner. It too is a high accident area. I've had friends in accidents in that area. I specifically drove differently than the rest of the population because I knew about the accident history in there.

The District has done well by nominating projects that are both passionate to me and that try to do something with the safety issues on that road. The problem is they have to weigh and balance the District versus the accident rate on that corridor. I appreciate that they also take that seriously. I drive about 60,000 miles per year mostly to see my grandkids between Butte and Belgrade so I drive those roads often. In that process I've had some things happen – I've pulled people from burning vehicles, I've put out fires with the snow on the ground, I've had people die in my arms on that section of road and wasn't able to save them. It's not just in my District that I feel the passion for safety. As Kevin knows for a long period of time both Two Medicine and Nine Pipes have been a passion for me and Hwy 323 was a passion for me. In fact it was Kevin that taught me how to be compassionate in District funding because the first or second Commission I sat on through a TCP, Kevin gave up money out his District because the only project that Nancy was going to get done in her District was Hwy 323 and they also had a safety project that they needed to get done. It's not just in the Butte District that I have a passion for our projects – the 191 project between Belgrade and Big Sky on the National Highway

System where we're putting in turn lanes this year and we're constrained between the rivers and the rocks on the side of the hill. The District has done a good job of taking safety seriously. We, as a Commission, took up the Huffine Lane issue before it ever got to us and put a speed limit on Huffine Lane. I can't tell you how many thank you's I've had personally from the people who live in that area for that speed limit. There are commitments we make for being on the Commission and we have to live with the decisions we make. Some of them are fiduciary but for me the speed limit changes are a moral decision that I make and I have to live with the consequence. I have and I will continue to do that even though my time may be short on this Commission.

With that I ask that we change the 2017 TCP to include the balance that we have in bridges and the balance we have in the Butte District, to be put to the last third leg of that Safety Project the Butte District has nominated to come forward. It's sitting beyond 2017. I would make that in the form of an amendment to the motion.

Dwane Kailey said the funding for that is going to be a challenge so I would ask that you allow staff a little bit of time to find a funding mechanism and we will get that placed as directed by the Commission into the TCP. We reviewed the balances and I don't believe there is adequate balance solely within the Butte District and in HPP Bridge at this point in time. Let us find a mechanism to get that into the TCP. Commissioner Griffith agreed. He said there was about a \$5-\$6 million dollar short fall but I remember years ago we left those significantly out of balance to do that. Dwane said he understood but I'm asking for staff to find the funding. Commissioner Griffith agreed as long as the project comes into 2017. Dwane said he would do it.

Commissioner Griffith moved to adopt the TCP with the following amendment – move the Rarus Silver Bow Creek Structures forward into the 2017 TCP. Dwane Kailey stated staff will begin looking at funding mechanisms. Commissioner Lambert seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Director Reardon said even though the TCP has been adopted, the significance of the TCP is the final decision by this Commission and this Agency. I think it's appropriate before you go on to see if there is any public comment about the TCP. You've got \$300 million of federal aid and a lot of highways and roads out there, if there is public comment on the TCP, it would be appropriate to take that now rather than at the end of the meeting.

## **Public Comment on TCP**

### ***Melinda Barnes – Bike Walk Montana***

The concerns I have with this this is that our organization is very focused on biking and walking and supporting it and promoting it throughout Montana. We know that under the new MAP-21 Montana is already receiving 38% less than they did under SAFETEA-LU for transportation alternatives. I'm a little concerned when I look at the Rec Trails Program with Transportation Alternatives which comes up to \$2 million whereas the Transportation Alternatives that Montana receives is \$5.8 million. So I'm just confused if some of that is into the CTEP and Safe Routes to Schools or if those are just carry overs from SAFETEA-LU. If they are a carry over, then I'm really concerned about where the other \$3 million is going.

Lynn Zanto said essentially what you are seeing is the project obligations that are going to happen in 2013. You're not seeing the whole apportionment and how it's distributed to the programs. Regarding the Transportation Alternatives, we just got guidance on that, we have to develop our competitive process and we have to solicit projects. So what you're seeing is a little funding reserved for preconstruction phases for projects that come through that process and will be a little bit delayed. We will be putting a full \$4.2 million into Transportation Alternatives. The \$7 million listed is our old Enhancement Program under SAFETEA-LU. Those are the obligations we are going to make in federal fiscal year 2013 – we intend to utilize the rest of our Enhancement Funds through the life of their eligibility. Commissioner Howlett said it is important to understand that as you go across the line and reach the third column it is zero because there is no funding beyond there (referring to graph). Lynn Zanto said in 2014 we anticipate some more projects being ready to deliver and then also in 2015. By this point, because federal funds have a lapse date, our SAFETEA-LU money is gone. But if you look at the Transportation Alternatives right here (referring to graph), we're carrying that through. As I said we have no projects identified yet that's why you're not seeing the full \$4.2 million, but we absolutely intend to utilize up to the obligation limitation.

Commissioner Griffith asked Lynn to explain that some of the items can be put into the projects as they can be built which don't get credit in those categories. Lynn Zanto said these are reserved funding categories but we have had a long-standing Commission policy to do contact sensitive design. So every time we are going out and scoping a new project within a community, we do public involvement to get a sense of what is of interest to the community. On reconstructs, major rehabs, new construction we almost always do a bike/ped amenity or sometimes we do a transit pullout or some sort of lighting. We intend to continue that practice; that policy still stands within the Agency. There is a lot more that gets invested in non-motorized type improvement than what's funded just through those categories. We've also have stand-alone non-motorized improvements like the walkway over the Capital

Interchange, one is on US 93 and one in the Billing's District. So we have opportunities even with the changes in MAP-21 to invest and meet the needs given available funding.

***Nancy Wilson – Bike Montana***

I just wanted to quickly say thank you to Rick Griffith. I do believe, as you stated, that speed is the killer. When you pointed out that in your District reducing the speed limit is really what changed the safety issue. I'm really pleased to see this Commission taking that into account because over the years many times we've argued in Missoula that we need a lower speed somewhere and people say you have to do the 85<sup>th</sup> percentile. The 85<sup>th</sup> percentile doesn't matter, you have to go slower to save people's lives. So I really appreciate you bringing that up. I believe that's one of the falsehoods that have come out of engineering over the years – and we need to quit balancing it at a higher rate than people's lives and safety. So thank you. I really, really appreciate it.

Commissioner Howlett said this body is entrusted with the responsibility of making those adjustments. We have tried very hard over the years to engage counties and Tribes and get their recommendations. I remember coming onto this Commission under Governor Martz and a State Senator told me that the speed limit in a community in Sanders County had been submitted eight years earlier and hadn't been acted on. I find that just unconscionable. In my personal deliberations as a Commissioner I like to weigh pedestrians, traffic, residences, pets, balls in the road, livestock, acceptance of the people who live there. It's more than the 85<sup>th</sup> percentile. I don't argue with the science of the 85<sup>th</sup> percentile. I just think there's a little bit of social science that needs to go into it. So that's what you will often read in the minutes when we discuss speed limits – the social side of the speed limit. This Commission has had some difficult issues with speed limits but I think we've made the right decisions and I'll live with those. I know people travel long distances to voice their support for a reduction and it's always for a reduction, very seldom have we ever been asked to raise the speed. It's very impressionistic when people travel hundreds of miles to ask us to please slow the traffic down so our kids will be safe. We're a conscious Body here and I hope it remains so. He thanked them for coming.

Commissioner Howlett said he wanted to echo the comments of the Director about the staff of this Department. It's not just the managers who do an excellent job but I also want you to tell the people who work under you all the way down to every employee in this Department that their job is very needed and their job is very much appreciated. Whether it's opening the door in the morning or doing all the technical design work or whatever is in between, this Body is very appreciative of their work. As we approach this holiday season please share with them my wishes, as the Chairman, to have a most joyous time with their families.

## **Agenda Item 1: Enhancement Project on MDT Right-of-Way Citywide Sidewalks – Bozeman**

Lynn Zanto presented the Enhancement Project on MDT Right-of-Way, Citywide Sidewalks in Bozeman. The city of Bozeman is seeking approval for a Community Transportation Enhancement Program (CTEP) project to design and build sidewalks at six locations and to install accessible curbs and striped crosswalks at nine intersections. The only on-system portion of the project is a sidewalk on the south side of Oak Street (U-1202) between the North 9<sup>th</sup> Park and Santa Fe Reds (W Oak Street and North 7<sup>th</sup> Avenue). Below is a list of the off-system locations:

### Off-system Sidewalks:

- North side of Oak Street adjacent to Rose Park
- South side of Tscahache Lane adjacent to Rose Park
- East side of North Grand Avenue adjacent to Centennial Park
- North side of E Cottonwood Street between No Grand and No Willson Ave
- South side of Durston Road between Flathead and Meagher Avenues

### Off-system Curbs and Crosswalks (Intersections):

- South Grand & West Hayes
- 5<sup>th</sup> Avenue & Alderson
- 5<sup>th</sup> Avenue & Dickerson
- 5<sup>th</sup> Avenue & Story
- 6<sup>th</sup> Avenue & Curtiss
- 6<sup>th</sup> Avenue & Story
- 7<sup>th</sup> Avenue & Alderson
- 7<sup>th</sup> Avenue & Curtiss
- 7<sup>th</sup> Avenue & Dickerson

The total estimated project cost is approximately \$374,000. Including this project, the city of Bozeman will have obligated \$2,515,573 of the \$2,820,495 made available over the life of the CTEP program.

*Summary:* MDT is requesting Commission approval for a CTEP-funded project in Bozeman to design and build sidewalks at six locations and to install accessible curbs and striped crosswalks at nine intersections. The only on-system portion of this project is a sidewalk on the south side of Oak Street (U-1202) between the North 9<sup>th</sup> Park and North 7<sup>th</sup> Avenue. Total project costs are estimated at approximately \$374,000. Staff recommends that the Commission approve the addition of this project to the program.

Commissioner Lambert moved to approve the Enhancement Project on MDT Right-of-Way – Citywide Sidewalks – Bozeman. Commissioner Griffith seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

## ***Agenda Item No. 2: Highway Safety Improvement Projects***

Lynn Zanto presented the Highway Safety Improvement Projects to the Commission. MDT is seeking Commission approval for nine safety projects to be funded through the Highway Safety Improvement Program (HSIP). The overall purpose of HSIP is to reduce traffic fatalities and serious injuries by implementing infrastructure-related safety improvements. Funding distribution is prioritized according to benefit/cost ratios at locations where feasible countermeasures to crash trends are identified.

The projects on the attached list meet the criteria set forth for HSIP-funded projects. These projects will be let for construction individually. The total estimated cost for all nine projects is approximately \$3,791,000. Combined, these projects will provide safety improvements for approximately 1,204 miles of federal-aid highways.

*Summary:* MDT is requesting Commission approval of nine safety projects to be funded by the Highway Safety Improvement Program. Attachment A lists the project names, locations, scope, and costs. The total estimated cost for all nine projects is approximately \$3,791,000.

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

Commissioner Howlett said two meetings ago I raised the issue from Ravalli County of lighting at an intersection where there was a fatality – Skalkaho Road and 93. He asked about the status of that project. Dwane Kailey said he had not checked into that. That was actually identified through a speed study. It was my understanding the District was moving forward with that. It was supposed to be implemented but I can check on the status and get back to you. Commissioner Howlett said he was concerned that the Commission is asked to approve things and this issue came up three months ago and it's not on this list. Is there a way you can add it to this list? Dwane said he would check into it and get it implemented as soon as possible. It was my recollection that they were going to do that through maintenance. Commissioner Howlett said he didn't know how they were going to do it but it was directed by the Commission; we wanted it done. Dwane said if it went through maintenance, it would not come before the Commission because it would be a maintenance activity. Maybe that's why you have not seen it. He said he would check on it.

Commissioner Griffith asked if these were the same items on the list presented in the TCP. Lynn Zanto said yes it showed in the out-year of the TCP list and I understand that we needed your approval and then through our project status meetings we would

figure out what group of projects could move forward in the first year. This is to get them moving forward in the first year. Dwane Kailey said in the TCP it was kind of a general place holder and was all of these lumped together. This brings them forward as single projects respective to the individual districts. They will be split up and brought in as funding allows. The intent is to start implementing them this year.

Commissioner Griffith moved to approve the Highway Safety Improvement Projects. Commissioner Lambert seconded the Motion. All Commissioners voted aye.

The motion passed unanimous.

### ***Agenda Item No. 3: Montana Essential Loan Program Fort Peck Assiniboine & Sioux Tribes Great Falls, Development Authority***

Lynn Zanto presented the Montana Essential Loan Program, Fort Peck Assiniboine & Sioux Tribes, and Great Falls Development Authority to the Commission. The Essential Freight Rail Loan Program is a low-interest revolving loan fund for construction, reconstruction, or rehabilitation of railroads and related facilities in the state. The program is established by Montana Code 60-11-113 to 120.

Eligible applicants for loans under the Montana Essential Freight Rail Loan Program include railroads, cities, counties, companies, and regional rail authorities. Port authorities may also qualify, provided they have been included in the state transportation planning process. Eligible activities include projects to preserve and continue operation of viable railroad branch lines and for the development, improvement, construction, purchase, maintenance, or rehabilitation of intermodal transportation facilities, branch lines or short lines, sidings, light density railroad lines, and rolling stock, including rail cars. Rehabilitation and improvement assistance projects require a 30 percent loan-to-value match. Facility construction assistance projects require a 50 percent match.

*Summary:* MDT has developed agreements to provide loans through the Montana Essential Freight Rail Loan Program to two Montana entities: The first agreement would provide funding to the Fort Peck Assiniboine and Sioux Tribes for completion of a transloading facility in the Poplar Industrial Park. The second agreement would provide funding to the Great Falls Development Authority for completion of a rail facility to serve the new Great Falls AgriTech Park.

MDT staff recommends that the Commission approve two Montana Essential Freight Rail Loan Program agreements: for the Fort Peck Assiniboine and Sioux Tribes for completion of a transloading facility in the Poplar Industrial Park and to the Great Falls Development Authority for completion of a rail facility to serve the Great Falls AgriTech Park. The amount of funding to be provided will be determined

at the time of the loan agreements, depending on the amount of loanable funding in the revolving loan fund.

Commissioner Griffith said it was through this program the Port of Montana built their rail facility and because the Port of Montana was able to pay back the loan, it allowed money to be left in this fund. Lynn said state law requires that we leave a \$500,000 balance in the fund. We can loan anything above that \$500,000 balance. Commissioner Griffith said for transportation other than highway, it's our ability to make economic change to these communities and I really support the program. It's been a good one for Butte. The Grain Terminal is doing 18 million bushels a year and it's all because this money allowed them to do that.

Commissioner Griffith moved to approve the Montana Essential Loan Program, Fort Peck Assiniboine & Sioux Tribes and Great Falls Development Authority. Commissioner Lambert seconded the Motion. All Commissioners voted aye.

The motion passed unanimous.

#### ***Agenda Item 4 Interim Speed Zone Secondary 228 – Highwood Southwest***

Dwane Kailey presented the Interim Speed Zone, S228 – Highwood Southwest. We received a request from Cascade County to look at this section of roadway. We had two slides out there which we've repaired. Because of the nature of the roadway there is potential for this to slide again. There is no catastrophic failure concern but there is still some movement in the roadway so we left them as gravel sections at this point in time which will make it easier and quicker to repair should it again shift a little bit. However, the statutory posted speed limit is 70 mph. We are asking is for an interim reduced speed and then go out and study it for a longer term speed limit and bring it back for your approval. We are asking for an interim reduced speed limit of 50 mph and also a 35 mph zone. Commissioner Howlett asked if they had some geotechnical people looking at the stability of the ground out there before we spend a couple of million for pavement over the top of it. Dwane Kailey said absolutely.

Commissioner Griffith moved to approve the Interim Speed Limit Recommendation for Secondary 228 – Highwood Southwest. Commissioner Lambert seconded the Motion. All Commissioners voted aye.

The motion passed unanimous.

#### ***Agenda Item 5: Speed Zone Four Corners – Oilmont Area (Toole County)***

Dwane Kailey presented the Speed Zone for Four Corners – Oilmont Area (Toole County) to the Commission. This is a request by Toole County for the Four Corners Oilmont area. It's in conjunction with S215 in the Four Corners segment and S343 near Oilmont. We've reviewed the accident history, the traveling speeds, and at this time we are recommending a 45 mph speed limit beginning at S215 proceeding an approximate distance of 5,950 feet, then reducing it to 35 mph for an approximate distance of 1,450 and then increasing to 45 mph for an approximate distance of 1,050 feet. This has been presented to Toole County and they concur.

Commissioner Griffith moved to approve the Speed Limit Recommendation Four Corners – Oilmont Area (Toole County). Commissioner Lambert seconded the Motion. All Commissioners voted aye.

The motion passed unanimous.

### ***Agenda Item 6: Letting List***

Dwane Kailey presented the Letting List for November 2012 through April 25, 2013. It is presented for your review and approval with one caveat. This was built prior to the TCP we conducted this week. This will be adjusted and appropriate any changes relative to TCP. The Department asks for your approval contingent of modifications as you approve the TCP.

Commissioner Lambert moved to approve the Letting List. Commissioner Griffith seconded the Motion. All Commissioners voted aye.

The motion passed unanimous.

### ***Agenda Item 7: Design Build Selection Greycliff Rest Area***

Duane Kailey presented the Design Build Selection, Greycliff Rest Area to the Commission. I will turn this over to our Construction Engineer, Kevin Christensen. Kevin said the Greycliff Rest Area is our latest design build project. It is on I-90 east of Big Timber and is one of our busier Rest Areas. We had seven design-build teams submit a Statement of Qualifications and we've gone through our process and short listed those firms down to three. All three firms submitted satisfactory technical proposals. After those proposals were scored, the department submitted their bid price proposals. Those bid price proposals were factored into their technical proposal score and the highest score represents the best value to the State of Montana. In this case we are very fortunate that the highest scoring technical proposal was also the lowest bid price proposal. We got the best of both worlds – the best technical proposal and the lowest bid. The firm that came out on top is

Diamond Construction. Staff would recommend that Diamond Construction be awarded this project. Since all three firms submitted a satisfactory technical proposal, staff recommends that all three firms receive the stipend. As you can see Swank Enterprises had a non-responsive bid; they filled out the wrong bid bond form. That's actually kind of big deal. The bid bond form for design build is specific to design build projects so we couldn't accept their bid price proposal but we don't want this process to be punitive. They did do the work, they did submit a satisfactory technical proposal, and in reality the stipend they receive for putting the proposal together doesn't really cover their costs and in this case it is \$40,000 per firm.

Commissioner Lambert moved to approve the staff recommendations for the Design Build Selection Process for the Greycliff Rest Area and the award of stipends to firms submitting bids. Commissioner Winterburn seconded the Motion. All Commissioners voted aye.

The motion passed unanimously.

## ***Director Discussion***

### ***TCP Process***

Director Reardon thanked all the Commissioners for their time this week. Coming to Helena and sitting here for the first three days of the week to get through the TCP is a large chunk of time to ask of you for the relatively small stipend that you get. I think it is one of the most critical components of the highway construction program. Under your direction there is about \$700 million of construction work over the course of the biennium for the taxpayer to see the results from. I think it's a huge challenge to do that and do it equitably. I congratulate the Commission and I want to thank you for that effort.

### ***Legislation***

We are in the process of trying to put together the single piece of legislation the Department will be proposing. Working with the Revenue Transportation Committee we'll be submitting what we hope will be a bill that the Committee can support. It's not a Committee Bill but they nonetheless support it and forward it for drafting. We've been working with the Montana Contractor's to come up with some agreeable approaches to implementing a Construction Manager General Contractor (CMGC) Process to add to the Design Build Program and our typical Design Bid Build process. Kevin Christensen, Dave Voeller, Ed and our staff have been working with them and hopefully we'll have that ready relatively soon. November 19<sup>th</sup> the Revenue Transportation Committee will meet here in Helena. Unfortunately I have a conflict and can't be there.

### ***CMR Railroad***

The State of Montana Department of Transportation is now the proud owner of the CMR Railroad. The CMR Railroad underwent some pretty dramatic and serious damage during the flood events a couple of years ago. The railroad itself is leased to the CMR Railroad Company operating out of Lewistown. They are a short-haul grain railroad; they haul to some of the larger elevators. Unfortunately the damages to the trestle are pretty severe. The Judith River Trestle was essentially rendered useless and unstable. There is a second trestle that has less severe damage and we are going to get that done. We haven't had a real good funding source as to how to deal with that because gas taxes constitutionally restrict it. We have, however, pledged to CMR Railroad and we are assisting in the proposal for federal grant money. We've agreed to provide up to \$2 million of funds from a non-restricted account that we own. They are submitting a federal grant for \$1.5 million. The estimated cost is around \$3.5 to \$4.0 million to repair and the cost to remove it is essentially the same. It is unstable. If you saw the pictures, the footings have been moved in some instances 10 to 12 feet. It is a steel structure, it has lead paint, and it's over the Judith River. If it should fall into the river we would have another environmental issue, so either way the Department of Transportation has to do something about it. So we are going to hopefully get the federal grant and be able to undertake some repairs. With some luck we won't have another flood event like we did a couple of years ago before we can get to that.

### ***Last Commission Meeting of 2012***

I believe this is the last in-person meeting of the Commission in 2012. I want to thank all of you for your efforts. You are in a challenging position. Everybody's project is the most important one. Every speed limit is the most important one that they will ever see in their life. I know you've had to make some very difficult decisions. From my perspective, it is possible that some of you may not be back on the Commission so I just want to say thank you and it's been a pleasure to work with you. We will be talking on the phone over the next couple months because we still have a couple of telephone lettings to move forward with. If I don't see you between now and the end of the year, I want to again say thank you and have good holidays and safe travels.

### ***Bidding Guidelines***

Dwane Kailey said Commissioner Griffith had asked a question on one of our previous conference calls regarding bidding guidelines. We've done some research and we're here to present that information to you. I will turn it over to Kevin Christensen to present the information. Kevin Christensen said this will be a brief discussion on our Letting and Award Process Guidelines list below.

***CONTRACT PLAN GUIDELINES FOR AWARDING PROJECTS***

- FHWA does not mandate guideline parameters for awarding contracts but they do have general guidelines for letting and award procedures.
- For the most part MDT follows the Federal guidance for the award procedures after a bid letting including bid evaluation. Our guidelines for award were developed internally. The percentages are not necessarily founded on pure science.
- Federal regulations state that the low bid should be in reasonable conformance with the engineers estimate.
- The engineers estimate is a tool that helps us evaluate the validity of the low bid. It is important to remember that the contractor is not bidding against our estimate rather they are submitting a competitive bid in hopes of securing work.
- We have to have an effective approach to developing reliable estimates to allow for a critical evaluation of the bids.
- MDT Contact Plans issues a year-end report on our lettings that has a component associated with the accuracy of our estimates. The federal guidelines suggest that the engineers estimate should be within +/- 10% of the bid 50% of the time.
- We looked at the percentage of projects outside our guidelines overall and for projects \$500,000 and less
- Calendar year 2011, 14 of 124 projects awarded were outside our guidelines. For calendar year 2012 to date 11 of 112 projects awarded were outside our guidelines for award or about 10%.
- For projects \$500,000 and less we had 2 of 8 projects outside guidelines awarded for 2011 and 2 of 10 projects outside guidelines awarded for 2012 or about +/- 20%.
- We could adjust the guidelines but it won't change how we develop or use the engineers estimate to evaluate the bid. In the end we need to assure ourselves we are getting a legitimate, balanced and competitive bid. Our engineers estimate is used to help us make that determination.
- Our statistical analysis shows that our bids are within reasonable conformance with our engineers estimate the majority of the time. Our recommendation is to keep our existing guidelines.
- However, we can change our approach to awarding projects outside the guidelines.

Specifically Commissioner Griffith asked how they came up with the guidelines and the possibility of changing them. Kevin said FHWA has a lengthy set of guidelines

for the whole Letting and Award process and for the most part MDT follows that process. The Guidelines for Award are not part of the federal guidelines. The list was developed by MDT and is consistent with the federal guideline that the low bid should be in reasonable conformance with the Engineer's Estimate. One thing about the Engineer's Estimate is that we have a process that gives us an accurate estimate which is actually a tool for us to evaluate the bids. It is important to remember that the contractor's aren't bidding against our estimate because they don't know what our estimate is. We use it internally as a tool. If it falls outside of these guidelines, it doesn't necessarily mean that it is a non-competitive or invalid bid, it just means it falls outside of these guidelines.

We took a look at the last couple of years to find out how many projects have actually fallen outside of those guidelines. For calendar year 2011, 14 out of 124 projects awarded were outside our guidelines. This year 11 of 112 projects were outside the Engineer's Estimate. So about 10% of the time that we are recommending to the Commission to award projects that are outside guidelines.

<u>LOWEST RESPONSIVE BID</u>	<u>PERCENT OVER ENGINEER'S ESTIMATE</u>
UNDER \$50,000	30%
\$50,000 - \$200,000	25%
\$200,000 - \$500,000	20%
\$500,000 - \$2,000,000	15%
BIDS OVER \$2,000,000	10%

Kevin said Commissioner Griffith's inquiry was about our smaller value projects, so we looked at projects under \$500,000. That percentage went up to about 45%. So the question is, should we change the guidelines. We could do that but it's not going to change how we develop our estimate and how we use that estimate as a tool. Typically when the projects get those lower dollar values, it is more difficult to take into account all the factors and pressures the construction companies are under, their profit margins and so forth. So our percentage goes up a little bit more but overall we are following the federal guidelines and it seems to be working. Staff is recommending we don't change but that would be up to the Commission. We're open to changing the guidelines if you'd like.

One thing that has caused some confusion in the past is when we do recommend awarding a project outside of guidelines we end up adjusting our Engineer's Estimate. I think that has caused some confusion in the past. The suggestion was made that we stop doing that. We have our estimate and, if it's outside of guidelines, we try and determine if it's a competitive balanced bid. If it is, we are going to recommend to the Commission that they award the project. Do we have to adjust our Engineer's Estimate? No we don't. We can leave it is as it is and just say, "This is outside of guidelines, however, we've evaluated the bid and determined that it is a competitive,

valid bid and we recommend award.” That was an area I thought we could adjust to eliminate some confusion.

Commissioner Griffith said he appreciated the work. In the end my thought process is maybe we increase the amount of the lower end guideline to accommodate that. If you’re doing it 25% of the time, it doesn’t seem like it’s a normal statistic. I’m sensitive to your ability to do that. On the conference call you said we changed the estimate to conform to the bid and it does cause confusion. If there’s some way we can make a conscious effort to eliminate that confusion, I offer it as a suggestion to the process. It could just be an issue of semantics; we just have to be careful how we describe it. I agree with your last comment about not changing the estimate and just say we’ve reviewed the estimate and the contractor can’t meet our estimate but we have looked at it and concur with it. I think that’s the better idea of proceeding than changing anything. I appreciate the time you spent on this. I like you’re idea; I think that makes it cleaner. Kevin Christensen said they could do that moving forward.

Commissioner Lambert said changing the wording does not change the intent. Whether or not you say we adjusted it or you don’t say that, we know what you mean. I can’t say you need to change anything. Commissioner Griffith said that’s fine with me. From here on out it’s your Commission and that’s fine with me. I know Dee has had a hard time with it for a long time and she asked me to represent her today, so I am.

### *Commissioner Griffith – Thank You*

Commissioner Griffith thanked Commissioner Skelton, Commissioner Lambert, and Commissioner Howlett for being the Commissioners you are and the help you’ve given me through the years. If this is our last meeting, I wish you well. I thank the Director for being a calming moment in a needed time in our Department. He’s done the best job he could do to achieve that and I appreciate that. I would like to say when I first came on the Commission I wanted to drive between places and get there fast until Kevin took me on Hwy 93 and taught me how to be culturally sensitive and historically sensitive. We are in business to provide transportation to people but we do have an environment around us that we’ve got to be sensitive to. For lots of reasons I thank Kevin for his relationship that he’s given me as a Commissioner. I really appreciate his thoughtfulness in teaching me that to connect Missoula and Kalispell you have to go through a lot of sensitive and historically cultural areas. I learned that and I appreciate that. I thank all of you for your help. I’d like this to not be the last day but it very well could, so thank you.

Commissioner Lambert said she also wanted to thank Director Reardon and all the staff. Having been the last person to come into the program and was only here a few months under the other Director who I’ve known for a very long time. I could see a difference even in that short period of time. It was a calming effect and I do

appreciate that. She said she hoped that this wasn't Commissioner Griffith's last meeting. I have learned much from you and I appreciate everything you've done. Thanks to everybody and Happy Holidays.

***Commissioner Howlett - Thank you***

Commissioner Howlett said he would like to reciprocate and thank Director Reardon for stepping in at a difficult time and provide what I've observed as a calming effect to an Agency that was undergoing some difficult times. To my colleagues, it's been a real pleasure to work with you. I hope I led you in a good direction. I didn't ever intend to lead you astray. To Federal Highways, it's been a good working relationship and I appreciate the cooperation and support you've given us. To the staff, this is a great Agency; it's got a lot of work to do. The work will never be all done and we all recognize that but at the same point in time we give the best while we're here.

**PUBLIC COMMENT**

***Nancy Wilson – Bike Walk Montana, Missoula***

We wanted to come and introduce our organization. We are a new organization statewide, non-profit, to promote biking and walking throughout Montana. I brought you some brochures as well as an informational document. Our mission is to make biking and walking safe and accessible for everyone throughout Montana. To achieve this we plan to network with communities, individuals, and hopefully build a partnership with MDT to work together to address the needs in the communities throughout Montana. The results will be healthier more vibrant communities. It will also result in a greener Montana and it will also be better economically due to the offset in health care costs due to an increase in tourism and increase in property values. That's been proven in other states and other communities.

Again I just want to reiterate the importance of funding for transportation alternatives. I appreciate you stating that it is important to MDT. Montana received 38% cuts between these three programs – Rails to Trails, Safe Routes to School, and RTP. So it's going to be critical to continue to use all of those dollars towards these biking and walking projects. Safe Routes to School isn't obligation anymore and neither is the Safe Routes to School Coordinator position but I want to stress the importance of that program. The Safe Routes to School Coordinator is an individual that has the resources, the knowledge, and really goes out and networks with the communities. He works with them to provide education, to let them know what the possibilities are, and to provide some resources. If we lose that position, it's going to really hurt our Safe Routes to School program.

Some things here in Helena have been accomplished by Safe Route to School – Warren School will be receiving \$166,000 to put in a mile long paved path to connect the school with a neighborhood that has over 75% of their children living in. Right now there is absolutely no safe way for them to walk to school because it is along north road. Once that's in, the kids will be able to walk to school. Examples like that are happening in all different communities around Montana – Lewistown, Shelby, and all the others that are able to use Safe Routes to School funding to make it more feasible for their students to walk to school.

In education we have the Journeys to Home Program which is under Safe Routes to School. They go out and educate PE Teachers and school personnel as to how to teach bicycle and pedestrian education in their schools. Many school districts have been awarded trailers with bicycles to teach students how to look for cars, to cross streets, to ride. That's really critical for their safety and for them to continue to bike and walk around their communities.

As a summary, by investing and continuing to invest in these projects, we'll see a reduction in obesity in health care and a boost in economics. The projection by 2030 is that two thirds of the Montana population and nationwide population will be obese; not just over weight but obese. That's why we really need to continue to focus on this and try to prevent that from happening.

### ***Darlene Tussing – Bike Walk Montana, Billings***

I'm also part of the Bike Walk Montana group but I've also been the alternate MOTS Coordinator for the past 13 years which is alternate transportation modes in Billings. So I've really seen firsthand what the money has actually been able to do and how concerned we all are about the 38% decrease in funding. Now we also realize that because the federal government has reduced it and pooled money together, it's also giving states the opportunity to actually use funding more flexibly so that MDT has the option to actually provide funding from other sources that can help provide safety and continue to support bike walk function within the communities.

I just want to present one particular trail we built a couple of years ago. It actually joins a subdivision to Shiloh. As you know Shiloh is a very busy street in Billings. We had an underpass but in order to connect students to the school which is on the east side of Shiloh we actually built a trail through that area. Some money for the match was provided by the neighborhood and Bike Net and we received a small grant. That only amounted to about \$15,000 of the \$195,000 for the project. The majority of our money came from federal dollars - \$25,000 of it was from Safe Routes to School, and \$147,000 was from CTEP. That is a small pittance of money allocated for biking and walking which is a great transportation option especially in local communities where people have smaller errands and smaller trips to take. Of that \$172,000 if you take out 38% of that, then we've lost \$58,000. That's a huge

amount of money when locally it's really hard to raise that kind of funding even though we've had strong support within the Billings community.

That's one other thing I wanted to talk about. Since we started doing more trails and now more bike lanes to get people to use alternate transportation and make it safer, there has been a strong collaboration between our three health facilities. St. Vincent's Health Care, Billings Clinic, and Riverstone Health have pooled together to make Billings a safer healthier place to live. For the past five years we've been meeting as a group and formed form a committee called Healthy by Design. This group realized that in order for us to be a healthier nation and community, we have to have the infrastructure to allow people to use things besides their automobiles to get around and actually use active transportation. Our Chamber of Commerce has also taken on this mission and it's been their number one priority for the past three years. So you can see that it's not just this group of latex spandex wearing people who think this is important, it's an important thing for the economy and the physical well-being of our communities. I hope you will consider that and I hope we can become partners with you as we push this idea throughout our state. Thank you

Commissioner Howlett thanked her for her comments and said please be assured we have no intention of abandoning this as a part of the Department. We are in a place where difficult decisions have to be made. I'm an advocate for these kinds of things and we'll see where it shakes out. I know we will support it. The expectation that it will run as before I don't think is realistic just given the funds. We need to be up front about that. What can we do, how are we going to do it, where do we find other partners – all those things need to be explored.

Darlene Tussing said she appreciated that. Like I said before I think you can look at it differently because you do have a pool of money that can be used and distributed in different ways. At one point we received CMAC money to actually build a trail up along the highway by Airport Road. They realized they needed accommodations for bike and pedestrians and you don't want to put them on a highway like Airport Road where you've got a lot of heavy truck traffic and such. MDT gave us some left-over CMAC money to accommodate bikes and pedestrians on the park area that runs adjacent to the road. It's a beautiful facility and if any of you want to come to Billings, I would personally be happy to show you what a great facility that is not only for a transportation option for folks who live up in the Heights but it's also become a recreational corridor and a good draw for people that are actually coming into Billings as tourists.

***Nancy Wilson – Bike Walk Montana, Missoula***

I want to suggest a couple of things and thank MDT for some great work they've done in Missoula. One of them is adding bike lanes on 5<sup>th</sup> and 6<sup>th</sup> which is a huge safety element and it reduced speed. Any time you can narrow those lanes visually

and give a place for bikes to be, it's a very inexpensive fix throughout a community and makes a huge difference. Arthur and 5<sup>th</sup> and 6<sup>th</sup> – if you've not gone through that intersection, I highly recommend you do that. We've added the element of green paint; we have a beautiful bike lane connecting the University to the trail system. It's something we hope we can again use in other areas. Those are very inexpensive elements that really improve the safety for bicyclists and pedestrians. It's a beautiful project. I encourage the Department to continue to work as closely as they can with Federal Highways and the communities to make inner-community projects as pedestrian and bike friendly as possible to allow us to keep pedestrians and bicycles on the street along with the traffic and make it safe. It makes your community alive; it really adds that element of encouraging walking and biking. It saves lives, it slows traffic, it takes away that 60's feeling where we just allowed the car to take over everything and return it to a community where people are allowed to get outside of their car and be active. That's what we'll be working on and we really look forward to working with you all and thank you for your great work.

***Kevin McLaury – FHWA***

I want to wish Director Reardon success in your future endeavors after the end of December. Happy Holidays to all of you. I hope to see Commissioner Griffith in the January meeting. I also want to echo a lot of what's already been said.

Dwane Kailey asked about the agenda relative to the guidelines. Commissioner Griffith asked if they'd make the presentation to the new Commission.

***Next Commission Meeting***

The next Conference Calls were scheduled for November 20<sup>th</sup> & December 18<sup>th</sup>.  
The next Commission Meeting was scheduled for January 24, 2012.

***Adjourned***

Meeting Adjourned

Commissioner Howlett, Chairman  
Montana Transportation Commission

Tim Reardon, Director  
Montana Department of Transportation

Lori K. Ryan, Secretary  
Montana Transportation Commission