

**STATE TRANSPORTATION BOARD  
MEETING MINUTES  
9:00 a.m., Friday, March 19, 2010  
Arizona Department of Transportation (ADOT) Auditorium  
206 S. 17<sup>th</sup> Ave  
Phoenix, AZ 85007**

**Roll Call**

In attendance: Bob Montoya, Bill Feldmeier (telephonic), Felipe Zubia, Victor Flores, Bobbie Lundstrom and Steve Christy.

**Opening Remarks**

Chair Montoya announced that Governor Brewer has appointed Mr. Kelly Anderson to the State Transportation Board, replacing Mr. Householder.

**Call to the Audience**

Juan Martin Ramirez, construction worker for a company called Great Western Erectors. This company installs rebar and does other work on commercial buildings, parking lots, freeways, and bridges. He stated that he and other workers ask ADOT for their support in creating good jobs. Great Western Erectors has done work for ADOT in the past, and he informed the Board that their workers do not receive benefits. He reported that Great Western Erectors does not even provide water at the job site. The workers think that public money should be invested in good companies that provide benefits for their workers. His group, Great Western Workers, has been speaking to general contractors, Congressmen, and other groups asking for support in creating better jobs.

**ITEM 1: District Engineer's Report – Tim Wolfe, Phoenix Maintenance District**

Mr. Wolfe explained that Phoenix is divided into two districts, one for construction and one for maintenance. The mission of the Maintenance District is to operate and maintain the highway transportation system. It is divided into four basic areas:

- Roadway and Drainage
- Landscape, Litter, Sweeping
- Electrical Operations
- Traffic Engineering

The Roadway and Drainage area covers the following functions:

- Respond to major incidents with the Highway Patrol, handling 10-12 serious incidents per month
- Address other kinds of emergencies such as mudslides, erosion and flooding
- Address routine maintenance for the highway system; clean out channels and drainage structures; repair guardrails, cable barriers, and fences; repair any damages to the 4,000 lane miles of pavement

The Landscape area handles:

- All litter, landscape and sweeping for the Phoenix Metropolitan Area freeways. 13K bags of litter are picked up and disposed of per month
- Weeds
- Spend about \$.5M per year on graffiti removal

Electrical operations:

- Traffic signals
- Street lights
- Pump houses to pump the freeways after storm events
- Maintain lighting, heat, a/c, ventilation, and carbon monoxide detection systems in the Deck Park Tunnel
- Maintain four large drainage tunnels under Phoenix that collect all the freeway water
- Freeway management system including cameras, roadway detectors, message signs, and ramp meters approaching the freeway

Traffic engineering:

- Signing and striping of roadways. 1.5M LF of striping per year, and 50K SF of signage
- Review traffic control plans for ADOT contractors and permits and outside entities

Administration:

- Issue encroachment permits for the district
- Dispose of excess property, turning it into revenue that the State can reinvest
- Environmental issues

Resources:

- \$31M per year in State Maintenance Funds. Due to budget cuts this year, it is about half.
- Money from Regional Transportation Fund (\$13M this year). Will be cut to probably \$12M next year.
- Minor District money that helps with some preservation projects
- Staffing with 207 positions, now at 25% vacancy rate

The Phoenix Maintenance District is focused on safety, and on maintaining the infrastructure that they have. It is a hard working group of individuals, and the District is proud of the work they do, particularly in the difficult circumstances of the past few years.

**ITEM 2: Director's Report – John Halikowski, ADOT Director**

Mr. Halikowski began by discussing the budget. The bills had minimal impact on the remainder of FY2010, as far as any increase in funds, sweeps or transfers. In addition, for FY2011, the level of the fund sweeps remains the same as it was for FY2010. The Department is transferring \$78M from the HURF to DPS, in addition to another \$41M in State Highway Funds to the DPS. Also, \$43M of VLT that normally would go into the State Highway Fund was moved into the general fund. One matter of concern is that the budget did impose a cap of \$322M on a schedule. In FY2008, the cap on the spending was roughly \$480M, and in FY2009 the cap was about \$360M.

There are three areas that the Department is trying to work with during the budget issue.

- The first is trying to switch a largely consultant based organization in ITD and Community Relations to an FTE base. The Department is paying 150% more for consultants than what it would normally pay for FTEs. The consultants are very important to the operation, but the Department is trying to save money so they do not spend in excess of the cap.
- Another area is federal funds. The Department is trying to charge more and more of the construction project costs off to the federal funds. This means more money is moving through the State Highway Fund that is not necessarily State money.
- The third area is the rest areas. If additional revenues come in FY2011, the Department would like to go above the imposed cap and re-fund some of the operations, both those that Mr. Wolfe has talked about, and rest areas, offices and a number of things that are needed.

The cap does propose challenges for the Department to see how they can operate within that, and, if there is a chance, to try to lift the cap. Victor Flores was curious what the cap has to do with the consultants versus FTEs. Mr. Halikowski responded that the problem is that, as they make the switch over, if the FTEs are paid out of the State Highway Fund, they would be funded through there. The consultants that would be paid through federal funds, as they [unable to hear person speaking]. As they make the switch it depends on how the cashflow operates.

In addition there will be a 5% pay cut for ADOT employees and all State employees that was put into this budget. There is a 2.75% cut in employee performance pay and then the remainder of that 5% will come through furlough days. We will have 6 furlough days in FY 2011, and 6 furlough days in FY 2012. We are still waiting for the rules to come out from ADOA on how the furlough days will be administrated.

They are monitoring the rest area issue closely as the end of the fiscal year nears. There are a lot of measures underway in order to save State Highway Funds, and they are monitoring this closely with the Governor's office due to the pressures to reopen the rest areas. Last Wednesday, Congress passed HR 2847. The bill will extend the SAFETEA-LU through December 31, 2010, and provide an additional \$20B to the Highway Trust Fund from the general fund.

### **ITEM 3: Consent Agenda**

Chair Montoya asked if any items were open for reconsideration or removal from consent agenda. Hearing none, he asked for a motion to approve the consent agenda.

*Motion made by Mr. Flores and seconded by Mr. Zubia to approve Item 3, Consent Agenda. In a voice vote, the motion passed unanimously.*

### **ITEM 4: Legislative Report – Eileen Colleran**

**Federal Legislative update** - In regards to the Jobs bill, the House passed their Job bill which included money for infrastructure in the second stimulus; the Senate has broken up their job package into about 4 or 5 smaller packages, as they were hesitant to work with another big bill. They have already passed two of those smaller packages: small-business tax incentive and

extension of unemployment insurance. On the floor they are currently hearing the FAA reauthorization bill, which has been under continuing resolution for over two and a half years. It is unlikely there will be imminent action on the job stimulus bill, as Congress is taking a two-week break for Easter. The House has already passed their bill, so the bill will then go to committee and will be up for a vote the following Monday in the Senate. Pending any changes by the conference committee, there will be a brand new federal aviation bill for the first time in over two and a half years.

The Surface Transportation Authorization is extended through the end of December, 2010, and the Senate Environment Public Works Committee is holding hearings on the authorization. Administration has not provided their guidelines for what they want in Surface Transportation, so there is still a lot of work left. The biggest issue right now is funding, and there is no political will to push forward a new bill with new funding. The FY2011 Appropriations is already underway. The President has distributed his bill which has a slight increase for surface transportation remediation. Work will probably commence within the next few months in the legislature.

**State Legislative update** - They are working with sponsors and other stakeholders on a few bills, including several with fiscal impact, HB2300 and HB 2529. Another bill, HB3542 looks at having political signs at the right-of-ways. HB2645 addresses rest area agreements, but does not provide any new wording. However it may lead the public to have an expectation of something the Department is not able to provide. They are working with the sponsor to try to come to a resolution. SB1937 is an ADOT bill and has a lot of changes in it. Finally, there are a series of eminent domain bills that could potentially have impact.

Mr. Feldmeier was curious who the sponsor is for HB3542, and the reply was Representative Gowan. Mr. Halikowski commented that their concern with this bill is that 4' x 8' signs in the right-of-way, 32 SF of space in addition to poles and other structural parts, pose a safety hazard, not to mention a state agency and political signs issue. Mr. Feldmeier added that he has concerns with those issues too.

#### **ITEM 5: Financial Report – John Fink**

Mr. Fink reported as follows:

- HURF was up in February at \$104M, up 1.6% over last February. That makes two months in a row that HURF is up on a year-over-year basis. However, it is still down 5.2% compared to the estimate for the month. Year-to-date, HURF is at \$784.7M, down 5.4% compared to last year, and down 3.7% compared to estimate. For the year so far, HURF is down almost \$30M compared to estimate. The planning target for the year is \$1.22B, even though the estimate is \$1.25B. They are still hopeful they can achieve the planning target.
- Gas tax is at \$299.1M, down 1.4% compared to estimate. February does break the string of months that gas tax results have been favorable compared to the prior year. February gas taxes are down 5.5%, but 3 out of the last 4 months were above last year.
- Year-to-date use fuel tax revenues were at \$112.7M, down 3.8% compared to last year and down 1.4% compared to estimate. However, a bit of good news is that use fuel tax revenues from February were positive, and that makes the third month in a row.

- Vehicle License Tax continues to be problem. \$220.4M for the year is down 8.6% compared to last year, and down 9.2% compared to estimate. Declining VLT accounts for about 80% of the variance.
- February RARF was \$22.9M, down 7% compared to last year and down 7.2% compared to estimate. Year-to-date RARF is \$198.8M, down 11.8% compared to last year and down 5.1% compared to estimate. Year-to-date, RARF is down about \$11M compared to estimate.
  - Retail sales tax revenue for the year is \$95.9M, down 8.3% from last year and down 2.9% compared to estimate.
  - Contracting revenue is a problem area. Year-to-date, it is \$20.4M, down 40.8% compared to last year, and down 27.1% compared to estimate. For comparison in February 2008, contracting revenue was \$5.1M and February 2010 was \$1.8M.
- Aviation Fund: February revenue was \$2.8M, up 26.1% compared to last year and up 32.7% compared to forecast. Year-to-date revenue was \$16.4M, up 22.1% compared to last year but down 12.9% compared to estimate.
  - Flight property tax was \$4.9M year-to-date, down about 21% compared to last year and down 19% compared to estimate.
  - Aircraft registration revenue of \$4.6M is down 8.6% compared to last year, and down 3.4% compared to estimate.

#### Investment Report:

- February average invested balance for all funds was \$1.18B with 99.85% invested. February investment income received was \$987,000 for an annualized yield of 1.08%. Year-to-date investment interest is \$11.1M, for an annualized yield of 1.33%.
- The cash balance at the end of February for the HELP fund was \$51.2M. Currently there are seven loans outstanding for a total balance of \$23.7M.

He noted some improvement in the State Highway Fund, due mainly to contractor payments being a little wider than anticipated, and also to payroll and contractor payments not falling on the same week. Finally, an effort is being made to shift costs over to federal funds and they are starting to see some of the impact on the low cash balances.

Moody's Investor Service has indicated that in the month of April they will be recalibrating long-term U.S. municipal bond ratings to a global rating scale. This recalibration will occur in stages and will likely result in upward shifts and ratings of some of the Board's bonds.

Mr. Fink noted he included a Moody's report in the Board books called "U.S. States Credit Scorecard." It is for information purposes, and it highlights the relative rankings of the states. Arizona's rating actually improved from 2008 to 2009.

#### **ITEM 7: Master Lease Agreement – John Fink**

This is a master lease agreement with Clear Wireless LLC for the lease of cell sites within the highway rights of way. The Board has previously approved 13 master lease agreements with the wireless providers going back to 1997. This particular lease has an initial term of five years, and is renewable every five years with an escalation factor. The agreement with Clear Wireless is in a standard format that has been approved by the Attorney General's office and the Department is recommending that the Board approve the lease agreement.

*Motion made by Mr. Christy, seconded by Ms. Lundstrom, to approve the master lease as presented to the Board. In a voice vote, the motion passed unanimously.*

Chair Montoya noted that there are two Item 8's on the agenda.

**ITEM 8: Multimodal Planning Division Report – Jennifer Toth**

Ms. Toth is excited that they have presented the Long Range Transportation Plan to the Board and are kicking off "What Moves You Arizona." They will be continuing those efforts with a larger rollout into the committees. Also, they are looking forward to coming to the Board in April with the Transit and Rail Programs.

**ITEM 8: Priority Planning Advisory Committee (PPAC) – Jennifer Toth**

**ITEM 8d:** Ms. Toth asked to withdraw from the agenda. They are waiting for a contingency plan from the Project Manager.

*Motion made by Mr. Zubia, seconded by Mr. Christy, to Defer ITEM 8d the construction project from FY 2010 to FY 2011 in the Highway Construction Program. In a voice vote, the motion passed unanimously.*

**ITEM 8a: Project list for the Federal Fiscal Year 2010 Close Out – Jennifer Toth**

Per Mr. Fink's presentation at the last Board study session regarding Obligation Authority, they have compiled a list of potential projects for FY2010 closeout which consists of approximately 18 projects. The Board has previously approved projects noted in the MAG area in relation to the Loop 202 Design and Development project. The first three projects on the list are already in the Five Year Construction Program, and the Department is asking for additional funds to be added to those projects. The remainder of the list for Greater Arizona area are projects that are ready to go by the end of this federal fiscal year, and they request those items be included in the Five Year Program. The construction projects for the PAG region are outlined: Ruthrauff Road to Prince Road, asking for additional amount of \$71M for that project, and also Design, Environmentals, and Utilities right-of-way to be added. The Department is asking the Board's consideration and approval of these projects to add in to be able to meet the federal Obligation Authority.

*Motion by Mr. Christy, seconded by Mr. Feldmeier, to accept the Project list for the Federal Fiscal Year 2010 Close Out. In a voice vote, the motion passed unanimously.*

**ITEM 8b: MAG RTP Tentative FY 2010 Right of Way Program Modifications – Jennifer Toth**

This is a list of eight right-of-way projects. On I-10, SR74 and SR85, the projects involve decreasing funds due to deletions, repackaging of products and reduction of scope. The deletions total about \$23.5M. Also, there are four new right-of-way projects on Loop 303 that will need to be established for right-of-way protection. The total of those are \$11.7M. The difference between the additions is \$88.2M.

*Motion by Mr. Flores, seconded by Ms. Lundstrom, to approve Item 8b. In a voice vote, motion carried unanimously.*

Ms. Toth recommended taking Items 8c and 8e through 8n as one item at the Board's discretion.

*Motion by Mr. Christy, seconded by Mr. Flores, to combine Items 8c and 8e. In a voice vote, motion carried unanimously.*

#### **ITEM 9: State Engineer's Report – Floyd Roehrich**

There are 105 projects under construction, and they are quite far along. There is \$350M worth of work left to perform on those contracts, and they were bid much higher than that. As they move forward with delivery of the ARRA projects, and if there is funding for any additional transportation infrastructure, then it definitely shows this has the capacity to address those projects and use that funding. The Department has made an effort to finalize the existing projects. That has the benefit of releasing the funds that were obligated within the project and moves them back into the program. They have finalized 73 projects this year and are continuing to move those forward as much as possible. The program is in fairly robust shape, with initial capacity and industry ready to step forward if additional funding comes into the State.

#### **ITEM 10: American Recovery and Reinvestment Act (ARRA) 2009 Update – Floyd Roehrich**

As Director Halikowski mentioned, the Department is 100% obligated. Over the next few months, they will go through the bid advertisement stage, when the most projects are brought forward to the Board for award. The next step will be to push through those award processes so they can see what bid savings are available. Then, as a staff team, they go through and take what bids savings were identified, develop a project list and then bring the list forward to the Board, hopefully in the May-June Board meetings. If additional funds become available, they have developed a list of projects that could be available for advertisement. Once the amount of money is better identified, he will return with more specifics for the Board.

#### **ITEM 11: ARRA II Priority List – Floyd Roehrich**

This seems to be slowed down somewhat in Congress as the Senate attempts to work through the Jobs America and all the other large bills they are working on. The list on page 180 of the Board packet is the list that staff previously developed, and it shows potential jobs for any additional stimulus funds that may come through. That list is being reevaluated, as funding is delayed. If funding is delayed through the summer, some of the pavement preservation projects will run up against possible weather restrictions, especially in northern Arizona. In that case, some projects may have to be swapped out with the FY2010 programs. If that happens, staff will come back to the Board in a Study Session for further discussion.

Victor Flores wondered if there had been any discussion on the language concerning the timing of when the contract would have to be obligated. Mr. Roehrich stated they would be greatly restricted on the timeframe: 90 days on the reward as opposed to 120 obligated, on the first

round. There is continuing discussion on that. National attention has been brought to Congress on that issue through AASHTO and a number of other transportation organizations. There is still a strong sense that they want to do something quickly, and do not want a delay getting the funds obligated or utilized.

Mr. Christy was curious if the ARRA bonds issue is in a static phase, if Mr. Roehrich believes there will be any real change in this priority list in the near future. Mr. Roehrich does not foresee a change before the next Board meeting, unless there is definitive news. If it looks like Congress will act quickly in April, the Department is ready to go. If it looks like it will take much longer for them to reach consensus, then they will come to the Board with some recommendations. The Board would be made fully aware of any changes that would occur.

Mr. Christy added that if that were to happen outside the cycle of regular Board meetings, then the staff would work with the Chairman to have a telephonic meeting or some other type of meeting. Mr. Christy wished to confirm if the timeframe was 90 days. Mr. Halikowski confirmed that it is 90 days under contract, and they are keeping a very close eye on that. The staff is working very closely with FHWA and partners in the COGs and MPOs to ensure that, if that were to happen, the Department is ready to get those contracts ready. The mission for the Department right now is this: if federal funds are offered for ARRA II, we will take and spend every penny.

#### **ITEM 12: Construction Contracts – Floyd Roehrich**

This month staff is recommending award of 14 projects. Eleven of them have already been approved by the Board in the consent agenda. The first large groupings of projects on the list are from local government's ARRA funds. Out of the projects they are recommending for the Board's final award, there are \$21.5M of additional improvements on a statewide basis. Out of the 14, there are three that require separate board action.

Item 12a is a project in Navajo County called Wide Ruins, basically a widening project. The apparent bidder, Bison Contracting Inc., provided a bid that is 56.6% under the Department's estimate. Evaluating the bid and ensuring it is competent, they found a number of areas where the contractor's efficiency and means and methods, specifically in his excavation and aggregate base production and placement, as well as asphalt removal process has led him to be able to reduce his bid. Staff has concluded it is a competent bid and they recommend awarding Item 12a to Bison Contracting in the amount of \$1,745,000.

*Motion by Mr. Flores, seconded by Mr. Zubia, to award Item 12a as outlined to staff. In a voice vote, the motion passed unanimously.*

Item 12b is a retaining wall project in the Pine Top vicinity on SR260. When bids were opened, BECO Construction Company was announced as the apparent low bidder with an estimate of \$69,500, about 10% under the Department's estimate. In evaluating the bid, staff found BECO had inadvertently made an error about the quantity of panels required for construction of the retaining wall. Since that is the largest element of the work, if corrected, that error would have significantly put a strain on BECO and their ability to perform that work. That would have required them to change their bid which would have been detrimental to himself and the

Department. BECO sent a letter asking for removal of the bid, which staff felt was the appropriate action. They then evaluated Bison Contracting's bid, which they feel is competent. Staff recommends allow BECO to withdraw their bid at no loss of bond, and recommend awarding the contract to Bison Contracting in the amount of \$98,155.55.

***Motion by Ms. Lundstrom, seconded by Mr. Feldmeier, to approve Item 12b as recommended by staff. In a voice vote, the motion passed unanimously.***

Item 12c is a pavement preservation project on SR260 at Greer and Rodeo Grounds. At the time this project was opened, the apparent low bidder (Fisher Sand and Gravel), was at an amount of \$3.8M, just above the 8% of the Department's estimate. In evaluating the bid package submitted by Fisher, the Department became concerned about the area of temporary concrete barrier in use. In preparation of the bid, the Department identified that as a linear quantity plus a daily use time frame of about 10 days. The Department later discovered that that timeframe was undervalued significantly and should have been tripled. In evaluating Fisher's bid of \$1 per linear foot per day compared to the average of all the other bidders at 8 cents per linear foot per day, and the Department's original estimate of 8 cents per linear foot per day, plus putting in the true durations necessary, Fisher's bid would be a detriment to the Department. In the actual performance of the work, Fisher's bid would exceed that of the second highest bidder, Meadow Valley, who quoted 7 cents per linear foot per day. The Department recommends rejecting of Fisher's bid as being materially and mathematically unbalanced, and awarding the contract to Meadow Valley Contractors for the amount of just over \$3.9M.

Mr. Flores asked for clarification on the connection between the 30 day time frame and the cost per foot and how that impacts Fisher as the low bidder. Mr. Roehrich answered that if 10 days would have been the realistic duration, then Fisher would have been the low bidder. However, the Department made a mistake in identifying 10 days as the realistic time frame at the time that the contract was put together. The Department does not have a history of any other project where they could do that type of work in 10 days; it is more in the neighborhood of 30 plus days. Mr. Flores added that the distinction is that Fisher wants to make their own barriers, and if they insert a specific number of barriers at what the cost is going to be, aside from a unit cost, he wondered if that would make that number unacceptable. Mr. Roehrich replied that the contract was specifically bid at their true cost to produce the barrier, which is equipment cost. Those costs are usually spread out over the life of the products. When they bid a temporary barrier that they are going to keep, the cost is usually associated with a cost to furnish and install the item. It is usually a lump sum cost that is a true reflection of what the actual costs are for the barrier. The use cost of 7 or 8 cents per linear foot is meant to pay the contractor for maintenance and operational costs, not capital costs to get the barrier. Putting the dollar per day into a quantity that the Department knows is going to over-run would allow the contractor to recoup all of his costs to produce the barrier within the first project without spreading it over time, which is the normal industry standard. That is what led the Department to determine it is "materially unbalanced" to have the opportunity to do that on one project, rather than over time. Mr. Flores was curious if the lower costs in other parts of Fisher's bid are taken into account during the evaluation process. Mr. Roehrich said they look at every item in the bid to see if there is any unbalanced item, taking into account that contractors will normally try to balance their bid from one area to another. What the Department looks for is the potential for the true and actual costs

not being reflected at the time of bidding. He added that they were already evaluating Fisher's bid before the protest by Meadow Valley Contractors.

[Mr. Feldmeier was excused from the meeting at 11:02 a.m., noting he was having difficulty hearing the speakers.]

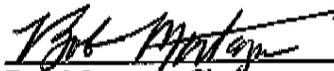
Mr. Roehrich reported that he had received a letter from the president of Fisher, saying he is not going to challenge or contest the Department's decision, even though he does not necessarily agree with the decision. Staff is recommending rejecting Fisher Sand and Gravel's bid on this project, and awarding the project to Meadow Valley Contractors in the amount of just over \$3.9M.

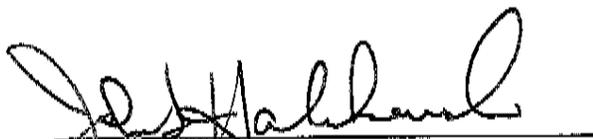
*Motion by Mr. Zubia, seconded by Ms. Lundstrom, to support staff's recommendation on Item 12c. In a voice vote, the motion passed unanimously.*

**ITEM 13: Comments and Suggestions**

There were no comments or suggestions.

*Motion by Mr. Flores, seconded by Ms. Lundstrom to adjourn the meeting at 11:05 a.m.*

  
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Bob Montoya, Chairman  
State Transportation Board

  
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John Halikowski, Director  
Arizona Department of Transportation