



Nevada Department of Transportation

Board of Directors • Meeting Minutes

March 9, 2020

9:30 A.M.

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**Meeting Locations:**

1263 South Stewart Street  
Third Floor Conference Room  
Carson City, Nevada 89712

123 East Washington Avenue  
Building B  
Las Vegas, Nevada 89101

**1. Welcome/Call to Order/Roll Call**

Lieutenant Governor Kate Marshall called the meeting to order on Monday, March 9, 2020 at 9:30 AM. A roll call was conducted, and a quorum was established. The Lieutenant Governor relayed a message from Governor Sisolak that, regretfully, he was unable to attend the meeting today.

**2. Public Comment**

There were no public comments.

**3. Consideration of Annual Appointment of a Vice Chair to the Transportation Board of Directors Pursuant to NRS 408.106(4) (For Possible Action)**

There was no discussion or action on Agenda Item 3.

**4. Consideration of Approval of the February 13, 2020 Nevada Department of Transportation Board of Directors Meeting Minutes (For Possible Action)**

There were no corrections or changes to the Minutes.

**Motion:** Approve the February 13, 2020 Nevada Department of Transportation Board of Directors Meeting Minutes

**By:** Controller Catherine Byrne

**Second:** Member Stephen Ascuaga

**Vote:** Passed unanimously



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#### 5. Receive Director's Report (Informational Item)

Director Swallow said the Department's focus on safety continues to be their number one priority. The data shows that safety should be the #1 priority and that 2020 has been a rough year so far. There have been 48 deaths, compared to only 40 last year. Of the 48, 19 were pedestrians, as compared to 15 last year. To shine a light on this, there's a red-carpet event coming up. An NDOT team member, Brad Horn, worked with stakeholders in Las Vegas and created a movie about pedestrian fatalities and the impacts that has on families and communities. The focus is all about pedestrian safety.

The Director said that, starting next month, she will be telling short stories that highlight the lives of the people lost. It's not 48 things, it's 48 people. She will also be talking about the five E's (Education, Enforcement, Engineering, Emergency Response, and Everyone). The "everyone" is important because everyone has a role in this.

Director Swallow then moved on to the topic of the I-580 exit number changes. When I-80 was finalized into an interstate, the state was required by federal law to sign it and post it by its interstate numbers. Interstate mileage. Carson City was changed last year and they will now be doing Northern Carson City through the Spaghetti Bowl starting this month. Exit numbers 43 to 68B will be replaced with new lower exit numbers that correspond to the I-580 mileage. For example, the current Damonte Ranch exit number is currently 59, and it will change to 26. The locations of the exits are not changing. The names are not changing, but the numbers are changing. In Northern Nevada, that really is a big deal because there are about 500 exits. You have to do those exits by numbers, and it's important that everybody knows about the changes. The local businesses need to know because a lot of them advertise based on the exit number. Emergency responders definitely need to know.

Director Swallow reported on the 2020 County Consultations. By federal law, the Department is required to a county consultation process as they work to develop the annual work program. County workshops have been moved to the spring so staff can hear county priorities and concerns. They will be starting with Humboldt County and eventually hit all 14 of the rural counties. Washoe and Clark use a different process through the MPOs. These are really informal workshops that run the gamut of issues and concerns in the local counties. Unfortunately, statewide, the Department doesn't have enough resources to do all of the things that everybody wants. This is one way of meeting with the counties where they're at, hearing their



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concerns, and helping them help the Department prioritize the items that they are going to address and bring into the annual work program.

The Director then walked Members through the new ATM sign system in Las Vegas. She showed a brief video that demonstrated examples of how the yellow warning signs work. They strive to protect emergency responders, so they don't have active traffic on both sides of them. The warning signs are now the new regulatory speed limits, so they are enforceable. The first sign tells you to merge. That lane closes, the second lane tells you to merge. That lane closes, now you merge one more lane over. You can see on the left that HOV signs do say open to all. And then when the lane's completely open, the HOV lane goes back to 2+ only and all lanes get green. The signs are at quarter-mile spacing. They will be using them to manage the speeds regularly, regardless of whether or not there's an incident. And it's going to be automatic. It's going to be based on the flow of traffic. The aim is to have everybody going a consistent, harmonized speed. The HOV lanes will still be allowed to go faster, but never more than a 15-mile-an-hour disparity.

State Controller Byrne had a question. What kind of outreach was the Department doing to inform drivers and residents?

Director Swallow replied they have a full communications plan with regular press releases out to the news organizations. The Department is trying to push it out as much as they can to let them know system will be different, but safer. The traffic people are already sending out the message to drive with the flow of traffic.

The Director shared some details about Nevada Moves Day. The Department will be conducting events across the districts and across the schools throughout the state. Some of the schools are doing official walks. Some of the schools are just recognizing the kids who did bike or walk to school. The whole point of this is to really help the kids understand how to safely traverse the system, whether it be on a bike or walking. When more people are biking and walking, the system ends up actually being safer for everyone. The Department is trying to make sure that they create good habits amongst students so that they grow up and they know how to use the system safely to and from school safely every day. There are actually some interesting studies that show that kids that bike and walk to school arrive more prepared to learn and have better learning outcomes.



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6. Consideration of Approval of Contracts over \$5,000,000 (For Possible Action)

Director Swallow said there was just one contract for the Board's consideration. It's a pavement rehabilitation project on I-15 and Sloan to north of Starr, excluding the limits of the Starr interchange that was recently paved. The Director asked if there were any questions, and there were none.

**Motion:** Approve Agenda Item 6  
**By:** Member Virginia Valentine  
**Second:** Controller Catherine Byrne  
**Vote:** Passed unanimously

7. Consideration for Approval of Agreements over \$300,000 (For Possible Action)

Director Swallow said there were six items for the Board's consideration. She asked if there were any questions, and there were.

Controller Byrne asked on item number two, was this relating to her public outreach question about the ATM signs? Director Swallow responded no. Item two is actually for developing a department-wide system to manage the Department's customer service. But it's not the upfront communication plan.

Member Alberg asked about item number four. There was only a single proposer on that. Was there a reason why there was only a single proposer on that item? Ms. Sharon Foerschler responded staff believes that this was a case of resources. It was not a huge agreement and they just didn't have more proposers.

Member Alberg asked why did item number five only have two proposers? Is the Department down to two companies that are capable of providing this service to NDOT?

Ms. Foerschler responded that she does not believe they're down to two companies that can provide the services. She believes it's a situation of supply and demand. They've got some pretty big agreements that are ongoing right now and so they probably don't have the resources to draw other firms in to propose on these budgets.



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Member AlMBERG said he wanted to put on record that he thinks this is something that they do need to look at and try to encourage other users out there under companies that can provide this service to hopefully step up on board and try to provide these services. NDOT needs to do whatever they can to help them get up to speed so that they have more service providers available to them.

Ms. Foerschler said she agreed with Member AlMBERG. She said there are a number of firms that team with other firms in order to meet the needs for current proposals.

Lieutenant Governor Marshall asked if projects could be broken up either geographically or by product? Are there things that the Department could do to make it more competitive or to allow other companies to be able to bid?

Ms. Foerschler said the Department has done that. Both the SBX project and Project Neon were broken out in order to spread out the needs and give other firms an opportunity to bid.

Director Swallow added one of the things they're starting to see in the space in general is teams. And so, while they're awarding to one consultant, they have frequently teamed with multiple other consultants to get to that higher level. That is enabling more companies to get the skills that they might be able to propose in the future. It enables them to get experience with an NDOT project while not necessarily being the lead consultant.

Lieutenant Governor Marshall said the flipside of that is that people are working together and not competing against each other. And that works to the detriment of their current price points. There must be a balancing of competition and more teaming. The Lieutenant Governor asked if there were any other questions and there were none. She said she would accept a motion.

**Motion:** Approve Agenda Item 7  
**By:** Member Stephen Ascuaga  
**Second:** Controller Catherine Byrne  
**Vote:** Passed unanimously



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**8. Contract, Agreements, and Settlements (Informational Item)**

Director Swallow said Agenda Item 8 is Contracts, Agreements, and Settlements that have been approved by the Director pursuant to the delegated authority given by the Board. It is an information item only and there were no accompanying presentations.

The Lieutenant Governor asked if there were any questions and/or comments, and there were none.

**9. Consideration of Landowners Eugene L. Lepire and Judith L. Lepire Claim for \$495,000 (For Possible Action)**

Director Swallow provided some background for Agenda Item 9, Consideration of Landowners Eugene H. Lepire and Judith L. Lepire's Claim for \$495,000 Compensation pursuant to NRS. The Lepires have filed the claim, and according to NRS, are coming to the Board before legal action should they choose to take that up. The staff recommendation is to deny the claim.

Lieutenant Governor Marshall asked if there was an issue with the Board not being able to respond because of potential litigation? What was the advice on that?

Mr. Gallagher, Counsel for the Board, responded given the statute under which this claim was filed, the matter is investigated by the Director or designee, and then it's presented to the Board. And the Board can accept the claim or deny the claim. If the claim is denied, it gives the property owner the opportunity to pursue it in district court.

Mr. Mike Pavlakis, representing Gene and Judy Lepire, explained the statute provides for compensation for injury to the land and property resulting in destruction or alteration of that property. This parcel was part of a larger tract. The Lepires have owned this particular piece of it for 47 years. On a neighboring property, they had installed a water valve which was serving the property. The water well was retained by the Lepires, and that water well was installed in 1989. In 2016, the Lepires received a letter from NDOT indicating that there was going to be a need to use their property, and NDOT was willing to enter into a lease for their property. The Lepires said they wouldn't do that; they were interested in selling. During the course of the



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construction, the property was used. The Lepires documented that the Department knocked down signage and was dumping on their property. They were claiming \$495,000 in damages. The Department has offered nothing.

Lieutenant Governor Marshall asked the Director what was the request that she was making of the Board today?

Director Swallow responded that it's an action item on the Board Agenda to consider their claim. And so, it would be a vote to approve or deny their claim. Or the Board could give them a motion to enter into further discussions and negotiations.

Member AlMBERG asked if the provided well log was from 1988 or 1989? Mr. Pavlakis said the letter from the well drilling was dated April 28, 1989.

Member AlMBERG said the report mentioned that there's an incomplete well out there. Was this a new well different than the well already referred to in the paperwork? Mr. Pavlakis said it was a different well.

Lieutenant Governor Marshall asked if there was a dispute over the well? Mr. Pavlakis said yes.

Member AlMBERG asked about the Lepire's access off of Highway 50. It was expressed that they always had access off of Highway 50 until this project came into play. Just because they had access does that mean now it's legal access?

Mr. Mortensen said as part of the construction project with U.S. State Parkway, they provided the access to their property from U.S. State Parkway and from U.S. 50 as well. With their location adjacent to that roundabout, they can't allow access that close to the roundabout for safety reasons and compliance standards.

Mr. Pavlakis responded that the Lepires historically have had access directly to Highway 50. And it's approximately two and a half miles to the Lepires' property to Highway 50.

Lieutenant Governor Marshall said if she understood correctly, there are two claims. One is that because you now have to drive two and a half miles whereas you didn't have to drive two and a half miles before to



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get to the road, that's a taking. And two, you no longer have access to a well, that's a taking as well. Mr. Pavlakis said that was correct.

The Lieutenant Governor asked if Mr. Pavlakis believed that the value of those two things was \$495,000? Mr. Pavlakis said that's what the property is worth. There's been a diminution in value of \$495,000.

Member Almberg said as far as access to Highway 50 along with this project, weren't there also other owners that had come in and had concern about access? What about frontage roads to allow access to the properties that have been modified?

Deputy Director Mortensen said in order to provide safe access to US 50, this project was designed with several frontage roads to allow safe access at the high-T intersections rather than the access that was out there previously.

Lieutenant Governor Marshall stated there needs to be some clarification whether or not there is a taking of a well, whether that was a legal well, and whether it's the same well. And, also, the Lieutenant Governor said it might be difficult to pay half a million dollars for having to drive two and a half miles. That sounds like maybe there could be some more negotiation there. That sounds a little high.

Lieutenant Governor Marshall said she would be inclined to go back to negotiation. Also, they don't have the Governor's input here. What were others' views?

Controller Byrne said she agreed with the Lieutenant Governor. She thought there should be more investigation.

Member Valentine asked if the test for compensation was that someone must drive longer to get access? She thought that was a really "dangerous" mistake to make in this case. And, as for the well, they need more information.





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Lieutenant Governor Marshall said it seemed that they all were in agreement to postpone a decision on this matter until further information was obtained, statutes were studied, and the Governor was in attendance.

**Motion:** Table Agenda Item 9  
**By:** Member Virginia Valentine  
**Second:** Controller Catherine Byrne  
**Vote:** Passed unanimously

**10. Resolution of Relinquishment (For Possible Action)**

- a. Disposal of a portion of NDOT right-of-way, all of the Blue Diamond Drainage Channel, North of SR-160, in the County of Clark, State of Nevada (SUR 08-40)

Director Swallow said this drainage channel was obtained as part of an NDOT project. It is an easement within Union Pacific Railroad. The intent of the Department from the initial outset was to transfer it to Clark County. And the Department's relinquishment got transferred to Clark County already. There was no record of payment in acquiring it.

**Motion:** Approve Agenda Item 10  
**By:** Controller Catherine Byrne  
**Second:** Member Stephen Ascuaga  
**Vote:** Passed unanimously



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**11. Resolution of Relinquishment (For Possible Action)**

- a. Disposal of multiple parcels of land in an area of the IR-15/Cactus Interchange, in the City of Las Vegas, County of Clark, State of Nevada (SUR 15-21)

Director Swallow said this Resolution of Relinquishment was for disposal of multiple parcels of land near I-15 and Cactus Interchange. It is a cleanup project, but the interchange is no longer in construction and NDOT doesn't need those pieces of land. They will go to Clark County, and Clark County has agreed to receive them.

Lieutenant Governor Marshall asked what was the value attached to those parcels? Craig Reynoldson, Chief Right-of-Way Agent, said \$8,360.

**Motion:** Approve Agenda Item 11  
**By:** Member Virginia Valentine  
**Second:** Controller Catherine Byrne  
**Vote:** Passed unanimously

**12. Resolution of Relinquishment (For Possible Action)**

- a. Disposal of a portion of NDOT right-of-way, on Prater Way and View Street, City of Sparks, County of Washoe, State of Nevada (SUR 19-15)

Director Swallow said Item 12 was a Resolution of Relinquishment for disposal of portion of NDOT right-of-way on Prater Way and View Street in the City of Sparks. Washoe County has agreed to receive the land. Mr. Reynoldson, Chief Right-of-Way Agent, said the payment was \$100.

**Motion:** Approve Agenda Item 12  
**By:** Member Stephen Ascuaga  
**Second:** Controller Catherine Byrne  
**Vote:** Passed unanimously



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#### 13. Discussion of Nevada Department of Transportation Performance Management Measures and Targets (Informational Item Only)

Director Swallow reminded Members that in December they submitted their Performance Management Report as required by NRS to the Board and to LCB. When they did that, they mentioned it would be coming back with the discussion of what the measures and targets should be.

Sondra Rosenberg, Assistant Director of Planning, said the Board received a copy of the Annual Performance Management Report in December. Staff felt it was a good time to examine the measures that they've been reporting on for quite some time and see which ones may need some updating in line with their current strategies and performance. They also needed to update the auto required reporting mechanisms needed for performance measures, including various different required reports for federal highways. It's important that the performance measures are meaningful, aligned with their mission, vision, and goals, and inform the prioritization process. They don't report just to report. They do it to help inform resource allocation decisions and improve consistency with other requirements.

Ms. Rosenberg said they currently have 15 measures. Some of them have sub-parts. Their recommendations are:

Performance Measure Number 4, Streamlining Agreement Process. They have actually been exceeding that target for quite some time now. The current measure is to process 90% of agreements within 30 days. Last year, they were at 97%. Rather than up the percentage, they propose reducing the number of days. Staff is recommending a change to 20 days and keep the target at 90%.

Performance Measure Number 6, Reduce and Maintain Traffic Congestion. Staff is recommending changing that name to "Improve Reliability and Reduce Delay." They are really focused on reliability and delay rather than congestion, because congestion can be defined in a number of different ways. Congestion itself is also not meaningful when looking at a statewide measure. They are focusing on reliability and delay, and those are the measures that are actually recorded, and the targets are set based on that and also are in line with the federal requirements.

Performance Measure Number 12 Reduce Fatal and Serious Injury Crashes. The language is a bit confusing. They are trying to simplify the language similar to what the Director said at the beginning of this meeting.



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They don't want to get so caught up in statistics that they are losing focus on reducing fatalities and serious injuries. They are going from a projected number to the actual historical number.

Performance Measure number 8, Maintain State Highway Pavement. They are not changing the measure, but they are recommending a change to the target. The current target is to maintain 95% of all roadways in fair or better condition. They have not been meeting that for quite some time, if ever. It also is not necessarily the best use of their limited resources to maintain all roads at that high level. They are making the recommendation to have sort of a step-wise target level so that the highest category – Category 1 is interstates. And they step down from there based upon use of the roadways. Category 1 are interstates. Category 5 are roadways with less than 400 vehicles per day. The new proposed targets are really in line with balancing limited resources while still maintaining the assets in a way that makes the most sense fiscally.

Mr. Darin Tedford, Assistant Director for Operations, explained they've been using categories based on traffic for a very long time. About eight years ago they were trying to have everything in supreme or the very top condition. The 95% looks like that was happening, but the 95% was "fair or better." Fair is the middle. Their goal right now is to have every road above the middle.

Lieutenant Governor Marshall asked what exactly was changed in 2012? Mr. Tedford said they changed the "fair or better" part. The numbers changed a little bit. Effectively, their goal was 100%, very good condition. The range of conditions is very good, good, fair, mediocre, poor, or very poor. But before 2012, the goal was to do a percentage of the system every year.

Lieutenant Governor Marshall said she needed to understand whether staff was simply saying, "Well, I don't have enough money, so I need to diminish the quality that I maintain on my roads," or whether they were saying, "I don't need that quality. And so, I don't need to spend that money." That's a different issue.

Lieutenant Governor Marshall said she wasn't sure that the place to begin the conversation should be, "Well, this is how much money I have, so this is what I'm going to do." The place to begin the conversation should be, "This is what our needs are to maintain safety, quality, and the economy associated with our roads." The Lieutenant Governor said she would like to have a better understanding of whether or not this performance measure is the former or the latter part.



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Director Swallow said the Category 1 roads have the highest volume of traffic on them. If those roads have degraded beyond fair, it will be a significant safety impact to a large number of people. That next category down, Category 2, you're starting to look at our 95, 93, U.S. 50. And so, again, higher volume roads, it's more critical to maintain those at that higher level. When you get down to Category 5, they've allowed that to degrade actually to a level below what they think is reasonable. They think they should raise that up to at least 50% of those roads are in fair or better condition.

They've approached this with the perspective of what makes most sense in terms of how they spend their resources. They certainly could establish 95% fair or better conditions. If they do that, it will impact their ability to meet their growing needs. Bottom line: it's a balance. They are having conversations with other groups regarding SCR3 in terms of how to fund the system overall. Even in those conversations, they are not suggesting that the whole system be at 95% fair or better. With degradation, there are safety issues. But the safety issues are not as great on those lower volume roads as they are on the higher volume roads.

Mr. Tedford gave Members some numbers on the categories: Category 1 is the interstate. It's about 10% of the roads. Category 2 (U.S. routes like U.S. 50, 95, U.S. 50A) are about 20%. Category 3 (state routes) are about 25%. Category 4 (lesser known routes) are about 20%. And Category 5 (a lot of frontage roads) are about 25%.

Lieutenant Governor Marshall wanted clarification for Category 3. The current status is 94.3, and staff is suggesting that they let that degrade to 85? And don't put the resources there if it starts to degrade until it gets down to 85, is that right?

Mr. Tedford answered yes. They have two programs that are maintaining all the roads in the state. The total ends up being almost 6,000 centerline miles right down the center of the road. The first program focuses on the interstate in terms of value, by traffic, and the importance for safety. The Department is spending a lot of preservation money on those roads. The other program is called "betterments" to keep the mid-range of roads in good condition. Betterments can be thin surface treatments, slurry seal, or chip seals going on the roads.

Lieutenant Governor Marshall asked in terms of where the rest of the country is and where the Department thinks they should be, is "fair" good enough?



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Mr. Tedford responded that when they say “fair or better” they’re describing keeping a percentage of those roads above the middle. Right now, there is a distribution. Category 1 is pretty heavily weighted, and they’re very good. It’s above fair. Instead of getting more technical and splitting these out before, like we were 20% is very good, 20% is good, so on and so forth, staff just cut the line in the middle like fair or better. And that’s the percentage they had. There’s a distribution above fair. It’s not like, just at fair. It’s above that.

Director Swallow said if all of their roads could be in “very good” condition that would be fantastic. But she doesn’t think they can reasonably do that, and it doesn’t help them meet the needs of their growing state. The Department hasn’t been allocating resources wisely. The Director would like to see them move to a place where they are maintaining and improving the majority of the network. And if they can start allocating their resources along these lines, then they can have another conversation about what it means to start bringing them back up broadly.

To do this, they would need to go from a \$105 million investment to \$225 million. Annually, they spend between \$600 and \$800 million on their program. And so, that represents doing one less new interchange.

They can certainly get to 95% are fair or better condition over a period of about ten years. They can do that. But they would need to invest even more in preservation than what the maintenance line reflects. And to do that then, there would be two new interchanges that would not be constructed. These are hard conversations and discussions.

The Board can help guide staff as they work on the Annual Work Program. All parties need to understand that there will be shifting of resources so that the Annual Work Program can come forward with the level of spending reflective of meeting those goals. It hasn’t been that way in the past.

Ms. Rosenberg moved on to Performance Measure 14, Maintain State Bridges. They are proposing new measures more in line with federal requirements and want to shift that to percentage of bridge inventory considered to be in good and poor conditions. Greater than 35% in good condition and less than 7% in poor condition. The state is currently tracking better than the federal requirements. Director Swallow said the old target wasn’t in good alignment and the new target is more meaningful. It will ensure the Department is replacing the right bridges when they’re needed to be replaced.



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Ms. Rosenberg said another proposed new measure is in line with Senate Bill 254 in the government's executive order on greenhouse gas emissions. The Department is proposing to add an annual greenhouse gas emissions from the Transportation Sector in Nevada. The target and measure may be refined as they start developing those strategies. But currently, in recognition of this being a statewide priority, they are going to at least start tracking it.

Ms. Rosenberg closed by saying they want to make sure these performance measures are meaningful, that the measures are informing resource decisions, and that they help with the prioritization process that they've been talking about.

An unidentified speaker asked if it would be possible to get a color-coded map that would show the categories across the state. Ms. Rosenberg said that map already exists. She will make sure everyone gets an updated one ASAP.

Lieutenant Governor Marshall asked when they were talking about costs, were they talking about bonding or operating costs?

Director Swallow said this would just be out of their regular budget. If they wanted to do a whole bunch the first year, they might be able to float a bond. When they talk about bonding, they do wholesale across the program and that would be something they would be talking about as far as the budget cycle and as part of the annual work program to identify where bonding needs may be.

Lieutenant Governor Marshall said she really appreciated getting this information. She said to expect a long conversation at the next meeting when Governor Sisolak was there.



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14. Provide an Overview of Project Labor Agreements (Informational Item Only)

Lieutenant Governor Marshall said she would like to move this agenda item to the next meeting when the Governor would be there.

Director Swallow said that would be fine. When it comes back next month, it will be an information item only and then any policy direction from the Board they'll be seeking the following month. And going forward, the Director would like to follow a new format: the information will be presented at Board Meeting 1 and then the vote will be at Board Meeting 2. This will give the public and the Board plenty of time to formulate questions and feedback.

15. Public Comment

There was one comment from Aleta Dupree from Las Vegas. Aleta Dupree had high praise for the I-15 HOV lanes saying that Las Vegas was a 24-hour town, and it's reasonable that they have HOV lanes on a 24-hour basis. The 24-hour regulations are judicious and enforcement of laws on HOV lanes is essential. It's important that staff be out there looking for people who are impaired. And moving forward in policy matters, NDOT should continue to innovate and keep working on the electric highway.

16. Executive Session

There was no Executive Session.

17. Adjournment (For Possible Action)

The Lieutenant Governor thanked everyone and said she would accept a motion to adjourn.

Motion: Adjourn the March 9, 2020 Nevada Department of Transportation Board of Directors Meeting  
By: Controller Catherine Byrne  
Second: Member Virginia Valentine  
Vote: Passed unanimously

Secretary to the Board