



Nevada Department of Transportation

Board of Directors • Meeting Minutes

April 13, 2020

9:30 A.M.

Meeting Location: Live streamed via BlueJeans in accordance with Governor Sisolak's March 22, 2020 [emergency directive](#) which suspends the requirement that there must be a physical location designated for meetings of a public body where members of the public are permitted to attend and participate in-person so long as participation is available.

1. Welcome/Call to Order/Roll Call

Governor Sisolak called the meeting to order on Monday, April 13, 2020 at 9:30 AM. A roll call was conducted, and a quorum was established.

2. Public Comment

Director Swallow explained that the Department established an online way of receiving comments via a public comment form or an email address. All public comments received before 4:00 P.M. on Friday were distributed to the Board Members and any comment received before 5:00 P.M. today would be included in the record. The Department received no public comment.

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

Director Swallow stated NDOT was required to appoint a Vice Chair annually. She stated Lieutenant Governor Kate Marshall has served as the Vice Chair in the past, and it is staff's recommendation that she continue in that role going forward.

Governor Sisolak said that sounded great and he would accept a motion.

Motion: Nominate Lieutenant Governor Kate Marshall for Vice Chair to the Transportation Board

By: Controller Catherine Byrne

Vote: Passed unanimously



Nevada Department of Transportation

Board of Directors • Meeting Minutes

April 13, 2020

9:30 A.M.

Lieutenant Governor thanked everyone for their vote of confidence and said it was an honor.

4. Consideration of Approval of the March 9, 2020 Nevada Department of Transportation Board of Directors Meeting Minutes (For Possible Action)

There were no corrections of changes in Minutes.

Motion: Approve the March 9, 2020 Nevada Department of Transportation Board of Directors Meeting Minutes

By: Member Stephen Ascuaga

Vote: Passed unanimously (Governor Sisolak abstained)

5. Receive Director's Report (Informational Item)

Director Swallow started with the safety report. She said given the "significant changes" that happened in the last month (COVID response), fatalities are down. There were 23 fatal crashes in March 2019 and only 12 in March 2020. Unrestrained fatalities continue to trend downwards with only eight (8) this year versus 13 last year. Unfortunately, pedestrian fatalities are up since last year at 24 versus 22 last year.

Director Swallow shared that she wanted to recognize a big loss in the transportation community, NHP Sergeant Jenkins. She detailed his many contributions to the Department and to the citizens of the State. The day before his death, he was the NHP onsite coordinator for escort for a convoy of two super loads traveling from the Utah/Nevada state line to the Marigold Mine in Valmy, Nevada. Sergeant Jenkins made many unspoken contributions to NDOT in the State of Nevada and his loss is felt deeply by the NDOT team.

Director Swallow gave an update on the Department's response to the COVID-19 situation. Since the original guidance was issued the week of March 16, the Department was able to transition roughly two-thirds of their team members working from home on a daily basis. That's 1,200 team members working at home. The remaining 600 or so continue to be on construction sites to help with maintenance activities.

Team members participated in an industry-wide Stand Down for Safety on April 3rd where they reiterated the importance of maintaining all of the safety guidelines in order to ensure that the program can continue and



Nevada Department of Transportation

Board of Directors • Meeting Minutes

April 13, 2020

9:30 A.M.

that they and their families remain safe and healthy. Staff continues to monitor team member productivity and so far, have not seen any impacts to contract advertisement or construction schedules. The virus hit about the same time as the planned statewide Nevada Moves Day event, which was cancelled. The t-shirts that would have been given out to volunteers at Nevada Moves Day were donated to a company that will use the t-shirts to make 200 masks/face covers for staff at the Carson Tahoe Hospital.

Director Swallow said traffic counts are affected by COVID-19. On some of the corridors in Southern Nevada, they've seen traffic drop up to 70% in certain areas. Overall, traffic volumes have dropped by roughly 40% and they continue to drop slowly. The Department continues to encourage folks to "Stay Home for Nevada" and if they are out driving to please do so with caution. The volumes are down but that doesn't mean speeds should be up.

NDOT has recognized that everybody needs to continue to stay healthy and active despite the COVID-19 restrictions. So, on April 1st, they launched a Walk and Roll Wednesdays, giving Nevada families who have been socially distanced an opportunity to get outside for healthy and fun activity. They encourage families to spend at least 20 minutes outside every Wednesday and as many other days as possible. Whether it's biking, hiking, walking, or whatever they can do within their family group and still actively maintain social distancing. They also encourage them to use face coverings whenever near others and to avoid touching any shared outdoor equipment. If anybody wants to participate, they can tweet to #WalkandRollNV, so people can see how people are using the system. With the traffic volumes as low as they are, this is a good time for folks who have been thinking about learning how to bike to work to, perhaps, try out a new commute and see how that feels.

Director Swallow moved on to the Department's jobs numbers. Since they approved the Annual Work Program in October 2019 through March 2020, the contracts that have been awarded equate to approximately 4,400 jobs. With this agenda, there are 348 jobs that could be approved by the Board for a total of 4,752 jobs since October. The way they calculate this is from the Council of Economic Advisors in 2011. The Economic Office of the President determined that for every \$77,000 spent on infrastructure, approximately one job is created.

Director Swallow reported that the ATM sign launch in Las Vegas went on as scheduled. She provided a slide show demonstrating how the system works in different scenarios.

There was 4.5 earthquake in Carson City on March 20. Ensuring the safety of the network following the quake was imperative and, therefore, certified bridge inspection personnel went out early the next day and visually



Nevada Department of Transportation

Board of Directors • Meeting Minutes

April 13, 2020

9:30 A.M.

inspected 32 bridges from Carson Valley to South Reno to the Dayton area and found no visible damages related to the earthquake. Nevada bridges continue to be ranked among the nation's very best for the past six years. Staff inspects the majority of bridges throughout the state, including City and County maintained structures, every two (2) years. Some bridges with more extensive deterioration are inspected more often while the newer bridges are inspected every four (4) years.

The Director had two personnel announcements. First, she noted that Member B.J. Almberg resigned. The Director thanked him for his valuable contributions to the team and said he would be missed. The second announcement was that there was a new team member joining the Department, Felicia Denney. Ms. Denney was the Chief of Financial Management for over 13 years and became the new Assistant Director of Administration effective March 16. The Director said Ms. Denney has already been an invaluable resource and team member and they are lucky to have her.

Governor Sisolak welcomed Ms. Denney and said that Member Almberg would definitely be missed. He was a true asset to the Board.

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

Director Swallow stated there were three (3) contracts for the Board's consideration. The contracts represent 300 jobs in the community. She said she would be happy to take any questions, but there were none.

Governor Sisolak asked if there was any feedback or were there any concerns, and there were none. He said he would accept a motion.

Motion: Approve Agenda Item 6 for Contracts over \$5,000,000

By: Lieutenant Governor Kate Marshall

Vote: Passed unanimously

7. No Agenda Item 7.



Nevada Department of Transportation

Board of Directors • Meeting Minutes

April 13, 2020

9:30 A.M.

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

Director Swallow said there were three (3) agreements for the Board's consideration. There were no questions or comments about the agreements.

Motion: Approve Agenda Item 8 for Agreements over \$300,000

By: Controller Catherine Byrne

Vote: Passed unanimously

9. Contracts, Agreements, and Settlements (Informational Item Only)

Director Swallow said this was an informational item only. She said she was prepared to answer questions, but there were none.

10. Consideration of Approval of Nevada Department of Transportation Performance Management Measures and Targets (For Possible Action)

Director Swallow said this item was presented to the Board last month in an effort to get the Board's feedback on the Performance Measures and Targets to ensure that the Department was meeting the needs of the community. There were several recommended changes. Those changes were noted and were in the Board packet.

Governor Sisolak asked if there were any questions on the prioritizations. Being there were no questions or comments, the Governor said he would accept a motion.

Motion: Approve Agenda Item 10 for NDOT Performance Management Measures and Targets

By: Member Stephen Ascuaga

Vote: Passed unanimously



Nevada Department of Transportation

Board of Directors • Meeting Minutes

April 13, 2020

9:30 A.M.

11. Provide an Overview of One Nevada Project Prioritizations Process (Informational Item Only)

Sandra Rosenberg, Assistant Director for Planning, provided the report for Agenda Item 11.

The One Nevada Transportation Plan was adopted in 2018 and it addresses the federal requirements under Authorization Acts. It is performance based, long-range, and establishes key goal areas, aligning with national, regional and statewide goals. It establishes a framework for transparent, data-driven prioritization process of long-, mid-, and short-range projects. That established the framework and now the Department is working on the implementation of that prioritization process.

There are several steps in the prioritization framework that staff will be working on. Right now, they are focused on the STIP project prioritization. There are a number of existing projects that need to be prioritized for near term funding allocations; they wanted to focus on that part first. As they learn a lot about data availability and the needs out there, then they will focus on the long-range screening and long-range project development shortly.

Ms. Rosenberg displayed a flow chart of how the process works: establishing the criteria, defining the scales, developing a project list which they already have and how they weigh those criteria. All the projects are scored against those criteria. The Department uses a Multi Objective Decision Analysis (MODA) to initially rank those projects. The initial ranking is based on available data and performance information but doesn't really tell the whole picture. There's a "harmonization" process after the initial ranking. Then, staff refines the process and they continue to refine the process as more data is available.

The goal areas that the Department has identified are: enhanced safety, preserve infrastructure, optimize mobility, transform economies, foster sustainability, and connect communities. Those were goals that really speak to their purpose as the State DOT. And under each one of those, there are different criteria or measures that staff is looking at in order to prioritize upcoming projects. Each of those was developed in coordination with subject matter experts from across the Department, based on available data. They also identify improvements to those criteria as better data becomes available in the future. Staff held a workshop with NDOT leadership to look at how to weight the criteria and the six (6) goal areas received the highest weighting.

The next step is finalizing the list for projects for prioritization using the methodology and those criteria to prioritize those projects. Then, they go through the harmonization process, based on things like funding



Nevada Department of Transportation

Board of Directors • Meeting Minutes

April 13, 2020

9:30 A.M.

eligibility, project readiness, and geography. Those are all really important things in terms of when projects go out and where they go out.

Staff will use that information to develop the 2021 Draft Annual Work Program and the 2021-2024 Statewide Transportation Improvement Program, the federal four-year required plan. Those will all go out. They'll come back to the Board. Then, they'll go out for public comments, with adoption in late summer or early fall.

Ms. Rosenberg said she would be happy to answer any questions.

Governor Sisolak asked at what point does it come into the fairness of these projects being allocated in different areas of the state? Ms. Rosenberg replied that that's the harmonization process where they look at the priorities, at both the revenues in and out, project eligibility, and, also, geographic distribution.

Governor Sisolak asked who is making those decisions? Ms. Rosenberg said NDOT leadership will review the projects and present their recommendations to the Board for approval. Governor Sisolak asked, after staff conducted their review, that he would like a copy of the recommendations. Ms. Rosenberg replied that was fine.

Lieutenant Governor Marshall said she had a follow up question. Was it correct that if they get federal monies for any highway project that there are certain federal requirements with regard to how those monies must be distributed throughout the entire state?

Ms. Rosenberg responded that was correct and that it depends on which type. The general federal allocation includes different programs and the eligibility for each of those different programs. That's part of the harmonization process after the initial ranking. The only ones that are dedicated to a specific region, they have some funds that have to go to urban areas and rural areas and then there's also competitive grants and those will be for a specific project. Staff looks at all of that, in terms of how to distribute their funds. Some federal categories are completely up to them and statewide, with certain project types, others are split up by population or different categories of that population.

Lieutenant Governor Marshall said it was her understanding that there are certain federal requirements that money be distributed within lots of different areas within the state that they may have to comply with in order



Nevada Department of Transportation

Board of Directors • Meeting Minutes

April 13, 2020

9:30 A.M.

to make sure that they get all the federal dollars possible. It's not just a State decision with respect to allocation and money where federal dollars are involved.

Governor Sisolak said he understood and agreed, but some of it is discretionary at the state level and there's a lot of state dollars involved here as well. In the past, in the prioritization of the projects, it seemed like some counties had been shorted. The Governor said he wanted to make sure that that does not continue to happen. Lieutenant Governor Marshall said she agreed completely.

Director Swallow said staff appreciated the feedback and that is part of why they're doing this process is to ensure that it's a fully transparent, data-driven, performance outcome process so that the Board understands what the needs are and then is involved and engaged as they work to distribute the projects. It is a new process for them and they think that it's important that they migrate to this process going forward.

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

Deputy Director Cole Mortensen provided the overview of the research done with regard to Project Labor Agreements (PLA) and how they might best fit into the Department's projects and where they might consider using them.

A project labor agreement is an agreement with labor organizations where collectively bargained agreements are used to govern the terms and conditions of employment for craft and trade workers, both union and non-union. What staff would like to do is compare how project labor agreement might be consistent with what they are already required to do through state and federal statutes.

Some of the PLA provisions include worker wages and benefits. They are already required to include prevailing wages on all state funded and federally funded projects. Work rules and working conditions, NRS 338, 408 and 613 cover a lot of these. They also have Standard Specifications and include that as well as federal statutes that they have to follow.

Other PLA provisions include referral of employees, including apprentices and trainees. With the Apprentice Utilization Act last year, SB 207, Nevada now has apprenticeship requirements. The Department's contract compliance group not only keeps track of the apprentices, but also keeps track of registered payroll. They are verifying that all the employees are getting paid prevailing wages.



Nevada Department of Transportation

Board of Directors • Meeting Minutes

April 13, 2020

9:30 A.M.

One of the last provisions that a PLA would cover would be work stoppages, lockouts, and jurisdictional disputes. Staff is not aware of any projects in recent memory where they've had an issue of a lockout or a work stoppage.

Staff reached out to one of their federal partners to find out how to implement the PLAs. They are allowed under federal projects, under the terms and guidance of Executive Order 13052 but the FHWA will review the PLAs on a project by project basis and will have to go through a two-step process which can take 5 to 14 months at a time.

Essentially, staff will have to examine the time sensitivity of projects and costs associated with project delays, impacts to traffic, detrimental effect on public relations, any risks of labor unrest or jurisdictional disputes, and the available skilled labor pool. And then the FHWA will do the same: evaluate the size, complexity and duration of the project, the importance of the project, and the need to adhere to the certain timeline and demonstrated cost-effectiveness.

Once that is all in place and they have the approval from the FHWA to move forward, then they would develop the PLA with the Nevada labor unions and that can take anywhere between 2 to 6 months. This will be binding to all contractors and subcontractors with allowances for DBE and SBE contractors. No penalties for not using contractors and it would conform to all state and federal laws. This would be a guarantee against labor strikes, slowdowns, and other disruptions.

The FHWA evaluates the agreement to ensure that they are not violating any federal programs, make sure it's including worker protections as required by federal law, and that it conforms to other federal laws and regulations including no local hiring preferences.

Staff is looking at options for adoption of PLAs on NDOT projects and they would like to look at it on a case-by-case basis, bearing in mind the specific project facts such as complexity, size, scope, duration, time sensitivity, and cost delays.

The first option would be to consider PLAs for vertical projects over \$25 million with no consideration for horizontal projects. If they do end up doing new buildings or rehabilitation of buildings throughout the state,



Nevada Department of Transportation

Board of Directors • Meeting Minutes

April 13, 2020

9:30 A.M.

they would potentially look at doing a project labor agreement. But for the horizontal projects, since they have many of the protections in place, they recommend just moving forward as they've done in the past.

The second option would be to consider project labor agreements for vertical projects over \$25 million and state funded horizontal projects over \$200 million would end with construction lasting more than 36 months. The reason why staff picked 36 months is there was state law passed last session that required the renegotiation of salaries on projects of that duration, they felt that it was prudent to make sure that they had those provisions in the PLA as well.

The third option would again be for vertical projects over \$25 million. State funded horizontal projects over \$200 million with construction lasting more than 36 months and federal aid projects, horizontal projects, more than \$500 million with construction lasting more than 36 months.

Those are kind of the options that staff has put together. They're obviously up for discussion.

Governor Sisolak said they are certainly limiting the number of projects when it's over \$300 million on state projects and \$500 million on federal projects. Are those just arbitrary numbers that they picked or what are those?

Mr. Mortensen replied that staff ended up with the numbers after looking at the last 5 to 10 years' worth of projects and what kind of represented a reasonable share.

Governor Sisolak asked how many projects have been over \$300 million? If the projects are broken up into phases, they weren't counting them, correct? Mr. Mortensen said that was correct.

Governor Sisolak said he thought that the numbers were artificially high, and he would like for staff to bring those down. Way down. Way, way, way down. What they were talking about is the work that's involved; there might be a little more effort on the Department's end. But the Governor wants to protect the safety and the wellbeing of Nevada's workforce, as well. That's a concern for him, in addition to the work that's brought forth for NDOT. Mr. Mortensen stated he understood.

Lieutenant Governor Marshall had a request. She wondered if she could request that staff have legal counsel provide the Board with an opinion on a Supreme Court decision because she does not believe an Executive



Nevada Department of Transportation
Board of Directors • Meeting Minutes

April 13, 2020

9:30 A.M.

Order from the President overrides a Supreme Court decision. The Lieutenant Governor said this Supreme Court decision might be very, very important to this topic of PLA agreements. The opinion is: Building and Construction Trades v. Associated Building Contractors in Massachusetts and Rhode Island. The cite for that is 507 US 218, 1993. Could legal counsel please weigh in on that?

Governor Sisolak said he would like to see the court case before the AG gives an opinion. Could that be arranged? Mr. Mortensen said absolutely. The Governor said they would definitely be bringing this one back. Director Swallow agreed they would be bringing this one back and, when they do, they can bring it back for further discussion and/or for action depending on the outcome of some of their discussions in the intervening time. This was just the beginning of the policy discussion.

13. Public Comment

There was no public comment.

14. Executive Session

There was no Executive Session.

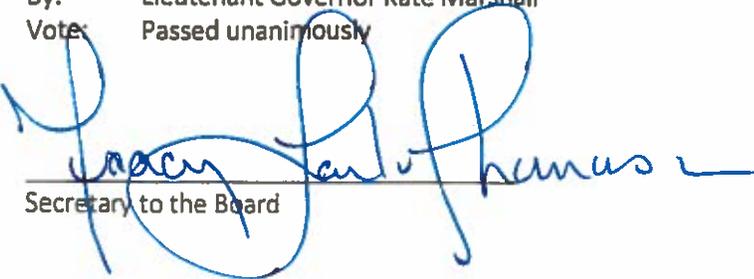
15. Adjournment (For Possible Action)

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

Motion: Adjourn the April 13, 2020 Nevada Department of Transportation Board of Directors Meeting

By: Lieutenant Governor Kate Marshall

Vote: Passed unanimously


Secretary to the Board