

**STATE TRANSPORTATION BOARD MEETING MINUTES**  
**9:00 a.m. (MST), Friday, September 16, 2011**  
**City of Benson – City Council Chambers**  
**120 W. 6<sup>th</sup> Street**  
**Benson, Arizona 85602**

**Pledge**

The Pledge of Allegiance led by Member Bobbie Lundstrom.

**Record of Board Member Attendance**

Attendance noted by Chairman Feldmeier.

Members of the Board in attendance were Bill Feldmeier, Bobbie Lundstrom, Kelly Anderson, Hank Rogers, Steve Christy and Felipe Zubia via telephone.

Members of the Board absent were Victor Flores.

**Opening Remarks**

Chairman Feldmeier: Thank you to the City of Benson for hosting the State Transportation Board meeting and for the great meal last night and the camaraderie. We always enjoy having our meetings throughout Arizona which is one of our charges. We spend more time in an around Arizona than we do in one particular spot. When we do that, we get an opportunity to visit with folks who live in different parts of Arizona. We get to see different parts of our road infrastructure and we get to talk to the folks who live and work in those areas that ADOT impact. It is important for us to visit with you personally, see you at meetings like this and the opportunity to get to know you and spend time with you. That is why last night was particularly important. Thank you for that time and energy you spend on our behalf. We appreciate it very much. We intend to return and continue to work with you in all of our capacities as best as we possible can with the limited financial abilities that we now have.

**Call to the Audience**

The following members of the public addressed the Board:

Steve Troncale: Councilman, City of Tombstone. Thank you for the invitation. He has worked with ADOT for several years. They were awarded a transportation enhancement in 2007. He had a very good experience working with ADOT and thanks them for all their help.

Ann English: Cochise County Board of Supervisors. Cochise County enjoys working with the Department of Transportation and Bill Harmon, District Engineer. They have a good coordination and cooperative effort. She wished to highlight some projects ADOT initiated in Cochise County:

- The fire damaged bridge. With the help of Bill Harmon and his staff, the project was accelerated and will open soon. That is phenomenal – usually a project like that take years and this one, a matter of months. An issue that came up from the bridge closure is - there are no side roads. With the bridge gone, people living out in the area had no way to get to town. Something that the county and state need to look at is when you have an Interstate running through a community – are there any other roads along it that people can utilize to continue doing business. This \$27M project on the SR90 interchange is the largest funded project in the Safford district since the interstate was built and is a tremendous asset to Cochise County. They appreciate the foresight of ADOT to build an interchange that will serve well into the future.
- The bridge project allowed the Safford district to lobby and add the Cochise County interstate segment from the county line to SR90, onto a funded project assessment and design. She mentioned this because many times the county or cities do not have the money to get projects started. They miss out on Federal Funding because they do not have projects “shovel ready”. They are in a better position to qualify for funding as it becomes available when ADOT allows projects that provide engineering and study money. They appreciate ADOT helping to get the engineering done.
- She knows ADOT had funded 100% the Northwest Transportation Plan in Cochise County and a county wide transportation plan. They are very grateful for monies that come forward for studies so they may qualify for monies to get the projects done in an effective way.
- They recently had the Monument fire and the Horseshoe 2 fire and she congratulates the highway department, as the Monument fire crossed the highway. During the fire, ADOT responded quickly to close down the roads and were out to take care of the drainage. The state, county, several other agencies and locals quickly worked together on the peripheral tasks.
- She wants to encourage ADOT to stay involved with the border. Douglas has an entry into Mexico; Naco is the only county road going into a foreign country. The county thinks that the state may want to take Naco Road into the state system. They need to have an enhanced border station and roads leading to it. From the Cochise County Transportation Department, she received information stating, “Cochise County roads carry more over wide and heavy traffic than any other county in the state”. She knows that is one reason ADOT looked at Davis Road because the heavy traffic and wide loads that can’t go on the Interstate take Davis Road between McNeil and the area just south of Tombstone.

She asks for ADOT to keep all of these things in mind and thank you to the Agency, Bill Harmon and staff who so graciously work with them.

Brad Hamilton: City Engineer and Public Works Director, City of Benson. On behalf of the Mayor, the Council, the City Manager and staff they welcome the Board today. It is great Benson was chosen as a meeting location. They thank ADOT for all of the investments put into Benson over the last 20 years: widening SR90, the new interchange and Arizona’s newest airport. They thank the staff from the Safford District who are always great to work with. Welcome to Benson.

Drew John: Supervisor, Graham County District 1. He wants to thank ADOT for continuing the US191 projects making it a divided highway into the Safford area. They know it will be a big economic gain and a lot safer.

- They look forward to ADOT moving ahead on the Bylas Bridge in Graham County. Traveling 50mph is a little fast as it is a rough bridge.
- The US70 widening project will help a lot with the Morenci and Safford Mines. This is a difficult project with many farms and wells and they appreciate the patience of the state offices. The Safford Mine area has 2 intersections that ADOT is helping with the design:
  - The 8<sup>th</sup> Avenue project, where north 8<sup>th</sup> Avenue splits off to the airport; the other one continues to the mine. That location is dangerous with a couple of deaths over the years and recently 2 rollovers. The mine traffic carries hazardous materials. He encourages ADOT to proceed with releasing the monies for that project.
  - The Ray Lane project, coming out of Thatcher, across the Thatcher Bridge coming to Safford/Bryce Road at the west entrance side of the mine. It has a negative angle and the semis have to come around and go across the road, some of them up onto the hill to make the turn to come back, which is a safety hazard. They are working with ADOT on the design money and will later ask for project money.
- Budget issues – they appreciate the partnership with ADOT and District Engineer Bill Harmon and his group on the work for the 8<sup>th</sup> Avenue Bridge. The project is complete and they hope to get the project closed so the deposit money that Graham County has placed with ADOT will be released. They need this deposit money to help with the operations of Graham County.

He thanks the Board and ADOT for all we do and he appreciates our patience.

Mike Gomez: Mayor, City of Douglas. Rep. Grijalva introduced a bill, the Border Infrastructure and Jobs Act of 2011, which will be around \$100M. This will help our ports of entry in Arizona by strengthening the cross border trade, modernize the border infrastructure, adequately staff the ports of entry, invest in innovation and help revitalize small business. He asks for the support of everyone here and of ADOT. What makes Arizona great - the cities. What makes international trade better - the border towns. They are the ones responsible for keeping the legal trade flow continuing in collaboration with our neighbors in Mexico. It is very important. He asks for the support of ADOT in a resolution to support this bill. The antiquated Port of Entry at Douglas does as much trade as the modernized San Luis Port because Douglas imports hardware, not vegetables. He thanks the Governor, Director Halikowski and Bill Harmon, as all have been very helpful.

The City of Douglas is participating in an Office of the Commissioner of Homeland Security - Homeland Security Town Hall on November 17<sup>th</sup>. This event will offer insight into what really happens at our borders.

Terry Hinton: Town Manager, Town of Thatcher. He has worked with ADOT for 25+ years. The last few years it has become apparent to him that they are becoming bogged down in the bureaucracy. More things are being pushed to the state level and taken away from the District Engineers. As long as they can work with Mr. Harmon and his staff things seem to roll right

along. Things are resolved in an efficient and quick manner but, when we get kicked upstairs things are bogged down. He is afraid they are becoming consumed by the bureaucracy itself. He would like to encourage a look at that and possibly a way to allow them to have more interaction with the District Engineers. Bill Harmon and his staff do a great job, they appreciate working with them but when they have to go somewhere else, it adds time and money and you all know how tight the money is right now. ADOT is doing as good of a job as it can with the limited funds it has and they appreciate that and the efforts but, they think it can be streamlined a lot. He has a lot of examples to talk about. Is there some way to push the decision making back to the district level, it would make the process less painful, a lot quicker and a lot cheaper for all of us.

Director Halikowski: Sir, if you will ask Bill Harmon to work with us, we will set up a meeting and visit with you on your issues.

Mike Hemesath: Director of Public Works, City of Sierra Vista. He is here to represent Mayor Rick Miller. He wishes to say thank you to the Board and the ADOT staff for all of the wonderful things they have done for the community of Sierra Vista.

- The Aeronautics Division has been really great for the City; he believes there is an item on the agenda for a matching grant to update their master plan. Mike Klein and his staff have been great to work with, under Jennifer's leadership.
- Their award winning Vista Transit Public Transportation System is going great. They just finished up, thanks to Jennifer and Mike Normand, an alternate fuel facility expansion project. They now have the capability to run buses and refuse collection fleet on biodiesel and the rest of the fleet on E85 Ethanol. They have intergovernmental agreements with ADOT and other public agencies to purchase fuel from the City.
- On their enhancement projects, ADOT and staff have been really helpful. They have 4 multiuse paths in various stages. While it is true, it is difficult to get things from the state level through the federal FHWA level and it is an issue, they are working through it. They would like to see it done a lot quicker but understand they have to follow the rules. Bill Harmon was just in an FHWA audit on one of the City's multiuse paths. It went pretty well, but it was a good eye opener to the issues between the Federal Highway Administration, the state level and then down to the local levels. There is a lot of chain of communications that have to be addressed and it is really important that everybody understands it. That will help to streamline things in the future. The audit went very successfully for them and they appreciate ADOT's help.
- On their highways, they had 2 large projects that wrapped up this past year. They had arterial streets - a troublesome road in front of Cochise College and Buena High School. It was a 2 lane road; they finished up with a 5 lane roadway – a \$3.5M project that went very smooth. Jackie Watkins and her ADOT management crew did a great job. They just wrapped up Fry Blvd. 3 mile long major thoroughfare in Sierra Vista that went very smooth. They have SR92, a major state highway that goes right down through the middle of Sierra Vista. It is a widening project that went from 5 lanes to a 7 lane section and is at 95% completion 2 years ago. They would like it to move forward so they may start programming phases of it over the next 10 to 15 years and wrap up the DCR. They will appreciate any help the Board can get them.

He asked Reza Karimvand to come up. Reza has been instrumental in making a lot of the traffic engineering improvements in Sierra Vista. He has worked multi millions of dollars through the Federal Highway Administration and got a lot of good things done for them. They want to recognize and thank him on the behalf of the Mayer, City Council and the citizens of Sierra Vista. They presented a certificate of appreciation in recognition of his “many years of service in assisting the City of Sierra Vista with transportation projects benefiting their citizens and the community. Reza, thank you very much and we wish you the best of luck in your promotion to Assistant State Engineer in charge of technology and traffic operations”.

Mary McCool: Chair, J-6/Mescal Community Development Organization. She brought a message from 2 communities who were soon to be reunited. The bridge opened on Tuesday as planned. The sigh of relief was deafening as families looked forward to fewer hours on the road, less spending at the pump and the opportunity to normalize their daily life routines. The business's that struggled to keep their doors open now look forward to a brighter future. The magnitude of adjustments made to incorporate an added 2600 miles of detours during the 6 month down time was challenging at least. Their appreciation and respect for how this emergency was handled by ADOT and local authorities is immeasurable. They have been amazed with the speed by which the crises were assessed. The community engaged in meetings and ongoing briefings and the implementation of a rigorous action plan to bring about a timely solution. CDO brings a heartfelt thank you to this Board for recognizing the serious impacts to their community. Replacing their bridge in record time would not have been possible if the Board had not expedited the approval of the emergency funding and awarding the construction contract. Thank you for all of your efforts and support during this recovery process.

Kathy Smith: Director, City of Willcox Chamber of Commerce. She appreciates everything ADOT does in southeastern Arizona and Cochise County. She has 2 issues today:

- Their Chambers in Cochise County have a Chamber Alliance group. They had a bike ride in Willcox and when they filed for their permits they were told that ADOT requires \$5M in insurance for any event on ADOT right of way. That will jeopardize events in small communities. They have a \$1M liability policy now. Their budget is just as tight as everybody else's. It will make it very difficult for them to do events if they must come up with \$5M in insurance. She called several insurance agencies and found it costs \$5,000 a year. On all of the events that the Chamber sponsors they don't make anywhere near \$5,000. They want ADOT to know they are hurting small towns by asking for a \$5M policy.
- Coming into Willcox there is a sign that says, 'Willcox next 3 exits'. She has businesses on B10 that are at her door every week screaming about a sign that says 'To Taylor Road' and 'To Old Stuart Road'. People do not get off and stop in Willcox because they are still waiting for that Willcox exit. Can they put their Willcox signs back up at their exits to make it easier for business people to get people downtown?

Director Halikowski: Mr. Chairman, we will look into those things and get back together with you.

Chairman Feldmeier: You will get back with her and then let the Board know in your briefing next month, which would be great.

Nancy-Jean Welker: President, Community of Bowie Chamber of Commerce and of the Bowie Economic Development Group and member of the Southeast Arizona Rural Chambers Alliance and also of the Southeast Arizona Economic Development Group. She wished to thank the Board for being there. It means a lot to the smaller areas to have the Board come and let them have a chance to speak. She thanks Bill Harmon for being so helpful. She has worked with Bill quite a bit and he knows how passionate she is about her area.

- They have a new sign in their town to go out to the Hot Well Dunes area between Bowie and Safford. Before the sign many of the people coming off of I-10 would get lost and she would find them stopped in the middle of B10, wandering around the streets and it was very dangerous. Bill, Dee Crumbacher and Reza came down and they now have new signs in town. Both ends showing you how to get to the Hot Well Dunes and she very much appreciates it. Bill and Reza also worked through a problem with some changes ADOT wanted to make on B10 through Bowie that the town felt had no benefit. They worked through the problem and she appreciates that.
- They still have one problem that she keeps putting through. She realizes they are a small area but on their exit 362 they have a problem where heavy equipment can't get to the south area of the town because they can't go under the 2 overpasses. When they come off the 362 they have to get permission to cut the fence to make a dirt pathway across county property to get onto a little paved road and then onto dirt roads that go through their pistachio fields to get into the south area of town. It is dangerous and inconvenient for people who want to bring in triple wide manufactured homes. It makes it difficult for their area to grow and is a safety issue. The town needs some kind of change to that exchange at exit 362. They are open to anything that the Board can help them with and deeply appreciate it.
- She knows that F & F Construction had a big project down in the Bowie/San Simon area and they had a very difficult time getting equipment out south of town out to the rock crushing area. They were calling her and talking to the county and it is a very confusing process and it is a dangerous one also. If the Board could give it some thought, any kind of help would be appreciated.

Thank you again for the help given and their little areas appreciate it very much.

Chairman Feldmeier: You will check on that too John.

Jason Hatch: Vice President, Hatch Construction and Paving, Inc. Taylor, AZ. Hatch Construction was the low bidder on the San Luis – Yuma – Quartzsite project that the Board will be awarding today. Hatch Construction has been recommended that their bid be rejected due to some DBE misinformation that is clearly his fault. He would like to discuss the issue that was brought up and present his case.

Chairman Feldmeier: Would you like to address this at Item 14e? Yes, we will hear from you then.

Wally Armer: Vice Chair, Arizona State Parks. He expressed his appreciation for ADOT and Bill Harmon's cooperation and good work on the J-6/Mescal bridge replacement.

Renee Bahl: Executive Director, Arizona State Parks. Spoke on the partnership between the 2 agencies to improve the State Parks roads.

The following Public Input Requests from the **Call to the Audience** portion of the meeting addressed their comments later at:

Item 14e: Bids San Luis – Yuma – Quartzsite Highway US95

Jason Hatch: Vice President, Hatch Construction and Paving, Inc, Taylor, AZ.

Item 18: Tangerine Road Designation, Amendment

Keith Brann: Town Engineer, Town of Marana.

Craig Civalier: Town Engineer, Town of Oro Valley.

Si Schorr: Attorney and Partner, Lewis and Roca Law Firm.

### **ITEM 1: District Engineer's Report – Bill Harmon, Safford District Engineer**

Bill Harmon briefed the Board on activities in the Safford District area. The Safford District serves Cochise, Graham and Greenlee Counties, also the San Carlos Apache Tribe. They have 12 incorporated communities with close to 3,000 lane miles. They operate 2 construction orgs a lab and 5 maintenance orgs with 94 allocated positions.

Projects currently under construction:

- I-10/SR 90 TI
- I-10 Mescal/J-Six Ranch Road TI
- US 191 Segment V Four-lane Divided
- US 191 San Francisco River Bridge
- Enhancement, HSIP, Pavement Pres, etc.

Upcoming Construction:

- SR 78 Rock Fall Containment
- US 70 Gila River Bridge
- SR 90 San Pedro River Bridge
- SR 92 Canyon de Flores to Glenn Safety
- US 191B IPOE to 5<sup>th</sup> Street Congestion Mitigation + Chino Road Improvements
- Bonus! SR 366 Noon Creek & Wet Canyon

Looking Over the Horizon:

- SR 90 Campus to SR 92 Glenn Widening in Sierra Vista
- US 191B Realignment in Douglas
- US 191 & US 70 Realignment in Graham County
- SR 80 Realignment in Tombstone
- US 191 Realignment in Morenci

Issues:

- Douglas International Port-of-Entry: Expand or build new commercial port?
- Morenci Realignment: Ultimate location?
- Aging Infrastructure & Growing Pains: Accommodating growth in rural Arizona
- Cattle Guards & Gates: We need a better way!

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

He thanks Chairman Feldmeier. The only item he has to update in the Director's Report is on Tangerine Road.

- A-1: Tangerine Road in northern Pima County

As you will recall, last month I briefed the Board on this issue and that time I gave the Board some background and history on this topic.

At that meeting I laid out my plan for the development of a decision, which ultimately would be brought forward to the Board for action. My plan began with a letter to all four jurisdictions asking for their "perspective and wishes" as it relates to that facility. Once these letters were received, I planned to meet and confer with staff, the AG's Office and other stakeholders to develop a final recommendation for the Board. I indicated that I thought I would be in a position to make that recommendation by the September or October Board meeting.

Because some members of the Board were anxious that we move quickly on this item, I asked all four jurisdictions for their responses no later than August 31<sup>st</sup>. I received responses from Marana and Oro Valley by the due date. I also received a response from Pima County on September 7<sup>th</sup>, but I have yet to receive a response from the City of Tucson.

I have given you each a copy of my original correspondence, and the three letters that I have received so far. As you can see, Pima County continues to believe that Tangerine Road would serve a State need and should be designated as a State Highway once the terms of the underlying agreement is fulfilled. Marana and Oro Valley believe a different vision is appropriate for this facility.

I have had a number of discussions with ADOT staff on this issue over the past month, and we have provided the AG's Office with all of the background information. However, I have not yet completed what I consider to be a proper "due diligence" on this issue in order to give the Board a recommendation this month. I feel confident that I will be able to do that by the October Board meeting.

That is my report and I would be happy to answer any questions.

Bill Feldmeier: We are going to be dealing with this in Amendment Item 18. We can discuss that further and have any questions or comments from the Director at that point too, so we can fully discuss it.

- B: There were no Last Minute Items to Report.

## **ITEM 3: Consent Agenda**

***Motion to approve Consent Agenda made by Kelly Anderson and a second by Steve Christy, in a voice vote, motion carries.***

## **ITEM 4: Legislative Report – Kevin Biesty**

Kevin Biesty provided a report on State and Federal legislative issues.

**FY 2012 Appropriation** – The House Appropriations Subcommittee last week approved its version of a Fiscal Year 2012 THUD appropriations bill. The bill would cut highway and transit



spending by over 30 percent from current levels in order to conform to the House Budget Resolution passed earlier this year. The bill would limit highway spending to \$27 billion for FY 2012, a reduction of over \$14 billion from current levels.

With the October deadline fast approaching, appropriators are drafting a continuing resolution (CR) that would run through mid November. The House is expected to vote on the CR the week of Sept. 19.

**FAA, SAFETEA-LU and Gas tax extensions** - After last-minute negotiations last Friday night, the House and Senate appear to have agreement on a short-term extension of both the FAA and the surface transportation bill which includes extension of the gas tax. The current FAA authorization expires Sept. 16; the surface transportation authorization expires Sept. 30. The House's draft bill would extend the surface transportation authorization through March 31, 2012 and FAA through Jan. 31, 2012.

**SAFETEA-LU Reauthorization** –The chairmen of the House and Senate transportation authorizing committees have released their proposals for reauthorization. Representative Mica proposed a six-year bill which would fund highways at an annual rate of \$27 billion, which is considered the maximum annual amount that the Highway Trust Fund can sustain without a tax increase. Senator Boxer proposed a bill which calls for \$109 billion over just two years, maintaining current SAFETEA-LU levels as adjusted for inflation.

**FAA Reauthorization** – A conference committee was requested by the Senate in April but still has not met to reconcile the House and Senate versions of the reauthorization bill. House and Senate staff are still working to resolve a few remaining issues.

**President's Jobs Bill** - President Obama outlined his proposal to create jobs, including a call for spending \$50 billion on transportation programs and \$10 billion to capitalize a new national infrastructure bank. These are part of a \$447 billion proposed jobs package (the American Jobs Act) that also includes a continuation of the payroll tax cut and unemployment benefits, as well as other fiscal stimulus-related measures. A White House fact sheet included the following for proposed transportation spending:

- Highways \$27 billion
- Infrastructure Bank \$10 billion
- Transit \$9 billion
- TIGER/TIFIA \$5 billion
- High Speed Rail \$4 billion
- Intercity Passenger Rail \$2 billion
- Airport Improvements \$2 billion
- NextGen Air Traffic Mod \$1 billion

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

John Fink updated the Board on HURF, RARF and Aviation revenue results, investment earnings and HELP fund balances.

**The August HURF revenue** of \$97.6M is down 1.5% compared to last year and down 1.6% compared to estimate. Through the first 2 months (YTD), HURF revenue of \$198.6M is down 0.4% compared to last year and down 0.1% compared to estimate.

He reminds the Board that July results included \$1.5M of one-time revenue. Factoring this out the total would be about \$1.7M under estimate.

By category:

- Gas tax revenue of \$73.8M is down 1.2% compared to last year and 1.5% down compared to estimate.
- Use fuel tax revenue of \$30.9M is up 8.6% compared to last year and up 6.8% compared to estimate.
- Vehicle license tax revenue of \$54.7M is down 4.2% compared to last year and down 7.2% compared to estimate. August vehicle license tax is very weak, down 10% compared to estimate.

**The July RARF revenue** of \$26.8M is up 8.7% compared to last year and down 0.2% compared to estimate.

By category:

- Retail sales tax revenue of \$12.8M is up 8.6% compared to last year and up 1.4% compared to estimate.
- Contracting revenue of \$2.7M is up 13.5% compared to last year and down 8.0% compared to estimate.

The HELP cash balance at the end of August is \$74.3M.

There are currently 3 loans outstanding with principal balance of \$1.9M.

## **ITEM 6: Financing Program – John Fink**

John Fink updated the Board on financing issues that could impact the Board.

**HURF Bonds:** Voting action Moody's took regarding the HURF bonds. He sent to the Board a copy of the report via email and included a copy in their book. Moody's downgraded both the senior and subordinate lien. The senior lowered from "AAA" to "Aa1", still a very strong rating. This impacts about \$1.27B of outstanding senior lien bonds. The subordinate lien bonds lowered from "Aa1" to "Aa2" which impacts about \$330M of outstanding subordinate lien bonds.

In their rating report, Moody's indicates that this downgrade is primarily attributable to legislation enacted during the most recent legislative session that had the effect of reducing deposits to the State Highway Fund.

Since these deposits are pledged to bondholders, this reduces debt service coverage and is expected to reduce debt service coverage to below the additional bonds test (by Board Resolution, currently 4x for senior lien bonds and 3x for subordinate lien bonds).

Bonds also rated "AAA" by S&P have not had any action taken.

He expects to work with the Governor's Office on a legislative fix.

**RARF Bond Sale:** At the Tusayan meeting the Board approved a resolution authorizing up to \$185M of subordinate lien RARF bonds.

After reviewing market conditions and preliminary discussions with the rating agencies he has determined it would be in the best interests of the Board and Department to switch to the senior lien structure.

He will ask the Board to approve a resolution amending the prior resolution in the next item.

This change delays the sale by about 2 weeks. It is also needed to downsize the issue to fit within the senior lien additional bonds test. Neither change is expected to impact project

delivery. He obtained ratings based on a senior lien structure – Moody's affirmed a senior lien rating at "Aa1" and S&P affirmed rating at "AA+". He included a copy of the rating reports the Board members books. He is proceeding on the basis of a competitive sale date Tuesday, September 27<sup>th</sup> and close 2 weeks later.

**ITEM 7: Resolution Amending Fourth Supplemental Resolution, Transportation Excise Tax Revenue Bonds, 2011 Series – John Fink**

John Fink presented a Resolution to amend the 4<sup>th</sup> Supplemental Resolution adopted 8/18/11. The bond changed from subordinate to a senior lien structure not to exceed \$170M. John Fink recommended approval.

***Motion to approve Amendment of Forth Supplemental Resolution for Excise Tax Revenue Bonds made by Steve Christy and a second by Hank Rogers, in a voice vote, motion carries.***

**ITEM 8: Direction to Proceed: Highway Revenue Bonds – John Fink**

John Fink presented a Resolution directing Departmental Staff, Financial Consultant and Bond Counsel to take all actions necessary precedent to the planned issuance of Highway Revenue Bonds.

The HURF bond capacity was severely reduced by declining revenue and legislative actions to divert HURF revenues. New capacity is not expected until 2016 as revenues grow.

There is a very limited ability to use state funds as match on federal aid projects with depleting existing HURF bond proceeds. This could leave ADOT in a situation with no ability to match federal funds with devastating consequences.

He is looking at options to accelerate a portion of the \$300M planned for FY2016 into the current year combined with new money with a refunding that is designed to provide some level of savings and allow access to additional capacity.

John Fink recommends approval of the direction to proceed.

***Motion to approve the Direction to Proceed on Highway Revenue Bonds made by Steve Christy and a second by Bobbie Lundstrom, in a voice vote, motion carries.***

**ITEM 9: Budget Update – John Fink**

Item held for the next scheduled Board meeting.

**ITEM 10: Multimodal Planning Division Report – Jennifer Toth**

Jennifer Toth reported that MPD received and award from the National Association of State Aviation Officials, the Innovation Award for Airport Pavement Management Program.

She reported that immediately following the Board meeting there was a SEAGO region consultation meeting for the rural elected officials on ADOT's planning process. Included are the Long Range Transportation Plan, Statewide Transportation Improvement Program, Regional Transportation Improvement Program, 5 Year Program, Planning Projects and District Minor Projects.

**ITEM 11: Priority Planning Advisory Committee (PPAC) – Jennifer Toth**

11a concerns reprogramming the MAG RTP subprogram balances to FY2012.

11b is a listing of the FHWA Discretionary Grand Awards – 2 programs reference the DBE and pre apprenticeship, 4 projects ADOT will administer, 3 BIA.

11c-n concerns various design and construction projects.

Jennifer Toth recommended the approval of items 11a – 11n.

***Motion to approve Items 11a – 11n made by Kelly Anderson and a second by Steve Christy, in a voice vote, motion carries.***

11o concerns matching of an FAA grant for the Sierra Vista Municipal Airport.

11p concerns a state/local grant for Gila Bend Municipal Airport.

Jennifer Toth recommended the approval of items 11o – 11p.

***Motion to approve Items 11o – 11p made by Bobbie Lundstrom and a second by Hank Rogers, in a voice vote, motion carries.***

**ITEM 12: State Engineer's Report – Floyd Roehrich**

Floyd Roehrich reported that there are 128 projects under construction valued at \$911M contract value. 9 projects were finalized in August at \$28.1M and fiscal year to date has seen 19 projects finalized.

**ITEM 13: Disadvantaged Business Enterprise Program – Floyd Roehrich**

Floyd Roehrich presented on the background of ADOT's Disadvantaged Business Enterprise Program (DBE) and the DBE Requirements for Federally-Assisted Construction Projects. Federal DBE Regulations require compliance with 49 CFR Part 26 as a condition of receipt of federal funding.

**Background:**

Western States Paving Case (9<sup>th</sup> Circuit Court Decision) found that race-based programs were unconstitutional without "evidence of past discrimination as evidenced by a Disparity Study. In December 2005 FHWA issued guidance to all State Transportation Agencies to suspend their race-based programs pending completion of Disparity Studies. ADOT completed its Disparity Study Fall 2009 which resulted in the identification of past discrimination.

- Upon FHWA review and concurrence with Disparity Study findings, approval for race-conscious goals for professional services and procurement projects was provided in

June 2010. Approval for race-conscious goals for construction was provided in August 2010. ADOT began setting goals on professional services contracts in October 2010 and on construction projects in May 2011.

### **Current Program Status:**

- Preparing the Contracting Community. ADOT Civil Rights began presenting information regarding the pending changes to the program in January 2010 with 65 public presentations, training sessions, and workshops; five regional conferences; one national FHWA workshop and one statewide DBE Expo; monthly participation at ADOT/AGC Joint Cooperative meetings to provide updates; formation of a DBE Construction Services Task Force; formation of an ADOT/AGC DBE Working Group; ten in-house training sessions at general contractors' offices.
- DBE goals on construction projects to date. Since May 2011, DBE goals have been assessed for \$665 million in projects. The average goal set is 4.38%. \$385 Million in bids have been submitted. The average proposed DBE participation is 6.23%.

### **Bidding:**

At the time of bid all Bidders must complete a "***DBE Assurances Certificate***" stating that they will either meet the DBE goal or submit Good Faith Effort documentation. This is a statement indicating whether or not the contractor will meet the goal or provide GFE. It is not a detailed accounting of how the contractor plans to meet the goal. It states that agreements have been made with DBEs regarding work to be performed. Contractors **cannot** modify bid submissions; if a contractor states they will provide GFE, they cannot later request to submit documentation showing they've met the DBE goal.

### **Following Bid:**

DBE documentation includes DBE Affidavits OR Good Faith Effort. The contractor must submit one or the other. Documentation must be received by ADOT Civil Rights Office no later than **4:00 p.m.** on the **fifth** working day following bid opening. "The affidavit and attachments must be accurate and complete in every detail and must be signed by an officer of the contractor(s)." ...late filed affidavits will not be accepted." It is the contractor's responsibility to provide the forms to the DBEs, collect and verify accuracy, and submit the documents to civil rights. Failure to submit the required information shall render the contractor ineligible for award. If no submission is made, the contractor's bid bond will be forfeited.

### **Forms:**

Intended Participation Affidavit – the Summary Sheet are completed by Prime; provides breakdown of proposed utilization.

Intended Participation Affidavit – the Attachment are completed by each DBE subcontractor; identifies scope of work.

Confirmation of Participation – are completed by each DBE subcontractor.

### **Good Faith Effort:**

- “The bidder will not be considered to have made good faith efforts if the bidder failed to contact the ADOT Civil Rights Office prior to the letting...”
- “Contact must be made in sufficient time to allow the Civil Rights Office to provide assistance.”
- “In determining good faith efforts, the Department will take into account the ability of other bidders to meet the DBE goal.”
- “...a bidder must show it took all necessary and reasonable steps to achieve the DBE goal...”
- “The Department will consider the quality, quantity, and intensity of the different kinds of efforts the bidder has made.”
  - Types of effort a bidder “must address” when submitting good faith effort documentation - soliciting DBEs, selecting portions of the work, providing adequate information, negotiating in good faith, not rejecting bids without sound reason, providing assistance (bonding, insurance, etc.), using the services of minority/women community organizations.
- Questions regarding the DBE requirements may be directed to:  
Melissa Boyles ADOT Civil Rights Administrator (602) 712-4071 mboyles@azdot.gov

### **ITEM 14: Construction Contracts – Floyd Roehrich**

The State Engineer provided a summary of the construction contracts by agenda item, highway, low bid, state estimate, the difference by amount and percentage. He provided an explanation for each Item's difference.

Floyd Roehrich recommended the approval of Contract Item 14a.

***Motion to approve Item 14a and reject the low bid due to DBE noncompliance and approve the 2<sup>nd</sup> low bid, made by Felipe Zubia and a second by Bobbie Lundstrom, in a voice vote, motion carries 4 to 2.***

Floyd Roehrich recommended the approval of Contract Item 14b.

Member Christy and Rogers indicated a reluctance to agree with the State Engineers recommendation due to the added cost to the State.

***Motion to approve Item 14b and reject the low bid due to DBE noncompliance and approve the 2<sup>nd</sup> low bid, made by Felipe Zubia and a second by Kelly Anderson, in a roll call vote, motion carries 4 to 2.***

Floyd Roehrich recommended the approval of Contract Item 14c.

***Motion to approve Item 14c made by Steve Christy and a second by Hank Rogers, in a voice vote, motion carries.***

Floyd Roehrich recommended the approval of Contract Item 14d.

***Motion to approve Item 14d made by Kelly Anderson and a second by Steve Christy, in a voice vote, motion carries.***

Floyd Roehrich recommended the approval of Contract Item 14e.

Chairman Feldmeier called for a short break at 11:31am – 11:51am.

Chairman Feldmeier invited low bidder Jason Hatch, Hatch Construction and Paving, Inc. Vice President, to address the Board.

Jason Hatch, asked the Board to override the bid rejection and award the contract to his low bidding company.

Chairman Feldmeier and Member Rogers asked for attorney advice.

***Motion to enter into an Executive Session made by Hank Rogers and a second by Steve Christy, in a voice vote, motion carries.***

*Break for Executive Session, 12:07pm – 12:17pm.*

Floyd Roehrich recommended if the Board approved Hatch Contracting to have conditional verbiage for Federal funding.

***Motion to accept the low bid, against the recommended rejection due to DBE noncompliance, made by Hank Rogers with no conditional verbiage regarding Federal funding and a second by Steve Christy.***

Member Christy and Rogers indicated a reluctance to agree with the State Engineers recommendation due to the added cost to the State.

Floyd Roehrich and Joe Acosta, ADOT Attorney addressed the Board.

***In a roll call vote, motion was defeated 4 to 2.***

***Hank Rodgers Yes***

***Bobbie Lundstrom No***

***Bill Feldmeier No***

***Steve Christy Yes***

***Kelly Anderson No***

***Felipe Zubia No***

***Motion to approve 14e and reject the low bid due to DBE noncompliance and approve the 2<sup>nd</sup> low bid, made by Felipe Zubia and a second by Bobbie Lundstrom, in a voice vote, motion carries 4 to 2.***

Floyd Roehrich recommended the approval of Contract Item 14f.

***Motion to approve Item 14f made by Hank Rogers and a second by Steve Christy, in a voice vote, motion carries.***

Floyd Roehrich recommended the approval of Contract Item 14g.

***Motion to approve Item 14g made by Bobbie Lundstrom and a second by Kelly Anderson, in a voice vote, motion carries.***

Floyd Roehrich recommended the postponement of Contract Item 14i due to DBE issues.

***Motion to postpone Items 14i, made by Bobbie Lundstrom and a second by Hank Rogers, in a voice vote, motion carries.***

Floyd Roehrlich recommended the approval of Contract Item 14h.

***Motion to approve Item 14h and reject the low bid due to DBE noncompliance and approve the 2<sup>nd</sup> low bid, made by Kelly Anderson and a second by Bobbie Lundstrom, in a voice vote, motion carries 4 to 2.***

**ITEM 15: Rest Area Cost Estimate Report – Floyd Roehrlich**

Item held for the next scheduled Board meeting.

**ITEM 16: Public Private Partnership (P3) Update – John McGee**

Item held for the next scheduled Board meeting.

**ITEM 17: Letter of Support – Tiger III Grant for City of Maricopa – Kelly Anderson**

John McGee and Member Anderson presented a letter of support on a Tiger III grant application for a Grade Separation Project on SR 347/UPRR.

***Motion to approve the Letter of Support made by Kelly Anderson and a second by Hank Rogers, in a voice vote, motion carries unanimously.***

**ITEM 18: Tangerine Road Designation**

Member Steve Christy requested Director Halikowski to brief again on the status of this item. Member Steve Christy requested the final 3 Public Input Requests from the **Call to the Audience** portion of the meeting, address the Board.

Keith Brann, Town Engineer, Town of Marana. The Town of Marana wants local control of Tangerine Road.

Craig Civalier, Town Engineer, Town of Oro Valley. The Town of Oro Valley wants local and full control of economic development for the corridor.

Si Schorr, Attorney and Partner, Lewis and Roca Law Firm representing Venture West. He wants quick resolution for his clients request for access to Tangerine Road.

Director Halikowski and Floyd Roehrlich addressed the Board to clarify that the request from the Board has changed from the designation of Tangerine Road to access of property on Tangerine Road for Si Schorr's client.

***Motion to reject a June or July 2011 letter from the Pima County Administrator's Office, recommending adding Tangerine Road to the Arizona State Highway System, to deny the request and ask respectfully for the State Engineer to confer with the entities***



***involved and stakeholders involved on this access issue in a very prudent manner due to the fact there are development issues and private enterprise issues at hand that can't proceed until these things are cleared up and that the issue brought up in this discussion be resolved in a very timely fashion, made by Steve Christy and a second by Bobbie Lundstrom.***

***Chairman Feldmeier made it clear that the authority rests completely with the Department and State Engineer as far as access issues.***

***In a voice vote, motion carries.***

**ITEM 19: Comments and Suggestions**

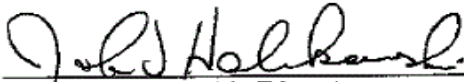
There were none.

***Adjournment: the next regular meeting will occur on October 21, 2011 in Littlefield, AZ. The meeting was adjourned at 1:37pm.***



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Bill Feldmeier, Chairman  
State Transportation Board



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John Halikowski, Director  
Arizona Department of Transportation