



RAILROAD TRANSPORTATION SAFETY DISTRICT

Board Meeting
December 6, 2004

Meeting Began At: 09:03 A.M.

Meeting Ended At: 10:20 A.M.

Members Present: Deb Schorr, Bob Workman, Ray Stevens, Glenn Friendt

Members Absent: Ken Svoboda, Jonathan Cook

Others Present: Roger Figard, Dick Nuernberger, Bill Kuester, Scott Cockrill, Charlie Wilcox, Karl Fredrickson, Bruce Sweney, Tina Queen, Harlan Layton.

Order No. 4-23 Call to Order. Approval of the Previous Minutes.

Schorr called the meeting to order.

Stevens stated that the last word "RTSD" in paragraph 5 on page 3 on the previous minutes needs to be changed to "railroad."

Friendt motioned to approve the previous minutes. Workman seconded the motion. Motion approved 4-0.

Order No. 04-24 Report of Treasurer.

Dick Nuernberger presented the treasurer's report. As of October 26, 2004, the District had investments in various banks totaling \$5,415,511.91. As of November 15, 2004, a balance of \$902,258.04 was carried in the District's checking account. As of October 31, 2004, the County Treasurer's balance for the District was \$741,393.46.

Stevens motioned to approve the treasurer's report. Workman seconded the motion. Motion approved 4-0.

Order No. 04-25 Budget Revisions; SW 40th & Adams Street Bridge.

Adams Street Bridge

Figard - I'm proposing to use money to assist the City in repairing the Adams Street bridge near NW 12th. This is the bridge that goes over the Union Pacific and Burlington Northern tracks from NW 12th to the airport. We have an engineering analysis done and have come up with some proposed repairs. I don't know if we've ever used crossing improvement dollars to repair a grade separation structure. We certainly use them to take out old rubber tie crossings, etc. A letter from Karl Fredrickson estimates the

repair cost for the bridge at \$675,000. The request from the City would be that the RTSD financed 20% which would be \$135,000. I would request that in our budget under City Miscellaneous where there is a total of \$250,000, we would add a project called the Adams and NW 12th Street Bridge.

Friendt - If this Board doesn't approve the funds, how is it going to get done?

Figard - The City will pay for it. With the bond not passing earlier this fall, it puts the City in a difficult position. We have been able to secure a commitment from the State to use federal bridge replacement funds. It seems appropriate and applicable for the District to make that match.

Workman - Why are you putting in \$250,000 into the City Miscellaneous when it's only \$135,000?

Figard - Each year we have budgeted a lump sum of \$250,000 for crossing repair.

Friendt - Is this bridge in the City limits?

Figard - Yes.

Friendt - So the way this is structured, the City wouldn't pay anything?

Figard - The City wouldn't pay anything on the repair.

Friendt - What has caused the disrepair?

Figard - Settlement of the abutments over time.

Schorr - What other ones will be deferred as a result of moving this one forward?

Figard - I don't see we need to defer any other projects.

Friendt - Will the City share in some of this?

Figard - The City will manage the project. The City has already paid for the engineering to get the investigation done and the repair plans put together. I'm sure they will provide the engineering inspection when the construction work is done. I can make sure the City takes care of the engineering if you feel that would bide more ownership for the City.

Friendt - I believe it would.

Figard - I would like the Board to acknowledge and concur with me that doing repair work on a bridge over the railroad tracks is similar in nature and concept to doing repair to an at-grade crossing.

Schorr - Are there any legal reasons that prevent us from doing so?

Figard - No.

Stevens - Is the \$675,000 estimate reasonably secure?

Figard - Yes. It's based off plans. It might change when the bids come in. The City would be responsible for evaluating those bids before they signed off on the contract.

Friendt - I'm willing to support this particular project.

Stevens motioned to acknowledge and approve \$135,000 from the City Miscellaneous Crossing Improvement line item to be used for the Adams and NW 12th bridge repair project. Friendt seconded the motion. Motion approved 4-0.

Southwest 40th

Figard - In our 2004/2005 budget for SW 40th, we had budgeted \$320,000 to continue that work. In year 2 in our proposed CIP, we had proposed an additional \$530,000 to pick up the rest of that study. We believe that it is in the best of interest of the community to go ahead and finish the rest of the engineering and agreements. I would recommend to the Board that we add \$530,000 to the SW 40th Street budget for 2004/2005 and subtract \$530,000 out of the Harris Overpass replacement. The City will not spend the full \$2.4 million for the Harris Overpass so we would be rebudgeting that portion next year as well. In 2005/2006 the SW 40th budget request would be zero and \$530,000 would be added to the Harris Overpass to make up the difference. The intended purpose would be for that project to get the agreements in place, have the engineering done so that as funding comes in and the community works on dollars and priorities, that project would be ready.

Schorr - At a previous Common meeting, there was quite a bit of discussion about SW 40th and where it was in the process and the need for such a large project regarding traffic counts. Would you address that?

Figard - The City has a proposed future project on SW 40th than runs from O Street to A Street with a proposed 4-lane roadway, turn lanes, bridge overpass, and a new bridge in the County. Right now we have a commitment from the State of Nebraska for \$4 million to help with grade separation. We also have a commitment from the Railroad. I spoke with Lynn Hartley, the Director of Public Projects for Burlington Northern. We hammered out an agreement in concept which commits them to a contribution to the project. We are talking about building that structure in 2008 or 2009. I would commit to this Board that in making a change in the budget, there will still be discussions about how much of the overpass gets built and how much roadway between O and A Street gets constructed. We could build an overpass and connect it back up to the gravel if the City and County don't have all the resources to finish that project. The reallocation of these dollars does not commit the RTSD, the City or County to a commitment to what roadway actually gets built in the future. I think it's important to acknowledge the recent Airport west subarea plan that's coming forward. It proposes a new roadway or the extension of SW 40th Street north from O Street over the interstate and up through the airport land on the west side of the airport as a possible future extension.

Stevens - So far this year we've spent \$190,000 on that project according to the budget information since July 1. What is that for?

Figard - Remember the SW 40th Street project is a City project. The City has a contract with the consultant to do the engineering and environmental work. Some of that is paying back the City for expenses. We're paying for some work that they've already done in the Phase III environmental. Reviews have been done by the Federal Highway Administration and the Department of Roads They

have bought off on that environmental report and granted the City a Categorical Exclusion. This means there isn't a huge amount of environmental work that we'll have to do out there. That is a big hurdle to get over which FHWA and using federal funds.

Stevens - You are proposing \$850,000 for final design and engineering. That just seems like an awfully large number.

Figard - We're talking about a project that ultimately could cost \$16 million. \$850,000 for environmental, design, right-of-way drawings, getting the right-of-way drawings put together, and having a set of documents that can be physically advertised for construction bid is pretty reasonable. It does not include the actual right-of-way acquisition.

Stevens - So the RTSD would commit \$850,000 thru this year without any assurance that anything would ever be done because no one else has committed to it besides the RTSD?

Figard - I would like to ask this Board later on to approve and sign an interlocal agreement between the District and City that commits the District's money. It would then go to the City Council asking them to move ahead with their commitment to SW 40th. In that same package that will go to the City Council will be an agreement between the City of Lincoln and the Railroad outlining the Railroad's contribution. There will an agreement between the State of Nebraska and the City of Lincoln with the State committing their \$4 million and there will be an agreement between the City and County that shows the County's commitment of their dollars to replace the bridge and the State's commitment for the federal dollars. I'm asking the Board to take the first step. Before we do anything else and before we would approve next year's budget, we should have those agreements in place.

Stevens - So the RTSD's \$850,000 could be spent before we know for sure that the State is going to be involved?

Figard - We have a letter from the State committing \$4 million and we have a draft agreement together which is at the State. I assume they intend to sign it within the next 2 weeks.

Stevens - You would show nothing in the budget for the next 3 years for this project until we get out to 2008/2009.

Figard - That is correct. If we budget the \$850,000 but we only spend \$500,000 of it, then I will have to rebudget the remaining dollars.

Stevens - You would not envision accelerating the actual construction earlier than 2008/2009?

Figard - No, because that is the time frame the State is capable to help in matching the District with their \$4 million of Train Mile Tax. Getting some State funds on a couple of these projects is a real advantage for the RTSD in reducing our expenditures.

Friendt - In relationship to the engineering fees, are those bid?

Figard - State statute does not allow competitive bidding for professional services. They are to be selected on ability and knowledge. The City uses a very formalized process that is laid out in an executive order for projects between \$0 and \$100,000. Public Works can go and find somebody and say we want you to do the work. For projects between \$100,000 and \$300,000, we need to have at least

3 informal quotes. Beyond that, we request a Request for Proposals. The firms submit them, they are reviewed and short listed, and then the firms are interviewed and a committee that is set out by executive order by the Mayor selects the preferred firm based on experience, expertise, etc. A separate committee of the selection committee sits down and works on a very detailed scope of service. They share with us what they think it will take to accomplish that work and then negotiations start. A contract is entered into and signed by the Mayor. If we don't believe that we're getting where we need to be with the firm, then we can notify them that we don't think what they're proposing meets our needs and disqualify them and go to the next firm.

Schorr - Was Kirkham Michael the consultant for each one of the phases of this particular project?

Figard - Yes. I believe there is real value and savings in that. When we advertise an RFP, we try to be very clear in the advertisement whether there is an intention for a firm to do just one piece or a number phases. We'll enter into a contract for Phase I first. If the work is satisfactory and we believe it's done well, the City can reserve the right to negotiate for subsequent phases.

Schorr - How many phases are there?

Figard - Phase IV would be the last of design. There could be a Phase V which would be construction phase services if we get to the point where we're going to build it.

Schorr - Would you be able to provide us with a breakdown of the \$850,000 and how that is being used?

Figard - Yes.

Stevens - Out of the \$16.4 million, the agreement with the State is for approximately \$4 million. RTSD's budget shows approximately \$4 million. The County has a contribution of \$500,000 - \$600,000. Would the City and the Railroad make up the difference?

Figard - The Railroad will have a commitment of \$500,000. The rest will have to come out of the City road budget. The type of roadway that actually gets built and connected up to the viaduct itself is still open for debate.

Stevens - I thought part of this project was to facilitate relocation of some BNSF tracks or to improve their crossing.

Friendt - Legally the Railroad is only obligated to pay 5% of a theoretical structure. The Railroad has agreed to contribute an additional \$100,000 up front at the time they are ready to do any crossing improvements. They are contributing at least 25% more than they would have to. I know it seems like a small amount but within the law, they are doing more. At all of the public meetings the residents have consistently said that if they know there's a commitment in the future to build an overpass, closing the grade crossing is ok since most of the time you can't cross it now.

Stevens - Why would the Railroad want to do something now if we're going to span it in 4 years?

Friendt - They have a need to expand their yard and build some more tracks.

Stevens - Does the City have to acknowledge that they have a right to change their crossings or would that require approval from the City?

Figard - I suppose the City could do that, but that is not the way the agreement is written. The agreement states that they will contribute \$500,000. They will give \$100,000 to us at the time they are ready to move ahead with a physical project. They have to have proof to the City that they are starting a project. They would pay us the \$400,000 upon the execution of a construction contract for the viaduct. If the City chose to say that they won't close the crossing until we start on the bridge, I would guess the Railroad won't sign the agreement. The \$100,000 would go away and they wouldn't be liable for anything more than \$400,000 in the future.

Friendt - Do we have any authority as it relates to this crossing?

Figard - We have the authority to tell them they can't close it. The community and this Board have said that an eventual overpass is a priority and is in the long range transportation plan. My job was to try and negotiate the best use of community resources in doing that. There have been hours and hours spent negotiating with the Railroad on trying to increase that contribution.

Stevens - So SW 40th is going to be closed for 2 extended periods of time for 2 separate construction projects over the next 4 years?

Figard - Once it is closed, it stays closed until the viaduct is built. The community told us they were willing to accept a 3-5 year closure knowing that the political subdivisions had agreed to an overpass in the future.

Schorr - How soon would you estimate they would close it?

Figard - I would guess sometime next summer.

Schorr - Last time we sat here you talked to us about the priority of the Harris Overpass. Now you're telling us this project in 2008 takes fiscal priority over the Harris Overpass.

Figard - Harris Overpass doesn't suffer or does not stop from moving forward based on this revision in the budget. It will move ahead as planned.

Friendt - Who controls the 5% statute?

Figard - The federal government controls it.

Friendt - We should be addressing our congressmen and senators to see if we can't get some different rules applied to our Railroad neighbors.

Figard - I felt pretty good that they were willing to offer an additional \$100,000 as an incentive to let us move ahead now.

Friendt - The Railroad gets to close the crossing so they can do what they need to do to improve their business and we're all for that because we want to support economic development and more jobs at the Railroad. But the net effect for the Railroad is that they're saving \$250,000 by not having to put the crossings and all the technology that goes with it if we were to reopen the crossing. I think all we're saying is take the \$250,000 they're saving and put it towards the project.

Figard - That's where we started. Their engineers have done an estimate and the \$100,000 is based on their most current estimate to redo the crossing, gates, and lights. It is based on their estimate on what that cost would be and that's why they offered that contribution.

Schorr - Do we have a copy of the estimate?

Figard - I think I can provide that estimate or get that estimate as we move forward with the other agreements from the Railroad.

Stevens - 5% would equate to a \$8 million project which is the value assigned as a grade separation. If SW 40th is going to be closed for 3-4 years, I'm not sure this is the best alternative. You've indicated this is the 25 year solution. Maybe we need to look at something else and go farther west that will connect into something. If the residents can get by for 3-4 years, maybe they can get by without that road for 25 years.

Figard - Remember the Comp Plan shows significant growth in the south and southwest areas and that growth is occurring slowly and will continue to occur. But it's probably not going to be very easy to promote that until there is an assured way of getting back and forth across the tracks. I believe SW 40th needs to remain an arterial corridor north-south. Right now, we can secure \$4 million from the State. If we don't sign these agreements in the next few months, I believe that money will go somewhere else. Then the District and the City would have to face the fact that we may have to fund the entire thing.

Schorr - Is there ability to access any more than \$4 million?

Figard - They are operating on the idea and the theory that they are contributing 50% of the theoretical structure.

Workman - I believe we do need to support this. The other options farther west are much more expensive. Our County Engineer as said this will not be a waste of funds. We need to look forward and need north-south access in that part of town.

Stevens - This is a 2 mile stretch that comes from nowhere and leads to nowhere. It T's at O Street and T's at West Van Dorn Street. Highway 77 is an alternative. We're talking about spending \$16.4 million for 2 miles of road.

Figard - In working with the MPO and running the future transportation model, there is a very good alternative for Old Cheney with the Warlick Boulevard. There are no good alternatives north-south between O and A Street west of Highway 77. The 25 year model clearly indicates that we need that capacity. I would remind the Board that your action today would not approve a \$16.4 million project. You would acknowledge and approve the District and the City to move ahead with the agreements and

the engineering. The actual decisions of how big a bridge, how wide a bridge, and what if any roadways get built to start with will have to have other approvals from the elected bodies. At a time where our resources are precious, \$16 million on 2 miles of arterial is a lot, but I don't think we'll be spending \$16 million. I think what we'll be doing is building an overpass with 2 lanes one way or the other. It may not even be paved to start with but at least we would have protected the crossing, got an overpass built, and provided a way for our residents to get in and out of the City, in and out of the County, allow the Railroad to move ahead, and secure that corridor for the future.

Schorr - Are the residents in this neighborhood comfortable with having that crossing closed for 3-5 years?

Figard - I think the questionnaire said they were comfortable with it being closed knowing there was a commitment for an overpass. It only shows a few hundred cars travel that road per day because they can't get across it. The trains are there 40-60% of the time.

Schorr - Without the County Engineer's 1 and 6 year plan in front of me, can you tell me where the road and bridge are in his planning?

Figard - No I can't. He's had the bridge designed and some money set aside for some period of time. I would also tell you he had a smaller amount of money committed from the State because the bridge he was going to build was less expensive and smaller. When we designed the overpass and the creek crossing, it changed the configuration of the County bridge. They went back to the State and got the State to commit to the same percentage increase with the County on the larger bridge.

Stevens - What sort of public hearings or public approval process would be required for beginning the closure?

Figard - The first step would be in the agreement that I take to the City Council. It speaks to the language of the Railroad's contributions and the conditions of that closure. There would be a public hearing that would have to be approved by resolution. In the strictest sense, that might be the only public process assuming all the other agreements are approved by the County Board and the City Council between the State, Railroad, and District. The Railroad has to have a bonafide real project ready to go and would have to prove to me that they have plans done and they have some kind of written documentation or executed contracts delivered to the City that would agree with the language in that agreement.

Stevens - Would it be up to the City Council to put the brakes on the Railroad closing this next summer?

Figard - Likewise the County Board has to approve an agreement between the City and County for the County's contribution in this project. The Council is going to have to approve the funding agreement with the Railroad, the State, and the County. The City would have to agree with the agreement from this body on the interlocal agreement. There is a couple of safety nets. We could have another small open house and invite people in and encourage them to communicate with you and the City Council based on what we're proposing to do.

Workman - I would hope that all entities support this as time goes on. I don't want to see another \$4 million going to Omaha. I think it's unfair to compare this with the Old Cheney Road closing. There are millions of dollars being spent on alternatives on that overpass. I would move that we approve the reappropriation of funds for engineering work for SW 40th Street.

Friendt - Second.

Stevens - I will support this motion. My concern is that we have a number of residences in that area who are County residents who rely upon the County to provide road structure in their area. They have no voice in electing City Council representatives and yet it appears that it is the City Council that would approve any sort of agreement with the Railroad to close SW 40th for 3-4 years. Since they don't have an opportunity to select those representatives, I see myself as one of their representatives to make sure their interests are protected.

Figard - I would remind them that they do have a voice through the County Board.

Stevens - If we take a look at the County bridge and have tunnel vision, this is a good deal for the County to contribute the money to have a better overpass. When you look at the bigger picture of closing SW 40th for 3-4 years, I'm not sure that's in the best interest of some of those citizens unless they have ample opportunity to express their opinion. If the Railroad was willing to make a \$3 - \$4 million contribution then I would probably change my attitude.

Schorr - Would it be possible to have a public hearing jointly with the City Council and the RTSD?

Figard - It might be more appropriate to have a joint public hearing between the City Council and the County Board when those agreements come forward rather than the District. I think each of you setting in your other body will have a chance for these agreements to come forward.

Schorr - I was addressing specifically the concerns of the residents with the closure, not so much the interlocal agreements and the funding, but the opportunity for the residents to voice their concerns about it being closed 3-5 years.

Figard - Even then I think my vision was to have a package of agreements that come to the City Council on a Monday and go to the County Board the next day. If you're suggesting it might make sense to consider doing something jointly and advertising it so all the residents could come and testify to both public bodies on all the agreements, I think we could work on something like that.

Workman motioned to approve the SW 40th budget reallocation. Friendt seconded the motion. Motion approved 4-0.

Order No. 04-26 **Interlocal Agreement for Hickman Viaduct.**

Figard - Even though we budget contributions from the District to City and County projects, an interlocal agreement is always brought to this body to sign and take onto the other bodies for their approval. It serves as a final authorization for the District to transfer money to either the City or County for those projects. This interlocal agreement simply lays out the dollars so that the County can bill us. Don Thomas and I met with the State and requested they provide or participate with Train Mile

Tax in the Hickman Overpass. It was being proposed as 100% County and RTSD funding, 20% from the County and 80% from the District. We received a letter back from the State just last week in which they agree to fund up to a \$2.5 million maximum for 50% of the cost of engineering, right-of-way, and construction. The dollars won't be available until 2008, but Don Thomas informs me that the County Board has asked him to provide permanent paving on the 2 mile detour which means he really wants to wait and build the viaduct in 2009. This will further enhance the District's ability to secure State funding of \$2.5 million in 2009. I have sent a letter back to the State thanking them for that contribution. The City and County working thru the District has really come a long way in securing some local dollars from Train Mile Tax. Many of those Trail Mile Tax dollars have been spent in the Omaha area benefitting grade separations. The interlocal agreement spells out the District's contribution for this upcoming year and would allow the County to bill us. My request would be that the Board approve the interlocal agreement authorizing the Board Chair and Executive Director to sign the agreement.

Friendt motioned to approve the Hickman Viaduct interlocal agreement. Workman seconded the motion.

Schorr - We don't have the letter from the State stating what they are willing to contribute.

Figard - I will provide you with a copy of the letter from the Ellis.

Schorr - Have you had an opportunity to talk with the City Council with regards to postponing Hickman for a year?

Figard - No I haven't. Wherever possible, I've continued to view the projects as being a County project or a City project managed by their respective engineering departments. The RTSD has been a funding entity not a manager of the project. The District is only obligated and the budget is only firm for the first year. We will certainly need to adjust 2007-2008 and move that out to 2008-2009 and show the District's contribution and the State's contribution. We'll work on that as soon as we get that other agreement with the State put together.

Workman - I want to thank you for asking for \$2.5 million.

Figard - Please thank Don Thomas as well.

Friendt motioned to authorize the Board Chair and Executive Director sign the Hickman Viaduct Interlocal Agreement. Workman seconded the motion. Motion carried 4-0.

Order No. 04-27 Non-Agenda Items.

Figard - We had retyped a draft interlocal agreement for SW 40th project between the District and the City and brought down new copies of that no longer in draft form. The language would change slightly is section 4. It would say that the District would budget the \$4 million in its 2008-2009 budget year. The intention was that this also said that we were acknowledging the budget reallocation that you just did. Revising the budget doesn't authorize the City to bill you, the interlocal agreement needs to do that. In the next board meeting, I'll bring back a refined interlocal agreement between the City and the District so the City can start billing the District for \$850,000 as they expend it.

Friendt - I think that would be wise to give us some time to look at the final.

Schorr - Will we allow Kirkham Michael to begin the next phase or would that be postponed until March?

Figard - They will continue because they are under contract with the City.

Stevens - This agreement is not to exceed 3 years from the date of execution so if we're not going to execute the agreement for another 3 months, then we're probably ok. I would be concerned that 3 years from now the project may not be done.

Figard - The reason for putting the 3 years in the agreement is to try and mirror some of the responsibilities that the City Council has. You can't encumber on the community more than a 3 year CIP contractual obligation. Bill Kuester has tried to keep that language in there so we're respectful of the contractual authority that the various Boards have. This interlocal agreement will be held until our March meeting.

Schorr - Any public comment?

Stevens - We've taken some money out of the Harris Overpass project. Will that jeopardize the project?

Figard - No it won't. The City is operating more on a cash flow basis. I worked thru with the City and the consultant their expected payout on that contract and the money that's in this budget. It will more than adequately cover their expenses in the upcoming year and then we'll rebudget the rest of it the following year. That project also has to move along in baby steps as the Downtown Master Planning effort moves ahead and the continuing talk about a multi-purpose center.

Stevens - Is there apt to be a consolidation of railroad tracks in that area?

Figard - I certainly hope so. There is an interest voiced by both Railroads and there are conversations that are going on right now about what the options and possibilities are.

Stevens - So it's conceivable that the bridge could be shorter than the existing bridge?

Figard - Yes. the possibility exists. We've always said that if the tracks got consolidated, the physical bridge structure itself could be much shorter. There is going to be a lot of discussion yet on whether the road stays up in the air or goes down to at-grade. You could end up with O Street still up in the air, but perhaps on retained earth which is less expensive than pure bridge structure itself. The cost could go down. If you get into some major redevelopment of the Haymarket area where there is additional access, we could see the cost of infrastructure going up. That doesn't mean all those costs would be need to be born by this body or the City for the bridge itself.

Stevens - But out of the \$1.9 million which has been budgeted, part of that would be for construction this fiscal year for Harris?

Figard - No, this is all engineering.

Stevens - There are no designs or drawings at this point?

Figard - No. Our consultant has done a lot of surveying and talking to different groups about what their thoughts are, but until we have some better direction from the Downtown Master Plan, it's too early for us to start on a design. Schemmer Associates is the consultant on that project. I would bring back to the Board a proposed new budget for next year for whatever money that is not expended.

Stevens - Do you have some professional guesstimate as to how much of the \$1.8 million might get spent this year?

Figard - I'm guessing about \$1.2 - \$1.4 million. Whatever is not spent will be carried over to next fiscal year.

Schorr - The RTSD Board will be meeting on Tuesday, March 1st, Monday, June 13th, Tuesday, September 6th, and Monday, December 12th. Exact times would be available from Tina Queen, our administrative assistant.

Stevens motioned to adjourn the meeting. Workman seconded the motion. Motion carried 4-0.

Prepared by: _____
Tina Queen, Public Works & Utilities