



RAILROAD TRANSPORTATION SAFETY DISTRICT

Board Meeting

Tuesday, September 9, 2014

Meeting Began At: 8:31 a.m.

Meeting Ended At: 9:12 a.m.

Members Present: Deb Schorr, Doug Emery, Leirion Gaylor Baird, Roy Christensen, Roma Amundson, Brent Smoyer

Members Absent: N/A

Others Present: Roger Figard, Tina Queen, Dennis Meyer, Susie Filipi, Bill Kutilek, Kris Humphrey, Randy Hoskins, Kurt Micek, Doug Holle, Tony Dierks, Rick Haden, Harlan Layton, Gary Aldridge.

Order No. 14-20 Call Meeting to Order. Approval of Previous Minutes.

Schorr called the meeting to order.

Christensen motioned to approve the previous minutes. Smoyer seconded the motion. Motion approved 5-0. Amundson was absent for this motion.

Order No. 14-21 Statement of Receipts & Disbursements.

Meyer presented the statement of receipts and disbursements.

Smoyer motioned to approve the statement of receipts and disbursements. Amundson seconded the motion. Motion approved 6-0.

Order No. 14-22 Current Budget Status, Project Updates, Committee Updates.

Figard highlighted the following items:

- Management Services - payout of \$16,378, remainder of salary from last fiscal year
- Repairs by Union Pacific on NW 12th - will be receiving bills throughout the year
- West Pioneers - work is done and receiving bills now
- Southwest 40th - \$100,000 for contingencies, anticipated completion date Fall 2015
- Waverly Quiet Zone - received email stating that the project is done and in the process of cleaning up final bills with the Railroad, the community is satisfied and happy, contingency money for any upcoming bills
- BNSF 33rd & 70th Quiet Zone - The City of Lincoln just sent out the 5-year reaffirmation of the quiet zone.
- Hickman Quiet Zone - Rick Haden

“Good morning. Thanks Roger. We just heard in the last couple of weeks that the Railroad now has a window to install their equipment. It’s from the 1st of October to the end of December that they have committed to have their contractor in there at both Hickman Road and 2nd Street putting the four quadrant gates and moving the gates at Hickman Road. Practically speaking, the City’s contractor won’t be able to get in there until after they are done so we are really looking at the Spring for completing the paving work that needs to go in behind the railroad equipment. At least now we have a date. They committed to the completion date. They aren’t sure about the start date but apparently in their contract they have a completion date. The private road has very minimal work for them to do. They are just going to install signs at that crossing. So the City contractor could do some grading there yet this fall, but the other two crossings are actually putting equipment in.”

- Park Boulevard Trail Crossing (Parks Project) - Agreement is in place, but not sure if the trail work is done. Will send an update to the Board.
- South Beltway - No interlocal agreement as of now. Budgeted money is available, but an agreement would have to be entered into in order for the funds to be expended.

Schorr asked about whether there are any legal issues regarding the funds from the RTSD and if they could be expended prior to the time of actual construction, i.e. purchasing right-of-way.

Bill Kutilek - “Bill Kutilek. Crosby Guenzel Law Firm. The question is whether there is a legal issue as to whether funds can be expended for purposes other than the crossing? Well certainly the Board has to follow a statutory authority and use its funds for purposes for which it’s been statutory authorized to use them. And if it’s going toward projects or costs associated with railroad crossings, I certainly think the Board can do that. Is your question about committing funds to efforts that may not involve RTSD? Right-of-way is certainly one of the statutory authorities that the Board can commit funds to in advance of actual work on the crossings itself.”

- Denton Feasibility Quiet Zone - There is a signed contract with Olsson Associates to move ahead. An agreement had to be created from scratch to include appropriate language and insurance for the RTSD itself (instead of using a City or County contract). The contract is now on the RTSD’s website for others to download. Roger will serve as the District’s project manager. No meetings have been set up yet for public involvement.

Order No. 14-23 Approve 2014-2015 Budget.

Figard stated that the RTSD received the official resolution from the County Board setting the levy at 1.3 cents. There is no requirement to reduce or change the budget based on the reduction of the levy. The 14-15 budget had an operating expense of \$90,050 and a capital improvement for construction cost budget of \$5,992,000. The total proposed budget equals \$6,134,050.

Gary Aldridge - “For the record my name is Gary Aldridge, 7112 South 45th Street, Lincoln, Lancaster County, Nebraska 68516, United States of America, Planet Earth. I’m one of the owners. I’m a bit confused and that’s not the reason I’m here. I’m a bit confused about the agenda and procedure so maybe you can help me. You control the agenda. You control the meeting. But I noticed at the beginning there was no

pledge, ok. Also there was no reference to the open meeting law that is was posted and where it was posted. Is that optional? I don't know."

Schorr replied those are valid points. The pledge is not required, but it is something to be considered. The open meetings act will be notated on the agenda for future announcement.

Gary Aldridge - "The other thing I'm confused about is Mr. Figard and I had a conversation before the meeting. He saw my face, and he was curious, and we had a conversation about why I was here. I told him I was here based on a legal notice or public notice in the Journal Star that said on this date, at this time, you are going to accept comments from the public on the budget. He said he wasn't sure if that was exactly true. So I'm confused. Are you accepting comments or is the Journal Star wrong?"

Schorr replied that the Board always accepts public comment under Item 7 - Non-Agenda Items.

Gary Aldridge - "Well this is another thing that is required by certain statute that says before public budget is accepted, you must accept comments from the public. And that was published in the Journal Star with this date and this time based on whatever State statute it is that controls that public comment. So again, did I misunderstand. Are you accepting or is the Journal Star wrong? Have they made the mistake? I have a copy of that notice with me if anyone wants to see it. If there was a mistake made, then perhaps your attorney should have caught that and said whoops, wait a minute, the Journal Star made a mistake. It specifically says this date, this time. Did I misunderstand something?"

Schorr replied that the Board takes public comment at every single meeting. Public comment was taken on the budget at the previous meeting held on June 9, 2014.

Gary Aldridge - "The reference in the public notice that was published in the Journal Star references State Statute Section 13-501213-513. I hope you won't take that out of my five minutes. I was just concerned about that. I'm here at the invite of Mr. Christensen and/or Mr. Figard acting or speaking for a Railroad Transportation Safety District in Lancaster County, Nebraska. To provide as a tax payer support, criticisms, suggestions or observations on a proposed budget. As I have said in other places on other taxing authorities, this budget in theory here offered is after all a budget in fact. State Statute Chapter 74-1301 at Sect establishes policy, purpose, protocols and procedures for the RTSD. RTSD can do certain things and to do certain things, RTSD is allowed by law to "levy a tax to produce funds requested not to exceed 2.6 cents on each \$100." But reality or perhaps expediency intrudes. There exists a hole, a void, a vacuum in the County budget created perhaps by too many tax spend democrats. This hole or void or vacuum is conjured out of existence it seems with RTSD funds. RTSD is now the piggy bank or ATM for the Lancaster County Board of Commissioners et al. The Journal Star says in an our view opinion against this practice, that RTSD tax revenue or tax revenue authority have been rated, pillaged, pilfered (my language) two prior tax cycles and now eminently for the third successive tax cycle. My quest or purpose here today is clarity. Can someone, anyone explain how the County Board can borrow RTSD tax revenue or tax revenue authority? I've tried hard to follow the explanation or trail or logic and bless me, I just don't see it."

Schorr replied that the 15 cent levy limit under State Statute, the County Board has authority over the entire 15 cents. Within that 15 cents, there are several difference taxing authorities. Also under the levy is rural libraries, rural fire departments, etc. The RTSD follows within that levy limit. The County Board has the authority to set the ratios within that maximum dollar amount.

Meyer added that there are seven to ten political subdivisions under the levy. Each one of those Districts or Commissions must make their request to the County Board. The County Board must then make the decision on how much to allocate.

Figard presented a cash flow sheet based on a 1.3 cent levy over the next 10 years. There is cash in the bank to pay for next year's budget. If the levy continues, there will not be enough revenue to continue to pay for those obligations.

Gaylor Baird asked how that would affect current projects.

Figard replied that the projects under contract as of now will be finished. It's a matter of whether upcoming projects could be started or if they should be delayed, deferred or spread out over a long period of time.

Schorr asked if the RTSD would be running solo on the 33rd/35th & Adams project.

Figard replied that the RTSD would be running the project to start. The RTSD would initially prove there is a viable project and get through environmental process and preliminary design. If the Board approved moving ahead, a decision could be made to make that a City project with the RTSD contributing to it. The official decision has not been made yet.

Emery stated that the RTSD accrues money to run projects. If there is no money, it cannot be accrued.

Christensen added that no blame should be made on budget problems when it comes to the County Board or the RTSD.

Amundson stated that there are a lot of players when it comes to the budget. The County Board has to deal with unfunded mandates from the State. The levy was not raised and should be examined in the future.

Christensen motioned to approve the 2014-2015 budget. Amundson seconded the motion. Motion approved 6-0.

Order No. 14-24 Interlocal Agreements - Hickman Quiet Zone & Waverly Quiet Zone.

Figard stated the two agreements reflect the amount in the current budget. As expenses are incurred, the bills would be submitted for payment. Denton is a RTSD project, and the contract is being done under the RTSD budget, not by another entity at this point.

Smoyer motioned to approve both the Hickman and Waverly Quiet Zone interlocal agreements. Gaylor Baird seconded the motion. Motion approved 6-0.

Order No. 14-25 33rd/35th & Adams.

Kris Humphrey - "Good morning. I'm Kris Humphrey. I'm going to be the project's responsible charge, RC, or project manager, basically whatever hat you want me to wear. Just to let you know for those that aren't aware or as just a refresher, the RTSD has been approved by the Nebraska Department of Roads to be a LPA for this project, a local public agency. And that basically gives the RTSD the ability to enter into contracts associated with this project. So with that being said, we are working closely with NDOR to make

sure that all the groundwork for this project is solid so that we're not going to jeopardize any future federal funding that would be involved with the project. Right now, the status of the project is that we have turned preliminary paperwork to the NDOR and basically that's for review. And basically that paperwork talks about the project scope, the estimated cost of the project, the potential environmental impact that this project will have, and then the areas potential affect that this project will have. So once we work through that paperwork again, we want to make sure that the language in there is very clear and solid of our intent of what we want to do with this project so that we won't be jeopardizing any future federal funds. Once that is finalized, we'll be able to issue a RFP to open it up for consultants to come in and do an alternative analysis or feasibility study for the project to determine if it's a viable project like Roger said. Basically, what we're working for with NDOR, we told them our intent is to have a RFP that is developed so that we can select a consultant for this feasibility study and then they can proceed into preliminary and final design at our discretion. But again, we are working with NDOR just to make sure we can do that without a separate RFP process. Basically the way the RFP process works is that we issue the RFP, the consultants would submit proposals, we would short list from those proposals, and then we would have formal interviews with the selected firms. And what we were looking at for the selection committee for this project, this is not finalized, but it's just to let you know kind of what we were thinking. We would have Deb Schorr as the RTSD Board Chair as a recommendation, RTSD Executive Director Roger Figard, myself as the project RC, a representative from Traffic Operations from the City of Lincoln, and then a representative from the City of Lincoln for Design and Construction. Typically we like to keep these selection committees as an odd number so 5 to 7 so we can avoid any ties. We are going to be speaking with the City's Purchasing office and the Lower Platte South NRD just to see if they would have any interest sitting on this committee as well. The Lower Platte South NRD, just to let you know, they are working with the Corps of Engineers right now on a study of the Deadman's Run project which would be in the same vicinity as this so we will be working closely with them throughout the whole project. And that's pretty much the status of what we have. I'm open to questions."

Christensen asked about the overall time line and when construction will begin.

Kris Humphrey - "As far as the RFP and the preliminary design work? Right now, we have submitted everything to NDOR and so there will be an iterative process because we want to make sure that the language in those preliminary documents is what our intent is and what we want the project scope to reflect as we move forward. It's pretty generic language, but at the same time, we want to make sure that it focuses on our intent which is to reduce the exposure rating at those crossings. These crossings have I think the highest exposure rating in the state. So that's our primary goal is to reduce those by the grade separation structure. As soon as we get that all ironed out with NDOR, they will review our RFP as well. I'm hoping by at least the end of this year we would have a RFP out on the street for the consultants. A lot depends on the environmental side of the project and the right-of-way. So once we get through the alternative analysis stage and we know the road connectivity for these grade separation structures that we'll have, we'll have a better idea of the impacts around there. The environmental process on a project like this will take most likely years, at least a couple years I would say. And depending on the right-of-way, if there's acquisitions or if there's relocations, those take additional time too. I hate to put a year on it because it's so dependent on basically those two phases. The design is the easy part. It's all the investigation, and we need to make sure that we are doing everything we need to do. There's a specific process that we need to follow with the federal funds. But the environmental document needs to be finalized and signed off by all parties before we can even begin final design. Final design needs to come to a conclusion before we begin the right-of-way acquisition or relocations if that is necessary. Construction won't even be within the next five years."

Smoyer stated that it might be beneficial to add someone from the County Engineer's office to the selection committee.

Schorr asked if the Lower Platte South NRD would not only be involved with flood control but also trails for pedestrian accessibility.

Kris Humphrey - "And that's a possibility too. You know Lincoln is such a great city for the trails. We'll be working with Parks Department and the NRD if there are opportunities for trail connectivity. That is something we will definitely be studying in that alternative analysis phase."

Figard stated that the environmental portion and preliminary design has been laid out in the CIP four to six years out.

Order No. 14-26 Petitions/Letters/Requests.

N/A

Order No. 14-27 Non-Agenda Items.

No public comment.

The next Board meeting will be held on Monday, December 15, 2014 @ 11:00 am.

Christensen motioned to adjourn the meeting. Amundson seconded the motion. Motion approved 6-0.

Prepared by: Tina Queen, Engineering Services