

**REGIONAL TRANSPORTATION COMMISSION
WASHOE COUNTY, NEVADA**

FRIDAY

9:09 A.M.

October 21, 2011

PRESENT:

**Ron Smith, Sparks City Councilman, Chair
Bob Larkin, Washoe County Commissioner, Vice Chair
David Humke, Washoe County Commissioner
Dan Gustin, Reno City Councilman
David Aiazzi, Reno City Councilman**

**Lee G. Gibson, Executive Director
John Fowler, Legal Counsel
Susan Martinovich, Director of NDOT**

The regular monthly meeting, held in the Board Room of the Jerry L. Hall Regional Transportation Center, 2050 Villanova Drive, Reno, Nevada, was called to order by Chairman Smith. Following the Pledge of Allegiance to the Flag of our country, the Board conducted the following business:

Item 1 APPROVAL OF AGENDA (For Possible Action)

Executive Director (E.D.) Lee Gibson requested that Item 4.8 be pulled from the agenda and Commissioner Gustin requested that Item 6.4 be heard prior to Item 6.3.

On motion of Commissioner Humke, seconded by Commissioner Gustin, which motion unanimously carried, Chairman Smith ordered that the agenda for this meeting be approved with the aforementioned changes.

Item 2 DIRECTOR'S REPORT

Lee Gibson, Executive Director, updated the Board on internal RTC issues that were not provided in the agenda materials such as the receipt of a "State of Good Repair" grant.

RECOGNITION OF CITICARE CONTRIBUTORS (taken out of order)

Donna Kollman spoke in recognition of Covenant Presbyterian Church, Robert Z. Hawkins Foundation, and Brett and Deborah Barker Foundation for their contributions to the CitiCare Non-Profit Organization for their contributions toward the purchase of rides on RTC ACCESS. Certificates were presented by Vice Chair Robert Larkin.

Item 3.1 PUBLIC INPUT

Chairman Smith opened the meeting to public input and called on anyone wishing to speak on topics relevant to the Regional Transportation Commission (RTC) that are not included in the current agenda.

There being no one wishing to speak, the Chairman closed public input.

Item 3.2 ADVISORY COMMITTEES SUMMARY REPORT (For Possible Action)

On motion of Commissioner Aiazzi, seconded by Vice Chair Larkin, which motion unanimously carried, Chairman Smith ordered that receipt of the monthly Summary Report for the Technical, Citizens, and Bicycle/Pedestrian Advisory Committees be acknowledged.

Item 4.1 thru 4.9 CONSENT ITEMS

Commissioner Aiazzi requested that Items 4.3 and 4.5 be pulled for discussion.

Minutes

- 4.1 Approve the minutes of the September 16, 2011 meeting (*For Possible Action*)

Engineering

- 4.2 Acknowledge receipt of the Engineering Activity Report for the month of October 2011 (*For Possible Action*)

Public Transportation/Operations

- 4.4 Acknowledge receipt of the Public Transportation/Operations Report for the month of October 2011 (*For Possible Action*)

Planning

- 4.6 Acknowledge receipt of the Quarterly Planning Report (*For Possible Action*)

Administration

- 4.7 Exercise the Year 2 Option of the agreement with Loomis Armored U.S., Inc. for the bagging, counting and depositing of currency from the RTC RIDE money room, pass vending machines, and the RAPID stations (*For Possible Action*)

Procurement and Contracts

- 4.8 Approve an amendment to the existing Professional Services Agreement (PSA) with Parsons in the amount of \$55,000 for additional design services for ITS technologies along Plumb Lane; authorize the RTC Executive Director to execute the amendment (*For Possible Action*)
- 4.9 Approve an amendment to the Professional Services Agreement (PSA) with Eastern Sierra Engineering in the amount of \$229,539 for construction services for the North Virginia Street Reconstruction and Enhancement Project between 4th and 6th Streets; authorize the RTC Executive Director to execute the amendment (*For Possible Action*)

On motion of Commissioner Aiazzi, seconded by Vice Chair Larkin, which motion carried unanimously, Chairman Smith ordered that Consent Item 4.1, 4.2, 4.5 and 4.6 through 4.9 be approved.

- 4.3 Approve the Reno Sparks Bicycle Pedestrian Plan Design Manual, Americans with Disabilities Act Right-of-Way Transition Plan, and Pedestrian Safety Action Plan (*For Possible Action*)

Commissioner Aiazzi stated that during a Reno City Council meeting there was discussion about possibly having a modification to the plan for Plumas St.

Marchon Miller, RTC Project Manager, approached the Board to say that this is an evolving document and changes can be made without issue.

Commissioner Gustin said that the point of mentioning this is to bring attention to this particular change request for the future.

On motion of Commissioner Aiazzi, seconded by Commissioner Gustin, which motion carried unanimously, Chairman Smith ordered that Consent Item 4.3 be approved.

- 4.5 Acknowledge receipt of the RTC RAPID Year 2 Stations Project Update (*For Possible Action*)

Commissioner Aiazzi asked for clarification of completed stations on the map provided.

Dean Mottram, RTC Project Manager, approached the Board and said that the stations in Green are circled to highlight the stations that will be constructed in the near future.

Commissioner Aiazzi then asked specifically about the station at Meadowood Mall and Mr. Mottram replied that it is not a part of the RAPID stations program.

E.D. Gibson asked when Mr. Mottram expects Phase I to be complete.

Mr. Mottram said that in the next three to four weeks Phase I should be substantially complete.

On motion of Commissioner Aiazzi, seconded by Commissioner Gustin, which motion carried unanimously, Chairman Smith ordered that Consent Item 4.5 be approved.

5.1 PUBLIC HEARING

- 5.1 **APPROVE AMENDMENT NO. 1 TO THE FY 2011 – 2015 REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM (RTIP) WHICH INCLUDES THE RTC PROGRAM OF PROJECTS (*FOR POSSIBLE ACTION*)**

Amy Cummings, RTC Planning Director, approached the Board to discuss the items being added to the Regional Transportation Improvement Plan and answered questions regarding the Plan, as set forth in the briefing materials for this agenda item.

Commissioner Aiazzi asked why the CMAQ funds included deductions from the bicycle/pedestrian projects and the RAPID stations project when nothing else was effected; and why wouldn't the larger projects be deducted.

Ms. Cummings responded that it was staff's best effort to minimize impacts to other projects. She added that administrative modifications are an option for the future and do not require a public hearing.

E.D. Gibson asked Jeff Hale, RTC Engineering Director, what the project readiness is for the bicycle/pedestrian projects.

Mr. Hale approached the Board and said that there is a bicycle/pedestrian project getting ready to go in FY 12. He added that there is potentially some CMAQ funding available if the costs come down on the Pyramid/McCarran project.

Ms. Cummings said that she would also like to find some way to restore this funding in the future if possible.

Commissioner Aiazzi expressed his displeasure that the first funds to be cut always seem to be the bicycle/pedestrian funds.

Commissioner Aiazzi next asked why he did not see any fuel tax funds in the report for the SouthEast Connector project.

Ms. Cummings stated that the funding is listed under the Regional Road Impact Fee (RRIF) funding.

Mr. Hale said that historically, the RRIF funding is where the capacity improvement projects are listed.

Commissioner Aiazzi then asked Chief Legal Counsel John Fowler if it is okay to list the funding under the RRIF category.

Mr. Fowler replied that the placement of the SouthEast Connector under the RRIF funding has always been listed that way but he was not certain as to why.

Tom Taelour, RTC CFO, approached the Board and said that the funds have historically been held in the RRIF category and are then transferred over to the fuel tax category as they are spent on capacity projects. This was done in order for the Board to easily track how much of the fuel tax has been spent on each project to date. There are no issues accounting-wise with processing the funding this way.

Commissioner Gustin supported the idea of restoring the bicycle/pedestrian funding and instead taking the funds in small increments from some of the bigger projects.

Ms. Cummings said that her staff will do that.

This item being a public hearing, Chairman Smith opened the meeting to public input and called on anyone wishing to speak.

There being no one wishing to speak, public input was closed.

Commissioner Aiazzi made a motion that the report be accepted with the understanding that the changes requested today are utilized such as refunding the bicycle/pedestrian project and bringing back a report showing which other projects would be affected. The motion was seconded by Commissioner Gustin.

On discussion, Vice Chair Larkin said that staff had been asked to come back with a logical analysis but he would not preclude that analysis by directing staff to refund the bicycle/pedestrian funding. The request is to accept or reject the report. He would be voting no.

Upon the vote, the motion failed 3-2 with Chairman Smith, Vice Chair Larkin and Commissioner Smith opposed.

The Chairman requested another motion.

Vice Chair Larkin made a motion to accept draft amendment no. 1 that was provided and to direct staff to bring back the re-analysis at a future date so the Board can review it.

Commissioner Aiazzi suggested that additional options should have been provided rather than only an accept/reject option.

E.D. Gibson asked for clarification from Ms. Cummings that funding could be moved around on the document via administrative modification in order to keep the process moving yet address the Board's concerns.

Upon the vote, the motion passed 3-2 with Commissioners Aiazzi and Gustin opposed.

6.1 thru 6.5 ENGINEERING

- 6.1 APPROVE AN INTERLOCAL COOPERATIVE AGREEMENT (ICA) BETWEEN WASHOE COUNTY, THE CITY OF RENO, THE CITY OF SPARKS, AND THE RTC FOR THE APPROVED FY 2011-2015 RTIP AMENDMENT NO. 1; AUTHORIZE THE RTC CHAIRMAN TO EXECUTE THE AGREEMENT (*FOR POSSIBLE ACTION*)**

Mr. Hale addressed the Board and offered to answer questions regarding the recommendation to approve the ICA, as set forth in the briefing materials for this agenda item.

On motion of Commissioner Larkin, seconded by Commissioner Humke, which motion carried 4-1 with Commissioner Aiazzi opposed, Chairman Smith ordered that the Interlocal Cooperative Agreement (ICA) between Washoe County, the City of Reno, the City of Sparks, and the RTC for the approved FY 2011-2015 RTIP Amendment No. 1 be approved; and the RTC Chairman is authorized to execute the agreement.

6.2 ACKNOWLEDGE RECEIPT OF THE SOUTHEAST CONNECTOR MONTHLY REPORT AND PROVIDE DIRECTION REGARDING THE TRUCKEE RIVER BRIDGE TYPE SELECTION REPORT (FOR POSSIBLE ACTION)

Garth Oksol, RTC Project Manager, addressed the Board to provide an update and to answer questions regarding the recommendation to acknowledge receipt of the report and provide direction regarding the Truckee River Bridge type selection report, as set forth in the briefing materials for this agenda item.

Mr. Oksol gave a PowerPoint presentation which included four variations of bridge selection for the Board to review. He reviewed the benefits and disadvantages for each of the bridges as to what impact they could have during a 100 year flood event.

Vice Chair Larkin asked if each of the bridges is modeled in concert with the flood model.

Mr. Oksol said that the bridges were all designed taking in to consideration the worst case scenario of a flood.

Mr. Paul Urban, Project Manager of the Truckee River Flood Project, confirmed that the bridges have been modeled in the same manner as the Flood Project. He added that the thinner bridge decks are the preferred model of the Flood Project because they allow for more clearance for debris in the case of a major flood event.

Mr. Oksol also explained that including a gap between the directions of the bridge decks increases the chances of continued utilization of the bridge in the case of a seismic event.

At the conclusion of the discussion, Chairman Smith said that he would like to see Option 2 with a divided bridge.

Commissioner Aiazzi agreed with Option 1 or 2 with the divided bridge.

Vice Chair Larkin agreed with Commissioner Aiazzi and asked for the additional costs for the separation to be added.

Mr. Oksol said that he did not have those numbers but if the Board is leaning toward Options 1 and 2, he could go to TY Lin and have them firm up some numbers to bring back to a future meeting.

Vice Chair Larkin also requested that the people living in the Pembroke area are taken into consideration with respect to their view of the bridge. He added that he is opposed to online voting for public input.

Commissioner Aiazzi asked about the acquisition and right-of-way activities at Greg and Sparks Boulevard.

Mr. Oksol replied that those actions began the previous spring saying that three of the four parcels have been sent offer letters. The fourth parcel is engaged in discussion with the City of Sparks due to some landscaping issues. This property acquisition was previously approved by the RTC Board.

On motion of Commissioner Aiazzi, seconded by Vice Chair Larkin, which motion carried unanimously, Chairman Smith ordered the report be accepted and directed that staff should move forward with Options 1 and 2, and come back to the Board with an alternative to separate the bridges.

6.4 AMEND OR CLARIFY ACTION TAKEN ON ITEM 5.6 (SOUTHEAST CONNECTOR AT CITY OF RENO REQUEST) AT THE SEPTEMBER 16, 2011, REGULAR MEETING OF THE RTC BOARD CONCERNING REIMBURSEMENT TO THE CITY OF RENO FOR THE IMPACT OF THE SOUTHEAST CONNECTOR ON THE ROSEWOOD LAKES GOLF COURSE (FOR POSSIBLE ACTION) (taken out of order) - verbatim

Chairman Smith: This is a reconsideration that I asked for, for item 5.6 at the September 16th, 2011, meeting of the RTC Board regarding \$6 million dollars to compensate the City of Reno for the impact of the SouthEast Connector on the Rosewood Lakes Golf Course.

I asked for reconsideration on this item for a couple reasons. Number one is there was a bond involved in this that was represented to be tied to the golf course. We've asked for some kind of conveyance to show us that it was tied to the golf course and apparently what we have is that it's a general obligation bond that is being paid for by the revenues from the golf course. We are not impacting the revenues for the golf course so I would not support paying off that bond.

The other item is the Sewer Enterprise Fund that we said that we had to pay off but that property on Pembroke . . . one of the uses for that property was a public golf course. This fits in to one of the uses for the use of effluent water. I believe the appraisal for that land came back on the Sewer Fund, what the appraisal come back at?

Jeff Hale: \$1.67 million

Chairman Smith: And we had it listed for \$2.7 million?

Jeff Hale: Yah, something (unintelligible comment).

E.D. Gibson: Mr. Chairman, for the record, we just got that appraisal yesterday.

Chairman Smith: Umm hmm, so I will not be supporting paying off either one of those funds. That's the reason I brought it back. How about any questions or discussion from the other Commissioners?

Vice Chair Larkin: Thanks Mr. Chairman. I had in August requested that this be continued to actually this meeting and then I guess in September it was placed back on the agenda to take action in September. I was very disappointed in that action, as I wanted to participate in the discussion because I was also very concerned. I'm very supportive of the SouthEast Connector and any lands that RTC impacts have to be paid for, but I was very concerned about some of the reimbursement costs, one of which the Chairman has indicated. And I was also very concerned about the discussion about our golf courses throughout the entire region as we did a huge study, we did a huge study three years ago, was it? I don't remember when the study was, where we were told by our consultants that we were over holed by 36 holes in this region. And so I was very concerned about that discussion and what the long term action was for the Rosewood, particularly the Rosewood and the Northgate golf course and Wildcreek were all three golf courses that were losing substantial amounts of monies and that were being supplemented by general funds in some cases. So the County Commissioners took some aggressive action with Sage Golf Course out in Stead to make that a viable going business and I'm just really concerned about reinstating more holes on golf courses that are not making any money; or at least not breaking even. I was really concerned about that and how that was going to take affect so I'm pleased that we're reconsidering this item because I'd like to be a part of the discussion and have some of the answers to those kinds of questions related to expenditures of monies Mr. Chairman. So I would support the reconsideration of that particular item for discussion purposes. Thank you Mr. Chair.

Commissioner Aiazzi: Yah, I guess some of those aggressive actions the County took on their golf courses was with the City of Reno's approval of spending money that should not have been spent to pay off golf courses to make them viable. Now when Reno wants to pay off a bond that doesn't meet the same requirements. Also, I don't believe it's the RTC's business as to how many holes are out there. Just like it's not our business to go to a restaurant on Moana Lane and say there's too many restaurants, there are restaurants failing, so we don't think you should open your restaurant here. None of your business Mr. Larkin, I'm sorry. You can do what you choose to, I know you're going to but that's the way it is.

Chairman Smith: See, and comments like that disturb me because when the intent of the motion was to pay off the bond that was supposedly attached to the golf course and it wasn't; the Sewer Fund that we had to pay off otherwise we couldn't have the property. And the comments were, well we will use that money wherever we want to. Which means there are no guarantees that there's going to be a golf course built, that you don't come back and want more money, or that we give you the \$6 million and you come back and say no, I don't think we're going to do this now. And we don't have any money, we're out \$6 million.

Commissioner Aiazzi: If you look at the agreements in front of you that shows that's not true.

Chairman Smith: Well, we can look at the comments that you've made David that you'll spend that money any way you want, it's going to go in the general fund and that was not the intent of the motion.

Commissioner Aiazzi: That was the exact motion if you look at the (unintelligible).

Chairman Smith: Well that was not my intent in voting for, that's why I brought it back for reconsideration.

Commissioner Gustin: With regard to the Rosewood Golf Course, that's been a pledge that the City's made to the residents out there as part of the SouthEast Connector, that there'd be 18 holes. There have been different conversations about nine holes or about the elimination of the golf course and that's not something the City of Reno could do in good faith with what we've told the residents out there. So however the they would be moved if the property were to be purchased, if they would be moved across the street or whatever, that configuration would be of nine or ten holes, we were told last time that it's not a done deal that it's going to actually be nine holes but and eighteen hole golf course is important obviously for the bond that we hold and for our pledge to the citizens. So we are going to support the Rosewood Golf Course being an 18-hole golf course, not going away. And understand that I was very familiar with the study referred to by Commissioner Larkin because I had something to do with that at the beginning and that golf course is part of what we offered to the citizens of Reno and we did pledge it would be an 18-hole golf course.

Chairman Smith: And I appreciate that. I think if I lived out there I'd want a golf course because that's why I bought on it. And I don't have any problem with them relocating the golf course. I have a problem with paying off a bond that is not attached to the golf course and paying off a sewer fund that we don't really have to pay. We can make the city whole by replacing and relocating the nine holes, and I don't have a problem with that but I do have a problem with just giving you a lump sum of money. And I would agree to a settlement agreement drawn up that everybody agrees to with what I just said. Replacing the nine holes, RTC pays for it and we move on. Any further discussion?

Vice Chair Larkin: Yes, I would like a response or something about the sewer bond. That was one of the points that we were . . . do we have that response?

Chairman Smith: It's a sewer fund and then a general obligation bond.

Vice Chair Larkin: So we don't have an answer to that.

Jeff Hale: Commissioner Larkin, I know Counsel has been attempting to get the language of the bond to determine exactly what the bond is secured by. Near as we can tell, it's the revenues of the golf course and then as far as the ownership of the property across the street, it is owned by the City of Reno Enterprise Fund for the purpose of using it for excess effluent. As Chairman Smith said, it could still be used for excess effluent with the golf course. So those are the basic facts that we know regarding the disposition of the property and the bond.

Vice Chair Larkin: From RTC but what about from the City of Reno, do we have a response? Was there an inquiry or are we just doing this in a vacuum?

Jeff Hale: No sir, there was an inquiry. I know that Mr. Fowler did inquire as to both issues. Do you care to expand on that?

John Fowler: I did request the documents behind the bonds and received, which I believe I forwarded on to all of you Commissioners, a summary showing the amount owed and that it was tied in some fashion to, appeared to in some fashion be tied to the revenues from the bond, but doesn't appear to be a lean on the land. I doesn't appear to be secured by a lean on the land like your loan from the bank is secured by your house.

Chairman Smith: And that lean didn't show up on the appraisal.

Jeff Hale: Not on the title report, negative.

John Fowler: No, not on the title report.

Chairman Smith: Does that answer your question?

Vice Chair Larkin: So I guess from the City of Reno, why is that bond in there? You don't have to respond, I'm not asking you, I'm just asking the City of Reno. Do we have any representatives from City government other than the electeds that maybe could answer that? I don't want to place the elected in a position, they may not have . . .

Commissioner Aiazzi: Well I will answer that, I have no problem putting out the same reaction now that I stated. What we do with the money, just like any other business, is no, not the purview of this board. What we choose to do with that money to pay off the bond whether it's funded by general fund or not, for that golf course to remain viable that bond needs to be paid off. You know want to do it, that's okay. We didn't ask you to pay off the bond. We said for \$6 million you can proceed with this roadway. You don't want to that's fine. As far as I'm concerned that's one vote that's less for making this roadway go through. Contrary to what was stated I think in the (unintelligible) letter, the City of Reno's not approved this roadway going through that parcel at all. There are still public meetings that have to be had, do not approve it in any way, shape or form. So that's what it is. And I don't see us sticking our nose into businesses on Moana Lane like we're doing here. I think this is political and nothing else to it.

Chairman Smith: And I could that I sat in on two or three of the Subcommittee meetings and in each meeting that bond was represented to have conveyance to the golf course and it does not. That was one of the reasons I voted for that motion, so we could make you whole. So it was misrepresented and that's something we have to deal with now.

Commissioner Aiazzi: Because you misunderstood doesn't mean it was misrepresented. (Unintelligible sentence) Don't say those things in public that we, you were misrepresented to you.

Chairman Smith: Don't say I misunderstood.

Commissioner Aiazzi: Because what we said was that money, we will do with that money what we choose to do.

Chairman Smith: That was never said David.

Commissioner Aiazzi: That was in the motion that you approved.

Vice Chair Larkin: So Mr. Chairman, I have a question for the Executive Director and for Legal. What is the RTC's responsibility, legal responsibility when it comes to taking lands related to road projects in the RTC? What is our responsibility?

John Fowler: Well, you mean assuming this were an ordinary take of private land.

Vice Chair Larkin: What's our practice, how have we done takings or compensation in the past and what's been the basis for that.

John Fowler: Well the basis of taking negotiations is of course the fair market value of the land. And so we would be obligated generally under the law to pay fair market value for the property and that's the whole, that's the basis for the negotiation of an acquisition.

Chairman Smith: And relocation costs.

John Fowler: And relocation costs too, yes, if it's a business for instance, under the relocation acts, both federal and state, we pay the relocation costs of a business, help business re-establish itself in the new location, paying for moving all the equipment and things of that nature. But for the acquisition of the land it's generally a fair market value process.

Chairman Smith: And you know the point, I thought of it earlier, was the revenues may be paying for that general obligation bond. We are not impacting those revenues at all. We're giving them another revenue source by building the other part of that golf course.

Commissioner Aiazzi: No agreement to that yet either.

Vice Chair Larkin: Its obvious then that we . . . I'm sorry Mr. Director, he asked you a question.

E.D. Gibson: I was going to echo Mr. Fowler's comments. We pay fair market value; we pay actual relocation costs.

Vice Chair Larkin: Okay, thank you. Those are the criteria and it appears to me that we've got two parties that don't agree about what those relocation costs are. Is that a fair assessment?

E.D. Gibson: I think that, from my view is we would just pay actual relocation costs as they're incurred just like we did with some of the property owners on Moana. What those costs are is what we paid.

John Fowler: One other interesting legal difference between this and any kind of normal transaction is the owner of the land before the road goes through is the City of Reno and the owner of the land after the road goes through is the City of Reno. So this is a different situation because normally when you build a road through private property the owner of the land before the road goes through is the private property owner and the owner of the land after the road goes through is the jurisdiction of the road that it sits in; the city or county or town.

Vice Chair Larkin: Okay, thank you. So this was part of the discussion that I wanted to be part of. I don't see that we have a resolution to this yet Mr. Chairman in terms of agreement with the parties on this. Because as I understand the action today is the reconsideration of the item; of signing an agreement. Is that what we're doing in your estimation? Have the parties reached an impasse Mr. Director in terms of . . .

E.D. Gibson: I don't know, Mr. Chairman?

(Unintelligible – multiple people talking at once.)

Vice Chair Larkin: Mr. Chairman, Mr. Chairman, the agreement, or the uh discussion is between the RTC, which is represented by the Executive Director and the City of Reno which is represented by the City Manager I believe, isn't it.

Commissioner Aiazzi: Not when we have a subcommittee of the City Council.

Vice Chair Larkin: Oh excuse me the City Council, that's right, you have a City Council Subcommittee. Between the RTC Director and the City Council Subcommittee, is there still ongoing negotiations?

Commissioner Aiazzi: I think we have it in front of you here. Here's the final of the negotiations. Is what's in front of you today.

Vice Chair Larkin: And as I understand how that works is the Subcommittee has been authorized to take the final action or is it the City Council?

Commissioner Aiazzi: The final action has to go to City Council.

Vice Chair Larkin: Right, so this is the Subcommittee's. Has this been to City Council yet?

Commissioner Aiazzi: No.

Vice Chair Larkin: So I guess I would inquire is if the Subcommittee is bringing this to us as a party, shouldn't you take it to the City Council first? I'm just asking.

Commissioner Aiazzi: Either way, here or there, they both have to go through.

Vice Chair Larkin: Yah they do, well that's part of the discussion I would think. Mr. Chairman I think this ought to go to the City Council first so we have an opine of the full board before we take

action on this. Because it appears to me that we've got the Subcommittee, we have their opinion, but I'm not sure we have the opinion of the entire City Council.

Chairman Smith: My belief is that if we don't vote on this again today, one way or the other, that we can't bring it back again.

Vice Chair Larkin: Well we can continue, it's on the agenda, you've done it we can . . .

Chairman Smith: I don't know if we can continue (unintelligible)

Vice Chair Larkin: I'd leave that up to Mr. Fowler. It's an agenda item, we can continue this.

John Fowler: I don't see any reason why you can't continue it or reconsider it if that's the terminology that you wish to use at a future time.

Vice Chair Larkin: I'd like to hear what the Reno City Council has to say about this. I'd like to see us continue this if it's legally permissible so that the City Council has a chance to opine on this.

Commissioner Gustin: Mr. Chairman, I think so we don't get into circular he said, she said type of thing, I think the City Council, as one person, one member of that Council, I don't know what the entire body would say, but I think they want to know what the disposition of the \$6 million is and then they'll make a decision. I think that's what needs to come first. I think this Board, this panel needs to decide if reconsideration is going to be accepted or if we are going to go through with motion. I wasn't here either when Mr. Larkin talked about it in September. If that motion from September is going to go forward or it's going to be reconsidered or changed. I think the Council will want to know that before they make their decision.

Vice Chair Larkin: Well I want to know what the City Council has to say about this agreement. You're asking once again to approve something in advance without the opening of the City Council. I want to know what the City Council thinks about this.

Chairman Smith: Has the City Council seen both versions? They have? Has there been any discussion?

Commissioner Aiazzi: That would be illegal Mr. Chair.

Chairman Smith: I'm talking about . . . you did it at a public meeting didn't you?

Commissioner Aiazzi: Not with the City Council.

Chairman Smith: So you didn't discuss this with the City Council publicly.

Commissioner Aiazzi: I updated them on where we were with the disposition at our last Council meeting. But it wasn't on the agenda to discuss or vote on.

Chairman Smith: Okay, that's what I was asking.

Commissioner Humke: Mr. Chair, I think the safer more conservative legal approach, despite the opinion of Counsel, would be to act on the reconsideration or not today.

Chairman Smith: And I would like to act on the reconsideration so I will make that motion to reconsider this 5.6.

Vice Chair Larkin: I'll second.

John Fowler: Mr. Chairman, I'm not sure, is that motion to not do, not to pay \$6 million?

Chairman Smith: The motion is to bring it back up for another vote.

John Fowler: Okay.

Chairman Smith: Am I good with that?

John Fowler: You're good with that.

Vice Chair Larkin: I will second that motion if the originator agrees with the stipulation that for another vote to occur, that this be brought before the City Council for their consideration; all these agreements.

Chairman Smith: Well, if we, depending on which way the vote goes, what if we don't have an agreement and there's nothing there. If this is voted down today there is no agreement.

Vice Chair Larkin: What I'm suggesting is right now, your voting, your motion is for reconsideration of the . . . And I'm suggesting on a subsequent vote that we continue that so that the Reno City Council can opine on this which was what my original argument in September was going to be. We knew that this was going to the Subcommittee, the Subcommittee was going to have a recommendation, but I believe that the Reno City Council ought to have an opportunity to opine on this.

Chairman Smith: Okay, so do you want me to put that in my motion?

Vice Chair Larkin: No.

Chairman Smith: Or will I put it in my next motion?

Vice Chair Larkin: Well, yah.

Chairman Smith: Okay, my motion is to reconsider the item from September.

Vice Chair Larkin: Second.

Chairman Smith: We have a second. Any further discussion?

Commissioner Aiazzi: Yes Mr. Chair, point of order? I believe on a reconsideration both the motioner and the seconder have to have voted in favor of the motion at the last meeting.

Commissioner Humke: I don't believe that's true. I think (unintelligible).

John Fowler: I left my Robert's Rules of Order back at the office unfortunately. The Robert's Rules of Order uses the words reconsideration, I believe, to describe the very narrow motion that is offered at the time, at the same day as the action was taken the first time. I think this would need an amendment or clarification as opposed to reconsideration. An amendment would not be limited by voting having to be proposed by a person who voted in favor of it in the first place. So if the terminology were changed and was an amendment of the previous action taken to suspend that action and to be considered again, that would be considered an amendment which can be acted upon and the person proposing the amendment need not be a person which voted for the prior action. So if this were considered to be an amendment of the prior action then the limitation described in Mr. Aiazzi's point of order would be avoided. If it were to be a reconsideration in the sense that Robert's Rules of Order uses the term a: would have to be proposed on the same day as the first action taken and b: would have to be proposed by a person who voted in favor of the action in the first instance.

Chairman Smith: So say that to me again in layman's terms.

Vice Chair Larkin: We're making an amendment.

John Fowler: Well basically, if you want to take an action today you should be categorizing it in terms of making an amendment to the prior action. Mr. Aiazzi's point of order is correct with respect to the term "reconsideration" as used in Robert's Rules of Order.

Chairman Smith: So my motion would have to say I'd like to amend the action taken September 16th.

John Fowler: That's correct.

Chairman Smith: Okay. Mr. Humke.

Commissioner Humke: In as much as I was present on September 16th, I second the motion.

John Fowler: The motion to . . .?

Commissioner Humke: The motion to amend the prior action.

Commissioner Aiazzi: What was the motion? I didn't hear what the motion was.

E.D. Gibson: Denise, can you educate us?

Clerk of the Board: I'm not clear on the motion either, I got a little lost in the conversation.

Chairman Smith: Alright, well I'm going to need some help here.

Commissioner Humke: Mr. Chair, point of order to Counsel, are you saying that a motion to reconsider is not an eligible motion? Having said that, I would say that all of our boards, City Councils and the County Commission, I believe all operate from a framework and a rule that at the next following meeting a person having voted on the prevailing side may make a motion to reconsider and that it must occur at the next following meeting. That could be an exception to the general Robert's Rules of Order book.

John Fowler: That may very well be. The Robert's Rules of Order is written with a legislative assembly in mind, not boards like the boards of county commissions, city councils, boards of directors, and boards like this one. There's nothing in writing to my knowledge that governs the RTC proceedings since we don't have bylaws that governs this one way or another. But what I've told you is my reading of what Robert's Rules of Order says when it uses the terminology "reconsideration."

Commissioner Humke: But the final analysis from Counsel would be to opine that we may amend a previous action?

John Fowler: You may amend a previous action to provide that the payment of \$6 million not be made to the City of Reno pursuant to the prior action.

Commissioner Humke: Therefore, we have a valid motion.

John Fowler: Therefore, we have a valid motion.

Commissioner Humke: Thank you.

Clerk of the Board: (unintelligible)

Chairman Smith: Let me . . . my motion is to amend the action taken on September the 16th to provide, to not provide the \$6 million to the City of Reno. That's the motion. And the second is okay from Mr. Humke?

John Fowler: Yes.

Chairman Smith: Okay, we have a motion and a second, further discussion. Mr. Aiazzi?

Commissioner Aiazzi: How is that different from a vote for reconsideration? You can't go around a rule to say the rule. It's the same as the request for reconsideration.

John Fowler: No, the motion for reconsideration under Robert's Rules of Order is something that has to be done on the same day as a prior action. So if we're governed by Robert's Rules of Order as to the motion for reconsideration as described in Robert's Rules of Order, we'd have to make it

on the same day. Having said that, it's obvious from reviewing Robert's Rules of Order that that description of a motion for reconsideration is one that is intended to be used for legislative assemblies. Like conventions where you have hundreds of legislatures from all over the country. And it's really not designed for use in a board or a council, as we are here and as you would be say over in the City of Reno. Since the RTC doesn't have bylaws which describe in terms most useful for a board there's no rule about motions for reconsideration. And because we have somewhere, and I forgot where it is, I think it's in the Streets and Highways Procedures, a general invocation of Robert's Rules of Order. I would advise you to avoid a motion for reconsideration move to amend instead if you wish to take action on it.

Commissioner Aiazzi: And tell my why we have to have this contract come back at all. I just want to clarify what we said on the phone, it's because this wasn't in the RTIP.

John Fowler: We have to have, no, it's because the statute (NRS 373.140) describes action taken by the RTC Board and the County Commissioners. Once a project is approved there must be an agreement entered into by all the entities sitting on the RTC Board describing how the project is to be carried out. And the RTC POP agreements which, one of which you approved today and which you've been approving every year from time way past, approves projects but on an annual basis and with a certain estimated budget which goes into Tom Taelour's budget. That's been the practice of the RTC for many years and in order to have money appropriated, especially appropriated to one of the jurisdictions that are members of the RTC, but certainly to administer the project you must enter into an Interlocal agreement – says the statute – signed by all the entities. Unless the entities voting through the RTC Board approve a Master Agreement for the project for instance, that Master Agreement would give specific power to the RTC so if it has to make an appropriation in an agreement with one of the entities the RTC can go ahead and have the signature of only the RTC and the entity involved on the Interlocal Agreement. But in order to do that the RTC has to get the power to do that, says the statute, through the Interlocal Agreement initially signed by all the entities. So in other words, you'd have an Interlocal Agreement that allows Master Agreements to help carry out the project. We don't have such an Interlocal Agreement and the annual POP Agreements which you approve, and have for many years, doesn't contain that grant of power to the RTC.

Commissioner Aiazzi: So tell me how this property acquisition is different than the property acquisition mentioned earlier in the agenda on the bridge project in the City of Sparks. Why is this one held apart that there needs to be this other agreement; when we're acquiring property at the other end of this project with no such agreement.

John Fowler: Well this one, as you know there are two versions of an agreement that I generated reflecting perhaps disparate views about what occurred on September 18 and before. Both involve the expenditure, the payment of funds to one of the entities that are members of the RTC Board and for varying purposes one could say that the whole contemplated project is for the acquisition of property. But if you were to do that then you might have someone claiming that because this agreement doesn't contemplate the normal procedures for acquiring property, the fair market value principles that we've discussed, either acquiring either through negotiation with the parties based on the fair market value and relocation expenses because that principle doesn't appear to be in this agreement. I believe that sort of takes it out of the category of a normal property acquisition. And

remember, the RTC is not acquiring any property. It's not acquiring anything in fee from the City of Reno because after this road is completed the RTC always deeds the road to the entity in which it sits – City of Reno, City of Sparks, and Washoe County. So there actually isn't any property being acquired.

Commissioner Aiazzi: The property adjacent is being acquired. The remaining nine holes of the golf course is being acquired. RTC's purchasing it all, correct?

John Fowler: RTC, well, as I understand it, the property on which the new nine holes would go is owned in fee by the City of Reno.

Commissioner Aiazzi: The old nine holes. It's not just the right-of-way we're purchasing.

John Fowler: Well, the old nine holes are owned by the City of Reno as well.

Commissioner Aiazzi: Only if the RTC chooses to give it back to them. That's a choice made by this Board.

Commissioner Humke: But that's ministerial, which is always conducted.

Commissioner Aiazzi: That's not true. Every time we've had excess property we've offered it for sale to the adjacent property owner or we've offered it for sale to someone else.

Commissioner Humke: You can't offer a transportation facility for sale.

Commissioner Aiazzi: I'm talking about the excess property Mr. Humke. We're not taking all this property. It's just like we're being . . . what other instance is different of this than any other acquisition? Why do those people agree to fair market value? What do you have hanging over their heads? What does RTC have?

John Fowler: Well ultimately of course, the right of condemnation, right to condemn the property.

Commissioner Aiazzi: Do we have the right to condemn this property?

John Fowler: It is conceivable that there is a right to condemn City of Reno property but the problem is when you condemn property; you condemn property that you don't already own. And in this case, the City of Reno owns the property and it will be, it's going to remain in the title of City of Reno. So how can you condemn property you already own?

Commissioner Aiazzi: The City of Reno can make the case, like any other property owner, you're taking this property. We want you to take the whole parcel; it's a complete taking. So pay us for the whole thing. Couldn't we make that case?

John Fowler: You could make the case if the property was going to actually change hands.

Commissioner Aiazzi: But that's a choice that gets made here. Let's say we go through someone else's property and they require us to buy the entire parcel which may happen with the Butler Ranch property. What do we do with the excess property, turn it over to the City of Reno?

John Fowler: Is Butler Ranch owned by the City of Reno?

Commissioner Aiazzi: No.

John Fowler: Okay, so it's owned by a separate . . .

Commissioner Aiazzi: Do we turn it back over to Butler after we pay for the property? It's just considered excess property and what we do with it is up to this Board. It's not ministerial. Same thing as when we did the Moana Lane extension, we had excess properties and we chose to get rid of them. Staff has always said we're going to turn it back to the City of Reno. What if we don't want it? We don't have to accept it. We have to accept the roadway under our current agreement, we don't have to accept the land. Don't have to do it. That's what I mean about this, you guys don't seem to be understanding what's going on here and what your roles and responsibilities are as an RTC Board with this property. We can choose to say, the City of Reno can say it's a full taking, take the whole golf course, pay us for that and all the revenue we get from it for the next 20 years; we'll move on and then you own the property at the end of the day. Just like any other property owned.

Commissioner Humke: Mr. Chairman, I don't believe that was envisioned in your amendment sought. You were just talking about the sewer fund and the general obligation bonds.

Vice Chair Larkin: Mr. Chair, I'd call for the question.

Chairman Smith: Okay, all in favor say aye.

Commissioner Aiazzi: In favor of what?

Chairman Smith: Of the motion.

Commissioner Aiazzi: Which motion? You called for the question is the motion . . .

Chairman Smith: Would you read the motion please? (to the Clerk of the Board)

Commissioner Aiazzi: No, no, no.

Chairman Smith: Read the motion. I promise I won't interrupt you if you stop interrupting me.

Clerk of the Board: The motion is to amend the motion made on September 16th to have the RTC not pay the City of Reno \$6 million.

Chairman Smith: Okay, all in favor say aye. (Chairman Smith, Vice Chair Larkin and Commissioner Humke said aye) Opposed? (Commissioners Aiazzi and Gustin said no) Okay, it passes, three to two.

Commissioner Aiazzi: For the record Mr. Chair, I'm going to put a complaint in about the way that vote was handled. A call for the question is a motion for a call for the question. People have to vote, people on this board have to vote for the call for the question. You can't just call for the question and force a vote because that's what stops discussion. So that was done improperly.

John Fowler: As I understood it, we were already discussing the motion after there was a motion and a second and so a vote could be taken. Now whether you cut off debate is another matter.

Commissioner Aiazzi: The debate was cut off improperly and you weren't going to interrupt me Mr. Chair, you did.

Chairman Smith: Mr. Larkin.

Vice Chair Larkin: Mr. Chairman, as we were talking about the subsequent motion if you'll entertain that, is to take the current version A and version B or however many versions there are of the Interlocal Cooperative agreement, my motion would be to forward that to the City Council for their opinion about the content and their discussion about the items that are contained within the Interlocal Agreement at the next practical time that they can schedule an item for this at their city council meeting.

Chairman Smith: Does the motion include bringing this back next month?

Vice Chair Larkin: Well it's to bring it back whenever they can schedule it. I don't know, if it's anything like the County it takes two months to get stuff on there because of the volume of business sometimes. So it's their timing that they consider this.

Chairman Smith: Okay, we have a motion.

Commissioner Humke: Second.

Chairman Smith: And a second. Further discussion? Seeing none, all in favor say aye (Chairman Smith, Vice Chair Larkin and Commissioner Humke said aye) Opposed? Is that abstention or do you vote?

Commissioner Aiazzi: I abstain.

Commissioner Gustin: I also abstain.

Chairman Smith: The motion passes three/zero with two abstentions.

6.3 APPROVE THE REQUEST FOR PROPOSALS (RFP) FOR THE SELECTION OF A CONSTRUCTION MANAGER AT RISK FOR PHASE 1 OF THE SOUTHEAST CONNECTOR (FOR POSSIBLE ACTION)

Jeff Hale, RTC Engineering Director, approached the Board, explained the purpose and need for a Construction Manager at Risk, and answered questions regarding the recommendation to approve the RFP, as set forth in the briefing materials for this agenda item.

Garth Oksol, Project Manager, added that the RFP is very clearly written so that this work is *only* for preconstruction.

Commissioner Gustin suggested that this item be continued because it is unclear as to how this project will proceed per the discussion in the previous item. He would not vote to approve it this day.

Commissioner Aiazzi asked when the ruling from the Corp of Engineers is supposed to be received.

Mr. Hale said that these types of environmental decisions tend to drag on longer than expected so possibly the first quarter of next year.

Commissioner Aiazzi asked why we would pick someone before then.

Mr. Hale said that it gives us time to resolve issues before they happen so staff will be ready to go when this project begins, if it does.

Vice Chair Larkin asked for confirmation that this RFP is for the portion of the project between Greg St. and Clean Water Way.

Mr. Hale confirmed and said it's being called Phase I and that the Board voted and agreed to turn this project into at least two phases and that Phase I is a part of the current Program of Projects (POP) that was voted on and approved by the Board.

On motion of Vice Chair Larkin, seconded by Chairman Smith which motion carried three to two with Commissioners Aiazzi and Gustin opposed, Chairman Smith ordered that the RFP for the selection of a Construction Manager at Risk for Phase 1 of the SouthEast Connector be approved and move forward.

6.5 ACKNOWLEDGE RECEIPT OF A REPORT ON THE DEVELOPMENT OF THE LOCALLY PREFERRED ALTERNATIVE FOR THE PYRAMID/MCCARRAN INTERSECTION PROJECT THAT WILL BE THE BASIS OF THE BUILD ALTERNATIVE FOR THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (FOR POSSIBLE ACTION)

Scott Gibson, RTC Project Manager, approached the Board to provide an update and PowerPoint presentation, and answer questions regarding the request to acknowledge receipt of the report on

the development of the locally preferred alternative for the Pyramid/McCarran Intersection project, as set forth in the briefing materials for this agenda item.

Chairman Smith asked how the early acquisition process is moving along.

Mr. Gibson said that approximately five letters had been received and staff is working with NDOT to see who qualifies. Additionally, a letter went out to all property owners to let them know that this is a possibility and explains how to begin the process if they are interested.

Chairman Smith asked if the owners will have the option of renting back their houses after the RTC acquires the property.

Mr. Hale replied that they do have the option but how well it works won't be determined until the first test case is complete.

Commissioner Aiazzi asked if the RTC would continue to own a specific part of right-away after it is purchased.

Mr. Gibson stated that an Interlocal Agreement with NDOT would be completed to turn the property back to them once the project is completed.

Commissioner Aiazzi then asked if an Interlocal Agreement would need to be approved by the three entities for the acquisition to be done.

Mr. Hale replied that the Interlocal Agreement would be between the City of Sparks and NDOT for the maintenance of any landscaping.

John Fowler, RTC Chief Legal Counsel, explained that this is an agreement with NDOT and not one of the three entities that sit on this Board.

On motion of Vice Chair Larkin, seconded by Commissioner Humke, which motion carried unanimously, Chairman Smith ordered that the report be acknowledged.

Item 7.1 PLANNING

7.1 ACKNOWLEDGE RECEIPT OF THE QUARTERLY TRANSPORTATION SAFETY REPORT (*FOR POSSIBLE ACTION*)

Amy Cummings, RTC Director of Planning, approached the Board to provide an update and presentation, and to answer questions regarding the request to acknowledge receipt of the Quarterly Transportation Safety Report, as set forth in the briefing materials for this agenda item

On motion of Commissioner Gustin, seconded by Commissioner Humke, which motion carried unanimously, Chairman Smith ordered that the report be accepted.

8.1 PUBLIC TRANSPORTATION/OPERATIONS

- 8.1 APPROVE AWARD OF MANAGEMENT SERVICES FOR THE ELECTRIC BUS PROJECT TO TRANSIT RESOURCE CENTER (TRC) AND AUTHORIZE THE EXECUTIVE DIRECTOR TO NEGOTIATE AND EXECUTE AN AGREEMENT NOT TO EXCEED \$300,000. IF A SATISFACTORY AGREEMENT WITH TRC IS NOT OBTAINED, AUTHORIZE THE EXECUTIVE DIRECTOR TO TERMINATE NEGOTIATIONS AND UNDERTAKE DISCUSSIONS WITH THE SECOND HIGHEST RATED PROPOSER (FOR POSSIBLE ACTION)**

Tina Wu, RTC Sr. Transit Planner, approached the Board to provide information on the purpose and need of the project and to explain the processes taken for evaluation of the RFQ's received.

Chairman Smith asked why a consultant is needed when the manufacturers of the electric buses can provide the specific information that staff needs for implementation.

Ms. Wu explained that there are different technologies out there and it is better to hire someone who has an overall knowledge of all the technologies.

Commissioner Aiazzi agreed that it sounds like staff already has much of the knowledge needed and financially it may be better to hire someone.

David Jickling, Director of Public Transportation and Operations, said that a consultant would have the experience to assist the RTC so staff wouldn't have to go solely on the word of the bus manufacturers who are trying to sell their buses.

E.D. Gibson stated that there are obligations that must be met due to the federal grant agreements but that eventually, a staff member may need to be brought on board internally.

Commissioner Humke asked how the public was notified of the option to bid.

Elisa Rizzo, Procurement Compliance Administrator, said that the notification went out on the RTC's E-bid system as well as in the Reno Gazette Journal.

Commissioner Humke asked what mix of the four finalists was local vs. non-local.

Ms. Wu said that none of the firms is local but all of them are partnered in some way with a local firm as a condition of their bids.

Commissioner Humke then asked additional questions regarding the criteria used for the evaluation process and who was on the evaluation committee, which Ms. Rizzo addressed.

Commissioner Humke expressed his displeasure regarding the processes used.

Vice Chair Larkin agreed that someone needs to be hired internally rather than hiring a consultant.

E.D. Gibson suggested that staff should use a consultant for the technical specification but not for performance characteristics.

Chairman Smith asked if the RTC is going to also need a hydrogen manager if hydrogen buses are purchased. He suggested that an RFP with some options to partner with an alternative fuels specialist be brought back for review.

Mr. Jickling agreed but clarified that these funds do not allow the RTC to hire staff.

Commissioner Aiazzi suggested that a local alternative fuels firm should be hired.

On motion of Vice Chair Larkin, seconded by Commissioner Humke, which motion carried unanimously, Chairman Smith ordered that the current bid be rejected.

A second motion was made by Commissioner Aiazzi for a new RFP to be brought for an all-encompassing bid to partner with the RTC on alternative fuels if that fits into the federal grant.

The motion was seconded by Vice Chair Larkin.

Under discussion, E.D. Gibson asked for clarification of Commissioner Aiazzi's motion.

Commissioner Aiazzi said that the RTC should go directly to the local firms rather than to firms outside Nevada that have to partner with a local firm.

Ms. Rizzo added for clarification that because this is FTA funding, the RTC is required to go through full and open competition for this.

E.D. Gibson said staff will bring back a written narrative scope of work in November.

Upon the call for question, the motion passed unanimously.

Item 9.1 thru 9.2 GENERAL ADMINISTRATION

Item 9.1 REVIEW ANNUAL PERFORMANCE EVALUATION OF EXECUTIVE DIRECTOR (FOR POSSIBLE ACTION)

On motion of Commissioner Aiazzi, seconded by Vice Chair Larkin, which motion carried unanimously, Chairman Smith ordered that the item be continued to the November 18 regular meeting of the Board with the approval of E.D. Lee Gibson.

Item 9.2 LEGAL REPORT

There were no legal matters to report.

Item 10 MEMBER ITEMS

Commissioner Gustin requested that a report on M/V pertaining to previously discussed issues such as the DriveCam, Employee Retention, and how many grievances have been filed, be brought to the to the next meeting.

Additionally, Commissioner Gustin requested that an update on Sierra Spirit Ridership broken out by north of 4th St. and south of 4th St. be brought to the next meeting.

A special meeting was scheduled for October 27 to discuss a legal matter.

Item 11 PUBLIC COMMENT

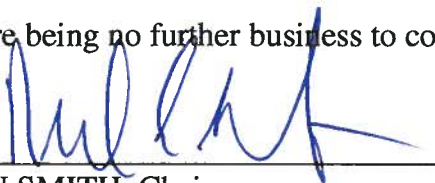
Chairman Smith opened the meeting to public input and called on anyone wishing to speak on topics relevant to the Regional Transportation Commission (RTC) that are not included in the current agenda.

There being no one wishing to speak, the Chairman closed public input.

Item 12 ADJOURNMENT (For possible action)

On motion of Commissioner Humke, seconded by Commissioner Gustin, which motion carried unanimously, Chairman Smith ordered that the meeting be adjourned.

There being no further business to come before the Board, the meeting adjourned at 11:55 a.m.



RON SMITH, Chairman
Regional Transportation Commission