

**From:** [REDACTED]

**To:** [Aaron@fortlincoln.org](mailto:Aaron@fortlincoln.org); [Adam Nies](#); [Angel, Aimee/TPA](#); [annettes2988@gmail.com](mailto:annettes2988@gmail.com); [Betsy Merritt](#);

**Subject:** BNSF Bismarck Bridge Consulting Party Meeting #7

**Date:** Wednesday, September 05, 2018 4:59:12 PM

**Attachments:** [Meeting 6 transcript 2018.08.27 revised.pdf](#)  
[Agenda Meeting 7 .pdf](#)  
[Mandan Parks email.pdf](#)  
[0038-196.6A AlternativesSummary 10-20-2017.pdf](#)  
[0038 196 6-ReplacementConsiderations 08-24-2017.pdf](#)  
[Fairview Bridge QuitClaimDeed.pdf](#)  
[July 18 2018 annual budget retreat minutes.docx](#)

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This is a repeat notice for those who do not use Outlook. My apologies for the repetition for those that already received the Outlook meeting invitation.

Good afternoon,

In compliance with Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. 306108), as amended (NHPA), the United States Coast Guard (USCG) invites you to participate in continuing consultation on the above-referenced project. The USCG has designated BNSF's consultant, CH2M/Jacobs, to contact parties on their behalf for the purposes of Section 106. In that role, we are contacting you regarding the proposed undertaking and upcoming Consulting Parties meeting.

As an identified Consulting Party, the USCG invites you to attend a Section 106 consulting parties meeting via teleconference on Tuesday, September 11, 2018 from 2:00 – 4:00 pm Central Time. The date of the meeting was changed at the request of the USCG. If you plan to join the teleconference and would like to submit additional agenda items, please accept this invitation and respond by contacting:

Ms. Aimee Ross Angel, Architectural Historian, CH2M/Jacobs, via telephone: [REDACTED], or email:

[REDACTED]

The following meeting materials are attached to this meeting request:

- Draft Agenda
- Revised Consulting Parties Meeting #6 Transcript
- Fairview Lift Bridge Quit Claim Deed
- Mandan Park July 2018 minutes and Mandan Park email
- Replacement Considerations Memo
- Alternatives Summary
- Additional links shown below, providing information and photos of Harper's Ferry bridges (supplied by ACHP)

We look forward to your response and to continuing consultation with you on this project. Should you have any questions, please contact Ms. Aimee Angel, CH2M/Jacobs or Mr. Rob McCaskey, USCG, via email at [REDACTED], or by phone at [REDACTED].

Harpers Ferry Bridges

[http://www.wikiwand.com/en/B\\_%26\\_O\\_Railroad\\_Potomac\\_River\\_Crossing](http://www.wikiwand.com/en/B_%26_O_Railroad_Potomac_River_Crossing)

<https://www.trailink.com/trail/harpers-ferry-railroad-bridge/>

[https://en.wikipedia.org/wiki/Harpers\\_Ferry\\_National\\_Historical\\_Park#/media/File:2010-09-02-Harpers-Ferry-From-Maryland-Heights-Panorama-Crop.jpg](https://en.wikipedia.org/wiki/Harpers_Ferry_National_Historical_Park#/media/File:2010-09-02-Harpers-Ferry-From-Maryland-Heights-Panorama-Crop.jpg)

[https://en.wikipedia.org/wiki/Harpers\\_Ferry\\_National\\_Historical\\_Park#/media/File:HarpersFerryCSXRailBridge.jpg](https://en.wikipedia.org/wiki/Harpers_Ferry_National_Historical_Park#/media/File:HarpersFerryCSXRailBridge.jpg)

Lori Durio Price

Jacobs

Senior Cultural Resources Technologist

Cultural Resources Practice Leader



[www.jacobs.com](http://www.jacobs.com)

Normal Business Schedule Monday - Thursday

Proposed Bridge Replacement at Mile 1315.0 on the Missouri River near Bismarck/Mandan, North Dakota (ND SHPO Reference 16-0636)

Section 106 Consulting Parties Meeting Agenda #7

Tuesday, September 11, 2018 at 2:00 pm CST

866-203-7023; PIN 5093-167-060 (meeting will be recorded via conference line)

1. Roll-Call/Introductions
2. Minutes from Meeting #6
3. Old Business
  - a. Responses for additional information
    - i. Fairview Lift Bridge, North Dakota - MOA
    - ii. Harpers Ferry Bridges – NRHP nomination and photo
4. New Business
  - a. Items deferred from meeting #6
    - i. Other Alternatives
      1. FORB asks: Start the discussion of a design in which the existing bridge is preserved and the new rail bridge is built. (Delayed from CP meeting #5 and #6)
      2. Alternatives Analysis
    - ii. Funding Opportunities
      1. Friends of the Rail Bridge – Community Innovation Grant
      2. Other grants
    - iii. NDSU Landscape Architecture Program
    - iv. Rail Road Bridge Inspection Report for the BNSF Rail Bridge (at Bismarck over the Missouri River), Public Version
    - v. Burleigh County Commission meeting minutes (May 7, 2018)
    - vi. Insurance (Railroad v. public liability)
  - b. Input from municipalities
    - i. Question: What information do local government representatives need to make informed comments regarding the future of the BNSF bridge over the Missouri River?
    - ii. Comments and response from the citizens of Captain's Landing Township, Board of Supervisor's Meeting, September 6, 2018 (Fred Rios/Danette Walsh)
    - iii. Mandan Park Board minutes
  - c. Discussion regarding termination of a Section 106 agreement (Chris Wilson)

**Next Scheduled Meetings:**

- October 3
- October 24
- November 14
- December 5

# **SUMMARY OF CONSIDERED ALTERNATES**

## **BNSF Bridge 196.6A (LS0038) Over the Missouri River in Bismarck, North Dakota**

**Date:** September 2017  
**Project No.** 15955.000



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## Summary of Considered Alternates BNSF's Missouri River Crossing in Bismarck, ND

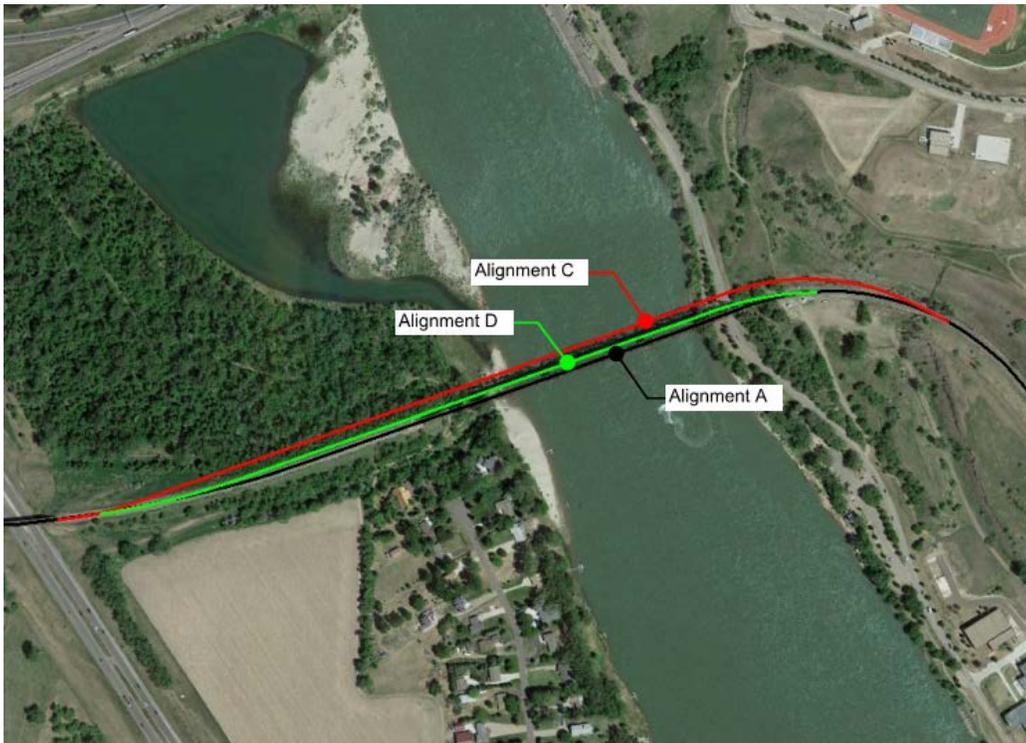
For evaluation of project scope and feasibility, a number of bridge alternates for crossing the Missouri River in Bismarck, North Dakota were considered. Geometrically, the bridge alternates were positioned on the upstream and downstream sides of the in-place structure as well as along the current alignment. Both single track and double track configurations were studied.

The following discussion presents arguments both for and against those alternates found to be credible. The arguments are presented in qualitative fashion and are weighted equally. To be considered credible, an alternate must be geometrically feasible and create minimum impacts on the surrounding neighborhoods during construction and after completion. Recognizing these consideration criteria, bridge alternates positioned on the downstream side were found to be not credible. Accordingly, further discussion within the context of this document is not provided.

The following three credible alignment alternates were considered during evaluation of reconstruction options for BNSF Bridge 196.6 over the Missouri River in Bismarck, ND:

- Alignment A – Existing Alignment
- Alignment C – New alignment offset 80' north of existing
- Alignment D – New alignment offset 30' north of existing

The three credible alignments are depicted in the following Figure:



**Figure 1. Alignments A, C, and D**

Bridge configurations were developed for each credible alignment alternate. For a select number of alignments, multiple bridge configurations were generated.

For each credible alignment alternate and bridge configuration considered, observations are presented describing the anticipated positive and negative aspects of each condition as related to project development and the long-term configuration of the corridor. The observations presented are primarily generated from an engineering perspective and focus, in no particular order, on the following criteria:

- Impacts to rail operations during construction
- Impacts to river hydraulics and navigation
- Requirements for ROW acquisition
- Use of the in-place structure
- Structural performance and maintenance requirements
- Construction cost
- Track geometry
- Scope of bridge approach civil works
- Compatibility with long-term corridor expansion

The observations are summarized as follows.

## **Alignment A – Single Track Structure on Existing Alignment**

- **Alternate A-1 – Maintain Existing Structure – Do Nothing**
  - **Pros:**
    - No short-term impacts to rail operations.
    - River hydraulics and lateral clearances unchanged.
    - No ROW acquisition anticipated.
    - No environmental impacts.
  - **Cons:**
    - In-place structure remains in-service. Given its age, the long-term reliability is a concern:
      - Fracture critical structure type is susceptible to collapse from catastrophic events.
      - Structure is difficult to inspect and maintain.
    - East approach track geometry unimproved.
    - Does not provide additional rail capacity.
    - Long-term corridor expansion will be costly.

- ***Alternate A-2 – New 400' Steel Thru-Truss Superstructure on Existing Substructures***
  - **Pros:**
    - Limited environmental footprint:
      - No river work.
      - No permanent approach span work.
    - River hydraulics unchanged.
    - No ROW acquisition anticipated.
  - **Cons:**
    - Requires track to be out of service for significant periods of time to complete construction.
    - In-place piers remain in-service. Given their age, the long-term reliability is a concern. Rail capacity unchanged.
    - New 400' Steel Thru-truss superstructure:
      - Structure type is non-redundant and susceptible to collapse from catastrophic events.
      - Most expensive superstructure option.
      - Challenging to construct.
      - Difficult to inspect and maintain.
    - East approach track geometry unimproved.
    - In-place utility must be accommodated during construction.
    - Long-term corridor expansion will be costly:
      - Requires use of 400' Steel Thru-truss superstructure.
      - Requires construction of independent substructures.

### ***Alternate A-3 – 200' Steel Deck Plate Girder Superstructure on New Substructures***

- **Pros:**
  - No ROW acquisition anticipated.
  - Completely new structure eliminates concerns regarding service life.
  - Improved reduction to lateral clearance for River navigation compared to Alternate A-2.
  - Deck plate girder superstructure:
    - Positioned below rail minimizes susceptibilities to catastrophic events.
    - Multiple lines of support provide redundancy.
    - Improved inspection and maintenance access.
  - Substructures may be configured to accommodate long-term corridor expansion.
    - Provides option to add future rail capacity at marginal extra cost.
    - Additional pier width may aid in removal of the in-place structure.
- **Cons:**
  - Requires track to be out of service for significant periods of time to complete construction.
  - In-place structure must be completely removed. Rail capacity unchanged.
  - New river substructures:
    - Costly and challenging to construct.
    - Impacts to River hydraulics.
    - Reduces horizontal clearance for River navigation compared to current condition.
  - East approach track geometry unimproved.
  - In-place utility must be accommodated during construction.

## **Alignment C – Single Track Structure on New Alignment 80' Upstream**

- **Alternate C-1 –200' Steel Deck Plate Girder Superstructure on New Substructures**
  - **Pros:**
    - Existing bridge remains in-service during construction:
      - Limited disruptions to rail traffic.
    - Existing bridge remains in-service following construction:
      - Provides additional rail capacity.
    - Construction impacts to residences at the West Approach are minimized.
    - 200' Deck Plate Girder Superstructure:
      - Positioned below rail minimizes susceptibilities to catastrophic events.
      - Multiple lines of support provide redundancy.
      - Improved inspection and maintenance access.
    - East approach track geometry improved.
  - **Cons:**
    - Additional piers impact river hydraulics and reduce horizontal navigational clearance.
    - Construction limits will extend outside of ROW at the East Approach. May impact the City of Bismarck's underground water storage facility.
    - Significant civil works are required at the West Approach to be feasible. Requires ROW acquisition or retaining structures.
    - In-place structure remains in-service. Given its age, the long-term reliability is a concern:
      - Fracture critical structure type is susceptible to collapse from catastrophic events.
      - Structure type is difficult to maintain.
    - Civil works associated with the east approach track geometry modifications will significantly impact the north slope. To be feasible, the proposed geometry requires significant retaining wall structures be constructed within the landslide prone soils.
    - Increased potential for utility conflicts.
    - May encounter remnant foundations / civil works during construction.
    - Long-term corridor expansion will be costly:
      - Requires construction of independent substructures.

## **Alignment D – Single Track Structure on New Alignment 30' Upstream**

- ***Alternate D-1 –200' Steel Deck Plate Girder Superstructure on New Substructures***
  - **Pros:**
    - Existing bridge remains in-service during construction:
      - Limited disruptions to rail traffic.
    - No ROW acquisition anticipated.
    - Construction impacts to residences at the West Approach are minimized.
    - 200' Deck Plate Girder Superstructure:
      - Positioned below rail minimizes susceptibilities to catastrophic events.
      - Multiple lines of support provide redundancy.
      - Improved inspection and maintenance access.
    - East Approach track geometry improved.
    - East Approach civil works to not impact the north slope.
    - 30' alignment offset minimizes civil works required at the West Approach.
    - Substructures may be configured to accommodate long-term corridor expansion.
      - Provides option to add future rail capacity at marginal extra cost.
      - Additional pier width may aid in removal the of in-place structure.
  - **Cons:**
    - Additional piers impact river hydraulics and reduce horizontal navigational clearance.
    - In-place structure must be completely removed. Rail capacity unchanged.
    - In-place utility must be accommodated during construction.
    - May encounter remnant foundations / civil works during construction.

## Summary of Considered Alternates

The tally of arguments for and against each credible alternate considered is presented in Table 1 provided below. For comparison, the net difference between the total number of “Pro” and “Con” observations is also identified.

Alignment	Description	Credible	Alternative			
			Name	Observations		
				"Pros"	"Cons"	Net ("# Pros" - "# Cons")
<b>"A"</b>	<i>Single Track on Existing Alignment</i>	Yes	A-1	4	4	0
			A-2	3	6	-3
			A-3	5	5	0
<b>"C"</b>	<i>Single Track Aligned 80' North of Existing Bridge.</i>	Yes	C-1	5	8	-3
<b>"D"</b>	<i>Single Track Aligned 30' North of Existing Bridge.</i>	Yes	D-1	8	4	4

**Table 1. Summary of Considered Alternates**

The information presented in Table 1 indicates that the Alternate D-1 is the sole configuration to generate a net positive result. As such, it is identified as the preferred alternative and was selected for further development.

## **BNSF 0038-196.6 BRIDGE REPLACEMENT PROJECT**

### **Existing Bridge**

BNSF Railway currently owns and operates a single-track bridge across the Missouri River in Bismarck, North Dakota. Located on the Jamestown subdivision of Line Segment 0038, the current structure is approximately 1,470' in length and consists of three primary river spans and six approach spans. The three primary river spans make up approximately 1,200' of the overall bridge length and consist of three independent steel through-truss structures, each approximately 400' in length. The truss spans were installed in 1905 as replacements for the original 1883 steel truss spans. The trusses are supported on masonry piers, numbered one to four from east to west; the piers are the only elements remaining from the original 1883 bridge.

With in-service components over 130 years old, the existing bridge structure is approaching the end of its useful service life. The structure has a history of exposure to ice jams and has experienced slope stability issues at both approaches, resulting in unanticipated substructure movements. Therefore, the intent of the project is to construct a new, independent single-track bridge across the Missouri River.

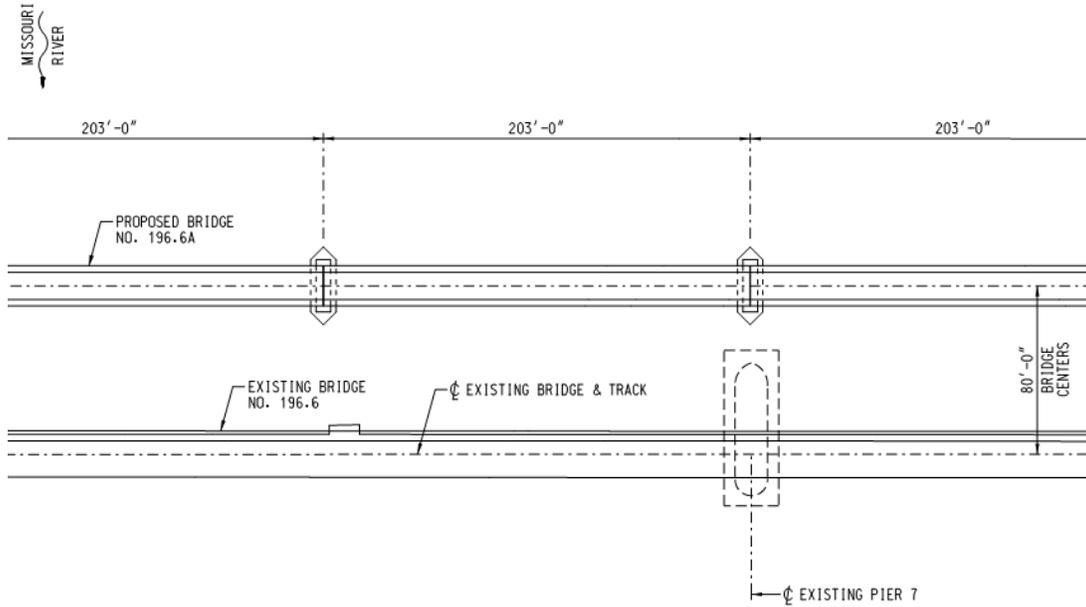
### **Proposed Bridge Improvements**

The proposed new structure presents a significant improvement in operational reliability and safety. The proposed superstructure type places all the primary load-carrying elements below the top of rail elevation. As such, the structure will have a significantly reduced susceptibility to damage compared to the existing bridge. Furthermore, inspection and maintenance practices will be possible with reduced risk to BNSF employees and limited disruptions to rail service because the new structure will provide walkway access between the primary river span beam lines. Finally, each span will consist of multiple beam lines between adjacent supports, providing a level of structural redundancy that is not provided by the existing structure. Accordingly, the proposed structure will be much less susceptible to catastrophic collapse due to unforeseen or extreme events. The reduction in damage potential, increased safety, and level of structural redundancy are all significant improvements to the existing condition.

To achieve these operational and safety improvements, a superstructure type residing entirely below the top of rail elevation is required. Since a minimum vertical clearance between the Missouri River water surface and the bottom of proposed structure must be maintained for river navigation, the vertical space available for the new superstructure is limited. Because of this, the span lengths that can be used are less than those of the existing structure, requiring additional piers within the Missouri River.

### **Required Location of Proposed New Bridge**

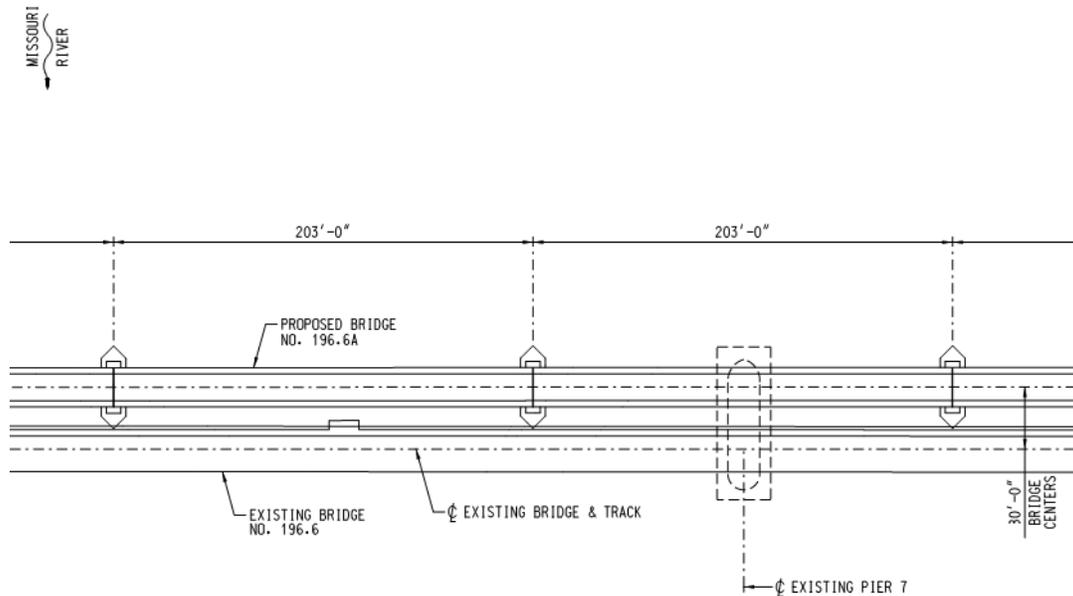
Introduction of the required additional piers and the positioning of those piers affects river hydraulics during flood events. The impact to river hydraulics can be minimized by aligning the new piers with the existing ones, as shown in Figure 1. However, this geometry requires the new bridge to be located approximately 80' upstream of the existing structure.



**Figure 1. Aligned River Piers**

A new bridge in this location, 80' upstream from the existing, causes the construction footprint at the east approach to extend well outside current Right-of-Way limits and potentially impact the City of Bismarck's water treatment facility. Furthermore, the east approach embankment has a history of geotechnical instability, with uncontrolled slope movements dating back to original construction, which introduces risks that warrant the use of an alternate location.

To resolve these issues with the east approach, the proposed location for the new bridge is approximately 30' upstream of the current structure. For this location to work, the new piers must be offset from the existing piers, as shown in Figure 2, rather than aligned.



**Figure 2. Staggered River Piers**

The resulting geometry of the offset new and existing piers generates a condition where contributions from both sets of piers affect the river hydraulics. Additionally, lateral clearances for river navigation and susceptibility to ice and debris jams are adversely impacted by the scenario of having the new bridge piers and retaining the existing bridge piers.

### **Summary**

In summary, to locate the new bridge in the most optimal location, additional piers are required within the Missouri River. The combination of the new piers and the existing piers in the required offset configuration will impact river hydraulics as well as lateral clearances for river navigation and susceptibility to ice and debris jams. To minimize these impacts, the existing bridge and piers cannot remain and must be completely removed once the new structure is in service.

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**From:** "McCaskey, Rob E" <[REDACTED]>  
**Date:** September 5, 2018 at 9:07:25 AM CDT  
**To:** Cole Higlin <[REDACTED]>  
**Cc:** Christopher Wilson <[REDACTED]>, "Washburn, Eric CIV" <[REDACTED]>, "Mcbeth, Amy G" <[REDACTED]>  
**Subject:** RE: [Non-DoD Source] FW: BNSF Bismarck Bridge Project Meeting 6 minutes - (ZIP files removed by policy)

## EXTERNAL EMAIL

Mr. Higlin

Thank you for your comments. I will ensure they are entered into the record. The Section 106 process is best served when all consulting parties are involved in the discussion. Chris Wilson at ACHP has clarified this policy in our meetings and I support his assertion that the process works best when everyone is involved vice unilateral or piecemeal offline discussions.

Very Respectfully  
Rob McCaskey  
Bridge Management Specialist  
Western Rivers  
8<sup>th</sup> District Bridge Branch  
[REDACTED]

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**From:** Cole Higlin <[REDACTED]>  
**Sent:** Wednesday, September 5, 2018 8:21 AM  
**To:** Mcbeth, Amy G <[REDACTED]>; McCaskey, Rob E <[REDACTED]>  
**Subject:** [Non-DoD Source] FW: BNSF Bismarck Bridge Project Meeting 6 minutes - (ZIP files removed by policy)

Good Morning-

Reading the minutes it sounds like the participants requested additional municipalities involved in the discussions. I want to reassure you that I am following the meeting minutes and received the meeting invites. However, I feel a lot of items need to be resolved before we get involved due to the various factors impacting the Mandan side of the bridge.

I attached our July 2018 retreat minutes which I highlighted in yellow stating our stance on the future of the railroad bridge (second to last page) on how it may affect the Mandan Park District. We support recreational use of the railroad bridge but do not want to assume any liability or long term maintenance pending approval of BNSF or USCG. I have communicated directly with Amy McBeth on the Mandan Park Districts thoughts and concerns.

My recommendation is to have a in person meeting or conference call with just entities of the Bismarck/Mandan area. On the Mandan side of the river, we have the following entities involved, Morton County, City of Mandan, Mandan Park District, Captains Landing, and ND State Parks and Recreations.

Please give me a call if you have further questions, thanks.

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**From:** Price, Lori/TPA [REDACTED]

**Sent:** Tuesday, September 4, 2018 5:39 PM

**To:** [REDACTED]

**Subject:** BNSF Bismarck Bridge Project Meeting 6 minutes

Greetings,

Please find the meeting transcript from Section 106 Consulting Party Meeting #6, held on 8/22/18. Please let me know if you have any comments, edits, or questions.

Thank you!

Lori Durio Price  
Jacobs  
Senior Cultural Resources Technologist  
Cultural Resources Practice Leader

[www.jacobs.com](http://www.jacobs.com)

Normal Business Schedule Monday - Thursday

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The following file attachments were removed from this message:

july 18 2018 annual budget retreat minutes.docx



**MANDAN PARK BOARD  
Special Meeting  
ANNUAL BUDGET RETREAT**

July 18, 2018  
PARK ADMIN OFFICE

The Board of Park Commissioners duly met in special session on Wednesday, July 18, 2018 at main conference room at Park Administrative Office, 2600 46<sup>th</sup> Ave SE. Those present were President Meschke, Vice President Arenz, Commissioner Hatzenbuhler, Commissioner Mehlholl and Commissioner Knoll. Park District staff included Accounting Manager Teri Welch and Director Cole Higlin.

President Meschke called the meeting to order at approximately 4:00 pm, CDT. President Meschke explained that this is a special meeting to discuss 2019 preliminary budget, recap of 2018 financials, and provide our staff direction on our strategic plan.

**Agenda:**

**1) 2018 Mid-Year financial recap**

- a. Recap
  - i. *Accounting Manager Welch presented the six month ytd revenues and expenses for the district presenting no concerns. Director Higlin stated the utility expenses for the Starion Sports Complex are higher than expected. Director Higlin shared an excel sheet of utilities since we opened pointing out the difference in electricity when the two ice sheets are not in operations. Accounting Manager explained that she has amended the budget for the approved \$1 million contribution for Memorial Ballpark, Soccer Upgrades, and All Seasons Arena which increased our expenses totaling \$1,568,000.*
- b. State Aid Distribution & Property Tax Review
  - i. *Accounting Manager Welch stated that State Aid contributions are on track and will probably exceed our budgeted figures. Director Higlin stated that State Aid allocation changes from year to year so we try and budget conservatively. Property tax collections are trending as expected.*
- c. Construction Update:
  - i. *Sports Complex: Director Higlin explained that the construction is completed and expect for some landscaping warranty issues to be resolved. Total construction budget was \$23,682,842, actual construction was \$23,398,051.33. Majority of the overage of \$398,051 were attributed to Old Red Trail traffic study (\$83,000), legal fees (\$19,000), soil testing (\$22,000), and interior signage (\$19,000), Electronic Scoreboard (\$92,000) and the addition of the locker room.*

The Park District general fund was responsible for \$200,000 as the remaining expenditures were covered with fundraising.

- ii. All Seasons Arena : *The All Seasons Arena renovation is completed. Total cost of renovation is \$1,352,390.20 which is shared equally with the Mandan Public Schools. We also received \$150,000 from the girls and boys basketball clubs.*
  - iii. Soccer: *Soccer Improvements for the new press box, locker room, and enclosed player benches is completed and under budget. Accounting Manager Welch stated that we will be receiving \$12,500 annually from Dakota Community Bank as the donor for the improvements.*
  - iv. Memorial Ballpark: *Year to date we have spent \$175,000 for engineering and design fees. Demolition is set to start the week of July 23. Park District staff have started removing the interior fence and agrilime.*
- d. YTD Fund balance Review
- i. Future fund balance discussion. *Accounting Manager Welch provided an overview of our current fund balance and projected fund balance to 2022. With the recent cash payments equaling \$1.6 million towards Memorial Ballpark, ASA, and Soccer, our fund balance drops below the \$1.5 million. Director Higlin stated that his goal is to have \$1.5 million in a new vision fund for long term maintenance repairs. President Meschke stated that with the large growth that we have undertaken, we need to make provisions to find a way to replace them in the future as our Park District is growing larger than the community. Discussion was held on Starion Financial and Gangl Hospitality track naming rights sponsorships to be allocated towards the Visions Fund for long term maintenance of the Sports Complex instead of using them for revenue for the facility. Motion by VP Arenz to create a new Vision Fund and allocated naming rights revenue for the Sports Complex to be allocated to the Vision Fund starting in 2020. Seconded by Commissioner Knoll, motion passes 5-0. Director Higlin stated that as we continue to grow our general fund balance, we can discuss annually about transferring additional funds to the newly created Vision Fund for other Park District needs.*
- e. Update on user group agreements/contracts
- i. Baseball club fee discussion: *Director Higlin summarized all of the current agreements and contracts that we have in place.*
  - ii. District Exclusive Beverage Contract: *Director Higlin stated that the current contract is set to expire Dec. 31, 2018. Director Higlin discussed our options with the RFP with Coke and Pepsi. It was recommend to continue the contract as we currently do and continue taking a rebate on cases of product purchased from all user groups and park district ran concessions.*

**2) 2019 Budget Summary**

- a. District Recap: *Accounting Manager Welch stated that we are presenting a balanced budget without direction on a percentage increase in property taxes. Total Revenue is \$6,033,050 and Expenses are \$6,031,050 due to the Raging Rivers having a \$2,000 profit. Director Higlin summarized current mill percentages increases from a zero increase to a 8% increase. Motion by President Arenz to approve the 2019 budget as presented and to include a 6% increase in property taxes. Seconded by Commissioner Hatzenbuhler, motion passes 5-0. A 6% increase will generate an additional \$234,270 and will be an estimated \$4 increase per parcel.*
- b. Capital Outlay: *Director Higlin provided an overview of the department requests for 2019.*

<i>Golf:</i>	<i>Tractor &amp; Aerator</i>	<i>\$75,000</i>
<i>Admin:</i>	<i>Main Office exterior improvements</i>	<i>\$85,000</i>
<i>Parks:</i>	<i>DCP Fending Upgrades</i>	<i>\$10,000</i>
	<i>Diamond 10 irrigation</i>	<i>\$8,500</i>
	<i>Tree Plantings</i>	<i>\$4,000</i>
	<i>Skid Steer trade in</i>	<i>\$35,000</i>
	<i>North SB Drinking Fountain</i>	<i>\$5,000</i>
	<i>Utility Carts</i>	<i>\$37,400</i>
	<i>Infield Drag</i>	<i>\$23,000</i>
	<i>Playground Equipment (TBD)</i>	<i>\$75,000</i>
<i>Rec:</i>	<i>Inflatable Pool Toy</i>	<i>\$20,000</i>
<i>RR:</i>	<i>Canopies/Shade Structures</i>	<i>\$15,000</i>

*Commissioner Hatzenbuhler questioned replacing the playground equipment at Ventures Park due to the Red Trail Elementary School now in proximity of this residential area. We currently have Developers Park three blocks to the south. It was directed to discuss the possibility of closing the park this winter. President Meschke stated that Commissioner should drive by the area and we can follow up on the next steps prior to any decision tonight.*

- c. Special Assessment: *Accounting Manger Welch provide an overview of all park district properties with a current special assessment balance of \$435,500 balance with annual payments of \$71,700. Director Higlin explained that we currently levy \$96.000 and we have a fund balance of \$76,000 going into 2019. With pending special assessments of Memorial Ballpark parking lots, 19<sup>th</sup> Street trail, City Storm Water Improvements, 2020 Old Red Trail, and 16<sup>th</sup> Street east of the Sports Complex. We need to determine what direction the City of Mandan is planning with the Storm Water Management plan and how that large assessment will impact the Park District due to us having 160 acres in the improvement district.*

**3) Review Current Debt Service**

- a. Debt limitation by NDCC: *Accounting Manager Welch stated that our current debt capacity is \$7.7 million. We currently have \$1.7 million in outstanding debt and \$813,000 in obligations to the school district for joint powers agreement and dehumidifier at the pool that the school district currently carries the debt load.*
- b. Recommendations for paying debt off early: *At this time, there are no recommendations to pay off any debt early.*

**4) District Facility Upgrades:**

- a. Starion Sports Complex Impact
  - i. Sales tax collections- *Sales tax collections are down around 7% from last year. Our current payment is \$1.1 million and we are projected to collect \$1.3 million worst case scenario. In 2018 and 2017 we collected \$1.7 and \$1.8 million respectively.*
  - ii. DSG rental agreement- *It was agreed upon to raise DSG rent to \$1,500 starting January 1, 2019.*
  - iii. Field area plan of action- *The grass practice area will be off limits to everyone using the sports complex this fall. We reseeded and sprayed the area to make sure we have a strong root system for next spring's track season. All coaches have been informed of this decision.*
- b. Faris Field Renovation: *It was agreed upon to delay Faris Field renovation until 2020 due to the storm water management plan not approved by the City of Mandan including a special assessment impact to Park District property. In addition, Commissioner Hatzenbuhler asked that we explore a combined maintenance shop with Public Works that is adjacent to Park District property.*
- c. All Seasons Arena Operation Update:
  - i. Potential Issues with scheduling- *Director Higlin explained that the Recreation Dept. will be scheduling the ASA to maximize their program needs while reducing youth programming needs in school facilities. This will free up space in schools for clubs who will get free use compared to ASA rentals.*
- d. Southside Master Plan: *The Storm Water Management Plan from the City of Mandan is still the driving force of what happens next. We need to know the timeline of the project start/completion date, assessment impact to the Park District with 160 acres in the area, and how it will assist with our ball diamonds future renovation of Faris Field.*
- e. Southside Tennis Courts- *It was agreed upon by Park Commissioners to remove the remaining two tennis courts this fall/winter by the Park Dept. The courts are in poor condition and use of the courts is minimal and a safety concern. The tennis community came before the board in May to discuss an indoor tennis facility. The board stated that we can provide our southside tennis court property as a future site, however we need a proposal from the tennis association of their funding contributions prior to any financial commitment from the Park District.*

f. Future Greenspace and Trail Discussion:

- i. Future green space needs- *Discussion was held on future greenspace needs in SW Mandan south of Keidel addition. With the proximity of Ft. Lincoln School and potential future trail leading to the school, the need for green space is not needed at this time.*
- ii. 19<sup>th</sup> Street Trail discussion: *VP Arenz motion to participate in one third of phase I contingent that City, School, and Park contribute one third of phase II due to the high costs of the trail due to the design of the road. Seconded by Commissioner Hatzenbuhler, motion passes 5-0.*
- iii. Dave Ressler Trail naming proposal. *Friend of Dave Ressler submitted a proposal to name the trail adjacent to Kupper Chevrolet "Dave Ressler Trail". The trail would start from Main/Mandan Ave (Burger King) north to the I-94 bridge. Motion by Commissioner Hatzenbuhler to rename the trail, Dave Ressler Trail, seconded by Commissioner Knoll, motion passes 5-0. The committee will be donating \$5,000 towards signage and future trees to be planted.*
- iv. Friends of Railroad Bridge: *Vice President Arenz motioned to support the Railroad Bridge for recreational use without any long term maintenance or ownership to the Mandan Park District contingent that BNSF and the Corp of Engineers agree.*

g. Human Resources: *Director Higlin presented the revision for the following handbook changes:*

*9.1 Health Insurance: after initial eligibility, employees may enroll or change enrollment only during the annual enrollment period. However, special enrollment can occur within 31 days in the event of a change in family status.*

*10,10 Inclement Weather: Full time employees will be paid as if they had worked a complete workday if they remain at work until the office closes. If employee choose to leave before the office closes, they can elect to use any accrued vacation for the missed hours or not be paid for those hours.*

*10.4 Sick Leave: Employee who upon retirement meet the rule of 85 (age + yrs of service) or are age 62-64 will be compensated for 1/3 of sick leave up to 60 days.*

*9.2 on the sick leave pay out for employees who reach the age of 62. Director Higlin stated that allowing employees whose age and years of service combine to reach 85 should also be allowed to receive this benefit if they choose to retire prior to age 62.*

*Motion by VP Arenz to approve handbook changes as presented, seconded by Commissioner Knoll. Motion passed 5-0.*

- h. Commissioner Hatzenbuhler proposed Community Park. Commissioner Hatzenbuhler discussed a community park including a potential future golf course west of Sunset Park. It was agreed that the adjacent landowners need to put their proposal in writing as to their intentions and expectations from the Park District. Director Higlin stated that we have a Developer's Agreement in place from the City Planner which the land owners' did not want to sign.*
  
- i. Park Commissioners 2019 Goals and Objectives*

  - i. Continue developing the Customer Service Training to all employees*
  - ii. More workshops for better Commissioner discussion on District matters.*
  - iii. Potential addition of a youth Park Commissioner as part of discussions.*
  - iv. Dog Park exploring separation of large and small dog areas.*

**5) Other items for discussion?**

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Meeting was called to order at 5:00pm with 23 residents and 2 guests present. Fred Rios led the assembly in reciting the Pledge of Allegiance.

**Review of Minutes:**

Reading of the last meeting's minutes was dispensed and minutes were approved unanimously. Motion made by Darin Schafer and seconded by Ron Knight.

**Treasurer's Report:**

Beverly reported the current balance on hand is \$50,135.74, after \$32,158.75 in expenses, including costs for chip sealing the township roads. Motion to approve made by Darin Schafer, seconded by Ron Knight, and passed unanimously.

**OLD BUSINESS:**

**Road Report:**

Darin reported that residents continue to provide positive comments about the quality of the roads. Fred noted he has purchased six additional sensors for the street lights, which Wayne Schepp has installed for the cost of parts. Thanks to Wayne for donating his labor.

**Parks Report:**

Ron reported that moving the grass dumpster to its current location near the Township park building has resulted in a considerable reduction in dumping by non-residents. The Board extends its thanks to the resident-volunteers who have been mowing the park. Ron has been cutting the Russian Olive trees and will be grinding stumps yet this fall. There will be further consideration of the possibility of creating a grass-clippings compost area in the park, possibly in addition to a dumpster, as only a handful of residents have expressed interest in using the compost pile. This will be discussed further at the Annual Meeting in March.

The Board shared a reminder that the Township will not be providing a fall cleanup dumpster this year, and a reminder that the park is not open to motorized vehicles or parking.

A question was raised about what areas of land within the Township were deeded as Township Park land, versus what is held privately, particularly along the west side of the housing area. Fred and Ron are working with the County Recorder's office to clarify the boundaries and ownership of the various parcels.

It was also asked if the bike path will remain open. Ron noted the portion that crosses his property will not be open to the public and any easement for alternate access would need to be discussed with Richard Renner, who owns the agricultural land on the west side of the township. It was also noted that BNSF has indicated the trail that crosses their property will need to be closed for the duration of their project, which could last up to three years, and may not be reopened if an easement is not granted by BNSF.

**NEW BUSINESS:**

**BNSF Railroad Bridge Discussion**

Fred introduced two guests, Mark Zimmerman and Nick Bradbury, with the Friends of the Rail Bridge (FORB), a newly organized group based in Bismarck working to preserve the existing rail bridge. Fred provided an overview of the consultation process underway with the US Coast Guard and Advisory Council on Historic Preservation. The USCG and ACHP have been holding

calls with BNSF, impacted government entities, and historic preservation interest groups. The Board has been regularly participating in those phone calls, which were the impetus for the letter sent to all Township residents in late August seeking comment. Mr. Zimmerman and Mr. Bradbury were present to present information about their organization and efforts, and to hear from Township residents about their thoughts and concerns on the proposed bridge project, as the most directly impacted entity, to ensure their efforts account for the Township's needs.

It was noted that although only those elected by the Township can participate in the USCG/AHP calls, **individual residents may provide their comments on the project directly** to the USCG. Comments can be submitted to the following:

Rob McCaskey  
8 Coast Guard District (DWB)  
1222 Spruce Street, Suite 2.102D  
St. Louis, MO 63103-2832  
[REDACTED]

A question was raised about who pays for the land needed for the new bridge if a nonprofit buys the existing bridge. Mr. Bradbury explained FORB does not intend to purchase the bridge, indicating BNSF has land and ROW across the river. The area north of the bridge site is owned by the ND Department of Transportation (NDDOT) and is managed by the ND State Parks Department (NDSPD). Mr. Bradbury went into detail about how other bridges across the country have been maintained by nonprofit endowment funds, either independently or in partnership with government entities; but most are maintained through a public/private partnership. Mr. Bradbury further explained it is estimated that a landscape between BNSF and NDDOT for new lands north of the existing site would require about a 14% increase in land use by BNSF, including both the east and west sides of the river crossing.

As for liability, security, maintenance and other potential costs associated with conversion of the existing bridge for public use, FORB is hopeful the initial endowment funds would be provided by BNSF as a payment in lieu of costs estimated for bridge removal (approximately \$4 million). Additionally, it was noted FORB is reviewing liability coverage options with the ND Insurance Reserve Fund (NDIRF). Other potential sources of funding FORB may pursue include the ND Outdoor Heritage Fund, various historic preservation organizations, and potential dollars from political subdivisions such as park districts. Mr. Zimmerman indicated Bismarck Parks & Rec may be willing to help with tying existing park facilities into the preservation project.

Discussion was had around aesthetic impacts of having two bridges close together, as well as the impacts that proximity may have on the public's enjoyment of a converted bridge. This led to concerns about managing foot traffic through the township. It was suggested perhaps all traffic could be routed north to the current archery parking area north of the Interstate bridge, but it was noted BNSF has indicated, due to safety and liability concerns, they do not want the public accessing their property. An easement is still an option to be discussed with BNSF. It was also suggested that perhaps FORB consider a dead stop on the west end of the bridge, forcing pedestrians back to the east (Bismarck) side of the river.

The question was asked whether FORB has considered having a 'clawback clause' in any agreement it may pursue with BNSF, providing for future removal of the bridge. The FORB

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indicated their expectation would be to manage those potential costs through the proposed endowment fund.

In closing, Mr. Bradbury shared USCG and ACHP have scheduled additional Section 106 consultation calls through December, which will be followed by the USCG's permit review process which will include an environmental impact assessment. Concerns were expressed about potential impacts on navigation of the river, high water level flows, ice melts/jams, and other typical river uses and behaviors should there end up being two bridges close together. Mr. Bradbury indicated he had reviewed an environmental assessment from BNSF which indicated FEMA would not allow for a change to the flood plain, in addition to outlining a plan for dredging a channel in the river for barge traffic and a temporary dock for in-river construction purposes.

Fred noted FORB may be able to lend some assistance to the Township in pressuring the NDDOT to allow a truck access point off Expressway, north of the bridge site. So far NDDOT has said that wouldn't be possible due to the amount of traffic the Expressway has, the fact the outgoing traffic from the construction site could only go north from that point, and because of the federal highway nexus.

It was suggested if they are not already, BNSF should look into using the Koch property between the Memorial Bridge and the Township for their river access needs and as a laydown yard, which may help reduce the traffic and overall impacts to the Township. The Board will make that suggestion to BNSF.

#### **Township Liability Insurance**

Ron indicated he had not yet met with the insurance group about the Township's liability policy, but would be doing so soon.

#### **Garbage Services**

Dissatisfaction and frustration with services for individual homeowners from Waste Management was expressed, with a request the Township look into other garbage service companies for the Township's community services (park dumpsters). Ron will look into cost options from other garbage service companies. To be clear, residents can use whichever garbage service company they choose and are not bound to Waste Management all because they provide service to the Township's community dumpsters. Deb Klein noted she has arranged to have single-stream curbside recycling service at her home, which is provided every other Thursday. She will check into option for expanding that service to other residents and will provide that for distribution to all Township residents.

The meeting was adjourned at 6:37p; motion by Ron and second by Darin. Motion approved unanimously.

#### **Next meeting:**

Annual Meeting - March 19, 2019

\*Pending any updates on the BNSF bridge project, a special meeting may be called prior to March 19, 2019 in accordance with ND Century Code 58-04-03. Otherwise any pertinent updates will be provided via email and USPS to Captains' Landing Township residents.

Signed,  
Danette Welsh, Clerk  
Captains' Landing Township

### **Summary:**

A total of 10 Captains' Landing Township residents provided written and verbal comment. The range of comments, all listed below as provided, demonstrates there are very different opinions about whether the railroad bridge should remain standing. However, two main themes emerge from the comments as a whole:

- 1) The residents value and appreciate the aesthetic of the bridge and many would like to see the bridge converted for public recreational use.
- 2) Many residents are also concerned about longterm financial impacts, as well as more immediate needs for solid engineering plans, operating plans, public safety management, and river flow impacts.

Below are the comments as submitted, with minor editing for readability:

- Increased traffic within and coming into the township
- Increased noise of construction and hours of construction
- Access to the trail north of the bridge
- I am not an advocate for keeping the bridge. I feel access to the trail is adequate from the north and south, and I want it to stay remote. There is already access to trails connecting Bismarck and Mandan via Memorial Bridge and Expressway Bridge.
- If the old train bridge remains as a walking/biking/vendor bridge, how do people get to it?
- How will the Bismarck approach be reached by people and where on the Mandan side would people go?
- On the Mandan side, would people/bikes exit into the township?
- Wouldn't there need to be considerable restructuring to make the bridge safe for foot traffic?
- If the new bridge is built near the old bridge wouldn't the noise be overwhelming for those on the old bridge as trains past?
- Where does the funding come from to repurpose the old bridge?
- Township should work with the Bismarck group working to preserve the bridge.
- Need to try to preserve this beautiful structure and the uniqueness of a biking-walking path to connect the two cities with recreational opportunities.
- Concerned with the costs associated with keeping the bridge - who will pay for the upkeep and impacts of public access? Township cannot be held responsible for these costs.
- Also concerned about the impacts of two bridges in close proximity on navigation, flooding, and bank erosion/stability.
- Would not like to see the existing bridge converted to a pedestrian bridge.
- Preserving the bridge as a bike path will likely bring some undesirables into the area. Nonetheless, I would vote to keep the bridge on account of

its workmanship. Bismar is a plain-jane ugly town; the bridge adds some character to an otherwise drab landscape.

- As a resident of Captains' Landing Township I request the basic information that would describe plans for maintaining the existing rail road bridge, including:
  - Drawings of the modifications proposed by interests in response to the Advisory Council on Historic Preservation and local interests.
  - Specifications and costs for materials needed for reconstruction.
  - Analysis of existing structure including maintenance for a 50 year period.
  - Executive summary, product and services, competition and market, market plan, operating plan, management and ownership and financial analyses.
- I enjoy looking at the bridge, but at the end of the day it is private property and BNSF should be able to do with their property what they need to do in order to safely and efficiently conduct their business.
- My concerns are about the longterm costs of converting, maintaining and securing the bridge. Particularly in terms of public safety and policing (our township is policed by the county sheriff and that office has a lot of square miles to patrol in greater Morton County).
- I am also concerned about the aesthetics of having two bridges so close together, and how those two bridges will affect the river traffic and flow. What will it mean to my property when the ice is melting and jamming, or when the water is high like it has been for a number of recent years?
- If the bridge stays and is turned into a pedestrian bridge, where would the trail lead to on the Mandan side? We wouldn't want all that foot and bike traffic coming though the neighborhood - we very much appreciate the privacy and lack of traffic, of any kind, in our neighborhood.
- I'm against railroad to travel in our township property at any time, and get rid of the old railroad bridge.
- Our township has had a long history of providing access to the recreation trail located in the State park directly north of the current railroad bridge. Many users from the Bismarck Mandan area use the trail for biking, hiking, and cross country skiing.
- My concern is that is we lose access to the State Park on the south side, people will invent their own way to get to and from the trail. When the west side of the Grant Marsh interstate bridge was repainted and they attempted to close the west passage under that bridge we had multiple people going thru the construction zone and around the equipment. When you try to close the trail, people invent their own passage route. High School cross country teams routinely run on that trail for training.
- Safe passage for trail users should be considered during the construction and permanent stages of a new railroad bridge.

**CH2M HILL COMPANIES, LTD.**

**Moderator: Lori Price  
September 11th, 2018  
2:49 p.m. ET**

OPERATOR: This is conference # 383765254

Lori Price: Hi, this is Lori Price with Jacobs.

Rob McCaskey: Hi, Lori, it's Rob McCaskey. I've got 1:50. We're going to wait three to four minutes, make sure everybody gets on before we start.

Lori Price: All right, perfect. Recording is started so we're ready to go whenever you are.

Mark Zimmerman: This is Mark.

Rob McCaskey: Hello, this is Rob McCaskey from the Coast Guard. We're about two or three minutes from starting. We're going to wait for everybody to get on board.

Fred Rios: OK, very good, Rob. Thank you.

Rob McCaskey: Sure.

Fred Rios: Hey, Rob, this is Fred Rios from Captain's Landing Township.

Rob McCaskey: Yes, Mr. Rios?

Fred Rios: I see you got the email message from Danette. She won't be able to attend today – about our township meeting, right?

Rob McCaskey: Yes, she told me that. We also spoke on the phone, Mr. Rios.

Fred Rios: OK, thank you. I'll put you on mute for a minute.

Rob McCaskey: OK.

Again, this is Rob McCaskey with the Coast Guard. I've got 2:01 right now. Let's go ahead and give it a couple of minutes and start in a couple more minutes.

OK, I've got three minutes past. Good afternoon everyone. This is Rob McCaskey with the Coast Guard in St. Louis. This is Section 106 consulting party meeting number seven for the BNSF Bismarck Railway Bridge. Let's start and do a roll call.

Everyone, individually, please state your name and who you represent so that your attendance can be recorded please. Go ahead.

Susan Wefald: Susan Wefald, Friends of the Rail Bridge.

Susan Dingle: Susan Dingle, Preservation North Dakota.

Susan Quinnell: Susan Quinnell, North Dakota SHPO.

Rob McCaskey: Anyone not named, Susan?

Fred Rios: Rob, Fred Rios and Ron Knight, Captain's Landing Township. We're aboard.

Tim Helbling: Tim Helbling, City of Mandan.

Dave Mayer: Dave Mayer, Bismarck Parks and Recreation District.

Walt Bailey: Walt Bailey, Bismarck Historical Society

Kitty Henderson: This is Kitty Henderson with Historic Bridge Foundation.

Kathy Spilman: This is Kathy Spilman from Mandan Historical Society.

Kristina Quaempts: Kristina Quaempts, Northern Cheyenne Tribe

- Toni Erhardt: Toni Erhardt with the Corps of Engineers.
- Kris Swanson: Kris Swanson, BNSF Railway.
- Aimee Angel: Aimee Angel with Jacobs.
- Amy McBeth: Amy McBeth, BNSF.
- Mike Herzog: Mike Herzog, BNSF.
- Lydia Bjorge): Lydia Bjorge, BNSF.
- Adam Nies: Adam Nies, Houston Engineering.
- Hans Erickson: Hans Erickson, TKDA.
- Lori Price: Lori Price with Jacobs.
- Steve Bakken: Steve Bakken, Bismarck mayor.
- Joey Roberson-Kitzman: Joey Roberson-Kitzman, Bismarck-Mandan MPO.
- Mark Zimmerman: Mark Zimmerman, Friends of the Rail Bridge.
- Chris Wilson: Chris Wilson, Advisory Council on Historic Preservation. Hello everybody.
- Rob McCaskey: Is there anyone that has not checked in? Let us know that you're there. OK, hearing none, we'll continue on.
- We sent out the meetings transcript for meeting number six. I believe we got one correction.
- Lori Price: Yes, we got some corrections from Emily, and I corrected those and sent out the revised meeting minutes. Also just a reminder that the meeting is being recorded.
- Rob McCaskey: If there are any further corrections to meeting number six, just advise us via email and we'll make those corrections. I think I want to make a change.

OK. The next item on the agenda is number three, which is old business. But I think I want to jump ahead a little bit because we have something important that I'd like – I want to ensure we get to today.

If you go to number 4(ii), we get into funding opportunities from Friends of the Rail Bridge and other grants. And we received a letter of notification this week from Friends of the Rail Bridge. And I don't know if Susan has already talked about that or maybe Mr. Zimmerman, but I understand there's an initiative that you guys are putting together to do some local outreach. I wonder if you might want to talk a little bit about that.

Susan Wefald: Yes, we would. Thank you very much, Mr. McCaskey. The proposal for our grant is on the agenda today, but the materials went out for the last meeting. And so people would have had to take a look at what was sent out three weeks ago for the meeting, and that's what I'll be covering today, our proposal summary.

We're happy to announce that, in August, the Bush Foundation awarded \$10,000 to Friends of the Rail Bridge so that we could hold meetings to form partnerships in – within our group of people and with – in people who are consulting parties and others in the community, form partnerships with them. And we're starting some meetings next week. We're holding some focus groups.

There is going to be five different opportunities for people to meet together next week. And if you have not already been contacted, I hope you'll let me know. My – I'm going to actually give you my phone number today on this meeting. It's Susan Wefald, and my phone number is 701-223-8975.

And if you have not received an email inviting you to be a part of these focus group meetings next week, you would choose one next week that you would attend. It would take about an hour to an hour and a half. And it will – the purpose of the meeting next week is to find out what people really want to cover in the four meetings that we're going to be scheduling in October and November.

The purpose of the meeting is to give an opportunity for people to talk together about how they can better form partnerships to support preservation of the rail bridge across the Missouri River here in the Bismarck-Mandan area. The goal, we have two main goals in preparation for attending United States Coast Guard sponsored meetings, provide opportunities for consulting parties to discuss and consider the needs of their communities related to a proposed new rail bridge and the threatened demolition of the existing bridge.

And goal two, these sessions will increase collective understanding of the issues, enable the consulting parties to generate ideas and collaborate on possible solutions in preparation for upcoming U.S. Coast Guard meetings related to the proposed new rail bridge and the existing rail bridge. We're very thankful to the Bush Foundation for providing these funds so that we could hire a coordinator to hold these meetings. And we look forward to everyone who's on the call today plus others in participating in this project. If you have any questions, I will certainly try to answer them.

Rob McCaskey: OK. I'll defer to the group before I ask my questions. Anyone else in the group want to ask Mrs. Wefald any questions before I go?

Chris Wilson: Rob... this is Chris Wilson of the ACHP. I'll ask my questions once you're done unless you want me to go first just from a procedural standpoint. I want to weigh in.

Rob McCaskey: No, that's fine. Chris, I didn't hear anybody else talking, so I'll start.

Susan – Mrs. Wefald, it's my understanding that these are planned to go on in the next 30 days or so, is that right?

Susan Wefald: The meetings are scheduled – the first meetings are scheduled for the end of September starting next week. And then there would be meetings that would go in October and early November. And we understand that the last consulting party meeting that was scheduled is December 7th, so we will certainly be done before then.

Rob McCaskey: OK. So at the last meeting, tell me the exact date of – in November that you have or your last meeting that is scheduled please.

Susan Wefald: We have – we don't have that scheduled yet. We have not made that plan. But in October, our plan says October, November 2018. Four discussions will take place, and we know that we have to have our meetings done and be ready to report and have everything finished because we saw that last meeting date was set for December 7th. We don't know for sure that that's going to be the last consulting party meeting, but we thought we better have our ducks in order and have any recommendations that come from these groups of people before that December 7th meeting.

Rob McCaskey: Do you ...

Susan Wefald: I think ...

Rob McCaskey: I'm sorry, someone go ahead. Did I step on somebody there?

Susan Wefald: No, I'm not sure if the exact date of that last meeting is December 7th. This is Susan.

Male: It is December 5th.

Susan Wefald: It's December 5th, so that's fine. We'll be ready by December 5th.

Rob McCaskey: Susan, do you think you're going to need that entire time.

Susan Wefald: Yes, we do.

Rob McCaskey: After having read the information, I was envisioning a shorter period of time to complete this. I'd like to have the next meeting – what I envision here is just taking kind of a short break in these 106 meetings once we cover all this information to allow you the time to put together this program that you're planning. We're looking at September 11th right now obviously. And so I did not envision this going all the way until December.

I was hoping we could get back to meeting again about four weeks from now. What are your thoughts?

Susan Wefald: Well, we will certainly be able to accomplish part of our work before four weeks from now, but we would not be able to accomplish the whole project because in our – if you – if – on page 4 of our grant, we were awarded these funds in order to be able to hold meetings in October and November. And people have very busy schedules, and it's too hard for them to hold to be able to come to meetings too close together. So I'm just asking if we could finish the meetings I suppose by the middle of November, but I'm not sure if we can do much earlier than that.

Chris Wilson: So, Rob, this is Chris. I want to weigh in on this one.

Susan Wefald: We could certainly – we could certainly hold – we could certainly hold consulting meetings during the time that we're holding these other meetings as well. There's no reason that we can't take a break, like you say, for four weeks, let us get some work done, hold a meeting, and then come back, and then perhaps hold a meeting a month after that, and we may be in pretty good shape with some of the ideas that are being formed by then.

Rob McCaskey: Chris, were you trying to say something?

Chris Wilson: Yes. So I just wanted to get some further clarification. So number one, I think it's very important for – let me just say from the getgo. This is a positive thing. I think this is showing that the nonprofit is able to receive funds and you're trying to find solutions. So I want to just put a positive spin on that. That's a good thing.

However, I want to make sure that your meetings are not duplicative and aren't under the guise of 106. So when you have your meetings, I want you to make it very clear that you're meeting with groups, you're trying to form ideas and look at funding and liability options. But the substance of the meetings, not that you would have to provide a transcript or anything, but the summary of your meetings need to be reported back to this group under regular consultation because it's – it wouldn't be a Section 106 meeting, it would be a separate meeting that would inform the consultation.

I also am a little concerned about the time frame. So some of the ideas that have been bounced around and I know in the agenda those are milestones that

the group agreed to. They're not set in stone, but they are milestones to keep the project moving forward.

I think it's legitimate for the nonprofit to talk to as many people as possible, especially the municipalities. And I know many of them are here today. And I think it's also a good thing that your nonprofit is taking the time since you're there at the local level unlike me in D.C. or Rob in St. Louis or some of the BNSF members that are from around the country, that you're going to be gathering that data that we've been asking about.

But I do think it's important to set some kind of parameter so we know that as of a certain date, and you can work this out with Rob at a later time, that the nonprofit will be ready to say, "All right. We've discussed the issue with multiple groups. We've met with all the municipalities. We've provided summaries." And then that information will be given to the larger group so the 106 process can continue.

So I don't know if today you're going to have any set dates or times, but if you can give Rob, at some point, a date that says, all right, we've had adequate time, we've used some of the grant money, if not all of it, and we're ready to report back. So that was one of my chief concerns that I think you're going to accomplish.

I don't think that – I think that taking this break, I think sort of building this framework into the 106 process will actually allow it to proceed on a – on a more predictable basis because until you got your grant and you were – you were going to meet with people below the level. I think that the 106 process was stalling, so I think in the long-term this will help us get to whatever finality there is, whatever agreement is formed, that taking a few weeks off will essentially accelerate the 106 process as you come back and report back to the group.

So I think this is a good thing, but my only concern is that you give Rob some kind of date that's reasonable that allows this process to be suspended. And then I don't want to say reinitiated but another meeting schedule to be put in place. Does that make sense?

- Susan Wefald: Yes, it does. And I especially am willing to concur that we need to make reports from this group to the full Section 106. And I want to assure you that we will not, in any way, claim that these are Section 106 meetings where as I said our main goal is to work to form partnerships with people and find out if those are possible as we move forward in trying to preserve the bridge and find alternatives. So, yes, everything that you have said I will make a commitment to agreeing to as part of this process.
- Chris Wilson: That's great to hear. So, anyway, congratulations on getting the grant money. And I do think, ultimately, your results will inform the 106 process, which will allow it to move forward in whatever direction it goes.
- So, Rob, I don't have anything else to add.
- Rob McCaskey: Thanks, Chris. Appreciate it. We've heard from FORB and from ACHP, and I've had my thoughts. Does everyone else have anything to say about what we're discussing?
- Kris Swanson: So, Rob, this is Kris Swanson of BNSF. I just want to make it clear. I have no objection to a short suspension. I just have concerns or, I guess, I'm curious more – there's probably a better word of what's the deliverable going to be at the end because based on previous conversation, the main hinge point is do we have a government agency willing to take ownership and financially support. And I guess, I'm hoping that is a deliverable as soon as possible.
- Susan Wefald: I wish I could promise that that would be a deliverable, but I think that this is a community innovation grant. And I can't promise a deliverable for a community innovation grant. We have to wait to see what will come out of these meetings and what ideas will emerge that can make this move forward.
- Nick Bradbury: May I – may I speak? This is Nick Bradbury from Friends of the Rail Bridge.
- Rob McCaskey: Yes, go ahead, Nick.
- Nick Bradbury: I would like to take objection to what was just said not by Susan but by Kris Swanson. The only person in the group who has agreed to the assertion that Mr. Swanson just made, is Mr. Swanson himself. And we – and many of the

examples of bridges across the country we've seen where a government entity does not need to take ownership of the bridge in order for the bridge to move into a publicly usable space – to become a publicly usable space.

For instance, the Fairview Bridge, at the border between North Dakota and Montana, is not owned by a government group; the principal stewardship of the bridge is a nonprofit group that is participated in by the Fairview Chamber of Commerce, but it is – as far as I understand, it's not owned by a government group. So I take a strong exception to saying that that specific stipulation is the lynchpin in these discussions. In fact, I would say that by putting that on the table, BNSF is in a way undermining the process because it's eliminating so many other possibilities for how this could work to save our historic landmark. Thank you.

Chris Wilson: So before anyone responds, this is Chris at the ACHP, I'd like the discussion to move forward in a way that doesn't put people on the spot or make them defensive. And I've been the one perpetuating, and I'll take credit for that, that a municipality needs to step forward to take liability. I'm not saying that there aren't other examples and that nonprofits haven't taken the lead in other instances.

But from my experience of 25 years in dealing with 106 and many many bridge issues, I'm the one who put that forward, so I would like everyone to basically refrain from making personal attacks and so we can move the meeting forward in a more collegial way.

Rob McCaskey: Thanks for that, Chris. I appreciate it. Anyone else want to comment on what we're discussing about here please?

OK, hearing none then I'll continue forward. I'm going to work with FORB, Mrs. Wefald and Mr. Bradbury or anybody else that represents them. And then we'll come up with a time line in the next week or so for them to conduct their business.

Chris and I will also talk offline. I'll talk to my supervisor and we'll get reports back throughout the process. And then I think, Chris, it sounds like we're in agreement that we want to put some type of an ultimate timeline so

that the 106 process can move forward one way or the other. I'm not comfortable right now making that call exactly when that is. I want to honor what FORB wants at the same time I keep this process moving forward in a reasonable way.

So, Chris, does that sounds reasonable to you?

Chris Wilson: Yes, I mean, first of all, again I think this is a positive outcome and it sounds like FORB, with their additional funding, is going to be doing some of the research analysis that everyone's been asking to be done, so this is great. But it is reasonable to have some kind of time frame that is agreeable. And I was pleased to hear that Mr. Swanson doesn't have any opposition to this because I think this is – this is the way it should go.

I was concerned over the last few months that all of us were asking for more information, but it wasn't readily available, and this is really the only way to get it. So again, I congratulate FORB on getting the funds. And I look forward to seeing the summaries.

Rob McCaskey: Great. OK. Well, then let's take a step back again at the agenda since we finished with that discussion and go to number three, which is old business. There were responses for additional information on the Fairview Lift Bridge in North Dakota with respect to the MOA.

Lori Price: We researched that and we're not able to obtain it. I did send out the quit claim deed, and I had sent an email to Chris Wilson because he had offered to find it on their side, asking if he could research it because we were not able to. It's just too old and we weren't able to find it.

Rob McCaskey: OK.

Chris Wilson: So this is Chris of ACHP. I wasn't able to find it either, but I'm not going to give up.

Lori Price: OK.

Chris Wilson: So this is – this bridge spans two states, correct?

Susan Quinnell: This is Susan Quinnell. No, it doesn't. It's only in North Dakota.

May I mention that with the MOA, I asked Montana for their copy, my counterpart in Montana. She couldn't find it either.

Chris Wilson: Wow, OK. So I went through our hard copy records for your state. And so technically, the ACHP, whether we're a signatory or not, which is what we're doing here, but if we're not participating in a formal way, we're supposed to receive every MOA and every PA for every project.

Now, do we receive all of them? No, but we're supposed to. So, I'll dig a little deeper for it. If I can find it, I'll find it, if I have to go back to the practitioners that worked on the project. So it's out there somewhere. And since we got a little bit more time, I'll make that my goal to find that MOA. Hook or by crook, I'll get it.

So for the next meeting, if Rob – can you please – I'm going to put that on my calendar but please ping me, remind me so I'll keep that on my to-do list.

Rob McCaskey: We're going to hold you accountable, Mr. Wilson.

Lori Price: And I did send out the quit claim deed, and it has the people's names, too, who accepted the bridge so that might be worth looking into with them.

Chris Wilson: What was the date of that? What's the – I know Betsy is not on this call, and I think this is an example that she put up. But if you don't have the date, it doesn't help.

Lori Price: The date – the date of the quit claim deed, the date of the ...

Chris Wilson: Oh, the MOA, the date of the MOA of the project.

Lori Price: I don't, but it's got to be similar to the quit claim deed ...

Chris Wilson: OK.

Lori Price: ... which is dated the 28th day of December 2001.

Chris Wilson: OK. So between BNSF, the ACHP, and the National Trust, and the SHPO, we'll get a copy of that for the next meeting.

Lori Price: And that – the recipient is the Eastern Plains Resource Conservation and Development Area. So, if someone has a local connection they might – they may have a copy of it as well.

Chris Wilson: Can you repeat the title of that again?

Lori Price: Sure, it's on the quit claim deed as well that I sent out, but it's the Eastern Plains Resource Conservation and Development Area, Inc.

Chris Wilson: Thank you.

Lori Price: Also, I have their address as their principal office in 2001. It is 123 West Main, Sidney, Montana.

Chris Wilson: All right. Thank you. I like a challenge.

Kris Swanson: This is Kris Swanson. Mr. Wilson, I do recall from going through the legal file that I don't know if they were exactly stipulations but things that BNSF helped provide, obviously, it was right of way for the bridge and the alignment between the bridge and the tunnel, including the tunnel. And then I know that there are some plaques that were installed that reflected the history of when the bridge was installed and the parent railroad line. And then I know that there was an endowment included. I believe we donated \$150,000 to whatever that group was.

But other than that, those are the three deliverables that I was able to identify. I think we also did the HABS/HAER documentation as well.

Chris Wilson: So those elements I would assume are most likely included in the MOA. But sometimes things occur after work because there's an agreement at the local level, but this is – this is my attempt to be funny. We could ask Rob to send us all there for a site visit maybe in the spring.

Rob McCaskey: I think we should do it in the winter.

Lori Price: Yes. I know your idea of fun is we all go to Bismarck in January as I recall.

Susan Quinnell: This is Susan Quinnell with North Dakota SHPO, and I did review our files and we have nothing on the Fairview Bridge from 2001, so the MOA would have been with Montana even though the Fairview Bridge really is entirely within North Dakota.

Chris Wilson: OK. Well, again our tentacles go wide and deep. So if I have to find the case manager the ACHP, they're retired 10 years ago who worked on that project, I will find it. And we all get along and keep in touch with each other, so game on. Awesome.

Rob McCaskey: OK. Any other discussion of the Fairview Lift Bridge missing MOA? And moving on to Harpers Ferry, we got the NRHP nomination photo.

Lori Price: So Chris provided ...

Chris Wilson: I was the one who sent those out. At the bottom of your meeting request, there's a lot of data on there. If you want to learn about the Park Service and what they've done at Harpers Ferry, it's fascinating. But the one I would like you to look at for those of you at your computer is the last link. If you can click on that last link, I think the photograph is just remarkable. And what that – if you look at the arrow on the left and the right, you can scroll through their entire collection of photos.

But this – based on last month's discussion, this was really an accommodation because the Appalachian Trail, and that's really an excellent picture of the pedestrian access next to an existing CSX rail line. And then if you scroll to – let's see here. I think it's the link before that. It shows both bridges. Let's see. Yes.

So the second to last link actually is an aerial view of both rail lines. I believe they're both still functional, and that was really just accommodation where the Park Service worked together with CSX because people were crossing the river on the Appalachian Trail or, worst case scenario, they were actually going onto the bridge. And I think there was a couple of fatalities where

people were crossing the bridge. So that's just a follow-through from the last meeting.

I was trying to describe those two photos and now you've got them in your meeting request.

Rob McCaskey: Thanks, Chris. I can definitely see that. I was able to link it on that last link as well for some of the photos. And I see what you're talking about.

Any other discussion of the Harpers Ferry Bridges?

OK. That completes old business. Let's move on to new business.

Items deferred from meeting number six says other alternatives. FORB asked to start discussion of a design in which existing bridge is preserved and the new rail bridge is built. And we kind of passed over that from five and six. I'm open ...

Susan Wefald: And yes ...

Rob McCaskey: Yes, go ahead, go ahead - go on then.

Susan Wefald: This is Susan Wefald. And I'm going to be leading this discussion for the next few minutes on this. And I'm going to start out with a what-if statement. What if we were to explore ways BNSF alternative C or D might be an option if the rail bridge was preserved and not do straight funding?

What if Burlington Northern Santa Fe, instead of spending 100% of \$4 M demolition cost to destroy the historic bridge, donated 75% of those funds as follows? Of this 75%, 15% would be dedicated to a government entity that was willing to take ownership of the bridge and provide liability insurance but would not be responsible for costs to transition the bridge from rail bridge to pedestrian bridge or maintenance costs.

FORB is exploring how much it would cost a political subdivision to get liability insurance through the North Dakota Insurance Reserve Fund, and we hope to have an answer within a month. And what if, of that – of those funds that 15% would be dedicated to a government entity, 85% could be given to

FORB who would use 60% of this money to apply for a one to three matching grant from the North Dakota Outdoor Heritage Fund to construct the connection trails and convert the bridge to pedestrian use?

One-quarter of the project costs needed must come from nonstate funds which, in this case, would be BNSF funds. The other 40% would go into a maintenance fund, with the interest from that time being used to maintain the bridge. FORB would need to form partnerships with Bismarck Parks and Recreation District and North Dakota Parks and Recreation so that all funds obtained from the North Dakota Outdoor Heritage Fund would be spent in cooperation with those entities.

We would also want to apply for additional trail funding through the North Dakota Department of Transportation and the North Dakota Parks and Recreation. Many of these grants require a match from other funds. FORB would need to solicit these matching funds in partnership with others interested in preserving the historic bridge. Also, as the historic Northern Pacific Railroad Bridge is within one of the National Park Service's National Heritage Areas, the Northern Plains National Heritage Area, Friends of the Rail Bridge would coordinate with the National Park Service, the Rails-to-Trails Conservancy, the National Trust for Historic Preservation and other nationwide entities for additional funding opportunities.

Do you want me to stop now, Rob, and ask if there are questions so far or should I keep going?

Rob McCaskey: All right. That's quite a bit. I like the idea to stop and see if we have any questions or comments.

Susan Wefald: OK.

Chris Wilson: So this is Chris Wilson of ACHP. And, well, someone has been doing their homework, so these are a lot of very interesting prospects that you brought up. And since we've got members of the city government here, and I think there was someone here from state parks, can we have someone from the City of Bismarck and some of the other municipalities weigh in on some of these ideas that she's brought up?

Rob McCaskey: I think the mayor of Bismarck is on the call, right?

Steve Bakken: I – yes, sir. This is Mayor Steve Bakken.

Chris Wilson: I know that – so this is all just dumped on your lap, I realize that, but do you have any initial response or any ideas?

Steve Bakken: Actually, I have a meeting with Susan and members of the ...

Susan Wefald: Mark Zimmerman

Steve Bakken: ... FORB – yes, Mr. Zimmerman last, I believe a week and a half ago. As far as I'm concerned for the city, anything is on the table at this moment. And we do recognize the historic value of the bridge, whether or not there's an opportunity to retain that in place or retain that in an alternative space is all on the table and kind of depends on the headway that Susan and FORB are able to do.

Chris Wilson: So this is Chris again of the ACHP. I'm glad you're here today and it seems like really this consultation is moving at a faster clip, so I'm very pleased.

Rob McCaskey: Any other comments or questions for Mrs. Wefald so far?

Tim Helbling: Hey, this is Tim Helbling, the mayor of Mandan. And I guess, some of these comments, the city of Mandan is kind of in a different position than the city of Bismarck, being the bridge does not end in the city of Mandan, it ends in Captain's Landing Township, so I don't know how the city of Mandan would be part of this part of the discussion anyway.

And like I stated many times before, we're very concerned if another structure is put in the river about the freshwater intake north of the bridge, the wastewater outfall south of the bridge, the bay entrances to Marina Bay and Lakewood Harbor, and then also with the Heart River being south of the bridge, we know that each time a structure is put into the Missouri River, it has a tendency to move the sandbars around. So we are – we're very concerned if the bridge stays in place, what effects it's going to have on the City of Mandan.

And we need some guarantees that if the piers are going to be put in a different location and the old bridge is going to stay, what effects and what costs and what are the outcomes going to be for the City of Mandan.

Susan Wefald: Thank you very much. It's really good to be able to hear your concerns and to know what they are. And I hope that when we meet together that we can talk about some of those issues.

Fred Rios: Rob, this is Fred Rios.

Rob McCaskey: Yes, Mr. Rios?

Fred Rios: The mayor of Captain's Landing Township, thank you Mayor from Bismarck and thank you Mayor from Mandan. The thing is you probably got me saying that I had my meeting on the sixth - the agenda. There's a lot of pros and cons so far about the bridge and staying around mainly because it ends up in our township, over here. And a lot of people, like they say, they don't want the traffic through our township at all. And the thing is it's a great bridge and everything, but we got passages through the Memorial Bridge and the Expressway Bridge that already come into – from Bismarck to Mandan.

Also, I had a lot of people concerned about the Memorial Bridge when it went down also. That was a historical bridge also, and a lot of people are concerned about this. I'm still getting consensus from the rest of our township. I mean, there's pros and cons. I mean, I got 58 residents that live in our township and there's pros and cons on what they want. But you see the whole problem is the traffic and liability for that bridge to stick around.

Our township cannot afford the liability or anything like that. So any kind of suggestion that you can bring to my residents or my township would be appreciable. Thank you.

Susan Wefald: We – thank you so much for those comments, Mr. Rios. We're – Friends of the Rail Bridge is – would be more than happy to come to visit with people from your township at a township meeting. We – I did take a look at some of the summary of your comments and questions that people had. One thing I

want to assure you is that there is no intention of any funding coming from any of the people from Captain's Landing Township.

As I've explained here, a government entity would need to take – could take ownership of the bridge and provide liability insurance, and we're not looking to Captain's Landing to be the government entity that would do that. So – but know that again I'll give you my phone number. You can certainly call me, and I'd be happy to arrange a time to meet with you. And my phone number is 701-223-8975 so that I can understand that folks right along the river there would have a lot of questions.

And my next part of my ...

Fred Rios: Thank you.

Susan Wefald: ... presentation, I think, will ...

Mark Zimmerman: Rob?

Susan Wefald: Yes?

Mark Zimmerman: Rob, if I might, this is Mark Zimmerman for Friends of the Rail Bridge. I wanted to, if I may, before you go on, Susan, Fred Rios – and the board at Captain's Landing Township were very gracious to allow Nick Bradbury and I to appear before the group the other night. And as Fred alluded to, it was a good discussion. There are issues on – or concerns across the whole spectrum of what it would – the impact to the township of the retention of the bridge. But I think it's important to note that I thought it was a very good discussion and hopefully those discussions will continue as the folks get more information.

I had one individual reach out to me after the – the day after the meeting and said they're very much in favor of the retention of the bridge. As all of us know, many times people do not wish to speak in front of a large group, but there – and again I think, Fred, you made it very clear, there's concerns both ways. But I just wanted to point it out that we've met. We were – we met

with the folks the other night. I thought it was a very good discussion, and we look forward to more of that. So thank you.

Chris Wilson: Susan, before you speak, I wanted to ask a question. I understand that FORB was able to speak at the township meeting. Was BNSF there?

Mark Zimmerman: No, no, they weren't there.

Fred Rios: No, this is Fred Rios again.

Susan Wefald: I believe they had had an opportunity to meet with the people from Captain's township another time.

Amy McBeth: This is Amy McBeth at BNSF. We – outside of the Section 106 process before this started a year ago we met with Captain's Landing Township during their annual meeting at their request. We have not met with them since this process started.

Rob McCaskey: OK. Is BNSF invited to all these meetings that are going to be taking place in the next month in the area?

Susan Wefald: Yes, they will.

Amy McBeth: That'd be great. Thank you, Susan.

Fred Rios: Rob, this is Fred Rios again.

Rob McCaskey: Yes, Sir.

Fred Rios: I'll say – I'll say that one of our biggest concerns is not that much about the old railroad bridge, it's about the new construction of the new railroad bridge coming to our township and everything. It is going to be chaos the next three years and so forth unless we get an easement on the north side of the railroad tracks from the expressway road that goes to the interstate.

And the thing is, Mayor Helbling, I'll tell you it's going to be something else. If they got to come through McKenzie Drive and underneath the Memorial

Bridge through our township to get to the new railroad – to put up the new railroad bridge. That’s about it. Any questions?

Susan Wefald: Mr. McCaskey, could I have a chance to continue my presentation now?

Rob McCaskey: Yes, I think now is the time to do that, Mrs. Wefald.

Susan Wefald: All right. Thank you. Now we were talking about what-ifs, so another what-if is besides the funding, what about connections with existing trail systems? We see the potential to connect with Bismarck Parks and Recreation District trails on the east side of the river. Friends of the Rail Bridge would need to form a partnership to plan these connections.

Parking is available near the historic bridge on the east side of the river. We would need to connect the – we would plan to connect directly at the trails, land managed by the North Dakota Parks and Recreation natural area on the west side of the river. The only parking that we foresee on the west side of the river would be parking that is available three miles north at the start of the trail system for that natural area. FORB would need to form a partnership to plan those connections with both Parks and Recreation and DOT who owns that land.

Another thing that would – that needs to be done is engineers need to look at ways this public trail and the rail line could safely coexist at least 30 feet apart. We have seen examples from all over the country where public trails and rail lines safely coexist, but we have not seen any engineering studies about how that could happen with these trails and the rail line.

Another issue that needs to be addressed is the safety of the bridge, however, we do have the May 30, 2018 BNSF Bridge Inspection Report, which indicates that the bridge is in good operating condition for rail traffic at this time and for the foreseeable future. Water levels for FEMA, this has also become quite a big issue. We do need to see if BNSF – there was – the Jenna Stewart memo to Adam Nies that was dated January 23, 2018; there were some options that were listed on that memo in Section 8 that I’m not certain have been explored. I’ll read them to you.

It says, “Because the increases at these cross-sections are 0.03 feet and 0.02 feet, respectively” – this is a memo from the folks who are doing work for FEMA – “there were a couple of options you can use to decrease the WSELs. Can you look into the impacts of changing a contraction, expansion coefficient, Manning’s N or removing some of the ground geometry under the bridge? Please use your engineering judgment in those scenarios.”

It’s such a small increase that these folks at FEMA thought that just by adjusting some coefficient or Manning’s N you might be able to have more positive results and show a zero increase with those numbers with some of your alternatives. So those are some things that I think still need to be explored in the future. And that concludes my start of this discussion today.

Rob McCaskey: Thank you.

Kris Swanson: This is Kris Swanson.

Susan Wefald: I welcome your question.

Rob McCaskey: Go ahead, Kris.

Kris Swanson: Hi, Rob. This is Kris – this is Kris Swanson. I just want to clarify about the FEMA. That’s been elaborated on extensively. And one thing that we did find is we did adjust the coefficient to bring the total impact of the proposed option to a zero impact. So those have been explored and it has been explained multiple times over the past six months.

Susan Wefald: However, we did find out – I did, this is Susan Wefald speaking – that your FEMA – you have applied to FEMA for one alternative, which was approved by FEMA. However, when I talked to FEMA, I talked to the man who is in Section 8, I believe it is, who works with the Environmental and Historic Preservation. And he wasn’t certain that you had ever applied to them for any of the other alternatives.

Kris Swanson: That’s true, but we have the data on what those impacts will be. We are not required to apply for the other alternatives. This is Kris Swanson.

- Susan Wefald: However, my understanding is that we're still exploring alternatives in this process of 106 – Section 106.
- Kris Swanson: Correct, but by applying this for one, we haven't violated any legal obligations in 106.
- Rob McCaskey: Kris, you said you have the results that – on those other options. Is that what I understand you to say?
- Kris Swanson: Yes, Sir, and they're very similar. I don't have them in front of me, but they've been shared and they're in the minutes of previous meetings. I believe it's the same 0.02, 0.03 depending on the alternative you're looking at. I believe the 80-foot option was 0.02 and then the 30-foot option, which is probably one of the more feasible ones that we'll be looking at, was 0.03 due to the closer proximity of the peers. Again, not to beat a dead horse, that's been elaborated on multiple times over the last several months.
- Lori Price: This is Lori. Just as a point of clarification, FORB had asked to have all of that information that we used for the modeling presented to them so they could get an engineer and run their own model. And that was presented and sent to them. I believe that was maybe two meetings ago. I did not get a response after sharing that information, but we did share it so that they do have the actual information we used to run the model.
- Susan Wefald: Actually, we didn't ever receive that.
- Lori Price: It was sent to you and no one responded or said they had any other ...
- Susan Wefald: No.
- Lori Price: ... questions or asked me to forward it again.
- Susan Wefald: Yes.
- Lori Price: I – it was sent out when we said we would send it out. I can send it out again. Actually, I think ...
- Susan Wefald: Yes.

Lori Price: ... Ms. Quaempts was the only one who responded about it.

Kathye Spilman: This is Kathye with the Mandan Historical Society. I did – I was on the distribution list, and I have seen it. I mean, it's a bunch of numbers and Excel files, so you might not have realized ...

Lori Price: Correct.

Kathye Spilman: ... what they say, but it was at least on the main distribution list, I believe there's a lot of the people from your organization on that list, but we might need...

Susan Wefald: OK. You understand that I am – I have repeatedly requested that information be sent to me individually apart from the distribution list because I am not getting anything that goes out on the main distribution list. Mr. McCaskey has been so kind to make sure I get materials on a regular basis. And so I'm sorry, but I did not personally ever receive that information.

Rob McCaskey: OK, I will follow up with you.

Susan Wefald: So I will – I will follow-up, I will follow-up with Mr. McCaskey on that.

Rob McCaskey: Yes, we can hit this again and then we'll get that back out just for clarification purposes in case somebody overlooked it or, for some reason, didn't get their – we'll make that happen. That's not a big deal.

Susan Wefald: Thank you.

Rob McCaskey: Other points of discussion from BNSF or anyone else?

Mike Herzog: Yes, Rob, this is Mike Herzog with BNSF. To take a step back to talk about Susan's question of what if regarding the expense of demo-ing the bridge, and I can agree that any sort of option that would look at keeping this bridge will require a sizable source of funding.

With that though, I can say the funds that we have earmarked for the demo of this bridge on this project are dedicated to BNSF's Heavy Bridge Program

that makes investments in our major river crossings. So if those funds are not used on this project, there are many other projects that I have going on where these funds will be used, and they will not be used to – as a donation for this bridge.

Chris Wilson: This is Chris at the ACHP. So that's a pretty definitive statement. So you're saying right now on September 11, several months away from developing an MOA, that you're speaking from a position of authority and budgetary authority from BNSF, that in no way would you consider using demolition funds the way BNSF has used it in other 106 projects. You can say that definitively today?

Mike Herzog: I can definitively say we're not going to donate that \$4 million that we have earmarked for demolition, yes.

Kris Swanson: This is Kris Swanson. Chris Wilson, could you clarify the examples of the other BNSF projects that we would have used demolition funds for?

Chris Wilson: Well, I thought you – I thought – I thought you were talking about endowments. And so it may not be the demo money, but remember the Fairview ...

Kris Swanson: Right.

Chris Wilson: ... Lift Bridge. All right. So are you saying there's another part of ...

Kris Swanson: So again, Kris Swanson, let me clarify.

Chris Wilson: ... let me – can I finish? So you're saying that that didn't come from the cost of demolition, but it could have come from another pot of money under the auspices of BNSF?

Kris Swanson: Correct, that was part of our track abandonment funds that we use because that was a line abandonment with the Surface Transportation Board. And again, we're talking funds that were used because that was an abandonment line with the Surface Transportation Board. And then again, we're talking –

we're talking a factor of 10 difference. We're talking \$150,000 to \$3 million [75% of \$4 M as specified by FORB]

Chris Wilson: So, what Mr. Herzog was talking about is a one pot of funds then. So, I just wanted a clarification on that. So, from his standpoint, from his budgetary authority, and I know you're not a DOT and I know you're not FHWA because that's actually a pretty standard procedure that they use, and Kitty Henderson can talk about that.

But the pot of money that you oversee, you're saying definitively under no circumstances, and even if this went to higher-ups in BNSF, that any of that money could be used for mitigation or an endowment or any other use.

Mike Herzog: So, that was not the question that was asked earlier. The question earlier was, was it 85% of the \$4 million? Was that what was being asked, right?

Susan Wefald: That 75% that was just mentioned ...

Mike Herzog: OK.

Susan Wefald: ... as a what-if, as a what-if.

Mike Herzog: As a what-if. And Chris, to your point, I am saying that that 75% would not be coming from the demo money earmarked for this project.

Chris Wilson: All right. So, anyway, I just wanted to get that on the record because it's important to flush out the details and easy for us to spend your money, right?

Mike Herzog: Right.

Chris Wilson: Easy for us to throw numbers out there. But – and this is not FHWA, this is BNSF, it's a different entity. So, that's why we had all those examples in the last rounds of meetings of different bridges and different scenarios. And it's good to have some definitive answers.

I'd like to ask Kitty Henderson to weigh in if she has any examples of either BNSF or CSX or even FRA where mitigation funds were used for a similar project.

Kitty Henderson: Well, the only thing I can think of and I think some of the people from BNSF who are on the phone is the project that we had over at Columbia River in Washington. But they did not give demo funds, they gave a flat rate of money. So, toward the – we had cost analysis on a potential bridge being turned into a pedestrian bridge. The only thing I'm familiar with in terms of demo funds being given would be that Fairview project.

Chris Wilson: So, I guess I just wanted to make clear that just for the group, if funds are not available from the demo line item, it doesn't close down the discussion if we get to the point in the future where other funds might be available from another line item. That's all I want to say.

Kris Swanson: This is Kris Swanson. A quick comment. If we were to ever talk about something into the future, we could talk about offering funds. I don't want to put the word voodoo and make everyone to panic, sorry, the voodoo word of mitigation to make everyone panic thinking I'm motioning to talk to mitigation. But that's a whole separate subject as far as the amount of money and where it comes from. So, I just want to make further that clarification for you.

I also want to clarify the point from Historic Bridge Foundation in Washington. We did make a flat rate per bridge to fund a structural analysis of a bridge that is not owned by BNSF to be converted for trail use.

Rob McCaskey: OK, good stuff. Any other comments or questions for this discussion either from FORB or for BNSF?

Steve Bakken: Actually, this is Mayor Bakken, and I guess I didn't go back and read the list of comps, but as far as comparison bridges, was the Grand Forks – East Grand Forks turntable bridge, if you ever looked at, as far as a comparison when that line was vacated from BNSF?

Rob McCaskey: I'll tell you, Mayor Bakken, hey, we've probably looked at over 15 bridges, and I don't recall if that was one that we covered. Does anyone else know if that was one?

Lori Price: I don't think that was one, but I'm checking right now.

Mandy Persson: It wasn't. And this is Mandy Persson from Friends of the Rail Bridge. I know it wasn't covered.

Lori Price: OK, thanks.

Rob McCaskey: Mayor, what was it today, you wanted to say about that bridge, sir?

Steve Bakken: Well, I think there is an application to it because that was a historical bridge. It's an old turntable bridge that was vacated. And I'm just wondering if there is anything that was in the process or through the MOA of vacating that bridge that might be applicable here because I haven't seen anything in recent history that – as far as information on maps. I'm just wondering if there may be something with that one as well that might have an application or it would be relevant to our bridge.

Rob McCaskey: Sure, thanks for bringing that up, sir. It's something we're going to look into.

Rob McCaskey: Anything else?

Chris Wilson: And so, Rob?

Rob McCaskey: Yes?

Chris Wilson: Can I ask you to provide the mayor with the previous round of examples because he may not have gotten it a couple of meetings ago. So, what we did is we looked across the country and we have a lot of different examples from federal highways, federal railways. And then there is an abandonment from private sector groups.

So, Rob, can you get – can you get those examples to his desk so he can – he can look at those because it was an education to me. It's a complex problem we're looking at. And while we can't find another example that's exactly like this one, we have a whole range of bridges around the country that have some similar aspects.

Steve Bakken: Well, and that's why I brought that one up because I know specifically that was turned into a pedestrian crossing across the Red River for both communities. So, I just – I was thinking that there may be some relevance there. And it's a fairly recent regional example of the process.

Rob McCaskey: We'll definitely get the list of examples that we've covered so far to you.

Steve Bakken: I'd appreciate it.

Chris Wilson: And if there is – this is Chris again at ACHP, if there was an MOA, could we ask SHPO to find that MOA for the bridge you just mentioned? And, yes, if there's an MOA, I should have a record here, I'll look here as well.

Susan Quinnell: This is Susan from SHPO. Yes, I'll look for it, thank you.

Mandy Persson: This is Mandy Persson from Friends of the Rail Bridge. I just want to clarify a couple of points. I don't really think it amounts to too much but I know it was mentioned earlier that BNSF hadn't met with Captain's Landing this year.

And I don't think that there may be (inaudible) that's true. But one of the focus meetings started in January 31st and I think March 20th when they met at that public meeting.

So, like I said, I don't really think that is necessarily the biggest deal but I don't think it's probably an accurate thing to say that they hadn't met with them.

Rob McCaskey: OK, excellent. The point that I was trying to make was that it's important now that we have this going, there are meetings going on that everybody participate in and we keep this just as a (inaudible). I'd like to keep this inclusive as possible so that we get all views and I can go forward with everybody participating as much as possible.

Mandy Persson: OK.

Rob McCaskey: Any other discussion of that before we move on? OK, I just want to say a special thanks to Mrs. Wefald for going through all that and preparing that for

us ahead of time. Looking forward to working through these issues in the next month and seeing what comes forward.

I believe that was Item 4AI1. Are we at 4AI2 now, alternative analysis? Are we past that? I think we actually passed that. I'm looking at the NDSU Landscape Architecture Program.

Lori Price: I think that the only thing under 4AI2 was people had asked to have the materials that we had prepared on the alternative analysis summary and distributed last fall and the letter that was sent to the SHPO. It has also been requested for the memo on replacement considerations - to have those redistributed.

So, I did send both of those out to everyone so that everyone could have them and have a clear sort of picture of the alternatives analysis that has been done. This was – this came up at the last meeting when there was discussion that alternatives had not been thoroughly examined and so, I was just redistributing that information from last fall.

Rob McCaskey: Thanks for the clarification. Anyone who's received that information have any questions about it or comments?

Susan Quinnell: Yes, this is Susan Quinnell from SHPO. So, the document that I'm looking at has a cover page that says, Summary of Considered Alternatives. Does that refer to the considered alternatives for the Coast Guard, in other words, for this process or I mean possibly it could be an internal BNSF document? Could someone clarify, please?

Rob McCaskey: I think ...

Lori Price: Kris Swanson, are you ...

Rob McCaskey: Go ahead, I'm sorry.

Lori Price: I'm just asking if Kris was still on.

Kris Swanson: Yes, sorry, I was having trouble getting off mute here. But that was submitted to the Coast Guard as part of our pre-application discussions. So, yes, it's essentially an alternatives analysis, that's correct.

Susan Wefald: This is – this is Susan Wefald. Les Shannon, who is an engineer who is working with Friends of the Rail Bridge, he wasn't able to be on the call today, but he had some comments on that alternatives report.

He stated that it only considers engineering issues, and he said, "I believe the engineering issues, they have to consider all elements needed to obtain 106 and environmental clearance and therefore, their engineering project is incomplete.

At a minimum, their evaluation and decision matrix should reference whether they minimize adverse effects to a historical property, and evaluating based on equal weight as each engineering issue is also inadequate as some such as 106 and NEPA become showstoppers if they're not satisfied.

He said, "In my former world as a consulting engineer, many of my clients would have thought I had failed them had I not successfully anticipated and navigated every environmental, social and engineering issue of a project." So, he thought that this was just an engineering report and not one that deals with 106 issues or any of the things that have been – we have brought up.

Kris Swanson: All right. This is Kris Swanson. Allow me to clarify. So, other environmental impacts, including 106 is discussed in the EA document. The alternatives analysis, as far as [NEPA] process that we follow, the alternatives analysis, assesses the practicability and reasonableness of the projects, which a lot of those tend to be engineering-related. All the other environmental impacts are discussed in the EA.

Susan Wefald: However, this is Susan Wefald again, I made a request on behalf of all consulting parties that we could have access to what has been completed of the environmental assessment. I requested that of Mr. McCaskey last week and I have yet to hear from him whether we would be able to see that information. Apparently, at other 106 proceedings, it is made available to all consulting parties.

Rob McCaskey: Hold on a minute.

Eric Washburn: Sorry about that. This is Eric Washburn with the Coast Guard. I was having trouble getting off mute.

Susan Wefald: Yes.

Eric Washburn: We're working on the draft. It's been sent out to federal agencies. It's being reviewed by the Coast Guard headquarters. And at that time, we can make a decision to make it available. We're not going to make it out to the public because part of our public notice process is the status of the bridge, which we don't have. So, when headquarters gets done reviewing it, they will be done reviewing it in two weeks, I will talk to them about if we can share it with consulting parties.

Susan Wefald: Thank you very much.

Eric Washburn: OK.

Kris Swanson: This is Kris Swanson again. And forgive me if I'm overstepping, but maybe some of the consulting parties are getting confused with projects that are headed by the DOT, the state projects, which in this case, with federal highways, which in itself, would be the lead agency.

Where here, 106 is being conducted as part of the NEPA process or it's coinciding with the NEPA process, which is done a little bit differently. So, if it's a highway project, from very early inception, people are brought in for comments before they're given a conceptual design, it's more of, "If we have a need, let's talk about it."

Here, the U.S. Coast Guard is obligated whenever they receive an application from BNSF to initiate, thus there was already a plan devised and significantly designed. So, I'm wondering if there is confusion in different processes depending on who's the lead agency and who's the applicant, who's the owner.

Kitty Henderson: Well, I'd like Chris Wilson to speak to that because my understanding is that, in the projects that I participated in regardless of the lead agency, the NEPA process and Section 106 are two different processes unless the application has requested that it needs to be substituted per Section 106, and that only is allowed by – given – if you're given permission by the Advisory Council.

Rob McCaskey: Last speaker, please identify yourself.

Kitty Henderson: This is Kitty.

Rob McCaskey: Thanks, Kitty. Chris, did you have – would you comment on that, please?

Chris Wilson: Yes. So, this is – I think we're sort of saying the same kinds of things. So, I think that Kris from BNSF and Kitty are both accurate but they're saying slightly different things.

So, there is a difference in the way these projects are moved forward based on the lead agency. And so, I think we talked about this a few months ago where this is not a federal highways project, this is a project where the owners are a private entity but the Coast Guard has the 106 responsibilities. So – and I think – and I think we've talked about that.

But Kitty is also right that there was a distinction between NEPA and 106. So, in this process, the 106 regimen has been followed pretty strictly by the Coast Guard. And it hasn't been merged or substituted with NEPA, so there is a whole webinar we give on that and I don't want to go into any details.

But Kitty is right, for the substitution process to occur, there has to be a request through the ACHP, that hasn't occurred. What we – but one of the things that we encouraged and it's too late now in this process, that we typically will encourage an agency to coordinate their NEPA and 106.

So, if you're having a series of meetings and distribution, that you save your time and money by coordinating those efforts and you have your meeting schedule dovetailed. In my mind, this process has always been a standard 106 process where the 106 is on its track.

As far as the EA distribution, I mean that's up to the agency to decide when they can provide that information. And I do think that it would help in this process if any decisions have been made that inform 106, we need to know about it.

The main thing I'm concerned about and I think this has been followed is that the 106 process has to be completed prior to a final NEPA document, meaning a broad (inaudible). So, that hasn't occurred. The 106 is being conducted independently, and before any final decision document is done through NEPA.

So, I don't have any complaint. I just want to say one more thing. I don't think it's helpful from any standpoint to talk about things that should have happened in the past. I think all the ... what's happening now, how are we – how are we going to move forward. And I think this group is really spot on, but I think making comments about what should have happened and what could have happened prior to today is not productive.

Rob McCaskey: Everybody who's not speaking, put your phone on-mute so that we're not hearing background noise. We're getting a lot of background noise on this call. Thank you.

Hey, Chris, thanks for the clarification. Are there any other questions regarding the role of the NEPA process, how it interacts with the possibility of the release – early release of the draft NEPA document or draft EA before we go forward?

OK, hearing no questions, let's move on to the agenda. Item 3I is NDSU Landscape Architecture Program.

Susan Wefald: Mark Zimmerman, would you lead that discussion if you're on the phone? Otherwise, this is Susan from Friends of the Rail Bridge.

Rob McCaskey: Yes, ma'am.

Susan Wefald: And we just wanted – we just wanted to show an example, a picture from NDSU. They have a landscape architecture program, and they volunteered

that their students would use this as a project to put forth an imagination, and their imagination and idea of what the bridge could look like in the future. So, if it was a pedestrian bridge, and so, that is what's been provided to the group.

Rob McCaskey: Thank you. Any questions or comments about the picture?

Lori Price: This is Lori Price. We did send out the letter from the Landscape Architecture Program, but I did not distribute the picture because I did not receive that until late today and I checked with you before distributing it before the meeting that we didn't have the chance to talk about that. So, I'm not sure if the picture has actually been sent out to everyone.

Rob McCaskey: I know we had a concern before about releasing things too late and people wanted to make sure that they've gotten information ahead of time. We'll certainly release that today so everybody can get a look at it.

Lori Price: OK, I'll send that out.

Rob McCaskey: Please, thank you. Moving on from there, railroad bridge inspection report for the BNSF rail bridge at Bismarck over the Missouri River and talking about the public version.

Susan Wefald: Yes. Friends of the Rail Bridge requested the railroad bridge inspection report for BNSF. And we went through the North Dakota Public Service Commission in order to obtain this report.

And we found that the bridge inspection was done recently on May 30, 2018, the most recent one. And we have attached the public version of the report, which shows that the bridge is in good operating condition for rail traffic for the foreseeable future.

Rob McCaskey: Anyone from BNSF want to comment on that inspection report?

Mike Herzog: This is Mike Herzog. The only comment I will make is the version of the report that we did respond with. It was what is required by the FRA and same format that we respond to with any external requests that follow the proper channels.

Rob McCaskey: Any other questions about that report?

Chris Wilson: This is Chris with the ACHP. So, that was also distributed to the group or that will be? I get so many emails on this project. Do we already have that?

Lori Price: That was – yes, that was distributed.

Chris Wilson: OK, thank you.

Lori Price: No problem.

Rob McCaskey: Anyone else? OK, hearing none, moving on to the Burleigh County Commission meeting minutes for May 7th, 2018.

Susan Wefald: This is Susan Wefald with Friends of the Rail Bridge. We did a presentation to the Burleigh County Commission and the minutes of the meeting speak for themselves.

Chris Wilson: Well, this is Chris with the ACHP. Thank you for providing that information. That's one of the things that I think I've been stressing from the very beginning. Obviously, again, we're spread across the country and many of us are not in Bismarck, so thanks for providing that summary on discussions that were held that impact this 106 consultation.

So, I'd like to ask the group to continue to do that. I know you're going to do it with your grant deliverables, but Rob is pretty liberal about putting things on the agenda, but if you can at least provide a summary and report for the group as to what was discussed because it's – I think it helps to not just accelerate the 106 process but it helps to inform it, so thank you for doing that.

Rob McCaskey: Someone else is also trying to comment about that?

Kris Swanson: yes, Rob, this is Kris Swanson. One thing that wasn't clear when I read those minutes was the Burleigh County when they made a motion to support, were they saying that they would own or financially contribute to the preservation?

Susan Wefald: Excuse me this is Susan Wefald in Bismarck with Friends of the Rail Bridge. The motion that they made speaks for itself.

Kris Swanson: I guess that doesn't answer my question, respectfully speaking.

Mark Zimmerman: This is Mark Zimmerman for Friends of the Rail Bridge. Can you hear me?

Rob McCaskey: Yes, Mark, we hear you.

Mark Zimmerman: First of all, I would ask, when you ask us to make a comment, please give me a few seconds. When I un-mute my phone, by then you've already gone on to a couple items and I missed the opportunity to ask a couple of questions.

Rob McCaskey: Sorry about that.

Mark Zimmerman: Sorry, so Kris, I know I answered – I answered this previously I believe at one meeting that same question was asked. We did not ask that of the Burleigh County Commission.

Again, to try to answer Mr. Swanson, we did not ask that at the Burleigh County Commission. They said they were in support of the project. Perhaps, sometime, we may go back to the Burleigh County Commission and other government entities to look at possible sources of funding or contributions, but I believe it was significant that the request came from a long time commissioner for us to make that appearance and make that presentation.

So, again, yes, we did not ask specifically for financial help. I think part of it might be, we don't – we are not at that stage to know that we could obtain ownership or possession of the bridge. If it was me personally, if I was the commissioner, sitting commissioner of city or county, I think I would first ask, "Well, is there a possibility of owning it? You come to us to ask for funding. Where are you at in the process?"

And I think, again, that's what this is all about, is to work through this process. I would hope that sometimes we may well go to the government

entities, all of them involved and we'll get in this discussion of partnerships, is there some funding available? I hope that answers your question, Kris.

Kris Swanson: Thank you, Mr. Zimmerman.

Chris Wilson: Another thing I'd like to add from the ACHP is that, again, this is – those of you who have wondered what consultation looks like, this is it. This is actually very, very productive, it's a great conversation.

But I think we need to consider all possibilities. So, you talked rails to trails or about rails to trails. I think whether it's a nonprofit, whether it's an entity, whether it's no one, whether it's some kind of arrangement where BNSF agrees to allow an entity to use it for pedestrian but then they revisit the access across the river in 10 and 20 years, if they're looking at a way to traverse the river the opposite direction. So, I mean this is an active rail line, so I think we need to keep all those possibilities on the table until we get through this process.

Rob McCaskey: Thanks, Chris. Any other comments on that Burleigh County Commission meeting? OK, I'll purposefully slow down, I don't want to step on someone and keep them from speaking.

OK, hearing no other comments, let's move on to Item 6, insurance railroad versus public liability.

Mark Zimmerman: Rob, this is Mark Zimmerman for Friends of the Rail Bridge. I have been tasked to research the cost of the liability or the availability of liability, if that's the best way to say it.

There is an entity, the North Dakota Insurance Reserve Fund, which does cover liability insurances for government entities. Now, again, just to make it clear, it doesn't – it would not involve a nonprofit. It would be government entities.

I am well aware as past Director of North Dakota State Parks, involved with other groups, that's NDIRF, that's the name they use, covers the Bismarck

park district, covers many government entities for their insurance. It's a self-insurance fund.

I have visited with one of the folks at NDIRF, and we are looking at a request for them if we were to find or secure a government agency who would agree to some partnership in ownership of several government entities, what would be the cost and the availability of such a policy?

So, that is in the works. I know it's a little late here in the process, but again, we're making all these contacts, making – trying to get all these groups together to give us the best information. So, hopefully, I answered that one that I do not have a definite answer today. That gentleman that I spoke with has been a staff member of NDIRF for almost 20 years I believe and he said, "This is certainly something, a proposal could be made to give you an idea of that availability and what would – it would all entail."

Rob McCaskey: That's a good answer, Mr. Zimmerman. I look forward to hearing the answer to those questions in the next few weeks as the FORB moves through their process.

Mark Zimmerman: Thank you.

Chris Wilson: Hey, Rob, before we move on to the next item. I wanted to see if Kitty Henderson had any input because she's worked on these issues for many years and she's been discussing insurance and liability for a while. Do you have any input on examples of liability and on other bridges that have all moved away from – I guess you are probably going to have some FHWA examples too but just a liability question in general?

Kitty Henderson: This is Kitty. Was that directed at me? I'm sorry, I didn't quite get all the question.

Chris Wilson: Yes, I just wanted to see if you could share some examples with the group of liability questions that you've dealt with on other bridge projects.

Kitty Henderson: Well, it kind of runs the gamut over the years. I mean I can think of a project in Pennsylvania, it was a federal highway project where they – a nonprofit was formed and they are paying a liability policy every year.

I can think of the project that Betsy Merritt brought to us where there was an arrangement between the Friends group and the local government – that the local government would take over the liability but then the Friends group would do all the money raising and make sure the bridge was rehabbed, et cetera.

But there are also things, some other projects where they, again, made that deal between the county government and the Friends group or whatever, so because it is easier on a project for a local government to actually own the bridge because of liability insurance and then draw up some kind of agreement with the Friends group to provide them with funds or be responsible for maintenance or whatever.

But it is also not unusual for a group like a nonprofit to go out and get your own liability insurance. Now, the cost of that depends on the size of the bridge and what state you're in because, as we know, every state has different insurance, right? So, yes, there are also examples of those.

Chris Wilson: Thank you. And I would just encourage Mr. Zimmerman to keep Kitty Henderson in the loop because no reason to reinvent the wheel. You might be able to direct him to the places that have answered this question before.

And I also want to stress the inherent flexibility of the 106 process. So, if we get to a point where sometimes consensus is reached, and I think BNSF needs to weigh in here too, they need to have a level of comfort that if an agreement is struck that their new facility wouldn't be impacted.

So, I just want to throw that out there because everyone has legitimate concerns and if we can dredge up these MOAs we discussed and then I think Kitty provided great examples of different formulas of liability that have occurred across the country, I think we need to head toward, if it's possible, to reach a consensus to make sure that all parties have, again, a level of comfort

with whatever occurs if it can occur. So, I just want to refer back to BNSF because I know you have real concerns and they are legitimate.

Rob McCaskey: OK, thanks, Chris. Any other comments or questions on that subject?

Lori Price: Kris Swanson, are you still – are you still available?

Kris Swanson: Yes, I am.

Lori Price: Did you want to – we have on here rail road versus public liability. Did you want to talk a little bit about the rail road insurance?

Kris Swanson: Right. So, I did some research with our risk group and our legal department. And forgive me if I cut out, my phone is on a low battery. But what I was able to find out is that BNSF, we also issued those terms as well, or the coverages.

We see it a lot with overlay projects for roads. I, myself, was a public projects manager for the “OTA’s” - Minnesota, North Dakota and South Dakota - and does a lot of (inaudible) on that.

We’ve issued temporary protective insurance policies that the limits of those that are temporary ones is \$5 million per incident, \$10 million aggregate. As far as the prices, again, to reinforce what Kitty said, it depends on the undertaking, the projects and, of course, temporary, you can expect to pay that for – if the bridge will be preserved for remodeling, and anytime you would have to come to maintain it.

But as far as a permanent policy, I asked our risk team if they ever have any record of – or we’ve issued one for a permanent easement for pedestrian use and the answer is they are not coming up with any on the record.

Kitty Henderson: So, this is Kitty again. I want to ask a legal question, and I may not know exactly how to put this. But – and Kris Swanson, maybe you can answer this for me. So, say, the Friends group takes ownership of this bridge in conjunction with some government entity, then they own the bridge. So, are

what you're talking about in terms of liability insurance have to do with the fact that there's an easement or right of way that also has to be covered?

Kris Swanson: I believe so.

Kitty Henderson: We've lost him maybe.

Male: Something happened there.

Male: It's his battery that gave out.

Kitty Henderson: OK. Well, so my – my question is if any new owner is found for the bridge then the BNSF no longer owns the bridge. So, I guess I'm asking the question of why did they have then a concern about liability.

And what I was trying to find out is that if they are still concerned about liability, that has to do with an easement or right of way that remains in BNSF's authority. Does that make sense?

Eric Washburn: This is Eric Washburn with the Coast Guard.

Kitty Henderson: OK.

Eric Washburn: I think one of the concerns too is these bridges can be 30 feet apart on one of the proposals. So – and with the old bridge built on shallow foundations, what happens if that don't exist? It damages their new property. There was a concern there as well.

Kitty Henderson: OK.

Eric Washburn: Now, as far as the easement, Kris would probably tell us if he comes back.

Kitty Henderson: OK. Well, I guess the alternatives that were being looked at if the historic bridge remains would be the new lines for BNSF would be 80 feet away, correct?

And then I guess one of the things that the new owner of the historic bridge would be looking into would be stabilization on that historic bridge. And I

think there is some, perhaps, disagreement on whether or not that bridge was built in bedrock. I actually was in an article that shows the plans of that, but that's not really here or there right now.

I'm just kind of – I just know that in other projects that if a new owner comes and takes that bridge then they are 100% responsible for liability, and whether it's a county or a city or a DOT or whatever that previously owned that bridge, they are completely released from any responsibility. So, I just wanted to know what particulars are in this situation that makes that – makes our conversation different.

Mike Herzog: So, this is Mike Herzog with the BNSF.

Kitty Henderson: Hello, Mike.

Mike Herzog: Tagging on to Eric's comment, that is a large part of the concern, a 130-year-old-plus bridge. If it does shift and impact our new structure, it's not only property damage, it's train delay damage, it damages to our ability to move freight while that bridge is still within our right of way.

Kitty Henderson: OK.

Mike Herzog: So ...

Kitty Henderson: No, that's what I was trying to understand because I don't think until today, we really got that distinction laid out on the table. And that's where I was confused because I am just saying the new owner and they're the ones responsible. But if there are other issues that – or in there then that's what I think we need to – we need to have it on the table so people can talk about it.

Rob McCaskey: Thanks for that clarification, Kitty. I appreciate it.

Chris Wilson: So, this is Chris with the ACHP. These are all very important issues to bring up. So, again, I think we need to think about a 106 document that would have milestones and provide a level of certainty.

So, another thing that we could consider, and I think it's safe to assume that everyone is taking very seriously BNSF's responsibilities on moving freight

and we all benefit from it. And I think we need to – when we – if we get to a point where we've reached some kind of consensus to put milestones in the document that allow during implementation to look at the viability of a pedestrian bridge five years down the road, 10 years down the road, 15 years down the road.

And if it's successful and if it's not an encumbrance, if it's not dangerous to the new facility, that's one thing. But if we – let's say, 10 years from now, it becomes an encumbrance and enough money can't be raised, and I hope that wouldn't be the case, that it could be revisited to make sure that the new facility is operable and not in danger.

So, again, we can come up with a – if we come up with a consensus, we can build into the document accountability. And I can dredge up some examples of that. It wouldn't be apples to apples, but it can be a phased approach, possibly a programmatic agreement where there are certain responsibilities and/or consequences because we all know that some of these projects are successful and some of these are not successful. We've talked about them in the last few months.

Rob McCaskey: Thanks, Chris. Any question or comment?

Mark Zimmerman: Rob?

Rob McCaskey: Go ahead, go ahead.

Mark Zimmerman: Rob, this is Mark Zimmerman for Friends of the Rail Bridge. I very much appreciate Chris' comments. I – just on the face would like this idea of setting those milestones or dates to look at this to help us move forward on this.

I harken back if I might just as a comment, the comment from BNSF, and I take it truthful that here is the bridge report as made available to the public. Well, if there are some other concerns on this safety or structural liability of the bridge, well, again, I see that as one of these milestones that could be in the agreement that as we – as it works through, if it's in five years, you look at it again, well, then there are some concerns.

But basically, thank you very much, Chris Wilson, for those comments. That could be certainly a part of an agreement. I think that's a great effort to work on, thank you.

Steve Bakken: Hey, this is Mayor Bakken and I do apologize. I look forward to seeing the rest of this conversation continue and the minutes, but I do have to get off now. We do have a commission meeting tonight. So, I – thank you, everyone, for the comments and this has been very informative.

Rob McCaskey: Thank you very much, Mayor. I look forward to working with you in the future.

Steve Bakken: OK.

Tim Helbling: Mayor Bakken, do you have a minute or two yet before you could get off? This is Mayor Helbling.

Steve Bakken: Yes.

Tim Helbling: OK. I just have a couple of things. We're talking about one entity taking control of the bridge, and I'm not an attorney, but I don't know if one entity whether it's the City of Bismarck, Burleigh County, Morton County or Mandan, could actually take control of this bridge because you're going outside of your territory.

Steve Bakken: Yes.

Tim Helbling: You're probably going to be one entity.

Steve Bakken: You're – this is multi-jurisdictional.

Tim Helbling: Right. So, I think that's ...

Steve Bakken: That's one of the things – one of the reasons I brought up the Grand Forks – this Grand Forks Bridge because that was a situation where there were multiple entities involved in that. So, I think that's probably a better comp.

I do know at this time financially the City of Bismarck is not in the position to manage that on their own, so it would be multi-jurisdictional no matter what scenario took place, whether the bridge remains in place or it was relocated to another venue.

Tim Helbling: And we'd probably have to review the State Parks on record or an entity like that taking control of the bridge or in agreement between the two counties or the City of Bismarck.

Steve Bakken: Yes, that would be my thought.

Male: I guess that's one big concern I have, is, can you get two entities to agree on taking a property like this.

Steve Bakken: Well, I ran on trying to get entities to agree, so we're working on things like that.

Tim Helbling: And I guess another question for the Friends group too is, if the bridge stays, we all know what putting another pier in the water does to the water flow, and it does have adverse effects to the City of Mandan.

The City of Mandan is going to need to go after not only BNSF but whoever owns that other bridge and allowed it to stay because even one pillar in that water in that location we know has a tremendous effect on where that Missouri River flows.

Steve Bakken: Well, and I'll echo your thoughts on that because those are the same concerns that we'll have to look at in the community of Bismarck as well.

Tim Helbling: The City of Bismarck is taking their drinking water from below ground. The City of Mandan is not doing that.

Steve Bakken: Correct. Yes, and that is something I can assure you that we would be cognizant of as well, not to – to make sure that Mandan wasn't put in an untenable position.

Tim Helbling: Right. And I just want to make sure that the Friends realize that we have a freshwater intake, a well water intake at the base and then not only that but the

Heart River that this could very well impact and it goes a lot more than just saving the bridge. You could save the bridge and you can destroy a community at the same time. I'm not – I'm not saying that's going to happen, but that needs to be looked at.

Steve Bakken: And I do echo those concerns, saying that would be something, like I said, I would be extremely cognizant of.

And actually, Mayor Helbling, when you have some time, I would like to visit with you about this and maybe some other topics as well, so.

Tim Helbling: Sure, I'll give you a call.

Steve Bakken: OK, perfect. Thank you very much and I do have to get off now. So, I do appreciate the conversation, everyone.

Rob McCaskey: Thanks for being here. OK, any questions or comments on what we just heard?

Chris Wilson: This is Chris with the ACHP. I mean this is the kind of conversations we've been hoping to have and I really feel like this is very productive. I mean no one wants to save our bridge if the consequence is going to be an adverse effect on the community.

So, no one's intention is sort of going that direction, but I do think that this is a very clear-eyed discussion that's going to lead us on the right direction. So, if it makes anyone feel any better, the BP Oil disaster, there is a PA for that.

The North Dakota Access Pipeline, there was – 106 is involved there. There's a lot of very, very complicated issues that 106 is used to address within the realm of historic properties. So, I don't want people to think that this is too complicated or too difficult to address. And I feel like this is really moving and being very productive and I'm very pleased that the municipal stakeholders were at the meeting today.

Rob McCaskey: Anyone else? OK, the next item on the agenda is 4B. People welcome from municipalities to comment any further. We covered quite a bit of it. It's input

from municipalities, what information the local government representatives need to make informed comments regarding the future of the BNSF bridge over the Missouri River? Is there any further information that would be appropriate at this time that you would look for that FORB or BNSF can provide you? And when I say you, I'm talking about the Mandan and the Captain's Landing Township entities.

Tim Helbling: And just from the Mandan standpoint, we would need to know what river flow studies you've done with the placement of the piers and what effects they're going to have if you leave the bridge, you put another one 30 feet north of that bridge, what effect is that going to have on the water flow and the water current? I mean that's going to be a big thing to us. And I think spelled off most of the other ones as we talked earlier.

Rob McCaskey: Thank you, sir. Any questions?

Fred Rios: Yes, Rob, this is Fred Rios. I have to agree 100% with Mayor Helbling. The same way in our township over here, like right now, the river is high and there is a lot of stressful things on the – on the shores of the river there. I mean that – it isn't like the 2011 flood. I mean that 2011 flood, the river flowed over the grass and everything, but now, it's really raising the level with the banks, eroding our banks and everything.

And like Mayor Helbling said, what (inaudible) structural is it going to create on our townships and across Mandan and the City of Bismarck? Thank you.

Susan Quinnell: This is Susan Quinnell with SHPO. I thought I heard that the Corps of Engineers is on the line at the beginning. If they are still on the line, do they have any comments?

Rob McCaskey: Susan, I think maybe she's gone away .

Kitty Henderson: This is Kitty, I'm sorry, I've got another meeting coming up about 10 minutes, so I'm going to sign off. Thank you.

Rob McCaskey: Thanks, Kitty. OK, Mrs. Quinnell, I'm going to say that she's not on the line and I'll move on. Sorry about that.

OK, if there is no further comment on that, the next item is comments and response for the citizens of Captain's Landing Township board of supervisors meeting. Did that document make it out to the group?

Lori Price: Yes, we sent out the minutes and also they had provided a separate document which was citizen comments, and those were both sent out.

Rob McCaskey: OK. And I encourage everybody that's involved to read those. There is a myriad of comments both in support and not so much in support of maintaining the bridge. They're unstructured and I'm sure that they'll get more detailed as we get closer to a decision, one way or the other. Any comments about those or anything – anyone wanted to say?

OK, hearing none, moving on to the Item 3, Mandan Park Board minutes. Was that item sent out to the group?

Lori Price: Yes. So, that was board-documented minutes from Mandan Park annual budget meeting and there was also an email that accompanied that - a copy of an email. That – those went out. I believe those were attached to the meeting invite.

Rob McCaskey: OK. Any comments regarding those minutes? OK, then hearing none, I'll move on to the last item, which was a discussion regarding termination of Section 106 agreement. And I think Chris Wilson wanted to make some comments about that.

Chris Wilson: Yes. I don't think it's necessary today, I'd like to defer. And I don't think we're going to be heading towards termination. So, I'm hoping that we never even have to discuss that. If someone wants to talk to me offline, you can call me and I can send you information, but I think I want to just put that off because I don't think we're heading that direction.

Rob McCaskey: In fact, I'd say we're heading the opposite direction after some of the good discussions we've had today, Chris.

Chris Wilson: I agree.

Rob McCaskey: OK. Strangely enough, we've gotten through the entire agenda today. So, it's the first time I think that's happened.

Lori Price: Great.

Rob McCaskey: Yes. We discussed at the beginning of the meeting a bit of a suspension. I'm going to go for four weeks and let's plan on the next telephone conference on October 10th at 2 o'clock. And I'll be talking to our FORB representatives offline to set some time offline for them.

We can discuss those together, but it's not going to be for a few days. I've got some medical stuff coming up, so, I wouldn't be at the office till Friday. But Mrs. Wefald and Mr. Zimmerman, I'll be in touch with you guys, and everyone else at FORB to discuss how we move forward.

Susan Wefald: Thank you.

Lori Price: So, Rob, this is Lori. Just for clarification, we had the next meeting scheduled on October 3rd. Are you saying you're going to have it on the 10th?

Rob McCaskey: Yes, let's go – let's go a month instead of three weeks.

Lori Price: Yes.

Rob McCaskey: That will give FORB some time to do their work and come back with something. They actually want some more time, right? They want two months, and we'll have a meeting at one month, get an update probably and then look to some more after that. But that's all for the discussion today ...

Lori Price: OK, great, thank you.

Rob McCaskey: Anyone else?

Mark Zimmerman: Rob, this is Mark Zimmerman. Yes, this is Mark from Friends of the Rail Bridge.

Rob McCaskey: Yes, sir.

Mark Zimmerman: I'm going to sign off here too, but before I do, I would – I much appreciate your willingness to visit with Mrs. Wefald and I on those timelines and considerations. And my thanks to everybody for, I think, a very productive meeting here just as we have talked all along, it's good to get these discussions for both mayors to be here, that was great.

But my only comment is, please, I don't mean this in a negative way, is we've scheduled a couple of meetings and then the date changes, and I know people's schedules change. But I hope that we're looking at a month out. I'm a retired guy but I volunteer for a lot of groups and sometimes, it's difficult for me to move a date.

So, I would hope if somebody's schedule of the major parties involved, if that schedule did change, please give us as much heads up time as possible if that date and time is going to change. I scrambled to get this one. We had it moved. I think it was originally looked at as the 12th or something and then it's the 11th, which is fine, but sometimes I just – I just take as much time as we have to help us in -- so we get good participation.

I got to think if we want the mayors to be part of this discussion again to allow them as much time to keep their schedule in mind. But again, my sincere thanks to everybody for a great meeting and I'm going to sign off as well. Thank you.

Rob McCaskey: Fair enough. Good comments. Anyone else? OK, hearing none, I will call the meeting to adjournment. Have a great day, everyone. See you in a month.

END

