

MINUTES MEETING OF THE BOARD OF EXAMINERS

October 9, 2012

The Board of Examiners met on Tuesday, October 9, 2012, in the Guinn Room on the second floor of the Capitol Building, 101 N. Carson St., Carson City, Nevada, at 10:00 a.m. Present were:

Members:

Governor Brian Sandoval
Attorney General Catherine Cortez Masto
Secretary of State Ross Miller
Clerk Jeff Mohlenkamp

Others Present:

Deborah Cunningham, Department of Education
Pete Anderson, Nevada Division of Forestry
Caleb Cage, Office of Veteran's Services
Kay Scherer, Department of Conservation and Natural Resources
Keith Wells, Motor Pool Division
Rudy Malfabon, Department of Transportation Las Vegas
Erich Storm, Chapman Law Firm
Cameron Vandenberg, Attorney General's Office
Nancy Bowman, Attorney General's Office
Betsy Aiello, Division of Healthcare Finance and Policy
Louise Bush, Division of Welfare and Supportive Services
Dave Prather, Nevada Department of Forestry
Dave Stewart, Division of Welfare and Supportive Services
Julia Teska, Department of Education
Amber Howell, Department of Child and Family Services
Patrick Sheehan, Enterprise Information Technology Services
John Whaley, Department Health Care Finance Policy
Lynn O'Mara, Department of Health and Human Services
Bonnie Callahan, Department of Health and Human Services
Cameron Vandenberg, Attorney General's Office
Kim Perondi, Purchasing Division
Jim Lawrence, State Lands
Steven Aldinger, Real Estate Division
Renee Olson, Department of Employment, Training and Rehabilitation
Leah Lamborn, Department Health Care Finance Policy
Katie Armstrong, Attorney General's Office
Clark Leslie, Attorney General's Office
Doug Besselmen, Nevada Farm Bureau
Cy Ryan, Las Vegas Sun
Dennis Gallagher, Attorney General's Office
Steve McBride, Department of Child and Family Services

Brian Duffrin, Gaming Control Board
Shawn Reid, Gaming Control Board
Julie Kidd, Public Works Division
Shannon Chambers, Business & Industry
Tamara Nash, Department of Employment, Training and Rehabilitation
David Schwartz, Las Vegas Sun
Ed Vogel, Las Vegas Review Journal
Teri Preston, Public Works Division
Sandra Cherub, Associated Press
Ryan High, Secretary of State
Steve Fisher, Division of Welfare and Supportive Services
Michael McMahon, Division of Welfare and Supportive Services
Sean Whaley, Nevada News Bureau

1. PUBLIC COMMENTS

Comments:

Governor: Good morning, everyone. I call the Board of Examiners' meeting to order. Is the Attorney General in Las Vegas? Oh, then, we'll wait. We'll wait because she's supposed to be here. Can you hear us loud and clear in Las Vegas? Was that a yes? Can you hear us? Good morning, Madam Attorney General, are you prepared to proceed?

Attorney General: I hear you, Governor. Thank you very much.

Governor: You're welcome. We'll move to the first item on the Agenda, which is public comment. Is there any member of the public here in Carson City that would like to provide public comment to the Board? We'll move to Las Vegas. Is there any member of the public who would like to provide public comment to the Board in Las Vegas?

Attorney General: There doesn't appear to be, Governor.

*2. FOR POSSIBLE ACTION – APPROVAL OF THE SEPTEMBER 11, 2012 BOARD OF EXAMINERS' MEETING MINUTES

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: Thank you. We'll move on to Agenda Item No. 2, approval of the September 11, 2012 Board of Examiner's meeting minutes. Have the members had an opportunity to review the minutes, and are there any changes?

Attorney General: I'll move for approval.

Secretary of State: Second.

Governor: The Attorney General has made a motion for approval of the minutes of September 11, 2012. The Secretary of State has made a second. Any questions or discussion on the motion? All those in favor, please say aye. Motion passes unanimously.

*3. FOR POSSIBLE ACTION – NOTIFICATION OF INTENT TO FILE FOR A GRANT OR LOAN FROM THE DISASTER RELIEF ACCOUNT WHICH REQUIRES AN EXTENSION TO COLLECT DATA

A. Department of Public Safety – Division of Emergency Management – Caughlin Fire

Pursuant to NRS 353.2755, the Division of Emergency Management, City of Reno, Sierra Fire Protection District, Truckee Meadows Fire Protection District, and Washoe County are requesting

additional time to the original extension due to the Federal Emergency Management Agency (FEMA) requiring additional time to process the Federal Management Assistance Grant (FMAG) documentation submitted by the state. Emergency Management respectfully requests an extension to the original request of November 18, 2012 to June 1, 2013.

B. Department of Public Safety – Division of Emergency Management – Washoe Drive Fire

Pursuant to NRS 353.2755, the Division of Emergency Management, Sierra Fire Protection District, Truckee Meadows Fire Protection District, and Washoe County are requesting additional time to the original extension due to the Federal Emergency Management Agency (FEMA) requiring additional time to process the Federal Management Assistance Grant (FMAG) documentation submitted by the state. Emergency Management respectfully requests an extension to the original request of January 19, 2013 to August 1, 2013.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Attorney General

Vote: 3-0

Comments:

Governor: We'll move on to Agenda Item No. 3, notification of intent to file for a grant or a loan from the disaster relief account which requires an extension to collect data. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board are two separate requests, if you would like to take them together. The first is related to the Caughlin fire, and this is a request to extend the timeframe in which to complete the gathering of information and submit a full claim before the Board from November 18, 2012 to June 1 of 2013. The second is related to the Washoe Drive fire, and this is a similar request to extend the time from January 19 of 2013 to August 1 of 2013. In both these cases, they're waiting for some information from the federal government in order to fully complete their request and claim before the Board.

Governor: And this is simply to not penalize them because FEMA has not acted upon the information that was provided to it?

Clerk: Absolutely. This would allow them to have some additional time. It's a valid claim that they can come back before the Board if, after they've considered all of the federal funding available and their own internal resources, they still have a claim that's before the Board, then we'll be considering it at that time.

Governor: Thank you very much. I have no further questions. Do other members of the Board have questions regarding this Agenda item? Hearing none, the Chair will accept a motion for approval.

Secretary of State: I move for approval.

Attorney General: Second the motion.

Governor: The Secretary of State has made a motion to approve the extension of time to collect data as stated in Agenda Items 3A and B. Attorney General has seconded the motion. Any questions or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

***4. FOR POSSIBLE ACTION – STATE ADMINISTRATIVE MANUAL**

The State Administrative Manual (SAM) is being submitted to the Board of Examiners' for approval of clarification in the following Chapter: **0300 – Department of Administration – Purchasing Division.**

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Attorney General

Vote: 3-0

Comments:

Governor: We'll move on to Agenda Item No. 4, State Administrative Manual. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board is one amendment to Chapter 0323 of the State Administrative Manual. And what this is asking -- what this is clarifying, you know, this has been kind of a difficult process. This is current and former employees which we've seen quite a few times before the Board, but there's still the confusion out there with regard to this two-step process that they first need to come before the Board to get approval of essentially the association of that relationship with the current or former employee, and then come back at a subsequent Agenda before the Board for approval of the contract itself. This is just making it crystal clear, because there's still a little confusion out there, but I also wanted to tell you that while we're asking for this amendment now, we will be hoping to reverse this. I do have a BDR that I've submitted to try and clean up this process so that it's not this cumbersome two-step process on a going forward basis. And if the legislature approves it, then we'll be able to pull this back and have a more streamlined process.

Governor: I do have one question because we have a couple of these on our Agenda today, that there have been some cases where the employee is hired and performs the temporary service, and then after that's completed, then it comes to the Board for approval.

Clerk: Yes. And in fact we have two on the Board. We've seen a couple of these others come through before where they're essentially retroactive approval for something that's an ongoing -- the ones you have -- the ones you have today are things that they've done the work and now they're coming back and letting you know that they've done it. There is some provisions within the bill, and now the statute, that provides for the Director or the head authority to go forward with an emergency to fill these positions on an emergency basis. And I think this is what's being relied upon by many of the parties. And so there's some confusion on that as well. I mean, obviously the intention is for them to come before the Board, but there's also that emergency provision that if they're up against it, so, you know, where they need to get the work done, you

know, more quickly, some of them are availing themselves of that. Whether its lack of planning or whether it's just the emergency situation comes up, you know, it's probably a case by case.

Governor: And what I'm seeing is that most of these have to do with budget preparation, and that there was one individual within a department that may have retired was on sick leave, and somebody needed -- they needed to get somebody who had done this previously. And I guess going forward we need to make sure that there are more than just one person who has that knowledge in a particular department to perform that function so that we can avoid this in the future.

Clerk: You know, I would agree. I think that one of the things we're seeing and throughout the budgeting process is that there's been such an amount of what I call turnover, and it's basically people shuffling positions into other state government positions. And so I think we're seeing generally that the -- some agencies have really needed to reach out and get some prior experience to help with the budget building. I think we've seen five or six occasions where it's come forward where we've seen that. So this is -- these are coming forward essentially after the fact, but we have seen that that's a bit of a trend line, and I think it's something that I'm looking at as trying to beef up the training next time around, because I think that's something else we need to create a deeper bench.

Governor: No. And thank you, you put it perfectly. And, I know, I understand things happen, but I think we out to be sure that there's more than, as I say, one person who's capable of performing those duties. So again, building a deeper bench is a good way to put it. All right. I have no further questions regarding this Agenda item. Board members, do you have any questions?

Attorney General: Governor, I do have a question for Jeff. So essentially are we saying this is a two-month process? One month to get an approval from the Board of Examiners, and if they approve it, the next month then they execute the contract? Or could this be just one month, both of them be on the Board Agenda at the same time so that you get approval, and then once it's approved, that contract is on that same Agenda?

Clerk: Thank you, Madam Attorney General. I'm assured through legal counsel that the way the bill is written and the way it's in statute, that we actually have to have a two-step process. One month we get the approval of the -- essentially the association or the relationship with the former prior -- former current employee, and then have to come back in a subsequent Agenda for the approval of the contract. That's the legal guidance I've been given. We looked at that pretty carefully many, many months back when I first started this job because I was concerned of the labor some process, but we're still going under that guidance at this point in time, and that's what the BDR is intended to is clean that up so that going forward it will be a one-step process as opposed to two different Agendas.

Attorney General: Okay. Thank you.

Governor: If there are no further questions with regard to Agenda Item No. 4, Chair will accept a motion for approval for the clarification as described in Agenda Item No. 4.

Secretary of State: Move for approval.

Attorney General: I'll second.

Governor: Secretary of State has made a motion for approval. The Attorney General has seconded the motion. Are there any questions or is there further discussion on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

***5. FOR POSSIBLE ACTION – AUTHORIZATION TO CONTRACT WITH A FORMER EMPLOYEE**

A. Department of Employment, Training & Rehabilitation

Pursuant to Assembly Bill 240, Section 1, Subsection 2 – 3 of the 2011 Legislature, DETR requests authority to extend the contract with a former employee, through a temporary service, for continued assistance with the preparation of the department's 2013-2015 biennial budget. In addition, this former employee will provide training to ESD program staff for program level executive budget preparation and on-going monitoring of division budgets. The term of assignment would be upon approval through January 18, 2013.

B. Department of Health and Human Services – Director's Office

Pursuant to Assembly Bill 240, Section 1 of the 2011 Legislature, Capgemini Government Solutions, LLC requests authority to contract with a former state employee who will provide assistance in meeting the accelerated deadlines and deliverable associated with the implementation terms, conditions and requirements of Nevada's ARRA Health Information Technology for Economic and Clinical Health (HITECH) State Health Information Exchange (HIE) Cooperative Agreement.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Attorney General

Vote: 3-0

Comments:

Governor: Agenda Item No. 5, authorization to contract with a former employee. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board, under Agenda Item 5A, the Department of Employment Training and Rehabilitation is requesting approval for a temporary service with a preparation of the department's biennial budget. Now, they're looking at some work going through the Governor's recommended phase of the budget. They're looking for this to go from approval of the contract through January 18 of 2013.

Governor: Will you also cover 5B as well?

Clerk: So under 5B, this is an employee that went to work for Capgemini Government Solutions, LLC, so this basically since that employee went to work for a vendor, they're requesting approval of that employee to essentially have that relationship.

Governor: Thank you, Mr. Mohlenkamp. I have no questions regarding this Agenda item. Board members, do you have any questions? Hearing none, the Chair will accept a motion for approval.

Attorney General: Governor, I'm sorry, I do have a quick question. Can you explain to me, with respect to Item No. B, in essence, if I read this correctly, and I may be wrong, but the Director's office has a contract with an independent company, and that company wants to hire a former state employee, and they're coming for us to say can we hire this state employee sooner rather than later. In other words, there's normally a year cooling-off period for this employee, but instead of requiring that year cooling-off period, that employee now is asking for a waiver so they can start working with this company and work on state contracts immediately; is that correct?

Clerk: Madam Attorney General, I'm not clear whether the person is already working or not. I'd have to look at my materials again whether the person has already gone to work for the company, or whether that's something that they're proposing to do on a going forth basis. And I have someone coming to the table who can answer that question. But as far as the cooling-off period, I'm not sure that that terminology exactly is not quite what's in the statute, but it is two years, and this approval process is the period that if it's within that two-year period, this approval process is what they have to go through.

Governor: Good morning, and if you'd please identify yourself for the record.

Lynn O'Mara: For the record, Lynn O'Mara, State Health IT Coordinator, Director's Office, Department of Health and Human Services. Currently Ms. Hansen is not working for Capgemini. They would like to employ her to assist with the work they're doing for us on the grant for the health information exchange. It was our understanding from the process that we had to amend their original contract which did not include the language regarding hiring former employers. That's now been done. And then we had to go through this process for them to first request that they could even have her working, because they would like her to work on this, but they have not had her working on this at all. They have not hired her.

Attorney General: Okay. And this is why I just need a distinction and clarification. All of the other, if I remember correctly, types of approvals we received were for temporary employees to come in like (a) where they're coming in for a short period of time, work for two or three months because they previously worked at the state and their experience was needed. This is a little different, and that's why I want to highlight this, because I am unclear as to (1) what our state policy is with respect to state employees, whether there is a cooling off period or not, and somehow does this -- what we're doing here waiving that cooling off period for this employee to go to work for an independent company who just happens to have a contract with the state, and that employee would be working with the state. If I look at these employment dates that they want to hire this individual to work on the state contract, it's from July, 2005 to August, 2011.

And so that's why I just need clarification on it, because this is a different type of relationship that we're asking approval for, and I think this is the first time that it has come to the BOE in this type of relationship.

Governor: I recall a similar situation I believe it was with the Department of Transportation, and Director Martinovich who had some DOT employees that were working for a private entity and she was seeking permission for that. Again, that's my vague recollection.

Clerk: Governor, yes. I believe you're exactly right that we've seen some engineers, people of that nature, that have gone to work for a firm that's doing work on behalf of the Department of Transportation as a vendor essentially. And we've seen that come before the Board before.

Attorney General: No. And I don't question that. I guess the point is, this is a different type of animal and if we are going to start waiving the cooling off period, if there is one, then are we requiring some sort of reason why we're waiving it? Is it mandatory that this expertise is necessary to be working on this contract? Clearly, I do not want to hinder this independent company from hiring this state employee. The question is whether the state employee should be able to work on a state contract, and that's kind of what my question is here. Listen, I don't want to oppose anybody from getting an independent job and getting work. That's not what the goal is here, but this is a different type of animal. I'm just asking questions with respect to do we have a separate policy on this, or does it even matter? Do we not have a cooling off period? Do we not have independent criteria that we even have to worry about?

Clerk: Once again, for the record, Jeff Mohlenkamp. Some boards and commissions have specific cooling off periods that apply to certain parties. I'm not certain whether this individual has any cooling off period beyond AB 240, which is what we're looking at here. So I can't really answer that question for this specific employee.

Attorney General: Okay. So why don't I do this. I'm going to vote to approve this, but what I would like is maybe just some follow up to the Board on the analysis of a cooling off period and does it apply to all state employee or not, and when that issue comes before us, is there a separate criteria you look at other than what we've been reviewing already, and maybe that's how we handle this one.

Governor: Thank you. I think that's a good suggestion, Madam Attorney General. Any further questions with regard to Agenda Item 5A and B? Hearing none, the Chair will accept a motion to approve the authorization to contract with a former employee as described in 5A and B.

Secretary of State: Move for approval

Attorney General: Second.

Governor: The Secretary of State has made a motion for approval. The Attorney General has seconded the motion. Any questions or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

***6. FOR POSSIBLE ACTION – REVIEW OF A CONTRACT WITH A FORMER EMPLOYEE**

A. Public Utilities Commission of Nevada

Pursuant to Assembly Bill 240, Section 1, Subsection 3 of the 2011 Legislature, the Public Utilities Commission (PUC) hereby seeks a favorable Board of Examiner's recommendation regarding the PUC's determination to contract with a former state employee from July 2, 2012 to August 6, 2012, to assist the Public Utilities Commission (PUC) with their Agency Request budget preparation due to an unplanned fiscal staff vacancy and lack of personnel with state budgeting experience.

B. Governor's Office of Economic Development

Pursuant to Assembly Bill 240, Section 1, Subsection 3 of the 2011 Legislature, the Governor's Office of Economic Development (GOED) hereby seeks a favorable Board of Examiner's recommendation regarding the GOED's determination to use the emergency provision to use a temporary services contract from August 20, 2012, to August 31, 2012, to employ a former state employee to prepare the GOED's Agency Request budget for the 2013-15 Biennium.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Attorney General

Vote: 3-0

Comments:

Governor: Agenda Item No. 6, review of a contract with a former employee. Mr. Mohlenkamp.

Clerk: Okay. So this is the first time we've agendaed this in particular because these were the two we were just mentioning, and then this are essentially not asking for any approvals because the contract has already come and gone. In the first, it's the Public Utilities Commission which employed a former state employee from July 2, 2012 through August 6 of 2012 related to budget assistance. And in the second, it's the Office of Economic Development which employed a former state employee from the period of August 20, 2012 through August 31. So essentially 11 or 12 days. And this is once again to assist in the closure and completing their budget submission. So both of these, there's really no approval at this point, it's just more of a review for the Board to identify whether they would have had any concerns with these particular associations. They were both under the emergency applications within the statute.

Governor: So you're saying that we don't need to take any action on this? I mean, it's a self-declared emergency, and I suppose they have -- do the agencies have the ability to do that?

Katie Armstrong: Thank you, Governor. Per the statute, the agency does declare the emergency, and they can only employ the employee for less than four months. Then they submit the contract and the reason for the emergency to the Board, and your role is to review it at this point and discuss it and let the agency know whether you would have approved it or not. And that's how the statute reads.

Governor: So we won't take action on it. My only comment is similar to what I said before, but I don't want these to start going into a beg for forgiveness rather than ask for permission.

And both of these were budget items that -- and a former employee was brought in to solve. One of them had to do with an unplanned staff vacancy, and as I said, since I wasn't there obviously, I don't know exactly what the facts were underlying this, but just in the future, I'm just hopeful again that there's, as Mr. Mohlenkamp said, a deeper bench, so that we're not having to do this. And it would be my preference that we have the ability to improve these up front, but, as I said, I'm not going to make that an absolute rule, obviously. I don't know if any of the other Board members have any comments.

Secretary of State: I just have a clarifying question. If we don't need to take action per this statute NRS 284.1729 which says that the Board of Examiners shall review the contract and notify the department whether the State Board of Examiners would have approved the contract if it had not been entered into pursuant to this subsection, what notification would we be sending to the agency absent any action being taken by this Board?

Katie Armstrong: I don't think we've done that in the past, so if you want to send a notification, if the Board wants to do that, or you can approve -- you can approve this in the opening meeting or disapprove if you'd like, and that would be the notification to the agency.

Secretary of State: Are you reading the statute as optional as to whether or not we take action, and if so, how will we arrive at that interpretation?

Katie Armstrong: No, not necessarily reading it like that. I think it would -- my advice would be to approve or disapprove at this meeting and that would be the notification today.

Secretary of State: Okay. So it does require we take some action to notify them whether or not we would have approved this...

Katie Armstrong: Correct.

Secretary of State: ...had it been entered into per the subsection.

Katie Armstrong: Correct. That's the way I read it.

Governor: Any further questions or comments? Hearing none, the Chair will accept a motion.

Secretary of State: I will move to approve notification to the department that had this matter come to the Board of Examiners we would have approved the contract if it had not been entered into pursuant to the subsection for the items listed under Agenda Item 6A and B.

Attorney General: I'll second the motion.

Governor: The Secretary of State has made a motion for approval. The Attorney General has seconded the motion. Any further questions or discussion on the motion? All those in favor, please say aye. Motion passes unanimously.

***7. FOR POSSIBLE ACTION – REQUEST FOR GENERAL FUND ALLOCATION FROM THE INTERIM FINANCE COMMITTEE CONTINGENCY FUND**

A. Nevada System of Higher Education – Aid To Dependent Children –\$14,000

The Nevada System of Higher Education, on behalf of the Nevada Board of Regents, requests a \$14,000 Interim Finance Committee Contingency Fund allocation pursuant to Assembly Bill 476, Section 1 of the 2011 Legislature.

B. Department of Education – Education State Programs – \$19,800

The Department of Education requests an allocation of \$19,800 from the Interim Finance Committee Contingency Fund to cover the costs of travel for the Superintendent of Public Instruction to fulfill his statutory responsibilities. This request will allow for travel to the 2013 Legislative Session and other legislative meetings and hearings, as well as, travel to State Board of Education meetings and visits to each school district.

C. Department of Conservation and Natural Resources – Division of Forestry – \$3,933,663

Pursuant to NRS 353.268, the Department of Conservation and Natural Resources, Forestry Division is requesting an allocation of \$3,933,663 from the Interim Finance Contingency Fund to cover the claims associated with firefighting expenditures that the state has incurred in its Forest Fire Suppression Account in addition to the amount the agency estimates will be the state's liability for projected resources to the end of fiscal year 2013.

D. Commission on Veteran's Services – Office of Veteran's Services – \$83,030

Pursuant to NRS 353.268, the Office of Veteran's Services is requesting an allocation of \$83,030 from the Interim Finance Contingency Fund to fund the addition of two new Veterans Services Representative 1 positions.

E. Department of Conservation and Natural Resources – Division of Conservation Districts – \$28,265

Pursuant to NRS 353.268, the Department of Conservation and Natural Resources, Conservation Districts Division is requesting an allocation of \$28,265 from the Interim Finance Contingency Fund for three new Conservation Staff Specialist II positions. These positions are being requested to implement one of the high priority recommendations from the Governor's Greater Sage-Grouse Advisory Committee's Strategic Plan, dated July 31, 2012. The three positions will be split 25% General Fund and 75% other funds/federal receipts.

F. Department of Conservation and Natural Resources – Director's Office – \$289,109

Pursuant to NRS 353.268, the Department of Conservation and Natural Resources, Director's Office is requesting an allocation of \$289,109 from the Interim Finance Contingency Fund to fund the creation of a state multi-disciplinary technical team -- the Sagebrush Ecosystem Team -- to coordinate and maximize Nevada's efforts to avoid listing of the Greater Sage-Grouse. This Sagebrush Ecosystem Team will be comprised of five staff members and will serve as the Nevada technical team with a full-time focus on Sage-Grouse and sagebrush ecosystems issues and initiatives. This is one of the high priority recommendations from the Governor's Greater Sage-Grouse Advisory Committee.

G. Department of Administration – Board of Examiners – Statutory Contingency Account – \$380,000

Pursuant to NRS 353.268, the Department of Administration is requesting a \$380,000 allocation from the IFC Contingency Fund to replenish the Reserve for Statutory Contingency Account.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: Agenda Item No. 7, request for general fund allocation from the IFC Contingency Fund. Mr. Mohlenkamp.

Clerk: Thank you, Governor. I think we have people here that are available to speak to Items B, C, D, E and F. I can speak directly to G and very briefly on Item A which is starting with letter A was the system on higher education. This is -- in statute there was authority for the system to come forward to the Board if they have inadequate reserves in their trust fund to pay for the schooling for the tuition of children of police officers, firefighters, ambulance drivers and attendants who have been killed in the line of duty. They're coming forth before the Board for seeking a Contingency Fund allocation of \$14,000 as their analysis indicates that they will have inadequate reserves to meet all the needs.

Governor: Please proceed.

Clerk: Did you want to take these all at once or one at a time?

Governor: I think we'll take them all at once.

Clerk: Okay. So B is the Department of Education, and they're seeking an allocation of \$19,800. This is related to travel costs for the superintendent, and this is to make up for really what is essentially inadequacy in their budget. The superintendent lives in Las Vegas, and has frequent needs to travel to Carson City, especially with the upcoming legislative session. And then also he's required to get out to the school districts and to make a visit to 17 different school districts. I believe someone from the Department of Education is here to provide additional testimony.

Governor: Do any of the Board members have any questions with regard to this Agenda item, 7B.

Secretary of State: No, Governor.

Governor: Well, I don't know if there are any questions, but if you want to provide any background.

Deborah Cunningham: Good morning, Governor Sandoval and members of the Board of Examiners. I can give you a brief overview.

Governor: And if you'd just identify yourself for the record.

Deborah Cunningham: Yes. I am Deborah Cunningham, Deputy Superintendent for Administrative and Fiscal Services at the Department of Education. And I'm here to ask for \$19,800 from the Interim Finance Committee Contingency Fund to cover, as the Director said, costs of travel associated with the Superintendent of Public Instruction and meeting his statutory responsibilities. And by way of background, I would point out that this is the Superintendent's first year, and the first year of the Governor's oversight of education, and together they are taking the Education Department in a new direction to significantly improve Nevada's education results for its children. We are focusing on lowering the drop-out rate, increasing reading proficiency, and reducing the gap in student achievement, while increasing the productivity of the entire system.

The kinds of meetings that require in-person attendance are meeting related to the legislative session, State Board meetings, district visits that are required by statute, and meetings concerning organizational changes in the department to improve its efficiency and effectiveness. As the Director noted, the Superintendent's home base is in Las Vegas at the department site there where 70 percent of the state's students are located. This is also where the dropout rate is highest, reading proficiency is the lowest, and the gap in student achievement is the greatest. While it's important that the Superintendent give focused attention to improving student achievement and turning around some of our lowest performing schools, it's also important that he spend time in Carson City and review educational programs and services around the state. The current budget for the Superintendent is \$9,000. The additional funds requested would support travel to visits to all districts as required by statute, and 25 trips to Carson City for Board meetings and meetings associated with the legislative process. So that's an overview of our request, and I would take any questions that you might have.

Governor: Thank you. That was very thorough. Questions from Board members?

Secretary of State: No, Governor.

Governor: Has the Superintendent begun his visits to the respective districts throughout the state?

Deborah Cunningham: He has. We have visited nine districts and we're hoping to conclude the other visits by the end of November and they have been very instructive, both in relationship building and understanding the diversity of education in the State of Nevada.

Governor: Thank you. Thank you very much, Ms. Cunningham. We'll move on to 7C, Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board is a request for an allocation from the IFC Contingency Fund for \$3,933,663. This is related to firefighting costs anticipated through the remainder of this fiscal year, and I believe representatives from the Division of Forestry are here.

Governor: I see Mr. Anderson.

Pete Anderson: Good morning, Governor. Good morning, members of the Board. Pete Anderson, State Forester and Fire Warden, Nevada Division of Forestry.

Governor: Will you provide us with just a little bit of background regarding the request?

Pete Anderson: Certainly. I think as everyone knows we've had a very active wildfire season all through the winter, both of 2011 and 2012. During August we experienced some extensive lightning activity that resulted in a week of 55 large fires. To date we've burned about 666,000 acres across the state. Of that about 12 percent or 81,000 acres is non-federal lands, private, state and local government. So the costs that we experienced over the course of this summer are reflected in this request, and our estimate is based on the rest of the fiscal year.

Governor: In your memorandum, it says to cover claims associated with firefighter expenditures. Could you give me more specifics as to what those are?

Pete Anderson: Sure. A portion of those claims, of course, when we respond to federal land are reimbursable. But they generally include everything from the incident management team coming in respective to our proportion of the fire acres burned. The costs of firefighters, conservation camp crews, aircraft, everything that goes into the activity of suppressing a wildfire, and those costs that are complied. Costs are negotiated depending on the specifics of the fire, and then broken out based on responsibility.

Governor: So is this the net figure that the state's responsible for, or is there still a possibility that we may be reimbursed for some of this?

Pete Anderson: There's a lot of balls in the air, if you will, Governor, at this point in time. Certainly there could be more or additional wildfire activity as well. But as we go through each of the fires, we will continue to update the Budget Director and yourself as far as what we're experiencing for cost.

Clerk: And, Governor, I will point that sometimes these estimates, you know, they're estimates, and, for example, last year I believe they returned a big portion of the money that was allocated. So there might be -- there's the possibility of also return on that as well.

Governor: No. And that's what we all hope for, and I'd also like to take this opportunity to compliment you, because I know this has been an extremely tough fire season. I had the opportunity to tour, as you know, out in northeastern Nevada, and to see some of those crews in those remote places that were some of the most difficult terrain that there could possibly be, it just made me really proud of the job that you all do. And, I mean, we look at these numbers and those things, and I'm not going to question a penny of it. I just think it's important for us to obviously be aware of where we are with regard to fire suppression cost. But I think we are getting the absolute best bang for our dollar that we could ever ask for with the quality of services that you provide, so thank you.

Pete Anderson: Thank you, Governor. Appreciate it.

Governor: Any further questions from Board members with regard to this Agenda item? Thank you very much.

Clerk: Okay, Governor. Moving on to Item D, the Commission of Veteran's Services. This is the request of two additional positions, Veteran's Services Representative I positions. These are the positions that provide direct services to link returning veterans with services they need from the federal government and the state services, and I believe the Director is available to provide comments.

Governor: Good morning, Mr. Cage.

Caleb Cage: Good morning, Governor, and good morning, members of the Board. As Director Mohlenkamp pointed out, the Nevada Office of Veteran's Services is requesting an allocation from the Contingency Fund in order to implement two additional Veteran's Service officers in the state. We've provided a memo through Director Mohlenkamp that goes over the background. This goes back to an audit, an executive audit, that occurred in 2007 recommending that we implement additional Veteran's Service officer services throughout the state. Obviously we haven't been able to do that through the last two budget cycles, and right now we are anticipating continued downsizing from the military which is going to bring more and more veterans to the state. I've got far deeper details for any questions you or your Board may have, Governor.

Governor: If you would expand, Mr. Cage, because one of the issues that this is going to help resolve, there's still a long way to go, is the wait time for the veterans and also the amount of benefits that would be available because we'd have these two positions.

Caleb Cage: Yes, Governor. The additional benefits, now these are compensation pension benefits primarily. We get a report from the federal government on their gross distribution of expenditures annually. We've seen the GDXs it's called. We've seen the distribution of expenditures for Nevada grow increasingly in the State of Nevada over the last three years, the last three reports we've received from the federal government maintaining our current level of staff. Excuse me. We anticipate that each Veteran's Service officer brings in \$1.5 million of

compensation and pension benefits to local communities throughout the state, per Veteran's Service officer brought into the local communities. Not into our (inaudible) obviously.

We currently have wait times of up to eight weeks in the Las Vegas office, and wait times of up to five weeks in the Reno office. Currently in the Las Vegas -- or, excuse me, the Elko office, we are staffed sufficiently, and we are taking walk-ins as well as other scheduled appointments as necessary. We are certain that this will be able to increase the amount of revenue in Veteran's Services to individual veterans in the state. And in order to show that, we've invested in a software program that will allow us to calculate the performance of each Veteran's Service officer and have everybody achieve goals based on revenue return of the state.

Governor: My last question is, where will these two positions be housed?

Caleb Cage: Governor, the obvious location, we believe, and we're open to discussion on it, but we believe the obvious location has got to be Las Vegas right now. The just enormous population there and the fact that their population and their veteran populations match proportionately throughout the state just determines that for us.

Governor: And even more specifically, will that be at the new veteran's hospital complex?

Caleb Cage: Yes, Governor. At the new veteran's hospital, Director Bright, the hospital director there, has allocated us space. He's provided extra space so that we can grow. We asked him for additional space in case something like this were to happen in future budgets, and it currently, as of two weeks ago, our service officers are located at that hospital in Las Vegas, as well as at the nursing home, but these will go to the hospital.

Governor: Thank you. I have no further questions. Board members, do you have any questions?

Secretary of State: No, Governor.

Governor: Thank you, Mr. Cage.

Clerk: Thank you, Governor. Item E and F are both the Department of Conservation and Natural Resources. And these are new requests coming before the Board related to Sage-Grouse. We have representatives here that can discuss this in detail, but the first item is requesting three positions related to that effort directly, and the second request under Item F is requesting the establishment of a multi-disciplinary team. And both of these efforts are really geared towards taking a very proactive step forward. And the reason they're coming forward now is because of the time considerations are really -- need to move forward fast and I think we have representatives here to speak to it.

I do want to mention before my comments are done here, that I am currently looking at options to fund this other than the Contingency Fund or to minimize the Contingency Fund impact. I'm hopeful that my discussions over the next couple weeks will bear some fruit. And if that's the case then we will either reduce or even eliminate the Contingency Fund allocation request. But

right now I think this really needs to come before the Board because if those conversations don't bear fruit, then this really needs to get going. So appreciate it.

Governor: Good morning.

Kay Scherer: Good morning. For the record, I'm Kay Scherer, Deputy Director of the Department of Conservation and Natural Resources. Thank you for allowing me to introduce these two IFC contingency requests, specifically Items 7E and F. These requests are being brought forward by the Department of Conservation and Natural Resources to answer its assignment to expeditiously implement recent recommendations made by the Governor's Greater Sage-Grouse Advisory Committee for my executive order on March 30 of this year. Upon receipt of the Advisory Committee's document, the Governor on August 24 asked DCNR to quickly act. As we all know, should the U.S. Fish and Wildlife Service make a finding that lists the Greater Sage-Grouse, the damage to Nevada's economy would be substantial. The state has been given an opportunity by the federal agencies to demonstrate it has the ability and mechanisms to conserve the species and preclude the need for listing, but that demonstration timeframe is short, and the state's efforts must be evidenced by accomplishment.

Three initial implementation recommendations were made by the committee. These three recommended components will bring focus, transparency and coordination to the state's efforts to protect and conserve both the Greater Sage-Grouse and its sagebrush ecosystem. Two of these three components are the subject of the IFC contingency request before you, but first let me mention quickly the third, and that is the creation of a Governor-appointed Sagebrush Ecosystem Council to reflect the same cross section of representatives found on the short-term advisory committee. Because the U.S. Fish and Wildlife Service has committed 40,000 to assist Nevada with implementing the council in FY13, the work program will not require IFC Contingency Funds, but it will be with these items on the October 25 IFC Agenda.

Now, that brings me to the two items that are before you. In addition to the council, the other two items are a multi-disciplinary technical team, as the Budget Director mentioned. This is an interagency team that will work full-time on sagebrush ecosystem and Sage-Grouse issues, as well as 25 percent general funding for the addition of three regional specialists to strengthen on-the-ground efforts throughout key areas of the state by way of increased direction and coordination from the state's conservation districts program and its network of 28 established districts. The sagebrush ecosystem team is modeled after the interagency Tahoe Environmental Improvement team that has achieved much success in coordinating Nevada's efforts in the Tahoe Basin related to restoration, mitigation and habitat improvement.

As the need for these positions were not identified during the building of the current state budget, DCNR is seeking IFC Contingency Funds to establish the technical team and the local area specialists because time is of the essence and these positions must be hired and make progress as quickly as possible. This really is a situation where weeks and months matter. As I mentioned earlier, the state must demonstrate accomplishments and coordination above and beyond what is currently being done. Quite simply, failing to make such a demonstration would be to relinquish control over the issue without a fight. Moving very quickly out of necessity, as well as the

economic wellbeing of Nevada is under threat, and I look forward to answering any questions you might have about these contingency requests.

Governor: Thank you, Ms. Scherer. My first question, you said that the state must demonstrate competence in this area. Is this a stated or an assumed responsibility of the state in what will be the later contemplation or decision by Fish and Wildlife to determine whether the Sage-Grouse is going to be listed?

Kay Scherer: The U.S. Fish and Wildlife Service has given a very strong indication that in order for the state to be chosen in lieu of listing as having a handle on conservation and protection of the bird, and a good handle on maintaining that sagebrush ecosystem which is very, very important, that without the ability to demonstrate that we have that coordinated effort, and that we're bringing everything we have to bear, we will probably not prevail when they're making that listing decision.

Governor: And within this memorandum that was prepared by Director Drozdoff, there's a discussion on page two about a data call. You said time is of the essence, and it absolutely is, but will you give us a better idea of what those timeframes are and the determination of whether the bird is going to be listed?

Kay Scherer: All right. Thank you, Governor. It's probably important to understand that even with these IFC contingency requests, as we know, the goal that's laid out in these documents is for the team to be in place by January 1 of 2013. And also with one of the regional specialists to be in place at that time, followed by the two additional regional specialists on April 1. That would allow us to have the full year of 2013, as well as a good portion of 2014 before that data call occurs late in 2014. But in order to coordinate to be able to demonstrate landscape projects to show true progress, to set up a mitigation crediting bank to do all these things and show that they're working, that will be what is necessary to show the U.S. Fish and Wildlife Service that the state indeed has this under control.

Our great concern is the loss of even months would not allow us to give, for example, a full year of demonstration of what the technical team is able to do and how we're able to handle this from a policy level at the council level, put it in place with that interagency team, and then have that additional tier of the good work at the local level. And we really believe, and I believe more importantly, your advisory committee recommended that this is the type of structure that we will be looked -- they will look to the state to have in place to demonstrate its commitment to handling this issue as a state.

Governor: And thank you. And we're not alone. I mean, Utah, Wyoming, where do we stand in relation to other states with regard to the actions that we're taking?

Kay Scherer: Thank you for that question. No. In fact, this is an issue that affects I think it's up to 11 western states at this point in time, Nevada having some of the prime habitat. I think what is interesting is each state faces this challenge, but each state faces it in a different fashion. For Nevada, in addition to the challenges of how do we handle the approvals of development and those kind of disturbances, which is a large factor as a threat in other states, it is much less of a

factor in Nevada. The identified threats brought forward by your advisory committee are oil and fire. In basic species, a variety of other threats including the need for a regulatory mechanism in relation to development. But that is why it's so important to have this interagency team that is able to really deal with how fire and invasives are impacting the important habitat areas on a landscape basis. And it's also why within DCNR we're also looking at adjustments to our wild land fire protection program potentially in the '14, '15 budget. It's something we began working on years ago and hopefully that will dovetail very nicely at this time with the identified threat.

Governor: Thank you very much. I have no further questions. Board members, do you have any questions on this Agenda item?

Secretary of State: No, Governor.

Governor: Thank you very much, Ms. Scherer.

Kay Scherer: Thank you.

Governor: Item 7G.

Clerk: Okay, Governor. The last item for the Contingency Fund Allocation Request is Department of Administration, and I'm going to speak directly to that. That's to replenish the statutory contingency account as you recall. Last month we were here. There was the approval of two different settlements, one with Washoe County and the other with Reno Development Authority. And I mentioned to you that we would be coming back before the Board for a request, and this is that request. We've done analysis of past expenditures, looked back a few years to determine how much money we think we'll need in order to get through the remainder of this fiscal year, and the request before the Board is for \$380,000 to be moved from the Interim Finance Contingency Fund to the Statutory Contingency Fund.

Governor: Thank you, Mr. Mohlenkamp. Have we done any kind of analysis or are we settling more cases? I mean, we have the fire issues. Are there any outliers that we need to pay attention to in terms of what is costing more perhaps than we paid in the past?

Clerk: You know, there is a bit of volatility. This year what is really unusual is those two settlements that we entered into, because there's really not a lot of track record in those types of settlements having to come before the Board, not at least in the last few years that we looked at. Typically the major expenditures are for the public defender's office. And there's some budget initiatives that we're looking at to try and have those costs be a little bit more predictable. There is some volatility in that. Some years it's a few hundred thousand dollars higher than other years, and so that volatility is there, but we're -- you know, so we're looking at some ability -- the other costs that typically come out of this are legal costs associated with the Attorney General's office, with higher education and legal costs, things of that nature. So most of the costs that come out of this typically are legal in nature. They're paying for attorney's fees and things of that nature.

Governor: I have no further questions. Board members, any further questions?

Secretary of State: No, Governor.

Governor: Before I take motion for Agenda Item 7, any questions on 7A through G? Hearing none, the Chair will accept a motion for approval of the request for general fund allocations from the IFC Contingency Fund at described in 7A through G.

Attorney General: Move for approval.

Secretary of State: Second.

Governor: We have a motion by the Attorney General, second by the Secretary of State. Any questions or discussion on the motion? All those in favor, please say aye. Motion passes unanimously.

***8. FOR POSSIBLE ACTION – STATE VEHICLE PURCHASE**

Pursuant to NRS 334.010, no automobile may be purchased by any department, office, bureau, officer or employee of the State without prior written consent of the State Board of Examiners.

AGENCY NAME	# OF VEHICLES	NOT TO EXCEED:
Department of Administration – Motor Pool Division	36	\$851,185
Department of Administration – Division of Enterprise IT Services	1	\$33,203
Peace Officers Standards and Training	1	\$5,000
Total:	38	\$889,388

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General **Seconded By:** Secretary of State **Vote:** 3-0

Comments:

Governor: We will move on to Agenda Item No. 8, state vehicle purchase.

Clerk: Thank you, Governor. Before the Board is a request for 38 vehicle purchases, 36 from the Motor Pool Division, one for EITS which is, you know, Enterprise IT Services, and the last for Peace Officers Standards and Training. I'll make note that the one for Information and Technology Services was pulled off the last Agenda and now it's placed back on, so that's one item I'll mention to you. And I think that Mr. Wells is here to talk to the Motor Pool purchases if there's any questions.

Governor: I have questions. Good morning, Mr. Wells.

Keith Wells: Good morning, Governor. For the record, Keith Wells, Motor Pool Division Administrator.

Governor: This is a large number of vehicles. And I see some of these are in the 80,000 mile range, at least the comments are that some of them will be mileage replacement criteria. What is the criteria for replacement for miles?

Keith Wells: The Motor Pool Division's replacement criteria is 100,000 miles for sedans, 125,000 miles for sport utilities, or they have to be eight years old. Those vehicles that we're requesting, we're requesting to purchase those, get the authority now, but they won't actually hit the ground until April, May, maybe even June, just because of the time it takes. So they will have a lot more miles on them by then.

Governor: And that was my ultimate question, and you've anticipated that, is certainly we want to get the most use out of these vehicles that we can.

Keith Wells: Yes, Governor, we are. In the past we would generally replace approximately ten percent of our fleet, and this is only five percent of our fleet, and this is the bare minimum just to keep. I mean, it's important to me that we deliver a quality product to our customers, because those vehicles are tools that state employees use to perform their jobs and they need to be reliable, and it needs to be a vehicle an employee is comfortable using.

Governor: And I'm not going to disagree with that, but you can have a vehicle with 90,000 miles on it and it will run just fine.

Keith Wells: Absolutely. Absolutely.

Governor: And look fine, and you guys take great care of those cars, right?

Keith Wells: Yes.

Governor: And then what is -- when you say high-operating costs, what does that mean?

Keith Wells: The operating costs listed on that spreadsheet is the maintenance cost per mile. So vehicles that we -- we target vehicles that are exceeding the standard operating cost per month for their class. I mean, pickup trucks or standard sedans or full-size sedans. For example, there's a low mileage vehicle in there, there's a van with 50,000 miles, it's a 2001. It has two problems. It's 11 model years old, so it's becoming worn, and it's just getting beat up from the sun and wear and tear, and the parts are become obsolescent, and it's got -- the operating costs on that vehicle is .21 cents a mile. It should be about five cents a mile.

Governor: And I have no further questions. Board members, any further questions with regard to this Agenda item?

Secretary of State: No, Governor.

Governor: Thank you. Hearing no further questions, the Chair will accept a motion for approval of the state vehicle purchase as described in Agenda Item No. 8.

Attorney General: Move for approval.

Secretary of State: Second.

Governor: There's a motion by the Attorney General for approval, second by the Secretary of State. All those in favor, please say aye. Motion passes unanimously.

***9. FOR POSSIBLE ACTION – APPROVAL TO PAY A CASH SETTLEMENT**

Pursuant to NRS 41.037, the State Board of Examiners may approve, settle or deny any claim or action against the State, any of its agencies or any of its present or former officers, employees, immune contractors or State Legislators.

A. Department of Transportation – Administration – \$5,905,000

The Department requests settlement approval in the amount of \$5,905,000 to resolve an eminent domain action that NDOT brought and an inverse condemnation and pre-condemnation damages counter-claim that the landowners brought pertaining to real property owned by Vegas Group, LLC and Coral Capital, LLC. The sum of \$4,720,000 was previously deposited with the Court and released to the property owners as a condition of NDOT acquiring occupancy of the subject property. NDOT needs to acquire the entirety of the subject property in fee for the I-15 road improvement project known as Project NEON.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 2-1

Comments:

Governor: We'll move on to Agenda Item No. 9, approval to pay a cash settlement.

Clerk: Thank you, Governor. Before the Board is a request from the Department of Transportation, Administration Division for a settlement in the amount of \$5,905,000 to resolve an eminent domain action that NDOT brought and an inverse condemnation and pre-condemnation damages counter-claim that the landowners brought. I believe we have the Director here and legal counsel available to answer any questions.

Governor: Good morning, Mr. Malfabon.

Rudy Malfabon: Good morning, Governor, Board members. In this particular case we had the inverse condemnation claim, and we are acquiring this property for Project Neon. It's located north of Charleston Boulevard right next to the freeway onramp, I-15 interchange. The reason that we're asking for additional funds here to settle this case is we had an initial appraisal, and the other party provided some more recent comparable sales which justified NDOT increasing the amount of the appraisal, so we had a second appraisal done, saw that it was a lot closer to the

other party's appraisal, and we negotiated a settlement which is before you today. We believe that the sales of the property due to Zappos moving downtown, a lot of redevelopment in downtown Las Vegas, and the development of the Union Park area there on Grand Central Parkway where the Smith Center is are driving up some of the land sales in that area, so we felt that there was justification. We didn't want to go to court and have them prevail on establishing the taking as August of 2008 which they alleged is when the taking of the property occurred in the inverse condemnation claim, because property values were higher back then.

Governor: Thank you. My only observation was that the property almost doubled in value in a year. Did we use the same appraiser for the second appraisal?

Rudy Malfabon: No. We did not, Governor, and our process is that we do have two appraisals typically of the original appraisal and review appraiser, but in this case the more recent sales were taken into consideration in the second appraisal.

Governor: So is that first appraisal that far off or...

Rudy Malfabon: The first appraisal was in the amount that we had -- I believe it was around the 4.7 million deposited in the bank, and I think that that appraisal took place around May of the previous year. So there was some in between the first and second appraisal by NDOT.

Governor: But this is a little unique. I mean, I don't think I've seen, at least in my experience, this big of a jump in value in that short of time, because ultimately we're paying \$10 million for this piece of property when we originally valued it at 4,720,000.

Rudy Malfabon: And in looking at the appraisals, we felt that the -- including the comparable sales that were more recent was allowable in the second appraisal.

Governor: And is there any possibility to receive reimbursement from the federal government for a portion of this?

Rudy Malfabon: Yes. I looked into the programming of the federal funds for this project. We have the ability to bill the federal government, Federal Highway Administration, 24 percent of the funds, but we also have a category we call Advance Construct that we use state funds for in the present term, and then we request reimbursement in later years. So we have over \$60 million in that category that we can use for this purpose, for reimbursement, but it wouldn't come as immediate as this year, it would come in subsequent next year or the year after.

Governor: And the last question, Mr. Director, and I perhaps should have asked this at the Board of Transportation meeting yesterday, if you don't have the number in front of you today, I can get it later, but do you know how much property or what percentage of property we have acquired for Project Neon and how much more we have to go?

Rudy Malfabon: I believe that we acquired 29 of about 52 parcels I believe is the number, but we'll get that to the Transportation Board in a presentation next month, but we're over halfway.

And most of the commercial properties where we have the biggest risk have been acquired or in negotiations right now.

Governor: And that's where I'm going. I mean, we likely had a budget for the acquisition of property. Are we within that budget? Are we exceeding that budget?

Rudy Malfabon: So far, according to the Project Manager, we're within that budget. We've expended \$54 million acquiring the property for Project Neon, and his budget is in excess of that amount.

Governor: I have no further questions. Board members, do you have any questions with regard to this Agenda item?

Attorney General: Governor, a couple things. One, I agree with you. That was my biggest concern was that change in value over just a year period when we all know that we haven't seen that type of economic increase in any property value in the state because of the downturned economy. How do we -- or maybe this is a question for Rudy. Rudy, how do we verify our own appraisals? I mean, do we have somebody that's looking at them? Do we look at comparable sales in that area? I know the area you're looking at is right there in that Government Center area if I'm not mistaken. That's where the Government Center is. That's where Government Center is, where the market is. Are you saying that when you're talking comparable sales again that we're looking at that property, the property in that area has increased or doubled in one year, the value of it?

Rudy Malfabon: Exactly, Madam Attorney General. Our process is to have the original appraisal and then a review appraiser do a second take on that. And this actually was a third appraisal. It was more recent that was done in order to reach this settlement. And it is a factor of those properties have been from about the central part of Las Vegas down to this parcel that's before you today. So it's all the comparable sales that were in that general area. Obviously some in downtown Las Vegas are going to be a lot higher, and that's supposed to be taken into consideration by the appraiser as he's considering the location of this parcel with respect to those other comparable sales.

Attorney General: Am I right, because I wasn't able to see the pink highlight, we're talking about vacant land, or is there a property or building on?

Rudy Malfabon: This is vacant land.

Attorney General: So this is just vacant land that has increased in value by that much?

Rudy Malfabon: Yes.

Attorney General: Hum, okay. Yeah. I guess I do have concerns, but I don't know any other way to independently verify that, Governor. And I trust Rudy and his staff. I'm just shocked.

Governor: And, Madam Attorney General, my question is that first appraisal that we received, and what the basis for that was, because again, this is an anomaly in terms of increase in value, and I'm sure everyone in the state would like to see their property values grow by that amount within a year. And just perhaps at some point, Mr. Malfabon, if we could get a comparison of why the first appraisal was what it was, and then the second one that was a year later doubled in the amount, and if the appraisers used the same pieces of property for comparables and such. I think that's more of an academic exercise than anything else because as the Attorney General says, you know, they've got an appraiser that agrees with the appraisal that we have, that's why we're resolving this case. But it would be interesting to me to see why there was such a discrepancy between our first two.

Rudy Malfabon: I can follow up on that, Governor.

Attorney General: And, Governor, there is the outside counsel for NDOT, the Chapman Law Firm is here, and is willing to make a comment on our discussion if that's what you request.

Governor: Yes, please.

Erich Storm: Good morning. My name is Erich Storm. I work with the Chapman Law Firm. The appraiser who did the first appraisal used a valuation date of April of 2011, and that appraisal NDOT obtained for purposes of negotiation with the landowner. An offer was made based upon that appraisal. The landowners rejected the offer, and the matter was subsequently the subject of an eminent domain action. Our office filed a complaint in eminent domain in early May of this year. And in order to take legal occupancy of the property, we were required to get the new appraisal using the legal date of value litigation. The date of value that the new appraisal used was May 8th of 2012, a little more than a year after the initial appraisal that NDOT had secured for negotiation purposes.

What, according to the second appraisal, transpired in the intervening year was four new sales that occurred after the original appraisal was obtained. These were from September right through May or April of 2012. And the new appraisal found a square foot value of the subject property of 80 feet -- or pardon me, \$80 a foot, and that is more obviously than a \$38 per square foot figure that the original appraisal from 2011 indicated. However, that was a sale that occurred in late spring, early summer 2012, literally down the street from the subject property, and that sold for \$82.12 a square foot. There were other sales likewise that were unavailable at the time of the initial appraisal. Another one was for \$116 a square foot. The rest were below. One was 16, one was 43, one was almost 71 and one was almost 64.

There have been some indications of significant market activity in the downtown area that's been escalating, and it began apparently to pick up momentum in the year 2011 and into 2012. That is the explanation that I can offer to the Board for the difference in values. As time goes on, NDOT will be obtaining more appraisals from 2012, and again, perhaps a more accurate picture or maybe perhaps a more -- verification of the accuracy of the appraisal that we do have as time goes on. But from what we can see, based upon our knowledge of the market area, and what is indicated in the two appraisal reports, the primary distinction between the two is simply the comparable sales that were available in 2012 that were not available to the appraiser in 2011.

Governor: All right. And thank you, that satisfies my question, and you don't have to prepare a memo in that regard. I guess I would say this, it's bad news today, but it's good news for Las Vegas and Clark County and that State of Nevada that these property values are going up in that area.

Attorney General: Just one quick question, Governor. Was NDOT involved in any of those prior sales, comparable sales?

Erich Storm: No.

Attorney General: Okay.

Erich Storm: Not to my knowledge. I don't know.

Attorney General: Great. Thank you.

Erich Storm: I do have one other comment not related to value, but in the event the Board determines to approve the proposed settlement, I would request that it be contingent upon NDOT's resolving with one remaining interested party in this lawsuit, Century Link, and its interest in the case. We would like the contingency to be that the approval of any settlement here today would be contingent upon Century Link's resolving its claims to the satisfaction of the State of Nevada through its Department of Transportation, and in a manner that will not require the contribution of more settlement funds.

Governor: You might want to give that to the Attorney General when she makes her motion. I said, you might want to give your notes to the Attorney General when she makes her motion so we can make sure that we have that correct.

Attorney General: And I think it's just contingent on resolving the remaining issues.

Erich Storm: Yes. There's an entity with an easement that is suddenly getting a little bit unpredictable, and we don't want to have an agreement to settle this matter today and then have to turn around and resolve that unresolved matter tomorrow.

Governor: And I appreciate your saying that, because we just had that issue yesterday before the Board of Transportation. And that was going to be my next question is, if we approve this with the contingency that you've just stated, does that essentially resolve all the claims with regard to this piece of property?

Erich Storm: Yes, sir, it will.

Governor: Okay. I have no further questions. Board members, do you have any further questions with regard to Agenda Item No. 9? Hearing none, the Chair will accept...

Clerk: Governor, if I might. I just want to make sure I've got clear for the record the name of the party that this is contingent upon. Do we have that clear, just for the record, Century Link?

Erich Storm: Century Link, yes.

Clerk: Is it Company or is that's just the name, that's the full name? Okay.

Governor: Is that Century Link has an easement on that piece of property?

Erich Storm: They (inaudible). When the property was the subject of an original (inaudible), the developer granted numerous utility easements that were unused. This easement only serves the subject property, so it essentially has no value to anybody. There's nothing on the easement and there never will be.

Governor: So resolving this claim at this amount will not have a precedential effect on the resolution of the claim with Century Link? In other words, the fact that the value of this claim has doubled in a year, will that increase -- and we approve that, will that increase the value of Century Link's easement?

Erich Storm: That's possible, but what would ultimately happen is the worst case scenario would be that Century Link and the landowners would argue between themselves about what Century Link is entitled to recover from the settlement amount, and so the state should not be affected by Century Link's decision. That is what we are aiming for to make sure that happens.

Governor: All right. Thank you. If there are no...

Clerk: I'm sorry, Governor. I just want to make sure I'm clear on the action of the Board. Is it going to be approved contingent upon, but that the proceeds would not be spent until that other matter comes -- is that matter going to come before the Board? I just want to make sure I'm clear on the action here.

Governor: And that's a good question, Mr. Mohlenkamp, which prompts a question for counsel. If we put a contingency on the resolution of this claim, does that mean that we can't pay the property owner right now until you resolve the claim with Century Link?

Erich Storm: I had a little bit of a hard time quite understanding you, sir, I'm sorry.

Governor: And I'll repeat that. If we approve this cash settlement payment in the sum of \$5,905,000, contingent upon your recommendation with regard to Century Link's easement, will that delay the payment to the defendant in this case?

Erich Storm: It potentially could. However, the landowner's attorney is aware of what is happening, and I can say potentially, yes, my sense of things is that ultimately this will be resolved and probably fairly quickly in a manner favorable to our settlement terms and favorable to the landowner.

Governor: But what I don't want to happen is to blow up a settlement with the current landowner by a delay with regard to this contingency, and if we get six months down the road and we've had such an increase in value in a short amount of time, are they going to come back and say, well, we want to another appraisal because we think the property value's gone up again.

Erich Storm: They will not, because by statute the property must be valued as of a specific time. In this case, that's May 9 of 2012.

Governor: So do have any...

Erich Storm: They can't take advantage of perhaps an increase in value over time. They must value the property as of May, 2012.

Governor: And so do you have a stipulation with the other party that a delay in payment will have no effect upon the resolution of this case?

Erich Storm: A delay in payment potentially could have an impact on the resolution of this case. The landowner may take the position that the delay is unacceptable and they don't want to go through with the settlement. That is a possibility. The reality of the situation in my opinion is that while possible, it is not likely.

Governor: Well, is it prudent for this Board to approve this settlement on a contingent basis, or should we wait until this claim of Century Link is resolved?

Erich Storm: I think that it is prudent to go ahead and approve the settlement today conditioned upon that one stipulation regarding Century Link. It gives all the parties an incentive to work these matters out. Century Link's interest is miniscule, if not non-existent, and I don't see that there is a downside to approving the settlement presently today with that contingency.

Governor: Board members, do you have any more questions with regard to this Agenda item?

Secretary of State: No, Governor.

Governor: All right. Then the Chair will accept a motion. Mr. Mohlenkamp, do you have a question?

Clerk: Governor, I just want to make sure I'm clear for the action so that the department has clarity, is when we say contingent, does that mean they are to withhold execution of payment until that matter has been resolved, or are they free to move forward? I'm not clear what contingent means in this case.

Erich Storm: There will be no funds deposited and no funds made available for settlement purposes until the matter with Century Link is resolved.

Attorney General: You will notify the state when that has happened?

Erich Storm: I absolutely will notify the State of Nevada when that happens.

Governor: So what will happen, it just stays in our bank account, Mr. Mohlenkamp?

Clerk: No. Thank you. I just understand that. I didn't know this -- this concept is new to me today. I wasn't aware of it. I don't know if there's going to be any kind of interest charges that are going to be accumulated, if it's a delay of significance, and that will require this matter to come back before the Board. I'm not clear on that aspect of it.

Governor: And that's another great question, Mr. Mohlenkamp. Is that going to keep the interest clock ticking, and will we have to...

Erich Storm: If we settle the case subject to that condition and we work things out with Century Link, there will be no added costs. The settlement amount is all inclusive for fees, costs, any accrued interest.

Governor: This is a pretty complex issue that we're getting concurrent with the time considering this cash settlement. So you're saying it's possible then that it may -- this amount, this \$5,905,000 won't resolve the claim with the landowner?

Erich Storm: I'm saying that there is a possibility that a settlement agreement could be unwound if Century Link demands participation in the settlement funds and the landowner disagrees with that. That is a possibility. And then we'd be back to square one and back in litigation. The odds of that happening, however, in my opinion, are remote.

Governor: And how long, in your estimation, will it take to resolve this Century Link claim?

Erich Storm: Pardon me?

Governor: How long do you estimate that it will take to resolve the Century Link claim?

Erich Storm: If they are willing to do what we have been asking which is simply to disclaim interest in the litigation because their easement has little to no value, I think that we will have an answer from them probably within a couple of days. I actually gave their attorney yesterday a deadline of Wednesday to either agree to withdraw a claim for funds in this case, or simply file an answer to the lawsuit and make their claim at that time.

Governor: So if the attorney for Century Link says no, then that goes into litigation and it could be months, if not years, before that claim is resolved?

Erich Storm: It could be months, if not years, for that claim to be resolved. The settlement potentially would unwind as far as accruing interest. However, we could at that point deposit the additional sum based upon our appraised value -- new appraised value of the property, and prevent interest from accruing on that additional amount.

Governor: What would be the harm if we were to delay action on this Agenda item until next month?

Erich Storm: The landowners have not conditioned settlement to this point upon an expeditious resolution and payment. Their attorney, however, has suggested that they are looking to have this matter resolved in terms of a transfer of funds by approximately 30 days from now. So whether that will factor in and cause the landowners to want to reopen negotiations, I cannot predict at this time.

Governor: But we aren't going to be releasing the funds to them anyway until we know what's going on with Century Link.

Erich Storm: That is correct. We would not actually settle the case and provide the landowners with any funds until Century Link and its interests, if any, are resolved. And again, the alternative is to litigate, and at that point simply make a deposit with the court to account for the increased value based upon our new appraisal. And at that point Century Link will be an active litigant and can compete with the landowners for that money. And we would at the same time be able to stop the accrual of interest upon that deposit.

Governor: Part of me is saying that it's premature to resolve -- or to approve this cash settlement claim given the outstanding questions that you've brought up today. I -- go ahead.

Erich Storm: I understand the concern. I think that the potential problem that would give rise to your concern would be if we were to deposit the money or to make a transfer of funds at this time without having accounted for Century Link. Hence any transfer of funds would be contingent upon resolving Century Link's interest.

Governor: Well, that's the point, is we're really not approving anything at all, because it's subject to your resolution of the claim of Century Link.

Erich Storm: I'm not certain how the Board reviews matters like that, whether that would constitute an approval or not. I would think so once we resolve matters with Century Link and notify NDOT that matters are resolved satisfactorily, at that point the funds are then approved for release and we could then make the deposit or distribution according to our settlement agreement.

Governor: I guess my point being this. If we approve \$5,905,000 contingent upon resolution of the claim with Century Link, that could be 18 months from now. That could be two days from now, as you say, but we don't know that. So we're really not approving the settlement today because there's a huge unknown that you've presented before us.

Erich Storm: It might be possible as well to put a time limit. I don't know if the Board can do that.

Secretary of State: Governor, I tend to agree with you, and I think the cleanest would be to just pass it for a month or another two months until they can come back to us with the resolution

from Century Link. Of course there is the risk that the landowner may back out of the deal and open new negotiations, but, you know, I share your concerns along with the Attorney General's about the appraisal information, and can certainly benefit from an opportunity to review those in more depth. And so, you know, in my opinion, the more prudent thing to do is to just wait until we can pass final approval on it.

Governor: Madam Attorney General, do you have any comments?

Attorney General: Governor, it was hard to hear the Secretary. I'm not quite sure what his point was.

Secretary of State: That my preference would be to just pass it for a month or two or however long it takes the attorneys to work out the final resolution with Century Link, which would then give us an opportunity to review the concerns that you and the Governor had expressed with the difference in the appraisal values and review any substantive materials associated with those.

Attorney General: Thank you for repeating that. Yeah. I know that obviously we've got two options here. The one option we would have today is if we were to approve it contingent on settling all these claims, is leverage, and that's what I assume that the attorneys are looking for is that type of leverage to get the parties to agree to move forward because the money is there and available for them. If we don't move forward today, there really is that obstacle of still having to come back to the Board to get approval, and that is less of an incentive for the parties to really negotiate. So I'm assuming that's why you're here today is to get that leverage.

Erich Storm: Yes, we do. Mm-hmm.

Attorney General: So that's really what -- that's really the issue here, and the question would be whether approving this today is enough of a leverage and impetus to settle this matter moving forward for all of the parties. If they don't settle it, we're back in the same boat we would be if we were not to approve it today, correct?

Erich Storm: That's correct.

Attorney General: So I guess that's the only issue that I look at here. I understand the concerns with the appraisals, and absolutely if the Board does agree that we do want to take time to look at the issue with respect to the appraisals, I am more than willing to put this off to do so. But if it's an issue of just whether we should hold it contingent or not because there's leverage here, I don't think there is one way or the other for this Board to make the decision today or make it later, because either way it's all going to depend on resolving this matter. If it's not resolved, this money's not going anywhere.

Governor: I'm inclined to take action today to approve this with the contingency, but I'll tell counsel this, that if you were aware of this, you've got to bring this to our attention sooner rather than at the time that we're doing this. Obviously, the Director wasn't aware of this, and we need to be apprised of these things so that we can have more time to consider these types of decisions rather than essentially doing it on the fly. And it makes me real uncomfortable not being familiar

with some of these issues that you're talking about, and then putting it on us at the time that we have this on our Agenda. But I do tend to agree with the Attorney General, there's some strong considerations both ways, but at the end of the day, she makes a good point is that I don't want to upset what I find is a resolution of this case that I'm not real happy with because of the change in appraisals, but I don't want to expose the state even more. And it feels like, and again, that's why I don't have enough time to think about this, but it feels like that if we don't resolve this, it could open another door for this case to get reopened and for the state, as I said, to have more exposure. So I'd rather put you in a litigation position to limit our exposure rather than to expand it, but I would strongly encourage you to get this Century Link portion of the claim resolved and get it done as soon as possible.

Erich Storm: Absolutely.

Governor: I have no other comments or questions.

Secretary of State: Governor, I maintain my original position that I think the more prudent course would be to pass it for another month, and so I'm going to vote no. I just want to explain that the reason for doing that is that, you know, I certainly understand the concerns of blowing up a deal here that could eventually result in additional obligation from the state, but, you know, obviously the landowner would have to have concerns if we were to pass this that all three Board members have expressed reservations about the appraisal amount, and if we were going to go and look into this in depth, there is a chance that the Board members could find that the second appraisal was in some way deficient and that the state was paying more than we should. And so in my opinion, the better approach would have been to wait for action until we had all the information in front of us, and so respectfully I vote no.

Attorney General: So, Governor, I do also have comments based on what the Secretary just said, and I agree, Governor, with what you said earlier. Obviously it's important for us to take the time having known a little bit more about this, we could have come up with some hopefully better thoughts on how to handle this and whether it should be before the Board at this point now or not with respect to the legal strategy. But with that said, let me ask this. If we were to hold this to take a look at the appraisals because we have concerns with what we see, which is a doubling of the amount. We know, um, right now in one year the value increased about 5,212,000 from the original 4,720,000. So if we were to go back and look at those appraisals, I guess this is a question for Rudy and legal counsel, what is our first step? I mean, is it that you're going to come to the Board, go through the appraisal process with us, let us make a determination, or are we going to get an independent appraiser to come in and take a look at that, and then what does that do for this negotiation process? I would ask the Board members what is it in particular you are seeking as part of this review?

Governor: Let me comment first before you answer the question. I think if there's a deficiency, it was in the first appraisal. According to counsel, on the second appraisal these were four similar sales in a similar area, one of which was right down the street. So it sounds like if we did another appraisal that they would use the same comps as were used the last time, and if there's another subsequent sale that intervenes and shows another increase in the square footage price, that's my concern here, is increasing the exposure of the state and hopefully locking in a land

value at this time, and not be looking at a new appraisal that could again require us to enter into new negotiations with the defendant in this matter. From what I've heard, I have a little bit more confidence in that second appraisal than I do the first one, and that one seems to be the standard. And if I'm the defendant in this case, and I hear that the state is getting another appraiser out here, I'm going to want to start all over again, and that will put this case back at square one because it sounds like that property is going nowhere but up rather than down. So with that said, counsel, I don't know if you have a response to the Attorney General's question.

Erich Storm: We could get a review appraisal or we could get a completely independent appraisal. A review appraisal would simply be a qualified appraiser taking a look at the report that we do have and commenting on whether it meets appraisal standards, and would be reliable or not reliable. Or we could get a completely new appraisal from a different person and see if that person comes up with similar numbers.

Governor: Would that review appraisal or the new appraisal be subject to discovery by the defendant in this case?

Erich Storm: No.

Attorney General: How would it impact the moving forward with this settlement, if at all?

Erich Storm: Well, that would depend upon where the numbers come out. If they come out significantly less than the appraisal we have, then that would give more reason to decide against approval of the settlement. Obviously if a review appraisal with a number on it, or a brand new appraisal came out with the same or higher value, then the likelihood I guess would be that the settlement in the amount we are now proposing would make sense. The question is of time. These usually take about four to six weeks to obtain just for the Board's determination.

Governor: What happens if it comes in higher than what we have now?

Erich Storm: Well, we would not have to disclose that to the other side. It potentially could become a matter of public record, however, if it's a topic of discussion at a Board meeting, that's certain. But as far as rules of discovery are concerned, we have the right to retain consultants to check facts for us and give us valuations and we are not obliged to turn them over unless we intend to call them to testify.

Governor: Do you have confidence in our current appraisal?

Erich Storm: I have personally used the appraiser who prepared the report with the 2012 valuation date in several condemnation cases here in Las Vegas. I know that other firms have used him as well. I've always had confidence in him. He always has struck me as being level-headed and calls things as he sees them. I don't have the sense -- I have no reason to have the sense that he would attempt to low ball a figure simply because it's favorable to one client or inflate a value because it would be favorable to another client. I do trust them.

Governor: So in your professional opinion, would it be your recommendation to get a review appraisal or a new appraisal?

Erich Storm: I don't think that it would be necessary. I do not.

Governor: And obviously, your settlement with the defendant in this case was subject to Board of Examiner approval. If we were to delay this, would this harm your credibility with the defendant's counsel property owner?

Erich Storm: The landowner's attorney is aware and it's in our settlement agreement, which we have not executed yet, that this is subject to the Board of Examiners' approval, and counsel is also fully aware that if the Board decides to approve the settlement as proposed today that it will be contingent upon resolving satisfactorily any interest that Century Link has. I don't worry if I lose face with counsel under these circumstances. Counsel understands the circumstances, and I am not concerned about that.

Governor: I have no further questions. I will say this, and I understand the Secretary of State's position. I'm not sure where you are, Madam Attorney General. This is kind of a 51/49 for me. So I -- the 51 being that I would approve this settlement subject to the contingency as described by counsel, but if it were the other members' preference to continue this for another month, I'm fine with that as well.

Attorney General: So I just have one more question then again for the firm and the attorneys. If we were to delay this one month, tell us how this would impact your ability to still move forward?

Erich Storm: In all likelihood the landowner's would accept a 30-day delay. They're looking at a \$10.625 million settlement. That's difficult to turn down. That's the reality of the situation.

Attorney General: Okay.

Ms. Miller: Ms. Miller on behalf of the Attorney General's office, and one comment that I wanted to make, with respect to these eminent domain actions, this was a direct action by the department. We needed the property, we negotiated with the landowner and they refused the settlement, so we filed a direct action. What we're seeing is that a lot of these landowners' attorneys are doing counter-claims for inverse condemnation seeking for a different date of appraisal because they want a different date of value at the height of the market. That is a counter-claim in this action. Although we believe it meritless, that is always a possibility.

And the Governor asked about the date of value changing. If we were to proceed in this case, we have to deal with this inverse condemnation claim. We would likely file a summary judgment motion, or they would file a summary judgment motion and we will then -- the judge will determine did the department take some actions earlier than this time that constituted the taking, and if they did, then the date of value may be subject to that. We don't know until we litigate that, and that's the counterclaim that is in this action, and this resolves all counterclaims and pre-condemnation damages. That's something that I wanted to point out.

Attorney General: And, Governor, you know, that's a good point, and I think this is for the benefit of the Board of Examiners because I know sitting on the Department of Transportation we just approved yesterday a number of eminent domain actions, and we also know that we've heard the term that all of the owners sought legal counsel because I suspect they were going to look at their legal strategies and figure out how they would counterclaim for inverse condemnation, trying to look at the best benefit for their client. So this isn't something that you need -- if it is going to come back before us, and I think as a Board we have to decide at what point are we going to get into minutia of the legal strategy here and want to see that, at what point, based on our, rightfully so, our obligations to approve these contracts and want all of the information we need to make intelligent decisions, how do we find that balance? And I think that's what we discussing here.

At the end of the day, to accommodate everyone, all the Board members, I hear what folks are saying, I guess my concern if we are to delay it just to go out to get an appraisal, I'm not so sure that it is going to change what we're hearing, at least from the legal counsel. However, if it does dramatically change and lowers the amount that we're seeing here, we're not going to move forward with the settlement amount, correct? So is it a possibility we can approve this today, conditioned not only on resolving the claims, but going out for an independent review of the appraisal to see if it comes in lower than what it is, or is it just a waste of time to do that and just put this -- delay this for a month and do that independent review?

Erich Storm: I would go with the latter. If the Board is inclined to get another appraisal, I would simply put the decision off until you have that information.

Governor: Madam Attorney, I would say this, as again, you know, I've got -- I'm not going to micromanage counsel. He's provided us with his professional opinion that the appraisal that we have now is sufficient, and he trusts in the judgment of the appraiser. You know, I guess I'm still feeling a little bit of the burn from yesterday from the resolution of that case before -- the Falcon case before the Board of Transportation where we had a chance to resolve a case for much less than we did, and there was a decision to move forward on that portion of the claim and we ended up paying more than twice as much as we thought, and I'm -- given the Deputy Attorney General's opinion, I just think -- and at least speaking for myself, I don't want to increase or provide an opportunity for increased exposure to the state. And if we go out and obtain another appraisal, or we wait another month, there's a chance that this settlement could unravel and we'll be back in a litigation mode, and we've got this counterclaim, as the Deputy Attorney General has described, that would go to litigation. But there is a chance that it could increase the exposure of the state. I just think, as I said, it's close for me, but this is an opportunity to lock in a resolution based upon an appraisal that our legal counsel has confidence in.

Attorney General: Just one quick question then for counsel, because we're only talking about five months then that we would be looking at the difference between the last appraisal and if we were to go out and get a new one. So what we would really be looking at is if there were any different or newer sales since the last date, correct?

Erich Storm: What we'd be doing is, we would be using the same valuation date of May 8, 2012, because at least as far our direct eminent domain action is concerned, that is the date of value. So a second appraisal would value the property again as of May 8, 2012.

Attorney General: Okay.

Erich Storm: There may be additional sales perhaps that a new appraisal would consider, but the date of value would not change.

Attorney General: Okay.

Erich Storm: So if there an increase or the increase in value between May 8, 2012, that would not affect the ultimate decision.

Attorney General: Yeah, Governor, you know, I agree. There's no doubt this is a concern for all of us, this appraisal, and I'm not sure if it's the first appraisal that was off, or the second one, or the value of the property really has increased in that year period by that much. But if we're looking at the same appraisal date, May 8, for a new appraisal, and the only issue would be whether there would be, what, we would be looking at, is that...

Erich Storm: Well, it depends on what approach the appraiser wants to take in terms of deciding what the highest use of the property is. With regard to the two appraisals we have in the present case, the appraisers saw the same highest and best use of the property which was until maybe things turn around a little bit more. Their only real difference was the comparable sales that they used. And whether a third appraiser would come in and come up with a different highest and best use and that would have a ripple effect on comparable sales, and which would be appropriate to that use, we couldn't predict. Assuming, however, that a new appraisal would consider the highest and best use of the property to be the same as the other two, then again, in all likelihood, the only difference would be what are the sales out there that this particular appraiser thinks are relevant.

Attorney General: Yeah. Governor, you know, just based on what I'm hearing today, I agree with you. This is a tough decision to have to make based on the issues before us, but I am also inclined to make a motion which I will do as to make a motion to approve this settlement contingent on resolving all of the remaining claims on this property with Century Link. And I would make that motion for approval of the settlement in the amount of \$5,905,000.

Governor: The Attorney General has made a motion to approve -- for approval of the cash -- to pay a cash settlement in the sum of \$5,905,000 contingent upon favorable resolution of all other claims to the satisfaction to the State of Nevada. Is there a second?

Secretary of State: No.

Governor: Then I'll second the motion. Any questions or discussion on the motion? All those in favor, please say aye. Opposed no?

Secretary of State: No.

Governor: Motion passes two to one. Thank you.

***10. FOR POSSIBLE ACTION – TORT CLAIM**

A. Tawnya Meyer – TC 16325
Amount of Claim - \$125,000.00

Recommendation: The report recommended that the claim be paid in the amount of \$125,000.00.

Motion By: Secretary of State Seconded By: Attorney General Vote: 3-0

Comments:

Governor: We'll move on to Agenda Item No. 10, tort claim.

Clerk: Thank you, Governor. The claim before the Board is in the amount of \$125,000 in the case of Tawnya Meyer, and I believe there's representatives to speak to that if you have any questions.

Cameron Vandenberg: Good morning. Cameron Vandenberg, Deputy Attorney General.

Nancy Bowman: Nancy Bowman, Tort Manager for the State.

Governor: Good morning. We have the memo in front of us, and it is what it is, those are bad facts. Obviously, I guess my question is, have we implemented -- and this may be out of your jurisdiction, but have we implemented some of these, I guess, for the benefit of the management there, that something like this won't happen again, implemented any training?

Cameron Vandenberg: As you know, Mr. Governor, the state has training available, and the division will ensure that all supervisors and human resource personnel have attended and completed that training, and we are still working on a settlement agreement with the United States to that effect.

Governor: And just given the figures that you have here, this is, at least from a dollar standpoint, a good resolution for the state that the initial claim was \$374,714.94. You had calculated a possible exposure of 190,000, and we've resolved the case for 125,000.

Cameron Vandenberg: That is correct. That is the net back pay amount, not including any overtime or interest or attorneys' fees or any of those figures.

Governor: Is this individual employed by the state now?

Cameron Vandenberg: She is not. She's employed by the Oregon Division of Forestry now.

Governor: I have no further questions. Board members, do you have any questions with regard to this Agenda item?

Secretary of State: No, Governor.

Governor: The Chair will accept a motion for approval to pay a tort claim in the sum of \$125,000.

Secretary of State: Move for approval.

Governor: Madam Attorney General, can you hear us?

Attorney General: Sorry, no, I did not hear. Was there a motion?

Governor: There was.

Attorney General: I'll second the motion.

Governor: The motion was for approval of the payment of a tort claim for \$125,000.

Attorney General: Yes. And I second the motion.

Governor: All right. There's a motion by the Secretary of State, second by the Attorney General for approval of the payment of the tort claim in the sum of \$125,000. All those in favor, please say aye. Opposed no. Motion passes unanimously.

***11. FOR POSSIBLE ACTION – LEASES**

Twelve statewide leases were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Attorney General

Vote: 3-0

Comments:

Governor: We will move on to Agenda Item No. 11, leases. Mr. Mohlenkamp.

Clerk: Yeah. Thank you, Governor. Before the Board are 12 leases for consideration. I would point out Item No. 1, I believe in your earlier materials, had National Guard listed as a party to that lease, and that was inaccurate. The Agenda as it was posted is accurate. This is a lease with the Motor Pool Division and with the State Lands of the Department of Conservation and Natural Resources. I do want to also point out that we have several of these leases are still showing savings over prior lease negotiations. So we're still seeing some of these savings come forward in our leasing, and I think we're seeing some really positive impacts with our leasing group, and not doubling in the property that we were talking about. We're still getting some good deals out there, so I have no other comments.

Governor: Thank you, Mr. Mohlenkamp. And I'm not sure if those individuals are here, but those responsible for negotiating these leases should receive some recognition, because there are significant savings. I didn't do all the math in terms of adding all these up, but it's several hundred thousand dollars, so that is a good thing for the state, and thank you for the hard work. I have no questions with regard to the leases themselves. Board members, do you have any questions?

Secretary of State: No, Governor.

Governor: The Chair will accept a motion for approval for the leases as described in Agenda Item No. 11.

Secretary of State: Move for approval.

Attorney General: Move for approval.

Governor: Motion by the Secretary of State, second by the Attorney General. All those in favor, please say aye. Motion passes unanimously.

***12. FOR POSSIBLE ACTION – CONTRACTS**

Fifty – Seven independent contracts were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State	Seconded By: Attorney General	Vote: 3-0
Comments:		

Governor: We'll move on to Agenda Item No. 12, contracts. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board are 57 contracts for consideration. I do want to point out a modification that I wanted to present to you at the table here on Item No. 5. This was a late addition. This is Arbitrage Compliance, and this is the Department of Administration. This should have been an amendment in the amount of \$23,391 for a total of \$33,390. And the expiration date should be June 30, 2013. What you see here is what was initially posted before the Board. It was an error on our part, but I'm assured by legal counsel that this is an amendment I can make here at the table. What this will do, just so you know, is extend through the remainder of this fiscal year our contract in order to get the arbitrage services done. The Board approved -- or we approved through the Clerk of the Board a \$9,999 contract to get started, but a lot of this work is front loaded in the first half of the fiscal year, and so we need to move forward with this to get the remaining work done so that we can finish the CAFR and move on with our financials.

Governor: Thank you. And the contract itself has all the correct dates and amounts.

Clerk: Your backup materials have the correct information. It was just the Agenda item was posted inaccurately and that correction will be consistent with your materials.

Governor: Thank you. And I only have a couple hold outs with regard to contracts, and those were Contracts 16 and 19. And was Contract 55 still on the Agenda?

Clerk: It is. Yes, Governor. Number 55 is still on the Agenda.

Governor: Board members, do you have any other contracts that you would like to hold out for questions?

Secretary of State: I do not, Governor.

Attorney General: No, Governor.

Governor: Then we'll move on to Contract No. 16, which is Healthcare Finance and Policy with the University Of Nevada School Of Medicine.

Betsy Aiello: Good morning, Governor.

Governor: Good morning.

Betsy Aiello: My name is Betsy Aiello, and I'm the Deputy Administrator for the Division of Healthcare Finance and Policy, acting Administrator.

Governor: Thank you. And my question was not to the utility of the contract, it was simply given the large amount over time, I know this goes over several years, \$41 million. I was just curious exactly what the services that the state receives with regard to this contract from the University.

Betsy Aiello: Okay. This actually is almost like two separate contracts in one, and so it's a little confusing that way. The first part of the contract is for the University School of Medicine for the medical services that they do provide, and it's a supplemental payment. So they get their medical payment through billing our claim system. Then they send dollars to us. We match federal dollars. And they get paid back a supplemental payment and it's -- the federal government allows it up to the Medicare enhanced rate from the Medicaid rate. The idea is that the cost of training medical while you're providing medical care and education costs more. So the federal government's matching their dollars to help cover that. There's a second part if you want to hear the contract.

Governor: Please.

Betsy Aiello: The second part of the contract is to Nevada Family Practice. They provide targeted case management services to the state and some psychological services, mental health services, and they get a governmental rate from the state for those services that they bill through our claims payment system. They've had that rate for many, many years. The contract was

written at first for them. The federal government said to continue to allow them to get the government rate instead of the private rate we pay for targeted case management, they had to have a cost allocation plan. So the first part when they were in the contract, it was just designating and approving based on federal government requirements their cost allocation plan. Amendment 4 right now, because they are a governmental entity, and they do do some different administrative activities for Medicaid, they do some outreach gathering of eligibility and enrollment data, they do do a little bit of utilization management and some additional referral that are not part of the targeted case management billing. So this is adding the federal authority to draw down the federal funds to match what they pay in their cost allocation plan for those administrative activities they provide for Medicaid.

Governor: Thank you. And one more question then. If I'm a Nevadan, what service am I receiving, or who is a candidate for service as a result of this contract?

Betsy Aiello: Okay. For the first section, you'd be going to the School of Medicine and receiving medical care, whether it's primary care, you see your primary care physician up at the School of Medicine, internal medicine, they bill and treat you actually in their clinics for medical services. And then we just pay the regular rate and then that's where the supplemental contract is. The second part is mental health services, both case management and treatment for mental health activities, the psychologists, all of those activities, and that's what you get. The administrative claim that's being added now is that if you walk into their office and they don't -- you don't have Medicaid or don't have anything, they will help you become eligible. They'll help you gather your stuff, submit it, they'll do the mental health, they'll send referrals to other people. So once you're Medicaid eligible, then they will provide some of the linkage and care for referrals.

Governor: And on part one I'll call it, can any individual walk into the University Clinic, or is there a category that is eligible to go there, category of person?

Betsy Aiello: For the services they provide, if you have medical necessity. If you're on Medicaid and they're doctors have an appointment, you can go in. It's not a specific -- you could choose them as your primary care provider or you could choose any other doctor that provides Medicaid primary care.

Governor: That satisfies all my questions, and I guess where I'm going is we get one page most of the time, and there's kind of a broad description here, and I'm always curious as to what it really means on the ground and how we're servicing the citizens of the state. So it helps me mechanically how these services are used, and as I said, this is a large amount of money, and it helps me to understand exactly where that money is going. Thank you very much. Board members, do you have any questions with regard to Contract 16? Thank you very much. And Contract 19, Welfare and Support Services with North Woods.

Louise Bush: Good morning, Governor. I'm Louise Bush. I'm the Chief of the Child Support Enforcement Program with the Division of Welfare and Supportive Services. And to my right is Dave Stewart. He's our Deputy Administrator for Information Systems within our division.

Governor: And similarly on this one, just reading this very brief description, I have somewhat of an impression that we bought this computer system and then now we're hiring somebody else to help us use it. That's not correct?

Louise Bush: That is not correct.

Governor: Okay. Could you just then provide a basis for what this contract means?

Louise Bush: Yes. Clark County sponsored a project to contract with North Woods, and this was done by an RFP, for a document imaging, handling and workflow application. Therefore, Clark was the pilot of this project. We implemented it statewide. We had a short period of time to get it implemented in order to have match funding with our incentive dollars. And Clark County is using the application to its fullest, but there are some enhancements that they believe they need to really make their business practices efficient. However, we're lacking on providing that type of service to the other offices within the state. And, you know, they're just basically using it as a document imaging application when there's other applications that are involved in it, you know, to help them manage their tasks, their workflows and where the documents are stored. We also have an issue with the fact that this application is fully functional in many other states, but not using the storage system that we have, which is FileNet. So we have some issues with our internal FileNet storage, and this is where Dave can help integrate some of his knowledge.

But whenever we're looking at how we can best serve our offices, number one, we need to analyze what it is that they are doing in their internal office versus what the application can do for them. We also need to look at the configuration of the application to our FileNet system because North Woods believes that some of the issues that we're having have to do with the FileNet configuration. So again, that's all of the analysis portion. Then they were going to provide training to the field staff to show them how they can really maximize the use of the application within their office. And then the third phase of the contract, and we just had it as a phase that we cannot move forward with without doing a contract amendment that would have to be approved, but yet we wanted the monies reserved because it was out of our incentive funds, and we know how much we've allocated for it. So if there are no enhancements per se, we won't be moving forward with that portion, the additional \$248,000, but we will have the analysis, we will have the issues with the redesign or the configuration with the FileNet system addressed, and we will be providing the training to the field offices.

Governor: So North Woods is going to come in and help us better use the system than exists today.

Louise Bush: Right. Because this is their application. It's a trademark application by them. You know, if we were to go with another vendor to do this, then we're compromising the warranty on the application.

Governor: I mean, I understand that this is federal money, but it's \$445,000 over 270 days. That sounds like a lot of money, so we're -- they're going to be sending a lot of individuals out to do that training, and we'll be taking full advantage of that?

Louise Bush: We have tried to keep it to a minimum how many they're sending out for us. It's up to them what they do, but even as far as doing the analysis of the offices, we've broken it down to them actually meeting in either three or four. I know specifically three places, Clark County, Reno and in Elko. But it is because we also looked at the county's meeting in Fallon, and the reason that they needed to do this is because the business needs for each of these offices are different.

Governor: That's all I have. Thank you. That was very helpful.

Louise Bush: You're very welcome.

Governor: I have no further questions with regard to any of the contracts contained in Agenda Item No. 12. Board members, do you have any further questions with regard to this Agenda item?

Secretary of State: No, Governor.

Governor: Hearing none, the Chair will accept a motion for the approval of the contracts in Agenda Item No. 12, Contracts 1 through 57.

Secretary of State: Move for approval.

Attorney General: Second the motion.

Governor: Secretary of State has made a motion for approval. The Attorney General has seconded the motion. All those in favor, please say aye. Opposed no. Motion passes unanimously.

***13. FOR POSSIBLE ACTION – MASTER SERVICE AGREEMENTS**

Three master service agreements were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State	Seconded By: Attorney General	Vote: 3-0
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Comments:

Governor: We will move on to the next item on the Agenda which is Master Service Agreements, Agenda Item No. 13.

Clerk: Thank you, Governor. Before the Board are three separate agreements for consideration. The first with American Data Bank, the second Sterling Infosystems, and the third T-Mobile USA. I don't believe that any of the Board members have required any information on these.

Governor: I have no questions. Board members, any questions on Agenda Item No. 13? Hearing none, Chair will accept a motion for approval.

Secretary of State: Move for approval.

Attorney General: Second.

Governor: Secretary of State has made a motion for approval of the Master Service Agreements described in Agenda Item No. 13. The Attorney General has seconded the motion. All those in favor, please say aye. Motion passes unanimously.

14. INFORMATION ITEM

A. Department Of Transportation – Administration

The Department recommends accepting a settlement payment in the amount of \$218,308.20 from American Contractor's Indemnity Company (ACIC), which is the issuing surety of the performance bond for the Minden Gateway Center, LLC project. Minden Gateway failed to complete the work and filed bankruptcy. The department issued a Notice of Default and Demand for Performance upon the surety, ACIC. The department and the surety negotiated a settlement agreement with ACIC agreeing to pay the full amount of the bond.

Comments:

Governor: Okay. Then we have an information item, Agenda Item 14.

Clerk: Thank you, Governor. Before the Board is just, as an information item, the intent to accept a settlement payment in the amount of \$218,308.20 from a bonding company in settlement of an ongoing matter. And I haven't got into the details of this, but this looks like it settles our claim with regard to issues with the Department of Transportation.

Governor: This is money coming in.

Clerk: Yeah, we don't see many of these.

Governor: Board members, do have any questions with regard to Agenda Item No. 14?

Secretary of State: No, Governor.

***15. BOARD MEMBERS' COMMENTS/PUBLIC COMMENTS**

Comments:

Governor: Okay. Are there any Board member comments pursuant to Agenda Item 15? Okay. Are there any members of the public here in Carson City that would like to provide public comment to the Board? Is there anyone in Las Vegas that would like to provide public comment to the Board?

Attorney General: No.

***16. FOR POSSIBLE ACTION – ADJOURNMENT**

Motion By: Secretary of State

Seconded By: Attorney General

Vote: 3-0

Comments:

Governor: We'll move on to Agenda Item 16, adjournment. Is there a motion for adjournment?

Secretary of State: So moved.

Attorney General: Second.

Governor: There's a motion by the Secretary of State for adjournment, second by the Attorney General. All those in favor, please say aye. Motion passes unanimously. This meeting is adjourned. Thank you, ladies and gentlemen. Thank you, members of the Board.

Respectfully submitted,

JEFF MOHLENKAMP, CLERK

APPROVED:

GOVERNOR BRIAN SANDOVAL, CHAIRMAN

ATTORNEY GENERAL CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER