

MINUTES

MEETING OF THE BOARD OF EXAMINERS

May 8, 2012

The Board of Examiners met on Tuesday May 8, 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:

Mark Teska, Department of Public Safety
Elizabeth Conesoy, Department of Public Safety
Maureen McKissick, City of Reno
Glenn Marr, Public Speaker
Julie Strandberg, Department of Administration Budget Division
Carrie Parker, Attorney General
Chris Smith, Department of Public Safety
Rick Martin, Department of Public Safety
Tracey Green, Division of Health and Human Services Mental Health and Developmental Services
Tony Gransbery, Department of Taxation
Mike Skaggs, Economic Development
Dave Prather, Division of Health and Human Services Mental Health and Developmental Services
Steven Aldinger, Real Estate
Maureen Martinez, Risk Management
Ana Andrews, Risk Management
Kimberlee Tarter, Purchasing
Steve Fisher, Division of Welfare and Supportive Services
Vincent Jimino, Board of Cosmetology
Katie Armstrong, Attorney General's Office
Jeff Menicucci, Attorney General's Office
Huydee Meeker, Controllers
Lori Wilson, Division of Welfare and Supportive Services
Mike Torvinen, Department of Health and Human Services Directors Office

Press:

Ed Vogel, Las Vegas Review Journal
Sean Whaley, Nevada News Bureau
Geoff Doran, Nevada Appeal
Sandra Cherubs, Associated Press

1. PUBLIC COMMENTS

Comments:

Governor: I'll call the Board of Examiners Meeting to order. We'll begin with Agenda Item No. 1, Public Comment. Is there any member of the public that would like to provide public comment here in Carson City? Yes, sir.

Glenn Marr: Hello, good morning. My name is Glenn Marr. I'm a previous state employee that's gone through the whole process clear to the Nevada Supreme Court trying to get justice for what I consider a wrongful termination. I'm here to ask, when it comes up, I don't see it on the Agenda, although I was told it was going to be on the Agenda here, for hearing officer contracts, that I request that the hearing officer Bill Kockenmeister's contract not be renewed until a thorough investigation is done into his acts of fraud upon the court under color of law. I provided all this information to the Personnel Commission and the Department of Personnel, now Human Resources Management on four different occasions, September, October, November and again in March of this year. And despite proving that he had committed this fraud under color of law, the Personnel Commission went ahead and approved his contract. I think it's wrong for them to condone the actions of a federal crime, not to mention a state crime, and I would like an investigation into his actions, and also as I said before, when his contract comes up for renewal before this Board, they should not renew it until an investigation is done. Any questions?

Governor: No questions, sir. Thank you.

Glenn Marr: Thank you.

Ty Robin: Hi.

Governor: Good morning, sir.

Ty Robin: Was his microphone turned up by the way? Okay. Hi, Governor, Attorney General, my name Ty Robin and we were here to comment on the Bill Kockenmeister bribery charge. Apparently that's not on the Agenda, so I go with what Glen Marr said about that. I don't think his contract should be renewed, and there should be an investigation into that matter. And I wanted to let you know that we're going to be doing a protest out in front of the Attorney General's office here in about ten minutes. We'll be out there for a few hours. We did send an open letter to you, and I sent that out to the press as well about the judicial corruption going on here in the state. Our ranking is one of the worst, so we would like to talk to both of you about that, okay? Any questions?

Governor: No questions, sir.

Ty Robin: Okay. Thank you very much.

Governor: Thank you. Thank you for being here today. Is there anyone else present that would like to provide public comment here in Carson City? Mr. Secretary, is there anyone present in Las Vegas that would like to provide public comment?

Secretary of State: No, Governor.

***2. FOR POSSIBLE ACTION – APPROVAL OF THE APRIL 3, 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: We will move on to Agenda Item No. 2., approval of the April 3, 2012 Board of Examiners’ Meeting Minutes. Have the members had an opportunity to review the Minutes?

Attorney General: Yes, Governor.

Governor: Are there any changes or deletions to the Minutes? Hearing none, the Chair will accept a motion for approval.

Attorney General: Move for approval.

Secretary of State: Second.

Governor: Motion by the Attorney General for approval, a second by the Secretary of State. Any comments or questions on the motion? Hearing none, all 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 have filed their letter of intent with the Division of Emergency Management to request a loan or a grant from the Disaster Relief Account for the Caughlin Fire within the 60 day requirement. The entities need to provide additional information to complete their request including, but not limited to, financial documentation, availability of internal funding, and assessment of damages. Emergency Management respectfully requests an extension to November 18, 2012 to collect this data for final submittal to the Board of Examiners and Interim Finance Committee.

Clerk's Recommendation: I recommend approval.

Motion By:

Seconded By:

Vote:

Comments:

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 filed their letter of intent with the Division of Emergency Management to request a loan or a grant from the Disaster Relief Account for the Washoe Drive Fire within the 60 day requirement. The entities need to provide additional information to complete their request including, but not limited to, financial documentation, availability of internal funding, and assessment of damages. Emergency Management respectfully requests an extension to January 19, 2013 to collect this data for final submittal to the Board of Examiners and Interim Finance Committee.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: 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. Good morning, Chief Smith.

Chief Smith: Good morning, Governor.

Governor: Mr. Mohlenkamp, did you have any preliminary remarks?

Clerk: Certainly, thank you, Governor. Before the Board is Item 3A and then 3B, I think. Did you want to take those at the same time?

Governor: Yes, please.

Clerk: Okay. 3A is related to the Caughlin Ranch fire. And the request before the Board is for an extension, what amounts to approximately six months period. It's a year from the date of the actual incident for both the Department of Emergency Management -- Division of Emergency Management and the Department of Taxation, working with the local governments to collect all of the data necessary to provide the Board with a bona fide claim that it can consider. This approval would allow that additional six months. I wanted to also mention that, you know, the Finance Committee also has to approve the extension of time as well. And I believe we have representatives here from the Division of Emergency Management to provide some additional comments.

Governor: Again, good morning, Chief Smith. Do you have any presentation that you'd like to make on this Agenda item?

Chief Smith: Good morning, Mr. Governor, members of the Board. For the record, I am Chris Smith, Chief of the Emergency Management Division, Homeland Security, and with me is Rick Martin, Second Chief for the Grants and Recovery Section for the Division as well. The only comment that I have, I don't have a presentation, but just the comment that this request is for the extension for six months because of the in-depth time that it takes to seek clarification on what was insured, what was paid for through insurance and other funding streams. So we want to make sure that when we access the disaster relief account that we do so knowing that we've exhausted all other funding needs, and that's one reason at this time that we're asking for.

Governor: Chief, is there any outstanding issue with regard to the timeliness of the submission of these requests, the original requests?

Chief Smith: I'll speak to that in that I don't believe there is a substantial issue. There has been discussion certainly with the Department of Administration and our section, and I believe with the IFC as well that the Notice of Intent or the Notice to Apply and collect all this information is a rather stringent timeline to do that after the disaster. The Caughlin fire occurred and we received the applications within the time that was reasonable at the division. And then the Washoe Drive happened three days after we received the applications that we were patching together to submit to the Department of Administration. So if there was concern, it was because of that specific incident where the fire started up again and we had to kick into response mode.

Clerk: And, Governor, if I might add, we have Carrie Parker from the Attorney General's office here. She, at my request, looked into the matter fairly extensively, and she could provide some additional comments as to whether -- there were some initial concerns as to whether the 60-day period was fully complied with, and I believe that the Attorney General's office has looked at that carefully and believes in fact this is properly filed. So if you need some additional comments, I think she can provide that.

Governor: I don't and that's where I'm going is I just want to make it clear at this juncture that everything has been done in compliance with the statute, and I believe that's NRS 353.2755, and I don't have a personal issue, but I think it's important for the record today, in the event down the road that someone may bring this up, that there has -- the sufficient research has been conducted and there's been an opinion rendered that finds that application time period has been met.

Chief Smith: Yes, sir.

Governor: So is that a yes you understand what I'm saying or yes that...

Chief Smith: Yes, sir. Yes, sir, I understand what you're saying and we will take that forward.

Governor: All right.

Clerk: And just on behalf of the Board, I did receive clear guidance from the Attorney General's office that this is in compliance with past practices and in compliance with the 60-day requirement.

Governor: Those are all the questions I have. Do you have any questions members of the Board?

Secretary of State: No, Governor.

Governor: Is there a motion for approval for Agenda Item No. 3 that would allow for the extension of time to collect data for another six months?

Attorney General: I'll move for approval of Agenda Item No. 3A.

Secretary of State: Second.

Governor: And to interrupt, Madam Attorney General, is that for 3A and B?

Attorney General: And B, yes.

Clerk: Governor, if I might clarify, just to be clear on the record, I think we are actually extending to an actual date certain on the Agenda, so for A it's November 18, 2012, and for Item B it's to January 19, 2013. It's not exactly six months, so I wanted to be certain on the...

Governor: No. I appreciate the clarification. So the motion would be to provide an extension for Agenda Item 3A to November 18, 2012, and an extension for Item 3B to January 19, 2013.

Secretary of State: Second.

Governor: Okay. We have a motion by the Attorney General, second by the Secretary of State. Any questions or comments on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously. Thank you, gentlemen.

***4. 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 Public Safety – Investigations Division	10	\$330,000
Total:		\$330,000

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: Agenda Item No. 4, State Vehicle Purchase.

Clerk: Thank you, Governor. Before the Board is a request from the Division of Investigations to purchase ten vehicles. I believe this is being purchased with forfeiture funds, and we do have representatives here to provide any testimony you need.

Governor: I have no questions regarding this Agenda item. Members of the Board, do you have any questions?

Attorney General: No, Governor.

Governor: All right. Then the Chair will accept a motion for approval.

Attorney General: Move for approval.

Secretary of State: Second.

Governor: Motion by the Attorney General, second by the Secretary of State. Any questions or comments on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously. Thank you.

***5. FOR POSSIBLE ACTION – REQUEST TO WRITE OFF BAD DEBT**

NRS 353C.220 allows agencies, with approval of the Board of Examiners, to write off bad debts deemed uncollectible.

A. Department of Health and Human Services – Health Care Financing and Policy – \$3,303,324.01

The Office of the Controller is requesting authority on behalf of the Division of Health Care Financing and Policy (DHCFP) to write-off debt totaling \$3,303,324.01. This account represent debts incurred since August 2008, which is within the four year statute of limitations for collections pursuant to NRS 353C.140. However, the DHCFP has requested this debt be written off prior to June 2012, which is prior to expiration of the statute of limitations, in order to avoid reimbursement of the federal share of provider overpayments.

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: Agenda Item No. 5, Request to Write Off Bad Debt. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board -- the Board probably recalls this is the continuation of a write-off that started last month. And while it's within the four-year statute of limitations, the Department of Health and Human Services, specifically the Medicaid Division, is

requesting to go forward, and this is coming on behalf of the Controller's office actually, to write off an additional 3.3 million, essentially \$3,303,324.01. And the reason that they're asking for that now is because if they don't move expeditiously, they have the risk of losing some federal dollars in the process. And I believe we have representatives here if you require some additional testimony.

Governor: Is there somebody here on behalf this Agenda item?

Lynn Carrigan: Good morning. My name is Lynn Carrigan. I'm the Administrative Services Officer for the Division of Healthcare Financing and Policy.

Governor: Good morning, Ms. Carrigan. Would you provide just a little more detail as to what the consequences would be if we were not to approve this Agenda item today?

Lynn Carrigan: If we were not to approve the Agenda item today, the state would be responsible for paying the government back approximately one-half of the \$3.3 million that we're requesting to write off. If we do approve it today, the state has no liability to the Federal Government because it's deemed an uncollectible debt. And under the Affordable Care Act, we are not required to pay back the federal government for uncollectable debts.

Governor: And will you remind me what was the nature of the debt in the first place?

Lynn Carrigan: The debt was debt incurred by Las Vegas Kidney for overpayments. These overpayments approximated \$5.5 million when they were discovered. They were the result of errors in the vendor's software program is what the vendor told us, where, for instance, the vendor should have billed for 5.8 units of a drug and the decimal point was dropped and they billed for 58 units of the drug. The overpayment was discovered in approximately 2006. There ensued a period of lengthy negotiation with the vendor, and in 2008 there was an agreement reached for the vendor to pay back the entire amount. The vendor did in fact make payments on that through February of 2009, then stopped making the payments. Another period of negotiation with the vendor ensued. And it was determined by our administrator that it was unlikely that further money could be collected, so it was turned over to the Controller in March of 2011. The Controller has subsequently entered an agreement with Las Vegas Kidney that when and if the business is sold, the new owner will pay -- or the old owner, I'm not sure which, will pay \$1.5 million to the state toward this debt.

Governor: Will there be any consequences to our writing this off today if we're to receive that million and a half down the road?

Lynn Carrigan: If we receive the million and a half, we'll have to repay the federal share, but the federal share will be approximately one-half of the million and a half, not the 3.3.

Governor: And finally, do we have controls in place that would help hopefully discover something like this earlier?

Lynn Carrigan: Yes, we do. We have a surveillance and utilization unit, and they initially discovered this, but we have also placed edits and changed our billing practices so that we can prevent this kind of overpayment in the future.

Governor: Because wouldn't that, I mean, would we be able to determine -- because of that one decimal, that's a pretty big outlier in terms of what is being billed.

Lynn Carrigan: The edits now would prevent that from going through. That was in fact a medically improbable claim, because it was more units than the patient could conceivably use, and we now have edits in place to prevent medically improbable claims.

Governor: Great work. Thank you. I have no further questions. Members of the Board? Thank you very much. The Chair will accept a motion for approval to write off bad debt for Department of Health and Human Services Health Care Financing and Policy in the sum of \$3,303,324.01.

Attorney General: Move for approval.

Secretary of State: Second.

Governor: Motion by the Attorney General, second by the Secretary of State. Any questions or comments on the Motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

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

A. Department of Health and Human Services – Division of Mental Health and Developmental Services – Southern Nevada Adult Mental Health Services

Pursuant to Assembly Bill 240, Section 1, Subsection 2 of the 2011 Legislature, the Division of Mental Health and Developmental Services requests to contract with a vendor, Family First, that employs a former employee to provide internal medicine services for the Rawson-Neal Hospital.

***Relates to contract #35 on this agenda**

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: Agenda Item No. 6, Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board is a request to contract with a vendor that employs a former employee. What happened is last month you will recall we approved the contract with three former employees that were gonna be providing internal medicine down at the Southern Nevada Adult Mental Health Hospital. This is the fourth individual we just

happened to miss, and so we're pulling this on to make sure that everything's been fully approved. So this is a fourth individual that essentially was just missed last time around so we put it back on the Agenda.

Governor: Thank you, Mr. Mohlenkamp. We have removed Item 6B from the Agenda; is that correct?

Clerk: That's correct.

Governor: All right. I have no questions with regard to Agenda Item 6A. Board members, do you have any questions?

Attorney General: No.

Secretary of State: No, Governor.

Governor: The Chair will accept a motion for approval to authorize a contract with a former employee as described in Agenda Item 6A.

Attorney General: Move for approval.

Secretary of State: Second.

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

***7. FOR POSSIBLE ACTION – PROVIDER AGREEMENT**

A. Department of Health and Human Services – Welfare and Supportive Services

The Division of Welfare and Supportive Services is requesting Board of Examiner approval of the form contract. This will be used for the Energy Assistance Program intake sites that assist in eligibility application assistance to the low income and senior populations of Nevada.

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: Agenda Item No. 7, Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board are eight leases for consideration. There are leases -- I want to point out Lease No. 1 has a substantial savings that's identified over the term of the lease. This is with the Nevada State Board of Cosmetology. We also have a couple with

Health and Human Services, and a few with Transportation, and the last two with the Department of Wildlife.

Governor: Mr. Mohlenkamp, may I interrupt? You jumped to Agenda Item, No. 8.

Clerk: I apologize. I don't have to repeat that when we get to No. 8. So I'm sorry, No. 7, so what we have here is a provider agreement. This is for the Energy Assistance Program. And before you is just an approval for this provider agreement, and I don't have a lot of details on this specific item.

Governor: Is there a representative present for Agenda Item No. 7?

Bree Wilson: Good morning. I'm Bree (sp?) Wilson with the Division of Welfare and Supportive Services.

Steve Fisher: Good morning, Steve Fisher, Deputy Administrator for the Division of Welfare and Supportive Services.

Governor: And good morning. If you would just provide some background with regard to this Agenda item, please.

Bree Wilson: The Energy Assistance Program provides energy assistance for approximately 25 to 27,000 individuals this year. We contract with intake sites to improve access throughout Nevada, the benefits being that a client can walk in, get in-person assistance in completing an application. It also benefits the division because they can collect. One, they can screen for obvious ineligibility, so if someone's obviously ineligible, the application doesn't come in and we don't have all the work of processing it. Two is if it does come in and it's complete, it's a cost savings to us in that it's much quicker and faster to process that application if we don't have to solicit for additional information. And it benefits the clients having more access points.

Governor: What's an example, just out of curiosity, of an intake site? Where would somebody go?

Bree Wilson: Family resource centers, county Health and Human Services agencies, non-profits, for example, like Urban League, the Community Assistance Center in Reno, senior citizens' centers. Those are all examples.

Governor: And I know this isn't part of this Agenda item, but how is the -- has there been a high demand for utilization of this service?

Bree Wilson: There is a very high demand. It has increased a lot over the years. We've actually -- over the last couple of years, it's really decreased. We've actually had to lower the income threshold for eligibility in order to serve those with the lowest income with the funding available because while applications have gone up, the funding available has gone down.

Governor: I was just going to ask what is that threshold for eligibility?

Bree Wilson: It's 110 percent of poverty at this time. Historically we've always gone up to 150 percent of poverty until this past year.

Governor: Thank you very much. Board members, do you have any further questions with regard to Agenda Item No. 7?

Clerk: Governor, I just wanted to point out that since we're approving a form of contract, that going forward they will be able to execute into these contracts without coming back before the Board. So that's the general nature of what they're requesting here. I just wanted to make sure you were clear on that.

Governor: And that form of contract, Mr. Mohlenkamp, would be the contract that is on pages 6 through 34?

Clerk: That's correct. It's in your materials. And this is -- customarily we do this in many areas. It just provides for more efficient business climate for us to be able to move forward as long as they're in compliance with the form of the contract, then they can move forward. And I think Health and Human Services does this in a few different arenas.

Governor: And according to the contract, we pay the vendors \$10 per approved contract, correct?

Bree Wilson: Per application that is submitted that is deemed complete.

Governor: Okay. The Chair will accept a motion for approval of the form of contract as is presented in Agenda Item No. 7.

Attorney General: Move for approval.

Secretary of State: Second.

Governor: Motion by the Attorney General for approval, second by the Secretary of State. Any questions or comments on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously. Thank you very much.

***8. FOR POSSIBLE ACTION – LEASES**

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

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: Now, Mr. Mohlenkamp, we'll move to Agenda Item No. 8.

Clerk: Thank you, Governor. I think I've said all that I really wanted to say.

Governor: These are all standard leases. I will remark I believe it is in the first contract there's a savings of over \$200,000 for the life of the lease.

Clerk: Yes. It's listed in your materials at \$288,000, so, yeah, pretty significant when you consider the size of the lease. You know, we're seeing some of these, and I think we'll still see this for some months to come, but ultimately some of these are going to dry up as we start to, you know, get closer to market rates with all leases.

Governor: Well, that's a good sign for the economy. I have no questions with regard to Agenda Item No. 8, Leases 1 through 8. Board members, any questions? Okay. The Chair will accept a motion for approval.

Attorney General: Move for approval.

Secretary of State: Second.

Governor: Motion by the Attorney General to approve the leases as described in Agenda Item No. 8, 1 through 8, second by the Secretary of State. Any questions or comments on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

***9. FOR POSSIBLE ACTION – CONTRACTS**

Seventy-three independent contracts were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: Mr. Mohlenkamp, Agenda Item No. 9, Contracts.

Clerk: Thank you, Governor. Before the Board are 73 contracts for consideration, and I believe that you had identified a few that you wanted to have testimony provided on.

Governor: Yes. And by the way, Mr. Mohlenkamp, how's our new system working out?

Clerk: We're still working out the bugs. One of the -- the timetable we're -- right now what we're shooting for is for Board members to have their items pulled and identified by the end of the day on Wednesday, prior to the meeting if possible, but certainly no later than the end of the day on Thursday. Our process is the Friday before the meeting, which it had been in this case last Friday, to have the notifications out to all the agencies so they can plan to be here. So that's the only thing is if the Board members can make sure to get me or my assistant information on items they would like testimony on by no later than that Wednesday hopefully, but certainly Thursday. That way we can make sure that we notify people appropriately. So we're still working it out.

Governor: Thank you. I have asked to be held for questions Contracts 11, 13 through 16 and 34. Board members, did you have any other holdouts?

Attorney General: No, Governor.

Secretary of State: No, Governor.

Governor: Okay. We'll begin with Contract No. 11. I see Mr. Nunez here. Good morning, sir.

Gus Nunez: Good morning.

Governor: And, Mr. Nunez, my questions aren't really -- they're more out of curiosity with regard to your using the CMAR process because that's a process we've begun at the Board of Transportation. And I just wanted you to describe for the Board what we're doing here.

Gus Nunez: Good morning. For the record, Gus Nunez, Administrator Public Works. Governor, the CMAR, Construction Manager at Risk, is one of three construction procurement methods that's allowed in Chapter 338, NRS 338. We've developed criteria for the use of each one of those procurement methods. CMAR or CMAR as some folks refer to it lends itself best to large or more complex projects. And the reason for that, it's easier, with respect to risk and the larger the project gets the riskier they are, become the best way to manage that risk. This particular procurement method lends itself best for managing risk. And part of the reason for that is the fact that just like it says, the construction manager, you're not -- wherein in the design build process, you're bidding and awarding hard bid prospects awarding to the low bidder. In a CMAR process, the contractor is at the table during the design process.

And in selecting those type of firms, what we're looking for is someone with the attitude that they're actually working as an agent of the state or of the owner in administering the work, getting the project build. And this one here that you have here from (inaudible) is getting to be for us -- they're getting to be in the larger type projects. That's why we're using CMAR. An example of a small project, but complex, we recently completed a project at CSN, Cheyenne Campus, is a remodel of the science lab within a building. Also a partial upgrade of the HVAC system for the building, and we have -- all of that had to be done while the building is functional and occupied. So the logistics in scheduling the work around all those operations become fairly complex. And in defining that for a hard bid project with design bid build is very difficult, and every time you forget something there comes a change order, wherein the CMAR process, you've got the contractor on board at the table during the design process working all of these details out.

The process that we utilize, and required by the law, the selection process to begin with for a CMAR, the law requires currently that 80 percent of the selection be from qualification-based. The other 20 percent is based on cost. The cost of the project -- to build the project there is a budget which is equal for everyone competing. So the part that you can apply to the competition at that time before the design is done is the contractor's fee or the CMAR fee which is general overhead and profit.

In a typical -- in all types of construction contracts, you basically have three things that compose the total cost. Number one is the contractor's fee. Number two is general conditions, which is what it costs to administer that contract, including the foreman, estimators, general superintendant, trailers, sanitary facilities, temporary utilities, waste disposal, et cetera. That part and the part of the construction, the rest of the work, so we call that general conditions of the job. The other component, the third component is the cost of the work. The cost of the work is basically -- in the CMAR process, the prime contractor, the CMAR, puts together a scope of work for all of the traits and bids that out. So in the selection process, we're looking -- the law only requires for us to look at the fee which is general overhead and profit. We at Public Works also want to see the cost of the general conditions. We want to make sure that -- because the only thing left as I indicated, the third cost is the cost of construction. So we select those and on those two bases, we apply to the cost and qualifications in the selection process.

Once the selection is completed, we move through design, design is completed, the contractor puts the bid packages together for all the subs for the cost of the work, we oversee that process. The day that all those bids come into the contractor's office, our staff is there getting copies of everything that is submitted as the bids are open, and that also says with respect to assuring everyone of the sub bids that any potential of bid shopping or anything like that. At that point, we have in front of us the cost of the work, which is the last part of the cost, so at this point you basically have a process where it's open book. Because you already know the fee and the general conditions which is part of the selection process.

The last piece of the puzzle is the cost of the work. You have it right now right in front of you from all the bids that have been submitted that we oversee and we're there looking at everything that's coming in, and the selection of the best bid by the prime contractor, because we require a minimum of three sub bids in every trade. At that point, basically it's just a matter of getting out in the field and getting it done, getting the project done. So we find that it works extremely well. And with respect to change orders, et cetera, we find that in a typical hard bid process, our change orders typically can run three to five percent. In the CMAR process, they're running about one percent.

Governor: Do you prefer this CMAR process over the other options?

Gus Nunez: Well, it all depends. In design build for instance, which I know DOT also utilizes. Some other DOTs use design build. In our end, especially in a design build process, you -- we utilize those for what I call a straightforward process type of project that can be well defined, and I'm talking down to the knobs on the door and the light fixtures, and all of that's defined in a performance-type specification rather than a prescriptive type specification. So the specifications do get a little bigger than on a prescriptive type.

We find it better and quicker, for instance, if we're to build a parking garage, that's a very straightforward structure that can be easily defined. A general office building where you have some offices, you got some bullpens with work stations, you got conference rooms, you got storage, filing, break rooms and then your emergency stairway, elevators within that building.

Very straightforward, not difficult to define, down to the finishes on the wall. So for a general office building, that would work.

A research lab at UNR, UNLV, very complex. You would probably want to use CM at Risk on something like that. Also CM at Risk allows for, which in the other type of construction it's -- and getting to highway building, from just reading a lot of literature, and in our case, it allows for better utilization of new type cutting edge type solutions to your construction projects. Typically consultants reluctant to use a lot of these cutting-edge solutions because there's a lot of risk involved with them, they haven't been completely tried, but when you have a contractor on board and the owner at the table and everyone's sharing in this these type of solutions, it becomes a lot easier for everyone to at least look into these areas for potential solutions.

Governor: Thank you very much, Mr. Nunez. That was an excellent explanation. I appreciate it. Okay. We'll move on to Agenda Items 13 through 16. Do we have a representative from the Risk Management Division?

Anna Andrews: Good morning. Anna Andrews, Administrator of the Risk Management Division.

Governor: Good morning, Ms. Andrews.

Maureen Martinez: Good morning. Maureen Martinez, Insurance and Loss Prevention Specialist with the Risk Management Division.

Governor: And thank you. My question is simple. I know these are pretty routine, but I just wanted a little more background as to what the purposes of these contracts are.

Anna Andrews: Governor, the Risk Management Division is required to establish a pool of licensed brokers to assist me in procuring the insurance policies for workers' compensation, and the safety and loss prevention services. We also sometimes receive requests from the political subdivisions, and we are allowed to provide them with those services because of NRS 331.184, and the Nevada System of Higher Education also utilizes these contracts. While the amount might seem astronomical, the period of this contract is for five years, and it gives me the flexibility to negotiate with the brokers for the services that we need. And we're always subject to the budgetary authority that we have in our budget. So we cannot exceed that, and actually we try to negotiate the best that we can. The current contracts expire on June 30.

Governor: Are you a tough negotiator?

Anna Andrews: I'm told I am, and I used to work at the Attorney General's office, so they know.

Clerk: And, Governor, just for some perspective, you've got four contracts for four and a half million each on here, and I believe that the Division only uses -- what's the amount per year annually that you use?

Anna Andrews: I can tell you this year for brokers we have spent a million one and it's two separate brokers. One is for the contract for the insurance policy for workers' compensation, and the other one is for safety and loss prevention.

Clerk: So the point I wanted to make is that this provides more authority than they'll use, but they will be very strict in managing the dollars that they have available. So we see this from time to time, but I thought since it was a fairly large spread between what was being authorized and what they actually spend, and I wanted to bring it to your attention.

Governor: Those are all the questions I have. Board members, do you have any further questions? Thank you very much.

Anna Andrews: Thank you.

Governor: Contract 34, welfare and support services with United Way of Southern Nevada.

Jack Zenteno: Good morning. Jack Zenteno with the Division of Welfare and Supportive Services. I'm the Chief of the Child Care and Development Program.

Governor: And my purpose for asking for testimony on this is whenever we have a contract -- but I know this one, the amendment is for three -- close to \$4 million, the total maximum contract amount is \$88 million. I just thought it would be appropriate if you could provide some background as to what the services that are being provided under this contract are.

Jack Zenteno: Certainly. Overall, we provide child care subsidy for low income families throughout the state. The amendment that you have before you is to adjust our current budget. We've had some increases in case load and some decreases in general fund dollars over the last couple of years, and the purpose of this it to address that current shortfall.

Governor: And where did we get that extra close to \$4 million to do that?

Jack Zenteno: The source of the funds, I believe there's two pots of money. One was some cost savings in staffing, that there has been some vacant positions for a period of time that has resulted in some cost savings. And then the remainder was there was a decrease in the TANF caseload and there were some dollars available to move some funds from the TANF program over into the child care program.

Governor: Are we caught up now, or is there still a waiting list for these services?

Jack Zenteno: There is still a waiting list. We expect that as we get into roughly the first quarter of next year we can start to address that waiting list. It depends on how quickly we have people transitioning off of the program to create the savings that we need to be able to address those people that are currently waiting for services. So we have a period of time that we'll still be maintaining the waiting list, but we're analyzing data and we're hoping for the first quarter of next fiscal year.

Governor: In that analysis, so if we're trending positive like we are with TANF, will that allow us to accelerate moving that money over here to move up that January perhaps to sooner than that in terms of providing the extra money to try to cut down on that waiting list?

Jack Zenteno: Absolutely. Absolutely. Depending on the trends, we're keeping a close eye on the data. As soon as we have the funds available and we know that we can get through the rest of Fiscal Year '13, we're going to start addressing the waiting list.

Governor: All right. I have no further questions. Board members, do you have any questions with regard to this Agenda item? Thank you very much. Board members, do you have any further questions with regard to Agenda Item No. 9, Contracts 1 through 73?

Attorney General: No.

Governor: The Chair will accept a motion for approval.

Attorney General: Move for approval. Move for approval.

Secretary of State: Second.

Governor: There's a motion for approval by the Attorney General with regard to Agenda Item No. 9, Contracts 1 through 73, second by the Secretary of State. Any questions or comments regarding the motion? Hearing none, all in favor, please say aye. Motion passes.

***10. FOR POSSIBLE ACTION – MASTER SERVICE AGREEMENT**

One master service agreement was submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: We'll move on to Agenda Item No. 11. Mr. Mohlenkamp. Oh, excuse me, now it was my turn. Agenda Item No. 10.

Clerk: Thank you, Governor. No. 10 is one Master Service Agreement before the Board. This is with Borges (sp?) Timber, Inc., and this is for essentially fuel abatement. It's reducing fuels throughout the state. I don't know if we have multiple contracts. Do we have others?

Kimberlee Tarter: For the record, Kimberlee Tarter. We actually have 26 contracts that we maintain for these various type of services.

Governor: I have no questions regarding this item. Board members? The Chair will accept a motion for approval of Agenda Item No. 10.

Attorney General: Move for approval.

Secretary of State: Second.

Governor: Attorney General has moved to approve the Master Service Agreement described in Agenda Item No. 10, Item 1, second by the Secretary of State. Any questions or comments regarding the motion? Hearing none, all in favor, please say aye. Motion passes.

11. INFORMATION ITEM

A. Department of Conservation and Natural Resources – Division of State Lands

Pursuant to NRS Chapters 111, Statutes of the Nevada, 1989 at page 263, the Division of State Lands is required to provide the Board of Examiners quarterly reports regarding lands or interests in lands transferred, sold, exchanged, or leased under the Tahoe Basin Act program. Also, pursuant to Chapter 355, Statutes of Nevada, 1993, at page 1153, the agency is to report quarterly on the status of real property or interests in real property transferred under the Lake Tahoe Mitigation Program. This submittal reports on program activities for the fiscal quarter ending March 31, 2012 (reference NRS 321.5954).

Brief description

- **1989 Tahoe Basin Act**

The agency reports there were no transfers of lands or interests in lands during the quarter.

There was one acquisition of land this quarter: March 2, 2012, the Nevada Division of State Lands acquired a quarter acre parcel in Incline Village from the Washoe County Treasurer's Office. There was no cost incurred by the state in this transaction.

- **Lake Tahoe Mitigation Program**

The agency reports that there was one land coverage sale transaction closed in this quarter. The transaction closed March 6, 2012 and involved the sale of 84 square feet of land coverage in the Incline Village Hydrologic Zone. The transaction generated a total of \$1,764 in proceeds and administrative fees for the Nevada Land Bank.

No other transactions are reported for the first quarter of FY12.

Comments:

Governor: Now, Mr. Mohlenkamp, Agenda Item No. 11, please.

Clerk: Thank you, Governor. This is a recurring item before the Board. You have an informational item, a report on land transfers or acquisitions within the Tahoe Basin, and the Lake Tahoe Mitigation Program. Under the 1989 Tahoe Basin Act, one report is an acquisition of land on March 2, 2012 of a quarter-acre parcel in Incline Village, and the report is that there were no costs incurred by the state in this transaction. Under the second item, there was an

acquisition -- or sale of 84 square feet of land in Incline Village, and there was proceeds of \$1764 in that particular transaction.

Governor: And I don't know if you know the answer to this, Mr. Mohlenkamp, but just curious to me that we're buying 84 square feet of land.

Clerk: I do not know the details on that. I'm assuming it's some cleanup work, but I don't know if there's anybody here to answer that. I can get some information for you for the next time around and make sure I know those details.

Governor: Thank you. Given that that was an information items, we'll take no action on that.

12. BOARD MEMBERS' COMMENTS/PUBLIC COMMENTS

Comments:

Governor: Agenda Item No. 12, Public Comment, Board member comments. Any Board member comments? Hearing none, public comment here in Carson City? Are there any members of the public present in Las Vegas, Mr. Secretary?

Secretary of State: No, Governor.

***13. FOR POSSIBLE ACTION – ADJOURNMENT**

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

Comments:

Governor: We'll move on to Agenda Item No. 13. Is there a motion for adjournment?

Attorney General: Move for adjournment.

Secretary of State: Second.

Governor: Motion by the Attorney General, second by the Secretary of State. All in favor, please say aye. Motion passes. The meeting is adjourned. Thank you, ladies and gentlemen.

Respectfully submitted,

JEFF MOHLENKAMP, CLERK

APPROVED:

GOVERNOR BRIAN SANDOVAL, CHAIRMAN

ATTORNEY GENERAL CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER