

**MINUTES OF THE REGULAR MEETING OF THE NEW MEXICO STATE
TRANSPORTATION COMMISSION**

**New Mexico Department of Transportation
Pecos River Conference Center
Carlsbad, New Mexico
November 15, 2012**

The New Mexico State Transportation Commission held a regular scheduled meeting on Thursday, November 15, 2012, at the Pecos River Conference Center, Carlsbad, New Mexico. Chairman Pete Rahn called the meeting to order at 1:30 p.m. Commissioner White led everyone in the Pledge of Allegiance.

State Transportation Commissioners Present:

Kenneth White, Commissioner, District One
Robert Wallach, Commissioner, District Two
Pete K. Rahn, Commissioner, District Three
Ron Schmeits, Commissioner, District Four
Butch Mathews, Commissioner, District Five
Jackson Gibson, Commissioner, District Six

NMDOT Staff Present:

Paul Gray, Deputy Secretary of Highway Operations
Tom Church, Deputy Secretary of Business Support
Kathryn Bender, Deputy Secretary of Infrastructure
NMDOT Staff

Welcoming Remarks:

Chairman Rahn thanked the City of Carlsbad and the Department of Development. He then recognized the elected and other officials present at the meeting as follows: Dick Doss, Mayor Pro Tem; The Honorable Kathryn Brown, New Mexico State Representative; Guy Lutman, Eddy County Commissioner; Jack Filbato, County Commissioner; Paul Aguilar, City Councilor; Janelle Whitlock, City Councilor.

Chairman Rahn invited Mayor Pro Tem Dick Doss, City of Carlsbad, to make welcoming remarks. Mayor Pro Tem Doss welcomed the Commission to the City of Carlsbad.

Approval of Agenda:

Chairman Rahn asked for a motion to approve the agenda as amended adding Kathryn Brown to the Elected Officials Delegation Presentations, Commissioner Schmeits made a motion to approve the agenda as amended; Commissioner Mathews seconded; motion carried unanimously.

Approval of the Minutes of the Regular Meeting of October 18, 2012 of the State Transportation Commission:

Commissioner Schmeits asked for a motion to approve the Minutes of the October 18, 2012 Regular Meeting; Commissioner White made a motion; seconded by Commissioner Schmeits; motion carried unanimously.

Elected Officials/Delegation Presentations

Jay Jenkins spoke on behalf of Don George, President of the Department of Development, about “Transportation Benefits to the Business Sector”. Mr. Jenkins identified five critical areas in which transportation is important to the business community in Carlsbad along with three transportation methods.

John Heaton, spoke about “Sustainable WIPP Update and Development”. WIPP was responsible for getting the state \$20 million a year for fifteen years which ended in fiscal year 2012. Mr. Heaton went over project accomplishments for the area.

John Volpato, Eddy County Commissioner, welcomed the Commission on behalf of Eddy County and gave a brief presentation on the loop roads. Decades ago a need was identified to put a loop around Carlsbad to route truck traffic out of the main part of town. It has become critical that it be done now, especially after the money that was put into upgrading US 285 to prevent it from degrading so quickly.

The Honorable Kathryn Brown, New Mexico State Representative, welcomed the Commissioners to Carlsbad and gave a presentation on the roads in Carlsbad. She noted that it would be a wise investment to make sure that state monies come down to help maintain the highways and roads. Canal Street looks nice but constituents are not satisfied with the lack of drainage. Representative Brown asked the help of the Department to get the drainage fixed.

Public Comment

Tom Brown, former New Mexico State Representative, spoke regarding the naming of Highway 70 to US 285 near Roswell. He said that 41 years ago the STC voted unanimously to name the highway from the intersection of Highway 70 to US 285 the Edgar Dean Mitchell Highway. There was construction done during which time the signs were taken down, and they were never put back up upon completion. The citizens of Artesia, where Mr. Mitchell was from, would appreciate the Department putting them back up.

Gary Shubert, District Two Engineer, NMDOT, addressed the Commission and let them know his office has received the request and will look into it again. The last time it was researched, the District could not find in the STC minutes that this dedication

occurred. The designation that occurred at the STC meeting 41 years ago needs to be found and verified. Once it is verified, the District will put the signs back up.

Don Neighbors, a resident of Carlsbad, spoke regarding the Canal Street project. He thanked the Department for the work done on the project. Mr. Neighbors brought up problems with Canal Street regarding ADA accessibility. He hopes to get it resolved to better serve the citizens.

Chairman Rahn asked Mr. Neighbors if the ADA facilities were absent or were not fit for the ADA community. Mr. Neighbors responded there are several areas in the reconstruction that are difficult to get through in a wheel chair. Mr. Shubert is aware of the problem and is in the process of meeting with the City of Carlsbad to resolve the issues.

Charles Gray, Support Group, City of Carlsbad, spoke regarding pedestrian issues within the streets of Carlsbad. Mr. Gray feels the City of Carlsbad needs help with Canal Street in order for pedestrians to get across the street safely.

Committee Reports-Finance Committee

The Committee did not vote on any matters before the Committee or take any action.

Commissioner Schmeits gave a brief overview of the discussion within the Finance Committee. The Finance Committee reviewed the Department's budget and the upcoming audit, and discussed the roles of financial and cash positions of the Commission. The Committee discussed issuing additional bonds that will be refinance bonds for existing debt. The amount to be refinanced is \$250 million with a resolution for this as part of the action items at today's meeting. By issuing these bonds it will save

the Department about \$30 million. The \$30 million that is being saved will be available to be put back onto the roads.

Committee Reports-Infrastructure Committee

The Committee did not vote on any matters before the Committee or take any action.

Commissioner Mathews gave a brief overview of the discussion within the Infrastructure Committee. The Committee revisited Division 100 updates. Commissioner Mathews and Department staff met with ACNM on November 7th and 12th discussing Division guidelines. The staff will be briefing the Commission in full at the January STC meeting regarding Division 100 and move for approval in February.

STAFF BRIEFINGS

District Two Presentation

Gary Shubert, District Two Engineer, NMDOT, began by introducing some of his District Two Staff: Manon Arnett, Quality Manager and Public Information Officer, NMDOT; Bob Kurtz, Assistant District Engineer, NMDOT, and Mike Friel, District Business Manager, NMDOT. Mr. Shubert presented an overview of recently completed projects in the District as follows: US 62 in Carlsbad urban reconstruction; Bataan Memorial Bridge; NM 18 in Lea County pavement preservation; US 285 Artesia pavement preservation, bridge deck seal and a new signal; NM 206 Lovington pavement preservation; NM 76 Eunice pavement rehabilitation; and NM 18 pavement rehabilitation. There have been a total of 27 projects let out by NMDOT in Eddy County from December 2001 to September 2012. Mr. Shubert concluded the presentation with the future needs in the area and upcoming projects for FY 2012- FY 2015.

Secretary Report

Tom Church, Deputy Secretary, Business Support, NMDOT, gave a brief report. Mr. Church provided the Commission with a position vacancy report showing a lot of vacancies still within the Department. The Department is at its lowest vacancy rate since 2008. As Commissioner Schmeits mentioned, the agency received a triple A rating on the senior lien bonds. The annual audit is scheduled to be completed on time by December 13, 2012.

Paul Gray, Deputy Secretary, Highway Operations, NMDOT, gave a brief report. The Operations Program completed the Equipment Auction and did get the change in legislation that enables the Department to auction some of the rolling stock that previously it was not able to do. The Auction brought in revenue of \$1.4 million for the Department. Lastly, Mr. Gray reported on the Outdoor Advertising Rule Making. The Department previously received permission from the Commission to begin the Rule Making on Outdoor Advertising. The Department had the first public information meeting August 30, 2012 with a good turn out. The Department is trying to adjust the rules to address the permitting of changeable message signs, outdoor advertising signs, and digital signs.

Kathryn Bender, Deputy Secretary, Programs and Infrastructure, NMDOT, gave a brief report. The Programs and Infrastructure Division has made an effort to eliminate leased office space for the staff. With that, they began moving staff around within the General Office in August. That will generate a \$350,000 savings a year in leases. There

has been negotiation on the Memorandum of Agreement with Rio Metro on the Rail Runner operations and maintenance. It is looking to be in place by the end of the year. Last week the Department took a contingent to FHWA's Everyday Counts Innovative Initiative Summit along with J. Don Martinez, Division Administrator, FHWA, and his assistant, as well as some of the Local Government staff and a representative from ACEC.

FHWA Update

J. Don Martinez, Division Administrator, FHWA, gave a brief report. There is nothing this month to report from Federal Highways. There was a question earlier in the meeting about the Fiscal Cliff and how it would affect the DOT Program. Mr. Martinez does anticipate come January 1, 2013 the business of funding projects is the implementation of MAP 21. Until Federal Highways goes through with the rulemaking on some of the rules passed in MAP 21, the Department will have their work cut out for them in performance measures. There will have to be an asset management plan that will require that the Department incorporate the different programs within the Department.

NMFA Update

Mark Lovato, Investment Manager, NMFA, reported that as of October 31, 2012, the market value for the GRIP 1 Portfolio was \$221.4 million, a net increase of \$16.1 million from September. There is 25% in the project account, 0% in escrow refunding, 19% in debt service reserve, 23% in BNSF escrow, 3% in debt service accounts and 1% in the arbitrage rebate account with a total yield of 1.07%. The SWAP portfolio is remaining the same; it is at \$143 million.

Financial Report

Larry Viarreal, Chief Financial Officer, NMDOT, presented the Operating Budget Summary for the month ending October 31, 2012. The actuals for the road fund is \$74 million, Federal Highway, \$67 million and the fund balance reserve is \$82 million. There is a total of \$223 million in inflows and \$243 million in outflows. Currently the fund balance is \$78 million. The cash balances for operating budget funds for October 31, 2012 is \$166 million. Commissioner Schmeits asked regarding the restricted funds there is approximately \$80 million, how much of that is already committed? Mr. Viarreal responded the restricted funds are unbudgeted, uncommitted reserves.

Quarterly Report on Rail Runner FY 2013 Budget & Ridership

Terry Doyle, Rio Metro Transportation Director, gave a report on the FY 2013 Rail Runner. Revenues are tracking as budgeted,; on the expenditure side everything is tracking well. The projected to close is coming in at \$1 million under what was budgeted. Ridership has been tracking consistently around 3,900 average weekday riders since November 2011. Commissioner Schmeits asked Deputy Secretary Church what the amount is of the bond payment for the Rail Runner. Mr. Church responded approximately \$24 million.

Action Items

2012/2013 FY Match Waiver Submittals for the Local Government Road

Fund Program

Paul Gray, Deputy Secretary, Highway Operations, NMDOT, respectfully asked the Commission to approve the 2012/2013 FY Match Waiver submittals for the Local Government Road Fund Program. The Local Government Road Fund authorizes the

Department to distribute up to one million dollars of LGRF money to municipalities and counties that can demonstrate financial hardship for uses as all or a portion of the municipality's or county's match fund requirement. There are letters from the following: Sierra County; Village of Santa Clara; Village of Corona; Town of Peralta; City of Santa Rosa; Guadalupe County; Harding County; Mora County; Quay County; San Miguel County; Village of Eagle Nest; Village of Roy; City of Moriarty; Town of Estancia; and the Village of Willard. The Department is requesting the authorization of the use of \$647,910 of Match Waiver Funds to be applied for those entities listed above.

Chairman Rahn asked for a motion to approve the 2012/2013 FY Match Waiver submittals for the Local Government Road Fund Program; A motion was made by Commissioner Gibson; Commissioner Mathews seconded; motion carried unanimously.

Approval of Resolution Authorizing Final Matter Relating to the NMSTC Refunding Revenue Bonds and Approving and Authorizing the Distribution of a Preliminary Official Statement

Ken Guckenberger, NMDOT Bond Counsel, respectfully asked the Commission to approve the Authorizing Resolution. This Resolution is a follow up to the Resolution that was passed at the September 2012 STC meeting where the New Mexico Finance Authority was directed to go forward with the refunding up to \$300 million of bonds.

Chairman Rahn asked for a motion to approve the Authorizing Resolution No. 2012-08 (Nov) to Authorizing Final Matter Relating to the NMSTC Refunding Revenue Bonds and Approving and Authorizing the Distribution of a Preliminary

Official Statement amending and designating Commissioner Schmeits to approve the rates when it occurs in NYC; Commissioner Mathews made a motion as amended; Commissioner Wallach seconded; motion carried unanimously.

Programs and Infrastructure. Transit and Rail Division-BAR #4

David Harris, Transit and Rail Manager, NMDOT, respectfully asked the Commission to approve Budget Adjustment Request #4. The BAR increases the “other” category for the grants and services by \$1,456,029 in the Programs and Infrastructure Program. This BAR will support the purchase of transit equipment and upgrades and enhancements for transit facilities. It is supported by multi-year federal grants as follows: Metropolitan Planning - #374,538, State of Good Repair - \$667,491 and Veterans Transportation - \$414,000.

Chairman Rahn asked for a motion to approve Programs and Infrastructure Transit and Rail Division BAR #4; Commissioner Schmeits made a motion; Commissioner Wallach seconded; motion carried.

Commission Policy 22-State Transportation Improvement Program

Nancy DaCosta, Deputy General Counsel, NMDOT, asked the Commission to approve Commission Policy 22- Role State Transportation Improvement Program. CP 22 is currently titled Statewide Transportation Improvement Program and Three Year Plan. If amended and reissued as proposed, CP 22 will be retitled Statewide Transportation Improvement Program. The Policy Committee reviewed CP 22 at it’s August, 2012 meeting and agreed by consensus that the Policy should be reinstated. The Committee met again in October, 2012 and reviewed and discussed certain proposed amendments to,

and the reissuance of CP 22, and, at that time, recommended forwarding to the full Commission for approval.

Chairman Rahn asked for a motion to approve Commission Policy 22-Statewide Transportation Improvement Program; Commissioner White made a motion; Commissioner Schmeits had an issue with section two of the Policy which states the Secretary can take any and all money and utilize it wherever or whenever regardless what the Commission says. Commissioner Schmeits would propose that if there are revisions to the recommendations for the approval of the Commission that those revisions come back to the Commission for approval. He proposes an amendment to line two that would say when any revisions exceed \$1 million, it comes back to the Commission for approval. Chairman Rahn asked for a motion as amended above; Commissioner Schmeits made a motion; Commissioner Gibson seconded; motion carried unanimously.

Commission Policy 32- Mineral and Water Rights

Nancy DaCosta, Deputy General Counsel, NMDOT, asked the Commission to approve Commission Policy 32- Mineral and Water Rights. This policy expired October 18, 2012. The Policy Committee met on that date and reviewed and discussed a proposed update to and the reissuance of CP 32, and, at that time, recommended forwarding the policy to the full Commission.

Chairman Rahn asked for a motion to approve Commission Policy 32-Mineral and Water Rights; Commissioner White made a motion; Commissioner Schmeits seconded; motion carried unanimously.

Commission Policy 62- Addition to and Deletions from the State Highway

System

Nancy DaCosta, Deputy General Counsel, NMDOT, asked the Commission to approve Commission Policy 62- Addition to and Deletion from the State Highway System. This policy expired on October 18, 2012. The Policy Committee met on that date and reviewed and discussed a proposed update to and the reissuance of CP 62, and, at that time, recommended forwarding the policy to the full Commission.

Chairman Rahn asked for a motion to approve Commission Policy 62- Addition to and Deletions from the State Highway System; Commissioner Mathews made a motion; Commissioner White seconded; motion carried unanimously.

Commissioner's Comments

Commissioner Gibson thanked his fellow Commissioners and the NMDOT Staff. Commissioner Gibson still has some issues with road conditions in his District and understands the money issues. He is grateful for the improvements with the vacancies but is still concerned. Commissioner Gibson and his wife go to the patrols in District Six and feeds staff for the holidays to show his thanks and appreciation for their work. He ended by welcoming the new District Two Commissioner from Hobbs.

Commissioner Mathews began by letting Commissioner Gibson know he appreciates that he makes time for the patrol yards and knows how important it is to the staff out there in the yards. Furthermore, Commissioner Mathews thanked Carlsbad for

hosting the meeting. He ended by praising all the NMDOT staff for doing an outstanding job.

Commissioner Schmeits welcomed Commissioner Wallach. He expressed his opinion about passing the Resolution earlier on in the meeting as a good thing. It was something this Commission has dealt with for a while and feels they finally made a first step. He thanked the City of Carlsbad for their hospitality and Representative Brown for staying for the entire meeting.

Commissioner White enjoyed the visit to Carlsbad and welcomed Commissioner Wallach to the Commission.

Commissioner Wallach expressed his appreciation to Carlsbad for hosting the meeting and thanked them for their hospitality. He has felt very welcome from the NMDOT staff and looks forward to being a part of the group.

Chairman Rahn also welcomed and thanked Commissioner Wallach for joining the group. He congratulated the Commission that after a two year effort they have finally been able to take action on refunding some of the bonds. He is concerned on how the Department is going to pay for their system. He ended by thanking everybody involved with the meeting.

Chairman Rahn asked for a motion to adjourn the regular meeting at 4:48 p.m. Commissioner Schmeits made a motion; Commissioner Wallach seconded; motion carried unanimously.



**Chairman
Pete K. Rahn**



**Secretary
Kenneth R. White**