

CONNECT NEW MEXICO COUNCIL MEETING
Hybrid Meeting, Santa Fe Indian School, 1501 Cerrillos Road, Santa Fe, NM 87505
Thursday, January 18, 2024 | 1:30 – 3:30 PM

1. WELCOME AND CALL TO ORDER

Video recording time: 00:00:06

The meeting of the Connect New Mexico Council was called to order by Shawna Rosales, at 1:39 p.m., on Thursday, January 18, 2024, in Santa Fe, New Mexico. Ms. Rosales introduced herself and reviewed general rules and procedures regarding the meeting.

MEMBERS PRESENT-

Kimball Sekaquaptewa, Chair	Leonard Manzanares
Luis Reyes, Vice-Chair	Eli Guinnee
Secretary Peter Mantos	Joseph Navarette
Ovidiu Viorica	Godfrey Enjady
Jim Ruybal	Steve Grey

MEMBERS ABSENT-

Nora Sackett for Alex Greenberg
Bogi Malecki
Launa Waller
Katherine Crociata
Tico Charlee

OTHERS PRESENT

Shawna Rosales, OBAE Administrative Assistant
Renee Narvaiz, DoIT, Public Information Manager
Drew Lovelace, OBAE Acting Director
Natalie Runyan, GIS
Vanessa Willock, OBAE General Counsel
Jason Gonzales, James Christian, M. Grass, Jeff Albright, Mitch Hibbard, Erica Valdez, Regan Williams, Sandeep Taxali, Lee Gagnon, Heather Floyd, Paul Donovan, Johnny Montoya, Eric Luchetti, Andrew Wilder, Jim Campbell, Neala Krueger, Angelo Jaramillo

2. APPROVAL OF MEETING AGENDA AND MINUTES

Video recording time: 00:04:05

MOTION Ms. Rosales called for a motion to approve the Agenda. Vice-Chair Reyes so moved, seconded by Mr. Viorica.

VOTE There being no opposition the Agenda was approved.

MOTION: Ms. Rosales called for a motion to approve the minutes of the December 14, 2023 meeting. Vice-Chair Reyes so moved, seconded by Mr. Navarette.

VOTE There being no opposition the minutes were approved.

3. CHAIR Updates/Comments-Kimball Sekaquaptewa

Video recording time: 00:05:01

Chair Sekaquaptewa welcomed everyone to the meeting and thanked them for their participation today, stating her appreciation for their time. She commented on all of the activity relative to broadband that is and will be happening during the current legislative session and

encouraged Council members to be the voice representing the continued needs in this endeavor which will fall outside the scope of the federal funding parameters, as well as accommodating these needs with state funding. Chair Sekaquaptewa also reminded the Council that Broadband Day is January 24th, and the activities associated with that.

Mr. Viorica expressed support of Ms. Sekaquaptewa's comments regarding the necessity of ongoing support for broadband, beyond the BEAD funding and other federal programs, in which the state will need to continue its investment, particularly in the realm of digital equity, to include continuing access to devices. Ms. Sekaquaptewa thanked Mr. Viorica for his comments.

4. Working Group Updates

Video recording time: 00:12:45

- PROP – Ovidiu Viorica

Legislative Update – Pole Attachment Bill

Mr. Viorica stated this is definitely a work in progress which encompasses a lot of very complex issues. He noted that work continues on practical implementation items and developing best practice approaches in parallel with this bill.

Mr. Viorica asked Ms. Willock, General Counsel, to describe the way the legislation is currently structured and what this is designed to accomplish.

Ms. Willock stated that the pole attachment issue is one aspect of a larger bill, Senate Bill 45, which is the broadband infrastructure bill, and falls under section 7 of the bill. She noted that there are ongoing discussions with respect to development of policies and procedures which will help with transparency, equitable administration of many issues, etc., and some of this language could be pulled out of the bill if those issues can be resolved in other ways. She explained that the larger parts of this bill involve moving the PSFA team over to OBAE, to include personnel, funding, contracts, etc. Another aspect of this bill will be to move all broadband infrastructure currently under DoIT over to OBAE, pursuant to the Broadband Access and Expansion Act. An exception to the procurement code is also being requested which would allow for multi-term contracts for professional services to be longer than the current four-year limit, due to the nature of the work involved with design, engineering and operation of broadband infrastructure. She stated that this bill addresses areas in many existing statutes which are in need of correction and modification in order to meet the broadband mission. Director Lovelace interjected, and Ms. Willock confirmed, that PSFA is in agreement with this change.

Ms. Willock discussed a second bill in process, which is Senate bill 43, which addresses utility easements for broadband, which has been previously introduced. Director Lovelace noted that this bill was previously introduced in 2021, developed off a Colorado 2017 bill, and that the original bill addressed how to have a utility issue a notice and retroactively state they have an existing easement and add a communications element to that easement. He gave details of how the mechanics of this would work, documentation, etc. He noted that this has been discussed with multiple stakeholders including private landowners and some of the electric co-ops and others, examining the issues surrounding the previous introduction in 2021. The approach has been to try to look at this as a future forward issue. He commented that the language in section one of this bill is still very similar to that in the previous bill and

the language is permissive, so the utility has the option to lease out functions to third parties, which can be of benefit in terms of future developments or renewals, describing details of how this might be used.

Vice-Chair Reyes expressed concerns with respect to legislation which would try to change an existing, written easement contract held by an electric co-op, which had been negotiated in good faith and signed by both parties. He stated that he is presenting this as a discussion point as this is something that cooperatives may present in committee regarding this bill. He noted that most of the cooperatives already have pole attachments. He referred to the statement by Ms. Willock that some of this might be pulled out of the bill if the guiding principles can be agreed upon and clarified so this does not become a “moving target”. He noted that it would be good to inform the affected parties as to what is included before the legislation is introduced. He gave details of previous agreement failures and that at this time his fellow co-op members at Kit Carson Electric are opposed to this approach. He suggested that this language be pulled out of the bill at this time and an attempt be made to make the necessary clarification(s) outside of legislation.

Director Lovelace noted that in SB43, which is the right-of-way easement bill, it specifically states “for new and renewals”, so this would not affect existing contracts. He stated that with respect to the pole attachments discussions have been held with electric co-ops, ISPs and NMECG ongoing over the past year under the prior director, where they have heard issues and are trying to address specific concerns about rates being consistent, and especially the Office of Broadband’s concern with respect to clear consistency of how pole attachment costs will be structured or will work, which might necessitate projects being de-scoped. He noted that these implications are unknown from the federal side as they have been very clear that 100% of the unserved must be reached. Director Lovelace stated that Mr. Viorica and the PROP group have been working on this legislation for over nine months, having met with the co-op association as well as with Vice-Chair Reyes, and they are very open to letting the industry address these issues with a commitment to develop best practices, and the first opportunity to address this now will be when the bill goes to committee, and there was no disrespect intended.

Vice-Chair Reyes asked Director Lovelace what was meant by best practices. Director Lovelace asked Mr Viorica to address this question.

Mr. Viorica noted that this has been addressed in previous Council meetings as well as discussions during the broadband meeting. He gave details with regard to consistency, what is included, what is excluded in terms of joint use agreement for recurring costs, recognizing that several entities have joint use agreements and not all were willing to share those details. Consistency is essential across joint use, what types of activities are included and excluded, in order to develop hundreds of projects in a very short period of time. He gave details of having a procedure in place under which due diligence is undertaken to try to keep make-ready costs within reasonable margins and expectations. He noted that there are other points where more clarity and consistency is being sought.

Vice-Chair Reyes noted that this is policy making which will impact private property

owners and there should be some sensitivity to the effect this will have on those property owners. With respect to the subject of best practices, the co-ops are self-governing with an elected board of directors who determine the direction of the cooperative, and work closely with the people in their respective communities. He commented that he did not want to see legislation created because there were one or two ISPs who had difficulties with a cooperative, but would rather see a more surgical approach to address the individual issues. Vice-Chair Reyes described that there are two issues involved here, the pole attachments and the make-ready agreements, giving details of each issue and that they should be kept separate. He stated that there needs to be better definition of best practices and how this may vary given specific situations, and if too many things are “hard wired” in legislation it takes away the latitude for making good business decisions in individual situations. He reiterated that he believes this language should be removed from the legislation, stating that there is time to resolve these issues up until the BEAD applications start coming in. He noted that once legislation is passed it is hard to remove or change it.

Ms. Willock stated that these discussions are what they would like to see in an ultimate document, and what is being requested at this time is a commitment to these discussions with examples as given for guidelines to ensure the best interest of the co-op members while moving forward with the mission. She explained that all that is being asked for at this time, in order to pull this legislation back, is a committal from the organizations to have exactly these discussions with these good ideas. These are the guidelines being sought.

Vice-Chair Reyes stated that he believed this has been accomplished in previous discussions, with some reservations, however, there may be some co-ops who have no interest in broadband as they are satisfied with their current provider(s).

Ms. Willock concurred that this could be put into a couple of paragraphs stating the commitment of the co-ops, with their reservations, however, they are committed to having the ongoing discussions to formulate the guidelines, which could be signed.

Director Lovelace gave additional background and that these are not necessarily binding agreements for these entities unless they enter into some sort of agreement with the Association of Broadband. He agreed with Ms. Willock that the commitment to have these discussions is fairly low level to be able to pull back the legislation.

Vice-Chair Reyes expressed his opinion that this needs to be dropped and gave his reasoning for this again.

Ms. Willock stated that with this broad level, high level commitment document, signed, they can then document why the legislation is being pulled back.

Chair Sekaquaptewa read a notation which states, “State Tribal Collaboration Act, tribal consent, the land _____ burden parcel definition means a parcel of real property subject to utility easement other than land, under the custody control of the commissioner of public lands”, which would seem to include everything but state land, and queried how this affects private owners, tribal/pueblo, local governments, subdivisions, federal properties, and in this respect it makes her nervous in that it is too sweeping and this is

troubling.

Director Lovelace offered to meet privately to discuss specific changes which could be presented in committee and easily changed at that point. He noted that he believed the State's authority does not extend onto tribal lands, and asked Ms. Willock for confirmation of this. Ms. Willock agreed that this is correct. He restated that this issue is about the ability for a contract between a utility and the private landowner, future forward, for a renewal process and they would have the option to negotiate that easement, and this allows for that easement to be extended, for example, to an internet service provider who might want to use that same easement, which would be allowed for in that contract.

Vice-Chair Reyes again expressed some reservations regarding this process and that he has experienced very few problems with pole attachments, etc., and gave an example.

Director Lovelace responded that he is very happy Kit Carson Co-Op has not had any difficulties, but there have been difficulties in other areas, and he appreciates their perspective, however, his responsibility at this point is to see that the \$75 million goes out efficiently. He is very much in favor of working to find resolutions that do not necessarily have to go into legislation.

Vice-Chair Reyes expressed concerns with the changes regarding PSFA. He stated that he does not support overbuilding, or the State beginning to compete with incumbents for schools or pueblos they are already servicing. Will DoIT or OBAE build a network to put these schools on their network? He had questions about whether the existing providers will be contacted to provide services or whether they will be competing with the State of New Mexico.

Director Lovelace stated that this legislation has existed since 2015 when the PSFA bill was amended and the state education network was mandated. What is being asked is to holistically bring the program and the people over to the Office of Broadband as it falls underneath broadband. He deferred to Mr. Viorica for further comment as he has been working on this for several years.

Mr. Viorica clarified that this will be the same program which created the statewide education network with a request for our group to coordinate the creation of the statewide education network, connecting all the schools together, utilizing existing infrastructure and the services from the existing internet service providers, and there is actually a request for proposal out soliciting quotes from the industry on how to connect the schools to the state coordinated network. This is not a state owned network. The state does not own the circuits or the fiber which connects the schools, and there is no intention to change this. The intent is to continue to solicit services from the industry, from entities which have been doing this successfully for a long time, in all probability in the most cost effective way, so the program will use the most cost effective services from the industry in order to connect all the schools together so they can share resources and reduce the administrative burden.

Chair Sekaquaptewa shared thoughts regarding barriers which might arise for smaller

schools or communities with respect to qualifying for the RFP. She acknowledged that the need for pricing standardization would be an important metric in reviewing applications and ensuring accountability. She queried how fair pricing would be determined per fiber circuit, for example going over a mountain compared to flat land, which effectively creates a wide range of considerations with respect to price standardization. She asked if Mr. Taxali could comment on this if he is still in the meeting. Mr. Taxali was not available to respond.

Mr. Viorica commented that with respect to pricing standardization the idea is not so much standardizing the cost as it is settling on a model, or agreeing what will be considered and what will be eligible for charges being applied to these projects, as opposed to stating an exact amount which can be charged. The plan would be to state what model is being used with a plan for how the costs are shared and specifying the types of maintenance activities which will be implemented. This will give clarity and help all parties understand what is going into the pricing and what the pricing limits will be, to avoid unexpected cost increases which could make projects nonviable. Another element being addressed is arriving at a defined timeframe under which contracts are negotiated, pricing is provided and the work will be executed, to ensure projects do not linger over an extended period of time. However, there is an understanding that this has to be paired with adequate resources for the smaller entities which may not have their own resources to respond to the increased volume of requests expected within a very short time.

Chair Sekaquaptewa queried whether or not the entire \$70 million will be given out to the next eight or nine projects and if so there will be no reserve unless the legislature allocates additional funding. She gave illustrations of unanticipated costs which have not been mentioned or articulated in any of the NOFOs, and that all of the projects will undoubtedly have “remnants” which will need support, so there needs to be a way to protect their success.

Vice-Chair Reyes noted that there will be a resource issue with contractors and materials, so he believes it would be unfair to state they will be held to a standard and they have 30 days because everyone in the country is doing the same thing. Therefore, it would be hard to put something like this in writing. He noted the situation in Texas where large amounts of additional funding have been approved in Texas and that New Mexico is not in a position to compete with other states like this for contractors and that there needs to be more emphasis on defining the mechanics of the process needed here.

Director Lovelace remarked that he is in agreement. Getting high-level, non-binding best practices from the collective group will go a long way in helping resolve these issues.

Ms. Matejka Santillanes introduced herself as the Executive Director of the New Mexico Exchange Carrier Group and Jay Santillanes, who is the lead lobbyist for this organization. She thanked Chair Sekaquaptewa for the opportunity to share thoughts with the Council and other attendees. She noted that this is a great opportunity, however, “the devil is in the details”. She acknowledged all of the hard work that has been done so far with all the entities meeting, that OBAE has a “heavy lift” and

responsibility, and expressed appreciation for being invited to be part of the discussion regarding this important issue. She stated that it is very important for everyone to understand that the backbone of the state comes from these associations being discussed and that they service their communities cooperatively, they service their school districts and some have been in operation for close to 90 years, demonstrating a well-established, strong backbone and root system for New Mexico, where the focus needs to remain, and together this work can be accomplished. She noted that the NMECG has worked well with OBAE and understands what OBAE needs from them and they have discussed language regarding best practices and time frames. The NMECG understands the issues but they also want to make sure that no one loses focus with the fact that the NMECG, which is an association of ten rural telephone companies which provide, broadband, telephone and internet, along with the electric cooperatives, some of whom also provide broadband, have all been doing this for generations and that this is honored. She stated that the NMECG has a gentleman's agreement with Director Lovelace in place to produce some ideas regarding timeframes and best practices, and they are working out the details for these. The NMECG feels very confident, along with a joint collective group and association of the rural electric co-ops and Kit Carson, and agrees with all the points raised by Vice-Chair Reyes. None of this is new information and they are moving forward in a professional, respective manner. She expressed confidence on behalf of the NMECG that honoring what is already in place and understanding where the state wants to go and what their goal is, that "we're almost there". She expressed hope that there is a joint letter coming from the NMECG association and the rural electric cooperatives that will address, in a non-binding manner, what has been requested of them from OBAE. She again expressed her hope that the state and OBAE would endeavor to utilize this well established "backbone" first and foremost, working with these companies that already have these systems in place. She encouraged further meetings to work on what this agreement needs to look like. She then asked Mr. Jay Santillanes if he had any comment to add.

Mr. Santillanes commented that the proposed legislation addresses all the pole attachment issues. His perception is that with all of the NMECG members the cost of pole attachments has never been an issue and that the make-ready costs seem to be as expected. He noted that with regard to the pole attachments the first step is to arrive at an agreement, which would include all the details, such as line survey and changes necessary, etc., with timing being the critical issue, especially with respect to smaller co-ops with limited staff, which may or may not be able to bear the cost of bringing in a contractor for this task. He also commented that all of this is being constrained by the deadlines of the funding opportunity, as well as rapid changes/escalation in material costs, none of which is a legislative issue but rather a timing and agreement issue between the ISPs and the co-ops and is the reason for the meetings that have taken place, seeking ways to expedite the process. He also noted that with all of the states working within the same timelines, there will likely be materials supply issues. He added that the terrain in New Mexico also adds a layer of complexity to the situation whether looking at underground placement or pole replacement where poles already exist, which goes beyond setting rules and legislation. He echoed the concerns of Vice-Chair Reyes with regard to the statewide education network and how this will affect local ISPs who already have agreements with individual school districts. He stated that he believed the network to connect the schools currently consists of software and equipment, not necessarily ownership of the connection, so he was not sure exactly

what the changes to the school network will mean in terms of the local ISP agreements.

Chair Sekaquaptewa echoed Ms. Santillanes' observation, "the devil is in the details". She asked Mr. Viorica if he had a response to these comments.

Mr. Viorica addressed the issue raised by Mr. Santillanes with respect to the schools, stating that many schools do not have the technical expertise for the planning, budgeting, procurement, contracting and administration of simple internet access. In addition with the E-rate application process being conducted by over 200 entities they sometimes may miss deadlines or do not submit proper forms, leaving funds unused. This often doubles or triples the administrative burden. He noted that there are 89 school districts and approximately 100 charters doing this on their own, and have been relatively successful, but this is a large drain on their activities and resources. What is being proposed is a mechanism to simplify this and undertake these activities on their behalf so they can focus on learning and running the networks. Mr. Viorica stated that a second issue is course availability and resources, with educational resources being vetted and developed by one district which cannot be shared effectively with other schools, which would greatly benefit schools across the state. He added that the state is not trying to create a network just for the sake of creating a network, but trying to simplify the administrative burden and augment the lack of technical expertise for some of the smaller schools as well as facilitate the sharing of resources, which is so important in implementation of educational technology in the classroom to produce better outcomes for New Mexico students.

Director Lovelace commented that all of what Mr. Viorica just described will happen whether it is under PSFA or OBAE. The legislation being proposed is to bring all of this over to the Office of Broadband and that there is a memorandum of understanding with PSFA to bring employees over, but this does not address the funding or the legislative mandate that goes with it. This tenuous state makes it very difficult to bring the funding across from PSFA and they have been working very closely with GFA, PSFA and PFCOC on this in the last year. The current situation involves far too many resources from the Office of Broadband to continue operating this way and gave details of what the results might be.

Ms. Santillanes restated that the rural electric co-ops association and NMECG have been working very well with OBAE and Director Lovelace with the gentlemen's agreement in place for a letter regarding consistency of timeframes and a commitment from Director Lovelace that the whole section of language within the legislation addressing pole attachments will be taken out.

Mr. Viorica noted that Mr. Taxali had posted in the chat some relevant FCC information and notice of proposed rule-making from the FCC for the organizations that they oversee, which could be a model for resolution of some of these issues. Mr. Viorica then read some details from this post. He again noted the restrictive timeframe for developing these BEAD projects and the need for access to accurate information. He commented that he is happy to see this cooperation and collaboration coming together to find ways to resolve these issues.

Vice-Chair Reyes asked if there was funding in the budget for make-ready costs.

Director Lovelace offered to give an update on that subject.

Chair Sekaquaptewa stated she would like to close the present discussion first. This is new information to her that the co-ops and the rural providers have been working closely together on best practices and that this gentlemen's agreement exists. She asked if a more formalization of this work could be shared and a report presented to the Council.

Chair Sekaquaptewa noted this was a very valuable discussion and honored Director Lovelace's request to skip ahead to item #6 at this time to further address this.

- Mapping Working Group – Peter Mantos/Natalie Runyan

Video Recording time: 01:32:53

Mr. Mantos noted that Ms. Runyan is performing most of the work in this group. Due to the previous lengthy discussions in today's meeting Mr. Mantos asked Chair Sekaquaptewa if she would prefer a brief report or go ahead and have Ms. Runyan give a review of her work. Chair Sekaquaptewa acknowledged that there has been a lot of data gathered and verification done with respect to unserved/underserved, etc., and there could be time scheduled in the future for a more detailed presentation. Mr. Mantos agreed. He screen shared and reviewed three maps currently available, the FCC official map, the BEAD eligible and the New Mexico Best, and reviewed each of these and what the corresponding numbers represent. He noted that soon there will be a timeline or "slider", which will show the beginning point, what the current status is and what the projections are with respect to who grants were awarded to and when they plan to have real service available and what the term "available" may actually mean. Mr. Mantos asked Ms. Runyan to add anything she feels relevant at this time.

Ms. Runyan reviewed the pie charts included in the screen share showing the state of things at present, the service claims that people should be experiencing on the ground, which is 80%, then the BEAD eligible, etc.

With respect to some of the difficulties mentioned earlier today Mr. Mantos gave the example of the issue with sending out awards based on school districts, which can be problematic where there may be three service providers who serve parts of that school district and would like to serve the entire school district but do not want to "step on each other". Mr. Mantos asked Ms. Runyan if she had anything further to share.

Ms. Runyan stated that the notes can be copied into the chat, to include the new FCC Version 4 Fabric which was released in December and the deadline of March 1st for ISPs to submit their data, which will constitute new service claims as of December 2023, and the state will then have location challenges due to the FCC by March 8th. She noted that the Connect New Mexico Fund NOFO was issued and applications for this are due March 11th, and that this fund program will be open for challenges so the proposed project areas, the PPAs, for this grant fund will be published around March 22nd and will be open for two weeks for challenges and then there will be the state BEAD challenge process opening February 12th. Based on a 30-day time period for each phase, the challenge phase, the rebuttal phase and the final determination, this will be wrapped up in May so grant making will be free to begin some time in June, assuming that NTIA approves all the documents in a timely fashion.

Mr. Mantos stated that there is still much to discuss and this is truly a working group and there are results coming out of this work, however, it is an ever-changing, ongoing process. He asked again for time to be scheduled at the next meeting to give a more detailed report. Chair Sekaquaptewa thanked Mr. Mantos and Ms. Runyan for this report and agreed to schedule time for their presentation at the next meeting.

Mr. Viorica commended and stated his amazement at the work Ms. Runyan and her team have accomplished, and how essential this work is for the BEAD project. He noted that the BEAD challenge schedule for February 12th is the last opportunity for any organization to challenge the eligibility for being included in the BEAD project, that is for any organization that is currently shown as served but is in reality unserved, to challenge their designation so they can be included in the BEAD project. He reminded the Council that this deadline will occur before the next Council meeting and the next opportunity for the presentation related to the mapping.

Chair Sekaquaptewa thanked Mr. Viorica for his comment and noted that a special meeting may be necessary.

Director Lovelace commented how incredibly important this data is and that the Office has put together some packets for legislators which will be available on the website in the next few days. This has been organized district by district to break it down for Representatives and Senators, giving the percentages of unserved, underserved and served in each of their areas in addition to some general information. He expressed appreciation for Ms. Runyan's work in this regard as well as Anthony _____, their data lead.

Mr. Mantos noted that information on the maps can be selected by Senate district, House district, etc.

Chair Sekaquaptewa also complimented the working group for their efforts providing excellent information.

5. Rulemaking Timeline Update – Vanessa Willock

Video Recording time: 01:46:24

Ms. Willock reminded Chair Sekaquaptewa that three days' notice is needed to call a special meeting.

Ms. Willock reported that the notice of proposed rule-making to amend the grant rules went up in the Sunshine Portal on January 12th, in the New Mexico Register on January 16th, and also in the Santa Fe New Mexican on January 16th, with the public comment period to run for 30 days, with public comments due by end of day, 5:00 p.m., on February 15th. The hearing is scheduled for Thursday, February 29th at 11:00 a.m., at the Capitol in Room 311. This notice is also posted on the DoIT website and the Connect New Mexico website. No public comments have been received to date, but everything is appropriately posted.

Chair Sekaquaptewa stated she believed the Council meeting is going to be scheduled following the hearing. Ms. Willock confirmed this. Chair Sekaquaptewa noted that this will be a hybrid meeting, but would like for Council members to attend in person if possible.

Director Lovelace asked if he could introduce new staff members. Chair Sekaquaptewa agreed. Director Lovelace introduced Neala Krueger, Digital Equity Coordinator and Angelo Jaramillo, the ARPA Coordinator, which now puts the office at 24 employees. Chair Sekaquaptewa welcomed these new staff members and commented that perhaps a future meeting could be held in the Albuquerque office.

(Moved to item #7, Public Comment at this point)

6. Updates from OBAE – Drew Lovelace

Video Recording time: 01:18:09

○ Legislative Update – OBAE Bill

Director Lovelace stated that the bigger update with respect to SB43 and SB45 is a highlight on SB45 which is clarification of the assets which the Office of Broadband has purchased in terms of equipment for the state education network, clarifying the ownership of these assets. This goes hand-in-hand with what has been asked for in the executive recommendation for HB2, which is a request for a clear business unit, separate from the Department of Information Technology. He noted that when the Office of Broadband was created in 2021 there was no knowledge that BEAD was coming or how much funding would be made available in the Connect New Mexico Fund, etc. At the present time there is approximately \$1 billion in funding coming through the Office. He commented that at the present time the Office is still attached to the Department of Information Technology, however, this Department and the Office of Broadband have two different missions and gave details of the incumbrances that exist in this arrangement and how this has led to the request for separation. He stated that this is the most important piece of legislation for the Office at this time, which will facilitate movement toward getting all the programs processed and funded. He reported that he and the current Acting Secretary for DoIT, Raja Sambandam, have been discussing this with the House Appropriations and Finance Committee Subcommittee and sub-working group, which was organized with Rep. Tara Lujan, Rep. Debra Sarinana and Rep. Jack Chatfield, to rectify some of the requests between the executive recommendation, the LFC recommendation, with the key difference being the separation and the Office of Broadband getting its own business unit and being appropriated funding separately. Secondly, there are some small differences in the amount of funding and how the funding will be handled and gave details regarding this. He also reported that there have been concerns raised by GFA with respect to how the funding is structured and gave details regarding this as well. The working group is supposed to schedule a meeting sometime within the coming week to work on these issues. He offered to provide updates to Council members as things progress.

In regard to Vice-Chair Reyes's query as to what funding is available, Director Lovelace reviewed that the Office of Broad had put together a request for \$250 million in specials and that amongst all of the other needs across the state both the LFC recommendation and the Executive recommendation were to fund a lot less, so \$42 million is what is in the Executive recommendation and \$25 million is in the LFC recommendation and that of course the Executive recommendation is the preferred outcome. He reminded the Council that in 2020 an engineering report was done for the entire state with ranges from \$2.2 billion to \$5.5 billion and the middle ground of what was needed for infrastructure back in 2020 was approximately \$4 billion. He stated that the Office has

been tracking all of the funding coming in to private entities as well as into the State and there still appears to be a \$2.1 billion gap, so with \$42 million allocation the state will be on a 50+ year plan and with a \$25 million allocation this would be even longer. He asked Council members who wished to support the Office of Broadband in this legislative process to support the Executive recommendation to move this network forward faster. He gave further details with respect to funding for make-ready costs, programatics, the Three-Year Strategic Plan, plans for workforce development, last mile and middle-mile, all of which will be dependent on additional funding.

Chair Sekaquaptewa asked if this \$42 million was part of the \$70 million. Director Lovelace replied that it is not.

Chair Sekaquaptewa asked if there were any further questions.

Mr. Viorica commented that as Director Lovelace described, this ask was all-encompassing, covering many things such as rights-of-way costs, pole attachment costs, affordability, subsidies, etc. He noted that all these things are intricately connected and emphasized the need to encourage support for this funding now when the state has surpluses, recognizing that there are competing interests and needs across the state, but it is imperative for the state to invest in all of these in an effective way to be successful in terms of economic development. He reminded the Council of information from a recent study which showed that New Mexico is losing about \$20 million every month that high-speed connectivity is not available across the state, so there are real economic gains tied to effective access to broadband services.

Chair Sekaquaptewa expressed appreciation for Mr. Viorica's comments. She also stated that it is a little disappointing to see these budget numbers come back but the process will just have to continue to "chip away" at the needs. She noted that Ms. Crociata is also a great resource and advocate for this funding. She asked that Director Lovelace keep the Council informed and expressed uncertainty as to whether the Council would need to revisit and discuss the legislation after having had time to read and process this, and suggested the possibility of scheduling a special meeting for this.

- GWEP

Chair Sekaquaptewa asked Director Lovelace how many GWEP applications have been received. Director Lovelace responded that as of last week there were ten. He acknowledged the exceptional work of Lee Gagnon and Eric Luchetti leading the portal development for this. He stated that they have also been working on putting together the scoring teams and all the GWEP thresholds and answers. He explained how sorting out the funding/budgeting issues have prevented the Office from being able to announce any award(s) or disseminate funds at this time. He stated that he hoped to be able to move past this by the time the Rulemaking is approved, but due to the legislative session this has been delayed, but he will continue to press this point. Chair Sekaquaptewa asked if, as recipients start to meet the deadlines for their various grants, they can begin work with a contractor. Director Lovelace replied that the short answer is "no", if they would like to be reimbursed by the state, as there needs to be a purchase order in place for state funding.

- Digital Equity Public Comment Window

Chair Sekaquaptewa asked Director Lovelace what the deadline was for the Public Comment period. Director Lovelace replied that it is January 21st, 11:59 p.m., and that this is a 300 page document. He commented that many present today have discussed this in private conversations, but for the public record the notice for ACP wind-down has been given by the FCC. He shared that the Office is deeply concerned about this and they have advocated on multiple fronts for continuation of this and there is hope that Congress will continue funding through the end of the year by some miracle. This is deeply concerning and that is one of the biggest issues with digital equity; if it is not affordable and it is not available how can you have equity? Having a device that does not connect with the internet does not matter, it becomes a dust collector. Being taught how to use the device also does not matter if it cannot be connected or the connection is unaffordable. He stated that the Office is looking at what funds they have available to deal with digital equity and if this would help supplement or create some sort of bridge for the gap. He reported that there are many other programs they would like to do but they do not believe the digital equity grants will supply enough funding for what they would like to do across the state. With respect to the point about future needs for programatics there is a continuing need for the state to provide funding to make sure everyone has meaningful _____ adoption of broadband.

Chair Sekaquaptewa thanked Director Lovelace for this update. She stated that the Council will spend more time in meetings with respect to this after the legislative session ends.

Chair Sekaquaptewa went back to item #4b, the Mapping Working Group, at this point.

7. Public Comment

Video recording time: 01:49:54

Mr. Taxali gave an update regarding the Connect New Mexico Fund, stating that there were four webinars held over the past two weeks to discuss the NOFO, the application, the scoring rubric and the mapping information, the latter led by Ms. Runyan. Some positive feedback was received through these webinars and the recordings and PowerPoint presentations for these webinars have been posted on the website. He gave a reminder that the applications are due March 11th for this program which was released back in December and hopefully this three month window will allow enough time for stakeholders to prepare high quality applications for the purpose of bridging the digital divide, however, there is latitude to be more open with regard to the types of projects, such as last mile, middle mile, IG wireless, etc. He gave other details regarding eligible areas with the common denominator being that any project directly or indirectly is connecting unserved or underserved locations. He stated that the success of this program will be greatly enabled by the fact that there is a very updated map at the location level which is the result of the work by the FCC and Ms. Runyan and her leadership, as well as all of the stakeholders who have been involved providing good challenge data, which Ms. Runyan continues to hone and sharpen. He noted that this is a single round application process and updates will be forthcoming. He gave additional details with respect to the scoring team as well as a PM team which can help applicants with more technical assistance, but that team is not involved in reviewing the projects. He stated that they anticipate reviewing projects through March and April with curing happening in April and May, and a mapping challenge process, just like the pilot program during March and early April, with ultimately the conclusions and recommendations with respect to awards announced in June, which will dovetail with the BEAD program later in the year.

Chair Sekaquaptewa thanked Mr. Taxali for this update.

Director Lovelace stated he just realized that the new paralegal contractor for the Office is in the Zoom portion of the meeting and would like to recognize her, and this is Erica Valdez. He asked Ms. Valdez if she would like to quickly introduce herself. Ms. Valdez stated she has been part of the Office for about two weeks now and this has gone well and she is learning a lot.

Director Lovelace reminded the Council about Broadband Day at the Legislature on January 24th, with events scheduled from 9:00 a.m. until 2:00 p.m., with many associations planning to have tables as well as the Digital Equity working group and other working groups. If there are any questions about this please reach out to the Office. Invitations have also been sent out for the second annual Broadband Day Reception which will be a pot-luck held by the Office, and hopefully all Council members have received their invitations, if not please contact him directly.

Mr. Taxali noted that he had put a link in the chat for the updated 2024 Three-Year Broadband Plan, and they would like to get feedback on this. There will be another version out later in February or March with perhaps some of the new mapping data, but this is basically the state of broadband in terms of the unserved and underserved locations, with the estimated cost to bridge the digital divide in New Mexico, based on the recent analysis done by CTC. This also provides an update of achievements which took place over the last year, as well as noting the strategic priorities with task items for 2024-2025 strategies or initiatives. He noted that there is also a cover letter from Director Lovelace to the public about the Office, its mission and values, describing the role of government versus the private sector in bridging the digital divide, with the conclusion that a multi-stakeholder collaboration is needed to achieve this.

Chair Sekaquaptewa asked if all the links shared in the chat could be copied and attached to the meeting notes.

8. Adjournment–

Video recording time: 01:58:42

Ms. Rosales called for a motion to adjourn. Vice-Chair Reyes so moved, seconded by Mr. Mantos. There being no opposition and no further business before the Council the meeting was adjourned at 3:37 p.m.