

CONNECT NEW MEXICO COUNCIL MEETING

Virtual

Thursday, November 21, 2024, 1:30 – 3:30 PM

1. Welcome and Call to Order

The meeting of the Connect New Mexico Council was called to order by Shawna Rosales, at 1:33 pm, on Thursday, November 21, 2024, in Santa Fe, New Mexico. Ms. Rosales introduced herself and reviewed general rules and procedures regarding the meeting.

Members Present-

Luis Reyes	Launa Waller
Nora Sackett	Steve Grey
Eli Guinnee	Jim Ruybal
Leonard Manzanares	Godfrey Enjady
Ramona (Mona) Martinez	Jason Clack

Members Absent-

Katherine Crociata
Joseph Navarette
Isaac Bush

Others Present

Shawna Rosales, OBAE Administrative Assistant
Cassandra Brulotte, OBAE General Counsel
Renee Narvaiz, DoIT PIO
Neala Krueger, Sandeep Taxali, Katherine Irvin, Eric Rodgers, Eric Moores, Dominique Macaliano, Ashley Terry (Plateau), Nick Chalker, Keith Stoddard (Plateau), Jerry Smith, Ech  Okoye, Emmanuel Rodriguez

2. Approval of Meeting Agenda

MOTION Ms. Rosales called for a motion to approve the Agenda as presented. Ms. Waller so moved, seconded by Mr. Grey. There being no opposition the Agenda was approved.

3. Chair Updates/Comments – Luis Reyes

Mr. Reyes welcomed everyone to the meeting. He noted that OBAE has been busy and has done some work on the prequalification for BEAD. He also reported that he listened in on the budget presentation done by Acting Director Drew Lovelace and was encouraged by this presentation, which outlined some of the plans and funding needed by the Office of Broadband to continue the mission of connecting all New Mexicans. He commented that he is very interested in the plan and funding request of \$7 million for the use of satellite for very remote locations in the State. He encouraged the Council to support OBAE in its legislative agenda as this moves forward.

He again expressed his concern regarding the participation of the Council on committees and the role of the Council going forward, whether it will remain in an advisory position or if the Council would want to have a larger influence as broadband is implemented across the state. He stated once again his belief that the initial intent of the Council has changed from advise and consent to simply an advisory role, and his concerns about the role of the Council moving forward.

He commented that it will be interesting to see what the impact on these programs will be with

the upcoming change in the federal administration. He noted the value of this Council and the expertise it represents as more than just an advisory body with respect to these potential changes. He expressed his hope that funding to New Mexico does not suffer but is actually enhanced.

He noted that Mr. Brendan Carr will be the new FCC Commissioner and he has spoken to him a couple of times and it seems that Mr. Carr intends to look out for rural interests, which will be a positive change for rural New Mexico. He added that he believed Mr. Carr has visited New Mexico several times. He asked Mr. Enjady if he would like to comment on this.

Mr. Enjady stated that Mr. Carr is a good advocate for tribes and rural areas. He also noted that Mr. Carr likes wireless and he is also an advocate for edge providers paying their fair share, these are areas he can be supported in. Mr. Enjady added another item coming forward is concern with respect to ETC statuses, as a lot of these have not been flowing through the FCC and some tribes have not received ETC statuses that they applied for two years ago and he believes Mr. Carr will work on getting these moving. Mr. Enjady noted that he believes Mr. Carr will be good for New Mexico in this position.

Mr. Reyes thanked Mr. Enjady for his comments.

4. MOU Discussion and Action – Jason Clack

Mr. Clack reported that the MOU was drafted to help clarify the roles and responsibilities of this Council as they relate to the Office of Broadband Access and Expansion, as well as the Department of Information Technology. He explained that this was a consolidation of the statutes and the RACI document which was developed prior to his involvement, and this was put into an MOU format, which if approved would become an agreement between the parties outlining their responsibilities. He stated that the initial draft was discussed at the last Council meeting and since then he has made a few changes to further clarify Council members' ethical responsibilities under the Governmental Conduct Act, with additional language pertaining to Council members avoiding conflicts, especially conflicts involving any sort of financial gain, or Council members or their close family members as it may relate to any action of the Council. This language was added under section 2, paragraph A of the draft MOU. A requirement was also added to have Council members sign a conflict of interest form prior to receiving any information that would not be available to the public. He also described additional reporting requirements which were added. Mr. Clack stated that if this draft, if approved by the Council, will then go to the Office of Broadband Access and Expansion for their review and comment. If they have any suggested changes then those will come back before this Council for review and discussion. Once the Council approves the final version of the MOU after any changes have been accepted by the Office of Broadband Access and Expansion then the agreement will be ratified between the parties.

Mr. Enjady had a question regarding duties of this Council or OBAE, post BEAD, to help consumers if they are having problems with ISPs or whoever is providing services. He noted that the ISPs will be unregulated so they do not fall under the jurisdiction of the PRC, so would they fall under the jurisdiction of OBAE or this Council for consumer protection. Where would a pathway for complaints fall? He queried if this needed to be addressed in this MOU.

Mr. Clack stated he did not believe that issue could be addressed in this MOU and will probably need to be addressed through relation or rulemaking. He was not sure if OBAE has any comments on this or plans to address this through proposed legislation or rulemaking at this time.

Ms. Brulotte agreed that this will have to be addressed legislatively as OBAE does not currently have any regulatory authority over ISPs. This authority would have to be granted through legislation. She added that OBAE does not currently have any rulemaking authority and any rules they could issue would be related to the grants they are managing, such as the rules for the Connect New Mexico grants. She noted that OBAE is not proposing any such legislation in the upcoming session, but this does not preclude what any other party may or may not submit.

Chair Reyes asked if Mr. Clack was finished with his presentation. Mr. Clack responded that he was, however, there was a hand raised by Ms. Waller.

Ms. Waller asked for clarification under Item 2, which states that Council members shall comply with the Governmental Conduct Act, and whether this would apply to all three parties of the MOU or was this implicit with OBAE and DoIT as they are government agencies.

Mr. Clack responded that this is more implicit with OBAE and DoIT under the employment agreements as employees of the State, with Council members not necessarily being state employees, noting that some members of the Council are state employees and others are not. He added that the Connect New Mexico Council Act states that Council members shall comply with the Governmental Conduct Act and this was included in the MOU as clarification for those Council members who are not state employees. Ms. Waller thanked him for this clarification.

Mr. Guinnee noted that section 1H shows the Digital Equity Analysis and Plan as being a responsibility of the Council, however, in practice OBAE has developed the Digital Equity Plan. He queried why this was listed under the responsibilities of the Council.

Mr. Clack replied this language was taken from the statute. He believed that it was intended to be developed in coordination.

Mr. Guinnee asked if language could be added to 1H to reflect that this will be “in coordination with the Office of Broadband”?

Mr. Clack stated this could be added now or this is something the Office of Broadband can suggest during their review and comment, and if this is approved by the Council then that will be a step toward the negotiation of this with the Office of Broadband. Mr. Guinnee thanked him for this response.

Chair Reyes asked for any additional questions from Council members.

MOTION: Hearing no additional questions or comments Chair Reyes called for a motion to approve the draft of the MOU as presented. Ms. Waller so moved, seconded by Mr. Enjady. Voice vote was called for by Chair Reyes and all were in favor. There being no opposition the draft of the MOU was approved.

Chair Reyes stated that this will now go to OBAE for their comments and return to this Council for final approval.

Mr. Clack stated that this is correct and that he and Ms. Brulotte will work on incorporating the comments and changes proposed by OBAE and then bring this back to the Council for further consideration.

Chair Reyes thanked Mr. Clack for his presentation and input.

5. OBAE Updates – Cassandra Brulotte, OBAE General Counsel

Ms. Brulotte introduced herself as the General Counsel for OBAE. She noted that Director Lovelace is attending a conference out of state so she will be presenting the update in his absence. She reported that Drew Roybal-Chavez has recently been hired as the Administrative Services Bureau Chief and that there are two active job postings, one for a new ARPA coordinator, and now that she has been promoted to General Counsel there is a position available for a staff attorney. These postings are on the State website and she encouraged sharing this information with those who might be interested.

She reported that OBAE did present at the interim LFC on Tuesday and she agreed with Chair Reyes that this went very well. Of particular interest to the Council, Director Lovelace specifically noted, going forward, that the infrastructure appropriations being requested should be for the three to five year period, to allow sufficient time to complete the projects. The need to extend the Connect New Mexico infrastructure project funds was specifically noted. She added that there was excellent support of OBAE's request for this extension, with representatives from Comcast, the New Mexico Exchange Carrier Group, Peñasco Valley Telecom, Los Alamos County, Isleta, San Ildefonso, Jemez and Picuris Pueblos present, as well as for the Connect New Mexico Fund to continue beyond June 30th.

With respect to the Connect New Mexico Fund specifically, all three grant programs have been launched. For the Connect New Mexico Infrastructure Fund, which is \$70 million, a total of 12 projects or agreements have been executed, totalling approximately \$32 million. There are six additional projects that are pending final signatures, so these are just in the final "red tape" stages before these can begin. These projects total approximately \$17 million. She also reported that there are three additional projects where the grant agreements are still being finalized, and once these are issued they will total approximately \$5 million. There are also three projects which are still in the curing phase due to situations outside of OBAE's control, but the hope is that these potential awardees will be able to work through this and move forward, particularly if the extension of the expenditure deadline is approved.

With respect GWEP there have currently been 21 awards given. She noted this is a rolling application and is still open, and now that the expenditure deadline is approaching those who have already received an initial GWEP award are being allowed to apply for a secondary award. These secondary applications will of course go through the curing application process to make ensure they are not duplicates to avoid overlapping, but still maximize the use of these funds.

She reported that the Student Connect Program was launched in October with \$25 million allocated for this, and seven applications have been received so far. It is anticipated that the award postings for this program will begin right around the Thanksgiving holiday. She stated that the purpose of this program is to connect unserved and underserved public school students in rural communities in their homes. Now that the schools are all connected the next step is to be sure that students are able to access Internet at home so they can do their homework, get tutoring, and participate remotely in the case of snow days when classes go to remote only format.

With regard to BEAD she stated that the NOFO has been posted and is available on the website and that the prequalification application window closed on November 15th, and a good number of applications for prequalification were received, so presuming these are all able to be prequalified, they will all be entities eligible to apply for BEAD.

She reported that OBAE has been working closely with the Treasury Department with respect to the \$1.3 million ARPA award to the State which has not yet been encumbered. OBAE has requested approval for a new NOFO, a smaller NOFO, which would focus those funds on recovery in communities impacted by fires and flooding. A draft of this request has been presented to the Treasury Department and if approved this will also be posted so funds can be allocated to these communities. She noted that this is not a significant amount of funding, but the desire is to focus the funding in these impacted areas.

Ms. Brulotte stated she would be happy to answer any questions. Chair Reyes called for questions from Council members. There were none. Chair Reyes thanked Ms. Brulotte for her very informative report.

6. Public Comment – Luis Reyes

There was no public comment.

Mr. Guinnee called for a point of order, noting that even though the October meeting was cancelled, he believed that the minutes from the September meeting have not been approved. He queried if it was too late to add this to today's Agenda, but perhaps should be added to the next meeting Agenda. Chair Reyes stated it should probably be added to the next meeting Agenda since it was not published in a timely fashion. Mr. Clack concurred that approval of the September meeting minutes as well as the minutes of today's meeting could be added to the next meeting Agenda.

Mr. Guinnee noted that the draft minutes of the September meeting had some blanks that needed clarification; he believed one was from Mr. Clack and another was from Director Lovelace and asked that they check these before they come up for approval. Chair Reyes thanked Mr. Guinnee for calling attention to this.

Mr. Guinnee then informed the Council that a member of the Digital Equity Accessibility and Inclusion working group, Joe Martinez, passed away on November 17th, rather suddenly. He commented that Mr. Martinez has been with this working group since April or May of 2022, and has been the most consistent and passionate member of this group, representing Health Action New Mexico. He noted that his last contact with Mr. Martinez was at the Digital Equity Summit in Albuquerque on September 27th. Mr. Guinnee stated he wanted to honor Mr. Martinez and all the work he did for this working group. Chair Reyes thanked Mr. Guinnee for this information and comment, and that prayers go out to Mr. Martinez's family.

Ms. Brulotte asked Chair Reyes if the date of the next meeting, December 19th, would stand since often meetings get rescheduled due to the holidays. Chair Reyes called for comments from Council members and asked if this date would work for most members. Mr. Clack suggested that it could be a virtual meeting such as today's meeting. Hearing no objections Chair Reyes stated this would remain scheduled for the 19th with appropriate notices posted along with additions to the Agenda as noted by Mr. Guinnee.

Ms. Rosales stated that a room at the Capital is reserved for this date, but if the meeting is to be virtual only she needs to give notice that the room will not be needed. Chair Reyes responded that this can be decided between now and when the notice of meeting goes out.

Mr. Enjady thanked Mr. Reyes for chairing during this interim period and keeping the Council active as things continue moving forward. He encouraged Mr. Reyes to continue his efforts in this regard. Chair Reyes thanked Mr. Enjady for his comment and encouragement.

7. **Adjournment –**

MOTION: Chair Reyes called for a motion to adjourn. Mr. Enjady so moved seconded by Mr. Guinnee. There being no opposition and no further business before the Council the meeting was adjourned at 2:06 p.m.