

NEW MEXICO STATE TRANSPORTATION COMMISSION

MEETING

**Bernalillo County Government Center
Ken Sanchez Commission Chambers
415 Silver Ave SW
Albuquerque, NM 87102
May 19, 2022**

The New Mexico State Transportation Commission (STC or Commission) held a regular meeting on May 19, 2022, at the Bernalillo County Government Center, Albuquerque, New Mexico. Chairman Adams called the meeting to order at 8:30 a.m. He asked for a roll call to establish a quorum. Mershawn Griego, Office of the Secretary, New Mexico Department of Transportation (NMDOT), proceeded to call the roll. Commissioners Walter G. Adams, Thomas C. Taylor and Charles Lundstrom were present; Commissioner Hilma Chynoweth participated remotely via Zoom.

Approval of the STC Meeting Agenda

Chairman Adams asked for a motion to approve the STC meeting agenda; Commissioner Lundstrom made a motion to approve the agenda; Commissioner Taylor seconded; motion carried unanimously.

Approval of the STC Minutes

Chairman Adams asked for a motion to approve the April 25, 2022 STC special meeting minutes; Commissioner Taylor made a motion to approve the minutes; Commissioner Lundstrom seconded; motion carried unanimously.

State Transportation Commissioners Present:

Jennifer Sandoval, Vice-Chair, District One (absent with notice)
Bruce Ellis, Commissioner, District Two (absent with notice)
Hilma E. Chynoweth, Commissioner, District Three (attended remotely)
Walter G. Adams, Chairman, District Four
Thomas C. Taylor, Commissioner, District Five
Charles Lundstrom, Secretary, District Six

NMDOT Staff Present:

Rick Padilla, P.E., Executive Director of Highway Operations
Kenneth B. Baca, General Counsel
NMDOT Staff

Elected Officials and Delegations Present:

The Honorable Harold Pope, New Mexico State Senator, District 23
The Honorable Joy Garratt, New Mexico State Representative, District 29
The Honorable Tim Keller, Mayor, City of Albuquerque

Introductions

Chairman Adams and Rick Padilla, P.E., Executive Director of Highway Operations, NMDOT, welcomed STC meeting attendees, and acknowledged the elected officials and certain others in attendance, some of whom made introductory comments. The NMDOT District Engineers and various NMDOT staff members then introduced themselves.

Welcoming Remarks

Chairman Adams introduced the Honorable Tim Keller, Mayor, City of Albuquerque, and Elias Archuleta, P.E., Deputy County Manager for Public Works, County of Bernalillo, both of whom welcomed the STC and meeting attendees to Albuquerque and expressed their gratitude to NMDOT. Mr. Archuleta specifically acknowledged Justin Gibson, P.E., District Three Engineer, NMDOT, and Jill Mosher, P.E., Assistant District Three Engineer, NMDOT, for the assistance they provided to Bernalillo County on the \$20 million Sunport Boulevard extension that was made possible by the receipt of federal redistribution funds and contributions from NMDOT. This year, Bernalillo County will be working with NMDOT on the \$30 million reconstruction of Isleta Boulevard, and will be using for the first time, the new Construction Manager General Contractor (CMGC) procurement method.

Chairman Adams thanked everyone who reached out to offer help during the wildfires in Las Vegas, New Mexico. He thanked Mayor Keller and his staff, who visited Las Vegas to offer assistance to the community. He also expressed his gratitude to the people of Albuquerque, who are continuing to help the evacuees.

Mayor Keller discussed various issues of concern to the City of Albuquerque and asked for NMDOT's assistance with the following:

(1) Homeless Encampments. Resources are needed to help clean up encampments on highways and underpasses. Mayor Keller introduced Matthew Whelan, Director, Solid Waste Management Department, City of Albuquerque, who briefly commented on the matter. He, too, asked for NMDOT's continued assistance, support and collaboration in dealing with the issue.

(2) Crime Fighting Technology/Speed Enforcement. The City is using new technology, including (i) gunshot detection; (ii) license plate reader (LPR) cameras that help to locate stolen cars (presently registered in the national database) and assist with arrests for other cross-referenced criminal offenses, including homicides; and (iii) automatic ticketing devices that issue citations for speeding, which is currently a major problem in Albuquerque. The City's mobile speed enforcement program is similar to Santa Fe and Rio Rancho's programs. Its plan is to have 28 cameras, some of which will be fixed and some mobile. Proposed locations for the cameras presently include Coors, Tramway and the Interstates. Mayor Keller asked NMDOT to allow the City to place cameras in these locations and on other state roads as soon as possible. He added that Albuquerque is number one in the country for pedestrian fatalities.

In closing, Mayor Keller asked for the STC's assistance in securing approval for the placement of a "Welcome to Albuquerque" sign. He introduced Lawrence Rael, Acting Chief Administrative Officer, City of Albuquerque, who thanked NMDOT for working with the City during the resurfacing of I-25. Mr. Rael then discussed two other projects that are important to the City, the reconstruction of the Montgomery interchange and the Sunport Boulevard intersection. He also mentioned the City's recent completion of the Marquette Avenue crossing for the Rail Trail project in the downtown area. The City would now like to discuss a new project with NMDOT, the Central Avenue intersection for the Rail Trail.

Public Comment

No public comment.

District Three Update

Justin Gibson, P.E., District Three Engineer, NMDOT, reported that District 3 will be working with the City of Albuquerque to address the issues identified by Mayor Keller. He briefly addressed the homeless problem and the steady increase in the District's involvement dealing with it. The District is doing all it can to keep both the traveling public and the homeless safe.

He introduced and recognized District Three staff members in attendance at the meeting and thereafter provided an update (via video recording) regarding District Three, during which he discussed the District's projects and other activities. He also reported on the District's Employee Recognition Program, acknowledged recent award winners and thanked District Three staff members for their work.

Staff Briefings

Secretary's Report

Rick Padilla, P.E., Executive Director of Highway Operations, NMDOT, discussed former NMDOT Cabinet Secretary Michael Sandoval's retirement from the NMDOT, and the transition of Justin Reese, Deputy Secretary, Business Support, NMDOT, to the role of Acting Cabinet Secretary. He also reported regarding the status of litter pick-up efforts, NMDOT's assistance in fighting wildfires in the state, future recovery efforts, and the summer construction and maintenance programs. In closing, Mr. Padilla announced that District Four is now a three-time state champion in pavement preservation. District One is a close second. He congratulated and thanked both Districts for their excellent work.

Federal Highway Administration (FHWA) Report

Marilyn Ochoa, Field Operations Supervisor, District Three, New Mexico Division, FHWA, commented regarding the fine communication and collaboration between FHWA and NMDOT, and the project advancements that have resulted therefrom. Regarding New Mexico's wildfires, she reported that FHWA has offered Emergency Relief Program assistance to the NMDOT. Funds will be made available if infrastructure on the National Highway System is damaged due to the fires. She also mentioned FHWA has been disseminating information and updates on the new Bipartisan Infrastructure Law in order to ensure compliance. The law includes provisions for new program grants. Initial applications for Mega, Infra and Rural grants are due on May 23, 2022. State, local and tribal entities may apply for the grants to help fund infrastructure needs. Ms. Ochoa also reported that New Mexico recently received \$18 million in bridge funding, in addition to the \$45 million it received earlier this year.

Finance Reports

NMDOT Financial Status Update

Mallery Manzanares, Administrative Services Director, NMDOT, presented the NMDOT financial status update as of May 1, 2022. State Road Fund: To date, NMDOT has received a total of \$687 million in revenue and spent \$722.4 million. Restricted Funds: To date, NMDOT has received \$81 million in revenue and spent \$55 million. Mrs. Manzanares also discussed NMDOT's FY22 cash balances for operating budget funds: Road Fund: \$344.1 million and Restricted Funds: \$96.1 million. At present, NMDOT's projected FY22 year end fund balances ("savings account" amounts) are: Road Fund: \$24.8 million and Restricted Funds: \$47.6 million.

Approval of FY23 Local Governments Road Fund Program (LGRF) Request

Clarissa Martinez, State Grants Manager, Project Oversight Division, NMDOT, presented and requested approval of the FY23 LGRF Program request. The LGRF is a designated State fund administered by NMDOT that helps local governments pay for approved local construction and maintenance projects. The State provides 75% of the project funding that local entities match at 25%. The local entities take the lead in developing and contracting to construct the projects. The total FY23 LGRF Program budget is \$27,560,000. Ms. Martinez discussed the proposed FY23 LGRF project list and the specific amounts allocated to each program within the LGRF.

Chairman Adams asked for a motion to approve the FY23 LGRF Program request; Commissioner Taylor made a motion to so approve; Commissioner Lundstrom seconded; motion carried unanimously.

New Mexico Finance Authority (NMFA) Report

Mark Lovato, Managing Director, Investments, NMFA, provided an update regarding NMDOT's investment portfolio funds under NMFA management and NMDOT/NMFA's outstanding bond debt service as of April 30, 2022. During the month of April, NMFA received \$15 million for NMDOT's debt service set aside payment and \$52 million from the issuance of NMDOT's 2022 bond series. The \$52 million is being held in escrow to pay off NMDOT's callable maturities from 2012. As of April 30, NMFA was holding approximately \$183.2 million in debt service funds. NMDOT has two project fund accounts: \$302.4 million in the 2021A project account and \$6.7 million in the 2014A project account. NMDOT has a \$50 million line of credit with Wells Fargo, pursuant to certain agreements with BNSF. It was renewed for an

additional three years and will expire in 2025. NMDOT's outstanding bond debt currently totals \$994.5 million. A debt service payment in the amount of \$196,648,325 (\$172,130,000 in principal, plus \$24,518,325 in interest) is due on June 15, 2022. NMFA received an additional \$13.5 million last week to apply toward NMDOT's debt service payment; accordingly, NMFA now has sufficient funds to make NMDOT's June 15 payment in full.

Policy Reports

Approval of Proposed Amendments to Commission Policy No. 1, *New Mexico State Transportation Commission Organization and Meetings* ("CP 1")

Ken Baca, General Counsel, NMDOT, discussed the proposed amendments to CP 1 that he presented to the STC at its March 24, 2022 meeting. CP 1, the Open Meetings Act and NMDOT rule, 18.1.5.9 NMAC, *State Transportation Commission Meetings*, presently allow for the remote participation of Commissioners who are unable to attend a meeting in person. He reiterated that CP 1 is being updated to specifically mention that participation in meetings via Zoom, Microsoft Teams or other similar livestreaming technology will also be allowed.

Chairman Adams asked for a motion to approve the proposed amendments to Commission Policy No. 1; Commissioner Taylor made a motion to so approve; Commissioner Lundstrom seconded; motion carried unanimously.

Request to Initiate Rulemaking Action Regarding 17.4.2 NMAC, *Requirements for Occupancy of State Highway System Right-of-Way by Utility Facilities*

Thomas Wyman, Deputy General Counsel, NMDOT, presented and requested the STC's approval to initiate rulemaking action for the repeal and replacement of NMDOT rule, 17.4.2 NMAC, *Requirements for Occupancy of State Highway System Right-of-Way by Utility Facilities*. He explained that although the existing utility rule guides NMDOT well in managing the use of the state's public rights-of-way for traditional public utility services and providers, it does not provide guidance for expanding the use of the public right-of-way to (i) stockholder-owned broadband businesses that provide internet connectivity or fiber optic backhaul services, and (ii) stockholder-owner renewable energy businesses that would like to build electric transmission lines within the public right-of-way to service wind generator farms or solar cell panel generating facilities. While the primary use of NMDOT's public rights-of-way is highways for vehicular traffic, the FHWA is supporting states to expand the use of the public rights-of-way to include fiber optic wire and wireless traffic. Therefore, to manage the many requests that NMDOT is receiving from various broadband and renewable energy businesses, NMDOT needs to enter into rulemaking to create the right-of-way use permit process and the technical specifications necessary to manage the use of the public rights-of-way for broadband, information and renewable energy traffic.

Commissioner Lundstrom asked for clarification regarding the rulemaking. Mr. Wyman explained that broadband providers and renewable energy companies are approaching NMDOT and asking to use the right-of-way for buried installations, mostly for trenching, fiber optic cable and micro and macro cell towers. Traditional public utilities have that right and NMDOT has a procedure in place to administer the associated permitting process. However, the existing rule

does not allow for private stockholder businesses to use the same right-of-way. Consequently, NMDOT needs a new process in place that it can use to permit and regulate such businesses' use of the public rights-of-way.

Commissioner Taylor asked about how NMDOT is going to handle fees. Mr. Wyman responded that the State Constitution presently provides that fair market value must be charged for the use of public right-of-way. NMDOT is going to work with the New Mexico Legislature's joint resolution (2022 House Joint Resolution 1, *Public Assistance for Household Services*, CA) that proposes to amend the Constitution. The proposed constitutional amendment will be presented to the voters for approval in the November general election. NMDOT is in the process of trying to determine if it can charge less than fair market value. NMDOT needs to figure out what amounts are fair and how to charge appropriate and affordable fees.

Chairman Adams asked for a motion to approve the initiation of rulemaking action regarding 17.4.2 NMAC, *Requirements for Occupancy of State Highway System Right-of-Way by Utility Facilities*; Commissioner Lundstrom made a motion to so approve; Commissioner Taylor seconded; motion carried unanimously.

Request to Initiate Rulemaking Action Regarding 18.11.10 NMAC, *Rural Air Service Enhancement Grant Program*, Pursuant to Legislative Changes

Pedro Rael, Aviation Division Director, NMDOT, presented and requested the STC's approval to initiate rulemaking action to amend NMDOT rule 18.11.10 NMAC, *Rural Air Service Enhancement Grant Program*. He discussed the proposed amendments and explained why they are needed.

Chairman Adams asked for a motion to approve the initiation of rulemaking action regarding 18.11.10 NMAC, *Rural Air Service Enhancement Grant Program*; Commissioner Lundstrom made a motion to so approve; Commissioner Taylor seconded; motion carried unanimously.

Request to Initiate Rulemaking Action Regarding New Rule, *Highway/Railway Intersection and Joint Interest Projects*

Bill Craven, Rail Bureau Manager, NMDOT, presented and requested the STC's approval to initiate rulemaking action regarding new rule, *Highway/Railway Intersection and Joint Interest Projects*. He outlined the provisions of the new rule and explained why it is needed.

Chairman Adams asked for a motion to approve the initiation of rulemaking action regarding new rule, *Highway/Railway Intersection and Joint Interest Projects*; Commissioner Lundstrom made a motion to so approve; Commissioner Taylor seconded; motion carried unanimously.

Approval of Proposed Transfer of Roads Pursuant to Cooperative Project Agreement Between NMDOT and the Town of Bernalillo

Justin Gibson, P.E., District Three Engineer, NMDOT, briefly discussed the US 550 corridor project that will soon be completed. Pursuant to a Cooperative Project Agreement between NMDOT and the Town of Bernalillo, NMDOT has agreed to transfer to Bernalillo two roads, Piedra Lisa and Bell Lane, that were built as part of the project. He reported that everything is now in place to complete the transfer and asked for the STC's approval to do so.

Chairman Adams asked for a motion to approve the proposed transfer of roads pursuant to the Cooperative Project Agreement between NMDOT and the Town of Bernalillo; Commissioner Taylor made a motion to so approve; Commissioner Lundstrom seconded; motion carried unanimously.

Approval of Town of Red River Request to Designate New Segments of NM 38 for the Operation of Recreational Off-Highway Vehicles (“ROVs”)

Paul Brasher, P.E., District Five Engineer, NMDOT, presented and asked the STC to take action to approve the Town of Red River (“Town”) request to designate new segments of NM 38 (“Designated Route”) for the operation of ROVs (“Route Designation Request”), and to adopt related STC Resolution No. 2022-06 (MAY) contingent upon the following conditions: (1) the Town and NMDOT’s execution of an amendment to the Maintenance Agreement - Recreational Off-Highway Vehicle Route Signage between NMDOT and the Town, effective as of September 10, 2018, which defines the roles and responsibilities for construction and maintenance of Designated Route facilities, including signage, the terms and conditions for ROV operation, and the allocation of legal responsibilities pertaining to the use of ROVs on the Designated Route; (2) construction and completion of any improvements to the Designated Route, including signage, required by NMDOT for the operation of ROVs, except that the Secretary of NMDOT may authorize use of the Designated Route utilizing temporary traffic control devices while the remaining contingencies are completed; (3) that all-terrain vehicles (“ATVs”) shall not be operated upon the Designated Route; and (4) the Town shall be responsible for patrolling the Designated Route and enforcing the provisions of the Off-Highway Motor Vehicle Act and Commission Policy 71, *Recreational Off-Highway Vehicles on Paved State Highways* (“CP 71”).

Mr. Brasher outlined the Route Designation Request, showed a map depicting the Designated Route, and explained that the new segments will extend the NM 38 ROV Route previously designated by the Commission on August 18, 2016, by Resolution No. 2016-03 (AUG). Per NMDOT's request, the Town engaged the services of a consultant to conduct a study of the feasibility and safety of the Designated Route and submitted the study to NMDOT. The Town also submitted a package in support of its Route Designation Request that complies with all the requirements of CP 71. Mr. Brasher reviewed the safety study and the Town's package and determined both to sufficiently support the Route Designation Request. His written recommendation stating that ROVs can be operated with reasonable safety on the Designated Route is included in the STC materials.

Ken Baca, General Counsel, NMDOT, confirmed the NMDOT Office of General Counsel reviewed the Town's request and submission package for legal sufficiency, and determined that the request, the Town's ordinance and the proposed STC resolution approving the Route Designation Request are in conformity with the Off-Highway Motor Vehicle Act and CP 71.

Chairman Adams asked for a motion to approve the Town of Red River request to designate new segments of NM 38 for the operation of ROVs; Commissioner Taylor made a motion to so approve; Commissioner Lundstrom seconded; motion carried unanimously.

Adjournment

Chairman Adams asked for a motion to adjourn the regular meeting at 10:49 a.m.; Commissioner Taylor made a motion to adjourn the regular meeting; Commissioner Lundstrom seconded. Motion carried unanimously.

A handwritten signature in dark ink, appearing to read "Walter G. Adams", written over a horizontal line.

Chairman

Walter G. Adams

A handwritten signature in dark ink, appearing to read "Charles Lundstrom", written over a horizontal line.

Secretary

Charles Lundstrom