



Brian Sandoval
Governor

STATE OF NEVADA

GOVERNOR'S OFFICE OF SCIENCE, INNOVATION & TECHNOLOGY

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Brian L. Mitchell
Director

PUBLIC MEETING MINUTES

Name of Organization: Telecommunication Advisory Council

Date and Time of Meeting: Wednesday, January 31, 2018 @ 2:00 P.M.

Place of Meeting:
Nevada State Library and Archives
Boardroom (First Floor)
100 North Stewart Street
Carson City, NV 89701

This Meeting will be Video Conferenced to the following Location:
Grant Sawyer State Office Building
555 East Washington Ave.
Suite 5100
Las Vegas, NV 89101

If you are unable to join the meeting in person, please use the following numbers:

North: 775-687-0999 or
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I. Call to Order / Roll Call:

The Telecommunications Advisory Council was called to order by Brian Mitchell, Director of the Governor's Office of Science, Innovation and Technology (OSIT), on behalf of Jojo Myers Campos, State Broadband Manager, at 2:00 P.M. on January 31, 2018, at the Nevada State Library and Archives Building, Boardroom, Carson City, Nevada. He will be running the meeting today.

Members Present:

Jojo Myers Campos, Chair
Cindi Chang
Ken Adams
Richard Burger
Reid Kiser
Keith R. Clark
Bob Moulton

Members Absent:

None

Guests Present:

Denise Inda, Nevada Department of Transportation (NDOT)
Seth Daniels, Nevada Department of Transportation (NDOT)
Britt Tucker, Nevada Department of Transportation (NDOT)
Jessica Biggin, Nevada Department of Transportation (NDOT)
Kevin Hayes, Westnet
Cliff Cooper, AT&T
Doug Miller, Transportation Policy Analyst, State of Nevada Governor's Office
Tom Neva, Nevada System of Higher Education (NSHE)

Staff Present:

Brian Mitchell, Director, Governor's Office of Science, Innovation & Technology
Debra Petrelli, Administrative Assistant, Governor's Office of Science, Innovation & Technology

II. Public Comment:

There was no public comment.

III. Welcoming Remarks (For information only)

Brian Mitchell, Director – Governor's Office of Science, Innovation & Technology
Chair Jojo Myers Campos, State Broadband Manager – Governor's Office of Science, Innovation & Technology

Mr. Mitchell, welcomed everyone and introduced Jojo Myers Campos, State Broadband Manager with the Governor's Office of Science Innovation and Technology (OSIT). He said the mission of OSIT is to coordinate the planning, mapping and procurement of broadband services throughout Nevada, so that Nevada's schools, libraries, institutes of higher education, hospitals, clinics, etc., have the connectivity they need to meet national standards. He said the Telecommunications Advisory Council (TAC) was created during the last legislative session with SB 53. He added that today's meeting will outline the purpose of the council, answer some questions and start a plan for moving forward. The goal is to expedite and make possible broadband expansions and partnerships between state government and private telecommunications providers, which were never possible before SB 53. He commented that this legislation and council were modeled on similar policies in Utah, who have had real success over the last twenty years in expanding their broadband infrastructure. He said an important part of Utah's policy has been the cooperation between state government and telecommunications providers. OSIT hopes to replicate that environment in Nevada.

Chair Campos discussed the council's tasks over the next few years in moving forward, and pointed out today is a "foundation" meeting. She said most of this is new to everyone, but she expects all members of the council will have a greater understanding of SB 53 before they leave this meeting today.

IV. Overview of Key Provisions in SB 53 (For information only)

Brian Mitchell

Chair Jojo Myers Campos

Chair Campos referred the council to her handout, “Highlights of the Enacted SB 53, 2017 Legislature,” and commented this is a summary of the bill. She said SB 53 authorizes Nevada Department of Transportation (NDOT) to grant longitudinal access to Rights of Way (ROWS), and enter into agreements with providers, fairly compensating NDOT through in-kind trade or monetary compensation for longitudinal access to certain ROWs or access to spare conduit and establish regulation to govern the same. She added that SB 53 created TAC to approve trade values and agreements and work on best practices for SB 53. She added that OSIT has already started implementing best practices and is currently moving forward, based on fiber-trade policies in other states and cities. She said SB 53 expands the definition of “transportation facility” to include excess conduit, fiber assets, and related equipment, as well as establishing procedures for the valuation of ROW’s.

There was a question of whether SB 53 defines telecommunications provider. Chair Campos responded there is a definition and referred the council to the enacted copy of SB 53;

<https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4693/Text>

V. Nevada Department of Transportation (NDOT) Presentation Regarding NDOT’s Role in Implementing SB 53 (For information only)

Denise Inda, NDOT – Traffic Operations Division

Ms. Inda discussed NDOT’s role in implementing SB 53. She said for this presentation she has integrated parts of her presentation from the Governors Broadband Summit from back in October 2017 and updated it based on work for the last few months at NDOT. She commented that in her role at NDOT, she manages the fiber-sharing / fiber-trading program. She said they have been working closely with their ROW division, and legal division, which is supported through the Attorney General’s office. She said during the 2017 legislative session the passage of SB 53 provided NDOT greater latitude to enter into public, private partnerships of telecommunications and transportation facilities when it serves a public purpose.

She pointed out modifications in SB 53, including the definition of “information system” to include fiber, optics, wire and related infrastructure, as well as the expanded ability to declare items confidential when they are considered critical infrastructure and necessary for public health, safety or welfare. She said there also were modifications in the definition of “Transportation System” and “Highway.” She said SB 53 also expanded the role of OSIT, by adding more responsibilities and duties, some of which are related to administering the fiber-trade policy and supporting TAC. She further discussed TAC and the seven-member roles, which include assisting NDOT in planning and establishing value, approving interstate agreements and coordinating state agency and telecom provider efforts. She added that through discussions and interactions during TAC meetings, NDOT is looking for TAC to provide information and advice, strategic plans, priorities and recommendations based on the agency or industry each member represents to help the state move forward. She said NDOT

also needs TAC's assistance valuing the in-kind compensation for trades throughout the state. She discussed the authority that SB 53 enables NDOT to partner with the telecom industry and grant access for use of conduit, facilities and wireless access for fair compensation. She added that in order to meet these obligations, NDOT needs to develop regulations and policies, coordinate with OSIT and TAC, as well as with telecom providers and any other interested parties. She said this will allow NDOT to enter into agreements and issue encroachment permits to the telecom providers for infrastructure installation or use of existing infrastructure within a ROW. She said the content of agreements entered into will include terms of renegotiation, maintenance, a term of 30 years or less, and fair, reasonable, competitively neutral, and nondiscriminatory compensation, while not including granting a property interest in a ROW. She also discussed that compensation will be based on a fair-trade value which will be updated every 5 years, cash or in-kind compensation with any monetary compensation to be placed in the Highway fund with in-kind compensation being used exclusively for statewide telecommunications purposes.

Ms. Inda updated the council on where NDOT is now per requirements in SB 53. She said NDOT is in the process of establishing policies first, after which, they will address regulations which could take one to two years. She said they are developing a method of valuation, and internally identifying NDOT's network and infrastructure needs and priorities. She added that NDOT's traffic operations division provides the technology component on the roadside, making roads more efficient and safe, to include systems and devices such as camera systems, ramp meters, travel time signage and crash incident information. NDOT manages the Nevada statewide radio system on behalf of state agencies, i.e. Highway Patrol and emergency responders. NDOT interacts with the telecommunication industry identifying overlaps and aligning locations and needs. The benefits will include deployment time being reduced through easier ROW access. NDOT will be expanding infrastructure statewide, reaching underserved and unserved areas. NDOT hopes cities and counties can attract fiber telecom providers and the "Dig-Once" component will reduce costs through coordinated construction efforts.

Ms. Inda commented on the trade component. She explained trading for fiber/telecom access in one area of the state may benefit a provider with access in another area of the state. She said they are currently working on a way to identify the value of these types of trade, i.e. trade miles – fiber/conduit/circuit. She also discussed "banking," or credit for future projects that would benefit a partner/provider.

Mr. Mitchell commented that prior to SB 53, NDOT could place conduit with fiber optic cables in the ground, but only for NDOT's purposes. He said even if a telecommunications provider needed to place fiber along the same roadway, they could not use NDOT's trench. He said unlike the new "Dig-Once" policy in SB 53, the provider would have been required to go through the environmental permitting process and construction costs. SB 53 has allowed NDOT and a telecom provider to go into the same trench and share in that cost. He said as NDOT is making these trades, those trade agreements will be brought before this council and

the expertise of each individual member. The state is looking for a collaborative relationship where the providers and NDOT are talking about their future plans and bringing their needs and suggestions to this council. Ms. Inda said the way NDOT envisions managing this process within the department, with the guidance of the Attorney General (AG), is to identify for every trade, a Master Agreement with each telecom provider/business. She said the Master Agreement will line out the overall guidance of SB 53. She added it will require that with any work or installations the telecom provider/business requires they receive an encroachment permit, which is used for any installation or work falling within NDOT's ROW. She said once a Master Agreement is in place and an encroachment permit is issued, the telecom provider/business can apply for other projects under the same Master Agreement and only be required to apply for a new encroachment permit.

Mr. Mitchell clarified that prior to SB 53 there was a process by which telecom providers could get a permit for access to NDOT's ROW to install their own fiber optic infrastructure. He said SB 53 does not change anything about the existing way of doing this. SB 53 simply added another way to go about the process. He added that a telecom provider that prefers not to enter into a fiber-trade agreement with the State, is still more than welcome to utilize the existing option/process. SB 53 just offers a new option to providers.

There was a brief discussion about the 30-year term under SB 53 contracts between NDOT and telecom providers, which basically grants a permit for a period no longer than 30 years. Ms. Inda said if these permits for access and ROW were to go beyond 30 years, it would grant permittees a property right causing NDOT to have to pay to re-entering the ROW, if state work is necessary at that location.

There was discussion on the value of trenching and cost per foot/mile. The group discussed that NDOT must come up with an evaluation to validate costs for telecom providers. Mr. Mitchell said NDOT will ultimately decide on what values are best for Nevada, ones that are fair, reasonable and non-discriminatory to providers, and encourage trading. He pointed out that all members of this council will have a chance to weigh in on those decisions. He added the hope is that telecom providers will also come to future TAC meetings to provide their input as well.

VI. In-Depth Review of Key Provisions in SB 53 (For information only)

Brian Mitchell- Director
Chair Jojo Myers Campos

- Best Practices
- Examples of Infrastructure Trades
- Advantages of Dig Once and Fiber Trade Agreements
- Key Benefits

Chair Campos presented the Key-Best Practices for TAC compiled by OSIT. She said the first is to bring providers in at the planning stage by hosting a bi-annual or annual planning meeting to overlay state projects with the providers, cities, counties, and other state agencies. She

discussed the need to establish a single point of contact with NDOT and OSIT for the state to make it easier to manage inquiries and establish valuations for ROWs in each county. Another key best-practice is establishing ongoing GIS mapping of fiber lines and fiber assets and then re-evaluating every 5 years. Trade should be logged on a balance sheet and reviewed annually, allowing providers to “bank” their credits to save for really large projects. She said other key-best practices include prioritizing projects suitable for additional construction based on a scoring mechanism, as well as to develop the following; 1) a refined estimate of the incremental costs during the design phase; 2) a standard engineering specification for dig-once conduit and; 3) a procedure to systematically track and manage construction projects.

Chair Campos discussed different types of infrastructure trade; she said a provider might receive a fiber optic backbone in a ROW, wireless towers in a ROW, the use of NDOT fiber conduit, a hub or communications hut on a NDOT ROW; whereas NDOT may receive 24 strands, spare conduit, access to all poles for equipment / ITS or road weather information equipment, or possibly power for devices or hub space for equipment.

Chair Campos discussed the advantages of “Dig Once” and “Fiber Trade Agreements.” She said they reduce deployment time, expand infrastructure throughout the entire State, expand fiber infrastructure into underserved and unserved areas, and helps attract fiber telecom providers. She said it also provides the ability to bridge the “Digital Divide,” protects recently paved roads and sidewalks, and ensures efficient placement of infrastructure in the ROW. She added they also reduce overall cost of all underground work in the ROW, as well as reduce construction costs.

Chair Campos discussed the key benefits achieved through coordinated construction efforts and how it reduces the cost for labor and material, trenching/boring, traffic control and safety personnel, engineering and surveys associated with environmental impact studies, leasing access to private easement, railroad crossing permits and engineering, restoration to the ROW or roadway, and bridge crossing permits and engineering.

Chair Campos commented on “Dig-Once” coordination and successes. She said a Federal Executive Order in 2012 was issued to facilitate the deployment of broadband technology on federal lands, buildings, ROWs, federally-assisted highways and tribal lands. The Order required the US Department of Transportation – Federal Highway Administration (USDOT-FHWA) to review the “dig once” requirements in existing programs as it related to the placement of below ground fiber optic cable along highway and roadway ROWs. She commented on Utah, a state that has successfully adopted a dig once policy and/or fiber trade agreement. She said an example of a model fiber trade policy in Utah with the Department of Transportation (UDOT) would include that every time a roadway/highway project is constructed and UDOT installed fiber for its ITS system, UDOT installed additional conduit per specs. She said UDOT then assessed a low lease fee to broadband providers to use the conduit and allow providers open access to their conduit. The fee helps recoup the cost of the extra conduit. She said providers can also enter into a trade, whereby a value for that fiber asset is identified, approved by a committee, and kept on a balance sheet. A provider would owe UDOT that value, and could be paid back in other forms such as leased fiber elsewhere, fiber asset improvement or creation/expansion of a different fiber line.

Ms. Chang asked whether NDOT would be keeping the balance sheet to be reviewed annually or, whether TAC would be keeping it. Ms. Inda replied that NDOT would be keeping that information which would be completely transparent and available to anyone anytime. There was a discussion on grants for these types of projects and who besides the sponsor would monitor them, as well as how the inherent value of that type of project would be added. It was asked whether the telecom provider or other party could bring that in as an exchangeable asset. The group continued to discuss different potential questions. Mr. Mitchell clarified the question was, if there is a federal grant that provides funding to do trenching outside of a roadway, how that factors into an agreement with NDOT? Chair Campos suggested that OSIT and NDOT address this question and return an answer for TAC. Another question on the new regulation component of the policy element was asked regarding the timeframe of one to two years to complete the regulations. Ms. Inda said in looking at SB 53, the regulations are applicable to the interstates and the policies are applicable to the non-interstate routes. That allows NDOT to work more quickly on the non-interstate routes. She added that two years is the longer end of the time-frame. She said she believes NDOT will continue to move forward and begin working with providers even before those regulations are finalized.

VII. Overview and Discussion of the Duties of Members of the Telecommunications Advisory Council (For information only)

Brian Mitchell

Chair Jojo Myers Campos

Mr. Mitchell commented that the group has heard a lot of discussion today that is quite technical, and said NDOT lives and breathes this information every day, whereas the rest of us do not. He said he wanted to confirm to the group that no one on the council is expected to become an expert on these topics. He said the members of this council make up a very diverse group from many different organizations and programs across the state, which will ultimately assist this council in being successful. He added that after TAC discussions on specific duties of the statutes you will be clearer on what your role will be as a member of TAC.

Chair Campos referred the group to her handout of SB 53,

https://www.leg.state.nv.us/Session/79th2017/Bills/SB/SB53_EN.pdf, and gave an overview of the specific duties it outlines. She suggested all members of TAC thoroughly read through it. She said Section 1 discusses the duties of OSIT. She said it includes coordinating activities in this State relating to the planning, mapping and procurement of broadband service and said this section may answer some of the questions addressed here today. She pointed out that it also discusses the creation of a strategic plan. She referred the group to 5(b) “Applying for state and federal grants on behalf of eligible entities and managing state matching money that has been appropriated by the Legislature,” and said OSIT does not know how this looks just yet, but does fall under the duties of OSIT. She explained that definitions are included, of which some were added, some amended and some changed to accommodate SB 53.

There was a discussion on critical infrastructure by the group. Chair Campos said it is defined as the sharing of information and who has the right to share that information, as well as when and for what purpose it would be shared. Mr. Mitchell commented that when telecommunication providers and others share locations of their infrastructure, that information is protected.

Chair Campos suggested everyone should become familiar with Section 7, which provides definitions of words and terms. She said Section 17 talks about granting access and what that agreement must include. It also discusses telecom providers and compensation for use of such facilities. She said under Section 18(4) it discusses the duties of NDOT and Section 22 discusses in-kind compensation and what that would include without limitations. She pointed out page 14 which outlines the duties of TAC. She said the council is required to consist of seven members, of which all seven are here today. She said in subsection 3 of page 14 it says the Director of the Office of Science, Innovation and Technology in the Office of the Governor shall provide staff support to the Council. She said this means that all telephone calls and or inquires will go to the OSIT office. She added that in order for this council to vote or make any decisions during a meeting, there must be a quorum or majority of members present. There was a discussion on the Open Meeting Law, and it was asked what would constitute a violation of the law when talking to other members outside of a meeting. Mr. Mitchell replied that a phone call between two members is okay and not a violation of the Open Meeting Law. He said if a quorum of this group were to get together in a conference room that is not a publically noticed meeting and start discussing business, such as approving an evaluation that NDOT is planning to propose and deciding amongst ourselves in advance of a group vote, that type of thing is in violation of the Open Meeting Law. He added when our office sends out emails, they will be sent BCC, so as to prevent any replies “to all” from members of TAC. Chair Campos commented that Subsection 9 on page 14 outlines what the TAC shall do, and Section 26 outlines what the Department (NDOT) shall do.

Mr. Mitchell commented that one of the main purposes of this council is that TAC meetings serve as public meetings for anyone to come and hear NDOT account for the decisions they are making on these trade agreements with providers and how they determine the valuation of either the ROW or the excess conduit NDOT puts in their trenches. He said he does not believe it is necessary that TAC members be experts and dive really deep into the details of these agreements, but rather, this is an opportunity to put a stamp of approval that the agreements are fair and competitively neutral. He said he believes this council will provide a sense of comfort for the telecommunications industry that there are not any insider deals or any back-room trading. He added that all members of TAC represent a different industry that has broadband needs and this will give everyone on the council the opportunity to know what is coming down the pike from NDOT. He said the Governor’s goal for Nevada is to become the most connected state in the country. He added this is an audacious goal because Nevada is a huge state, geographically, and the most mountainous state in the country, as well as an urban state, which leaves a lot of space between cities. If this goal is kept in mind, he said he believes that working together this can be accomplished.

Chair Campos referred the council to Section 25.4 “The council shall meet as necessary at the call of the Chair,” and said when NDOT has a viable agreement ready for review, the Open Meeting Law shall be followed by setting a meeting, which may not necessarily fall consistent to quarterly meetings as previously suggested. The Open Meeting Law requires OSIT to notice a meeting at least 3 working days before the meeting. Chair Campos said it is likely this council will meet as often as twice a month. It was discussed that NSHE could host video-conferenced meetings. Mr. Mitchell said he would like this council to get together either in person or by video-conference as much as possible. He pointed out that OSIT has a conference telephone line in the State for those members unable to attend in-person. It was also suggested

that NDOT could provide space for a video-conference meeting. It was asked whether this council could utilize proxies. Mr. Mitchell said he was not sure and would look into it.

VIII. Consider Agenda Items for the Next Meeting (For possible action)
Brian Mitchell

Mr. Mitchell said this item will be determined at a later date.

IX. Determine Next Meeting Date (For possible action)
Brian Mitchell

Mr. Mitchell said the next meeting will be at the call of the Chair.

X. Public Comment (No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item.)

There was no public comment.

XI. Adjournment
Brian Mitchell

Mr. Mitchell adjourned the meeting at 3:56 P.M.