

## MINUTES

### PUEBLO AREA COUNCIL OF GOVERNMENTS

SEPTEMBER 28, 2017

A meeting of the Pueblo Area Council of Governments was held on Thursday, September 28, 2017, at the Pueblo County Department of Emergency Management, 101 West 10<sup>th</sup> Street, 1<sup>st</sup> Floor Conference Room. The meeting was called to order by Mr. Tony Montoya, Chairman, at 12:15 p.m.

#### ROLL CALL

Those members present were:

Ray Aguilera  
Larry Atencio  
Ed Brown  
Robert Ferriter  
Terry Hart

Frank Latino  
Judy Leonard  
Ted Lopez  
Tony Montoya  
Steve Nawrocki

Those members absent were:

Nick Gradisar  
Terry Kraus  
Chris Nicoll  
Garrison Ortiz

Sal Pace  
Bob Schilling  
Lori Winner

Also present were:

John Adams  
Joan Armstrong  
Dan Kogovsek

Louella Salazar  
Kallene West

#### **CONSENT ITEMS:**

Ms. Joan Armstrong, PACOG Manager, reported there were three items listed on the agenda under the Consent Items. She summarized the Consent Items for PACOG.

Chairman Montoya asked if there were any additions or amendments to the Consent Items or if any of the members or audience would like an item removed or discussed that was on the Consent agenda. There were no additions or amendments.

It was moved by Ed Brown, seconded by Judy Leonard, and passed unanimously to approve the Consent Items listed below:

- Minutes of August 24, 2017 Meeting;
- Treasurer's Report (Receive and file August 2017 Financial Report); and
- A Resolution Approving an Agreement for Professional Services Between the Pueblo Area Council of Governments and JDS-Hydro Consultants, Inc., for Consulting Work Involving Water Quality Planning, and Authorizing the Chairperson of the Pueblo Area Council of Governments to Execute Same.

**REGULAR ITEMS:**

**CHAIRPERSON'S REPORT**

(A) Lunch Appreciation

Chairman Montoya thanked the Town of Boone for providing lunch for today's meeting.

**MANAGER'S REPORT**

There was no Manager's Report.

**A RESOLUTION ADOPTING THE PUBLIC PARTICIPATION PLAN FOR THE PUEBLO METROPOLITAN PLANNING ORGANIZATION AND PUEBLO TRANSPORTATION PLANNING REGION WHICH INCLUDES PUBLIC INVOLVEMENT PROCEDURES FOR THE LONG-RANGE TRANSPORTATION PLAN, TRANSPORTATION IMPROVEMENT PROGRAM, AND UNIFIED PLANNING WORK PROGRAM; AND DIRECTING THE URBAN TRANSPORTATION PLANNING DIVISION TO IMPLEMENT THOSE PUBLIC PARTICIPATION ACTIVITIES**

Mr. John Adams, MPO Manager, reported an overview of the Public Participation Plan was presented to PACOG at its July meeting. Thereafter, staff went out for public hearing and comment on the Plan, which was a 45-day period that ends today at noon. No public comments were received on it.

It was moved by Ed Brown, seconded by Terry Hart, and passed unanimously to approve "A Resolution Adopting the Public Participation Plan for the Pueblo Metropolitan Planning Organization and Pueblo Transportation Planning Region Which Includes Public Involvement Procedures for the Long-Range Transportation Plan, Transportation Improvement Program, and Unified Planning Work Program; and Directing the Urban Transportation Planning Division to Implement Those Public Participation Activities".

**A RESOLUTION APPOINTING A MEMBER OF THE CITIZENS ADVISORY COMMITTEE (CAC) OF THE PUEBLO AREA COUNCIL OF GOVERNMENTS (PACOG) TRANSPORTATION ADVISORY COMMITTEE (TAC) FOR THE PUEBLO AREA METROPOLITAN ORGANIZATION (MPO) TO FILL THE TERM OF ALAN NELMS**

Mr. John Adams, MPO Manager, reported one application was received from Mr. Michael Klaus to fill the term of Mr. Alan Nelms on the Citizens Advisory Committee. The vacancy was advertised several months. One application was received from Mr. Klaus, which is in the packet material. Mr. Klaus comes with experience in railroad and passenger rail implementation.

It was moved by Ed Brown, seconded by Robert Ferriter, and passed unanimously to approve "A Resolution Appointing a Member of the Citizens Advisory Committee (CAC) of the Pueblo Area Council of Governments (PACOG) Transportation Advisory Committee (TAC) for the Pueblo Area Metropolitan Organization (MPO) to Fill the Term of Alan Nelms". (Note: Mr. Michael Klaus was appointed.)

### UPDATE ON JOINT CRIMINAL JUSTICE ACTIVITIES

Mr. Jeff Chostner, Pueblo District Attorney, reported on Monday this week, Mr. Bob Troyer, the U.S. Attorney for this region, made presentations before the City Council and Board of County Commissioners. He also met with Sister Nancy to discuss immigration issues. Mr. Chostner stated crime in Pueblo County is down anywhere from 9%-17% depending on the category of crime. There are still issues, such as carjacking, but they are hoping to get a handle on it. All other major areas of crime (i.e., murder, assaults, robberies) are significantly down. Mr. Troyer spoke about the cooperation between the Pueblo District Attorney's office and the U.S. Attorney's office and how they have been able to make progress. Mr. Chostner stated one of the reasons it is important to have the federal government here is because if there is a criminal conviction at the federal government level, people don't stay here but go to a federal prison in another state where it is more difficult for them to maintain contacts with their families or criminal colleagues. There is a qualitative effect in this partnership with the federal government. He stated Mr. Giles will speak about the tactics utilized on the ground and give specific examples of how the partnership has come to fruition. There is a FBI agent embedded in the Pueblo Police Department, who works exclusively with federal crimes. He stated Mr. Giles and he meet at least once a month.

Mr. Brad Giles, Chief, Major Crimes, United States Attorney's Office, reported their work in Pueblo County is based upon cooperation and trust. All the State and federal agencies are on board and are communicating. There is a targeted environment such as targeting the trigger pullers, gang members, high level distributors of narcotics, etc. They are uniquely situated with their firearms programs, CGIC and NBIN, where they can match, based upon shell casings, crime guns to different crime scenes. They can figure out by tracing the gun through all its steps and all the hands it has been through who's responsible for the violence in the community. Their goal is to take these people out of the community, not just off the streets, but in the prison system so that they serve their time and don't continue to build street cred while serving time with fellow gang members. He stated they started this in 2015 and there have been great dividends from the partnership. In 2016, there was 14 Pueblo indictments. In 2017, to date, there are 16 cases, noting there are seven firearms cases. These cases are chosen in consultation with the District Attorney's office that are going to have a higher federal sentence and are aggravated by a gang member or drug distribution nexus. There is a real cooperation with the District Attorney's office on the hand off and the communication is seamless. With firearms and drugs, you can get great sentences in federal court. He stated 60% of their firearms cases are aggravated by some of these other factors. They have immigration authority, but only three illegal re-entry cases have been taken down year-to-date, noting all three were aggravated felons who had repeatedly come back into the country. He stated this not the focus. The focus is on getting the right offenders off the streets.

Mr. Giles stated there were 13 homicides in 2014 and 2015 each. There was a 38% decrease in 2016. Through May 2017, there had only been one. The best homicide investigations are the ones that never happen. For example, there was a murder-for-hire case which they were able to prosecute with a prisoner who was already behind bars. There were 186 robberies in 2014. It went down 6.45% in 2015. It spiked in 2016, but in 2017 it has decreased 8%. Their ability to prosecute robberies is somewhat limited by federal statute. He stated the gun store burglaries are something they want to

take part in. With respect to burglaries, in 2014, there was 1,972 of them. In 2015, it decreased by 10% and 33% in 2016. In the first quarter of 2017, it is down. He stated the decrease from 2015 to 2016 means a decrease of approximately 200 cases. If you extrapolate that to small police departments with limited resources, this is 200 burglaries they don't have to investigate, which is time they can spend on the streets doing community impact and making a difference in the community.

Mr. Giles stated the CGIC and NBIN programs take the guns, which are removed from the streets, and takes their shells and casings and tie it to every event. Every shell casing that is fired in the district in Colorado and in jurisdictions doing this across the country are entered into a database where the gun can be tracked across the country. All the information is entered in the database within 48 hours so that crimes can be solved quickly.

Mr. Giles stated primarily in Pueblo heroin and meth are seen. The legalization of marijuana in Colorado means there are a lot of organizations coming in and shipping it here. He stated they become involved when it is contrary to State law. Public lands marijuana grows are still a big problem in the rural areas, noting many are cartel related. Another resource they are trying to bring in is Immigration and Customs Enforcement (ICE) to take people who are deportable related to cartels and get them prosecuted for the marijuana, as well as deport them at the end of their sentence.

Mr. Giles stated this program is worth doing and is a dividend. Hopefully, they are doing it in a way that builds community trust and builds people's interest in communicating with law enforcement.

Mr. Hart stated it is nice to see this cooperative effort. He asked if there is a national database, which plugs in the information on those individuals who are sending these people to our community. Mr. Giles stated on every drug case, every marijuana grow, and every heroin case, which they are federally involved in, all the phone information is dumped into a national database. Within hours they can know which cartel or organization they are working for and which phone lines are still active, and if it is tied into an active investigation. They would be able to know who they have as informants in the investigation. Their goal is to spin that up into the larger organization.

Mr. Brown asked how long is it to when they are arrested until they go to the federal penitentiary. Mr. Giles asked if he meant in terms of prosecution or the timing of handing off from the District Attorney's to the federal government. Mr. Brown stated he was concerned how long they are in County jail. Mr. Giles replied sometimes they are taken straight into federal custody. One benefit they have is they are able to hold defendants without bond up in Denver pending their case. For people who are deportable and committing crimes, they can be taken out of the County jail and there is no bed space being paid. Through working with the District Attorney's office, if they think there is somebody they can get more time on, there are quick conversations done before the defendant is taken before a preliminary hearing and start their proceedings in order to relieve the jail. Mr. Chostner stated it would be difficult to get an absolute statistic because each case is so different. It depends on the evidence, the cooperation of witnesses, how many defense motions on the case, or how eager the defendant is to plead or not plead the case. He stated he monitors every federal case they have and tries to get that person out of State jurisdiction into federal jurisdiction as quickly as possible. There may be factors there also, because the person may be talking to the

District Attorney's office on State crimes and they don't want to break the continuity of who they may have bonded with and are willing to provide information. Mr. Brown stated it was good to know that some of them are going directly there. Mr. Chostner stated it was interesting when someone shows up at court thinking they are getting dismissed on the State charges and then the federal marshal shows up and handcuffs the person and takes them to Denver.

Mr. Aguilera stated for as much heroin, which is claimed to be in Pueblo by the local newspaper, he didn't see that many arrests. Mr. Chostner agreed. He felt it was sensationalized. He stated the reason they are doing this presentation is to let people know that we don't have the kind of dangerous community and drug-infested community that has been portrayed. He stated he has spoken with Colorado Springs' District Attorney Dan May and they can portray themselves as a safer community because they don't include federal statistics from the military, so this takes away a lot of their statistics off the books. He stated the fact is that Colorado Springs and Pueblo are fairly compatible as safe communities.

Mr. Latino stated there is a standing item on the PACOG agenda regarding school and community safety. He stated his concern is with the youth and making sure that we can portray to them that there is hope. Gang affiliations have been going on a long time. The more the groups can be targeted and exposed is better. The police community should be commended for the Safe Streets Program. There are community groups that are making this a priority. He stated if we can portray that we are working towards having a safe community, he felt it was going to pay great dividends in the future. He stated there are many students who have mental health issues and these are things which need to be addressed. He felt we need to do anything we can to create this awareness. On October 7<sup>th</sup>, District No. 60 will be sponsoring a community-wide event at the Southwest Motors Event Center on bullying. He stated the more they can get crime watch at each school building the better off we will be. Mr. Chostner replied that safe campuses across the County are very important to him. He stated when he gets a call on safety issues in either School District Nos. 60 or 70, he takes it very personal and he watches it closely to make sure it is monitored. He stated he is also in close communication with both superintendents.

Mr. Chostner stated Mr. Giles is a true friend of Pueblo and has bonded with the local law enforcement community. He stated his staff and he come to Pueblo and distribute Christmas presents in the local schools.

(Note: A copy of the PowerPoint presentation is available electronically, which is kept by the PACOG Recording Secretary and available upon request.)

#### COLORADO ROAD USAGE CHARGE PILOT RESEARCH PROGRAM

Mr. Timothy Kirby, Colorado Department of Transportation, presented a PowerPoint presentation. He reported as part of the 2040 Statewide plan, a gap analysis was done, noting through the analysis it was found there is a gap of \$1 billion annually over the next 25 years for transportation and infrastructure investment. Over a 25-year period, we are \$25 billion in the hole. The gap comes from the unsustainable nature of the gas tax law. In Colorado, the way that we pay for our roads is through an excise tax on gasoline. The major flaws with the gas tax model is (1) it's not indexed to inflation, and (2) when it was thought up, they didn't think about new and emerging electric vehicles. If

revenue is received by vehicles burning up gasoline and you have vehicles that are fuel efficient, then you're not getting tax revenue. He stated the Highways Users Tax Fund (HUTF) is shared 60% (CDOT) and 40% (cities and counties). The problems are increased fuel efficient vehicles, declining purchasing power, and increase in population.

Mr. Kirby stated increased fuel efficient vehicles have created less revenue. CDOT has seen benchmarks on average fuel efficiency of vehicles. In 2016, the average fuel efficiency of new vehicles is 35.5 miles per gallon. In less than 10 years, that standard will raise to 54.4 miles per gallon. What else is happening is fuel diversification within our markets (i.e., diesel, compressed and liquid natural gas). He stated in the next 25 years, the State's population will increase by 47%. There will be a corresponding increase in vehicle miles traveled, which equates to an average traffic delay on congested corridors about 2-3 times of what we experience today. What makes matters worse is that our money is worth less today than it was years ago. In 1992, one tax dollar collected would purchase one dollar of construction work. By 2034, the same dollar will likely purchase 22¢ of construction work. The last time the gas tax was increased was in 1991, noting the cost of everything has gone up during the years. He stated the price of the gas tax doesn't go up with inflation or if the price of gas goes up.

Mr. Kirby stated that Governor Ritter, in 2008, convened the Colorado Transportation Finance and Implementation Committee, who was tasked with looking at other financing mechanisms for transportation, noting 39 different options were looked at. One of the group's recommendations was to look at vehicle miles traveled. They wanted CDOT to conduct focus groups and to conduct a pilot. CDOT went out and conducted focus groups and found out that road usage was the most unpopular thing. The problem persisted and it did not go away. As the problem persisted, CDOT looked at different things and one was road usage charge. A road usage charge (RUC) is a cost per mile to a user. Under a road usage charge, if you use the system you pay for the system. The road usage charge is not an additive but is meant to replace the fuel charge. Under the current system, people pay higher taxes on the fuel efficiency of their vehicle. Under a road usage charge, everybody pays the same. If you use the system, you pay for the system. You are not penalized for having an inefficient vehicle or rewarded for having an efficient vehicle. He stated you would not have to sacrifice your privacy, noting CDOT goes above and beyond the privacy of their users. He stated CDOT has invented a choice for the users, noting they can use technology or not use it.

Mr. Kirby stated the purpose of the pilot was to create a sandbox environment where people from CDOT, legislators, or policy makers could come and participate. The reason this was done was to identify and evaluate potential issues. CDOT wanted to know if they were to implement a system like this what is it that they are not seeing. They wanted to test the feasibility and testability of covering these miles in Colorado. They wanted to solicit feedback from their participants for future system design. CDOT does not claim to know everything about this concept, but they do know if they engage their partners and stakeholders that they can learn together and start to craft what a future system might look like. If there is going to be a fee on vehicle miles traveled, there has to be a way to measure and report those miles. They wanted to give their users a choice, noting the most basic choice was odometer readings. A picture is taken of the individual's odometer and submitted. Another class of people might not feel comfortable about a GPS device being in their car, but an odometer seemed inconvenient to them, noting an option was given to them. The way that the non-GPS and GPS monitoring recording devices operate is that it is not through GPS. What it

does is plug into a port in your car that takes wind speed off of your grill and accurately gauges the miles traveled. The third option was the GPS recording device. There are a number of insurance companies employing the same type of technology and will give you a discount on your insurance premiums if you can demonstrate you are a safe driver. This is the same type of concept. It provides you information about your engine, how good a driver you are, battery health, etc. The pilot was a four-month program, which ran from December 2016 to April 2017, and there were about 100 participants. CDOT wanted geographic and vehicular stratification. They wanted to get participants from all across the State and different backgrounds. He stated there were participants from rural and urban areas, as well as people with newer and older model vehicles. He stated the participants initially received an email from a private sector account manager, who protected the data. A firewall was built between that private sector account manager and CDOT. The only thing CDOT received from the private sector account manager was the mileage measurements. The participants were asked to review their invoices for accuracy. They were asked to submit mock payments (simulated revenues). They were asked to complete surveys and provide feedback. Once their feedback was given, their account was closed out.

Mr. Kirby stated about 70% of the participants chose the full GPS option. Another 17% were non-GPS, and 13% went with the odometer. As the pilot went on, members of those two non-GPS groups wanted to migrate into the full GPS option. He stated around 61 participants were in the median range, 34 were in average vehicle fuel efficiency, 3 in the hybrid, and 3 in the electric. He showed a spatial representation of where the participants were located, noting CDOT felt comfortable with the distribution of those who participated Statewide.

Mr. Kirby stated there were a few issues identified by the stakeholders during the pilot. One was to improve Roadway Ownership Data. When you choose a GPS option, CDOT would be able to identify whether you were on a public or private road. It is important because Colorado has 35,000 farmers and ranchers that drive their vehicles and pay taxes on roads they don't use, noting they drive on the farm or private roads. If this data could be improved and they agree to use a GPS device, this group can experience savings. Another issue was to address the OBD II Port Competition. This is the port where you plug the device in. There are insurance companies who want to plug into that device and once people use them they love them and tend to gravitate towards them. The problem is you can only plug one device into it. CDOT will need to work with the private sector counterparts to figure out a way to plug into it. If another pilot is done, CDOT would like to include multiple fuel types. CDOT wants to examine operations and work with the Colorado Department of Revenue regarding revenue collection and administrative costs. CDOT wants to continue to identify barriers to public acceptance. There are urban/rural equity perceptions which need to be addressed, as well as data privacy concerns. CDOT found if people experience it, they overcome their concerns very quickly.

Mr. Kirby stated the next steps are to continue to progress research, pilot with the Farm Bureau on the agricultural community, coordinate with other State agencies on the next level (e.g., Department of Revenue, Governor's Office of Information and Technology), continue to educate the public and stakeholder focus group on what's happening, and go back to the staff and continue to create white papers on the issues. He stated CDOT belongs to RUC West, which is a consortium of 15 Western states who do group research. He stated the method used for this study was State Planning and Research

Funds, noting those dollars have to be spent on research and other CDOT funding cannot be used.

Chairman Montoya stated he puts in mileage doing community service. He stated he is involved in a number of organizations and the trips he takes might not be taken if he knows he is getting charged for doing a community service. He asked if the group has considered this. He stated he didn't want the amount of community service to go away because of the cost of travel. Mr. Kirby replied the last thing CDOT wants to do is institute a program that would have a number of unintended consequences and would dissuade people from doing community service. He stated one of the tools which CDOT needs to deploy on their website is a calculator. The calculator would allow a person to plug in their miles and get the amount you pay today under the gas tax and what you would pay under the RUC system. He stated during the pilot, participants were asked how much they thought they spend a month on transportation, and the answer ranged from \$40-\$400 per month. People were surprised to learn that what they actually pay for transportation ranges from \$7-\$12 per month. People wondered how this would change the revenue picture. He stated it is the power of the aggregate or five million Coloradans spending an extra \$3-\$4 per month. He stated CDOT wants to identify all those unintended consequences and address it. Eventually, the Colorado Legislature is responsible for the passage of the RUC. It is CDOT's responsibility to present the focus group with a non-biased look at pros and cons of what this concept would look like.

Mr. Ferriter stated he wouldn't support the proposal because it targets people who live in rural areas. For example, he drove into town today, but by the time he goes home he probably will have driven 100 miles in a vehicle that is not fuel efficient. He stated under CDOT's current proposal he would not only have to pay the gas tax, but a user fee on top of that, which is something he can't afford to do. He stated his constituents who live in Boone, which is 20 miles away, if they need to go shopping, it is a 45-mile round trip. A majority of the population is well below the poverty threshold. There is a difference in the population demographics as far as income from Northern Colorado as opposed to Southern Colorado. He stated there are employees who work for the Town of Boone that are making \$11 per hour. This is well below what those same employees would be making in a larger municipality. Mr. Kirby replied he grew up in a rural area and understood his concerns. He stated this would not be an additional tax, but a replacement of the current fuel tax. There are two types of fuel taxes--one is federal and the other State. He encouraged Mr. Ferriter to go to the online calculator and plug in his mileage. He stated from what he is describing, he is being penalized under the current model and under the RUC system he would stand to benefit the most. He stated what was found out during the study was rural folks come out ahead. The reason is they tend to trip stack, and their urban counterparts tend to make more trips. He stated it is not CDOT's intent to penalize one group over the other.

Mr. Ferriter asked about commercial vehicles and out-of-State vehicles. He stated while on the highway he notices there are a significant amount of vehicles from out-of-State, who currently under the existing model are paying gasoline tax to the State, noting this also includes commercial vehicles. If this program were implemented and in place of the current gasoline tax, it would take that revenue away from what the State is receiving in commercial vehicle traffic and out-of-State traffic. Mr. Kirby replied you can have somebody traveling to Colorado who stops at the Kansas border and fills up the tank and all the mileage driven in the State of Colorado is tax free. He stated as vehicles become more fuel efficient and these vehicles can travel farther, people will be able to

traverse our State with contributing little or nothing at all. He stated many people view out-of-State travelers as coming into the State and getting a free ride and they are not contributing to our State coffers. They feel it is not fair and we need to figure out a way to place this fee on them as well. CDOT has put aside a nominal amount of money which allows them to engage with their regional partners to answer this question as well as others.

Mr. Atencio stated he saw a disadvantage to rural drivers in that consumer behavior will dictate a lot of this. When people see they are being charged by the mile, Northern Colorado drivers will have the advantage of taking public transportation. Their variety of public transportation is better than ours. In Denver, people have the choice to take public transportation and will pay an extra mileage fee. He stated it is hard to believe that low income and lower income people will be at an advantage. Consumer behavior will dictate a lot of this, noting people won't be making the trips to doctors, etc. when they know they are being taxed by the mile. Mr. Kirby stated his comments were well taken. Mr. Atencio stated there are millions of dollars being spent in Denver in public transportation. Mr. Kirby appreciated the comments and said he would take these comments back with him for more discussion. He asked the members to take a look at the research and to go online to the calculator on CDOT's website.

Mr. Hart stated we seem to have this attitude that we have to pick either/or. He felt if it is structured correctly and we have multiple sources of revenue where we drive down the cost of the gas tax in order to offset it, and put in a socioeconomic overlay so if you do fit into a low income perspective or rural perspective, it would be accommodated in a formula to drive down the percentage that a person would pay. The tax and revenue structure could be structured to make sure that you are achieving the socioeconomic goals, which is not to overly burden those who can least afford to pay for transportation expenses and shift more to people who can. He stated we should talk about what kind of combination can be done and what kind of overlay can be put on it so that we can achieve things. He stated we may want to have a disincentive for driving gasoline or diesel fuel vehicles for those who can afford to do something else. This can be calculated into the formula and still give a benefit to those who cannot afford it. The average person who fits into the lower end of the strata are typically driving the older cars, which are the least fuel efficient. He stated there was a conversation at the STAC meeting on an analysis on who actually does the most damage to the roads. It is a weight thing and making sure that we have a proper way to assess the heavier vehicles (i.e., trucks, SUVs) that do more damage to the roadway. We need to make sure that those who use and destroy are those who pay the most for that freedom. Mr. Kirby stated it is really hard to tell the difference in terms of impact to the roadway between a car and light duty truck, noting it is very minimal. This equation changes drastically when you bring commercial vehicles into the mix. Where the conversation gets difficult is those commercial vehicles are bringing in produce, etc. If you were to put on the weight mile tax, would they just pass it on to the consumer. CDOT needs to do more research on this. Mr. Hart stated he understood and noted he wouldn't want to price commercial trucks a higher tax and then they would avoid Colorado. He stated he would like it if more if their produce, etc. could be placed on freight rail.

Mr. Kirby stated it is important to remember that as our communities grow the needs for services and goods are going to grow with them. An investment in our transportation will help with the free flow of these goods and services. He asked the members to share the information with others.

(Note: A copy of the PowerPoint presentation is available electronically, which is kept by the PACOG Recording Secretary and available upon request.)

### VOLKSWAGEN SETTLEMENT PRESENTATION

Mr. Michael King, Colorado Department of Transportation, reported Volkswagen Group of America was caught cheating on their emission standards for diesel vehicles. They were sued by the U.S. Environmental Protection Agency and the State of California. As a result of that lawsuit, a settlement was made. This settlement has several pots of funding that are involved. The settlement he would be explaining is the \$2.9 billion Environmental Mitigation Trust Fund. Of that money, \$68.7 million are allocated to Colorado. The projects, which are nationwide, are eligible projects which reduce emissions. The other portions of the settlement, but which don't directly apply to us in the sense that the State does not have direct control, are the \$10.3 billion which are used to buy back vehicles and leased vehicles from the people who actually purchased them. He stated there is a vast fleet of Volkswagens at the Pikes Peak International Raceway. Those vehicles are being purchased back. The owners of the vehicles are not required to sell them back, but Volkswagen is required to make that offer. There is also the \$2 billion National Zero Emission Vehicle Investment. He stated this is not a penalty towards Volkswagen because they control these dollars and will own and operate whatever they do with them. Those zero vehicle emission investments are for electric vehicle charging stations that they will be installing nationwide. There will also be outreach and education related to that. While we do not have direct control over that, Volkswagen is planning to make a major investment in the State of Colorado, specifically in the Denver market, but also along many of the interstates. Finally, there is a \$14 million penalty going to the Colorado General Fund for consumer fraud. There may be other criminal cases that individuals file.

Mr. King stated everything relies on the Trust Effective Date. When the final trust is signed by the parties, Volkswagen/California/EPA, that starts the clock ticking on some of their other requirements. CDOT anticipates the Trust Effective Date will be within a couple of weeks. The State will then need to file and indicate it wants to participate. A draft plan must be submitted for how the funds would be spent. The funds would then be received and distributed along the lines of what is eligible under the plan.

Mr. King stated the Trust is for \$68.7 million, noting it could potentially rise if Volkswagen does not hit certain targets in terms of buying back vehicles or if other states opt not to participate, then we could receive a larger portion. There are incentive caps for the settlement and how much can be incentivized for each project. These are available to public and private entities. The funds have to be drawn within 3-10 years from the Trust Effective Date, noting you can't spend it all at once. You forfeit any unused dollars after 15 years. There has to be accountability and reporting done on the funds and how and when they were spent. The State can distribute the funds according to the terms in the Trust, and the purpose of the Trust is to reduce the emissions and the impact of those emissions where Volkswagens were located and to benefit areas of disproportionate impact. NOx is a pollutant which contributes to ozone, which has damaging effects on human health. The diesel engines Volkswagen was producing were producing excessive levels of NOx, and the State is supposed to target those in the remediation.

Mr. King stated there are Eligible Mitigation Projects which the settlement indicates the projects which money can be spent on, which are: Class 8 are (large) local freight/port drayage trucks; Class 4-7 are (medium) local freight trucks; Class 4-8 school, shuttle, or transit buses; up to 15% for light duty ZEV supply equipment (electric vehicle chargers); airport ground support equipment (little vehicles that keep the planes warm between flights, transport luggage, or fuel them); railroad freight switchers (things in the yard as opposed to cross country rail equipment); heavy forklifts; certain boats and port equipment; Diesel Emission Reduction Act (DERA) option (used to upgrade non-roadway engines or things that work on oil production); and administrative costs up to 15%.

Mr. King stated the areas for disproportionate impact are not defined. He stated there are a few ways to define that. It could be spent on where the vehicles were located. You can also say it could be spent in the ozone non-attainment area. These areas include the North Front Range, Denver metropolitan area, and the Pikes Peak/Colorado Springs area. You can say the funds could also be spent in areas of environmental justice or areas of low income. These are all valid interpretations, but CDOT is not deciding on one specific criteria at this point, but is wanting the public to weigh in and help determine where these dollars should be spent. CDOT is hoping to have a Statewide distribution as much as possible. Funds are expected to flow largely to the areas around where the Volkswagen vehicles were because this breaks down with the population of the State. The money should flow evenly throughout the State, but if the dollars don't flow evenly, CDOT can always adjust.

Mr. King stated the allocation of funds or spending plan is out for public review. He stated he is making this presentation to PACOG to solicit input on the plan. An interagency group composed of the Colorado Department of Public Health and Environment, CDOT, the Regional Air Quality Council, and the Colorado Energy Office are proposing to spend the funding as follows: (1) \$18 million for alt fuel trucks/buses, (2) \$5 million for DERA option; (3) \$18 million for transit buses; (4) \$10 million for EV chargers; (5) \$5 million for administrative costs; and (6) \$12 million for flex funds. He stated there is already a program in the State called Alt Fuels Colorado, which is a program that allows people with medium and heavy duty trucks to upgrade from diesel vehicles to compressed natural gas, propane, or electric. This would be a continuation of that and would require you to scrap and replace an existing truck with a new alternative fuel vehicle. In some cases, you could replace a diesel with a new diesel. This would be for smaller fleets that are not able to pay the extra cost for compressed natural gas or an electric truck. Public and private fleets would be eligible. The rates of incentive are different based on the fact that private fleets are eligible for a State tax credit whereas public fleets are not. The idea is for everybody to have an option to get in on this program. School and shuttle buses are included. Airport equipment falls under this. We pay 25% to 40% of the new vehicle cost, up to a cap. CDOT anticipates 400-450 diesel vehicles could be replaced with the money. There is another \$18 million to scrap and replace transit buses with alternative fuels or electric buses. Transit vehicles are an important asset to low income people and communities, but one that may be polluting the air. This would be built into CDOT's funding for transit bus replacements and would allow people rather than replacing their diesel bus with a new diesel, they could affordably upgrade to a compressed natural gas vehicle or an electric bus, which is a technology that is emerging quickly and is becoming competitive with diesel buses. CDOT would also be able to fund the EV charging for this bus which is often a big barrier for transit agencies to switch. CDOT believes that 30-60 buses would

be replaced. He stated the cap which was mentioned previously comes to \$10.3 million, which would be used for light duty zero emission vehicle infrastructure. CDOT would fund the installation of vehicle chargers Statewide--both in highway corridors and in communities, which would be available to the public. There is \$5 million for the DERA option. This funding would be used to the existing DERA program, which helps to replace non-road vehicles or engines that produce a lot of emissions (e.g., construction equipment, oil and gas drill rigs, diesel generators, mining equipment, agricultural equipment, and certain retrofits). There would be \$12 million in flexible funds, noting at the current time they are estimating what the public demand for these programs would be. If CDOT begins the program and finds that there is a lot more demand for transit vehicles, etc., this \$12 million would allow them to adjust the amounts available in each pot. The last portion of funding (\$5 million) is for implementation costs. The terms of the Trust allow for 15% of the funds to be used for administration. CDOT set a target for half of that amount because they feel by using existing government programs and the existing relationships, they don't have to reinvent the wheel. They can funnel these dollars through existing programs and save that money and put more of that money out on the roads so they can improve the State's air quality. The costs include outreach, soliciting and reviewing applications, verifying project completion, accounting and audits, legal compliance, education, and records and reporting.

Mr. King stated CDOT has estimated the emission benefits. The tons per year saved for NOx is 133-175. For the VOC, it is 30-36 tons per year, and 41,320-57,600 tons per year for greenhouse gases. The idea is to make Colorado's air quality better to counteract the damage done by Volkswagen.

Mr. King stated a public meeting was held on September 18<sup>th</sup> at CDOT where 60-80 people attended and provided comments. He stated the bulk of the comments will come through the website and are due October 13<sup>th</sup>. He asked PACOG and the audience to provide any comments via their website <https://www.colorado.gov/cdphe/vw>. Once all comments have been received, CDOT will develop a final plan which they will share with the public. He stated this is a non-binding plan so as they go through the program and the public wants something different, they can adjust it in the future.

Mr. Hart asked how much of this is going to be limited to the non-attainment zone and how much will be available to those outside of the non-attainment zone. Mr. King replied there is no geographic limitation on any of the funding. It is anticipated any project anywhere in the State that meets the criteria of the Trust and is submitted to CDOT with all the documentation would be approved. He stated if they were to get halfway through the program and all of the dollars are going to one county, this was not their goal but rather to have distribution. At that time, the criteria might be adjusted to say we need to encourage more of the dollars to go to the areas they think are more appropriate. He stated they don't think that would be necessary just because of the way the population breaks down, they think there will be an even distribution. He felt this is an opportunity for rural communities, smaller communities, etc. to get in on the dollars which are usually only available in the North Front Range area.

(Note: A copy of the PowerPoint presentation is available electronically, which is kept by the PACOG Recording Secretary and available upon request.)

## TRANSPORTATION COMMISSIONER/CDOT REGION 2 DIRECTOR'S REPORT

Chairman Montoya reported there were no comments from Mr. Bill Thiebaut, the State Transportation Commissioner for the Pueblo region.

There was no report from the CDOT Region 2 Director.

## STATE TRANSPORTATION ADVISORY COMMITTEE (STAC) UPDATE

Mr. Terry Hart, PACOG STAC representative, reported they did a lot of updating on the programs going on Statewide. There was an update on federal and State legislative activities. There is uncertainty on what President Trump means about infrastructure. There was a conversation on funding formulas. There is a lot of planning going on and figuring out how to divide up less dollars for projects. Everyone needs to be paying attention and we need to weigh in politically. There was an interesting conversation about the I-70 central corridor project, noting this has an indirect effect on Pueblo because of the dollars being spent on the project, which is over \$1 billion.

Mr. Hart stated preparations have started on the 2018 CDOT budget, noting the STAC will have the ability to weigh in on it. He stated there was also a presentation on Policy Directive 14, which sets standards on safety and how many roads and bridges are in bad shape, etc. It measures how the State is doing on this. The report indicates we aren't doing that good.

## MPO STAFF REPORT

### (A) Administrative Modification

Mr. John Adams, MPO Manager, reported there was one administrative modification to the FY 2018-2021 Transportation Improvement Program. The administrative modification is for the U.S. 50 Permanent Water Quality Pond between Purcell and Pueblo Boulevard, which will add more water quality funding to the right-of-way and design phases of the project in FY 2018. There will be \$25,000 going to the right-of-way phase and \$122,761 to the design phase for a total of \$146,761.

It was moved by Terry Hart, seconded by Ed Brown, and passed unanimously to approve the additional water quality funding to the right-of-way and design phases of the U.S. 50 Permanent Water Quality Pond between Purcell and Pueblo Boulevard in FY 2018.

### (B) Southwest Chief Update/Discussion

Mr. Adams stated because of the length of the PACOC meeting that staff would make this presentation at next month's meeting.

Mr. Hart stated the new action that created the Statewide board to deal with the Southwest Chief and Front Range passenger issues are meeting and are active. He stated both Mr. Pace and he are on the committee. He stated there have been discussions or arguments on why is all the money being spent on creating and improving lines from Denver to the north. We will need to fight to make it clear that you are not going to get the political votes unless you go a mile north and south. He stated there

was a previous study done on the ISTE rail and there was an assumption that the greater demand was Denver metropolitan north. CDOT was shocked to find out that there was a greater demand of Denver metropolitan south for high speed rail. We need to continue to push it hard because we can critically use that type of activity coming to the southern part of the State.

(C) Other Transportation Matters

Mr. Adams stated he distributed a copy of the CDOT Sub-Recipient Risk Assessment. It is a codified Federal Register and is called Super Circular, noting this is how they do some of their reporting and accounting as a sub-recipient of federal funds. He stated he worked with the City Finance Department to fill out this form because they do receive federal funds for their planning program. He asked that this be checked off by the PACOG chairman. Staff will submit it to CDOT. CDOT will review it for compliance.

PLAN OF ACTION FOR SCHOOL AND COMMUNITY SAFETY

Mr. Frank Latino stated next month is National Bullying Prevention Month. He asked Ms. Jackie Swanson from the Pueblo City-County Library District to make a presentation on adult literacy.

Ms. Jackie Swanson stated she is the Adult Literacy Coordinator at the library. She reported she has made presentations to the City Council and Board of County Commissioners. She attends the Pillars of Community meetings. She stated when she came to the library 19 months ago, there were six learning teams, which consisted of a learner, an adult learner, and a tutor. There are now at 76 learners and tutors at the library. Because of the BOCES situation, they are getting more learners coming to them. She proposed a literacy coalition. She stated while in attendance at different meetings throughout the community, she hears negative views of Pueblo. She stated literacy is at the center of our community because there are so many adults wanting to make changes and do good things for their families and make those changes through education. She stated literacy and crime can run hand-in-hand. She distributed documents on literacy and asked the members to look at it.

Mr. Latino stated Ms. Swanson has been working on calling attention to this serious problem we have in our community, noting it is not only local but Statewide and national. The more we can do to make people aware would help. Many problems occur because people don't know how to read.

Mr. Atencio stated he was wondering if assisting children who have dyslexia was on the radar in terms of literacy. He stated he has a grandson who is severely dyslexic. Because of his daughter's persistence, she was able to find out why he was so behind in his learning capabilities. The school district could not help him, noting they have no facilities or resources to help dyslexic children. He found out that 20% of children have some form of it. He stated in terms of literacy, that this is one component which should be looked at.

FUTURE AGENDA ITEMS

There were no future agenda items.

OTHER DISCUSSION

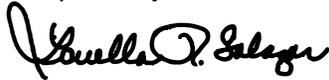
Mr. Nawrocki reported that the Pueblo City Council approved, at its meeting held on Monday, September 25, 2017, a resolution for an "off-ramp" from the Black Hills Energy contract. An off-ramp commission has been formed. He requested the Pueblo Board of County Commissioners and Pueblo West Metropolitan District each select an elected official or someone of their choice to serve on this commission, and to contact him with their appointment.

Mr. Hart felt PACOG needs to take a close look at the time of the PACOG meetings. The meetings are held during the lunch hour and there is a time crunch for some people who work and need to leave. He asked that PACOG look at possibly changing the meeting to the evening or early afternoon.

ADJOURNMENT

There being no further regular business before PACOG, the meeting was adjourned at 2:02 p.m. The next meeting is scheduled to be held on Thursday, October 26, 2017, at 12:15 p.m., at the Pueblo County Department of Emergency Management, 101 West 10<sup>th</sup> Street, 1<sup>st</sup> Floor Conference Room.

Respectfully submitted,



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Louella R. Salazar  
PACOG Recording Secretary

LRS