

MINUTES OF THE SAFETY AND EMERGING ISSUES COMMITTEE
NORTH CAROLINA BOARD OF TRANSPORTATION
RALEIGH, NORTH CAROLINA
September 2, 2009

* Bob Collier, Chairman * Andrew Perkins * Nina Szlosberg
* Gus Tulloss * Stan White * In Attendance

* Also attending: BOT Chairman Doug Galyon, Conrad Burrell, John Collett, Tony Dennis, Arnold Lakey, Leigh McNairy, Hugh Overholt, Wanda Proffitt, Chuck Watts, and Ralph Womble

The meeting of the Safety and Emerging Issues Committee was called to order by Chairman Collier and the August 5, 2009, minutes were unanimously approved.

David Knight, Assistant Secretary of DENR welcomed the new Board Members and discussed the consistently good working relationship that EEP and DOT have had in the past and excited about continuing it in the future. There has been much coordination and interaction with ILT, weekly cabinet meetings of the Secretaries, and monthly DOT/EEP Executive meetings. We are in a time of financial crisis; DENR and EEP are doing cost cutting just as DOT. The DENR budget is smaller than last year and has adjusted to accommodate for the changes that DOT is going through with programming needs and timing. We look forward to working with DOT on the new 5 year TIP to make sure the mitigation needs are met in the most environmental and efficient manner. For good news, once again there were no permit delays last year due to mitigation and we look forward to another year of this relationship.

Bill Gilmore, Director of EEP provided handouts, gave background information, and gave an update on the EEP Transition to the Federal Mitigation Rule. The EEP is embedded within DENR to help DOT and the public to secure permits and provide quality mitigation for projects. We rebuild and restore wetlands and streams; we do it under a planning process to prioritize needs and where you need to focus your attention to build the projects. EEP is non-regulatory and a program within DENR; we are regulated by Division of Water Quality, Coastal Management, Corps of Engineers, and Wildlife Resources Commission. We are receipt-based and get no appropriations from the General Assembly. Everything we do is based on monies we receive from customers like DOT. EEP does have a lot of federal and state oversight in how work is done. We have 4 funds in EEP and manage them independently in terms and assets, but those funds work together. In the late 1990's early 2000's project delays were sever for DOT. As a result DOT, DENR, and USACE formed a partnership. In 2006, the draft rule of Compensatory Mitigation for Losses of Aquatic Resources was proposed and the final rule was published in 2008. It establishes flexible preference hierarchy for mitigation options, embraces advanced mitigation and watershed planning, and EEP must be compliant with the new rule on June 9, 2010. The key aspects of the new rule: 1) compensation planning framework, 2) advance credits, 3) credit release schedules, 4) hierarchy, and 5) interagency review of new projects. Mr. Gilmore discussed in detail replacing the existing MOA, timelines, and next steps. We do not believe the new rule will change the procedures of how we build mitigation nor affect costs of EEP delivery of mitigation for DOT. It will affect accounting and reporting. It will also support comprehensive planning and recognize the importance of the tri-party agreement.

Ms. Szlosberg highlighted some history concerning our mitigation process of the past and discussed the progress and accomplishments of our new process for the new Board Members. Before the establishment of EEP we were not considered successful in terms of our mitigation efforts. Projects would stop because we did not have mitigation in hand. The new process allowed us to frontload our mitigation with preservation to get our program up and running. Later we came behind with heavy on the creation and restoration. For the first time in DOT history, we have not had a project delayed because mitigation was not ready. FHWA, Tennessee, and other states have come to us to figure out how to do it. The EEP is a very important program to our program.

Johanna Reese, Legislative Liaison gave a summary of the 2009 Legislative session and highlighted some of the bills in detail. DOT had 9 Agency Bills that passed and several provisions in other bills. Agency Bills: **H881 Transportation Corridor Mapping Changes** - makes conforming changes to the transportation corridor mapping statutes and authorizes DOT to sell materials such as salt to municipalities to allow them to take advantage of bulk pricing and storage. **S648 Allow DOT to Provide Direct Funding** - authorizes DOT to pay a developer directly to include small department construction projects within the developer's larger project. This would be voluntary for both DOT and the developer if anyone is interested in pursuing this type of arrangement. **S828 Bidding Process Changes/Maintenance and Operations** - changes the maximum amount (\$1.2M) of informal bids to an annual amount for maintenance contracts. Changes the Small Business Enterprise contracts maximum bid amount (\$500M) to an annual amount for maintenance. Non-Agency Bills: **H12 GARVEE Bonds/Repayment** - includes an item from an agency bill to provide funds from GARVEE bonds which shall be subject to the equity formula when they are repaid over time as opposed to when they are spent on a project. **H67 License Plate Frame/State Name Visible** - makes the covering of the state name or registration sticker with a decorative frame on a license tag illegal on December 1, 2009. **H148 Congestion Relief/Intermodal Transport Fund** - establishes a fund in the state treasury for congestion relief and intermodal transportation; authorizes the fund to issue grants to local governments, transportation authorities, railroads, and state agencies; authorizes local governments to hold referendums to enact local sales taxes to be used for transit infrastructure in that community and provides for other local option fees and taxes for transit infrastructure. **H836 Modify Appropriations Act** - make technical changes to the budget bill, also requiring DMV to replace the contract vehicle inspection call center employees out of state with state employees at the call center in Bladen County; important to get these jobs back to NC. **H1617 DOT Savings/Transfer Turnpike Authority** - places the NC Turnpike Authority within the DOT and under the supervision of the Secretary and allows members of the BOT to also serve as members of the Turnpike Authority Board. **S64 Motorcycle Learners Permit** - requires that anyone under 18 years old must pass a motorcycle safety course to drive a motorcycle, limits the time frame of motorcycle learners permits, and requires DMV to determine availability of motorcycle safety classes. **S200 Temporary Floor for Motor Fuels Tax Rate** - for the current fiscal biennium, places a floor on the gas tax where the cap was on it; will not make up for the money we lost the past 2 years, but it will make a dent. It will sunset and roll off at the end of the 2011 FY. **S750 Turnpike Gap Funding and Debt** - clarifies that funds transferred from DOT to the Turnpike Authority (TA) for debt service are not subject to the equity formula and extends the term of the TA's refunding bonds to a maximum of 40 years. This was needed to allow the financing to move forward for the Triangle Expressway. **S838 Amend Environmental Laws** - makes changes to the Department's requirements under the Jordan Lake Rules. DOT worked with DENR, the environmental community, and other stakeholders to make some changes. We were very satisfied of the outcome on this particular legislation.

There are always bills affecting DMV which included such topics: Commercial Driver's License for members of the military, Handicap Placard, the way DMV expunges criminal records, the use of DMV vehicles for under cover operations, changes to titling of antique and replica vehicles, and some changes to the new electronic vehicle inspection program. Ms. Reese will be happy to provide anyone with more details concerning these changes.

Some possible studies of the Joint Legislative Transportation Oversight Committee may include: 1) the state's method for distributing transportation funds and 2) reducing construction cost by considering various pavement types. DOT may study the feasibility of tolling all Interstate highways in the state at the borders in cooperation with other states. DOT may also study high-speed rail between Henderson and Roanoke Rapids parallel to US 158. The State Property Office may study issues related to the ownership of public land located in North Carolina which specifically mentions NC Railroad and DOT.

Being no further business, the meeting was adjourned at 2:40 pm.

Respectively Submitted,

Tonya B. Morgan