

**MINUTES OF THE TEMPO GENERAL MEETING  
WEDNESDAY, OCTOBER 24, 2012  
TXDOT AUSTIN DISTRICT OFFICE, BLDG. 7  
AUSTIN, TEXAS**

Presiding Executive Committee

Place	Name	Term Expires	Representing
TEMPO Executive Director	Dan Kessler	October 2012 (Term Limited)	Dallas-Fort Worth MPO
TEMPO Deputy Executive Director	Ashby Johnson	October 2013	Houston-Galveston MPO
TMA - 1	Tom Niskala	October 2013	Corpus Christi MPO
TMA - 2	Roy Gilyard	October 2013	El Paso MPO
Non-TMA - 1	Karen Owen	October 2013	Longview MPO
Non-TMA - 2	Chris Evilia	March 2014	Waco MPO
Non-TMA - 3	E'Lisa Smetana	March 2014	Abilene MPO

INTRODUCTIONS

Executive Director Kessler called the meeting to order.

Than led the room in personal introductions and a quick overview of the agenda.

Executive Director Kessler then introduced a number of new meeting attendees: Victoria MPO Coordinator Mary Craighead, Sherman-Denison MPO Director Karl Welzenbach, and the Bryan-College Station MPO Director Brad McCaleb.

Following these introductions, Mr. Kessler asked for remembrances from attendees regarding Mr. Tim Dolan—in response to his recent tragic passing in a traffic accident. A moment of silence in his memory was observed.

ELECTION OF TEMPO EXECUTIVE COMMITTEE

Executive Director Kessler tendered his resignation due to TEMPO Executive Committee term limitations. He reflected on the value of term limitations in that they “force” other members to serve on the Executive Committee. Additionally, it was noted that the Executive Committee, which met the previous night, prefers that today any resulting Executive Committee vacancies from a new Executive Director be filled.

With that, nominations for Executive Director were requested from the floor. Deputy Executive Director Johnson was the only person nominated, and thus elected to the Executive Director role by acclamation. The position of Deputy Executive Director on the Executive Committee was thus vacated. Executive Committee member Evilia was nominated for Deputy Executive Director. Executive Committee member Evilia was also elected by acclamation. Finally, to fill the vacated position on the Executive Committee of Non-TMA Place 2, Mr. Brad McCaleb was nominated and immediately elected by acclamation as well.

As his first action in his role of Executive Director-Elect, Mr. Johnson offered, on behalf of the Executive Committee, a plaque and token of appreciation for Mr. Kessler’s service the past six years (two 3-year terms). Mr. Kessler mentioned, in thanking TEMPO for the gifts, that TEMPO began in 1994 and to his knowledge has never suffered from a lack of willingness to participate from the members.

For recording purpose, an updated table of TEMPO leadership is included here:

Place	Name	Term Expires	Representing
TEMPO Executive Director	Ashby Johnson	October 2015	Houston-Galveston MPO
TEMPO Deputy Executive Director	Chris Evilia	October 2015	Waco MPO
TMA - 1	Tom Niskala	October 2013	Corpus Christi MPO
TMA - 2	<i>Vacant</i>	October 2013	<i>NA</i>
Non-TMA - 1	Karen Owen	October 2013	Longview MPO
Non-TMA - 2	Brad McCaleb	October 2015	Bryan/College Station MPO
Non-TMA - 3	E’Lisa Smetana	March 2014	Abilene MPO

MAP 21 GUIDANCE FOR MPOS: PERFORMANCE MEASURES

Mr. Jose Campos, FHWA Texas Division, presented an update on the FHWA rulemaking process for MAP-21. Guidance was originally issued on September 25<sup>th</sup>, 2012 on the FHWA website.

Highlights of the presentation are as follows:

1. MAP-21 was enacted October 1<sup>st</sup> 2012. Currently, FHWA is writing the regulations that will implement the Act, and they estimate rulemaking will consume the full eighteen months allotted for the process.
2. The FY 2013 funding numbers have been released at <http://www.fhwa.dot.gov/map21/funding.cfm>, showing an increase in all funding categories. The largest increase was in the newly designated National Highway Performance Program (NHPP). This was due to the increase in related miles of the

National Highway System (NHS), based on HPMS traffic counts. For reference, Mr. Campos noted to TEMPO that future changes to HPMS data relating to arterials will not require their immediate addition to the NHS.

- TEMPO reminded the meeting attendees that this expansion relates to TxDOT's responsibility to update Texas' functional classification network. This update work will be presented and coordinated through training sessions TxDOT is hosting in Dallas, Houston, and San Antonio/Austin. Additional sessions are anticipated.
3. MPOs are now required to include Public Transportation as a voting position on their policy boards (see the Announcements section of this meeting minutes order for further related comment from TxDOT Public Transportation officials). It is not clear yet if this translates to one position per transit operator or one position per policy board as a representative.
- Due to comments from TEMPO members, it is agreed FHWA needs to clarify whether a City's place on an MPO policy board is sufficient to satisfy this requirement should that City serve as the fiscal agent of a certain transit provider.

Mr. Campos then reviewed "performance planning" as a general subject, cautioning that FHWA has not yet decided how to integrate the MAP 21 requirements. That being said, Mr. Campos assured the audience that "performance planning is coming... and will be here to stay" Five years from enactment of MAP 21, FHWA will owe the Secretary a report on how well performance planning is serving the nation. FHWA will establish national standards which MPOs will have to implement. Though FHWA acknowledges the short timeline available for implementation before the bill expires, it is the understanding of the U.S. Department of Transportation that performance planning is "here to stay", and that any performance measures will be fixtures in future FHWA-approved TIPs and RTPs.

Mr. Campos noted that the public comment period following rulemaking will be the next opportunity for MPOs to officially respond to the MAP 21 rules. Following the completion of the public comment period, FHWA will promulgate the rules through the Federal Register. For the most part, Mr. Campos assured, Texas should not be overly concerned regarding performance measures and performance planning. Multiple MPOs in the state, including H-GAC, have already implemented many of the measures FHWA will promulgate. Mr. Campos expected TxDOT to adopt and enforce any performance measures, with MPOs having some input on goals.

Mr. Campos specified that for CMAQ projects, performance measures will most likely track the effectiveness of different projects, or investments. FHWA is not yet certain regarding the likely boundaries of that measurement, though.

Based on requests from TEMPO, Mr. Campos committed FHWA to giving policy board presentations on the new federal legislation. In the meantime, Mr. Campos and Mr. Mike Leary,

FHWA Texas Division, concluded, FHWA still has programming authority for six months under SAFETEA-LU and intends to use the money for transportation projects.

## DISCUSSION TOPICS

### FY 2013 FHWA PLANNING FUNDS AND FTA SECTION 5303 MPO FUNDING

Immediate past TEMPO Executive Director Mr. Kessler presented that the Executive Committee met several times over Summer 2012 to consider this matter, and that they have communicated their desire to maintain the formula. Mr. Kessler noted that TxDOT received and agreed with TEMPO's comments. Furthermore, where necessary, TxDOT will be there to act as a backstop in the event an MPO burns through its Planning Funds funds too quickly, as could be the case with new TMAs.

Mr. Kessler stated that TEMPO members have expressed concern that the carryover balances many MPOs maintain may be challenged by future changes to funding formulas. Members have requested targeted discussions with TxDOT regarding minimum allocations and matching funds. Any changes to Section 5303 of the Texas Transportation Code will not be considered until the close of the 83<sup>rd</sup> legislative session. TEMPO will seek further comment from members regarding how MPOs might spend the carryover balance down.

### ROLE OF URBANIZED AREAS IN MPO DESIGNATION

Mr. Kessler opened this topic by describing the changes the 2010 Census brings for Transportation Management Areas. Members felt strongly that metropolitan planning area boundaries (determined by the Bureau of the Census) should not be split, as it is not in the best interest of the regional population. Additionally, Mr. Kessler cautioned against the precedent of fragmentation within Census-designated Urbanized Areas.

Mr. Andrew Canon, Director of the Hidalgo County MPO, requested clarification of the regulations that require UZAs to be under a single MPO. Mr. Leary of FHWA, Texas Division referenced 23 CFR to say that the new UZA must state that a separate MPO is "warranted" and *why*. Mr. Leary requested, though, that in any case FHWA not be contacted as an intermediary, as the matter would be best handled locally. TEMPO members responded with concerns that such a process can become needlessly distracted by politics.

### UNIFIED TRANSPORTATION PROGRAM UPDATE

Mr. David Plutowski, TxDOT financial manager, guided TEMPO through recent activities related to the development of the Unified Transportation Plan (UTP). Mr. Plutowski explained that the UTP is a ten-year document guiding transportation projects across the State. While Mr. Plutowski recognized it is not a federally mandated document, he added that is now required through the Texas Administrative Code. The UTP is a mid-range document, programming projects in a timeframe between the STIP (short range) and the SLRTP (long range). Mr.

Plutowski mentioned that it is unclear how the categories that organize UTP projects may change due to MAP-21, but for now the categories for CMAQ and STP-MM funds need to be reconciled.

With regard to reconciliation of the UTP, Mr. Plutowski clarified that FHWA gives apportionment amounts, which the UTP directs or commits to MPOs. MPOs, on the other hand, can only spend the UTP amount, typically 92-97% of the apportionment. Where dollar figures are reflected in the UTP, they are the sum of the reimbursement amount plus the local match. Thanks to the changes in recent federal regulations reconciliation exercises for CMAQ and STP-MM are currently going on for all Texas MPOs.

Mr. Plutowski mentioned that two additional categories of the UTP need to be examined as well. He identified categories 2 and 7 as the additional focus of his presentation. Originally, Mr. Plutowski explained, Category 2 was a fixed amount of money distributed over a 10-year planning horizon. Metropolitan planning areas added after the Census will receive a portion of the left-over Category 2 funds from the current UTP 10-year horizon until they are fully expended. However, with additional money in Category 2 from MAP-21 the new MPOs could legally gain future access to those funds should the Texas Transportation Commission decide to allow it. Mr. Plutowski specified that Category 2 funds mainly come out of what is referred to now as STP funds.

Executive Committee member-elect McCaleb drew a parallel to the MOTOR MPO in Midland-Odessa. MOTOR, Mr. McCaleb reported, has requested a designation of a TMA despite not meeting the threshold population of 200,000 people. The Governor's office has left it is up to TxDOT to decide Category 2 eligibility for MOTOR.

TEMPO members responded to the effect that if FHWA indicated that the addition of MOTOR as a TMA would result in *more* Category 2 funding, then TEMPO members would consider endorsing the designation. Mr. Campos of FHWA agreed to get respond to TEMPO on that potential likelihood. Mr. Kessler added that should the addition of a TMA designation at MOTOR not increase the allocation through Category 2 then TEMPO members would logically see no reason to endorse MOTOR's designation as a TMA.

## INCORPORATING RELIABILITY MEASURES INTO PLANNING

Dr. Tim Lomax, PhD., of the Texas A&M Transportation Institute began his presentation by noting the high amount of attention performance measures and performance planning are receiving since the passage of MAP 21. Dr. Lomax added that reliability measures, an indication of the regularity of travel time of a certain facility or mode, may be one strategy for the incorporation and enhanced practical utility of performance measurement. Dr. Lomax offered workshops to be arranged through TxDOT or the Districts if more information is desired on this topic.

## THE ROLE OF THE MPO IN DEVELOPING AND REVIEWING ENVIRONMENTAL DOCUMENTS

Mr. Mike Leary of FHWA began his topic discussion by pointing out that the previously known National Highway System (NHS) program is now titled the National Highway Performance Program (NHPP). Mr. Leary clarified that NHPP funding will be directed to the same class of facilities and that the change to NHPP is administrative. Mr. Leary counseled that the complete transportation planning process should precede programming and be used as a tool to select the projects for programming. Projects have to meet general requirements within the planning process and then they are considered approved. Mr. Leary added that part of the reason FHWA gets confused when it reviews programs for approval is that project listings appear dissimilar from previously planned listings. Planning should direct programming. FHWA, Mr. Leary promised, is currently looking into making work done in the “planning” consistent with that done in the NEPA phase.

Mr. Leary then asserted that federal environmental documentation is an area MPO’s can do a lot of good—notably by grouping categories strictly and making use of their vast data reserves. Mr. Leary indicated that TxDOT should be sharing drafts and final copies of NEPA documents with the MPOs, in order that the MPOs can verify the contents and adjust accordingly if necessary. Executive Director-elect Johnson supported this statement by citing local examples in Houston of the MPO working with local planning agencies to enhance the NEPA process in the areas of project purpose and need, reasonable alternatives, impacts, and the mitigation of any impacts.

Mr. Leary encouraged members of TEMPO to consider focusing on the areas of future impacts or effects of a project’s implementation—as they seem best suited to measure this. That type of information can be easily generated and rolled into the content of future federal environmental documents by MPOs. To this end, Mr. Leary encouraged what he called “a return” to frequent back-and-forth data and document checking between federal and local agencies. Mr. Leary informed the members of TEMPO that, for FHWA’s part, the first thing they check is whether or not the project(s) proposed is in the RTP, in the TIP, and in the conformity analysis. Mr. Leary assured members of TEMPO present that in cases where the environmental document FHWA receives makes claims the MPO is not supporting, FHWA will refer the case to the MPO.

Mr. Leary added that FHWA does not consider it prudent for MPOs to change previously concluded plans to adopt newly considered projects. If plans are being changed or amended in this way, Mr. Leary asked for documented justification for that change.

Planning funds are available for use in general review and participation in the environmental process, though those funds are not available for specific projects—STP-MM and CMAQ are, though. H-GAC has been collaborating regularly with other stakeholders to discuss projects in a cross-disciplinary way. One way to improve the dialogue would be for the actual environmental documents to be passed among agencies as well.

## TXDOT'S NEW APPROACH TO ENVIRONMENTAL STREAMLINING

Mr. Carlos Swonke of TxDOT ENV introduced new environmental rules in Chapter 43 of the Texas Administrative Code. He detailed that these changes were made in April 2012, have required a complete re-write of the rules, include areas such as administrative deadlines, scoping checks, new terminology, and delegation authority. Mr. Swonke noted that TxDOT is still in the process of transitioning into these rules, and remains focused on streamlining.

Mr. Swonke detailed TxDOT's desire to streamline by using an approach he termed as "uniformize". This approach seeks to standardize the metrics used to advance the environmental process across different categories of environmental review—such as archeological, ecological, etc. A second method is to update the TxDOT-ENV manual. This could serve to eliminate longstanding points of slow-down in areas such as Categorical Exclusion and how to address "fatal flaw" scenarios. As part of the manual-update process, ENV plans to purge old policy guidance memos that no longer apply and consolidate all ENV guidance into one single document. Memos will be replaced by more user-friendly checklists. The goal, Mr. Swonke reminded the members of TEMPO, is to deliver to FHWA environmental documents of consistent quality in a timely manner.

Mr. Swonke drew an example of the need for this streamline-update process by citing the newly regulated area of indirect and cumulative impacts. This category is a little softer than quantitative EJ analysis, and TxDOT could do more to better simplify the guidance regarding these issues. Mr. Swonke added the additional example area of the categorical exclusion approval process, which he stated is currently completed through different levels of approval, from minor administrative changes to an EIS. The US DOT is looking for a better way to identify and approve Categorical Exclusions, with the provision that TxDOT would continue to authorize NEPA approval and FHWA would maintain the audit and oversight. Any such reorganization, Mr. Swonke mentioned, would accelerate EIS work as long as local governments are properly informed and incorporated.

Much discussion occurred in response to Mr. Swonke and his presentation. Members of TEMPO initially requested including MPOs in the environmental review process. After some time of discussing the matter, though, members and attendants crafted a potential role for MPOs in indirect and cumulative impacts, given the extensive data and data-sharing needs for this determination. Executive Director-elect Johnson added that EJ analysis is shifting in practice as well, as TxDOT could do a lot of good in reviewing the guidelines, toward analysis more in line with the spirit of the law and less limited by empiricism/the letter of the law.

## TRANSPORTATION DEVELOPMENT CREDITS

Executive Director Kessler presented a short reminder on the matter of transportation development credits. He explained, for the sake of those in attendance, that new TAC rules on Transportation Development Credits. The Credits can be used to access available federal funds,

saving local dollars that would not be necessary for a match. Mr. Kessler continued that MPOs select the projects to fund through this method and it is important to remember the credits do not equal cash or “real” money. Director McCoy of CAMPO stated that this issue deserves focused and extensive review in the TAC and any changes therein should not affect PL funds distribution. Executive Director Kessler noted the comment and reminded the meeting that public involvement, in cases of TDC funding, is still required. Executive-Director Elect Johnson concluded the discussion by directing members to more information on this matter in the September minutes of the Texas Transportation Commission (<http://ftp.dot.state.tx.us/pub/txdot-info/adm/2012/documents/minutes/sept27.pdf>).

## ANNOUNCEMENTS FROM TEMPO PARTNER AGENCIES

### TXDOT PUBLIC TRANSPORTATION

Karen Dunlap of TxDOT PTN reminded the members of TEMPO that their Title VI plans need to be sent to TxDOT for approval. The consolidated TxDOT plan is due to federal authorities in August 2014. If an MPO is both a sub-recipient and direct recipient of transit funds then the Title VI plan is submitted directly to FTA.

Ms. Dunlap added that MAP 21 includes some changes with regard to Public Transportation in Texas. The 5310 funding program now includes New Freedom grants, which were previously used for operating funds for ADA programs. Now, Ms. Dunlap clarified, 5310 funds have to be used to serve New Freedom projects and the funding now comes in “tiers.” Ms. Dunlap addressed the TMAs directly and encouraged them to contact FTA and tell them who the designated recipient is in your region (that entity deals directly with FTA from that point forward). TxDOT will continue to administer the funds for non-TMA areas. Ms. Dunlap drew the distinction that the *current* setup is District-oriented, this funding program will eventually run similar to the current JARC/New Freedom programs, and the funds are still tied to the Regionally Coordinated Transit Plans. Ms. Dunlap stated that private (contracted) providers can no longer secure funds directly through 5310 Program, rather they have to be contracted with a recipient.

Ms. Dunlap also introduced that the JARC program is now funded through 5307 and 5311 for rural areas. There is no competition for funding anymore, but the project has to be recognized and supported by the local MPO or TxDOT. Additionally, Ms. Dunlap noted that the “Reverse Commute” is now tied to income, as the new law states that Reverse Commute projects and services are to be designed for those with lower incomes. The 5339 program now comes down as a set of funds directly to the TMAs in urban areas and TxDOT in rural areas. Finally, Ms. Dunlap reported that TxDOT PTN has put in a question to FTA regarding possible changes in the match requirements for public transportation projects in Texas.

### TXDOT REGIONS



Ms. Catherine McCreight of TxDOT's East Region Office reminded the members of TEMPO and the attendants that the annual project listing is due to the Region office by December 1<sup>st</sup>, 2012.

#### FHWA TEXAS DIVISION

Mr. Jose Campos announced to the TEMPO members and attendants that there will be a Congestion Management Plan workshop hosted in Austin November 28<sup>th</sup>, 2012.