

MINUTES
of the
THIRD MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE
August 26, 2009
Tome Dominguez de Mendoza Center

August 27, 2009
University of New Mexico
Albuquerque

The third meeting of the Economic and Rural Development Committee (ERD) was called to order by Senator Bernadette M. Sanchez, chair, on Wednesday, August 26, 2009 at 10:18 a.m. at the Tome Dominguez de Mendoza Community Center in Los Lunas.

Present

Sen. Bernadette M. Sanchez, Chair
Rep. Mary Helen Garcia, Vice Chair
Rep. Andrew J. Barreras
Rep. Ernest H. Chavez
Sen. Mary Jane M. Garcia
Sen. Clinton D. Harden, Jr. (8/26)
Sen. Timothy M. Keller
Rep. Patricia A. Lundstrom
Sen. Howie C. Morales
Sen. George K. Munoz
Rep. Debbie A. Rodella

Advisory Members

Sen. Rod Adair (8/26)
Sen. Sue Wilson Beffort
Rep. Nathan P. Cote (8/26)
Rep. John A. Heaton (8/27)
Rep. James Roger Madalena (8/27)
Sen. Richard C. Martinez
Rep. Rodolpho "Rudy" S. Martinez (8/26)
Rep. Andy Nuñez
Sen. David Ulibarri
Rep. Richard D. Vigil

Guest Legislators

Rep. Paul C. Bandy (8/26)
Rep. Elias Barela (8/26)
Sen. Stephen H. Fischmann (8/26)

Absent

Sen. Mark Boitano
Rep. Nora Espinoza
Rep. William J. Gray
Rep. Dianne Miller Hamilton
Sen. William E. Sharer

Rep. Zachary J. Cook
Sen. Dianna J. Duran
Rep. Sandra D. Jeff
Sen. Carroll H. Leavell
Rep. Antonio "Moe" Maestas
Rep. William "Bill" R. Rehm
Sen. John M. Sapien
Rep. Shirley A. Tyler

Rep. Karen E. Giannini (8/26)

Sen. Linda M. Lopez (8/26)
Rep. Kathy A. McCoy (8/26)
Rep. Benjamin H. Rodefer

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Kate Ferlic
Sandy Mitchell
Aldis Philipbar

Guests

The guest list is in the original meeting file.

Wednesday, August 26

Local Economic Development Issues in Valencia County

Mayor Ronnie Torres, City of Belen, welcomed the committee to Belen and discussed some local economic development issues. He said that Signet Solar is coming to Belen, which will bring approximately 600 high-paying jobs and employ many locals. Mayor Torres said that the city incorporated 6,000 acres on the mesa where Signet Solar will be located. He added that other companies are looking at moving to the area. He said that Belen was recently certified as a Main Street community, and he thanked the legislature for funding for economic development and the Main Street project. He said that these programs really help small communities and provide priceless resources to growing communities and that growth leads to a stable population. Representative Barreras, serving as guest chair, thanked Secretary Fred Mondragon, Economic Development Department, for joining the committee. Mayor Bryan Olguin, Town of Peralta, said that his community is struggling with the Department of Transportation (DOT). He said that the town inherited about 26 miles of residential roads, but the roads look like they belong in Beirut. Mayor Olguin explained that his community has been working on rehabilitating roads, but could use some state help. He also noted that Peralta has been working with Bosque Farms on extending the wastewater treatment lines in Peralta, which will help clean up contaminated drinking water in the valley. He also added that the town has a great volunteer fire department and that it just purchased property off N.M. 47 on which to place solar panels to start harnessing green energy. Mayor Robert Vialpando, Village of Los Lunas, reviewed growth in Los Lunas and discussed the town's recent problems with methamphetamine. Mayor Wayne Ake, Village of Bosque Farms, said that his community is losing the bowling alley and has lost a number of businesses, though it has received a few inquiries for new business. He called Bosque Farms the "used car lot" of Valencia County. However, he said that there are some bright spots; the village established an economic development committee three years ago and remains optimistic.

The mayors then responded to questions from committee members. Mayor Olguin said that the Gap Project is a federal project and that Peralta is taking charge of a project that should

be a DOT responsibility. He said that the main sources of gross receipts in the area are from businesses. He also noted that Peralta is able to offer better public safety since breaking off from Valencia. Mayor Ake said that gross receipts in Bosque Farms were down but are coming back up and that the town is trying to increase revenue by providing services. Mayor Torres said that Belen was able to get Signet Solar because the city had a big developer that went after the solar company, and the city was able to incorporate the 6,000 acres of open space, plus there is a lot of sunshine. He added that the city worked with the Economic Development Department to recruit Signet Solar. Mayor Olguin also said that Peralta is experiencing problems with gang violence and could use funding to help fight the problem.

Are Tax Increment Development Districts Good for New Mexico?

Dan White, financial economist, Legislative Finance Committee (LFC), explained that tax increment development districts (TIDDs) are formed by municipalities, that the state gross receipts tax (GRT) increment is approved by the State Board of Finance (SBOF) and that the legislature only approves the bonding authority. Mr. White said that Westland DevCo is the actual applicant and developer, but it is owned by SunCal. He said the company was incorporated for the purchase and management of 55,000 acres on the West Mesa of Albuquerque that used to be the Atrisco Land Grant. He added that although the purchase was for 55,000 acres, only 4,000 acres were approved. He gave a brief history of the Westland DevCo TIDD and said that in January 2008, the SBOF approved only four of the nine Westland TIDDs at a 50 percent state GRT increment. He pointed out some issues with the approval, including that the SBOF was forced to make its decision without knowing the level of county participation, the final master plan development agreement or the makeup of the TIDD board. Mr. White noted that during the 2009 session, TIDDs failed to gain legislative approval to issue bonds. He also pointed out some things to think about, including that a business in downtown Albuquerque currently pays 100 percent of its GRT to the state, but if it moves to SunCal, the TIDD pays only 50 percent to the state. He said those kind of situations need to be taken into consideration in the analysis. In response to a question about what happens when the legislature fails to approve bonding authority, Mr. White explained that the money goes out from the SBOF whether or not there is legislative approval, but the TIDD cannot use it as the statute is currently written.

Clinton Turner, senior economist, Taxation and Revenue Department (TRD), discussed the TRD's role in TIDD administration. He said that the TIDD act does not involve the TRD in evaluating the feasibility or the approval of TIDDs. He said that the department's role is to establish location codes for TIDDs with approved state or local GRT dedications, collect GRT from businesses operating in a TIDD and distribute GRT revenue dedicated to a TIDD to the TIDD's bond account. Mr. Turner reviewed some deadlines by which TIDDs must abide and discussed the distributions from the local and state shares to Mesa del Sol. He said that of the \$3,873,262.43 total distribution through June 2009 to Mesa del Sol, the state share was \$2,613,249.35 and the Albuquerque share was \$1,260,013.08. Mr. Turner also discussed the downtown Las Cruces TIDD, which currently has no state dedication and is the only TIDD to cover an existing set of businesses, meaning it has non-zero "base gross receipts taxes". He also discussed the Winrock/Quorum TIDD, which will begin receiving GRT increment distributions

after July 1, 2009 and also covers existing businesses. Mr. Turner added that the Upper Petroglyph, or SunCal, TIDD and the Central Avenue/Route 66 TIDD have been formed but are not yet receiving GRT increment distributions. Mr. Turner identified several technical issues in the TIDD statute that may need to be clarified by additional legislation, including the following.

- The phrases "base gross receipts taxes" and "gross receipts tax increment" are defined in terms of tax collections, but should be defined as taxable gross receipts before the food and medical deduction.
- Without this change, there is no TIDD distribution for food or medical sales.
- Base gross receipts taxes must be determined by an estimate that is difficult to develop before any taxpayer reporting from the district; instead, they could be estimated from actual receipts in the first year a district has a dedicated GRT increment.
- The department has made significant system and other administrative changes to track and distribute GRT distributions to TIDDs and will continue to devote considerable resources to TIDD administration.
- A funding mechanism needs to be assured for such work to continue on a timely basis.

Dick Minzner, lobbyist, SunCal New Mexico, described the procedure for establishing a TIDD. He said that, first, a local government adopts a resolution approving a TIDD, usually pursuant to a request from a developer. At the same time, a development agreement between the developer and the local government must be established to outline the scope of the work and establish the financing for the project; this is the most important element to the establishment of the TIDD. Mr. Minzner said that public hearings may be held, and if there are multiple landowners, then a landowner vote will be taken. He said that after final approval by the local government, a TIDD board is appointed. He added that the state may dedicate a portion of its incremental GRT revenue within the TIDD, but the SBOF must approve and recommend to the legislature the state dedication. He said that when incremental taxes are collected, the portions dedicated to the TIDD are directed to an account managed by the TIDD board, which has no developer representation. Then, Mr. Minzner said, the developer expends its own money to build private and public infrastructure, recruit businesses and sell commercial and residential space. After the infrastructure is built and a sufficient tax base is generated, the developer is eligible for reimbursement. The mechanism for this reimbursement is through the issuance of bonds by the TIDD board, which will be retired by the share of taxes dedicated to the TIDD. He added that bonds issued against state GRT must be approved by the legislature.

William Sletton, downtown development coordinator, City of Las Cruces, discussed infrastructure improvements within the TIDD and revitalization projects. He gave a brief history of the TIDD project in Las Cruces.

Panel members answered questions from the committee members. Mr. White said that the LFC has not received any information that a SunCal TIDD board has been formed, and, based on information the LFC has seen in the last two years, Westland DevCo will still own the land and the board will be appointed by it. Mr. Minzner added that the initial board will be

created by the local government, but further down the road, the landowner will create a board. A member of the audience representing the SunCal TIDD said that a board was formed in January consisting of representatives from local and state government and the TIDD to serve four- and six-year terms. It was noted that neither the LFC nor the TRD were notified of the board formation. Mr. White said that the state had no representation on the TIDD board to decide where bonds should be spent and that the original intention of TIDDs was to serve blighted communities. Mr. Minzner noted that there is no mention of "blight" in state statute, but Mr. Sletton said that the original Tribal Infrastructure Fund statute included blight. Mr. White said that the state is not responsible for paying bonds that have defaulted. Mr. Minzner said that TIDDs provide two services that make them not optimal for the developer; first, the developer is required to recruit businesses that will generate a tax base, and, second, the developer must pay for the infrastructure up front. He said that bonds are not sold until the TIDD has generated an adequate revenue stream and that the market depends on persuading investors that there will be a return. It was pointed out by a committee member that a recent book by a former Lehman Brothers employee blamed SunCal for the company's demise and that around 30 SunCal projects have gone bankrupt nationwide. Mr. Minzner replied that those projects were Lehman Brothers projects and are unrelated to the project in New Mexico. A concern with the fiscal incompetence of SunCal was also brought up, along with the developer's history of failing to pay its contractors. Mr. Turner pointed out that the same amount of taxes will be coming in, but with TIDDs, the state is making a commitment to have the TIDDs receive a portion of that money over the next 10 to 40 years, so the state needs to decide if TIDDs are economically beneficial. Mr. Minzner pointed out that the SBOF has determined that it is. Mr. White added that the state has to decide if it is a tax expenditure or an opportunity cost, and Mr. Minzner added that the initial risk is assumed by the developer. After bonds are issued, then the bondholders assume the risk. It was pointed out that the developer owns the property even after the reimbursement. A committee member raised the question of whether a reasonable person would enter into an investment like this. He asked whether, if the state invests \$250,000 and SunCal invests \$10,000 and still owns the property, that is a good investment. Mr. Minzner pointed out that the local government owns the infrastructure, to which the committee member replied that infrastructure is an expense. In response to a question about whether the state is providing an exception for these developers, Mr. White replied that from a tax theory perspective, it flies in the face of tax equity. In response to another question, Mr. Minzner replied that water for the development comes from the Albuquerque Bernalillo County Water Utility Authority and that there are enough water rights to cover SunCal and that county building codes will apply. Mr. White also noted that TIDDs can only issue bonds for 25 years per district, but TIDDs with multiple districts can issue a bond in one district and not issue a bond in the next district until the first district is at year 24, and so on. Concern was expressed by multiple committee members that both sides were not being represented by this panel.

Race Day Decision

Pat Bingham, executive director, New Mexico Horsemen's Association, said that the association is composed of more than 6,000 race horse owners and trainers who race their horses in the state. He said that a typical race day involves between 80 and 90 horses, with a total of about \$42,500 expended by the owners (as a total group) on each race day. He said that in 2009,

307 race days were approved by the New Mexico Racing Commission (NMRC), which means that approximately \$13 million will be spent by owners to race their horses. In addition, Mr. Bingham noted that Ruidoso Downs itself will spend, on average, \$25,000 per day to hold a race. He also discussed the cost of training a racehorse over the course of a year and the benefits of horse racing to the state. He said that there are 6,000-plus horses, associated with racing in New Mexico and that there are five racetracks with more than 300 days of racing each year. He also said that horse racing promotes tourism, promotes New Mexico traditions and has a total economic impact of \$240 million.

Julian Luna, agency director, NMRC, said that the organization has a mandate to provide as many races as possible. He said that it has set up a race day committee that tries to set up race days a year in advance. Eddie Fowler, vice chair, NMRC, said that every year since 2007, there has been a gradual increase in the number of race dates. He noted that the NMRC is a little behind this year because of the economy, but that it is raising the number of race dates because of the big economic impact for the state. Mr. Fowler said that lots of people come to the races from out of state. Larry Delgado, commissioner, NMRC, said that reducing race days might save the casinos money, but it gives less opportunity for people who race and work in the industry to get paid. He said that horse racing benefits a lot of people. A representative from the NMRC added that horsemen bring a lot to the communities they visit; they bring 1,500 to 2,000 horses, buy groceries, rent houses, shop and help the whole town. He said that more racing days equal more opportunities for communities to thrive.

In response to a question from a committee member, Mr. Fowler said that state statute requires a minimum of 17 race days that are primarily set to take care of the state fair. He added that the NMRC is responsible for setting the number of race days. Mr. Luna added that the NMRC tries to balance the number of days on each side of the state.

Los Alamos National Laboratory (LANL) Technology Overview and Effect on Economic Development

Dr. Steven Girrens, technology transfer leader, LANL, said that the technology transfer's legislated mission is to manage intellectual property, the currency for working with industry effectively to strengthen the U.S. economy and foster development and technology job growth in New Mexico. He said that technology commercialization is a contractual obligation unique to LANL that improves the economic environment of northern New Mexico and develops improved mechanisms for the utilization of LANL to stimulate new business. So far, more than 40 high-tech jobs have been created. Dr. Girrens said that the nature of LANL research is discovery and, therefore, investments need to be made in LANL technology innovations to make them commercially viable. He encouraged investment in people and talent to support and staff regional companies and LANL spinoffs. He also discussed a few innovative start-up programs, including Verge and ARCH Venture Partners. He said that Northern New Mexico Connect is connecting entrepreneurs with customized resources to accelerate growth of northern New Mexico companies. He also discussed ways of getting innovation to market faster and the New Mexico Small Business Assistance (NMSBA) program, which matches New Mexico small businesses with technical expertise and resources at LANL and Sandia National Laboratories. In

summation, Dr. Girrens said that LANL is making a significant investment in high-tech job creation and that the people of New Mexico are benefiting. In response to a question from a committee member, Dr. Girrens said that the Regional Economic Development Initiative program is a city program, but that LANL had some MBA students that studied one of its projects as an independent review.

Sandia National Laboratories Economic Development Impact in New Mexico

Jackie Kerby Moore, executive director, Sandia Science and Technology Park, Sandia National Laboratories, said that the Sandia Science and Technology Park is a master-planned technology community that is a result of a public-private partnership. The park was founded in 1998 and currently has 30 companies and 1,900 employees. She said that the park created 2,113 direct jobs and 5,441 indirect jobs. She highlighted Emcore Corporation as one of the success stories of the park. Ms. Moore also discussed the NMSBA program, saying that between 2004 and 2008, 2,476 small businesses were aided by the program. She also said that Sandia provided technology assistance to 224 small businesses throughout New Mexico in 2008. She also discussed the entrepreneurial separation to transfer technology, in which entrepreneurs terminate Sandia employment in order to start or help expand a technology business.

Municipal Annexation: Statute Review Pursuant to House Memorial 60

Representative Bandy introduced the speakers to the committee. Representative McCoy said that, due to a shoestring annexation, or land bridge, Edgewood is now in three different counties with differing development laws, water issues, etc. She explained that shoestring annexations let municipalities cut out the most revenue producing areas, leaving the rest to the county. Howard Calkins, mayor, Town of Edgewood, said that the big attraction of owners in the land bridge is the issue of water regulation. He said the owners can subdivide without having proof of 100 years worth of water as required by Santa Fe County. He said that the subdividers tried to make the land bridge look wide so that it would not look like a shoestring, but it is a shoestring. Mayor Calkins said that there is no commitment from anyone to provide fire, emergency medical services, animal control or other services. He added that it would be helpful if service providers were identified and that this problem is having a great impact on the surrounding community. Patrick Trujillo, deputy district attorney, Bernalillo County, said that this annexation resulted in a 2003 amendment to the statute so that this situation would not repeat itself in Bernalillo County, though it could still happen in other counties. He called this the most creative shoestring annexation he has seen and said that there are lots of rooftops, but not a lot of jobs or services. Janet Jarrett, chair, board of directors, Middle Rio Grande Conservancy District, said that House Memorial 60 came out of a condemnation of a water rights bill. Ms. Jarrett discussed the various methods of annexation and problems with shoestring annexations as a result of poor planning. Representative Joseph Cervantes said that he is in the middle of a three-year lawsuit with the City of Mesilla on an annexation issue. He said that he does not know who provides services now or who will provide them if the annexation is reversed. He said that he does not know if those areas are still in the municipality because the case is still in court. He also said that there are election issues as a result of the annexation. Representative Cervantes said that there are three ways to be annexed into a city, and one way is the petition method, in which a group of owners get together to petition to be annexed into a city.

He said that if the owners with the majority of land want to be annexed, then even those that do not want to be annexed will be. He said that this bill will add additional requirements for the majority of owners, not just the majority of acres. Bill Fulginiti, New Mexico Municipal League, encouraged the committee to tread cautiously. He warned that there could be many unintended consequences if this is not done properly. He added that the petition is initiated by the property owners, but the city does not have to go along with it.

Thursday, August 27

The committee was welcomed to the University of New Mexico (UNM) campus by Rita Martinez-Purson, dean of continuing education; Roger Schlutz, dean of the School of Architecture and Planning; and Douglas M. Brown, dean of the Anderson School of Management.

Representative Lundstrom requested that the committee send a letter to UNM and New Mexico State University asking the architecture programs to work on annexation planning procedures and requesting information on what is happening in Gallup in terms of federal stimulus at the September meeting.

American Recovery and Reinvestment Act (ARRA): Economic Development Money in New Mexico

Governor Toney Anaya, executive director, New Mexico Office of Recovery and Reinvestment, said that an estimated \$3.2 billion in federal stimulus money will be going to direct allocations and awards to state programs. He said that, additionally, \$288 billion will be available for tax relief nationwide, more than \$30 billion of bond authority will be available to businesses and communities through loans and new tax-exempt and tax credit bond programs nationwide and \$74 billion in competitive grants and incentives will be available nationwide. Governor Anaya said that the recovery act increased unemployment benefits by \$25.00 per week and that the money will help displaced workers and the economy. He said that the recovery act funds saved the state from massive budget cuts by softening the anticipated cut in school budgets and providing direct infusions in local economies. He said that \$190 million will be available in Pell grants and an additional \$1.4 million will be available for federal work-study. Governor Anaya showed the task force chart of funding for the state by policy area. It included \$738 million for Medicaid and \$466.6 million for public education. He discussed New Mexico's allocation of some recovery act bonds, including recovery zone economic development bonds totaling \$90 million and qualified energy conservation bonds totaling \$20.6 million. Governor Anaya discussed some provisions of the recovery act loans as well as competitive grant opportunities. He added that the governor had allocated \$22 million for competitive grants, \$1 million for oversight, \$4 million for the potential purchase of the College of Santa Fe, \$57.8 million for the governor's projects and \$2 million to the Human Services Department.

In response to a question from a committee member, Governor Anaya said that New Mexico has received allocations of \$1.5 billion from the \$2.2 billion available and that the allocations are received on a cost-reimbursable basis. He said that his office is working to get

reimbursements in no later than one week, but sometimes the reimbursements are instantaneous. He said that a qualified zoned academy is a construction type of bond that allows for a bond to be issued by a local government or school district to fund or improve academic programs, but not necessarily infrastructure. He said that the Transitional Medicaid Program involves money coming from existing federal programs to existing state programs and will not be an ongoing funding source. Governor Anaya explained that the purpose of the stimulus money is to fund New Mexico enough so that, after 18 months, New Mexico will be back on its feet. He said that the ARRA web site is updated regularly and contains money that is going out through agencies. He said that legislators can get involved in the allocation process by encouraging their communities to request competitive grants. He said that money that the governor has not allocated is still available and that legislators can call and request it as well. He emphasized that nothing can be allocated for ongoing expenses.

The Work of the South Valley Economic Development Center (SVEDC)

Tony Gallegos, executive director, SVEDC, said that, according to national figures, one in five businesses fails, but with the business incubator program, the rate of success goes up to over 80 percent. He said that New Mexico is unique because it has a business incubator certification process to ensure a high quality of service to businesses. He said that there are five incubators, and the newest is in Arrowhead. He said the SVEDC has been making a real effort with mom-and-pop businesses and has an alliance throughout the state that deals with businesses with fewer than 50 employees. Mr. Gallegos said that the SVEDC recently launched the first-ever South Valley cable station, which focuses on basic education, immigrant help and health and wellness. He said that the SVEDC has a commercial kitchen, so it can offer cooking classes for heart health, diabetes, etc. He said that the SVEDC also focuses on arts and culture. He noted that not all communities can support an incubator and that the SVEDC is working to make satellite incubators in smaller communities like Mora and Pecos, among others. He said that if the satellite project is successful, it could also work for food vendors who currently sell out of the back of their vans. The demand is in the bigger cities, so the food needs to get to those areas. He said that transportation is a challenge and that the SVEDC will probably need some legislative help to seed the project to see if it works. He said that some early thoughts include using trucking agencies whose trucks often come back empty after dropping off their loads. For example, he said that the SVEDC was thinking about using FedEx, UPS or U.S. Postal Service trucks. Mr. Gallegos also addressed farming issues. He said that an acre of land will cost about \$100,000 plus interest to the bank and that one acre of alfalfa will yield about \$4,000 in profit, but one acre of quinoa will yield 7.5 times the profit of alfalfa and uses only 50 percent of the water, so New Mexicans need to think about growing these types of crops to help pay off land quicker. He also discussed the benefits of sharecropping to help maintain the greenbelt of New Mexico. He said that farmers are aging, and the next generation is not educated in farming, so once the farmers die, the land may be sold and New Mexico will lose the greenbelt.

There being no further business, the committee adjourned at 12:00 noon.