

**MINUTES
of the
SECOND MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**July 24, 2012
Santa Teresa Country Club
Santa Teresa**

**July 25, 2012
Sunland Park Racetrack and Casino
Sunland Park**

The second meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, on July 24, 2012 at 8:45 a.m. in the conference room of the Santa Teresa Country Club in Santa Teresa.

Present

Sen. Mary Kay Papen, Chair
Rep. Patricia A. Lundstrom, Vice Chair (7/24)
Rep. Alonzo Baldonado
Rep. Candy Spence Ezzell
Rep. Dona G. Irwin
Sen. Howie C. Morales
Rep. Jane E. Powdrell-Culbert
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Rep. James P. White

Advisory Members

Rep. Mary Helen Garcia
Rep. Rick Little
Sen. Lynda M. Lovejoy
Sen. Richard C. Martinez
Rep. Sheryl Williams Stapleton (7/25)

Absent

Sen. Sue Wilson Beffort
Sen. Tim Eichenberg
Sen. Stephen H. Fischmann
Rep. Roberto "Bobby" J. Gonzales
Sen. Clinton D. Harden, Jr.
Rep. Yvette Herrell
Rep. Henry Kiki Saavedra
Rep. James R.J. Strickler
Sen. David Ulibarri
Rep. Richard D. Vigil

Sen. William F. Burt
Rep. Ernest H. Chavez
Rep. Anna M. Crook
Rep. David L. Doyle
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Sen. Eric G. Griego
Rep. Ben Lujan
Rep. W. Ken Martinez
Sen. George K. Munoz
Sen. Steven P. Neville
Rep. Andy Nuñez
Sen. William H. Payne
Rep. Edward C. Sandoval
Rep. Thomas C. Taylor

Guest Legislators

Rep. Joni Marie Gutierrez

Rep. Joseph Cervantes (7/25)

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

Staff

Lisa Sullivan, Legislative Council Service (LCS)

Doris Faust, LCS

Tom Pollard, LCS

Elizabeth Shaw, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and posted on the New Mexico Legislature web site.

Tuesday, July 24

Senator Papen welcomed committee members, presenters and guests and thanked everyone for making the trip to Santa Teresa. She then introduced the first presenter, Jerry Pacheco, and gave an overview of the agenda for the day.

Regional Industrial Base Report

Mr. Pacheco, vice president of the Border Industrial Association, provided the committee with a handout on facts and statistics regarding the growing maquiladora industry in Mexico and the opportunities that the industry provides to New Mexico. According to the handout, Mexico purchased \$464 million of products from New Mexico in 2011 and was New Mexico's largest trading partner. Mr. Pacheco stated that more than \$1 billion crosses the Santa Teresa port on a monthly basis, and while trade has steadily grown with Mexico because of the North American Free Trade Agreement, there is still room for improvement. According to Mr. Pacheco, the state needs to focus on developing a stronger supplier base for the Mexican maquiladora industry, which would ultimately create more production and jobs in New Mexico. He stated that the majority of the components that go into the products that are made in Mexico still need to be imported, and the vast majority of those imports come from the United States. Mexico's reliance on these imports has created a lot of opportunity for New Mexico.

Mr. Pacheco then addressed any potential concerns about drug cartel-related violence and stated that while Ciudad Juarez and the state of Chihuahua have suffered terrible violence due to the ongoing drug wars in Mexico, both locations will continue to be the largest production bases for Mexico's maquiladora industry in the future. He asserted that the maquiladora industry has not been affected by drug cartel action and has, in fact, been growing. This growth has been driven by the Foxconn plant in San Jeronimo, the Union Pacific Santa Teresa project, the Border

Industrial Association and legislative initiatives such as the six-mile overweight zone and the gross receipts tax abatement for trade support companies.

Mr. Pacheco then introduced Miriam Kotkowski, president of the Border Industrial Association, which Ms. Kotkowski stated is a 501(c)(6) nonprofit corporation that was formed in early 2009 and now has approximately 60 members. She asserted that the association represents approximately 2,000 jobs, millions of dollars in investments, millions of dollars in annual taxes and billions of dollars in production. She also discussed how far behind New Mexico is on capitalizing on the border region as compared with Texas, and she stated that one of the major benefits that the New Mexico border crossings have over Texas is the lack of bridge crossings, which impose certain weight limitations on goods crossing the border. The land port in New Mexico can be used to alleviate a few of these weight limitations by allowing a 15% increase in said limitations, thereby creating a more desirable border crossing in New Mexico.

According to Mr. Pacheco, some of the challenges that the Border Industrial Association are facing are a lack of infrastructure in the forms of fire suppression as well as water and wastewater system expansion and work force development. New Mexico needs to have a qualified work force for the jobs that will be brought to the state through the development of the border region and the development of more industrial and residential space. It can take up to nine months to build a new facility, and most companies do not have the time to wait; therefore, New Mexico needs to have these facilities in place before the companies move in. Mr. Pacheco and Ms. Kotkowski thanked the committee and stood for questions.

Concerns were raised by committee members regarding border security. Ms. Kotkowski said there are a number of procedures in place in order to maintain a high level of security, such as background checks and drug tests for people transporting the goods, robots that oversee the packaging of the goods, drug-sniffing dogs and 100% inspection of trucks through an x-ray machine. There were no further questions from the members, and the committee prepared to depart for Santa Teresa and a tour of the Santa Teresa cattle crossing and the Foxconn factory in Mexico.

Border Area Tour

The committee toured the cattle crossing at Santa Teresa, New Mexico. The committee then toured the Foxconn factory facilities in San Jeronimo, Mexico.

Union Pacific Railroad

Zoe Richmond, director of public affairs at Union Pacific Railroad (UP), addressed the committee. She stated that UP is currently in phase 1 of its building process, which involves readying the site for building to occur. This first phase consists mostly of construction work, for which UP is spending \$40 million on New Mexico subcontractors that use local employees. This first phase is expected to be finished by the end of summer 2012. The end of phase 1 will initiate phase 2, which will complete the remaining portion of the rail yard to include all the mechanical, electrical, architectural, utilities, track and civil portions of the project.

Ms. Richmond stated that one of the main contributing factors in bringing this project to

New Mexico was the passage of the locomotive fuel tax deduction (Laws 2011, Chapter 60). According to Ms. Richmond, this project will have an overall economic impact of \$500 million on the New Mexico economy. The facility is expected to create 3,000 jobs during the construction phase, from 2011 to 2015, and 600 permanent jobs once the facility has been finished.

Questions were raised by committee members as to the report that is due to the state on the subject of the tax benefits that UP has received. Ms. Richmond answered that the report will not be due until UP actually takes the deduction, but that it is currently compiling information for a presentation that will be made later during the interim. There was also discussion as to the investment in a rail line versus other forms of transportation. To this, Ms. Richmond replied that there are many factors that influenced this decision, including high gas prices, road congestion and the fact that rail is a more green form of transportation, all of which make it a very desirable form of shipping.

NMFA Audit Update

Rick May, chief executive officer, NMFA, addressed the committee about the audit and the ongoing investigation of the NMFA. He stated that on the advice of his legal counsel and with two investigations currently under way, his ability to answer questions from the committee is limited. The committee presented Mr. May with a memorandum in which questions for the NMFA regarding the recent audit were outlined. Mr. May reviewed the memorandum and encouraged the committee members to submit any further questions that they may have to the NMFA in writing in order to facilitate a timely response.

There were concerns raised by committee members as to how the watch list would affect any bonds issued by the state treasurer, to which Mr. May stated that state-issued bonds would not be affected by any possible change in the NMFA's bond rating. The committee members then addressed the questions in the memorandum to Mr. May, who said that he was not at liberty to answer any of the questions in the memo at the time but that he would look over the questions and respond as soon as he is advised to do so.

A motion was then made and seconded requesting that the LCS be directed to determine the availability of funds to contract for an independent review of the NMFA audit issue, to request authorization from the New Mexico Legislative Council at its next meeting to contract for a review and to have the LCS staff work with the chair and vice chair of the NMFA Oversight Committee on the details of the scope of work of the contractor, who shall report to the NMFA Oversight Committee and to the LCS. Senator Papen requested that the roll be called, and the motion passed unanimously.

Colonias Infrastructure Board Policies, Procedures and Progress

Rick Martinez, Oscar Butler and Doug Moore of the NMFA introduced themselves to the committee. Mr. Martinez directed the committee's attention to a handout and began an overview of the Colonias Infrastructure Project Fund. According to Mr. Martinez, the Colonias Infrastructure Act was created by the 2010 legislature. The law established the Colonias Infrastructure Board and dedicated 5% of the state's annual severance tax bonding capacity to a

variety of infrastructure projects, including water projects, wastewater projects, solid waste disposal projects, road and housing projects and flood control projects. The first severance tax distribution became available in July 2012.

As defined, a colonia is a rural community, with a population of 25,000 or less located within 150 miles of the United States-Mexico border, that has been designated a colonia by the municipality due to a lack of potable water, an adequate sewage system or decent, safe and sanitary housing and that has been in existence as a colonia prior to 1990. Colonia communities must provide documentation to the Colonias Infrastructure Board that supports the designation by the municipality or county.

The Colonias Infrastructure Board is composed of 12 members, seven voting and five advisory members. The duties of the board are to administer an outreach program, prioritize projects, make funding recommendations, make requests for reconsideration of funding, set policy, establish rules and oversee the project management team. Mr. Martinez then outlined a general time line and progress of the Colonias Infrastructure Project Fund , which ended in a prioritized list of projects to be funded as well as board recommendations for projects for consideration to the NMFA board in June 2012.

Concerns were raised by the committee as to how much of the 5% of the severance tax bond capacity is used for overhead, to which Mr. Martinez replied that none of the \$13 million received from the bond proceeds is used to pay staff. Mr. Moore further stated that the Colonias Infrastructure Board has received funding requests for approximately \$40 million worth of projects, but have only been given \$13 million with which to fund projects. Mr. Moore directed the committee's attention to a handout that detailed the colonias infrastructure projects that have been approved for funding in fiscal year 2012. He pointed out the total amount loaned as being over \$18 million and stated that by leveraging other dollars, the board was able to turn \$13 million in funding into over \$18 million.

NMFA Update on Projects in the Southern Part of the State

Matthew Jaramillo, director of governmental affairs, NMFA, and John Brooks, director of commercial lending, NMFA, introduced themselves to the committee. Mr. Jaramillo stated that the NMFA has been very active in sending out financial advisors to communities that could possibly benefit from NMFA funding. Mr. Jaramillo then referred the committee to a handout that depicted the funding to counties in southern New Mexico through the Public Project Revolving Fund. Mr. Brooks specifically pointed out that Eddy County has worked with the City of Carlsbad on a stimulus project that will replace many of the main streets in Carlsbad.

The committee discussed the availability of contingency money in the event of emergencies or natural disasters. Mr. Jaramillo stated that the NMFA currently does not have funds to be allocated for emergencies, but it is looking into such funding. There were also some concerns raised by the committee members regarding transportation and the GRIP projects, and it was decided that this would be an important topic for the next meeting.

With no further business for the day, the meeting recessed at 5:00 p.m.

Wednesday, July 25

Border Authority Operations and Capital Outlay Needs

William Mattiace, executive director, and Marco Herrera, international logistics coordinator, New Mexico Border Authority (NMBA), introduced themselves to the committee, and Mr. Mattiace introduced the rest of the NMBA staff that were in attendance. He informed the committee that there are currently three ports of entry in New Mexico: the Antelope Wells port of entry, the Columbus port of entry and the Santa Teresa port of entry. The NMBA is currently developing a five-year strategic planning document that will coincide with the Doña Ana County Border Plan, the Regional Vision 2040 Plan, the City of Juarez Vision 2020 Plan and the New Mexico Department of Transportation Border Area Plan.

Mr. Mattiace stated that Santa Teresa is a very busy port of entry for New Mexico and that the NMBA was a lead agency in the acquisition and design of a \$12 million expansion currently in progress at the Santa Teresa port of entry. This expansion will add two passenger lanes and one commercial lane to the existing lanes and is expected to cut the wait time to cross the border from one or one and one-half hours to 30 minutes. This project is scheduled for completion in December 2012. With the growing presence of the maquiladora industry, the Santa Teresa port of entry has the capacity to become one of the busiest ports of entry on the U.S.-Mexico border. An overweight allowance provision has made Santa Teresa a busier port of entry; however, there is still a great need for roads and gas, water and wastewater infrastructure.

Mr. Mattiace informed the committee about the new hazardous materials facility that is currently being constructed at the Doña Ana County Airport in Santa Teresa. This facility was built using a grant of \$1.2 million and is expected to greatly enhance the desirability of the Santa Teresa port of entry. Another vision of the NMBA is the high mesa truck bypass from four new commercial lanes west of Foxconn to I-10 in Las Cruces. This bypass would keep large trucks off of pedestrian roads while simultaneously making the Santa Teresa port of entry more attractive because the trucks would have a more direct route to Los Angeles.

Mr. Mattiace stated that Sunland Park is currently engaged in a feasibility study for a noncommercial port of entry. The proposed port study and presidential permitting process have been funded by a private enterprise, and the NMBA offers its full support to the passenger crossing from Anapra to the City of Sunland Park and has agreed to assist in the process if required.

The NMBA believes that the ability to link airports, highways and railways to the ports of entry is critical if the New Mexico border areas are to become efficient transshipment points. Utilities, water, wastewater and gas infrastructure pose both problems and opportunities for further economic development in New Mexico's border region.

Camino Real Regional Utility Authority Update

Sue Padilla, interim executive director of the Camino Real Regional Utility Authority (CRRUA), Karen Perez, Doña Ana county commissioner, and Josh Arrosco, incoming executive director of the CRRUA, introduced themselves to the committee. Ms. Padilla began the

presentation by giving the committee background on the CRRUA, which was officially formed in February 2012. The benefits of this utility are: the economic development for Sunland Park, Doña Ana County and the state; the presence of a strong utility; the ability of Sunland Park to access the combined water rights of both the city and the county; and the interconnection of systems, which will provide water service in case of emergencies.

The CRRUA also has a great many basic needs in order to maintain the current customer base. The handout provided to the committee showed the water needs to be \$2 million for an automated meter reading system, \$200,000 for water tank storage rehab, \$2 million for the installation of water transmission lines, \$300,000 for well development and \$7 million for an arsenic treatment plant. The wastewater needs are \$300,000 for a vacuum truck, \$10 million for a north treatment plant, \$3 million for lift station and collection system rehab and repairs, \$100,000 for odor control, \$1.5 million for Sunland Park Treatment Plant improvements and \$3.5 million for expansion of the West Mesa Treatment Plant.

Outside of the basic needs of the utility, the CRRUA has also experienced some issues that Ms. Padilla brought to the committee's attention. The CRRUA currently has four administrative compliance orders, three of which are for arsenic compliance in the water system, with the cost of remediation at approximately \$7 million. One system is complete, one is currently under construction, the last is currently in the design stage and funding is still needed for this third plant. The fourth compliance order is the violation of the Clean Water Act by the Sunland Park North Wastewater Treatment Plant, with a cost to remediate at approximately \$10 million. With all of the needs and issues in mind, the ultimate goal of the CRRUA is to manage an effective water and wastewater utility for its customers.

Approval of Minutes

Upon a motion made and seconded, the minutes of the June meeting were approved.

Reports from Local Officials

Mayor Ken Miyagishima of Las Cruces introduced himself to the committee and provided a status update regarding the city. He noted that 14 city-owned parcels in downtown Las Cruces have been rented in the last month. Las Cruces is currently partnered with sought-after developers that have retired in the city to further develop the downtown area. The city has completed three of four multi-use paths, which, once all paths have been completed, will encompass the entire city. The city is also planning to build a \$13 million public safety building on the east side of town.

Mayor Miyagishima also stated that Las Cruces is expecting to bring in a new business in about four to six weeks that will generate 600 jobs. The city is currently seeing a net growth rate of 2% each year and has twice the financial reserves that the state requires.

Mayor Arnulfo Casteñeda of the City of Anthony, which was incorporated in July 2010, discussed the current status of the city. He provided the committee with a capital project update: the city's drainage master plan was completed by USACE in June 2012, and the planning and phase one of construction for the Fourth Street roadway and drainage improvements from the

Texas state line to O'Hara Street are under way, with project completion expected in summer 2013. Planning, design and construction is under way for the Anthony walking path lighting and is scheduled for completion by the end of 2012.

Mayor Casteñeda stated that the city's current priorities are flood control, public safety, expansion of the municipal facilities, citywide street rehabilitation, economic development and building relationships within the state of New Mexico.

Isabel Santos, mayor pro tem, Sunland Park, introduced herself to the committee. She told the committee that it has been five months since she has taken office, and there are still many problems that need to be addressed in Sunland Park. She spoke of the citizens of Sunland Park and the challenges that they face.

Nicholas Eckert, town clerk of Mesilla, reported on the current status of Mesilla. He stated that the two most important items currently on the town's agenda are the public safety building and Calle Parian. The public safety building is in need of renovations and currently has several code violations. Calle Parian is in need of full reconstruction and drainage improvements. There is also a need for a new fire truck. Kevin Hoban, fire chief of Mesilla, stated that Mesilla's volunteer firefighters have offered to give up 10 years of their stipend in order to help pay for a new truck.

Mr. Eckert then reported that Mesilla currently has two outstanding loans with the NMFA for the Mesilla town hall and a fire brush truck. Some concerns that the town has regarding the NMFA are the matching of funds that is required for a loan and the timing of the loan. Mr. Eckert stated that it can take up to two years to receive funds after being granted a loan.

The committee members discussed the current situation in Sunland Park, and concerns were raised on whether Sunland Park is up to date on its audit. Carmen Rodriguez, a city councilor of Sunland Park, introduced herself to the committee and stated that the audit is showing a deficit of \$1.8 million, which is almost half of the city's \$4 million budget. The city council is holding a meeting this evening to discuss and vote on the new budget, and, should the city council not approve the budget, the Department of Finance and Administration will have to step in.

Sunland Park Border Crossing Project

Robert Diaz de Leon, Anapra Border Crossing project manager, introduced himself to the committee. Mr. Diaz de Leon stated that New Mexico is in need of another border crossing that would go directly into Ciudad Juarez, one that would complement the crossing in Santa Teresa. He reported that there has already been development on the other side of the border in anticipation of the crossing. This port of entry would be noncommercial. There are already funds, received from a private donor, to purchase the land that will be needed for the crossing. The infrastructure that will be needed includes a bridge over a railroad crossing, and Mr. Diaz de Leon stated there are available funds for construction of the bridge.

Concerns were raised from the committee members as to how the bridge would be financed, and Mr. Diaz de Leon stated that it would be a toll crossing and that the toll will ultimately be expected to pay for the total cost of the bridge.

Adjournment

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