

MINUTES
of the
FIRST MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE
June 15, 2010
Room 307, State Capitol
Santa Fe

The first meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, on June 15, 2010 at 9:40 a.m. in Room 307 of the State Capitol.

Present

Sen. Mary Kay Papen, Chair
Rep. Patricia A. Lundstrom, Vice Chair
Sen. Sue Wilson Beffort
Sen. Kent L. Cravens
Rep. Anna M. Crook
Rep. Brian F. Egolf, Jr.
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Sen. George K. Munoz
Rep. Jane E. Powdrell-Culbert
Rep. Benjamin H. Rodefer
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. James R.J. Strickler
Sen. David Ulibarri
Rep. Richard D. Vigil
Rep. James P. White

Absent

Rep. Elias Barela
Sen. Tim Eichenberg

Advisory Members

Rep. Janice E. Arnold-Jones
Rep. Candy Spence Ezzell
Sen. Stephen H. Fischmann
Rep. Thomas A. Garcia
Sen. Timothy M. Keller
Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. W. Ken Martinez
Rep. Andy Nuñez
Rep. Edward C. Sandoval

Rep. Jose A. Campos
Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Rep. Mary Helen Garcia
Sen. Mary Jane M. Garcia
Sen. Stuart Ingle
Sen. John M. Sapien
Rep. Sheryl Williams Stapleton
Rep. Thomas C. Taylor
Rep. Luciano "Lucky" Varela

Staff

Doris Faust, Legislative Council Service (LCS)

Tom Pollard, LCS

Claudia Armijo, LCS

Guests

The guest list is in the meeting file.

Tuesday, June 15**Call to Order**

Senator Papen called the meeting to order and led a discussion concerning the logistics of future meetings. In an effort to make the meeting schedules most convenient for traveling members, it was determined that, in the event that the committee holds two-day meetings, the first day's meeting will begin promptly at 10:00 a.m. and the second day's meeting will begin at 9:00 a.m.

Government Restructuring Task Force Update and Work Plan Request

Raúl E. Burciaga, director of the LCS, apprised the committee of the mandate of the New Mexico Legislative Council that, as a cost-savings measure, all interim legislative committee meetings should be held in Santa Fe. Committees wishing to hold meetings in locations outside of Santa Fe are required to request permission to travel to another location and must justify such requests in writing to the legislative council. The legislative council will then approve or deny the request at its June 29, 2010 meeting. Mr. Burciaga further noted that the legislative council has asked that committees try to schedule meetings in a manner that will reduce the number of meetings held and will reduce scheduling conflicts for voting members. He added that Ms. Faust, LCS staff attorney, would present the committee's proposed work plan to the legislative council at its upcoming meeting.

Next, Mr. Burciaga updated the members regarding the work of the Government Restructuring Task Force (GRTF). He explained that the GRTF had met and will be working on developing ways to streamline state government to make its operations more efficient and cost-effective. With that in mind, he asked the members, while in the course of executing their oversight duties, to identify and look for cost-saving measures that could be presented to the GRTF for consideration.

Lastly, Mr. Burciaga told the NMFA Oversight Committee that he was honored by his appointment to the position of LCS director and is looking forward to working with the members of the committee in his new capacity. He added that his staff of dedicated professionals would continue to serve the New Mexico Legislature as needed.

There was a general discussion regarding whether the committee should call upon community members to come before the committee members and be heard regarding the lawsuit in the Angel Fire public improvement district (PID) issue. Senator Papen asked for an update on

the litigation at the next meeting. She noted that she had been receiving emails on the subject and did not think it appropriate for the committee to become involved in the issue since it concerns pending litigation. Several Angel Fire community leaders and interested parties were in attendance at the meeting. Consequently, the chair adjusted the agenda to enable the visitors to address the committee.

Gerald White, project director, and Steve Oliver, director, PID No. 20071, presented a brief overview of the issue from their perspective. Mr. Oliver said that as a consequence of the PID's passage, most Angel Fire property owners are happy and believe its passage was a good thing. He noted that only a handful of property owners are unhappy. He said that most owners have been able to build on their properties because they already had access to utilities.

2010 Legislative Summary

Matthew Jaramillo, NMFA director of government affairs, led a discussion regarding the legislation endorsed by the NMFA Oversight Committee for the 2010 regular legislative session. Referring to the handout, Mr. Jaramillo told the members that several legislative initiatives passed during the session, including Senate Bill 279, which provided for a new NMFA-sponsored program, the Colonias Infrastructure Act and Colonias Infrastructure Project Fund. The creation of the act and its fund requires the State Board of Finance to allocate five percent of senior severance tax bonding capacity for use by the Colonias Infrastructure Board to fund projects in the designated colonias communities of southern New Mexico. The NMFA's role will be to provide support staff to the board, administer the project fund and, at the direction of the board, process, review and approve applications and administer qualified projects that receive financial assistance.

Mr. Jaramillo noted that Senate Bill 66 passed, which authorized additional projects under the Statewide Economic Development Finance Act (SWEDFA), also known as the "Smart Money Initiative". In 2005, the NMFA, in partnership with the Economic Development Department (EDD), was successful in amending the law to create SWEDFA, a business lending program designed to use a \$12 million appropriation to create greater access to capital throughout New Mexico. In partnership with the EDD, the NMFA submits to the legislature a list of potential commercial lending opportunities for legislative authorization. To date, the NMFA has closed four loans totaling more than \$5.25 million. Mr. Jaramillo noted that the state participates in the loans up to 49 percent, or \$2 million, whichever is less. The loans have been used for businesses such as hotels, gas stations and grocery stores. He added that the role of the EDD is to perform an economic impact and viability study. Each study is community-specific and addresses the impacts of such things as projected gross receipts and job growth. After a study is complete, the NMFA analyzes the results prior to approval of any loans. When asked about which banks operating in the state are participating in the Smart Money Initiative, Mr. Jaramillo noted that the Bank of Clovis and Los Alamos National Bank have recently joined the list of banks that are participating.

Mr. Jaramillo also told the committee that the passage of House Bill 38 authorized the NMFA to make loans from the Public Project Revolving Fund for public projects to 114

qualified entities and one charter school. The loans could be used for buildings; equipment and infrastructure; refinancing; water projects, wastewater projects and water rights; solid waste projects; roads; and land projects.

Mr. Jaramillo highlighted the provisions of House Bill 56, which authorized the NMFA to make loans or grants from the Water Project Fund and Acequia Project Fund to 61 community water organizations, acequias, cities and counties for various water system improvements. He advised the members regarding the provisions of House Bill 108, which appropriated \$2,714,600 from the Public Project Revolving Fund to the Drinking Water State Revolving Loan Fund, to provide state matching funds to the federal Safe Drinking Water Act of 1974 projects and to carry out the provisions of the Drinking Water State Revolving Loan Fund Act.

Mr. Jaramillo spoke briefly regarding Senate Bill 120, which amended the NMFA securities requirements to provide for disclosure of pending litigation regarding securities purchased.

There was a general discussion about rural communities' access to loans in New Mexico. The members expressed concern over the lack of access to capital in New Mexico's many rural communities. Additionally, some members asked NMFA staff for information regarding the history of House Bill 56, regarding Water Project Fund projects.

Review and Discussion of Work Plan, Meeting Dates and Locations

Ms. Faust presented the proposed work plan and meeting schedule to the members for discussion and approval. She began by stating that, with an eye on uniformity in reporting and in an effort to make document review easier, handouts and pertinent committee-related information will now be posted on the committee's portal of the New Mexico Legislature web site. Ms. Faust directed the members' attention to the items outlined in the proposed work plan, and discussion ensued.

Some members inquired as to whether the committee might add work plan items to discuss state banking and rural communities' access to capital, to examine the prospect of creating a bank of New Mexico and to expand SWEDFA to better serve and benefit rural communities. It was noted that North Dakota has a state bank that serves its rural communities. Members also asked that the concept of Indian country banking be examined. Members noted that it would be helpful and important for the committee to get public input regarding the banking issues. Consequently, it was suggested that the committee's meetings be webcast. Staff was directed to look into the webcasting issue.

There was a request for the NMFA staff to find out what percentage of the federal stimulus money that New Mexico received from the American Recovery and Reinvestment Act of 2009, which is administered by the NMFA and the Department of Transportation, has gone to out-of-state companies. Additionally, there was a request that information be provided in the August meeting about the uniform budget reporting bill and information be provided in the October meeting on sustainable transportation.

Representative Vigil made a motion to amend the work plan to include reviewing options to increase funding to rural areas. Senator Munoz seconded the motion, and it was passed by a vote.

There was a motion by Representative Lundstrom to add to the work plan the evaluation of a duplicate bill, which would be similar to the bill that passed for the colonias and Native Americans, that would target funds specifically for rural communities for matches with community development block grant funds. The motion was seconded by Representative Vigil and then passed by a vote. Representative Lundstrom also requested that the work plan include a hearing of House Bill 39 issues and House Memorial 9 issues. The proposed work plan was approved as amended, as was the meeting schedule.

Governor Richardson's Investment Partnership (GRIP) Bond Refinancing

William Sisneros, chief executive officer, NMFA, advised the members that the NMFA has been successfully working on improving its staffing levels and quality. He noted that the NMFA has more experts on staff now. He introduced Michael Zavelle, chief of investor relations for the NMFA. The two explained to the members the NMFA's intention to replace the GRIP variable-rate bonds with fixed-rate bonds. Mr. Sisneros noted that because interest rates have been dropping, the opportunity now exists to absorb the costs associated with replacing the variable rate with fixed-rate debt at no increase in debt service costs. He said that this was important because New Mexico could make the swap with little costs but would benefit significantly with reduced risk since the fixed-rate bonds are much less volatile. He noted that if the anticipated savings are not available at the time of the sale, the NMFA will not go through with the sale. Mr. Sisneros directed the members to page four of his handout, which highlights the risk comparison between the variable-rate and fixed-rate bonds. Mr. Zavelle detailed the debt costs associated with the respective bonds, noting that, while the principal amount of bonds outstanding increases to absorb the \$75 million of swap termination costs, the total costs over 17 years will be reduced by changing to fixed-rate debt. He added that the "all-in cost" range for floating debt is projected to be between \$787 million and \$816 million, while the all-in cost for the fixed debt is fixed at \$784 million.

The members asked a number of questions to gain an understanding of why the NMFA would decide to swap the variable-rate bonds for fixed-rate bonds. The members were concerned about potential risks, both foreseeable and unforeseeable. Additionally, they wanted assurances that once the sale occurs, the NMFA will have in place better checks and balances for future bond transactions.

Mr. Sisneros told the members that the NMFA has teams working on the proposed bond swap issue, and that there are no third parties involved in the transaction. He added that the NMFA would disclose every bond transaction to the committee.

Members were interested in the role of CDR Financial Products, Inc. (CDR) in the bond transaction. Mr. Sisneros said that CDR was involved because CDR is a swap advising company, and the transaction was a bond swap transaction. He said that CDR offered very

specialized technical skills for the transaction. He noted that CDR's fee was probably excessive. He added that Public Financial Management will be the NMFA's advisor now and was hired through an issued request-for-proposals process.

Members inquired as to any pending litigation or legal avenues that might be pursued to recover losses for the state. Mr. Zavelle said that legal counsel was looking into that possibility and had prepared a brief on the subject that was given to the New Mexico attorney general. According to Mr. Zavelle, the attorney general has concluded that there is no cause of action to pursue. Mr. Sisneros noted that the Securities Division of the Attorney General's Office needs additional staffing. The members asked if the attorney general was considering appointing a special assistant attorney general, perhaps from a private law firm, to work on a contingency basis to pursue litigation on behalf of the state. It was unclear if that prospect had been considered by the attorney general. Members noted that some states are recovering from bad investment deals, and perhaps New Mexico should look further into recovery options.

Because the meeting was running late, the chair asked Mr. Sisneros and Mr. Jaramillo if they could provide the scheduled agenda item of the general NMFA update at the next meeting. The meeting was adjourned at 12:45 p.m.