

MINUTES
of the
ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS
COMMITTEE

July 15-16, 2004
Room 322, State Capitol

The meeting of the Economic and Rural Development and Telecommunications Committee was called to order by Representative Mary Helen Garcia, chair, at 10:10 a.m. on July 15, 2004.

PRESENT

Rep. Mary Helen Garcia, chair
Rep. Jose A. Campos
Rep. Richard Cheney (7/16)
Sen. Mary Jane M. Garcia (7/16)
Sen. Clinton D. Harden, Jr.
Rep. Patricia A. Lundstrom
Rep. Andy Nunez
Rep. Richard D. Vigil

ABSENT

Sen. Roman M. Maes, III, vice chair
Rep. Daniel R. Foley
Sen. Phil A. Griego
Sen. Carroll H. Leavell
Sen. John Pinto
Sen. William E. Sharer

Advisory Members

Rep. Dianne Miller Hamilton (7/16)
Rep. John A. Heaton
Rep. Ted Hobbs
Rep. Pauline J. Ponce
Rep. Nick L. Salazar

Sen. Ben D. Altamirano
Sen. Dianna J. Duran
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Sen. Raymond Kysar

Sen. Leonard Tsosie (7/16)

Rep. Debbie A. Rodella
Rep. Harriet Ruiz

Staff

Gordon Meeks
Rachel Ray
Larry Matlock

Guests

The guest list is in the meeting file.

Thursday, July 15, 2004

PUBLIC EDUCATION AND GOVERNMENT ACCESS ON CABLE TELEVISION

Ronda Orchard, New Mexico Coalition for Community Access Television, and Steve Ranieri, manager of public access Channel 27 in Albuquerque, told the committee that federal policy requires that cable television companies provide public access. However, they said that

the federal law leaves it to local government franchise agreements to decide how the requirement is implemented, and in New Mexico, little public access is actually available. It is a consumer rights issue as well as one of media democracy. They asserted that deregulation has "run amok" and that cable franchises have violated the public trust given to them. They asked the committee to support state legislation to require some minimum public access provisions in all cable television franchise contracts with local government. They said there is urgency in that cable television, Internet and telephone services are converging and most laws are written to regulate one or the other, leaving gaps in public interest assurances as hybrid services proliferate and public access gets overlooked.

Questions and discussion by the committee focused on:

- the role of the Public Regulation Commission (PRC) (cable television is specifically exempted from PRC authority);
- the franchise approval process by local governments;
- Native American access to cable television;
- easements and rights of way for cable;
- the level of public demand for access;
- public access through satellite television and the need for a level playing field for cable and satellite service providers;
- lifetime of franchise contracts;
- ownership of equipment and capital resources for public access; and
- federal preemption over state regulation of telecommunications.

The committee directed staff to compose a letter to the PRC requesting an administrative rule review of its authority to require cable television providers to include public access in their services.

Ray Davenport, lobbyist for the New Mexico Cable Communications Association, asked to address the committee and said that there was a lot of confusion in the previous presentation. He said that public access is already adequately provided for, and that the New Mexico Telecommunications Act specifically exempts cable television services from regulation by the PRC.

SMALL BUSINESS CONCERNS

Al Gallegos, designer and chairman of the board of Z-Coil Shoes, told the committee that when he requested assistance from the University of New Mexico business school, he was told his idea would never succeed. Mr. Gallegos said he now has 250 dealers worldwide with revenues of \$12 million a year. The company is growing rapidly. He did his own patent research after receiving help from a University of New Mexico (UNM) librarian, but that he received no assistance in locating a manufacturer for the spring in his shoe or the molding and sewing of the shoe, now contracted to a manufacturer in Korea. After receiving a grant to perform research, he said he contracted with the business school, which spent most of the money writing for more grants and provided little encouragement or technical assistance from UNM.

Questions and discussion by the committee included:

- general lack of help from UNM for small business;
- outsourcing manufacturing overseas;
- competition;
- entrepreneurship education instead of corporate business management curricula; and
- the capability of small business development centers to assist business startups.

SMALL BUSINESS CONCERNS — ART GALLERIES

Joyce Robins, Joyce Robins Gallery, and Michael Carroll, Turner Carroll Gallery and president of the Santa Fe Gallery Association, told the committee that the art business in New Mexico is directly related to the investment markets. In a survey sponsored by the McCune Foundation and conducted by the UNM Bureau of Business and Economic Research, Santa Fe was second to New York in the volume of art sold in the United States. The study showed that art and culture in Santa Fe generate \$1 billion a year to the economy. One out of six jobs in Santa Fe County is dependent on the art business, and with the multiplier effect considered, art accounts for 40 percent of the local economy. For every dollar spent by tourists on art, \$5.00 are generated throughout the local economy and \$1.40 across the state's economy. They said that there are more artists and art dealers per capita in Santa Fe than in any other community. The economic impact for the state ranks with Intel and is 70 percent of that of Los Alamos National Laboratory. However, they said that since September 11, 2001, New Mexico has slid precipitously in visitations and in its share of the art market. They said that the state gives little support to the art component when it markets the attractions of New Mexico. They would like to see an art festival developed. To date, the state has only contributed \$1,500 to art promotion, despite the importance and the significance of art business to the state's economy. They told the committee that cultural tourism is the fastest growing economic sector, and the state should take advantage of this potential.

Questions and discussion by the committee covered:

- lack of Tourism Department support for the art economy;
- one percent of severance tax revenues dedicated to the arts;
- what the lodger's tax is dedicated to;
- the next step that would generate big appeal for the arts in New Mexico;
- impact of the gross receipts tax on art dealers and the potential benefits to the state for art gross receipts tax revenues;
- lack of tax incentives for the art industry;
- potential art auction house; and
- arts in education.

The committee directed staff to prepare a memorial for committee endorsement that requests more attention to the arts in the state's marketing program and designating an art day.

WORKFORCE DEVELOPMENT PROGRAM

Reese Fullerton, director of the Office of Workforce Training and Development (OWTD) in the Governor's Office, explained Governor Richardson's Executive Order creating the program office to the committee. He told the committee that the goal of the program can only be achieved through coordination, accountability and no duplication of services. Studies of workforce training have all concluded that there is need for coordination, for accountability through common performance measures, for emphasis on serving business needs, for elimination of duplication, for independent evaluation of the administrative organizations, for a fiscal and program management information system, for integration of services at the local level and for integrating economic development and education. He said that the state workforce training effort has to have a service attitude, not a program mind set. He called for consolidation of programs and funding into a single agency at the state level in order to achieve integrated oversight and seamless services at the local level.

Questions and comments from the committee addressed:

- administrative costs of the OWTD;
- flow of information to rural areas;
- the size of workforce development regions and how it affects on-the-ground results according to the LFC audit;
- criteria for monitoring the effectiveness of training implementation in the different regions and on the state level;
- legislation needed to create a super agency;
- the need for service provision at the local level and state level oversight;
- services specific to veterans;
- office closures in rural areas;
- the Carl Perkins Program;
- the respective roles of the Labor Department, contractors, community colleges, universities and the new office;
- the Workforce Investment Act budget;
- the office's relationship with the federal Department of Labor; and
- the potential combination of TANF and workforce training at the community college level.

SMALL BUSINESS INVESTMENT CORPORATION

Chuck Wellborn, president of the Small Business Investment Board, and Paul Goblet, financial advisor to the board, explained to the committee the purpose of the legislation that created the Small Business Investment Corporation (SBIC), i.e., "to create new job opportunities by providing capital for land, buildings or infrastructure for facilities to support new or expanding businesses and to otherwise make investments to create new job opportunities to support new or expanding businesses in a manner consistent with the constitution of New Mexico." The board has chosen to make investments through organizations with demonstrated capability to provide capital and business assistance to new and emerging businesses. They told the committee that \$6,040,000 has been committed to entities such as ACCION and seed capital funds as follows:

- \$2,500,000 ACCION, NM for a loan participation fund for a portfolio of over 500 loans (over half outside the Albuquerque market);
- \$970,000 in Flywheel 1 LP to focus on very early stage technology companies in a four-state region, including New Mexico;
- \$1,500,000 in New Mexico Growth Fund 1, a non-technology investment partnership that will focus on traditional businesses, such as manufacturing or service businesses, on a statewide basis;
- \$970,000 in Verge Fund LP 1 concentrating in early stage technology companies exclusively in New Mexico; and
- \$100,000 in Santa Fe Window and Door to purchase and expand its warehouse facilities and sales office and to hire additional sales and service personnel.

They said that potential commitments include:

- New Mexico Community Development Loan Fund;
- WESST Corp.; and
- Community Development Venture Capital Fund, a special kind of investment fund that shuns high-technology start-ups, focusing instead on manufacturing and service companies that not only have a hard time finding money, but are also more likely to employ low-income workers or to be located in poorer neighborhoods.

One question from the committee addressed the potential for a match of SBIC money from the federal Small Business Administration.

Mary Beth Schubert, Community College Association, asked to be recognized from the audience and told the committee about the Ford Foundation grant received by the state for the Bridges to Opportunity Project. She said her organization supports the Workforce Coordination Council but is opposed to a super agency that would consolidate all labor training programs under one organization. She said there has been a lack of strategic vision and interagency coordination and communication. The community colleges already have the infrastructure and resources in place for workforce training. The discussion focused on the need for work ethic training and work place readiness certification.

The committee recessed at 4:23 p.m.

Friday, July 16, 2004

ECONOMIC DEVELOPMENT ON THE SANTA TERESA BORDER AREA AND DONA ANA COUNTY

Robert M. Strumor, Hughes and Strumor Ltd., gave the committee a status report on private sector development, financing and growth of the Santa Teresa Real Estate Development Corporation (STRED). It has added 1.5 million square feet of commercial space to the Santa Teresa area industrial parks, approximately 750,000 sq. ft. of manufacturing and 750,000 sq. ft. of warehouse space. The development has added approximately 1,100 jobs to Santa Teresa with a total investment of \$60 million in Santa Teresa since 1997. Federal and state governmental

spending has meant an additional \$40 million during that time. Verde Realty Master Limited Partnership, a Delaware limited partnership, has purchased large tracts of land near Santa Teresa and a portion of the commercial properties that were developed by STRED. The University of Phoenix has established a Santa Teresa Campus with approximately 70,000 square feet of commercial space for the Santa Teresa Campus. He described the recent move of Monarch Litho, Inc. to Dona Ana County, enticed by \$41 million of Dona Ana County industrial revenue bonds for a 75,000 sq. ft. manufacturing facility that is projected to increase to 225,000 sq. ft in 15 years. Monarch Litho, Inc. plans to create 79 new jobs in its first three years and 180 new jobs within 10 years. Monarch Litho, Inc. will receive a 50 percent real and property tax abatement for 10 years as incentive to locate in Santa Teresa. Mr. Strumor said that in addition to private sector investments, Dona Ana County began the construction of a \$10 million water system designed to serve the commercial and residential needs of southern Dona Ana County. The county issued \$6 million of gross receipts tax bonds and received approximately \$4.8 million in federal grant funds to complete the project. The county also created two county improvement districts in Santa Teresa to build new roads and install utilities. Other improvements include an intermodal industrial park, getting federal dollars for border crossing infrastructure, a new highway to the border from I-10, a Dona Ana County water system grant of \$5 million and proposed improvements to the Dona Ana County airport.

Randy Lichtenfeld, University of New Mexico (UNM) campus director, described for the committee the university's activities in the Santa Teresa area. The campus at Santa Teresa was established in 1994. Currently there are 2,678 students enrolled there, with 245 working professionals as faculty. The university paid almost \$2 million to the state in taxes in 2003.

Questions and discussion addressed:

- the IRS investigation of the Santa Teresa Water and Sanitation District;
- purchase of the water system by the private developer;
- the overdevelopment of Las Cruces;
- legislative options to help the middle class;
- the range of salaries for Monarch Litho, Inc.;
- size of the full-time staff at the University of Phoenix;
- on-line degrees available through the university;
- the transfer of the land the water sits on from state ownership to the county;
- the tuition of the University of Phoenix;
- public transportation availability for its students; and
- requirements for graduation eligibility for admission and eligibility for lottery scholarships.

The committee approved the June minutes, without objection.

ON-SITE LIQUID WASTE DISPOSAL RULES

Ron Curry, secretary of environment, Ana Marie Ortiz, field operations division director for the Department of Environment (NMED), Charles Lundstrom, director of the water and waste management division, and Dennis McQuillan, liquid waste program manager, addressed the committee about proposed revisions to on-site liquid waste systems and septic tanks. Two kinds of contamination are of concern, nitrates and anoxic wastes, which include neurotoxins like iron and manganese. One or the other of these contaminants have been found in ground water in Bernalillo County's north and south valley, the West Mesa area of Albuquerque, Espanola and San Juan County. Septic tanks have contaminated more acre-feet of water than any other single source type in New Mexico. Surface water contamination from septic tanks is found mainly in mountainous areas. The lot size is the most important factor in determining attenuation and contamination levels. In critical areas, where the geology lends itself to easy contamination, there may need to be a limit of one septic tank per two to two and a half acres. Three quarters of an acre is generally adequate to attenuate septic tank contamination in most other areas. There are estimated to be 250,000 on-site liquid waste systems in New Mexico. One half of these are accounted for through some kind of permit or licensing. They said that summer interns have been hired to map aquifers in order to help identify areas where septic tanks may present potential contamination problems. The department is negotiating with stakeholders on the proposed rule revisions, and most issues have been resolved with a consensus. Other minor issues will continue to be negotiated with the objective of finding some acceptable rules.

Questions and comments included:

- work in Dona Ana County to address contaminants there;
- the need for additional legislation or not;
- the frequency of well inspections for contaminants;
- what is tested for in testing samples;
- the status of the Dona Ana wastewater treatment plant;
- the state's loss of primacy for enforcing the federal Clean Water Act;
- the number of outhouses and cesspools in New Mexico;
- availability of money to assist indigents in upgrading their wastewater disposal systems to reduce contamination;
- expectations of land purchasers for compliance with existing laws as opposed to prospective changes in the law;
- the ability to discriminate between different sources of nitrate contamination;
- proposed new rules for annual inspections or only upon transfer of the property with a septic tank;
- hoe-specific locations of septic tanks can be identified;
- intergovernmental agreements with Native American governments;
- provisions for granting variances to the rules;
- the status of the Clayton landfill;
- criteria for selecting 600 feet in depth to ground water as the threshold for exempting some septic systems from the minimum lot size requirements;
- an amnesty program for cataloging undocumented septic systems;
- misuse of the NMED's police authority to clean up the environment;

- holding subdividers responsible rather than individual home owners;
- retrospective or prospective application of the new regulations;
- the cost of "advanced" septic systems compared to conventional systems; and
- enforcement provisions.

PUBLIC COMMENT

Randy Traynor, representing the New Mexico Home Builders Association, was recognized and invited to address the committee. He said that the process of adopting new regulations has been underway for five years. He said that the real problem is what is in the ground now. The new rules are appropriate for being applicable at the time of the transfer of the property. Infrastructure is the key, he said. Progress is being made on the new rules, and his organization appreciates the effort of the department and hopefully progress will continue.

Link Summers said that the government's role has shifted to on-site system management. It is hard for realtors to achieve full disclosure and the discovery of the legal status of a given property. There may be a need for changes to the Uniform Property Code, he said. He explained to the committee the history of the septic tank, a device first patented in 1890, and said that a one-hundred-year-old technology does not meet the needs of today's circumstances.

MAGPORTAL FOR E-GOVERNMENT

Noemi DeBodisco, chief information officer, described the planned MAGPortal as a single site for constituents to access state services and information. It will simplify access, clarify processes and organize information logically, she said. It is expected that information technology costs will be reduced through establishing common infrastructure components across agencies. A little more than \$2 million was budgeted for the project and somewhat less than that has been spent to date. The Office of the Chief Information Officer was transferred to the Taxation and Revenue Department, which will act as the lead agency for the MAGPortal, from the General Services Department. She said that a white paper will be published September 1 that will include a technology review, options for completing the MAGPortal and funding models.

Questions and dialogue by the committee addressed:

- the need for a better portal for business development in the state;
- the total estimated cost by completion;
- whether the state or a contractor would be better to minimize costs;
- whether the money spent so far has been well spent;
- request for the white paper to be made available to the committee;
- security of the new system;
- life expectations of these systems and their costs over time; and
- the \$160 million of costs for IT systems by the state that have been said to have been wasted.

The committee adjourned at 1:20 p.m.