

**MINUTES
of the
NEW MEXICO FINANCE AUTHORITY (NMFA) OVERSIGHT COMMITTEE**

**Room 307, State Capitol
April 19, 2006**

The meeting was called to order at 10:13 a.m. in room 307 of the state capitol by Representative Daniel P. Silva, chair.

Present

Rep. Daniel P. Silva, chair
Sen. Mary Kay Papen, vice chair
Sen. Joseph J. Carraro
Rep. Daniel R. Foley
Rep. Dona G. Irwin
Rep. Patricia A. Lundstrom
Rep. Jane E. Powdrell-Culbert
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Sen. H. Diane Snyder
Rep. Joe M Stell
Rep. Don L. Tripp
Rep. Richard D. Vigil

Absent

Sen. Clinton D. Harden, Jr.
Sen. Shannon Robinson

Advisory Members

Rep. Jose A. Campos
Rep. Ernest H. Chavez
Rep. Anna M. Crook
Sen. Dianna J. Duran
Rep. Mary Helen Garcia
Rep. Roberto "Bobby" J. Gonzales
Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. Harriet I. Ruiz
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton
Rep. Luciano "Lucky" Varela

Sen. Ben D. Altamirano
Sen. Vernon D. Asbill
Sen. Pete Campos
Sen. Kent L. Cravens
Sen. Joseph A. Fidel
Sen. Mary Jane M. Garcia
Sen. Stuart Ingle
Sen. Steven P. Neville
Sen. Leonard Lee Rawson

Staff

Renee Gregorio
Cleo Griffith
Jeremy LaFaver

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Wednesday, April 19

Bill Sisneros, executive director of NMFA, introduced staff members Marquita Russel, chief of programs, Connie Marquez, executive assistant, and Mark Valenzuela, director of intergovernmental relations, as well as deputy secretaries Tom Church and Robert Ortiz of the department of transportation (DOT). Mr. Sisneros spoke of the authorization given to NMFA by passage of amendments to the Statewide Economic Development Finance Act, which expands NMFA's powers so that it may participate in the federal new markets tax credit program. He stressed that with this new authority, NMFA will be able to help bring capital improvements into rural areas. He added that through this program, revenue is put back into the economic development fund.

Mr. Sisneros remarked that NMFA listened to legislative concerns during the session regarding disclosure of projects to be funded through the "SMART money" economic development piece, and said that confidentiality is a tenet of banking law and that NMFA partners with banks, not with the project. He added that there is currently \$50 million worth of projects that need to be prioritized and that will be vetted. He said that NMFA needs to find a way to increase the legislature's comfort level regarding exposure around these projects and that perhaps the oversight committee could be used as an authorizing agency.

Regarding the GRIP program, Mr. Sisneros reported that NMFA is looking to do a \$400 million bond issue and has \$50 million in escrow. He mentioned that the federal government requires NMFA to have money in reserve before contracts can be put in place and that NMFA needs a strong investment program to reduce the cost of that money and balance out arbitrage rules. He said that with the new higher allowance for NMFA to make authorization on projects under \$1 million (rather than the previous \$750,000), the waiting has been reduced on moving projects, and this allows NMFA to be fiscally responsible by setting the rate. Mr. Sisneros indicated that he would report back to the oversight committee on loans being made in this program.

Mr. Valenzuela said that NMFA came before the committee today to seek approval of rules governing the local transportation infrastructure fund. Ms. Russel went over the history of the fund, which was created by the 2005 legislature, that makes NMFA and DOT partners in providing funding for local transportation projects. She added that the legislation authorizes NMFA to use up to half of the administrative fee earned on the debt to capitalize the fund. NMFA can make grants and loans from the fund for projects that are prioritized by the secretary of transportation, she said. She told the committee that NMFA is now preparing to issue \$10 million in bonds to capitalize this fund. The rules presented to committee members were set up to provide a framework for administering this fund, she said, but DOT and NMFA will fully develop rules as they meet with other planning organizations.

In response to a question regarding the relationship of this fund to the GRIP program, Mr. Ortiz indicated that no relationship exists between GRIP 2 and this program; the only similarity is that local governments could apply through NMFA to help with funding of GRIP projects through this program. Also in answer to questions on arbitrage, he indicated that DOT is 60 percent encumbered or expended on the GRIP bonds borrowed to date; the high return on investment affects arbitrage, but the limits have not been reached. Mr. Valenzuela remarked that NMFA is developing a set-aside process so that any arbitrage that needs to be reimbursed will be set aside. He added that NMFA conducts a study every year to calculate the amount of earnings on all funds and that DOT's account is now in compliance.

Representative Saavedra requested that NMFA submit the names and contact information for all NMFA board members, along with their qualifications.

In response to a question on whether the legislature approves the list of projects for the local transportation infrastructure fund, Mr. Valenzuela clarified that this fund does not have the same requirement in statute as the public project revolving fund, so the rules also do not reflect any legislative input regarding prioritization, which is done by DOT, in conjunction with metropolitan and regional planning organizations.

Committee members suggested that there be a change in statute to include the legislature in the selection process for projects under this fund. Discussion ensued regarding the process of funding road projects through the GRIP program, and it was clarified that legislative oversight happens when communities have projects funded through GRIP and then apply for the revolving loan piece through NMFA. Mr. Ortiz mentioned that this funding is structured to help local communities with smaller projects. NMFA agreed to present policies to the oversight committee.

In response to committee questions on what entity DOT used before NMFA, Mr. Church remarked that the state transportation commission issued bonds and hired an investment advisor for previous program administration, but that now the NMFA has an investment advisor and bond counsel. In comparison, he added, costs are greater to DOT in terms of overall bond expense, but the return on investment is greater, and many more services are provided. He said that in the GRIP program, DOT saved over \$2 million in the process, so the relationship with NMFA is obviously working.

In response to a question on how much NMFA anticipates it will receive this year for all projects, Ms. Russel indicated that revenue from DOT's projects will amount to about \$1 million, half of which will go into the local transportation infrastructure fund, as it did this past year. Mr. Valenzuela said he would provide the committee with a summary of the original financing for GRIP. Committee members indicated a need to know these details, including return on investment figures and comparisons between NMFA and other financing organizations, stating that its duties are to oversee and to make sure NMFA is maximizing its potential.

Committee members also expressed concern that local entities should be informed about the application process for this fund. Discussion ensued regarding criteria that must be met by local entities before a project could be considered for funding. Committee members then asked what would happen to the money in the fund if the committee does not approve the rules as they are currently set out by NMFA, to which NMFA replied that the money would sit in the account until the committee approves the rules, and the projects would be delayed. This led to more discussion regarding the problem of the legislature giving up oversight on projects, thus giving over power to the executive. Mr. Valenzuela reiterated that the purpose of the original legislation was to address rural road projects that are not able to qualify for federal funding and that have a difficult time getting local funding. He added that the \$500,000 cap was put on projects to ensure no single entity could receive most of the funding. Questions regarding this cap language in the rules on page 7, which states that: "The maximum amount of a grant for any Local Transportation Project shall be \$500,000", were brought forth because this language would not really prevent a single county from obtaining grant money for several different projects. NMFA agreed to look at this and amend this language to more truly reflect the original intent. Mr. Valenzuela added that the idea behind this fund was to create a revolving fund that would grow.

Mr. Ortiz stressed that the intent is to fund local projects in a good program that would require the local government to provide 75 percent of the funding for a project. Mr. Valenzuela assured the committee that he would provide the exact number for fee revenues per month because he feels that the FIR for this bill was wrong in its estimate of \$190 million per year.

Committee members expressed concern over Subsection C on page 9 of the proposed rules, which states that: "The Authority may establish such other charges, premiums, fees and penalties as it shall deem necessary for the administration of the Program, as provided in the Local Transportation Project Policies", asking that this subsection be eliminated or clarified.

After discussion over whether statute needs to be amended or the rules could simply be amended to reflect legislative involvement in the selection of projects, the committee decided that the rules could be changed to indicate that projects must come before the legislative oversight committee for approval. On motion, second and unanimous approval, the committee voted to delay its final approval of the rules and regulations governing the local transportation infrastructure fund, and committee members are to communicate their concerns to staff and chairs before the next oversight committee meeting in June.

The committee adjourned at 12:30 p.m.