

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

**July 11-12, 2019
Northern Rio Grande National Heritage Center
Alcalde**

The second meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Jacob R. Candelaria, vice chair, on July 11, 2019 at 9:20 a.m. at the Northern Rio Grande National Heritage Center in Alcalde.

Present

Rep. Tomás E. Salazar, Chair
Sen. Jacob R. Candelaria, Vice Chair (7/11)
Rep. Alonzo Baldonado
Sen. Craig W. Brandt
Rep. Micaela Lara Cadena
Rep. Jack Chatfield
Rep. Harry Garcia (7/11)
Rep. Susan K. Herrera
Rep. D. Wonda Johnson
Sen. Michael Padilla (7/11)
Rep. Jane E. Powdrell-Culbert
Rep. Patricia Roybal Caballero
Rep. Patricio Ruiloba (7/11)
Sen. William E. Sharer
Rep. Linda M. Trujillo (7/11)

Advisory Members

Rep. Kelly K. Fajardo
Rep. Natalie Figueroa
Rep. Andrea Romero
Rep. Sheryl Williams Stapleton

Absent

Sen. Joseph Cervantes
Rep. Rebecca Dow
Sen. Ron Griggs
Rep. Raymundo Lara
Sen. Richard C. Martinez
Sen. Nancy Rodriguez

Rep. Doreen Y. Gallegos
Rep. Georgene Louis
Rep. Willie D. Madrid
Sen. Mary Kay Papen
Sen. Clemente "Memé" Sanchez
Rep. Candie G. Sweetser
Sen. Bill Tallman
Sen. Pat Woods

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

Staff

Jeff Eaton, Research and Fiscal Policy Analyst, Legislative Council Service (LCS)
Andrea Lazarow, Bill Drafter, LCS
Erin Bond, Research Assistant, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Thursday, July 11**Welcome and Introductions**

Senator Candelaria called the meeting to order and asked committee members and staff to introduce themselves.

James J. Martinez, commissioner, Rio Arriba County Board of County Commissioners, and Tomás Romero, executive director, Northern Rio Grande National Heritage Center, welcomed the committee to the center. They provided the committee with a history of the center and explained the center's purpose and engagement with Santa Fe, Rio Arriba and Taos counties, as well the communities in the region.

A committee member asked about the relationship between the Northern Rio Grande National Heritage Center and the state regarding funding, support and involvement. The presenters responded that \$330,000 comes from the federal government, with 25% provided through grants, and some funding comes from Santa Fe, Rio Arriba and Taos counties. The center has a mandate to maximize funding. Its board of directors includes the state historian and staff from the Tourism Department.

Rio Arriba County Capital Outlay Priorities

Christopher Madrid, director, economic development, Rio Arriba County, discussed the economic challenges facing rural areas, including population loss and the resulting diminished tax base. Mr. Madrid discussed a number of projects, including Rio Arriba County's purchase of and plan to repurpose a recently closed nursing home as a for-profit behavioral health rehabilitation center; the conversion of a charter school into a one-stop community center for youth; and the establishment of a lowrider museum. Mr. Madrid also discussed a grant that extended the delivery of natural gas from the San Juan Basin to Rio Arriba County, making natural gas a less expensive alternative for residents who had been using high-cost propane for heating.

Questions and comments from the committee included the following.

- A committee member observed that oil and gas revenue from the southeastern part of the state is funding these economic development projects.
- A committee member asked how many beds the proposed rehabilitation facility will have. Mr. Madrid stated that the facility will accommodate 100 clients.
- As the closure of the nursing home caused the dislocation of elderly residents to other facilities throughout the state, a committee member asked why the nursing home is being repurposed as a for-profit behavioral health rehabilitation facility rather than being reopened as a nursing home with a new operator. Mr. Madrid explained that the owner of the facility, a real estate improvement trust, owns other nursing homes in the area and included a restrictive covenant in its purchase agreement with the county that prevents a competitor from opening another nursing home in Espanola.
- A member asked whether the grant for improved access to natural gas delivery was in response to the deep freeze and subsequent natural gas delivery failure several years ago. Mr. Madrid stated that even before the deep freeze, propane was significantly more expensive than natural gas.
- A member estimated that propane costs \$3.00 to \$4.00 per gallon.
- A member asked how many people use propane for heating in Rio Arriba County. A committee member estimated that about 40% use propane, and the member noted that there are problems for customers who cannot make pre-delivery deposits for propane. There was once no competition within the propane industry in the area, but Kit Carson Electric Cooperative's provision of propane has brought prices down.
- A committee member asked about the county's response to behavioral health and addiction issues, given that these issues affect the workforce. Mr. Madrid stated that these issues are addressed at the monthly Rio Arriba Community Health Council meeting. Mr. Madrid discussed the 90-day Hoy Recovery Program in Velarde, where, as part of the program, residents perform agricultural work by tending a greenhouse and caring for animals. He stated that the Hoy Recovery Program has received the highest level of accreditation in the treatment industry, but the program needs additional funding to expand services that would help provide a path forward for participants after they have completed the program. He noted that there is currently a transitional living program available for men, but no such option exists for women.
- A committee member noted that the focus should be on women in treatment and their children.
- A committee member stated that Americorps funds are available for transition and workforce training.

- A committee member asked how the history and cultural traditions of the area can be better integrated into local transitional living and pathways programs.
- A committee member stated that a demographic and geographic analysis of people who need heating fuel assistance should be conducted so that natural gas can be delivered to remote communities, the elderly and those on fixed incomes.

Approval of Minutes

The minutes of the June 13, 2019 meeting of the NMFA Oversight Committee were approved without changes.

Economic Development Revolving Fund (EDRF) Update

Marquita D. Russel, chief of programs, NMFA, and John Brooks, director of commercial lending, NMFA, presented the first of two interim reports on the EDRF that are required by the Statewide Economic Development Finance Act.

Ms. Russel provided the background and history of the EDRF. She then explained that the EDRF is segregated into two subaccounts to operate the Smart Money Loan Participation Program and the Collateral Support Participation Program.

The Smart Money Loan Participation Program is a state-funded loan participation program that provides long-term, low-cost financing to businesses located primarily in rural New Mexico, she said. In this program, the NMFA shares equally in the collateral available to a bank.

The Collateral Support Participation Program is a federally funded loan participation program that provides short-term financing, such as construction or working capital lines of credit. In this program, Ms. Russel said, the NMFA is able to purchase subordinated collateral interests, which allows more capital to be advanced to a business.

Ms. Russel then reviewed the handout providing the status of projects that have received funding from each of the loan participation programs.

Questions and comments from the committee included the following.

- A committee member asked about the average loan amount provided by the Smart Money Loan Participation Program. Ms. Russel indicated that the average loan amount is \$1 million.
- A committee member asked if there are early payoff penalties associated with either loan participation program. Ms. Russel stated that there are none.
- Regarding the Plaza Hotel project in Las Vegas, a committee member asked why there was only a 50% loan recovery. Ms. Russel explained that the loan was sold to

the developer of another hotel who spent money renovating the property. The level of recovery was, therefore, impacted by the Plaza Hotel's diminished sale price.

- In response to concerns expressed by several committee members about the Western Wood Products, Inc., settlement, Ms. Russel clarified that the Plaza Hotel loan is, in fact, the Smart Money Loan Participation Program's only loss. She stressed that given its subordinate status, the NMFA recovered as much as possible in the Western Wood Products, Inc., settlement. Ms. Russel explained that both projects were learning experiences that showed the NMFA that it needs to obtain more information from lenders. She assured the committee that more staff has been added to perform due diligence.
- In response to an observation that loan participation projects have not been located in smaller, rural communities, Ms. Russel clarified that Smart Money Loan Participation Program projects are located in rural areas, while the Collateral Support Participation Program borrower profile is urban.
- A committee member asked about the services of PreCheck, Inc. Ms. Russel stated that the company performs background checks for Human Services Department employees.
- In the case of the Western Wood Products, Inc., settlement, a committee member asked how the NMFA determined that the sale and new ownership of the originating bank was legitimate. Ms. Russel indicated that due diligence was performed and that the holding company is a newly formed entity.
- In response to a question about how entrepreneurs seeking loans of \$250,000 to \$10 million should approach the NMFA, Ms. Russel clarified that the NMFA is a debt lender, and it does not lend to businesses, but, rather, buys an interest in loans. Mr. Brooks explained how the two loan participation programs can be accessed.
- In response to a request for data on job creation related to the two programs, Ms. Russel indicated that the NMFA would compile the data and report back to the committee on this topic.
- In support of Ms. Russel's prior statement regarding projects being located in smaller, rural communities, a member stated that Western Wood Products, Inc., created 50 jobs in Raton. An added benefit from the project is that the business removes small-diameter timber from forests, which timber poses a greater fire risk by burning hot and putting life and property at risk.
- A member expressed concern about the Economic Development Department redirecting \$5 million of federal funding to establish the New Mexico Catalyst Fund,

which consists of several funds that provide venture capital and is administered by Sun Mountain Capital.

Capital Outlay Project Management and Oversight

Donnie Quintana, director, Local Government Division (LGD), Department of Finance and Administration (DFA), explained the responsibilities of the Capital Outlay Bureau of the division. He then stated that the goal of the Community Development Program of the LGD is to bring capital outlay projects funded by Senate Bill (SB) 280 (2019) and other projects funded by House Bill (HB) 2 (2019) to fruition. Community Development Program objectives included ensuring that intergovernmental grant agreements (IGAs) were timely executed once SB 280 (2019) was signed by the governor; providing information to all stakeholders; providing technical assistance to grantees; and advising slow-moving and not-moving project grantees on the need to avoid reversion of project funds.

Next, Mr. Quintana summarized the LGD's capital outlay process. He also provided statistics on grant agreements issued versus executed for projects to date.

Mr. Quintana discussed key elements for success in executing projects. He stressed using an Infrastructure Capital Improvement Plan (ICIP) to plan and prioritize anticipated capital outlay projects; promoting good communication; matching capital outlay appropriation language to legislative intent; ensuring that projects are ready to proceed once they are funded; and employing proper oversight to ensure that stakeholders can intervene to get slow-moving and not-moving projects back on schedule. Mr. Quintana also discussed the importance of celebrating project completion within communities.

Questions and comments from the committee included the following.

- A committee member asked what percentage of localities understand the capital outlay process. Mr. Quintana acknowledged that some communities understand the process better than others. He added that the DFA is developing a survey for its customers to examine where the department is not meeting the mark.
- A committee member asked about "junior money", the appropriations provided by 2019 HB 333 and SB 254: When will legislators know when funds will be available, how much will be available and how can the funds be spent? Mr. Quintana said that the State Budget Division of the DFA is working on that process and that Debbie Romero, deputy secretary, DFA, is the one to ask.
- In response to questions about support and training regarding access to funds for capital outlay projects, Mr. Quintana stated that such assistance is available and that he and his staff are willing to meet with concerned parties.

- A committee member asked about proposed capital outlay reform bills for the upcoming legislative session and whether the LGD is aware of such legislation. Mr. Quintana stated that the LGD is not the tip of the spear, but there are opportunities for discussions. All stakeholders need to become involved, he noted.

2019 Legislation: HB 534 (2019) — Public-Private Partnership Act

John Gasparich, interim chief executive officer, NMFA, Ms. Russel and Senator Padilla gave a presentation on HB 534 (2019) that proposed the Public-Private Partnership Act and died during the 2019 legislative session. Mr. Gasparich stated that the NMFA maintains a neutral position with regard to this legislation. Ms. Russel told the committee that most of the information in the presentation is excerpted from a Legislative Finance Committee report prepared at the request of Representative Patricia A. Lundstrom after numerous stakeholder meetings.

Ms. Russel explained that public-private partnerships (P3s) are tools that allow a private entity to develop public infrastructure projects. She stated that P3s are commonly used in transportation projects but can also include construction projects for prisons and charter schools. Establishing special assessment districts is another tool for developing such projects. She provided a list of states that have promulgated legislation to facilitate P3s. Ms. Russel explained the different ways that P3 projects can be structured, ranging from design-build to privatization and many combinations in between. She then discussed best practices for structuring P3s.

Senator Padilla reviewed the history and substance of HB 534. He noted that the bill provided for the establishment of a nine-member P3 board, which would include the NMFA's chief executive officer or designee. Senator Padilla also discussed the bill's proposed P3 project fund from which the NMFA could make grants for projects.

Questions and comments from the committee included the following.

- P3s provide an unfair advantage to private-sector stakeholders, and there are concerns about whether such projects would pay workers in the construction and building trades a prevailing wage.
- A committee member asked about the major concerns that prevented the bill from passing. Senator Padilla stated that compromises involving several other pieces of legislation caused this bill to die.
- In regard to board membership, a committee member asked how the bill addressed future changes in administration. Senator Padilla stated that only four members of the P3 board would be appointed, and terms of appointed members would be staggered.

- In response to a concern about whether the bill established a process for choosing the correct private partner and a process for competitive bidding, Senator Padilla said that it did.
- A committee member asked about what happens when partnerships deteriorate. Senator Padilla stated that this concern is addressed in the P3 agreement.
- In response to concerns about whether P3 projects would keep dollars and jobs in New Mexico, Senator Padilla stated that P3s can work for New Mexico.
- A member asked whether P3s can be established in the Navajo Nation. Senator Padilla said that they could.

Tribal Infrastructure Fund (TIF) Update

Lynn Trujillo, secretary, Indian Affairs Department, and Lawrence John, TIF administrator, Indian Affairs Department, provided the following update.

Secretary Trujillo explained the purposes of the Tribal Infrastructure Act. She explained that tribal infrastructure guidelines and procedures were approved and adopted by the Tribal Infrastructure Board in 2016. The board subsequently opened an online application portal. Each year, the board receives 50 to 60 applications. Secretary Trujillo explained how the TIF Review Committee evaluates, scores and prioritizes these applications.

The presenters then provided data on applications received, awards granted and projects closed since 2016, including water, sewer and power line extensions.

Questions and comments from the committee included the following.

- A committee member asked how long the application process takes. Secretary Trujillo stated that the process is electronic and uses a template, and is, therefore, quick.
- A member stated that the Littlewater Chapter power line extension project is complete and that new power line and water line extensions in the member's district are priorities.
- A committee member suggested meeting with other legislators who represent chapters to discuss the chapters' infrastructure funding needs. Secretary Trujillo agreed with the suggestion.
- A committee member asked how lost TIF funding can be replaced and how can it be increased overall. Secretary Trujillo stated that funding is awarded based on the

previous five years and that it is critical to ensure that IGAs are signed and executed by both parties.

- In response to a question about the suspension of the Pueblo of Acoma's natural gas project, Secretary Trujillo clarified that the project is now proceeding.
- In response to a question about the longevity of projects, Secretary Trujillo indicated that she can access that information internally and share it with committee members.
- In response to a question about whether there are handling fees for TIF applications in the Navajo Nation, Secretary Trujillo and Matejka Santillanes, MJS Consulting, indicated that there are none.
- A committee member asked for an explanation of the major roadblocks to moving projects forward. Secretary Trujillo stated that there are not many roadblocks between tribes and the DFA; however, when the federal government is involved in projects, there can be issues, she said. Also, project managers need to be proactive and organized, but there is shared responsibility to ensure staff consistency.
- A committee member asked how much TIF funding is reverted to the General Fund. Secretary Trujillo stated that in fiscal year 2015, \$1.12 million reverted. In fiscal year 2016, \$177,000 reverted, and there have been no reversions since then.

Establishment and Process Development of the Colonias Infrastructure Fund

Ms. Russel discussed the Colonias Infrastructure Act, including its establishment of the Colonias Infrastructure Board and how a portion of senior severance tax bond proceeds are used in a variety of infrastructure projects. Ms. Russel stated that the first senior severance tax bond distribution was made in 2012 and that eight application cycles have been completed to date.

Ms. Russel then discussed the composition of the Colonias Infrastructure Board, including voting and nonvoting advisory members, as well as information about board structure and the frequency of board meetings.

Ms. Russel explained the definition of "colonia" in the Colonias Infrastructure Act and stated that there are 171 colonias located in New Mexico's southernmost counties. She then explained that the Colonias Infrastructure Act allows for broad project eligibility with regard to both the type of project and the type of applicant. She provided a summary of the applications received, awards made, additional funds leveraged and total funding provided for each cycle. Ms. Russel then discussed changes to policy and evaluation criteria that resulted in a significant reduction of the average time from project approval to project completion. She concluded with a summary of the current application time line.

Questions and comments from the committee included the following.

- In response to a question about access to water, Ms. Russel indicated that water lines need to be run up to houses.
- A member expressed frustration that access to water remains an issue.

Recess

The committee recessed at 5:15 p.m.

Friday, July 12

Reconvene

The committee was reconvened by Representative Salazar at 9:10 a.m.

Rural Infrastructure Issues

Ramon Lucero, project manager, Souder, Miller and Associates, and president, El Valle Water Alliance, began his presentation by referring to a 2017 American Council of Engineering Companies report that estimated that New Mexico's water infrastructure needs \$1.3 billion in funding, and recurring revenue projections for fiscal year 2020 in New Mexico indicate a massive funding shortfall.

Mr. Lucero then discussed the special challenges of mutual domestic water consumers associations (MDWCAs) in small, rural communities. Those challenges include limited membership; volunteer boards; the lack of affordable, certified operators; difficulty in securing financing; meeting compliance and reporting requirements from seven state agencies; limited access to technology to facilitate compliance and reporting requirements; and deterioration of aging infrastructure. Mr. Lucero provided an example of a small MDWCA in Rio Arriba County that secured funding for new infrastructure after nine funding application cycles. He told the committee that a large number of stakeholders working collaboratively is needed to achieve success.

Mr. Lucero discussed nine different federal funding sources available to MDWCAs. He then presented a history of New Mexico's Water Project Finance Act, enacted in 2001, which created the Water Project Fund and the Water Trust Fund and established sources of funding. He expressed concerns about how, through subsequent legislation, funding levels have changed from 2015 to the present. Finally, he provided a year-by-year breakdown of funding requests, funding awards and projects not funded due to insufficient funds during that time period.

Concept Discussion on Creating a New Rural Infrastructure Fund

Robert Apodaca, chief executive officer, Motiva Corporation, framed his testimony about creating a new rural infrastructure fund with a personal story. He shared that he is from a small, rural community where his father worked as a miner and was able to support his family on his

wages, but now the mine is closed. Mr. Apodaca pursued higher education and accomplished career success working for the federal government. His daughter, however, who will soon graduate from the University of New Mexico, will probably need to leave the state due to the lack of well-paying professional jobs in New Mexico.

Mr. Apodaca then provided data, which show that, compared to neighboring states, job growth in New Mexico is weak, with unemployment rates highest in rural counties. Moreover, projected job growth in New Mexico is primarily within the low-wage, low-skill service sector. Mr. Apodaca then posed the question, "How can we do better?"

Next, Mr. Apodaca presented the First Choice Mountain and Valley Regional Health Center located in Edgewood as an exemplary rural economic development project. He discussed the facility's impact on the regional economy, including job creation and an increased tax base, as well as improved access to health care within the community. Mr. Apodaca also discussed the combination of federal, state and local funding that made the project possible, and he offered suggestions for improving access to funding for future projects.

Mr. Apodaca urged the committee to reconsider higher education strategy by expanding vocational training programs to address the shortage of certified, skilled trades people, particularly in rural areas. He opined that science, technology, engineering and mathematics careers, which generally require a four-year university degree, are not for everyone.

Questions and comments from committee members included the following.

- Reporting and compliance requirements for MDWCAs, such as providing 10 years of audits, are excessive, a committee member said, and asked whether the governor would sign an executive order to ease this burden. Ms. Russel clarified that the NMFA only requires a current audit.
- A member observed that the lack of job opportunities in rural areas leads to population drain, which adversely impacts education. For example, despite increased funding for education in small, rural school districts, enrollment in pre-K programs remains low. Declining population results in school district consolidation, the member stated, which then requires parents to drive long distances to deliver children to education programs.
- A member expressed concern about how the level of funding appropriated to the Water Trust Board in 2017 adversely impacted small, rural communities.
- A committee member asked whether it is possible for MDWCAs to collaborate to satisfy compliance and reporting requirements. The presenters responded that there are issues to work through and concerns about associations maintaining autonomy and complexities concerning water rights and how to fairly share the cost. They also

pointed out that there is not a great mechanism for bringing services together on the agency side. They discussed establishing an agency to act as a one-stop shop for funding applications and how, years ago, this approach was attempted. Ms. Russel agreed, but pointed out that there are different time frames for accepting applications. She also discussed creating a technology portal and standardizing and eliminating the need to hire multiple engineers and asset managers.

- A committee member asked about the different levels of water system operators used by MDWCAs. The presenters responded that an MDWCA's number of connections and water quality are factors in selecting an operator. The presenters also discussed how infrastructure needs to be updated. Operators are not overtaxed but "strangely taxed", and the regulatory regime is problematic, they said.
- A committee member suggested that private industry can fill gaps in access to broadband services and water. Mr. Lucero stated that he has not yet collaborated with private industry and speculated that perhaps this may be because his water projects are very small and serve isolated communities. Mr. Apodaca provided examples of public-private infrastructure projects located in Rio Rancho and Clovis.
- In response to a member's question about the appetite for a cohesive infrastructure investment plan given the state's coming revenue windfall, a recommendation was made that planning begin soon. Mr. Lucero stated that an ICIP requires the gathering of data and that an ICIP could be a good starting point.
- A member said that the councils of governments need to be accountable for providing technical assistance to water boards. Planning processes are critical, and local governments must include communities in the planning process. A member wondered whether "junior" money can be used for matching funds.

Public Comment

Mr. Chacon, a Penasco resident, stated that he had attended three meetings of the Raton Water Board. He said that without the help of technical assistance providers, he would be lost. He also discussed the water infrastructure issues peculiar to his community, and he discussed additional concerns, such as abandoned homes, the lack of well-paying jobs, low salaries, seniors living alone without support, the lack of public transportation and substance abuse.

Laura Dubin, a technical assistance provider who has worked with small, rural MDWCAs on water monitoring, water quality and responding to violations issues, recommended establishing a single reporting database. She said that it would allow MDWCAs to focus on substantive issues and that it would allow associations to collaborate.

Adjournment

There being no further business, the committee adjourned at 12:15 p.m.