

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

**July 12-13, 2007  
Ruidoso Convention Center, Room 4  
Ruidoso**

The second meeting of the NMFA Oversight Committee for the 2007 interim was called to order by Representative Daniel P. Silva, chair, on Thursday, July 12, 2007, at 9:45 a.m. in Room 4 of the Ruidoso Convention Center in Ruidoso, New Mexico.

**Present**

Rep. Daniel P. Silva, Chair  
Sen. Mary Kay Papen, Vice Chair  
Rep. Janice E. Arnold-Jones  
Rep. Elias Barela  
Sen. Joseph J. Carraro  
Sen. Clinton D. Harden, Jr.  
Rep. Dona G. Irwin  
Rep. Jane E. Powdrell-Culbert  
Rep. Henry Kiki Saavedra  
Sen. H. Diane Snyder  
Rep. Don L. Tripp  
Sen. David Ulibarri (July 13, 2007)

**Absent**

Rep. Richard J. Berry  
Rep. Patricia A. Lundstrom  
Sen. Lidio G. Rainaldi  
Sen. Nancy Rodriguez  
Rep. Richard D. Vigil

**Advisory Members**

Rep. Jose A. Campos  
Rep. Ernest H. Chavez  
Rep. Anna M. Crook  
Sen. Dianna J. Duran  
Rep. Candy Spence Ezzell  
Rep. Daniel R. Foley  
Rep. Thomas A. Garcia  
Sen. Mary Jane M. Garcia (July 13, 2007)  
Rep. Roberto "Bobby" J. Gonzales  
Rep. Ben Lujan  
Sen. Leonard Lee Rawson (July 12, 2007)  
Rep. Edward C. Sandoval

Sen. Ben D. Altamirano  
Sen. Vernon D. Asbill  
Sen. Pete Campos  
Sen. Kent L. Cravens  
Sen. Stuart Ingle  
Rep. W. Ken Martinez  
Sen. Richard C. Martinez  
Sen. Steven P. Neville  
Rep. Sheryl Williams Stapleton  
Rep. James R. J. Strickler  
Rep. Thomas C. Taylor  
Sen. James G. Taylor  
Rep. Luciano "Lucky" Varela

(Attendance dates are noted for members not present for both days of the meeting.)

**Staff**

Doris Faust  
Jonelle Maison  
Zach Taylor

### **Guests**

The guest list is in the meeting file.

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

## **Thursday, July 12**

### **Call to Order and Welcome**

Representative Silva called the meeting to order and introduced Mayor Lonnie Ray Nunley of Ruidoso. Mayor Nunley thanked the committee for coming to the City of Ruidoso and for the service it provides to New Mexico. Mayor Nunley reported that, like many other small towns, Ruidoso is facing development and growth problems, but recently passed a bond issue to develop a water treatment plant. Mayor Nunley introduced Representative W.C. "Dub" Williams, who provided a brief recap of his history in the area and thanked the committee for coming to Ruidoso.

### **Review and Update of Local Capital Projects That Are Funded or Potentially Funded Through the NMFA**

Representative Silva invited members of local governments to discuss local projects in which the NMFA played a role. Mayor Don Carroll of Alamogordo applauded the NMFA and Water Trust Board for their hard work. Mayor Carroll named several projects in which the NMFA has played a role in funding, including: a fire station, a new ladder truck, an infrastructure improvement project and a water trust grant for a water rights acquisition/desalination project. On questioning from the committee, Mayor Carroll stated that the desalination project is currently awaiting the results of an environmental impact study and that the project calls for the use of a reverse osmosis system, which the mayor described as proven technology.

Mayor Ray Cordova of Tularosa thanked the legislature for the service it provides to the state and its citizens. Mayor Cordova commented that Tularosa lacks adequate recreational activities for children, and that although the NMFA has financed a little league field, the city is looking to add a recreation center. He also stated that there is a great need for a water sedimentation pond to meet the city's growing water needs, as the city lacks adequate storage capacity.

Sue Garrett, the mayor pro tem of Ruidoso Downs, introduced City Manager John Waters to speak about Ruidoso Downs' capital priorities. Mr. Waters described Ruidoso Downs' new growth and development, which creates increased need for infrastructure projects to accommodate the growth. Mr. Waters commented on the fire safety needs of the city, as well as

the need to develop a water treatment plant in compliance with a federal mandate for water standards in the Rio Ruidoso. On general questioning from the committee, Mr. Waters and Ms. Garrett stated that:

- Ruidoso Downs has approximately 2,800 permanent residents, a number that more than doubles in the summer;
- Ruidoso Downs needs an aerial ladder fire truck because of an increase of large buildings being erected in the city;
- the city receives no direct revenue from taxation of the racetrack;
- if the city is fined as a result of the Forest Guardians litigation, there is no source at the moment to satisfy the fine;
- the ISO rating for fire safety has been downgraded to a 6, although parts of the city are still an 8; and
- property values in Ruidoso Downs are generally lower than other communities in the area.

Otero County Commissioner Michael Nivison reported that the Water Trust Board has funded a reverse osmosis and membrane system to address some of the community's water issues. He noted that the poor condition of the forest is an ongoing and severe problem, making water acquisition difficult as there is too much vegetation on the forest floor. Last year alone, poor forest health, fire and erosion caused the county to lose one million years of soil. Mr. Nivison reported that water "reuse" is the only positive facet of Cloudcroft's water situation. On questioning from the committee, Mr. Nivison stated that:

- Cloudcroft is very dependent on water storage and currently stores one million gallons;
- local forests are in poor condition, generally having over 60 trees per acre;
- a ratio of greater than 40 to 50 trees per acre causes fires to spread into the canopy and hinders fire suppression efforts; and
- water is taken from the sewage plant and reused in drinking water, with a return rate of about 82%. The water quality is significantly higher than what comes out of the spring.

Dan Higgins, city manager of Ruidoso, and Deputy City Manager Bill Morse spoke on behalf of Ruidoso, reporting that the city is experiencing tremendous growth. They reported that Ruidoso has a very good relationship with Ruidoso Downs, and described the Joint Utilization Board, an entity formed as an extension of the two municipalities and composed of members of both city governments and the county commission. It was also reported to the committee that no legislation has been introduced to annex Alto, although several developers have requested such action. Ruidoso has only a fourth of one percent of bonding capacity left for future projects.

### **Update on Ruidoso Area Water and Wastewater Systems**

Mr. Higgins and Mr. Waters spoke on the status of the Ruidoso area water and wastewater systems. Mr. Waters reported that Ruidoso is facing some stringent water regulation

requirements and that Ruidoso is the first municipality to face such heightened restrictions for its wastewater treatment plant. Mr. Waters reported that the requirements for phosphorous and nitrogen levels are the most stringent in the nation and that it may be impossible to meet the new standards. On general questioning from the committee, Mr. Waters stated that:

- the new wastewater standards are more restrictive than the drinking water standards;
- a settlement of the Forest Guardians lawsuit calls for Ruidoso to build a plant to meet the requirements within 36 months, or the community would begin facing hefty fines;
- the City of Ruidoso must put used water back into the river, therefore mandating that the city follow the Clean Water Act; and
- there have been no reported cases of fish kills or illness as a result of the pollutants entering the river.

Senator Snyder commented that all decisions regarding water and wastewater requirements should be based on sound science and that the Department of Environment should set standards based on scientific findings. Representative Foley recommended that leadership in Washington should be pushed more on the issue, noting that New Mexico should not be the nation's guinea pig.

#### **Overview of NMFA Management Platform and Review of Revenue Stream**

William Sisneros, chief executive officer of the NMFA, reported that the NMFA's bond ratings have increased significantly since the NMFA's inception. Last year alone, Standard and Poor's raised the NMFA bond rating by three notches. Mr. Sisneros also reported that the NMFA handles approximately 10% of all bond issuance in New Mexico, and that the NMFA is issuing bonds more frequently to better manage market fluctuations. Mr. Sisneros described the process of bond issuance and how the NMFA fixes rates for clients, locking them in for a period of 90 days. Although the NMFA pre-funds bonds for its clients, the NMFA has policies in place to minimize the risk of financial loss to the state.

Mr. Sisneros described the NMFA management platform, and informed the committee that the NMFA has developed a "two deep" policy, preventing excessive build-up of strength in a single individual and providing for continuity in leadership and direction.

He also reported that the NMFA has debt management policies in place with several different financial tools in place to advance those policies. On general questioning from the committee, Mr. Sisneros stated that:

- New Mexico is the only state that imposes a governmental gross receipts tax that can be pledged as additional security for bonds;
- the NMFA is careful not to over-leverage small communities;
- the NMFA is very conservative in its approach to investments;
- the NMFA attempts to account for possible cost overruns into bond amount calculations;

- the NMFA will generally finance projects up to 20 years, with nothing exceeding 30 years; and
- increases in technological reliance have opened up the NMFA to increased risks, as the NMFA recently had a virus spread through its database.

In response to a committee concern that the NMFA cost of bond issuance appears to be higher than that of other entities, Mr. Sisneros noted a decrease in Department of Transportation (DOT) bond costs after the NMFA began its issuance. Representative Arnold-Jones noted that the committee should review NMFA bond sale practices, and also requested that the NMFA's rules, policies and procedures be put on the NMFA web site.

Mr. Sisneros made numerous points regarding the SmartMoney program, including that:

- SmartMoney has created a public/private partnership that relies on banks to do the "heavy lifting" and carry the primary financial burden of making the loans;
- the SmartMoney program has a ceiling of \$5 million; and
- the blend of private and public financing through SmartMoney creates a lower interest rate and induces greater participation from smaller banks.

### **Governmental Gross Receipts Tax (GGRT) and Cigarette Tax Revenue Streams**

NMFA intern Akohleng M. Akwo reported on the revenue stream provided by the GGRT. The GGRT is a tax levied on public entities' receipts from personal property, utility service and recreation admission sales. Certain classes of activities are nontaxable, including health facilities and school districts. There are also classes of governmental transactions that are nontaxable. The GGRT is assessed on 5% of the gross receipts of liable entities. Eighty-two percent of the GGRT is derived from local water utilities, sewage services and solid waste management, 11% through admissions to recreational and entertainment activities, and 7% from sales of tangible property. The NMFA receives the largest portion of the GGRT, which is pledged to the Public Project Revolving Fund.

NMFA intern Richard Garcia provided an overview of the state cigarette tax and its function as a revenue stream for the NMFA. The state imposed an excise tax on cigarette purchases in 1943. Of the revenue generated by the tax, 2.02% is allocated to the NMFA. This number was reduced to current levels following legislative action increasing the tax imposed to \$.70 per pack. The tax is used to fund NMFA operations, with funds first going to debt service. The remainder provides funds for health care programs that lack direct sources of financing. The 2008 fiscal year appropriation received from the cigarette tax amounted to \$1,159,366. On general questioning from the committee, Mr. Akwo and Mr. Garcia noted that it is uncertain how cigarette sales on reservations, which are not taxed, impact the state tax imposed on cigarettes.

### **Update on NMFA Budget**

John Duff, NMFA chief operating officer, provided an overview and update of the NMFA budget for the upcoming fiscal year. The NMFA has increased its operating efficiency,

and has a significantly higher "assets managed per employee" rate than commercial banks. The NMFA is a growing organization, whose budget has increased by \$200,000 from last year. The overall increase was generally composed of increases in staff salaries and creation of an in-house legal department.

### **Committee Business**

The minutes of the June 6 meeting were amended to reflect the attendance at that meeting of Representative Thomas A. Garcia, and were approved as amended. The committee recessed at 5:00 p.m.

### **Friday, July 13**

The committee reconvened at 8:15 a.m.

### **Overview of the Water Project Fund and Water Trust Board Activity**

Ron Curry, secretary of environment, was unable to attend the meeting. Robert Apodaca, director of the Local Government Division of the Department of Finance and Administration, provided the presentation on behalf of the Water Trust Board, along with Mr. Sisneros. Mr. Apodaca provided an overview of House Joint Memorial 86, which mandates the following criteria for financing water projects: a financial plan, a fully allocated rate structure, an asset management and maintenance plan, adequate governance structure, regional collaboration, planning for operations, state engineer regulations and Department of Environment compliance. He further stated that the NMFA works well in collaboration with the Department of Environment and Department of Finance and Administration. Mr. Apodaca reported that several state entities are involved in making the Water Trust Board and its projects work, including the Drinking Water Bureau and the State Engineer's Office. He also stated that the board has a policy of seeking projects that can be fully funded and actively avoids "piecemeal" appropriations. The projects selected place priority on increasing water quality, projects that meet state strategic health priorities, projects that increase water supply to all New Mexicans and the repair of leaky systems.

Mr. Sisneros described the process of Water Project Fund project approval as originating within the communities themselves. The legislature then approves a project authorization list, which is in turn handed over to the Water Trust Board for vetting. The primary concern for the board is execution, specifically addressing how to deal with costs and how to allocate the money. This process can lead to a phasing of projects, which creates a separate body of issues. Several categories of projects are considered; however, money in the Water Project Fund cannot be used for wastewater projects, and cannot be spent on projects that do not meet legislative approval.

### **SmartMoney Initiative Report**

Kelly O'Donnell, deputy secretary of economic development, reported that the SmartMoney initiative did not fare well in the last legislative session. The legislature's distrust of the program was evidenced by its failure to pass the SmartMoney authorization bill.

Deputy Secretary O'Donnell stated that the Statewide Economic Development Finance Act's SmartMoney program has all the components of an effective economic development program, but is underutilized. The SmartMoney program creates a healthy partnership between the NMFA and the Economic Development Department in that the Economic Development Department's goal is to bring new businesses to the state, and the NMFA's careful vetting of projects tempers the process.

Deputy Secretary O'Donnell emphasized the need for confidentiality for businesses during the SmartMoney application and funding process, as disclosure of business plans may have adverse implications for an entity seeking financing through the program. She also stated that the requirement for legislative approval of projects in the Statewide Economic Development Finance Act creates problems, since projects can only receive approval on an annual basis. This slows down the funding process, making it less attractive to potential applicant businesses. Deputy Secretary O'Donnell further stated that the tilapia farm discussed in 2007 was not a SmartMoney initiative, as the loan guarantee requested exceeded SmartMoney parameters.

### **GRIP I Investment Report**

Scott Stoval, chief investment officer of the NMFA, reported on current GRIP investments. The NMFA issued two bond series for GRIP I in 2004 and 2006. The 2004 bonds were issued as a combination of new and refunding money, totaling \$1.14 billion. The total amount of proceeds that went to DOT projects was \$737 million. Series 2006 bonds totaled \$460.5 million. The bonds sold in 2006 were issued as a combination of taxable and tax-exempt bonds.

### **GRIP II Project List and Project Selection Guide**

Secretary of Transportation Rhonda Faught first gave the committee the status of federal funding for the upcoming fiscal year. The Federal Accounting Department has alerted the DOT that the Highway Trust Fund is going to be short of funds, creating a \$16.5 billion deficit nationally. This deficit could mean a loss of \$100 million to New Mexico alone.

On a more positive note, Secretary Faught reported that New Mexico has been identified as the fourth most efficient state in usage of funds for highway construction projects. Road funding is also good for the economy, in that 90% of road construction and maintenance jobs in New Mexico are going to New Mexico contractors. Every project in GRIP I is in the process of being completed, and 11 are completely finished.

Secretary Faught provided an overview of GRIP II, reporting that the department has received 95 applications for funds thus far. The projects are being reviewed for project readiness and availability of the required match. The total project value for the 2007 calendar year is \$94.7 million. A GRIP II project list and GRIP II highway maintenance project list were provided to the committee and discussed in detail.

### **Adjournment**

The meeting adjourned at 12:05 p.m.

