

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

**May 20, 2014
Room 307, State Capitol
Santa Fe**

The first meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Joseph Cervantes, chair, on Tuesday, May 20, 2014, at 9:52 a.m. at the State Capitol in Santa Fe.

Present

Sen. Joseph Cervantes, Chair
Rep. Patricia A. Lundstrom, Vice Chair
Rep. Ernest H. Chavez
Sen. Lee S. Cotter
Rep. Roberto "Bobby" J. Gonzales
Sen. Phil A. Griego
Sen. Ron Griggs
Rep. Jimmie C. Hall
Rep. Dona G. Irwin
Sen. Michael Padilla
Rep. Jane E. Powdrell-Culbert
Sen. John C. Ryan
Rep. Henry Kiki Saavedra
Sen. William P. Soules
Rep. James P. White

Advisory Members

Sen. Sue Wilson Beffort
Sen. Jacob R. Candelaria
Rep. Anna M. Crook
Rep. Kelly K. Fajardo
Rep. Mary Helen Garcia
Rep. Emily Kane
Sen. Bill B. O'Neill
Sen. William H. Payne
Sen. Nancy Rodriguez
Sen. Clemente Sanchez
Rep. Edward C. Sandoval

Absent

Rep. Alonzo Baldonado
Rep. Candy Spence Ezzell
Rep. Yvette Herrell
Rep. Debbie A. Rodella

Rep. Sharon Clahchischilliage
Rep. Brian F. Egolf, Jr.
Sen. Stuart Ingle
Sen. Timothy M. Keller
Rep. W. Ken Martinez
Sen. George K. Munoz
Sen. Mary Kay Papen
Sen. John Pinto
Rep. Sheryl Williams Stapleton
Rep. James R.J. Strickler
Rep. Thomas C. Taylor
Rep. Monica Youngblood

Staff

Lisa Sullivan, Legislative Council Service (LCS)

Tessa Ryan, LCS

Renée Gregorio, LCS

John Mitchell, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts are in the meeting file and posted online at: http://www.nmlegis.gov/lcs/committee_handout_list.aspx?CommitteeCode=NMFA&Date=5/20/2014.

Tuesday, May 20

The chair welcomed committee members and recognized the service of members who are leaving their legislative posts. Committee members then introduced themselves.

Introduction to Board Chair and Chief Executive Officer

John E. McDermott, chair of the NMFA board, and Robert P. Coalter, chief executive officer (CEO) of the NMFA, each introduced himself to committee members. Mr. McDermott described himself as being new to the public sector. He said he assumed his role as board chair on November 20 of last year and that, due to the short legislative session, he has not yet been confirmed in the Senate Rules Committee, but he expects confirmation in the upcoming legislative session. He described his background, which consists of being in the information technology industry for 30 years and then working for both International Business Machines Corporation and Kodak, where he acted as an adviser on strategy and organizational topics. His most recent role has been at Xerox Corporation, when he was brought in after the company had been experiencing difficult times, and his involvement included executing a turnaround and a new organizational structure as Xerox's chief strategy officer. He also mentioned that Xerox Corporation brings 250 to 300 jobs to New Mexico through its call centers. Mr. McDermott has also sat on a number of boards, including the Xerox Palo Alto Resource Center and Fujifilm. Skiing originally brought Mr. McDermott to the state, he quipped, where he then built a successful business in real estate development and eventually financed his further education at Yale University, where he achieved a master's degree in business administration. After serving in several consulting positions, Mr. McDermott developed a fascination with the technology sector. He is currently involved as a venture investor in small technology companies and in the public sector, contributing his expertise to help New Mexico to continue to find ways to grow and expand its job market. He concluded by saying that he hopes that some programs focused in the private sector will help increase economic development in the state.

Mr. McDermott then introduced Mr. Coalter as a well-qualified administrator who has a solid finance and control background and, immediately prior to working as the CEO of the

NMFA, served as the Texas Public Finance Authority director. He described Mr. Coalter as "head and shoulders above others" in the lineup for the position of the NMFA's CEO, as someone who has managed bond portfolios of over \$5 billion and as someone who is familiar with issues that arise when operating at that scale.

Mr. Coalter spoke next, saying that he has settled into his administrative role and the necessary major decisions required at the NMFA and that he looks forward to working with the legislators. He indicated that when he worked at the Coca-Cola Company, he developed an interest in New Mexico's economy and people. He wants to use his private-public sector experience to serve the state. He believes that the legislature was astute in creating an organization such as the NMFA, which he sees as an efficient means for debt issuance. He reviewed his experience, which includes serving as the vice president of a small technology company, many years at a multinational Fortune 500 company and inspector general at the Texas Comptroller of Public Accounts. His experience encompasses internal investigations and audits, he added, and when the State of Texas abolished its state treasurer position in 1996, he added those duties to his other responsibilities. He also served as the executive director of the Texas Public Finance Authority, which issues general obligation bonds and revenue debts. Mr. Coalter ended by expressing his excitement at serving the legislature and the NMFA as its CEO. He then introduced Marquita D. Russel, director of programs, NMFA, to the committee.

NMFA Purpose, Mission, Structure and Programs

Mr. Coalter reviewed the NMFA's creation, purpose and mission. The NMFA is charged with coordinating the planning and financing of public projects, which includes the financing of economic development and community infrastructure projects. The NMFA's mission speaks to strengthening the economy through public-private partnerships and setting standards for diverse and innovative financing. Mr. Coalter provided an overview of the NMFA's organizational structure, with its six major divisions, which include the Public Project Revolving Fund (PPRF) lending programs, financial strategy, administration, general counsel and business development. He indicated that one of the changes he made in the NMFA structure was to merge water projects and economic development into one division under Marquita D. Russel as well as streamlining the financing division.

Ms. Russel gave an overview of the NMFA's activities in each of three areas: infrastructure and capital equipment projects; water and community facilities; and economic development. She said that the NMFA helps New Mexico's communities through its programs focused on planning, infrastructure and development as well as lending to private nonprofits through the Primary Care Capital Fund (PCCF), which is not a frequently used program, but was built upon for the Behavioral Health Capital Fund.

In highlighting the PPRF, Ms. Russel said that this is the NMFA's flagship program, with 60% of loans made by the NMFA coming through the PPRF, representing about 75% of capital delivered by the NMFA. She added that the PPRF was established in 1992 and has triple A ratings with Standard & Poor's Financial Services, LLC, as well as a disadvantaged rate of 0% to

3% on loans based on median household income. She said that annually, a list is presented to the legislature that allows the NMFA to issue bonds for projects over \$1 million. Although projects falling under \$1 million do not have to be approved by the legislature, she added that these projects are typically included in that legislation.

Ms. Russel detailed the NMFA's various programs as follows:

- the Local Government Planning Fund (which used to be the Water and Wastewater Planning Fund), which was expanded to allow for proper planning for water, wastewater and solid waste projects by including environmental information documents so entities can access federal programs;
- the Colonias Infrastructure Project Fund, which is funded from 5% taken "off the top" of senior severance tax bonds issued annually; two rounds of awards have been made to date;
- the Drinking Water State Revolving Loan Fund, which provides for low-cost financing for drinking water facilities, is federally capitalized and has closed \$150.8 million in loans to date;
- how the NMFA partners with New Mexico's Department of Environment to access dollars for communities;
- the Water Project Fund (WPF), which is funded from two annual distributions, one from the Water Trust Fund and the other from 10% "off the top" of senior severance tax bonds, and provides grants and loans for five types of water projects recommended by the Water Trust Board (WTB);
- the Acequia Project Fund (APF), which was created separately in statute, is funded from private donations from a state foundation and also makes grants recommended by the WTB for planning only;
- the PCCF, which is jointly administered by the NMFA and the Department of Health (DOH), for nonprofit primary care clinics, school-based health centers and telehealth sites and provides loans at a 3% interest rate; this fund was initially funded with \$5 million and has made \$11 million in loans; and
- the Behavioral Health Capital Fund, which is jointly operated by the NMFA and the Human Services Department and finances the capital needs of nonprofit clinics with assets of \$10 million or less.

In describing the NMFA's larger economic development programs, Ms. Russel next spoke about the New Markets Tax Credits (NMTC) Program, in which the NMFA partnered with New Mexico Community Capital to create Finance New Mexico, LLC, which then became a community development entity certified in 2006 by the federal Department of the Treasury. The program operates using an advisory board consisting of nine community representatives from across the state, and its programs must benefit low-income communities and persons according to its federal mission, Ms. Russel said. Financing can only occur in federally designated low-income communities. Of the two allocations Finance New Mexico, LLC, has received to date in NMTC, totaling \$156 million, most has been invested already, she added.

The other economic development program is the NMFA's Smart Money Initiative, which, Ms. Russel said, allows the NMFA to purchase interests in loans that originated in local banks. She explained that borrowers must create jobs in these local communities in exchange for loan dollars. In amendments made in 2005, the NMFA can only make loans to projects determined eligible by the Economic Development Department (EDD) and authorized by the legislature.

In 2011, the NMFA signed a memorandum of understanding with the EDD, she said, to administer \$13.2 million in federal funding for the Collateral Support Participation Program. Ms. Russel expressed how rigorous the process is to ensure that the NMFA could leverage the dollars. She added that this program includes a lot of construction lending, working capital lines of credit and small portions of long-term mortgage projects. These funds are intended to help mitigate bank risk and increase the flow of capital as well as augment the Smart Money Initiative, she stated.

In answering her own question — why not make loans directly rather than using banks? — Ms. Russel cited the fact that banks cannot make loans as readily as before. With the NMFA's participation in the loan, the NMFA buys a portion of the loan made by a local bank. Banks can do the majority of lending but often need additional dollars to make a project work, she added. With this program, businesses have one application process, which, she said, streamlines both cost and time for borrowers. In addition, the bank originates and services the loan as it would in any case, and state dollars are protected.

Ms. Russel then gave an overview of the funding history of the NMFA's programs, stating that they have funded over 2,000 projects at nearly \$3 billion since the programs' inception. The NMFA's most active program is the PPRF, with 80 projects financed to date.

Roles of the NMFA Oversight Committee; Discussion of Interim Committee Procedures; Adoption of Proposed Work Plan

Ms. Sullivan gave a brief overview of the statutory requirements for the NMFA Oversight Committee; the ways in which the committee dealt with the audit situation through legislation that creates more rigorous controls and checks; and the investigations that occurred related to audits. Ms. Sullivan reviewed the committee's proposed work plan in detail, in particular citing the need for ongoing communication between the NMFA board and the committee. Relating to the interim schedule, Ms. Sullivan indicated that the NMFA Oversight Committee would be requesting a joint meeting with the interim Water and Natural Resources Committee (WNRC) for one day, either July 1 or 2. She also spoke about one of the committee's perennial concerns related to never seeing a timely list that resembles the final water projects recommended for funding by the NMFA. The committee will hear a detailed presentation about this concern to achieve a satisfactory resolution. She then reviewed the proposed meeting dates with committee members.

The chair then opened up the meeting to questions and concerns from committee members. Questions and responses included:

- the NMFA will give an in-depth briefing on loan participation program rates, activity and loan status;
- discussion of the issue of consolidating the application and funding processes so that it is clear which projects are being funded through which programs in order to identify, and thus avoid, a duplication of funding;
- in the Drinking Water State Revolving Loan Fund Program, the NMFA looks at the number of users in a system, rather than population, and at least 15% of the capital provided must be granted to these smaller systems;
- the Smart Money Initiative is a long-term partnership in which the NMFA can buy 49% of a loan;
- clinics that are awarded loans through the PCCF Program must first apply through the DOH; then, once approved, the application goes to the NMFA for financial analysis; then a clinic must provide quarterly updates on its services and must meet its service requirements;
- the NMFA will contact the DOH to clarify its rules and regulations related to the PCCF and the ways in which these rules might be a hindrance to clinics;
- \$315 million has been appropriated out of the WPF, with 80% of that expended and 20% still under construction, and all dollars in the Colonias Infrastructure Project Fund have been committed;
- in loan participation arrangements, the NMFA pays a small fee to the bank for services the bank takes on, which covers administrative costs for the bank to report back to the NMFA; this practice actually streamlines the process from the borrower's perspective, lowers the interest rate for borrowers and creates costs to the banks involved for which the banks would not otherwise get compensated without the NMFA paying this fee;
- in the NMTC Program, the funding comes from private sources in addition to the sale of federal tax credits, and the NMFA only manages the fund; in addition, the federal government assesses the proportion of the population living in poverty, which must be at least 20% to qualify; although New Mexico has a number of low-income census tracts, many of these do not have a high enough rate of poverty percentage to qualify;
- because of the audit issues last year, the NMFA now has decided to outsource the internal auditor position and has issued a request for proposals (RFP) for an organization to bring resources to bear on completing audits and that would report to an audit committee and the NMFA board to give independence and separation from its internal staff;
- there are two sources of audits, internal and external, and improvements have been made at the board level to ensure vigorous management of internal and external audits;
- because of increased scrutiny related to compliance oversight, the NMFA has approved the implementation of a compliance board and officer to ensure that all loans, rules and regulations are reviewed and monitored;
- the need for shared responsibility between the NMFA board and management; and

- the request that LCS staff write a letter to the NMFA asking that the NMFA respond with details of its proposed new structure and how this meets audit recommendations.

Senator Cervantes invited committee members to add or suggest items to the proposed work plan as presented by Ms. Sullivan, with specific geographic requests included. Among the topics discussed were issues related to Spaceport America and a staff report or agenda item on energy efficiency standards and policies for public buildings financed through the NMFA. On a motion made and seconded, the committee adopted the proposed work plan and approved staff working with the chair and vice chair to finalize the proposed schedule and meeting locations.

2014 Session Legislation Summary

Ms. Ryan gave a brief overview of endorsed bills and a memorial that passed during the 2014 session, which included House Bill 12: the NMFA PPRF projects; Senate Bill 31: the Local Government Planning Fund bill; Senate Finance Committee Substitute for Senate Bill 112 (SFC/SB 112): WPF and APF projects and additions and amendments to the Water Project Finance Act; and Senate Joint Memorial 4: calling on several entities to study the state's role in building broadband infrastructure. Ms. Ryan said that although these four pieces of legislation passed, SFC/SB 112 was vetoed.

In response to a question about the governor's reasons for vetoing SFC/SB 112, Ms. Ryan reviewed the governor's veto message. Committee members disputed assertions made in the veto message, commenting on:

- the repeated hearings and debate on this bill in both the house and senate;
- that the legislature would have had a greater role in the process through passage of this bill;
- the question of whether the \$30 million worth of projects in this bill can be used now to fund projects already authorized;
- that the bill would have allowed for projects to come back each year for reauthorization to ensure that the legislature is funding shovel-ready projects;
- how the current process of earmarking projects without relating these earmarks to actual funding is a flawed process;
- that there needs to be more clarity and information-sharing regarding projects that are qualified for NMFA funding; and
- in an effort toward transparency, coordination and full vetting of projects and an earlier date for project approval could be initiated to allow legislators to have better knowledge of the projects, better input about which projects to fund and better coordination between the executive and legislative branches.

Board Report

Mr. McDermott reviewed the NMFA project activity, which amounts to \$108 million in loan volume to six programs. After giving details of the amount in each program, he said that the NMFA is meeting its loan objectives for the year. He mentioned that two-thirds of the projects

financed were at the level of less than \$1 million, and the median project approved was at \$268,000, which both reflects NMFA policy and staff efficiency in evaluating loans in a wide price range.

Mr. McDermott added that the NMFA continues to issue its bonds at the highest or second-highest rates available, thus maintaining the lowest-cost capital available in any state program he has seen. The NMFA also provides additional guarantees that improve bond ratings, and the NMFA has an outstanding track record on defaults, as well. He said that the NMFA has issued about \$100 million in bonds in the last 12 months.

Related to audit status, Mr. McDermott reported that these issues have been systematically worked through over the past 18 months through both an audit committee and an interim CEO. He stated the importance of implementing software for loan servicing for productivity and transparency and that the NMFA has a time line and is working on an RFP for this purpose.

In response to questions about the APF, Ms. Russel indicated that there are no new legislative authorizations to process, but the NMFA has closed nine projects over the last year and one-half and that the fund only has a \$200,000 contribution and, thus, is not a good place from which to seek funding. Finally, a suggestion was made to discuss at the joint meeting with the WNRC the development of a long-term plan for forest and watershed restoration.

Adjournment

There being no further business before the committee, the meeting adjourned at 12:41 p.m.