

MINUTES
of the
FIRST MEETING IN 2008
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

May 28, 2008
Room 322
State Capitol, Santa Fe

The first meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, at 9:17 a.m. on Wednesday, May 28, in Room 322 of the State Capitol in Santa Fe.

Present

Sen. Mary Kay Papen, Chair
Rep. Daniel P. Silva, Vice Chair
Rep. Richard J. Berry
Rep. Dona G. Irwin
Rep. Patricia A. Lundstrom
Sen. Nancy Rodriguez
Sen. H. Diane Snyder
Rep. Don L. Tripp

Absent

Rep. Janice E. Arnold-Jones
Rep. Elias Barela
Sen. Joseph J. Carraro
Sen. Clinton D. Harden, Jr.
Rep. Jane E. Powdrell-Culbert
Sen. Lidio G. Rainaldi
Rep. Henry Kiki Saavedra
Sen. David Ulibarri
Rep. Richard D. Vigil

Advisory Members

Rep. Anna M. Crook
Sen. Dianna J. Duran
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Rep. Roberto "Bobby" J. Gonzales
Rep. Ben Lujan
Sen. Leonard Lee Rawson
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton
Rep. Luciano "Lucky" Varela

Sen. Vernon D. Asbill
Rep. Jose A. Campos
Sen. Pete Campos
Rep. Ernest H. Chavez
Sen. Kent L. Cravens
Rep. Candy Spence Ezzell
Rep. Daniel R. Foley
Sen. Stuart Ingle
Sen. Richard C. Martinez
Rep. W. Ken Martinez
Sen. Steven P. Neville
Rep. James R.J. Strickler
Sen. James G. Taylor
Rep. Thomas C. Taylor

Staff

Doris Faust, Legislative Council Service (LCS)

Cleo Griffith, LCS

Larry Matlock, LCS

Tom Pollard, LCS

Guests

The guest list is in the original meeting file.

Call to Order and Welcome

Senator Papen called the meeting to order. She welcomed the members, staff and audience to the committee's first meeting of the 2008 interim and asked Mark Valenzuela to begin his presentation pending the arrival of Paula Tackett, director, LCS.

2008 Legislation Summary

Mr. Valenzuela, director of governmental affairs and legislative finance strategy for the NMFA, gave a summary of passed and signed legislation relevant to the committee. He discussed House Bills 2, 172 and 308 as well as Senate Bills 8, 18, 146, 161, 242, 333, 352, 442 and 489. His handout, created by New Mexico Legislative Reports, is in the meeting file.

Mr. Valenzuela introduced Marcos Gonzales, an intern at the NMFA who graduated with a degree in finance from the University of New Mexico.

Explaining that the NMFA does not push any projects, but merely offers advice, Mr. Valenzuela once again disavowed any responsibility for the proposed tilapia farm project for which he was called as an expert witness on the floor of the senate during the 2007 regular session. "We want to stay away from anything not vetted through the interim process", he said. He mentioned House Bill 172, which had unanimous support. He said that the NMFA can fund any project from the Public Project Revolving Fund that costs less than \$1 million without legislative authorization and that the NMFA works with communities on their "wish lists". Representative Gonzales requested to see all of those lists. Mr. Valenzuela agreed to mail the lists.

Mr. Valenzuela announced that the NMFA will conduct regional town hall meetings during the month of August to work with communities on funding their local projects and to put more specificity in the project authorization bill.

Representative Varela asked whether health care facilities are on the Public Project Revolving Fund bill. Mr. Valenzuela responded that there is a separate fund for health care facilities, which is limited to government-owned facilities. Loan forgiveness in amounts between three percent and 20 percent is available for facilities that provide indigent care. He

mentioned the existence of a primary care capital fund into which the legislature put \$6.5 million about 12 years ago, most of which has been exhausted.

During a discussion of House Bill 308, which authorizes the NMFA to make loans or grants from the Water Project Fund, Mr. Valenzuela explained that 80 percent of the money goes to grants, and that, although the NMFA processes the paperwork, the Water Trust Board makes the decisions as to where the money goes. Thirty-five million dollars is available. Representative Lundstrom requested a comprehensive presentation on the process of allocating those funds.

During questioning by Senator Papen regarding House Bill 308 and how much money is taken "off the top" for the state engineer, Mr. Valenzuela explained that the Administrative Office of the Courts and the Office of the State Engineer receive two percent of the 10 percent from the Water Trust Fund, which comes to \$3.5 million each to adjudicate water rights. The committee requested a presentation from them on how they have been spending that money.

A discussion ensued regarding the declining federal funds available for "clean" water, which actually refers to wastewater, and drinking water. Mr. Valenzuela explained that the federal funds for clean water have decreased. Drinking water federal funds total \$8.5 million, while clean water is only at \$7.5 million. Representative Tripp asked if the state had "maxed out" the federal match.

Mr. Valenzuela responded that the state is at the bare minimum and could employ strategies to get more federal funding. When Representative Tripp asked if the NMFA wanted to sponsor a bill to increase the funds used for the federal match, Mr. Valenzuela responded that it would take a lot of research, mostly by the Department of Environment. Senator Snyder requested a fact sheet to be used when lobbying the state's congressional delegation.

Mr. Valenzuela explained that a "water cabinet" had been created by executive order that could answer these questions better than the NMFA. Ms. Tackett offered the help of her staff. Representative Lundstrom asked Ms. Tackett to include potential conflicts with legislative authority.

During discussion of Senate Bill 442, Senator Rawson requested some analysis of Albuquerque Metropolitan Court funding. Mr. Valenzuela explained that, although the NMFA has not closed out the fiscal year, that funding source is examined on a monthly basis. He explained that he did not know the reason for the decline in funds from the red light cameras and had asked the Legislative Finance Committee (LFC) to examine it more closely.

Interim Legislative Meeting Protocols

Ms. Tackett addressed questions and concerns regarding interim committee protocols. She began with the issue of obtaining a quorum. She said that a quorum consists of one-half plus one of the voting members assigned to the committee. She said that the speaker of the house and the president pro tempore have the authority to appoint voting members to the committee. Once a quorum is established, it is presumed to exist. She also said that a committee can dissolve into a subcommittee to hear testimony and for purposes of reimbursement. A subcommittee consists of a chair or vice chair, one house Democrat, one house Republican, one senate Democrat and one senate Republican. She added that members may resign at any time. Only voting members are allowed to vote. She then discussed the blocking provision, which states that no action shall be taken if a majority of members from one house votes against the measure. Ms. Tackett addressed issues related to the sound systems in the committee rooms. The sound systems adjust automatically and are easily disrupted by background noise. If a committee member is having trouble hearing, Ms. Tackett suggested checking for excessive background noise (e.g., side conversations, paper rustling, typing, etc.). She also noted that laptop screens block the microphones. She said that the microphones should be turned off until a member is ready to speak to avoid feedback. Finally, Ms. Tackett discussed the interim committee calendar. She said that meeting conflicts were avoided as best as possible during the calendar creation. She added that any changes to the calendar must be approved by the Legislative Council.

After Ms. Tackett's presentation, Representative Lundstrom suggested that there might be an absence of a quorum. Speaker Lujan appointed Representative Sandoval to serve as a temporary voting member during the meeting. That established a quorum, allowing the committee to approve its proposed work plan and budget.

Review and Discussion of Work Plan, Meeting Dates and Locations for the 2008 Interim

Ms. Faust presented the work plan and proposed meeting dates and locations, explaining that the dates had been set by a computer program to reduce conflicting dates among voting members. The proposed work plan, dates and locations are in the meeting file.

Representative Lundstrom moved for the committee to write a letter to the Legislative Council requesting approval for legislators' per diem and mileage to attend the "New Mexico First Townhall Meeting" on August 7, 8 and 9. The motion was seconded and passed without objection.

After suggestions from the members about the exact venue for the Albuquerque-area meeting, Senator Snyder moved to adopt the work plan, meeting dates and locations. Representative Silva seconded the motion, which passed without objection.

GRIP Bonding Issues and Auction Rate Securities

William C. Sisneros, chief executive officer, and Scott Stovall, chief investment officer, both of the NMFA, and Mr. Valenzuela gave the committee a handout entitled, "GRIP Program:

Summary of Refunding of Auction Rate Securities". The handout, which compares auction rate securities with variable rate demand bonds, is in the meeting file.

Mr. Sisneros gave an overview of NMFA bond sales. He discussed auction rate securities, which normally require a new auction every seven days or two weeks. They include a default provision that makes the interest default to a higher rate if there are no bidders at an auction. Due to the subprime mortgage crisis, there were no buyers for NMFA auction rate securities, triggering the requirement that the NMFA pay a default rate of 12 percent for a short period of time. The NMFA is currently out of the auction rate securities business.

Mr. Sisneros assured the committee that action was taken, and the problem was solved. The NMFA will now make sure that other projects are not subjected to similar problems. He explained that "this aberration will cost us about \$3.8 million". Mr. Stovall is now charged with making investments to recover as much as he can.

Representative Lundstrom noted that by phasing projects, the legislature is losing money because of constant inflation. She said that the longer the state waits, the weaker its buying power becomes.

New Markets Tax Credit Update

Marquita D. Russell, chief of programs, NMFA, was joined by Mr. Valenzuela and Traci Davis for their presentation. Their handout, "New Markets Tax Credit Initiative and Program Policy Overview", is in the meeting file.

Ms. Russell explained that the NMFA's tax credit allocation agreement was finalized on February 15, giving it two years to distribute the credits. She explained the NMFA's goals for the tax credit program, demonstrated the leveraged model, examined key policy issues and listed the next steps for each.

She explained that in 2006, the legislature adopted a law that allowed the NMFA to create a for-profit entity that would make loans for small businesses through a competitive application process. This entity is a licensed limited liability company called "Finance New Mexico".

One of the program goals is to provide flexible sources of capital to businesses primarily in rural areas, with a distribution of 60 percent in urban areas and 40 percent in rural areas. Policies already in place allow the NMFA to finance those projects with the most impact first, while also considering job creation and community support. Financing projects that normally would not get financed allow the NMFA to make sure that the jobs created are high-wage jobs.

The benefits of this program include:

- the borrower gets its project financed at advantageous terms;
- investors get tax credits equal to 39 percent of the total amount invested by a community development entity over a seven-year period, five percent in the first three

- years and six percent for the last four years;
- projects are typically structured to generate an internal rate of return of eight to 10 percent for the investor;
- at the end of the seven-year period, the borrower refinances both the conventional loan and the new markets tax credit (NMTC)-proceeds loan; and
- the NMFA is able to re-lend the money to other businesses without the NMTC constraints and restrictions.

Objectives of the NMTC include:

- providing a framework for prioritization of projects;
- providing potential applicants with a general sense of structuring and potential NMTC benefits;
- ensuring that policies reflect the dynamic nature of the program and the stage of program development; and
- revisiting policies after the first round of applications for adjustments.

Representative Gonzales asked if other states are using similar tactics. Ms. Russell responded that most entities are the for-profit arms of banks, such as community development programs. Phoenix and Los Angeles have public entities that run the programs, but the NMFA is different because it uses competitive applications with economic impact criteria. She explained that this makes the NMFA well positioned for additional investments.

With no further committee business to be conducted, the committee adjourned at 1:12 p.m.