MINUTES
of the
SIXTH MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

November 1-2, 2007
Room 307, State Capitol
Santa Fe

The sixth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, vice chair, at 10:20 a.m. on Thursday, November 1, 2007, in Room 307 of the State Capitol in Santa Fe.

Present
Rep. Daniel P. Silva, Chair (11/2)
Sen. Mary Kay Papen, Vice Chair
Rep. Janice E. Arnold-Jones
Rep. Elias Barela
Rep. Richard J. Berry
Sen. Joseph J. Carraro (11/2)
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Rep. Patricia A. Lundstrom (11/2)
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. Don L. Tripp (11/1)
Rep. Richard D. Vigil

Absent
Sen. Lidio G. Rainaldi
Sen. H. Diane Snyder
Sen. David Ulibarri

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 (11/1)
Rep. Thomas A. Garcia
Rep. Ben Lujan
Sen. Richard C. Martinez (11/1)
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton
Rep. James R.J. Strickler
Rep. Thomas C. Taylor (11/2)
Rep. Luciano "Lucky" Varela

Sen. Ben D. Altamirano
Sen. Vernon D. Asbill
Sen. Pete Campos
Sen. Kent L. Cravens
Sen. Mary Jane M. Garcia
Rep. Roberto "Bobby" J. Gonzales
Sen. Stuart Ingle
Rep. W. Ken Martinez
Sen. Steven P. Neville
Sen. Leonard Lee Rawson
Sen. James G. Taylor

Also in attendance:
Sen. Rod Adair (11/2)

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

Guests

The guest list is in the original meeting file.

Staff
Cleo Griffith
Doris Faust
Aldis Philipbar

Thursday, November 1

Update on Grip II and the Local Transportation Infrastructure Fund

Mark Valenzuela, director, intergovernmental relations, NMFA, began by discussing 2005 House Bill 979, which created the Local Transportation Infrastructure Fund (LTIF). Mr. Valenzuela said that with passage of the GRIP II bill last session, the LTIF has basically become a grant program, but that the LTIF cannot meet the projected demand for funds. If all 116 GRIP II projects come forward for LTIF funding, the demand would be approximately $130 million; but there is only $20 million in bonding capacity from the fund. One solution would be to cap project grants at $500,000 in order to ensure access to funding for more communities.

The LTIF statute requires that the Department of Transportation (DOT) provide the NMFA with a list of proposed projects. GRIP II requires that local governments put up matching funds for each transportation project. Mr. Valenzuela noted that a project will not be certified until it can prove that it has a local match, although in-kind contributions may qualify for the local match. Mr. Valenzuela then presented the committee with the GRIP II project list, which included the location, cost of each project, the representation of the state share of money and the local match. The first 73 GRIP II projects have already been approved, using the first $50 million in funds.

The committee discussed:

* various specific projects;
* how the GRIP II approved list was generated;
* whether the NMFA can invest funds without paying arbitrage fees;
* whether the funding process is sufficiently transparent;
* how the in-kind contributions work;
* what local communities need to show for their in-kind contributions; and
* the second round of GRIP II projects.

NMFA Outreach to Smaller Communities and Small-Community Needs

William F. Fulginiti, executive director of the New Mexico Municipal League (NMML), began by stating that most small communities do not have the revenue base to handle large projects. He said the NMFA put together a program to help these communities participate at the state level. Disadvantaged funding goes toward the first $200,000 of bond issuance cost on loans for projects and allows municipalities to qualify for a lower interest rate. Interest rates are based on the local median household income relative to the state median household income. The NMFA would like to do more, but in the absence of grant funding, the towns have to have the capacity to repay a loan. The Water and Wastewater Project Grant Fund for wastewater treatment facilities was very beneficial for these smaller communities, because many of them do not have the tax base to repay loans.

Mr. Fulginiti went on to say that the NMFA is in direct contact with 500 community leaders each year and had a record attendance of over 900 people at its meeting in Las Cruces. He said that NMFA assistance in planning programs is a direct result of county requests.

Paul Gutierrez, executive director of the New Mexico Association of Counties, said that the NMFA has attended annual meetings of the NMML to lend its expertise. Currently, 24 counties participate in disadvantaged funding. He said that smaller counties are interested in continued technical assistance, while larger counties are interested in continuing infrastructure, housing and energy-efficiency programs.

In response to questions from the committee, the panel stated that areas receiving disadvantaged funding are not always the most obvious. For example, Angel Fire receives disadvantaged funding because, even though there are expensive homes owned by people who live out-of-state, the average Angel Fire resident is under the poverty level. The panel stated that it is beneficial to New Mexico to have people from out of state owning homes here because they pay property taxes while using fewer services. The panel also said that both the public and private sectors are having problems when it comes to environmental and construction issues. They also said that the NMFA has not issued any industrial revenue bonds (IRBs) because there has not been a demand for that form of financing. However, the demand for IRBs may increase with the advent of more tax increment financing districts.

The committee recessed for lunch at 12:30 p.m.

Border Authority Legislative Proposal Drafts

It was reported to the committee that the Border Authority has decided not to pursue draft legislation this year.

NMFA Participation in New Markets Tax Credit Program, Review of Related Federal Law and Proposed Use of Credits

Mr. Valenzuela provided a brief history of the federal new markets tax credit program, which was designed to encourage equity investors to invest in businesses in low-income areas. The goals of the program include creating additional, more flexible sources of private capital for businesses and commercial real estate projects in rural and underserved areas, increasing the total volume of financing and providing more flexible loan structures. The credits are designed to attract investment capital from corporate or individual taxpayers to low-income communities, and target lending that coordinates and leverages financial and tax incentives. Project eligibility includes areas availiable for the development of commercial, industrial and retail real estate; projects (including community facilities) in low-income census tracts; for-sale housing; and loans or investments in low-income census tracts.

Marquita D. Russel, chief of programs for the NMFA, said that there is a lack of access to capital in low-income communities. The Smart Money Program works well in conjunction with the new markets tax credits and will help these communities gain access to capital. The Smart Money Program requires the fewest resources, shares risk with the bank, provides interest rate buy-downs for businesses and utilizes relationships and lending expertise of local banks.

In response to questions from the committee, Ms. Russel stated that the NMFA's relationship in the Smart Money Program is with the bank, allowing the NMFA to focus on helping businesses through the bank. She said that investors must keep their investment money in the business for seven years, but the investors get tax credits over those seven years. The NMFA gets 3% of every transaction to cover the cost of monitoring the transaction.

The committee discussed:

* how the term "rural area" is defined and what parts of New Mexico will qualify for tax credits;
* possible consequences if a business that obtained tax credits fails;
* what the NMFA will do with its fees; and
* timing for issuance of the tax credits.

The committee recessed for the day at 3:00 p.m.

Friday, November 2

NMFA Legislative Proposal Drafts

William Sisneros, CEO of the NMFA, and Mr. Valenzuela discussed four items of proposed legislation for which the NMFA will seek committee endorsement, including appropriations for the Drinking Water State Revolving Fund (DWSRF) and the Local Government Planning Fund and a bill authorizing the NMFA to make loans for private projects from the Economic Development Revolving Fund and the Public Project Revolving Fund (PPRF). The committee will vote on the actual bill drafts at its December meeting.

After reviewing a proposed draft of a $1 million appropriation bill for the Local Government Planning Fund, the committee members expressed concern that the money could be used for economic development, in addition to its historic use for planning for water and wastewater systems. In response to questions from the committee, the panel stated that criteria for emergency status involves an initiative from the New Mexico Department of Environment (NMED) and that there are alternatives in case of an emergency situation. Not more than

$50,000 can go to any one project. Language regarding this stipulation is included in the rules, but not in the language of the bill. It was requested that it be added. If the project costs more than $50,000, alternative funding would have to be sought.

The DWSRF bill seeks an appropriation of $2 million in state funds to match a federal grant program. The bill requires a state match of 20%. The federal government will provide the NMFA with $8 million to $8.5 million if the state provides $2 million. The current asset value of the fund is $100 million, $70 million of which has already been closed out to fund projects. The remaining $30 million is obligated, so once the $2 million in state funds has been approved, the NMFA will begin getting the $10 million out into the community. Money is available to anyone who applies, whether urban or rural. There are approximately 30 projects under way with the $70 million.

The panel then discussed the PPRF project authorization bill. In order to be on the project authorization list, an entity seeking funding must establish that it is a qualified entity, that the project is a qualified project and that the borrower has a revenue stream to pay off the loan. Previously, the NMFA charged a standard flat fee of 1.7% to entities seeking funding, but now the NMFA uses a sliding scale that includes programs for disadvantaged areas based on median household income (MHI). If an area's MHI is between 75% to 90% of the state MHI, it qualifies for an interest rate of 3%. If the area is under 90% of the state MHI, then it qualifies for 0% interest. The panel said that the NMFA is seeking projects on Navajo land. The majority of entities using the PPRF are small communities and volunteer fire districts. However, school districts are becoming a growing component.

Traci Davis, senior program administrator, and Ms. Russel then discussed the Statewide Economic Development Finance Act, and the Smart Money Loan Participation Program, which was created by that act. Ms. Russel noted that this program seeks to create "the kind of jobs you want your children to have". Under the Smart Money Program, the NMFA may participate in up to 49% of a bank-originated loan. The NMFA's share generally will not exceed $2 million. This allows for more flexibility in structuring below-market interest rates and a shared risk with the bank. Currently, there is a total of $81 million in Smart Money projects. The proposed bill will not seek additional appropriation, but will list proposed projects for legislative authorization.

SunCal Tax Increment Financing District Proposal

Will Steadman, president of SunCal New Mexico, said that SunCal is involved in master-planned communities throughout the west. SunCal's priorities lie in economic development, education, creating a sustainable environment and having an inclusive community-planning process. Mr. Steadman said that SunCal chose New Mexico for its next large project because it believes New Mexico is positioned to be the next boom state. The overall land holdings of the company in New Mexico include 55,000 acres located near the Petroglyph National Monument and the first phase of development will cover approximately 4,000 acres.

Luisa Casa, Sun Cal's vice president of economic development, said that tax increment development districts (TIDDs) allow for well-planned industrial and business parks and housing communities, alleviate pressure on infrastructure growth and are competitive on a regional and national scale. TIDDs create a balance between jobs and homes.

Vanessa Alarid, Sun Cal's governmental affairs manager, added that TIDDs drive economic development and job growth in the region. They are formed by a public process and governed by a TIDD board. They also fund the construction of infrastructure. TIDDs finance bond sales, bond sale proceeds fund public infrastructure and the bond is repaid from tax increment revenue generated in the TIDD. Increased tax revenues are funneled back into the TIDD to stimulate more development.

SunCal is proposing nine separate TIDDs for the property. The fiscal impact study indicates that 50% of the county property tax, 25% of the county gross receipts tax and 70% of the state gross receipts tax could be diverted to the TIDDs. The TIDD statute allows a maximum of 75% of the gross receipts tax and property tax to be diverted, but a fiscal impact report must show that there is not a negative impact on the government entities from the tax diversion.

In response to questions from the committee, the panel stated that there are two businesses already located in the upper Petroglyphs area of SunCal's property. SunCal is not sure how much of the purchased area will be developed, but it has approval for a portion of the project to utilize the existing water rights and water treatment facility. SunCal officials said that they do look at the environmental impact and that they are currently in discussions with Albuquerque Public Schools on school-related issues.

The committee discussed:

* water issues related to growth on the west side of Albuquerque;
* the current revenue stream;
* management of the TIDD bonds;
* maintenance of infrastructure developed with TIDD financing; and
* a comparison of the Mesa del Sol TIDD plan with the SunCal TIDD plan.

Adjournment

There being no further business, the committee adjourned at 1:00 p.m.