

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

**October 1-2, 2009**  
**New Mexico State University Pan Am Center**  
**Barbara Hubbard Room**  
**Las Cruces**

The fifth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Patricia A. Lundstrom, chair, at 9:20 a.m. on Thursday, October 1, 2009, at the New Mexico State University Pan Am Center.

**Present**

Rep. Patricia A. Lundstrom, Chair  
Sen. Mary Kay Papen, Vice Chair  
Rep. Anna M. Crook  
Rep. Brian F. Egolf, Jr. (10-2)  
Sen. Stephen H. Fischmann (10-2)  
Rep. Dona G. Irwin  
Rep. Jane E. Powdrell-Culbert  
Rep. Benjamin H. Rodefer  
Sen. Nancy Rodriguez  
Rep. Henry Kiki Saavedra  
Rep. James R. J. Strickler  
Sen. David Ulibarri

**Advisory Members**

Rep. Janice E. Arnold-Jones (10-2)  
Rep. Ernest H. Chavez  
Sen. Dianna J. Duran  
Rep. Candy Spence Ezzell  
Rep. Mary Helen Garcia  
Sen. Timothy M. Keller  
Sen. Richard C. Martinez  
Rep. Andy Nuñez  
Rep. Edward C. Sandoval  
Rep. Sheryl Williams Stapleton (10-2)  
Rep. Thomas C. Taylor (10-1)

**Absent**

Rep. Elias Barela  
Sen. Sue Wilson Beffort  
Rep. Richard J. Berry  
Sen. Kent L. Cravens  
Sen. Tim Eichenberg  
Sen. Clinton D. Harden, Jr.  
Sen. George K. Munoz  
Rep. Richard D. Vigil  
  
Rep. Jose A. Campos  
Sen. Mary Jane M. Garcia  
Rep. Thomas A. Garcia  
Sen. Stuart Ingle  
Rep. Ben Lujan  
Rep. W. Ken Martinez  
Sen. John M. Sapien  
Rep. Luciano "Lucky" Varela

## **Guest Legislators**

Rep. Andrew J. Barreras (10-2)

Rep. Debbie A. Rodella (10-2)

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

## **Staff**

Doris Faust

Sandy Mitchell

Tom Pollard

## **Thursday, October 1**

### **Call to Order**

Representative Lundstrom called the meeting to order and asked the committee members and staff to introduce themselves. She then turned the meeting over to Senator Papan to act as chair.

### **Overview of Local Capital Projects and Capital Needs**

Mayor Pro-Tempore Dolores Archuleta, Las Cruces, welcomed the committee members to Las Cruces. Robert Garza, assistant city manager, Las Cruces, provided the members with a quick overview of the city's projects. A regional recreation and aquatic center is under construction and is scheduled to open next summer. A new city hall is substantially completed and will be ready for move-in at the end of the year. The city has broken ground on a convention center on New Mexico State University (NMSU) property and has begun renovations to downtown Las Cruces. The city has received \$2 million from the federal government to help with the downtown renewal. The city has implemented a tax increment development district (TIDD) for the Las Cruces downtown and would like the state legislature to contribute a portion of the state's gross receipts tax (GRT) for it. Representative Lundstrom asked Mr. Garza to provide the committee with the TIDD's projected revenues. Mr. Garza was asked about the bus service between Las Cruces and El Paso. He said the bus service started September 1 and is being heavily used.

Mayor Michael Cadena, Mesilla, discussed the capital needs of the Town of Mesilla. The town is requesting funding for road, utility and drainage improvements. The mayor also asked for support from the legislature to preserve and maintain the Taylor-Barela-Reynolds State Monument. The mayor was asked if a needs assessment for the monument had been performed. He replied that it had. One hundred thousand dollars for each year through fiscal year 2014 is needed for electrical upgrades; \$75,000 is needed for the federal Americans with Disabilities Act compliance; \$50,000 is needed for the historic structure preservation plan; and \$75,000 is needed for preservation of the building. An informal motion by Representative Lundstrom was seconded and approved without objection to have the committee send a letter to the governor asking for \$175,000 from the governor's discretionary funds for capital improvements to the monument. A second informal motion by Representative Lundstrom was seconded and

approved without objection to have the committee send a letter to the Department of Finance and Administration (DFA) asking it to do a query of available individuals to be placed on assignment at the monument for at least a year.

Leticia Duarte-Benavidez, chair, Dona Ana County Commission, and Chuck McMahon, director, Community Development Department, Dona Ana County, discussed the capital needs of Dona Ana County. The top five priorities are: a flood control and wastewater project for Chaparral Road, East Mesa flood control and roads, Anthony Drive flood control and drainage, a crisis triage center and Brown Farm flood control. Jamie Michael of the Dona Ana County Health and Human Services Department explained that the crisis triage center will provide a safe and secure environment for law enforcement officers to take detainees that are mentally ill or perceived to be mentally ill. The center would offer detainees a psychological assessment, medical treatment, stabilization and a referral to a program for continued services. The center would provide a place other than the emergency room at a hospital or a jail to take mentally ill detainees. Ms. Michael explained that the center would be used only for nonviolent and nonsubstance abuse cases.

Mr. McMahon discussed the county's proposed TIDD. He described it as a job creation and economic development tool. He said the unemployment rate in the county is high and the county needs jobs. Mr. McMahon said that the proposed TIDD would complement the foreign trade zone and the investments in the port of entry, Pete V. Domenici International Beltway and Dona Ana County Airport, and it would be consistent with the approved Santa Teresa area master plan. Representative Lundstrom said she would like to see revenue projections for the proposed TIDD. She also asked the county to provide information on what other funding sources the county has looked at for its capital projects.

Mr. McMahon was asked if there is any way to ensure that jobs at the port of entry go to New Mexicans rather than Texans. He replied that New Mexico will benefit in terms of property taxes and GRTs even if there is no assurance that the jobs go to New Mexicans. Committee members also asked about water rights in the proposed TIDD and procedures at the proposed crisis triage center. Representative Sandoval asked the county to provide the committee with the monetary amounts that are needed for its projects rather than the total costs of its projects.

### **Spaceport Authority Budget and Proposed Legislation**

Steve Landeene, executive director, Spaceport Authority, and Geno Zamora, general counsel, New Mexico Economic Development Department, discussed the Spaceport Authority's budget and proposed legislation. Mr. Landeene said they are not prepared to present legislation to the committee because they were still working on changes to the bill. They are taking out immunity and putting in assumption of risk. The presenters discussed the importance of informed consent legislation in helping the spaceport remain competitive with other states that have supporting legislation.

Mr. Landeene presented the two business models he created in response to the committee's request at its last meeting. He said the models show that the spaceport will provide

the state with a great return on its investment. By the spaceport's tenth year, 2,250 direct and 4,370 indirect jobs will be created, and approximately \$45 million in revenue to the state will be generated. Mr. Landeene described the spaceport's requested fiscal year 2011 operating budget. The spaceport wants an increase of \$372,000 for personnel, including a financial development director, industry/business development director and a program manager; an increase of \$418,000 for professional services, including educational program support, growth in marketing services and legal support for construction and operating activities; and an increase of \$341,000 for other costs, including rancher lease payments, an adjustment to reflect an increase in staff, an increase in conference and symposium outreach, an increase in marketing costs and an account for office needs. The spaceport is also requesting a special appropriation of \$1.35 million for site startup and \$7.5 million for construction.

Mr. Landeene was asked about Virgin Galactic's financial contribution to the spaceport's construction costs. He said the state is paying for the infrastructure, but Virgin Galactic will be the anchor tenant and its lease agreement is how the state will get a return on its investment. Mr. Landeene was also asked how he computed the tourism money projections. Mr. Landeene said he used a conservative model, and the figure is based on tour fees and gift shop profits only. Representative Rodefer questioned Mr. Landeene on the informed consent legislation he is seeking. Representative Rodefer said he would like to see a balance between protecting the spaceport and being responsible to the participants.

### **Tour of the Taylor-Barela-Reynolds State Monument**

John Paul Taylor, custodian of the Taylor-Barela-Reynolds State Monument, provided the committee members with a tour of the monument. The monument consists of three buildings (the residence, the Reynolds Store and the Barela Store) and dates back to the 1850s.

### **Tour of Sunland Park Race Track**

#### **Welcoming Remarks**

Bruce Brubaker, Sunland Park Racetrack, welcomed the committee to Sunland Park. He said the gaming bill that was passed in 1997 has benefited New Mexico, and he wanted to thank the legislature for that legislation. He said that, locally, the economy is hurting and the bad economy has been reflected in the track's revenues, with numbers down for racing, gaming, food and beverages.

#### **Border Region Economic Development Issues**

Jerry Pacheco, executive director, New Mexico International Business Accelerator, discussed economic development issues in the border region. He described the current conditions along the border. He said the violence has not yet abated, the H1N1 virus is still a concern and the recession is still having a negative effect on border industry. Maquiladora employment is down 50,300 jobs since October 2007. A new catalyst in the Santa Teresa area is Foxconn. The company has greatly increased the traffic at the Santa Teresa Port of Entry. In southern New Mexico, the following companies have been recruited in the last three years: Lasershield, D.A., Inc., MCS, Schaefer Outfitter, JH Rose Logistics and Expeditors. They have

brought 272 jobs to the area. Mr. Pacheco discussed the concept of a binational campus. He said New Mexico and Mexico have a chance to create something unique on the U.S.-Mexico border, a world-class production zone. He said this could be New Mexico's niche. He said that because there are no natural boundaries, such as rivers, a single campus is possible. Mr. Pacheco was asked if the employees would still have to go through customs. He said they would. He was asked who would pay for the infrastructure. He said on the U.S. side, it would be the county. On the Mexico side, the developer has paid for a lot of the costs. In response to questioning concerning the roads, Mr. Pacheco said Mexico is paying for a road from Ciudad Juarez to the port of entry.

### **Dairy Issues**

Sharon Lombardi, executive director, Dairy Producers of New Mexico, Joe Gonzalez, vice president, Dairy Producers of New Mexico, and Anthony J. Trujillo, Gallagher and Kennedy Law Offices, discussed the issues affecting the dairy industry in New Mexico. Approximately 75 percent of the state's milk production comes from eastern New Mexico and 15 percent from Dona Ana County. Dairies are family-owned businesses that require a major capital investment. Dairies in New Mexico are suffering because costs (feed, utilities, transportation, regulatory compliance) have increased to an all-time high, while milk prices have dropped to record lows. The dairies cannot pass on cost increases to consumers because the federal government sets benchmark prices. The cost of production for a New Mexico dairy is approximately \$16.50 to \$17.00 per 100 lbs. (cwt) of milk. Milk prices in 2009 were as low as \$9.00 per 100 lbs. (cwt) of milk. Mr. Gonzalez described his losses as a dairy owner to the committee. He has depleted his savings to stay in business. He receives barely enough money for his milk to pay for the cost to feed his cows. He does not earn enough to pay for all the other costs such as labor, property tax, etc. Mr. Gallagher said the dairy industry would like the state legislature to pass legislation providing incentives for the development of biomass projects.

The presenters were asked if New Mexico's congressional delegation understands the gravity of the situation. They said yes, but New Mexico has only five votes in Congress, and the southwest United States does not have the votes to set policy. Committee members wanted to know who is making money in this situation. Ms. Lombardi said the processors are the ones making a profit. Ms. Lombardi was asked whether the cost of production is lower elsewhere in the United States. She said it varies. In Maine, it is more expensive to produce milk. In Texas, the cost of production is lower on the east side of the state than on the west side. The presenters were asked if cheese makers in New Mexico are using out-of-state milk powder to supplement the milk. Mr. Gonzalez said that he did not know, but he would look into it.

### **Lower Rio Grande Public Works Authority Update**

Martin Lopez, registered agent, Lower Rio Grande Mutual Domestic Water Association, provided an update to the committee on the Lower Rio Grande Public Water Works Authority (PWWA) created by House Bill 185 (2009). In June, the authority began construction on an interconnection project of five water systems and applied for community development block grant (CDBG) planning grants. In August, the Lower Rio Grande PWWA board had its first meeting and appointed its officers. In September, the authority was awarded a \$100,000 CDBG

planning grant for creation of governance documents and implementation of the merger plan. In October, the authority will issue a request for proposals (RFP) for a CDBG planning grant for governance documents and the merger.

Representative Lundstrom commented to the committee that this is an example of the kind of project that the NMFA was established to do and should be working on. Other committee members asked questions on the ability to blend waters if arsenic removal is not possible, on the consolidation of debt and on assessments of ability to pay.

### **Update on Verde Realty Development Projects**

Juan Massey, regulatory affairs director, Verde Group, provided an update on Verde Realty development projects. The Logistics Industrial Rail Park expansion is completing phase 1 improvements and initiating design of phase 2 improvements. The Verde Group is working with two large companies on the project (Johnson Plate and Tower and Mitsubishi). The Verde Group has issued an RFP to hire an operator for the rail park. The eSolar/NRG Energy project is an alternative energy project near the Santa Teresa Port of Entry. The facility will have innovative technology. A field of over 400,000 sun-tracking mirrors will reflect light on 32 195-foot towers to create power. Construction should start in early 2010, and operations should start by July 2011. It will create jobs during the construction process, as well as approximately 20 permanent jobs after construction. Mr. Massey said the Verde Group also supports capital outlay projects for a wastewater treatment facility for Sunland Park and Santa Teresa, three facilities for arsenic removal from the water, a safety inspection facility, port-of-entry expansion to provide more lanes, an international railroad bypass, St. John's Road and a HAZMAT fire/police facility. Mr. Massey was asked whether DOT TIGER grants had been applied for since this area was designated as high priority. He said no. He said that the area has applied for Federal Emergency Management Agency (FEMA) funds for the HAZMAT facility, but FEMA has not announced its decision. An informal motion was seconded and approved without objection to have the committee send a letter to the Department of Homeland Security inquiring about homeland security funds for the HAZMAT facility.

### **Tour of New Mexico Border Authority Facilities, Santa Teresa**

Andrew Morales, executive director, Border Authority, and Martin Resendiz, mayor of Sunland Park, welcomed committee members to the new Border Authority facility. Jerry Paz, Molzen-Corbin and Associates, described some of the issues facing Sunland Park. Arsenic in the water is a problem and needs to be removed. The north wastewater treatment plant has failed and needs to be replaced. The cost of the first phase of the wastewater treatment plant project is

\$34 million. The city will be asking the legislature for \$3 million during the next legislative session. Representative Lundstrom commented that this is a project in which the NMFA should be participating. She wants to be sure that local communities are accessing programs run by the NMFA.

### **Friday, October 2**

The meeting was reconvened by the chair at 8:45 a.m.

#### **NMFA Budget**

Jerome L. Trojan, chief operating officer, NMFA, reviewed the budgetary process of the NMFA. Daniel P. Silva, NMFA board member, thanked the committee for its work. He said the NMFA provides a tremendous service to municipalities around the state. Mr. Trojan began discussion of the NMFA's 2010 annual report, strategic plan and operating budget. He reported that the authority has moved to an employee-based operation instead of a consultant-based operation. The authority has built staff capability and now uses consultants in a more strategic role. This has allowed the authority to contain its costs. The efficient financial management of the NMFA has been recognized by the rating agencies that have given the authority six upgrades over the past five years.

Representative Lundstrom expressed concern that the NMFA is avoiding riskier projects, especially in rural areas. She said she wants to ensure that the authority is doing enough projects in rural areas. Mr. Trojan said that the NMFA tries, but there are fiscal constraints. Representative Lundstrom asked Mr. Trojan if the constraints are set by policy, and he said that they are. Representative Arnold-Jones asked if Mr. Trojan had information concerning the criteria for emergency procurement that she had inquired about during a previous meeting. He said he has been working on the budget and did not have this information for her at this time.

Mr. Trojan described the authority's portfolio strategy for loans and investments, its safeguards for preserving the integrity of the Public Project Revolving Fund (PPRF) and its policies and practices. He said the NMFA has an active investment committee. He also discussed the importance of the authority's Office of General Counsel. He reviewed the financial management policies of the authority, including its audit policies. The authority seeks to have a "clean" audit opinion each year. The auditor provides the report to the NMFA board. Mr. Trojan discussed management of the PPRF. He said the authority has underlying loans that it bonds against. The NMFA needs liquid funds to meet the demands of both new loans and existing debt. He described how the underlying security for its transactions are the underlying loans. The NMFA has not had a single loan default in its 15-year history. Its Moody's rating increased from A1 in 2003 to Aa2 in 2006. Its S&P rating went from A- in 2003 to AA+ in 2007. With the higher rating, the NMFA can loan money at a lower cost. Mr. Trojan said the NMFA is trying to improve further on its ratings.

Representative Lundstrom expressed concern that the NMFA may be getting too conservative in order to achieve a AAA rating. She asked Mr. Trojan to provide information on

the NMFA's loan volume in rural areas versus urban areas. Senator Rodriguez asked that he also provide the committee with the NMFA's eligibility criteria, as well as a list of the projects it approved or rejected.

Mr. Trojan described the NMFA's program policies, including its loan monitoring policy, liquidity policy on the PPRF, interest rate policy and structuring policy. He also explained that the PPRF is supported by a processing fee. This enables the fund to be a self-sustaining operation, rather than dependent on general funds. He also explained the NMFA's leveraging and capital ratio policy. The authority manages its business activities to maintain a capital ratio for the PPRF program of not less than eight percent and not more than 12 percent.

Greg Campbell, comptroller, NMFA, discussed the NMFA's budget. For fiscal year 2010, the NMFA's budget is \$187 million. Of that amount, \$9 million is for operating expenditures. He compared the budgets for fiscal years 2009 and 2010 and provided budget projections for fiscal years 2010 through 2014. The budget for 2010 includes money for a public information person who will get information out to the communities, a financial advisor to help with the administration of federal stimulus funds and legal services personnel.

Committee members asked about the administration fee imposed by the NMFA. The NMFA is now charging a one-time upfront fee of one and one-half percent of the loan amount. For drinking water programs, the fee is up to one percent of the loan amount. The presenters were asked if the upfront fee limits or prohibits smaller communities from entering into the process. The presenters said that there has been no indication that this is an issue. Representative Arnold-Jones said she would like it looked at as a policy issue. Representative Lundstrom said she would like an examination of whether the upfront fees are too high. Senator Keller asked how the fees compare to the fees charged by competitors. Mr. Trojan said the NMFA's competitors in the marketplace are charging considerably more.

In response to questioning by Senator Fischmann, the presenters stated that only one renewable energy project loan has been issued by the NMFA. When asked about pursuing such projects, Mr. Trojan said that the NMFA provides financing and information on financing, but it cannot usurp the role of the Energy, Minerals and Natural Resources Department (EMNRD). Senator Fischmann asked Mr. Trojan whether the NMFA has coordinated with the New Mexico Renewable Energy Transmission Authority (RETA) on this issue, and he said no. Senator Fischmann suggested that the NMFA, the RETA and the EMNRD confer with each other and determine where project opportunities exist.

The presenters were asked about the implications of a change in the NMFA's bond rating. Mr. Trojan explained that any change in the bond rating would change how bonds are priced in the marketplace. A committee member suggested that in these difficult economic times, the cost to the state of lowering the bond rating may be less than the cost to the state of making cuts to schools or other vital services. The presenters were also asked about the increase in contractor costs. Mr. Trojan said the increase is driven by legal costs for Water Project Fund programs, which have grown dramatically. Committee members spent considerable time discussing the

burden imposed on small communities by requiring an audit. Mr. Trojan said it can be a problem for small communities to afford the cost of the audit and to attract auditors to do the work. He said the problem is not unique to New Mexico, and that in some other states, the state auditor may have an office to help small communities. Members questioned why an audit should even be necessary for such small entities. Mr. Trojan stated it is a statutory requirement. Some committee members believed legislation may have been passed last session dealing with this issue and that the state auditor may be considering tiered audit requirements at this time. Committee staff was asked to review whether legislation had been passed last session addressing this issue and to report back to the committee.

### **Approval of Minutes**

The minutes of the fourth meeting of the NMFA Oversight Committee were approved without objection.

### **RETA Proposed Legislation**

Jeremy Turner, executive director, RETA, presented legislation for committee endorsement. The legislation would allow the NMFA to purchase RETA bonds, allow bonds to be issued above and below par and provide for the confidentiality of proprietary technical and business information obtained by the RETA. Representative Arnold-Jones asked for clarification on what would constitute proprietary technical and business information. Mr. Turner said it would encompass meteorological data, cost estimates to produce power, detailed financials and power purchase agreements. Representative Arnold-Jones asked if the business name and location would be confidential under this legislation. Mr. Turner said it would not. Representative Arnold-Jones expressed concern that the draft language is too broad and requested that it be rewritten to make it clear that the business name and location are part of the record. Senator Keller suggested that the notice provision be expanded beyond notice by newspaper. A motion to endorse the legislation was seconded and approved without objection.

Mr. Turner also provided the committee with a status report of its activities under Senate Memorial 44 (2009). The RETA is working toward completion of its final report by October 31, 2009.

### **New Mexico Border Authority Update and Budget**

Mr. Morales and Emma Johnson Ortiz, deputy director, Border Authority, presented a list of its capital outlay requests and discussed developments at the state's three ports of entry. There is a seven-mile access road from Mexican Highway 2 to Berrendo that needs to be paved. The Border Authority is advocating for Mexico to get that done. A Mexican highway linking northern Ciudad Juarez to the Santa Teresa/Jeronimo Port of Entry will generate much more passenger vehicle traffic. Mr. Morales discussed the various products that are being imported and exported through New Mexico's ports and reviewed some of the Border Authority's projects and successes. He said the Border Authority is working with Dona Ana County and Sunland Park on the wastewater treatment plant project. He said great collaboration is going on, but funds for the project are still needed.

Mr. Morales was asked to discuss the advantage of cattle crossing in New Mexico. He said Santa Teresa is a better port for cattle crossing because the cattle can cross quickly. Representative Nuñez asked about inspections to detect chili weevils. He expressed concern that they may be affecting the Hatch chili. Mr. Morales said he would look into it and provide follow-up information.

There being no further business, the committee adjourned at 12:00 noon.