

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

September 3-4, 2009
Mid-Region Council of Governments Building
809 Copper Ave. NW
Albuquerque

The fourth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Patricia A. Lundstrom, chair, at 10:20 a.m. on Thursday, September 3, 2009, at the Mid-Region Council of Governments Building in Albuquerque.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Rep. Elias Barela (9-4)
Sen. Sue Wilson Beffort (9-3)
Rep. Richard J. Berry
Rep. Brian F. Egolf, Jr.
Sen. Tim Eichenberg (9-3)
Sen. Stephen H. Fischmann
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin (9-3)
Sen. George K. Munoz (9-3)
Rep. Benjamin H. Rodefer
Rep. Henry Kiki Saavedra
Rep. James R. J. Strickler
Sen. David Ulibarri (9-3)
Rep. Richard D. Vigil (9-3)

Absent

Sen. Kent L. Cravens
Rep. Anna M. Crook
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez

Advisory Members

Rep. Janice E. Arnold-Jones (9-4)
Rep. Jose A. Campos (9-4)
Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Rep. Mary Helen Garcia (9-3)
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia (9-3)
Sen. Timothy M. Keller
Rep. Ben Lujan
Sen. Richard C. Martinez (9-4)
Rep. Andy Nuñez

Rep. Candy Spence Ezzell
Sen. Stuart Ingle
Rep. W. Ken Martinez
Sen. John M. Sapien
Rep. Thomas C. Taylor
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton
Rep. Luciano "Lucky" Varela

Guest Legislators

Rep. Ray Begaye (9-3)

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

Staff

Doris Faust

Sandy Mitchell

Tom Pollard

Thursday, September 3

Call to Order

Representative Lundstrom called the meeting to order and asked the committee members and staff to introduce themselves.

Overview of Local Capital Projects and Capital Needs

Mayor Thomas Swisstack, Rio Rancho, discussed the population of Rio Rancho. He said the community's population now has an average age of 35. Seventy percent of the people who moved to Rio Rancho in the last four years were New Mexicans. Rio Rancho was established only 28 years ago, making it the youngest community in the state. He said the city should have a population of 85,000 in the next census. He said the city's primary needs are related to roads and water infrastructure.

Mark Valencia, CFO, City of Albuquerque, described the capital programs in Albuquerque. He said the Paseo del Norte/I-25 interchange project is the city's top priority in terms of infrastructure projects. It is a very expensive project. Other projects include the Tingley swimming lagoon project; a park to recognize police officers killed in the line of duty; and a program to plant 1,850 trees around the city. Mr. Valencia explained that the city's capital program is fiscally constrained.

Senator Keller asked how much money has been allocated by the City of Albuquerque for projects and not been spent. Mr. Valencia said the city is in the process of getting this figure, and he will get that information to Senator Keller. Representative Saavedra and Representative Rodefer asked about Explora, and Mr. Valencia said he would update them on that project. Mayor Swisstack updated the committee on the construction of Presbyterian Hospital and said it will be opening in the spring of 2012.

Alan Armijo, chair, Bernalillo County Commission, and Thaddeus Lucero, Bernalillo County manager, answered questions from committee members concerning capital projects and capital needs in Bernalillo County. Representative Lundstrom asked whether the county would be interested in federal stimulus funds. They said yes, if those funds are available to counties. Committee members asked numerous questions about the county jails and the housing of prisoners who should be in state prison. The presenters said that the county is not interested in

reimbursement from the state. It is a safety issue, and those prisoners need to be removed from county jails. The presenters estimated that there are 300 prisoners in county jails who should be in state prison. In response to questioning, the presenters said the county's operating budget for jails is over \$60 million per year.

Update on the New Mexico First Town Hall on Growing New Mexico's Energy Economy

Heather Balas, executive director, New Mexico First, and Jennifer Salisbury, New Mexico First Town Hall Implementation Team chair, discussed the results of a town hall conducted on energy issues. The town hall was conducted by New Mexico First, a nonpartisan, nonprofit group that helps to develop recommendations for the New Mexico Legislature on key issues. The town hall was held in May 2009.

The town hall participants concluded that New Mexico should be a leader in renewable energy. The main ideas coming out of the meeting were that the state should: (1) keep doing conventional energy and do it cleaner; (2) broaden its economic base, with a major emphasis on renewable energy production and research; (3) invest in conservation and efficiency; and (4) develop a comprehensive plan on energy. The town hall participants laid out 18 key recommendations for the legislature, which centered on cleaner power plants, building a robust transmission system, developing a renewable energy storage system, work force development and working toward energy conservation and efficiency. The town hall participants also noted the need for regulatory reform to streamline regulatory and permitting requirements so that they are uniform and comprehensive. The presenters commented on the fact that New Mexico is one of only two states that has not adopted the Administrative Procedure Act.

The presenters were asked about the price for attending the town hall. They said it cost \$150 for the three-day meeting, with meals included. They said no one was turned away because of cost. Participants can get a waiver from the fee.

The presenters were asked if they have a "price tag" for any of their recommendations. They said they do not. They are working on prioritizing their recommendations right now. Committee members discussed the recommendation for regulatory reform. One member commented that passage of the Administrative Procedure Act would not cost anything.

Committee members discussed various forms of energy and the economics of renewable energy. The presenters said that cost projections on energy in the future are sketchy. They believe that the cost of conventional energy sources will probably rise, and the cost of renewable energy sources will probably decrease, but they do not have any data on exact costs.

Proposed Revisions to the NMFA Public Project Revolving Fund (PPRF) Rules to Address Charter School Financing

Dr. Lisa Grover, executive director, New Mexico Coalition for Charter Schools, provided the committee with a brief history of charter schools. There are 73 charter schools in operation in 22 out of 89 school districts in the state. About 10 percent of the public school students in Albuquerque attend a charter school. Between 1999 and 2004, the legislature provided no funds

for charter school facilities. In 2004, the legislature passed legislation establishing the Lease Assistance Fund, which provided for facility funding. Legislation passed last session provided for a pilot project to make charter schools eligible for loans under the NMFA's PPRF program. Dr. Grover discussed how the first seven pilot schools were chosen and provided a snapshot on charter school facilities. Representative Sandoval asked for that information to be provided in writing to the committee.

Marquita Russell, chief of programs, NMFA, provided the committee with a copy of the proposed changes to the rules governing the PPRF. The NMFA will require charter schools applying for PPRF money to provide as part of their application a business plan; current audits of the school; evidence of annual lease payments budgeted in the chartering school district or the Public Education Commission (PEC); certification of a good faith effort to identify another qualified school to lease the facility if the charter school's charter is revoked; an appraisal acceptable to the NMFA; quarterly reports to the Public Education Department (PED) for the last five years; and certification of the PED's approval of the terms of the proposed lease-purchase agreement. The rules will provide that if the charter school is a component unit of a school district, the district will be the applicant and will act as the lessee.

Patricia Matthews, attorney, Matthew Fox Law Firm, said she was before the committee to explain the concerns of the charter schools. She said the charter schools are concerned about having the school district act as the applicant because the school district would have control over the building and the charter school would never acquire title to it.

Paul Cassidy, managing director, RBC Capital Markets, provided the committee with a chart comparing financing sources for charter schools. He said that an NMFA PPRF loan could save a charter school approximately \$30,000 per year on a \$1.3 million school purchase.

Representative Egolf said he would propose an amendment to the rules to allow a charter school itself to apply for a PPRF loan.

The presenters provided information to the committee on the two ways a charter school can get authorized in the state. They said that out of the 73 charter schools in the state, 10 are authorized by the PEC. The rest are authorized by local school districts. Two percent of a charter school's budget goes to the entity that authorized the school.

Dr. Grover was asked to provide the committee with the number of charter schools that have had audits. Ms. Russell was asked to provide the committee with a chart showing the pros and cons of the following issues raised by committee members:

- An amendment to Section 3, Subsection C, of the rules (page 1) allowing a charter school itself to be an applicant.
- An amendment to Section 3, Subsection R, of the rules (page 3) changing "governmental purpose" to "educational purpose".
- Was "school district" intended as the applicant, and what does "best efforts" mean (provide examples) in vi. (page 6)?

- Does "chartering authority" mean "school district" in Item C, Number (3) on page 10?
- Why no ceiling or cap on the contribution to the Repair and Replacement Fund?

Representative Lundstrom requested that Ms. Russell share the chart with the NMFA board. She also requested that Ms. Russell attach a copy of the Public School Buildings Act and Senate Bill 600 (2006), with the fiscal impact report, to the chart.

Spaceport Authority Update and Legislative Summary

Steve Landene, executive director, Spaceport Authority, explained to the committee that commercial space is coming of age, and the investment community is recognizing it as a worthy investment. He discussed Aabar's investment of \$280 million to \$380 million in Virgin Galactic. He also discussed the effects the spaceport can have on other industries and the economy. He went over the Spaceport Authority (SA) organization. In 2011, the SA is looking to fill three new positions: (1) financial/education development director; (2) industry/business development director; and (3) program manager. He said the financial/education development director will allow the SA to pursue additional funding. The industry/business development director is necessary to focus on securing business partners. The program manager is necessary to ensure operational efficiency. Mr. Landene discussed the accomplishments of the spaceport, including the first educational launch in May, the groundbreaking in June and the installation of lunar lander pads in July. He said the SA's funding profile looks good and federal funding opportunities are being pursued.

In response to questioning, Mr. Landene stated that the first flights are expected to begin in March 2011. Mr. Landene also responded to questioning concerning roads to the spaceport and the water needs of the facility. Mr. Landene also responded to questioning concerning industry competition. He said that a robust industry will benefit all spaceports, but the unique elements in New Mexico, including its weather, climate and restricted air space, will always give the New Mexico spaceport an advantage.

Representative Lundstrom asked Mr. Landene to provide a more detailed operating budget tied to a strategic plan when he returns before the committee.

The committee recessed at 5:00 p.m.

Friday, September 4

The meeting was called to order by the chair at 8:45 a.m.

Update on Rail Runner Budget and Operations

Chris Blewett, project manager, New Mexico Rail Runner, and Lawrence Rael, executive director, Mid-Region Council of Governments, provided information on the operations of the New Mexico Rail Runner. They said the train has had 2.36 million riders since beginning operation. They provided graphs showing ridership by month and by week and the train's on-time performance. Customer surveys showed that close to 90 percent of Rail Runner riders are

very satisfied or mostly satisfied with the train service. Less than one percent were very dissatisfied. The presenters also provided budget information for the Rail Runner, including revenues and expenditures for fiscal year 2010.

The presenters were asked about their pricing strategy for fares in the future, tax zones around Rail Runner stops and the purchase of buses. WiFi service was also addressed by the presenters. They said their goal is to have WiFi in place by the end of the calendar year. The need for more trains in the future was also addressed. The presenters said that as more stations are added, there may be a need for more trains in the future, but they are not needed right now.

Representative Barela asked that the committee be provided with a history of Rail Runner funding. Representative Barela also asked about upgrades at rail crossings. He said he would like to know how much money the Department of Transportation (DOT) has spent on improving rail crossings. He asked that the committee be provided with information on how Section 130 federal funds can be used, how the DOT is using those funds and what the Rail Runner's policy is on acquiring Section 130 funds on a going-forward basis.

Metropolitan Planning Organization (MPO), Regional Planning Organization (RPO) and Council of Governments Functions

Mr. Rael explained that each MPO is created and defined by federal law. The MPO is governed by a metropolitan transportation board (MTB) that is made up of elected officials, officials of agencies that administer or operate major modes of transportation and appropriate state officials. The MTB establishes regional transportation policy and decides on all capital and operational transportation projects and programs that use federal aid funds within the metropolitan planning area.

Committee members asked questions concerning the governance of MPOs and the process of getting project approval. Mr. Rael was asked if the MTB has the final say on a project. Mr. Rael said that the board does make the final decision if the project is a federally funded transportation project. The governor can veto the board's decision, but the governor cannot change the transportation plan.

Senator Keller asked how the Paseo Del Vulcan project got prioritized. Mr. Blewett explained that 15 years ago, the DOT performed a corridor study on the west side of Albuquerque, and, as a result of that study, the Paseo Del Vulcan project was incorporated into the DOT's long-range plan. The reason the project was prioritized so early was to preserve rights of way.

Mr. Rael and Mr. Blewett discussed the differences between an MPO and an RPO. RPOs are created by the DOT. The RPOs serve in an advisory role. They provide technical assistance in the transportation planning and project development process. The RPOs vote, but their votes are for or against a recommendation.

New Mexico Renewable Energy Transmission Authority (RETA) — Proposed Project

Selection Policy and Proposed Legislation

Jeremy Turner, executive director, RETA, and Laura Sanchez, board member, RETA, discussed the RETA's project selection policy and provided an update on the RETA's progress under Senate Memorial 44. Mr. Turner said that several meetings have been held, and a first draft of the RETA's report was presented to the working group on August 19. A final draft of the report will be prepared by September 16.

Mr. Turner discussed legislation that the RETA would like passed in 2010. He said the RETA needs to be able to protect the confidentiality of maps and details on infrastructure siting from widespread disclosure for national security reasons. The RETA also needs to be able to protect the proprietary information of developers. He said the RETA's inability to protect the confidentiality of such information is limiting its ability to meet its mission. Mr. Turner said he would also like legislation expanding the RETA's authority to issue bonds. He would like the RETA to have ownership of energy initiatives in the state. Currently, the RETA has authority to issue bonds solely for transmission and storage. Expanding the RETA's authority to issue bonds would provide a revenue stream that would allow the RETA to become self-sufficient and not dependent on general revenue from the state.

Committee members discussed whether the RETA has the ability and expertise to issue additional types of bonds and the possibility that the RETA would be duplicating the efforts and expertise of the NMFA. Mr. Turner said he believed that the RETA would be able to give the time and attention to energy bonds that the NMFA cannot currently provide because of all the other programs the NMFA must handle. Ms. Sanchez offered to provide some modeling for the committee to address this issue.

Some members argued that because the NMFA already has the expertise and structure set up to issue bonds, the RETA should not be given additional bonding authority. Other committee members suggested that perhaps the RETA could be an entity under the NMFA or a separate department in the NMFA, where the structure is already set up to issue bonds, and revenue from energy bonds could be allowed to go to the RETA. Other committee members said they have no problem with the RETA expanding the authority it already has to issue bonds. Representative Lundstrom asked Mr. Turner to provide some charts with real scenarios when he presents his legislation drafts to the committee.

Approval of Minutes

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

Proposed Legislation to Transfer Money in the Water Project Fund for a Water Distribution Project

Lance Allgood, executive director, Gallup Joint Utilities, Mark DePauli, DePauli Engineering, David Pederson, city attorney, City of Gallup, and Bryan Wall, city councilor, City of Gallup, discussed the proposed legislation to transfer administration of Water Trust Board funds awarded to the City of Gallup from the NMFA to the New Mexico Department of Environment. They told committee members that the transfer is needed because of sovereignty issues that arise under statutory restrictions imposed on grants administered by the Water Trust Board. Representative Lundstrom reminded members that the issue had been discussed earlier by the committee at its meeting in August.

Representative Arnold-Jones asked whether the bill had been examined by the attorney general. Representative Lundstrom said it had not, but a similar bill was passed last session without objection by that office. Committee members asked about the price of the project, the source of the water for the project and the source of funding for the project. A motion for the committee to endorse the bill (draft version .179301.1) was seconded and approved without objection.

There being no further business, the committee adjourned at 12:15 p.m.