

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

**September 30-October 1, 2003
Ruidoso Convention Center**

Representative Daniel P. Silva, chairman, called the fourth meeting of the New Mexico finance authority (NMFA) oversight committee to order at 10:25 a.m. on Tuesday, September 30 in room 5 of the Ruidoso convention center in Ruidoso.

PRESENT

Rep. Daniel P. Silva, Chair
Rep. Dona G. Irwin
Sen. Mary Kay Papen
Rep. Earlene Roberts
Rep. Raymond M. Ruiz
Rep. Henry Kiki Saavedra
Sen. H. Diane Snyder
Rep. Sheryl Williams Stapleton

ABSENT

Sen. Pete Campos, Vice Chair
Sen. Manny M. Aragon
Sen. Clinton D. Harden, Jr.
Sen. Don Kidd
Rep. Brian K. Moore
Sen. Shannon Robinson
Sen. Nancy Rodriguez
Rep. Don Tripp

Advisory Members

Rep. Jose A. Campos (9/30)
Rep. Anna M. Crook
Sen. Dianna J. Duran
Rep. Mary Helen Garcia
Sen. Mary Jane M. Garcia (10/1)
Rep. Edward C. Sandoval (9/30)
Rep. James G. Taylor
Rep. Luciano "Lucky" Varela

Rep. Donald E. Bratton
Sen. Joseph A. Fidel
Rep. Roberto "Bobby" J. Gonzales
Sen. Stuart Ingle
Rep. Ben Lujan
Sen. Leonard Lee Rawson
Sen. Richard M. Romero
Sen. Bernadette M. Sanchez
Rep. Robert White

(Attendance dates are noted for members who did not attend both days of the meeting.)

Staff

Renee Gregorio, Legislative Council Service (LCS)
Jon Boller, LCS
Alfred Creecy, LCS

Guest Legislators: Representative W.C. "Dub" Williams (9/30)
Representative Patricia A. Lundstrom

Guests

The guest list is in the meeting file.

Copies of written testimony and handouts are in the meeting file.

Tuesday, September 30

Mayor Leon Eggleston welcomed the committee to Ruidoso and Laurie McKnight, village administrator, began the local infrastructure discussion by citing a major project for the village: upgrading the wastewater treatment facility in conjunction with the city of Ruidoso Downs. The facility is 25 years old and is facing upgrades that will amount to between \$20-23 million, Ms. McKnight said. She added that although the village has received two environmental protection agency (EPA) grants, the balance is still quite large, and the village is aware that it needs to seek multiple sources of funding for the project. In response to a question about customer base, Ms. McKnight said that there are about 1,100 new connections in the planned expansion into seven priority areas. She added that the village of Ruidoso also needs a new fire station.

Ms. McKnight went on to say that the village of Ruidoso is currently debt-free, having recently paid off existing general obligation bond debt. The village has a bonding capacity of \$10.5 million. Representative Silva questioned if the village is working with the NMFA to obtain grant funding for the wastewater treatment plant. In response, Carlos Romero of the NMFA indicated that the village has applied for grants in the past two years, but that the legislature has not passed the bill that would authorize funding for such grants; only emergency funding has been available in that time. Discussion turned toward funding available through the fire protection fund and Ms. McKnight indicated that the village obtained approval from the state fire marshal to dedicate its funds for repayment of bonds for the fire truck purchase; Mr. Romero remarked that communities can dedicate one-half of these funds to debt, and that there is \$23 million available statewide.

Senator Papen asked what the village of Ruidoso is doing about clearing land for fire protection. Ms. McKnight offered that the village is on the forefront of setting standards and putting ordinances in place for safety and clearing. The village is in what is considered an "urban interface area", an area that is both urban and forested, which means there are several entities that need to be considered, including the county, municipality, state, federal government and tribes. Getting back to the wastewater treatment facility, Senator Snyder questioned how long a \$7 million expansion would remain useful for area needs. Ms. McKnight replied that the proposed expansion would take four to five years to complete and that the village is aware that it is dealing with an aging facility that it does not want to simply put a band-aid on.

John Waters, city administrator for Ruidoso Downs, stated that there are two municipalities within close range that share common problems with the treatment of wastewater. Both municipalities have agreed on the necessity of the plant expansion, but the EPA has placed a unique standard on the phosphorous levels in the area's water. Because of the EPA's requirement, the upgrade to the structures and capacity of the plant will include a filter that will put water at a

cleaner standard than drinking water. Mr. Waters added that the village is committed to restoring the watershed as well as fixing the treatment plant, but that meeting the phosphorous standard within the EPA deadline of four months is a very difficult prospect. Mayor Eggleston indicated that the village is attempting to obtain an extension. The main concern he expressed is that the village has not determined that it can get rid of phosphorous, even with the new plant; indeed, the problem may not even be related to treatment, but could exist in the river downstream. In response to questions about the responsiveness of the department of environment, Ms. McKnight said that the village has met with a representative from that department over the past year and the department has helped a lot with putting together a proposal for the EPA. Senator Duran suggested that a letter be drafted to the congressional delegation related to the financial difficulty placed on municipalities when federal regulations are unrealistic.

Mr. Waters spoke of the serious water problem in Ruidoso Downs: there is not enough water coming from its spring, storage space is short and more money is needed for the purchase of water rights and reservoir improvements. Mr. Waters added that the city has been turned down twice by the water trust board and drought task force and that assistance from the NMFA would be greatly appreciated. He said that the bonding capacity of Ruidoso Downs is less than 10 percent of that of Ruidoso. In response, Representative Lundstrom said that Gallup has been successful in getting federal dollars for the impact outside of the community or tax base.

Patrick McCourt, Alamogordo city manager, and Don Carroll, mayor, gave details on two projects accepted for funding by the water trust board: \$6.5 million toward a \$34.5 million desalinization project for the city and \$480,000 for forest thinning around Bonito lake to protect the watershed and prevent fire. The desalinization project received \$300,000 from the legislature several years ago; the federal government has added \$867,000; and the governor has dedicated \$3 million toward the project. In response to a question about the intended use of the water generated by the plant, Mayor Carroll stated that based on the city's 40-year water plan, an additional 10,000 acre-feet of water is needed, for which a maximum of 10 wells would be drilled. He added that the city is not interested in taking water out of agricultural use, but in looking at unappropriated saline water in the Tularosa basin. The mayor said that a conservation program is in place; Mr. McCourt said that although the air force completed rebuilding the Bonito pipeline so that larger amounts of water could flow through that line, the lake has dropped 13.5 feet and is still dropping. There is simply not enough water to meet the area's needs. In response to a question on the municipality's participation in the state water plan, the mayor indicated that there was a public hearing in Tularosa recently and suggested that a look at the statutes would be advantageous to see if any laws are in place that would inhibit or prohibit communities from forming regional water authorities so that municipalities and entities could get together and pool water rights. Representative Lundstrom stressed the hope that the legislature be given some real recommendations from the state water planning process this year.

Jerry Pacheco, marketing director, Santa Teresa real estate development corporation, addressed the committee on economic trends along the border, citing NAFTA as helping to increase the volume of trade by 109 percent in the free-trade area. Mr. Pacheco stressed the

importance of the maquila industry, which evolved from labor-intensive, low-tech operations by small companies to more advanced operations in larger, Fortune 500 companies. He pointed out that exports from the maquila industry account for more than half of Mexico's total exports to the United States. In response to questions regarding what United States industries have maquila operations in Mexico, Mr. Pacheco named several large, recognizable companies, including Ford, Phillips, GM, Toyota and Chrysler, adding that the bulk of supplies and suppliers is U.S.-based. He stated that New Mexico needs to capture some of the suppliers that are currently going to El Paso. Mr. Pacheco indicated that what is needed is a program to capture companies; he said that the infrastructure in Santa Teresa is world-class. He also said that related taxes in New Mexico are 67 percent lower than in Texas, so there is really no reason for not drawing this business to the state. In response to a question about how much companies situated in Mexico contribute to that economy, Mr. Pacheco said that last year \$75 billion was exported out of the maquila industry, making it Mexico's largest industry.

Mr. Pacheco also pointed out recent, more negative developments in the maquila industry, including the fact that 56 maquila plants relocated abroad in 2002; there has also been a decline in production and employment since October 2000. In response to questions about several companies relocating to China, Mr. Pacheco pointed out that companies in China guarantee a 12-hour work day, including tooling, but that their lead time is very long. He added that China will not remain a low-cost labor country forever, and that companies with intellectual property concerns will not take their business to China. He stated that Mexico offers better access to North American markets and a very qualified workforce.

Senator Papen asked how much business New Mexico does with Mexico, to which Mr. Pacheco replied that New Mexico ranks 37th in the country in its export business to Mexico. In 2002, export figures show Texas at the top with over \$41 billion in exports, California next with over \$16 billion, Arizona next with over \$3 billion and New Mexico last among the border states with over \$116 million. Mr. Pacheco questioned why the legislature does not have an ad hoc border committee. Representative Taylor added that the state needs to build on its relationship with Mexico and that legislators need to educate themselves about the Mexican government. He also stated that there is a need to change the existing mentality that sees border issues as only affecting the southern region of the state. (See the "Border Economic Trends" handout in the file for more details on the issue of increasing commercial traffic into New Mexico by creating a border commercial zone and attracting maquila suppliers to the state.)

Liz Bernal, executive director of the south central council of governments (COG) reported on revenue and programs for the COG she directs, which encompasses Socorro, Sierra and Dona Ana counties. (See handout for details of each program.) She mentioned in particular the housing needs in Socorro county, water and wastewater infrastructure needs in all counties and transportation and road improvements in the southern portion of Dona Ana county. In response to a question from Representative Garcia regarding Workforce Investment Act expenditures, Ms. Bernal deferred to Jerry Kloepfel, administrator. (See handout "Workforce Investment Act Directory" for details on expenditures.) Representative Garcia questioned Ms. Bernal on the

seeming exclusion of Sunland Park from the list of grantees. Ms. Bernal responded that she has met with the mayor there in reference to a CDBG grant a few years ago and will again, and she assured the committee that the transit service will be tied to a transit service in Sunland Park to bring people to Las Cruces.

Lee Tillman, executive director of the eastern plains COG, represents 22 communities in seven counties. He reported that the COG is involved in several different infrastructure projects, mentioning in particular a city park project in Folsom that is a priority project, Folsom being one of the few communities without a park for its children. Mr. Tillman pointed out that infrastructure is whatever it needs to be, and centers on where the existing needs are. He added that housing is crucial infrastructure and that the COG staffs the regional housing authority, complementing its economic development activity. Other projects Mr. Tillman reviewed are an elderly housing project in Portales, co-locating TANF and the economic development corporation there and a training program and business development center. A major project of note in his area is the sustainable water supply project that encompasses the communities of Clovis, Elida, Grady, Logan, Melrose, Portales, San Jon, Texico and Tucumcari; the counties of Curry, Roosevelt and Quay; and Cannon air force base. The project would allow for a long-term sustainable source of water for municipal and industrial use. Estimated costs for the project total about \$244 million, for which the COG is seeking federal, local and state funding.

Tony Elias, executive director of the southeast New Mexico economic development district COG, introduced his grant administrator, Dora Bautista. He stated that a financial profile is provided by each county to the COG, which is then used as a guide for the capital process. He added that the COG is constantly assisting local governments in implementing funds and that 295 projects were funded at a total of \$13 million this past legislative session in his COG's area, which includes Chaves, Eddy, Lea, Lincoln and Otero counties. He stated that the COG works with the smaller communities to assist in overall planning for the ICIP process. The COG holds public hearings in each of the five counties to allow counties to present their priorities before going before the legislature. The COG has made the local capital improvement request form mandatory because it is helpful to both the communities in terms of thinking through and planning projects as well as to the house capital outlay subcommittee when the project comes before it during the legislative session.

Lawrence Rael, executive director of the middle Rio Grande COG, which represents a little less than half of the state's total population, stated that the COG is creating regional opportunities to look at transportation and water issues in particular. He said his region is a widely varied one with both urban and rural concerns, requiring both collaboration and discussion to accomplish needed projects. Another area of concern that Mr. Rael spoke of is infrastructure related to homeland security, which he feels must be planned for and developed at a regional level. He added that COGs are a good resource to bring people together to look at issues. He said that COGs could help with the capital outlay process by assisting in managing at the local level. Representative Sandoval asked why other COGs are not as visible and helpful to the legislature as Tony Elias has been. Mr. Rael stated that other communities use lottery resources

and individual legislators to request funding, and that the more urban areas tend to go directly to legislators with their requests.

Representative Taylor suggested that the COGs need to be empowered at the legislative level, making it more possible for these organizations to work more closely with the legislature. Mr. Rael remarked that it is often a challenge to the COG to get Native American representatives to be an official player in the COG. Representative Lundstrom said that the northwest New Mexico COG has been busy for the past 18 years in pulling together its complex district, made up of cities, counties and sovereign nations. She added that COG staff can often help in delineating a local capital improvement plan, and that as a legislator, she advocates for the needs of the chapters in her district. (See the "Systems Mapping" handout for specifics on the capital outlay process for the Navajo Nation.)

The committee recessed at 5:15 p.m.

Wednesday, October 1

The committee reconvened at 9:00 a.m. with a presentation by Leila Help-Tulley, staff assistant, office of the speaker, Navajo Nation council. Martha King, attorney for the Navajo Nation, supported Ms. Help-Tulley. Ms. Help-Tulley stated that in terms of the capital outlay process, there are many uncoordinated and underfunded projects that come to the Navajo Nation through the legislative process. The Navajo Nation would like to work out solutions to the process, and she recommended possible solutions, including coordinating all chapter efforts into one legislative request or creating a fund to which unused money could be moved to complete projects. She added that there is a need for planning, clearances and assessments for projects and that such a center could be established within the Indian affairs department or through the COGs. Representative Lundstrom stated that when the legislative finance committee met in Gallup, her COG gave it a presentation related to capital outlay, especially around the issue of completing projects. She added that there are often issues around reimbursement, that individual communities as well as the Navajo Nation often do not have money up front for projects. Along with the Indian affairs department and the NMFA, the COG is meeting to come up with recommendations to the legislature. In response to a question about how much money is actually not being used, she said it amounts to \$25-30 million.

Ms. King mentioned that the Navajo Nation often has a bad reputation for how slow the capital process is, but that the real issue is that the projects that are funded have not been coordinated with the nation, and that many that are funded are in amounts inadequate to proceed with the project. Representative Varela then mentioned the report on capital outlay done by the state auditor's office, adding that committee members should look at this report. (This report was presented to members at the second NMFA oversight committee meeting in Albuquerque.) Ms. King stated that the Navajo Nation has general funds that it could use to match legislative funding, if projects are coordinated with the nation. Sam Cata of the Indian affairs department added that the most common situation is one in which an individual chapter gets legislative funding for a project, then applies to the nation for the remaining funding to complete the project,

but the nation may decide not to give money to that project, so then the money sits idle. He said that the department met with the Navajo legislature this past session to attempt to get planned projects through the process. Representative Saavedra expressed discomfort at moving the responsibility for decision-making about capital projects entirely to the Navajo Nation, taking it away from individual legislators. Ms. King responded that they are merely suggesting that the nation would take a list to the legislature of its priorities, from which the legislature could then be informed and decide which projects to fund. Representative Lundstrom added that she has never received a list of priorities from the nation, but that she does receive priorities from individual chapters. She suggested that the NMFA could assist the Navajo Nation in finding funding sources.

John Strand, city manager for Deming, appeared before the committee to request additional funding for the completion of remediation for the Peru Hill mill site, which is not in compliance with current standards. A motion was made and seconded to support funding for this project.

David Harris, executive director of the NMFA, addressed the committee on the status of the proposed loan to the Pueblo of Santa Ana. He stated that the governor concluded that the loan raised a lot of questions around security, and that because of the issue of sovereign immunity, the NMFA needs to find a workable model with which to finance pueblos. He added that the BIA loan guarantee program would only secure a loan of up to \$15 million. He also said that the Pueblo of Santa Ana has met every other financial requirement for this loan. In response to a question regarding the economic impact of the tribe's business ventures, Mr. Harris said that the tribe employs 1,200 people, and 90 percent of those are nontribal people. Mr. Romero of the NMFA added that its payroll is \$26 million per year, which means the tribe pays taxes to the state in the amount of \$400,000 to \$600,000. Representative Taylor expressed the view that Santa Ana is a government and as such it has as much right as anyone else to request a loan. Mr. Harris stated that the tribe did agree to sign a waiver of its sovereign immunity, allowing the NMFA to avoid tribal jurisdiction in case of a dispute. The loan would derive from the subordinate lien program, not the public project revolving fund, he said. That program was set up as a means of financing projects with unusual revenue streams, such as Isotopes park in Albuquerque, where the revenue stream is from ticket sales and concessions.

Mr. Harris began to give an overview of the NMFA for committee members, saying that the authority has working relationships with many of the state's executive departments, thus assisting in making projects happen, such as the cheese plant in Clovis in which the gross receipts taxes made from construction alone will more than make up for the expenses incurred at that site. He reviewed the NMFA's loan sources, amounting to a total of \$627.1 million for projects financed as of June 30 of this year. (See handout for breakdown of each loan source.) He continued by noting specifics of the public project revolving fund, including its security features and credit review process, adding that the fund is very securely pledged. Mr. Romero delineated the four varying categories of loans from this fund, some of which affect bonding capacity and some of which do not. In response to a legislative request, the NMFA will provide an analysis of

the portion of the GGRT that it receives, which is at 75 percent. In response to a question about water and wastewater project grant fund projects, Mr. Romero reminded committee members that it has been two years since any projects have been authorized by the legislature out of that fund. Representative Taylor added that this program is a vital one and made a motion, which was seconded, that committee members commit to pursuing this authorization bill to be sure that it makes its way through both the house and senate. Senator Garcia said that leadership needs to meet to prioritize this bill as well. Federal matching funds are only possible for projects that are funded successfully by the state. Committee members and the NMFA agreed to continue this presentation of the NMFA's programs at the November 20 meeting in Santa Fe so that legislation for the special session could be covered.

Mr. Harris said that in July the governor formed the governor's finance committee to come up with financial strategies for the state. Under Governor Johnson, the legislature authorized the state highway and transportation department to go into debt for \$1 million, but did not alter its revenue package; a revenue adjustment is needed. Mr. Harris indicated that the taxation and revenue department (TRD) is looking at assessing heavier usage fees, such as overweight fees, for sectors that most use the roads. Secretary Faught brought forth the startling fact that the damage done to highways by one 80,000-pound truck equals that done by 38,000 cars. She added that the department of transportation is working with the TRD to formulate a tax collection system. Secretary Faught outlined the governor's GRIP initiative, which is a \$1.4 billion funding program for 41 highway reconstruction projects statewide over an eight-year period. (See handout for details of transportation projects covered.) She added that New Mexico is a bridge state for truck traffic, and that 75-80 percent of the trucks on New Mexico's highways are simply moving through. Mr. Harris said that the governor wants the financing for these projects to be handled by the NMFA, and that this authorizing legislation will be important during the special session. He added that he would consider this to be a partnership between the department of transportation and NMFA. He said that not only will the department of transportation need to refinance existing debt, but the legislature will have to pledge additional revenue as well; the key will be to generate additional revenue streams. In response to a question about how priorities were formed for the GRIP initiative, Secretary Faught said the decisions were based on unfunded critical needs. Representative Taylor questioned why the section of I-25 from Gibson boulevard to the south is not considered a priority.

A motion to endorse the public project revolving fund authorization bill as well as the transportation bill was made and seconded.

The committee adjourned at 12:30 p.m.