

New Mexico Finance Authority
207 Shelby St.
Santa Fe, NM 87501
(505) 984-1454

Minutes of the Colonias Infrastructure Board Meeting

August 29, 2018

Cloudcroft Village Council Chambers
201 Burro Avenue, Cloudcroft, New Mexico

Voting Members Present:

Doug Moore, Chairman	Senate Minority Leader Appointee
Oscar Vasquez Butler, Vice Chairman	Senate President Pro Tempore Appointee
Steven Deal	New Mexico Environment Department Designee
Mary Helen Garcia	House of Representatives Minority Leader Appointee
Debbie Romero <i>via telephone</i>	New Mexico Dept. of Finance & Administration Designee
Zach Dillenback <i>via telephone</i>	New Mexico Finance Authority Designee

Voting Members Absent

Orlando-Antonio Jimenez	Speaker of the House of Representatives Appointee
-------------------------	---

Non-Voting Members Present:

Jay Armijo	South Central Council of Governments Executive Director
Priscilla Lucero	Southwest NM Council of Governments Executive Director
Hubert Quintana	SENM Economic Development District Designee
Isidoro Hernandez	New Mexico Mortgage Finance Authority Designee

Non-Voting Members Absent

Steve Kopelman	New Mexico Association of Counties Executive Director
----------------	---

New Mexico Finance Authority Staff:

Michelle Harding, Administrative Assistant	Angela Quintana, Senior Program Administrator
Charlotte Larragoite, Water Resources Admin.	Michael Vonderheide, Director of Water Resources
Bryan Otero, Assistant General Counsel	

Guests:

Chris Almy, Stantec Engineering	State Senator Mary Kay Papen
Martin Lopez, Lower Rio Grande Public Water Works Authority	Lilla Reid, Souder Miller & Associates
Cisco Navarrete, Malaga Mutual Domestic Water Consumers & Sewer Works Association	Jose Terrones, Anthony Water & Sanitation District
Karen Nichols, Lower Rio Grande Public Water Works Authority	Doug Tindall, Stantec Engineering

1. **Call to Order and Roll Call.** Chairman Doug Moore called the Colonias Infrastructure Board ("CIB") meeting to order at 10:01 a.m. Roll call was taken and a quorum was established.

2. **Approval of Agenda.** Mr. Steven Deal made a motion to approve the agenda as presented, seconded by Mr. Oscar Vasquez Butler. The motion passed unanimously on voice vote.
3. **Approval of April 25, 2018, Board Minutes.** Ms. Mary Helen Garcia made a motion, seconded by Chairman Moore, to approve the minutes of the April 25, 2018, meeting as presented with a minor change to the list of Guests to remove Town of Silver City after the name Lucy Madrid. The motion passed unanimously on voice vote.
4. **Approval of June 7, 2018, Board Minutes.** Mr. Deal made a motion, seconded by Ms. Garcia, to approve the minutes of the June 7, 2018, meeting as presented. The motion passed unanimously on voice vote.
5. **Chairman's Report.** Chairman Moore acknowledged Senator Papen in the audience. In addition, Chairman Moore stated he was pleased with the work of the CIB Committees.
6. **Hanover Mutual Domestic Water Consumers Association, Approval of Reallocation of Declined Funds, Project No. 4632-CIF18.** Angela Quintana, Senior Program Administrator, presented information to the Board to reallocate funds from a declined award for Project No. 4632-CIF18, Hanover Mutual Domestic Water Consumers Association ("Association").

The Association was conditionally awarded funding in the 2018 Colonias cycle in the amount of \$50,000. The project was for the final design and construction of replacement well #2. The Association received an unexpected low bid that would complete the project with current funds available, not including the 2018 Colonias award. Therefore, the Association has formally declined its 2018 award.

Section 6.3 of the Colonias Infrastructure Board ("CIB") Project Management Policy ("Policy") provides that conditional awards declined by the borrower or rescinded by the Board prior to closing may be reallocated to a different qualified project. The Policy allows the Board to utilize such funds either for a project that applied in the most recent cycle, or held for the next award cycle.

On August 21, 2018, the Colonias Project Review Committee directed staff to review the option of allocating the declined funds to projects in the 2018 application cycle. Of the 18 projects awarded by the Board in the 2018 cycle, only two projects were awarded less than what they requested, Doña Ana Mutual Domestic Water Consumers Association Project No. 4634-CIF18, and Grant County Project No. 4644-CIF18.

The below table summarizes the option for the above-mentioned projects to receive the declined funds:

Awardee	Requested Amount	Initial Award	Additional Funds	Final Award
Dona Ana MDWCA	\$1,100,000	\$1,078,809	\$21,191	\$1,100,000
Grant County	\$1,100,000	\$1,078,810	\$21,190	\$1,100,000
		Un-awarded Amount	\$7,619	

The Board asked if the “Un-awarded Amount” of \$7,619 could be rolled over to the 2019 award cycle. Bryan Otero, NMFA Assistant General Counsel, advised the Board that the monies could be rolled over by recertifying the funds through State Board of Finance.

Mr. Deal made a motion, seconded by Ms. Garcia, to reallocate the funds declined by Hanover Mutual Domestic Water Consumers Association Project No. 4632-CIF18, to qualified projects in the 2018 Colonias funding cycle, specifically Doña Ana MDWCA Project No. 4634-CIF18 and Grant County Project No. 4644-CIF18, with the remaining unallocated funds to be added to the 2019 funding cycle. The motion passed unanimously on voice vote.

7. **Anthony Water & Sanitation District, Consideration for Approval of Time Extension, Project No. 3504-CIF16.** Angela Quintana, Senior Program Administrator, presented a request for extension of project completion time from Anthony Water & Sanitation District (“District”) for Project No. 3504-CIF16.

The Board was reminded that entities awarded in 2016 may be requesting extensions because of the change in policy that requires communities to expend their funds within a two-year construction timeline.

The District secured funding on October 28, 2016 for a Wastewater Infrastructure Project in the amount of \$1,500,000. The approved scope of work is for the relocation and construction of a new sonic lift station. The current balance is \$1,420,000. The District requests a one-year extension to complete the project, but has stated the Colonias funds will be expended within six months.

At the time of the award, the estimated cost of the project was \$3,137,681. The District received additional funds in June 2016 from the US Environmental Protection Agency (“EPA”) to complete the project. The additional funds required redesigning, permitting, and approval from all funders. The current project cost is \$4,490,521. To date, the District has hired a construction management firm (per EPA requirements) and completed the dewatering/monitoring wells. The updated construction plans were completed and approved on February 14, 2018. The project went out to bid in April and was awarded to Morrow Enterprise Inc. in June. The Notice to Proceed is scheduled to be issued on August 20, 2018.

Pursuant to Section 1.3-Project Continuation Policy of the Colonias Project Management Policies, the Board requires applicants that have received prior awards to certify completion of all projects prior to approval of a new award, subject to certain limitations. The request for this extension does not waive this policy for any current or future funding cycles.

The Project Review Committee has reviewed this request and concurs with staff’s recommendation.

Mr. Deal made a motion, seconded by Mr. Oscar Butler, to approve staff’s recommendation to approve an extension from October 28, 2018, to December 31, 2019, for Project No. 3405-CIF16. The motion passed on a voice vote of 5-1, with Ms. Debbie Romero voting against.

8. **Malaga Mutual Domestic Waters Consumers & Sewer Works Association, Project No. 3512-CIF16, Consideration for Approval of Time Extension.** Angela Quintana, Senior Program Administrator, presented a request for extension of project completion time from Malaga Mutual Domestic Waters Consumers & Sewer Works Association (“Association”) for Project No. 3512-CIF16.

The Association secured funding on October 28, 2016 for a Water Infrastructure project in the amount of \$272,523. The approved scope of work is for the design and construction of water system improvements including installation of pipelines, valves and meters. The current balance is \$220,771.

Since securing the funding, the Association learned that Roberson Road, one of the two roads in the project thought to be a County road, was actually a private road. This required the Association to obtain easements from some private landowners, and to re-design the project to adjust the alignment of the waterlines through most of the one-mile corridor

The New Mexico Environment Department Construction Programs Bureau (“CPB”) and Drinking Water Bureau approved the re-designed plans and specifications in June. The construction contract was awarded and a Notice to Proceed was issued on July 30, 2018. The Association expects construction to be completed by the October 28, 2018 deadline, but the schedule does not account for any unforeseen issues. Therefore, the Association requests a two-month extension to complete the project.

Pursuant to Section 1.3-Project Continuation Policy of the Colonias Project Management Policies, the Board requires applicants that have received prior awards to certify completion of all projects prior to approval of a new award, subject to certain limitations. The request for this extension does not waive this policy for any current or future funding cycles.

The Project Review Committee reviewed this request and concurs with staff’s recommendation.

Mr. Deal made a motion, seconded by Ms. Garcia, to approve staff’s recommendations to approve a two-month extension from October 28, 2018, to December 28, 2018, for Project No. 3512-CIF16. The motion passed unanimously on voice vote.

The Board asked if all information included in the project application is verified to avoid these types of issues. Staff explained that the application asks the communities to verify that easements and right-of-ways are in place by completing a permit spreadsheet. If a community does not have this information, they are required to provide a timeline as to when they will be in place. Additionally, as part of the process to secure funding, the entity’s legal counsel is required to certify that easements are in place.

9. **Winterhaven Mutual Domestic Water Consumers & Sewer Works Association, Project No. 3366-CIF15, Consideration for Approval of Time Extension.** Angela Quintana, Senior Program Administrator, presented a request for extension of project completion time from Winterhaven

Mutual Domestic Water Consumers & Sewer Works Association (“Association”) for Project No. 3366-CIF15.

The Association secured funding on October 2, 2015, for a Wastewater Infrastructure project in the amount of \$48,751. The approved scope of work is for the design and construction of a new force main to tie into the City of Las Cruces’ collection system, and the installation of a rock wall around the perimeter of the lift station. The current balance is \$32,832.18.

The plans have been completed and approved by Elephant Butte Irrigation District, City of Las Cruces, and NMED-Construction Programs Bureau. The installation of a rock wall was to be constructed within the Association’s right-of-way, however, Dona Ana County later determined that the Association would also need approval by the County due to potential emergency access issues. The plans have since been updated and the Association is currently awaiting final approval from the County on the rock wall.

The estimated timeline is :

- Advertise to bid – August 20, 2018
- Bid opening – August 30, 2018
- Award project (special meeting) – September 3, 2018
- Preconstruction meeting – September 5, 2018
- Notice to Proceed – September 10, 2018

After the Notice to Proceed is issued, the Association anticipates the project completing within 20 days. The Association requests an additional two months for any unforeseen issues to complete the final closeout of the project.

Pursuant to Section 1.3 Project Continuation Policy of the Colonias Project Management Policies, the Board requires applicants that have received prior awards to certify completion of all projects prior to approval of a new award, subject to certain limitations. The request for this extension does not waive this policy for any current or future funding cycles.

The Project Review Committee has reviewed this request and concurs with staff’s recommendation.

Mr. Deal made a motion, seconded by Chairman Moore, to approve staff’s recommendation to approve a two-month extension from October 2, 2018, to December 2, 2018, to complete Project No. 3366-CIF15. The motion passed unanimously on voice vote.

(The Board recessed at 10:59 a.m. and reconvened at 11:13 a.m.)

10. **Colonias Policy Amendments, Consideration for Approval.** Angela Quintana, Senior Program Administrator, presented proposed revisions to the Colonias Infrastructure Board Project Management Policies (“Policies”).

The Policy Committee met on July 17, 2018, and August 21, 2018, to review proposed policy amendments.

Section 1.1A – Urgent Needs

Currently, the Policies list requirements that define a project as being Urgent, but do not give direction on who should certify urgency. In most cases, the applicant certifies their project as being urgent by letter or memo.

Proposed: The Board may provide greater policy consideration to projects determined to be Urgent. To qualify as Urgent, a state agency head, or authorized designee, must first determine that the project meets at least one of the following criteria:.....(criteria did not change)

(In addition, staff proposes listing the possible points that can be scored for each criteria noting that in the instance of “urgency”, 10 additional points can be scored for catastrophic events.)

This proposal seeks to clarify the language in the application and redefines urgency recognized only by a Federal or State agency.

Section 1.3B1 – Project Continuation

The Policies state that the outstanding balance of any prior award(s) must be no greater than 50% of the total for all awards from prior years in order to be considered for funding. The year prior to the current funding year is not included.

Proposed: All applicants must expend 50% of prior awards that have not yet been certified as complete. Funds awarded in the most recent application cycle are excluded from this expenditure calculation.

Section 2.3 Funding Match Obligation

In the 2018 application cycle, there were applicants who were unable to provide the required match as defined in Policies. Those applicants that were able to demonstrate sufficient debt capacity were given the option of taking on an additional loan in lieu of the required match.

Proposed: (addition) The Board may allow applicants to borrow additional funds in lieu of a local match on the terms described in Section 2.2 of these Policies.

Ms. Quintana explained that an award has three components: the grant, the loan, and the required match, as defined by Policy. Typically, the financial structure would be 90% grant, 10% loan, and 10% match, but if an applicant does not have a match the funding structure may be 80% grant, 20% loan.

Section 3 Financial, Managerial and Technical Capacity

Language in the current Policy is ambiguous regarding financial, managerial and technical capacity. Moreover, the Policy does not specifically address the three specific requirements that safeguard the Colonias Infrastructure Fund (“CIF”), namely adequate management, ability to handle debt, and sustainability of the project. To more fully address these three core issues, staff proposes to delete and streamline the language to target the necessary elements, and add the requirement for projects to have or begin the process of developing an asset management plan.

Asset management plans are designed to i) identify a systems assets, ii) identify the condition of those assets, iii) outline a maintenance and replacement schedule for those assets, and iv) set aside reserve funds to pay for the maintenance and operation of those assets. The current policy contains language requiring an applicant to be able to meet not only the debt of a potential CIF loan, but all of the applicants' outstanding debt. NMFA staff reviews all outstanding debt to ensure that sufficient coverage exists. The current policy contains language requiring the submission of standard governance documentation and the NMFA reviews financial audits for any concerns.

Proposed:

~~(deleted) Requirements that are either duplicative or not received monitored or reviewed.~~

~~(addition) New Section 3.2 requiring an applicant to begin the process of developing an asset management plan – allows an applicant four years to put a plan in place while placing the applicant on the path to having a viable and reliable plan.~~

Staff provided the language from the Water Trust Board policy on the 4-year plan to complete an Asset Management Plan for Board consideration. The proposed section acknowledges that Asset Management Plans are critical as a useful tool, and recommend that entities develop an Asset Management Plan if they currently do not have one.

The Board directed staff to revise this section and present for consideration at the next Policy Committee meeting.

Section 6.2 Eligible Use of Proceeds

The current Policies provide that a maximum 12% of awarded funds may be expended for professional services specifically for design and construction administration on construction projects. This limitation may restrict projects that require other services with the design component by limiting the amount of funding allowed for such services. An exception exists for projects that are solely for planning.

Proposed: C. No more than 12% of financial assistance award may be used to pay for architectural, engineering, and construction management fees from conception to completion of the public work project as defined by the State of New Mexico Procurement Code, unless a written approval and justification is provided by the New Mexico Environment Department, and, in such case, no approval shall exceed 15% of the financial assistance award.

Discussion included adding the Water Trust Board language to the Colonias Policies while leaving the discretion to the Board regarding other details. Mr. Deal stated it was impossible to complete a project at 12%, and communities would be forced to look outside the Colonias Program for additional funding. The Policy Committee kept the 12% as it seemed a threshold was necessary however Proposed Section C was added to allow consideration for reasonable fees in excess of 12%.

The Board directed staff to rewrite this section of the Policy for consideration at the next Policy Committee meeting.

Chairman Moore summarized the discussion stating that the Board accepts the proposed language in Sections 1.3B1 and 2.3 of the Policies, and directs staff to redraft the proposed language in Sections 1.1A, 3, and 6.2.

Mr. Deal made a motion, seconded by Ms. Garcia, to accept the Policy Committee's recommendation for adoption of proposed changes in Sections 1.3B1 and 2.3, and to direct staff to redraft proposed language in Sections 1.1A, 3, and 6.2 for further review by the Policy Committee and Board. The motion passed unanimously on voice vote.

11. **Colonias Housing Infrastructure Discussion.** Angela Quintana, Senior Program Administrator said that at the request of the Policy Committee and Chairman Moore, Mr. Isidoro Hernandez of the New Mexico Mortgage Finance Authority ("MFA") will present suggestions for amendments to the Policies to include funding for housing infrastructure.

Mr. Hernandez stated that discussions originated to provide proposed changes to the CIB application and Policies, not to use CIB funds to build homes or provide mortgage subsidies, but to support the infrastructure that goes into the homes in order to connect the water, and sewage. The intent is that the MFA would jointly work with New Mexico counties and cities to address situations where families living in a house that met the income levels of affordability requirements, but are not necessarily defined as public housing under the Affordable Housing Act.

Board discussion included how to revise the Policies to implement these concepts, including the need to verify all requirements have been met when an eligible community submits an application that includes the connections. Chairman Moore said the question at hand is whether to allow language into the Policies to consider projects with funding that includes dollars expended on private property as long as the legal and CIB funding requirements are met.

Chairman Moore asked the Board to provide input to staff regarding the discussion, including suggestions to include housing infrastructure eligibility language into the Policies. Chairman Moore also asked Mr. Hernandez and Mr. Otero to create an outline explaining the steps the Board would need to take to fund an infrastructure connection project as defined by the Affordable Housing Act.

12. **2019 Application Cycle Timeline Update.** Angela Quintana, Senior Program Administrator, presented the 2019 Application Cycle Timeline for the Board's review and consideration.

Date*	Activity	Task
2018		
August 10	Project Requests for Consideration at Next Colonias Board Meeting Deadline	Deadline to submit project requests for August 29 Board Meeting (Scope Change, Extension)
August 29	COLONIAS BOARD MEETING (Cloudcroft)	<ul style="list-style-type: none"> • Consideration of Project Requests • Consideration of RTP Extensions • Policy Recommendations
September 6	2019 CIF Application Training	2019 Application Training in Las Cruces
October 9	Project Requests for Consideration at Next Colonias Board Meeting Deadline	Deadline to submit project requests for October 16 Board Meeting (Scope Change, Extension)
October 10 – November 1	Notice of Intent Period	Applicant Notice of Intent to Apply due to Colonias@nmfa.net
October 16	COLONIAS BOARD MEETING (Las Cruces/Mesilla)	<ul style="list-style-type: none"> • Consideration of Project Requests
December 5	2019 APPLICATION OPENS	Online Application Opens December 5, 2018
2019		
<i>2019 Legislative Session (January 15 – March 16, 2019)</i>		
January 17	2019 APPLICATION CLOSES	Online Application Closes January 17, 2019
January 21- February 6	Application Evaluation Period	<ul style="list-style-type: none"> • Legal Review; • Application Completeness; • Compliance
February 8	Non-Compliance Notification	Applicants notified of non-compliance issues
February 19	Policy and Regulatory Compliance Deadline; Waiver Request Deadline	<ul style="list-style-type: none"> • DEADLINE to meet regulatory and policy compliance requirements (including spenddown for active CIB projects) • DEADLINE to submit waiver requests
February 20 – March 29	Application Evaluation Period	Review and scoring of applications by NMFA and Technical Agencies
March 1	Project Requests for Consideration at Next Colonias Board Meeting Deadline	Deadline to submit project requests for March 19 Board Meeting (Scope Change, Extension)
March 19– 20	COLONIAS BOARD MEETING (all day meeting-TBD)	<ul style="list-style-type: none"> • Consideration of Project Requests • Project Presentations • Waiver Requests Consideration
April 2	Project Requests for Consideration at Next Colonias Board Meeting Deadline	Deadline to submit project requests for April 24 Board Meeting (Scope Change, Extension)
April 24	COLONIAS BOARD MEETING (TBD)	<ul style="list-style-type: none"> • Consideration of Project Requests • Final funding recommendations to NMFA

Date*	Activity	Task
May 23	NMFA Board Meeting	Final Approval of CIB Awards
May 28	Award and Readiness to Proceed (“RTP”) Notification	Award letters outlining RTP items required to secure funding sent to applicants.
September 10	Readiness to Proceed Submittal Deadline	<u>LAST DAY</u> to submit RTP items.

***Please Note: Dates are subject to change.**

(The Board recessed at 1:33 p.m. and reconvened at 1:43 p.m.)

13. Colonias Projects Update. Angela Quintana, Senior Program Administrator provided the Board with an update on active Colonias projects.

- All projects from 2012 and 2013 have all been certified as complete
- In the 2014 funding, there are 3 projects deemed to be completed by early 2019, if not sooner.
- In the 2015 funding, 15 projects that have been certified as complete with the majority will be certified complete by early 2019
- In the 2016 funding, only one project has been certified as complete while the others are close to drawing down on their funds. These projects finished completion this year, or be the beginning of next year.
- In the 2017 funding, one project has returned their funds while another project has been determined as complete. Half of the projects have started spending their money.
- In the 2018 funding cycle, they have submitted their RTP along with additional five communities have submitted their RTP. Four projects have been awarded but have yet to meet their September 10, 2018 deadline to submit their RTP.

Staff continues to reach out to the entities to remind them of project expiration deadlines, outstanding balances, and project status reporting.

14. Public Comment.

Mr. Hubert Quintana said that he needs assistance to schedule Colonias Day at the Roundhouse during the 2019 Legislative Session. Mr. Quintana asked the Board to provide suggested dates, keeping in mind that scheduling is dependent upon the Legislature and space available.

15. Next Meetings.

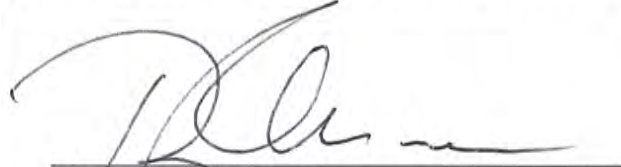
- Project Review Committee, October 11, 2018 (Socorro)
- Colonias Infrastructure Board, October 16, 2018, 10:00 a.m. (Mesilla)
- Project Review Committee, March 12, 2019 (Location TBD)
- Colonias Infrastructure Board, March 19-20, 2019, 10:00 a.m. (Location TBD)
- Project Review Committee, April 16, 2019 (Location TBD)
- Colonias Infrastructure Board, April 24, 2019, 10:00 a.m. (Location TBD)

Chairman Moore requested that a Policy Committee Meeting be added to the October 11, 2018, schedule.

16. Adjourn.

Chairman Moore made a motion to adjourn, seconded by Mr. Deal. The motion passed unanimously on voice vote.

The meeting adjourned at 1:58 p.m.



Chairman
Date: _____

Attest:



Board Secretary
Date: _____