

**New Mexico Finance Authority
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Santa Fe, NM 87501
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June 13, 2013

**Colonias Infrastructure Board Meeting
Town of Mesilla Community Center
2251 Santiago Street
Mesilla, NM**

Present – Voting Members:

Doug Moore, Chair	Senate Minority Leader Appointee
Oscar Butler, Vice Chair	Senate President Pro Tempore Appointee
Kristin Pope	House Minority Leader Appointee
E.J. Peinado	Designee - NMFA
Debbie Romero	Designee - DFA
Steven Deal	Designee - NMED
Orlando Jimenez	Speaker of the House Appointee

Present – Non-Voting Members:

Jay Armijo	South Central Council of Governments
Hubert Quintana	Southeastern NM Economic Development Dist.
Priscilla Lucero	Southwest NM Council of Governments

Absent:

Paul Gutierrez	New Mexico Association of Counties
Jay Czar	New Mexico Mortgage Finance Authority

Finance Authority Staff:

Bryan Otero	Connie Marquez Valencia
Mark Dalton	Rick Martinez

1. Call to Order and Roll Call.

The meeting was called to order at 10:05 a.m. Roll was called and a quorum established.

Trustee Jesus Parro welcomed the gathering to the Town of Mesilla. At the Chair's request, elected officials in attendance introduced themselves and the communities and/or Legislative district represented.

Chair Moore welcomed newly appointed Board member, Mr. Orlando Jimenez replacing Mr. Lowell Catlett who resigned. Mr. Jimenez thanked Representative Mary Helen Garcia for suggesting to the Speaker of the House that Mr. Jimenez be appointed to the position. Mr. Jimenez said he has been involved with the community for the past twelve years and believes he is now in a better capacity to serve the Colonias.

2. Approval of Agenda.

Mr. Oscar Butler moved, seconded by Ms. Debbie Romero, to approve the agenda. The motion was unanimously approved.

3. Approval of May 16, 2013 Board Minutes.

Ms. Debbie Romero moved, seconded by Ms. Kristin Pope, to approve the May 16, 2012 minutes.

Mr. Steven Deal requested the minutes be changed to reflect the following change: Page 3, Section 11, last bulletin item, change Mr. to Ms. Kristin Pope.

The minutes were approved as amended with Mr. Butler abstaining due to absence at the meeting.

4. Chairman's Report. Chairman Moore said he appreciates the staff and contractors' energy and commitment. He said last year was tough in getting policies and reviews completed in a shortened time period and thought things would be easier this year but that has not been the case. Chair Moore continued that all the bureaus that help with this project have done an outstanding job on meeting deadlines. He expressed kudos to the staff, agencies and Board members for their dedication in familiarizing themselves with the projects and the Colonias Board process.

Chair Moore said the Project Review Committee met earlier in the week to consider approximately 46 projects requesting close to \$45 million in funding. Funds available were approximately \$16.6 million and with leveraging with other agencies brought in approximately another \$10 million between all outside agencies involved. Chairman Moore said he is very proud of the Committee and Board's work in getting the funding to those communities where it is needed the most.

5. Consideration to Certify the Need of the 2013 Infrastructure Allocation of Senior Severance Tax Bonds – Updated Status of Executive Order 2013-006. Mr. Rick Martinez said the certification of need was approved at the last hearing in Alamogordo. The certification presented today is required by State Board of Finance for the projects. Mr. Martinez continued that there was lively discussion at the last meeting on the Executive Order at which time staff indicated they would request an exemption from the Department of Finance and Administration (DFA). The exemption has been obtained with some caveats.

Mr. Bryan Otero, Assistant General Counsel, reiterated that the Board did approve a resolution at the last Board meeting certifying the need for approximately \$16.5 million for infrastructure projects. Within the interim time period, staff considered the new Executive Order and its requirements along with working with DFA staff. Mr. Otero said DFA staff has been very amendable to the timing requirements for the Colonias Board. Since last meeting, the Board has been granted an exception to complying with the Executive Order prior to certification of need. The Executive Order requires DFA to promulgate certain funding criteria that all grantees must comply with prior to receiving funds. That requirement still exists and will be a readiness to proceed item.

Mr. Otero continued that today the Board is being asked to certify the need one more time but with a list of projects and applicants as indicated on the handout. Although not all projects may be funded, all projects were included so that if any of the projects fall out because they do not meet the criteria outlined in the Executive Order or for some other reason, the Board is not constrained in swapping out projects and can continue to put the money to work. Mr. Otero said there are minor changes to the resolution including the Executive Order, adding in eleven dollars, and transposition of a word.

Ms. Debbie Romero moved, seconded by Mr. E.J. Peinado, to adopt the resolution certifying the need to the 2013 Infrastructure Allocation of Senior Severance Tax Bonds with the minor change. The motion was unanimously approved.

- 6. Consideration to Approve the Project Review Committee recommendations for Project Funding of the 2013 Colonias Infrastructure Fund Allocation.** Chair Moore said the handout being distributed are the projects gleaned from the 46 applications submitted. In the last funding cycle only one application was utilized and through policy a scoring system was imposed with those scores guiding the Board in bringing the more urgent projects to the top. Chair Moore continued that upon receiving all the applications, the manner in which the scoring methodology was implemented, allowed a water or wastewater project simply by how it was scored move to the top where roads and solid waste projects by their nature did not score as well as the scoring methodology is scored on urgency and/or environmental mandated requirements.

Through the course of the year the policy and applications were changed to provide three distinct applications to level the playing field. Chair Moore said this year the Project Review Committee (PRC) focused on the urgency score points in considering the applications for funding. The PRC started with projects in the 80th percentile and higher, those projects were reviewed with a vote taken on projects where the need was urgent. After voting some funds remained so projects at the 70th percentile were considered, a vote was taken with funds still remaining.

Based on conversations with other funding agencies, there were several worthy projects that USDA, CDBG or some of the federal funding streams could not fund the project because a part of their project was either plan and design or plan design and engineering and federal funds cannot be used for that purpose. At that point the PRC decided to target some of the projects that did not score well but that would be funded by federal dollars if they were to have the planning and design money and we went through and picked several of those that staff and the COGs were great about telling us which ones those were and what the urgency was. We got commitments from other agencies and if we would just carve out that chunk of money to get the plan done then the federal agencies would come in and fund hundreds of thousands and in some cases millions of dollars of funding to those entities. We took on the part that was urgently needed to plan and design and our agency partners said if they get that done, we'll fund the projects.

We took some of that into consideration to the tune of about \$750,000 close to \$1 million that we carved out a project and gave them that chunk with the assurance that the federal funding stream would come in and support the balance of the project.

Chairman Moore said the PRC attempted to get all the money on the ground; with recommendations from the COGs and staff, not having enough money to fully fund the last two or

three but there was enough to give plan/design money this cycle so that in upcoming year they can get their projects accomplished and next year they'll score higher because they have plan/design in place, they will be more apt to receive federal funding because the plan/design is in place.

Chair Moore said there were many worth projects that the PRC did not have money to fund; the projects recommended for funding is where the PRC felt the need was most urgent and as Chair of the PRC proudly submitted the recommended projects for consideration to the Colonias Infrastructure Board for consideration and approval.

Mr. Orlando Jimenez moved, seconded by Chair Doug Moore, to approve the Project Review Committee recommendations for project funding of the 2013 Colonias Infrastructure Fund allocation.

Brief discussion ensued on the projects recommended for funding. Mr. George Esqueda, Engineers Inc. asked for clarification on the loan/grant and "NSR" columns and how it will impact the local entity. Mr. Martinez explained that "NSR" is the Net System Revenues. On the application when there is a column for the loan component there is a section that says what we've paid that loan component out of and if it is "NSR" meaning if its water rates or wastewater rates, that is considered Net System Revenue.

The motion was unanimously approved.

7. **Consideration to Approve the Project Review Committee Recommendations for Reconsideration of Project Funding from the 2012 Allocation of Unobligated Funds.** Chair Moore said some of the projects funded through the 2012 allocation were unable to utilize the funding or did not need the funds for one reason or another. He said the Board had previously discussed reallocation of funds from three projects that reverted funding. Chair Moore said the money is lost if not reallocated; however, Colonias Infrastructure Board policy is silent on reallocation of funds. He said three applicants, City of Lordsburg, Lake Roberts Water Association, and Otis MDWC&SWA were asked to prepare letter describing their projects and justifying the need for immediate funding through the 2012 allocation. When the PR met, since the policy is silent, discussion centered on how the reverted funds should be re-allocated, should just the three projects be considered, and is the Board being fair to all the entities who initially submitted applications.

Chair Moore said the PRC was uncomfortable with looking at only three projects and not giving everyone a shot at the money. Chair Moore asked the Board what direction should be taken in allocating the money that was returned. He continued that one option considered by the PRC yesterday at the onset was creating a "go-to-pot" in the event money is returned given that the funds are allocated for four years but said the PRC would like some direction from the full Board.

Ms. Debbie Romero noted that a couple of items that have not been considered is emergency funding, and set aside for plan and design. Ms. Romero said that if planning and design money was available, it would get projects ready to seek other funding. However, Ms. Romero continued that since there is no policy, in fairness to all applicants, the Board must consider how funding these

three individual will affect everybody else. Ms. Romero suggested further consideration by the PRC.

Mr. Hubert Quintana commented that these three projects have been around awhile back and did not just come up Monday. He continued that the three entities were asked to bring letters justifying the need for these projects. Mr. Quintana said the information was provided and was reviewed by the PRC on Monday. He said he understands the rational of giving all an opportunity at the funds, but these projects have been around for a while. Mr. Quintana felt that at this time, the Board needs to move forward with these three projects and then, in the future, decide how to handle similar projects should money revert back to the fund. Mr. Quintana said the three are all Colonias projects and the projects are urgent and are ready to move forward.

Chair Moore agreed that these projects did not just come up Monday and have been around since January but without direction in policy the issue is presented today to let the voting members of this Board provide direction.

Ms. Olga Morales suggested the Board take a look at the bigger picture. Ms. Morales said the money being requested is to complete projects that have been funded through other sources. She noted that federal and state funding is limited. The request is to complete the stand alone projects. Ms. Morales if these three entities are not able to get funding the projects do not move forward.

Ms. Kristin Pope agreed with Mr. Quintana saying she would hate to see the projects lingering. She said a response was requested, the entities have complied and should be funded. Ms. Pope said the PRC can then address residual funds for future projects.

Ms. Kristin Pope moved, seconded by Mr. Orlando Jimenez, to fund the three projects, Otis Mutual Domestic, Lake Roberts, and City of Lordsburg and further that the PRC develop policy for future residual funds.

Mr. Oscar Butler requested a legal opinion before voting on whether the Board would be in compliance. He felt that in terms of acting as a Board the decision should be based on policy; in terms of fairness doctrine should give all an opportunity.

Mr. Bryan Otero opined that the Board stands on solid ground in accomplishing goals; however, there are some procedural elements that have to be considered. Mr. Otero felt the Board is not prohibited from acting in the absence of policy but may need to go back to the State Board of Finance for approval with the change in projects. Mr. Otero felt the Board can move forward with those caveats in mind. Mr. Rick Martinez said these are not new projects, they are projects that were originally submitted and are the same exact projects considered during last year's funding cycle. Mr. Martinez continued that staff and legal counsel will forward the projects to State Board of Finance for certification. He said the statute and policy are silent but the statute does allow the board to act.

Ms. Priscilla Lucero cautioned that funds will be lost if not allocated. Mr. Steven Deal felt that the Board needs to ascertain that those projects are good projects and are not funding projects just to allocate the money. Mr. Deal said he has serious misgivings about Lake Roberts; Otis had several

items that were not disclosed, and has always felt that Lordsburg does not need the money. He urged the Board to send back to the PRC before immediately funding the projects. Mr. E. J. Peinado asked if the projects are in danger of losing federal funds to which Ms. Morales and Mr. Martinez responded in the affirmative. Mr. E.J. Peinado asked if the money be banked for emergency projects. Chair Moore said the Board has a duty to obligate all money to a specific project. Mr. E.J. Peinado felt the right move is to allocate the money knowing that the projects would lose federal funding. Ms. Pope asked if all the unfunded projects received the same letter requesting clarification and how where the projects scored. Mr. Rick Martinez said consideration was taken and documentation is available

Chair Moore said staff is being directed to work with legal counsel to provide parameters and guidance so a platform is available if the question comes up again next year. Mr. Jimenez highly recommended moving forward in light of the fact that this Board did charge the COGs with finding the projects with urgent need, and which have been highly scrutinized. Ms. Romero said the projects do have to go back to State Board of Finance and expressed concern about voting until clarification is received from them. Mr. Rick Martinez said that Senior Severance Tax Bonds are the same for Colonias, Water Trust Board, and school projects. He continued that precedent has been set and has been done several times for the Water Trust Board and is not the first time being done by State of New Mexico

Mr. Deal pointed out that the Technical Team provides a qualitative review but not quantitative review adding that he does not know how qualified NMFA staff may or may not be qualified but is leery that Lordsburg was rated number one. Chair Moore said the Colonias Board did not reject any applications and never will but rather ran out of money. He agreed Mr. Deal's concerns that the scoring in place last year did not clearly delineate urgency.

Vote taken on the motion. The motion was unanimously approved.

Chair Moore requested staff to begin the process of drafting boiler plate language that would address returned funds, explore how similar issues are handled by similar boards, i.e., Water Trust Board, draft proposed language to appropriately encapsulate the Executive Order, as well as recommendations to application that would be required if enhancements are needed at that level so the Board is compliant with the audit requirement as well as anything else Counsel deems appropriate. He further requested reassessment of the road application incorporating the urgency component contained in other applications that is absent in the road application, provide recommendation and proposed language. Chair Moore asked that staff request possible dates to convene a Policy Committee to review the policies, applications and proposed languages at their convenience. He further requested that the boiler plate language be sent to all Board members, that a meeting be scheduled within next 90 days to review proposed language changes that would address the issues the Board struggled with today; further that the proposed changes be posted on the NMFA web site so that as the process evolves the applying entities are able to follow along.

On the next meeting agenda Chair Moore requested an action item to discuss a set-aside earmarked amount of money that would be used for plan and design on projects that have potential to receive leverage funding. He requested staff to seek comment from funding agencies in Santa Fe soliciting input on how agencies can partner in funding projects. Mr. E.J. Peinado asked about the \$220,000

that remains in the fund. Chair Moore replied that pending issuance of a legal opinion on whether the Executive Order applies to these funds, and with legal answers in hand; the PRC can be reconvened to determine how to spend the balance of the funds.

Mr. Butler commented that the PRC and USDA were very helpful in leveraging funds, allowing more projects to be funded through the Colonias fund package. He requested that staff ensure participation by Water Trust Board, DFA, USDA and CDBG at the PRC review meeting for next year's projects to better leverage available funds. Mr. Quintana agreed with Mr. Butler's suggestion on leveraging funds. Mr. Rick Martinez recognized Mr. Clyde Hudson from USDA who provided invaluable assistance in project review.

8. Public Comment

Mr Frank Rodriguez thanked the Board and staff for their work on the Colonias Infrastructure Board.

Ms. Yvonne Basabilvazo expressed appreciation for the Board's hard work and is looking forward to starting on their project.

Mr. Juan Fuentes thanked the Board for all they do for the State and for consideration of their project. Mr. Fuentes asked for some guidance for next year application process. Chairman Moore said the Project Review Committee considered it to be a feasible project but the amount requested was half of Colonias budget. Chairman Moore suggested that they break the project into phases.

Mr. John Baldwin said he is happy with the direction the Board is taking, but noted that it is difficult for small water associations to get the matching funds. Mr. Baldwin asked about the possibility of getting a higher ranking for financial necessity. Chairman Moore responded that there is a waiver request in the application. Chairman Moore stated that granting a waiver will lower the score; however 30% of the points awarded are for urgency. Mr. Baldwin again thanked the Board and Ms. Priscilla Lucero for her assistance.

Mayor David Venable, Mayor Gary L .Williams, Mayor David Cordova and Mayor Estrada all thanked the Board for their hard work and for funding their projects.

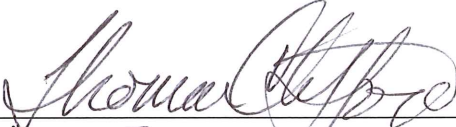
9. Proposed Date for Next Meeting

August 14, 2013

Location: TBD

10. Adjournment.

The meeting adjourned at 12:00 p.m.


~~Chairman~~ Secretary
10/7/13
Date