

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

May 7, 2015

**Minutes of the Colonias Infrastructure Board Meeting**  
**Grant County Administration Center, Commission Meeting Room**  
**1400 Highway 180 East**  
**Silver City, NM**

**Present – Voting Members:**

|                                  |                                                            |
|----------------------------------|------------------------------------------------------------|
| Doug Moore, Chair                | Senate Minority Leader Appointee                           |
| Oscar Vasquez Butler, Vice Chair | Senate President Pro Tempore Appointee                     |
| Robert Coalter                   | New Mexico Finance Authority Chief Executive Officer       |
| Jimmy Rodriguez                  | New Mexico Department of Finance & Administration Designee |
| Steven Deal                      | New Mexico Department of Environment Designee              |

**Present – Non-Voting Members:**

|                   |                                                       |
|-------------------|-------------------------------------------------------|
| Jay Armijo        | South Central Council of Governments                  |
| Hubert Quintana   | Southeastern New Mexico Economic Development District |
| Priscilla Lucero  | Southwest New Mexico Council of Governments           |
| Isidoro Hernandez | New Mexico Mortgage Finance Authority Designee        |
| Santiago Chavez   | New Mexico Association of Counties Designee           |

**Absent:**

|                         |                                 |
|-------------------------|---------------------------------|
| Jim Grantner            | House Minority Leader Appointee |
| Orlando-Antonio Jimenez | Speaker of the House Appointee  |

**Finance Authority Staff:**

Marquita Russel, Chief of Programs  
Angela Quintana, Sr. Program Administrator  
Bryan Otero, Assistant General Counsel  
Charlotte Larragoite, Sr. Administrative Assistant

**Guests:**

|                   |                               |
|-------------------|-------------------------------|
| Sandra Alarcon    | USDA Rural Development        |
| Jonas Armstrong   | Legislative Finance Committee |
| Richard Bauch     | Village of Santa Clara        |
| Alex Brown        | Town of Silver City           |
| Valentin Croitoru | Legislative Finance Committee |
| Julie Dubiskus    | Arenas Valley Water Assoc.    |
| Edward Encinas    | Town of Hurley                |
| George A. Esqueda | Engineers Inc.                |
| Robert Esqueda    | Town of Silver City           |

|                      |                                               |
|----------------------|-----------------------------------------------|
| Alisha Esquivel      | Grant County                                  |
| Pete Estrada         | Village of Loving                             |
| Abenicio Fernandez   | Doña Ana MDWCA                                |
| Chon Fierro          | City of Bayard                                |
| Bob Hill             | Hidalgo County                                |
| Jennifer Horton      | Doña Ana MDWCA                                |
| Sheila Hudman        | Village of Santa Clara                        |
| Clyde Hudson         | USDA Rural Development                        |
| Mario Juarez Infante | Village of Columbus                           |
| Charles L. Kelley    | City of Bayard                                |
| Martin G. Lopez      | Lower Rio Grande Public Water Works Authority |
| Edward Lueras        | La Luz MDWCA                                  |
| Rudy Martinez        | Bayard (former State Rep. Dist. 39)           |
| Rick Martinez        | The Apricot Tree                              |
| Richard Maynes       | Engineers Inc.                                |
| Howie Morales        | State Senator, Bayard                         |
| Karen Nichols        | Lower Rio Grande Public Water Works Authority |
| Kristina Ortiz       | City of Bayard                                |
| Lori Ortiz           | Town of Hurley                                |
| Peter Pena           | Town of Silver City                           |
| Angela Rael          | South Central Council of Governments          |
| Lilla Reid           | Souder Miller Associates                      |
| Freddie Rodriguez    | Town of Hurley                                |
| Susanne Roubidoux    | Assistant Attorney General                    |
| Martha Sales         | Town of Hurley                                |
| Jose Luis Segura     | Chamberino MDWC                               |
| Palmira Valentine    | Luna County                                   |
| Charlene Webb        | Grant County                                  |
| Gary L. Williams     | City of Ruidoso Downs                         |

1. **Call to Order and Roll Call.**

Chairman Doug Moore called the meeting to order at 10:06 a.m. Roll call was taken and a quorum was established.

2. **Approval of Agenda.**

Robert Coalter made a motion, seconded by Jimmy Rodriguez, to approve the agenda as presented. The motion passed 5-0.

3. **Approval of February 18, 2015, Board Minutes.**

Robert Coalter made a motion, seconded by Oscar Vasquez Butler, to approve the minutes of the February 18, 2015, meeting, as presented. The motion passed 5-0.

4. **Chairman's Report**

Chairman Doug Moore spoke to the Board about policy issues. He reported that when the Project Review Committee met to review all the project applications, they realized that due to the Executive Order requirements for audits, as well as changes in the environment, that the Board needs to look at its policy and applications for some fine-tuning. He also said that in reviewing the applications, it came up that for various reasons some funds are being reverted from previous years' awards, and that there is not clear policy guidance

for the reversion process. Chairman Moore said he will call the members of the policy committee to schedule a meeting and asked the full Board to give guidance to the policy committee.

5. **Legislative Update**

Chairman Moore welcomed New Mexico State Senator Howie C. Morales, Dist. 28, who provided the Board with an update on legislative action in the recent session and information regarding the anticipated special session to address capital outlay.

Senator Morales provided the Board with a Fiscal Impact Report (“FIR”) for House Bill 236/aHWMC/aSF, Reduce Severance Tax Bonding Capacity. The legislature is looking for ways to increase the dollars going into the permanent fund.

According to the information contained in the FIR, HB 236 “reduces the amount of severance tax revenue that may be used to finance severance tax bonds” which “has the effect of reducing estimated capital capacity . . . which in turn results in increased general fund transfers.” The Senate Floor Amendment “adjusts the percentages of STB capacity earmarked for tribal infrastructure (TIF) and colonias infrastructure projects to hold these beneficiaries approximately harmless from the reductions in senior STB capacity.” The FIR states that the amended fiscal implications of the senate floor amendment “decreases the size of the reduction to TIF and colonias projects.”

Senator Morales told the Board New Mexico legislators have questions about funds not yet expended on Colonias projects and that they want to know why projects are not moving forward. He said the causes of the project delays, as well as their underlying reasons, need to be identified. He said that there are some communities that still have not received grant agreements, and that some communities do not have attorneys to review and sign off on the agreements, and mentioned the loans that require USDA review. He expressed the need for collaboration in reviewing and attempting to rectify the issues to help these communities complete their grant agreements. Senator Morales gave the Board a list he had prepared of outstanding Colonias projects and said that he would provide a letter to the Board including the information and comments he had made today.

Chairman Moore said the Board has the same feeling on some of the issues raised by Senator Morales. He said the Board has been dealing with a changing landscape and that there are numerous reasons for projects to be delayed, including the New Mexico Finance Authority (“NMFA”) audit in 2012 which delayed funding, then Governor Martinez’ Executive Order which changed the funding process, and finally, the USDA pledge agreement which has created another issue to deal with. He said the Board would look at whether the projects are ready to break ground in the application process. Chairman Moore acknowledged that on the local level, many of the colonias have geographic and financial obstacles in obtaining legal counsel and completing their audits, which are required for funding.

Mr. Coalter stated that the Colonias project funds are encumbered and that NMFA staff has scheduled a meeting with representatives from USDA next week.

Mr. Quintana said that the COGs are taking a more active role in helping their communities with their audits.

Mr. Deal said the funding mechanism is a systemic process with ongoing problems and that this Board has done everything it can do within the system to make it work.

Mr. Vasquez Butler emphasized the regionalization efforts made by the Colonias. He also commented on the problems many of the smaller communities have with audits and the effect that has on regionalization, including holding up funding for needy projects in the Colonias.

6. **Consideration and Approval of Scope Change – Town of Silver City- 3157-CIF2014**

Angela Quintana, Senior Program Administrator, presented a request by the Town of Silver City for change of scope to use approximately \$162,983 to add 450 feet of road to the project, which is within the original project area. The amount requested in the change of scope request is the difference between the 100% CIF grant received and the actual contract awarded to Deming Excavating, Inc., who had the low bid. Alex Brown, Town Manager, and George Escada, P.E., Engineers Inc., appeared on behalf of the Town to answer questions from the Board.

Mr. Butler made a motion, seconded by Mr. Rodriguez, to approve the Town of Silver City's request for change of scope.

Discussion followed regarding the Town's confidence in the bid received, final design, and the percentage amount that requires a project to be re-bid.

The motion passed 4-1 with Mr. Deal voting in the negative.

7. **Colonias YTD Project Spreadsheet Review.**

Marquita Russel, Chief of Programs, and Angela Quintana, Sr. Program Administrator, presented a year-to-date spreadsheet for Colonias projects, prepared by Jim Perry, NMFA Sr. Program Administrator.

Chairman Moore asked that staff follow up with the entities regarding delays in their projects. Staff reminded the Board that the entities are required to submit quarterly progress reports and Chairman Moore asked that entities showing no progress after the 2<sup>nd</sup> quarter reports be asked to explain.

Staff was also asked to research and clarify if Colonias projects should be tracked for the requirement of 5% encumbered and 85% expended as part of the bond certification.

Chairman Moore thanked staff for the spreadsheet and asked that it be posted on Basecamp and updated regularly for the Board. He also requested that the spreadsheet include all projects, including those that have not closed. Chairman Moore further stated that the Board needs a legal opinion regarding what it can and cannot do with reverted funds.

8. **Eligible Projects**

Bryan Otero, Asst. General Counsel, provided the Board with a memorandum explaining the types of projects that are eligible to receive funding from the Colonias Infrastructure Fund, including the proposition that planning projects that are not tied to an infrastructure project are generally ineligible.

Mr. Quintana expressed his concern with the scoring of those applications for asset management plans, and said that several applicants had resubmitted requests for funding at the urging of staff, which entailed time and expense for them to do so.

Mr. Butler said that while he considers asset management plans to have value, as a member of the Project Review Committee he rejected the asset management plans from his reading of the statute. He said that asset management plans may be a need, but are not a priority.

Ms. Russel told the Board that the Local Government Planning Fund may be able to provide the entities with funds to pay for their asset management plans and that staff will contact those entities to provide them with information and see how the fund can help. Mr. Quintana stated that he believes the formula for awarding planning grants needs to be reviewed.

9. **Discussion of potential legislative action and possible reduction of the 2015 Colonias Infrastructure Fund (“CIF”) Project Allocation**

Marquita Russel, Chief of Programs, presented the Board with funding options in the event the legislature reduces the 2015 CIF allocation through a capital outlay bill during a special session. The potential amount of reduction is now estimated at approximately \$2 million. Taking into account reversions recently authorized by the Board (Morningside MDWCA and Bayard) and anticipated reversions for three projects that were unable to move forward and never entered into a grant agreement (Village of Hope, Town of Lake Arthur, and Desert Aire MDW&SWA), the Board can cover the potential reversion with only an approximate 3% reduction in 2015 project funding.

Chairman Moore expressed his appreciation for staff’s preparation of fallback measures, but also expressed concern that the Board would set a precedent for future raiding of the CIF by taking the recommended course of action.

Mr. Rodriguez thanked staff for coming up with the scenario. He informed the Board that every year on behalf of the Capital Outlay bill there is a fund subject to re-appropriation by the legislature and that the precedent exists. He expressed his concern that should the Board make award recommendations at this meeting then come back a month later and have to reverse its action.

Mr. Deal asked if staff was certain the money from 2012 would be available. Ms. Russel said the funds were never made part of a grant agreement and that funds came from taxable bonds, which do not have the same timelines that tax-exempt funding, has.

Mr. Quintana asked about the certification process to the State Board of Finance, the timing for the bond sale, and then calling another meeting of the Board to certify projects.

Ms. Russel informed the Board that as part of Agenda Item #11, the resolution for certification contains an attachment listing all eligible projects for the full \$16 million award amount.

Mr. Deal said that he agrees that the Board should award the full \$16 million.

Chairman Moore iterated the options were informational only and thanked staff for providing the information.

*(The Board took a break from 11:50 a.m. Chairman Moore reconvened the meeting at 12:04 p.m.)*

10. **Consideration for Approval of the Project Review Committee’s recommendations for project funding and waivers of local match and loan component of the 2015 Colonias Infrastructure Project Fund Allocation**

Marquita Russel, Chief of Programs, and Angela Quintana, Sr. Program Administrator, presented the Board with information for projects recommended for funding by the Project Review Committee.

Ms. Russel provided the background of the applications received: 54 applications were received, of those, 10 were for ineligible projects, 10 entities were not Executive Order (“EO”) compliant, and seven applications were for projects that will not be ready to proceed within the application timeline, leaving 27 applications recommended for funding. At the request of the Chairman, Ms. Russel provided a recap of the funding status and reiterated that the 2015 severance tax bond award is equal to \$16,000,875. Chairman Moore asked how

much of that amount would be expended according to the Project Review Committee's ("PRC") recommendations for funding of the 27 applications remaining. Ms. Russel said the PRC set conditions for three projects that were not certain to be eligible at the time the PRC met. Ms. Russel said that while all three projects met the conditions, one project with a PRC-recommended award of \$750,000 was excluded from the recommendation because it was not able to meet EO compliance. Staff recommends that part of that amount be diverted to another project that could use additional funds, and \$456,264 reserved for potential appropriation.

For the purposes of opening discussion, Chairman Moore made a motion to approve the Project Review Committee's recommendations for project funding and waivers of local match and loan component of the 2015 Colonias Infrastructure Fund ("CIF") project allocation. Jimmy Rodriguez seconded the motion.

Mr. Deal asked why the recommendation for Ruidoso Downs was \$5,000 more than requested.

Mr. Butler expressed his concern that Doña Ana MDWCA ("Doña Ana") was not included due to audit issues. Mr. Butler stated that Doña Ana received instruction that they need only to submit their audit to be considered for funding. Staff explained that to be compliant for purposes of funding awards, the State Auditor's office must receive and review the audits. The State Auditor's office then releases the audit to the public at which time staff can review the audit for EO certification. Pursuant to State law, the audits are not available to any other entity for review until the State Auditor posts its findings on its website. As of this date, that has not occurred. The Board's staff cannot recommend projects for funding that have not complied with this requirement.

The Board discussed the timing of bond sales and a possible special session.

Referring to staff's recommendation for conditional funding dependent upon action by the legislature in special session, Chairman Moore expressed his concern that the Board would not be able to access the additional funds if the certification is for an amount less than the full \$16 million, if the funds are not re-appropriated by the legislature in a special session.

Chairman Moore stated his opinion that the Board has three options at this time, 1) accept staff's recommendation to make awards less the amount reserved for potential legislative appropriation, 2) not make any recommendation today and reconvene after a special session, or 3) recommend funding of the full \$16 million.

Chairman Moore amended his motion to correct the award to Ruidoso Downs to reduce the amount by \$5,000 making the recommendation equal to the amount requested. Mr. Rodriguez agreed to the amendment.

Mr. Butler asked for clarification of a motion to table. The Chairman said that a motion and a second to table would suspend all discussion of the motion on the floor.

Mr. Butler made a motion to table. The motion died for lack of a second.

A roll call vote was taken on the Chairman's standing motion which failed on a 2 to 3 vote. Voting in the negative were Doug Moore, Oscar Vasquez Butler, and Steven Deal. Voting in the affirmative were Robert Coalter and Jimmy Rodriguez. The motion failed.

11. **Consideration for Approval of Resolution, Notification and Certification of Severance Tax Bonds for qualified projects.**

Motion to table made by Doug Moore, seconded by Oscar Vasquez Butler. Motion passed 5-0

12. **Public Comment**

Chairman Moore called for public comment.

Steven Deal offered apology for his direct manner of speech.

Former State Representative Rudy Martinez addressed the Board and offered his comments regarding the potential re-appropriation of the TIF and CIF. He said that he thinks the legislature may not have a full understanding of the great need in the Colonias and that the applicants should all contact their legislators to request support for the needed funding

Chairman Moore thanked Mr. Martinez and said that he will personally redouble efforts to attend the legislature to represent the Colonias.

Rick Martinez consultant with The Apricot Tree spoke to the Board about actions considered during the recent legislative session. Mr. Martinez also commended staff member Angela Quintana for her work and efforts on behalf of the Colonias Infrastructure Board.

Chairman Moore thanked staff for their efforts, work on behalf of the Board, and the information provided to the Board.

13. **Proposed Next Meeting Date**

The next meeting of the Colonias Infrastructure Board will be June 4, 2015, in Socorro, New Mexico.

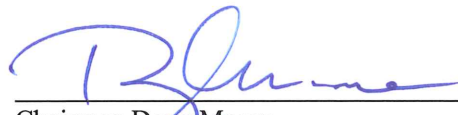
Mr. Quintana said the Board has to make a decision regarding Doña Ana MDWCA's compliance status, as well as decide what to do about allocation of the \$456,000. Ms. Russel pointed out that other entities may come into compliance by the time of the next meeting and that staff will determine the status of those entities as well.

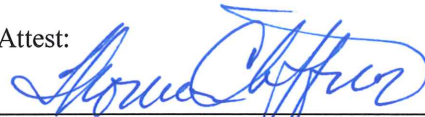
Mr. Rodriguez asked that the agenda include whether or not to rescind the 2014 awards for the three entities that cannot meet their EO compliance.

14. **Adjournment**

**Robert Coalter made a motion to adjourn, seconded by Oscar Vasquez Butler. The motion passed 5-0.**

The meeting adjourned at 1:00 p.m.

  
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Chairman Doug Moore  
Date: 5/29/15

Attest:  
  
\_\_\_\_\_  
Secretary Tom Clifford  
Date: 7/16/15