

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

**Minutes of the Colonias Infrastructure Board Meeting  
October 1, 2015  
Andres Silva Conference Center  
Deming, NM**

**Present – Voting Members:**

Oscar Vasquez Butler, Vice Chair	Senate President Pro Tempore Appointee
Jim Chiasson	New Mexico Department of Environment Designee
Robert Coalter	New Mexico Finance Authority CEO
Mary Helen Garcia	House of Representatives Minority Leader Appointee
Keith Riddle	Speaker of the House of Representatives Appointee
Jimmy Rodriguez (via telephone)	New Mexico Dept. of Finance & Administration Designee

**Present – Non-Voting Members:**

Jay Armijo	South Central Council of Governments
Santiago Chavez (via telephone)	New Mexico Association of Counties Designee
Izzy Hernandez	New Mexico Mortgage Finance Authority Designee
Priscilla Lucero	Southwest New Mexico Council of Governments
Hubert Quintana	Southeastern New Mexico Economic Development District

**Absent**

Doug Moore, Chair	Senate Minority Leader Appointee
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**Finance Authority Staff:**

Marquita Russel, Chief of Programs (via telephone)  
Angela Quintana, Senior Program Administrator  
Bryan Otero, Assistant General Counsel  
Charlotte Larragoite, Senior Administrative Assistant

**Guests:**

Alex Brown, Town of Silver City	Kate Fletcher, Catron County
Linda Cooke, Catron County	Jim Massengill, City of Deming
George Esqueda, Engineers Inc.	Susanne Roubidoux, Assistant Attorney General (via telephone)
Robert Esqueda, Town of Silver City	

1. **Call to Order and Roll Call.** Chairman Butler called the meeting to order at 10:00 a.m. Roll call was taken and a quorum was established.
2. **Approval of Agenda.** Mrs. Garcia made a motion, seconded by Mr. Chiasson, to approve the agenda as presented. The motion passed.

3. **Approval of September 1, 2015, Board Minutes.** Mr. Riddle made a motion, seconded by Mrs. Garcia, to approve the minutes of the September 1, 2015 meeting as presented. The motion passed.
4. **Consideration and Approval of Request for Change of Scope and Time Extension, Catron County 2808-CIF-12.** The Board was informed that representatives from Catron County (“County”) were en route. Chairman Butler asked for Board consensus to go to the next agenda item and return to this item when the Catron County representatives arrived.

Return to Agenda Item 4: After completion of action on Agenda Item 5, Angela Quintana, Senior Program Administrator, presented Catron County’s request for change of scope and extension of time for project 2808-CIF-12. Kate Fletcher, County Manager for Catron County, also answered questions and provided information to the Board on this request.

Mr. Riddle recused himself from discussion and voting on this request.

The County requested an eight (8) month time extension to complete the project, which include the original scope as pavement of roads, replacement of existing culverts and addition of new larger culverts to address the drainage and roadway problems. All areas are within the Rancho Grande Colonia area as defined in the original award. The extension is requested due to delays and complications encountered with personnel turnover and securing easements for the project.

Staff recommends approval of a time extension of eight (8) months from the current expiration date of December 5, 2015, to August 5, 2016 for Colonias Infrastructure Project 2802-CIF.

Ms. Fletcher, Catron County Manager, answered questions from the Board and confirmed that NMDOT also approved the requested change of scope, and she is confident the project can be completed with available funds and within the 8 months requested.

In response to a question about the scope, Ms. Lucero and staff explained that the application and grant agreement mirror each other and provide broad language to include all roads within the Rancho Grande Subdivision.

**Mr. Chiasson made a motion, seconded by Mrs. Garcia, to approve staff’s recommendation to approve the change of scope and time extension for Catron County project 2808-CIF-12. The motion passed with Mr. Riddle abstaining.**

5. **Consideration and Approval of Colonias Infrastructure Board Project Management Policy Amendments.** (This item was taken out of order with Board consensus.)

Angela Quintana, Senior Program Administrator, presented proposed changes to Colonias Infrastructure Board (CIB) Project Management Policies.

The proposed Policies contain both technical clean up language as well as inserting clarifying language throughout. In addition, the proposed revisions to the Policies include substantive changes to Section 2.4 Financial Assistance Awards, Section 3.7 Water Accounting System with Full Metering, Section 3.8 Asset Management Plan, and Section 6.5 Reallocation of Declined or Rescinded Financial Assistance Awards.

The proposed changes were available for public comment on the NMFA website and by direct email to CIB contacts on file. Staff received comments from the Department of Finance and Administration (“DFA”), but did not receive any public comments.

The CIB Policy Committee reviewed the policy revisions and comments received from the DFA. Although most of the DFA comments were accepted, the Policy Committee chose not to recommend suggested language provided by DFA regarding the eligibility of certain costs. Because the costs are eligible under the Colonias Infrastructure Act, staff recommends that the language remain as is in the policy. Staff has added language that clarifies the costs must be directly related to the project. Staff believes the new language conforms to the State Board of Finance’s (“SBOF”) existing practice regarding reimbursement of eligible costs from Severance Tax Bonds.

The DFA position on eligible costs is that the statute allows the fees, and that it also provides for other funding sources. According to DFA, when dealing with severance tax bonds, the Internal Revenue Service (“IRS”) does not allow legal fees, fiscal agent fees, or administrative fees. It is DFA’s position that the CIB policy should reflect that these fees are not allowable for severance tax bonds. According to Mr. Rodriguez, SBOF rule is specific that these are ineligible costs. He also said it is his assumption that if the fees were not itemized for reimbursement in the recent severance tax bond sale, that they are not allowable.

Counsel for NMFA explained that the rule of statutory construction is that specific language trumps general language. The Severance Tax Bond Act allows for direct costs and does not distinguish what comprises those costs. The Colonias Infrastructure Act is very specific and there are no other sources of funding. NMFA legal staff has contacted counsel for the SBOF for written clarification regarding eligible costs, but has not yet received a response or counter argument.

The Board continued discussion of professional services and eligible costs, itemization of costs, and how the SBOF processes invoices with these costs. Several Board members expressed their concern of the effect on small communities who have difficulty retaining legal counsel, and have no budget to pay for administrative fees, and whether this issue will delay the process.

Other policy revision issues discussed included housing infrastructure as provided in the Colonias Infrastructure Act; definitions provided in statute relative to the Board’s policies; the percentage limitation on architectural and engineering fees; and the time allowed for readiness to proceed items to be submitted.

Items 6 and 7 in Section 1.3 were discussed, specifically as they relate to the application, The Board's consensus was that no changes should be made to the policy regarding these items until the Board receives clarification of eligible costs, as discussed earlier. Chairman Butler said the Project Review Committee would review the application.

**Mrs. Garcia made a motion, seconded by Mr. Riddle, to approve the policies as amended in this meeting. Mr. Chiasson offered an amendment to the motion to approve the policy revisions presented with the exception to the removal of items 6 and 7 in Section 1.3. Garcia and Mr. Riddle accepted the amendment to the motion. The motion passed.**

At this point in the meeting, the Board returned to Agenda Item 4.

6. **Consideration and Approval of 2016 Application Timeline and Meeting Schedule.** Angela Quintana, Senior Program Administrator, presented the 2016 application timeline and meeting schedule. The timeline and meeting schedule was revised at the direction of the Board, and it has been reviewed by both the Policy Committee and the Project Review Committee.


Discussion by the Board included clarification that the policy revisions adopted today will be in play for this next application cycle, and clarification that waiver requests are due with an entity's application, if known, or otherwise due by February 26, 2016. Members expressed concern about an entity's need to make a waiver request regarding match or loan requirements if the entity is maxed on its pledged revenues.

**Mr. Chiasson made a motion, seconded by Mr. Rodriguez, to approve the 2016 application timeline and meeting schedule. The motion passed.**

7. **Public Comment.**  
None.

8. **Proposed Next Meeting Date.**  
The full Board will meet on November 10, 2015, in Las Cruces. The Project Review Committee and Project Review Task Force are scheduled to meet on October 27, 2015, in Socorro. Some members will not be able to attend the October 27 meetings and staff will attempt to find other dates for those meetings.

9. **Adjournment.**  
**Mr. Riddle made a motion to adjourn, seconded by Mr. Chiasson. The motion passed.**  
The meeting adjourned at 11:20 a.m.

  
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Chairman  
Date: 11-10-15

  
Secretary  
Date: 11/30/15