

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

**Colonias Infrastructure Board Meeting  
Santa Fe, New Mexico  
March 5, 2013**

**Present – Voting Members:**

|                          |  |
|--------------------------|--|
| Doug Moore, Chair        | Senate Minority Leader Appointee       |
| Oscar Butler, Vice Chair | Senate President Pro Tempore Appointee |
| E.J. Peinado             | Designee - NMFA                        |
| Debbie Romero            | Designee - DFA                         |
| Steven Deal              | Designee - NMED                        |

**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        |
| Izzy Hernandez   | Designee - NM Mortgage Finance Authority   |

**Finance Authority Staff:**

|             |               |
|-------------|---------------|
| Mark Dalton | Rick Martinez |
|-------------|---------------|

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

The meeting was called to order at 11:02 a.m. Roll was called and a quorum established.

**2. Approval of Agenda**

**Oscar Butler moved, seconded by E.J. Peinado, to approve the agenda. The motion was unanimously approved.**

**3. Approval of December 4, 2012 Board Minutes**

Mr. Butler made the following changes to the minutes.

- Page 2 last paragraph. The word (Where to Were)
- Page 3 third paragraph in the word (Pelage to Pledged)
- Page 3 clarify the ICIP process on the in the third paragraph
- Page 3 second to last paragraph change the (S to say Staff)
- Page 4 and the word Request in the first Paragraph
- Page 6 second paragraph change the word (Pips to Pipes)
- Page 6 second paragraph change the word (having to have)

Mr. Steven Deal asked if Silver City MDWCA was in Lincoln County and if Silver City has a MDWCA. Ms. Priscilla Lucero stated that Silver City does not have a mutual domestic.

**Chairman Moore moved, seconded by Debbie Romero, to approve the December 4, 2012 minutes as amended. The motion was unanimously approved.**

#### **4. Chairman's Report**

Chairman Moore reported that Mr. Lowell Catlett has resigned from the Board; newly appointed Speaker Kenny Martinez will appoint a new member by the March 20 meeting.

#### **5. Update on the Status of Projects Awarded Funding**

Mr. Martinez informed the Board that all projects that were 100% grant closed a month ago. There are still a few projects that are grant/loan projects that are scheduled to close in the next few weeks. The town of Hurly has been postponed so it will not affect the funding they received from Office of Natural Resources Trustee ONRT. Montana Vista Housing Authority has declined their funding due to the loss of other funding sources. Those funds will revert back to the Colonias Infrastructure funds. , With the fund reversion, Mr. Martinez said he could develop a list for the Board's consideration to either fund projects that did not receive funding or award additional funding to a funded project. Chairman Moore asked Mr. Martinez to make this an action item for the meeting on March 20<sup>th</sup> 2013.

Ms. Priscilla Lucero asked Mr. Martinez why Montana Vista lost the funding. Mr. Martinez replied that the entity did not secure HUD funding along with loans from the Mortgage Finance Authority so they respectfully submitted a letter to withdraw. Ms. Lucero asked if there is potential for using the funding elsewhere for housing. Ms. Lucero said the housing project is critical for Silver City who lost the funding because they did not execute a grant agreement in a timely manner that was required to apply for vouchers. Mr. Martinez said the withdrawal had nothing to do with Colonias funding because Montana Vista does have an executed grant agreement. Ms. Lucero said that she recalls that Montana Vista had asked for a firm commitment on when the funding would be received because they needed to apply for vouchers. Mr. Martinez replied that the award letter was sent to the Mortgage Finance Authority.

Chairman Moore asked Mr. Martinez to provide the Board with a list of projects for which all documents have been executed, and a list of pending projects. He further requested an action item for March 20 to discuss what is available to the Review Committee for funding which becomes available through reversion outside the normal vetting process. Mr. Deal mentioned when going through the original vetting of the Lordsburg project that he made some assumptions on that project and knows now they need that funding and would like to put forward the Lordsburg project. Mr. Peinado asked about the possibility of phasing the project and using Colonias funds rather than USDA funding. Mr. Martinez said Western Regional Housing Authority are not going to move forward with the project at all. Ms. Romero asked Mr. Martinez if there is a prioritization process whereby the next project on that list could be funded. Mr. Martinez said the Project Review Committee went through each project to determine how the most viable projects could be funded. Chairman Moore explained the time constraints the Board was under at the time and the fact that



the Colonias Board had one application for all the projects, so all projects were vetted together. Mr. Martinez mentioned there is a seven agency team that reviewed the projects.

Ms. Romero said that the State developed evaluation criteria wherein the most critical project rose to the top and offered to share the criteria with the CIB.

Ms. Lucero thanked Mr. Deal for his comments on Lordsburg. Clarifying the situation with Montana Vista, Ms. Lucero said it was not an issue over wanting the money but rather more of an issue of meeting deadlines for all the funding sources. Ms. Lucero said Catron County faced a similar situation whereby grant agreements were not executed in a timely manner causing them to almost losing funding from DOT. Ms. Lucero continued those are issues that need to be reviewed in addition to knowing if there are expirations on those grant agreements.

#### **6. Consideration to Adopt Project Selection and Management Policy Amendments as Adopted by the Colonias Policy Committee**

Mr. Martinez reported that the Policy Committee has a couple of recommended changes to the policies as follows. He asked for questions or concerns.

- 4 Borrowers funded for construction projects may substitute a “hard match” or a “soft match” as defined in Section 2.5 B 1 and 2 of these Project Management Policies for the mandatory loan component if the value of the “soft match” is equal to at least the amount of the required loan component.

#### B. To consider a “Change of Scope” request for an entity that has had a project awarded financial assistance by the board, the Colonias Infrastructure Board will impose the following requirements and limitations:

1. A detailed letter from the entity explaining the reason for the request that includes but not limited to details of the new project scope, costs, construction timelines, plans and specifications that warrant the change request where applicable, and a map of the project if applicable.
2. The request is submitted to NMFA Staff for review and if necessary, the Technical Review Team to determine if the scope change is in line with the original project scope, the change is feasible, and the new timelines are adequate.
3. The change of scope request is then submitted to the Project Review Committee for their consideration. After review of the Project Review Committee, the request is submitted to the full CIF Board for consideration.
4. The Colonias Infrastructure Board will consider only those “Change of Scope” requests that are within the original project award and move the project into another phase, or is directly related to the original intent of the award, or is due to unanticipated events leading to the request.
5. The decision to approve or disapprove a “Change of Scope” request is at the sole discretion of the Colonias Infrastructure Board.

Referencing section B.1, Mr. Butler voiced concern with the staff from Dona Ana coming and asking for a change of scope. Mr. Butler said he would like to see a letter from the Commission Chair, the Mayor or someone in a management and/or elected position requesting the change. Mr. Martinez said that Dona Ana County's application authorized the county manager the right to make decisions on the County's behalf as stated in the resolution. Mr. Martinez asked if that would satisfy Mr. Butler's concern. Mr. Butler replied that he would expect that in the first round the applicant would have included the authorization in their resolution. Mr. Butler said he wants to eliminate any possible corruption. Mr. Deal asked if it is the Board's responsibility to police the internal policies of the County. Mr. Butler replied that he does not believe the Board should police the County but does want to ensure that the scope changes are coming from the appropriate party. Chairman Moore stated that personally he does not like the idea of allowing project scope changes. Chairman Moore felt that an entity should not get a second chance to change the scope after vetting and authorization of a specific project scope by the CIB. He continued that if the entity cannot complete the project as authorized, then the entity should withdraw and apply again the next year. Chairman Moore asked the Policy Committee to review the policy addressing requests for project scope changes. Mr. Butler said he has expressed the same concerns to the Project Review Committee. .

Mr. Butler said that section B.2 is based on NMFA's staff review and confirmation that the scope of the project still complies with the scope of the project as originally submitted. Mr. Butler also felt that section 4.3 does not address the application needs regarding the change of scope. He said there are many environmental and engineering issues that the Technical Review Committee oversees to insure the projects meet all policy guidelines only to find out later that by changing the scope the project cannot move forward due to one of the issues. Mr. Martinez suggested adding number 4 and not 4.3. Mr. Butler felt that somewhere in the recommended policy there should be 4.3.

Mr. Butler said that section B.3 requires consideration by the Project Review Committee; however section B.5 stated the sole decision is made by the Board. He wondered why involve the Project Review Committee when the appeal ultimately goes to the Board. Chairman Moore replied that it is his understanding that the request would go to the Project Review Committee as if it were a new project and if the application meets the criteria the Project Review Committee would submit a recommendation to the Board. Mr. Martinez said that is correct. Mr. Martinez used the Town of Hurley as an example saying the request for the project scope change is on the same project; however, the Town of Hurley wants to use the funds on a different part of the project. Mr. Butler said if the Board is being asked to vote on the request, the Board has not received guidance from the Technical Review Committee. He requested that the Project Review Committee be given a checklist to see if the project meets the right criteria. Mr. Quintana recalled from the last meeting the two projects discussed were Town of Hurley and Dona Ana County. The Town of Hurley proposed to continue working on the sewer lines just on a different block while Dona Ana changed the project scope from working on the plaza to working on a street away from the plaza. Mr. Butler said the issue is still the same, the request being a project scope change. He felt that Dona Ana County has the option of sticking with the original project or resubmitting the application next funding cycle.

Ms. Lucero asked if an applicant is matching funds by 20% or more, are they required to meet the 10% loan requirement. Mr. Martinez said the applicant can request an exception, but the policy requires the matching component. Ms. Lucero asked if the exception would be requested during the



application process to which Mr. Martinez responded yes. Ms. Lucero said in some cases an applicant does not want a loan component and only agrees to the 10% loan requirement because it is a requirement fully intending to repay within 30days. Chairman Moore said it is his understanding that the 10% match requirement is in the Colonias Infrastructure Board Act (CIBA) and cannot be disputed. Mr. Deal asked the CIBA requires the loan or if the requirement comes from the NMFA. Mr. Martinez said the CIBA does not require the loan component. Chairman Moore said that in developing the policies, a decision was made to include the loan component to demonstrate an applicant's ability to borrow money. Mr. Martinez concurred.

Chairman Moore asked the voting members if any of them would be willing to work on review and clean-up of the language in the proposed change of scope.

Ms. Romero expressed concern and asked if the Board is changing the scope of the project. He noted that with the proposed change it would be difficult to determine if a project would be ready to begin, and asked what kind of evaluation would be done to insure the project is shovel ready. Mr. Martinez said the Town of Hurley is a great example as the Town applied for and was awarded planning and design money; they are shovel ready and now want to change the project scope. Ms. Romero commented that when an appropriation is made by the Legislature the funding is for the stated purpose and can only be changed by the Legislature.

A discussion ensued about proposed language changes regarding allowing project scope changes after funding has been awarded. The following changes were made:

- 1 Borrowers funded for construction projects may substitute a "hard match" or a "soft match" as defined in Section 2.5 B 1 and 2 of these Project Management Policies for the mandatory loan component if the value is equal to at least the amount of the required loan component.
- A. To consider a "Change of Scope" request for an entity that has had a project awarded financial assistance by the board, the Colonias Infrastructure Board will impose the following requirements and limitations:
1. A detailed letter from the highest elected official representing the entity explaining the reason for the request that includes but not limited to details of the new project scope, costs, construction timelines, plans and specifications that warrant the change request where applicable, and a map of the project if applicable.
  2. The request is submitted to NMFA Staff for review and the Technical Review Team to determine if the scope change is in line with the original project scope, the change is feasible, and the new timelines are adequate and meets the requirements of Sec. 4.3 (application standards).
  3. The change of scope request is then submitted to the Project Review Committee for their consideration. After review of the Project Review Committee, the request is submitted to the full CIF Board for consideration.

4. The Colonias Infrastructure Board will consider only those "Change of Scope" requests that are within the original project award and move the project into another phase, or is directly related to the original intent of the award, and is due to unanticipated events leading to the request.
5. The decision to approve or deny a "Change of Scope" request is at the sole discretion of the Colonias Infrastructure Board.

**Ms. Debbi Romero moved, seconded by Chairman Moore, to approve the amendments to the Project Selection and Management Policies. The motion was unanimously approved.**

**7. Update on Request for Change of Scope from Dona Ana County and Town of Hurley**

Mr. Martinez informed the Board that both entities have asked to be put on the agenda for the meeting on March 20, 2013.

**8. Public Comment**

**Ms. Christina Ortiz from the City of Bayard requested funding for their project.**

Fund my project.

Ms. Ortiz said the City took the comments from the last meeting and changed part of the application. She commended the Board for their hard work adding that the City of Bayard appreciates their efforts.

**9. Proposed Meeting Date**

**March 20, 2013  
10:00-12:00 p.m.  
Pecos River Learning Center  
Carlsbad, NM.**

**10. Adjournment**

**Mr. Butler moved, seconded by Mr. Peinado, to adjourn the meeting. The motion was unanimously approved.**

The meeting ended at 12:31pm

  
Chairman

5/1/13  
Date