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

Minutes of Board Meeting
November 20, 2013
Room 309 – State Capitol

Present:

Nann M. Winter, Chair	Stelzner, Winter, Warburton, Flores et al
William Fulginiti, Secretary	Executive Director, NMML
Katherine Ulibarri, Treasurer	V/P for Finance/Operations, Central NNMCC
Tom Clifford	Secretary, Dept. of Finance & Administration
Blake Curtis *(telephonically)*	CEO, Curtis & Curtis Seed
Steve Kopelman	Executive Director, NMAC
Brett Woods	Designee, NM Energy & Minerals Dept.
Secretary David Martin *(arrived at 10:44 am)*	Secretary, NM Energy & Minerals Dept.
Butch Tongate	Designee, NM Environment Department
Antoinette Vigil	Designee, Economic Development Dept.
Jerry Jones	CEO, Stolar Research

Absent:

Terry White	CEO, Sunwest Trust, Inc.

Finance Authority Staff:

Adam Johnson	Bryan Otero
Charles Parker	Dan Opperman
Darlaina Chapman	David Mahooty
Donna Maestas	Donna Trujillo
Dora Cde Baca	E.J. Peinado
Gloria Castillo	Jana Amacher
John Brooks	John Gasparich
Jolene Meadows	Leslie Medina
Mark Dalton	Mark Lovato
Marquita Russel	Michael Zavelle
Rachael Lujan	Robert Brannon
Rick Martinez	Sanjiv Doreswamy
Theresa Garcia	Zach Dillenback

Guests:

Alex Brown	Town of Silver City
Art Morales	BOSC, Inc.
Celeste Soto	City of Rio Rancho

Dale Lehman	Piper Jaffray
Dan Boyd	Albuquerque Journal
Dana Bahar	NMEDD-PSTB
Danielle Bradford	Piper Jaffray
John Archuleta	George K. Baum & Company
Kalvin Martin	NMED-PSTD
Kwali Forbes	Brownstein Hyatt
Linda Kehoe	LFC
Marta Ortiz	City of Rio Rancho
Michael Provenzano	Pro's Ranch
Mike Ross	Virchow Krause & Company
Rachel King	Sutin, Thayer & Browne
Richard Virtue	Virtue, Najjar & Brown
Roberta Lee	Presbyterian Medical Services
Susan Rodriguez	DFA - LGD

1. **Call to Order and Roll Call.**
   The meeting was called to order at 9:36 a.m. Roll was called and a quorum established.

2. **Approval of Agenda.** Staff requested deferral of Item Nos. 15 and 19.

   Mr. Jerry Jones moved, seconded by Mr. Butch Tongate, to approve the agenda as amended. The motion was unanimously approved.

3. **Approval of October 24, 2013 and November 4, 2013 Board Minutes.**

   Mr. Bill Fulginiti moved, seconded by Mr. Brett Woods to approve the October 24, 2013 and November 4, 2013 minutes. The motion was unanimously approved.

4. **Report from Chief Executive Officer.**
   Mr. John Gasparich, Interim CEO, reported on the following:
   - Introduced Theresa Garcia, Sr. Administrative Assistant for the Programs Department.
   - Briefed the Board on an LFC program review of the Water Trust Board and its program. Secretary Clifford suggested bringing this item back as a Board agenda item to analyze the issue as it relates to the NMFA Board's responsibility to determine if there is anything that the Board needs to address.
   - Provided follow-up from last Board meeting: 1) Michael Zavelle is looking at comparative information in terms of comparing NMFA bond issues with others in the market. He will try to have that information for the next bond issue; 2) Staff is planning to have a Policy discussion at the December Finance & Loan Committee meeting regarding the amount of GRT that can be pledged to loans, especially GRT that can be directed to two loans or operations; 3) Regarding previous discussion on the Socorro CSD bond issue, it was determined that NMFA is the decision-maker and a bond issue can be delayed to allow the Board more time to review, if needed. Also, Staff is in contact with Mr. Robert Gorrell of PSFA concerning Socorro CSD

management. It is anticipated that Mr. Gorrell will be making a presentation in December; 4) Ms. Marquita Russel addressed the Economic Development Plans, noting that there is no set of criteria necessary for contractors to perform; however, guidance is provided by the Economic Development Department (EDD), who has informally agreed to review the Plans on the Finance Authority's behalf, provided applicants are in compliance with procurement laws. Ms. Antoinette Vigil of EDD concurred and noted she had nothing else to add; and 5) Staff will provide a report in January on the Lovington Schools audit situation to keep the Board abreast of the audit.

5. **Report from Finance & Loan Committee.** Mr. William Fulginiti reported on the November 13th Finance & Loan Committee meeting. The Committee reviewed and recommends approval of the projects that follow.

   PPRF Items 6 and 7 have been placed on the Consent Agenda. These projects were reviewed by the Finance & Loan Committee, and subject to Board's approval, are recommended for approval with one motion.

6. **Consideration for Approval of Guadalupe County – Equipment Project - 3076-PP.** Guadalupe County applied for PPRF loan financing for $66,499 to purchase and equip two police vehicles.

   The Law Enforcement Protection Fund distribution for FY 2014 is $23,000. The MHI for the County is 69.33% of the State's MHI, therefore the County qualifies for disadvantaged entity financing of 0% up to $75,000. Because the loan amount is under $100,000, a debt service reserve account is not required. There is one existing NMFA debt (2421-PP) pledged to the State Law Enforcement Funds that will pay off in May 2014, prior to the first payment of this loan. The County is current with its Audits and financial reporting.

7. **Consideration for Approval of Town of Elida (Roosevelt County) – Equipment Project – 3078-PP.** The Town of Elida (the Town) applied for PPRF loan financing for $125,945 to purchase a Wildland Fire Truck.

   The proceeds of the loan will be used to purchase and equip a Danko 1,000-gallon Wildland Fire Truck with a Freightliner 4x4 commercial chassis. The Town is pledging its State Fire Protection Funds as security for this loan. There is currently no outstanding debt utilizing the revenue as the pledge. The Town receives a base distribution for one main station, which totals $58,584 annually. The Town is also current with its audits and financial reporting.

   The Town qualifies for a Disadvantaged Interest Rate of 0% which was applied to $75,000 of this loan request.

   Mr. Bill Fulginiti moved, seconded by Mr. Jerry Jones, for approval of Consent Agenda Items 6 and 7. The motion was unanimously approved.

8. **Consideration for Approval of the City of Rio Rancho's Special Assessment District Loans – Request for Modification to the Forbearance Agreement – 2892-PP (SAD 6) for $9,482,266,**

2282-PP (SAD 7) for $6,930,275 and 2336-PP (SAD 8) for $1,568,699. The City of Rio Rancho (the City) has requested a modification to its Forbearance Agreement relating to Special Assessment District SAD 6, SAD 7 and SAD 8.

Between October 2006 and September 2009, the Finance Authority entered into three loan agreements with the City to finance infrastructure improvements for SAD 6, SAD 7, and SAD 8 ("the SAD loans"). The SAD loans are secured by Special Assessments that are levied on the property owners located within each SAD boundary. Assessments to the individual properties are based on the estimated benefit that the infrastructure improvements are expected to have on each property's assessed valuation.

The SAD loans are structured with a 1.0x coverage factor with a large portion of principal amortized in the final year. The back loading of principal in the SAD loan's final year helps to mitigate against any loan default due to payment delinquencies by property owners. When assessments received from property owners are in excess of the semi-annual debt service payments due, the City exercises the loan's anytime call feature and remits the excess payments to the Finance Authority in the form of a prepayment, thereby reducing the outstanding balance of the SAD loan.

The City has been significantly impacted by the economic downturn that has ensued over the last several years, most notably in the real estate market, and the City has been experiencing delinquencies with property owners meeting their special assessment obligations related to the SAD loans. In response to the economic decline and delinquency increase, the City and the Finance Authority executed a Forbearance Agreement in November 2011 that allowed the City to temporarily forbear from exercising its rights to foreclose on any property which has been delinquent for a period of more than one year. Under the Forbearance Agreement, the City places the delinquent property owner on a modified assessment payment plan where the delinquent property owner agreed to pay a minimum of fifty percent (50%) of the scheduled assessment obligation on a monthly basis for a period of 18 months. At the end of the 18-month period, delinquent property owners are required to be current with all deferred and delinquent payments. It is also important to note that the Forbearance Agreement does not change the City's scheduled debt service payments to the Finance Authority as per the SAD loan agreements. The Forbearance Agreement's 18-month period has lapsed and expired June, 2013.

The Forbearance Agreement has proven to be an effective tool for the City and delinquent property owners. The Forbearance Agreement, in conjunction with the SAD 6 restructure, improved assessment cash flow (approximately one year's worth of additional positive cash flow was received via the modified assessment payment plan) while reducing the number delinquent properties. Equally important, the Forbearance Agreement helped prevent certain foreclosures from occurring and put the City in a better position to control the timing of the foreclosures and to avoid flooding the market with foreclosed properties, which would have negative impacts on property values within the SAD and area.

The City is current on its SAD loan payments with the Finance Authority. Additionally, the City recently made prepayments on both its SAD 7 and SAD 8 loans. Due to the high delinquency rate and assessment cash flow issues, the prepayments were applied to the front end to principal maturities to provide temporary cash flow "relief" (SAD 7 principal is paid up through August 2018, SAD 8 principal is paid up through August 2015) with the expectations that real estate activity will rebound. SAD 6 was recently restructured (closed June 21, 2013) to extend its amortization five years to help address special assessment cash flow.

The outstanding balances and maturity dates of the SAD loans are as follows:

SAD	Original Principal	Outstanding Principal	Maturity Date	% Amortized in Final Year
SAD 6 (2892-PP)	$9,482,266	$4,254,161	5/1/2021	25%
SAD 7 (2282-PP)	$6,930,275	$4,751,203	8/1/2025	48%
SAD 8 (2336-PP)	$1,568,699	$1,254,646	8/1/2025	42%

The SAD delinquency rates are as follows:

	SAD 6	SAD 7	SAD 8
Total Number of Properties	549	384	75
Paid off Properties	280	105	22
Active Properties	269	279	53
Delinquent Properties	107*	83	13
Percentage Delinquent	40%*	30%	25%

**Assumed SAD 6 delinquency rate as of February 2013 (at the time of SAD 6 loan restructure). The City is expecting updated results in Spring 2014.*

The City seeks to modify the Forbearance Agreement to extend it through the maturity of the SAD loans. The City believes that continuing to accept fifty percent (50%) of the delinquent payment is better than taking over the property, in which no funds are received during the lengthy foreclosure process. The City Financial Services Director will be responsible in approving payment plan extensions on a case by case basis for delinquent property owners.

Secretary Clifford asked about the coverage analysis and whether there are specific assessments pledged to these loans. Mr. Zach Dillenback explained that the assessments are the security of the loan and therefore pledged to a loan. It is 1.0xs coverage, but the par amount of the loan cannot exceed what the estimated benefit is to the property owner. The only thing being funded is the improvements up to the estimated value.

Secretary Clifford asked what is happening with cash flows on the assessments, noting that they are not what were originally projected. Mr. Dillenback replied that these loans are structured with an anytime call feature and noted that there is a balloon payment that comes due in the final year. The City imposes the assessment rate based on a fixed amount of the total loan and is not in conjunction with the actual loan amortization. The City is expecting to receive assessment cash flow that is far in excess of the debt service owed and once they pay the actual debt service owed, the City has excess reserve that they are required to remit back to the NMFA in the form of a pre-payment. He noted that the City has done this on various occasions. Secretary Clifford asked if the City is on schedule in terms of the principal prepayment. Ms. Marta Ortiz, Acting Finance Director, replied that they are off schedule. She explained that the City has made prepayments where applicable if they have had access cash made based off of payoffs from the property owners. On a cash basis, the City is intact according to the debt schedule that they entered into. Secretary Clifford then asked if the prepayments are captured in the debt service schedules. Ms. Ortiz commented that they are not only current, but ahead of schedule in terms of their debt service payment. She noted that the Forbearance Agreement helps the City address the number of delinquencies. Secretary Clifford noted that it would be helpful to see the history of the payments whenever the Board reviews the agreements so they can see how it is proceeding according to plan. He concluded that he felt it was a good proposal.

Mr. Dillenback noted that at the Finance & Loan Committee meeting, members questioned where each of the districts was located and the City has provided a map showcasing each of the districts.

Chair Winter asked if the SAD assessment liens are on par with property taxes. Ms. Ortiz said that no, but there is an aggressive structure process in place where notifications are sent to delinquents.

Secretary Tom Clifford moved, seconded by Mr. Bill Fulginiti, for approval of City of Rio Rancho's Special Assessment District Loans - Project #2892-PP (SAD 6), #2282-PP (SAD 7) and 2336-PP (SAD 8). The motion was unanimously approved.

9. **Consideration for Approval of Town of Silver City (Grant County) – Infrastructure Project – 3030-PP.** The Town of Silver City (the Town) has applied for PPRF loan financing for $196,079 to convert and upgrade an existing gas station into a government refueling station on a property that the Town purchased.

The Town purchase property with an existing gas station (currently not in use), located adjacent to other Town-owned properties. The Town plans to upgrade and convert it into a Government Refueling Station. Only City and County vehicles will refuel on the premises. The Town will purchase fuel cards that are linked to a software program designed to track the mileage and fuel use of its vehicles to better manage the fleet. Additionally, they will be able to save money on fuel cost using a volume discount. The estimated savings will be approximately $0.15 per gallon. The Town staff and an outside contracted engineering firm will oversee the project. The Town has been working with the Petroleum Storage Tank Bureau (PSTD). This Bureau must inspect and approve the project.

The Town has pledged the 1st and 2nd increments of its MIGRT. Staff used the Taxation and Revenue RP-500 data. The revenues have been increasing over the last three years. Staff used the 3-year average to determine coverage.

The Town is current with its audits and financial reporting. The FY2012 audit had no findings.

Mr. Bill Fulginiti moved, seconded by Mr. Brett Woods, for approval of the Town of Silver City Project #3030-PP.

Secretary Clifford noted that the Finance and Loan Committee was interested in how the project sits in terms of regulatory approval and the potential liability that the Town may be assuming because this has been an operating fuel facility in the past and there is an underground tank that is being inherited. He then asked about the nature of inspection and potential liability. Mr. Kalvin Martin, Program Manager of the Prevention and Inspection Program for NMED-PSTD noted that he is familiar with the inspections that have occurred at this facility. He explained that the former owner, Las Cruces Oil, was notified in 2012 of compliance requirements that they were not meeting, especially with the piping. About that same time, the Town of Silver City purchased the facility and assumed the liability of the non-compliance issues of the storage tank system. The Town was told that the piping needed to be replaced and PSTD has been inspecting the facility and working with the Town to ensure that they are putting in the proper equipment and tank prior to construction. During construction, the Town will need to remove the existing piping and there will be potential for any contaminated soil to be discovered during the removal. He noted that in the potential of a release, the Town does assume the liability and remediation.

Secretary Clifford asked whether as part of the acquisition of the property, the Town got any insurance on part of the Seller in terms of inherited damages. Mr. Alex Brown, Silver City County Manager, replied that as part of the acquisition, they did do a Phase I environmental assessment. He noted that the Town knew what it was getting into as far as any possible leaks from the tanks and were aware of the piping issues. Secretary Clifford noted that the Department has an agreement whereby the Town does not assume the damages that have already been created and asked Mr. Brown if he had entered into that agreement with the Department. Mr. Brown replied that they have not done that yet. Ms. Dana Bahar, Bureau Chief of the PSTD, explained the process and noted that until a release is found, the Bureau does not have a process for the City to enter into. Mr. Brown added that Phase I, which was a preliminary assessment, showed no leakage from the tank or piping. Secretary Clifford asked what regulatory hurdles the Town needs to clear in order to proceed with this construction. Mr. Martin replied that they need to perform the construction activities with certified installers and replace the existing piping with new piping that meets all industry codes and standards. Secretary Clifford asked how the Town was going to insure against potential future liability and whether it has a liability insurance that protects them against further leaks from this facility. Mr. Brown replied that he was not sure and would need to find out, but the Town can purchase insurance if needed. Secretary Clifford expressed concern with the liability for migration leakage and said he would appreciate more information on that point. Mr. Jerry Jones noted that he is sensitive with Secretary Clifford's concerns and asked if the requested funding is sufficient to account for any delays that might be present as a result of the mitigation that the Town will have to take on itself. Mr. Brown responded that there is approximately 20 percent reserved and explained a 15 percent saving, which will cover all debt service and maintenance for future years. Ms. Bahar commented that if there is a leakage, the Town can access corrective funds. Mr. Jones noted that he just wanted to make sure that the Town has a reserve to cover that type of situation. Mr. Steve Kopelman said he was concerned about the possible liability, but in looking at the documentation, it looks like the Town pledged the 1st and 2nd increment of the MIGRT. He added that he would be concerned if the Town did not have a full indemnification when they purchased the property and suggested that the Town carefully check the policy for pollutants.

Mr. Butch Tongate asked if NMED-PSTD was aware of any other contaminants in that area. Ms. Bahar noted that there are other releases in the City.

The motion passed with Chair Winter and Secretary Clifford abstaining.

10. **Consideration for Approval of the Town of Silver City (Grant County) – Revised Approval of Infrastructure Project – 3031-PP.** The Town of Silver City (the Town) has applied for revised approval of an infrastructure project for $768,162 for the Scott Park baseball and soccer complex.

In 2011, the Town began renovating the Scott Park multi-use field facilities. Currently, the Town is ready to begin Phase II of the renovation project. The Town will use the proceeds of this loan for, but not limited to, purchase and install sports complex lighting, a concession stand facility, and additional bleachers. Additionally, the Town has met the requirements to receive the $275,000 from the 2013 capital outlay award specifically for this project.

In August 2013, the NMFA Board approved the aforementioned project. During the diligence portion of the closing process, it was discovered the previous pledge is not interceptable due to the condition dictated by a previous debt obligation. Upon review of the available option, the Town chose to change the pledge revenue from Municipal GRT to Municipal Infrastructure GRT (MIGRT). The MIGRT has increased over the last three years; therefore, staff used the average to determine debt coverage. The Town has requested to change its pledge.

The Town is current with its audits and financial reporting. The 2012 audit has no findings.

Mr. Bill Fulginiti moved, seconded by Mr. Steve Kopelman, for a revised approval of the Town of Silver City Project #3031 for the Scott Park baseball and soccer complex.

Secretary Clifford asked whether the debt service was not previously contemplated an NMFA loan. Mr. Adam Johnson replied that it was not an NMFA loan, but Series 2012, which is a private revenue bond. He noted that counsel discovered that the Town has a resolution as a part of that obligation bond that requires all incoming outflows for the increment pledged to that, which means it goes to Silver City first. That increment is not interceptable therefore NMFA opted to change the pledge to MIGRT, which is interceptable. Secretary Clifford asked how much of the GRT is pledged to debt service and what remains for operating purposes of the GRT that is already imposed, plus the state shared. Mr. Alex Brown explained that approximately 12% of the total GRT goes toward debt service. Last year, their GRT was $9.4 million and now the debt service is a little over $1 million, and pledged with GRT. Ms. Antoinette Vigil asked about the 5 of the 6 pledged and what those ordinances are tied to. She then asked whether it was tied to the Town's Economic Development Plan and whether the Town has done a cost benefit analysis on the impact of this development. Mr. Brown replied that it is tied to the Town's Economic Development Plan and explained that with Silver City being one of the "out-of-the way communities", one of the biggest draws to the Town is quality of life; therefore, it is tied directly to their Economic Development. He noted that they have not done a specific cost benefit analysis, but this facility has been built over an old landfill. They went from 3 fields of grass that was over an old landfill where the watering was creating environmental issues to 4 fields of turf. Since water is no longer needed, the environmental impact has been mitigated. Ms. Vigil informed him that the EDD can help on the cost benefit analysis, if the Town is interested in having one done. Regarding the question on the 5 ordinances that the Town has pledged their increments to, she asked if one of them is the Local Development Act. Mr. Brown said no, they are all municipal infrastructure. He noted that being a regional shopping center in the 3-county area, they have been cautious about implementing too many taxes. After last year, they will be losing approximately $1.7 million from the $9.6 million from the hold-harmless. Three-eighths is only going to get the Town about $900,000 back and they still have 5 mills of property taxes that they can impose and have the one-fourth percent that they can impose. Secretary Clifford asked if this project is on the Town's ICIP. Mr. Brown responded that it is No. 1 on the ICIP.

The motion was approved with Chair Winter abstaining.

11. **Consideration for Approval of North Star MDWCA (San Juan County) – Contract Amendment for Extension of Time – 0094-WTB.** Staff recommends approval and concurrence from the NMFA Board for a time extension to the existing funding agreement for 12 months from the time of the approved request for funding agreement WTB #0094.

    The Association was approved for funding on June 27, 2007, by the WTB for a water storage, conveyance and delivery project in an amount not to exceed $2,000,000 (20% loan, 80% grant). The approved project is for regional water system improvements, including construction of approximately 16.75 miles of water transmission lines, a new pump station and new 500,000 gallon water storage tanks. The funding agreement was secured on October 22, 2010 and has a remaining balance of $1,788,786.83 set to expire October 22, 2013.

    Work completed to date is installation of seven miles of 10" diameter transmission water line, including fire protection to the North Star Water Association area. The project is approximately 1/3 completed. The next phase, transmission line installation between North Star and Flora Vista with a pump station for both Associations, is ready to go out for construction bidding. This installation will allow connection of a new tank from Flora Vista to the existing infrastructure for the much needed potable water storage and fire protection of the Flora Vista community.

    The final portion of the project will replace a 4-inch line that is undersized to provide the water volume of the existing 31-year-old system to meet the pressure requirements.

    The challenges of forming regionalization between multi-domestic water entities, rights-of-way, environmental, archaeological and other associated clearances have slowed the progress of the project. In addition, the North Star had an electrical fire in an office that left staff having to relocate to another office location.

    Due to the upcoming winter season and limited time to proceed with the construction portion of the project, the Associations revised their initial request of six months to a 12-month time extension to complete the outlined work for 0094-WTB.

    The proposed changes conform to the legislative authorization and WTB rules and policies.

Per Section 10.3 Amendments, of the Loan/Grant Agreement, the agreement may be amended only with written consent of all the parties hereto. The WTB has reviewed and approved this request at the October 30, 2013 meeting.

Ms. Jana Amacher pointed out a typographical error, noting that the action recommended is to read October 22nd, which is the original date of the planning agreement, instead of October 30th.

Mr. Steve Kopelman noted that he was not on the WTB when this came out, but assumes that 12 months is more than adequate time to get this project completed.

Mr. Bill Fulginiti moved, seconded by Mr. Jerry Jones, for approval of North Star MDWCA Project #0094-WTB. The motion was unanimously approved.

Report from the Chairperson of the Economic Development Committee. *Committee members are: Jerry Jones, Chair; Terry White, Vice-Chair; Blake Curtis; and Secretary Jon Barela or his designee.*

12. **Update on Activities.** Mr. Jerry Jones reported on the November 13, 2013 Economic Development Committee meeting. He noted that because of scheduling problems, only two members were present; therefore, the Committee could not make a recommendation on the following items:

13. **Consideration for Final Approval of an $11 Million New Markets Tax Credit Financing to Staurolite Resources, Inc. (San Juan and Socorro Counties)** The Economic Development Committee and staff recommend approval.

    An interest-only loan in the amount of $10,670,000 was made to Staurolite Resources, Inc. at a blended interest rate of 1.4583.8% and minimum coverage of 1.61 xs. The loans will be made by Finance New Mexico-Investor Series XIII, LLC, with capital provided from qualified equity investment made by the Presbyterian Medical Services Investment Fund, LLC, which is 100% owned by WFCIH and a loan of $7,670,500 from PMS.

    Staurolite Resources, Inc. ("SRI") proposes to use the NMTC proceeds to build and equip a new clinic containing 27,427 square feet of gross building area on a vacant lot owned by PMS, located across the street from PMS' existing clinic in Farmington. The proposed facility will be 50% larger than the existing 18,300 square foot clinic and the number of exam rooms will be doubled. SRI also proposes to use a portion of the NMTC financing to acquire through a long-term lease with PMS a 2,186 square foot addition to a health center located in Socorro, NM. The new addition will increase the Socorro facility size by roughly 50 percent.

    Mr. John Brooks highlighted the modifications to this transaction from what the Board had last seen. He noted that staff will get a security guarantee from PMS that it will pay any notes associated with a particular transaction. Ms. Marquita Russel expanded on the security for this transaction, noting that when they first looked at the underwriting, they expected to get a mortgage on the two properties. It became impossible to do that in the Socorro facility because the land is owned by the City of Socorro and leased under a 100-year ground lease to PMS therefore they have been unable to get an actual mortgage there. She added that the ground lease currently runs until December 2103 through PMS and rather than go in and modify that long-term ground lease, PMS has agreed to sublease that ground lease to Staurolite, its subsidiary, and then enter into a lease on the other side. Ms. Russel noted that Staurolite is created for the NMTC program in order to transfer the credits down and it is unlikely that they will continue to operate after the 7-year program. By entering into a long-term ground lease, in this case 60 years, on the Farmington facility, PMS is able to easily collapse the ownership structure without too much additional concern and cost. The NMFA still has the same collateral, just different security instrument that secures it.

Mr. Jerry Jones moved, seconded by Ms. Antoinette Vigil, for final approval of an $11 million New Markets Tax Credit Financing to Staurolite Resources, Inc.

Mr. Dan Opperman informed the Board that there is a resolution to be adopted granting final approval. He then reviewed the various sections of the resolution and noted that the Resolution includes approving the amended and restating operating agreement in final form, the indemnification agreement and the Term Sheet

The motion was unanimously approved.

Secretary David Martin arrived at the meeting at 10:44 am replacing Mr. Brett Woods, his designee.

14. **Consideration for Approval of Modification to New Markets Tax Credit Loan Agreement and Related Documents for El Paseo Las Cruces Pros RE, LLC Project (Doña Ana County)**
Approval of modification to the loan agreement and related NMTC documents with El Paseo Las Cruces Pro's RE, LLC ("El Paseo") to allow El Paseo to: 1) modify its lease with Pros Ranch Markets, an affiliated grocer that occupies more than 60% of the Las Cruces shopping center; 2) reduce the interest rate; 3) modify loan covenants; and 4) defer a portion of Finance New Mexico's interest payments.

In July 2010, Finance New Mexico closed an NMTC transaction with El Paseo to fund the purchase and renovation of a 107,497 square foot multi-tenant community shopping center located in Las Cruces. Known as El Paseo Plaza, the community retail center was nearly vacant at the time of purchase with its last improvements occurring more than 25 years ago. The $12.5 million NMTC financing was achieved through an $8.8 million leverage loan made by Bank of Albuquerque to a single purpose investment fund owned by US Bancorp Community Development Corporation ("USBCDC"). The leverage loan was combined with proceeds from a junior loan made by an affiliate of borrowers for $579,000 and $3.221 million in tax credit proceeds contributed by USBCDC. The funds were invested into Finance New Mexico Investor-Series V, LLC, which made a $12.125 million loan to El Paseo made up of three notes:

- A $8,800,000 interest only commercial and estate mortgage (Senior Note A) priced at a fixed interest rate of 6.73% over seven years;

- A $2,837,250 interest only commercial real estate mortgage (Note B) priced at 2% over seven years; and
- A $487,750 interest only junior commercial real estate mortgage (Junior Note C) priced at .5% over seven years.

The loan was secured by a deed of trust on the shopping center real estate, assignment of all rents and leases, purchase contracts, permits, licenses, documents and other rights or contracts relating to the Project, including all construction and architectural contracts and plans and, Security Agreement and UCC-1 Financing Statements for all non-realty items, subject only to a $100,000 direct loan provided by the Bank of Albuquerque.

In May 2013, citing pressures from Bank of America, its primary lender, Pros Ranch and ten of its related companies filed for Chapter 11 Bankruptcy protection. El Paseo, Finance New Mexico's borrower is listed as a creditor to Pros ABQ Ranch Market, LLC, the operator of the New Mexico's grocery store and one of the debtors. Though the development is currently 98% leased, the majority of the rent stems from this lease. Company executives have reported that rent, relative to the store's gross sales, is high for the grocery market.

Pros Ranch executives have requested the ability to restructure the lease so that the rent is based upon the 2% of gross sales for the store, which is expected to reduce the annual lease payments by approximately $486,000. Company executives have stated that without this restructuring they may have to reject the lease, thereby increasing the possibility that the NMTC loan will default. The lease modification will also provide for the modification of the debt coverage covenant to 1.0 to 1, which was agreed by the Bank of Albuquerque, the leverage lender on the transaction. Bank of Albuquerque's consent to these requests was predicated on two conditions. The first condition was that the majority of the $750,000 of sinking funds held by an El Paseo affiliate be applied to the Bank's leverage loan, thereby reducing the leverage loan to $8.1 million and increasing the junior affiliated loan by $700,000 with the remaining being applied to closing costs associated with the NMTC restructuring. The second condition was deferral of a portion of its annual 2% interest rate/fee until the end of the compliance period. The amount of deferral would not exceed $46,745 annually and the amount paid would still cover the approximately $10,000 in annual third party costs.

By shifting $700,000 of the leverage loan to the lower-interest rate junior loan, the interest rate will be reduced to an approximate interest rate of 4.63%, down from the current 5.44%. Additionally, as currently proposed, the junior leverage loan will continue to accrue interest, but it will not be paid.

Given the potential job loss that would accompany the closing of the Pros Ranch store in Las Cruces, staff recommends that the NMFA, on behalf of Finance New Mexico-Investor Series V, LLC, consent to the four requests and allow the CEO to modify the NMTC loan agreement and related documents necessary to effectuate the changes:

1) Modification of the lease to reduce the rent to 2% of gross sales, plus $10,000, with a floor of $300,000;

2) Modification of the loan documents to reduce the debt service coverage requirement to 1.0:1 and eliminate the sinking fund requirement;
3) Application of the $700,000 of accumulated sinking fund payments to the senior leverage loan and corresponding increase of $700,000 to the junior leverage loan; and
4) Deferral until July 2017 of approximately $171,000 of interest payments due Finance New Mexico ($46,745 x approximately 3.5 years).

Ms. Marquita Russel noted that deferral of the fee had come up at the internal Credit Committee and Economic Development Committee meetings. She noted that deferring the payment of the fee will not have an impact on NMFA's current cash flow operations because they are not fees used to help pay for Finance New Mexico, LLC.

Mr. Jerry Jones moved, seconded by Mr. Bill Fulginiti, for final approval of a modification to New Markets Tax Credit Loan Agreement and Related Documents for El Paseo Las Cruces Pros Re, LLC. The motion was unanimously approved.

15. **Consideration for Approval of Extension of $80,000 Collateral Support Participation Loan (2761-CSP) and Approval of New $80,000 Collateral Support Participation Loan to STAR Cryoelectronics, LLC through Los Alamos National Bank (3082-CSP) (Santa Fe County).** Item was removed from the agenda.

16. **Consideration for Approval of Extension of $200,000 Collateral Support Participation Loan for Haciendas at Grace Village, LLC through Western Bank of Alamogordo (Doña Ana County)**

In December 2012, the NMFA Board gave its approval to purchase a 40% interest in an 11-month line of credit financing with Western Bank of Alamogordo. The purpose of the line of credit is to help a startup company, Haciendas at Grace Village, LLC, ("Haciendas") the operator of a newly created memory disability residential care business located in Las Cruces and owned by Circle 7 Properties, LLC. The mission of Haciendas is to provide a protected and compassionate environment with specialized care for persons needing dementia services, hospice, and around-the-clock medical attention. Maintaining the highest possible quality of life for all residents is the number one priority of Haciendas. By providing the specialized services for all stages of senior living, Haciendas will eliminate the need for emotionally, mentally and/or physically fragile patients to move to a new facility during transitions.

Haciendas at Grace Village are made up of four newly constructed buildings which have 20 rooms each. As each building reaches 75% occupancy, Haciendas will open a new building until they are all opened. Thus far, Haciendas has opened two buildings and is close to opening the third building at which time they will establish its breakeven point for profitability. Haciendas have drawn $457,803 on the line with 40% or $183,121 coming from NMFA. The draws that have been requested by Haciendas have been for operational purposes such as cleaning supplies, some food and salaries for support staff.

The collateral structure for this loan consists of land and the accounts receivable of Haciendas. The value of the mortgage currently on the land is $575,737, which was used for the purchase of the land. The Bank has received an appraisal for the property valued at $1,386,000. According to NMFA policies, the loan to value on vacant land cannot exceed 70%. The line of credit will continue to be secured by Accounts Receivable for the duration of the line and staff will receive a borrowing base certificate before any funds are advanced against the Accounts Receivables.

Secretary Clifford asked about the source of the Collateral Support funding. Mr. John Brooks replied that the source comes from the State Small Business Job Credit Initiative, which is part of US Jobs Act 2010. He noted that each state is allotted funds and the State of New Mexico received $13.1 million to do participations with. Secretary Clifford asked if there have been subsequent rounds of that funding from the Feds. Mr. Brooks said that they have discussed additional rounds in the future, but at the present time, there has not been any new round of moneys to allocate to states. Secretary Clifford noted it is a little confusing that it is a collateral support program, but this is a working capital loan. He then asked if that is consistent with program guidelines. Mr. Brooks replied that it is consistent and also meets Federal requirements set to do the program. Ms. Marquita Russel added that as part of the application, the State focused on things like short-term capital lines of credit since that was one of the areas that was impacted by the tightening of the regulations due to fewer businesses getting the credits they received. She noted that the goal of the program was to increase the capital for small businesses and one area that they saw hit the hardest was the reduction of the lines of credit. Secretary Clifford asked whether there is a constraint on how much of the Federal funding can be used for working capital. Ms. Russel said no, there is a requirement under the program to leverage the funding 10 times by the end of 2016. She noted that the short-term working capital lines of credit help NMFA meet that leverage so the more short-term loans NMFA can do, the more effective NMFA's leverage program is because with each new credit decision, such as today's, NMFA is able to count that towards their ultimate leverage. Secretary Clifford asked what they are leveraging. Ms. Russel replied that each Federal dollar amount has to be leveraged 10 times with private capital. The bank funding, in this instant is the $300,000. Secretary Clifford asked if it was from private equity. Ms. Russel responded that it is private capital.

Ms. Antoinette Vigil moved, seconded by Mr. Jerry Jones, for final approval of an extension of $200,000 Collateral Support Participation Loan for Haciendas at Grace Village, LLC through Western Bank of Alamogordo. The motion was unanimously approved.

Report from the Chairperson of the Audit Committee. *Committee members are: Secretary Tom Clifford or designee Ricky Bejarano, Chair; Secretary David Martin; and Ms. Katherine Ulibarri.*

17. **Update on Activities.** Secretary Clifford reported on the November 18, 2013 Audit Committee meeting. He updated the Board on the FY2013 audit status report with the external auditor as well as the Exit Conference. He noted that they will have a report to the Board in December and suggested modifying the process of the Exit Conference so that a draft audit report can be brought before the Board and the entire Board can participate prior to finalization of the audit report. Ms. Donna Trujillo expressed concern with the Open Meetings Act and the State Auditor's requirements to not have it public information before they have had a chance to review it. Mr.

Bryan Otero said he believes there is an exception in the Open Meetings Act. He will research and verify it for the Board.

Secretary Clifford noted that the RFP for an internal audit function was another topic of discussion at the Audit Committee meeting. The Audit Committee would like to refine and review it within the Committee, then bring it before the Board in December. He further suggested the possibility of the Board having a facilitated strategic planning session once a year to discuss topics of interest.

Chair Winter asked when the audit is due for this year to which Ms. Trujillo replied December 15th.

18. **Audit and Investigation Findings, Recommendations and Actions (Information Item Only).** Mr. John Gasparich and Ms. Donna Trujillo briefly reviewed the dashboard. Mr. Gasparich noted that NMFA has been advised that there may be a follow up to Senate Bill 12, the Governance Board, at the next session of the Legislature. He explained the following areas of focus: 1) A CPA must participate on the Board of Directors, noting that a CPA chairs the Audit Committee; 2) Entrance/Exit Conference attended by Audit Committee, noting that the Audit Committee was present for 2011, 2012 and 2013; 3) Audit Committee meets regularly with auditors during audit, noting that the Audit Committee did meet with external auditors at scheduled intervals during the audit process; 5) Deposits should be made in NM banks, noting the FY agent is Bank of Albuquerque; and 6) Minutes and Records approved and maintained by Audit Committee, noting that the current practice is to approve and maintain minutes. Ms. Trujillo briefed the Board on the items listed on page 6 and 7 of the matrix. Secretary Clifford asked what procedures are being referred to on "Lack of up-to-date procedures". Ms. Trujillo explained that when NMFA underwent all the audits, most of the auditors noted that there are no procedures that were up to date or in existence. She noted that staff has worked on the operating procedures, but until there is a loan system in place, those loans will not be in tandem with the procedures. Secretary Clifford asked if staff has that manual. Ms. Trujillo replied that at the present time it is in pieces and there are large pieces that need to come together to make it a whole. Secretary Clifford suggested that during an upcoming Audit Committee meeting, Ms. Trujillo do an outline and walk them through those practices and let them know where additional work is needed.

Report from the Chairperson of the Contracts Committee. *Committee members are: Secretary Ryan Flynn, Chair; Secretary Jon Barela; and Mr. Jerry Jones.*

19. **Update on Activities** – The Contracts Committee did not meet this month.

20. **EXECUTIVE SESSION – Closed meeting pursuant to NMSA 1978, Section 10-15-1(H) (2) to discuss limited personnel matters pertaining to the filling of Finance Authority employment vacancies.**

Chair Winter entertained a motion for the NMFA Board of Directors to go into Executive Session pursuant to NMFA 1978, Section 10-15-1(H) (2).

Mr. Jerry Jones moved, seconded by Secretary Tom Clifford to go into Executive Session pursuant to NMSA 1978, Section 10-15-1(H) (2) to discuss limited personnel matters

pertaining to the filling of Finance Authority employment vacancies. Roll call vote taken with all in attendance voting in the affirmative. The motion was unanimously approved.

RETURN TO OPEN MEETING

Upon reconvening in open meeting, Chair Winter stated: "We are now in open meeting. Let the record reflect that no action was taken during the closed meeting and the only things discussed were limited to personnel matters pertaining to the filling of Finance Authority employment vacancies as allowed in accordance with NMSA 1978, Section 10-15-1(H)(2)."

21. Consideration of Approval of Hiring Chief Executive Officer of the New Mexico Finance Authority

Mr. Steve Kopelman moved, seconded by Ms. Katherine Ulibarri to approve negotiations and retention of Mr. Robert Coalter as the CEO. The motion passed with Mr. Bill Fulginiti voting against.

22. Next Board Meetings
December 20, 2013, 9:30 a.m.
Room 309, State Capitol
Santa Fe, NM

Secretary Clifford thanked Chair Winter for her service providing her with a letter of appreciation on behalf of the Board members and a gift from the Governor. Chair Winter thanked everyone and noted that announcement of the new Board Chair would be forthcoming.

23. Adjournment
The meeting adjourned at 11:36 a.m.

Secretary

Dec 20, 2013
Date