MINUTES OF THE

NEW MEXICO STATE BOARD OF FINANCE

REGULAR MEETING

Santa Fe, New Mexico

October 21, 2014

A Regular Meeting of the New Mexico State Board of Finance was called to order on this date at
9:05 a.m. in the Governor’s Cabinet Room, Fourth Floor, State Capitol Building, Santa Fe, New Mexico.

1. ROLL CALL: QUORUM PRESENT

Members Present:
The Hon. John Sanchez, Lt. Governor  [leaving at 12:10 p.m.]
The Hon. James B. Lewis, State Treasurer
Mr. Robert J. Aragon, Public Member [arriving at approximately 9:11 a.m.; leaving at 12:10 p.m.]
Mr. Adelmo Archuleta, Public Member
Mr. Michael Brasher, Public Member, Secretary
Mr. John Kormanik, Public Member

Members Excused:
The Hon. Susana Martinez, President

Staff Present:
Dr. Thomas E. Clifford, Secretary of Finance and Administration
Ms. Stephanie Schardin Clarke, Director, State Board of Finance
Mr. Jeff Primm, Deputy Director, State Board of Finance

Legal Counsel Present:
Mr. Luis Carrasco, Attorney General’s Office
Ms. Sally Malavé, Attorney General’s Office

Others Present:
[See sign-in sheets.]

2. APPROVAL OF AGENDA

NEXT REGULAR MEETING: TUESDAY, NOVEMBER 18, 2014

Treasurer Lewis moved to approve the agenda, as published. Mr. Brasher seconded the motion,
and it passed 5-0 by voice vote. [Not present during the vote: Mr. Aragon.]
3. **APPROVAL OF MINUTES:** September 16, 2014 (Regular Meeting)

Mr. Brasher moved for approval of the September 16, 2014, minutes, as submitted. Mr. Kormanik seconded the motion, which passed 5-0 by voice vote. [Not present during the vote: Mr. Aragon.]

**EMERGENCY FUND BALANCES**
Presenter: Stephanie Scherdin Clarke, Director

4. **Emergency Balances — October 2014**

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Reserve Fund</td>
<td>$1,912,100.00</td>
</tr>
<tr>
<td>FY14 Emergency Water Fund</td>
<td>$118,100.00</td>
</tr>
</tbody>
</table>

Ms. Clarke reported these balances.

**DEPARTMENT OF FINANCE AND ADMINISTRATION**

Presenters: Sanjay Bhakta, Acting Director, Local Government Division; Gerald Keene, E-911 Program Manager; Phillip Salazar, Manager, Jicarilla Apache Tribal Police PSAP; Martí Griego, Manager, Española Rio Arriba 911 Center; Art Ríos, E-911 Program Manager, Local Government Division

5. **Department of Finance and Administration, Local Government Division — Requests Approval of Increase in FY15 E-911 Grant Program Funding for City of Española Public Safety Answering Point to Expand Sub-grant for Jicarilla Apache Police Department in Dulce ($85,500)**

Mr. Keene stated that the Department of Finance and Administration, Local Government Division, is requesting approval of this $85,500 budget request for the Jicarilla Apache Police Department.

Secretary Clifford commented that, as a general rule, DFA has tried to limit the proliferation of Public Safety Answering Points (PSAPs) in the interest of achieving some economies of scale, but statute does make an exception for tribal entities. Mr. Keene responded that there are currently three: Isleta, Zuni, and Mescalero.

Mr. Salazar explained that the Jicarilla Apache Tribe decided to pursue a PSAP because there is a two-to-three-minute delay after a 911 call to Española reaches Jicarilla dispatch. In addition, information being shared from tribal members to entities they do not know is a major concern.

Mr. Keene clarified that the $85,500 budget would cover FY15 operating costs for the Jicarilla Apache. At that point, they would have a much better idea of the actual costs. At the end of the fiscal year, they plan to use this year’s data to build the FY16 budget.

Responding to Secretary Clifford, Mr. Keene said the annual budget for all the PSAPs combined is about $10 million and a little bit over $4 million for equipment, procurement, etc.

Mr. Keene stated that the Jicarilla have a fully equipped office, which they have funded themselves, and have invested more than $250,000 in new 911 equipment that is also next-generation capable. He
said the typical turnaround in a replacement cycle is five years for 911 equipment, but next-generation equipment in the digital format may last longer than that.

Responding to Secretary Clifford, Mr. Keene said the E-911 program gets about $12 million annually from surcharges, and is running a $2 million deficit at the current time. He said the current fund balance is about $13 million.

Secretary Clifford commented that it would appear the program would be out of money in about six years, and Mr. Bhakta explained that, in the last round, it took time to put the statewide price agreement in place, and this caused delays. Some PSAPs were unable to buy equipment right away as a result. He said about five PSAPs are updated each year, but right now there are more than that because of the backlog that was caused by the delay.

Mr. Bhakta stated that there would be 47 PSAPs in place with today’s approval. He said Alamogordo and Otero are in the pipeline because they have not yet come to a consolidation agreement.

Secretary Clifford asked if the legislature has appropriated money from the E911 fund for other purposes in recent years, and Mr. Keene responded that the legislature had not done so.

Secretary Clifford commented that the E911 fund is underwater right now, and there are no guarantees of other sources of revenue in the future.

Mr. Archuleta said the bigger question for him is whether the current mapping and design is the most cost-effective way of doing things or whether there had been a better alternative when the program was first initiated. He said he would support this request because of the need, but he would like to be better educated on how to evaluate whether this is the right direction to take.

Responding to Lt. Governor Sanchez, Mr. Keene said, “I would say the alternative would be the status quo.” He said the entire nation is moving from analog to digital, and “we’ll take the national standards and those lessons learned and best practices from these earlier adopters.” He said they will have a lot: more efficiencies and capabilities as they transition to analog.

Mr. Archuleta commented that moving from analog to digital presents another problem. He said it is important to know what the future looks like in terms of the existing master plan to make sure mistakes aren’t being made along the way in funding existing infrastructure. For example, it might make more sense to replace an aging sewerline with a larger one rather than sinking money into repairing the old system.

Responding to Mr. Kormanik regarding who is responsible for managing the system, Mr. Keene stated the responsibility for managing the 911 system lies with the state and local governments, but added that the next generation 911 systems will have another governing entity and a new governing board. He said this comes from a federal recommendation from the Office of Emergency Communications under the FCC and FirstNet.

**Mr. Brasher moved for approval. Mr. Archuleta seconded the motion, which passed 6-0 by voice vote.**
PROPERTY DISPOSITIONS

Presenter: Glory Johnson, Special Projects Supervisor, Assistant to County Manager

6. Luna County – Requests Approval of Lease of Real Property to Deming Hospital dba Mimbres Memorial Hospital at 1510 S. Slate Street in Deming ($42,840 per year)

Ms. Johnson requested approval of a lease agreement with Deming Hospital, doing business as Mimbres Memorial Hospital, for a term of 2 years and 9 months. The appraised value of $8 per square foot is based on an “as-is” condition for 0.62 acres, or 26,980 square feet of land with an approximately 6,480 square foot office building, of which 5,355 square feet will be subject to the lease. She said the building has been vacant for years and was previously used as a youth center.

Ms. Johnson said the final draft of the lease was sent to Board staff this morning.

Mr. Carrasco stated that there have been multiple iterations of this lease agreement, and just this morning he was able to communicate with external counsel for the hospital in Nashville. He said he was provided with a copy of the lease agreement that satisfied all of the issues that he and staff had identified.

Mr. Carrasco stated that a lease agreement circulated in hard copy this morning among Board members is not the final version. Should the Board choose to approve this request, it should be subject to the lease agreement containing subparagraph 8.c, which describes the amount of insurance that Luna County would be required to carry.

Mr. Carrasco requested that any approval by the Board include the following contingency: Director’s receipt of a final fully executed lease agreement with counsel review.

Ms. Johnson agreed to this contingency.

Mr. Aragon moved for approval of the final lease agreement with the new subparagraph 8.c, as well as the contingency. Mr. Archuleta seconded the motion, which passed 6-0 by voice vote.

Presenters: William Mattiace, Executive Director; Bob McNeil, Vice Chairman; Joseph Dworak, Assistant Attorney General, New Mexico Border Authority Counsel

7. New Mexico Border Authority – Requests Approval of Lease of Real Property at 221 Pete V. Domenici Memorial Highway in Santa Teresa to Verizon Wireless, LLC ($18,000 per year)

Mr. Dworak stated that the New Mexico Border Authority is requesting approval of a five-year lease of a 2,500 square foot tract of land at the Santa Teresa Port of Entry to Verizon Wireless, LLC. The lease includes four additional five-year extensions, for a maximum term of 25 years, and rent would escalate by 12.5 percent at the start of each five-year extension. The lessee will build and operate a cellphone tower at the site. The tower site is part of the mostly undeveloped 7.05 acres owned by the Border Authority.

Mr. Mattiace stated that there is a lack of proper cellular communications in the area.
Mr. McNeil stated that this will also be helpful for businesses wanting to locate along the border.

Responding to Mr. Kormanik, Mr. Mattiace stated that there are costly roaming services available through the cell tower built on the border, which is owned by Mexico.

Ms. Malavé advised the Board of aspects of the lease that are somewhat different from similar lease agreements reviewed by the Board in the past. She stated that the obligations associated with the lease are simply to provide access, and Verizon will take the responsibility for developing the property, and the infrastructure then becomes the property of Verizon. She said the termination provision is one-way, in that the State does not have the ability to terminate the lease, and the four five-year extensions are automatic. She also stated that Verizon insists that any sale of the property be subject to the lease agreement, so any potential buyer of the property would have to accept the property subject to the current terms of the lease. Essentially, she said the State would remain responsible for any provisions that the buyer was not amenable to.

Ms. Malavé said she saw no problem with the lease in terms of long-term debt being incurred. Furthermore, the obligation of the Border Authority is simply to provide the property for Verizon to be able to build the facility. She saw no additional obligations in the lease in terms of the State having to improve, repair, or anything beyond providing access.

Ms. Malavé commented that the escalator of 12.5 percent at the start of each five-year extension could potentially be higher than the consumer price index. She noted that escalation provisions in leases are generally tied to the CPI.

Ms. Clarke added that the lease starting point rent is significantly above appraised value ($18,000 per year versus $12,000 per year), so the 12.5 percent increase at each renewal point could exceed fair market value.

Secretary Clifford noted that the indemnification provisions are similar to those required in most State contracts, so are very strong on behalf of the Border Authority and offer some good protection.

Responding to concerns of Mr. Brasher, Mr. Dworak stated that, when this negotiation process started several months ago, he requested from the Board a copy of any type of similar lease approved by the Board, and some of the provisions from that lease were used in the Verizon lease. He said the Verizon lease was boilerplate and very different from the version before the Board today.

Mr. Aragon asked what this lease would do to the subject property and surrounding properties owned by the State in terms of obsolescence. Any anticipated valuation of the property subject to the new lease would be speculative, because the surrounding property is not for sale. He wondered if the State would be getting a fair deal because of the diminished value of the surrounding properties. He expressed concern about precedent, as well, and also commented that the property in question will be significantly more valuable in ten years than it is today by virtue of the development that will take place there.

Mr. Mattiace stated that the documentation includes supportive letters from GSA, Homeland Security and US Customs Border Protection. He said an in-depth appraisal was also done for the surrounding areas and how it would benefit and contribute to the industrial park there.
Responding to Mr. Aragon, Mr. McNeil said some of the adjacent property to the south is a parking lot owned by the federal government, and the adjacent property to the east is part of their infrastructure for transports in and out of Mexico. He stated that the opportunity for economic development lands is to the north and west.

Mr. Archuleta suggested that the Board keep in mind that having cellphone coverage is an economic development advantage for New Mexico in attracting businesses to the state.

Mr. Archuleta said that, in terms of setting precedent, what essentially amounts to a 25-year lease, because of four automatic renewals, is a concern. He said he has been approached by cellphone providers who want to put a small antenna on the top of his building, which is very different from the tower in question, which will cost $2 million to construct and will require extensive infrastructure on the site. He said his point is that conditions are different from one cell site to the next, so the question is at what point does this pay for itself. He stated, “On the side of the State I want the most agility in the lease I can get. I like the idea of let’s talk again in five years.” He said if the Board had an idea of when the project would pay for itself, it would be in a much better position to negotiate.

Mr. Mattiace responded, “I think this has gone through such scrutiny and so many changes with the Board of Finance and counsel, my feeling is we may lose the deal because there are other areas within that geographical area that Verizon can move to.” He said he does not see where the Border Authority would be selling the land, since the Border Authority is a state agency and would probably own the land permanently because of its proximity to US Customs and the crossing.

Mr. Archuleta asked Mr. Mattiace if, as former mayor of Las Cruces, he felt comfortable with a 25-year lease knowing the situation in that area and his responsibilities as a businessperson and somebody who has had to represent the public in transactions before. Mr. Mattiace responded that he did feel comfortable.

Lt. Governor Sanchez commented that he was somewhat disappointed that there were no representatives from Verizon present today.

Lt. Governor Sanchez asked Mr. Mattiace if there is other land owned by the Border Authority in the area that could be available for other cellphone carriers. He also asked how this lease will affect the Border Authority’s budget positively, and whether the Border Authority is relying on the proceeds of the lease.

Mr. Mattiace responded that he contacted AT&T and they were “jealous” that Verizon was making this lease deal. He said he told them that there was other land in the area that AT&T could use for this purpose.

Lt. Governor Sanchez asked if there is anything in the lease that would prevent another cellphone carrier from locating there, and Mr. Mattiace responded no.

Mr. Mattiace stated that the money from the lease will assist the Border Authority in carrying out its mission statement by using the proceeds for other border projects.
Lt. Governor Sanchez commented that negotiating with Verizon to have the lease prepaid could have given the Border Authority more operational monies to work with.

Mr. Aragon said he considers this to be a unilateral contract, but is very concerned about the precedent it establishes. He suggested that the Board make specific findings that narrow the scope of this project so the Board is not handcuffed to projects like this in the future.

Mr. Brasher asked if it is possible for Verizon to allow another vendor to co-locate on their cell tower. Mr. Mattiace responded that they can.

Ms. Malavé asked who would collect on the payment of the co-location. She said it is not addressed in the lease, so Verizon would collect and there would be no benefit to the State from the co-location.

Mr. Dworak stated that the Border Authority is entering into a lease for a tower site, not for a service provider. He said it just happens to be that Verizon has a branch that also maintains these towers, and the understanding is that most cellphone service providers have multiple services on a tower, and they just pay a higher fee. He said that isn’t contemplated in the contract, but he didn’t think it necessarily needed to be because that is the general nature of how these telecommunication towers are constructed and rented out.

Ms. Clarke recalled that, in the handful of cell tower leases the Board has approved in the past, there was at least one where the public body was able to negotiate a percentage of revenue sharing on any co-located subleases. There was also one where the public body was able to negotiate free access for the location of its emergency response equipment on the tower. She said she did not see such a provision in the Verizon lease.

Ms. Malavé requested that, if the Board approves this lease, it be subject to Director’s receipt of a final signed version of the lease.

Ms. Malavé stated that counsel can develop findings from the discussion that would distinguish this particular cell tower from others in terms of location and the necessity of the tower for serving the Border Authority, Border Patrol, and so forth.

Mr. Archuleta moved that, based on the specific findings that Board counsel has indicated can be included in the deliberation, along with a requirement that there be a provision in the agreement going forward that accrues to the benefit of the Border Authority with regard to revenue sharing of other suppliers to use this tower, an agreement by Verizon, along with the use by the state in any emergency services or whatever it might be in terms of being able to use the tower for that reason; and Director’s receipt of the final signed version of the lease to include the revenue sharing provision.

Mr. Dworak said he would assume that Verizon would probably negotiate down the rental amount.

Mr. Aragon seconded the motion for discussion purposes.

Mr. Aragon suggested that the language in the motion would materially change the face of the agreement, and this is beyond the scope of what the Board is supposed to do, which would be negotiating new terms with Verizon.
Mr. Aragon commented that if the Board feels the lease agreement is not a good deal for the state, the alternative is to simply say no. On the other hand, if the Board feels this is an agreement necessary to promote economic development for Santa Teresa, then it can choose to move forward with specific findings, as discussed.

The motion and second were withdrawn.

Mr. Brasher questioned whether this was really a good deal if the State could not have its own emergency equipment on the tower.

Mr. Dworak responded that he thought Verizon would be amenable to adding that provision to the lease agreement.

Responding to Mr. Brasher, Mr. Dworak said what makes this contract unique and different from almost any other similar cell tower agreement is that the Border Authority has, by statute, the duty to initiate, develop, acquire, own, construct and maintain border development projects. He said this is actually a directive. He commented that there is a big benefit here not just in the rental amount, but the Border Authority is doing its duty in ensuring that there is communication access for people and businesses in the area.

Mr. Brasher asked counsel for suggested findings.

Ms. Malavé cited the following findings: based on the mission of the Border Authority and the contract being consistent with their statutory duty to initiate border development projects, to provide service for the public health, safety and welfare of the area, ensuring that there is service to the area residents and the local governmental entities that provide services in the area.

Upon finding that the proposed lease agreement (1) is consistent with the Border Authority’s duty to actively promote and assist public and private sectors’ infrastructure development to attract new industries and businesses, thereby creating new job opportunities in the state while resolving transportation and logistical problems that may arise as ports of entry develop; (2) facilitates telecommunications services in and around the Santa Teresa Port of Entry; and (3) promotes the public welfare and safety by providing improved telecommunications services for the Border Authority, the United States Border Patrol, and other local, state and federal law enforcement agencies in the area, Mr. Brasher moved for approval of the lease, contingent upon Director’s receipt of the final signed version of the lease and a provision that allows the State access to the tower for emergency communications. Mr. Aragon seconded the motion, which passed 6-0 by voice vote.

HIGHER EDUCATION DEPARTMENT

Presenters: Ronald James, Capital Projects Coordinator, Higher Education Department; Glen Haubold, Associate Vice President, New Mexico State University; Alton Looney, Senior Assistant Director, Facilities, New Mexico State University; Greg Walke, University Architect and Campus Planning Officer, New Mexico State University; Dr. Renay Scott, President, Doña Ana Community College; Kelly Brooks, Interim Vice President, Business and Finance, Doña Ana Community College

8. New Mexico State University – Doña Ana Community College – Requests Approval of Infrastructure Renovation and Upgrades ($2,000,000)
Mr. James stated that New Mexico State University (NMSU) – Doña Ana Community College (DACC) requests approval of infrastructure renovation and upgrades at its central campus main building. Renovations include roof replacement, HVAC upgrades, chillers, building control replacements and fire alarm upgrades. If funding allows, the project may also include security and finishes upgrades. The roof of the main building dates to original construction and some portions of roofing are 20 to 30 years old. The funding source for the project is 2013 State General Obligation Bonds.

Mr. Aragon moved for approval. Mr. Archuleta seconded the motion, which passed 5-0 by voice vote. [Lt. Governor Sanchez was not present for the vote.]

Presenters: Ronald James, Capital Projects Coordinator, Higher Education Department; Andrew Cullen, Associate Vice President, Office of Planning & Budget Analysis; George Williford, First Southwest Company; John Archuleta, George K. Baum & Company; Paul Cassidy, RBC Capital Markets; Duane Brown, Modrall Sperling Law Firm; Katherine Creagon, Modrall Sperling Law Firm

9. University of New Mexico –
   a. Requests Approval of Subordinate Lien System Refunding Revenue Bonds, Series 2014A (up to $13,000,000)
   b. Requests Approval of Subordinate Lien System Refunding Revenue Bonds, Taxable Series 2014B (up to $4,000,000)
   c. Requests Approval of Subordinate Lien System Refunding Revenue Bonds, Series 2014C (up to $124,500,000)

Mr. James stated that University of New Mexico (UNM) is requesting the Board to approve System Refunding Revenue Bonds, Series 2014A, 2014B and 2014C for a combined amount of $141,500,000. These bonds are being issued for current refund the University’s outstanding system revenue bonds issued in 2003 and 2005. This is also to acquire a reserve fund insurance policy to refund or otherwise fund a debt service reserve fund for each of the bonds. Refunding will also pay the cost of issuance.

Mr. Carrasco stated that, if the Board votes to approve this item, let the record reflect that the Board has approved a parameters resolution authorizing the Regents of the University of New Mexico to issue Subordinate Lien System Refunding Revenue Bonds, Series 2014A, Series 2014B and Series 2014C. In summary, the parameters, terms, conditions and findings prescribed by the resolution provide for:

- Execution and delivery of the Series 2014A Bonds in the principal amount not to exceed $13,000,000, with a net effective interest rate not to exceed 5%.
- Execution and delivery of the Series 2014B Bonds in the principal amount not to exceed $4,000,000, with a net effective interest rate not to exceed 5%.
- Execution and delivery of the Series 2014C Bonds in the principal amount of $124,500,000, with a net effective interest rate not to exceed 5%.
- The 2014A Bonds and 2014B Bonds shall have a final maturity no later than June 1, 2033. The 2014C Bonds shall have a final maturity no later than June 1, 2035.
- Adoption of the 2014A/B Sale Resolution and the 2014C Sale Resolution by the Board of Regents, in substantially the form submitted to the State Board of Finance, a signed copy thereof to be provided to staff.
• Compliance with Rule 2.61.5.10(A)(2)(g) NMAC, certifying compliance with all statutory requirements for the execution and delivery of the 2014A Bonds, 2014B Bonds and 2014C Bonds.


• Payment by the University of any fees and costs for review, analysis and recommendations of the financial advisor and/or bond counsel of the State Board of Finance relating to the Bonds(s), pursuant to Rule 2.61.5.16 NMAC.

• Delivery of the 2014A Bonds, 2014B Bonds and 2014C Bonds shall not occur until the University has received written confirmation of satisfaction of the conditions set forth in the resolution by the Board of Finance’s staff.

• Purchaser’s placement fee is not to exceed 1.0% of the principal amount of the Bonds.

• The net present value savings resulting from refunding the outstanding Series 2003A and Series 2003B Bonds shall not be less than 4%.

• The net present value savings resulting from refunding the outstanding Series 2005 Bonds shall not be less than 4%.

• Requiring the University to provide other information as may be requested by the Board of Finance or its director pursuant to Title 2, Chapter 61, Part 5 NMAC.

Let the record also reflect that the Board has jurisdiction to approve the issuance of the Bonds pursuant to NMSA 1978, Section 6-17-3 (2003).

Responding to Mr. Archuleta, Mr. Cullen said they are still looking at the possibility of doing a forward delivery agreement on the 2005 bonds. They were going to come to the Board with this last April, but the market “got away from us” and they shelved the transaction. He said they are fully prepared to go ahead with the 2003 refunding, and will do the pricing next Wednesday. He said the 2005 bonds are not yet callable, so they are still weighing their options regarding the forward delivery agreement or advance refunding.

Mr. Archuleta asked Mr. Williford if he feels this is the best deal for UNM, even considering the economies of scale that would be available if this were just one issue.

Mr. Williford responded yes. He said doing them separately will optimize the savings from the refundings, so the cost of issuance is really a minor consideration in trying to optimize the 2005 savings.

Responding to Mr. Kormanik, Mr. Cullen described the pledged revenues of the system.

Mr. Archuleta moved for approval. Mr. Aragon seconded the motion, which passed 6-0 on a show of hands.

Presenters: Chris Vallejos, UNM Institutional Support Services; Tom Tkach, Director, Popejoy Hall; Lisa Marbury, Executive Director, Institutional Support Services, UNM

10. University of New Mexico – Requests Approval of Addition to Popejoy Hall Donors Lounge ($449,800)

Mr. James stated that the University of New Mexico is requesting approval of a 688 square foot addition on the ground floor of the Center for the Arts building to provide additional event space for the
Donors Lounge. UNM reports that the proposed addition will provide much-needed space and enable Popejoy to expand its lounge membership, which currently contributes about $463,000 to Popejoy’s annual budget. The source of funding is Popejoy Development Funds, including a one-time bequest of $300,000 from Gunderson, Denton & Peterson, P.C., Attorneys & Counselors at Law, and $149,800 in additional development funds on hand.

Mr. Archuleta moved for approval. Lt. Governor Sanchez seconded the motion, which passed 6-0 by voice vote.

11. University of New Mexico – Requests Approval of Hokona Hall Restroom Renovation ($397,800)

Mr. James stated that University of New Mexico is requesting approval of renovation of Hokona Hall restrooms. The project will renovate 1,388 square feet of restrooms and adjacent corridors and spaces, as well as address ADA and code compliance issues. The cost per square foot of the project is $208, and architectural and engineering fees total 15.4 percent of total construction cost.

Mr. Aragon moved for approval. Mr. Brasher seconded the motion, which passed 6-0 by voice vote.

Presenter: Dr. Nancy Barceló, President; Domingo Sanchez III, Vice President for Finance and Administration; Rosario Garcia, Board President

12. Northern New Mexico College – Requests Approval of Power/Security/Equipment Upgrades ($1,628,649)

Mr. James reported that, during an HED review of capital outlay activities, it was discovered that three Northern New Mexico College (NNMC) projects were underway prior to receiving HED approval, and that two of them also required Board approval. Upon discovery of this deficiency, NNMC was notified and they halted all work. After receiving HED approval, NNMC is ready to respond to one of these projects today.

Mr. James stated that NNMC is preparing the materials necessary to present the other two projects to HED and expects to bring them to the Board in December.

Mr. James stated that the project before the Board today was funded by a $2 million appropriation from the State’s Series 2013 General Obligation Bonds. The project addresses power, security and equipment upgrades. Prior to work cessation, the value of the material purchased and work completed totaled just over $1,526,000. During the HED review, it was noted that some institutional reimbursement had already occurred; as a result, the reimbursement process is being modified with DFA to ensure that only fully approved projects with authenticated expenditures are eligible for reimbursement.

Mr. James stated that the total amount for the remaining two projects, to be reviewed by the Board at its December meeting, is $371,350. He said these projects will receive HED review on November 12. While the total amount of these projects falls below the threshold requiring Board approval, HED feels these projects should receive Board review to avoid the perception that NNMC has divided the project into segments to circumvent the review process.
Responding to Mr. Brasher, Mr. Sanchez said NNMC no longer has a capital projects director, and for that reason he was not personally aware of these projects. He apologized for the oversight.

Mr. Brasher stressed the importance of knowing the rules and requirements for bringing projects to the Board.

Responding to Mr. Archuleta as to why there were eight phases in this project, which did not seem very economical, Mr. Domingo Sanchez said it was not NNMC's intent to stay under the radar of the Board by breaking the project up like this. He said they had identified different projects and addressed them individually, e.g., fencing, firewall security, installation of cameras, and so forth. Now that they have been educated and have worked with HED on the requirements, they are mobilizing their processes and will be hiring a capital projects director in spite of the fact that they have frozen more than 40 positions.

Mr. Archuleta moved for approval. Treasurer Lewis seconded the motion, which passed 6-0 by voice vote.

TAX INCREMENT DEVELOPMENT DISTRICTS
Presenters: Dick Minzner, Attorney, Western Albuquerque Land Holdings; Matt Butcher, Vice President, Garrett Development Corporation, Asset Manager, Western Albuquerque Land Holdings

13. Western Albuquerque Land Holdings – Requests Extension of Dedication of a Portion of the State’s Gross Receipts Tax increment

Mr. Minzner stated that Western Albuquerque Land Holdings (WALH) is requesting an extension of unlimited duration of the dedication of a portion of the state's gross receipts tax increment that was approved by the Board in January 2008. WALH's predecessor, with Bernalillo County, established four TIDDs in Bernalillo County.

Mr. Minzner said recent Board action said that unless legislative approval of bonds was obtained before the end of 2014, the dedication would expire. He said WALH believes that, because it has been spending money in the millions of dollars on reliance on this tax incentive, it is neither legal nor good policy to change the basis on which the developer can be reimbursed for the infrastructure. The dedication made in 2008 was not conditioned on any legislative approval, nor did it have a time-limited duration.

Mr. Minzner said WALH has spent or committed about $30 million that it believes is reimbursable, and another $20 million has been expended or committed that is not reimbursable.

Secretary Clifford said he thought Mr. Minzner had made some good points, but added that there was a very good rationale for the Board to make amendments to NMAC 2.61.3, and the scope of what the Board is looking at today is very different from what the Board was looking at in 2008. He said this is why he felt the Board had a very good reason for requiring in the new rule that those old decisions be revisited at some point, "or else you're allowing the use of public funds for something completely different from what was originally contemplated."
With regard to the issue of these revenues for direct pay as opposed to bond debt service, Secretary Clifford said the statute is unclear about that. He said Mr. Minzner makes an argument about reading two different sections together in order to get to a certain result. He commented that it would be great if the legislature would clarify some of these things, but in his mind they are not clear. He said he feels the direct language related to the Board’s approval explicitly links that to bond issuance, so there is a direct tie there, i.e., the logic of the rule was bonds are issued and the legislature approves.

Secretary Clifford stated that, with respect to the accrual of rights, the statute says amendment of rules will not change rights accrued prior to the amendment, so the key phrase is what was accrued by the entity prior to the amendment.

Secretary Clifford said his general sense is that some of the arguments being made significantly change the scope of the statute as he understood it. His understanding is that the statute is designed to incentivize the issuance of debt for infrastructure, and requiring legislative approval of the debt. He said what the Board is talking about here is significantly different.

Responding to Secretary Clifford, Ms. Malavé stated that she did not believe this request required any amendment to the rule, as WALH is acting in accordance with the rule by asking for an extension and stating why they feel they need one of unlimited duration.

Mr. Minzner stated that WALH filed an update as to anything that had changed from the original plan, including expenditures.

Secretary Clifford said he would be much more comfortable if a revised financial plan were submitted.

Responding to Mr. Kormanik, Mr. Minzner stated that, if their direct pay argument is held invalid, i.e., they can only spend money through the bonding process, then they would require legislative approval. Direct pay issue aside, he said they might go to the legislature to seek the approval of long-term bonds that would be issued against additional tax revenues; or approval of sponge bonds.

Mr. Carrasco requested that, if the Board votes to approve this extension, they make a finding that doing so is in the best interest of the State.

Responding to Mr. Brasher, Mr. Carrasco said this is a special circumstance where a right may have accrued prior to the time the new rule took effect.

Mr. Carrasco directed the Board’s attention to a memorandum from counsel submitted to the Board, addressing the various courses of action the Board might take today.

Responding to Mr. Aragon, Mr. Minzner said WALH’s argument is that, as a matter of law, reducing the opportunity for them to be reimbursed for expenditures they have been making in recent years is illegal. Secondly, as a matter of policy, a state seeking to promote economic development “ought not to be saying to somebody who has spent money in reliance on an economic development incentive, now that you’ve spent that money, we’re going to change the rules behind the incentive so you have a harder time to be reimbursed.” He said that, if WALH believes its rights to reimbursement are reduced either to four years or zero years, that would give rise to a legal challenge.
Mr. Aragon said WALH might be right in terms of the ex post facto implications that might render the Board's actions earlier this year to be in violation of their vested right.

Mr. Minzner said the argument before the Board today is whether it should put WALH back in the position it was prior to the time it spent money in reliance on the economic development incentive.

Ms. Malavé responded that this was correct, based on legal counsel's analysis.

Mr. Archuleta stated that, given the effort of the state to encourage development and jobs, what really resonated for him was Mr. Minzner's comment that the state had given its word. He said New Mexico has a small development community, and it would be very damaging to the state should word get out that it had gone back on its word.

Mr. Aragon moved for approval of an unlimited extension of the dedication, with the recommended finding that the extension is in the best interest of the State. Treasurer Lewis seconded the motion.

Secretary Clifford suggested a contingency that the Board receive an updated financial analysis that helps the Board understand where the current development entity is relative to the original plan.

Mr. Minzner responded that they would inform the Board of changes in writing. He said there is no intent to hide information from the Board, but they also do not want to find themselves expending large amounts of money to prepare information that isn't required of them.

Ms. Clarke said there is a reporting requirement due on November 1 from each district with an approved dedication of State increment.

The motion passed 6-0 by voice vote.

[Lt. Governor Sanchez and Mr. Aragon left the meeting.]

STATE TREASURER'S OFFICE
Presenters: Linda Montoya Roseborough, Chief Investment Officer; Treasurer James B. Lewis

Ms. Roseborough presented the monthly investment report.

GENERAL SERVICES DEPARTMENT
Presenter: Pamela Nicosin, Deputy Director, Facilities Management Division

Ms. Nicosin presented the monthly report for August 2014.
STAFF ITEMS

Presenter: Jeff Pimm, Deputy Director

16. Recommendation of Selection of Contractor to Begin Negotiations of an Agreement with Staff for Financial Advisor Services

Mr. Pimm reported that the State Board of Finance issued a Request for Proposals for Financial Advisory Services on August 13, 2014. Responsive proposals were received on September 12, 2014 from three firms: Public Financial Management, Fieldman Rolapp & Associates, and Fiscal Strategies Group. The Evaluation Committee carefully reviewed and evaluated these proposals based on the criteria and weights set out in the RFP and assigned the following total scores:

-- Fieldman Rolapp & Associates 702 points;
-- Public Financial Management 766 points; and
-- Fiscal Strategies Group 863 points.

Mr. Pimm said that the Evaluation Committee recommends selection of Fiscal Strategies Group to begin negotiations of an agreement with staff for financial advisor services.

Mr. Pimm stated that additional information related to these proposals and their evaluation remains confidential at this point. Board members that have signed a confidentiality agreement have been provided the evaluation committee report. If Board members have any additional questions at this point, the Procurement Code requires they be asked only in closed session.

Mr. Archuleta moved approval of the recommendation. Mr. Kormanik seconded the motion, which passed 4-0 by voice vote.

Presenter: Stephanie Scharlin Clarke, Director

17. Request for Approval to Initiate Procurement of Armored Courier and Cash Management Services and Equipment

Ms. Clarke said staff is requesting approval to initiate a new procurement for armored courier and cash management services and equipment through an RFP.

Ms. Clarke stated that, typically, all of the Board's banking services are procured through the fiscal agent bank, and if there are any third party vendors, they have a relationship with the fiscal agent bank, Wells Fargo. In this case, it may be advantageous for certain state agencies to use a service whereby the vendor requires the contract to be directly with the entity that leases the equipment. She said there are field offices all around the state, and if they accept any cash, the Board has to have an armored courier bring the cash to the fiscal agent bank daily. On average, she would guess that the Board pays about $350 per month per field office for the daily service. She said a newer technology is available where the courier leases a "smart safe" to the State and installs it securely in the field office, and the clerk enters the cash into the safe at the end of each day.

Ms. Clarke stated that, while there is a cost to the smart safe lease, the weekly pickup service reduces the cost. In some instances, it meets the cost/benefit cost of savings, but in others it does not. She said there is also the tangential security concern, which cannot be reflected in the cost/benefit. For
example, state employees in a field office have to remove the money from the vault to prepare the deposit, and this creates a security concern.

Ms. Clarke asked for approval to proceed with the RFP. She said staff would return to the Board at a later date with the results and to request authorization to negotiate a contract with one or more offerors.

Responding to Secretary Brasher, Ms. Clarke stated that language would be included in the RFP that would allow this to be a statewide price agreement.

Mr. Archuleta moved for approval. Mr. Kormanik seconded the motion, which passed 4-0 by voice vote.

18. **Board of Finance Dashboard Report**

Ms. Clarke reviewed the dashboard report.

19. **Fiscal Agent/Custodial Bank Fees**

Ms. Clarke reviewed the fiscal agent and custody bank billings. She thanked Board staff member Antonio Medina for the work he has done in the past month with the fiscal agent to improve the reporting format.

20. **Joint Powers Agreements**

Ms. Clarke read the Joint Powers Agreements into the record.

**ADJOURNMENT**

Its business completed, the State Board of Finance adjourned the meeting at 12:45 p.m.

\[Signature\]

Susana Martinez, President

\[Date\]

Michael Brasher, Secretary

\[Date\]

New Mexico State Board of Finance: October 21, 2014