MINUTES OF THE

NEW MEXICO STATE BOARD OF FINANCE

REGULAR MEETING

Santa Fe, New Mexico

September 20, 2016

A Regular Meeting of the New Mexico State Board of Finance was called to order on this date at 9:20 a.m. in the Governor’s Cabinet Room, Fourth Floor, State Capitol Building, Santa Fe, New Mexico.

1. ROLL CALL: QUORUM PRESENT
ANNOUNCEMENT: NEXT REGULAR MEETING – TUESDAY, OCTOBER 18, 2016

Members Present:
The Hon. Susana Martinez, President
The Hon. John A. Sanchez, Lt. Governor [excused at 11:35 a.m.]
Mr. Robert J. Aragon, Public Member
Mr. Adelmo Archuleta, Public Member
Mr. Michael Brasher, Public Member, Secretary
Mr. John Kormanik, Public Member

Members Absent:
The Hon. Tim Eichenberg, State Treasurer

Staff Present:
Ms. Duffy Rodriguez, Secretary Designate of Finance and Administration
Ms. Leila Kleats, Director, State Board of Finance
Ms. Donna Maestas, Deputy Director, State Board of Finance

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

Others Present:
[See sign-in sheets.]

LETTER OF THANKS FROM BOARD OF FINANCE TO DR. THOMAS CLIFFORD

Governor Martinez read a letter from the Board of Finance to Dr. Thomas Clifford, former Secretary of the Department of Finance and Administration (DFA), who was recently appointed to the University of New Mexico Board of Regents. The letter commended Dr. Clifford for his exemplary service to the State of New Mexico and the State Board of Finance since his appointment in 2011.
Dr. Clifford stated that the Governor’s leadership “has been a tremendous new day for New Mexico, and it was great to be part of it. It was absolutely a highlight of my career to be able to help you and your team.” He commended the board for doing an outstanding job.

Board members individually thanked Dr. Clifford for his professionalism and dedication to DFA and his kind counsel to the board over the years.

2. **APPROVAL OF AGENDA**

Mr. Aragon moved approval of the agenda, as published. Mr. Archuleta seconded the motion.

Board members discussed procedure. The board agreed that Approval of Agenda includes approval of all items on the Consent Agenda; therefore, that would be the appropriate time to remove any items from the Consent Agenda to place on the regular agenda for separate action.

The motion passed 6-0 by voice vote.

**CONSENT AGENDA**
Presenters: Leila Kleats, Director
Submitted by: Leila Kleats, Director

3. **Approval of Minutes: July 19, 2016 (Regular Meeting)**

Submitted by: William Provance, Jetport Manager; Chuck McMahon, Assistant County Manager; Ralph Richards, Attorney at Law, Counsel for Tenant

4. **Doña Ana County – Requests Approval of Amendment to Lease of Real Property Known as Lot T-6 at the Doña Ana County International Jetport, 8095 Airport Road, Santa Teresa, to Stanley P. Jobe (the greater of $0.17 per square foot per year while in use for noncommercial operations or $0.10 per square foot per year plus 2 percent of gross receipts if used for commercial operations, and $0.06 per gallon fuel flowage fee)**

Ms. Kleats stated that approval of this item is contingent upon Director’s receipt and counsel review of fully executed lease amendment, including staff’s changes (limit holdover to 6 months, sufficient appropriations clause, under no circumstances will lease rate be less than fair market value).

Ms. Kleats stated that the Jetport manager indicated to her that he was confident that the lessee would have no problems with the contingency.

5. **Doña Ana County – Requests Approval to Amendment to Lease of Real Property Known as Lot T-06A at the Doña Ana County International Jetport, 8095 Airport Road, Santa Teresa, to Stanley P. Jobe (the greater of $0.17 per square foot per year while in use for noncommercial operations or $0.10 per square foot per year plus 2 percent of gross receipts if used for commercial operations, and $0.06 per gallon fuel flowage fee)**
Ms. Kleats stated that approval of this item is contingent upon Director’s receipt and counsel review of fully executed lease amendment, including staff’s changes (limit holdover to 6 months, sufficient appropriations clause, under no circumstances will lease rate be less than fair market value).

Ms. Kleats stated that the Jetport manager indicated to her that he was confident that the lessee would have no problems with the contingency.

Submitted by: Richard A. Perea, Superintendent

6. Santa Rosa Consolidated School District - Requests Approval of Donation of Real Property Located at 225 South 4th Street in Santa Rosa to Guadalupe County

Ms. Kleats stated that approval of this item is contingent upon Director’s receipt and counsel review of fully executed donation agreement.

Ms. Kleats said all changes have been accepted and staff is awaiting final signature.

Submitted by: Marcos Gonzales, Interim Director, Economic Development and Cultural Services, Bernalillo County; Jennifer Bartlett, Director of Acquisitions, Housing and Economic Development, Cesar Chavez Foundation; Angela Heyward, Housing and Economic Development, Cesar Chavez Foundation; Carol Sugarman, Manager, CCD, LLC

7. Bernalillo County – Requests Approval of Private Activity Bond Volume Cap Allocation for La Vida Nueva Project ($18,000,000)

Ms. Kleats stated that all required policy conditions have been met.

Submitted by: Felipe Rael, Executive Director, Great Albuquerque Housing Partnership

8. Bernalillo County – Requests Approval of Private Activity Bond Volume Cap Allocation for the Sterling Downtown Project ($10,000,000)

Ms. Kleats stated that all required policy conditions have been met.

Submitted by: Ronald James, Capital Projects Director, New Mexico Higher Education Department; David Harris, Executive Vice President for Administration, Chief Operations Officer and Chief Financial Officer; Chris Vallejos, Associate Vice President, Institutional Support Services; Lisa Marbury, Executive Director, Institutional Support Services

9. University of New Mexico – Requests Approval of the CERIA Cryogenics Laboratory Renovations and Equipment Modifications ($803,186)

Ms. Kleats stated that all required policy conditions have been met.
Submitted by: Christy Tafoya, Director, James, Hilderbrandt, Business Enterprise Coordinator

10. Energy, Minerals and Natural Resources Department, State Parks Division
   Requests Approval of Concession Contract for the Operation of Cottam’s Ski Shop, Incorporated at Hyde Memorial State Park (concession fee of 10 percent of net receipts from sales and services)

Ms. Kleats stated that all required conditions have been met.

Submitted by: Charmaine Cook, State Cash Manager

11. Approval of State Treasurer’s Investment Performance Benchmarks

Ms. Kleats said there were no changes from the prior year’s benchmarks.

12. Approval of Broker Dealer List

Ms. Kleats stated that the State Treasurer’s Office is asking to add Morgan Stanley as a primary broker dealer to the list. They have met all of the necessary requirements to do so.

Mr. Archuleta moved approval of the Consent Agenda, with the contingencies, as listed. Mr. Brasher seconded the motion, which passed 6-0 by voice vote.

EMERGENCY FUND BALANCES
Presenter: Leila Kleats, Director


<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Reserve Fund</td>
<td>$2,000,000.00</td>
</tr>
<tr>
<td>Emergency Water Fund</td>
<td>$118,100.00</td>
</tr>
</tbody>
</table>

Ms. Kleats reported these balances.

EMERGENCY FUNDING REQUEST

Presenters: Odie Chapman, President; Lloyd Ayliffe, Representative; Karen Pereira, Rural Development Specialist, Rural Community Assistance Corporation

14. Lybrook Mutual Domestic Water Consumers Association – Requests Approval of Emergency Funding ($11,678.44)

Mr. Chapman stated that they have had a failure of the water well in the Lybrook community, and the Indian Health Service and National Tribal Utility Authority stepped in and got the well back in service. He said there were some electrical charges along with some other charges, and they are requesting emergency funding in the amount of $11,679.44 to repay the vendors and others from the Navajo Nation.

Mr. Kormanik asked what guarantees the Board of Finance has that the underlying economy in Lybrook will be able to sustain the water system through fees charged to the users.
Ms. Pereira responded that an initial analysis of the economic situation shows that it will cost users between $50 and $70 a month to cover expenses. She said the Rural Community Assistance Corporation (RCAC) is looking at ways of reducing expenses in the budget so that they can lower those rates.

Mr. Chapman said they are in the process of reaching an agreement with the local gas service that has a well that they hope to use as backup. In addition, the Navajo Nation will be running a lateral line off of the Navajo settlement in Counselor; at the purchase point, Lybrook would be able to purchase wholesale water from the Navajo Nation.

Mr. Archuleta expressed concern that there was no proper budget for the board to review. He said regionalization of water systems around the state is very important in terms of addressing failing community water systems, and before community water associations approach the board for grants or loans, they should look into the viability of joining forces with neighboring systems in order to cut costs.

Mr. Aragon agreed and commented that this is an example of the need for water districts to become centralized, because they are not sustainable on their own.

Responding to Mr. Aragon, Mr. Chapman said the water association has been paying back a $50,000 loan from the Board of Finance for the last six years at $2,000 a year, interest free, with a 25-year term. He said they have missed the current payment and do not have any resources in the bank to make that payment.

Mr. Chapman said the association “is in a bad situation.” There has been a change in board members, and the current board is going through board training with RCAC, which is assisting with a rate base study. He said they are investigating past practices, and are getting audits up to date, and looking at revenues versus expenses. He said they have a very active board and are very engaged in the process. He stated that they are looking at regionalization with the Navajo Nation, as there is nothing else they can connect to within 50 miles in any direction.

Mr. Aragon said he read the rules that govern the conduct of the members of the Board of Finance, and the funds that are available are for emergent situation, but the conduct is such that the result is foreseeable absent rate increases and absent a budget. For that reason, the situation is not emergent but, rather, predictable. He said this raises the question of whether the board can grant loans or grants in situations that are predictable. He commented that the board wants to help, but its hands seem to be tied.

Mr. Chapman said the economic situation in northwest New Mexico is very challenging because of the decline in jobs in the oil and gas sector.

Mr. Archuleta stated that the water association budget should include expected revenues and expenses under the scenarios discussed by Mr. Chapman, and should also include payments on existing loans and expenses. He said he could not support a loan or a grant at this point without understanding how the monies would be applied and what effect they would have.

Mr. Brasher commented that it would appear that the 59 well connections in Lybrook would probably not increase, and Mr. Ayliffe agreed.

Mr. Aragon said he thought there was a way to remedy this situation and assist the water association.
Mr. Aragon moved to approve a grant in the amount of $11,679.44 with the specific finding of an emergent situation, which was a lightning strike that disabled the pump unit; with the following contingencies: that an operating budget be presented at the next meeting that includes an operating reserve in a reasonable amount to cover future emergencies or contingencies; that the board approve a rate increase consistent with the cost of operation on a monthly basis, that includes the concerns outlined by Mr. Archuleta. Mr. Brasher seconded the motion, which passed 6-0 by voice vote.

Mr. Aragon commented that situations like this "beg for legislative action to start to regionalize these water associations because they cannot continue to operate this way. It is not sustainable."

Ms. Malavé stated that she has recommended that staff refer mutual domestic water associations in these situations to the Construction Bureaus Division at NMED, which can provide oversight and has the authority to take over a water association if it is not working. She said they could do a comprehensive examination of how the water association is operating and potentially send someone in who can help them become viable.

Presenter: Brenda Smythe, District Manager

15. Edgewood Soil and Water Conservation District – Requests Approval of Emergency Funding for Rehabilitation Work on the Dog Head Fire Burn Area ($150,000)

Ms. Smythe stated that the Dog Head fire began on June 14 and burned 17,912 acres in Torrance and Bernalillo counties. She said Edgewood Soil & Water Conservation District (Edgewood SWCD) partnered with the emergency response teams, counties and Forest Service. After the fire, it is their charge to start the rehabilitation process. She said roughly 12,000 of the acres burned within their district boundaries, the majority within the Chilili Land Grant. A barrier has been erected that looks like a fence and is filled with sand, and that was erected last week to protect structures. She said this was done with two homeowners. She said 700 tons of sand was donated, so the community has come together.

Ms. Smythe stated that they have received $7,000 in private funding and have applied for an emergency watershed protection grant through the Natural Resources Conservation Service (NRCS), and from that received just over $361,000. The NRCS portion is 75 percent, or $270,952, and the district (as sponsor) is responsible for 25 percent or $90,317.50. She said the Edgewood SWCD is therefore requesting $150,000 in emergency funds. She noted that the HESCO bastions were awarded through a state disaster assistance fund in the amount of $43,926.

Ms. Smythe said the District has a loan through the New Mexico Finance Authority to cover the cost of its building, and it is in the 10th year of that loan, with no late payments. The loan will end in 2026. She said a mill levy for roughly $395,000 a year pays for the loan, and they also have year-round grass seed sales and one or two tree sales per year. Those sales bring in between $3,000 and $8,000 of profit.

Ms. Smythe said a pipeline was affected by the fire in an area above the Chilili Land Grant, and they will be coming in with an undetermined amount of cash to help with that payment.

Ms. Smythe said 25 landowners have applied for Emergency Water Protection (EWP) monies through the Natural Resources Conservation Service. An estimated 40 landowners did not qualify for that funding based on the severity of the burn. So far, the district has set aside special funding for the
Dog Head area and has received roughly 25 applications. If everybody “maxes out” on the applications, it would be $80,000 more. They have helped four landowners to date, primarily with burn fence to protect their cattle, and there are about 15 applications that are largely for runoff issues.

Responding to Mr. Archuleta, Ms. Smythe said some landowners did not have insurance for their structures. She said all of that has been vetted, and they will not be paying for somebody’s fence that they could have had covered through an insurance settlement.

Mr. Archuleta asked what would suffer if the Edgewood SWCD received a loan rather than a grant, since then they would be making payments. Ms. Smythe responded that their educational side would experience some loss, because they only have three staff members and have to hire people from outside to come in and do education for a school, for example.

Governor Martinez asked how much of the $150,000 would be used for land mitigation. Ms. Smythe responded that they would use all of the money for pit tanks above Chilili, repair of breached dams, wattles, and mastication and tree felling. She said fence repair would be done through district cost sharing and none of the requested funds from the Board of Finance would be used for that. She said EWP funding does not allow for fencing. She said there would be no structure work, other than fencing.

Ms. Smythe said the landowners in Chilili who did not have insurance could apply for Federal Emergency Management Agency (FEMA) money or apply for a low interest loan.

Ms. Smythe clarified for Governor Martinez that $90,000 of the requested $150,000 would be a direct match for the EWP Program, and the remainder would be used for the landowners who did not qualify for the federal grant. She said the landowners are going through the Edgewood SWCD, and the same work would be done for them. She said all of it would be “on-the-ground conservation work” on their property. There would be some diversion structures to keep the water away from their homes.

Governor Martinez asked if this work would increase property values because it would be essentially making improvements. Ms. Smythe responded that all work would address the direct causes of the fire. She said the Natural Resources Conservation Service engineers are assisting with the design of the structures, and they will not qualify if they do not address a direct result of the fire.

On Governor Martinez’s point, Mr. Archuleta said the board must make sure that the record reflects that not one penny will be spent such that would raise Anti-Donation Clause concerns, “that you understand the statute, that you understand the rules, and you can assure us that there is a paper trail that shows that there was nothing spent that would be anti-donation.” Ms. Smythe responded, “Yes, absolutely.”

Mr. Archuleta said he would feel more comfortable with a loan, rather than a grant, for the peripheral area where people did not qualify for the federal money.

Mr. Aragon asked if any of the requested money would be applied to any property that is owned by private individuals. Ms. Smythe responded that they worked only with private individuals. She said the Soil & Water Conservation District statute states that they can work with private individuals: “That’s what we’re there for. We’re the homegrown liaison between the landowners and the federal government; that is our role.”
Mr. Aragon said he was somewhat troubled that any of this money would go to improve or repair any private property. In terms of the Anti-Donation Clause, the board may be running into some problems if any of these monies are used to reclaim, stabilize or in any way improve the private property of a private individual.

Mr. Aragon asked Ms. Smythe if he understood correctly that some of the monies would repair private property that was damaged by the Dog Head fire. Ms. Smythe responded yes, they are rehabbing the land that burned within the Chilili Land Grant, which is a subdivision of the state. She added that the others are private landowners, but the Edgewood SWCD would be paying the contractors for that work.

Mr. Aragon said the concern is that the remediation work done within the land grant would affect property outside of the periphery. Ms. Smythe responded yes, and that this is what soil and water conservation districts do on a daily basis. Governor Martinez commented that this is because it impacts other land down the pathway of water runoff, etc. Mr. Aragon said he could understand the downstream obligations of all landowners and the need to do this mitigation so it doesn’t impact the greater community.

Mr. Kormanik commented that it benefits the entire neighborhood, and that is the bottom line. If there is public money going to an individual who is able to mitigate the potential of a disastrous flood to his neighbors; that is for the common good even though it benefits the landowner. He said he was comfortable with that.

In discussion on the Anti-Donation Clause, Ms. Malavé noted that the state routinely provides appropriations to the Environment Department, for example, to do river restoration, which is of incidental benefit to landowners along the river but addresses the overall health of the river.

Lieutenant Governor Sanchez moved approval of the grant. Governor Martinez seconded the motion, which passed 6-0 by voice vote.

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
Presenters: Christy Tafoya, Director; James Hilderbrandt, Business Enterprise Coordinator; Susan Sita, General Counsel

16. Energy, Minerals and Natural Resources Department, State Parks Division – Requests Approval of Amendment to Concession Contract for the Marina Del Sur Facility with Lago Rico, Inc. at Elephant Butte Lake State Park in Sierra County (monthly concession fee of 8 percent of net receipts from sales and services, excluding fuel and oil sales for which the concessionaire shall remit $0.015 for every gallon of fuel and oil sold)

Ms. Tafoya stated that the Energy, Minerals and Natural Resources Department (EMNRD) is requesting approval of amendment to a concession contract with Lago Rico, Inc. for expansion of the concession premises at Elephant Butte State Park and to adjust the concession fee structure. About one million people visit this park every year, and the U.S. Bureau of Reclamation owns the property. The contract is for the purpose of operating and maintaining full service of the Marina Del Sur facility, and the proposed amendment would allow for the concessionaire to reconfigure the marina during low water level and would change the fee structure to be more in line with similar concessions.
Ms. Tafoya said EMNRD has been under contract with this concessionaire since 1994. Until about 2010, the contract indicated that the state would incur 12 percent from slip fees and 4 percent from other offerings. Since then, they have added a number of amenities. The board approved the original contract in March 2015. The original contract is for 8 percent of net receipts from sales and services per month, plus $8,000 per year. In 2015, the concessionaire agreed to an escalator fee of $8,000 per year for the first five years, $10,000 per year for the next five years, $15,000 for the following five years, $20,000 for the following five years, and $25,000 per year after that.

Ms. Tafoya said the concessionaire approached EMNRD to request changes to the contract for a couple of reasons. First, his facility was impacted by a big windstorm about 18 months ago, and caused a lot of damage. While he was able to use some insurance funding to make repairs, he also had to use some of his own funds to fix the marina. In addition, water levels have dropped to historical lows because of water delivery needs by the Bureau of Reclamation. She said the Bureau of Reclamation has indicated that water levels have dropped 106 feet, which has caused difficulties in operating the marina. The concessionaire has had to extend catwalks and move things around.

Ms. Tafoya said EMNRD would like to change the premises map, which would increase the concessionaire’s premises. This would allow him to move back and forth in the lake and be able to stay afloat and provide service to visitors. She said the concessionaire has stated that he has spent “millions of dollars” over the years in improvements, and in the past year has spent about $60,000 in repairs and in moving the marina. He has requested that the escalator fee be removed from the contract.

Ms. Tafoya asked for board approval to amend the contract to remove the escalator fee and to change the premises map, as indicated.

Mr. Archuleta asked if there were other bidders when this was put out to bid a year ago, and Ms. Tafoya responded no. She also clarified that, when the Request for Proposal (RFP) was issued, EMNRD invited people to come in and suggest fees for negotiation, so there was no set fee in the RFP.

Responding to Mr. Kormanik, Ms. Tafoya said EMNRD has no documentation on the “millions of dollars” spent by the concessionaire over the years, and it also does not have documentation on the $60,000 more recently spent by the concessionaire.

Lt. Governor Sanchez said he can appreciate the concessionaire’s rationale, but there are other people who might want to bid on this in the future. He added that the level of the lake might rise, too, “and his fortunes would rise as well.” He said the board might want to consider a provision that would cause the agreement to revert back in such a case.

Mr. Aragon said the board should proceed cautiously, as it would be impacting the ability of future boards and departments to address the State’s part of this action. He said he would assume that, when someone responds to an RFP, there is at least some anticipation that one’s business plan would take into account (in this case) the ebb and flow of rainfall and lake levels. He expressed concern that the board would be “changing the rules of engagement” for other contracts, where others might feel they could come to the board and ask for similar changes because of changes in environmental conditions. In addition, other people might have been interested in bidding on this contract had they understood they could do that and claim poverty without having to establish any proof of loss. He said he understood this concessionaire was required to carry insurance to cover property damage, which raises the question of whether there is a subrogation the state would be exercising regarding any monies he received from the
insurance, and would the state be allowing the concessionaire to "double dip" in that regard over the next 20 or 30 years. He commented that the state is not obligated to underwrite potential hardships.

Responding to Mr. Archuleta, Ms. Tafoya said the concessionaire owns the improvements. He has indicated that if the board were unwilling to come up with some kind of compromise, he would not be able to operate there from a business standpoint, and would potentially remove the catwalks and marina to another location.

Responding to Mr. Kormanik, Ms. Tafoya said the state gets $48,000 to $52,000 a year from this contract. Over the course of the contract, that would be about $2 million, in addition to not having visitor services.

[Lt. Governor Sanchez excused himself from the meeting.]

Governor Martinez said the board should be informed, for purposes of the record, whether the concessionaire has been compensated by his insurance company for any losses. She would also like to see some paperwork on how much he has invested over the years. She noted that this is a very busy location even when the water level is very low.

Governor Martinez recommended tabling this item to next month’s meeting.

Mr. Aragon moved to table. Mr. Brasher seconded the motion, which passed 5-0 by voice vote.

Governor Martinez requested documentation on the millions invested by the concessionaire; and the concessionaire’s insurance policy, including whether it has a clause providing reimbursement for damages due to natural conditions.

With respect to the $60,000 spent by the concessionaire, Mr. Archuleta also said he would like to see language that would excuse the escalation fees for a temporary period that would make that whole. He suggested strengthening the language in the contract so that concessionaires in the future do not think they have the ability to be made whole because of special circumstances.

Mr. Aragon said there are other considerations, because the state is being asked to act in a way that is detrimental to itself by underwriting the concessionaire’s losses. On that basis, the state should also share in any benefits of improvements of market conditions.

TAX INCENTIVE DEVELOPMENT DISTRICT
Presenters: Richard C. Minzner, Attorney for Western Albuquerque Land Holdings, LLC; Rodey, Dickason, Sloan, Akin & Robb, P.A.; Matt Butcher, Vice President of Garrett Development Corporation, Asset Manager for Western Albuquerque Land Holdings.

17. Consideration of Western Albuquerque Land Holdings Tax Increment Development District (TIDDD) Petition for Amendment of Rule 2.61.3 NMAC, Dedication of a portion of the state’s gross receipts tax increment, in Accordance with 2.1.2 NMAC.

Ms. Malavé clarified that the board would be considering whether or not to hold a hearing on the proposed rule change, and this is not the hearing.
Mr. Minzner stated that the rule change they are requesting would change a provision that was adopted in 2008 by the Board of Finance. The rule has a very negative effect on the utility of the TIDD statute for economic development purposes. The statute permits the landowner to seek approval of state and county government to develop and install infrastructure and then be reimbursed if the owner is able to generate tax revenues from that development. He said this is a post-performance incentive, i.e., the owner has to develop the tax base to generate the revenues before being entitled to any reimbursement for the public infrastructure.

Mr. Minzner stated that, under the TIDD Act, reimbursement can be made to the developer in three ways: 1) through bonds issued against the income stream, which requires legislative approval; 2) sponge bonds, which require legislative approval; and 3) direct pay, which is collected by the TIDD and can be directly used to reimburse the developer and pay other expenses. Mr. Minzner said there is some disagreement about the third item in terms of whether bonding is necessary.

Mr. Minzner said the existing rule is an impediment to development because it says legislative approval is required before the Board of Finance can approve the dedication of the state’s gross receipts tax increment. He said it eliminates the possibility of the sponge bond process and clearly prohibits the direct pay alternative, which is the neatest and cheapest of all, although that option is not included in the rules. He said an advantage of direct pay is that there are no transaction costs.

Mr. Minzner said they would like the rule amended in either of two ways: 1) entirely eliminate the reference to the need for legislative approval of bonds; or 2) state “the Board of Finance may impose upon any dedication this requirement of the legislative approval of bonds.”

Mr. Aragon cautioned the board that its charge is not to debate or discuss this proposed rule change today, as it would be acting as a quasi-judicial body.

Mr. Archuleta stated that he was a bit torn, because as a businessman who wants to see more economic development, he likes the idea of the Board of Finance having the authority to move developments forward (assuming they are thoroughly vetted, etc.) as early and quickly as possible. On the other hand, if that were not possible because of constitutional or statutory issues, then it would not be helpful to hold a hearing on the rule change.

Mr. Aragon agreed with Mr. Archuleta. He said he would anticipate a response from the Legislative Finance Committee (LFC) or legislature in advance on the legal question raised by Mr. Minzner, and would also anticipate that legal briefs would be presented in the process on both sides of the argument. If there is legal viability, he would be anxious to hear the discussion based on the possibility that this would put “one more tool in the Governor’s tool chest.”

Mr. Aragon moved to place in action and direct staff to initiate, pursuant to statute and the board’s rules, an amendment to the TIDD policies and procedures. Mr. Brasher seconded the motion, which passed 4-1 by voice vote, with Governor Martinez dissenting.

Governor Martinez said she felt this was a responsibility of the legislature and that this proposal was an effort to circumvent that.
STATE TREASURER'S OFFICE
Vikki Hanges, General Fund Investment Pool Portfolio Manager; Charmaine Cook, State Cash Manager


Ms. Hanges stated that general fund balances on June 30, 2016 were $1.5 billion, a drop of $500 million, or 25 percent, since June 30, 2015. In June, $100 million was moved from the core fund to the liquidity fund to meet cash needs.

Ms. Hanges noted that, at July 31, 2016, the total pool was at $1.45 billion versus $2.1 billion on July 31, 2015, or $650 million, a 30 percent decline.

Governor Martinez asked if the declines being reported are attributed to taxes being paid for by the oil and gas industry, and Ms. Hanges responded yes.

GENERAL SERVICES DEPARTMENT


[Informational.]

STAFF ITEMS
Presenter: Leila Kleats, Director

23. Wells Fargo Bank, N.A. Response to U.S. Consumer Financial Protection Legal Action

Ms. Kleats stated that, as the board is aware, the U.S. Consumer Financial Protection Bureau has fined Wells Fargo Bank $185 million for fraudulent activity at their consumer banks, with employees opening accounts in customers’ names that were not authorized. She said this is a concern because Wells Fargo is the state’s fiscal agent, and the state wanted to make sure it was not impacted in any way as a result of this. In addition, the state wanted assurances going forward that Wells Fargo was addressing this internally and was making efforts to amend the culture at the banks.

Ms. Kleats said Wells Fargo was asked to appear before the board today, but were reluctant to do so because there is an ongoing investigation.

Ms. Kleats stated that the electronic agenda includes a letter from Wells Fargo representative Mark Jensen to her, assuring her that there were no fraudulent accounts created for the State of New Mexico,
and that the State's representatives are not incentivized in the same manner as the employees in question, who were in the retail division.

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

Ms. Kleats reported that fiscal agent and custodial bank billings were in line with historical averages. Staff will be meeting with the State Cash Manager and Wells Fargo to better understand the statements and be able to identify any trends, etc.

25. **Joint Powers Agreements for Months-Ended July and August 2016**

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

**ADJOURNMENT**

Its business completed, the State Board of Finance adjourned the meeting at 12:30 p.m.

Signed: 

Susana Martinez, President

Date

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Michael Brasher, Secretary

Date: 10/13/2016