MINUTES OF THE
NEW MEXICO STATE BOARD OF FINANCE

REGULAR MEETING
Santa Fe, New Mexico

March 20, 2018

A regular meeting of the New Mexico State Board of Finance was called to order on this date at 9:10 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. Susana Martinez, President
The Hon. John A. Sanchez, Lt. Governor [by phone, signing off at 11:00]
The Hon. Tim Eichemberg, State Treasurer
Mr. Robert J. Aragon, Public Member
Mr. Adelmo Archuleta, Public Member
Mr. Michael Brasher, Public Member, Secretary
Mr. John Kormandik, Public Member

Members Excused:
None.

Staff Present:
Ms. Donna Maestas, Acting Director
Ms. Duffy Rodriguez, Secretary of Finance and Administration

Legal Counsel Present:
Mr. Stephen Vigil, Attorney General’s Office

Others Present:
[See sign-in sheets.]

2. APPROVAL OF AGENDA
ANNOUNCEMENT: NEXT REGULAR MEETING: TUESDAY, APRIL 17, 2018

Mr. Archuleta moved approval of the agenda, as published. Mr. Eichemberg seconded the motion, which passed 6-0. [Not present: Governor Martinez.]
CONSENT AGENDA (Items 3-6)
Presenter: Donna Maestas, Acting Director

Submitted by: Donna Maestas, Acting Director
3. Approval of Minutes: February 20, 2018 (Regular Meeting)

Submitted by: Deanna Miglio, Right of Way Manager, Bernalillo County
4. Bernalillo County – Requests Approval of the Sale of Real Property,
Lot 27, at the Sunrise Heights Addition to David X. Gonzales and
Rebecca Gonzales ($93,000)

* Contingent upon Director’s receipt and counsel review of the minutes of County
Commission meeting at which the sale was approved.

Submitted by: Shirley McDougall, Asset Manager, Santa Fe Public Schools
5. Santa Fe Public Schools – Requests Approval of the Sale of Real Property
Known as The Alvord School, Located at 551 Alarid Street in Santa Fe to
David A. Barker and/or Assigns $$2,550,000)

* Contingent upon Director’s receipt and counsel review of fully executed purchase
agreement and amendment one to the purchase agreement removing binding
arbitration clause.

Submitted by: Leonardo Cordova, County Manager; Shannon Brumley, Legal
Assistant, Taos County
6. Taos County – Requests Approval for an Exchange of Real Property with
The Town of Taos between 2 County Parcels, known as the Herdner
Property and 1 Town Parcel, known as the Los Colonias Property, in Taos,
New Mexico (no consideration)

Mr. Aragon requested that Item #4 be removed and voted on separately. He said he
has represented the Gonzaleses in legal matters in the past, and would like to recuse
himself from the vote to avoid any potential conflict of interest.

Mr. Eichenberg moved approval of Items 3, 5 and 6, with the contingencies. Mr.
Archuleta seconded the motion, which passed 7-0 by voice vote.

Mr. Eichenberg moved approval of Item 4, with the contingency. Mr. Kormanik
seconded the motion, which passed 6-0 by voice vote, with Mr. Aragon recused.

EMERGENCY FUND BALANCES
Presenter: Donna Maestas, Acting Director
7. Emergency Balances – March 20, 2018
Operating Reserve Fund  $1,848,876.50
Emergency Water Fund $104,800.00

Ms. Maestas reported these balances.

EMERGENCY FUNDING REQUESTS
Presenters: Rebecca Ramirez, Trustee; Sam Blea, Deputy Clerk, Town of Springer; Shawn Jeffrey, Clerk Administrator, Village of Cimarron; Rob Richardson, Engineer, Bohannan Huston; Johanna Phillips, Bohannan Huston; Andrea Telmo, New Mexico Environment Department Construction Programs Bureau
8. The Town of Springer – Requests Approval of an Emergency Grant to Repair a Clogged Wastewater Line ($165,000)

Mr. Richardson stated that the wastewater treatment plan facility for the Town of Springer is on the north side of the Cimarron River, while the discharge impoundments are on the south side of the river. Water is pumped from the north side to the south side through a force main pipe. In late January this year, the force main pipe became clogged. The Town of Springer was able to get it partially unclogged using some jetting equipment, but it became clogged again on March 6 and they were unable to unclog the pipe after two days of hard work. He said his firm was contacted at that point; however, the emergency overflow spilled before they could install a temporary bypass line.

Mr. Richardson said there is a temporary pipeline lying on the ground that connects the two facilities. The line that is currently in place was installed in 1998 and will be very difficult to repair because the U.S. Army Corps of Engineers has jurisdiction over the river, and anything his firm does with respect to the replacement would have to be permitted through the Corps. In discussion with the New Mexico Environment Department and the Town of Springer, they feel they can replace the pipe without having to get into the river area itself.

Mr. Richardson said the temporary pipeline is vulnerable to flooding from the river. It is also over an open pasture area that has cows and horses, and he does not want to leave it exposed any longer than is necessary. He said the Town of Springer is requesting this emergency grant of $165,000 so they can address this issue as quickly as possible.

Responding to a question from Mr. Aragon, Ms. Jeffrey said the Town is requesting that the $165,000 be in the form of a grant. The Town currently has a wastewater treatment facility project in progress, which is funded by the Clean Water State Revolving Fund ($1,250,000) through the NMED Construction Programs Bureau to bring the Town into compliance with their NMED Ground Water Discharge Permit. She said some of that was grant money, and some of it was loan money, and the Town has limited funds at this point. She said the Town's infrastructure gross receipts tax increment proceeds are not dedicated, however, and bring in about $1,500 a month. Assuming that revenues from that tax remain fairly stable, the Town would be able to pay about $8,000 a year from that source.
Ms. Jeffrey and Mr. Blea said about 650-700 households are hooked up to the wastewater system and are paying $19 a month, and the rates were increased about three years ago in anticipation of the facility upgrade. For the water system, customers are paying a $15 per month service charge plus another fee for their water use.

Ms. Ramirez added that the state correctional facility, with 400 female inmates, is connected to the treatment plant.

Responding to a question from Mr. Brasher, Ms. Jeffrey said the 2017 audit is in the process of being finalized, and has been reviewed by the State Auditor’s Office.

Mr. Archuleta asked approximately how much the Town has in the bank that is not committed in the water and sewer fund. Ms. Jeffrey responded that she would guess it was “close to zero.”

Mr. Archuleta commented that, in his experience, when a detention facility or prison is tied into a community system, a number of unusual things can wind up in the system and can cause real havoc. If the Town’s sewer use ordinance does not include that now, he would highly recommend that the Town hire someone like Bohannan Huston to design something that is not only metered, but also puts the onus on the state to make sure that objectionable things are removed at the source. He said he would strongly recommend that the sewer use ordinance include a sampling manhole and restrict what can be put into the system by making sure there is a bar screen or Muffin Monster sewage grinder installed.

Responding to a question from Mr. Archuleta about the possibility of capital outlay money, Mr. Richardson said the problems occurred after the legislative session was over.

Ms. Maestas clarified that a loan in this case would have a 20-year term with a zero percent interest rate.

Mr. Aragon moved to approve a $165,000 loan from the Operating Reserve Fund for this request.

Mr. Aragon commented that, given the rates currently being paid of about $33 a month, there is room for a potential rate increase to cover the loan payments. He said the Town can always return to the board at a later date to request that this be converted to a grant.

Mr. Kormanik seconded the motion.

Mr. Archuleta said he felt the $33 a month rate was probably too low, since it didn’t include the charge for water usage. He said sewer usage is calculated based on the amount of water used by the average household during the winter months, when people are not irrigating, watering their gardens, etc.
Responding to questions from Mr. Archuleta, Mr. Blea said the per-thousand-gallon charge for water was $2.25. Ms. Jeffrey estimated that the average household was paying $50-$60 per month.

Mr. Aragon responded that water and sewer service are bifurcated in this case. He said he was suggesting that Springer residents, including the state facility, pay their pro rata share for the maintenance and upkeep, because that is a foreseeable event and should be built into the budget on a recurring basis. He added that the $19-per-month base amount for sewer use could go up a few dollars to cover the cost of this loan over the next 20 years and reiterated that the Town could always come back to the board and request that the loan be converted into a grant, if necessary.

Mr. Archuleta asked Ms. Jeffrey if he understood correctly that the amounts generated by the infrastructure gross receipts tax increment would be enough to cover the loan payments, and Ms. Jeffrey responded yes.

Mr. Eichenberg stated that, because of the existence of the correctional facility and the river there, he was more inclined to approve a grant rather than a loan. He said he wanted to see this work and hoped the Town of Springer would take up Mr. Archuleta’s redesign recommendations. He added that a line that is only 20 years old should not have this kind of difficulty.

Governor Martinez stated that, had there been an opportunity to ask for funding during the last legislative session, the entire amount would have been approved as part of the capital outlay either through a legislator or her. She asked that the board reconsider approving this as a grant rather than a loan, and that over the next year, the Town of Springer look at a rate increase to cover the cost of future maintenance needs.

Mr. Archuleta stated that he felt that dedicating the entire environmental gross receipts tax increment to make payments on a loan for 20 years was not the purpose of the increment. He said the increment should be used in the future to replace water meters, for instance. He said a water and sewer bill of $50 a month for a town the size of Springer was competitive. He added, “They’re not paying their way, in my opinion.”

Mr. Kormanik calculated that a 20-year loan of $165,000 translates into a loan payment of less than $700 per month.

Ms. Jeffrey stated that the environmental gross receipts tax increment was not a guaranteed source for repaying this loan, however.

Mr. Eichenberg moved to amend the motion from a loan to a grant. Mr. Archuleta seconded the amendment, which passed 5-2, with Mr. Aragon and Mr. Kormanik voting against the motion.
The main motion, as amended, passed 7-0.

PROPERTY DISPOSITIONS

Presenters: Dianna Maes, County Manager, Sandoval County; Robert Burpo, President, First American Financial Advisors, Inc.

9. Sandoval County – Requests Approval of Amendment of Lease of Real Property Located at 20 Pond Road in Cuba to AMI Kids, Inc. ($9401 per month from March 2018 through February 2019)

Ms. Maes stated that AMI Kids is a youth-at-risk facility and residential treatment center in Cuba, New Mexico. The facility houses federal juveniles that are either arrested on a military base or on tribal property. The juveniles receive treatment and attend high school there. Recently, the Federal Bureau of Prisons reduced the number of federal youth at the facility to 13, and AMI Kids needs to have at least 17 to 18 individuals to break even. As a result of the reduction, AMI Kids has asked Sandoval County to consider a temporary reduction in their bond payments while they review their business model. She said the County is assisting them with that and there is some discussion about housing some Children Youth and Families Department (CYFD) youth at the facility. In addition, they are applying for Medicaid for some of the youth there.

Ms. Maes said the County is asking for approval to give AMI Kids a reprieve. A new appraisal is in place, which lowers their payment from $26,000 to $9,400 a month for no more than one year, giving them an opportunity to get back on their feet financially, change their business model, and get their Medicaid application finalized.

Mr. Burpo stated that AMI Kids opened in August 2012. The County took out a loan with the New Mexico Finance Authority to fund it on a 20-year amortization, and as part of the transaction, they set up a debt service reserve fund. He said his firm had some concerns about the likelihood of the Federal Bureau of Prisons of keeping their contract going for the entire term, though, and so the County set up a $370,000 additional reserve fund. As predicted, the Federal Bureau of Prisons changed their contract. He said the County has about $394,000 in that reserve account right now to augment the loan payments to the New Mexico Finance Authority for the one-year period. After the year is up, AMI Kids must revert back to their original lease amount, plus they must replenish the entire amount they drew down from the reserve fund within 36 months of the time they start repayment.

Responding to a question from Mr. Kormanik, Ms. Maes said the Children Youth and Families Department (CYFD) is looking at the possibility of housing juveniles at AMI Kids, as well. Mr. Burpo added that there is a very active dialogue going on between the County, CYFD and other entities.

Ms. Maestas stated that approval of this request would be contingent upon Director’s receipt and counsel review of the fully executed revised amended lease agreement and the fully executed amended resolution from the County Commission.
Mr. Aragon moved for approval, with the contingencies. Mr. Archuleta seconded the motion, which passed 7-0 by voice vote.

**HIGHER EDUCATION DEPARTMENT**

Presenter: Dr. Harrison Rommel, Institutional Finance and Financial Aid Director

10. Higher Education Department – Presentation on all Higher Education Institution Funds – Reporting on all Institution Funds their Sources, Restrictions and Balances

Dr. Rommel made this presentation, which was organized in three sections: an overview of budgets and balances, with historical data; detailed historical balances for all higher education institutions; and supplemental information.

Highlights from Dr. Rommel’s presentation include:

-- New Mexico has 32 higher education institutions (HEIs), including the tribal colleges and special schools, with 32 separate governing boards. New Mexico has the most decentralized system of higher education in the nation.

-- All publicly funded HEIs follow the accounting principles described in the National Association of College and University Business Officers (NACUBO). HED’s Financial Reporting Manual is based on the NACUBO rules. HED has begun the process of updating the financial reporting in its format and content.

-- FY 2017 all HEI total funding was $2,734,029,356. This figure excludes UNM Health Sciences Clinical revenue, which is not reported to HED.

Governor Martinez asked why Dr. Rommel responded that such revenues do not necessarily fall under the aegis of the HED’s statutory authority. Although HED needs to see these numbers, historically they have not been disclosed to HED. Governor Martinez asked if it was allowed, however, and Dr. Rommel responded that he believed it would be. He agreed to take this up with Secretary Damron.

Mr. Aragon stated that it goes to the issue of governance. A few years ago, during this administration, the UNM Board of Regents created a separate board of regents that governed the Health Sciences Center and which operated separately from the UNM Board of Regents. While the second board is under the umbrella of the UNM Board of Regents and theoretically is governed by it, the UNM Board of Regents appears to have abdicated much of its responsibility to the second board. He pointed out that, although some slight changes have been made to the rules, the rules still exist, and the Board of Finance should at least be able to get a snapshot of what is going on. He commented that UNM Hospital gets about $98 million from Bernalillo County’s indigent fund, but that has yet to be audited. He said the Board of Finance has gone to
great lengths to convince the UNM administration to make appropriate governance changes, but to date that has not occurred.

Mr. Aragon asked Dr. Rommel if the over $100 million in separate accounts that exist are part of what the universities are being counted toward operating reserves, or if any of it is even being accounted for in the budget requests made for the following fiscal year, since there is no accounting for it. He recalled UNM indicating that they had 120 separate accounts. He said he was frustrated that no college president was present at today’s meeting to answer this question.

Dr. Rommel responded that HED does not know every single subaccount, but does know that every dollar is accounted for. He said there are no “hidden dollars” or money that HED does not see.

Citing an example of his concern, Mr. Aragon said UNM’s athletic department is operating in the red, but the head of the department indicated to the board at a meeting earlier this year that they had $658,000 that they could apply toward their new locker room. He asked how that was possible.

Dr. Rommel responded that HED has placed UNM under its “enhanced fiscal oversight program” because the athletics department has been operating under a structural deficit for several years. He said he could not attest to where that $658,000 came from, but he could reconcile it within the total revenues of the athletics department.

With respect to UNM Health Sciences Center and the hospital, Dr. Rommel said HED realizes this is a “gaping hole” within their knowledge base of what that institution does. Part of HEU’s strategic plan would include collecting that data on a regular basis rather than just looking at their annual audit.

Responding to Mr. Kormanik, Dr. Rommel said the average salary for a chief financial officer is about $90,000 at the smaller community colleges. The vice president of finance at the university level earns about $250,000.

In discussion about Slide 12, listing the types of expenditure categories, Dr. Rommel clarified that any transfer of funding to the “Other” category has to go through the BAR process. While there is no statutory limit on the amount that can be transferred, an unusually large amount would raise red flags at HED.

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Unrestricted I&G (Instruction & General) balances are a higher education institution’s most fungible account. The Higher Learning Commission requires a minimum of 3 percent of unrestricted I&G as a percentage of total expenditures. HED recommends 5-10 percent, and smaller institutions should have a larger cushion because they tend to have wider fluctuations in their revenues and expenditures.
Mr. Aragon said there appears to be a recurring trend among the various institutions to dip into their I&G reserves to pay for non-emergent expenses. Dr. Rommel responded that, if they accumulate an excess reserve, it is within the purview of the board of regents to repurpose those funds. He reviewed a series of slides that he said demonstrated how some schools have done a better job of managing these funds than others.

Governor Martinez stated that there has been a drop in enrollment at the universities, yet the level of FTEs remains the same. Citing an example, she said New Mexico State University had over 400 employees when there was a decline in enrollment, but they kept them on payroll even though they were not needed. She said she was not suggesting that all of them be eliminated at once, but what NMSU has chosen to do is eliminate them through attrition.

Dr. Rommel responded that adjunct FTEs are the first to go under those circumstances, adding that a high proportion of adjunct instructors are at the community colleges. He added that graduation rates have improved, however, and the HED is “getting more bang for our general fund dollar.” He said institutions are putting out more degrees now than they did four years ago, when their funding was at a peak. With the new I&G funding formula, which emphasizes outputs rather than square footage, institutions are responding. He pointed out, though, that institutions in smaller communities such as Española or Las Vegas are the lifeblood of these communities, and layoffs of full-time employees have a ripple effect. He commented that Chancellor Carruthers had opted for attrition rather than layoffs, and he feels this is working.

[Lt. Governor Sanchez signed off from the meeting.]

STATE TREASURER’S OFFICE
Presenter: Vikki Hanges, Chief Investment Officer and General Portfolio Manager
11. Monthly Investment Report for Month-Ended January 31, 2018

Ms. Hanges reported that, at the end of January 2018, STO managed about $4 billion in assets. The general fund is about $700 million higher than it was at this time last year.

GENERAL SERVICES DEPARTMENT
Presenter: Donna Maestas, Acting Director
12. Capitol Buildings Repair Fund Financial Status Report for Month-Ended February 28, 2018

13. Facilities Management Division – Legislative Capital Projects Financial Status Report for Month-Ended February 28, 2018

Ms. Maestas presented these reports.

TAX INCREMENT DEVELOPMENT DISTRICT
Presenter: Stephen Vigil, Assistant Attorney General, Director, Open Government
Division, New Mexico Office of the Attorney General

14. Executive Session to be held Pursuant to Section 10-15-1(H)(7) – Threatened Litigation: Consideration of October 25, 2017 Letter from New Mexico Legislative Council – Update

Secretary Brasher stated that this item is an update on the October 25, 2017, letter from the Legislative Council Service challenging certain actions of the board related to its approval of an amendment to 2.61.3.9 NMAC (the TIDD rule), and its consideration of the application submitted by Western Albuquerque Landholdings on behalf of Lower Petroglyphs Tax increment Development District for a dedication of a portion of the state’s gross receipts tax increment. The board responded by letter dated January 9, 2018. He asked for a motion to go into executive session for the limited purpose of discussing this matter.

Mr. Archuleta so moved. Mr. Kormanik seconded the motion.

Mr. Aragon said he didn’t know what the predicate was for the board to go into executive session; from what he understands, there hasn’t been any ongoing litigation, which would be one of the exceptions to the Open Meetings Act. He commented that the legislature might be “politically upset” at the board for passing a rule the board believes is under its purview, but staff has not shared with him any more recent updates on threats of litigation, nor did he know of any existing litigation. He therefore questioned the appropriateness of going into executive session.

Mr. Vigil responded that the Open Meetings Act covers pending as well as threatened litigation as one of the exceptions to discussing things in open session.

Mr. Aragon asked if any new correspondence has been received since the last correspondence.

Ms. Maestas responded that there has been verbal correspondence related to this matter, and that is what is to be discussed in executive session.

Mr. Vigil said the concern is that an attorney-client type of consultation with the board in open session would waive the privilege. If that is not what the board wants to do, he said he would have to give his advice in some other fashion. He added that there is an exception under the Open Meetings Act for threatened and pending litigation, and this has been discussed in executive session before, as the board did perceive this to be a threat of litigation from the Legislative Council Service. As far as he knows, that threat has not been taken off the table.

Mr. Aragon stated that the action the board took late last year was a response to the legislature. As a board member, he has not received any indication from the legislature that they would proceed further from the action the board took. Unless staff can
provide him with something other than “talk that is not codified,” he considers this a situation of “triple hearsay.”

Mr. Vigil stated that the original threat is still on the table because the Legislative Council Service has not said they have withdrawn it. He stated that although the LCS has not responded in writing to the board, the board has received telephone correspondence from them inquiring more. Mr. Vigil stated that he believed LCS was evaluating its options.

Mr. Eichenberg said Mr. Aragon was not present at the February board meeting, when the board directed staff to reach out to the Legislative Council Service and find out what their intent was, which is what he believed today’s executive session was about.

Mr. Eichenberg called the question. Secretary Brasher asked for a roll call vote.

The motion passed on the following roll call vote:

For: Mr. Archuleta; Mr. Brasher; Mr. Eichenberg; Mr. Kormanik; Governor Martinez.

Against: Mr. Aragon.

[The board was in executive session from 11:30 a.m. until 12:05 p.m.]

Secretary Brasher stated that the only matter discussed in executive session was an update on the Legislative Council Service’s letter and the board’s response.

Responding to a question from Mr. Kormanik, Secretary Rodriguez said she expects that the economic analysis of the Lower Petroglyphs TIDD application will be complete in time for a presentation at the April board meeting.

Mr. Aragon said the TIDD Act’s purpose is to stimulate economic development around the state, and this board has attempted to streamline that process. At the December meeting, he recalled there was consensus that it was an “extreme urgency” when there was an entity that wanted to invest more than $100 million in a project in Bernalillo. He said the urgency continues to be extreme. He suggested that the board extend an invitation to the legislative leadership to engage with the board in a “meaningful dialogue” on this matter.

**STAFF ITEMS**
Presenter: Donna Maestas, Acting Director

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

Ms. Maestas reported that the amounts reported match the board’s historical fees.

16. **Joint Powers Agreements for Month-Ended February 28, 2018**
Ms. Maestas reported that there was one new joint powers agreement in February.

**ADJOURNMENT**

The meeting was adjourned at 12:15 p.m.

\[Signature\]
Susana Martinez, President

\[Signature\]
Michael Brasher, Secretary

5-1-18
Date

5/8/18
Date

New Mexico State Board of Finance: March 20, 2018