

MINUTES OF THE
NEW MEXICO SMALL BUSINESS INVESTMENT CORP.

January 20, 2016

A meeting of the New Mexico Small Business Investment Corporation was called to order on this date at 9:00 AM in the WESST Enterprise Center, 609 Broadway Blvd. NE, Albuquerque, New Mexico.

A quorum was present:

Members Present

Mr. Alan Fowler, Chair
Mr. Joseph H. Badal, Vice Chair
Mr. Steven E. Morgan, Secretary/Treasurer (by telephone)
Ms. Launa Waller (by telephone)

Members Excused

The Hon. Tim Eichenberg, New Mexico State Treasurer
Mr. Lupe Garcia
Ms. Roxanna Meyers, Past Board Chair

Financial Adviser to Board

Mr. Russell Cummins

Board Legal Counsel:

Mr. Randy McDonald

Recording Secretary:

Ms. Charmaine Clair for Judith Beatty

Guests Present:

Mr. Robert Pasquale, Senior Tax Manager, Pulakos CPAs
Ms. Dee Brescia [by telephone]

REVIEW AND ACCEPTANCE OF AGENDA

The agenda was reprioritized.

Mr. Morgan moved to accept the agenda, as amended. Mr. Badal seconded the motion, which passed unanimously by voice vote.

REVIEW AND ACCEPTANCE OF DECEMBER 14, 2015 BOARD MINUTES

Mr. Badal moved acceptance of the December 14, 2015 minutes, as submitted. Mr. Morgan seconded the motion, which passed unanimously by voice vote.

IRS FORM 990: ROBERT DE PASQUALE, SENIOR TAX MANAGER, PULAKOS CPAS

Mr. De Pasquale reviewed the completed IRS Form 990 for the period ended June 30, 2015.

Changes recommended by the Board:

- Add James B. Lewis to the list of Directors on page 7, as he was a Director and NM State Treasurer during the 2014-15 tax year.
- List Joseph Badal and Roxanna Meyers each as Past Board Chair and Current Director.

Mr. Cummins recognized Dee Brescia for her work with Mr. De Pasquale in preparing the Form 990.

Mr. Badal moved to approve the information on the tax return with the changes, as discussed. Mr. Morgan seconded the motion, which passed unanimously by voice vote.

FINANCIAL REPORTS AS OF DECEMBER 31, 2015

Mr. Cummins reviewed the December 2015 financials.

Mr. Cummins noted that, under Cooperative Loan Agreements, the New Mexico Mortgage Finance Authority (MFA) drew just over \$400,000, so have increased to their maximum of \$1.5 million. These are related to multifamily projects around the state.

Ms. Brescia said the multifamily projects are in Chaves County (Roswell), San Miguel County (Las Vegas) and McKinley County (Zuni).

Mr. Badal suggested that Mr. Cummins find out what MFA's exposure is to the oil patch and whether they have any concerns about their overall financial wellbeing. He recalled that MFA previously had major exposure in Lea County, and it took years to liquidate that inventory.

Mr. Cummins said he plans to ask an MFA representative to make a presentation to the Board, and would ask them to address Mr. Badal's question at that time.

Mr. Badal asked Mr. Cummins to ask the lending partners if they are seeing any slowdown in payments related to investments related to the oil patch. He has recently read that several investment banking firms are predicting \$21 a barrel oil this year, which will badly impact the state economy and, in particular, Lea County.

Mr. Badal moved to approve the December 2015 financial statements, as presented. Ms. Waller seconded the motion, which passed unanimously by voice vote.

STATE INVESTMENT COUNCIL: JOINT POWERS AGREEMENT FOR INVESTMENTS

Mr. Cummins said the existing Joint Powers Agreement (JPA) contemplates that anyone entering the agreement can invest in any one of the NMSIC investment pools, and once a year inform the NMSIC of the investment mix. Since the NMSBIC is contemplating only investing in one of their investment pools, the US Core Plus Bond Pool, Mr. McDonald suggested removing all of the references to the other investment pools; however, the NMSIC reviewed those suggestions and indicated that they did not want to make any changes to the agreement.

Mr. McDonald said he thought his proposed changes would create a clearer and more streamlined document, but he saw no significant risk to the NMSBIC in leaving the language in, because only the NMSBIC has the right to move the money around among the investment pools. In a worst-case scenario, the NMSBIC can always terminate the agreement on 30 days' notice.

Mr. Cummins noted that the JPA states that the NMSBIC will: 1) review their internal investment policy prior to the end of each fiscal year and, if appropriate, modify the Investment Policy and deliver a copy of it to the NMSIC; and 2) review the actual asset allocation on a quarterly basis "to determine if any asset class is out of range and, if so, the NMSBIC Board of Directors will provide written instruction to NMSIC staff to rebalance the asset allocation."

Mr. Cummins stated that, since 100 percent of the asset allocation is in the US Core Plus Bond Pool, he would notify NMSIC every quarter of that.

Mr. McDonald recommended that the Board give Mr. Cummins blanket authority to address those items. He said it is a good idea to review the Investment Policy annually anyway, or at least to have Mr. Cummins review it and bring any recommended changes to the Board.

Following a suggestion by Mr. Badal that the Board review Mr. Cummins annual checklist of tasks, Mr. McDonald stated that he and Ms. Brescia would review it and add it to the documents in the Dropbox file.

Mr. Badal moved to accept the Joint Powers Agreement between the NMSBIC and NMSIC with a directive to the Executive Director to maintain the NMSBIC's asset allocation of 100 percent in the US Core Plus Bond Fund, until directed otherwise. Mr. Morgan seconded the motion, which passed unanimously by voice vote.

Mr. Cummins stated that after the agreement has received all of the necessary signatures and he has an executed copy, he would recommend the dollar amount to invest.

NMSBIC POLICY ON REPORTING OF NON-COMPLIANCE, REVISION

Mr. Cummins noted that the Policy on Reporting of Non-compliance with Laws, Regulations, or SBIC Policies has been updated to reflect mailing address changes for the Chairman of the Board of Directors and Legal Counsel.

Ms. Waller moved to accept the revisions as presented. Mr. Morgan seconded the motion, which passed unanimously by voice vote.

DISCUSSION OF PROPOSED CHANGES TO NMSBIC LEGISLATION

Mr. Cummins reported that, last week, he, Mr. Badal, Mr. Fowler and Mr. Morgan met with Holly Bradshaw Eakes and discussed legislative strategy and whether it would be advisable to work on introducing legislation for next year's 60-day session.

Mr. Cummins said net excess funds legislation was at the top of their list. Currently, any realized gains, interest income or other income in excess of the NMSBIC's loss reserves and operating expenses has to be returned to the NMSIC. The issue is that the NMSBIC is making investments, and if it has losses, its capital drops, and any gains have to be returned to the NMSIC. In the long term, the NMSBIC's assets could ratchet down. He said the only exception would be if there were an increase in the balance of the Severance Tax Permanent Fund over the \$4.7 billion high water mark, in which case the NMSBIC would receive a distribution, but it seems unlikely that the NMSBIC will see any significant money coming out of that fund.

Chairman Fowler commented that, based on the discussion today, a simple cleanup of the language in the legislation would be ideal, although there is always the risk that other changes could be made to the language that were not part of the NMSBIC's proposal.

Mr. Cummins stated that, ideally, the net excess funds provision would be repealed altogether.

Board members discussed the feasibility of requesting an independent opinion from the Attorney General.

Mr. Badal said he would reiterate what he stated at the last meeting, which is that the NMSBIC needs to build a case for why it is valuable and producing something that is good for the state of New Mexico.

Mr. Cummins said the group also discussed the NMSBIC's approach, which is that the new Board has changed the focus of the organization and is now focused on the lending program, and has made changes to agreements to limit exposure to losses, etc., and has become very successful and is growing. The group discussed developing a focused list of the most influential legislators, and having one-on-one meetings with them and telling the NMSBIC's story.

Mr. Cummins recalled questions raised by DFA Secretary Tom Clifford about whether the employment numbers provided by the lending and equity partners were actually audited and could they be documented. Mr. Cummins commented that there can be challenges to this because, for example, some companies hire contractors, who are not technically employees but do provide a benefit to the economy. He suggested contacting the Bureau of Business and Economic Research (BBER) at UNM about doing an independent study on the economic benefits of the program. This could generate positive results and strengthen the NMSBIC's story when meeting with legislators.

Mr. Cummins said the NMSIC has said on several occasions that they are very pleased with the NMSBIC's change of focus from equity investments to loans. One or two members of the NMSIC do not feel that the SIC's goal includes Economically Targeted Investments and that their primary goal is to generate a return to the taxpayers. Others support the NMSBIC's change into loan programs. Mr. Cummins stated that Chief Investment Officer Vince Smith has stated that the NMSIC's goal is to have a 7.5 percent return on investments, and if what the NMSBIC is doing is not going to hit their 7.5 percent

return, he will not recommend that the NMSBIC have additional money or keep additional money. Mr. Cummins noted that the NMSBIC's return has been closer to 1 to 1.5 percent. To Mr. Badal's point, if the NMSBIC can show enough other benefit to the state through gross receipts taxes generated, jobs, etc., that additional information might help to tip the scale to support the NMSBIC either keeping money through elimination of the net excess funds provision or through getting an additional allocation.

Mr. Cummins noted that John Chavez of New Mexico Angels has informed him that two pieces of proposed legislation will be introduced in this session that will impact the NMSBIC: 1) Requiring that the NMSBIC have 40 percent of its assets in debt and 60 percent in equities. If the NMSBIC does not meet the equity target, the funds would be transferred to the New Mexico State Accelerator Fund. 2) Repealing the NMSBIC and having its equity investments transferred to the NMSIC and its loans to the New Mexico Finance Authority. Any cash would be split 60/40.

Mr. Cummins said Mr. Chavez had pointed out that the NMSBIC has had \$10 million in cash that hasn't been put to use and that could have been put to use in private equity investments.

Mr. Cummins said that NMSIC Communications Director Charlie Wollmann indicated to him that if the NMSBIC were repealed as proposed in the second piece of legislation, the NMSIC would very likely liquidate the assets for pennies on the dollar.

[Break.]

EXECUTIVE DIRECTOR/INVESTMENT ADVISOR REPORT

Loan Reports

Accion

-- Accion's loan balance is \$5.3 million, or 81 percent of its \$6.5 million maximum funding amount. [December 2015 data, which was not available at the time this report was written, reflects a slight increase.]

The Loan Fund

-- The Loan Fund's loan balance is \$9.0 million, or 81 percent of its \$11 million maximum funding amount. [December 2015 data, which was not available at the time this report was written, reflects a slight decrease.]

Mr. Cummins stated that, at the last board meeting, he was asked to provide information for The Loan Fund regarding loan amortization versus payoffs. Mr. Cummins presented that information to the board.

NM Mortgage Finance Authority (MFA)

-- MFA has reached its \$1.5 million limit after drawing down \$400,000.

Rio Vista Growth Capital (RVGC)

- RVGC continues to be at 100 percent of its \$750,000 maximum funding amount.

WESST Corp

- WESST funded a new loan in December. Their outstanding balance with NMSBIC is now \$101,350.

Equity Partners

NM Gap Fund

- In February 2014, the NMSBIC board approved \$50,000 in annual management fees and an additional \$8,000 in expenses for the New Mexico Gap Fund. Rather than approve these costs for the 3-year period that was requested, the Board decided to review and approve one year at a time. The Board gave another approval in February 2015. Chris Traylor will attend the next NMSBIC Board meeting, in March, to discuss renewal of the third year of management fees and expenses.

Mr. Cummins said Mr. Traylor would also like to meet informally with two or three members of the NMSBIC Board to discuss details about the NM Gap Fund's portfolio companies in advance of the March meeting.

Mesa NM Growth Fund II (MNMGF II)

- In December, MNMGF II made a final distribution to partners totaling \$12,185.35. The NMSBIC's share was \$5,536.59.

New Mexico Community Capital (NMCC)

- As previously reported, terms of the 2014 Wellkeeper sale included payments to be made over three years based on performance. In December, the NMSBIC received its share of \$82,752.92 from NMCC, related to a Wellkeeper performance payment.

NM Mezzanine Partners (NMMP)

- Mr. Cummins attended an NMMP Limited Partner Advisory Committee meeting on January 11. Mike Doolittle, NMMP manager, provided an update on the status of the three active loans. Company 1 is well collateralized and Mr. Doolittle believes they will obtain bank financing to pay off NMMP in the next few months. Company 2 is well collateralized, and Mr. Doolittle believes positive earnings in the first half of this year might allow them to obtain bank financing in the second half of 2016. Company 3 was working on achieving a sale of the company by December 31, 2014, which did not occur. In the third quarter of 2014, NMMP posted a loan loss reserve of \$900,000 for Company 3, of which the NMSBIC's share was \$400,000. NMMP is continuing to work on a resolution.

Short-term Investments

Mr. Cummins recommended that NMSBIC continue to maintain the majority of short-term investments in the First National Santa Fe money market account until the JPA with NMSIC is approved.

FUTURE FUNDING OF MEZZANINE DEBT

Providing background, Mr. Cummins stated that, in September 2014, the NMSBIC made a \$750,000 loan to Rio Vista Growth Capital (RVGC). There had been discussions going on with New Mexico Mezzanine Partners (NMMP) at least two years before that about creating a second mezzanine fund. Part of the discussion was that the NMSBIC was a limited partner in NMMP, but NMMP is making loans, not equity investments. They are hybrid loans, though, because they have warrants. The Board felt that its investment in NMMP was something of a hybrid in between equity investments and loans. A concern about NMMP, however, was that when the financial crisis hit, they did not find enough good deals and they chose not to invest. As a result, their management fees were greater than the interest income they were earning, so the value of the fund dropped over time. Then they got to a point where they were reaching the end date for new investments, thought they were starting to see good deals, and received NMSBIC Board approval to extend the date for new investments.

Mr. Cummins said that, as NMMP paid back the investment to NMSBIC, there were discussions about having a new mezzanine fund with different terms going forward. RVGC was the result of that, and NMSBIC decided to make a \$750,000 loan to RVGC. No management fees are paid to RVGC, and the agreement is designed for the RVGC members to be paid at the back end, from any value from warrants. The hope was that capital was returned from NMMP, NMSBIC might consider increasing the line of credit to RVGC.

Mr. Cummins said that, with the limited amount of funds currently available (\$2.5 million), the question is whether NMSBIC should consider providing additional funding to RVGC. He said Lynn Carrozza feels there is a lot of demand and that there are viable companies where additional mezzanine money could be placed.

Mr. Cummins stated that NMSBIC has not made a commitment to RVGC that it would allocate additional funds as money came back from NMMP; and a few months ago, the NMSBIC Board said it did not want to have any connection between those two entities and that any decisions would be made independently.

Mr. Cummins said the NMSBIC is better positioned financially with RVGC, because RVGC is building some equity that will cushion NMSBIC losses, which is not the case with NMMP. With NMMP, the current value is less than the investment because of the payment of management fees and the more recently posted loan loss reserve. The NMSBIC is also better structured with RVGC because of management fees, and it has a security interest in the company it has invested in.

Mr. Badal said the only way he would consider going forward was if there was hard collateral behind any amount committed by NMSBIC. He commented the NMSBIC has credit risk in RVGC loans.

Mr. Cummins said that, if Mr. Carrozza wants to move forward, perhaps the Board wants him to come back to have a discussion about RVGC changing its investment policy and looking for loans that have better collateral that would support the loan.

Mr. Badal said he continues to ask himself what is the smart thing to do from the standpoint of investing taxpayer funds: If it is minimizing risk and fulfilling the NMSBIC's obligation to create economic development jobs, does mezzanine lending and equity investing truly satisfy that mission?

Mr. Badal suggested that, as part of NMSBIC's efforts in educating legislators about NMSBIC, it might consider hiring a lobbyist to help with that. This would be in addition to seeking support from The Loan Fund and Accion and getting the statistical information from BBER.

Mr. McDonald stated that he would research the rules and restrictions around hiring a lobbyist.

Regarding the concentration of mezzanine funding by NMSBIC, Mr. Cummins said any decision regarding mezzanine funding should include consideration of the NMSBIC's concentration in this investment/lending class. At 6/30/15, it was 5.7 percent of the NMSBIC's total assets. At 6/30/14, it was 7.5 percent, and has dropped primarily because of the loan loss reserve in NMMP. He recommended the NMSBIC look at mezzanine lending as a percentage of total assets, and managing that concentration.

Chairman Fowler and Mr. Badal said they liked the approach suggested by Mr. Cummins.

HYPOTHETICAL WIND-DOWN ANALYSIS

Mr. Cummins reviewed his annual analysis of financial projections for a hypothetical wind-down of the NMSBIC, the purpose being to estimate cash reserves that might be needed for the wind-down.

Board members agreed that \$700,000 as a set-aside for operations and reserves continues to be an appropriate number.

2016 NMSBIC BOARD MEETING DATES

Mr. Cummins said these dates have been approved with the exception of October, when the date and location of the Board and Community Meeting have not been determined. The Board has discussed having these meetings in Albuquerque, which could draw a large number of people.

Mr. Cummins said people could reserve a 10-minute time slot to meet with a lender. The thought is to have a very short general session and limit the presenters to a specified amount of time so there could be more time for small businesses to meet with lenders.

Board members agreed with Chairman Fowler's suggestion that there be some meetings with lenders before lunch, a general session during lunch, followed by meetings with lenders.

Mr. Badal said it would be very helpful for lenders to bring someone with them who could share how their business started and was able to succeed thanks to a loan. He suggested limiting that part of the meeting to 30 minutes.

Board members discussed creating a venue for the equity partners to be able to present, as well. TVC has a list of people who present to them at their fair every year, and TVC and people on this list could be invited. It would be helpful to have city licensing people present along with anyone else who can provide information on how to start a business. This would include TVC, New Mexico Angels, SBDC, and equity and lending partners.

BOARD CONTINUING EDUCATION

Mr. Cummins stated that the media communications policy is included in the board book. He does not see a need for changes but can be contacted if there are questions.

CHAIRMAN'S COMMENTS

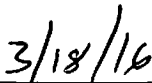
None.

ADJOURNMENT

Its business completed, the NMSBIC Board adjourned the meeting at 12:00 p.m.



Alan Fowler, Chairman and President



Date