

MINUTES OF THE
NEW MEXICO SMALL BUSINESS INVESTMENT CORP.

May 22, 2015

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 [arriving 9:15 a.m.]
Ms. Roxanna Meyers, Vice Chair [by telephone, signing off at 9:15 a.m.]
The Hon. Tim Eichenberg, NM State Treasurer
Mr. Lupe Garcia
Mr. Steven E. Morgan, Secretary/Treasurer

Members Excused:

Mr. Joseph H. Badal, Past Board Chair
Ms. Launa Waller

Financial Advisor to Board

Mr. Russell Cummins

Legal Counsel Present:

Mr. Randy McDonald

Recording Secretary:

Ms. Judith S. Beatty

Guests:

None.

REVIEW AND ACCEPTANCE OF AGENDA

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

REVIEW AND ACCEPTANCE OF FEBRUARY 23, 2015 BOARD MINUTES

Mr. Morgan moved approval of the February 23 minutes, as submitted. Mr. Garcia seconded the motion, which passed unanimously by voice vote.

FINANCIAL REPORTS AS OF FEBRUARY 28, MARCH 31 AND APRIL 30, 2015

[Chairman Fowler arrived during the course of this presentation.]

Mr. Cummins presented this report.

-- As of April 30, there was \$1.6 million available for investment and operations, which takes into account \$700,000 in reserves.

Mr. Cummins said potentially an additional \$1.1 million would become available based on the following:

-- Mesa NM Growth Fund II: The fund will not make any additional capital calls for investments, but may continue to make capital calls for out-of-pocket expenses. Committed and uncalled capital is \$512,164.

-- NM Mezzanine Partners: The fund does not plan to make any additional capital calls. Committed and uncalled capital is \$615,000.

Mr. Garcia moved to accept the financials, as presented. Mr. Eichenberg seconded the motion, which passed unanimously by voice vote.

BUDGET FOR JULY 1, 2015 TO JUNE 30, 2016

Mr. Cummins reviewed the budget summary and proposed budget. The proposed budget reflected \$409,866 in total revenue and \$251,249 in total operating expenses, for a total net income from operations at \$158,617.

Mr. Morgan moved to accept the proposed budget. Mr. Eichenberg seconded the motion, which passed unanimously by voice vote.

NONPROFIT MANAGEMENT LIABILITY INSURANCE RENEWAL

Mr. Cummins stated that last year's premium for this policy was \$3,217.81, and the policy expires on June 23, 2015. He said the representative at HUB Insurance has indicated he does not expect a significant change in the premium for a renewal policy. Mr. Cummins recommended approval to renew the policy for one year, expiring on June 23, 2016.

Mr. Cummins referred to the declarations page reflecting \$1 million in coverage for NMSBIC officers and directors.

Mr. McDonald explained that, while the NMSBIC has a lot of statutory protections against personal liabilities as a New Mexico nonprofit corporation, this policy would cover lawsuits filed against the organization and/or individual directors for breaching their fiduciary duties. He said NMSBIC doesn't have any employees, so there are not likely to be any employee lawsuits for improper terminations, etc., but NMSBIC carries the employment insurance anyway. Based on the NMSBIC's risk profile, it is unlikely there would be any claims, but he feels it prudent to carry this insurance in addition to having the statutory protections.

Mr. McDonald also noted that the NMSBIC as a corporate entity will indemnify the individual directors against any claims brought against them.

Mr. Garcia moved for approval. Mr. Morgan seconded the motion, which passed unanimously by voice vote.

PROFESSIONAL SERVICES AGREEMENTS

- a. **Legal Services**
- b. **Board Minutes**

Mr. Cummins recommended renewal of the following professional services contracts for one year from July 1, 2015 to June 30, 2016:

-- Randall J. McDonald, Legal Counsel: \$198 per hour, no proposed change in rate, and no changes to other terms.

-- Judith Beatty, Recording Secretary: \$48 per hour, no proposed change in rate, and no changes to other terms.

Mr. Morgan moved for approval, as recommended. Mr. Garcia seconded the motion, which passed unanimously by voice vote.

EXECUTIVE DIRECTOR/INVESTMENT ADVISOR REPORT

- a. **Loan Reports, Equity Partner Detail, Take Away Report**

Mr. Cummins reviewed a report, requested by Mr. Eichenberg, on lending partner loans by community for the 12 months ended June 3, 2014.

Accion

-- Accion has just been approved as an SBA lender. He stated that Accion is at 90 percent of its \$5.75 million maximum funding amount. The amendment to increase the NMSBIC's funding to Accion by \$750,000, to \$5,750,000, was executed in February.

The Loan Fund

-- The Loan Fund is at 78 percent of its \$11 million maximum funding amount. In a recent conversation with CEO and President Leroy Pacheco, Mr. Pacheco indicated that The Loan Fund is experiencing strong loan demand and has a growing loan pipeline. Mr. Pacheco said he would like to start discussions with the NMSBIC about a potential increase of about \$2 million in The Loan Fund's line of credit later this year.

NM Mortgage Finance Authority

-- All of the NMSBIC's \$1.5 million committed to the MFA has been allocated by MFA to multifamily projects. MFA expects to start drawing on its NMSBIC line of credit by the end of this month.

Rio Vista Growth Capital (RVGC)

-- RVGC continues to be at 100 percent of its \$750,000 maximum funding amount. While Lynn Carrozza, managing member, indicates that they would be interested in NMSBIC providing additional funds, NMSBIC's response has been that this is a brand-new startup company and a brand-new agreement, and NMSBIC would like time to monitor and evaluate performance before considering a funding increase to them.

Mr. Cummins noted that The Loan Fund is indicating that they may request \$2 million before the end of this year. As of now, there is \$1.6 million available, which could increase to \$2.6 million this year. The NMSBIC will have to determine what makes the most sense in terms of allocating available funds.

WESST Corp

-- WESST is at 11 percent of its \$375,000 maximum funding amount. Director of Lending Kim Blueher has indicated that WESST is in the process of funding a loan based on a referral from an attendee of the NMSBIC's Community Meeting in Clovis.

Flywheel Ventures

-- At the last meeting, the Board approved \$50,000 in management fees for NM Gap Fund I and an increase in expenses, both for a period of one year. The documents have been executed.

Mesa Capital Partners

-- Mesa New Mexico Growth Fund II's remaining assets are a lease on chile processing equipment and a real estate contract. Later in the year, there are balloon payments due on both. The scheduled end-date for the fund is September 30, 2015.

New Mexico Community Capital (NMCC)

-- There is a separate agenda item to extend the fund end-date by one year, to June 30, 2016.

-- Mr. Cummins attended the NMCC Limited Partner Advisory Committee meeting in March, where updates were provided for each portfolio company investment. It was noted that a downward investment valuation would likely occur related to the recent Wellkeeper sale/exit. As previously reported, part of the Wellkeeper sale proceeds will be paid over the next four years.

Other Matters

Mr. Cummins reported that, on March 13, 2015, he met with Javier Saade of the Small Business Administration Office of Investment and Innovation in Washington, D. C. Also present were Don Padgett and Paul Sowards of Century Bank. Mr. Saade is responsible for several SBA programs, including the SBA's Small Business Investment Company (SBA-SBIC) program, and was visiting New Mexico to see if there is interest here in starting up a local fund. If a local fund can raise \$5 million in equity capital, it can then borrow up to \$10 million from the SBA-SBIC and have a total of \$15 million to invest in new or growing companies.

Mr. Cummins said banks are some of the largest equity investors in SBA-SBIC funds. Dodd-Frank and Volker Rule restrictions are waived for bank investments in SBA-SBICs. Also, banks receive Community Reinvestment Act credit. Messrs. Padgett and Sowards said \$5 million would be too large of an investment for Century Bank, but if several banks joined in, it might be possible to raise \$5 million. Mr. Saade said the SBA-SBIC would also permit NMSBIC to be an equity investor in such a fund. Mr. Cummins indicated to Mr. Saade that the NMSBIC is not making equity investments.

Mr. Cummins stated that, on the \$10 million that is borrowed from the SBA-SBIC, there is a short deferral period up front, but then interest payments (at about 2.6 percent) are made. Since it can take up to ten years for an investor in a startup company to see any cash flow, SBA-SBIC investments are more typically used for mezzanine financing. Mr. Cummins said he shared information about SBA-SBIC with Lynn Carrozza of Rio Vista Growth Capital and Mike Doolittle of New Mexico Mezzanine Partners, to see if they might be interested in creating an SBA-SBIC mezzanine lending fund.

Mr. Morgan suggested that perhaps the NMSBIC could participate by building protections for its share of the \$5 million investment, particularly to ensure that the NMSBIC's portion goes to New Mexico companies in accordance with its statutory requirement.

Mr. Cummins noted that the SBA-SBIC program is structured such that SBA-SBIC gets its money back first, with the \$5 million in equity being second priority.

Mr. Morgan suggested that the NMSBIC could manage a fund like this for New Mexico at the behest of SBA. NMSBIC is an avenue to the rest of the state and is in a very good position to serve the state this way.

Mr. McDonald agreed to research this issue further and report back to the Board.

[Break.]

NM COMMUNITY CAPITAL REQUEST TO EXTEND FUND END-DATE

Mr. Cummins stated that he attended a meeting of the limited partners of NMCC Fund I on April 22 by telephone, when NMCC made a formal request to the limited partners to extend the fund end-date by one year, to June 30, 2016. The LP agreement provides for three one-year extensions, subject to approval by 72.5 percent of the limited partners. If this request were approved, it would be the first of three extensions provided for under the LP agreement. He stated that all of the limited partners in attendance appeared to be interested in extending the fund end-date.

Mr. Cummins stated that, assuming the fund end-date is extended, NMCC managing director Michael Schafer is projecting a 1.5x multiple return on the investment.

Mr. Cummins recommended that the Board approve extending the fund life for one year, given the number of active company investments being managed in this fund. He believes this would be preferable to receiving pro-rata shares of stock in the various portfolio companies. He said Mr. Schafer told the limited partners that he believes it is likely all three extensions will be requested, and that NMCC is actively pursuing exits for all of its portfolio companies. As exits are achieved, NMCC management fees will be reduced accordingly.

Mr. Cummins stated that not granting approval would mean the NMSBIC would receive 47.78 percent of the equity in all of the companies in the NMCC portfolio.

Mr. Garcia moved to extend the fund end-date for one year, as recommended. Mr. Eichenberg seconded the motion.

Board members asked that NMCC make a progress report to the Board before the end of this year.

The motion passed unanimously by voice vote.

SHORT TERM INVESTMENTS

a. CD Maturing on June 9, 2015

Mr. Cummins stated that the NMSBIC has a \$1.5 million CD maturing at First National Santa Fe (FNSF) on June 9, 2015.

Mr. Cummins stated that, in previous quarters, NMSBIC has been unwinding the NMSBIC CD investment ladder, anticipating increased funding needs from lending partners and because CD interest rates did not appear to provide enough of a premium over money market rates.

Mr. Cummins referred to a list of interest rates for balances over \$250,000 that are 100 percent collateralized, or 100 percent FDIC insured under the CDARs program, or 100 percent secured by a Federal Home Loan Bank letter of credit.

Mr. Cummins said the rate quotes indicate that Lea County State Bank is paying .45 percent on a 12 month CD, which is 100 percent FDIC insured under the CDARs program. NMSBIC would be required to open a savings account with a minimum balance of \$200 for depositing CD interest and proceeds.

Mr. Cummins referred to a cash flow projection that showed the estimated impact of re-implementing the CD investment ladder and investing \$1 million per quarter in 12 month CDs. The cash flow projection includes an assumption that NMSBIC would re-implement the CD investment ladder and invest \$1 million per quarter in a 12-month CD. This would be evaluated every quarter.

Mr. Cummins noted that FNSF indicated earlier this year that they would pay a higher rate if NMSBIC used corporate bonds as collateral; however, Mr. McDonald had researched that and recommended that, because these are state funds the NMSBIC is investing, it would be prudent for the NMSBIC to follow state investment guidelines for state funds.

Mr. Cummins said NMAC 6-10-16 does not specifically prohibit CDARs, but to invest public funds, a bank is required to apply for approval with the State Treasurer's Office and become certified as a depository for public funds. If the NMSBIC were to put \$1 million in Lea County State Bank, the bank would keep \$250,000 and would put \$250,000 in different banks around the country that participate in CDARs, but those banks would not be certified to accept public funds in New Mexico.

Mr. Cummins noted that the NMSBIC has \$250,000 in banks in Ruidoso and Clovis, and he was now was not sure that those banks were certified to accept public funds in New Mexico. If not, those accounts might have to be closed. The funds in both banks are 100% insured by FDIC.

Mr. Cummins also noted that FNSF has been requesting that NMSBIC consider dropping its collateral requirement from 100 percent to 50 percent, because if a bank is approved by the State Treasurer's Office and certified as a depository for public funds, and if they meet certain financial hurdles that the State Treasurer's Office monitor, then the collateral for state funds is 50 percent. He suggested that the Board review this on the next meeting's agenda.

Mr. Cummins recommended that, for the \$1.5 million maturing, \$500,000 go into the money market account and that \$1 million be invested in First National Bank of Santa Fe.

Mr. Eichenberg so moved. Mr. Morgan seconded the motion, which passed unanimously by voice vote.

b. First National Santa Fe, Funds Transfer Access

Mr. Cummins stated that, right now at US Bank, the NMSBIC requires two board member approvals before any disbursement, and three people are authorized to disburse ACH out of the account at US Bank. He said he would like to set up the same arrangement at First National Santa Fe because US Bank has dropped the interest rate it has been paying on the NMSBIC's money market account from 20 basis points to 2 basis points. He noted that the NMSBIC has been carrying an average balance in the account of about \$1.37 million, and the impact of US Bank's drop in rates is a reduction in interest income of about \$2,466 per year. Given that First National Santa Fe is currently paying 0.25 percent on the NMSBIC's money market account, he would like to move those balances to FNSF and have the ability to process ACH from there.

Mr. Cummins recommended that the NMSBIC (i) reduce deposit balances at US Bank, but leave the accounts open, given several of the NMSBIC's lending and equity partners make payments to the NMSBIC's account at US Bank, (ii) increase deposit balances at FNSF, and (iii) authorize any two NMSBIC board members who are authorized signors on the FNSF account (Alan Fowler, Roxanna Meyers, Steve Morgan, Joe Badal) to execute any documents necessary to set up dual-control ACH processing abilities at FNSF, where Dee Brescia, Steve Morgan and Russ Cummins can process ACH payments at FNSF, with two approvals required.

Mr. Garcia so moved. Mr. Eichenberg seconded the motion, which passed unanimously by voice vote.

[Mr. Eichenberg excused himself from the meeting.]

COMMUNITY MEETING IN LOS LUNAS, NM

The Board agreed to hold the Community Meeting on October 23.

FEDERAL HOME LOAN BANK OF DALLAS MEMBERSHIP INFORMATION

Mr. Cummins stated that he was asked to find out if there were any opportunities for either the NMSBIC or its partners to do business with Federal Home Loan Bank. He said he contacted Federal Home Loan Bank of Dallas, which covers this region, and was told that the NMSBIC was not eligible for membership. Eligible partners are banks, thrifts, credit unions, insurance companies and CDFIs (Community Development Finance Institutions). CDFIs would be Accion, The Loan Fund, and WESST Corp. He was told that Federal Home Loan Bank has some CDFIs as members, but the only service they are using is their borrowing capacity. A CDFI would pledge

what they borrowed as collateral, and Federal Home Loan Bank would hold the loan file in custody. He said the lending partner would have to come up with 50 percent of its own funding, and then borrow 50 percent from Federal Home Loan Bank. He commented that these terms are worse than the terms NMSBIC has under its agreements with the lending partners, where it provides 75 percent of the funding for WESST Corp and Accion, and 100 percent for The Loan Fund.

Mr. Cummins noted that there are grants available to nonprofits through Federal Home Loan Bank, but all of the NMSBIC's lending partners are well above the operating budget cap set by Federal Home Loan Bank, and would therefore not be eligible.

LEGISLATIVE UPDATE

Mr. Cummins reported that SB 618 was never heard by the first committee to which it was assigned, and so no action was taken on it.

Mr. Cummins said he sent a letter to Senator Muñoz by regular mail as well as email, but there was no response.

BOARD CONTINUING EDUCATION

Mr. McDonald briefed Board members on the Governmental Conduct Act.

CHAIRMAN'S COMMENTS

Chairman Fowler reminded Board members to continue to keep legislators informed of what NMSBIC has been doing for the past few years to benefit communities around the state.

ADJOURNMENT

Its business completed, the NMSBIC Board adjourned the meeting at 11:20 a.m.



Alan Fowler, Chairman



Date