

MINUTES OF THE

NEW MEXICO SMALL BUSINESS INVESTMENT CORP.

June 9, 2016

A meeting of the New Mexico Small Business Investment Corporation was called to order on this date at 3:30 p.m. in the conference room of WESST Enterprise Center, 609 Broadway Boulevard, N.E., Albuquerque, New Mexico. A quorum was present.

[Note: This meeting was conducted telephonically. Mr. Cummins attended in person.]

Members Present

Mr. Alan Fowler, Chair
Mr. Joseph H. Badal, Past Board Chair
Mr. Lupe Garcia
Mr. Steven E. Morgan, Secretary/Treasurer
Ms. Launa Waller

Members Excused

Ms. Roxanna Meyers, Vice Chair
The Hon. Tim Eichenberg, New Mexico State Treasurer

Financial Adviser to Board

Mr. Russell Cummins

Board Legal Counsel:

Mr. Randy McDonald

Recording Secretary:

Ms. Judith Beatty

Guests Present:

Mr. Lynn Carrozza

REVIEW AND ACCEPTANCE OF AGENDA

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

RIO VISTA GROWTH CAPITAL, PROPOSED CHANGES: **LYNN CARROZZA, MANAGING MEMBER, RIO VISTA GROWTH CAPITAL**

Mr. Cummins stated that, at the last board meeting, he was asked to discuss additional proposed changes with Lynn Carrozza of Rio Vista Growth Capital. In the board packet were the proposed changes and Mr. Carrozza's responses. The proposed changes were as follows:

1. For new loans originated after the effective date of the Amendment, if RVGC agrees to subordinate any lien to any Portfolio Company, then the Portfolio Company shall be required to pay current all deferred interest, and no additional interest on the Portfolio Company's loan shall be deferred.
2. For new loans originated after the effective date of the Amendment, if RVGC receives a payment or payments of principal from a Portfolio Company, no additional funding shall be provided by RVGC to that same Portfolio Company.
3. Reduce combined loan-to-value on subordinate collateral from 100 percent of current assets and 80 percent of fixed assets to ____ and ____.
4. RVGC shall pay NMSBIC legal fees related to the Amendment, not to exceed \$1,500.

Mr. Carrozza discussed his responses to these proposals.

Regarding #1, Mr. Carrozza said a requirement to pay all deferred interest would very likely be unacceptable to a bank/senior lender, as it is very unusual. He said this would prevent RVGC from being able to negotiate a deal with a portfolio company.

Regarding #2, Mr. Carrozza said RVGC has no intention of using a revolving line of credit with a portfolio company. They are hopeful that, if they get most of the principal with interest due back early, they would like to lend it to another portfolio company.

Regarding #3, Mr. Carrozza said they will have covenants in their loan agreement with the portfolio company that will be stricter than the 100 percent of current assets and 80 percent of fixed assets. Part of the reason is that they want an early warning

signal to notify RVGC if a company's performance is deteriorating. He said they really need some flexibility, however, and do not want to go below that point.

Regarding #4, Mr. Carrozza said RVGC would "reluctantly agree" to reimburse NMSBIC's legal fees, but they would want the amount of previously reimbursed legal fees to NMSBIC to be subtracted from their final interest payment to NMSBIC.

[Mr. Carrozza signed off from the meeting.]

Chairman Fowler noted that Mr. Eichenberg, who could not be present today, has indicated he is not comfortable doing anything that would potentially put NMSBIC in a second lien position.

Chairman Fowler noted that Mr. Carrozza agreed with the original term sheet and indicated today he would agree to two of the proposed changes.

Chairman Fowler noted that a second item on today's agenda is a possible investment in Verge II.5. Both of the items on the agenda would potentially impact the NMSBIC's available funds.

Mr. Cummins stated that current available funds are at \$2.6 million. He said he does not expect The Loan Fund or Accion to request additional funds in the next six months, but would likely do so in the next year. Both Verge Fund and New Mexico Community Capital are anticipating a sale of a company in the second half of this year; and between them, the best guess is that NMSBIC might get a return (including original investments) of about \$5.6 million. A rough estimate would be that perhaps half of that might be returned to NMSIC.

Chairman Fowler said he assumed there was virtually no chance that the NMSBIC would receive additional funds from the state because of any increase in oil revenues. He said it seemed pretty clear that the NMSBIC would have only have the current \$2.6 million in available funds to work with for the short-term foreseeable future.

Mr. Garcia expressed concern that NMSBIC be in a position to accommodate requests from The Loan Fund and/or Accion should they come forward sooner than expected for additional funds.

Mr. Morgan asked if he understood correctly that, if RVGC subordinates a loan, it would reduce the NMSBIC's security position and collateral, and Mr. Cummins said that was correct.

Mr. Badal commented that this is taxpayer money, and the board needs to be very careful about how it might wind up diminishing its position rather than enhancing it.

Chairman Fowler stated that, in considering whether it wants to move forward with this proposal, the board has to decide whether it has an appetite for mezzanine financing to begin with. This board inherited New Mexico Mezzanine Fund and has done some extensions with them, but really hasn't analyzed whether this was something it wants to continue.

Mr. Cummins noted that this discussion started with RVGC several weeks ago, when Mr. Badal asked whether RVGC would consider additional funding if they would only do senior secured liens and not subordinated liens. From what he is hearing today, there is still a fair amount of discomfort with getting into a subordinated or junior lien position.

Mr. Badal said he was also a bit concerned about the cash flow situation and projected needs from Accion and The Loan Fund. If the anticipated equity fund sale/exit does not go through, and loan demand goes up suddenly for some reason, there could be a problem.

Mr. Cummins commented that it is worth discussing the fact that an investment in Verge II.5 as a follow-on investor could have relatively higher risk, given it would be an equity investment rather than a mezzanine loan.

Chairman Fowler noted, though, that NMSBIC has prior knowledge of some of the companies Verge is talking about, while with RVGC it only has prior knowledge of their strategy and that the one loan they have done has worked. He commented that a Verge II.5 investment would be a unique situation in that it is protecting the NMSBIC from dilution, and is less risky than an early-stage equity investment.

Mr. Badal said the board's approach all along has been that, rather than agreeing to old, staid definitions, in some instances it has asked its partners to change the way they do business. With respect to RVGC, his hope had been that they would work with the board to structure something that wouldn't be the traditional definition of a mezzanine fund, but would be a hybrid. Under that new structure, the NMSBIC would be mitigating its risk while at the same time accommodating companies like RVGC. He said Mr. Carrozza's responses to the proposed changes would indicate that he was viewing this as traditional mezzanine financing. He said he personally did not think the NMSBIC should be doing mezzanine lending.

Mr. Garcia expressed concern that the board would not be meeting its fiduciary responsibility to protect taxpayer funds by accepting the Rio Vista proposal without all of the proposed changes.

Mr. Morgan said he would not discard the idea of doing mezzanine financing altogether, but this proposal in its current form is too uncertain for the board to consider.

Mr. Badal commented that the board could not operate under the parameters that Mr. Carrozza has put forth in its current form, and hoped it could work with him on a structure that would make the board more comfortable.

VERGE II.5 PROPOSED INVESTMENT

Mr. Cummins stated that, based on his review of the NMSBIC's Investment Policy, Verge meets Investment Policy requirements. No individual investment, after the Verge II.5 add-on investment, would violate the NMSBIC's statutory investment limit in any one company of \$3.7 million (10 percent of assets).

Mr. Cummins said two items to consider are 1) the NMSBIC has been operating with a strategy since 2012 to focus on expanding the loan program and not make equity investments, so this would diverge from that; and 2) this could open the door to funding requests from other equity funds. He agreed, however, that this is a follow-on investment and does help to reduce dilution. In addition, it is a later-stage investment, with lower risk than an early-stage equity investment. The Verge II.5 companies have customer contracts, are bringing in cash flow, have proven markets, have proven management teams, and are want to maximize the investor returns before exiting the fund.

Mr. McDonald clarified that the NMSBIC cannot have more than 10 percent of its total fund in any one business, but that does not apply to its investments in entities that are parties to cooperative agreements.

Mr. Badal noted that 15 percent of the NMSBIC's total assets are currently invested in Verge funds, which will increase to 17+ percent if the NMSBIC were to do this follow on investment at the requested amount of \$1 million.


Mr. Cummins stated that the follow-on investments in Verge are expected to help the portfolio companies achieve additional growth. Verge's position is that the original

investors will be better off, even though they are being diluted, because the growth of these companies will generate larger returns upon sale/exit of the companies.

Mr. Badal moved to approve a follow-on investment of \$1 million in Verge II.5 subject to final review of the documents by legal counsel, Alan Fowler and Russ Cummins. Mr. Morgan seconded the motion, which passed unanimously by voice vote.

ADJOURNMENT

Its business completed, the NMSBIC Board adjourned the meeting at 5:25 p.m.



Alan Fowler, Chairman and President

7/25/16

Date