

**MINUTES OF THE**  
**NEW MEXICO SMALL BUSINESS INVESTMENT CORP.**

**October 24, 2016**

A meeting of the New Mexico Small Business Investment Corporation was called to order on this date at 1:15 p.m. at the CNM Workforce Training Center, Room 116, 5600 Eagle Rock Avenue, N.E., Albuquerque, New Mexico.

A quorum was present.

**Members Present**

Ms. Roxanna Meyers, Vice Chair (arrived later)  
Mr. Joseph H. Badal, Past Board Chair  
The Hon. Tim Eichenberg, New Mexico State Treasurer  
Mr. Lupe Garcia  
Mr. Steven E. Morgan, Secretary/Treasurer

**Members Excused**

Ms. Launa Waller  
Mr. Alan Fowler, Chair

**Financial Adviser to Board**

Mr. Russell Cummins

**Board Legal Counsel:**

Mr. Randy McDonald

**Recording Secretary**

Ms. Judith Beatty

**Guests Present:**

Ms. Dee Brescia, Contract Accountant

**REVIEW AND ACCEPTANCE OF AGENDA**

Mr. Eichenberg moved acceptance of the agenda, with a change to the year for the list of meeting dates from 2016 to 2017. Mr. Garcia seconded the motion. The agenda, as amended, was approved by unanimous voice vote.

**REVIEW AND ACCEPTANCE OF SEPTEMBER 26, 2016 BOARD MINUTES**

Mr. Eichenberg moved approval of the September 26 minutes, as presented. Mr. Morgan seconded the motion, which passed by voice vote, with Mr. Eichenberg in abstention.

## **FINANCIAL REPORTS AS OF SEPTEMBER 30, 2016**

Mr. Cummins provided an update:

- Cash and equivalents at \$3.2 million.
- Bonds up to \$9 million in the SIC Core Plus Bond Pool, which is doing well.
- Interest income is ahead of budget.
- With the sale of IntelliCyt, funds available for investment operations are now at \$6.4 million.

Mr. Cummins thanked Dee Brescia for doing an excellent job on the NMSBIC's financials.

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

## **EXECUTIVE DIRECTOR/INVESTMENT ADVISOR REPORT**

Mr. Cummins presented highlights:

- Accion's loan balance is at \$6.3 million, or 97 percent of its maximum funding amount. They will make a presentation at the next board meeting to provide an update on their program and discuss a possible increase in their funding level.
- New Mexico Mortgage Finance Authority has reached 80 percent of its \$1.5 million maximum funding amount. During the quarter, \$500,000 for a project in Roswell was repaid in full and there was a new draw of \$800,000 for a project in Santo Domingo. They will tentatively appear at the January NMSBIC meeting to provide an update on their Primero program.
- New Mexico Mezzanine Partners' extension of their limited partnership agreement expired in September. Mike Doolittle will appear at the December meeting to discuss plans for winding down the fund.
- Verge Annual Limited Partner meeting will take place on November 1. Joe Badal, Alan Fowler and Lupe Garcia plan to attend.
- Performance of the NMSBIC's investment in the SIC Core Plus Bond Pool for June through August 2016 shows gains of \$105,597 and fees of \$1,601, for a net increase in value of \$129,251. This is an annualized yield of 10.2 percent.

**ELECTION OF NMSBIC OFFICERS/AUTHORIZED BANK ACCOUNT SIGNORS/  
ANNUAL OPEN MEETINGS ACT RESOLUTION**

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Mr. Cummins said Mr. Fowler has indicated that he would be willing to step down as chair if someone else was interested in the position; if not, he would be willing to continue with the understanding that his schedule in the coming year will be very busy.

Mr. Morgan stated that he would like to step down as Secretary/Treasurer.

Mr. Cummins said he would ask Ms. Meyers if she would like to replace Mr. Morgan.

Mr. Badal said he would be willing to continue as vice chair.

**Mr. Eichenberg moved to nominate Alan Fowler as Chair and President and Joseph Badal as Vice Chair. Mr. Morgan seconded the motion.**

**The nominations were closed.**

**The motion passed unanimously by voice vote.**

Mr. Cummins said the President, Vice Chair, Vice President, Secretary/Treasurer and Past Board Chairs are authorized signors. He said Alan Fowler, Joe Badal, Steve Morgan and Roxanna Meyers are on the signature cards. Based on the proposed resolution, three people would be authorized signors (minus Mr. Morgan).

**Mr. Eichenberg moved to keep the authorized signatures as is until such time as it needs to be changed. Mr. Garcia seconded the motion, which passed unanimously by voice vote.**

**Mr. Eichenberg moved to approve the annual Open Meetings Act Resolution for 2017. Mr. Morgan seconded the motion.**

Board members discussed whether it was a violation of the Open Meetings Act for a quorum of the NMSBIC Board to appear at an SIC meeting. Mr. McDonald said it would not be a violation unless the members were there to conduct business without the required 72 hours' notice. For example, if four board members had an appointment with the SIC director, that could be construed as doing the business of the SBIC and notification would be required.

Mr. McDonald said he would review the Attorney General's Open Meetings Compliance Guide.

Mr. Badal asked Mr. Cummins to find out if this issue was addressed in the bylaws.

**The motion passed by unanimous voice vote.**

## **WEBSITE HOSTING AND MAINTENANCE, CONTRACT RENEWAL**

Mr. Cummins recommended the board renew the website maintenance contract with The Holly Company for one year, from December 1, 2016, to December 1, 2017, with the same terms as the previous year, with no change in pricing. The cost is \$2,000 per year, plus expenses for repairs and upgrades. During the past year, the additional cost for repairs and upgrades was \$236.

Responding to Mr. Eichenberg, Mr. Cummins said the contract has been renewed since at least 2012 and was not subject to the State Procurement Code.

Mr. Badal commented that, based on his own research of rates charged by companies providing similar services, the rates being paid by the NMSBIC are extremely reasonable.

**Mr. Eichenberg moved Mr. Cummins' recommendations. Mr. Morgan seconded the motion, which passed unanimously by voice vote.**

Mr. Eichenberg said that Holly Company is providing a great service to the NMSBIC, and suggested further discussion in December on ways to expand what they offer.

Mr. Badal said, as an example, despite the promotion of today's community meeting, there could have been more attendees. He said part of the problem is that the NMSBIC's constituents are intermediaries rather than members of the public. He suggested discussing ways on how The Holly Company can promote a better understanding about what the organization and its partners do.

## **CONFLICT OF INTEREST POLICY, ANNUAL BOARD MEMBER CERTIFICATIONS**

Mr. McDonald said he has certifications from most of the board members and would follow up with the rest.

## **INDEPENDENT AUDITOR, JUNE 30, 2017 FISCAL YEAR END INFORMATION**

Mr. Cummins noted discussion by the board a year ago regarding whether or not the NMSBIC should rotate auditors periodically. Mr. Eichenberg had said the Treasurer's Office rotates auditors every four years and thought it a good business practice. Mr. Badal had stated a year ago that it would be expensive and time-consuming to bring in a new auditor and bring them up to speed at a time when the NMSBIC was winding down equity investments, but suggested that the board revisit this in October 2016. Last year, Mr. Badal had commented that perhaps the time to change is when the equity partners are more stabilized and the NMSBIC has gotten additional money back from equity investments.

Mr. Cummins said the NMSBIC has been with Pulakos CPAs since 2008. After seven years, Pulakos rotated the partner in charge from Brad Steward to Jake Dopson, and Mr. Dopson has served as the audit partner for the past two year-ends.

Mr. Morgan commented that Pulakos has done a great job, but this is a long time to be with the same firm, even with the partner rotation, and he would not object to a change. He said this is not a reflection on Pulakos.

Mr. Morgan said he thought Pulakos should be included in any RFP. While this does give them an edge, it is no guarantee that they would be awarded a contract.

Mr. McDonald commented that the staff at Pulakos is great and he has had no problem, but seven years is a long time. If the board decides to issue an RFP, they should adopt a policy for an RFP every three years instead of having the same problem seven years from now.

Mr. Cummins said the equity partners have until August 31 to get their reports to the NMSBIC, and the audited financial statements have to be at the Governor's Office and Legislative Finance Committee on October 1. He said Pulakos has done an outstanding job in this very tight turnaround time, but potentially this might be a challenge for someone else.

Ms. Brescia said she does go out to bid on different clients, and has always found Pulakos to be very competitive, and the team is phenomenal. She added that the reports from the equity partners were not available until September 10 this year, which meant that the turnaround time for her and Pulakos was incredibly tight, and they went above and beyond in meeting the deadline. She commented that this is an expectation that she was not sure many others could meet.

Ms. Brescia also stated that, while she understood the concept of rotating auditors, it should be noted that she would be spending more time with a new auditor in order to bring them up to speed, which would increase her cost to the NMSBIC.

Mr. Eichenberg stressed the need to err on the side of caution. He said the State Treasurer's Office does a one-year contract with options for three one-year extensions, and recommended that the NMSBIC consider doing the same.

Mr. Eichenberg said he would not recommend including Pulakos. He said the NMSBIC should also consider having an audit include one of the equity funds.

[Ms. Meyers joined the meeting.]

Mr. Badal asked Mr. Cummins to come back at the December meeting with a plan. He suggested that the RFP include the turnaround time (as discussed) between August 31 and October 1.

Mr. Eichenberg asked Mr. McDonald to confirm with the State Auditor that the NMSBIC is not required to follow the Procurement Code.

#### **2017 PROPOSED NMSBIC BOARD MEETING DATES**

The board discussed proposed meeting dates for 2017 and made changes.

Friday, January 20: WESST Enterprise Center  
Monday, April 3: WESST Enterprise Center  
Friday, May 26: WESST Enterprise Center  
Friday, July 21: WESST Enterprise Center  
Monday, September 25 (call-in meeting)  
October 2017: Board and Community Meeting; Place/Date TBD  
Monday, December 4: WESST Enterprise Center

**Mr. Garcia moved to approve the 2017 amended list of meetings. Mr. Morgan seconded the motion, which passed unanimously by voice vote.**

#### **BOARD CONTINUING EDUCATION**

Mr. Cummins reviewed highlights from a summary of questions and answers related to Attorney General (AG) letters regarding the NMSBIC from 2001 to 2007.

#### **CHAIRMAN'S COMMENTS**

Mr. Morgan commented that, as a resident of eastern New Mexico, he has observed that there are not many resources in the area, particularly in economic development. He said he has been approached by several people who have startup companies, or want to start up a company. Some are economic development leaders in the community, and he has been asked to work with them or even play a major role in some of these startups. He said he has spoken with Mr. McDonald and Mr. Cummins about potential conflicts of interest, and both agreed he should inform the board and make clear his intention to abide by NMSBIC rules so there is no possibility of a conflict of interest.

Mr. Morgan noted that the NMSBIC policy addresses having direct dealings with NMSBIC. He said he is not a lender, however, and is not thinking about having a role in that direction. He said the other area of concern is the State Conduct Act. There are limits on how much interest one can have in an entity, and he is sorting this out.

Mr. Cummins asked for feedback, suggestions and constructive comments on how the NMSBIC can do better with respect to today's community meeting.

Mr. Badal commented that he thought Mr. Cummins had done a fabulous job. The presentations were solid, informative, and brief.

Mr. Badal said attendance was okay, but he thought it could have been better. He suggested promoting next year's event to the Anderson School and invite students to attend.

Ms. Meyers suggested meeting at the new incubator on Broadway and Central and reaching out to millennials.

Mr. Morgan suggested holding next year's meeting at the Arrowhead Center at NMSU.

**ADJOURNMENT**

Its business completed, the NMSBIC Board adjourned the meeting at 2:45 p.m.



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Joseph Badal, Vice Chair

12/9/16

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Date