

MINUTES OF THE

NEW MEXICO SMALL BUSINESS INVESTMENT CORP.

October 25, 2019

A meeting of the New Mexico Small Business Investment Corporation was called to order on this date at 9:05 a.m. at WESST Enterprise Center, 609 Broadway Blvd., N.E., Albuquerque, New Mexico. A quorum was established after roll call.

Members Present

Mr. Joseph H. Badal, Chair

Ms. Roxanna Meyers, Vice Chair [left 10:45 a.m.]

Mr. Alan Fowler, Secretary/Treasurer [by telephone, signed off 9:06 a.m.]

Mr. Steven E. Morgan

Members Excused

Mr. Guadalupe Garcia

The Hon. Tim Eichenberg, New Mexico State Treasurer

Financial Adviser to Board

Mr. Russell Cummins

Board Legal Counsel:

Mr. Randy McDonald

Recording Secretary

Ms. Charmaine Clair, for Judith Beatty

Guests Present:

Ms. Synthia Jaramillo, Director, Albuquerque Economic Development

Ms. Monica Mitchell, Senior Economic Developer, Albuquerque Economic Development

Ms. Nyika Allen, Director, Aviation Department

Mr. Joshua Castellano-Gonzales, Fiscal Manager, Aviation Department

Mr. Alan Varela, Assistant City Attorney

REVIEW AND ACCEPTANCE OF AGENDA

Mr. Morgan moved acceptance of the agenda, as published. The motion was seconded by Ms. Meyers and passed unanimously.

REVIEW AND ACCEPTANCE OF AUGUST 23 AND SEPTEMBER 23, 2019, BOARD MINUTES

M. Meyers moved acceptance of the August 23, 2019, and September 23, 2019, minutes, as submitted. The motion was seconded by Mr. Morgan and passed unanimously.

FINANCIAL REPORTS AS OF AUGUST 31, 2019, AND SEPTEMBER 30, 2019

Mr. Cummins reviewed highlights.

Mr. Cummins reported that outstanding loans grew from \$20.9 million to \$22.2 million, primarily because of strong growth from The Loan Fund. Their outstanding loan balance went from \$12.7 million to \$14.2 million. In the beginning of September, The Loan Fund asked for an advance prior to funding the loans they were planning to close. He responded that the loan agreement did not allow *allowed* the NMSBIC to fund an amount over their funded loans, but agreed to allow an exception and provide more than one advance during the month. Based on closed loans documented by The Loan Fund's loan trial balance, he provided an advance in the beginning of September, after which they closed some loans, and then provided a second advance in the middle of September based on additional closed loans. Both advances were approved by two NMSBIC directors. Leroy Pacheco, The Loan Fund's President and CEO, has indicated The Loan Fund has \$5 million in their pipeline, comprising a mix of loans ready to close and others that haven't been approved yet.

Chairman Badal asked what cap could the NMSBIC actually fund with The Loan Fund or with any one counterparty. Mr. Cummins responded that, based on statute, loans by The Loan Fund are limited to 10 percent of the NMSBIC's net assets, which are currently \$38 million, or a \$3.8 million cap that can be loaned to any one company. The legislation states, however, that this doesn't apply to the NMSBIC's cooperative agreement partners, so the only limit is on the loans they make to a business.

Chairman Badal commented that, at some point, the NMSBIC doesn't want to see X percent of its total assets loaned to one counterparty. He suggested that Mr. Cummins come up with a recommendation. He said it's important that the counterparties know that if the NMSBIC doesn't grow its total assets, they could be bumping up against a ceiling at some point.

Continuing with the report, Mr. Cummins said \$4.4 million is available for investments. A line of credit is in process for Ventana Fund for \$2 million; once that is signed, the amount available for investments will be at \$2.4 million, so the NMSBIC is almost loaned out until it receives an additional estimated \$57 million in January based on the approved increase from 1% to 2% in the allocation from the severance tax permanent fund.

Mr. Morgan moved approval of the financial reports, as presented. Ms. Meyers seconded the motion, which passed unanimously.

NEW MEXICO COMMUNITY DEVELOPMENT LOAN FUND, PROPOSED CHANGES TO LOAN AGREEMENT AND LOAN EXCEPTION REQUEST

Mr. Cummins stated that, at the June 2019 board meeting, The Loan Fund provided information regarding the operating deficit incurred in 2018. Included in this month's board package is another update showing 2019 actual year-to-date results, and projections through the end of the year. Mr. Cummins noted that additional interest income from an increase in outstanding loans will likely resolve the deficit going forward.

In reviewing the proposed change to the NMSBIC's loan agreement with The Loan Fund, Mr. Cummins noted that an increase in The Loan Fund's loan funding volume has put pressure on The Loan Fund operating cash:

- As of September 30, 2019, The Loan Fund had \$3.15 million in checking and savings.
- During Q3 of 2019, The Loan Fund originated \$2.92 million in NMSBIC loans, and they have \$5 million of loans in their pipeline. Under the current agreement, The Loan Fund uses their own funds to close loans, and then receives an advance from the NMSBIC after-the-fact. The Loan Funds is requesting the NMSBIC to allow advances prior to when they fund loans, rather than after-the-fact.
- The Loan Fund needs to maintain additional cash reserves for its operations and for the undrawn portion of lines of credit to its borrowers.

Mr. Cummins discussed proposed changes to the Loan Agreement, where The Loan Fund would provide a trial balance of closed loans, and also loans they reasonably expect to fund within the next 60 days. Those monies would go into an existing control account. Funds held in the control account plus loans outstanding would always be equal to or greater than the NMSBIC's loan balance. This would free up operational cash that The Loan Fund is now using to fund loans.

Ms. Meyers suggested that The Loan Fund increase its working capital. Chairman Badal concurred with Ms. Meyers. Mr. Cummins noted that the increase in The Loan Fund's outstanding loans is expected to generate additional interest income going forward, and he would continue to monitor progress.

Mr. Morgan moved to approve the proposed amendments to the Community Development Loan Fund Agreements as described on pages 29 and 30 of the Board materials. Ms. Meyers seconded the motion, which passed unanimously.

Mr. Cummins stated that, when the NMSBIC approved The Loan Fund's increase in loans to one borrower to \$750,000 In January 2018, it asked The Loan Fund to bring the next two deals to the board for review. The first was to an electrical contractor in Tijeras who was financing a building and some government receivables.

Mr. Cummins said the second large loan, which is before the board today, is a proposal for \$1.05 million to a nonprofit located in Albuquerque, which has been renting a building for several years and are interested in purchasing the building. The building was appraised for \$1,675,000 in 2017 and is being sold to the nonprofit for \$1,200,000. The Loan Fund's loan committee decided not to require a new appraisal given the lower-than-market purchase price. The loan-to-value based on the 2017 appraisal is 63 percent. The proposed loan debt service payment is less than the monthly rent that the nonprofit has been paying.

Mr. Cummins stated that The Loan Fund is requesting the following changes or exceptions.

1. Loans-to-one borrower, regardless of funding source, are limited to \$1 million under the loan agreement between the NMSBIC and The Loan Fund. The Loan Fund would like the NMSBIC to either:
 - Remove the loans-to-one borrower limit regardless of the source of funding, or
 - Approve an exception up to \$1,050,000 for this individual loan.

2. Loans-to-one borrower using NMSBIC funds are limited to \$750,000 for real estate first liens with a maximum loan-to-value of 76 percent. The Loan Fund would like the NMSBIC to either:
 - Increase the loans-to-one borrower limit to allow the entire \$1,050,000 loan amount to be included in the NMSBIC loan portfolio, or
 - Approve an exception for this individual loan to allow the entire \$1,050,000 loan amount to be included in the NMSBIC loan portfolio.

Ms. Meyers observed that the financials provided for the nonprofit were in summary form. She had questions regarding financial statement details. She thought the NMSBIC should have been provided with more detailed 990s and audited financial statements.

Chairman Badal also questioned the 6 percent interest rate on the loan.

Ms. Meyers commented that without more detailed financial information for the nonprofit, she did not feel there was enough information to approve the request.

Ms. Meyers moved to decline the request. Mr. Morgan seconded the motion, which passed unanimously.

[The agenda was reprioritized to allow for a vote before Ms. Meyers left the meeting.]

CITY OF ALBUQUERQUE ECONOMIC DEVELOPMENT DEPARTMENT, PROPOSED LINE OF CREDIT FOR AIRPORT DEVELOPMENT ZONES

Mr. Cummins stated that representatives of the City of Albuquerque would be arriving later in the meeting to make a presentation.

Mr. Cummins said the City's Aviation Department has a 75-acre tract of land that was formerly the north-south runway at the Albuquerque Sunport, at the corner of Gibson and Girard, referred to as the Airport Development Zone (ADZ). The Aviation Department has been trying to develop the ADZ for the past eight years, but has been unable to get any development done primarily due to grant assurance restrictions of the Federal Aviation Administration (FAA). The FAA restrictions don't allow the Aviation Department to provide any economic incentives to prospective tenants, including use of Local Economic Development Act (LEDA) incentives to develop the project.

Mr. Cummins stated that the Aviation Department is working with Rio Development. He disclosed that his brother has an ownership interest in Rio Development, however, he personally has no ownership interest and does not receive any compensation from Rio Development. NMSBIC legal counsel Randy McDonald has looked at potential conflicts of interest and found none.

Mr. McDonald also reviewed the Aviation Department becoming an NMSBIC cooperative agreement partner. He noted that the Aviation Department does not meet the NMSBIC's cooperative agreement requirements. However, the City of Albuquerque's Economic Development Department (AEDD) would meet the NMSBIC's requirements. The proposal is for the City's AEDD to be the NMSBIC's cooperative agreement partner.

Mr. Cummins said the City's AEDD would provide a loan to Rio Development, which would be leasing the land from the Aviation Department and developing the property. An initial planned project would be a 25,000 square foot office building located in the ADZ. Although the Aviation Department is ultimately interested in purchasing the completed building and receiving assignment of leases from tenants that will occupy the completed buildings, the Aviation Department is not able to provide a commitment to do so at this time.

Mr. Cummins stated that discussions with the City's AEDD and the Aviation Department have included security for the NMSBIC's loan of cash collateral equal to 100 percent of the NMSBIC's loan amount. The proposed line of credit to AEDD is for \$8.8 million, which is 10 percent of the \$88 million that the NMSBIC projects will be its net assets once it receives additional funding from the severance tax permanent fund.

Chairman Badal said he this would put \$8.8 million to use and is a very creative strategy.

Mr. Cummins said the Aviation Department has estimated the first proposed project would create 50 to 60 construction jobs and 15 new regular jobs. He said the NMSBIC would be

committing to a five-year term with a revolving line of credit. Ms. Meyers said she would like the NMSBIC to approve each project that is developed by AEDD.

Mr. Cummins said AEDD is requesting to move forward with the NMSBIC loan, to allow them to go to the Albuquerque City Council for approval.

Chairman Badal said this seemed like an excellent project given the NMSBIC's mission to create jobs in New Mexico. There would be no risk to the NMSBIC and the taxpayer with a 100 percent cash guarantee.

[Ms. Meyers briefly stepped out of the room and was not present for the vote.]

Mr. Morgan moved for approval to move forward subject to board approval of the final documents, and NMSBIC approval of each project developed by AEDD. Chairman Badal seconded the motion, and the motion passed unanimously.

Mr. Morgan stated that he was once chairman of the City Aviation Board but no longer has any contact with the City Aviation Department.

EXECUTIVE DIRECTOR/INVESTMENT ADVISOR REPORT

Mr. Cummins presented highlights.

New Mexico Mortgage Finance Authority

Mr. Cummins said the MFA believes they will have additional loans for review in the 4th quarter of 2019.

New Mexico Mezzanine Partners

Regarding discussion at the last meeting about an extension beyond October 31 and whether one of the limited partners would be willing to reconsider and agree to it, Mr. Cummins said he recently met with Mike Doolittle. Mr. Doolittle said he would prefer not approaching the limited partner regarding an extension. He said he plans for New Mexico Mezzanine Partners to enter the wind-down period, and said he believes he can resolve the two remaining loans during the wind-down period.

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

Ms. Meyers moved to approve the following slate of officers for the coming year: Chair/President, Joseph Badal; Vice Chair/Vice President, Roxanna Meyers; Secretary-Treasurer, Steve Morgan; Executive Director/Advisor (officer position), Russell Cummins. Mr. Morgan seconded the motion, which passed unanimously.

Ms. Meyers moved, seconded by Mr. Morgan, to authorize Signers on all NMSBIC bank accounts as Joseph Badal, Roxanna Meyers, Steve Morgan, and Alan Fowler. The motion passed unanimously.

Ms. Meyers moved, seconded by Mr. Morgan, to adopt the Annual Open Meetings Act resolution as per page 59 of the Board Materials, and the motion passed unanimously.

EXECUTIVE DIRECTOR/INVESTMENT ADVISOR REPORT (Cont'd)

Mr. Cummins reported that he is continuing to work with all of the lending partners and hopes to bring requests from HomeWise and RCAC to the December meeting.

NMSBIC INVESTMENT POLICY PROPOSED CHANGE

Mr. Cummins stated that he has noticed differences between the NMSBIC Investment Policy and statutory requirements regarding cooperative agreement partners. Mr. McDonald had suggested that the NMSBIC simply incorporate the language from the legislation into the policy.

The recommended changes to the Investment Policy to replace current language under Indirect Investments, are as follows:

The NMSBIC may indirectly invest in New Mexico businesses by providing debt or equity capital utilizing cooperative agreements with parties that:

- 1) have demonstrated the capability to provide business assistance to new and expanding businesses; and
- 2) are primarily engaged or propose to primarily engage in the business of providing business services and debt or equity capital to new and expanding businesses.

Mr. Morgan moved, seconded by Chairman Badal, to approve the amendment of Investment Policy. The motion passed unanimously.

CONFLICT OF INTEREST POLICY, ANNUAL BOARD MEMBER CERTIFICATIONS

Mr. Cummins said he would follow up with certifications that have not yet been received.

2019 PROPOSED NMSBIC BOARD MEETING DATES

Mr. Cummins said he would send the proposed meeting dates out for feedback and have them finalized at the December meeting.

NMSBIC COMPUTER SECURITY UPDATE

Mr. Cummins reported on a series of corrective actions he took on October 25 after a virus was found on the computer he uses for NMSBIC business. The problem was discovered when staff from DreamSpring contacted him to say they had received a suspicious email that appeared to come from the NMSBIC. After alerting NMSBIC's The Holly Company, lending partners, bank, and LGIP staff, he took the computer to Office Depot, where two viruses were detected and removed. He was advised to switch antivirus software from Norton to McAfee.

Mr. Cummins said the computer was serviced from Friday afternoon through Monday morning. Since Friday, October 25, no further suspicious activity has been noted, and the McAfee software has been installed and is set to continuously scan for virus, along with other security features. In addition, the NMSBIC email account has been deleted and reinstalled, all passwords have been changed, including all bank accounts. He now subscribes to 24/7 antivirus technical support that provides virus detection and removal services with additional RogueKiller virus detection software.

BOARD CONTINUING EDUCATION INFORMATION

Board members confirmed that they would like to continue to receive the quarterly economic reports from the Bureau of Business and Economic Research, and the Federal Reserve.

CHAIRMAN'S COMMENTS

Chairman Badal commended Mr. Cummins for putting an incredible amount of work into looking at prospective partners with the NMSBIC in anticipation of the \$50 million it will be receiving.

CITY OF ALBUQUERQUE ECONOMIC DEVELOPMENT DEPARTMENT, PROPOSED LINE OF CREDIT FOR AIRPORT DEVELOPMENT ZONES

- Synthia Jaramillo, Director, Albuquerque Economic Development
- Monica Mitchell, Senior Economic Developer, Albuquerque Economic Development
- Nyika Allen, Director, Aviation Department
- Joshua Castellano-Gonzales, Fiscal Manager, Aviation Department
- Alan Varela, Assistant City Attorney

Members of the team introduced themselves.

Mr. Cummins noted that board members earlier in this meeting reviewed the discussion term sheet with proposed terms that have been developed, and also a proposed loan policy that has been developed for this program with the City's Economic Development Department as the NMSBIC's lending partner. He provided details from the overview provided to the board.

Ms. Allen said that, in recent months, the Aviation Department, in collaboration with Rio Development, has responded to an RFP of a well-known company with operations in New Mexico that wants to expand its operation and is interested in a building in the Airport Development Zone (ADZ). She said the Aviation Department wants to make good use of this land, which is a nonperforming asset, by diversifying its portfolio to avoid being totally reliant on aeronautical revenue.

Ms. Allen stated that the RFP process included an initial conceptual design. If this entity were to select the ADZ site, they would want to continue the design process and start construction in early 2020, with completion in May 2021.

Ms. Allen said the Aviation Department has set aside \$4 million in LEDA funding for this project but FAA regulations preclude the use of that money for the project.

Mr. Varela said the City of Albuquerque's net worth is about \$3 billion with an investment portfolio of about \$730 million with liquidity close to \$200 million, and they are a secure party to extend a line of credit. At least half of the \$4 million in LEDA funding is in cash, which can be used for collateral, and an agreement would need to be worked out on how they would collateralize the remainder of the loan.

Ms. Allen said the Governor and Secretary of New Mexico Economic Development, Alicia Keys both support economic development around the airport. They have also approached Secretary Keys to ask for matching funds.


Chairman Badal discussed the details of the board's action taken earlier in this meeting, which was to approve a line of credit of up to \$8.8 million subject to review of final loan documents, 100 percent cash collateral, and NMSBIC approval of future development projects.

NEXT BOARD MEETING: FRIDAY, DECEMBER 9, 2019, 9:00-12:00

WESST Enterprise Center, 609 Broadway Blvd., N.E., Albuquerque, NM 87102.

ADJOURNMENT

The meeting adjourned at 11:30 a.m.



Joseph Badal, Chairman

12/9/19

Date