

MINUTES OF THE

NEW MEXICO SMALL BUSINESS INVESTMENT CORP.

December 8, 2014

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. Lupe Garcia

Mr. Steven E. Morgan, Secretary/Treasurer

Mr. Clarence L. Smith [designee of Hon. James Lewis, State Treasurer]

Mr. Joseph H. Badal, Past Board Chair

Members Excused:

Ms. Roxanna Meyers, Vice Chair

Ms. Launa Waller

Financial Advisor to Board

Mr. Russell Cummins

Legal Counsel Present:

Mr. Randy McDonald

Guests Present:

Robert De Pasquale, Pulakos CPA

REVIEW AND ACCEPTANCE OF AGENDA

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

REVIEW AND ACCEPTANCE OF OCTOBER 27, 2014 BOARD MINUTES

Mr. Morgan moved approval of the minutes of the October 27 Board meeting, as submitted. Mr. Badal seconded the motion, which passed unanimously by voice vote.

FINANCIAL REPORTS AS OF OCTOBER 31, 2014

Mr. Cummins presented the financials as of October 31, 2014.

Chairman Fowler asked if there have been any changes since the last meeting to the NMSBIC's outlook as far as what is available and what could become available to cover requests for funding increases.

Mr. Cummins responded that NMSBIC had three requests at the last meeting totaling about \$5 million, at which time the NMSBIC had about \$3 million available. At that meeting, the Board allocated \$1 million to The Loan Fund, leaving \$2 million. Since then, available funds have increased to about \$2.5 million after Verge II had an exit and sent NMSBIC a return of capital.

Mr. Cummins noted that whatever reserve the NMSBIC wants to maintain for operating purposes would have to come from that \$2.5 million.

Mr. Badal asked if Mr. Cummins if he had any recommendation on what the reserve should be going forward, and how far forward. Mr. Cummins responded that, on the positive side, NMSBIC is operating above breakeven and interest income is greater than operating expenses. On the negative side, if additional cash were needed, it could take a year or two years before any legislative change could increase the NMSBIC's funding. For that reason, he feels the NMSBIC should take a conservative approach.

Mr. Cummins added that his Executive Director's Report (to be addressed later in this meeting) states that, if Accion were to have some substantial loan losses under the old agreement, it would reduce the NMSBIC's balance and increase the balance under Accion's new line of credit. Effectively, this could cause a reduction in cash available to NMSBIC for other uses.

Mr. Badal commented that Accion has improved their operations so that their underwriting standards are better, and he feels they are better at managing their portfolio. In addition, the portfolio related to the old agreement is seasoned, and his hope is that the NMSBIC won't have the problems it had in the past.

Mr. Badal moved to accept the financial reports for October, as presented. Mr. Garcia seconded the motion, which passed unanimously by voice vote.

IRS FORM 990- ROBERT DE PASQUALE, SENIOR TAX MANAGER, PULAKOS CPAs

Mr. Cummins introduced Robert De Pasquale, senior tax manager with Pulakos CPAs. He said the Board packet includes IRS form 990, a tax-exempt tax return filed with IRS each year.

Mr. De Pasquale reviewed highlights from the form.

Mr. Badal moved to accept IRS Form 990, as presented. Mr. Garcia seconded the motion, which passed unanimously by voice vote.

EXECUTIVE DIRECTOR/INVESTMENT ADVISOR REPORT

Accion

Referring to a question raised earlier, Mr. Cummins said Accion is currently almost at their \$5 million limit, at \$4.56 million, and will be out of NMSBIC funds in another month or two. A year ago, NMSBIC increased Accion's funding limit from \$3.5 million to \$5 million when it changed the agreement with them. All new loans are funded under the new agreement, under which the NMSBIC charges 3 percent interest and losses are capped at 1 percent per year.

Mr. Cummins said Vice Chair Meyers brought up the point that, under the old agreement, if Accion has charge-offs and NMSBIC has to advance new funds under the new agreement to keep them at their current \$5 million limit, that could use up cash. Vice Chair Meyers felt this should be part of the Board discussion about requests for funding increases, and had asked Mr. Cummins for more information, *which is provided on page 58 in the Board packet.*

Responding to Mr. Badal, Mr. Cummins stated that Accion had \$3.5 million of loans under the prior agreement as of a year ago. That has dropped to \$2.26 million, as they have paid down \$1.24 million, which has gone to fund new loans under the new agreement. The new agreement now has \$2.3 million in outstanding loans, and NMSBIC has incrementally funded about \$1.5 million of new money. Mr. Badal commented that, although Accion is using pay-downs from the prior agreement to fund new commitments, they are in fact growing fairly rapidly.

Mr. Cummins said that Vice Chair Meyers' concern is that loan losses under the prior agreement could use up some of NMSBIC's remaining cash. Mr. Cummins referred to information in the Board packet with historical information on Accion loan losses. He noted that in addition to possible Accion loan losses, the NMSBIC's other risks related to cash available for operations would be if loan balances were to drop significantly, organizational risks related to lending partners, or loan losses from Rio Vista Growth Capital (RVGC). At this point, NMSBIC is operating above breakeven and is covering its operating expenses. He said the biggest concern is that it would take a very long time for NMSBIC to obtain additional funding from the State..

Mr. Badal asked Mr. Cummins to develop a strategic plan for winding down NMSBIC and ultimately liquidating it's assets based on a worst-case scenario.

Mr. Badal recommended that the NMSBIC have a minimum of three years of operating expenses in a reserve account (roughly \$700,000) and at the point at which available cash were reduced to that amount, NMSBIC would cease making any future investments.

Chairman Fowler asked that this issue be placed on the next meeting's agenda.

Mr. Smith stated that the NMSIC might be introducing legislation to eliminate the NMSBIC's share of the Severance Tax Permanent Fund, and suggested that the Board consider how that would impact its ability to operate going forward. He said he would research the legislation for discussion on the next agenda.

Mr. McDonald noted that the NMSBIC's investment policy states that the NMSBIC "may from time to time consider and, by board resolution, adopt the use of an investment multiplier of its commitments to venture capital funds as a means to achieve more complete and timely deployment of NMSBIC funds..."

Mr. Badal commented that the NMSBIC and its Board, in making monies available at a time when banks have backed off lending, has done more to help satisfy its commitment to the act that created the NMSBIC, and to economic development in the state, than anyone else. He said this is also the reason why the NMSBIC is operating on a profitable basis. As part of its strategic thinking, the NMSBIC needs to come up with a very solid approach on how to continue satisfying that part of its mission.

Mr. Cummins continued with his report.

The Loan Fund

-- At the last Board meeting, the NMSBIC increased The Loan Fund's line of credit by \$1 million.

MFA Primero Loan

-- The MFA indicates that NMSBIC funds have been committed to three multifamily projects, and they expect to draw most, or all, of the \$1.5 million amount committed by NMSBIC within the next two months.

WESST Corp

-- Mr. Cummins will be speaking with Kim Blueher, Director of Lending at WESST, regarding WESST's plans to deploy the \$375,000 of NMSBIC committed funds.

NM Gap Fund I

In February 2014, the NMSBIC Board approved paying a \$50,000 management fee to NM Gap Fund I. The fund had reached a cap on the management fee it could charge NMSBIC. The management fee is for one year and is to support active management of the NM Gap Fund portfolio companies. Mr. Cummins said he met recently with Chris Traylor of NM Gap Fund, who provided an update. Mr. Traylor *is actively involved in the companies, is making positive progress, and is proactively working with companies to achieve exits by the fund end date.*

Verge Fund Annual Meeting

Mr. Cummins thanked Steve Morgan for joining him at the Verge Fund Annual Meeting on October 29. Information was provided on several of the portfolio companies, including two exits.

Close United Labor Bank Money Market Account

Mr. Cummins said United Labor Bank has dropped the rate on their money market account from an original rate of 0.60 percent to 0.15 percent. He said he will close the \$245,000 account at ULB and move the funds to the First National Santa Fe money market account, which is paying 0.25 percent.

[Break.]

RIO VISTA GROWTH CAPITAL, REQUEST FOR INCREASE IN LINE OF CREDIT

[Tabled from last meeting]

Chairman Fowler said the sentiment of the Board was not to increase the line of credit at this time because of the lack of investable capital available; and the Board's desire to see some results before considering any additional commitment.

Mr. Cummins said the original discussion with Rio Vista was that, as money comes back from New Mexico Mezzanine Fund, the Board might consider an increase. The Board approved a commitment of \$750,000 essentially as a continuation of New Mexico Mezzanine Fund and as capital for Rio Vista's initial investment. He noted that no funds have yet been returned from New Mexico Mezzanine Fund. *The point raised by Lynn Carrozza was that there is tremendous demand out there and he feels he can deploy money to what he believes is high quality credit.*

Mr. Cummins commented that, given the limited funds available for investment, he feels the Board should wait to see what develops.

Mr. Cummins said Mr. Badal had suggested that perhaps the NMSIC might be interested in investing in Rio Vista. Mr. Cummins said that, based on the discussions he and Ms. Meyers have had with Steve Moise and CIO Vince Smith, the NMSIC has indicated that they are mostly interested in total return. While they don't necessarily have a problem with economically targeted investments, there has to be a *reasonable expectation that such investments would achieve the NMSIC's total return target of 7.5 percent.*

Mr. Cummins said that he and Ms. Meyers, in conversation with Vince Smith, had talked about selling the NMSBIC's Verge investment. Mr. Smith had indicated that if the NMSIC were to buy the investment and provide additional cash to NMSBIC, the additional cash would probably be lent to The Loan Fund and Accion at 2 percent, and that doesn't meet the 7.5 percent threshold.

Mr. Cummins said Rio Vista is structured such that their total interest rate is between 10 percent and 16 percent, with some paid up front and part of it deferred. He said the NMSBIC receives half of that, which means its investments with Rio Vista are expected to be between 5 and 8 percent. He commented that the upper end of that might hit the NMSIC's target, so it might be worth discussing.

Mr. Cummins said Mr. Carrozza said Rio Vista's plan is to get up to \$3 million of funds loaned with NMSBIC money, which Mr. Carrozza feels would generate revenues with enough cash flow to attract outside investors.

Mr. Badal suggested talking with Mr. Carrozza to see if there could be a deal worked out where the NMSIC might provide funding to Rio Vista with a 7.5 percent return paid to NMSIC.

Mr. Badal moved to take this off the table and to not approve the request for an increased funding to Rio Vista. Mr. Morgan seconded the motion, which passed unanimously by voice vote.

**ACCION REQUEST FOR INCREASE IN PARTICIPATION AGREEMENT
(TABLED FROM LAST MEETING)**

Mr. Cummins said Accion is requesting an additional \$1.5 million, which is about another year's worth of funding capacity based on recent loan activity. He recommended that the Board consider \$1 million.

Chairman Fowler said this would leave the NMSBIC with about \$800,000 if it decides to set aside \$700,000 in reserves.

Mr. Badal said he would like Accion to act as an NMSBIC advocate in trying to get more funding. He suggested giving them \$750,000, and asked Mr. Cummins to draft a letter to Accion and to also meet with them.

Mr. Badal moved to approve increasing funding to Accion under the new loan agreement by \$750,000 to Accion. Mr. Smith seconded the motion, which passed unanimously by voice vote.

PROPOSED CHANGE TO NMSBIC LEGISLATION, NET EXCESS FUNDS

Chairman Fowler suggested that the Board discuss possible strategies and ideas regarding a possible legislative change to Section 58-29-7 NMSA 1978, which requires NMSBIC to return "net excess of funds" to the SIC.

Mr. Cummins commented that one of the key points Mr. McDonald included in his opinion is that the NMSBIC is able to set aside "reserves for losses," which includes investment losses as well as loan losses. The NMSBIC is including investment losses in its "net excess of funds" calculation based on information on unrealized losses provided by equity partners.

Mr. Cummins stated that, at least for the coming year, the NMSBIC has a significant amount of unrealized losses in the equity funds, which are characterized as reserve for losses for "net excess of funds" purposes. As the equity funds wind down and the unrealized losses are either eliminated or realized, the NMSBIC would be more likely to have positive "net excess funds" in future years.

Responding to Chairman Fowler, Mr. Cummins said it is unlikely the NMSBIC would remit anything over the next two years. Mr. McDonald agreed.

Mr. Cummins stated that Ms. Meyers commented that she felt the "net excess of funds" statute was poorly written and it would be good to have it repealed. She also felt that, based on IPOC's response to the NMSBIC presentation, most of the legislators supported the NMSBIC, and this could be a good time to act on a proposed repeal of the "net excess of funds" statute because the change would not cost the state anything and provides a good benefit. Chairman Fowler stated that proposing a change could open up the NMSBIC's legislation to other possible changes that might be unfavorable. If Net Excess

Funds remittances are unlikely in the next two years, it might make sense to wait and not propose any legislative changes at this time.

Mr. Cummins referred to an email he sent to Rep. Larry Larrañaga about the proposed legislation. *He said he also spoke with him on the telephone. Rep. Larrañaga indicated he wanted to look into this further and would also talk to Steve Moise.*

Mr. Cummins referred to a letter to the NMSIC. On October 23, he and Ms. Meyers met with Steve Moise and Charles Wollmann. Ms. Meyers asked Mr. Moise to comment on the repeal of the net excess of funds statute, and Mr. Moise responded that he thought the legislation was poorly written and that he didn't think it would have any material impact on the NMSIC, but that he could not speak for the NMSIC. Two weeks later, Mr. Wollmann asked Mr. Cummins to provide in writing the points raised in the meeting so they could be taken to an NMSIC subcommittee.

Board members discussed the fact that the legislative session would start on January 20 and the NMSBIC would be meeting on January 23, and the need to monitor any proposed new NMSIC legislation between now and then. If necessary, the Board would call a special meeting.

2015 PROPOSED NMSBIC BOARD MEETING DATES

Board members reviewed and discussed the 2015 meeting dates.

CLOVIS: FOLLOW UP AND DISCUSSION REGARDING COMMUNITY MEETING

Mr. Cummins stated that Ms. Meyers had noted that eight current or prospective small business owners showed up at the community meeting, while there were about 20 Board members and presenters. She questioned the cost benefit given the amount of time spent by Board members and presenters. Ms. Meyers also felt that too much time was spent on Board and presenter resumes, and not enough time had been spent talking about the lending program. Finally, her sense was that the people wanted to meet and talk to the lenders, and the economic development people discussing bond programs didn't seem to resonate with people in the audience.

Mr. Cummins said Ms. Meyers wondered whether there should be a different format at community meetings, e.g., WebEx training for people where more parts of the state can be covered, or a "speed dating" format with lenders seated at different tables.

Board members agreed that the next community meeting would be held in the area of Los Lunas and Belen (Valencia County), with the date to be discussed at the next meeting.

BOARD CONTINUING EDUCATION

Continuing Education was on the applicability of the Open Meetings Act to NMSBIC. Chair Fowler asked if the Board does an annual Conflict of Interest certification. Mr. McDonald said they do and he would follow up to make sure that all certifications are current. He also indicated that the board annually adopts a resolution about the open meetings policy.

CHAIRMAN COMMENTS

Chairman Fowler encouraged Board members to be honest and open with him if he makes statements or decisions that they disagree with.

Chairman Fowler thanked Mr. Cummins for his excellent work and guidance to the Board, which is *greatly appreciated*.

ADJOURNMENT

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



Alan Fowler, Chairman

2-3-15

Date