

MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS OF THE
NEW MEXICO SMALL BUSINESS INVESTMENT CORP.

February 16, 2024

A meeting of the New Mexico Small Business Investment Corporation was called to order on this date at 9:00 a.m. at WESST Enterprise Center, 609 Broadway Blvd NE, Albuquerque, NM 87102. A quorum was established.

Members Present

Mr. Joshua Smith, Chair
Ms. Anne Beckett, Vice Chair
Mr. Robert Valdiviez, Secretary/Treasurer
Hon. Laura M. Montoya, New Mexico State Treasurer
Ms. Sayuri Yamada (Via Zoom)

Members Excused

None.

Executive Director/Financial Adviser to Board

Mr. Russell Cummins

Board Legal Counsel

Mr. Randall McDonald

Recording Secretary

Ms. Charmaine Clair

Guests Present:

Mr. John Kreienkamp, New Mexico State Treasurer's Office (via Zoom)
Ms. Kristina Alley, Board Member-elect, awaiting reappointment
Mr. Joshua Grassham, Board Member-elect, awaiting reappointment
Mr. Robert De Pasquale, Tax Partner, Pulakos CPAs
Mr. John Ibisa (via Zoom)

REVIEW AND ACCEPTANCE OF AGENDA

Treasurer Montoya moved approval of the agenda, as published. Mr. Valdiviez seconded the motion, which passed unanimously by roll call vote.

BOARD MINUTES FOR DECEMBER 14, 2023, AND JANUARY 11, 2024

Mr. Valdiviez moved approval of the Board Minutes for December 14, 2023, as presented. Treasurer Montoya seconded the motion, which passed unanimously by roll call vote. Treasurer Montoya abstained from vote.

Ms. Beckett moved approval of the Board Minutes for January 11, 2024, as presented. Mr. Valdiviez seconded the motion, which passed unanimously by roll call vote. Chairman Smith abstained from the vote.

**IRS FORM 990 TAX RETURN: ROBERT DE PASQUALE, TAX PARTNER
PULAKOS CPAS**

Mr. De Pasquale reviewed the Form 990 tax return.

Treasurer Montoya moved to accept the IRS Form 990, as presented.

Ms. Yamada asked to confirm the 990 was not published on the website because of NMSBIC's tax status and only provided at request. Mr. Cummins confirmed that was correct, but added that the annual report and audited financial statements are published on the website.

Mr. Valdiviez seconded the motion, which passed unanimously by roll call vote.

FINANCIAL REPORTS AS OF DECEMBER 31, 2023

Mr. Cummins noted he also received the January 31, 2024, financial reports but not in time for board approval at this meeting. There are no major changes between December and January. Interest income is ahead of budget primarily because the yield on investments was higher than budgeted, and the outstanding loan balances with lending partners were also higher than budgeted.

Mr. Cummins stated that Funds Available for Investments and Operations of \$2.7 million was adjusted for a new line of credit for Enchantment Land, and a modification to Ventana Fund's line of credit, both of which were still in process. The Ventana Fund line of credit modification has since been completed. Available Funds were down to \$202,000 as of December 31, 2023.

Mr. Cummins stated that, based on the final calculation, the NMSBIC is expected to receive \$30,230,284 early next week from the Severance Tax Permanent Fund.

Mr. Cummins stated that there was no legislation passed in the recent session that would have an impact on the NMSBIC.

Mr. Valdiviez moved to accept the December 31, 2023, Financial Report as presented. Ms. Beckett seconded the motion, which passed unanimously by roll call vote.

EXECUTIVE DIRECTOR/INVESTMENT ADVISOR REPORT

- Total Committed Funds includes about \$2 million of remaining equity investments. As of January 31, 2024, there was a total of \$121 million in funds committed and \$123 million in total assets.
- Outstanding loans: There were \$74 million outstanding in traditional loan programs, and \$11 million outstanding in the NMSBIC's COVID-19 lending program.

Loan Reports

- LiftFund – Mr. Cummins met via Zoom on December 27, 2023, with Daniela Paz, VP of Special Programs, and Nelly Rojas-Moreno, CFO. They said LiftFund is committed to expanding in New Mexico and expect to originate about \$500,000 in loans in the state. They realize the NMSBIC's line of credit is for \$1 million, and they would agree to a reduction in the line of credit to \$500,000. The change could be made as part of an extension when the line of credit matures in March 2025, or as a modification if the NMSBIC would like to reduce the limit sooner than that.
- The Loan Fund's outstanding balance is \$31 million, 90% of their commitment. The board target is no more than 25% invested with any single lending partner. The Loan Fund is at 26% but will be below the 25% target with NMSBIC's upcoming \$30 million contribution from the severance tax permanent fund.
- Mr. Cummins and Robert Valdiviez attended The Loan Fund groundbreaking ceremony for the expansion of NM Aero Service in Moriarty on December 8, 2023.
- Equity Equivalent Funding (EQ2), is a program approved by regulators for banks to make preferred loans to CDFIs. The Loan Fund has an EQ2 loan from PNC Bank. Leroy Pacheco, the CEO of The Loan Fund, asked if the EQ2 loan can be included in their net assets rather than in liabilities, which would reduce their leverage ratio. NMSBIC increased their leverage ratio at the beginning of the pandemic to make more loans available to small businesses during the pandemic. When the leverage ratio was increased, a compensating factor was The Loan Fund's low charge-off history, which had never been over 1% of outstanding loans during the previous 10 years. Mr. Cummins proposed that a meeting of no more than three directors be held to evaluate The Loan Fund's financials and lending forecast, and then come back to the board with a

recommendation. Mr. Valdiviez volunteered to take part in the discussion. Treasurer Montoya stated that one of her staff members at STO could be helpful in that discussion.

- MFA's financial statement comparison has been updated with audited financial statement information as of September 30, 2023. The comparison includes row 52, where the change in net assets is adjusted to exclude the GASB 31 fair market value adjustment on securities. This is a common practice for bond rating agencies and bank regulators. The audited financial statements show a reduction in net assets of \$36 million, resulting in a drop in net assets from \$158 million to \$121 million. While this is a significant reduction, there was a \$53 unrealized loss due to GASB No. 31 FMV adjustment that Mr. Cummins believes should not be considered in evaluating MFA's performance. Removing the GASB 31 adjustment results in an adjusted increase in net assets of \$16.9 million. While the \$36 million reduction was significant, it does not appear to be a cause for concern, and MFA appears to be in a sound financial position.
- Verge Fund: Mr. Cummins met with Verge Fund managing member Tom Stephenson, who said that none of the four active companies would be ready to exit by the end of 2025, when the partnership is scheduled to end. At that point, the partnership would distribute shares of the four companies to the limited partners, and the NMSBIC would have stock certificates in four different companies. The discussion at Verge has been: 1) Keep the limited partnership active through December 31, 2025, and distribute ownership shares to the limited partners (LPs). Verge believes paying ongoing management costs might not be in the best interest of the LPs. 2) Request that a majority of LPs agree to extend the partnership beyond 2025; however, extending the partnership would result in additional management fees for the LPs that Verge believes might not be in the best interest of the LPs. 3) Request that a majority of the LPs agree to terminate the partnership, possibly as soon as June 30, 2024. Funds held back to pay for future management expenses would be distributed to the LPs along with ownership shares in the four companies. Verge believes this might provide the best value for the LPs. Mr. Stephenson said Verge also discussed a possible secondary market sale of either the Verge I II Combined partnership, or the underlying companies; however, Verge believes a secondary market sale would be unlikely given that the value of the partnership or the underlying companies would be smaller than what secondary market buyers would be interested in.

Mr. Cummins said Mr. Stephenson asked if NMSBIC would be interested in buying out the other partners at a discount. Mr. Cummins told Mr. Stephenson he could not

make that decision on behalf of the board but a purchase by the NMSBIC would probably be unlikely.

Mr. Cummins provided updates on the four companies managed by Verge.

Other Matters

- B:Side Capital: Mr. Cummins and Chairman Smith had a Zoom meeting with Marie Peters and Karol Jones of B:Side. Previously known as Colorado Lending Source, B:Side has been helping small businesses for over 30 years and wants to increase their presence in New Mexico. They are interested in discussing a \$1 million line of credit. More information will be provided at the April meeting.
- New Mexico Climate Investment Center, a “Green Bank.” In December, Mr. Cummins held a Zoom meeting with Beth Beloff and Christian Casillas regarding the New Mexico Climate Investment Center (NMCIC), a “Green Bank.” A Green Bank is mission driven, using public money to make loans and investments in projects considered positive to the environment. NMCIC expects to raise \$1.5 million in grant funds to pay for staff and a CEO, and by mid-2024 expects \$20 million to start funding loans and investments. They plan to make loans and investments to small businesses and individuals. It hopes to use the initial \$20 million in funding to establish a track record. Mr. Cummins advised them that NMSBIC can only partner on loans to small businesses in New Mexico.

LENDING PARTNERS, PROJECTED LOAN DEMAND FOR 2024

Mr. Cummins reported that NMSBIC currently has \$200,000 in funds available for investments, which is expected to increase assuming that additional funding is received from the STPF next week.

Mr. Cummins said he had preliminary discussions with lending partners about their volumes in 2024.

- Homewise: Today’s agenda includes a request for a \$10 million increase.
- Ventana Fund believes they can deploy \$8.5 million this year.
- Clearinghouse CDFI has closed a \$7 million loan in New Mexico for which it is using a different funding source. It would like to transfer this loan to the NMSBIC portfolio. They indicated that there are no new loans in the pipeline at the current time, and origination volume in 2024 could be slow.
- The Loan Fund: Mr. Cummins plans to have a separate discussion today.
- MFA ROC Program: Discussion with MFA about this new program is continuing.
- LiftFund: A possible reduction in the line of credit to \$500,000 this year based on LiftFund’s 2024 projections for New Mexico.
- WESST: Mr. Cummins has discussed an additional \$500,000 line of credit with them. WESST would like to continue the existing \$375,000 participation

agreement with the NMSBIC and would like the NMSBIC to consider a separate \$500,000 line of credit for a new lending program.

HOMEWISE, PROPOSED CHANGES TO NMSBIC LINE OF CREDIT

Mr. Cummins said Homewise requested an increase in their line of credit of \$10 million to deploy \$5 million for a charter school construction project. Homewise has been working with a charter school for the last couple of years to find the right site for them to purchase. The purchase price is estimated at \$10-\$11 million and other sources will be used for additional funding. They also plan to deploy \$2.5 million of NMSBIC funds for a small business loan. Homewise indicated they average \$500,000 per loan and may be able to deploy another \$2.5 million over the next year for loans not yet identified.

Mr. Cummins noted Homewise has a loan in process that will use the \$1.6 million. They have been doing small business loans primarily for real estate in downtown Albuquerque. NMSBIC has approved funds for charter schools up to 70% of the project value up to a maximum of \$5 million on anyone project. Homewise' charter school lending program focuses on construction/development of charter school facilities. Homewise has an external evaluation of the charter school's management team before entering a project. Homewise also and provides technical assistance for the construction/development process. This will be the first charter school, if approved, that NMSBIC has done with Homewise.

Mr. Cummins recommended scaling back the Homewise request from \$10 million to \$9 million, to allow for funding requests from the NMSBIC's other lending partners. A \$9 million increase in funding will provide \$1.5 million for loans not yet identified that they expect to do over the next 12 months.

Treasurer Montoya asked if charter schools have funding available through traditional banks. Chair Smith said he believes it is common for charter schools to look to a non-traditional banks.

Ms. Beckett said the goal is to not just to stimulate small businesses, but wondered what kind of economy a charter school creates. She said she was not sure what the economic impact is for a charter school. Also, the two biggest preliminary allocations are going to two of the largest metropolitan areas in the state. Her concern was how NMSBIC encourages partners to ensure funding to the rural areas.

Chair Smith expressed concern making sure the NMSBIC's funding is available for traditional small business loans, and not just charter schools or multifamily projects.

Mr. Cummins stated that the NMSBIC board had discussions about these matters before entering into these lending programs. He noted:

- When the NMSBIC initially partnered with MFA, the board felt that a shortage of housing in some areas of the state could impact job growth, resulting in an overlap in the missions for MFA and NMSBIC. The NMSBIC was not interested in long-term financing for multifamily projects but felt involvement in funding for construction/development made sense. This type of shorter-term funding supports construction jobs, and well as facilitating development of workforce housing around the state.
- For Ventana Fund, NMSBIC funding is used for rehabilitation and construction /mini perm financing for up to five years around the state. This shorter-term financing supports construction jobs, as well as facilitating development of longer-term workforce housing.
- Regarding the Homewise charter school lending program, NMSBIC funds are being used for up-front construction and development for up to a maximum of five years. This shorter-term financing supports construction jobs, as well as the technical assistance that Homewise provides regarding the construction/development process.

Chair Smith commented that, while there is less economic value-add to funding a charter school, with no funding a charter school would have a harder time obtaining facilities.

Treasurer Montoya said she wanted to ensure that funding from NMSBIC aligns with the NMSBIC's mission and meets NMSBIC's statutory requirements. Treasurer Montoya said charter schools do receive funds from the state and are subsidized. She suggested NMSBIC be mindful of their original intent. She said she wasn't sure charter schools were included as an NMSBIC investment.

Mr. Cummins said for charter schools that own their facility, the facility is owned by a nonprofit corporation. The nonprofit corporation then leases the facility to the charter school. The nonprofit corporation qualifies as a New Mexico business and does meet the NMSBIC's statutory requirements.

Ms. Beckett said NMSBIC supports construction, but does it have an obligation to ensure there are economic opportunities within the state.

Treasurer Montoya said the data shows people don't come just here to work. From the perspective of young families, they need to build houses and that means they need schools.

Mr. McDonald read NMSBIC's statutory purposes: *"to create new job opportunities while providing capital for land, buildings, or infrastructure for facilities, to support new or expanding businesses and, or otherwise make debt investments and equity*

investments to make new jobs and support new or expanding businesses in a matter consistent with the Constitution of New Mexico.”

Treasurer Montoya wondered whether the NMSBIC should consider allocating a certain percentage of the total funding it receives every year to support certain aspects of New Mexico’s economy as a way of meeting the goals of the NMSBIC’s mission statement. Mr. Cummins responded that the NMSBIC decided to have no more than 25% of its assets in any one lending partner/CDFI. He thought Treasurer Montoya had raised a good point in terms of whether the NMSBIC should place targets or limits on the types of loans its lending partners make. He said he would follow up on this suggestion.

Treasurer Montoya moved that the NMSBIC board of directors approve to:

- **Increase the Maximum Funding amount for the NMSBIC’s line of credit to Homewise by \$9 million, from \$7 million to \$16 million, provided that the increase is subject to the NMSBIC receiving \$30 million or more in additional funding from the severance tax permanent fund on or before March 31, 2024; and**
- **Remove the 90-day notice requirement of loan policy changes and replace it with a requirement for Homewise to provide its loan policy to NMSBIC annually, as of June 30, with any changes during the previous year noted; and**
- **The NMSBIC’s current president and board chair, or vice president and vice chair, be authorized to execute any and all modification documents, subject to review and approval by the NMSBIC’s legal counsel and the NMSBIC’s executive director/investment advisor; and**
- **NMSBIC’s executive director/investment advisor will report back to the board when the documents have been executed.**

Mr. Valdiviez seconded the motion, which passed unanimously by roll call vote.

HOLLY COMPANY: PROPOSED AGREEMENT FOR FINANCE NEW MEXICO WEBSITE

Mr. Cummins said Holly Bradshaw Eakes ended the Finance New Mexico (Finance NM) project as of December 31, 2023. It was agreed that he and Ms. Eakes would monitor activity on the Finance NM website and make a recommendation to the board to either continue maintaining the website or else migrate the NMSBIC lending partner information and links to the NMSBIC website.

Mr. Cummins commented that, in discussing changes with the NMSBIC’s lending partners, he received feedback from The Loan Fund and others that Finance NM is a valuable resource. In addition, Agnes Noonan, President/CEO of WESST, said she thinks the Finance NM newsletter is the best email newsletter she receives. WESST marketing staff noted they use Finance NM as a channel for delivering small business success stories and announcements.

Mr. Cummins stated that Ms. Eakes has provided a proposal to continue the Finance NM website, with the 2024 estimated cost reduced from roughly \$47,500 to \$29,000, plus an hourly fee to set up new NMSBIC lending partners:

- Ongoing maintenance of the Finance NM website included.
- No online inquiries. Focus will be on providing information on NMSBIC lending partners, with phone numbers and website links to encourage business owners to contact those lending partners directly.
- Ms. Eakes will publish success stories and other announcements provided by lending partners. Most lending partners have marketing staff that currently produce success stories.
- A monthly Finance NM newsletter.
- \$29,000 per year, plus \$100/hour to set up new NMSBIC lending partners. Estimated cost to set up new lending partner is roughly \$500 to \$1,000.

Treasurer Montoya stated that she has never received a newsletter from Finance NM. She said it would be helpful to know the number of clicks the website receives.

Chair Smith said he would be interested to see cost breakdown based on the number of clicks as well as the cost for the newsletter.

Ms. Beckett commented that it would be easier for the board to make a decision if it could see the amount of traffic generated by the website.

Treasurer Montoya stated that everyone on board, as well as the partners, should receive a newsletter and have a way to add others to the distribution list. She thought the newsletter would be great to distribute for lobbying efforts. She also suggested that the contract include all of the data that can be used by NMSBIC and is not allowed to be used anywhere else. She said she thought the service expensive and believed it important for NMSBIC to know what they were getting for the costs and how much the information reaches others.

Mr. Cummins said he would invite Ms. Eakes to a future meeting to address the board's questions.

Treasurer Montoya moved to table this item. The motion passed unanimously by roll call vote.

VERGE COMBINED I II, REQUEST FOR ANNUAL AUDIT EXTENSION POSSIBLE

Mr. Cummins reported that Verge's external auditor had been on track to deliver the Verge December 31, 2022, audited financial statements by June 30, 2023; however, the auditor was acquired by another firm in early 2023, and the new owner notified Verge in May 2023 that it does not perform external audits of venture capital firms. Therefore, Verge was required to

engage a new external audit firm, which resulted in a delay. Verge provided its audited financial statements to the NMSBIC on December 18, 2023.

Mr. Cummins stated that Verge is requesting, after the fact, that its limited partners sign an Amendment Agreement approving a delay in delivery of the audited financial statements. He recommended the NMSBIC board approve the amended agreement.

Treasurer Montoya moved that the NMSBIC board of directors approve:

- **An amendment of the Verge II Combined Limited Partnership Agreement to acknowledge the delivery date of December 31, 2022, audited financial statements was extended from June 30, 2023, to December 31, 2023; and**
- **That the NMSBIC board chair or vice chair be authorized to execute any and all documents related to the late audit with Verge I II combined LP, subject to review and approval by the NMSBIC legal counsel and NMSBIC executive director/investment advisor; and**
- **That the NMSBIC executive director/investment advisor will report back to the board when the contract is completed and signed.**

Ms. Beckett seconded the motion, which passed unanimously by roll call vote.

NMSBIC PRESIDENT AND BOARD CHAIRMAN, EXPENDITURE AUTHORITY

Mr. Cummins said in June 2012 the NMSBIC board approved giving the NMSBIC board chairman authority to approve expenditures allowable for business supplies and related items up to \$1,500 in order to operate without waiting until the following board meeting. Those expenditures would be reported back to the board. He thought it important that the board members are aware of this with the number of new members. Mr. Cummins reviewed this with Mr. McDonald, and Mr. McDonald suggested updating the approval.

Ms. Beckett moved that the NMSBIC board of directors authorizes the NMSBIC board chair to approve NMSBIC expenditures by the executive director/investment advisor of \$1,500 or less, provided that the expenditures are allowable expenses, and such approval is documented in an email to the NMSBIC executive director/investment advisor. The NMSBIC executive director/investment advisor shall report all such expenditures to the NMSBIC board at the next regularly scheduled board meeting. Expenditures that are approved by the NMSBIC board, including amounts approved as part of the NMSBIC's annual budget, do not require any additional approval. I move further that the resolution adopted by the board on June 18, 2012, related to expenditures of up to \$1,500 by the executive director/financial advisor be rescinded and superseded effective upon the adoption of this resolution.

Treasurer Montoya seconded the motion, which passed unanimously by roll call vote.

RESOLUTION OF APPRECIATION, STEVE MORGAN

Mr. Cummins said this proposal is to recognize Steve Morgan as NMSBIC has done previously for Alan Fowler and Joseph Badal. Mr. Cummins said he appreciates Mr. Morgan's service from 2013 to 2024 and everything Mr. Morgan did for NMSBIC.

Mr. Valdiviez moved to adopt the resolution as per page 98 of the board packet. Treasurer Montoya seconded the motion, which passed unanimously by roll call vote.

WESST CONFERENCE ROOM COMPENSATION

Mr. Cummins said WESST does not charge NMSBIC for use of its conference room for NMSBIC board meetings. The board approved payments to WESST twice before in 2019 and 2022 for the use of its conference room. He recommended a payment to WESST in the amount of \$2,000 for year 2024.

Treasurer Montoya moved that the NMSBIC and its officers are authorized to reimburse and pay to WESST the amount of \$2,000 for the use of the WESST conference room for NMSBIC board meetings for the calendar year 2024. Mr. Valdiviez seconded the motion, which passed unanimously by roll call vote.

NMSBIC BOARD MEMBER PER DIEM AND ATTENDANCE COMPENSATION

Mr. Cummins said Treasurer Montoya's staff contacted him and said they are documenting per diem rules for all of the Treasurer's boards. They provided an example from the Department of Finance and Administration showing compensation to public board members for their attendance, as well as for their expenses for travel.

Mr. Cummins stated that he and Mr. McDonald are reviewing the Per Diem and Mileage Act and plan to research further before making any recommended changes.

Treasurer Montoya said she is compensated on some boards, but it depends on which board or what the statute refers to, and her office is researching the statute.

Mr. Cummins thought if compensation is paid, the person might be subject to gross receipts tax.

Mr. McDonald thought the payments would be discretionary.

Mr. Cummins said he would work with Mr. McDonald to review provisions in the Act and make a recommendation at the next board meeting.

NMSBIC NEW BOARD MEMBERS, SENATE CONFIRMATIONS

Mr. Cummins said Ms. Yamada was confirmed on January 26 by the New Mexico Senate as a board member of the NMSBIC. He stated that she attended Senate Rules Committee and answered many detailed questions about the NMSBIC. He congratulated her on her appointment.

LEGISLATIVE UPDATE

Mr. Cummins said he reviewed the proposed legislation and saw nothing directly affecting the NMSBIC.

BOARD CONTINUING EDUCATION, NMSBIC POLICIES

- **Conflict of Interest Policies**
- **Reporting on Non-compliance with Laws (i.e., Whistleblower Policy)**
- **Document Retention and Destruction Policy**
- **Joint Venture Policy**

Mr. Cummins said he has no proposed changes for any of the four policies, which have been in place for years.

Treasurer Montoya recommended the board reapprove and adopt the four policies at a future meeting so there is a more recent date of approval than 2006.

Chair Smith asked if Mr. Cummins keeps a list of old business the board may want to readdress. Mr. Cummins responded that there is the Take-Away Report for active pending items, but once closed, the item is removed from the report. Chair Smith said his thought was that NMSBIC might want to retain the history of older items.

CHAIRMAN'S COMMENTS

None.

ADJOURNMENT

Ms. Beckett moved to adjourn at 12:27 p.m. Mr. Valdiviez seconded the motion, which passed unanimously by roll call vote.

ADJOURNMENT: 12:27 p.m.



Joshua Smith, Chairman

4/19/24

Date