

Public Bank Task Force  
Regulatory Sub-Committee report  
9/27/2017

Sub-Committee Members:

David Buchholtz  
Judy A. Cormier  
Randolph Hibben

The Regulatory Sub-Committee has conducted several meetings in it's ongoing effort to gather relevant information regarding the pros and cons of establishing a Public Bank within the city of Santa Fe.

8/30/2017- Dr. Christopher Erickson, Co-Author of the January 2016 Public Banking Feasibility Study

8/30/2017- Mary K. Root, Director, NM Regulation and Licensing Department-Alcohol and Gaming Division

9/8/2017- Kevin Graham, Attorney; Christopher Moya, Acting Director, Rebecca S. Moore, Industry Manager, - Regulation and Licensing Department-Financial Institutions Division

9/22/2017- Christina Keyes, Treasury Officer; Bradley Fluetsch, Cash & Investment Officer – City of Santa Fe Finance Division

Attachments: Preliminary memo from Financial Institutions Division Attorney Kevin Graham re: Legal Issues and Matters for Further Research & Examination Regarding a Public Bank of Santa Fe.

Observations:

- Anti Donation Clause: Regulatory uncertainty about the scope of the phrase which does not allow a government to lend or pledge its credit may hamper the processing of a charter.
- FDIC Insurance: The Financial Institutions Division will not issue a certificate of authority for a bank to transact business without proof of deposit insurance from the FDIC or other appropriate agency. The FDIC has commented that it has concerns over issuing deposit insurance to a domestic governmental unit.

- Bank of North Dakota is guaranteed by the full faith and credit of the state of North Dakota
- It is unclear if the state of New Mexico would guarantee a Public Bank for one city within the state.
- The Federal Reserve Bank has commented that it would not extend membership privileges to a publicly owned entity lacking the requisite deposit insurance. A state chartered bank is not required to be a Fed member.
- Establishing an FDIC insured Public Bank will require Federal and State regulatory approval, full bank charter, there are currently no limited purpose charters in NM.
- State banking regulators are concerned that a Public Bank may be subject to the Open Meetings Act. If so, they feel it would be impossible to manage the bank in a safe and sound manner and could not issue a permit to organize. The Creation, Governance and Oversight of Bank Policy and process for policy changes (i.e. achieved by public vote, or Board vote)
- The Financial Institutions Division is adamant that any Public Bank be staffed by a professional management team and Board of Directors completely insulated from politics and the election cycle.
- The financial advantage to the City of Santa Fe, from a Public Bank, has largely been achieved by the creation of the City's Treasury Division. As detailed in a memo from Finance Director Johnson dated 6/5/2017, and circulated at the last meeting on 9/6, cash flow and collateral have been optimized, bonds have been retired early and investment returns have increased. The Division is actively managed by Director Johnson, Treasury Officer Keyes and Cash & Investment officer Fluetsch. In terms of the City's finances, the functions of a Public Bank would only serve to duplicate the effort already expended in establishing the Treasury Division.

#### General Outstanding Issues/Questions

- An FDIC insured Public Bank will require City Capitalization funds where City funds must remain liquid (source TBD). From a state owned bank perspective capitalization not an issue but problematic for a city

owned bank

- An FDIC insured Public Bank will require infrastructure for management, governance, staff resources for day to day operations, ongoing monitoring of regulatory requirements, reporting to Management, Board, Regulators and the Public, etc. What are the expectations of We are People Here regarding the function of a Public Bank?
- What is the most effective approach to maintain the Independence of Bank Board from management and political influence?