MINUTES OF THE
NEW MEXICO STATE BOARD OF FINANCE
REGULAR MEETING
Santa Fe, New Mexico
November 26, 2012

A Regular Meeting of the New Mexico State Board of Finance was called to order by Governor Susana Martinez on this date at 9:12 a.m. in the Governor's Cabinet Room, Fourth Floor, State Capitol Building, Santa Fe, New Mexico.

1. ROLL CALL: QUORUM PRESENT

Members Present:
The Hon. Susana Martinez, President
The Hon. John Sanchez, Lt. Governor
The Hon. James B. Lewis, State Treasurer
Mr. Robert J. Aragon, Public Member
Mr. Michael Brasher, Public Member
Mr. Sam Spencer, Public Member

Members Excused:

Legal Counsel Present:
Mr. Zack Shandler, Attorney General’s Office

Staff Present:
Dr. Thomas E. Clifford, Secretary of Finance & Administration
Ms. Stephanie Schardin Clarke, Director, State Board of Finance
Mr. Jeff Primm, Deputy Director, State Board of Finance

Others Present:
[See sign-in sheets.]

2. APPROVAL OF AGENDA
NEXT REGULAR MEETING: DECEMBER 18, 2012

Mr. Brasher moved to approve the agenda as presented. Lt. Governor Sanchez seconded the motion which passed by unanimous 6-0 voice vote.
3. **APPROVAL OF MINUTES:** October 16, 2012 (Regular Meeting)

Lt. Governor Sanchez moved to approve the minutes of October 16, 2012 as presented. Mr. Aragon seconded the motion for discussion.

Mr. Aragon said on page 20 of the minutes it indicated that Mr. Brasher moved to table to the next meeting which was procedurally impossible to do by Robert’s Rules of Order. That needed to be corrected to say the motion was to table rather than to table to the next meeting.

Mr. Brasher thought the minutes were correct. The minutes might be accurate in what he said.

Ms. Clarke clarified that the motion was that the minutes would say that the motion was to table the request.

Mr. Aragon agreed.

Ms. Clarke said procedurally she understood a tabled item could brought up at a future meeting if it was put on the agenda by state law. But Mr. Aragon was suggesting that something needed to be brought off the table before an action could be taken.

Mr. Aragon said the rules were very clear. The rules indicate two possible procedural steps. One is to defer the action to a later time such as the next meeting, for instance. When a matter is tabled, it would remain tabled until an action is taken to remove it from the table. And then it requires a motion to remove from the table and place it for action at a later time. When you lay it on the table, it requires an affirmative vote to remove it from the table.

Ms. Clarke clarified that he was saying it should be two separate meetings.

Mr. Aragon said it had to be two separate meetings. Under Mason’s Rules it could be done the next day but the Board operated under Robert’s Rules, not Mason’s. That action needs to be reflected accurately in the minutes.

Mr. Brasher said in that case, he had made a mistake in stating his motion.

Ms. Clarke said she spoke with Counsel about it earlier in the day and was not aware of this procedural requirement. She just didn’t think this Board had ever made the distinction between postponing and tabling a matter. She asked Counsel to comment.

Mr. Shandler said in regards to deferring versus tabling, he would defer to the Governor as the Chair on how to handle it because the Governor sets the agenda.

Governor Martinez asked if the minutes were to read that the Board’s action was to
defer for another time or to the next meeting.

Mr. Aragon recalled last May the Board deferred an action and the language was very clear because it was discussion about the account balance the Board of Finance might have. And it was properly placed back on the next agenda because it was deferred to the next meeting. It requires unanimous consent. A motion to table is different because it has no specific time frame.

Mr. Aragon continued that the Governor could ask a matter to be removed from the table and then after a majority vote of the Board, at the direction of the Chair, decide when it would be placed on the agenda. But it cannot be placed on the same agenda. So if it is removed today the earliest the Board could hear it would be at the December 18 meeting. Certainly the Chair at any time can request it to be removed from the table.

Mr. Aragon continued that there are other steps the Chair could take but that but would have serious problems with the Open Meeting Act. Those are the procedural steps necessary. It is not predicated in the law but in the procedures. A majority of the Board tabled the matter so it stays on the table until removed. The only reason for the amendment was to clarify the action to eliminate ambiguity in the record.

Governor Martinez read the amendment to the minutes.

Dr. Clifford asked if the sponsor of the motion wanted to revisit it and ask to remove it from the table now so it could be considered at the next meeting.

Mr. Brasher felt that was the prerogative of the Governor to put items on the agenda and he was comfortable with the amendment.

Mr. Spencer moved to approve the minutes as amended on page 20 to say, "Mr. Brasher moved to table this request." and delete the rest of that sentence. Mr. Brasher seconded the motion, and it passed by a 5-0 vote with Governor Martinez abstaining.

SEVERANCE TAX BONDS AND NOTES

Presenter: Rachel King, Bond Counsel, Sutin, Thayer & Brown

4. Approval of Severance Tax Note Resolution, Series 2012S-C

Before proceeding to the this agenda item, Mr. Aragon raised a point of personal privilege after consulting with the subcommittee appointed by the Governor last July to deal with the New Mexico Highlands University Student Union Building construction matter. He said that during that July meeting, it came to the Board's attention that there were serious concerns in that construction project and as such, the President of the University was present and the Board had grave concerns about the legal steps against the
former contractor and the bond company for that contractor. Mr. Aragon said the questions led to the University President deferring to their counsel, who is now sitting before the Board. Their counsel was asked a series of questions that went unanswered, which he believed was in direct conflict with the interests of the Board. As such, there was privilege exercised by the Sutin firm to refuse to answer those questions. It was the same Sutin firm that today is representing this Board as its bond counsel.

Mr. Aragon added that Lt. Governor Sanchez and Mr. Brasher, the other subcommittee members, could elaborate on the matter too.

The subcommittee went to Las Vegas, made additional inquiries, and were met by the same refusal of the Sutin firm to answer the Board’s questions.

The subcommittee had a follow-up meeting in the Capitol building and the same stonewall occurred. He said it is a serious problem when a lawyer in whatever capacity refuses to answer a question to their client. He believed that refusal of counsel to answer those questions violated the attorney-client relationship between the Board and the Sutin firm. Therefore, he said a conflict exists and will continue to exist so long as the relationship as bond counsel exists because the subcommittee has not completed its work. As such, anything that is brought to the Board by the Sutin firm has a serious cloud because of that conflict.

Mr. Aragon said he had consulted with judges and other members of the Bar and determined that a conflict existed, and he could not vote on anything brought to the Board by the Sutin firm.

Lt. Governor Sanchez said he had conversations with the subcommittee members on this issue and others regarding the Highlands University issue. His position was that he would look for direction from the Board about it and would limit his comments as chair of the subcommittee today. Although he didn’t have the legal background to determine it, he saw the potential for conflict. He explained that he had divided the subcommittee members into three foci: legal issues under Mr. Aragon, procedures under Mr. Brasher, and construction issues under himself.

Mr. Brasher agreed that Mr. Aragon had expressed concern about a conflict of interest. In the subcommittee meeting, he related that the format was difficult when they were in Las Vegas and were sitting across from counsel, and he didn’t like that format. They discussed it and expressed some concern on it.

Mr. Aragon clarified that the Highlands University issue that came for Board approval was for additional funding and there were questions about legal matters leading up to it. The building construction was fraught with errors and inquiries had been made about legal steps that were taken.

He said the subcommittee asked about performance bonding questions and the
university’s counsel refused to answer, citing confidentiality. This Board is the final arbiter, yet it got no answer.

Mr. Aragon said the controversy occurred last October when cost overides were over $3.5 million and it took from October to July to just construct a letter sent to the construction company and the bonding company outlining the points of controversy. And yet, in the interim period Highlands had come to this Board to ask for more funds. The Board asked what steps had been taken to correct that problem and again this Board was stonewalled from getting a response to those simple inquiries by the Sutin firm at the meeting. He believed that directly contributed to the nine month delay. Makwa, the contractor, has since filed for bankruptcy and no action was taken. It took over nine months for a letter to go out delineating the construction problems. But the Sutin firm sits at this Board’s meetings every month. He believed the Board might have been able to take affirmative steps last October. He found that reprehensible. Had it been brought to the Board’s attention last October or November or December, the Board could have saved the taxpayers much money.

Governor Martinez understood that nothing had occurred as of July.

Mr. Aragon didn’t want to take away from the report of Lt. Governor Sanchez but the low bid was the bid accepted by Highlands’ Board of Regents and Highlands cited various reasons for their selection. But immediately after the contract was awarded, change orders began to appear with cost overruns. The floors didn’t match, the windows didn’t fit, the roof was falling off and that was known last October. And nothing was brought to the Board of Finance’s attention then. This Board sits as a fiduciary, and when the Board made an inquiry into what was going on, the board was stonewalled by the Sutin firm.

Mr. Aragon explained what was known. A letter was sent by the Sutin firm in July not even asking for arbitration under the contract but just highlighting the problems and the cost overruns. There were $3.5 million in overruns despite a stairwell that didn’t fit and windows falling out and a roof that leaked and a floor that wasn’t level. The contract required going to arbitration, and when the Board made the inquiry he felt they were stonewalled. Regrettably, the students at Highlands have to pay for it.

Mr. Aragon said he didn’t think he was overstating this. He said he would feel obliged to withdraw from a contract if this happened in his firm. He said he had never submitted a disciplinary complaint, but he had consulted with retired Court of Appeals judges on this matter and they all led him to this point in the meeting today. And the Board still doesn’t know what has happened legally. He said he believed there was gross malfeasance at every level. He was sure the report would delineate these points, but today they were here with the same counsel who refused to answer any questions from the subcommittee.

Governor Martinez said there could be a real conflict or a perception of conflict.
Mr. Aragon perceived the situation to be a conflict. He offered, if it pleased the Governor, that the only way he could cure that conflict would be to resign his position on this Board, which he didn’t want to do. This conflict has resulted in a loss and no ability to move forward against a contractor who has taken money from the taxpayers and a performance bond company that has not acted.

Mr. Brasher was concerned that one of the members feels uncomfortable and unable to rely on information from counsel and said that needs to be cured. The one issue he didn’t understand was that in their first meeting, counsel for the University was sitting across the table and he wasn’t aware then that she was also the Board’s attorney too. So that’s the difficulty in this situation. If Mr. Aragon feels it is difficult to rely on their information, then the situation needs to be cured.

Lt. Governor Sanchez thought Mr. Aragon’s observations were accurate and he didn’t know what the remedy would be. He had heard no direction, if there was a conflict, what the remedy for it might be. He heard from Sutin on their justifications and didn’t know if he agreed or disagreed with those. He would like some input from the Board or its legal counsel about the solution. He was looking for guidance either from Governor Martinez or Mr. Shandler.

Governor Martinez noted that about $15 million was approved for construction at Highlands and then the budget went up to $20 million.

Mr. Aragon noted that when the Board approved $5 million more it included a contingency for steps to be taken to protect the taxpayers legally.

Lt. Governor Sanchez said he thought it was gross negligence not only from Makwa but also the architects and the engineers—and also a lack of supervision—that was now resulting in $5 million in cost overruns.

Mr. Shandler said he believed there were three framing questions for the Board to consider. First, he asked who had the role of oversight - whether the Board of Finance, the Higher Education Department or the Board of Regents at Highlands were responsible for oversight and project accountability.

The second was the question of the role of lawyers. He asked if the Board felt that outside counsel could have other clients at other agencies or from the private sector or if they were limited to this Board as their client.

The third question was of lawyers reviewing lawyers. Mr. Aragon’s presentation gave criticism about how the Sutin firm proceeded. The subcommittee also had testimony from Dave Matthews, attorney for the Higher Education Department, who said he was not critical of how Sutin handled their representation of Highlands and their pursuits. In short, Mr. Matthews took a different view than Mr. Aragon has.
Governor Martinez understood that Mr. Matthews was not critical of Sutin’s privilege.

Mr. Aragon said that was not an accurate summation of what transpired at that subcommittee meeting. Mr. Matthews didn’t have issue with the letter that took nine months, but the issue of whether a conflict existed was not part of that discussion.

Mr. Shandler clarified that he was talking about the third role - whether different lawyers have different views on how to litigate cases. He didn’t know how deferential the Board wanted to be.

Mr. Brasher said he didn’t understand that a lawyer couldn’t represent someone else or that they couldn’t only have one client. It wasn’t quite as simple as Mr. Shandler was saying it.

Mr. Aragon said each subcommittee member has a question in their mind that a conflict exists. That was sufficient for a conflict to exist. And it is one the subcommittee is still discussing. So, how can there not be a conflict in the final subcommittee report?

Mr. Spencer said it appeared the Board needed to deal with whether it believed a conflict existed. It looks like there is one, and now the question was what the Board was going to do about it. And if the Board went ahead and took action today on bond counsel’s work on our bond issues it would cast doubt on the decision made today in reliance on bond counsel. If it affected the Board’s ability to make the right decision, he didn’t know how they could proceed to a decision on it. But he thought consideration of the bond issues needed to be done today.

Governor Martinez asked how the Board would continue business with the same firm.

Mr. Spencer asked if it created a conflict that the decision might rest on reliance on bond counsel.

Ms. King said she was not sure how the Board wanted Sutin to represent them. She said there was no legal conflict in Sutin’s roles as Board bond counsel and Highlands’ general counsel. She said she had discussed it with Mr. Shandler and the Governor’s general counsel, who both agreed there was no conflict. So, she was comfortable representing this Board as bond counsel and Highlands University as general counsel.

She pointed out that, if the Board didn’t take action today, those severance notes could not be sold before the end of the year. If Mr. Aragon had filed a disciplinary claim back in August, these questions would have been resolved by now. Her recommendation was to take action on this matter. Her firm served at the Board’s pleasure, and if the Board didn’t want Sutin as bond counsel, the Board could make that decision at any time and for any reason.
Governor Martinez asked if Sutin represented Highlands University.

Ms. King agreed. They had a contract with Highlands University as general counsel.

Governor Martinez asked if her firm had asked their client to waive privilege.

Ms. King said they had not and explained that it was not a statement of privilege with respect to the Board. There was no privilege associated with the Board for approval of the Highlands student union project. The privilege in question was between Sutin and Makwa because if Highlands and the Board of Finance talked openly about legal strategies between the University and Makwa, Makwa could then come and probe the record about what was said at which meeting and could use it in a form of litigation. So, it was not that she didn’t want to share the information with the Board, but the waiver would make it available to Makwa.

Governor Martinez asked if Makwa wouldn’t know she was pursuing legal action against Makwa.

Ms. King agreed that Makwa is aware. The status was public information so it wasn’t privileged. Highlands terminated the contract with Makwa. Makwa filed a claim against the University. Highlands has denied the claim. Makwa has requested mediation and mediation has not been scheduled. The situation has become complicated now that Makwa has filed for bankruptcy, although if Highlands had terminated for cause and tried to make a claim against Makwa that would now be stalled by the bankruptcy. The problem is that the more we discuss this, the more Makwa would claim Highlands was waiving attorney/client privilege and she was nervous about making judgments about what she should say or not say on the fly and end up with giving up that privilege.

Governor Martinez asked then if she could not tell this Board what legal action Sutin had taken to remedy the $15 million the Board had approved to Highlands.

Ms. King said they were in a very different position now than in July, in part because none of these claims had been filed in July. At that point Highlands had terminated the contract but not defended against the claim.

She didn’t know how to address the question of whether it took Highlands and Sutin nine months to draft the letter. It was up to the client to make the decision and what lawyers are to do is a client’s decision. Ultimately the client ends up making the decisions. She didn’t think Sutin had done anything wrong, but ultimately it was Highlands’ decision. Sutin was at multiple special board meetings with Highlands, and the client ended up making all the decisions.

Governor Martinez asked if Ms. King agreed the decision was to throw good money after bad.
Ms. King didn’t disagree. Most of the decisions around Makwa and the contract and the building were decisions that happened at the University level. They were not legal decisions and the lawyers only get involved when the client decides it is time to involve them because it has reached that point. How they dealt with those things day to day during construction was not anything the lawyers were involved in until after the fact.

Mr. Aragon pointed out that the approval of the additional funding last July had a provision that this Board would be updated. He hadn’t been updated recently.

Ms. Clarke said the Board had a quarterly update in September and that another quarterly update was planned for December.

Governor Martinez asked Mr. Aragon if he got any information.

Mr. Aragon said he got information that they filed bankruptcy. The Board tried to extrapolate information from Highlands and their general counsel told us no. In the minutes, “it said we asked and were told no.”

He was not suggesting that Sutin was not doing proper legal work for Highlands. But the Board has a duty to inquire to make sure malfeasance doesn’t happen and that taxpayers are protected. To do that the Board has to have information. And when Sutin says the Board can’t have the information, there is a problem. He reminded that if it had not been Sutin sitting across the table, the Board wouldn’t be having this discussion. The Board did know there was no claim filed against the construction company but he didn’t know if there is anything happening with the performance bond company except they were represented by the same law firm as Makwa. That was the total of information the Board had.

Mr. Aragon emphasized that his job as a Board member was to make the necessary inquiries because that was what the statute said they were to do, and when they couldn’t do that because the Sutin firm said no, the Board had a problem.

Governor Martinez asked if the Board could go into executive session to get it.

Ms. King reiterated that the concern was that if they gave the information, they would waive it with Makwa. So, if Sutin gave privileged information to the Board, then Makwa thereafter has access to that information.

Governor Martinez assumed that Makwa filed suit.

Ms. King said Makwa filed a claim to Highlands and asked for mediation and also filed for bankruptcy and listed $3 million due from Highlands. Highlands said they didn’t owe Makwa anything because Highlands paid for all they owed and the problems in workmanship offset anything else.
Governor Martinez asked if there was a caveat to the Board's approval of the $5 million budget increase.

Mr. Aragon said the caveat was that the Board would be updated as to legal procedures.

Ms. Clarke agreed it was approved subject to receiving quarterly updates. It was a strange contingency because if Highlands stopped reporting and failed to meet the contingency, they would have already spent the money. She understood that Highlands has moved forward with Franken Construction and the money is already either encumbered or expended.

Governor Martinez understood they came to an agreement on the legal status last time.

Ms. King said their concern had always been not to say anything that would get into legal strategy. In July not much of this had transpired except termination of the contract. She would very much like to have the conversation about why they recommended the steps they recommended but if she discussed it with this Board then Makwa gets it as well. All of the public information has been provided. Dr. Fries presented much of it from Highlands. It puts lawyers in an awkward position to be asked to divulge privileged information.

Governor Martinez understood the strategy and the privilege, but when $15 million of taxpayers' money had been so misspent and then $5 million more given, she could agree with Mr. Aragon how frustrating that is to the public because nobody was paying attention. It justifiably demands an answer. And the response was not satisfying.

She added that the conflict of interest did not separate Sutin from their client.

Ms. King said in terms of a legal conflict of interest, there was none. Sutin represents Highlands against the contractor and represents this Board in a limited way as bond counsel. She deferred to the Board whether there was a perception issue.

Governor Martinez understood. But there was a caveat on that $5 million, and it appeared the Board wouldn't get that information until everything was done.

Ms. King said Highlands did share information and would share more on the legal status in December's quarterly report. The only thing Sutin had declined to share was what they considered privileged information. Her default was to not waive privilege. Perhaps with written questions she could decide after giving them thought. But with litigation she must protect Highlands against harm in the case against Makwa. Every other issue around it, including misspent money, was not Sutin's role to divulge as the law firm. They didn't have control over what the client shared.
Mr. Aragon noted that this apparent conflict became an issue in July, and it continued and was articulated by the subcommittee on the Highlands campus. It continued at the last subcommittee meeting. If an attorney or a law firm was hearing from their client that there is concern that there might be a conflict or was a conflict, even the word conflict, at that point, the Sutin firm had an affirmative duty to take a step back and say they couldn’t continue to represent the Board as bond counsel.

He said the Board, when it issues RFPs, wants not only the best advice but the most professional advice. Three members of this Board raised the question and articulated it openly. He believed that the Sutin firm had an affirmative duty to cure it and they did not do so. He was not suggesting they committed malpractice at Highlands. He didn’t question their professional decisions there.

Ms. King agreed with him. She had spoken with staff and Chief Counsel Hernandez in the Governor’s Office and asked what Sutin could do to clear it up. She believed Mr. Shandler and Ms. Hernandez didn’t believe there was a conflict with this.

She said her worst nightmare was to have this come up when she was presenting the bond note resolutions today. She agreed to do whatever the Board wanted to do about this but recommended the Board take action on these bond notes today because to not do so would mean losing the opportunity to do so before the statutory deadline.

Ms. Clarke believed the Board’s statutory duty regarding this tax note program, was that the Board “shall” issue these bonds when directed to do so by statute. If there was capacity available, the Board is obligated to issue the notes, and not doing so could expose the Board to liabilities.

**Recess**

The Governor recessed the meeting at 10:22 and reconvened it at 10:48.

Upon reconvening, Governor Martinez stated that all members were present and no roll call was needed.

Governor Martinez asked Ms. Clarke for staff recommendations.

Ms. Clarke clarified that the Board was on agenda item #4. Governor Martinez agreed.

Ms. Clarke presented the senior and supplemental severance tax note resolutions in their final form, which she clarified was slightly different from what was in the electronic agenda. There is currently $43.73 million of senior projects approved by the legislature.
and not yet issued. The question was now which of those $43 million of projects would
be ready for issuance. Based on a preliminary review of questionnaires, the total amount
that could be issued for senior notes has come down to $38,728,000. So that was the
maximum size of the senior note in the resolution.

Dr. Clifford referred the Board to pages 62-63 on electronic agenda for the potential
project list.

Ms. Clarke said most notably there was about $30 million ready for the Paseo del
Norte interchange. It wasn’t ready last time the Board issued senior bonds or notes
because we were awaiting the outcome of the Albuquerque bond election, which was
approved by the voters in November, but the Department of Transportation reported that
they still might not be ready to meet the 5%/85% spend down time constraints.

The substance of Action Item #5 was a supplemental severance tax note resolution
and on the materials for the Board, the staff had inserted a maximum size of $100
million, which she thought was higher than it will be. The supplemental notes go to
public school capital outlay facilities. The total cash available for both senior and
supplemental purposes would be around $88 million, but it could fluctuate by about $10-
15 million in either direction.

The maximum senior note total of $38,728,000 assumed that the Paseo project would
be ready, and the supplemental total of $100 million assumed that the Paseo project
would not be ready. The total can be reduced at the time prior to year-end and would be
issued for the amount of cash on hand.

Governor Martinez saw a conflict or appearance of conflict when counsel had to
change hats in representing this Board and then Highlands University so she asked Ms.
Clarke for a recommendation on these notes because they are time sensitive.

Ms. Clarke said severance tax notes ran on a six-month calendar so they had to close
before the end of the year. If the Board perceived a conflict interest with Sutin, then the
Board could use the contract with its disclosure counsel, Brownstein Hyatt Farber
Schreck, and Mr. Buchholtz was present at this meeting. The Board could ask Mr.
Buchholtz whether his firm would be able to step in on emergency basis to represent the
Board.

Mr. Buchholtz said that while he had not looked at the contract with the Board this
morning, his firm was permitted to take on matters when bond counsel could not act. His
sense here was that they would not have any conflict of interest to take that on. So, it was
a good recommendation to pass the resolution today to allow the bond notes to close
before year end. He agreed to review the file and come back at the December meeting to
say it was fine or that it needed a modification.

Mr. Aragon asked if that meant he would have time to exercise due diligence within
the required time frame.

Mr. Buchholtz believed so, and noted had previously done bond counsel work for the Board.

Mr. Aragon moved to allow Brownstein Hyatt Farber Schreck to review the file and make recommendations to the Board on the fitness of the bond and also allow this firm to do due diligence and that the Board approve Severance Tax Note Resolution Series 2012S-C, as modified. Mr. Brasher seconded the motion.

Mr. Aragon clarified this approval was for #4.

Lt. Governor Sanchez asked, regarding the Sutin law firm, if there had been a formal decision to replace them on this matter.

Governor Martinez clarified that both law firms are current contractors with the Board. So, Mr. Buchholtz legitimately represents the Board as well.

Lt. Governor Sanchez asked if his contract contained that provision.

Mr. Buchholtz agreed.

Lt. Governor Sanchez understood that and asked if Sutin was no longer bond counsel for the Board.

Governor Martinez asked if they could discuss that later. Lt. Governor Sanchez agreed.

Ms. Clarke clarified for the record that there was no resolution before the Board to do with Highlands or with NMSU. So there was no specific conflict on severance tax bonds. Next month the staff will bring a general obligation bond resolution and asked if the Board had direction who should advise the Board on that resolution.

Mr. Aragon thought Lt. Governor Sanchez’s question was legitimate but not before the Board acted on this motion. The Board could discuss that in some other context.

The motion passed by a unanimous voice vote of 6-0 with no abstentions.

5. Approval of Supplemental Severance Tax Note Resolution, Series 2012S-D

Mr. Aragon asked Mr. Buchholtz the same question if he had any conflict of interest in this matter and if he had sufficient time to accomplish due diligence within the limited time frame.
Mr. Buchholtz perceived no conflict on this issue. He would review the files and would report back at the Board’s December meeting.

Mr. Aragon moved to allow Brownstein Hyatt Farber Schreck to review the file and make recommendations to the Board on the fitness of the bond and also allow this firm to do due diligence and that the Board approve the Severance Tax Note Resolution Series 2012S-D as modified. Mr. Brasher seconded the motion, and it passed on a 6-0 voice vote with no abstentions.

6. Approval of Reauthorization Resolution for Severance Tax Bond Projects

Ms. Clarke said this was a little off cycle since the Board usually reauthorized severance tax bond projects immediately after the legislative session. The Board approved most of those reauthorized projects after the last legislative session, but there were a handful reauthorized for a Rio Rancho all-inclusive park and a question of anti-donation had been settled since then. There was slightly less than $1.3 million for the park. It was an anti-donation issue because the lands where Rio Rancho originally planned the park were owned by Presbyterian Hospital, but the proposed site has since been changed to a different location, which is owned by the city.

Governor Martinez noted it was one of two or three such parks in the country that were fully handicapped accessible.

Dr. Clifford said he received a number of calls on the Truth or Consequences hospital regarding that particular reauthorization. He asked if there had been contact with the original sponsor on this appropriation.

Ms. Clarke said staff would confirm the extended balance. Typically, staff would not have contact with an appropriation’s original sponsor. From the Board’s perspective, the law has changed with the enactment of the reauthorization bill, and the Board must move the balances to the new purpose unless the new project lacks compliance with state law.

Dr. Clifford said there might be some question raised about that reauthorization in the upcoming session.

Governor Martinez clarified that the legislature reauthorized the appropriation to move hospital funding over to this purpose.

Ms. Clarke agreed. Projects are often reauthorized to change the expiration date or the intended purpose. The money for the T or C hospital was from 2008.

Mr. Spencer moved to approve the reauthorization resolution for severance tax bond projects. Treasurer Lewis seconded the motion.
Mr. Brasher said they made a substantial change. He asked if they had a public meeting for the neighborhood and had local support.

Ms. Clarke couldn’t be sure of that, but they had certified everything necessary for it to be ready pursuant to state law.

**The motion passed on a 6-0 voice vote with no abstentions.**

Dr. Clifford excused himself from the meeting at 11:08

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**EMERGENCY FUND BALANCES**

*Presenter: Stephanie Schardin Clarke, Director*

7. **Emergency Balances – November 2012**

Ms. Clarke read the emergency and reserve fund balances into the record.

- Operating Reserve Fund (FY13) $880,579.57
- Emergency Water Fund (FY13) $ 0.00

She expected the balance in the Operating Reserve Fund to increase next month as a result of a current fiscal year loan repayment. At the beginning of this fiscal year the Board authorized a loan to the Regulation and Licensing Department for an escrow situation in Farmington. Recently, RLD notified the Board that it does not appear to need the entirety of the loan it received, and that it intends to return the unused portion of that loan.

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**EMERGENCY FUNDING REQUEST**

8. **WITHDRAWN**

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**HIGHER EDUCATION DEPARTMENT**

*Presenter: Henry Mignardot, Capital Project Coordinator; Tam Neale, Associate Director, UNM Real Estate*

9. **University of New Mexico – Requests Approval of Acquisition of Real Property at 923 Vassar Drive NE ($320,000)**

Mr. Mignardot presented the request for acquisition of the property at 923 Vassar Drive NE on behalf of the University of New Mexico. HED certified that this project was reviewed and approved by the HED’s Capital Projects Committee and that they complied with code and meet the standards.
He described the property at 923 Vassar Drive to be acquired for $320,000. It is a single family residence constructed in 1947 measuring 1,543 square feet with a 653 square foot casita. The proposed use of the property was for administrative offices.

Lt. Governor Sanchez asked about the appraised value.

Mr. Neale said the appraised value was $320,000.

Lt. Governor Sanchez asked if UNM would demolish the buildings on the land.

Mr. Neale said “absolutely not.” It was just acquisition as is.

Lt. Governor Sanchez asked how long they would use it for the stated purpose.

Mr. Neale said it was for an indefinite period of time, but likely would be 20-30 years. The rationale is that it sits on the eastern edge of the Health Science Center lands. Residences to the north and south have been utilized as administrative offices, and at some time in the future they would be altered for academic use.

Lt. Governor Sanchez asked if this was the last piece on Vassar that UNM did not own.

Mr. Neale agreed and said it now was “a donut hole” for the University.

Lt. Governor Sanchez asked if they could use it for administrative offices in its current condition.

Mr. Neale said some renovations for ADA would be needed, but they were minimal.

Lt. Governor Sanchez asked who would office there in the short term.

Mr. Neale said the plan was to relocate medicine development offices to this location.

Lt. Governor Sanchez asked if in the long term all of those properties together would allow UNM, per the Master Plan, to incorporate them into future construction. Mr. Neale agreed.

Mr. Brasher asked what the property taxes on this property were now.

Mr. Neale didn’t know but estimated them at probably $2,500 per year.

Mr. Brasher pointed out that those taxes helped fund activities at UNM. He said from the pictures it didn’t seem to lend itself to offices without major reconstruction. He recognized the donut hole creating problems for UNM but didn’t think UNM needed this residential property for administrative office space at this time.
Mr. Shandler summarized for the record that, according to UNM staff, exceptions 11, 12 and 13 and a title binder relate to building covenants and land patents and they do not adversely affect the property. If the Board votes to approve this item, staff recommends it should be contingent upon deletion of exceptions 1, 2, 3, 4, 5, 7, 9 and 10 from the title binder prior to or at closing.

Mr. Spencer moved to approve the request subject to counsel recommendations. The motion died for lack of a second.

No action was taken on this matter.

10. WITHDRAWN

STATE TREASURER'S OFFICE

Presenter: Linda T. Roseborough, Chief Investment Officer


Ms. Linda Roseborough reported the information for September and October as follows:

Rate pressures continued during the months of September and October. Rates trended to narrow during the month in advance of the US Elections. The Federal Reserve maintained its stance of additional easing in the longer area of the yield curve, continuing to purchase mortgage related securities. October’s FOMC minutes confirmed the Fed’s stance on the economy.

Unemployment dropped at the beginning of October, providing positive economic news. Corporate earnings released during the month of October met analyst expectations. However many companies guided earnings expectations lower into the fourth quarter and into 2013. Concerns regarding the implementation of the fiscal cliff and potentially significant changes in tax law weighed heavily on the markets.

Despite growth in the size of our overall portfolios at STO the STO reported positive results on a market to market basis at the end of September. For each of the STO portfolios, the general fund unrealized gains were $11.5 million; Bond Proceeds Funds were $4.7 million; Local Government Investment Pool and Severance Tax Boning Fund were not material. The Portfolio Yields in the General Fund at 0.36%; CORE at 0.96%; Bond Proceeds - Tax exempt at 0.75%; Taxable at 0.91%; Local Government Investment
Pool at 0.21% and Severance Tax Bonding Fund at 0.38%. Investment earnings for September were summarized. Declines in interest rates have adversely affected annual earnings amounts. General Funds were $1.164 million MTD; Bond Proceeds Funds were $643,000; LGIP were $120,000 and Severance Tax Bonding about $22,000.

During September, STO maintained average daily collected balances at the fiscal agent bank of approximately $77 million. This balance earned a “soft-dollar” credit against processing fees assessed by the bank. The Earnings Credit Rate was 50 bps, Monthly Earnings estimated at $32,485 and Estimated Fiscal Year Earnings were $89,640.

Regarding the monthly investment outlook, STO portfolios continued to do well during the first quarter of FY 2013, all outperforming their respective benchmarks. She reminded the Board that all funds had new reporting benchmarks that were approved by the Board. The relative outperformance can be attributed to three factors: security selection, credit diversification and curve duration. The first quarter of FY13 was characterized by continued and persistent low rates. In developing our strategy for the quarter and for the year, we have factored these issues into our strategy using the yield curve and expected stability to be slightly long to the benchmarks for each of the portfolios.

For expectation for the Second Quarter, we continue to be concerned about the “fiscal cliff” and its effects on the capital markets. The global economic situation, combined with the uncertainty surrounding the US elections have created a situation that we are in today and we will see how the year end plays out.

For the STO portfolios, we will continue to maintain our current stance, investing to the benchmark durations and attempting to add yields where appropriate.

The expiration of the TLGP program will occur at the end of 2012. We have continued through maturities and outright sales, to reinvest those proceeds in order to decrease the effect on the STO Portfolios

We will continue to lose higher yields and coupons due to these maturities but we expect that the carrying yield on portfolios will continue to decline.

Durational effects of the lower average coupons available in the primary and secondary markets will need to be managed, modeling effects of the portfolio selections relative to benchmark alternatives.

She referred the Board to the chart on earnings for the Board’s review.

Regarding the compliance reports, primary and secondary bond purchases were listed.

At the end of September, total holdings of Variable Rate Notes were $147,700,000.
During September there were no transaction variances which posed compliance issues. All trade information was entered correctly in our internal systems and in the systems used by our custody bank.

She announced that the quarterly report from Deanne Woodring was attached this month. She pointed out that in their efforts to revamp the investment policy within STO we have a draft set of legislation they presented to IPOC on Tuesday. The draft legislation contains 12 items specifically in nature to clear off or clarify some of the ambiguity within the investment statute of 6-10-10 that will assist them in that revamp of the investment policy to clarify some of the language with their authority. She pointed out a couple of the 12 items for the Board.

One related to the LGIP, which was required by statute to be rated by a national rating company and proposed to change that from “shall” to “may be rated by a national rating agency” to allow the Treasurer some flexibility on factors affecting LGIP.

She provided an example when in 2008 the money market collapsed within hours and the Treasurer had to act quickly to retain our assets. Without the Treasurer’s action the rating would have become D and they would no longer have an LGIP fund.

There is a perception that the investors’ funds are guaranteed or fully collateralized but neither is true so we want to eliminate that false assumption.

The fund has a AAAm rating that has strict investing constraints and removing the national rating will allow STO to invest in collateralized CDs from local New Mexico banks. She said that STO will continue to manage to the standards of the national rating agency. The fund would not deteriorate in quality.

The second change recommended was put forward after STO staff discovered the General Fund portfolio could not invest in all New Mexico municipal bonds. The Treasurer was recommending adding that provision to the statute. Currently LGIP can invest in municipal securities outside of New Mexico and the Treasurer wanted to be able to invest within New Mexico as well as out of state to encourage consistency in portfolios and allow the Treasurer to manage better.

Ms. Roseborough referred the Board to Ms. Woodwing’s presentation on page 28 that showed a breakout with other states’ local government pools.

Treasurer Lewis observed that references to the State Treasurer appears in statutes in probably 600-800 locations, and he wanted to codify some of that better. He noted that, in his first term in the 1980's, the LGIP was started as a liquidity pool. So, unless you had a CD, you couldn’t participate. Regarding the rating issue, his concern was that even with the rating, funds are not guaranteed. Also, he couldn’t put General Funds in a local bank. The contemplated change is to allow that. In talking with the Association of Counties and with the Bankers’ Association, they all support him in this effort.
Mr. Aragon asked to deviate from the agenda as approved so the Board could address the general obligation bonds issue that would come up in December and bond counsel uncertainty.

Deviation from the agenda was approved by unanimous roll call vote.

Mr. Aragon moved to allow Brownstein Hyatt Farber Schreck to address that particular bond sale and issuance. Mr. Brasher seconded the motion.

Mr. Shandler asked if it would be resolved if Sutin withdrew from Highlands.

Mr. Aragon clarified that the motion is what the motion is.

The motion passed by unanimous 6-0 voice vote.

[The Board temporarily passed over items #13 and #14.]

PRIVATE ACTIVITY BONDS

Presenter: Stephanie Schardin Clarke, Director

15. Approval of Private Activity Bond Cap Allocation Expiration Date

Ms. Clarke said every November the statute requires the Board to approve the expiration date and staff recommended December 26, 2012, which is the latest date allowable by statute.

Mr. Brasher moved to approve the expiration date of December 26, 2012. Mr. Spencer seconded the motion, and it passed by unanimous 6-0 voice vote.

Presenters: Jay J. Czar, Executive Director; Linda Bridge, Director of Housing Development


Mr. Czar and Ms. Bridge presented this report. They provided historical data on how the Mortgage Finance Authority used its private activity bond cap. Until 2008, MFA had used 100 percent of its allocation. Since 2008, markets had been volatile, and, due to the
cost of borrowing, it had been difficult for MFA to offer rates below market. Today, even though their rates were higher than market, they attracted borrowers with a unique down payment assistance program. The average was now $2.8 million mortgage weekly production, whereas in the boom years they had about $5.8 million per week. Mr. Czar said he thought $2.8 million was their new normal.

Because of the market challenges and high cost of preserving bond cap, MFA was not requesting any new bond cap for 2013. Instead MFA was requesting a minimum of $120 million from surplus 2012 bond cap for single family financing. He explained that carry forward gives MFA maximum flexibility over a three-year period instead of one year, and significantly reduces their costs. MFA will likely request at least $150 million in new bond cap for 2014 and the same amount for 2015.

Mr. Czar announced that Ms. Bridge will become the CEO of the Albuquerque Housing Authority leaving MFA after 11 years. He was proud to have Ms. Bridge taking that role.

Ms. Bridge requested $40 million in private activity bond cap for multi-family housing. The need has not decreased in New Mexico, and it is a big need across the state. With an aging population it will continue to be a need. There has been underutilization in recent years, and those conditions are now turning around to make issuance of private activity bonds more feasible.

Mr. Brasher recalled the regents of UNM opposed renovation of an existing facility, and that seemed to be a way to address the housing need. He asked if she would be coming into that project.

Ms. Bridge said it is not a project that the MFA has reviewed, but she heard about it. When it comes to student housing it is tricky to use these funds. The federal low income tax credits according to federal code cannot be used for student housing.

Mr. Brasher thought the renovation was not for student housing, per se, but for any housing need.

Mr. Czar said it was close to the Kirtland addition and one of the job centers. He didn’t understand their opposition to that housing himself.

Ms. Bridge said they were seeing changing market conditions that would allow MFA to use more bond cap going forward. A number of municipalities are coming up with gap resources to make projects possible. Conditions are pointing to full utilization of the $40 million in projects. As noted in the materials provided, this funding source has a leveraging effect because as use of credits from other resources result in every $1 in PAB cap to create $1.75 in project value.

Mr. Czar said the impact of private activity bond cap in New Mexico has been
tremendous. It is economic development, and these actions on rates really provide New Mexico families home ownership at an affordable cost.

Mr. Aragon thanked Mr. Czar for doing a great job in keeping the Board informed. He clarified that single family utilized carryover from previous years. So, it is not using new bond capacity.

Mr. Czar agreed and said that it allowed MFA the needed flexibility in these uncertain years.

Mr. Aragon recalled they were talking last time about a project going up in Gallup that was so desperately needed.

Mr. Czar agreed. MFA has a project in Hobbs as well and soon would be cutting a ribbon in Deming for a project there.

**GENERAL SERVICES DEPARTMENT**

**Presenter:** Charles Gara, Director, Property Control Division


Mr. Gara said the report was in the Board’s packet and self-explanatory. He would answer questions.

Lt. Governor Sanchez asked how the remodel at TRD was going.

Mr. Gara said TRD had vacated the building. The team unexpectedly spent 22 days removing asbestos behind the latillas in the ceiling after it was vacated. They lost about three weeks from that, but otherwise it was going well.

14. **Property Control Division – Requests Approval of Contract with ESA Construction, Inc. For Kitchen Upgrades and Remodel at the Southern New Mexico Correctional Facility in Las Cruces ($1,232,212.81)**

Mr. Gara said the project was ready to go once they received Board approval.

Governor Martinez asked how it was different with capital outlay money, when we request remodel of state building.

Mr. Gara clarified that this project was to be funded with capital outlay money, and statute requires him to come to the Board for contract approval.
Mr. Aragon noted on paragraph C. of the submission letter it said something about kitchen equipment, and he asked if that was included in the total request or over and above.

Mr. Gara said it was included.

Mr. Aragon moved to approve the request. Lt. Governor Sanchez seconded the motion, and it passed by unanimous 6-0 voice vote.

[The Board reprioritized the agenda to move next to item #25.]

**ADDITIONAL GENERAL SERVICES DEPARTMENT ITEM**

**Presenter:** Charles Gara, Director, Property Control Division

**25. General Services Department, Property Control Division – Requests Approval of Fifth Amendment to Agreement to Purchase and Trade Real Property to and from Paseo Nuevo, Ltd. Co. (Purchaser conveys $5,948,226.80 and Real Property worth $1,938,855.60)**

Mr. Gara explained this request was to extend the State’s due diligence period for Las Soleras to May 15, 2013.

Mr. Spencer recalled this agreement had been extended numerous times. He asked what the hold up on it was.

Mr. Gara said they were still evaluating alternatives not only for his site but also for others and didn’t want this opportunity to go by until they had a final decision.

Mr. Brasher moved to approve the request. Mr. Spencer seconded the motion, and it passed by unanimous 6-0 voice vote.

**TAX INCREMENT DEVELOPMENT DISTRICTS**

**Presenter:** Brent Dupes, Chief Financial Officer

**17. Mesa del Sol – Presentation on Tax Increment Development District**

Mr. Dupes presented the request. Mesa del Sol is a 13,000 acre master planned community development in which approximately 2,700 acres was a buffer between the development and Kirtland Air Force Base. In addition there was a regional county Rec-Plex. UNM owned approximately 400 acres and about 8,900 acres were developable. Mesa del Sol purchased 3,100 acres and the remaining 5,800 acres were controlled by Mesa del Sol and a ground land lease with the State Land Office.

The Master Plan allows 18.6 million square feet of commercial space to be
developed; 37,500 dwelling units, etc. In his material he had a map of the various parcels. The boundaries highlighted in dark blue represented the 3,100 acres purchased.

As they went along with development, part of the development was a commitment for renewable energy development. Three major buildings--5600 University (former Advent Solar Building), Mesa Town Center Building and DEA building--were LEED Silver certified. Fidelity was certified LEED gold. They were continuing to work to make it a sustainable community.

One project was a smart grid testing facility at Mesa del Sol under a collaboration with Japanese company and Sandia National Labs, PNM, UNM and Mesa del Sol. Nine different Japanese equipment vendors have invested over $12 million in equipment. Originally it was a four year demonstration project. Research and operation happened last fall. At the end of the project all equipment would be given to UNM.

He briefly described the smart grid project which has the ability to reduce PNM energy costs to zero. They were now looking to purchase a block of homes for smart grid participation in a residential setting.

In 2007 the legislature authorized $500 million in bonds for Mesa del Sol TIDDs and in 2009 Mesa del Sol issued their first TIDD bond. It was a sponged bond at $2.6 million issued for one day to utilize funds to reimburse the developer. Then, in November they issued a second TIDD bond at $1.6 million for infrastructure. The income from the TIDD is only for infrastructure. Obviously, they wouldn’t reach the bond capacity. The last few years have been challenging. They filled the Advent building and soon hoped to replace jobs lost with the Schott facility.

They have finally started their residential development. It was launched in March with a grand opening and now had 105 lots platted. Phase 1-B was for another 105 to be approved in December. They sold 63 to builders and 44 to homeowners with 21 families currently in Mesa del Sol.

Although lower cost homes were anticipated to have the highest demand, the higher cost homes are moving faster. The average price is $249,000, and price per square foot varied from $110 to $134.

Mr. Dupes summarized the investment return information. The financial impact of Mesa del Sol, based on modeling from a Denver firm, showed a net benefit to the state of $19.3 million, to Albuquerque $6.2 million, and to Bernalillo County $3.3 million.

Treasurer Lewis asked if Mesa del Sol had been affected by the gas plume discovered underground in the southeast part of Albuquerque.

Mr. Dupes said no gas leaked onto Mesa del Sol property.
18. **City of Las Cruces – Presentation on Tax Increment Development District**

Mr. Dollahon said the Board had his presentation. The north end of Main Street was reopened to traffic last November. About $1.3 million of TIDD funds were used that were not subject to debt service.

Over last year, 29 small businesses went in, which employed 72. They were sure these numbers would increase because all of Main Street was now open after 43 years.

For building permit activity, two substantial projects were completed last summer. So, they were starting to see private investment in the TIDD district.

During the past year they received $1.9 million in contributions with most of it being GRT revenue. They had an ending balance of $3.76 million.

He described several of the projects they had accomplished thus far including the New America School and a history museum. His presentation included several other projects that they were undertaking.

In their planning, they were changing downtown one-way streets back to two-way traffic.

[Governor Martinez excused herself from the meeting at 12:21 p.m.]

19. **Quorum at ABQ Uptown/Hunt Partners – Presentation on Tax Increment Development District**

Ms. Chavez said the information was in the Board packet. She listed some of the projects undertaken including a Target store under construction to be completed by 2013. Trader Joe’s opened in 2009. On May 22, the TIDD Board dissolved, and the final audit is being completed. Any funds remaining will be returned to TRD. Moss Adams is doing the audit, which will be due December 1, 2012.

Mr. Brasher said the remaining TIDD money is to be returned to local governments.

Ms. Chavez said she was told it was TRD and that TRD would distribute the money.

Mr. Brasher asked Ms. Clarke about it.

Ms. Clarke said there were probably both GRT and property tax monies and it would go back to whatever body dedicated it.
Ms. Chavez agreed to find out for him.

**Presenter:** Darin Sand, Goodman Realty Group

**20. Winrock Town Center – Presentation on Tax Increment Development District**

Mr. Darin Sand presented the TIDD report for Winrock Town Center. They have secured four leases. Two restaurants have opened – one today. The other opened two weeks ago. The infrastructure funding now was associated with a new theater. The project has generated about 760 jobs of which 300 were tied to the restaurants.

He listed the contracts with architects, etc..

Looking to 2013, the grand opening for a new Imax theater is planned. They were negotiating a number of leases and identifying new tenants. BJ’s Brew House and the Imax Theater have increased sales at the mall.

Treasurer Lewis was familiar with BJ’s and asked what it would do to existing competition.

Mr. Sand said Macaroni Grill was looking forward to extra business there.

Treasurer Lewis asked if over-saturation was anticipated.

Mr. Sand said no.

Mr. Spencer asked if the center mall was being refurbished.

Mr. Sand said their plan was to create an open Main Street down the center of the mall. With the new leases, they would be able to refurbish the mall and believed it would encourage a lot more excitement.

Treasurer Lewis asked what the excavation going on was for.

Mr. Sand said it was for the theater.

**STAFF ITEMS**

**Presenter:** Stephanie Schardin Clarke, Director

**21. Eleventh Amendment to Fiscal Agent Agreement with Wells Fargo**

*Incorporating Updated Fee Schedule for Lockbox Services*

Ms. Clarke said they negotiated the eleventh amendment with Wells Fargo on pricing
of lock box services for the Child Support Enforcement Division, but the actual fee schedule didn’t make it into the electronic agenda. The reason for the amendment was that Wells Fargo desired to shift from a manual process to a scanning process out of Denver. The amendment is intended to ensure that Wells Fargo’s desired change in process would not adversely affect the Child Support Enforcement Division’s budget. Basic fees are waived and a value added keystroke fee is added at 0.25 cents per unit.

Ms. Clarke referenced page 526 of the electronic materials for a comparison of current fees vs. new pricing.

Under current fee structure the Child Support Enforcement Division would be charged approximately $18,000 per month for the replacement imaging lock box service. Under the new proposed pricing the fee would go down to about $11,000 per month for the image lock box services. Under the old manual process bank fees were $9,000 per month. The operational savings to the Child Support Enforcement Division are anticipated to more than offset the banking fee increase.

Mr. Aragon moved to approve the eleventh amendment with Wells Fargo. Treasurer Lewis seconded the motion, and it passed by unanimous 5-0 voice vote.

22. Approval of Post-Issuance Compliance Procedures

Ms. Clarke said over the last year the Board has moved toward formalizing its procedures. These are formal procedures to comply with all post-issuance requirements of tax-exempt bonds. This is nothing different than the procedures that Board has followed for years, but it formalizes those procedures in writing. The document describes that the Director is responsible to ensure post-issuance compliance, and the Director may employ expert advisors, such as an arbitrage rebate consultant, to assist in meeting these requirements.

Mr. Brasher moved to approve the compliance procedures. Treasurer Lewis seconded the motion, and it passed by unanimous 5-0 voice vote.

23. Fiscal Agent / Custodial Bank Fees

Ms. Clarke directed the Board to the spreadsheet in the packet regarding the fees assessed by the custodial agent. She stated that staff has worked with the Treasurer’s Office and the staff of the Legislative Finance Committee on an understanding to increase the bank balances at the fiscal agent bank to take advantage of the 50 basis points earnings credit offered under our contract. Fifty basis points is a significantly higher return than the Treasurer could earn in the overnight repo market. She had received confirmation from the Legislative Finance Committee’s staff that they were in agreement with this approach. It was explained to their staff that the purpose is to earn more for the General Fund, with the understanding that DFA will revert part of its
appropriation that isn’t used. It could be as much as a couple hundred thousand that might be reverted.

24. **Joint Powers Agreement**

Ms. Clarke read the Joint Powers Agreements into the record.

**Adjournment**

Mr. Aragon moved to adjourn the meeting, and Treasurer Lewis seconded the motion.

Their business completed, the meeting was adjourned at 12:39 p.m.

_Susana Martinez_  
Susana Martinez, President

_12-18-12_  
Date

_Michael Brasher_  
Michael Brasher, Secretary

_12-18-12_  
Date