MINUTES OF THE
NEW MEXICO STATE BOARD OF FINANCE
REGULAR MEETING
Santa Fe, New Mexico
December 20, 2011

A Regular Meeting of the New Mexico State Board of Finance was called to order on this date at 11:15 a.m. in the Governor’s Cabinet Room, Fourth Floor, State Capitol Building, Santa Fe, New Mexico.

1. **ROLL CALL**

A quorum was present:

**Members Present:**
The Hon. Susana Martinez, President [leaving at 2:10 p.m.]
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. John Gasparich, Public Member, Secretary
Mr. Sam Spencer, Public Member [by telephone; signing off at 2:50 p.m.]

**Members Excused:**
None.

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

**Staff Present:**
Dr. Thomas E. Clifford, Secretary, Department of Finance & Administration
Ms. Stephanie Schardin Clarke, Director, State Board of Finance

**Others Present:**
[See sign-in sheets.]
2. **APPROVAL OF AGENDA**

The Agenda was reprioritized.

Mr. Aragon moved approval of the Agenda, as amended. Lt. Governor Sanchez seconded the motion, which passed 6-0 by voice vote. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]

Welcome to Member Michael Brasher

Board members welcomed Michael Brasher to the Board.

**PROPERTY DISPOSITIONS**

Presenter: Dan Mourning, State Fair Manager; Agnes Maldonado, Acting CFO; Mark Shoesmith, Attorney for EXPO/Fair; Ken Salazar, Director of Operations

13. **New Mexico State Fair Commission – Requests Approval of 25-year Lease of 45± Acres of Real Property with the Downs at Albuquerque ($2,000,000 initial base rent annually plus participation rent, base rent increasing to $2,750,000 in third year)**

Mr. Mourning stated that the questions posed at the November 15 Board of Finance Committee have been responded to in writing and he would be glad to address all of them at this meeting.

Governor Martinez stated that there is a federal grand jury investigation underway by the U.S. Attorney’s Office; and as part of her responsibility to New Mexicans, she submitted an affidavit to each of the owners of the Downs of Albuquerque, asking them to respond to various questions because she thought it important to put all the cards on the table in reference to the Downs. She noted that she issued an Executive Order early in her administration saying that state agencies will not do any business with individuals or companies with corruption in their history, or which are the subject of a state or federal investigation.

Governor Martinez said Downs minority owner Paul Blanchard has indicated in his response that he is a witness in a federal prosecution but is not a target of the investigation, which she believes is directed at former Governor Richardson. As a former prosecutor for 25 years, she said this is a concern to her, because witnesses in investigations can end up being something other than a witness.

Pat Rogers, attorney representing the Downs at Albuquerque, stated that section 2.7 in the lease contains a morals and ethics clause. Pursuant to the Governor’s letter, each of the owners submitted a response, under oath, that was submitted to DFA and the Board of Finance. He said majority owners William C. Windham and John S. Turner, Jr., had negative responses to all of
the questions. He said Mr. Blanchard’s attorney submitted an affidavit that answered “no” to the vast majority of the questions, but did note that he expected to be interviewed, but had been promised he was not a suspect at the time.

Mr. Rogers stated that Messrs. Windham, Turner and Blanchard entered into a shareholders agreement, which has been signed, in which Mr. Blanchard agreed to escrow his shares, and forfeit them in the event that he pleads guilty or is indicted or is identified as a suspect or signs an immunity deal. He said these events are detailed in section 2.7 of the lease. Mr. Rogers said the escrow is a legally binding document. Until Mr. Blanchard is cleared, he cannot vote and is barred from any officer or management position.

Mr. Aragon noted that there is added protection in statute that, in the event an individual becomes the subject of a grand jury investigation or is subject to any of the other events mentioned by the Governor, the Gaming Commission can take up the issue. He asked Mr. Rogers if the shareholders agreement contemplates that, and Mr. Rogers responded yes, and that both the Gaming and Racing Commission have constant jurisdiction over suitability.

Governor Martinez stated that, should there be a worst case event whereby Mr. Blanchard forfeits his shares, are the other two shareholders able to purchase Mr. Blanchard’s shares or sell them, and do they need the approval of the Racing Commission to do that. Mr. Rogers responded that the commissions have constant ongoing jurisdiction over suitability, and they can inquire into the suitability of all or any of the owners for any reason. He said any transfer to a new owner automatically triggers a finding of suitability by the appropriate racing and gaming entities.

Mr. Rogers clarified that “suitability” is the investigation that anyone holding a license under the casino or racing license must undergo. He said the process is lengthy and very thorough, with extensive affidavits and interviews prior to approval, and then it is addressed in meetings with the two commissions. He said they look at financial stability and a history of honest and ethical dealings.

Governor Martinez asked for discussion on the current financial situation of EXPO.

Agnes Maldonado stated that she is Director of Administration at EXPO and oversees the accounting area. She said there is currently a $1.9 million deficit that has grown from $1.5 million in 2007. She said EXPO’s goal is to reduce the deficit to $1.2 million, and they will ask the Legislature for additional funding to clear the deficit and start over. She said Mr. Mourning has been looking at contracts and other revenue sources in an effort to increase revenues. As of today, they have transferred all of their temporary employees to a temporary agency, which has helped bring down the deficit.

Ms. Maldonado said the lease with the Downs helps EXPO maintain their current cash flow. She commented that January and February are very slow months at EXPO because there is very little activity during that time, so the money they make during the State Fair is used for the January-February timeframe. She said there is $1.2 million in the bank currently, but using it to
pay down the $1.9 million deficit would leave them with no operating funds. She said they rely heavily on the monthly income from the Downs, which also helps EXPO offset utility costs.

Mr. Mourning stated that the current lease will expire on January 11, 2012.

Governor Martinez said she read in the newspaper that the Downs had not paid a bill owed to EXPO, and Mr. Mourning clarified that this was the 1% for the race meet for which the Downs has a service contract. He said that had not been paid since 2006, and the LFC auditor agreed that the money was owed. He said the bill has now been paid in full, and the Downs has paid all of their rents and utilities and now owes nothing to EXPO.

Governor Martinez said she understood the audit was conducted after the new administration took office, and Mr. Mourning responded yes. He said the auditor was an independent auditor hired by the LFC. He stated that the auditor made it "crystal clear" in his report that EXPO is in crisis management. Mr. Mourning added that, if EXPO is going to operate the State Fair, it cannot operate without the anchor tenant because the $2 million in revenue is critical for operations. He said the previous administration thought that it was okay to run the State Fair in the red, but he feels that it should be self-sustaining and self-funded, and that is what they are working toward. He said the Legislature has expressed an unwillingness to use general funds to keep the State Fair and EXPO operating. During the LFC hearings, that was made very clear.

Governor Martinez asked Mr. Mourning to discuss the RFP process.

Mr. Mourning responded that, while there is nothing in statute requiring that an RFP process be followed in order to enter into a 25-year lease, this administration and legislators made it clear that competitive bids would have to be sought.

Responding to Mr. Aragon, Mr. Mourning stated that the prior administration was attempting in December 2010 to approve a 40-year lease without issuing an RFP and without soliciting public input.

Mr. Mourning said he attended several neighborhood meetings and met with legislators, and it was made clear to him that there would have to be an RFP process.

Mr. Mourning stated that two proposals were received after leaving the RFP process open for 32 days. He said the RFP was published in The Albuquerque Journal and was on the EXPO website, where it could be downloaded by anyone.

Mr. Mourning said an evaluation committee was selected, with the members' names made public, although that was not statutorily required.

Mr. Mourning stated that a neighborhood meeting was held on July 29, 2011, where public comment was solicited, and an executive session of one hour was held to review the RFP. He said there was a public comment period at the November 9 meeting, as well. He said these
meetings, with the notation that public comment was being requested, were publicized in a newspaper of general circulation as well as on the EXPO website.

Responding to Governor Martinez, Mr. Mourning stated that it was well known in the state that the lease was coming due, as people contacted him and asked if an RFP would be issued. He said he was quoted in the newspaper in June as saying that an RFP would be issued.

Mr. Aragon asked Mr. Mourning if a formal proposal was received from any neighborhood representative for the so-called “Central Park idea.” Mr. Mourning responded that no formal proposal was received for the Central Park idea, or for any other alternative uses of the property.

Mr. Aragon asked if the State Fair Commission agenda included possible action on awarding the RFP and Mr. Mourning responded yes, and that the resolution was passed by a 4-3 vote.

Mr. Mourning stated that he and his staff were “very satisfied with the diligence that my staff, and the hard work that was put in, as well as by my general counsel, to develop what we believe is arguably one of the strongest leases for the State of New Mexico and for the State Fair in recent history.”

Mr. Mourning confirmed for Mr. Aragon that every statutory obligation required by state law has been met to the best of his knowledge.

Mr. Mourning also confirmed that this is the best possible result, from a financial perspective, for the State Fair. He added that not a half-mile away is Winrock Mall, a Tax Increment Development District that is arguably the most valuable property in Albuquerque, and yet it is not being developed because of the state of the economy.

Mr. Mourning noted that the State Fair leased property has been reduced from 97 acres to 44 acres, and there is a lot of property left on the grounds that can be used and developed by the State Fair. He said the rent has been increased from $2 million to $2.75 million, with $3 million and participation rent occurring after three years.

Governor Martinez asked if any Democratic legislators had asked for the City of Albuquerque or some of their leadership to be involved in the RFP process, and Mr. Mourning responded that there was no formal request.

Governor Martinez asked if Mr. McSorley or Mr. Keller had expressed concern that Albuquerque didn’t have anyone from their administration involved in the RFP process, and Mr. Mourning responded that there was no concern expressed from either of those legislators. He said neither of them expressed any concern about who was on the selection committee or in the selection of the Commission.

Responding to Lt. Governor Sanchez, Mr. Shoesmith said the lease ends January 11, before the upcoming legislative session, and the lease has already been extended for two years by the Legislature and extending it further would have required legislative approval. He said that was
not done in the 2011 session, which means there would have been no lease to extend by the time this year’s session began.

Treasurer Lewis said he would recuse himself from voting because his son works for EXPO New Mexico.

Treasurer Lewis asked staff what the Board of Finance’s scope of responsibility is.

Board legal counsel Zack Shandler responded that the jurisdiction of the Board regarding leases is both constitutional, in terms of anti-donation clause issues and contingent debt clause issues; and regulatory issues. With respect to regulatory issues, the Board’s rules on leases require the parties, as part of their submittal, to provide a description of the selection process used to determine the lease, competitive sealed bid, public auction or negotiation.

Treasurer Lewis asked if there are any other outstanding legal issues that the Board should be aware of, and Mr. Mourning responded that there is a question of the 10%, or $420,000, that is due at the term of the lease on January 11, 2012.

Mr. Aragon and Ms. Clarke noted that, if and when the Board takes action to approve the lease, the protest period then starts, when notification is sent to both offerors by State Fair staff. Mr. Aragon stated that this offers additional potential relief for anyone feeling aggrieved by the process.

Governor Martinez asked Mr. Shoesmith what pieces of the RFP, voting documents, notes, etc., are part of the public record through today, and Mr. Shoesmith responded that the NM Procurement Code requires that the proposals be kept confidential, and GSD Rule 1.4.1.40 requires that that continue until an award is made. He said the statute explains that if there is not an award to the highest ranked proposer, the State Fair would be able to go to the second-ranked proposer without having the process prejudiced by having revealed the confidential proposals.

Mr. Shoesmith said the evaluation committee had the totality of the documents that made up the final proposals, and when they finished their ranking, all of the documents went back into a safe. He said the State Fair commissioners were given the opportunity to review both proposals after signing a confidentiality agreement, and several commissioners did so. He said commissioners raised issues, and several changes in the lease were then brought to the negotiation table with the Downs, and those resulted in changes to the lease.

Governor Martinez asked why this is a sole source situation.

Mr. Shoesmith responded that the Procurement Code does not govern the leasing of real property. When the administrative wanted to have a competitive procurement process for the lease, the only system in statute governing that was in the Procurement Code, and any other system would have to have been developed, and because there was no extension to the Downs lease, that made it impractical. He said the consensus was to issue an RFP using a boilerplate through the Purchasing Division of GSD.
Governor Martinez asked what the average number of days for an RFP is, based on history, even though the requirement is for ten days. Mr. Mourning responded that 35 days has been the average for many years.

Treasurer Lewis asked Mr. Shoesmith what the appeal process involves, and Mr. Shoesmith responded that the appeal would go to the procurement manager (a State Fair employee), who would turn the appeal to the Central Purchasing Office (State Fair) or State Purchasing Office of GSD, with the latter conducting what is typically referred to as a bid protest.

Lt. Governor Sanchez asked how many meetings were held to solicit comments from the neighborhoods and public.

Mr. Mourning responded that there were public meetings on July 29, September 1, and November 9. He said the community has given input prior to any of these meetings, as well, and there have been many studies done over the years of the fairgrounds, with the last major one done in 2009.

Lt. Governor Sanchez asked if these meetings were well attended, and what was the overall consensus of the neighborhood with respect to what they wanted to see at EXPO New Mexico, and Mr. Mourning responded that the meetings were well attended. He said there was not consensus on the Racino, the feeling being that there were other possible uses to consider.

Lt. Governor Sanchez noted previous discussion at the Board about the importance of the Racino (current or proposed) in the viability of EXPO New Mexico. He asked Ms. Maldonado what percentage of EXPO’s total operating revenue will be paid for through the Downs lease, and Ms. Maldonado responded 25-30%.

Lt. Governor Sanchez asked Mr. Rogers if the new lease has a provision in it addressing future development of the remaining acreage, and Mr. Rogers responded that the development of the remaining acreage is up to the State Fair and there are no additional rights of the Downs on how it might be developed. He said that could raise significant money for the State Fair.

With regard to Tingley Coliseum, Mr. Rogers said the owners will have the obligation to put on a minimum of 12 events, horse events and other obligations, including major repairs that the State Fair was previously responsible for.

Governor Martinez asked Mr. Rogers if the Downs was aware of community concerns at the time of the meetings and were they able to address the concerns expressed.

Mr. Rogers responded that, after Mr. Windham became president, he retained someone to address the neighborhood concerns. He said she has been to dozens of meetings. He stated that one significant change was to recess the casino from the corner of Central and Louisiana at the request of the neighborhood.
With respect to the issue of confidentiality, Governor Martinez asked if there were any documents that were released that should not have been released or made public, and which should have remained confidential as part of the RFP process.

Mr. Mourning responded not by the State Fair.

Governor Martinez if anyone on the evaluation committee or the Commission was party to that, and Mr. Mourning responded that he has control of the documents, and they never left his possession as far as the safe or as far as EXPO New Mexico.

Governor Martinez asked if the scoring sheets have been released, and Mr. Shoesmith responded yes. He said the evaluation committee members did not release any of the proposals; in fact, as he stated earlier, they turned them back over and they were put in a safe, where they remain today. He added, however, that an email was received showing that a portion of one of the proposals was released to the press. He said State Fair Commissioner Charlotte Rode released the documents.

Governor Martinez asked how Commissioner Rode gained access to the documents, and Mr. Shoesmith responded that he did not know.

Governor Martinez asked if the law requires that these documents remain confidential until the Board of Finance takes action, and Mr. Shoesmith responded yes.

Responding to Governor Martinez, Mr. Mourning stated that Commissioner Rode was given an opportunity to look at the two proposals after she signed the confidentiality agreement.

Dr. Clifford commented to Governor Martinez that the State Fair’s longstanding deficit has been a concern to DFA. He said the State Fair is not managed as a state agency, so does not budget through the State Budget Division. He said a state agency would not be allowed to run a deficit from year to year, and DFA will try to bring the State Fair under the Budget Act for that very reason.

Dr. Clifford said he understands the new casino building will become State Fair property at the end of the lease. He asked if the State Fair will approve the design of the building, and Mr. Mourning responded that State Fair will review all plans before they are executed. He said the lease also calls for maintenance and upgrades so that the property is in operating condition at the end of the lease.

Dr. Clifford commented that this is a valuable additional asset being transferred to the State Fair; as a component in the lease agreement, it is essentially an additional rent that the State Fair will earn, and he feels the Board should regard that as a very desirable feature of the lease.

Dr. Clifford noted some concern in the community about expansion of the racino; but recalled that, when gaming was legalized in New Mexico about 15 years ago, redevelopment and
improvement at the State Fair was a major reason in helping justify why the expansion of gaming in New Mexico was a good idea.

Mr. Mourning said that was his understanding.

Dr. Clifford commented, then, that what is being contemplated is very consistent with what was contemplated at the time gaming was legalized in New Mexico; and in that sense, it is bringing that into fruition through this lease.

Governor Martinez asked if the RFP was limited to just racinos, and Mr. Mourning responded no, it was open to any other proposal.

Governor Martinez said the “Central Park idea” would have cost hundreds of millions of taxpayer dollars because there is no one to develop it but the state, and no revenue would be generated for the State Fair. Mr. Mourning responded that was correct, adding that Albuquerque voters recently turned down a bond for a baseball field and sportsplex.

Responding to Lt. Governor Sanchez, Mr. Mourning stated that the State Fair will achieve a projected savings of $300,000 to $500,000 annually once separate meters are installed as part of the lease agreement.

Governor Martinez noted that comments were permitted to the Board of Finance. She asked Ms. Clarke to discuss those comments and other documentation in the Board packet.

Ms. Clarke reviewed the following items:

-- A letter dated December 19 from Penn National Gaming, Inc., confirming that they were contacted about their company’s interest in bidding on the RFP, and stating that they would not be interested in participating in that.

-- A letter dated December 19 from Don Chalmers, confirming that he would not be interested in developing the State Fair property.

-- A side-by-side comparison of the current lease versus the new lease, prepared by Mr. Mourning.

-- A copy of the Shareholders Agreement.

-- A letter to Dan Mourning from Ms. Clarke regarding Board staff and Board counsel’s due diligence review of the State Fair lease submission, with 99 individual Q&As, all of which have been resolved over the last two months.

Dr. Clifford said he worked with Ms. Clarke on this and thought this was a very thorough review by counsel and staff.
Ms. Clarke said the policy of the Board in general is that public comments are submitted in writing, and a few individuals and entities contacted the Board about that process. She said she advised them of the procedure, and Board members will find those comments in the electronic packet. She said a few individuals requested the email addresses of individual Board members, as well, which were supplied.

Mr. Aragon noted that Board members received letters from various legislators expressing support for the proposed lease, specifically, Rep. Sandoval, Bernalillo County; Rep. Moe Maestas, Albuquerque; Sen. Richard Martinez; Sen. Adair, Chaves County; Sen. Munoz, McKinley County; and Sen. Bernadette Sanchez. He said he did not receive any letters in opposition.

[Break.]

Mr. Aragon asked Mr. Mourning if the Morals/Ethics clause in the lease agreement allays any concerns he may have concerning the moral character, honesty and integrity of the individuals he may be doing business with. Mr. Mourning responded yes.

Mr. Aragon asked Mr. Mourning if his concerns are allayed with regard to the issues discussed previously involving the transfer of stock and holding it in trust, and issues that may be prevalent with respect to Mr. Blanchard, and Mr. Mourning responded yes.

Mr. Aragon stated that, if there are any changes to the proposed lease, it requires that these things be done in writing and submitted to the State Fair management and Board of Finance. He said this can be found in Section 18.3, and asked Mr. Rogers if that accurately reflects the intent of the Downs’ plans with respect to its conduct with the State Fair. Mr. Rogers responded yes. He said this was not clear under the previous agreement.

Mr. Aragon said Section 10.10 (Ownership of Improvements) does not include a mechanism that the State Fair board or management can follow to ensure that the tenant is current on their mortgage payments or has made agreed-upon improvements.

Mr. Rogers responded that the negotiations included the addition of a performance bond and personal performance guarantees. He said there are also default mechanisms that provide for one-way attorney’s fees for late payment and failure to abide by the other provisions, an increased penalty on that, etc.

Mr. Aragon said there is no default or liquidated damage provision at the end of the lease term, however, and a performance bond also contemplates litigation. He suggested that there be a mechanism in the lease so that whoever is manager 25 years hence could actually monitor the financing secured by the tenants to ensure that it is current.

Mr. Rogers stated that, if the Board approves this lease, construction of the $20 million facility will take place as quickly as possible because of their obligations to the Racing Commission. He said the state will have a $20 million facility, which, in the event of default,
becomes the state's property without any lien or mortgage, and any late payment triggers the beginning of a default and forfeiture under terms that are unusually strict and which are in the state's favor.

Mr. Aragon asked Mr. Rogers to state for the record that his clients do not have any concerns to disclose that they are making timely payments as to their debt service.

Mr. Rogers responded that he would believe that, under the general requirements of good faith of every contract, plus the UCC requirements of assurances, that that is a reasonable request, and on behalf of the Downs, he would commit to providing confirmation that those payments are made at the request of management.

Speaking to controversies between the tenant and the State Fair as it relates to any claims or counterclaims either may have, Mr. Aragon asked Board legal counsel Zack Shandler if he was satisfied that the provision in Section 6.1 (Base Rent) and the mutual release provided (Exhibit Q) does not violate the anti-donation clause. Mr. Shandler responded yes.

At the Governor’s request, Mr. Mourning reviewed the Expo/Downs Lease Summary & Details sheet he had prepared for the Board:

-- Under the old lease, Downs paid $2 million annually to the State Fair. Under the new lease, Downs will shortly pay over $3 million in lease payments and advertising ($2.75 million annually for base rent and $300,000 per year in advertising).

-- As reflected in Exhibit Q, the Downs releases the State Fair from any damages or claims against State Fair.

-- Under the current lease, $200,000 to $420,000 in marketing services could have been used to offset rent. There is a $300,000 per year marketing plan under the new lease that requires approval by the State Fair and Downs, which can be used toward the State Fair event and other events. This amount cannot be used to offset lease payment obligations.

-- Under the current lease, there is no participation rent. Under the new lease, if annual net win exceeds $43 million, an additional $300,000 will go to State Fair, with stepped increases based on higher net wins. There are no offsets if net winnings do not meet expectations.

-- The current Downs casino has 300 machines in an antiquated facility, and the new facility will have a minimum of 600 machines and up to 750 machines.

-- Under the current lease, the State Fair pays for all major repairs to the grandstand area, barns, etc. Under the new lease, Downs pays for all types of repairs and is required to keep racing infrastructure in good condition.

Responding to Mr. Brasher regarding the off-premise billboard, Mr. Mourning said the billboards on the property of the State Fairgrounds are under contract with Clear Channel, which
has a lease for the property where the billboards sit. Under the new lease, the tenant will pay State Fair $14,000 a year for the ability to negotiate the use of the billboards with Clear Channel. If Clear Channel removes their equipment, State Fair will continue to receive $14,000 a year for the term of the lease.

-- There are no required capital improvements under the current lease. Under the new lease, Downs is required to build the following at their expense: new casino adjacent to track (not on corner of Louisiana and Central); renovate grandstands; build new maintenance and warehouse for State Fair; construct drainage corrections for hay barn; construct and front all costs of new entrance from Central to State Fair; and build new underground gas tanks and maintenance offices. State Fair will own all improvements at the expiration of the lease.

-- Under the current lease, Downs paid only $20,000 per month of electrical and their own communications. Under the new lease, Downs pays all utilities in leased areas.

-- Under the current lease, Downs is not required to sponsor events. Under the new lease, Downs must sponsor and pay rent in advance for 12 events at year at Tingley Coliseum and 4 events at the horse arena. Downs must cover all costs of these events.

-- Under the current lease, Downs is not required to pay for use or maintenance of infield and received 2,500 free parking passes each year. Under the new lease, Downs has use of 300 parking spaces in the infield, except during State Fair, but does not receive 2,500 free parking passes.

-- Under the current lease, Downs area included the barns, infield and all land to San Pedro. The new lease gives the barns, infield and San Pedro area to the State Fair.

-- State Fair will no longer have to enter into professional contracts to run its race meet, which is 17 days in duration and is required in order to hold the horse racing license. Under the new lease, the Downs is required to meet the State Fair’s racing obligations.

Mr. Brasher said he agreed with remarks made by Sen. Bernadette Sanchez in her letter to the Governor that this is an important facility for the area and a potential economic engine for the local community. He suggested there be some mechanism whereby the Downs will hold regular formal meetings with the community to solicit input on their needs and concerns.

Mr. Rogers responded that Mr. Windham has made sure a Downs representative attends all neighborhood meetings, and that representative has attended more than a dozen neighborhood meetings and more than two dozen meetings with neighborhood leaders. He said Mr. Windham recognizes that this will not be a success without a neighborhood that is supportive. He stated that there will be open meetings of the State Fair where this could easily be a formal matter, and that would be the best forum, along with the many meetings that will take place under the new management.
Mr. Brasher asked if the Board could communicate that to the State Fair Commission, and Governor Martinez and Mr. Rogers responded yes.

Governor Martinez asked if she was correct in understanding that Mr. Blanchard will put all of his shares into escrow, no questions asked, and then the responsibility will shift to him to prove that he is not a suspect and that no indictment is pending, etc., in order to release the shares from escrow. Mr. Rogers responded yes.

Governor Martinez asked if she understood correctly that, because Mr. Blanchard’s shares will be in escrow, he will not have any management say-so, participation, or negotiation of anything that goes on at the Downs in combination with or in partnership with EXPO. Mr. Rogers responded yes.

Responding to Mr. Aragon, Mr. Rogers said his firm does not represent Mr. Blanchard.

Mr. Aragon asked if Mr. Blanchard had independent counsel as he executed the document, so Mr. Blanchard will not claim that he was not properly advised, and Mr. Rogers responded that he had no personal knowledge of that, but noted that, in signing the agreement, Mr. Blanchard acknowledged that he had either or both opportunities to consult with counsel.

[Mr. Rogers left the proceedings to catch a plane, and introduced attorney and partner Peter Franklin, who would respond to any remaining questions.]

Lt. Governor Sanchez suggested that it would be advisable for General Services or another appropriate agency to have input into the design of the casino in the event the state might want to convert it to another use at the end of the lease period.

Governor Martinez agreed.

Mr. Mourning noted that the State Fair engineers have looked over the preliminary plans and have been working at the Fairgrounds for 15-20 years, and they are well acquainted with all of the infrastructure challenges, etc.

Lt. Governor Sanchez suggested that neighborhood representatives also have some input into the design.

Mr. Aragon moved to approve the lease, as proposed, and the exhibits. Mr. Brasher seconded the motion, which passed by 5-0 by voice vote, with Treasurer Lewis recusing himself. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]
3. **APPROVAL OF MINUTES**: November 15, 2011 (Regular Meeting)

Lt. Governor Sanchez moved approval of the November 15 Minutes, as submitted. Mr. Aragon seconded the motion, which passed 5-0 by voice vote, with Mr. Brasher in abstention. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]

**SEVERANCE TAX NOTES**
Presenter: Stephanie Schardin Clarke, Director

5. **Approval of Amendment to Supplemental Severance Tax Note Resolution, Series 2011S-D**

Ms. Clarke stated that this resolution would amend the Supplemental Severance Tax Note Resolution that the Board approved last month, authorizing up to $78 million in supplemental “sponge” notes to be issued and sold to the State Treasurer at the end of December 2011. Based on additional tax data received since the November Board meeting, staff now expects the amount available to be $95-$100 million based on stronger-than-expected cash collections in the bonding fund. She said this resolution will set a maximum amount of $108 million.

Dr. Clifford asked if he understood correctly that this is money that would otherwise go into the permanent fund, and Ms. Clarke said that was correct.

Dr. Clifford asked if the Board has a policy with respect to intercepting this money for public school capital, as opposed to allowing it to go to the permanent fund. He commented that it seems as though the Board is making a decision to intercept as much as possible for the public school construction, although obviously the permanent fund is also a desirable goal.

Ms. Clarke responded that there is a standing authorization in statute, so to the extent that there is cash available and the Public School Outlay Council has certified a need and readiness for the money, the longstanding practice of the Board has been to issue as much as possible from the supplemental program. She said there is no formal written policy, however.

Dr. Clifford said that concerned him a bit. Since these are notes and aren’t being sold to the public, they are not under an obligation to use this funding for construction within a fixed period of time; so from what he understands of the process, this funding may wait a few years before the school construction actually takes place.

Rachel King, attorney with Sutin, Thayer & Browne, bond counsel, stated that the Public School Capital Outlay Council has certified to the Board at least $126 million worth of projects. She said she did not know the timetable, but they do have projects lined up to use these funds.
Dr. Clifford said he felt the Board should receive additional information from the Public School Facilities Authority in terms of how the funds are managed, and also how the improvements are made based on the “facility condition index.”

Dr. Clifford commented that the Public School Capital Outlay Council may have a plan that requires design and phasing of the construction process that can take 3-4 years before buildings are actually constructed. He said this should be an important consideration for the Board when it votes, as the money may not be going directly into construction right away.

Mr. Aragon agreed that this is a concern, as money is essentially sitting around for a period of time without being put to work. He suggested that the Board investigate the possibility of turning this into an administrative process overseen by DFA.

Ms. Clarke said she would invite the staff of the Public School Facilities Authority to appear before the Board at the next meeting and present an overview of timelines for expenditures and the facility condition index.

Ms. Clarke stated that, with respect to action from the Board on this agenda item, the sweep will occur on December 31 regardless of what the Board does today – the bonds will be issued or the transfer into the permanent fund will take place. If the Board takes no action today, the bonds could be issued at a maximum of $78 million, which would leave $20-$25 million for the permanent fund.

Dr. Clifford suggested that the Board develop an articulated policy for the future.

Mr. Gasparich moved for approval with the condition that there be a presentation at the next meeting of the Public School Facilities Authority. Mr. Brasher seconded the motion, which passed 6-0 by voice vote. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]

PRIVATE ACTIVITY BONDS

18. Withdrawn.

Presenter: Jon Barela, Cabinet Secretary Designate, Economic Development Department

19. **Private Activity Bond Presentation**

Secretary Barela appeared before the Board to discuss the idea of pursuing using Private Activity Bond resources for economic development and job creation.

Secretary Barela made a slide presentation, with the following highlights:
Economic Development Department mission is to create jobs by making sure there is infrastructure in the community, especially rural communities, and that it also have access to capital by expanding businesses, small business, and those who wish to relocate to New Mexico.

Private Activity Bonds provide an option to broaden EDD’s role by getting communities “development ready” and by providing additional low cost financing for manufacturers and small businesses.

Now that the student loan program has been nationalized, about $278 million in PAB monies has become available for other activities as provided for by law. Allowed types of projects for economic development purposes are: “exempt facilities” such as utilities, airports and waste disposal facilities (including water distribution facilities and sewage treatment centers, which are of particular importance to New Mexico); and “small issue” economic development purpose bonds up to $10 million for manufacturing facilities, which EDD wants to grow robustly.

EDD is requesting that at least $75 million of the annual PAB cap be reserved for its purposes. Projects would be reviewed in cooperation with the Board of Finance.

Secretary Barela said EDD has interested businesses approach staff on a daily basis. He said EDD has a finance team, ready to go, to vet and review businesses. He said there would be no additional resource allocation needed.

Secretary Barela said the ED Division Financial Development Team would partner with the Board of Finance on the following:

- Determine financial strength and viability of a business/project
- Validate revenue potential
- Review business plan
- Evaluate the technology for manufacturing readiness
- Assess the economic impact and job growth potential of the business/project
- Draft a project recommendation
- Increase awareness of PAB financing.

Secretary Barela said the following potential projects could collectively create 150 jobs in primarily rural areas of New Mexico:

- Modular housing manufacturer (potentially moving from Colorado)
- Explosive suppression safety device manufacturer
- Virtual reality hardware systems for Department of Defense
- Green building materials manufacturer

Dr. Clifford said that, if the Board develops a policy for managing this program going forward, he would want EDD to keep track of and inform the Board of the cumulative amount of
public money being invested in these projects. In that context, it would be helpful to know the total public contribution per job that is anticipated from each project.

Secretary Barela responded that EDD has developed a set of guidelines that it will apply toward all Local Economic Development Act applications. He said those guidelines would apply very nicely to Dr. Clifford's request.

Dr. Clifford commented that he would be interested in counsel's opinion about the Board's fiduciary responsibilities in using federal money, because essentially it is allocating federal tax receipts, and that comes up in several other contexts through the NMFA programs that use the New Market Credits, as well as the State Small Business Credit Initiative.

Board legal counsel Zack Shandler said he would investigate this issue and provide formal advice.

Addressing Secretary Barela, Mr. Brasher noted that, later in the agenda, the Local Government Division will be requesting approval for upgrades in the E-911 grant program for various New Mexico counties, which will be buying equipment and services through GSA contracts. He said often the money for that goes to national firms, and suggested that EDD look at the possibility of seeing how that money might go to a New Mexico firm instead.

[Governor Martinez left the proceedings.]

**STATE TREASURER'S OFFICE**

Presenters: James B. Lewis, State Treasurer; T. Spencer Wright, Interim Chief Investment Officer

4. **Monthly Investment Reports for Month-ended October 31, 2011**

**Executive Summary**

-- US Treasury yields in five year and shorter maturities were virtually unchanged during October.

-- Equity markets returned close to 10% for the month as it appeared there would be a resolution to the Greek Debt crisis. This euphoria proved to be fleeting.

-- US economic recovery still being held captive by events in Europe as day-to-day market volatility remained extremely high.

-- Federal Reserve is still on hold with regard to monetary policy until 2013, keeping the Fed Funds rate close to zero for the foreseeable future.
All of the portfolios reported gains on a mark-to-market basis. The general funds were up about $6.7 million, and bond proceeds funds were up $5.3 million. LGIP and Severance Tax Bonding Fund unrealized gains were not meaningful.

Monthly performance on the portfolios was positive, however, the general funds and bond proceeds funds lagged slightly behind their benchmark indices.

The general funds have narrowed their trailing 12-month performance versus the blended benchmark to a -9 basis point difference. Yield enhancement via portfolio duration extension, as well as improved handling of cash balances, have been the main contributors to overall improved performance.

LGIP still ranks in the top quartile when measured against peers, and continues to be a very attractive short-term investment vehicle on a risk/reward basis.

Investment earnings for the general funds was $1.1 million; for the bond proceeds funds, $1 million; for LGIP, $184,000; and for the Severance Tax Bonding Fund, $20,000.

During October, STO maintained average daily collected balances at the fiscal agent bank of approximately $158 million, earning a soft dollar credit against processing fees.

Consistent with the investment policy, STO continued to lengthen duration when appropriate.

STO has enhanced portfolio yields by taking advantage of the steep yield curve between two and five year maturities.

US Government Agency callable structures have been attractive investments versus Treasuries. STO has maintained high quality and liquidity across the portfolios.

DEPARTMENT OF FINANCE AND ADMINISTRATION
Presenter: Joyce Johnson, Special Bureau Chief, Local Government Division

Requests Approval for Enhanced 911 Fund Expenditures ($5,656,337)

Ms. Johnson requested approval for Public Safety Answering Point (PSAP) upgrades for Bernalillo, Chaves, Cibola, Curry, De Baca, Doña Ana, Lea, Lincoln, Los Alamos, McKinley, Quay, San Juan, San Miguel, Sierra, Taos, Union and Valencia counties from the E-911 grant program funding and to make statewide network upgrades. She said the total requested is $5,656,337.

Ms. Johnson stated that the network upgrades are paid for through cash balances, and the department uses current year’s revenues to pay for ongoing recurring costs such as phone bills,
maintenance costs, training, and things of that nature.

Ms. Johnson said $8.8 million was available this year for network upgrades. She said PSAPs next on the replacement schedule were notified that they were due for upgrades and should solicit quotes to present to the Local Government Division. She said $3.1 million remains, and they anticipate returning to the Board in late spring to seek approval for seven PSAPs due for upgrades.

Mr. Brasher said he was hopeful that some of the necessary products and services essential to the 911 system might be available at some point from New Mexico businesses.

Responding to Dr. Clifford, Ms. Johnson said constantly evolving technology has accelerated the replacement schedule. She said they are aiming for five years and would like a three to five year replacement schedule, with a five to seven year schedule at the outside. This year, they are replacing some equipment that is nearly ten years old; however, by the end of this year, they should be on a five-year replacement schedule, which is very encouraging.

Responding to Dr. Clifford, Ms. Johnson said revenue projections were rather grim last year, but then revenues came in at about $1.5 million higher than anticipated. She added that E-911 revenues tend to be volatile, but right now they are on track. She said the 51-cent tax on each cell phone in New Mexico has helped grow revenues.

The Board wished Ms. Johnson well in her retirement after 19.5 years of employment.

Responding to Mr. Gasparich, Ms. Johnson said statute does not allow the state to capture revenues from VOIP, although the state provides E-911 service to VOIP.

Mr. Gasparich moved for approval. Mr. Brasher seconded the motion, which passed 5-0 by voice vote. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]

GENERAL SERVICES DEPARTMENT
Presenter: Charles Gara, Director, Property Control Division


Mr. Gara reported financials for the Capitol Buildings Repair Fund, with a beginning balance as of October 1 of $16,939,076. After cash receipts and cash disbursements, the ending balance at October 31 was $16,822,014. Subtracting encumbrances, the uncommitted cash balance as of October 31 was $386,783. Year to date revenues total $1,894,464.

Mr. Gara said there were no emergency declarations in October.
8. Property Control Division – Requests Approval to Adopt January-June 2012 Schedule of Repairs for Buildings in Santa Fe ($2,423,216)

Mr. Aragon moved for approval. Mr. Brasher seconded the motion, which passed 5-0 by voice vote. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]

PROPERTY DISPOSITIONS
Presenter: Amy Haas, Attorney, Office of the State Engineer

9. New Mexico Interstate Stream Commission – Requests Approval for Sale of 157 Acres of Land in Eddy County ($61,850.00)

Ms. Haas requested approval of the sale of 157 acres of dry land in Eddy County. She said the land was appraised at $51,000 and offered to the original owner as per the process set forth through statute. The original owner declined to purchase the property, and ISC therefore made it available for purchase by a third party through a competitive bid process. She said two bids were received, for $61,850 and $61,000, respectively, and the ISC awarded the property to the highest bidder. She said the ISC will retain all water rights originally appurtenant to the land.

Board legal counsel Zack Shandler stated that the appraisal is somewhat out of date, which is not a problem. Pursuant to Rule 1-5-23-11(c), the Board may waive the provision of an appraisal within the last 12 months, provided the requested party can demonstrate that other documents are provided that satisfy the rationale for submitting the item, and the state’s interest still will be sufficiently protected. He said legal staff advises that the most recent letter from the appraiser is legally sufficient to waive this provision.

Mr. Aragon moved for approval. Mr. Brasher seconded the motion, which passed 5-0 by voice vote. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]
Presenter: Nasha Torres, Attorney

11. **Ruidoso Municipal School – Requests Approval of Trade of Real Property with the Village of Ruidoso (approximate value of each property $52,260)**

Ms. Torres requested approval on behalf of the Ruidoso Municipal School District to trade approximately two acres of real property to the Village of Ruidoso in exchange for about two acres received from the Village of Ruidoso.

Board legal counsel Zack Shandler requested that approval be contingent upon the following: 1) Director receipt of the final sale agreement; and 2) Director receipt of either a copy of either the USDA Secretary of Agriculture’s quitclaim deed to the Village of Ruidoso on Tract 2B, or the USDA Secretary of Agriculture’s written approval of a program of educational training for Ruidoso High School students on Tract 2B.

Ms. Clarke advised that staff has the final sale agreement, but there is one area where one of the parties has not yet initialed.

Mr. Aragon moved for approval, subject to the two contingencies. Treasurer Lewis seconded the motion, which passed 5-0 by voice vote. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]

12. **WITHDRAWN.**

**HIGHER EDUCATION DEPARTMENT**

Presenter: Lisa Martinez, Capital Projects Coordinator, HED

14. **New Mexico Military Institute – Requests Approval of Main Street Sign ($100,400)**

Ms. Martinez stated that Facilities Vice President David West could not be present because of poor traveling conditions in snowy weather.

Ms. Martinez requested approval of the replacement of NMMI’s existing sign at the intersection of College Avenue and Main Street. The existing sign, erected in the 1980s, was made of a metal post and clad with sheet metal, and used hundreds of incandescent bulbs, which are very inefficient by today’s standards, and they cost the school $3,000 annually to replace. She said the new sign would incorporate LED technology, have wireless capability and modern software, and the supporting structure would incorporate the brick color and style defined by NMMI architecture.
Mr. Aragon moved for approval. Mr. Gasparich seconded the motion, which passed 5-0 by voice vote. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]

Presenter: Lisa Martinez, Capital Projects Coordinator, HED

15. **Western New Mexico University – Requests Approval of Request for Budget Increase for Chino Building Renovation (increase budget from $2,495,000 to $2,893,200)**

Ms. Martinez stated that University President Joseph Shepard could not be present due to poor weather conditions.

Ms. Martinez requested approval of a budget increase for the renovation of the Chino Building. The Board approved the renovation project in September 2010 at a budget of $2,495,000. Pursuant to NMAC 2.70.4.11, any change in a higher education capital project resulting in a change in the budget of more than 10 percent requires re-approval by the Board. She said the budget increase relates to cost that were significantly underestimated – specifically, mechanical, plumbing, and electrical.

Ms. Martinez said this renovation is one of three major renovation projects associated with enhancing the utilization of existing space and includes upgrading electrical, mechanical and plumbing systems; addressing ADA compliance; environmental abatement; installation of an elevator; exterior finishing; interior finishing; and landscaping.

Ms. Martinez stated that, without this renovation, the IT staff will continue to work in outdated space that is inadequately powered and has insufficient climate controls, which could result in computer system fatal failure. Additionally, it will impact the renovation of the other buildings in this project.

Ms. Clarke said the project will be paid for from several state appropriations: a $2 million general obligation bond appropriation from 2008; $400,000 from a 2009 STB appropriation; and the additional funding is from another 2008 general obligation bond appropriation.

Dr. Clifford asked why the cost was underestimated and what steps have been taken to prevent this from happening in the future.

Ms. Martinez responded that this was an unusual situation, where Western had an architect put together the proposed estimates, and the original estimate on the electrical work was $50,000, which is closer to a residential project as opposed to commercial. She said she was not sure how that happened, but HED would work to ensure that something like this does not happen again.

Mr. Aragon moved for approval. Mr. Gasparich seconded the motion, which passed 5-0 by voice vote. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]
Presenter: Vahid Stapes, UNM Budget Officer, Office of Planning; Lisa Martinez, Capital Projects Coordinator, HED

16. University of New Mexico Hospital – Requests Approval to Install Chiller Line to the Hospital Pavilion ($1,000,000)

Ms. Martinez requested approval of the installation of a new 16-inch diameter supply and return chilled water line system from University Hospital Main Central Plant to the Main Hospital. The new piping will be routed from the central plant through University Hospital Main second floor roof and basement to existing chases to access the main supply lines. The new lines would supply the normal and emergency chilled water requirements of that pavilion.

Mr. Brasher asked whether HED checks to see that UNMH requests go through the Bernalillo County Commission, since UNMH has a lease agreement with Bernalillo County.

Mr. Staples responded that there is no requirement to go through that process.

Mr. Brasher said the Bernalillo County Commission should nonetheless be informed when these projects are requested.

Responding to Dr. Clifford, Mr. Staples said gross receipts tax is included in the $1,000,000 but was inadvertently not listed.

Mr. Brasher moved for approval. Mr. Aragon seconded the motion, which passed 5-0 by voice vote. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]

**EMERGENCY FUND BALANCES**

Presenter: Stephanie Schardin Clarke, Interim Director

22. Emergency Balances – December 2011

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Reserve Fund</td>
<td>$1,191,814.39</td>
</tr>
<tr>
<td>Emergency Water Fund</td>
<td>$118,400.00</td>
</tr>
</tbody>
</table>

Ms. Clarke reported these balances.
PRIVATE ACTIVITY BONDS (Cont’d)

Presenter: Stephanie Schardin Clarke, Director

20. Private Activity Bond Subcommittee – Recommendations and Allocation for 2011 Carryforward

21. Private Activity Bond Subcommittee – Recommendations and Allocation for Calendar Year 2012 Private Activity Bond Cap Percentages

Ms. Clarke thanked Mr. Aragon for working with her in coming up with these recommendations to the Board.

Addressing Item 20, Ms. Clarke stated that, of the amount that was made available federally for the State of New Mexico in 2011, only $62 million was issued, and that was by the MFA for single-family bonds. She said the remaining $215,820,000 is available for carryforward, which needs to be allocated to a specific project such as single-family bonds or a manufacturing project. She said the only entity that is eligible to receive a carryforward allocation at this point is the single family MFA. She said staff and the subcommittee therefore recommend allocating the entire $215,820,000 to MFA for single family.

Ms. Clarke noted that this allocation will put them ahead significantly of their need, based on MFA Director Jay Czar stating last month that they would need $180 million for the year. She said they have three years to use carryforward, so pre-funding them in effect gives the Board a lot of flexibility in future calendar years, if some very large unforeseen need comes up, MFA is essentially taken care of for a while.

Addressing Item 21, Ms. Clarke stated that the recommendation was $50,000,000 for single family and $40 million for multifamily, and there are no specific projects that have requested “Other” cap, with the exception of Economic Development Secretary Barela’s request for $75 million in that category, where $187,820,000 is available. Ms. Clarke said the total amount available for 2012 is $277,820,000.

Mr. Aragon recommended that a minimum of $75 million be set aside in the “Other” category in consideration of Secretary Barela’s request.

Ms. Clarke commented that the actual amount to be requested by Economic Development is not known at this point – it could be significantly less, or EDD could take longer than expected, and she did not want the Board to tie its hands if the cap could be allocated elsewhere for worthy projects, which are customarily addressed on a first-come-first-serve basis.

Item 20: Mr. Aragon moved approval. Mr. Brasher seconded the motion, which passed 5-0 by voice vote. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]
Item 21: Mr. Aragon moved approval of the following allocations: $50,000,000 for Single Family; $40,000,000 for Multifamily; and $187,820,000 to “Other.” Mr. Brasher seconded the motion, which passed 5-0 by voice vote. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]

Presenter: Stephanie Schardin Clarke, Director

22. **Approval of Private Activity Bond Allocation Deposit Reimbursements**

Ms. Clarke reported that, pursuant to the Board’s rule on Private Activity Bonds, the Board collects an allocation deposit of $250 per million allocated for each approved allocation. Upon a determination that an allocation has been used for its intended purpose, the Board may direct staff to refund the allocation deposits; otherwise, the funds are deposited in the State general fund. There was only one allocation in 2011, and it was made to the Mortgage Finance Authority for single-family bonds. MFA paid a $15,500 allocation deposit. MFA did issue the full $62 million in 2011. Therefore the Board may direct staff to return the $15,500 allocation deposit.

Mr. Gasparich moved to return the deposit to the recipient. Mr. Aragon seconded the motion, which passed 5-0 by voice vote. Mr. Spencer did not vote. [As per the Board’s Open Meetings Resolution, when there is a quorum in person, telephone votes are not counted.]

[Mr. Spencer, who was attending by telephone, signed off from the proceedings.]

**STAFF ITEMS**

Presenter: Stephanie Schardin Clarke, Director

23. **Eighth Amendment to Fiscal Agent Agreement with Wells Fargo Extending Card Acceptance Agreement with American Express**

Ms. Clarke said staff has negotiated an eighth amendment to the fiscal agent agreement with Wells Fargo. She said Wells Fargo has its own separate agreement with Visa and MasterCard companies, but does not have one with American Express. For state agencies to be able to accept American Express as a payment option, the Board has a separate agreement with American Express, and it becomes an exhibit to the fiscal agent contract. She said the Board would be extending the termination date of the AmEx agreement to its maximum allowable date of December 1, 2012, and then incorporating it into the fiscal agent agreement.

Mr. Aragon moved for approval. Mr. Gasparich seconded the motion, which passed 5-0 by voice vote.
24. Approval of Board of Finance Meeting Schedule for 2012

Ms. Clarke presented the draft meeting schedule for the next calendar year. She said the Board would meet every third Tuesday at 9:00 a.m., but would not meet in August and in January would meet on the third Wednesday.

Mr. Gasparich moved for approval. Mr. Aragon seconded the motion, which passed 5-0 by voice vote.

25. A. Notice of Request for Proposals for Arbitrage Consulting and Compliance Services

Ms. Clarke stated that the Board has three contracts that are nearing their four-year maximum, and the first is arbitrage consulting and compliance services. Since the Board is the issuer of tax-exempt bonds, it has to closely monitor investment earnings to make sure that, if there are any additional earnings above what the IRS allows, those are computed and rebated to the IRS in accordance with their rules.

Ms. Clarke said staff will draft and issue the RFP, solicit bids, and return to the Board at a future meeting with a recommendation.

B. Approval of Appointment of Request for Proposals Subcommittee for Arbitrage Consulting and Compliance Services

Ms. Clarke said staff wants to make sure the Board has as much input as desired into the RFP drafting process. She added that she discussed with the Governor and some Board members the appointment of a subcommittee of a maximum of three Board members to review the draft prior to issuance.

Ms. Clarke stated that Treasurer Lewis and Mr. Spencer have indicated an interest in serving on the subcommittee.

Mr. Aragon moved approval of the two appointments. Mr. Gasparich seconded the motion, which passed 5-0 by voice vote.

26. Fiscal Agent/Custodial Bank Fees

Ms. Clarke reported that fiscal agent and custody bank services are in line with historic averages, but billings are reduced significantly because the State Treasurer is holding higher balances at the fiscal agent bank to earn soft-dollar earnings credits.
27. **Joint Powers Agreement**

Ms. Clarke reported that no Joint Powers Agreements were approved during the month of November 2011.

**ADJOURNMENT**

Its business completed, the State Board of Finance adjourned the meeting at approximately 3:00 p.m.

_Susana Martinez, President_

1-18-12

_Date_

_John Gasparich, Secretary_

1/18/12

_Date_