MINUTES OF THE
NEW MEXICO STATE BOARD OF FINANCE
REGULAR MEETING
Santa Fe, New Mexico
February 19, 2013

A Regular Meeting of the New Mexico State Board of Finance was called to order by Governor Susana Martinez on this date at 9:46 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 [leaving at 11:08 a.m.]
The Hon. John Sanchez, Lt. Governor [leaving at 9:49 a.m.]
The Hon. James B. Lewis, State Treasurer
Mr. Robert J. Aragon, Public Member
Mr. Michael Brasher, Public Member
Mr. John Kormanik, Public Member

Members Excused:
Mr. Del Archuleta, Public Member

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

Staff Present:
Dr. Thomas 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: March 19, 2013

Lt. Governor Sanchez moved to approve the agenda as presented. Mr. Aragon seconded the motion and it passed by 6-0 voice vote.

Governor Martinez asked to review the proposed agenda with staff prior to its publication.

3. **APPROVAL OF MINUTES:** January 16, 2013 (Regular Meeting)

Mr. Brasher moved to approve the minutes of January 16, 2013 as presented. Treasurer Lewis seconded the motion and it passed by 6-0 voice vote.

**EMERGENCY FUND BALANCES**

Presenter: Stephanie Schardin Clarke, Director

4. **EMERGENCY BALANCES — January 2013**

<table>
<thead>
<tr>
<th>Fund</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Reserve Fund</td>
<td>$618,987.87</td>
</tr>
<tr>
<td>Emergency Water Fund</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

Ms. Clarke presented the balance of the Operating Reserve Fund and indicated that the Emergency Water Fund was depleted. She reported that the budget that was expected to be passed by the House was likely to include $400,000 for repayment of DFA’s emergency loan for cash reconciliation remediation. If that loan is repaid, the Board will be able to reallocate those funds this fiscal year.

[Lt. Governor Sanchez left the proceedings at 9:49 a.m.]

**DEPARTMENT OF FINANCE AND ADMINISTRATION**

Presenters: Jolene Slowen, Deputy Director, Local Government Division; Jeanette Gallegos, Special Services Bureau Chief; Bill Range, E-911 Assistant Bureau Chief; Erika Wilson, PSAP Manager

5. **Department of Finance and Administration, Local Government Division — Requests Approval for Enhanced 911 Fund Expenditures ($1,788,366.58)**

Ms. Jeanette Gallegos requested approval of expenditures from the Enhanced 911 Fund on behalf of 14 counties for Public Service Answering Points (PSAPs) totaling $1,788,366.58, which included $38,310.90 as an emergency request from the City of Albuquerque. She introduced her fellow presenters who could answer technical questions and also members of law enforcement and PSAP directors who used the
equipment on a daily basis. PSAPs are dispatch centers that used by all law enforcement personnel.

Dr. Clifford referred to the five-year projections in the binder and recalled a concern two sessions ago about the revenue coming from fees on telephone service that would be depleted over the next several years. He asked Ms. Gallegos to address the financial outlook for the fund.

Ms. Gallegos agreed a declining revenue was projected but assured that they would not spend more than what they had. They would have to push the replacement cycles out to 8 or 9 years if the revenue was not available.

Dr. Clifford pointed out that $4.4 million in FY13 was much larger than what was projected in the future years and asked why it was so much higher than normal.

Ms. Gallegos explained it represented installations not completed in prior years that had to be carried forward. The $4.4 million was a running balance of equipment purchases representing a couple of years' of equipment not yet purchased.

Mr. Range explained that it took several months to install the projects and he provided a list of PSAPs approved at the July Board of Finance meeting that were not yet installed. There was always a backlog. It could take up to a year or more from the time of approval to installation. This request was only for equipment purchases.

In response to Dr. Clifford's question, Ms. Gallegos said the program operating budget was not typically approved by the Board but they were asking DFA legal counsel to investigate whether the operating budget should be approved by the Board.

Dr. Clifford asked if the $600,000 administrative surcharge went to DFA.

Ms. Gallegos responded in the affirmative. It was for Local Government Division to cover the costs of the program. The E-911 Fund covered certain training and administrative costs but not salaries or brick and mortar.

Mr. Kormanik asked what the rationale was for a five-year replacement cycle.

Mr. Range said it was an industry best practice to refresh equipment on a five-year cycle. During the last few years the cycle became longer but now with revenues coming back up it reverted to the 5-year cycle. Some states tried to go longer but the risk goes up and with a catastrophic failure the 911 calls had to be shifted to another PSAP.

Mr. Kormanik asked if it was because the equipment deteriorated or because it became obsolete.

Mr. Range said it was more due to obsolescence. The state needed to keep up with the
Dr. Clifford commented on the recent revenue stream erosion by pre-paid phone card sales, which were not subject to the tax, and he had concerns about the proposal to collect that at the retail level. He asked if they had cooperation now from those sales.

Ms. Gallegos said there was no requirement to collect the surcharge with prepaid phone service.

Ms. Slowen added that they were looking at revenue trends on an ongoing basis and revenues had the potential to decline because of the loss of land lines and proliferation of wireless. She saw more future declines and agreed to provide a report on it to the Board within a month.

Mr. Brasher asked how old the price agreements for purchase of this equipment were.

Ms. Slowen said they were issuing a new bid request right now and would get new price agreements soon.

Mr. Brasher said, regarding the Bernalillo County emergency situation, that he hoped they could get a reimbursement from the equipment provider. He asked if that should be pursued.

Ms. Erika Wilson, Albuquerque PSAP Director, clarified that the emergency situation had been at the City of Albuquerque rather than Bernalillo County. She said an air conditioning motor failed and caused the batteries to degrade and they were probably only hours from having a significant hazmat fire.

Mr. Brasher said the batteries ought to be cooled, and the installation should have included equipment that allowed for a failure of the HVAC system. But at this altitude they should have survived without cooling, and he thought they should seek reimbursement from the supplier.

Ms. Wilson said the battery failure was from lack of cooling for several days in a room not normally checked on. They have since mitigated that problem by installing a monitor alarm for if the HVAC failed in the future.

Governor Martinez was concerned about the delay from July when some equipment was approved and still not installed seven months later. She wondered if they would be installing equipment whose design was old. If they wanted to have the latest and best she questioned the installation delay.

Mr. Range said the grants had to be updated and signed. Eventually the supplier will build the units, which were made to order rather than pulling existing systems off the shelf, with the latest equipment. It took time to order them and work with local PSAPs.
with meetings on the design. It all took time and he felt it was best done right instead of fast.

Dr. Clifford asked if each PSAP contracted separately or if they were coordinated through the state.

Ms. Slowen clarified that the Local Government Division had a price agreement for all PSAPs and that the Division was in the process of further streamlining the process.

Mr. Brasher proposed that the technical details could be approved beforehand with an approved plan before asking for Board approval. It should be a substantially completed application by the time the request came to the Board. It ought to be a matter of approving use of the E-911 money and then making minor modifications to an essentially complete project.

Mr. Brasher moved to approve the request. Mr. Aragon seconded the motion, and it passed 5-0 on a voice vote.

**FINANCING APPROVALS**

Presenters: Shawn Lerch, Chief Executive Officer, Miners' Colfax Medical Center; Tom Potesta, Chief Financial Officer, Miners' Colfax Medical Center; Paul Cassidy, RBC Capital Markets; Eric Harrigan, RBC Capital Markets; Peter Franklin, Modrall, Sperling, Roehl, Harris & Sich, P.A.

6. **Miners’ Colfax Medical Center – Requests Approval of Refunding and State Improvement Revenue Bonds, Series 2013 ($16,000,000)**

Mr. Lerch presented the request of the Miners’ Colfax Medical Center (MCMC) to refinance at a lower rate for a net savings of about 10 percent and to allocate new monies for a new medical clinic. MCMC was the sole community hospital for the area serving over 13,000 persons and over 22,000 for obstetrical services. They were the only obstetrical provider for more than 100 miles. MCMC was founded in 1904 to provide acute care to injured miners and now served all residents of northeastern New Mexico with a 47 bed long term care facility to serve injured miners and a nationally best in class black lung mobile clinic to do diagnostic and screening for miners throughout New Mexico.

Mr. Lerch continued that Colfax County has seen a decrease in its economy and three percent decline in population. They lost over 64 percent of primary care providers and today only had six. Part of the strategy was to build a rural medical clinic that would be cost-based reimbursed to help recruit physicians to serve residents, at least four to provide internal medical and ob/gyn. At present, their residents had to wait three to four weeks to see a primary care provider.

MCMC had been working closely with the State, County Manager Don Day, City Manager Pete Kampfer and Economic Development Director Christopher Reed on how
this project could attract new businesses.

Dr. Clifford asked for details about the financing.

Mr. Cassidy said he was working with MCMC on refinancing their 2004 and 2006 bonds issued through NMFA. The interest rates were 3.8 and 3.9 percent to be paid by 2026. The refinancing would lower the fixed rate to about 2.55 percent but could vary since the best bid was based on LIBOR plus seven basis points. The annual cash flow savings would be significant. With present value calculation it would be about $1.219 million over the life of the bonds. Consequently they would be able to refinance that debt and add $3 million new money for the clinic financing, keep debt service payments level at $1,300,000 per year and extend the debt to 2027. It was a private placement and not rated by S&P or Moody’s. He thought this was in the best interests of MCMC.

In response to Dr. Clifford, Mr. Cassidy said the revenue pledged was what was permitted under state law from the Permanent Fund. The revenue from their four funding sources was about $8.2 million per year, which was a very comfortable margin.

Mr. Lerch clarified that a small part of that $8.2 million would fund operations but most of operating revenue came from third-party payers. Total revenue was $19.2 million including the $8.2 million. With the land grant revenue they were authorized through the legislature to take out amounts that last year totaled $5.4 million based on their budget.

Mr. Cassidy clarified that the annual debt service of $1.3 million was for the bond debt, which was MCMC’s only debt. Consequently they were just looking to permanent fund revenues to cover the debt.

Dr. Clifford understood that a portion of the $8.2 million permanent fund revenue was appropriated at $5.4 million for MCMC operations and the remainder was for bond financing.

Mr. Lerch disagreed. Right now MCMC had $110 million in the land grant permanent fund and from that the most revenue, coming from minerals, gas and land use, was put into their operating trust from which they were allowed a certain allocation each year for the operating budget, typically between $5 million and $5.5 million.

Mr. Kormanik asked if the $8 million in permanent fund revenue was used to secure the bonds or if $5.4 million was dedicated to operating the hospital and the balance was to secure the bonds.

Mr. Poteste said revenue was projected this year at about $6 million and $5 million for FY 14 for operations and debt service.

Mr. Kormanik asked what ratio was used to secure the debt.
Mr. Cassidy said the legal documents required two times coverage of revenues for debt service. MCMC was one of 19 land grant institutions that owned the permanent fund and other funds. The fund earned money every year and last year was about $8 million. The legislature appropriated money both for debt service and for operations and by law the appropriation for debt service had to be paid. It was an interesting set of financial and legal covenants. So however it was divided between those two purposes the debt service was covered several times over.

Dr. Clifford asked if the bondholders were comfortable waiting for the legislature to appropriate their debt reimbursement.

Mr. Poteste explained that under the state institution bond statute the annual debt service constituted a “super priority” rating. There was a legal guarantee that debt service must first be paid on the first distributions of permanent fund revenue. So the statute made that revenue available irrespective of the appropriation for the other needs at MCMC. It was a statutory pledge.

Mr. Aragon reviewed the revenue and dedication to debt service situation for his own clarification.

Mr. Lerch agreed that $1.3 million was dedicated for debt service and the remainder for operations of the hospital and long term care facility. Revenue from third parties was about $13 to 14 million annually, of which none was used for debt service and whatever was not used in the operations trust remained in the trust for future use.

Mr. Aragon said he understood that the refinancing covered the 2004 bonds, the 2006 bonds, and $3 million more for construction of the clinic. He asked what the debt service would be.

Mr. Cassidy said $1.3 million covered all of it.

Ms. Clarke handed out the final version of the resolution and apologized for having a draft resolution in the electronic agenda.

Mr. Aragon asked what impact this would have if it were rated.

Mr. Lerch said with this strategy they wanted to improve their financial stability and not have to rely on the operations trust. As an example, hiring a family practice physician would take $190,000 for salary but would generate $740,000 in revenue. In the 1960's there was an attempt to dismantle the land grant and raid the fund. The federal court ruled it could not be touched so it had to be restored.

Dr. Clifford asked if the fund’s land grant appropriation were to be increased whether their distribution would increase.
Mr. Lerch said their portion was completely separate. There were 100,000 acres set aside exclusively for the MCMC.

Dr. Clifford suggested they might get money from the State Land Office as well as the permanent fund. From the $8.2 million, only $5.4 million would be used leaving almost $3 million current surplus on the table so he didn’t understand why they were bonding $3 million more instead of using it out of current revenue for the construction of the clinic.

Mr. Lerch agreed they would have a surplus but with the current low cost of money it made sense to borrow for that purpose. The current surplus would remain in the operations trust that was managed by the State Treasurer.

Dr. Clifford opined that investing the surplus with the Treasurer would not benefit MCMC on interest given current low returns on the Treasurer’s portfolio, whereas if it was in the permanent fund it would generate more return.

Mr. Lerch clarified that with the $8.2 million it was still up to the legislature to approve and there was a statutory limit. The MCMC liked flexibility in using those funds. The population was aging rapidly and they were looking at an assisted living complex since there was no other assisted living available in that region now.

Mr. Aragon understood they could take $3 million out from their bank account.

Mr. Lerch explained it was in the operations trust which they couldn’t touch without legislative approval.

Mr. Aragon asked why they wouldn’t just ask for legislative authority to use that money and save the costs of the bond sale also.

Dr. Clifford noted that MCMC’s total expenditures were about $19 million so the question was how stable that money was.

Mr. Lerch agreed the balance had been volatile during the recession and to remain viable MCMC would like to have that cushion.

Mr. Poteste added that MCMC relied on the operations trust regardless of the economy. Last year they took out $2 million on top of what they normally took.

Mr. Kormanik asked what would be the problem with refinancing the two bonds and going to the legislature to request $3 million for capital expenditures.

Mr. Lerch agreed they could try that strategy. The detriment might be whether they could open up the center if they used all of that account balance. There were a lot of unknowns in the health care world at this time. This would just give them a financial
stability while maintaining a present value savings of over 10 percent.

Mr. Kormanik pointed out that MCMC would get the present value savings associated with the refunding regardless. He wondered if MCMC’s reserve requirements precluded doing that.

Mr. Lerch agreed it did come down to looking at history and preserving enough reserve. Their intent was to maintain that buffer within the operating trust.

Dr. Clifford offered his staff to work with hospital management and to come back with a more comprehensive view of their strategy if that was agreeable.

Governor Martinez cautioned that the Board had to have a unanimous approval for this to take place and more information might help MCMC gain unanimous approval. She noted that in the hospital operations $1.3 million was paid out for overtime. Much of that was for on-call expense. With overtime, a $190,000 salary could become $250,000.

Mr. Lerch said he would be meeting at 1:30 with Mr. Moser of the State Personnel Office. Currently, anything over 40 hours was considered overtime. MCMC didn’t pay physicians overtime although it showed up that way in the state system. As they tried to recruit more physicians he had to remedy that position.

Mr. Cassidy, responding to Mr. Aragon on the cost of issuing bonds, said that the costs will be the same whether the bonds include or exclude the $3 million new money proceeds.

Mr. Aragon moved to postpone this matter to the next meeting. Mr. Kormanik seconded the motion.

Dr. Clifford asked if a one-month delay would cause any difficulty.

Mr. Lerch said it depended on the market.

Mr. Cassidy added that they just needed to make sure the winning bidder was willing to hold that rate.

Mr. Kormanik asked if the bids would be substantially different if the issue didn’t include the extra $3 million.

Mr. Cassidy said it would not.

The motion to postpone to the next meeting passed 5-0 on a voice vote.
PROPERTY DISPOSITIONS

Presenters: Al Sena, RRPS Facilities Director; Jared Quient, Vice President, Project Development, AMSolar International; Charlotte Hetherington, Legal Counsel for RRPS

7. **Rio Rancho Public School District – Requests Approval of Grant of Two Easements of Real Property to AMSOLAR, LLC ($100 Annual Rent Plus Services)**

Ms. Hetherington presented the request to approve the easements to AMSolar for solar photovoltaic (PV) facilities at Cleveland and Rio Rancho High Schools. The facilities would be connected into the school and on the other side with PNM's grid. The easement term was 20 years, as was the separate solar power purchase agreement (PPA) with AMSolar.

Mr. Sena said Mr. Quient could give details on the cost savings anticipated from the PV systems at these high schools.

Dr. Clifford asked if staff had a contingency for this matter.

**Mr. Shandler said if the Board wished to approve this item, staff recommends that it be made contingent upon: (a) Director’s receipt, with counsel review, of the final signed easement; (b) Director’s receipt of the final Power Purchase Agreement for Board records and (c) Director’s receipt, with counsel review, of verified legal descriptions contained in the easements.**

Mr. Shandler explained that staff's review for this transaction was for legal sufficiency with the easement. Staff’s review of the supporting document, the PPA, was limited to its use for verifying legal sufficiency of the easement. As such, the board staff accepted at face value the calculations and assumptions contained in the School District’s 25-year projections regarding savings relative to public electric service rates and understands that the District accepts any liability associated with those projections, which form the basis for the market value consideration being provided; board staff accepted at face value the ability of the school district to procure services through a PPA that may be interpreted to extend for a period beyond the limits provided for in the procurement code, which if not allowed, would interrupt the flow of services in lieu of monetary consideration and should trigger revocation of the easement; and board staff did offer suggested modifications to the PPA regarding the deletion of potential contingent debt issues, such as arbitration clauses and indemnification clauses and warranties, as well as end of agreement issues such as the District’s potential future ownership of the property items, return of the site to original condition, liquidated damage penalties, as well as corrections in phasing and terminology. The District was made aware of these issues through meetings and written correspondence. In the District’s December 31, 2012 letter, the District stated its position that it does not have to modify the PPA document.

Mr. Shandler continued that board staff interprets this letter to mean the District has...
been made aware of and accepts the risks and benefits contained within the PPA as part of their basis of the bargain with the contractor and assignee, Washington Gas Energy Systems Incorporated.

Mr. Brasher understood Mr. Shandler reviewed the lease agreement. The PPA just needed legal sufficiency but asked if that was stated anywhere.

Mr. Shandler explained that the approval in question was not a lease agreement but an easement. The PPA review was limited to legal sufficiency of the easement.

Mr. Brasher said he wished he knew more about PPAs. He was glad to have language added to restore the site to its original condition and didn’t know the value of the equipment after the 20 year period.

Mr. Shandler stressed that he didn’t know if that language was added to the agreement, but it was part of his proposed suggestions in the PPA that the District had an opportunity to consider. He deferred to the District to state what changes they thought needed to be made based on Board staff’s proposed changes.

Ms. Hetherington responded that there was an exchange of letters in December before this came to the Board in January. Mr. Shandler raised a number of questions for which the District made changes to the easement to address staff’s concerns and that required them to reconcile changes in the PPA with the easement. So they made revisions to the PPA as well as the easement in the areas of arbitration, warranties and return to original status of site and some other reconciling language was added to the PPA.

Ms. Hetherington continued that she believed she had provided a revised draft PPA to staff that reflected the changes to the PPA and the easement. If she had not provided the PPA she would do so. She provided the information about the PPA so there would be a context for granting the easement, but the authority of the Board, as she read the statute, was to look at “the dirt aspect of the transaction.”

Mr. Brasher understood what she was saying but didn’t think it was as clear as Ms. Hetherington stated. The Board had a responsibility to look at these agreements. He was just not comfortable with PPAs because he didn’t know much about them. His concern was about what was best for the Rio Rancho Schools. It would be good to look at a model PPA to see what was best for the school.

Ms. Hetherington replied that if there was a model PPA she was not aware of what it looked like. The PPA with AM Solar, now assigned to Washington Gas, based on her own experience, was similar to other PPAs she had seen. It provided that the public body would enter into a contract with AM Solar and projected what the savings would be for the purchase of power from the use of the PV facility.

It contained calculations on predicted energy cost savings over the term of the
contract. What was used in the negotiations were the known costs for energy over the last three years plus what was known about PNM’s projected rate increase and those factors were developed into the schedule to calculate the cost savings over the next 20 years.

Mr. Brasher noted there were a number of law firms that did this and he talked with one of them about the parameters for PPAs. It was something to look at as the Board dealt with them for guidance.

Mr. Kormanik understood that the easement was granted at no cost because the location would not interfere with school use of property and could not be used for any commercial purpose. But he reasoned if it could be used for solar arrays, then it could be used for commercial purposes. In his mind the property had potential commercial use because the school could sell the energy to the power company. So he could not follow the logic that it had no value.

Ms. Clarke said that was at the heart of staff’s struggle with the PPA. A fair market analysis was conducted and reviewed by the Property Tax Division and they looked at that secondary document, the PPA, for consideration in addition to the $100 for the easement. Staff felt it was legally sufficient and at or above fair market consideration when the energy savings services against PNM’s rates.

Mr. Sena said the identified property location at Rio Rancho High School was bounded by the high school in a traditional area surrounded by the district. Also the terrain was in an escarpment for which the school had no educational use. At Cleveland High School, the facility was designed to be upgraded over time. It had a buffer to the public way and there were 400 wells under the parking lot for a heat pump system so it would never be used for any other commercial development purpose. Another part was being planned for parking facilities for athletic events. So they were basically making best use of the land for the district’s purpose. The PPA would allow a significant net savings and utility use was the predominant use of those facilities.

Mr. Kormanik concluded that the $100 was not really the total reimbursement, but the savings would be the reimbursement.

[Governor Martinez left the proceedings at 11:08, and Mr. Brasher chaired the remainder of the meeting.]

Dr. Clifford asked if they had more than one bidder for the solar project.

Mr. Sena said they issued an RFP a year and a half ago, got four responses and decided on the best one.

Mr. Aragon moved to approve the easement subject to conditions read by staff. Treasurer Lewis seconded the motion.

Mr. Aragon knew this was a rapidly changing industry and this was RRPS’ business.
It was imaginative and he agreed with their assessment of the Board’s role in it, but he could foresee that the equipment might become obsolete in a few years because of technology advances. He thought the industry would continue to change. He had asked people in the industry and determined that some five-year old equipment was obsolete today. He was concerned about that premise and aware that the Board’s responsibilities might go beyond the statute. He hoped the solar industry would make rapid strides. If the technology was made obsolete in a few years, he asked if that obligated the company to update the facility. This approval was committing the school district for 20 years in spite of the possibility of obsolete technology.

The motion passed 4-0 by voice vote.

8. WITHDRAWN

9. WITHDRAWN

10. WITHDRAWN

Presenters: Katherine Ulibarri, Vice President of Finance and Operations; Charlotte Gensler, Director of Purchasing and Materials Management; Henry Mignardot, Capital Projects Coordinator, Higher Education Department

11. Central New Mexico Community College –Requests Approval of Ground Lease of Real Property at 5816 Isleta SW to Youth Development Inc. ($5,200 Annually Services, in Lieu of Cash Rent)

Ms. Ulibarri presented the request.

Mr. Shandler said if the Board wishes to approve this item, staff recommends that it be made contingent upon Director’s receipt with counsel’s review of the final signed lease.

Ms. Ulibarri clarified that CNM had a signed lease to deliver today for the Board’s review. This property was at CNM’s south valley campus located on Isleta Blvd. SE, about three miles from Rio Bravo. It was a very small campus of about 2,500 square feet where CNM wished to continue a lease with Youth Development Inc. (YDI). YDI installed a modular building and a playground for a Head Start child care program.

Students at community colleges were young working people trying to fit education in with other aspects of life. Those life issues, such as children, could make them quit their education. So at most campuses CNM provided a referral service to help students. But at this location there were limited providers in the community and CNM wanted them to have access to a quality preschool program, thus giving students a better chance to finish their education. The lease was in place from 1998 when the school was known as TVI. The approval process was also different at that time. After the lease expiration they went
month-to-month and now wanted to make it right by seeking the Board’s approval for a new lease.

Mr. Aregon asked if this lease was exclusively for the Head Start program. Ms. Ulibarri agreed.

Mr. Aregon noted that on Friday, the US Department of Education determined the Head Start program was a “non-start by the third grade” and Head Start children had fallen behind peer students not from a Head Start program.

Ms. Ulibarri was aware of these conclusions, but countered that for students at a higher education institution, having children cared for meant students could stay in school.

Mr. Aregon understood Ms. Ulibarri was suggesting this Head Start was primarily a day care but the federal program was supposed to be an educational program. He wished the parties would acknowledge what Head Start was and what it wasn’t. If CNM wanted to have a day care center then it should be advertised as a day care center. The federal funders have acknowledged it was a failure.

Mr. Aregon indicated he was going to vote for the lease, but just wished someone would acknowledge it was a failure for education. Having two parents involved in parenting was the real cure. It was just a way politicians could sell themselves to say they favored Head Start.

Mr. Brasher asked if this was a comprehensive child development program that had on-site visits.

Ms. Ulibarri agreed. The conclusion for Head Start overall might show it wasn’t successful. But this one was in partnership with the CNM campus and helped their students get associate degrees and their Head Start students, at the time they entered kindergarten, were much more likely to be able to count to 20 and know the alphabet so it was the partnership of what happened at the center and the interaction of the children with their student-parents that made the program successful.

Mr. Brasher asked about openings for other children.

Ms. Ulibarri said at least 50 percent of enrollment was reserved just for CNM students’ children. The remaining students came from the surrounding community.

Dr. Clifford asked if the students were provided this service at no cost.

Ms. Ulibarri agreed and said that the reserved places were only for full-time students enrolled in 12 or more credit hours and their CNM records were checked. Non-student parents were covered by federal reimbursement based on income criteria.
Mr. Brasher asked if the care providers were certified. Ms. Gensler agreed they met the requirements to be certified as a Head Start provider.

Mr. Aragon added that it was a partnership with parents to participate in the Head Start program.

Mr. Shandler said he and the staff had reviewed the signed lease and it was legally sufficient, so he requested withdrawal of the proposed contingency.

Mr. Aragon moved to approve the lease. Mr. Brasher seconded the motion and passed it 4-0 on a voice vote.

Presenters: Mike Delello, Deputy Secretary; Erin McSherry, General Counsel

12. Department of Cultural Affairs – Requests Approval of Amendment of Lease of Real Property with the Santa Fe Botanical Garden to Increase Premises ($4,267 Annually)

Mr. Delello presented an amendment to the lease of 1.6 acres with Santa Fe Botanical Gardens to increase the land leased to 2.4 acres and increase lease payments by $1,267 from $3,000 to a total of $4,267 annually based on the appraisal reviewed by the Property Tax Division of the Taxation and Revenue Department.

The increased land area would create necessary additional space for the Botanical Garden as well as allow for a contiguous border with land owned by the City of Santa Fe that was provided to the Botanical Garden for their use. The DCA felt it was a productive use of the land that otherwise would lie fallow. It potentially would bring increased revenue to the other museums located there. The DCA also hoped to partner with the Botanical Garden on educational programs for children.

Dr. Clifford asked if there were concerns from the neighborhood about the use of this facility.

Ms. McSherry said there were none that she was aware of.

Dr. Clifford asked if they had done any outreach around the community.

Ms. McSherry said there were no inquiries and this was all internal to museum property and bordered by city lands.

Mr. Kormanik asked if there was any residential property contiguous to the expansion property, to which Mr. Delello said there was none.

Mr. Aragon moved to approve the lease amendment. Mr. Kormanik seconded
the motion, and it passed 4-0 by voice vote.

**HIGHER EDUCATION DEPARTMENT**

**Presenters:** Henry Mignardot, Capital Projects Coordinator, Higher Education Department; Greg Walke, University Architect

**13. New Mexico State University Requests Approval of Pan American Center Roof Replacement ($2,762,650.00)**

Mr. Mignardot said the Higher Education Department certified the project’s budget and it was reviewed by the budget committee. The project would replace the entire membrane roof of the Pan Am Center and included some structural repairs. The assessment of the severity of damage to the roof and deck structure recommended replacement to avoid further damage. The building was 45 years old and the roof over 25 years old.

Insufficient drainage caused the damage and the roof would be replaced in the project. It would have the same type of roof. Scheduled work would begin during the spring of 2013 and be completed in the fall of 2013. The damage required continual monitoring and if not corrected, further interior damage would result.

The costs would be paid from 2003-2004 Institutional Revenue Bond interest earnings. The Pan American Center was included in the original language when those bonds were issued, and debt service would be paid from student fees that were considered to be in the scope for those bonds.

The Board of Finance approved the funds for this project in 2003 and 2004. NMSU has approved the debt service on these bonds.

Mr. Kormanik asked if the original issues in 2003 and 2004 were project funded bonds.

Mr. Mignardot clarified that $12 million were from bonds and $8 million were provided over time by the State. The source of funding for the bonds was from the proceeds of the Pan American Center.

Mr. Kormanik asked what the membrane would be for the new roof.

Mr. Walke said it was modified SBS roofing with a metallic surface. The original roof was 25 years old of the same type.

Treasurer Lewis asked if once installed the weight on those walls would need further work.

Mr. Walke said they looked at the issue of the building structure. At one time they considered adding insulation but the structure was now at maximum weight capacity so
they wouldn't add more insulation to the roof. They would replace the mineral fiber deck that had deteriorated but the building couldn't support more weight.

Dr. Clifford asked if they had a maintenance plan to address how to prevent the drainage problem in the future.

Mr. Walke answered in the affirmative. One of the primary functions would be to redirect drainage. There were sections of the perimeter than did not flow to drains and most of the problem was from that so this would redirect water to the drains and reduce maintenance needs.

Mr. Kormanik asked what kind of warranties they would have on material and labor.

Mr. Walke said it was a 15-20 year warranty on materials and labor. That was standard for this type of roof.

Treasurer Lewis asked what the completion of construction date was.

Mr. Walke said it would be in the fall. They were ready to go out for bids, start construction in the spring and finish by January 2014. They wanted to start now in order to be ready for basketball season.

Mr. Aragon moved to approve the request. Mr. Kormanik seconded the motion, and it passed 4-0 on a voice vote.

STATE TREASURER'S OFFICE

Presenters: James B. Lewis, State Treasurer, Linda T. Roseborough, Chief Investment Officer

Ms. Roseborough presented the investment report as of December 31, 2012.

Unrealized gains in the General Fund portfolio were $10.0 million and for the Bond Proceeds pools the unrealized gain was $3.9 million. The changes in unrealized value for the General Funds were $2.4 million and for the Bond Proceeds pools it was $0.4 million.

At the end of December, weighted average purchase yield for General Fund Liquidity was 0.63 percent; General Fund CORE was 0.79 percent; Bond Proceeds - Tax Exempt was 0.65 percent; Bond Proceeds- Taxable was 0.70 percent; Local Government Investment Pool was at 0.20 percent and Severance Tax Bonding Fund was 0.55 percent.

She noted that these rates appeared to be high but were at a particular point in time in December when high repo rates were being offered.
Investment earnings for General Funds were $1,252,822 in December and $7,428,483 fiscal year to date. Bond Proceeds Funds were $518,249 in December and $3,884,116 fiscal year to date. LGIP earnings were $101,095 in December and $715,553 fiscal year to date. Severance Tax Bonding Fund earnings were $43,792 in December and $147,605 fiscal year to date.

The Treasurer’s Office continued to work with SBOF and DFA to maintain average collected balances with the fiscal agent bank at a $130 million average balance.

For the investment policy compliance review, during the month of December STO had a ratio of primary and secondary bond transactions in the bond portfolios in a ratio of 35 to 65 percent. With regard to specific transactions the STO did all of its bond trading on electronic trading platforms so there were no issues there. Variable rate and structured note holdings at the end of the month showed General Fund Liquidity at $20 million and LGIP at $100,500,000. There was nothing to report on transaction variances as transactions occurred with a reconciliation process.

Ms. Roseborough added one new item to her investment policy compliance review. In the audit this year, an item noted as an audit item and appearing to be a concern to the auditors was leaving cash balances with the custodial bank (not the fiscal agent bank). The custodial bank was the clearing bank for all security transactions. The contract was administered through the Board of Finance. She explained that cash balances could result at the custody bank due to rounding errors, failed trades or human error. All of these causes were considered through the current custody bank contract with a curing period of 48 hours.

STO was addressing this issue with internal and external legal counsel to answer two main questions: Were these balances considered deposits in the custodial bank? Was JP Morgan not a eligible to become a depository institution since they didn’t have brick and mortar in New Mexico? They brought JP Morgan and STO investment consultants into the conversation. Once they got clarity on how to report the cash balances they would report back to the Board.

Ms. Roseborough continued that there were some potential cures recommended. If the balances were considered state deposits, STO would have to collateralize them. JP Morgan offered to do that but there would be costs for additional administration. In response to the question of funds being safe in the institution, if they were less than the FDIC insured maximum of $250,000, they would be protected by FDIC insurance and for amounts over that, JP Morgan could sweep excess balances to an overnight government sweep account. STO didn’t want to violate any statute.

Mr. Aragon asked when they anticipated curing it.

Ms. Roseborough said it was anticipated to be cured before the next meeting. The deposit amounts could range from pennies to millions.
Treasurer Lewis said they had also had the auditor and the investment advisors sitting in on these conversations. Each state was different. They were trying to work through the language to figure it out. STO had a core competency corps of investment managers to address the matter in order to be compliant.

Dr. Clifford asked Ms. Roseborough regarding the General Fund summary how the General Fund could outperform its benchmark by 63 bps over the last twelve months. He asked if she could describe that benchmark and the performance over the past 12 months.

Ms. Roseborough recalled she had updated the Board with their new benchmarks and she could get those from her binder for the Board. The rationale for changing benchmarks at the time was that they didn’t reflect current portfolios. They had JP Morgan go back and review those statistics, once with the old benchmarks and once with the new benchmarks. This now reflected the accurate benchmarks for those portfolios.

Dr. Clifford noted on the second page of her presentation it stated the average purchase yields and didn’t know what time period that yield referred to. Then on page 638, it stated the General Funds outperformed the benchmark by 63 bps over the last twelve months so it appeared the benchmark was essentially zero. He asked if it was the one-year treasury or a ladder.

Ms. Roseborough said the General Fund liquidity was 100 percent S&P investment for a duration of 30 days.

Dr. Clifford thought it just seemed to be setting the bar kind of low.

Treasurer Lewis said trying to find the right benchmarks was not the easiest task. A lot of the benchmarks they had in the past did not adequately measure their performance.

Dr. Clifford acknowledged it was a thorough review and could vouch for that. They did need to err on the side of caution, which might explain those conservative benchmarks.

Treasurer Lewis asked Ms. Roseborough for an update on disclosure.

Ms. Roseborough recalled at the last meeting that the State Treasurer, as paying agent for Severance Tax Bond Series 2008A-1, had not redeemed interest per the agreement. The interest payment of $1.6 million was due on January 1 but was paid late.

Mr. Aragon asked if this was appropriate to talk about in open session.

Mr. David Buchholtz, Disclosure Counsel to the Board, said the Treasurer had not briefed him on what they intended to say. He had heard nothing on this matter since the Board’s last meeting. He cautioned that if the Board felt there were matters that were
involved in challenges or threats of litigation that the Board needed to be careful about what was said in the public meeting and think about whether they should go into a closed session.

Treasurer Lewis said instead of going into the whole presentation he would report that STO met with their compliance officer and had contacted DTC to inquire about any penalties that the State may be subject to as a result of the delinquent payment. DTC had reported that the delinquent interest was cured timely and there was no penalty or interest associated.

Ms. Clarke clarified that at its last meeting the Board requested a monthly report on the status of the State Treasurer’s review of internal controls.

15. Quarterly Investment Reports for Quarter-Ended December 31, 2012

Ms. Roseborough’s report was presented above.

GENERAL SERVICES DEPARTMENT

Presenter: Charles Gara, Director, Property Control Division


Mr. Gara presented his report.

Dr. Clifford asked if there were any requests from executive or in legislative proposals for the use of these funds. Mr. Gara said there were none and confirmed that this fund was specifically used for repair of buildings in Santa Fe and that his agency had not made any request for appropriations through the Legislature.

Ms. Clarke clarified for the record that in an earlier version of the CBRF report there was an emergency declaration under Section D, but in the final report that emergency was removed because the sewer line repair at the PERA Building was not allowed as an emergency project from this fund. So Property Control Division was deciding what to do with the emergency request, and would report back to the Board in the future.

Mr. Kormanik asked if that was a potential transaction included in these numbers or if the $394,000 was excluded from the final report.

Ms. Clarke said it was not included. The funding source for that sewer line project was in limbo now. Property Control Division had suggested another project that was authorized by the Board in 2011 for replacement and repair of mechanical systems, but this request was not appropriate use of that project balance.
Dr. Clifford noted there was a long report on “Project Nothing Drops” and asked if it included everything the Property Control Division did. Mr. Gara agreed.

Dr. Clifford asked if these hundreds of projects were all active.

Mr. Gara said they were although some might be on hold waiting for federal grant money or for another reason. They weren’t all in construction, but some were awaiting a bid coming in. The longest one on hold was the Santa Theresa Port of Entry at around nine years. A portion of that project went out to bid.

Dr. Clifford said this report was helpful to him in his capital function. He asked if the list had been updated for estimated completion date.

Mr. Gara responded in the affirmative. It was updated monthly for estimated completion. He agreed to provide this report in Excel format to the Capital Projects Bureau as requested by Dr. Clifford.

Mr. Kormanik asked what the funding source was on these projects.

Mr. Gara explained the source was shown under the project number.

**STAFF ITEMS**

*Presenter: Stephanie Schardin Clarke, Director*

17. **Appointment of Board of Finance Subcommittee Members**

   A. **Private Activity Bond Committee**
   B. **Banking Committee**
   C. **Committee on Reviewing State Treasurer’s Audit Process**

Mr. Brasher asked Ms. Clarke to report her recommendations for subcommittee appointments. She said that with new board members having been recently appointed to the Board, there were vacancies to be filled on the Board’s Banking Committee and STO Audit Committee. To the Private Activity Bond Committee, membership could remain unchanged with Member Brasher and Member Aragon serving. The Banking Committee could continue to be chaired by Treasurer Lewis with newly-appointed member Del Archuleta as an additional member. The STO Audit Subcommittee could continue to be chaired by Lt. Governor Sanchez with newly-appointed member John Kormanik as an additional member.

**Treasurer Lewis moved to approve the appointments as recommended by staff.**
**Mr. Aragon seconded the motion, and it passed 4-0 by voice vote.**
18. Fiscal Agent / Custodial Bank Fees

Ms. Clarke said recent fiscal agent invoices were as expected. Earnings were significantly higher than in the past as a result of the higher balances held at the fiscal agent.

She reported that staff was preparing for issuance of RFPs for fiscal agent and later for custody bank services. The SIC, PERA and ERB now each have their own authority for custody bank. She heard unofficially that ERB was anticipating issuing its own RFP rather than being under the SBOF umbrella, but she had not heard from the others.

Dr. Clifford asked what would happen if money for the purpose of transitioning fiscal agents wasn’t included in HB 2.

Ms. Clarke thought it was best, having gone through two painful transitions in 2006 and 2010, to request a contingency appropriation. If there was no funding for transition and the State did move to a new fiscal agent bank, it would draw money away from other projects at the State Treasurer’s Office and the Financial Control Division. The RFP timeline she was planning included twice as much time for the transition as the 2010 timeline had allowed.

Dr. Clifford agreed that a contingent appropriation would solve that problem.

Mr. Kormanik asked if the requested contingent appropriation was from the General Fund. Ms. Clarke agreed.


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

Board members welcomed Mr. Kormanik to the Board and thanked him for agreeing to serve. Dr. Clifford shared some of Mr. Kormanik’s experience in State government.
ADJOURNMENT

The meeting, on motion by Mr. Aragon and second by Mr. Kormanik adjourned at 12:18 p.m.

Susana Martinez, President

3-25-13
Date

Michael Brasher, Secretary

3/19/2013
Date