MINUTES OF THE
NEW MEXICO STATE BOARD OF FINANCE
REGULAR MEETING
Santa Fe, New Mexico
July 17, 2012

A Regular Meeting of the New Mexico State Board of Finance ("Board") was called to order on this date at 9:11 a.m. in the Governor’s Cabinet Room, Fourth Floor, State Capitol Building, Santa Fe, New Mexico.

1. ROLL CALL: QUORUM PRESENT

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

Members Excused:
The Hon. John Sanchez, Lt. Governor

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

Staff Present:
Dr. Thomas Clifford, Secretary of Finance & Administration [arriving at 10:57 a.m.]
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: SEPTEMBER 18, 2012

Mr. Brasher moved to approve the agenda as published. Treasurer Lewis seconded the motion, and it passed unanimously 6-0 by voice vote.
3. **APPROVAL OF MINUTES: June 21, 2012 (Regular Meeting)**

   Mr. Aragon moved approval of the June 21, 2012 minutes as presented. Mr. Spencer seconded the motion, which passed 6-0 by voice vote.

4. **APPROVAL OF MINUTES: June 28, 2012 (Special Meeting)**

   Treasurer Lewis moved approval of the June 28, 2012 minutes as submitted. Mr. Brasher seconded the motion, which passed 6-0 by voice vote.

**EMERGENCY FUND BALANCES**

Presenter: Stephanie Schardin Clarke, Director

5. **Emergency Balances – July 2012**

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

   FY13 Operating Reserve Fund  $1,291,667.00
   FY13 Emergency Water Fund   $  118,400.00

**EMERGENCY FUNDING REQUEST**

Presenter: Arthur W. Pepin, Director

6. **Administrative Office of the Courts – Requests Approval of Conversion of Loans to Grants or Payment Extension to July 1, 2013 for Six Emergency Loans (Total of 1,478,000)**

   Mr. Pepin presented a bifurcated request with the Administrative Office of the Courts’ (AOC) preference being forgiveness of the loans made by the Board of Finance in 2008, 2009 and 2010 pursuant to the loan forgiveness policy adopted by the Board on October 18, 2011. He said that his letter of June 26, 2012 outlined the qualifications for this request being considered in sections b through e. He pointed out that AOC had first requested the funds as grants, and they were provided as loans.

   If the Board decided not to forgive the loans, then AOC’s alternate request was to have the repayment extended to July 2013. He had requested an appropriation of $1,478,000 from the legislature in 2012 that was denied, and he would ask again this year. His office has not been appropriated the money to repay the loans since they were incurred in 2008.
Ms. Clarke referred to page 45 of the Board’s electronic materials for the spreadsheet AOC provided. She pointed out that the column for FY13 showed a projected shortfall of about $111,000 and asked how the AOC planned to address the shortfall.

Mr. Pepin said the legislature exempted the AOC from the minimum hourly pay of $7.50 so that it could pay jurors at $6.25 per hour and be able to operate within the appropriation provided for the jury/witness fund in HB 2. He explained that the courts had no control over how much would be needed for juries and interpreters. For instance, it was less expensive to provide certified translators in Spanish than in other languages that AOC might need to provide. He believed $111,000 was a good projection but that it may also not materialize, depending on the number and type of cases they encounter. Without an appropriation from the legislature, the AOC would have to seek a loan from the Board of Finance for any shortfall. Shutting down the courts was not an option. The last option would be to further reduce jurors’ pay to try to avoid another shortfall.

Mr. Brasher moved to convert the loans to the Administrative Office of the Courts to grants. Treasurer Lewis seconded the motion.

Mr. Aragon stated that he was not sure whether the breakdown of communication was in the AOC or the legislature. The courts are a separate branch of government and deserve the dignity of an environment as set forth in the constitution to provide a jury trial by “a jury of your peers.” But the Board has dealt with this issue three times since he has been a Board member. It was either a systemic problem in the courts or LFC was not doing its job. The Board is not the place to deal with these issues. A jury trial is not within the Board’s purview. There is an appropriate process for budgets to be submitted and for the legislature to consider the projected costs. A jury is a legitimate cost. The legislature needs to get their house in order. The Board is not the place to take care of this recurring appropriation shortfall. The AOC needs either better communications with the legislature or the legislature needs to deal with the problem according to the constitutional obligations.

Governor Martinez noted that in 2009 the legislature allowed the reduction of minimum wage to prevent this from coming back.

Mr. Pepin agreed and stated that was why AOC didn’t need to ask for additional funds in FY 11 and 12.

The Governor asked how much more was being generated from fixing the minimum wage issue in those fiscal years. Mr. Pepin responded that it provided about $450,000 to $500,000 more in the jury fund. He explained that New Mexico had the highest wage for jurors of any state in the country. AOC brought the bill twice to lower the juror wage, but it was extremely unpopular and did not pass. The new budget request would include enough funds to pay those costs in 2013 but when House Bill 2 gets approved many things can happen. Jury costs may be under control by reducing pay. Interpreter pay is of concern, but it is a constitutional imperative.
Governor Martinez said there is nothing worse than when there is pressure from a judge to settle cases because jury/witness funds are low.

The motion passed 6-0 on a voice vote.

DEPARTMENT OF FINANCE AND ADMINISTRATION

Presenters: Sam Ojinaga, Deputy Division Director; Bill Range, Emergency Number Professional, Project Management Professional

7. Department of Finance and Administration, Local Government Division – Requests Approval for Enhanced 911 Fund Expenditures ($2,936,301.81)

Mr. Ojinaga was present on behalf of 15 counties to request approval of the proposed equipment expenditures out of the department’s 911 fund. He explained that the amount of each purchase is set by state pricing agreements. The fund is used to replace Public Safety Answering Point (PSAP) equipment on a five year cycle and to pay for PSAP phone bills and equipment maintenance. Mr. Range, several PSAP members, and members of law enforcement community were also present with him.

Mr. Brasher confirmed that vendor selection was based on three quotes from vendors and asked if there were local vendors who could provide the necessary equipment. Mr. Range clarified that the majority of vendors are national companies like Motorola and Century Link who have a strong presence in New Mexico but are not necessarily based here. Much of the equipment is manufactured in California and Canada.

Mr. Brasher asked if some more generic equipment could be broken out and purchased locally, to which Mr. Range explained the price agreement process is a package deal, but that the vendors purchase individual items from many sources. They used nationally recognized companies like Motorola Solutions or CenturyLink who had a significant presence in New Mexico. To break project bids out would be difficult. However, there is already local vendor presence on the service side. He gave some examples.

In response to Mr. Brasher’s question about firmware long term support, Mr. Range said the programs are supported for five to seven years and both software and firmware are updated as updates come out. Mr. Brasher said the cost of maintenance should be included in the bid for the equipment.

Mr. Spencer moved approval of the request. Mr. Brasher seconded the motion, which passed 6-0 on a voice vote.
HIGHER EDUCATION DEPARTMENT

Presenters: Henry Mignardot, Capital Project Coordinator; Dr. Jim Fries, President, New Mexico Highlands University; Max Baca, Director of Technology & Government Relations

8. New Mexico Highlands University – Requests Budget Increase for Student Union Facility ($25,434,865)

Mr. Mignardot said the Higher Education Department had certified all four of the Higher Education Department’s requests for this meeting. The projects were designed to meet all Executive Orders for green building standards.

The first request was for New Mexico Highlands University at $25,434,865 for a student center/dining hall. This project had been revised for reconsideration with an increased cost of more than 10 percent. He described the location and uses of the 67,800 square foot facility that included food services, a book store, a post office and meeting areas.

The current cafeteria was on the second floor of a 45 year old dormitory with its kitchen in the basement, requiring food to be carried to the second floor by hand. He said the current cafeteria is completely outdated and not conducive to campus life today. The existing student center was a converted gym and is not centrally located.

The project revision came at the termination of a contract with Makwa Construction on February 27, 2012, when NMHU enlisted Franken Construction to complete the work after repeated unsuccessful efforts to work with Makwa.

The new dining area has a capacity for 400 students and includes areas for food preparation and storage, student and faculty dining and separate areas for small groups. The design meets LEED silver certification.

Several funding sources, including severance tax bonds, real estate proceeds, general funds and general obligation bonds, are involved.

Mr. Mignardot reported that the Higher Education Department approved this request based on the current 60 percent completion of the project with a condition that a written plan be submitted within 90 days to verify how the university would complete the building without further cost overruns. HED recommends issuing student based revenue bonds based on student fees sufficient to cover the difference between the original budget submission and the updated budget submission. The total project budget is $25,434,865 and proposed completion date is December 2012.

Dr. Fries noted that the project had been approved by the Board three years ago and believed the budget was adequate at the time and he had to admit and apologize that they were back to ask for more help. The student center will be one year late and is significantly over budget. The university is going to “rob Peter to pay Paul” because it
was well beyond the 10 percent overage. The project started in 2008 with an architect and went out for bid on construction in 2010. The two low bidders were relative unknowns who technically met the qualifications but in hind sight were not the right firms.

Dr. Fries stated that the university got into a serious time crunch and the funds would have reverted on June 30, 2010 if they had not been under contract by then. The university Board of Regents approved a contract with Makwa Construction but had problems throughout. In the materials submitted to the Board are details about these problems, including going through three sets of building supervisors. Ultimately, the university’s own construction management team and the architects were providing the oversight. The contractor was constantly submitting change orders and the university hounded the contractor for coordination drawings and construction schedules. Dr. Fries said he believed the university did its best and was diligent in making demands for performance.

After many complaints and lack of activity, the contractor was terminated and was now subject to eight lawsuits of which six were by the State of New Mexico. It has been a perfect storm of a project. The university board has hired legal counsel to advise on legal options and gave notice of intent to terminate the contract. They met with Makwa and their parent company of Arizona, but promises were made but not kept.

Dr. Fries said his biggest naiveté was his belief that bonding agents give you leverage. Here, the bonding company used the same legal counsel as the contractor. The bonding company, when told of the intent to terminate the contract, told the university they would immediately appoint Makwa to finish the project. Dr. Fries said the university did not believe Makwa was capable of finishing the project even if the requested change orders were approved, so the contract was terminated for convenience.

Dr. Fries continued that this project is critical for NMHU so the university retained Franken Construction, located in Las Vegas, to help evaluate current status and get the project moving and completed.

Ultimately, Franken replaced a number of sub-contractors. The good news is that the project is going well with good management and is well mobilized with 40 people usually working on it. The project will be done in December but is well over budget.

Dr. Fries said he met with Superintendent Dee Dennis of the Regulation and Licensing Department and Larry Maxwell of the State Purchasing Division to report NMHU’s experience with this contractor and to get ideas for what NMHU might be able to do in these circumstances. NMHU continued to meet with legal counsel and to evaluate options that the Board of Regents may pursue. State Purchasing Division is building a system to more routinely capture post-project information on performance of contractors and Dr. Fries fully supports that.
In response to Mr. Aragon, Dr. Fries said NMHU had not initiated lawsuits against Makwa. There are currently eight lawsuits against Makwa, with six from the State of New Mexico and none from NMHU.

In further response to Mr. Aragon, Dr. Fries explained regarding litigation against the bonding company that terminating for convenience language was for the mediation/arbitration process and meant they were evaluating a basis for possible legal action beyond that process. Makwa had to file a claim for final payment and the university was considering not paying any of it. Once the claim is filed, that will lead to the mediation/arbitration process.

Mr. Aragon asked whether under the terms of the arbitration clause in the contract the contractor had to initiate it. In other contracts he had reviewed, any aggrieved party could initiate arbitration or mediation. He asked if that was not true in this contract.

Dr. Fries said it was true in this contract and NMHU was still in the process of responding to the construction contractor.

Mr. Aragon was surprised and didn’t know what else NMHU needed as fiduciaries for the state with $5 million of damages. He stated that this is egregious at the highest level because, despite the fact that the NMHU is robbing other sources, those funds were generated by taxes and student fees so it is still taxpayers’ dollars and now NMHU was asking for approval to proceed at 24 percent over the budget. All that is necessary is for NMHU to send a letter saying they are exercising the arbitration clause.

Dr. Fries clarified that they are indeed evaluating the university’s options and will go through the process. He didn’t know if the university had the option of going on record to arbitration without first doing mediation and were moving in that direction.

Ms. Rachel King of Sutin, Thayer & Browne, acting as legal counsel to NMHU, said she could not answer these questions without compromising her confidential attorney client relationship with NMHU. She clarified NMHU had not selected a mediator yet and there was some confusion over what the level of damage is and the basis for seeking redress.

Mr. Aragon countered that if NMHU was not ripe for arbitration then NMHU didn’t need approval for $5 million from the Board of Finance. Ms. King responded that NMHU obviously had a budget and needed to finish the project. The question still being evaluated was how NMHU would recoup that money.

Mr. Aragon understood there is a contract approved by the Board for $20,525,000 and because of alleged negligence or malfeasance NMHU is now asking for an additional $5 million authorization, approximately. Ms. King agreed.
Mr. Aragon considered it repulsive that a university cannot say that was the damage so the Board had no business considering another $5 million. Ms. King responded that NMHU was not questioning that there were damages but had to determine what those damages were and it was better to do it in the right way.

Mr. Aragon thought the state of higher education in New Mexico was at a crossroads. Funds are limited and robbing one fund to pay another is still spending taxpayers' money. The cause of the problem is known and he had asked a simple question about litigation or even the mediation process.

Dr. Fries responded that the university has every intention of pursuing every legal option available to recover this loss – taking all possible legal actions. It was why the university talked with the Construction Industries Division and the State Purchasing Division. There are massive amounts of paper involved.

Mr. Aragon said that before he would consider voting for approval that perhaps the Board should have an executive session with the NMHU Board of Regents or their designees to find out more about the legal process and to discuss those things that Ms. King said were confidential. There is nothing confidential about public money. Eventually, the robbing of one fund for another fund needs to be made up.

Dr. Fries said there are two ways by which the university intends to replace that money. One would be through fund raising by offering an attractive naming opportunity for the building. Second, the HED Capital Projects Committee suggested another bond issue backed by student fees. That is in addition to the possible legal results with Makwa.

Governor Martinez asked if Dr. Fries meant the university would consider raising student fees to pay for the extra costs, and Dr. Fries agreed. That was the recommendation of HED's capital projects committee and was not his first choice. This is an opportunity for NMHU to expand the university. The recommendation from HED was based on the fact that NMHU has the lowest fees of any four-year university in the state and on a national basis almost the lowest in the country. That is largely because NMHU serves a population of limited economic means and keeps the fees as low as possible.

Governor Martinez was opposed to raising student fees to compensate for lack of enforcement of a contract, selecting a proper contractor, or being 24 percent over budget – none of which is the students' fault. It seemed the problems started in the very beginning when Makwa tried to bill the university for $1.4 million in project changes.

Dr. Fries agreed with Governor Martinez about student fees and noted that $14 million of the project was already funded through a bond issue backed by student fees.

Governor Martinez said $5 million in good money after bad is challenging with the lack of information on the possibility of getting back that $5 million in arbitration. It is completely the wrong way to go.
Dr. Fries said he understood the Board’s concerns completely and nothing would give him greater pleasure than filing a lawsuit against Makwa tomorrow but the university needed to figure out the best legal way to go.

Mr. Baca added that it was the university's intent to pay some of the state appropriated funds back. “That was why HED made the recommendation to pay those student appropriated funds back.”

Mr. Brasher understood the reason for these questions. He noted that early on there was notification of a problem. Apparently Makwa didn’t respond in 2011. He asked if there were any other efforts beyond that.

Dr. Fries agreed. There are several letters from NMHU’s legal team to Makwa that didn’t generate a response. That led to the threat to terminate the contract to force a meeting with Makwa, and the meeting did take place. Makwa was selected by straight bid. The university required Makwa to certify the numbers were solid. Several steps were taken to get that certification, but he thought Makwa purposely underbid.

In response to Mr. Brasher, Dr. Fries said the other low bidder (Summit West) protested Makwa’s bid and required a process to prove that Makwa was licensed in New Mexico and the process did take place.

Responding to Governor Martinez, Dr. Fries said an RFP was preferred but this had to get done by June 30, 2010 so was no time for an RFP process.

Mr. Gasparich moved to approve the request. Treasurer Lewis seconded the motion.

Mr. Aragon suggested a possible amendment to the motion. He had not heard a single answer from anyone here to justify what happened. It was a comedy of errors from the beginning with apparent malfeasance among all the professionals who handled it. The contract was not part of the packet to see what remedies were there. He was in favor of helping, but Ms. King didn’t want to tell the Board under attorney-client privilege and President Fries indicated they were getting their ducks in line to figure out what the damages were.

Mr. Aragon said the Board would “be a bunch of cads to say no to students in New Mexico” but this is taxpayers’ money and they keep coming back to the well.

It may behoove the Board as a condition of approving this additional 24 percent budget increase for Governor Martinez to appoint a subcommittee to get answers to these questions. He asked to amend the motion as a condition of approval to appoint a subcommittee to meet with the university and their counsel and report back to the Board with satisfactory answers. On all counts, he was insulted.
Mr. Gasparich entertained a request along these lines to be a friendly amendment. Mr. Gasparich said the project had to be completed but the Board could monitor the situation to be satisfied that progress was being made to bring an acceptable outcome.

Secretary Garcia indicated that HED had requested a report from NMHU within 90 days to ensure HED that this situation would not happen again, and the report was to include the legal progress for getting the $5 million back.

Mr. Aragon said he had 100 percent confidence that Secretary Garcia had done a good job as HED head and this problem needed HED’s involvement. He pointed out that the next Board of Finance meeting was in two months and asked that the subcommittee report back at that next meeting.

Governor Martinez asked if Mr. Gasparich would amend his motion to include her appointment of a subcommittee and a report from HED in 90 days. Mr. Aragon clarified he would like HED to report to the Board at the Board’s September meeting. Mr. Gasparich confirmed he would amend his motion as such.

Mr. Gasparich and Treasurer Lewis agreed to the amendment to the motion to approve the budget increase, and the motion passed 6-0 on a voice vote.

Governor Martinez confirmed that the Board has approved the $5 million budget increase and clarified the newly approved project budget of $25,434,856.

Governor Martinez appointed Mr. Aragon, Mr. Brasher and Lt. Governor Sanchez as the subcommittee to report to the full Board in 60 days.

Presenter: Vahid Staples, UNM Budget Officer, Office of Planning & Analysis; Steve McKernan, CEO, UNM Hospital

9. University of New Mexico Hospital – Requests Approval for Adult Hospital Addition – Phase 1 Lands West ($146,000,000)

Presenter: Tom Neale, Associate Director, Office of Real Estate

10. University of New Mexico – Requests Approval for Acquisition of Real Property in the Northeast Quadrant of Lomas Boulevard and I-25 ($2,241,186)

[Items 9 and 10 were presented jointly.]

Mr. Vahid Staples, Mr. Tom Neale and Mr. Steve McKernan were present.

Mr. Brasher asked if this $146 million request could be deferred to the Board’s next meeting to give Board members time to review the analysis of the project.
Mr. Aragon echoed that sentiment. He didn’t know if an analysis had been done in light of the recent United States Supreme Court Decision on the Affordable Health Care Act. He said he was uncomfortable with all except the basic property acquisition, but recognized that the two items are a package and he had many questions and needed more information in order to move forward with it.

Governor Martinez asked if this is for land and the hospital itself.

Mr. McKernan explained that the University of New Mexico Hospital (UNMH) has an option with Sandia Foundation to purchase the land and plans to exercise that option now or later. The value of the purchase option is set in the contract and approval of the land acquisition would allow UNMH to move forward on future planning. In the long range facilities master plan, UNMH plans to acquire all the land between I-25 on the west, Lomas on the south, Indian School on the north, and University on the east. The purchase option is below the market value of the property.

In response to questioning from Governor Martinez about being able to consider this request in September, Mr. McKernan said it was clearly the Board’s choice but it would be opportune to move forward with a real property purchase as soon as possible.

Mr. Aragon asked if the request could be bifurcated, to which Mr. McKernan agreed.

Mr. Tom Neale said this property has been controlled by UNM since 1967. It was 19 acres and the price is very favorable. The market value is $4.50 per square foot and the option price is at $2.75 per square foot, which is 40 percent below market value so the university would like to move forward with the property acquisition today.

Mr. Brasher requested to separate the property out and defer the facility request. He had spent much time with Mr. McKernan discussing the emergency room and overcrowding issues. There are things that are changing and more time is needed.

Mr. Brasher moved to defer action on item number nine and approve item number 10. Mr. Aragon seconded the motion.

Mr. Staples asked to comment before the vote was taken. He said the materials provided to the Board referenced a July 12, 2012 update and there was also a 2009 study that indicated what had been done on the project.

Mr. McKernan said that at UNMH the hospital space is constrained. Frequently, they had orders for hospital admission for 20 to 30 patients in the emergency room with no beds available. UNMH is seeing fewer patients from outlying areas and many get referred out-of-state because UNMH doesn’t have sufficient physical capacity. The 2009 study noted severe lack of beds and most were in old buildings and couldn’t provide the care needed in this day and age. The beds in the 1954 wing have constant problems. There were 16 operating rooms but some have electrical and mechanical problems. Mr.
McKernan noted that UNMH is the only level one trauma center in New Mexico, and mortality from trauma is twice the national average in New Mexico.

Mr. McKernan stated that the current strategic plan had not yet been released because it had not been briefed to the regents yet. It validates insufficient capacity for beds generally, and confirms that UNMH has only 300 beds for the safety net, which is insufficient. The requested hospital addition would give UNMH 96 more beds and allow UNMH to run the emergency room in a state-of-the-art manner.

Mr. McKernan emphasized that because of the nature of how UNMH developed, it has a special mission of service to Native Americans under its lease with Bernalillo County and contract with Indian Health Service to provide care to all Native Americans; UNMH cannot fulfill that care presently.

Governor Martinez asked the Board to articulate what materials and information are needed from UNM to bring this request back to the Board in September.

Mr. Brasher noted that in the Bernalillo County area there are a number of patients coming from other counties, where it is the responsibility of those other counties to provide indigent care. Those counties are not meeting their responsibilities. There was talk about building a hospital in Valencia County and he assumed at some time patients who normally would come to UNMH from Valencia County could shift to a Valencia County facility. He asked what the picture was in those other counties. He didn’t know if it was reasonable to have just one level one trauma center in New Mexico. He understood it was expensive but UNMH continued to build these facilities to alleviate overcrowding in the emergency room and wondered if it was working with the number of facilities that was opening up.

Mr. Brasher stated that he once visited the UNMH Emergency Room at 2:00 a.m. to see what it was like after hearing complaints from constituents. One interesting thing he noted is that the ER is overcrowded because of bed problems and some patients have no other place to go. That issue needs to be addressed since the ER serves some who have no other place to be.

Mr. Brasher noted that there would be system changes because of the Affordable Health Care Act. New facilities do need to be built, and there is some indication that expenses for this new facility would be covered by the operation of the facility but that wasn’t the case with other facilities of UNMH. He asked if this facility would pay for itself through operating revenues.

Mr. McKernan responded that UNMH opened the Sandoval Regional Medical Center yesterday. Through the process from 2005, there is an agreement among UNMH, Presbyterian and Sandoval County because of the unserved Sandoval County indigent load, that if the University would build a hospital in Sandoval County they would approve a mill levy to support that hospital. That hospital is now open and operating and
he thinks it will mitigate referrals from Sandoval County to UNMH. Valencia County instituted a one mill levy but hasn’t figured out how to open a hospital there yet. The study shows that even with these community-based hospitals, to act as a safety net for a catchment area with over 2 million population, 300 adult beds is insufficient, especially with 100,000 ER visits per year. Mr. McKernan stated that UNMH needed 500 to 600 beds.

Mr. McKernan continued that level one trauma centers tend to be academic medical centers because of the wide variety of skills and professionals that must be on call at a moment’s notice. No community hospital could afford to invest in that.

Regarding early support in the community, Mr. McKernan stated that UNMH opened a clinic in the southeast heights and another in the south valley and they were working on one in the north and working with APS at Atrisco Heritage. But primary care access is so poor when patients have significant needs, and that requires referral to specialists and frequently a schedule for surgery. Without operating rooms, surgeries cannot be scheduled. He stated that more operating rooms and more inpatient beds are needed to take care of UNMH’s patients.

Mr. Aragon said he wanted to see UNMH’s business plan. There is about $5 million assessed in the county for it. He said he needed to know if that would be sufficient for recurring costs. Building a facility is easy but the recurring costs are difficult. Too many times in the legislature facility appropriations have been approved without asking what the community could actually afford.

Mr. Aragon said this is not just a UNM problem but a taxpayers’ problem. Property values have gone down but not the property tax amounts. We need to know that for the next ten years. He said the Board also needs to know if there would be any offsets with the Affordable Health Care Act compared with how many businesses will have to close as a result and how that act would affect property taxes. He said this is not medical issue, but a dollars and cents issue.

Mr. McKernan said everything requested by the Board members was in the documents UNM had submitted and he would be happy to brief the Board on any of these issues. He said UNMH has to do the projections for the federal government on a quarterly basis and he believed the hospital could continue to meet its debts and fund operations under the Affordable Healthcare Act. UNM has almost completed the strategic plan but it is in draft form so has not been released yet. That strategic plan has the goals and objectives and performance associated with it.

In response to Mr. Brasher, Mr. McKernan said he provided five-year projections for this project and met all the requirements and the regents approved it. One county Commissioner sat ex-officio on their board and he had also talked with the county manager about this project.
[Dr. Clifford joined the meeting]

Governor Martinez concluded that the Board will receive a business plan on how to sustain the hospital with this facility without raising taxes. Governor Martinez confirmed that the motion before the Board was to defer item number nine to the next agenda and to approve item number ten, the purchase of real property.

**The motion passed 6-0 on a voice vote.**

Ms. Clarke noted there were special exceptions to be included in the motion.

**Mr. Aragon moved to reconsider the previous question. Mr. Brasher seconded the motion, and it passed 6-0 on a voice vote.**

Mr. Shandler summarized for the Board that if it approved item #10, for the record, special exceptions 9, 11, 12, 13, 16, 22, 25 and 26 in the title binder relate to 2012 real estate taxes and easements granted to electric, stormwater and telecommunication companies to maintain infrastructure, and the easements do not adversely affect the property. **Staff requested that the motion to approve item 10 be contingent upon the deletion of exceptions 1, 2, 3, 4, 5 and 10 from the title binder prior to or at closing.**

**Mr. Aragon moved to approve item number 10 with the conditions verbally presented by Mr. Shandler. Mr. Brasher seconded the motion, and it passed 6-0 on a voice vote.**

11. University of New Mexico – Requests Approval for Acquisition of Real Property at 1709 Las Lomas NE ($250,000)

Mr. Baca said this property has a single story building with a basement constructed in 1930 with 50 feet frontage and a depth of 125 feet. The rationale was that this property was located on the north side of Las Lomas 250 feet east of University Boulevard. Adjacent lots on the east and west are owned by UNM and that was identified on the UNM master plan as a proposed building site. The highest and best use now is interim office space or administrative use until it and adjoining properties can be developed according to the UNM master plan. The property would be purchased for $250,000 using institutional plant funds.

Responding to Mr. Aragon on what UNM needed the property for, Mr. Neale said the space allocation committee will decide. Part of UNM’s long-term strategy is to buy properties interspersed amongst properties now owned by the university as they become available to execute the long-term development plan. This specific property is targeted for a future academic building. These smaller programs come to the space allocation committee looking for a space to be located. It is an opportunity to have office and administrative use until the site is redeveloped.
In response to Mr. Brasher regarding zoning control, Mr. Neale said as a state entity UNM is not subject to the local zoning code. This property has a deed restriction that must be removed to put it to this particular use.

Dr. Clifford said he understood such a purchase would remove the property from the tax rolls and asked about notifications.

Mr. Neale explained that UNM acquired property routinely and notified the county and had never had a problem with taking them off the tax roll.

Dr. Clifford said it did reduce the tax capacity for the city and county and although this was fairly small he thought there should be more of a partnership on it in considering the implications.

Mr. Neale agreed to follow up on that.

In response to Governor Martinez regarding impacting the moratorium on construction, Secretary Garcia said the moratorium only applied to construction of new buildings whereas this was acquisition of an existing building. Ms. Clarke added that the moratorium was restricted to state funds and this purchase was with University funds.

Secretary Garcia clarified that the new funding formula was 95 percent as distribution in terms of square footage and the other five percent as performance based. As UNM acquired new properties the square footage will not be added into that formula in any way.

Mr. Aragon noted that the last time UNM presented to the Board in December, the former president identified roughly 184 accounts UNM had. He was okay with this acquisition but curious where the money was coming from.

Dr. Clifford suggested that annually UNM could provide a report on source and uses of that revenue. Secretary Garcia agreed they could do that.

Governor Martinez opined that it was the start of a new fiscal year so it would be good to get a report soon. Ms. Clarke agreed staff could get it to the Board ahead of the next meeting.

The Board briefly discussed graduation rates and invited Secretary Garcia to provide a report sometime on that to which Secretary Garcia replied that the America Plan has targets to work on to reduce the time to attain graduation and the HED was considering it.

Mr. Spencer moved to approve the acquisition of real property at 1709 Las Lomas NE at a cost of $250,000 subject to staff conditions. Mr. Brasher seconded the motions.
Mr. Shandler said according to UNM, exception #9 in the title binder relates to 2012 real estate taxes and does not adversely affect the property. **If the Board approves this item, staff recommends it be contingent on (a) deletion of exceptions 1, 2, 3, 4, 5, 10, 11, 12, 13 from the title binder prior to or at closing; (b) Director’s receipt, with review of counsel, of an amendment extending the closing date in paragraph 1 of the Purchase and Sale Agreement; and (c) Director’s receipt of exhibit A and B to the warranty deed.**

Dr. Clifford asked that the information be provided in writing to UNM.

Mr. Shandler said he had already communicated these stipulations and that Mr. Neale agreed.

**The motion passed on a 6-0 voice vote.**

**PROPERTY DISPOSITIONS**

12. WITHDRAWN

Presenters: Anthony Casados, Superintendent; Arturo Jaramillo, Legal Counsel; Tomas Campos, County Manager; Phillip Morfin, Deputy County Manager

13. Chama Valley Independent Schools #19 – Requests Approval of Sale of Real Property to Rio Arriba County ($100,000 for two tracts)

Arturo Jaramillo, Counsel for Chama Valley Independent Schools introduced himself, Superintendent Anthony Casados, County Manager Tomas Campos, County Attorney Ted Trujillo, and Deputy County Manager Phillip Morfin.

Mr. Jaramillo described the request for approval of purchase and sales agreement of two rural elementary school sites – one in Canjilon and one in Tierra Amarilla. They were formerly schools for Chama Valley School District. The Canjilon site was abandoned in the late 1990s and the Tierra Amarillo School closed in 2010. One TA building houses Superintendent Casados and his administrative group and the district is renovating another school site for their offices to move into.

The appraisal established a $560,000 value for the Tierra Amarilla campus and $107,000 for the Canjilon site. That is a relative measure because the market for these types of property is nonexistent. But the Superintendent decided to market them. There were several reasons why the values are not really useful for businesses including that they are adjacent to Rio Arriba County properties already. The TA property is right next to a detention center.

The county is in a position to renovate and use these facilities for county programs. So, the highest use would be for the county to use the property.
The transaction is being proposed at a negotiated amount. Rio Arriba County has limited funds to acquire these properties. The bottom line is that the district does not believe it is leaving money on the table. $100,000 is available from the county for the schools, and the school district accepted the offer.

The district presented a spreadsheet showing that in the last two fiscal years it cost $34,000 per year for utilities, maintenance and liability insurance at the Canjilon property. The Tierra Amarillo property, with 7.8 acres, was costing about $55,000 yearly, and the school district didn’t have money to cover that.

Dr. Clifford noted in the letter from Mr. Jaramillo to Ms. Clarke that there were no other buyers available and asked if the district formally solicited bids on the property.

Superintendent Casados said they didn’t solicit bids. He had shared the property descriptions with realtors in the area in the past and had no luck in getting them sold. So they went to negotiate with the county on it because the school district could not afford to maintain them.

Dr. Clifford asked whether the appraisal included the significant cost for improving the site.

Mr. Casados didn’t think that was included but more significant were present market conditions and if it had included the cost of maintenance and rehabilitation it would be a lower number. However, revising the appraisal would cost another $5,000, and funds were already limited. He ran the existing appraisal by the Property Tax Division, which confirmed the appraisal met their standards. He didn’t see any need for revising the appraisal in this transaction.

Mr. Shandler said staff recommended that any motion to approve this item should be contingent on Director’s receipt of final signed and dated Purchase Agreement and Director’s receipt, with review of counsel, of written approval by the State Engineer of any transfer of water rights, if applicable.

Mr. Casados said those conditions were acceptable. One property has a well being used for irrigation. They contacted the State Engineer’s Office and there was no dispute regarding water rights.

Treasurer Lewis moved to approve the sale of real property to Rio Arriba County ($100,000 for two tracts) with the recommended staff conditions stated by Mr. Shandler. Mr. Spencer seconded the motion, which passed 6-0 on a voice vote.

14. WITHDRAWN
15. Sandoval County – Requests Approval of Lease of Real Property to AMIkids Sandoval, Inc. (Market value or approximately $27,000 per month, whichever is greater)

Mr. Daniel Alsup, Modrall Sperling, representing Sandoval County, County Manager Phillip Rios, AMIkids Sandoval CFO William Griffin, Director of Treatment Trudy Soole and AMIkids board member Amy Deatherage were present.

Mr. Alsup outlined the terms of the proposed, new lease and provided some background. The new lease would be a 20-year lease with one five-year option to extend on a 10 acre tract with existing buildings in Cuba, New Mexico within the Sandoval County Fairgrounds. AMIkids has been using the facility for about two years.

In 2010, Sandoval County issued a GRT bond to fund construction of a facility for at-risk youth. Also in 2010, AMIkids entered into a lease with the county to operate the facility. That lease was a two year lease and will shortly expire. The term of the 2010 bonds was interest only for two years with a bullet payment of $4.4 million due on October 1, 2012. The new lease Sandoval County is asking Board approval for would replace the 2010 lease and would provide sufficient revenue to the county to cover the debt service that will be due for the refunding bonds the county plans to issue between now and October 1, 2012, which will replace the existing bonds coming due on October 1, 2012.

Mr. Rios clarified that the project itself was for economic development in Cuba. For the property in question, the county developed a master plan. When the county was approached the county commission felt that this project could benefit the area. The county continues to support this program. This had to come before the Board of Finance to make sure the county had done everything to protect the taxpayers. The attorneys worked out the structure for it, and the program has created a number of jobs. Private industry has generated more jobs out in that area.

Mr. Griffin distributed brochures and newsletters about AMIkids and the agency’s work. He stated that AMIkids has a phenomenal mission on which he has worked for 11 years. It serves over 8,000 kids per year in eight states. Each program has a local board that governs the local program. Ms. Amy Deatherage took off work to be at the meeting. Ms. Trudy Soole, also present, is Director of Treatment.

According to Mr. Griffin, about 75 percent of the kids in this program do not get back in trouble. AMIkids tracked that progress. The program has been around for 40 years and uses the Personal Growth model that has worked successfully with diverse backgrounds including Native American populations. Sandoval is a perfect location for serving Native Americans because their families can be closer with them. The program also works with the family. Federal court advocates were instrumental in helping to push for this program.
Mr. Griffin stated that AMIkids is pleased with this partnership with Sandoval County. AMIkids was awarded a contract in June 2012 after talking with the county for about a year. It took a long time for the Bureau of Prisons to make the choice and chose AMIkids to build the facility, which was constructed using local builders at cost and was paid for through the bonds. AMIkids made a $1 million investment in the property and the bonds later repaid that investment in order to get the land ready. It was about $1.4 million cash investment by AMI that trained staff before kids arrived. It is very successful, and the agency wants to expand.

Responding to Governor Martinez, Mr. Griffin clarified that their program is for kids adjudicated from federal courts, but the program could be expanded to other populations as they are able. Tribes, pueblos and Navajo Nation looking for placement of kids, but the facility is not quite ready for that yet.

Responding to Mr. Spencer, Mr. Griffin explained that the program is mainly funded through contracts with the state and at times with school districts or counties. Some contracts are purely school based. In addition, the agency does federal contracting and gets donations and grants.

Responding to Mr. Gasparich, Mr. Griffin said the Federal Bureau of Prisons provides a per diem for each kid. The state does not provide for their education at this time. The age range is 14-20 and the program provides a GED to help them get to college. Nationally the kids move along at least 2 grade levels pretty quickly. Mental health treatment and behavior modification is utilized using positive reinforcement and family orientation.

In response to Mr. Gasparich, Mr. Griffin said the current term of the contract with the Bureau of Prisons has another 18 months and then it will become more of a perpetual ongoing contract. He agreed that the federal government could decide to get out of the contract or contract with someone else but the federal government would not likely get out of the business because they had to do something with these kids. He said AMIkids has tremendous advocates among federal judges.

In answer to Governor Martinez, Mr. Griffin said AMIkids was awarded the contract through a bid process. There were two bidders that responded but the other bidder didn’t perform.

Mr. Griffin clarified that they are accepting some kids from some other states such as Arizona, Utah and Colorado.

Mr. Aragon observed that the bond refunding process for the 2010 bonds was quite short and asked why.

Mr. Alsup explained that none of the people present were involved in the 2010 bond issuance, but it is apparent that Sandoval County has to come up with money to pay the
$4.4 million bond due on October 1, 2012. The proposed lease would provide the funds to service that debt. That was why they were present today.

Mr. Aragon agreed that the program looks great, but the rapid bond turnover looked like churning and incurred a great deal of re-issuance cost on what should have been a long-term bond. The taxpayers of Sandoval County are strapped with additional cost in selling the new refunding bonds. He wondered if the county attorney was looking into possible malfeasance by the prior bond counsel. In his opinion what happened was inappropriate. If this was brought to him as an attorney and he approved it, he might have to face the Bar with disciplinary inquiries. He asked Mr. Alsup what steps they had taken in that regard.

Mr. Alsup said the county was here seeking to get a long-term solution.

Mr. Aragon clarified that he was interested in knowing what redress the county can or should take regarding the 2010 bond’s problematic terms, which he referred to as churning of bonds.

Mr. Alsup said the county had not done anything on that front and that their focus has been on a long-term solution and moving forward.

Mr. Aragon considered the 2010 bond terms a problem that begs for a solution.

Mr. Rios stated that the present bond counsel was looking at how to solve that problem and what to do to make sure it doesn’t happen again. He said when the current team took it over there were red flags. They tried to see how they could solve the problem and deal with it by October. He agreed it is a fair question and the county attorney is looking at it to see what could be done. The two-year 2010 bond was his concern. There might have been a reason for it, but it was unusual. He said he had not seen a two-year bond before.

Mr. Aragon asked if his concern was because of the future costs associated with issuing such a bond, and Mr. Rios agreed. Right now, those fees are being covered by AMIkids. The taxpayers are not incurring them.

Mr. Aragon said he understood, but noted that the program got federal funds with which it would pay those fees. He thought it was a wonderful program but government costs were too high. They should have known this would cost more money to the taxpayers. He didn’t know who was involved in it, but believed it was reprehensible and bears some additional questions. Governor Martinez agreed that a two-year bond was not good and wondered where the fiduciary responsibility of that bond counsel was at the time. Both issues should be faced at the same time.

Mr. Patrick Trujillo, Sandoval County General Counsel, explained that last year the county had a new commission, a new counsel, and a new bond manager, and this
transaction would not have happened if they had been in place at that time. He agreed with looking into both issues at once to decide if there was a breach of fiduciary responsibility or possible criminal sanction. This isn’t the only issue he has been dealing with in Sandoval County, and while he has been pursuing this he has also been distracted by other things. He promised to take this advice to heart and pursue the problematic 2010 bond deal right now.

Mr. Trujillo said the big issue is that the taxpayers will be on the hook if the county can’t get the 2010 bonds refunded by October. The county has a great relationship with AMI and the organization is a good tenant. The county was doing everything it could to avoid having the bonds be a burden on taxpayers.

In response to Mr. Spencer, Mr. Alsup agreed it would be another GRT bond that would be marketed with the lease payments as the primary pledged source of revenue for repayment. County GRT revenue was also a pledge for the bonds.

Mr. Aragon felt this was the same predicament facing the Board as with the NMHU request. Saying “no” would put the county in quite a predicament but saying “yes” was acquiescence to the status quo. Mr. Aragon was not sure the Board would be serving the state well by continually allowing itself to be boxed into this situation where, if the Board didn’t offer its approval, something draconian might occur. It might be necessary for draconian things to occur so it would wake up the taxpayers to say “enough already.” It is a recurring theme, and Mr. Aragon said he didn’t know what the Board could do to stop this from happening.

Governor Martinez agreed and suggested a condition on approval that every avenue, every angle, has to be pursued for accountability whether it is to pursue the former bond counsel’s license or pursue a lawsuit. Without holding the people accountable the bond counsel could do it to someone else.

Mr. Aragon said he considered this inherent corruption, and the Board is being asked to acquiesce and pretend it didn’t occur because people might be offended by the discussion at that level.

Ms. Clarke reminded members that the Board didn’t have authority or responsibility to approve refunding the bonds, and that might help simplify the Board’s action. The fact that the rent would cover the debt service is the extent to which the bond refunding pertains. She added that Mr. Primm has been working with the parties over the last several weeks to take care of concerns about potential violations of the anti-donation clause. The parties have satisfactorily addressed those concerns, and the fair market value of the lease has been established. Ms. Clarke suggested that it might be a good time to talk about what is outstanding legally for a contingency if the Board decides to approve the lease.
Mr. Aragon agreed on the statutory limits but if the Board approves what is essentially a lease, the Board could possibly hold a discussion at the county level by inserting a provision that a declaration by the Board of what he views as questionable conduct be read into the record at the next county commission meeting and be made part of their public meeting announcement. That might bring attention to the citizens of Sandoval County that this occurred and that the board of county commissioners was seeking redress.

Mr. Shandler stated that he understood Mr. Aragon to want a condition that at the Sandoval Commission meeting there be some kind of statement read into the record.

Mr. Aragon said something needed to happen and he agreed with Ms. Clarke that this Board’s authority is limited.

In response to Mr. Brasher, Mr. Trujillo said no further action is anticipated to be taken by their commission. It was approved by them already, including financing amendments, so it wouldn’t have to go back to them.

Mr. Alsup agreed that the action taken by the Sandoval commission was approval of the lease including any amendments the Board of Finance would recommend that were accepted by the county manager.

Mr. Brasher asked if Sandoval County could facilitate a public statement in the meeting.

Mr. Rios said they gave him the authority, but nothing would prevent him from taking the amendments back to the county commissioners to present this decision to them. He agreed to do that to satisfy the Board’s need. There had already been a lot of back and forth over this, but reading something so the public and the county commission are aware of the concern was appropriate. He assured the Board that the commissioners had the same concerns.

Ms. Clarke said that, in addition to other contingencies that counsel will review, approval of this lease could be contingent upon the reading into the record at the next meeting of the Sandoval County Commission a declaration of the State Board of Finance stating that the Board is concerned that the financing structure of the County’s 2010 bonds is highly unusual and problematic, and that the State Board of Finance compels the County to pursue any and all recourse against the parties involved in issuance of the 2010 bonds. Staff could finalize that declaration and forward it on to parties for presentation at the next Sandoval County Commission meeting.

Governor Martinez recommended the declaration compel the county to “pursue”, rather than “study” some recourse.” Ms. Clarke agreed to modify the declaration to compel the county to “pursue any and all” recourse.
Mr. Shandler said if the Board chooses to approve the request, staff recommends approval should also be contingent upon Director’s receipt of the market rate analysis and Director’s receipt, with review of counsel, of the final signed lease agreement with all exhibits addressing staff and counsel’s revisions to paragraphs recital (i) paragraphs 3b, 3d, 3g and 17.

Mr. Spencer moved to approve the request with conditions recommended by staff. Mr. Aragon seconded the motion, which passed 6-0 by voice vote.

Presenter: Dr. Kristina Baca, Superintendent

16. Loving Municipal Schools – Requests Approval of First Amendment to Lease of Real Property with Sunrise Energy Ventures, LLC ($0.015 per kWh generated monthly for the first 60 months, $0.02/kWh for remainder of lease term)

Dr. Kristina Baca and Mr. Steve Holdman, procurement manager for CES, were present.

Dr. Baca noted that last year at this time the Board approved the lease agreement between Loving Municipal Schools and New Mexico Green Initiatives to receive revenue to provide additional resources to supplement electricity expenses. Due to unforeseen delays she was here to ask approval for an amendment of two parts to the contract. The first change would be to change 1.1b in the lease from 1 year to 2 years, because, due to the delay, they were out of compliance. The second change would be to 1.1h, to strike the last sentence.

Mr. Holdman explained that the delay in implementation was directly related to engineering issues raised by Southwestern Public Service (SPS) and NM Green Energy Initiatives relative to the inverter that was used to convert DC electricity to AC and interconnect into the grid with SPS. There were concerns about efficiencies because Sunrise was involved in a private development with SPS, and the results seemed to be flawed.

[Governor Martinez left the room at 12:21 p.m.]

Mr. Holdman said SPS and Sunrise worked out an agreement that a new inverter would have to be used to interface properly and connect with the SPS grid at Loving. The inverter was redesigned and tested and was now ready to use.

Mr. Aragon moved to approve the request to amend the lease contract. Treasurer Lewis seconded the motion, which passed by 5-0 voice vote.
Ms. Roseborough presented the Monthly Investment Reports as of May 31, 2012.

- Major Stock Market Indexes performed horribly during the month of May with most major indices falling approximately 6 percent.
- Continuing issues in the Eurozone, slowing growth in China and India, weak labor reports and other economic factors contributed to the sell-off in May.
- While the Greek result reduced some tail risk, the lack of a clear glide path to resolution in Europe will likely result in continued volatility.
- Details on the Spain bank rescue package still remain sparse.
- The financial sector has been in full rally mode as anticipation of the Greek elections with hopes of an accommodative statement coming from the FOMC meeting which have driven spreads tighter.
- Banks continue to wrestle with growing regulatory demands, strained profits and increasing asset quality issues, and the ability of government action to substantially alter the outcome will be diminished.
- Concern about the upcoming “fiscal cliff” spread through the markets with expectations about significant turmoil at year-end given unclear mandate on electoral expectations.
- The Fed expressed continued concern about the outlook for the economy and extended “Operation Twist” through year end of 2012. Operation Twist consists of the Fed purchasing longer-duration securities and selling shorter duration holdings with the intention of decreasing longer rates and driving all linked mortgage rates lower.
- The domestic fixed income securities markets reached record lows during the month.
- Since May, rates have increased slightly over the STO market sectors but still remain at historically low levels.
- US Treasury Yields for the end of May showed 3-month maturity at 0.07 percent to the 30-year yield of 2.64 percent, down from April 30.

**Portfolio Mark to Market:** The STO portfolios all reported positive balances on a mark-to-market basis. With the backup in rates, we have seen a decrease in unrealized gains in the various STO portfolios including returns included in this report.

For each of the portfolios: The General Fund had an unrealized gain of $9.0 million; Bond Proceeds Funds had an unrealized gain of $4.6 million; Local Government Investment Pool and Severance Tax Bonding Fund were flat.

**Portfolio Yields:** At the end of May the portfolios had the following purchase yields: General Fund Liquidity – 0.26 percent; General Fund CORE (five-year) – 1.10 percent;
Bond Proceeds-Tax Exempt – 1.02 percent; Bond Proceeds-Taxable – 1.09 percent; Local Government Investment Pool – 0.23 percent and Severance Tax Bonding Fund – 0.15 percent.

*Investment Earnings:* To date, STO Portfolio Managers have booked over $1 million in gains for the General Fund while not impacting carrying yield. Investment earnings for the month of May are: General Funds – $1,214,493; Bond Proceeds Funds – $771,814; LGIP – $155,269; Severance Tax Bonding Fund – $52,983. The target has been reduced to an amount between $50 million and $75 million.

*Compensating Balances at Fiscal Agent Bank:* During May, STO maintained Average Daily Collected Balances at the Fiscal Agent Bank of $134.7 million. The earnings credit rate is 0.50 percent; estimated monthly earnings are $56,110.33 and estimated fiscal year earnings are $496,015. The month-end collected balance at Wells-Fargo was $51.4 million.

*Monthly Economic Summary and Investment Outlook*

*Continued Uneasiness about the Economy Plagues Policymakers:* In June, the Fed released new guidance concerning its monetary policy for the coming months. The Fed’s concerns continued over the economy and the board released an extension of its “Operation Twist” policy through the end of 2012.

Also in June, Moody’s downgraded 13 global banks with capital markets operations.

The Fed and other market watchers have expressed concern regarding the prospective budget cuts and rescissions which will happen automatically at year-end. Given no clear consensus as to results of the November election, economists continue to see political paralysis as potentially damaging to the US economy should the cuts happen as scheduled.

Unemployment results for May showed that the economy continues to stumble through June and July, and added further calls for additional Federal Reserve moves to stimulate the economy. Unfortunately there is not much that the Federal Reserve can do in order to try and stimulate the economy going forward.

*Investment Outlook:* STO continues to expect slow growth throughout the election and into 2013. Unfortunately, as fixed income investors, this will continue to keep pressure on STO portfolio returns.

[Governor Martinez returned to the meeting at 12:30 p.m.]

Mr. Aragon was not sure it was relevant but contemporary that given what the Board has heard about events going on in NMFA, he wondered if it could affect the Treasurer’s Report.
Ms. Roseborough said it could. STO had an exposure in NMFA of about $14 million.

Mr. Aragon asked if there was any way to rectify that in the schedule.

Treasurer Lewis said he sat down with STO’s division directors to look at it. The exposure was between $14 and $16 million and they would have a meeting this afternoon with the NMFA folks to talk about the issue.

Mr. Aragon asked if that might impact the state bond rating.

Treasurer Lewis explained that the issue of the Finance Authority Mobility Fund was set up for smaller revenues so they had not met yet to deal with it but there was exposure.

Dr. Clifford added that it was sufficiently early to not know the extent of the exposure to the bondholders. There is a criminal investigation begun by the Securities Division of the Regulation and Licensing Department. He would report later on the results of the investigation.

Ms. Roseborough resumed her report.

Investment Policy Compliance Review

Primary and Secondary Bond Purchases and Sales: During the month of May, the following were the ratio of primary and secondary bond purchases in the portfolios: Primary Bond volume was $2,700,000 and Secondary Bond volume was $106,277,000 for a total of $108,977,000. The primary market purchases were in New Mexico Municipal bonds.

Commissions Paid: As counterparty, the state transacts in purchase or sale sizes sufficient to achieve competitive results in the bidding or offering process. Implied in the market-clearing prices that we are offered is some form of dealer markup.

With regard to specific transactions, STO processes the bulk of its trades using an electronic trading platform. As such, STO understands and documents the market at the time of transaction. These trade terms are held as a part of our trade documentation as approved by STIC.

Variable Rate and Structured Note Holdings: As of month end total holdings of Variable Rate Notes were $217,700,000 of which General Fund Liquidity was $20,000,000; BP1P Tax-Exempt was $30,000,000 and LGIP was $167,700,000.

The Variable Rate positions are in TLGP paper backed by the FDIC and US Government Agency securities. We did not hold any structured notes during the month of May.
Transaction Variances and Inter-Portfolio Transactions: During May there were no transaction variances which posed compliance issues. All trade information was entered correctly in our internal systems and in the systems used by our custody bank. All transactions for the month settled successfully. There were no price discrepancies. There were no interfund transactions during the month of May.

During the past months, several changes with regard to internal accounting have been implemented. Specifically, the internal QED investment accounting system will better account for cash balances and transfers within the various STO and Fiduciary funds.

As part of these changes, several issues with receivable balances were identified from previous fiscal years. These receivables will be adjusted over the next several months. The receivable balances have not affected investment earnings over the periods in question and have not impacted audited financial results or earnings as reported into the Statewide SHARE system.

Investment Accounting continues to work to reconcile Bond Proceeds balances to the statewide SHARE system and DFA Records as well as with actual spending by several state agencies. That reconciliation is ongoing and it is estimated that when completed, the reconciliation will decrease Bond Proceed Account Balances over planned capital spending. While the aggregate amount of the adjustments is not known at this time, as accounts are reconciled, the updated balances will be included in this report going forward.

Dr. Clifford asked if asset rates were tied to LIBOR rates. Ms. Roseborough said there were some minimal floaters. The numbers were *de minimus* over the past several years so we are not impacted by LIBOR.

Treasurer Lewis said the Treasurer’s office had been having index conversations, talking with some management firms about it, and also contacted the feds about it.

In response to Mr. Brasher, Ms. Roseborough said the audit was scheduled on an annual basis. Treasurer Lewis said it would be done by December 15.

**GENERAL SERVICES DEPARTMENT**

Presenter: Charles Gara, Director, Property Control Division


Mr. Gara said the report was in the electronic materials and $646,000 remained uncommitted as of May 31, 2012.
19. Property Control Division – Requests Approval of Contract with Jaynes Corporation for Construction and Furniture, Fixtures and Equipment of the New Meadows Long Term Care Facility Phase II at the New Mexico Behavioral Health Institute in Las Vegas ($17,276,707.50)

Mr. Gara reported this project is the next phase in renovation and replacement of New Meadows which will add 72 more beds to the existing facility. They just had the grand opening of phase 1 last week that included the administrative portion as well as 36 beds and isolation rooms.

In response to Mr. Gasparich, Mr. Gara said the anticipated completion date was by the end of the year. A third phase would include demolition of the old building, and 36 new beds for a total of approximately 180 beds, when completed.

Mr. Aragon was impressed at the number of beds to be added in this project at $17 million compared with UNM’s 96 bed project for $146 million. That is a huge difference and a true bargain.

Mr. Aragon moved to approve the request for a contract with Jaynes Corporation for construction and furniture, fixtures and equipment for the New Meadows Long Term Care Facility, Phase II at the New Mexico Behavioral Health Institute in Las Vegas at $17,276,707.50. Mr. Gasparich seconded the motion, and it passed on a 6-0 voice vote.

PRIVATE ACTIVITY BONDS

Presenters: Mayling Armijo, Director of Economic Development & Cultural Services; David Friedman, Friedman Recycling

20. Bernalillo County – Approval of Extension for Sale and Issuance for Friedman Recycling of Albuquerque, LLC ($13,000,000)

Mr. Marcos Gonzales was present for this request of private activity bonds for Friedman Recycling of Albuquerque in the amount of $13 million.

Dr. Clifford asked why this was delayed and for how long the Board would be extending this sale.

Mr. Gonzales said the extension is to September 28, 2012 and that it was being requested to allow time for coordination between the Alliance Bank and NMFA as it is a tax credit transaction.

Dr. Clifford asked if the authorization of the Board specified that the bonds had to be used by the date specified here.
Mr. Gonzales said the transaction was set to close on September 28, 2012.

Ms. Clarke clarified that the expiration was more an issue of the rule. They expired on July 1, 2012 unless extended and she didn’t have any indication the project is any less viable.

Mr. Gonzales said in response to Dr. Clifford that they were waiting for final approval by the contractor to make sure all the numbers were correct in order to present it to the bank and no additional approvals were needed.

Mr. Aragon moved to approve the extension to September 28, 2012. Treasurer Lewis seconded the motion and it passed 6-0 on a voice vote.

STAFF ITEMS

Presenter: Stephanie Schardin Clarke, Director


Ms. Clarke presented a proposed one-year contract extension for the financial advisor whose contract would expire at the end of this calendar year and this would extend it an additional year. She explained that if the Board did not approve this request there would be time to obtain another financial advisor through a request for proposals.

Mr. Spencer asked if staff was pleased with the contract. Ms. Clarke responded in the affirmative.

Mr. Aragon moved to approve. Treasurer Lewis seconded the motion, and it passed 6-0 on a voice vote.

22. Board of Finance Dashboard Report

Ms. Clarke explained that this quarterly dashboard report added a couple of results for FY 2012. The third column showed the added projects for capital projects by the Higher Education Department and a boom in revenues that cycled through earlier in the decade now was leveling off. The report also added the results of the release of the comprehensive annual financial report that came out in June.

Dr. Clifford, responding to Mr. Brasher, clarified that NMFA was not referenced in the audited statement because NMFA is not a component of the state.

Treasurer Lewis said they would go to the State Auditor to request an extension if they didn’t meet the deadline.

Ms. Clarke noted that the first column of the dashboard report had more information
about bonding programs. The average TIC of outstanding debt keeps creeping down with lower interest costs in recent years but the average TIC was 2.38 percent, which was great, and an average maturity of all outstanding bonds of 3.83 years. So the average maturity was short and conservative.

Currently, based on the Board’s bond tracking database, there are about $963.6 million in unspent bond proceeds waiting to be distributed to projects once they are completed. Out of that $963 million, about $636 million is more than one year old and $46 million is over five years old. There are some proceeds sitting in the project account that might be over 10 years old.

Mr. Gasparich asked if those were bonds that had actually been sold. Ms. Clarke answered in the affirmative. She confirmed that the Board is compliant with arbitrage rebate responsibilities. Proceeds and earnings on bonds are tracked and some rebate payments have made in the recent past.

Dr. Clifford assumed the financial advisor was reviewing the outstanding debt for refunding opportunities, and he asked if net present value saving was the threshold.

Ms. Clarke agreed, and said that, as a rule of thumb, there must be net present value savings of 3 percent to proceed with a refunding. The Board is caught up on refundings at present. Refundings are assessed routinely throughout the year, but also when the Board issues new bonds.

Dr. Clifford noted the average maturity was a rather short life and something the Board might want to revisit to determine if it was restraining our capacity. There are tradeoffs, and it is nice to pay off debt quickly, but if the projects were long term projects that maturity could be lengthened, and it would increase our capacity.

Ms. Clarke agreed that there is give and take, but over time, it might not improve infrastructure. One of the bonding programs has a 10 year limit in the statute. Currently we are not using all of our capacity anyway, but we could look at doing it in a different way.

Dr. Clifford commented that preliminary estimates were stronger than forecasted previously and anticipated revenue growth in the range of 13 to 14 percent in FY12, mostly driven by oil and gas sectors.

23. Fiscal Agent / Custodial Bank Fees

Ms. Clarke explained that the top half of the page presented are billings received from the fiscal agent, Wells-Fargo, and we received the June invoice last week. Below that in the spreadsheet are the custody bank billings to each of the four investment entities. Based on appropriations for fiscal agent services, we came in roughly five percent under
the appropriated amount but without working with the Treasurer’s Office on compensating balances we would have had a shortfall. It was $40,000 under the appropriation.

24. Joint Powers Agreement

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

ADJOURNMENT

Mr. Aragon moved to adjourn the meeting. Mr. Spencer seconded the motion, which passed 6-0 on a voice vote.

Its business completed, the State Board of Finance adjourned the meeting at 12:58 p.m.

______________________________
Susana Martinez, President

______________________________
, Secretary

Date