MINUTES OF THE

NEW MEXICO STATE BOARD OF FINANCE

REGULAR MEETING

Santa Fe, New Mexico

January 22, 2014

A Regular Meeting of the New Mexico State Board of Finance was called to order on this date at 9:07 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. John Sanchez, Lt. Governor [leaving at 10:15 a.m.]
The Hon. James B. Lewis, State Treasurer
Mr. Robert J. Aragon, Public Member
Mr. Del Archuleta, Public Member
Mr. Michael Brasher, Public Member, Secretary
Mr. John Kormanik, Public Member

Members Excused:
The Hon. Susana Martinez, President

Staff Present:
Dr. Tom Clifford, Secretary, Department of Finance & Administration
Mr. Jeff Primm, Deputy Director, State Board of Finance

Legal Counsel Present:
Mr. Luis Carrasco, Attorney General's Office

Others Present:
[See sign-in sheets.]

2. APPROVAL OF AGENDA

ANNOUNCEMENT: NEXT REGULAR MEETING: TUESDAY, FEBRUARY 18, 2014

Mr. Brasher moved for approval of the agenda, as published. Treasurer Lewis seconded the motion, which passed 6-0 by voice vote.
3. **APPROVAL OF MINUTES**: December 17, 2013 (Regular Meeting)

Mr. Aragon moved approval of the minutes of the December 17, 2013, meeting, as submitted. Mr. Brasher seconded the motion, which passed 6-0 by voice vote.

**SEVERANCE TAX BONDS AND NOTES**
Presenter: David Buchholtz, Bond Counsel, Brownstein Hyatt Farber Schreck

4. **Approval of Reauthorization and Amending Resolution for Severance Tax Bond Projects**

Mr. Buchholtz stated that this might be best characterized as a “cleanup resolution.” It includes two projects that were not previously ready for inclusion last spring, and also includes a correction to a project description.

Responding to Mr. Kormanik, Mr. Buchholtz said the total amount being reauthorized is approximately $200,000.

Mr. Kormanik moved for approval. Mr. Aragon seconded the motion, which passed 6-0 by voice vote.

**EMERGENCY FUND BALANCES**
Presenter: Jeff Primm, Deputy Director

5. **Emergency Balances – January 2014**

<table>
<thead>
<tr>
<th>Fund</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Reserve Fund</td>
<td>$1,475,150.00</td>
</tr>
<tr>
<td>Emergency Water Fund</td>
<td>$118,400.00</td>
</tr>
</tbody>
</table>

Mr. Primm reported these balances.

Lt. Governor Sanchez recalled discussion last year about making a request to increase amount in the Emergency Fund.

Secretary Clifford stated that the assessment was that the $2 million level in each fund was adequate based on the rate of drawdown in the first half of the fiscal year.

**EMERGENCY FUNDING**
Presenter: Jeff Primm, Deputy Director

6. **Ratification of Amended Resolution of the State Board of Finance Approving Emergency Loan to La Asociacion de Agua de Los Brazos Mutual Domestic Water Consumers Association ($30,000)**

Mr. Primm stated that, after the Board approved this loan at last month’s meeting and staff was putting together the resolution to reflect the source of funding as the Operating Reserve
Fund rather than the Emergency Water Fund, a remnant from the DFA template being used was stricken because it did not belong in the resolution. Although the strikethrough does not affect the intent of the resolution, staff and legal counsel felt it appropriate to bring back to the Board for ratification.

Mr. Archuleta moved to ratify the amendment. Mr. Brasher seconded the motion, which passed 6-0 by voice vote.

**PROPERTY DISPOSITIONS**

Presenter: Fred D. Kennon, Attorney, Legal Department
7. Doña Ana County – Requests Approval for the Donation of Nine Properties in Las Cruces to Mesilla Valley Public Housing Authority

Mr. Kennon stated that Doña Ana County is requesting approval to transfer properties to the Mesilla Valley Public Housing Authority (MVPHA). The properties are identified as Lots 1, 3, 5, 18, 19, 21, 22, 23 and 26. An Intergovernmental Agreement entered into in 2001 between the City of Las Cruces and the County, which established the MVPHA, requires the County to transfer to MVPHA any public housing and personal property owned and administered by the County.

Mr. Primm stated that the legal description of the properties uses a plat book and page format, and Board staff at this point only has a survey, making it difficult to definitely verify the legal descriptions. When he was speaking with County representative Armando Cordero last Friday about the matter, it came to his attention that the survey description indicates that Lot 4, rather than Lot 3, is owned by the County. Apparently the County is addressing this, but he has not yet heard back from Mr. Cordero about the Lot number issue, so a subsequent correction may be necessary, and staff is still awaiting the plat to verify the legal description.

Mr. Primm recommended that this item be approved contingent upon Director’s receipt, with review by counsel, of 1) a quitclaim deed or deeds and an agreement for donation containing verified property legal descriptions, and any required amendments to accurately identify the lots being transferred; and 2) a revised resolution of the governing body regarding any necessary changes to the list of lots to be transferred.

Mr. Kennon said he had no objection to this language.

Mr. Brasher moved for approval, with the contingencies recommended by staff. Mr. Archuleta seconded the motion, which passed 6-0 by voice vote.

Presenters: Gary L. J. Giron, Director, Finance and Operations; Joseph Rasor, Superintendent
8. Bloomfield School District – Requests Approval of Lease of Real Property in Bloomfield to the U.S. Forest Service ($70,088.20 per year)

Mr. Giron requested approval to lease office space to the U.S. Forest Service. He said the space is located in Rio Vista School and is being used by the school’s Information Technology and Maintenance Departments. The space has not been used as a school since 2004, and there
are no charter schools to be contacted about possible use of the space. He said about 40 percent of the building is unused, adding that the gym is used by Boys and Girls Club and other local groups, and the baseball fields are used for local teams.

Mr. Giron said Rio Vista School was constructed in 1975 and has a total of 71,085 square feet. The District proposes to lease 7,702 square feet to the U.S. Forest Service, which moved out of its previous building after it was extensively damaged by floods, for $9.10 per square foot, or $70,088.20 per year. This amount includes utilities. A market rent appraisal conducted in November 2013 states that the rental value is $7 to $8 per square foot, with an additional $1 to $1.25 for utilities.

Mr. Giron said the Bloomfield Schools Board of Education approved the lease on December 18, 2013. The initial term of the lease is for one year, but could be extended.

Mr. Giron said the U.S. Forest Service has not yet made final award, but the District understands it is forthcoming.

Mr. Giron stated that the District has requested the addition of the following language to the lease agreement: “1) the lease requires New Mexico Board of Finance approval prior to taking effect. 2) Any amendments to this lease must be made in writing by the parties and approved by the New Mexico Board of Finance prior to taking effect. 3) Lessor’s obligations under this lease are subject to the availability of appropriations.” He said the District has also requested the deletion of paragraph 2.11.A.4 (v) regarding the lessor’s inability to obtain sufficient financial resources from its obligation.

Mr. Giron requested approval of this request subject to the federal government’s acceptance of the language change to the lease, which is necessary to be consistent with requirements of New Mexico Statutes the NM State Constitution.

Responding the Mr. Kormanik, Mr. Giron said the cost to keep the building operating is $174,000 per year, and the two sources of funding are the New Mexico public school funding formula and local tax levies. He said the $70,000 in rent would free up the funding ‘formula monies for other purposes as designated by the formula.

Responding to Mr. Archuleta on other possible uses for the building in the future that would no longer be possible because of this lease, Mr. Giron said this school will not come on line again because of the high costs involved in renovating it; in addition, the area is heavily dependent on oil and gas extraction, and enrollment has declined by more than 300 students over the past ten years because of losses in the industry. Mr. Rasor added that the lease runs year to year, so could always be canceled if necessary.

Mr. Primm asked that approval be contingent on Director’s receipt, with review by counsel, of the final version of the lease and associated amendment documents executed by the parties with any handwritten amendments initialed by both parties, demonstrating compliance with staff’s recommendation to 1) remove certain language found in paragraph 2.11.A.4 (v) of the agreement; 2) specify the lease is contingent upon State Board of Finance approval; 3) specify that future amendments to the agreement be in writing and are subject to
Board of Finance approval; and 4) specify that lessor’s responsibilities under the agreement are contingent upon receiving sufficient appropriations.

Messrs. Giron and Rasor said these conditions were acceptable.

Mr. Aragon moved for approval, with the contingencies as recommended. Mr. Archuleta seconded the motion, which passed 6-0 by voice vote.

**STATE TREASURER’S OFFICE**
Presenters: Linda Montoya Roseborough, Chief Investment Officer; Treasurer James B. Lewis

9. **Monthly Investment Report for Month-Ended November 30, 2013**

Ms. Roseborough presented the November investment report.

Ms. Roseborough reported that the State Treasurer’s working group continues with the review of the Investment Policy, which was initiated two years ago. To date, there have been 22 iterations of the policy, and the policy is also under review by the State Treasurer’s Investment Committee (STIC). She said the goal is to have a new Investment Policy ready for review by the Board of Finance at its February meeting.

Responding to Mr. Aragon, Ms. Roseborough said the Treasurer has kindly offered to assist Bernalillo County, and she and her staff are serving on two subcommittees, one to assist in creating their new investment policy, and the other to review investments and come up with a contingency plan and plan of action.

Mr. Aragon commented that the State Treasurer’s Investment Policy is working very well, and he does not want the integrity of what the State Treasurer has accomplished to be compromised in any way by what he feels amounts to malfeasance by the Bernalillo County treasurer.

Treasurer Lewis stated that many people do not realize that the State Treasurer has no direct relationship with county or city treasurers. The Chair of the Bernalillo County Commission asked for his assistance, which he said he would agree to provide only if she and the County Treasurer specified in writing what kind of assistance they needed.

Mr. Aragon said he understands there may have to be a selloff of “toxic” investments, and Ms. Roseborough responded that the subcommittee will identify $30-$50 million to liquidate so there is a comfortable cash reserve, and then will restructure the remainder of the portfolio. She said the county’s investment policy would also be strengthened. At the current time, it does not identify stated maturities for investments, which has been a source of the problem.

**GENERAL SERVICES DEPARTMENT**

Presenters: Pamela Nicosin, Deputy Director, Facilities Management Division; George Morgan, Director, Facilities Management Division

10. **Capital Buildings Repair Fund Financial Status Report for Month-Ended November 30, 2013**
Ms. Nicosin reviewed the CBRF Financial Status Report, which reflected an uncommitted cash balance as of November 1, 2013 of $13,773,859 and an ending cash balance as of November 30, 2013 of $13,378,905. There were no emergency declarations in the month of November.

[ Lt. Governor Sanchez left the proceedings. ]

Presenters: Ed Burckle, Cabinet Secretary; Gregg Marcantel, Cabinet Secretary, NM Corrections Department; Aurora Sanchez, Deputy Secretary, NM Corrections Department; Michelle Hunter, NM Environment Department; Mary Rose, NM Environment Department; Alexis Johnson, General Services Counsel

11. Facilities Management Division – Requests Approval of Acquisition of Real Property at 615 1st Street, N.W. in Albuquerque and Acceptance of Certain Special Exceptions ($1,770,000)

Secretary Marcantel stated that the Governor has tasked the entire state with reducing its physical footprint as it relates to office space and operations. At the current time, the New Mexico Corrections Department (Corrections) spends about $750,000 per year in rental costs for its two probation and parole offices in Albuquerque. One of the spaces, Monte Vista, has been there for 30 years, does not meet code standards, sits in a commercial zone heavily populated with residential housing, and there is a school within 30 feet of the building’s front door. He said the building is sweltering hot in the summer and freezing cold in the winter, the ceiling leaks, and there is no safe zone for staff in an emergency evacuation.

Secretary Marcantel stated that, with the purchase of Plaza Maya, Corrections would be able to collapse several functions into one building. He stressed that Corrections will not bring offenders to Plaza Maya; rather, they will keep the Gold Street office open and all offender contacts will take place there.

Secretary Burckle said GSD has been working closely with Secretary Marcantel for the past two years to identify a building that would meet all Corrections Department requirements, and has looked at more than 22 facilities in the Albuquerque area. By far, Plaza Maya is the only suitable alternative that meets all of the existing criteria. He said GSD received a $2.3 million appropriation from the 2013 Legislature to acquire Plaza Maya, which was appraised at $1.86 million. Further, they have negotiated a price reduction with the present owner down to $1.770 million. He said it will take up to a year to make the building completely ready for occupancy, and so the goal is to incrementally phase in the staff from the Monte Vista facility first. The total cost of build-out combined with the acquisition costs will be $7.285 million, which equates to about $113 per square foot and is an exceptional value. In comparison, the recent renovation of the Lujan Building in Santa Fe was $265 per square foot.

Secretary Burckle said a breakeven analysis conducted by GSD reflects that the $7.2 million in acquisition costs will be recovered in year 15 based on lease savings of $779,000 in year 2 and beyond.

Secretary Burckle stated that youth organizations that have expressed concern about offenders being seen at Plaza Maya could be assured that none of the specifications for the
build-out includes additional bathrooms, bulletproof class, interview rooms and other features necessary in such a facility.

Secretary Burckle said some people have questioned what will be on the fourth floor, since Corrections will only be occupying the first three floors. He explained that the State of New Mexico leases 920,000 square feet every year in Albuquerque alone, and the annual lease costs are nearly $17 million. He said he could assure everyone that the building will be fully occupied, because GSD will look at some of the higher priced leases in the area that are expiring in 2014 and bring those offices into Plaza Maya.

Secretary Burckle said that, with Board of Finance approval, the closing on the sale would take place at the end of February.

Mr. Archuleta asked Secretary Marcantel if it was reasonable to think that, even though the facility may not be designed to accommodate parolees and offenders, by its very nature such people might be drawn to the facility anyway.

Secretary Marcantel responded that this was a difficult question to answer, but a person with a grievance is going to seek relief within their “cognitive map,” and if they are not visiting these offices, they are going to visit the place where they are having the contacts that generated the grievance.

Secretary Marcantel added that the facility would include security cameras. Further, enforcement personnel are going to be headquartered in the building, and these are people certified to carry firearms.

Mr. Archuleta said he understands there is a diesel plume on the property that poses an environmental problem.

Ms. Hunter responded that the site in question is one of the lowest-risk sites she has seen in 20 years of doing redevelopment of contaminated properties and that the site is an “excellent, excellent investment” for the state with respect to environmental issues. She said several environmental studies have been done over the years. The seller has put the site into the Ground Water Quality Bureau Voluntary Remediation Program in Brownfields (VRP) and has signed a contract agreeing to complete the remediation. The remediation in this case is to simply watch the degradation of a “small diesel blob,” which is a process that has been taking place for the last 40 years or so. In reality, she said, there is no requirement to do any kind of active remediation because it is already remediating itself through natural processes by breaking down, and eventually it will meet groundwater standards. She said there is one constituent that is slightly above the standard.

Ms. Hunter said the diesel plume has “a little bit of a hit” of naphthalene, which is a semi-volatile organic constituent, and at .076 milligrams per liter ppm is about twice the standard, which is .03. She said it will be diluting and breaking down as it moves; and as long as there is oxygen in the subsurface, it will continue to break down.

Mr. Archuleta asked how the VRP is enforced; for example, what would happen if the seller were to simply “move to Spain.”
Ms. Hunter responded that VRP was designed to facilitate real estate transactions for properties that are a little bit contaminated. Because the program creates some regulatory oversight and a framework, bankers are generally very willing to lend money on these types of properties. In every instance where she has put sites into the program, a lender has instantly lent.

Ms. Hunter said the contract states that the seller will participate in the program until they meet the performance standard, which in this case is the groundwater standard, and the contract is tied to the seller indefinitely. The buyer receives a Covenant Not to Sue because they are buying the property with the knowledge that they will never be held responsible for the contamination.

Responding to Mr. Archuleta, Ms. Hunter said the broker has agreed that the seller will provide an additional document providing assurances to the Board of Finance that they will complete the program.

Mr. Archuleta asked Ms. Hunter if she could assure the State Board of Finance that the state is well taken care of from the standpoint of not having any hidden costs with respect to this environmental issue in the future.

Ms. Hunter responded that there are monitoring costs, and NMED staff recently projected what those might be for a ten-year period, and the amount is almost exactly that of the negotiated environmental discount.

Mr. Archuleta asked Ms. Hunter if she could provide assurances on the record “that I as a State Board of Finance member should not have any concern about any future costs, given the discount that you’re talking about, that they may face if they don’t contaminate further, tied to this known contamination problem.” Ms. Hunter responded affirmatively.

Responding to Mr. Aragon’s concerns about what recourse the state might have, given that there is no liquidated damages provision in the contract, Secretary Burckle said a worst-case scenario would be if the seller were to walk away and dissolve the LLC. Based on discussions within the last 48 hours, he said the state is now prepared to have the seller put into escrow the cost of ten years’ worth of VRP monitoring costs. He said no documents have been set up establishing the escrow account at this point.

Mr. Aragon commented that he is very comfortable with the Plaza Maya site. He works downtown all the time, and has spent time in the Monte Vista facility in summer and winter months and finds it “impossible” in terms of working conditions. He also noted that there are three courthouses downtown within walking distance of Plaza Maya and there are already people charged with serious crimes who are walking into the various courthouses, so the notion that Plaza Maya will be inundated with undesirable people is inflating the reality. He said the site makes sense, because there may be parole officers having to walk across the street to district court or metro court or federal court to testify or respond to questions.

Responding to Mr. Aragon, Secretary Burckle said the $113 per square foot is the total cost to move in. He said an agency has been identified to move into the fourth floor. This agency’s
lease expires in November 2014 and the move would save $314,000 per year in lease expenses.

Secretary Burckle stated that there are 110 parking places at Plaza Maya, 54 of which are leased and 46 of which are part of the purchase. With 250-300 people occupying Plaza Maya, parking could be an issue without the use of public transportation and carpooling. He said there are paid parking facilities in the area.

Secretary Marcantel stated that if parking becomes a problem, Corrections would "embrace" the issue and take measures to address it.

At Secretary Brasher's request, Mr. Primm summarized the four public comment letters that were received by the Board of Finance relative to the purchase issue:

-- Three letters were in support of acquisition: East Downtown Neighborhood Association; Monte Vista Elementary School parents and school personnel; and Monte Vista Elementary School community members.

-- One letter in opposition to acquisition of Plaza Maya, or else requesting a limitation in use, from the law office of Arlyn G. Crow, representing New Mexico Xtreme Sports Association, Youth Development Inc., and YMCA. They were asking the Board to either prohibit acquisition if parolees were to visit the site, or else to limit the use of the building to administrative uses only.

Treasurer Lewis asked Secretary Marcantel if Corrections could provide assurances that the proposed use would not change and would remain in perpetuity. Secretary Marcantel responded that he did not believe it was legal to hamstring future administrations or legislatures in that way.

Secretary Brasher asked if meetings have been held with the general public.

Department of Corrections Public Affairs Director Alex Tomlin responded that they have had multiple community meetings with various groups, as well as parents and business owners. In addition, a special email address was created so people could send in their concerns directly, and social media pages were also set up.

Mr. Aragon asked how many contacts resulted from this effort, and Ms. Tomlin responded that she received three emails, two from the same person. She said there were comments and questions posted in response to the social media stories, and she reached out to all of these individuals. She said a petition was created through change.org by residents in the Monte Vista area in support of the move to Plaza Maya.

Mr. Archuleta commented that, while future use of the facility can't legally be guaranteed, the fact that $7 million is going to be spent on tenant improvements to turn this into an office building that lends itself only to administrative use is one form of guarantee.

Mr. Archuleta and Mr. Aragon discussed either requiring the seller to put money into an escrow account with the estimated amount of monitoring fees for a ten-year period as liquidated damages, or else negotiate a sale price for the building and then reduce it by that amount and have the state transfer the money.
Secretary Burckle said the latter approach is preferable. They did get the seller to reduce the price by the $90,000, which is the cost of the monitoring. He said they could go back to the original price, take the decrement of the new price, and put the money into escrow.

Secretary Burckle clarified that the amount to be put in escrow would only be if the current owner failed to pay. He said there is every expectation that they will pay, and the amount in escrow may never have to be used. He commented that putting the money into escrow now would be counterproductive because it would be an invitation to not pay.

Secretary Clifford added that the state is self-insured through the Risk Management Division, so he did not think an escrow account would be necessary for this issue.

Mr. Primm said the two possible categories that the environmental “unknowns” would fall into are 1) a contingent liability, and 2) Anti-Donation concern. He said it is the opinion of the assignee from the Attorney General’s Office that it does not appear to be a contingent liability and appears to be more of a current liability. That said, knowing there is an amount that needs to be put into this property for remediation, the question is whether the state would be taking on responsibilities that would otherwise fall to a private entity and to the benefit of the private entity, thereby being a donation to the private entity. He said understanding the logic of the dollar amount arrived at is to establish on the record that the amount appears, in the wisdom of the Board, to be a solid estimate with assumptions that seem logical based on the advice of the NMED. If the Board were able to establish that the current discount appears to be sufficient to address those concerns, then staff’s thinking is that perhaps no contingency fund or escrow fund would be necessary because market value is being achieved and that the difference between the lower negotiated price and market value appears to capture accurately the environmental costs for remediation and, therefore, this would not be a contingent liability concern and would be a market rate transaction even in a worst case scenario. Any funds that would be set aside in escrow, if that is the case, could be understood to either go to escrow when needed or the Board could perhaps have direction beyond that in terms of whether or not they wanted that type of escrow established at the time of closing.

Mr. Aragon said he believes it is the intent of the Board, as fiduciary, to make sure there is a specified set-aside so remediation can occur. He added, “Granted we have other alternatives in the event that doesn’t happen. Secretary Clifford is correct; we do have Risk Management and other means if there is a material breach, but I’d hate to have to reach into Risk Management when we have an opportunity to craft something that would address these concerns without having to go back to the well of the taxpayers.”

Responding to Mr. Archuleta, Ms. Rose stated that GSD negotiated a reduction of $80,000 for the sale of the property; and it is NMED’s understanding, with the expertise of Ms. Hunter, that the worst case scenario would be ten years and the dollar figure attached to that was $83,000. She acknowledged that there is unknown in terms of how long the remediation will actually take, but NMED will monitor it twice a year. She said that there is a slight risk that it could be beyond ten years because of something else occurring below the surface that no one is aware of, but “we do believe ten years is the worst case scenario.”

Mr. Archuleta asked that the record reflect that there was deliberation about the
environmental contamination; that the Board was assured that it is very minimal contamination; that this type of contamination clears itself over a period of time; that the estimate from the experts from NMED is that it will more than likely clear within ten years; that the agency is taking into consideration their estimate of what it would cost to monitor the site over the course of that ten years as a worst case scenario, and they put the present value of that at $80,000; and they have negotiated an agreement that discounts the purchase price by $80,000 and makes it whole. If that is the case, then he is fine with this provided the state has received the value of the problem it is inheriting.

Mr. Primm clarified that the difference between the $1,860,000 appraised price and the $1,770,000 negotiated price is $90,000 rather than $80,000, so is $7,000 over the estimated monitoring costs for the ten year period. He said that would address any Anti-Donation concern based on what is known at this time.

Responding to Mr. Aragon, Secretary Marcantel and Secretary Buruckle said they saw no problem in having their staffs work with Board staff to craft language that would meet the intent of the Board based on today’s discussion.

Mr. Carrasco recommended the following:

If the Board votes to approve this item, let the record reflect that the Board has received correspondence from Alexis H. Johnson, Deputy General Counsel for the General Services Department, Risk Management Division, explaining each special exception listed in Schedule B (Exceptions From Coverage) listed in the Proforma Owner’s Policy of Title Insurance issued by Fidelity National Title Insurance Company which is included in the Title Binder and a statement that nothing in such special exceptions will interfere or foreseeably interfere with the State’s use and enjoyment of the property or the surrounding area. The special exceptions include:

- Taxes for the year 2013, and thereafter.
- Easement as reserved and set forth in Environmental Planning Commission Land Controls Board Resolutions, adopted on September 16, 1976, filed October 26, 1976, recorded in Book Misc. 503, page 339, as Document No. 76-57451, records of Bernalillo County, New Mexico.
- Easements as reserved by the City of Albuquerque as set forth in Quitclaim Deeds recorded in Book D 47A, page 947, as Document No. 77-74736; in Book D 47A, page 948, as Document No. 77-74737; in Book 98-2, page 4952, as Document No. 98006069 and in Book 98-2, page 4953, as Document No. 98006070, records of Bernalillo County, New Mexico.
- Easements, restrictions, notes and other matters as shown and/or provided for on the recorded plat, filed in the office of the County Clerk of Bernalillo County, New Mexico in Vol. B14, folio 96.
- Easement Encroachment Agreement with Public Service Company of New Mexico, a New Mexico corporation, filed January 4, 1980, recorded in Book Misc. 743, page 951, as Document No. 80-779, records of Bernalillo County, New Mexico.
- Assessments which may become due to the City of Albuquerque under the Downtown Albuquerque Business Improvement District Assessment.
• Any and all rights, liens, claims or equities in favor of the Middle Rio Grande Conservancy District which affects the insured premises.
• Any possible assessments for paving or sewer and water extensions which are or might be a lien by law, but have not yet been recorded.
• In compliance with Subsection D of 13.14.18.10 NMAC, the Company hereby waives its right to demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Rules of the American Land Title Association. Nothing herein prohibits the arbitration of all arbitrable matters when agreed to by both the Company and the insured.

Mr. Aragon moved approval of this request with the provisions indicated by staff and with charge given to the two departments to effectuate the concerns of the Board and to work in conjunction with Board staff to do that. Mr. Archuleta seconded the motion.

(The contingency developed by staff to effectuate the board’s motion was that the approval would be: “Subject to Director’s receipt of written acknowledgement from the General Services Department and the Corrections Department that: 1) the difference between the successfully-negotiated purchase price and the appraised market value for the property is understood by the Board to represent a reserve that would provide financial assurance to the state to enable completion of environmental compliance activities on the property in the event that the Seller breaches its contractual agreements regarding ongoing environmental compliance activities and the Seller is unable to be compelled to remedy the breach, and 2) such reserve shall not be used for another purpose until all necessary environmental activities have been completed”)

Secretary Brasher asked Secretary Marcantel if Corrections would continue to work with the neighborhood association and area businesses, and Secretary Marcantel responded, “Absolutely.”

The motion passed 5-0 by voice vote.

STAFF ITEMS
Presenter: Jeff Primm, Deputy Director

12. Adoption of Open Meetings Resolution 14-01

Mr. Carrasco reviewed changes made to the resolution. He said these changes were made so sections of the resolution would track with statutory language, and are non-substantive.

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

13. Adoption of Interest Rate Policy 14-02

Mr. Primm stated that changes to the policy are non-substantive and consist of minor cleanup language and date changes.
Mr. Aragon moved for approval. Mr. Kormanik seconded the motion, which passed 5-0 by voice vote.

14. Election of Secretary of the Board of Finance

Mr. Aragon moved to nominate Michael Brasher as Secretary. Mr. Kormanik seconded the motion.

There were no other nominations.

Member Brasher’s election as Secretary passed 5-0 by voice vote.

15. 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. Aragon moved to postpone this item to the February Board meeting. Mr. Kormanik seconded the motion, which passed 5-0 by voice vote.

16. Approval of Letter to Legislative Finance Committees in Support of Funding for Fiscal Agent Contract

Secretary Clifford said staff prepared an estimate of fiscal agent fees for FY 2015 by taking the average monthly fees for the period of February-June, which is a period of time reflecting the new account structure recommended by the Cash Management Bureau that gives each agency its own account. This reform, which was initiated by DFA’s Financial Control Division, increased the number of accounts and therefore the custody bank fees. Further, fiscal agent fees in recent fiscal years have been offset by the State Treasurer’s agreement to hold higher-than-necessary balances in fiscal agent accounts. While the State Treasurer must keep about $70 million in fiscal agent bank balances to accommodate state cash flows, in recent fiscal years the average balance has been about $125 million. This generates a cost of $1,321,000, and the LFC recommendation is for $1,210,000. The suggestion was whether the Board would be willing to sign a letter to the LFC endorsing the DFA recommendation.

Mr. Primm said the Board of Finance has been trending just over $130 million in balances subject to the 50 basis point earnings within the fiscal agent contract. The ability to take advantage of the 50 basis points is subject to the Treasury’s cooperation, and there are some reasons why the Treasury might not want to cooperate. Currently, 50 basis points is a very advantageous return for the state as a whole and exceeds what can be earned through the State Treasurer’s current earning opportunities. If that were to change and interest rates went up, the 50 basis point earning ability would seem less advantageous and the Treasurer would be on very solid ground to want to retain as much balance as possible in their accounts and earn a higher interest rate. At this point, it is advantageous for the Board to have those balances; and if it got
a lower appropriation, it would first look to the earnings credits. If those were not available, the Board would have to ascertain whether it was possible to get a supplemental or deficiency appropriation. He said the Board has a very limited operating budget that might be tapped if there were vacancy savings. As a last resort, the Board would have to look into whether or not it is legally allowed to request an emergency appropriation.

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

17. **Board of Finance Dashboard Report**

Mr. Primm reviewed the updated Dashboard Report.

18. **Fiscal Agent/Custodial Bank Fees**

Mr. Primm reported banking fees for the month show no abnormalities. He stated that the fiscal agent contract has been approved by the State Purchasing Division and will take effect in May 2014. The custody bank contract is awaiting approval and should be out within the next week or two.

19. **Joint Powers Agreements**

Mr. Primm asked the record to reflect that the Joint Powers Agreements have been read into the record.

Secretary Brasher asked staff to review the document for typographical errors in sections citing statute.

**ADJOURNMENT**

Its business completed, the State Board of Finance adjourned the meeting at 12:20 p.m.

[Signature]

Susana Martinez, President

2/19/2014

Date

[Signature]

Michael Brasher, Secretary