

Minutes of the New Jersey Health Care Facilities Financing Authority meeting held on November 19, 2009 on the fourth floor of Building #4, Station Plaza, 22 South Clinton Avenue, Trenton, New Jersey.

The following **Authority Members** were in attendance:

Ulysses Lee, Public Member (Chairing); Gus Escher, Public Member (via telephone); Maryann Kralik, Designee of the Commissioner of Banking and Insurance; Eileen Stokley, Designee of the Commissioner of Human Services; and William Conroy, Designee of the Commissioner of Health and Senior Services (via telephone).

The following **Authority staff members** were in attendance:

Mark Hopkins, Steve Fillebrown, Jim Van Wart, Suzanne Walton, Bill McLaughlin, Edwin Fuentes, Carole Conover, Michael Ittleton, Marji McAvoy, and Stephanie Bilovsky.

The following **representatives from State offices and/or the public** were in attendance:

Maryann Kicenuik, Gary Walsh, Windels, Marx, Lane & Mittendorf; Erica Craner, Neil Randerson (via telephone), Marsh USA; Lisa Udouj (via telephone), National Union-Chartis; Estelle Dick, Danielle Cheung, JP Morgan Chase; Bob Glenning, Deborah Hoskins, Hackensack University Medical Center; Glen Wagner, Ponder & Co.; Daniel Deets, Hunterdon Medical Center; Jim Fearon, Gluck Walrath, LLP; Scott Kobler, McCarter & English; and Cliff Rones, Deputy Attorney General.

CALL TO ORDER

Mark Hopkins called the meeting to order at 10:00 a.m. and announced that this was a regular meeting of the Authority, held in accordance with the schedule adopted at the May 28, 2009 Authority meeting. Complying with the Open Public Meetings Act and the Authority's By-laws, notice of this meeting was delivered to all newspapers with mailboxes at the Statehouse, including *The Star-Ledger* and the *Courier Post*, enough in advance to permit the publication of an announcement at least 48 hours before the meeting. Mr. Hopkins then stated that in the absence of the Authority's chair and with the vice chair planning to attend by phone, a chair pro-tem was needed to lead the meeting. Ms. Stokley nominated Ulysses Lee to serve as chair pro tem; Ms. Kralik seconded. Mr. Lee voted yes, Ms. Kralik voted yes, Ms. Stokley voted yes, and Mr. Conroy voted yes. The motion carried.

AB RESOLUTION NO. JJ-37

NOW, THEREFORE, BE IT RESOLVED, that, in the absence of the Authority's chair and vice chair, the Authority hereby appoints Ulysses Lee to serve as chair pro tem for the November 19, 2009 Authority meeting.

Mr. Lee led the meeting from this point on.

APPROVAL OF MINUTES

October 22, 2009 Authority Meeting

Minutes from the Authority's October 22, 2009 meeting were presented for approval. Ms. Stokley offered a motion to approve the minutes; Mr. Conroy seconded. Mr. Lee voted yes, Ms. Kralik voted yes, Ms. Stokley voted yes, and Mr. Conroy voted yes. The minutes were approved.

BOND SALE REPORT

Chilton Memorial Hospital

Lou George reported that on October 27th, the Authority successfully priced a \$39,195,000 dollar transaction on behalf of Chilton Memorial Hospital. Following a retail pre-pricing call on Monday October 26th to discuss the market and the suggested rates, senior manager Merrill Lynch indicated that, of the \$11 billion of issues scheduled for the muni market during the week of the 26th, \$3 billion was taxable and only \$1.1 billion represented healthcare. There was also very little New Jersey paper in the market. Merrill provided a scale of serials from 2012 through 2020 with yields ranging from 3.5% to 5.32 %. The structure also included three term bonds in 2024, 2029, and 2039 with yields of 5.50%, 5.70% and 5.90 %, respectively. Staff was comfortable with these yields and agreed to enter the market after an update call Tuesday morning.

In an update call at 1:00 on Tuesday, Merrill indicated that they had retail orders for approximately \$26 million of the bonds, but there were unsold balances in 2015, 2017, and 2020 serials totaling approximately \$2 million. Merrill said they would take and sell these balances over time. They suggested the order period continue for the remaining term bonds on an institutional basis to wrap-up the deal. Authority staff and the hospital agreed.

At 3:30 p.m. that day, Merrill indicated that it had sold the balance of the term bonds at the agreed upon rates. Of 49.7 million of orders, 26.8 million were retail. No bond fund purchased more than \$3 million of bonds, and the feeling was that the purchases were for their New Jersey tax-exempt funds (according to Fidelity, Lord Abbott, & Putnam). The hospital and the Authority staff were comfortable with the pricing and gave Merrill a verbal award. The all-in TIC was 5.96%.

At this point, Mr. Escher joined the meeting by telephone.

TEFRA HEARING & CONTINGENT BOND SALES

Mr. Lee stated that the following portion of the meeting is considered a public hearing in connection with the proposed issuance of bonds on behalf of both Hackensack University Medical Center and Hunterdon Medical Center. This hearing is taking place in accordance with the public notice and approval requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended.

A. Hackensack University Medical Center

Bill McLaughlin introduced Robert Glenning, Executive Vice President and Chief Financial Officer. Mr. McLaughlin then informed the Members that he would be requesting approval of a contingent sale of bonds on behalf of the Hackensack University Medical Center ("HUMC"). He stated that the proposed transaction, comprised of approximately \$80,000,000 of

tax-exempt bonds, will be structured as a fixed rate financing sold on the basis of HUMC's credit rating. HUMC is currently rated "Baa1" by Moody's and "A-" by Fitch. These ratings are not expected to change as a result of this issuance.

The proceeds of this transaction will be used to refund the Authority's HUMC Series 2000 bonds; to fund the Debt Service Reserve; and to pay related costs of issuance. This financing is interest rate sensitive and will only move forward if the refunding will generate savings.

SERIES RESOLUTION

Gary Walsh of Windels, Marx, Lane & Mittendorf, LLP stated that the Series Resolution authorizes the issuance of the tax-exempt Series 2010 Bonds in an aggregate principal amount that will yield proceeds to the Authority, exclusive of any original issue discount, not in excess of \$80,000,000 and at a true interest cost not to exceed 6.50% per annum. The Series 2010 Bonds will have a final maturity date of no later than January 1, 2034 and be subject to redemption prior to maturity as set forth therein, provided, that the redemption price cannot be greater than 105%. The Series 2010 Bonds will be secured by payments made by HUMC under its Loan Agreement with the Authority as evidenced and secured by a Note issued pursuant to the provisions of a Master Trust Indenture and amounts on deposit in certain funds held by the Trustee pursuant to the General and Series Resolutions. Additional security will include a gross receipts pledge together with a mortgage on certain HUMC property.

Additionally, the Series Resolution approves the form of and authorizes the execution of a Bond Purchase Contract prior to close of business on March 24, 2010. The Series Resolution also approves the form of the Series 2010 Bonds, Preliminary Official Statement, Letter of Instructions, Official Statement, and Loan Agreement. Further, the Series Resolution appoints the Bank of New York Mellon as Trustee, Bond Registrar and Paying Agent for the Bonds. In addition, it authorizes the Authorized Officers to execute and deliver such other documents and to take such other action as may be necessary or appropriate to effectuate the execution and delivery of the Bond Purchase Contract and the Loan Agreement, the financing of the Project and the issuance of the Series 2010 Bonds.

In response to a question from Mr. Conroy, Mr. Glenning replied that the savings estimated from this refinancing, which would be used to reduce HUMC's overall interest cost, have fluctuated from a high of \$300,000 annually to most recently a low of \$60,000 annually.

Mr. Lee asked the Members' pleasure with respect to the adoption of the Bond Resolution. Mr. Conroy moved that the document be approved. Ms. Kralik seconded. The vote was unanimous and the motion was approved.

AB RESOLUTION NO. JJ-38

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby approves the Bond Resolution entitled, "A RESOLUTION AUTHORIZING THE ISSUANCE OF NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY REVENUE AND REFUNDING BONDS HACKENSACK UNIVERSITY MEDICAL CENTER, SERIES 2010."

Co Managers

Mr. Hopkins reminded the Members that the Authority "reserves the right to select firm(s), from its qualified list, to serve as co-managing underwriter(s) for its financings. Co-manager(s) will be selected by the Authority, based on demonstrated ability to distribute New Jersey securities

of comparable credit quality, sufficient capital to participate in underwriting the issue, and borrower preference(s).”

HUMC selected Merrill Lynch & Co. as Senior Managing Underwriter for the proposed issuance of \$80 million in Authority bonds. Based on current market conditions, the type of transaction and its size, staff recommends adding three co-managers to the transaction. HUMC expressed no preference for co-managers. To complement the senior managing underwriter, staff recommended adding Jeffries & Company, Lebenthal & Company, and Ramirez & Company as co-managers for the bonds.

Because the recommended co-managers meet the required criteria, Mr. Conroy moved that they be approved. Mr. Escher seconded. The vote was unanimous and the motion was approved.

AB RESOLUTION NO. JJ-39

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby appoints Jefferies & Company, Lebenthal & Co. and Ramirez & Co. to serve as co-managers for the Hackensack University Medical Center transaction.

Mr. Lee congratulated HUMC on the approval and wished them luck with the financing.

B. *Hunterdon Medical Center*

Bill McLaughlin introduced Daniel J. Deets, Chief Financial Officer of Hunterdon Medical Center. He then informed the Members that revised financial projections have been provided and that the only difference from those included in the mailing is that about \$4 million of board-designated funds have been reclassified as cash. Mr. McLaughlin stated that today he would be requesting approval of a contingent sale of bonds on behalf of Hunterdon Medical Center (the “Medical Center”).

Totaling approximately \$15,000,000, proceeds of the proposed tax-exempt private placement will be used to: refund the Authority’s 1990 Series A bonds; finance certain capital budget items including information technology for the Flemington and Clinton facilities; fund the Debt Service Reserve; fund capitalized interest; and pay related costs of issuance. The transaction is expected to be structured as a bank-qualified private placement and does not include any automatic rate reset or “put” mechanisms.

The Medical Center is currently rated “A-” by Standard & Poor’s and “A” by Fitch. These ratings are not expected to change as a result of this issuance. The financing will initially be priced at sixty-nine percent (69%) of the sum of Thirty-Day LIBOR plus two hundred eighty basis points. As a multi-modal structure, the rate setting convention may change in the future.

BOND RESOLUTION

Maryann Kicenuik of Windels Marx Lane & Mittendorf, LLP stated that the Bond Resolution authorizes the issuance of the tax-exempt Series 2009 Bonds in an amount which will yield proceeds, exclusive of original issue discount, of not to exceed \$15,000,000 and at an initial index floating rate not to exceed 7.00% per annum, and thereafter at a maximum interest rate not to exceed 12.00%. The Series 2009 Bonds will have a final maturity date of no later than December 1, 2019 and be subject to redemption prior to maturity as set forth therein, provided, that the redemption price can not be greater than 105%. The Series 2009 Bonds will be secured by payments made by the Medical Center under its Loan Agreement with the Authority as evidenced and secured by a Note issued pursuant to the provisions of a Master Trust Indenture and amounts on deposit in certain funds held by the Trustee pursuant to the Trust Agreement.

Additional security will include a gross receipts pledge together with a mortgage on certain Medical Center property.

Additionally, the Bond Resolution approves the form of and authorizes the execution of a Bond Purchase Contract with TD Bank, N.A. prior to close of business on February 24, 2010. The Bond Resolution also approves the form of the Series 2009 Bonds, Direct Purchase Memorandum, Letter of Instructions, Loan Agreement and Trust Agreement, and appoints TD Bank, National Association as Trustee, Tender Agent and Bond Registrar for the Bonds. In addition, it authorizes the Authorized Officers to execute and deliver such other documents and to take such other action as may be necessary or appropriate to effectuate the execution and delivery of the Bond Purchase Contract, the Trust Agreement and the Loan Agreement, the financing of the Project and the issuance of the Series 2009 Bonds.

Mr. Deets clarified for Ms. Stokley that approximately \$8 million of the proceeds would be used for refinancing while approximately \$5 million would be used for new money projects.

Mr. Lee asked the Members' pleasure with respect to the adoption of the Bond Resolution and moved that the document be approved. Mr. Escher seconded. The vote was unanimous and the motion was approved.

AB RESOLUTION NO. JJ-40

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby approves the Bond Resolution entitled, "A RESOLUTION AUTHORIZING THE ISSUANCE OF NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY REVENUE BONDS HUNTERDON MEDICAL CENTER ISSUE, SERIES 2009."

Mr. Lee congratulated Hunterdon on the approval. Mr. Deets stood and thanked the Authority and Authority staff for helping Hunterdon to access capital at a very reasonable rate. Mr. Lee then closed the public hearing held on behalf of Hackensack University Medical Center and Hunterdon Medical Center in accordance with Section 147(f) of the Internal Revenue Code of 1986, as amended.

FINANCE COMMITTEE REPORT

Proposed 2010 Authority Budget

As Chairman of the Finance Committee, Mr. Lee reported on the most recent Finance Committee meeting, held on October 6th, at which the Committee discussed the Authority's proposed 2010 budget. He stated that the Committee is pleased to recommend this budget for the Members' approval today.

The proposed budget estimates a total operating expense of \$3,529,074, an operating income of \$3,867,366 and interest income of \$37,590, yielding an anticipated overall net income of \$375,882 for 2010.

Mr. Lee stated that he'd like to touch on the more significant differences between the current 2009 budget and the one proposed for 2010. The proposed budget projects a decrease in annual fees of almost \$73,000 due to three things:

1. instances where multiple series of bonds were refinanced into one resulting in a new lower fee,
2. slowed financing activity due to the national economic crisis, and

3. the fact that our annual fees are based on the declining outstanding balance, which results in decreased billings over time during a slowdown in activity.

The budget also projects a decrease of \$77,000 in the Authority's initial fees due to the slowed financing activity and a decrease of \$76,000 in mortgage servicing income, due to the removal of two FHA-insured issues from the list of anticipated Authority projects. These two Jersey City Medical Center issues had been expected to go to Final Endorsement this year, but as of yet, no date had been set.

The Authority's 2010 interest income is projected to decrease by approximately \$93,000 partially due to the dedication of \$2,000,000 of its fund balance to the Federally Qualified Healthcare Center Loan Program. This dedication would leave just over \$2,850,000 invested in the New Jersey Cash Management Account, which, as of last week, was returning at a rate of 0.34%.

The budget expects fringe benefits to increase by roughly \$55,000 due to increases in health benefit premiums, prescription drug premiums, and the employer pension expense. The 2010 budget also appropriates funds to pay the remaining costs of the St. Mary's bankruptcy professionals and allots \$10,000 for a retreat to educate hospital executives on the Authority's Energy Grant financing options.

On the savings side, the Services of the Attorney General's Office line item decreased by \$25,000 in part because bond counsel has taken over some of the AG's Office roles. Other operational savings come from a variety of actions, such as the sale of an Authority vehicle, limited needs for printed materials, reduced technology costs, less staff members using the educational reimbursement and fewer staff members expecting to retire.

The budget does not include salary adjustments, due to Governor Corzine's wage freeze. If the freeze is lifted, staff will return to the Authority to request an amendment for such increases.

On behalf of the Finance Committee, Mr. Lee applauded staff's due diligence to keep costs to a minimum as well as the Division of Operations and Finance's ability to annually create a budget so on target that the Authority can operate within a very small margin of its estimates without going over. He thanked Michael Ittleson, Taryn Jauss, and all others on the staff who work hard to put together a clean and effective budget from year to year.

Mr. Lee moved to approve the proposed 2010 budget. Mr. Escher seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. JJ-41

NOW, THEREFORE, BE IT RESOLVED, that, the Authority hereby approves the proposed 2010 Authority Budget, as recommended by the Finance Committee.

DIRECTORS & OFFICERS LIABILITY INSURANCE RENEWAL

Michael Ittleson introduced Erica Craner (in attendance) and Neil Randerson (on the telephone) from Marsh USA, the Authority's broker. He also introduced Lisa Udouj (on the telephone), the underwriter from National Union (Chartis). Mr. Ittleson reported that the Authority's \$20 million Directors & Officers Liability ("D & O") policy expires on December 18, 2009. The policy was provided through National Union, specifically AIG, which, for this

policy, is now known as Chartis, the property-casualty business spun-off from AIG on July 27th of this year.

With regards to a new policy, Marsh approached the following seven carriers, all of which were "A" rated: National Union (Chartis), Federal Insurance (Chubb), Westchester Fire Insurance (ACE), Ironshore Specialty, PIA, The Travelers, and HCC Global Products.

Chartis, the present insurer was the only carrier to offer the \$20 million limit of liability. Its offer included a retention level of \$175,000 for an annual premium of \$72,810 plus the New Jersey surcharge of \$655 for a total of \$73,465. This represents a \$5,334, or 6.77%, decrease in premium from the expiring policy while not losing any coverage.

Of the other six carriers, four could not offer the \$20 million limit and two declined because of the nature of the Authority's business. It should be noted that Chubb, which had provided D & O coverage for the Authority in the late 80's and early 90's, only provided a \$10 million limit but their premium was \$17,190 more than the premium Chartis is proposing on a \$20 million limit. Chartis has a rating from A.M. Best Company of "A" (Excellent).

Based on this information, staff recommended that the Authority's D & O policy be renewed with National Union (Chartis) with a \$20 million limit of liability and a retention level of \$175,000. Mr. Escher offered a motion to renew the Authority's D & O policy with National Union (Chartis), as recommended by staff, with a \$20 million limit of liability and a retention level of \$175,000; Mr. Conroy seconded. The vote was unanimous and the motion was approved.

AB RESOLUTION NO. JJ-42

NOW, THEREFORE, BE IT RESOLVED, that hereby approves the renewal of its Directors & Officers Liability policy with National Union (Chartis) with a \$20 million limit of liability and a retention level of \$175,000.

APPROVAL OF DIVISION OF LAW AGREEMENT FOR 2010

Jim Van Wart directed the Members attention to a memo staff received from the Division of Law in the Department of Law and Public Safety, which includes the Division of Law's proposed Client Agency Agreement for legal services to be provided to the Authority for the period from July 1, 2009 to June 30, 2010. He noted that the letter is dated June 11, 2009, but the Authority did not receive it until October.

As in previous years, the proposed agreement contemplates the assignment of 1.5 Deputy Attorneys General, which represents 1,800 hours of work on behalf of the Authority. It also contemplates the use of .80 Clerical/Secretarial staff plus overhead. The Authority only pays for service hours used.

The estimated annual cost of \$249,678 reflected in the agreement is based on the average cost of all deputies presently on staff. In comparison, the estimated fees for the 2009 fiscal year were \$255,812. On a fiscal year basis through June 30, 2009, actual fees from the Attorney General's office have been \$70,147 compared to the \$91,078 that was paid for the same period in 2008. The Authority's 2009 budget (calendar year) includes \$110,000 for this category. For calendar year 2008 actual/estimated payments totaled \$78,552.

Mr. Lee offered a motion to approve the proposed Division of Law Agreement; Ms. Stokley seconded. The vote was unanimous and the motion was approved.

AB RESOLUTION NO. JJ-43

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby approves the proposed Division of Law Agreement, as recommended by staff, for the period from July 1, 2009 to June 30, 2010.

AUTHORITY EXPENSES

Mr. Lee referenced a summary of Authority expenses and invoices and then Mr. Escher offered a motion to approve the bills and to authorize their payment; Ms. Stokley seconded. The vote was unanimous and the motion was approved.

AB RESOLUTION NO. JJ-44

WHEREAS, the Authority has reviewed memoranda dated November 11, 2009, summarizing all expenses incurred by the Authority in connection with FHA Mortgage Servicing, Trustee/Escrow Agent/Paying Agent fees, and general operating expenses in the amounts of \$203,920.69, \$26,642.67 and \$48,429.04 respectively, and has found such expenses to be appropriate;

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby approves all expenses as submitted and authorizes the execution of checks representing the payment thereof.

STAFF REPORTS

Mr. Lee thanked staff for the Project Development Summary, Cash Flow Statement, and Legislative Advisory. Mr. Hopkins then presented his Executive Director's Report, which stated the following:

1. In hospital personnel news, Hackensack University Medical Center named Robert Garrett as President and Chief Executive Officer. Mr. Garrett has been with the hospital since 1981 and has served as the acting CEO since John Ferguson departed in June. Holy Name Hospital appointed Joe Lemaire as Chief Financial Officer. Mr. Lemaire replaces Greg Adams who retired earlier this year, and most recently Mr. Lemaire was a partner with the consulting firm Accenture. Ron DeVito is no longer CFO at Hoboken University Medical Center. Vincent Riccitelli will be acting CFO while Hoboken performs a search for a permanent replacement.
2. A fire broke out in the kitchen of Jersey Shore University Medical Center over the weekend. The fire spread to other floors but was quickly brought under control with no reported injuries.
3. St. Joseph's held a groundbreaking for its critical care unit last week. The Authority financed the construction of the unit.
4. On Election Day, a non-binding referendum on the reopening of Pascack Valley Hospital appeared on the ballot in Closter, Dumont, Harrington Park, Northvale, Norwood, Oradell and Old Tappan. Residents of those towns

voted in favor of reopening Pascack Valley Hospital by a margin of nearly three to one. Hackensack University Medical Center and its for-profit partner, Legacy Hospital Partners, purchased the hospital out of bankruptcy and have filed an application with the Department of Health and Senior Services to reopen the hospital. A public hearing was held by the State Health Planning Board in June to consider the request. Shortly thereafter, Hackensack requested that the decision be delayed for up to six months.

Nearby Englewood Hospital and Medical Center and Valley Hospital oppose the reopening, asserting that the hospital is not needed and will add to the glut of hospital beds in the region. The license for the hospital is set to expire on December 28, 2009. In late October, the mayor of Westwood requested that the Governor and the Commissioner of Health and Senior Services extend the deadline.

Mr. Lee asked Mr. Hopkins' opinion of what practical effect the referendum will have, to which Mr. Hopkins stated that it was likely a tactic to bring political pressure to support the hospital's opening, and clearly the people who live in the area of the facility would like it to be reopened. However, he added, the fact that the neither Englewood nor Valley's market areas were polled may make it an unbalanced approach.

5. The Authority will be launching a new website within the next couple of weeks. The website will be much more informative and interactive than the Authority's current site. Mr. Hopkins complimented Communications Specialist Stephanie Bilovsky for her work on the new site.

This concluded the Executive Director's report.

EXECUTIVE SESSION

Mr. Lee asked the Members to meet in Executive Session, as permitted by the Open Public Meetings Act and the Authority's By-Laws, to discuss bankruptcy litigation and receive advice from the Attorney General's Office regarding St. Mary's Hospital of Passaic. Ms. Kralik offered a motion to meet in Executive Session; Mr. Conroy seconded the motion. The vote was unanimous and the motion carried. Mr. Lee noted that the results of this discussion will be made public when the need for confidentiality no longer exists.

AB RESOLUTION NO. JJ-45

NOW, THEREFORE, BE IT RESOLVED, that, as permitted by the Open Public Meetings Act and the Authority's By-Laws, the Authority meet in Executive Session to discuss bankruptcy litigation and receive advice from the Attorney General's Office regarding St. Mary's Hospital of Passaic;

BE IT FURTHER RESOLVED, that the results of discussions may be made known at such time as the need for confidentiality no longer exists.

Public session reconvened. As there was no further business to be addressed, following a motion by Ms. Stokley and a second by Ms. Kralik, the Members voted unanimously to adjourn the meeting at 11:00 a.m.

I HEREBY CERTIFY THAT THE
FOREGOING IS A TRUE COPY OF
MINUTES OF THE NEW JERSEY
HEALTH CARE FACILITIES
FINANCING AUTHORITY MEETING
HELD ON NOVEMBER 19, 2009.

Carole A. Conover
Assistant Secretary