

Minutes of the New Jersey Health Care Facilities Financing Authority meeting held on June 28, 2012 on the fourth floor of Building #4, Station Plaza, 22 South Clinton Avenue, Trenton, NJ.

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

Gus Escher, Public Member (Chairing); Bill Conroy, Designee of the Commissioner of Health and Senior Services; Robert Bollaro, Designee of the Commissioner of Human Services; Marygrace Pesce, Designee of the Commissioner of Banking and Insurance; Dr. Munr Kazmir, Public Member and Suzette Rodriguez, Public Member (via telephone).

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

Mark Hopkins, Ron Marmelstein, Suzanne Walton, Michael Ittleson, Carole Conover, Linda Hughes, Bill McLaughlin, Ellen Lieber, Marji McAvoy, Arvella King, Edwin Fuentes and Christopher Kulick.

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

Cliff Rones, Deputy Attorney General; John Cascarano, Governor's Authorities Unit; Ryan Feeney, NJ Treasury Department; Thomas Lichtenwalner of St. Luke's Hospital; Carl Alberto of St. Luke's Warren Hospital; Thomas Tran of Stifel Nicolaus; and Kristin DiSandro of JNESCO.

CALL TO ORDER

Vice-Chairman Gus Escher called the meeting to order at 10:06 a.m. and announced that this was a regular meeting of the Authority, held in accordance with the schedule adopted at the May 24, 2012 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 *Courier Post*, enough in advance to permit the publication of an announcement at least 48 hours before the meeting.

(Mr. Escher noted that there would be someone following the Supreme Court Health Care decision that was expected to be announced during the meeting and he would share the information when he received it.)

1. APPROVAL OF MINUTES

May 24, 2012 Authority Meeting

Minutes from the Authority's May 24, 2012 meeting were presented for approval. Dr. Kazmir offered a motion to approve the minutes; Mr. Bollaro seconded. Mr. Escher, Mr. Bollaro, Ms. Pesce, Ms. Rodriguez and Dr. Kazmir voted yes, Mr. Conroy abstained and the motion carried.

2. REQUEST FOR WAIVER OF COVENANTS

St. Luke's Warren Hospital

Mr. Bill McLaughlin introduced Thomas Lichtenwalner, Senior Vice President, Finance from St. Luke's Hospital and Mr. Carl Alberto, Vice President, Finance and Chief Financial Officer from St. Luke's Warren Hospital.

Mr. McLaughlin informed the Members that Staff was requesting the approval of a Resolution Authorizing and Approving a Waiver and Certain Other Related Matters in Connection with the New Jersey Health Care Facilities Financing Authority's Revenue Bonds, St. Luke's Warren Hospital Issue Series 2012.

During January 2012, St. Luke's Warren Hospital entered into a \$42,150,000 private placement with Allstate Insurance Company. The bonds were used to finance a portion of the costs of completing the acquisition of all of the ownership interests of Warren Hospital by St. Luke's Hospital of Bethlehem, Pennsylvania. The Series 2012 Bonds were issued and delivered to Allstate via a direct placement in exchange for all of the Authority's outstanding Warren Hospital Series 2008A and Series 2008B (taxable) Bonds. All of the Series 2008A and Series 2008B Bonds were cancelled and extinguished upon the issuance and delivery of the Series 2012 Bonds.

Subsequent to the closing on the financing, the hospital has experienced some issues that have resulted in covenant violations under the Authority's Loan Agreement for the Series 2012 bonds. Specifically, the hospital is in violation of Section 5.13, which requires the maintenance of 1.25 times coverage for both the debt service coverage ratio and the cushion ratio. This particular violation also constitutes the first of two events which could cause Authority action under Section 5.15, "Triggering Events." The hospital is also in violation of Section 6.4, which establishes a 10% maximum threshold for the level of accounts payable that remain unpaid for more than 75 days and the requirement that no account payable remains unpaid for more than ninety days; and Section 5.6(c)(ii) which requires that the hospital submit its audited financial statements not later than one-hundred fifty days following the fiscal year-end.

On May 25, 2012, the hospital cured the violations of Required Ratio Covenant and the Accounts Payable Covenant through the transfer of cash from St. Luke's Hospital of Bethlehem, Pennsylvania. As a result of the previously mentioned covenant violations, the Hospital's auditor, Withum, Smith & Brown, PC, has been delayed in releasing an unqualified audit.

The hospital has requested that the Authority waive the requirements of Sections 5.13 and 5.15 as they relate to maintaining a cushion ratio of 1.25 times for the quarterly calculation date of March 31, 2012. The resolution the Members are being asked to consider authorizes the Executive Director and Deputy to approve the Waiver Agreement that includes (i) a waiver of the requirement for the retention of a consultant and the preparation and implementation of a report and plan for correcting the deficiency, and (ii) a waiver of the requirement to consider this violation the first of two incidents which would cause Authority action under its "Triggering Events" clause. For example, a failure to maintain the cushion ratio as of June 30, 2012 would constitute an initial failure as opposed to a second consecutive failure.

Further, the hospital requests that the Authority, following prior receipt of consent from the majority bondholder and trustee, consent to the waiver of the violation of the Accounts Payable Covenant, with respect to any past failure of the Accounts Payable Covenant through and including May 25, 2012.

Finally, the hospital requests that the Authority, following prior receipt of consent from the majority bondholder and trustee, extend the date by which the audited financial statements for Fiscal Year 2011 are to be filed to July 31, 2012.

The resolution also authorizes the Executive Director or Deputy the limited ability to waive similar incidents, following approval by 100% of the Registered Owners of the bonds and the Trustee, should they occur in the future.

A resolution has been prepared by Wilentz, Goldman & Spitzer P.A., the Bond Counsel, which provides for the referenced request. The Attorney General's office has reviewed the resolution and has approved the form of the document presented to Members at the meeting.

Responding to a question from Mr. Conroy about the specific issues that led to this request, Mr. Alberto noted that in conjunction with the transaction with St. Luke's, there was a \$25 million capitalization that came in from the network. For the period ending March 31, staff focused on the liquidity requirements of the 2012 bonds, which were to have eight days cash on hand, whereas the cushion ratio requires 21 days. He noted that in regards to the accounts payable, the hospital went from 100 days at year-end 2011 down to 72 days ending March 31. However the threshold was still triggered.

On May 25, the network transferred \$6.5 million as part of the \$25 million capitalization to St. Luke's Warren Hospital which resulted in providing 38 days cash on hand and a 2.3 cushion ratio. There are also less than 1% of accounts payable that are outstanding greater than 75 days. As of May 25, the hospital was in compliance with the covenants. Mr. Alberto emphasized that the staff focus had been on the liquidity and cash on hand as opposed to the cushion ratio and the technicalities of accounts payable.

Mr. Conroy asked how the hospital was currently doing, and Mr. Alberto responded positively noting that as of May 31 there is an operating margin of greater than 6% and an overall profit margin of greater than 2%; the FY 2013 budget has just been completed and projects a 4.4% overall profit margin. Since the closing four months ago, the hospital has seen a savings of \$4.5 million in ongoing savings due to the interest savings on the transaction completed with the Authority, pricing initiatives through the network, consulting fees and utility expenses. It may recognize another \$1-2 million in additional savings because of the purchasing power and leverage of the network.

Mr. Alberto confirmed Mr. Conroy's statement that the waiver reflects on the hospital's prior performance.

Mr. Escher asked the Members' pleasure with respect to the adoption of the resolution on behalf of St. Luke's Warren Hospital. Dr. Kazmir made a motion to approve the adoption of the resolution on behalf of St. Luke's Warren Hospital. Mr. Conroy seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. MM-01

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby approves the Resolution entitled, “RESOLUTION AUTHORIZING AND APPROVING A WAIVER AND CERTAIN OTHER RELATED MATTERS IN CONNECTION WITH THE NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY’S REVENUE BONDS, ST. LUKE’S WARREN HOSPITAL ISSUE, SERIES 2012.”

(attached)

(Mr. Escher informed Members that a Supreme Court decision had been announced and the Health Care bill had been upheld but the Individual Mandate had been struck down. It was later clarified that the Individual Mandate was upheld. The confusion in the initial reporting resulted from the Court’s opinion that the mandate was not constitutional pursuant to the Commerce Clause, but was constitutional as a tax.)

3. APPROVAL TO ISSUE AN RFP FOR A CONSULTANT FOR THE EARLY WARNING SYSTEM, STABILIZATION FUND, AND CHARITY CARE

Mr. Mark Hopkins informed Members that with the upcoming vacancy in the position of Executive Director of Health Care Financing at the Department of Health and Senior Services (“DHSS”), DHSS has asked the New Jersey Health Care Facilities Financing Authority to add some of the duties handled by that position to its existing Memorandum of Agreement with the Authority for Quarterly Financial Database Maintenance and Data Analysis. The new duties will include assessing the financial conditions of hospitals and other health care organizations, providing consultation to the Authority and DHSS on policy, capacity, consolidation and change in ownership of health care facilities for purposes of reviewing Certificate of Need applications and other health care planning decisions and providing leadership for the Early Warning System, Stabilization Fund and Charity Care Programs.

In order to meet these additional duties, Authority Staff recommended engaging a consultant on a part-time basis, averaging approximately 25 to 28 hours per week. DHSS will reimburse the Authority for the cost of the consultant pursuant to the Memorandum of Agreement.

Staff requested the Authority Members’ approval to issue a Request for Proposals for a consultant to handle the outlined duties. A draft Request for Proposal was included in the Authority Members’ meeting materials.

Responding to a question from Mr. Bollaro about the timing of the process, Mr. Hopkins noted that once the Governor’s veto period has expired, the RFP would be sent out and would allow 2-3 weeks for replies which would be near the end of July. Staff would aim to have a recommendation for Authority Members by the August meeting.

Dr. Kazmir offered a motion to approve the issuance of an RFP for a consultant for the Early Warning System, Stabilization Fund, and Charity Care; Mr. Bollaro seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. MM-02

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby approves the issuance of an RFP for a consultant for the Early Warning System, Stabilization Fund, and Charity Care.

4. EXTENSION OF CONTRACTS

a. Financial Printing

Mr. Christopher Kulick informed Members that the original two year contract with McElwee & Quinn for the printing of Preliminary and Final Official Statements and other related documents for Authority revenue bonds expires on October 31. The contract had initially been awarded after an RFP in the summer of 2010, and the original contract allows for three additional one-year extensions at the option of the Authority at the original terms and conditions. Staff has been pleased with the quality and timeliness of McElwee & Quinn's work and therefore, asked the Members consideration in appointing McElwee & Quinn to the first one-year extension for the period of November 1, 2012 through October 31, 2013.

Mr. Conroy offered a motion to appoint McElwee & Quinn to the first one-year extension for the period of November 1, 2012 through October 31, 2013 for the printing of financial documents; Dr. Kazmir seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. MM-03

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby approves the appointment of McElwee & Quinn to the first one-year extension for the period of November 1, 2012 through October 31, 2013 for the printing of financial documents.

b. Document Imaging

Mr. Christopher Kulick informed Members that the first one-year extension of the original three year contract with Foveonics Imaging Technologies for archiving the Authority's loose documents, construction requisitions, and trustee bank statements on CD's expires on September 7. The contract had initially been awarded after an RFP in the summer of 2008, and the original contract allowed for two additional one-year extensions at the option of the Authority at the original terms and conditions. Staff has been pleased with the quality and timeliness of Foveonics work and therefore, is asking the Members consideration in appointing Foveonics to the second and final one-year extension for the period of September 8, 2012 through September 7, 2013.

Ms. Pesce offered a motion to appoint Foveonics to the second and final one-year extension for the period of September 8, 2012 through September 7, 2013 for the digital archiving of Authority documents; Dr. Kazmir seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. MM-04

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby approves the appointment of Foveonics to the second and final one-year extension for the period of September 8, 2012 through September 7, 2013 for the digital archiving of Authority documents.

5. APPROVAL OF EXPENSES

Mr. Escher referenced a summary of Authority expenses and invoices. Mr. Ittleson noted that the expenses listed the principal payment and mortgage servicing fee for Englewood Hospital. That bond issue was refinanced out of the Authority portfolio yesterday. That request for payment will not occur, and there will be no more issues in the Authority's mortgage servicing portfolio. Dr. Kazmir offered a motion to approve the bills and to authorize their payment; Mr. Conroy seconded. The vote was unanimous and the motion was approved.

AB RESOLUTION NO. MM-05

WHEREAS, the members of the Authority have reviewed the memoranda dated June 21, 2012, summarizing 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 \$544,468.86, \$50,674.50 and \$11,621.69 respectively, and have found such expenses to be appropriate;

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

6. STAFF REPORTS

Mr. Escher thanked staff for the Project Development Summary, Cash Flow Statement and Legislative Advisory reports.

Mr. Hopkins then presented his Executive Director's report noting the following items to Members:

1. A bill has been introduced in the legislature to expand the Authority's Hospital Asset Transformation Program to allow for State-backing of Authority issued bonds when a hospital closes at least 175 licensed beds. Currently to receive State-backing of bonds, an entire hospital facility must close. The Department of Health and Senior Services has issued a letter to the sponsor expressing its concern that this bill would make the program available to too many facilities, presenting too much risk to the State, and would not achieve the economy of scale goals originally intended by the creation of the HATP. The bill has passed the Assembly and is expected to be considered by the Senate in the fall.

2. Hospital News

a. The State Health Planning Board recommended the approval of two Certificate of Need applications: (i) the sale of Christ Hospital to Hudson Hospital Opco, which is controlled by the same principals who own Bayonne Medical Center and Hackensack University Medical Center; and (ii) the closure of the Sussex campus of St. Clare's Hospital. Final determination on both applications is to be made by the Commissioner within 120 days.

b. The Commissioner has approved the Certificate of Need for the acquisition of Mountainside Hospital from Merit Health System by Montclair Health System, a joint venture of LHP and Hackensack University Medical Center. The transaction is expected to be completed on June 30.

c. Englewood Hospital and Medical Center completed a refunding of its Authority bonds on June 27. The bonds were outstanding in the amount of \$82.46 million and carried FHA mortgage insurance. The bonds were refunded by taxable bonds not issued by the Authority. As the Authority has seen with other hospitals, because there are no AAA rated bond insurers to wrap bonds with FHA mortgage insurance, bond purchasers are not willing to purchase tax-exempt bonds with FHA mortgage insurance. To give bond holders sufficient confidence, FHA mortgage insured bonds have recently been wrapped with GNMA securities, which prevents the bonds from being tax-exempt, due to the federal guaranty on GNMA securities. The Authority was also the mortgage servicer on the Englewood mortgage.

d. Fitch Ratings has affirmed its "B" rating on Deborah Heart & Lung Center, with a stable outlook. Deborah is also celebrating its 90th anniversary this month.

e. Moody's Investors Service has affirmed Holy Name Medical Center's Baa2 rating, with a stable outlook.

f. Atlantic Health System and Barnabas Health have announced that long-standing discussions between the two entities to explore possible synergies have been terminated.

g. Virtua Health is planning to demolish its former hospital on Evesham Road in Voorhees, which was replaced last year by its new, Authority-financed, hospital on Route 73.

h. Hackensack University Medical Center has received HealthGrades 2012 Women's Health Excellence Award, putting Hackensack in the top five percent in the nation for women's healthcare. This is the seventh year in a row that Hackensack has won the award.

i. Hunterdon Medical Center is building a state-of-the-art cardiovascular center on the fifth floor of its west wing. Part of a \$15 million project, the center will be funded by contributions.

j. Children's Specialized Hospital has been recognized as New Jersey's Hospital of the Year by NJBiz Magazine.

k. Rolling Stone magazine has published an article by Matt Taibbi on bid rigging in the awarding of Guaranteed Investment Contracts ("GICs") used to invest the proceeds of tax-exempt bonds that are not immediately used, such as Construction Funds and Debt Service Reserve Funds. The article explores the federal case of the *U.S.A. v. Carollo, Goldberg and Grimm*. The defendants were employees of GE Capital and were ultimately convicted of participating in the bid rigging scheme in which they, as GIC providers, conspired with the brokers at Chambers, Dunhill and Rubin (many of whom have already pled guilty), to lower the interest rates that would be offered on GICs that were provided to issuers of tax-exempt bonds. The article is extremely interesting. However, in mentioning the Authority near the end of the article, it implies an overbroad result of the bid rigging by noting that the bids were rigged by Carollo on one of our financings for \$17 million, juxtaposed with the following sentence: "Since then more than a dozen New Jersey hospitals have closed, mostly in poor neighborhoods."

3. Authority News

a. Mr. Hopkins informed Members that Hilary Freed has joined the Authority as the new Database Administrator. Ms. Freed has a bachelor's degree in Economics from Bucknell University. While attending Bucknell, she spent one summer working as a Research Assistant at the Rutgers Center for Health Care Policy and another summer as a Research Analyst at the Bucknell Institute for Public Policy.

b. The Authority has hired a new Project Manager, expected to start on July 9.

c. On June 1, Tammy Romsdahl, the Authority's Administrative Assistant for Project Management and Research, Investor Relations and Compliance, gave birth to a baby girl, Lydia Margaret Romsdahl. She was 8 pounds 5 ounces at birth. Congratulations to Tammy and her husband Ray.

d. The Authority's annual report is back from the printer. Mr. Hopkins congratulated the Authority's Communications Specialist, Linda Hughes, on a job well done.

This concluded the Executive Director's report.

As there was no further business to be addressed, following a motion by Dr. Kazmir and a second by Mr. Bollaro, the Members voted unanimously to adjourn the meeting at 10:35 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
JUNE 28, 2012.

Carole A. Conover, Assistant Secretary