

Minutes of the New Jersey Health Care Facilities Financing Authority meeting held on November 15, 2012 on the fourth floor of Building #4, Station Plaza, 22 South Clinton Avenue, Trenton, NJ.

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

Bill Conroy, Designee of the Commissioner of Health (Chairing); Maryann Kralik, Designee of the Commissioner of Banking and Insurance; Greg Lovell, Designee of the Commissioner of Human Services; Elisa Charters, Public Member; and via telephone: Suzette Rodriguez, Public Member and Dr. Munr Kazmir, Public Member.

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

Mark Hopkins, Steve Fillebrown, Ron Marmelstein, Suzanne Walton, Michael Ittleson, Carole Conover, Linda Hughes, Bill McLaughlin, Carl MacDonald, Jessica Lucas, Edwin Fuentes, Marji McAvoy, Miriam Bolger, 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, Treasury; Gary Gilmore and Victor Flamini of Wiley Mission; John Bitar of Windels Marx Lane and Mittendorf, LLP; Jay Wenger of Susquehanna Group Advisors; Manuel Mar of J.P. Morgan; Dr. James J. Kostinas of David Kostinas; and via telephone: Erica Craner of Marsh USA, and Bristra Stanko of Chartis.

## **CALL TO ORDER**

Executive Director Mark Hopkins called the meeting to order at 10:14 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. Hopkins suggested that in the absence of the Authority's Chairperson and Vice Chair, a Chair pro tem should be named. Mr. Lovell nominated Bill Conroy to serve as Chair pro tem for the November 15, 2012 meeting and Dr. Kazmir seconded. The vote was unanimous and the motion carried.

## **AB RESOLUTION NO. MM-33**

**NOW, THEREFORE, BE IT RESOLVED**, that, in the absence of the Authority's Chairperson and Vice Chairperson, William Conroy will serve as the chair pro tem for the November 15, 2012 Authority meeting.

**1. APPROVAL OF MINUTES**  
**October 25, 2012 Authority Meeting**

Minutes from the Authority's October 25, 2012 meeting were presented for approval. Dr. Kazmir offered a motion to approve the minutes; Ms. Charters seconded. The vote was unanimous and the motion carried.

**2. CONTINGENT BOND SALE**  
**Wiley Mission**

Bill McLaughlin introduced, from Wiley Mission; Mr. Gary Gilmore, President and Chief Executive Officer and Mr. Victor Flamini, Chief Financial Officer.

Following the introduction, Mr. McLaughlin informed the members that he would be requesting approval of a contingent sale of bonds on behalf of Wiley Mission. A TEFRA hearing for the proposed transaction was conducted at the Authority's October 2012 meeting. There were no objections to this tax-exempt financing proceeding.

Wiley Mission is a not-for-profit 501(c)(3) corporation that operates a continuing care retirement community located in Marlton, New Jersey and an adult daycare service located in Pennsauken, New Jersey. The continuing care retirement community provides housing, healthcare and other related services to elderly residents through the operation of a 67 bed nursing facility, a 48 bed residential health care facility and 137 independent living apartments and cottages. The adult daycare service provides medical and behavioral management services. This facility is currently licensed for 160 clients

Mr. McLaughlin then stated that the proposed transaction will be comprised of approximately \$15 million of tax-exempt bonds, the proceeds of which will be used: to currently refund the Series 2002 bonds issued by this Authority on behalf of Wiley; to currently refund the New Jersey Economic Development Authority, Economic Development Bonds (Wiley Mission Project) issue; and to pay the related costs of issuance. The transaction will be unrated and will not have a debt service reserve.

Mr. McLaughlin introduced John Bitar of Windels Marx Lane & Mittendorf, LLP, the Bond Counsel to present the Bond Resolution pertaining to this transaction.

**BOND RESOLUTION**

Mr. Bitar stated that the Bond Resolution authorizes the issuance of the tax-exempt Series 2012 Bonds in one or more designated lots in an aggregate principal amount not in excess of \$15 million. The Bond Resolution provides that the Series 2012 Bonds shall have a final maturity date of no later than July 15, 2029. The Bond Resolution also provides that the Series 2012 Bonds shall initially bear interest at the Floating Rate (which is an interest rate based upon one month LIBOR and determined monthly in accordance with a formula set forth in the Series 2012 Trust Agreement) and that from the date of their issuance until the first interest payment date for each Series of the Series 2012 Bonds, the Floating Rate shall not exceed 5.00% per annum. Thereafter, the Series 2012 Bonds shall bear interest at the Floating Rate as shall be determined

in accordance with the Series 2012 Trust Agreement; provided, however, that in no event shall the interest rate on any Series 2012 Bond exceed 12.00% per annum. The Series 2012 Bonds will be subject to redemption prior to maturity as set forth in the Series 2012 Trust Agreement, provided, that the redemption price cannot be greater than 105%.

The Series 2012 Bonds will be secured by payments made by Wiley Mission and Wiley Adult Day Services, Inc., under the Series 2012 Loan Agreement with the Authority. No disclosure document is being prepared in connection with the issuance of the Series 2012 Bonds and, as a result, TD Bank, as the Purchaser of the Series 2012 Bonds is required to provide the Authority with a travelling investor letter on or prior to the date of closing.

Additionally, the Bond Resolution approves the form of and authorizes the execution and delivery of the Series 2012 Bonds, the Series 2012 Trust Agreement, the Series 2012 Loan Agreement, and Letters of Instruction. Further, the Bond Resolution appoints Wells Fargo Bank as Trustee and Bond Registrar for the Series 2012 Bonds. In addition, the Bond Resolution also 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 Trust Agreement, the Loan Agreement, and the issuance and sale of the Series 2012 Bonds.

Mr. Conroy asked the Members' pleasure with respect to the adoption of the Bond Resolution on behalf of Barnabas Health. Dr. Kazmir made a motion to approve the Resolution. Ms. Rodriguez seconded. Mr. Conroy, Ms. Kralik, Mr. Lovell, Ms. Rodriguez and Dr. Kazmir voted yes, Ms. Charters abstained and the motion carried.

#### **AB RESOLUTION NO. MM-34**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby adopts the resolution entitled "A RESOLUTION AUTHORIZING THE ISSUANCE OF NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY VARIABLE RATE REVENUE AND REFUNDING BONDS, WILEY MISSION ISSUE, SERIES 2012."

*(attached)*

Mr. Gilmore thanked the Authority and noted how much he and his colleagues appreciated working with the Authority Staff and building relationships with the Staff.

### **3. DIRECTORS & OFFICERS LIABILITY INSURANCE RENEWAL**

Mr. Michael Ittleson introduced guests that were on the phone: Erica Craner, from the Authority's broker, Marsh USA, and the underwriter from Chartis, Bristra Stanko.

Mr. Ittleson noted that the Authority's expiring Directors and Officers Liability policy, also known as D & O, is with Chartis. The policy was a one-year policy that had a \$20 million limit of liability and a deductible of \$175,000. The premium was \$71,030 with a NJ Surcharge of \$639 for a total cost of \$71,669.

For the renewal, the broker approached Chartis, ACE, Beazley and Travelers. ACE, Beazley and Travelers declined to quote because they felt they could not be competitive with our current policy and/or could not offer the \$20 million limit of liability. That left Chartis which offered a \$20 million limit with a deductible of \$175,000 for a premium of \$71,385 and a NJ Surcharge of \$645 for a total of \$72,030 or a minimal increase of \$361 when compared to the expiring policy.

The broker indicated that this was a very favorable renewal quote from Chartis considering it was seeing 5 to 10% increases on average from incumbents even if there had been no material change in exposures. The broker indicated that the current change in market is due to the increase and severity of claims. It should be noted that since the Authority first went to a deductible of \$175,000 five years ago for the policy period December 18, 2007 to December 18, 2008, this is the first increase but it is a very minimal increase.

Based on this information, Staff requested Members' consideration in approving the renewal of the D & O policy with Chartis with a \$20 million limit of liability, a deductible of \$175,000 with a premium of \$71,385 and a NJ Surcharge of \$645 for a total of \$72,030. The policy covers the period December 18, 2012 through December 18, 2013.

In response to a question from Mr. Conroy, Mr. Ittleton confirmed that the Authority has been with Chartis since 2007, after they spilt from AIG.

Dr. Kazmir made a motion to approve the renewal of the D&O policy with Chartis. Mr. Lovell seconded the motion. Mr. Conroy, Ms. Kralik, Mr. Lovell, Ms. Rodriguez and Dr. Kazmir voted yes, Ms. Charters abstained and the motion carried.

#### **AB RESOLUTION NO. MM-35**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves the renewal of the D&O policy with Chartis.

#### **4. FINANCE COMMITTEE REPORT**

Dr. Kazmir presented his Finance Committee Report to Members:

The Finance Committee met on October 9, 2012 and again on November 7 to discuss the Authority's proposed 2013 budget. He informed Members that the Committee would be recommending the budget for the Members' approval.

The proposed 2013 cash budget includes an estimated operating income of \$3,696,289, estimated interest income of \$1,500, and estimated Health Information Exchange (HIE) Grant salary reimbursement from the Department of Health of \$114,000 for a total projected income of \$3,811,789. Estimated operating expenses are budgeted at \$3,666,37.1

As a percentage of the budget, total operating income projections decreased 7.42%, largely due to reduced projections of initial and annual fees. Expected operating expenditures increased minutely by 0.01%. Anticipated receipts over disbursements is projected to be \$145,418.

He applauded Staff's due diligence to keep costs to a minimum as well as Staff's ability to produce accurate budgets year after year, he particularly commended Controller Michael Ittleson and Accountant Christopher Kulick.

In response to a question from Mr. Conroy regarding the trend in income projections, Mr. Hopkins noted that the projections have been flat, partially due to the increase in for-profit hospitals in New Jersey. While they are able to finance through the Authority, it is not financially advantageous for them to do so. The Authority has seen fewer deals overall. There have been some new financings with the lower interest rates and some new construction. Overall the Authority expects the next few years to be slow. He added that the uncertainty surrounding the Affordable Care Act had some hospitals delaying capital improvements, which they may now begin to explore. As those plans begin to take shape in the next year or two, the Authority may begin to see more financings.

As there were no further questions on the proposed budget, Dr. Kazmir made a motion to adopt the 2013 Authority Budget as presented. Ms. Charters seconded the motion. The vote was unanimous and the motion carried.

#### **AB RESOLUTION NO. MM-36**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby adopts the proposed 2013 Authority Budget as recommended by the Finance Committee.

#### **5. RESOLUTION CHANGING MILEAGE REIMBURSEMENT RATE**

Mr. Hopkins informed the Members that the Governor's Authorities Unit has requested that the Authority consider a change to the amount it reimburses its employees who use their own vehicles for Authority business. Since November 25, 1997, when the Authority Members passed resolution X-82, the Authority has reimbursed its employees at the rate permitted by the IRS regulations, on an ongoing basis, currently 55.5 cents per mile. The Authorities Unit indicates that the Authority should reimburse at 31 cents per mile as a result of Circular 12-14-OMB issued by the State Treasurer's Office of Management and Budget ("OMB") on June 25, 2012, which is "intended to serve as universal standards, which must be applied to travel transactions throughout State government, including authorities, boards and commissions."

The Authority was established by the Legislature in the Department of Health as a public body corporate and politic and constitutes a political subdivision of the State exercising public and governmental functions. The powers of the Authority are vested in the Members. "The Authority may . . . appoint, retain and employ, without regard to the provisions of Title 11A, Civil Service,

of the New Jersey Statutes, such officers, agents and employees as it may require, and it shall determine their qualifications, terms of office, duties, services and compensation.”

OMB Circular 12-14-OMB is the first time, to Mr. Hopkins’ knowledge, that an OMB circular on mileage reimbursement has stated that it was to be made applicable to the State’s authorities, boards and commissions. The pertinent part of the Regulation (VIII.H.3.) states that: “Mileage allowance in lieu of all actual expenses of transportation is allowed for an employee traveling by his automobile on official business at the rate authorized by the State Appropriations Act . . . .” According to the State Fiscal Year 2013 budget “the rate of reimbursement for mileage allowed for employees traveling by personal automobile on official business shall be \$.31 per mile.”

As background, New Jersey’s reimbursement rate is about 20% below the next lowest state’s reimbursement rate. Thirty-one states and the federal government reimburse mileage at a rate of 55.5 cents per mile. The average reimbursement rate of all the states is 52.1 cents per mile. Some other New Jersey state authorities also reimburse at a rate of 55.5 cents per mile, while at least one follows the State’s reimbursement rate for union employees but reimburses at 36 cents per mile for non-union employees.

Furthermore, the employees of the State and many State authorities have relatively ready access to State vehicles because they maintain a pool of vehicles for employees to use for business travel. These vehicles have not been made available to this Authority. The Authority has only three vehicles, two of which are assigned to individuals. This is a reduction from six vehicles a few years ago, which resulted in lowering the Authority’s vehicle travel costs by over 16%, not including the cost to purchase the Authority vehicles.

The need for vehicles was reduced because the nature of business changed. Where previously there were very frequent out-of-town meetings, now business is conducted more through conference calls and e-mails. As a result, the fixed costs of owning the vehicles outpaced their utility due largely to the fact Authority vehicles remained idle more frequently while still incurring insurance costs and parking costs.

The reduction in the pool of Authority-owned vehicles, while a cost saver, has resulted in a much reduced opportunity for Authority staff to access an Authority-owned vehicle for attendance at meetings, necessitating more frequent use of employee owned vehicles for Authority business.

He informed Authority Members that they were being asked to consider a reduction in the rate of reimbursement per mile for employees’ use of their personal vehicles from 55.5 cents per mile, the IRS permitted rate, to 31 cents per mile, the State standard rate.

Mr. Lovell made a motion to approve the change in Authority policy to reduce the rate of reimbursement per mile from 55.5 cents per mile to 31 cents per mile. Dr. Kazmir seconded the motion. The vote was unanimous and the motion carried.

#### **AB RESOLUTION NO. MM-37**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves the change in Authority policy to reduce the rate of reimbursement per mile from the IRS approved rate, currently 55.5 cents per mile to the State standard rate, currently 31 cents per mile.

## 6. APPROVAL OF EXPENSES

Mr. Conroy referenced a summary of Authority expenses and invoices. Dr. Kazmir offered a motion to approve the bills and to authorize their payment; Ms. Rodriguez seconded. Mr. Conroy, Ms. Kralik, Mr. Lovell, Ms. Rodriguez and Dr. Kazmir voted yes, Ms. Charters abstained and the motion carried.

### AB RESOLUTION NO. MM-38

**WHEREAS**, the members of the Authority have reviewed the memoranda dated November 7, 2012, summarizing expenses incurred by the Authority in connection with Trustee/Escrow Agent/Paying Agent fees and general operating expenses in the amounts of \$6,134.00 and \$195.13 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.

## 7. STAFF REPORTS

Mr. Conroy 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. He hoped the Authority Members and their families were not subject to any injury or serious damage as a result of Superstorm Sandy or the Nor'easter which followed shortly thereafter. While most of the Authority Staff and their families dealt with power outages and some property damage, no one experienced injury or permanent loss of their home. Several of the hospitals in the State lost power, experienced flooding and had to transfer patients, but the Commissioner and the Department of Health worked with each hospital to avoid any tragedies.
2. Due to the holidays, the next Authority meeting is Thursday, December 20, 2012.
3. Hospital News
  - a. St. Mary's Hospital announced that Michael Sniffen has stepped down to address personal issues. Ed Condit, St. Mary's former Executive Vice President and COO, took over as President and CEO on October 24.
  - b. The New Jersey Hospital Association released its annual economic impact report late last month. The report showed that New Jersey hospitals contributed over \$19.5 billion to

the economy in 2011, a \$900 million increase from 2010. Hospitals also provided about \$1.3 billion in charity care.

c. Moody's has upgraded the rating on Barnabas Health's 2012A Authority bonds from Baa2 to Baa1, and revised the outlook from positive to stable.

d. The merger between Underwood Memorial Hospital and South Jersey Healthcare was finalized on November 1.

#### 4. Authority News

a. Carl MacDonald, an Authority Project Manager, and his wife Lacy welcomed a baby girl on November 6. Brynna Hart MacDonald weighed in at 6 pounds 10 ounces. Carl and his wife also have a son, Colton. All are doing well.

b. Miriam Bolger, the Authority's HIT Project and Grant Manager, has received approval from the Department of Labor and Workforce Development Committee on the New Jersey First Act to continue working at the Authority despite the fact that she lives in Pennsylvania. Conditions are placed on the approval, and it's expected they will include the length of the grant.

This concluded the Executive Director's report.

### **8. SELECTION OF APPRAISER**

Mr. Hopkins reminded the Members that at last month's meeting, the Members approved the form of a request for proposal for an appraiser to provide appraisal services on a property the Authority has a mortgage on in Northern New Jersey.

Advertisements were placed in the Star-Ledger and Courier-Post on October 29, 2012 and the RFP was posted on the Authority and State's websites. In addition, Notice of the availability of the RFP was e-mailed to 21 firms on a list of firms provided by the New Jersey Economic Development Authority including MWSBE firms, five of which were undeliverable, and to one firm that previously did work for the Authority, which was unable to respond due to Superstorm Sandy. Four firms executed the confidentiality agreements required to receive the RFP. Two RFPs were received.

Proposals were received by the Authority on November 13, 2012 from Gagliano & Company and MR Valuation Consulting. The proposals were reviewed by an Appraisal Evaluation team consisting of the Deputy Executive Director/Director of Research, Investor Relations and Compliance Steve Fillebrown, the Authority's Construction Manager Bernie Miller and Elisa Charters, who serves as a Public Member on the Board. Proposals were evaluated based on criteria weighted by importance including, experience, staffing, fee, understanding of the engagement as well as MAI designation and MWSBE status. The Appraiser Evaluation Committee met on the morning of the meeting and recommended that the Authority Members



appoint MR Valuation Consulting to provide appraisal services based on its proposal at the quoted fee of \$72,500.

In response to a question from Mr. Conroy on whether there was anything in MR Valuations's proposal, other than the pricing, that distinguished them from the other proposal, Mr. Fillebrown noted that both were qualified firms. MR Valuation Consulting had more depth and is a larger firm where more people could be assigned to the project. Mr. Hopkins added that both firms were MAI certified, and MR Valuation is an MWSBE firm. Mr. Fillebrown noted they both had experience with acute care hospitals.

Ms. Charters made a motion to approve the selection of MR Valuation Consulting as appraiser. Dr. Kazmir seconded the motion. The vote was unanimous and the motion carried.

#### **AB RESOLUTION NO. MM-39**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves the selection of MR Valuation Consulting as an appraiser.

Mr. Conroy noted that due to the time-sensitivity of the issue, the Authority Staff recommended requesting an expedited review of the minutes reflecting this portion of the meeting.

Dr. Kazmir made a motion authorizing the Assistant Secretary to execute a certified copy of minutes from this portion of the meeting to be forwarded to the Governor for his advanced consideration of these actions. Ms. Charters seconded the motion. The vote was unanimous and the motion carried.

#### **AB RESOLUTION NO. MM-40**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby authorizes the Assistant Secretary to execute a certified copy of minutes from this portion of the meeting to be forwarded to the Governor for his advanced consideration of these actions.

As there was no further business to be addressed, following a motion by Dr. Kazmir and a second by Mr. Lovell, the Members voted unanimously to adjourn the meeting at 10:44 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 NOVEMBER 15, 2012.

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Carole A. Conover, Assistant Secretary