

Minutes of the New Jersey Health Care Facilities Financing Authority meeting held on December 17, 2009 on the fourth floor of Building #4, Station Plaza, 22 South Clinton Avenue, Trenton, New Jersey.

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

Chairman Heather Howard, Commissioner of Health and Senior Services; Gustav Edward Escher, III, Public Member; Ulysses Lee, Public Member (via telephone); Maryann Kralik, Designee of the Commissioner of Banking and Insurance; and Eileen Stokley, Designee of the Commissioner of Human Services (via telephone).

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

Mark Hopkins, Steve Fillebrown, Jim Van Wart, Lou George, Suzanne Walton, Bill McLaughlin, Edwin Fuentes, Carole Conover, Michael Ittleson, Marji McAvoy, Diane Johnson, Tracey Cameron, and Stephanie Bilovsky.

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

Bill Conroy, Department of Health and Senior Services; Maryann Kicenuik, Gary Walsh, Windels, Marx, Lane & Mittendorf; Yaakov Schwartz, Miriam Milstein, Dovid Friedman, Lakewood Resource & Referral Center, Inc.; John Cavaliere of McManimon & Scotland, L.L.C.; David Kostinas, DKA; Tassos Efstradiadus, Obermayer Rebmann Maxwell & Hippel; Randy Schultz, Dan Davis, Catholic Health East; and Cliff Rones, Deputy Attorney General.

### ***CALL TO ORDER***

Vice Chairman Gus Escher called the meeting to order at 10:10 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.

### ***APPROVAL OF MINUTES***

#### ***November 19, 2009 Authority Meeting***

Minutes from the Authority's November 19, 2009 meeting were presented for approval. Mr. Conroy offered a motion to approve the minutes; Ms. Kralik seconded. Mr. Escher voted yes, Mr. Lee voted yes, Ms. Kralik voted yes, Ms. Stokley voted yes, and Mr. Conroy voted yes. The minutes were approved.

## **TEFRA HEARING**

### ***St. Barnabas Health System***

Mr. Escher stated that the following portion of the meeting is considered a public hearing in connection with a project description amendment on behalf of St. Barnabas Health System. 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.

Jim Van Wart stated that the project discussed involves the following Authority issues:

- Revenue and Refunding Bonds (Saint Barnabas Health Care System Issue) Series 1998B in the aggregate principal amount of \$485,492,856.65 issued on December 16, 1998
- Revenue Bonds (Saint Barnabas Health Care System Issue) Series 2001A and Revenue Bonds (Saint Barnabas Health Care System Issue) Series 2001B in the aggregate principal amount of \$120,400,000 issued on October 24, 2001
- Capital Asset Loan to the Corporation in the amount of \$16,300,000 issued on April 3, 2003
- Revenue Bonds, Saint Barnabas Health Care System Issue, Series 2006A issued on December 19, 2006, and
- Revenue Bonds, Saint Barnabas Health Care System Issue, Series 2006B in the aggregate principal amount of \$197,119,653.65 also issued on December 19, 2006.

A portion of the proceeds of the bonds and the Capital Asset Loan received by the Corporation pursuant to the Loan Agreements were spent on various capital expenditures relating to the facilities of Union Hospital and Mega Care Inc., each an affiliate of the Corporation, or to refinance previously issued tax-exempt bonds issued for such purpose.

The proceeds of the bonds and the Capital Asset Loan were loaned to the Corporation pursuant to the related respective loan agreements by and between the Authority and the Corporation each dated on or about the date of the issuance of the Bonds and the making of the Capital Asset Loan. St. Barnabas recently sold Union Hospital and Mega Care for a total sale price of approximately \$47,000,000.

According to Mr. Van Wart, staff recommends that the Authority provide for the orderly disposition of the sale proceeds in accordance with the Authority's customary requisition and administrative procedures applicable to projects. In order to do this, Staff wishes to enter into an escrow agreement with one of the Authority's approved Bond Trustees to establish a Union Hospital and Mega Care Proceeds Account into which the aforementioned sale proceeds will be deposited. These proceeds will be used for Capital Projects and Equipment Acquisitions at the Corporation's other operations as described in the TEFRA Notice.

To facilitate that orderly disposition, staff requested:

- That the Authority approve the Escrow Agreement;
- That staff be authorized to select an Escrow from the Authority's approved Bond Trustees; and,
- That the authorized Officers of the Authority be authorized and directed to execute and deliver such other documents and to take such other action as may be necessary or appropriate in order to effectuate the requested actions.

At this point, bond counsel Gary Walsh from Windels, Marx, Lane & Mittendorf explained that the Authority had done a similar procedure when other health care organizations had sold facilities (to which outstanding tax-exempt proceeds were dedicated) to private organizations. This action allows the borrower to comply with Federal tax laws by placing the proceeds of the property sale in escrow. According to tax law, the non-profit entity has two years to spend those funds on capital projects in order for it to be deemed a satisfactory qualified use of the funds.

Placing the funds in escrow allows the Authority to monitor the use of these funds to ensure that they are being used properly. The only difference between this proposal and ones from years past is that, as opposed to dealing with one outstanding issue, in order to simplify the requisition process, this action establishes one escrow account for multiple issues spanning over 20 years.

St. Barnabas is in technical default and has received forbearance agreements from its bond insurers, all of whom have given consent to this proposal. The proposal is essentially a replacement of the project allocable to the debt.

Mr. Walsh added that, if there were any unused funds after the two-year period, the debt would have to be redeemed; however, it is expected that the funds will be completely expended in that timeframe.

In response to a question from Mr. Rones, Mr. Walsh stated that bond counsel will opine in writing that this action does not affect the tax-exempt status of the bonds.

At this point, Commissioner Howard entered the meeting and took over as chairperson. Mr. Escher moved to approve the requested actions on behalf of St. Barnabas Health System. Ms. Kralik seconded. The vote was unanimous and the motion was approved.

#### **AB RESOLUTION NO. JJ-46**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby adopts the “**RESOLUTION OF THE AUTHORITY AUTHORIZING AN ESCROW ARRANGEMENT WITH RESPECT TO CERTAIN SALE PROCEEDS RELATED TO THE DIVESTITURE BY SAINT BARNABAS CORPORATION OF THE FACILITIES OF UNION HOSPITAL AND MEGA CARE, INC.**” and,

**BE IT FURTHER RESOLVED**, that the Authority authorizes staff to select an Escrow Agent from the Authority’s approved Bond Trustees, and authorizes Officers of the Authority execute and deliver documents and to take action as needed to effectuate the requested actions.

Commissioner Howard congratulated St. Barnabas on the approval. Commissioner Howard then closed the public hearing held on behalf of St. Barnabas Health System in accordance with Section 147(f) of the Internal Revenue Code of 1986, as amended.

#### ***CONTINGENT BOND SALE***

##### ***Catholic Health East***

Suzanne Walton introduced Randy Schultz, Vice President, Capital Strategy & Management and Dan Davis, Director of Capital Management, at Catholic Health East. Catholic Health East, (CHE) operates health care facilities having an aggregate of over 12,000 beds in eleven states on the East coast and operates residential facilities for the elderly with approximately 1800 units. In New Jersey, Our Lady of Lourdes Medical Center in Camden, Lourdes Medical Center of Burlington County in Willingboro, Saint Francis Medical Center in Trenton and St. Michael’s Medical Center in Newark, are all members of the CHE Health System.

Ms. Walton reminded the members that on two separate occasions, in January and again in May of this year, they had approved a refinancing of bonds on behalf of CHE. She stated that before she would outline the action being requested today, she would like to provide some background.

In January, the Members approved a refinancing of approximately \$100 million of index bonds on behalf of CHE issued in April of 2007. The 2007 transaction was part of a multi-state deal and the New Jersey interest rate was structured as 67% of Libor plus 80 basis points reset and payable on a quarterly basis (each February, May, August and November 15th). Unlike a pure variable rate transaction, there was no liquidity facility in place wherein an investor could put their bonds if they wanted to get out of the investment. The investor could only sell their holdings in the secondary market. Shortly after the 2007 Bonds were issued, the market appetite for Index Bonds in both the primary and secondary market declined dramatically to the point where Index Bonds were virtually illiquid. As a result, investors were no longer interested in index rate products.

Further, she noted that the approval in January was based upon an issuance solely on the credit of CHE and, therefore, required the Authority's monitoring and derivative covenants. CHE was uncomfortable with the covenants and did not move forward with the transaction. Subsequently, CHE requested the member's consideration of less restrictive covenants. After much discussion, the Members agreed to a modification of the Monitoring Rights policy that would limit the distribution of materials that could become subject to the Open Public Records Act ("OPRA".) The members were also willing to permit the collateralization of derivatives if such collateralization was identified as a permitted encumbrance and, after the collateral deposit has been made, the Borrower's Days Cash on Hand is not less than 60 days. These modifications would be included in all future transactions. In addition, the members agreed that subject to certain criteria, such as a multi-state system, a minimum A rating, or credit enhancement, the members would further limit monitoring rights to only include attendance at New Jersey hospital based board meetings where bond proceeds were utilized. Staff also advised CHE that the derivative policy would be waived if the transaction were insured, as the Authority would defer to the credit enhancer's requirements.

Ultimately, CHE decided to pursue bond insurance for their proposed financing.

Staff returned to the Board in May seeking contingent sale approval for the refinancing based on an insured transaction. Assured Guaranty had indicated a willingness to provide insurance and, subject to the satisfactory negotiation of covenants, would issue a firm commitment to provide bond insurance. Unfortunately, CHE and the Insurer were unable to reach agreement and the transaction did not move forward.

Ms. Walton stated that, today, CHE was revisiting the request made in January and seek the Board's approval of a contingent sale of Bonds on their behalf to provide funds to refinance, through an exchange, all or a portion of their Series 2007 bonds and pay related costs of issuance including a swap termination fee. CHE will be offering the investors an exchange rate in a range of 60 to 80 cents on the dollar for a fixed rate bond at current interest rates in the range of 5.75 to 7%.

Ms. Walton also noted that the 2007 bonds were narrowly distributed to some of the larger bond funds. Merrill Lynch and Goldman Sachs, the underwriters for the proposed transaction are not making a formal tender offer to the bondholders but instead are reaching out to the bond funds, many of whom, they believe will be anxious to convert their holdings. The bondholders will have two options to: 1) Exchange their bonds for new fixed rate bonds, or 2) Keep their index bonds.

In addition to the Series 2007 Issue, refunding opportunities exist for two other series of bonds issued in New Jersey: the 1998B Bonds issued through the Camden County Improvement Authority and the Series 1998E Bonds issued through this Authority. Current market conditions may permit for a traditional current refunding of these bonds which would generate cash flow savings that benefit both CHE and its New Jersey hospitals. Therefore, in addition to the Series 2007 refinancing, CHE would like to use bond proceeds to finance: the current refunding of all or a portion of the remaining principal amount of the Series 1998B Bonds, the current refunding of all or a portion of the Series 1998E Bonds, the funding of a debt service reserve, if any, with respect to the Series 2010 Bonds; and the payment of costs of issuance. The maximum par amount of the new bond issue will not exceed \$153 million and should be considerably below that level.

The bond issue will be structured as a fixed rate public offering and will be sold on the credit of CHE, which is rated A/A1/A+ by S&P, Moody's and Fitch respectively.

#### **BOND RESOLUTION**

John Cavaliere of McManimon & Scotland, L.L.C. stated that the Bond Resolution authorizes the issuance in one or more series from time to time of the tax-exempt Series 2010 bonds in an aggregate principal amount not in excess of \$153,000,000 and at a true interest cost not to exceed 9% per annum. The bonds will have a final maturity date of no later than November 15, 2040 and an optional redemption price not to exceed 105%. The bonds will be secured by payments made by the members of the obligated group under a Loan Agreement, as evidenced and secured by a Note issued pursuant to the provisions of a Master Trust Indenture and Supplemental Indenture. The obligated group consists of CHE and all the system affiliates that collectively generate and own a substantial portion of the revenues and assets of the CHE Health System.

Further, the Bond Resolution approves the form of and authorizes the execution of a Bond Purchase Agreement with Merrill Lynch, Pierce Fenner & Smith Incorporated, acting on behalf of itself and Goldman Sachs & Co., and such other underwriters, if any, named in the Bond Purchase Agreement, prior to close of business on June 30, 2010 and approves the form, terms, and provisions of the Loan Agreement and Bond Indenture, the form of the Bonds, and the Official Statement. The resolution also authorizes the Authorized Officers to take any action and execute any document or give any consent required under the Bond Resolution, Loan Agreement or the Bond Indenture.

Lastly, the Bond Resolution approves The Bank of New York Mellon Trust Company N.A., of Pittsburgh, Pennsylvania to serve as trustee, authenticating agent, registrar and paying agent.

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

#### **AB RESOLUTION NO. JJ-47**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves the Bond Resolution entitled, **“A BOND RESOLUTION AUTHORIZING THE ISSUANCE OF NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY, HEALTH SYSTEM REVENUE BONDS, CATHOLIC HEALTH EAST ISSUE, SERIES 2010.”**

Commissioner Howard congratulated CHE on the approval. Mr. Schultz stood to say that this approval has been long in the works and thanked the Authority for providing CHE with this opportunity to improve its operational income. Commissioner Howard stated that CHE has played an important part in the New Jersey health care community, specifically stepping up to the plate to help out in a Newark hospital crisis. She thanked CHE for playing that role. Mr. Schultz stated that they are glad to have been able to do so and hope to continue to be an important presence in New Jersey health care going forward.

### ***FQHC LOAN APPROVAL***

#### ***Lakewood Resource & Referral Center, Inc.***

Lou George introduced Dr. Dovid Friedman (Chief Executive Officer), Miriam Milstein (Director of Finance), and Yaakov Schwartz (Project Manager) of Lakewood Resource & Referral Center, Inc. which is an approved Federally Qualified Health Center. He indicated that staff had been having ongoing discussions with them regarding a loan to their organization of approximately \$2 million.

Further, he reminded the Members that at the July meeting staff proposed a loan program to provide funding for start-up Federally Qualified Health Centers. These centers are designed to provide out-patient primary care, preventive care and some specialty care to medically underserved and low-income or indigent patients. The Members unanimously approved the creation of such a program using the Authority's fund balance as a funding source.

He indicated that Lakewood operates two divisions, a social services division and a health center doing business as the "Center for Health Education, Medicine and Dentistry" known as CHEMED. Although the social services division has been operational for five years, CHEMED is a start-up division that first opened its doors to patients in February of 2008. CHEMED provides comprehensive adult and pediatric primary care, behavioral health, and dental services at a single location.

CHEMED has approximately \$ 6.5 million of loans outstanding with a 7%, \$540,658 loan payable by year-end and \$4.9 million of debt bearing interest at 10% and maturing between 2010 and 2016. There is also some additional debt at 0% interest rate. They do not have a significant asset base as they do not own their facility. The outstanding loans basically funded their start-up operations

Further, Mr. George noted that CHEMED is requesting the Member's consideration of a loan in an amount of \$2 million to refinance a portion of their outstanding indebtedness. The loan would be for a term of 7 years at a variable interest rate. The loan would be secured by payments made by Lakewood under a Loan Agreement, evidenced and secured by a Note issued at the time of closing. In addition the Authority would be granted a security interest in CHEMED'S accounts receivable.

At this point, Steve Fillebrown provided the Members with an overview of CHEMED's financial projections, for which the forecast period is 2010 to 2012. He noted that two things make these projections different from the projections usually viewed by the Authority: 1) because this is essentially a start up there is little historical information to provide context to the projections, and 2) the Authority does not have any background experience with FQHCs so there are no comparables to provide context. Still, the projections demonstrate:

- Strong margins in excess of 10% [which Mr. Fillebrown stated is somewhat misleading because principal payments, which do not appear on the Statement of Operations, are very high in relation to expenses]

- Debt Service Coverage ratio of 1.62 in 2010, 1.28 in 2011, and 1.45 in 2012
- Days cash on hand remaining low – five days in 2010, eight in 2011, and eighteen in 2012
- Accounts receivable in the mid to high 40s
- Accounts payable starting at over 100 days in 2010 but declining to about sixty days by 2012

Therefore, the numbers show the ability to service this debt. Mr. Fillebrown then reviewed the projections' key assumptions. In volume:

- Visits doubled between 2008 and 2009.
- Visits are projected to double again in 2010, then rise by 33% in 2011 and another 16% in 2012; the biggest increases are in behavioral health (due to the addition of physicians) and pediatrics (due to expanded hours and a growing population).
- New patients continue to be added each month, and the facility has plenty of space so capacity is not an issue.
- The demographic consists of a high percentage that is below 200% of poverty level.

The projections make the following assumptions about expenses:

- Salaries will increase at a rate of 5%.
- Supplies and other expenses will increase at a rate of 5%.
- Expense per visit will decline as volume catches up with the start up costs and economies of scale (where costs are spread over a larger volume base).

The projections assume that revenues will rise generally in relation to the projected volume increases. It should be noted that the projections factored in the new rates and reimbursement associated with the center's designation as an FQHC.

#### **LOAN RESOLUTION**

At this point, Tassos Efstratiades of Obermayer Rebmann Maxwell & Hippel stated that the Loan Resolution authorizes a loan to the borrower in the principal amount of \$2,000,000 the proceeds of which will be used to refinance a portion of the borrower's existing debt. The Loan will bear interest at a variable rate adjusted monthly, and based upon the rate of the New Jersey Cash Management Fund as of the first business day of the month for which the calculation is made plus 2% and applied to the outstanding balance of the loan for the number of days the loan is outstanding. Principal will be due in eighty-four (84) equal monthly installments of \$23,809. The loan will be secured by the accounts receivable of the Borrower (excluding federal grant monies).

In addition, the Loan Resolution approves the form of the Note and the Loan Agreement and also authorizes the Authorized Officer so take such other action as may be necessary to effectuate and deliver the Loan Agreement and the Loan.

Mr. Escher expressed his support for this loan program and asked about total debt, which Dr. Friedman confirmed is approximately \$6.3 million in debt. Dr. Friedman noted that the loan proceeds (which, if issued this week would carry an interest rate of approximately 2.33%) would be put toward CHEMED's current 10% interest rate loan, which would yield a significant operational savings for the facility. Mr. Hopkins noted that the loan program's interest rate is based on the same index upon which the Authority's funds would be invested if they remained in the Authority's fund balance.

Commissioner Howard stated that, while FQHCs are a new niche for the Authority, there are personnel in the Department of Health and Senior Services who have been working with them for decades. She noted that FQHCs, which play a very important role in New Jersey's health care system, are generally self-sustaining once they have been operational for some time.

The hurdles lie in the costs of starting up new entities. CHEMED is one of New Jersey's few new FQHCs and this program is a good way to help them meet those start-up costs at a more reasonable rate.

Mr. Conroy asked about the addition of new physicians, to which Dr. Friedman said in 2010 they will add one internalist to the four currently on staff, one pediatrician to the four currently on staff, two behavioral specialists to the three staffed now, and some additional dentists. Commissioner Howard applauded the fact that CHEMED provides more than just medical but also dental and mental health.

Mr. Escher characterized the volume projections as robust and asked about CHEMED's market area. Dr. Friedman said that, despite having a high amount of senior citizens, Lakewood has been referred to in the New York Times as the second youngest population in the nation due to the high birthrate. The average family size is 6.4 people, with a very high percentage living below the poverty level.

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

#### **AB RESOLUTION NO. JJ-48**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves the Loan Resolution entitled, "**A RESOLUTION AUTHORIZING A LOAN OF THE NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY TO LAKEWOOD RESOURCE & REFERRAL CENTER, INC.**"

Commissioner Howard congratulated CHEMED and thanked the representatives for the FQHCs vital work. In return, Dr. Friedman thanked the Authority for putting in the extra effort required to become knowledgeable in the FQHC arena.

#### ***MODIFICATION OF LOAN DOCUMENTS***

##### ***Bartley Assisted Living***

Lou George introduced Phil Scalo, President and CEO, of Bartley Healthcare that owns and operates Bartley Assisted Living, a 71-unit assisted living and special care facility located in Jackson Township.

Mr. George indicated that the Authority issued Series 2000 bonds for Bartley in the amount of \$9,998,591 to finance a portion of the costs of constructing and equipping an assisted living facility. Currently there are approximately \$7.75 million of bonds outstanding with a final maturity of February 1, 2025. The Authority loan is secured by a gross revenue pledge and a first lien mortgage on the facility.

The Series 2000 bonds were privately placed with Commerce Bank, now TD Bank through merger, and were issued for a term of 25 years. The interest rate was scheduled to reset every five years and was indexed to the 5-year Treasury bond. Currently the bonds are paying interest at a rate of 3.698% and the next reset is scheduled to occur on February 1, 2010. The bonds are also subject to a put with at least 30 days prior written notice at scheduled five year intervals occurring on February 1, 2010, 2015 and 2020.

Because of the currently low yields of the 5-year Treasury rate, (approximately 2.13%), TD Bank is considering a put on February 1, 2010. The bank contacted Bartley and indicated

that they would be willing to hold the bonds at a re-negotiated rate and Bartley and the bank have agreed upon a new interest rate formula. Accordingly, Bartley has asked us to amend the documents to reflect this change.

Mr. George indicated that the negotiations were still underway when the Members' mailing packages were distributed prior to this meeting, hence the final formula differs from that in the appearing in his Memo and the accompanying Resolution. The final agreed upon formula is equivalent to the sum of 69% of (1-month LIBOR plus 274 basis points) and 45 basis points with a maximum interest rate not to exceed 12%. In today's market this would result in an interest rate of approximately 2.5%. (1-month LIBOR is .23)

Because this involves a rate change this amendment is considered a re-issuance and therefore, we've asked bond counsel to review the resolution and amending documents with the members.

#### **AMENDING RESOLUTION**

Maryann Kicenuik, of Windels Marx Lane & Mittendorf, LLP, stated that the Resolution initially authorizes an interest rate on the Replacement Note and Replacement Bond equivalent to the sum of 69% of the one-month London Interbank Offered Rate (LIBOR) plus 274 basis points and 45 basis points. Also, the interest rate shall not exceed 12% per annum and any recalculation or reset will be conditioned on the receipt of an Opinion of Bond Counsel that such recalculation or reset will not affect the tax-exempt status of the Replacement Bond.

The Resolution also approves the Amendment to the Trust Indenture, the Replacement Note and the Replacement Bond. The Amendment to the Trust Indenture incorporates the "put" options that were included in the Series 2000 closing documents but were not part of the Indenture. And the Replacement Bond includes language allowing for an adjustment of the interest rate index in 2015 and 2020 subject to a request from Bartley and the owner of 100% of the bonds. Such adjustment would require the approval of an Authorized Officer of the Authority and an Opinion of Bond Counsel that the change will not adversely affect the tax-exempt status of the 2000 bonds. Ms. Kicenuik indicated that she would try and answer any questions the members might have with respect to the Resolution and the various amendments.

Commissioner Howard asked the Members' pleasure with respect to the adoption of the Amending Resolution. Mr. Escher moved that the document be approved. Mr. Lee seconded.

#### **AB RESOLUTION NO. JJ-49**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves the Amending Resolution entitled, **"A RESOLUTION OF THE AUTHORITY AUTHORIZING AMENDMENTS TO THE INTEREST RATE AND OTHER PROVISIONS WITH RESPECT TO ITS REVENUE BOND (BARTLEY ASSISTED LIVING, LLC ISSUE, SERIES 2000)."**

Mr. Scalo humored that Bartley must have negotiated too good of a deal originally and stated that Bartley is pleased to be able to still have this financing option.

#### ***CORPORATE BANKING RESOLUTIONS***

Mr. Ittleson reported that, due to the upcoming change in Administration, the Authority will be left with only two signers on its checking accounts for a period of time. For some time,

the Authority has had only three available signers when under normal circumstances there should be five available signers. The Authority's By-Laws require that "any checks upon moneys of the Authority shall be signed by any two Members of the Authority who are also officers of the Authority." So, even though there will still be two available Members to sign checks, if one of those Members is unavailable, it will be impossible to sign payroll checks, operating checks, trustee checks and mortgage servicing checks.

Therefore, in order to avoid a potential disruption the Authority's pay-by-check obligations, staff recommended adopting a resolution that continues to require two signatures on Authority checks but states that "any checks upon moneys of the Authority shall be signed by any two officers of the Authority" regardless if they are Authority Members or an employee of the Authority. The proposed resolution specifically adds Steve Fillebrown, an employee of the Authority who is also an officer (Assistant Secretary) as an additional authorized signer. Mr. Fillebrown's signature would only be used if one of the other two Members' is unavailable to sign. The resolution sets a definitive period of time, effective January 7, 2010 (or when the minutes of this meeting are approved) and expiring on May 27, 2010.

Mr. Ittleson noted that, if this resolution is adopted, staff would also ask the Members consideration in adopting the three corporate banking resolutions with facsimile signatures and signature cards in order to be able to use Mr. Fillebrown's actual and/or facsimile signature, when appropriate.

Commissioner Howard stated that this seems reasonable. Mr. Escher offered a motion to adopt the Resolution adding Steve Fillebrown as an additional authorized signer. Ms. Kralik seconded. The vote was unanimous and the motion was approved.

#### **AB RESOLUTION NO. JJ-50**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby adopts the Resolution (*attached*) titled "**RESOLUTION ADDING AN EMPLOYEE OF THE AUTHORITY WHO IS ALSO AN OFFICER OF THE AUTHORITY AS AN AUTHORIZED SIGNATORY FOR AUTHORITY PAYROLL CHECKS, OPERATING ACCOUNT CHECKS, TRUSTEE FEE CHECKS AND MORTGAGE SERVICING CHECKS.**"

Mr. Escher offered a motion to adopt the new corporate banking resolutions and signature cards as recommended by staff. Mr. Lee seconded. The vote was unanimous and the motion was approved.

#### **AB RESOLUTION NO. JJ-51**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby adopts corporate banking resolutions and facsimile signature resolutions, as a result of AB RESOLUTION NO. JJ-50.

#### ***QUALIFIED BANKERS LIST MODIFICATION***

Lou George reported that, in late October, staff met with Northeast Securities, which has subsequently requested to be added to the Authority's list of approved bankers as a co-manager.

Northeast is an investment banking firm headquartered in New York City with eight offices including one in Fort Lee. Although the firm was founded in 1989, it concentrated on equity financing and only entered the municipal financing market earlier this year. The firm's total assets are \$9.4 million, and they have excess net capital of approximately \$3 million. As a result, Northeast indicated that, based upon credit quality, it has the ability to underwrite up to \$25 million of bonds.

Because of Northeast's recent entry into the municipal financing market, it has not served as a co-manager on any health care transactions. However, because the role of co-manager is somewhat limited, staff requesting the Members' approval to add Northeast as a co-manager to the Authority's approved list.

Mr. Escher offered a motion; Ms. Kralik seconded. The vote was unanimous and the motion was approved.

**AB RESOLUTION NO. JJ-52**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby adds Northeast Securities to its list of approved bankers as a qualified co-manager.

***AUTHORITY EXPENSES***

Commissioner Howard 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. Kralik seconded. The vote was unanimous and the motion was approved.

**AB RESOLUTION NO. JJ-53**

**WHEREAS**, the Authority has reviewed memoranda dated December 10, 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 \$613,976.39, \$53,143.50 and \$162,188.29 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***

Commissioner Howard 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. Last week, Mr. Hopkins and Mr. Fillebrown attended two meetings with members of the Governor-elect's transition team to discuss hospital financial issues. Over the last three weeks, the Authority has responded with a transition memo answering specific questions posed by the Governor's

Authorities Unit and separately provided certain documents in response to requests from the Governor-elect's transition team.

2. The Authority will be seeking at least one new staff member to handle the information technology issues surrounding the Authority's role as recipient of the federal Healthcare Information Technology grant for which the State has applied. Both the Authority and the State's Health Care Information Technology Commission have outlined the request for the Governor-elect's transition team.
3. In hospital news, Catholic Health East promoted Judy Persichelli to Executive Vice President, Chief Operating Officer, and CEO "designate." She will work side by side with Catholic Health East's current CEO, Robert Stanek, into the next year to ease her transition into the role of CEO. Judy has been an executive with Catholic Health East since 2003. She was previously CEO at St. Francis Medical Center in Trenton and COO at St. Peter's in New Brunswick. She was instrumental in working with the Authority and the State on CHE's recent acquisition of Newark's St. Michael's Medical Center from Cathedral Health System.

Solaris Health System has been working with an accounts receivable lender for up to \$30 million accounts receivable financing. They received a term sheet and a draft loan agreement. When the Authority issued its Hospital Asset Transformation Bonds on behalf of Solaris earlier this year, an accounts receivable financing of this size was contemplated but not completed. The Authority has been providing comments to Solaris in order to assure the terms meet the requirements of the bond documents. The Authority is communicating with the Treasurer's office as both the Authority and the Treasurer must consent to any accounts receivable financing.

4. In Authority news, the Authority welcomes Tracey Cameron as its new Receptionist/Office Management Assistant. Ms. Cameron previously worked as an administrative assistant at the Safe Children Coalition in Bradenton Florida and at the Local Initiatives Support Corporation in Trenton. She was also a Sales Associate, Staff Assistant and Scoring Coordinator at Educational Testing Service in Ewing.

Governor Corzine has nominated two new Authority Members: Suzette Rodriguez, a Labor and Employment attorney at LeClairRyan in Newark, and Dr. Simon Samaha, the recently installed President and Chief Executive Officer of Summit Medical Group. Previously, Dr. Samaha was Senior Executive Vice President and Chief Medical Officer at Cooper University Hospital in Camden and has considerable healthcare information technology experience.

The Authority's redesigned website [www.njhcffa.com](http://www.njhcffa.com), is now up and running. Mr. Hopkins commended Stephanie Bilovsky for coordinating the project.

5. Staff met with an organization called Primary Care Development Corporation, which coordinates financing bundles for non-profit health care organizations. The Corporation is able to get cash backing to provide 15% in guarantees. Based in New York City, the organization currently works with NYC non-profits; however, they are willing to look into their ability to branch

out to New Jersey health care entities or to helping the Authority direct the creation of a similar organization in this state. They have been in existence for about 15 years and have completed 75 to 80 issues. Their target market covers all kinds of primary care providers. The Authority Members expressed an interest in the new opportunities this could provide for New Jersey's health care systems.

This concluded the Executive Director's report.

### ***EXECUTIVE SESSION***

Commissioner Howard 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 and also to discuss matters related to personnel. Mr. Escher offered a motion to meet in Executive Session; Ms. Kralik seconded the motion. The vote was unanimous and the motion carried. Commissioner Howard noted that the results of this discussion will be made public when the need for confidentiality no longer exists.

#### **AB RESOLUTION NO. JJ-54**

**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 and also to discuss matters related to personnel;

**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. Commissioner Howard took a moment to thank the Members of the Authority for all the work that they do and thanked Gus Escher for frequently stepping in to lead the meetings as Vice Chairman. She thanked the Authority staff, specifically Mark Hopkins and Steve Fillebrown, whom she stated have been terrific assets for the improvement of health care delivery in New Jersey. She expressed great pride about the accomplishments of the Reinhardt report and commended the Authority for its numerous contributions to facilitate the *Commission on Rationalizing New Jersey Health Care Resources*. She stated that it had been a great pleasure for her to work with the Authority, adding that she passes the baton with confidence onto the Authority's next great issues, which include, at least, the approaching HIT work.

The Members and staff thanked the Commissioner, as well, for her hard work and solid contributions to New Jersey's health care delivery system. She was applauded by all present. As there was no further business to be addressed, following a motion by Mr. Escher and a second by Ms. Kralik, the Members voted unanimously to adjourn the meeting at 11:30 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 DECEMBER 17, 2009.

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Stephen M. Fillebrown  
Assistant Secretary

**AB RESOLUTION NO. JJ-46**

**RESOLUTION OF THE AUTHORITY AUTHORIZING AN ESCROW ARRANGEMENT WITH RESPECT TO CERTAIN SALE PROCEEDS RELATED TO THE DIVESTITURE BY SAINT BARNABAS CORPORATION OF THE FACILITIES OF UNION HOSPITAL AND MEGA CARE, INC.**

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**WHEREAS**, the New Jersey Health Care Facilities Financing Authority (the “**Authority**”) was duly created and now exists under the New Jersey Health Care Facilities Financing Authority Law, P.L. 1972, c.29, as amended (N.J.S.A. 26:2I-1, et seq.) (the “**Act**”), for the purpose of ensuring that all health care institutions have access to financial resources to improve the health and welfare of the citizens of the State of New Jersey (the “**State**”); and

**WHEREAS**, the Authority is authorized under the Act to make loans to “health care organizations” for the construction of “projects” (as such terms are defined in the Act) and to issue its bonds for the purpose of carrying out its powers under the Act; and

**WHEREAS**, Saint Barnabas Corporation (the “**Corporation**”) is a nonprofit corporation organized under the laws of the State and a health care organization; and

**WHEREAS**, on December 16, 1998, the Authority issued its Revenue and Refunding Bonds (Saint Barnabas Health Care System Issue) Series 1998B in the aggregate principal amount of \$485,492,856.65 (the “**1998B Bonds**”); and

**WHEREAS**, on October 24, 2001, the Authority issued its Revenue Bonds (Saint Barnabas Health Care System Issue) Series 2001A and its Revenue Bonds (Saint Barnabas Health Care System Issue) Series 2001B in the aggregate principal amount of \$120,400,000 (collectively, the “**2001 Bonds**”); and

**WHEREAS**, on April 3, 2003, the Authority made a Capital Asset Loan to the Corporation in the amount of \$16,300,000 (the “**Capital Asset Loan**”); and

**WHEREAS**, on December 19, 2006, the Authority issued its Revenue Bonds, Saint Barnabas Health Care System Issue, Series 2006A, and its Revenue Bonds, Saint Barnabas Health Care System Issue, Series 2006B in the aggregate principal amount of \$197,119,653.65 (collectively, the “**2006 Bonds**” and together with the 1998B Bonds and the 2001 Bonds, the “**Bonds**”); and

**WHEREAS**, the proceeds of the Bonds and the Capital Asset Loan were loaned to the Corporation pursuant to the related respective loan agreements by and between the Authority and the Corporation each dated on or about the date of the issuance of the Bonds and the making of the Capital Asset Loan (collectively, the “**Loan Agreements**”); and

**WHEREAS**, a portion of the proceeds of the Bonds and the Capital Asset Loan received by the Corporation pursuant to the Loan Agreements were spent on various capital expenditures relating to the facilities of Union Hospital (“**Union Hospital**”) and Mega Care Inc. (“**Mega Care**”), each an affiliate of the Corporation, or to refinance previously issued tax-exempt bonds issued for such purpose; and

**WHEREAS**, the Corporation has sold or will sell the facilities of Union Hospital and Mega Care for a total sale price of approximately \$47,000,000 (the “**Sale Proceeds**”); and

**WHEREAS**, the Authority, in order to provide for the orderly disposition of the Sale Proceeds in accordance with the Authority’s customary requisition and administrative procedures applicable to projects, desires to enter into an escrow agreement (the “**Escrow Agreement**”) with a bank to serve as escrow agent (the “**Escrow Agent**”), which, among other things, will establish a Union Hospital and Mega Care Sale Proceeds Account to be held by the Escrow Agent; and

**WHEREAS**, the Authority and the Corporation desire for the Sale Proceeds to be deposited in the Union Hospital and Mega Care Sale Proceeds Account; and

**WHEREAS**, the Authority and the Corporation desire to provide in the Escrow Agreement for the expenditure of the Sale Proceeds on capital improvements to, and the acquisition of equipment for, the health care facilities of the Corporation, all as more particularly described on Exhibit A attached to the Escrow Agreement; and

**WHEREAS**, a public hearing in accordance with Section 147(f) of the Internal Revenue Code of 1986, as amended, has been conducted on December 17, 2009, after public notice of such hearing was published at least fourteen days prior thereto.

**NOW THEREFORE, BE IT RESOLVED**, by the Authority, as follows:

**Section 1. Approval of Escrow Agreement.** The form of Escrow Agreement presented to this meeting (a copy of each of which shall be filed with the records of the Authority) is hereby approved and the Chairman, Vice Chairman, Executive Director or Deputy Executive Director (each, an “**Authorized Officer**”) are each hereby authorized and directed to execute, acknowledge and deliver, and the Secretary or Assistant Secretary are each hereby authorized and directed to affix and attest the seal of the Authority to the Escrow Agreement in substantially such form, with such changes therein as counsel may advise and the officers executing the same may approve, such approval to be evidenced by their execution thereof.

**Section 2.** An Authorized Officer is hereby authorized to select an Escrow Agent from the list of banks approved to act as a trustee, based upon a request of the Corporation.

**Section 3. Incidental Action.** The Authorized Officers of the Authority are hereby authorized and directed to execute and deliver such other documents and to take such other action as may be necessary or appropriate in order to effectuate the actions contemplated by this Resolution, all in accordance with the foregoing sections hereof.

**Section 4. Prior Resolutions.** All prior resolutions of the Authority or portions thereof inconsistent herewith are hereby replaced.

**Section 5. Effective Date.** This Resolution shall take effect ten (10) days, exclusive of Saturdays, Sundays and public holidays, after delivery (and not including the day of delivery) to the Governor of the minutes of the meeting of the Authority at which this Resolution is adopted or such earlier time as the Governor signs a statement of approval, all in accordance with the subsection (i) of Section 4 of the Act.

**AB RESOLUTION NO. FF-50**

**RESOLUTION ADDING AN EMPLOYEE OF THE  
AUTHORITY WHO IS ALSO AN OFFICER OF THE  
AUTHORITY AS AN AUTHORIZED SIGNATORY FOR  
AUTHORITY PAYROLL CHECKS, OPERATING  
ACCOUNT CHECKS, TRUSTEE FEE CHECKS AND  
MORTGAGE SERVICING CHECKS**

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**WHEREAS**, the Authority's By-Laws require that "any checks upon moneys of the Authority shall be signed by any two members of the Authority who are also officers of the Authority"; and,

**WHEREAS**, the election of a new Governor has occurred, which may lead to vacancies in the Governor's Cabinet; and,

**WHEREAS**, the Authority's Chairman is by statute the Commissioner of Health and Senior Services, a member of the Governor's Cabinet; and,

**WHEREAS**, a vacancy in the Chairman's office would leave the Authority with only two signers on the account (Mr. Escher and Mr. Lee) thus potentially causing an inability to sign payroll checks, operating account checks, trustee fee checks and mortgage servicing checks according to the Authority By-Laws that require two signatures from Authority Officers if one of the remaining members becomes unavailable; and,

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority notwithstanding the By-Laws hereby adds Steve Fillebrown, an employee of the Authority who is also an officer of the Authority (Assistant Secretary) as an additional Authorized signatory on Authority checks to the extent required by the unavailability within a reasonable time period of any other authorized signatory to provide a second signature on Authority checks as required by the Authority's By-Laws; and,

**BE IT FURTHER RESOLVED**, that this resolution will be effective January 7, 2010 and will expire at the end of business on May 27, 2010.