

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC FINANCE MANAGEMENT BOARD**

MEETING OF BOARD MEMBERS

August 10, 2005

A meeting of the members of the Public Finance Management Board (the "Board") was held on Wednesday, August 10, 2005 at 2:00 p.m. in Room 135, State House, Providence, Rhode Island pursuant to duly posted public notice of the meeting and notice duly given to all members.

Members Present: Paul J. Tavares, General Treasurer and Chair
Mr. William Fazioli
Mr. Lincoln Mossop

Members Absent: Ms. Rosemary Booth Gallogly
Mayor A. Ralph Mollis

Also present were: Mr. George Carvalho, Chief of Staff, Ms. Joan M. Caine, Deputy Treasurer for Finance, Mr. Kerry Walsh, Chief Legal Counsel, and other members of the Treasurer's Staff.

There being a quorum present the Treasurer called the meeting to order at 2:00 p.m.

Public Finance Management Board Legal Counsel - Hinckley, Allen & Snyder, LLP ("HAS")

Treasurer Tavares explained to the Board that HAS was legal counsel to the Retirement Board as well as the Public Finance Management Board. He noted that the retirement system holds a mortgage on the building known as the American Express Building located across from the State House. HAS also represents Capitol Properties which owns the land upon which the American Express Building is located. The owner of the building is in bankruptcy proceedings and on Monday, March 14, 2005 HAS, on behalf of Capitol Properties, took legal action in Bankruptcy Court which was adversarial to the retirement system.

The Treasurer explained that when a lawyer or law firm represents two adverse clients, there is a potential conflict of interest. The lawyer or law firm must advise both clients of the potential conflict and only with the approval of both clients, can the firm proceed in any action. HAS neither informed the retirement system nor obtained any prior approval from the retirement system concerning this dual representation. Therefore, a letter was sent to HAS informing them of the retirement system's objection to the dual representation.

In addition, on Wednesday, March 16, 2005 a lawyer for HAS was directly informed of our objection to the dual representation in bankruptcy court. At that time, the HAS attorney replied to the State Investment Commission's attorney and to Deputy Treasurer Joan Caine that she had been instructed by Stephen Carlotti (of HAS) to proceed with Capitol Properties' objection. Attorney Stephen Carlotti is not only a partner of HAS, but at the time was also the corporate secretary for Capital Properties which magnifies the conflict that exists.

Therefore, based on the conflict and in the manner in which HAS failed to represent our interests as a client, the Treasurer terminated them as legal counsel to the retirement system on Monday, March 21, 2005. It was made clear several times in the termination letter that the

termination had only to do with the retirement system's representation and not the Public Finance Management Board's representation.

Recently when asked to do some work for the PFMB, Sandra Mack, Esq. of HAS stated that HAS partners had told her that HAS no longer represented the Board. At no time did HAS communicate to the Treasurer's Office that representation was terminated for the Board. When Deputy Treasurer Joan Caine spoke to Ms. Mack, she indicated she would confer with their partners and get back to her regarding the representation. Shortly, thereafter Ms. Mack indicated to Deputy Treasurer Caine that HAS would continue to represent the Board, but only at a higher rate of compensation. It was at this point that the Treasurer contacted members of the Board to suggest the issuance of a Request for Proposals ("RFP") to serve as legal counsel to the Board.

The Treasurer recommended to the Board that HAS be terminated as legal counsel to the Board. Mr. Mossop moved, Mr. Fazioli seconded and the following motion was passed unanimously. The following members voted in favor: Mr. Fazioli, Mr. Mossop and Treasurer Tavares.

VOTED: To terminate the law firm of Hinckley, Allen and Snyder as Legal Counsel to the Public Finance Management Board effective immediately.

Ms. Caine explained that Board members were notified that a Request for Proposals would be issued on July 7, 2005 for Legal Counsel to the Public Finance Management Board. The RFP was sent to all fifteen of the "redbook qualified law firms" which are law firms that conduct municipal bond business in Rhode Island. There were three responses received on the deadline of July 20, 2005. They were from: Adler Pollack & Sheehan ("APS"), Nixon Peabody ("NP"), and Partridge, Snow & Hahn ("PSH"). HAS did not respond to the RFP. Ms. Caine and Kerry Walsh, Esq. interviewed the three respondents on July 28, 2005.

Ms. Caine summarized the responses to the RFP from each law firm, all of which have done municipal bond work and are qualified to represent the Board. NP and PSH have more dedicated personnel and have been involved in more bond issues. PSH is more focused in Rhode Island and NP is a much larger nationwide firm. The best bid from a fee perspective is from PSH with fees of \$200 per hour for an associate, with \$260 per hour as a blended rate (whichever is the most favorable). NP fees range between \$230 and \$350 per hour depending on attorney.

PSH proposed a team including Normand Benoit, Esq. who is disclosure counsel at the state level and is highly qualified and very efficient. PSH has consistently come in under budget on bond issues for the state. The Treasurer recommended to the Board that PSH be engaged as legal counsel to the PFMB.

Mr. Mossop moved, Mr. Fazioli seconded and the following motion was passed unanimously. The following members voted in favor: Mr. Fazioli, Mr. Mossop and Treasurer Tavares.

VOTED: To engage the law firm of Partridge, Snow & Hahn as Legal Counsel to the Public Finance Management Board for a period of one (1) year commencing August 11, 2005 subject to renewal at the end of one (1) year.

Other Business. Treasurer Tavares asked George Carvalho, Chief of Staff to report to the Board on the Separation of Powers legislation. Mr. Carvalho explained that a bill was passed on the final night of the legislative session that came out of the Senate which dealt with a number of

boards that the Treasurer chairs. With regard to the Public Finance Management Board, the Senate would keep the Board as a nine member board, removing the legislative members. The Board would include the Treasurer as Chair, and the Director of Administration. The Treasurer would have four appointments - two of which would be representatives from cities and towns; and two would be public members. The Governor would have three appointments.

That bill was passed by the Senate and was referred to the House Separation of Powers Committee. Treasurer Tavares noted that Separation of Powers legislation was intended to remove legislators and their appointees from boards and commissions. It has now become an issue as to whether an appointment can be mandated or qualified. The Governor has taken the position that appointments can only be made by the Governor or an elected official but that they cannot be elected by the membership. This position is adverse to the intended legislation from the Senate.

Mr. Mossop moved, Mr. Fazioli seconded and the following motion was passed unanimously. The following members voted in favor: Mr. Fazioli, Mr. Mossop, and Treasurer Tavares.

VOTED: To adjourn the meeting.

There being no further business, the meeting was adjourned at 2:14 p.m.

Respectfully submitted,

Paul J. Tavares
General Treasurer