

**Meeting of the Suffolk Tobacco Asset Securitization Corporation  
(STASC)  
December 12, 2011**

**Minutes**

**Attendees:** Jim Morgo, Chairman and President, STASC; Terrence Pearsall, Treasurer & Secretary, STASC; Robert Fonti, Independent Director, STASC; Connie Corso, ex-officio STASC Member and County Budget Director; Dennis Brown, Bureau Chief, Municipal Law; Colleen Capece, County Accountant Rich Tortora, Capital Markets Advisors; and Brian Petersen, AVZ Accountants.

**Minutes Approved:** The minutes from the December 7, 2011 meeting were approved. T. Pearsall made the motion, R. Fonti seconded. Minutes approved unanimously.

**Minutes Approved:** The minutes from the December 9, 2011 meeting were approved. R. Fonti made the motion, T. Pearsall seconded. Minutes approved unanimously.

**CMA Presentations to Finance Committee and the Legislature:** A brief discussion was had regarding R. Tortora's presentations about the contemplated securitization. J. Morgo requested that T. Pearsall provide himself and R. Fonti with the portion of the transcript of the legislative meeting pertaining to the STASC presentation .

**Status of Disputed Payments:** B. Petersen spoke with respect to the status of the disputed payments. Presently, New York State is owed \$526 million. When asked, he informed the group that the reserves may be drawn upon in 2012. There are several articles addressing the issue which he will e-mail to the group. In a related discussion, R. Tortora informed the group that California has drawn \$15 million from its reserve.

**Public Authorities Accountability Act:** B. Petersen gave each director and ex-officio member the Fiduciary Duty Acknowledgement Form to execute and return to him. Each person did so. B. Petersen will provide C. Capece with copies of the executed acknowledgements for inclusion with STASC's records. Additionally, he gave each board member a confidential Board Evaluation form to complete and return to him.

**Presentation of 2012 Budget:** B. Petersen presented the 2012 budget. It was noted that accounting and legal fees were greater than budgeted for 2011. The increase was due to non-recurring additional expenses relative to complying with PAAA. It was further noted that Ernst & Young has increased their audit fee by \$2,000 for 2012. There is no need to have money transferred to the operating account in 2012 as there will be a sufficient fund balance to pay all expenses through April 2013. J. Morgo stated that STASC has practiced "judicious budgeting to keep its fund balance." B. Petersen pointed out that page 2 and 3 of the budget will appear on the PARIS website. A motion to adopt the 2012 budget was made by R. Fonti, and seconded by T. Pearsall. The budget was adopted unanimously.

**Director Liability:** R. Fonti inquired of D. Brown whether a resolution could be adopted which would provide that ample funds for legal representation are reserved should the director's be sued individually as a result of their participation on the STASC board. J. Morgo pointed out that D. Brown had provided each board member with a copy of the Directors & Officers liability policy. It is a \$3,000,000 policy with additional coverage for defense. It does not provide for self-defense. As explained by D. Brown, the basis for a suit would focus upon the way in which the deal was structured, unreasonable representation of the revenue stream or a violation of securities law. These areas would be covered by the opinions of

underwriter counsel and disclosure counsel. D. Brown explained that a disgruntled bondholder would be more interested in piercing the STASC corporate veil to get to the County.

**Resolution to authorize the retention of independent auditors, corporate accountant, general counsel and financial advisor:** It was noted that Ernst & Young's fee increased by \$2,000. B. Petersen noted that the E&Y increase can be attributed to an additional compliance report that they will be required to prepare commencing with 2012. B. Petersen stated that he does not anticipate that the AVZ fee will exceed \$29,500. D. Brown noted that RFQs should be performed for all professional services in 2012 for services to be rendered in 2013. A vote was taken. The motion was approved unanimously.

**RFP for Underwriter Counsel and Disclosure Counsel:** R. Tortora led the discussion. He began by stating that as there are few law firms that provide these opinions for tobacco securitizations, CMA directly solicited five firms. Those firms were: Hiscock & Barclay, Nixon Peabody, Orrick Herrington & Sutcliffe, Squire Sanders & Dempsey, and Fulbright & Jaworski. Fulbright did not respond. The other firms stated that they do not view serving as both underwriter's counsel and disclosure counsel as a conflict of interest with respect to this transaction. Each firm did provide a fee proposal for each separate opinion as well as a separate fee if they were to provide both opinions. J. Morgo inquired as to the nature of the disclosure opinion. R. Tortora explained that it provides assurance that the information contained in the Official Statement "does not contain a misstatement or omission of a material fact." It is also known as a "10b-5" opinion. The statements in the opinion are similar to those provided in the opinion of the verification agent. R. Fonti inquired as to whether any of the responding firms had ever been sued. D. Brown expressed reservations concerning the use of one firm to provide both opinions. He disagreed with the assertion that for a firm to serve in both capacities does not provide a conflict of interest. He pointed out that the role of the underwriter is to market the bonds and it does not have a fiduciary obligation to bondholders; STASC does have such fiduciary obligation. D. Brown stated that he would like to review the proposed form of the opinion to be offered. It was decided that the opinions would be provided by two separate firms. J. Morgo inquired why Harris Beach was not solicited. R. Tortora was asked to solicit Harris Beach. It was decided that no decision would be made at this meeting and the directors would reconvene on Friday December 16 to further discuss the responses and to select counsel.

**RFP for Accounting Verification Reports:** R. Tortora led the discussion. Similar to the counsel previously discussed, there are few accounting firms that provide verification services with respect to tobacco securitizations. Therefore, CMA directly solicited three firms: Causey, Demgen & Moore; Deloitte Touche, and Grant Thornton. Grant Thornton declined to submit a proposal. R. Tortora explained that verification for this transaction is comprised of three separate components: structure, escrow, and disclosure. Causey Demgen provided a proposal for all three services, while Deloitte Touche provided proposals for two. After a brief discussion, it was noted that there was a preference to use Deloitte for the disclosure piece. There was some concern with the fees. R. Tortora was asked to contact all respondents, accountants and law firms, to provide their "best and final" fee proposals. The responses will be discussed at the meeting on Friday December 16.

**Adjourn:** Motion to adjourn was made by R. Fonti, seconded by T. Pearsall. Motion approved unanimously.