

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

**The North Carolina Medical Care Commission
809 Ruggles Drive
Raleigh, North Carolina**

MINUTES

**CALLED MEETING OF THE EXECUTIVE COMMITTEE
CONFERENCE TELEPHONE MEETING ORIGINATING
FROM THE COMMISSION'S OFFICE
FEBRUARY 24, 2017
11:00 A.M.**

Members of the Executive Committee Present:

John A. Fagg, M.D., Chairman
Joseph D. Crocker, Vice-Chairman
Charles H. Hauser
Eileen C. Kugler
Carl K. Rust, II, M.D.
Paul M. Wiles

Members of the Executive Committee Absent:

Robert E. Schaaf, M.D.

Members of Staff Present:

S. Mark Payne, DHSR Director, MCC Secretary
Crystal Watson-Abbott, Auditor
Alice S. Creech, Executive Assistant

Others Present:

Kevin Dougherty, McGuire Woods, LLP
Michelle Le, BB&T Capital Markets
Chip Westbrook, BB&T Capital Markets
Ted Goins, Lutheran Services
Kirby Nickerson, Lutheran Services
Devdutta Sangvai, M.D., Medical Care Commission Member

1. Purpose of Meeting

To consider for approval the final sale of bonds for Lutheran Services for the Aging, Inc.

2. SERIES RESOLUTION AUTHORIZING THE ISSUANCE OF \$33,795,000 NORTH CAROLINA MEDICAL CARE COMMISSION HEALTH CARE FACILITIES FIRST MORTGAGE REVENUE REFUNDING BONDS (LUTHERAN SERVICES FOR THE AGING), SERIES 2017.

Remarks were made by Joe Crocker, Chip Westbrook, John Fagg, Kevin Dougherty, Ted Goins, Kirby Nickerson and Crystal Abbott.

EXECUTIVE COMMITTEE ACTION: Motion was made by Mrs. Kugler, seconded by Mr. Wiles and unanimously approved with the recusal of Dr. John Fagg.

WHEREAS, the North Carolina Medical Care Commission (the “Commission”) is a commission of the Department of Health and Human Services of the State of North Carolina and is authorized under Chapter 131A of the General Statutes of North Carolina, as amended (the “Act”), to borrow money and to issue in evidence thereof bonds and notes for the purpose of providing funds to pay all or any part of the cost of financing or refinancing health care facilities;

WHEREAS, each of Lutheran Services for the Aging, Inc. (the “Parent Corporation”), Lutheran Home Hickory West Property, Inc., Lutheran Home – Hickory West, Inc., Lutheran Home Winston – Salem Property, Inc., Lutheran Home Forsyth County Property, Inc., Lutheran Home – Forsyth County, Inc., Lutheran Home – Hickory, Inc., Lutheran Home Hickory Property, Inc., Lutheran Home – Albemarle, Inc., Lutheran Home Albemarle Property, Inc., LSA Elms at Tanglewood, Inc., LSA Elms Property, Inc., Lutheran Home at Trinity Oaks, Inc., Lutheran Home at Trinity Oaks Property, Inc., Lutheran Retirement Center – Salisbury Inc., Lutheran Retirement Center at Lutheridge, Inc., LSA Management, Inc., Lutheran Services Property, Inc., LSA Pharmacy, Inc., Lutheran Home–Wilmington, Inc., Lutheran Home Wilmington Property, Inc. and Lutheran Home – Winston-Salem, Inc. (collectively with the Parent Corporation, the “Borrowers”) is a nonprofit corporation duly incorporated and validly existing under and by virtue of the laws of the State of North Carolina and is a “non–profit agency” within the meaning and intent of the Act; and

WHEREAS, each of Lutheran Home Wilmington Property, Inc., Lutheran Home – Wilmington, Inc., LSA Elms Property, Inc., LSA Elms at Tanglewood, Inc., Lutheran Home Winston–Salem Property, Inc., Lutheran Home Forsyth County Property, Inc., Lutheran Home – Forsyth County, Inc., Lutheran Home Hickory West Property, Inc., Lutheran Home – Hickory West, Inc., LSA Management, Inc., LSA Pharmacy, Inc., Lutheran Home – Albemarle, Inc., Lutheran Home – Hickory, Inc., Lutheran Home at Trinity Oaks, Inc., Lutheran Home – Winston–Salem, Inc., Lutheran Home Albemarle Property, Inc., Lutheran Home Hickory Property, Inc., Lutheran Home at Trinity Oaks Property, Inc., Lutheran Services Property, Inc., Lutheran Retirement Center – Salisbury, Inc., Lutheran Retirement Center – Wilmington, Inc., Lutheran Retirement Center at Lutheridge, Inc., Lutheran Services for the Aging Foundation, Inc. and

Abundant Living Adult Day Services, Inc. is an affiliate of the Parent Corporation (collectively with the Parent Corporation, the “Members of the Obligated Group”); and

WHEREAS, the Commission has heretofore issued its Variable Rate Demand Health Care Facility Revenue Bonds (Lutheran Services for the Aging) Series 1998 (the “Series 1998 Bonds”) in the original aggregate principal amount of \$23,625,000, \$10,065,000 of which will be outstanding as of March 1, 2017, pursuant to the Trust Agreement, dated as of March 1, 1998, between the Commission and The Bank of New York, as trustee, as amended and restated by the Amended and Restated Trust Agreement, dated as of December 1, 2012, between the Commission and The Bank of New York Mellon Trust Company, N.A. as trustee; and

WHEREAS, the Commission has heretofore issued its Health Care Facilities First Mortgage Revenue Bonds (Lutheran Services for the Aging) Series 2012B (the “Series 2012B Bonds” and, together with the Series 1998 Bonds, the “Prior Bonds”) in the original aggregate principal amount of up to \$26,254,401.12, \$23,537,537.88 of which will be outstanding as of March 1, 2017, pursuant to the Trust Agreement, dated as of December 1, 2012, between the Commission and The Bank of New York Mellon Trust Company, N.A. as bond trustee; and

WHEREAS, the Parent Corporation has made an application to the Commission for a loan for the purpose of providing funds, together with other available funds, to (i) refund the Prior Bonds and (ii) pay certain expenses incurred in connection with the authorization and issuance of the Bonds (as hereinafter defined); and

WHEREAS, the Commission has determined that the public will best be served by the proposed financing and, by a resolution adopted by the Executive Committee of the Commission on January 26, 2017, has approved the issuance of the Bonds, subject to compliance by the Members of the Obligated Group with the conditions set forth in such resolution, and the Members of the Obligated Group have complied with such conditions to the satisfaction of the Commission; and

WHEREAS, there have been presented at this meeting draft copies of the following documents relating to the issuance of the Bonds:

(a) the Contract of Purchase, to be dated March 1, 2017 (the “Contract of Purchase”), by and between the Local Government Commission of North Carolina (the “Local Government Commission”) and Branch Banking and Trust Company, as Purchaser (the “Purchaser”), and approved by the Commission and the Members of the Obligated Group;

(b) the Loan Agreement, to be dated as of March 1, 2017 (the “Loan Agreement”), by and between the Members of the Obligated Group and the Commission, pursuant to which the Commission will lend the proceeds of the Bonds to the Borrowers;

(c) the Trust Agreement, to be dated as of March 1, 2017 (the “Trust Agreement”), by and between the Commission and The Bank of New York Mellon Trust Company, N.A., as bond trustee (the “Bond Trustee”), securing the Bonds;

(d) Supplemental Indenture for Obligation No. 7, to be dated as of March 1, 2017 (“Supplement No. 7”), by and between the Members of the Obligated Group and The Bank

of New York Mellon Trust Company, N.A., as master trustee (the “Master Trustee”) under the Master Trust Indenture, dated as of December 1, 2012 (the “Master Indenture”), by and between the Members of the Obligated Group and the Master Trustee;

(e) Obligation No. 7, to be dated the date of its issuance (“Obligation No. 7”), to be issued by the Members of the Obligated Group to the Commission and assigned by the Commission to the Bond Trustee;

(f) Supplemental Indenture for Obligation No. 8, to be dated as of March 1, 2017 (“Supplement No. 8”), by and between the Members of the Obligated Group and the Master Trustee;

(g) Obligation No. 8, to be dated the date of its issuance (“Obligation No. 8”), to be issued by the Members of the Obligated Group to the Purchaser;

(h) the Guaranty and Credit Agreement, to be dated as of March 1, 2017 (the “Guaranty Agreement”), by and between the Members of the Obligated Group and the Purchaser; and

(i) the form of the First Amendment to Deed of Trust, each to be dated as of February 15, 2017 and effective on March 1, 2017, and each among the Members of the Obligated Group named therein, the deed of trust trustee named therein, and the Master Trustee, amending the Initial Obligated Group Deeds of Trust (as defined in the Master Indenture) for the purpose of describing Obligation No. 7 and Obligation No. 8 (as amended, the “Obligated Group Deeds of Trust”); and

WHEREAS, the Commission has determined that, taking into account historical financial performance and financial forecasts internally generated by the Parent Corporation, the Members of the Obligated Group are financially responsible and capable of fulfilling their obligations under the Trust Agreement, the Loan Agreement, the Master Indenture, Supplement No. 7, Obligation No. 7, Supplement No. 8, Obligation No. 8, the Guaranty Agreement and the Obligated Group Deeds of Trust; and

WHEREAS, the Commission has determined that the public interest will be served by the proposed financing and that, taking into account historical financial performance and financial forecasts internally generated by the Parent Corporation, adequate provision has been made for the payment of the principal of, redemption premium, if any, and interest on the Bonds;

NOW, THEREFORE, THE EXECUTIVE COMMITTEE OF THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. Defined Terms. Capitalized words and terms used in this Series Resolution and not defined herein shall have the same meanings in this Series Resolution as such words and terms are given in the Loan Agreement or the Trust Agreement.

Section 2. Authorization of Bonds. Pursuant to the authority granted to it by the Act, the Commission hereby authorizes the issuance of its Health Care Facilities First Mortgage Revenue Refunding Bonds (Lutheran Services for the Aging), Series 2017 in the aggregate principal amount

of \$33,795,000 (the “Bonds”), dated the date of Closing, and having a final stated maturity date of March 1, 2038.

The Bonds shall be issued as fully registered bonds, initially in the denominations of \$100,000 and any integral multiple of \$5,000 in excess of \$100,000, and thereafter in denominations authorized by the provisions of the Trust Agreement. Commencing on the date of Closing, the Bonds shall bear interest at the Bank-Bought Rate and the Bank-Bought Rate shall be equal to the sum obtained by adding (i) the product of (x) 68% and (y) One-Month LIBOR plus (ii) 1.283% per annum. The Bank-Bought Minimum Holding Period shall commence on the date of Closing and shall end on March 1, 2029. Interest on the Bonds shall be calculated in accordance with the Trust Agreement and shall be payable on each Interest Payment Date as provided in the Trust Agreement.

Section 3. Redemption. The Bonds shall be subject to extraordinary, optional and mandatory redemption at the times, upon the terms and conditions, and at the price set forth in the Trust Agreement. The mandatory sinking fund requirements for the Bonds are set forth in Schedule 1 attached to this Series Resolution.

Section 4. Optional and Mandatory Tender for Purchase. The Bonds shall be subject to optional and mandatory tender for purchase at the times, upon the terms and conditions, and at the price set forth in the Trust Agreement.

Section 5. Use of Bond Proceeds. The Commission hereby finds that the use of the proceeds of the Bonds for the purposes described in the preamble to this Series Resolution accomplishes the public purposes set forth in the Act. The proceeds of the Bonds shall be applied as set forth in Section 2.10 of the Trust Agreement. The Prior Bonds shall be redeemed on March 1, 2017.

Section 6. Authorization of Loan Agreement and Trust Agreement. The forms, terms and provisions of the Loan Agreement and the Trust Agreement are hereby approved in all respects, and the Chairman, Vice Chairman or any member of the Commission designated in writing by the Chairman of the Commission for such purpose and the Secretary of the Commission are hereby authorized and directed to execute and deliver the Loan Agreement and the Trust Agreement in substantially the forms presented to this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate, including but not limited to changes, modifications and deletions necessary to incorporate the final terms of the Bonds; and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 7. Authorization of Contract of Purchase. The form, terms and provisions of the Contract of Purchase are hereby approved in all respects and the Chairman, Vice Chairman or any member of the Commission designated in writing by the Chairman of the Commission for such purpose is hereby authorized and directed to approve, by execution and delivery, the Contract of Purchase in substantially the form presented to this meeting, together with such changes, modifications, insertions and deletions as the Chairman, Vice Chairman or such member of the Commission, with the advice of counsel, may deem necessary and appropriate; and such execution

and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 8. Forms of Bonds. The forms of the Bonds set forth in the Trust Agreement are hereby approved in all respects and the Chairman, Vice Chairman or any member of the Commission designated in writing by the Chairman of the Commission for such purpose and the Secretary of the Commission are hereby authorized and directed to execute, by manual or facsimile signature as provided in such forms of the Bonds, and to deliver to the Bond Trustee for authentication on behalf of the Commission, the Bonds in definitive form, which shall be in substantially the forms presented to this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary, appropriate and consistent with the Trust Agreement; and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 9. Approval of Other Financing Documents. The forms, terms and provisions of Supplement No. 7, Obligation No. 7, Supplement No. 8, Obligation No. 8, the Guaranty Agreement and the Obligated Group Deeds of Trust are hereby approved in substantially the forms presented at this meeting, together with such changes, modifications and deletions as the Chairman, Vice Chairman or any member of the Commission designated in writing by the Chairman of the Commission for such purpose, with the advice of counsel, may deem necessary and appropriate; and the execution and delivery of the Trust Agreement pursuant to Section 6 of this Series Resolution shall be conclusive evidence of the approval by the Commission of the agreements and instruments set forth in this Section 9.

Section 10. Purchase of Bonds. The Commission hereby approves the action of the Local Government Commission in awarding the Bonds to the Purchaser at a purchase price equal to \$33,795,000 (representing the principal amount of the Bonds). The Members of the Obligated Group will separately pay, on the date of Closing, the Purchaser a fee of \$33,795.00 in consideration for such purchase.

Upon their execution in the form and manner set forth in the Trust Agreement, the Bonds shall be deposited with the Bond Trustee for authentication, and the Bond Trustee is hereby authorized and directed to authenticate the Bonds and, upon the due and valid execution of the Trust Agreement, the Loan Agreement, Supplement No. 7, Obligation No. 7, Supplement No. 8, Obligation No. 8, the Contract of Purchase, the Guaranty Agreement and the Obligated Group Deeds of Trust by the parties thereto, the Bond Trustee shall deliver the Bonds to the Purchaser against payment therefor.

Section 11. Commission Representatives. S. Mark Payne, Secretary to the Commission, Crystal M. Watson-Abbott, Auditor to the Commission, and Kathy C. Larrison, Auditor to the Commission, are each hereby appointed a Commission Representative, with full power to carry out the duties set forth therein.

Section 12. Designation of Bond Trustee. The Bank of New York Mellon Trust Company, N.A. is hereby appointed as Bond Trustee under the Trust Agreement.

Section 13. Ancillary Actions. The Chairman, the Vice Chairman, any member of the Commission designated in writing by the Chairman of the Commission for such purpose and the Secretary of the Commission are authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Trust Agreement, the Loan Agreement, the Master Indenture, Supplement No. 7, Obligation No. 7, Supplement No. 8, Obligation No. 8, the Contract of Purchase, the Guaranty Agreement and the Obligated Group Deeds of Trust.

Section 14. Professional Fees. A comparison of the professional fees as set forth in the resolution adopted by the Executive Committee of the Commission granting preliminary approval of this financing with the actual professional fees incurred in connection with this financing is attached to this Series Resolution as Schedule 2.

Section 15. Effective Date. This Series Resolution shall take effect immediately upon its passage.

Schedule 1
Sinking Fund Requirements

<u>Year</u>	<u>Amount</u>
2018	\$1,455,000
2019	1,550,000
2020	1,595,000
2021	1,700,000
2022	1,750,000
2023	1,800,000
2024	1,915,000
2025	2,030,000
2026	2,090,000
2027	2,215,000
2028	2,345,000
2029	1,200,000
2030	1,200,000
2031	1,260,000
2032	1,320,000
2033	1,380,000
2034	1,440,000
2035	1,500,000
2036	1,560,000
2037	1,620,000
2038*	870,000

* Maturity

Schedule 2
Professional Fees

<u>Professional</u>	<u>Preliminary Approval</u>	<u>Actual</u>
Corporation Counsel	\$40,000	\$40,000
Bank Counsel	25,000	25,000
Bond Counsel	60,000	60,000
Bank Commitment Fee	23,865	33,795
Bank Placement Fee	25,000	25,000

3. Lutheran Services for the Aging Series 2017 - Bond Policy Approval Information

Lutheran Services for the Aging Series 2017 Bonds

	Series 1998		Series 2012			
	Preliminary	Final	Explanation	Preliminary	Final	Explanation
Principal	\$ 11,595,000	\$ 10,065,000	- Final principal outstanding on 3/1/2017 - Old SWAP rate plus new spread from BB&T	\$ 23,680,917	\$ 23,537,538	- Final principal outstanding on 3/1/2017 - Built in rate cushion - final rate is based off BB&T commitment letter
Rate	4.088%	5.371%	commitment letter	78% of LIBOR + 160bps	68% of LIBOR + 1.285bps	

NPV Savings is still expected to be around 600K.

4. **Adjournment**

There being no further business, the meeting was adjourned at 11:15 a.m.

Respectfully submitted,

Crystal Watson-Abbott

