

Delaware Sustainable Energy Utility
Minutes of the Meeting of the Oversight Board
391 Lukens Drive, New Castle, DE 19720
May 18, 2012 at 10:00 A.M.

I. Welcome

Board Co-Chair Harris B. McDowell, III called the meeting to order at 10:10 A.M. Present were Co-Chair Dr. John Byrne, Nnamdi Chukwuocha (by teleconference), Randall Day, Sean Finnigan, Roger Jones, Kristopher Knight, Secretary Collin O'Mara, Michael Sheehy, Dr. Carolyn Snyder, Dr. Charles Wagner, and Dennis Williams. Mr. Frank Murphy, Legal Counsel, and Mr. Anthony DePrima, Executive Director were also present

II. Introduction of Governor's Appointment – Kristopher Knight

Senator McDowell introduced and welcomed Kristopher Knight as the Governor's appointment to the Sustainable Energy Utility's Board.

Resignation - Dr. John Byrne, Co-Chair

Senator McDowell read the following letter from Governor Jack A. Markell:

Dear Dr. Byrne,

Thank you for your letter dated May 10, 2012. I accept your resignation from the Sustainable Energy Utility Board as you pursue new opportunities to advance energy efficiency more broadly.

On behalf of the residents of the State of Delaware, I thank you for your service to our state in the conception, development, and ultimate execution of the Delaware Sustainable Energy Utility. For years, you and Senator McDowell have been leading champions of promoting energy efficiency and the transition to a more sustainable energy system.

The energy efficiency work occurring today on a range of public buildings and the construction jobs being filled by Delawareans to do the physical work is a testament to the innovative approach that you have championed through the SEU. From the sustainable energy bond to the recent solar renewable energy credit auction, our state is emerging as a national leader in transition to a clean energy economy, thanks in no small part to your years of thought and effort. I am grateful for these and other contributions that you have made working with my administration over the past three years.

Despite much recent local press, our nation continues to face the interconnected challenges of revitalizing our economy, improving our national security, and confronting climate change. I am confident that through your Foundation for Renewable Energy and Environment that you will continue to think about and promote solutions for how best to address these challenges – and in doing so further strengthen our national economy and global environment. Of course, I would be happy to receive any ideas that you may have and hope that you continue to share ideas with the SEU board as time may allow.

In recognition of your role as the architect of the idea of an SEU, and your role in conceiving the bond model that was executed as the first-in-the-nation Energy Efficiency Bond Series on August 1, 2011, and as an expression of our appreciation for your ideas, I am recommending that the Board name you as the SEU's first Honorary Board Member. In this role, you will be invited to participate in all Board meetings ex officio, and to sit on and, when appropriate and with your consent, chair special committees as decided by the Board's voting members.

Thank you again for our service.

Sincerely,

*Jack A. Markell
Governor*

After the reading of the letter from the Governor, a motion was made and unanimously approved to appoint Dr. John Byrne as the SEU's first Honorary Board Member.

Thereafter, Board member Mr. Roger Jones asked to read a statement into the record as follows:

"I have been a member of the SEU Oversight Board since October 2008. Since that time, my colleague Dr. John Byrne has selflessly devoted thousands of hours to the SEU's work. As with all board members, he has received no financial compensation whatsoever. Five years ago Dr. Byrne publicly proposed the use of tax exempt bonds to finance energy saving projects. Through this finance mechanism the SEU's successful 2011 bond issue created hundreds of jobs and will save Delaware taxpayers millions of dollars.

Since 2007, Dr. Byrne has publicly promoted the SEU as a model to other states, including the use of energy efficiency bonds. By way of example, Dr. Byrne, with the SEU's full support, was instrumental in the District of Columbia's decision to create a Sustainable Energy Utility.

Dr. Byrne has also worked to form a non-profit foundation to further goals shared with the SEU. It is my sincere hope the Dr. Byrne's work with the Foundation for Renewable Energy and the Environment continues to promote the SEU model and program designs throughout the United States. JB, thank you for your tireless, dedicated service to the SEU.

Sincerely,

Roger Jones

III. Approval of Past Minutes

Mr. Jones moved to approve the draft minutes of the Board meetings that were circulated in the Board packet prior to the meeting. The motion was seconded by Dr. Wagner and unanimously carried.

IV. SEU Business

a. Proposed By-Law Amendments

Representative Dennis Williams moved to modify the SEU By-Laws to create three (3) corporate officers with an understanding that each position is a two year term and that elections will be held in the month of May (the next election is scheduled for May 2014), the motion was seconded by Dr. Wagner and unanimously carried.

Secretary Collin O'Mara, noting a desire to fill these positions now, nominated Senator Harris B. McDowell, III as Chair, Randall Day as Vice Chair, and Kristopher Knight as Secretary/Treasurer. Mr. Day requested that his nomination be conditional upon his reviewing the matter with his employer.

Mr. Sheehy moved to close the nominations, seconded by Dr. Wagner and unanimously carried.

Thereafter a motion was made to elect the nominees as the new officers of the SEU, subject to the condition that Randall Day first be given the opportunity to review the matter with his employer. The motion carried unanimously.

Secretary O'Mara requested that Mr. Knight undertake a review of the SEU's finances including the recent financial information received from the Division of Energy and Climate and confer with BDO as needed.

Prior to the Board meeting, Roger Jones had proposed a resolution to create additional Board committees. Mr. Jones recommended that the resolution be delegated to Mr. DePrima to prepare a recommendation to the Board about a workable committee structure that may include the following committees and perhaps others: Executive Committee, Governance & Nominating Committee, Finance and Audit Committee, and Energy Programs Committee.

b. Appoint Ad-Hoc Evaluation Committee for Legal Services RFP

Due to the topic, Mr. Frank Murphy excused himself from the room during this discussion. Mr. DePrima suggested that an Ad-Hoc Committee be appointed to evaluate the RFP's for Legal Counsel. The RFP submittal deadline is May 23, 2012 at 5:00 p.m. Dr. Wagner and Mr. Sheehy volunteered to evaluate and forward a recommendation back to the Board in June.

c. Consideration of Statements for Murphy Professional Services

Murphy & Landon submitted invoices for October 2011, in the amount of \$20,072.01, March 2012, in the amount of \$18,695.06, and April 2012, in the amount of \$12,887.65. Dr. Wagner moved to approve payment of the invoices, seconded by Dr. Byrne, and unanimously carried. The October 2011 statement had been on the agenda at a prior Board meeting, but had not been considered at the time due to time constraints.

d. Adoption of Procurement Policy

A discussion ensued about the adoption of a written procurement policy which had been circulated in advance of the Board meeting by Executive Director Tony DePrima. Representative Dennis Williams explained that the Draft Procurement Policy had an undetermined percentage for price preference located on page 5, Section 6.3 relating to price preference for recycled and other environmentally preferable products; Representative Williams recommended 5% percent to be inserted. Additionally, Section 7.2 refers to local vendor preference; Representative Williams recommended 10% of the value of the award.

Mr. Sheehy recommended that the SEU be more aggressive by increasing the price preference for recycled and other environmentally preferable products to 10%. Mr. Sheehy also requested that Mr. DePrima research the idea of increasing the vendor preference to 15% and report back to the board.

Accepting Mr. Sheehy's suggestion the motion was made by Representative Williams, and seconded by Dr. Wagner.

There was further discussion about the procurement policy with Secretary O'Mara recommending that on page 4, Professional Services Guidelines, Section 4.1, be lowered from \$10,000 to \$5,000, amending Section 4.2, so that the range is \$5,000 to \$25,000, and requiring that the Chair and the Treasurer must both approve such contracts.

There was discussion about the need for further changes to the procurement policy. There was discussion that, instead of deferring a vote on the procurement policy until the next meeting, that the Board considers adopting the policy with the changes discussed as a temporary measure at this meeting, with the understanding that additional changes may be recommended to the Board for consideration at the next Board meeting. Mr. Knight, as the SEU's

newly appointed Treasurer, indicated that there were some clarifications that he would like to get but was satisfied with moving forward with the changes proposed for the time being.

Representative Williams moved to approve the Procurement Policy with the suggested changes, seconded by Dr. Wagner and unanimously carried, subject to the understanding that additional changes may be needed and would be considered at the June Board meeting.

e. Adoption of a 403(B) Retirement Plan for Employees

Members of the Board were provided information regarding the implementation of a 403(B) Retirement Plan for SEU employees. Dr. Wagner moved that Mr. Knight review the proposed plan and if changes need to be made, bring it back to the board, if not, the Secretary/Treasurer is authorized to proceed to put the Retirement Plan in place. The motion was seconded by Secretary O'Mara and carried unanimously.

f. Discussion of Regular Meeting Times and Locations

Mr. Jones suggested that the SEU consider conducting half of the board meetings in the northern portion of Delaware and half of the meetings held in the southern portion of Delaware; meeting times and dates were also discussed. It was requested that Lisa Gardner, SEU Office Manager, poll members as to best meeting days and times.

Website Discussion

Members discussed several website issues. Members agreed that the approved minutes be posted to the website within two (2) business days of their approval by the Board.

V. REPORTS

a. Executive Director's Reports

i. Budget Report - Mr. DePrima reviewed the Budget Report as presented to members of the Board. He informed members that we are now in the beginning stages of processing payments from the SREC auction. Mr. DePrima stated that with Mr. Ken Becker canceling his contract he has begun drafting an RFP for Financial Advisory Services. A motion was made that Mr. Knight and Mr. Murphy review the RFP for Financial Advisor Services and finalize the draft with the Executive Director and then forward it to the Executive Committee for their consideration, and the motion was approved unanimously.

It was recommended that Mr. Knight and Mr. DePrima meet to further discuss the SEU accounts, financial procedures, and wire transfers.

ii. Activity Report – Mr. DePrima's Activity Report was submitted to Board members in advance for their review. Due to the resignation of Dr. Byrne, it is necessary to amend banking accounts/documents (PNC and Citibank). Mr. Williams moved to have all three officers be added to bank documents and authorized to sign accounts, second by Dr. Wagner and unanimously carried.

VI. New Business/Old Business

Senator McDowell recommended that past programs be evaluated for future use. Mr. DePrima suggested a workshop to be held in conjunction with a future board meeting.

VII. Adjourn

Prior to adjournment, the Board received public comments and questions raised by various members of the public.

Meeting Adjourned at 12:40 p.m.