

**Minutes of the
Delaware Sustainable Energy Utility Meeting of the Oversight Board**
DNREC Lukens Drive Office
391 Lukens Drive
New Castle, DE 19720
August 19, 2011 at 10:00 AM

I. Welcome

Sen. Harris McDowell called the meeting to order. Also present for the Board were Dr. John Byrne, Sec. Collin O'Mara, Roger Jones, Randy Day, Nnamdi Chukwuocha, Rep. Dennis Williams, Michael Sheehy, Dr. Charles Wagner, and Sean Finnigan.

II. Consideration of minutes, including minutes of executive sessions

The Board considered the minutes of the Board meeting of June 7, 2011. Sen. Harris McDowell indicated that a change to the draft minutes was required on page 3 to indicate that Sen. McDowell called the meeting with Gov. Jack Markell about the performance contracting program. In addition, Roger Jones indicated that the word "position" in the minutes needed to be changed to "program". With those changes, the minutes were adopted unanimously by the Board.

III. SEU Bond Issue and Performance Contracting Program Update

The Board received an update on the SEU bond issue which closed the first week of August 2011 from Ken Becker. The bond issue raised about \$73 million for energy efficiency upgrades for State agencies. The bonds sold in about 2 hours. The funds raised are already at work. It is a serial issue with various maturities. The estimate of the cost of debt is 3.65%. The SEU received an AA+ rating by Standard and Poor's. The rating from Moody's came in one notch below Standard and Poor's. The buyers of the bonds were mainly private companies. There were very few individual buyers. The money is being disbursed, and it is estimated that 1,000 jobs will come from the energy efficiency work that will be performed.

Sen. McDowell stated that the bond issue was very successful. \$73 million is being brought into the State of Delaware in private investment money. The State of Delaware is not obligated on the bonds. A substantial number of jobs will be created by the bond issue and the State of Delaware taxpayers will save millions of dollars in energy expenses. This is a win/win situation, because the State facilities will be upgraded from an energy standpoint, but without the State having to issue debt or be obligated on the SEU bonds. The energy savings are backed by Guaranteed Energy Savings Agreements entered into with sound, reputable companies. Sen. McDowell indicated that the SEU bond issue may serve as a model.

Sec. Collin O'Mara said that the money is flowing very quickly. The State agencies and the Office of Management and Budget have done a very good job. There will be some emphasis

on local jobs, and the State and the SEU are committed to using local sub-contractors where possible.

It was reported that the State agencies should realize about \$23 million in savings on energy costs that would otherwise be incurred by taxpayers based upon the energy upgrades that were being made to State facilities.

Roger Jones indicated that the Board should commend Ken Becker and Sec. of the Dept. of Finance Tom Cook for an excellent job on the bond issue. Sen. McDowell and the Board agreed that Ken Becker and Sec. Cook should be commended on an excellent job.

IV. SEU ARRA Residential Incentive Program and Other SEU Programs

DNREC reported on the status of the ARRA residential and non-residential incentive programs. There was a review of a spreadsheet, which was circulated to the Board. The spreadsheet contains preliminary estimates about projected net spending for the SEU incentive programs. The SEU Board had approved \$8 million for rebates/incentives thus far. The SEU has expended about \$5.9 million in ARRA funds thus far. The ARRA funds are one-time funds that need to be expended by April 2012, or they would have to be returned to the federal government. Therefore, it is in the interest of the State of Delaware, the SEU, and DNREC to see that ARRA funds are committed to programs that will benefit Delawareans. Preliminary estimates indicated that the projected net spend for the program may exceed the \$8 million initial budget.

There was a discussion about the programs. Presently for the lighting rebate program about 100,000 CFLs have been distributed. In the home performance area rebates are based on the energy savings. In addition, the SEU has a rebate program for businesses. The residential retrofit program participation has increased, and therefore it was possible that the program may exceed the projections that have been made in the past. The figures in the spreadsheet are preliminary and are estimates only, so the situation will require further analysis and review.

Senator McDowell indicated that it was a positive for the SEU that the programs were being so well received by the public. He indicated that the SEU has funds on hand, including ARRA funds, that are either not committed at this time for any SEU project, or that might be transferred from other programs, if the Board decided to extend additional funding for one or more SEU programs. If it came to pass that the cost of an incentive program exceeded the projections, the Board could review the cost/benefit of each program and make a determination about the level of support on a program-by-program basis. The SEU programs will not suffer any shortfall in funding, as the SEU has funds available to support the programs. The Board will review the programs and establish priorities based on overall strategic planning, public response to the programs, and SEU's funding capabilities.

Michael Sheehy indicated that he too thought that it is a positive outcome for the SEU's programs to receive such popular support from the public. He agreed that the SEU would need to weigh the popularity and success of the programs in deciding what to do about the programs going forward. He indicated that the SEU Board should consider committing or shifting funds to

programs that have proven popular with the public, and the Board should entertain such a discussion.

Carolyn Snyder indicated that DNREC had provided preliminary estimates about budgeting and the programs were still under review by DNREC. DNREC will continue to assess the programs and coordinate with the Board. The SEU will need an analysis of the programs, in order to make a decision about what programs to support and at what level, and DNREC is working on an analysis and recommendations for the Board.

Dr. John Byrne indicated that the SEU needed to keep in mind long term strategic planning in reviewing the existing incentive programs and how it would allocate its financial capital. The SEU has funds in its accounts that have not been dedicated to any of the existing incentive programs. Dr. Byrne expressed the view that, while the SEU may need to modify the existing programs, the Board also needed to keep in mind its long term goals.

Further discussion then ensued among the Board members about the SEU's current incentive programs, and Michael Sheehy offered additional comments, including that it was encouraging to see the level of public response to the SEU's programs. He indicated that one factor that should be considered in assessing the programs going forward was the success of the programs in achieving energy savings goals for the public. While he agreed with the comments made by other Board members, he also expressed the view that the success of the current programs was a factor to be considered in assessing the makeup and future funding levels for SEU programs.

Following the discussion among the Board, a motion was made to direct the Executive Committee of the Board to coordinate with DNREC and to undertake a review of the SEU's programs in light of the SEU's long term goals and the SEU's current and future budgeting. The SEU Executive Committee was asked to work with DNREC, to consider what programs should be continued, how they should be continued, and the appropriate parameters, including budget parameters, and whether there would be full or partial incentive programs and/or financing programs going forward. In short, the Executive Committee was charged with taking a comprehensive look at the SEU's current programs in light of the SEU's future goals and needs, and the information to be provided by DNREC. The charge to the Executive Committee is to report to the Board in two weeks, if possible. In any event, the Executive Committee would report to the Board at the next Board meeting. In the interim, the Executive Committee would endeavor to keep the Board informed and accept comments from the Board. The motion was approved unanimously.

V. SEU Board Secretary and corporate kit and seal (suggestions by SEU tax counsel for appointment of Secretary to SEU Board and corporate seal) – Frank Murphy

Frank Murphy informed the Board that the SEU had purchased a corporate kit, including a corporate seal, at the suggestion of the SEU's tax counsel for the bond issue.

VI. Update on SEU Financial Reports and status of fiscal agent

A motion was made to enter into an Executive session in order to discuss the status of contract negotiations with the SEU's fiscal agent. The grounds for the executive session are stated on the agenda for the Board meeting. Those reasons were reiterated by Frank Murphy for the record, including the fact that the Board would be discussing confidential contract negotiations with the fiscal agent and the contract administrator through DNREC, and the Board's views about the contracts. Carolyn Snyder reported to the Board about the status of the fiscal agent contract negotiations, and that she would report to the Board further as negotiations are concluded.

VII. Review of SEU Programs; Scope of work for SEU Contract Administrator – Ralph Nigro of Applied Energy Group

The Board then began a discussion about AEG, the SEU's contract administrator, and negotiations about its contract and its scope of work, and also the work of the implementation contractors, that are engaged in the day-to-day operation of the programs. AEG had provided a proposal about its future scope of work to serve as a basis for negotiations. Ralph Nigro indicated that one of the drivers for the SEU programs was the fact that there was a need to spend ARRA funds by a specific deadline next year. In addition, he explained that the SEU law generally requires AEG to use implementation contractors for SEU programs. Mr. Nigro reviewed the scope of work document that was provided to the Board. He indicated that there was a need to focus on the residential home performance incentive program. He indicated that the residential lighting program had achieved its overall goals, and the Board might consider winding down the program. The Board indicated its desire to have AEG provide a proposal about the SEU's residential home performance incentive program.

A motion was made to adjourn the executive session which was approved unanimously.

After the Board returned to the public session there was further discussion about the SEU's programs and the future of the programs. The Board indicated that it wanted AEG to provide metrics for all programs, including the number of jobs created. The Board considered a motion instructing AEG to develop plans to address issues pertaining to the SEU's programs that had been discussed previously in open session, including the following:

1. Provide a projection of the budget expenditures based on current program operations.
2. Provide recommendations to address projected expenditures through program revisions and shutdowns, as well as reduced administration and implementation costs.
3. Develop two budget scenarios for the SEU's programs. The Board asked AEG to project what the program suite would look like based on total budgeted expenditures (including all incentives and fees) of 50% of current budget, and the other at 35% of current budget (65% reduction from current budget). The Board also asked AEG to provide other scenarios if necessary and advisable. It was emphasized that the budget scenarios would have to include all expenditures, including fees for the administration of the programs and any and all related costs.
4. Provide recommendations for program re-design to support the future program

- year budget scenarios.
5. Provide metrics on the current programs including impacts, cost-effectiveness, job creation, and others to aid the Board's decision-making process.

This plan would be provided by AEG to the Executive Committee as soon as feasible, but certainly within the next two weeks. The Executive Committee and the Board will use this information to aid in the consideration of the future of the programs including whether to continue, scale back, or shut down programs through the end of the current program year, and to aid in establishing budgets going forward and possibly for future program years. The motion was approved unanimously. The Board also considered and approved a motion to continue to extend AEG's contract to the end of September 2011.

VIII. New Business/Old Business

Randy Day provided a brief report on behalf of the Finance and Audit Policy Committee. He indicated that, if the Committee intended to hire any consultants, the Committee understood that it would first have to obtain Board approval.

IX. Public Comment

John Nichols, a member of the public, asked several questions about the SEU bond issue, which the Board responded to. The Board entertained a motion to adjourn which was approved.

Finn McCabe of Flexera offered comments to the Board.

X. Adjourn

A motion to adjourn was made. Rep. Dennis Williams raised a question about the status of the executive director search, including the status of the job description prepared by the three-member ad hoc committee which originally studied the issue. A brief discussion ensued. Thereafter, the motion to adjourn was considered and approved, with Rep. Williams voting no on the motion to adjourn.