

**Minutes of the  
Delaware Sustainable Energy Utility Oversight Board Public Meeting**

Location: 10<sup>th</sup> Floor  
Carvel State Office Building  
820 North French Street  
Wilmington, Delaware 19801  
July 14, 2011  
9:00 AM

**I. Welcome**

Sen. McDowell called the meeting to order and welcomed members of the public who were present.

Present for the Board: Michael Sheehy, Dr. Charles Wagner, Sean Finnigan, Dr. John Byrne, Sen. Harris McDowell, Sec. Collin O'Mara, Rep. Dennis Williams, Roger Jones

**II. Presentation by Destination Station at the request of Dr. Charles Wagner**

A handout was provided by Destination Station Center, Ltd. ("DSC") and a presentation was made about Destination Station, its plans, goals, programs in the field of green energy, and education for children. In 2010, Destination Station Center signed a Memorandum of Understanding with DelDOT defining the lease terms for 1.75 acres at the Rehoboth Park and Ride. DSC wants to build a unique facility in Sussex County. Feasibility study shows the project is sustainable and self-funding starting in the second year and extending for ten years. The study and an executive summary are on the DSC website. DSC is not asking the SEU for money, but simply hoping to get the SEU's support. DSC has meetings set up with the Department of Energy and others. DSC met all of its due diligence. DSC completed the business plan and feasibility study. DSC is raising funds locally to get the project started. It has the support of Sen. Carper, and will be meeting with Sen. Coons and Rep. Carney. DSC is going to go to the Delaware corporate donors before going outside of Delaware. DSC anticipates that most of the funding will come from corporate donors. DSC hopes to break ground in 2013. The Board asked a number of questions about DSC and its plans. The Board thanked the representatives of DSC for their very interesting presentation and indicated that the Board supported their project.

**III. Update on SEU Bond Issue and Performance Contracting Program**

A motion was made to enter into executive session. Frank Murphy, General Counsel to the SEU, explained the reasons for the executive session, which are reflected in the agenda that was posted for the meeting. The reasons for the executive session include the fact that there would be discussion about the SEU's anticipated bond issue, including financial projections, strategies, and analyses related to the bond issue, and other confidential information. The motion to enter into executive session was approved unanimously.

Ken Becker, the head of the SEU financial advisory team for the bond issue and performance contracting effort, provided a report to the Board on the bond issue and the performance contracting program. He indicated that the team was within days of having all of the Guaranteed Energy Savings Agreements signed. Mr. Becker indicated that Tom Cook, the Secretary of the Department of Finance, and Stephanie Scola, who handles bond issues for the State of Delaware, are helping to move the State agencies along quickly. Secretary Cook and Stephanie Scola have been very helpful to the SEU in preparing for the bond issue and very supportive of the SEU's efforts. Mr. Becker explained that the timetable was fluid, but that the SEU will be putting out a Preliminary Official Statement ("POS") for the bond issue in the next few days to a week. Thereafter, the SEU would need about a week or so to go to the market with the bonds. He indicated that he will probably be communicating with the Executive Committee on a daily basis at this point. There are a couple of business matters to attend to.

Mr. Becker reported that the SEU received a preliminary rating from Moody's in a draft report and the rating is AA2. The SEU is expecting a rating from Standard and Poor's today.

Mr. Becker indicated that, pursuant to an arrangement with Delaware State University, the SEU would provide preliminary financing in the amount of \$250,000 for DSU, which would be repaid at the time of the bond closing. These funds would help DSU with construction financing pending the sale of the bonds. Mr. Becker explained the need for prompt Board action on that matter.

Mr. Becker went on to describe the bond process and a proposed timetable related to the bond issue. There was discussion about the need for confidentiality in connection with the public offering of bonds.

A motion was made to leave Executive session and return to the public session, which passed unanimously.

A motion was made to authorize the SEU to make an approximate payment of \$250,000 for Delaware State University for a construction draw on its project which is being financed by the bond issue. The check would be signed by one of the Board co-chairs. The advance would be repaid to the SEU at the time of the bond closing. After discussion about the matter, the motion was passed unanimously.

#### **IV. Proposal by Counsel to SEU that Board consider establishing a Finance and Audit Policy Committee as a standing committee – Frank Murphy**

Next, Frank Murphy discussed with the Board the need to create a new standing committee to address both finance and audit matters, and to fulfill the typical functions of such a committee. After discussion, a motion was made to approve the formation of the Finance and Audit Policy Committee consisting of Rep. Dennis Williams, Dr. Charles Wagner, and Randy Day. The motion to create the committee was passed unanimously. The committee will report to the Board on its activities.

## **V. SEU Financial Reports; SEU Fiscal Agent**

The Board then turned to a discussion of the SEU fiscal agent contract. There have been previous discussions at the Board level about the SEU's organizational structure and the expense being incurred by the SEU for a fiscal agent. In addition, it was noted that the SEU's fiscal agent works under contract with DNREC, and does not contract directly with the SEU. The SEU's current fiscal agent has been in discussions with DNREC about its scope of work and budget. DNREC has indicated that the SEU can transition away from the current fiscal agent which will be winding down its work.

Under the circumstances a motion was made to authorize the Board co-chairs to manage the SEU's bank accounts on a temporary basis. The motion included providing the co-chairs with the authority to execute the documents needed to have the fiscal agent turn over the day-to-day handling of the SEU's bank accounts. The motion also included authorization for a single co-chair to sign checks of \$25,000 or less. Checks over \$25,000 were to be signed by both co-chairs. This is to be a temporary measure as the SEU transitions away from the current fiscal agent. The motion was approved unanimously.

## **VI. Applied Energy Group, Contract Administrator**

The Board addressed the subject of the contract administrator. There was discussion about the scope of work of AEG going forward. It was expected that the Executive Committee would work with the contract administrator on these matters, and that the Executive Committee was charged with making recommendations about the SEU's programs and budgeting to the Board.

## **VII. New/Old Business; Consideration of SEU statements for legal services; Review of billing statements from SEU financial advisors; Executive Director Status Report**

The Board approved a motion to pay the outstanding statements of the Murphy & Landon law firm to the SEU. Dr. John Byrne asked to be recorded as not voting, as he had not reviewed the statements.

The Board then indicated that, in the future, the Executive Committee may authorize approval of the Murphy & Landon legal bills. Frank Murphy made a presentation asking the Board to increase his hourly rate from \$250.00 to \$350.00. After discussion, the Board approved the increase unanimously.

There was a question about the SEU Executive Director position, and the Executive Committee provided an update on the search for an Executive Director. The Board Executive Committee had finalized a job description that would be posted by DNREC publicly next week.

## **VIII. Public Comment**

A member of the public, Jim Black, asked about the status of the SEU advisory committee. Sen. McDowell indicated that this was a matter the Board should begin to deal with.

The Board's attention has been focused elsewhere, given the impending bond issue and other critical matters.

**IX. Adjourn**

A motion to adjourn was passed unanimously.